

[ADMINISTRATIVE ORDER NO. 60, July 10, 1993]

**IMPOSING THE PENALTY OF DISMISSAL FROM THE SERVICE ON
FIRST ASSISTANT PROVINCIAL PROSECUTOR SESINIO B.
BELEN, PROVINCIAL PROSECUTION OFFICE, PALAWAN**

This refers to the administrative complaint filed by Vicente Buenavista, Jr., against First Assistant Provincial Prosecutor Sesinio B. Belen, Provincial Prosecution Office, Palawan, for serious misconduct, grave ignorance or indifference to the law.

In the affidavit executed by the complainant on 13 September 1988, he alleged that herein respondent was the investigating prosecutor in Criminal Cases Nos. 6744 and 6745 for the rape of complainant's eleven year-old daughter. These cases were subsequently dismissed, albeit provisionally, on the basis of an Affidavit of Desistance purportedly executed by the victim herself. This affidavit was found to have several infirmities such as: being sworn before the respondent prosecutor without requiring the affiant's parental consent; neither was there a counsel assisting the affiant when she executed it or later when she had it sworn before the respondent; and that there was a discrepancy between the Motion to dismiss and the Affidavit of Desistance. The Motion, which was based on the Affidavit, was dated 04 July 1988 whereas the Affidavit itself was dated 26 July 1988. In other words, the Motion to Dismiss was prepared twenty two (22) days ahead than the Affidavit of Desistance.

These irregularities were brought to the attention of the court, which subsequently ordered for the reopening of the said cases which until now are still pending.

Respondent, in the original administrative case filed against him, submitted his answer-explanation and claimed that somebody accompanied the girl to his office; that he was convinced of the truthfulness and veracity of her statement and that she acted on her own free will; that he had no knowledge that she was the victim of kidnapping by the accused; that he was aware of negotiations between the parties for a possible compromise and that he could not prolong the prosecution of the case because the accused had been detained for a long time already. Thereafter, the then Undersecretary of Justice Artemio G. Tuquero resolved the case on 01 February 1991, finding respondent's action "short of the diligence required of a public officer who represents the State". Respondent was thus admonished and reminded to be more careful in the performance of his duties.

Complainant utilized the same Affidavit dated 13 September 1988 to charge the presiding judge handling the cases before the Supreme Court. The dispositive portion of the Supreme Court decision promulgated on 19 July 1990 reads as follows:

"Wherefore, the court finds respondent Judge Marcelo Garcia guilty of serious misconduct and hereby orders his immediate dismissal from the