



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Baguio City

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **April 17, 2023** which reads as follows:*

“G.R. No. 261361 (People of the Philippines, Plaintiff-appellee v. Unday Macadato a.k.a. “Solaiman Omar,” Accused-appellant). — This Court resolves an appeal¹ assailing the Decision² of the Court of Appeals (CA), which affirmed the Judgment³ of the Regional Trial Court (RTC), finding Unday Macadato a.k.a. “Solaiman Omar” (Macadato) guilty beyond reasonable doubt of illegal possession of a hand grenade in violation of Section 1 of Republic Act (R.A.) No. 9516, amending Section 3 of Presidential Decree (P.D.) No. 1866.

In an Inquest Resolution,⁴ Macadato was likewise recommended to be charged with violations of Section 28(e)(1) of R.A. No. 10591, or the Comprehensive Firearms and Ammunitions Regulations Act and of Commission on Elections Resolution No. 10197, in relation to Section 261(q), of Batas Pambansa Blg. 881. However, a charge under R.A. No. 6968 for rebellion was recommended for dismissal.⁵

The instant case involves the illegal possession of a hand grenade, which stemmed from an Information⁶ charging Macadato as follows:

That on or about May 7, 2018, in Cubao, Quezon City, and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, permit[,] or license, did then and there, knowingly, willfully, unlawfully[,] and illegally have in his possession, custody, and control one (1) Grenade Hand Frag M26AI, an explosive device and capable of producing explosion and mass casualty/injury and damage to property.

CONTRARY TO LAW.⁷ (Emphasis in the original)

¹ *Rollo*, pp. 3–5.

² *Id.* at 8–26. The July 15, 2021 Decision in CA-G.R. CR-HC No. 13528 was penned by Associate Justice Apolinario D. Bruselas, Jr., and concurred in by Associate Justice Rafael Antonio M. Santos and Bonifacio S. Pascua of the Special Sixth Division, Court of Appeals, Manila.

³ *Id.* at 28–47. The September 25, 2019 Judgment in Criminal Case No. R-QZN-18-05291-CR was penned by Presiding Judge Eleuterio Larisma Bathan of Branch 92, Regional Trial Court, Quezon City. Records, pp. 3–10. Dated May 9, 2018.

⁴ *Id.* at 9.

⁵ *Id.* at 1–2.

⁶ *Id.* at 1.

During the arraignment on June 6, 2018, Macadato pleaded “not guilty” to the charge against him.⁸ After pre-trial was conducted, trial on the merits ensued.⁹

The prosecution presented Police Staff Sergeant Jonirey Galvez (*PSSgt. Galvez*) and PSSgt. Jayson B. Puyongan (*PSSgt. Puyongan*) as their witnesses.¹⁰

On May 7, 2018, PSSgt. Galvez and Senior Police Officer 1 Dennis Jumawan (*SPO1 Jumawan*) of the Regional Police Intelligence Operations Unit of the National Capital Region Police Office (*RPIOU-NCRPO*) were conducting surveillance operations in Quezon City in civilian attire. Suddenly, they were informed by Police Senior Inspector Segundino Bulan, Jr. (*PSInsp. Bulan, Jr.*) that their office hotline received a text message stating:

[G]ud am sir[,] gust[o] ko po s[a]na isumbong at humingi ng tulong dahil po m[a]y tao po d[i]t[o] n[a] [si] UNDAY na nagsisiga[-]sigaan at palaging ipinapanakot ang kanyang d[a]lang baril at lagi n[i]ya sinasab[i] na marami na s[i]yang pinatay r[a] sundalo sa [M]araw[i] at d[i] s[i]ya natatakot[.] [Di]to po ito sa [F]elix [M]analo [S]t. [di]to po sa [C]ubao tulungan nyo po kami.¹¹

As they were near the reported area, PSSgt. Galvez and SPO1 Jumawan were ordered to proceed to the place and verify the report. Upon arrival, they spoke to some bystanders for information about “Unday” and learned that he was staying in a house within a compound. Thus, PSSgt. Galvez and SPO1 Jumawan strategically positioned themselves along an alley in front of the house/compound.¹²

At around 4:55 p.m., while PSSgt. Galvez and SPO1 Jumawan were speaking to other bystanders, they noticed a man, who was wearing a pair of jeans and a yellow T-shirt, walking towards them down the alley.¹³

Then, PSSgt. Galvez and SPO1 Jumawan claimed that they witnessed Macadato load and cock his carry pistol in front of them, before inserting the same in a black carry bag. At that moment, the bystander informed PSSgt. Galvez and SPO1 Jumawan that the man was the one identified as “Unday.” This prompted them to immediately approach the man and introduce themselves as police officers.¹⁴

⁸ *Id.* at 37.

⁹ *Id.*

¹⁰ *Rollo*, pp. 9–10.

¹¹ *Id.* at 10.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at 10–11.

SPO1 Jumawan asked Macadato if he had a license to possess and carry a firearm. When Macadato failed to present one, SPO1 Jumawan informed him of the nature of his offense and apprised him of his rights. PSSgt. Galvez then arrested Macadato.¹⁵

As part of their standard operating procedure, the police officers confiscated Macadato's black carry bag where they found one caliber .45 Colt MK IV series 80 with serial number 489715, one magazine loaded with seven live ammunitions, one M26AI fragmentation hand grenade, and one black handkerchief/flag with the Iraq and Syria Islamic State (*ISIS*) logo. The confiscated items were then marked at the place of arrest.¹⁶

The M26AI fragmentation hand grenade was marked with PSSgt. Galvez's initials, "JCG-9," while the pistol was marked "JCG," and the black handkerchief/flag was marked with "JCG-11." Then, when Macadato was asked to identify himself, he admitted to the police officers that he was indeed "Unday Macadato." After, the arresting officers brought Macadato to Camp Bagong Diwa in Bicutan, Taguig where they took photographs of him and the seized items.¹⁷

Meanwhile, the confiscated hand grenade was brought to the Explosive Ordinance Disposal (*EOD*) Unit and was later turned over to PSSgt. Puyongan, an EOD technician of the Regional Mobile Force Battalion, NCRPO.¹⁸

PSSgt. Puyongan conducted an examination of the M26AI fragmentation hand grenade marked "JCG-9" found in Macadato's possession which showed that the explosive device was "in complete assembly, serviceable, and capable of explosion" as it had a pull safety pin, a primer, and a blasting cap or detonator.¹⁹

More, during trial, PSSgt. Puyongan testified that the blasting cap or detonator of a hand grenade is the "heart and soul" of a bomb, containing primary explosives consisting of mercury fulminate, lead styphnate, lead azide, and diazodinitrophenol (*DDNP*).²⁰

Further, as the M26AI fragmentation hand grenade was deemed serviceable and capable of exploding, the prosecution and defense agreed to utilize a photograph depicting the subject explosive device in lieu of the actual object to represent the corpus of the case in the proceedings.²¹

¹⁵ *Id.* at 11.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.* at 11-12.

²⁰ *Id.* at 12.

²¹ *Id.*

On March 15, 2019, the Firearms and Explosive Office-Explosives Management Division issued a certification stating that Macadato was not on the list of registered holders of a license or permit to possess explosives/explosive ingredients or controlled chemicals. More, the same division does not issue licenses or permits to possess hand grenades or military ordinance to individuals or entities.²²

For his part, Macadato denied the allegations against him.

Macadato claimed that he was from Tamparan, Lanao Del Sur, and he moved to Manila in March 2017 and resided at 113 F. Manalo Street, Barangay Immaculate Concepcion, Cubao, Quezon City. He stated that he struggled to speak Tagalog.²³

In the afternoon of May 7, 2018, Macadato recalled that he was walking along the sidewalk of a Victory Liner Terminal selling neck pillows and eyeglasses, when armed men in civilian clothes grabbed and forced him into a white van. Together, they arrived in Camp Bagong Diwa in Taguig City after an hour-and-a-half car ride.²⁴

Inside an office, Macadato stated that several items were laid in front of him: one grenade, one pistol, and one black ISIS flag/handkerchief, all of which he was forced to admit as his belongings. Then, he was forced to admit that he was “Unday Macadato.” When he refused, he was beaten and taken to another office for inquest.²⁵

Macadato asserted that some of his relatives from Cubao and Fairview visited him and asked him about his case. They were alarmed when he told them that the evidence was planted by the police officers.²⁶

Finally, Macadato insisted that he was wrongfully charged under his actual name “Solaiman Omar” on the false premise that the same was his alias. Solaiman Omar was the name displayed in his driver’s license that was obtained from him during his arrest.²⁷

In its Judgment,²⁸ the RTC found Macadato guilty of violation of Section 1 of R.A. No. 9516, amending Section 3 of P.D. No. 1866. The dispositive portion states:

²² *Id.*

²³ *Id.*

²⁴ *Id.* at 13.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.* at 28–47. Dated September 25, 2019.

WHEREFORE, the foregoing premises considered, finding the accused **UNDAY MACADATO** a.k.a. "Solaiman Omar" **GUILTY BEYOND REASONABLE DOUBT** of violation of Section 1 of R.A. 9516, amending Section 3 of P.D. 1866, he is hereby **SENTENCED** to suffer the penalty of *reclusion perpetua*.

Let a *Mittimus* Order be issued.

The one (1) Grenade Hand Frag M26AI with marking "JCG-9"; the bag with marking "Exhibit M"; and the colored black ISIS flag/handkerchief with marking "Exhibit L" are hereby **ORDERED CONFISCATED** in favor of the government and shall be disposed of in accordance or in the manner provided for by law.

And, let all interested parties be furnished copy of this Judgment.

SO ORDERED.²⁹ (Emphasis in the original)

The RTC found that the prosecution was able to duly establish the elements of illegal possession of firearms and explosive under Section 1 of R.A. No. 9516, amending P.D. No. 1866, as well as the guilt of Macadato beyond reasonable doubt.³⁰

The RTC gave credence to the testimonies of PSSgt. Galvez and SPO1 Jumawan as they were able to positively identify Macadato and testify in a categorical and straightforward manner the circumstances from the time of Macadato's arrest, following which they were able to recover the hand grenade, pistol, and other evidence from him during the time of his arrest.³¹

More, the evidence of the prosecution was uniform in establishing that the items were accounted for from the time of their seizure up to the time they were presented in court.³²

Aggrieved, Macadato filed an appeal with the CA.

In the assailed Decision,³³ the CA similarly affirmed the ruling of the RTC, the dispositive portion of which states:

WHEREFORE, we **DENY** the appeal. The judgment appealed from is **AFFIRMED**.

IT IS SO ORDERED.³⁴ (Emphasis in the original)

²⁹ *Id.* at 46–47.

³⁰ *Id.* at

³¹ *Id.* at 41.

³² *Id.*

³³ *Id.* at 8–26. Dated July 15, 2021.

³⁴ *Id.* at 25.

In its ruling, the CA emphasized that Macadato was caught in the possession of a pistol without a license when he brought the same out of his black carry bag and cocked it within the purview of the police officers. After verification, Macadato was confirmed by the police officers to be without the necessary license to possess a hand grenade, among other evidence. Thus, his lawful warrantless arrest was justified.³⁵

Further, there was no evidence adduced to show that PSSgt. Galvez was propelled by any ill motive to testify falsely against him. In the absence of such, his conviction must be sustained. Consequently, the CA upheld the findings of the RTC in assessing the credibility of the evidence as they were in a better position to decide such issue, having heard the witnesses and observed their demeanor, conduct, and attitude under cross-examination.³⁶

Hence, this appeal.

The issue for this Court's resolution is whether Unday Macadato a.k.a. "Solaiman Omar" is guilty of illegal possession of an explosive device.

We deny the appeal and affirm Macadato's conviction.

Under Rule 113, Section 5 of the Revised Rules of Criminal Procedure, a person may be validly arrested without a warrant, *viz.*:

Section 5. *Arrest without warrant; when lawful.* – A peace officer or a private person may, without a warrant, arrest a person:

- (a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;
- (b) When an offense has just been committed, and he has probable cause to believe, based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and
- (c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

In cases falling under paragraph[s] (a) and (b) above, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail and shall be proceeded against in accordance with [S]ection 7 of Rule 112. (Emphasis in the original)

³⁵ *Id.* at 22–23.

³⁶ *Id.* at 24–25.

In *People v. Olarte*,³⁷ We distinguished the nature of an *in flagrante delicto* arrest from those warrantless arrests based on probable cause, to wit:

The first instance in Sec. 5 of Rule 113, on which the subject arrest was premised, is known as an *in flagrante delicto* arrest where the accused was **caught in the act** or **attempting to commit**, already committing or having committed an offense. For a warrantless arrest of *in flagrante delicto* to be effected, two elements must concur: (a) the person to be arrested must **execute an overt act** indicating that he has just committed, is actually committing, or is attempting to commit a crime; and (b) such overt act is **done in the presence** or **within the view** of the arresting officer. Failure to comply with the overt act test renders an *in flagrante delicto* arrest constitutionally infirm.

The concept of *in flagrante delicto* arrests should not be confused with **warrantless arrests based on probable cause** as contemplated in the second instance of Sec. 5 of Rule 113. In the latter type of warrantless arrest, an accused may be arrested when there is probable cause which is discernible by a peace officer or private person that an offense “has just been committed.” Here, the offense had already been consummated but **not in the presence** of the peace officer or private person who, nevertheless, should have personal knowledge of facts or circumstances that the person to be arrested had committed it. More importantly, there is durational immediacy between the offense that had just been committed and the peace officer or private person’s perception or observation of the accused’s presence at the incident or immediate vicinity. Such is why probable cause is required to justify a warrantless arrest in cases where the peace officer or private person **did not catch or witness** the accused **in the act of committing** an offense.

“Probable cause” (in the context of warrantless arrests) has been understood to mean **a reasonable ground of suspicion supported by circumstances** sufficiently strong to warrant a cautious man’s belief that the person accused is guilty of the offense with which he is charged. While probable cause to justify a warrantless arrest is required only in instances where the peace officer or private person who was present only at the time when the offense was committed believes (based on his/her immediate perception) that an offense had just been committed, some of its yardsticks for determination may be of help in ascertaining whether an accused is attempting to commit an offense. This is because the probable cause needed to justify a warrantless arrest ordinarily involves a certain degree of suspicion, in the absence of actual belief of the arresting officers, that the person to be arrested is **probably guilty** of committing the offense based on actual facts. And such determination of reasonable suspicion “must be based on commonsense judgments and inferences about human behavior.”³⁸ (Emphasis in the original and citations omitted)

In the case at bar, Macadato was seen by PSSgt. Galvez and SPO1 Jumawan performing an overt act when he drew a pistol in front of them before inserting the same into a black carry bag.

³⁷ G.R. No. 233209, March 11, 2019 [Per J. Gesmundo, First Division].

³⁸ *Id.*

As testified by PSSgt. Galvez:

Q: Now, you said in your Affidavit that you were the one who arrested the accused, what was he doing when you arrested him?

A: He is about to --- he is going outside his house, while walking in the alley and we saw him cocking his firearm.

Q: Okay. And this house that you mentioned is located whereat?

A: Along Immaculate Concepcion, Barangay Immaculate Concepcion.

Q: What City?

A: Quezon City, sir.

Q: Okay. And when you saw the accused, you said he was holding a--he was cocking or he was loading his firearm, after that, what did you do next, if any?

A: After loading his firearm, he inserted it to his black body bag.

....

Q: Who were [the] persons present during that time?

A: Together with me is police --- SPO1 Denis Jumawan.

Q: Okay. So when you proceeded to the accused, what happened next, if any?

A: We informed him that we are police officers.

Q: After informing him that you are police officers, what happened next, if any?

A: SPO1 Jumawan asked him if he can present any documents, if he is authorized to possess the firearm, to carry his firearm.

Q: What was his reply or the accused reply to that?

A: He presented nothing, sir.

Q: After that, what happened next?

A: At that instance, we arrested him. We informed him of his rights and his violation.³⁹

This coincided with the text message reporting that a man in the area was threatening others with a gun and was further corroborated by the verification of a bystander that Macadato was "Unday."

Upon confirmation of his identity as "Unday," PSSgt. Galvez and SPO1 Jumawan approached Macadato and asked him for his name and if he possessed a license to carry his pistol. It was only after he failed to present them with a license to carry the pistol that he was subsequently arrested.

Hence, We sustain the finding that Macadato's arrest was lawful.

³⁹ TSN, September 3, 2019 pp. 9-11.

As Macadato's arrest was proven to be lawful, the search incidental to his arrest was valid.

To recall, among the items confiscated from him in the black carry bag was one M26AI fragmentation hand grenade, as well as one caliber .45 Colt MK IV series 80 with serial number 489715, one magazine loaded with seven live ammunition, and one black handkerchief/flag with the ISIS logo.⁴⁰

These were all marked by PSSgt. Galvez with his initials "JCG." In particular, the hand grenade was marked with "JCG-9." After the marking, PSSgt. Galvez and SPO1 Jumawan brought Macadato to Camp Bagong Diwa in Bicutan, Taguig where they took photographs of him and the seized items.⁴¹

The confiscated grenade was brought to the EOD Unit for examination and was turned over to PSSgt. Puyongan, an EOD technician of the Regional Mobile Force Battalion, NCRPO. Upon examination, PSSgt. Puyongan found that the hand grenade in Macadato's possession was a serviceable and fully assembled device capable of explosion.⁴²

Next, during trial, PSSgt. Galvez and SPO1 Jumawan's testimonies as to the circumstances of the incident were consistent under cross-examination and corroborated one another on all material points.

On the other hand, Macadato failed to rebut the credibility of these testimonies with affirmative evidence that he was indeed caught in the act of drawing a pistol which led to his arrest and the subsequent confiscation of the hand grenade in his possession.

Macadato's claim that he was mistaken for Unday Macadato when he claimed to be Solaiman Omar supported with evidence to confirm his identity also remained unsubstantiated. Thus, the findings of the trial courts must be upheld.

In *Tayco v. Heirs of Tayco-Flores*,⁴³ this Court ruled that:

It is a hornbook doctrine that the findings of fact of the trial court are entitled to great weight on appeal and should not be disturbed except for strong and valid reasons, because the trial court is in a better position to examine the demeanor of the witnesses while testifying. It is not a function of this Court to analyze and weigh evidence by the parties all over again.⁴⁴ (Citation omitted)

⁴⁰ *Rollo*, p. 11.

⁴¹ *Id.*

⁴² *Id.*

⁴³ 652 Phil. 291 (2010) [Per J. Peralta, Second Division].

⁴⁴ *Id.* at 301.

Therefore, We find no cogent reason to deviate from the same. Moreso, the findings of the RTC have been affirmed by the CA.

As Macadato was caught by the police officers in possession of one M26AI fragmentation hand grenade, he was properly charged with violating Section 3 of P.D. No. 1866, as amended by R.A. No. 9516, which provides:

SEC. 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.

Provided, however, That a temporary, incidental, casual, harmless, or transient possession or control of any explosive or incendiary device, without the knowledge of its existence or its explosive or incendiary character, shall not be a violation of this Section.

Provided, further, That the temporary, incidental, casual, harmless, or transient possession or control of any explosive or incendiary device for the sole purpose of surrendering it to the proper authorities shall not be a violation of this Section.

Provided, finally, That in addition to the instances provided in the two (2) immediately preceding paragraphs, the courts may determine the absence of the intent to possess, otherwise referred to as ‘*animus possidendi*’, in accordance with the facts and circumstances of each case and the application of other pertinent laws, among other things, Articles 11 and 12 of the Revised Penal Code, as amended. (Emphasis in the original)

In *People v. Velasco*,⁴⁵ this Court ruled that:

To convict an accused for illegal possession of an explosive device under P.D. No. 1866, as amended, jurisprudence has held that two (2) essential elements must be indubitably established: (a) the existence of the subject firearm or explosive which may be proved by the presentation of the subject firearm or explosive or by the testimony of witnesses who saw an accused in possession of the same, and (b) the negative fact that the accused had no license or permit to own or possess the firearm or explosive which fact may be established by the testimony or certification of a representative of the Philippine National Police Firearms and Explosives Unit that the

⁴⁵ G.R. No. 231787, August 19, 2019 [Per J. Caguioa, Second Division].

accused has no license or permit to possess the subject firearm or explosive.⁴⁶ (Citation omitted)

Unlike in the crime of illegal possession of explosive device, where the *corpus delicti* is the accused's lack of license or permit to possess or carry, as the possession of one is not outrightly prohibited by law, one cannot obtain a license or permit to carry a hand grenade as it is classified as a military grade weapon.⁴⁷

Further, Section 3 of P.D. No. 1866 is clear that the 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, as in this case.

More, the prosecution was able to adduce ample evidence to show that the hand grenade used as evidence was the one seized from Macadato.

A thorough perusal of the records shows that the names on the chain of custody form of the hand grenade, examination reports, and the markings on the hand grenade matched the people named in the direct testimonies of PSsgt. Galvez and SPO1 Jumawan who were equally subjected to intensive cross-examination during trial.

Withal, Macadato's guilt was proven beyond reasonable doubt. Hence, his conviction must be sustained.

Anent the penalty, Section 3 of P.D. No. 1866 is instructive that the illegal possession of an explosive device such as a hand grenade is meted with the penalty of *reclusion perpetua*.

Therefore, the CA's ruling was imposed in accordance with law.

FOR THESE REASONS, the instant appeal is **DENIED**. The Decision dated July 15, 2021 of the Court of Appeals in CA-G.R. CR-HC No. 13528 is **AFFIRMED**.

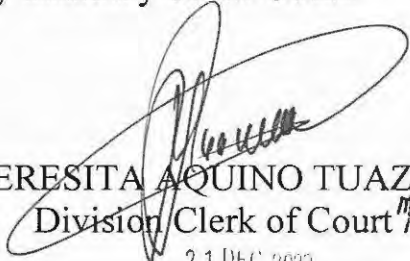
Unday Macadato a.k.a. "Solaiman Omar" is **GUILTY** beyond reasonable doubt of violation of Section 1 of R.A. No. 9516, amending Section 3 of Presidential Decree No. 1866, he is hereby **SENTENCED** to suffer the penalty of *reclusion perpetua*.

⁴⁶ *Id.*

⁴⁷ *Id.*

SO ORDERED.”

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court ^{mm} 12/26
21 DEC 2023

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THE DIRECTOR GENERAL (reg)
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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 92
Quezon City
(RTC Case No. R-QNZ-18-05291-CR)

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