

**[ ADMINISTRATIVE ORDER NO. 260, December 12, 1970 ]**

**IMPOSING ON MUNICIPAL JUDGE BENJAMIN A. ORIBE OF BAYABAS, SURIGAO DEL SUR, A FINE EQUIVALENT TO ONE (1) MONTH'S PAY**

This is an administrative case filed by Juan M. Ordoña against Municipal Judge Benjamin A. Oribe of Bayabas, Surigao del Sur, for ignorance of the law, incompetence, misconduct and persecution. The case was formally investigated by District Judge Reynaldo P. Honrado of the Court of First Instance of Surigao del Sur.

The complainant alleges that on January 30, 1968, respondent judge received and docketed Criminal Case No. 97 for robbery against him, his tenant Lucio Pacheco and acting chief of police Crispin Larena of Bayabas, Surigao del Sur; that on the previous day (January 29), acting chief of police Crispin Larena had filed a criminal complaint for qualified theft against Narciso Orbeta and Cenas Talikig for taking coconuts from complainant's land and making them into copra; that complainant, accompanied by Lucio Pacheco and Crispin Larena, took the copra contained in two sacks from Narciso Orbeta and deposited them in the office of the chief of police; that respondent did not give due course to Larena's complaint, for which reason it was refiled by complainant on March 25, 1968; that respondent dismissed the complaint on April 15, 1968.

In his answer filed with the investigating District Judge, respondent states that a warrant of arrest was issued against the three (3) accused in Criminal Case No. 97 after preliminary examination of complainant Narciso Orbeta and his witnesses; that the criminal complaint of Crispin Larena was filed on February 2, 1968, but was not accompanied with affidavits nor did Juan Ordoña or his witnesses appear, in view of which the same was not acted upon; that it was only on March 25, 1968, during the preliminary investigation of Criminal Case No. 97 that Juan Ordoña and Lucio Pacheco submitted their affidavits; and that after examining the witnesses he dismissed Larena's complaint in his order of April 15, 1968.

The investigating Judge finds that respondent not only failed to docket Larena's complaint but also failed to conduct the preliminary examination provided in Rule 112, Section 5, of the Revised Rules of Court, and that after dismissing the complaint he allowed complainant to take the records of the case. He therefore recommends that respondent be reprimanded and warned for his negligence.

During the investigation respondent admitted that on January 29, 1968, Crispin Larena, the acting chief of police, filed a criminal complaint for qualified theft against Narciso Orbeta and Cenas Talikig, together with the affidavits of complainant and Lucio Pacheco as witnesses; and that he did not give due course thereto because the witnesses were not present (t.s.n., pp. 60-62).