

MALACAÑANG
Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 62

**IMPOSING THE PENALTY OF DISMISSAL FROM THE SERVICE ON
PROSECUTOR I JESUS CLARITO L. ESPINA, PROVINCIAL
PROSECUTOR'S OFFICE, LAOANG, NORTHERN SAMAR**

This refers to the administrative complaint filed by the children of the late Senecio Cerujano against Prosecutor I Jesus Clarito L. Espina of the Provincial Prosecutor's Office, Laoang, Northern Samar, for conduct prejudicial to the best interest of the service.

The records show that a case for robbery in band with multiple homicide was filed against Matea Infante, et. al., before the Regional Trial Court (RTC), Branch XXII, Laoang, Northern Samar and docketed thereat as Criminal Case No. 1276. After trial, all the accused, except Matea Infante, were convicted and meted the death penalty. On automatic review by the Supreme Court, the judgment of conviction was affirmed but the death penalty was commuted to reclusion perpetua. The resolution of the Court En Banc became final and executory on May 7, 1987. On May 28, 1987, the records of the case were remanded to the court of origin for execution of judgment. On June 14, 1993, respondent prosecutor filed a motion seeking the perpetual dismissal of the case in view of the repeal of Republic Act (R.A.) 1700 (the Anti-Subversion Law). Acting on said motion, presiding Judge Mateo Leanda of RTC-Branch XXII, Laoang, Northern Samar issued an order of even date dismissing Crim. Case No. 1276 perpetually.

Thus, the instant complaint.

In his comment/answer, respondent prosecutor denies any anomalous conduct in affixing his signature on the motion to dismiss Crim. Case No. 1276. He avers that it was Judge Leanda who initiated the same in view of the repeal of R.A. 1700. He further avers that considering the circular mandating all government prosecutors handling subversion cases to file the corresponding motion to dismiss such cases and because he respected and trusted Judge Leanda who further assured him that the dismissal would cover only the anti-subversion aspect of the case, he agreed and asked the judge to prepare the necessary motion. On the same morning, respondent adds, the motion was handed to him and after reading the same, he affixed his signature thereon. The corresponding order granting said motion was issued but he was not furnished a copy thereof. Hence, he was not able to evaluate the same nor ask for its reconsideration.



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During the formal investigation, respondent prosecutor reiterated his earlier averments. He further manifested that he was of the belief that Crim. Case No. 1276 also involves a violation of the Anti-Subversion Law because all the accused are members of the NPA.

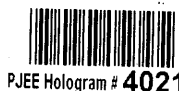
In a subsequent memorandum, respondent prosecutor submitted the sworn statements of Marlu Gonzales and Felipe Irinco, branch clerk of court and court interpreter, respectively, of RTC-Branch XXII to support his earlier averments. He further avers that he filed before the court an urgent motion dated June 29, 1998 seeking the annulment of the order dated June 14, 1993 dismissing Crim. Case No. 1276 but the motion was referred by the court to the Supreme Court for proper disposition.

Evaluating carefully the answer of respondent in the light of the evidence on record, we find his explanation unsatisfactory.

The records clearly show that Criminal Case No. 1276 is a suit for robbery in band with multiple homicide. Very evident is the fact that all the accused, except one, were convicted by the lower court on March 21, 1986 and that the judgment of conviction was affirmed with finality by the Supreme Court on May 7, 1987. With this factual backdrop, it is totally surprising for respondent prosecutor to file a motion to dismiss the same case six (6) years later completely disregarding the settled rule that a judgment which has acquired finality becomes immutable and unalterable and may no longer be modified in any respect except only to correct clerical errors or mistakes. All issues between the parties being deemed resolved and laid to rest.

In transgressing the rules and settled jurisprudence, respondent irresponsibly trifled with court processes and impaired the right of the people to due process. Respondent's defense of lack of malice and/or corrupt motive in filing the motion to dismiss Crim. Case No. 1276 does not absolve him from liability for an improper and forbidden act, a dereliction of duty, willful in character and implying wrongful intent. This despicable conduct is exactly the opposite of what the government expects from its prosecutors in its vigorous and unrelenting campaign against criminality.

Thus, prosecutors should not allow and should avoid giving the impression that their noble office is being used or prostituted willingly or unwittingly, for political ends or other purposes alien to, or subversive of, the basic and fundamental objective of serving the interest of justice evenhandedly, without fear or favor to any and all litigants alike, whether rich or poor, weak or strong, powerless or mighty. Only by strict adherence to the established procedure may the public's perception of the impartiality of the prosecutor be enhanced. (Tatad vs. Sandiganbayan, G.R. no. 72335-39, 21 March 88.)



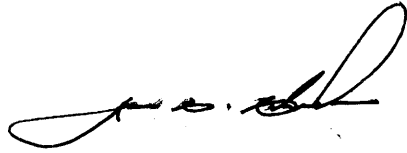
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WHEREFORE, respondent Prosecutor I Jesus Clarito L. Espina of Northern Samar is hereby DISMISSED from the service.

Done in the City of Manila, this 30th day of *March* in the year of Our Lord, Nineteen Hundred and Ninety-Nine.



PJEE Hologram # 4022



By the President:



RONALDO B. ZAMORA
Executive Secretary