

**[ ADMINISTRATIVE ORDER NO. 250, November 11, 1991 ]**

**DISMISSING FROM THE SERVICE FOURTH ASSISTANT  
PROVINCIAL PROSECUTOR ROMEO H. MEDIODIA OF THE  
PROVINCIAL PROSECUTOR'S OFFICE OF ILOILO**

This refers to the administrative complaints for a) Insubordination, and b) Grave Misconduct and Oppression against Fourth Assistant Provincial Prosecutor Romeo H. Mediodia of the Provincial Prosecutor's Office of Iloilo.

The relevant antecedent facts are related in the Memorandum for the President dated January 25, 1991 of the Secretary of Justice, to wit:

"The administrative complaint for insubordination was filed by Provincial Prosecutor Vicente Aragona of Iloilo against the respondent.

"Prosecutor Aragona alleges that on November 10, 1989, operatives of the Narcotics Command (NARCOM) conducted a buy-bust operation which resulted in the arrest of one Efraim Baldeo. A complaint for violation of Section 4, Article II of R.A. 6425, as amended, otherwise known as 'The Dangerous Drugs Act of 1972' was thereupon filed by NARCOM with the Office of the Provincial Prosecutor of Iloilo against Efraim Baldeo and docketed therein as I.S. No. 89-111. After preliminary investigation, a resolution was issued on November 14, 1989 finding Baldeo prima facie liable for the offense charged and a criminal information was filed with the Regional Trial Court of Iloilo and docketed as Criminal Case No. 33820. No bail was recommended. During the arraignment on December 7, 1989, accused Baldeo, through counsel, expressed to the court his desire to plead guilty to a lesser offense. When asked to comment, being the trial prosecutor assigned in said court, respondent Mediodia allegedly requested for a recess and thereafter sought Prosecutor Aragona's advice. The Provincial Prosecutor advised respondent herein to interpose an objection to the intended plea of the accused, reminding him therefor of the objectives of the Department's Memorandum Circular dated November 15, 1989, warning against the soft-glove handling of cases involving violations of the Dangerous Drugs Act and other related cases. Prosecutor Aragona learned later that his subordinate, the respondent herein, had defied his instructions and that of the Department Memorandum Circular on the matter because the trial court issued an order imposing upon accused Baldeo the penalty of imprisonment of two (2) years and a fine of Two Thousand Pesos (P2,000.00) after the accused pleaded guilty to the lesser offense of violation of Section 15 of R.A. 6425 without respondent's objection.

"Complainant Prosecutor Aragona avers that a mere perusal of the facts

and circumstances attendant to the arrest of accused Baldeo, as appearing in the information filed in court, would readily show the inapplicability of Section 13 of R.A. 6425, even as a lesser offense, considering that the accused was caught not only in the act of selling, distributing and/or delivering 20 sticks of cigarettes containing marijuana, but also having in his possession 30 sticks of cigarettes containing marijuana. Certainly, Section 4 (Sale, administration, delivery, distribution and transportation of prohibited drugs) and Section 8 (Possession or use of prohibited drugs) would be more applicable on the case. Section 13, which deals with possession of opium pipe and other paraphernalia for prohibited drugs, would have no application to the case since what were recovered from the accused was neither a pipe, equipment, instrument, apparatus or paraphernalia, but sticks of cigarettes containing marijuana. Based, therefore, on the facts of the case, the lesser offense that accused could have pleaded guilty to would have been under Section 8 of R.A. 6425, the penalty of which is imprisonment ranging from six years and one day to twelve years and a fine ranging from P6,000.00 to P2,000.00.

"In his comment/answer, respondent Mediodia did not dispute the claim of Provincial Prosecutor Aragona that the former did not interpose any objection to accused Baldeo's entering a plea of guilty to the lesser offense of violation of Section 13 of R.A. 6425. He claims, however, that his action was prompted by the fact that the NARCOM agents themselves, who were witnesses for the prosecution, did not offer any objection thereto as it was in conformity with the instruction of their Commander. He alleged that if he persisted in the prosecution of the accused for violation of Section 4 of R.A. 6425, as originally charged, the latter's acquittal would have been a foregone conclusion considering the testimonies that the MRCOM agents would give. Hence instead of going through the tedious process of presenting evidence which would, anyway, be insufficient to warrant conviction, he opted to dispose of the case by consenting to the plea of the accused to a lesser offense. In support of his defense, respondent submitted the affidavit of Judge Norberto E. Devera, Jr., Presiding Judge, Branch 24, Regional Trial Court of Iloilo wherein he considered (respondent's) actuation as 'procedurally correct and unassailable.'

"The other administrative complaint against the respondent was initiated by Ely P. Convocar, allegedly representing complainants Minda Faldas and Luceno Bayot, for Grave Misconduct and Oppression (the latter charge consisting of 'abuse of judicial power and personal intervention').

"The complaint arose out of Criminal Case No. 1137 entitled 'People of the Philippines versus Jorge Dato-on' for Multiple Murder, originally filed with the 4th Municipal Circuit Trial Court of San Dionisio and Concepcion, Iloilo and transmitted for appropriate action to the Office of the Provincial Prosecutor of Iloilo. The case was subsequently assigned to the respondent for preliminary investigation. In a resolution dated November 9, 1988, the respondent dismissed the case at the instance of complainants Minda Faldas and Luceno Bayot who executed a joint affidavit of desistance. The victims in the case against Jorge Dato-on

were Marlon Faldas and Joemarie Faldas, children of complainant Minda Faldas, and Rudy Bayot, son of complainant Luceno Bayot.

"Ely Convocar, in his letter-complaint dated December 5, 1988, alleged that on November 9, 1988, in response to a summons from the respondent, complainants Faldas and Bayot went to the Office of the respondent where they were 'persuaded' by the respondent to accept the amount of Eleven Thousand Pesos (P11,000.00) for each victim as payment in the settlement of the case against Jorge Dato-on. They refused to accept the settlement amount. However, the respondent continued to exert pressure on them saying that 'it is better you were paid, you should be happy for that'. Thereafter, the respondent produced three bundles of money from his drawer, extracted One Thousand Pesos (P1,000.00) from each of the three bundles, handed the remaining amount to them and ordered them to go home. The complainants aver that the settlement, engineered by the respondent prejudiced them because 'justice was not implemented equally.'

"Subsequently, Ely Convocar, without the participation of complainants Faldas and Bayot, withdrew the complaint against the respondent. The Secretary of Justice, desirous of being informed as to the real status of the complaint, designated City Prosecutor Efrain V. Baldago of Iloilo City to conduct an investigation of the administrative complaint.

"In the course of the investigation conducted by City Prosecutor Baldago, the respondent, through counsel, submitted his brief-memorandum assailing the charges against him as being baseless, having been filed by Ely Convocar who was not authorized to so file the complaint and who was motivated by greed, and pursued by Provincial Prosecutor Aragona out of vengefulness. He cited several instances when complainant Faldas manifested her desire and/or intent not to pursue the complaint against the respondent. During the investigation conducted by the NBI, she stressed that 'they have really no intention of filing any complaint against Romeo H. Mediodia' and that complainant's Joint Affidavit dated November 28, 1988 (attached to the letter-complaint of Ely Convocar) was not explained to them. Likewise, in her letter dated August 11, 1990 and submitted to City Prosecutor Baldago, complainant Faldas stated that she is not interested in the investigation against the respondent because she has no complaint against him. These statements, he avers, are proofs that no pressure was exerted upon complainants Faldas and Bayot in the settlement of their case against Jorge Dato-on and that no money was given to the respondent.

"After investigation, City Prosecutor Baldago issued a resolution dated October 22, 1990 incorporating his findings and recommendation on the administrative complaint under consideration. In the said resolution, City Prosecutor Baldago recommended that the respondent be dismissed from the service."

The Secretary of Justice, in his said Memorandum, concurred in the recommendation of City Prosecutor Baldago for respondent's dismissal from the service. We quote the pertinent findings and conclusions of the Secretary of Justice: