

**MALACAÑANG  
MANILA**

**BY THE PRESIDENT OF THE PHILIPPINES**

**ADMINISTRATIVE ORDER NO. 317**

**IMPOSING THE PENALTY OF DISMISSAL FROM THE SERVICE WITH  
FORFEITURE OF ALL BENEFITS UNDER THE LAW ON  
BULACAN ASSISTANT PROVINCIAL PROSECUTOR EDEL  
RUTOR**

This refers to the administrative complaint filed against Assistant Provincial Prosecutor Edsel Rutor of the Office of the Provincial Prosecutor of Bulacan for alleged grave misconduct (defiance and disregard of a lawful order of a supervising officer and bias and partiality in favor of an accused).

Records show that Prosecutor Rutor was assigned to conduct a reinvestigation on the criminal complaint for estafa thru falsification of public document filed by Mr. Mariano Cudia against the spouses Apolonio and Bernarda Cruz (Crim. Case No. 1469-M-93, Br. 19, RTC, Malolos, Bulacan). After reinvestigation, Prosecutor Rutor recommended the dismissal of the said case. However, his recommendation was disapproved by then Provincial Prosecutor Liberato Reyes who directed him in the following manner:

x      x      x

“We should present our evidence that makes (out) a prima facie case and let the court decide, not this office pre-empting the prerogative of the court.”

However, instead of complying with the said directive, Prosecutor Rutor submitted his resolution to the trial court, in obvious disregard of his superior's adverse stand. On 22 December 1993, the court ordered the arraignment of the accused who pleaded not guilty, and forthwith, issued an order dismissing, with prejudice, the said criminal case on the basis of Prosecutor Rutor's resolution. A motion for reconsideration of the court's order of dismissal was filed by the private prosecutor; this was vehemently opposed by Prosecutor Rutor thus, resulting in the denial of the said motion by the court.

Later, it was discovered that although the resolution of respondent prosecutor dismissing the case was made only on 17 December 1993, the

*m*

accused appeared to have been arraigned a few days thereafter, or specifically on 22 December 1993. The court's log book, however, did not show that the said case was scheduled for arraignment on the said date. Apparently, respondent prosecutor, showing his bias and partiality towards the accused, connived with the court personnel to make it appear that the accused was arraigned so that the dismissal of the case could be "with prejudice".

Further, when complainant moved for a reconsideration of the dismissal order, Prosecutor Rutor objected and reiterated his position to dismiss the case. As a result, the court denied the said motion of complainant Cudia. On 12 January 1994, then Provincial Prosecutor Reyes and complainant's counsel jointly filed another motion for reconsideration which was likewise denied by the court.

Finally, a petition for certiorari was filed before the Supreme Court (G.R. No. 114302) questioning the subject order of dismissal. The Supreme Court, in its decision dated 29 September 1995, stated, among others, that:

x x x

"The Rutor resolution was rendered valueless because of the Provincial Prosecutor's disapproval thereof. In submitting it nonetheless to the court and moving for the dismissal of the case, Rutor showed outright disregard of the aforementioned provisions and ruling. So did the respondent Judge when he dismissed the case on the basis of that resolution. Their disregard of the said provisions and ruling is condemnable, for it carries with it a whimsical and capricious bent that taints the exercise of discretion with grave abuse, thereby rendering the whole act infirmed and void: (pp. 10 & 11).

x x x

This Court wonders why Assistant Provincial Prosecutor Edsel M. Rutor disregarded the disapproval by his superior, Provincial Prosecutor Liberator Reyes, of his resolution recommending the dismissal of Criminal Case No. 1469-M-93. Additionally, he vigorously objected to the private prosecutor's motion to reconsider the dismissal. Something is wrong somewhere. The attention of the Department of Justice must be called" (p. 12).

x x x

10

In the comment he submitted dated 19 January 1994, Prosecutor Rutor avers that the record in Crim. Case No. 1469-M-93 would show that he never made any motion, either orally or in writing, for the dismissal of the said case; that the court dismissed the same on its own initiative after his proposed resolution was disapproved and released by his office immediately to the trial court; and that he did not influence the early setting of the arraignment of the accused on 22 December 1993 as he is not the one responsible in informing the accused of their arraignment.

Region III Regional State Prosecutor (RSP) Carlos L. de Leon was directed to conduct a formal investigation of the instant administrative complaint. During the investigation, Prosecutor Rutor was given the opportunity to present controverting evidence and be represented by counsel. However, he failed to appear during the scheduled hearing despite due notice. Accordingly, based on the evidence, RSP de Leon found Prosecutor Rutor administratively liable for grave misconduct and recommended the penalty of dismissal from the service.

The Secretary of Justice, upon review, concurred with the findings and recommendation of RSP de Leon that Prosecutor Rutor is administratively liable for grave misconduct and that he should be dismissed from the service with forfeiture of all benefits under the law. Consequently, the Secretary of Justice recommended to this Office the dismissal of Prosecutor Rutor from the service with forfeiture of all benefits under the law.

After a careful evaluation of the records of the case, this Office concurs with the findings and recommendation of the Secretary of Justice.

The act of respondent prosecutor in submitting to the court his resolution on reinvestigation in Crim. Case No. 1469-M-93 recommending dismissal of the said case, knowing fully well that the same was disapproved by his immediate superior, and his consequent act of seeking its dismissal by the court, contrary to the directive of the latter for him to continue with the prosecution of the said case, exhibits respondent's wanton disregard of the rule and law, not to mention his total defiance of a legitimate and lawful order of his immediate superior, constitutes grave misconduct. By such acts of wrongful defiance and wanton disregard of a superior's lawful order, Prosecutor Rutor's bias and partiality in favor of the accused became evident and suspicious. In fact, respondent's defiant position was further underscored when he

n

vigorously opposed complainant's subsequent motion for reconsideration.

Further, respondent's assertion that he never moved for the dismissal of the case is negated by the court's order of dismissal where it stated that the said dismissal was prayed for by respondent.

Indeed, Prosecutor Rutor's reprehensible act of grave misconduct, which no less than the Supreme Court pronounced as "condemnable", has undermined public faith in the prosecution service and ultimately in the administration of justice. The conduct of a public prosecutor must always be beyond reproach and circumscribed with the heavy burden of responsibility as to let them be free from any suspicion that may taint the prosecution arm of the government. While we are aware of the repercussions in meting the extreme penalty of Prosecutor Rutor's dismissal from the service, we, however, cannot countenance such condemnable act of insubordination, which merits no further compassion.

**WHEREFORE**, premises considered and as recommended by the Secretary of Justice, Bulacan Assistant Provincial Prosecutor Edsel M. Rutor is found guilty of grave misconduct and is hereby **DISMISSED** from the service with forfeiture of all benefits under the law effective upon receipt of a copy hereof in accordance with Section 15, Book VII of the 1987 Administrative Code.

**DONE** in the City of Manila, this 17<sup>th</sup> day of March in the year of Our Lord, Nineteen Hundred and Ninety-Seven.



By the President:



**RUBEN D. TORRES**  
Executive Secretary