P/CSUPT. BERNARDO A. DIAZ, PETITIONER, VS. OFFICE OF THE PRESIDENT, AS REPRESENTED BY THE HONORABLE EXECUTIVE SECRETARY LUCAS P. BERSAMIN AND THE NATIONAL POLICE COMMISSION, RES...

G.R. No. 273363, August 12, 2026

Ponente: HERNANDO, J.

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HERNANDO, J.:

Before the Court is a Motion for Reconsideration[1] filed by petitioner P/CSupt. Bernardo A. Diaz (Diaz) assailing the Resolution[2] of the Court, which dismissed his Petition for Certiorari[3] challenging the Decision[4] and the Resolution[5] of the Office of the President (OP) finding him liable for grave neglect of duty and imposing the penalty of dismissal from the service with all its accessory penalties.

The assailed Resolution dismissed the petition for violation of the doctrine of hierarchy of courts and for failure of Diaz to sufficiently show that any grave abuse of discretion was committed by the OP in rendering the challenged decision and resolution.[6]

The Factual Antecedents

Diaz was identified by former President Rodrigo R. Duterte (FPRRD) in his speech during the 69[th] Anniversary of the Philippine Air Force in Clark, Pampanga on July 5, 2016, as one of the five Philippine National Police (PNP) generals who are purportedly acting as protectors of illegal drug operations in the country. FPRRD immediately ordered the National Police Commission (NAPOLCOM) to investigate the supposed involvement of Diaz, which led to the creation of a team of investigators that later recommended that charges be filed against him.[7]

Proceedings before the NAPOLCOM

The NAPOLCOM Inspection, Monitoring, and Investigation Service (IMIS) conducted a pre-charge investigation and eventually found probable cause to administratively charge Diaz.[8] On February 22, 2017, NAPOLCOM formally charged Diaz with grave neglect of duty committed as follows:

> That from June 21, 2015 to July 1, 2016 in Region 6, and within the administrative jurisdiction of the Commission, [Diaz] as PRO 6 – RAIDSOTG Task Group Commander, without justifiable ground, palpably failed to conduct operations against drug abuse and trafficking and failed to arrest wanted persons on illegal drugs across provincial boundaries. The RAIDSOTG during [Diaz's] tenure failed to develop Case Operation Plans and to conduct operations against known drug targets in the region that affected the government's campaign against illegal drugs.
>
> Acts contrary to law, rules, and regulations.[9]

NAPOLCOM then requested clearance from the OP to proceed with the summary hearing, which clearance was

granted by the same. Subsequently, an Ad Hoc Committee was created to conduct a formal investigation and to receive evidence.[10]

NAPOLCOM ascribed nine counts of grave neglect of duty on the part of Diaz in connection with his failure to conduct operations against drug abuse and trafficking of illegal drugs in his area of responsibility, committed as follows:

(1) failure to hold chiefs of police (COP) accountable by refraining from filing the appropriate administrative cases against them for their failure to submit accomplishment reports;

(2) failure to conduct regular adjudication proceedings against police personnel involved in illegal drugs;

(3) failure to conduct counter-intelligence operations or file appropriate charges against police personnel involved in illegal drugs;

(4) failure to conduct counter-intelligence operations against local officials involved in illegal drug activities;

(5) failure to devise basic Case Operation Plan (COPLAN) against seven known drug syndicates in his area of responsibility;

(6) failure to take action on the attempted break-in and theft of one closed circuit television on the premises of Aksyon Radyo Station in Iloilo City;

(7) failure to organize the staffing of the Regional Anti-Illegal Drugs Special Operations Task Group (RAIDSOTG) from the time of his assumption to office as regional director of Police Regional Office (PRO) 6 on June 21, 2015 until his relief on July 14, 2016;

(8) failure to transmit to the NAPOLCOM Region 6 for confirmation, the list of police commissioned officers or nominees for the position of COP; and

(9) failure to direct the RAIDSOTG to work for operational accomplishments.[11]

For his part, Diaz denied being involved in illegal drug trade or being a protector of drug personalities. Diaz claimed that during his first command conference, he immediately ordered the inventory of accomplishments of the various units, particularly, in the anti-illegal drugs campaign. When he discovered that 23 COPs in the region did not comply with his directive, they were relieved from their duties and placed under investigation. He belied the allegation that the RAIDSOTG was inactive in the fight against illegal drugs and maintained that it conducted numerous successful anti-illegal drugs operations during his tenure.[12]

Likewise, he denied assigning police personnel to the RAIDSOTG and claimed that he is not a signatory to the detail or assignment orders presented by the NAPOLCOM. Diaz emphasized that the lead agency of the government in the fight against illegal drugs is the Philippine Drug Enforcement Agency and the role of the PNP is to fight street level drug personalities. He claimed that "LOI 16/2012" does not provide that the RAIDSOTG shall be the sole instrument available to fight illegal drugs. As PNP Regional Director, he has discretionary powers on how to effectively and efficiently implement the anti-illegal drugs campaign in the region.[13]

On the allegation that he failed to develop COPLANs, Diaz averred that COPLANs were developed against seven identified drug syndicates and were submitted to the PNP Directorate for Intelligence. Meanwhile, on the attempted intrusion and burglary on the premises of Aksyon Radyo Station in Iloilo City, he claimed that it should be the Iloilo City Police Office that should act on the incident as his office merely supervises the operations of the units. Nevertheless, his office has initiated action against the group involved after the incident was reported to him and criminal cases were then filed.[14]

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Diaz maintained that he actively conducted anti-illegal drugs operations utilizing all anti-illegal drugs task groups in PRO 6 and efficiently pursued the government's campaign against illegal drugs. He underscored that his tenure was characterized by increased drug operations, increased number of arrests, reduced drug supply, reduced demand for illegal drugs, and actions against drug syndicates. In support, Diaz submitted newspaper clippings showing arrest of several drug suspects, attestations by police provincial directors, and an award given to him by the PDEA.[15]

In a Decision[16] dated January 25, 2018, the NAPOLCOM found Diaz guilty of nine counts of grave neglect of duty and recommended the penalty of dismissal from the service.[17] Diaz appealed the NAPOLCOM Decision to the OP.[18] The NAPOLCOM then transmitted their recommendation to the OP for final disposition of the case.[19]

Proceedings before the OP

In its Decision[20] dated May 10, 2022, the OP affirmed the NAPOLCOM Decision. The dispositive portion of the Decision, reads:

> WHEREFORE, premises considered and as recommended by the National Police Commission, respondent Police Chief Superintendent Bernardo A. Diaz is hereby found LIABLE for [nine] counts of GRAVE NEGLECT OF DUTY and meted the penalty of DISMISSAL from the service with all its accessory penalties.
>
> Considering that respondent had already retired from the service, the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits, and perpetual disqualification from holding public office shall be imposed on him.
>
> SO ORDERED.[21] (Emphasis in the original)

The OP found that there was substantial evidence to prove that Diaz is liable for grave neglect of duty. He admitted in his Counter Affidavit that 36 of the region's COPs had no accomplishment reports on their illegal drugs operations and that 23 of them failed to explain or justify their failure to prepare the same. The OP found his defense that he took corrective actions against the erring COPs has no evidence to stand on, as the newspaper clippings that he presented were dismissed as mere hearsay and have no probative value.[22]

Likewise, the OP found sufficient evidence in the form of testimonies that several police personnel were remiss in the performance of their duties by failing to arrest the leader and members of a drug syndicate and several local officials involved in illegal drugs. It explained that as Regional Director and Task Group Commander of the RAIDSOTG, Diaz should have taken corrective measures against police personnel and local officials involved in illegal drugs by filing the appropriate cases. The OP concluded that Diaz's inaction led to the proliferation of illegal drugs in the region.[23]

The OP also noted the dismal performance of the RAIDSOTG during the tenure of Diaz, with only one accomplishment to show for the period June 2015 to May 2016, which actually resulted in the release of the suspect for further investigation. The OP found that the graphs, tables, charts, and assessment reports submitted by Diaz showing the accomplishments of PRO 6 and RAIDSOTG from 2010 to 2015 were inadmissible as evidence as they were prepared by Diaz himself and were thus, self-serving. The OP further explained that even if these were accepted as evidence, they were unsubstantiated considering that Diaz adduced no other convincing evidence to prove that the RAIDSOTG conducted anti-illegal drugs operations that resulted in the arrest of drug suspects and confiscation of illegal drugs.[24]

The OP similarly found that the COPLANs allegedly developed by Diaz were unsigned by concerned police personnel and only three were presented and signed during the pre-conference hearing. Thus, the OP held that

taken together, the submission of the COPLANs were indicative of Diaz's belated intention to comply with his duty.[25]

On the issue relating to the attempted break-in and burglary at Aksyon Radyo Station, the OP found that there is no evidence presented to indubitably prove that Diaz took action against the perpetrators of the said incident.[26] Additionally, the OP stated that as Regional Director and Task Group Commander of the RAIDSOTG, he was remiss in his duty when he failed to organize the task group, considering that it was within his discretion and when he failed to submit to the NAPOLCOM the list of COPs for confirmation.[27]

Ultimately, the OP ruled that Diaz was responsible for the operations and activities of his subordinates within his area of responsibility and should be held accountable for failing to take appropriate action to sanction and discipline them.[28]

Based on the foregoing, the OP found that there is substantial evidence to support the conclusion that Diaz should be administratively sanctioned. The OP considered the circumstances of taking advantage of official position and length of service to be aggravating circumstances in this case, thus, it imposed the maximum penalty of dismissal from service with its accessory penalties of cancellation of eligibility, forfeiture of retirement benefits, and perpetual disqualification from holding public office.[29]

Aggrieved, Diaz sought reconsideration[30] of the OP Decision, which the OP partly granted in its Resolution[31] dated March 5, 2024. The dispositive portion of the OP Resolution, reads:

> WHEREFORE, premises considered, the Motion for Reconsideration is PARTLY GRANTED. The Decision dated [May 10,] 2022 is hereby MODIFIED, respondent Police Chief Superintendent Bernardo A. Diaz is found liable for [four] counts of GRAVE NEGLECT OF DUTY and meted the penalty of DISMISSAL from the service with all its accessory penalties.
>
> Considering that Diaz had already retired from the service, the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits, and perpetual disqualification from holding public office shall be imposed on him.
>
> SO ORDERED.[32] (Emphasis in the original)

Upon review and due consideration, the OP found merit on Diaz's argument that the OP erred in affirming in toto the NAPOLCOM Decision finding him guilty of nine counts of grave neglect of duty despite the fact that the formal charge against him indicated only four counts of grave neglect of duty. The OP explained that a cursory reading of the formal charge issued to Diaz shows that the same is not accurately reflected in its May 10, 2022 Decision.[33]

Nevertheless, the OP did not give credence to Diaz's allegation that his right to due process was violated considering that he was not notified of the administrative proceedings, resolutions, and decisions of the NAPOLCOM. The OP stated that there was no violation of due process because the NAPOLCOM Decision is merely recommendatory and that he was furnished a copy of the OP's May 10, 2022 Decision. It stressed that in administrative proceedings, the giving of a reasonable opportunity to answer the charges constitutes minimum requirements of due process.[34]

Lastly, with regard to his liability, the OP found no cogent reason to disturb the finding of guilt against Diaz, except only as to the counts of grave neglect of duty. The OP ruled that the motion raised no new issues and the arguments raised have already been substantially resolved in the Decision dated May 10, 2022.[35]

Undaunted, Diaz filed a Petition for Certiorari[36] before the Court.

In his Petition, petitioner reiterated that there was a violation of his right to due process and he was deprived of a real opportunity to be heard. Petitioner argued that the administrative proceedings were greatly skewed against him and that any evidence he adduced was not genuinely considered. He pointed out that his right to be informed of the charges against him was violated because of the variation in the charges between the NAPOLCOM, and OP Decision and Resolution. He claimed that he was left unsure as regards the specific alleged actions or inactions supposedly attributable to each count of grave neglect of duty.[37]

To refute the charge that he failed to conduct operations against drug abuse and trafficking, petitioner cited several initiatives, programs, and operations against illegal drugs that were conducted during his tenure. Further, he stressed that he developed COPLANs for the seven identified drug syndicates in his region. Petitioner concluded that he presented evidence and arguments to show that he fulfilled his duties diligently and effectively during his tenure as regional director, and that the allegations of negligence on his part lacked substantiation.[38]

The Assailed Ruling of the Court

In the challenged Resolution[39] dated July 29, 2024, the Court resolved to dismiss the Petition for Certiorari. The Resolution reads as follows:

> The Court resolved to DISMISS the instant Petition for Certiorari assailing the Decision and the Resolution dated May 10, 2022 and March 5, 2024, respectively of the Office of the President in OP-DC Case No. 18-A-018 for violation of the doctrine of hierarchy of courts.
>
> In any event, the petitioner failed to sufficiently show that any grave abuse of discretion was committed by the Office of the President in rendering the challenged decision and resolution, which, on the contrary, appear to be in accord with the facts and the applicable law and jurisprudence.[40] (Emphasis in the original)

Unrelenting, petitioner files this Motion for Reconsideration.[41]

Petitioner contends that direct resort to the Court is justified because of the urgency of the matter and the existence of unique, compelling, and exceptional circumstances, which highlight grave public interest. He adds that this case raises questions of due process, fairness, and the abuse of executive powers, which transcend personal interest and have impact on public governance.[42] He reiterates his arguments that the OP and NAPOLCOM committed grave abuse of discretion in handling his case as evidenced by the procedural irregularities in the filing and investigation of charges, including reliance on substantiated allegations and denial of his right to a fair hearing. Further, he maintains that there were substantive errors in the decision, which ignored the lack of evidence linking him to alleged negligence and overlooked his exemplary service record.[43]

Petitioner brings to the Court's attention the Public Hearing of the House of Representatives Quad Committee on November 27, 2024 and claims that during this hearing and while under oath, he, together with other police officers who were investigated for drug-related offenses based on FPRRD's pronouncement, aired their grievances and claimed that lack of due process attended their dismissals. Representatives from the NAPOLCOM, including the officer who oversaw the pre-charge investigation of the dismissed police officers, Napoleon R. Arostique, Jr., were also present and admitted that the sole basis of the charges against them were FPRRD's statements.[44]

Petitioner reiterates that he was deprived of due process from the lodging of the complaint against him and throughout the proceedings before the NAPOLCOM. He insists that the proven facts and evidence on record as to the accomplishments during his tenure as PNP Regional Director of PRO 6 disprove the charge of grave neglect of duty.[45]

In its Resolution[46] dated March 31, 2025, the Court resolved to require respondents to file their comment to petitioner's Motion for Reconsideration.[47]

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In their Comment,[48] respondents, through the Office of the Solicitor General, argue that the petition violated the doctrine of hierarchy of courts. Respondents assert that direct recourse is unjustified because the issue raised, i.e., whether the OP committed grave abuse of discretion in affirming his allegedly politically motivated and unfounded dismissal from service, involves factual questions. Further, respondents point out that petitioner had another remedy, which was to file an appeal before the CA. However, the petition cannot be referred to the CA because it was filed beyond the reglementary period for appeal.[49]

In any case, respondents stress that petitioner's right to due process was not violated by the modification made in the OP Resolution. On the contrary, respondents aver that the OP modified its earlier decision precisely to conform with the Formal Charge. Respondents also note that petitioner does not challenge the allegations in the Formal Charge and that he was given an opportunity to defend himself by submitting counter-affidavits, position paper, and countervailing evidence.[50]

Issue

The issue for the Court's resolution is whether the OP committed grave abuse of discretion in resolving petitioner's administrative case.

Our Ruling

Upon a thorough and careful reexamination of the records, the Court finds merit in petitioner's arguments. Accordingly, the Court resolves to grant the Motion for Reconsideration.

The circumstances of the present case warrant the relaxation of procedural rules

Preliminarily, the Court emphasizes that while it exercises original jurisdiction over petitions for certiorari, prohibition, mandamus, quo warranto, and habeas corpus, this jurisdiction is shared concurrently with the Regional Trial Court and the Court of Appeals. As such, direct recourse to the Court is disfavored following the doctrine of hierarchy of courts.[51]

The doctrine of hierarchy of courts dictates that recourse must initially be made to the lower court that has concurrent jurisdiction with a higher court. Thus, a petition must first be filed before the lowest court with jurisdiction until eventually it reaches the Court. This concurrent jurisdiction does not give the party unfettered discretion to decide where to file a petition, as failure to comply with this requirement is a ground for its dismissal.[52]

Nevertheless, the doctrine of hierarchy of courts is not an inflexible rule. It yields to recognized exceptions such as when there are compelling reasons clearly set forth in the petition or when the issues raised are pure questions of law.[53] In Diocese of Bacolod v. Commission on Elections,[54] the Court took the opportunity to enumerate the specific instances when direct resort to the Court may be allowed, namely: (a) when there are genuine issues of constitutionality that must be addressed at the most immediate time; (b) when the issues involved are of transcendental importance; (c) cases of first impression; (d) when the constitutional issues raised are best decided by the Court; (e) when the time element presented in this case cannot be ignored; (f) when the filed petition reviews that act of constitutional organ; (g) when there is no other plain, speedy, and adequate remedy in the ordinary course of law; and (h) when the petition includes questions that are dictated by public welfare and advancement of public policy, or demanded by the broader interest of justice, or the orders complained of were found to be patent nullities, or the appeal was considered as clearly an inappropriate remedy.[55]

After a more circumspect review of the circumstances attendant to this case, the Court finds that the petition raised questions that may properly fall under those that are dictated by public welfare and advancement of public

policy, or demanded by the broader interest of justice. It bears to note that petitioner in invoking the Court's original jurisdiction highlighted that the proceedings before the NAPOLCOM, which findings was affirmed by the OP, were attended by irregularities and arbitrariness, that resulted in a deprivation of his right to due process. He pointed out that the outcome of this case have far-reaching implications not just for him but likewise for the other public servants who may be confronted with the same charges. Petitioner claimed that he raised questions of due process, fairness, and abuse of executive powers, which transcend beyond his personal interest and impact public governance. He stressed that the principle of hierarchy of courts is not absolute and may be relaxed when there are compelling reasons of public interest or policy that justify bypassing lower courts.[56]

Respondents, in opposing petitioner's submission that the doctrine of hierarchy of courts should be relaxed, argue that the issue petitioner raised involves factual questions. They contend that the petition cannot be resolved without evaluating the parties' evidence and the OP's appreciation of the same.[57]

Relevantly, in Gios-Samar, Inc. v. Department of Transportation and Communications,[58] the Court elucidated when direct recourse to it is allowed, thus:

> The doctrine of hierarchy of courts dictates that, direct recourse to this Court is allowed only to resolve questions of law, notwithstanding the invocation of paramount or transcendental importance of the action. This doctrine is not mere policy, rather, it is a constitutional filtering mechanism designed to enable the Court to focus on the more fundamental and essential tasks assigned to it by the highest law of the land.
>
> . . . .
>
> Accordingly, for the guidance of the bench and the bar, we reiterate that when a question before the Court involves the determination of a factual issue indispensable to the resolution of the legal issue, the Court will refuse to resolve the question regardless of the allegation or invocation of compelling reasons, such as the transcendental or paramount importance of the case. Such question must first be brought before the proper trial courts or the CA, both of which are specially equipped to try and resolve [the] factual questions.[59] (Emphasis supplied)

True, petitioner also raised factual issues concerning his liability for grave neglect of duty but fundamentally, the issue he presented is a question of law on grave abuse of discretion that resulted in the violation of his right to due process. The Court can resolve the same considering that the factual issues are not indispensable to the disposition of the case. Thus, based on the foregoing and considering the merits of petitioner's case, these are compelling reasons to warrant the relaxation of the strict observance of the doctrine of hierarchy of courts in order to promote rather than frustrate substantial justice.

To be sure, the Court in Gacad v. Judge Corpuz[60] discussed that:

> [T]his Court has stressed time and again that every party-litigant must be afforded the fullest opportunity to properly ventilate and argue his or her case, free from the constraints of technicalities, and that a strict application of the rules should not amount to straight-jacketing the administration of justice. Thus, this Court has held that a strict and rigid application of technicalities must be avoided if it tends to frustrate rather than promote substantial justice, as when the merit of a party's cause is apparent and outweighs consideration of noncompliance with certain formal requirements.[61] (Citations omitted)

The NAPOLCOM proceedings and the OP Decision and Resolution are void for having been conducted and issued, respectively, in violation of petitioner's right to due process

Rule 65, Section 1 of the Rules of Court provides:

> Section 1. Petition for certiorari.— When any tribunal, board or officer exercising judicial or quasi-judicial

> functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.
>
> The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46. (1a)

In United Coconut Planters Bank v. Looyuko,[62] the Court had the occasion to discuss the concept of grave abuse of discretion, thus:

> By grave abuse of discretion is meant such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse of discretion must be grave as where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility and must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law.
>
> Grave abuse of discretion refers not merely to palpable errors of jurisdiction; or to violations of the Constitution, the law and jurisprudence. It refers also to cases in which, for various reasons, there has been a gross misapprehension of facts.[63] (Citation omitted)

Thus, grave abuse of discretion exists when an act is "(1) done contrary to the Constitution, the law or jurisprudence or (2) executed whimsically, capriciously or arbitrarily, out of malice, ill will or personal bias."[64]

Notably, certiorari being a remedy limited in scope and narrow in character, the judicial inquiry is limited to the issue of whether the tribunal acted with grave abuse of discretion amounting to lack or excess of jurisdiction.[65] As such, the Court's ruling is confined to that issue.

In this case, petitioner has consistently claimed that he was deprived due process of law during the proceedings for his administrative case. Petitioner raises that irregularities attended the filing and conduct of the case against him, particularly as to the origin of the complaint and the evaluation of the evidence he adduced to support his defense. He points out that during the pre-conference hearing, it was admitted that the charges originated from FPRRD's statements and that any evidence he presented was disregarded on the ground that it is of no probative value, hearsay, and self-serving.[66]

Petitioner's contentions are meritorious.

It is to be noted that at the time of the filing of the administrative case against petitioner, NAPOLCOM Memorandum Circular No. 2016-002 (NMC 2016-002) or the Revised Rules of Procedure Before the Administrative Disciplinary Authorities and Internal Affairs Service of the PNP governs the rules that apply to all administrative cases filed against uniformed members of the PNP.[67] Rule 1, Section 2 of the same, provides:

> Section 2. Scope and Application. – These Rules shall apply to all administrative cases filed against uniformed members of the Philippine National Police (PNP) before the different administrative Disciplinary Authorities and the Internal Affairs Service (IAS).

Pertinently, NMC 2016-002 lays down the procedure to be followed in handling the administrative cases, particularly prescribing how complaints are initiated and investigations conducted, thus:

> RULE 13

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> COMMENCEMENT OF COMPLAINT
>
> Section 1. How initiated. – a) An administrative complaint may be initiated by filing a written sworn statement before the Disciplinary Authority or the IAS, accompanied by affidavits of witnesses, if any, and other evidence in support thereof.
>
> The complaint shall be accompanied by a certificate of non-forum shopping duly subscribed and sworn to by the complainant. If the complaint is not accompanied by a certificate of non-forum shopping, the complainant shall be required to submit the same within five (5) days from notice; otherwise the complaint shall be dismissed.
>
> b) If the complaint is verbally made, the Disciplinary Authority or IAS or their authorized officer shall assist the complainant in preparing his/her complaint-affidavit and other documents in support thereof.
>
> c) In case of a letter-complaint, which is neither under oath nor based on official reports, the Disciplinary Authority or IAS or their authorized officer shall require the complainant and witnesses to affirm their signatures and to execute affidavits to substantiate the complaint. Such complaint shall likewise be accompanied by a certificate of non-forum shopping.
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> d) An anonymous complaint may be the basis of a formal complaint provided that the material allegations contained therein may be validated by the Disciplinary Authority or IAS or their authorized officer.
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> . . . .
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> RULE 14
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> PRE-CHARGE INVESTIGATION
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> Section 1. Pre-Charge Investigation. – If the complaint is approved for pre-charge investigation, the Disciplinary Authority or IAS or its authorized officer shall direct its docketing in the Pre-Charge Investigation docket book by stamping on the face of the complaint and its approval, the time and date of receipt; recording and assigning a case number to it; and designate the officer who shall conduct the investigation. The investigation shall include the examination of records and documents submitted by the complainant and the PNP member complained of, as well as documents readily available from other government offices for the purpose of determining the existence of probable cause.

Based on the foregoing, Rule 13, Section 1 of NMC 2016-002 is clear that an administrative complaint may only be initiated through four modes. In the present case, the Court holds that although a Joint Complaint Affidavit[68] dated October 24, 2016 was filed against petitioner, a review of the records would show that the administrative complaint ultimately stemmed from the pronouncements of FPRRD, which led to the issuance of orders launching an investigation against petitioner and several other police officers.[69]

In the Joint Complaint Affidavit,[70] complainants Director Manuel L. Pontanal, Atty. Owen G. De Luna, Atty. Jacinto C. Cabus, and Atty. Jonathan R. Agaton, all personnel of the NAPOLCOM stated:

> 1. That pursuant to the directive of the President to Investigate [petitioner], the NAPOLCOM issued a Letter Order creating an Investigating Team and directing it to conduct investigation;
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> 2. That pursuant to the said Letter Order, the Investigating Team conducted an investigation in the following manner:
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> a) The Team coordinated with various government agencies and private individuals to secure the documents pertaining to [petitioner] . . .
>
> b) That the team evaluated and [analyzed] the said documents and found sufficient bases to administratively

> charge [petitioner] with [grave neglect of duty], [grave irregularity in the performance of duty] and [conduct unbecoming of a police officer under Rule 21, Section 2(C)(1),(2), and (5)] of NAPOLCOM (Memorandum] Circular No. 2016-002.

3. That as nominal [complainants] of the NAPOLCOM, we are adopting our Investigation Report dated October 24, 2016 and its attachments, copy of which are hereto attached and shall form an integral part of this complaint[.][71]

The Joint Complaint Affidavit is clear that the complaint was initiated pursuant to the directives of FPRRD and the result of the investigation conducted against petitioner. Interestingly, during the Pre-Hearing Conference of the case on April 28, 2017 for the stipulation of facts, when petitioner's counsel proposed to stipulate that the case stemmed from the speech of FPRRD, which mentioned petitioner as one of the five personnel allegedly involved in illegal drugs, Atty. Maximo L. Lacasa I (Atty. Lacasa), Chief of the Prosecution Team responded "admitted". Further, when petitioner's counsel stated that the proposal is that the reason for this case is because of that speech, Atty. Lacasa replied "that is a mandate, we are tasked".[72]

However, the Court finds that the July 7, 2016 statements of FPRRD can in no way be characterized as a verbal complaint as contemplated under Rule 13, Section 1(b) of NMC 2016-002. The rules require that the verbal complaint be reduced into a complaint-affidavit accompanied by other support documents, which is lacking in this case.

Further, neither can Special Order No. 16-051[73] dated August 26, 2016 which ordered the investigation of petitioner be considered to have validly initiated the complaint. A perusal of the Special Order would reveal that it is an order "to investigate the police personnel allegedly involved in illegal drug activities as pronounced by [FPRRD][.]"[74] The Special Order lacked any material allegations as to the offense allegedly committed by petitioner and only contained the general statement that he is one of the police personnel enumerated that is allegedly involved in illegal drug activities.[75]

Accordingly, none of the above may be considered to have properly commenced the administrative complaint as prescribed by Rule 13, Section 1 of NMC 2016-002.

Apart from this irregularity, it is significant to note as well that an investigation was conducted before and in fact became the basis of the complaint against petitioner. As stated in the Joint Complaint Affidavit, the October 24, 2026 Investigation Report is adopted and the report, together with its attachments form an integral part of the complaint.[76] In the said investigation report, it was mentioned that "the [i]nvestigation [t]eam recommended that further investigation be conducted . . . with respect to [petitioner] for the purpose of gathering additional evidence and for the filing of appropriate action as the evidence may warrant."[77] Clearly, before any complaint existed, an investigation has already taken place and its findings gave rise to the filing of the complaint.

Additionally, even if a pre-charge investigation was conducted after the filing of the complaint, the pre-charge investigation report essentially admitted the existence of the earlier investigation and even mentioned that the October 24, 2016 Investigation Report recommended that petitioner be charged with grave neglect of duty, grave irregularity in the performance of duty, grave misconduct, and conduct unbecoming of a police officer in his capacity as regional director of PRO 6.[78] The pre-charge investigation report likewise referred to and evaluated the findings of the earlier investigation which led the NAPOLCOM IMIS to recommend the filing of the administrative charge of grave neglect of duty against petitioner.[79]

Taken together, the foregoing circumstances show that there is a lack of genuine compliance to the procedure outlined in NMC 2016-002. Under Rule 14, Section 1 of NMC 2016-002, a pre-charge investigation is undertaken after a complaint has been filed. Here, while a pre-charge investigation did take place after the filing of the Joint

Complaint Affidavit, an earlier investigation had already been conducted before such complaint was even filed. The Court finds that this process did not faithfully comply with the rules considering that the earlier investigation preceded the complaint itself. Consequently, the pre-charge investigation which was meant to determine the existence or non-existence of probable cause[80] was seemingly reduced to a mere formality.

As astutely pointed out by Associate Justice Ricardo R. Rosario (Justice Rosario) in his Concurring Opinion, there is a clear deviation from the procedure precisely because the investigation under the Special Order was conducted absent any prior complaint, and in effect, became the very basis of the Joint Complaint Affidavit later filed by the four employees of the NAPOLCOM itself. It thus inverted the procedural sequence prescribed under the NAPOLCOM Rules of Procedure and treated the investigation as source of the complaint, rather than the complaint as the trigger of the investigation.[81]

Further, even if the October 24, 2016 Investigation could be treated as a motu proprio investigation under NMC 2016-002, none of the specific circumstances required to justify such investigation are present. Rule 6, Section 1 of NMC 2016-002 states:

RULE 6

INTERNAL AFFAIRS SERVICE

> Section 1. Authority to Conduct Motu Proprio Investigation – The IAS shall conduct motu proprio investigation on the following cases:
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> a)
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> incidents where a police personnel discharges a firearm;
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> b)
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> incidents where death, serious physical injury, or any violation of human rights occurred in the conduct of police operation;
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> c)
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> incidents where evidence was compromised, tampered with, obliterated, or lost while in the custody of police personnel;
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> d)
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> incidents where a suspect in the custody of police was seriously injured;
>
> e)
>
> incidents where the established rules of engagement have been violated.

There is no evidence on record which suggests that the aforementioned circumstances existed to warrant the conduct of a motu proprio investigation against petitioner.

While it is conceded that the essence of administrative due process is simply an opportunity to be heard, to explain one's side or to seek reconsideration of the action or ruling complained of, and that it cannot be fully equated to due process in its strict judicial sense, the observance of fairness in the conduct of any investigation is at very heart of procedural due process.[82]

Here, the Court finds a violation of petitioner's right to due process because NAPOLCOM failed to observe

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fairness in handling the administrative case against him. The unfairness manifested in NAPOLCOM's disregard of its own rules of procedure in the commencement of an administrative complaint and the conduct of investigations.

In the seminal case of Ang Tibay v. Court of Industrial Relations,[83] the Court laid down the cardinal rights of parties in administrative proceedings, thus:

- The right to a hearing, which includes the right to present one's case and submit evidence in support thereof;

- The tribunal must consider the evidence presented;

- The decision must have something to support itself;

- The evidence must be substantial;

- The decision must be rendered on the evidence presented at the hearing, or at least contained in the record and disclosed to the parties affected;

- The tribunal or body or any of its judges must act on its or [their] own independent consideration of the law and facts of the controversy and not simply accept the views of a subordinate in arriving at a decision; and

- The board or body should, in all controversial questions, render its decision in such a manner that the parties to the proceeding can know the various issues involved, and the reason for the decision rendered.[84]

As applied in this case, in addition to the disregard of the NAPOLCOM of its own rules, the administrative due process was likewise not faithfully observed in the resolution of petitioner's case. To recall, petitioner alleged that there was no real opportunity to be heard and that his right to be informed of the charges against him was violated.[85] A review of the OP Decision, which concurred with the NAPOLCOM findings, shows that notwithstanding the fact that petitioner presented and submitted evidence to refute the allegations that he failed to conduct operations as Task Group Commander of the RAIDSOTG and failed to develop COPLANs, these were not accorded consideration and were disregarded on the ground that they are of no probative value or self-serving. Among the pieces of evidence that petitioner deemed vital to his defense that were brushed aside are the graphs, tables, charts, and assessments reports to show the accomplishments of the PRO 6 – RAIDSOTG and the COPLANs he devised for the known drug syndicates.[86]

The OP found the graphs, tables, charts, and assessment reports inadmissible as evidence as these were prepared by petitioner himself. It explained that self-serving declarations are inadmissible as evidence of the facts asserted therein and that even if these were accepted as evidence, these were unsubstantiated. Similarly, although petitioner devised COPLANs, the OP found that the submission of these is indicative of his belated intention to comply with the directive.[87]

Additionally, it bears pointing out that in petitioner's Position Paper[88] before the NAPOLCOM, he submitted relevant official government records, particularly, Progress or Spot Reports[89] pertaining to the operations conducted by PRO 6 – RAIDSOTG during his term.[90] Relevantly, these reports, except for the August 26, 2015 Final Report,[91] were prepared by different police officials.[92] However, both the OP Decision and Resolution are bereft of any discussion showing that the same had been considered.[93]

As discussed by Associate Justice Rosario, NAPOLCOM and the OP were gravely remiss in their duty to genuinely consider the evidence presented by petitioner when they disregarded the Progress Reports, as these strike at the very core of petitioner's defense against the allegations that he failed to conduct operations against drug abuse and trafficking, and to arrest drug personalities. He points out that had the Progress Reports been considered, these could have disproven three of the four counts of grave neglect of duty.[94]

It is noteworthy that in administrative proceedings, technical rules of procedure and evidence are not strictly applied. As explained in Palao v. Florentino III International Inc.:[95]

> [A]dministrative bodies are not bound by the technical niceties of law and procedure and the rules obtaining in courts of law. Administrative tribunals exercising quasi-judicial powers are unfettered by the rigidity of certain procedural requirements, subject to the observance of fundamental and essential requirements of due process in justiciable cases presented before them. In administrative proceedings, technical rules of procedure and evidence are not strictly applied and administrative due process cannot be fully equated with due process in its strict judicial sense.[96] (Citation omitted)

Thus, in conformity with this liberal approach, the OP fell short of the standard prescribed in Ang Tibay that the tribunal must consider the evidence presented by the party.

Regarding the allegation of violation of the right to be informed of the charges against him, the Court finds petitioner's argument tenable. Here, petitioner consistently raised the variance in the NAPOLCOM and OP's findings on the counts of grave neglect of duty.[97] To recall, the NAPOLCOM's findings, which was affirmed by the OP Decision found petitioner guilty of nine counts of grave neglect of duty,[98] which was different from the Formal Charge.[99] The OP, in resolving petitioner's motion for reconsideration modified its decision to conform with the Formal Charge and found petitioner liable for four counts of grave neglect of duty.[100]

Respondent in refuting the allegation of violation of due process argued that there was no violation and that the OP had already modified its earlier decision and that petitioner was able to defend himself by submitting counter-affidavits, position paper, and countervailing evidence.[101]

The Court is not convinced.

Although the OP Decision was modified precisely to conform with the Formal Charge, this will not negate the fact that in the proceedings before the NAPOLCOM, petitioner was not properly notified of the allegations against him, specifically the acts and omissions attributable to each count of grave neglect of duty. Further, in the OP Decision, it considered the circumstances of taking advantage of official position and length of service as aggravating circumstances. However, such was not stated in the Formal Charge against petitioner as required by Rule 15, Section 1 of NMC 2016-002, which states that "[t]he formal charge shall contain (1) a specification of the charge/s; (2) a brief statement of material or relevant facts; and (3) the presence, if any, of aggravating circumstance/s."

It is worth stressing that in Iglesias v. Ombudsman,[102] the Court held that "in observing administrative due process, it is essential that the accused be accorded the right to be informed of the accusations against him or her. Fair play requires that the accused be equipped with the necessary information for the preparation of his or defense."[103]

Additionally, even if petitioner was able to file a motion for reconsideration, this will not cure the due process defect. The Court's pronouncements in Fontanilla v. The Commission Proper, Commission on Audit[104] is relevant, thus:

> While we have ruled in the past that the filing of a motion for reconsideration cures the defect in procedural due process because the process of reconsideration is itself an opportunity to be heard, this ruling does not embody an absolute rule that applies in all circumstances. The mere filing of a motion for reconsideration cannot cure the due process defect, especially if the motion was filed precisely to raise the issue of violation of the right to due process and the lack of opportunity to be heard on the merits remained.
>
> In other words, if a person has not been given the opportunity to squarely and intelligently answer the accusations or rebut the evidence presented against [them], or raise substantive defenses through the proper

> pleadings before a quasi-judicial body (like the COA) where [they stand] charged, then a due process problem exists. This problem worsens and the denial of [their] most basic right continues if, in the first place, [they are] found liable without having been charged and this finding is confirmed in the appeal or reconsideration process without allowing [them] to rebut or explain [their] side on the finding against him."[105] (Emphasis in the original)

Significantly, in Abutin v. San Juan,[106] the Court held that "obstinate disregard of basic and established rule of law or procedure is not mere error of judgment. It amounts to evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law. It is grave abuse of discretion correctible by certiorari."[107] Likewise, the Court has consistently adhered to the rule that where is an apparent denial of the fundamental right to due process, a decision that is issued in disregard of that right is considered void for lack of jurisdiction and may be attacked directly or collaterally.[108]

All told, the totality of circumstances show that the proceedings before the NAPOLCOM and the issuance by the OP of its Decision and Resolution were tainted with irregularities and disregarded petitioner's right to due process and rules of procedure. Thus, the OP committed grave abuse of discretion in the resolution of petitioner's administrative case.

ACCORDINGLY, the Motion for Reconsideration is GRANTED. The Resolution dated July 29, 2024 is SET ASIDE. The Decision dated May 10, 2022 and the Resolution dated March 5, 2024 of the Office of the President in OP-DC Case No. 18-A-018 are declared VOID.

SO ORDERED.

Gesmundo, C.J. (Chairperson), Zalameda, Rosario, and Marquez, JJ., concur.

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[1] Rollo, pp. 1606-1631.

[2] Id. at 1599-1600.

[3] Id. at 4-27.

[4] Id. at 28-37. The May 10, 2022 Decision in OP-DC Case No. 18-A-018 was issued by Executive Secretary Salvador C. Medialdea of the Office of the President, Malacañang.

[5] Id. at 56-62. The March 5, 2024 Resolution in OP-DC Case No. 18-A-018 was issued by Executive Secretary Lucas P. Bersamin of the Office of the President, Malacañang.

[6] Id. at 1599.

[7] Id. at 28.

[8] Id.

[9] Id. at 29.

[10] Id.

[11] Id. at 29-30.

[12] Id. at 30-31.

[13] Id. at 31.

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[14] Id. at 31-32.

[15] Id. at 32.

[16] A copy of the NAPOLCOM Decision was not attached to the Petition.

[17] Rollo, p. 32.

[18] Id. at 13.

[19] Id. at 59.

[20] Id. at 28-37.

[21] Id. at 37.

[22] Id. at 32-33.

[23] Id. at 33.

[24] Id. at 34.

[25] Id. at 34-35.

[26] Id. at 35.

[27] Id.

[28] Id. at 36.

[29] Id. at 36-37.

[30] Id. at 39-55.

[31] Id. at 56-62.

[32] Id. at 62.

[33] Id. at 60.

[34] Id.

[35] Id. at 61.

[36] Id. at 4-27.

[37] Id. at 14-15.

[38] Id. at 17-24.

[39] Id. at 1599-1600.

[40] Id. at 1599.

[41] Id. at 1606-1631.

[42] Id. at 1606-1607.

[43] Id. at 1607.

[44] Id. at 1608-1614.

[45] Id. at 1615-1627.

[46] Id. at 1652-A.

[47] Id.

[48] Id. at 1672-1689.

[49] Id. at 1677-1682.

[50] Id. at 1682-1683.

[51] Spouses Sending v. Co Uy, G.R. No. 271354, February 19, 2026 [Per J. Inting, Third Division] at 9. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website. (Citation omitted)

[52] Bayyo Association, Inc. v. Secretary Tugade, 944 Phil. 316, 331 (2023) [Per J. Singh, En Banc]. (Citation omitted)

[53] Gacad v. Judge Corpuz, 927 Phil. 259, 265 (2022) [Per J. Hernando, First Division], citing Aala v. Uy, 803 Phil. 36, 57 (2017) [Per J. Leonen, En Banc].

[54] 751 Phil. 301 (2015) [Per J. Leonen, En Banc].

[55] Id. at 331-335. (Citations omitted)

[56] Rollo, pp. 14-17, 1606-1607.

[57] Id. at 1679.

[58] 849 Phil. 120 (2019) [Per J. Jardeleza, En Banc].

[59] Id. at 131-132, 187.

[60] 927 Phil. 259 (2022) [Per J. Hernando, First Division].

[61] Id. at 265-266.

[62] 560 Phil. 581 (2007) [Per J. Austria-Martinez, Third Division].

[63] Id. at 591-592.

[64] Ocampo v. Enriquez, 798 Phil. 227, 294 (2016) [Per J. Peralta, En Banc]. (Citation omitted)

[65] Gabriel v. Petron Corporation, 829 Phil. 454, 460 (2018) [Per J. Martires, Third Division]. (Citations omitted)

[66] Rollo, pp. 14-17, 40-43, 1607-1615.

[67] NAPOLCOM Memorandum Circular No. 2016-002 (2016).

[68] Rollo, pp. 263-265.

[69] Id. at 28, 1632.

[70] Id. at 263-265.

[71] Id. at 263.

[72] Id. at 112-113.

[73] Id. at 1632.

[74] Id.

[75] Id.

[76] Id. at 263.

[77] Id. at 267.

[78] Id. at 67.

[79] Id. at 72-85.

[80] See NAPOLCOM Memorandum Circular No. 2016-002 (2016), Rule 2, sec. 1(s).

[81] J. Rosario, Concurring Opinion, p. 4.

[82] See Vivo v. Philippine Amusement and Game Corporation, 721 Phil. 34, 39 (2013) [Per J. Bersamin, En Banc]. (Citation omitted)

[83] 69 Phil. 635 (1940) [Per J. Laurel, En Banc].

[84] Id. at 642-644.

[85] Rollo, pp. 14-17.

[86] See id. at 34-35.

[87] Id.

[88] Id. at 907-924.

[89] Id. at 1356-1362, 1364-1367, 1369-1374, 1376-1381.

[90] Id. at 914-915.

[91] Id. at 1371-1374.

[92] Id. at 1356-1362, 1364-1367, 1369-1370, 1376-1381.

[93] Id. at 34, 61.

[94] J. Rosario, Concurring Opinion, p. 5.

[95] 803 Phil. 393 (2017) [Per J. Leonen, Second Division].

[96] Id. at 399.

[97] Rollo, pp. 15-17, 40-42, 911, 1621-1623.

[98] Id. at 32.

[99] Id. at 29.

[100] Id. at 61-62.

[101] Id. at 1682-1683.

[102] 817 Phil. 338 (2017) [Per J. Leonen, Third Division].

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[103]Id. at 340.

[104] 787 Phil. 713 (2016) [Per J. Brion, En Banc].

[105] Id. at 725-726.

[106] 876 Phil. 299 (2020) [Per J. Leonen, Third Division].

[107] Id. at 308.

[108] Orlina v. Ventura, 844 Phil. 334, 346-347 (2018) [Per J. Peralta, Third Division]. (Citation omitted)

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