

THIRD DIVISION

[G.R. NO. 139658, June 21, 2005]

PO3 WILLIAM M. MENDOZA, PETITIONER, VS. NATIONAL POLICE COMMISSION, REGIONAL APPELLATE BOARD AND THE DISTRICT DIRECTOR, SOUTHERN POLICE DISTRICT, PHILIPPINE NATIONAL POLICE, RESPONDENTS.

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

Before us for resolution is a petition for review on *certiorari*^[1] assailing the Decision^[2] dated August 12, 1999 of the Court of Appeals in CA-G.R. SP No. 46387, entitled "*The National Police Commission (NAPOLCOM) Regional Appellate Board (RAB) and District Director, Southern Police District, Philippine National Police (PNP), Petitioners, versus Hon. Fernando B. Gorospe, Presiding Judge, Regional Trial Court of Makati City, Branch 61, and PO3 William M. Mendoza, Respondents.*"

This case stemmed from the affidavit-complaint for illegal arrest, illegal detention, physical injuries, and robbery filed by Teodoro V. Conti against PO3 William M. Mendoza, now petitioner, and PO2 Angelita Ramos. Both were members of the Philippine National Police (PNP).

On the basis of the complaint, P/Chief Superintendent Orlando H. Macaspac, then District Director of the PNP Southern Police District Office (SPDO), National Capital Region, administratively charged petitioner and PO2 Ramos with grave misconduct quoted as follows:

"That on or about 2:30 a.m., 21 February 1993, inside the HI-PITCH Disco Club located at Roxas Boulevard, Pasay City, two (2) above-named respondents forcibly arrested one Teodoro Conti y Viceran, Floor Manager of Nikko's Music Lounge and at gunpoint brought the victim to the Office of the District Special Operations Unit (DSOU). While inside said Office, PO2 RAMOS ordered the victim to remove his gold necklace, then forced him to swallow it. When the victim resisted, PO2 RAMOS struck him with the butt of the gun and subsequently inserted the barrel of the gun to the mouth of the victim. Thereafter, both the above-named respondents mauled the victim, thereby inflicting multiple injuries on the face of the latter. Furthermore, the respondents placed the victim inside a detention cell and took his money amounting to NINE HUNDRED SEVENTY PESOS (P970.00), including three (3) pieces of jewelry: gold necklace, wrist watch, and gold bracelet."

Petitioner and PO2 Ramos submitted their joint-affidavit denying the charge.

On April 15, 1993, after conducting a summary proceeding, PNP Regional Director

Oscar T. Aquino rendered a Decision finding the two policemen guilty as charged and ordering their dismissal from the service.

Claiming that they were denied due process, the two police officers interposed an appeal to the Regional Appellate Board (RAB) of the National Police Commission (NAPOLCOM), National Capital Region.

On August 23, 1993, the RAB rendered its Decision affirming the Decision of the PNP Regional Director.

Petitioner then filed a motion for reconsideration on the ground that he "was not able to participate in the clarificatory hearing." However, the RAB, in its Resolution dated December 17, 1993, denied his motion for lack of merit.

Thereafter, petitioner filed with the Regional Trial Court (RTC), Branch 61, Makati City a petition for *certiorari*, docketed as Special Civil Case No. 96-074. In his petition, he alleged that he was denied due process and prayed that the RAB Decision dated August 23, 1993 and Resolution dated December 17, 1993 be annulled.

The RAB, through the Office of the Solicitor General (OSG), filed a motion to dismiss the petition, contending that petitioner failed to exhaust all administrative remedies; that before seeking judicial intervention, he should have first appealed the RAB Decision to the Secretary of the Department of the Interior and Local Government (DILG), then to the Civil Service Commission (CSC); and that contrary to petitioner's claim, he was accorded due process during the administrative proceedings before the RAB.

In its Order dated April 21, 1997, the RTC denied petitioner's motion to dismiss for lack of merit, holding that "as an exception to the rule on non-exhaustion of administrative remedies, a party may go directly to the court where x x x the controverted acts were allegedly performed without or in excess of jurisdiction for utter disregard of due process."^[3]

The RAB filed a motion for reconsideration but was denied by the RTC in an Order dated September 26, 1997.

Thereafter, the RAB, again assisted by the OSG, filed with the Court of Appeals a petition for *certiorari*^[4] alleging that the RTC, in denying the motion to dismiss, committed grave abuse of discretion amounting to lack or in excess of jurisdiction. Despite due notice, herein petitioner did not file his comment thereon.

In its Decision, the Court of Appeals granted the petition and dismissed Special Civil Action No. 96-074 filed with the RTC.

Without filing a motion for reconsideration, petitioner filed with this Court the instant petition for review on *certiorari*.

Petitioner contends that the Court of Appeals, in rendering its challenged Decision, "committed grave error of law" in dismissing Special Civil Action No. 96-074 on the ground that he failed to exhaust all administrative remedies.