

### ### Military Rebellion and the Right to Peremptory Challenge: A Case Analysis

**\*\*Title:\*\*** The Consolidated Cases of BGen. Jose Comendador et al. vs. Gen. Renato S. de Villa et al.

#### #### Facts

The cases under consolidation arose from the participation of several officers of the Armed Forces of the Philippines in a failed coup d'état from December 1 to 9, 1989. The accused officers were charged with violation of Articles of War 67 (Mutiny), 96 (Conduct Unbecoming an Officer and a Gentleman), and 94 (Various Crimes) in relation to Article 248 of the Revised Penal Code (Murder). These cases traversed through various legal hurdles, including challenges to the Pre-Trial Investigation (PTI) Panel and the constitution of the General Court Martial (GCM) No. 14, denial of peremptory challenge, jurisdiction over the matter by the Regional Trial Court (RTC), and the right to bail.

Throughout the pre-trial and trial phases, numerous petitions and motions were filed, including a contested PTI, objections to the GCM's constitution and jurisdiction, a petition for certiorari against denial of the right to peremptory challenge, and legal maneuvers concerning bail provisions. Ultimately, the Supreme Court was petitioned to resolve issues of these military officers' cases threaded by legal arguments on jurisdiction, procedural rights, and constitutional guarantees.

#### #### Issues

1. Was there compliance with Article of War 71 concerning the Pre-Trial Investigation?
2. The legality of the constitution of GCM No. 14.
3. The denial of the right to peremptory challenge.
4. The jurisdiction of the RTC over military personnel facing court-martial.
5. The applicability of bail to military personnel.

#### #### Court's Decision

1. **\*\*Pre-Trial Investigation\*\***: The Court found that there was substantial compliance with Article of War 71. The accused's failure to submit counter-affidavits despite ample opportunity signified a waiver of their right to present evidence, thus not constituting a denial of due process.
2. **\*\*Constitution of GCM No. 14\*\***: The Supreme Court recognized the validity of GCM No.

14's constitution despite procedural irregularities, affirming the principle that a lack of a pre-trial investigation does not vitiate the jurisdiction of a general court-martial.

3. **Right to Peremptory Challenge**: The Court reinstated the right to peremptory challenge as provided in Article 18 of Com. Act No. 408, overturned by PD No. 39 during martial law. It ruled that the lifting of martial law rendered the withdrawal of the right to peremptory challenge inoperative, thereby reviving the original provision.

4. **Jurisdiction over Military Personnel**: The Court upheld that Regional Trial Courts have concurrent jurisdiction with higher courts over petitions for certiorari against military and other bodies, thus can entertain habeas corpus petitions involving military personnel.

5. **Applicability of Bail**: The Supreme Court maintained the traditional non-availability of bail to military personnel facing court-martial, differentiating their situation from civilian proceedings and emphasizing national security considerations.

#### #### Doctrine

The Court reiterated and clarified several doctrines, including the substantial compliance with procedural requirements in military proceedings, the revival of statutory provisions after the cessation of the reason for their amendment, and the non-applicability of bail in the military justice system.

#### #### Class Notes

- **Article of War 71 and Due Process**: Compliance is deemed achieved with substantial opportunity for defense presented.
- **Jurisdiction of Court-Martial**: The absence of a pre-trial investigation does not affect the jurisdiction of a court-martial.
- **Peremptory Challenge**: Reinstated for military personnel facing court-martial with the lifting of martial law, reinforcing the principle of fairness in trial.
- **Bail for Military Personnel**: Traditionally not available, highlighting a clear distinction between military and civil legal systems in the context of national security.

#### #### Historical Background

The backdrop of these cases is the tumultuous period of military unrest in the Philippines towards the end of the 20th century, characterized by several attempted coups. This era saw significant legal debates on the balance between military discipline and constitutional

rights, culminating in landmark decisions on military justice and the applicability of civilian legal principles to military proceedings.