

[ADMINISTRATIVE ORDER NO. 65, March 04, 2003]

IMPOSING ON ROSENDO T. BRILLANTES, ASSISTANT CTTY PROSECUTOR OF CEBU, THE PENALTY OF ONE (1) MONTH AND ONE (1) DAY SUSPENSION WITHOUT PAY

This refers to the administrative case for gross neglect of duty and conduct prejudicial to the best interest of the service Filed by the Department of Justice against Assistant City Prosecutor Rosendo T. Brillantes of the Office of the City Prosecutor of Cebu City.

On the basis of the evidence gathered in the investigation conducted by the Office of the Regional State Prosecutor, Region VII, the Department of Justice formally charged respondent for the aforementioned offenses for the disappearance or loss of 288.20 grams of shabu used as evidence, albeit still to be formally offered, in Criminal Case No. CBU-54570 (People vs. Allan Arriego).

In his answer, respondent asserted that the loss adverted to was not the result of his negligence, claiming that he kept the items in question inside the drawer of the steel cabinet which also contained shabu and other evidence left by the late Prosecutor Domingo Uy. In this regard, he described the cabinet as "safe", the door of the room where it is located being kept closed even during office hours. He stated that the loss of the said evidence was due to fortuitous event, adding that he joined the prosecution service only a few months before the incident happened.

The Secretary of Justice found respondent prosecutor guilty of simple neglect of duty on the strength of the following premises:

"After a careful study of the evidence on record, we find that there is substantial evidence to show that respondent prosecutor was indeed remiss in his duty of preserving and safekeeping the evidence involving 288.20 grams of shabu relative to Criminal Case No. CBU-54970... and which evidence have not been formally offered in court. There is no dispute that on November 17, 2000, Prosecutor Paderanga turned over to him the case records together with said evidence. Thus, upon receipt thereof, it behooves him to exercise due diligence in preserving and safekeeping the same to insure their presentation in court. In the case at bar, unfortunately, he failed to observe such diligence required under the circumstances when he simply placed the evidence of shabu in the steel cabinet despite knowledge that its lock was defective. Prudence dictates that he should not have left such kind of evidence in that cabinet unclosed or not properly secured, especially so that the room wherein the said cabinet is located, is not totally free from access of other people. Given such circumstances, obviously, respondent prosecutor was too lax in his duty to insure the safety of the evidence involved,