

SECOND DIVISION

[G.R. No. 166780, December 27, 2007]

**F/O AUGUSTUS Z. LEDESMA, PETITIONER, VS. COURT OF
APPEALS, AIR TRANSPORTATION OFFICE AND CIVIL
AERONAUTICS BOARD, RESPONDENTS.**

D E C I S I O N

TINGA, J.:

This is a Petition for Review on Certiorari^[1] under the 1997 Rules of Civil Procedure assailing the Decision^[2] and Resolution^[3] dated 29 September 2004 and 18 January 1995, respectively, of the Court of Appeals in CA-G.R. SP No. 79414 that affirmed the resolutions of the Air Transportation Office (ATO) and the Civil Aeronautics Board (CAB) and denied petitioner's motion for reconsideration. The CAB resolution affirmed the ATO's order revoking petitioner's airman license and banning him from taking any theoretical examination in the future.

The antecedent facts are as follows:

Petitioner was a commercial airline pilot holding the rank of Second Officer on the Boeing 747-400 aircraft of the Philippine Airlines (PAL). To become a First Officer, petitioner must acquire an Airline Transport Pilot License (ATPL). Pursuant to Civil Air Regulation Administrative Order No. 60, series of 1956, petitioner must accomplish the following to secure from the ATO the issuance of the ATPL: (1) 1,200 hours of accumulated flight and/or command time, including at least 300 hours of accumulated night/instrument flight/command time; (2) a successful completion of the written theoretical examination; (3) Airmen Examination Board (AEB) Certification of Official Release evidencing that he has successfully hurdled 6 (six) examination subjects, namely, Civil Air Regulations, Theory of Flight, Navigation, Meteorology, Air Traffic Control and Weight and Balance; (4) a first-class medical examination; and (5) Proficiency Flight/Simulator Check.^[4]

Between 1998 and 2000, petitioner took the examination on the six subjects. In particular, petitioner took the test in Theory of Flight on 18 May 2000. Petitioner passed the tests in Navigation, Meteorology, Air Traffic Control and Civil Air Regulations. After taking the test in Theory of Flight, a certain Mr. Borja summoned petitioner and told him that he obtained a grade of 26% in said subject. Petitioner complained and, thereafter, Mr. Borja clarified that he actually scored 55% on the subject. Petitioner again took the examination in Theory of Flight and in Weight and Balance on 27 July 2000. On 02 August 2000, a certain Leopoldo Areopagita issued an ATO-AEB certification of Official Release to petitioner which the latter submitted to PAL and ATO for purposes of obtaining a simulator training schedule and a check ride permit for the B747-400 training. Petitioner underwent training at the GECAT/CX Training Center in Hong Kong.^[5]

On 17 August 2000, petitioner received a subpoena requiring him to appear and testify before the five-member panel of the ATO which was then investigating the alleged fabrication of the AEB examination results. The ATO directed petitioner to bring the original copy of the ATO-AEB certification in his possession. Petitioner informed the ATO that his copy of the Certificate of Official Release was missing and that he would not appear at the hearings without the presence of counsel.

On 30 January 2001, the ATO investigating committee issued a resolution^[6] finding that the control number on petitioner's ATO-AEB certification dated 31 July 2000 was exactly the same control number previously issued to a certain Ernest Stephen V. Pante. The committee further revealed a disparity in the examination results entered in the ATO-AEB certification presented by petitioner and in the entries of examination grades in the ATO-AEB Index Card kept in the ATO records. Petitioner also admitted that he paid Areopagita P25,000.00 to protect his grades from tampering.

The committee recommended the banning of petitioner from taking theoretical examination in the future, to wit:

In view of the above, it is recommended that all the airmen licenses of F/O Ledesma be revoked and that he be banned from taking any theoretical examination in the future at the Airmen Examination Board, without prejudice to the filing of appropriate criminal charges against him, and those who later on will be found to have participated, directly or indirectly, in the fabrication of the questioned document, subject matter of this case.

With regard to Mr. Leopoldo Areopagita and Capt. Rommel Cadingan, the investigation will be continued, as far as they are concerned, considering that there are still other pending cases involving their names.

For ASEC's concurrence/approval of the recommendation.^[7]

Petitioner filed a motion for reconsideration^[8] of the resolution, raising the following arguments: (1) that he was not fully accorded the opportunity to comprehend the accusation against him; (2) that he was not given the opportunity to adduce evidence on his behalf; (3) that the ATO investigating committee sweepingly concluded that his ATO-AEB certification was spurious; and (4) that one of the members of the said committee, Captain Octavio Sunga, signed the spurious ATO-AEB certification but did not inhibit himself from the proceedings.

In a letter^[9] dated 21 September 2001, Assistant Secretary Adelberto F. Yap informed petitioner's counsel of the denial of the motion for reconsideration. Petitioner appealed to the CAB.^[10] In Resolution No. 164^[11] dated 26 July 2002, the CAB denied petitioner's appeal for lack of merit. Thus, petitioner elevated the case to the Court of Appeals via a petition for review^[12] arguing that: (1) the ATO failed to observe administrative due process in the conduct of the investigation; (2) the Board and the ATO erred in concluding that petitioner paid Areopagita in exchange for securing the spurious ATO-AEB certification; (3) the CAB erred in ruling that petitioner's motion for reconsideration cleared any irregularities in the proceedings before the ATO; and (4) the ATO should have allowed petitioner to

retake the examination in Weight and Balance.^[13]

In the assailed Decision dated 29 September 2004,^[14] the Court of Appeals affirmed the resolutions of the Board. It also denied petitioner's motion for reconsideration. The appellate court disregarded petitioner's allegation that certain requirements of administrative due process were not observed in the investigation before the ATO because, according to the court, it was shown that petitioner was informed of the accusation against him through the subpoena, his counsel was allowed to manifest in writing his observations on the proceedings albeit he was barred from intervening therein, and any irregularity in the proceedings was cured by petitioner's motion for reconsideration. It also affirmed the finding that petitioner had paid Areopagita P25,000.00 in exchange for his services in securing the spurious ATO-AEB certification.

The instant petition attributes the following errors to the Court of Appeals:

I

THE AIRMEN LICENSE GRANTED TO PETITIONER HAS EVOLVED INTO A PROPERTY RIGHT THAT CANNOT BE TAKEN AWAY CAPRICIOUSLY AND WHIMSICALLY BY THE AIR TRANSPORTATION OFFICE AND CIVIL AERONAUTICS BOARD WITHOUT DUE PROCESS OF LAW.

II

THE COURT OF APPEALS ERRED IN [THE] RULING THAT PETITIONER WAS NOT DEPRIVED OF HIS RIGHT TO BE INFORMED OF THE NATURE OF CAUSE OF ACCUSATION AGAINST HIM AND HIS RIGHT TO COUNSEL.

III

THE COURT OF APPEALS ERRED IN RULING THAT A MOTION FOR RECONSIDERATION FILED BY PETITIONER CURED ANY DEFECTS OR IRREGULARITIES DURING THE AIR TRANSPORTATION OFFICE AND CIVIL AERONAUTICS BOARD PROCEEDINGS.

IV

THE COURT OF APPEALS ERRED IN HASTILY CONCLUDING THAT THE CERTIFICATION OF RELEASE ISSUED IN FAVOR OF PETITIONER WAS TAMPERED.

V

THE COURT OF APPEALS ERRED IN RULING THAT THE ADMISSION OF PETITIONER IN GIVING [P]25,000 WAS A BRIBE TO SECURE A FICTITIOUS CERTIFICATE OF RELEASE.

VI

THE ATO SHOULD HAVE ORDERED PETITIONER TO TAKE ANOTHER EXAM