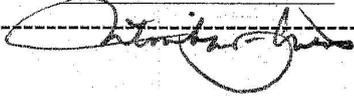


G.R. No. 236548 (RUBEN COMAMO y JIMENO, Petitioner, v. PEOPLE OF THE PHILIPPINES, Respondent.)

Promulgated:

March 4, 2025

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**CONCURRING OPINION**

**LOPEZ, J.:**

I agree with the esteemed ponente that the Petition for Review on *Certiorari* should be dismissed.

The *ponencia* held that the phrase “*among other firearms*” in Search Warrant No. 19-13 neither transforms the warrant into a general warrant nor renders the entire warrant void. More, the *ponencia* also ruled that the seizure of the “.45 caliber Colt 1911 pistol with serial number 421003, three magazines, 23 live ammunitions, one inside holster, and one live ammunition for an M14 rifle,” although not covered by the warrant, was nonetheless valid under the plain view doctrine.

While I agree that Search Warrant No. 19-13 did not constitute a general warrant and that the plain view doctrine justified the seizure of the .45 caliber Colt 1911 pistol with serial number 421003, three magazines, 23 live ammunitions, one inside holster and one live ammunition for M14 rifle, I wish to explain my position pertaining to the phrase “*among other firearms*” as specific enough to authorize the confiscation of related items. In my view, the language of the warrant, i.e., “a Cal. 9MM Pistol[,] *among other firearms* which [petitioner] keeps in his possession[,]” was sufficiently specific to authorize the seizure of the said items, all of which bear relation to the crime of illegal possession of firearm and ammunitions penalized under Republic Act No. 10591.

Indeed, no less than the Constitution requires that search warrants must particularly describe the place to be searched and the persons or things to be seized.<sup>1</sup> Otherwise, the warrant partakes the nature of a general warrant or one that lacks particularity, allowing for the broad and unrestricted search or seizure of items in contravention of the Bill of Rights.

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<sup>1</sup> CONST., art. II, sec. 2.

Guided by the foregoing principle, the test of the particularity of a search warrant has been defined in *Yao, Sr. v. People*<sup>2</sup> as (1) whether the description is as specific as the circumstances will ordinarily allow; (2) whether the description expresses a conclusion of fact, not of law, by which the warrant officer may be guided in making the search and seizure; or (3) whether the things described are limited to those which bear direct relation to the offense for which the warrant is being issued.<sup>3</sup>

In any case, jurisprudence does not require that the items to be seized must be described with exacting and minute detail to the point of leaving no room for doubt on the part of the searching authorities, as such a stringent requirement would render it virtually impossible for the applicants to obtain a search warrant. Hence, “the articles subject to the search and seizure need not be so invariant as to require absolute concordance” with those described in the warrant. “Substantial similarity of those articles described as a class or species would [already] suffice.”<sup>4</sup>

Relevantly, this is not the first time We have been confronted with the issue presented by the instant petition.

In *Al-Ghoul v. Court of Appeals*,<sup>5</sup> this Court determined whether the seizure of firearms and ammunition, which were not specifically described in the questioned search warrants, was valid. On this score, We resolved the issue in the affirmative, finding the seizure of a .22 caliber handgun and a box of .22 caliber live ammunition, both not listed in the enumeration of firearms in the subject search warrants, proper. In so ruling, this Court held that the articles seized during the search were of the same kind and nature as those items enumerated in the search warrants. Where the description of those goods to be seized has been expressed technically, *all others of a similar nature but not bearing the exact technical descriptions* could still be subject to seizure. It sufficed that the search warrants were worded in such a manner that the enumerated items to be seized should bear a direct relation to the violation of Sections 1 and 3 of Presidential Decree No. 1866, as amended, penalizing illegal possession of firearms, ammunition, and explosives. By authorizing the seizure of articles proscribed by Presidential Decree No. 1866 and no other, the warrants were found to have satisfied the test of particularity to allow the seizure of the questioned items.

Meanwhile, in the case of *Kho v. Makalintal*,<sup>6</sup> We pronounced that the reference of the search warrant to “unlicensed firearms of various

<sup>2</sup> 552 Phil 195 (2007) [Per J. Chico-Nazario, Third Division].

<sup>3</sup> *Id.* at 222.

<sup>4</sup> *Id.*

<sup>5</sup> 416 Phil 759 (2001) [J. Quisumbing, Second Division].

<sup>6</sup> 365 Phil 511 (1999) [Per J. Purisima, *En Banc*].

calibers and ammunitions for the said firearms” complied with the Constitutional standard, recognizing the fact that the agents of the National Bureau of Investigation could not be expected to know the exact caliber or make of the firearms based alone on the surveillance they conducted. Our ruling in *Kho* also underscored that adding the phrase “*and the like*” did not convert the search warrants in question into general warrants.

Guided by *Al-Ghoul* and *Kho*, the phrase “*among other firearms*” does not grant the serving officer the unbridled discretion of determining the items to seize. On the contrary, it confines such discretion only to firearms belonging to the same class or species and having a direct connection to the offense specified in the warrant. Thus, rather than construing the phrase as expanding the scope of the warrant to include all types of firearms and ammunition, I opine that it limits the search to firearms similar in nature to the 9mm caliber pistol, and only to those directly linked to the crime alleged—namely, illegal possession of firearms and ammunition. A contrary view may pose the danger of allowing the most minor deviations from a warrant’s technical description to frustrate legitimate law enforcement efforts. This will ultimately undermine the objectives of Republic Act No. 10591 in curbing the proliferation of illegal firearms and weapons and preventing violence. Thus, as long as there is a description on the specific item to be seized from which the phrase “*among other firearms*” may be grouped, and for which a similar item belonging to the same class or group is found based on the said search warrant, these items must not be considered inadmissible in evidence. Neither the search warrant can be declared void.

  
**JHOSEP Y. LOPEZ**  
Associate Justice