

[ADMINISTRATIVE ORDER NO. 199, October 12, 1990]

DISMISSING 2ND ASSISTANT CITY PROSECUTOR ILUMINADO M. MANUEL OF QUEZON CITY FROM THE SERVICE

This is an administrative case against 2nd Assistant City Prosecutor Iluminado M. Manuel of Quezon City for grave misconduct and conduct prejudicial to the best interest of the service.

The records show that Ms. Adelaida A. Viray filed an affidavit-complaint, dated December 20, 1989, against respondent before the City Prosecutor's Office of Quezon City, alleging that she is the respondent in a case filed by a certain Baron L. Buck, in representation of the Gucci Company, for unfair competition which was docketed as I.S. No. 89-7892; that said case was set for investigation by the respondent for the last time on October 18, 1989; that on October 19, 1989, respondent went to her (Ms. Viray) residence at No. 29 Congressional Ave. Ext., Visayas Avenue, Quezon City; that respondent informed her that she would need the amount of P15,000 as bail if the case for unfair competition against her is filed in court, but that she could give him instead the amount of P10,000 for the resolution of the case in her favor; that she told respondent that she could only give him an initial amount of P5,000; that respondent said that if she can bring the additional amount of P5,000 to his house, he will wait for her; that the following day she, together with her brother and her son, Edgar V. Garcia, and the "tindera" of her brother, Amor, went to the house of respondent at Fairview; that she informed respondent that she did not bring along the additional P5,000; that respondent said it cannot be and so she left the place to borrow money from her brother Romy Viray, who lent her the amount; that she, together with her companions went back to the house of respondent who had already left, but whose wife informed them that whatever they have agreed upon will just be given to her; that she save the amount of P5,000 to respondent's wife on that day; that about six weeks after, she together with her brother, Ric Viray, and her son, Edgar, returned to find out if there has been a resolution on the case; and that respondent answered that the resolution has not yet been finished.

Ms. Viray's son and witness, Edgar John V. Garcia, in his affidavit dated December 22, 1989, alleged, among others that on October 19, 1989, respondent went to their house with an offer to help them in the said case for a consideration of P10,000.00; that because his mother had then only P5,000.00 respondent asked them to bring the additional P5,000.00 at his residence; that after his mother gave respondent P5,000.00, the latter asked them to bring him home so they would know where he lives and where to deliver the additional amount of P5,000.00; that the next day, they went to respondent's residence pleading if they could just pay the additional amount after the case shall have been resolved; that respondent turned down the plea, prompting Ms. Viray to borrow money from his uncle Romy; and that when they returned to respondent's residence, they were met by his wife who

informed them of respondent's message to entrust to her what was agreed upon and that his mother gave the additional P5,000.00 to respondent's wife.

In a letter of January 3, 1990, the Resident Ombudsman of the Quezon City Prosecutor's Office informed the Secretary of Justice that, on the basis of the investigation conducted on Ms. Viray's complaint the criminal and administrative prosecution of respondent was warranted.

The formal charge, dated April 2, 1990, against respondent, in part, reads:

"This Department has found, after an evaluation of the verified complaint dated December 20, 1989 of Adelaida A. Viray alleging that you demanded and received the amount of P10,000.00 in consideration for the dismissal of a case filed against her, and your Answer dated January 22, 1990, that a prima facie case of Grave Misconduct and Conduct prejudicial to the Best Interest of the Service exist against you."

In defense, respondent and his witnesses, namely Mrs. Silverita B. Manuel, Milagros Mallanao, Celson Manuel, and Atty. Sisenando Manuel, Jr., testified to disprove the allegations in the complaint.

Respondent affirmed the contents of his Answer, dated January 22, 1990, and adopted the same as his direct testimony. In the main he denied having demanded and received money from Ms. Viray. In the same Answer, respondent alleged, among others, that October 18, 1989 was the first setting, not the last as averted by Ms. Viray, of the preliminary investigation of the case; that he had never met Ms. Viray until the scheduled hearing of October 25, 1989, and that Ms. Viray had attempted to bribe him in connection with I. S. No. 89-7892.

In his memorandum, dated May 8, 1990, respondent disclaims meeting, much less demanding and receiving money from, Ms. Viray on October 19 and 20, 1989, alleging that he, together with his brothers, drove to Baguio, San Fernando, and La Union in the morning of October 19, 1989, returning at midnight of the same day and that he did not see Ms. Viray the following day (October 20), as he hosted a family reunion attended only by relatives. Further, respondent invited attention to certain inconsistencies in the testimonies and affidavits of Ms. Viray and her witness. In closing, respondent deplores "the existence of official intrigue that motivated the fabrication of evidence against" him.

After due consideration of the testimonial and documentary evidence presented during the formal investigation, the Secretary of Justice submitted to me a Memorandum dated July 5, 1990, finding respondent guilty of grave misconduct and accordingly recommended that respondent be dismissed from the service noting, among others that:

"Respondent puts up the defense of denial and alibi. He and his four (4) witnesses claim that about 7:00 a.m. on October 19, 1989, respondent went up to Baguio City and he arrived home only about midnight. They claim further that the following day, October 20, 1989, there was a family gathering held at the residence of respondent during which time from 11:00 a.m. to 3:00 p.m. no callers or visitors came.

"The issue to be resolved is whether there is substantial evidence to hold