

0
1

Malacañang
Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 64

CONSIDERING MAJOR ROQUE ISIA RESIGNED AS CHIEF OF POLICE OF
SAN PABLO CITY.

This is an administrative case against Major Roque Isla, Chief of Police of San Pablo City, for alleged arbitrary detention. The case was investigated by a special investigator of this Office before whom the respondent had full opportunity to be heard and to present evidence in his defense.

The record discloses the following facts to have been duly established:

On or about October 4, 1959, Aniceto Borja was brought to the police department for toting a home-made caliber .38 pistol and one live ammunition of the same caliber. He was, however, released by the police department after the pistol was verified to be unserviceable. Despite his release, an information for illegal possession of firearm was filed against him by the City Fiscal of San Pablo on October 9, 1959, which case was docketed in the municipal court of that city as Criminal Case No. 1828. On October 16, 1959, the municipal court issued a warrant for the arrest of Borja but it was returned to the court unexecuted by the police department on January 22, 1960, for the reason that Borja could not be located within the territorial jurisdiction of San Pablo. On January 23, 1960, the municipal court issued an order provisionally dismissing Criminal Case No. 1828 on the ground that "the accused could not be located within the territorial jurisdiction of San Pablo." A copy of this order was received by the Police Department.

On July 12, 1960, Borja was again apprehended by secret service men of the same police department for the offense of illegal slaughtering of animal. He was not, however, charged with this offense. Nevertheless, he was detained by Patrolman Marcial Calabria who knew him to be the same person accused of and wanted for illegal possession of firearm in Criminal Case No. 1828. Calabria then requested instructions from the corporal of the guard at the time, Cpl. Ruben Pasco, as what to do with Borja. Cpl. Pasco requested Sgt. Pelagio Alinea to escort Borja to the municipal court where he was presented before some personnel thereof, but not before the municipal judge. Thereafter, Calabria followed Alinea and Borja to the municipal court and delivered to

the docket clerk thereat the pistol confiscated from Borja on October 4, 1959, for which a receipt was issued. Alinea then escorted Borja back to the police department and delivered him to Cpl. Ruben Pasco.

Subsequently, or on September 29, 1960, it was discovered that Criminal Case No. 1828 which was provisionally dismissed on January 23, 1960, was not revived. For this reason, the respondent informed the city attorney of San Pablo on September 30, 1960, that Borja had been confined in the city jail since July 12, 1960, and requested the latter that a motion to revive or a new information be filed against Borja so that he may^{be} prosecuted in accordance with law. On that same day, the city attorney filed with the municipal court a motion seeking the revival of Criminal Case No. 1828 against Borja, which was granted by the court on October 3, 1960. On November 10, 1960, Borja entered a plea of guilty in said case and was sentenced to suffer a prison term of one year and one day.

Before Borja entered his plea of guilty, his sister, Consolacion Borja, filed a complaint with the city attorney's office against his detention in the city jail. After a preliminary investigation, the city attorney dismissed the complaint for lack of a prima facie case against the respondent. However, an appeal from the dismissal of said complaint was made to the Department of Justice, where the appeal is still pending consideration.

In his defense respondent stated that when Borja was brought to the municipal court on July 12, 1960, the court did not order his release but instead ordered the deposit of the firearm and ammunition confiscated from Borja. This led the respondent to believe honestly that the criminal case against Borja was revived and that consequently he had the right to detain him. He likewise stated that it was only on September 29, 1960, that his office was advised by the municipal court that a motion for the filing of a new information by the city attorney was necessary to revive the case against Borja. He accordingly advised the city attorney who forthwith refiled the information accusing Borja of illegal possession of firearm.

Respondent's explanation is on the whole unsatisfactory. It cannot be seriously disputed that the detention of Borja was illegal per se, it appearing that Criminal Case No. 1828 against Borja for illegal possession of firearm was dismissed provisionally by the court on January 23, 1960, and that Borja was not accused of the offense of illegal slaughtering of animal when he was apprehended on July 12, 1960. Respondent ought to have known that such provisional dismissal, a copy of which was furnished his office, had the effect of cancelling the warrant of arrest issued in connection with Criminal Case No. 1828 and, therefore, there was no

- 3 -

more basis for Borja's detention in the city jail. In fact, the records show that the warrant of arrest was returned unexecuted by the police department to the municipal court because Borja could not be located within the territorial jurisdiction of San Pablo. As it was, Borja was incarcerated and deprived of liberty from July 12 to October 3, 1960, or a total of 84 days, with all the physical inconvenience, humiliation and moral torture attendant thereto.

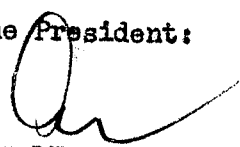
The arbitrary detention of Borja for 84 days could have been avoided had the respondent inquired from the city attorney or the municipal judge as to the actual status of Criminal Case No. 1828 at the time of Borja's apprehension and detention on July 12, 1960. His failure to do so is a clear manifestation of gross irresponsibility and ignorance of his duties as Chief of Police of San Pablo City. I am therefore constrained to take drastic action against him because of the gross violation of the civil liberties of a citizen.

In view of the foregoing, Major Roque Isla is hereby considered resigned as Chief of Police of San Pablo City, without prejudice to reinstatement in the government service except as chief of police of a chartered city.

Done in the City of Manila, this **1st** day of **July**, in the year of Our Lord, nineteen hundred and sixty-three.



By the President:



SALVADOR L. MARIÑO
Executive Secretary