

MALACAÑANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 183

SUSPENDING MR. GODOFREDO O. TIONG FROM OFFICE AS MUNICIPAL JUDGE
OF POZORRUBIO, PANGASINAN.

This is an administrative case against Municipal Judge Godofredo O. Tiong of Pozorrubio, Pangasinan, for gross negligence in the performance of his duties.

The records show that in Criminal Case No. 393 of respondent's court complainant was accused of violation of Section 67 (H) of the Motor Vehicle Law (driving without license); that upon a plea of guilty, he was sentenced to pay a fine of P100 and in case of insolvency to suffer subsidiary imprisonment of one month and ten days; that upon his failure to pay the fine, respondent ordered his rearrest for service of sentence in the provincial jail; that respondent entrusted the preparation of the commitment order to his clerk who, after preparing it, gave the same to respondent who signed it; that the clerk delivered the commitment order, including other pertinent papers, placed in an envelope, to the chief of police who, in turn, handed them to a policeman with instructions to bring the accused with the pertinent papers to the provincial jail; and that complainant commenced serving his sentence in the provincial jail on August 7, 1956, and was released only on October 15, 1956.

It also appears that in the preparation of the commitment order, the blanks corresponding to the principal penalty of imprisonment were the ones filled up instead of those for the fine and subsidiary imprisonment therein. Respondent failed to fill out the form for the receipt of the prisoner to be signed by the provincial warden and to obtain the prompt return of the receipt as filled out and signed by the warden.

In his defense, respondent maintains that after affording complainant the opportunity to raise money for the fine imposed, he fixed the complainant's subsidiary imprisonment of one month and ten days in his order of June 21, 1956, pursuant to which his commitment order stated only that the accused was sentenced to the aforesaid imprisonment. He further maintains that the commitment order was altered by the filling up of the blanks for subsidiary imprisonment therein.

Respondent's explanation is untenable.

Under the Revised Penal Code (Arts. 9 and 39) the subsidiary imprisonment for a light offense like that calling for a fine of ₱100 is merely 15 days. Respondent, in imposing a subsidiary imprisonment term of one month and ten days on complainant was therefore grossly negligent, which resulted in the unnecessary deprivation of complainant's liberty for a period of 25 days.

Respondent was negligent in the preparation of the commitment order when he filled the blanks in the official form corresponding to the principal penalty of imprisonment instead of the blanks for the fine and imprisonment. Thus, instead of complainant serving subsidiary imprisonment for one month and ten days as intended by respondent, what now appears in the commitment order is for complainant to serve a prison term of one month and one day and to pay a fine of ₱100.00, and in case of insolvency to suffer subsidiary imprisonment for a period of one month and ten days. Had respondent been more careful and diligent in the performance of his functions, this error or alteration could not have occurred.

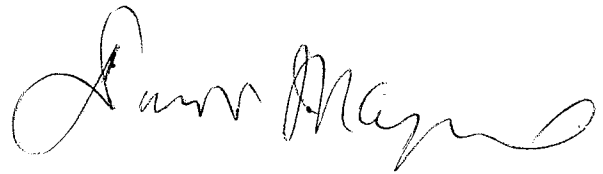
Respondent neglected to fill out the form for the receipt of the prisoner to be signed by the provincial warden as part of the official commitment order form. He was duty bound to prepare the receipt so as to insure its being made out in the same terms as the commitment order and thus constitute the official proof that the prisoner was placed in custody in accordance with such order.

Finally, respondent failed to obtain the prompt return of the receipt of prisoner as filled out and signed by the provincial warden. It was his bounden duty to have the receipt returned to him at the earliest possible opportunity to serve as evidence that the commitment is in order. Had respondent been more careful in this regard, he might have noticed and corrected the error in his commitment order and thus saved complainant from being unnecessarily deprived of his liberty.

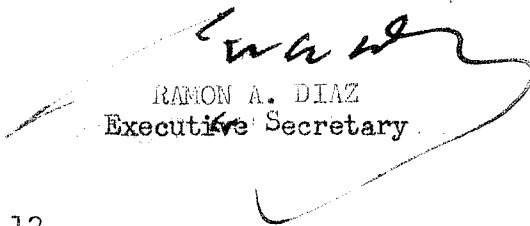
In view of the foregoing, I find respondent guilty of gross negligence in the performance of his duties. Considering that this is his first administrative case and there was no bad faith in his actuations, he may be accorded some leniency.

WHEREFORE, the respondent is hereby suspended from office for three (3) months without pay; admonished, and warned that repetition of the same or similar offense will be dealt with more severely.

Done in the City of Manila, this 29th day of December , in the year of our Lord nineteen hundred and sixty-five.



By the President:



RAMON A. DIAZ
Executive Secretary