

MALACAÑANG
Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 71

**DISMISSING FROM THE SERVICE ASSISTANT PROVINCIAL PROSECUTOR
ILDEFONSO C. TARIO OF BATAAN FOR INSUBORDINATION AND
GROSS NEGLIGENCE OF DUTY**

This refers to the administrative complaint filed by Concordia Valencia against Assistant Provincial Prosecutor Ildelfonso C. Tario of Bataan for Insubordination and Gross Neglect of Duty. The charges were investigated by the Office of the Regional Prosecutor, Region III and the Office of the State Prosecutor, Department of Justice.

The case stemmed from the criminal complaint for Estafa Through Falsification of Public Document (I.S. No. 96-369) filed sometime in April 1996 by herein complainant Concordia Valencia against Violeta Ganzon, et al. before the Office of the Provincial Prosecutor of Bataan. After the case was assigned to respondent Tario, complainant filed a motion to set case for preliminary investigation, reiterated in a subsequent motion of July 9, 1996.

Owing to respondent's inaction, complainant filed with the Department of Justice on September 5, 1996, a letter-complaint charging the former with "failure to finish the preliminary investigation of the case as soon as possible." which was endorsed by Assistant Chief Prosecutor (ACSP) Nilo C. Mariano to respondent for comment/appropriate action and submission of report on the action on the estafa case. An urgent motion for early resolution of the case having been filed by complainant on October 17, 1996, ACSP Francisco L. Santos referred the same for appropriate action to Regional State Prosecutor (RSP) Carlos de Leon of Region III who, in turn, relayed it to respondent Tario, with a directive for him to submit within two (2) days from receipt thereof, his comment/explanation for the undue delay in the resolution of the estafa case. On January 16, 1997, RSP, De Leon again ordered respondent to submit his comment/explanation but, as in the case of the previous directives, he ignored the same.

On March 17, 1997, complainant filed the instant complaint with the Justice Department, which was endorsed to RSP De Leon for appropriate action. On the following day, the complaint was transmitted to respondent to be answered in writing within five (5) days from receipt thereof.



PJEE Hologram # 5231

In his defense, respondent averred that he had the resolution prepared as early as June 1996, but before it could be approved by Provincial Prosecutor Erasto D. Tanciongco, he was asked by complainant to schedule the case for clarificatory questioning, which he set to July 16, 1996 but complainant and her counsel did not appear. Respondent further alleged that he was requested by complainant's son to re-schedule the clarificatory questioning to July 22, 1996, but then again complainant and her counsel failed to appear. Finally, respondent stated that Mayor Carlos Valencia of Abucay, Bataan, offered to mediate between the litigants and said request was granted by Provincial Prosecutor Tanciongco.

For her part, complainant, by way of reply, among others, denied respondent's allegations.

During the pendency of the administrative proceedings, the estafa case was re-assigned to Asst. Provincial Prosecutor Manalo Velasco for preliminary investigation in the course of which it was discovered that the records of the case were missing and were found, on May 28, 1997, in the case folder of "People of the Philippines vs. Constanancio Salenga" being handled by Provincial Prosecutor Tanciongco.

On June 13, 1997, during the hearing of the administrative case against respondent by RSP De Leon, the former claimed that he prepared the resolution on the estafa case on June 24, 1996, and forwarded it for appropriate action to Provincial Prosecutor Tanciongco who caused the undue delay in the resolution of the case. At this juncture, respondent moved for Tanciongco's inclusion in the administrative case.

After due investigation, RSP De Leon found respondent Tario guilty of Insubordination and Neglect of Duty and recommended that he be suspended for one (1) month, in view of his admission of the Insubordination charge, plea for compassion and being a first offender.

With regard to respondent Tanciongco, RSP De Leon found that he was remiss in his duty as head of office in monitoring the cases assigned to respondent Tario and, hence, recommended that he be warned that repetition of the same omission will be dealt with more severely.

Upon review, the Office of the State Prosecutor concurred in the recommendation for respondent Tario's suspension for one (1) month. As to respondent Tanciongco, he was recommended to be admonished to exercise more care in the performance of his



PJEE Hologram # 5232



official duties and warned that repetition of the same offense will merit a more drastic penalty.

In his letter to the President dated December 7, 1998, Justice Secretary Serafin R. Cuevas disagrees with the above recommendations. Brushing aside the alleged mitigating circumstances in favor of respondent Tario, Secretary Cuevas emphasized that it took several directives from his superiors before respondent Tario capitulated and submitted his comment thereon, in utter disregard of prosecutors' duty to immediately respond to directives of the Justice Department. The Justice Secretary further underscored the peremptory nature of DOJ Circular No. 35, dated September 17, 1991, violated by respondent Tario, which mandates the resolution of cases for preliminary investigation within ninety (90) days from the date of assignment to the investigating prosecutor.

As to respondent Tario's threshold defense that he had prepared the resolution on the estafa case as early as June 24, 1996 and submitted it to Provincial Prosecutor Tanciongco for approval, Secretary Cuevas took the same with a grain of salt, observing that, if such were truly the case, then respondent Tario could have readily answered the memorandum of ACSP Mariano and the endorsements of ACSP Francisco Santos and RSP De Leon regarding the administrative complaint against him.

Accordingly, the Justice Secretary found respondent Tario guilty of the graver offense of Gross Insubordination and Gross Neglect of Duty as charged, and recommended that he be dismissed from the service.

Upon the other hand, finding the evidence presented against respondent Tanciongco for unduly delaying the administration of justice and pressuring his subordinate (respondent Tario) to change the latter's resolution to be insufficient to warrant the imposition of any penalty against him, said delay being attributable solely to respondent Tario who, in order to extricate himself from any administrative liability, "passed on the buck" to his superior and co-respondent Provincial Prosecutor Tanciongco, Secretary Cuevas deemed it unnecessary to warn and admonish said respondent.

After going over the records of the case, I am in complete accord with the findings and recommendations of the Secretary of Justice. For so acting in the manner as he did, in open defiance and well nigh utter disregard of the orders of his superiors, respondent Tario had decidedly evinced a stubborn and unwieldy disposition bordering on insolence unbecoming a public prosecutor. What is more, and worse still, the inordinate delay in respondent's resolution of the estafa case had unnecessarily compromised the ends of justice, almost resulting in the mockery, if not parody, thereof. Indeed, by his conduct, respondent Tario has become a blot on the escutcheon of the Justice Department.




PJEE Hologram # 5233



WHEREFORE, and as recommended by the Secretary of Justice, Assistant Provincial Prosecutor Ildfonso C. Tario of Bataan is hereby DISMISSED from the service upon receipt of a copy hereof.

Done in the City of Manila, this *17th* day of *JUNE* in the year of Our Lord, nineteen hundred and ninety-nine.

Ildfonso C. Tario


By the President:

Ronald B. Zamora

RONALDO B. ZAMORA
Executive Secretary



PJEE Hologram # 5234 *A*

