

MALACAÑANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 283

IMPOSING THE PENALTY OF DISMISSAL FROM THE SERVICE WITH
FORFEITURE OF ALL BENEFITS UNDER THE LAW ON STATE
PROSECUTOR I MOSIB M. LIMBAO, DEPARTMENT OF JUSTICE

This refers to the administrative complaint filed against State Prosecutor I Mosib M. Limbao, Office of the Chief State Prosecutor (on detail with the Office of the City Prosecutor of Kalookan and assigned at the Malabon Prosecution Sub-Office) for grave misconduct.

Record shows that on July 14, 1995, Daniel Ico went to the Bulacan District Office of the National Bureau of Investigation (NBI) to complain Prosecutor Limbao's alleged demand of ₱2,000.00 in exchange for a favorable resolution of the estafa complaint (I.S. No. 95-462) he (Ico) filed against Lorna Lodronio, et al., with the Office of the City Prosecutor of Caloocan, Malabon Prosecution Sub-Office. Ico was then instructed by the NBI to ascertain if respondent prosecutor was persistent on his demand. On July 18, 1995, Ico returned to the NBI office confirming respondent's demand and informed said office that he was given until July 19, 1995 to produce the money. Preparatory to an entrapment operation, the NBI required Ico to execute a sworn statement relative to the said demand of Prosecutor Limbao and sought the assistance of its Forensic Chemistry Division which marked and dusted with fluorescent powder twenty (20) pieces of ₱100.00-bill which were placed in a white envelope.

On July 19, 1995, NBI Special Investigator Reynaldo Olazo and two (2) other agents, together with Ico, proceeded to the Malabon Prosecution Sub-Office and arrived thereat at about 11:00 a.m.. Ico entered the office of respondent while Olazo and the two (2) NBI agents stayed outside to observe the transaction. Upon signal by Ico that the envelope was already in the possession of Prosecutor Limbao, Olazo and his companions went inside the room of respondent, introduced themselves and informed respondent that the money he had received was marked. Respondent, however, insisted that he did not receive anything from Ico. However, Olazo and the two (2) NBI agents discovered the white envelope which contained the marked money inside the drawer of respondent's table. Consequently, respondent was brought to the NBI Central Office in Manila for ultra-violet examination. The result showed that he was positive for yellow fluorescent powder specks on the dorsal and palmar aspects of his left and right hands.

During the formal investigation, Ico failed to appear despite three (3) subpoenas sent to his last known addresses. It was NBI Special Investigator Reynaldo Olazo and Asst. Regional Director Lolito V. Utitco who testified to the conduct of the entrapment operation and the marking of the twenty (20) pieces of ₱100.00-bill used in the said operation, respectively.

In exculpation, respondent denied the charge against him. He stated that the estafa complaint filed by Ico against the Lodronios had been assigned to him for preliminary investigation and that during the hearing on July 14, 1995, Ico informed

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him that a similar case was filed with the Prosecutor's Office, Navotas Sub-Office. He then told Ico to withdraw either his complaint in Malabon or the one in Navotas, and asked him to submit a copy of his complaint in Navotas on July 17, 1995. When Ico left his office, he discovered that the check (PNB Check No. 666400 dated December 20, 1994, in the amount of P20,000.00) upon which Ico anchored his charge against the Lodronios was not attached to the record. On July 17, 1995, Ico appeared but without a copy of his complaint which he filed with the Navotas Sub-Office. Still, Ico insisted that his case be filed in court. Respondent then told Ico that there was no copy of the check subject of the criminal complaint and instructed Ico to give him a copy of the check in the following manner: "Bigyan mo ako ng kopya ng dalawampong libong tseke at ibigay mo sa akin hanggang Julio 19. Kung wala, hindi ko mareresolve ang kaso."

Respondent alleged that on July 19, 1995, at around 11:00 a.m., while he was in the process of drafting a resolution, Ico entered his room went to the left side of his table and then dropped in his table drawer, which was slightly open, a folded white letter envelope, after which Ico hurriedly left his room. He tried to catch up with Ico but he (Prosecutor Limbao) was met at the door by NBI agents who informed him that the money he received was marked money and that they were placing him under arrest. While inside his room, the NBI agents closed the door, took out the subject envelope from his drawer, examined its contents and took pictures thereof. Despite his protestations, the NBI agents invited him to the NBI Central Office for further investigation. While going out of his room, he was held in both hands by the same NBI agents who had earlier gotten hold of the white letter envelope and examined its contents (marked bills). This, according to respondent, explained the presence of yellow fluorescent powder on his hands. Finally, respondent stated that since Ico is a Muslim and not well versed in Tagalog, he could have misinterpreted his statement "bigyan mo ako ng kopya ng dalawampong libong tseke" as a demand for P2,000.00.

Respondent presented Ramon Matias and Alberto Bautista, a court employee and a businessman, respectively, as defense witnesses. Both testified that on the date and time in question, they saw Ico enter the room of respondent and, without saying anything, drop a white envelope on the drawer of respondent's table.

State Prosecutor II Menrado V. Corpuz of the Department of Justice, who conducted the investigation, recommended the dismissal of the complaint for insufficiency of evidence. The Secretary of Justice, however, had a different view. He found substantial evidence to hold respondent Limbao administratively liable of the offense charged. Thus, he recommended that Prosecutor Limbao be meted the penalty of dismissal from the service with forfeiture of benefits under the law.

Upon review, we find the recommendation of the Secretary of Justice to be in order.

Respondent's denial of the charge against him is weakened considerably when juxtaposed with the indisputable fact that the envelope containing the marked money was found in his drawer. His claims that Ico could have simply misinterpreted his instructions, for him to submit a copy of the P20,000.00 check, subject of the criminal complaint, and that the envelope containing the marked money was merely dropped in the drawer of his table, do not induce belief. The presence of fluorescent powder on the palmar and dorsal sides of both his hands belies the posture of innocence.

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Further, his explanation on why his hands tested positive for powder marks does not deserve credence. Moreover, the failure of Ico to appear during the formal investigation had very little effect on the charge proffered against respondent. The testimony of the two NBI agents and respondent's own declaration proved that an envelope containing marked money was found in the drawer of his table; that this envelope was given by Ico; that respondent was tested positive for fluorescent powder; and that Ico had a criminal complaint for estafa assigned to him (respondent) for preliminary investigation.

As correctly pointed out by the Justice Secretary, respondent's acts constitute the actionable administrative offense of grave misconduct. His commission of the acts complained of, being highly anomalous and reprehensible, erodes the credibility and impartiality demanded of a public prosecutor in regard to dispensing justice; and that although not unmindful of the repercussions in meting out the extreme penalty of respondent's dismissal from the service, the interest of public service, being paramount, cannot be compromised by the unlawful acts committed which indubitably tarnished the prosecution arm of the government.

WHEREFORE, premises considered, State Prosecutor I Mosib M. Limbao, Office of the Chief State Prosecutor, Department of Justice, is hereby **DISMISSED** from the service with **FORFEITURE** of all benefits under the law effective upon receipt of a copy hereof.

DONE in the City of Manila, this 30th day of J u l y in the year of Our Lord, Nineteen Hundred and Ninety-Six.



By the President:



RUBEN D. TORRES
Executive Secretary

REC-1111111111

