

SECOND DIVISION

[G.R. No. 179319, September 18, 2009]

**EUGENE C. FIRAZA, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

D E C I S I O N

CARPIO MORALES, J.:

Petitioner, appointed as a confidential agent of the National Bureau of Investigation (NBI), Caraga Regional Office on August 18, 1999, was issued a firearm and a mission to gather and report to the NBI such information as may be relevant to investigations undertaken by it.

In his private capacity, petitioner served as manager for RF Communications in connection with which he dealt with Christopher Rivas, Provincial Auditor of Surigao del Sur, for the establishment of a Public Calling Office in the Municipality of Lianga, Surigao del Sur.

On August 11, 2000, in the course of a meeting between petitioner and Rivas at the latter's restaurant regarding the delivery of a defective machine for the Public Calling Office, a heated exchange ensued during which petitioner is alleged to have pointed a gun at Rivas. Petitioner was thereupon accosted by P/Insp. Alberto A. Mullanida, Acting Chief of Police of Lianga, Surigao del Sur and PO2 Nilo Ronquillo, who discovered that his permit to carry firearm outside residence had expired more than a month earlier or on July 5, 2000.

Hence, a criminal complaint was filed against petitioner before the 6th Municipal Circuit Trial Court (MCTC) of Barobo-Lianga, Barobo, Surigao del Sur for "UNAUTHORIZED CARRYING OF LICENCE [*sic*] FIREARM OUTSIDE RESIDENCE," the accusatory portion of which reads:

That on or about the 11th day of August 2000 at about 4:00 o'clock in the afternoon more or less in Poblacion, Municipality of Lianga, Province of Surigao del Sur Philippines and within the jurisdiction of this Honorable Court the above named accused, willfully, unlawfully, and feloniously possess [*sic*] one (1) unit Pistol Caliber 45 with serial number 670320 entered inside the residence of Christopher Rivas at Lianga, Surigao del Sur with expired license or permit to carry outside residence renewed [*sic*] from the government authority concerned.

CONTRARY TO LAW. (Violation of RA 8294 as amended).^[1] (Emphasis and underscoring supplied)

Petitioner, denying that any argument occurred between him and Rivas, claimed that while he was explaining to Rivas the defect in the machine subject of their meeting, P/Insp. Mullaneda and PO2 Ronquillo apprehended him and seized his firearm tucked inside his shirt, even as he identified himself as an NBI agent; and that he was prevented from presenting a Mission Order dated July 26, 2000 issued to him by the NBI, to prove his authority to carry firearms outside of his residence, due to the coercive manner by which the two approached him.

By Decision of February 20, 2003, the MCTC convicted petitioner, disposing as follows:

WHEREFORE, Court finds accused Eugene C. Firaza GUILTY beyond reasonable doubt of the crime "Unauthorized Carrying of Licensed Firearm Outside Residence," penalized under Section 1 of Republic Act 8294.

Accused Eugene C. Firaza is hereby sentenced to an imprisonment of one (1) month and ten days of Arresto Mayor.

SO ORDERED.

In convicting petitioner, the trial court noted the following facts:

1. That accused's permit to carry firearms outside residence, has already expired when he was apprehended on August 11, 2000;
2. That the "Mission Order" (Exhibit "4") was not presented or shown to the apprehending policemen on August 11, 2000;
3. That accused's "Mission Order" was not issued by the NBI Director or Assistant/Deputy Director or by Regional Director of Caraga Region;
4. That accused is only a confidential agent and as such is not included in the regular plantilla of the NBI, nor is receiving regular compensation for the services he is rendering;
5. When apprehended, accused was not in actual performance of alleged mission but on business trip.^[2] (Underscoring supplied)

On appeal, the Regional Trial Court upheld petitioner's conviction.

On petition for review, the Court of Appeals, by Decision of April 20, 2007,^[3] affirmed petitioner's conviction.

Before this Court, petitioner raises the following issues:

- a. Whether or not Petitioner can be convicted of an offense different from that charged in the Complaint.
- b. Whether or not the burden of proving a negative element of an offense lies with the prosecution; and
- c. Whether or not the firearm seized from petitioner after an unlawful search without a warrant is inadmissible in evidence. (Underscoring supplied)

Petitioner prefaces his arguments in support of his appeal by claiming that the Complaint charged him with "illegal possession of firearms," hence, he cannot be convicted of carrying firearms outside of residence, the phrase in the Complaint reading "with expired license or permit to carry outside residence . . ." being "merely descriptive of the alleged unlicensed nature of the firearm."

Petitioner concludes that since he had authority to carry firearm, it was error to convict him. He cites the appellate court's following disquisition as crediting his defense that he had authority to carry firearms, viz:

It must be stated at the outset that petitioner was charged of violation of RA 8294 or Unauthorized Carrying of Licensed Firearm Outside of Residence. His conviction by the courts below is based on their finding that although petitioner had a mission order which authorized him to carry the firearm issued to him, the same already expired as of July 26, 2000.

We qualify.

The courts below committed an error when they said that the authority of petitioner to carry firearm outside residence expired on July 26, 2000, hence when petitioner carried his issued firearm on 18 August 2000, he did so without authority. **Mission Order No. 00352000 dated July 26, 2000 issued to petitioner allowed him to carry his issued firearm Pistol Cal. 45 with him, which mission order is good for sixty (60) days from issuance thereof.**^[4] x x x (Italics in the original, emphasis and underscoring supplied)

Petitioner's argument fails.

Section 6, Rule 110 of the Rules of Court provides:

SEC. 6. Sufficiency of complaint or information. - A complaint or information is sufficient if it states the name of the accused; the designation of the offense given by the statute; **the acts or omissions complained of as constituting the offense**; the name of the offended party; the approximate date of the commission of the offense; and the place where the offense was committed.