



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **02 September 2020** which reads as follows:

“**G.R. No. 252442 - (Kristopher Kylie Ernie y Cruz v. People of the Philippines)** – This is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the October 18, 2019 Decision<sup>1</sup> and February 20, 2020 Resolution of the Court of Appeals (CA) in CA-G.R. CR No. 41496. The CA affirmed the February 23, 2018 Decision of the Regional Trial Court, Branch 225 of Quezon City, which found petitioner Kristopher Kylie Ernie y Cruz guilty beyond reasonable doubt for violation of Section 28 (a) of Republic Act (R.A.) No 10591, otherwise known as “*Comprehensive Firearms and Ammunition Regulation Act*”.

After a careful study of the case, the Court resolved to **DENY** the instant petition. The arguments Kristopher proffered in his petition are merely factual in nature and, hence, not proper subjects of an appeal by *certiorari* under Rule 45 of the Rules of Court. The Supreme Court would have to analyze and re-calibrate the evidence presented by the parties so as to resolve whether the seized gun and magazines with ammunitions are admissible as evidence, the testimony of SP02 Millante is credible, and there is sufficient evidence to duly prove that Kristopher committed the crime charged. We stress that this Court is not a trier of facts. Our power is confined to the review of errors of law that may have been committed in the judgment under review.<sup>2</sup>

Moreover, the Court observes that the grounds and arguments relied upon in the present petition have already been threshed out and thoroughly passed upon by the CA when it affirmed the RTC’s judgment of conviction. Kristopher must therefore prove before this Court that the CA, in affirming the RTC’s evaluation, overlooked, misapprehended, or misinterpreted pertinent facts or circumstances that

<sup>1</sup> Rollo, pp. 22-532; penned by Associate Justice Franchito N. Diamante and concurred in by Associate Justices Pablito A. Perez and Ruben Reynaldo G. Roxas.

<sup>2</sup> *Far Eastern Surety and Insurance Co., Inc. v. People*, 721 Phil. 760 (2013).

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if duly considered, would materially affect the disposition of the case differently.<sup>3</sup> Unfortunately, neither did he show any extraordinary circumstance nor any reversible error committed by the appellate court in upholding his conviction which would have justified a departure from the established doctrine that findings of fact of the CA are conclusive on the Court and will not be disturbed on appeal.<sup>4</sup>

Besides, the CA and the RTC are both correct in upholding the admissibility as evidence of the seized gun and magazines loaded with ammunitions. Kristopher was arrested pursuant to a standing warrant of arrest for carnapping with homicide that was issued by the Regional Trial Court, Branch 70 of Binangonan, Rizal. Thus, since his arrest is lawful, the search and seizure made incidental thereto is likewise valid. Hence, the gun and the two (2) magazines loaded with 14 ammunitions are admissible as evidence since the police officers can seize them without the necessity of obtaining a search warrant.<sup>5</sup> As aptly held in *People v. Acol*<sup>6</sup> citing *Magoncia v. Palacio*.<sup>7</sup>

When, in pursuing an illegal action or in the commission of a criminal offense, the offending police officers should happen to discover a criminal offense being committed by any person, they are not precluded from performing their duties as police officers for the apprehension of the guilty person and the taking of the *corpus delicti*.

Having settled the admissibility as evidence of the seized gun and magazines loaded with ammunitions, the Court finds that the CA correctly observed the presence of the following elements to secure a conviction for illegal possession of firearms and ammunition: (a) the subject firearm exists; and (b) the person who possessed or owned the same does not have the corresponding license.<sup>8</sup> Here, the prosecution sufficiently proved that Kristopher was in possession of a Colt 1911 Caliber .45 pistol and two (2) magazines loaded with 14 live ammunitions when he was arrested pursuant to a valid arrest warrant, and that he had no license or authority to possess or own them.

Nonetheless, the Court modifies the penalty of imprisonment imposed against Kristopher for Illegal Possession of Firearms and Ammunition. Section 28 (a) of R.A. No. 10591 imposes the penalty of *prision mayor* in its medium period or from eight (8) years and one (1) day to ten (10) years. Applying the Indeterminate Sentence Law, the minimum period is the penalty next lower in degree, or *prision mayor* in its minimum period, which is six (6) years and one (1) day to eight (8) years, while the maximum period is anywhere between eight (8) years and one (1) day to ten (10) years.<sup>9</sup> Thus, Kristopher should suffer the indeterminate penalty of eight (8) years, as minimum, to ten (10) years, of *prision mayor*, as maximum.<sup>10</sup>

<sup>3</sup> Id.

<sup>4</sup> *Posiquit v. People*, 679 Phil. 115 (2012).

<sup>5</sup> *People v. Acol*, 302 Phil. 429 (1994).

<sup>6</sup> Id.

<sup>7</sup> 80 Phil. 770 (1948).

<sup>8</sup> *Yting v. People*, G.R. No. 241658, November 5, 2018.

<sup>9</sup> *Amen v. People*, G.R. No. 248903, December 4, 2019.

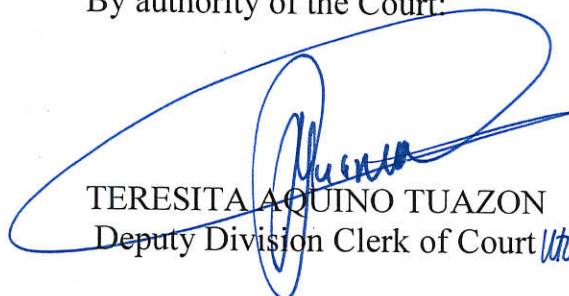
<sup>10</sup> Id.



**WHEREFORE**, premises considered, the Petition for Review is **DENIED**. The October 18, 2019 Decision of the Court of Appeals in CA-G.R. CR No. 41496 is **AFFIRMED with MODIFICATION**. Petitioner Kristopher Kylie Ernie y Cruz is found **GUILTY** beyond reasonable doubt for violation of Section 28 (a) of Republic Act (R.A.) No 10591 and is hereby sentenced to suffer the indeterminate penalty of imprisonment of eight (8) years of *prision mayor*, as minimum, to ten (10) years of *prision mayor*, as maximum.

**SO ORDERED.**" (Baltazar-Padilla, *J.*, on leave)

By authority of the Court:

  
TERESITA AQUINO TUAZON  
Deputy Division Clerk of Court *Utah 9/23*

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THE DIRECTOR (reg)

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1770 Muntinlupa City

JUDGMENT DIVISION (x)  
Supreme Court, Manila

HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 225  
Quezon City  
(R-QZN-17-03132-CR)

JUDGMENT DIVISION (x)  
Supreme Court, Manila

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\*with copy of CA Decision dated 18 October 2019  
*Please notify the Court of any change in your address.*  
GR252442. 09/02/2020A(17)URES