

MALACANANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 40

REMOVING MR. CRISPIN N. MENCHAVEZ FROM OFFICE AS MUNICIPAL
JUDGE OF SANTA FE, CEBU.

This is an administrative case against Mr. Crispin N. Menchavez, Municipal Judge of Santa Fe, Cebu for gross ignorance of the law and for dishonesty arising from his actuations in connection with Criminal Case No. 379 of his court.

The records show that Jesus Fariolen, Melanio Almocera and German Batiancila were charged on October 18, 1963, before respondent's court for illegal fishing with the use of dynamite. The case was docketed as Criminal Case No. 379. Pleas of guilty were entered by the accused and they were thus convicted and sentenced to imprisonment for six months each. On December 14, 1963, respondent requested the constabulary officer-in-charge of the Santa Fe Police Force (said municipality then being under the control of the Philippine Constabulary) that prisoner Almocera be assigned to respondent's office. Again, on January 22, 1964, respondent requested that he be given custody over prisoner Fariolen so that the latter could work in respondent's office. Both requests were, without much delay, complied with.

It appears, however, that the prisoners did not work in the court's offices nor even in the municipal building, but were brought by respondent to his house in Sogod, Cebu where they worked on respondent's farm and piggery.

From the above uncontroverted facts, it is apparent that respondent was mistaken in taking cognizance of Criminal Case No. 379 which charged an offense carrying a maximum penalty of imprisonment for five years and a fine of five thousand pesos, whereas respondent's jurisdiction is limited to offenses penalized by imprisonment of not more than three years or a fine of not more than three thousand pesos, or both such imprisonment and fine.

Respondent maintains that his court had jurisdiction over the case and cites Section 87 of the Judiciary Act of 1948, as amended by Republic Act No. 3828, which provides:

"Justices of the peace in the capitals or provinces and sub-provinces and judges of municipal courts shall have like jurisdiction as the Court of First Instance to try parties charged with an offense committed within their respective jurisdictions, in which the penalty provided by law does not exceed prison correccional or imprisonment for not more than six years or a fine not exceeding six thousand pesos or both, and in the absence of the district judge shall have like jurisdiction within the province as the Court of First Instance to hear applications for bail."

In effect, respondent argues that the phrase "judges of municipal courts" in the above cited provision, refers to justices of the peace of municipalities now called municipal judges.

This defense is devoid of merit. It must be remembered that the former justices of the peace of municipalities are now known as municipal judges and the former municipal judges of chartered cities are referred to as city judges. This being the case, when the aforesaid Section 87 of Republic Act No. 296, as amended, mentions justices of the peace in the capitals of provinces and sub-provinces and "judges of municipal courts" as having concurrent jurisdiction with Courts of First Instance in trying offenses carrying penalties not exceeding six years of imprisonment and a fine of six thousand pesos, such as illegal fishing with the use of dynamites, justices of the peace of municipalities, now municipal judges, are not included therein and therefore are not clothed with such jurisdiction.

On the matter of having exploited prison labor for use at his farm and piggery, for a period of around three months, respondent offers no denial nor defense.

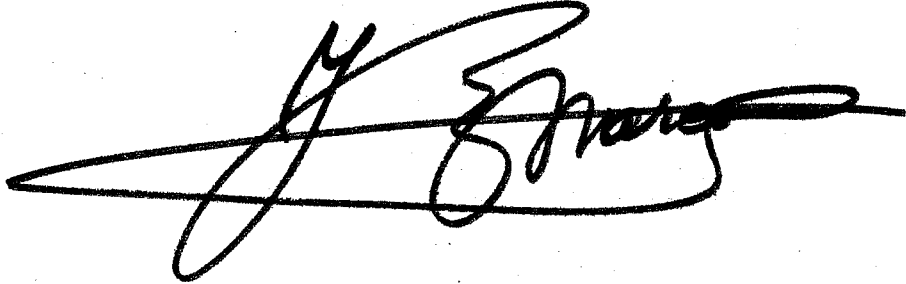
Two other errors were committed by respondent in Criminal Case No. 379 of his court. Respondent sentenced the accused to only six months imprisonment whereas the minimum penalty for the offense is imprisonment for one year and six months and a fine of ₱1,500. The records further disclose

that respondent committed the accused upon conviction to the municipal jail, although under Sections 1739 of the Administrative Code, as amended, they should have been confined at the provincial jail since their imprisonment was for more than thirty days.


In view of the foregoing, I find respondent guilty of ignorance of the law and dishonesty. Respondent's ignorance of his criminal jurisdiction cannot be viewed lightly because having been in office since 1956, he ought to know that his authority in cases of illegal fishing with explosives is confined to preliminary investigation. Further, respondent's exploitation of prison labor for his personal gain and benefit amounted to dishonesty.

Wherefore, Mr. Crispin N. Menchavez is hereby removed from office as Municipal Judge of Santa Fe, Cebu, effective upon receipt of a copy of this order.

Done in the City of Manila, this 29th day of March, in the year of Our Lord, nineteen hundred and sixty-seven.



By the President:



RAFAEL M. SALAS
Executive Secretary