

Office of the President
of the Philippines
Malacañang

ADMINISTRATIVE ORDER NO. 51

**IMPOSING THE PENALTY OF DISMISSAL FROM THE GOVERNMENT
SERVICE ON ASSISTANT CITY PROSECUTOR CONSTANCIO C.
VELASCO OF THE OFFICE OF THE CITY PROSECUTOR OF MANILA**

This refers to the administrative case filed by the Department of Justice (DOJ) against Assistant City Prosecutor (ACP) Constancio C. Velasco, Office of the City Prosecutor, Manila, docketed herein as O.P. Case No. 02-J-482 (Administrative Case No. 01-0017-FS in the office *a quo*), for grave misconduct.

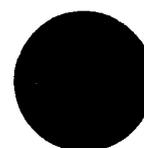
This case arose from a complaint filed by Ma. Lourdes S. Pe Benito, private complainant, before the National Bureau of Investigation – Anti Organized Crime Division (NBI-AOCD) against respondent Velasco for allegedly demanding from her Five Thousand Pesos (₱5,000) in consideration of the filing of an Information in court for oral defamation against spouses Eduardo and Clarissa Magbitang relative to a criminal complaint pending preliminary investigation before the office of respondent Velasco.

Records show that private complainant earlier filed before the Office of the City Prosecutor of Manila a criminal complaint for oral defamation against the spouses Eduardo and Clarissa Magbitang. It was assigned to respondent ACP Velasco for preliminary investigation. Sometime in September 2001, complainant went to the office of respondent at the Manila City Hall to file her reply to the “Motion to Dismiss” filed by the spouses Magbitang. During her conversation with respondent, the latter wrote in a piece of paper the amount in figure “₱5,000” and showed it to her. Thinking that it was the amount of fine to be imposed against the spouses Magbitang, complainant protested and insisted for the imposition of the penalty of imprisonment. However, respondent explained that the ₱5,000.00 is the amount that she was supposed to give him in consideration for the filing of a criminal Information in court for oral defamation against the spouses Magbitang. Complainant agreed to give the respondent the amount of ₱5,000.00 on November 8, 2001, the day when she was to receive her bonus.

On November 8, 2001, private complainant went to the NBI-AOCD and filed her complaint against respondent for demanding the amount of ₱5,000.00 in consideration for



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the filing of an Information in court against the spouses Magbitang. Acting on the complaint, the NBI immediately planned an entrapment operation. The marked money was prepared and the "pay-off" place was arranged at Chowking Restaurant, Quiapo, Manila. Then, at around 12:30 p.m. of the same date, a team of agents from the NBI-AOCD, headed by Senior Agent Primitivo Najera, were dispatched and, together with the private complainant, they proceeded to the "pay-off" place. However, the said restaurant was under renovation. As a consequence, the "pay-off" was transferred to nearby Ma Mon Luk Restaurant, also in Quiapo, Manila. Thereat, private complainant handed to respondent the envelope containing the marked money. Respondent immediately counted the marked bills and when he was about to leave the place, the NBI-AOCD operatives pounced on him and placed him under arrest.

Thereafter, the case against Velasco for the offense of Direct Bribery (Art. 210 of the Revised Penal Code) and/or Violation of Sec. 3 (b) of R.A. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, was elevated to the DOJ for inquest proceedings.

On December 18, 2001, DOJ filed a formal administrative charge against respondent for grave misconduct, docketed as NPS Administrative Case No. 01-0017-FS.

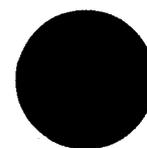
During the formal administrative investigation, private complainant reaffirmed her complaint against respondent.

On March 11, 2002, respondent submitted his sworn answer/affidavit. When complainant manifested that she was no longer filing any reply, respondent moved that a formal administrative hearing be held. Thus, the case was set for initial hearing of the prosecution's evidence on March 18, 2002.

On March 18, 2002, upon agreement of the parties, in lieu of a formal administrative hearing, the case was deemed submitted for resolution on the basis of the pleading and evidence thus submitted.

The Secretary of Justice found respondent ACOP Velasco guilty of the offense charged and recommended his dismissal from the government service.

It is not disputed that respondent was the investigating prosecutor assigned to conduct the preliminary investigation of the criminal complaint for oral defamation filed by private complainant Pe Benito against the spouses Magbitang. Similarly undisputed is the fact that NBI operatives apprehended respondent in an entrapment operation while receiving marked money from private complainant. Under the circumstances, respondent



had the burden of proof to satisfactorily show that the amount he received was not for the purpose as alleged by said complainant. Unfortunately, respondent failed to do so. His explanation that the amount of P5,000.00 he received from complainant represented payment for the cell phone unit that the latter had purchased from him is too trite to be given credence.

Verily, the act of respondent in demanding and receiving money from private complainant in the course of his official duty constitutes bribery and corrupt practices as defined and penalized under the Revised Penal Code and the Anti-Graft and Corrupt Practices Act, respectively. Corollarily, the same act constitutes "grave offense", under Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292, which provides:

"Sec. 22 Administrative Offense with its corresponding penalties are classified with grave, less grave grave and light, depending on the gravity of its nature and effects of said acts on the government service.

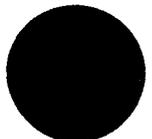
The following are grave offense with corresponding penalties: xxx

(i) Receiving for personal use of a fee, gift or other valuable thing in the course of official duties or in connection therewith when such fee, gift and other valuable thing is given by any person in the hope of expectation or receiving a favor or better treatment that accounted to other persons or committing acts punishable under the anti-graft laws.

1st Offense-Dismisal"

The Code of Conduct and Ethical Standards for Public Officials and Employees (R.A. 6713) *inter alia* enunciates the state policy of promoting a high standard of ethics and utmost responsibility in the public service (*Alawi v. Alauya*, 268 SCRA 628). Thus, there is a need to maintain the faith and confidence of the people in the government and its agencies and instrumentalities (*Estreller v. Manatad*, 268 SCRA 608). The act complained of being a grave offense carries with it the extreme penalty of dismissal from the government service for the first offense (*Marasigan v. Buena* 284 SCRA 1).

WHEREFORE, premises considered and as recommended by the Department of Justice, Assistant City Prosecutor Constancio C. Velasco of the City Prosecution Office of Manila, is hereby ordered DISMISSED from the government service with forfeiture of



leave credits and retirement benefits and disqualification for re-employment in the government service.

Done in the City of Manila, Philippines, this 25th day of November 2002.

J. Marry

By the President:

Alberto G. Romulo

ALBERTO G. ROMULO
Executive Secretary

cc: Asst. City Prosecutor Constancio C. Velasco
Office of the City Prosecutor
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