

## **SPECIAL FOURTH DIVISION**

**[ CA-G.R. SP. No. 130519, November 26, 2014 ]**

**OLIVER H. ESGUERRA, PETITIONER, VS. PO2 JHOEYH M. RAMOS,  
RESPONDENT.**

### **DECISION**

**GONZALES-SISON, M., J.:\***

Assailed in this Petition for Review filed by Oliver H. Esguerra under Rule 43 of the Rules of Court are Decision No. 130284<sup>[1]</sup> dated March 20, 2013 and Resolution No. 1301066<sup>[2]</sup> dated June 4, 2013 of the Civil Service Commission (CSC). The CSC upheld the decision of the National Police Commission (NAPOLCOM) Regional Appellate Board–National Capital Region (RAB-NCR), as affirmed by the Secretary of the Department of Interior and Local Government (DILG), finding petitioner guilty of Grave Misconduct.

Petitioner is a former Senior Police Officer 2 (SPO2) of the Regional Intelligence Unit –NCR (RIU-NCR), Camp Bagong Diwa, Taguig City, Philippine National Police (PNP).

The facts, as summarized by the CSC, are:

On February 7, 2010 at 10:30 a.m., while Jhoeyh M. Ramos, Police Officer (PO) 2, was taking a bath in the female comfort room located at the Regional Intelligence Unit–National Capital Region (RIU-NCR), she noticed a metallic silver gray cellular phone (Nokia 6500) held and thrust by a hand to the two (2)-inch space between [the] comfort room's door and floor. The cellular phone was pointed at her and was being used to film/record what she was doing inside the bathroom. Ramos hurriedly dressed up and reported what happened to the RIU-NCR Administrative Office.

After the conduct of the preliminary investigation, it was discovered that Esguerra was present at the time of the incident, and that, he owns a Nokia 6500 cellular phone. Moreover, Shermaine M. Mendoza, a nine (9)-year old girl, saw Esguerra kneeling on the floor outside the female comfort room holding the cellular phone at the bottom part of the door.

Finding *prima facie* case, Esguerra was formally charged with Grave Misconduct on April 20, 2010, as follows:

*"That on February 7, 2010, above-named respondent (Esguerra) while being a member of the Philippine National Police Intelligence Group did then and there willfully and*

*unlawfully took video of PO2 Jhoeyh M. Ramos while taking a bath on or about 11:00 AM on the above-stated date, which is tantamount to Grave Misconduct pursuant to NAPOLCOM Memorandum Circular No. 2007-001.”<sup>[3]</sup>*

After the conduct of formal investigation and submission of the parties' papers and pieces of evidence, the Director of the PNP Intelligence Group (PNP-IG), Police Chief Superintendent Reginald D. Villasanta, rendered a Decision<sup>[4]</sup> dated June 19, 2010, to wit:

**WHEREFORE**, premises considered, the respondered is hereby found guilty as charged. SPO2 Oliver H Esguerra [is] hereby ordered dismissed from the police service pursuant to Sec 52 of RA 6975 as amended.

**SO ORDERED.**

Petitioner moved to reconsider the decision. However, Director Villasanta denied the motion for lack of merit on December 17, 2010.<sup>[5]</sup> Petitioner appealed to the RAB-NCR, which rendered a Decision<sup>[6]</sup> on July 15, 2011, as follows:

**WHEREFORE**, premises considered, the Appeal of respondent-appellant SPO2 Oliver H. Esguerra is DENIED for lack of merit and the assailed Decision of the Director of PNP-IG finding him culpable of Grave Misconduct and meting him th epenalty of dismissal from the service and the subsequent Order dated December 17, 2010 denying the respondent-appellant's Motion for Reconsideration for lack of merit are AFFIRMED.

**SO ORDERED.**

Dissatisfied, petitioner again appealed to the DILG Secretary, who dismissed the appeal for lack of merit in a Decision<sup>[7]</sup> dated February 14, 2012, thereby affirming the decision of RAB-NCR.

On appeal, the CSC affirmed the contested ruling of the DILG Secretary on March 20, 2013, to wit:

**WHEREFORE**, the appeal of Oliver H. Esguerra is hereby **DISMISSED**. Accordingly, the Decision dated February 14, 2012 issued by the Secretary of the Department of Interior and Local Government (DILG), Quezon City, finding Esguerra guilty of Grave Misconduct and imposing upon him the penalty of dismissal from the service with the accessory penalties of forfeiture of retirement benefits, disqualification from reemployment in the government service, cancellation of civil service

eligibility, and bar from taking any civil service examination, is **AFFIRMED.**<sup>[8]</sup>

The CSC ruled that the DILG has proven by substantial evidence that Esguerra has committed the offense of Grave Misconduct by surreptitiously filming/recording PO2 Ramos while the latter was taking a bath. The CSC gave credence to the testimony of Ramos, who said that she saw a hand holding a cellular phone directed at her. This was corroborated by nine-year old Mendoza, who alleged in a Sworn Statement dated March 26, 2010 that she identified and caught the petitioner kneeling and holding a cellular phone at the bottom part of the door of the comfort room where Ramos was then taking a bath. The CSC held that the petitioner failed to controvert the prosecution evidence. The CSC also upheld the imposition of the penalty of dismissal of the petitioner from the service with all the accessory penalties for committing Grave Misconduct pursuant to the Revised Rules on Administrative Cases in the Civil Service.

Hence, this petition. The petitioner poses the following issues:

I. WHETHER or not the petitioner is guilty of grave misconduct based on the pieces of evidence presented by the respondent; AND

II. WHETHER or not the petitioner should be dismissed from service.<sup>[9]</sup>

### **THE PETITION IS IMPRESSED WITH MERIT.**

Petitioner contends that the CSC erred in giving credence to the testimony of respondent because after the alleged video-taking, respondent saw no one outside the bathroom. Petitioner also posits that it was impossible for Mendoza, the child witness, to identify and see his face. Petitioner asserts that, assuming Mendoza saw him kneeling down, it would have been impossible to see his face because it would have been directed towards the floor. Invoking denial and alibi as defense, petitioner likewise claims that he only arrived at the scene of the incident at 11:00 in the morning, a statement corroborated by PO2 Albao and PO2 Sarabi.

At the outset, we stress that the case against is the petitioner is administrative not criminal in nature. Administrative proceedings are governed by the "substantial evidence rule," meaning a finding of guilt in an administrative case may and would issue if supported by substantial evidence that the respondent has committed the acts stated in the complaint. Substantial evidence is more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, even if other minds equally reasonable might conceivably opine otherwise. Its absence is not shown by stressing that there is contrary evidence, direct or circumstantial, on record.<sup>[10]</sup> The standard of substantial evidence is satisfied when there is reasonable ground to believe that herein petitioner is responsible for the misconduct complained of, even if such evidence might not be overwhelming or even preponderant.<sup>[11]</sup> Hence, evidence to support a conviction in a criminal case is not necessary.<sup>[12]</sup> Unlike in an administrative case,