

MALACAÑANG

MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 83

EXONERATING VICE-MAYOR MANUEL VILLANUEVA OF BACOLOD CITY

This is an administrative case against Vice-Mayor Manuel Villanueva of Bacolod City, for (1) violation of Section 53 of the Revised Election Code (carrying a pistol during the day of the voting on November 10, 1953 within thirty meters from the polling places of Precincts Nos. 65 and 65-A of Bacolod City); (2) violation of the executive order prohibiting the carrying of firearms during election; (3) illegal possession of firearm; and (4) carrying firearm without valid permit (distinct from permit to possess firearm). These charges were investigated by a special investigator of this Office.

Regarding the first charge, it appears that at about 10:30 on the morning of November 10, 1953 (election day), Sergeants Prudencio Blase and Salvador Cañada of the Philippine Constabulary confiscated from Vice-Mayor Villanueva, who was then on inspection of Precincts Nos. 65 and 65-A located at Barrio St. Niño, Bacolod City, a Colt pistol, Cal. 38, Serial No. 71372, together with the provisional permit to carry the said firearm issued on November 2, 1952 by the Chief of Police of Bacolod City. There exists a dispute as to the precise place and manner of the confiscation of the said pistol. The complainant and his witnesses claimed that Sergeants Blase and Cañada and Pfc. Enrique Rife apprehended the respondent with the pistol tucked in his waist about 4 meters away from the polling places of Precincts Nos. 65 and 65-A. On the other hand, the respondent claimed that in the course of his inspection of precincts in his capacity as acting mayor, he stopped his car at Barrio Sto. Niño at about 10:30 a.m. on November 10, 1953, at a distance of between 40 to 42 meters away from the polling places of Precincts Nos. 65 and 65-A, and that while he was standing and leaning at the car to observe the surroundings, Sgt. Cañada approached

and asked him his revolver telling him that he (Cañada) received information that he (respondent) was carrying a revolver; that the respondent, acknowledging he was carrying a revolver, ordered forthwith his driver, Patrolman Octavio to get it from the front compartment of the car; that he delivered it to Sgt. Cañada who returned the revolver to him (respondent) after seeing the provisional permit issued by the chief of police; that later on Sgt. Cañada returned telling him that he was ordered by Sgt. Blase to get back the pistol; and that he handed the pistol to Sgt. Cañada. This testimony was corroborated by Patrolman Octavio and Mr. Jaime Batapa, MPM Coordinator for Bacolod City.

The Chairmen of the Board of Election Inspectors in Precincts Nos. 65 and 65-A and the Poll Clerk in the latter precinct testified to the effect that they had not seen Vice-Mayor Villanueva near the polling place in their respective precinct during the whole day on November 10, 1953; and that the election therein had been peaceful and orderly and no untoward incidents took place. The minutes of the proceedings of the said boards do not record any confiscation of firearm during the day of the voting. The ocular inspection conducted in the premises revealed that the polling places were not clearly visible from the place where Sgt. Blase parked his car, because of the houses in between as well as tall trees with protruding branches surrounding the polling places so that it would have been almost impossible for Sgt. Blase to see people and what they were doing near the said polling places.

After carefully going over the evidence on record, I find that the respondent's contention that the confiscation of his firearm took place beyond the thirty-meter distance from the polling places of Precincts Nos. 65 and 65-A, is sustained by a clear preponderance of the evidence.

The other charges against the respondent, for violation of the executive order prohibiting carrying of firearm, illegal possession of firearm, and carrying firearm without permit are interrelated to each other and may be discussed jointly.

The records show that the respondent donated to the Police Department the pistol above-described, which

was reissued to him by the Chief of Police of Bacolod City under provisional permit on November 2, 1953; that it was this same pistol that he carried on the morning of November 10, 1953, together with his provisional permit, which reads:

"This is to certify that Mr. Manuel M. Villanueva, Vice Mayor, City of Bacolod is authorized to carry firearm, Colt, Automatic Super 38, with Serial Number 71372, as service arm in connection with his official duties as such.

"This authority will remain in force while he is vested with such authority and while he remains to be in active duty in the service with this Department".

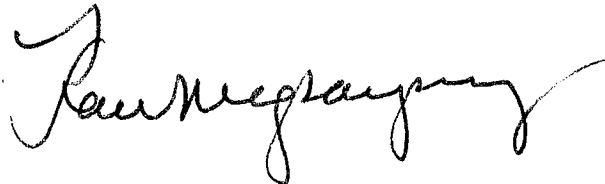
Executive Order No. 290, series of 1949, as amended by Executive Orders Nos. 294 and 296, same series, prohibit private parties from carrying their licensed firearms outside of their respective residences without special permit from the nearest Constabulary headquarters. It does not apply to peace officers.

The evidence shows that the respondent went on inspection of polling places in the interest of peace and order in the morning of the election day in the honest belief that he was an Acting Mayor, Mayor Amante, then concurrently acting provincial governor of Negros Occidental, being then on official trip in the southern part of the province. Whether or not he was legally the acting mayor on that day and therefore entitled to carry a firearm, is immaterial in the determination of his guilt, for there can be no dispute as to the fact that he was a peace officer under Section 25 of Commonwealth Act No. 326, otherwise known as the Charter of Bacolod City, which provides that "the chief of police, all city officers, and all members of the police force and secret service shall be peace officers", etc. As Vice-Mayor and peace officer, he was authorized to carry a firearm. An examination of the phraseology of the provisional permit abovequoted issued by the Chief of Police shows that the said permit was issued to the respondent as vice-mayor and peace

officer in accordance with the provisions of the Charter.

In view of the foregoing, the respondent is hereby exonerated from the aforementioned charges against him. As he is now under preventive suspension, his immediate reinstatement into the service is hereby ordered.

Done in the City of Manila, this 27th day of November, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.



By the President:



FRED RUIZ CASTRO
Executive Secretary