

THIRD DIVISION

[G.R. No. 162837, July 28, 2008]

MARLENE L. RODRIN, PETITIONER, VS. GOVERNMENT SERVICE INSURANCE SYSTEM, AND PHILIPPINE NATIONAL POLICE, EMPLOYEES' COMPENSATION COMMISSION,* RESPONDENTS.

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Before the Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court seeking to set aside the November 25, 2003 Decision^[1] and March 22, 2004 Resolution^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 70589.

The antecedents of the case, as summarized by the CA, are as follows:

On October 23, 2000, petitioner Marlene L. Rodrin filed a claim for compensation benefits under Presidential Decree 626, as amended, relative to the death of her husband SPO1 Felixberto M. Rodrin before the GSIS. To bolster her claim, she submitted the following documents:

1) the Line of Duty Status of the late SPO1 Felixberto M. Rodrin wherein it was declared that: SPO1 Felixberto M. Rodrin, member of Silang Municipal Police Station, Silang, Cavite and assigned as Intel Operatives was killed on or about 142130 July 2000 at Las Villas Subdivision, Biñan, Laguna while performing his assigned task; that the death of SPO1 Felixberto M. Rodrin, member [sic] this station is in line of duty on the following grounds: that subject PNCO is presently assigned at Silang Municipal Police Station, Silang, Cavite and was performing Intel operation during his death; and that the subject PNP [Philippine National Police] member was on actual performance of his assigned duty when he was killed. **(rollo p. 49)**;

2) the Sinumpaang Salaysay of both Jhoanne Rodrin, daughter of the deceased and petitioner wherein they stated that the deceased informed them that he was going to Biñan to arrest a certain "wanted" person;

3) the Investigation Report dated July 17, 2000. The pertinent portion of the findings of which reads as follows:

"Brothers Anolito Loyola y Maulanin, 45 years old, and Cesar Loyola y Maulanin, 36 years old executed their respective corroborative sworn statements to this case. Accordingly, OOA 142100H July 2000 they were driving their respective cars with SPO1 Felixberto Rodrin, their brother-in-law, riding in Cesar Loyola's car. From Carmona, Cavite intending to go to

Pacita Complex, San Pedro, Laguna they decided to pass through Las Villas de Manila, Brgy San Francisco, Biñan, Laguna. At gate II, they were allegedly permitted to enter by the duty security guards identified as ERIC MENDOZA Y CARDENAS, 26 years old and ROGELIO TAGANAP Y DAMASO, 26 years old, upon a favor given to SPO1 Felixberto Rodrin. However, they were stopped on their exit at gate 1 by the security guards whose service shot guns were pointed toward their two cars, as follows: VENUSTO DIWA YDEDIL, 50 years old, RODOLFO CREDO Y DAMASO, 21 years old, and one alias ALLAN VISTO. The Situation prompted SPO1 Felixberto Rodrin to alight from the car and approached Rodolfo Credo. They were then asked by the security guards why they persisted to enter gate II, despite the refusal of the guard. At this juncture, while they were engaged in a heated altercation, Rodolfo Credo shot SPO1 Felixberto Rodrin with a shot gun, hitting the latter on the left part of the body thereby causing his instantaneous death.

Instinctively, Cesar Loyola attempted to alight in his driven car to help SPO1 Rodrin but he was prevented by alias Allan Visto from doing so by uttering the following words, "PUTANG INA MO! KAPAG BUMABA KA PA NG KOTSE AY PAPATAYIN KA RIN NAMIN!" Following thereto, Allan Visto squeezed the trigger of his shotgun but it failed to fire. On the other hand, right after SPO1 Rodrin was shot, Anolito Loyola was able to grab the shot gun of Venusto Diwa." **(rollo p. 54)**

4) Certification by Police Supt. Danilo B. Castro attesting that the late SPO1 Rodrin was assigned as Intel Operatives.

In a letter dated December 20, 2000, the Government Service Insurance System denied petitioner's claim for compensation benefits under Presidential Decree 626, as amended, on the ground that the death of SPO1 Felixberto M. Rodrin did not arise out nor was it in the course of his employment.

Upon appeal to the ECC, the Commission affirmed the decision of the GSIS. The pertinent portion of which reads as follows:

"It is respectfully submitted that the death of the deceased was not the result of employment accident. To say that death among policemen is always compensable as long as they are on active duty, even if the cause of death is not in any way connected to their official functions, would be unfair and in danger of being abused. In the absence, therefore, of any proof that would link the death of the deceased with his employment, the claim for death benefits cannot be given due course." **(rollo p. 19)**^[3]

Petitioner then filed a Petition for Review^[4] with the CA assailing the decision of the Employees' Compensation Commission (ECC).

On November 25, 2003, the CA promulgated the presently assailed Decision which dismissed the Petition for Review.

Petitioner filed a Motion for Reconsideration^[5] but the CA denied it in its Resolution^[6] of March 22, 2004.

Hence, the instant petition raising the basic issue of whether the death of Senior Police Officer (SPO) 1 Rodrin is compensable under the provisions of Presidential Decree (P.D.) No. 626^[7] as amended.

Petitioner's basic contention is that the Government Service Insurance System (GSIS) erred in denying petitioner's claim for compensation for the death of her husband, considering that she was able to submit various documents evidencing that SPO1 Rodrin died in the line of duty or that his death arose from or happened during the course of his employment.

Petitioner avers that this Court has ruled that P.D. No. 626 should be liberally interpreted in favor of the employee because it is basically a social legislation designed to afford relief to the working men and women in society.

GSIS, on the other hand, argues that the issue raised by petitioner entails a factual determination of the circumstances surrounding the death of SPO1 Rodrin. It contends that there is a unanimous finding on the part of GSIS, ECC and the CA that SPO1 Rodrin was not in the performance of his official duty when he got killed.

GSIS also asserts that the present petition is *pro forma*, as it does not present anything new but merely reiterates the previous allegations and arguments which were already passed upon and rejected by the CA.

GSIS avers that while it commiserates with petitioner for the loss of her husband and the father of their children, the fact remains that the circumstances surrounding SPO1 Rodrin's death does not entitle petitioner to benefits under P.D. No. 626 and under current jurisprudence which calls for the protection of the financially strapped State Insurance Fund against non-deserving claims.

On its part, the Office of the Solicitor General (OSG) contends that petitioner failed to prove that her husband died while performing official functions and that he was executing an order from his employer.

The OSG avers that the report dated August 9, 2000 of the Board of Officers of the Philippine National Police (PNP), Silang Cavite stating that SPO1 Rodrin died in the line of duty cannot be considered competent evidence to establish that the said policeman indeed died while performing an official duty. The OSG claims that the report was merely based on the sworn statements of petitioner and of their daughter wherein the allegations therein are mere hearsay and inadmissible in evidence considering that SPO1 Rodrin allegedly informed them that he was going to Biñan to arrest a person wanted by law.

The OSG also questions the veracity of the mission order dated July 10, 2000 issued by the Chief of Police of Silang, Cavite which supposedly required SPO1 Rodrin to go

to Carmona, Cavite and Biñan, Laguna to conduct surveillance and monitoring activities and, if possible, arrest the persons named in said order. The OSG claims that there was no evidence to show that the Chief of Police of Silang notified or coordinated with the highest PNP or military commander in the area where the mission was to be accomplished in accordance with the policy of the PNP as contained in Circular No. 2000-016 dated December 11, 2000. The OSG concludes that the mission order was issued as an afterthought simply to support petitioner's claim for her husband's death.

The OSG further contends that the failure of the Biñan Police to state in their Report dated July 17, 2001 that SPO1 Rodrin was on official mission when he was killed puts in serious doubt petitioner's claim that her husband was killed in the line of duty. Moreover, the OSG avers that there is also nothing in the statements of the brothers-in-law of SPO1 Rodrin, who were his companions at the time that he was gunned down, that he was then on official mission. In fact, the said brothers-in-law simply asserted that they were going to Pacita Complex, San Pedro, Laguna.

Furthermore, the OSG avers that the private character of the business of SPO1 Rodrin at the time of his death is also proven by the fact that his companions were not members of any law enforcement agency.

The Court finds the petition meritorious.

For the compensability of an injury to an employee which results in his disability or death, Section 1(a), Rule III of the Amended Rules on Employees' Compensation imposes the following conditions:

1. The employee must have been injured at the place where his work required him to be;
2. The employee must have been performing his official functions; and
3. If the injury was sustained elsewhere, the employee must have been executing an order of the employer.

The first condition has been met by petitioner. The GSIS and the ECC as well as the CA accepted the claim that SPO1 Rodrin may have been in the line of duty or on a surveillance mission at the time and place of his shooting.^[8] The ECC conceded that there was no question that SPO1 Rodrin was a member of the PNP at the time of his death; and that being so, he was considered to be at his place of work regardless of whether or not he was "on or off-duty."^[9] Both assertions are correctly based on this Court's ruling in *Government Service Insurance System v. Court of Appeals*^[10] that members of the national police, unless they are on official leave, are, by the nature of their functions, technically on duty 24 hours a day, because policemen are subject to call at any time and may be asked by their superiors or by any distressed citizen to assist in maintaining the peace and security of the community.

Anent the second and third conditions, the GSIS, ECC and the CA found that SPO1 Rodrin, at the time of his death, was not in the performance of his official duties pursuant to an official order from his superior.

The settled rule is that jurisdiction of this Court over petitions for review on