

[ADMINISTRATIVE ORDER NO. 196, September 13, 1990]

DISMISSING FROM THE SERVICE STATE PROSECUTOR NESTOR B. ORELLANA OF THE DEPARTMENT OF JUSTICE

This is an administrative case filed by the Department of Justice (DOJ) against State Prosecutor Nestor B. Orellana, detailed at the Office of the Provincial Prosecutor of Rizal Province, for alleged insubordination, inefficiency and gross neglect of duty.

Records show that, on March 17, 1987, I.S. No. DO-62-001, entitled "Securities and Exchange Commission vs. Ocampo, et. al.", was assigned to respondent. More than two (2) years thereafter, the DOJ received a letter, dated August 28, 1989, from Jose S. Ocampo, one of the respondents in the abovementioned case, complaining that, after submitting his memorandum on August 20, 1987, he (Ocampo) never heard of any development in his case.

Hence, on August 31, 1989, respondent was directed by Chief State Prosecutor Fernando P. de Leon to explain within seventy-two (72) hours why no administrative/disciplinary action should be taken against him for serious neglect of duty for failure to resolve I.S. No. DO-62-001, and for failure to submit his accomplishment reports for the months of June and July, 1989. Upon respondent's request, he was granted a 5-day extension to submit his explanation in a letter of the DOJ, dated September 19, 1989, which communication was received by him on September 27, 1989. Despite thereof, respondent failed to submit an explanation.

Again, on September 31, 1989, the DOJ received another letter, dated March 7, 1989, from Mr. Galo B. Garchitorena, Executive Director of the Quedan Guarantee Fund Board (QGFB), also complaining of the delay by respondent in resolving the two (2) criminal complaints for estafa filed with the DOJ Task Force on National Food Authority (NFA) and QGFB cases against Conrado O. Colarina and Emily J. Unson. It appears that preliminary investigations of said cases had been conducted by respondent in 1987 and the same were submitted for resolution sometime in April and May, 1988, respectively, but remained unresolved by him. Moreover, while the criminal complaint against Colarina does not appear in respondent's "Report of NFA Assigned Cases", yet he admitted having taken cognizance thereof, thereby prompting Senior State Prosecutor and NFA Task Force Chairman Ronaldo M. Banzuela to issue a memorandum to respondent on February 15, 1989, the full text of which is quoted below:

"MEMORANDUM to
State Prosecutor Nestor Orellana O f f i c e
"SUBJECT:
CASE RECORD AND INVESTIGATION OF QUEDAN BOARD VS. CONRADO
COLARINA

"A careful examination of the entire records of above-entitled case as well as the docket and record books of this Office shows that the complaint in said case has not been officially docketed; neither has it been officially filed with the Task force nor filed with the Record Section of the Department considering that the letter-complaint is addressed to the Secretary of Justice.

"On the basis thereof, submit a memorandum within five (5) days from receipt hereof justifying your action in taking cognizance of said case and conducting the preliminary investigation."

Again, Orellana failed to comply with the above-quoted DOJ directive, for which reason Senior State Prosecutor Banzuela addressed another memorandum to the respondent, dated October 16, 1989, this time requiring respondent to submit his explanation not only as regards the Colarina case but also as to his failure to terminate on time the preliminary investigation of certain cases. Said memorandum reads in full:

"MEMORANDUM to
STATE PROSECUTOR NESTOR ORELLANA
"SUBJECT:
CASES PENDING PRELIMINARY INVESTIGATION AND MEMORANDUM
DATED FEBRUARY 15, 1989

"It appears from your monthly report of cases that there are six (6) cases which have been pending since 1987; one (1) case since November 1988 and another since March 9, 1989 in violation of Section 3(f), Rule III and department circulars which mandate the period within which preliminary investigation should be terminated and disposed of.

"On February 15, 1989, a memorandum was issued for you to explain why you have taken cognizance of a case for preliminary investigation which has not been officially filed and docketed but you failed to submit any comments or explanation on the subject matter treated in said memorandum. Xerox copy is attach for reference.

"Submit to this Office within five (5) days your explanation on the above subject matters as well as your own justification for your continuance as member of the DOJ-NFA Task Force considering further that you are on full time detail with the Office of the Provincial Fiscal of Rizal."

For the third time, respondent failed to heed a directive issued by his superior.

On October 24, 1989, Chief State Prosecutor Fernando P. de Leon issued a memorandum directing respondent to submit for reassignment, within five (5) days from receipt thereof, the nine (9) assigned cases pending review by him and other eight (8) cases pending preliminary investigation also by him or suffer the consequence of being drastically proceeded against. Upon careful examination of respondent's inventory of cases, it was disclosed that said seventeen (17) cases were pending review and preliminary investigation by him for more than one (1) year and that he has not been collecting his salary from the time the same was withheld in July 1989. True to form, respondent did not obey said directive.