



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 1, 2023** which reads as follows:*

“G.R. No. 257281 (*People of the Philippines v. Jeffrey Fayoy Rubio alias “Jeff”*).—This is an appeal¹ of the January 14, 2021 Decision² of the Court of Appeals in CA-G.R. CR.-H.C. No. 12595 which affirmed the January 23, 2019 Decision³ of the Regional Trial Court (RTC), Branch 268 of Pasig City in Criminal Case Nos. 157258 and 157259 finding accused-appellant Jeffrey Fayoy Rubio *alias* “Jeff” (Fayo) guilty beyond reasonable doubt for violations of Republic Act Nos. (RA) 9516⁴ and 10591⁵ otherwise known as “Comprehensive Firearms and Ammunition Regulation Act,” for illegal or unauthorized possession of a hand grenade and unlicensed firearm, respectively.

The accusatory portions in the Informations by which Fayo was charged are as follows:

CRIMINAL CASE NO. 157258:

On or about May 27, 2015, in Pasig City and within the jurisdiction of this Honorable Court, the accused, being then a private person without any lawful authority, did then and there willfully, unlawfully and feloniously have in his possession and under his custody and control one (1) hand grenade, in violation of the said law.

¹ *Rollo*, p. 6.

² *Id.* at 8-22. Penned by Associate Justice Florencio M. Mamarug, Jr. and concurred in by Associate Justices Japar B. Dimaampao (now a Member of this Court) and Pedro B. Corales.

³ *Id.* at 24-35. Penned by Presiding Judge Maria Cheryl B. Laqui-Ceguera.

⁴ Entitled “AN ACT FURTHER AMENDING THE PROVISIONS OF PRESIDENTIAL DECREE NO. 1866, AS AMENDED, ENTITLED ‘CODIFYING THE LAWS ON ILLEGAL/UNLAWFUL POSSESSION, MANUFACTURE, DEALING IN, ACQUISITION OR DISPOSITION OF FIREARMS, AMMUNITION OR EXPLOSIVES OR INSTRUMENTS USED IN THE MANUFACTURE OF FIREARMS, AMMUNITIONS OR EXPLOSIVES, AND IMPOSING STIFFER PENALTIES FOR CERTAIN VIOLATIONS THEREOF, AND FOR OTHER RELEVANT PURPOSES.’” Approved: December 22, 2008.

⁵ Entitled “AN ACT PROVIDING FOR A COMPREHENSIVE LAW ON FIREARMS AND AMMUNITION AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF.” Approved: May 29, 2013.

Contrary to law.⁶

CRIMINAL CASE NO. 157259:

On or about May 27, 2015, in Pasig City and within the jurisdiction of this Honorable Court, the accused, being then a private person without any lawful authority, did then and there willfully, unlawfully and feloniously have in his possession and under his custody and control a loaded .45 caliber pistol Armscor with serial number 1420185 with magazine and eight (8) live ammunitions, without first securing the necessary license to own and possess firearm from the Firearms Explosive Office of the Philippine National Police.

Contrary to law.⁷

Fayo pleaded “not guilty” to the crimes charged. Pretrial was conducted whereby the parties stipulated on the jurisdiction of the trial court and identity of the accused.⁸ Joint trial on the merits then ensued.

Version of the Prosecution

Police Officer 1 Randy Sanoy (PO1 Sanoy) testified in open court the events leading to the apprehension of Fayo.⁹

On May 27, 2015, the Pasig City Police Station Anti-Illegal Drugs-Special Operation Task Group (SAID-SOTG) received a tip on the illegal drug pushing activities of Fayo in *Barangay Manggahan*, Pasig City.¹⁰

At 6:00 p.m. of the same day, SAID-SOTG, under the leadership of its chief, Police Chief Inspector Renato B. Castillo (PCI Castillo), organized a buy-bust operation against Fayo. During the briefing, PO1 Jonathan Bueno (PO1 Bueno) was designated as the poseur-buyer while PO1 Sanoy was assigned as his immediate back-up aid.¹¹

After due coordination with the Philippine Drug Enforcement Agency (PDEA), the buy-bust team proceeded to the floodway area at around 6:30 p.m. to meet with the confidential informant. PCI Castillo was then informed by the confidential informant that Fayo agreed to meet up at Phoenix Gas Station along Eulogio Amang Rodriguez Avenue, *Barangay Manggahan*, Pasig City.¹²

⁶ Records, p. 1.

⁷ Id. at 3.

⁸ *Rollo*, p. 25.

⁹ Id. at 9.

¹⁰ *CA rollo*, p. 90.

¹¹ Id.

¹² Id.

The buy-bust team and the confidential informant then went to the gas station. They waited for Fayó and positioned themselves in strategic places for the impending buy-bust operation. PO1 Bueno was with the confidential informant while PO1 Sanoy was at the convenience store, approximately seven meters away from PO1 Bueno.¹³

Fayo arrived and the transaction took place wherein Fayo sold to PO1 Bueno ₱1,000.00 worth of shabu. PO1 Bueno then executed the pre-arranged signal of scratching his head which signified that the sale has been consummated. Thus, PO1 Sanoy rushed to the scene and noticed that Fayo was resisting arrest and trying to draw something from the right side of his body. Fayo tried to escape but PO1 Sanoy accosted him, grabbed his right hand, and recovered from Fayo one cal .45 pistol Armscor with serial number 1420185 with magazine loaded with eight live ammunitions. PO1 Sanoy then bodily frisked Fayo and his belongings and it resulted to the recovery of one hand grenade inside his backpack.¹⁴

PO1 Sanoy inquired from Fayo if he has documents authorizing him to carry the seized items but the latter remained silent. Meanwhile, PO1 Bueno seized from Fayo the marked money consisting of a ₱1,000.00 bill and four plastic sachets containing substances suspected as shabu.¹⁵

PO1 Sanoy while still at the place of arrest, marked the seized firearm as “1-RSS,” the magazine as “2-RSS,” and the eight live ammunitions as “1-RSS” to “8-RSS,” respectively. Meanwhile, the recovered hand grenade was marked as “RSS.” The buy-bust operatives then summoned *Barangay* Chairman Bobby Bobis to witness the inventory and thereafter Fayo was brought to the Pasig City Police Headquarters for investigation.¹⁶

The on-duty investigator at the police station, PO3 Nelson Cruz prepared the Chain of Custody Form, Request for Laboratory Examination, Request for Drug Testing, Request for Ballistics Examination, and Request for Verification of the pistol and ammunitions. Immediately, the firearm with ammunitions and the hand grenade were turned over to the Eastern Police District – Scene of the Crime Operatives (EPD-SOCO) for proper handling and disposition.¹⁷

SPO1 Michael Villamor of EPD Crime Laboratory Office received in his custody the firearm and ammunitions for examination while the hand grenade was turned over for examination to Senior Police Officer 4 Bernardino Dulay of EPD Explosive Ordnance Division. Said officers presented the seized items before the trial court and identified the same as the

¹³ Id.

¹⁴ Id. at 90-91.

¹⁵ Id. at 91.

¹⁶ Id. at 91-92.

¹⁷ Id.

ones they took into their respective custody. PO1 Sanoy also identified the seized items as those he recovered from the possession of Fayo at the night of the buy-bust operation.¹⁸

Two Certifications¹⁹ dated January 19, 2018 and February 7, 2018, attesting that Fayo was not licensed to carry and/or to own a firearm or acquire any explosives or explosive ingredient were submitted during trial by the Firearms and Explosive Office (FEO), Civil Security Group of the Philippine National Police (PNP).

Version of the Defense

Fayo denied the accusations against him and countered that on May 27, 2015, he was on his way to Montalban, Rizal from Taytay, Rizal, to deliver to his employer the day's earnings from the sari-sari store he attended to. When he reached the floodway area in *Barangay Manggahan*, Pasig, he encountered two individuals on board a motorcycle whom he identified to be one Marvin Santos (Santos) and PO1 Sanoy. They raced against each other and exchanged expletives. Fayo was ahead of them and when he reached Javier Bridge, he noticed that the two were no longer behind him. He was about to turn to Eulogio Amang Rodriguez Avenue when he suddenly heard gunshots and saw Santos and PO1 Sanoy firing shots at him. Fayo fell from the motorcycle when he reached Phoenix Gas Station, and saw PO1 Sanoy alight from the motorcycle, approach him, and point a gun at him. Fayo was then mauled and frisked. Struggle ensued among them. The security guards from the nearby Business Park noticed the commotion and attempted to rescue Fayo but were stopped when PO1 Sanoy introduced himself as a police officer. PO1 Sanoy then ordered Fayo to lie down and when he complied, the police officer handcuffed him. Fayo was then brought to the police station after impounding his motorcycle. En route, they encountered PCI Castillo, who allegedly inquired on the items that were retrieved from him. PO1 Sanoy answered that they only recovered money from Fayo.²⁰

At the police station, PO1 Bueno tried to extort money from Fayo in exchange for his liberty. When Fayo refused, he was then brought to the *Barangay* Hall of Manggahan, Pasig in the presence of its *barangay* chairman. Fayo was asked to stand in front of a table and to point at the plastic sachet containing a substance appearing to be shabu. Finally, Fayo averred that it was only during trial that he saw the hand-grenade and firearm alleged to be recovered from his possession.²¹

¹⁸ *Rollo*, p. 11.

¹⁹ *Id.* at 11-12.

²⁰ *CA rollo*, p. 46.

²¹ *Id.*

Ruling of the Regional Trial Court

In a Decision²² dated January 23, 2019, the RTC found Fayo guilty beyond reasonable doubt of the crimes charged. The dispositive portion of the judgment reads:

WHEREFORE, the prosecution having proved the guilt of the accused beyond reasonable doubt for the crimes charged, the Court finds accused **JEFFREY R. FAYO, GUILTY**. He is hereby sentenced as follows:

- In **Criminal Case No. 157258**, for Violation of Republic Act No. 9516, "An Act Further Amending the Provisions of Presidential Decree No. 1866, As Amended, Entitled Codifying the Laws on Illegal/Unlawful Possession, Manufacture, Dealing In Acquisition or Disposition of Firearms, Ammunition or Explosives, and Imposing Stiffer Penalties for Certain Violations Thereof, and for Other Relevant Purposes", the accused, **JEFFREY R. FAYO** is hereby sentenced to suffer the penalty of **reclusion perpetua**.

- In **Criminal Case No. 157259** for Violation of Section 28 (a) in relation to (e1) of Republic Act No. 10591, otherwise known as the Comprehensive Law on Firearm and Ammunition Regulation Act, accused **JEFFREY R. FAYO** is hereby sentenced to suffer an indeterminate penalty of imprisonment ranging from Eight (8) years and One (1) day of *prision mayor* in its medium period, as minimum, to Ten (10) years eight (8) months and one (1) day of *prision mayor* maximum as maximum.

- The period of the preventive imprisonment of accused shall be credited for the service of his sentence. The subject hand grenade and one (1) caliber .45 Armscor pistol with serial number 1420185, with magazine and eight (8) pieces of live ammunition, are confiscated in favor of the government and are hereby ordered to be turned over to the Firearm and Explosive Office of the Philippine National Police, Camp Crame, for further investigation and thereafter shall be disposed of in accordance with law.

No pronouncement as to costs.

So ordered.²³

The trial court gave full credence to the testimony of PO1 Sanoy considering the lack of rebuttal evidence on the part of Fayo to debunk the prosecution's case. The defense of denial failed and Fayo's allegation of extortion was not given merit for being unsubstantiated. On the crux of the charges, Fayo was not able to controvert the Certifications presented by the prosecution that he had no license or authority to possess the subject firearm with live ammunitions and the hand grenade.²⁴

²² Id. at 60-72.

²³ Id. at 71-72.

²⁴ Id. at 65-70.

Aggrieved, Fayó sought to overturn his conviction before the CA.

Ruling of the Court of Appeals

The appellate court affirmed in *toto* the findings of the RTC. The dispositive portion of the January 14, 2021 Decision²⁵ of the CA reads:

ACCORDINGLY, for all the above reasons, the appeal is **DENIED**. The *Decision* dated January 23, 2019 and [sic] of the RTC, Branch 268 of Pasig City, in Criminal Case Nos. 157258 and 157259, finding the accused-appellant **JEFFREY FAYO y RUBIO** a.k.a. "JEFF" guilty beyond reasonable doubt for violations of R.A. No. 9516 and R.A. No. 10591 are hereby **AFFIRMED**.

SO ORDERED.²⁶

Issues

The core issues for this Court's resolution are as follows: 1) Whether the Informations had jurisdictional infirmities that would have barred Fayó's conviction; and 2) Whether the CA correctly affirmed Fayó's guilt beyond reasonable doubt of the crimes charged.²⁷

Our Ruling

The appeal is dismissed.

Lack of authority of an officer to file an Information, while a ground for quashal, is not a jurisdictional defect

Accused-appellant challenges the Informations filed against him stating that the same were signed solely by Assistant City Prosecutor Robinson A. Landicho (ACP Landicho) with a pro-forma approval of Deputy City Prosecutor George V. De Joya sans the latter's signature. He avers that the same was in contravention of Section 4, Rule 112 of the Rules of Court which provides that "[n]o complaint or information may be filed or dismissed by an investigating prosecutor without the prior written authority or approval of the provincial or city prosecutor x x x." To support his argument, he refers to the case of *Quisay v. People*²⁸ which states that violation of the cited provision may be a ground for the quashal of the Information at any stage of the

²⁵ *Rollo*, pp. 8-22.

²⁶ *Id.* at 21.

²⁷ *CA rollo*, p. 39.

²⁸ 778 Phil. 481, 487 (2016).



proceedings. He also cites jurisprudential holdings²⁹ which rejected similarly worded certification as it was shown that the officers filing the Informations with defective certifications lacked authority to do so.³⁰

Accused-appellant's arguments deserve scant consideration.

The basis for accused-appellant's arguments is outdated. In the case of *Radaza v. Sandiganbayan*³¹ (*Radaza*) this Court already emphasized that lack of written authority from the head prosecutor in the filing of an Information does not affect the trial court's acquisition of jurisdiction over the subject matter or the person of the accused, thus:

Earlier jurisprudence had viewed the lack of authority by the officer filing the Information under paragraph (d) of Section 3, Rule 117 of the Rules of Court as a non-waivable ground additional to paragraphs (a), (b), (g), and (i) of the same provision. It was the prevailing principle that an Information filed by an officer who had no authority to do so shall be considered jurisdictionally infirm for lack of jurisdiction over the person of the accused and over the subject matter or the offense. The *ratio* underlying this principle was that an Information filed without such proper authorization was a defective Information, and a defective Information can never be the basis of a valid conviction.

However, this legal maxim set by jurisprudence has already been rendered old and obsolete with the advent of *Gomez v. People*. It was therein held that a handling prosecutor's lack of prior written authority from the head prosecutor in the filing of an Information does not affect a trial court's acquisition of jurisdiction over the subject matter or the person of the accused. Such handling prosecutor who filed an unauthorized Information but without bad faith or criminal intent is considered as a *de facto* officer coated with a color of authority to exercise acts that remain valid and official.

If the unauthorized filing was done with malice, the erring officer may be held criminally or administratively liable for usurpation of official functions at most. Intentional or not, this deficiency remains formal, non-jurisdictional, and curable at any stage of the criminal proceedings. As it always is, jurisdiction springs from substantive law, whereas a government officer's authority to sue is a matter of mere form and procedure. Purely technical infirmities are never determinative of a court's jurisdiction. In no case shall it prevent the court from acquiring jurisdiction over the offense or the person of the accused.³² (Emphases supplied, citations omitted)

²⁹ See Appellant's Brief, pp. 9-10; CA *rollo*, pp. 47-48.

³⁰ CA *rollo*, pp. 47-48.

³¹ G.R. No. 201380, August 4, 2021, citing *Gomez v. People*, G.R. No. 216824, November 10, 2020, which cited *Villa v. Ibañez*, 88 Phil. 402, 405 (1951); *People v. Garfin*, 470 Phil. 211, 229-230 (2004); *Turingan v. Garfin*, 549 Phil. 903, 906-907 (2007); *Tolentino v. Paqueo, Jr.*, 551 Phil. 355, 364 (2007); *Quisay v. People*, 778 Phil. 481, 487 (2016); and *Maximo v. Villapando, Jr.*, 809 Phil. 843, 864 (2017).

³² *Id.*

Here, there was no evidence, much less an allegation that the filing of the Information was imbued with malice or bad faith which tainted the Informations filed against accused-appellant. Notably, accused-appellant not only failed to move for the quashal of the Informations but fully participated in the trial, giving his full acquiescence.

Be as it may, this Court agrees with the finding of the CA that the investigating prosecutor, contrary to the allegation of accused-appellant, has full authority to file the Informations. The records do not show that ACP Landicho made a certification purporting to have the authority to file the Information. Instead, both Informations bear a note unequivocally indicating that the same has the approval of the City Prosecutor by virtue of "ORDER No. 2009-050, DATED APRIL 27, 2009."³³ Therefore, the Informations, bearing the note, dispel the alleged lack of authority on the part of the investigating prosecutor.

Moreover, based on *Radaza*, the apparent lack or real absence of prior written authority from the head prosecutor in filing the Information, without bad faith or malice, does not affect the trial court's jurisdiction over the case.

Evidence obtained from a search as incident to a lawful warrantless arrest is deemed admissible

Accused-appellant admits that he failed to question the legality of his arrest and acknowledges that he fully participated during trial thereby submitting to the jurisdiction of the trial court and waiving his right to question the validity of his arrest. However, he insists that his waiver is only on the legality of warrantless arrest, and it does not carry a waiver of the inadmissibility of evidence seized during the illegal arrest.³⁴

The argument of the accused-appellant is sorely misplaced and is an attempt to assail the validity of his arrest, a remedy he recognizes to be already moot and academic.

At the outset, this Court affirms the appellate court's conclusion that the appreciation of evidence seized during the actual buy-bust operation and that of the search after the arrest must be treated differently, the former in relation to the rules on illegal sale and possession of dangerous drugs. The pertinent pronouncement of the CA reads:

Accordingly, the accused-appellant is mistaken to insist that the items allegedly confiscated from him are inadmissible in evidence because those had been seized on occasion of a dubious buy-bust operation. At this

³³ *Rollo*, p. 17.

³⁴ *CA rollo*, p. 51.



junction, it bears to stress that violation of Republic Act No. 9165 (R.A. No. 9165) or the Comprehensive Dangerous Drugs Act is different and distinct from violations of R.A. No. 10591 and R.A. No. 9516 and thus, should accordingly considered in a different light.³⁵

One of the recognized exceptions to the need for a warrant before a search may be made is search incidental to a lawful arrest. In this instance, the law requires that there first be a lawful arrest before a search can be made; the process cannot be reversed.³⁶

A thorough review of the records of the case reveals that accused-appellant was arrested in a buy-bust operation. He was, in effect, caught in *flagrante delicto* and such situation permits the arrest of the person without a warrant and is considered lawful.³⁷

Fayo's arrest was witnessed by PO1 Sanoy who came to the aid of PO1 Bueno, the arresting officer.³⁸ The fact of arrest was duly established by the candid and straightforward testimony of PO1 Sanoy, who had a full view of the happenings at the day of the incident. An excerpt of the relevant testimony of eyewitness PO1 Sanoy, as quoted by the CA, is as follows:

Q. Where were you exactly at that time when you saw Fayo and the informant together with [the] PO1 Bueno talking?

A. *Nandoon po ako sa store na malapit sa Phoenix gas station mga 7 meters po ang layo.*

x x x x

Q. After you received the pre-arranged signal from PO1 Bueno by scratching his head, what did you do?

A. ***Dito po sir patakbo po akong rumisponde sa kanila at nakita ko pong habang inaaresto ni PO1 Bueno si Jeffrey Fayo pumapalag po at nanlalaban akma mong may bubunutin sa kanang tagiliran, sir.***

Q. **When you saw Fayo doing that, what did you do?**

A. ***Dito sir, agad ko pong hinawakan ang kanang kamay nya at kinumpiska ko po ang bubunutin nya sa kanang tagiliran at narecover ko po one (1) cal .45 Armscor, sir.***

Q. What did you [do] with the weapon that you recovered from the accused?

A. ***Kinumpiska ko po at kinapkapan ko po sya bilang SOP at narecover[ed] ko po sa suot suot nyang backpack yong one-piece po na granada, sir.***³⁹ (Emphasis and underscoring supplied)

³⁵ *Rollo*, pp. 19-20.

³⁶ See *Manibog v. People*, G.R. No. 211214, March 20, 2019.

³⁷ See *Lapi v. People*, G.R. No. 210731, February 13, 2019.

³⁸ *Rollo*, p. 18.

³⁹ *Id.* at 18-19.



In a search incidental to a lawful arrest, the precedent arrest determines the validity of the incidental search. At bottom, assuming a valid arrest, the arresting officer may search the person of the arrestee and the area within which the latter may reach for a weapon or for evidence to destroy, and seize any money or property found which was used in the commission of the crime, or the fruit of the crime, or that which may be used as evidence, or which might furnish the arrestee with the means of escaping or committing violence. In the case at bar, the foregoing applies and the contention of accused-appellant that the items seized from his possession should not be considered as evidence has no leg to stand on. Logically, the search was not only a standard operating procedure but also a precautionary measure adopted by the police to ensure that accused-appellant had no means of escaping or committing violence.⁴⁰

There is thus no doubt that the arrest was a valid form of warrantless arrest and the ensuing search on the person of the accused-appellant is therefore likewise valid.

Illegal Possession of Firearms and Hand grenade - *Malum Prohibitum*

Delving into the crux of the case, it is apt to examine the elements of illegal possession of firearms and ammunitions as penalized under RA 9156 and RA 10591, as fully discussed in the case of *People v. Olarte*:⁴¹

The essential elements in the prosecution for the crime of illegal possession of firearms, which include explosives, ammunitions or incendiary devices, are: (a) the existence of subject firearm, and (b) the fact that the accused who possessed or owned the same does not have the corresponding license for it. Associated with the essential elements of the crime, the term “corpus delicti” means the “body or substance of the crime and, in its primary sense, refers to the fact that the crime has been actually committed.” Its elements are: (a) that a certain result has been proved (*e.g.*, a man has died); and (b) that some person is criminally responsible for the act. In the crime of illegal possession of firearms, the *corpus delicti* is the accused’s lack of license or permit to possess or carry the firearm, as possession itself is not prohibited by law. To establish the *corpus delicti*, the prosecution has the burden of proving that the firearm exists and that the accused who owned or possessed it does not have the corresponding license or permit to possess or carry the same. However, even if the existence of the firearm must be established, the firearm itself need not be presented as evidence for it may be established by testimony, even without the presentation of the said firearm.⁴² (Citations omitted, emphasis and underscoring supplied)

⁴⁰ See *Malacat v. Court of Appeals*, 347 Phil. 462, 480, (1997), citing R. Davis, FEDERAL, SEARCHES AND SEIZURES 96-98, 120 (1964), *People v. Malmstedt*, 275 Phil. 447, 468 (1991), J. Bernas, THE CONSTITUTION OF THE PHILIPPINES, A COMMENTARY, 105 (1987).

⁴¹ *People v. Olarte*, G.R. No. 233209, March 11, 2019.

⁴² *Id.*

The elements of the crimes charged are straightforward enough for the prosecution to establish the same. At this point, it is well to emphasize that the offense of illegal possession of firearms is *malum prohibitum* punished by a special law and, for one to be found guilty of a violation of the decree, it is sufficient that the accused had **no authority or license to possess a firearm**, and that he intended to possess the same, even if such possession was made in good faith and without criminal intent.⁴³ The same is true for the offense of illegal possession of ammunitions.

Here, accused-appellant's denial of charges against him is tantamount to assailing the Certifications issued by the PNP-FEO. Accused-appellant posits that the prosecution failed to prove his lack of authority to possess the seized items at the time of the commission of the crime since the Certifications alleging his lack of authority were dated January 19, 2018, and February 7, 2018, respectively.⁴⁴

The argument of the accused-appellant is simply absurd.

During trial, it was satisfactorily established by the prosecution that the accused-appellant had no license or authority to carry the seized .45 caliber firearm with magazine loaded with eight live ammunitions, classified as small arm under RA 10591,⁴⁵ and the hand-grenade. When asked by the seizing officer if he had a license for the same, accused-appellant remained silent. Thus, upon inquiry from the PNP-FEO, the office issued Certifications dated January 19, 2018 and February 7, 2018 stating that Fayo was not licensed to carry and/or to own a firearm or acquire any explosives or explosive ingredient as of the dates of the Certifications nor was he issued prior.⁴⁶

The explicit wordings of the Certifications are hereto quoted:

⁴³ See *People v. Peralta*, 817 Phil. 554, 566 (2017), citing *Fajardo v. People*, 654 Phil. 184, 203 (2011), which cited *People v. De Gracia*, 304 Phil. 118, 130 (1994).

⁴⁴ CA *rollo*, pp. 53-56.

⁴⁵ Section 3 of RA 10591 reads:

x x x x

(dd) *Small arms* refer to firearms intended to be or primarily designed for individual use or that which is generally considered to mean a weapon intended to be fired from the hand or shoulder, which are not capable of fully automatic bursts of discharge, such as:

(1) Handgun which is a firearm intended to be fired from the hand, which includes:

(i) A pistol which is a hand-operated firearm having a chamber integral with or permanently aligned with the bore which may be self-loading; and

(ii) Revolver which is a hand-operated firearm with a revolving cylinder containing chambers for individual cartridges.

⁴⁶ *Rollo*, pp. 11-12.

Certification dated January 19, 2018

THIS IS TO CERTIFY that JEFFREY FAYO y RUBIO, is not a licensed/ registered firearm holder of any kind and caliber per verification from records of this office as of this date.⁴⁷

Certification dated February 7, 2018

This is to certify that JEFFREY FAYO y RUBIO has not been issued a permit or license to possess/own or acquire explosive/explosive ingredient based on available records of file with this Office as of this date.

Furthermore, this Office does not issue to anyone any license /permit to possess hand grenade or any military ordnance.⁴⁸

As aptly concluded by the trial court, and as affirmed by the appellate court, the Certifications were proof of the negative allegation of the prosecution on the authority of the accused-appellant to carry or possess the firearm and ammunitions. The pertinent portion of the findings of the RTC, reads:

In compliance with the foregoing directive, the prosecution presented in evidence two (2) Certifications issued by the Firearms and Explosive Office of the Philippine National Police. **The documents certify among others, that the accused, Jeffrey R. Fayo was not a licensed/registered firearm holder of any kind and caliber and had not been issued a permit or license to possess, own and acquire any explosives or explosive ingredients based on the record of the office.** In fact, the second Certificate further declares that the Firearms and Explosive Office **does not issue to anyone any license/permit to possess hand grenade** or any military ordnance.

The aforesaid Certificates satisfactorily prove the negative allegation in the Information that the accused was not a licensed/registered grenade and firearm holder of any kind and caliber and the gun recovered from his custody and possession is not a registered firearm. *Per Office of the Court Administrator Circular No. 11-2011, citing the case of Del Rosario v. People (G.R. No. 142295, May 31, 2001), Courts were directed to admit the certifications issued by the Firearms and Explosive Office as sufficient proofs of the fact of possession or non-possession of a valid license to own or possess firearms or explosives in the offense of illegal possession of Firearms without further need of requiring the appearance of the Firearms and Explosive Office's records personnel to testify the authenticity thereof.*⁴⁹ (Emphasis Ours)

⁴⁷ Records, p. 193.

⁴⁸ Id. at 201.

⁴⁹ *Rollo*, p. 66.

All told, the guilt of accused-appellant was proven beyond reasonable doubt and was accordingly sentenced for the said crimes committed under RA 9516⁵⁰ and RA 10591.⁵¹

WHEREFORE, the appeal is **DISMISSED**. The January 14, 2021 Decision of the Court of Appeals in CA-G.R. CR.-H.C. No. 12595, which affirmed the January 23, 2019 Decision of the Regional Trial Court, Branch 268 of Pasig City in Criminal Case Nos. 157258 and 157259, finding accused-appellant Jeffrey Fayo y Rubio *alias* "Jeff" (Fayo) **GUILTY BEYOND REASONABLE DOUBT** for violations of Republic Act No. 9516 and Republic Act No. 10591 for illegal or unauthorized possession of a hand grenade and unlicensed firearm is **AFFIRMED**.

The accused-appellant and the Office of the Solicitor General's Manifestations in lieu of supplemental briefs, pursuant to the Resolution dated January 3, 2022; and the Letter dated March 11, 2022 of CSO4 Cesar T. Grecia, Chief, Inmate Documents and Processing Division, New Bilibid Prison, Muntinlupa City, in compliance with the Resolution dated January 3, 2022, informing the Court that the accused-appellant was received for confinement at New Bilibid Prison, Muntinlupa City, on February 22, 2017, are all **NOTED**; and the Office of the Solicitor General is required to **SUBMIT**, within five days from notice hereof, a soft copy in compact disc, USB or e-mail containing the PDF file of the signed manifestation in lieu of supplemental brief pursuant to A.M. Nos. 10-3-7-SC and 11-9-4-SC.

⁵⁰ REPUBLIC ACT NO. 9516 (2008), SEC. 1.

Section 3 of Presidential Decree No. 1866, as amended, is hereby further amended to read as follows:

Section 3. *Unlawful Manufacture, Sales, Acquisition, Disposition, Importation or Possession of an Explosive or Incendiary Device.* - The **penalty of reclusion perpetua** shall be imposed upon any person who shall willfully and unlawfully manufacture, assemble, deal in, acquire, dispose, import or possess any explosive or incendiary device, with knowledge of its existence and its explosive or incendiary character, where the explosive or incendiary device is capable of producing destructive effect on contiguous objects or causing injury or death to any person, including but not limited to, **hand grenade(s)**, rifle grenade(s), 'pillbox bomb', 'molotov cocktail bomb', 'fire bomb', and other similar explosive and incendiary devices.

Provided, That mere possession of any explosive or incendiary device shall be *prima facie* evidence that the person had knowledge of the existence and the explosive or incendiary character of the device.

⁵¹ REPUBLIC ACT NO. 10591 (2013), SEC. 28.

SEC. 28. *Unlawful Acquisition, or Possession of Firearms and Ammunition.* - The unlawful acquisition, possession of firearms and ammunition shall be penalized as follows:

- (a) The **penalty of prison mayor** in its medium period shall be imposed upon any person who shall unlawfully acquire or possess a small arm;


x x x x

(e) The **penalty of one (1) degree higher** than that provided in paragraphs (a) to (c) in this section shall be imposed upon any person who shall unlawfully possess any firearm under any or combination of the following conditions:

- (1) **Loaded with ammunition** or inserted with a loaded magazine;

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *3/1/23*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
318 & 389
MAR 16 2023

The Solicitor General
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1229 Makati City

Court of Appeals (x)
Manila
(CA-G.R. CR-HC No. 12595)

The Hon. Presiding Judge
Regional Trial Court, Branch 268
1600 Pasig City
(Crim. Case Nos. 157258 & 157259)

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