

IMPOSING THE PENALTY OF DISMISSAL FROM SERVICE OF LUIS C. PERDICES, CHIEF OF MISSION I, DEPARTMENT OF FOREIGN AFFAIRS

This pertains to the administrative case filed against Mr. Luis C. Perdices, Chief of Mission I by the Department of Foreign Affairs, (hereinafter, the "Department") for dishonesty, conduct prejudicial to the best interest of the service and for violation of MFA Instructions No. 13/17.V.85. This issuance strictly prohibits all DFA officers and employees from intervening on behalf of anybody in the issuance of visas from any foreign embassy or consulate.

The records show that on 15 October 1990, the Department instituted the instant administrative case against respondent Perdices upon the recommendation of the National Bureau of Investigation (NBI) on the basis of its evaluation of the complaint filed by Lusviminda Festin, Leonardo Mirafuente, Benjamin Manalo and Lourilie dela Rosa.

The NBI investigation showed that complainants are U.S. visa applicants who, upon the representation and assurance by respondent that he can secure their visas within two weeks, agreed to pay respondent the total amount of US\$4,000, US\$2,000 downpayment and the remaining US\$2,000 upon their arrival to the United States. Mr. Perdices, however, failed not only to secure the visas but also to return the money.

Independent of the administrative case, a criminal case for Estafa under Art. 315 of the Revised Penal Code was also filed by the NBI against respondent with the City Prosecutor of Manila.

In his answer, respondent moved for the dismissal of the administrative case on the ground that the criminal case for Estafa has already been dismissed by the City Prosecutor of Manila in view of the desistance of the complainants. Complainants, in their joint-affidavit of desistance, stated that "respondents have attended to our complaints and have paid us fully to our satisfaction".

The Board of Foreign Service Administration denied the motion of respondent for dismissal and, in finding the respondent guilty of the charges, held that "the desistance of the complainants does not preclude the imposition of administrative disciplinary action because there is preponderance of evidence that respondent, senior foreign service officer who has a rank of Chief of Mission I, not only failed to uphold the high standard of integrity, dignity and honor required of him as Chief of Mission but violated DFA rules and regulations and committed acts of dishonesty".

Records also show that as early as 1 September 1988, the Department charged respondent with grave misconduct, conduct prejudicial to the best interest of the service and malfeasance on the basis of a sworn complaint filed by one Mae Legaspi Solevilla Norva. It was alleged by Ms. Norva that respondent promised to secure the U.S. visa of her nephew in return for the sum of P30,000 in cash and another P30,000 in kind. Mr. Perdices failed to secure the visa of Ms. Norva's nephew and return the money paid to him.

Although the case was dismissed in view of the failure of the complainant to attend any of the hearings, respondent was admonished and reminded to be more circumspect in his dealings in consonance with the conduct of an Ambassador.

More recently, or on 2 April 1991, the Office of the Ombudsman requested the assistance of the Department's Resident Ombudsman in serving copies of complaints against respondent for similar offenses, i.e. visa-fixing activities. It appears that the NBI recommended the filing of criminal charges for estafa against respondent for his failure to secure the promised U.S. visas and return the money of 3 complainants who sought the assistance of the NBI.

Section 1, Article XI of the Constitution provides that:

"Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives."

Also, Section 1(f), Rule X of the Rules Implementing the Code of Ethical Standards for Public Officials and Employees provides:

"In addition to the grounds for administrative disciplinary action prescribed under existing laws, the acts and omissions of any official or employee, whether or not he holds office or employment in a casual, temporary, hold-over, permanent or regular capacity, declared unlawful or prohibited by the Code, shall constitute grounds for administrative disciplinary action, and without prejudice to criminal and civil liabilities provided herein, such as:

x x x

(f) Soliciting or accepting, directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value which in the course of his official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of, his office. The propriety or impropriety of the foregoing shall be

determined by its value, kinship or relationship between giver and receiver and the motivation. A thing or monetary value is one which is evidently or manifestly excessive by its very nature."

It may be argued that the desistance of the complainants materially affects the continuance of the instant administrative case. We are, however, mindful of the pronouncement of the Civil Service Commission that administrative offenses affect not only rights of private individuals but also those of the public, in view of which, desistance by the complainant does not ipso facto discharge respondent of any responsibility (Civil Service Board of Appeals [CSBA], Administrative Case No. R-13011, Nestorio Gatongay, Respondent-Appellant). Also, mere withdrawal of the complainant does not ipso facto exculpate the respondent from liability, more so when the charges can be proven by other evidence independent of those which can be presented by the complainant (CSBA Administrative Case No. R-14920 - Amadeo Ortiz, Respondent-Appellant).

It should be noted that the desistance of the complaining witnesses was on the ground that "respondents have attended to [their] complaints and have paid [them] fully to [their] satisfaction". Thus, it is evident therefrom that there was no claim that respondent did not commit the acts complained of but only restituted the complainants of the money due them. Desistance on such ground does not, and should not, liberate respondent from liability. On the contrary, he should be held fully accountable and responsible for his illegal acts. The unrestrained propensity of the respondent to commit such acts which greatly compromised the integrity and honor of the Department of Foreign Affairs and the entire foreign service career corps warrants severe administrative sanction.

WHEREFORE, in view of the foregoing Luis C. Perdices is hereby DISMISSED from the foreign service.

DONE in the City of Manila, this 25th day of May, in the year of Our Lord, nineteen hundred and ninety-two.

By the President:

FRANKLIN M. DRILON
Executive Secretary