

[ADMINISTRATIVE ORDER NO. 106, January 16, 1989]

IMPOSING ON ASSISTANT PROVINCIAL FISCAL MOHAMMADJAN SARAJAN OF JOLO, SULU, THE PENALTY OF SUSPENSION FROM OFFICE FOR A PERIOD OF NINETY (90) DAYS WITHOUT PAY

This is an administrative case against Assistant Provincial Fiscal Mohammadjan Sarajan of Jolo, Sulu, for alleged serious misconduct and gross ignorance of the law, dereliction of duty, grave abuse of discretion and infidelity in the custody of official document.

The case stemmed from the complaint, dated October 5, 1987, filed with the Tanodbayan by Judge Nabdar J. Malik of the Municipal Trial Court, Ninth Judicial Region, Jolo, Sulu, charging respondent fiscal with serious misconduct and gross ignorance of the law, dereliction of duty and grave abuse of discretion for having dismissed for lack of jurisdiction on September 10, 1987, Criminal Case No. 728, entitled "People of the Philippines versus Muharrisin Muharran, Accused", for violation of P.D. No. 9, as amended (Illegal Possession of Live Fragmentation Handgrenade), and ordered the release of the accused, a civilian, from legal custody.

Upon referral thereof, Chief State Prosecutor Artemio Tuquero, in a 1st indorsement of October 27, 1987, directed respondent to answer the complaint within five (5) days from receipt thereof. Subsequent thereto, or on November 10, 1987, complainant charged respondent with another count for infidelity in the custody of official document for having removed, destroyed or concealed the 4th indorsement, dated September 9, 1987, of Sulu Provincial Commander/Police Superintendent Col. Romeo A. Abendan advising respondent to refer to the proper civil court Criminal Case No. 728, it appearing that upon the ratification of the new (1987) Constitution, military tribunals have ceased to exist, much less acquire jurisdiction over civilians.

After due investigation, and in the light of respondent's written answer to the charges, the Secretary of Justice, in a letter-resolution, dated June 8, 1988, found respondent guilty of the charges, except that for infidelity in the custody of official document, he not being the official custodian of the aforementioned 4th indorsement of September 9, 1987. Accordingly, the Justice Secretary recommended that respondent be suspended from office for ninety (90) days without pay.

As found by the Secretary of Justice:

"Fiscal Sarajan, despite the assertions of the officers of the JAGO to the contrary, insisted that civil courts do not have jurisdiction over the case based on the wrong notion that the phrase 'any person' in PD 9 includes civilians.