

Malacañang
Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE CASE NO. 382 ✓

SUSPENDING MR. TEMISTOCLES C. MELLA FROM OFFICE AS FIRST ASSISTANT
PROVINCIAL FISCAL OF SORSOGON.

This is an administrative case against Mr. Temistocles C. Mella, first assistant provincial fiscal of Sorsogon, who is charged with indirect bribery, malfeasance, misfeasance and acts prejudicial to the interest of the public service. The charges were investigated by a special attorney of the Department of Justice.

In the evening of June 25, 1952, Flaviano Luzurriaga was murdered by unidentified masked men in his house in Bulan, Sorsogon. A letter from one Aniceto Macario, then an inmate in the national penitentiary in Muntinlupa, Rizal, to the widow, Eustaquia Gerona Luzurriaga, pointed to Loreto Franco and Romeo Gutierrez who were also inmates as among her husband's murderers. Questioned by NBI agents, Franco and Gutierrez pointed to Juan Granada, then municipal mayor of Bulan, as the mastermind of the killing. Investigation conducted by said agents in Sorsogon tended to confirm Granada's complicity in the crime. Report to the effect was prepared and delivered to the clerk of court of Sorsogon on May 29, 1954, for delivery in turn to the provincial fiscal.

Around July 13, 1954, respondent came to Manila and interviewed Franco and Gutierrez in Muntinlupa. They executed affidavits implicating Granada which, upon his return, he delivered to his chief, the provincial fiscal. Respondent later saw the widow's attorney and told him that the evidence was weak.

Because of alleged pressure being exerted upon him by the respondent not to incriminate Mayor Granada, and as he was supposedly told that the nondisposal of the Luzurriaga case was the obstacle to his release on parole, Franco wrote to the Presidential Complaints and Action Committee (PCAC) complaining against the respondent. This complaint was investigated by the PCAC on August 5, 1955, and Franco reiterated his charge against the respondent.

Due to the delay in the filing of the criminal case against the Luzurriaga murderers, the widow sought the intervention of

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abc Mella, Temistocles

the PCAC and this Office, leading to the designation of a special attorney in the Department of Justice as acting provincial fiscal to handle said case. To facilitate its investigation, Loreto Franco and Rolando Gigantone, then confined in the national penitentiary, were brought to the provincial jail of Sorsogon. Eventually, the corresponding information was filed against Juan Granado, Loreto Franco, Rolando Gigantone and others (Criminal Case No. 1708 of the Court of First Instance of Sorsogon).

After a jailbreak in the Sorsogon provincial jail in June, 1956, in which Loreto Franco was one of the leaders, his affidavit and that of Rolando Gigantone exculpating Granado were produced, but these were repudiated by them.

In the trial of the criminal case, Franco, who turned state witness, testified to the effect that Granado was the mastermind of the Luzurriaga killing. The court, however, found his testimony incredible and unreliable and acquitted the defendants, except Granado who had in the meanwhile died of natural causes.

It is further alleged that respondent received fighting cocks from Granado. The first time was supposed to be before he knew that Granado was implicated in the case, hence I doubt the truth thereof. As to the second occasion, the testimony is from a biased source, the witness being the complainant's brother-in-law and it is without corroboration although some alleged witnesses like the Justice of Peace of Bulan could have shed light on the matter.

However, I find the respondent guilty of trying to persuade probable witnesses for the prosecution from criminally incriminating a certain person. As a prosecuting officer he was supposed to explore every angle that could be of help in the prosecution. However, he did not attempt to suppress evidence as he took their damaging statements and submitted them to his superior, the provincial fiscal. Moreover, the court did not believe the testimony of Franco, whom he tried to influence not to implicate Granado, and acquitted the defendants.

Wherefore, Mr. Temistocles C. Bella is hereby suspended without pay for two (2) months as first assistant provincial fiscal of Sorsogon, effective upon receipt of a copy of this order. He is also reprimanded and warned that commission of similar irregularities will be dealt with more severely.

Done in the City of Manila, this 27th day of December, in the year of Our Lord, nineteen hundred and sixty-one, and of the Independence of the Philippines, the sixteenth.

By the President:



EDULBERTO B. GALLAGES

Assistant Executive Secretary