

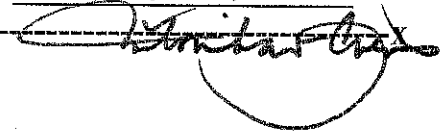
EN BANC

G.R. No. 250804 – PMAJ ALFRED C. ARTURO, Petitioner, v. PGEN OSCAR D. ALBAYALDE and PGEN RONALD M. DELA ROSA (both in their former capacity as the Chief of the Philippine National Police), Respondents.

Promulgated:

February 25, 2025

X-----



CONCURRING OPINION

LEONEN, J.:

Article II, Section 5 of the Constitution provides that the maintenance of peace and order; the protection of life, liberty, and property; and the promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy.¹ The Philippine National Police plays an important role in giving life to this mandate. Thus, it is necessary to ensure that there is an effective disciplinary mechanism in place to preserve the integrity of the police force.

The pivotal question in this case is the appellate process of disciplinary actions of the Philippine National Police.

At the center of the issue is petitioner Police Major Alfred Arturo, who was assigned parade and flag-raising duties for the Philippine National Police's 25th anniversary parade in January 2016. Petitioner missed the January 21, 2016 rehearsal. Consequently, an administrative action was filed against him for two counts of less grave neglect of duty for failing to attend the rehearsal and performing his parade duties.

Petitioner stated he missed the rehearsal because he went to claim his mother's medical reports from the Philippine National Police General Hospital. He further claimed that he attended the police force's foundation day but did not march because he was merely a reserve or filler.²

Former Philippine National Police Chief Ronald Dela Rosa found petitioner guilty of one count of less grave neglect of duty for missing the

¹ Article II, Section 5 of the 1987 Philippine Constitution.

² *Ponencia*, p. 2.



rehearsal and suspended him for 50 days. The charge for failure to perform his parade duties was dismissed.³

After petitioner's unsuccessful attempt at a reconsideration, he took his case to the Court of Appeals through a special civil action for *certiorari*. The petition for *certiorari* was denied outright on the ground of inappropriate remedy, and again upon reconsideration.

Hence, his petition before this Court. Petitioner contends that he was left with no choice but to file a special civil action for *certiorari* with the Court of Appeals since Section 45 of Republic Act No. 6975 provides that "the disciplinary action imposed upon a member of the [Philippine National Police] shall be final and executory."⁴ He argues that his penalty of a 50-day suspension, being neither a demotion nor a dismissal, is not subject to ordinary appeal.⁵

The *ponencia* found that the Court of Appeals erred when it dismissed the special civil action outright, stating that Arturo "cannot be faulted when he sought for judicial intervention"⁶ as there were no administrative remedies available in the case.⁷ The *ponencia* emphasized that while Section 45 of Republic Act No. 6975 reads clear that disciplinary action imposed are final and executory unless the penalty meted is demotion or dismissal, the this must be harmonized with other laws on the matter. Specifically, it referred to Book V, Title I(A), Section 47 of Executive Order No. 292, which provides that the Civil Service Commission "shall decide upon appeal all administrative disciplinary cases involving the imposition of a penalty of suspension for more than thirty days, or fine in an amount exceeding thirty days' salary[.]"⁸ The *ponente* states:

Here, the two laws cannot operate in harmony together. The language of Section 45 of Republic Act No. 6975 is unambiguous that "[t]he disciplinary action imposed upon a member of the PNP shall be final and executory" except those involving demotion or dismissal from service. This is directly opposed to the provisions of Executive Order No. 292 which provides that the penalty of suspension for more than 30 days or fine exceeding 30 days' salary shall be appealable.

....

Taken together, Republic Act No. 6975, a later special law, must prevail against Executive Order No. 292, an earlier general law, as regards

³ *Id.*

⁴ Otherwise known as The Department of the Interior and Local Government Act of 1990.

⁵ *Ponencia*, p. 5.

⁶ *Id.* at 20.

⁷ *Id.*

⁸ *Id.* at 14.

appeal mechanisms in disciplinary cases involving the members of the police force.⁹

The *ponente* further provided a guide on the proper remedies in administrative disciplinary cases involving the Philippine National Police:

For clarity and uniformity, the proper remedies in administrative disciplinary cases concerning PNP members and personnel are as follow:

- (1) The decisions or resolutions of the PNP Chief, Police Regional Directors, Provincial Directors, Chiefs of Police or their equivalent supervisors, Mayors of Cities/Municipalities, and the [People's Law Enforcement Board] in disciplinary actions where the penalty imposed is other than demotion or dismissal from service shall be final, executory, and unappealable. The proper mode of review is a special civil action for *certiorari* under Rule 65 of the Rules of Court filed before the CA.
- (2) The decisions or resolutions of the PNP Chief, Police Regional Directors, or their equivalent supervisors, and the [People's Law Enforcement Board] in disciplinary actions where the penalty imposed is demotion or dismissal from service shall be appealable. The decisions of the PNP Chief may be appealed to the NAB, while those rendered by the Police Regional Directors and the [People's Law Enforcement Board] may be appealed to the [Regional Appellate Boards].
- (3) The decisions or resolutions of the [National Appellate Board] and the [Regional Appellate Board] in the exercise of their administrative appellate jurisdiction may be appealed to the Secretary of DILG. The decisions or resolutions of the Secretary of DILG may be appealed to the CSC through an appeal/petition for review. A party may elevate the decisions or resolutions of the [Civil Service Commission] before the Court of Appeals by way of a petition for review under Rule 43 of the Rules of Court.¹⁰

I concur with the *ponencia* that the petition should be dismissed. Petitioner utilized an incorrect remedy by immediately applying for judicial intervention through a special civil action for *certiorari*. However, I take this opportunity to clarify my position and the appellate process of disciplinary actions within the Philippine National Police.

Article XVI, Section 6 of the Constitution provides that the State shall establish and maintain one police force, which shall be national in scope and civilian in character, to be administered and controlled by a national police commission.

⁹ *Id.* 11, 20.

¹⁰ *Id.* at 19–20.

In pursuance of this constitutional mandate, Republic Act No. 6975 was created, establishing the Philippine National Police under the Department of Interior and Local Government. Sections 44 and 45 of this law set forth the mechanisms on disciplining members of the police force:

SEC. 44. *Disciplinary Appellate Boards.* — The formal administrative disciplinary machinery for the PNP shall be the National Appellate Board and the regional appellate boards.

The National Appellate Board shall consist of four (4) divisions, each division composed of a Commissioner as Chairman and two (2) others as members. The Board shall consider appeals from decisions of the Chief of the PNP.

The National Appellate Board may conduct its hearings or sessions in Metropolitan Manila or any part of the country as it may deem necessary. There shall be at least one (1) regional appellate board per administrative region in the country to be composed of a senior officer of the regional commission as Chairman and one (1) representative each from the PNP, and the regional peace and order council members. **It shall consider appeals from decisions of the regional directors, other officials, mayors, and the PLEBs:** *Provided*, That the Commission may create additional regional appellate boards as the need arises.

SEC. 45. *Finality of Disciplinary Action.* — **The disciplinary action imposed upon a member of the PNP shall be final and executory:** *Provided*, That a disciplinary action imposed by the regional director or by the PLEB involving demotion or dismissal from the service may be appealed to the regional appellate board within ten (10) days from receipt of the copy of the notice of decision: *Provided, further*, That the disciplinary action imposed by the Chief of the PNP involving demotion or dismissal may be appealed to the National Appellate Board within ten (10) days from receipt thereof; *Provided, furthermore*, That the regional or National Appellate Board, as the case may be, shall decide the appeal within sixty (60) days from receipt of the notice of appeal; *Provided, finally*, That failure of the regional appellate board to act on the appeal within said period shall render the decision final and executory without prejudice, however, to the filing of an appeal by either party with the Secretary. (Emphasis supplied)

It is apparent in the reading of the law that there is no appeal mechanism for disciplinary actions imposed upon a member of the Philippine National Police unless the penalty meted is one of demotion or dismissal from service. The *ponente* faulted petitioner for citing *National Appellate Board v. Mamauag*,¹¹ as the case did not pertain to the appeal process for disciplinary actions but rather to the Civil Service Commission's ability to appeal a Court of Appeals decision that altered its judgment. Nevertheless, its straightforward interpretation of Section 45 is instructive:

Section 45 of [Republic Act No.] 6975 provides that a "*disciplinary action imposed upon a member of the PNP shall be final and executory.*"

¹¹ 504 Phil. 186 (2005) [Per J. Carpio, First Division].

Under Section 45, a disciplinary action is appealable only if it involves either a “demotion or dismissal from the service.” If the disciplinary action is less than a demotion or dismissal from the service, the disciplinary action “shall be final and executory” as Section 45 of [Republic Act No.] 6975 expressly mandates. Thus, a decision imposing suspension on a PNP member is not subject to appeal to a higher authority.¹² (Emphasis in the original)

This law also formed the National Police Commission, which was given the authority to exercise administrative control over the Philippine National Police. In its capacity as the body with operational control over the police force, the National Police Commission issued a memorandum circular¹³ outlining the rules in administrative cases filed against uniformed members of the Philippine National Police. In line with Republic Act No. 6975, the memorandum circular states the appellate procedures for administrative cases:

RULE 7 REGIONAL APPELLATE BOARD

....

Section 3. *What are Appealable.* — The following are appealable to the [Regional Appellate Board]:

- (a) Decisions of city/municipal Mayors and the Chiefs of Police in the exercise of their disciplinary powers under Section 41(a) of [Republic Act No.] 6975 as amended;
- (b) Decisions of the [People’s Law Enforcement Board] or the PNP Regional Director in the exercise of their disciplinary powers under Section 41(a) of [Republic Act No.] 6975 as amended where the penalty imposed is *demotion or dismissal* from the service;
- (c) Decisions of the PNP Regional Director or equivalent supervisor in the exercise of their disciplinary powers under Section 41(b) of [Republic Act No.] 6975[,] as amended, where the penalty imposed is *demotion or dismissal* from the service;
- (d) Decisions of the PNP Regional Director in the exercise of its summary dismissal power under Section 42 of RA 6975 as amended where the penalty imposed is *demotion or dismissal* from the service.

RULE 8 NATIONAL APPELLATE BOARD

....

¹² *Id.* at 195.

¹³ NAPOLCOM Memorandum Circular No. 2016-002 (2016), Revised Rules of Procedure Before the Administrative Disciplinary Authorities and the Internal Affairs Service of the Philippine National Police.

Section 2. *What are Appealable.* — The following are appealable to the [National Appellate Board]:

- (a) Decisions of the Chief of the PNP *where the penalty imposed is demotion or dismissal from the service;*
- (b) Decisions of the Inspector General affirming the Resolution of the regional IAS or the Prosecution Division of the National [Internal Affairs Service] *dismissing the complaint for lack of probable cause.*

RULE 9

SECRETARY OF THE INTERIOR AND LOCAL GOVERNMENT

Section 1. *Jurisdiction of the Secretary.* — Decisions of the [Regional Appellate Board] and the [National Appellate Board] may be appealed to the Secretary of the Department of the Interior and Local Government.

RULE 10

CIVIL SERVICE COMMISSION

Section 1. *Appellate Jurisdiction of the Civil Service Commission.* — The following are appealable to the Civil Service Commission (CSC):

- (a) Decisions of the Secretary of the Interior and Local Government in the exercise of [their] appellate jurisdiction except Decisions of the [National Appellate Board] affirming the resolution of the National [Internal Affairs Service] *dismissing the complaint for lack of probable cause;*
- (b) Decisions of the [National Police Commission] *en banc* as summary dismissal authority except Decisions approving the *dismissal of the complaint for lack of probable cause.* (Emphasis supplied)

Rule 7(a) states that only decisions in the exercise of disciplinary powers under Section 41(a) of Republic Act No. 6975, which are citizen complaints against a member of the Philippine National Police, can be raised to the Regional Appellate Board. Otherwise, the only appealable cases before the Regional and National Appellate Boards are those where the complaint is dismissed or where the penalty imposed is demotion or dismissal from the service.

The Civil Service Law may apply if the Philippine National Police's charter and corresponding rules and regulations fail to provide for appeal processes. This is expressly provided in Section 91 of Republic Act No. 6975, which states that the "Civil Service Law and its rules and regulations shall apply to all personnel of the Department." This finds suppletory application to the rules and regulations of the Philippine National Police.¹⁴ Book V, Title

¹⁴ *Police Director General Marquez v. PO2 Mayo*, 840 Phil.179 (2018) [Per J. Tijam, First Division].

I(A), Chapter 7, Sections 47 and 49(1) of the Administrative Code of 1987 or Executive Order No. 292 provides guidelines for filing complaints or grievances related to suspensions exceeding 30 days, demotions, or dismissals:

Section 47. Disciplinary Jurisdiction.—

(1) The Commission shall decide upon appeal all administrative disciplinary cases involving the imposition of a penalty of suspension for more than thirty days, or fine in an amount exceeding thirty days' salary, demotion in rank or salary or transfer, removal or dismissal from office. A complaint may be filed directly with the Commission by a private citizen against a government official or employee in which case it may hear and decide the case or it may depute any department or agency or official or group of officials to conduct the investigation. The results of the investigation shall be submitted to the Commission with recommendation as to the penalty to be imposed or other action to be taken.


(2) The Secretaries and heads of agencies and instrumentalities, provinces, cities and municipalities shall have jurisdiction to investigate and decide matters involving disciplinary action against officers and employees under their jurisdiction. Their decisions shall be final in case the penalty imposed is suspension for not more than thirty days or fine in an amount not exceeding thirty days' salary. **In case the decision rendered by a bureau or office head is appealable to the Commission, the same may be initially appealed to the department and finally to the Commission** and pending appeal, the same shall be executory except when the penalty is removal, in which case the same shall be executory only after confirmation by the Secretary concerned.

....

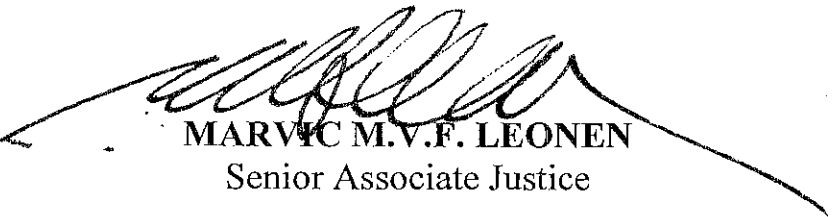
SEC. 49 Appeals. — (1) **Appeals, where allowable, shall be made by the party adversely affected by the decision within fifteen days from receipt of the decision** unless a petition for reconsideration is seasonably filed, which petition shall be decided within fifteen (15) days. (Emphasis supplied)

Petitioner, having been adjudged with the penalty of a 50-day suspension, should have first filed an appeal with the Secretary of Interior and Local Government and then with the Civil Service Commission.

The nature of the police force's job requires utmost accountability and transparency to maintain public trust and confidence in law enforcement. Its rigid processes are justified. Any leniency in its disciplinary process may compromise the integrity of the institution, and the protracted appeal process proposed may undermine its ability to effectively serve and protect our community.



ACCORDINGLY, I vote to **DISMISS** the Petition for Review on *Certiorari*.



MARVIC M.V.F. LEONEN
Senior Associate Justice