

[ADMINISTRATIVE ORDER NO. 317, March 17, 1997]

**IMPOSING THE PENALTY OF DISMISSAL FROM THE SERVICE
WITH FORFEITURE OF ALL BENEFITS UNDER THE LAW ON
BULACAN ASSISTANT PROVINCIAL PROSECUTOR EDSSEL RUTOR**

This refers to the administrative complaint filed against Assistant Provincial Prosecutor Edsel Rutor of the Office of the Provincial Prosecutor of Bulacan for alleged grave misconduct (defiance and disregard of a lawful order of a supervising officer and bias and partiality in favor of an accused).

Records show that Prosecutor Rutor was assigned to conduct a reinvestigation on the criminal complaint for estafa thru falsification of public document filed by Mr. Mariano Cudia against the spouses Apolonio and Bernarda Cruz (Crim. Case No. 1469-M-93, Br. 19, RTC, Malolos, Bulacan). After reinvestigation, Prosecutor Rutor recommended the dismissal of the said case. However, his recommendation was disapproved by then Provincial Prosecutor Liberato Reyes who directed him in the following manner:

x x x

"We should present our evidence that makes (out) a prima facie case and let the court decide, not this office pre-empting the prerogative of the court."

However, instead of complying with the said directive, Prosecutor Rutor submitted his resolution to the trial court, in obvious disregard of his superior's adverse stand. On 22 December 1993, the court ordered the arraignment of the accused who pleaded not guilty, and forthwith, issued an order dismissing, with prejudice, the said criminal case on the basis of Prosecutor Rutor's resolution. A motion for reconsideration of the court's order of dismissal was filed by the private prosecutor; this was vehemently opposed by Prosecutor Rutor thus, resulting in the denial of the said motion by the court.

Later, it was discovered that although the resolution of respondent prosecutor dismissing the case was made only on 17 December 1993, the accused appeared to have been arraigned a few days thereafter, or specifically on 22 December 1993. The court's log book, however, did not show that the said case was scheduled for arraignment on the said date. Apparently, respondent prosecutor, showing his bias and partiality towards the accused, connived with the court personnel to make it appear that the accused was arraigned so that the dismissal of the case could be "with prejudice".

Further, when complainant moved for a reconsideration of the dismissal order, Prosecutor Rutor objected and reiterated his position to dismiss the case. As a result, the court denied the said motion of complainant Cudia. On 12 January 1994,