

EN BANC

[A.M. No. SCC-00-6-P (Formerly A.M. OCA IPI 00-8-03-SCC), October 16, 2003]

RE: MEMORANDUM DATED 27 SEPTEMBER 1999 OF MA. CORAZON M. MOLO, OFFICER-IN-CHARGE, OFFICE OF THE ADMINISTRATIVE SERVICES, OFFICE OF THE COURT ADMINISTRATOR ON THE DISHONESTY AND GRAVE MISCONDUCT OF DATU ALYKHAN T. AMILBANGSA, CLERK OF COURT, SHARI'A CIRCUIT COURT, BONGO, TAWI-TAWI.

DECISION

PER CURIAM:

The present administrative case arose when the Office of the Court Administrator (OCA) received an undated letter^[1] on September 3, 1998 from a concerned citizen denouncing respondent Datu Alykhan T. Amilbangsa, Clerk of Court of the Shari'a Circuit Court of Bongao, Tawi-Tawi, for not reporting the death of Maimona D. Yusop, Court Stenographer I of the same court, to wit:

It is because of fear of retaliation, choose to keep my self in the anonymity [*sic*]. I write you in behalf of honesty, and in the name of four children, Sherwin, Mumar, Sharina and Shareen, who were left behind by deceased MAIMONA D. YUSOP who was stenographer I in the Shari'a Circuit Court at Bongao, Tawi-Tawi, with temporary appointment. I am a resident of Zamboanga City, sometime[s] used to stay in Manila, and said orphan[e]d children have intimated to me their problem. They asked the Shari'a court in Bongao to give them the extra payments paid to their late mother, but the Clerk of Court refused and even threatened them for [*sic*] death.

Mrs. Yusop worked in said shari'a court since March 1, 1986 till her death on August 8, 1997.

She died on August 8, 1997 at Bongao of cardiac arrest and high blood pressure, but the Clerk of Court did not report the matter to your office. Since your office did not know about her death, you have even renewed her appointment last year, and her monthly salaries and bonuses were on-going, up to March 1998 which is the expiry date of her renewed appointment. If only your office had renewed it again, her salaries will even continue up to now.^[2]

The respondent was accused of receiving, encashing and thereafter appropriating the proceeds of the checks intended for Ms. Yusop from the period of August 1997 to March 1998. Moreover, to make it appear that Ms. Yusop was still alive, the respondent apparently submitted her daily time records (DTR) every month, thus falsifying entries therein, including Ms. Yusop's signature. According to the anonymous complainant, such act constitutes dishonesty that warrants dismissal

from the service.^[3]

The letter was immediately referred to the Office of Administrative Services (OAS).^[4] Officer-in-Charge Ma. Corazon M. Molo required the respondent to submit an explanation why he failed to report the death of Ms. Yusop and to submit documents evidencing the latter's death.^[5]

The respondent, in a Letter dated November 10, 1998, confirmed Ms. Yusop's death by submitting her death certificate.^[6] Two weeks later, the respondent wrote another letter^[7] explaining that after he informed Presiding Judge Amer M. Baracal of Ms. Yusop's death, the latter took it upon himself to report the same to the Supreme Court. The presiding judge even promised to give the position vacated by the late Ms. Yusop to the latter's sister, and that he would follow up the matter with the Court.

On November 24, 1998, Ms. Molo again wrote a letter to the respondent, as follows:

Please be informed that the salary checks of the late **MAIMONA D. YUSOP**, former Court Stenographer I of that court, from August 1997 up to March 1998 were all released and forwarded to that Office as you failed to report her death.

In this connection, you are hereby directed to return/submit within five (5) days from receipt hereof the following:

1. Salary checks from August 1997 up to March 1998; and
2. An explanation why you failed to return said checks.

Failure to submit the required documents in due time will constrain this Office to withhold your salaries.^[8]

In a 1st Tracer dated February 23, 1999, the OAS reminded the respondent of this previous request with a warning that failure to act on the same would compel the said office to withhold his salary checks.^[9] In view of the respondent's failure to comply with this directive, his salary was thus withheld.^[10]

The respondent finally answered the charges against him in a Letter dated June 16, 1999.^[11] He averred that the August 1997 paycheck was personally received by the deceased days before her death, while the September 1997 paycheck was released to the latter's older brother for burial expenses. He attached a certification/receipt signed by Salim D. Yusop, an alleged brother of the deceased. As regards the succeeding paychecks, he claimed that he had no knowledge whatsoever that they were released and forwarded to their office. The respondent prayed for the release of his withheld salaries and benefits, averring that his wife was expecting a child the next month.

On August 25, 1999, Verina F. Yap, Officer-in-Charge of the Check Disbursement Division, Finance Management Office of the OCA, wrote a letter^[12] to the Land Bank of the Philippines requesting for the various checks issued in the name of Ms. Maimona D. Yusop. In a Reply Letter dated September 20, 1999, Carolina Q. Briñas,

Department Manager of the Land Bank, enumerated twenty-one negotiated checks in the name of Maimona D. Yusop, to wit:

Check No.	Amount	Status
22065	P3,210.00	Negotiated Check dated 08/20/97
22238	3,218.95	Negotiated Check dated 09/01/97
22435	3,210.00	Negotiated Check dated 09/22/97
22631	3,218.95	Negotiated Check dated 10/29/97
22828	3,210.00	Negotiated Check dated 10/16/97
23025	3,218.95	Negotiated Check dated 11/03/97
23222	3,295.00	Negotiated Check dated 01/30/98
23419	3,300.25	Negotiated Check dated 01/30/98
23974	2,985.00	Negotiated Check dated 02/09/98
24368	2,986.74	Negotiated Check dated 02/13/98
24833	2,985.00	Negotiated Check dated 02/23/98
25210	2,986.74	Negotiated Check dated 02/13/98
25412	2,985.00	Negotiated Check dated 02/23/98
25613	2,986.74	Negotiated Check dated 03/17/98
26013	2,985.00	Negotiated Check dated 03/19/98
26214	2,986.74	Negotiated Check dated 04/01/98
25032	5,400.00	Negotiated Check dated 01/09/98
25831	1,000.00	Negotiated Check dated 03/11/98
24543	2,000.00	Negotiated Check dated 12/18/97
23795	3,773.00	Negotiated Check dated 12/09/97
23621	7,500.00	Negotiated Check dated 12/01/97
TOTAL	69,442.06 ^[13]	

In a Memorandum dated September 27, 1999, Ms. Molo recommended the denial of the respondent's request and the referral of the matter to the Legal Office for investigation.

The OCA in a Memorandum dated August 14, 2000, recommended to this Court that (a) the Memorandum dated September 27, 1999 of Ms. Molo be treated as an administrative complaint against respondent Datu Alykhan T. Amilbangsa; (b) the complaint be re-docketed as a regular administrative complaint; and (c) that respondent be required to comment on the complaint within ten days from notice. The Court adopted the said recommendations in a Resolution dated September 13, 2000.^[14]

In his Comment,^[15] the respondent averred that Ms. Yusop died on August 11, 1997, and not on August 8 as alleged in the anonymous letter. He insisted that on August 6, 1997, Ms. Yusop personally received her paycheck for the period of August 1 to 31, 1997 from Postman Almasri Hasim. He was surprised to learn from a neighbor that Ms. Yusop had died. She was buried in the late afternoon of August 12, 1997 in accordance with Muslim rites, and he even attended and witnessed the event.^[16]

According to the respondent, he was able to talk to Judge Bara-acal two days thereafter. The judge stated that he was in Zamboanga City and was proceeding to Manila relative to an on-going case against him. The respondent reiterated that when informed about Ms. Yusop's death, Judge Bara-acal volunteered to personally inform the Court about the matter. The respondent then immediately notified the relatives of the deceased and prepared the notice of death, which was addressed to

the OAS Chief.^[17]

When the paychecks for their office for the month of September came and Ms. Yusop was still included, the respondent did not think twice about it because he knew that the said checks were sent in advance. He concluded that the Court had not yet received the notice of death.^[18] Thereafter, the relatives of the deceased, particularly her brother, pleaded with the respondent and told him that they were in dire need of money to defray the expenses and debts they incurred for the burial and the traditional seventh day prayer. For "humanitarian reasons," this check was given to Ms. Yusop's brother, with the understanding that the amount of the check would be subject to deduction on the claim benefits due to Ms. Yusop.^[19]

The respondent averred that he did not know that the Court had sent additional paychecks in the name of the deceased, and that as far as he was concerned, the Court had already been informed, through Judge Bara-acal, of Ms. Yusop's demise.^[20] He found out that checks were still being sent to Ms. Yusop when he received the OAS letter of November 24, 1998.^[21] He insisted that he did not fail to report the death of his co-employee, and that the cause of all the trouble and confusion was the fact that the OAS did not receive the notice that he sent. The respondent admitted, however, that he should have sent the notice through mail and kept a file for himself for record purposes and to serve as evidence.^[22] Anent his failure to explain himself, the respondent reasoned that -

...[C]onsidering the turn of events and seeming complexity of the situation for the undersigned, confounded by his admitted insufficiency and apparent lack of proficiency with the written communication, he thought it best to fully explain his side during the investigation, which unfortunately never took place.

That undersigned upon receipt of the Honorable Supreme Court's Resolution dated 23 September 2000, was left with no other recourse but to seek the assistance of counsel, his younger brother who happens to be a lawyer, in order to fully explain his side.^[23]

In a Resolution dated August 15, 2001, the case was assigned to Acting Presiding District Judge Bensaudi I. Arabani, Sr., Shari'a Circuit Court, Bongao, Tawi-Tawi. In the same resolution, we denied the respondent's request for the release of his salary pending the outcome of the investigation.^[24]

The Investigating Judge submitted his report and recommendation on January 29, 2002, with the following conclusion:

Based on the foregoing evidence adduced during the investigation of this case that led to the findings in the case, the ultimate and inevitable conclusion is that respondent has undoubtedly committed the charges against him.

RECOMMENDATION

Under Section 7, Rule 136 of the Rules of Court, on the duties of clerks, the clerk shall safely keep all records, papers, files, exhibits and public