

MALACAÑANG  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 46

REMOVING MR. ELOY DAVID FROM OFFICE AS MUNICIPAL JUDGE OF  
CLARK FIELD, PAMPANGA.

This is an administrative case against Municipal Judge Eloy David of Clark Field, Pampanga, for abuse of judicial power and discretion. The case was investigated by the District Judge who found respondent guilty of the charges and recommended that he be suspended for six months with warning. However, the Undersecretary of Justice, while concurring in the findings of the investigator, found the latter's recommendation too lenient for the serious offenses committed and recommended respondent's dismissal.

The facts that gave rise to these administrative proceedings are as follows:

About 10 p.m. of July 30, 1965, several heavily armed men robbed the NCO Club at Clark Air Base of \$169,500, after which they commandeered a car, forced three wives of US airmen to go with them as hostages and exchanged shots with Base security guards as they fled from the scene of the crime, resulting in the wounding of an airman who attempted to block their escape.

Subsequently, the Deputy Director of Security and Law Enforcement of Clark Air Base filed with the Municipal Court of Clark Field Criminal Cases Nos. 1236 (for robbery), 1237 (for kidnapping with serious illegal detention) and 1238 (for robbery in band with serious physical injuries) against Manuel Gamboa, Tomas Cao, Sebastian Macabuhay, Aurelio A. Santos, Marcelo Paguio, Carlito Dizon Miranda, Bonifacio Carillo and three other unidentified men.

A preliminary examination was conducted by respondent on August 13, 1965, during which prosecution witnesses appeared and presented evidence to substantiate the charges. Upon the conclusion of the preliminary examination the following day, respondent issued warrants of arrest against the above-named accused, in view of his findings that the

criminal offenses had in fact been committed and that the accused were probably guilty thereof.

In the second stage of the preliminary investigation, only Gamboa availed of his right to present evidence to establish his innocence. Carillo waived his right thereto and requested that the case against him be forwarded to the Court of First Instance of Pampanga for further proceedings, and respondent issued the corresponding order to that effect on September 15, 1965. On October 21, 1965, Miranda executed his confession to the crime of which he was accused and respondent himself administered the oath to Miranda in open court. Miranda also waived his right to present evidence in the preliminary investigation and, at his counsel's request, respondent issued an order dated November 5, 1965, elevating Miranda's case to the Court of First Instance of Pampanga.

On March 4, 1966, Col. Moore of Clark Air Base inquired from the Court of First Instance of Pampanga as to the status of the criminal cases against Carillo and Miranda. The Executive Judge thereof informed the colonel that the records of the three criminal cases had not been transmitted to that court.

In the meantime, the preliminary investigation against Gamboa was terminated. On March 15, 1966, respondent issued an order dismissing, for lack of evidence, the three criminal cases not only against Gamboa but also against the other accused, including Carillo and Miranda.

On March 30, 1966, the Base authorities, through Major Hugh R. Shannon, filed Criminal Case No. 5484 (for robbery in band with serious physical injuries) in the Court of First Instance of Pampanga against several persons, including Carillo, Miranda and Gamboa, in connection with the robbery treated above. Inasmuch as Criminal Case No. 5484 relates to the same crime involving the same persons accused in the three criminal cases previously dismissed by respondent, the defense moved for its dismissal. The motion was, however, denied on the ground that the dismissal of said criminal cases by respondent was patently irregular, considering that Carillo and his coaccused failed to present evidence during the second stage of the preliminary investigation to disprove the existence of a prima facie against them. Criminal Case No. 5484 is still pending in the Court of First Instance of Pampanga.

From the time respondent ordered the transmittal of the records of the criminal cases to the Court of First Instance of Pampanga, insofar as Carillo and Miranda are concerned, more than four months had elapsed without said records having been actually sent thereto.

Respondent's explanation that his failure to do so was due to the non-apprehension of the other accused is entirely unsatisfactory. There was no cogent reason for him to wait for the arrest of the others before submitting the cases against the defendants who were in custody and had already waived their right to the preliminary investigation. In fact, the law expressly requires respondent upon the conclusion of the preliminary investigation to transmit without delay the records of the case to the Clerk of the Court of First Instance having jurisdiction over the offenses, including the warrants of arrest and the testimony of witnesses in support thereof, the undertaking or bail of the accused or the person of the accused if not on bail and his findings in the preliminary investigation (Sec. 12, Rule 112, Revised Rules of Court).

Much less was there any sufficient justification for respondent's dismissal on March 15, 1965, of the three criminal cases against Gamboa, Carillo, Miranda and the other accused. When respondent on August 14, 1965, issued the warrants of arrest, the legal implication was that he believed that the accused were probably guilty. "The issuance of a warrant of arrest is prima facie evidence that in the judgment of the judge at least, there exists probable cause for believing that the person against whom the warrant is issued is guilty of the crime charged" (People vs. Olandag, 92 Phil. 286). But more than a legal inference, respondent said so in express terms in his order of August 14, 1965. Moreover, during the second stage of the preliminary investigation, only Gamboa presented exculpatory evidence to prove alibi and neither Carillo nor Miranda who, as aforesaid, had confessed his participation in the crime and sworn to his confession before respondent in open court, presented evidence to prove their innocence. In other words, insofar as the two defendants are concerned, no evidence whatsoever was adduced at any stage of the preliminary investigation to refute the findings of probable cause and prima facie guilt against them which induced respondent to issue warrants for their arrest.

Respondent's failure to transmit the records of the criminal cases to the Court of First Instance of Pampanga, as required by law, and his irregular dismissal of said cases

under the attendant circumstances either betray his gross incompetence and ignorance of the elementary rules of procedure or his manifest partiality or total lack of concern for the due administration of justice, which necessarily reflects adversely on his fitness to remain in the public service, particularly in the judicial branch of the government. He is the type of official that emboldens the criminal elements and undermines the people's faith in the administration of justice.

Wherefore, and upon recommendation of the Undersecretary of Justice, Mr. Eloy David is hereby removed from office as municipal judge of Clark Field, Pampanga, effective upon receipt of a copy hereof.

Done in the City of Manila, this 1st day of April, in the year of Our Lord, nineteen hundred and sixty-seven.

By the President:



RAFAEL M. SALAS  
Executive Secretary

