

MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 176

REMOVING MR. MARCIAL L. AGUIRRE FROM
OFFICE AS ASSISTANT PROVINCIAL FISCAL
OF NEGROS OCCIDENTAL.

This is an administrative case against Assistant Provincial Fiscal Marcial L. Aguirre of Negros Occidental filed by one Mrs. Felisa D. de Rosado charging him with conduct unbecoming a public officer for having allegedly committed coercion, grave threats, etc. The charges were investigated by a special committee appointed by the Solicitor General, and the respondent was given full opportunity to present his side of the case. An examination of the evidence adduced by the parties shows the following facts to have been duly established:

Sometime in 1947 the respondent filed two war damage claims, one for the complainant, Mrs. Felisa D. de Rosado, and another for her husband, Dr. Felipe Rosado. Of her claim for P85,666.02 the War Damage Commission approved only P27,758.72 for which a check in the sum of P9,021.60 covering the initial payment of the approved claim was issued in her favor. Respondent demanded the immediate payment of five per cent of the amount of the approved claim plus the legal fees of P2,100 previously agreed upon by them. The complainant and her husband were, however, willing to pay only five per cent of the amount of the check and the balance upon receipt of the last payment from the War Damage Commission. Dr. Rosado even proposed that the matter of respondent's fees be referred to the Commission for decision. The couple's refusal to pay the amount demanded by the respondent and Dr. Rosado's proposal to refer the matter to the Commission aroused the ire of the respondent who immediately demanded the production of the check. Upon getting hold of the check, respondent cut it into two, took one-half thereof and gave the other half to Dr. Rosado, saying, "This is yours and this is mine; let us see if you can cash it." Shortly after, and in the heat of his anger respondent drew his pistol, cocked it and pointed it to Dr. Rosado, at the same time uttering the following threatening words, "If you will not give what amount I am asking now, I will gamble my life with you," to which Dr. Rosado replied, "We are not quarrelling; we will pay according to law." Thereafter respondent put down his revolver and went towards the balcony.

From the foregoing recital, there can be no doubt that the respondent is guilty of conduct unbecoming a public officer. It is regrettable that one in his high position, who is reasonably to be expected to exercise self-control even under trying conditions, should be the first one to

lose his equanimity and composure at the slightest provocation and take the law into his own hands. He knew there were courts of justice to which he could apply for redress of any wrong or injury he believed might have been committed against him. As it is, a private citizen appears to have more respect for the law than the respondent who is one of the law officers of the Government.

The report of the Investigating Committee contains the following statement: "He (respondent) admitted and even insisted before this Committee that he should be entitled to professional fees and other expenses in the total sum of ₱2,100 in addition of the 5 per cent claimed by him." Section 108 of U. S. Public Law No. 370, otherwise known as the Rehabilitation Act of the Philippines, or the War Damage Law, prohibits the payment of remuneration for services rendered in connection with any claim for compensation under the law at more than 5 per cent of the compensation paid, and prescribes a penalty of not more than \$5,000, or imprisonment of not more than twelve months, or both, for the violation of this section. The respondent, as a prosecuting official of the Province of Negros Occidental, in insisting as the Committee has stated in its report that he is entitled "to professional fees and other expenses in the total sum of ₱2,100 in addition to the 5 per cent claimed by him" did not only express determination to violate the law but also to collect professional fees when he is not authorized to practice law while in office. The spirit of the law is to limit the remuneration to 5 per cent so as to permit the war sufferer to receive greater compensation for war damages. The record shows that the respondent exhibited an unedifying and highly contemptible spirit by resorting to coercion to collect, not 5 per cent as permitted by the law, which in this case would only be ₱451.08 on the basis of the ₱9,021.60 involved in the check in question, but ₱2,551.08 or 28 per cent—thus unfairly and illegally helping himself instead or helping the war sufferers whom as a public official he has a sworn duty to assist and protect. By his acts, he has rendered himself totally unfit to remain in the public service, especially in his position of public prosecutor.

Wherefore, Mr. Marcial L. Aguirre is hereby removed from office as assistant provincial fiscal of Negros Occidental effective upon receipt of notice hereof.

Done in the City of Manila, this 14th day of December, in the year of our Lord, nineteen hundred and fifty-one, and of the Independence of the Philippines, the sixth.

ELPIDIO QUIRINO

President of the Philippines

By the President:

MARCIANO ROQUE

Acting Assistant Executive Secretary