

**SIXTO PROVIDO, PETITIONER, VS. CHIEF PHILIPPINE
CONSTABULARY, AND DIRECTOR GENERAL INP, JUDGE ADVOCATE
GENERAL, ARMED FORCES OF THE PHILIPPINES AND COL. CHARLES
S. MONDEJAR, AS ...**

G.R. No. 81066. January 29, 1990

Ponente: SARMIENTO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-81066/>

SARMIENTO, J.:

The only issue in this case is whether or not policemen are still subject to the jurisdiction of courts martial. The facts are as follows:

On March 30, 1984,[1] the sub-station commander of the Mina Police Sub-Station, District 111, Station 3022, Mina, Iloilo, preferred a criminal complaint against Felixberto Calibara, Sr. for the murder of Dexter Provideo son of petitioner, with the Municipal Trial Court of Pototan-Mina, Iloilo.

On April 3, 1994, the clerk of court transmitted an indorsement to the Philippine Constabulary/Integrated National Police Superintendent at Camp Delgado, Iloilo City, forwarding the records of the case to the military “pursuant to Presidential Decree No. 1850.”[2]

Thereafter, the INP General Court Martial RECOM 6 assumed jurisdiction over the case, and docketed the same as RECOM 6 PTI No: 24-85, entitled “PEOPLE OF THE PHILIPPINES, Plaintiff, versus PFC FELIXBERTO CALIBARA, Accused,” for Violation of Article 94 (homicide) of the Articles of War.[3]

On January 13, 1987, the petitioner, through a private prosecutor, filed a motion assailing, essentially, the jurisdiction of RECOM 6. His arguments are as follows:

x x x x x x x x

That the authority of the instant Court to try the case is under the provisions of PD 1850 which transfers the National Police Commission and the Integrated National Police (INP) from the Office of the President to the Ministry of National Defense;

That on July 10, 1985 Executive Order No. 1040 was issued by the President of the Philippines transferring back the National Police Commission under the Office of the President. As maybe directed by and under the control of the President of the Philippines, the National Police Commission shall exercise administrative control and supervision over all units of the Integrated National Police (INP) force throughout the country.

That as per Section 3 of Executive Order No. 1040: “All laws, decrees, executive orders, rules and regulations and other enactments, or parts thereof, inconsistent with the provisions of this Executive Order are hereby repealed, amended or modified accordingly.” This Executive Order took effect immediately upon its approval on July 10, 1985;

That the accused in the instant case was arraigned only on August 20, 1986 or more than one year from the

approval of Executive Order No. 1040;

That even the draft constitution which will be submitted for ratification on February 2, 1987 provides in Section 6, Article XVI as follows:

Sec. 6 — That 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. The authority of local executives over the police units in their jurisdiction shall be provided by law. (Emphasis ours)

That beginning July 10, 1985, jurisdiction over criminal cases committed by members of the INP falls under the civil courts and not under military court martial. Those committed before July 10, 1985 but were not arraigned before such date will likewise fail under civil courts. Those committed before such date and likewise arraigned before such date may be the subject of continued proceedings under court martial.[4]

On June 19, 1987, the Judge Advocate General's Office, Camp Aguinaldo, Quezon City, addressed a letter to the petitioner's counsel, denying the motion.[5]

On December 26, 1987, the petitioner came to this Court, praying for judgment as follows:

WHEREFORE, it is most respectfully prayed that an order be issued granting the Writ of Certiorari with Prohibition and preliminary injunction nullifying and setting aside the order of the respondent continuing the trial of the case by Court Martial and commanding the despondents (sic) to desist from conducting further proceedings in the said case. In the meantime, a writ of preliminary injunction be issued.[6]

The petition is bereft of merit.

Presidential Decree No. 1850, as amended by Presidential Decree No. 1952, provides as follows:

SECTION 1. Court Martial Jurisdiction over Integrated National Police and Members of the Armed Forces. — Any provision of law to the contrary notwithstanding — (a) uniformed members of the Integrated National Police who commit any crime or offense cognizable by the civil courts shall henceforth be exclusively tried by courts-martial pursuant to and in accordance with Commonwealth Act No. 408, as amended, otherwise known as the Articles of War; (b) all persons subject to military law under Article 2 of the aforementioned Articles of War who commit any crime or offense shall be exclusively tried-by courts-martial or their case disposed of under the said Articles of War; Provided, that, in either of the aforementioned situations, the case shall be disposed of or tried by the proper civil or judicial authorities when court-martial jurisdiction over the offense has prescribed under Article 38 of Commonwealth Act Numbered 408, as amended, or court-martial jurisdiction over the person of the accused military or Integrated National Police personnel can no longer be exercised by virtue of their separation from the active service without jurisdiction having duly attached before hand unless otherwise provided by law; PROVIDED FURTHER, THAT THE PRESIDENT MAY, IN THE INTEREST OF JUSTICE, ORDER OR DIRECT, AT ANY TIME BEFORE ARRAIGNMENT, THAT A PARTICULAR CASE BE TRIED BY THE APPROPRIATE CIVIL COURT.

As used herein, the term uniformed members of the Integrated National Police shall refer to police officers, policemen, firemen, and jail guards.[7]

Hence, unless waived by the President, the court-martial jurisdiction over the INP of the military is exclusive and is controlling.

The amendment entered by Executive Order No. 1040, placing the National Police Commission under the Office of the President, which "shall exercise administrative control and supervision over all units of the Integrated National Police (INP) force throughout the country"[8] (from the then Ministry of Justice), can not help the petitioner's cause. Executive Order No. 1040 merely transferred the NAPOLCOM from one office to another, and

with respect alone to administrative supervision of INP units. It did not divest courts martial of their jurisdiction. There is nothing in P.D. No. 1040 that would remotely suggest this.

The provisions of the Constitution, as follows:

Sec. 6. 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. The authority of local executives over the police units in their jurisdiction shall be provided by law.[9]

are not self-executing. This is plain from the Charter's very language ("The«State shall establish and maintain ..."). There is no automatic conversion of the INP from military to civilian. Precisely, efforts are afoot in Congress to implement the Constitution.

Obviously, the petitioner would have us consider Presidential Decree No. 1850 as having been repealed by implication by Executive Order No. 1040 and the Constitution. To begin with, implied repeals are not favored.[10] Secondly, and as we said, Executive Order No. 1040 merely realigned the administrative jurisdiction over INP personnel from the Ministry (now, Department) of Justice to the Office of the President. Needless to say, administrative control of the national police has always been lodged with the civilian government. Thirdly, and as we also indicated, the INP has yet to be fully civilianized.

WHEREFORE, the petition is DISMISSED.

No costs.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Regalado, JJ., concur.

[1] Rollo, 36, 9.

[2] Id., 10.

[3] Id., 37.

[4] Id., 11-12; emphasis in the original.

[5] Id., 16-17.

[6] Id., 7.

[7] Pres. Decree No. 1850, as amended by Pres. Decree No. 1952, sec. 1.

[8] Exec. Order No. 1040, sec. 1.

[9] CONST., art. XVI, sec. 6.

[10] Villegas v. Subido, No. L-31711, September 30, 1971, 41 SCRA 190.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.