



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated 23 February 2022 which reads as follows:

“G.R. No. 243021 (*People of the Philippines v. Arcel Canlas y Reyes @ Pusa*). — On appeal¹ is the April 2, 2018 Decision² of the Court of Appeals (CA) in CA-G.R. CR HC No. 09519, affirming the May 16, 2017 Judgment³ of the Regional Trial Court (RTC) of Balanga City, Bataan, Branch 3, in Criminal Case No. 14087, which found accused-appellant Arcel Canlas y Reyes @ Pusa (accused-appellant) guilty beyond reasonable doubt for violation of Section 5 (Illegal Sale of Dangerous Drugs), Article II of Republic Act No. (RA) 9165,⁴ or the “Comprehensive Dangerous Drugs Act of 2002.”

Factual Antecedents:

In an Information⁵ dated April 28, 2014, accused-appellant was indicted by the prosecution for violating Section 5, Article II of RA 9165. The accusatory portion thereof reads:

That on or about February 21, 2014, in Orani, Bataan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, not being authorized by law, did then and there willfully sell, distribute and give away to another ten (10) heat-sealed transparent plastic sachets each containing methamphetamine hydrochloride commonly known as “shabu” having a total weight of ONE POINT TWO SIX SEVEN FIVE (1.2675) GRAMS, a dangerous drug.

¹ *Rollo*, pp. 31-32.

² *Id.* at 2-30. Penned by Associate Justice Celia C. Librea-Leagogo and concurred in by Associate Justices Samuel H. Gaerlan (now a Member of this Court) and Marie Christine Azcarraga-Jacob.

³ *CA rollo*, pp. 42-55. Penned by Presiding Judge Marion Jacqueline P. Poblete.

⁴ Entitled “AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES.” Approved: June 7, 2002.

⁵ Records, pp. 1-2.

CONTRARY TO LAW.⁶

During arraignment, accused-appellant pleaded “not guilty.”⁷ The parties also agreed on the following stipulations during pre-trial:

1. Accused Arcel Canlas y Reyes, present in Court, is the same person named and charged in the Criminal Information.
2. Accused is also known as “Pusa.”
3. On February 21, 2015 at 5:45 o’clock in the afternoon, accused was in the vicinity of Brgy. Parang Parang, Orani, Bataan.
4. Existence of Chemistry Report No. D-153-14 Bataan.
5. Special qualification and competence of P/SInsp. Christine Joy V. Sia as a forensic chemist of the Bataan Provincial Crime Laboratory Office.
6. Existence of the Authority to Operate.
7. Existence of the Coordination Form.
8. Existence of the PDEA Certificate of Coordination.
9. Existence of the Pre-Operation Report.
10. Existence of the Affidavit of Chain of Custody.
11. Existence of the Spot Report.
12. Existence of the Inventory of Property Seized.
13. That during the inventory, photographs were taken but said photographs were not taken at the scene of the crime.
14. Existence of the Request for Laboratory Examination.
15. Affidavit of Chain of Custody was not duly subscribed.⁸

Thereafter, trial on the merits ensued.

Version of the Prosecution:

Police Officer (PO) 1 Dennis M. Pagunuran (PO1 Pagunuran) testified⁹ that on February 18, 2014, he was on duty at the Orani Municipal Police Station. At about 1:00 p.m., their confidential asset reported that accused-appellant was selling illegal drugs in Brgy. Parang-Parang, Orani, Bataan. They conducted a surveillance and confirmed that accused-appellant was indeed selling *shabu*. Thereafter, they coordinated with the Philippine Drug Enforcement Agency (PDEA) Region 3 for the conduct of a buy-bust operation. They conducted a briefing where PO1 Pagunuran was designated as the poseur-buyer, while PO3 Neil V. Valencia (PO3 Valencia) and PO1 Marlon M. Estabillo (PO1 Estabillo), were assigned as the immediate back-up.¹⁰ Before the buy-bust operation, they prepared the Coordination Form,¹¹ Certificate of Coordination,¹² and Pre-Operation Report.¹³

⁶ Id. at 1.

⁷ Records, p. 24.

⁸ Records, pp. 35-36.

⁹ TSN, May 14, 2015. See also Sinumpaang Salaysay sa Pag Aresto, records, pp. 73-74.

¹⁰ TSN, May 14, 2015, pp. 4-9.

¹¹ Records, p. 76.

¹² Id. at 77.

¹³ Id. at 78.

Prior to dispatch to the target area on February 21, 2014, the confidential asset arranged a sale transaction with accused-appellant to purchase from him ₱20,000.00 worth of *shabu*. On the day of the said incident, PO3 Valencia handed over 20 pieces of fake ₱1,000.00-bills¹⁴ bearing the serial number WY678461 to PO1 Pagunuran.¹⁵

Upon reaching the house of accused-appellant in Brgy. Parang-Parang, the asset sent accused-appellant a text message that they have already arrived. PO1 Pagunuran and the asset waited outside accused-appellant's house while the rest of the back-up team were 10 meters away from them. When accused-appellant went out of his house, he looked around to check if anyone was following PO1 Pagunuran and the asset. Afterwards, he headed back inside and when he came back, he handed over 10 plastic sachets containing white crystalline substance to PO1 Pagunuran, who in turn gave to accused-appellant, the boodle money. After the exchange, PO1 Pagunuran introduced himself as a police officer and arrested accused-appellant. Then, the back-up team immediately rushed to the scene. PO1 Estabillo frisked accused-appellant and recovered the boodle money. Afterwards, they took accused-appellant to the police station. PO1 Pagunuran was in possession of the seized items while they were on the way to the police station.¹⁶

Upon arrival at the police station, PO1 Pagunuran conducted the marking and inventory of the seized items. He marked the plastic sachets with "ACR-1" to "ACR-10" and did the inventory¹⁷ in the presence of the accused-appellant, and representatives from the Department of Justice (DOJ) and media, an elected barangay official, and the back-up officers. Photographs¹⁸ of the seized items were also taken during the inventory.¹⁹

Afterwards, PO1 Pagunuran prepared the Request for Laboratory Examination.²⁰ He, along with PO3 Valencia and PO1 Estabillo, delivered the request and the seized plastic sachets of suspected *shabu* to the crime laboratory. An Affidavit of Chain of Custody²¹ was also prepared.²² Thereafter, Police Senior Inspector (PSI) Christine Joy Vergara Sia (PSI Sia) performed a qualitative examination on the sachets with markings "ACR-1" to "ACR-10," and found them positive for the presence of methamphetamine hydrochloride or *shabu*, a dangerous drug.²³

¹⁴ Id. at 87-91.

¹⁵ TSN, May 14, 2015, pp. 9-14.

¹⁶ Id. at 14-17.

¹⁷ See Inventory of Properties Seized, records, p. 81.

¹⁸ Records, p. 82.

¹⁹ TSN, May 14, 2015, pp. 17-21.

²⁰ Records, p. 84.

²¹ Id. at 79.

²² TSN, May 14, 2015, pp. 21-23.

²³ See Chemistry Report No. D-053-14 BATAAN, records, p. 86.

Version of the Defense:

For his part, accused-appellant denied the allegations against him. In his affidavit,²⁴ he claimed that on February 21, 2014 at around 5:30 p.m., while he was having a massage therapy, three police officers and a civilian entered his house. Suddenly, he was handcuffed and the law enforcers started to search his house. They were able to recover a gun belonging to his father, money, and jewelry. Thereafter, he was brought to the police station where he was incarcerated.²⁵

During cross examination, accused-appellant testified that: (1) it was his first time to be charged in court; (2) he was never charged before of any crime; (3) it was his first time to meet the police officers who arrested him; (4) there was no standing animosity between him and the arresting officers; and (5) that he was incarcerated on February 21, 2014.²⁶

Ruling of the Regional Trial Court:

In its May 16, 2017 Judgment,²⁷ the RTC found accused-appellant guilty beyond reasonable doubt of the crime charged. The dispositive portion thereof reads:

WHEREFORE, in view of all the foregoing, this Court finds accused **ARCEL CANLAS y REYES GUILTY** beyond reasonable doubt of the charge for violation of Section 5, Article II of RA 9165 and there being no attending circumstances, sentencing him to life imprisonment and to pay a fine of FIVE HUNDRED THOUSAND PESOS (Php500,000.00).

The Branch Clerk of Court is directed to turned (sic) over the ten (10) heat-sealed transparent plastic sachets containing Methamphetamine Hydrochloride commonly known as shabu, with the total weight of ONE POINT TWO SIX SEVEN FIVE (1.2675) GRAMS, subject of the instant case, to the Dangerous Drugs Board for proper disposal.

SO ORDERED.²⁸

Aggrieved, accused-appellant appealed²⁹ to the CA. In his brief,³⁰ accused-appellant claimed that PO1 Pagunuran only provided a fabricated buy-bust operation as shown by his vacillating claims during his testimony. He also argued that the varying details as to the date of the buy-bust operation, coordination form, and marked money, are material discrepancies which destroy PO1 Pagunuran's credibility.³¹

²⁴ Records, pp. 121-124.

²⁵ Id. at 133.

²⁶ TSN, May 10, 2016.

²⁷ CA *rollo*, pp. 42-55.

²⁸ Id. at 55.

²⁹ Records, p. 145.

³⁰ CA *rollo*, 26-40.

³¹ Id. at 31-35.

Accused-appellant also claimed that the apprehending officers failed to observe the procedural safeguards under Section 21, Article II of RA 9165. He contended that the mandatory witnesses during the inventory did not testify to corroborate PO1 Pagunuran's testimony. He also questioned the marking which happened at the police station for not being immediately done as required by law. Lastly, he maintained that the police officers failed to establish an unbroken chain of custody. He pointed out that PO1 Pagunuran failed to identify (1) who received the drug specimens in the crime laboratory; and (2) from whom PSI Sia received the subject specimens from.³²

In its brief,³³ the People, through the Office of Solicitor General (OSG), maintained that all the elements of Illegal Sale of Dangerous Drugs were sufficiently established. It posited that the police officers substantially complied with Section 21 of RA 9165. It also contended that the prosecution established an unbroken chain of custody and argued that accused-appellant's defense of denial is weak and cannot outweigh the prosecution witness' straightforward testimony.³⁴

Ruling of the Court of Appeals:

In its April 2, 2018 Decision,³⁵ the CA affirmed the RTC's ruling. The *fallo* of the Decision reads:

WHEREFORE, premises considered, the appeal is **DENIED** for lack of merit. The Judgment dated 16 May 2017 of the Regional Trial Court of Bataan, Balanga City, Branch 3 in *Criminal Case No. 14087*, finding accused-appellant Arcel Canlas y Reyes @ "Pusa" guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. 9165 and sentencing him to suffer the penalty of life imprisonment and to pay a fine in the amount of Five Hundred Thousand Pesos (Php500,000.00) is **AFFIRMED**.

SO ORDERED.³⁶

Hence, the present appeal.³⁷ Both parties adopted³⁸ their respective briefs filed in the CA.

Issue

Whether accused-appellant is guilty beyond reasonable doubt of the crime of Illegal Sale of Dangerous Drugs.

³² Id. at 35-38.

³³ Id. at 64-80.

³⁴ Id. 70-78.

³⁵ *Rollo*, pp. 2-30

³⁶ Id. at 26.

³⁷ Id. at 31-32.

³⁸ Id. at 40-41; 44-45.

Our Ruling

The appeal is meritorious.

At the outset, it must be stressed that an appeal in criminal cases opens the entire case for review, and thus, it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned.³⁹ As an appellate court, the Court is conferred with full jurisdiction over the case and renders it competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.⁴⁰

After a careful review of the records of the case, this Court holds that the prosecution failed to prove an unbroken chain of custody and establish the very *corpus delicti* of the crime charged.

In prosecuting the crime of Illegal Sale of Dangerous Drugs, the following elements must be established: (1) the identities of the buyer and seller, the object and consideration of the sale; and (2) delivery of the thing sold and its payment.⁴¹ In buy-bust operations, the delivery of the dangerous drug to the poseur-buyer and the receipt by the seller of the marked money consummate the Illegal Sale of Dangerous Drugs.⁴² In the case at bar, PO1 Pagunuran positively identified accused-appellant as the seller of 10 sachets of *shabu* whom he paid ₱20,000.00 worth of boodle money. Without a doubt, the sale of illegal drugs had been consummated.

Section 21, Article II of RA 9165 outlines the procedural safeguards in the seizure, custody, and handling of confiscated illegal drugs and/or paraphernalia:

Section 21. *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment.* — The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

1) The apprehending team having initial custody and control of the drugs shall, **immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official** who shall be required to sign the copies of the inventory and be given a copy thereof. (Emphasis supplied)

³⁹ *People v. Dahil*, 750 Phil. 212, 225 (2015), citing *People v. Balagat*, 604 Phil. 529, 534 (2009).

⁴⁰ *People v. Comboy*, 782 Phil. 187, 196 (2016); citations omitted.

⁴¹ *People v. Gayoso*, 808 Phil. 19, 29-30 (2017), citing *People v. Lorenzo*, 633 Phil. 393, 402 (2010).

⁴² *People v. Enad*, 780 Phil. 346, 357 (2016). Citations omitted.

Furthermore, Section 21 (a) of the Implementing Rules and Regulations (IRR) of RA 9165 provides:

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items[.]⁴³ (Emphasis and underscoring supplied)

Contrary to accused-appellant's assertion, the fact that the mandatory witnesses did not testify during trial bears no weight. As aptly held by the CA:

In the conduct of the criminal proceedings, the prosecutor has ample discretionary power to control the conduct of the presentation of the prosecution evidence, part of which is the option to choose what evidence to present or who to call as witness. The non-presentation as witnesses of other persons who had custody of the illegal drugs is not a crucial point against the prosecution. There is no requirement for the prosecution to present as witness in a drugs case every person who had something to do with the arrest of the accused and the seizure of the prohibited drugs from him.⁴⁴ (Citations omitted)

Jurisprudence also dictates that the identity of the seized drug and/or paraphernalia be clearly established.⁴⁵ To do so, the four links in the chain of custody that the prosecution must establish are: 1) the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; (2) the turnover of the illegal drug seized by the apprehending officer to the investigating officer; (3) the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and (4) the turnover and submission of the seized and marked illegal drug from the forensic chemist to the court.⁴⁶

In this case, We find the evidence at hand insufficient in establishing the first and fourth links in the chain of custody. As regards the first link involving the seizure and marking of the seized drugs, we note that the seized contraband was not immediately marked after seizure at the place of arrest. The prosecution

⁴³ Entitled "IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE "COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002." Approved: August 30, 2002.

⁴⁴ *Rollo*, pp. 24-25.

⁴⁵ *People v. Jaafar*, 803 Phil. 582, 591 (2017), citing *People v. Simbahon*, 449 Phil. 74, 81 (2003).

⁴⁶ *People v. Sipin*, 833 Phil. 67, 81 (2018), citing *People v. Amaro*, 786 Phil. 139 (2016) and *People v. Mammad*, 769 Phil. 782, 790 (2015).

merely established that PO1 Pagunuran was in possession of the seized items after their seizure and during their transportation to the police station. However, there is absolutely no detail as to how PO1 Pagunuran handled the items in his custody before their seizure and marking at the police station. This is a critical and serious lapse on the part of the apprehending officers as it placed the identity, integrity, and evidentiary value of the seized items into question. Otherwise stated, right at the start of the chain of custody, the identity, integrity, and evidentiary value of the seized items have already been compromised. It follows that the succeeding links in the chain have also been compromised and could no longer be trusted.

In addition, as regards the fourth link in the chain of custody, We note that the parties stipulated on the intended testimony of PSI Sia and stated the following:

1. The representative of the Bataan Provincial Crime Laboratory Office, in behalf of P/SInsp. Christine Joy V. Sia, brought the drug specimen mentioned in Chemistry Report No. D-053-14 Bataan.
2. The existence and due execution of Chemistry Report No. D-053-14 Bataan.
3. The special qualification and competence of P/SInsp. Christine Joy V. Sia as a forensic chemist of the Bataan Provincial Crime Laboratory Office.
4. It was P/SInsp. Christine Joy V. Sia who examined the drug specimens mentioned in Chemistry Report No. D- 053-14 Bataan.
5. Admissions on the findings and conclusions of P/SInsp. Christine Joy V. Sia as indicated in her said Chemistry Report.
6. The existence and due execution of the Request for Laboratory Examination.
7. It was the said Request for Laboratory Examination dated February 21, 2014 that was the basis for P/SInsp. Christine Joy V Sia to examine the drug specimen mentioned in said Chemistry Report.
8. P/SInsp. Christine Joy V. Sia does not have any personal knowledge as to the source of the drug specimens subject of this case
9. P/SInsp. Christine Joy V. Sia does not have any personal knowledge as to the circumstances surrounding the alleged buy bust operation.⁴⁷

A review of the said stipulations reveals that there is nothing offered to show the manner by which the specimens were handled before PSI Sia received them, how she examined the items, and how they were stored or kept in custody until they were brought and presented in court as evidence. In *People v. Pajarin*,⁴⁸ the Court discussed the stipulations necessary when dispensing with the testimony of the forensic chemist, to wit:

Further, as a rule, the police chemist who examines a seized substance should ordinarily testify that he received the seized article as marked, properly sealed and intact; that he resealed it after examination of the content; and that he placed his own marking on the same to ensure that it could not be tampered pending trial. In case the parties stipulate to dispense with the attendance of the forensic

⁴⁷ Records, p. 45.

⁴⁸ 654 Phil. 461 (2011).

chemist, they should stipulate that the latter would have testified that he took the precautionary steps mentioned. x x x⁴⁹

Similarly, in *People v. Sanchez*,⁵⁰ We held:

While we are aware that the RTC's Order of August 6, 2003 dispensed with the testimony of the forensic chemist because of the stipulations of the parties, we view the stipulation to be confined to the handling of the specimen at the forensic laboratory and to the analytical results obtained. **The stipulation does not cover the manner the specimen was handled before it came to the possession of the forensic chemist and after it left his possession. To be sure, personnel within the police hierarchy (as SPO2 Sevilla's testimony casually mentions) must have handled the drugs but evidence of how this was done, i.e., how it was managed, stored, preserved, labeled and recorded from the time of its seizure, to its receipt by the forensic laboratory, up until it was presented in court and subsequently destroyed is absent from the evidence adduced during the trial.**⁵¹ (Emphasis supplied)

Applying the same standards in the case at bar, the stipulations agreed upon by the prosecution and defense do not meet the required standards for dispensing with the forensic chemist's testimony. Absent any testimony regarding the management, storage, and preservation of the illegal drug allegedly seized herein after its qualitative examination, the fourth link in the chain of custody of the said illegal drug could not be reasonably established.⁵² Verily, this Court could not determine with moral certainty that the supposed *shabu* seized from accused-appellant were the same ones submitted to the crime laboratory, and eventually, presented in court.

Due to the foregoing serious lapses committed by the police officers, the OSG's assertion of presumption of regularity in the performance of the police officers' duties must necessarily fail. The presumption of regularity in the performance of their duties cannot prevail over the constitutionally enshrined presumption of innocence in favor of the accused. As held in *People v. Mendoza*:⁵³

Even if the foregoing conclusion already renders any further discussion of the applicability of the presumption of regularity in favor of the members of the buy-bust team superfluous, we need to dwell a bit on the matter if only to remind the lower courts not to give too much primacy to the presumption of regularity in the performance of official duty at the expense of the higher and stronger presumption of innocence in favor of the accused in a prosecution for violation of the Comprehensive Drugs Act of 2002.

We have usually presumed the regularity of performance of their official duties in favor of the members of buy-bust teams enforcing our laws against the illegal sale of dangerous drugs. Such presumption is based on three fundamental

⁴⁹ Id. at 466.

⁵⁰ 590 Phil. 214 (2008).

⁵¹ Id. at 237-238.

⁵² *People v. Miranda*, G.R. No. 218126, July 10, 2019, citing *People v. Ubungen*, 836 Phil. 888 (2018).

⁵³ *People v. Mendoza*, 736 Phil. 749 (2014).

reasons, namely: first, innocence, and not wrong-doing, is to be presumed; second, an official oath will not be violated; and, third, a republican form of government cannot survive long unless a limit is placed upon controversies and certain trust and confidence reposed in each governmental department or agent by every other such department or agent, at least to the extent of such presumption. **But the presumption is rebuttable by affirmative evidence of irregularity or of any failure to perform a duty. Judicial reliance on the presumption despite any hint of irregularity in the procedures undertaken by the agents of the law will thus be fundamentally unsound because such hint is itself affirmative proof of irregularity.**

The presumption of regularity of performance of official duty stands only when no reason exists in the records by which to doubt the regularity of the performance of official duty. And even in that instance the presumption of regularity will not be stronger than the presumption of innocence in favor of the accused. Otherwise, a mere rule of evidence will defeat the constitutionally enshrined right to be presumed innocent.⁵⁴ (Citations omitted; emphasis supplied)

Thus, we are constrained to acquit accused-appellant.

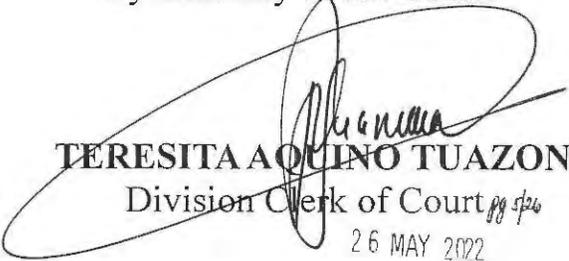
WHEREFORE, the appeal is hereby **GRANTED**. The assailed April 2, 2018 Decision of the Court of Appeals in CA-G.R. CR HC No. 09519 is **REVERSED** and **SET ASIDE**. Accused-appellant Arcel Canlas y Reyes @ Pusa is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention, unless he is confined for any other lawful cause.

Let a copy of this Resolution be furnished to the Director General, Bureau of Corrections, Muntinlupa City, for immediate implementation. Furthermore, the Director General is **DIRECTED** to report to this Court the action he has taken within five days from receipt of this Resolution.

Let entry of judgment be issued immediately.

SO ORDERED.”

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court *pp 5/26*

26 MAY 2022

⁵⁴ Id. at 769-770.

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