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SENATE
P.S. RESOLUTION NO. 438 RECEIVED BY: 

Introduced by SENATOR PANFILO M. LACSON

RESOLUTION

DIRECTING THE SENATE COMMITTEE ON PUBLIC ORDER AND DANGEROUS DRUGS TO INVESTIGATE, IN AID OF LEGISLATION, INTO THE APPALLING REINSTATEMENT/REVERSION TO ACTIVE DUTY AND DESIGNATION AS HEAD OF CIDG 12 OF SUPT. MARCOS AND THE REINSTATEMENT/REVERSION OF OTHER CIDG 8 OPERATIVES BROUGHT ABOUT BY THE RESOLUTION OF THE IAS WHICH MERELY IMPOSED THE PENALTY OF SUSPENSION AND DEMOTION RATHER THAN THE APPROPRIATE PENALTY OF DISMISSAL FROM THE SERVICE FOR THE KILLING OF MAYOR ESPINOSA AND RAUL YAP, WITH THE END IN VIEW OF PROVIDING REMEDIAL LEGISLATIONS THAT WILL CREATE A TRULY INDEPENDENT INTERNAL AFFAIRS SERVICE (IAS) THAT IS INSULATED FROM POLITICS AND PARTISAN POLITICAL INFLUENCE

WHEREAS, on 07 November 2016, the Committee on Public Order and Dangerous Drugs and the Committee on Justice and Human Rights were tasked by the Senate to investigate and inquire, in aid of legislation, the November 5, 2016 killing of Mayor Rolando Espinosa, Sr. of Albueria, Leyte inside the Baybay Sub-Provincial Jail;

WHEREAS, after a thorough consideration of established procedures, jurisprudence, ordinary human experience as well as testimonies offered and documents submitted, on March 07, 2017, the Joint Committee thru Committee Report No. 46 concluded that the killing of Mayor Espinosa was premeditated and that there was abuse of authority on the part of the operatives of the CIDG-8 in conducting the said operation that led to the death of Mayor Espinosa;

WHEREAS, said finding is consistent with the December 2, 2016 report of the National Bureau of Investigation (NBI) which also concluded that "the testimonies of several witnesses had disputed the claim of an alleged shoot-out between the CIDG operatives and inmates Mayor Espinosa and Raul Yap but a rub-out."

WHEREAS, in line with said findings, the NBI filed with Department of Justice (DOJ) charges for multiple murder, robbery, incriminating innocent person, malicious procurement of search warrant, perjury, and planting of

evidence against the operatives of the police Criminal Investigation and Detection Group (CIDG) in Region 8 (CIDG-8) involved in the raid inside Baybay Sub Provincial Jail last 05 November 2016 which resulted in the death of Mayor Espinosa;

WHEREAS, considering the overwhelming evidence and given the fact that the case is impressed with public interest, the Joint Committee even decried the delay in the investigation on the matter by the Department of Justice (DOJ) and the Internal Affairs Service (IAS) of the Philippine National Police and urged them to expedite its proceedings;

WHEREAS, on 15 March 2017, the Senate unanimously adopted Committee Report No. 46 embodying said conclusions and recommendations of the Joint Committee;

WHEREAS, prior to the approval of Committee Report No. 46 by the Senate in plenary, it appeared that consistent with the findings of the Senate and the NBI, Department of Justice (DOJ) issued a Resolution dated 02 March 2017 recommending the filing of murder charges against Supt. Marcos and the other CIDG-8 operatives involved in the 5 November 2016 death of Mayor Espinosa inside the Baybay City Jail. The Resolution stated, "*respondents' collective and independent actions, that is, respondent PSI Diaz's group securing the inner and outer perimeter of the jail facility, Teams A and B's successfully entering the cell nos. 1 and 7 which eventually led to the killing of victims Mayor Espinosa and Mr. Yap, under the guise of implementing an alleged lawful search, and respondent PSupt. Marcos' briefing the teams and supervising the operations from the beginning to end by closely coordinating with the group inside his car, which was parked 70-80 meters outside the facility, were concerted and cooperative.. xxx Their premeditated actions reek of conspiracy to commit a felony, in this case, to kill victims Mayor Espinosa and Mr. Yap.*" Further, "*The killings are qualified by evident premeditation since the attack was well planned. The records will show that respondents craftily executed the killings under the pretense of implementing a search warrant. They planned to kill Mayor Espinosa and Mr. Yap during the pre-operation meeting before the raid... their unified act before, during and after the commission of the crime, prove respondents' determination to kill the victims,*";

WHEREAS, in a shocking turnaround, on 29 May 2017, the DOJ overturned its previous Resolution on the matter by downgrading the murder charges to homicide arguing that there was no evidence of premeditation as the witnesses failed to substantiate through their testimonies that there was a plan to kill the victims;

WHEREAS, as a result thereof, the original information against all the accused was downgraded to homicide allowing Supt. Marcos and his other co-accused to be released from custody after posting bail in the amount of Forty Thousand Pesos (Php40,000.00) each;

WHEREAS, in relation to the Internal Affairs Service of the PNP, pursuant to the authority granted by Republic Act No. 8551, IAS *motu proprio*

conducted an investigation on said incident consistent with its mandate to automatically review cases where death, serious physical injury, or any violation of human rights occurred in the conduct of a police operation;

WHEREAS, in the course of its investigation, the IAS merely recommended the penalties of demotion and suspension on the CIDG-8 operatives involved in the killing of Mayor Espinosa. Insofar as Supt. Marcos is concerned, IAS held him liable for command responsibility imposing on him only a penalty of four months suspension;

WHEREAS, the Inspector General of the IAS, Atty. Alfegar Triambulo, even justified his recommendation of imposing a four months suspension on Supt. Marcos by saying he considered several mitigating circumstances against Supt. Marcos, such that "he was not directly involved in the raid and that this was his first offense in his 20 years of service in which he received several awards and citations";

WHEREAS, as it stands, the penalty imposed on Supt. Marcos and company had already been served though there were conflicting reports on whether the same was true or not considering that per newspaper reports, Supt. Marcos and his men filed a Motion for Reconsideration with the PNP Directorate for Personnel and Records Management which is set to submit their recommendation to the Chief PNP Ronald Dela Rosa;

WHEREAS, in one of his speaking engagements, President, Rodrigo R. Duterte declared that he wanted the suspended police officers returned to active duty after which PNP Chief Ronald dela Rosa decided to reinstate the policemen involved in the Mayor Espinosa Killing, including Supt. Marvin Marcos, with the following justification, "*Sayang. Walang ginagawa, sumusuweldo.*". Subsequently after his reinstatement, Supt. Marcos was given a new assignment as chief of the CIDG in Region 12;

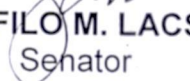
WHEREAS, aside from the fact that the reinstatement of Supt. Marcos and his men in the police service leaves a bad taste in the mouth and has resulted in the joining of arms of people who believe that this should not be allowed to happen, it is imperative to address this issue head on so as not to create a dangerous precedent wherein other PNP scalawags who commit a grievous offense may demand the same kid glove that was given to the former;

WHEREAS, now is the opportune time to resolve once and for all the need to create an Internal Affairs Service that is truly independent and able to perform its mandate of being the police of the PNP, ridding it of police officers who are not worthy to be given a position in the police service; **NOW THEREFORE BE IT RESOLVED**

AS IT IS HEREBY RESOLVED, to direct as it hereby directs, the Senate Committee on Public Order and Dangerous Drugs to inquire, in aid of legislation, into the appalling reinstatement/reversion to active duty and designation as head of CIDG 12 of Supt. Marcos and the reinstatement/reversion other CIDG 8 operatives brought about by the

resolution of the IAS which merely imposed the penalty of suspension and demotion rather than the appropriate penalty of dismissal from the service for the killing of Mayor Espinosa and Raul Yap, with the end in view of providing remedial legislations that will create a truly independent IAS that will function as the police of the PNP insulated from politics and other partisan political interest.

Adopted,


PANFILO M. LACSON
Senator