

EN BANC

[A.M. No. P-06-2227 [Formerly A.M. No. 06-6-364-RTC], August 19, 2014]

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. ATTY. MARIO N. MELCHOR, JR., FORMER CLERK OF COURT VI, REGIONAL TRIAL COURT, BRANCH 16, NAVAL, BILIRAN (NOW PRESIDING JUDGE, MUNICIPAL CIRCUIT TRIAL COURT, CALUBIAN-SAN ISIDRO, LEYTE), RESPONDENT.

D E C I S I O N**PER CURIAM:**

For review before the Court is this administrative matter which originated from the financial audit conducted by the Fiscal Monitoring Division of the Office of the Court Administrator (OCA) from March 14 to 20, 2006, on the books of account of then Clerk of Court of the Regional Trial Court, Branch 16, Naval, Biliran (RTC), Atty. Mario N. Melchor, Jr. (*Melchor*).^[1] The audit covered the court transactions from September 1, 1997 to February 28, 2006.

In the course of the fiscal audit examination, members of the financial audit team discovered evidence of irregularities in the handling of the financial transactions of the court as well as shortage in its financial accountabilities. There were shortages of massive amounts from various funds collected and handled by Melchor totaling **P939,547.80**, as summarized in the table below:

For the Judiciary Development Fund (JDF)

Total Collection per Audit (9/1/1997 to 2/28/2006)		P573,086.31
Less: Total Remittances (9/1/1997 to 2/28/2006)	541,9461.31	
Less: Erroneous Deposits	9,733.00	<u>532,213.31</u> P40,873.00

For the Special Allowance for the Judiciary Fund (SAJF)

Total Collections (11/11/2003 to 2/28/2006)		P209,992.51
Less: Total Remittances same period		110,665.71
Balance of Accountability as of 2/28/2006		P99,326.80

For the Fiduciary Fund (FF)

Beg. Unwithdrawan Fiduciary Fund as of 9/1/1997		P712,270.54
Add: Collections - 9/1/1997 to 2/28/2006		2,508,300.00
Total		3,220,570.54
Less: Withdrawals - 9/1/1997 to 2/28/2006		<u>2,232,820.00</u>

Bal. of Unwithdrawn Fiduciary Fund as of 2/28/2006	<u>P987,750.54</u>
Bank Balance as of February 28, 2006	P248,125.02
Less: Outstanding Check No. 80945 dated 1/4/2006	12,000.00
Balance	P236,125.02
Less: Unwithdrawn Interest (net of tax) as of 2/28/2006	<u>5,215.48</u>
Adjusted Bank Balance as of February 28, 2006	<u>P230,909.54</u>
Balance of Unwithdrawn Fiduciary Funds as of 2/28/2006	P987,750.54
Adjusted Bank Balance as of February 28, 2006	<u>230,909.54</u>
Shortage as of February 28, 2006	P756,841.00
*Add: Unreceipted cash bond collection of Case No. 2347	<u>40,000.00</u>
Total Shortage	<u>P796,841.00</u>
General Fund (GF)	
Total Collections during the accountability period	P99,931.15
Less: Total Remittance same period	<u>97,426.15</u>
Balance of Accountability - shortage	<u>P2,505.00</u>
Sheriff's General Fund (SGF)	
Total Collections during the accountability period	P2,144.00
Less: Total Remittance during the accountability period	<u>2,124.00</u>
Balance of Accountabilty - shortage	<u>P20.00</u> ^[2]

It was also unearthed that Melchor failed to remit numerous cash bonds collected from the cases, amounting to P715,841.00 to the Court's legitimate bank account maintained with the Land Bank of the Philippines (*Land Bank*), Biliran Branch.^[3] Further, when folders of several cases were examined, the audit team found evidence of unrecorded collections of cash bonds. Worse, official receipts were cancelled to conceal the unreported collections. In lieu of the supposed cancelled transactions, new receipts were then issued containing considerably understated amounts of the bonds collected. In one instance, a withdrawal in the amount of P8,000.00, under Check No. 80941, dated July 26, 2005, was issued in favor of a certain Antonio Renol, but no equivalent record of collection of a cashbond was ever received.^[4] The summary of the findings are herein illustrated:

Case No.	Unreported Bond Collection	Action of Melchor
Civil Case No. 1205 ^[5]	-P424,440.00 collected under O.R. No. 111759986 and 11175997	-Reported under O.R. No. 1175989 as P300,000.00
Criminal Case No. 2210 ^[6]	-P20,000.00 collected under O.R. No. 11175984	-O.R. cancelled
Criminal Case No.	-P10,000.00 under O.R.	-O.R. cancelled

2218 ^[7]		No. 1175985	
Civil Case No. B-1138 ^[8]		-P72,500.00 under O.R. No. 11175977	-O.R. cancelled
Criminal Case No. 2051 ^[9]		-P15,000.00 under O.R. No. 11175967	-Deposited late under O.R. No. 11175983
Civil Case No. B-1120 ^[10]		-P30,000.00 under O.R. No. 11175983	-O.R. cancelled
Criminal Case No. 2215 ^[11]		-P3,000.00	-No O.R. was issued. The cash bond was withdrawn upon dismissal of the case.
Criminal Case No. 2219 ^[12]		-P12,000.00	-No O.R. was issued. The cash bond was withdrawn upon dismissal of the case.
Criminal Case Nos. 1643, 1644, 1696 ^[13]		-P44,000.00	-P48,000.00 was refunded to the bondsman resulting to over-withdrawal.
Criminal Case No. B-0134 ^[14]		-P5,000.00 under O.R. No. 9284781	-P10,000.00 was refunded to the bondsman resulting to over-withdrawal.
Criminal Case No. 2073 ^[15]		-P24,000.00 under O.R. No. 11175960	-P48,000.00 was refunded to the bondsman resulting to over-withdrawal.

Melchor likewise failed to present and maintain an official cashbook for the Fiduciary Fund from September 1, 1997 up to the time of the audit. Anent the JDF and the SAJF, no entries were made in the cashbooks from October 25, 2005 up to the time of audit.^[16]

As recommended by the audit team, Hon. Enrique C. Asis, Executive Judge of RTC, Naval, Biliran immediately relieved Melchor from his duties and responsibilities as the accountable officer of the court per Memorandum No. 01-2006,^[17] dated March 17, 2006.

In his Comment,^[18] dated April 3, 2006, Melchor readily admitted the findings of the audit team and apologized for his negligence. He explained that the collected bail bonds from various cases, amounting to P256,940.00, were used to defray the cost of the hospitalization expenses of his child. He pleaded for compassionate justice and humanitarian consideration citing "humanely error in discretion."^[19] He likewise informed the OCA that he already restituted the shortages totaling P796,841.00.

In its Memorandum,^[20] dated June 8, 2006, the OCA adopted the findings of the audit team and made its recommendation. In the Court's Resolution of August 14,

2006,^[21] the Court approved the recommendation of the OCA, and resolved to:

1. REDOCKET the report of the Financial Audit Team as a regular administrative complaint against Atty. Mario N. Melchor, Jr., Clerk of Court VI, RTC, Naval, Biliran;
2. DIRECT Atty. Mario N. Melchor, Jr., to PAY and DEPOSIT the shortage of P2,505.00 and P20.00 for the General Fund Sheriff's General Fund, respectively, within fifteen (15) days from notice;
3. DIRECT Executive Judge Enrique C. Asis to monitor the designated Officer-in-Charge, Ms. Algea Q. Juntilla, Interpreter II, in the strict compliance of circulars in the proper handling of judiciary funds and adhere strictly to the issuances of the Court to avoid repetition of the same offenses committed as enumerated above; and
4. DIRECT the Legal office, OCA to file the appropriate criminal charges against Atty. Mario N. Melchor Jr.^[22]

In its Memorandum,^[23] dated October 3, 2007, the OCA informed the Court that it has received a letter,^[24] dated August 1, 2007, from Melchor disclosing his compliance with the directive of the Court by depositing the shortage of P2,505.00 and P20.00 for the General Fund and Sheriff's General Fund, respectively. He further informed the OCA that he had assumed office as Municipal Circuit Trial Court (MCTC) Judge of Calubian-San Isidro, Leyte on December 29, 2006, but had yet to receive his initial salary for lack of clearance from the Financial Management Office. He prayed that the administrative case against him be considered closed and terminated.

In its Resolution,^[25] dated November 19, 2007, the Court took note of the said letter and modified the Court's Resolution, dated August 14, 2006, by deleting the directive to file criminal charges against him.

In its Report,^[26] dated August 22, 2008, the OCA revealed that the amounts of P2,505.00 and P20.00 returned by Melchor were not the only shortages that he failed to remit on time. As previously illustrated in the table, he likewise incurred shortages in the collection for the JDF in the amount of P40,873.00, which was restituted only on March 14, 2006; SAJF for the amount of P99,326.80 and returned only on March 16, 2006; and FF collections totaling P796,841.00 that was restituted on various dates, the latest being on March 24, 2006.^[27]

In the Resolution,^[28] dated September 15, 2008, the Court denied Melchor's request for the release of his initial salary and other benefits as Presiding Judge of MCTC, Calubian-San Isidro, Leyte.

In its Report,^[29] dated February 24, 2012, the OCA held that although the shortages were eventually restituted as reflected in the deposit slips presented to the Fiscal Monitoring Division, it should be not disregarded that Melchor violated various court circulars. The OCA likewise opined that Melchor's promotion as a judge

should not be taken to mean that the infractions he committed while in the service as Clerk of Court were forgotten. Thus, the OCA recommended:

PREMISES CONSIDERED, it is respectfully recommended that: (a) Judge Mario N. Melchor, Jr., former Clerk of Court VI, RTC, Branch 16, Naval, Biliran, be found GUILTY of GROSS NEGLIGENCE OF DUTY, GROSS DISHONESTY and GROSS MISCONDUCT; and (b) Judge Mario N. Melchor, Jr., be DISMISSED from the service effective immediately, with FORFEITURE of all retirements benefits due him except payment of his accrued leave credits, if any, with prejudice to reemployment in any branch of the government or any of its agencies or instrumentalities including government-owned and controlled corporations.^[30]

The Court's Ruling

After careful examination of the records of this case, the Court finds the recommendation of the OCA to be well-taken.

By his own admission, Melchor knowingly used the court funds in his custody to defray the hospitalization expenses of his child. Regrettably though, personal problems or even medical emergencies in the family cannot justify acts of using the judiciary funds held by an accountable officer of the court.^[31] As Clerk of Court, Melchor was entrusted with delicate functions in the collection of legal fees.^[32] He acted as cashier and disbursement officer of the court; and was tasked to collect and receive all monies paid as legal fees, deposits, fines and dues, and controls the disbursement of the same.^[33] He was designated as custodian of the court's funds and revenues, records, properties and premises, and should be liable for any loss or shortage thereof.^[34]

Administrative Circular No. 3-2000^[35] equally requires that the aggregate total of the deposit slips for any particular month should always be equal to, and tally with, the total collections for that month as reflected in the Monthly Report of Collections and Deposits and Cash Book. Evidently, the accounting of the total collections and remittances did not tally in this case.

SC Circular Nos. 13-92 and 5-93, as incorporated into the 2002 Revised Manual for Clerks of Court, likewise provide the guidelines for the accounting of court funds. All fiduciary collections shall be deposited immediately by the Clerk of Court concerned, upon receipt thereof, with an authorized government depository bank. In SC Circular No. 5-93, the Land Bank was designated as the authorized government depository.^[36] Furthermore, Section B(4) of Circular No. 50-95^[37] directs that "all collections from bailbonds, rental deposits and other fiduciary collections shall be deposited within twenty four (24) hours by the Clerk of court concerned, upon receipt thereof, with the Land Bank of the Philippines, in the name of the court as instructed in Circular No. 13-92."^[38]

Court personnel tasked with collections of court funds, such as clerk of court and cash clerks, should deposit immediately with the authorized government depositories the various funds they have collected. Being the custodian of court