



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated August 10, 2022 which reads as follows:

“G.R. No. 250918 (*Joeffrey Alegre y Racuya v. People of the Philippines*). — This Petition for Review¹ seeks the reversal of the July 17, 2019² Decision of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 11242 which affirmed the May 4, 2018³ Judgment of the Regional Trial Court (RTC), Branch 18, Batac City, Ilocos Norte in Criminal Case No. 5154-18, which found petitioner Joeffrey Alegre y Racuya (Alegre) guilty beyond reasonable doubt of Illegal Sale of Dangerous Drugs penalized under Section 5, Article II of Republic Act No. (RA) 9165,⁴ as amended, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

The Antecedents

Alegre was charged with violation of Section 5, Article II of RA 9165 in an Information⁵ which reads thus:

That on or about 7:15 o'clock in the evening of February 20, 2015 at Brgy. Maglaoi Norte, in the municipality of Currimao, province of Ilocos Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, who was then under the influence of dangerous drugs as per Chemistry Report

- over – thirteen (13) pages ...

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¹ *Rollo*, pp. 13-30.

² *Id.* at 52-69. Penned by Associate Justice Remedios A. Salazar-Fernando and concurred in by Associate Justices Manuel M. Barrios and Rafael Antonio M. Santos.

³ *Id.* at 31-51. Penned by Acting Presiding Judge Francisco R.D. Quilala.

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 *Rollo*, p. 31.

No. CDT-068-2015-IN, did then and there willfully, unlawfully, feloniously and knowingly sell one (1) heat-sealed transparent plastic sachet of white crystalline substance weighing 0.0638 gram containing methamphetamine hydrochloride commonly known as 'shabu,' a dangerous drug, worth Php 500.00 to PO2 ALFRINE P. SADIAN acting as a poseur-buyer, without any authority or license from the appropriate government agency to do so.

CONTRARY TO LAW.⁶

Upon arraignment, Alegre pleaded not guilty to the crime charged.⁷

During the pre-trial conference, Alegre claimed that the buy-bust operation was a sham and no such operation was conducted.⁸ However, both parties stipulated on the following, as enumerated in the CA Decision:

- 1) That Joeffrey Alegre is the same person who was charged and arraigned in Criminal Case No. 5154-18-admitted;
- 2) That whenever prosecution witnesses mention the name Joeffrey Alegre, they would refer to the accused in this case-admitted;
- 3) That the accused is a resident of Brgy. Maglaoi, Currimao, Ilocos Norte-admitted;
- 4) That on February 20, 2015, at around 7:15 o'clock in the evening, the accused was at the waiting shed near his house-admitted;
- 5) That there is a waiting shed near the house of the accused in Brgy. Maglaoi Norte, Currimao, Ilocos Norte-admitted;
- 6) That if one is going to Manila, one would find the said waiting shed at the left side of the national highway, near the house of the accused-admitted;
- 7) That the accused was arrested by PO2 Aldrin Sadian for selling shabu-not admitted;
- 8) That the inventory, marking and photographs of the confiscated items were done at the place of operation duly witnessed by Barangay Official Maximo Espiritu, Jr.-not admitted;
- 9) That Barangay Kagawad Maximo Espiritu, Jr. was at the said waiting shed on February 20, 2015 at around 7:15 o'clock in the evening-not admitted;
- 10) That the accused had no authority to sell shabu on February 20, 2015-admitted;

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⁶ Records, p. 2.

⁷ Id. at 29-A and 30-A-31.

⁸ Id. at 3.

11) That the accused was brought to the Municipal Health Office of Currimao for medical examination as evidenced by the Request for Medical Examination and the Medical Certificate issued by Dr. Cristina J. Pingao-admitted x x x but not at the hospital;

12) That the accused was examined by Dr. Cristina J. Pingao;

13) The existence of the Request for Medical Examination signed by PSI Ryan Retotar-admitted;

14) The existence of the Certification of Police Blotter found on page 19 of the record-admitted;

15) The Certification of Police Blotter found on page 20 of the record signed by PSI Ryan Retotar-admitted;

16) The electronic pictures found on page 20 of the record-admitted;

17) The existence of Coordination Form found on page 25 of the record-admitted;

18) The existence of the Pre-Operation Report found on page 26 of the record-admitted.⁹

Thereafter, trial on the merits ensued.

Version of the Prosecution

The prosecution sought to prove that Alegre sold one plastic sachet of shabu for ₱500.00 to a police poseur-buyer on February 20, 2015.

Police Officer 2 Aldrine Sadian (PO2 Sadian) testified that on February 20, 2015, at around 5:30 p.m., an informant reported to him that Alegre was selling shabu.¹⁰ PO2 Sadian interviewed the informant and subsequently endorsed him to police chief Police Senior Inspector Ryan Retotar (PSI Retotar).¹¹ According to PO2 Sadian, he had earlier received similar reports about Alegre from other informants.¹² After conferring with the informant, PSI Retotar conducted a briefing for a buy-bust operation against Alegre.¹³

In that briefing attended by five other police officers and the informant, PSI Retotar designated PO2 Sadian as the poseur-buyer.¹⁴ He also handed PO2 Sadian a ₱500-bill to be used during the operation.¹⁵ PO2 Sadian recorded the serial number of the money in a big brown envelope.¹⁶

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⁹ *Rollo*, pp. 53-55.

¹⁰ TSN, March 6, 2017, pp. 4-5.

¹¹ *Id.* at 5.

¹² TSN, March 10, 2017, p. 5.

¹³ TSN, March 6, 2017, pp. 6-7.

¹⁴ *Id.* at 8.

¹⁵ *Id.*

¹⁶ *Id.* at 9.

The police officers coordinated the operation *via* email with the Philippine Drug Enforcement Agency (PDEA), which in turn forwarded to them a control number. This control was included in the Pre-Operation Report.¹⁷

After the coordination, the police authorities proceeded to the target area.¹⁸ Police Officer 2 Jessie Dasalla (PO2 Dasalla) and Police Officer 2 Nino Pinzon (PO2 Pinzon) rode a motorcycle, while PO2 Sadian and the informant followed on board a pickup.¹⁹

PO2 Sadian and the informant stopped in front of a waiting shed along the national highway in *Barangay* Maglaoi Norte. When they entered the waiting shed, the informant called Alegre to inform him that they were already at the meeting place.²⁰

Five minutes later, they saw Alegre walking towards them from the south.²¹ Alegre talked to the informant, who introduced PO2 Sadian as the buyer of the illegal drug.²² Alegre then handed a small heat-sealed transparent plastic sachet containing suspected shabu to PO2 Sadian. In turn, PO2 Sadian gave the marked ₱500-peso bill to Alegre.²³

Alegre took the ₱500-bill from PO2 Sadian²⁴ who then introduced himself as a police officer and arrested Alegre.²⁵ PO2 Dasalla and PO2 Pinzon also approached and helped PO2 Sadian in arresting Alegre.²⁶

The police authorities called for *barangay* officials. Upon the arrival of *Barangay Kagawad* Maximo Espiritu, Jr. (Espiritu), PO2 Sadian inventoried and marked the sachet purchased from Alegre. Photographs²⁷ of the conduct of the inventory and the marking of the purchased and confiscated items were also taken.²⁸

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¹⁷ Id. at 10-11.

¹⁸ Id. at 3, 14.

¹⁹ Id. at 14-15.

²⁰ Id. at 18.

²¹ Id. at 19.

²² Id. at 19-20.

²³ Id. at 20-21.

²⁴ Id. at 21.

²⁵ Id.

²⁶ Id.

²⁷ Records, pp. 6, 22.

²⁸ *Rollo*, pp. 56-57.

PO2 Sadian marked the purchased sachet with “APS1”²⁹ and the ₱500-bill which he had recovered from the left hand of Alegre with “APS2.”³⁰

PO2 Sadian prepared the inventory document captioned “Receipt of Inventory of Properties/Articles/Items Confiscated/Recovered/Seized.”³¹ The inventory document listed the aforementioned sachet and ₱500-bill and their respective markings. It was signed by PO2 Sadian, PO1 Dasalla and *Kagawad* Espiritu. It contained a note “Refused to Sign” on the space for the signature of Alegre.³²

The marking and the inventory were done at the place of arrest in the presence of the *barangay* official, Alegre and his relatives.³³

The police then brought Alegre to the Currimao police station and prepared the request for laboratory examination, request for drug testing and other documents.³⁴ From there, Alegre was brought to the hospital of Currimao for medical examination.³⁵ They returned Alegre to the police station for the preparation of the other needed documents.

From the police station, PO2 Sadian, together with Alegre and the latter’s mother, proceeded to the crime laboratory.³⁶ PO2 Sadian handed the request for laboratory examination as well as the said plastic sachet to forensic chemist Police Senior Inspector Amielyn Ann Luis Navarro (PSI Navarro). PSI Navarro subsequently placed a rubber stamp mark on the request for laboratory examination and indicated that she received the sachet from PO2 Sadian.³⁷ The turn-over of the said sachet by PO2 Sadian to PSI Navarro was also evidenced by a document captioned “Chain of Custody of Evidence,”³⁸ which was signed by PO2 Sadian and PSI Navarro.

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²⁹ TSN, March 6, 2017, p. 24.

³⁰ Id. at 23-24.

³¹ Records, p. 21.

³² TSN, March 6, 2017, pp. 25-26.

³³ Id. at 22-25.

³⁴ Id. at 32-33.

³⁵ Id. at 33-34.

³⁶ Id. at 35.

³⁷ Id. at 39-40.

³⁸ Records, p. 44.

PSI Navarro³⁹ and Senior Police Officer 4 Nilo Domingo also took the witness stand. Both testified that they received the sachet of drugs for laboratory examination, request for drug testing, chemistry reports, safekeeping and finally, submission to the Court, following the appropriate chain of custody under the law and recording said chain under the Seized Drug Logbook.⁴⁰

Version of the Defense

The defense denied that Alegre sold shabu to anyone during the subject incident and claimed that he was simply picked up by individuals who turned out to be police officers.

Alegre testified that on February 20, 2015, at around 6:00 p.m., he was at the waiting shed near his house in *Barangay Maglaoi Norte*, speaking on the phone with a “call mate” from Cavite.⁴¹ While thereat, a pickup stopped in front of the shed. A person alighted from the truck and asked him if he was Joeffrey Alegre.⁴² When he answered in the affirmative, the person pulled up his shirt to reveal the handle of a gun.⁴³ Alegre tried to run, but stopped when the person pointed the gun at him.⁴⁴ Another individual alighted from the truck. Both individuals handcuffed Alegre and dragged him inside the pickup.⁴⁵

When they reached a second waiting shed about 240 meters away, a police patrol car arrived and parked at the back of the pickup.⁴⁶ When Alegre looked back, he saw the driver of the police car hand something to the driver of the pickup who placed the item in his left pocket.⁴⁷ The companion of the driver of the pickup then brought Alegre to the second waiting shed where the pickup driver brought out the item from his left pocket as well as a document, and placed them together with the two confiscated phones of Alegre.⁴⁸

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³⁹ TSN, February 27, 2017, pp. 2-4 and 9-10.

⁴⁰ *Rollo*, pp. 34-35.

⁴¹ TSN, September 4, 2017, pp. 4-6.

⁴² *Id.* at 6-7.

⁴³ *Id.* at 7.

⁴⁴ *Id.*

⁴⁵ *Id.* at 7-8.

⁴⁶ *Id.* at 9-11.

⁴⁷ *Id.* at 13.

⁴⁸ *Id.* at 14.

Subsequently, the police patrol car fetched *Kagawad* Espiritu who, according to Alegre, only arrived after the picture-taking and inventory of the items.⁴⁹ Alegre averred that *Kagawad* Espiritu initially refused to sign the document as he did not see anything recovered from Alegre. However, after much prodding from the police, *Kagawad* Espiritu affixed his signature to the document.⁵⁰

Afterwards, the police brought Alegre to the house of the municipal health officer of Currimao.⁵¹ The doctor, however, did not conduct any physical examination and merely looked at him inside the vehicle.⁵² Finally, Alegre was taken to the police station and straight to the detention cell.⁵³

Alegre alleged that the police did not inform him of his rights nor did they identify themselves as police officers. He stressed that PO2 Sadian's averments in his affidavit were not true, and that he did not sell shabu to police authorities.⁵⁴

The defense also presented Jhamaica Laine T. Fernandez (Fernandez) as a witness. In an affidavit⁵⁵ executed with her brother, Fernandez, who was at a barbecue stand, averred that she and her brother witnessed Alegre seated on a waiting shed on the evening of February 20, 2015. Later on, they witnessed a pickup truck stop in front of the barbecue stand with no one alighting from the vehicle. Afterwards, the pickup approached Alegre and a person alighted from the truck. Alegre stood up and attempted to run but was stopped. Fernandez and her brother also witnessed the person point a gun to Alegre, and that another individual alighted from the pickup. The duo helped each other drag Alegre inside the vehicle. Fernandez and her brother witnessed the pickup proceed towards the north.⁵⁶

Ruling of the Regional Trial Court

In its Judgment dated May 4, 2018, the RTC found the prosecution evidence credible and sufficient to warrant the conviction of Alegre for Illegal Sale of Dangerous Drugs. In the absence of a

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⁴⁹ Id. at 17.

⁵⁰ *Rollo*, p. 61.

⁵¹ TSN, September 4, 2017, p. 21.

⁵² Id. at 22-23.

⁵³ Id. at 23-24.

⁵⁴ Id. at 25-26.

⁵⁵ Records, pp. 125-126.

⁵⁶ *Rollo*, pp. 61-62.

clear showing that the arresting officers had an ill motive to falsely testify against Alegre, their testimonies were given credence and the presumption of regularity in the performance of their duty upheld.⁵⁷ The prosecution presented sufficient evidence to prove that Alegre indeed sold shabu to PO2 Sadian. The prosecution successfully established an unbroken chain of custody over the dangerous drugs purchased from Alegre. From the time the drugs were purchased by PO2 Sadian from Alegre, to the time PO2 Sadian marked the dangerous drugs with “APS1,” to the time the drugs were submitted to the crime laboratory for examination, the chain of custody was not broken. The trial court held that even if the prosecution failed to strictly comply with the requirements under Section 21(1), Article II of RA 9165, as amended, particularly the requirements of the presence of the other insulating witnesses from the media or National Prosecution Service, and that copies of the inventory document were given to Alegre or said representatives, jurisprudence is consistent that “less than strict compliance with the procedural aspect of the chain of custody rule does not necessarily render the seized drug items inadmissible.”⁵⁸

The dispositive portion of the RTC Judgment reads:

WHEREFORE, the accused JOEFFREY ALEGRE y Racuya is found GUILTY beyond reasonable doubt of the illegal sale of dangerous drugs penalized under Section 5 of Republic Act No. 9165 as amended and is hereby sentenced to LIFE IMPRISONMENT. He is also sentenced to pay a FINE of five hundred thousand (P500,000.00).

Let the methamphetamine hydrochloride, otherwise known as shabu presented as evidence in this case, be turned over to the Philippine Drug Enforcement Agency for proper disposition.

SO ORDERED.⁵⁹

Ruling of the Court of Appeals

The CA affirmed *in toto* the RTC Judgment in its Decision⁶⁰ promulgated on July 17, 2019. The pertinent portions of the Decision read:

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⁵⁷ Id. at 38.

⁵⁸ Id. at 44.

⁵⁹ Id. at 51.

⁶⁰ Id. at 52-69.

Compliance with the procedure laid down in Section 21 of R.A. No. 9165 is not iron clad. As pointed out by the plaintiff-appellee People, the absence of representatives from the media and DOJ during the marking, inventory and taking of photographs of the confiscated items is not a fatal defect that would affect accused-appellant Alegre's guilt. The prosecution was able to show that even in the absence of the required witnesses, the marking, inventory, taking of photographs of the seized drug were made without compromising its integrity and evidentiary value.

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In fine, the apprehending officers substantially complied with the guidelines prescribed by law regarding the custody and control of the seized drugs. The totality of the prosecution evidence sufficiently proves each link in the chain of custody.

In cases involving illegal drugs, credence is given to the narration of the incident by the prosecution witnesses especially if they are police officers who are presumed to have performed their duties in a regular manner unless there is evidence to the contrary.

Finally, accused-appellant Alegre failed to prove ill-motive on the part of the police officers who conducted the buy bust operation. In his testimony, PO3 Sadian was able to account the circumstances surrounding the buy bust operation, the handling and turnover of the seized drug to the forensic chemist for laboratory examination, until it was presented in court as evidence.

WHEREFORE, premises considered, the appealed Judgment dated May 4, 2018 of the RTC, Branch 18, Batac City, Ilocos Norte, in Criminal Case No. 5154-18 is hereby AFFIRMED.

SO ORDERED.⁶¹

Our Ruling

The Court grants the Petition for Review. Both lower courts gravely erred in ruling that there was an unbroken chain of custody in the seizure of the illegal drugs.

Section 21, Article II of RA 9165, as amended by RA 10640⁶² provides:

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⁶¹ Id. at 67-69.

⁶² Entitled "AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002." Approved: July 15, 2014.

SEC. 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 dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items 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, **with an elected public official and a representative of the National Prosecution Service or the media** 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, finally*, That noncompliance of 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 and custody over said items. (Emphasis supplied)

The provision is clear regarding two things: (1) the conduct of the inventory and photography must be done in the presence of the accused or his representative or counsel, and an elected public official and a representative of the National Prosecution Service (NPS) or the media; and (2) non-compliance with the first requirement is only justified when there is justifiable ground, and the integrity and evidentiary value of the seized items are proven to be properly preserved.

In this case, the prosecution failed to meet the witness requirement. There was no media or NPS representative during the physical inventory and photography of the seized drugs. Additionally, the prosecution, in the absence of the two required witnesses, failed to state in sworn statements or affidavits justifiable grounds for the noncompliance, and the steps taken to preserve the integrity and evidentiary value of the seized drugs.

Recent jurisprudence has clarified that failure to follow the mandated procedure under Section 21 must be adequately explained, and must be proven as a fact in accordance with the rules on evidence. **The rules require that the apprehending officers do not simply mention a justifiable ground, but also clearly state this ground in their sworn affidavit, coupled with a statement on the steps they took to preserve the integrity of the seized items.**⁶³ Strict adherence to Section 21, Article II of RA 9165 is especially required where the quantity of illegal drugs seized is miniscule, since it is highly susceptible to planting, tampering, or altering.⁶⁴ Here, only 0.0638 gram of shabu was seized from Alegre. The exacting standards of the law, thus, became more important.

While the Court has consistently ruled in the past that failure to strictly comply with the statutory safeguards in the conduct of a buy-bust operation will not render the seized drugs inadmissible in evidence, provided both the integrity and evidentiary value of the same are preserved, the Court finds it imperative that the prosecution or apprehending team prove that non-compliance with the procedural safeguards under Section 21 was not consciously ignored. The procedure under Section 21, Article II of RA 9165 is a matter of substantive law, and cannot be brushed aside as a simple procedural technicality; or worse, ignored as an impediment to the conviction of illegal drug suspects.⁶⁵

Finally, the presumption of regularity in the performance of duty of the arresting officers and apprehending team finds no application in this case. The presumption of regularity stands only when no reason exists in the records to doubt the regularity. It has been held time and time again that the presumption of regularity will not be stronger than the presumption of innocence of the accused.

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⁶³ *People v. Battung*, 833 Phil. 959, 972 (2018), citing *People v. Saragena*, 817 Phil. 117, 144 (2017).

⁶⁴ *Id.*

⁶⁵ *People v. Geronimo*, 817 Phil. 1163, 1178 (2017).


Otherwise, a mere rule of evidence may defeat the constitutionally-enshrined right to be presumed innocent.⁶⁶ Here, the prosecution's noncompliance with the witness requirement was never explained. Consequently, the absence of these insulating witnesses put to doubt the integrity and evidentiary value of the seized drugs; consequently, there is a failure to establish beyond reasonable doubt the crime of Illegal Sale of Dangerous Drugs. Thus, Alegre must be acquitted for failure of the prosecution to establish his guilt beyond reasonable doubt.

WHEREFORE, the petition is **GRANTED**. The July 17, 2019 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 11242 is hereby **REVERSED** and **SET ASIDE**. Petitioner Joeffrey Alegre y Racuya is accordingly **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt. The Director General of the Bureau of Corrections, Muntinlupa City, is **ORDERED** to immediately cause the release of petitioner from confinement, unless he is being held for some other lawful cause. The Director General is further **DIRECTED** to inform this Court the action hereon within five days from receipt of this Resolution.

Let entry of judgment be issued immediately.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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⁶⁶ *People v. Mendoza*, 736 Phil. 749, 770 (2014).



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