

**[ADMINISTRATIVE ORDER NO. 189, November
17, 1969]**

**SUSPENDING MR. MARIANO C. ROSALES FROM OFFICE
MUNICIPAL JUDGE OF CORTES, SURIGAO DEL SUR**

This concerns Administrative Case No. 16, Jovencio Cubero, complainant vs. Mr. Mariano C. Rosales, Municipal Judge of Cortes, Surigao del Sur, respondent, charging the latter with abuse of authority and partiality. The case was formally investigated by District Judge Reynaldo P. Honrado of Surigao del Sur.

As a result of a fight in the public dancehall of Cortes, Surigao del Sur, where the protagonists were acting Chief of Police Dominador Silagan and complainant Jovencio Cubero, the latter suffered physical injuries. On July 17, 1968, Police Chief Silagan filed a complaint in respondent's court docketed as Criminal Case No. 411 against Cubero for assault upon an agent of a person in authority, while Cubero filed against Silagan a complaint for less serious physical injuries docketed as Criminal Case No. 412.

Both cases were set for hearing by respondent on August 14, 1968, On August 10, 1968, Atty. Victoria Cubero, as counsel for the accused in Criminal Case No. 412 and as a special prosecutor in Criminal Case No. 411 filed two separate motions for postponement of the hearing on August 14, 1968, based on the identical ground that she had a murder case set for trial in the Court of First Instance of Surigao del Sur in which the accused was a detainee.

On August 14, 1968, respondent issued an order granting Cubero's motion for postponement of the hearing of Criminal Case No. 411 where Cubero was the accused, but denied the similar motion for postponement in Criminal Case No. 412 and thereupon dismissing Cubero's complaint.

The record further discloses that when Cubero's complaint for less serious physical injuries was brought by PC Sergeant Ponciano Monsenabre before respondent on July 20, 1968, the latter refused to accept or to docket the same and ordered that said complaint be first referred to the Provincial Fiscal of Surigao del Sur.

After a review of the record, I find respondent judge guilty of partiality and abuse of authority. His denial of complainant's motion to postpone the hearing of Criminal Case No. 412 where Cubero was the complainant and his granting of a similar motion in Criminal Case No. 412 of a similar motion in Criminal Case No. 411 where he was the accused show partiality. Both motions were founded on the same grounds and referred to the same hearing set on identical date and time. Respondent's action is worsened by his dismissal with prejudice of Cubero's complaint for less serious physical injuries (Criminal Case No. 412). His explanation that this order of dismissal was subject to a motion for reconsideration or an appeal is untenable because such order of dismissal was with prejudice, and the same could