

[OP ADMINISTRATIVE ORDER NO. 395, May 12, 1998]

**IMPOSING THE PENALTY OF SUSPENSION FOR ONE (1) MONTH
ON ASSISTANT CITY PROSECUTOR EDUARDO R. GARCIA, OFFICE
OF THE CITY PROSECUTOR, PASIG CITY**

This refers to the formal administrative charges filed *motu proprio* by the Department of Justice against Asst. City Prosecutor Eduardo R. Garcia of the Office of the City Prosecutor, Pasig City, for neglect in the performance of duty, upon complaint of P/Insp. Reynaldo Baral, SPO4 Antonio Llagas and SPO1 Oscar de la Cruz, which complaint was endorsed to said Department by the Honorable Secretary Robert Z. Barbers of the Department of Interior and Local Government.

The complaining police officers allege that respondent prosecutor Eduardo Garcia hastily dismissed on September 12, 1996, after the conduct of an inquest three (3) days earlier, the complaints which they filed against one Jaime Batimana and Delia Perez for violation of Sections 15 and 16, Article III of Republic Act No. 6425 (The Dangerous Drugs Act) and violation of Article 212 of the Revised Penal Code (corruption of public officials) despite the strong evidence which they submitted.

It appears that last September 6, 1996, Jaime Batimana, an "identified drug lord" was arrested by the complaining officers for delivering almost one (1) kilo of shabu. At the jail, Batimana was visited by his housemaid, Delia Perez, who delivered P 100,000.00 to Batimana, who in turn offered the money to the police officers in exchange for his release. On the basis of these incidents, complaints were filed by the complaining officers against Batimana and Perez before the City Prosecutor's Office, Pasig City.

Respondent Garcia herein, who conducted the inquest on September 9, 1996, dismissed the complaints on September 12, 1996 for insufficient evidence and ordered the release of Batimana and Perez on the same day. Hence, the filing of an administrative complaint by herein complainants against respondent Garcia before the Department of Justice for conduct prejudicial to the best interest of the service.

After a thorough evaluation of the records, the Department of Justice found a *prima facie* case to hold respondent Garcia administratively liable, not for conduct prejudicial to the best interest of the service, but for neglect in the performance of duty for having failed to secure the approval of the City Prosecutor of Pasig City in dismissing the complaints against Batimana and Perez as required by Section 9, of the DOJ Circular No. 61, s. 1993, which states in part:

"SECTION 9. Where Arrest Not Properly Effected — Should the Inquest Officer find that the arrest was not made in accordance with the Rules, he shall:

- a) recommend the release of the person arrested or detained;