

[ADMINISTRATIVE ORDER NO. 154, October 27, 1994]

IMPOSING THE PENALTY OF DISMISSAL FROM THE SERVICE WITH FORFEITURE OF ALL THE BENEFITS UNDER THE LAW, ON 1ST ASSISTANT CITY PROSECUTOR LUCAS M. CASTAÑOS OF ORMOC CITY

This refers to the administrative complaint against 1st Assistant City Prosecutor Lucas Castaños of the Office of the City Prosecutor of Ormoc, for grave misconduct and disgraceful and immoral conduct.

The record shows that Prosecutor Castaños was then the public prosecutor assigned in the sala of Judge Escaño. Sometime in June, 1992, Judge Escaño was visited in his house by a certain Mr. Nevardo Flores, who was charged with murder and illegal possession of firearms before his court, to verify whether or not his (Flores) cases would be dismissed if he would give P80,000.00 to respondent prosecutor. Alarmed that his name was apparently being used by Prosecutor Castaños in extorting money from parties-litigants, Judge Escaño conducted his own discreet investigation and discovered that Prosecutor Castaños made similar demands from several accused who had pending cases in his sala, to wit: 1) from Mr. Victor Espina, who was accused of attempted murder and illegal possession of firearm; 2) from Mrs. Gloria Alba, wife of Rolando Alba, who was accused of and later convicted for possession of prohibited drugs; 3) from one Peregrino, who was accused of and later convicted for illegal possession of firearms; 4) from one Sacay, who was accused of and later convicted for homicide; 5) from Jerry Loreno, who was accused of and later acquitted for murder and illegal possession of firearm; 6) from one Palmitos, who was accused of estafa; 7) from Raul Chu, who was accused of attempted murder; and 8) from Francisco Agapito who was accused of and later acquitted for violation of Sec. 68 of PD 705.

On July 27, 1992 Judge Escaño received a poison-letter attributing to him corrupt activities in connection with cases being tried by him but which letter he suspected to have been authored by respondent prosecutor. The said letter was examined by the NBI and, upon Judge Escaño's request, NBI, Senior Agent Mario C. Tonolete, conducted an investigation wherein Nevardo Flores, Judith and Eufemia Matuguina, Victor Espina, Constantino Abellera, Letecia Pernito and Gloria Cayabo de Alba, testified to the alleged corrupt and immoral activities of respondent prosecutor.

Nevardo Flores confirmed the fact that respondent prosecutor asked him to produce P80,000.00 for the dismissal of his cases and even suggested that he sell his land, tricycle and borrow money in order to raise the amount. He went to the house of Judge Escaño to inquire if the latter would dismiss his case if he would give P80,000.00 to respondent prosecutor. Although he failed to give the said amount, he, nevertheless gave respondent prosecutor the amount of P3,000.00 in consideration for the latter not to conduct a cross-examination. Half of the said

amount was delivered to respondent prosecutor thru his fixer, a certain Valentin, and the other half was delivered by him personally to respondent prosecutor.

Judith and Eufemia Matuguina, the widow and mother, respectively, of victim Oscar Matuguina, of which Nevardo Flores was accused of murder, deny having agreed to a "transaction" involving the P80,000.00 demanded by respondent prosecutor much less did they authorize the latter to negotiate for the settlement of the case.

Victor Espina states that respondent prosecutor demanded P40,000.00 from him to settle his cases. He was able to give respondent prosecutor only P5,000.00, P3,000.00 of which was delivered thru Army Sgt. Constantino Abellana while the P2,000.00 was given to respondent prosecutor thru his lawyer, Atty. Benjamin Militar.

Constantino Abellana confirmed his receipt from Victor Espina of the amount of P3,000.00 which he, in turn, delivered to respondent prosecutor at the latter's house in Ormoc Heights, Ormoc City.

Gloria Alba avers that on three (3) different occasions, respondent prosecutor forced her to have sex with him, each time before trial was held in the criminal case involving her husband Rolando Alba, who was charged with and later convicted of illegal possession of prohibited drugs. She consented to have sex with respondent prosecutor as she was made to believe that respondent prosecutor would go easy on the trial of her husband's case.

Finally, Jose Burgos, Jr., an environmental consultant at PASAR in Isabel, Leyte, states that respondent prosecutor demanded from him the amount of P10,000.00 in consideration of an expeditious and favorable resolution of the criminal complaints he filed against some squatters. He did not give any money and his complaints were dismissed.

Prosecutor Castaños denies the charge. He has allegedly no knowledge of Flores going to the house of Judge Escaño much less did he ever demand money from him in connection with the cases pending in Judge Escaño's sala. It is a truism in criminal procedure that the fate of a party in a criminal case is in the hands of the judge handling the case and not with the prosecutor whose duty is to pursue its prosecution. When Judge Escaño set a confrontation conference in his chamber, Flores himself categorically denied, in his presence and that of Atty. Reguio Bantanan (private prosecutor) his participation or his involvement relative to the P80,000.00 which was intended to be given to the complainant in the murder case as sort of a compromise in the said case.

Respondent prosecutor further states that he has no knowledge of the alleged poison-letter sent to Judge Escaño. While the NBI was requested to investigate the supposed source of the said letter, the investigation resulted in a finding of his alleged corrupt activities, without giving him the opportunity to defend the accusations. Judge Escaño has harbored ill-feelings against him, the former strongly suspecting that he was the author of the poison-letter. As a pre-emptive move, Judge Escaño filed the instant complaint against him.

Regional State Prosecutor Francisco Q. Aurillo, Jr. of Region VIII, was directed to conduct a formal investigation in the instant administrative complaint. However, respondent prosecutor expressly waived his right to a formal hearing or investigation while complainant, on the other hand, submitted the case for