



**MALACAÑANG
MANILA**

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 21

REMOVING MR. JOSE ESQUERRA FROM OFFICE AS JUSTICE OF THE PEACE
OF PASACAO, CAMARINES SUR.

This is an administrative case filed by one Rodolfo Peñas against Justice of the Peace Jose Esguerra of Pasacao, Camarines Sur, for alleged inefficiency, partiality and corruption. The charges were investigated by the District Judge who found the same duly established and recommended respondent's removal from the service, which recommendation is concurred in by the Secretary of Justice.

The record discloses the following facts to have been duly established:

On March 23, 1950, complainant Peñas filed in respondent's court criminal case No. 53 for serious physical injuries against Chief of Police Juan de Guzman and Policemen Macario Martires and Benjamin Nepomuceno. The following day the respondent, accompanied by the three accused, repaired to the house of the complainant and asked the latter to withdraw his complaint against the peace officers, but he refused. The party left only to return the next morning for the same purpose. This time, however, the respondent informed Peñas that if he did not accede to his request, the former would accuse him of a more serious offense than that for which De Guzman and his companions were being prosecuted. Fully aware that he had not committed any crime, Peñas did not give much thought to respondent's threat and stood pat against his request.

In the morning of March 27, 1950, complainant's wife went to the office of the respondent to inquire whether the three accused had already been arrested, and was informed by him that there would be no such arrest inasmuch as her husband had already been accused of direct assault by Chief of Police De Guzman. That same day in the afternoon Mrs. Peñas returned to respondent's office and, not finding him there, went to his residence. Respondent's wife told her that her husband, the chief of police and Policemen Nepomuceno and Martires were in the residence of one Gregorio Oliván, which was on the second floor of the same building occupied by the respondent and his family. Parenthetically, it may

he stated that Oliván owns the building and the ground floor thereof was leased by him to the respondent. While in respondent's residence, Mrs. Peñas overheard Oliván telling the respondent to take care of the case against the three officers, to which the respondent replied, "Bahala na." According to Mrs. Peñas, Oliván further remarked: "Had you killed Rodolfo Peñas, it would have been better," obviously addressing the three accused.

On March 30, 1950, Peñas was arrested because of a warrant of arrest issued by the respondent in the direct assault case (also docketed by the respondent as criminal case No. 53) filed against him by the chief of police, and he had to post a bond of ₱6,000 for his temporary release. In that case the complaining witness was Policeman Nepomuceno, one of those accused by Peñas of serious physical injuries. The preliminary investigation of the case was held the following day despite the request of accused Peñas for postponement for a few days to enable him to engage the services of a lawyer. A few days later complainant met respondent in the City of Naga and the latter reminded the former of the seriousness of the case against him. On April 5, 1950, the respondent, obviously believing that he had no jurisdiction over criminal case No. 53 for serious physical injuries against Chief of Police De Guzman et al., issued an order elevating the record thereof to the Court of First Instance, without making any finding as to whether or not there was probable cause. Respondent did not issue any warrant of arrest against the accused peace officers.

From the above, I am satisfied that, as found by the investigator, the respondent really took advantage of his official position to influence Peñas to withdraw his complaint against Chief of Police De Guzman and two of his policemen, and that, failing in this, he was instrumental in the prosecution of Peñas for direct assault.

With respect to the charge of inefficiency, the complainant submitted as evidence a copy of respondent's decision in criminal case No. 45 for slight physical injuries (Exh. D). The District Judge also took official notice of the order issued by the respondent in criminal case No. 53 against the three peace officers (Exh. C). According to the Judge, when he examined the respondent, the latter did not know the different steps to be taken during a preliminary investigation and even expressed the erroneous view that it has three stages.

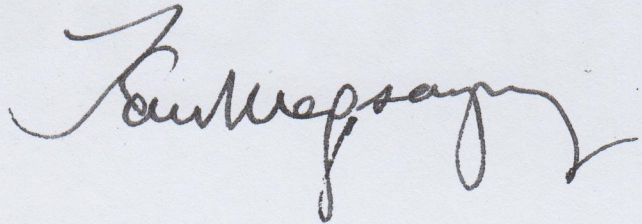
An examination of the order, Exhibit C, and the decision, Exhibit D, shows that the narration of facts contained therein is very incoherent and hardly understandable. What is even

anomalous, the dispositive portion of the decision imposes a penalty of "imprisonment of 10 days or a fine of not exceeding P200.00," thereby leaving to the accused the discretion to fix the amount he wanted to pay. As already stated, respondent's order, Exhibit D, remanding the case against Peñas to the Court of First Instance did not state whether there was probable cause against the accused. Neither is there any explanation, except respondent's gross inefficiency, why he gave the same docket number to two criminal complaints.

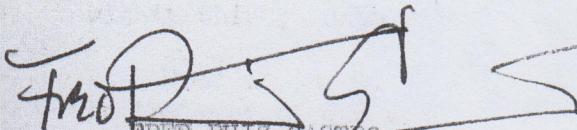
In view of the foregoing, I find the respondent guilty of the charges. Considering the seriousness of the irregularities committed by him, I am constrained to take drastic action against him as recommended by the District Judge and the Secretary of Justice.

Wherefore, Mr. Jose Esguerra is hereby removed from office as justice of the peace of Pasacao, Camarines Sur, effective as of the date of his suspension.

Done in the City of Manila, this 7th day of April, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.



By the President :



FRED RUIZ CASTRO
Executive Secretary