

[ADMINISTRATIVE ORDER NO. 200, June 26, 1995]

IMPOSING THE PENALTY OF DISMISSAL FROM THE SERVICE WITH FORFEITURE OF ALL BENEFITS UNDER THE LAW OF EDUARDO D. FABIAN, 3RD ASSISTANT PROVINCIAL PROSECUTOR OF RIZAL

This refers to the administrative complaint filed by the Department of Justice against 3rd Assistant Provincial Prosecutor Eduardo D. Fabian of Rizal for gross neglect of duty, gross inefficiency and violation of Department Circulars.

It appears that respondent has, more or less, 106 unresolved cases, ninety-two (92) of which were not resolved within the 60-day prescribed period and another fourteen (14) cases which remain unresolved despite directives from the Provincial Prosecutor of Rizal in violation of Department Circular Nos. 36 and 49, series of 1991 and 1993, respectively.

In answer to this charge, respondent claims that as of June 1994 his remaining unresolved cases are only 73 and not 106; that he has no 1991 and 1992 unresolved cases particularly those dated 21 October 1991, 01 December 1991 and 16 January 1992; that these cases are supposed to be reconstituted cases but were not reconstituted at all for failure of the parties to appear and submit their reconstituted documents for preliminary investigation; that this reconstitution was necessary because of the destruction of the records when a fire razed the Prosecution Office in Cainta on May 9, 1992; that after the fire, the Prosecution Office in Cainta held office under an improvised shade; that he rescheduled the continuation of the preliminary investigation after the municipal government shall have relocated them; that he instructed the parties to submit reconstituted affidavits and counter-affidavits; that the cases of those parties who complied with this instruction were resolved in due course but some parties did not return to pursue their complaints; that as of November 25, 1994, he had nine (9) unresolved 1993 cases and that of the number of cases mentioned in the charge sheet, thirty-three (33) remain unresolved; that he assisted in the preparation and filing of cases for reconstitution and this takes much of his time even on Saturdays; that he attends to court hearings three (3) times a week in Cainta and also holds office and conducts preliminary investigation in Pasig and his time is eaten up by the notorious traffic situation along Ortigas Avenue; that he was also assigned to the Regional Trial Court, Branch 166 in Pasig, a special court wherein he has to study the transcript of records for a better understanding of the case considering that he came in midstream after two or three prosecutors; that he also took over court reinvestigation cases; that he was not able to resolve all the old cases as he had to resolve the new cases within the prescribed deadline; that he also suffers from asthma and had been on sick leave of absence for seven (7) days in May, 1994; that in April, 1994 he applied for a vacation leave of absence for the period June 20 to July 1, 1994 but it turned out to be a sick leave as he again got sick on said period;