

MALACAÑANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 291

CONSIDERING MESSRS. VICENTE B. CUSTODIO AND ELIAS F. REYES AS HAVING RESIGNED FROM OFFICE AS JUSTICES OF THE PEACE OF SANTA AND NARVACAN, ILOCOS SUR, RESPECTIVELY.

This refers to the administrative cases against Messrs. Vicente B. Custodio and Elias F. Reyes, justices of the peace of Santa and Narvacan, Ilocos Sur, respectively, which arose from an anonymous complaint that Jose Bueno, a national prisoner then serving sentence in the national penitentiary at Muntinlupa, Rizal, was allegedly allowed to stay in the municipal jail of Santa, Ilocos Sur, for two months to await the preliminary investigation of a fabricated criminal complaint before the justice of the peace court of said municipality. A special attorney of the Department of Justice conducted a fact-finding investigation which led to the filing of formal charges against Mr. Custodio for neglect of duty and violation of the Rules of Court in continuously postponing the hearing of the slander case against Jose Bueno when he should have immediately inhibited himself because of his relationship to the accused who is his brother-in-law, and against Mr. Reyes for, among others, grave abuse of authority in issuing an illegal order for the confinement of Jose Bueno, a national prisoner, in the municipal jail of Santa, Ilocos Sur, and keeping him there for two months.

The charges were investigated by the District Judge of Ilocos Sur in which respondents did not present any evidence on their behalf but relied solely on their answers and the records of Criminal Case No. 232 of the justice of the peace court of Santa and Criminal Case No. 1181 of the Court of First Instance of Ilocos Sur for their defense.

The undisputed facts are as follows:

Jose Bueno, a brother-in-law of respondent Custodio, was convicted by the Court of First Instance of Ilocos Sur of rape on February 4, 1950, and was sentenced to imprisonment of from 12 years and 1 day to 20 years. This decision was affirmed by the Court of Appeals on September 25, 1953. While the above case was pending, Bueno was again accused of the crime of attempted rape in Criminal Case No. 1181 of the same court.

Before Bueno started serving his sentence on March 15, 1954, a criminal case for grave slander by deed was presented against him in the justice of the peace court of Santa (Crim. Case No. 232) on January 12, 1954. Respondent Custodio accepted the complaint and issued a warrant.

of arrest for the accused. The following day he accepted and approved the bond for the provisional release of the accused which he had fixed at \$600. Thereafter and up to January 24, 1956, Custodio did nothing on the case.

On October 19, 1956, the Court of First Instance of Ilocos Sur ordered Bueno brought from Muntinlupa to Vigan for trial in Criminal Case No. 1181. When the case was called on November 23, 1956, it was provisionally dismissed because of the unavailability of the complainant and her witnesses. The next day respondent Custodio called Criminal Case No. 232 for trial, and Bueno pleaded not guilty and announced his intention to present witnesses on his behalf. Respondent Custodio set the case for hearing on December 3, 21 and 27, 1956, and January 26, 1957, but the records do not show what transpired on those dates.

On January 26, 1957, or more than three years from the filing of the complaint in Criminal Case No. 232, respondent Custodio inhibited himself from the case on the ground of his relationship to the accused and requested the designation of the nearest justice of the peace to hear the same. Thereupon the District Judge directed respondent Reyes to take over the case.

On February 5, 1957, acting on the motion of Bueno's counsel, respondent Reyes ordered the confinement of Bueno in the municipal jail of Santa, Ilocos Sur, during the pendency of his criminal case. Bueno, an insular prisoner, remained there from February 5 to April 4, 1957, when respondent Reyes ordered his return to Muntinlupa. During that period respondent Reyes granted several postponements of the hearing of the case, all upon the request of the accused.

Finally, on May 7, 1957, this respondent forwarded the record of Criminal Case No. 232 to the Court of First Instance of Ilocos Sur which dismissed the same on motion of the provincial fiscal for, among other grounds, lack of interest of the offended party.

Respondent Custodio alleges that he did not inhibit himself immediately because the accused might waive his right to a preliminary investigation, and he could remand the case right away to the Court of First Instance. His allegation is untenable. It appears that on November 24, 1956, Bueno, his brother-in-law, entered a plea of not guilty and announced his intention to testify on his behalf and to present witnesses for his defense. Yet respondent did not inhibit himself but, on the contrary, set the case for hearing on December 3, 21 and 27, 1956, and January 26, 1957. Notwithstanding the clear injunction of the Rules of Court, it took him more than three years to disqualify himself. In the meantime he sat on the case, fixed the amount of bail and granted numerous postponements.

It is significant to note that in the motion of Bueno's counsel dated February 4, 1957, it was prayed that the accused be "ordered confined either at the place where he is still confined at the Stockade, PC Hq Tamag, Vigan, Ilocos Sur, or at the Municipal Jail at Santa, Ilocos Sur, or at any other place allowed by law where his safety is secure." Strangely, respondent chose to have the accused confined at Santa, Ilocos Sur, which choice he immediately effected through the issuance of his illicit order. Thereafter, he sat on the case against Bueno for two months by granting three postponements all upon the request of the accused. I am thus inclined to believe that respondent Reyes, with grave abuse of authority, adopted this course of action for no other purpose than to enable the prisoner, a brother-in-law of his fellow justice of the peace, to enjoy a prolonged stay in his home town of Santa, Ilocos Sur.

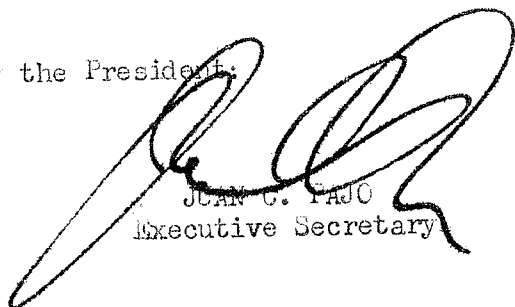
The District Judge recommended that the respondents be suspended from office for one month. However, the then Secretary of Justice believed that the seriousness of the irregularities committed warranted their complete separation from the service. After considering the matter carefully, I believe that the judge's recommendation is rather too lenient and that of the former Secretary somewhat severe, involving as it does forfeiture of benefits for service in the Government. A course somewhere in the middle is believed appropriate in the premises.

WHEREFORE, Messrs. Vicente B. Custodio and Elias F. Reyes are hereby considered as having resigned from office as justices of the peace of Santa and Narvacan, Ilocos Sur, respectively, effective upon receipt of a copy of this order, without prejudice to receiving such retirement and/or other benefits as they may be entitled to under the law.

Done in the City of Manila, this 11th day of February, , in the year of Our Lord, nineteen hundred and fifty-nine, and of the Independence of the Philippines, the thirteenth.



By the President:



JUAN C. PAJO
Executive Secretary