



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
 PUBLIC INFORMATION OFFICE

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SECOND DIVISION

ALAN LA MADRID PURISIMA,
Petitioner,

G.R. No. 237530

Present:

- versus -

PERLAS-BERNABE, S.A.J.,
Chairperson,
HERNANDO,*
INTING,
GAERLAN, and
DIMAAMPAO, JJ.

GLENN GERARD C.
RICAFRANCA AND THE FACT-
FINDING INVESTIGATION
BUREAU - OFFICE OF THE
DEPUTY OMBUDSMAN FOR
THE MILITARY AND OTHER
LAW ENFORCEMENT
OFFICES (FFIB-MOLEO),
Respondents.

Promulgated:

NOV 29 2021

X ----- X

DECISION

INTING, J.:

Before the Court is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assailing the Decision² dated May 12, 2017 and the Resolution³ dated February 9, 2018 of the Court of Appeals (CA) in CA-G.R. SP No. 141247. The assailed CA Decision affirmed the Consolidated Decision⁴ dated June 25, 2015 of the Office of the

* On official leave.

¹ *Rollo*, pp. 3-28.

² *Id.* at 32-68; penned by Associate Justice Ramon A. Cruz with Associate Justices Marlene Gonzales-Sison and Carmelita Salandanan-Manahan, concurring.

³ *Id.* at 70-71.

⁴ *Id.* at 72-121; signed by Special Panel Chairperson Assistant Special Prosecutor III Maria Janina J. Hidalgo and members Graft Investigation and Prosecution Officer I (GIPO I) Ronald Brian G. Evangelista, GIPO I Amethyst L. Dulig, GIPO II Marie Grace P. Pulayan-Roldan and GIPO III Julita M. Calderon, and approved by Ombudsman Conchita Carpio Morales.

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Ombudsman (Ombudsman) in OMB-P-A-14-0333 and OMB-P-A-14-0659 finding Alan La Madrid Purisima (petitioner) guilty of Grave Abuse of Authority, Grave Misconduct, and Serious Dishonesty.

The Antecedents

On May 25, 2011, Werfast Documentary Agency, Inc. (Werfast), through a letter, proposed to the Philippine National Police (PNP) an online computerized renewal system and courier delivery service (Werfast Proposal) to handle the renewal of firearm licenses at the Firearms and Explosives Office (FEO). The Werfast Proposal was addressed to then PNP Chief General Raul M. Bacalzo (Gen. Bacalzo), with an attached draft Memorandum of Agreement⁵ (MOA).⁶

On the same date, FEO Chief Napoleon R. Estilles (Estilles) signed the MOA which reads:

WHEREAS, the [PNP] is mandated under Presidential Decree 1866 as amended by Republic Act 8294, to promulgate policies that would regulate the ownership and possession of firearms;

WHEREAS, the [PNP] explored possibilities of online application for renewal of firearms licenses and courier service delivery in order to provide more efficient and satisfactory service to the public;

WHEREAS, the [PNP] in its intention to effectively carry out the said processing of firearms license have carefully studied the proposal of [Werfast] to provide courier services to firearms license applicants;

WHEREAS, both parties have agreed in principle to the importance of efficient service delivery and regulation of firearms

NOW THEREFORE, for and in consideration of the above premises, the parties hereto hereby agree as follows:

1. The [PNP] undertakes to allow [Werfast] to provide courier service system for application of renewal of firearms license;
2. [Werfast] shall donate equipments [sic] to support the establishment of an on-line application of renewal of

⁵ *Id.* at 122-124.

⁶ *Id.* at 75.

firearms license;

3. *The [PNP] shall set-up an online system of application for renewal of firearm license and shall create a designated website for the purpose. The application and renewal of license shall be processed by the [PNP]. The requirements for application and renewal of firearms licenses shall be posted on the website and the documentary requirements of applicants. If the applicant opts for online application, the requirements have to be submitted to the Firearms and Explosives Office, Civil Security Group (FEO CSG) and applicant may now avail of the Courier Services of [Werfast];*
4. *The service fee of [Werfast] shall be collected directly from the applicant who shall avail of and benefit from the on-line, hassle-free door-to-door application and renewal of firearms license (pick up of documentary requirements and delivery of firearms license);*
5. There shall be a reasonable service fee [for] the courier services that would include pick-up of requirements from applicant to FEO and delivery of firearm license from FEO to licensee;
6. For those who have applied directly to the Firearms and Explosives Office or any of its satellite offices who opts for the delivery of firearms license, the courier service could be availed of at [a] reasonable service fee;
7. [Werfast] shall maintain confidentiality on all data and information that may come to its knowledge and control. [Werfast] undertakes the strictest “non-use and non-disclosure” of all information and data.
8. *[Werfast] fully understands that this Memorandum [o]f Agreement [is] under the context of accreditation and does not entitle [Werfast] to exclusivity of the project.*

This Memorandum of Agreement shall take effect immediately upon signing and will continue to be in effect within five (5) years with option to renew the service for five years thereof unless it is terminated for a cause in writing by either party subject to a thirty (30) day prior notice to either party.⁷ (Italics supplied.)

A Technical Working Group (TWG) was created through Letter Order No. 0531-40-11 dated May 31, 2011 to study the Werfast

⁷ *Id.* at 122-123.

Proposal.⁸ On June 30, 2011, the TWG, headed by Raul D. Petrasanta (Petrasanta), recommended the implementation of the Werfast Proposal.⁹

In the Legal Opinion No. 11-048¹⁰ dated July 12, 2011, the PNP Office of Legal Services (OLS) opined that the Werfast Proposal is “legally permissible.” It submitted that the Werfast Proposal may be undertaken either through a build-operate-transfer (BOT) agreement or under an accreditation system.¹¹

The OLS further advised that if the Werfast Proposal is undertaken through a BOT agreement:

- (a) Werfast has to comply with the conditions under Section 2.5, Rule 2 of the Implementing Rules and Regulations of Republic Act No. (RA) 7718, to wit:

Section 2.5 - Allowable Modes of Implementation. -
Projects may be implemented through public bidding or direct negotiation. The direct negotiation mode is subject to conditions specified in Rules 9 and 10 hereof. (Italics supplied.)

- (b) exclusivity should only be for five years;
- (c) there should be a clear-cut liability on the part of Werfast in case of loss or tampering;
- (d) there should be no liability on the part of the PNP for damages caused by Werfast; and
- (e) a confidentiality agreement must be executed between Werfast and the PNP.¹²

The OLS also advised that if the Werfast Proposal is undertaken through an accreditation system:

⁸ *Id.* at 34 and 126.

⁹ *Id.* at 126.

¹⁰ *Id.* at 126-129.

¹¹ *Id.* at 34.

¹² *Id.* at 127-128

- (a) it should not be exclusive to Werfast;
- (b) the applicants should execute a special power of authority in favor of Werfast authorizing the latter to receive firearm licenses on their behalf;
- (c) the liability of Werfast in case of loss, destruction, or delay should be definite;
- (d) there should be no liability on the part of the PNP for damages caused by Werfast; and
- (e) a confidentiality agreement must be executed between Werfast and the PNP.¹³

The OLS emphasized that under an accreditation system, any person, agency, or corporation similarly capable of online processing of firearm license and delivery may be welcomed. It noted that per the MOA, Werfast did not intend to enter into a BOT agreement.¹⁴ Further, Werfast did not seek exclusivity under the draft MOA.¹⁵ At best, the Werfast Proposal can be considered as a request for the PNP to endorse or accredit the service Werfast was offering to the public.¹⁶

On August 24, 2011, Gen. Bacalzo approved the signing of the MOA,¹⁷ and on September 13, 2011, Estilles had the MOA notarized.¹⁸

In the Memorandum 12-257¹⁹ dated August 7, 2012, the OLS weighed on the revival of the MOA which has not yet been implemented as of the said date.²⁰ The salient features of the revised MOA are as follows:

- (a) the online system of application of renewal of firearm license will be set up by the FEO;

¹³ *Id.* at 128-129.

¹⁴ *Id.* at 126.

¹⁵ *Id.* at 127-128.

¹⁶ *Id.* at 129.

¹⁷ *Id.* at 131.

¹⁸ *Id.* at 124.

¹⁹ *Id.* at 125 and 130-131.

²⁰ *Id.* at 131.

- (b) the applicants may avail of the courier services of Werfast after submitting their online application to the FEO;
- (c) the courier services of Werfast shall be merely accredited and thus, the FEO shall not be exclusively tied by Werfast; and
- (d) the MOA shall be for a period of five years.²¹

The OLS suggested that the FEO should draft the rules for accreditation (FEO Policy on Accreditation) to be approved by the PNP Chief pursuant to Section 26²² of RA 6975.²³ Thus, the FEO organized the Courier Services Accreditation Board (CSAB) on November 19, 2012 through Letter Order No. 545 signed by Director Gil Meneses (Meneses) of the Civil Security Group (CSG).²⁴

Two months after petitioner was designated as PNP Acting Chief,²⁵ he received a Memorandum²⁶ dated February 12, 2013 from Meneses (Meneses Memorandum) with the following subject title:

Courier Service in the Renewal of Firearm License
(Wer Fast Documentation Agency/ WER FAST)

The Meneses Memorandum was endorsed by four other high-ranking officials of the PNP for petitioner's approval.²⁷ It was stated in

²¹ *Id.*

²² Section 26 of RA 6975 provides:

SECTION 26. *Powers, Functions and term of Office of the PNP Chief.* — The command and direction of the PNP shall be vested in the Chief of the PNP who shall have the power to direct and control tactical as well as strategic movements, deployment, placement, utilization of the PNP or any of its units and personnel, including its equipment, facilities and other resources. Such command and direction of the Chief of the PNP may be delegated to subordinate officials with the respect to the units under their respective commands, in accordance with the rules and regulation prescribed by the Commission. The Chief of the PNP shall also have the power to issue detailed implementing policies and instructions regarding personnel, funds, properties, records, correspondence and such other matters as may be necessary to effectively carry out the functions, powers and duties of the Bureau. The Chief of the PNP shall be appointed by the President from among the senior officers down to the rank of chief superintendent, subject to confirmation by the Commission on Appointments: Provided, That the Chief of the PNP shall serve a term of office not to exceed four (4) years: *Provided, further,* That in times of war or other national emergency declared by Congress, the President may extend such term of office.

²³ Department of the Interior and Local Government Act of 1990, approved on December 13, 1990.

²⁴ *Rollo*, p. 76.

²⁵ Petitioner was designated as PNP Acting Chief effective December 18, 2012, *id.* at 132.

²⁶ *Id.* at 133-134.

²⁷ *Id.* at 133.

the Meneses Memorandum that upon implementation of *Oplan Katok* or House-to-House Visitation, 42,213 out of 319,942 licensees visited were found to be unknown and/or not living in the addresses listed in the FEO Firearms Information Management System. To address the problem of unscrupulous individuals purchasing firearms for criminal activities, Meneses recommended the mandatory delivery of firearms licenses to the registered addresses of the applicants for both newly purchased firearms and renewed firearm licenses, to wit:

RECOMMENDATION:

8. Recommend that the *delivery of firearms licenses [sic] cards of gun owners to their registered addresses, whether newly purchased firearms or renewed firearm licenses be made mandatory*, to give force and effect to this new intervention to monitor and control firearms in the hands of gun owners.

9. *Approval of para [sic] 8 above.*²⁸ (Emphasis omitted; italics supplied.)

Regarding Werfast, Meneses reported that his office has accredited Werfast in compliance with petitioner's policy guidance to implement the delivery of firearm license cards:

7. *In compliance [with] the policy guidance of the then TACDS, now the Chief, to implement the delivery of the approved firearms license cards to the addresses supplied by the applicants, this office has accredited WERFAST Documentation Agency for the purpose, after complying with all the documentary requirements stipulated in the FEO Policy on Accreditation.*²⁹ (Italics and underscoring supplied.)

On February 17, 2013, petitioner approved the Meneses Memorandum.³⁰ However, contrary to the Meneses Memorandum, the CSAB accredited Werfast only on April 1, 2013 through Resolution No. 2013-027. The records further show that the Meneses Memorandum predated the FEO Policy on Accreditation which was issued on March 13, 2013.³¹

The CSAB's approval of Werfast's accreditation was made on the following grounds:

²⁸ *Id.* at 134.

²⁹ *Id.*

³⁰ *Id.* at 133.

³¹ *Id.* at 35.

- (a) It is a duly licensed local corporation with proper business permit and is duly registered with the Department of Trade and Industry with Registration No. 01229502 valid from December 6, 2010 to December 6, 2012;
- (b) It has an approved MOA with the PNP for courier services for FEO dated August 24, 2011;
- (c) It is in joint venture with CMIT Consultancy Group, Inc. and Philippine Remittance Service, Ltd.; and
- (d) It has submitted clearances from the Bureau of Internal Revenue, Regional Trial Court, CA, and the Court.³²

Upon implementation of the mandatory delivery of firearm licenses, the PNP received numerous complaints about the courier services of Werfast. The Fact-Finding Investigation Bureau, Office of the Deputy Ombudsman for the Military and Other Law Enforcement Offices (FFIB-MOLEO), created a team on January 16, 2014 to investigate and determine the veracity of the allegations contained in an anonymous complaint which its office received. The anonymous complainant alleged that petitioner, his friends, and cohorts, siphoned millions of money from the mandatory delivery fees paid by gun owners by entering into a MOA with Werfast on May 25, 2011 despite the latter being incorporated only on August 10, 2011.³³

In March 2014, the PNP terminated its contract with Werfast for gross inefficiency.³⁴

On April 16, 2014, private respondent Glenn Gerard C. Ricafranca (Ricafranca) filed a Complaint-Affidavit³⁵ before the Office of the Ombudsman (Ombudsman) charging petitioner and Estilles with Grave Abuse of Authority and violation of RA 6713³⁶ in relation to the PNP's engagement of Werfast as courier service provider. Ricafranca narrated that upon inquiry, he learned that the firearm license cards must be

³² *Id.* at 78 and 151.

³³ *Id.* at 148-149.

³⁴ *Id.* at 35.

³⁵ *Id.* at 135-141.

³⁶ Code of Conduct and Ethical Standards for Public Officials and Employees, approved on February 20, 1989.

delivered to each licensee *via* courier. Upon further investigation, Ricafranca uncovered what he referred to as a highly controversial arrangement between PNP and Werfast. *First*, the MOA between the PNP and Werfast was entered into without going through the bidding process as required by RA 9184.³⁷ *Second*, at the time the MOA was entered into, Werfast had not yet been issued its Certificate of Incorporation by the Securities and Exchange Commission. *Finally*, Werfast was not authorized by the Department of Transportation and Communication (DOTC) (now the Department of Information and Communications Technology) to deliver mails or parcels to the public.³⁸

Ricafranca alleged that numerous license applicants made the following complaints against Werfast: (1) delay in the delivery; (2) lack of official receipts; (3) inaccessibility of the Werfast website; (4) useless tracking option; and (5) service fees which are priced at ₱100.00 more than the service fee of LBC (the courier indicated in the package) within Metro Manila. He estimated that with 1 Million gun owners in the country, Werfast earned ₱100,000,000.00, more or less, from the MOA with PNP.³⁹

Ricafranca further alleged that Mario Juan (Juan), one of the incorporators of Werfast, is petitioner's *kumpadre*; that Enrique Valerio was a classmate and best friend; and that Ireneo Bacolod⁴⁰ was his former boss. Ricafranca referred to a Rappler article⁴¹ to show that petitioner publicly defended Werfast. Ricafranca concluded that it is clear from the foregoing that Werfast derived undue favors from the PNP under the leadership of petitioner.⁴²

To further bolster his claims, Ricafranca filed a Joint-Affidavit⁴³ dated April 24, 2014 attested to by Eduardo Acierto (Acierto), Nelson L.

³⁷ Government Procurement Reform Act, approved on January 10, 2003.

³⁸ *Rollo*, pp. 136-137.

³⁹ *Id.* at 138-139.

⁴⁰ Retired Police General Ireneo Bacolod was the President of Werfast according to its General Information Sheet for the year 2013, *id.* at 241.

⁴¹ Bea Cupin, Firm identified with PNP Chief ends deal, March 20, 2014. Available in <<https://web.archive.org/web/20210707042325/https://r3.rappler.com/nation/53459-werfast-pnp-alan-purisima>> (last accessed on November 26, 2021.) The report quoted petitioner's response on the alleged overpriced charges of Werfast, to wit:

"The PNP chief downplayed the higher cost of Werfast's deliveries, saying: '*Negosyo yan di ba? Eto ay negosyo, kung ikaw ay nagnenegosyo, kailangan kumita ka. Am I right? Yung sinasabi niyong diskarte nila, I do not know because I am not Werfast. What's important to me is that firearms go to proper people.*' (It's a business. This is a business so you need to earn. If that's how they earn, I do not know because I am not Werfast.)"

⁴² *Rollo*, p. 140.

⁴³ *Id.* at 145.

Bautista (Bautista), Ricardo S. Zapata, Jr. (Zapata), Dorothy A. Du, and Maria Geline O. Borce (collectively, Acierto, *et al.*).⁴⁴

Acierto, *et al.* alleged that petitioner called for a meeting at his office on June 28, 2013 to solve the problems being received by the FEO in relation to the mandatory delivery of firearm license cards. After ordering them to limit and reduce each process of the FEO, petitioner inquired as to the accommodation of Werfast as the sole delivery service courier. They averred that even before they could give details of the problems encountered in the delivery of firearms license cards, petitioner berated them for not cooperating with Werfast. Pounding the table with his fist, petitioner said, “[k]ilala ko yang si Mario Juan at di pa ako sikat ay siya lang ang nakakaalala at dumadalaw sa akin. Ayusin nyo ang delivery.”⁴⁵

On Werfast’s behalf, Juan explained that some CSG Satellite Offices were not following petitioner’s directive on the mandatory delivery of firearm licenses. Thereafter, petitioner directed Acierto, *et al.* to meet the representatives of Werfast to effectively implement the mandatory delivery of the firearm licenses. He warned them that they will be immediately relieved if they fail to satisfy his queries.⁴⁶

On October 9, 2014, the FFIB-MOLEO filed a Complaint⁴⁷ recommending that the following officials be charged for violation of Section 3(e) of RA 3019 or the *Anti-Graft and Corrupt Practices Act*,⁴⁸ to wit:

ADMINISTRATIVE LIABILITY OF PURISIMA

42. Meneses issued a memorandum to Purisima stating that WERFAST has complied with the all the [*sic*] requirements stipulated in the FEO Policy on Accreditation. He recommended that the delivery of firearms licenses to their registered addresses be made mandatory. Purisima approved this Memorandum of Meneses. This recommendation paved the way by which WERFAST was able to deliver all the firearms license cards issued to the applicants. Purisima is guilty of Gross Negligence or [Gross] [N]eglect of Duty for approving the recommendation of Meneses without verifying

⁴⁴ *Id.* at 80.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.* at 148-151 and 241-246.

⁴⁸ Approved on August 17, 1960.

or checking the records and capability of WERFAST.

PREMISES CONSIDERED, it is respectfully prayed that the following officials of the PNP and the officials of WERFAST who conspired with one another be charged for violating Sec. 3 (e) of RA 3019, to wit:

1. PD Gil C. Meneses, former CSG Chief;
2. PCSUPT Raul D. Petrasanta, Chief, FEO, Chairman;
3. PSSUPT Allan A. Parreno, Assistant Chief, FEO, Vice-Chairman;
4. PSSUPT Eduardo P. Acierto, Chief, FLD, FEO, Member;
5. PSSUPT Melchor V. Reyes, Chief, EEMD, FEO, Member;
6. PSUPT Lenbell J. Fabia, Asst. Chief, FLD, FEO, Member;
7. PCINSP Sonia C. Calixto, Chief, POL Section, FLD, FEO, Member;
8. PCINSP Nelson L. Bautista, Chief, I and E, EEMD, FEO, Member;
9. PSINPS Ford G. Tuazon, Servicing Legal Officer, Member;
10. CINSP Ricardo S. Zapata, Jr. Chief, I and E Section, FEMD, FEO, Secretariat;
11. P/CSUPT Napoleon Estilles, former FEO Chief;
12. Mario G. Juan;
13. Salud R. Bautista;
14. Enrique S. Valerio;
15. Ireneo A. Bacolod;
16. Lorna Perena;
17. Juliana Pasia; and
18. Marilyn M. Chua.⁴⁹

The FFIB-MOLEO uncovered the following:

- (1) Estilles signed the MOA despite the absence of any policy on accreditation or an accreditation committee to look into the qualifications of Werfast;
- (2) the CSG, through Meneses, approved the accreditation of Werfast even before the company has undergone accreditation from the CSAB as indicated in the Meneses Memorandum;
- (3) nothing on record would show that Werfast has undergone screening on or before February 12, 2013;

⁴⁹ *Rollo*, p. 246.

- (4) the CSAB accredited Werfast despite the company's failure to meet the mandated requirements in the FEO Policy on Accreditation, e.g., Werfast has not paid its income taxes from 2011 to 2013 and failed to secure a clearance from the Directorate for Intelligence, among others;
- (5) Werfast's Articles of Incorporation states that its purpose is to "*act as a business consultant and engage in the business of providing services and assistance to any individual, company and corporation to facilitate the documentation and their registration to any private and/or government agencies;*"
- (6) Werfast's business permit indicates that instead of courier service, it is engaged in consultancy services;
- (7) Werfast is not an accredited courier service provider and in fact, has not even filed any application with the DOTC – Postal Regulation Committee as required under DOTC Administrative Circular No. 2001-01, otherwise known as the "*Guidelines for the Uniform Application of Penalties for Offenses Committed by Authorized and/or Illegal Private Express and/or Messenger Delivery Service Firms or their Employees;*"
- (8) the paid-up capital of Werfast amounted to ₱65,000.00 which is way below the paid-up capital requirement of ₱500,000.00 under DOTC Administrative Circular No. 2001-01;
- (9) Werfast entered into service agreement with LBC on April 23, 2013 for the latter's courier delivery services;
- (10) based on the records, the online facility for the application for the renewal of firearms did not materialize;
- (11) applicants were charged ₱190.00 for deliveries within Metro Manila and ₱290.00 outside Metro Manila when LBC charged only ₱90.00 within Metro Manila; and

- (12) Werfast earned ₱9,045,500.00, more or less, from the 90,455 firearm license cards transmitted to Werfast for delivery from March 2013 to March 2014.⁵⁰

As to petitioner, the FFIB-MOLEO charged him with Gross Negligence or Gross Neglect of Duty for approving the recommendation of Meneses without verifying or checking the records and capability of Werfast.⁵¹

Ruling of the Ombudsman

In the Consolidated Decision⁵² dated June 25, 2015, the Ombudsman found petitioner guilty of Grave Abuse of Authority, Grave Misconduct, and Serious Dishonesty. Although petitioner was not charged with Grave Misconduct and Serious Dishonesty, the Ombudsman found substantial evidence of conspiracy⁵³ despite petitioner's protestation that he was not yet the head of the PNP at the time the MOA was entered into and he was not privy to the MOA in question.⁵⁴

The Ombudsman rejected petitioner's reliance on the case of *Arias v. Sandiganbayan*⁵⁵ (*Arias*) as justification for his approval of the Meneses Memorandum, to wit:

x x x *Arias* protects the innocent, unknowing head of agency, which Purisima was not. Acierto, Bautista and Zapata swear that WERFAST's eventual installation as "sole" courier service provider was Purisima's directive. In their words:

XXX [O]n 28 June 2013, we were called by Chief PNP Purisima for a meeting in his office at the National Headquarters, PNP, Camp Crame, Quezon City to discuss the status of his directive to accredit WERFAST as the "sole" Service Courier.

They describe[d] how Purisima ordered them to limit the time spent for the processing of firearms license applications, instructed

⁵⁰ *Id.* at 37-38.

⁵¹ *Id.* at 246.

⁵² *Id.* at 72-121.

⁵³ *Id.* at 103.

⁵⁴ *Id.* at 200-201.

⁵⁵ 259 Phil. 794 (1989).

them to confer with WERFAST's representatives, touted a personal relationship with Mario Juan, and threatened them with immediate relief of duties should they fail to obey. Bautista and Zapata also add[ed] that Purisima spearheaded WERFAST's accreditation since his days as Chief Directorial Staff.

While Purisima protests the credence given the above claims, his influence and involvement as the force behind WERFAST received credit even from Meneses and was acknowledged by the latter in paragraph 7 of the *Meneses Memorandum*.

Said *Meneses Memorandum* indicates as its subject the "**Courier Service in the Renewal of Firearm License/Wer Fast Documentation Agency/WER FAST.**" Obviously, it focuses on and/or draws attention to WERFAST as much as any proposed adoption of a policy making courier services mandatory. As a matter of fact, the phraseology of the subject discloses that WERFAST is the only intended courier service provider for the proposed policy. Conversely, the policy is being proposed to serve the courier.

This is consistent with Purisima's precipitate approval of the mandatory policy founded on nothing more substantial than an acknowledged situation and a possible solution. Far from being an innocent head of agency, therefore, evidence shows not only that Purisima knew what he was doing in signing the *Meneses Memorandum* but that he himself exerted pressure and coercion over his subordinates on behalf of WERFAST. A head of agency who influences, pressures, coerces, convinces or conspires with his subordinates to recommend the approval of the transaction in question is denied the protection of *Arias*.⁵⁶ (Emphasis, underscoring, and italics in the original; citations omitted.)

Thus the Ombudsman ordered petitioner's dismissal from service with forfeiture of retirement benefits, cancellation of eligibility, bar from taking civil service examinations and perpetual disqualification from re-employment in government service.⁵⁷

Ruling of the CA

In the Decision⁵⁸ dated May 12, 2017, the CA affirmed the Consolidated Decision of the Ombudsman and dismissed the Petition for Review under Rule 43 of the Rules of Court filed by petitioner. The CA ruled that administrative due process was observed despite the disparity

⁵⁶ *Rollo*, pp. 114-115.

⁵⁷ *Id.* at 117.

⁵⁸ *Id.* at 32-68.

between the offenses charged and the offenses for which petitioner was held administratively liable considering that he was apprised of the substance of the charges against him,⁵⁹ citing the case of *Phil. Amusement and Gaming Corp. v. Marquez*.⁶⁰

The CA found that there was substantial evidence proving: (1) *Grave Abuse of Authority or Oppression* on the part of petitioner when he berated Acierto, *et al.* for not cooperating with Werfast instead of holding Werfast accountable for its substandard service;⁶¹ (2) *Grave Misconduct* when he signed the Meneses Memorandum adopting Werfast as the sole courier service provider of PNP in the absence of competitive public bidding under RA 9184 and Werfast's noncompliance with DOTC Circular No. 2001-01 and the FEO Policy on Accreditation;⁶² and (3) *Serious Dishonesty* as petitioner was complicit in making it appear that Werfast is a qualified courier service provider by signing the Meneses Memorandum.⁶³ Thus:

WHEREFORE, the Petition for Review is DISMISSED. The Consolidated Decision dated June 25, 2015 issued by the Office of the Ombudsman in OMB-P-A-14-0333 and OMB-O-A-14-0659 is AFFIRMED.

SO ORDERED.⁶⁴

Undaunted, petitioner filed a motion for reconsideration, but the CA denied it in the Resolution⁶⁵ dated February 9, 2018.

Hence, the petition before the Court.

Issues

- I. Whether the petitioner was accorded due process;
- II. Whether there is substantial evidence to hold petitioner liable for Grave Misconduct, Serious Dishonesty, and Grave Abuse of Authority;

⁵⁹ *Id.* at 51.

⁶⁰ 711 Phil. 385 (2013).

⁶¹ *Rollo*, pp. 60-61.

⁶² *Id.* at 61-62.

⁶³ *Id.* at 62.

⁶⁴ *Id.* at 63.

⁶⁵ *Id.* at 70-71.

- III. Whether the CA erred when it ruled that the *Arias* doctrine is not applicable to petitioner; and
- IV. Whether the service record of petitioner constitutes a mitigating circumstance which will lower the penalty from dismissal from service to suspension.

Ruling of the Court

Before delving into the substantial matters, the Court shall first address petitioner's procedural lapse.

Although the Petition for Review on *Certiorari* was filed on time before the Court, petitioner failed to furnish the CA with a copy of his petition. Thus, the CA issued an Entry of Judgment⁶⁶ on September 12, 2018 stating that the Decision dated May 12, 2017 had attained finality on March 10, 2018. Realizing the defect in his petition, petitioner filed a Manifestation with Motion to Give Due Course to the Present Petition⁶⁷ on September 28, 2018 before the Court.

Rule 45 of the Rules of Court requires litigants to submit a copy of proof of service to the lower court concerned and on the adverse party together with the petition.⁶⁸ Failure to comply with the requirement shall be a sufficient ground for dismissal.⁶⁹

⁶⁶ *Id.* at 392.

⁶⁷ *Id.* at 384-390.


⁶⁸ Section 3, Rule 45 of the Rules of Court provides:

Section 3. *Docket and other lawful fees; proof of service of petition.* — Unless he has theretofore done so, the petitioner shall pay the corresponding docket and other lawful fees to the clerk of court of the Supreme Court and deposit the amount of P500.00 for costs at the time of the filing of the petition. *Proof of service of a copy, thereof on the lower court concerned and on the adverse party shall be submitted together with the petition.* (Italics supplied.)

⁶⁹ Section 5, Rule 45 of the Rules of Court provides:

Section 5. *Dismissal or denial of petition.* — *The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.*

The Supreme Court may on its own initiative deny the petition on the ground that the appeal is without merit, or is prosecuted manifestly for delay, or that the questions raised therein are too unsubstantial to require consideration. (Italics supplied.)



The Rules of Court is designed for the proper and prompt disposition of cases before the court.⁷⁰ As a general rule, a client is bound by the action of the counsel in the conduct of the case, and cannot be heard to complain that the result of the litigation might have been different had counsel proceeded differently.⁷¹ There are instances, however, wherein the Court reinstated an appeal despite the negligent act or omission of the counsel.

In *Ginete v. CA*,⁷² the Court held as follows:

Aside from matters of life, liberty, honor or property which would warrant the suspension of the rules of the most mandatory character and an examination and review by the appellate court of the lower court's findings of fact, the other elements that should be considered are the following: (1) the existence of special or compelling circumstances, (2) *the merits of the case*, (3) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules, (4) a lack of any showing that the review sought is merely frivolous and dilatory, (5) the other party will not be unjustly prejudiced thereby x x x.⁷³ (Italics supplied.)

In *Dra. Baylon v. Fact-Finding Intelligence Bureau*,⁷⁴ the Court suspended the enforcement of procedural rules if only to assure the judicial mind that no injustice is allowed to take place due to blind adherence to rules of procedure, thus:

In the interest of substantial justice, procedural rules of the most mandatory character in terms of compliance, may be relaxed. In other words, if strict adherence to the letter of the law would result in absurdity and manifest injustice or where the merit of a party's cause is apparent and outweighs consideration of non-compliance with certain formal requirements, procedural rules should definitely be liberally construed. *A party-litigant is to be given the fullest opportunity to establish the merits of his complaint or defense rather than for him to lose life, liberty, honor or property on mere technicalities.*⁷⁵ (Italics supplied.)

Technically, the Court may dismiss the petition for failure of petitioner to furnish the CA with a copy of his petition. However, after a thorough review of the records, the Court finds compelling

⁷⁰ *Cruz v. Court of Appeals*, 513 Phil. 53, 57 (2005).

⁷¹ *Abrajano v. Court of Appeals*, 397 Phil. 76, 92 (2000), citing *United States v. Umali*, 15 Phil. 33 (1910).

⁷² 357 Phil. 36 (1998).

⁷³ *Id.* at 54.

⁷⁴ 442 Phil. 217 (2002).

⁷⁵ *Id.* at 233, citing *Yao v. Court of Appeals*, 398 Phil. 86, 107-108 (2000).

circumstances which would warrant the relaxation of the rules in favor of petitioner.

Given the severity of the penalty imposed on petitioner and the merits of his case, it is but proper that petitioner be given an opportunity to argue his cause and pursue his appeal. To do otherwise would be tantamount to grave injustice.

Thus, the Court hereby gives due course to the petition.

The requirements of administrative due process were complied with in the present case.

Petitioner argues that he was not given an opportunity to defend himself against the charges for Grave Misconduct and Serious Dishonesty which were not specifically alleged in Ricafranca's Complaint-Affidavit and the FFIB-MOLEO Complaint.

The Court is not convinced.

As correctly ruled by the CA, petitioner was not deprived of his right to due process because he was apprised of the charges against him when he was directed to file his Counter-Affidavit. Thus, he was given an opportunity to explain and defend himself.

The case of *Dadubo v. Civil Service Commission*⁷⁶ is instructive. In that case, the Court held that a charge in an administrative case need not be drafted with the precision of an information in a criminal prosecution; it is sufficient that the petitioner was apprised of the substance of the charge against her.⁷⁷

In the more recent case of *Avenido v. Civil Service Commission*,⁷⁸ the Court emphasized that the designation of the offense or offenses with which a person is charged in an administrative case is not controlling and one may be found guilty of another offense, where the substance of the allegations and evidence presented sufficiently proves one's guilt.⁷⁹

⁷⁶ 295 Phil. 825 (1993).

⁷⁷ *Id.* at 832, citing *Celso Amarante Heirs v. Court of Appeals*, 264 Phil. 174, 186 (1990).

⁷⁸ 576 Phil. 654 (2008).

⁷⁹ *Id.* at 661, citing *Dadubo v. Civil Service Commission*, *supra* note 74 at 832, further citing *Celso*

Hence, petitioner's contention that he was denied due process when the Ombudsman found him guilty of Grave Misconduct and Serious Dishonesty simply because the offenses were not designated in Ricafranca's Complaint-Affidavit and FFIB-MOLEO Complaint is untenable.

It is settled that in administrative proceedings such as the case at bench, due process simply means the opportunity given to explain one's side, or an opportunity to seek a reconsideration of the action or ruling complained of.⁸⁰ Due process is complied with "if the party who is properly notified of allegations against him or her is given an opportunity to defend himself or herself against those allegations, and such defense was considered by the tribunal in arriving at its own independent conclusions."⁸¹

In the present case, petitioner was duly informed of the allegations against him, *i.e.*, signing the Meneses Memorandum, threatening Acierto, *et al.* with dismissal, and touting his connections with Juan during the June 28, 2013 meeting, among others.⁸² He was served copies of the complaints which specified his alleged actions and omissions⁸³ and was given the opportunity to present his side as he was able to file a Counter-Affidavit,⁸⁴ a Supplemental Counter-Affidavit,⁸⁵ and a Position Paper⁸⁶ before the Ombudsman. Having been given all these opportunities to be heard, which he fully availed of, petitioner cannot now claim that he was denied due process.

The finding of the Ombudsman and the CA that petitioner is part of the Werfast conspiracy is not supported by substantial evidence.

It is well settled that factual findings of the Ombudsman are generally accorded great weight and respect, if not finality, by the courts

Amarante Heirs v. Court of Appeals, 264 Phil. 174, 186 (1990).

⁸⁰ *Office of the Ombudsman-Visayas, et al. v. Castro*, 759 Phil. 68, 76 (2015), citing *Gonzales III v. Office of the President of the Philippines, et al.*, 694 Phil. 52, 96 (2012).

⁸¹ *Iglesias v. Ombudsman, et al.*, 817 Phil. 338, 358 (2017), citing *Gutierrez v. Commission on Audit, et al.*, 750 Phil. 413, 430 (2015).

⁸² *Rollo*, pp. 137-140, 145, and 246.

⁸³ *Id.* at 51.

⁸⁴ *Id.* at 161-174.

⁸⁵ *Id.* at 196-204.

⁸⁶ *Id.* at 175-195.

because of their special knowledge and expertise over matters falling under its jurisdiction.⁸⁷ This rule on conclusiveness of factual findings, however, is not an absolute one. The CA may resolve factual issues, review and reevaluate the evidence on record, and reverse the Ombudsman's findings if not supported by substantial evidence. Thus, when the findings of fact by the Ombudsman are not adequately supported by substantial evidence, they shall not be binding upon the courts.⁸⁸

After considering the facts established and the evidence presented in this case, the Court finds that the Ombudsman and the CA should not have found petitioner guilty of Grave Abuse of Authority, Grave Misconduct, and Serious Dishonesty on the basis of conspiracy.

The Ombudsman relied on the statements of Acierto, Bautista, and Zapata in ruling that petitioner is complicit in the irregular accreditation of Werfast. Acierto, Bautista, and Zapata stated in their counter-affidavits before the Ombudsman that they were called by petitioner for a meeting on June 28, 2013 to *discuss the status of his directive to accredit Werfast as the sole courier service provider of the PNP.*⁸⁹ However, this allegation is inconsistent with the Joint-Affidavit dated April 24, 2014 which they executed together with other FEO officers, to wit:

That on June 28, 2013 we were called by PDG ALAN LA MADRID PURISIMA, Chief, PNP for a meeting in his office at the National Headquarters, PNP, Camp Crame, Quezon City;

That upon arriving in the office of the [Chief], PNP we were met by a certain Mario and his son Mr. Marion Juan and both informed us that *the purpose of the meeting was to solve the mounting problems and complaints being received by the Firearms and Explosives Office relative to the directive of the Chief PNP to have a mandatory delivery of Firearms License Cards;*⁹⁰ (Italics supplied.)

From the Joint-Affidavit dated April 24, 2014, it is clear that the meeting was called to address the numerous complaints regarding the courier services of Werfast and that the directive of petitioner pertained to the mandatory delivery of firearm licenses. The Court lends more credence to the Joint-Affidavit considering that insofar as petitioner is

⁸⁷ *Diaz v. The Office of the Ombudsman*, 834 Phil. 735, 743 (2018).

⁸⁸ *Miro v. Vda. De Erederos, et al.*, 721 Phil. 772, 784 (2013), citing *Hon. Ombudsman Marcelo v. Bungubung, et al.*, 575 Phil. 538, 557 (2008).

⁸⁹ *Rollo*, p. 114.

⁹⁰ *Id.* at 145.

concerned, Werfast has already been accredited prior to February 13, 2013. In addition, if indeed petitioner called for the June 28, 2013 meeting to discuss the accreditation status of Werfast, the relevant officers to answer petitioner's queries would be the officers of the CSAB and not Acierto, *et al.*

Further, after a careful review of the Meneses Memorandum, the Court agrees with petitioner that his policy guidance pertains to the mandatory delivery of firearm licenses to the address supplied by the applicants. Paragraph 8 of the Meneses Memorandum, which petitioner approved, made no mention of Werfast's accreditation. The mere inclusion of Werfast in the subject title of the Meneses Memorandum is not sufficient to prove that petitioner spearheaded the accreditation of Werfast. *First*, it was Meneses, not petitioner, who designated the subject title of the Meneses Memorandum. *Second*, the inclusion of Werfast in the subject title of the memorandum is not unusual considering that the series of legal opinions and memoranda which culminated in the Meneses Memorandum stemmed from the Werfast Proposal. *Finally*, it was not found that petitioner had personal knowledge of the irregularities attending the accreditation of Werfast at the time he approved the Meneses Memorandum. That he was complicit in the Werfast conspiracy was only an inference from the subject title of the Meneses Memorandum. By no stretch of the imagination can the Court conclude that petitioner intended to give undue favor to Werfast and exclude other courier service providers from being accredited purely on the basis of Meneses' choice of subject title.

Conspiracy is said to exist where two or more persons come to an agreement concerning the commission of a felony and decide to commit it⁹¹ and presupposes the existence of a preconceived plan or agreement.⁹² The essence of conspiracy is the unity of action and purpose.⁹³

Although the evidence on record proved that petitioner has close personal ties with Juan, this circumstance alone is not sufficient to incriminate petitioner on the basis of conspiracy. As previously held by the Court, "conspiracy transcends companionship."⁹⁴ There must be established a logical relationship between the commission of the crime and the supposed conspirators, evidencing a clear and more intimate

⁹¹ *People v. Jesalva*, 811 Phil. 299, 307 (2017).

⁹² *People v. Maralit*, 247-A Phil. 505, 514 (1988).

⁹³ *Office of the Ombudsman v. Petrasanta*, G.R. No. 227268, August 28, 2019.

⁹⁴ *Jaculina v. National Police Commission*, 277 Phil. 559, 567 (1991), citing *People v. Padrones*, 267 Phil. 517, 528 (1990).

connection between and among the latter, such as by their overt acts committed in pursuance of a common design.⁹⁵

In the case, the FFIB-MOLEO made no findings that petitioner was aware of the irregularities attending Werfast's accreditation at the time he approved the Meneses Memorandum. In fact, the FFIB-MOLEO did not charge petitioner with violation of Section 3(e) of RA 3019 together with his co-respondents in the FFIB-MOLEO Complaint. Instead, the FFIB-MOLEO found him guilty of Gross Negligence or Gross Neglect of Duty.

Undoubtedly, petitioner was not a member of the TWG which recommended the Werfast Proposal and the CSAB which issued Resolution No. 2013-027. Aside from the contentious claim of Acierto, Bautista, and Zapata, they failed to present any communications to substantiate their allegation that petitioner spearheaded the accreditation of Werfast. The Court also noted in the related case of *Office of the Ombudsman v. Petrasanta*⁹⁶ that Petrasanta, head of the TWG, never raised as a defense that he was pressured and/or coerced by petitioner in signing Resolution No. 2013-027. On the contrary, Petrasanta asserted that Werfast substantially complied with the requirements under the FEO Policy on Accreditation.

It is apparent that the Ombudsman erred in ruling that conspiracy was sufficiently established by independent, competent, and substantial evidence. Absent a clear case of conspiracy, petitioner cannot be made liable for Grave Abuse of Authority, Grave Misconduct, and Serious Dishonesty on the basis of conspiracy. Thus, what remains is petitioner's approval of the Meneses Memorandum and his demeanor and directives during the June 28, 2013 meeting with Acierto, *et al.*

Petitioner should not have been adjudged guilty of Serious Dishonesty for the dishonest act of Meneses.

Dishonesty is defined as the concealment or distortion of truth, which shows lack of integrity or a disposition to defraud, cheat, deceive,

⁹⁵ *People v. Custodio y Carillo*, 150-C Phil. 84, 96 (1972).

⁹⁶ *Supra* note 93.

or betray and an intent to violate the truth.⁹⁷ It is uncontested that Meneses was the author of the Meneses Memorandum. In the absence of substantial evidence that petitioner was aware of and complicit in Meneses' misrepresentation as to Werfast's accreditation at the time he approved the Meneses Memorandum, he should not be held guilty of Serious Dishonesty for the dishonest act of his subordinate. As held in *Arias*, the Court would be setting a bad precedent if the head of an office plagued by common problems *e.g.*, dishonest subordinates, is swept into a conspiracy conviction simply because he did not personally examine every single detail, painstakingly trace every step from inception, and investigate the motives of every person involved in a transaction before affixing his signature as the final approving authority.

Petitioner should not be held guilty of Grave Abuse of Authority for his demeanor and directives during the June 28, 2013 meeting with Acierto, et al.

The CA ruled that petitioner committed Grave Abuse of Authority when he “*inquired on the accommodation of Werfast as the sole courier delivery services which he instructed to be mandatory*” and berated Acierto, *et al.* for not cooperating with Werfast. Further, petitioner even lauded Juan instead of holding Werfast accountable for its substandard service. According to the CA, the undue injury to the public and the government made petitioner's approval of the Meneses Memorandum an act constituting Grave Abuse of Authority.

The Court does not agree.

Jurisprudence defines Grave Abuse of Authority or Oppression as a misdemeanor committed by a public officer, who under color of his office, wrongfully inflicts upon any person any bodily harm, imprisonment or other injury constituting an act of cruelty, severity, or excessive use of authority.⁹⁸

No bodily harm, imprisonment, or other injury has been shown to have been inflicted on the persons of Acierto, *et al.* Although the

⁹⁷ Section 1 of the Civil Service Commission (CSC) Resolution No. 06-0538 or the Rules on Administrative Offense of Dishonesty.

⁹⁸ *Ochoa, Jr. v. Dy Buco*, G.R. No. 216634, October 14, 2020, citing *Office of the Ombudsman v. Caberoy*, 746 Phil. 111, 119 (2014).

incompetence of Werfast was duly established, *Acierto, et al.* did not refute Juan's explanation that some CSG Satellite Offices did not follow petitioner's directive on the mandatory firearm licenses and refused to cooperate with Werfast. Excessive as it may be, the tongue-lashing that *Acierto, et al.* received from petitioner as a result of the insubordination of some of them is reasonable and expected under the circumstances.

The Court does not see the alleged impropriety in the directives given to *Acierto, et al.* It is not peculiar for petitioner to surmise that the delay in deliveries may be due to the gross inefficiency of the FEO or Werfast, or both. Taking this into consideration, petitioner's directives to reduce the processing time and better cooperation between FEO and Werfast were not out of order. Even his instruction to Zapata to destroy the firearm licenses which were not delivered by Werfast is also not unusual. The return of the firearm licenses to the FEO could be an indication that the license applicant provided the wrong address in his or her application. The purpose behind the mandatory delivery of firearm licenses would be defeated if unscrupulous license applicants who supplied fictitious addresses could simply claim their firearm licenses directly from the FEO.

It may be argued that the Werfast conspiracy has eroded the public trust in the PNP and that the mandatory delivery of firearm licenses resulted in inconvenience and undue injury to the public. However, the consequences do not make petitioner's act of implementing the mandatory delivery of firearm licenses an act of cruelty, severity, or excessive use of authority. It can be inferred from the Meneses Memorandum that the mandatory delivery of firearm licenses was for a legitimate purpose — to prevent the issuance of firearm license cards to applicants providing fictitious addresses. Despite the ensuing public inconvenience, the policy itself is not contrary to law considering that the right of individuals to bear arms in the Philippines is not absolute but is subject to regulation.⁹⁹ Regardless of the resulting inconvenience, petitioner's directive on the mandatory delivery of firearm licenses is well within his powers as the PNP Chief under Section 26 of RA 6975 in relation to Section 8 of Presidential Decree No. 1866,¹⁰⁰ as amended.

⁹⁹ *Chavez v. Hon. Romulo*, 475 Phil. 486, 491 (2004).

¹⁰⁰ Entitled "Codifying the Laws on Illegal/Unlawful Possession, Manufacture, Dealing in, Acquisition or Disposition of Firearms, Ammunitions or Explosives or Instruments Used in the Manufacture of Firearms, Ammunition or Explosives, and Imposing Stiffer Penalties for Certain Violations Thereof and for Revelant Purposes," promulgated on June 29, 1983.

Petitioner should not be held guilty of Grave Misconduct due to the lack of competitive bidding and Werfast's noncompliance with RA 7354 and the FEO Policy on Accreditation.

Accreditation of courier service providers is not new to the Court. On September 1, 2020, the Court issued Supreme Court Administrative Order No. 242-A-20 setting the guidelines on the accreditation of courier service providers.¹⁰¹ The purpose of the guidelines is to promote, serve, and protect the public interest.¹⁰² By accrediting courier service providers, the Court Administrator is not performing a procurement activity within the purview of RA 9184 because the accredited courier service providers are not rendering their services to the courts but to the litigants who opted to avail themselves of their services. Consequently, the courier service providers collect their fees from the litigants and not from the courts.

It is apparent from the MOA that Werfast bound itself within the context of an accreditation system. Although Werfast was the sole accredited courier service provider from March 2013 to March 2014, it was stated in the MOA that it is not entitled to exclusivity, which is in line with an accreditation system. Per the MOA, Werfast agreed to donate equipment in support of the establishment of the online application system under the condition that the PNP shall set up an online application system and allow Werfast to provide its services for firearm license renewal applications. The MOA is more of a conditional donation than a BOT agreement which would require competitive public bidding under RA 9184. Lastly, the OLS only mentioned the public bidding requirement if the Werfast Proposal is undertaken through a BOT agreement but not under an accreditation system.

Assuming *arguendo* that competitive bidding is required for the MOA, petitioner should not be held administratively liable considering that he was not the PNP Chief who approved the MOA.

¹⁰¹ Section 5, Rule 13 of the Rules of Court, as amended by A.M. No. 19-10-20-SC, provides:
Section 5. Modes of service. – Pleadings, motions, notices, orders, judgments, and other court submissions shall be served personally or by registered mail, accredited courier, electronic mail, facsimile transmission, other electronic means as may be authorized by the court, or as provided for in international conventions to which the Philippines is a party.

¹⁰² Section 2(c), Chapter I, Supreme Court Administrative Order No. 242-A-20.

With regard to Werfast's failure to meet the requirements of RA 7354¹⁰³ and the FEO Policy on Accreditation, the Court disagrees with the CA that petitioner should be held administratively liable in connection thereto. Petitioner allowed the operation because Meneses claimed that Werfast has been accredited by his office. As discussed previously, the records do not show that petitioner had personal knowledge of the irregularities which attended Werfast's accreditation when he approved the Meneses Memorandum. It was also not shown that a report or complaint had reached petitioner informing him of the irregularities.

Considering the circumstances at bar, the Court finds that petitioner's conduct cannot be characterized as Grave Misconduct. It is the element of corruption and a clear intent to flagrantly disregard an established rule or violate the law that characterizes Grave Misconduct.¹⁰⁴ If there are no ill or selfish motives, the act cannot qualify as Grave Misconduct.¹⁰⁵ Petitioner approved the Meneses Memorandum because he believed that the mandatory delivery of firearm license cards will prevent the issuance of licenses to unscrupulous applicants who provide fictitious addresses.

In *Camus v. Civil Service Board of Appeals, et al.*,¹⁰⁶ the Court held that an act done in good faith which constitutes only an error of judgment and for no ulterior motives and/or purposes does not constitute Grave Misconduct.

The Arias Doctrine cannot exonerate petitioner from the charge of Gross Neglect of Duty or Gross Negligence.

Nonetheless, the Court finds that petitioner cannot be completely exonerated from the acts complained against him. Even assuming that Werfast was duly accredited, petitioner mandated the delivery of firearm license cards without verifying Werfast's capacity to serve all firearm license applicants. Because Werfast is the only accredited courier service provider from March 2013 to March 2014, all firearm license applicants

¹⁰³ Postal Service Act of 1992, approved April 3, 1992.

¹⁰⁴ *Canlas v. Bongolan, et al.*, 832 Phil. 293, 343 (2018), citing *Landrito v. Civil Service Commission*, 295 Phil. 638, 642 (1993).

¹⁰⁵ *Id.*, citing *Faeldonea v. Civil Service Commission*, 435 Phil. 410, 415-416 (2002).

¹⁰⁶ 112 Phil. 301, 306 (1961).

were at the complete mercy of Werfast in terms of pricing. Petitioner's policy of mandatory delivery of firearm licenses compelled all firearm license applicants to avail themselves of Werfast's services despite the latter's incompetence. Inevitably, the FEO was flooded with complaints from the public.

Petitioner's signature on the Meneses Memorandum may be excused under the *Arias* doctrine.¹⁰⁷ However, his subsequent willful and conscious indifference makes him liable for Gross Negligence.

After he signed the Meneses Memorandum, there were at least three subsequent occasions which could have prompted petitioner to review the accreditation issued to Werfast and its capacity as a courier service provider: (1) when the FEO Policy on Accreditation was submitted to him for approval on March 13, 2013, a month after he approved the Meneses Memorandum;¹⁰⁸ (2) during the June 28, 2013 meeting;¹⁰⁹ and (3) when Zapata reported to petitioner the issues regarding the complaints against Werfast and the returned license cards which Werfast failed to deliver.¹¹⁰

At the very least, petitioner could have suspended the implementation of the mandatory delivery of firearm licenses when it became apparent that Werfast was incapable of properly handling the

¹⁰⁷ In *Arias v. Sandiganbayan*, the Court exonerated the petitioners on their conspiracy charge, to wit:

We would be setting a bad precedent if a head of office plagued by all too common problems — dishonest or negligent subordinates, overwork, multiple assignments or positions, or plain incompetence — is suddenly swept into a conspiracy conviction simply because he did not personally examine every single detail, painstakingly trace every step from inception, and investigate the motives of every person involved in a transaction before affixing his signature as the final approving authority.

x x x x

We can, in retrospect, argue that *Arias* should have probed records, inspected documents, received procedures, and questioned persons. It is doubtful if any auditor for a fairly sized office could personally do all these things in all vouchers presented for his signature. The Court would be asking for the impossible. *All heads of offices have to rely to a reasonable extent on their subordinates and on the good faith of those who prepare bids, purchase supplies, or enter into negotiations.* If a department secretary entertains important visitors, the auditor is not ordinarily expected to call the restaurant about the amount of the bill, question each guest whether he was present at the luncheon, inquire whether the correct amount of food was served, and otherwise personally look into the reimbursement voucher's accuracy, propriety, and sufficiency. *There has to be some added reason why he should examine each voucher in such detail.* Any executive head of even small government agencies or commissions can attest to the volume of papers that must be signed. There are hundreds of documents, letters, memoranda, vouchers, and supporting papers that routinely pass through his hands. The number in bigger offices or departments is even more appalling. (Italics supplied.) *Arias v. Sandiganbayan*, *supra* note 55 at 801-802 (1989).

¹⁰⁸ *Rollo*, p. 35

¹⁰⁹ *Id.* at 145.

¹¹⁰ *Id.* at 36.

delivery of firearm licenses. Instead, he allowed the problems to persist for another eight months before he terminated the contract with Werfast on the ground of gross inefficiency. From the foregoing, the Court rules that petitioner is liable for Gross Neglect of Duty or Gross Negligence.

Gross Neglect of Duty or Gross Negligence refers to negligence characterized by the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with a conscious indifference to consequences, insofar as other persons may be affected.¹¹¹

Under Section 22, Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws, Gross Neglect of Duty or Gross Negligence is considered a grave offense punishable by dismissal on the first offense.

However, the extreme penalty of dismissal is not automatically imposed. Section 48,¹¹² Rule X of the 2011 Revised Uniform Rules on Administrative Cases in the Civil Service, grants the disciplining authority the discretion to consider mitigating circumstances in the

¹¹¹ *Golangco v. Atty. Fung*, 535 Phil. 331, 341 (2006), citing *Brucal v. Hon. Desierto*, 501 Phil. 453, 465-466 (2005).

¹¹² Section 48, Rule X of the 2011 Revised Uniform Rules on Administrative Cases in the Civil Service (2011 RRACS), CSC Resolution No. 1101502, November 8, 2011, provides:

SECTION 48. Mitigating and Aggravating Circumstances. — In the determination of the penalties to be imposed, mitigating and/or aggravating circumstances attendant to the commission of the offense shall be considered.

The following circumstances shall be appreciated:

- a) Physical illness;
- b) Good faith;
- c) Malice;
- d) Time and place of offense;
- e) Taking undue advantage of official position;
- f) Taking undue advantage of subordinate;
- g) Undue disclosure of confidential information;
- h) Use of government property in the commission of the offense;
- i) Habituality;
- j) Offense is committed during office hours and within the premises of the office or building;
- k) Employment of fraudulent means to commit or conceal the offense;
- l) First offense;
- m) Education;
- n) Length of service; or
- o. Other analogous circumstances.

In the appreciation thereof, the same must be invoked or pleaded by the proper party, otherwise, said circumstances will not be considered in the imposition of the proper penalty. The disciplining authority, however, in the interest of substantial justice may take and consider these circumstances *motu proprio*.

imposition of the proper penalty.¹¹³ In several cases, the Court appreciated various mitigating circumstances, *i.e.*, length of service, unblemished record, among other things, and thus, imposed a lower penalty to the erring public official or employee.¹¹⁴

The present case is almost on all fours with the case of *Office of the Ombudsman v. Espina*¹¹⁵ (*Espina*) in which the respondent therein was found guilty of Gross Neglect of Duty. In that case, the Court appreciated the mitigating circumstances of: (a) first offense; (b) length of service; and (c) awards/commendations which the respondent averred in his motion for reconsideration, and thus, reduced the penalty from dismissal from service to one (1) year suspension without pay.

Taking into consideration petitioner's unblemished 38 years of service reckoned from the time he entered the police force on April 1, 1977¹¹⁶ and his numerous meritorious awards and commendations¹¹⁷ which he pleaded and invoked before the Court, the CA, and the Ombudsman, the Court is persuaded to impose the penalty next lower in degree under Section 22, Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws which is suspension for six (6) months and one (1) day to one (1) year without pay.

Consistent with the penalty in *Espina*, petitioner is meted out the penalty of one (1) year suspension without pay. It must be clarified,

¹¹³ While the 2011 RRACS has been repealed by the Rules on Administrative Cases in the Civil Service (2017 RRACS), CSC Resolution No. 1701077 which took effect on August 17, 2017, Section 124 of the 2017 RRACS provides that the provision of the 2011 RRACS shall continue to be applied to pending cases which were filed prior to the effectivity of 2017 RRACS, provided it will not unduly prejudice substantive rights.

¹¹⁴ See *Fact-finding and Intelligence Bureau v. Campaña*, 584 Phil. 654 (2008); *Imperial, Jr. v. Government Service Insurance System*, 674 Phil. 286 (2011); *Moreno v. Court of Appeals*, G.R. No. 238566, February 20, 2019; *Office of the Ombudsman v. Torres*, 567 Phil. 46 (2008).

¹¹⁵ G.R. No. 213500, September 12, 2018.

¹¹⁶ Ombudsman records (OMB-P-A-140333) (OMB-P-C-140259), Volume 2, p. 997.

¹¹⁷ *Id.* at 998-1001. See also *rollo*, p. 193. A few of petitioner's awards and commendations are the following:

- a) Cavalier Award; twice awarded;
- b) Distinguished Conduct Star (the second highest award next to the Medal of Valor);
- c) *Medalya ng Natatanging Paglilingkod*;
- d) *Medalya ng Kadakilaan*, two times awarded;
- e) *Medalya ng Kagalingan*, eight times awarded;
- f) *Medalya ng Kasanayan*, six times awarded;
- g) *Medalya ng Papuri*, nine times awarded;
- h) Military Merit Medal, two times awarded;
- i) *Medalya ng Paglaban ng Mantiligalig*;
- j) *Medalya ng Mabuting Asal*; and
- k) *Medalya ng Pagsulong sa Nasalanta*.

however, that petitioner is not entitled to back salaries considering that although the Court reduced his penalty, he was still found guilty of Gross Neglect of Duty or Gross Negligence.¹¹⁸ More, it is settled that public officers are entitled to payment of salaries only if they render service.¹¹⁹

In *Espina*, the Court ordered the reinstatement of the petitioner therein to his former rank as Police Senior Superintendent without loss of seniority rights after the implementation of the penalty of one (1) year suspension imposed by the Court. In the present case, however, reinstatement is no longer possible because petitioner already resigned as PNP Chief during the pendency of his preventive suspension case before the CA in CA-G.R. SP No. 138296 and CA-G.R. SP No. 138722.¹²⁰

In *Civil Service Commission v. Belagan*,¹²¹ the Court likewise reduced the penalty from dismissal from service to suspension of one (1) year without pay to the respondent, who was found guilty of grave misconduct considering respondent's length of service, unblemished record in the past, and numerous awards.¹²²

WHEREFORE, the petition is **GRANTED**. The Decision dated May 12, 2017 and the Resolution dated February 9, 2018 of the Court of Appeals in CA-G.R. SP No. 141247 are **SET ASIDE** and the Entry of Judgment dated September 12, 2018 is **VACATED**.

Petitioner Alan La Madrid Purisima is found **GUILTY** of Gross Neglect of Duty for which he is **SUSPENDED** for one (1) year without pay reckoned from the time that the Ombudsman Consolidated Decision dated June 25, 2015 was implemented and with a warning that a repetition of the same or similar acts shall be dealt with more severely. The period within which petitioner was dismissed from service pending appeal is creditable in the implementation of the penalty of one (1) year suspension herein imposed. All his rights, emoluments, benefits, and privileges removed by, and forfeited in, the assailed Ombudsman Consolidated Decision dated June 25, 2015 are hereby **RESTORED**.

¹¹⁸ See *Yamson, et al. v. Castro, et al.*, 790 Phil. 667 (2016).

¹¹⁹ *Office of the Ombudsman v. Delos Reyes*, 781 Phil. 297, 317 (2016), citing *Yarcia v. City of Baguio, etc.*, 144 Phil. 351, 358-359 (1970) and *Civil Service Commission v. Cruz*, 670 Phil. 638, 646 (2011).

¹²⁰ *Police Dir. Gen. Purisima v. Ombudsman Carpio Morales*, 814 Phil. 872 (2017).

¹²¹ 483 Phil. 601 (2004).

¹²² *Id.* at 623-625.


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Let a copy of this Decision be reflected in the permanent employment record of petitioner Alan La Madrid Purisima.

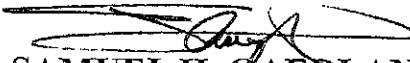
SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson


(On official leave)
RAMON PAUL L. HERNANDO
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice

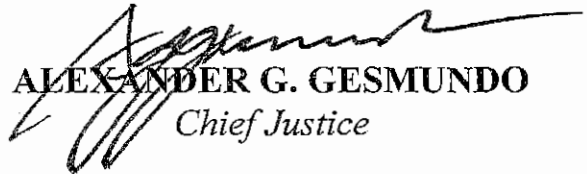
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice

