

MALACAÑANG  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 18

REMOVING MR. GEMINIANO G. BELOSO FROM OFFICE AS FIRST  
ASSISTANT PROVINCIAL FISCAL OF BATANGAS.

This is an administrative proceeding instituted by the defunct Presidential Committee on Administration Performance Efficiency (Pcape) against First Assistant Provincial Fiscal Geminiano G. Beloso of Batangas for dishonesty, abuse of authority, gross misbehavior, serious misconduct and malfeasance in office.

In the main, respondent is charged with having illegally disposed of untaxed blue seal cigarettes which were apprehended by police agencies and were under his custody as exhibits in various criminal cases being prosecuted by him in court.

From a careful review of the evidence on record, it appears that during the anti-smuggling campaign of the Philippine Constabulary command in the province of Batangas in 1962 untaxed cigarettes of various brands were turned over to the office of the Provincial Fiscal of Batangas. These cigarettes were to be used as evidence against the persons found in possession thereof in violation of Section 174 of the National Internal Revenue Code.

Lieutenant Colonel Angel Palomares, then PC provincial commander of Batangas, testified during the investigation that he turned over the apprehended or confiscated untaxed blue seal cigarettes to the Office of the Provincial Fiscal of Batangas; that respondent, at that time Acting Provincial Fiscal, was not available in his office on certain occasions when the turnover was effected, but in such instances, Sixto Casao, property clerk of the fiscal's office, received the cigarettes which were thereafter turned over to respondent.

From respondent's own testimony, the following were delivered to his office by the PC:

Aug. 27/62 - 211 cases and 34  
cartons Old Gold

Case No. 513

*Beloso*      *l*      *l*

Aug. 1/62 - 30 cartons Union	Case No. 479
Aug. 15/62 - 200 cartons Old Gold	Case No. 501
July 23/62 - 571 cartons Old Gold turned over to the BIR	Case No. 504
Aug. 30/62 - 94 cartons & 20 packages Union	Case No. 512
Sept. 10/62- 27 cases Union	Case No. 516
Sept. 7/62 - 5 cases Old Gold & 1 case Union	Case No. 508
Aug. 13/62 - 140 cartons found abandoned in BTCo. Bus No. 400	No case
Sept. about the end - 6 cases Old Gold found abandoned along the shore of Batangas Lake	No case

(Exh. 3.)

Excluding from this list the 571 cartons of Old Gold cigarettes in Case No. 504 which were turned over to the Bureau of Internal Revenue, respondent, as the fiscal handling the aforementioned anti-smuggling cases, had under his personal custody 12,564 cartons and 20 packages (or 12,566 cartons) of assorted blue seal cigarettes for which he was accountable.

On October 18, 1962, by authority of the then Secretary of Justice, a physical inventory of the blue seal cigarettes deposited in the office of the Provincial Fiscal of Batangas was conducted. The inventory report (Exh. 1), based on actual physical count, reveals that of the 231 cases of smuggled cigarettes found in respondent's office and duly examined, only 6 boxes were found with the complete contents of 50 cartons each. The rest were short in number of cartons, varying from 0 to 33. Numerous cartons were found to contain newspapers and with broken seals. The inventory report carried the observation "that a few cases had the union brand intact. However, there are slits on the sides, and the inner boxes including the plastic covers, were tampered to enable

the withdrawal therefrom of cartons of Union cigarettes."

All in all, a total of 7,146 cartons were accounted for during the inventory; and deducting these from the 12,566 cartons under respondent's accountability, there was a shortage of 5,420 cartons. Computed at a replacement value of ₱7.03 per cartons, the loss amounts to ₱38,102.60 for which respondent is liable.

Respondent sets up the defense that when the cigarettes were delivered to his office, the boxes or cartons were not opened one by one and their contents verified because the cases were closed and secured with pasted paper. This contention, however, is belied by Sixto Casao, the property clerk of respondent's office, who stated that "the contents of 211 cases were complete because they were sealed" (tsn, pp. 42 & 43, March 1, 1966). Even if respondent's claim that the cigarettes cases were not opened for a physical count were true, he would still be guilty of negligence because it was his bounden duty to verify the contents of the cases before accepting custody and personal responsibility therefor. Apparently, he was satisfied that the boxes contained the correct quantity of cigarettes, otherwise he would not have initiated criminal action against the persons in whose possession the cigarettes were found.

Respondent also poses the possibility of theft or pilferage because the wall between his office and the toilet had an opening at the top through which entry to his office and access to the cigarettes was possible. However, this contention is negated by his own testimony that there was no pilferage in his office (tsn, p. 36, Feb. 3, 1966, tsn, p. 76, Feb. 17, 1966).

A janitor also testified that respondent, on several occasions after office hours, borrowed the key to his office where the cigarettes were stored. Furthermore, a constabulary sergeant assigned on surveillance duty at the provincial capitol stated that he saw respondent and another person carrying six cases of Old Gold blue seal cigarettes from the fiscal's office which they loaded in a jeep.

The record is therefore replete with evidence pointing to respondent's guilt of misconduct in office in connection with the disappearance of confiscated blue seal cigarettes under his custody.

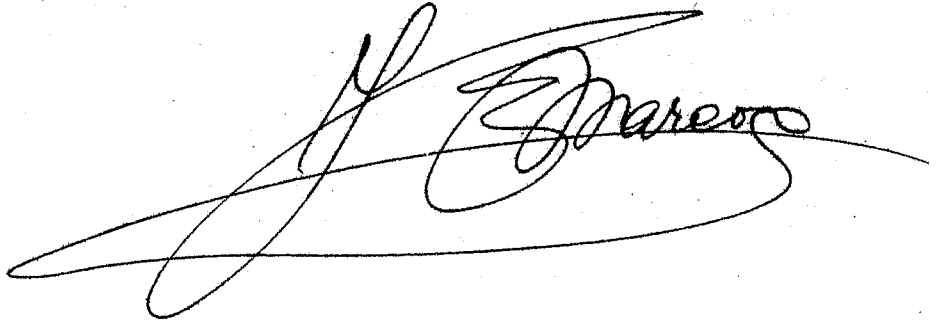
Concerning the charge of abuse of authority and malfeasance in office, it appears that respondent originally

filed Criminal Case No. 501 against one Rodolfo Magsino for violation of Article 172 of the Internal Revenue Code for possession of smuggled or untaxed cigarettes found in a vehicle Magsino was driving. Upon reinvestigation of the case, Magsino presented an affidavit to the effect that he had borrowed the car from a Chinaman named Ang Kiam Bee, and on the basis of this simple affidavit, respondent filed a motion for the dismissal of the case against Magsino and at the same time filed a criminal information against Ang Kiam Bee. After an assistant fiscal reinvestigated the matter, the case against the Chinese was dismissed and that against Magsino revived and refiled, because it was found out that the car from which the 200 cartons of cigarettes had been confiscated was owned by one Ireneo Salud who had bought it from Magsino. Because of the haste and lack of circumspection and care of respondent, a criminal case was unduly filed against an innocent person who was thereby exposed to indignities, unnecessary expenses and risk of conviction.

Upon the foregoing, respondent is found guilty of serious misconduct in office amounting to dishonesty and of gross negligence in the performance of his duty.

Wherefore, Mr. Geminiano G. Beloso is hereby removed from office as First Assistant Provincial Fiscal of Batangas, with prejudice to reinstatement, effective upon receipt of a copy of this order.

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



By the President:



RAFAEL M. SALAS  
Executive Secretary