

# MALACAÑANG

Manila

BY THE PRESIDENT OF THE PHILIPPINES  
ADMINISTRATIVE ORDER NO. 129

DISMISSING FROM THE SERVICE ELISEO C. FALLAR, ASSISTANT CITY FISCAL, OFFICE OF THE CITY FISCAL OF MANILA.

This refers to the administrative complaints against Assistant City Fiscal Eliseo C. Fallar of Manila for (1) public misbehavior committed in the courtroom of the Regional Trial Court, Branch 35, Manila, presided by Judge Ramon P. Makasiar, on December 2, 1987; (2) serious irregularity in the performance of official duty for dismissing an estafa case; and (3) unwarranted actuations towards the members of the Western Police District (WPD).

The first case involving public misbehavior took place as follows:

"When the above-entitled case (Criminal Case No. 87-56733, The People of the Philippines vs. Bruderick Dinglasan) was called for the initial reception of the prosecution's evidence on December 2, 1987, at about 8:30 o'clock in the morning, more or less, Fiscal Fallar manifested in open court that the prosecution was ready, but he requested for thirty (30) minutes to enable him to confer with his witnesses, who were in court. The Court granted his request.

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"Subsequently, Fiscal Fallar asked the Branch Clerk of Court, Atty. Alice Castañeda-Gutierrez, to request the Court for a re-setting, which the latter did. The Court, however, denied the request on account of the earlier manifestation, placed on the record, that the prosecution was ready, apart from the fact that the prosecution witnesses were present in court and ready to testify.

"When Atty. Gutierrez informed Fiscal Fallar of the reaction of the Court to his request, Fiscal Fallar successively banged his eyeglasses, the copy of the transcripts that he was at the time reading, and his pack of cigarettes, on the attorney's table, shouting at the same time, 'ayoko, ayokong mag-trial.' Forthwith, the Branch Clerk of Court advised Fiscal Fallar, to talk with the Judge, but Fiscal Fallar, said 'Ayoko, ayoko', and hurriedly left the courtroom.

"Upon resumption of the court session at around 9:15 o'clock the same morning and this case was called for hearing, only the court personnel, the defense counsel, the prosecution witnesses and the accused were present. Fiscal Fallar did not appear anymore, for which reason, the court was constrained to reset the initial reception of the prosecution's evidence."

When asked to explain, respondent fiscal stated that, upon being informed that his request was denied and anticipating that the Judge will force him to proceed with the trial, he left the courtroom against the advice of the Branch Clerk of Court and that his actuation was prompted by sheer frustration for not having been given the opportunity to study the case thoroughly and thereby present a good case for decision.

The Secretary of Justice found respondent's actuation unbecoming of a lawyer and prosecutor. He said:

"x x x He (Fiscal Fallar) is considered an officer of the Court and as such, it is his duty to uphold its dignity and authority by obeying all its lawful orders and rulings. He should be more circumspect in his language, and should show respect to the court by refraining from unnecessary gestures and unwarranted display of passion. Fiscal Fallar's frustration over a denied request for a resetting of the case does not justify his outburst of emotion."

*fol* Anent the second administrative complaint levelled against respondent by Lydia Amor Isip and Mora Linda Isip for irregularity in the performance of official duty for dismissing an estafa case (I.S. No. 87-10697) involving the total amount of P88,900.00, which they filed against Dr. Corazon Igna Dizon, allegedly on the basis of their withdrawal of the complaint and desistance noted on the face of the "Memo of Preliminary Investigation," the Secretary of Justice found as follows:

"There is indubitable proof of intercalation on the complaint sheet and that complainants did not consent to the dismissal of their complaint for estafa.

"Firstly, complainants who do not appear to be unlettered could have easily understood the import and consequence of the withdrawal of their complaint if such

were written on the document before they signed it. It appears that on May 20, 1987, after the scheduled hearing before Fiscal Fallar, they were accompanied by Atty. Peleo to another fiscal before whom they subscribed their joint affidavit-complaint for estafa. On the same day, a similar complaint (I.S. No. 87-12190) signed by Atty. Peleo was filed but was dismissed on July 30, 1987 for failure to prosecute. I.S. No. 87-10697 which was dismissed by Fiscal Fallar has been revived and is now undergoing further preliminary investigation. These facts show that complainants are serious and determined in pursuing their complaint and recovering from Dr. Dizon, who never appeared at the investigation, the amount of P88,900.00 which they allegedly gave to her for their passports, visas and plane tickets to the USA.

"Secondly, the dismissal of the criminal case by Fiscal Fallar on the basis of the notations on the complaint sheet appears to be irregular. It shows on its face that two counsels, namely Attys. Peleo and Simbulan appeared for the complainants on May 13, 1987 as shown by their signatures thereon although complainants refer only to Atty. Peleo as their counsel. They claim that when they signed the complaint sheet it was made in the presence and at the instance of both Atty. Peleo and Fiscal Fallar (t.s.n. pp. 18 and 19, Dec. 10, 1987). Fiscal Fallar knows very well that the proper procedure whenever a complainant withdraws his complaint or desists from further pursuing the complaint is to require at least an affidavit of desistance. He could have easily asked complainants who were always with their counsel to submit an affidavit of **desistance or he could** have requested them to personally write down their decision of withdrawing their complaint. His dismissal of the complaint solely on his notation of "Dismiss thru desistance of complainant" has no basis at all especially in the light of the instant administrative complaint against him. Fiscal Fallar's irregular disposition of the case has resulted in undue delay in the administration of justice."

Finally, the third case brought against respondent fiscal was an offshoot of the report, dated March 4, 1988, of P/Maj. Robert Barbers, Cmdr., Chinatown Substation, WPD, relative to the alleged "unwarranted

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actuations" of respondent fiscal "towards the members of said station." The report was referred by P/Gen. Alfredo S. Lim, INP Superintendent to City Fiscal Luis Victor.

Records show that the spouses Antonio and Irene Ong were both arrested by members of the WPD Chinatown Substation for estafa involving the sum of P42,400.00. On February 25, 1988, at about 2:00 o'clock in the afternoon, respondent fiscal went to the said substation and demanded the immediate release of the above-named spouses. Police Officer Pat. Cecilio Lopez refused to comply. The respondent became mad and threatened him (Lopez) with public prosecution for arbitrary detention. Sensing that no amount of pressure or threat could make Pat. Lopez yield to his demand, respondent offered him the amount of P2,000.00 in the presence of P/Sgt. Pete Angulo, Asst. OIC, Investigation Unit, said substation, for the release of the spouses Ong. Pat. Lopez turned down the offer and angered thereby, respondent again threatened the former.

At 6:00 p.m. of the same day, respondent again confronted Pat. Lopez regarding the release of the Ongs. Pat Lopez refused. Respondent then left saying:

"Kahit mayroong pending fresh case and mga iyan, bukas, aabangan ko ang asuntong ipa-file mo at ako mismo ang gagawa ng paraan upang sila ay ma release."

Indeed, respondent brought to the said station an order for the release of the Ong couple.

In P/Maj. Barbers' report, dated March 4, 1988, he emphatically stated that "the unwarranted actuations" of respondent were "clear indication that the said public prosecutor surprisingly favored the transgressors of the law and ignored the interest of the aggrieved parties who sought police action to help them obtain justice and equity."

On March 18, 1988, respondent fiscal was directed by the Department of Justice to answer the charges of P/Maj. Barbers. Respondent did not heed the directive, despite a tracer sent to him on September 29, 1988, giving him five (5) days from receipt thereof to submit his answer.

In his memorandum of October 26, 1988, the Secretary of Justice said:

"We believe Fiscal Fallar failed to conduct and comport himself in a manner be-fitting a public prosecutor. He has displayed acts prejudicial to the best interest of the service and has provided enough reason for the public to doubt his integrity.

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"The National Prosecution Service exacts the highest degree of care and prudence from public prosecutors in dealing with party litigants as the nature of their functions is such that they easily arouse public suspicion and distrust whenever they commit the slightest irregularity in the discharge of their duties. A public prosecutor's worth is being constantly measured and evaluated in the light of his varying and day-to-day actuations."

He thus recommended that:

"In view of the fact that Fiscal Eliseo C. Fallar has been repeatedly charged and our evaluation of the complaints shows that sufficient evidence are present to support a finding that he is guilty in all three charges, it is recommended that he be dismissed from the service."

After a careful review of the case, I concur in the findings, observations and recommendation of the Secretary of Justice. The chain of administrative charges filed against respondent fiscal does not speak well of his character. He is, therefore, unfit to remain in the government service. His continuance in office will pose a grave danger to the good name of the public service. It need not be stressed that a public office is a position of trust and that public service demands of every government officer or employee, no matter how lowly his position may be, the highest degree of integrity, honesty, morality and efficiency.

WHEREFORE, and upon recommendation of the Secretary of Justice, respondent Assistant City Fiscal Eliseo C. Fallar, Office of the City Fiscal, City of Manila, is hereby dismissed from the service, effective upon receipt of a copy hereof.

Done in the City of Manila, Philippines, this day of 1st in the August, year of Our Lord, nineteen hundred and eighty-nine.

*Gregorio B. Aquino*

By the President:

*Catalino C. Macarati*  
 CATALINO C. MACARATI  
 Executive Secretary