

MALACAÑANG
Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 139

**IMPOSING THE PENALTY OF SUSPENSION FOR TWO (2) MONTHS
WITHOUT PAY ON BENJAMIN V. DELA CRUZ, ASSISTANT CITY
PROSECUTOR, CITY PROSECUTION OFFICE OF QUEZON CITY**

This refers to the administrative complaint filed by Teresita Tepage-Bumolo and Zenaida S. Insilay against respondent Assistant City Prosecutor Benjamin V. de la Cruz of the City Prosecution Office of Quezon City for gross neglect of duty.

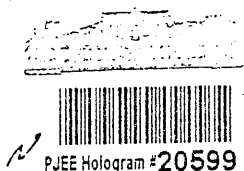
The facts are undisputed.

On November 11, 1996, complainants filed criminal complaints for grave oral defamation and grave threats (docketed as I.S. Nos. 96-24586 and 96-24587) against a certain Aida Agustin. These cases were assigned to respondent for the conduct of preliminary investigation. After the parties have filed their respective pleadings, the cases were submitted for resolution.

Five (5) months later, the cases remain unresolved. This prompted complainants to file a motion for the early resolution of the said cases. When respondent still failed to resolve their cases, complainants sought the assistance of then Quezon City Prosecutor Candido Rivera to convince respondent to act on their cases. Similarly, complainants sought the aid of the Office of the Ombudsman to facilitate the early resolution of the cases. However, despite the intercessions of both the City Prosecutor and the Office of the Ombudsman, the cases remained unacted.

Aggrieved by these unreasonable delays, complainants filed with the Department of Justice (DOJ) an administrative complaint against the respondent. On October 30, 1997, Chief State Prosecutor (CSP) Jovencito R. Zuño endorsed the said complaint to respondent and directed him to submit his comment and/or answer thereon within ten (10) days from receipt thereof. On February 6, 1998, CSP Zuño again directed respondent to submit his answer to the administrative complaint. To date, respondent failed to heed these directives.

On the basis thereof, respondent was formally charged by the DOJ with gross neglect of duty and a formal investigation was initiated relative thereto. On the scheduled hearing, only complainants appeared while respondent was conspicuously absent. Thus, upon motion of the prosecuting attorney, the case was submitted for resolution. On the basis of available records, respondent was found guilty of the said charge and the Secretary of Justice recommended the penalty of suspension from office for a period of two (2) months without pay.



We agree with the findings and recommendation of the DOJ. Section 3, Rule 112 of the Revised Rules on Criminal Procedure, which outlines the uniform procedure for conducting a preliminary investigation in accord with Presidential Decree No. 911, provides the following, to wit:

"Section 3. Procedure - Except as provided for in Section 7 hereof, no complaint or information for an offense cognizable by the Regional Trial Court shall be filed without a preliminary investigation having been conducted in the following manner:

a) The complaint shall...be accompanied by affidavits of complaint and his witnesses, as well as other supporting documents x x x;

b) If the investigating officer finds no ground to continue with the inquiry, he shall dismiss the complaint. Otherwise, he shall issue a subpoena to the respondent attaching thereto a copy of the complaint, affidavits and to the supporting documents and granting him ten (10) days from receipt hereof within which to submit counter affidavits and other supporting documents;

x x x

x x x

x x x

f) *Thereafter, the investigation shall be deemed concluded and the investigating officer shall resolve the case within ten (10) days therefrom.* Upon the evidence thus adduced, the investigating officer shall determine whether or not there is sufficient ground to hold the respondent for trial." (emphasis ours)

While the foregoing provision only provides for a ten (10)-day period within which to resolve cases under preliminary investigation, the DOJ, thru Department Circular No. 49 dated July 14, 1993, grants more leeway to prosecutors by allowing them a reglementary period of up to sixty (60) days within which to resolve cases under preliminary investigation. Non-observance of this requirement constitutes a ground for administrative sanction against the defaulting prosecutor. In certain meritorious cases, *i.e.*, those involving difficult questions of law or complex issues, the DOJ allows the prosecutors a longer period to decide the case, but only upon proper application therefrom has been made by the concerned prosecutor.

There is no question that respondent failed to decide the cases within the prescribed reglementary period. From the time the cases were submitted for resolution up to the time he was administratively charged by the DOJ, which spans more than two (2) years, respondent has not resolved the cases filed by the complainants. The intercessions of the City Prosecutor and the Office of the Ombudsman proved to be futile. Such conduct of respondent is unreasonable, inexcusable and highly deplorable. It violates the complainants' constitutional right to due process and to speedy disposition of their cases.



PJEE Hologram #20600

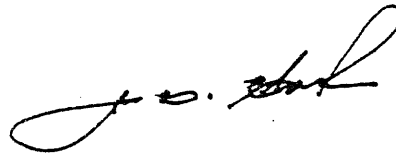


Prosecutors are mandated to adhere to the 60-day period within which to resolve cases under preliminary investigation. Otherwise, the public's trust on our prosecution will be jeopardized.


All prosecutors are reminded that, for the common people, justice means the fair and prompt disposition of cases. This is necessary not only to eradicate the docket congestion in our prosecution office, but also to keep the people's faith in our prosecution system.

WHEREFORE, and as recommended by the Secretary of Justice, Assistant City Prosecutor Benjamin V. Dela Cruz is hereby **SUSPENDED** from office for a period of two (2) months without pay.

DONE in the City of Manila, this 4th day of *October* in the year of our Lord, two thousand.



By the President :



RONALDO B. ZAMORA
Executive Secretary



12

