

**[ ADMINISTRATIVE ORDER NO. 232, August 26, 1991 ]**

**DISMISSING FROM THE SERVICE JOHN A. EGAÑA, THIRD ASSISTANT PROVINCIAL PROSECUTOR OF RIZAL**

This refers to the administrative complaint filed by Wilson Bandiola against Third Assistant Provincial Prosecutor John A. Egana of the Provincial Prosecutor's Office of Rizal, upon which the Secretary of Justice formally charged Mr. Egana for Grave Misconduct.

Records reveal that at about 9:30 o'clock in the evening of November 17, 1988, complainant's brother, Wenefredo Bandiola, while crossing Shaw Boulevard, Mandaluyong, Metro Manila, was bumped by a speeding vehicle owned by respondent prosecutor, tossing the victim against the front windshield of the vehicle before he landed on the pavement unconscious. The driver sped away towards the direction of Manila, abandoning his victim on coming ambulance of the Philippine Charity Sweepstakes Office stopped for the victim and brought him to the Polymedic General Hospital. Wenefredo, the victim, was later confined at UERM Memorial Medical Center, from November 18, 1988 to December 7, 1988 for treatment of cerebral concussion and contusion. A total amount of ₱35,002.95 was incurred by Wenefredo representing loss of income, medical and other expenses.

A certain Batanio Gumapi, who turned out to be a neighbor of the victim, witnessed the hit-and-run incident. Mr. Gumapi being just about a meter away from the spot of the incident and aided by the headlight of the car immediately following was able to note that the car bears plate number NET 773. Gumapi executed an affidavit on November 23, 1988 affirming his statement.

On August 1, 1989, complainant sought the assistance of the Department of Justice if only to recover medical expenses incurred for the hospitalization of his brother, stating that the witnesses to the said incident have become reluctant or even timorous to testify upon learning that the respondent is a fiscal.

When required to comment on said letter-complaint of August 1, 1989, respondent, on October 31, 1989, denied any responsibility for the injuries sustained by Wenefredo Bandiola and averred, among others, (a) that, on November 17, 1988, after the monthly meeting of prosecutors at the Provincial Capitol Building of Pasig, he joined his co-prosecutors in one of the stores located inside the Provincial Capitol Building up to 9:00 in the evening when he left alone in his car; (b) that, while stopping on traffic signal at the corner of Shaw Boulevard and Epifanio de los Santos Avenue (EDSA), three (3) unidentified men held him up at gun point, boarded and drove his car and divested him of his Seiko wrist watch worth ₱15,000.00, more or less, diamond ring valued at ₱10,000.00, necklace costing ₱3,000.00, wallet containing his driver's license and cash of ₱3,000.00, and another amount of ₱10,000.00 from his clutch bag; (c) that, because of his persistent pleas, he was

allowed to go by the robbers and was dropped at an unlighted spot near the Manuela Shopping Complex on Shaw Boulevard, the trio proceeding in his car towards the direction of Manila; (d) that, still shocked by the experience, he nervously hailed a taxicab, went home and, after relating the incident to his wife, proceeded to the Mandaluyong Police Station to report the incident, apprehensive that his car might be used by the three (3) robbers in the commission of another crime; (e) that the following morning (November 18, 1988), he passed by the Mandaluyong Police Station to verify the status of his complaint, and was informed that his car was involved in a traffic accident and was held in the impounding lot of the police station; (f) that, after obtaining clearance for its release, he was allowed to tow his car, as the car would not start; and (g) that he was not drunk and had no wound on the night of the incident, otherwise such fact would have been reflected in the police blotter of the Mandaluyong Police Station.

After evaluation of the complaint, the Secretary of Justice on May 29, 1990, found a prima facie case for Grave Misconduct against respondent and placed him under preventive suspension for ninety (90) days pending formal investigation of the charge to be conducted by State Prosecutor Theodore M. Villanueva.

On June 13, 1990, respondent wrote State Prosecutor Villanueva requesting that the letter-complaint of Mr. Wilson Bandiola be subscribed to by him pursuant to the provision of Paragraph 2, Section 32, Article VII of the Civil Service Act, as amended.

On even date, respondent likewise sent a letter to the Secretary of Justice seeking reconsideration of the latter's finding of prima facie case against him for Grave Misconduct.

In said motion, respondent alleged that complainant's evidences are plain hearsay and without evidentiary value, coming as they did from third parties (the cigarette vendor and the police investigator) who did not execute affidavits for the purpose.

In his Memorandum for me dated February 5, 1991, the Secretary of Justice, finds respondent's motion to be unimpressed with merit, upon the following observations:

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"The complaint not being under oath is a formal defect not fatal to the pursuit of this administrative matter. Such defect has been cured and remedied by the supporting affidavits of the victim himself and the witness, Batanio Gumapi, which were subscribed and sworn to respectively before a notary public and the investigating State Prosecutor. We stress at this point that an administrative investigation is not bound by the rigidity of technical rules of legal evidence. These proceedings serve as an inquiry into circumstances surrounding a certain set of facts and upon which an order may be issued. The quantum of evidence herein required is substantial evidence supportive of a proposition,"

After going over the records of the case, I fully agree with the conclusion of the Secretary of Justice.

The carnapping tale put-up by respondent is belied by the facts on record, any one