

MALACAÑANG  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 247

SUSPENDING FROM OFFICE CHIEF OF POLICE CELSO FERNANDEZ  
OF BASILAN CITY.

This is an administrative case against Chief of Police Celso Fernandez of Basilan City, for alleged (1) grave misconduct and oppression allegedly consisting of unfair evaluation of the efficiency of some members of the police force; incriminatory machinations in filing false and malicious charges against some of his subordinates; dereliction of duty in not supervising and inspecting policemen on their posts; non-cooperative attitude with the members of the police force; and toleration of law violations, resulting in the demoralization of the police department; (2) gross neglect of duty by effecting the release of an insane person under police custody resulting in the death of a policeman (brother-in-law of the insane); and (3) disobedience to the order of the Mayor, directing approval of the voucher for salary of Patrolman Dioscoro Nuñal.

The case was investigated by a special investigator of this Office who, after conducting a formal investigation, recommended the exoneration of the respondent of all the charges. He found, however, that there exists a strained relation between the City Mayor and the respondent, and recommended that the latter be exhorted to show utmost cooperation with the City Mayor and the latter to exercise utmost prudence towards the former.

After a careful review of the records of the investigation, I find no sufficient evidence to substantiate Charge No. (1). The respondent is therefore exonerated of this charge.

With respect to Charge No. (2), the evidence shows that about past noon on February 6, 1956, a certain Severino Cerena was arrested by the police in the act of threatening several persons with a knife; that upon his arrest, his brother-in-law, Patrolman Ricardo de la Paz requested the Assistant City Health Officer to examine

his (Cerena's) mental condition; and that after the necessary examination, the health officer submitted his findings that the patient was answering questions with difficulty and incoherence, had history of emotional distress for one week, and exhibited belligerent attitude at times. The said health officer diagnosed his illness as one emanating from a psychosis of undetermined cause, and recommended his confinement by the police until his condition would improve. On the following day, his brother-in-law, Patrolman de la Paz requested for his release, and the release was effected upon a written order of the respondent, without further examination by the health officer or any other physician. At about 2:00 p.m. on February 9, 1956, more or less three days after his release, he clubbed his brother-in-law to death.

Under the above circumstances, was the respondent negligent in releasing Cerena? In the case of Picart vs. Smith, 37 Phil. 809, the Supreme Court laid down the test for negligence as follows: "Would a prudent man, in the position of the person to whom negligence is attributed, foresee harm to the person injured as a reasonable consequence of the course about to be pursued?" In the instant case, could the respondent have foreseen harm to the public as a reasonable consequence of his releasing Cerena without further examination or certification by the local health officer of the former's sanity?

I am convinced that the respondent was negligent in releasing Cerena without having first consulted the City Health Officer as to the advisability of having him released. An ordinary prudent man could have foreseen the danger of releasing from custody a person like Cerena who had been certified to be insane and recommended by a physician to be confined.

As to Charge No.(3), it appears that on July 14, 1956, the Mayor issued Administrative Order No. 138, detailing Patrolman Dioscoro Nuñal in the Office of the Mayor for intelligence work effective July 23, 1956. His detail was actually effected on August 1, 1956. The respondent was aware of this order. As his name was not included in the payroll corresponding to the period from August 1 to 15, 1956, Patrolman Nuñal reported the matter to the Mayor, who, on August 14, 1956 wrote a letter to the respondent asking him to explain why the name of said patrolman was omitted in the said payroll. In his written reply dated

August 18, 1956, the respondent stated that the name of Patrolman Nuñal was not included in the payroll because he was not accounted for and had not rendered service in the police department, and that Administrative Order No. 138 is null and void. Thus, the respondent disapproved the corresponding voucher for the salary of Patrolman Nuñal during the period from August 1 to 15, 1956, when it was presented to him for approval, on the ground that the said patrolman was considered missing and unaccounted for during the said period.

The above explanation of the respondent for the non-inclusion of Patrolman Nuñal's name in the payroll from August 1 to 15, 1956 and non-approval of his salary voucher for the same period, is not satisfactory. The respondent was aware of the existence of Administrative Order No. 138, detailing Patrolman Nuñal in the office of the Mayor for intelligence work and of the actual detail of the said patrolman in the Mayor's office. That the Mayor may detail any member of the city police force for duty in his office, is clear from the provisions of Section 8 of the City Charter, which states that he "shall have immediate control of the executive and administrative functions of the different departments of the city." Even if the said Administrative Order No. 138 was not directed to the respondent, the latter could not escape the fact that there was such an order and that he knew of its existence. His refusal to sign the voucher was tantamount to a refusal to give effect to the order. Section 26, par. (d) of the same Charter provides: "He (Chief of Police) x x x shall, promptly and faithfully execute all orders of the mayor x x x." Undoubtedly, the respondent in not giving effect to Administrative Order No. 138 by refusing to approve the salary of the patrolman affected by said order, was guilty not only of violation of law but also of dereliction of duty.

I therefore find the respondent guilty of gross negligence in releasing from custody Severino Cerena, and of violation of law and dereliction of duty in refusing to recognize the authority of his superior, the City Mayor, to detail Patrolman Nuñal for duty in the Mayor's office.

Wherefore, Mr. Celso Fernandez is hereby suspended from office as Chief of Police of Basilan City for a

period of one (1) month effective upon notice hereof, and directed thereafter to cooperate with the City Mayor, with warning that a repetition of the same or similar offense in the future will be more severely dealt with.

Done in the City of Manila, this <sup>June</sup> 8<sup>th</sup> day of ~~April~~, in the year of Our Lord, nineteen hundred and fifty-seven, and of the Independence of the Philippines, the eleventh.

*Coag. H. Garcia*

By the President:

*Fortunato de Leon*  
FORTUNATO DE LEON  
Executive Secretary