



Republic of the Philippines
NATIONAL POLICE COMMISSION
DILG – NAPOLCOM Center
NAPOLCOM Building, EDSA corner Quezon Avenue
West Triangle, Quezon City 1104

MEMORANDUM CIRCULAR NO. 2019 – 005

**AMENDING SECTIONS 19 & 20, RULE 17, AND SECTION 4, RULE 19, OF
NAPOLCOM MEMORANDUM CIRCULAR NO. 2016-002, ENTITLED:
*REVISED RULES OF PROCEDURE BEFORE THE ADMINISTRATIVE
DISCIPLINARY AUTHORITIES AND THE INTERNAL AFFAIRS SERVICE OF THE
PHILIPPINE NATIONAL POLICE***

WHEREAS, Article XVI, Section 6 of the 1987 Philippine 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. The authority of local executives over the police units in their jurisdiction shall be provided by law”*;

WHEREAS, Section 42 of Republic Act 6975 (R.A. 6975), otherwise known as the *Department of the Interior and Local Government Act of 1990*, vested the Chief of the Philippine National Police (PNP) and the PNP Regional Directors with Summary Dismissal Powers over erring members of the PNP in the following cases:

- (a) When the charge is serious and the evidence of guilt is strong;
- (b) When the respondent is a recidivist or has been repeatedly charged and there are reasonable grounds to believe that he is guilty of the charges; and
- (c) When the respondent is guilty of conduct unbecoming of a police officer.

WHEREAS, in order to safeguard the right to due process of the parties in summary dismissal proceedings and to ensure uniformity of procedure therein, the National Police Commission (NAPOLCOM) issued on 06 August 1992 Memorandum Circular (M.C.) 92-006, entitled: *RULES AND REGULATIONS IN THE CONDUCT OF SUMMARY DISMISSAL PROCEEDINGS AGAINST ERRING PNP MEMBERS*;

WHEREAS, as an amendment to M.C. 92-006, NAPOLCOM issued on 26 October 1994 M.C. No. 94-021, entitled: *AMENDING SECTION 1, 2 AND 5 OF RULE II OF NAPOLCOM MEMORANDUM CIRCULAR 92-006 DATED 6 AUGUST 1992, ENTITLED “RULES AND REGULATIONS IN THE CONDUCT OF SUMMARY DISMISSAL PROCEEDINGS AGAINST ERRING PNP MEMBERS”*;

WHEREAS, on 31 July 1996, NAPOLCOM issued M.C. No. 96-010, entitled: *RULES AND REGULATIONS IN THE DISPOSITION OF ADMINISTRATIVE CASES*

AMENDING SECTIONS 19 & 20, RULE 17, AND SECTION 4, RULE 19, OF NAPOLCOM MEMORANDUM CIRCULAR NO. 2016-002, ENTITLED: *REVISED RULES OF PROCEDURE BEFORE THE ADMINISTRATIVE DISCIPLINARY AUTHORITIES AND THE INTERNAL AFFAIRS SERVICE OF THE PHILIPPINE NATIONAL POLICE*

INVOLVING PNP MEMBERS BEFORE THE PNP DISCIPLINARY AUTHORITIES, repealing effectively NAPOLCOM M.C. Nos. 92-006 and 94-021;

WHEREAS, NAPOLCOM M.C. Nos. 92-006, 94-021, and 96-010 all provide that the decision of Summary Dismissal Authorities imposing upon respondent a penalty of dismissal from the service shall be immediately executory, and in the event that the respondent is exonerated on appeal, he shall be considered as having been under suspension during the pendency of the appeal, with entitlement to back salaries and allowances;

WHEREAS, the abovementioned NAPOLCOM M.C.s further provide that the Decision of Summary Dismissal Authorities imposing a penalty of demotion or forced resignation shall become final and executory after ten (10) days from receipt of a copy thereof by the respondent, if no proper Motion for Reconsideration is filed within said period;

WHEREAS, in the case of *Jenny Zacarias vs. National Police Commission*¹, the Supreme Court upheld the summary dismissal proceedings against Zacarias, undertaken pursuant to NAPOLCOM M.C. 92-006, ruling: *We thus hold that under Section 42 of R.A. 6795 and Section 3 of NAPOLCOM Memorandum Circular No. 92-006, the summary dismissal of petitioner from the service is in order. And, under Section 8 of Memorandum Circular No. 92-006, such dismissal from the service is immediately executory, thus: "The decision of the PNP Summary Dismissal Authorities imposing upon respondent a penalty of dismissal from the service shall be immediately executory. However, in the event that the respondent is exonerated on appeal, he shall be considered as having been under suspension during the pendency of the appeal, with entitlement to back salaries and allowances."*

WHEREAS, Section 53 of R.A. 8551, otherwise known as the *Philippine National Police Reform and Reorganization Act of 1998*, amended Section 42 of R.A. 6975 and vested the NAPOLCOM with summary dismissal powers over the PNP, thus:

Section 53. Section 42 of Republic Act No. 6975 is hereby amended to read as follows:

"SEC. 42. Summary Dismissal Powers of the National Police Commission, PNP Chief and PNP Regional Directors. – The National Police Commission, the chief of the PNP and PNP regional directors, after due notice and summary hearings, may immediately remove or dismiss any respondent PNP member in any of the following cases:

- (a) When the charge is serious and the evidence of guilt is strong;
- (b) When the respondent is a recidivist or has been repeatedly charged and there are reasonable grounds to believe that he is guilty of the charges; and
- (c) When the respondent is guilty of a serious offense involving conduct unbecoming of a police officer.

¹ G.R. No. 119847, 24 October 2003.

AMENDING SECTIONS 19 & 20, RULE 17, AND SECTION 4, RULE 19, OF NAPOLCOM MEMORANDUM CIRCULAR NO. 2016-002, ENTITLED: *REVISED RULES OF PROCEDURE BEFORE THE ADMINISTRATIVE DISCIPLINARY AUTHORITIES AND THE INTERNAL AFFAIRS SERVICE OF THE PHILIPPINE NATIONAL POLICE*

Any member or officer of the PNP who shall go on absence without official leave (AWOL) for a continuous period of thirty (30) days or more shall be dismissed immediately from the service. His activities and whereabouts during the period shall be investigated and if found to have committed a crime, he shall be prosecuted accordingly."

WHEREAS, on 06 March 2007, NAPOLCOM M.C. No. 2007-001(*UNIFORM RULES OF PROCEDURE BEFORE THE ADMINISTRATIVE DISCIPLINARY AUTHORITIES AND THE INTERNAL AFFAIRS SERVICE OF THE PHILIPPINE NATIONAL POLICE*) was issued which expressly repealed NAPOLCOM M.C. No. 96-010, and on 07 March 2016, NAPOLCOM M.C. 2016-002 was issued which, in turn, expressly repealed NAPOLCOM M.C. 2007-001;

WHEREAS, both NAPOLCOM M.C. 2007-001 and M.C. 2016-002 do not provide for the immediately executory nature of decisions of the Summary Dismissal Authorities, unlike NAPOLCOM M.C. Nos. 92-006, 94-021, and 96-010;

WHEREAS, in the absence of a provision providing for the immediate execution of decisions of the Summary Dismissal Authorities, the Supreme Court in the case of *Police Director General Ricardo C. Marquez, in his capacity as the Chief of the Philippine National Police (PNP) in lieu of PNP Officer-in-Charge, Police Deputy Director General Leonardo A. Espina vs. PO2 Arnold Mayo*², ruled:

As correctly held by the RTC, the wording of Rule 17, Section 23 of NAPOLCOM MC No. 2007-001 that "the filing of a motion for reconsideration shall stay the execution of the disciplinary action sought to be reconsidered," does not foreclose other modes of staying the execution of a disciplinary action. x x Thus, the fact that disciplinary actions imposed by the Chief of the PNP involving demotion or dismissal may be appealed to the NAB, which only renders the same not immediately final, but also not immediately executory when an appeal has been seasonably filed with the NAB.

This Court is aware of its pronouncement in *Jenny Zacarias vs. National Police Commission* that summary dismissal from the service imposed by the Chief of the PNP under Section 42 of R.A. 6975, as amended, are immediately executory. The ruling in *Zacarias*, however, was based on NAPOLCOM MC No. 92-006, which expressly provided for the immediately executory nature of the decisions of the PNP summary dismissal authorities which includes the Chief of the PNP.

WHEREAS, given the above ruling of the Supreme Court, there is a need to amend the existing provisions of NAPOLCOM M.C. 2016-002 to be able to conform to the above ruling of the Supreme Court and to be able to comply with commitment and thrust of our Chief Executive to cleanse the ranks of the PNP;

²G.R. No. 218534, 17 September 2018.

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NOW, THEREFORE, premised on the foregoing and on the basis of the Legal Opinion³ issued by the Honorable Solicitor General Jose C. Calida dated 3 June 2019, the **COMMISSION HEREBY RESOLVED, AS IT HEREBY RESOLVES**, to **AMEND** Sections 19 and 20, Rule 17, and Section 4, Rule 19 of NAPOLCOM M.C. 2016-002 which shall now read as follows:

RULE 17

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Section 19. *Finality and Execution 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.**

Pursuant to Section 53 of R.A. 8551, the decision of the Summary Dismissal Authorities imposing upon a respondent the penalty of dismissal from the service shall be immediately executory. However, in the event that the respondent is exonerated on appeal, he shall be considered as having been under suspension during the pendency of the appeal, with entitlement to back salaries and allowances.

The decision of the Summary Dismissal Authorities imposing a penalty of demotion or suspension shall become final and executory after ten (10) days from receipt of a copy thereof by the respondent, if no proper Motion for Reconsideration is filed within said period.

³In sum, the present Opinion expresses the position of the Office that: (1) under the NAPOLCOM Circulars currently in force, particularly NAPOLCOM MC No. 2007-001 and NAPOLCOM MC No. 2016-002 and in light of the SC Decision in "PDG Marquez vs. PO2 Mayo," G.R. No. 218534, promulgated on September 17, 2018, the penalty of dismissal from the police service against a police officer imposed by the Chief, PNP or its Regional Directors is not immediately executory pending appeal to the National Appellate Board or Regional Appellate Board; However, (2) the NAPOLCOM should revert back to the wording of its previous issuances, particularly Rule II, Section 8 of NAPOLCOM MC No. 92-006 quoted above, to make decisions or resolutions of the Chief, PNP or its Regional Directors involving demotions or dismissals from the police service immediately executory, otherwise; it will have a negative impact on the commitment and thrust of the Chief Executive to cleanse the ranks of the PNP.

AMENDING SECTIONS 19 & 20, RULE 17, AND SECTION 4, RULE 19, OF NAPOLCOM MEMORANDUM CIRCULAR NO. 2016-002, ENTITLED: *REVISED RULES OF PROCEDURE BEFORE THE ADMINISTRATIVE DISCIPLINARY AUTHORITIES AND THE INTERNAL AFFAIRS SERVICE OF THE PHILIPPINE NATIONAL POLICE*

Section 20. *Motion for Reconsideration.* – The party adversely affected by the decision may file a motion for reconsideration with the Disciplinary Authority which rendered the same within ten (10) days from receipt of a copy thereof based on any of the following grounds:

- a) Newly discovered evidence which, if presented, would materially affect the decision rendered; or
- b) Errors of law or irregularities have been committed prejudicial to the substantial rights and interest of the movant; or
- c) The decision is not supported by the evidence on record.

A motion for extension of time to file a motion for reconsideration shall not be allowed.

Except for decisions of the Summary Dismissal Authorities imposing a penalty of dismissal from the service, the filing of a timely motion for reconsideration shall stay the implementation of the decision sought to be reconsidered. Only one (1) motion for reconsideration shall be allowed and the same shall be considered and decided by the Disciplinary Authority within fifteen (15) days from receipt thereof.

RULE 19

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Section 4. *Implementation of Decisions/Resolutions/Orders.*– Decisions/Resolutions/Orders which are, or which have become, executory shall be implemented through the issuance of the corresponding Implementation Order. The Implementation Order shall be addressed to the Director of the Directorate for Personnel and Records Management (Attention: Discipline, Law and Order Division), copy furnished the PNP Regional Director or equivalent supervisor of respondent's office/unit assignment, and the Director, Finance Service. The private complainant, if any, and the respondent shall likewise be furnished by the Disciplinary Authority of the Implementation Order.

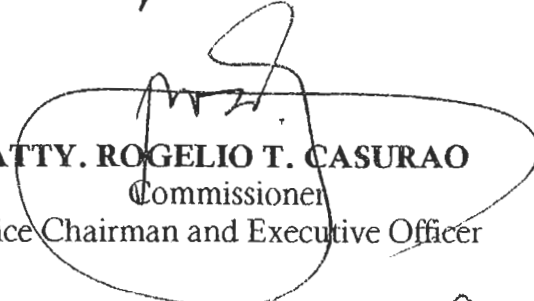
The PNP official to whom the Implementation Order is addressed must make the appropriate return to the Disciplinary Authority concerned within five (5) days from receipt of the Implementation Order, attaching a copy of the Special Order implementing the decision/resolution/order subject of the Implementation Order. Any PNP officer charged with the implementation of a decision of the Summary Dismissal Authorities who fails to implement the same shall be charged for *serious neglect of duty*.

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RESOLVED FURTHER that in the exercise of summary dismissal powers, the Summary Dismissal Authorities shall not be strictly bound by the rules on the appreciation of aggravating and mitigating circumstances prescribed under Rule 22 of NAPOLCOM M.C. 2016-002.

Issued this 28th day of August 2019, in Quezon City, Philippines.


EDUARDO M. AÑO
Chairman


ATTY. ROGELIO T. CASURAO
Commissioner
Vice Chairman and Executive Officer


FELIZARDO M. SERAPIO, JR.
Commissioner


ATTY. JOB M. MANGENTE
Commissioner


ZENONIDA F. BROSAS
Commissioner


OSCAR D. ALBAYALDE
Commissioner

ATTESTATION

I hereby attest and certify that this Memorandum Circular was approved upon due consultation and deliberation with the Members of the Commission En Banc in a meeting called for the purpose.


DIR. MYRNA DP MEDINA, B.H.D., CESE
Acting Deputy Executive Officer