



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **June 15, 2022**, which reads as follows:*

“A.M. No. P-22-052 [Formerly OCA IPI No. 19-4915-P] (Prosecutor III Geraldine A. Dumawal-Sadural vs. Clerk of Court Melvin M. Malang, Office of the Clerk of Court, Regional Trial Court [RTC], Guimba, Nueva Ecija, and Utility Worker I Geralin T. Lopez, Branch 32, RTC, Guimba, Nueva Ecija). – Before the Court is an administrative matter involving Atty. Melvin M. Malang (Atty. Malang), Clerk of Court VI, Office of the Clerk of Court, Regional Trial Court (RTC), Guimba, Nueva Ecija; and Geralin T. Lopez (Lopez), Utility Worker I, Branch 32 of the same court (collectively, respondents), for loss of specimen and documentary evidence.¹

The case stemmed from an undated letter² filed by Geraldine A. Dumawal-Sadural (complainant), Prosecutor III, Office of the Provincial Prosecutor, Cabanatuan City, Nueva Ecija informing the Office of the Court Administrator (OCA) that on March 5, 2015, Police Chief Inspector Marissa Areola (PCI Areola) turned over to Atty. Malang the following pieces of evidence (drug evidence) relative to Criminal Case No. 3539-G, entitled “People of the Philippines v. Ronald Agustin y Catingco,” viz.:

- a) Original copy of Chemistry Report No. D-168-2014;
- b) Original copy of Request for Laboratory Examination;
- c) Chemistry Report DT-157-2014;³
- d) Request for lab/drug test; and
- e) Specimen stated in D-168-2014.⁴

Complainant alleged that when the drug evidence was needed for identification by the prosecution witnesses, it could not be located. Due to the unavailability of the specimen, the scheduled hearings⁵ in 2015 were

¹ *Rollo*, p. 59.

² *Id.* at 5.

³ DT-154-2014 in other parts of the *rollo* (see *rollo* pp. 1, 5, 13, 16, 28, 31, 44, 45, 46, 50, 52, and 59).

⁴ *Id.* at 6.

⁵ The hearings were set on June 10, 2015, July 2, 2015, November 25, 2015, and December 9, 2015. *Id.* at 60.

moved to February 18, 2016. Upon agreement of the parties, the February 18, 2016 hearing was reset to April 21, 2016. However, the April 21, 2016 hearing was again moved to August 16, 2016 because of power failure.⁶ The predicament prompted the accused to move for the dismissal of the case against him on the ground of alleged violation of his constitutional right to speedy trial.⁷ In its Order⁸ dated November 21, 2016, the RTC granted the accused's motion to dismiss and accordingly ordered his release from detention.

Hence, the instant administrative matter.

In his report⁹ dated June 28, 2017, the Investigating Judge found: (1) PCI Areola turned over the drug evidence to Atty. Malang, who, in turn, handed them to Lopez for safekeeping in a steel cabinet; (2) the steel cabinet is composed of four drawers: three for the safekeeping of search warrant records and one for the safekeeping of drug specimen and related documents; (3) respondents have possession of the key to the steel cabinet, but the drawers can be forcibly opened; and (4) while Lopez allegedly could not find the specimen when it was needed by the court, Lopez was able to find it inside the search warrant drawer when he was summoned by the Investigating Judge for interview.¹⁰

However, the Investigating Judge did not ascribe any fault to respondents and instead suggested that courts must be provided with a specimen vault which only the Clerk of Court could access. He reasoned that the ordinary steel cabinet could not serve the purpose because as time passes by, or through continued use, the lock becomes defective unless installed with additional safety locks.¹¹

In a joint comment¹² dated April 23, 2019, respondents admitted that delays attended the proceedings of Criminal Case No. 3539-G and that the rights of the accused to speedy trial had been violated. Nonetheless, respondents stressed that they were not the cause of the delay. They surmised that the specimen and the documents may have been purposely hidden and that the real culprit had a change of heart and decided to return them.¹³

In the Administrative Matter for Agenda¹⁴ dated July 15, 2020, the OCA submitted to the Court the following recommendations:

RECOMMENDATION: It is respectfully recommended for the

⁶ Id.

⁷ Id. at 7-9.

⁸ Id. at 11. Penned by Presiding Judge Ramon D. Pamular.

⁹ Id. at 17-19. Penned by Executive Judge Brigando P. Saldivar.

¹⁰ Id. at 17.

¹¹ Id. at 19.

¹² See Joint Comment as regards OCA IPI No. 19-4915-P; id. at 55-58.

¹³ Id. at 56.

¹⁴ Id. at 59-64. Penned by Court Administrator Jose Midas P. Marquez (now a Member of the Court) and Deputy Court Administrator Raul Bautista Villanueva (now Court Administrator).

consideration of the Honorable Court that:

1) the instant matter be RE-DOCKETED as a formal administrative complaint against Clerk of Court Melvin M. Malang, OCC-RTC, Guimba, Nueva Ecija, and Utility Worker I Geralin T. Lopez, Branch 32, RTC, Guimba, Nueva Ecija;

2) respondents Clerk of Court Malang and Utility Worker Lopez be found GUILTY of Simple Neglect of Duty and fined in the amounts of Php 10,000.00 and Php 2,000.00, respectively, payable within thirty (30) days from receipt of notice; and

3) respondents Clerk of Court Malang and Utility Worker Lopez be WARNED that a repetition of the same or similar offense shall be dealt with more severely by the Court.¹⁵

In finding respondents guilty of Simple Neglect of Duty, the OCA ratiocinated that Atty. Malang should not have simply turned over the evidence to Lopez for safekeeping but should have personally ensured that the sensitive evidence were properly kept.¹⁶ The OCA did not give credence to respondents' bare allegations that they *may* have been framed up by other court employees who are interested in the dismissal of the criminal case. Further, the OCA held that the fact that other court employees had access to the records does not exculpate them.¹⁷

The Issue

The issue to be resolved is whether the OCA correctly held respondents guilty of Simple Neglect of Duty.

The Court's Ruling

The Court adopts the findings and recommendations of the OCA with modification.

As Clerk of Court, Atty. Malang's duties include safekeeping of all records and pieces of evidence submitted to the court in cases pending before it.¹⁸ It is likewise his duty to ensure that the records and exhibits in each case are complete and accounted for. Any loss, damage, or destruction of court records, exhibits, and properties is the Clerk of Court's liability.¹⁹ The fact that other court employees, like Lopez, had access to the court records, exhibits, and properties, would not absolve him,²⁰ as in the case. Similarly, Lopez, in his *Sinumpaang Salaysay*²¹ dated June 7, 2017, stated that one of his duties is the safekeeping of exhibits, specimen, and documents turned over to him by the judge or by his immediate supervisor.

¹⁵ Id. at 64.

¹⁶ Id. at 63.

¹⁷ Id. at 62.

¹⁸ *Office of the Court Administrator v. Toledo*, A.M. No. P-13-3124, February 4, 2020.

¹⁹ Id.

²⁰ *In Re: Joboco*, 355 Phil. 551, 560 (1998).

²¹ *Rollo*, p. 22.

It is evident that Lopez was remiss in this duty the moment the drug evidence went missing for months.

Given the circumstances in the case, there is no question that respondents are guilty of Simple Neglect of Duty.

For emphasis, “simple neglect of duty” refers to the failure to give proper attention to a required task or a disregard of duty due to carelessness or indifference.²² On the other hand, “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.²³

In *OCA v. Toledo*²⁴ (*Toledo*), the Court found the Clerk of Court and the evidence custodian therein guilty of gross neglect of duty for the loss of the drug evidence. It must be emphasized, however, that the facts in *Toledo* are not in all fours with the facts of the instant case. In particular, the instant case involves the loss of drug evidence in only one criminal case; on the other hand, the loss of drug evidence in *Toledo* involved two criminal cases. Moreover, the quantity of the drug evidence involved in the instant case is minuscule compared to the 1.254 kilograms of *shabu* which disappeared without a trace in *Toledo*. More importantly, the drug evidence in the instant case was eventually found, unlike in *Toledo* where the drug evidence therein was never recovered. Lastly, the Court, in an earlier case,²⁵ already reminded therein Clerk of Court to be more circumspect in his public and private dealings.²⁶ In contrast, the instant case constitutes herein respondents’ first infraction.

It bears stressing that, by itself, the fact that respondents were the ones who received the drug evidence that went missing is not a sufficient basis for concluding that they are responsible for their loss during the pendency of the criminal case. Hence, the OCA correctly concluded that Simple Neglect of Duty is the more appropriate charge for respondents.

The Court, however, modifies the penalty in view of the February 22, 2022 amendments to Rule 140 of the Rules of Court.²⁷

Under Section 17(2) of Rule 140, the following sanctions shall be imposed if the respondent is guilty of a less serious charge, such as Simple Neglect of Duty,²⁸ viz.:

²² *Office of the Court Administrator v. Amascual*, A.M. No. P-20-4083, June 17, 2020.

²³ *Office of the Court Administrator v. Dequito*, 799 Phil. 607, 617 (2016)

²⁴ *Office of the Court Administrator v. Toledo*, supra.

²⁵ *Re: Toledo v. Toledo*, 568 Phil. 24 (2008).

²⁶ *Id.* at 34-35.

²⁷ Supreme Court, *Re: Further Amendments to Rule 140 of the Rules of Court*, SC Administrative Matter No. 21-08-09-SC [A.M. No. 21-08-09-SC] (February 22, 2022).

²⁸ Section 15(b), Rule 140 of the Rules of Court.

(a) Suspension from office without salary and other benefits for not less than one (1) month nor more than six (6) months; or

(b) A fine of more than ₱35,000.00 but not exceeding ₱100,000.00.

On the other hand, Section 20²⁹ of the same rule provides that the Court may impose the penalties of suspension or fine for a period or amount not less than half of the minimum prescribed under the Rule provided that one (1) or more mitigating circumstances and no aggravating circumstances are present.

In the case, since various mitigating circumstances are present such as: respondents' 11 years in government service; acknowledgment of their infraction; the fact that the drug evidence was recovered; and no aggravating circumstances are attendant, this would merit the imposition of a fine not less than half of the minimum prescribed under Rule 140 or in the amount of ₱17,500.00. Still, the Court finds the imposition of a fine upon the respondents a bit excessive considering that the temporary loss of the drug evidence was not entirely due to their fault. Notably, it is the Court's duty to provide trial courts with steel cabinets/safety boxes with fully-functional locks for the safekeeping of evidence. Otherwise stated, even if Atty. Malang personally ensured that the sensitive pieces of evidence were properly kept, the security and integrity of such evidence stored in the steel cabinet would have been compromised anyway owing to the defective lock.

Given the attendant circumstances, the Court opts to merely reprimand the respondents, with a stern warning that a repetition of the same offense or the commission of a similar offense shall be dealt with more severely. The Court, on a case by case basis, tempers the imposition of harsh penalties when the circumstances warrant it.³⁰

In closing, the Court stresses that all court employees – from the presiding judge to the lowliest clerk – must not only be living examples of uprightness but must also be above suspicion.³¹ Any conduct that would diminish or even merely tend to diminish the faith of the people in the justice system will never be tolerated by the Court.³²

²⁹ Section 20. Manner of Imposition – If one (1) or more aggravating circumstances and no mitigating circumstances are present, the Supreme Court may impose the penalties of suspension or fine for a period or amount not exceeding double of the maximum prescribed under this Rule.

If one (1) or more mitigating circumstances and no aggravating circumstances are present, the Supreme Court may impose the penalties of suspension or fine for a period or amount not less than half of the minimum prescribed under this Rule.

If there are both aggravating and mitigating circumstances present, the Supreme Court may offset each other. (Underlining supplied)

³⁰ See Re: Andres, 763 Phil. 196, 204 (2015) and Re: Marinduque, 515 Phil. 316, 322-323 (2006); See also Office of the Court Administrator v. Judge Aguilar, 666 Phil. 11, 23 (2011), citing Office of the Court Administrator v. Flores, 603 Phil. 84, 93 (2009), Concerned Employees of MTC of Meycauayan, Bulacan v. Paguio-Bacani, 611 Phil. 630, 645 (2009), Concerned Employee v. Valentin, 498 Phil. 347 (2005), Re: Administrative Case for Dishonesty Against Elizabeth Ting, 502 Phil. 264 (2005), and Atty. Reyes-Domingo v. Morales, 396 Phil. 150 (2000).

³¹ Office of the Court Administrator v. Dequito, supra note 23, at 616.

³² Initial Report on the Financial Audit Conducted at the Office of the Clerk of Court (OCC), (MTCC), Lucena City, 597 Phil. 195, 215-216 (2009).

WHEREFORE, the administrative complaint against respondents Atty. Melvin M. Malang, Clerk of Court VI, Office of the Clerk of Court, Regional Trial Court, Guimba, Nueva Ecija; and Geralin T. Lopez, Utility Worker I, Branch 32 of the same court, is **RE-DOCKETED** as a regular administrative matter.

Respondents Atty. Melvin M. Malang and Geralin T. Lopez are found **GUILTY** of Simple Neglect of Duty and are **REPRIMANDED with STERN WARNING** that a repetition of the same or similar acts in the future shall be dealt with more severely.

The Report dated July 15, 2020 of the Office of the Court Administrator on the undated letter of Prosecutor III Geraldine Dumawal-Sadural informing the Office of the Court Administrator of the loss of drug evidence which resulted to the dismissal of Criminal Case No. 3539-G is **NOTED**.

Let a copy of this Resolution be attached to respondents' respective personal records.

SO ORDERED."

By authority of the Court:

Misael D. Battung III
MISAEAL DOMINGO C. BATTUNG III
Division Clerk of Court
01/11/22

Pros. Geraldine A. Dumawal-Sadural
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Resolution

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[Formerly OCA IPI No. 19-4915-P]
June 15, 2022

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