

[ADMINISTRATIVE ORDER NO. 158, January 18, 1969]

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 P20 by respondent; that of this amount he paid P12 to respondent; and that the balance was collected by