

MALACAÑANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 74

ADMONISHING PRESIDING JUDGE MARIANO R. VIRTUCIO OF THE CITY COURT OF QUEZON CITY.

This is an administrative case against Presiding Judge Mariano R. Virtucio of the City Court of Quezon City for (1) unfitness for office and (2) failure to perform his duty properly. The charges were investigated by District Judge Lourdes P. San Diego who recommended that respondent be exonerated on the first charge and admonished on the other, which recommendation was concurred in by the then Acting Undersecretary of Justice, now Court of Appeals Justice, Ruperto G. Martin.

The records show that on February 20, 1963, complainant Atty. Hermogenes Datuin Jr. and a certain Atty. Prudencio Valido appeared before respondent's sala as private prosecutor and counsel, respectively, in Criminal Case No. I-64096 (People vs. Arturo Francisco et al.); that after both had entered their appearance orally, respondent ordered them to put the same in writing; that Atty. Valido complied with the order, but complainant argued that it was unnecessary, and as a result thereof a discussion ensued between complainant and respondent who stood firm on his order; that complainant then raised his voice, banged his fist on the table and hurled the words, "I challenge the order;" and that at this juncture, respondent ordered the policeman on duty to search complainant for any concealed firearm which was, however, not carried out as the fiscal assigned to respondent's sala stood up and manifested that complainant was not carrying a gun on that day.

Both the Investigating Judge and the then Acting Undersecretary of Justice found satisfactory respondent's explanation that he was compelled to issue the order to protect the dignity of the court and the lives of the persons therein after seeing the defiant and belligerent attitude of complainant who, on previous occasions, had appeared in his court with a gun. Moreover, the witnesses for complainant and respondent unanimously testified that complainant was most disrespectful and arrogant in his behavior at the time of the incident. The District Judge also observed with regret that complainant "sometimes lapsed into conduct bordering on disrespect, and this court has had to remind him in more instances than one to

rein in his temper, modulate his voice and contain his language."

I concur in the above findings that the first charge should be dismissed for lack of merit.

As to the other charge, complainant alleges that respondent failed to perform his duty properly for not deciding Criminal Case No. I-29147 (People vs. Hermenegildo R. Zialcita et al.) within the 90-day period required by law from the time it was submitted for decision on March 25, 1962; and that despite respondent's failure to do so, he illegally collected his salary on false certificates of performance for the same period.

In his defense respondent admits that although his decision in the aforesaid criminal case was promulgated on March 9, 1963, the draft thereof was actually prepared by him in long-hand on June 16, 1962; that the draft was subsequently misplaced and he had to postpone rewriting the same, as he was confident that he would eventually find it; and that after he found the handwritten draft tucked inside a magazine, he immediately set the case for promulgation on March 9, 1963, and sentence was read to the accused on the same day.

Respondent's explanation on the second charge is not entirely satisfactory. As aptly observed by the Investigating Judge, it would have been in the best interest of the public service and in consonance with prompt administration of justice had respondent taken the trouble of rewriting his decision after the lapse of a reasonable time instead of relying on sheer luck to help him retrieve the lost draft. A little extra effort on his part would have helped justice a long way and he would have proven himself a more dedicated public official.

Wherefore, and upon the recommendation of the Investigating Judge and the Department of Justice, Judge Mariano R. Virtucio is hereby admonished to be more conscientious and dedicated in the performance of his duty in the future.

Done in the City of Manila this 22nd day of July, in the year of Our Lord, nineteen hundred and sixty-seven.

By the President:


RAFAEL M. SALAS
Executive Secretary