

D. P. O. 3000

MALACAÑANG
Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 71

**IMPOSING THE PENALTY OF DISMISSAL FROM THE SERVICE ON
ASSISTANT CITY PROSECUTOR DARIO P. RAMA, JR. OF
THE CEBU CITY PROSECUTION OFFICE.**

This refers to the complaint of SPO3 Ambrosio G. Ibones and Sr. Inspector Esmeraldo C. Briones against Asst. City Prosecutor Dario P. Rama, Jr. of Cebu City for grave misconduct, more particularly in securing the release of a suspected drug user who is his niece.

Records show that on June 13, 1991, the Cebu City Police Anti-Narcotics and Drug Section arrested five (5) suspected drug users having pot session. Christine Rodriguez, the lone female in the group and a niece of Prosecutor Rama, was detained at the Barangay Hall in San Nicolas, proper.

The following day, SPO3 Ambrosio Ibones, a member of the arresting team, learned from Sr. Inspector Esmeraldo Briones that Prosecutor Rama had requested and taken custody of Ms. Rodriguez. SPO Briones acceded on the prosecutor's promise to present the detainee the next day. On June 17, 1991, Prosecutor Rama failed to present his niece but promised to present her at the proper time. On June 26, 1991, instead of presenting the suspect, Prosecutor Rama submitted a court order to the investigating prosecutor for the detainee's confinement to a rehabilitation center.

Respondent Rama denies responsibility for the charge. He admits having requested custody of his niece because there is no detention cell for female detainees. He claims that as the surrogate father, he was merely concerned for the welfare of his niece and that in requesting for her custody, he did not prevent the police officers from pursuing the case.

At the formal investigation respondent and complainants agreed to submit the case for resolution without need of further hearing. /N

The thrust of the argument is whether or not the act of Prosecutor Rama in securing the release of a suspect in a criminal case, who is his niece, constitutes grave misconduct.

We find the answer in the affirmative.

Grave Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or grave misconduct by the public officer. The word "misconduct" implies a wrongful intention and not a mere error of judgment. For serious misconduct to exist, there must be a reliable evidence that the judicial acts complained of were corrupt or inspired by an intention to violate the law, or were in persistent disregard of well-known legal rules (In re Impeachment of Horrilleno, 43 Phil. 212).

If respondent had presented his niece as promised, this may have mitigated his guilt. He made things worse when, instead of presenting his niece, he submitted a court order for her confinement at a rehabilitation center. This is an indication of the bad faith of the prosecutor in that while making excuses for failing to present the accused, he was wittingly working for the issuance of a court order.

Prosecutor Rama's claim as the surrogate father of the suspect is belied by the fact that it was Ramon Roriguez who petitioned the court for said order being the father and the one who supports the suspect. The most that Prosecutor Rama could have done to help his niece was to find her a competent lawyer to defend her. It was noted that the same incident involved a nephew of another prosecutor who did not intercede in his behalf. Prosecutor Rama's act creates in his niece an impression that she can violate the law with impunity because she has an uncle who is a public prosecutor and who can save her from legal entanglements.

The prosecutor's action in protecting a relative caught flagrantly violating the law erodes the faith and confidence of the public in the prosecution service. Prosecutor Rama took undue advantage of his position as public prosecutor to circumvent the law in order to come to the rescue of a relative. Such

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