

## EN BANC

[ A.M. No. 01-2-18-MTC, December 05, 2003 ]

### REPORT ON THE FINANCIAL AUDIT CONDUCTED AT THE MUNICIPAL TRIAL COURTS OF BANI, ALAMINOS, AND LINGAYEN, IN PANGASINAN.

#### DECISION

##### PER CURIAM:

On January 26, 2001, the Judicial Audit team of the Office of the Court Administrator (OCA) submitted a report on the audit conducted in the Municipal Trial Courts in Bani, Alaminos and Lingayen, Pangasinan. Based on the said report, the Court issued a Resolution dated March 7, 2001, to wit:

- (a) **DIRECT** Clerk of Court VIRGILIO TUGAS, MTC-Bani, Pangasinan, to: (1) **EXPLAIN** why no administrative sanction shall be imposed upon him for misappropriating government funds and for his failure to submit his monthly report of collections, deposits/withdrawals since 1995 up to the time of audit; and (2) **RESTITUTE** the shortages in the JDF P42,314.00; Gen. Fund P6,751.00 and Fiduciary Fund P254,225.00;
- (b) **DIRECT** clerk of Court Carmen Tantay, MTC-Lingayen, Pangasinan, to: (1) **EXPLAIN** why no administrative sanction shall be imposed upon her for misappropriating government funds and for her failure to submit her monthly report of collections, deposits/withdrawals since 1995 up to the time of audit; (2) **RESTITUTE** the shortages in the JDF P145,140.20; Gen. Fund P35,530.00 and Fiduciary Fund P931,470.00; (3) **ACCOUNT** for the missing receipts with serial numbers 3392001 to 3392050; 3392301 to 3392350; 8051501 to 8051550; 8051551 to 8051600; 8051601 to 8051650; 8051651 to 8051700; 8051751 to 8051800; 8051801 to 8051850 and 8051851 to 8051900; and (4) **SUBMIT** a certification from the Municipal Treasurer's Office as to the unwithdrawn Fiduciary Fund as of May 31, 2000;
- (c) **SUSPEND** Mr. Tugas and Mrs. Tantay from office and **RELIEVE** them of their functions as the Clerk of Court of MTC, Bani, Pangasinan and Lingayen, Pangasinan, respectively; and
- (d) **ISSUE** a **HOLD DEPARTURE ORDER** for Mrs. Carmen Tantay and Mr. Virgilio C. Tugas to refrain them from leaving the country.

In a Letter dated October 26, 2001, respondent Tugas denied having misappropriated government funds. He averred that Executive Judge Jules A. Mejia relieved him of his duties and detailed a Deputy Sheriff as Officer-in-Charge Clerk of Court as of September 13, 2000.<sup>[1]</sup> He clarified that the financial audit report failed to consider withdrawals made which were covered by court orders and

acknowledged receipts, amounting to P224,000.00.<sup>[2]</sup>

The respondent, however, admitted his failure to deposit the amounts in his possession. He also admitted that he told the audit team that he used part of his collection when his son Virgilio was hospitalized on September 24-26, 1999,<sup>[3]</sup> and unfortunately died on October 4, 1999.<sup>[4]</sup> He was quick to aver that he was able to "substitute" the said amount, and further explained, thus:

6. As per audit, I have an accounted collection in the total amount of Three Hundred Three Thousand Two Hundred Ninety pesos **(P303,290.00)**, but as explained and detailed above, your Honors, I have a cash on hand of Eighty Two thousand Seven Hundred Fifty Five pesos **(82,755.00)** and cashbond withdrawals of Two Hundred Twenty Four Thousand pesos **(P224,000.00)** or a total of Three hundred Six Thousand Seven Hundred Fifty Five **(P306,755)**. Therefore I have an excess of Three Thousand Four Hundred Sixty five pesos **(P3,465.00)** which is my personal money included in the inventory of the Deputy Sheriff who relieved me;

...

8. I am not a criminal, your Honors, however flimsy or laughable my reason in your estimate, please consider my case with understanding and compassion and I pray that I will be given another chance and this will not be done again your Honors;

If I may not be allowed to continue my work as Clerk of Court, at least Your Honors, allow me for the early retirement and to leave the service with dignity and for me to received [*sic*] all the benefits of my long service with the Judiciary and I will be forever grateful, Your Honors.<sup>[5]</sup>

For respondent Tantay's failure to comply with the Court's Resolution of March 7, 2001, another Resolution dated December 5, 2001 was issued, directing Presiding Judge Hermogenes C. Fernandez, MTC, Lingayen, Pangasinan, to serve the previous resolution anew. The respondent's brother, Lazaro Ferrer, eventually received the resolution on January 14, 2002. On May 8, 2002, respondent Tantay was required to show cause why she should not be disciplinary dealt with for such failure and to comply with the Resolution of March 7, 2001, requiring said explanation. Upon her failure to comply with the Court's directive, the Court further resolved to impose a fine of P1,000.00, or in lieu thereof, imprisonment for five days, upon the respondent's failure to explain and reconstitute shortages and accounting of the missing receipts, within ten days from notice thereof.<sup>[6]</sup>

The Court Administrator was, thereafter, directed to conduct a comprehensive investigation of the matter in a Resolution dated December 16, 2002. In a Report dated September 12, 2003, the OCA recommended that:

(1) The financial audit report be docketed as a regular complaint against Virgilio A. Tugas, Clerk of Court, MTC, Bani, Pangasinan and Mrs. Carmen F. Tantay, Clerk of Court, MTC, Lingayen, Pangasinan, for gross misconduct and dishonesty.

(2) Respondents be found **GUILTY** of dishonesty and gross misconduct and be **DISMISSED** from the service with prejudice to reemployment in any government agency, including government owned and controlled corporations; all withheld salaries, allowances and benefits if any be ordered **FORFEITED**; respondents be further DIRECTED to reconstitute their total accountabilities, all these without prejudice to the filing of the appropriate civil and criminal actions against them.

(3) Mr. Virgilio B. Tugas be **DIRECTED** to reconstitute the amount of Eighty Nine Thousand Three Hundred Ninety Pesos (89,390.00) representing his shortages in the following: JDF – P42,314.00; General Fund – P6,751.00; and Fiduciary Fund – P40, 325.00;

(4) Ms. Carmen F. Tantay be **DIRECTED** to reconstitute the amount of One Million One Hundred Twelve Thousand One Hundred Forty Pesos (P1,211,214.00) representing [her] shortages in the following: JDF – P145,140.20; General Fund – P35,530.00; and Fiduciary Fund – P931,470.00;

(5) The Legal Office be **DIRECTED** to file the criminal charges against Mr. Tugas and Mrs. Tantay;

(6) The Employees Leave Division, OAS-OCA be DIRECTED to compute the balance of earned leave credits of Mr. Tugas and Mrs. Tantay and forward the same to the Finance Division, FMO-OCA which shall compute the money value of the leave credits and other monetary benefits that Mr. Tugas and Mrs. Tantay are still entitled to receive from the Court, the amount to be included as restitution of the computed shortages.<sup>[7]</sup>

*Respondent Clerk of Court  
Tugas is liable for  
Misappropriating  
government funds which  
warrants the imposition of  
the penalty of dismissal.*

Respondent Tugas is clearly administratively liable for his actions, as he himself admitted that he used the court's funds to finance his son's hospitalization, and replaced the money afterwards. According to the Court Administrator's Report:

The accountability for Fiduciary Fund found in the first audit was amended and computed based on the supporting documents for withdrawal attached to the explanation of Mr. Tugas which is as follows:

Total collections from 12/28/95- 11/22/99 (excluding the direct deposits made by the party litigants with the MTO; P347,080.00 + 80,800.00)	P427,880.00
Less: Withdrawals made for the same period (a-g) from	P224,000.00