

IMPOSING THE PENALTY OF DISMISSAL FROM THE SERVICE ON FOURTH ASSISTANT PROVINCIAL PROSECUTOR MIGUEL C. REYES OF BULACAN

ADMINISTRATIVE ORDER NO. 88, October 13, 1993

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This refers to the administrative complaint filed by Carmelita de la Cruz against Prosecutor Miguel C. Reyes of the Office of the Provincial Prosecutor of Bulacan for Grave Misconduct.

Records show that on January 30, 1991, Prosecutor Faustino Chiong, First Assistant Provincial Prosecutor of Bulacan, came upon Carmelita de la Cruz who was crying in the office. Upon inquiry, he learned that she had given Five Thousand Pesos (P5,000.00) to Prosecutor Miguel C. Reyes of the same office on the latter's representation that the murder case against her son will be dismissed. Prosecutor Reyes allegedly told her that he will give part of the amount to Prosecutor Chiong who is handling the prosecution of the case and the other part to a competent defense counsel.

Incensed, Prosecutor Chiong instantly took down the sworn statement of complainant in the presence of four witnesses and forwarded the same to the Department of Justice.

In his answer, respondent claimed that complainant sought his assistance in the dismissal of the criminal case against her son and that he advised her to secure a good defense counsel. Respondent likewise admitted having received the money from complainant as attorney's fees for Atty. Rodolfo P. Liwanag who had accepted the case.

Based on the answer, Prosecutor Reyes was placed under preventive suspension. Respondent was represented by Atty. Rodolfo Liwanag who asked for several postponements because the former went to the United States. Meanwhile, a state prosecutor from the Department of Justice secured from Branch 11 of the Regional Trial Court of Bulacan minutes of the proceedings of the case against complainant's son and found out that accused was represented by a de officio counsel. It was only two days after the irregularity was discovered that Atty. Liwanag entered his appearance as counsel for the accused.

At the hearing of the case, respondent presented an affidavit of retraction of complainant and a note from Atty. Liwanag acknowledging receipt of the P5,000.00. Respondent also claimed that the sworn statements of complainant should not be given weight because she is illiterate and did not know the contents of her affidavit.

The Department of Justice found the defense put up by the respondent to be untenable.

Before complainant affixed her thumbmark on the sworn statement, the contents therein were explained to her first. In taking the statement, Prosecutor Chiong has no underlying reasons to fabricate such a serious charge other than to clear his name. Besides, if as respondent claims, complainant being illiterate, did not know the contents of her affidavit, then, in the same vein, she also would not know what is stated in her affidavit of retraction.

The affidavit of retraction of the complainant was not given any probative value, it being a mere afterthought. Besides such can easily be secured for monetary consideration especially from poor and ignorant litigants. Moreover, notwithstanding an affidavit of retraction, the head of office can proceed, *motu-proprio*, with the

investigation of irregularities reported to him and exercise his disciplinary powers, if evidence so warrants.

The receipt issued by Atty. Liwanag was of no credence, either. The counsel's entry of appearance in the case two days after the irregularity was unearthed is seen as an effort to save the integrity of the respondent.

I concur with the findings of the DOJ Secretary.

Respondent's explanation that he received the amount from the complainant to help facilitate the release of her son per se constitutes misconduct of the highest order. No amount of justification can erase the stigma brought about by this despicable act.

WHEREFORE, premises considered, Fourth Assistant Provincial Prosecutor Miguel C. Reyes of Bulacan is hereby found guilty of Grave Misconduct and is hereby ordered dismissed from the service effective immediately.

Done in the City of Manila, this 13[th] day of October, in the year of Our Lord, nineteen hundred and ninety-three.

(Sgd.) FIDEL V. RAMOS
President of the Philippines

By the President:
(Sgd.) TEOFISTO T. GUINGONA, JR.
Executive Secretary

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