

**[ ADMINISTRATIVE ORDER NO. 476, January 30, 1984 ]**

**SUSPENDING ASSISTANT PROVINCIAL FISCAL FELIPE ARCIGAL, JR. OF LAGUNA FOR A PERIOD OF THREE (3) MONTHS WITHOUT PAY**

This refers to the administrative complaint filed by Engr. Mariano Berroya, Jr. against Assistant Provincial Fiscal Felipe Arcigal, Jr. of Laguna, for oppression, inefficiency, incompetence and conduct prejudicial to the best interest of the service.

On July 30, 1979, the Ministry of Justice issued Circular No. 27, directing all Fiscals to forward to the Tanodbayan all complaints cognizable by the Sandiganbayan either exclusively or concurrently with the regular Courts.

Sometime in July 1980, the Provincial Government of Laguna, represented by the Acting Provincial Attorney, filed a complaint against Engr. Berroya, Jr., for violation of the Article 177 (Usurpation of Authority or Official Functions of the Revised Penal Code. The complaint was docketed in the Fiscal's Office as I.S. No. SC-27, S'80.

On July 7, 1980, Fiscal Arcigal, Jr. issued an order stating that "a perusal of the evidence presented before the undersigned disclosed that there exists a probable cause and that the offense charged has been committed and that the respondent (herein complainant) is probably responsible thereof."

In his letter dated July 31, 1980, Engr. Berroya, Jr. assailed the jurisdiction of Fiscal Arcigal, Jr. to conduct I.S. No. SC-27, S'80, stating that "x x x by virtue of PD No. 1607, the Tanodbayan through the Office of the Chief Special Prosecutor, has the exclusive authority to conduct the preliminary investigation, to file information and to direct and control the prosecution of cases like the complaint against me (Sec. 10 of PD)".

On April 27, 1981, Fiscal Arcigal, Jr. issued an Order stating that: (a) the crime charged was committed long before the organization of the Tanodbayan; and (b) the complaint was filed when respondent was no longer connected with the Provincial Government of Laguna. Accordingly, Fiscal Arcigal, Jr. concluded that "this Office (Office of the Provincial Fiscal of Laguna) has jurisdiction to entertain and take cognizance of above-entitled case."

Even before the issuance of the aforementioned Order of Fiscal Arcigal, Jr., Engr. Berroya, Jr. had already filed the instant administrative complaint on March 23, 1981. In his complaint, the herein complainant claimed that the acts of respondent Fiscal prejudiced him because the case was exclusively within the jurisdiction of the Tanodbayan; that the issuance by respondent Fiscal of a "probable cause" Order was based on the Affidavit of Eleuterio Valenciano, which was executed only on July 11, 1980; and that the termination of I.S. No. SC-27, S'80 was unduly delayed, as the