

SECOND DIVISION

G.R. No. 249858 (PEOPLE OF THE PHILIPPINES, Plaintiff-appellee, v. MARK PAUL ILDEFONSO, Accused-appellant).

Promulgated:

FEB 19 2025

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DISSENT

LAZARO-JAVIER, J.:

The majority acquits accused-appellant Mark Paul Ildefonso (Ildefonso) of violation of Sections 5 and 11 of Republic Act No. 9165¹ in Criminal Case Nos. 15711-13 and 15712-13 and violation of Commission on Elections (COMELEC) Resolution No. 9561-A in relation to COMELEC Resolution No. 9735 and the Omnibus Election Code in Criminal Case No. 15710-65. I agree with his acquittal for charges under Republic Act No. 9165 but respectfully opine that his conviction for violation of COMELEC Resolution No. 9561-A must stand.

To recall, a 10-inch knife was confiscated from Ildefonso after he was frisked during a buy-bust operation conducted during the election period in Laoag City.² Referencing the Court's pronouncement in *Buella v. People*,³ the *ponencia* ruled for Ildefonso's acquittal because the term "deadly weapon" allegedly does not include "bladed instruments."

First. The majority admits that none of the parties raised the constitutionality of the inclusion of bladed instruments in the prohibition in Section 2(c) in relation to Section 1(a) of COMELEC Resolution No. 9561-A.⁴

Settled is the rule that the Court will not pass upon a question of unconstitutionality, although properly presented, if the case can be disposed of on some other ground, such as the application of the statute or the general law. This requirement is based on the rule that every law has in its favor the presumption of constitutionality.⁵ Here, the issue of constitutionality of

¹ Otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

² *Ponencia*, p. 3.

³ G.R. No. 244027, April 11, 2023 [C.J. Gesmundo, *En Banc*].

⁴ *Ponencia*, p. 17.

⁵ *Congressman Garcia v. The Executive Secretary*, 602 Phil. 64, 82 (2009 [Per J. Brion, *En Banc*]).

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COMELEC Resolution No. 9561-A was not even raised by the parties at all. Verily, the Court may not pass upon the validity or constitutionality of the said issuance as it is not the *lis mota* of the case.

Second. *Buella* may not be used as precedent here for it is inapplicable. *Buella* categorically declared that bladed instruments are excluded from the term deadly weapons in COMELEC Resolution No. 10015 only. The COMELEC Resolution invoked here, however, is COMELEC Resolution No. 9561-A. Thus, without a declaration of COMELEC Resolution No. 9561-A's invalidity, the same has the force and effect of law and is entitled to great respect.⁶

In any case, I respectfully disagree that "other deadly weapons" in Section 32 of Republic Act No. 7166, which the subject COMELEC Resolution implements, does not cover "bladed instruments." Section 32 of Republic Act No. 7166 notably 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. . . (Emphasis supplied)

Interpreting Section 32, *Buella* held:

As elucidated in the preceding paragraphs, the phrase "other deadly weapons" in Sec. 32 of R.A. No. 7166 does not contemplate "bladed instruments." A plain reading of the same, from its short title to its very language, reveals the intent of the Congress to **limit said provision to firearms and other deadly weapons circumscribed by regulatory restrictions.**

In addition, the prosecution has always included the element of "without the written permit to carry the same outside of his residence and public place" in the Informations charging accused with violation of Sec. 32. **This is an express and consistent recognition from the State that it is an essential element of the crime penalized by Sec. 32.** While it is true that the Court is not bound by the interpretation of the prosecution, the prosecution itself, and in turn the State, is bound by such interpretation. (Emphasis supplied, citations omitted)

I humbly disagree that by expressly including the term "other deadly weapons," Section 32 was engaging in superfluity. Basic is the rule in

⁶ See *Land Bank of the Philippines v. American Rubber Corporation*, 715 Phil. 154, 169 (2013) [Per J. Villarama, Jr., First Division].

statutory construction that a statute should be construed so that no word, clause, sentence, provision or part shall be rendered surplusage, or superfluous, meaningless, void, insignificant, or nugatory, if that can be reasonably avoided.⁷ Here, it is obvious that “even if licensed to possess or carry the same” clearly covers only those firearms or other weapons regulated by the State. Meanwhile, those that are outside of such regulation, so long as clearly constituting “deadly weapons,” are nonetheless prohibited.

Indeed, as worded, Section 32 clearly shows that the phrase “even if licensed to possess or carry” is not intended to serve as a requisite for the offense. It merely anticipates a possible defense by the accused, i.e., he or she possesses a permit from the State to carry his or her firearms or other weapons in public, and therefore, falls outside the coverage of the prohibition. And, in anticipation of such possible defense, the law thus clarifies in advance that such license, by itself, is not enough to exculpate an individual from this charge, “unless authorized in writing by the Commission”. In fine, Section 32 merely aims to clarify that the *only defense* that may be raised vis-à-vis this offense is a permit from COMELEC.

Instead of the “license to possess or carry,” I submit that the common denominator between “firearms” and “other deadly weapons” is their ability to cause fatal consequences. Indeed, it is this harm which is intended to be prevented by Republic Act No. 7166 during election periods. Thus, I further maintain that Section 32 of Republic Act No. 7166 in relation to the COMELEC Resolutions, should be interpreted based on its plain, clear, and ordinary meaning, taking into ample consideration as well, this spirit behind the law. To be sure, the Legislature has long considered bladed instruments as deadly weapons. Act No. 1780, enacted as early as October 12, 1907, provides:

Section 26. It shall be unlawful for any person to carry concealed about his person any bowie knife, dirk, dagger, kris, or other deadly weapon: PROVIDED, That this prohibition shall not apply to firearms in the possession of persons who have secured a license therefor or who are entitled to carry [the] same under the provisions of this Act.

Notably, while Sections 1 to 25 and Sections 27 to 33 of Act No. 1780 have been expressly repealed by the Final Article of Act No. 2711,⁸ Section 26 was explicitly excluded therefrom. It is thus clear that Section 26 is still a good law since it is the only provision in the subsequent law that was not expressly repealed. Article 7 of the New Civil Code aptly reminds, “[l]aws are repealed only by subsequent ones, and their violation or non-observance *shall not be excused by disuse, or custom or practice to the contrary.*”

⁷ See Dissenting Opinion of J. Perez in *Gonzales v. GJH Land*, 772 Phil. 483 (2015) [Per J. Perlas-Bernabe, *En Banc*].

⁸ Otherwise known as the Revised Administrative Code.

Too, there are numerous legislations identifying the “use of deadly weapons” as a qualifying circumstance. For instance, Republic Act No. 8353 qualifies rape whenever the same is committed with the use of a deadly weapon or by two or more persons.⁹ Thus, in *People v. Arguta*,¹⁰ the Court convicted the accused therein of qualified rape, appreciating the “use of deadly weapons,” specifically, a *bladed weapon*, to qualify the crime. Thus, the *ponencia*, in applying *Buella*, enforces a confusing scenario where a bladed weapon is deadly in one offense, yet undeadly in another, which is absurd because a stab wound from a knife, for example, is equally fatal regardless whether inflicted during rape or during election period. Clearly, therefore, Congress, in legislating these laws, contemplates the inclusion of bladed weapons such as knives within the category of deadly weapons.

It is not difficult to understand why. The deadly nature of bladed weapons, regardless of the technological advancements that had since been witnessed in modern weaponry, has not changed. Obviously, a hack wound from a *bolo* or a stab wound from a *balisong* could be just as fatal as a gunshot wound. As such, I am of the view that, *bladed instruments* are included in the phrase “other deadly weapons” for this very reason, and precisely because they are *deadly weapons* that are *other* than firearms.

It should be pointed out that bladed weapons per se are just instruments. The potentiality of harm rests on the actor, i.e., the possessor of the instrument and his or her intentions. Once we exclude bladed weapons from the list of prohibited items, then we rid COMELEC and our law enforcement operatives of the *vital opportunity* to determine the *intention of the possessor*.

In the hands of a chef, a chef’s knife is a tool to create wonderful fare to delight patrons. In the hands of a farmer, a scythe is a tool to level the fields and allow crops to grow. But in the hands of a malefactor, a knife and a scythe are instruments of death and destruction. Considering the *accessibility of bladed weapons*, it is my submission that we should not hamstring the COMELEC and other law enforcement agencies from regulating these instruments especially during the election period. Consider further that, based on a survey of cases decided by this Court, at least 66 people were assaulted or killed using bladed weapons in the years 2021-2022 alone. *We should not*—by our disposition, and no matter how small the probability may be—*allow that number to rise*.

COMELEC’s contemporaneous interpretation of “other deadly weapons” is entitled to respect for it is the constitutional body tasked with the enforcement and administration of all election laws and regulations.¹¹ It too

⁹ Republic Act No. 8353, Article 266-B.

¹⁰ 758 Phil. 594, 603 (2015) [Per J. Perlas-Bernabe, First Division].

¹¹ *Cayetano v. COMELEC*, 515 Phil. 485 (2006) [Per J. Sandoval-Gutierrez, *En Banc*], citing *Buac v. COMELEC*, 465 Phil. 800 (2004) [Per J. Puno, *En Banc*].

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has the mandate to ensure the conduct of free, orderly, honest, peaceful and credible elections.¹² Undoubtedly, it possesses expertise in the field of elections,¹³ based on the countless elections it has conducted since its inception. Consequently, it is in the best position to determine whether the inclusion of “bladed instruments” in the general term “other deadly weapon” would advance its mandate to ensure peace and order during an election period. As early as 2007, the COMELEC has held that the phrase “deadly weapon” includes “bladed instruments.”¹⁴ This long-standing interpretation must be accorded great weight because the COMELEC is in the best position, **not us**, to determine whether these items should be allowed or not allowed in public places.

Here, Ildefonso is guilty of carrying a 10-inch knife outside of his residence during the election period. It was among the items confiscated from him when he was apprehended during the buy-bust operation. Notably, he also admitted that the knife was recovered from him by the police officers.¹⁵ Meantime, both the trial court and appellate court did not give credence to his averment that the knife was intended to be used at a slaughterhouse where he worked.¹⁶ This is a finding of fact that is binding upon the Court.¹⁷

All told, I vote that Mark Paul Ildefonso be found **GUILTY** of violation of COMELEC Resolution No. 9561-A in relation to COMELEC Resolution No. 9735 and the Omnibus Election Code.


AMY C. LAZARO-JAVIER

¹² *Id.*

¹³ *Id.*

¹⁴ COMELEC Resolution No. 8298, Section 2(a), September 7, 2007.

¹⁵ *Ponencia*, p. 4.

¹⁶ *Id.* at 5-6.

¹⁷ *Balina v. People*, 893 Phil. 342 (2021) [Per J. Gaerlan, First Division].