



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated November 10, 2020 which reads as follows:

“G.R. No. 226772 – MICHAEL DUATIN y PAJARILLO, accused-petitioner, versus PEOPLE OF THE PHILIPPINES, respondent.

After a careful review of the records of the case and the issues submitted by the parties, the Court finds no error committed in the Decision¹ dated December 11, 2015 (Decision) and Resolution² dated August 30, 2016 of the Court of Appeals (CA) in CA-G.R. CR No. 36217. The facts, as borne out by the records, sufficiently support the conclusion that the accused-appellant is indeed guilty of the crime charged against him. The issues and matters raised before the Court, the same ones as those raised in the CA, were sufficiently addressed and correctly ruled upon by the CA.

In this appeal, the accused-appellant reiterates his plea for the Court to retroactively apply COMELEC Resolution No. 9651-A to establish his innocence. Despite COMELEC Resolution No. 9651-A being favorable to the accused-appellant, the same, however, would still not apply to him for the following reasons:

First, COMELEC Resolution No. 9651-A specifically limits its application in the election period between January 13, 2013 to June 12, 2013,³ and the accused-appellant’s violation was made outside the said period.

- over – four (4) pages ...

118-B

¹ *Rollo*, pp. 75-83. Penned by Associate Justice Noel G. Tijam, with Associate Justices Francisco P. Acosta and Eduardo B. Peralta, Jr. concurring.

² *Id.*, at 72-73.

³ COMELEC Resolution No. 9651-A, Sec. 2 (a).

Second, while COMELEC Resolution No. 9651-A indeed allows members of the Philippine Coast Guard⁴ to bear weapons during the election period, the same resolution subjects the exemption of these personnel to conditions, namely, that they were:

- (1) In the regular plantilla of the said agencies and are receiving regular compensation for the services rendered in said agencies;
- (2) In the agency-prescribed uniform showing clearly and legibly the name, rank and serial number or, in case rank and serial number are inapplicable, the agency-issued identification card showing clearly the name and position which shall remain visible at all times;
- (3) Duly authorized to possess the firearm and to carry the same outside of residence by means of a valid permit to carry or by virtue of a valid mission order or letter order; and
- (4) In the actual performance of official law enforcement and/or security duty, or in going to or returning from his residence/barracks or official station.⁵

Moreover, even if the resolution exempts them from the gun ban, they would still have to go through the process of filing for an exemption. The same resolution provides:

SEC. 14. *Enforcement, Prohibition and Penalties* – Any member of the law enforcement/security agencies enumerated in Sec. 4 hereof, who are not wearing the authorized uniform, display their agency issued identification cards mentioned herein, bears, carries or transports firearm or other deadly weapon, **and who do not possess the required Certificate of Authority from the CBFSP** shall be presumed unauthorized to carry firearms and subject for arrest. (Emphasis and underscoring supplied)

No evidence, however, establishing the above requirements for the exemption to apply — even if he was indeed a member of the Philippine Coast Guard — was presented in the case at bar. In contrast, all the elements of the crime had been established by the prosecution. Specifically, the prosecution was able to prove that “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.”⁶

The accused-appellant counters, however, that he had no intent to perpetrate the act as prohibited by the special law⁷ and he must thus

- over -

118-B

⁴ Id. at Sec. 4 (b) (12).

⁵ Id. at Sec. 4 (b)

⁶ *Abenes v. Court of Appeals*, G.R. No. 156320, February 14, 2007, 515 SCRA 690, 706.

⁷ *Rollo*, p. 10.

be acquitted for that reason. He claims to have had no *animus possidendi* of the weapon in question as evidenced by his voluntary surrender of the said gun to the police officers.

The Court disagrees.

The violation involved in the present case is a violation of a special law. Thus, whether or not he intended to commit the crime was immaterial, it being sufficient that it is established that he committed the act punished. Also, the fact that he voluntarily surrendered possession of the gun to the police officers does not free him from the criminal liability which had already attached by virtue of his possession of the said gun prior to the surrender.

Lastly, as to the accused-appellant's contention regarding the inadmissibility of the certificate from COMELEC that he did not file for a Certificate of Exemption from the gun ban, the Court finds it to be admissible as it is a public document under Section 19 (a), Rule 132 of the Rules of Court, and was properly formally offered as evidence as well. In any event, even without the questioned COMELEC's certification as to his non-filing, the result would nevertheless be the same, as it was incumbent upon him to show that he had the *written authority* to possess the weapon during that time.

In sum, the Court thus agrees that the accused-appellant's guilt was proven beyond reasonable doubt.

WHEREFORE, premises considered, the Court hereby **ADOPTS** the findings of fact and conclusions of law in the Decision dated December 11, 2015 and Resolution dated August 30, 2016 of the Court of Appeals in CA-G.R. CR No. 36217. The Decision finding accused-appellant Michael Duatin y Pajarillo guilty beyond reasonable doubt for the crime charged is hereby **AFFIRMED**.

SO ORDERED.” *Zalameda, J., on official leave.*

By authority of the Court:


LIBRADA C. BUENA

Division Clerk of Court
12-17

by:

MARIA TERESA B. SIBULO

Deputy Division Clerk of Court

118-B

- over -



THE LAW FIRM OF CASAUAY
COLOMA FRANCISCO
ESTRELLADO & ASSOCIATES
Counsel for Petitioner
Suite 300-C, Delta Building
West cor. Quezon Avenues
1100 Quezon City

Court of Appeals (x)
Manila
(CA-G.R. CR No. 36217)

The Solicitor General
134 Amorsolo Street, Legaspi Village
1229 Makati City

The Hon. Presiding Judge
Regional Trial Court, Branch 269
1440 Valenzuela City
(Crim. Case No. 204-V-12)

Public Information Office (x)
Library Services (x)
Supreme Court
(For uploading pursuant to A.M.
No. 12-7-1-SC)

Judgment Division (x)
Supreme Court



118-B

UR

