



Republic of the Philippines
Sandiganbayan
Quezon City

SEVENTH DIVISION

MINUTES of the proceedings held on October 24, 2022.

Present:

Justice MA. THERESA DOLORES C. GOMEZ-ESTOESTA -----	Chairperson
Justice ZALDY V. TRESPESES -----	Member
Justice GEORGINA D. HIDALGO -----	Member

The following resolution was adopted:

CRIMINAL CASE NO. SB-12-CRM-0164 to 0167–

PEOPLE V. JESUS A. VERZOSA, ET. AL.

This resolves the following:

1. Accused Avensuel G. Dy's "MOTION FOR RECONSIDERATION" dated October 2, 2022;¹ and,
2. Prosecution's "COMMENT (to accused Dy's Motion for Reconsideration dated 2 October 2022)" dated October 6, 2022.²

GOMEZ-ESTOESTA, J.:

This resolves Accused Avensuel G. Dy's *Motion for Reconsideration* and the Prosecution's *Comment* thereto.

ACCUSED DY'S
MOTION FOR RECONSIDERATION

Accused Dy moves for the reconsideration of the court's Resolution³ dated September 28, 2022 which denied his *Omnibus Manifestation and Motion*. He requests the court to take a second look on his motion to drop the criminal charges against him and consider the case of *Gaspar vs. Field Investigation Office of the Ombudsman*.⁴ In the said case, the Supreme Court exonerated Accused Gaspar from the administrative charges against him as he merely signed the WTCD Report, to quote:

¹ Records, Vol. 33, pp. 449-451.
² Records, Vol. 33, pp. 467-472.
³ Records, Vol. 33, pp. 431-439.
⁴ G.R. No. 229032, June 16, 2021.

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The rulings in Bernaldo, Villafuerte, and Lukban apply here. The findings of the Ombudsman were not only mere conjectures but they were also contrary to the **clear wording of the WTCD Report**, the Ombudsman's own conclusions, and the Court's ruling in Piano. To repeat, the WTCD Report clearly reflected that the helicopters failed to comply with the NAPOLCOM specifications. Gaspar cannot therefore be held administratively liable for having signed an **accurate** report as there is nothing in the WTCD Report which shows that Gaspar distorted or concealed the truth, or that he caused serious damage to the government or that he abused his authority as the WTCD Report reflected that the helicopters failed to meet the NAPOLCOM specifications. (emphasis from Accused Dy's Motion)

Accused Dy argues that the **Inspection Report Form⁵ ["IRF"]** was similarly worded as the WTCD Report, which both reported that the helicopters failed to comply with the NAPOLCOM specification, as quoted:

Ergo, the Inspection Report Form (IRF)) which is similarly worded with that of the WTCD Report is also **accurate** as it clearly reflected that the helicopters failed to comply [with] the NAPOLCOM specifications, and therefore, is not **"false, or untrue"**; or that accused Dy distorted or changed the tenor of his report; or concealed the truth of his report; or abused his authority; because both reports (the WTCD and the IRF) showed that the helicopters failed to comply [with] the NAPOLCOM Specification[s]. (emphasis from Accused Dy's Motion)

He concludes that there was no other evidence showing that the IRF is a distortion of the WTCD Report. Hence, he reiterates that the criminal charges against him should be dismissed.

PROSECUTION'S COMMENT

The Prosecution avers that the *Motion for Reconsideration* of Accused Dy is a mere rehash of his arguments in his earlier *Omnibus Motion*, which was already resolved by the court in its Resolution⁶ dated September 28, 2022.

The Prosecution also highlights that the IRF did not indicate that the helicopters failed to comply with the NAPOLCOM specifications. In contrast, the IRF clearly reflects that there was no statement to that effect as shown below:

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⁵ Exhibits "MM-348" / "J-441" / "K-139" / "BB" / "36-Verzosa" / "27-Lukban and Antonio".

⁶ Records, Vol. 33, pp. 431-439.

FINDINGS/COMMENTS/RECOMMENDATIONS:

~~Inspection conducted by the undersigned together with the Technical and Acceptance Committee of TDRD found the items stated in the approved PNPPOL/O(M)220909-017 to be in good order/condition and in accordance conforming to the approved NAPOLCOM specifications.~~

Inspected By:

~~PO3 Avenuel G Dy~~
Property Inspector

Date Inspected: November 13, 2009

Inc:INSP02/DY

NOTED:
FOR THE DIRECTOR, DC

~~JANSUE N LUKBAN~~
Police Senior Superintendent
Chief, Management Div, ODC

Lastly, the allegation that the IRF was not “false or untrue” is evidentiary in nature. Thus, it should be presented by Accused Dy in his defense during trial.

THE COURT’S RULING

The *Motion of Reconsideration* of accused Dy is bereft of merit. The court has already discussed in depth in its Resolution⁷ dated September 28, 2022 that the twin cases of *Lukban v. Ombudsman*⁸ and *Lukban vs. Sandiganbayan*⁹ are only relevant for accused Lukban, not accused Dy.

Similarly, Accused Dy cannot rely on the case of *Gaspar vs. Field Investigation Office of the Ombudsman*¹⁰ to support the dismissal of the criminal charges against him. As pointed by the Prosecution, there appears to be a stark difference between the contents of the WTCD Report¹¹ and the IRF¹² signed by Accused Dy.

In *Gaspar vs. Field Investigation Office of the Ombudsman*,¹³ the Supreme Court observed that the WTCD Report itself shows that helicopters failed to comply with the NAPOLCOM Specifications, to quote:

A plain reading of the WTCD Report shows that it actually reflected the non-compliance of the helicopters with the NAPOLCOM specifications. As shown above, on the requirement that the helicopters should be air conditioned, **the WTCD Report indicated that the helicopters were not air-conditioned with a remark that they were standard helicopters.** Further, as to the requirement on **endurance**, the report states that there was **no available data** to determine compliance with this. (emphasis supplied)

In contrast, the IRF prepared and signed by Accused Dy did not contain any findings that the helicopters failed to comply with the NAPOLCOM

⁷ Records, Vol. 33, pp. 431-439.

⁸ G.R. No. 238563, February 12, 2020.

⁹ G.R. Nos. 254312-15, March 2, 2022.

¹⁰ G.R. No. 229032, June 16, 2021.

¹¹ Exhibit “MM-344” to “MM-345.”

¹² Exhibits “MM-348” / “J-441” / “K-139” / “BB” / “36-Verzosa” / “27-Lukban and Antonio”.

¹³ G.R. No. 229032, June 16, 2021.

Specifications. The “Findings/Comments/Recommendations” specifically states that the inspection that Accused Dy conducted found the items to be in “good order/condition and in accordance/conforming to the approved NAPOLCOM specifications”.

Significantly, the IRF does not refer to the WTCD Report No. T2009-04A in concluding that the items were in accordance with the NAPOLCOM specifications. Instead, the findings in the IRF were clearly the result of the inspection conducted by Accused Dy as a Property Inspector of the Directorate for Comptrollership. The IRF, in its entirety, is reproduced below:



Republic of the Philippines
DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT
NATIONAL POLICE COMMISSION
PHILIPPINE NATIONAL POLICE
DIRECTORATE FOR COMPTROLLERSHIP
Camp Crame, Quezon City

ANNEX JJ-6

INSPECTION REPORT FORM

SUPPLIER DATA:

A. Name of Dealer/Supplier MANILA AEROSPACE PRODUCTS TRADING CORPORATION
B. Address Hangar 10, Manila Domestic Airport, Pasay City
C. Invoice Number 1719 Date Sept 24, 2009
D. Amount Delivered P 52,492,500.00 (50% of PO amount) Items Delivered Helicopter
E. First Line Item 2 Units Standard Light Police Operational Helicopter
F. Last Line Item xxx nothing follows xxx

AUTHORITY/BASIS

G. PO/VO Number PNPPO#O(M)220909-017 Date Sept 22, 2009
H. Amount of PO/VO P 104,985,000.00 Delivered at PNP-LSS
I. Received By PSSupt EDGAR B PAATAN Date Received Sept 24, 2009

MEMBERS OF THE ACCEPTANCE/INSPECTION COMMITTEE

NAMES	DESIGNATIONS
<u>PCSupt GEORGE Q PIANO, CEO VI</u>	<u>Chairman</u>
<u>PSSupt LUIS L SALIGUMBA, CSEE</u>	<u>Member, DRD</u>
<u>PSSupt JOB NOLAN D ANTONIO, CSEE</u>	<u>Member, ODL</u>
<u>PSupt EDGAR B PAATAN</u>	<u>Member, LSS</u>

J. Technical Inspector TDRD
K. Purpose For use of PNP-WIDE
L. ALOBS Number 09-09-3757

FINDINGS/COMMENTS/RECOMMENDATIONS

Inspection conducted by the undersigned together with the Technical and Acceptance Committee of TDRD found the items stated in the approved PNPPO#O(M)220909-017 to be in good order/condition and in accordance/conforming to the approved NAPOLCOM specifications

Inspected By:

PO3 Arsenio G Dy
Property Inspector

Date Inspected November 13, 2009
In INSP02/DY

NOTED:
FOR THE DIRECTOR, DC


MANSUE N LUKBAN
Police Senior Superintendent
Chief, Management Div, ODC

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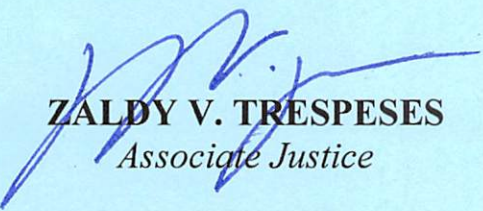
As demonstrated, the WTCD Report and the IRF are independent reports made by different Directorates of the PNP. Therefore, the exoneration of the administrative charges against Accused Gaspar in *Gaspar vs. Field Investigation Office of the Ombudsman*¹⁴ cannot be invoked by Accused Dy to move for the dismissal of the criminal charges against him.

WHEREFORE, the *Motion for Reconsideration* filed by accused Avensuel G. Dy praying for the dismissal of the charges filed against him is **DENIED**.

SO ORDERED.


MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Associate Justice, Chairperson

WE CONCUR:


ZALDY V. TRESPES
Associate Justice


GEORGINA D. HIDALGO
Associate Justice

¹⁴ G.R. No. 229032, June 16, 2021.