

REINSTATING FORMER PROVINCIAL FISCAL JOSE M. AGUILA OF OCCIDENTAL MINDORO TO HIS FORMER POSITION

ADMINISTRATIVE ORDER NO. 438, March 21, 1979

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This refers to the appeal of former Provincial Fiscal Jose M. Aguila of Occidental Mindoro for reconsideration of the acceptance of his resignation on August 5, 1976.

It appears that charges were filed against Fiscal Aguila, herein petitioner, by Mayor Juan Santos of San Jose, Occidental Mindoro, before the Judge Advocate General's Office (JAGO) and the Department of Justice way back in 1972 for (1) usurpation' and interference in the functions of the Mayor; (2) extortion; (3) that he has a pending administrative case; and (4) negligence in the filing of the necessary informations in cases lodged before his office. The gravity of the nature of the offenses charged prompted the acceptance by the President of his courtesy resignation on June 19, 1973, the first of two instances that his resignation was accepted. In the meantime the administrative investigation against petitioner proceeded. On November 7, 1973, the JAGO cleared him from said charges and also commended him for assisting some eighty (80) families then being ejected by Mayor Santos. He was also exonerated by the Department of Justice from the same charges filed by Mayor Santos.

As a result of his exoneration from the charges, the President returned him to the service as Provincial Fiscal by reappointing him on November 27, 1973, in the course of which service he received a "scroll of honor and distinction" from the Biographical "Researchers Society of the Philippines as one of the ten (10) Most Outstanding Fiscals in the Philippines in 1974.

In 1975, Mayor Santos revived the charges against petitioner, his charges being of similar nature as those originally filed. This time the charges were filed in the Complaints and Investigation Office (CIO), Malacañang. The same was later referred to the Department of Justice on October 20, 1975. While the investigation relative to the charges was in progress, the President accepted, for the second time, petitioner's resignation on August 5, 1976. From this, petitioner filed on August 17, 1976 his request for reconsideration with this Office.

In his petition for reconsideration, petitioner supplied the background why Mayor Santos revived the charges against him which led to the acceptance for the second time of his resignation. According to petitioner, the actuations of Mayor Santos in harassing petitioner was precipitated by the filing of anti-graft charges against said Mayor by the Fiscal's Office where petitioner was the chief, being then the Provincial Fiscal. Said anti-graft charges against the Mayor stemmed from the charges filed with the Department of Justice by three (3) councilors of San Jose (where Mayor Santos was mayor) accusing the Mayor with demanding and collecting from Miss Bigalbal \$400 on May 22, 1975, in consideration of a promise by Mayor Santos of a grant to them of lots in the proposed reclamation area at Mangarin Bay, San Jose, Occidental Mindoro, receipts for which amounts were signed by Mayor Santos himself. Said complaint of the three councilors was indorsed to petitioner by the Chief State Prosecutor for ex-parte study, pursuant which petitioner submitted a report on the case informing the Secretary of Justice that probable cause for instituting anti-graft charges existed against the Mayor. Thereafter, the Undersecretary of Justice directed petitioner to conduct a preliminary investigation of the complaint against Mayor Santos. On April 27, 1976, the Special Counsel assigned to the case resolved to recommend the filing of

two anti-graft charges against Mayor Santos, which was approved by petitioner. Thereafter, Criminal Cases Nos. 797 and 798 were filed by petitioner against Mayor Santos before the Court of First Instance of Occidental Mindoro.

Petitioner points out further that the affidavits of complainants and their witnesses submitted by the Mayor in support of his revived charges at CIO, this Office, were the same affidavits earlier passed upon by the JAGO anti the Department of Justice which have already cleared petitioner of said charges.

There are no other cases pending against petitioner.

The charges filed against petitioner before the CIO, which precipitated the acceptance, for the second time, of his courtesy resignation were practically the same charges earlier decided by the JAGO and the Department of Justice which have already cleared and exonerated him on the same by finding no factual and legal basis for probable cause against petitioner. Moreover, this Office returned him to the service after the first filing of the same charges.

Furthermore, it is understandable why Mayor Santos should revive old charges against petitioner, the latter having been instrumental, as Provincial Fiscal, in the filing of anti-graft charges against the Mayor.

There is thus merit in the instant appeal.

In view of the foregoing, petitioner Jose Aguila is hereby reinstated to his former position as Provincial Fiscal, Occidental Mindoro, effective immediately.

Done in the City of Manila, Philippines, this 21st day of March, in the year of Our Lord nineteen hundred and seventy-nine.

(Sgd.) FERDINAND E. MARCOS
President of the Philippines

By the President:

(Sgd.) JACOBO C. CLAVE
Presidential Executive Assistant

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