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[A.M. No. P-10-2800. November 18, 2014]
(Formerly A.M. No. 10-5-66-MTC)

OFFICE OF THE COURT ADMINISTRATOR, *complainant, vs.* **MRS. AURORA T. ZUÑIGA, CLERK OF COURT II, MRS. MINDA H. CERVANTES, STENOGRAPHER 1, both of MUNICIPAL TRIAL COURT (MTC) VIRAC, CATANDUANES, and MR. PEPITO F. LUCERO, INTERPRETER III, REGIONAL TRIAL COURT, Br. 43, VIRAC, CATANDUANES,** *respondents.*

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; PUBLIC OFFICERS; CLERKS OF COURT; ALL FIDUCIARY COLLECTIONS UPON RECEIPT SHALL BE DEPOSITED IMMEDIATELY BY THE CLERK OF COURT CONCERNED WITH AN AUTHORIZED GOVERNMENT DEPOSITARY BANK.— SC Circular Nos. 13-92 and 5-93, as integrated in the 2002 Revised Manual for Clerks of Court, provide the guidelines for the accounting of court funds. All fiduciary collections upon receipt shall be deposited immediately by the Clerk of Court concerned with an authorized government depository bank. In SC Circular No. 5-93, the LBP was designated as the authorized government depository. Furthermore, Section B(4) of Circular No. 50-95 directs that all collections from bailbonds, rental deposits and other fiduciary collections shall be deposited with the LBP within twenty-four (24) hours by the Clerk of Court concerned as instructed in Circular No. 13-92.

2. ID.; ID.; ID.; ID.; RESPONDENT CLERK OF COURT'S UNORGANIZED METHOD OF MANAGING AND DOCUMENTING THE CASH COLLECTIONS ALLOCATED FOR THE JUDICIAL DEVELOPMENT FUND (JDF) WAS A SERIOUS VIOLATION OF ADMINISTRATIVE CIRCULAR NO. 5-93.— As observed

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by the financial audit team, there were also instances when Zuñiga failed to deposit her JDF collections within twenty-four (24) hours upon receipt. She deferred the deposit of her JDF collections for another day or the succeeding month without any valid justification. Due to this unconventional method, the interest on the FF account was erroneously receipted and deposited in the GF account. Clearly, Zuñiga's unorganized method of managing and documenting the cash collections allocated for the JDF was a serious violation of Administrative Circular No. 5-93, the pertinent portion of which reads: 3. Duty of the Clerks of Court, Officers-in-Charge or accountable officers.- The Clerks of Court, Officers-in-Charge of the Office of the Clerk of Court, or their accountable duly authorized representative designated by them in writing, who must be accountable officers, shall receive the Judiciary Development Fund collections, issue the proper receipt therefor, maintain a separate cash book properly marked CASH BOOK FOR JUDICIARY DEVELOPMENT FUND, deposit such collections in the manner herein prescribed, and render the proper Monthly Report of Collections for said Fund.

3. **ID.; ID.; ID.; ID.; THE FAILURE OF A CLERK OF COURT TO REMIT THE COURT FUNDS WAS TANTAMOUNT TO GROSS NEGLECT OF DUTY, DISHONESTY AND GRAVE MISCONDUCT PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE.—** More importantly, delayed remittance of cash collections constitutes gross neglect of duty because this omission deprives the court of interest that may be earned if the amounts were to be deposited in the authorized depository bank. SC Circular No. 13-92 requires clerks of court to withdraw interest earned on deposits and to remit the same to the account of the JDF within two (2) weeks after the end of each quarter. Delay in the remittance of court's funds casts a serious doubt on the concerned court employee's trustworthiness and integrity. As ruled in *In Re: Report on the Judicial and Financial Audit of RTC-Br. 4, Panabo, Davao del Norte* and *Office of the Court Administrator v. Recio*, the failure of the Clerk of Court to remit the court funds was tantamount to gross neglect of duty, dishonesty and grave misconduct prejudicial to the best interest of the service.

4. **ID.; ID.; ID.; ID.; BEING THE CUSTODIAN OF COURT FUNDS AND REVENUES, RESPONDENT CLERK OF**

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COURT HAD THE PRIMARY RESPONSIBILITY TO IMMEDIATELY DEPOSIT THE FUNDS RECEIVED BY HER OFFICE WITH THE AUTHORIZED GOVERNMENT DEPOSITORIES AND NOT KEEP THE SAME IN HER CUSTODY.— It need not be overemphasized that court personnel tasked with collections of court funds, such as the clerk of court and cash clerks, should deposit immediately with the authorized government depositories the various funds they had collected. Being the custodian of court funds and revenues, Zuñiga had the primary responsibility to immediately deposit the funds received by her office with the authorized government depositories and not to keep the same in her custody. The Court cannot accept Zuñiga's argument that she already made the appropriate restitution because it was not supported by evidence. Zuñiga posits that she personally gave the money to her presiding judge to answer for her accountabilities on July 9, 2007, but it was only in 2008 that the financial audit team examined her books of account. Besides, a claim of payment is just a self-serving allegation and mere allegation of payment without proof merits no weight. In fact, Judge Santiago-Ubalde belied this claim in her letter, dated September 21, 2010, when she specifically mentioned that Zuñiga did not make any restitution whatsoever. She also dragged the names of her other co-workers in her predicament, but passing the blame to another with no credible explanation would not suffice to absolve her from liability. Remarkably, Zuñiga's present stand is contrary to what she wrote in her previous letter, dated April 11, 2008, when she informed the audit team of her intention to fully restitute her accountabilities. In fact, in her other letter, dated March 9, 2009, she openly admitted that she used the money collected as bail to pay for her own expenses and household bills. Thus: There were also times when I gave the bail amount to the designated collecting officer *or at times, divided the amount* because we both *needed the money to buy food or pay the house bills*. However, much to my dismay, she negated my story because according to her, she did not sign any receipt when she received the money. Her incongruous statements do not reflect highly on her character as a public servant; they constitute gross dishonesty, which undermines the public's faith in courts and in the administration of justice as a whole.

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5. ID.; ID.; ID.; ID.; RESPONDENT'S UNJUSTIFIED FAILURE TO COMPLY WITH COURT CIRCULARS DESIGNED TO PROMOTE FULL ACCOUNTABILITY FOR PUBLIC FUNDS CONSTITUTES GROSS NEGLECT OF DUTY AND GRAVE MISCONDUCT.— Zuñiga's unjustified failure to comply with the Court's circulars designed to promote full accountability for public funds even constitutes gross neglect of duty and grave misconduct. No protestation of good faith can override the mandatory observance of court circulars. It should be emphasized that the 2002 Revised Manual for Clerks of Court requires strict compliance with the rules and regulations of the collection and accounting funds, thus: 2.1.2.4 Sanctions Strict observance of the rules and regulations on collection and accounting of funds is hereby enjoined. The Clerks of Court or Officers-in-Charge shall exercise close supervision over their respective duly authorized representatives to ensure strict compliance herewith, and shall be held administratively accountable for failure to do so. *Failure to comply with any of these rules and regulations shall mean the withholding of the salaries and allowances of those concerned until compliance thereof is duly effected, pursuant to Sec. 122 of Pres. Decree No. 1445 dated June 11, 1978, without prejudice to such further disciplinary action the Court may take against them.* Section 1, Article XI of the Constitution, provides that a public office is a public trust, and all public officers and employees must at all times be accountable to the people; serve them with utmost responsibility, integrity, loyalty, and efficiency; act with patriotism and justice; and lead modest lives. The demand for moral uprightness is more pronounced for the members and personnel of the Judiciary who are involved in the dispensation of justice. The conduct of court members and personnel must not only be characterized with propriety and decorum but must also be above suspicion, for any act of impropriety can seriously erode or diminish the people's confidence in the Judiciary.

6. ID.; ID.; ID.; ID.; GROSS DISHONESTY; DISMISSAL FROM SERVICE; PROPER PENALTY IN CASE AT BAR.— Thus, applying the parameters set forth by the 2002 Revised Manual for Clerks of Court and various court circulars, there is no doubt that Zuñiga is guilty of gross dishonesty. Section 52,

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> Rule IV of the Uniform Rules on Administrative Cases in the Civil Service classifies gross dishonesty as a grave offense with the corresponding penalty of dismissal for the first offense. Equally, the maximum penalty of dismissal from service for gross dishonesty is provided in Section 9, Rule XIV of the Civil Service Rules: The penalty of dismissal shall carry with it cancellation of eligibility, forfeiture of leave credits and retirement benefits, and the disqualification for reemployment in the government service. Further, it may be imposed without prejudice to criminal or civil liability. Indeed, a public servant is expected to exhibit, at all times, the highest degree of honesty and integrity, and should be made accountable to all those whom he serves. There is no place in the Judiciary for those who cannot meet the exacting standards of judicial conduct and integrity.

D E C I S I O N

PER CURIAM:

For review before the Court is this administrative matter which originated from the financial audit conducted by the Fiscal Monitoring Division *(FMD)* of the Office of the Court Administrator *(OCA)* on the books of account of the Municipal Trial Court, Virac, Catanduanes *(MTC)*. The financial review was brought about by the fund shortages discovered by state auditor Madeleine S. Rivera of the Commission on Audit (*COA*) for the period from August 21, 2003 to June 19, 2007 in the amount of ₱294,797.75.[1]

Specifically, the financial audit team examined the books of account of the MTC covering the period from March 3, 1985 to March 31, 2008, under the following accountable officers: Mrs. Aurora T. Zuñiga (respondent), Mrs. Paz T. Tacorda (Tacorda), Mrs. Minda H. Cervantes (Cervantes), Mr. Pepito F. Lucero (Lucero), Mr. Garibaldi L. Sarmiento (Sarmiento), and Ms. Sonia T. Bagadiong (Bagadiong).

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[1] *Rollo*, p. 9.

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The financial audit team reported that these court employees shared the task of acting as Officer-in-Charge/Accountable Officer from 1985 up to the dates of the audit, which are herein summarized:[2]

Name of Clerk of Court/Officer-in-Charge	**Position (Per CSC Appointment)**	**Period of Accountability**	**Fund Audited**
Paz T. Tacorda (OIC)	Court Legal Researcher II	Mar. 3, 1985 to Nov, 23, 1987	JDF
Sonia T. Bagadiong (OIC)	Court Stenographer III	Nov. 24, 1987 to Dec. 27, 1987	JDF
Minda H. Cervantes (OIC)	Court Stenographer I	Dec. 28, 1987 to Sep. 28, 1988 Jan. 26, 1996 to Jan. 31, 2005	JDF FF
Aurora T. Zuñiga[3] *(COC)*	*Clerk of Court II*	*Aug. 25, 1988 to Nov. 13, 1995*	*JDF*
Pepito F. Lucero (OIC)	Court Interpreter III	Nov. 14, 1995 to Jan. 25, 1996	JDF/GF
Aurora T. Zuñiga (COC)	*Clerk of Court II*	*Jan. 26, 1996 to Oct. 31, 2006*	*JDF/GF/ SAJF/MF*
Garibaldi L. Sarmiento (OIC)	Court Interpreter I	Nov. 1, 2006 to Jul. 9, 2007	JDF/SAJF/ MF
Aurora T. Zuñiga (COC)	*Clerk of Court II*	*Jul. 10, 2007 to Mar. 31, 2008* *Feb. 1, 2005 to Mar. 31, 2008*	*JDF/SAJF/ MF* *FF*

In its Financial Audit Report,[4] dated January 28, 2009, the audit team disclosed that Tacorda incurred a shortage of ₱10.00 from the Judicial Development Fund (*JDF*); Cervantes, ₱4,100.00 from the Fiduciary Fund (*FF)*; Lucero, ₱1,095.00 from the JDF and ₱600.00 from the General Fund *(GF)*; Sarmiento, ₱384.00

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[2] *Id.* at 191-192.

[3] Emphases supplied.

[4] *Rollo*, pp. 9-22.

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from JDF and ₱1,626.00 from the Special Allowance for the Judiciary Fund (*SAJF*), although said amounts were already restituted on April 25, 2008;[5] and Zuñiga a total of ₱278,811.85, as well as accountabilities from her FF collections. Based on their findings, the audit team recommended that:

I. MRS. PAZ T. TACORDA, Court Legal Researcher II of RTC Branch 43, Virac, Catanduanes, and former Officer-in-Charge of MTC, Virac, Catanduanes be directed to deposit the amount of Ten Pesos (₱10.00) to the account of Judiciary Development Fund (JDF), copy furnished the Fiscal Monitoring Division, Court Management Office of the Office of the Court Administrator of the duly validated deposit slip as proof of compliance;

II. MR. PEPITO F. LUCERO, Court Interpreter III of RTC, Branch 43, Virac, Catanduanes, and former Officer-in-Charge of MTC, Virac, Catanduanes, be DIRECTED within ten (10) days from receipt of this notice to:

a) RESTITUTE his incurred shortages on the following funds, copy furnished the Fiscal Monitoring Division, Court Management Office of the Office of the Court Administrator of the duly validated deposit slip/s as proof of compliance:

Name of Fund	Period Covered	Amount
Judiciary Development Fund	Nov. 14, 1995-Jan. 25, 1996	₱1,095.00
General Fund	Nov. 14, 1995-Jan. 25, 1996	600.00
Total		**₱1,695.00**

b) EXPLAIN in writing why he should not be administratively dealt with for failure to deposit his collections to their respective fund bank accounts, which is contrary of the circulars issued by the Court in the proper handling of Judiciary Funds.

III. MS. SONIA T. BAGADIONG and Mr. GARIBALDI L. SARMIENTO, former Officers-in-Charge of MTC, Virac, Catanduanes, after having been audited of their books of accounts

[5] *Id.* at 12-13.

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which were found to be in order, be CLEARED from any accountability in so far as their period of accountability as an Officers-in-Charge are concerned.

IV. MRS. MINDA H. CERVANTES, Court Stenographer I and former Officer-in-Charge of MTC, Virac, Catanduanes, be DIRECTED within ten (10) days from receipt of this notice to: a) RESTITUTE her incurred shortage on Fiduciary Fund account in the amount of Four Thousand One Hundred Pesos (₱4,100.00) supported by duly validated deposit slip/s as proof of compliance, copy furnished the Fiscal Monitoring Division, Court Management Office, Office of the Court Administrator; b) EXPLAIN in writing why she failed to deposit her collections amounting to Forty Nine Thousand Six Hundred Sixty Pesos (₱49,660.00), thus, depriving the government of the interests that should have been earned (Annex "D"-Summary of Unreported/Undeposited Fiduciary Fund Collections); and c) EXPLAIN in writing why she should not be administratively dealt with for failure to deposit big/substantial portion of her collections on Fiduciary Fund to its fund bank account.

V. MRS AURORA T. ZUÑIGA, Clerk of Court II of MTC, Virac, Catanduanes, be DIRECTED within ten (10) days from receipt of this notice to:

1. **RESTITUTE** her incurred shortages on the following funds with the duly validated deposit slip as proof of compliance, copy furnished the Fiscal Monitoring Division, Court Management Office of the Office of the Court Administrator:

Name of Fund	**Period Covered**	**Amount**
Judiciary Development Fund	Sep. 29, 1988-Nov. 13, 1995	₱ 2,013.90
Judiciary Development Fund	Jan. 26, 1996-Oct. 31, 2006	3,070.40
Special Allowance for the Judiciary Fund	Nov. 11, 2003-Oct. 31, 2006	4,364.20
Fiduciary Fund	Jul. 10, 2007-Mar. 31, 2008	269,363.35
Total		**₱278,811.85**

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2. **TRANSMIT** to this Court through the Fiscal Monitoring Division, Court Management Office all the documents (*i.e.* court orders and acknowledgement receipts of the bondsmen/litigants) to support the validity and authenticity of the withdrawals/refund of cash bonds as enumerated in the attached list of Fiduciary Collections from June 26, 1992 to August 11, 1995 amounting to Two Hundred Thirty Two Thousand Eight Hundred Sixty Pesos (₱232,860.00). Failure to provide this Court with the said requirements, the same shall be considered outstanding and unwithdrawn and she will be directed to restitute the aforementioned amount;

3. **EXPLAIN** in writing why she should not be administratively dealt with for failure to report and deposit the following collections in their corresponding fund bank accounts, a clear violation of the circulars and other issuances of the Court on the proper handling of Judiciary collections, thus:

a. Judiciary Development Fund collections in the amount of Two Thousand Thirteen Pesos and 90/100 Centavos (₱2,013.90) and Three Thousand Seventy Pesos and 40/100 Centavos (₱3,070.40), which comprised her undeposited collections for the period covering August 25, 1988 to November 13, 1995 and January 26, 1996 to October 31, 2006 respectively;

b. Special Allowance for the Judiciary Fund collections in the amount of Four Thousand Three Hundred Sixty Four Pesos and 20/100 Centavos (₱4,364.20); and

c. Fiduciary Fund collections in the amount of Two Hundred Sixty Nine Thousand Three Hundred Sixty Three Pesos and 35/100 Centavos (₱269,363.35).

4. **EXPLAIN** in writing why during the period of accountability of Mr. Garibaldi L. Sarmiento as an accountable officer from November 2, 2006 to July 9, 2007, she was collecting legal fees accruing to Judiciary Development Fund and Special Allowance for the Judiciary Fund without the knowledge of Mr. Sarmiento and the fees collected were not reported and deposited, broken down as follows:

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For Judiciary Development Fund

Official Receipts Number	Period Covered	Amount
5389101	December 12, 2006	9.60
5389102-109	January 2-23, 2006	76.80
5389110-138	February 8-21, 2006	278.40
5389139-140	May 29, 2006[6]	19.20
Total		**384.00**

For Special Allowance for Judiciary Fund

Date of Collection	Official Receipts Number	Amount
December 15, 2006	5389101	40.40
January 1-23, 2007	5389102-109	323.20
February 8-21, 2007	5389110-138	1,171.60
May 29, 2007	5389139-140	80.80
July 2007		10.00
Total		1,626.00

5. **SECURE** from the Finance Division and/or from the Accounting Division, Financial Management Office, Office of the Court Administrator certified photocopies of vouchers, checks or any documents that would show that on March 5, 1997, her withheld salary checks and bonuses from January 1996 to February 1997 were applied to her JDF undeposited collections covering the period from September 29, 1988 to November 13, 1995 amounting to Eighty Seven Thousand Seventy Pesos and 89/100 Centavos (₱87,070.89).

VI. HON. LORNA B. SANTIAGO-UBALDE, Presiding Judge be DIRECTED to:

1. **ASSIGN** a court personnel to assist Mrs. Aurora T. Zuñiga in going over the records of the court for her to comply with the above directives; and

2. **PROPERLY MONITOR** the financial transactions of Ms. Ma Elviza S. Yuga, designated collecting officer, to ensure strict adherence

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[6] The report reflected 2006 instead of 2007; *id.* at 12.

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to circulars and other issuances of the court regarding the proper handling of judiciary funds.[7]

Lucero, in his letter,[8] dated March 2, 2009, claimed that the amount mentioned in the report was already deposited[9] to the account of the court in the Land Bank of the Philippines *(LBP)* on May 19, 2008.

Cervantes, on the other hand, explained in her letter,[10] dated March 9, 2009, that her shortage was mainly due to missing reimbursement receipts that she could not locate anymore, which was why she opted to just restitute her shortage of ₱4,100.00 on March 2, 2009 by depositing it in the bank.

In the Memorandum,[11] dated April 23, 2010, the OCA adopted the findings of the audit team and recommended that the report be re-docketed as an administrative matter against Zuñiga, Cervantes and Lucero. Thus, in the Resolution of June 23, 2010,[12] the Court approved the recommendations of the OCA which are herein reproduced in full, to wit:

1. **RE-DOCKET** the audit report as a regular administrative complaint against Mrs. Aurora T. Zuñiga, Mrs. Minda H. Cervantes and Mr. Pepito F. Lucero for failure to exercise diligence in the performance of their duties as officer of the court, thus, violating the circulars and other issuances of the Court regarding the proper handling of Judiciary collections resulting in the shortages incurred in the different fund accounts of the Court;

2. **PLACE** Mrs. Aurora T. Zuñiga, Clerk of Court II of MTC, Virac, Catanduanes **UNDER PREVENTIVE SUSPENSION** effective immediately and continuing until further orders from this Court for failure to deposit the funds in due time which constitutes gross

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[7] *Id*. at 19-22.

[8] *Id*. at 32.

[9] *Id*. at 34-35.

[10] *Id*. at 36-38.

[11] *Id*. at 1-3.

[12] *Id*. at 43-46.

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dishonesty and gross misconduct; and **COMPLY** with the Memorandum of the Court dated 28 January 2009 within fifteen (15) days from notice, otherwise an order of arrest shall be issued against her to be implemented by the National Bureau of Investigation. The aforementioned directive as contained in the memorandum is reiterated as follows:

> a. **RESTITUTE** your incurred shortages in the following funds with the duly validated deposit slip as proof of compliance, copy furnished the Fiscal Monitoring Division, Court Management Office of the Office of the Court Administrator:

Name of Fund	Period Covered	Amount
Judiciary Development Fund	Sep. 29, 1988-Nov. 13, 1995	₱2,013.90
Judiciary Development Fund	Jan. 26, 1996-Oct. 31, 2006	3,070.40
Special Allowance for the Judiciary Fund	Nov. 11, 2003-Oct. 31, 2006	4,364.20
Fiduciary Fund	Jul. 10, 2007-Mar. 31, 2008	269,363.35
Total		**₱278,811.85**

> b. **TRANSMIT** to this Court through the Fiscal Monitoring Division, Court Management Office, all the documents (*i.e.*, court orders and acknowledgment receipts of the bondsmen/litigants) to support the validity and authenticity of the withdrawals/refund of cash bonds as enumerated in the attached list of Fiduciary Collections from 26 June 1992 to 11 August 1995 amounting to Two Hundred Thirty Two Thousand Eight Hundred Sixty Pesos (₱232,860.00). Failure to provide this Court with the said requirements, the same shall be considered outstanding and unwithdrawn and she will be directed to restitute the aforementioned amount.

3. **DIRECT** Mr. Pepito F. Lucero, Court Interpreter III of RTC, Br. 43, Virac, Catanduanes, and former Officer-in-Charge of MTC, Virac, Catanduanes to **PAY** a **FINE** of ₱2,000.00 for violations of Section 23, Rule XIV of the Omnibus Civil Service Rules and Regulations (Gross Neglect of Duty) within fifteen (15) days from receipt of notice, with stern warning that repetition of the same or similar act in the future will be dealt with more severely;

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4. **DIRECT** Mrs. Minda H. Cervantes, former Officer-in-Charge and Court Stenographer I of MTC, Virac, Catanduanes, to **PAY** a **FINE** of ₱2,000.00 for violations of Section 23, Rule XIV of the Omnibus Civil Service Rules and Regulations (Gross Neglect of Duty) within fifteen (15) days from receipt of notice, with stern warning that commission of the same or similar acts in the future, including violation of court resolutions will be dealt with more severely;

5. **REQUIRE** Mrs. Paz T. Tacorda to **EXPLAIN** within ten (10) days from notice why she failed to comply with the directive in the Memorandum of the Court dated 28 January 2009; and **COMPLY** with the said directive subject of the aforesaid Memorandum within ten (10) days from notice;

6. **CLEAR** Ms. Sonia T. Bagadiong and Mr. Garibaldi L. Sarmiento, former Officers-in-Charge of MTC, Virac, Catanduanes, from any accountability in so far as their period of accountability as Officers-in-Charge are concerned, after having been audited of their books of accounts which were found to be in order; and

7. **DIRECT** Hon. Lorna B. Santiago-Ubalde, Presiding Judge of MTC, Virac, Catanduanes, to **ASSIGN** a court personnel to assist Mrs. Aurora T. Zuñiga in going over the records of the court for her to comply with the above directives with the close supervision of Ms. Ma. Elviza S. Yuga, designated collecting officer; and **EFFECTIVELY MONITOR** the financial transactions of Ms. Ma. Elviza S. Yuga, to ensure strict adherence to circulars and other issuances of the court regarding the proper handling of judiciary funds to avoid the incurrence of infractions/violations committed by the aforementioned court employees, otherwise, she shall be held equally liable if funds of the Court are subsequently found to be mishandled.[13]

In her letters, dated August 19, 2010[14] and September 30, 2010,[15] Zuñiga claimed that she had already complied with the Court's directive of January 28, 2009. She averred that, on July 9, 2007, she personally handed over to the presiding judge, Hon. Lorna B. Santiago-Ubalde *(Judge Santiago-Ubalde)*, the

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[13] *Id*. at 43-45.

[14] *Id*. at 50.

[15] *Id*. at 163-168.

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following amounts as restitution: ₱20,640.00 for the JDF ₱146,750.00 for the FF; and ₱31,000.00 for the Process Server's Deposit (STP Fund). She further claimed that, in addition to the said payments, on January 30, 2008, she further deposited another ₱10,000.00 as additional restitution for the FF and that although she was not the designated collecting officer for the FF from July 10, 2007 to March 31, 2008, but the late Cheryl Gonzales and Miss Judith Tacorda, the said collections were all deposited with the LBP.

In the meantime, Judge Santiago-Ubalde, in a letter,[16] dated September 21, 2010, informed the Court that Zuñiga already received the suspension order on August 17, 2010, but she still had not made any restitution as directed.

In her letter of November 18, 2010, Zuñiga echoed her plea for the lifting of her suspension insisting that she had already complied with the court's directive to restitute her shortages.[17]

In its Memorandum,[18] dated May 30, 2011, considering that the Court, in its previous resolution,[19] took note of the payment of the court fine of Cervantes and Lucero while Tacorda paid her shortage of ₱10.00 and explained why she was not able to immediately comply with the Court's memorandum, dated January 28, 2009, the OCA recommended that the administrative matter against Cervantes, Lucero and Tacorda be closed and terminated. In the meantime, the OCA requested additional time of sixty (60) days to fully evaluate the letters and documents that Zuñiga submitted.

In the September 14, 2011 Resolution,[20] the Court resolved to consider the administrative matter against Cervantes, Lucero and Tacorda as closed and terminated. The Court likewise granted the OCA's request for additional time to complete the evaluation of the letters and documents of Zuñiga.

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[16] *Id*. at 160.

[17] *Id*. at 169.

[18] *Id*. at 173-174.

[19] Dated September 08, 2010, pp. 154-155.

[20] *Rollo*, pp. 189-190.

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In its Report,[21] dated December 13, 2013, the OCA stated that most of the documents that Zuñiga presented relative to her accountability on the FF were already tagged as valid withdrawals; thus, her unaccounted withdrawals had been reduced to ₱269,363.35, while those with incomplete documentation totaled ₱134,050.00. The OCA also clarified that the money she returned amounting to ₱94,737.32 was already credited in the audit report.[22] Thus, the OCA recommended that:

1. Mrs. Aurora T. Zuñiga, Clerk of Court II, Municipal Trial Court, Virac, Catanduanes, be found **GUILTY** of dishonesty and that she be **DISMISSED** from the service effective immediately, with forfeiture of all benefits, except her accrued leave credits, and with prejudice to re-employment in any branch or service of the government, including government-owned or controlled corporations;

2. The Financial Management Office (FMO) of the Office of the Court Administrator (OCA) be **DIRECTED** to:

2.1) **PROCESS** the money value of the terminal leave benefits of Mrs. Aurora T. Zuñiga, dispensing with the usual documentary requirements, and apply the same to the following shortages:

Name of Fund	**Period Covered**	**Amount**
Judiciary Development Fund	Sep. 29, 1988-Nov. 13, 1995	₱2,013.90
Judiciary Development Fund	Jan. 26, 1996-Oct. 31, 2006	3,070.40
Special Allowance for the Judiciary Fund	Nov. 11, 2003-Oct. 31, 2006	4,364.20
Fiduciary Fund	Jul. 10, 2007-Mar. 31, 2008	269,363.35
Fiduciary Fund (Unauthorized FF withdrawals due to insufficient documentations)	Jun. 26, 1992-Dec. 31, 1995	134,050.00
Total		**₱412,861.85**

[21] *Id*. at 191-200.

[22] *Id*. at 196.

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and order Mrs. Zuñiga to restitute the remaining shortages, the monetary value of her earned leave credits being insufficient to cover the aforementioned shortages; and

2.2) **COORDINATE** with the Fiscal Monitoring Division (FMD), Court Management Office (CMO), OCA, before the processing of the checks to be issued in favor of the Fiduciary Fund account of the MTC, Virac Catanduanes, and for the preparation of the necessary communication with the incumbent Clerk of Court/Officer-in-Charge thereat.

3. The Office of the Administrative Services (OAS), OCA be **DIRECTED** to provide the Financial Management Office (FMO), OCA with the following documents (pertaining to Mrs. Zuñiga) for the said Office to comply with item No. 2 above:

3.1) Official Service Record;

3.2) Certification of Leave Credits; and

3.3**)** Notice of Salary Adjustment (NOSA), if any.

4. The Legal Office, OCA, be **DIRECTED** to file the appropriate criminal charges against Mrs. Aurora T. Zuñiga.[23]

The Court's Ruling

After a careful examination of the records of this case, the Court finds the recommendation of the OCA to be correct.

SC Circular Nos. 13-92 and 5-93, as integrated in the 2002 Revised Manual for Clerks of Court, provide the guidelines for the accounting of court funds. All fiduciary collections upon receipt shall be deposited immediately by the Clerk of Court concerned with an authorized government depository bank. In SC Circular No. 5-93, the LBP was designated as the authorized government depository.[24] Furthermore, Section B(4) of Circular No. 50-95[25] directs that all collections from bailbonds, rental

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[23] *Id.* at 199-200.

[24] See also *Re: Report on the Financial Audit Conducted in the MTCC-OCC, Angeles City*, 525 Phil. 548, 560 (2006).

[25] Dated October 11, 1995.

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deposits and other fiduciary collections shall be deposited with the LBP within twenty-four (24) hours by the Clerk of Court concerned as instructed in Circular No. 13-92.[26]

Zuñiga, as Clerk of Court, was entrusted with the delicate functions of collecting legal fees.[27] She acted as cashier and disbursement officer of the court and was tasked to collect and receive all monies paid as legal fees, deposits, fines and dues, and controls the disbursement of the same.[28] She was also designated as custodian of the court's funds and revenues, records, properties and premises, and should be liable for any loss or shortage thereof.[29]

Zuñiga, however, failed to properly account for her FF collections and to judiciously deposit the same with the Land Bank within twenty-four (24) hours upon receipt. She was also unable to explain the shortage of ₱269,363.35 from her July 10, 2007-March 31, 2008 transactions. Moreover, she failed to provide proper documentation to completely support the cash bond withdrawals amounting to ₱232,860.00 spanning from June 26, 1992 to December 31, 1995 which she claimed to have been refunded to bondsmen/litigants. Circular No. 50-95 provides for the guidelines on how to make withdrawals from the court fiduciary funds, to wit:

B. Guideline in Making Withdrawals:

(1) Withdrawal slips shall be signed by the Executive/Presiding Judge and countersigned by the Clerk of Court.

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[26] Dated March 1, 1992.

[27] *Office of the Court Administrator v. Varela*, 568 Phil. 9, 18 (2008).

[28] *Id.*; *Office of the Court Administrator v. Dureza-Aldevera*, 534 Phil. 102, 132 (2006); *Re: Initial Report on the Financial Audit Conducted in the Municipal Trial Court of Pulilan, Bulacan*, A.M. No. 01-11-291-MTC, July 7, 2004, 433 SCRA 486, 494.

[29] *Office of the Court Administrator v. Dureza-Aldevera*, 534 Phil. 102, 132 (2006); *Office of the Court Administrator v. Fortaleza*, 434 Phil. 511, 522 (2002).

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(2) No withdrawals, except as specifically provided in the immediately preceding paragraph, shall be allowed unless there is a lawful order from the Court that has jurisdiction over the subject matter involved.

(3) When maintaining a current account, withdrawals shall be made by check. Signatures on the check shall likewise be the Executive/Presiding Judge and the Clerk of Court.

As can be gleaned from the said provision, supporting documents such as a court order from the judge authorizing the withdrawal and acknowledgment receipts of the bondsmen or litigants must be fully presented. Failure to strictly comply with these requirements would make the withdrawals unauthorized. Thus, after recomputation, Zuñiga still had a shortage of ₱134,050.00 representing unauthorized FF withdrawals due to insufficient documentation.[30]

As observed by the financial audit team, there were also instances when Zuñiga failed to deposit her JDF collections within twenty-four (24) hours upon receipt. She deferred the deposit of her JDF collections for another day or the succeeding month without any valid justification.[31] Due to this unconventional method, the interest on the FF account was erroneously receipted and deposited in the GF account.[32]

Clearly, Zuñiga's unorganized method of managing and documenting the cash collections allocated for the JDF was a serious violation of Administrative Circular No. 5-93, the pertinent portion of which reads:

3. Duty of the Clerks of Court, Officers-in-Charge or accountable officers. – The Clerks of Court, Officers-in-Charge of the Office of the Clerk of Court, or their accountable duly authorized representative designated by them in writing, who must be accountable officers, shall receive the Judiciary Development Fund collections, issue the proper receipt therefor, maintain a separate cash book properly marked

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[30] *Rollo*, p. 196.

[31] *Id*. at 11.

[32] *Id*.

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CASH BOOK FOR JUDICIARY DEVELOPMENT FUND, deposit such collections in the manner herein prescribed, and render the proper Monthly Report of Collections for said Fund.[33]

More importantly, delayed remittance of cash collections constitutes gross neglect of duty because this omission deprives the court of interest that may be earned if the amounts were to be deposited in the authorized depository bank. SC Circular No. 13-92 requires clerks of court to withdraw interest earned on deposits and to remit the same to the account of the JDF within two (2) weeks after the end of each quarter.[34] Delay in the remittance of court's funds casts a serious doubt on the concerned court employee's trustworthiness and integrity. As ruled in *In Re: Report on the Judicial and Financial Audit of RTC-Br. 4, Panabo, Davao del Norte*[35] and *Office of the Court Administrator v. Recio*,[36] the failure of the Clerk of Court to remit the court funds was tantamount to gross neglect of duty, dishonesty and grave misconduct prejudicial to the best interest of the service.

It need not be overemphasized that court personnel tasked with collections of court funds, such as the clerk of court and cash clerks, should deposit immediately with the authorized government depositories the various funds they had collected. Being the custodian of court funds and revenues, Zuñiga had the primary responsibility to immediately deposit the funds received by her office with the authorized government depositories and not to keep the same in her custody.[37]

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[33] Emphases supplied.

[34] Effective March 1, 1992.

[35] 351 Phil. 1, 21-22 (1998).

[36] A.M. No. P-04-1813, May 31, 2011, 649 SCRA 552, 571.

[37] *Commission on Audit-Region VI v. Pamposa*, 552 Phil. 538, 542 (2007); *Office of the Court Administrator v. Dureza-Aldevera*, 534 Phil. 102, 132 (2006); *Re: Report on the Financial Audit Conducted in the MTCC-OCC, Angeles City*, 525 Phil. 548, 560 (2006); *Re: Initial Report on the Financial Audit Conducted in the Municipal Trial Court of Pulilan, Bulacan*, A.M. No. 01-11-291-MTC, July 7, 2004, 433 SCRA 486, 492.

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The Court cannot accept Zuñiga's argument that she already made the appropriate restitution because it was not supported by evidence. Zuñiga posits that she personally gave the money to her presiding judge to answer for her accountabilities on July 9, 2007,[38] but it was only in 2008 that the financial audit team examined her books of account. Besides, a claim of payment is just a self-serving allegation and mere allegation of payment without proof merits no weight. In fact, Judge Santiago-Ubalde belied this claim in her letter,[39] dated September 21, 2010, when she specifically mentioned that Zuñiga did not make any restitution whatsoever. She also dragged the names of her other co-workers in her predicament, but passing the blame to another with no credible explanation would not suffice to absolve her from liability.

Remarkably, Zuñiga's present stand is contrary to what she wrote in her previous letter,[40] dated April 11, 2008, when she informed the audit team of her intention to fully restitute her accountabilities. In fact, in her other letter, dated March 9, 2009, she openly admitted that she used the money collected as bail to pay for her own expenses and household bills. Thus:

> There were also times when I gave the bail amount to the designated collecting officer *or at times, divided the amount* because we both *needed the money to buy food or pay the house bills*. However, much to my dismay, she negated my story because according to her, she did not sign any receipt when she received the money.[41]

Her incongruous statements do not reflect highly on her character as a public servant; they constitute gross dishonesty, which undermines the public's faith in courts and in the administration of justice as a whole.[42]

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[38] *Rollo*, p. 50.

[39] *Id*. at 160.

[40] *Id*. at 26.

[41] *Id*. at 30.

[42] *Sollesta v. Mission*, 497 Phil. 55, 72 (2005).

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In fact, Zuñiga's unjustified failure to comply with the Court's circulars designed to promote full accountability for public funds even constitutes gross neglect of duty and grave misconduct.[43] No protestation of good faith can override the mandatory observance of court circulars.[44] It should be emphasized that the 2002 Revised Manual for Clerks of Court requires strict compliance with the rules and regulations of the collection and accounting funds, thus:

2.1.2.4 Sanctions

Strict observance of the rules and regulations on collection and accounting of funds is hereby enjoined. The Clerks of Court or Officers-in-Charge shall exercise close supervision over their respective duly authorized representatives to ensure strict compliance herewith, and shall be held administratively accountable for failure to do so. *Failure to comply with any of these rules and regulations shall mean the withholding of the salaries and allowances of those concerned until compliance thereof is duly effected, pursuant to Sec. 122 of Pres. Decree No. 1445 dated June 11, 1978, without prejudice to such further disciplinary action the Court may take against them.*[45] [Emphases supplied]

Section 1, Article XI of the Constitution, provides that a public office is a public trust, and all public officers and employees must at all times be accountable to the people; serve them with utmost responsibility, integrity, loyalty, and efficiency; act with patriotism and justice; and lead modest lives. The demand for moral uprightness is more pronounced for the members and personnel of the Judiciary who are involved in the dispensation of justice. The conduct of court members and personnel must not only be characterized with propriety and decorum but must also be above suspicion, for any act of impropriety can seriously erode or diminish the people's confidence in the Judiciary. As

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[43] *Re: Financial Report on the Audit Conducted in MCTC, Apalit-San Simon, Pampanga*, 574 Phil. 218, 238 (2008).

[44] *Office of the Court Administrator v. Bernardino*, 490 Phil. 500, 524 (2005).

[45] Administrative Circular No. 3-2000, June 15, 2000.

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frontliners in the administration of justice, they should live up to the strictest standards of honesty and integrity in the public service.[46]

Thus, applying the parameters set forth by the 2002 Revised Manual for Clerks of Court and various court circulars, there is no doubt that Zuñiga is guilty of gross dishonesty. Section 52, Rule IV of the Uniform Rules on Administrative Cases in the Civil Service[47] classifies gross dishonesty as a grave offense with the corresponding penalty of dismissal for the first offense.[48]

Equally, the maximum penalty of dismissal from service for gross dishonesty is provided in Section 9, Rule XIV of the Civil Service Rules:

> The penalty of dismissal shall carry with it cancellation of eligibility, forfeiture of leave credits and retirement benefits, and the disqualification for reemployment in the government service. Further, it may be imposed without prejudice to criminal or civil liability.

Indeed, a public servant is expected to exhibit, at all times, the highest degree of honesty and integrity, and should be made accountable to all those whom he serves. There is no place in the Judiciary for those who cannot meet the exacting standards of judicial conduct and integrity.[49]

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[46] *Re: Report on the Financial Audit in the MTC, Sta. Cruz, Davao del Sur*, 508 Phil. 143, 149-150 (2005).

[47] Civil Service Commission Resolution No. 99-1936, dated August 31, 1999, otherwise known as the Uniform Rules on Administrative Cases in the Civil Service.

[48] Section 52. *Classification of Offenses*.– Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.

A. The following are *grave offenses* with their corresponding penalties:
   1. Dishonesty – 1st Offense – Dismissal
   2. Gross Neglect of Duty – 1st Offense – Dismissal
   3. Grave Misconduct – 1st Offense - Dismissal

[49] *Office of the Court Administrator v. Besa*, 437 Phil. 372, 381 (2002).

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WHEREFORE, finding respondent Aurora T. Zuñiga, Clerk of Court II, Municipal Trial Court, Virac, Catanduanes, **GUILTY of DISHONESTY,** the Court hereby **DISMISSES** her from the service effective immediately. All her retirement benefits, except accrued leave benefits, are forfeited and she is barred from re-employment in any branch or instrumentality of the government, including government-owned or controlled corporations. Thus, the Court **DIRECTS:**

A] The Financial Management Office (*FMO*) of the Office of the Court Administrator to:

1) **PROCESS** the monetary value of the terminal leave benefits of Aurora T. Zuñiga, dispensing with the usual documentary requirements, and apply the same to the following shortages:

Name of Fund	Period Covered	Amount
Judiciary Development Fund	Sep. 29, 1988-Nov. 13, 1995	₱2,013.90
Judiciary Development Fund	Jan. 26, 1996-Oct. 31, 2006	3,070.40
Special Allowance for the Judiciary Fund	Nov. 11, 2003-Oct. 31, 2006	4,364.20
Fiduciary Fund	Jul. 10, 2007-Mar. 31, 2008	269,363.35
Fiduciary Fund (Unauthorized FF withdrawals due to insufficient documentations)	Jun. 26, 1992-Dec. 31, 1995	134,050.00
Total		**₱412,861.85**

and **ORDER** her to restitute the remaining shortages, the monetary value of her earned leave credits being insufficient to cover the aforementioned shortages; and

2) **COORDINATE** with the Fiscal Monitoring Division, Court Management Office (*CMO*), OCA, before the processing of the checks to be issued in favor of the Fiduciary Fund account of

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the MTC, Virac, Catanduanes, and for the preparation of the necessary communication with the incumbent Clerk of Court/ Officer-in-Charge thereat.

B] The Office of the Administrative Services, OCA, to PROVIDE the Financial Management Office with the following documents (pertaining to Zuñiga) for the said Office to comply with item No. 1 above:

2.1 Official Service Record;
2.2 Certification of Leave Credits; and
2.3 Notice of Salary Adjustment (*NOSA*), if any.

C] The Legal Office, OCA, to file the appropriate criminal charges against respondent Aurora T. Zuñiga.

SO ORDERED.

Sereno, C.J., Carpio, Velasco, Jr., Leonardo-de Castro, Brion, del Castillo, Villarama, Jr., Perez, Mendoza, Reyes, Perlas-Bernabe, Leonen, and *Jardeleza, JJ.,* concur.

Peralta and *Bersamin, JJ.,* on leave.

EN BANC

[A.M. No. P-11-2979. November 18, 2014]
(Formerly OCA IPI No. 10-3352-P)

ELLA M. BARTOLOME, *complainant, vs.* **ROSALIE B. MARANAN, COURT STENOGRAPHER III, REGIONAL TRIAL COURT, BRANCH 20, IMUS, CAVITE,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; EVIDENCE; DENIAL; RESPONDENT'S BARE DENIAL CANNOT OVERCOME THE EVIDENCE