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SO ORDERED.

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

THIRD DIVISION

[A.M. No. P-99-1341. November 22, 1999]

JULITO BIAG, *complainant, vs.* **LUALHATI GUBATANGA,** *respondent.*

SYNOPSIS

By virtue of a "Release Order" issued by Clerk of Court Lualhati Gubatanga, Angel Manuel was released on bail. Said order was stamped with the words "Original Signed". In fact, the original copy of said order had not been so signed. Judge Wilhelmina Arcega denied having knowledge of said order and refused to affix her signature thereon. Respondent Gubatanga was ordered to return the cash bond and to have the accused Manuel brought to the judge who issued the warrant of arrest. By then, accused Manuel can no longer be found, his whereabouts unknown. Hence, this administrative complaint against Lualhati Gubatanga.

The Clerk of Court is not empowered to issue the questioned order in the name of the judge. It was gross misrepresentation on the part of respondent to issue the Release Order stamped "original signed," knowing that the original had not in fact been signed, thus causing the release of the accused Angel Manuel without a proper court order. By taking a direct hand in the release of the accused, who is now at large, respondent is guilty of grave misconduct as she had arrogated unto herself the disposition of a judicial matter pending adjudication before the court. Respondent was found guilty of misconduct and imposed a six months suspension without pay.

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SYLLABUS

1. **CONSTITUTIONAL LAW; SUPREME COURT; ADMINISTRATIVE SUPERVISION OVER COURT PERSONNEL; CLERK OF COURT; ISSUING RELEASE ORDER STAMPED "ORIGINAL SIGNED" CONSTITUTES GRAVE MISCONDUCT.** — The duties of the Clerk of Court are defined in Section 5, Rule 136 of the Rules of Court. Clearly, the Clerk of Court is not empowered to issue the questioned order in the name of the judge. It was gross misrepresentation on the part of respondent to issue the Release Order stamped "original signed," knowing that the original had not in fact been signed, thus causing the release of the accused Angel Manuel without a proper court order. By taking a direct hand in the release of the accused, who is now at large, respondent is guilty of grave misconduct, as she has arrogated unto herself the disposition of a judicial matter pending adjudication before the court. While she may have been moved by compassion to help the accused Manuel, who was allegedly then suffering from high fever, and may have acted in good faith "thinking all along that Judge Arcega would sign the order on the following working day that was Monday," her actuation cannot be condoned. It constitutes a serious infringement of, and encroachment upon, judicial authority, as she made it appear that the Judge signed the release order when in fact she did not. It turns out that her unauthorized act has caused the release of accused who is now at large.

2. **ID.; ID.; ID.; CONDUCT OF ALL COURT PERSONNEL MUST ALWAYS BE BEYOND REPROACH.** — This Court has consistently held that the conduct required of court personnel from the presiding judge to the lowliest clerk, must always be beyond reproach and is circumscribed with the heavy burden of responsibility. This Court cannot countenance any act or omission on the part of all those involved in the administration of justice which would violate the norm of public accountability and diminish or even just tend to diminish the faith of the people in the judiciary.

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RESOLUTION

GONZAGA-REYES, *J.*:

Julito Biag is the complainant in a criminal case for estafa filed against Angel Manuel before the Regional Trial Court of Valenzuela, Metro Manila. Judge Jaime Bautista, Presiding Judge of Branch 75, to whom the case was raffled, issued a warrant of arrest against accused Angel Manuel.

Angel Manuel was arrested on November 23, 1996 (Saturday) at around 6:15 A.M. and was brought to the jail at the Balagtas Police Station.

At around 5:00 o'clock p.m. of the same day, accused Manuel was released on bail by virtue of a "Release Order" dated November 22, 1996 which reads:

"O R D E R

By virtue of a Warrant of Arrest issued by Hon. Judge Jaime Bautista of the Regional Trial Court of Valenzuela Branch 75, Metro Manila, served on the accused ANGEL MANUEL by the Warrant Officer of the Balagtas, Police Station, Balagtas, Bulacan said accused immediately posted his cash bond of ₱40,000.00 under Official Receipt No. 5028237 with the Municipal Trial Court of Balagtas, Bulacan, through the Clerk of Court, dated November 22, 1996 for his provisional liberty and duly approved by this Court.

WHEREFORE, consonant with the authority contained the Warrant of Arrest dated November 19, 1996, the undersigned Municipal Trial Judge of Balagtas, Bulacan hereby orders the provisional liberty of accused ANGEL MANUEL, with the instruction that he appear before Hon. Judge Jaime Bautista anytime said Judge orders him to do so.

The Warrant dated November 19, 1996, issued for the arrest of the accused is hereby DISSOLVED and is declared of no force and affect.

The Clerk of this Court is directed to transmit the original copy of this order, together with the O. R. of the cash bond and other pertinent documents to the Regional Trial Court, Branch 75, Valenzuela, Metro, Manila.

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SO ORDERED.

Balagtas, Bulacan November 22, 1996.

ORIGINAL SIGNED
WILHELMINA T. MELANIO-ARCEGA
Judge"

The above order was prepared and released by the respondent Gubatanga but was not signed by Judge Arcega, who denied having knowledge of the same. The following Monday, November 25, Judge Arcega ordered respondent Gubatanga to return the ₱40,000.00 cash bond and to have the accused Manuel brought to Judge Jaime Bautista, Regional Trial Court of Valenzuela, who issued the warrant of arrest. It appears that accused Manuel is no longer to be found and his whereabouts are not known.

Julito Biag filed the instant administrative complaint against Gubatanga submitting that respondent should be sanctioned for her acts.

Respondent Gubatanga filed Comment. She pleads that she acted in good faith and merely "rendered a humanitarian service to temper justice with mercy." She claims that accused Manuel and his wife came to his office in the morning of November 23 pleading for the release of the accused who was suffering from influenza and had high fever. Taking pity, respondent Gubatanga prepared the Release Order upon payment of a ₱40,000.00 cash bond for which she issued O.R. No. 5028237, and instructed Gubatanga to report to Judge Arcega in court the following Monday. She stamped the Release Order with "Original Signed" thinking all along Judge Arcega would sign the order on the following working day. Judge Arcega refused to sign the order on Monday, and instructed the accused Manuel to post his bond in the Regional Trial Court of Valenzuela. Gubatanga was ordered to return the ₱40,000.00 and to cancel the receipt, which order was complied with.

Both parties manifested that they are submitting the administrative case on the basis of the pleadings filed in court.

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In its Memorandum dated February 12, 1998 (which was reiterated in another Memorandum dated September 25, 1998) the Office of the Court Administrator found the respondent Gubatanga liable for grave misconduct, thus:

"The question arises as to whether the act of stamping the words 'Original Signed' could be interpreted as signing the name of the Judge so as to hold respondent administratively liable. Liberal interpretation would exculpate the respondent. It can thus be said that she did not sign the signature of Judge Arcega in the Release Order.

Nevertheless, to the mind of the undersigned, the actuation of respondent in stamping the words 'Original Signed' can be strictly construed as having herself sign the name of the Judge. For by stamping the word 'Original Signed' respondent is assuming ahead that the original was signed when in fact it was not. And the fact that the release order with the word 'Original Signed' was used and made the basis for the release of the accused would make the respondent be answerable to administrative charges.

And lastly, respondent asserts in her comment that she returned the cashbond of ₱40,000.00 on *November 25,* to Mrs. Zaida Manuel, as instructed by Judge Arcega, after the latter found out that the subject criminal case was pending in RTC, Valenzuela but in truth and in fact, respondent returned the cashbond only on *November 26* as appearing on the acknowledgment receipt duly signed by Mrs. Zaida Manuel.

Although we may credit respondent by her unselfish dedication as Clerk of Court for working on a Saturday as stated, the fact remains however, that no matter how noble her intention was, still she acted beyond the scope of her administrative authority. As it were, the approval of the bail of an accused person and the authority to order its release is purely a judicial function. The Clerk of Court, unlike a judicial authority, has no power to order either the commitment or the release on bail of persons charged with penal offenses. In releasing the accused from custody, therefore, the respondent Clerk of Court unduly usurped the judicial prerogative of the Presiding Judge. Such usurpation is equivalent to grave misconduct."

and recommended that respondent be meted the penalty of six (6) months suspension without pay for grave misconduct; she

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should be warned that a repetition of the same or similar act in the future shall be dealt with more severely.

We find the recommendation of the Office of the Court Administrator well-taken.

The duties of the Clerk of Court are defined in Section 5, Rule 136 of the Rules of Court which reads:

"Section 5. Duties of the clerk in the absence or by direction of the judge.- In the absence of the judge, the clerk may perform all the duties of the judge in receiving applications, petitions, inventories, reports, and the issuance of all orders and notices that follow as a matter of course under these rules, and may also, when directed so to do by the judge, receive the accounts of executors, administrators, guardians, trustees and receivers, and all evidence relating to them, or to the settlement of the estates of deceased persons, or to guardianships, trusteeships, or receiverships, and forthwith transmit such reports, accounts, and evidence to the judge, together with his findings in relation to the same, if the judge shall direct him to make findings and include the same in his report."

Clearly, the Clerk of Court is not empowered to issue the questioned order in the name of the judge. It was gross misrepresentation on the part of respondent to issue the Release Order stamped "original signed," knowing that the original had not in fact been signed, thus causing the release of the accused Angel Manuel without a proper court order. By taking a direct hand in the release of the accused, who is now at large, respondent is guilty of grave misconduct, as she has arrogated unto herself the disposition of a judicial matter pending adjudication before the court. While she may have been moved by compassion to help the accused Manuel, who was allegedly then suffering from high fever, and may have acted in good faith "thinking all along that Judge Arcega would sign the order on the following working day that was Monday," her actuation cannot be condoned. It constitutes a serious infringement of, and encroachment upon, judicial authority, as she made it appear that the Judge signed the release order when in fact she did not. It turns out that her unauthorized act has caused the release of accused who is now at large.

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This Court has consistently held that the conduct required of court personnel from the presiding judge to the lowliest clerk, must always be beyond reproach and is circumscribed with the heavy burden of responsibility.[1] This Court cannot countenance any act or omission on the part of all those involved in the administration of justice which would violate the norm of public accountability and diminish or even just tend to diminish the faith of the people in the judiciary.[2]

IN VIEW OF THE FOREGOING, the Court finds Lualhati C. Gubatanga, Clerk of Court, Municipal Trial Court of Balagtas, Bulacan guilty of Grave Misconduct, and hereby imposes on said respondent the penalty of six (6) months suspension without pay and warned that a repetition of the same or similar act in the future would be dealt with more severely.

SO ORDERED.

Melo (Chairman), Vitug, Panganiban, and *Purisima, JJ.*, concur.

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[1] *Mirano vs. Saavedra*, 225 SCRA 77; *Annang vs. Vda. De Blas*, 202 SCRA 635; *Gano vs. Leonen*, 232 SCRA 98.

[2] *Re: Ms. Teresita S. Sabido*, 242 SCRA 432.