

# MALACAÑANG

Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 22

## IMPOSING THE PENALTY OF SUSPENSION FOR SIX MONTHS WITHOUT PAY ON ASSISTANT CITY PROSECUTOR MANUEL BATAO OF THE CITY PROSECUTOR OFFICE OF DAVAO CITY

This refers to the two (2) administrative complaints of James H. Padilla II against Assistant City Prosecutor Manuel Batao of the Davao City Prosecutor Office (formerly connected with the Provincial Prosecution Office of Davao Oriental) for misconduct, conduct unbecoming of a public officer (Adm. Case No. 95-001) and for violation of the Code of Conduct and Ethical Standards for Public Officers and Employees (Adm. Case No. 95-002).

In Adm. Case No. 95-001, complainant alleges that at about midnight of November 2, 1994, while he was seated on a bench after having dispatched a bus bound for Davao City, respondent prosecutor unnoticed, suddenly struck his back with a revolver. He told respondent, "Ayaw sir, pinangga ta kaw" (Don't sir, I love you). Thereafter, upon answering respondent prosecutor's accusation that he cheated him of his share in the dispatching proceeds, respondent prosecutor again struck his right cheek with a revolver. He then ran towards his friend, namely, Leonilo Escosora, Aldong Cubero, and Roger Nazareno, but respondent prosecutor chased him and tried to shoot him three (3) times although the gun misfired. Heeding Nazareno's plea not to fire his gun, respondent prosecutor challenged him to a fistfight which he refused and, instead, he reported the incident to the police. The following day he had himself examined by the municipal health doctor who issued a medical certificate.

In answer, respondent prosecutor avers that sometime in the month of February 1994, complainant, along with Cubero and Escosora, asked his permission to utilize the open space adjacent to his residence as a bus terminal. In consideration thereof, they (complainant and his friends) offered to equally share the dispatch collections with him, to which he agreed. At first, collections were religiously remitted, but when complainant took over the dispatch of buses, the remittances became irregular due to complainant's drinking and gambling. When he saw complainant in the evening of November 2, 1994, he confronted complainant about the dwindling dispatch collections.

He admits having punched complainant, but denies having used a firearm, as he swore that he does not possess any firearm. He, likewise, admits having challenged complainant to a fistfight as the latter was walking back and forth in front of his residence.



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In Adm. Case No. 95-002, complainant alleges that the instant charge stemmed from the filing of an Illegal Fishing complaint against him by respondent prosecutor before the Office of the Provincial Prosecutor of Baganga, Davao Oriental (I.S. No. DOB-94-061). When he received the subpoena in the said complaint he discovered that the private complainant named in the subpoena was also the same prosecutor who sent him the subpoena. He deemed it anomalous as respondent prosecutor was both the person who instituted the illegal fishing complaint and the investigating prosecutor at the same time. The said act of respondent prosecutor is clearly violative of the provisions of R.A. 6713, (Code of Conduct and Ethical Standards for Public Officers and Employees) because prior to the filing of said charge he had initiated a complaint for slight physical injuries and attempted murder against respondent prosecutor before the Office of the Ombudsman for Mindanao.

In answer, respondent prosecutor submitted a joint affidavit of Remedios Morales and Jesua Delosa, both employees of the Provincial Prosecution Office at the Sub-Station in Baganga, Davao Oriental, admitting that they were the ones who cause the preparation of the subpoena in I.S. No. DOB-94-061. They averred that when respondent affixed his signature on the subpoena, the space designated for the complainant was still blank. Without respondent prosecutor's knowledge, much less approval, Morales instructed Delosa to type the name of respondent prosecutor as the complainant in the case unmindful of the fact that in cases where there are no private complainants, the arresting officers should be considered as the complainants.

The Secretary of Justice, after the conduct of a formal investigation, found that respondent should be held administratively liable for conduct unbecoming of a public officer and recommended that he be meted the penalty of suspension from the service for one (1) month without pay.

The finding of the Secretary of Justice as the culpability of respondent merits concurrence. Respondent, however, deserves to be meted a penalty higher than what is recommended, the nature of the acts complained of considered.

Respondent prosecutor explicitly admitted having punched complainant in the evening of November 2, 1994 when the former confronted the latter about the dwindling and irregular remittances of his share in the collections relative to the dispatch of buses. In fact, respondent prosecutor, likewise, admitted having challenged complainant to a fistfight. However, on the issue of whether or not respondent prosecutor was in possession of a gun during the incident in question, we give credence to the latter's denial. Complainant's witness, Reynaldo Cubero, executed an affidavit of recantation withdrawing his first affidavit wherein he stated that respondent had a gun. In his second affidavit, Cubero stated that he signed the first affidavit because of misrepresentation and pressure exerted by the complainant to the effect that respondent prosecutor had included him in a theft charge, an allegation he later discovered to be untrue.



Moreover, it is surprising to note that Roger Nazareno, whom complainant alleged to have been present during the incident and to whom he ran to after respondent prosecutor chased him, did not corroborate complainant's accusation that respondent prosecutor was in possession of a gun during the incident in question. Instead, Roger Nazareno denied having seen respondent prosecutor with a gun and neither did he see respondent prosecutor aim nor fire a gun at the complainant.

Proceeding to the second charge, we find no administrative liability on the part of respondent prosecutor. It is of judicial notice that subpoenas are prepared by the stenographer/secretary of the investigating prosecutor. In the instant case, clerks Remedios Morales and Jesusa Dolosa attested to the fact that respondent prosecutor had no hand in the preparation of the subpoena sent to complainant in I.S. No. DOB-94-061. Although respondent prosecutor's name appeared as the complainant in I.S. No. DOB-94-061, the pertinent document attached to the subpoena, i.e., a copy of the complaint-affidavit of the arresting officers, shows that the said document served as the basis for the issuance of the subject subpoena. Besides, respondent prosecutor's subsequent act reveals that after the subpoena was sent, he inhibited himself and the investigation of the illegal fishing complaint was handled by another prosecutor from Mati, Davao Oriental.

Under the foregoing, while the second charge has no leg to stand on, I agree with the Secretary of Justice that respondent prosecutor's act of punching complainant and challenging him to a fistfight is condemnable. Such an actuation is, indeed, conduct unbecoming of a public officer. In enforcing his rights as a private citizen, respondent prosecutor is well aware of the available legal remedies, but instead, he took the law into his hands and inflicted physical violence against the complainant. We abhor and condemn such an unwarranted behavior as it destroys the image of the prosecution service.

WHEREFORE, premises considered, Assistant City Prosecutor Manuel Batao of the Davao City Prosecution Office is hereby found administratively liable for conduct unbecoming of a public officer. Consequently, he is hereby SUSPENDED from the service for a period of six (6) months without pay.

Done in the City of Manila, this 29<sup>th</sup> day of SEPT. in the year of Our Lord, nineteen hundred and ninety eight.



By the President:



RONALDO B. ZAMORA  
Executive Secretary



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