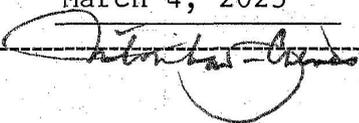


SECOND DIVISION

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

LEONEN, J.:

The Constitution explicitly requires that no arrest, search, or seizure can occur without a legally valid warrant obtained by a competent court authority.¹ Any evidence collected through an unlawful search or seizure may be considered inadmissible in a court of law. This protection guarantees that individuals' rights to privacy and due process are upheld. Nevertheless, the issuance of a valid warrant ensures that there is probable cause as determined by a judge. This grants law enforcement the authority to enter specific premises without arbitrarily invading one's privacy. The warrant authorizes an exhaustive search for specified items, provided the search is not abusive or conducted beyond the warrant's scope. If additional contraband that is related to the original item is discovered during the proper execution of a search warrant, it should be admissible as evidence.

I

As a basic principle, it is unlawful to carry out any arrest, search, or seizure without a valid warrant granted by a competent court authority. Article III, Section 2 of our Constitution contains the following provision:

SECTION 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no 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.

This protects one against “unlawful invasion of the sanctity of the home, by officers of the law acting under legislative or judicial sanction” and 

¹ CONST., art. 3, sec. 2.

prevents violations of privacy and security in person and to property. Thus, in conducting an arrest or search and seizure, there must be a warrant hinged on probable cause or the "actual belief or reasonable grounds of suspicion to believe that the accused has committed or is committing a crime."

Rule 126, Section 4 of the Rules of Criminal Procedure prescribes the requirements to issue a search warrant:

SECTION 4. Requisites for issuing search warrant. — A search warrant shall not issue except upon probable cause in connection with one specific offense 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 things to be seized which may be anywhere in the Philippines.

In the case at hand, it is undisputed that Search Warrant No. 19-3 was lawfully issued. The warrant was granted following a comprehensive investigation of witness Larry Bumiltac, which involved asking searching questions.² The warrant was authorized by a judge and contained precise information regarding the targeted location and the specific item to be confiscated. This indicates that the warrant was obtained in accordance with the appropriate legal procedures. However, the legality of the confiscation of items during the execution of the warrant is called into question.

The police officers conducted a search of petitioner Ruben Comamo y Jimeno's (Comamo) house based on the search warrant which stated, "seizing a Cal. 9MM Pistol[,] among other firearms which he keeps in his possession, custody and control inside his residence at the above address." During the search, the police officers discovered several items inside a small cabinet in his kitchen: (a) a Colt 1911 pistol with a caliber of 45mm, along with three magazines, 23 live ammunitions, and one inside holster; (b) one live ammunition for an M14 rifle; and (c) one live ammunition for a 9mm caliber pistol.³

Due to Comamo's failure to present an authority to possess the firearms, he was apprehended and charged with illegal possession of firearms and ammunition.⁴ Comamo filed a motion to suppress the evidence against him, contending that the search warrant was solely for the seizure of a 9mm caliber pistol.⁵ However, the Regional Trial Court denied Comamo's motion and convicted him of the crime charged.⁶ The Court of Appeals upheld Comamo's conviction.⁷

² *Ponencia*, p. 2.

³ *Id.* at 2.

⁴ *Id.* at 2.

⁵ *Id.* at 3.

⁶ *Id.* at 3-4.

⁷ *Id.* at 5.

This Court found that the seizure of the items not listed on the search warrant was valid. The *ponencia*, with the guidance of our erudite colleagues, Justice Caguioa and Justice Lazaro-Javier, found: first, the phrase “*among other firearms*” did not convert the search warrant into a general warrant since it specifically identified the 9mm caliber pistol Comamo kept in his residence.⁸ Second, the *ponencia* concluded that “*one live ammunition for 9mm caliber pistol*” is admissible in evidence as it bears direct relation to the illegal possession of “*Cal. 9MM Pistol*” as indicated in the search warrant.⁹ Third, the court ruled that the confiscated “45mm caliber Colt 1911 pistol with serial number 421003, three magazines, 23 live ammunitions, one inside holster, and one live ammunition for M14 rifle” are admissible in evidence.¹⁰

II

It is a time-honored rule that the items to be confiscated in a search warrant should be particularly described to preclude general searches. The seminal case of *Stonehill v. Diokno*,¹¹ established this when the Court explicitly prohibited the use of general warrants, highlighting its violation to the constitutional protections against unreasonable searches and seizures. A general warrant was described as one that fails to specify persons, places, or items to be searched or seized, granting law enforcement arbitrary discretion in conducting searches. There, the Court deemed the warrants in question unconstitutional for using generalizations such as “books of accounts and ... records”¹² without describing the specific items to be sought. It was held:

Two points must be stressed in connection with this constitutional mandate, namely: (1) that no warrant shall issue but *upon probable cause*, to be determined by the judge in the manner set forth in said provision; and (2) that the warrant shall *particularly* describe the things to be seized.

....

The grave violation of the Constitution made in the application for the contested search warrants was compounded by the description therein made of the effects to be searched for and seized, to wit:

Books of accounts, financial records, vouchers, journals, correspondence, receipts, ledgers, portfolios, credit journals, typewriters, and other documents and/or papers showing all business transactions including disbursement receipts, balance sheets and related profit and loss statements.

⁸ *Id.* at 9.

⁹ *Id.*

¹⁰ *Id.* at 9–10.

¹¹ 126 Phil 738 (1967) [Per C.J. Concepcion, *En Banc*].

¹² *Id.* at 749.

Thus, the warrants authorized the search for and seizure of records pertaining to *all business transactions* of petitioners herein, regardless of whether the transactions were *legal* or *illegal*. The warrants sanctioned the seizure of all records of the petitioners and the aforementioned corporations, whatever their nature, thus openly contravening the explicit command of our Bill of Rights — that the things to be seized be *particularly* described — as well as tending to defeat its major objective: the elimination of *general* warrants.¹³ (Emphasis in the original, citations omitted)

The vagueness in the warrants in *Stonehill* were deemed unconstitutional, as it granted law enforcement the authority to conduct roving and exploratory searches. This Court, time and again, has stated that a search warrant is “not a sweeping authority empowering a raiding party to undertake a fishing expedition to seize and confiscate any and all kinds of evidence or articles relating to a crime.”¹⁴ Instead, the Court mandates that the warrants must contain exact details upon which the authorities can rely for its implementation.¹⁵

People v. Pastrana,¹⁶ citing *Bache and Co. Inc. v. Judge Ruiz*¹⁷ held that the items to be seized must be described with “reasonable particularity,” that is:

It is elemental, that in order to be valid, a search warrant must particularly describe the place to be searched and the things to be seized. The constitutional requirement of reasonable particularity of description of the things to be seized is primarily meant to enable the law enforcers serving the warrant to: (1) readily identify the properties to be seized and thus prevent them from seizing the wrong items; and (2) leave said peace officers with no discretion regarding the articles to be seized and thus prevent unreasonable searches and seizures. It is not, however, required that the things to be seized must be described in precise and minute detail as to leave no room for doubt on the part of the searching authorities.

In *Bache and Co. (Phil.), Inc. v. Judge Ruiz*, it was pointed out that *one of the tests to determine the particularity in the description of objects to be seized under a search warrant is when the things described are limited to those which bear direct relation to the offense for which the warrant is being issued.* (Emphasis supplied, citations omitted)

The description of the objects to be seized need not be so specific as to eliminate all discretion for the executing law enforcement officer. It merely requires that the objects to be seized be described with sufficient specificity. I agree that the phrase “among other firearms” found in the search warrant

¹³ *Id.* at 747–749.

¹⁴ *People v. Francisco*, 436 Phil. 383, 396 (2002) [Per J. Ynares-Santiago, First Division]; *People v. Del Rosario*, 304 Phil. 418, 427 (1994) [Per J. Melo, Third Division].

¹⁵ *Vallejo v. Court of Appeals*, 471 Phil. 670, 687 (2004) [Per J. Callejo, Sr., Second Division].

¹⁶ 826 Phil 427 (2018) [Per J. Martires, Third Division].

¹⁷ 147 Phil. 794 (1971) [Per J. Villamor, *En Banc*].

does not make the it overly broad and does not leave the scope of the search to the full discretion of authorities.¹⁸

There is no question that the Constitution clearly prohibits the use of “general, blanket and roving search warrants.” Any searches or seizures conducted under such warrants are unquestionably illegal. However, the term “among other firearms” does not constitute a general warrant. It does not expand the scope of the warrant to allow a broad, exploratory search for unrelated items. The phrase “among other firearms” is a mere descriptor or acknowledgment of the potential presence of additional items related to the specific item, the 9mm caliber firearm. The subject phrase in Search Warrant No. 19-3 passes the test of particularity. In *Vallejo v. Court of Appeals*,¹⁹ it was held:

*The things to be seized must be described with particularity. Technical precision of description is not required. It is only necessary that there be reasonable particularity and certainty as to the identity of the property to be searched for and seized, so that the warrant shall not be a mere roving commission. Indeed, the law does not require that the things to be seized must be described in precise and minute detail as to leave no room for doubt on the part of the searching authorities. If this were the rule, it would be virtually impossible for the applicants to obtain a warrant as they would not know exactly what kind of things to look for. Any description of the place or thing to be searched that will enable the officer making the search with reasonable certainty to locate such place or thing is sufficient.*²⁰
(Emphasis supplied, citations omitted)

Here, the phrase provides enough specificity to guide law enforcement officers in executing the search warrant without giving them unrestricted authority on what items to seize. This interpretation aligns with jurisprudence that requires search warrants to describe items with “reasonable particularity.”²¹ The law does not demand absolute precision in describing items, especially when the nature of the contraband is inherently broad or uncertain. For instance, if the 9mm firearm is found to be part of an illegal cache of weapons, it would be unreasonable to expect the warrant to list every single item beforehand. Reasonable specificity is required to avoid abuse.

Thus, Search Warrant No. 19-3 is valid. A search warrant cannot have partial validity. It is either valid or void in its entirety if it fails to meet the constitutional requirements. However, if the warrant were to be deemed partially valid, the seizure of the subject firearms and ammunition should still be considered as a lawful seizure pursuant to a valid warrantless search.

¹⁸ *Ponencia*, p. 9.

¹⁹ 471 Phil. 670, 687 (2004) [Per J. Callejo, Sr., Second Division].

²⁰ *Id.* at 686-687.

²¹ *Pagal v. People*, 920 Phil. 500, 511 (2022) [Per J. Leonen, Third Division]. (Citation omitted)

Law and jurisprudence have identified valid warrantless searches as the following: (1) a warrantless search incidental to a lawful arrest; (2) search of evidence in plain view; (3) search of a moving vehicle; (4) consented warrantless searches; (5) customs search; (6) stop and frisk; and (7) exigent and emergency circumstances.²²

In a search incidental to a lawful arrest, the law²³ requires that there must first be a lawful arrest before a search can be made. This cannot be reversed.²⁴ Since the arrest occurred after the search in the current case, this exception cannot be used. Evidently, the aforementioned exceptions number 3, 5, 6, and 7²⁵ for valid warrantless searches cannot apply in this case as well.

As for consented warrantless searches, the consent must be clear, unequivocal and unattended by intimidation or duress.²⁶ "Mere passive conformity to the warrantless search is only an implied acquiescence which does not amount to consent and that the presence of a coercive environment negates the claim that [accused-appellant] therein consented to the warrantless search."²⁷ In this case, Comamo was accompanied by police officers who were equipped with a search warrant. Comamo's compliance with the search was a result of limited options rather than a voluntary decision. Thus, a consented warrantless search does not apply either.

This leaves the exception of search of evidence in plain view. For the doctrine of plain view to apply, jurisprudence has identified three requisites that must be present: (a) that the law enforcement officer in search of the evidence has prior justification for an intrusion; (b) the discovery of evidence in plain view is inadvertent; and (c) it is immediately apparent to the officer that the item he observes may be evidence of a crime, contraband or otherwise, subject to seizure.²⁸

All three requisites are present in the case at hand.

For the first requisite, the officer seizing the evidence must have a lawful right to access or observe the seized object. That is, the officer should not have violated due process or any other right in arriving at the location or situation where they discovered the contraband or evidence in plain sight. In *People v. Salangit*.²⁹

²² *People v. Jumarang*, 928 Phil. 27, 31 [Per J. J. Lopez, Second Division].

²³ REVISED RULES OF CRIMINAL PROCEDURE, Rule 126, sec. 13 states:

Search incident to lawful arrest. — A person lawfully arrested may be searched for dangerous weapons or anything which may have been used or constitute proof in the commission of an offense without a search warrant.

²⁴ *Vaporoso v. People*, 852 Phil. 508, 516 (2019) [Per J. Perlas-Bernabe, Second Division].

²⁵ *People v. Jumarang*, 928 Phil. 27, 31 [Per J. J. Lopez, Second Division].

²⁶ *Id.* at 37.

²⁷ *Id.*

²⁸ *Pilapil, Jr. v. Cu*, 880 Phil. 88, 100 (2020) [Per C.J. Peralta, First Division].

²⁹ 408 Phil. 817 (2001) [Per J. Mendoza, Second Division].

What the 'plain view' cases have in common is *that the police officer in each of them had a prior justification for an intrusion in the course of which he came inadvertently across a piece of evidence incriminating the accused. The doctrine serves to supplement the prior justification — whether it be a warrant for another object, hot pursuit, search incident to a lawful arrest, or some other legitimate reason for being present unconnected with a search directed against the accused — and permits the warrantless seizure.* Of course, the extension of the original justification is legitimate only where it is immediately apparent to the police that they have evidence before them; the 'plain view' doctrine may not be used to extend a general exploratory search from one object to another until something incriminating at last emerges.³⁰ (Emphasis supplied)

Thus, the officer who carried out the warrantless seizure must have been in a legitimate position when he or she discovered the contraband or evidence in plain view. To evaluate this, the legality of the inspection that resulted in the confiscated objects must be considered.

Here, it was determined that police officers were given the opportunity to see the items seized while carrying out a legitimate warrant. To execute the search warrant, the police asked Comamo to open a tiny cupboard in the kitchen, which he did. This led to the discovery of the following: (a) a 45mm caliber Colt 1911 pistol with serial number 421003, three magazines, 23 live ammunitions, and one inside holster; (b) one live ammunition for an M14 rifle; and (c) one live ammunition for a 9mm caliber pistol. Here, the enforcers were entitled to enter Comamo's residence and conduct a search during the execution of the warrant, as this was their authorized action.

Nevertheless, the second requisite is less straightforward. In this instance, it is necessary that the discovery of evidence in plain sight is inadvertent or unintentional.

Here, the police searched the Comamo's residence to carry out the search warrant. In accessing the cabinet, the authorities uncovered other firearms and ammunition. This was not necessarily intended to gather additional evidence against Comamo. Instead, the police officers were simply carrying out their duty to locate the specific item mentioned in the search warrant. Coincidentally, the cabinet contained other illicit goods. It cannot be said for certain that the police officers had ulterior motives in their actions.

The last requirement is that the item be immediately apparent that it is illegal or may be used in illegal activity. The "immediately apparent" standard is one that "does not require an unduly high degree of certainty as to the incriminating character of the evidence, but only that the seizure be presumptively reasonable, assuming that there is a probable cause to associate

³⁰ *Id.* at 834.

the property with a criminal activity.”³¹ This standard allows law enforcement officers to seize items that they reasonably believe are connected to criminal activity without needing absolute certainty.

Given the existence of a valid search warrant, it is established that there is probable cause, as determined by a judge, that Comamo may be illegally in possession of a firearm. Surely, the discovery of other firearms and ammunition incriminates Comamo of a suspected crime. At that point, the police officers did not have the luxury of time to apply for an additional search warrant to accommodate the newly found items. Furthermore, it is unreasonable to expect our law enforcement officers to disregard illicit items in their presence, despite their legitimate reason for being in the area, merely because they are not included in a search warrant.

Since the police officers’ entry into Comamo’s residence and search of his kitchen cabinet were lawful and justified intrusions of his privacy, the subsequent discovery and confiscation of contraband should likewise be lawful. This exception to a search warrant must be permitted for law enforcement to prevent harm to officers or others or the destruction of evidence.

III

In executing a search warrant, law enforcement cannot solely rely on visual inspection. To achieve their objective, they are required and authorized to search every nook and cranny covered by the search warrant. If, during their search, they encounter illegal items related to those on the search warrant, it would be illogical for them to disregard the contraband. Consequently, it is imperative for law enforcement to conduct a comprehensive search of the premises to guarantee the confiscation and removal of any illicit products.

In this instance, the officers were merely fulfilling their duty when they searched the cabinet within the premises. The mere act of opening the cabinet to reveal the unspecified firearms does not remove the discovered items from the ambit of the search warrant. Significantly, the existence of the search warrant ensures that there is probable cause of illegal activity or possession even before the search is conducted. This prevents arbitrary invasions of privacy and confers the ability to look for and confiscate any evidence pertinent to the investigation. Undoubtedly, abandoning contraband because it is not exactly described in the search warrant would pose a great risk to public safety.

³¹ *Dimal v. People*, 830 Phil. 309, 348–349 (2018) [Per J. Peralta, Second Division].

Reconciling the right to privacy with law enforcement's obligation to maintain public safety is crucial. This complex legal issue pertains to the degree to which authorities may encroach on an individual's privacy to uphold public order. Indeed, balancing these two competing interests requires careful consideration. The right to privacy, while enshrined in the Constitution,³² is often balanced against police power. While the constitutional mandate protects individuals from unreasonable searches and seizures, it likewise permits searches in the presence of court-ordered warrants. Thus, courts have historically recognized that an individual's right to privacy can be limited when it conflicts with compelling state interests.

In the 1968 case of *Morfe v. Mutuc*,³³ public officials challenged a statute that required them to file their statements of assets and liabilities, claiming a violation of their right to privacy. The Court held that the provisions were valid and did not violate the public officials' rights to privacy. Privacy as a constitutional right was explicitly recognized in this case even before the 1987 Constitution was written:

Nonetheless, in view of the fact that there is an express recognition of privacy, specifically that of communication and correspondence which 'shall be inviolable except upon lawful order of Court or when public safety and order' may otherwise require, and implicitly in the search and seizure clause, and the liberty of abode, the alleged repugnancy of such statutory requirement of further periodical submission of a sworn statement of assets and liabilities deserves to be further looked into.³⁴

This Court established that the right to privacy was not violated in the following manner:

. . . it cannot be said that the challenged statutory provision calls for disclosure of information which infringes on the right of a person to privacy. It cannot be denied that the rational relationship such a requirement possesses with the objective of a valid statute goes very far in precluding assent to an objection of such character. This is not to say that a public officer, by virtue of a position he holds, is bereft of constitutional protection; it is only to emphasize that in subjecting him to such a further compulsory revelation of his assets and liabilities, including the statement of the amounts and sources of income, the amounts of personal and family expenses, and the amount of income taxes paid for the next preceding calendar year, there is no unconstitutional intrusion into what otherwise would be a private sphere.³⁵

It is necessary for public officers to disclose their financial information to ensure transparency and prevent conflicts of interest. In *Morfe*, the Court found that this was sufficient compelling state interest to allow the intrusion

³² CONST., art. III, sec. 2.

³³ 130 Phil 415 (1968) [Per J. Fernando, *En Banc*].

³⁴ *Id.* at 434.

³⁵ *Id.* at 436-437.

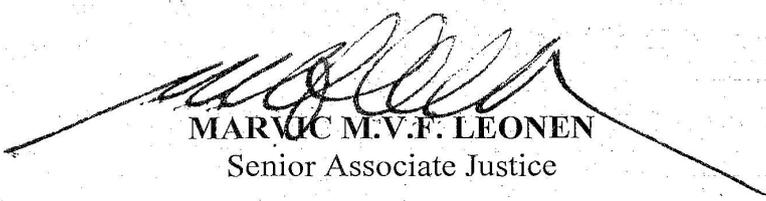
of the public officers' privacy. Likewise, the right to privacy may be limited in instances of preventing crime or protecting the public. This is precisely why authorities may secure a search warrant that allows them access to an individual's private space in situations where probable cause indicates that a crime is being committed.

In executing a search warrant, law enforcement should be granted a degree of discretion to execute the warrant effectively. If, during their search, evidence of a crime beyond the scope of the warrant surfaces, authorities should not be expected to merely turn a blind eye. Instead, they should confiscate such evidence under the plain view doctrine. Law enforcement should not be expected to do nothing when they are made aware of the commission of another in the process of their search. Officers should be capable of apprehending the perpetrator. Doing otherwise would be tantamount to allowing criminals to roam free despite catching them red-handed.

In the present case, although not all items discovered were included in the search warrant, possessing such items without a permit is illegal and subject to legal penalties. The discovery of illegal firearms and ammunition poses a serious threat that cannot be ignored. Law enforcement should be given leeway to act quickly and decisively in situations where public safety is at risk, even if it means deviating slightly from the original scope of their search warrant. It must be emphasized however that the deviation is within legal parameters as the illegal items were found in plain view during the search conducted for the items stated in the warrant.

Comamo's right to privacy, while given paramount significance in this jurisdiction, is not an absolute right. For the benefit of society, it may be restricted in specific situations. Given the circumstances in the case, the plain view doctrine should apply. I reiterate that the items confiscated along with the ammunition related to the 9mm caliber pistol should be admissible in evidence against Comamo.

ACCORDINGLY, I vote to **DISMISS** the Petition.



MARC M.V.F. LEONEN
Senior Associate Justice