

[ADMINISTRATIVE ORDER NO. 68, July 22, 1993]

**IMPOSING THE PENALTY OF SUSPENSION FOR TWO MONTHS
WITHOUT PAY ON ASSISTANT CITY PROSECUTOR BIENVENIDO
N. MABANTO, JR. OF CEBU CITY**

This refers to the administrative complaint filed by Cebu City Mayor Tomas R. Osmeña as complainant against Assistant City Prosecutor Bienvenido N. Mabanto, Jr. of Cebu City as respondent for Grave Misconduct.

Complainant alleged that respondent was the investigating prosecutor in I.S. No. 91-2406; that the case evolved from a raid on April 17, 1991, conducted by Policemen on Queen Mini Theater for showing lewd and obscene pictures; that one half (1/2) roll of pornographic film was found inside the projection room thereat; the complaint was filed against Amonia Aragon, owner of the theater; that on May 13, 1991, respondent herein as investigating prosecutor dismissed the case on the ground that the confiscated pornographic film could not be shown/exhibited without the use of a reel; that respondent's resolution was contrary to the demonstration jointly attended by the members of the Cebu Anti-Indecency Board and respondent himself where the film could still be shown without reel; that respondent premised his resolution dated May 13, 1991 on the preview undertaken by the Cebu City Anti-Indecency Board on May 22, 1991; that it was unusual for respondent to know about the incident on May 22, 1991, while his resolution was dated May 13, 1991, unless "Amonia endowed him with something extremely valuable that made him see things before they take place"; that respondent, with determination to exonerate the accused at all cost, disregarded the testimonies of two (2) impartial witnesses; that in 1987, respondent likewise dismissed a case against Amonia Aragon, et al., despite the lawful seizure of several pornographic films from Queen Mini Theater; that it was quite unusual for the two (2) cases involving the same parties to be assigned to the same investigating prosecutor-respondent herein; that respondent deliberately did not notify the arresting officers of the reinvestigation conducted in the latter case nor has a copy of his resolution been furnished the latter.

Based on the foregoing, complainant prayed that respondent herein be investigated; thus, a formal investigation was readily conducted by State Prosecutor Alvin C. Go pursuant to Department Order No. 312, Series of 1991, of the Department of Justice.

Thereafter, the Secretary of Justice found the respondent guilty of Simple Misconduct and recommended his suspension from office.

We agree with the findings and recommendation of the Secretary of Justice.

Complainant's evidence shows that a team of policemen conducted a raid at Queen Mini Theater where one half (1/2) roll of pornographic film was confiscated. The owner of said theater, Amonia Aragon, was criminally charged and investigated by