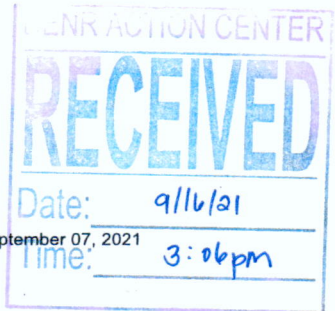




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Subject: LEGAL DTD 08/16/2021 RESOLUTION – DENR CASE NO. M-03-20-A IN THE MATTER OF THE COMPLAINT FILED BY EXALTACION PLANDO THROUGH A LETTER DATED JUNE 19, 2018 AGAINST SENIOR FOREST MANAGEMENT SPECIALIST LEONILLO C. EMPLEO

Addressee(s): Office of the Assistant Secretary for Field Operations - Southern Luzon (DENRCO - OASECFOSL)

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CASE 304/324 SEP 08 2021



**IN THE MATTER OF THE COMPLAINT
FILED BY EXALTACION PLANDO
THROUGH A LETTER DATED JUNE 19,
2018 AGAINST SENIOR FOREST
MANAGEMENT SPECIALIST LEONILLO
C. EMPLEO**

DENR Case No. M-03-20-A

X-----X

RESOLUTION

For consideration is the complaint letter dated June 19, 2018 filed by Exaltacion Plando (Plando for brevity) against Leonilo C. Empleo (Empleo for brevity) before the Office of the Secretary accusing the latter of committing acts leading to Physical Injuries. A Memorandum dated July 10, 2018 from the Office of the Assistant Secretary for Field Operations-Luzon referred the complaint to this Office for resolution. Consequently, a Show Cause Memorandum dated January 16, 2019 was issued by then Regional Executive Director Henry A. Adornado enjoining Empleo to submit a notarized written explanation, comment, or counter affidavit within 5 days from receipt of the said show cause.

Empleo, in his answer dated August 20, 2019, vehemently denied the allegations and charges of Plando. He argued that it was the spouses Plando who assaulted him in his own home as evidenced by the Medical Certificate from Casimiro A. Ynares, Sr. Memorial Hospital. Empleo stated that the harassment by spouses Plando began when he refused to lend them One Hundred Thousand Pesos (PHP100,000.00) for their lending business. He further alleged that the door of his house was forcibly opened by spouses Plando and took his valuables amounting to Two Hundred Fifty Seven and Ninety Thousand Pesos (PHP257,090.00).

Empleo further stated that after the assault, mauling, and threat to his life by spouses Plando, he was prevented to operate his Lechon Manok business which resulted in the loss of the daily sales income amounting to Five Thousand Pesos to Six Thousand Pesos from March 6, 2018 to October 2018, for a total of One Million Two Hundred (PHP1,000,200.00) sales damage. Empleo also submitted evidence that he already filed a criminal complaint against spouses Plando and three (3) others for Qualified Trespass to Dwelling, Malicious Mischief, and Physical Injuries, docketed as Criminal Case No. 1907-251/252, and that a warrant of arrest was already issued by the court.

After a thorough consideration of the records, it was found that the complaint letter filed by Plando did not conform with the proper format pursuant to Section 11, Rule 3, of the 2017 Rules on Administrative Cases in the Civil Service (2017 RACCS), *to wit*:

Section 11. Requisites of a Valid Complaint. No complaint against an official or employee shall be given due course unless the same is in writing, subscribed, and sworn to by the complainant. ...xxx..

The complaint shall be written in a clear, simple and concise language and in a systematic manner as to apprise the person complained of, of the nature and cause of the accusation and to enable the person complained of to intelligently prepare a defense or answer/comment. ...xxx..

Jm 8.24.2021

MARLENE M. BADILLA
 Admin. Asst. III/ Records Officer-Designate
 Legal Division, DENR MIMAROPA Region

The complaint shall contain the following:

- a. Full name and address of the complainant;*
- b. Full name and address of the person complained of as well as his/her position and office;*
- c. A narration of the relevant and material facts which shows the acts or omissions allegedly committed;*
- d. Certified true copies of documentary evidence and affidavits of his/her witnesses, if any;*
- e. Certification or statement of non-forum shopping.*

The absence of any of the aforementioned requirements may cause the dismissal of the complaint without prejudice to its refiling upon compliance with the same.

In the instant case, the complainant's letter did not state the address of respondent as well as the position and office, no clear narration of facts showing the acts or omission allegedly committed by the respondent, and no certification or statement of non-forum shopping. Although Plando attached copies of the criminal complaint against Empleo, it was not substantiated with evidence that could lead to an administrative charge against the latter.

In the case of *Flores vs. People*¹, the Supreme Court reiterated that it is hornbook doctrine in administrative law that administrative cases are independent from criminal actions for the same acts or omissions. Thus, an absolution from a criminal charge is not a bar to an administrative prosecution, or *vice versa*.³³ Given the differences in the quantum of evidence required, the procedures actually observed, the sanctions imposed, as well as the objective of the two proceedings, the findings and conclusions in one should not necessarily be binding on the other. Hence, the exoneration in the administrative case is not a bar to a criminal prosecution for the same or similar acts which were the subject of the administrative complaint or *vice versa*.

The last sentence of Section 11, Rule 3, of 2017 RACCS provides that, absence of any requirements stated may cause the dismissal of the complaint without prejudice to its refiling upon compliance with the same. In view of the above disquisition, Plando's complaint letter did not satisfy the requisites provided under Section 11, Rule 3, of the 2017 Rules on Administrative Cases in the Civil Service, hence warrants the dismissal of the instant complaint.

Further, the acts complained by Plando cannot be considered as an administrative offense. The act or acts complained must have a direct relation to and be connected with the performance of his official duties in order to be considered as administrative offense. In the case of *Manuel v. Calimag, Jr.*², the Supreme Court held that:

Misconduct in office has been authoritatively defined by Justice Tuazon in Lacson v. Lopez in these words: "Misconduct in office has a definite and well-understood legal meaning. By uniform legal definition, it is a misconduct such as affects his performance of his duties as an officer and not such only as affects his character as a private individual. In such cases, it has been said at all times, it is necessary to separate the character of the man from the character of the officer x x x It is settled that misconduct, misfeasance, or malfeasance warranting removal from office of an officer must have direct relation to and be connected with the performance of official duties amounting either to maladministration or willful, intentional neglect and failure to discharge the duties of the office x x x More specifically, in Buenaventura v. Benedicto, an administrative proceeding against a judge of the court of first instance, the present Chief Justice defines misconduct as referring 'to a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer.'"

¹ *Flores v People of the Philippines*, GR No. 222861, April 23, 2018

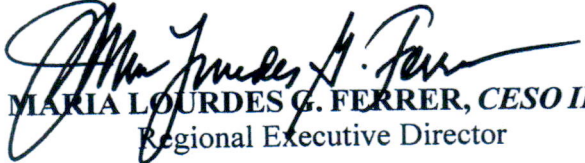
² May 28, 1999, 307 SCRA 657

It is to be noted that the act complained by Plando has no direct relation with the official duty of Empleo as Senior Forest Management Specialist. To warrant disciplinary action, it must have direct relation to and be connected with the performance of official duties amounting to either willful, intentional neglect or failure to discharge the duties of said Senior Forest Management Specialist. In this case, the act complained by Plando was committed by Empleo in his private capacity.

WHEREFORE, premises considered, the complaint against Senior Forest Management Specialist Leonilo C. Empleo, is hereby **DISMISSED**.

SO ORDERED.

Manila, Philippines, AUG 16 2021.


MARIA LOURDES G. FERRER, CESO III
Regional Executive Director

Copy Furnished:

Action Center, Office of the Secretary

Joselin Marcus Fragada, CESO III
Assistant Secretary for Field Operations-Luzon
Document No. ASRMD-2018-0016891

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Administrative Division



Department of Environment
and Natural Resources
MIMAROPA Region



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