

[ADMINISTRATIVE ORDER NO. 209, August 02, 1995]

**IMPOSING THE PENALTY OF SIX (6) MONTHS SUSPENSION
FROM THE SERVICE WITHOUT PAY ON SECOND ASSISTANT CITY
PROSECUTOR VICTORINO S. ALVARO OF MANILA**

This refers to the administrative complaint filed *motu proprio* by the Department of Justice against Manila Second Assistant City Prosecutor Victorino S. Alvaro for grave misconduct and conduct prejudicial to the best interest of the service.

Records disclose that on December 22, 1992, Prosecutor Alvaro, in his capacity as Assistant Chief of the Inquest Division, approved the resolution of the inquest prosecutor finding a *prima facie* case of murder without bail against Braulio Miano, the mastermind; Cecilio Gaddi, the knifewielder; and Ledencio Buenafe, the courier, in the killing of Gelita Sarayan. Gaddi and Buenafe executed extra-judicial confessions, with the assistance of counsel, alleging that Miano instructed them to execute the killing.

On December 23, 1992, Prosecutor Alvaro modified said resolution by issuing a second resolution which he dictated to stenographer Josefina Yambao, finding Gaddi and Buenafe liable for murder and downgrading the charge against Miano to homicide. Special Counsel Zenaida Laguilles refused to sign the informations for murder and homicide as she noticed the existence of conspiracy among the three (3) suspects which warranted the filing of a common charge of murder. Special Counsel Venepi Canta likewise refused to sign the informations as he found it erroneous to charge a principal by induction with mere homicide when his co-accused was being charged with murder. The informations were finally signed by Prosecutor Alvaro directing the filing of separate informations for murder and homicide. The said informations were approved by Prosecutor Alvaro and file in court.

The following day, December 24, 1992, Miano was released from detention upon posting the recommended bail of P20,000.00. He was arraigned by the court for homicide on January 11, 1993.

Consequently, Prosecutor Alvaro was held to answer for downgrading the charge as well as signing and approving the defective information for homicide against Miano who was cited therein as the knifewielder when he was the principal by induction. In view of the defect in the information which could lead to the dismissal of the case, and as the charge could no longer be raised to murder, Miano having been arraigned, the City Prosecutor, as a remedial measure, moved for the amendment of the information to include the participation of Gaddi and Buenafe.

Prosecutor Alvaro denies having issued a resolution downgrading the charge against Miano and having directed the preparation of the two (2) informations for murder and homicide. He claims that what he prepared was a short memo urging the