



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 246195

Present:

LEONEN, *J.*
Chairperson,
 GESMUNDO,
 CARANDANG,
 ZALAMEDA,
 GAERLAN, *JJ.*

- versus -

HERMIE ESTOLANO y
CASTILLO,
 Accused-Appellant.

Promulgated:

September 30, 2020

Mis+DCB+H

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DECISION

CARANDANG, J.:

On appeal is the Decision¹ dated September 27, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07976. The CA affirmed the Decision² dated December 11, 2015 of the Regional Trial Court of the City of Manila, Branch 54 convicting accused-appellant Hermie Estolano y Castillo for violation of Presidential Decree No. (PD) 1988³ as amended by Republic Act No. (R.A.) 9516.⁴

¹ Penned by Associate Justice Myra V. Garcia-Fernandez with the concurrence of Associate Justices Apolinario D. Bruselas, Jr. and Ronaldo Roberto B. Martin; *rollo*, pp. 3-18.

² Penned by Presiding Judge Maria Paz R. Reyes-Yson; *CA rollo*, pp. 13-21.

³ Codified Laws on Illegal/Unlawful Possession, etc. of Firearms, Ammunition or Explosives.

⁴ Amending PD 1866, as Amended Re: Illegal Possession of Firearms.

J

In an Information⁵ dated May 4, 2015, accused-appellant Hermie Estolano y Castillo (Estolano) was charged before the RTC in Criminal Case No. 15-315577, for violation of PD 1866 as amended by R.A. 9516 for possessing a fragmentation hand grenade:

That on or about April 17, 2015, in the City of Manila, Philippines, the said accused, did then and there willfully, unlawfully and knowingly have in his possession and under his custody and control one (1) MK2 Fragmentation Hand Grenade marked as "HEC", a device which is capable of destructive effect, with knowledge of its explosive or incendiary character, without first having secured from the proper authorities the necessary license thereof.

Contrary to law.⁶ (Emphasis omitted)

The prosecution tends to prove as follows:

On April 17, 2015, at around 6:15 a.m., members of the V. Mapa Police Station were at the corner of V. Mapa and Peralta streets of Sta. Mesa, Manila to conduct *Oplan Sita*. PO3 Ruel Aguilar (PO3 Aguilar) saw a yellow Mitsubishi Lancer without a plate number. PO3 Aguilar flagged down the vehicle and approached Estolano who was driving the car. PO3 Aguilar asked Estolano for his license and the registration documents of the car. Estolano failed to present anything. PO3 Aguilar ordered Estolano to alight from the vehicle. Estolano initially refused and acted as if he was trying to hide something in the pocket of his pants. Several minutes after, Estolano finally alighted from the vehicle.⁷

PO1 Sonny Boy Lubay (PO1 Lubay) approached Estolano to conduct a body search. While approaching, PO1 Lubay noticed that Estolano tried to get something from his right front pocket. PO1 Lubay also saw Estolano hold the pin of a hand grenade placed inside Estolano's pocket. Immediately, PO1 Lubay and PO1 Lucky Samson (PO1 Samson) grabbed the hands of Estolano to prevent him from holding the grenade causing possible explosion. Thereafter, the other police officers, including SPO2 Jayson Sanchez, PO3 Ronaldo Robles, PO2 Patrick Guevarra, PO2 Ulysses San Diego, PO3 Ruel Aguilar, Police Inspector Lee Chui, and PO2 Eligio Valencia conducted a search on the vehicle where they recovered the plate number PFG-453. The police officers likewise noticed that the rear portion of the vehicle had an improvised plate with "SUPREMA" written on it.⁸

The confiscated hand grenade was turned over to police investigator SPO1 Benigno Lino Corado Jr. (SPO1 Corado Jr.), and then to SPO1 Allan Salinas (SPO1 Salinas) of the Explosives Ordnance Division of the Manila

⁵ Records, p. 1.

⁶ Id.

⁷ *Rollo*, p. 6.

⁸ Id. at 6-7.

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Police District. SPO1 Salinas placed a masking tape on the hand grenade and marked it with “HEC”, the initials of Estolano.⁹ PO3 Aguilar and SPO1 Corado Jr. explained that they did not mark the hand grenade for fear that it might explode.¹⁰ In the meantime, PO1 Lubay brought Estolano to the Ospital ng Maynila for medical examination¹¹ and eventually turned him over to Manila Police District - Police Station 8.¹²

On April 17, 2015, SPO1 Salinas issued a certificate¹³ stating that “the main components of [a] hand grenade such as [the] fuze assembly, the body, and explosive filler are all still intact and capable [of] explode[ing].”¹⁴ On November 10, 2015, P/C Supt. Elmo Francis O. Sarona (Supt. Sarona) of the Firearms and Explosives Office, Civil Security Group of the Philippine National Police issued a certification¹⁵ stating that Estolano “has not been issued a permit or license to possess/transport a hand grenade, military ordnance or any explosives/ explosive ingredients based on available records filed with this Office of this date.”¹⁶

The charge was denied by Estolano.¹⁷

Estolano claims that on April 16, 2015, he attended a birthday celebration in Acacia Lane, Mandaluyong City. He left the party at past midnight and took the ride home with his friends Lou, Marivic, and Andrea. Estolano took the back seat with Marivic while Lou drove the Mitsubishi Lancer. Then, they were flagged down at the checkpoint located at the corner of V. Mapa and Peralta Streets. The police officer instructed Lou to park the vehicle on the right side of the road and ordered them to alight from the vehicle. Thereafter, the police officer told them to go inside the nearby police station for verification. The police officer following them said that a hand grenade was found inside their vehicle. Estolano was suddenly kicked at the stomach. He fell on his knees, and then to the ground with his face down. He was asked to go inside a room where he was instructed to hold the gun tucked on the waist of a police officer. Estolano refused. Another police officer asked him if he had a relative whom he could call for help. Estolano said that he could call his aunt working at the Office of the City Prosecutor. The police officer asked him to go outside the room. Asked if he knew the amount of bail for illegal possession of hand grenade and answering no, the police officer told him that the bail is ₱2,000,000.00. Estolano was asked to produce the said amount in exchange for his freedom. Meanwhile, Estolano saw Lou also enter the room. A lady who was crying then arrived. Estolano heard Lou telling the lady that he would take care of everything. Thereafter, Estolano was brought to the Ospital ng Maynila and then to the Manila

⁹ CA rollo, p. 67.

¹⁰ TSN dated September 2, 2015, p. 25.

¹¹ Id. at 11

¹² Id. at 24

¹³ Records, p. 9.

¹⁴ Id.

¹⁵ Id. at 104.

¹⁶ Id.

¹⁷ CA rollo, p. 15.

Police District – Police Station 8 (Police Station 8). Estolano did not see Lou, Marivic, and Andrea in Police Station 8. He was later on informed by a police officer that Lou gave ₱120,000.00 to the police. Since he did not give money, only Estolano was charged with illegal possession of hand grenade.¹⁸

Estolano entered the plea of *not guilty*. After trial, the RTC convicted Estolano of the offense charged. According to the trial court, the denial of the accused and the defense of frame-up cannot overcome the positive, categorical and clear testimonies of the police officers who enjoy the presumption that they performed their official duty with regularity. The RTC sentenced Estolano to suffer the penalty of *reclusion perpetua*.¹⁹

On appeal to the CA, the defense maintained that the RTC erred in convicting Estolano of illegal possession of hand grenade. *First*, the defense attacked the credibility of PO1 Lubay's testimony because it is unimaginable for Estolano to simply place a dangerous weapon such as the hand grenade inside his pocket; at the very least, he could have placed the hand grenade inside the trunk of the car, far from the prying eyes of his friends and of the police.²⁰ *Second*, the defense contended that the hand grenade is inadmissible in evidence for having been confiscated in an invalid warrantless search. *Third*, the defense argued that the prosecution failed to prove the elements of illegal possession of firearms since no certification proving that Estolano has no authority to possess the hand grenade was presented at the time of the filing of the Information.²¹

The CA in its Decision²² dated September 27, 2018 affirmed Estolano's conviction and found that the prosecution successfully proved the essential elements of the crime charged. The existence of the hand grenade was established through the testimony of PO1 Lubay. PO1 Lubay and SPO1 Corrado, Jr. identified the hand grenade confiscated from Estolano. Further, the certification issued by the Philippine National Police (PNP) Firearms and Explosives Office states that Estolano had no license or permit to own or possess the hand grenade.²³

The Public Attorney's Office manifested Estolano's intent to appeal in a Notice of Appeal.²⁴ The Office of the Solicitor General filed a Manifestation²⁵ dated December 10, 2019 stating that it will adopt the Appellee's Brief²⁶ dated February 6, 2017 as its Supplemental Brief. Likewise, the defense, through the Public Attorney's Office, filed its Manifestation in Lieu of Supplemental Brief²⁷ dated November 25, 2019.

¹⁸ Rollo, pp. 8-9.
¹⁹ CA rollo, pp. 20-21.
²⁰ Id. at 48.
²¹ Id. at 54.
²² Supra note 1.
²³ Rollo, p. 17
²⁴ Id. at 19-20.
²⁵ Rollo, pp. 33-34.
²⁶ CA rollo, pp. 90 - 102
²⁷ Rollo, p. 27.

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The theory of the prosecution was that the warrantless search was justified as part of the routine checkpoint *Oplan Sita*, which falls under a valid warrantless search on a moving vehicle. The scope of a valid warrantless search on moving vehicles, however, does not come without limitations. Jurisprudence has always insisted that the warrantless search on moving vehicles is not violative of the Constitution for only as long as the vehicle is neither searched nor its occupants subjected to a body search, and the inspection of the vehicle is merely limited to a visual search.²⁸ An extensive search is allowed only if the officers conducting the search had probable cause to believe before the search that either the motorist was a law offender or that they would find evidence pertaining to the commission of a crime in the vehicle to be searched.

The Joint Affidavit of Apprehension²⁹ submitted by the prosecution to the City Prosecutor of Manila, as well as PO1 Lubay's testimony, tells this Court that an extensive search was conducted. Nonetheless, the Court sees no circumstance that would justify the extensive search conducted in this case of Estolano.

First, the Court ruled in *Mendoza v. People*³⁰ that the commission of a traffic violation does not justify the arrest of the accused. Under Section 29³¹ of R.A. 4136 or the Land Transportation Code, such violation merely warrant the confiscation of the offender's driver's license and issuance of a traffic violation receipt from the apprehending officer. The same procedure is found in the PNP Handbook which states that in flagging down or accosting *vehicles*, "if it concerns traffic violations, immediately issue a Traffic Citation Ticket or Traffic Violation Report. Never indulge in prolonged, unnecessary conversation or argument with the driver or any of the vehicle's occupants."³² Furthermore, the PNP Guidebook on Human Rights-based Policing instructs that "[p]ersons stopped during a checkpoint are not required and must not be forced to answer any questions posed during spot checks or accosting. Failure to respond to an officer's inquiries is not, in and of itself, a sufficient ground to make an arrest. A person's

²⁸ *Valmonte v. Gen. De Villa*, 264 Phil. 265, 270 (1990).

²⁹ Records, p. 5.

³⁰ G.R. No. 234196, November 21, 2018.

³¹ Section 29. *Confiscation of Driver's Licenses*. – Law enforcement and peace officers duly designated by the Commissioner shall, in apprehending any driver for violations of this Act or of any regulations issued pursuant thereto, or of local traffic rules and regulations, confiscate the license of the driver concerned and issue a receipt prescribed and issued by the Commission therefor which shall authorize the driver to operate a motor vehicle for a period not exceeding seventy-two hours from the time and date of issue of said receipt. The period so fixed in the receipt shall not be extended, and shall become invalid thereafter. Failure of the driver to settle his case within fifteen days from the date of apprehension will cause suspension and revocation of his license.

³² 11.7(m) of Rule 11 of the PNP Handbook

Rule 11. CHECKPOINTS

x x x x

11.7 Procedure in Flagging Down or Accosting Vehicles While in Mobile Car

x x x x

m. If it concerns traffic violations, immediately issue a Traffic Citation Ticket (TCT) or Traffic Violation Report (TVR). Never indulge in prolonged, unnecessary conversation or argument with the driver or any of the vehicle's occupants;

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failure or refusal to respond to questions made by the police officer, however, may provide sufficient justification for additional observation and investigation.”³³ Nothing in the said handbook authorizes the police officer to order the driver or passengers to alight the vehicle for a body search. Contrary to these rules and guidelines, Estolano was ordered by the police officers to alight from the vehicle that had no plate number.

Second, the search in this case cannot be classified as a search of a moving vehicle. In this particular type of warrantless search, the vehicle is the target and not a specific person. Further, in a search of a moving vehicle, the vehicle is intentionally used as a means to transport illegal items.³⁴ In this case before the Court, the main target of the search was the *person* of Estolano before a search on the vehicle was even conducted. Worse, there was no information or tip relayed to the police officers about a crime, other than the traffic violation, that had just been committed or about to be committed. The police officers, therefore, had no probable cause to believe that they will find in the person of Estolano any instrument or evidence pertaining to a crime.

Third, it is worthy to note that the prosecution did not submit any evidence pertaining to *Oplan Sita*. The Revised Philippine National Police Operational Procedures state that the establishment of checkpoints must always be authorized by the Head of Office of the territorial PNP Unit.³⁵ In addition, the police and civilian components of the checkpoint operations must submit their respective after-operations report to their unit/organization.³⁶ The prosecution failed to present anything related to these procedures on checkpoint operations. Thus, there is no proof that the checkpoint *Oplan Sita* actually took place.

It must be remembered that warrantless searches are mere exceptions to the constitutional right of a person against unreasonable searches and seizures; thus, they must be strictly construed against the government and its agents. The prosecution is reasonably burdened to present every ounce of evidence in order to justify a warrantless search. While the power to search

³³ 3(g) of PNP Guidebook on Human Rights-based Policing.

3. POLICE CHECKPOINT

x x x x

g. Persons stopped during a checkpoint are not required and must not be forced to answer any questions posed during spot checks or accosting. Failure to respond to an officer’s inquiries is not, in and of itself, a sufficient ground to make an arrest. A person’s failure or refusal to respond to questions made by the police officer, however, may provide sufficient justification for additional observation and investigation.

³⁴ *People v. Comprado*, 829 Phil. 229, 245-246 (2018).

³⁵ 11.1 of Rule 11 of the PNP Handbook.

RULE 11. CHECKPOINTS

11.1 *Authority to Establish Checkpoints*. x x x. The establishment of checkpoints must always be authorized by the Head of Office of the territorial PNP Unit x x x.

³⁶ 3(d) of PNP Guidebook on Human Rights-based Policing.

3. USE OF FORCE

x x x x

d. Police personnel involved in shootouts and discharge of firearms must submit an after-operations report. Assessments must be conducted to determine the validity of the use of force during a police operation.



and seize is necessary to the public welfare, still it must be exercised and the law enforced, without transgressing the constitutional rights of the Filipino citizens.

The questionable conduct of the warrantless search and arrest left the Court with no alternative but to acquit Estolano of the offense charged against him. With the *corpus delicti* – the hand grenade allegedly confiscated from Estolano – inadmissible in evidence, there is simply no evidence against Estolano. The constitutionally enshrined presumption of innocence must be upheld and the accused must be exonerated as a matter of right.³⁷

WHEREFORE, in view of the foregoing, the appeal is hereby **GRANTED**. The Decision dated September 27, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 07976 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Hermie Estolano y Castillo is **ACQUITTED** of the crime charged, and is **ORDERED** to be **IMMEDIATELY RELEASED** from detention unless he is being lawfully held for another cause. Let an entry of final judgment be issued immediately.

Let a copy of this Decision be furnished to the Superintendent of the New Bilibid Prison, Muntinlupa City for immediate implementation. The Superintendent is **ORDERED** to report to this Court the action he has taken within five (5) days from receipt of this Decision.

SO ORDERED.


ROSMARI D. CARANDANG
Associate Justice

³⁷ *Mendoza v. People*, G.R. No. 234196, November 21, 2018.

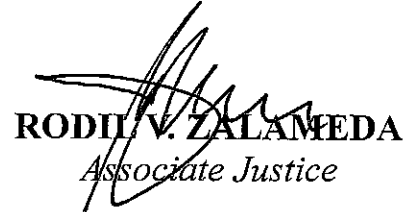
WE CONCUR:



MARVIC MARIO VICTOR F. LEONEN
Associate Justice



ALEXANDER G. GESMUNDO
Associate Justice




RODIL V. ZALAMEDA
Associate Justice



SAMUEL H. GAERLAN
Associate Justice

ATTESTATION

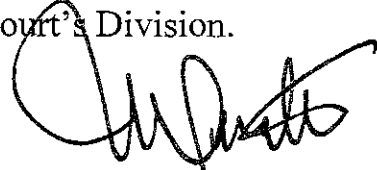
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC MARIO VICTOR F. LEONEN
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.



DIOSDADO M. PERALTA
Chief Justice