



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION
NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated April 6, 2022, which reads as follows:

“A.M. No. P-22-067 (Office of the Court Administrator vs. Ms. Elena M. Arroza, Clerk of Court II, Municipal Circuit Trial Court [MCTC], Magsaysay-Rizal-Calintaan, Magsaysay, Occidental Mindoro) [Formerly A.M. No. 20-11-38-MCTC (Re: Report on the Investigation on the Missing Evidence in Criminal Case Nos. R-2282 and R-848)]. – The Court resolves to:

- (1) **NOTE** the Report and Recommendation dated November 9, 2021 of the Judicial Integrity Board on the Letter-Report dated October 8, 2020 of Presiding Judge Heidi F. Bacolor-Ragsac of the 3rd Municipal Circuit Trial Court, Magsaysay-Rizal-Calintaan, Magsaysay, Occidental, Mindoro, addressed to then Hon. Raul B. Villanueva, then Deputy Court Administrator (now Court Administrator), Office of the Court Administrator, on the missing evidence, folder, and files in certain criminal cases pending before the said court; and
- (2) **REDOCKET** the instant administrative case as a regular administrative matter against respondent Elena M. Arroza, Clerk of Court II, MCTC, Magsaysay-Rizal-Calintaan, Magsaysay Occidental Mindoro.

Antecedents

Sometime in September 2020, Presiding Judge Heidi F. Bacolor-Ragsac (Judge Bacolor-Ragsac) of the 3rd Municipal Circuit Trial Court (MCTC), Magsaysay-Rizal-Calintaan, Magsaysay, Occidental Mindoro discovered that the following evidence, folder and files which were previously filed with and submitted to the court, and entrusted to the Clerk of Court for

safekeeping, were missing: (1) knife and sheath, in *People v. Melchor Bandiola y Sualog* (Criminal Case No. R-2282, for Direct Assault under Article 148 of the Revised Penal Code); (2) folder, in *People v. Francisco Norella y Esbieto* (Criminal Case No. R-848, for Illegal Possession of Firearms and Ammunition); and (3) files, in *People v. Danilo Ancheta* (Criminal Case No. 1956, for Attempted Homicide).¹

After conducting an investigation, Judge Bacolor-Ragsac instructed Clerk of Court II Elena M. Arroza to issue a Memorandum directing the court personnel, including evidence custodians Melody T. Astoveza and Antonio C. Salibio, to submit their respective written explanations on the missing items.²

On October 8, 2020, Judge Bacolor-Ragsac submitted to then Deputy Court Administrator for Luzon (now Court Administrator) Raul B. Villanueva a Letter-Report³ about the missing evidence, folder, and files. The report contained the respective explanations of the concerned court personnel, thus:

***Missing Knife and Sheath in
People v. Melchor Bandiola y
Sualog (Criminal Case No.
2282)***

Elena M. Arroza (Arroza), Clerk of Court II, stated that the loss of the knife and sheath was beyond her control. She asked the evidence custodians (Melody T. Astoveza and Antonio Salibio) about the missing evidence, but they said they had no knowledge why the same got lost. Despite their efforts, they failed to locate the evidence. She acknowledged responsibility and accountability for the missing evidence and apologized for the incident.⁴

Melody T. Astoveza (Astoveza), Utility Worker I, explained that she and Arroza received the files and evidence, including the knife and sheath, for safe keeping. She and Arroza kept the knife in one of the steel cabinets in the court premises. Despite her effort, she was not able to find the knife and sheath. When she asked Arroza regarding their whereabouts, the latter instructed her to search in the box in the stockroom, which she did, but still

¹ Judicial Integrity Board Report and Recommendation dated November 9, 2021, unpaginated.

² *Rollo*, p. 4.

³ *Id.* at 4-7.

⁴ *Id.* at 4-5.

failed to find the missing evidence. She recalled that, one time, there were people doing repair works in the court premises.⁵

Antonio C. Salibio (Salibio), Court Stenographer I, stated that he had not seen the evidence as he had not been physically reporting for work due to the pandemic. He only reported to the court for the hearing of the cases in August 2020. Only then did he learn that the evidence were missing.⁶

Fe E. Ronquillo (Ronquillo), Court Stenographer I, declared that she once saw the evidence at the bottom of the steel cabinet. At that time, there were people doing repair works in the court premises.⁷

Mary Ann A. Bonus (Bonus), Clerk II, corroborated Ronquillo's statement. She declared that she saw the knife and sheath in the last shelf of the open steel cabinet, for the first time, after the court transferred to the newly-renovated office. She only learned that the knife and sheath were missing when her co-employees started looking for them as the same would be presented as evidence.⁸

***Missing Folder in People v.
Francisco Norella y Esbieto
(Criminal Case No. R-848)***

Arroza averred that she was not yet the Clerk of Court at the time the cases of *People v. Francisco Norella* and *People v. Danilo Ancheta* were filed in 2013. When she assumed her post as Clerk of Court in December 2014, there was no proper turnover to her of all records and office equipment. It was only during their case disposal in 2015 that she discovered that the case folder in *People v. Francisco* was missing. Then Acting Presiding Judge Cornelio A. Sy (Presiding Judge Sy) directed her to reconstitute the files. She tried to recover the files by securing certified photocopies thereof from the Office of the Public Prosecutor (OPP).⁹

⁵ *Id.* at 5.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 5-6.

⁹ *Id.* at 6.

Salibio claimed that he had no knowledge of the missing folder as he was not stationed in the MCTC, Magsaysay, Occidental Mindoro, but in Rizal.¹⁰

Ronquillo said that she only learned of the missing folder in Criminal Case No. 848 after the hearing of said case on April 25, 2013.¹¹

Bonus asserted that she had no knowledge of the missing folder because the same was already missing at the time she got transferred to the court in 2017.¹²

Astoveza declared that she got appointed to the court only in December 2018, and had no knowledge of the missing folder.¹³

***Missing Files in People v.
Danilo Ancheta (Criminal
Case No. 1956)***

Arroza stated that after conducting the inventory of records in the court, she discovered that the last three (3) pages (pp. 221 to 223) of the records of Criminal Case No. 1956 were missing. Despite her efforts, she failed to locate the missing pages. She was nonetheless able to obtain from Former Presiding Judge Sy (a copy of the Order presumed to be appearing on pages 221-222. For page 223, however, she failed to secure from Magsaysay Municipal Police Station a copy of the alias warrant of arrest earlier issued by the court, as the police had no copy thereof.¹⁴

Salibio reiterated that he had no knowledge of the missing pages as he was not stationed in the MCTC in Magsaysay, Occidental Mindoro, but in Rizal.¹⁵

Ronquillo claimed that she only learned about the missing pages when Judge Bacolor-Ragsac checked the records.¹⁶

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*; Letter dated October 7, 2020, *id.* at 24.

¹³ *Id.* at 7.

¹⁴ *Id.* at 6; Letter dated October 7, 2020, *id.* at 20.

¹⁵ *Id.* at 6.

¹⁶ *Id.*

Bonus repeated that she did not know about the missing files as she got transferred to the court only in 2017. The warrant of arrest appearing on the missing page was issued much earlier on August 21, 2007.¹⁷

Astoveza also reiterated her defense that she had no knowledge of the missing files as she only got appointed to the court in December 2018.¹⁸

Despite diligent efforts, the evidence, folder and files remained missing.¹⁹ Arroza acknowledged to Judge Bacolor-Ragsac her responsibility and accountability for the loss of these items.²⁰

In the interest of the service, Judge Bacolor-Ragsac requested that Ronquillo be designated as officer-in-charge (OIC) to perform the duties of the Clerk of Court II, except on financial matters; and, Arroza, as Court Interpreter.²¹

Under its Report and Recommendation²² dated November 9, 2021, the Judicial Integrity Board (JIB) recommended that the Letter-Report dated October 8, 2020 of Presiding Judge Bacolor-Ragsac be re-docketed as a regular administrative matter against Arroza; and Arroza be found guilty of Simple Neglect of Duty and suspended from the service for one (1) month and one (1) day, with stern warning.²³

Ruling

We adopt the factual finding and legal conclusions of the JIB, albeit we modify the penalty.

The Manual for Clerks of Court and the Rules of Court define the role of a clerk of court in the administration of justice. Section E(2), paragraph 2.2.3, Chapter VI of the 2002 Revised Manual for Clerks of Court provides, thus:

¹⁷ *Id.* at 6; Letter dated October 7, 2020.

¹⁸ *Id.* at 7.

¹⁹ JIB Report and Recommendation dated November 9, 2021, *id.*, unpaginated.

²⁰ *Id.*

²¹ *Id.* at 7.

²² JIB Report and Recommendation dated November 9, 2021, *id.*, unpaginated.

²³ *Id.*

All exhibits used as evidence and turned over to the court and before the case/s involving such evidence shall have been terminated shall be under the custody and safekeeping of the Clerk of Court.

Section 7, Rule 136 of the Rules of Court similarly provides:

Section 7. *Safekeeping of property.* — The clerk shall safely keep all records, papers, files, exhibits and public property committed to his charge, including the library of the court, and the seals and furniture belonging to his office.

The primary duty of a clerk of court is to safekeep all the records and pieces of evidence submitted to the court in cases pending before it, including the properties furnished to his or her office.²⁴ As custodian of the records of the court, it is the duty of the clerk of court to ensure not only that the same are safely kept in his or her possession, but also that they will be readily available upon the request of the parties or order of the court. He or she must be diligent and vigilant in performing his or her official duties and in supervising and managing court dockets and records.²⁵ This obligation includes ensuring that the records and exhibits in each case are complete and accounted for, and continues even after the termination of the case as long as the same have yet to be disposed or destructed in accordance with the existing rules. Accordingly, the clerk of court shall assume liability for any loss, shortage, damage or destruction of court records, exhibits and properties.²⁶

Simple neglect of duty is the failure to give proper attention to a task expected from an employee resulting from either carelessness or indifference.²⁷ As an officer of the court, Arroza was expected to discharge her duty of ensuring the safekeeping of court records with diligence, efficiency, and professionalism. Consistent with this duty, she should have ensured that the evidence and records were duly accounted for, handled with due care, and kept in a secure place.²⁸ More so, since the court was then allegedly undergoing repair works. As it was, Arroza fell short of the reasonable diligence required of her by failing to exercise due care and prudence in handling the evidence and court records. Hence, she is liable for simple neglect of duty.

²⁴ *Office of the Court Administrator v. Toledo*, A.M. No. P-13-3124, February 4, 2020.

²⁵ See *Basco v. Gregorio*, 315 Phil. 681, 687 (1995).

²⁶ *Office of the Court Administrator v. Toledo*, A.M. No. P-13-3124, February 4, 2020.

²⁷ *Id.*

²⁸ *Re: Report on the Judicial Audit Conducted in the RTC, Br. 2, Borongan, Eastern Samar*, 535 Phil. 719, 728 (2006).

In *Office of the Court Administrator v. OIC and Legal Researcher Cinco*,²⁹ where it was discovered that the records of five (5) cases were missing, the Court found the Branch Clerk of Court guilty of simple neglect of duty and meted the penalty of suspension for one (1) month and one (1) day without pay for her failure to exercise diligence in the discharge of her duty as records custodian, thus:

Clerks of court are ranking officers who perform vital functions in the administration of justice. They are the designated custodians of, and have control over, court records. Section 7, Rule 136 of the Rules of Court states that clerks of court shall safely keep all the record, papers, files, and exhibits committed to their charge. The 2002 Revised Manual for Clerks of Court states that the duties of clerks of court include receiving and keeping the necessary papers of cases. In *Office of the Court Administrator v. Carriedo*, the Court held that clerks of court are duty-bound to safely keep court records and have them readily available upon request. They must be diligent and vigilant in managing the records. In *Office of the Court Administrator v. Ramirez*, the Court held that clerks of court are liable for the loss of court records.³⁰

Under Section 46(D)(1) of the Revised Rules on Administrative Cases in the Civil Service (RRACCS),³¹ simple neglect of duty is classified as a less grave offense punishable by suspension of one (1) month and one (1) day to six (6) months for the first offense. When there are only mitigating and no aggravating circumstances present, the minimum period of the penalty shall be imposed.³²

In previous cases, the Court has imposed lesser penalties in the presence of mitigating factors such as the respondent's length of service, acknowledgement of his or her infractions and feeling of remorse, advanced age, family circumstances, and humanitarian and equitable considerations.³³

²⁹ 610 Phil. 40 (2009).

³⁰ *Id.* at 46-47.

³¹ Section 46. *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.

x x x x

D. The following less grave offenses are punishable by suspension of one (1) month and one (1) day suspension to six (6) months for the first offense; and dismissal from the service for the second offense:

1. Simple Neglect of Duty; x x x

³² Section 49, RRACCS:

Section 49. *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.

³³ *Committee on Security and Safety, Court of Appeals v. Dianco*, 760 Phil. 169-206 (2015).

Here, Arroza acknowledged her liability and apologized for the loss of the evidence and records in her custody. Such gesture amounts to an admission of the offense which can be considered as a mitigating circumstance in her favor and, thus, warrant the imposition of the minimum penalty.³⁴

On October 2, 2018, the Court approved A.M. No. 18-01-05-SC³⁵ which amended Rule 140 of the Rules of Court. Rule 140, as further amended by A.M. No. 21-03-17-SC,³⁶ pertinently provides, thus:

Section 1. *How instituted.* — Proceedings for the discipline of Justices of the Court of Appeals, the Sandiganbayan, Court of Tax Appeals and Judges **and personnel of the lower courts**, including the Shari'a Courts, and the officials and employees of the Office of the Jurisconsult, Court Administrator, Deputy Court Administrator, Assistant Court Administrator and their personnel, may be instituted, *motu proprio*, by the Supreme Court, in the Judicial Integrity Board.

x x x x

Section 23. Less Serious Charge. — **Less serious charges include:**

x x x x

7. Simple Misconduct constituting violations of the Code of Judicial Conduct or of the Code of Conduct for Court Personnel, and **less grave offenses under the Civil Service Laws and Rules.** (23a)

x x x x

Section 25. Sanctions. —

x x x x

B. If the respondent is guilty of a less serious charge, any of the following sanctions shall be imposed:

1. **Suspension from office without salary and other benefits for not less than one (1) month nor more than three (3) months; or**

2. A fine of not less than ₱35,000.00 but not exceeding ₱100,000.00. (Emphases supplied)

³⁴ *Committee on Security and Safety, Court of Appeals v. Dianco, id.*

³⁵ Entitled "Establishment of the Judicial Integrity Board (JIB) and the Corruption Prevention and Investigation Office (CPIO).

³⁶ Entitled "Amendments to the Fines Provided in Rule 140 of the Revised Rules of Court."

By Resolution dated July 7, 2020, supplementing A.M. No. 18-01-05-SC, Rule 140 of the Rules of Court was explicitly made applicable to all court officials and personnel. Accordingly, the provisions of Rule 140, as amended should be applied to Clerk of Court Arroza.³⁷

The JIB recommended the minimum penalty of suspension for one (1) month and one (1) day based on Section 46(D)(1) of the RRACCS.³⁸ However, the period of suspension prescribed for simple neglect of duty under Section 25(B)(1) of Rule 140, as amended,³⁹ is “not less than one (1) month nor more than three (3) months.” The minimum period is, thus, one (1) month. Note that when only mitigating and no aggravating circumstances are present, as in this case, the minimum period of the imposable penalty should be imposed. Hence, the minimum penalty of suspension to be imposed upon Arroza should be one (1) month.

ACCORDINGLY, the Court finds **Elena M. Arroza**, Clerk of Court II, 3rd Municipal Circuit Trial Court, Magsaysay-Rizal-Calintaan, Magsaysay, Occidental Mindoro **LIABLE** for Simple Neglect of Duty. In accordance with Section 25(B)(1) of Rule 140, as amended, she is **SUSPENDED** from the service for one (1) month with **STERN WARNING** that a repetition of the same or similar offense shall be dealt with more severely.

The Office of the Court Administrator is ordered to immediately serve a copy of this Resolution on Elena M. Arroza for the purpose of reckoning the date of her suspension from the service. Let a copy of this Resolution be attached to her personnel records.

³⁷ *Office of the Court Administrator v. Tabio*, A.M. No. P-21-001 (Notice), February 10, 2021.

³⁸ Section 46. 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.

x x x x

D. The following less grave offenses are punishable by suspension of one (1) month and one (1) day suspension to six (6) months for the first offense; and dismissal from the service for the second offense:

1. Simple Neglect of Duty; x x x x

³⁹ Section 25. *Sanctions*. —

x x x x

B. If the respondent is guilty of a less serious charge, any of the following sanctions shall be imposed:

1. Suspension from office without salary and other benefits for not less than one (1) month nor more than three (3) months; or

2. A fine of not less than P35,000.00 but not exceeding P100,000.00.

SO ORDERED.”

By authority of the Court:

Mie-RDC Batt
MISAEAL DOMINGO C. BATTUNG III
Division Clerk of Court *11/11/22*

Hon. Heidi F. Bacolor-Ragsac
Presiding Judge
MUNICIPAL CIRCUIT TRIAL COURT
Magsaysay-Rizal-Calintaan
5102 Occidental Mindoro

Ms. Elena M. Arroza
Clerk of Court II
MUNICIPAL CIRCUIT TRIAL COURT
Magsaysay-Rizal-Calintaan
5102 Occidental Mindoro

Mr. Antonio C. Salibio
Court Stenographer I
MUNICIPAL CIRCUIT TRIAL COURT
Magsaysay-Rizal-Calintaan
5102 Occidental Mindoro

Ms. Melody T. Astoveza
Utility Worker I
MUNICIPAL CIRCUIT TRIAL COURT
Magsaysay-Rizal-Calintaan
5102 Occidental Mindoro

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