

[ADMINISTRATIVE ORDER NO. 47, November 10, 1987]

SUSPENDING ASSISTANT PROVINCIAL FISCAL JUVENCIO M. NARITO OF MARINDUQUE FOR TEN (10) DAYS WITHOUT PAY

This is an administrative case filed by Alfonso D. Hidalgo against Assistant Provincial Fiscal Juvencio M. Narito of Marinduque for dereliction of duty and unethical practice.

The records show that Alfonso D. Hidalgo was the complainant in "People of the Philippines vs. Estefanio Guerrero" for qualified theft (Criminal Case No. 53-74, CFI-Marinduque). On September 14, 1976, the respondent trial Fiscal rested the case for the prosecution. On the aforesaid date, the defense counsel announced that he was filing a motion to dismiss or demurrer to the evidence. The trial Court ordered the defense to file its said motion within twenty (20) days from receipt of the transcript of stenographic notes, and the prosecution to file its opposition thereto within twenty (20) days upon receipt of the copy of the motion to dismiss. The trial Court set the motion for oral argument on December 14, 1976.

On December 14, 1976, the respondent Fiscal was not able to submit his opposition to the motion to dismiss, as he was furnished a copy of said motion only on the morning of the hearing. He then requested the Court for an extension of time within which to file his opposition. The trial Court granted his request, and gave him up to January 3, 1977, within which to submit his opposition. Thereafter, the matter shall be deemed submitted for resolution without further arguments. The respondent Fiscal was not able to file his opposition on January 3, 1977. He moved for a ten (10) day extension of time to do so. In its Order of January 4, 1977, the trial Court denied the respondent Fiscal's motion for extension. In the same order, the Court granted the defense's motion to dismiss, thus acquitting the accused. This is the basis of the complaint for dereliction of duty.

On the charge of unethical practice, complainant alleges that the respondent Fiscal did not bother to inform him of the status of the case.

The respondent Fiscal denies the twin charges against him. He invokes the defense of heavy volume of work for his failure to file his opposition within the reglementary period. He claims that the ten (10) day extension he requested was his first request for extension, and that it was reasonable. He attributed the dismissal of the case to the trial Court's exercise of discretion.

As to the charge of dereliction of duty, this Office finds untenable the explanation of the respondent Fiscal. Mere volume of work is not and should never be countenanced as a justification for one's inability to perform an official task. Otherwise, others who might be similarly situated could easily evade work on the pretext of being overburdened when all that needs to be done is to maintain an