

## THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. AMBROSIO LUCERO, DEFENDANT AND APPELLANT.

*G. R. No. 10845. April 28, 1958*

Ponente: LABRADOR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-10845/>

---

### LABRADOR, J.:

Appeal from a judgment of the Court of First Instance of Rizal, Hon. Bienvenido Tan, presiding, finding Ambrosio Lucero guilty of illegal possession of firearm and sentencing him accordingly. The appeal was certified to this Court by the Court of Appeals for the reason that only questions of law are raised therein.

On January 6, 1953, Severino F. de Jesus, 1st Lt. Inf., Team Leader, 7 MISAT, issued a certificate in favor of defendant-appellant, civilian confidential agent, worded as follows:

REPUBLIC OF THE PHILIPPINES  
HEADQUARTERS  
20 BATTALION COMBAT TEAM, IMA (AFP)  
CAMP OLIVEROS, PLARIDEL, BULACAN  
7th MIS "A" TEAM

6 January 1953

### TO WHOM IT MAY CONCERN:

This is to certify that Mr. Ambrosio Lucero, a resident of Barrio Liputan, Meycauayan, Bulacan is a civilian confidential agent assigned on a mission to make surveillance and effect the killing or capture of Angel Aviso alias Cmdr MORI, who frequently reported as visiting his relative in Barrio Malhalan, Meycauayan.

He is authorized to use temporarily the confiscated revolver cal. 38, serial number 43831 in the performance of his assigned mission.

**SEVERINO F. DE JESUS**

1st Lt.,

Inf

Team Leader, 7 MISAT"

(Exhibit "1")

Ambrosio Lucero had been appointed confidential informer and been given an identification card, as Agent ' No. 2331, by the Battalion Commander, 7th .Battalion Combat Team. The identification card reads as follows:

**"REPUBLIC OF THE PHILIPPINES**

**ANTIPOLO, RIZAL**

**SEVENTH BATTALION COMBAT TEAM**

Agent No. 2331

**A.L.**

---

Intial

Informer

---

Designation

**PEDRO C. BERSOLA**

Major, Inf.

BN Commander"

## ILLEGIBLE

Intelligence Officer

On February 7, 1953, the defendant-appellant was caught in the Municipality of Navotas, Rizal, in possession of the revolver which had been delivered to him. So on April 28, 1953, an information for illegal possession of firearm was filed in the Court of First Instance of Rizal against him. At the trial of the case the defendant-appellant admitted having been arrested in Navotas on February 7, 1953, but through counsel explained the possession of the firearm in the following manner:

### ATTY. FINEZA:

Here are the facts the defense is willing to admit: That on January 6, 1953 the accused was commissioned by Lt. Severino F. de Jesus, Assistant Intelligence Officer of the 20th B.C.T. stationed at Camp Olivas, to effect the capture of Angel Aviso alias Commander Mori; that in the performance of this mission the accused Ambrosio Lucero was temporarily given the use of revolver, caliber .38, Serial No. 43831 in connection with the performance of the said mission; that the said authority to temporarily use the said revolver is evidenced by this authority which we present as Exhibit 1 for the defense." (pp. 1-2, t.s.n.)

On this admission the court found him guilty of illegal possession of firearm and sentenced him accordingly. The court also declared the firearm confiscated and forfeited in favor of the government.

From the above decision the defendant has appealed to this Court, claiming exemption from criminal liability because of his appointment as civilian confidential agent, entrusted with "a mission to make surveillance and effect the killing or capture of Angel Aviso alias Comdr. Mori", a Huk commander; that the firearm was given to him for a lawful purpose and within the limits of the law and the use thereof was not expressly confined to a limited area. Answering the above contention, the Solicitor General argues that the defendant-appellant was merely a "civilian confidential agent", and that the lieutenant who issued the appointment is not authorized under the law to grant said defendant-appellant authority to possess the firearm, this power being granted under the provisions of Section 887 and 888 of the Revised Administrative Code to the President of the Philippines.

This Court can take judicial notice of the fact that the practice of appointing civilians as informers to help in the apprehension and arrest of Huks has been resorted to many times with success. If a police officer in effecting arrest or in complying with his official duties can enlist the aid of civilians, so should officers of the Army entrusted with the capture or apprehension of Huks. The designation and appointment of the defendant-appellant as informer by the battalion commander was, therefore, within the latter's lawful authority. It cannot be denied that the help expected from a civilian informer would not be as effective as when he is provided with the necessary weapon to defend himself in ease of aggression or enforce capture of offenders or criminals as in the case of the defendant-appellant. The right of the military commander entrusted with the duty of effecting the arrest or capture of a Huk commander should necessarily include, besides the appointment of the civilian informer, the power to provide the latter with such, weapons as are necessary to protect the informer and help him carry out the mission entrusted to him. Under the circumstances of the case, therefore, we find that the granting of the temporary use of the revolver to defendant-appellant, which was a necessary means to carry out the lawful purpose of the commander, must be deemed incident to or necessarily included in the duty and power of the

battalion commander to effect the capture of the Huk chief. If the government has entrusted military officers with the capture and apprehension of offenders, we must presume that they have authority to employ such means as are necessary, convenient and useful in the accomplishment of their trust. We, therefore, find that the contention of the appellant is well-founded.

The case cited by the court a quo of conviction of an employee of the Surplus Property Commission for illegal possession of firearm, which possession was authorized by the Chairman of the Commission, has not been decided by this Court. The contention of the Solicitor General that the law which should apply to the case at bar are Sections 887 and 888 of the Revised Administrative Code is beside the point; said provisions refer to possession of firearms by private persons for personal use, and not to a license for the temporary use of a firearm for the purpose of effecting the capture and apprehension of persons engaged in an uprising against the government, as are the Huks.

For the foregoing considerations, the judgment appealed from is hereby reversed and the defendant-appellant acquitted of the offense charged. With costs de oficio.

Bengzon, Montemayor, Bautista Angelo, Endencia and Felix, JJ., concur.

Reyes, A., J., concurs in the result.

---

### **DISSENTING**

**REYES, J. B. L., J.,**

I can not assent to the majority ruling, for the reason that a mission entrusted by a military commander to a civilian secret agent "to effect the killing" of "Angel Aviso, alias Comdr. Mori" is in my opinion patently illegal, and can not constitute valid authority for bearing firearms. While Commander Mori may be a rebel, no one may validly authorize another to procure his killing without due process. It would be authority to commit murder.

Paras, C. J.: concurs.

**ABOUT BATAS.ORG**

# Study smarter at BATAS.org

*The Philippine bar review and law-school companion built around how your brain actually remembers.*

**The complete Philippine law library - free for everyone.**

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

**Audio case-brief lectures.**

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

**Bar review built on the science of memory.**

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

**The full law-school curriculum.**

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

**Mock exams that tell you where you stand.**

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

**A study planner that keeps you on pace.**

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

**Start free at <https://batas.org>**

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.