

[ADMINISTRATIVE ORDER NO. 61, May 27, 1967]

**SUSPENDING MR. JULIO ABAD FROM OFFICE AS MUNICIPAL
JUDGE OF TANZA, CAVITE**

This is an administrative proceeding instituted motu proprio by the Department of Justice against Municipal Judge Julio Abad of Tanza, Cavite, for dereliction of duty for refusing to issue a search warrant to the Philippine Constabulary command to conduct a search in certain houses in Barrio Amaya, Tanza, Cavite, suspected to contain untaxed "blue seal" cigarettes. Both the District Judge of Trece Martires City who investigated the case and the Undersecretary of Justice found respondent guilty of the charge but recommended varying penalties: the former, that respondent be fined in an amount equivalent to five days' salary, and the latter, that he be suspended from office without pay for two months.

The following facts are duly established by the evidence.

On June 16, 1966, about 4:30 P.M., Capt. Orlando Antonio of the Philippine Constabulary went to respondent's office at the municipal hall of Tanza, Cavite, to secure a search warrant. With him were his two witnesses and the necessary papers. Finding respondent's office closed, he forthwith proceeded to Barrio Amaya, Tanza, where the houses sought to be searched are located. In the immediate vicinity, Capt. Antonio found his superior officer, Col. Rizalino Garcia, PC Provincial Commander of Cavite, who informed him that another officer, Col. Rodrigo Tecson, was already in respondent's house (also in Barrio Amaya). Col. Garcia instructed Capt. Antonio to proceed to the house of respondent with the two witnesses and the necessary papers. At respondent's house, Capt. Antonio was informed by Col. Tecson that respondent would not issue the search warrant requested because he does not hold office in the afternoon. Capt. Antonio offered their services and their jeep to get the seal of the court at respondent's office, but respondent refused the offer, stating that his clerk was no longer in the court and that he himself does not hold office in the afternoon.

The principal fact that respondent refused to issue the search warrant is not denied or disputed. To justify, however, his action, respondent maintains:

That it was almost dusk when the constabulary officers sought the issuance of the search warrant and it was therefore inconvenient for him to go to his office in the town hall to conduct the examination of the witnesses;

That it is not true that the officers, Col. Tecson and Capt. Antonio, offered to accompany him in their jeep, but this notwithstanding, he would have declined such offer because he does not want to receive services from party litigants;

That he is a sickly man, suffering from high blood pressure, and on that particular