

## FIRST DIVISION

[ A.M. No. MTJ-03-1511, August 20, 2004 ]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.  
JUDGE OCTAVIO A. FERNANDEZ, MUNICIPAL CIRCUIT TRIAL  
COURT, GENERAL M. NATIVIDAD-LLANERA, RESPONDENT.**

### **DECISION**

**YNARES-SATIAGO, J.:**

This case has its origin in A.M. No. 99-6-81-MTCC,<sup>[1]</sup> where the Court, in a Resolution dated June 3, 2003, directed among others, the Office of the Court Administrator to investigate Judge Octavio A. Fernandez on his involvement in the anomalous collection of an additional cash bond in "*People of the Philippines v. Florentino Marcelo*," docketed as Criminal Cases Nos. 505-506, for Reckless Imprudence Resulting in Serious Physical Injuries, originally pending before the Municipal Trial Court in Cities of Palayan City.

Per judicial audit conducted at the MTCC, Palayan City, formerly presided by Judge Marciano C. Mauricio, Sr., it was discovered that upon motion of the accused in Criminal Cases Nos. 505-506, the bail bond was reduced from P6,000.00 to P2,000.00. At 5:15 p.m. of July 2, 1996, accused Marcelo accompanied by a warrant officer, went to the residence of Judge Mauricio for the purpose of posting bail but the latter had left for Manila. Hence, they went to see respondent Judge Octavio A. Fernandez of the 2nd Municipal Circuit Trial Court of Gen. Natividad-Llanera, Nueva Ecija. Upon receipt of the cash bond of P2,000.00, Judge Fernandez ordered the release of accused in an Order which stated "that he is (sic) already deposited to this Court the required cash bond."

It was only sometime in March 1999 that a copy of the Order of Release dated July 2, 1996 was received by Rosita L. Bagan, the Clerk of Court of the MTCC of Palayan City. On March 23, 1999, she requested Judge Fernandez for the receipt of the cash bond and other pertinent papers related to the above-mentioned cases. Respondent judge replied that the original receipt of the cash bond had been sent to the MTCC of Palayan City through Teresita Esteban, Clerk of Court II of the MCTC of Gen. Natividad-Llanera. However, Clerk of Court Bagan allegedly has not received the said original receipt of the cash bond.

Respondent judge, by way of defense, alleged that it was Judge Mauricio who received the cash bond; hence, the request of Clerk of Court Bagan should have been directed to Judge Mauricio.

The case was thereafter referred to the Office of the Court Administrator, which found respondent judge guilty of grave misconduct in office and recommended that he be fined P20,000.00, with stern warning that a repetition of the same or similar offense will be dealt with more severely.

During the pendency of this proceeding, respondent judge optionally retired on January 2, 2004.

Cessation from office of respondent judge because of death or retirement does not warrant the dismissal of the administrative complaint filed against him while he was still in the service or render the said administrative case moot and academic.<sup>[2]</sup> The jurisdiction that was this Court's at the time of the filing of the administrative complaint was not lost by the mere fact that the respondent public official had ceased in office during the pendency of his case.<sup>[3]</sup> Indeed, the retirement of a judge or any judicial officer from the service does not preclude the finding of any administrative liability to which he shall still be answerable.<sup>[4]</sup>

The primordial question to be resolved is who between Judge Mauricio and respondent Judge Fernandez actually received the cash bond of P2,000.00 from the accused in Criminal Cases Nos. 505-506.

It appears from the records that it was respondent judge who actually received the P2,000.00 cash bond. The Order in Criminal Case No. 505 dated July 2, 1996 states:

At 5:15 o'clock in the afternoon this day, Florentino P. Marcelo who is the accused in Criminal Case No. 505 for Reckless Imprudence before the MTCC Palayan City, came to this Court accompanied by a warrant officer of Palayan City alleging that said accused went to the residence of Hon. Marciano C. Mauricio, Sr., Presiding Judge of MTCC Palayan City for the purpose of posting his cashbond. The accused declared that Judge Mauricio left for Manila a few minutes before the arrival of the accused and police officer. ***The said accused requested the undersigned Presiding Judge to accept and receive the amount of P2,000.00 as cashbond.***

WHEREFORE, in fairness and in justice to the said accused and ***considering that he is (sic) already deposited to this Court the required cashbond,*** it is hereby ordered the released (sic) from custody, unless he is detained for some other cause or causes.

Let copy of this order be furnished the Presiding Judge of MTCC Palayan City.<sup>[5]</sup>

Respondent judge violated the provisions of Rule 114 of the Rules of Criminal Procedure by receiving the cash bond instead of directing the accused or any person acting in his behalf to deposit the cash with the nearest collector of internal revenue, provincial, city or municipal treasurer. In *Agulan, Jr. v. Fernandez*,<sup>[6]</sup> it was held:

The rules specify the persons with whom a cash bail bond may be deposited namely: the collector of internal revenue, or the provincial, city or municipal treasurer. Section 14 of Rule 114 of the Revised Rules of Criminal Procedure (effective December 1, 2000) provides:

SEC. 14. *Deposit of Cash as Bail* – The accused or any person acting in his behalf may deposit in cash with the nearest