

[ADMINISTRATIVE ORDER NO. 171, June 08, 1990]

DISMISSING ASSISTANT CITY PROSECUTOR VENERANDO L. AGUSTIN OF QUEZON CITY FROM THE SERVICE.

This is an administrative case against Assistant City Prosecutor Venerando L. Agustin of Quezon City filed by his immediate superior, City Prosecutor Jose F. Erestain, Jr., for alleged rank insubordination, disrespect towards his superior, gross dishonesty and conduct prejudicial to the best interest of the service.

In his letter-complaint to then Justice Secretary Sedfrey A. Ordoñez, dated March 17, 1989, City Prosecutor Jose F. Erestain, Jr., of Quezon City, averred that, during the monthly luncheon meeting of the Quezon City Prosecutors held at the Innocentes Farmhouse on February 10, 1989, respondent Assistant City Fiscal Venerando L. Agustin asked him if he believed the complaint lodged against the respondent by two ladies. Despite being admonished to let the matter rest as it had already been taken up between them, respondent insisted that if he (Erestain) believed said complaint, he should file charges against respondent. Fiscal Erestain then reminded respondent that, if a party complains once against the actuation of an assistant fiscal, he would consider it as one of the so-called occupational hazards, but when seven similar complaints are directed against the same fiscal, "that is no longer a smoke, but a fire". Apparently resenting Fiscal Erestain's remark, respondent loudly proclaimed that the former was harassing fiscals and employees, instead of protecting them, to which Fiscal Erestain replied that he could not protect dishonest fiscals or employees. Whereupon, respondent, in stentorian voice, challenged Fiscal Erestain to file charges against him, adding: "Baka tamaan ka rin!" (I can also hit you with charges). "I can work for your ouster, too!"

Fiscal Erestain further claimed that respondent is well known among secretaries and employees in the Fiscal's Office for his arrogance and insolence. In support thereof, Fiscal Erestain submitted the letter-reports of Stenographer Armida L. Bayquen and Supervising Stenographer Zenaida C. Natividad, dated January 19, 1988 (should be 1989) and November 18, 1988, respectively. According to Ms. Bayquen, sometime on January 19, 1989 at about 9:25 A.M., she was asked by respondent about the nature of the charge filed by certain complainants who were then present. When she responded that it was for a violation of a presidential decree, respondent twice retorted with arrogance: "What is that!", to which she answered: "I do not know, Sir.", adding that "Kayo ho ang lawyer, siyempre alam nyo." She was then ordered by respondent to go and research, when actually that was not her job. A few minutes thereafter, respondent asked her to get the records which he had already signed, but to her surprise, the latter threw the same on the floor, scattering them. Ms. Bayquen further stated that respondent seems to find enjoyment in scolding her, as he always does at her discomfort, and even threatened her with bodily harm, saying: "Nagpipigil lang ako sa'yo."

For her part, Ms. Natividad narrated that, on November 17, 1988, her attention was called by respondent who was then in a sort of discussion with Stenographer Minda Patron, saying that he could shout at Ms. Patron as she is just his secretary. When she (Ms. Natividad) told respondent that Ms. Patron had requested that she be not shouted at in front of party litigants as it is so humiliating, respondent flared up and uttered in a loud voice: "I can shout at anybody, she is only a secretary. I can shout even to my wife. You are just a division chief. Isip mo kung sino ka na ryan!" And when she asked respondent what he was mumbling about, the latter answered: "You better clean your ears." Ms. Natividad was so humiliated because the secretaries who were around were looking at them and she just left to avoid creating a scene.

Fiscal Erestain likewise attached the affidavits of Assistant City Fiscals Lea T. Castelo, Benjamin P. Mayo and Amalia F. Dy, dated June 20, 1988, March 16, 1989 and March 20, 1989, respectively, to show that respondent had committed acts of dishonesty and over bearing arrogance.

Fiscal Castelo stated that, sometime in June 1988, during the preliminary investigation of a case (I.S. No. 88-449) involving a violation of the Rental Law (B.P. Blg. 877), entitled "Lydia Medina, et al., vs. Le Lin Co alias Sio Kiek Beng", wherein she was the prosecuting fiscal, respondent followed her when she went out of the room and said in a hushed tone: "May pera galing sa complainants. I like to share it with you."

On the other hand, Fiscal Mayo affirmed in his affidavit that respondent had been persistently following up in favor of the party-respondent in an illegal recruitment case (I.S. No. 88-3078-A), entitled "Eduardo Estrada vs. Erlinda Hagad", so much so that he was constrained to request that said case be reassigned to another prosecutor to afford justice to the party litigants.

Fiscal Dy to whom said illegal recruitment case was reassigned stated that, during the preliminary investigation thereof, respondent kept on following up the case in favor of respondent Erlinda Hagad.

Finally, Fiscal Erestain alleged that other prosecutors have likewise conveyed to him similar experiences with respondent showing the latter's unpardonable conduct. According to Fiscal Erestain, even judges, lawyers and party litigants have not been spared from making unsavory comments against respondent. Metropolitan Trial Court (MTC) Judge Gregorio Dayrit even complained one time that respondent was interfering during the trial of a Serious Physical Injuries case, entitled "People vs. Martin Po Cham, et al.," although he was not a trial fiscal assigned in his sala and was seen coaching the complaining witness during the trial.

By a 1st indorsement dated March 22, 1989, Chief State Prosecutor Fernando P. de Leon required respondent to submit his answer to the charges, with a right to elect a formal investigation, if he so desires. Otherwise, the case will be considered solely on the basis of the complaint and answer.

In his Answer of April 18, 1989, respondent alleged at the outset that, during the occasion mentioned in Fiscal Erestain's complaint, he felt being alluded by the latter's remark as the prosecutor charged with several complaints and that, emboldened by the after-effect of the several bottles of beer he drank, which were

then freely served, he stood up and told Erestain why he would insult and harass him with such unfounded remarks. Respondent further averred that the two ladies (the Santillan sisters) who complained against him for allegedly asking a set of calling cards and a suiting material and demanding P5,000 nearly had him entrapped by the NBI through the instigation of Fiscal Erestain were it not for the revelation of Ms. Violeta Estacio, a loyal friend who was present when the Santillan sisters and Erestain planned their entrapment on account of respondent's refusal to file an information for estafa based on the complaint of the Santillan sisters.

According to respondent, Fiscal Erestain had an ax to grind against him, as the latter suspected him to be the author of the letter-complaint for graft and corruption filed against Erestain by one Lourdes Maranan before the Justice Department, but the truth of the matter is that it was Maranan's counsel, Atty. Arsenio Cabrera, who prepared the said letter-complaint. Respondent claimed that when Erestain summoned him to his office upon receipt of a copy of the letter-complaint, he was asked by Erestain to sign a letter to the effect that he (Erestain) never asked respondent to do anything favorable to the Po Cham family, respondents in the Grave Oral Defamation and Serious Physical Injuries cases filed by Maranan.

Amplifying thereon, respondent averred that he had already signed the resolution and information for grave oral defamation and serious physical injuries against the Po Cham family when Fiscal Erestain called for him and in front of the accused told the latter that only he (respondent) could help them. Upon being informed of his action, Erestain felt offended and, the following day, Edith Po Cham, probably upon Erestain's advice, formally charged him with being biased and requested that the case be reassigned to another fiscal.

Respondent also denied not having offered an apology to Fiscal Erestain, claiming that, during the induction ceremonies of the incoming Board Members of the Quezon City IBP Chapter held on March 19, 1989, he approached Erestain to offer his apology but he was told by the latter that that was not the proper place and time. Respondent had earlier learned from Fiscal Myrna Vidal that Erestain wanted him to make a public apology during a meeting of the Quezon City fiscals.

Anent Fiscal Erestain's allegation in his complaint that respondent intentionally absented himself during the March 10, 1989 monthly fiscals' meeting, respondent explained that he was not purposely avoiding Erestain but that he was requested by then IBP Chapter President Atty. Confesor Sansano to start preparing the much delayed issue of "The Q.C. Lawyer," the official newsletter of the IBP Quezon City Chapter, of which fact respondent requested Atty. Sansano to inform Erestain.

On the Armida Bayquen Report, respondent claimed that he felt insulted by the arrogant manner by which Ms. Bayquen refused to heed his request to get a copy of a certain presidential decree, prompting the party litigant then present to remark that he (respondent) was being bossed around by his secretary. Respondent further alleged that the Bayquen report was never referred to him for comment nor was he called by Fiscal Erestain to explain his side of the case.

Respondent took exception to the Natividad Report by stating that Ms. Natividad was treating him as her co-equal, he being new in the office then. Respondent alleged that, while he and his secretary, Minda Patron, were in the thick of discussion, Natividad suddenly butted in and started giving him a sermon as if he