

[ADMINISTRATIVE ORDER NO. 71, November 01, 1954]

REMOVING DAMIANO B. VILLALBA AS CHIEF OF THE FIRE DEPARTMENT OF BUTUAN CITY, FOR PARTISAN POLITICAL ACTIVITY.

This is an administrative case against Damiano B. Villalba, Chief of the Fire Department of Butuan City, for alleged partisan political activity on five counts, namely, (1) attempting to persuade one Faustino Indoy, his "compadre" to join the Liberal Party; (2) posting Liberal Party election propaganda; (3) uttering sarcastic remarks derogatory and offensive to the NP congressional candidate but in favor of the LP congressional candidate; (4) entering the polling places of precincts Nos. 41 and 41-A in the morning of the day of the election, with Liberal Party sample ballots, for the purpose of electioneering; and (5) attending an LP caucus at the barrio of Lemon, Butuan City on August 28, 1953.

The above charges were investigated by a special investigator of this Office, who found the respondent guilty of counts (1), (3) and (4), and recommended his dismissal from office therefor.

The records of the case do not disclose sufficient evidence to sustain counts (2) and (5).

With respect to count (1), the preponderance of the evidence shows that on November 9, 1951, the respondent visited his compadre, Faustino Indoy in the latter's house in barrio Sumilihon, Butuan City, and tried to sway him to join the Liberal Party. As correctly observed by the investigator, "the mere denial on the part of the respondent that he had gone to Sumilihon on the eve of the election cannot offset the positive evidence afforded by Faustino Indoy". Positive evidence has more weight than negative evidence. The respondent is found guilty of this count.

Regarding count (3), it is established by the evidence that at about 4:30 o'clock in the afternoon of November 9, 1953, the respondent was in front of the toll house at barrio Sumilihon, and in a conversation with one Eulogio Garcia, told the latter the following: "I thought you said that Moling (referring to NP Candidate Sanchez) can roll down Cacoy (LP Candidate Calo) with one log. As it is now it turned out that he does not have money and probably he will be rolled down by Cacoy", and that the respondent at that time had his pockets full of sample ballots of the Liberal Party. He is likewise guilty of this count.

With respect to count (4), the evidence clearly shows that on election day (November 10, 1953) respondent was inside the polling places of precincts nos. 41 and 41-A both situated in the Sumilihon barrio school house from 10:00 o'clock a.m. to 3:00 o'clock p.m. with sample ballots of the Liberal Party. I am not impressed with the claim of the respondent that he was in Sumilihon on the day of the election to visit his farm, it appearing that it was not corroborated by any other witness. If