

MALACAÑANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 147

REMOVING MR. CELSO AVELINO FROM OFFICE AS CITY ATTORNEY OF
CALBAYOG CITY.

This is an administrative case against City Attorney Celso Avelino of Calbayog City for alleged (1) electioneering with grave abuse of authority (4 counts), (2) partiality and dereliction of duty (2 counts), and (3) ignorance of the law. The charges were investigated by a special investigator of the Department of Justice. A review of the record shows that the respondent is guilty under the charges with the exception of three counts of the first charge. For convenience, only those wherein he is guilty or otherwise wanting will be taken up.

I

It appears that on November 7, 1953, the mayor of Calbayog City requested the respondent to require the residents of the barrio of Coguit-itan of that city to appear at his office for constructing their houses in said barrio without first obtaining the necessary permit from the city government; that in accordance with the mayor's instructions complainants Dionisio Sabar and Magno Aguaviva and other residents of Coguit-itan appeared on November 8, 1953, at respondent's office where they, who were known to be Nacionalistas, were told by the respondent, in a loud and angry voice, not to be talking against the Liberal administration and to vote for the Liberal Party candidates on November 10, 1953, otherwise they would be ejected from the government land where they were squatting; and that because of fear complainants and their companions agreed to respondent's bidding although complainants voted for Nacionalista candidates just the same. The above acts of the respondent were attested to by simple and lowly folks who had no reason to testify falsely against him.

II

(a) It also appears that on December 4, 1953, Marcelo Getigan went to respondent's office to complain against Ruben Cano and Juling Caber who had allegedly robbed and assaulted him, and submitted to respondent three affidavits besides showing to the latter the injuries suffered by him; but the respondent never filed any information against the culprits. Complainant attributed respondent's attitude to the fact that he was a Nacionalista while one of the culprits, Cano, was the son of a Liberal councilor of Calbayog City and the other, Caber, was the son of another Liberal leader in the locality. Respondent,

h. Ruben Cano.

however, explained that he did not file the necessary information because he was not convinced that the persons implicated by the complainant had really committed the offense and he doubted complainant's veracity.

The investigator found that there was a prima facie case against Cane and Caber to warrant their prosecution for attempted robbery with serious physical injuries, and I agree with him. Respondent made no attempt to disprove that he was shown by the complainant the injuries sustained by the latter which were supported by a medical certificate. As to his claim that Cane and Caber were not sufficiently identified, the evidence submitted by the complainant and the respondent clearly proves the contrary.

(b) The record also discloses that upon complaint of Jose Advincula, 14 years of age, who was allegedly manhandled by a prominent Liberal Party leader, Emilio Perite, the latter was accused by the respondent before the municipal court of slight physical injuries. However, said case was dismissed by the court on motion of the respondent for supposed lack of interest of the offended party who had executed an affidavit to that effect. Although the offended party claimed that he was coerced by the respondent into signing the affidavit without knowing the contents thereof, I am inclined to give the respondent the benefit of the doubt in line with the finding of the investigator contrary to complainant's assertion.

Considering that the complainant was present in court at the time the respondent moved for the dismissal of the case against Perite, it would have been the better practice, as observed by the investigator, if either the judge or the respondent had required the complainant to take the witness stand and testify as to the alleged commission of the offense by the defendant, which after all was committed against the People. The taking of the action indicated would have better served the interest of justice and it would discourage the commission of offenses.

III

The respondent is lastly charged with ignorance of the law for asking for the reconsideration of a verdict of acquittal. It appears that Sofronia Magan was accused by the respondent of violation of Act No. 3957. After trial the accused was acquitted by the court. A week later respondent filed a motion for reconsideration praying that the Court reverse itself and convict the accused. The motion was immediately denied by the court.

The above palpably shows respondent's ignorance of an elementary principle of criminal law. Any lawyer knows or should know that a judgment of acquittal becomes final immediately after its promulgation and cannot be recalled or modified thereafter.

From the foregoing it is evident that the respondent is utterly unfit to remain as a public prosecutor. Not only did he play politics but misused his office to coerce voters to vote for certain candidates. Some of the acts committed by him constitute clear dereliction of duties and deliberate misfeasance in office for political ends.

Wherefore, and upon the recommendation of the Secretary of Justice, Mr. Celso Avelino is hereby removed from office as City Attorney of Calbayog City, effective upon receipt of notice hereof.

Done in the City of Manila, this 26th day of October, in the year of Our Lord, nineteen hundred and fifty-five, and of the Independence of the Philippines, the tenth.

By the President:



FRED RUIZ-CASTRO
Executive Secretary

