

**[ ADMINISTRATIVE ORDER NO. 139, October 04, 2000 ]**

**IMPOSING THE PENALTY OF SUSPENSION FOR TWO (2) MONTHS WITHOUT PAY ON BENJAMIN V. DELA CRUZ, ASSISTANT CITY PROSECUTOR, CITY PROSECUTION OFFICE OF QUEZON CITY**

This refers to the administrative complaint filed by Teresita Tepace-Bumolo and Zenaida S. Insilay against respondent Assistant City Prosecutor Benjamin V. de la Cruz of the City Prosecution Office of Quezon City for gross neglect of duty.

The facts are undisputed.

On November 11, 1996, complainants filed criminal complaints for grave oral defamation and grave threats (docketed as I.S. Nos. 96-24586 and 96-24587) against a certain Aida Agustin. These cases were assigned to respondent for the conduct of preliminary investigation. After the parties have filed their respective pleadings, the cases were submitted for resolution.

Five (5) months later, the cases remain unresolved. This prompted complainants to file a motion for the early resolution of the said cases. When respondent still failed to resolve their cases, complainants sought the assistance of then Quezon City Prosecutor Candido Rivera to convince respondent to act on their cases. Similarly, complainants sought the aid of the Office of the Ombudsman to facilitate the early resolution of the cases. However, despite the intercessions of both the City Prosecutor and the Office of the Ombudsman, the cases remained unacted.

Aggrieved by these unreasonable delays, complainants filed with the Department of Justice (DOJ) an administrative complaint against the respondent. On October 30, 1997, Chief State Prosecutor (CSP) Jovencito R. Zuño endorsed the said complaint to respondent and directed him to submit his comment and/or answer thereon within ten (10) days from receipt thereof. On February 6, 1998, CSP Zuño again directed respondent to submit his answer to the administrative complaint. To date, respondent failed to heed these directives.

On the basis thereof, respondent was formally charged by the DOJ with gross neglect of duty and a formal investigation was initiated relative thereto. On the scheduled hearing, only complainants appeared while respondent was conspicuously absent. Thus, upon motion of the prosecuting attorney, the case was submitted for resolution. On the basis of available records, respondent was found guilty of the said charge and the Secretary of Justice recommended the penalty of suspension from office for a period of two (2) months without pay.

We agree with the findings and recommendation of the DOJ. Section 3, Rule 112 of the Revised Rules on Criminal Procedure, which outlines the uniform procedure for conducting a preliminary investigation inaccord with Presidential Decree No. 911, provides the following, to wit: