

MALACAÑANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 127

REMOVING MR. GABRIEL DE GUIA FROM OFFICE AS JUSTICE OF THE PEACE
OF ALLEN AND LAVEZARES, SAMAR.

These are administrative cases against Justice of the Peace Gabriel de Guia of Allen and Lavezares, Samar, who is charged, among other things, with gross ignorance, undue delay in the issuance of warrant of arrest and falsification. The cases were investigated by one of the district judges of Samar who found the respondent guilty of the charges enumerated.

1. It appears that in Criminal Case No. 21 of the Justice of the Peace Court of Allen, Samar, against Decorese Rosales for grave oral defamation, the respondent issued on December 5, 1947, a warrant for the arrest of the accused without fixing a bond for his provisional release. On December 20 the accused was arrested and detained in Calbayog, and he immediately wired the respondent to fix the bond for his provisional liberty. Two days later respondent answered by telegram advising the accused that his bond had been fixed at ₱1,000 without, however, authorizing the justice of the peace of Calbayog to accept and approve it as provided in Section 8, Rule 108 of the Rules of Court. On the same date (Dec. 22) the accused sent another telegram to the respondent, requesting him to authorize the justice of the peace of Calbayog to approve his bond, and the respondent gave the authorization by wire the following day. However, before respondent's telegram could be received, the accused had been brought under guard to Allen where he filed his bond and was released.

In his defense the respondent pleaded inexperience, as he assumed office only in August 1946. He added that in ordering the arrest of Rosales he merely copied an old form in the office which did not mention about authority having to be given another judicial officer to accept and approve bail bond.

I am not impressed by respondent's explanation. He ought to have known that by his order of arrest Rosales would have to be brought from Calbayog to Allen, a distance of about one hundred kilometers by water, and detained until delivered to the justice of the peace, unless he was given an opportunity to be bailed out at the place of arrest. As it was, Rosales was under police custody and deprived of liberty for four days with all the physical inconvenience, humiliation and moral torture attendant thereto. If the respondent did not foresee these consequences, then he is dangerously ignorant, utterly careless and unmindful of the rights of people charged in his court.

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But to all appearances this does not seem to be a mere lack of foresight on his part as presently to be shown.

2. On January 13, 1954, the chief of police of Allen filed a criminal complaint for public disorder against Crisildo Banhawan and Justo Baconawa. Upon presentation of the complaint, which was supported by the affidavits of three witnesses, the respondent investigated the three witnesses for the prosecution, after which he docketed the case. The chief of police then asked for the warrant of arrest, but the respondent told him to wait inasmuch as he was then busy with some other matters. The chief of police did wait, but seeing that the respondent was not paying attention to his request, he left. It was only two days later that the respondent issued the warrant of arrest.

The complainant alleged that the respondent intentionally delayed the issuance of a warrant of arrest because of the latter's intimate relation with one of the accused, which allegation was denied by the respondent who attributed the delay to pressure of work as he was then holding court in three municipalities.

In finding the respondent guilty under this charge, the district judge observed that the former's failure to issue the warrant of arrest could only be attributed to either negligence, laziness or partiality on his part. I concur with the Secretary of Justice in agreeing with this observation. It does not appear from the record that the respondent could have been so busy as not to be able to act immediately upon the complaint of the chief of police. The municipalities of which he was justice of the peace, namely Allen and Lavezares, are only six kilometers apart and had very light dockets as shown by the statistics of the Department of Justice. Although he claims to have been also justice of the peace of Victoria, yet this municipality has been carved out of Allen only recently and its creation could not have increased the volume of his work.

The conduct of the respondent in this case is the exact opposite of that observed by him in the case of Rosales. In the Rosales case he issued the order of arrest immediately. The three days' delay here was apparently intentional so as to allow the accused to ready their bail bonds because one of them, Justo Baconawa, is said to be his friend. In the light of the care taken by him in order that Baconawa might not be placed under arrest at all, it is hard to take his word that he did not provide for Rosales' bail, in the warrant of arrest issued by him, through ignorance or oversight.

3. Respondent is also charged with falsification of public documents for having stated in his monthly report for February 1952 that Criminal Case No. 299 for illegal possession of dynamite was

"remanded to the Court of First Instance" when his subsequent monthly report for May 1952 showed that the same case was "dismissed" by him.

By way of explanation, the respondent stated that while he was preparing his report for February 1952 the accused appeared in his court and informed him verbally that he was renouncing his right to a preliminary investigation and that because of this manifestation of the accused he intended to remand the record of the case to the Court of First Instance. He further stated that a few days thereafter and before he could remand the case, the accused returned to his office and expressed his desire to have the case heard by the respondent for preliminary investigation; that in his subsequent reports for March and April he entered the case as still pending; that the preliminary investigation of the case was conducted in May; that upon hearing the evidence he found that there was no probable cause, in view of which he dismissed the case; and that this explains why in his report for May he stated that said case had been dismissed.

On this charge of falsification, I do not believe that respondent committed any intentional wrong. Granting that he was partial to the accused, there is no showing how the alleged falsification could have benefited the defendant or how it could have caused him any serious harm. However, respondent's own statements reveal gross carelessness in the keeping of his court record. Such carelessness was inexcusable in the face of the small amount of business he had to transact.

What was serious under this charge was the acquittal of the defendant. The evidence presented by the prosecution included a confession of the accused admitting that he had been caught redhanded with a ball of dynamite in his hand and the testimony to the same effect of two policemen who had arrested the offender. The defendant did not submit any proof to contradict the evidence for the prosecution.

In the light of the foregoing, it is evident that the respondent is unworthy of the office he holds. Wherefore, and upon the recommendation of the Secretary of Justice and the district judge, Mr. Gabriel de Guia is hereby removed from office as justice of the peace of Allen and Lavezares, Samar, effective as of the date of his preventive suspension.

Done in the City of Manila, this 18th day of July, in the year of Our Lord, nineteen hundred and fifty-five, and of the Independence of the Philippines, the tenth.

By the President:


 MARIANO YENKO, JR.
 Assistant Executive Secretary