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[A. M. No. P-99-1347. February 6, 2001]

JUDGE PANCRACIO N. ESCAÑAN & GLORIA M. JAMERO, *complainants, vs.* **INOCENTES M. MONTEROLA II, Clerk of Court II, 3rd MCTC, Kitcharao-Jabonga, Agusan del Norte,** *respondent.*

SYNOPSIS

Complainant herein was charged with slight physical injuries before the sala of Judge Pancracio N. Escañan. The trial court promulgated its decision sentencing herein complainant to twenty days of arresto menor and to pay a fine of P 4,500.00. Thereafter, she manifested in open court her intention to appeal the decision. However, in the afternoon of the same day two policemen arrested her in her house pursuant to an order by the herein respondent. Complainant unwillingly went to the police station. Her sister immediately seek the assistance of the probation officer, who immediately asked for the release of the complainant because the court did not issue warrant for her arrest. Jamero was released on that day but only after the clerk of court forced her to sign a document that he prepared. The document turned out to be a waiver. As a consequence, both Judge Escañan and complainant Jamero filed an administrative complaint against the respondent for usurpation of judicial function and grave misconduct. For his part, respondent clerk of court denied ordering the arrest of Jamero. He contended that Judge Escañan orchestrated the administrative complaint against him. The Court resolved to refer the cases to Executive Judge Buyser of the Regional Trial Court, Surigao City for investigation, report and recommendation. In the course of his investigation Judge Buyser found that the respondent ordered the arrest of Jamero before the period to appeal or application for probation had lapsed. By causing Jamero's arrest, without prior order from the court, respondent clerk of court deprived the petitioner of her liberty and her right to due process. Thereafter, Judge Buyser submitted his recommendation for the dismissal of respondent with forfeiture of his retirement benefits and accrued leave credits and disqualification for re-employment in the government.

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The Supreme Court agreed with the recommendation of the investigating judge. Complainant Jamero did not voluntarily submit himself to police custody. A notation on the police blotter showed that Jamero was locked up in jail, not for safekeeping, but pursuant to an arrest. According to the Court, judicial office demands the best possible men and women in the service. Hence, this Court will not hesitate to rid its ranks of undesirables, who were tainting its image in the eyes of the public. The Court ordered the dismissal from the service of Inocentes Monterola, with forfeiture of all retirement benefits and accrued leave credits, with prejudice to re-employment in the government service.

SYLLABUS

1. **POLITICAL LAW; ADMINISTRATIVE LAW; COURT PERSONNEL; CLERK OF COURT; ADMINISTRATIVE DUTIES AND FUNCTIONS.** — The Clerk of Court is an important functionary of the judiciary. His administrative functions are vital to prompt and sound administration of justice. He plays a key role in the court. He cannot be allowed to slacken on his job as his office is the hub of adjudicative and administrative orders, processes and concerns. He is the administrative assistant of the presiding judge whose duty is to assist in the management of the calendar of the court and in all other matters not involving the discretion or judgment of the judge. . . As held in *Caña vs. Santos*, "(p)ersons involved in the administration of justice ought to live up to the strictest standard of honesty and integrity in the public service. The conduct of every personnel connected with the courts, from the presiding judge to the lowliest clerk, should at all times be circumspect to preserve the integrity and dignity of our courts of justice." Respondent as court employee, is required to conduct himself with propriety and decorum, in order that his actions will be beyond suspicion.

2. **ID.; ID.; ID.; ID.; ID.; GRAVE MISCONDUCT; USURPATION OF JUDICIAL FUNCTION; ISSUANCE OF WARRANT OF ARREST AND MATTERS RELATING THERETO IS BEYOND THE ADMINISTRATIVE DUTIES OF A CLERK OF COURT.** — The issuance of a warrant of arrest and matters relating thereto is not an administrative function, but a judicial one. By ordering the arrest of accused Jamero, respondent clerk of court went

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beyond his duties as provided in the Rules of Court, specifically Rule 136, Section 4: "Sec. 4. *Issuance by clerk of process*.– The clerk of a superior court shall issue under the seal of the court all ordinary writs and process incident to pending cases, *the issuance of which does not involve the exercise of functions appertaining to the court or judge only*; and may under the direction of the court or judge, make out and sign letters of administration, appointments of guardians, trustees, and receivers, and all writs and process issuing from the court." In the case at bar, respondent clerk of court took upon himself, the performance of a judicial function, one that necessarily involves the exercise of judicial discretion or judgment. He did so without the prior order and authority of the trial court and in complete disregard of the rights of the accused. By ordering the arrest of accused Jamero, respondent performed a function not vested in him by law. . . . Moreover, no matter how noble his intention was, still he acted beyond the scope of his administrative authority. As it were, the issuance of the warrant for the arrest of a convicted person and the authority to order his immediate detention is purely a judicial function. The clerk of court, unlike a judge, has no power to order either the commitment or the release of persons charged with penal offenses. In ordering the arrest of the accused and confinement in police custody, therefore, respondent clerk of court unduly usurped the .judicial prerogative of the judge. Such usurpation is equivalent to grave misconduct.

3. ID.; ID.; ID.; ID.; STANDARDS REQUIRED FOR JUDICIAL OFFICE; PENALTY FOR FAILURE TO LIVE UP TO SUCH STANDARDS. — No position demands greater moral righteousness and uprightness from its occupant than does the judicial office. Those connected with the dispensation of justice bear a heavy burden of responsibility. Clerks of court in particular must be individuals of competence, honesty, and probity, charged as they are with safeguarding the integrity of the court and its proceedings. For failing to live up to these exacting standards, respondent must be dismissed. Judicial office demands the best possible men and women in the service. This Court will not hesitate to rid its ranks of undesirables who undermine its efforts towards effective and efficient administration of justice, thus tainting its image in the eyes of the public.

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RESOLUTION

PER CURIAM:

The case before us involves the consolidated administrative complaints filed by Judge Pancracio N. Escañan,[1] Acting Presiding Judge, 3rd Municipal Circuit Trial Court (MCTC), Jabonga-Kitcharao, Agusan del Norte and complainant Gloria Jamero[2] against Inocentes M. Monterola II, Clerk of Court II, 3rd MCTC, Jabonga-Kitcharao, Agusan del Norte for usurpation of judicial function and grave misconduct relative to Criminal Case No. 3144.

We state the antecedent facts.

Complainant Gloria M. Jamero (hereinafter referred as "Jamero") was charged with slight physical injuries in Criminal Case No. 3144, before the sala of Judge Pancracio N. Escañan, acting presiding judge, 3rd MCTC, Jabonga-Kitcharao, Agusan del Norte.[3]

On February 19, 1997, at about 10:00 in the morning, the trial court promulgated a decision sentencing her to twenty (20) days of *arresto menor* and to pay a fine of ₱4,500.00. Accused Jamero, through counsel, manifested in open court her intention to appeal the decision. Thereafter, she went home.

However, at six minutes past twelve in the afternoon of the same day, two (2) policemen, namely, SPO3 Felipe Villanueva and Rene Manamtam arrested Jamero at her house pursuant to an order of respondent Inocentes M. Monterola II. Accused Jamero unwillingly went to the police station. By 12:30 in the afternoon, she was locked up in jail.[4]

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[1] Filed with the Office of the Court Administrator- Legal Office, Supreme Court on December 15, 1997, and docketed as OCA IPI No. 98-399-P.

[2] Filed with the Office of the Court Administrator-Legal Office, Supreme Court on January 22, 1998, and docketed as OCA IPI No. 98-422-P.

[3] Docketed as OCA-IPI No. 98-422-P.

[4] TSN, December 15, 1999, pp. 6-9.

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Upon learning of accused Jamero's incarceration, Editha Moranda, complainant's sister, sought the assistance of Butuan City probation officer, Jose Pilar Bermudez.[5]

On February 21, 1997, at about 2:00 in the afternoon, Mr. Bermudez visited Jamero at the municipal jail of Kitcharao. He asked that complainant be immediately released from detention as it was illegal. The court did not issue a warrant of arrest. Accused Jamero was released on that day after respondent clerk of court forced her to sign a document that he prepared.[6]

Accused Jamero denied that she voluntarily submitted herself to the custody of the police. She did not swear to the truthfulness of the piece of paper she signed, which turned out to be a waiver,[7] the contents of which are the following:

"Since I observed after the promulg-ation of the decision of my case for slight physical injuries somewhat in a hot situation under Criminal Case No. 3144 on February 19, 1997, I honestly submitted myself for a proper protection of the law enforcer in the office of the Chief of Police of Kitcharao, Agusan del Norte, Philippines.

February 19, 1997."[8]

Judge Pancracio N. Escañan confirmed what complainant Gloria M. Jamero testified to.[9]

In the morning of February 19, 1997, Judge Escañan promulgated a decision convicting accused Jamero for slight physical injuries and sentencing her to twenty (20) days of *arresto menor*. Immediately thereafter, complainant judge left for his regular station at MTC, Buenavista, Agusan del Norte.[10]

In the afternoon of the same day, before the lapse of the period for the filing of appeal or application for probation,

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[5] *Ibid.*, p. 10.

[6] *Ibid.*, pp. 11-12.

[7] *Ibid.*, p. 13.

[8] TSN, December 15, 1999, p. 12.

[9] Docketed as OCA IPI No. 98-399-P.

[10] TSN, December 15, 1999, pp. 3-4.

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respondent clerk of court directed the police to arrest accused Jamero. Respondent "assumed and arrogated to himself an imaginary authority and illegally ordered the accused to be arrested and bodily put inside the Municipal Jail of Kitcharao without any order coming from the court." As a consequence thereof, accused Jamero was illegally detained for three (3) days, from February 19, 1997, until February 21, 1997.

For his part, respondent clerk of court denied ordering the arrest of accused Jamero. He said that immediately after the promulgation of accused Jamero's conviction, a long-haired man, whose identity he failed to determine, appeared in his office and demanded why accused Jamero had not been imprisoned despite a judgment of conviction. The man threatened to kill both respondent and accused Jamero if the latter would not be sent to jail.

Fearing for his life and that of complainant Jamero, respondent clerk of court sought the help of a fellow employee, Mario Napalan. Respondent requested Mario Napalan to ask for police assistance so that accused Jamero would be safely kept in the police station. His instruction to the police officers was not to imprison accused Jamero, but to bring her to the police station for safekeeping, as there was a threat to her life. He even left instructions for accused Jamero's husband to accompany her at the police station, especially at nighttime. Hence, accused Jamero's complaint against him was bereft of material basis, for he knew that he had no authority to order her arrest.

Respondent contends that Judge Escañan orchestrated the administrative complaint against him. The animosity between him and Judge Escañan sprung from his refusal to detail to the Hall of Justice of Jabonga-Kitcharao the guards of the security agency chosen by Judge Escañan. He opposed the posting of the guards to the hall of justice, despite the order of Judge Escañan, because there was no prior compliance with the memorandum circular of the Committee on Halls of Justice of the Supreme Court. This refusal caused strained relations between him and Judge Escañan. Accused Jamero, on the other hand, was influenced by Judge Escañan to file an

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administrative complaint against him in the belief that she would be able to extract money from him.

On June 16, 1999, the Court ordered the consolidation of the two administrative complaints and referred the consolidated cases to Executive Judge Rosarito F. Dabalos, Regional Trial Court, Branch 2, Butuan City for investigation.[11]

However, October 13, 1999, the Court resolved to docket these cases as regular administrative proceedings and to refer the same to Executive Judge Floripinas C. Buyser, Regional Trial Court, Surigao City, Branch 30 for investigation, report and recommendation.[12]

On April 10, 2000, Executive Judge Buyser submitted a report recommending the dismissal of respondent Inocentes M. Monterola II from the service for grave misconduct, with forfeiture of retirement benefits and accrued leave credits and disqualification for re-employment in government.[13]

Judge Buyser defined the issues as: (1) whether or not respondent Inocentes M. Monterola II caused the arrest and detention of complainant Gloria M. Jamero, and (2) if so, whether or not he is administratively liable therefor.

On the first issue, Judge Buyser found substantial evidence that respondent clerk of court caused the arrest and detention of accused Jamero without the prior order of the court.[14] One of the arresting officers, PO3 Rene Manamtam testified that on February 19, 1997, respondent clerk of court ordered accused Jamero's immediate arrest.

Moreover, contrary to respondent's allegation that accused Jamero voluntarily submitted herself to the police for custody, the entry in the police blotter showed that accused Jamero had been arrested.[15] Even respondent's co-employee, Mario Napalan,

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[11] *Rollo*, p. 153.

[12] *Ibid.*, pp. 288-289.

[13] *Ibid.*, pp. 315-325.

[14] *Ibid.*, p. 320.

[15] *Rollo*, p. 321.

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said that he sought assistance to put accused Jamero in police custody upon instruction of respondent.[16]

As regards the second issue, the investigating judge found respondent administratively liable. When respondent ordered the arrest of accused Jamero, the fifteen-day reglementary period to appeal or apply for probation had not lapsed. By causing the immediate arrest of accused Jamero, without the prior authority or order of the court, respondent clerk of court deprived the accused of her liberty and her right to due process.

For his infractions, Executive Judge Buyser recommended that respondent clerk of court be dismissed from the service. The dispositive portion of the report states:

"WHEREFORE, in view of the foregoing considerations, it is hereby respectfully recommended that respondent Inocentes M. Monterola II, Clerk of Court, MCTC, Jabonga-Kitcharao, Agusan del Norte, be DISMISSED from the service for grave misconduct, with forfeiture of retirement benefits and accrued leave credits and disqualification for re-employment in government service, including government owned and controlled corporations.

"Surigao City (for Manila, Philippines), 31 March 2000.

"Respectfully submitted:

"[Sgd.] FLORIPINAS C. BUYSER
Executive Judge"[17]

We agree with the recommendation of the investigating judge.

The Clerk of Court is an important functionary of the judiciary. His administrative functions are vital to prompt and sound administration of justice. He plays a key role in the court. He cannot be allowed to slacken on his job as his office is the hub of adjudicative and administrative orders, processes and concerns.[18] He is the administrative assistant of the presiding

[16] *Ibid.*, p. 324.

[17] *Ibid.*, p. 325.

[18] *Solidbank Corporation v. Branch Clerk of Court Roberto B. Capoon, Jr., Regional Trial Court, Branch 62, Makati City*, 351 Phil. 936, 942 [1998].

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judge whose duty is to assist in the management of the calendar of the court and in all other matters not involving the discretion or judgment of the judge.[19]

Contrary to what respondent would want the Court to believe, complainant Jamero did not voluntarily submit to police custody. Police blotter entry No. 5852 contained a notation that accused Jamero was locked up in jail, not for safekeeping, but pursuant to an arrest.

The issuance of a warrant of arrest and matters relating thereto is not an administrative function, but a judicial one. By ordering the arrest of accused Jamero, respondent clerk of court went beyond his duties as provided in the Rules of Court, specifically Rule 136, Section 4:

"Sec. 4. *Issuance by clerk of process.*- The clerk of a superior court shall issue under the seal of the court all ordinary writs and process incident to pending cases, *the issuance of which does not involve the exercise of functions appertaining to the court or judge only;* and may under the direction of the court or judge, make out and sign letters of administration, appointments of guardians, trustees, and receivers, and all writs and process issuing from the court." (italics supplied)

In the case at bar, respondent clerk of court took upon himself, the performance of a judicial function, one that necessarily involves the exercise of judicial discretion or judgment. He did so without the prior order and authority of the trial court and in complete disregard of the rights of the accused. By ordering the arrest of accused Jamero, respondent performed a function not vested in him by law.

As held in *Caña vs. Santos*,[20] "(p)ersons involved in the administration of justice ought to live up to the strictest standard of honesty and integrity in the public service. The conduct of every personnel connected with the courts, from the presiding judge to the lowliest clerk, should at all times be circumspect

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[19] Re: Suspension of Clerk of Court Rogelio R. Joboco, RTC, Branch 16, Naval, Biliran, 355 Phil. 551 [1998].

[20] 234 SCRA 17, 23 [1994].

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to preserve the integrity and dignity of our courts of justice." Respondent as court employee, is required to conduct himself with propriety and decorum, in order that his actions will be beyond suspicion.[21]

Respondent tried to avoid administrative liability by making it appear that accused Jamero volunteered to be confined at the municipal jail of Kitcharao. He prepared a waiver and forced accused Jamero to sign it to make it appear that she went to the police station and submitted herself to police custody. This was done in an apparent attempt to cover up his reprehensible directive to the police officers to arrest accused Jamero.

However, respondent clerk of court committed a blunder when he failed to note that the document which he asked Jamero to sign on February 21, 1997 was dated February 19, 1997, the first day of Jamero's confinement.[22] This showed that the waiver was executed as an afterthought to hide the irregularity of his act, and there was not a hint of truth in his allegation that the confinement was voluntary. Neither could we give credit to the claim that the order to take accused Jamero in police custody was done to protect her against threat to her life. The evidence presented before the Court clearly established that complainant Jamero was detained at the municipal jail pursuant to the order of respondent to have her arrested.

Moreover, no matter how noble his intention was, still he acted beyond the scope of his administrative authority. As it were, the issuance of the warrant for the arrest of a convicted person and the authority to order his immediate detention is purely a judicial function. The clerk of court, unlike a judge, has no power to order either the commitment or the release of persons charged with penal offenses. In ordering the arrest of the accused and confinement in police custody, therefore, respondent clerk of court unduly usurped the judicial prerogative of the judge. Such usurpation is equivalent to grave misconduct.[23]

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[21] *Mendoza, v. Tiongson,* 333 Phil. 508, 515-516 [1996].

[22] TSN, December 15, 1999, p. 12.

[23] *Julito Biag v. Lualhati Gubatanga,* 318 SCRA 753 [1999].

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No position demands greater moral righteousness and uprightness from its occupant than does the judicial office. Those connected with the dispensation of justice bear a heavy burden of responsibility. Clerks of court in particular must be individuals of competence, honesty, and probity, charged as they are with safeguarding the integrity of the court and its proceedings. For failing to live up to these exacting standards, respondent must be dismissed.[24]

Judicial office demands the best possible men and women in the service. This Court will not hesitate to rid its ranks of undesirables who undermine its efforts towards effective and efficient administration of justice, thus tainting its image in the eyes of the public.[25]

WHEREFORE, the Court orders the dismissal from the service of Inocentes M. Monterola II, Clerk of Court II, 3rd MCTC, Jabonga-Kitcharao, Agusan del Norte, for grave misconduct and usurpation of judicial function, with *FORFEITURE* of all retirement benefits and accrued leave credits, if any, and with prejudice to re-employment in any branch, agency or instrumentality of the government, including government-owned or controlled corporations.

SO ORDERED.

Davide, Jr., C. J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, De Leon, Jr., and *Sandoval-Gutierrez, JJ.,* concur.

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[24] *Rangel-Roque v. Rivota,* 302 SCRA 509, 521 [1999].

[25] *Spouses Sadik v. Judge Casar,* 334 Phil 1, 15 [1997].