MALACAÑANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 340

REMOVING MR. WENCESLAO L. CORNEJO FROM OFFICE AS CITY JUDGE OF MANILA.

Mr. Wenceslao L. Cornejo, presiding Judge of Branch V of the City Court of Manila, is charged by Pedro B. Arao, a judicial supervisor of the Department of Justice, with (1) willful violation of the Constitution and the Rules of Court and (2) intervention in the disposition of a case in another branch of the City Court of Manila.

Alleged to have been infringed are Section 3(3), Article IV of the Constitution, which provides that "no warrants shall issue but upon probable cause, to be determined by the judge after an examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched, and the persons or things to be seized," and Sections 3 and 4 of Rule 126 which recite that "a search warrant shall not issue but upon probable cause in connection with one specific offense to be determined by the municipal or city judge after examination under oath or affirmation of the complainant and the witnesses he may produce and particularly describing the place to be searched and the persons or things to be seized," and that "the municipal or city judge must, before issuing the warrant, personally examine on oath or affirmation the complainant and any witnesses he may produce and take their depositions in writing, and attach them to the record in addition to any affidavits presented to him."

The first charge stems from the issuance by the respondent in 1966 of a large number of search warrants which he recorded in a register marked Exhibit "A".

Presented to prove the charge, aside from Exhibit "A," are the testimony of Atty. Juanito B. Marzan, another judicial supervisor, that he found Exhibit "A" in the course of his inspection in 1966 of the records of the respondent's court and the complainant's testimony that he saw Exhibit "A," from which it appears that the respondent issued many search warrants against "John Does," "Mary Does" and "Elena Does" for prostitution, gambling and illegal massage clinics.

Testifying for himself, the respondent said that he issued the questioned search warrants because he was requested by the Mayor of Manila to help the police in the campaign against gambling

prostitution, illegal massage clinics used as fronts for prostitution, and other vices in Manila but before issuing them, he personally questioned the applicant and his witnesses. In addition, he took into account the application for search warrant as well as the deposition of the witnesses, and made sure that probable cause existed. Aliases, however, had to be used in the applications as well as in the warrants themselves because the true names of the owners or maintainers of the vice dens were unknown to the police.

The respondent is corroborated by Col. Enrique Morales, chief of the Detective Bureau, Manila Police Department, Major Eduardo Giron, Dets. Rafael Lomboy, Galileo Campillanes, Julian Warriner, all of the Manila Police Department, and Jose Latayan, the respondent's deputy clerk. Their testimony is that in 1966, the Mayor ordered the Manila Police Department to wage a campaign against gambling, prostitution, massage clinics used as fronts for prostitution, and other vices in the City, and that to carry out the campaign, anti-vice squads were organized, who secured search warrants from the City Court of Manila, after verification that vice existed in the establishments to be searched.

The procedure prescribed by law was followed strictly in securing the search warrants. The applicant went to the respondent with the witnesses, their affidavits and depositions. The names of the persons to be searched were specified in the application if known; otherwise, aliases were used. The description of the place to be searched was also indicated. On receiving the application, the respondent personally examined the applicant and his witnesses to verify the facts relative to the premises to be searched, the materials to be seized, the crime committed and the existence of probable cause. It was only after the respondent had satisfied himself about these matters that he issued the search warrant.

All the search warrants, according to the same witnesses, were successfully executed. Arrests were made, convictions secured, and vice was minimized, almost eradicated.

Notwithstanding this testimony of the respondent and his witnesses, enough can be seen in the record to support the conclusion that violations of the law were committed in the issuance of the search warrants. So numerous are they, so many were issued in one day, and with such frequency were they issued that it cannot be believed any judge could have personally examined in each and every case the complainants and their witnesses as well as taken their depositions for the purpose of determining the existence of probable cause.

During the year 1966 the respondent issued a staggering total of 1,419 search warrants - an average of nearly 5 every working day. He signed 132 search warrants in July, 142 in December, 145 in November, 175 in August, 192 in March and 194 in September. Of the 175 warrants in the month of August, 9 were signed on the 22nd, 13 on the 24th, 4 on the 25th, 28 on the 26th, and 17 on the 29th, and of those in the month of September, 8 were issued on the 20th, 24 on the 22nd, 5 on the 23rd, 3 on the 24th, 15 on the 26th, 2 on the 28th, 8 on the 29th and 26 on the 30th while of the 192 in March, 12 were released on the 24th, 19 on the 25th, 6 on the 26th, 12 on the 28th, 7 on the 29th, 21 on the 30th, and 9 on the 31st.

The same conclusion would follow even if only the warrants listed in paragraph 3 of the complaint were considered. Those warrants total 550, released in but 67 days from February to December 1966. Of those warrants, he issued 8 each day on August 2, August 24, September 6, September 20, September 29, and October 11; 9 on November 18, December 13, December 16 and September 8; 10 on March 24, February 8, February 22, June 21, and September 7; 11 on June 27 and December 12; 12 on April 25, May 24, July 5, September 13, October 28 and December 27; 13 on May 6, June 14, and on another unspecified date; 14 on March 25 and June 2; 15 on November 15; 16 on March 16, April 13 and November 28; 21 on March 30; and 22 on November 17.

The improbability that the personal interrogation of the complainants and witnesses as well as the taking of their depositions by the judge contemplated by the Constitution and the Rules of Court could have been done in each of the hundreds of warrants the respondent issued becomes all the more evident when it is remembered that the City Court of Manila, as is well known, is an extremely busy court, serving as it does a large and thickly-populated metropolis, and its 11 judges, aside from trying, studying and deciding the numerous cases of the court, must attend to the multitude of incidents arising in connection therewith, not to mention other duties which the judicial office imposes. Under the circumstances, it is inconceivable how any of them, however diligent, could have found time and energy to examine in one day 7 to 21 complainants and their witnesses as well as take their depositions not once but time and again for months without let-up.

That the warrants were issued to aid the campaign against vices is not a defense. No end, however laudable, can justify violations of the Constitution and the law and of the rights guaranteed by them.

Neither may the fact that the former Secretaries of Justice did not see fit to take action against the respondent be invoked to bar the present charges. Since they were not filed, he could not have been exonerated from them and absolved from liability.

The evidence on the second charge shows that while examining the records of the "sala" of Judge Jose Herrera of the City Court of Manila, Demetrio Macapagal, also a judicial supervisor of the Department of Justice came across the record of three criminal cases (Nos. F-094928, F-094029 and F-094030), all against one Sin Min. Attached to the record were the informations marked Exhibits "B", "C" and "D"; a handwritten note of the respondent (Exhibit "E") to Severino Weber, senior clerk of Judge Herrera's court, which reads: "As per our understanding, I am sending /illegible/ the affidavit"; an affidavit of Sin Min; a note by Weber to Judge Herrera (Exhibit "F"), reciting that "this is the request of Judge Cornejo, according to him to be dismissed"; and Judge Herrera's order (Exhibit "G"), dismissing the three cases.

The respondent denied intervening in the disposition of the three cases. All he did, he said, was to send, upon the request of a friend, Francisco Lee, the note and affidavit to Weber, after talking to him over the telephone. He did not know the accused, the nature of the charges against him nor what Weber had in mind when he wrote Exhibit "F".

Much is made of the fact that the respondent's note (Exhibit "E") does not mention any case, but since it was found in the record of the three criminal cases against Sin Min, the logical inference is that it refers to those cases. The record of a case, it need hardly be said, includes only documents material thereto. Weber confirms this. He said that he attaches all the pertinent papers to the record of a case and that if he attached Exhibit "E" to the record of the three criminal cases, it was because it referred to those cases.

The same ought to be said of Exhibit "F," Weber's note. Having been filed in the record of Criminal Cases Nos. F-094028 to F-094030, it must similarly be deemed to refer to them.

Piecing the evidence together, the facts must be that the respondent called up Weber about the three informations against Sin Min, had an understanding with him to have them dismissed upon the execution of an affidavit by Sin Min that he had substantially complied with the ordinances alleged to have been violated, and, on the execution of the affidavit, sent it to Weber with the letter marked Exhibit "E." Weber then wrote

Exhibit "F" to Judge Herrera who thereafter dismissed the cases on the ground that the accused had substantially complied with the ordinances he was charged with violating.

Even if it be admitted, as the respondent claims, that he did not know Sin Min or the nature of the charges against him, the fact remains that he was aware of their pendency and that he intervened in their disposition.

Wherefore, and as recommended by the Secretary of Justice, Mr. Wenceslao L. Cornejo is hereby removed from office as City Judge of Manila effective upon receipt of a copy of this order.

Done in the City of Manila, this 27th day of September, in the year of Our Lord, nineteen hundred and seventy-two.

By the President:

ROBERTO V. REYES
Acting Executive Secretary