

[ADMINISTRATIVE ORDER NO. 177, February 28, 1995]

IMPOSING THE PENALTY OF DISMISSAL FROM THE SERVICE WITH FORFEITURE OF ALL THE BENEFITS UNDER THE LAW OF BUREAU OF IMMIGRATION DEPUTY COMMISSIONER BAYANI M. SUBIDO, JR.

This is an administrative case filed by Mr. Merlin J. Argos against Deputy Commissioner Bayani M. Subido, Jr. of the Bureau of Immigration for violations of the Anti-Graft and Corrupt Practices Act and the Code of Ethical Standards for Public Officials and Employees for allegedly issuing a Special Work Permit (SWP) in favor of Mr. John David Mitchell, an Australian national not legally entitled thereto.

In its Resolution, the Presidential Commission Against Graft and Corruption (Commission) found the following:

"The evidence on record shows that John David Mitchell, an Australian national was indeed issued by respondent a Special Work Permit (SWP No. BS-94-936) dated February 17, 1994, valid for three (3) months; and an extension thereof (SWP No. BS-94-988). There is no question that both SWP's were signed and issued by respondent.

"Pursuant to Personnel Order No. 452 dated January 21, 1994, issued by Commissioner Zafiro H. Respicio of the BID, it appears that respondent was not authorized to issue SWP's. In the said Order, the authority to issue SWP's was granted therein only to Atty. Regino S. Santiago x x x.

"But even granting that respondent indeed had authority to issue SWP's, the issuance of SWP's to John David Mitchell was made under highly suspicious circumstances and the evidence on record shows that the issuance of the same by respondent was irregular.

"In a memorandum dated June 28, 1994 regarding the complaint for deportation of Mitchell, which was addressed to Commissioner Zafiro Respicio of the BID, Atty. Ronald G. Deray, Legal Officer I of the BID, reported that after an investigation conducted, he found x x x irregularities surrounding the issuance of the SWP's x x x.

"Moreover, Law Instruction No. 20 dated 4 May 1988 by then BID Commissioner Miriam Defensor Santiago provides that before the Law Division processes the application (for a special work permit), or before the Commissioner's Office releases the permit, the applicant shall file the CID cashier's receipt for the sum of P300.00, plus an overtime fee of P200.00. The evidence of the respondent shows that the application was filed on 17 February 1994; the permit was released on the same day but the payment was made only on 23 February 1994 or six (6) days after its release. Moreover, respondent failed to submit any evidence to prove that

payment was made for the extension of Mitchell's special work permit on 13 May 1994 x x x.

"Finally, it should be noted that special work permits are issued to aliens - temporary visitors - who come to the Philippines for business. The business must be commercial, industrial or professional in character, but does not include coming for employment, or for clerical or manual work (Law Instruction No. 27, May 25, 1988, BID Commissioner Miriam Defensor Santiago). In the case of John David Mitchell, he was employed with Givaudan Toure (Phils.) from January to December 1993 and as General Manager, Fragrance Division, International Flavors and Fragrances (Phils.), Inc., in January 1994 up to the filing of the complaint for his deportation sometime in April 1994. Mitchell was, therefore, not qualified for any Special Work Permit. What made matters worse was that despite the pendency of a complaint for summary deportation against Mitchell filed sometime in April 1994, respondent, on 13 May 1994 issued an extension of Mitchell's special work permit. Respondent's acts were in violation of the internal rules and procedures of the BID and of Section 3 (j) of the Anti-Graft and Corrupt Practices Act (R.A. 3019) which provides:

'Section 3. Corrupt Practices of Public Officers. In addition, x x x

j) Knowingly approving or granting any license, permit, privilege or benefit in favor of any person not qualified for or not legally entitled to such license, permit, or a mere representative or dummy of one who is not so qualified or entitled.'

"ACCORDINGLY, the Commission finds respondent Deputy Commissioner Bayani M. Subido, Jr. of the Bureau of Immigration and Deportation (BID) guilty of violation of Section 3 (j) of R.A. 3019; of violation of the internal rules of the BID, and of acting without and/or with grave abuse of authority, and with evident bad faith in issuing special work permit to an Australian national, John David Mitchell, who was not entitled thereto and in order to frustrate the efforts of the BID to cause the investigation and summary deportation of said John David Mitchell for violation of labor laws."

After a review of the evidence on record, this Office concurs with the findings of the Commission.

Pursuant to Personnel Order No. 452, respondent herein was not authorized to issue Special Work Permits. Said Order, as certified to by the Personnel Officer of the Bureau of Immigration last September 30, 1994, has not been revoked, amended or superseded and remains to be valid as of said date. This notwithstanding, respondent issued a Special Work Permit to Mr. John David Mitchell and even extended the same upon its expiration. Moreover, as admitted by respondent himself, he had, as of July 8, 1994, issued 1,011 Special Work Permits.

It is worthwhile to point out too that part of the records of this case is a letter dated May 31, 1994 sent by Atty. Alfonso N. Navarro, Chief, Law and Investigation Division (LID), of the Bureau of Immigration, to Atty. Ronaldo P. Ledesma, Resident