MALACAÑANG
RESIDENCE OF THE PRESIDENT OF THE PHILIPPINES
MANILA

ADMINISTRATIVE ORDER No. 476

SUSPENDING ASSISTANT PROVINCIAL FISCAL FELIPE ARCIGAL, JR. OF LAGUNA FOR A PERIOD OF THREE (3) MONTHS WITHOUT PAY.

This refers to the administrative complaint filed by Engr. Mariano Berroya, Jr. against Assistant Provincial Fiscal Felipe Arcigal, Jr. of Laguna, for oppression, inefficiency, incompetence and conduct prejudicial to the best interest of the service.

On July 30, 1979, the Ministry of Justice issued Circular No. 27, directing all Fiscals to forward to the Tanodbayan all complaints cognizable by the Sandiganbayan either exclusively or concurrently with the regular Courts.

Sometime in July 1980, the Provincial Government of Laguna, represented by the Acting Provincial Attorney, filed a complaint against Engr. Berroya, Jr., for violation of the Article 177 (Usurpation of Authority or Official Functions) of the Revised Penal Code. The complaint was docketed in the Fiscal's Office as I.S. No. SC–27, S'80.

On July 7, 1980, Fiscal Arcigal, Jr. issued an order stating that " a perusal of the evidence presented before the undersigned disclosed that there exists a probable cause and that the offense charged has been committed and that the respondent (herein complainant) is probably responsible thereof."

In his letter dated July 31, 1980, Engr. Berroya, Jr. assailed the jurisdiction of Fiscal Arcigal, Jr. to conduct I.S. No. SC–27, S'80, stating "* * * by virtue of PD No. 1607, the Tanodbayan through the Office of the Chief Special Prosecutor, has the exclusive authority to conduct the preliminary investigation, to file information and to direct and control the prosecution of cases like the complaint against me (Sec. 10 of PD)".

On April 27, 1981, Fiscal Arcigal, Jr. issued an Order stating that: (a) the crime charged was committed long before the organization of the Tanodbayan; and (b) the complaint was filed when respondent was no longer connected with the Provincial Government of Laguna. Accordingly, Fiscal Arcigal, Jr. concluded that "this Office (Office of the Provincial Fiscal of Laguna) has jurisdiction to entertain and take cognizance of above-entitled case."

Even before the issuance of the aforementioned Order of Fiscal Arcigal, Jr., Engr. Berroya, Jr. had already filed the instant administrative complaint on March 23, 1981. In his complaint, the herein complainant claimed that the acts of respondent Fiscal prejudiced him because the case was exclusively within the jurisdiction of the Tanodbayan; that the issuance by respondent Fiscal of a "probable cause" Order was based on the Affidavit of Eleuterio Valenciano, which was executed only on July 11, 1980; and that the termination of I.S. No. SC–27, S'80 was unduly delayed, as the order of dismissal was issued by respondent only on April 27, 1981, or more than nine months after the filing of the criminal complaint.

After due hearing, the Minister of Justice found that Fiscal Arcigal, Jr. had taken cognizance of the case without being deputized as Special Prosecutor of the Tanodbayan, despite the previous issuance of Circular No. 27, dated July 30, 1979, and that Fiscal Arcigal Jr. could not have possibly scrutinized all listed documents on July 7, 1980, as he claimed, because the Affidavit of Eleuterio Valenciano showed on its face that it was executed only on July 11, 1980. Thus, the Minister of Justice concluded that Fiscal Arcigal, Jr. did not exercise sound discretion, was less than thorough, and did not display the proper measure of conscientious caution in the discharge of his duties. Accordingly, the Minister of Justice recommended that Fiscal Arcigal, Jr. be suspended from office for three (3) months without pay.

After a review of the substantial evidence on record, this Office concurs in the findings and recommendation of the Ministry of Justice.

WHEREFORE, and as recommended by the Minister of Justice, respondent Assistant Provincial Fiscal Felipe

Arcigal, Jr. of Laguna, is hereby suspended from office for a period of three (3) months without pay, effective upon receipt of a copy of this Order.

Done in the City of Manila, this 30th day of January in the year of Our Lord, nineteen hundred and eighty-four.

(Sgd.) FERDINAND E. MARCOS
President of the Philippines

BY THE PRESIDENT:

Sgd.) MANUEL M. LAZARO
Presidential Assistant for Legal Affairs
