



Republic of the Philippines
Supreme Court
 Manila

EN BANC

**CIRILO P. TIRADO, SR. and EDNA
 S. CASIPLE,**

Complainants,

A. M. No. P-09-2710

(Formerly OCA IPI No. 07-2607-P)

Members:

GESMUNDO, *C.J.*,
 PERLAS-BERNABE,
 LEONEN,
 CAGUIOA,
 HERNANDO,
 CARANDANG,
 LAZARO-JAVIER,
 INTING,
 ZALAMEDA,
 LOPEZ, M.,
 GAERLAN,
 ROSARIO, and
 LOPEZ, J., *JJ.*

-versus-

**YANENA D. PORTILLANO, Clerk
 of Court II, 3rd Municipal Circuit
 Trial Court, Bagumbayan-
 Esperanza, Sultan Kudarat,**

Respondent.

Promulgated:

July 27, 2021

[Signature]

X-----X

DECISION

PER CURIAM:

Antecedents

Complainants Cirilo P. Tirado, Sr. (Tirado) and Edna S. Casiple (Casiple) filed a verified complaint charging respondent Yanena D. Portillano, (Portillano) Clerk of Court II, 3rd Municipal Circuit Trial Court (MCTC), Bagumbayan- Esperanza, Sultan Kudarat, with misconduct.

The complaint essentially alleged that Tirado was one of the accused in Criminal Case Nos. 3386 and 3387, entitled "*People of the Philippines v. Cirilo Tirado, Sr. et al.*" for robbery with force upon things. Casiple was Tirado's bondswoman. During the preliminary investigation, Casiple posted a cash bail bond of ₱40,000.00 for each case or a total of ₱80,000.00 for Tirado's temporary liberty. Casiple submitted the cash bond to Portillano, then Clerk of Court of the MCTC, Bagumbayan-Esperanza, Sultan Kudarat. Thereafter, the criminal cases were filed with the Regional Trial Court (RTC) and raffled to Branch 19, Isulan, Sultan Kudarat.

During the hearing, Tirado, through counsel, moved for the reduction of his bail bond from ₱40,000.00 to ₱20,000.00 for each case. By Order¹ dated June 13, 2007 given in open court, the trial court granted the motion.

Thereafter, Tirado's counsel, Atty. Rutillo B. Pasok (Atty. Pasok), wrote² respondent requesting the release of ₱40,000.00 from Tirado's cash bond. Respondent, however, refused to release the cash bond on ground that the order did not specifically instruct that the amount of ₱40,000.00 be released to Casiple. Consequently, Tirado filed with RTC-Branch 19 an *ex-parte* motion for issuance of an order to release ₱40,000.00 from his original cash bond of ₱80,000.00.

By Order³ dated June 26, 2007, the trial court granted Tirado's motion. It directed respondent to release the cash bond in the amount of ₱80,000.00 to Atty. Heathcliff H. Leal (Atty. Leal), Clerk of Court, RTC-Branch 19, Isulan, Sultan Kudarat. The latter, in turn, shall issue two (2) acknowledgment receipts for Criminal Case Nos. 3386 and 3387 in the amount of ₱20,000.00 each as cash bond for Tirado's provisional liberty. The remaining ₱40,000.00 from the original cash bond of ₱80,000.00 shall be released to Casiple, the bondswoman.

Tirado and Casiple brought the Order dated June 26, 2007 to the MCTC, Bagumbayan-Esperanza but failed to present it to respondent after a certain Jocelyn Chiva, a court employee, refused to receive it because respondent was allegedly on leave.

Meantime, retired Presiding Judge Osmundo M. Villanueva (Judge Villanueva) of the MCTC, Bagumbayan-Esperanza supposedly told complainants and their lawyer Atty. Pasok that respondent would either execute a promissory note or pay ₱80,000.00 on or before July 30, 2007. Judge Villanueva also allegedly offered to advance the ₱20,000.00 of said amount. Tirado and Casiple rejected the supposed offer. They asked that the Order dated June 26, 2007 be strictly followed, *i.e.*, for respondent to turn-

¹ *Rollo*, p. 9.

² Letter dated June 20, 2007, *id.* at 10.

³ *Id.* at 11.

over the cash bond of ₱80,000.00 to Atty. Leal and for the latter, in turn, to release the amount of ₱40,000.00 to Casiple while the remaining ₱40,000.00 be posted as Tirado's reduced cash bond.

In her Comment⁴ dated March 10, 2008, respondent claimed that the ₱80,000.00 cash bond had already been remitted to Atty. Leal pursuant to the Order dated June 26, 2007 of RTC-Branch 19. She presented as proof a receipt dated July 17, 2007. She explained that she did not immediately remit the amount because she had to inquire first from the auditor on the proper procedure for a partial refund. She further averred that the reason for her failure to immediately comply with the Order dated June 26, 2007 was because she was in Davao City attending to her sick son. Nonetheless, despite her leave of absence, a member of their court staff remitted the amount in compliance with the order.

THE RTC REPORT AND RECOMMENDATION

By Resolution,⁵ dated October 21, 2009, the Court referred the administrative case to Judge Milanio M. Guerrero (Executive Judge Guerrero), Executive Judge of RTC, Tacurong City, Sultan Kudarat for investigation, report, and recommendation.

After due proceedings, Executive Judge Guerrero submitted his Investigation Report⁶ dated February 10, 2011, finding respondent guilty of dishonesty for her failure to deposit the cash bond of ₱80,000.00 with the court's authorized depository bank.

Executive Judge Guerrero opined that respondent's failure to immediately release the amount of ₱80,000.00 to Atty. Leal, despite the court's directive, gave rise to the presumption that she had misappropriated it for her personal benefit. Although the cash bond was eventually released, albeit, more than two weeks late, this would not negate respondent's liability. Her delayed compliance demonstrates her failure to live up to the standards of competence and integrity expected of her as an officer of the court.

The investigation report clarified, however, that respondent was not liable for non-compliance with the Order dated June 13, 2007, which did not specifically authorize her to release the cash bond of ₱80,000.00 to Casiple. Rather, respondent's liability hinges on her failure to heed the Order dated June 26, 2007 to remit the cash bond of ₱80,000.00 to Atty. Leal who, in turn, was directed to release ₱40,000.00 to Casiple, to give effect to the bail reduction granted by the court.

⁴ *Id.* at 35.

⁵ *Id.* at 43.

⁶ Record, Investigation Report in A.M. No. P-09-2710, unpaginated.

File

The ultimate penalty of dismissal is meted for the grave offense of dishonesty, even if committed for the first time. Despite respondent's resignation as clerk of court effective December 24, 2008, the Court has, nonetheless, held in a number of cases that resignation is not and should not be a convenient way to evade administrative liability. In lieu of dismissal, it was recommended that respondent be barred from accepting or holding any position in public office.

THE OCA REPORT AND RECOMMENDATION

The Office of the Court Administrator (OCA) adopted the factual findings in the investigation report but modified the recommended penalty. Aside from respondent's perpetual disqualification from re-employment in any branch of the government, the OCA further recommended that all her benefits, except accrued leave credits, be forfeited.

THE COURT'S RULING

The Court adopts the report and recommendation of the OCA with modification. In addition to dishonesty, the Court also finds respondent guilty of grave misconduct and gross neglect of duty.

The duties of a clerk of court are multi-faceted. Apart from exercising general administrative supervision over all personnel of the court,⁷ a clerk of court also performs a delicate function as designated custodian of the court's funds, revenues, records, properties, and premises.⁸ Clerks of court have always been reminded of their duty to immediately deposit the various funds they receive to the authorized government depositories, for they are not supposed to keep the funds in their custody.⁹ The importance of proper management of court collections cannot be overemphasized as in fact, the Court had issued several circulars¹⁰ on the matter of handling court funds. The

⁷ See *OCA v. Salunoy*, A.M. No. P-07-2354 (Formerly A.M.No. 07-5-140-MTC) February 4, 2020.

⁸ See *OCA v. Bernardino*, 490 Phil. 500, 532 (2005).

⁹ *OCA v. Alauya*, 802 Phil. 1, 22 (2016).

¹⁰ (1) **OCA Circular No. 50-95** which provides for guidelines and procedures in the manner of collecting and depositing court funds; (2) **OCA Circular No. 113-2004** which orders the submission of Monthly Reports of Collections and Deposits; (3) **Administrative Circular No. 35-2004** which states the duty of the Clerk of Court as regards the keeping of a cash book and cash collection to be deposited with the Land Bank of the Philippines; (4) **Administrative Circular No. 3-2000** which among others requires the upkeep of a book embodying all the fees received and collected by the court and demands that all fiduciary collection shall be immediately deposited by the clerk of court, upon receipt thereof, with an authorized government depository bank; (5) **Supreme Court Circular No. 13-92** which provides for the duty of the clerk of court to make the necessary deposits of the court's collection from bail bonds, rental deposits and other fiduciary collection; (6) **Supreme Court Circular No. 5-93** which requires the clerk of court to deposit court collections with Land Bank of the Philippines or with the Municipal, City or Provincial Treasurer as the case may be; and (7) **The 2002 Revised Manual for Clerks of Court** which states the guidelines for the accounting of court funds.

clerk of court is, thus, entrusted with the responsibility of implementing these regulations regarding fiduciary funds.¹¹

Supreme Court Circular No. 13-92¹² commands that all fiduciary collections “shall be deposited immediately by the clerk of court concerned, upon receipt thereof, with an authorized government depository bank.” Supreme Court Circular No. 5-93,¹³ on the other hand, designates the Landbank of the Philippines as depository bank for court collections.

Furthermore, Section B(4) of Supreme Court Circular No. 50-95¹⁴ requires that “[a]ll **collections from bail bonds, 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 Supreme Court Circular No. 13-92.¹⁵ These circulars are mandatory in nature.¹⁶ They are plain enough to command strict compliance to promote full accountability for government funds and no protestation of good faith can override such mandatory nature.¹⁷

Here, respondent failed to immediately release Tirado’s cash bond to Atty. Leal pursuant to the Order dated June 26, 2007. Such failure is considered *prima facie* evidence that she misappropriated the money.¹⁸ Respondent was unable to rebut this presumption. Although she tried to justify the delayed release of the cash bond by claiming she had a pending inquiry with the auditor on the procedure for a partial refund, respondent presented no proof to support such claim. Too, that respondent was in Davao City and supposedly attending to her sick son is not an excuse. Personal problems should never justify the incurring of shortages and the delay in remitting cash collections for the judiciary.¹⁹ Worse, respondent failed to fully disclose where the money was during this supposed inquiry. To be sure, respondent could have easily dispelled doubts that she misappropriated the funds by presenting the passbook reflecting the date or dates when she supposedly deposited and later withdrew the cash bond for turn over to Atty. Leal, together with the corresponding deposit and withdrawal slips. This respondent failed to do, thus, leading to the indubitable conclusion that the amount was never deposited with the court’s depository bank. To repeat, the fact of non-deposit of the fund is *prima facie* evidence of misappropriation which respondent failed to refute.

¹¹ See *Toribio v. Atty. Ofilas*, 467 Phil. 147, 149 (2004).

¹² Dated March 1, 1992.

¹³ Dated April 30, 1993.

¹⁴ Dated October 11, 1995.

¹⁵ See *OCA v. Zorilla*, A.M. No. P-10-2790, July 30, 2019.

¹⁶ *Id.*

¹⁷ *Sto. Tomas v. Galvez*, A.M. Nos. MTJ-01-1385, P-17-3704 & MTJ-03-1472, March 19, 2019.

¹⁸ See *Alenio v. Cunting*, 555 Phil. 146, 151 (2007), citing *U.S. v. Feliciano*, 15 Phil. 142 (1910).

¹⁹ *OCA v. Zorilla*, *supra*.

Atc

In *OCA v. Dequito*,²⁰ the Court held that the unwarranted failure of a clerk of court to fulfill his responsibilities deserves administrative sanction. In several cases, the Court has regarded the misappropriation of judicial funds not only as a form of dishonesty, but also of grave misconduct²¹ and gross neglect of duty.²²

In *Audit Report, RTC-4, Davao del Norte*²³ and *Office of the Court Administrator v. Recio, et al.*,²⁴ the Court held that failure to remit court funds is tantamount to **gross neglect of duty, dishonesty and grave misconduct**. Delayed remittance of cash collections constitutes gross neglect of duty because this omission deprives the court of interest that could have been earned if the amounts were deposited in the authorized depository bank. Even the restitution of the whole amount cannot erase her administrative liability.²⁵

Gross neglect of duty refers to negligence characterized by the glaring want of care; by acting or omitting to act in a situation where there is a duty to act, not inadvertently, but willfully and intentionally; or by acting with a conscious indifference to consequences with respect to other persons who may be affected.²⁶

Dishonesty is defined as a disposition to lie, cheat, deceive, or defraud; unworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive, or betray.²⁷ Dishonesty is a malevolent conduct that has no place in the judiciary. We have repeatedly warned that dishonesty, particularly that which amounts to malversation of public funds, will not be countenanced. Otherwise, courts of justice may come to be regarded as mere havens of thievery and corruption.²⁸

Misconduct, on the other hand, is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. To warrant dismissal from the service, the misconduct must be grave, serious, important, weighty, momentous, and not trifling. The misconduct must imply wrongful intention and not a mere error of judgment and must also have a direct relation to and be connected with the performance of the public officer's official duties amounting either to maladministration or willful, intentional neglect, or failure to discharge the duties of the office. In order to differentiate gross misconduct from simple

²⁰ 799 Phil. 607, 620 (2016).

²¹ *Id.* at 616-617.

²² See *OCA v. Acampado*, 721 Phil. 12, 30 (2013).

²³ 351 Phil. 1, 21-22 (1998).

²⁴ 665 Phil. 13, 29 (2011).

²⁵ *OCA v. Zorilla*, *supra*.

²⁶ *Lucas v. Dizon*, 747 Phil. 88, 97 (2014).

²⁷ *OCA v. Viesca*, 758 Phil. 16, 27 (2015).

²⁸ *Sto. Tomas v. Galvez*, A.M. Nos. MTJ-01-1385, P-17-3704 & MTJ-03-1472, March 19, 2019.

misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule, must be manifest in the former.²⁹

Rule 140 of the Revised Rules of Court governs the proceedings for the discipline of members of the judiciary as well as its officers and employees. Section 22 thereof classifies dishonesty and grave misconduct as grave offenses. On the other hand, Section 52(A)(2) of the 1999 Uniform Rules on Administrative Cases in the Civil Service (URACCS), which has suppletory application to administrative cases involving officers and employees of the judiciary, likewise classifies gross neglect of duty as a serious offense. Further, Section 25(A), paragraph 1 of Rule 140 provides that the respondent who is found guilty of a serious offense shall be meted the penalty of dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations. Provided, however, that the forfeiture of benefits shall in no case include accrued leave credits.

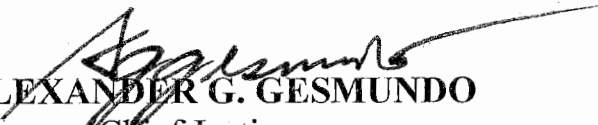
Here, the penalty of dismissal can no longer be meted on respondent in view of her resignation from the service. Nonetheless, the accessory penalties of cancellation of civil service eligibility, forfeiture of benefits, and disqualification from reinstatement or re-appointment to any public office subsist. Her accrued leave credits, however, shall not be forfeited pursuant to *Office of the Deputy Ombudsman for Luzon v. Dionisio*³⁰ and other similar cases.

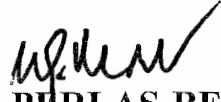
ACCORDINGLY, respondent **YANENA D. PORTILLANO**, former Clerk of Court II, Municipal Circuit Trial Court, Bagumbayan-Esperanza, Sultan Kudarat is found guilty of dishonesty, gross neglect of duty, and grave misconduct. In view of her resignation from the service, the penalty of dismissal can no longer be imposed on her. Nonetheless, the accessory penalties corresponding to the penalty of dismissal subsist and are, thus, meted on her. Her civil service eligibility is **CANCELLED** and her retirement benefits, except accrued leave credits, are **FORFEITED**. She is **PERPETUALLY DISQUALIFIED** from re-employment in any branch or instrumentality of the government, including government-owned or controlled corporations.

²⁹ *OCA v. Viesca*, supra at 26-27.

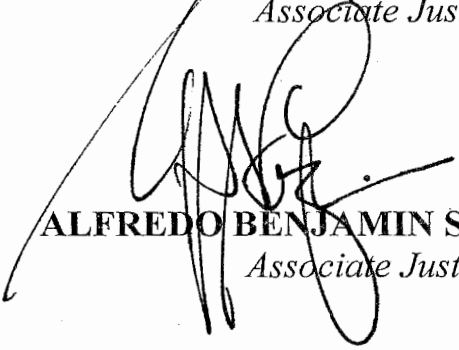
³⁰ 813 Phil. 474, 491 (2017).


SO ORDERED.


ALEXANDER G. GESMUNDO
Chief Justice

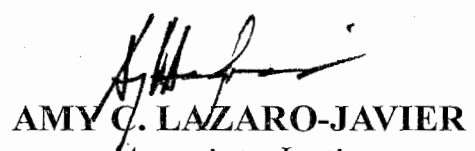

ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice

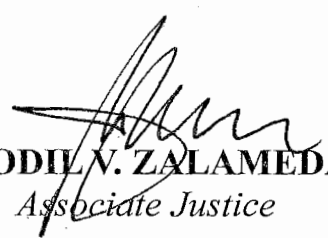

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

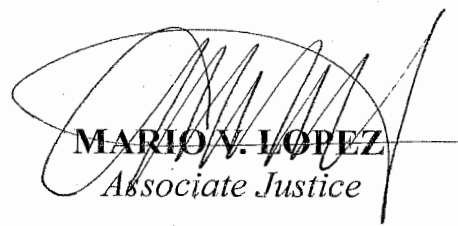

RAMON PAUL L. HERNANDO
Associate Justice



ROSMARI D. CARANDANG
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice

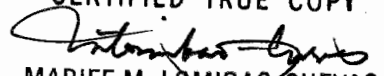

RODIL N. ZALAMEDA
Associate Justice


MARIO V. LOPEZ
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JHOSEP Y. LOPEZ
Associate Justice

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MARIFE M. LOMIBAO-CUEVAS
Clerk of Court
Supreme Court