

**[ ADMINISTRATIVE ORDER NO. 93, January 15, 2004 ]**

**IMPOSING THE ACCESSORY PENALTIES OF CANCELLATION OF ELIGIBILITY, FORFEITURE OF RETIREMENT BENEFITS AND DISQUALIFICATION FOR REEMPLOYMENT IN THE GOVERNMENT SERVICE ON RICARDO B. MACALA, FORMER DIRECTOR OF THE BUREAU OF CORRECTIONS**

This refers to the administrative complaint for Grave Misconduct and Nepotism filed by Department Justice against Ricardo B. Macala, former Director of the Bureau of Corrections.

Records show that on April 2, 2003, the Presidential Anti-Graft Commission (PAGC) received from Department of Justice (DOJ) Secretary Simeon Datumanong a letter-request to investigate respondent Macala on the basis of the fact-finding report submitted by Senior State Prosecutor Teresita Reyes-Domingo recommending the filing of Grave Misconduct and Nepotism charges against respondent for alleged irregularities exposed in a series of newspaper articles and in two (2) anonymous complaints dated January 6 and 21, 2003, respectively, initiated by "concerned" employees of the Bureau of Corrections (BUCOR) Employees Association.

Convinced that sufficient basis exists to conduct an investigation, the PAGC issued an order on May 9, 2003, directing respondent to file a counter-affidavit/verified answer and the parties to attend the preliminary conference scheduled on May 19, 2003. Earlier, respondent had been placed under preventive suspension pursuant to Presidential Administrative Order No. 72, Series of 2003.

In his Counter-Affidavit and Position Paper, respondent stressed, anent the first charge, that the two (2) unsworn and anonymous letter-complaints are downright frivolous and that no substantial evidence has been presented to prove beyond cavil that he is guilty of extortion. He further averred that the amount of P1.5 Million was spent on the rehabilitation of the National Bilibid Prison (NBP) hospital because major, not minor, works were done thereon. To belie the imputation that he received kickbacks out of said rehabilitation, respondent presented a certification by the NBP General Service Chief to the effect that said allegations are untrue.

Respondent further vehemently denied that his son, Arnel Macala, has been using the BUCOR official car in bringing shabu and liquor in the NBP maximum security compound, claiming that he had issued several memoranda to ensure that all vehicles and visitors entering the NBP premises are carefully checked and the inmates have no access whatsoever to prohibited articles. Likewise denied by respondent were the allegations that he allowed his son-in-law, Raymond Luz, to operate a videoke machine inside the NBP premises, financed the campaign sorties of former DOJ Secretary Hernando Perez, had acquired a 10-door apartment, and that said Raymond Luz had constructed a mansion. Refuting the charge that he

received gifts from inmate Lyson Ivan Acedillo, respondent presented the latter's affidavit disclaiming the same.

On the Nepotism charge, respondent maintained that the appointment of Generoso Bautista who is a "fourth degree relative" is not violative of the law nor were the details of Noel Mendoza and Abner Macala, who are members of the Philippine National Police, nepotism being in pursuance of the letter-order of Police Senior Superintendent Chito De Los Santos. In the same breath, respondent maintained that the detail of Noel Mendoza, Abner Macala and Raymond Luz did not violate the rule of nepotism (Sec. 59[2] of E.O. No. 292 and Sec. 49 of PD No. 807), since they are holding primarily confidential positions.

Upon the other hand, the DOJ, in its Position Paper, postulated that respondent is guilty of the charges, more particularly of Grave Misconduct, as evidenced by BPI Bank Account No. 0883-016327 under the name of respondent in whose favor suppliers of foodstuff to the BUCOR deposit substantial sums of money in exchange for presidential treatment given by respondent, as corroborated by Mr. Kabungsuan Makilala, Executive Secretary of BUCOR Bidding Committee in his affidavit of April 3, 2003, who further declared that the bidding process was manipulated and influenced by respondent.

The DOJ further averred that respondent never denied that he authorized minor repairs at the NBP hospital at the staggering cost of P1.5 million, as alleged in the letter-complaints, nor belie the anomaly regarding the NBP waterproofing works at the maximum security compound, which leaves much to be desired, since "the place still gets soaked by something like a garden sprinkler."

Concerning the shabu and liquor proliferation issue, the DOJ maintained that respondent's son uses the BUCOR official vehicle to clandestinely smuggle said prohibited items inside the NBP compound.

Anent the complaint for Nepotism, the DOJ alleged that respondent employed his relatives both by affinity and consanguinity within the prohibited degree when he was still the BUCOR Director.

After due evaluation the PACG issued a resolution on October 7, 2003 finding respondent guilty of Nepotism but absolving him from the charge of Grave Misconduct. The findings and recommendation of the PAGC are quoted hereunder:

"The sole issue now posed before the Commission is whether or not respondent Macala may be held liable for all the charges raised against him based on the evidence on record.

"We must qualify.

"On grave misconduct. In a plethora of cases, the Supreme Court declared that:

*'Misconduct in Office has a definite and well-understood legal meaning. By uniform legal definition it must affect the performance of his duties as an officer and not such only as a private individual. In such case, it has been said at all times, it is necessary to separate the character of the man from the character of the officer. It is settled that misconduct, misfeasance warranting removal from office of an officer of an officer*