

**Office of the President
of the Philippines
Malacañang**

ADMINISTRATIVE ORDER NO. 46

IMPOSING THE PENALTY OF DISMISSAL FROM THE SERVICE OF JOSE B. DAGUMAN, ASSISTANT CITY PROSECUTOR, PROSECUTION OFFICE, CITY OF MANILA

This refers to the administrative complaint filed by then Department of Justice (DOJ) Secretary Serafin R. Cuevas against respondent Jose B. Daguman, Assistant City Prosecutor, Prosecution Office of the City of Manila, for grave misconduct, dishonesty, conduct prejudicial to the best interest of the service and conduct unbecoming a public officer.

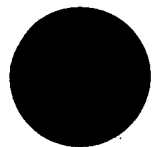
The facts of the case, as found by the DOJ in its letter of October 1, 2001, are as follows:

“On April 30, 1999, complainant Estrella R. Garama went to the office of the respondent to inquire and seek assistance on behalf of her husband Russ L. Garama who was presented for inquest before him on April 29, 1999. Belen Perez and Pompia Ramos accompanied her inside the office. Respondent informed the complainant that the bail recommended for her husband’s provisional release is ₱100,000.00. Informing him that she did not have that amount, respondent talked to Pompia Ramos, a province mate, who in turn informed the complainant that the respondent was asking for ₱6,000.00. Respondent told the complainant that the amount was for the police officers. Thereafter, he will prepare the release papers. Since the complainant did not have that amount, respondent asked her to give at least half the amount. Complainant was able to borrow from Belen Perez the amount of ₱3,000.00 consisting of small denominations, which she gave to the respondent. Pompia Ramos witnessed the respondent receive the amount. Thereafter, he instructed the complainant to find the means to produce the balance of in order that her husband will be released on Monday, May 3, 1999.

On May 1, 1999, complainant was informed by her neighbor Saldo dela Torre that the respondent was looking for her at her house. Not being able to talk to the complainant, respondent gave her a call in the evening inquiring if she already had the money to which she replied in the negative.



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The following day, respondent returned to her [complainant's] house located at Nepomuceno St., Quiapo, Manila, to inquire about the balance. Complainant was able to see the respondent at his house on May 4, 1999, when she asked to be furnished with copies of the inquest documents considering that Franco Galo, her uncle who was going to lend the money was asking for it. Complainant met her uncle on May 5, 1999. Upon asking the documents, her uncle said that her husband is under detention and he needs to submit his answer to the complaint against him. They went to Malacañang to see a certain Jude P. Fajardo. The latter prepared a letter addressed to Atty. Samuel Ong of the National Bureau of Investigation. Complainant was able to talk to Atty. Ong who in turn referred her to NBI agent Antonio Suarez. She relayed to him that respondent demanded from her the amount of ₱6,000.00 but was only able to give half the amount, and that she was still demanding for the balance. Upon the instruction of agent Suarez, complainant made a call to the respondent at around noon informing him that she only had ₱2,000.00. Inquiring whether her husband could be released, respondent directed her to proceed to his office where they can discuss the matter. Later in the afternoon, agent Suarez produced the ₱2,000.00 placed in an envelope. NBI agent Julma Dizon-Dapilos, who is to be complainant's companion posing as her aunt, instructed her to hand over the money to the respondent only when he makes the demand. Around 4:00 P.M., complainant arrived at the respondent's office. She introduced agent Dizon-Dapilos to the respondent, who immediately inquired about the money. Responding that she was only able to produce ₱2,000.00, respondent instructed her to place the money inside the drawer. As directed, complainant removed the money from the envelope, folded it and placed it inside the table drawer which was opened by the respondent. Agent Dizon-Dapilos inquired if the complainant's husband could be released. The latter answered that it was already late in the afternoon and that they should return at around noon the following day. She again inquired if it was possible to release complainant's husband in the morning. The respondent replied in the negative since he was busy but he will try his best. At that instance, complainant stepped out of the room and apprised agent Suarez about what transpired inside the room. In the meantime, agent Dizon-Dapilos announced to the respondent that he is being placed under arrest. He was read his constitutional rights. While complainant was waiting inside an NBI vehicle, she saw the respondent being escorted by the NBI agents. They all proceeded to the NBI office.

x x x

The defense raised by respondent Daguman consists mainly of denials and explanations concerning the commission of the offense.



Respondent, in seeking his exoneration, avers that the reason, why the present case was filed against him is because of the fact that complainant was embarrassed and humiliated when he shouted at her inside his office on April 30, 1999 that her husband is a snatcher. He explains that the reason why the inquest records remained in his office is because his secretary failed to turn them over to the docket section on May 3, 1999, in view of the latter's absence.

In support of his defense, respondent submitted the following pieces of documents: Exhibit '1', a sketch showing the interior of respondent's room at the City Prosecution Office of Manila; Exhibit '2', sworn statement of Roger Roxas dated June 21, 1999; Exhibit '3', sworn statement of Asst. City Prosecutor Exequiel Y. Sison, Jr., dated June 18, 1999; and Exhibit '4', sworn statement of respondent dated June 21, 1999.

Formal charges of grave misconduct, dishonesty, conduct prejudicial to the best interest of the service and conduct unbecoming of a public officer were filed against herein respondent by the Secretary of Justice and docketed as NPS Administrative Case No. 99-0022-FS. After the conduct of the formal investigation, respondent Daguman was found guilty of the charges and the penalty of dismissal from service was recommended to be imposed upon him."

There is no iota of doubt that on the basis of the evidence, both testimonial and documentary presented by the complainant, respondent Jose B. Daguman is guilty of the acts complained of. Based on the foregoing facts, there is substantial evidence indubitably showing that respondent committed acts of grave misconduct, dishonesty and conduct prejudicial to the best interest of the service when he demanded from Estrella R. Garama the amount of ₱6,000.00 on April 30, 1999 and actually received ₱3,000.00 as partial payment for the release of her husband Russ L. Garama who was brought before him for inquest investigation on April 29, 1999.

There is no reason to doubt the NBI agents' testimony which is fully supported by documentary evidence showing that respondent was indeed arrested during an entrapment operation on May 5, 1999 while in the act of receiving the balance of ₱2,000.00 marked money from the complainant. Noteworthy to mention at this point is the fact that not only do the NBI Agents enjoy in their favor the presumption of regularity in the performance of their duties when they conducted the entrapment operation, their testimonies, more particularly those of Agents Suarez and Dizon-Dapilos, remained uncontroverted. Neither has the respondent sufficiently explained why the inquest records of Russ L. Garama remained in his possession until May 5, 1999 when it was recovered by the NBI Agents inside his table drawer. Under the normal procedure, the inquest record should have been turned over to the docket section of the City Prosecution Office of Manila on May 3,



1999 for assignment of an I.S. Number immediately the following working day. Nor did he bother to present his secretary Pedrito Hebron to at least corroborate his explanation.

As against the respondent's bare denials, the sworn affidavits of complainant, her witnesses and the documentary proofs attached to the records are more convincing and nearer to the truth. They have no motive for fabricating the charges against the respondent except to bring justice. Credence should also be given to the testimonies of the NBI agents coming as it does from an unpolluted source. These agents had no reason to testify falsely against the respondent prosecutor. In fact, they had caught respondent in *flagrante delicto*.

For another, the claim of respondent that there was ill-will on the part of the complainants is hardly plausible. It is highly improbable for complainant to embark on a malicious prosecution just to retaliate and take revenge on the respondent, knowing fully well that the fate of her husband lies in the hands of the latter. It is more in accord with reason and logic to presuppose that there was some sort of a demand made by the respondent in exchange for certain favorable considerations like working for the release of complainant's husband from jail.

From the foregoing, the conclusion is inescapable that respondent can easily be influenced by monetary considerations. This act of the respondent of demanding and receiving money from the wife of the accused constitutes serious misconduct in office. It is this kind of gross and flaunting misconduct, no matter how nominal the amount involved, on the part of those who are charged with the responsibility of administering the law will surely erode the people's respect for law and lose faith and trust in the prosecution service which is expected to render fair and equal justice to all.

ACCORDINGLY, premises considered, and as recommended by the Department of Justice, respondent Assistant City Prosecutor JOSE B. DAGUMAN is hereby DISMISSED from the service with forfeiture of all leave credits and retirement benefits and with prejudice to re-employment in any branch of government, including government-owned and controlled corporations.

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

By the President:


ALBERTO G. ROMULO
Executive Secretary





