

**[ADMINISTRATIVE ORDER NO. 459, December
29, 1982]**

**SUSPENDING MR. JOSE L. MANULAT FROM OFFICE AS
ASSISTANT PROVINCIAL FISCAL OF CEBU**

This refers to the administrative complaint for gross inefficiency and incompetence filed by Mrs. Isabel R. Mahipus against Assistant Provincial Fiscal Jose L. Manulat of Cebu. The case was investigated by Cebu Provincial Fiscal Loreto M. Durano who found respondent guilty of gross negligence.

It appears that on July 13, 1979, Mrs. Isabel R. Mahipus filed a complaint for grave oral defamation (which was to prescribe on January 7, 1980) against Nathaniel Mahipus, et al., before the Office of the Provincial Fiscal of Cebu. The Cebu Provincial Fiscal assigned the said case for preliminary investigation to respondent fiscal. On December 27, 1979, respondent submitted to the Provincial Fiscal a resolution recommending the filing of an information for grave oral defamation against Nathaniel Mahipus, et al. On December 28, 1979, the Provincial Fiscal approved respondent fiscal's resolution in the case and the records thereof were given to Mr. Emilio Deiparine, an office employee, for delivery to respondent. However, respondent prepared and submitted an information for grave oral defamation against Nathaniel Mahipus, et al., for approval of the Provincial Fiscal only on January 24, 1980, when the offense had already prescribed.

Respondent admitted that he was well aware that the offense charged in the said criminal case would prescribe on January 7, 1980. However, he contends that the records of the case, including his resolution which was approved by the Provincial Fiscal, were received by him only January 17, 1980, when Mr. Emilio Deiparine, gave the said records to him. Furthermore, respondent contends that he was busy attending the trials of several criminal cases in court so he could not possibly have attended to the preparation of the information before January 7, 1980.

Under the facts proven in the present case, respondent is guilty of gross negligence and inefficiency. It may be true that the records of the criminal case in question were in the possession of MR. Emilio Deiparine who apparently did not deliver the same to herein respondent before the offense charged in the said criminal case prescribed. But respondent admits that he was well aware that the offense charged in the said criminal case would prescribe on January 7, 1980, and he should have taken steps to obtain possession of the said records for the purpose of preparing and filing in court the information in the case. This he failed to do. His explanation that he was then busy with other criminal cases pending in court does not justify his gross neglect to prepare and file the information before the offense charged would prescribe.

WHEREFORE, and as recommended by the Minister of Justice, Mr. Jose L. Manulat is hereby suspended from office as Assistant Provincial Fiscal of Cebu for one (1)