

[PRESIDENTIAL DECREE NO. 1199, September 21, 1977]

CONSOLIDATING AND REENACTING ALL DECREES REGARDING THE APPELLATE REVIEW PROCEDURES IN MILITARY TRIBUNAL AND COURT-MARTIAL CASES AS PROVIDED IN PRESIDENTIAL DECREE NO. 978, AS AMENDED

WHEREAS, Presidential Decree No. 978 was promulgated to establish a simplified appellate review procedure for military tribunal and court-martial cases;

WHEREAS, Presidential Decree No. 978 was amended by Presidential Decree No. 1165 to make said appellate review more expedition and adequate;

WHEREAS, there is a need to introduce additional amendments to Presidential Decree No. 978, particularly on the composition, organization, procedures and other matters pertaining to the Court of Military Appeals;

WHEREAS, it is desirable that Presidential Decree No. 978 and all amendments thereto be consolidated and re-enacted in one decree;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order and decree as part of the law of the land the following;

SECTION 1. *Initial Action on Record — (a) Review by Staff Judge Advocate/Legal Officer or AFP Board of Review.* — Every record of trial of military commissions or provost courts shall be forwarded to the staff judge advocate/legal officer of the convening authority for review before the latter acts thereon, except in those cases where the penalty imposed is —

- (i) death;
- (ii) confinement of more than six (6) years; or
- (iii) fine of more than P6,000.00,

which shall be directly reviewed by the Court of Military Appeals. The staff judge advocate/legal officer shall submit his opinion in writing to the convening authority regarding the legal sufficiency of the record of trial in which there has been a finding of guilty, the appropriateness of the sentence, any errors of law which may have been committed injuriously affecting the substantial rights of the accused. If the trial resulted in a finding of not guilty or acquittal of all the charge or charges and specifications, the review shall be limited to questions of jurisdiction.

For purposes of this initial review, the Judge Advocate General, AFP, shall as may be directed by the Chief of Staff, AFP, create in his office as many AFP Boards of Review as he may deem proper to conduct the review of a record of trial for the Chief of Staff, AFP, in lieu of the review of his judge advocate. The Judge Advocate General, AFP, shall prescribe uniform rules of procedure for the AFP Boards of Review.

(a) *Actions by the Convening Authority.* — The convening authority may approve the findings of guilty and the sentence or such part thereof as he finds correct in law and fact. As used in this decree the term "convening authority" refers to the person who convened the court, a commissioned officer commanding for the time being, or a successor in command.

(c) *Rehearing.*— Where the convening authority disapproves the findings of guilty of the military commission or provost court, he may order a rehearing, except where the disapproval is based on lack of legally sufficient evidence to support the findings and sentence. If he does not order a rehearing, he may order the dismissal of the case. Where the military commission or provost court had no jurisdiction over the offense or person of the accused, the convening authority shall take the appropriate action.

(d) *Execution of Sentence.*— All sentences of military commissions and provost courts shall be executory fifteen (15) days after approval thereof by the convening authority, unless a petition for review is filed pursuant to the provisions of Section 2, paragraph (a), of this decree.

SEC. 2. *Review by Court Military Appeals.* — (a) *Where Discretionary.* — The action or decision of the convening authority in military commission and provost court cases may be reviewed by the Court of Military Appeals upon a petition for review filed by the accused with said court within (15) days from receipt of a copy of said action or decision. Only questions of law which must be distinctly set forth may be raised. The decision of the Court of Military Appeals shall be final.

(b) *Where Required*— (1) The Judge Advocate General, AFP, shall refer directly to the Court of Military Appeals every record of trial of a military commission or provost court in which the penalty imposed is—

- (i) death;
- (ii) confinement of more than six (6) years; or
- (iii) fine of more than P6,000.00.

(2) The Court of Military Appeals shall determine the appropriateness of the sentence imposed by the military commission or provost court. In considering the records, it may weigh the evidence, judge the credibility of witnesses, and determine controverted questions of fact and any errors of law which may have been committed injuriously affecting the substantial rights of the accused.

(3) The Court of Military Appeals may disapprove the findings of guilty by the military or provost court, and order a rehearing, except where the disapproval is based on lack of legally sufficient evidence to support the findings. If it does not order a rehearing, it may dismiss the case.

(c) *Sentences Based on Plea of Guilty*— Except in death sentences, all sentences of military commission and provost courts based solely upon findings of guilty of a charge or charges and a specification or specifications to which the accused pleaded

guilty shall not be subject to further review by the Court of Military Appeals and/or the Supreme Court as herein provided.

(d) *Action in Accordance with Decision of Court*— After the Court of Military Appeals has acted on a case, the Judge Advocate General, AFP, shall advise the convening authority to take action in accordance with the decision of the court, unless there is further action by the Supreme Court as herein provided.

(e) *Annual Survey of Appellate Review Operations*— The Judge Advocate General, AFP, and the Court of Military Appeals shall meet annually to make a comprehensive survey of appellate review operations and report to the President of the Philippines the number and status of cases reviewed and pending and any recommendation relating to uniformity of policies as to bail or release pending appellate review, sentences, and any other matters considered appropriate.

SEC. 3. *The Court of Military Appeals.* — (a) *Creation; Composition of Court*— There is hereby created a Court of Military Appeals which shall consist of a Presiding Justice and eight (8) Associate Justices to be appointed by the President of the Philippines from individuals who are not less than forty (40) years of age at the time of appointment and have engaged in the practice of law in the Philippines as an indispensable requisite, or have been for a like period on active military duty as members of the Judge Advocate General's Service, AFP. The President may appoint to the court retired justices, or have been for a like period on active military duty as members of the Judge Advocate General's Service, AFP. The President may appoint to the court retired justices of the Court of Appeals and/or Supreme Court of the Philippines.

The Presiding Justice of the court shall have precedence and preside at any session which he attends. In the absence of the Presiding Justice, the Associate Justice attending who is first in precedence shall preside. In case of a vacancy in the office of Presiding Justice of the Court or of his inability, the duties and powers of his office shall devolve upon the Associate Justice shall have precedence until such inability is removed or another Presiding Justice is appointed. The Associate Justice shall have precedence according to the dates of their respective appointments, or, when the appointments of two or more of them shall bear the same date, according to the order in which their appointments have been issued by the President.

The court shall sit *en banc* or in division of three (3) justices each division. A vacancy in the court does not impair the right of the remaining justices to exercise the powers of the court.

The Court, sitting *en banc*, shall prescribe its own rules of procedure, to include but not limited to the allotment of cases among the different divisions, the regular rotation of justices among them, the filling of vacancies therein and other matters relating to the business of the court.

(b) *Tenure, Removal, Rank and Emoluments of Justices* The Presiding justice and Associate Justices of the Court of Military Appeals shall hold office until they reach the age of sixty-five years, except the retired justices of the Court of Appeals and/or Supreme Court of the Philippines who shall hold office for the same period. They may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office, or for mental or physical disability rendering them