

MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 52

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 and Julia Escana filed with the respondent a criminal complaint against their brother, Matias, for theft of coconuts. Although respondent knew that the coconuts allegedly stolen were gathered from the land, of which the accused rightfully claims to be one of the co-owners, he immediately gave due course to the complaint and issued a warrant for the arrest of the accused. Arrested on February 23, 1947, the accused filed a bond for his temporary release with the Municipal Mayor of Bantayan on February 28, the respondent being then absent. On March 29, 1947, the respondent disapproved the bond and again ordered the arrest of the accused. In view of respondent's absence from the municipality, the Mayor for the second time accepted the bond of the accused, but when the respondent returned to office on April 2, 1947, he again disapproved the bond and for the third time ordered the arrest of the accused. However, the accused could not be arrested because he went to file his bond in the Court of First Instance of the City of Cebu. Parenthetically, it may be stated that when the case was called for hearing in the Court of First Instance, the Fiscal moved for dismissal for lack of evidence, which motion was readily granted by the court.

Attempting to justify his actuations in the case, the respondent stated that he accepted the criminal complaint against Matias Escana because he was of the opinion that

there was probable cause; that he issued the second warrant of arrest against the accused because the bail bond which, according to his information, was accepted by the Mayor was not attached to the record; and that he issued the third warrant of arrest because the bond filed with the Mayor under the second warrant was defective for not containing a description of the property offered as bond.

Respondent's conduct in readily accepting the complaint for theft filed against Matias Escana by his two sisters and ordering his arrest no less than three times shows that he was bent on persecuting the accused because he and his brother had expressed their opposition to the unjust partition by respondent of the land left by their parents. The respondent undoubtedly knew, or should have known, that Matias Escana, having a legitimate claim as co-owner over the property in question, may not be held guilty of theft for gathering coconuts therefrom. Likewise, the mere fact that the first bail bond was not attached to the record of the case was no justification for ordering the re-arrest of the accused, inasmuch as respondent had information to the effect that the accused had filed one before the Mayor. The defect in the second bail bond that it did not contain a description of the real property mentioned therein could have been cured without the necessity of again placing the accused under custody.

The actuations of respondent recited above render him totally unfit to be a member of the judiciary. Wherefore, he is hereby dismissed from the service as justice of the peace of Santa Fe, Bantayan and Madrideojos, Province of Cebu, effective on the date of his suspension.

Done in the City of Manila, this 21st day of April, in the year of Our Lord, nineteen hundred and forty-eight, and of the Independence of the Philippines, the second.

ELPIDIO QUIRINO

President of the Philippines

By the President:

EMILIO ABELLO

Executive Secretary