

[OP ADMINISTRATIVE ORDER NO. 407, June 26, 1998]

IMPOSING THE PENALTY OF DISMISSAL FROM THE SERVICE ON ASSISTANT CITY PROSECUTOR SALVADOR O. SOLIMA OF THE CEBU CITY PROSECUTION OFFICE

This refers to the administrative case against Assistant City Prosecutor Salvador O. Solima for gross misconduct/grave abuse of authority and gross ignorance of the rules on inquest.

The record shows that in the morning of August 8, 1996, Andy and Joselito Manguerra, scions of a prominent family in Cebu City, were arrested by the PNP elements in a raid conducted by virtue of a search warrant. The Manguerras were found in possession of assorted firearms and were thereafter detained.

At around 9:00 p.m. of the same day, respondent prosecutor arrived at the police station where the Manguerras were detained, and without waiting for the police to refer the case to him for inquest, he prepared and typed an inquest report recommending the dismissal of the case against the Manguerras and directing the police to release the Manguerras. Since the police refused to heed the orders of respondent prosecutor, the latter personally released the Manguerras even if his inquest report has not yet been approved by his superior, the City Prosecutor of Cebu City.

As the incident caused an uproar in Cebu City, an investigation was conducted by the Office of the Regional State Prosecutor which found that a prima facie case exist to hold respondent prosecutor administratively liable for gross misconduct, gross ignorance of the rules on inquest, grave abuse of authority and violation of Anti-Graft and Corrupt Practices Act. It likewise recommended that respondent prosecutor be placed under preventive suspension for six (6) months while his case is being heard.

Upon review of the records, the Secretary of Justice agreed with the findings of the Office of the Regional State Prosecutor of Region VII and hence, a formal charge was issued charging respondent prosecutor with gross misconduct/grave abuse of authority and gross ignorance of the rules on inquest. Respondent prosecutor, however, was not charged with violation of the Anti-Graft and Corrupt Practices Act for want of basis. Considering the gravity of the charge, the Secretary of Justice likewise agreed to place respondent prosecutor under preventive suspension for a period of ninety (90) days pursuant to the provisions of Book V of Executive Order No. 292 and its Omnibus Rules.

In his answer to the formal charge, respondent prosecutor claims that the charges leveled against him are without any factual basis, the truth being are those contained in his affidavit dated August 20, 1996, the affidavit dated August 23,

1996 of then City Prosecutor Jufelinito R. Pareja, the joint-affidavit dated August 16, 1996 of Attys. Delano Tecson, Jesus Osorio and Rolando Puaben and the joint-affidavit dated August 16, 1996 of Andy and Joselito Manguerra which were submitted during the investigation conducted by the Office of the Regional State Prosecutor of Region VII. He admits that he conducted an inquest on August 8, 1996 upon the instruction of then City Prosecutor Jufelinito R. Pareja, who was in turn requested by the lawyers of the two Manguerras' cousins who were then detained at the PNP Headquarters, Osmeña Boulevard, Cebu City. He also pointed out that before the lawyers of the Manguerras requested City Prosecutor Pareja for an inquest prosecutor, General Ramsey Ocampo and Atty. Narito Abrangan of the PNP had given their conformity with such request for an inquest prosecutor. He alleges that when he arrived at the PNP Headquarters at around 9:00 p.m. of the same day, the charge sheet and pertinent documents were not yet submitted and so, he waited for the arresting officers to submit the same. He waited until 2:00 o'clock dawn of August 9, 1996 but the arresting officers failed to appear and submit any evidence against the Manguerras. Since the lawyers of the Manguerras were already insisting that there was no ground for the continued detention of their clients, and in the light of the fact that the subject firearms were all covered by a license, he prepared the joint inquest report recommending the release of the Manguerras. He cited Sections 8 and 9 of the New Rules on Inquest dated September 21, 1993 as his basis for his action. His joint inquest report was approved by the City Prosecutor only in the early office hours of August 9, 1996. He belies that he ordered the police on duty to release the Manguerras prior to the approval of his report by the City Prosecutor. He insists that he left the Manguerras together with their lawyers at the PNP Headquarters of Cebu City.

In requesting for the immediate lifting of his preventive suspension, respondent prosecutor pointed out that when this case was initially investigated by the Office of the Regional State Prosecutor, there was no complainant. He avers that General Ramsey Ocampo during the investigation made it on record that the PNP Officers were not complainants against him. He also asserts that with the approval by the City Prosecutor of his joint inquest report, it shows that the inquest proceedings he conducted was regular and in accordance with the New Rules on Inquest. He adds that being a quasi-judicial officer, his sworn duty is not only to prosecute offenders but also to see to it that the innocents are equally protected, as in the case of Manguerras. And finally, his recommendation for the release of the Manguerras having been affirmed, and the complaints against the Manguerras have been finally dismissed, this administrative case has become moot and academic.

Based on the foregoing factual backdrop, the Secretary of Justice found respondent prosecutor liable for gross and serious misconduct and gross ignorance of the basic rules on inquest and recommended that he be dismissed from the service. The explanation given by the Secretary pertinently reads:

"After a thorough study of this case, the undersigned prosecutor finds sufficient evidence to hold respondent prosecutor liable of the imputed administrative offenses.

The admission by respondent prosecutor that he conducted an inquest without the charge sheet and supporting documents formally filed against the detained person smacks of a lamentable state of real ignorance of the basic procedure embodied in the rules on inquest which has long been in