

[PRESIDENTIAL DECREE NO. 978, August 17, 1976]

AMENDING THE APPELLATE REVIEW PROCEDURE IN MILITARY TRIBUNAL CASES AS PROVIDED IN PRESIDENTIAL DECREE NO. 39, AS AMENDED BY PRESIDENTIAL DECREE NO. 566, AND IN COURT-MARTIAL CASES AS PROVIDED IN COMMONWEALTH ACT NO. 408, AS AMENDED.

WHEREAS, under Presidential Decree No. 39, as amended by Presidential Decree No. 566, there is unnecessary duplication and waste of effort in the appellate review process in cases tried by military commissions and provost courts created pursuant to General Order No. 8, dated September 27, 1972, and Presidential Decree No. 39;

WHEREAS, a military justice system interpreted by a civilian appellate body will increase stability in the administration of military justice and promote confidence of military personnel and the civilian populace in the overall fairness of the military justice system;

WHEREAS, a simplified appellate review procedure for military tribunal cases will be conducive to the speedy administration of military justice;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the new Constitution of the Philippines and as Commander-in-Chief of all armed forces of the Philippines, and pursuant to Proclamations Nos. 1081 and 1104, dated September 21, 1972 and January 17, 1973, respectively, and to make more effective, just, speedy, and fair the administration of the military justice system, do hereby order and decree as part of the law of the land the following amendments to the appellate review system in military tribunal cases prescribed in Presidential Decree No. 566, and in general court-martial cases and special court-martial cases involving bad conduct discharge as provided in the pertinent Articles of War for the Armed Forces of the Philippines:

SECTION 1. *Initial Action on Record.*—(a) Review by Staff Judge Advocate/Legal Officer or AFP Board of Review.—Every record of trial by military commission or provost court shall be forwarded to the staff judge advocate/legal officer of the convening authority for review before the latter acts thereon. The staff judge advocate/ legal officer shall submit his opinion in writing to the convening authority regarding the legal sufficiency of the record of trial in which there has been a 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 specification or 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 many AFP 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.

(b) *Action by the Convening Authority.*—The convening authority may approve the findings of guilty and the sentence or such part thereof as he finds correct in law and fact. As used in this decree, the term "convening authority" refers to the person who convened the court, a commissioned officer commanding for the time being, or a successor in command.

(c) *Rehearing.*—Where the convening authority disapproves the findings of guilty of the military commission or 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: Provided, that such a dismissal shall not be final with respect to the cases which are required to be reviewed by the Military Appeals and/or the President of the Philippines as provided in Section 2 (a) and 4 of this decree. Where the military commission or provost court had no jurisdiction over the offense and person of the accused, the convening authority shall take the appropriate action.

(d) *Sentence Immediately Executory.*—All sentences of military commissions and provost courts shall be immediately executory upon approval thereof by the convening authority, except those which are required to be reviewed by the Court of Military Appeals and/or the President of the Philippines as provided in Sections 2 (a) and 4 of this decree.

SEC. 2. Review by Court of Military Appeals.— (a) *Where Required.*—The Judge Advocate General, AFP, shall refer to the Court of Military Appeals every record of trial by military commission or provost court in which the sentence as approved, or disapproved without a rehearing being ordered, by the convening authority—

(i) extends to death;

(ii) affects a general or flag officer of the Armed Forces of the Philippines;

(iii) involves dismissal of a commissioned officer of the Armed Forces of the Philippines;

(iv) confinement of more than six (6) years;

(v) five of more than P6,000.00; and

(vi) those affecting any civilian person;

Provided, however, That, except in death sentences, all sentences of military commissions and provost courts based solely upon findings of guilty of a charge or charges and a specification or specifications to which the accused pleaded guilty shall, upon approval thereof by the convening authority, not be subject to further review by the Court of Military Appeals as herein provided.

The Judge Advocate General, AFP, shall likewise refer to the Court of Military Appeals for review every record of trial by military commission or provost court—

1. *in which the sentence as disapproved, without a rehearing being ordered, by the convening authority—*