

FIFTH DIVISION

[CA-G.R. SP NO. 74346, August 18, 2006]

**P/SGT. MEINRADO Q. PINEDA, PETITIONER, VS. DIRECTOR
GENERAL, PHILIPPINE NATIONAL POLICE (PNP FORMERLY INP)
AND NATIONAL POLICE COMMISSION (NAPOLCOM),
RESPONDENTS.**

D E C I S I O N

BARRIOS, J.:

Through this *Petition for Review* P/Sgt. Meinrado Pineda (or Pineda for brevity) seeks the reversal of the decision dated September 29, 1993 of the National Police Commission (or NAPOLCOM) and its subsequent resolution dated December 18, 1997 denying the motion for its reconsideration. NAPOLCOM had affirmed the decision of the Director General of the Integrated National Police, now Philippine National Police (or INP and PNP), where Pineda was summarily dismissed from the service pursuant to Presidential Decree No. 1707.

Pineda was appointed as a police sergeant in the INP on August 1, 1981. He was then assigned as the commander of the police station in Binuangan, Misamis Oriental.

It was during his tenure that on January 20, 1983 at about 11:45 in the morning, some thirty (30) armed men of the dissident New People's Army (or NPA) raided the municipal building of Binuangan. Fourteen (14) of these rebels went inside the building while the others were posted outside in strategic positions. They ransacked the municipal building, gathered all the municipal employees in the Mayor's Office while they took turns delivering subversive speeches and urging the employees to be their advocates. They entered the police station which is within the building, and radioman Pat. Cruz Bayucot who was the lone policeman at the post resisted them and shot one of the raiders. But he was killed, suffering seven (7) bullet wounds.

During the attack, patrolmen Pedro Babaran and Exurperio Zagudo of the Binuangan Police Station were within the vicinity of the municipal building, but they could not render any armed assistance because the municipal employees were then being held hostage. They sought help from the Sugbongcogon and Salay police stations, however by the time the reinforcements arrived the rebels were already gone, taking with them the M16 rifle of the slain policeman, one (1) cal. .38 revolver, one (1) FM5 radio, three (3) typewriters, postal money orders and other government properties.

Right after the incident, an on the spot investigation was conducted by the Provincial Commander of Misamis Oriental, PC/INP Command and other senior officers. Sworn statements were then taken from several witnesses, including Pineda and patrolmen Pedro Babaran and Exurperio Zagudo.

From the sworn statements, specifically that of Pineda, it was gathered that this police station had been placed and was on red alert status. But at around 11:45 a.m. of that day, Pineda went home to Calubo, Kinoguitan which is some six (6) kilometers away from the police station. He had gone home to eat his lunch and to prepare for a police operation they were to conduct that evening in his area of responsibility. It was only when he returned to the station at 12:00 noon that he found out about the incident.

An investigation report together with the other documents and records gathered were forwarded to the Provincial Commander/INP Police Superintendent, Camp Alagar, Cagayan de Oro City who in turn referred these to the Office of the Chief Constabulary / Director General. From the said records, the Director General, INP found Pineda guilty of Grave Misconduct under PD 1707 and ordered him dismissed from police service effective May 10, 1993. The summary dismissal was made known to Pineda through a telegraphic letter dated May 26, 1983 (Annex "B", p. 49, rollo). On June 10, 1983 Pineda filed a Petition for Reconsideration (Annex "C", pp. 59-67, rollo) addressed to the Chief Philippine Constabulary, Director General, INP. Since this has not yet been acted upon, Pineda in a letter dated November 12, 1983 (Annex "D", p. 68, rollo) adopted said petition as an appeal to NAPOLCOM.

On April 13, 1989 the Director General denied his motion or appeal for reinstatement. On September 23, 1993, the NAPOLCOM rendered its decision upholding Pineda's dismissal from police service. The dispositive portion of the assailed decision states:

WHEREFORE, premises considered, the Decision/Directive of the Director General, INP summarily dismissing respondent / appellant P/SGT MEINRADO PINEDA from the police service is hereby AFFIRMED. (pp. 27-18, rollo)

Pineda moved for its reconsideration but this too was denied for lack of merit (p. 44, rollo).

Pineda is now before Us via this petition for review wherein he raises the following as the alleged errors committed by the NAPOLCOM:

ONE. - THAT THE RESPONDENT AND NAPOLCOM ERRED IN DEPRIVING PETITIONER OF HIS EMPLOYMENT WITHOUT DUE PROCESS OF LAW.

TWO. - THAT THE RESPONDENT ERRED IN THE SUMMARY DISMISSAL OF PETITIONER AND NAPOLCOM LIKEWISE ERRED IN AFFIRMING IT.

THREE. - THAT NAPOLCOM ERRED IN HOLDING THAT NAPOLCOM RESOLUTION NO. 83-06 GOVERNED THE CONDUCT OF PETITIONER'S SUMMARY DISMISSAL.

FOUR. - THAT RESPONDENT ERRED IN UNLAWFULLY SUMMARILY DISMISSING FROM THE SERVICE PETITIONER NOT PURSUANT TO SECS. 1 & 2 OF P.D. 1707. (pp. 12-13, rollo)