

SECOND DIVISION

G.R. No. 198140 – IA1 ERWIN L. MAGCAMIT, Petitioner, v. INTERNAL AFFAIRS SERVICE - PHILIPPINE DRUG ENFORCEMENT AGENCY, as represented by SI V ROMEO M. ENRIQUEZ and DIRECTOR GENERAL DIONISIO R. SANTIAGO, Respondents.

Promulgated:

25 JAN 2016



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DISSENTING OPINION

LEONEN, J.:

I respectfully dissent. There was substantial evidence to prove that Investigation Agent 1 Erwin L. Magcamit (IA1 Magcamit) shared in the money extorted from a detainee of the Philippine Drug Enforcement Agency (PDEA). IA1 Magcamit, therefore, was correctly dismissed from the service for grave misconduct.

I

This is a Petition for Review on Certiorari¹ assailing the Court of Appeals Decision² and Resolution,³ which denied the appeal of IA1 Magcamit. The Court of Appeals affirmed the Civil Service Commission Resolution dated March 17, 2009, which, in turn, affirmed the Memorandum⁴ dated May 20, 2008 of the Internal Affairs Service of the PDEA.⁵ The Internal Affairs Service found IA1 Magcamit guilty of grave misconduct and recommended his dismissal from the service.⁶

II

¹ *Rollo*, pp. 32–69.

² *Id.* at 72–89. The Decision was penned by Associate Justice Mariflor P. Punzalan-Castillo and was concurred in by Associate Justices Josefina Guevara-Salonga and Franchito N. Diamante of the Fourth Division.

³ *Id.* at 90–91. The Resolution was penned by Associate Justice Mariflor P. Punzalan-Castillo and was concurred in by Associate Justices Josefina Guevara-Salonga and Franchito N. Diamante of the Fourth Division.

⁴ *Id.* at 139–144. The Memorandum was penned by Special Investigator V Romeo M. Enriquez.

⁵ *Id.* at 72, Court of Appeals Decision.

⁶ *Id.* at 144, Internal Affairs Service Memorandum.



Dionisio R. Santiago, Jr. (Director General Santiago), Former Director General of the PDEA, received a letter⁷ from a certain “Delfin.” According to Delfin, several PDEA agents assigned in the Special Enforcement Service were involved in corrupt activities. Among the PDEA agents named was “Erwin.”⁸ The Letter reads:

Dear Gen. Santiago[,]

Kagalanggalang na Heneral Santiago ng PDEA ako po ay sumulat sa inyo upang ipaalam ang mga katiwalian na ginagawa ng ilan ninyong mga ahente na nakakasira sa inyong ahensya dahil ako ay biktima at saksi sa mga illegal na Gawain ng inyong mga ahente at particular na naka assign sa S.E.S..

Ang mga sumusunod ay nakilala ko po sa pangalang Caloy, Ryan, Chito, Erwin, Alfaro, PO2 Bariuad, PO3 Peter, at isang Kalbong pulis na kaya kong kilalanin kung sila ay makakaharap ko ng personal.

Ako po ay patuloy na makikipag-ugnayan sa inyong ahensya sa pamamagitan ng pagtawag sa inyong telepono at handa rin akong harapin ang mga taong ito kung inyong mamarapatin upang sila ay aking maituro. Ako po ay patuloy na makikipagugnayan sa inyo hinggil sa usaping ito sa pamamagitan ng pagtawag ko sa inyo. Iiwanan kopo [sic] ang cell number ko, upang magpatuloy po an gating [sic] komunikasyon. Tatawag po ako sa inyong opisina April 24, 2008 sa eksaktong 11 am, itago niyo po ako sa pangalang Delfin.

Paki tago po ang cell number ko nasa hiwalay na papel na nito [sic].

Gumagalang,

Delfin⁹

On April 14, 2008, Director General Santiago ordered the Director of the Internal Affairs Service to “conduct [the] necessary investigation[.]”¹⁰

In the Memorandum¹¹ dated April 25, 2008, Special Investigator V Romeo M. Enriquez, Officer-in-Charge of the Internal Affairs Service, ordered the following PDEA agents to comment on Delfin’s letter: IO3 Carlos S. Aldeon, PO3 Emerson Adaviles, PO2 Reywin Bariuad, IA1 Erwin

⁷ Id. at 128.

⁸ Id.

⁹ Id.

¹⁰ Id.

¹¹ Id. at 129.

L. Magcamit, IO2 Renato R. Infante, IO2 Apolinario Mationg, Jr.,¹² IO2 Ryan C. Alfaro, and SPO1 Peter Sistemio. All the respondents belonged to the Special Enforcement Service.¹³

Like the other PDEA agents named in the Memorandum, IA1 Magcamit denied Delfin's accusation and maintained that all persons they had arrested for drug-related cases were charged in court. He and the other PDEA agents also referred to an instance when they filed a criminal complaint for bribery against those who attempted to bribe them in exchange for the release of a detainee.¹⁴

Nevertheless, IA1 Magcamit and four other members of the Special Enforcement Service were formally charged with grave misconduct.¹⁵ IA1 Magcamit and his co-respondents allegedly demanded ₱200,000.00 from a certain Luciana M. Jaen (Jaen) in exchange for her release from detention.¹⁶ The Formal Charge¹⁷ dated May 5, 2008 reads:

*“That on or about twelve o'clock in the evening of 9th day of April 2008, in the City of Lipa, Province of Batangas, Philippines, and within the jurisdiction of this Honorable Agency, the above-named respondents, at night time, conspiring and confederating together and mutually helping one another, with intent to gain, with evident premeditation and malicious misrepresentation, did then and there, willfully and unlawfully demanded/obtained under duress upon one, **LUCIANA M. JAEN**, the amount of **TWO HUNDRED THOUSAND PESOS [Php200,000.00]**, in exchange for her release after the latter was apprehended in a buy-bust operation conducted by the members of the Special Enforcement Service of the Philippine Drug Enforcement Agency.”*

Acts contrary to law and existing rules and regulations.¹⁸
(Emphasis in the original)

Attached to the Formal Charge were two affidavits both dated April 17, 2008. In her Affidavit,¹⁹ Jaen alleged that she was arrested in a buy-bust operation on April 9, 2008 at about 6:00 p.m. While detained at the PDEA headquarters, she allegedly asked for help on how she could be released. IO3 Carlos S. Aldeon allegedly referred her to another PDEA agent who, in turn, allegedly assured her that he could help her through SPO1 Peter

¹² Id. Inadvertently referred to as “Ationg, Jr.” in the Memorandum.

¹³ Id. at 132, Internal Affairs Service's Formal Charge.

¹⁴ Id. at 130, IA1 Erwin L. Magcamit's Comments on the Attached Letter Complaint.

¹⁵ Id. at 132, Internal Affairs Service's Formal Charge. The other members were IO3 Aldeon, IO2 Infante, IO2 Alfaro, and IO2 Mationg, Jr.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id. at 133.

Sistemio. SPO1 Peter Sistemio then approached Jaen and bluntly asked how much she could pay for her release.²⁰

Jaen and SPO1 Peter Sistemio eventually agreed on the amount of ₱200,000.00. Jaen was later instructed to have the money brought at about 3:00 a.m., and SPO1 Peter Sistemio allegedly received the money as agreed upon.²¹

The other affidavit attached to the Formal Charge was executed by Delfin Magcawas, Jr. (Magcawas, Jr.). Magcawas, Jr. is the son of Jaen²² and appeared to be the same “Delfin” who wrote to Director General Santiago.

In his Affidavit,²³ Magcawas, Jr. alleged that his mother, Jaen, texted him at about 12:00 m.n. on April 10, 2008. Jaen ordered him to bring ₱200,000.00 to the PDEA headquarters.²⁴

Magcawas, Jr. arrived at the PDEA and was allegedly escorted to the Special Enforcement Service office. There, a man asked his mother: “*Kumpleto ba iyan?*” Magcawas, Jr. then handed ₱200,000.00 to the man who turned out to be SPO1 Peter Sistemio. SPO1 Peter Sistemio then directed Magcawas, Jr. to wait for his mother at the nearby automated teller machine. His mother, however, never showed up.²⁵

IA1 Magcamit and his co-respondents answered²⁶ the Formal Charge, “vehemently deny[ing]”²⁷ the allegations of Jaen and Magcawas, Jr. They maintained that Jaen and Magcawas, Jr. lied in their Affidavits.²⁸

In its Memorandum²⁹ dated May 20, 2008, the Internal Affairs Service gave credence to the allegations of Jaen and Magcawas, Jr. and found “cogent reason to pursue [the] administrative complaint.”³⁰ According to the Internal Affairs Service, the statements of Jaen and Magcawas, Jr. were corroborated by Compliance Investigator I Dolorsindo M. Paner (Compliance Investigator Paner), an employee of the PDEA.³¹

²⁰ Id.

²¹ Id.

²² Id. at 134, Delfin Magcawas, Jr.’s Affidavit.

²³ Id.

²⁴ Id.

²⁵ Id.

²⁶ Id. at 135–136.

²⁷ Id. at 135.

²⁸ Id.

²⁹ Id. at 139–144.

³⁰ Id. at 141.

³¹ Id. at 142–143.

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Compliance Investigator Paner, in the Affidavit³² dated April 15, 2008, stated that he was among the PDEA agents who arrested Jaen in a buy-bust operation. He narrated that on April 10, 2008, Jaen complained to him that certain persons demanded ₱200,000.00 from her in exchange for her release. Compliance Investigator Paner informed his superior, the Director of the Compliance Service of the PDEA.³³

Compliance Investigator Paner was on leave on April 11, 2008 when IO3 Carlos S. Aldeon allegedly called him on the phone and directed him to proceed to the office of the Special Enforcement Service. Compliance Investigator Paner, however, replied that he was out of the office. Nevertheless, IO3 Carlos S. Aldeon told him to drop by at 5:00 p.m.³⁴

Compliance Investigator Paner added that IO2 Renato R. Infante texted him on the same day and told him to meet him later that day. Again, Compliance Investigator Paner replied that he was out of town and just told IO2 Renato R. Infante to meet him the following week.³⁵

Compliance Investigator Paner supplemented his allegations in the Affidavit³⁶ dated April 17, 2008. According to Compliance Investigator Paner, IO2 Renato R. Infante approached him on April 16, 2008 at about 6:00 p.m. He told Compliance Investigator Paner to meet him at the Special Enforcement Service office at 7:00 p.m. to discuss an important matter.³⁷ "Sensing something wrong,"³⁸ Compliance Investigator Paner informed Major Ferdinand Marcelino (Director Marcelino), Director of the Special Enforcement Service, of his conversation with IO2 Renato R. Infante.³⁹ Compliance Investigator Paner and Director Marcelino then had a surveillance camera prepared to record the 7:00 p.m. meeting.⁴⁰

At 7:15 p.m., Compliance Investigator Paner went to the office of the Special Enforcement Service. There, IO2 Renato R. Infante handed Compliance Investigator Paner money. This transaction was allegedly recorded by the surveillance camera. Compliance Investigator Paner then went to Director Marcelino to surrender the money.⁴¹

According to the Internal Affairs Service, the statements of Compliance Investigator Paner, Jaen, and Magcawas, Jr, as well as the

³² Id. at 145.

³³ Id.

³⁴ Id.

³⁵ Id.

³⁶ Id. at 146.

³⁷ Id.

³⁸ Id.

³⁹ Id.

⁴⁰ Id.

⁴¹ Id.

surveillance footage, prove that respondents conspired to extort money from Jaen. The Internal Affairs Service, thus, found respondents guilty of grave misconduct and recommended their dismissal from the service.⁴²

IA1 Magcamit moved for reconsideration⁴³ of the Internal Affairs Service's Memorandum dated May 20, 2008, raising the following grounds: (a) the letter-complaint of "Delfin" lacked the requirements under Rule II, Section 8(4)⁴⁴ of the Uniform Rules on Administrative Cases in the Civil Service (Civil Service Rules).⁴⁵ Specifically, it did not state the full name and address of the persons complained of and the material facts showing the acts or omissions assailed, Moreover, it had no certification of non-forum shopping attached to it; (b) the hearing officer did not conduct a preliminary investigation, in violation of Rule II, Section 14⁴⁶ of the Civil Service Rules;⁴⁷ (c) IA1 Magcamit was not furnished a copy of the surveillance camera footage as well as the Affidavits of Compliance Investigator Paner, in violation of his right to due to process;⁴⁸ and (d) the finding of conspiracy was not supported by the evidence on record, as the Affidavits of Jaen, Magcawas, Jr., and Compliance Investigator Paner did not mention his name.⁴⁹

In the Resolution⁵⁰ dated July 23, 2008, the Internal Affairs Service denied IA1 Magcamit's Motion for Reconsideration. The Internal Affairs Service held that formal or trial-type hearings are not necessary in

⁴² Id. at 143–144, Memorandum dated May 20, 2008.

⁴³ Id. at 147–151.

⁴⁴ Uniform Rules on Administrative Cases in the Civil Service, Rule II, sec. 8 provides: Section 8. *Complaint*. — A complaint against a civil service official or employee shall not be given due course unless it is in writing and subscribed and sworn to by the complainant. However, in cases initiated by the proper disciplining authority, the complaint need not be under oath. No anonymous complaint shall be entertained unless there is obvious truth or merit to the allegations therein or supported by documentary or direct evidence, in which case the person complained of may be required to comment.

The complaint should be written in a clear, simple and concise language and in a systematic manner as to apprise the civil servant concerned of the nature and cause of the accusation against him and to enable him to intelligently prepare his defense or answer.

The complaint shall contain the following:

- a. full name and address of the complainant;
- b. full name and address of the person complained of as well as his position and office of employment;
- c. a narration of the relevant and material facts which shows the acts or omissions allegedly committed by the civil servant;
- d. certified true copies of documentary evidence and affidavits of his witnesses, if any; and
- e. certification or statement of non-forum shopping.

In the absence of any one of the aforementioned requirements, the complaint shall be dismissed.

⁴⁵ *Rollo*, pp. 148–149, IA1 Erwin L. Magcamit's Motion for Reconsideration before the Internal Affairs Service.

⁴⁶ Uniform Rules on Administrative Cases in the Civil Service, Rule II, sec. 14 provides: Section 14. *Investigation Report*. — Within five (5) days from the termination of the preliminary investigation, the investigating officer shall submit the Investigation Report and the complete records of the case to the disciplining authority.

⁴⁷ *Rollo*, p. 149, IA1 Erwin L. Magcamit's Motion for Reconsideration before the Internal Affairs Service.

⁴⁸ Id. at 149–150.

⁴⁹ Id. at 150.

⁵⁰ Id. at 152–155.

administrative cases; hence, the lack of preliminary investigation did not invalidate the proceedings before the Internal Affairs Service.⁵¹

It added that the essence of due process in administrative cases is the opportunity to be heard. There was no denial of due process because the Internal Affairs Service gave respondent police officers the opportunity to answer the Formal Charge.⁵²

Lastly, the Internal Affairs Service held that direct evidence of conspiracy need not be presented. "Proof of the concerted action before, during and after the crime, which demonstrates [the respondents'] unity of design and objective is sufficient."⁵³

IA1 Magcamit filed an appeal⁵⁴ before the Civil Service Commission, reiterating the arguments he made in his Motion for Reconsideration before the Internal Affairs Service. The PDEA commented⁵⁵ on IA1 Magcamit's Memorandum of Appeal.

In the Resolution dated March 17, 2009, the Civil Service Commission dismissed IA1 Magcamit's appeal.⁵⁶ The Commission agreed with the Internal Affairs Service that IA1 Magcamit was not denied due process considering that he was given several opportunities to refute the allegations against him.⁵⁷

On the merits, the Commission held that there was substantial evidence to prove that IA1 Magcamit was guilty of grave misconduct.⁵⁸ The Commission referred to the May 7, 2008 Affidavit executed by Compliance Investigator Paner where the latter identified IA1 Magcamit as one of the agents who shared in the money extorted from Jaen.⁵⁹ In this new Affidavit, Compliance Investigator Paner allegedly asked IA1 Magcamit how the sharing of the money was arrived at, to which IA1 Magcamit allegedly replied that "such was the sharing and everybody . . . seemed to have consented."⁶⁰

IA1 Magcamit filed a Petition for Review⁶¹ before the Court of Appeals. The Court of Appeals, however, dismissed IA1 Magcamit's appeal

⁵¹ Id. at 153-154.

⁵² Id.

⁵³ Id. at 155.

⁵⁴ Id. at 157-168.

⁵⁵ Id. at 170-173.

⁵⁶ Id. at 72, Court of Appeals Decision.

⁵⁷ Id. at 78.

⁵⁸ Id. at 79.

⁵⁹ Id.

⁶⁰ Id.

⁶¹ Id. at 92-124.

in the Decision dated March 17, 2011. It affirmed the finding that IA1 Magcamit shared in the extorted money; hence, IA1 Magcamit was guilty of grave misconduct.⁶²

IA1 Magcamit filed a Motion for Reconsideration,⁶³ which the Court of Appeals denied in the Resolution dated August 9, 2011.

On September 29, 2011, IA1 Magcamit filed his Petition for Review on Certiorari before this court. The Internal Affairs Service, through the Office of the Solicitor General, filed its Comment,⁶⁴ to which IA1 Magcamit replied.⁶⁵

The issues for the court's resolution are the following:

First, whether petitioner Investigation Agent 1 Erwin L. Magcamit was denied of his right to due process, rendering the proceedings before the Internal Affairs Service void; and

Second, whether there was substantial evidence to prove that petitioner shared in the money extorted from Luciana M. Jaen.

IV

Petitioner maintains that he was denied of his right to due process because the Internal Affairs Service failed to follow the procedure for administrative investigation under the Uniform Rules on Administrative Cases in the Civil Service. Specifically, the letter-complaint of "Delfin" did not allege his full name, address, position, and office of employment; the letter-complaint did not narrate the relevant and material facts that would show the acts or omissions allegedly committed by him; the Internal Affairs Service did not conduct a preliminary investigation before it issued the Formal Charge; and he was allegedly not furnished copies of Compliance Investigator Paner's Affidavits.⁶⁶

On the merits, petitioner maintains that the pieces of evidence presented in this case do not substantially prove that he shared in the money extorted from Luciana M. Jaen.⁶⁷

⁶² Id. at 87-88, Court of Appeals Decision.

⁶³ Id. at 190-204.

⁶⁴ Id. at 224-242.

⁶⁵ Id. at 245-251.

⁶⁶ Id. at 45-55, Petition for Review on Certiorari.

⁶⁷ Id. at 55-66.

On the other hand, respondents argue that petitioner was not denied of his right to due process. They maintain that the essence of due process, as applied to administrative proceedings, is the opportunity to be heard. Several opportunities were afforded to petitioner: he was able to file a Comment on the letter-complaint; he answered the Formal Charge; he also filed a Motion for Reconsideration of the Memorandum dated May 20, 2008, which recommended his dismissal.⁶⁸

Moreover, respondents argue that the evidence presented against petitioner sufficiently proved that he is guilty of grave misconduct and was, therefore, correctly dismissed from the service.⁶⁹

V

The ponencia granted IA1 Magcamit's Petition for Review on Certiorari "because [his] dismissal was unsupported by substantial evidence."⁷⁰

On the issue of due process, the ponencia agreed with respondents that the essence of due process is the "chance to explain [one's] side of the controversy."⁷¹ In this case, petitioner was able to deny and controvert the letter-complaint, the Formal Charge, and the Memorandum dated May 20, 2008 recommending his dismissal. Moreover, the ponencia ruled that formal or trial-type hearings are not required in administrative cases. There was, therefore, no denial of due process.⁷²

However, the ponencia found that petitioner was not furnished a copy of the Affidavit dated May 7, 2008—the only affidavit among the three executed by Compliance Investigator Paner and the only one that specifically named petitioner as one of those who shared in the money extorted from Luciana M. Jaen.⁷³ The Affidavit dated May 7, 2008 was the basis of the Civil Service Commission to affirm the Internal Affairs Service's Memorandum dated May 20, 2008.⁷⁴

As for the other pieces of evidence presented against petitioner, the ponencia pointed out that none of them specifically named petitioner;⁷⁵ hence, there was no substantial evidence to prove that he was involved in the extortion. Although petitioner was part of the buy-bust operation team that

⁶⁸ Id. at 229–235.

⁶⁹ Id. at 235–240.

⁷⁰ Ponencia, p. 5.

⁷¹ Id. at 7.

⁷² Id.

⁷³ Id. at 8.

⁷⁴ Id.

⁷⁵ Id.

apprehended Luciana M. Jaen, the ponencia ruled that this in itself does not prove that petitioner shared in the money.⁷⁶

VI

I agree that petitioner was afforded his right to due process.

However, contrary to the finding of the ponencia, there was substantial evidence to prove that petitioner shared in the money extorted from Luciana M. Jaen. Petitioner should be held liable for grave misconduct and be dismissed from the service.

VI.A.

In administrative proceedings, the requirement of due process is satisfied if the party has had the opportunity to be heard.⁷⁷ If the party has been given the right to controvert the allegations and evidence against him, as when the party is able to file a motion for reconsideration, there is no deprivation of due process.⁷⁸

This court in *Ang Tibay v. Court of Industrial Relations*⁷⁹ laid down the cardinal rights in due process. In *Air Manila, Inc. v. Hon. Balatbat, et al.*,⁸⁰ due process requirements are satisfied if the following are met: (a) “the right to notice, be it actual or constructive, of the institution of the proceedings that may affect a person’s legal rights;”⁸¹ (b) “reasonable opportunity to appear and defend his rights, introduce witnesses and relevant

⁷⁶ Id. at 10.

⁷⁷ *Vivo v. Philippine Amusement and Gaming Corporation (PAGCOR)*, G.R. No. 187854, November 12, 2013, 709 SCRA 276, 281 [Per J. Bersamin, En Banc]; *Gannapao v. Civil Service Commission et al.*, 665 Phil. 60, 70 (2011) [Per J. Villarama, Jr., En Banc].

⁷⁸ Id.

⁷⁹ 69 Phil. 635 (1940) [Per J. Laurel, En Banc]. In *Ang Tibay*, this court summarized the fundamental requirements of administrative due process:

“(1) The first of these rights is the right to a hearing, which includes the right of the party interested or affected to present his own case and submit evidence in support thereof. . . .

(2) Not only must the party be given an opportunity to present his case and to adduce evidence tending to establish the rights which he asserts but the tribunal must consider the evidence presented. . . .

(3) ‘While the duty to deliberate does not impose the obligation to decide right, it does imply a necessity which cannot be disregarded, namely, that of having something to support its decision. A decision with absolutely nothing to support it is a nullity, a place when directly attached.’ . . .

(4) Not only must there be some evidence to support a finding or conclusion . . . but the evidence must be ‘substantial.’ . . .

(5) The decision must be rendered on the evidence presented at the hearing, or at least contained in the record and disclosed to the parties affected. . . .

(6) [The tribunal] must act on its or his own independent consideration of the law and facts of the controversy, and not simply accept the views of a subordinate in arriving at a decision. . . .

(7) [The tribunal] in all controversial questions, render its decision in such a manner that the parties to the proceeding can know the various issues involved, and the reasons for the decisions rendered. The performance of this duty is inseparable from the authority conferred upon it.” (Id. at 642–644)

⁸⁰ 148 Phil. 502 (1971) [Per J. J.B.L. Reyes, En Banc].

⁸¹ Id. at 506.

evidence in his favor;”⁸² (c) a tribunal so constituted as to give him reasonable assurance of honesty and impartiality, and one of competent jurisdiction;”⁸³ and (d) “a finding or decision by that tribunal supported by substantial evidence presented at the hearing, or at least contained in the records or disclosed to the parties affected.”⁸⁴

These requirements have been met in this case.

The Formal Charge dated May 9, 2008, with the Affidavits of Luciana M. Jaen and Delfin Magcawas, Jr. attached to it, notified petitioner of the institution of the administrative proceedings against him. The Internal Affairs Service afforded petitioner reasonable opportunity to defend his rights, as he was able to file an Answer to the Formal Charge as well as a Motion for Reconsideration of the Memorandum recommending his dismissal. The recommendation was made by the Internal Affairs Service, the office under the PDEA that has disciplining authority over petitioner.

VI.B.

Even the fourth requisite, which petitioner argues was absent, has been met in this case.

Substantial evidence is “evidence [that] a reasonable mind might accept as adequate to support a conclusion.”⁸⁵ The Civil Service Commission and the Court of Appeals correctly relied on the Affidavit⁸⁶ dated May 7, 2008 of Compliance Investigator Paner. This piece of evidence related how petitioner consented to the sharing of the ₱200,000.00 extorted from Luciana M. Jaen:

13. That pretending nothing had happened and yet projecting to the group that I am a bit apprehensive as to the evident inequality in the sharing of the extorted money from subject Jaen, I was able to talk with Agent Erwin Magcamit, one of the members of the arresting team, and asked the latter as to how the group came up with the Php21,500.00 sharing for each member out of the Php200,000.00; *from which Agent Magcamit simply said to me that such was the sharing and everybody except me seemed to have consented; in addition thereto, Agent Magcamit vividly mentioned all other members who got their share of the Php21,500.00, namely, [1] Carlos S. Aldeon, [2] PO3 Emerson Adaviles, [3] PO2*

⁸² Id.

⁸³ Id.

⁸⁴ Id.

⁸⁵ *Ang Tibay v. Court of Industrial Relations*, 69 Phil. 635, 642 (1940) [Per J. Laurel, En Banc], citing *Appalachian Electric Power v. National Labor Relations Board*, 4 Cir., 93 F. 2d 985, 989; *National Labor Relations Board v. Thompson Products*, 6 Cir., 97 F. 2d 13, 15; *Ballston-Stillwater Knitting Co. v. National Labor Relations Board*, 2 Cir., 98 F. 2d 758, 760.

⁸⁶ *Rollo*, pp. 174–175.

*Reywin Bariuad, [4] IO2 Renato Infante, [5] IO2 Apolinario Mationg, [6] IO2 Ryan C. Alfaro, and [7] PO3 Peter Sistemio.*⁸⁷
(Emphasis supplied)

It is true that the Affidavit dated May 7, 2008 was considered on appeal before the Civil Service Commission. This Affidavit was not mentioned in the Memorandum recommending petitioner's dismissal. The Internal Affairs Service, in recommending petitioner's dismissal, referred to the April 15 and April 17, 2008 Affidavits of Compliance Investigator Paner.

Nevertheless, technical rules of procedure and evidence are not strictly applied in administrative cases.⁸⁸ In the National Labor Relations Commission, evidence introduced on appeal may still be considered so long as the adverse party is given the opportunity to rebut the evidence.⁸⁹ This rule should equally apply in this administrative case since it involves employment, albeit of a public officer.

Here, petitioner was able to refute the allegations made by Compliance Investigator Paner in his May 7, 2008 Affidavit. IA1 Magcamit said in his Petition for Review before the Court of Appeals:

5.23. The . . . uncorroborated allegations [of Compliance Investigator Paner in his May 7, 2008 Affidavit] are brazen fabrications and falsehoods made by a person with ulterior motives. Petitioner Magcamit never made such statements to CS1 Paner. He never mentioned to him anything about money nor any sharing of money. CS1 Paner has maliciously and perjurally concocted stories. Whatever conversations Petitioner Magcamit had with CS1 Paner was common and casual, as his conversations with other PDEA employees, considering that they belonged to the same office.⁹⁰ (Underscoring in the original)

Petitioner reiterated this argument in his Motion for Reconsideration before the Court of Appeals.⁹¹

The May 7, 2008 Affidavit is substantial to prove that petitioner consented to and shared in the money extorted from Luciana M. Jaen. This constitutes grave misconduct punishable by dismissal from the service.⁹² The Internal Affairs Service, the Civil Service Commission, and the Court of Appeals did not err in their respective Decisions.

⁸⁷ Id. at 175.

⁸⁸ Uniform Rules on Administrative Cases in the Civil Service, Rule 1, sec. 3.

⁸⁹ See *Andaya v. National Labor Relations Commission*, 502 Phil. 151, 158 (2005) [Per J. Panganiban, Third Division]. See also *Philippine Telegraph and Telephone Corporation v. National Labor Relations Commission*, 262 Phil. 491, 498–499 (1990) [Per J. Regalado, Second Division].

⁹⁰ *Rollo*, p. 112, IA1 Erwin L. Magcamit's Petition for Review before the Court of Appeals.

⁹¹ Id. at 197, IA1 Erwin L. Magcamit's Motion for Reconsideration before the Court of Appeals.

⁹² Uniform Rules on Administrative Cases in the Civil Service, Rule IV, sec. 52(A)(3).

ACCORDINGLY, I vote to **DENY** this Petition for Review on Certiorari.



MARVIC M.V.F. LEONEN
Associate Justice