

JIMMY C BONDAD, PETITIONER, VS. PSSUPT ELMO FRANCIS SARONA, RESPONDENT.

Ponente: GARCIA-FERNANDEZ, J.

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GARCIA-FERNANDEZ, J.:

This treats the motion for reconsideration filed by petitioner Jimmy Bondad from the resolution promulgated on April 29, 2014.

In his motion for reconsideration, petitioner claims that a petition for review under Rule 43 of Rules of Court is a correct judicial remedy to assail the consolidated resolution dated August 3, 2011 issued by the Office of the Deputy Ombudsman for the Military and Other Law Enforcement Cases (Office of the Ombudsman). Such contention is devoid of merit as Section 7, Rule III of the Rules of Procedure of the Office of the Ombudsman, as amended by Administrative Order No. 17, dated September 15, 2003, provides that the decision absolving a respondent of an administrative charge is final, executory and unappealable. To quote:

"SECTION 7. Finality and Execution of Decision.—Where the respondent is absolved of the charge, and in case of conviction where the penalty imposed is public censure or reprimand, suspension of not more than one month, or a fine equivalent to one month salary, the decision shall be final, executory and unappealable. In all other cases, the decision may be appealed to the Court of Appeals on a verified petition for review under the requirements and conditions set forth in Rule 43 of the Rules of Court, within fifteen (15) days from receipt of the written Notice of the Decision or Order denying the Motion for Reconsideration.

An appeal shall not stop the decision from being executory. In case the penalty is suspension or removal and the respondent wins such appeal, he shall be considered as having been under preventive suspension and shall be paid the salary and such other emoluments that he did not receive by reason of the suspension or removal.

A decision of the Office of the Ombudsman in administrative cases shall be executed as a matter of course. The Office of the Ombudsman shall ensure that the decision shall be strictly enforced and properly implemented. The refusal or failure by any officer without just cause to comply with an order of the Office of the Ombudsman to remove, suspend, demote, fine, or censure shall be a ground for disciplinary action against said officer."^[1]

Meanwhile, the Supreme Court ruled in *Acuña vs. Deputy Ombudsman for Luzon*^[2] that the remedy of an aggrieved party in criminal complaints before the Ombudsman is to file with this Court a petition for certiorari under Rule 65. This was reiterated in *Soriano vs. Cabais*^[3] where the Supreme Court stated that in cases when the aggrieved party is questioning the Office of the Ombudsman's finding of lack of probable cause in criminal cases, the remedy is to file a petition for certiorari under Rule 65 to be filed with Supreme Court and not with the Court of Appeals.

Considering that respondent has been absolved of both administrative and criminal charges, petitioner may only question the resolution of the Office of the Ombudsman through a petition for certiorari under Rule 65. Petitioner clearly availed of the wrong remedy to assail the findings of the Office of the Ombudsman.

As for the other allegations in his motion for reconsideration, this Court finds that these have already been given due consideration and resolved. Thus, this Court finds no new or substantial matters presented to justify a modification or reversal of the assailed resolution.

WHEREFORE, the motion for reconsideration is DENIED.

SO ORDERED.

Lampas Peralta, (Chairperson), and Acosta, JJ., concur.

[1] http://www.ombudsman.gov.ph/docs/adminorders/Administrative_Order_Number_17.pdf. Last accessed on October 1, 2014.

[2] G.R. No. 144692, January 31, 2005.

[3] G.R. No. 157175, June 21, 2007.

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