

EN BANC

[**A.M. NO. MTJ-02-1440 (FORMERLY A.M. NO. 02-6-150-MTCC), February 28, 2006**]

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. JUDGE RICARDO P. LIWANAG OF THE MUNICIPAL TRIAL COURT IN CITIES, SAN JOSE DEL MONTE CITY, BULACAN; CLERK OF COURT J. ROGELIO T. MONTERO III AND COURT INTERPRETER MA. CORAZON D. ESPAÑOLA, RESPONDENTS.

R E S O L U T I O N

PER CURIAM:

This administrative complaint stemmed from a **report^[1] dated June 13, 2002** submitted by an audit team from the Office of the Court Administrator (OCA) which conducted a judicial audit and physical inventory of cases in the Municipal Trial Court in Cities, San Jose del Monte City, Bulacan (MTCC-SJDM) from January 30, 2002 to February 15, 2002. The audit was done in response to a referral from the Technical Staff of the Department of Justice forwarding to OCA a letter from a "*Bantay Bayan*" member requesting an investigation of alleged anomalies and irregularities perpetrated by then **Judge Ricardo P. Liwanag**, presiding judge, MTCC-SJDM, in collusion with two members of his staff, namely, *clerk of court* **J. Rogelio T. Montero III** and *court interpreter* **Ma. Corazon D. Española**.

At the start of its investigation, the audit team complained of the lack of cooperation on the part of respondents Montero III and Española. After its investigation, the team reduced its findings *via* its aforementioned report of June 13, 2002. In said report, the team found respondents Montero III and Española responsible for the following: (1) sorry state of case management in the subject court; (2) some court exhibits were either missing or released under suspicious circumstances; and (3) questionable release of cash bonds to persons other than the accused.

In the same report, the team detailed the shoddy record-keeping in MTCC-SJDM, as follows:

The team underwent a hard time in conducting the audit. The Court has not submitted the required monthly report and semestral inventory of cases since the year 2000 up to the present. There is no effective method of filing of cases. Pending cases are mixed with dismissed, decided and archived cases. There was no compliance with the required actual and physical inventory of cases every semester. The docket books are not updated.

The return of service of each and every case as well as the minutes of every order are not attached to or are nowhere to be found in the records. The exhibits are just placed at one corner of the room and are

unprotected from the elements.

The Clerk of Court is not even aware of the status of the cases when asked by the team. He did not even bother to define the duties and responsibilities of his staff especially on matters of receiving pleadings or other papers. There was no designation of employees who will take charge of the criminal and civil cases.

At once, after going over the records of the available cases and considering the uncooperative or lackadaisical attitude of Clerk of Court Rogelio T. Montero III and the previous Officer-in-Charge, Ma. Corazon D. Española, Court Interpreter, the team got the impression that there is truth to the allegations of anomalies and irregularities in the court. In fact, Ms. Española even skipped reporting to office for almost two (2) weeks during the audit after she failed to answer the various questions concerning the status of cases.

The team also reported that exhibits consisting of guns, ammunitions and gambling machines were missing from the court files. Respondent Montero III, when asked during the audit to account for the exhibits, failed to produce the following, to wit:

Criminal Case No.	Exhibits
1. 0393-01 0394-01	.22 cal. Magnum marked ROHM with six (6) live ammunitions
2. 0391-01 0392-01	.45 cal. Colt, SN 145313121, 1 magazine assembly with seven (7) live ammunitions
3. 9395-99	.38 cal. paltik without serial number, three (3) live ammunitions
4. 0548-00	.22 cal. magnum, SN 202550 with five (5) live ammunitions
5. 8092-98	Four (4) video karera machines
6. 9466-99	Two (2) video karera machines
7. 1032-00	One (1) video karera machine

Only after more than five (5) days of insistent requests from the team did respondent Montero III partially account for the missing exhibits when he produced the firearms and ammunitions submitted and marked as exhibits in Criminal Cases Nos. 0391-01 to 0394-01.^[2]

Likewise, the audit team discovered that at least six (6) criminal cases were

dismissed by MTCC-SJDM based on alleged spurious documents, while cash bonds were released to persons other than the accused. We quote from the same report:

There are various criminal cases which were dismissed by the court based on alleged "Pag-urong ng Habla" purportedly executed by the private complainant but comparison of the signature in the said documents with the "Sinumpaang Salaysay" executed before the police authorities readily shows that the signature in the "Pag-uurong" (sic) was forged. Likewise, there are discrepancies in the signatures of the accused appearing on "Cash Bailbond Undertaking" and those appearing on the vouchers for the release of the cash bond to the accused after the cases were dismissed. This indicates that the cash released after dismissal of the cases was pocketed by persons other than the accused.

Some of the said cases are the following:

Case No.	Accused	Nature
1. 1024-00	Francis D.V. Junio	Malicious Mischief
2. 0456-00	Kudipolo Andrade	Qualified Trespass to Dwelling
3. 0506-01	Epifanio Artiaga	PD 1602
4. 0616-01	Nilo Maala	
5. 0526-01	Lito Castro	PD 1602
6. 0002-00	Rodel Aguirre	PD 1602

It is submitted that the improprieties could not have possibly occurred without the direct knowledge and participation of some personnel of the court.

Based on its findings, the team recommended that an extensive investigation be conducted against respondents Judge Liwanag, Montero III and Española, and that pending investigation of the charges against them, they all be placed under preventive suspension.

In a memorandum^[3] dated June 14, 2002 for then Acting Chief Justice Josue N. Bellosillo, Acting Court Administrator Jose Perez informed the Court of the report of the audit team.

In a **Resolution**^[4] **dated July 17, 2002**, the Court, thru its Third Division, considered the report of the audit team, then docketed as **Administrative Matter No. 02-6-150-MTCC**, as a regular administrative complaint against the respondents and placed all three of them under preventive suspension, requiring them to submit their COMMENT on the report of the audit team. In the same resolution, the Court referred the complaint to Executive Judge Oscar Herrera, Jr. of the Regional Trial Court of Malolos City, Bulacan for investigation, report and

recommendation. The Court also designated Rodelio Marcelo as acting clerk of court of MTCC-SJDM.^[5] Mr. Marcelo was formerly the clerk of court of the Municipal Trial Court at Angat, Bulacan who was assigned to MTCC-SJDM on September 14, 1999.^[6]

From **Administrative Matter No. 02-6-150-MTCC**, the report of the audit team was redocketed as **Administrative Matter No. MTJ-02-1440**.^[7]

Española submitted her comment on September 30, 2002 while Judge Liwanag and Montero III submitted theirs on October 8 and 10, 2002, respectively.^[8]

In his letter-report dated February 14, 2003, MTCC-SJDM's acting clerk of court Rodelio Marcelo informed Atty. Thelma C. Bahia of the Court Management Office, OCA, that after he had conducted a docket inventory of cases involving violations of Presidential Decree No. 1866^[9], he discovered that several exhibits were missing from the files of MTCC-SJDM.^[10]

In its **Resolution dated March 31, 2003**, the Court considered the letter-report of Mr. Marcelo as part of the records of the administrative complaint against the herein respondents. In another **Resolution dated June 16, 2003**, the Court referred the administrative complaint against the respondents to Judge Guillermo Agloro who had replaced Judge Herrera as Executive Judge of the Regional Trial Court of Malolos City, Bulacan. ^[11]

In the memorandum she submitted during the investigation conducted by Judge Agloro, respondent Española claimed that she could not be held responsible for the poor court management in the subject court. When respondent Montero III took a study leave from May 1, 2000 to September 30, 2000 to prepare for the bar examinations, Judge Liwanag designated Española *officer-in-charge* of MTCC-SJDM.^[12] Española explained that while she was the *officer-in-charge* of MTCC-SJDM during the period that respondent Montero III was on leave, the preparation of monthly reports and the semestral inventory of cases were assigned by Judge Liwanag to Mr. Marcelo. Española placed squarely the responsibility on MTCC-SJDM's failure to file the required reports on the shoulders of Mr. Marcelo.^[13]

Also, respondent Española justified her absence during the conduct of the judicial audit, explaining that she had to file a leave of absence for four (4) days, from February 5-8, 2002, to attend the hearing of an administrative case against her docketed as A.M. OCA IPI No. 99-65-P entitled "*Marquina vs. Corazon Española*" (*sic*) scheduled on February 6, 2002 at the Office of the Executive Judge of the Regional Trial Court of Malolos City, Bulacan. She allegedly reported for work on February 11, 2002, only to file again a leave of absence for February 12-15, 2002 to look for a counsel who could represent her in the aforesaid administrative case. ^[14]

Judge Agloro found untenable respondent Española's explanation for her absence during the audit, holding that respondent Española took a leave of absence in order to avoid the inquiries of the audit team. According to the investigating judge, Española should have met with the audit team, even if just to inform it of her need to go on leave to attend to the administrative case against her, and Española's failure to do so showed her lack of intent to cooperate with the audit team.

Judge Agloro gave little weight to respondent Española's excuse that the duty to submit the required monthly reports and semestral inventory of cases rested not on her, but on Mr. Marcelo. Judge Agloro noted that as the designated *officer-in-charge* of MTCC-SJDM during the absence of respondent Montero III, it was Española's duty to file the required reports and docket inventories for MTCC-SJDM.

For his defense, respondent Montero III maintained in the memorandum he submitted during the investigation that had the audit team inquired from a certain Cresencia Reyes, a clerk in MTCC-SJDM, it would have known that the monthly reports until May, 2002 had already been submitted. As to the submission of the semestral inventory of cases, respondent Montero III admitted the truth of the audit team's findings that he failed to submit the required inventory reports for MTCC-SJDM for 2000-2002. ^[15]

Judge Agloro held that the absence of an effort from respondent Montero III to show proof of compliance with the reportorial requirements was an indication of said respondent's failure, amounting to serious misconduct, to perform his duties under the 2002 Revised Manual for Clerks of Court^[16], to wit:

2.2.4. REPORTS & REPORTING

a. Monthly report of cases

(1) xxx xxx xxx

(2) xxx xxx xxx

(3) The duplicate of the report should be kept on file by the concerned court and the triplicate is to be submitted to the Executive Judge for his appraisal and compilation. The original copy of the report, together with the lists of cases filed, raffled, disposed of, archived, transferred or re-raffled, or those with suspended proceedings per Administrative Circular No. 1-2001 dated 2 January 2001, must be filed with, or sent by registered mail to, the Supreme Court on or before the tenth (10th) calendar day of the succeeding month addressed to:

The Chief
Statistical Reports Division
Court Management Office
Office of the Court Administrator
Supreme Court of the Philippines
Taft Avenue, Ermita
Manila 1000

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b. Semestral inventory of cases

b.1 Rules

(1) All Presiding Judges of trial courts must, upon assumption of office,