



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

JASPER GONZALEZ* y **G.R. No. 225709**
DOLENDO,

Petitioner,

Present:

- versus -

PEOPLE OF THE
PHILIPPINES,

Respondent.

CARPIO, *J.*, Chairperson,
PERALTA,
PERLAS-BERNABE,
CAGUIOA,** and
REYES, JR., *JJ.*

Promulgated:

14 FEB 2018

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D E C I S I O N

PERLAS-BERNABE, J.:

Before the Court is a petition for review on *certiorari*¹ assailing the Decision² dated August 7, 2015 and the Resolution³ dated June 22, 2016 of the Court of Appeals (CA) in CA-G.R. CR No. 36523, affirming the conviction of petitioner Jasper Gonzalez y Dolendo (Gonzalez) for violation of Section 261 (q) of the Omnibus Election Code, as amended by Section 32 of Republic Act (RA) No. 7166.

* "Gonzales" in some parts of the records.

** On Official Business.

¹ *Rollo*, pp. 11-26.

² *Id.* at 31-39. Penned by Associate Justice Socorro B. Inting with Associate Justices Remedios A. Salazar-Fernando and Priscilla J. Baltazar-Padilla, concurring.

³ *Id.* at 41-42.

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The Facts

This case stemmed from two (2) separate Informations⁴ filed before the Regional Trial Court of Valenzuela City, Branch 269 (RTC) accusing Gonzalez of violating: (1) Section 261(p) (q)⁵ of the Omnibus Election Code (OEC),⁶ as amended by Section 32⁷ of RA 7166;⁸ and (2) Section 11, Article II⁹ of RA 9165 or the “Comprehensive Dangerous Drugs Act of 2002,”¹⁰ to wit:

⁴ See Information dated February 24, 2012 for Crim. Case No. 173-V-12 (violation of OEC); records, p. 1. See also *rollo*, pp. 13 and 58.

⁵ **Section 261. Prohibited Acts.** – The following shall be guilty of an election offense:

x x x x

(p) *Deadly weapons.* – Any person who carries any deadly weapon in the polling place and within a radius of one hundred meters thereof during the days and hours fixed by law for the registration of voters in the polling place, voting, counting of votes, or preparation of the election returns. However, in cases of affray, turmoil, or disorder, any peace officer or public officer authorized by the Commission to supervise the election is entitled to carry firearms or any other weapon for the purpose of preserving order and enforcing the law.

(q) *Carrying firearms outside residence or place of business.* – Any person who, although possessing a permit to carry firearms, carries any firearms outside his residence or place of business during the election period, unless authorized in writing by the Commission: *Provided, That* a motor vehicle, water or air craft shall not be considered a residence or place of business or extension hereof.

This prohibition shall not apply to cashiers and disbursing officers while in the performance of their duties or to persons who by nature of their official duties, profession, business or occupation habitually carry large sums of money or valuables. (Emphasis supplied)

⁶ *Batas Pambansa Blg.* 881 (December 3, 1985).

⁷ Section 32 of RA 7166 pertinently states:

Section 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 (Emphasis supplied)

⁸ Entitled “AN ACT PROVIDING FOR SYNCHRONIZED NATIONAL AND LOCAL ELECTIONS AND FOR ELECTORAL REFORMS, AUTHORIZING APPROPRIATIONS THEREFOR, AND FOR OTHER PURPOSES,” otherwise known as the “SYNCHRONIZED ELECTIONS LAW OF 1991” (November 27, 1991).

⁹ Section 11, Article II of RA 9165 reads in part:

Section 11. *Possession of Dangerous Drugs.* – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

- (1) 10 grams or more of opium;
- (2) 10 grams or more of morphine;
- (3) 10 grams or more of heroin;
- (4) 10 grams or more of cocaine or cocaine hydrochloride;
- (5) 50 grams or more of methamphetamine hydrochloride or “shabu”;
- (6) 10 grams or more of marijuana resin or marijuana resin oil;
- (7) 500 grams or more of marijuana; and
- (8) 10 grams or more of other dangerous drugs such as, but not limited to, methylenedioxymethamphetamine (MDMA) or “ecstasy”, paramethoxyamphetamine (PMA), trimethoxyamphetamine (TMA), lysergic acid diethylamine (LSD), gamma hydroxybutyrate (GHB), and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements, as determined and promulgated by the Board in accordance to Section 93, Article XI of this Act.

Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

Criminal Case No. 173-V-12

That on or about February 23, 2012 in Valenzuela City and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously have in his possession and control one (1) Kitchen Knife, without securing an exemption from the COMELEC pursuant to Sec. 261 (p)(q) OEC as amended by Sec. 32, of R.A. 7166.

Contrary to Law.¹¹

Criminal Case No. 174-V-12

That on or about February 23, 2012, in Valenzuela City and within the jurisdiction of this Honorable Court, the above-named accused, without any authority of law, did then and there willfully, unlawfully and feloniously have in his possession and control one (1) heat-sealed transparent plastic sachet containing zero point eight (0.80) gram, found to be *methylamphetamine hydrochloride* [sic] (shabu), knowing the same to be dangerous drugs.

Contrary to Law.¹²

The prosecution alleged¹³ that in the early morning of February 23, 2012, an operative of the Station Anti-Illegal Drugs (SAID), Special Operation Task Group (SOTG), Valenzuela City, was informed of the

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- (1) Life imprisonment and a fine ranging from Four hundred thousand pesos (P400,000.00) to Five hundred thousand pesos (P500,000.00), if the quantity of methamphetamine hydrochloride or “shabu” is ten (10) grams or more but less than fifty (50) grams;
 - (2) Imprisonment of twenty (20) years and one (1) day to life imprisonment and a fine ranging from Four hundred thousand pesos (P400,000.00) to Five hundred thousand pesos (P500,000.00), if the quantities of dangerous drugs are five (5) grams or more but less than ten (10) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or “shabu”, or other dangerous drugs such as, but not limited to, MDMA or “ecstasy”, PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or three hundred (300) grams or more but less than five hundred (500) grams of marijuana; and
 - (3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or “shabu”, or other dangerous drugs such as, but not limited to, MDMA or “ecstasy”, PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.

¹⁰ Entitled “AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES” approved on June 7, 2002.

¹¹ Records, p. 1. See also *rollo*, pp. 13 and 58.

¹² See *rollo*, pp. 13 and 58.

¹³ See *rollo*, pp. 59-61; Brief for the Appellee dated April 30, 2015, CA *rollo*, pp. 61-76; and TSN, June 20, 2012, pp. 1-23.

rampant selling of illegal drugs at a wake in Tamaraw Hills, Barangay Marulas, Valenzuela City, which thus led to the conduct of an anti-illegal drug operation. At about 3:30 a.m., certain Police Officer (PO) 2 Lim, PO2 Recto, and PO1 Raya, together with PO1 Julius R. Congson (PO1 Congson), proceeded to surveil the area near No. 75 Tamaraw Hills Street. While in the area, PO2 Recto and PO1 Congson saw a person coming out of an alley about four (4) meters away, with a fan knife in his right hand. Since there was a ban issued by the Commission on Elections¹⁴ (COMELEC) on the carrying of deadly weapons at that time, PO2 Recto and PO1 Congson approached the person and introduced themselves as police officers. The person, who they later identified as Gonzalez, immediately ran away, prompting the police officers to chase and eventually, arrest him. PO1 Congson recovered the knife from Gonzalez, frisked the latter, and ordered him to bring out the contents of his pocket, which revealed one heat-sealed transparent plastic sachet containing what PO1 Congson believed to be shabu. PO1 Congson further recovered another heat-sealed transparent plastic pack, labeled "Calypso", containing several plastic sachets. Thereafter, Gonzalez started shouting, causing several persons from the wake (including Gonzalez' mother) to approach him. The police officers then decided to bring Gonzalez to the nearby barangay hall, where the seized items were inventoried¹⁵ and turned over.¹⁶ After duly receiving the submitted specimen, the forensic chemist examined¹⁷ the same which tested positive for methamphetamine hydrochloride.¹⁸

In his defense,¹⁹ Gonzalez denied the charges against him and instead, claimed that on February 23, 2012, at around 3:00 a.m., he was just at their house in No. 75 Tamaraw Hills Street. He was about to go to sleep when four (4) male persons arrived and arrested him. The men then tied his hands with his wife's brassiere, and thereafter, showed him a sachet of shabu and took the knife that was on top of the table. They then dragged him down from their house, bringing with them his child, while he shouted for someone to call his mother. Many of his neighbors who heard or were awakened by his shouts and the crying of his child came out of their houses and saw his arrest. At the ground floor, he was photographed with the knife

¹⁴ See Resolution No. 9357 dated January 31, 2012, entitled "RULES AND REGULATIONS ON THE BEARING, CARRYING OR TRANSPORTING OF FIREARMS OR OTHER DEADLY WEAPONS IN CONNECTION WITH THE MARCH 3, 2012 PLEBISCITE TO RATIFY THE DIVISION OF BARANGAY ANUMAY, VALENZUELA CITY, AND THE CREATION OF TWO (2) NEW BARANGAYS THEREFROM, TO BE KNOWN AS BARANGAY ANUMAY WEST AND BARANGAY ANUMAY EAST, PURSUANT TO ORDINANCE NO. 37, SERIES OF 2011, APPROVED ON NOVEMBER 21, 2011, OF THE *SANGGUNIANG PANLUNGSOD* OF VALENZUELA CITY," and Resolution No. 9350 dated January 31, 2012, entitled "CALENDAR OF ACTIVITIES AND PERIODS OF PROHIBITED ACTS IN CONNECTION WITH THE MARCH 03, 2012 PLEBISCITE TO RATIFY THE DIVISION OF BARANGAY CANUMAY IN VALENZUELA CITY, AND THE CREATION OF TWO (2) NEW BARANGAYS THEREFROM, TO BE KNOWN AS BARANGAY CANUMAY EAST AND BARANGAY CANUMAY WEST, PURSUANT TO CITY ORDINANCE NO. 37, SERIES OF 2011, APPROVED ON NOVEMBER 21, 2011 BY THE *SANGGUNIANG PANLUNGSOD* OF VALENZUELA CITY; *rollo*, pp. 115-118 and 119-123, respectively.

¹⁵ See Inventory of Seized Properties/Items dated February 23, 2012; *rollo*, p. 85.

¹⁶ See *rollo*, pp. 59-60; *CA rollo*, pp. 67-69; and TSN, June 20, 2012, pp. 5-12.

¹⁷ See Initial Laboratory Report dated February 23, 2012; *rollo*, p. 73.

¹⁸ See *rollo*, p. 60; and *CA rollo*, p. 69.

¹⁹ See *rollo*, pp. 61-62; Brief for the Accused-Appellant dated January 5, 2015, *CA rollo*, pp. 28-42; and TSN, August 7, 2013, pp. 1-9.

placed on the top of a small table. Thereafter, the arresting persons boarded him on a vehicle. They drove around Ugong for thirty (30) minutes, fetched Senior Police Officer 3 Ronald C. Sanchez (SPO3 Sanchez) at his office at the third floor of the city hall, and then proceeded to the Marulas Barangay Hall to wait for the barangay kagawad. When the kagawad arrived, he just signed a paper about the seized evidence. Gonzalez was then brought to Camp Crame for drug testing, and afterwards to the detention cell at the new city hall.²⁰

The RTC Ruling

In a Decision²¹ dated January 6, 2014, the RTC found Gonzalez guilty beyond reasonable doubt of violation of Section 261 (q) of the OEC,²² holding that all the necessary elements thereof have been proven, namely: (1) Gonzalez was found holding the fan knife with his right hand; (2) such possession occurred during the prohibited period; and (3) he was carrying the knife while casually walking towards Tamaraw Hills Street from an alley – a public place.²³ The RTC gave no credence to Gonzalez' version of his arrest in light of his positive identification as the culprit, as well as the presumption of regularity accorded to the police officers in the performance of their duties.²⁴ It also brushed aside the testimonies of Gonzalez' three (3) witnesses for their failure to actually see what had transpired immediately preceding his arrest.²⁵

As regard the charge of violation of Section 11 of RA 9165, the RTC found Gonzalez not guilty due to insufficiency of evidence.²⁶

Aggrieved, Gonzalez elevated his conviction to the CA.²⁷ Pending his appeal, Gonzalez renewed his Surety Bond²⁸ posted in this case, and thereafter, applied for bail,²⁹ which the RTC granted in an Order³⁰ dated January 24, 2014.

²⁰ See *rollo*, pp. 61-62; *CA rollo*, p. 34; and TSN, August 7, 2013, pp. 3-8.

²¹ *Rollo*, pp. 58-69. Penned by Presiding Judge Emma C. Matammu.

²² *Id.* at 69.

²³ See *id.* at 65.

²⁴ See *id.* at 66.

²⁵ See *id.*

²⁶ See *id.* at 66-69. Essentially, the RTC ruled that the prosecution has failed to show that the integrity and evidentiary value of the seized items have been duly preserved, particularly pointing out that "SPO3 Sanchez failed to account for what happened to the items and where they were kept while in his possession," as well as specify the "precautionary measures he had undertaken, if any, in order to ensure that there had been no change in the condition of the seized items and no opportunity for someone not in the chain to have possession thereof from the time he received them from PO1 Congson until he turned them over to [Police Inspector Aileen Z.] Valencia." (See *id.* at 68.)

²⁷ See Notice of Appeal dated January 17, 2014; records, p. 316.

²⁸ See Renewal Certificate of Plaridel Surety and Insurance Company; *id.* at 318. Said certificate, however, indicates that the renewal period is only for two (2) years from March 2, 2013.

²⁹ See Manifestation/Compliance dated January 23, 2014 of Plaridel Surety and Insurance Company; *id.* at 317.

³⁰ *Id.* at 319.

The CA Ruling

In a Decision³¹ dated August 7, 2015, the CA affirmed the RTC Decision,³² finding that the prosecution had established beyond reasonable doubt that Gonzalez was “found in possession of a fan knife at the time he was apprehended by the police officers during [the ban] enforced by the COMELEC.”³³ It held that Gonzalez failed to demonstrate by clear and convincing evidence his defense that “he uses [the fan knife] as a utensil in cooking.”³⁴

Undaunted, Gonzalez moved for reconsideration,³⁵ which was denied in a Resolution³⁶ dated June 22, 2016; hence, this petition.

The Issue Before the Court

The issue for the Court’s resolution is whether or not Gonzalez’ conviction for violation of Section 261 (q) of the OEC, as amended by Section 32 of RA 7166, should be upheld.

The Court’s Ruling

The petition is meritorious.

At the outset, it must be emphasized that “[t]he constitutional right to be presumed innocent until proven guilty can only be overthrown by proof beyond reasonable doubt, that is, that degree of proof that produces conviction in an unprejudiced mind. Hence, where the court entertains a reasonable doubt as to the guilt of the accused, it is not only the right of the accused to be freed; it is the court’s constitutional duty to acquit them.”³⁷

In this light, the Court is convinced that Gonzalez’ conviction must be set aside.³⁸

³¹ *Rollo*, pp. 31-39.

³² *Id.* at 38.

³³ *Id.*

³⁴ *Id.* at 37.

³⁵ See motion for reconsideration dated September 14, 2015; *CA rollo*, pp. 102-107.

³⁶ *Rollo*, pp. 41-42.

³⁷ See *Maamo v. People*, G.R. No. 201917, December 1, 2016, 811 SCRA 458, 461.

³⁸ As a general rule, a Rule 45 Petition, under which Gonzalez seeks redress, addresses only questions of law. However, there are exceptions to this Rule. A factual re-examination is justified “when certain material facts and circumstances had been overlooked by the trial court which, if taken into account, would alter the result of the case in that they would introduce an element of reasonable doubt which would entitle the accused to acquittal.” (*Ligtas v. People*, 766 Phil. 750, 764 [2015].)

Gonzalez was charged under Section 261 (p) (q) of the OEC, as amended by Section 32 of RA 7166. Section 261 (p) (q) of the OEC, as originally worded, provides:

Section 261. *Prohibited Acts.* – The following shall be guilty of an election offense:

x x x x

(p) *Deadly weapons.* – Any person who carries any deadly weapon in the polling place and within a radius of one hundred meters thereof during the days and hours fixed by law for the registration of voters in the polling place, voting, counting of votes, or preparation of the election returns. However, in cases of affray, turmoil, or disorder, any peace officer or public officer authorized by the Commission to supervise the election is entitled to carry firearms or any other weapon for the purpose of preserving order and enforcing the law.

(q) *Carrying firearms outside residence or place of business.* – Any person who, although possessing a permit to carry firearms, carries any firearms outside his residence or place of business during the election period, unless authorized in writing by the Commission: *Provided, That* a motor vehicle, water or air craft shall not be considered a residence or place of business or extension hereof.

This prohibition shall not apply to cashiers and disbursing officers while in the performance of their duties or to persons who by nature of their official duties, profession, business or occupation habitually carry large sums of money or valuables.

while Section 32 of RA 7166, pertinently reads:

Section 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 (Emphasis and underscoring supplied)

COMELEC Resolution No. 9357, implementing Section 32 of RA 7166 for the conduct of a plebiscite in Valenzuela City on March 3, 2012, defines “deadly weapon” as:

Section 2. *Firearm; Deadly weapon.* – x x x.

Deadly weapon includes bladed instrument, hand grenades or other explosives, except pyrotechnics.

A bladed instrument is not covered by the prohibition when possession of the bladed instrument is necessary to the occupation of the possessor or when it is used as a tool for legitimate activity.

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In order to secure a conviction of an accused based on these provisions, the prosecution must prove that: (a) the person is bearing, carrying, or transporting firearms or other deadly weapons; (b) such possession occurs during the election period; and (c) the weapon is carried in a public place. Notably, it is essential that **possession of the deadly weapon in a public place** be established beyond reasonable doubt. In his petition, Gonzalez prayed for his acquittal in view of the serious doubts on the prosecution's evidence. Particularly, he claims that PO1 Congson's narration of events was uncorroborated and in fact contradicted by the physical evidence submitted in court, as well as by the testimonies of his witnesses, corroborating his version of the events, which thereby puts into question PO1 Congson's credibility.³⁹

The Court agrees, as the prosecution failed to dispel all reasonable doubts surrounding Gonzalez' arrest.

In particular, the prosecution failed to establish its allegation that, immediately before and at the time of his arrest, Gonzalez was *holding a knife in a public place* – the critical elements of the crime of violation of Section 261 (p) (q) of the OEC, as amended by Section 32 of RA 7166. Records show that aside from the testimony of PO1 Congson, the prosecution did not present any other evidence that would corroborate his version leading to Gonzalez' arrest. PO1 Congson claimed that at around 4:00 a.m., he and the other police officers saw Gonzalez holding a fan knife in his right hand as he was walking out of an alley where they eventually arrested him after a chase.⁴⁰ Gonzalez, on the other hand, presented three (3) witnesses⁴¹ – neighbors who lived below and across his house where he was arrested and who were there at the time of his arrest. All these witnesses corroborated Gonzalez' version, particularly on five (5) critical points, namely: (a) Gonzalez and his child were brought downstairs from his house located at the second floor by the arresting persons; (b) his hands were tied behind his back as he was being dragged downstairs; (c) his photograph was taken soon after the arrest took place at around 3:00 a.m.; and (d) there were a total of four (4) male persons who conducted the arrest.⁴² One of the witnesses even confirmed that Gonzalez' hands were tied by a brassiere.⁴³ In other words, all three (3) witnesses rendered more credible the defense's claim that Gonzalez was arrested at his home; at the very least, their testimonies rendered doubtful the prosecution's claim that police officers arrested Gonzalez on the street in the regular performance of their duties. Unfortunately, the RTC simply brushed these aside, thus leading to the

³⁹ See *rollo*, pp. 20-23.

⁴⁰ See *rollo*, pp. 132-133. See also TSN, June 20, 2012, pp. 7-8.

⁴¹ See testimonies of: (1) Irene Paat, TSN, September 4, 2013, pp. 1-6; (2) Aida Alde, TSN, September 25, 2013, pp. 1-7; and (3) Ferdinand Perez, TSN, October 16, 2013, pp. 1-10. See also *rollo*, pp. 179-200.

⁴² See testimonies of: (1) Irene Paat, TSN, September 4, 2013, pp. 3-6; (2) Aida Alde, TSN, September 25, 2013, pp. 3-6; and (3) Ferdinand Perez, TSN, October 16, 2013, pp. 3-10. See also *rollo*, pp. 181-184, 187-190, and 194-200.

⁴³ See testimony of Irene Paat, TSN, September 4, 2013, p. 5. See also *rollo*, p. 183.

erroneous conclusion that “[n]o one actually saw the factual circumstances immediately preceding his arrest.”⁴⁴

Moreover, while the information and the physical evidence⁴⁵ presented before the lower court both revealed a kitchen knife, PO1 Congson categorically testified that he saw a fan knife.⁴⁶ A fan knife, locally known as “*balisong*”⁴⁷ or “*Batangas*”,⁴⁸ is a folding pocket knife with two handles counter-rotating around the tang so that, when the knife is closed, the blade resides concealed inside the grooved handles.⁴⁹ In contrast, a kitchen knife has one handle that does not fold, with its blade clearly visible. Obviously, a fan knife is far from being the same as a kitchen knife. To the Court’s mind, there is doubt as to whether PO1 Congson had actually seen Gonzalez come out of an alley holding a fan knife.

Given the difference in the prosecution and defense’s versions of Gonzalez’ arrest, including the variance regarding the physical evidence presented in court, it behooved the lower court to examine and calibrate more carefully the evidence presented by both sides. As it was, the defense’s evidence weighed more than the prosecution’s evidence. At the very least, their evidence were evenly balanced such that the appreciation of such evidence called for the tilting of the scales in favor of Gonzalez.⁵⁰ After all, the burden is on the prosecution to overcome the presumption of innocence of the accused.⁵¹

In fine, the Court finds that the prosecution failed to prove beyond reasonable doubt that Gonzalez committed the crime charged.

WHEREFORE, the petition is **GRANTED**. The Decision dated August 7, 2015 and the Resolution dated June 22, 2016 of the Court of Appeals in CA-G.R. CR No. 36523 are hereby **REVERSED** and **SET ASIDE**. Accordingly, petitioner Jasper Gonzalez y Dolendo is **ACQUITTED** of the crime charged.

⁴⁴ *Rollo*, p. 66.

⁴⁵ See records, p. 1. See also Affidavit of Attestations of SPO3 Sanchez; *rollo*, p. 82; Inventory of Seized Properties/Items; *rollo*, p. 85; and Exhibit “U”; *rollo*, p. 100.

⁴⁶ TSN, June 20, 2012, p. 7. See also *rollo*, p. 132.

⁴⁷ See *People v. Mendoza*, 348 Phil. 744, 748 and 755 (1998).


⁴⁸ See *People v. Velarde*, 331 Phil. 774, 777 and 786 (1996).

⁴⁹ Also known as “butterfly knife.” (See <http://www.butterflyknifebutterflyknife.com/default.html#The_Butterfly_Knife> [visited January 29, 2018] and <<http://www.butterflyknife.com/butterflyknives/butterfly-knife-info/>> [visited January 29, 2018]. See also <<http://www.yourdictionary.com/balisong>> [visited January 29, 2018]).

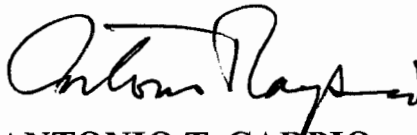
⁵⁰ See “equipoise doctrine” which states that “when the evidence of the prosecution and the defense are so evenly balanced the appreciation of such evidence calls for the tilting of the scales in favor of the accused.” The constitutional basis of the rule is the Bill of Rights which finds expression in Sec. 1 (a), Rule 115 of the Rules of Court. (*Vicario v. CA*, 367 Phil. 292, 302 [1999].)


⁵¹ See *Daayata v. People*, G.R. No. 205745, March 8, 2017.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson

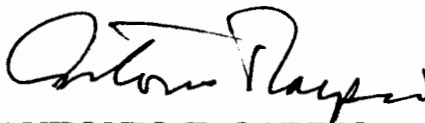

DIOSDADO M. PERALTA
Associate Justice

On Official Business
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


ANDRES B. REYES, JR.
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.


ANTONIO T. CARPIO
Associate Justice
Chairperson

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.

**MARIA LOURDES P. A. SERENO**

Chief Justice