



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **June 27, 2022** which reads as follows:*

**“G.R. No. 254178 (People of the Philippines, plaintiff-appellee v. Alfredo Badilla y Comprado a.k.a. “Pido,” accused-appellant). –**

The Court **NOTES** the Office of the Solicitor General’s (OSG) manifestation<sup>1</sup> dated February 24, 2021, stating that it would no longer file a supplemental brief and adopts its appellee’s brief as its supplemental brief for having adequately addressed the issues and arguments raised by the accused-appellant.

The appeal before this Court seeks to reverse the Decision<sup>2</sup> dated July 17, 2020 of the Court of Appeals in CA-G.R. CR-HC No. 09179 affirming the conviction of appellant Alfredo Badilla y Comprado a.k.a. “Pido” for violation of Section 5, Article II of Republic Act (RA) No. 9165, as amended by RA 10640.

**The Proceedings Before the Trial Court**

***The Charge***

By Information<sup>3</sup> dated October 16, 2014, appellant was charged with illegal sale of dangerous drugs under Section 5, Article II of RA 9165, as amended, *viz.*:

That on or about October 15, 2014, in the City of Naga, Philippines and within the jurisdiction of this Honorable Court, the above named accused, did then and there, willfully, unlawfully and criminally sell to herein complaining witness Agent SAMUEL A. DETERA, a PDEA [poseur-buyer], one (1) pc[.] small [heat-sealed] transparent plastic sachet containing white crystalline substance known as SHABU or

<sup>1</sup> *Rollo*, pp. 26–27.

<sup>2</sup> Penned by Associate Justice Germano Francisco D. Legaspi with the concurrences of Associate Justices Franchito N. Diamante and Bonifacio S. Pascua, *CA rollo*, pp. 131–137.

<sup>3</sup> Record, p. 1.

Methamphetamine Hydrochloride, marked as SAD1-10/15-14, a dangerous drug, with a weight of 50.5461 [grams], accused not having authority to sell and dispense such substance.

ACTS CONTRARY TO LAW.

The case was raffled to the Regional Trial Court (RTC) – Branch 27, Naga City.<sup>4</sup>

On arraignment, appellant pleaded “not guilty.”<sup>5</sup>

During the trial, Philippine Drug Enforcement Agency (PDEA) Agent Samuel A. Detera (Agent Detera), Agent Arnel D. Lasay (Agent Lasay), Department of Justice (DOJ) representative Rodrigo C. Borigas, and Forensic Chemist Meden A. Listanco (Forensic Chemist Listanco) testified for the prosecution while appellant, Alysa Joy Badilla (Alysa), and MJ Reafor (MJ) testified for the defense.<sup>6</sup>

*The Prosecution’s Version*

On October 15, 2014, around 5 o’clock in the afternoon, Agent Noe Briguel formed a team of PDEA personnel to conduct a buy-bust operation in Naga City, Camarines Sur. The purpose was to confirm a confidential report regarding a drug deal worth ₱120,000.00 which was to take place that afternoon until the following day in the area.<sup>7</sup> The subject of the buy-bust operation was appellant Alfredo Badilla, a resident of Brgy. Peñafrancia, Sagrada Familia, Naga City, Camarines Sur. Per the confidential report, appellant was a suspected personality who actively engaged in the distribution and proliferation of illegal drugs in Naga City.<sup>8</sup>

Around 6 o’clock in the evening, the designated team attended the briefing wherein Agent Detera was tasked to act as poseur-buyer and Agent Lasay, as arresting officer. Agent Detera was given a genuine ₱500.00 bill with serial no. GY 280531<sup>9</sup> and several pieces of boodle money. On the ₱500.00 bill, he wrote his initials “SAD.” The marked money was photocopied before the execution of the buy-bust operation.<sup>10</sup>

Around 7:20 in the evening, the team proceeded to the target area. There, Agent Detera and the informant went to the gate of appellant’s house.

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<sup>4</sup> CA *rollo*, p. 75.

<sup>5</sup> *Id.* at 132.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> TSN, March 26, 2015, pp. 6–31.

<sup>9</sup> *Id.* at 8.

<sup>10</sup> *Id.* at 6–31.

Agent Lasay, on the other hand, positioned himself strategically about 15 meters from where Agent Detera and the informant were situated. When the informant knocked at the gate of appellant's house, appellant peeped through the door and told them to wait while he returned inside.<sup>11</sup>

After a while, appellant came out and approached Agent Detera and the informant. He was holding a red cigarette case. The informant introduced Agent Detera to appellant as a pusher from Legazpi City. Appellant then gave Agent Detera the red cigarette case. Agent Detera opened the case and found inside a heat-sealed transparent plastic sachet containing white crystalline substance. Agent Detera examined the item, gave the boodle and buy-bust money to appellant, and executed the pre-arranged signal by removing his cap.<sup>12</sup>

Agent Lasay immediately moved in, after which, Agent Detera introduced themselves as PDEA agents to appellant. Reacting to this unexpected development, appellant threw the boodle and buy-bust money, pushed Agent Detera, and ran toward his house to evade arrest. But Agents Lasay and Detera easily caught him at the stairs of his house. Appellant was then apprised of his constitutional rights.<sup>13</sup>

Agents Detera and Lasay brought appellant outside the house but within the gate premises. There and in the presence of appellant, Agent Detera marked the red cigarette case with SAD1 10-15-14 and plastic bag with SAD2 10-15-14. "SAD" refers to Agent Detera's initials while "10-15-14" refers to the date of the operation.<sup>14</sup>

Thereafter, the PDEA agents brought appellant to the PDEA Camarines Sur Provincial Office. Meanwhile, Agent Detera remained in possession of the seized red cigarette case and sachet containing suspected illegal drug.

At the PDEA Office, the inventory and photographing of the seized items took place in the presence of appellant, media representative Tex Agor (Agor), DOJ representative Rodrigo Borigas (DOJ Representative Borigas), and barangay officials Jasmine Rosero and Jenny Arenas. The confiscated items were shown to the witnesses for confirmation, after which they, together with Agents Detera and Lasay, all signed the Certificate of Inventory.<sup>15</sup>

Appellant was later on brought to the Naga City Health Center for physical examination. As for the seized items, Agent Detera prepared the request for their laboratory examination. This request, including the

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<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

confiscated drug was turned over to the PDEA Forensic Chemist at the PDEA Camarines Sur Provincial Office. The request was signed by Agent Detera as transferor, and forensic chemist Listanco as recipient.<sup>16</sup>

Together, Forensic Chemist Listanco and Agent Detera proceeded to the PDEA Regional Office V – Laboratory.<sup>17</sup>

At the crime laboratory, Forensic Chemist Listanco immediately proceeded with the examination of the seized sachet and its contents. She first weighed the sachet, took a sample from it, and subjected the specimen to screening and confirmatory tests. Both the screening and confirmatory tests yielded positive result for *methamphetamine hydrochloride*, a dangerous drug.<sup>18</sup>

Forensic Chemist Listanco prepared her Chemistry Report No. PDEA ROV-DD014-48<sup>19</sup> which she was able to complete by 3:00 in the morning of October 16, 2014. The report was released to Agent Detera around 6:30 in the morning.<sup>20</sup>

While waiting for evidence custodian Norelyn Lopez (Lopez) to arrive, Forensic Chemist Listanco kept the seized drug inside her vault. As soon as custodian Lopez arrived, Forensic Chemist Listanco turned over the seized drug to her. Thereafter, custodian Lopez kept the seized drug inside her vault located inside the crime laboratory. Only custodian Lopez had access to the vault.<sup>21</sup>

It was Forensic Chemist Listanco who subsequently retrieved the seized drug from custodian Lopez for presentation before the trial court.<sup>22</sup>

### *The Defense's Version*

On October 15, 2014, around 7:30 in the evening, appellant was cooking with his family at the second floor of his house when he heard a gunshot outside. Suddenly, several armed men entered the house. He later learned that these men were PDEA agents. After confirming his identity, the agents pushed him toward the gate, kicked him, and brought him inside a van. The agents also took the keys of his motorcycle.<sup>23</sup>

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<sup>16</sup> TSN, March 10, 2015, pp. 12–34.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *CA rollo*, p. 133.

<sup>20</sup> TSN, March 10, 2015, pp. 12–34.

<sup>21</sup> *Id.*

<sup>22</sup> *Rollo*, p. 5.

<sup>23</sup> *CA rollo*, p. 134.

Appellant's daughter, Alysa, saw the incident because she was then by the door. MJ also witnessed how appellant was taken since he was outside the gate.<sup>24</sup>

### **The Trial Court's Ruling**

By Judgment<sup>25</sup> dated January 3, 2017, the trial court found appellant guilty of violating Section 5, Article II of RA 9165, as amended, thus:

WHEREFORE, the Court finds the accused Alfredo Badilla y Comprado aka "Pido" GUILTY beyond reasonable doubt of the crime of illegal sale of methamphetamine hydrochloride or "shabu" as charged. He is hereby sentenced to suffer Life Imprisonment, to pay a fine in the amount of Pesos: Five Hundred Thousand (P500,000.00) and to pay the cost of suit.

The subject methamphetamine hydrochloride "shabu" is hereby confiscated for turn-over to the Philippine Drug Enforcement Agency for its proper disposition in accordance with law. Prosecutor Virgilio Balane Jr., who efficiently and with sense of urgency taking into consideration that the accused is a detention prisoner, handled the prosecution from the start until its termination, is hereby directed to take the necessary steps for the turn-over of the subject specimen to PDEA.

SO ORDERED.<sup>26</sup>

The trial court found that the elements of illegal sale of dangerous drugs were all proven by the prosecution. There was also compliance with the chain of custody from the time the illegal drug was delivered by appellant to Agent Detera, then to Forensic Chemist Listanco, to the evidence custodian Lopez up until the illegal drug was presented and identified in court.

### **The Proceedings Before the Court of Appeals**

On appeal, appellant faulted the trial court for finding that the illegal sale of dangerous drug was duly established by the prosecution and there was compliance with the chain of custody rule.<sup>27</sup>

The OSG, on the other hand, defended the verdict of conviction. It maintained that all the elements of illegal sale of dangerous drugs were duly established by the prosecution. Too, the prosecution showed an unbroken

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<sup>24</sup> *Id.*

<sup>25</sup> Penned by Judge Leo L. Intia, *id.* at 75-83.

<sup>26</sup> *Id.* at 83.

<sup>27</sup> See Brief for the Accused-Appellant dated May 7, 2019, *id.* at 65-73.

chain of custody and compliance with the requirements of Section 21, Article II of RA 9165.<sup>28</sup>

### **The Court of Appeals' Ruling**

Under its assailed Decision<sup>29</sup> dated July 17, 2020, the Court of Appeals affirmed.

### **The Present Appeal**

Appellant now seeks affirmative relief from the Court and pleads anew for his acquittal.

For the purpose of this appeal, both appellant and the OSG manifested that in lieu of supplemental briefs, they were adopting their respective briefs before the Court of Appeals.<sup>30</sup>

### **Our Ruling**

We affirm.

#### ***The prosecution sufficiently established all the elements of illegal sale of dangerous drugs***

To secure a verdict of conviction for illegal sale of dangerous drugs, the prosecution must prove: (a) the identity of the buyer and the seller, object, and consideration; and (b) the delivery of the thing sold and payment.<sup>31</sup>

These elements are all present here.

Appellant was caught *in flagrante delicto* selling *shabu* during a legitimate buy-bust operation. Agent Detera described in detail how the buy-bust operation came to be, who undertook it, and how it led to the arrest of appellant. He testified that the informant introduced him to appellant a pusher from Legazpi City. Appellant gave Agent Detera a red cigarette case containing a heat-sealed transparent plastic sachet with white crystalline substance. After appellant's receipt of the boodle and buy-bust money, Agent

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<sup>28</sup> See Brief for the Appellee dated September 11, 2019, *id.* at 101–121.

<sup>29</sup> Penned by Associate Justice Germano Francisco D. Legaspi with the concurrences of Associate Justices Franchito N. Diamante and Bonifacio S. Pascua, *id.* at 131–137.

<sup>30</sup> *Rollo*, pp. 18–20 and pp. 26–29.

<sup>31</sup> See *People v. Sanchez*, 827 Phil. 457, 465 (2018) [Per J. Perlas-Bernabe, Second Division].

Detera removed his cap signaling that the transaction was already consummated. Indeed, the crime of illegal sale of dangerous drugs was deemed consummated the moment appellant delivered the *corpus delicti* to Agent Detera in consideration of the ₱500.00 marked money together with several pieces of boodle money.

***The apprehending officers substantially complied with the chain of custody rule.***

Apart from the elements of illegal sale of dangerous drugs, the identity of the substance illegally sold, on one hand, and the substance offered in court as exhibit, on the other, must likewise be established with the same degree of certitude. Hence, the chain of custody rule comes to fore to ensure that unnecessary doubts concerning the identity of the evidence are removed.<sup>32</sup>

*Mallillin v. People*<sup>33</sup> expounded on the rationale for the chain of custody rule:

As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.

While testimony about a perfect chain is not always the standard because it is almost always impossible to obtain, an unbroken chain of custody becomes indispensable and essential when the item of real evidence is not distinctive and is not readily identifiable, or when its condition at the time of testing or trial is critical, or when a witness has failed to observe its uniqueness. The same standard likewise obtains in case the evidence is susceptible to alteration, tampering, contamination[,] and even substitution and exchange. In other words, the exhibit's level of susceptibility to fungibility, alteration[,] or tampering — without regard to whether the same is advertent or otherwise not — dictates the level of strictness in the application of the chain of custody rule.

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<sup>32</sup> See *Catuiran v. People*, 605 Phil. 646, 655 (2009) [Per J. Tinga, Second Division].

<sup>33</sup> 576 Phil. 576, 587 (2008) [Per J. Tinga, Second Division].

Section 21 of RA 9165 sets out the procedure on custody and disposition of confiscated or seized dangerous drugs. RA 10640<sup>34</sup> which amended certain provisions of Section 21 of RA 9165, became effective on August 7, 2014. Since this case took place on **October 15, 2014**, the rule on chain of custody provided in RA 10640 is applicable.

The procedure under the law is simplified as four (4) links in the chain of custody which are: *first*, seizure of the illegal drugs or items from the accused to the apprehending officers; *second*, transfer of the seized illegal drugs or items from the apprehending officers to the investigating officers; *third*, transfer of the seized illegal drugs or items from the investigating officers to the forensic chemists; and *fourth*, transfer of the seized illegal drugs or items from the forensic chemists to the courts.<sup>35</sup> Each transfer from one link to another have specific procedures under the dangerous drugs law in order to ensure the integrity of the seized items. Noncompliance with them tarnishes the credibility of the *corpus delicti*.

Here, the Court finds that the prosecution substantially complied with the chain of custody.

### FIRST LINK

The *first link* in the chain of custody refers to the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officers. The marking of the seized drug is crucial in establishing an unbroken chain of custody because succeeding handlers of the dangerous drugs or related items will use the marking as reference. Too, it serves to separate the marked evidence from the *corpus* of all other similar or related pieces of evidence from the time they are seized until disposal at the end of the criminal proceedings, thus preventing switching, “planting,” or contamination of evidence. In other words, the immediate marking is indispensable in the preservation of the seized items’ integrity and evidentiary value.<sup>36</sup>

Agent Detera immediately marked the red cigarette case and plastic bag with his initials “SAD” along with his signature in the place where appellant got arrested. He also indicated the date of the operation which is 10-15-14. Thus, the red cigarette case and plastic bag were marked as SAD1 10-15-14 and SAD2 10-15-14, respectively. The marking was done in the presence of the appellant.<sup>37</sup>

<sup>34</sup> 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.”

<sup>35</sup> *People v. Que*, 824 Phil. 882, 895 (2018) [Per *J. Leonen*, Third Division], citing *People v. Nandi*, 639 Phil. 134, 144–145 (2010) [Per *J. Mendoza*, Second Division].

<sup>36</sup> *People v. Quijano*, G.R. No. 247558, February 19, 2020.

<sup>37</sup> TSN, March 26, 2015, pp. 6–31.

After the seized items were marked, the PDEA agents brought appellant to the PDEA Camarines Sur Provincial Office to conduct the inventory. The inventory was conducted in the presence of appellant, media representative Tex Agor, DOJ representative Rodrigo Borigas, and barangay officials Jasmine Rosero and Jenny Arenas. The confiscated items were shown to the witnesses for confirmation and they indicated them in the Certificate of Inventory. The witnesses confirmed that the seized items were actually the ones stated in the Certificate of Inventory. Then, the witnesses together with Agents Detera and Lasay signed the Certificate of Inventory.<sup>38</sup> Finally, the seized items were photographed.

## **SECOND LINK**

The *second link* in the chain of custody is the transfer of the seized drugs by the apprehending officer to the investigating officer. The investigating officer shall conduct the proper investigation and prepare the necessary documents for the proper transfer of the evidence to the police crime laboratory for testing. Thus, the investigating officer's possession of the seized drugs must be documented and established.<sup>39</sup>

Here, although the *corpus delicti* was not turned over to an investigating officer, Agent Detera testified that he personally delivered the seized items to Forensic Chemist Listanco, *viz.*:

Q: After concluding with the signing of this Certificate of Inventory by the mandatory witnesses and by you, what else happened, Sir?

A: We prepared the request for laboratory examination of the confiscated items or drug items.

x x x x

Q: And after preparing this request for laboratory examination, what else happened?

A: I turned-over that request including the confiscated drug item to the PDEA Forensic Chemist, Sir.<sup>40</sup>

Q: Where did you turn-over the object evidence as well as this request?

A: To the PDEA Camarines Sur Provincial Office, Sir.

Q: Where?

A: At the Civic Center Compound, Naga City.

Q: What documentary proof other than your verbal allegation that you turned it over to the PDEA Camarines Sur Office do you have?

A: The request that was marked, received, and signed by the chemist and I signed also, Sir.

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<sup>38</sup> *Id.*

<sup>39</sup> *People v. Del Rosario*, G.R. No. 235658, June 22, 2020.

<sup>40</sup> TSN, March 26, 2015, pp. 26–27.

Q: I am showing now to you this request for laboratory examination, for the record, please point to us where is that stamp mark with your signature evidencing that indeed you turned-over this object evidence to the PDEA Crime Laboratory?

x x x x

INTERPRETER: The witness pointed to his name and signature opposite the label delivered by.

Q: And can you tell us where in this document stamp mark receipt as the evidence (it was) duly received by the PDEA Crime Laboratory?

A: The name and signature [opposite] the label received by.

Q: In this item which you indicated opposite the entry received by, there is a name Meden A. Listanco and her signature, who is this Meden A. Listanco?

A: She is the PDEA Forensic Chemist.<sup>41</sup>

Forensic Chemist Listanco also testified that on the same day, October 15, 2014, she received a heat-sealed plastic sachet containing white crystalline substance from Agent Detera,<sup>42</sup> thus:

Q: I now show you a request for laboratory examination, for the record your honor, a xerox copy of this document [had] already been marked as Exhibit "E" and appears on the record your honor please. Can you please go over that document and tell the honorable court what information has that with the request for laboratory examination which you said was given to you by Agent Detera along with that object evidence?

A: I have here my signature showing that I was the one who received the request for laboratory examination and together with the item.

x x x x

Q: Again for the record, when was it given to you by Agent Detera here in Naga City?

A: October 15, 2014.<sup>43</sup>

In *People v. Dayag*,<sup>44</sup> the Court convicted appellant Marlon Dayag for illegal sale of dangerous drugs although the subject drug was not turned over to an investigating officer. The Court found that PO2 Rommel Osio was able to account for the condition of the specimen since he held on to it from the time he recovered it from Dayag at 12:55 in the afternoon on May 19, 2014 until he turned it over to the forensic chemist in the Regional Crime Laboratory Office at 5:30 in the afternoon the same day. **The Court decreed that the absence of the investigating officer, *per se*, does not affect the**

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<sup>41</sup> *Id.* at 28–29.

<sup>42</sup> TSN, March 10, 2015, p. 17.

<sup>43</sup> *Id.* at 16–17.

<sup>44</sup> G.R. No. 251648 (Resolution), February 17, 2021.

**integrity and identity of the *corpus delicti* so long as the transfer of custody is accounted for.**

Similar to *Dayag*, the transfer of the illegal drug here was also duly accounted for. Notably, Agent Detera testified on how he personally turned over the request for laboratory examination together with the confiscated drug to Forensic Chemist Listanco. The request was signed by Agent Detera as transferor and Forensic Chemist Listanco as recipient.<sup>45</sup> Forensic Chemist Listanco affirmed that she indeed received the request for laboratory examination together with the confiscated drug.

Surely, the absence of the investigating officer here did not affect the integrity and identity of the *corpus delicti*.

### **THIRD LINK**

The *third link* in the chain of custody is the turnover of the seized drug to the forensic chemist for laboratory examination.

Forensic Chemist Listanco together with Agent Detera proceeded to the PDEA Regional Office V – Laboratory. During their travel to the crime laboratory, Forensic Chemist Listanco was in possession of the seized items.<sup>46</sup>

At the crime laboratory, Forensic Chemist Listanco immediately proceeded with the examination of the seized sachet with suspected illegal drug. She weighed the sachet. Then, she took a sample from it and subjected the specimen to screening and confirmatory tests. Both the screening and confirmatory tests yielded positive result for the presence of *methamphetamine hydrochloride*, a dangerous drug.<sup>47</sup>

After conducting the laboratory tests, Forensic Chemist Listanco prepared her Chemistry Report No. PDEA ROV-DD014-048 certifying that the seized item with a net weight of **50.5461 grams** yielded positive results for *methamphetamine hydrochloride*. The report was completed around 3 o'clock in the morning of October 16, 2014. The report was released to Agent Detera around 6:30 in the morning of the same day.<sup>48</sup>

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<sup>45</sup> TSN, March 10, 2015, pp. 12–34.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

#### **FOURTH LINK**

The *fourth link* in the chain of custody refers to the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.

Here, while waiting for evidence custodian Lopez to arrive, Forensic Chemist Listanco kept the seized item inside her vault. After custodian Lopez had arrived, Forensic Chemist Listanco turned over the seized drug to her. Thereafter, custodian Lopez kept the seized drug inside her vault which is located within the crime laboratory. Only custodian Lopez had access to the vault.<sup>49</sup> Forensic Chemist Listanco later on retrieved the seized drug from custodian Lopez for presentation in court.<sup>50</sup>

Evidently, there were no lapses in the disposition and handling of the seized drug to even prompt the relaxation of the procedure outlined in Section 21, Article II of RA 9165, as amended. The prosecution complied with the standard in handling the evidence and in establishing the chain of custody. Indeed, it proved beyond reasonable doubt that appellant is guilty of illegally selling **50.5461 grams** of *shabu*.

#### ***The substantial volume of the seized drug negated the possibility of planting, tampering, or alteration***

An unbroken chain of custody becomes indispensable and essential when the item of real evidence is not distinctive, not readily identifiable, or when its condition at the time of testing or trial is critical, or when a witness has failed to observe its uniqueness. The same standard likewise obtains in case the evidence is susceptible to alteration, tampering, contamination, and even substitution and exchange. In other words, the level of susceptibility to fungibility, alteration, or tampering — without regard to whether the same is advertent or otherwise not — dictates the level of strictness in the application of the chain of custody rule.<sup>51</sup>

Strict adherence to Section 21 is required where the quantity of illegal drugs seized is minuscule, since it is highly susceptible to planting, tampering or alteration of evidence.<sup>52</sup> *Mallillin v. People*<sup>53</sup> is in point:

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<sup>49</sup> *Id.*

<sup>50</sup> *Rollo*, p. 5.

<sup>51</sup> *Supra* note 33, at 588.

<sup>52</sup> See *People v. Estabillo*, G.R. No. 252902, June 16, 2021.

<sup>53</sup> *Supra* note 33, at 588.

**Indeed, the likelihood of tampering, loss or mistake with respect to an exhibit is greatest when the exhibit is small and is one that has physical characteristics fungible in nature and similar in form to substances familiar to people in their daily lives.** *Graham vs. State* positively acknowledged this danger. In that case where a substance later analyzed as heroin — was handled by two police officers prior to examination who however did not testify in court on the condition and whereabouts of the exhibit at the time it was in their possession — was excluded from the prosecution evidence, the court pointing out that the white powder seized could have been indeed heroin or it could have been sugar or baking powder. It ruled that unless the state can show by records or testimony, the continuous whereabouts of the exhibit at least between the time it came into the possession of police officers until it was tested in the laboratory to determine its composition, testimony of the state as to the laboratory's findings is inadmissible.

*People v. Holgado*,<sup>54</sup> however, clarified that the minuscule amount of the seized items involved is not *per se* a ground for acquittal but only operates to remind the courts of stricter adherence to the chain of custody, thus:

While the minuscule amount of narcotics seized is by itself not a ground for acquittal, this circumstance underscores the need for more exacting compliance with Section 21. In *Mallillin v. People*, this court said that “*the likelihood of tampering, loss or mistake with respect to an exhibit is greatest when the exhibit is small and is one that has physical characteristics fungible in nature and similar in form to substances familiar to people in their daily lives.*”

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Trial courts should meticulously consider the factual intricacies of cases involving violations of Republic Act No. 9165. All details that factor into an ostensibly uncomplicated and barefaced narrative must be scrupulously considered. **Courts must employ heightened scrutiny, consistent with the requirement of proof beyond reasonable doubt, in evaluating cases involving minuscule amounts of drugs. These can be readily planted and tampered.** Also, doubt normally follows in cases where an accused has been discharged from other simultaneous offenses due to mishandling of evidence. Had the Regional Trial Court and the Court of Appeals been so judicious in this case, a speedier resolution would have been handed to Holgado and Misarez whose guilt beyond reasonable doubt was not established.

It is lamentable that while our dockets are clogged with prosecutions under Republic Act No. 9165 involving small-time drug users and retailers, we are seriously short of prosecutions involving the proverbial “big fish.” We are swamped with cases involving small fry who have been arrested for miniscule amounts. While they are certainly a bane to our society, small retailers are but low-lying fruits in an exceedingly vast network of drug cartels. Both law enforcers and prosecutors should realize that the more effective and efficient strategy is to focus resources more on the source and true leadership of these nefarious organizations. Otherwise, all these

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<sup>54</sup> 741 Phil. 78, 99-100 (2014) [Per J. Leonen, Third Division].

executive and judicial resources expended to attempt to convict an accused for 0.05 gram of shabu under doubtful custodial arrangements will hardly make a dent in the overall picture. It might in fact be distracting our law enforcers from their more challenging task: to uproot the causes of this drug menace. We stand ready to assess cases involving greater amounts of drugs and the leadership of these cartels.

Appellant here was caught selling **50.5461 grams** of *shabu*. This substantial volume of the seized drug far outweighed, if not totally negated the possibility of planting, tampering, or alteration. As it was, the description, weight, and quality of the drug remained substantially the same from its inventory to the request for examination, its turnover to the laboratory for examination, the results of the laboratory examination, up to their presentation in court. In fine, the integrity and evidentiary value of the subject drugs were duly preserved.

### ***Appellants' denial is inherently weak***

In the face of the prosecution witnesses' testimony, appellant's denial is self-serving and has little weight in law. A bare denial is an inherently weak defense and has been invariably viewed by this Court with disfavor for it can be easily concocted but difficult to prove, and is a common and standard line of defense in most prosecutions arising from violations of RA 9165. Time and again, we have held that "denials unsubstantiated by convincing evidence are not enough to engender reasonable doubt, particularly where the prosecution presents sufficiently telling proof of guilt."<sup>55</sup>

Further, in the prosecution for violations of RA 9165 credence is given to the testimonies of the prosecution witnesses, especially when they are police officers presumed to have properly performed their official duties. In the absence of an adequate showing of bad faith, the presumption of regularity in the performance of official duty prevails over appellant's self-serving and uncorroborated denial.

Thus, appellant's conviction must stand.

### ***Penalty***

Pursuant to Section 5,<sup>56</sup> Article II of RA 9165 appellant was correctly sentenced to life imprisonment and to pay a fine of ₱500,000.00.

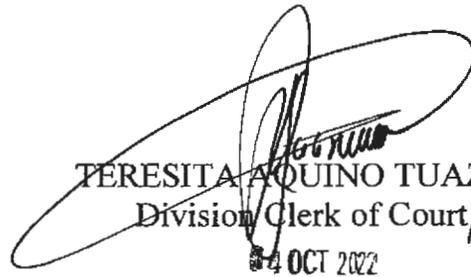
<sup>55</sup> *People v. Quigod*, 633 Phil 408, 427 (2010) [Per J. Velasco, Jr., Third Division].

<sup>56</sup> **Section 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.** - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute dispatch in transit or transport

**FOR THESE REASONS**, the appeal is **DISMISSED**. The Decision dated July 17, 2020 of the Court of Appeals in CA-G.R. CR-HC No. 09179 is **AFFIRMED in full**. Appellant **ALFREDO BADILLA y COMPRADO a.k.a. "Pido"** is found **GUILTY** of **ILLEGAL SALE OF DANGEROUS DRUGS** under Section 5, Article II of Republic Act No. 9165, as amended and sentenced to **LIFE IMPRISONMENT** and to pay a **FINE** of **₱500,000.00**.

**SO ORDERED."**

By authority of the Court:

  
**TERESITA AQUINO TUAZON**  
 Division Clerk of Court *10/14*  
 04 OCT 2022

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ALFREDO BADILLA y COMPRADO (reg)  
 Accused-Appellant  
 c/o The Director  
 Bureau of Corrections  
 1770 Muntinlupa City

THE DIRECTOR (reg)  
 Bureau of Corrections  
 1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)  
 Regional Trial Court, Branch 27  
 Naga City  
 (Crim. Case No 2014-0598)

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 CA-G.R. CR-HC No. 09179

*Please notify the Court of any change in your address.*  
 GR254178. 6/27/2022B(103)URES

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any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.