



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PO2 RENY D. ESPINA,
Petitioner,

G.R. No. 257298

Present:

- versus -

CAGUIOA, J., Chairperson,
INTING,
GAERLAN,
DIMAAMPAO, and
SINGH, JJ.

NORBERTO P. GICOLE,
Respondent.

Promulgated:

February 1, 2023

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MICDC B-11
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DECISION

CAGUIOA, J.:

Law enforcers thrust their lives in unimaginable zones of peril. Yet resort to wanton violence is never justified when their duty could be performed otherwise. A "shoot first, think later" disposition occupies no decent place in a civilized society. Never has homicide or murder been a function of law enforcement. The public peace is never predicated on the cost of human life.¹

Before the Court is a Petition for Review on *Certiorari*² (Petition) filed under Rule 45 of the Rules of Court, assailing the Decision³ dated October 23, 2020 of the Court of Appeals (CA), Twenty-Second Division, and the Resolution⁴ dated May 6, 2021 of the CA Former Twenty-Second Division in CA-G.R. SP No. 08899-MIN. In the questioned Decision and Resolution, the

¹ *Yapyuco v. Sandiganbayan*, 689 Phil. 75, 83 (2012).

² *Rollo*, pp. 28-39.

³ *Id.* at 43-62. Penned by Associate Justice Richard D. Mordeno, with Associate Justices Edgardo T. Lloren and Loida S. Posadas-Kahulugan concurring.

⁴ *Id.* at 9-12.

CA dismissed petitioner PO2 Reny Espiña (Espiña) from service for having been found guilty of Grave Misconduct and Conduct Unbecoming of a Police Officer.

FACTUAL ANTECEDENTS

Norberto P. Gicole (Norberto), who lost his sons Emilio and Butch at the hands of Espiña, filed before the Office of the Ombudsman (Ombudsman) a complaint alleging Murder, Grave Misconduct, and Conduct Unbecoming of a Public Officer, against three members of the Philippine National Police (PNP), namely Espiña, PO1 Isaac Kirt Q. Sipin (Sipin), and PO3 Junie Lee Besas (Besas). The CA summarized Norberto's allegations in his complaint as follows:

Apart from the Complaint Affidavit of [Norberto], three (3) witnesses namely, Jomar Delfin, Arvie Clarito and Charine Paul Tañan issued their Affidavits in support of the filing of the cases. The three witnesses uniformly declared that private respondent PO2 Espiña (Espiña, for brevity) killed the two (2) sons of [Norberto], Emilio and Butch Gicole, on November 25, 2016 during a commotion outside the Harakhak Restobar in Wao, Lanao del Sur.

[Norberto]'s sons, the three witnesses and one Craig Emborgo were in the said restobar at around 11:00 o'clock in the evening of November 25, 2016 to unwind. After a while, Emilio went out of the restobar where incidentally two groups of people were about to engage in a fight, which prompted him to pacify them. Of the three witnesses, it was Clarito who allegedly saw a gun in Emilio's possession while pacifying the groups.

Having noticed what was happening outside, Butch Gicole (Emilio's brother) and Jomar Delfin immediately went out. Witnesses Delfin and Clarito saw that not long after, Espiña also went out of the restobar and immediately fired a warning shot. He first pointed his gun [at] Clarito before approaching and shooting Emilio, who fell down immediately. While Emilio was lying on the ground, the witnesses heard another gunshot from Espiña aimed at Emilio. None of the witnesses knew that Espiña was a police officer because neither did he identify himself as one nor was he in uniform.

Having seen what Espiña did to his brother, Butch Gicole tried to attack Espiña but before he could even come really close, Espiña fired at him, causing him to fall to the ground. Delfin tried to help Butch but Espiña also fired at him but missed. Delfin then ran far away but incidentally bumped into PO2 Sipin, who at first pointed his gun to Delfin but set him free after.

It was Charin Paul Tañan, together with one Alinor Pagul, who helped Butch and brought him to a hospital on board a motorcycle. While they were on their way, a man later identified to be Junie Lee Besas pointed a gun at them to stop them but they chose to disregard him. Butch was first brought to the Wao District Hospital but was eventually referred to another



hospital. But before reaching the second hospital, Butch died. Emilio, on the other hand, died at the very spot he was shot.⁵

On the other hand, the CA summarized the counter-affidavits of the PNP officers as follows:

All three (3) private respondents issued their Counter-Affidavits.

Among the three, it was Besas whose counter-affidavit was most detailed. He stated that as early as November 2, 2016, their team already planned an operation in Wao, Lanao del Sur to take place on November 25, 2016, against a particular target person, whose name must be withheld to avoid being compromised. Prior to the planning, the team also formulated a case build up/intelligence package against the said person. On November 24, 2016, their Chief of Office at RIU15 instructed them to serve the warrant of arrest against their target person. On November 25, 2016, they traveled from Cotabato City to Wao, arriving there at 7:00 o'clock in the evening. At about 9:45 p.m. and after coordinating with the Wao Police, Besas, Espiña and Sipin all went to Harakhak Restobar, which was frequently visited by their target person. As they entered the restobar, Besas saw one of the target person's relatives having a good time with his companions. It was next to them that Besas and his team had their table set up.

At around 11:20 p.m., Sipin went outside the restobar leaving behind Espiña and Besas. After several minutes, a woman told Espiña and Besas about an ongoing commotion outside the bar. Espiña went out ahead of Besas as the latter had to return to their table to get his cellular phones. When Besas reached outside, he saw someone, later identified as Emilio, pointing a gun to Espiña. In no time, Espiña shot Emilio. Besas saw Emilio [fall] to the ground. He also saw another man, later identified as Butch Gicole, about to attack Espiña. The impending attack prompted Espiña to shoot Butch Gicole.

For his part, Espiña maintained that while he was approaching the scene of commotion and after he fired a warning shot, Emilio turned towards him and pointed his 9mm Ingram at him. He also insisted that Butch Gicole attacked and kicked him, contrary to the account of fellow police officer Besas.

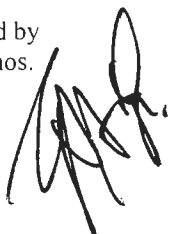
Just a minute after, two men on board a motorcycle and in hurry were coming towards the direction of Besas. Suspecting that they were Emilio's companions and that they had a gun, Besas stopped them and told them to disembark from the motorcycle. Realizing that they were not armed and were without bad intentions, Besas turned his back and allowed them to leave.⁶

Based on the affidavits, the Office of the Ombudsman - Military and Other Law Enforcement Offices (OMB-MOLEO) issued a Joint Resolution⁷

⁵ Id. at 44-45.

⁶ Id. at 45-46.

⁷ Id. at 84-89. Penned by Graft Investigation and Prosecution Officer Riza S. Fernandez, and approved by Acting Assistant Ombudsman Dennis L. Garcia and Deputy Ombudsman for MOLEO Cyril F. Ramos.



dated January 25, 2018 which dismissed all criminal and administrative charges against Espiña, Sipin, and Besas.

As regards the criminal aspect of the complaint, the OMB-MOLEO found that Norberto had earlier filed a complaint for two counts of Murder against Espiña, Sipin, and Besas with the Office of the Provincial Prosecutor of Marawi City, Lanao Del Sur arising from the same incident.⁸ As the Ombudsman and the Department of Justice (DOJ) exercise concurrent jurisdiction over employees falling outside the exclusive jurisdiction of the Sandiganbayan, the OMB-MOLEO found that the Office of the Provincial Prosecutor first acquired jurisdiction over the case to the exclusion of the Ombudsman.⁹

With regard to the administrative aspect, the OMB-MOLEO dismissed the charges as it found that Espiña, Sipin, and Besas “reacted in a way as every trained police officer should.”¹⁰ The OMB-MOLEO added that Norberto failed to overturn the presumption of regularity in the performance of official duty that Espiña, Sipin, and Besas enjoyed.¹¹

On March 16, 2018, Norberto sought reconsideration of the OMB-MOLEO's Joint Resolution. However, the OMB-MOLEO denied the motion for reconsideration through a Joint Order¹² dated May 3, 2018. The OMB-MOLEO reiterated that Norberto failed to present any evidence to show that the police officers did not properly perform their official duties.¹³

Aggrieved, Norberto filed a petition for *certiorari* under Rule 65 with the CA.

RULING OF THE CA

In a Resolution dated November 22, 2018, the CA dismissed Norberto's petition for *certiorari* as far as the criminal aspect was concerned for lack of jurisdiction,¹⁴ as it is the CA which has jurisdiction over orders directives, or decisions of the Ombudsman in criminal cases. Thereafter, in its Decision¹⁵ dated October 23, 2020, the CA partially granted Norberto's petition on the administrative aspect. While the CA affirmed the dismissal of the administrative complaints against Sipin and Besas, it found Espiña to be guilty of Grave Misconduct and Conduct Unbecoming of a Police Officer. The CA thus ordered Espiña's dismissal from the service. The dispositive portion of the Decision reads:

⁸ Id. at 87.

⁹ Id. at 87-88.

¹⁰ Id. at 89.

¹¹ Id.

¹² Id. at 91-94. Penned by Graft Investigation and Prosecution Officer Riza S. Fernandez, reviewed by Director Yvette Marie S. Evaristo, and approved by Deputy Ombudsman for MOLEO Cyril F. Ramos.

¹³ Id. at 92.

¹⁴ Id. at 47.

¹⁵ Id. at 43-62.



WHEREFORE, the Petition for *Certiorari* is partially **GRANTED**. The Joint Resolution of the Office the Ombudsman-Military and Other Law Enforcement Offices (OMB-MOLEO) dated 25 January 2018 is **SET ASIDE with respect to the administrative charges** and a new judgment thereof is rendered as follows:

1) the administrative charges against respondents PO1 Isaac Kirt Sipin and PO3 Junie Lee Besas are **DISMISSED**; but

2) respondent PO2 Reny Espiña is found **GUILTY** of Grave Misconduct and Conduct Unbecoming of a Police Officer and is hereby meted the penalty of **DISMISSAL FROM THE SERVICE**.

SO ORDERED.¹⁶

The CA found grave abuse of discretion in the OMB-MOLEO's issuance of the Joint Resolution and the Joint Order which absolved Espiña. In particular, the CA found that Espiña was guilty of Grave Misconduct by committing serious lapses in how he responded to the commotion. Specifically, the CA made the following findings:

What started it all was a commotion, defined by expert dictionaries as "a state of agitated or confused and noisy disturbance". According to those who actually saw how the commotion outside the Harakhak restobar started, two groups of men were about to figure in a fight when Emilio, who happened to be outside too, tried to pacify them. One witness saw that Emilio had a gun in his possession while doing the pacification. Butch was, however, inside the restobar when this happened. In short, neither Emilio nor Butch was directly involved in the commotion. Private respondents submitted no evidence to the contrary. The witnesses said that the commotion eventually subsided when one of the groups decided to leave.

Espiña and Besas were inside the restobar when the commotion started. Sipin, on the other, was outside the restobar but it was not established that he was anywhere near the scene of commotion. Espiña and Besas only learned about the commotion through an unidentified woman who approached and told them. Upon knowing, Espiña went outside ahead of Besas, who had to go back to their table to get his cellular phones. None of the private respondents, however, was able to describe the commotion in more certain terms, *e.g.*[,] the hostility that developed, the number of protagonists, whether they were armed and dangerous and how far gone were those involved except Espiña's uncorroborated general allusion that when he reached outside, the commotion was already well advanced in development and perilous.

Problem was that Espiña, who was in civilian clothes and who did not identify himself as a police authority, immediately fired a warning shot to a stunned crowd.

¹⁶ Id. at 61.



According to Espiña, after his warning shot, Emilio turned towards him and pointed a gun at him. Right there and then, Espiña fired at Emilio, who immediately fell to the ground soaked in his own blood. This part Besas allegedly saw. The number of gunshots from Espiña to Emilio: three according to the allegation in the “blow by blow” account of the Wao Chief of Police in his transmittal letter to the Provincial Prosecutor of Lanao del Sur; two according to witnesses Delfin and Clarito; and one according to Besas, was, however, established by the Post Mortem Certificate as a single fatal gunshot to the thorax.

Upon seeing his brother f[a]ll bloody to the ground, Butch rushed in attack mode. Besas saw that Butch was about to attack Espiña when the latter shot Butch. Espiña, however, claimed that Butch kicked him so he fired at him. Per Post Mortem Certificate, Butch sustained a fatal single gunshot to his left chest. Emilio died on the spot while Butch died a little bit later before reaching the hospital.

We must emphasize that the nature of the commotion is relevant and material to determine the appropriateness of the police authorities’ intervention. The rule that the police authorities’ response to any civil disturbance must be appropriate and calculated is written all over jurisprudence. In the words of Earl Warren, as cited in the PNP Operational Procedures, the police must obey the law while enforcing the law. This is particularly true because, in the performance of their tasks, our police personnel are sometimes placed in a bad light due to some operational lapses. There ought to be a genuine ground to justify the belief that the persons involved in the commotion are imminently dangerous or that there is reasonable fear for the safety of the responding law officer as would require the use of necessary force or a more serious response. Hence, the necessity to fully characterize the commotion.

The established rule is that law enforcers are authorized to use force only a) in an extreme case when he is attacked or is the subject of resistance and b) when he finds no other means to comply with his duty or cause himself to be respected and obeyed by the offender. The right to kill an offender, however, is not absolute, and may be used only as a last resort, and under circumstances indicating that the offender cannot otherwise be taken without bloodshed.

It is glaring that PO2 Espiña’s response to the situation at hand was not only laden with irregularities but excessive and an overkill.¹⁷

The CA elaborated that Espiña failed to comply with the established rules as prescribed in the Revised PNP Operational Procedures¹⁸ (PNP Operational Procedures) which prohibit police officers from firing a warning shot, and direct police officers to use peaceful means to warn or influence offenders to peacefully give up.¹⁹ Still citing the Revised PNP Operational Procedures, the CA stated that what Espiña should have done was to first issue a verbal warning, not a warning shot, and identify himself as a police officer to give an opportunity to the offender to surrender. Moreover, the CA found

¹⁷ Id. at 52-53.

¹⁸ Accessed at <https://pnp.gov.ph/wp-content/uploads/2021/05/Operational_Procedures.pdf>.

¹⁹ *Rollo*, p. 54.

that Espiña clearly used excessive force as far as Butch Gicole (Butch) was concerned, as the latter was unarmed and Espiña immediately fired at him when he was about to attack. Because of the foregoing, the CA thus found Espiña's claim of self-defense to be unavailing.

In addition to Grave Misconduct, the CA also found Espiña to be guilty of Conduct Unbecoming of a Police Officer, as his "[a]ctions resulting from the exercise of unsound discretion leading to the unjustifiable demise of two victims reasonably impairs the image of police service."²⁰

The CA, however, affirmed the dismissal of the administrative charges as far as Sipin and Besas were concerned, as there was no evidence that they were part of the shooting of Butch and Emilio.²¹ There was also no allegation or proof that Sipin and Besas acted in conspiracy with Espiña, and thus the latter's acts cannot be imputed to them.²²

Espiña sought reconsideration of the Decision, but the CA denied the same in a Resolution²³ dated May 6, 2021.

ISSUE

The sole issue in this case is whether the CA erred in finding Espiña guilty of Grave Misconduct and Conduct Unbecoming of a Public Officer.

RULING OF THE COURT

The Petition is not meritorious.

"Misconduct has been defined as an intentional wrongdoing or a deliberate violation of a rule of law or standard of behavior."²⁴ Misconduct, however, could be classified as either simple or grave, and only misconduct that can be considered as grave merits the ultimate penalty of dismissal. Thus:

To warrant dismissal from the service, the misconduct must be grave, serious, important, weighty, momentous, and not trifling. The misconduct must imply wrongful intention and not a mere error of judgment and must also have a direct relation to and be connected with the performance of the public officer's official duties amounting either to maladministration or willful, intentional neglect, or failure to discharge the duties of the office. In order to differentiate gross misconduct from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule, must be manifest in the former.²⁵
(Underscoring supplied)

²⁰ Id. at 60.

²¹ Id. at 61.

²² Id.

²³ *Rollo*, pp. 9-12.

²⁴ *Rejas v. Office of the Ombudsman*, G.R. Nos. 241576 & 241623, November 3, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66959>>.

²⁵ *Commission on Elections v. Mamalinta*, 807 Phil. 304, 311 (2017).



In other words, the misconduct merits the penalty of dismissal only “where the elements of corruption are present including a clear intent to violate the law, or a flagrant disregard of established rules.”²⁶

The Court agrees with the CA that there exists substantial evidence to hold Espiña liable for Grave Misconduct.

Rule 7 of the PNP Operational Procedures governs the use of force during police operations. It explicitly provides that the use of excessive force is prohibited,²⁷ and that **a verbal warning is a prerequisite** before an officer could use any force against an offender.²⁸ The issuance of a verbal warning is excused only “in cases where threat to life or property is already imminent, and there is no other option but to use force to subdue the offender.”²⁹ The PNP Operational Procedures clearly outline a staggered approach on the use of force as Rule 7.4 only authorizes the use of non-deadly weapons, such as a baton, pepper spray, and stun gun, when the person to be apprehended is “violent or threatening.” Even when dealing with an armed offender, the PNP Operational Procedures mandate the use of “only such necessary and reasonable force x x x as would be sufficient to overcome the resistance put up by the offender; subdue the clear and imminent danger posed by him; or to justify the force/act under the principles of self-defense, defense of relative, or defense of stranger.”³⁰

In this case, based on the counter-affidavits of the police officers themselves, what Espiña did was to immediately fire a warning shot — and not issue a mere verbal warning — when he responded to the commotion, the severity of which was, as mentioned, not clear based on any of the police officers’ narrations.

Not only was the gradation of force outlined in the PNP Operational Procedures not followed, Espiña also violated an express prohibition in the same rule, stating that “police shall not use warning shots during police intervention operations.”³¹

The foregoing shows Espiña’s flagrant disregard of established rules which aggravates his misconduct from simple to grave. Espiña’s actions thus do not, as he claims in his Petition, constitute mere faithful performance of his duties.³²

Espiña also asserts that, as a public officer, he is entitled to a presumption that he performed his duties in a regular manner.³³ The fault here,

²⁶ *Rejas v. Office of the Ombudsman*, supra note 24.

²⁷ PNP Operational Procedures, Rule 7.1.

²⁸ PNP Operational Procedures, Rule 7.2.

²⁹ PNP Operational Procedures, Rule 7.3.

³⁰ PNP Operational Procedures, Rule 7.5.

³¹ PNP Operational Procedures, Rule 6.3.

³² *See rollo*, p. 35.

³³ *Id.*

however, lies in the fact that Espiña wants a *presumption* to eclipse clear and established findings of fact that he did not perform his duties regularly. The Court has repeatedly emphasized that “the regularity of the performance of their duty could not be properly presumed in favor of the policemen [when] the records [are] replete with indicia of their serious lapses.”³⁴ “Where there is any hint of irregularity committed by the police officers x x x there can be no presumption of regularity of performance in their favor.”³⁵

Quoting *U.S. v. Santos*,³⁶ Espiña counters that the courts cannot “expect too much of an ordinary [police officer]. He [or she] is not presumed to exercise the subtle reasoning of a judicial officer. Often he [or she] has no opportunity to make a proper investigation but must act in haste on his [or her] own belief to prevent the escape of the criminal.”³⁷

It must be emphasized, however, that the CA and this Court are not measuring Espiña’s actions based on a judicial standard that he may be excused for not knowing. As illustrated above, Espiña’s acts are being juxtaposed with the standard actions expected from a police officer, as outlined in his profession’s own operational procedures. As the Court stated in *Yapyuco v. Sandiganbayan*³⁸:

the actuations of x x x responding law enforcers must inevitably be ranged against reasonable expectations that arise in legitimate course of performance of policing duties. **The rules of engagement, of which every law enforcer must be thoroughly knowledgeable and for which he must always exercise the highest caution,** do not require that he should immediately draw or fire his weapon if the person to be accosted does not heed his call.³⁹ (Emphasis supplied)

In this connection, it is timely to be reminded of the Court’s disquisitions in *People v. Ulep*:⁴⁰

The right to kill an offender is not absolute, and may be used only as a last resort, and under circumstances indicating that the offender cannot otherwise be taken without bloodshed. The law does not clothe police officers with authority to arbitrarily judge the necessity to kill. It may be true that police officers sometimes find themselves in a dilemma when pressured by a situation where an immediate and decisive, but legal, action is needed. However, it must be stressed that the judgment and discretion of police officers in the performance of their duties must be exercised neither capriciously nor oppressively, but within reasonable limits. In the absence of a clear and legal provision to the contrary, they must act in conformity with the dictates of a sound discretion, and within the spirit and purpose of the law. **We cannot countenance trigger-happy law enforcement officers who indiscriminately employ**

³⁴ *People v. Catalan*, 699 Phil. 603, 621 (2012).

³⁵ *Id.*

³⁶ 36 Phil. 853 (2012).

³⁷ *Id.* at 855. See *rollo*, p. 36.

³⁸ *Supra* note 1.

³⁹ *Id.* at at 112.

⁴⁰ 395 Phil. 78 (2000).

force and violence upon the persons they are apprehending. They must always bear in mind that although they are dealing with criminal elements against whom society must be protected, these criminals are also human beings with human rights.⁴¹ (Emphasis and underscoring supplied)

It is clear from the foregoing, therefore, that Espiña is guilty of Grave Misconduct.

On top of this, however, it may also be said that his actions constitute Conduct Unbecoming of a Police Officer. Memorandum Circular No. (MC) 94-022⁴² or the “Revised Rules and Regulations in the Conduct of Summary Dismissal Proceedings Against Erring PNP Members” of the National Police Commission lists “conduct unbecoming of a police officer” as a ground for dismissal of a police officer. MC 94-022 defines “conduct unbecoming of a police officer” as:

any behavior or action of a PNP member, irrespective of rank, done in his [or her] official capacity, which, in dishonoring or otherwise disgracing himself [or herself] as a PNP member, seriously compromises his [or her] character and standing as a [gentleman or a lady] in such a manner as to indicate his [or her] vitiated or corrupt state of moral character; it may also refer to acts or behavior of any PNP member in an unofficial or private capacity which, in dishonoring or disgracing himself [or herself] personally as a gentleman [or a lady], seriously compromises his [or her] position as a PNP member and exhibits himself [or herself] morally unworthy to remain as a member of the organization.⁴³

Based on this standard, the Court is convinced that Espiña is also guilty of Conduct Unbecoming of a Police Officer. As the CA correctly and succinctly explained:

Obviously, the charges of negligence, disregard of operational rules and incompetence in the performance of official duties fall within the scope of conduct unbecoming a police officer. Notably, the image of the Police service is mirrored in the conduct of its personnel at all times. Thus, police officers must exhibit a high sense of integrity especially in the performance of their official duties. **Actions resulting from the exercise of unsound discretion leading to the unjustifiable demise of two victims reasonably impairs the image of police service.** Government employees who renege on their duties are guilty of conduct unbecoming. The Supreme Court has often declared that any act that falls short of the exacting standards for public office shall not be countenanced. Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives.⁴⁴ (Emphasis supplied)

All told, the Court holds that the CA was correct in dismissing Espiña from the service as he was guilty of Grave Misconduct and Conduct

⁴¹ Id. at 91-92.

⁴² Accessed at <<https://napolcom.gov.ph/pdf/mc%2094-022.pdf>>.

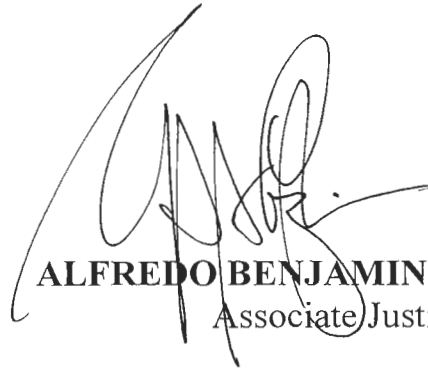
⁴³ REVISED RULES AND REGULATIONS IN THE CONDUCT OF SUMMARY DISMISSAL PROCEEDINGS AGAINST ERRING PNP MEMBERS, Rule II, Sec. 3(C).

⁴⁴ *Rollo*, p. 60.

Unbecoming of a Public Officer. After all, “[l]awlessness is to be dealt with according to the law. Only absolute necessity justifies the use of force.”⁴⁵

WHEREFORE, premises considered, the Petition is hereby **DISMISSED**. The Decision dated October 23, 2020 and Resolution dated May 6, 2021 of the Court of Appeals in CA-G.R. SP No. 08899-MIN, finding petitioner PO2 Reny D. Espiña guilty of Grave Misconduct and Conduct Unbecoming of a Public Officer, and dismissing him from the service, are hereby **AFFIRMED**.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'ALFREDO BENJAMIN S. CAGUIOA', is written over the printed name and title.


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

⁴⁵ *Yapyuco v. Sandiganbayan*, supra note 1, at 115.

WE CONCUR:



HENRI JEAN PAUL B. INTING
Associate Justice



SAMUEL H. GAERLAN
Associate Justice



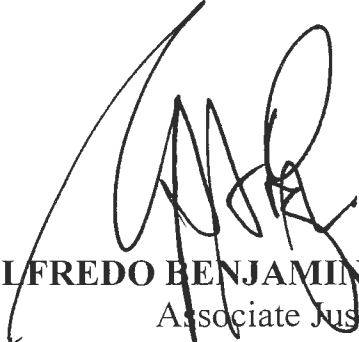
JAPAR B. DIMAAMPAO
Associate Justice



MARIA FILOMENA D. SINGH
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice

