

MALACAÑANG

Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 232

DISMISSING FROM THE SERVICE JOHN A. EGAÑA, THIRD ASSISTANT
PROVINCIAL PROSECUTOR OF RIZAL

This refers to the administrative complaint filed by Wilson Bandiola against Third Assistant Provincial Prosecutor John A. Egaña of the Provincial Prosecutor's Office of Rizal, upon which the Secretary of Justice formally charged Mr. Egaña for Grave Misconduct.

Records reveal that at about 9:30 o'clock in the evening of November 17, 1988, complainant's brother, Wenefredo Bandiola, while crossing Shaw Boulevard, Mandaluyong, Metro Manila, was bumped by a speeding vehicle owned by respondent prosecutor, tossing the victim against the front windshield of the vehicle before he landed on the pavement unconscious. The driver sped away towards the direction of Manila, abandoning his victim. An on-coming ambulance of the Philippine Charity Sweepstakes Office stopped for the victim and brought him to the Polymedic General Hospital. Wenefredo, the victim, was later confined at UERM Memorial Medical Center, from November 18, 1988 to December 7, 1988, for treatment of cerebral concussion and contusion. A total amount of P35,002.95 was incurred by Wenefredo representing loss of income, medical and other expenses.

A certain Batanio Gumapi, who turned out to be a neighbor of the victim, witnessed the hit-and-run incident. Mr. Gumapi being just about a meter away from the spot of the incident and aided by the headlight of the car immediately following was able to note that the car bears plate number NET 773. Gumapi executed an affidavit on November 23, 1988 affirming his statement.

On August 1, 1989, complainant sought the assistance of the Department of Justice if only to recover medical expenses incurred for the hospitalization of his brother, stating that the witnesses to the said incident have become reluctant or even timorous to testify upon learning that the respondent is a fiscal.

When required to comment on said letter-complaint of August 1, 1989, respondent, on October 31, 1989, denied any responsibility for the injuries sustained by Wenefredo Bandiola and averred, among others, (a) that, on November 17, 1988, after the monthly meeting

of prosecutors at the Provincial Capitol Building of Pasig, he joined his co-prosecutors in one of the stores located inside the Provincial Capitol Building up to 9:00 in the evening when he left alone in his car; (b) that, while stopping on traffic signal at the corner of Shaw Boulevard and Epifanio de los Santos Avenue (EDSA), three (3) unidentified men held him up at gun point, boarded and drove his car and divested him of his Seiko wrist watch worth ₱15,000.00, more or less, diamond ring valued at ₱10,000.00, necklace costing ₱3,000.00, wallet containing his driver's license and cash of ₱3,000.00, and another amount of ₱10,000.00 from his clutch bag; (c) that, because of his persistent pleas, he was allowed to go by the robbers and was dropped at an unlighted spot near the Manuela Shopping Complex on Shaw Boulevard, the trio proceeding in his car towards the direction of Manila; (d) that, still shocked by the experience, he nervously hailed a taxicab, went home and, after relating the incident to his wife, proceeded to the Mandaluyong Police Station to report the incident, apprehensive that his car might be used by the three (3) robbers in the commission of another crime; (e) that the following morning (November 18, 1988), he passed by the Mandaluyong Police Station to verify the status of his complaint, and was informed that his car was involved in a traffic accident and was held in the impounding lot of the police station; (f) that, after obtaining clearance for its release, he was allowed to tow his car, as the car would not start; and (g) that he was not drunk and had no wound on the night of the incident, otherwise such fact would have been reflected in the police blotter of the Mandaluyong Police Station.

After evaluation of the complaint, the Secretary of Justice, on May 29, 1990, found a prima facie case for Grave Misconduct against respondent and placed him under preventive suspension for ninety (90) days pending formal investigation of the charge to be conducted by State Prosecutor Theodore M. Villanueva.

On June 13, 1990, respondent wrote State Prosecutor Villanueva requesting that the letter-complaint of Mr. Wilson Bandiola be subscribed to by him pursuant to the provision of Paragraph 2, Section 32, Article VII of the Civil Service Act, as amended.

On even date, respondent likewise sent a letter to the Secretary of Justice seeking reconsideration of the latter's finding of prima facie case against him for Grave Misconduct.

In said motion, respondent alleged that complainant's evidences are plain hearsay and without evidentiary value, coming as they did from third parties (the cigarette vendor and the police investigator) who did not execute affidavits for the purpose.

In his Memorandum for me dated February 5, 1991, the Secretary of Justice, finds respondent's motion to be unimpressed with merit, upon the following observations:

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AL "The complaint not being under oath is a formal defect not fatal to the pursuit of this administrative matter. Such defect has been cured and remedied by the supporting affidavits of the victim himself and the witness, Batanio Gumapi, which were subscribed and sworn to respectively before a notary public and the investigating State Prosecutor. We stress at this point that an administrative investigation is not bound by the rigidity of technical rules of legal evidence. These proceedings serve as an inquiry into circumstances surrounding a certain set of facts and upon which an order may be issued. The quantum of evidence herein required is substantial evidence supportive of a proposition."

After going over the records of the case, I fully agree with the conclusion of the Secretary of Justice.

The carnapping tale put up by respondent is belied by the facts on record, any one of which points at him as the one driving the car involved in the incident at the time the incident happened. Firstly, the eye witness account of Batanio Gumapi of the incident as happening at about 9:25 in the evening of Thursday, November 17, 1988, along Shaw Boulevard near the corner of EDSA, Mandaluyong, Rizal, involving a car bearing plate No. NET-773 travelling towards Manila. Secondly, the Spot Report of the Mandaluyong Police Traffic Station No. 5 recording the same incident witnessed by Gumapi, coinciding in all material details excepting a 3-minute variance as to the time when the incident happened, and the failure of the report to record the letters on the car plate. Thirdly, the incredibility of respondent's own account that he left the Provincial Capitol Building of Pasig at

about 9:00 o'clock in the evening and made it to the Mandaluyong Police Station at, as recorded in the police blotter presented as his own exhibit, 10:00 o'clock in the evening to report his version of the incident, given the myriad details of his episode that he was held up by 3 robbers at the intersection of Shaw Boulevard and EDSA while stopping on traffic signal; then forced to yield the driver's seat at gun point and divested of his watch, jewelry and cash; then dropped past Manuela Shopping Complex on Shaw Boulevard ; then, even as he was shocked by the experience, he nonetheless nervously managed to hail a taxicab for home to No. 929 Samar St., Sampaloc, Manila; then asked his wife for his taxi fare; then narrated to his wife his experience; and, finally, he asked for some money and went to the Mandaluyong Police Station, altogether taking up barely one hour of his time, even 30 minutes reckoned by the time recorded in the Spot Report of the police. In fine, from the time respondent left the premises of the Provincial Capitol Building of Pasig and up to that point along Shaw Boulevard in Mandaluyong past near the scene of the incident where his car stopped and ceased to function, all along he was driving his red sedan car bearing plate number NET 773, the vehicle that hit the victim, Wenefredo Bandiola, causing the latter physical injuries.

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In abandoning his victim Wenefredo Bandiola, instead of coming to his immediate succor, knowing fully well the gravity of the injuries he had inflicted, respondent had evinced a low character unbecoming of a man of his official stature. For this act alone, respondent ought to be highly censured.

Respondent's predicament was compounded by his willful perversion of the truth when he concocted the carjacking scenario in his bid to exculpate himself from legal responsibility. As a prosecutor sworn to uphold the law, respondent, in the fulfillment of his duties, cannot by all means constitute himself as an exception, for that would be making a mockery of the law, not to mention a travesty of justice. For so acting in the manner he did, respondent has certainly become a blot on the prosecution service's escutcheon and, hence, does not deserve to be retained any further thereat.

There is, therefore, force and cogency to the Secretary of Justice's observation that:

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"Respondent's perversion of the truth, abandonment of a person whom he had injured, and avoidance of legal responsibility makes him unfit to uphold the faith and honesty demanded of public servants."

WHEREFORE, and as recommended by the Secretary of Justice, Third Assistant Provincial Prosecutor John A. Egaña of the Province of Rizal is hereby found guilty of Grave Misconduct and DISMISSED from the service, with forfeiture of benefits, effective upon receipt hereof.

Done in the City of Manila this 26th day of August in the year of Our Lord, nineteen hundred and ninety one.

Gregorio B. Aquino

By the President:

Mariano Sarmiento II

MARIANO SARMIENTO II
Deputy Executive Secretary