

TRANQUILINO O. CALO, JR., PETITIONER, VS. ESTEBAN DEGAMO, RESPONDENT.*Administrative Case No. 516. June 27, 1967*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/7d73f1dde9fc/>**REYES, J.B.L., J:**

Disbarment proceedings against the respondent Esteban Degamo[1] upon a verified letter-complaint of the petitioner, Tranquilino O. Calo, Jr., filed with this Court on 2 March 1962, and charging the former with "having committed false statement under oath or perjury" in connection with his appointment as Chief of Police of Carmen, Agusan.

On 12 March 1962, this Court required the respondent to file "an answer (not a motion to dismiss.)" After interposing an unsuccessful motion for a bill of particulars, he filed his answer on 29 May 1962 and this Court accordingly referred the case to the Solicitor-General for investigation, report and recommendation. In return, the Solicitor General referred the case to the Provincial Fiscal of Agusan. The fiscal conducted an investigation. The petitioner adduced evidence, but not the respondent, because on the date set for hearing, on 25 July 1964, following several postponements, the respondent failed to attend, despite due notice, for which reason the investigating fiscal considered the respondent as having waived his right to pre-sent evidence. Thereafter, the fiscal forwarded the record of the investigation to the Solicitor General. On the basis thereof, the Solicitor General filed his report and a complaint with this Court, re-commending the disbarment of the respondent, for gross misconduct.

No evidence having been submitted by the respondent, the following facts are either un rebutted or admitted:

On 17 January 1959, respondent Esteban Degamo, as an applicant to the position of Chief of Police of Carmen, Agusan, subscribed and swore to a filled-out "Information Sheet" before Mayor Jose Malimit of the same municipality. The sheet called for answers about name, personal circumstances, educational attainment, civil service eligibility and so forth. One item required to be filled out reads:

"Criminal or police record, if any including those which did not reach the Court. (State the details of case and the final outcome.)" -?

to which respondent answered, "None."

Having accomplished the form, the respondent was appointed by the mayor to the position applied for. However, on the day the respondent swore to the information sheet, there was pending against him, and two (2) other co-accused, a criminal case in the Court of First Instance of Bohol (No. 2646) for illegal possession of explosive powder.[2]

Prior to the commencement of this administrative case, the respondent was also charged in an information, dated 23 September 1960, for perjury, in the Court of First Instance of Agusan, docketed as Criminal Case No. 2194, on the same facts upon which he is now proceeded against as a member of the Philippine bar.

In his defense, the respondent claims that his answer "None" to the aforementioned questionnaire was made in good

faith, it being his honest interpretation of the particular question (heretofore quoted) that it referred to a final judgment or conviction and that Criminal Case No. 2646 was not a criminal or police record.

The defense is plainly untenable. The questionnaire was simple, couched in ordinary terms and devoid of legalism; hence, it needed no interpretation. It only called for a simple information. That it asked for records "which did not reach the Court" entirely disproves respondent's technical twist to the question as referring to final judgments or convictions.

Petitioner's letter-complaint was filed on 2 March 1962 while the act of the respondent complained of was committed on 17 January 1959. Without explaining how and upon what authority, respondent invokes the defense of prescription. This defense does not lie; the rule is that -?

"The ordinary statutes of limitation have no application to disbarment proceedings, nor does the circumstance that the facts set up as a ground for disbarment constitute a crime, prosecution for which in a criminal proceeding is barred by limitation, affect the disbarment proceeding, x x x." (5 Am. Jur. 434).

Nor is the pendency of Criminal Case No. 2194 (for perjury) a prejudicial question, since the ground for disbarment in the present proceeding is not for conviction of a crime involving moral turpitude but for gross misconduct. A violation of a criminal law is not a bar to disbarment (6 Moran 242, 1963 Ed., citing the case of *In re Montagne and Dominguez*, 3 Phil. 577), and an acquittal is no obstacle to cancellation of the lawyer's license. (*In re Del Rosario*, 52 Phil. 399).

Respondent Degamo stresses that there is no cause of action against him because the information sheet is not required by law but only by the Civil Service Commission. This argument is beside the point. The issue is whether or not he acted honestly when he denied under oath the existence against him of any criminal or police record, including those that did not reach the court. In this, he did not tell the truth. He deliberately concealed it in order to secure an appointment in his own favor. He, therefore, failed to maintain that high degree of morality expected and required of a member of the bar (*Toledo vs. Toledo*, Adm. Case No. 266, 27 April 1963; *Mortel vs. Aspiras*, Adm. Case No. 145, 28 Dec. 1956; *Bolivar vs. Simbol*, Adm. Case No. 377, 29 April 1966), and he has violated his oath as a lawyer to "do no falsehood". It needs no reiteration that the ethical standards applicable to a member of the bar, who thereby automatically becomes a court officer, must necessarily be one higher than that of the market place.

The facts being clear and undisputed, respondent's insistence upon patent technical excuses disentitle him to leniency from this Court.

For the foregoing reasons, respondent Esteban Degamo is hereby disbarred, and his name ordered stricken from the roll of attorneys.

SO ORDERED.

Concepcion, C.J., Dizon, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, and Ruiz Castro, JJ., concur.

[1] Admitted to the Bar on 7 February 1955.

[2] The information bears date of 3 July 1958 (Exh. "B-1").

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