

EN BANC

[A.M. No. P-14-3209, October 20, 2015]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
FREDELITO R. BALTAZAR, CLERK OF COURT II, MUNICIPAL
CIRCUIT TRIAL COURT, ALLACAPAN-LASAM, CAGAYAN,
RESPONDENT.**

RESOLUTION

PER CURIAM:

Before us is the May 6, 2015 Evaluation, Report and Recommendation^[1] of the Office of the Court Administrator (OCA) finding Fredelito R. Baltazar, Clerk of Court II, Municipal Circuit Trial Court (MCTC), Allacapan-Lasam, Cagayan guilty of dishonesty and misconduct and recommending his suspension for one year.

A financial audit was conducted by the audit team on the books of account of the MCTC, Allacapan-Lasam, Cagayan for the period covering January 1, 2005 to May 24, 2013. The audit was prompted by the request of the Financial Management Office (FMO) of the OCA due to Baltazar's failure to submit monthly financial reports despite the notices sent to him.

In its Memorandum^[2] dated January 22, 2014, the audit team reported that there were cash shortages in the Fiduciary Fund (FF), Judiciary Development Fund (JDF), Special Allowance for the Judiciary Fund (SAJF), Mediation Fund (MF), and General Fund (GF) amounting to P72,376.80. It also noticed discrepancies in the collection and allocation of filing fees, tampering of official receipts, and unexplained withdrawals from the funds. The report stated that in the exit interview, Baltazar admitted that he had tampered with the official receipts. He also admitted that he used court collections for personal consumption with the intent to pay back the total amount misappropriated.

The auditors noted that Baltazar's acts constitute gross neglect of duty and dishonesty as an accountable officer, in violation of Administrative Circular No. 3-2000 dated June 15, 2000 which requires that collections for all funds must be deposited daily or if not possible at the end of each month to the nearest depository bank. It further noted that Baltazar violated OCA Circular No. 113-2004 which requires the monthly submission of financial reports to the Accounting Division, FMO, OCA. In addition, Baltazar is liable for not complying with OCA Circular No. 22-94 which requires that duplicate and triplicate copies of court receipts be carbon reproductions in all respects of the original.

The audit team thus recommended the following:

1. This report be docketed as a regular administrative matter against Mr. Fredelito R. Baltazar, Clerk of Court II, MCTC, Allacapan-Lasam,

Cagayan for non-remittance of collections, tampering of court official receipts and non-submission of Monthly Financial Reports in violation of Administrative Circular No. 3-2000, OCA Circular Nos. 22-94 and 113-2004, respectively;

2. Mr. Fredelito R. Balatazar be DIRECTED within fifteen (15) days from receipt of notice to:

2.1. EXPLAIN in writing why no administrative sanction shall be imposed against him for non-submission of Monthly Financial Reports, delayed remittances of collections, tampering of the subsequent court official receipts and for incurring cash shortages, as presented below:

TAMPERED OFFICIAL RECEIPTS					
OR#	Copy of OR	Payor	Nature of Collection	Amount	Reported
6809128	Original	Junior Bayucan	Bond fee	500.00	
	Triplicate	Juanito Rubino	Cert, fee	35.00	35.00
6809361	Original	Mark Joy Ramil	Bond fee	200.00	
	Triplicate	Emilio Sarmiento	Cert, fee	35.00	35.00
6808661	Original	Mark Joy Ramil	Bond fee	300.00	
	Triplicate	Emilio Sarmiento	Cert, fee	15.00	15.00
6808600	Original	Mark Joy Ramil	Bail bond	2,000.00	
	Triplicate	Celia Sipin	Cert, fee	15.00	15.00
6808486	Original	Edwin Galindon	Bond fee	500.00	
	Triplicate	Carlito Avila	Cert, fee	15.00	15.00

SUMMARY OF SHORTAGES				
Fund	Shortages	Restitution		Balance
		Date	Amount	
Fiduciary Fund	P 187,500.00	5.30.13 7.19.13	P 22,640.00 69,860.00	95,000.00
Judiciary Development Fund	15,668.80	7.19.13	8,292.00	7,376.80
Special Allowance for the Judiciary Fund	12,408.00	7.19.13	12,408.00	0.00
Mediation Fund	11,500.00	7.19.13	11,500.00	0.00
General Fund-New	10,000.00			10,000.00

TOTAL	P		P	P
	237,076.80		124,700.00	112,376.80

2.1 SUBMIT pertinent documents to the Fiscal Monitoring Division, Court Management Office, this Office, to wit:

2.2.a. Copy of official receipt/s evidencing the collection of fine imposed on Criminal Case Numbers 3013 and 3011;

2.2.b. Copy of official receipts evidencing the collection of solemnization fees of the aforementioned marriages solemnized in this court x x x;

2.2.c. Bank confirmation of the following deposits to the [JDF] in the total amount of Seven Thousand Three Hundred Seventy-Six Pesos and 80/100 (P7,376.80), to wit:

November 2008	1,800.80
December 2008	500.00
January 2009	345.00
February 2009	1,305.00
March 2009	1,910.00
April 2009	315.00
May 2009	1,201.00
Total	7,376.80

2.2.d. Valid documents evidencing the following undocumented Fiduciary Fund withdrawals:

Date Withdrawn	OR Number	Case Number	Payor	Amount	Lacking Documents
01/17/08	18094491	2797-A	Ferdinand Balanay	6,000.00	A/R
01/17/08	18094492	2797-A	Ferdinand Balanay	6,000.00	A/R
03/18/09	20383116	2917-L	Oliver Valiente	2,000.00	A/R
08/27/09	20383127	2955-A	Randy Retreta	6,000.00	A/R
08/27/09	20383130	2955-A	Rick Aragon	6,000.00	A/R
04/07/11	20383153	2999-A	Manolo Garcia	2,000.00	A/R

3. Mr. FREDELITO R. BALTAZAR be immediately placed under indefinite suspension without pay, considering that the acts committed involve gross dishonesty and grave misconduct.

4. Ms. ANGELITA P. UTANES, Court Interpreter I and Officer-in-Charge, [MCTC], Allacapan-Lasam, Cagayan be DIRECTED to:

4.a. STRICTLY ADHERE with the procedural guidelines in the handling of the Sheriffs Trust Fund;

4.b. UPDATE regularly the recording of financial transactions for each fund in the official cashbooks and CERTIFY at the end of every month the correctness of entries therein; and

4.c. STERNLY ADHERE and FOLLOW the issuances of the Court on the proper handling and reporting of judiciary funds, particularly the prescribed period within which to remit court collections as well as the proper collection and allocation of filing fees; and

5. Hon. VICTOR R. CUMIGAD be DIRECTED to MONITOR the

financial transactions of the MCTC, Allacapan-Lasam, Cagayan, to ensure strict observance of the issuances of the Court in order to avoid any irregularity in the collections, deposits and withdrawals/disbursements of court funds, otherwise, he will be held equally liable for the infractions committed by the erring employee under his supervision.^[3]

In its February 27, 2014 Memorandum^[4] for the Chief Justice, the OCA adopted the audit team's recommendation and endorsed the report for approval.

In its June 4, 2014 Resolution,^[5] the Court docketed the report as the present administrative matter and directed Baltazar to explain why he had not submitted monthly financial reports and incurred cash shortages. He was directed to submit documents pertaining to missing collections, bank confirmations on deposits made to the JDF and withdrawals from the FF. He was also placed on indefinite suspension without pay.

In a letter^[6] dated August 11, 2014, Baltazar stated that poor health hampered his ability to accomplish and submit monthly reports. He recounted that he was found to be positive for tuberculosis^[7] and was advised not to tax himself. Despite the advice, he continued to report for work for short periods of time so that he may be able to get something done. He also stated that he often acted as the Clerk of Court as well as Designated Court Interpreter.

He wrote that another reason for the delay was the "encashment of checks of my co-employees out of my collections, in order that they will be able to free from rediscounting fees whenever their checks were encashed in private establishments."

^[8] These checks of his co-employees were dishonored by Land Bank.

Baltazar admitted that he violated Supreme Court Circulars with respect to the Guidelines for the Collections and Custody of Legal Fees and Proper Administration of Court Funds. He also includes a list of various documents which he claims to have submitted to the Fiscal Monitoring Division.^[9]

Baltazar appeals to the Court for its compassion, indulgence and humanitarian consideration owing to his financial distress, poor health and work pressures to lift and set aside his suspension for the sake of his family.

In its December 10, 2014 Resolution,^[10] the Court referred the case to the OCA for its evaluation, report and recommendation.

In its May 6, 2015 Memorandum^[11] for the Chief Justice, the OCA found Baltazar liable for dishonesty and misconduct for having violated Administrative Circular No. 3-2000 dated June 15, 2000 which requires that all fiduciary collections be deposited immediately by the clerk of court to the authorized government depository bank upon receipt of collection. Baltazar not only failed to remit cash collections immediately, he also failed to explain the tampered official receipts and misappropriated judiciary funds when he accommodated to encash co-employee's checks out of the cash collections. However, considering that Baltazar readily admitted his mistake, apologized for his actions, vowed to concentrate on his job, to improve his performance with competence, honesty and probity and this being his first infraction, the OCA recommended that Baltazar be suspended for a period of one (1) year without pay. Thus:

IN VIEW OF THE FOREGOING, it [is] respectfully recommended for the consideration of the Honorable Court that respondent Clerk of Court II Fredelito R. Baltazar, [MCTC], Allacapan-Lasam, Cagayan be found **GUILTY** of dishonesty and misconduct and be **SUSPENDED** for one (1) year without pay with a **STERN WARNING** that a repetition of the same or similar acts shall be dealt with more severely.^[12]

We adopt the findings of the OCA but modify the penalty imposed.

In *Office of the Court Administrator v. Ofilas*,^[13] this Court stated:

No less than the Constitution mandates that "public office is a public trust." Service with loyalty, integrity and efficiency is required of all public officers and employees, who must, at all times, be accountable to the people. In a long line of cases, the Court had untiringly reminded employees involved in the administration of justice to faithfully adhere to their mandated duties and responsibilities. Whether committed by the highest judicial official or by the lowest member of the workforce, any act of impropriety can seriously erode the people's confidence in the Judiciary. "Verily, the image of a court of justice is necessarily mirrored in the conduct of its personnel. It is their sacred duty to maintain the good name and standing of the court as a true temple of justice." Corollary to this, failure to live up to their avowed duty constitutes a transgression of the trust reposed on them as court officers and inevitably leads to an exercise of disciplinary authority. Thus, the Court "condemns and would never countenance any conduct, act or omission on the part of all those involved in the administration of justice which would violate the norm of public accountability and would diminish or even just tend to diminish the