Malacañang
Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 361

CONSIDERING MR. MELECIO E. BOÑGOLAN RESIGNED FROM OFFICE AS JUSTICE OF THE PEACE OF URDANETA, PANGASINAN.

This is an administrative case filed by Atty. Jose de la Cruz against Justice of the Peace Melecio E. Bonigolan of Urdaneta, Pangasinan, for oppression and abuse of authority, partiality and partisanship, gross ignorance or wilful disregard of the law, and inefficiency and dereliction of duty. The case was investigated by the district judge.

It appears that Criminal Case No. 1239 of respondent's court against Benito Castillo for qualified theft was set for hearing in the afternoon of September 26, 1957. On September 24, 1957, the trial was reset for October 1, 1957, the parties being duly notified thereof. However, in the afternoon of September 26, 1957, respondent called the case for trial and, seeing that the witnesses for the prosecution were absent, dismissed the case. Respondent tried to justify his act by the fact that the accused was under detention. But apparently realizing the patent arbitrariness of his act and to either cure it or camouflage his motive, he ordered the filing of another case against the accused for the same offense, which was, however, a futile gesture as the accused was nowhere to be located.

Respondent clearly made a mockery of justice in dismissing the case under the circumstances. Having informed the offended party that the trial would be held on October 1, 1957, instead of September 26, 1957, he should not expect the former and his witnesses to be in court on September 26, 1957. Yet the respondent, with grave abuse of authority and in utter disregard of his sworn duty to administer justice impartially, called the case for trial on said date and dismissed it when the offended party and his witnesses were, as to be expected, not present. This supports the claim that respondent hastily dismissed the case because he had the same political persuasion as counsel for the accused, Atty. Dionisio Ramirez.

In Criminal Case No. 1353, Diosdado Caoagdan was accused of less serious physical injuries upon the complaint of Florida Andaya. After the prosecution had rested its case, respondent dismissed the case upon a demurrer to the evidence by the defense. Respondent's explanation that the offended party failed to show how and by whom she was wounded is belied by the latter who recalled testifying on how she was wounded by the accused. Even the doctor who treated her injuries testified for the prosecution. It appears that the counsel for the accused in this case was the same Attorney Ramirez who represented the defendant in Criminal Case No. 1239. Respondent's conduct in this case confirms

Hon. Bonifacio, Melecio E.

the claim that dismissing a criminal case upon a demurrer to the evidence is a practice conveniently adopted by the respondent in cases where the accused himself or his counsel has found favor in his eyes. The case being criminal, review of his actuations by a higher court is barred by the law on double jeopardy.

Criminal Case No. 1118 against Eusebio Bernales was originally for less serious physical injuries. The accused pleaded not guilty upon arraignment but when the case was called for trial the Assistant Provincial Fiscal begged leave to amend the complaint to serious physical injuries, which was opposed by the defense. At that stage respondent motu propria dismissed the case and ordered the filing of a new one charging the accused with serious physical injuries, which was done. Whereupon the defense filed a motion to quash on the ground of double jeopardy. The motion having been denied by the respondent, the matter was elevated by certiorari to the Court of First Instance of Pangasinan which finally dismissed the case on the ground that the new complaint would place the accused in double jeopardy. Bernales thus escaped prosecution by reason of a technicality.

There is no question that respondent either feigned ignorance of the law on double jeopardy in order to favor the accused or was really ignorant of the same, thus lending himself as an instrument for a gross miscarriage of justice. Granting, as he claims, that the prosecution would not proceed unless the complaint was amended and that the defense had opposed such amendment, respondent ought to know that dismissal of a criminal case after arraignment without the express consent of the accused would bar the latter's prosecution for the same or identical offense under the principle of double jeopardy.

Regarding Criminal Case No. 1060 for slight physical injuries, it appears that respondent allowed the case to drag on for nearly two years until he inhibited himself upon the institution of this administrative proceeding. The unusual delay was due to no less than twenty postponements, clearly attesting to respondent's inefficiency. In Civil Case No. 193 the hearing thereof scheduled on January 28, 1958, was postponed by respondent to August 29, 1958, a period of seven months. His conduct could not even approximate substantial compliance with the mandate of Section 9 of Rule 4 of the Rules of Court that inferior courts "shall not have power to adjourn hearing for a longer period than five days for each adjournment, nor for more than fifteen days in all."

Upon a general evaluation of the various acts committed by the respondent, ranging from abuse of authority, partiality and gross ignorance of the law to rank inefficiency, I cannot reconcile

myself to allowing him to continue in office.

Wherefore, and upon the recommendation of the Secretary of Justice and the district judge, Mr. Melecio E. Boñgolan is hereby considered resigned from office as justice of the peace of Urdaneta, Pangasinan, effective on receipt of a copy of this order.

Done in the City of Manila, this 31st day of July, in the year of Our Lord, nineteen hundred and sixty-one, and of the Independence of the Philippines, the sixteenth.

Carlos P. Garcia

By the President:

Natalio P. Castillo

NATALIO P. CASTILLO
Executive Secretary