

[ADMINISTRATIVE ORDER NO. 436, January 23, 1979]

REPRIMANDING ASSISTANT CITY FISCAL PASTOR DE GUZMAN, JR. AND EXONERATING CITY FISCAL (NOW CITY JUDGE) ANGEL SANGALANG AND ASSISTANT CITY FISCAL (NOW CITY FISCAL) ERDOLFO BALAJADIA, ALL OF BAGUIO CITY

This is an administrative case filed by Mrs. Teresita Pike against Assistant Baguio City Fiscal Pastor de Guzman, Jr. and former Baguio City Fiscal (now CFI Judge of Benguet) Angel Sangalang and former Assistant City Fiscal (now Baguio City Fiscal) Erdolfo Balajadia for alleged abuse of authority violation of due process, harassment, ignorance of the law and willful violation of existing rules and regulations. The charges were investigated by the Department (now Ministry) of Justice.

Records show that sometime in November 1975, a police officer of the Baguio City Police Department filed a complaint against herein complainant for assault upon an agent of a person in authority. Without first securing the approval of the city fiscal, respondent Assistant City Fiscal De Guzman, Jr. filed the corresponding information with the City Court of Baguio.

Complainant successfully sought a reinvestigation of the case by trial fiscal Gorospe who recommended that complainant be merely charged: with simple resistance under Article 151, paragraph 2 of the Revised Penal Code. Upon approval thereof by respondent City Fiscal Sangalang, the corresponding information was filed with, the City Court of Baguio which dismissed the same upon complainant's motion on the ground of prescription.

Not satisfied, the police officer protested the dismissal of the case and simultaneously charged Fiscal Gorospe with serious irregularities in the performance of duties before City Fiscal Sangalang who, in turn, referred the matter to Assistant City Fiscal Balajadia. On the basis of the pertinent papers thus presented, Balajadia recommended the filing of another information against herein complainant for serious resistance and disobedience, which was approved by City Fiscal Sangalang. Accordingly, the corresponding information was filed with the City Court of Baguio but the accused (herein complainant) was subsequently acquitted by the court.

After a review of the case, I agree with the Secretary (now Minister) of Justice that respondent Assistant Fiscal De Guzman, Jr. violated Presidential Decree No. 911, dated March 23, 1976, when he failed to secure the prior approval of the city fiscal in filing the initial information against herein complainant for assault upon an agent of a person in authority. Presidential Decree No. 911 clearly provides that "... no assistant fiscal or state prosecutor may file an information or dismiss a case except with prior approval of the provincial or city fiscal or chief state prosecutor."