



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 31, 2022 which reads as follows:

“G.R. No. 257213 (*People of the Philippines v. Lester Mamino y Aldabe*). – The instant Appeal assails the Decision¹ dated 14 December 2020 of the Court of Appeals (CA) in CA-G.R. CR No. 42802. The CA affirmed with modification the Decision² dated 12 September 2018 of Branch 36, Regional Trial Court (RTC), Calamba, Laguna in Criminal Case No. 28534-2017-C, finding herein accused Lester Mamino y Aldabe (Mamino) guilty for violation of Section 11, Article II of Republic Act (RA) No. 9165.³

Antecedents

Accused-appellant Mamino was charged with violation of Section 11, Article II of RA No. 9165. The Information indicting him alleges:⁴

That on December 22, 2016, in the City of Calamba, Province of Laguna, and within the jurisdiction of this Honorable Court, the above-named accused without any authority of law, did then and there willfully, unlawfully and feloniously possess two (2) plastic sachets of methamphetamine hydrochloride otherwise known as shabu, a dangerous drug, having a total weight of 5.25 gram/s, in violation of the aforementioned law.

CONTRARY TO LAW.

Upon arraignment, Mamino entered a plea of not guilty.⁵

¹ *Rollo*, pp. 8-17. Penned by Associate Justice Victoria Isabel A. Paredes and concurred in by Associate Justices Fernanda Lampas Peralta and Walter S. Ong.

² *Id.* at 19-25. Penned by Presiding Judge Glenda R. Mendoza-Ramos.

³ 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: 07 June 2002.

⁴ *Records*, p. 1.

⁵ *Rollo*, p. 4

Version of the prosecution

During the initial hearing, the parties entered into stipulations as regards the testimony of the forensic chemist, Police Chief Inspector Donna Villa Huelgas (PCI Huelgas), particularly: (1) the qualification of PCI Huelgas as forensic chemist and expert witness; (2) a Request for Laboratory Examination was received by the crime laboratory from Police Officer 1 Clayson Benabese (PO1 Benabese); (3) upon receipt of the Letter and the specimen, PCI Huelgas conducted a qualitative examination of the specimen subject of the case; (4) the examination resulted in a positive test for the presence of methamphetamine hydrochloride or *shabu*, a dangerous drug; and (5) after the examination, PCI Huelgas executed Chemistry Report No. D-3187-16 to reflect the result.⁶

Thereafter, the prosecution presented PO1 Benabese, who narrated that their team applied for a search warrant before the sala of Judge Agripino Morga (Judge Morga), Executive Judge of RTC San Pablo City, Laguna. This was initiated upon confirmation that Mamino had in his possession an undetermined quantity of Methamphetamine Hydrochloride and paraphernalia in his house at *Barangay* Uwisan, Calamba, Laguna. Accordingly, Search Warrant L-1233 (16)⁷ was issued by Judge Morga.

On 22 December 2016, PO1 Benabese and his team implemented Search Warrant L-1233 (16). He testified that there was prior coordination with the Philippine Drug Enforcement Agency (PDEA) and that they were issued Control No. 10005-122016-0859, as stated in the Coordination and Pre-Operation Reports. He narrated that he was designated as the searcher, while PO1 Bruce Rizam Amilhamja (PO1 Amilhamja) was assigned as the photographer. PO1 Benabese further averred that they were joined by the following witnesses: (1) media representative Arjay Salgado (Salgado) of CNN Newspaper; and (2) *barangay* councilor Victor Aguilar (Aguilar).⁸

Upon arrival at the address, PO1 Benabese first knocked on the door. He stated that he was looking for Mamino and introduced himself as a police officer. Thereafter, a man opened the door identifying himself as Mamino. At that point, PO1 Benabese informed him that they secured a search warrant authorizing them to search his house. It was read and explained to Mamino in front of his family, as well as Salgado and Aguilar.⁹

While searching the house, PO1 Benabese claimed that they first recovered a black coin purse under a sleeping mat inside the bedroom. Upon opening the same, they found two plastic sachets with suspected *shabu*. PO1 Benabese also recovered one roll of aluminum foil from the side of the *sawali* wall. He marked the items as follows: (1) the plastic sachets as “LM-

⁶ Id. at 19-20.

⁷ Records, p. 10.

⁸ *Rollo*, p. 9.

⁹ Id.

1” and “LM-2”; (2) the black coin purse as “LM-3”; and (3) the roll of aluminum foil as “LM-4.” PO1 Amilhamja took pictures of the proceedings.¹⁰

Thereafter, Mamino was arrested and informed of his constitutional rights. After marking the items, PO1 Benabese secured them in an evidence bag. He likewise accomplished a Receipt/Inventory of Property Seized,¹¹ which were signed by Salgado and Aguilar. Moreover, he submitted a Certificate of Good Conduct of Search,¹² signed by Mamino and his mother, Susan Mamino. The team then brought Mamino to the precinct where he was charged with violation of RA No. 9165.¹³

PO1 Benabese then brought the evidence to the Philippine National Police Crime Laboratory in Calamba, Laguna for drug testing. He also testified that he submitted a Chain of Custody Form showing the link in the chain from the confiscation of the items up to the time of delivery to the laboratory.¹⁴

Version of the defense

Mamino denied the charges. He narrated that at around 5:00 p.m. on the day of the incident, he was awakened by a knock on the door. The persons at the door introduced themselves as policemen. After opening the door, the police swarmed inside his house and accosted him. He was ordered to sprawl on the ground and one policeman stepped on his face while he was being handcuffed. Thereafter, he was shown a black purse with plastic sachets containing suspected *shabu*, which were placed on top of a table. He was forced to point his finger at the items while photographs of him were taken. He was then brought to a safe house in Camp Vicente Lim for drug testing. Afterwards, he was taken to the police station and was incarcerated.¹⁵

Ruling of the RTC

On 12 September 2018, the RTC promulgated its Decision¹⁶ finding Mamino guilty beyond reasonable doubt for violation of Section 11, Article II of RA No. 9165, to wit:

WHEREFORE, finding the prosecution’s evidence sufficient to establish the guilt of accused LESTER MAMINO y Aldabe GUILTY beyond reasonable doubt for violation of Section 11 of Republic Act 9165 for possessing 5.25 grams of *methamphetamine hydrochloride*, the Court hereby sentences him to suffer Imprisonment of TWELVE (12) years and

¹⁰ Id. at 22, 24-25.

¹¹ Id. at 11.

¹² Id. at 12.

¹³ Id. at 11.

¹⁴ Id. at 9-10.

¹⁵ Id. at 10.

¹⁶ Id. at 19-25.

ONE (1) day to TWENTY (20) years and a fine of THREE HUNDRED THOUSAND PESOS (P300,000.00).

Let the confiscated *methamphetamine hydrochloride* subject matter of this case be turned over to Region IV-A, Philippine Drug Enforcement Agency, Camp Vicente Lim, Canlubang, Calamba City for destruction in accordance with law.

SO ORDERED.¹⁷

The RTC noted that the presence of the required witnesses was established, as evidenced by media representative Salgado and *barangay* councilor Aguilar's signatures on the Receipt/Inventory of Property Seized and Certification of Good Conduct of Search. Further, the photographs, the Chain of Custody Form, and the stamp receipt at the Request for Laboratory Examination established the links in the chain of safekeeping of the seized items. Likewise, the RTC found that PO1 Benabese was the only person who handled the items from their confiscation up to the time of delivery to the crime laboratory. Thus, it concluded that the prosecution was able to prove Mamino's guilt beyond reasonable doubt.¹⁸

Aggrieved, Mamino filed a Notice of Appeal¹⁹ with the RTC, which was given due course by the latter.²⁰

Ruling of the CA

The CA affirmed with modification the ruling of the RTC in its Decision²¹ dated 14 December 2020:

WHEREFORE, in view of the foregoing, the appeal is **DENIED**. The *Decision dated September 12, 2018*, of the Regional Trial Court, Branch 36, Calamba, Laguna in Criminal Case No. 28534-2017-C is **AFFIRMED WITH THE MODIFICATION** that appellant shall suffer a term of imprisonment of Twenty (20) years and One (1) day to Life [sic] and shall pay a fine in the amount of P400,000.00.

SO ORDERED.²²

The CA disregarded the arguments of Mamino attacking the validity of the search warrant. It stated that Mamino failed to raise this at the proper time, which amounts to a waiver of the objection. Thus, the prosecution had no duty to present evidence to establish that the search warrant was issued upon the requisite examination of the applicant. Moreover, while the search warrant did not specify the house number, the CA explained that the policemen were able to identify the house of Mamino through the

¹⁷ Id. at 24-25.

¹⁸ Id. at 23.

¹⁹ *CA rollo*, p. 11.

²⁰ Id. at 14.

²¹ *Rollo*, pp. 8-17.

²² Id. at 16-17.

description of the place and the attachments to the search warrant (*i.e.*, sketch map and photographs). Thus, the CA found no grounds to invalidate the same.²³

Further, the CA stated that Mamino's defenses of denial and frame-up are weak and unreliable. It agreed with the RTC that the prosecution was able to establish an unbroken chain of custody together with all the elements of the crime charged. However, the CA modified the penalty imposed considering that the aggregate weight of the *shabu* seized is 5.25 grams.

Hence, this appeal.²⁴

Issue

The sole issue is whether Mamino is guilty beyond reasonable doubt of Illegal Possession of Dangerous Drugs under Section 11, Article II of RA No. 9165.

Ruling of the Court

The Search Warrant is valid

In his first assigned error, Mamino maintains that the search warrant is void. He asserts that the search warrant failed to particularly describe the place to be searched and the things to be seized. Likewise, the admissibility of the items seized was not justified, as these were neither found inadvertently nor in plain view. Further, the records are bereft of any affidavit from the applicant or his witnesses, or of the searching questions and answers, which could have been the basis in issuing the search warrant.

The arguments of Mamino have no merit.

The Court has established the following requisites for a valid search warrant: (1) it must be issued based on a finding of probable cause; (2) probable cause must be determined personally by the judge; (3) the judge must examine under oath or affirmation the complainant and the witnesses he or she may produce; and (4) the warrant must particularly describe the place to be searched and the persons or things to be seized.²⁵

The relevant portion of the Search Warrant is quoted hereunder:

It appearing to the satisfaction of the undersigned that after examining under oath by searching questions and answers on the witness, there exists a probable cause for Violation of R.A. 9165, which has been committed and there is a good sufficient reason to believe that is [sic] involved in illegal possession and control of undetermined quantity of

²³ Id. at 12-13.

²⁴ Id. at 3.

²⁵ *People v. Francisco*, 436 Phil. 383, 390 (2002).

Methamphetamine Hydrochloride or shabu; and other shabu paraphernalia, which he is keeping and controlling in his address at Purok 3, Brgy. Uwisan, Calamba City, Laguna.²⁶

Preliminarily, it must be emphasized that Mamino failed to timely assail the search warrant and object to the admissibility of the items seized pursuant thereto. He merely raised these issues upon appeal. In *People v. Magayon*,²⁷ the Court held that just like any other right, the right to be secured from unreasonable searches and seizures may be waived. Consequently, the CA was correct in ruling that Mamino should be deemed to have waived his objection to the legality of the search and the admissibility of the evidence seized.²⁸

Moreover, this Court has pronounced that the description of the place to be searched is sufficient if the officer tasked to implement the search warrant can, with reasonable effort, identify the place to the exclusion of all other places in the community.²⁹ Even without the indication of the house number and street, the prosecution was able to establish that the police officers had a sketch map and photographs of the place. They also conducted a familiarization of the place prior to the search.³⁰ It is thus reasonable to conclude that the team was able to sufficiently identify the place to be searched despite the lack of house number.

Further, the description of the items to be seized as “undetermined quantity of Methamphetamine Hydrochloride or *shabu*; and other *shabu* paraphernalia” is enough to specify the items to be obtained by the officers.³¹ As to Mamino’s argument on the application of the plain view doctrine, it bears noting that the same contemplates seizure without a warrant of objects falling in plain view of an officer who has a right to be in a position to have that view.³² As the items seized herein were described with particularity in the search warrant, the plain view doctrine does not apply.

Lastly, the Court has previously ruled that “failure to attach to the records the depositions of the complainant and his [or her] witnesses and/or the transcript of the judge’s examination, though contrary to the Rules, does not by itself nullify the warrant.”³³ Verily, a warrant may still be upheld if there is at least evidence on record showing what testimony was presented.³⁴

In this case, PO1 Benabese confirmed that their office had prior coordination with the PDEA,³⁵ after which the application for a search

²⁶ CA rollo, p. 44.

²⁷ G.R. No. 238873, 16 September 2020, citing *People v. Nuñez*, 609 Phil. 176 (2009).

²⁸ Id.

²⁹ *People v. Posada*, 768 Phil. 324, 330 (2015), citing *Yao, Sr. v. People*, 552 Phil. 195 (2007), and *Uy v. Bureau of Internal Revenue*, 397 Phil. 892 (2000).

³⁰ TSN, 19 March 2018.

³¹ *People v. Tee*, 443 Phil. 521, 536 (2003).

³² *People v. Acosta*, G.R. No. 238865, 28 January 2019; *People v. Lagman*, 593 Phil 617 (2008).

³³ *Ogayon v. People*, 768 Phil. 272, 284 (2015).

³⁴ *Zafe III v. People*, G.R. No. 226993, 03 May 2021.

³⁵ TSN, 19 March 2018.

warrant was filed by PO2 Rommel DG Montecillo (PO2 Montecillo). The application was based on information that Mamino had in his possession and control an undetermined quantity of *shabu*. PO1 Benabese likewise testified that the Affidavit of PO2 Montecillo was one of the attachments to the search warrant.³⁶ Notably, the Coordination Report indicates that that the coordination with the PDEA was indeed made by PO2 Montecillo.³⁷

It is established that a judge's determination of probable cause for the issuance of a search warrant is accorded great deference by the reviewing court.³⁸ It is presumed that a judicial function has been regularly performed, in the absence of proof showing the contrary.³⁹ Evidently, Mamino failed to overcome this presumption.

Therefore, We agree with the CA that there is no ground to invalidate the search warrant. Hence, the items seized pursuant thereto were correctly admitted.

The prosecution was able to establish an unbroken chain of custody together with the elements of the crime charged

Mamino likewise argues that he should be acquitted since the prosecution failed to prove the elements of Illegal Possession of Dangerous Drugs. He argues that the only testimonial evidence offered, that of PO1 Benabese, is purely self-serving. Mamino maintains that the allegations against him are doubtful given that the prosecution never offered any rebuttal evidence to refute his claim of frame-up.

Further, Mamino asserts that the apprehending officers failed to faithfully comply with the pertinent drug enforcement rules and regulations. Mamino points out that the prosecution failed to establish that precautions were taken to preserve the integrity and evidentiary value of the items seized. He contends that media representative Salgado was also a witness during the implementation of another search warrant, conducted at the house of one Mark Anthony Aldabe (Aldabe). Therefore, Mamino claims that it would have been impossible for Salgado to witness two separate events in two separate locations at the same time.

The elements of Illegal Possession of Dangerous Drugs under Section 11, Article II of RA No. 9165 are the following: (1) the accused was in possession of a prohibited drug; (2) such possession was not authorized by law; and (3) the accused freely and consciously possessed the said drug.⁴⁰

³⁶ Id.

³⁷ Records, p. 16.

³⁸ Id.

³⁹ *Cunanan v. People*, 843 Phil. 96, 110 (2018).

⁴⁰ *People v. Crispo*, 828 Phil. 416, 429 (2018).

In cases involving dangerous drugs, it is the State's burden to prove the elements of the crime as well as the *corpus delicti* or the body of the crime.⁴¹ It is imperative that all the links in the chain of custody be accounted for, from the time of the confiscation of the prohibited drugs, delivery to the crime laboratory, safekeeping, and presentation in court for destruction.⁴² This is to establish with moral certainty that the prohibited drugs confiscated are the same substance offered in court as evidence against the accused.⁴³

For purposes of establishing an unbroken chain of custody, the parameters laid down under Section 21, Article II of RA No. 9165 must be followed. The apprehending team shall, among others, immediately after seizure and confiscation, conduct a physical inventory and photograph the items seized in the presence of the accused or the person from whom the items were seized, or his or 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 copies of the inventory and be given a copy of the same.⁴⁴ The presence of the witnesses is required to remove any suspicion of planting or contamination of evidence.⁴⁵ Within 24 hours from confiscation, the seized drugs must be turned over to the forensic laboratory for a qualitative and quantitative examination.⁴⁶

In this case, the RTC and the CA correctly found that all the elements of Illegal Possession of Dangerous Drugs are present. The search conducted on Mamino's house was done under a valid warrant. During its execution, the team found two plastic sachets containing suspected *shabu*, with the aggregate weight of 5.25 grams. Crime laboratory examination confirmed that the same was *shabu*.

Verily, Mamino failed to present any evidence that he was authorized to possess the prohibited drugs. It is known that mere possession of prohibited drugs is *prima facie* evidence of knowledge or intent to possess the same.⁴⁷ Although Mamino interposed the defenses of denial and frame-up, these remain self-serving and unsubstantiated. The rule is that these defenses are considered as weak as they can easily be concocted, especially when compared to the categorical and positive identification and declarations of the officers.⁴⁸ Absent proof of any compelling reason why the officers would falsely testify against the accused, the presumption of regularity in the performance of official duty should stand.⁴⁹

⁴¹ *People v. Muhammad*, G.R. No. 218803, 10 July 2019.

⁴² *Fuentes v. People*, G.R. No. 228718, 07 January 2019.

⁴³ *Id.*

⁴⁴ Republic Act No. 9165 (2002), Article II, Sec. 21, as amended by Republic Act No. 10640 (2013).

⁴⁵ *People v. Mejia*, G.R. No. 241778, 15 June 2020.

⁴⁶ Republic Act No. 9165 (2002), Article II, Sec. 21, as amended by Republic Act No. 10640 (2013).

⁴⁷ *People v. Badilla*, 794 Phil. 263, 282 (2016), citing *People v. Tancinco*, 736 Phil. 610 (2014).

⁴⁸ *Saraum v. People*, 779 Phil. 122, 134 (2016).

⁴⁹ *Dimacuha v. People*, 545 Phil. 406, 418 (2007).

Further, as noted by the CA, the prosecution was able to establish the following links in the chain of custody: (1) PO1 Benabese found the *shabu* in the residence of Mamino while conducting the search; (2) immediately after confiscation of the seized items, the officers conducted the inventory, photographed and marked the seized items in the presence of Mamino, the media representative, and the *barangay* councilor; (3) PO1 Benabese had custody of the seized items and placed them in an evidence bag; (4) PO1 Benabese brought Mamino and the items seized to the crime laboratory; (5) PCI Huelgas examined the substance and found them positive for *shabu*, as laid down in Chemistry Report No. D-3187-16; and (6) PCI Huelgas turned over the seized items to the RTC. Thus, contrary to the allegations of Mamino, there was sufficient compliance with the chain of custody rule.

The fact that the media representative also witnessed another search is not sufficient to prove that the officers failed to comply with Section 21, Article II of RA No. 9165. During his testimony, PO1 Benabese clarified that Aldabe's residence is only a few houses away from Mamino's.⁵⁰ Thus, the allegation of Mamino that it would have been physically impossible for the media representative to be present in two locations at the same time cannot be given credence.

In any case, jurisprudence provides that the requirements and procedure laid down in Section 21, Article II of RA No. 9165 were never intended to thwart the legitimate efforts of law enforcement.⁵¹ Failure to strictly comply therewith does not automatically lead to the acquittal of the accused, as long as the integrity and evidentiary value of the seized items are preserved.⁵² As the officers in this case were able to establish the links in the chain of custody and preserve the integrity of the confiscated illegal drugs, the conviction of Mamino is warranted.

Modification of penalty

In the case of *People v. Obias, Jr. (Obias case)*,⁵³ the accused was similarly charged with illegal possession of dangerous drugs. In his Concurring Opinion in the said case, former Chief Justice Diosdado M. Peralta (Justice Peralta) explained the proper application of the Indeterminate Sentence Law⁵⁴ in cases where the imposable penalty under Section 11, Article II of RA No. 9165 is twenty (20) years and one (1) day to life imprisonment.

⁵⁰ TSN, 19 March 2018.

⁵¹ *People v. Magalong*, G.R. No. 231838, 04 March 2019, citing *People v. Eda*, 793 Phil. 885 (2016).

⁵² *People v. Ceralde*, 815 Phil. 711, 721 (2017).

⁵³ G.R. No. 222187, 25 March 2019.

⁵⁴ Entitled "AN ACT TO PROVIDE FOR AN INDETERMINATE SENTENCE AND PAROLE FOR ALL PERSONS CONVICTED OF CERTAIN CRIMES BY THE COURTS OF THE PHILIPPINE ISLANDS; TO CREATE A BOARD OF INDETERMINATE SENTENCE AND TO PROVIDE FUNDS THEREFOR; AND FOR OTHER PURPOSES." Approved: 05 December 1933.



Justice Peralta clarified that the penalty of twenty (20) years and one (1) day to life imprisonment is not provided for in the Revised Penal Code, as a violation of RA No. 9165 is considered as a *malum prohibitum*. Thus, the rules on penalties under the RPC (*i.e.*, graduation of penalties, penalties consisting of several periods, computation of penalties) may not be applicable. However, the Indeterminate Sentence Law should still apply if the penalty consists of a range. As stated in Section 1 of the Indeterminate Sentence Law:

Section 1. Hereafter, in imposing a prison sentence for an offense punished by the Revised Penal Code, or its amendments, the court shall sentence the accused to an indeterminate sentence the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the said Code, and the minimum which shall be within the range of the penalty next lower to that prescribed by the Code for the offense; and **if the offense is punished by any other law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same.** (Emphasis supplied)

From the above provision, the Court is mandated to impose a minimum term not less than the minimum of the penalty, which is twenty (20) years and one (1) day, and a maximum term not higher than life imprisonment. Thus, the penalty in the instant case should be modified to twenty (20) years and one (1) day, as minimum, to thirty (30) years,⁵⁵ as maximum, with the payment of a fine in the amount of ₱400,000.00.

WHEREFORE, the Decision dated 14 December 2020 of the Court of Appeals in CA-G.R. CR No. 42802 is **AFFIRMED with MODIFICATION**. Accused-appellant **Lester Mamino y Aldabe** is found **GUILTY** beyond reasonable doubt of Illegal Possession of Dangerous Drugs under Section 11, Article II of Republic Act No. 9165. He is sentenced to suffer a term of imprisonment of twenty (20) years and one (1) day, as minimum, to thirty (30) years, as maximum, and shall pay a fine in the amount of ₱400,000.00.

⁵⁵ *People v. Obias, Jr.*, G.R. No. 222187, 25 March 2019.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *matr*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

71-II

OCT 04 2022

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