

Malacañang

Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. ³⁵² 356

REMOVING MR. MODESTO CARINO FROM OFFICE AS JUSTICE OF THE PEACE OF
SISON, PANGASINAN.

This is an administrative case filed by Alipio Migallon against Justice of the Peace Modesto Carino of Sison, Pangasinan, for (1) partiality, (2) laxity in admitting criminal complaints and (3) ignorance of the law. The case was investigated by the district judge who found respondent guilty as charged and recommended his suspension without pay for ninety (90) days.

Charge No. 1 - Partiality

Complainant alleges that in Civil Case No. 49 filed against him by Sixto Cadiente the respondent declared him in default although he appeared on the date set for trial, October 14, 1957, when he was informed that the hearing had been postponed upon his lawyer's request. Respondent denies complainant's presence on said date but admits receiving a telegram for postponement from his lawyer in the morning. I am, however, inclined to believe complainant whose appearance in court on the date in question was corroborated not only by Marcelino Gonzales, his companion, but also by the chief of police.

Other actuations of respondent in the same case support the charge of partiality against him. For instance, he issued a writ of preliminary attachment against complainant's personal properties upon a bond of only ₱500 filed by plaintiff whose claim amounted to ₱1,955, exclusive of attorney's fees and costs. However, to discharge the attachment, respondent required of complainant a counterbond of ₱2,000 although the properties attached were appraised at only ₱1,200.

Moreover, when the plaintiff filed a petition alleging that complainant's wife and son had uttered unseemly remarks and scandalous words against the deputy sheriff who served the writ of execution, respondent immediately cited complainant's kin for contempt of court despite the fact that the petition was not even supported by the affidavit of the deputy sheriff concerned.

Charges Nos. 2 and 3 - Laxity in accepting criminal complaints and ignorance of the law.

On October 14, 1957, complainant herein was accused of violation of the medical law. Sixto Cadiente, the plaintiff in Civil Case No. 49, was one of the complaining witnesses. Respondent docketed the complaint as Criminal Case No. 354 on the same day and issued a warrant of arrest but subsequently dismissed the case on a motion to quash. Marcelino Gonzales, complainant's witness, testified that he was in respondent's

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office on that day and that the private prosecutor prepared and typed in said office the criminal complaint, the supporting affidavits and the warrant of arrest. This testimony is corroborated by the chief of police who admitted that he did not prepare the complaint which he signed or its supporting affidavits.

Respondent claims that he conducted a preliminary investigation in writing independently of the affidavits presented in support of the complaint, but no record of such investigation appears in evidence. The absence of such record tends to support the testimony of the complainant's witness that there was no preliminary investigation conducted by the respondent before ordering the arrest of the accused on the same morning that the complaint was filed. Considering that, as respondent himself admits, he had some doubt as to the nature of the offense charged, he should at least have taken more time to study the case before issuing the warrant of arrest. Not only did respondent show undue haste in issuing the warrant but he did not even see to it that said warrant was returned to him after the arrest of the accused, as a result of which the warrant is not included in the record of the case.

After issuing the warrant of arrest, respondent issued, on petition of the private prosecutor, a subpoena duces tecum requiring the accused (complainant herein) to bring to court certain books and documents which could be used as evidence against him in the case. This shows that respondent issued the warrant of arrest without satisfying himself that there was a prima facie case against the accused. Worse, he tried to compel the accused to be a witness against himself.

On October 19, 1957, barely five days after Criminal Case No. 354 was docketed, another criminal complaint was filed by the same Sixto Cadiente against herein complainant for falsification of public documents which consisted of the labels placed by the accused on the bottles of his pharmaceutical products. Respondent docketed the complaint as Criminal Case No. 358 on the same day and forthwith issued a warrant of arrest. As in Criminal Case No. 354, respondent granted the motion to quash the complaint on the ground that the facts alleged therein did not constitute the offense charged. Respondent's acts reveal not only his laxity in accepting criminal complaints but also his inexcusable ignorance of the law in considering labels of manufactured goods as public documents.

Subsequently, or on December 30, 1957, a third criminal complaint was filed against herein complainant and his sons for attempted murder, with the same Sixto Cadiente as principal prosecution witness. Although this day was a holiday, respondent docketed the complaint as Criminal Case No. 370 and swore the prosecution witnesses on their affidavits in his house in Manaoag, Pangasinan, or outside his territorial jurisdiction. On the following day, also a holiday, he issued a warrant of arrest.

Respondent's claim that he conducted a preliminary investigation on December 31, 1957, before issuing the warrant of arrest, is again belied by the absence of any record thereof. The affidavits supporting the complaint cannot be considered as the record of his investigation as they were already prepared when the complaint was filed on December 30, 1957.

Again, as in Criminal Case No. 354, respondent failed to conduct the preliminary investigation required by law prior to issuing the warrant of arrest in Criminal Case No. 370, notwithstanding the fact that this was the third criminal complaint filed against the herein complainant within a period of less than two months, with Sixto Cadiente as either complainant or principal witness, aside from the civil case between him and said complainant.

In view of all the foregoing, I agree with the district judge in finding the respondent guilty as charged. However, I do not agree with his recommendation that the respondent be suspended from office for only three (3) months. For all the harassment suffered by the complainant who, in the brief span of two months, had to incur expenses and undergo untold inconveniences in procuring bail bonds for his provisional release in the three criminal cases filed by or at the instance of Sixto Cadiente and hastily given due course by the respondent through either laxity or sheer ignorance of the laws supposedly violated, if not indeed in unholy collusion with Cadiente, respondent should not be allowed to continue in office.

Wherefore, and upon the recommendation of the Secretary of Justice, Mr. Modesto Carifio is hereby removed from office as justice of the peace of Gison, Pangasinan, effective upon receipt of a copy of this order.

Done in the City of Manila, this 20th day of June, 1961, in the year of Our Lord, nineteen hundred and sixty, ^{one} and of the Independence of the Philippines, the ~~fifteenth~~.

Concepcion P. Garcia

By the President:

Natalio P. Castillo
NATALIO P. CASTILLO
Executive Secretary