

**SORIA, Rogelio P.**

Re: Nepotism

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**RESOLUTION NO. 030136**

Rogelio P. Soria, Principal II, Ormoc City National High School, was formally charged by the Civil Service Commission Regional Office (CSCRO) No. VIII, in relation to an anonymous complaint filed against him.

Portions of the formal charge read, as follows:

*"That Mr. Pablo Agcang is a brother-in-law of Mr. Rogelio Soria because the wife of Mr. Soria - Carmelita Agcang-Soria, is the sister of Mr. Agcang;*

*"That their parents are Juanito Agcang and Rufina L. Agcang;*

*"That Mr. Soria was appointed Secondary School Principal I of Ormoc City High School effective January 21, 1987 as evidenced by his appointment dated January 20, 1987;*

*"That Mr. Agcang was promoted to the position of Property Custodian of Ormoc City National High School effective February 4, 1988 as evidenced by his appointment dated February 4, 1988;*

*"That at the time of the issuance of the promotional appointment (of Mr. Agcang), Mr. Soria was already the chief of office and the person exercising immediate supervision over the personnel of Ormoc City National High School;*

*"That the promotional appointment extended to Mr. Agcang as Property Custodian of OCNHS is a clear violation of Section 10, Rule XVIII (prohibitions) of the Civil Service Law and Rules applicable during that time, which states in part, thus:*

*'Sec. 10. No appointment whether in the competitive or non-competitive service shall be made in favor of a relative within the third degree of consanguinity or affinity of the x x x chief of the agency, or the persons exercising immediate supervision over him.'*

In his answer and supplemental affidavit, Soria alleged thus:

*"That plain and simple logic will demonstrate that I have not committed the offense of 'nepotism'. The promotional appointment of my brother-in-law Mr. Pablo L. Agcang was issued by SEVILLANO C. DELA CRUZ, Jr., Regional Director of the Department of Education, Culture and Sports, Region VIII, Tacloban City and recommended by CIRILA V. VILLEGAS, Schools Division Superintendent, Ormoc City Division. That it was certified by TOMAS M. CLOA, Administrative Officer III that all requirements and supporting papers pursuant to MC 6, s. 1985 have been complied with, reviewed and found to be in order xxx In short I was not the one who extended the questioned promotional appointment and neither did I recommend my brother-in-law to be appointed to the position of Property Custodian; xxx*

*"In the case at bar, the herein respondent xxx has NOTHING TO DO with the appointment of Mr. Pablo Agcang as Property Custodian of Ormoc City High School on February 4, 1988. It is worthy to note the following circumstances, to shed light on the issue:*

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*"I am not the person 'exercising immediate supervision' over Mr. Agcang. This was done by Ms. Teresita M. Yu in her capacity as Assistant School Principal (January 21, 1987 - August 8, 1991) who has immediate supervisory function of all staff and personnel of OCHNHS. xxx"*

Pre-Hearing Conferences were held on January 15, 1998 and February 6, 1998. Formal Investigation took place on March 4, April 4 and April 17, 1998.

The documentary evidence formally offered by the Prosecutor are, as follows:

*"Exhibit 'A and series' – Formal Charge dated November 24, 1997 issued by CSCRO No. 8 to Mr. Rogelio P. Soria for the administrative offense of Nepotism;*

*"Exhibit 'B and series' – Sworn Answer dated December 5 1997 of Mr. Rogelio P. Soria to the Formal Charge;*

*"Exhibit 'C' – Appointment of Mr. Rogelio P. Soria as Secondary School Principal of Ormoc City National High School;*

*"Exhibit 'D' – Appointment of Rogelio P. Soria as Principal II of Ormoc City National High School;*

*"Exhibit 'E' – Personal Data Sheet of Rogelio P. Soria;*

*"Exhibit 'F' – Service Record of Rogelio P. Soria;*

*"Exhibit 'G' – Appointment dated February 4, 1988 of Mr. Pablo Agcang as Property Custodian;*

*"Exhibit 'H' – Appointment of Mr. Pablo Agcang as Clerk I of Ormoc City National High School;*

*"Exhibit 'I' – Organizational Structure of Ormoc City National High School for school year 1987 to 1988; 1988 to 1990;"*

The respondent meanwhile adduced the following documentary evidence:

Exhibit '1' – Answer of Rogelio P. Soria

Exhibit '2' – Promotional Appointment of Mr. Agcang from Clerk I to Property Custodian dated February 9, 1988;

Exhibit '3' – Appointment of Mr. Agcang as Laborer;

Exhibit '4' – Promotional Appointment of Agcang from Laborer to Clerk I;

Exhibit '5' – Appointment of Agcang as Laborer;

Exhibit '6' – Memorandum dated February 4, 1988;

Exhibit '7' – Additional Affidavit of Rogelio Soria;

Exhibit '8' – Affidavit of Pablo Agcang;

Exhibit '9' – Organizational Chart of Ormoc City National High School;

Exhibit '10' – Temporary designation of Pablo Agcang as Property Custodian;

Exhibit '11' – Supplemental Memorandum.

Records show that Rogelio Soria was appointed as Secondary School Principal I of Ormoc City National High School on January 21, 1987. On the other hand, Pablo Agcang who previously occupied the position of Clerk I was promoted to the position of Property Custodian of the same school on February 4, 1988. Soria contends that he has nothing to do with

the appointment of Agcang neither does he exercise immediate supervision over him.

The crucial issue to be resolved is whether or not the appointment of Agcang may be classified as nepotic.

After a careful evaluation of the records of the instant case, the Commission rules in the affirmative.

It is conceded that Soria and Agcang are brothers-in-law because the wife of the former is the sister of the latter. Hence, relatives by affinity within the second degree. Moreover, it is also an established fact that when Agcang was promoted to the position of Property Custodian of Ormoc City National High School in 1988, Soria was Principal I of the same school.

Pertinent to the instant case is **CSC Resolution No. 01-1760 dated November 5, 2001 re: ENANO, Marilou Medrano, et al.** where the Commission categorically ruled in this wise:

*"Records show that appellants were issued 'promotional appointments' on May 1, 1986 and December 28, 1988 prior to the effectivity of Executive Order No. 292, i.e., on November 24, 1989 (Republic Act 6682). The doctrine then prevailing was that, 'promotional appointments issued prior to the effectivity of E.O. 292 are excluded from the operation of the law on Nepotism. The Commission in Pastor V. Vichuaco, CSC Resolution No. 97-0103 dated January 9, 1997, citing Victoria Debulgado, CSC Resolution No. 93-3320 dated August 24, 1993, has the occasion to clarify this ruling in this wise:*

*'Under the rule then prevailing, only original appointments made in favor of persons related within the prohibitive degree of the recommending authority or head of office or persons exercising immediate supervision over them are prohibited by nepotism rule. Promotional appointments were then excluded x x x.'*

*"Since at the time appellants were issued their promotional appointments, the same were excluded from the operation of the law on Nepotism, appellants cannot be held guilty thereof.*

*x x x"*

At first glance, it can be deduced from the abovesited case that promotional appointments issued prior to the effectivity of E.O. No. 292 were excluded from the coverage of nepotic appointments in view of the sweeping statement contained in the **Vichuaco case (citing Debulgado case)** that only original appointments were prohibited by the rule on nepotism then prevailing. Obviously, the cut-off laid down in the Enano ruling was premised from the fact that the controversy involving the promotional appointments in the Vichuaco case took place during the effectivity of **PD 807 (Civil Service Decree of the Philippines)**, i.e., October 6, 1975.

However, a second look of the Debulgado ruling in **CSC Resolution No. 93-3320**, *supra*, clarifies the matter. Pertinent portions of which read, as follows:

*"It may be necessary to mention that the assurance made by CSRO No. 6 was based on an old policy of the Commission that promotional appointments are not covered by nepotism. Said policy had been changed but due to some communication problem, the same was not disseminated on time to the regional offices.*

*"In view of the foregoing representations, the Commission considers it fair enough to give due course to the instant motion as far as the liability of Mayor Debulgado is concerned. The Commission is convinced at this point that Mayor Debulgado acted in good faith when he issued the promotional appointment to Victoria Debulgado.*

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*"WHEREFORE, foregoing premised considered, the Commission hereby directs Director Jesse J. Caberoy to withdraw the formal charge dated July 12, 1993 for Violation of the Law on Nepotism against Mayor Debulgado. However, the appointment of Victoria Debulgado to the position of General Services Officer remains disapproved for having been issued in violation of the law on nepotism. xxx."*

In other words, the Commission admitted the fact that there used to be a Commission policy which excludes promotional appointments in the coverage of nepotism which was, however, already changed before it ruled on the case of Debulgado in 1993.

It is significant to note, however, the pronouncement of the Supreme Court when the same case was elevated to it (Debulgado vs. CSC, 237 SCRA 184). The Supreme Court held that the provision of E.O. No. 292 which took effect in 1989 regarding the proscription on nepotism appointments including promotional appointments can be traced back to as early as the effectivity of **R.A. No. 2260 otherwise known as the Civil Service Law of 1959** which took effect on June 19, 1959, the reason being Section 59 of E.O. No. 292 is substantially identical with Section 30 of R.A. No. 2260. This is also true with **Section 49 of P.D. No. 807 also known as the Civil Service Decree of the Philippines** which took effect on October 6, 1975. The common provision in the three laws reads:

*"Nepotism - (1) All appointments in the national, provincial, city and municipal governments or in any branch or instrumentality thereof, including government-owned or controlled corporations, made in favor of a relative of the appointing or recommending authority, or the chief of the bureau or office, or of the persons exercising immediate supervision over him, are hereby prohibited."*

The pertinent portion of the Supreme Court decision reads:

*"We turn, therefore, to an analysis of Section 59, Book V of E.O. No. 292, quoted above. The noteworthy fact may be pointed out, at the outset, that Section 59 as it exists today has been in our statute books in substantially identical form and language for at least thirty (30) years.<sup>1</sup>*

*"A textual examination of Section 59 at once reveals that the prohibition was cast in comprehensive and unqualified terms. Firstly, it explicitly covers 'all appointments,' without seeking to make any distinction between differing kinds or types of appointments. x x x."*

Based on the foregoing, it appears, therefore, that while the provision on nepotism is the same since 1959 up to the present, it was only on September 26, 1994 when the Supreme Court was given the occasion to make a definite ruling on the issue as to whether a promotional appointment is included in the prohibition.

In the instant case, it is of record that Soria was then Secondary School Principal I at the Ormoc City National High School at the time when his brother-in-law Agcang was promoted as Property Custodian in the same school on January 20, 1987. Soria, though neither the appointing nor the recommending authority in the appointment of Agcang, does not negate the existence of nepotism. It must be stressed that the rule on nepotism extends to Chiefs of Bureaus or Offices and to persons exercising immediate supervision over the appointee. By way of analogy, the powers vested in a Principal of a school organization are analogous to that of a Chief of Bureau or Office. Further, Soria is an immediate supervisor of Agcang.

There being a nepotic appointment, Agcang's promotional appointment as Property Custodian must be revoked.

Anent Soria's administrative liability, evidence is wanting that he has influenced the appointing and recommending authorities to ensure the promotion of Agcang. Neither is there any evidence to show that Soria acted in bad faith when he failed to inform the Department of Education, Culture and Sports authorities that the promotional appointment of Agcang should not be acted upon in view of the law proscribing nepotism.

**WHEREFORE**, Rogelio P. Soria is hereby exonerated of the offense charged. However, the appointment of Pablo Agcang as Property Custodian dated February 4, 1988 is hereby revoked."

Quezon City, JAN 30 2003

(Original Signed)

**J. WALDEMAR V. VALMORES**  
Commissioner

(Original Signed)  
**KARINA CONSTANTINO-DAVID**  
Chairman

(Original Signed)  
**JOSE F. ERESTAIN, JR.**  
Commissioner

Attested by:

(Original Signed)  
**ARIEL G. RONQUILLO**  
Director III

jjc/fpg/y8(k)/rco(fuji29)  
soria/d-99-0069

<sup>1</sup>See Section 30, R.A. No. 2260 , as amended, effective 19 June 1959 known as the Civil Service Law of 1959; and Section 49 of P.D. No. 807 dated 6 October 1975, known as the Civil Service Decree of the Philippines.