

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 436


REPRIMANDING ASSISTANT CITY FISCAL PASTOR DE GUZMAN, JR. AND
EXONERATING CITY FISCAL (NOW CFI JUDGE) ANGEL SANGALANG
AND ASSISTANT CITY FISCAL (NOW CITY FISCAL) ERDOLFO
BALAJADIA, ALL OF BAGUIO CITY.

This is an administrative case filed by Mrs. Teresita Pike against Assistant Baguio City Fiscal Pastor de Guzman, Jr. and former Baguio City Fiscal (now CFI Judge of Benguet) Angel Sangalang and former Assistant City Fiscal (now Baguio City Fiscal) Erdolfo Balajadia for alleged abuse of authority, violation of due process, harassment, ignorance of the law and willful violation of existing rules and regulations. The charges were investigated by the Department (now Ministry) of Justice.

Records show that sometime in November 1975, a police officer of the Baguio City Police Department filed a complaint against herein complainant for assault upon an agent of a person in authority. Without first securing the approval of the city fiscal, respondent Assistant City Fiscal De Guzman, Jr. filed the corresponding information with the City Court of Baguio.

Complainant successfully sought a reinvestigation of the case by trial fiscal Gorospe who recommended that complainant be merely charged with simple resistance under Article 151, paragraph 2 of the Revised Penal Code. Upon approval thereof by respondent City Fiscal Sangalang, the corresponding information was filed with the City Court of Baguio which dismissed the same upon complainant's motion on the ground of prescription.

Not satisfied, the police officer protested the dismissal of the case and simultaneously charged Fiscal Gorospe with serious irregularities in the performance of duties before City Fiscal Sangalang who, in turn, referred the matter to Assistant City Fiscal Balajadia. On the basis of the pertinent papers thus presented, Balajadia recommended the filing of another information against herein complainant for serious resistance and disobedience, which was approved by City Fiscal Sangalang. Accordingly, the corresponding information was filed with the City Court of Baguio but the accused (herein complainant) was subsequently acquitted by the court.

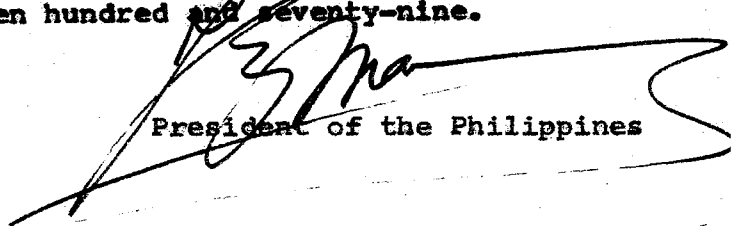


After a review of the case, I agree with the Secretary (now Minister) of Justice that respondent Assistant Fiscal De Guzman, Jr. violated Presidential Decree No. 911, dated March 23, 1976, when he failed to secure the prior approval of the city fiscal in filing the initial information against herein complainant for assault upon an agent of a person in authority. Presidential Decree No. 911 clearly provides that "... no assistant fiscal or state prosecutor may file an information or dismiss a case except with prior approval of the provincial or city fiscal or chief state prosecutor."

Concerning the other two respondent fiscals Sangalang and Balajadia, I likewise concur in the findings of the Minister of Justice that they neither abused their authority nor violated due process in filing the subsequent information for serious resistance and disobedience against complainant without conducting preliminary investigation, it appearing that they had thoroughly studied the matter on the basis of the recommendation and report on the case. Moreover, preliminary investigation is not a matter of right for a person accused in inferior courts (Rule 112, Sec. 10, Rules of Court).

Wherefore, and as recommended, Assistant City Fiscal Pastor de Guzman, Jr. of Baguio City is hereby reprimanded and warned that repetition of the same offense will be dealt with severely, while City Fiscal Angel Sangalang and Assistant City Fiscal Erdolfo Balajadia are hereby exonerated from the charges against them.

Done in the City of Manila, this 23rd day of January, in the year of Our Lord, nineteen hundred and seventy-nine.



President of the Philippines

By the President:



JACOBO Z. CLAVE
Presidential Executive Assistant