

MALACAÑANG

Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 190

DISMISSING JULIUS G. MALOLES, COUNSELLOR, DEPARTMENT OF FOREIGN AFFAIRS, FROM THE SERVICE.

This refers to the administrative case against Julius G. Maloles, Counsellor in the Department of Foreign Affairs (DFA), for alleged grave misconduct, violation of DFA rules and regulations and conduct prejudicial to the best interest of the service.

Records show that, on August 30, 1984, the then Ministry (now Department) of Foreign Affairs (MFA) received a telex from the Philippine Consulate General in Hongkong informing the Home Office that, on August 28, 1984, Consul General Soekotjo of Indonesia in Hongkong, upon instructions from his government, inquired about a certain Julius Maloles who entered Jakarta on July 19, 1984, with three (3) suitcases later electronically detected to contain metals, contrary to the man's declaration that they contained only official documents. The man allegedly presented a diplomatic passport purportedly in the name of Julius Maloles and claimed to have come from the Philippine Consulate General, Hongkong, and was being reassigned to Jakarta as Consul General.

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Subsequently, or on September 10, 1984, the Philippine Consulate in Hongkong, through Principal Officer Clemencio Montesa, again informed the Home Office that Consul General Soekotjo called him up informing him of the reported loss of Maloles' passport and that someone had found and misused it. Also, on September 12, 1984, Manuel T. Yan, then Philippine Ambassador to Indonesia, reported to the Home Office that, on September 5, 1984, the Deputy Director of the Directorate for Diplomatic Facility of the Department of Foreign Affairs, Republic of Indonesia, informed the Philippine Embassy thereat that Maloles arrived in Jakarta from Singapore on July 19, 1984, bringing with him three (3) suitcases weighing 50 kilos; that, without Maloles' knowledge, while the suitcases were passing through the scanning machine at the airport, the same were found to contain solid or metallic materials, presumably gold, but were not opened because Maloles was carrying a diplomatic passport No. 5154); that, when asked on the purpose of his visit to Indonesia and the contents of the suitcases, he told the customs authorities that he had been assigned to Jakarta as Consul-General and that the contents of the suitcases were purely documents. Maloles, who was followed outside the customs area was met by a Honda Civic car, which proceeded to the Philippine Embassy Compound. After a while, the car left the Embassy but the surveillance group lost sight of the car after following it.

In his memorandum, dated September 27, 1984, to Ambassador Vicente G. Reyes, then Head of Administration, respondent Maloles stated that he discovered the loss of his passport after the cable from Hongkong was brought to his attention; that he normally uses his passport at the MIA to meet or see off friends; and that he immediately reported the loss of said passport to the INTERPOL and requested its assistance to apprehend the impostor who made use of the same.

Upon instructions from the Home Office, then Ambassador Yan, thru a confidential letter, dated November 9, 1984, sent thereto two (2) photocopies of respondent's disembarkation/embarkation cards in Jakarta, Indonesia. Said cards showed that respondent arrived in Jakarta on July 16, 1984 and left on July 17, 1984, re-entered Jakarta on July 19, 1984, and departed on the same day. The Ambassador added that, on the basis of the Embassy's log book, there was no Honda Civic car that entered the Embassy's premises on that day; and that nobody in the Embassy's Staff saw respondent and neither did the security guards who were all Indonesians and were not expected to know respondent.

On January 7, 1985, respondent was required by then Minister of Foreign Affairs Arturo M. Tolentino to comment on the dispatches emanating from Jakarta and the cablegrams from the Philippine Consulate General in Hongkong.

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In his reply of January 11, 1985, respondent, among others, denied having travelled to Jakarta on the dates abovementioned and claimed (a) that his diplomatic passport got lost and must have fallen into the "hands of one who must have made use of the same in carrying out his nefarious activities"; (b) that he uses his passport in entering the MIA premises to meet and see off friends; and (c) that the entries in the embarkation and disembarkation cards must have been copied from the passport by the finder thereof.

Thereafter, the MFA sought the assistance of the Commission on Immigration (CID), regarding respondent's embarkation/disembarkation records. On August 9, 1985, then CID Commissioner Edmundo Reyes replied that the records of his office failed to show that respondent arrived in or departed from the Philippines sometime in July, 1984. On the other hand, acting on the whereabouts of respondent's alleged lost passport, Foreign Affairs Assistant Minister Vicente G. Reyes found that, on July 13, 1984, respondent's passport had been validated and released for the purpose of travel designated as "official".

On September 30, 1985, the MFA Ad Hoc Investigating Committee found a prima facie case against respondent and recommended to the Presiding Officer, Board of Foreign Service Administration (BFS),

the filing of a formal charge of misconduct, or alternatively, conduct prejudicial to the best interest of the service. Acting on the aforesaid recommendation, Acting Minister of Foreign Affairs Pacifico Castro sent another charge sheet to respondent on February 19, 1986, charging respondent with misconduct, as follows:

1. By proceeding to Jakarta, Indonesia, on July 16 and 19, 1984 without prior authority from the Office of the President as required by regulation; and
2. By misrepresenting that he was reassigned to Jakarta, Indonesia, from the Philippine Consulate-General, Hongkong.

On April 14, 1986, MFA First Deputy Minister Jose D. Ingles wrote respondent, reiterating Minister Castro's aforementioned letter.

In his initial Answer, dated May 2, 1986, respondent denied that he proceeded to Jakarta, Indonesia, on July 16 and 19, 1984, without prior authority from this Office, since he had never left Manila and could not have been in Jakarta on the dates in question, as evidenced by the August 9, 1985 letter of CID Commissioner Reyes stating that, per CID records, there is no showing that respondent arrived in and/or departed from the Philippines sometime in July 1984 and (b) the statement by the Indonesian Consulate in Hongkong confirming the loss of his passport and its subsequent misuse by the finder thereof. Respondent likewise denied that he misrepresented himself to have been reassigned to Indonesia as Consul General, since he was never in Jakarta before, during and after July 1984. As integral part of his Answer, respondent adopted the statement and other evidence earlier submitted by him to former Foreign Affairs Minister Tolentino.

Acting on the Ad Hoc Investigating Committee's report and recommendation, the BFA created an Investigating Committee (Division III), to formally investigate the complaint against respondent.

On May 13, 1988, the Investigating Committee, on the basis of said report of the Ad Hoc Committee, directed respondent to submit, within five (5) days from receipt thereof, his Answer to the charge of conduct prejudicial to the best interest of the service. Ten days later, or on May 23, 1988, respondent sent a letter to the Chairman of the Investigating Committee requesting for a bill of particulars, i.e. specify the offense which he is accused of, the particular law, regulations, circular, office order, etc., which he allegedly violated and the impossible penalty for such offense. However, in an Order dated October 28, 1988, said request was denied by the Investigating Committee.

Finally, on November 17, 1988, respondent, assisted by counsel, submitted his memorandum. Hearings were then held on January 5 and 13, 1989, and February 2, 1989. On February 3, 1989, the parties submitted the case for resolution.

From the hearings conducted on January 5 and 13, 1989, the following facts were established:

1. That respondent had his passport revalidated on July 13, 1984, for official travel purposes;
2. That his official diplomatic passport was used in Jakarta two (2) days after it was revalidated by a man carrying suitcases containing metals, who misrepresented that he was being assigned to the Philippine Consulate General in Indonesia; and
3. That the signature of the man who used the said passport is strikingly similar to the handwriting of respondent, as borne out by a comparison of respondent's application for revalidation of passport and the signatures in the embarkation/disembarkation cards (Exhibits "C1" and "C2").

pb The Investigating Committee noted, among others, that the entries and signatures contained in respondent's application for passport revalidation and in the disembarkation/embarkation cards issued on July 16 and 19, 1984, were filled by and belong to respondent. This conclusion was arrived at after the members of the Investigating Committee and respondent himself made a comparison of the printed and script handwriting appearing in respondent's application for passport revalidation and in the disembarkation/embarkation cards, which showed that they are strikingly similar. Said comparison was resorted in view of the absence of direct evidence on the matter, which procedure is sanctioned under the second sentence of Section 23, Rule 132, of the Rules of Court, to wit:

"SEC. 23. Handwriting, how proved. -
 x x x. Evidence respecting the handwriting may also be given by a comparison, made by the witness or the court, with writings admitted or treated as genuine by the party against whom the evidence is offered, or proved to be genuine to the satisfaction of the judge."

On the alleged loss of respondent's passport, the Investigating Committee made the following observations:

"On 13 July 1984, his revalidated passport was released to him. Between 14 and 15 July 1984 he had unknowingly lost the same at the Manila International Airport and since then he did not notice that he had already lost it until around 10 September 1984 when his attention was called to it by a telex from Hongkong (ZHK-16-84-S) implying that between July 14 to September 10, 1984 he had no occasion or need or inclination to check where his passport had gone. This gesture is contrary to expected human behaviour. Inasmuch as more caution in the care of one's passport is expected of a diplomat, this line of defense taken together with the very much delayed notice of loss of said passport to our Consular Office in Hongkong tractable from a September 7, 1984 report of the loss and misuse of respondent's passport to Consul Montessa by Consul Soektjo from a source Consul Montessa did not verify and which report the Home Office had no means of verifying should be taken by the Board for what this defense is. A scheme and a design showing motive on the part of respondent to foist with the department."

Moreover, it was established by the Investigating Committee that respondent alone had the opportunity to use said passport, he being still in possession thereof between July and August 1984. Furthermore, the "report of loss" and the "someone-had-found-and-misused-it" scenario which respondent tried to impress on the Committee all the more convinced the members thereof that respondent was the same person who used the controversial passport in Jakarta on July 16 and 19, 1984. Said conclusion was buttressed by respondent's own testimony on January 5, 1989 (t.s.n., p. 2) when he implied that when he met and sent off at the MIA his brother Orlando Maloles between July and August of 1984, he (respondent) was still in possession and control of his passport.

Likewise, the Investigating Committee brushed aside for being flimsy respondent's defense of alibi. According to the Committee, the letter of the then CIS Commissioner Reyes of August 9, 1985, stating that, per CID records, there is no showing that respondent arrived in and/or departed from the Philippines sometime in July 1984, is by no means conclusive that he was not and was never in Jakarta during the aforementioned dates. What is more, respondent failed to present a single witness to attest to his presence in Manila at that time nor adduce satisfactory proof of his report to the Interpol, thru the AVSECOM, about the loss of his passport or that he had signed the Department of Foreign Affairs' log book on those dates.

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Accordingly, in its Report to the BFSA, dated April 5, 1989, the Investigating Committee found respondent guilty of grave misconduct and recommended that he be dismissed from the service, in view of the concurrence of two charges with an accompanying aggravating circumstance of abuse of diplomatic privileges, which calls for the imposition of the most serious penalty for the graver offense. The Investigating Committee further recommended that the Government of Indonesia be informed of the action of the Department of Foreign Affairs in disciplining an erring official who had abused his diplomatic privileges.

On April 6, 1989, the BFSA concurred in the findings of the Investigating Committee. However, considering respondent's long years of service in the DFA and the fact that this is his first offense on record, the BFSA recommended the reduction of the penalty to forced resignation without prejudice to respondent's receiving his retirement benefits due him under the law, a recommendation concurred in by the Secretary of Foreign Affairs.

Upon the other hand, in her memorandum for Secretary Manglapus, dated April 20, 1989, Rosalinda V. Tirona, Chairperson of the Investigating Committee, dissented from the BFSA's above recommendation for the reason that the commutation of the penalty to resignation is contrary to the principles of justice and the policy of the present administration to purge the ranks of the Foreign Service of scalawags and the notoriously undesirable. Ambassador Tirona further stated that the BFSA recommendation will not discourage DFA personnel from committing such a grave misconduct as that committed by respondent.

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After a careful review, I fully agree with the aforementioned findings of the DFA Investigating Committee (Division III), as concurred in by the BFSA. Indeed, the chronology of events commencing from the time the Home Office received a telex from the Philippine Consulate General in Hongkong, wherein Consul General Soekotjo inquired about a certain Julius Maloles entering Jakarta on July 19, 1984, with three (3) suitcases found to contain solid metallic materials, presumably gold, and the confidential dispatches of then Ambassador Yan, to the time of the reported loss of respondent's passport and his subsequent application for its validation, including the entries made in the disembarkation/embarkation cards, lead to no other conclusion than that respondent committed a serious diplomatic blunder, which should not be left unpunished. Respondent's general denial that he had not gone to Jakarta on the 16th and 19th of July 1984, as he was all the time here in the Philippines, is woefully wanting in factual justification in the light of the overwhelming evidence that the entries in the disembarkation/embarkation cards and the respective signatures thereon, were filled up by and undoubtedly belonged to respondent, a fact respondent cannot deny, as he himself and the Investigating Committee had occasion to compare his admittedly

genuine signature in his application for revalidation of passport and his signature in the embarkation/disembarkation cards which bore a striking resemblance. Moreover, it appears that, as early as July 13, 1984, respondent's passport had already been revalidated and the possibility that he used the same for official travel purposes to Jakarta may not be discounted, he being in possession thereof during the period from July to August 1984, as admitted by him during the hearing of the case.

However, I am not in full accord with the BFSAs recommended reduced penalty of forced resignation from the service without prejudice to respondent's entitlement to retirement benefits. A lofty position in the foreign service such as that of a DFA Counsellor, it bears stressing, must be treated with high esteem, dignity and honor. No less than a paragon in conduct is expected of him who holds such a position. In foreign soil, he is looked upon as the vintage replica of his motherland and an extension of the traits, customs and traditions of the country he represents. Any misbehaviour or misdemeanor, therefore, committed by him in a foreign land could tarnish the image of the Philippines, not only in the former country but in the whole diplomatic community as well.

I am not unmindful of respondent's long tenure in the foreign service and his committing the offense for the first time. Let it be made known, however, that those factors cannot be taken as a license to commit misconduct as grave as this, nor mitigate the liability therefor. On the contrary, respondent's length of service should have encouraged him to strive harder and set a sterling example to other foreign service officials and employees. Unfortunately for respondent, he failed to uphold the high standard of integrity required of foreign service officers and, therefore, by his own acts he should suffer the condign penalty of dismissal from the service.

WHEREFORE, Mr. Julius G. Maloles, Counsellor of the Department of Foreign Affairs, is hereby found GUILTY of grave misconduct, violation of DFA rules and regulations and conduct prejudicial to the best interest of the service, and accordingly DISMISSED from the foreign service, effective upon receipt of a copy thereof.

Done in the City of Manila, this 10th day of August, in the year of Our Lord, nineteen hundred and ninety.

By the President:


CATALINO MACARAIG, JR.
 Executive Secretary

