

MALACAÑAN PALACE

MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 257

REMOVING MR. SALVADOR GAYAO FROM OFFICE  
AS JUSTICE OF THE PEACE OF MANABO,  
BOLINEY AND DANAC, ABRA.

This is an administrative case against Justice of the Peace Salvador Gayao of Manabo, Boliney and Danac, Abra, for partiality and abuse of authority in connection with criminal cases Nos. 61, 62 and 63 filed with this court of Manabo.

1. *Criminal case No. 61.* It appears that on June 20, 1952, complainant Juan Bernales filed criminal case No. 61 for grave threats against Vice-Mayor Manuel Cacho of Manabo, Chief of Police Bayed Progreso, Councilor Sumalog Lucnagan and several others. Before the actual filing of the case, however, or on June 14, 1952, respondent, upon being apprised of Bernales' desire to prosecute Vice-Mayor Cacho and companions, took the testimony of Bernales and his wife and daughter. At the same time he summoned all the prospective accused and their witnesses to appear before him on June 19, 1952, and instructed one Sergeant Lara of the Constabulary to get complete copies of the affidavits of all the persons concerned to determine the party that should file a complaint. On June 19, 1952, respondent again took the declarations of the Bernales family as well as those of the prospective accused and their witnesses.

As above stated, it was only on June 20, 1952, that Bernales actually filed the criminal complaint for grave threats against Vice-Mayor Cacho and others. Without conducting any investigation thereafter to determine the existence of probable cause as required by the Rules of

Court, respondent in a lengthy order, dated June 28, 1952, rejected the complaint for lack of merit. However, the reasons given by him for so doing are legally untenable, not to say flimsy. For instance, it is of no moment that the criminal complaint alleged the crime of grave threats while in the administrative complaint filed by the complainant with the provincial governor Vice-Mayor Cacho and his companions were denounced for theft or robbery, inasmuch as the gist of both accusations is essentially the same. It is elementary that what controls is not the designation of the offense but the allegations in the body of the complaint. Similarly, it is immaterial in grave threats that complainant Bernales was not the owner of the two wooden posts which gave rise to the incident resulting in the filing of the criminal action.

2. *Criminal case No. 62.* On the same day that Juan Bernales, complainant herein, instituted criminal case No. 61 against Vice-Mayor Cacho, Councilor Lucnagan, Chief of Police Progreso and others, the said Chief of police, with the councilor as supposed offended party, filed in respondent's court criminal case No. 62 for libel against Juan Bernales, his wife and his twelve-year-old daughter based on their sworn statements given before the respondent on June 14 and 19, 1952, wherein they narrated the incident leading to the filing of criminal case No. 61. Although the complaint on its face was fatally defective for not satisfying three of the four essential elements of the offense, which should have prompted the respondent not to give due course to it, yet he ordered the arrest of the defendants without giving them an opportunity to present their side, unlike in the case against the councilor and others who were afforded every opportunity to do so even before the complaint against them had been actually filed.

On the contrary, he committed further acts of abuse of authority even after he had ordered their arrest. Thus, it has been established that he tried to discourage the bondsmen of the accused by exaggerating their liability as such; that, taking advantage of the entreaties of Bernales' wife that she and her daughter be released (Bernales was arrested later for having been out of town), respondent tried to convince her that she and her husband should first desist from pressing their complaint against Vice-Mayor Cacho and others before he consider her pleas; and that although the bonds for mother and daughter were duly approved by the respondent on July 3, 1952, he ordered their release only on July 9, 1952, thereby unjustly depriving them of their liberty for six days.

3. *Criminal case No. 63.* Following the rejection by respondent of criminal case No. 61 against Vice-Mayor Cacho

et al., said Cacho and chief of Police Progreso instituted criminal case No. 63 for malicious prosecution against Juan Bernales and his wife and daughter. Although respondent himself greatly doubted the existence of a crime called "malicious prosecution" as admitted by him in his letter to the District Judge dated August 12, 1952, yet he did not dismiss the case but allowed it to remain in the docket for an indefinite period.

The District Judge who investigated the charges against the respondent has expressed the view that the irregularities committed by the latter in these three cases were not due to his ignorance but to a desire to retaliate against complainant Bernales for stating in his letter-complaint to the governor against the aforesaid local official of Manabo that he could not expect justice from the respondent were he to file his complaint direct with him because respondent and the mayor belonged to the same group. The Judge is likewise of the view that respondent's actuations were also influenced by his relationship to Councilor Lucnagan, one of the accused in criminal case No. 61, whom he admitted to be related to his wife.

The Acting Secretary of Justice fully agrees, and so do I, with the District Judge. It has been amply shown that from the very beginning the respondent was bent on favoring Vice-Mayor Cacho and his companions in their determination to harass the Bernales family who had the temerity to file administrative and criminal charges against them. The irregularities perpetrated by the respondent contravene elementary provisions of law and procedure, and only a justice of the peace with ulterior motives could have acted as he did. As a matter of fact, the respondent did not even plead good faith in his defense but insisted on justifying his perverted actuations.

In view of the seriousness of the irregularities committed by the respondent, I am constrained to take drastic action against him. Wherefore, and upon the recommendation of the Acting Secretary of Justice, Mr. Salvador Gayao is hereby removed from service, effective as of the date of his suspension.

Done in the City of Manila, this 28th day of December, in the year of Our Lord, nineteen hundred and fifty-three, and of the Independence of the Philippines, the eighth.

ELPIDIO QUIRINO

*President of the Philippines*

By the President:

MARCIANO ROQUE

*Acting Executive Secretary*