

[OP ADMINISTRATIVE ORDER NO. 22, September 29, 1998]

IMPOSING THE PENALTY OF SUSPENSION FOR SIX MONTHS WITHOUT PAY ON ASSISTANT CITY PROSECUTOR MANUEL BATAO OF THE CITY PROSECUTOR OFFICE OF DAVAO CITY

This refers to the two (2) administrative complaints of James H. Padilla II against Assistant City Prosecutor Manuel Batao of the Davao City Prosecutor Office (formerly connected with the Provincial Prosecution Office of Davao Oriental) for misconduct, conduct unbecoming of a public officer (Adm. Case No. 95-001) and for violation of the Code of Conduct and Ethical Standards for Public Officers and Employees (Adm. Case No. 95-002).

In Adm. Case No. 95-0017 complainant alleges that at about midnight of November 2, 1994, while he was seated on a bench after having dispatched a bus bound for Davao City, respondent prosecutor unnoticed, suddenly struck his back with a revolver. He told respondent, "*Ayaw sir, pinangga ta kaw*" (Don't sir, I love you). Thereafter, upon answering respondent prosecutor's accusation that he cheated him of his share in the dispatching proceeds, respondent prosecutor again struck his right cheek with a revolver. He then ran towards his friend, namely, Leonilo Escosora, Aldong Cubero, and Roger Nazareno, but respondent prosecutor chased him and tried to shoot him three (3) times although the gun misfired. Heeding Nazareno's plea not to fire his gun, respondent prosecutor challenged him to a fistfight which he refused and, instead, he reported the incident to the police. The following day he had himself examined by the municipal health doctor who issued a medical certificate.

In answer, respondent prosecutor avers that sometime in the month of February 1994, complainant, along with Cubero and Escosora, asked his permission to utilize the open space adjacent to his residence as a bus terminal. In consideration thereof, they (complainant and his friends) offered to equally share the dispatch collections with him, to which he agreed. At first collections were religiously remitted, but when complainant took over the dispatch of buses, the remittances became irregular due to complainant's drinking and gambling. When he saw complainant in the evening of November 2, 1994, he confronted complainant about the dwindling dispatch collections.

He admits having punched complainant, but denies having used a firearm, as he swore that he does not possess any firearm. He, likewise, admits having challenged complainant to a fistfight as the latter was walking back and forth in front of his residence.

In Adm. Case No. 95-002, complainant alleges that the instant charge stemmed from the filing of an Illegal Fishing complaint against him by respondent prosecutor before the Office of the Provincial Prosecutor of Baganga, Davao Oriental (I.S. No.