

MALACAÑANG

Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 148

REMOVING MR. DOMINGO CABALI, JR., FROM OFFICE AS ASSISTANT CITY FISCAL OF OLONGAPO CITY.

Third Assistant City Fiscal Domingo Cabali, Jr., of Olongapo City is charged by his superior, Chief State Prosecutor Fernando P. De Leon, with insubordination, inefficiency and gross neglect of duty.

Records show that, as far back as 1980, when he was still an Acting 4th Assistant City Fiscal of Olongapo City, Fiscal Cabali had been reminded by his superior of his repeated tardiness in reporting for work. In a memorandum of July 22, 1985, the OIC, Olongapo City Fiscal's Office, again called Fiscal Cabali's attention to his irregularity in observing office hours, with the statement that, "[i]f you feel it is impossible for you to break this habit, you are advised to seek another employment where you can come at any time you want." This was followed by another memorandum, dated November 21, 1985, directing Fiscal Cabali "to explain why you have always been late in reporting for work" and reminding him of previous oral and written admonitions about his punctuality. Still, in another memorandum, dated July 15, 1987, Olongapo City Fiscal Lino M. Mayo, again called Fiscal Cabali's attention to his tardiness and directed him to submit his resolution in I.S. No. 37-384 entitled "Alma del Rosario vs. Gregorio Sarne" after failing to take any action thereon despite non-submission by respondent Sarne of any counter-affidavit.

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Informed of Cabali's tardiness and his failure to act on I.S. No. 37-384, the Chief State Prosecutor no less, in a 2nd indorsement of August 11, 1987, similarly reminded Fiscal Cabali that "frequent unauthorized absences and tardiness, unreasonable delay in the disposition of cases and insubordination are grounds for disciplinary action."

On April 17, 1989, another memorandum was addressed by the new City Fiscal Vivencio S. Baclig to Fiscal Cabali, this time directing the latter to resolve fourteen (14) cases assigned to him which have been pending for more than two (2) years, at least five (5) of which were pending with him as far back as 1985. In the same Memorandum, copy of which was furnished the Chief State Prosecutor, City Fiscal Baclig invited Fiscal Cabali's attention to Department (of Justice) Circular No. 31, series of 1988, with a warning that his failure to resolve said 14 cases on or before May 5, 1989, shall constrain the City Fiscal "to recommend that administrative sanctions be imposed upon you (Fiscal Cabali) for gross neglect of duty and/or inefficiency in the performance of your functions."

On May 9, 1989, Fiscal Baclig again addressed another memorandum to Fiscal Cabali, requiring him to resolve on or before May 31, 1989,

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seventeen (17) cases therein enumerated "which have been pending with you for preliminary investigation for more than one (1) year already." As before, the City Fiscal warned Fiscal Cabali that further delay in the resolution of those cases will constrain him to recommend to the Secretary of Justice and the Chief State Prosecutor the imposition of administrative sanctions against Fiscal Cabali "for gross neglect of duty and/or gross inefficiency in the performance of your functions." In the same memorandum, the City Fiscal reminded Fiscal Cabali that "you have still eight (8) unresolved cases which had been pending with you for more than two (2) years already despite a prior memorandum requiring you to finish them on or before May 5, 1989."

Eventually, on May 23, 1989, City Fiscal Baclig reported to the Chief State Prosecutor that, as of said date, and despite previous reminders, Fiscal Cabali had a total backlog of twenty-eight (28) cases which have been unresolved for more than one (1) year, one of which was filed and has been pending since 1985. The matter was brought to the attention of the Secretary of Justice by the Chief State Prosecutor thru a memorandum of May 23, 1989, whereunder the latter recommended that Fiscal Cabali's salary for the month of May and succeeding months be withheld until his backlog shall have been disposed of. In a marginal note written on the same memorandum, bearing date May 24, 1989, Secretary of Justice Sedfrey Ordoñez directed the Chief State Prosecutor to require Fiscal Cabali to "show cause within 72 hours why he should not be dismissed from the service." In compliance therewith, the Chief State Prosecutor, in a letter of May 29, 1989, required Fiscal Cabali to explain within seventy-two (72) hours why no administrative disciplinary action should be taken against him "for your failure to resolve cases submitted for resolution and to terminate cases pending preliminary investigation within the reglementary period prescribed under Department Circular No. 27, series of 1988." Despite receipt of said letter, Fiscal Cabali made no explanation whatsoever, thereby effectively waiving his right to be formally heard and thus virtually submitting the charges against him on the basis of evidence appearing on record.

In a Memorandum for the President, dated September 7, 1989, Secretary of Justice Sedfrey Ordoñez recommended the dismissal of Fiscal Cabali from the service for insubordination and gross neglect of duty. The Secretary stressed that:

"In the discharge of their official duties and obligations, government officials/employees are expected to obey lawful orders from their superiors. Nothing can be more important than the firm enforcement of wholesome and reasonable office rules and regulations, if we are to maintain order and discipline in the public service. To permit any public official to disregard with impunity lawful orders of his superior is certainly demoralizing and prejudicial to the interest

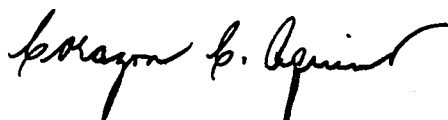
of the service. Personal sacrifice should be the rule rather than the exception for public servants.

"It is in this score that we find Fiscal Cabali most wanting, aside from the unreasonable delays he incurred in terminating/resolving cases assigned to him."

After careful study, I concur in the findings and recommendation of the Secretary of Justice. Indeed, there is much to be desired in the conduct of respondent fiscal in repeatedly disregarding the official directives of his superiors admonishing him to speedily resolve the several pending cases assigned to him. Respondent's failure in this regard is proof of his gross neglect of duty and contempt for lawful orders of his superiors.

WHEREFORE, and as recommended by the Secretary of Justice, Mr. Domingo Cabali, Jr., is hereby REMOVED from office as Assistant City Fiscal of Olongapo City, effective upon his receipt of a copy hereof.

Done in the City of Manila, this 13th day of December, in the year of Our Lord, nineteen hundred and eighty-nine.



By the President:


CATALINO MACARAIG, JR.
Executive Secretary