

MALACAÑANG
Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 107

**IMPOSING THE PENALTY OF DISMISSAL FROM THE SERVICE ON
ASSISTANT CITY PROSECUTOR HERMAN C. CLEDERA OF THE
CITY PROSECUTOR'S OFFICE OF NAGA CITY FOR DISHONESTY
AND INSUBORDINATION**

This refers to the administrative complaint for dishonesty and insubordination filed by City Prosecutor Alfredo D. Agawa against Assistant City Prosecutor Herman C. Cledera, both of the City Prosecutor's Office of Naga City.

The facts are as follows:

On March 30, 1998, a certain Jesus Bulaong dropped by at the City Prosecutor's Office of Naga City and checked the status of I.S. No. 97-1311, a complaint for violation of the Anti-Graft and Corrupt Practices Act entitled "Jesus Bulaong v. Delpha Estrada and Antonio Lorio," which respondent prosecutor was handling. Respondent Cledera informed Bulaong that the complaint had already been acted upon and that the records of the case were already sent to the Office of the Ombudsman in Manila, adding that he had already advised Mr. Juanito H. Comia, Chief, Administrative Division, Office of the Ombudsman for Luzon, of these supposed developments, in a letter dated April 27, 1998.

On May 4, 1998, complainant Agawa issued two (2) office memoranda directing respondent prosecutor to produce, within three (3) days, the transmittal letter showing his approval of the transmittal of the records of I.S. No. 97-1311 to the Office of the Ombudsman, including the registry receipt evidencing such transmittal. Respondent prosecutor failed to comply with the directive, prompting complainant Agawa to issue another memorandum dated May 7, 1998, reiterating his directive. Again, respondent prosecutor did not comply.

Complainant Agawa subsequently filed a complaint against respondent Cledera for dishonesty and insubordination. The former contends that the representations made by the latter that he had acted upon I.S. No. 97-1311 and that he already transmitted the records thereof to the Office of the Ombudsman in Manila on April 3, 1998 are false and constitute dishonesty, while his failure to comply with his directives in his office memoranda dated May 4, 1998 and May 7, 1998 constitutes insubordination.

Acting upon the complaint, Regional State Prosecutor Santiago M. Turingan, Region V, Legaspi City, issued Regional Order No. 98-021, dated May 27, 1998, designating State Prosecutors Romulo SJ Tolentino, Eugenio L. Abion and Mary May B. de Leoz to conduct a formal investigation of the administrative charges.



The case was heard on July 8, 1998 and August 3, 1998, during which time complainant Agawa adduced evidence in support of his complaint. Respondent Cledera filed no written answer to the complaint, although he admitted the charge of dishonesty but refuted the charge of insubordination during the hearing on July 8, 1998.

Subsequently, the Secretary of Justice submitted his report.

The records indubitably show that respondent Cledera did not in fact send the records of I.S. No. 97-1311 to the Office of the Ombudsman in Manila as early as April 3, 1998, contrary to respondent prosecutor's representations. In fact, his resolution thereon was dated May 8, 1998, indicating that he finished resolving the case only on May 8, 1998. These false representations on his part constitute dishonesty.

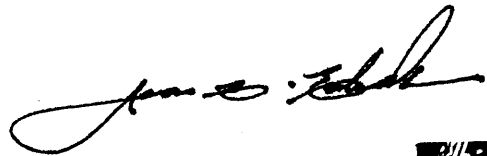
The records further show that respondent prosecutor failed to comply with the directives embodied in complainant's office memoranda dated May 4, 1998 and May 7, 1998. And prior to the issuance of these memoranda, respondent refused to see complainant to discuss matters, despite requests for him to do so. Such refusal on respondent's part to comply with the lawful office orders of his superior constitutes insubordination.

A careful review of the records indeed shows that respondent Cledera misrepresented himself to have acted on Bulaong's complaint and transmitted the entire record of the case to the Office of the Ombudsman, Manila, when, in fact, he did not. While he explained that he made the "misrepresentations" to "buy for time" to resolve Bulaong's complaint and that he did not send any letter, the same does not absolve him from administrative liability.

His obstinacy in not responding to complainant Agawa's memoranda clearly shows his utter disregard of the directives issued by his superior and is indeed indicative of insubordination.

WHEREFORE, as recommended by the Secretary of Justice, Assistant City Prosecutor Herman C. Cledera of the City Prosecutor's Office of Naga City is hereby found guilty of dishonesty and insubordination and is hereby ordered dismissed from the service, together with the accessory penalties of disqualification from re-employment in the government and forfeiture of all his financial benefits.

Done in the City of Manila, this 31st day of January in the year of Our Lord, Two Thousand.




By the President:



RONALDO B. ZAMORA
Executive Secretary

