

[ADMINISTRATIVE ORDER NO. 236, December 23, 1953]

REMOVING MR. GREGORIO BENEDICTO FROM OFFICE AS JUSTICE OF THE PEACE OF MOLAVE, ZAMBOANGA DEL SUR

This is an administrative case against Mr. Gregorio Benedicto, Justice of the Peace of Molave, Zamboanga del Sur, who is charged, among other things, with abuse of authority and falsification.

It appears duly established in the investigation conducted by the District Judge that on July 11, 1950, respondent subpoenaed Roberta Macareal and four others to appear and testify before him on July 20, 1950, at 9 a.m. in civil case No. 33 allegedly filed against them by Praxedes Villanueva, respondent's wife. Similar subpoenas were addressed by respondent to thirteen other persons in three other civil cases (Nos. 34, 35 and 36) supposedly instituted against them by respondent's wife, commanding the various defendants to appear and testify before him on July 21, 22 and 24, 1950, respectively. The truth of the matter, however, is that no civil action was ever filed by respondent's wife against the supposed defendants.

From the evidence of record it can be gleaned that the respondent issued those subpoenas, obviously at the instance of his wife, in order to bring to court the defendants for the sole purpose of warning them that they were courting trouble should they persist in occupying portions of the public land leased by his wife as pasture land. He has therefore allowed himself and his office to be the instrument of his wife in the settlement of her personal problems; and the irregularity committed is aggravated by the fact that he made it appear in the subpoenas issued by him that there were civil actions filed by his wife against those to whom they were directed when he knew there were no such cases.

In a vain attempt to exculpate himself, the respondent declared that the subpoenas in question were prepared by his clerk who, having misunderstood his instructions, indicated therein that the persons to whom they were directed were defendants in the civil suits filed by his wife. Respondent's explanation cannot be accepted. He cannot feign ignorance of the contents of the subpoenas because even if it were true that they were prepared by his clerk, the fact remains that he signed the same. Moreover, he could not have failed to notice the titles of the civil cases which appear clearly on the face of the subpoenas.

From the foregoing, it is clear that the respondent is guilty of the charge specified above. For the irregularity committed, the District Judge recommends that he be transferred to another municipality. In making this recommendation the Judge must have taken into consideration the fact that this is the first irregularity committed by the respondent and that the defendants were not actually prejudiced by his action, his purpose in calling them to his court being merely to advise them to leave the properties they were occupying as they were within the area leased by his wife. The