

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 158

REMOVING MR. ARTURO M. GLARAGA FROM OFFICE AS MUNICIPAL JUDGE
OF TALISAY, NEGROS OCCIDENTAL.

These are two administrative cases against Municipal Judge Arturo M. Glaraga of Talisay, Negros Occidental, filed respectively by Lt. Alexander P. Aguirre of the Constabulary and by Mayor Mario Lizares. These cases were investigated by District Judge Jose F. Fernandez, the Aguirre complaint being docketed as Administrative Case No. 84, while that of Lizares as Administrative Case No. 85.

The charges in Administrative Case No. 84 are:

1. That in Criminal Case No. 2519 respondent acquitted the accused of smuggling although the latter was caught in possession of 91 cartons of untaxed blue seal cigarettes;
2. That he decided the said case on November 8, 1966, although he was on leave of absence from November 2 to 15, 1966; and
3. That in Criminal Case No. 2372 for unlawful possession of untaxed cigarettes respondent arbitrarily fined the accused without any trial and without giving a receipt for the amount paid to him.

Respondent answered the charges as follows:

1. That he correctly decided the case on the ground (a) that the cigarettes were seized without a search warrant, (b) that the Constabulary did not notify the local police of its plan to apprehend the accused, and (c) that the confession of the accused was not voluntary;
2. That he decided the case although he was on leave because he wanted to unclog his docket and because he feared that the acting Judge was not familiar with the case; and
3. That he did not receive any amount from the accused because the case was still pending;

In Administrative Case No. 85 the charges are:

1. That respondent held office in his residence from April 28 to May 17, 1967, instead of going to his office in the municipal building.

2. That he tried and decided two criminal cases in his residence on May 11, and 15, 1967, respectively.

3. That he failed to submit to the Court of First Instance his monthly reports for 1958 and from 1960 to 1967.

These charges were answered as follows:

1. That respondent held office in his residence because of his failing health, aggravated by the extreme heat and lack of equipment in his office in the municipal building;

2. That the two cases mentioned were decided in order to give a speedy trial to the accused, who were detention prisoners, they having informed him that they desired to plead guilty; and

3. That respondent always promptly submitted his yearly report to the Department of Justice through the Court of First Instance from 1946 to the present.

With respect to the first charge in Administrative Case No. 84, respondent's decision tends to show that his judgment of acquittal was rendered in the face of evidence establishing the guilt of the accused. The report of the investigating Judge thus finds: "Although there was no record of the trial, it appears from the decision, Exh. 'C', that sufficient evidence existed on which to base a finding of guilt." Even if respondent correctly found that the confession of the accused was not voluntary, there were prosecution witnesses who testified that untaxed cigarettes were found in the possession of the accused.

According to respondent's decision, the testimony of the accused and two witnesses tended to prove that the evidence against the accused was fabricated. This point, however, is not developed in the findings of the decision, which dwells instead on collateral matters. The irregularity justifies the investigation report in the following observation: "The acquittal of Hector Jolabar, in spite of the evidence, was not only a black eye upon the image of justice but a painful setback on the Administration's efforts to eradicate smuggling."

The respondent admits that he decided the case although he was on leave of absence, as alleged in the second charge. As concluded, therefore, by the investigating Judge, "the

evidence tends to establish the fact that the respondent in Criminal Case No. 2519 had been unduly interested in favor of the accused, Hector Jolabar, who was eventually acquitted." The investigation report correctly points out why respondent's explanation is not satisfactory, as follows:

"The Court is not impressed with the explanation given by the respondent. If it was his desire to unclog his docket, he should not have taken a leave of absence at all, and then to interrupt his leave of absence for the sole purpose of trying Criminal Case No. 2519 and nothing else, after which Hector Jolabar was acquitted. It is quite clear that respondent interrupted his leave of absence and tried Criminal Case No. 2519 because of his interest therein to save the neck of Hector Jolabar as in fact Jolabar was acquitted in his decision, Exh. 'C'."

On the third charge, Mamerto Paguio, the accused in Criminal Case No. 2372, testified that he pleaded guilty and was fined ₱20 by respondent; that of this amount he paid ₱12 to respondent; and that the balance was collected by respondent's brother. At the same time, the record of the case shows that it has remained pending since it was filed on August 2, 1965. Neither has it been shown that any fine was paid in the case to the proper authorities.

The failure to act on the case for an unduly long period of time, as admitted by respondent, tends to bear out the testimony of the accused that the same was settled by the respondent on terms favorable to the accused as well as to respondent, the offense charged being punishable by a fine of not less than ₱200 and imprisonment for not less than four months. The evidence thus supports the investigating Judge in the following conclusion: "In Criminal Case No. 2372, People vs. Paguio, the evidence shows that respondent sold the case out for only ₱20 as if it were his own chattel and what is worse, the respondent has not accounted for the fine until now."

In Administrative Case No. 85 respondent admits the charge that he held office in his residence from April 28 to May 17, 1967. This irregularity was not satisfactorily explained by respondent, as pointed out by the investigating Judge when he states:

"It is readily discernible that although the respondent's house in Exh. '18' is more artistic than his office, photo Exh. '19' nevertheless, it cannot be

denied that the latter is more formal and respectable in atmosphere. Another photograph, Exh. '2', photo of Talisay Municipal Court in session, clearly shows that said Court is adequate and can compare favorably with any other municipal courts. Besides, Sec. 77, Judiciary Act of 1948, expressly provides:

'x x x justice of the peace shall be present at least four hours on each business day in his office or at the place where his court is held; x x x.'

"If respondent believes that his office in the municipal building of Talisay is unsuited or harmful to his health, it is for him to inform the proper authorities and request for another office of his liking, and the proper authority is not the Mayor of Talisay who, he believes, is not sympathetic with him.

"It appears that no such request was made. Instead, the respondent took it upon himself to observe office hours in his private house without previous consultation and consent of the proper authority, which act is clearly against the law."

The evidence on the second charge shows that respondent promulgated in his house two decisions in criminal cases, one dated May 10, 1967, and the other dated May 15, 1967, both of which sentenced the accused to imprisonment on their plea of guilty. This actuation was highly irregular, as the investigating Judge demonstrated, thus:

"A decision in criminal cases, regardless of whether it was prompted by a plea of guilty or otherwise, is an important official act that must be promulgated in the courtroom or public office of the respondent. Imagine the public consternation and untold implications, unsavory or otherwise, that might arise if the Judge of a Court of First Instance, or Justice of the Court of Appeals, or of Supreme Court would promulgate their decisions in their respective residences instead of doing so in their own courts.

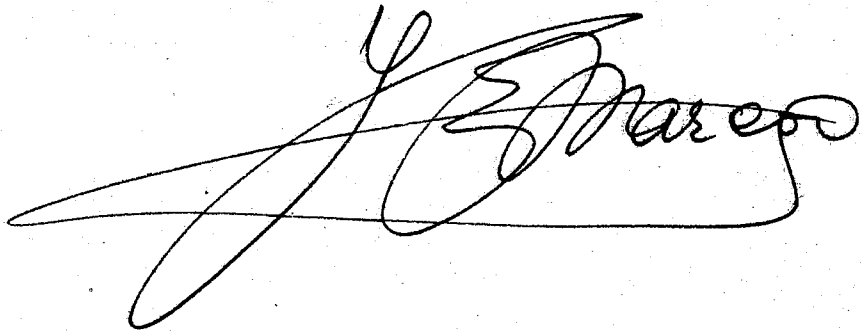
"This Court finds that it is highly improper for the respondent to promulgate his decisions, marked Exhs. 'A' and 'B', in his private house."

The third charge is proven by a certificate of the Clerk of Court, Court of First Instance, that respondent has not submitted his monthly reports for the year 1958 and for the years from 1960 to the present.


In the two administrative cases, therefore, the evidence proves respondent to be guilty of (1) partiality in acquitting the accused in Criminal Case No. 2519 notwithstanding the evidence of his guilt, to the extent of deciding the case although he was on leave of absence; (2) dishonesty in failing to account for the fine paid by the accused in Criminal Case No. 2372; (3) improper conduct in holding office in his residence from April 28 to May 17, 1967, promulgating two decisions in criminal cases; and (4) gross dereliction of duty in failing to submit his monthly reports to the Court of First Instance for 1958 and for 1960 to the present.

WHEREFORE, respondent Arturo M. Glaraga is hereby removed from office as Municipal Judge of Talisay, Negros Occidental, effective upon receipt of a copy of this order.

Done in the City of Manila, this 18th day of January, in the year of Our Lord, nineteen hundred and sixty-nine.



By the President:



RAFAEL M. SALAS
Executive Secretary