

BEN MEDINA, COMPLAINANT, VS. JUDGE LETICIA MARIANO DE GUIA, RTC-BALANGA, BATAAN, BRANCH 3, RESPONDENT.*Adm. Matter No. RTJ-88-216. March 01, 1993*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/6c949a9c690d/>**PER CURIAM:**

These several administrative complaints involve Judge Leticia Mariano De Guia, RTC-Balanga, Bataan, Branch 3 Presiding Judge, either as respondent or as complainant. The complaints were consolidated and assigned to Associate Justice Ricardo L. Pronove, Jr. of the Court of Appeals for investigation. Justice Pronove, Jr. submitted his findings in each case on different dates. The facts of each case as found by the investigating Justice and as may be gleaned from the records are summarized hereunder.

In A.M. No. RTJ-88-216, Judge De Guia tried three adoption cases -- Special Proceeding Nos. 5586, 5587 and 5593. The charge states that notices of hearing were published without the benefit of a raffle conducted by the executive judge as required under Presidential Decree No. 1079 which provides:

“Section. 2. The executive judge of the court of first instance shall designate a regular working day and definite time each week during which the said judicial notices or advertisements shall be distributed personally by him for publication to qualified newspapers or periodicals as defined in the preceding section, which distribution shall be done by raffle; Provided, That should the circumstances require that another day be set for the purpose, he shall notify in writing the editors and publishers concerned at least three (3) days in advance of the designated date; Provided further, that the distribution of the said notices by raffle shall be dispensed with in case only one newspaper or periodical is in operation in a particular province or city.”

Section. 6. Violation of any provision of this Decree shall be punished by a fine of not less than five thousand pesos (P5,000.00) nor more than twenty thousand pesos (P20,000.00) and imprisonment for not less than six (6) months nor more than two years. The offending executive judge or court personnel shall be perpetually disqualified from holding any public office in the government.”

In each of the above-mentioned adoption cases, Judge De Guia issued on February 15, 1988 an order setting each respective case for hearing, ordering the publication of said order, pursuant to sec. 4, Rule 99 of the Rules of Court, and the furnishing of the required notices to the parties.

Estela Bascarra, Staff Assistant I in Judge De Guia's sala with the duty of releasing the court's orders, testified in the hearings conducted by the investigating Justice that Deputy Sheriff Ricardo Navarro, coming directly from Judge De Guia's chambers, asked for and got the copies meant for the clerk of court for raffling from her. (TSN, October 18, 1990, pp. 27, 41-43) “Pinakukuha po ni Judge De Guia”, Deputy Sheriff Navarro said to Estela, adding “she would be the one to give the copies to the publishers.” (TSN, Oct. 18, 1990, pp. 31, 46-47) As a result, no copy was sent to the RTC clerk of court and no raffle of the notices in the three cases was conducted.

It was also shown that the copies of the orders intended for the parties were not released through or by Bascarra, but were given to the parties by Process Server Ricardo Flores and Deputy Sheriff Navarro. The notations of these two employees to that effect were written on the back of the orders.

The records show that the order in S.P. No. 5586 was published in the Mt. Samat Weekly Forum, and those of S.P. Nos. 5587 and 5593, in the Bataan Journal. Personal inquiries made by herein complainant, Ben P. Medina, the publisher of The Bataan Today, revealed that the orders were given to Zeny Soriano, business manager of the Mt. Samat Weekly Forum, and Esperanza Poblete of the Bataan Journal, by Judge De Guia. (TS N, October 18, 1990, pp. 70-71)

Judge De Guia, on the other hand, denies any knowledge or participation in the release and subsequent publication without raffle of the three orders. She alleges that after herself conducting an inquiry, she found out that it was the parties themselves or their counsels who requested for copies either from Process Server Flores or Deputy Sheriff Navarro, and caused their publication. Moreover, she alleges that the complaint should have been filed against Judge Maglalang as executive judge and Erlinda Perez as clerk of court who had the duty, under the above-quoted provisions of P.D. 1079 of conducting the mandated raffle.

We take note of the investigating Justice's careful evaluation of the foregoing evidence as follows:

"In the face of Judge De Guia's denials that she had nothing to do with the release and publication of the orders in question, the testimony of Estela Bascarra has to be scrutinized carefully. This is so because it is the testimony of Estela, not the declarations of Ben Medina, nor clerk of court Erlinda Perez, that directly links the respondent Judge to the publication of the orders containing the notices of hearing.

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Clearly then, if these statements of Estela were true, it would mean that Judge De Guia had a hand in the publication of the notices made without the benefit of a raffle.

After evaluating the declarations of Estela, Your Investigator finds her testimony credible and deserving of weight.

It should be noted that Estela's assertion that copies of the orders intended for the Clerk of court were taken from her and that she was not the one who released said orders to the parties and/or their counsel can hardly be disputed. xxx The notations of [Process Server Flores and Deputy Sheriff Navarro] written on the back of the order read as follows:

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In this connection, it bears emphasis that neither process server Flores nor deputy sheriff Navarro had the duty of releasing the order of the court. While they could serve orders they could do so only after they had been released for service by the releasing clerk who was Estela Bascarra.

Who authorized the release of the orders to the parties on the three cases, is therefore, a pivotal question. It is submitted that only Judge De Guia had the power to do so. She alone could change the usual procedure of releasing orders by directing the process server and deputy sheriff to give to the parties the copies intended for the clerk of court. Indeed, it is difficult to imagine that the two minor court process servers would act the way they did without the prior authorization of Judge De Guia.

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Moreover, it is difficult to believe that after being given a copy of the orders, the petitioners and their lawyers simply went to the publishers and made arrangements for the publication without any court approval. This was the impression Judge De Guia wanted to create in her testimony. But considering that the publication of the orders was a legal requirement well-known to the parties and their lawyers, no one among them would have dared to publish the orders without the go signal of the court. Under the circumstances, only Judge De Guia could have given that approval and it is shown by the fact that she directed her process server and deputy sheriff to give copies of the orders to the petitioners and their lawyers. The act of giving said copies could not

have been for any purpose other than publication because as testified to by Estela Bascarra, she had already mailed to the parties their copies of the orders.” (Report, June 8, 1992, pp. 6-10)

We agree with the investigating Justice’s evaluation of the evidence of the parties and accordingly find Judge De Guia guilty of the above charges.

At this point we find it pertinent to emphasize the indispensability of the raffle system, not only because it is the mandate of the law, but in order to avoid favoritism -- a rung away from the ladder of graft and corruption -- by judges. (Office of the Court Administrator vs. Judge Bartolome, 203 SCRA 328 [1991]) This Court will not countenance any deviation or disregard of the system, devised as it is to shield judges from any suspicion of impropriety.

In A.M. No. RTJ-88-228, Angelito Vero, court aide in Judge De Guia’s sala, charges that Judge De Guia accepted bribes from litigants in cases pending before her. Complainant Vero alone testified. His testimony is summarized in the Report as follows:

“As court aide, his principal duty was to clean the court premises where he was allowed by Judge Elizaga and then by Judge De Guia, to sleep and cook his meals (pp. 11-12, TSN, November 14, 1991). Sometime in December, 1987, he stayed in the house of Judge De Guia at Parañaque, Metro Manila. While there, out of “pakikisama” he agreed to act as bodyguard of Atty. Manny De Guia, respondent’s husband, who was then running for town councilor in the local elections (pp. 4-5, TSN, November 14, 1991). In addition, he was asked to help in the campaign by distributing the leaflets of Atty. De Guia (pp. 4-5, TSN, November 14, 1991).

He stayed in Parañaque until the end of January, 1988 and for the two months that he was there, he submitted daily time records which were subsequently approved by Judge De Guia (pp. 5-6, TSN, November 14, 1991).

After the elections, Judge De Guia asked him to look for a housemaid (p. 32, TSN, November 14, 1991). When he replied that it would be difficult because his recomendee might steal from her, Judge De Guia said: “No, that will not happen” (p. 30, TSN, November 14, 1991). Eventually, he was able to give her a maid who, after borrowing P1,000 from Judge De Guia, failed to return from Nueva Ecija. Judge De Guia told him thereafter that the maid “stole things from her including some dollars.” (p. 30, TSN, November 14, 1991).

Because of the incident, Judge De Guia wanted him to pay what the maid stole and borrowed (p. 30, TSN, November 14, 1991). When he refused, she scolded him, saying ‘leche’, and blamed him for what happened. She said that she did not want to have a ‘snake inside her office’, and threatened to dismiss him from the service if he would not pay the maid’s indebtedness (p. 31, TSN, November 14, 1991). Since then, whenever he would be late by 5 or 10 minutes, Judge De Guia would note his undertime in the logbook while ignoring the tardiness of his co-employees (p. 31, TSN, November 14, 1991).

Because of his worsening relations with Judge De Guia, he approached Atty. Democrito Perez and asked his advice (p. 32, TSN, November 14, 1991). Atty. Perez told him that it would be difficult to quarrel with the respondent because she was a judge (p. 32, TSN, November 14, 1991). But he replied that Judge De Guia was not treating him like a human being (p. 33, TSN, November 14, 1991). Whereupon, Atty. Perez asked him what he could do against the Judge and he showed to him the notebook, Exhibit B, saying ‘ito po ang aking panglaban sa kanya’ (p. 33, TSN, November 14, 1991).

It was in this notebook where he copied the contents of a yellow pad paper, that was lost during a typhoon, on which he wrote the names of the persons with pending cases in branch 3 who gave to Judge De Guia (pp. 19-20, TSN, November 14, 1991). As listed in his notebook, he saw the following persons giving gifts to Judge De Guia:

1) JOSE ZABALA- Prior to court sessions in the morning, Jose Zabala gave to him gifts of prawns, crabs, bangos and even ‘punda ng unan’ and towels with the instruction to give them to Judge De Guia. Following

Judge De Guia's order, he kept the gifts inside the comfort room. Later in the afternoon, he was asked by Judge De Guia to carry the bags containing the gifts to the bus station where she took her ride for Manila (pp. 8-10, TSN, October 29, 1991).

As stated in his affidavit, Exhibit A, Jose Zabala gave gifts to Judge De Guia on February 23, 1987, March 25, 1987, April 9, 1987, May 12, 1987, June 16, 1987, August 20, 1987, October 8, 1987, January 28, 1988, April 7, 1988 and July 21, 1988 (p. 18, TSN, August 29, 1991).

2) GUILLERMO REYES also gave gifts of prawns and milkfish to Judge De Guia. Once, the seafood were placed in a bag which was about 2 feet in height, 1 1/2 feet in width and topped with ice. When he gave the gifts to Judge De Guia, he was told to keep them inside the toilet. As before, he carried the bags of seafood to the bus station when Judge De Guia went home at 2:00 o'clock in the afternoon on Thursdays (pp. 11-14, TSN, August 29, 1991).

The gifts were given on October 14, 1987, November 20, 1987, November 24, 1987, February 8, 1988, March 2, 1988, April 14, 1988, April 18, 1988 and June 1, 1988 (p. 17, TSN, August 29, 1991).

3) SANTOS FORBES gave gifts of prawns, milkfish, seeds of kasoy, and mango fruits to Judge De Guia which he also kept inside the comfort room and he brought to the bus station for Judge De Guia. As stated in his affidavit, the gifts were given on April 6, 1987, April 9, 1987, June 5, 1987, June 10, 1987, August 12, 1987, August 19, 1987, August 31, 1987, October 28, 1987, February 11, 1988, March 9, 1988, April 19, 1988 and July 12, 1988 (pp. 19-21, TSN, October 29, 1991).

4) SOLEDAD NERY gave hamburger, cooked spaghetti, and others which he could no longer remember. He bought the food with the money given by Soledad Nery. When Judge De Guia inquired who gave the food and he would mention the name of Soledad Nery, she accepted them (pp. 22-23, TSN, August 29, 1991).

5) OSCAR TARNATE on many occasions handed envelopes containing money to Judge De Guia (pp. 23-24, TSN, August 29, 1991).

With the help of Atty. Democrito Perez, he prepared the affidavit containing his charges against Judge De Guia (p. 16, TSN, November 14, 1991). After filing his complaint on July 26, 1988, he stopped sleeping and cooking his meals in the court premises (p. 13, TSN, November 14, 1991)." (Report, October 12, 1992, pp. 2-5)

Judge De Guia denies the allegations. She alleges that Vero was a disgruntled employee who willingly allowed himself to be used by Atty. Democrito Perez, a practicing lawyer and former president of the IBP Bataan Chapter, in a campaign to discredit her. Judge De Guia presented the affidavits of the litigants Jose Zabala, Santos Forbes, Guillermo Reyes and Soledad Nery denying the bribery incidents. She further alleges that it was her husband's relatives in Mariveles who gave the various gifts.

The investigating Justice did not find the testimony of Vero credible. Vero was perceived as a biased witness, as it was shown in his testimony that even before Judge De Guia arrived in Balanga, Bataan, Vero had formed the impression that Judge De Guia accepted bribes as "when she was in Balayan, Batangas [her previous post], she was already in the newspaper." (TSN, November 14, 1991, p. 29) The aftermath of the said incident, where Vero felt that he was being maltreated, nurtured his animosity towards Judge De Guia, making his motive in filing the bribery charges dubious.

The investigating Justice also maintained that no incident of bribery could have occurred on February 25, 1988, one of the dates listed in the notebook, because this day was declared a special non-working holiday under Proclamation No. 217. The Daily Time Records of the employees of Branch 3 showed this fact. Also, the earliest date listed in Vero's notebook was February 9, 1988, and yet the minutes of that day's hearings showed that it

was still Judge Elizaga who had presided in court. Judge De Guia had taken her oath of office only on February 4, 1988.

We have held that a mere preponderance of evidence is required to hold a judge liable in an administrative proceeding (*Sabitsana, Jr. v. Judge Villamor*, 202 SCRA 435 [1991]) In view of complainant's uncorroborated testimony and its inherent flaws, the bribery charges were not proven.

Anent Judge De Guia's defenses, it is significant to note that, as admitted by the litigants, their affidavits were procured upon the "request" of Judge De Guia, during the investigation of the bribery charges. (See TSN, June 4, 1992, p. 20 and p. 35) Some of these litigants still had pending cases before Judge De Guia's court (See TSN, June 4, 1992, p. 19 and p. 43), and could have been unduly persuaded into making the affidavits. Hence, it is doubtful if much weight can be given to the litigants' affidavits and testimony. The same may be said of the affidavits and testimony of the relatives of Judge De Guia's husband.

And though Judge De Guia cannot be held liable for bribery for lack of sufficient evidence, her other actuations recounted in connection with this case cannot be ignored. It was found that Angelito Vero was made to stay in Parañaque in Judge De Guia's household in December, 1987 until January, 1988. Vero was made to serve as bodyguard to Atty. Manny De Guia, Judge De Guia's husband, who was then running for councilor in the Parañaque local elections, and made to distribute campaign leaflets. During this period Judge De Guia signed Vero's Daily Time Records, and consequently, Vero's salary was drawn from the judiciary.

In A.M. No. RTJ-88-273 original complainants were Donato Perez and Atty. Democrito Perez. Atty. Democrito Perez was shot under mysterious circumstances by an unknown assailant in front of his house on the night of March 21, 1991, and Judge De Guia filed a motion to dismiss in view thereof. However, Donato Perez remains as complainant, and the investigation continued.

Only Donato Perez testified in this case. His testimony is summarized in the Report as follows:

"He declared that his daughter, Jenelle Perez, was being adopted by his brother, Pedro Perez, who was living in the United States (TSN, July 1, 1992, p. 14). The petition for adoption was filed in the Regional Trial Court of Bataan and docketed therein as SP No. 5484. The case was assigned to Branch 3 then being presided by Judge Luciano Elizaga. When Judge Elizaga was assigned to Bulacan, Judge De Guia took over and continued hearing the case.

After the trial, petitioner Pedro Perez filed a formal offer of evidence on July 27, 1987 (Exhibit C, p. 5, Folder of Exhibits). On October 19, 1987, Judge De Guia issued the following order considering the case submitted for decision after the lapse of five (5) days:

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Thereafter, while the case was still pending decision, complainant Donato Perez mentioned the case to Atty. Simplicio Angeles who was then running for mayor of Morong (p. 5A, TSN, July 1, 1992). At that time, complainant was also a candidate but for vice-mayor of Morong (p. 5A, TSN, July 1, 1992). He solicited the help of Atty. Angeles because the latter was a former associate of Judge De Guia at the Philippine National Bank (pp. 5B, 8, TSN, July 1, 1992). He was told not to worry by Atty. Angeles who promised to help him (p. 9, TSN, July 1, 1992).

After the elections, where both of them lost, Atty. Angeles asked him if he had money to be given to Judge De Guia (p. 7, TSN, July 1, 1992). When complainant replied that he was willing to sell even his carabaos, Atty. Angeles told him that on February 25, 1988, both of them would go to the office of Judge De Guia (p. 7, TSN, July 1, 1992). On the appointed date, while inside the office at about 11:00 o'clock in the morning, Judge De Guia asked Donato Perez how much he could afford (p.7, TSN, July 1, 1992). When he answered P1,000,000,

she did not agree, prompting him to increase the amount to P2,000,000 (pp.7 8, TSN, July 1, 1992). When he eventually handed to Judge De Guia the amount in cash, she accepted it saying that the decision would come out (p. 8, TSN, July 1, 1992).

On March 15, 1988, judgment was rendered granting the petition for adoption. A copy of the decision was received by complainant's lawyer, Atty. Bruno Flores on April 5, 1988. When complainant told Atty. Flores what happened, he replied 'talagang ganyan' (p. 14, TSN, July 1, 1992).

Although judgment was favorable to his daughter, complainant felt bad that he had to give money for the decision to come out (pp. 10-11, TSN, July 1, 1992). Because of his displeasure, he decided to see Atty. Democrito Perez before whom he executed a sworn statement, on October 7, 1988, containing his charge against Judge De Guia (p. 14, TSN, July 1, 1992). Then, on December 2, 1988, he and Atty. Democrito Perez jointly filed the instant complaint with this Honorable Court.

Notwithstanding that the daughter was adopted by his brother pursuant to the decision, she was not able to leave for the United States to join her new parents (p. 19, TSN, July 1, 1992). On August 29, 1991, Donato Perez received a letter from his brother stating that because of certain representations made by Judge De Guia with the U. S. Embassy, her daughter was not allowed to leave for the United States (Exhibit B, p. 3, Folder of Exhibits; pp. 19-2-, TSN, July 1, 1992)." (Report, October 12, 1992, pp. 2-4)

Judge De Guia denies the charges, alleging that Donato Perez, like Angelito Vero, was a willing tool in Atty. Democrito's vendetta. In her defense, she presented the affidavit of Atty. Simplicio Angeles.

The investigating Justice recommends the exoneration of Judge De Guia of the bribery charge mainly on the ground that Donato Perez' lone and uncorroborated testimony was not credible. Donato Perez was seen as a partial witness due to his kinship to and close relationship with Atty. Democrito Perez. Also, complainant's inaction for eight months was perceived as unnatural. Donato Perez' testimony was also discredited because the alleged bribery incident was recounted to have taken place on February 25, 1988, a special non-working holiday, when the courts were closed. The failure to present Atty. Simplicio Angeles to corroborate Donato Perez' testimony was also deemed fatal.

Although we agree that there is insufficient evidence to hold Judge De Guia liable in view of the complainant's failure to substantiate his charge, we would like to make several observations regarding this case. We note Donato Perez' difficulty in proving his case, largely because Atty. Simplicio Angeles, the only other witness to the alleged bribery incident, had executed an affidavit belying the charge. Yet a study of this affidavit would show that there is no categorical and specific denial that the incident complained of happened, but only a general statement, as follows: "I am executing this affidavit to belie the statement of Mr. Donato Perez, in the interest of justice and fair play, for I firmly and sincerely believe that Judge De Guia is an honest and dedicated magistrate who renders judgment based on the evidence presented and the merits of the case for I have had the occasion to know her as a practicing lawyer in the province of Bataan." It is also averred that Atty. Angeles' sister, upon his request, had approached Donato Perez to persuade him (Perez) to sign a piece of paper on which is written a retraction of the bribery charge. (TSN, July 1, 1992, p. 16) Moreover, Atty. Simplicio Angeles was not cross-examined on his affidavit.

What is disturbing here is the finding that, after Donato Perez filed this administrative case, Judge De Guia made representations with the United States Embassy to the effect that she signed the decision granting the petition for adoption by force. As a result, Jenelle Perez was not allowed to enter the United States.

The second cause of action in A.M. No. RTJ-273 is the failure of Judge De Guia to decide S.P. No. 5484 within the 90-day period mandated by Section 15, Article VIII of the 1987 Constitution.

The record shows that S.P. No. 5484 was deemed submitted for decision on October 24, 1987 following Judge De Guia's order of October 15, 1987. However, it was only on March 15, 1988, or after nearly five (5) months when the case was decided.

Judge De Guia contends that she needed more time to prepare the decision because she was not the judge who initially heard the evidence. We agree with the investigating Justice that this contention is not meritorious. This court has repeatedly held that failure to decide a case within the required period is not excusable and constitutes gross inefficiency. (*Adriano v. Judge Sto. Domingo*, 202 SCRA 446 [1991]; *Longboan v. Judge Polig*, 186 SCRA 557 [1991]; *Ubarra v. Judge Tecson*, 134 SCRA 4 [1985]; *De Leon v. Judge Castro*, 104 SCRA 241 [1981]; *In Re: Judge Jose F. Madara*, 104 SCRA 245 [1981]).

A.M. No. RTJ-89-297 is a complaint filed by Judge De Guia against Judge Maglalang for interference constituting misconduct. Judge Maglalang, on July 10, 1987, received a surety bond filed by the accused in Criminal Case No. 4000 for violation of Sec. 4 of the Dangerous Drugs Act then pending before Judge De Guia.

As shown in the testimony of Judge De Guia quoted in connection with A.M. RTJ- 91-681, Judge De Guia admitted being absent on July 10, 1987, a Friday, Judge Maglalang himself had seen Judge De Guia leave Balanga, Bataan the previous afternoon. In view of Judge De Guia's absence, Judge Maglalang took cognizance of the matter pursuant to Sec. 14 of Rule 114 of the Revised Rules on Criminal Procedure, which provides as follows:

“SEC. 14 Bail, where filed. - (a) Bail in the amount fixed may be filed with the court where the case is pending, or, in the absence of unavailability of the judge thereof, with another branch of the same court within the province or city. xxx”

It appears from the records that Judge De Guia had previously fixed the amount of bail in her order of June 30, 1987, where she granted the accused's motion for bail “in the spirit of humanitarian consideration,” and had even reduced the amount of bail from P50,000 to P40,000 in an order dated July 1, 1987. All Judge Maglalang did was to receive the surety bond filed in the amount already fixed by Judge De Guia.

We cannot help but notice that the complaint filed by Judge De Guia omitted to state the fact that she had issued orders fixing the amount of bail in Criminal Case No. 4000. Such omission, we believe, was deliberate and meant to mislead this Court.

Judge De Guia also contends that because the identity of the accused was in doubt, Judge Maglalang should not have received the surety bond sought to be filed. The fact is the caption in Criminal Case No. 4000 names the accused as “*Lourdes M. Bocales*, also known as *Lourdes I. Vocales*”. Consequently, as pointed out correctly by the investigating Justice, that the accused signed her name “*Lourdes M. Bocales*” is not a legal obstacle to the approval of bailbond.

Judge De Guia further contends that it was improper for Judge Maglalang to have ordered the records of Criminal Case No. 4000 taken from her chambers and brought to him. Again, the investigating Justice correctly points out the folly of Judge De Guia's accusation. It is elementary knowledge that the records of a case are public records. (See *Perez v. Judge Alpuerto*, 200 SCRA 591 [1991]; and *Baldoza v. Judge Dimaano*, 71 SCRA 14 [1976]) The public may have access to these records, subject only to limitations set by law and reasonable restrictions. Moreover, production of the records was undoubtedly necessary so that Judge Maglalang could act on the matter before him.

Judge De Guia further charges that Judge Maglalang failed to immediately issue a warrant of arrest in Criminal Case No. 4211 entitled “*People of the Philippines v. Benjamin de la Cruz*”, such failure constituting dereliction of

duty. Records show that the information was filed on August 29, 1988, but Judge Maglalang issued the warrant only on October 4, 1988. Judge De Guia presented a hand-written letter dated January 24, 1989 of a Sgt. Carlos R. Corpus of the local Philippine Constabulary command wherein it was stated that the accused, having been detained since August 25, 1988, was released “sometime September, 1988” for fear that he “might be charged for arbitrary or illegal detention.”

It is noted that this court issued on September 20, 1988 a resolution requiring Judge Maglalang “to issue the necessary warrants of arrest or search warrants on the basis of informations filed by the fiscal or on his own determination of the existence of probable cause to justify such warrants.” This resolution was rendered in answer to a letter of the then Secretary of Justice to the Chief Justice regarding Judge Maglalang’s refusal to issue a warrant of arrest in Criminal Case No. 4209.

We presume that Judge Maglalang issued the arrest warrant in Criminal Case No. 4211 on October 4, 1988, in compliance with our September 20, 1988 resolution. There is no evidence that Judge Maglalang defied and continued to defy said resolution.

A.M. No. RTJ-89-306 is another administrative complaint filed by Judge De Guia against Judge Maglalang. In her March 2, 1989 letter-complaint, Judge De Guia charges that Judge Maglalang issued a wrong warrant of arrest in Criminal Case No. 4280 entitled “People of the Philippines v. Mercado Taba y Angeles.” The second charge is that Judge Maglalang fixed the bail of Mercado Taba at P30,000 without allowing the prosecution an opportunity to show that the evidence of guilt against the accused is strong. The accused was charged with statutory rape, punishable with reclusion perpetua, a non-bailable offense.[*]

The investigating Justice recommends that Judge Maglalang be exonerated of the first charge, and we agree. As stated in his Report:

“In his answer and testimony, the respondent admitted that an error had been committed in writing the name of the accused on the warrant of arrest. But he averred that the error was made not by him but by the clerk who prepared the writ, Ernesto G. De Jesus, an employee in the office of the clerk of court. Through oversight and excusable neglect, he failed to notice the mistake when he signed the warrant.

The failure of Judge Maglalang to notice the error may be considered an honest mistake in the absence of evidence to the contrary. This is so because in the Regional Trial Court of Bataan, it was shown that after the raffle of cases and before the transmission of the records to the branches, it was the office of the clerk of court which prepared the warrants of arrest for the signature of the judges to which the cases were assigned. This, according to Judge Maglalang, was the procedure followed even by his predecessors in office.” (Report, June 15, 1992, pp. 1-2)

In the absence of any showing of bad faith on his part, we agree that Judge Maglalang’s act is a mistake not warranting administrative sanctions against him.

Anent the second charge, Judge Maglalang contends mainly that the only evidence on record -- the sworn statements of the complaining witness and her guardian -- were not sufficient to justify the denial of bail.

It is an established legal principle that in cases where a person is accused of a capital offense the trial court must conduct a hearing in a summary proceeding, to allow the prosecution an opportunity to present, within a reasonable time, all evidence it may desire to produce to prove that the evidence of guilt against the accused is strong, before resolving the issue of bail for the temporary release of the accused. Failure to conduct a hearing before fixing bail amounts to a violation of due process. (*Libarios v. Judge Dabalos*, 199 SCRA 48 [1991]; and *People v. Sola*, 103 SCRA 393 [1981])

It appears from the records that Judge Maglalang, when he issued the warrant of arrest, also fixed the bail of the accused at P30,000.00, notwithstanding the fact that the accused was charged with an offense which is ordinarily non-bailable. However, the records also show that the warrant was returned unserved, and that, as testified to by Judge De Guia, after the case was raffled to her sala, the warrant was set aside or cancelled. (TSN, June 8, 1991, p. 47) There is no evidence on record showing whether the approved bail was revoked by Judge De Guia or whether the accused was apprehended, or whether the accused filed an application for bail.

We cannot, of course, ignore the fact that Judge Maglalang's act of having fixed the amount of bail without a hearing and even before the accused was apprehended, was contrary to the requirements of the Constitution, procedural law, and established principles. (Pico v. Judge Combong, A. M. No. RTJ-91-764, November 6, 1992) This cannot be countenanced. It calls for administrative sanctions.

In A.M. No. RTJ-89-420, Judge De Guia charges that Judge Luciano Elizaga, her predecessor as Presiding Judge of Branch 3, RTC-Balanga, Bataan clerk of court Erlinda Perez, and Atty. Democrito Perez violated the Anti-Graft and Corrupt Practices Act. She also charges them with falsifying court records. Judge De Guia alleges that herein respondents made it appear that cases in which Atty. Democrito Perez, husband of Erlinda Perez, served as counsel, were duly raffled to Branch 3 when in fact no such raffle was conducted. In five cases - Civil Case Nos. 5100, 5147, 5264, 5361 and 6421, the docket books of Branch 3 showed no entry date when the said cases were raffled or when notice of raffle was received.

Respondents Judge Elizaga and Erlinda Perez deny the charges alleging that the accusations against them were filed by Judge De Guia in retaliation for the administrative complaints filed by Angelito Vero and Atty. Democrito Perez against her.

The evaluation of the evidence presented by the parties is summarized by the investigating Justice as follows:

"The fact that in the docket book for civil cases there were no entries stating when the case was raffled or when notice of raffle was received by branch 3 does not necessarily mean that no raffle was conducted in the five cases. Such lack of entries might be due to oversight or lack of uniformity in recording on the part of the clerk in-charge of the docket book. It should be noted that in course of many years not one but several clerks were assigned to handle the book.

More importantly, the lack of entries are not significant enough to prevail over the minutes of the raffle showing that the five cases were duly assigned to branch 3. Said Minutes which were presented by the respondents, enjoy the presumption of regularity and constitute strong evidence on the holding of raffles with respect to the five cases.

The accusation that all the cases being handled by Atty. Democrito Perez found their way to branch 3 is not also borne out by the evidence. Particularly, it is belied by the fact that after investigation conducted on orders of the Tanodbayan, the NBI found that 'the certified list prepared by the Branch Clerks of Court of 1 and 3 shows a fair number of cases handled by subject Perez in both branches xxx; (2) subject Perez handled mostly cadastral cases, again in both branches. However, it must be noted that these cases are non-adversarial/non-litigious in nature, i.e., petition for issuance of owners duplicate copy of TCT. This being so, it cannot be said that, in these cadastral cases, justice is denied to an oftentimes non-existent adversary.'" (Report, pp. 3-5)

We agree with the above evaluation of the investigating Justice and further sustain his recommendation that Judge Luciano Elizaga and Erlinda Perez be exonerated of the charges.

It was found, however, that the minutes of the raffle proceedings involving the five cases were signed only by Erlinda Perez and attested to by the stenographer who took down the proceedings. Contrary to the provisions of

Administrative Order No. 7, the minutes were not signed by the Judges or their representatives. It appears as testified to by Erlinda Perez during the hearings conducted by the investigating Justice, that the minutes were not signed by the Judges or their representatives because the RTC-Balanga, Bataan had always adopted the procedure of requiring the representatives of the different branches attending the raffle to initial the original copy of the complaint or information of the case assigned to their respective branch during the raffle proceedings itself. (TSN, June 17, 1992, pp. 22, 32-33).

The investigating Justice recommends that Erlinda Perez be held liable for her failure to comply with the provisions of Administrative Order No. 7, September 23, 1974. We note, however, that there is no showing of bad faith or improper motive on her part. She is, therefore, warned and we further enjoin all court employees, particularly clerks of court, to adhere strictly to the requirements of the law on the raffling of cases in order to avoid any suspicion of impropriety. As we have consistently held:

“The conduct and behavior of everyone connected with an office charged with the dispensation of justice, like the courts below, from the presiding judge to the lowest clerk, should be circumscribed with responsibility. His conduct, at all times, must not only be characterized by propriety and above all must be above suspicion.

Considering that the duties of the clerk of court are vast as well as sensitive, this Court has ruled in *Bello vs. Mabbun* (Adm. Matter P-88-178 [1988] that there is need for utmost integrity and dedication in the performance of such functions.” (*Unknown Municipal Councilor of Sto. Domingo, Nueva Ecija v. Alomia, Jr.*, Adm. Matter P-91-660, August 8, 1992)

It is pertinent to mention here that in our resolution in A.M. No. R-249-RTJ dated September 17, 1987, Judge De Guia herself was found guilty of misconduct in office and accordingly imposed a fine equivalent to her three (3) months salary, with a stern warning that repetition of the same offense or commission of a similar offense will be dealt with more severely. The misconduct pertained to the raffle of a criminal Case in RTC-Balayan, Batangas where Judge De Guia was formerly stationed. The complainants therein, court personnel of RTC-Balayan, Batangas alleged that Judge De Guia “requested them to affix their initials on the information filed in a criminal case entitled “*People of the Philippines v. Ruben Rodriguez, et al.*”, with the explanation that they (the affiants) had failed to sign the same as one of the criminal cases raffled to respondent Judge’s sala. Believing that an oversight on their part had occurred, affiants stated, they complied with respondent Judge’s request and affixed their signature on the information in said criminal case. Upon return to their respective branches, affiants consulted the list of cases raffled on 22 November 1984 and found that the Ruben Rodriguez case was not among the criminal cases raffled on said date. Affiants further referred to respondent Judge as stating that ‘she is interested in personally handling the Murder Case involving Ruben Rodriguez as she allegedly had an understanding with (the) Executive Judge. (Rollo, p. 3).’” The Court agreed with the findings of the investigating Justice and stated in the Resolution as follows:

“After a careful review of the report and of the transcript of the hearings held by Justice Torres, the Court agrees with the findings of Justice Torres. The Court is satisfied that respondent Judge induced the two court employees to make it appear that the Ruben Rodriguez case had been raffled to her sala when it had not in fact been so raffled. The Court is further satisfied that a violation of Circular No. 7 dated 23 September 1974, as amended, has been committed by respondent Judge who has been unable to account for the Ruben Rodriguez case winding up in her sala.

The behavior of respondent Judge complained of and proven in this case is of such a character as to create a substantial suspicion that respondent Judge may have been moved by corrupt motives in taking over the criminal case against Ruben Rodriguez, et al. and acquitting the accused in view of the inability of the fiscal to prove the guilt of the accused beyond reasonable doubt because his witnesses had turned hostile.” (Rollo, pp. 115-116)

The need for strict compliance with the rules on raffle cannot be over-emphasized.

In A.M. No. RTJ-89-421, Judge De Guia charges Judge Maglalang with abuse of authority and conduct prejudicial to the interest of the service for having authorized the detail of Angelito Vero to another branch.

Vero, in a letter dated July 25, 1988, requested Judge Maglalang to re-assign him to another office or unit in view of his pending complaint against Judge De Guia. Vero alleged in his letter that Judge Maglalang “told me that she does not want to see my ugly face again and that everytime she sees my presence in the office, she would curse me with words ‘Leche ka, hayup ka’”.

Judge Maglalang, on July 29, 1988, wrote Judge De Guia for her comment on Vero’s request. When Judge De Guia did not comment after seventeen (17) days, Judge Maglalang granted Vero’s request in a letter dated August 19, 1988. On August 25, 1988, Judge Maglalang received Judge De Guia’s comment wherein she interposed no objection to the re-assignment of Vero. Yet in this complaint, she alleges that Judge Maglalang abused his power in removing Vero from Branch 3.

As pointed out by the investigating Justice, Judge Maglalang had the power to order the detail of Vero to another unit or branch of the court under Section IV-4 of Administrative Order No. 6 dated June 30, 1975, which provides as follows:

“4. To re-assign temporarily the personnel of one branch (sala) to another branch (sala) or to the Office of the Clerk of Court, in case of vacancy in the position of Presiding Judge of a branch (sala), or when the interest of the service requires. In the latter case, the assignment shall be made in consultation with the Presiding Judge of the branch (sala) concerned; and, in cases disagreement, the assignment by the Executive Judge shall be effective immediately, unless revoked by the Supreme Court.”

The re-assignment of Vero was evidently for valid reasons. Vero had filed the bribery charges discussed above, and as a consequence, his relations with Judge De Guia became strained. Vero was also not on good terms with some of the court personnel, such as Deputy Sheriff Ricardo Navarro, who we may note, was a direct participant in the publication anomaly in A.M. No. RTJ-88-216.

There appears to be no basis for the charges filed by Judge De Guia against Judge Maglalang in this case. Judge Maglalang, as Executive Judge, had the power to temporarily re-assign personnel under the conditions stated in Sec. IV-4 of Administrative Order No. 6. His determination that the interest of the service requires the re-assignment of Vero was well within the power granted, and in the present situation, was the only prudent recourse.

In A.M. No. P-90-394, Judge de Guia filed a complaint dated January 9, 1990 charging Angelito Vero with falsification, forgery, abandonment of work, gross negligence, and inefficiency.

In a resolution dated November 11, 1991, this Court dismissed for lack of merit the charges of forgery, gross negligence and inefficiency. However, Vero was found guilty of having falsified his personal data sheet and statement of personal history for which he was fined the sum of P2,500.00 and given a warning that a repetition of the same or similar offense would be dealt with more severely.

Judge De Guia filed a motion for reconsideration. However, on the date of the hearing of said motion, Judge De Guia manifested that she was no longer interested in presenting evidence to support her charges. The investigating Justice recommends that Judge De Guia’s motion for reconsideration be denied, and we agree, the matter having been settled and closed in our November 11, 1991 resolution.

We note that the filing of the administrative complaint against Vero, taken in conjunction with the other

actuations of Judge De Guia narrated in A.M No. RTJ-88-228 as well in A.M. No. 89-421, puts into fore Judge De Guia's oppressive and vindictive manner against Vero, obviously in retaliation to Vero's having filed the bribery charges. We quote from the November 11, 1991 resolution:

"We agree with the finding of the Office of the Court Administrator that the charges of forgery, gross ignorance, and inefficiency against respondent are devoid of merit. Respondent was not only able to explain satisfactorily the aforesaid charges but was also able to refute each and every incriminatory allegation hurled against him by the complainant. The complaint was not only directed against him but apparently also imputes some bad faith to her colleagues in the bench, Judge Maglalang and Judge Elizaga. Clearly, the filing of this case is a case of harassment and intimidation, considering the fact that respondent had previously filed before this Court a case against the herein complainant."

The records also reveal that Vero had complained to the Office of the Court Administrator regarding Judge De Guia's unwarranted refusal to sign his Daily Time Records and his Application for Leave, resulting in the withholding of Vero's salary. This is another showing of Judge De Guia's oppressive behavior.

Judge de Guia's retaliatory manner is most certainly unbecoming of a Judge who is expected to exercise proper restraint and decorum in his dealings with the most lowly employee in his chambers. His position is intimidating enough and to use his position in an oppressive and vindictive manner is certainly unwarranted. (Macuse v. Judge Lapena, 202 SCRA 34 [1991]); Judge Ballelllos v. Refuso, 67 SCRA 465 [1975])

In A.M. No. 90-406, Judge De Guia charges Erlinda Perez with "usurpation of judicial functions, falsification and disbursement." Specifically she is charged with using her public office to enhance the practice of law of her husband Atty. Democrito Perez.

On September 12, 1989, Atty. Democrito Perez, as counsel for plaintiff, filed a complaint for collection of a sum of money with the RTC-Balanga, Bataan docketed as Civil Case No. 5743. Upon filing of the complaint, Erlinda Perez immediately caused the preparation and issuance of summons to the defendant. Subsequently, the raffle of cases was conducted, and Civil Case No. 5743 was raffled to Branch 3, the sala of Judge De Guia.

On September 29, 1989, the defendant filed a "motion for extension of time to file responsive pleading", which was granted. An answer with counterclaim was filed on October 6, 1989. A pre-trial notice was issued by Judge De Guia on October 6, 1989, and pre-trial was held. On November 15, 1989 Judge De Guia issued an order stating that "upon oral motion of counsel for defendant, he is given ten (10) days x x x within which to submit his motion for leave of court to file third party complaint." On December 13, 1989, the defendant filed said motion with the Office of the Clerk of Court, and not with Branch 3. Upon receipt of the motion, Ernesto de Jesus, an employee in the Office of the Clerk of Court, prepared the summons, as shown by the initials "egj" at the bottom of the page. On December 18, 1989, the motion and the prepared summons were transmitted to and received by Branch 3.

Although the hearing of the motion was scheduled on December 19, 1989, the motion was heard on that date. On December 21, 1989, summons was served on the third party defendants by Deputy Sheriff Ricardo Navarro of Branch 3.

Thereafter, the third-party defendants filed a motion for extension of time to file answer. In an order dated January 10, 1990, Judge De Guia granted said motion. An answer to the third-party complaint was filed on January 16, 1990. On February 15, 1990, Judge De Guia issued an order giving the third-party defendants a period within which to file fourth-party complaint and setting the case for pre-trial. On March 15, 1990, Judge de Guia's pre-trial proceedings were terminated and the case was set for initial hearing. As shown in Judge De Guia's order dated May 17, 1990, the plaintiff's witness testified.

Judge De Guia charges that Erlinda Perez issued the initial summons in Civil Case No. 5743 as well as the summons for the third-party complaint because her husband was counsel for one of the parties in the civil case.

The investigating Justice found that it was the procedure in the RTC-Balanga, Bataan for the clerk of court to issue the summons in civil cases. This procedure was practiced even before Erlinda Perez assumed office in 1983. It was only after the issuance of the Manual of Clerk of Courts in 1991 that the practice was stopped and the branch clerks of courts were empowered to issue summons.

As to the issuance of the summons to the third-party defendants we find it significant that the summons was prepared by the Office of the Clerk of Court but was transmitted, together with the motion for leave to file a third-party complaint, to Branch 3. It was the branch 3 deputy sheriff who served the summons to the third-party defendant.

Moreover, it was Judge De Guia who apparently admitted the third-party complaint and who further acted upon the pleadings filed by the parties until hearing was actually conducted. Had she believed the summons was irregularly issued and served, she would have acted timely in order to rectify the perceived anomaly. Yet she allowed the case to take its course.

In A.M. No. RTJ-90-565, Judge De Guia charges Judge Maglalang, Judge Elizaga, and Erlinda Perez with violation of Presidential Decree No. 1079 and Administrative Circular No. 16. Judge De Guia alleges that herein respondents failed to furnish her with certain documents pertaining to the raffle of cases in Branch 3.

On November 7, 1988, Judge De Guia wrote a memorandum to Erlinda Perez asking for a copy of the “(1) notices of raffle of judicial notices issued by the office of the clerk of court; and, (2) minutes of the raffle proceedings conducted by the Regional Trial Court of Bataan from February 1987 up to the present (1988).”

Acting on the memorandum upon referral to him by Erlinda Perez, Judge Maglalang, as Executive Judge, wrote a letter dated November 10, 1988 to Judge De Guia saying that “there are no extra copies of such notices of raffle spare except those retained for record purposes”, and advising Judge De Guia to “please let (him) know as soon as possible whether (Judge De Guia) would like to have such documents copied by typewriter or by xerox machine.”

Judge De Guia sent to Erlinda Perez a similar memorandum on March 20, 1990. Erlinda Perez also referred this memorandum to Judge Mariano M. Dizon, who succeeded Judge Maglalang as Executive Judge. Judge Dizon decided to adopt Judge Maglalang’s directive on the matter, in view of the voluminous records.

The investigating Justice recommends the exoneration of Judge Maglalang and Erlinda Perez, and we agree. It was proper for Erlinda Perez to refer Judge De Guia’s request to the Executive Judge. Under paragraph IV-2 of Administrative Order No. 6, the executive judge directly supervises the work and activities of the clerk of court and his staff. We note that Erlinda Perez promptly referred the matter to her superior.

Judge Maglalang’s action was the only prudent recourse in view of the circumstances. He had allowed the copying of the documents requested; all Judge De Guia had to do was to set the date, at her pleasure, for doing so. Instead, Judge De Guia filed this complaint.

We must note, as the investigating Justice did, the fact that Judge Elizaga was made a respondent herein. Yet the complaint does not set out any particular accusation, nor was there any evidence presented against him during the investigation conducted.

In A.M. No. RTJ-90-573, Erlinda Perez charges Judge De Guia with ignorance of the law, incompetence, grave misconduct, encroachment of authority and corrupt practices.

Civil Case No. 5341, an action for support with alimony pendente lite filed by the natural mother of the Pingol minors, was assigned to Branch 2 of RTC--Balanga, Bataan, presided by Judge Maglalang. Judgment was rendered based on a compromise agreement entered into by the parties.

Subsequently, the court issued an order dated March 14, 1986, requiring among others, the appointment of a guardian ad litem in view of the departure for abroad of the children's mother. Instead of merely filing a motion in Civil Case No. 5341, Santos Forbes, the minor's grandfather, filed a verified petition for appointment as guardian ad litem with the office of the clerk of court. The petition, captioned "In Re: Petition for Appointment of Guardian Ad Litem of the Minors: Sherlotte, Mark Sergi, Jr., Serylot and Sheryl Anne, all surnamed Pingol", was raffled and assigned to Branch 3 presided by Judge De Guia.

On June 2, 1987, Judge De Guia issued an order where, notwithstanding her stating that "the court takes judicial notice of an action for Support with Alimony Pendente Lite filed by herein minors in Civil Case No. 5241 xxx before RTC, Branch 2, Balanga, Bataan", the petition was granted and Santos Forbes appointed guardian ad litem.

In a motion filed in Branch 2, Santos Forbes informed the court of his appointment as guardian ad litem, with a prayer for the release of the amount for support deposited in said court. Judge Maglalang ordered the release of the money, commenting in his order "that counsel for plaintiffs did not have to go into all the trouble and expense of filing a separate special proceeding xxx (a)ll that was necessary was a motion to that effect in this very cause."

Subsequently, Santos Forbes filed, in Judge De Guia's sala, a motion praying that the minor's father be ordered to pay the support in arrears, which motion was taken cognizance of by Judge De Guia. Judge De Guia, on July 11, 1988 further ordered the minor's father to explain why he should not be punished for contempt for not paying support, making express reference to Judge Maglalang's March 14, 1986 order.

The above acts form the basis of the charges in this administrative complaint. We find, as the investigating Justice recommends, Judge De Guia guilty of ignorance of the law, incompetence, gross misconduct and encroachment of authority for having taken cognizance of the petition for appointment of guardian ad litem filed by Santos Forbes, notwithstanding her expressed knowledge that Civil Case No. 5241 was pending before Judge Maglalang's sala. As explained in the Report:

"It is clear from the foregoing facts that Judge De Guia should not have entertained the petition of Santos Forbes to be appointed as guardian ad litem of the minors. This is because such appointment was merely an incident to the main case for support then pending before Judge Maglalang. Considering its nature and purpose, a guardian ad litem is appointed only in the case or proceeding where the minor is either a party plaintiff or defendant

xxx xxx xxx

xxx (T)he petition for appointment of guardian ad litem is different from a petition for guardianship filed under the provision of Rules 92 to 97 of the Rules of Court. Guardianship a special proceeding while a prayer for appointment of guardian ad litem is not." (Report, July 8, 1992, pp. 6 -7)

Anent the corruption charge, it is alleged that Judge De Guia received material consideration for her taking cognizance of and granting the petition filed by Santos Forbes. Reference must be made to A. M. No. RTJ--88-228 where Santos Forbes is one of the litigants alleged to have given Judge De Guia various gifts. In said administrative complaint, we could not hold Judge De Guia liable for the bribery charges because of insufficient evidence. Significant, however, is the admission of Santos Forbes, as witness for Judge De Guia, made during his cross-examination on his affidavit, that the petition, as well as the various motions filed in connection with the case, were prepared by Judge De Guia. (TSN, June 4, 1992, p. 45) We find this an act of grave misconduct. It would be impossible for Judge De Guia to consider Santos Forbes' petition and motions

with the requisite impartiality, when she herself was the very one who penned the pleadings filed before her.

In A.M. No. RTJ-91-681, Judge De Guia is charged with not working and observing office hours on Fridays, contrary to Administrative Circular No. 13, dated July 1, 1987, which strictly enjoins trial judges to render at least eight (8) hours of service a day, five (5) hours of which should be devoted to trial, specifically from 8:30 a.m. to 12:00 noon and from 2:00 to 4:30 p.m. as required in paragraph 5 of the Internal Rules of January 11, 1983, pursuant to Section 13 of Batas Pambansa Blg. 129.

Judge De Guia denies the accusation. She presented as her witness Process Server Ricardo Flores, who, contradicting Judge De Guia's averment, admitted in his cross-examination, that Judge De Guia usually went home to Parañaque on Thursday afternoons. (TSN, June 11, 1992, p. 9).

Corroborating Flores' testimony is the fact that on July 10, 1987, a Friday, Judge Maglalang had to act on the surety bond filed by the accused in Criminal Case No. 4000 pending before Judge De Guia's sala. Judge Maglalang's taking cognizance of said request was the ground for a complaint for interference constituting misconduct filed by Judge De Guia against Judge Maglalang A.M. No. RTJ-89-297, also discussed in this resolution.

Judge De Guia's vain offer of an excuse is shown in her testimony in A.M. No. RTJ-89-297, where, upon being cross-examined by therein respondent Judge Maglalang, Judge De Guia testified as follows:

"JUDGE MAGLALANG:

Q. In July 10, 1987, Judge De Guia you were not present or performing your work in your sala, branch 3 of then Regional Trial Court of Bataan, and you were not performing your duties as such, were you?

A. I may not be in my sala but I have been performing my duties in branch 3.

Q. So you were not present physically in your sala on July 10, 1987?

A. I was not because I was in the Supreme Court.

Q. You were in the Supreme Court in connection with what business, Judge De Guia?

A. To confer regarding the problems affecting my sala.

xxx xxx xxx

Q. So you admit that you have no official documentation of your alleged presence in the Supreme Court on July 10, 1987?

A. Maybe in my record I may be able to show it.

Q. Please answer the question categorically.

A. I don't have it with me.

JUSTICE PRONOVE:

You mean you have but you don't have it now?

JUDGE DE GUIA:

The question is 5 years ago and he asked me the question now.

JUSTICE PRONOVE:

Then what is your answer?

JUDGE DE GUIA:

I don't have it now.

JUSTICE PRONOVE:

But you have it, only you don't have it now, is that what you want to say?

JUDGE DE GUIA:

I don't know what the respondent judge would like to show but...

JUDGE MAGLALANG:

Q. Alright, Judge De Guia, I will repeat the question. Is there any document or any kind of official paper that would evidence your physical presence in the Supreme Court on July 10, 1987?

A. I don't have any now.

Q. Since you now admit that you don't have any documentary evidence to show that you were physically present in the Supreme Court on July 10, 1987, Judge De Guia...

A. I want to make my answer clear, I don't have it now!

JUSTICE PRONOVE:

But you had it before?

JUDGE DE GUIA:

I would have to check with the records, your Honor.

JUSTICE PRONOVE:

So you cannot say for sure now whether you have or don't have the proof, is that what you want to say?

JUDGE DE GUIA:

Yes, Your Honor.

Q. Who issued to you that documentary evidence showing your presence or appearance in the Supreme Court on July 10, 1987?

A. I said I don't have the record now.

JUSTICE PRONOVE:

She cannot say whether she had or didn't have, that's her answer.

JUDGE MAGLALANG:

Q. Are you aware what provisions of the Rules of Court, Judge De Guia, to the effect that if the judge in a particular sala in any court is absent, the other judge or judges of the other branches of that court may approve bail bonds which had previously been granted or fixed by the court?

A. I am aware of that but I said I don't think I consider myself absent on that day.

Q. So you did not consider yourself absent. Did you not admit a while ago that you were not physically present

in your sala, branch 3, RTC of Bataan, in July 10, 1987?

A. Yes, I may not be in my sala but I am performing some duties concerning my court.” (TSN, June 8, 1992, pp. 8-11; Report, October 12, 1992, pp. 13-17)

We agree with Justice Pronove, Jr.’s finding that Judge De Guia is guilty of the above charge. Judge De Guia would be present in her sala and conduct hearings only three and a half days in a week, from Monday to Thursday.

We can empathize with Judge De Guia’s urge to be with her family in their home in Parañaque which is quite some distance from her detail in Balanga, Bataan. Yet we must remind her and all judges in the same situation that when one accepts his or her appointment as a member of the judiciary, he or she embraces all the responsibilities attached to that office. One of these responsibilities is to render eight (8) hours of service every working day, five (5) hours of which are devoted to trial. As a judge and also as a public officer duty-bound to render public service, nothing less is expected of Judge De Guia. Indeed, Canon 5 of the Code of Judicial Conduct explicitly states that “[a] judge should regulate extra-judicial activities to minimize the risk of conflict with judicial duties.”

We quote from *In Re: Echiverri*, (67 SCRA 467 [1975]):

“Judges are duty bound to comply with the above [service requirement] to insure the maximum efficiency of the trial courts for a speedy administration of justice. Daily trials at a minimum of five hours per working day of the week will enable the judge to calendar as many cases as possible and to dispose with regular dispatch the increasing number of litigations pending with the court. All other matters needing the attention of the judge are to be attended to outside of this five-hour schedule of trial.”

In A.M. No. 91-11-1985-RTC Erlinda Perez, in a letter-complaint dated October 9, 1991, charges that a motion for disqualification filed on December 5, 1988 by her late husband before Judge De Guia was not resolved for almost three years.

On December 5, 1988, Atty. Democrito Perez, one of the defendants in Civil Case No. 5264 pending before Judge De Guia, filed a motion for disqualification praying that Judge De Guia inhibit herself from hearing and deciding the case. Atty. Perez was the counsel of Angelito Vero and Donato Perez, complainants in A.M. Nos. RTJ-88-228 and RTJ-88-273, respectively. In his motion Atty. Perez alleged:

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“5. That on September 29, and on October 20, 1988 while her honor was presiding over her sala, in obvious reference to undersigned being a counsel of her court employee who filed charges against her, referred to undersigned as treacherous - one who is stabbing her at the back.

6. That in the last local elections (January 18, 1988) where her honor’s husband, Atty. Manny “Gigi” de Guia, was a candidate for councilor in Parañaque, Metro Manila, Atty. Oscar Karaan, counsel for the plaintiffs in the above-entitled case, donated political hand bills to the said Atty. de Guia. xxx xxx xxx.

7. That undersigned respectfully submits that under the present milieu, which ever way her honor would decide the above-entitled case, she will always be suspected as not free, disinterested, impartial and independent and that the parties in this case, specially the undersigned, would not feel that their case (this case) has not been decided by a fair, honest and impartial tribunal.”

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Although the motion was set for hearing on December 8, 1988, it remained unresolved.

Following Atty. Democrito Perez' death, Erlinda Perez filed the present letter-complaint. This Court, acting on said complaint, issued a resolution on November 28, 1991, resolving to grant the motion, which it treated as a motion for inhibition. The resolution further directed the clerk of court of Branch 3 to "personally forward the records of Civil Case No. 5264 to Acting Executive Judge Pedro Villafuerte, Jr., so that the case could be re-raffled to the other branches of the court." Judge De Guia was also directed to show cause why she should not be administratively dealt with for not deciding the motion within the reglementary period.

Judge De Guia received a copy of the resolution on January 9, 1992, as shown by the records. Instead of complying with the directives of said resolution, Judge De Guia issued an order in Civil Case No. 5264 resolving the motion and inhibiting herself from hearing the case, and directing her legal researcher to forward the case to the Supreme Court. Her action was premised on a finding made by her that Civil Case No. 5264 was not duly raffled to Branch 3, and consequently she "cannot just forward this case for re-raffle" to the executive judge "considering that this case had not, on the first place, been raffled before, and this matter is in fact the subject matter of A.M. No. RTJ-89-420" discussed earlier.

Apparently antedated December 19, 1991, a copy of the above order was sent to and received by the Office of the Chief Justice only on January 20, 1992. On January 30, 1992, the officer-in-charge of Branch 3, Amelita Manlapaz, wrote this Court a letter informing us that the records of Civil Case No. 5264 were in Judge De Guia's possession and consequently, she could not transmit said records to the executive judge as ordered in our November 28, 1991 resolution.

On March 3, 1992, Judge Villafuerte, Jr. sent a memorandum to Judge De Guia enjoining her to forward to his office the records concerned within 48 hours. Judge De Guia replied in a memorandum dated March 4, 1992 "that said records have been transmitted to the Clerk of Court of the Supreme Court, Daniel Martinez, by the legal researcher of this Branch [3], pursuant to the order of this Court dated December 19, 1991."

On March 18, 1992, Judge Villafuerte, Jr. sent a memorandum to Alan Mijares, legal researcher of Branch 3, inquiring whether or not, as stated in Judge De Guia's March 4, 1992 memorandum, the records of Civil Case No. 5264 had been sent to the Supreme Court. Alan Mijares replied in a letter dated March 19, 1992 as follows:

"The undersigned would like to respectfully inform you that the records of Civil Case No. 5264 were brought by the undersigned sometime during the last week of January to the Clerk of Court of the Supreme Court pursuant to an order issued by the Hon. Leticia M. de Guia, Presiding Judge of Branch 3 of this Court dated December 19, 1992. Said records, however, were not accepted by the Office of the Clerk of Court of the Supreme Court and the undersigned was told by some personnel there to submit them to the Office of the Court Administrator. Following said advice, the undersigned went to the Office of the Court Administrator and presented said records but said office likewise refused to accept the records of the above-cited case and was instructed to go to the Office of Deputy Court Administrator Reynaldo Suarez. When the undersigned was at said office, the Deputy Court Administrator told the undersigned that the records of Civil Case No. 5264 must be returned to the Regional Trial Court of Bataan for re-raffle, pursuant to a resolution of the Supreme Court dated November 28, 1991, and a copy of said resolution was even given by the Deputy Court Administrator to the undersigned.

In consonance with the instruction given to the undersigned, the records of Civil Case No. 5264 were returned by the undersigned to Hon. Leticia de Guia, and the last thing that the undersigned knows about the records of said case was that the Hon. Leticia de Guia told the undersigned that she will personally bring said records to the Supreme Court herself." (Rollo, p. 81)

In a letter dated March 23, 1992 Judge Villafuerte, Jr. informed this Court of Judge De Guia's continued defiance of our November 28, 1991 resolution.

On the basis of the foregoing, we find Judge De Guia guilty of undue delay in resolving the motion for disqualification (inhibition). The records clearly show that although said motion was filed way back in December 5, 1988, it remained unacted upon until December 19, 1991, and at the time Judge De Guia issued her order granting said motion, this Court had already ruled upon the same. Judge De Guia's act was clearly no longer necessary, and does not negate the fact that she failed to act upon the motion for three long years.

It is at once obvious that Judge De Guia could not have been expected to be impartial in hearing and deciding Civil Case No. 5264, where Atty. Democrito Perez was a defendant. Certainly, Judge de Guia knew that Atty. Perez was Angelito Vero's counsel, and had himself filed an administrative complaint against Judge De Guia.

We have stated that the mere filing of an administrative case against a judge by one of the parties before him is not a ground for disqualifying him from hearing a case and the court has to be shown acts or conduct of the judge clearly indicative of arbitrariness or prejudice. (*Aparicio v. Judge Andal*, 175 SCRA 569 [1989]; cited cases omitted) In the instant case, Atty. Perez in his affidavit had alleged that plaintiffs' counsel had donated handbills to Judge De Guia's husband's campaign during the January 1988 local elections and also, that Judge De Guia had called Atty. Perez "treacherous" in open court. These are sufficient indices showing that Judge de Guia does not enjoy the party litigants' trust and faith that she shall hear and decide the case with the cold neutrality of an impartial judge.

What compounds Judge de Guia's failure to decide the motion within the mandated period is her defiance of our directive in our November 28, 1991 resolution. As found by the investigating Justice, up to the present time the records are still in the possession of Judge de Guia. We consider this willful disobedience and continued disregard of our resolution as grave and serious misconduct. (*Longbuan v. Polig*, 186 SCRA 557 [1990]) The respondent has shown inexcusable conduct and motives in holding on to the records of the case and irresponsibly having them hand-carried to the Supreme Court.

From a consideration of the findings of the investigating Justice in these cases and the totality of the records before us, we find no alternative but to DISMISS Judge Leticia Mariano De Guia. She has shown herself unworthy of the honor and prestige of her position.

In her relations with her fellow judges, with court employees, and with the complainants in the administrative charges against her, she has displayed sheer vindictiveness and outright oppressive behavior. Against Judge Maglalang, Judge De Guia filed, several administrative complaints, probably because of Judge Maglalang's endorsement to the Supreme Court of publisher Ben Medina's complaint in 1988. The letter-complaints against Judge Maglalang are replete with uncalled for statements and unwarranted accusations, and are often deliberately misleading. Her court aide Angelito Vero, after filing the bribery charges, became the target of insulting and abusive language from Judge De Guia. An administrative complaint, and an adamant refusal to sign Vero's Daily Time Records, were utilized as a form of harrassment. Erlinda Perez, RTC-Balanga, Bataan Clerk of Court, also became the subject of several administrative complaints, in apparent retaliation for her late husband Atty. Democrito Perez' participation in the filing of the bribery charges. Donato Perez also did not escape Judge De Guia's ire. Judge De Guia's actuations and attitude are indeed unbecoming of a judge who is expected to exercise proper restraint and decorum in her dealings with people. (*Macuse v. Judge Lapeña*, *supra*). A judge may understandably repent the filing of cases against her but she should know how to handle the situation in a manner befitting a Judge.

Judge De Guia has shown that she is incapable of meeting the exacting standards of conduct and integrity expected of members of the judiciary. Her involvement in the publication irregularity exposed by Ben Medina, as well as her involvement in the raffle anomaly recounted in A.M. No. R-249-RTJ (September 17, 1987), glaringly

bespeaks improbity and infidelity. Public faith in the judicial system is eroded by such acts.

As public officer, Judge De Guia falls short in service and dedication. She was found to hold hearings only three and a half days a week. She was likewise found to decide a case beyond the 90-day reglementary period, Judge De Guia's lack of diligence runs contrary to Rule 3.05 of the Code of Judicial which provides that "[a] judge shall dispose of the court's business promptly and decide cases within the required periods."

Anent the bribery charges, we would like to quote from *Office of the Court Administrator v. Judge Bartolome*, (203 SCRA 328 [1991]):

"While the charge of demanding bribes has not been proven, the Court is just as concerned about the poor reputation that Judge Jose Bartolome has developed in Bataan. A Judge anywhere should be the last person to be perceived as no better than a mulcting traffic cop or a corrupt bureaucrat out to make money at every turn. The reputation of the respondent unfortunately appears to have perceded him, and while situations are possible where a judge is unfairly ruined by well-orchestrated attempts of disgruntled litigants or power blocks of influential members of the community whose interests are threatened by a judge's zeal and integrity, Judge Bartolome has in this case shown not one shred of evidence that the mounting complaints against him are the byproducts of similar maneuvers. At any rate, the thing itself has spoken, and it has spoken eloquently."

WHEREFORE, this COURT RESOLVED to:

1. DISMISS the charges in A.M. No. RTJ-89-297 against Judge Romeo G. Maglalang;
2. DISMISS the first charge of issuing a wrong warrant of arrest, but impose a fine of FIVE THOUSAND PESOS (P5,000.00) on Judge Romeo G. Maglalang in connection with the second charge of precipitate grant of bail in A.M. No. RTJ-89-306;
3. DISMISS the charges in A.M. No. RTJ-89-420 against Judge Luciano Elizaga and Erlinda Perez;
4. DISMISS the charge in A.M. No. RTJ-89-421 against Judge Romeo G. Maglalang;
5. DENY the motion for reconsideration filed by Judge De Guia in A.M. No. P-90-394;
6. DISMISS the charges in A.M. No. P-90-406 against Erlinda Perez;
7. DISMISS the charges in A.M. No. RTJ-90-565 against Judge Romeo G. Maglalang, Judge Luciano Elizaga and Erlinda Perez;
8. DISMISS the charges in A. M. Nos. RTJ-88-228 and RTJ-88-273 against Judge Leticia Mariano De Guia for lack of sufficient evidence; and
9. On the basis of the findings in A. M. Nos. RTJ--88-216; RTJ-90-573; RTJ-91-681; and 91-11-1985-RTC, DISMISS JUDGE LETICIA MARIANO DE GUIA, of the Regional Trial Court, Branch 3, Balanga, Bataan, FROM THE SERVICE with forfeiture of all her accrued retirement benefits, 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.

Narvasa, C.J., Cruz, Feliciano, Padilla, Bidin, Griño-Aquino, Regalado, Davide, Jr., Romero, Nocon, and Melo, JJ., concur.

Gutierrez, Jr., J., on terminal leave.

Bellosillo and Quiason, JJ., no part.

Campos, Jr., J., he was Court Administrator when ????? of the case have ?????.

[*]xxx where the evidence of guilt is strong.

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