



Republic of the Philippines
Supreme Court
Manila

EN BANC

OFFICE OF THE COURT
ADMINISTRATOR,

Complainant,

A.M. No. P-09-2597

(Formerly A.M. No. 08-12-356-MCTC)

- versus -

LEONILA R. ACEDO,
former Clerk of Court II of the
Municipal Circuit Trial Court,
Abuyog-Javier, Leyte,

Respondent.

X----- X

RE: REQUEST TO WITHHOLD
SALARIES OF CLERKS OF COURT
WHO CONTINUALLY FAILED
TO SUBMIT THE REQUIRED
MONTHLY REPORTS IN
VIOLATION OF GUIDELINES
SET FORTH UNDER SC
CIRCULAR NO. 32-93.

A.M. No. 01-10-593-RTC

Present:

SERENO, C.J.,
CARPIO,
VELASCO, JR.,*
LEONARDO-DE CASTRO,
BRION,
PERALTA,
BERSAMIN,
DEL CASTILLO,
ABAD,
VILLARAMA, JR.,
PEREZ,*
MENDOZA,
REYES, and
PERLAS-BERNABE, JJ.

Promulgated:

SEPTEMBER 11, 2012

X----- X

* No part.

DECISION

MENDOZA, J.:

These consolidated administrative matters originated from a memorandum¹ submitting to the Court a list of clerks of court who had continually failed to submit the required monthly reports despite having been given two (2) due notices.

On October 23, 2001, the Court *En Banc* issued a Resolution² requiring twenty-nine (29) clerks of court to show cause within ten (10) days from notice why they should not be disciplinarily dealt with for continually failing to submit the required monthly reports. Respondent Leonila R. Acedo (*Acedo*), former Clerk of Court II of the Municipal Circuit Trial Court, Abuyog-Javier, Leyte (*MCTC*), was one of those named in the Resolution.

On October 15, 2002, the Court *En Banc* issued another Resolution,³ upon recommendation of the Office of the Court Administrator (*OCA*), directing the Fiscal Management Office (*FMO*) to *withhold* the salaries of seven (7) clerks of court who had not completely submitted the required monthly reports, in violation of the guidelines set forth under SC Circular No. 32-93. Acedo was again one of those named in the list.

A.M. No. P-09-2597

On January 18, 2003, Acedo compulsorily retired but did not seek clearance thereafter. She admitted in her Letter,⁴ dated October 6, 2008, that

¹ *Rollo* (A.M. No. 01-10-593-RTC), pp. 1-5.

² *Id.* at 7-9.

³ *Id.* at 704-706.

⁴ *Rollo* (A.M. No. P-09-2597), pp. 43-45.

she did not voluntarily submit her books of accounts. She was afraid because she failed to comply with her obligation and responsibility as Clerk of Court/Accountable Officer and admitted the violations she had committed.

On November 17, 2008, the Financial Audit Team submitted a report on the financial audit that they had conducted on the books of account of Acedo for the period covering May 17, 1985 to January 18, 2003, and of Mr. Estanislao S. Yaranon (*Yaranon*), Clerk of Court II, for the period covering January 19, 2003 to September 30, 2008. The significant findings⁵ of the audit team were as follows:

- a) Cash Count on September 29, 2008 disclosed no shortage/overage. Total undeposited collections as well as the total cash items amounted to **Eighteen Thousand Four Hundred Pesos (₱18,400.00)**, hence, no balance of accountability. Yaranon was advised to deposit the said amount to their respective accounts, which he complied on October 3, 2008.
- b) All Supreme Court Official Receipts requisitioned from the Property Division, OCA were fully accounted for.
- c) Audit computations of accountabilities for each judiciary fund were the following:

a. JUDICIARY DEVELOPMENT FUND (JDF)

For Ms. Leonila R. Acedo – May 17, 1985 to January 18, 2003

Total Collections per Audit (May 17, 1985 to Jan. 18, 2003)	₱727,358.10
Less: Total Remittance (same period)	<u>512,838.05</u>
Balance of Accountability – Shortage	<u>₱214,520.05</u>

The shortage was due to under-remittance of collections.

For Mr. Estanislao S. Yaranon – January 19, 2003 to September 30, 2008

Total Collections per Audit (Jan. 19, 2003 to Sept. 30, 2008)	₱574,782.72
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⁵ Reported in OCA Memorandum dated November 17, 2008, *rollo* (A.M. No. P-09-2597), pp. 4-12.

Less: Total Remittance (same period)	<u>566,114.32</u>
Balance	₱8,668.40
Less: Deposit in transit dated Oct. 3, 2008	<u>7,677.80</u>
Balance of Accountability – Shortage	<u>₱ 990.60</u>

The cash shortage of ₱990.60 was restituted on October 3, 2008.

b. SPECIAL ALLOWANCE FOR THE JUDICIARY FUND (SAJF)

For the period of November 11, 2003 to September 30, 2008

Total Collections per Audit (Nov. 11, 2003 to Sept. 30, 2008)	₱565,740.50
Less: Total Remittance (same period)	<u>565,722.50</u>
Balance of Accountability - Shortage	₱ 18.00
Less: Adjustments	
SAJF collections deposited to GF account	<u>21.00</u>
Over-remittance	<u>₱(3.00)</u>

c. MEDIATION FUND (MF)

Total Collections per Audit (Aug. 2005 to Sept. 30, 2008)	₱ 14,000.00
Less: Total Remittance	<u>13,500.00</u>
Balance of Accountability - Shortage	₱ 500.00
Less: Payments on Oct. 3, 2008	<u>500.00</u>
Balance of Accountability	<u>₱ 0.00</u>

Shortage amounting to ₱500.00 was due to erroneous recording of collections under OR No. 20938576 instead of ₱1,000.00. It was deposited in the cash book for only ₱500.00.

d. CLERK OF COURT GENERAL FUND (COCGF)

For the period of March 11, 1996 to November 10, 2003

Total Collections		₱ 54,236.50
Less: Total Remittance (same period)	7,705.00	
SAJF collections deposited to GF account	<u>21.00</u>	<u>7,684.00</u>
Balance of Accountability - Shortage		<u>₱ 46,552.50</u>

The collections amounting to ₱46,552.50 were not remitted to the National Treasury by Acedo.

e. FIDUCIARY FUND (FF)

For Ms. Leonila R. Acedo – June 13, 1996 to January 18, 2003

Total Collections from June 13, 1996 to Jan. 18, 2003	₱1,242,467.20
Less: Total refunded cash bond – withdrawals (same period)	<u>661,442.20</u>
Balance of Unwithdrawn FF as of Jan. 18, 2003	₱ 551,025.00
Less: Bank Balance as of Jan. 18, 2003	<u>0.00</u>
Sub-Total	₱ 551,025.00
Add: Undocumented withdrawals	<u>413,552.20</u>
Total Shortage	<u>₱ 964,577.20</u>

Acedo violated Sec. A(2) of OCA Circular No. 50-95 when she failed to deposit the cash bond collections of ₱551,025.00 to the court's legitimate Savings Account No. 0181-2079-81 with the Land Bank of the Philippines, Tacloban Branch.

The undocumented withdrawals will be added as cash shortage of Acedo should she fail to submit a copy of court orders and acknowledgment receipts.

For Mr. Estanislao S. Yaranon – Jan. 19, 2003 to Sept. 30, 2008

Total Collections – Jan. 19, 2003 to Sept. 30, 2008	₱1,773,580.00
Less: Withdrawals (same period)	<u>974,500.00</u>
Balance of Unwithdrawn FF as of Sept. 30, 2008	<u>₱ 799,080.00</u>

Balance of Unwithdrawn FF as of Sept. 30, 2008	<u>₱ 799,080.00</u>
Less: Bank Balance as of Sept. 30, 2008	<u>799,034.94</u>
Balance of Accountability – shortage	<u>₱ 45.06</u>

Withdrawals of interest (net of tax) as of Sept. 30, 2008	₱ 25,226.00
Net Interests as of Sept. 30, 2008	<u>25,220.94</u>
Over-withdrawal of interest – shortage	<u>₱ 45.06</u>

Yaranon restituted the amount of ₱45.06 on October 7, 2008 representing shortage due to over-withdrawal of interest earned.

As a result of the audit, the Team found shortages amounting to **Eight Hundred Thirteen Thousand Ninety Seven Pesos & 55/100 (₱813,097.55)** for JDF, GF and FF during the accountability of Acedo.

Letter of Ms. Leonila R. Acedo

On October 6, 2008, Acedo submitted a letter⁶ addressed to then Chief Justice Reynato Puno in connection with the audit conducted by the Financial Audit Team on her books of account. She readily admitted her failure to fulfil and comply with her obligations as clerk of court during the time she was recuperating from her illness. She also admitted having used the amount entrusted to her to pay for her medical and other household expenses. For the said shortcomings and violations committed, she begged for forgiveness and humbly asked the Court for consideration in settling her accountabilities. She further wrote:

Thus, I am earnestly praying that the shortage I have in my accountability will be deducted to the accrued terminal leave or any other benefits, and to those salaries of mine that were withheld in your good office. And if ever, the accrued and other benefits and the salaries withheld would not suffice to pay off for the shortage, the remaining amount if you may permit will be paid by installment basis with the monthly pension I will be having.⁷

Recommendation of the OCA

The initial findings and recommendation of the audit team were adopted by the OCA in its Memorandum,⁸ dated November 27, 2008, as follows:

- A. This report be docketed as an administrative complaint against Ms. Leonila R. Acedo, former Clerk of Court II of the Municipal Circuit Trial Court, Abuyog-Javier, Leyte and be consolidated with “**A.M. No. 01-10-593-RTC- Re: Request to withhold salaries of Clerk of Court**” involving Ms. Leonila R. Acedo, former Clerk of Court of MCTC, Abuyog-Javier, Leyte, et al.;

⁶ *Rollo* (A.M. No. P-09-2597), pp. 43-45.

⁷ *Id.* at 45.

⁸ *Id.* at 1-3.

- B. **MS. LEONILA R. ACEDO** be **DIRECTED** within fifteen (15) days to:
- B1. **RESTITUTE** the amounts of ₱215,520.05, ₱46,552.50 and ₱551,025.00 representing the shortages in the JDF, GF and Fiduciary Fund, respectively;
 - B2. **DEPOSIT** said amounts to their respective accounts, furnishing the Fiscal Monitoring Division, CMO-OCA, with the machine validated deposit slips as proof of remittance;
 - B3. **DEPOSIT** the same amounts to their respective fund accounts;
 - B4. **FURNISH** the Fiscal Monitoring Division, CMO-OCA of the machine-validated deposit slips as proof of remittance; and
 - B4. **SUBMIT** undocumented withdrawals of Four Hundred Thirteen Thousand Five Hundred Fifty Two Pesos & 20/100 (₱413,552.20). Failure to submit/present copy(ies) of Court Orders and Acknowledgment Receipts, the amount of ₱413,552.20 will be added to ₱551,025.00, making the shortage of Fiduciary Fund to ₱964,577.20.
- C. **MR. ESTANISLAO S. YARANON**, former Clerk of Court II of MCTC, Abuyog-Javier, be cleared from financial accountabilities;
- D. **MS. ANASTACIA C. TABURADA**, Officer-in-Charge, MCTC, Abuyog-Javier, Leyte be **DIRECTED** to:
1. Effectively exercise control and supervision over the court personnel especially those in charge with the collection/deposits/withdrawals and recording of all court's funds, and submission of monthly reports; and
 2. Keep herself abreast/updated with the court issuances & strictly comply with the provisions thereof, particularly on the proper handling of judiciary funds; and
 3. **SUBMIT** to the Fiscal Monitoring Division, CMO-OCA the COURT ORDERS of the withdrawn cash bonds as enumerated in Annex "C" of this report amounting to ₱413,552.20; otherwise, this will form part of the accountability of Ms. Acedo.
- E. Presiding Judge Elizabeth B. Briton be **DIRECTED** to:
1. **MONITOR** the Officer-in-Charge, Ms. Anastacia C. Taburada on the strict compliance with the circulars on the proper handling of judiciary funds and adhere strictly to the issuances of the Court to avoid repetition of the same offenses committed as enumerated above; and
 2. **SUBMIT** to the Fiscal Monitoring Division, CMO-OCA the COURT ORDERS of the withdrawn cash bonds as enumerated in Annex "C" of this report amounting to ₱413,552.20; otherwise, this will form part of the accountability of Ms. Acedo.

Resolution of the Court

On January 21, 2009, the Court's Second Division issued a Resolution⁹ stating and adopting *in toto* the recommendation of the OCA, and noting the latter's Memorandum, dated November 27, 2008.

On November 24, 2009, the Court *En Banc* issued its Resolution¹⁰ accepting the consolidation of administrative matters, *A.M. No. 01-10-593-RTC docketed as Re: Request to Withhold Salaries of Clerks of Court Who Continually Failed to Submit the Required Monthly Reports in Violation of Guidelines Set Forth under SC Circular No. 32-93 and A.M. No. P-09-2597 (Formerly A.M. No. 08-12-356-MCTC) entitled Office of the Court Administrator v. Ms. Leonila R. Acedo, former Clerk of Court II, MCTC, Abuyog-Javier, Leyte.*

Final Accountabilities of Ms. Leonila R. Acedo

In compliance with the abovementioned resolution, Anastacia C. Taburada (*Taburada*), Officer-in-Charge of the MCTC, submitted the court orders of the withdrawn cash bonds which amounted to only ₱144,000.00, thereby reducing the undocumented withdrawals of ₱413,552.20 to ₱269,552.20. The amount of ₱269,552.20 was included as additional shortage for failure of Taburada to submit copies of the court orders, etc. and would form part of Acedo's accountability as stated in the January 21, 2009 Resolution.

⁹ Id. at 30-33.

¹⁰ Id. at 34.

On March 15, 2012, the OCA reported in its Memorandum¹¹ the total accountabilities of Acedo, as computed by the audit team, as follows:

TOTAL ACCOUNTABILITIES¹²

Nature of Funds	Accountabilities
Judiciary Development Fund	₱ 214,520.05
Clerk of Court General Fund	46,552.50
Fiduciary Fund	820,577.20
TOTAL	₱ 1,081,649.75

Final Recommendation of the OCA

In the said memorandum, the OCA recommended that:

1. **Ms. Leonila R. Acedo**, former Clerk of Court II, Municipal Circuit Trial Court, Abuyog-Javier, Leyte, be:
 - a. **CONSIDERED** retired as of January 17, 2003:
 - b. **DIRECTED** within fifteen (15) days from notice to -
 - b.1. **PAY and DEPOSIT** the amount of Four Hundred Forty-One Thousand Six Hundred Thirty-Three pesos & 91/100 (₱441,633.91) representing excess shortage after deducting the terminal pay, computed as follows:

Judiciary Development Fund (JDF)	₱214,520.05
Clerk of Court General Fund COGF	46,552.50
Fiduciary Fund (FF)	<u>180,561.36</u>
Total	<u>₱ 441,633.91</u>

- b.2. **SUBMIT** to the Fiscal Monitoring Division (FMD), Court Management Office, Office of the Court Administrator, the machine-validated deposit slip as proof of remittance in Item 1.a.;

¹¹ Id. at 35-42.

¹² Id. at 39.

- c. **FINED** in the amount of **FIVE THOUSAND PESOS (₱5,000.00)** for the shortages incurred in the collection of judiciary funds, which deprived the Court of interest income that could have been earned if the amount were deposited on time with the depository bank; and
2. The Financial Management Office, Office of the Court Administrator, be **DIRECTED** to:
 - a. **PROCESS** the terminal leave benefits of respondent Acedo, dispensing with the documentary requirements, and **REMIT** to the Municipal Circuit Trial Court, Abuyog-Javier, Leyte, the total monetary value of respondent's earned leave credits in the amount of ₱640,015.84, representing portion of the total shortages incurred in the Fiduciary Fund; and
 - b. **COORDINATE** with the Fiscal Monitoring Division, Court Management, OCA, before the release of the checks issued in favour of the MCTC, Abuyog-Javier, Leyte, for the preparation of the necessary communication to the incumbent Clerk of Court of the MCTC Abuyog-Javier, and to furnish the said office with a copy of the machine-validated deposit slip as proof of partial restitution of the shortages incurred in the Fiduciary Fund account to finalize the herein audit.¹³

Ruling of the Court

Public office is a public trust. 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.¹⁴ The clerk of court of a court of justice is an essential officer in any judicial system. The office is the hub of activities, both adjudicative and administrative.¹⁵ Clerks of court are judicial officers entrusted with the delicate function with regard to collection of legal fees. They are expected to correctly and effectively implement regulations relating to proper administration of court funds.¹⁶ As the chief administrative

¹³ Id. at 41-42.

¹⁴ Section 1, Article XI, *Constitution*.

¹⁵ The 2002 Revised Manual For Clerks of Court.

¹⁶ *OCA v. Nelia D.C. Recio, Eralyn S. Cavite, Ruth G. Cabigas and Chona Aurelia R. Reniedo, all of the Metropolitan Trial Court, San Juan, Metro Manila*, A.M. No. P-04-1813 (Formerly A.M. No. 04-5-119-MeTC), May 31, 2011, 649 SCRA 552, 568.

officers of their respective courts, they must act with competence, honesty and probity in accordance with their duty of safeguarding the integrity of the court and its proceedings.¹⁷

In the case at bench, there is no doubt that Acedo committed infractions that warranted the withholding of her salaries. She even admitted and took full responsibility for all her shortcomings. Being a judicial officer, it was highly expected of her to competently and efficiently discharge her duties as a clerk of court to maintain proper administration of justice. She was the custodian of court funds and was duty-bound to promptly and regularly report the collections and immediately deposit the funds collected in their respective accounts.

The violations that Acedo committed were offenses that merit serious and harsh penalties. “The failure to remit the funds in due time amounts to dishonesty and grave misconduct, which the Court cannot tolerate for they diminish the people’s faith in the Judiciary. The act of misappropriating judiciary funds constitutes dishonesty and grave misconduct which are punishable by dismissal from the service even if committed for the first time.”¹⁸ For those who have fallen short of their accountabilities, the Court has not hesitated to impose the ultimate penalty.¹⁹

The ultimate penalty of dismissal carries with it the penalty of forfeiture of retirement benefits. Sec. 58(a) of the Uniform Rules on Administrative Cases in the Civil Service provides:

¹⁷ *OCA v. Gregorio B. Saddi, Clerk of Court, MTC, Sasmuan, Pampanga*, A.M. No. P-10-2818 (Formerly A.M. No. 10-4-54-MTC), November 15, 2010, 634 SCRA 525, 531.

¹⁸ *OCA v. Santos*, A.M. No. P-06-2287, October 12, 2010, 632 SCRA 678, 689-690, citing *OCA v. Nolasco*, A.M. No. P-06-2148, March 4, 2009, 580 SCRA 471, 487.

¹⁹ *Concerned Citizen v. Gabral, Jr.*, 514 Phil. 209, 218 (2005).

a. **The penalty of dismissal shall carry with it that of cancellation of eligibility, forfeiture of retirement benefits, and the perpetual disqualification for reemployment in the government service, unless otherwise provided in the decision. [Emphasis supplied]**

Although Acedo cannot be dismissed from the service anymore because she was supposed to have retired in January 2003, she asked for leniency from the Court insofar as her retirement benefits and method of payment for her accountabilities were concerned. In several administrative cases, mitigating circumstances such as length of service in the Judiciary, acknowledgment of infractions and feeling of remorse, and family circumstances, among other things, merited the leniency of the Court.²⁰ It is, however, to be emphasized that these mitigating circumstances are not loosely appreciated especially in cases of serious offenses. The mitigating circumstances remain to be the exception, the general rule being the full imposition of the accessory penalties of forfeiture of retirement benefits and the perpetual disqualification for reemployment in the government service pursuant to the above-mentioned rule.

In this case, as per the November 17, 2008 Memorandum of the OCA, Acedo rendered almost forty (40) years of service in the Judiciary, starting in January 1965 as a Clerk, then as a Stenographer, and later as Clerk of Court in 1979 until her retirement in January 2003. These facts, however, rather aggravate the offenses committed by Acedo. Length of service is an alternative circumstance which can mitigate or possibly even aggravate the penalty, depending on the circumstances of the case.²¹ Acedo's almost forty (40) years of service should be taken against her. Having been accorded full trust and confidence for such a length of time, Acedo was expected to

²⁰ *Judge Dayaon v. De Leon*, A.M. No. P-11-2926, February 1, 2012.

²¹ *Gannapao v. Civil Service Commission*, G.R. No. 180141, May 31, 2011, 649 SCRA 595, 614.

discharge her duties with utmost responsibility, integrity, loyalty, and efficiency, which unfortunately she failed to do.

Moreover, records show that Acedo clearly took advantage of her official position to misappropriate the court funds entrusted to her. Further, the misappropriation proved to be habitual. These circumstances likewise aggravate her infractions, pursuant to Sec. 53 of the Uniform Rules on Administrative Cases in the Civil Service, thus, supporting this Court's conclusion that Acedo's retirement benefits should be forfeited.

The OCA took into consideration Acedo's admission of sole responsibility and her promise to restate her shortages in installment basis, which the OCA concluded as her effort to keep the institution whole and to speed up the healing process which the MCTC, Abuyog-Leyte needed.²² Thus, the OCA recommended, for humanitarian consideration, that Acedo be allowed to retire to enable her to pay her remaining cash accountabilities.²³ The Court cannot agree.

The Court does not discount the fact that Acedo indeed admitted her infractions and promised to restate her shortages. This admission, however, does not suffice to warrant the Court's leniency. Sec. 54 of the Uniform Rules on Administrative Cases in the Civil Service provides:

Section 54. *Manner of Imposition.* When applicable, the imposition of the penalty may be made in accordance with the manner provided herein below:

- a. The minimum of the penalty shall be imposed where only mitigating and no aggravating circumstances are present.
- b. The medium of the penalty shall be imposed where no mitigating and aggravating circumstances are present.

²² *Rollo* (A.M. No. P-09-2597), p. 9.

²³ *Id.* at 41.

- c. The maximum of the penalty shall be imposed where only aggravating and no mitigating circumstances are present.
- d. Where aggravating and mitigating circumstances are present, paragraph [a] shall be applied where there are more mitigating circumstances present; paragraph [b] shall be applied when the circumstances equally offset each other; and paragraph [c] shall be applied when there are more aggravating circumstances.

Here, it has been clearly shown that there are more aggravating than mitigating circumstances present in the case. For said reason, the Court cannot find the OCA's recommendation as proper and in accord with law and jurisprudence. Thus, Acedo's retirement benefits should be forfeited, except for her accrued/terminal leave benefits which shall be applied in payment of her shortages.

Further, the Court deems it proper to modify the computation of the total shortage in Fiduciary Fund.

The audit team earlier revealed a total shortage in the amount of ₱964,577.20, inclusive of the undocumented withdrawals, computed as follows:

Total Collections from June 13, 1996 to Jan. 18, 2003	₱1,242,467.20
Less: Total refunded cash bond – withdrawals (same period)	<u>661,442.20</u>
Balance of Unwithdrawn FF as of Jan. 18, 2003	₱551,025.00
Less: Bank Balance as of Jan. 18, 2003	<u>0.00</u>
Sub-Total	₱ 551,025.00
Add: Undocumented withdrawals	<u>413,552.20</u>
Total Shortage	<u>₱ 964,577.20</u>

A careful scrutiny of the computation bared a miscalculation in the **balance of unwithdrawn FF**. Deducting the total refunded cash bond from the total collections should have resulted in the amount of **₱581,025.00**

instead of ₱551,025.00. There was clearly a difference of ₱30,000.00. The correct amount of total shortage should be **₱994,577.20**. Therefore, the correct computation after deducting the amount of ₱144,000.00 which was already complied with, through the submission of court orders, shall be the following:

Total Collections from June 13, 1996 to Jan. 18, 2003		₱1,242,467.20
Less: Total refunded cash bond – withdrawals (same period)		<u>661,442.20</u>
Balance of Unwithdrawn FF as of Jan. 18, 2003		₱581,025.00
Less: Bank Balance as of Jan. 18, 2003		<u>0.00</u>
Sub-Total		₱581,025.00
Add: Undocumented withdrawals	₱413,552.20	
Less: Complied	<u>144,000.00</u>	<u>269,552.20</u>
Total Shortage		<u>₱850,577.20</u>

Consequently, in the application of payments, priority should be given to the Fiduciary Account as the funds therein are only held in trust by the Court and are subject to refund upon presentation of appropriate documents.²⁴ The OCA was, therefore, correct in stating that the FF shall be deducted first from the withheld salaries and accrued leave credits of Acedo. With that in mind, the balance of accountability of Acedo, as far as the FF is concerned, is as follows:

Fiduciary Fund – Final Shortage	₱850,577.20
Less: Total monetary value of accrued leave credits	<u>640,015.84</u>
Balance of Accountability	<u>₱210,561.36</u>

Thus, the total accountability of Acedo shall be:

Judiciary Development Fund (JDF)	₱214,520.05
Clerk of Court General Fund (COCGF)	46,552.50
Fiduciary Fund (FF)	<u>210,561.36</u>
Total	<u>₱471,633.91</u>

²⁴ *OCA v. Varela*, A.M. No. P-06-2113 (Formerly A.M. No. 05-12-357-MTC), February 6, 2008, 544 SCRA 10, 18.

The Court takes this opportunity to remind the Court Management Office, OCA, to be more careful with their audit and computation so as to truly reflect the proper accountabilities of the responsible officer as well as what is truly owing to the Court.

A.M. No. 01-10-593-RTC

Out of the twenty-nine (29) clerks of court who were directed to show cause why they should not be disciplinary dealt with for continually failing to submit the required monthly reports, only seven (7) failed to comply with the said directive as of October 15, 2002. Hence, the Court *En Banc* issued its Resolution,²⁵ upon recommendation of the OCA, directing the FMO to *withhold* the salaries of the seven clerks of court who had not completely submitted the required monthly reports, in violation of the guidelines set forth under SC Circular No. 32-93. Acedo was one of them. The other six (6) clerks of court were the following:

1. Celso M. Apusen – RTC-Lipa City, Batangas
2. Ernesto A. Luzod, Jr. – RTC-Biñan, Laguna
3. Bibiano C. Gaudiel, Jr. – RTC-San Jose, Occidental Mindoro
4. Fermin M. Ofilas – RTC-San Mateo, Rizal
5. Martino B. Gasid, Jr. – MTC-San Isidro, Northern Samar
6. Gerardo K. Baroy – MTC-Sta. Catalina, Negros Oriental

Of the six named above, three (3), namely, Fermin Ofilas (*Ofilas*), Celso M. Apusen (*Apusen*) and Martino B. Gasid (*Gasid*) later submitted the reports required by the OCA. Thus, on November 4, 2002, the OCA issued a Memorandum²⁶ addressed to then Chief Justice Davide, requesting for the release of the salaries withheld from Ofilas. On February 4, 2003, the Court

²⁵ *Rollo*, pp. 704-706.

²⁶ *Id.* at 848.

En Banc issued its Resolution²⁷ directing the FMO, upon recommendation of the OCA, to release the salaries withheld from Apusen. Likewise, on October 7, 2003, an *en banc* resolution²⁸ was issued by the Court directing the FMO to release the salaries withheld from Gasid, less the amount of ₱535.00 representing the value of the postal money orders still pending verification with the Accounting Division, OCA.

Incidentally, Ofilas was dismissed from the service by the Court on April 23, 2010 for gross dishonesty, grave misconduct and conduct prejudicial to the best interest of the public in A.M. No. P-05-1935.²⁹

On the other hand, records reveal that the Accounting Division-OCA submitted its Memorandum-Reply,³⁰ dated April 8, 2003, requesting for authority to withhold the other emoluments of Ernesto A. Luzod, Jr. (*Luzod*) and Gerardo K. Baroy (*Baroy*) for their continued failure to submit the required monthly reports, and recommending that they be relieved of their duties and responsibilities as clerks of courts effective immediately and that their bonds cancelled.

On July 22, 2003, acting on the OCA's Memorandum-Reply, the Court *En Banc* issued a Resolution³¹ resolving to direct only the withholding of emoluments of Luzod and Baroy.

As of date, the OCA has not submitted before this Court any further recommendations anent the accountabilities and responsibilities of clerks of court, Luzod and Baroy. Neither is there any report that they are not in the

²⁷ Id. at 737.

²⁸ Id. at 790.

²⁹ *OCA v. Ofilas*, April 23, 2010, 619 SCRA 13.

³⁰ *Rollo*, pp. 840-841.

³¹ Id. at 838.

service anymore. Thus, Luzod and Baroy still appear to continuously fail to submit the required monthly reports pursuant to SC Circular No. 32-93 without any justification. The Court has not, and will not, hesitate to impose the penalties as recommended by the OCA, that Luzod and Baroy be relieved of their duties and responsibilities as clerks of courts and their bonds cancelled. The offenses committed by them greatly diminish and affect the faith of the public in the Judiciary.

As far as Atty. Bibiano C. Gaudiel, Jr. is concerned, the Court notes that as per OCA Memorandum,³² dated April 8, 2003, he has already transferred to the House of Representatives, effective July 2001, without the necessary clearance from the OCA.

WHEREFORE, the Court disposes as follows:

1] In **A.M. No. P-09-2597**, the Court resolves to **CONSIDER** Leonila R. Acedo, former Clerk of Court II of the Municipal Circuit Trial Court, Abuyog-Javier, Leyte, retired as of January 17, 2003, as dismissal from service is no longer feasible. Her retirement benefits, however, are ordered forfeited. She is declared to be perpetually disqualified for reemployment in the government service. She is **DIRECTED** within fifteen (15) days from notice, to **PAY and DEPOSIT** the amount of Four Hundred Seventy One Thousand Six Hundred Thirty-Three Pesos & 91/100 (₱471,633.91) representing net shortage after deducting the terminal pay; and to **SUBMIT** to the Fiscal Monitoring Division, Court Management Office, Office of the Court Administrator, the machine-validated deposit slip as proof of remittance; and **FINED** in the amount of **TWENTY THOUSAND PESOS (₱20,000.00)** for the shortages incurred in the collection of judiciary funds, which deprived the Court of interest income that could have been earned if the amount had been deposited on time with the depository bank.

³² Id. at 841.

The Financial Management Office, Office of the Court Administrator, is **DIRECTED** to **PROCESS** the terminal leave benefits of the Acedo; to **REMIT** to the Municipal Circuit Trial Court, Abuyog-Javier, Leyte, the total monetary value of her earned leave credits in the amount of ₱640,015.84, representing a portion of the total shortages incurred in the Fiduciary Fund; to **COORDINATE** with the Fiscal Monitoring Division, Court Management, OCA, before the release of the checks issued in favor of the MCTC, Abuyog-Javier, Leyte, for the preparation of the necessary communication with the incumbent clerk of court of the MCTC, Abuyog-Javier; and to **FURNISH** the said office with a copy of the machine-validated deposit slip as proof of partial restitution of the shortages incurred in the Fiduciary Fund account to finalize the herein audit.

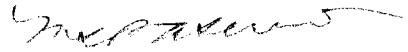
2] In A.M. No. **01-10-593-RTC**, the Court Management Office, Office of the Court Administrator, is hereby **DIRECTED** to report to the Court the results of the audit of the cash and account of Clerks of Courts Ernesto A. Luzod, Jr., Regional Trial Court, Biñan, Laguna, and Gerardo K. Baroy, Municipal Trial Court, Sta. Catalina, Negros Oriental, pursuant to the Court *En Banc*'s Resolution, dated July 22, 2003, within fifteen (15) days from receipt of this judgment.

Pending the submission by the CMO-OCA of the results of the audit, Luzod, Jr. and Baroy are hereby immediately relieved of their duties and responsibilities as clerks of courts and their bonds are ordered cancelled.

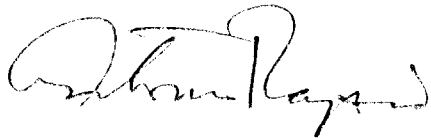
SO ORDERED.


JOSE CATAL MENDOZA
Associate Justice

WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice



ANTONIO T. CARPIO
Associate Justice

(No part)

PRESBITERO J. VELASCO, JR.
Associate Justice



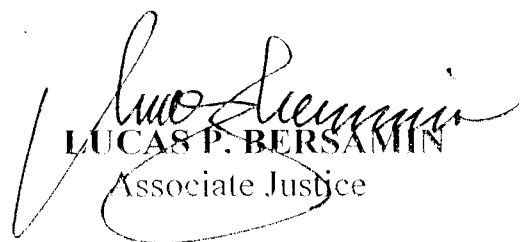
TERESITA J. LEONARDO-DE CASTRO
Associate Justice



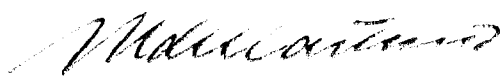
ARTURO D. BRION
Associate Justice



DIOSDADO M. PERALTA
Associate Justice



LUCAS P. BERSAMIN
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice



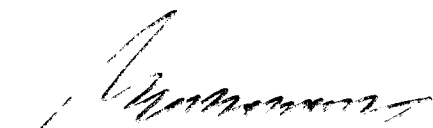
ROBERTO A. ABAD
Associate Justice



MARTIN S. VILLARAMA, JR.
Associate Justice

(No part)

JOSE PORTUGAL PEREZ
Associate Justice



BIENVENIDO L. REYES
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice