

MALACAÑANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 170

SUSPENDING MR. LORENZO V. ROBINFOS FROM OFFICE AS MUNICIPAL JUDGE
OF M'LANG, COTABATO.

This is an administrative case filed by Ernesto Pamplona against Municipal Judge Lorenzo V. Robinfos of M'lang, Cotabato, for misconduct arising from the respondent's actuations in Criminal Case No. 113 of his court. The complaint was investigated by the District Judge.

On the night of April 26, 1955, one Bienvenido Payopilin was shot in his house in sitio Mabundasan, M'lang, Cotabato. Nobody witnessed the shooting but the victim pointed to Faustino Morgal and Operiano Tacardon as his assailants in a declaration made before the respondent in the presence of several persons, including complainant herein. Respondent took down the dying declaration but because the declarant died sooner, the statement was neither read to nor signed by the deceased. Investigation of the shooting was conducted by the chief of police of M'lang to whom the statement of the deceased was shown by the respondent. However, the chief of police, instead of indicting the two persons named by the deceased, filed a criminal complaint for murder against Ernesto Pamplona, which was accepted and docketed by the respondent as Criminal Case No. 113 of his court. A warrant of arrest was issued against the accused on May 20, 1955, and from that date up to July 19, 1956, the accused was held in custody because respondent did not fix any bail for his provisional release.

The accused waived his right to the second stage of the preliminary investigation, and the case was remanded to the Court of First Instance of Cotabato. Upon reinvestigation of the case by the Assistant Provincial Fiscal, the dying declaration of the deceased was brought to the Fiscal's attention for the first time. The declaration was turned over by the respondent to the Fiscal who, on the basis thereof, moved for the dismissal of the case, which was granted by the Court on July 19, 1956.

While the evidence adduced in this administrative proceeding fails to show that respondent acted with malice aforethought to prejudice the complainant, I agree with the Secretary of Justice that he was indirectly responsible for the unjustified detention

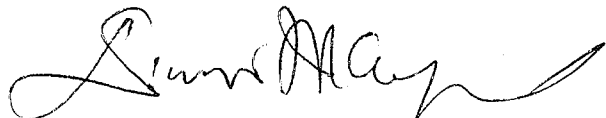
also Robinfos, Lorenzo B

of the complainant from May 20, 1955, to July 19, 1956. In the first stage of a preliminary investigation prior to the issuance of a warrant of arrest it is the duty of the judge or officer conducting the same to summon and personally examine all persons who appear to have knowledge of the commission of the offense charged (Secs. 5 and 6, Rule 108, old Rules of Court). No other occasion would perhaps have required the respondent to adhere strictly to this procedure outlined by the Rules of Court than the filing before his court of the complaint for murder against complainant herein. From no less than the victim of the crime did respondent learn the identity of the killers. Yet, when the complaint filed before him imputed authorship of the offense to a person other than those mentioned to him by the deceased, he did not bother to personally examine the persons whose affidavits were presented by the chief of police in support of the complaint. Other persons whom he knew were present when the dying declaration of the deceased was taken were neither summoned nor questioned on what they had heard from the deceased. Taking the affidavits at their face value and completely ignoring his personal information about the probable real identity of the killers and the availability of other witnesses who could testify on the matter, respondent immediately ordered the arrest of the accused and held him in custody without bail.


The complainant no doubt contributed to his own misfortune by waiving his right to the second stage of the preliminary investigation wherein he could have availed himself of the dying declaration in his defense. But that only serves to mitigate the responsibility of the respondent. The fact is that because of his neglect, evidence in his possession vital to the cause of the complainant failed to become part of the evidence adduced in the preliminary examination and considered in determining whether complainant was prima facie guilty of murder so as to warrant his detention without bail. And, furthermore, because such evidence did not form part of the record of the case remanded to the Court of First Instance, the Fiscal had no opportunity to seek earlier dismissal of the case on the basis thereof which would have shortened the incarceration of the complainant.

Wherefore, Mr. Lorenzo V. Robiños is hereby suspended from office without pay for two (2) months, reprimanded and warned that repetition of similar offense in the future will be dealt with more severely.

Done in the City of Manila, this 17th day of December, in the year of Our Lord, nineteen hundred and sixty-five.



By the President:


RAMON A. DIAZ
Executive Secretary