

**CARMELO YANUARIO, AS REGIONAL LABOR ADMINISTRATOR,
COMPLAINANT, VS. FAUSTINO H. PARAGUYA, AS MUNICIPAL JUDGE
OF PLACER, SURIGAO DEL NORTE, RESPONDENT.**

Adm. Matter No. 64-MJ. May 05, 1976

Ponente: ANTONIO, J.

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ANTONIO, J.:

Respondent Municipal Judge Faustino H. Paraguya, of Placer, Surigao del Norte, is charged by the Regional Labor Administrator with (a) grave abuse of discretion, and (b) gross ignorance of the law.

The complaint is based on the alleged highly irregular manner by which respondent municipal judge conducted the preliminary investigation of two (2) criminal cases, (1) Criminal Case No. 313, for Violation of RA 946, the Blue Sunday Law; and (2) Criminal Case No. 314, for Violation of RA 4119, the Workmen's Compensation Act, resulting in the dismissal of the afore-mentioned cases for "lack of sufficient evidence to prove a prima facie case".

Complainant advanced the theory that respondent should have allowed the prosecution to present additional evidence and to cross-examine the witnesses in said criminal cases. He also questions respondent's findings that five (5) of the employees of the accused are not covered by Section 30 of the Workmen's Compensation Act, as amended, requiring an employer to insure their employees to secure the payments of compensation and other benefits to them under the Act.

After the investigation of the charges, the Investigating Executive Judge, Hon. Placido Reyes Roa, recommended the exoneration of the respondent of the charges in view of the insufficiency of evidence.

It has been noted, however, by the Judicial Consultant that in respondent's Order dismissing the criminal cases afore-mentioned, he relied heavily on the sworn statement of Honorio Elizaga, bookkeeper of the Samuel Trading, taken during the conduct of the preliminary examination in Criminal Cases Nos. 313 and 314 on July 17, 1970, which upon closer examination, reveals certain inaccuracies or inconsistencies. Thus, while he stated that certain employees of the accused were mere piece workers, the documentary evidence revealed that three (3) of the afore-mentioned workers were actually insured, as shown by WC Policy No. 2925 and WC Policy No. 5078, issued to Samuel Trading on January 1, 1970 and February 2, 1970, respectively. Certainly, those persons would not have been insured if they were not regular employees within the intendment of the law. This belies Elizaga's statement that they were not covered by the aforesaid statutory requirement. To exempt the employer from such obligation, the employment should be purely casual and is not for the purposes of the occupation or business of the employer. Under such circumstances, respondent should have examined Elizaga more extensively on the matter to ascertain his veracity and credibility.

Accordingly, the case against the respondent is dismissed, but he is admonished to be more circumspect in the discharge of his judicial duties, to preclude any suspicion on the impartiality of his actuations.

Fernando, Actg. C.J., Barredo, (Actg. Chairman), Aquino, and Martin, JJ., concur.

Concepcion, Jr., J., is on leave.

Martin, J., was designated to sit in the Second Division.

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