

MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 263

PRESCRIBING THE PROCEDURE FOR THE REVIEW
OF COURT-MARTIAL CASES WHEREIN THE AC-
CUSSED ARE MEMBERS OF THE PHILIPPINE
CONSTABULARY AND THE DISPOSITION OF
THE RECORDS THEREOF.

Pursuant to the authority vested in me by section 16 of Republic Act No. 242, I, Elpidio Quirino, President of the Philippines, do hereby prescribe the following procedure for the review of court-martial cases wherein the accused are members of the Philippine Constabulary and direct it to be published for the guidance of all those concerned:

1. The Judge Advocate of the Philippine Constabulary shall constitute, in his office, a board of review consisting of one or more officers of the Judge Advocate General's Service assigned with the Judge Advocate Section, Philippine Constabulary.
2. Before any record of trial in which there has been adjudged a sentence requiring approval or confirmation by the President under the provisions of article 45, article 47 or article 51, is submitted to the President, such record shall be examined by the board of review. The board shall submit its opinion in writing to the Judge Advocate of the Constabulary, who shall, except as herein otherwise provided, transmit the record and the board's opinion, with his recommendations to the Chief of Constabulary for the action of the President.
3. Except as herein provided, no authority shall order the execution of any other sentence of a Philippine Constabulary general court-martial involving the penalty of death, dismissal not suspended, dishonorable discharge not suspended, or confinement in a penitentiary, unless and until the board of review shall, with the approval of the Judge Advocate of the Constabulary, have held the record of trial upon which such sentence is based legally sufficient to support the sentence; except that the proper reviewing or confirming authority may, upon his approval of a sentence involving dishonorable discharge or confinement in a penitentiary, order its execution if it is based solely upon findings of guilty of a charge or charges and specification or specifications to which the accused has pleaded guilty. When the board of review, with the approval of the Judge Advocate of the Constabulary, holds the record in a case in which the order of execution has been withheld under the provisions of this paragraph legally sufficient to support the findings and sentence, the Judge Advocate of the Constabulary shall so advise the reviewing or confirming authority from whom the record was received, who may thereupon order the execution of the sentence. When in a case in which the order of execution has been withheld under the provisions of this paragraph, the board of review holds the record of trial legally insufficient to support the findings or sentence, either in whole or in part, or that errors of law have been committed injuriously affecting the substantial rights of the accused, and the Judge Advocate of the Constabulary concurs in such holding of the board of

review, such findings and sentence shall be vacated in whole or in part in accord with such holding and recommendations of the Judge Advocate of the Constabulary thereon, and the record shall be transmitted through the proper channels to the convening authority for a rehearing or such other action as may be proper. In the event that the Judge Advocate of the Constabulary shall not concur in the holding of the board of review, the Judge Advocate of the Constabulary shall forward all the papers in the case, including the opinion of the board of review and his own dissent therefrom, directly to the Chief of Constabulary for the action of the President, who may confirm the action of the reviewing authority or confirming authority below, in whole or in part, with or without remission, mitigation, or commutation, or may disapprove, in whole or in part, any finding of guilty, and may disapprove or vacate the sentence in whole or in part.

4. When the President or any reviewing or confirming authority disapproves or vacates a sentence the execution of which has not heretofore been duly ordered, he may authorize or direct a rehearing. Such rehearing shall take place before a court composed of officers not members of the court which first heard the case. Upon such rehearing the accused shall not be tried for any offense of which he was found not guilty by the first court, and no sentence in excess of or more severe than the original sentence shall be imposed unless the sentence be based upon a finding of guilty of an offense not considered upon the merits in the original proceedings: PROVIDED. That such rehearing shall be had in all cases where a finding and sentence have been vacated by reason of the action of the board of review approved by the Judge Advocate of the Constabulary holding the record of trial legally insufficient to support the findings or sentence or errors of law have been committed injuriously affecting the substantial rights of the accused, unless in accord with such action, and the recommendations of the Judge Advocate of the Constabulary thereon, the finding or sentence are approved in part only, or the record is returned for revision, or unless the case is dismissed by order of the reviewing or confirming authority. After such rehearing had on the order of the President, the record of trial shall, after examination by the board of review, be transmitted by the Judge Advocate of the Constabulary, with the Board's opinion and his recommendations, to the Chief of Constabulary for the action of the President.

5. Every record of trial by general court-martial of the Constabulary, examination of which by the board of review is not hereinbefore in this Order provided for, shall nevertheless be examined in the office of the Judge Advocate of the Constabulary; and if found legally insufficient to support the findings and sentence, in whole or in part, shall be examined by the board of review, and the board, if it also finds that such record is legally insufficient to support the findings and sentence, in whole or in part, shall in writing, submit its opinion to the Judge Advocate of the Constabulary, who shall transmit the record and the board's opinion, with his recommendation to the Chief of Constabulary for the action of the President. In any such case the President may approve, disapprove or vacate, in whole or in part, any findings of guilty, or confirm, mitigate, commute, remit, or vacate any sentence, in whole or in part, and direct the execution of the sentence as confirmed or modified, and he may restore the accused to all rights affected by the findings and sentence, or part thereof held to be invalid; and the President's necessary orders to this end shall be binding upon all departments and officers of the Government.

6. Whenever necessary, the Judge Advocate of the Constabulary may constitute two or more boards of review in his office, with equal powers and duties.

7. All records of trial of general or special court-martial of the Constabulary shall, after having been acted upon, be transmitted to the Judge Advocate of the Constabulary.

8. During periods of emergency, court-martial charges against members of units of the Armed Forces of the Philippines detailed or employed, upon the direction of the President, to assist the Philippine Constabulary in its operation, shall be triable by Philippine Constabulary courts-martial, the review of which, under the provisions of the forty-seventh and fifty first Articles of War, shall be undertaken by the Office of the Judge Advocate General of the Army; and, vice versa, court-martial charges against any member of the Philippine Constabulary units detailed or employed by Presidential direction to assist the Armed Forces of the Philippines in military operation shall be amenable to trial by courts-martial of the Armed Forces of the Philippines, but the review of said cases, as required by the provisions of the forty-seventh and fifty-first Articles of War, shall be the responsibility of the Office of the Judge Advocate of the Constabulary in accordance with the procedure prescribed above.

Done in the City of Manila, this 8th day of September, in the year of Our Lord, nineteen hundred and forty-nine, and the Independence of the Philippines, the fourth.

ELPIDIO QUIRINO
President of the Philippines

By the President:

TEODORO EVANGELISTA
Executive Secretary