

**[ ADMINISTRATIVE ORDER NO. 177, July 18, 1969 ]**

**REPRIMANDING CITY FISCAL LIMPI MACAPUNDANG OF  
MARAWI CITY**

This is an administrative proceeding instituted by Councilors Hadji Mama Racman Datusamarawi and Hadji Ismael Barodi against City Fiscal Limpi Macapundang of Marawi City for alleged partiality, derelection and gross irregularities in the performance of his duties. The charges were investigated by Fiscal Luis A. Atanacio of the Department of Justice.

It is alleged that (1) respondent deliberately refused and/or failed to prosecute the arson case involving the burning of the Provincial Capitol Building of Lanao del Sur notwithstanding his knowledge of the identity of the culprits because he "listened to unscrupulous politicians from whom he owed his appointment as fiscal", (2) he failed to prosecute PC Captain Carlos Lademora and his soldiers who, under the influence of liquor, indiscriminately fired their guns and even maltreated innocent persons; (3) he refused to prosecute a criminal case for violation of Ordinance No. 657 of Marawi City for the reason that the accused were Liberal Party men; (4) he abused his office by "pressuring the complainants into supporting the administration of then City Mayor Macapado Batara"; and (5) he was politically motivated in prosecuting Councilor Barodi for building a residential house without a permit.

Respondent denied the charges in a written answer thereto and in the formal investigation he explained in detail his actuations.

The records show that the arson case was dropped after a preliminary investigation conducted by respondent and Provincial Fiscal Luis D. Manta of Lanao del Sur because immediately after burning of the capitol building the only material witness, one Gaguil Didao, declared that he did not know who the culprits were, while in later investigations conducted by NBI and CIS agents be implicated different persons in three conflicting statements. In view of the glaring inconsistencies in Didao's testimony, the same may be considered unworthy of credence, for a testimony to be given credit it is necessary that it be not incompatible with other declarations of the same witness on previous occasions regarding the same matter. On the basis of the evidence adduced, therefore, no prima facie case was established against the supposed culprits.

As regards the second charge, it appears that PC Captain Carlos Lademora and eight (8) soldiers were tried jointly in Criminal Cases No. 2571 (for illegal discharge of firearms), No. 2572 (for multiple slight physical injuries) and No. 2573 (for violation of City Ordinance No. 640 [drunkenness]). After presenting two witnesses, namely, Police Lt. Macandar Anango and Patrolman Mosacala Manta, respondent filed a motion to dismiss the cases insofar as Capt. Lademora was concerned on the ground that the declarations of the two witnesses were weak and contradictory, and that the

other prosecution witnesses, Kunag Mamao, Tangorac O. Langco and Lasican Datu, had turned hostile and signed affidavits of desistance. Finding the motion well-founded, the City Judge in an order dated March 28, 1967, dismissed said cases accordingly.

Thereafter, or on April 28, 1967, respondent filed another motion to dismiss the cases against the soldiers for failure of the witnesses to appear in the hearing for the third time despite due notice given them. The court had previously warned the witnesses that the cases would be dismissed if they failed to appear in the next hearing. Another reason advanced in the motion was that Lasican Datu, the only witness present that morning who was one of the offended parties in Criminal Case No. 2572 for physical injuries, had taken the witness stand and declared that he was no longer interested in the further prosecution of the cases. The court dismissed the cases against the enlisted men on the same day (April 28, 1967).

The only question to determine is whether respondent was partial to Capt. Lademora in filing the motion to dismiss the aforesaid criminal cases after the testimony of Lt. Anango and Patrolman Manta.

The records disclose that (1) Capt. Lademora had nothing to do with the case of physical injuries (Criminal Case No. 2572); (2) in the case of illegal discharge of firearms (Criminal Case No. 2571) Patrolman Manta declared that the "soldiers fired" but could not identify any soldier who fired his gun, while Lt. Anango said he "saw Capt. Lademora fire and then he commanded his men to fire which they obeyed"; (3) in Criminal Case No. 2575 for violation of City Ordinance No. 640 (drunkenness), Patrolman Manta declared that he saw Capt. Lademora and eight (8) soldiers (whom he named in an affidavit) drinking in a restaurant, while Lt. Anango said he knew Capt. Lademora was drunk because when he entered the checkpoint the captain "smelled of liquor and could hardly pronounce his words.

Patrolman Manta's credibility is open to serious doubt due to several important contradictions. First, in his affidavit of February 8, 1967, he stated having seen Capt. Lademora and eight soldiers, whom he named, drinking. However, in the investigation of March 17, 1967, before Acting City Judge Mangontawar B. Guro of Marawi he named only three and admitted not knowing the others. Second, in the said affidavit he said Patrolman Tambos Goling brought to the checkpoint Pacabungang Saripada who was being chased by the soldiers, while in his testimony he said Goling brought in Lasican Datu and not Pacabungan Saripada. Third, in said affidavit he declared that the company commander Capt. Arque and Capt. Lademora went out of the checkpoint together, moved with the soldiers to the direction of the bridge and when the soldiers reached a place in front of Station DXRM "they fired, several firings." In the same investigation of March 17, 1967, said witness testified that while Capt. Lademora was inside the checkpoint, Capt. Arque left and boarded a jeep, after which Capt. Lademora called the soldiers, walked towards the bridge and then fired their guns.

Lt. Anango's statement is likewise unreliable. He concluded that Capt. Lademora was drunk because he was allegedly smelling of liquor and that he could hardly pronounce his words. Drunkenness is subjective. It means the condition following the taking of liquor in excessive quantities. It connotes the effect produced upon the mind and body that a person is deprived of the normal control of his bodily and mental faculties. No evidence was presented that said soldiers were at the time