

# MALACAÑANG

Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 250

DISMISSING FROM THE SERVICE FOURTH ASSISTANT PROVINCIAL  
PROSECUTOR ROMEO H. MEDIODIA OF THE PROVINCIAL  
PROSECUTOR'S OFFICE OF ILOILO

This refers to the administrative complaints for a) Insubordination, and b) Grave Misconduct and Oppression against Fourth Assistant Provincial Prosecutor Romeo H. Mediodia of the Provincial Prosecutor's Office of Iloilo.

The relevant antecedent facts are related in the Memorandum for the President dated January 25, 1991 of the Secretary of Justice, to wit:

"The administrative complaint for insubordination was filed by Provincial Prosecutor Vicente Aragona of Iloilo against the respondent.

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"Prosecutor Aragona alleges that on November 10, 1989, operatives of the Narcotics Command (NARCOM) conducted a buy-bust operation which resulted in the arrest of one Efraim Baldeo. A complaint for violation of Section 4, Article II of R.A. 6425, as amended, otherwise known as 'The Dangerous Drugs Act of 1972' was thereupon filed by NARCOM with the Office of the Provincial Prosecutor of Iloilo against Efraim Baldeo and docketed therein as I.S. No. 89-111. After preliminary investigation, a resolution was issued on November 14, 1989 finding Baldeo prima facie liable for the offense charged and a criminal information was filed with the Regional Trial Court of Iloilo and docketed as Criminal Case No. 33820. No bail was recommended. During the arraignment on December 7, 1989, accused Baldeo, through counsel, expressed to the court his desire to plead guilty to a lesser offense. When asked to comment, being the trial prosecutor

assigned in said court, respondent Mediodia allegedly requested for a recess and thereafter sought Prosecutor Aragona's advice. The Provincial Prosecutor advised respondent herein to interpose an objection to the intended plea of the accused, reminding him thereof of the objectives of the Department's Memorandum Circular dated November 15, 1989, warning against the soft-glove handling of cases involving violations of the Dangerous Drugs Act and other related cases. Prosecutor Aragona learned later that his subordinate, the respondent herein, had defied his instructions and that of the Department Memorandum Circular on the matter because the trial court issued an order imposing upon accused Baldeo the penalty of imprisonment of two (2) years and a fine of Two Thousand Pesos (P2,000.00) after the accused pleaded guilty to the lesser offense of violation of Section 13 of R.A. 6425 without respondent's objection.

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"Complainant Prosecutor Aragona avers that a mere perusal of the facts and circumstances attendant to the arrest of accused Baldeo, as appearing in the information filed in court, would readily show the inapplicability of Section 13 of R.A. 6425, even as a lesser offense, considering that the accused was caught not only in the act of selling, distributing and/or delivering 20 sticks of cigarettes containing marijuana, but also having in his possession 30 sticks of cigarettes containing marijuana. Certainly, Section 4 (Sale, administration, delivery, distribution and transportation of prohibited drugs) and Section 8 (Possession or use of prohibited drugs) would be more applicable on the case. Section 13,

which deals with possession of opium pipe and other paraphernalia for prohibited drugs, would have no application to the case since what were recovered from the accused was neither a pipe, equipment, instrument, apparatus or paraphernalia, but sticks of cigarettes containing marijuana. Based, therefore, on the facts of the case, the lesser offense that accused could have pleaded guilty to would have been under Section 8 of R.A. 6425, the penalty of which is imprisonment ranging from six years and one day to twelve years and a fine ranging from ₱6,000.00 to ₱12,000.00.

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"In his comment/answer, respondent Mediodia did not dispute the claim of Provincial Prosecutor Aragona that the former did not interpose any objection to accused Baldeo's entering a plea of guilty to the lesser offense of violation of Section 13 of R.A. 6425. He claims, however, that his action was prompted by the fact that the NARCOM agents themselves, who were witnesses for the prosecution, did not offer any objection thereto as it was in conformity with the instruction of their Commander. He alleged that if he persisted in the prosecution of the accused for violation of Section 4 of R.A. 6425, as originally charged, the latter's acquittal would have been a foregone conclusion considering the testimonies that the NARCOM agents would give. Hence instead of going through the tedious process of presenting evidence which would, anyway, be insufficient to warrant conviction, he opted to dispose of the case by consenting to the plea of the accused to a lesser offense. In support of his defense, respondent submitted the affidavit of Judge Norberto E. Devera, Jr., Presiding Judge, Branch 24, Regional Trial Court of Iloilo wherein he considered (respondent's) actuation as 'procedurally correct and unassailable.'

"The other administrative complaint against the respondent was initiated by Ely P. Convocar, allegedly representing complainants Minda Faldas and Luceño Bayot, for Grave Misconduct and Oppression (the latter charge consisting of 'abuse of judicial power and personal intervention').

"The complaint arose out of Criminal Case No. 1137 entitled 'People of the Philippines versus Jorge Dato-on' for Multiple Murder, originally filed with the 4th Municipal Circuit Trial Court of San Dionisio and Concepcion, Iloilo and transmitted for appropriate action to the Office of the Provincial Prosecutor of Iloilo. The case was subsequently assigned to the respondent for preliminary investigation. In a resolution dated November 9, 1988, the respondent dismissed the case at the instance of complainants Minda Faldas and Luceno Bayot who executed a joint affidavit of desistance. The victims in the case against Jorge Dato-on were Marlon Faldas and Joemarie Faldas, children of complainant Minda Faldas, and Rudy Bayot, son of complainant Luceno Bayot.

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"Ely Convocar, in his letter-complaint dated December 5, 1988, alleged that on November 9, 1988, in response to a summons from the respondent, complainants Faldas and Bayot went to the Office of the respondent where they were 'persuaded' by the respondent to accept the amount of Eleven Thousand Pesos (P11,000.00) for each victim as payment in the settlement of the case against Jorge Dato-on. They refused to accept the settlement amount. However, the respondent continued to exert pressure on them saying that 'it is better you were paid, you should be happy for that'. Thereafter, the respondent produced three bundles of money from his drawer, extracted One Thousand Pesos (P1,000.00) from

each of the three bundles, handed the remaining amount to them and ordered them to go home. The complainants aver that the settlement, engineered by the respondent prejudiced them because 'justice was not implemented equally.'

"Subsequently, Ely Convocar, without the participation of complainants Faldas and Bayot, withdrew the complaint against the respondent. The Secretary of Justice, desirous of being informed as to the real status of the complaint, designated City Prosecutor Efrain V. Baldago of Iloilo City to conduct an investigation of the administrative complaint.

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"In the course of the investigation conducted by City Prosecutor Baldago, the respondent, through counsel, submitted his brief-memorandum assailing the charges against him as being baseless, having been filed by Ely Convocar who was not authorized to so file the complaint and who was motivated by greed, and pursued by Provincial Prosecutor Aragona out of vengeance. He cited several instances when complainant Faldas manifested her desire and/or intent not to pursue the complaint against the respondent. During the investigation conducted by the NBI, she stressed that 'they have really no intention of filing any complaint against Romeo H. Mediodia' and that complainant's Joint Affidavit dated November 28, 1988 (attached to the letter-complaint of Ely Convocar) was not explained to them. Likewise, in her letter dated August 11, 1990 and submitted to City Prosecutor Baldago, complainant Faldas stated that she is not interested in the investigation against the respondent because she has no complaint against him. These statements, he avers, are proofs that no pressure was exerted upon complainants Faldas and Bayot in the settlement of their case against Jorge Dato-on and that no money was given to the respondent.

"After investigation, City Prosecutor Baldago issued a resolution dated October 22, 1990 incorporating his findings and recommendation on the administrative complaint under consideration. In the said resolution, City Prosecutor Baldago recommended that the respondent be dismissed from the service."

The Secretary of Justice, in his said Memorandum, concurred in the recommendation of City Prosecutor Baldago for respondent's dismissal from the service. We quote the pertinent findings and conclusions of the Secretary of Justice:

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"In the complaint for Insubordination, it is not disputed that the respondent defied a valid order of complainant Provincial Prosecutor Aragona, respondent's immediate superior, to enter an opposition to the plea to a lesser offense by accused Baldeo. While respondent may have a reason for disagreeing with his superior and taking a different course of action, prudence and respect for authority demand that the former should have first discussed the matter with the latter, especially in the case where respondent's action negated the seriousness of the offense committed by the accused, thus adversely affecting the integrity and effectivity of the National Prosecution Service in the administration of justice. By disobeying the lawful order of his superior, respondent had, in effect substituted his own judgment to that of his superior, to the detriment of the service. This is the essence of insubordination and it cannot be countenanced.

"The complaint for Insubordination against the respondent, in this instance, serves as an aggravating circumstance to the other administrative complaint against the same respondent for Grave Misconduct and Oppression.

"The findings of City Prosecutor Baldago in the Grave Misconduct and

Oppression case are supported by the record and we find no reason to divert from the same.

Thus, as found by City Prosecutor Baldago, while complainants had jointly executed an Affidavit of Desistance dated November 9, 1988, they also executed a joint affidavit dated November 28, 1988 stating that they were told and persuaded by the respondent, against their will, to accept the settlement money and afterwards, the latter took Three Thousand Pesos (P3,000.00) from the three bundles of money for his own personal use. Thereafter, complainant Minda Faldas confirmed and reiterated these implicatory allegations when she was investigated by NBI Agent Juan Y. Amame on May 14, 1990. Once again, complainant Faldas reiterated the same charges against the respondent when she was interviewed on July 27, 1990 by Restituto Jotiz, Jr. (aka Agent Korantay) of Bombo Radio, Iloilo. The interview was recorded on tape. On August 24, 1990, complainant Faldas submitted an affidavit dated August 4, 1990 absolving the respondent of all charges she had made against him and, in two hand written letters, urged the dismissal of the administrative case as she was no longer interested in pursuing the same.

During the investigation when complainant Minda Faldas appeared, she testified to the fact that the statements she made in her joint affidavit with Luceno Bayot dated November 28, 1988, those she made to NBI Agent Juan Y. Amame, and the interview she gave to Bombo Radio, Iloilo were all voluntarily made, given and executed by her. The evidence adduced therefrom is that a settlement of the multiple murder case was effected and the payment of the settlement money was facilitated by the respondent. There

was no showing that complainants were motivated by intentions other than to tell the truth regarding the incident which led to the purported settlement, and subsequent dismissal, of the criminal case against Jorge Dato-on.

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"With respect to the retraction of complainant Faldas, City Prosecutor Baldago found the reasons therefor as grounded on 'no serious' considerations. Ostensibly, complainant was retracting her accusations against the respondent because she was not in a 'proper mental state' when she made her incriminating statements and that she wants to 'have peace of mind.' However, the real reason for complainant's recantation was revealed by Sgt. Franklin Catequista, Station Commander, Batad Police Station where he testified that complainant was retracting her statements against the respondent because she was 'afraid of Fiscal Mediodia (the respondent) and his companions and that she was (fearful for) her safety x x x and that they have returned the amount of ₱2,000.00'. In this wise, the recantation may be said not to have been voluntarily executed by the complainant but was secured through a nefarious mixture of pressure, threat and reward. A retraction secured through fear and intimidation, or through promise of reward, is frowned upon and disregarded as competent evidence. Thus, the recantation of complainant Faldas is set aside as being without effect.

"In regard to respondent's allegation that his superior, Provincial Prosecutor Aragona, is the moving spirit behind the complaints of Faldas and Bayot, there is no scintilla of evidence to support the same.

"It has been noted that in both complaints, respondent had abused the trust reposed upon him by virtue of his office. Respondent has shown a manifest



propensity to misuse his position and the powers and authority appurtenant thereto to the detriment of the service and the policies of government. Respondent is no longer deserving of our trust and confidence.

"IN VIEW WHEREOF, it is respectfully recommended that respondent Fourth Assistant Provincial Prosecutor ROMEO H. MEDIODIA of Iloilo be dismissed from the service with forfeiture of pay and benefits."

After a circumspect review, I am in complete accord with the above findings and recommendation of the Secretary of Justice.

WHEREFORE, and as recommended by the Secretary of Justice, Fourth Assistant Provincial Prosecutor ROMEO H. MEDIODIA is hereby DISMISSED from the service with forfeiture of pay and benefits, effective upon receipt of a copy hereof.

Done in the City of Manila, this 11th day of November in the year of Our Lord, nineteen hundred and ninety-one.

*Prayon B. Aquino*

By the President:

*Mariano Sarmiento II*  
MARIANO SARMIENTO II  
Deputy Executive Secretary

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