

[ADMINISTRATIVE ORDER NO. 52, April 21, 1948]

**DISMISSING MR. ANIANO RUSIANA FROM THE SERVICE AS
JUSTICE OF THE PEACE OF SANTA FE, BANTAYAN AND
MADRIDEJOS, PROVINCE OF CEBU**

This is an administrative case against Mr. Aniano Rusiana, justice of the peace of Santa Fe, Bantayan and Madridejos, Province of Cebu, who stands charged with (1) grave abuse of authority for having ordered the tying of two brothers, Matias and Filomeno Escana, to a coconut tree when they objected to the partition among their three sisters—Dolores, Julia and Atina—of a real property left by their parents and (2) serious misconduct in connection with a criminal complaint for theft of coconuts filed against Matias Escana by his sisters, Dolores and Julia.

With respect to the first charge, it appears that on December 18, 1946, the respondent, upon request of the above-named sisters, went to barrio Maigad, Bantayan, accompanied by Policemen Macario Dawa and Pedring Villena, to effect the partition of a parcel of land planted with coconuts among the three sisters. When the land was being divided under respondent's supervision, Filomeno and Matias Escana, brothers of the three sisters, voiced their opposition, alleging that inasmuch as the land belonged to their deceased parents, they (Matias and Filomeno) were also entitled to a share therein. Because of the brothers' protestations, the respondent immediately ordered the two policemen to tie them to a coconut tree, which order was promptly carried out. Filomeno declared that he and his brother (Matias) were tied from 1:00 to 3:00 o'clock in the afternoon of December 18, 1946, while Matias and one Julia Tumulak stated that they (the two brothers) were tied from 11:00 a.m. to 3:00 p.m.

The respondent admitted that the two brothers had been tied to a coconut tree upon his orders but claimed that they were tied for about five to ten minutes only. Explaining his action, he stated that when the partition was going on, the two brothers showed a belligerent attitude, although he admitted that they were not armed; and that upon noticing that they were repentant shortly after they had been tied, he ordered their release.

After a careful perusal of the evidence of record, I am convinced that the two brothers were tied from two to four hours, instead of only about five to ten minutes. But even if they were tied from five to ten minutes only, this fact would not mitigate respondent's responsibility. The gravity of the offense is not gauged by the length of time his victims had suffered. What is of moment is that, with grave abuse of his official position and with the aid of two peace officers, respondent committed an act which contravenes the constitutional guaranty against the deprivation of one's liberty without due process of law.

As regards the second charge, the record shows that on February 20, 1947, Dolores