



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **February 15, 2022** which reads as follows:*

**“G.R. No. 257508 (*People of the Philippines v. Geoffrey Cardinez y Sauza*)** — The conviction of Geoffrey Cardinez y Sauza (Geoffrey) for illegal sale and possession of dangerous drugs is the subject of review in this petition under Rule 45 of the Rules of Court assailing the Court of Appeals’ (CA) Decision<sup>1</sup> dated June 15, 2020 in CA-G.R. CR-HC No. 11467, which affirmed the Regional Trial Court’s (RTC) Judgment dated June 22, 2018, in Criminal Case Nos. 93846 and 93847.

ANTECEDENTS

On April 28, 2015, at around 9:00 a.m., the Anti-Illegal Drugs-Special Operations Task Group (SAID-SOTG) of the Caloocan City Police Station received a report that a certain *alias* “Joprek,” later identified as Geoffrey, was engaged in selling illegal drugs in the area of Bagong Barrio, Caloocan City. The Chief of the SAID-SOTG instructed PO2 Noel Sangalang (PO2 Sangalang) and PO1 Fidel Seville (PO1 Seville) to verify the report. PO2 Sangalang tapped their regular confidential informant (CI) to conduct a surveillance. Upon confirming the report, a buy-bust team was formed composed of PO3 Rodel Salinas (PO3 Salinas) as the team leader, and PO3 Moamar Concepcion, PO2 Lemery Galang, PO2 Borban Paras, PO1 Christian Geronimo, PO1 Czeron Nero Masadia, PO1 Joven Pacis, PO1 Seville and PO2 Sangalang as members. PO2 Sangalang and the CI acted as *poseur-buyers* while PO1 Seville acted as immediate back-up. PO2 Sangalang was handed one (1) piece of Five Hundred Peso Bill

- over – nine (9) pages ...

**318-B**

<sup>1</sup> Penned by Associate Justice Louis P. Acosta with the concurrence of Associate Justices Japar B. Dimaampao (now a member of this Court) and Eduardo B. Peralta, Jr.

A handwritten signature in black ink, located in the bottom right corner of the page.

(marked money) for the operation. Around 1:30 p.m., the buy bust team with the CI proceeded to the target site. The CI approached Geoffrey and introduced PO2 Sangalang as the buyer. Geoffrey asked PO2 Sangalang how much he wanted to buy to which the latter replied “*Limang daan, repa.*” PO2 Sangalang then handed the ₱500.00 marked money, which Geoffrey placed in the right pocket of his pants. In exchange, Geoffrey handed to PO2 Sangalang a small plastic sachet containing suspected *shabu*.<sup>2</sup>

Thereafter, PO2 Sangalang scratched his head as the pre-arranged signal that the sale had been consummated. PO1 Seville approached and assisted PO2 Sangalang. PO2 Sangalang introduced himself as a policeman, and immediately arrested Geoffrey. PO2 Sangalang frisked Geoffrey and recovered from his right pocket another plastic sachet containing suspected *shabu* and the marked money. Immediately, PO2 Sangalang marked the first plastic sachet with ‘JOPREK (BUYBUST) 4/28/15’ and the recovered item ‘JOPREK (RECOVERED) 4/28/15.’ The police officers brought Geoffrey to Caloocan City Police Station. While in transit, PO2 Sangalang had possession of the seized items which he later turned over to the investigating officer PO2 Jerome M. Pascual (PO2 Pascual). At the police station, the Receipt of Physical Inventory were prepared and photographs were taken in the presence of Geoffrey, members of the buy bust team and a media representative. PCI Leoben Trinidad Ong prepared the Request for Laboratory Examination. PO2 Sangalang and PO2 Pascual brought the two (2) plastic sachets containing suspected *shabu* to the Crime Laboratory for examination, which yielded positive results for the presence of methamphetamine hydrochloride.<sup>3</sup> Consequently, Geoffrey was charged with illegal sale and possession of *shabu* docketed as Criminal Case Nos. 93846 and 93847 before the RTC, thus:

[Criminal Case No. 93846]

That on or about the 28<sup>th</sup> day of April, 2015 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, and without being authorized by law, did then and there willfully, unlawfully and feloniously sell, trade, deliver and give away to PO2 NOEL SANGALANG, who posed as buyer, **METHAMPHETAMINE HYDROCHLORIDE**, otherwise known as ‘**Shabu**’ weighing **0.20 gram**, knowing the same to be such, accused Geoffrey Cardinez y

- over -

318-B

<sup>2</sup> CA Decision, pp. 3-4 and 14.

<sup>3</sup> CA Decision, pp. 3-4 and 13.

Sauza @ Joprek received the buy bust money from said PO2 Noel Sangalang, after delivering to the later one (1) heat-sealed transparent plastic sachet, later marked as 'JOPREK (BUYBUST) 4/28/15.'

CONTRARY TO LAW.<sup>4</sup>

[Criminal Case No. 93847]

That on or about the 28<sup>th</sup> day of April, 2015 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, and without being authorized by law, did then and there willfully, unlawfully and feloniously have in his possession, custody and control one (1) heat-sealed transparent plastic sachet later marked as 'JOPREK (RECOVERED) 4/28/15' =5.22 grams, containing METHAMPHETAMINE HYDROCHLORIDE (Shabu), which when subjected for laboratory examination gave POSITIVE result to the tests for Methamphetamine Hydrochloride, a dangerous drug, in gross violation of the above-cited law.

CONTRARY TO LAW.<sup>5</sup>

Geoffrey pleaded not guilty. At the pre-trial, the parties dispensed with the testimony of forensic chemist PCI Engr. Richard Allan B. Mangalip (PCI Mangalip). The parties then stipulated that PCI Mangalip received two (2) plastic sachets each containing white crystalline substance, and when tested, the specimens yielded positive results for methamphetamine hydrochloride, per Chemistry Report Number D-242-15 and Initial Laboratory Report No. DT-321-15.<sup>6</sup> At the trial, the prosecution presented PO2 Sangalang, PO2 Sevillo and PO2 Pascual as its witnesses. On the other hand, the defense presented its sole witness, Geoffrey.

Geoffrey denied the charges and narrated that at the time material to this case, he was parking his motorcycle in front of his house when two men in uniform pulled him. Geoffrey saw one of the police officers having a nametag "Sy." Thereafter, Geoffrey was brought to the office of the SAID-SOTG. Police Officer Sy threatened that cases for violation of Sections 5 and 11 will be filed against him if he will not give them ₱200,000.00. The charges were filed when he failed to produce the amount.<sup>7</sup>

- over -

318-B

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<sup>4</sup> CA Decision, p. 2.

<sup>5</sup> Id.

<sup>6</sup> CA Decision, pp. 17-18.

<sup>7</sup> Id. at 5.

On June 22, 2018, the RTC found Geoffrey guilty of both crimes, thus:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

In Criminal Case No. 93846, the Court finds Accused Geoffrey Cardinez *y* Sauza *alias* "Joprek" guilty beyond reasonable doubt of the offense of Violation of Section 5, Article II of R.A. 9165, and is hereby sentenced to suffer the penalty of life imprisonment and to pay the fine of Five hundred thousand pesos (P500,000.00).

In Criminal Case No. 93847, the Court also finds Accused Geoffrey Cardinez *y* Sauza *alias* "Joprek" guilty beyond reasonable doubt of the offense of Violation of Section 11, Article II of R.A. 9165 for having in his possession one plastic sachet of shabu weighing 5.22 grams, and is hereby sentenced to suffer the penalty [of] imprisonment of twenty (20) years and one (1) day to life imprisonment and to pay the fine of Four hundred thousand pesos (P400,000.00).

The District Warden of Metro Manila District Jail, Camp Bagong Diwa, Bicutan, Taguig City is hereby directed to cause the immediate transfer of custody of the said accused to the Director of National Bilibid Prison, Bureau of Corrections, Muntinlupa City, and to forthwith submit a written report of his compliance (or reason for non-compliance) with this order within ten (10) days from receipt thereof.

The drug subject matter hereof are [sic] hereby ordered confiscated and forfeited in favor of the government, and the Branch Clerk of Court of this Sala is hereby directed to turn over the said pieces of evidence to the Philippine Drug Enforcement Agency for their immediate destruction in accordance with law.

SO ORDERED.<sup>8</sup>

Geoffrey elevated the case to the CA docketed as CA-G.R. CR-HC No. 11467. Geoffrey argued that he should be acquitted of the charges due to the police officers' non-compliance with the mandatory chain of custody requirement under Section 21, Article II, of Republic Act No. 9165. Moreover, Geoffrey contended that PO2 Sangalang did not conduct an inventory immediately after the buy

- over -

318-B

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<sup>8</sup> Id., at 5-6.

bust operation, which compromised the identity of the confiscated items. Lastly, the inventory receipt was signed only by a media representative.<sup>9</sup>

On June 15, 2020, the CA affirmed the RTC's findings that Geoffrey was guilty of illegal sale and possession of dangerous drugs, to wit:

**ACCORDINGLY**, the appeal is hereby **DENIED**.

The Decision dated 22 June 2018 of the Regional Trial Court, Branch 127, Caloocan City, finding accused-appellant Geoffrey Cardinez y Sauza guilty for Violation of Sections 5 and 11, Article II of Republic Act ('**R.A.**') No. 9165 in Criminal Case No. 93846 and Criminal Case No. 93847 is **AFFIRMED**.

**SO ORDERED**.<sup>10</sup> (Emphases in the original, citations omitted.)

Geoffrey sought reconsideration but was denied.<sup>11</sup> Hence, this recourse. Geoffrey reiterates that the police officers failed to observe the chain of custody requirements in handling the seized items.

## **RULING**

We acquit.

Prefatorily, Geoffrey availed the wrong remedy. The proper mode of appeal when the CA imposes *reclusion perpetua*, life imprisonment or a lesser penalty is a notice of appeal and not a petition for review on *certiorari*.<sup>12</sup> However, the Court has suspended its own rules in the interest of substantial justice. Hence, the present petition is treated as an ordinary appeal where the entire case is thrown wide open for review.<sup>13</sup>

In illegal sale and possession of dangerous drugs, the contraband itself constitutes the very *corpus delicti* of the offenses and

- over -

**318-B**

<sup>9</sup> CA Decision, pp. 13–14 and 17.

<sup>10</sup> CA Decision, pp. 13–22.

<sup>11</sup> Penned by Associate Justice Louis P. Acosta with the concurrence of Associate Justices Japar B. Dimaampao (now a member of this Court) and Eduardo B. Peralta, Jr.

<sup>12</sup> See Section 3 (e), Rule 122 in relation to Section 13, Rule 124 of the Revised Rules of Criminal Procedure.

<sup>13</sup> See *Paras v. People*, G.R. No. 250415 (Notice), April 28, 2021.

the fact of its existence is vital to a judgment of conviction.<sup>14</sup> Thus, it is essential to ensure that the substance recovered from the accused is the same substance offered in court.<sup>15</sup> Indeed, the prosecution must satisfactorily establish the movement and custody of the seized drug through the following links: (1) the confiscation and marking of the specimen seized from the accused by the apprehending officer; (2) the turnover of the seized item by the apprehending officer to the investigating officer; (3) the investigating officer's turnover of the specimen to the forensic chemist for examination; and, (4) the submission of the item by the forensic chemist to the court.<sup>16</sup> Here, the records reveal a broken chain of custody.

Foremost, the absence of the required witnesses during the physical inventory and photograph of the confiscated items puts serious doubt as to the integrity of the first link.<sup>17</sup> Notably, the offenses were allegedly committed on April 28, 2015. Hence, the applicable law is R.A. No. 9165, as amended by R.A. No. 10640, which now mandated that the conduct of physical inventory and photograph of the seized item must be in the presence of (1) the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, (2) with an elected public official, and (3) a representative of the National Prosecution Service or the media who shall sign the copies of the inventory and be given a copy thereof.<sup>18</sup> The Court had ruled that in case the presence of any or all the insulating witnesses was not obtained, the prosecution must allege and prove not only the reasons for their absence, but also the fact that earnest efforts were made to secure their attendance. A sheer statement that representatives were unavailable without so much as an explanation on whether serious attempts were employed to look for other representatives, given the circumstances is to be regarded as a flimsy excuse.<sup>19</sup> Admittedly, only a media representative witnessed the inventory and photograph of the evidence. The police officers did not secure the presence of an elected public official without citing reasons or explaining that it exerted genuine efforts to secure the

- over -

**318-B**

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<sup>14</sup> *People v. Partoza*, 605 Phil. 883 (2009). See also *People v. Cariño*, G.R. No. 233336, January 14, 2019; *People v. Crispo*, 828 Phil. 416 (2018); *People v. Sanchez*, 827 Phil. 457 (2018); *People v. Magsano*, 826 Phil. 947 (2018); *People v. Manansala*, 826 Phil. 578 (2018); *People v. Miranda*, 824 Phil. 1042 (2018); and *People v. Mamangon*, 824 Phil. 728 (2018).

<sup>15</sup> *People v. Ismael*, 806 Phil. 21 (2017).

<sup>16</sup> *People v. Bugtong*, 826 Phil. 628 (2018).

<sup>17</sup> *People v. Crisostomo*, G.R. No. 252488, May 12, 2021; and *People v. Escaran*, G.R. No. 212170, June 19, 2019.

<sup>18</sup> R.A. No. 10640 took effect on July 23, 2014. See also OCA Circular No. 77-2015 dated April 23, 2015.

<sup>19</sup> *People v. Lim*, G.R. No. 231989, September 4, 2018.

presence of such witness. In his testimony, PO2 Pascual explained the authorities tried to contact a barangay elective official but no one arrived.<sup>20</sup> Yet, this is insufficient to convince the Court that the buy-bust team exerted earnest and serious efforts to comply with the required procedure.<sup>21</sup> Further, the operatives did not describe the precautions taken to ensure that there had been no change in the condition of the seized items and no opportunity for someone not in the chain to have possession of the drugs. The utter disregard of the required procedures created a huge gap in the chain of custody.

Worse, the defective stipulation with respect to the testimony of the forensic chemist contributed to the glaring gap in the chain of custody. The Court held that the parties' stipulation to dispense with the testimony of the forensic chemist should include the following: (1) that the forensic chemist received the seized article as marked, properly sealed, and intact; (2) that he resealed it after examination of the content; and (3) that he placed his own marking on the same to ensure that it could not be tampered with pending trial.<sup>22</sup> In this case, however, the prosecution and the defense merely stipulated that PCI Mangalip "*conducted a qualitative examination on the transmitted specimen x x x and the same proved positive for methamphetamine hydrochloride x x x.*"; and "*[t]hat upon completion of the examinations, this witness sealed the specimen and deposited the same with their Evidence Custodian x x x.*"<sup>23</sup> Evidently, the stipulation lacks vital pieces of information as to the condition of the seized items when PCI Mangalip received the same from PO2 Sangalang and PO2 Pascual, and that he placed his own marking on the sealed items to avoid tampering. Without testimonial evidence to account for the management, storage, and preservation of the seized drugs prior and after the qualitative examination, the remaining link in the chain of custody is similarly broken.

Lastly, it must be stressed that while the law enforcers enjoy the presumption of regularity in the performance of their duties, this presumption cannot prevail over the constitutional right of the accused to be presumed innocent and it cannot by itself constitute proof of guilt beyond reasonable doubt. The presumption of regularity is disputable and cannot be regarded as binding truth.<sup>24</sup> Indeed, when the performance of duty is tainted with irregularities, such presumption is

- over -

**318-B**

<sup>20</sup> CA Decision, p. 14.

<sup>21</sup> See *People v. Lim*, G.R. No. 231989, September 4, 2018.

<sup>22</sup> *People v. Cabuhay*, 836 Phil. 903 (2018).

<sup>23</sup> T.S.N., October 27, 2015, Testimony of PCI Richard Mangalip, pp. 2–5.

<sup>24</sup> *People v. Cañete*, 433 Phil. 781, 794 (2002); and *Lopez v. People*, 576 Phil. 576 (2008).

effectively destroyed.<sup>25</sup> We reiterate that the provisions of Section 21 of R.A. No. 9165 embody the constitutional aim to prevent the imprisonment of an innocent man. The Court cannot tolerate the lax approach of law enforcers in handling the very *corpus delicti* of the crime. Hence, Geoffrey must be acquitted of the charges against him given the prosecution's failure to prove an unbroken chain of custody.

**FOR THESE REASONS**, the appeal is **GRANTED**. The Court of Appeals' Decision dated June 15, 2020 in CA-G.R. CR-HC No. 11467 is **REVERSED** and **SET ASIDE**. Geoffrey Cardinez y Sauza is **ACQUITTED** in Criminal Case Nos. 93846 and 93847, and is **ORDERED IMMEDIATELY RELEASED** from detention, unless he is being lawfully held for another cause.


Let entry of judgment be issued immediately.

Let a copy of this Resolution be furnished to the Director General of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The Director General is **DIRECTED** to **REPORT** to the Court the action taken within five (5) days from receipt of this Resolution.

The petitioner is hereby required to **SUBMIT**, within five (5) days from notice hereof, a verified declaration of the petition for review on certiorari, pursuant to A.M. Nos. 10-3-7-SC and 11-9-4-SC.

**SO ORDERED."**

By authority of the Court:

  
**LIBRADA C. BUENA**  
Division Clerk of Court m47

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
**318-B**

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<sup>25</sup> *People v. Dela Cruz*, 589 Phil. 259 (2008).





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Court of Appeals (x)  
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(CA-G.R. CR HC No. 11467)

The Hon. Presiding Judge  
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(Crim. Case Nos. 93846 & 93847)

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**318-B**

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