

[PRESIDENTIAL DECREE NO. 1165, June 24, 1977]

FURTHER AMENDING THE APPELLATE REVIEW PROCEDURE IN MILITARY TRIBUNAL AND GENERAL COURT-MARTIAL CASES AS PROVIDED IN PRESIDENTIAL DECREE NO. 978.

WHEREAS the appellate review of case heard and tried by military tribunals, created pursuant to General Order No. 8, dated September 27, 1972, and Presidential Decree No. 39, and general court-martial, as provided in Presidential Decree No. 978, as amended by Presidential Decree No. 1042, may still be expedited and made more adequate;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order and decree as part of the law of the land the following amendments to Presidential Decree No. 978:

SECTION 1. *Initial Action on Record.*-(a) *Review by staff Judge Advocate/Legal Officer on AFP Board of Review.*-Every record of trial of military commissions or provost courts shall be forwarded to the staff judge advocate/legal officer of the convening authority for review before the latter acts thereon except in those case where the penalty imposed is-

- (i) death
- (ii) confinement of more than six (6) years; or
- (iii) fine or more than P6,000.00

which shall be directly reviewed by the Court of Military Appeals. The staff judge advocate/legal officer shall submit his opinion in writing to ne convening authority regarding the legal sufficiency of the record of trial in which there has beena finding of guilty, the appropriateness of the sentence, and any errors of law which may have been committed injuriously affecting the substantial rights of the accused. If the trial resulted in a finding of not guilty or acquittal of all the charge or charges and specifications, the review shall be limited to questions of jurisdiction.

For purposes of this initial review, the Judge Advocate General, AFP, shall, as may be directed by the Chief of Staff, AFP, create in his office as may ADP Boards of Review as he may deem proper to conduct the review of a record of trial for the Chief of Staff, AFP, in lieu of the review of his staff judge advocate. The Judge Advocate General, AFP, shall prescribe uniform rules of procedure for the AFP Boards of Review.

(c) *Rehearing.*-Where the covening authority disapproves the findings of guilty of the military commission of provost court, he may order a rehearing, except where the disapproval is based on lack of legally sufficient evidence to support the findings and sentence. If he does not order a rehearing, he may order the dismissal of the case. Where the military commission or provost court had no jurisdiction over the offense or person of the accused, the covening authority shall take the appropriate action.