

[ADMINISTRATIVE ORDER NO. 369, December 08, 1997]

IMPOSING THE PENALTY OF SUSPENSION FOR SIX (6) MONTHS WITHOUT PAY ON ASSISTANT PROVINCIAL PROSECUTOR EULOGIO I. PRIMA OF THE PROVINCIAL PROSECUTION OFFICE OF CAMARINES SUR

This refers to the administrative complaint of Manuel B. Casclang, Deputy Ombudsman for the Military, against Assistant Provincial Prosecutor Eulogio I. Prima of Camarines Sur (Adm. Case No. RV-96-001-AC) for negligence of duty.

The facts of the case, as found by the Fact Finding Investigation Panel duly constituted by the Department of Justice for the purpose, are as follows:

"On November 9, 1994, the Office of the Provincial Prosecutor, Iriga City Sub Office, received, through Segundina Buena, the complete records of the case entitled "People of the Philippines versus SPO1 Melchor Prades and SPO1 Henry Orbita" from the Office of the Ombudsman with an accompanying instruction to regularly update the said office of the progress of the case after the Information is filed.

Upon the filing of the Information, the case was raffled off to the 5th Municipal Circuit Trial Court of Nabua-Bato, Camarines Sur. It was docketed as Criminal Case No. 6978. The arraignment of the accused was set on January 20, 1995. It turned out, however, that the arraignment was legally defective since during the court proceedings, the Information was not read to the accused, the accused did not personally enter his plea, and the respondent prosecutor was absent. Notwithstanding these defects, respondent prosecutor, did not exert any effort when he appeared in court on July 20, 1995 and August 17, 1995 to rectify the irregularity. Instead, he just let the trial proceed.

In the subsequent hearing on December 8 and 22, 1995, respondent prosecutor, did not appear in Court despite notice. He did not even make a formal motion for the postponement of the scheduled hearings. This was again repeated on February 9, 1996. In view of his series of failures to appear in court, the case of arbitrary detention initiated by the Office of the Ombudsman against the police officers was dismissed. Furthermore, respondent prosecutor, without any justifiable reason, failed to submit to the Office of the Ombudsman the requested progress report during the pendency of the case.

In defense, respondent prosecutor claims he is not the designated prosecutor to handle criminal cases filed before the MCTC Nabua-Bato; that whoever is approached in his office by the private complainant will be the trial prosecutor for such particular case; that he was never