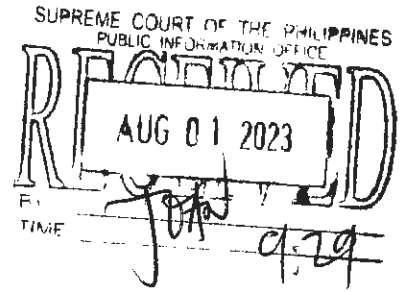




Republic of the Philippines  
Supreme Court  
Manila



THIRD DIVISION

MARK RAMSEY JAVIER y G.R. No. 245334  
TITULAR,

*Petitioner,* Present:

- versus -

CAGUIOA, J., Chairperson,  
INTING,  
GAERLAN,  
DIMAAMPAO, and  
SINGH, JJ.

Promulgated:

PEOPLE OF THE PHILIPPINES,  
*Respondent.*

February 8, 2023

Mis4DCBaH

X-----X

DECISION

INTING, J.:

Before the Court is a Petition for Review on *Certiorari*<sup>1</sup> assailing the Decision<sup>2</sup> dated August 31, 2018 and the Resolution<sup>3</sup> dated February 14, 2019 of the Court of Appeals (CA) in CA-G.R. CR No. 40014. The CA Decision affirmed the Decision<sup>4</sup> dated March 22, 2017 of Branch 276, Regional Trial Court (RTC), Muntinlupa City in Criminal Case No. 16-664 that found Mark Ramsey Javier y Titular (petitioner) guilty beyond reasonable doubt of violation of Section 261(p) of *Batas Pambansa Bilang* (BP) 881,<sup>5</sup> otherwise known as the Omnibus Election Code, as

<sup>1</sup> *Rollo*, pp. 15–30.

<sup>2</sup> Id. at 34–42. Penned by Associate Justice Ricardo R. Rosario (now a Member of the Court) and concurred in by Associate Justices Ramon Paul L. Hernando (now a Member of the Court) and Gabriel T. Robeniol.

<sup>3</sup> Id. at 44. Penned by Associate Justice Ricardo R. Rosario (now a Member of the Court) and concurred in by Associate Justices Manuel M. Barrios and Gabriel T. Robeniol.

<sup>4</sup> Id. at 59–66. Penned by Presiding Judge Antonietta Pablo-Medina.

<sup>5</sup> Approved on December 3, 1985.

amended by Section 32 of Republic Act No. (RA) 7166,<sup>6</sup> in relation to Commission on Elections (COMELEC) Resolution No. 10015.<sup>7</sup>

*The Antecedents*

In an Information dated June 2, 2016, petitioner was charged with violation of Section 261(p) of BP 881, otherwise known as the Omnibus Election Code, as follows:

“On or about the 1<sup>st</sup> day of June 2016, and during the election period, in the City of Muntinlupa, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully and unlawfully have in his possession, custody and direct control one (1) bladed weapon (*folded knife*) measuring more or less eight (8) inches long including the handle, which he carried outside his residence or place of business during the election period, which is from January 10, 2016 to June 8, 2016, without being authorized in writing by the Commission on Elections.

“Contrary to law.”<sup>8</sup> (Emphases omitted; italics in the original.)

Upon arraignment, petitioner pleaded not guilty to the charge.<sup>9</sup>

Trial ensued.

The prosecution established the following:

Around 5:50 a.m. on June 1, 2016, the team of Police Officer 1 Neil Claudel (PO1 Claudel), PO1 Leo Mejos (PO1 Mejos), and PO1 Billy Gene Gaerlan (PO1 Gaerlan) of Philippine National Police (PNP)-Muntinlupa City was conducting “*Oplan Sita*” in front of the Barangay Satellite Office of Barangay Poblacion, Muntinlupa City. There, the police officers noticed a man driving a motorcycle without wearing a

<sup>6</sup> Entitled, “An Act Providing for Synchronized National and Local Elections and for Electoral Reforms, Authorizing Appropriations Therefor, and for Other Purposes,” approved on November 26, 1991.

<sup>7</sup> Entitled, “Rules and Regulations on: (1) the Ban on the Bearing, Carrying or Transporting of Firearms and Other Deadly Weapons; and (2) the Employment, Availment or Engagement of the Services of Security Personnel or Bodyguards During the Election Period of the May 9, 2016 Synchronized National and Local Elections,” promulgated on November 13, 2015.

<sup>8</sup> *Rollo*, p. 35.

<sup>9</sup> *Id.*

helmet. They flagged down the rider, but the latter ignored them. They chased the rider and caught up with him, who they later identified as herein petitioner. They then asked for petitioner's driver's license and registration papers, but he could not produce any. When they also asked petitioner why his driven motorcycle did not have a plate number, he replied that it was because the motorcycle was newly purchased. Consequently, the police officers handcuffed the petitioner. As a result of the arrest, they found a folding knife inside the motorcycle compartment which they immediately confiscated.<sup>10</sup>

The police officers brought petitioner to the police station where PO1 Mejos marked the knife with the initials "MRTJ." After photographing the knife, the police officers turned it over to Senior Police Officer 4 Rolando Ty (SPO4 Ty) for safekeeping.

During the trial, the prosecution presented a COMELEC Certification dated July 5, 2016 which states that petitioner did not apply for and was not granted a certificate of authority to bear, carry or transport firearms or other deadly weapons during the election period for the May 9, 2016 National and Local Elections.<sup>11</sup>

For his part, petitioner insisted that he did not evade the checkpoint. He asserted that he made a stop when prompted to do so by two uniformed police officers. He admitted that he was not wearing a helmet, that he did not have his driver's license that time, and that he drove the subject motorcycle without a plate number. But he explained to the police officers that he lost his driver's license and that the motorcycle was without a plate number because it was newly purchased. The police officers forcibly boarded him to a police vehicle and immediately brought him to the police station.<sup>12</sup> After a while, PO1 Gaerlan arrived riding on petitioner's motorcycle. Then, PO1 Gaerlan showed to petitioner a knife and told him that it shall be used against him. Petitioner denied the ownership of the knife and insisted that it was only at the police station that he saw it for the first time.<sup>13</sup>

---

<sup>10</sup> Id. at 35 and 60.

<sup>11</sup> Id. at 36.

<sup>12</sup> Id. at 61.

<sup>13</sup> Id. at 36.

*Ruling of the RTC*

In the Decision<sup>14</sup> dated March 22, 2017, the RTC found petitioner guilty as charged, thus:

WHEREFORE, premises considered, this Court finds accused MARK RAMSEY JAVIER y TITULAR GUILTY beyond reasonable doubt of the crime of Violation of Section 261 (P) of Batas Pambansa Bilang 881, otherwise known as the Omnibus Election Code, as amended by Section 32 of Republic Act No. 7166, in relation to Comelec Resolution No. 10015 dated November 13, 2015 and he is hereby sentenced to suffer the penalty of imprisonment of [three (3)] years, as minimum to [six (6)] years as maximum, without the benefit of probation. In addition, he is likewise sentenced to suffer disqualification to hold public office and deprivation of the right to suffrage.

The seized bladed weapon (folding knife) is hereby declared forfeited in favor of the government and the Branch Clerk of Court is hereby directed to immediately transmit the subject weapon to the Firearms and Explosive Office (FEO), Camp Crame, Quezon City, for proper disposition.

SO ORDERED.<sup>15</sup> (Emphases omitted.)

Undaunted, petitioner filed an appeal.

*Ruling of the CA*

In the assailed Decision<sup>16</sup> dated August 31, 2018, the CA denied the appeal and affirmed *in toto* the RTC ruling. The CA ruled that petitioner was lawfully arrested without a warrant, thus, the bladed weapon confiscated from him is an admissible evidence. It added that even granting that petitioner was unlawfully arrested, he is estopped from questioning the validity of his arrest because he did not raise the issue before entering his plea.<sup>17</sup> Finally, the CA found that the petitioner was not exempt from the COMELEC ban on guns and deadly weapons during election period.<sup>18</sup>

---

<sup>14</sup> Id. at 59–66.

<sup>15</sup> Id. at 66.

<sup>16</sup> Id. at 34–42.

<sup>17</sup> Id. at 39–40.

<sup>18</sup> Id. at 40–41.

The petitioner filed a Motion for Reconsideration,<sup>19</sup> but the CA denied it in its Resolution<sup>20</sup> dated February 14, 2019.

Hence, the instant petition.

Here, petitioner insists that the knife confiscated is inadmissible as evidence as it was not confiscated incidental to a lawful arrest;<sup>21</sup> and that the elements of violation of the COMELEC ban on guns and other deadly weapons were not established.<sup>22</sup>

#### *The Issue*

The issue is whether petitioner is guilty beyond reasonable doubt of violation of Section 261(p) of BP 881, otherwise known as the Omnibus Election Code.

#### *The Court's Ruling*

The petition is granted.

As a general rule, a petition for review on *certiorari* under Rule 45 of the Rules of Court must raise only questions of law.<sup>23</sup> The Court may consider the factual findings of the lower courts binding because they enjoy the opportunity to observe the demeanor of the witnesses on the stand and to assess their testimony.<sup>24</sup> By way of exception, “this rule does not apply if the trial court overlooked, misunderstood or misapplied some facts or circumstances which, if considered, will warrant a modification or reversal of the outcome of the case.”<sup>25</sup>

---

<sup>19</sup> Id. at 84–92.

<sup>20</sup> Id. at 44.

<sup>21</sup> Id. at 22–25.

<sup>22</sup> Id. at 25–26.

<sup>23</sup> *People v. Villaber*, G.R. No. 247248, June 16, 2021.

<sup>24</sup> *Ruego v. People*, G.R. No. 226745, May 3, 2021, citing *People v. Macasinag*, 255 Phil. 279, 281 (1989)

<sup>25</sup> *Saulo v. People*, G.R. No. 242900, June 8, 2020, citing *People v. Bulan*, 498 Phil. 586 (2005).

In criminal cases, the Constitution<sup>26</sup> guarantees that an accused is presumed innocent until his or her guilt is proven beyond reasonable doubt.<sup>27</sup> This guilt “must be founded on the strength of the prosecution’s evidence, not on the weakness of the defense.”<sup>28</sup> To establish guilt, courts “must evaluate the evidence presented in relation to the elements of the crime charged.”<sup>29</sup>

In the case, both the trial court and the CA overlooked the fact that the police officers failed to comply with the chain of custody rule in handling the subject folding knife.<sup>30</sup> Thus, the prosecution failed to prove petitioner’s guilt beyond reasonable doubt.

Section 32 of RA 7166 provides:

SEC. 32. *Who May Bear Firearms.* — During the election period, no person shall bear, carry or transport firearms or other deadly weapons in public places, including any building, street, park, private vehicle or public conveyance, even if licensed to possess or carry the same, unless authorized in writing by the Commission. The issuance of firearms licenses shall be suspended during the election period.

x x x x

The above section clearly and unequivocally provides for the following elements to establish the prohibited act of illegal possession of deadly weapons: (1) the person is bearing, carrying, or transporting firearms or other deadly weapons; (2) such possession occurs during the election period; and (3) the weapon is carried in a public place.<sup>31</sup>

After the judicious scrutiny of the instant case, the Court finds that the prosecution failed to establish the first element, *i.e.*, that the person is bearing, carrying, or transporting firearms or other deadly weapons. The prosecution failed to prove beyond reasonable doubt that the folding knife identified and admitted into evidence during trial is the same folding knife allegedly confiscated from the petitioner. The very existence of the folding knife itself is doubtful.

<sup>26</sup> See Section 14(2), Article III, CONSTITUTION.

<sup>27</sup> See *Atty. Constantino v. People*, G.R. No. 225696, April 8, 2019.

<sup>28</sup> *Id.*, citing *People v. Macasinag*, 255 Phil. 279, 281 (1989).

<sup>29</sup> *Lapi v. People*, G.R. No. 210731, February 13, 2019.

<sup>30</sup> See *People v. Velasco*, G.R. No. 231787, August 19, 2019; *People v. Vicente*, G.R. No. 248660 (Notice), September 29, 2021; *People v. Togon*, G.R. No. 247501, October 11, 2021.

<sup>31</sup> *Abenes v. Court of Appeals*, 544 Phil. 614, 632–633 (2007).

The 2011 revised edition of the PNP Criminal Investigation Manual (PNP Manual) provides the outline of the investigation procedures and the preservation of physical evidence from marking and handling of evidence to laboratory examination until its presentation in court. Item 2.2.3, Chapter II of the PNP Manual provides:

2.2.3 Investigation Procedure at the Crime Scene

x x x x

e. Markings of Evidence

*Any physical evidence obtained must be marked or tagged before its submission to the evidence custodian.*

*These are information to ensure that the items can be identified by the collector at any time in the future. This precaution will help immeasurably to establish the credibility of the collector's report or testimony and will effectively avoid any suggestions that the item has been misidentified.*

*Markings on the specimen must at least contain the following:*

1. *Exhibit Case Number*
2. *Initials and or signature of the collecting officer.*
3. *Time and date of collection.*

*NOTE: It is also important to note the place or location where the evidence was collected.*

x x x x

g. Preservation of Evidence

*It is the investigator's responsibility to ensure that every precaution is exercised to preserve physical evidence in the state in which it was recovered/obtained until it is released to the evidence custodian.*

x x x x

i. Chain of Custody

A list of all persons who came into possession of an item of evidence, continuity of possession, or the chain of custody, must be established whenever evidence is presented in court as an exhibit. *Adherence to standard procedures in recording the location of*

*evidence, marking it for identification, and properly completing evidence submission forms for laboratory analysis is critical to chain of custody. Every person who handled or examined the evidence and where it is at all times must be accounted for.*

As a rule, all seized evidence must be in the custody of the evidence custodian and deposited in the evidence room or designated place for safekeeping.

X X X X

j. Transmittal of Evidence to Crime Laboratory

*Proper handling of physical evidence is necessary to obtain the maximum possible information upon which scientific examination shall be based, and to prevent exclusion as evidence in court. Specimens which truly represent the material found at the scene, unaltered, unspoiled or otherwise unchanged in handling will provide more and better information upon examination. Legal requirements make it necessary to account for all physical pieces of evidence from the time it is collected until it is presented in court. With these in mind, the following principles should be observed in handling all types of evidence:*

1. The evidence should reach the laboratory in same condition as when it was found, as much as possible.
2. The quantity of specimen should be adequate. Even with the best equipment available, good results cannot be obtained from insufficient specimens.
3. Submit a known or standard specimen for comparison purposes.
4. Keep each specimen separate from others so there will be no intermingling or mixing of known and unknown material. Wrap and seal in individual packages when necessary.
5. Mark or label each of evidence for positive identification as the evidence taken from a particular location in connection with the crime under investigation.
6. *The chain of custody of evidence must be maintained. Account for evidence from the time it is collected until it is produced in court. Any break in this chain of custody may make the material inadmissible as evidence in court. (Italics supplied.)*

Here, the police officers who recovered the subject folding knife from petitioner failed to comply with the above-mentioned provisions of the PNP Manual.

First, the marking on the folding knife lacks the following specifications required under the PNP Manual: (1) exhibit case number;



(2) signature of the collecting officer; (3) time and date of confiscation; and (4) the place or location where the knife was confiscated.<sup>32</sup>

Second, the police officers failed to testify as to what precautionary measures were exercised to preserve the folding knife from its confiscation until it was delivered to the evidence custodian. There is likewise no explanation on how it was separated from other evidence stored in the police station.<sup>33</sup>

Lastly, there is no list of persons who came into possession of the folding knife from the time it was allegedly confiscated from petitioner until it was presented during trial.

In other words, there is no documentary evidence proving that the police officers complied with the chain of custody rule under the PNP Manual.

Notably, PO1 Mejos allegedly turned over the folding knife to SPO4 Ty, the investigator, for safekeeping after marking it.<sup>34</sup> However, there is no documentary evidence to prove such turnover. Even if it was properly turned over to SPO4 Ty, there is no evidence showing how the folding knife was kept in the evidence room or whether it was separated from other deadly weapons inside the police station. There is likewise no evidence to show how the knife was handled from the time it was turned over by PO1 Mejos to any person or officer who had custody of it until it was identified during trial.

Further, it has not escaped the Court's attention that there is no chain of custody form that was accomplished by the police officers to prove the links in handling the knife and separating it from other evidence.

In addition, it is worthy to stress that PO1 Mejos marked the folding knife only at the police station.<sup>35</sup> This fact gives the Court a reason to doubt whether there was a knife that was allegedly confiscated from the petitioner at the crime scene.

---

<sup>32</sup> PO1 Mejos marked the knife only with petitioner's initials "MRTJ." See *rollo*, p. 36.

<sup>33</sup> *Id.* at 60-61.

<sup>34</sup> *Id.* at 36.

<sup>35</sup> *Id.*

Marking is “the starting point in the custodial link”<sup>36</sup> and must be immediately undertaken as this serves to separate the marked evidence from all other similar or related evidence. Marking thus prevents switching, planting, or contamination of evidence.<sup>37</sup>

Clearly, the evidentiary value of the subject folding knife was not preserved.

In the case of *People v. Velasco*<sup>38</sup> (*Velasco*), the accused-appellant therein was acquitted of illegal possession of fragmentation hand grenade—which is more dangerous than a folding knife—for failure of the prosecution to establish an unbroken chain of custody of the subject grenade. The Court discussed:

Simply stated, the prosecution was clearly unsuccessful in establishing an *unbroken chain of custody* of the allegedly confiscated fragmentation hand grenade, creating serious doubt as to the *corpus delicti* of the crime charged.

Jurisprudence explains that the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. This would include testimony about every link in the chain, from the moment the item was picked up to the time it was offered in evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness’ possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.<sup>39</sup> (Emphases omitted; italics in the original.)

Moreover, in *People v. Vicente*,<sup>40</sup> the Court acquitted the accused therein of illegal possession of firearm and ammunitions—which, again, are more dangerous than a folding knife—for failure of the police officers to undertake steps to secure the evidentiary value of the subject firearm and ammunitions, thus:

---

<sup>36</sup> *People v. Ramirez*, 823 Phil. 1215, 1225 (2018).

<sup>37</sup> *Id.* at 1225-1226.

<sup>38</sup> G.R. No. 231787, August 19, 2019.

<sup>39</sup> *Id.*, citing *People v. Punzalan*, 773 Phil. 72, 90-91 (2015).

<sup>40</sup> G.R. No. 248660 (Notice), September 29, 2021.


x x x He also failed to identify what steps he undertook to secure the firearm, whether he stored it in a separate container after confiscating it from Vicente. Therefore, it is dubious if the firearm presented in court was the same firearm allegedly taken from Vicente.<sup>41</sup>

Here, the police officers' manifest disregard of the rules only shows that they did not perform their duty in a regular manner. The irregularities are clear as daylight.

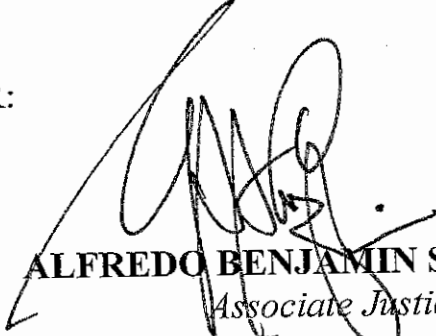
**WHEREFORE**, the petition is **GRANTED**. The Decision dated August 31, 2018 and the Resolution dated February 14, 2019 of the Court of Appeals in CA-G.R. CR No. 40014 are **REVERSED** and **SET ASIDE**. Accordingly, petitioner Mark Ramsey Javier y Titular is **ACQUITTED** of violation of Section 261(p) of *Batas Pambansa Bilang* 881, otherwise known as the Omnibus Election Code, as amended by Section 32 of Republic Act No. 7166, in relation to Commission on Elections Resolution No. 10015 for failure of the prosecution to prove his guilt beyond reasonable doubt.

Let entry of judgment be issued immediately.

**SO ORDERED.**


  
**HENRI JEAN PAUL B. INTING**  
*Associate Justice*


WE CONCUR:

  
**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*  
*Chairperson*

---

<sup>41</sup> Id.

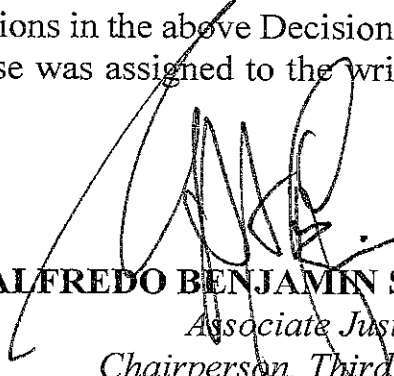
  
**SAMUEL H. GAERLAN**  
*Associate Justice*

  
**TAPAR B. DIMAAMPAO**  
*Associate Justice*

  
**MARIA FILOMENA D. SINGH**  
*Associate Justice*

**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*  
*Chairperson, Third Division*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**ALEXANDER G. GESMUNDO**  
*Chief Justice*

