

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 176

SUSPENDING MR. JUAN SALAZAR FROM OFFICE AS PROVINCIAL FISCAL  
OF THE PROVINCE OF LAGUNA.

This is an administrative case against Provincial Fiscal Juan Salazar of Laguna who, together with then Third Assistant Provincial Fiscal Eliezer Tengco, was charged with dishonesty, misconduct in office and neglect of duty. The charges were investigated by a special panel created by the Secretary of Justice and composed of the City Fiscals of Baguio and Cabanatuan and the Provincial Fiscal of Bukidnon. Fiscal Tengco having been ordered removed from office in Administrative Order No. 26 dated November 11, 1966, this decision shall be limited to the case against Provincial Fiscal Salazar, who shall be referred to hereafter as the respondent.

The following facts appear duly established:

On February 23, 1964, at Famy, Laguna, untaxed "Union" cigarettes were confiscated by the Philippine Constabulary. An inventory on the same date, with Tengco as one of the witnesses, was taken wherein it was certified that the catch comprised of 192 cases of genuine blue seal cigarettes (Exh. A). The following day Tengco, having finished the preliminary investigation, filed the criminal information (Exh. T). The cigarettes were then transferred to the BIR Regional Office at San Pablo City, with the BIR administrative officer issuing a receipt therefor stating that the items were genuine blue seal cigarettes (Exh. C).

Upon request of respondent, the BIR on March 25, 1964, transferred the goods to the office of the provincial fiscal of Sta. Cruz, Laguna, ostensibly for the purpose of presenting the same as evidence in the reinvestigation of the case. Reynaldo Cambel, administrative officer of the Provincial Fiscal's Office, was authorized by respondent to take possession of the same. On the way to Sta. Cruz, at Magdalena, Cambel, upon prior instigation of the alleged smuggler, Luis Barcelona, together with 18 other persons including members of the police force of San Pablo City, effected a switch, wherein 142 cases of the genuine cigarettes were changed with similar cases containing rice bran or chaff (Exh. II, sworn statement of Cambel). About midnight of April 12, 1964, Cambel effected a second swap in the courthouse at Sta. Cruz

where he got 34 cases. This incident was witnessed by the guards and reported to the deputy clerk of court. On the same day, Cambel approached Tengco and confessed the whole affair. Cambel and Tengco then proceeded to Manila to report the matter to respondent.

The reinvestigation of the case against the possessors of the cigarettes by Tengco, although postponed for several times, finally took place on May 5, 1964, and when a second inventory of the cigarettes was taken, it was found out that of the original 9,600 cartons contained in 192 cases only 2,000 cartons distributed among 192 cases were left. The resolution and the amended information (reducing the quantity of the cigarettes from 9,600 to 2,000 cartons and the corresponding value thereof from ₱50,688 to ₱10,500) were then prepared and signed by Tengco and respondent.

From the above facts, grave doubts are entertained as to whether the respondent had prior knowledge and involvement in the substitution and pilferage of the cigarettes. The incriminating statements against him were mere affidavits, without the affiants having been presented as witnesses. Being hearsay, the same cannot be considered by themselves. Hearsay evidence may be considered in an administrative hearing if it corroborates other competent evidence or if supported by other evidence of recognized probative value (Lambing vs. Consolidated Coal Co., 54 Atl. [2d], 291 Pa. 1947).

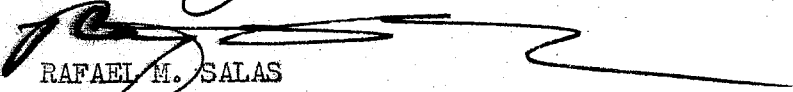
While respondent may not have had prior knowledge of any plan to substitute or pilfer the cigarettes, there is proof tending to show that after having learned of the substitution at Magdalena and subsequently at the courthouse, respondent not only failed to discharge his duty as prosecuting officer but performed acts tending to conceal the crime committed, which was intimately related to a more heinous offense - smuggling - against which the government has poured unremitting efforts to effectively minimize if not entirely eradicated because of its pernicious effects on the national economy.

In view of the foregoing, I find respondent guilty of neglect of duty. It appears, however, that respondent Salazar was new in the position of provincial fiscal and a stranger in the place. He evidently tried to please everyone and was not in a moral position to influence Tengco and Cambel, his subordinates, who had known each other for quite a long time and both of whom come from Laguna.

Wherefore, respondent Juan Salazar is hereby suspended from office as Provincial Fiscal of Laguna for a period of three (3) months without pay, with a stern admonition and warning that repetition of the same or similar offense will be dealt with more severely.

Done in the City of Manila, this 15th day of July, in the year of Our Lord, nineteen hundred and sixty-nine.

By the President:



RAFAEL M. SALAS  
Executive Secretary