

[ADMINISTRATIVE ORDER NO. 471, October 06, 1983]

**ADMINISTRATIVE CASE AGAINST ASSISTANT CITY FISCAL
SANTIAGO C. MALIWANAG OF OLONGAPO CITY FOR
IRREGULARITY RESULTING IN INJUSTICE**

This is an administrative case filed by Pedro Vergara against Assistant City Fiscal Santiago C. Maliwanag of Olongapo City for alleged irregularity committed in connection with a criminal complaint assigned to the latter for preliminary investigation.

Records show that in a complaint filed with the City Fiscal's Office of Olongapo City, Pedro Vergara charged a certain Recto Amigable as accessory to the crime of qualified theft. The case was assigned to respondent for preliminary investigation. Although the investigation was terminated as early as July 1969, respondent filed the corresponding information in court only on February 1973.

In his written answer dated July 6, 1973, respondent did not dispute the material allegations in the complaint. He attributed, however, the delay in the filing of the criminal information to his sincere desire to help complainant, so much so that even though he believed, after the preliminary investigation, that no sufficient evidence exist against Amigable, he (respondent) deferred resolving the case. Moreover, respondent claimed that the volume of office work prevented the early disposition of the case. The situation was aggravated by the fact that from December 1969 to May 1970, he was directed to proceed to Mindanao to assist in the investigation and prosecution of all offenses committed in connection with the 1969 national elections.

After due investigation, then Secretary of Justice Vicente Abad Santos found that "respondent fiscal was careless, to say the least, in not acting immediately on the subject case;" that as "early as July 1969 when the investigation was terminated, respondent fiscal could have dismissed the case after a finding that there was insufficient evidence against respondent [Amigable]," and yet "he chose to let it remain pending almost indefinitely;" that while it could not be overlooked that at one time respondent was taken away from his station to different provinces in the South to do a special assignment, "such fact cannot make him any less guilty for he reported back to his station in mid-1970, after which he had ample time to resolve the case;" and that his having allowed two and a half years to pass since reporting back to office in 1970 before he acted on the case, constituted a gross violation of Department of Justice Circular No. 74, s. 1967, prescribing the time limit for the disposition of criminal case under preliminary investigation.

For the violation, Secretary Abad Santos recommended that respondent be fined the equivalent of one month salary with a warning that similar violations in the future shall be dealt with more severely.