

[ADMINISTRATIVE ORDER NO. 60, February 07, 2003]

IMPOSING UPON ASSISTANT CITY PROSECUTOR BEN DE LA CRUZ OF THE OFFICE OF THE CITY PROSECUTOR OF QUEZON CITY THE PENALTY OF ONE (1) YEAR SUSPENSION WITHOUT PAY FOR GROSS NEGLIGENCE OF DUTY, INEFFECTUENCY, INCOMPETENCE IN THE PERFORMANCE OF OFFICIAL FUNCTIONS AND VIOLATIONS OF DEPARTMENT OF JUSTICE (DOJ) ORDERS NO. 49, SERIES OF 1993 AND NO. 9, SERIES OF 1998.

This has reference to the administrative complaints against Assistant City Prosecutor Ben de la Cruz of the Office of the City Prosecutor of Quezon City in ADM Case No. 98-005-A-FS for neglect of duty and violation of DOJ Order No. 49, series of 1993, as amended, and ADM. Case No. 99-0056-FS for gross neglect of duty, ineffectuency and incompetence in the performance of official functions. The Secretary of Justice found respondent prosecutor liable of said charges and recommended, in his letter of October 12, 2001, the suspension of the latter for one (1) year without pay.

I. ADM. Case No. 98-005-A-FS

This is a complaint filed by former City Prosecutor Candido V. Rivera of the Office of the City Prosecutor, Quezon City, for neglect of duty and violation of Department Order No. 49, series of 1993, as amended, against respondent. It stemmed from his failure to resolve seventy-six (76) cases assigned to him for preliminary investigation within the prescribed sixty (60)-day period.

During the evaluation stage of this case, respondent was required to submit his comment/answer to the charge but he failed to do so even while his request for extension of time was granted. He likewise did not submit his answer to the formal charge or attend the scheduled hearing of this case despite receipt of a copy of the administrative charge and notice of hearing. Thus, this case was resolved on the basis, of the evidence presented by the complainant.

We find respondent prosecutor liable for neglect of duty and for having violated DOJ Order No. 49, series of 1993, as amended.

The inventory by the Office of the City Prosecutor of Quezon City in April 1997 of the cases assigned to respondent for preliminary investigation reveals that he failed to resolve the seventy-six (76) cases that were assigned to him. This includes the two cases that were assigned to him as early as December 28, 1994 and June 2, 1995.

Respondent obviously disregarded the rules in the conduct of preliminary investigations as provided for under Section 3, Rule 112 of the Revised Rules on Criminal Procedure. He also violated DOJ Order No. 49, series of 1993, as amended,