

# MALACAÑANG

Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 51

**IMPOSING THE PENALTY OF SUSPENSION FOR ONE MONTH WITHOUT  
PAY ON ASSISTANT CITY PROSECUTOR MACMOD B. SANGCA,  
CITY PROSECUTION OFFICE, MANILA**

This refers to the administrative complaint filed by Atty. Jose V. Navarra against Assistant City Prosecutor Macmod B. Sangca, City Prosecution Office, Manila, for Negligence.

Records show that, on July 11, 1989, Atty. Jose V. Navarra filed a criminal complaint against Aurora Franco for Grave Threats with the City Prosecution Office, Manila, which was docketed under I.S. No. 89-28188.

The case was assigned to the respondent for preliminary investigation. After several hearings, the case was submitted for resolution on September 11, 1989.

Complainant alleged that, as respondent failed to resolve the preliminary investigation after the lapse of (4) months from the time the case was submitted for resolution, he sent reminder letters on January 17 and March 8, 1990. On May 28, 1990, he filed a complaint against respondent, but the City Prosecutor gave no attention thereto. Hence, on February 6, 1991, he filed this administrative complaint with the Department of Justice (DOJ).

Since respondent did not elect a formal investigation of the complaint, the same was resolved based on the complaint filed and answer/comment submitted, including attached documentary evidence.

Respondent admitted that the criminal complaint of Atty. Jose V. Navarra against Aurora Franco was indeed submitted for resolution on September 11, 1989. On January 22, 1990, he prepared the draft resolution finding the existence of probable cause against respondent Aurora Franco for light threats. However, the typing of the resolution and information was concluded only on April 2, 1990, and was submitted to Reviewing Prosecutor on the same day, for approval.

The resolution was returned to the respondent on May 3, 1990, by Reviewing Prosecutor Amado N. Cantor, with the comment that respondent Aurora Franco acted in

2/

her capacity as Barangay Chairman in the commission of the crime; hence, the case is an Ombudsman Case necessitating clearance before the City Prosecutor of Manila could take cognizance of the case.

Respondent further claimed that he complied with the directive of the Reviewing Prosecutor, but before he could secure a clearance from the Office of the Ombudsman, Chief State Prosecutor Fernando P. de Leon issued Memorandum Circular No. 2, dated April 6, 1990, dispensing with the requirement of prior clearance from the Ombudsman. Hence, he reverted to his former resolution of the preliminary investigation, but revised it to conform with the comment of the Reviewing Prosecutor.

He also reasoned out that the case could have been terminated at his end within the reasonable period had there been no legal and procedural intervening factors, which eventually caused the resultant delay in the resolution of the complaint of Atty. Navarra.

The then Secretary of Justice found respondent liable for Neglect of Duty and recommended that he be suspended for three (3) months without pay. The explanation given by the Secretary pertinently reads:

"We find the answer/comment of respondent Prosecutor untenable. It is very obvious that there was unreasonable delay in the resolution of the criminal complaint of Atty. Jose V. Navarra against Aurora Franco in I.S. No. 89-28188. As appearing in the documentary evidence submitted, this case was submitted for resolution on September 11, 1989 and was resolved by respondent Prosecutor only on April 2, 1990, more than six (6) months from the time of its submission, fully beyond the reglementary period of an investigating Prosecutor to resolve cases submitted.

"The defense put up by respondent Prosecutor that he prepared his draft resolution on January 22, 1990 and gave this to his stenographer for finalization is untenable. Granting that the workload of respondent was heavy, still it would not take seventy-one (71) calendar days to finish it. Respondent could even be termed as negligent or remiss in the performance of his duties for not properly supervising his subordinate. In fact, his office received several letters from the complainant inquiring as to the status of the case."

0003 "BBE" 2

3/

At the outset, it must be stressed that the findings of DOJ Secretary Bello is only recommendatory in nature (Cuyegkeng vs. Cruz, 108 Phil. 1147), since the President has administrative disciplinary authority over respondent, who is a presidential appointee.

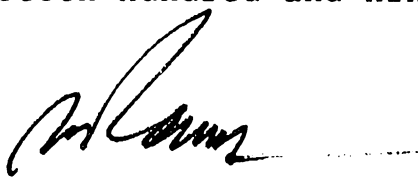
This brings to the fore the core issue of whether respondent should be held administratively liable for Neglect of Duty.

I concur with the findings of the DOJ Secretary.

Respondent presented justification as to the delay after he submitted his resolution to the Reviewing Prosecutor, but failed to present convincing evidence to justify the delay before he actually resolved the criminal complaint of Atty. Navarra against Aurora Franco.

WHEREFORE, premises considered, respondent Assistant City Prosecutor Macmod B. Sangca is hereby found liable for Neglect of Duty. However, considering that there is no evidence that he delayed the resolution of the case for ulterior or malicious purpose, he deserves the penalty of suspension for only one (1) month without pay.

Done in the City of Manila, this 12th day of May , in the year of Our Lord, nineteen hundred and ninety-three.



By the President:



ANTONIO T. CARPIO  
Chief Presidential Legal Counsel