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G.R. No. 236548 – RUBEN COMAMO *y* JIMENO, Petitioner, **v. PEOPLE OF THE PHILIPPINES,** Respondent.

Promulgated:

March 4, 2025

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CONCURRING OPINION

CAGUIOA, *J.*:

This case poses two main questions: (1) whether a search warrant with the statement, "among other firearms,"[1] complies with the *particularity of description* requirement embodied in the 1987 Constitution; and (2) whether the plain view doctrine justifies the seizure and admissibility of evidence found during the execution of the search warrant but not listed in the same.

The *ponencia* finds that the phrase "among other firearms" is too all-embracing as to include all conceivable firearms and ammunitions,[2] consequently ruling that this portion of the search warrant is null and void for failure to comply with the *particularity of description* requirement for warrants. Nonetheless, the confiscated items that were not particularly described in the search warrant are admissible in evidence under the plain view doctrine.[3]

I agree.

Indeed, the phrase "among other firearms" is too broad and general to appear in a search warrant. Moreover, ruling that the plain view doctrine does not apply in a search of the premises by virtue of a search warrant would greatly undermine both the *particularity of description* requirement and the purpose of the plain view doctrine—to supplement the prior intrusion and allow law enforcement officers to seize items that are patently illegal.

Review of relevant facts

On April 2, 2013, the Firearms and Explosives Office (FEO) of the Philippine National Police (PNP) issued Memorandum with Control Number 0402-7099B,[4] stating that the license issued to petitioner Ruben Comamo *y* Jimeno (petitioner) for a "Pistol, Caliber .9mm, Daewoo with Serial Number BA004553"[5] expired on October 2, 1998. Subsequently, PO2 Reycar L.

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[1] RTC records, p. 6, Search Warrant No. 19-13 dated October 23, 2013.
[2] *Ponencia*, p. 9.
[3] *Id.* at 11.
[4] RTC records, p. 10.
[5] *Id.*

Almazan applied for a search warrant against petitioner for the purpose of seizing the said 9mm caliber pistol.

On October 23, 2013, Branch 17 of the Regional Trial Court of Batac City, Ilocos Norte issued Search Warrant No. 19-13,[6] authorizing the police officers to search the residence of petitioner at Barangay Gaang, Currimao, Ilocos Norte and to seize "a Cal. 9MM Pistol[,] among other firearms which he keeps in his possession, custody and control inside his residence."[7] The search warrant provides:

> PO2 Reycar L. Almazan has applied for Search Warrant against RUBEN COMAMO y JIMENO of Barangay Gaang, Currimao, Ilocos Norte for the purpose of seizing a Cal. 9MM Pistol[,] among other firearms which he keeps in his possession, custody and control inside his residence at the above address;
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> After a thorough examination conducted on witness Larry Bumiltac, in the form of searching questions, the undersigned has found to his satisfaction that said Ruben Comamo y Jimeno has in his possession the article/item mentioned above which are being located or kept inside his room at Brgy. Gaang, Currimao, Ilocos Norte.
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> NOW, THEREFORE, you are hereby commanded to make immediate search inside the residence of Ruben Comamo y Jimeno at Barangay Gaang, Currimao, Ilocos Norte at any time of the day and night and to forthwith seize and take possession of the above-named article which are said to be kept within the residence above-described.[8]

On October 24, 2013, at 3:50 in the morning, the police officers executed Search Warrant No. 19-13 in the presence of petitioner and three barangay officials. During the search, the police officers asked petitioner to open the door of a cabinet in the kitchen. There, they saw: one (1) Cal. 45 marked as Colt 1911 and bearing Serial No. 421003; three (3) magazines for Cal. 45; one (1) magazine for Cal. 9mm; twenty-three (23) live ammunitions for Cal. 45; one (1) live ammunition for Cal. 9mm; one (1) live ammunition for M14 Rifle; and one (1) inside holster for Cal. 45. When the police officers requested for the legal documents of the said firearm, magazines and live ammunitions, petitioner failed to present any.[9] Consequently, petitioner was arrested. Later, the PNP issued a Memorandum stating that petitioner "is not a registered firearm license holder of a Cal. 45, Colt [1911] with a serial number 421003."[10] Petitioner was then charged with Illegal Possession of Firearm and Ammunitions, under the following Information:[11]

> That on or about 3:50 in the morning of October 24, 2013, at Brgy. Gaang, municipality of Currimao, province of Ilocos Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously have in his

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6 *Id.* at 6.
7 *Id.*
8 *Id.*
9 *Id.* at 7, Joint Affidavit of PO2 Meynard P. Valerio and PO1 Erwin A. Cadaoas dated October 24, 2013.
10 *Id.* at 21, PNP Memorandum dated October 24, 2013.
11 *Id.* at 3–4.

> possession, control and custody, a high powered firearm, one Colt Caliber .45 Pistol with Serial No. 421003; three (3) magazines of Cal. 45; one live ammunition for Caliber 9mm; twenty-three (23) live ammunitions for Cal. 45; one live ammunition for Cal. M14; and one inside holster for Cal. 45, without first securing the necessary license, authority or permit to possess firearms and ammunitions from the proper authorities concerned.
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> **CONTRARY TO LAW.** [12] (Emphasis in the original)

Validity of the Search Warrant

Section 2[13] of the Bill of Rights enshrines as inviolable the right of persons to be secure in their persons and properties, free from any unreasonable searches and seizures by the State. As elucidated in the 1937 case of *Alvarez v. Court of First Instance of Tayabas*[14] (*Alvarez*), "[o]f all the rights of a citizen, few are of greater importance or more essential to his peace and happiness than the right of personal security[.]" [15] *Alvarez* further provides:

> What constitutes a reasonable or unreasonable search or seizure in any particular case is purely a judicial question, determinable from a consideration of the circumstances involved, including the purpose of the search, the presence or absence of probable cause, the manner in which the search and seizure was made, the place or thing searched, and the character of the articles procured.[16] (Citations omitted)

The rule is strict: there shall never be any *unreasonable* search and seizure of whatever nature and for whatever purpose. The way for a search to be considered *reasonable* is provided by having a court issue a warrant based solely on a finding of probable cause. However, considering the reality that searches and seizures may be necessary to public welfare and safety, and it cannot be reasonable under certain circumstances to still expect the State to apply for a warrant, various rules and case law have provided for instances of *reasonable* or permissible searches and seizures, even without a warrant. In particular to searches, the following are the recognized exceptions: (1) warrantless search incidental to a lawful arrest recognized under Section 12, Rule 126 of the Rules of Court and by prevailing jurisprudence; (2) seizure of evidence in plain view; (3) search of moving vehicles; (4) consented warrantless search; (5) customs search; (6) stop and frisk situations (Terry search); and (7) exigent and emergency circumstances.[17] To avoid transgressing the constitutional rights of citizens, these exceptions have been held to be ***strictly construed against the State and liberally in favor of the individual.***[18]

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12 *Id.* at 3.
13 CONST. (1987).
14 64 Phil. 33 (1937) [Per J. Imperial, First Division].
15 *Id.* at 41.
16 *Id.* at 44.
17 *Dominguez v. People*, 849 Phil. 610, 622–623 (2019) [Per J. Caguioa, Second Division].
18 *Rodriguez v. Villamiel*, 65 Phil. 230 (1937) [Per J. Imperial, Second Division].

In line with the rule of strictly construing against the State search warrants, Section 2 of the Bill of Rights itself mandates the *particularity of description* requirement, thus:

> [N]o search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and *particularly describing the place to be searched and the persons or things to be seized.* (Emphasis supplied)

The *particularity of description* requirement is primarily meant to enable the law enforcers serving the warrant to readily identify the properties to be seized, to prevent them from seizing the wrong items, and to leave them with no discretion regarding the articles to be seized.[19] Although it does not require the search warrant to describe the items to be seized in precise and minute detail, the items to be seized must still be described as specific as the circumstances will ordinarily allow. In *Dimal v. People*,[20] the Court explained:

> [A] search warrant may be said to particularly describe the things to be seized (1) when the description therein is as specific as the circumstances will ordinarily allow; or (2) when the description expresses a conclusion of fact — not of law by which the warrant officer may be guided in making the search and seizure; (3) and when the things to be described are limited to those which bear direct relation to the offenses for which the warrant is being issued.[21] (Citations omitted)

Absent a sufficient description or particularization of the personal properties to be seized, the search warrant is considered a general warrant and is therefore null and void.

At this juncture, it is important to differentiate between a general warrant and a warrant that merely contains a general statement. In the latter situation, the search warrant will not be nullified as a whole.[22] Instead, the items not particularly described will be cut off without destroying the whole warrant.[23] This will render the search warrant as severable and will allow the valid portion of the warrant, as to the items specifically described, to survive.[24] As the Court held in *People v. Salanguit:*[25]

> It would be a drastic remedy indeed if a warrant, which was issued on probable cause and particularly describing the items to be seized on the basis thereof, is to be invalidated *in toto* because the judge erred in authorizing a search for other items not supported by the evidence.[26] (Emphasis in the original, citation omitted)

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19 *People v. Pastrana*, 826 Phil. 427, 447 (2018) [Per J. Martires, Third Division].
20 830 Phil. 309 (2018) [Per J. Peralta, Second Division].
21 *Id.* at 342.
22 *Microsoft Corp. v. Maxicorp, Inc.*, 481 Phil. 550, 572 (2004) [Per J. Carpio, First Division].
23 *Uy v. Bureau of Internal Revenue*, 397 Phil. 892, 921 (2000) [Per J. Kapunan, First Division].
24 *See id.* at 921–922.
25 408 Phil. 817 (2001) [Per J. Mendoza, Second Division].
26 *Id.* at 830.

Consequently, the search made pursuant to a partially valid search warrant remains valid and is not invalidated by the general statement in the warrant, obligating the law enforcement officers to execute the search warrant and search and seize the items particularly described therein.

In situations when, during the execution of the search warrant, the law enforcement officers encounter contraband that is not listed in the search warrant the search does not become void with respect to those items not specifically described in the warrant. This is where the plain view doctrine becomes material and relevant.

Thus, I agree that the phrase, "among other firearms," if appearing in a search warrant, is too broad and general to pass the *particularity of description* requirement. Indeed, the phrase is too all-embracing to include all conceivable firearms and ammunitions, significantly expanding the scope and discretion of the authorities executing the warrant. I likewise do not subscribe to the position that the phrase "among other firearms" may be used to justify the seizure of all other firearms bearing direct relation to the crime of illegal possession of firearms considering that Republic Act No. 10591 differentiates among the classifications of firearms in terms of size, operation, use, etc., in penalizing the illegal possession thereof. The classification, caliber or design of the other supposed firearms aside from the 9mm caliber pistol should have at least been mentioned in the search warrant to pass the *particularity of description* requirement.

That said, it should be emphasized that the phrase "among other firearms" did not convert the search warrant to a general warrant. Search Warrant No. 19-13 still complies with the *particularity of description* requirement as it specifies "Cal. 9MM Pistol" as the item or contraband to be seized from the petitioner's residence. Stated otherwise, even if the general statement "among other firearms" is stricken down, Search Warrant No. 19-13 would still be valid and would still limit the scope of the search and guide the law enforcement officers in making the search and seizure.

Furthermore, the phrase "among other firearms" does not appear in the dispositive portion of the search warrant. To recall, the warrant ordered the authorities to seize the "above-named article," which could then be interpreted as referring only to the "Cal. 9MM Pistol" and not to the phrase "among other firearms."

Settled is the rule that the only portion of the decision or order that may be the subject of execution is that which is ordained or decreed in the dispositive portion.[27] This rule should likewise be applied in search warrants, as warrants are determinative of the scope of the search. In relation to the aforementioned rule, it is equally settled that in case of conflict between the dispositive portion of the decision or order and the body thereof, the dispositive portion controls as it is the portion of the decision that finally

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[27] *National Power Corporation v. Tarcelo*, 742 Phil. 463 (2014) [Per J. Del Castillo, Second Division].

invests rights upon the parties, sets conditions for the exercise of those rights, and imposes the corresponding duties or obligations.[28] Consequently, in case of conflict between the body and the dispositive portion of the warrant, the dispositive portion should control. Thus, judges should be reminded to specify, as far as practicable, the place to be searched and item/s to be seized in the dispositive portion of the search warrant in order to prevent any ambiguities in the execution of the warrant.

Accordingly, the valid portion of the search warrant provided the police officers with the prior justification for an intrusion into the petitioner's residence. Considering the validity of the search warrant and the consequent search, we now consider whether the seizure of the items not listed in the search warrant is justified.

Applicability of the plain view doctrine

The plain view doctrine applies when, in the course of a prior lawful intrusion, the law enforcement officer inadvertently comes across a piece of item and it is immediately apparent to him or her that the item may be evidence of a crime, contraband, or otherwise subject to seizure.[29] The doctrine requires: (1) prior justification for an intrusion; (2) inadvertent discovery of the evidence; and (3) immediate apparent illegality of the evidence.[30]

In the execution of a valid search warrant, the authorities' purpose is precisely to search and seize evidence related to a specific crime. Execution of a search warrant necessitates searching meticulously for evidence of a crime. If, in the course of doing this the authorities find other contraband, the plain view doctrine kicks in to justify the validity of the seizure of said contraband.

On this note, I find the United States (U.S.) case of *Horton v. California*[31] (*Horton*) in relation to the pronouncement in *Coolidge v. N. H.*[32] (*Coolidge*), to be insightful. To recall, our jurisdiction adopted the plain view doctrine from *Coolidge*, where the U.S. Supreme Court explained the requirement of inadvertence as follows:

> The rationale of the exception to the warrant requirement, as just stated, is that a plain-view seizure will not turn an initially valid (and therefore limited) search into a "general" one, while the inconvenience of procuring a warrant to cover an inadvertent discovery is great. *But where the discovery is anticipated, where the police know in advance the location of the evidence and intend to seize it, the situation is altogether different.* The requirement of a warrant to seize imposes no inconvenience whatever, or at least none which is constitutionally cognizable in a legal system that regards

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28 *Florentino v. Rivera*, 515 Phil. 494, 503 (2006) [Per J. Ynares-Santiago, First Division].
29 *Dominguez v. People*, *supra* note 17, at 629.
30 *People v. Salanguit*, *supra* note 25, at 834.
31 496 U.S. 128, 137–138 (1990).
32 403 U.S. 443 (1971)..

warrantless searches as "*per se* unreasonable" in the absence of "exigent circumstances."

> *If the initial intrusion is bottomed upon a warrant that fails to mention a particular object, though the police know its location and intend to seize it, then there is a violation of the express constitutional requirement of "Warrants . . . particularly describing . . . [the] things to be seized."* The initial intrusion may, of course, be legitimated not by a warrant but by one of the exceptions to the warrant requirement, such as hot pursuit or search incident to lawful arrest. But to extend the scope of such an intrusion to the seizure of objects[—]not contraband nor stolen nor dangerous in themselves[—]which the police know in advance they will find in plain view and intend to seize, would fly in the face of the basic rule that no amount of probable cause can justify a warrantless seizure.[33] (Emphasis supplied)

The U.S. Supreme Court, in *Horton*, seemingly abrogated the inadvertence requirement. In *Horton*, a police officer was executing a search warrant issued for the proceeds of a robbery. The officer did not find the stolen property but instead found weapons in plain view and seized them. The issue in the said case was whether the evidence in plain view was validly seized, even though its discovery was not "inadvertent." The U.S. Supreme Court ruled:

> [T]he suggestion that the inadvertence requirement is necessary to prevent the police from conducting general searches, or from converting specific warrants into general warrants, is not persuasive because that interest is already served by the requirements that no warrant issue unless it "particularly describes the place to be searched and the persons or things to be seized," and that a warrantless search be circumscribed by the exigencies which justify its initiation. Scrupulous adherence to these requirements serves the interests in limiting the area and duration of the search that the inadvertence requirement inadequately protects. *Once those commands have been satisfied and the officer has a lawful right of access, however, no additional Fourth Amendment interest is furthered by requiring that the discovery of evidence be inadvertent.* If the scope of the search exceeds that permitted by the terms of a validly issued warrant or the character of the relevant exception from the warrant requirement, the subsequent seizure is unconstitutional without more. Thus, in the case of a search incident to a lawful arrest, "if the police stray outside the scope of an authorized *Chimel* search they are already in violation of the Fourth Amendment, and evidence so seized will be excluded; adding a second reason for excluding evidence hardly seems worth the candle." Similarly, the object of a warrantless search of an automobile also defines its scope:
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> > "The scope of a warrantless search of an automobile thus is not defined by the nature of the container in which the contraband is secreted. Rather, *it is defined by the object of the search and the places in which there is probable cause to believe that it may be found. Just as probable cause to believe that a stolen lawnmower may be found in a garage will not support a warrant to search an upstairs bedroom, probable cause to believe that undocumented aliens are being transported in a van will not justify a warrantless search of*

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[33] *Id.* at 469–471.

> *a suitcase.* Probable cause to believe that a container placed in the trunk of a taxi contains contraband or evidence does not justify a search of the entire cab."
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> In this case, the scope of the search was not enlarged in the slightest by the omission of any reference to the weapons in the warrant. Indeed, if the three rings and other items named in the warrant had been found at the outset[—]or if petitioner had them in his possession and had responded to the warrant by producing them immediately[—]no search for weapons could have taken place. Again, Justice WHITE's dissenting opinion in *Coolidge* is instructive: *"Police with a warrant for a rifle may search only places where rifles might be, and must terminate the search once the rifle is found; the inadvertence rule will in no way reduce the number of places into which they may lawfully look."* As we have already suggested, by hypothesis the seizure of an object in plain view does not involve an intrusion on privacy. *If the interest in privacy has been invaded, the violation must have occurred before the object came into plain view, and there is no need for an inadvertence limitation on seizures to condemn it. The prohibition against general searches and general warrants serves primarily as a protection against unjustified intrusions on privacy. But reliance on privacy concerns that support that prohibition is misplaced when the inquiry concerns the scope of an exception that merely authorizes an officer with a lawful right of access to an item to seize it without a warrant.*
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> In this case, the items seized from petitioner's home were discovered during a lawful search authorized by a valid warrant. When they were discovered, it was immediately apparent to the officer that they constituted incriminating evidence. . . The search was authorized by the warrant, the seizure was authorized by the "plain view" doctrine.[34] (Emphasis supplied, citations omitted)

From the foregoing, while I do not advocate the abandonment of the inadvertence requirement in applying the plain view doctrine, it is my considered view that the element of inadvertence, when applied to a search pursuant to a search warrant, should be appreciated differently from how it is appreciated in the context of warrantless searches. The element of inadvertence, in the context of implementation of search warrants, should not require that the police officers are not searching for evidence against the individual, as this goes against the very nature of the said exercise. **Rather, it should only require that the discovery of the items be unintentional.** The police officers should not have known in advance the location of the evidence, otherwise, they should have included the same in their application for a search warrant.

The Court must remember that the plain view doctrine serves to supplement the prior justification, such as a search warrant for another object, and permits the warrantless seizure of an evidence of a crime, a contraband or an item otherwise subject to seizure.[35] It is a recognition of the reality that it is unnecessary to require the police to obtain another warrant when they come across an item the illegality of which, as mentioned, is immediately apparent.

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[34] *Horton v. California, supra* note 31, at 139–142.

[35] *People v. Musa*, 291 Phil. 623, 640 (1993) [Per J. Romero, Third Division].

The immediate appearance of the illegality of the said item does not at once disappear simply because the said incriminating evidence is not covered by the warrant.[36] To limit the applicability of the plain view doctrine because a *meticulous search* is supposedly inconsistent with an *inadvertent discovery* greatly undermines the essence of the doctrine.

Nonetheless, I likewise recognize the reality that there are instances of abuse that must be addressed. Police officers should not be allowed to launch unbridled searches and indiscriminate seizures or to extend a general exploratory search made solely to find evidence of the accused's guilt. Thus, it is axiomatic that the prosecution first establish that the search warrant was validly and reasonably executed by the authorities before the seizure of items not listed in the search warrant may be justified under the plain view doctrine.

In turn, the determination of the validity and reasonableness of the execution of a search warrant and the subsequent application of the plain view doctrine is largely factual in nature. As such, it is my considered view that the following must be taken into consideration:

1. Whether the dispositive portion of the search warrant complied with the requirements set forth in the law, i.e., probable cause in the issuance thereof and particularity of description of the items to be seized and place to be searched;
2. Whether the police officers complied with the procedure for the execution of a search warrant as set forth in Rule 126 of the Rules of Court, i.e., "knock and announce"[37] rule, presence of witnesses at the time of the search, etc.;
3. Whether the item/s were found in a place where one reasonably would have expected to look while searching for the object/s listed in the search warrant, taking into consideration the size and nature of the object particularly described in the warrant and the locations and receptacles searched;
4. Whether the item/s not listed in the search warrant were found before all the objects particularly described in the search warrant were found; and,
5. Whether it is immediately apparent to the officers that the item/s may be evidence of a crime, contraband, or otherwise subject to seizure.

Thus, police officers will not be justified in searching for an M16 rifle inside a jewelry box or a small handbag. Police officers will likewise not be justified in searching a house further after they have already seized the items subject of the search warrant. They will not be allowed to search for a stolen car inside the bedroom of the accused or search for a stolen television inside a backpack.

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[36] *United Laboratories, Inc. v. Isip*, 500 Phil. 342, 362 (2005) [Per J. Callejo, Sr., Second Division].
[37] *People v. Zhen Hua*, 482 Phil. 572, 596 (2004) [Per J. Callejo, Sr., Second Division].

All told, courts must, in all instances, evaluate the reasonableness of the search and seizure conducted on a case-by-case basis. As the Court ruled in *Sr. Insp. Valeroso v. Court of Appeals*,[38]

> Unreasonable searches and seizures are the menace against which the constitutional guarantees afford full protection. While the power to search and seize may at times be necessary for public welfare, still it may be exercised and the law enforced without transgressing the constitutional rights of the citizens, for no enforcement of any statute is of sufficient importance to justify indifference to the basic principles of government. Those who are supposed to enforce the law are not justified in disregarding the rights of an individual in the name of order. Order is too high a price to pay for the loss of liberty.[39] (Citation omitted)

In this case, as earlier explained, Search Warrant No. 19-13 is partially valid, and the police officers were justified in entering the residence of petitioner. The police officers were validly executing the search warrant when they came across the firearm and ammunitions inside the small cabinet in the kitchen. Considering the size of a 9mm caliber pistol, it was reasonable for the police officers to search the small cabinet in the kitchen. Since the police officers failed to find the 9mm caliber pistol subject of the search warrant, it cannot be gainsaid that the search warrant had been fully executed at the time that the other firearm and ammunitions were discovered. Finally, considering that the police officers knew at the time of the execution of the search warrant that petitioner is not a registered license holder of any firearm, it is immediately apparent to them that the firearm and ammunitions inside the kitchen cabinet are illegal.

From the foregoing, it is my view that the police officers validly seized the firearm and ammunitions under the plain view doctrine and that these items are admissible in evidence. Consequently, I concur in affirming the conviction of petitioner for illegal possession of firearm, as the prosecution sufficiently established the elements of the offense: (1) the existence of the firearm, and (2) petitioner's lack of license or permit to possess the same.

All told, I vote to **DENY** the petition.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

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38 614 Phil. 236 (2009) [Per J. Nachura, Third Division].
39 *Id.* at 254.