



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated April 25, 2022, which reads as follows:*

**“G.R. No. 252255 (*People of the Philippines v. Alfie Alegre y Mendez and Jose Alegre y Mendez, accused; Alfie Alegre y Mendez, accused-appellant*). —** The conviction of accused-appellant Alfie Alegre y Mendez (Alfie) for illegal sale of dangerous drugs is the subject of this appeal from the October 11, 2019 Decision<sup>1</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 11669, which affirmed the findings of the Regional Trial Court (RTC) of Naga City, Branch 24.

The antecedents follow.

On July 8, 2016, acting on a report from a confidential informant – that Alfie and his live-in partner Ivy Gonzaga (Ivy) were selling dangerous drugs at Zone 7, San Raphael, Barangay Cararayan, Naga City — Philippine Drug Enforcement Agency (PDEA) Provincial Officer Noe S. Briguel (Officer Briguel) of the PDEA, Camarines Sur Provincial Office, formed a buy-bust team with Agent Rowell D. Eduarte (Agent Eduarte) as poseur-buyer and Agent Lorena Uy (Agent Uy) as arresting officer. The team prepared a pre-operation report, and Agent Eduarte marked a ₱1,000-bill with his initials, ‘RDE,’ and attached it to paper-cut boodle money.<sup>2</sup>

At around 7:00 a.m. of July 9, 2016, the buy-bust team and the confidential informant proceeded to the target area, where the informant saw Ivy sweeping the ground. Agent Eduarte and the confidential asset approached Ivy and introduced themselves as buyers of *shabu*. A person wearing blue *sando*, later identified as Jose Alegre y Mendez (Jose), came out of the house and asked Agent Eduarte if the money was ready. Jose then called Alfie, who came out and gave a knot-tied plastic bag containing white crystalline substance to Agent Eduarte. In exchange, Agent Eduarte gave Alfie a red plastic bag containing the marked boodle money.<sup>3</sup>

<sup>1</sup> *Rollo*, pp. 3-21. Penned by Associate Justice Danton Q. Buenser, with the concurrence of Associate Justices Fernanda Lampas Peralta (Chairperson), and Ronaldo Roberto B. Martin.

<sup>2</sup> *Id.* at 4-5.

<sup>3</sup> *Id.* at 5.

To signal the completion of the transaction, Agent Eduarte made a 'miss call' to Agent Uy and immediately introduced himself to Alfie as a PDEA agent. Meanwhile, Agent Uy rushed to the scene and arrested Alfie and Jose. The team, however, failed to arrest Ivy. Agent Eduarte then frisked Alfie and recovered the boodle money. Without delay, Agent Eduarte marked the knot-tied plastic bag containing the white crystalline substance with 'RDE 7/9/16' in the presence of Alfie, Jose, Agent Uy, and other PDEA operatives. Thereafter, the team brought Alfie and Jose, and the seized items to the PDEA Provincial Office, where an inventory was made, and photographs were taken as witnessed by Alfie, Jose, Department of Justice (DOJ) Representative Domingo S. Villareal, and elected public official Joselito Del Rosario.<sup>4</sup> Agent Eduarte then delivered the confiscated white crystalline substance to the PDEA Region V Laboratory Office, where it was received by Forensic Chemist Lilibeth O. Benitez (FC Benitez). In Chemistry Report No. PDEA ROV DD0-16-029, the specimen was found positive for Methamphetamine Hydrochloride or *shabu*, a dangerous drug.<sup>5</sup>

Alfie and Jose denied the charges against them. Jose claimed that the PDEA operatives planted the evidence against them. Jose narrated that, in the morning of July 9, 2016, as he was about to buy breakfast, three armed men forcibly entered, searched his house, and brought him to Alfie's house. There, Jose saw Alfie lying face down. The armed men then brought items, which they placed in Jose's pocket. Later, Jose and Alfie were brought to the City Hall and to the police station.<sup>6</sup> Alfie similarly alleged that three armed men forcibly entered his house, poked a gun at him, ordered him to lay face down, and handcuffed him while searching his house.<sup>7</sup> Ivy corroborated Jose and Alfie's testimonies that armed men intrusively entered their house.<sup>8</sup>

Consequently, Alfie and Jose were charged with Violation of Section 5,<sup>9</sup> Article II<sup>10</sup> of Republic Act (RA) No. 9165,<sup>11</sup> under the following Information:

That on or about July 9, 2016, in the City of Naga, Philippines, and within the jurisdiction of this Honorable Court, the above-name accused, conspiring, confederating and mutually helping one another, without authority of law, did, then and there, wilfully, unlawfully and criminally sell, dispense and deliver one (1) knot-tied and masking tape sealed transparent plastic bag containing white crystalline substance weighing more or less 145.5699 grams to PDEA poseur buyer Agent Rowell D. Eduarte, which the latter marked with RDE 7/9/16 and signature, and which

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<sup>4</sup> Id. at 5-6.

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

<sup>6</sup> Id.

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

<sup>8</sup> Id.

<sup>9</sup> Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.

<sup>10</sup> Unlawful Acts and Penalties.

<sup>11</sup> 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 on June 7, 2002.

when tested, was found positive for the presence of Methamphetamine Hydrochloride popularly known as “shabu[,]” a dangerous drug, in violation of [Section 5, Article II of RA No. 9165]. Acts Contrary to Law.<sup>12</sup>

On August 2, 2018,<sup>13</sup> the RTC acquitted Jose, but found Alfie guilty of Illegal Sale of Dangerous Drugs (Section 5, Article II of RA No. 9165) in Crim Case No. 2016-0450, and sentenced him as follows:

WHEREFORE, the accused ALFIE ALEGRE [y] MENDEZ is hereby CONVICTED and sentenced to suffer Life Imprisonment and to pay a fine in the amount of Pesos: Five Hundred Thousand ([P]500,000.00). For failure of the prosecution to prove beyond reasonable doubt that he acted in conspiracy with his brother, Alfie Alegre [y] Mendez, the accused JOSE ALEGRE [y] MENDEZ is hereby ACQUITTED.

x x x x

SO ORDERED.<sup>14</sup>

The RTC ruled that the prosecution established that Alfie sold one plastic sachet of *shabu* to the poseur-buyer, Agent Eduarte, and that there was an unbroken chain of custody over the seized drugs.<sup>15</sup>

On appeal to the CA, Alfie asserted that the prosecution miserably failed to prove the elements of the crime, as well as to establish an unbroken chain of custody over the seized drug, and the apprehending team failed to comply with the procedure under Section 21, Article II of RA No. 9165.<sup>16</sup> The drug was inadmissible considering the illegality of his arrest. Alfie also contended that the PDEA agents failed to preserve the chain of custody over the *corpus delicti*.<sup>17</sup> On the other hand, the Office of the Solicitor (OSG), for the People of the Philippines, contended that the validity of Alfie’s arrest and his guilt for illegal sale of dangerous drugs had been established.<sup>18</sup> The PDEA operatives preserved the integrity and evidentiary value of the seized items in all links in the chain of custody.<sup>19</sup>

The CA, in its October 11, 2019 Decision,<sup>20</sup> affirmed Alfie’s conviction, thus:

**WHEREFORE**, the foregoing considered, the appeal is hereby **DISMISSED** and the assailed RTC Decision dated August 2, 2018 **AFFIRMED in toto**.

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<sup>12</sup> *Rollo*, p. 4.

<sup>13</sup> *CA rollo*, pp. 60-67. The Judgment dated August 2, 2018, was penned by Acting Presiding Judge Leo L. Intia.

<sup>14</sup> *Id.* at 67.

<sup>15</sup> *Id.* at 62-65.

<sup>16</sup> *Id.* at 44.

<sup>17</sup> *Id.* at 47-55.

<sup>18</sup> *Id.* at 85-87.

<sup>19</sup> *Id.* at 87-90.

<sup>20</sup> *Rollo*, pp. 3-21.

**SO ORDERED.**<sup>21</sup> (Emphases in the original.)

The CA confirmed that the PDEA agents conducted a legitimate buy-bust operation resulting in the arrest of Alfie. The prosecution witnesses gave positive, credible, and straightforward testimonies recounting the details of the sale transaction between Alfie and the poseur-buyer, Agent Eduarte.<sup>22</sup> After the transaction, the operatives substantially complied with the requirements of Section 21, Article II of RA No. 9165.<sup>23</sup>

Hence, this appeal.<sup>24</sup> Alfie<sup>25</sup> and the OSG,<sup>26</sup> filed their respective manifestations that they adopt the allegations made in their appeal briefs and will no longer file supplemental briefs.

The appeal is meritorious.

We acquit Alfie due to the prosecution's failure to prove the second and fourth links in the chain of custody over the seized drug.

Conviction for violation of Section 5, Article II of RA No. 9165, entails proof of the following elements beyond reasonable doubt: (a) the identity of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and the payment. The dangerous drug constitutes the very *corpus delicti* of the offense; hence, the preservation of its identity and integrity is crucial for a judgment of conviction.<sup>27</sup> In this regard, the burden is upon the prosecution to prove that the illegal drug presented in court is the same drug actually seized from the accused. This stringent burden is engendered by the unique characteristic of narcotic substances that render them indistinct, not readily identifiable, and usually open to tampering, alteration, or substitution either by accident or by deliberate act, especially when seized in small quantity.<sup>28</sup>

It is essential to ensure that the substance recovered from the accused is the same substance offered in court.<sup>29</sup> Accordingly, 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>30</sup>

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<sup>21</sup> Id. at 20.

<sup>22</sup> Id. at 10-12.

<sup>23</sup> Id. at 15-18.

<sup>24</sup> Id. at 22-24.

<sup>25</sup> Id. at 32-34.

<sup>26</sup> Id. at 37-39.

<sup>27</sup> *People v. Partoza*, 605 Phil. 883, 890 (2009).

<sup>28</sup> See *Mallillin v. People*, 576 Phil. 576, 586-589 (2008).

<sup>29</sup> *People v. Ismael*, 806 Phil. 21, 33 (2017).

<sup>30</sup> *People v. Bugtong*, 826 Phil. 628, 638-639 (2018).

In this case, the records reveal a broken chain of custody. Anent the *first* link after the seized drug was marked at the place of arrest, the buy-bust team proceeded to the PDEA Provincial Office for the conduct of the inventory. The prosecution witnesses did not explain why the inventory cannot be done at the crime scene. Notably, the buy-bust operation was planned in advance, and the police officers had sufficient time to coordinate and prepare for the appropriate procedure in compliance with the chain of custody rule, but they failed to do so. Thus, we cannot excuse the apprehending team's lapses against the mandated procedure.

The *second* link requires the prosecution to establish the movement and custody of the confiscated item, particularly, its turnover by the apprehending officer to the investigating officer, who shall conduct the proper investigation and prepare the necessary documents for the transfer of the evidence to the police crime laboratory for testing.<sup>31</sup> Further, the *third* link requires that the movement from the investigating officer to the forensic chemist be established. Here, there are marked irregularities in the *second* and the *third* links of the chain of custody. Agent Eduarte failed to show how he handled the seized drug during its transport from the place of arrest to the PDEA Provincial Office until it was delivered, and turned over to the forensic chemist at the crime laboratory. The operatives failed to provide any justification showing that the integrity of the evidence had all along been preserved. They did not describe the precautions taken to ensure that there had been no change in the condition of the seized item and no opportunity for someone not in the chain to have possession of the same.

Moreover, the prosecution was not able to establish the *fourth* link, or that relating to the turnover and submission of the seized drug from the forensic chemist to the court. In *People v. Andanar*,<sup>32</sup> we held that the following details are required in the stipulation of the forensic chemist's testimony, to wit: (1) that the forensic chemist received the seized article as marked, properly sealed, and intact; (2) that the drug was resealed after examination of the content; and (3) that the forensic chemist placed his or her own marking on the item to ensure that it is not tampered with, pending trial. To be sure, the *fourth* link could not be reasonably established absent any testimony regarding the management, storage, and preservation of the illegal drug after its qualitative examination.<sup>33</sup> In this case, the stipulations on the forensic chemist's testimony are incomplete to remove any doubt on the integrity and evidentiary value of the *shabu* presented to the RTC. At its best, the stipulations merely provide that the forensic chemist possessed the necessary qualifications to examine the seized item, the existence and due execution of the Request for Laboratory Examination, and the Chain of Custody Form. The stipulations are silent on crucial details to demonstrate the condition of the specimen upon her or his receipt, the examination she or he conducted on the specimen, and the measures she or he took in its handling

<sup>31</sup> *People v. Dahil*, 750 Phil. 212, 235 (2015).

<sup>32</sup> G.R. No. 246284, June 16, 2021, <<https://sc.judiciary.gov.ph/20724/>>

<sup>33</sup> *People v. Andanar*, id.

before, during, and after her or his examination. Likewise, there is nothing on record to show the condition of the item upon its turnover to the evidence custodian after examination up to the time it was presented in court. There is also no allegations as to how the evidence custodian handled the seized item. The lack of these vital informations deprived the RTC of the means to ascertain that the evidence presented was not compromised.

We emphasize that the prosecution bears the burden of proof to show valid cause for non-compliance with the procedure laid down in Section 21, Article II of RA No. 9165, as amended. As we have stressed in the recent case of *People v. Sanico*:<sup>34</sup>

[The prosecution] has the positive duty to demonstrate observance thereto in such a way that, during the proceedings before the trial court, it must initiate in acknowledging and justifying any perceived deviations from the requirements of the law. Its failure to follow the mandated procedure 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 item. A stricter adherence to Section 21 is required where the quantity of illegal drugs seized is miniscule since it is highly susceptible to planting, tampering, or alteration.<sup>35</sup> (Citations omitted.)

Corollary to this is the basic rule that the presumption of regularity in the performance of their official duties enjoyed by the law enforcers cannot prevail over the constitutional right of the accused to be presumed innocent. The presumption of regularity is disputable and cannot be regarded as binding truth.<sup>36</sup> Indeed, when the performance of duty is tainted with irregularities, such presumption is effectively destroyed.<sup>37</sup> As the prosecution failed to discharge its burden, the Court finds it apt to acquit Alfie.

**FOR THESE REASONS**, the appeal is **GRANTED**. The Decision dated October 11, 2019 of the Court of Appeals in CA-G.R. CR-H.C. No. 11669 is **REVERSED**. Accused-appellant Alfie Alegre y Mendez is **ACQUITTED** and is **ORDERED IMMEDIATELY RELEASED** from detention unless lawfully held for another cause.

Let entry of judgment be issued immediately.

Let a copy of this Resolution be furnished 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.

<sup>34</sup> G.R. No. 240431, July 7, 2020, <<https://sc.judiciary.gov.ph/13178/>>.

<sup>35</sup> *People v. Sanico*, id.

<sup>36</sup> *Mallillin v. People*, 576 Phil. 576, 593 (2008); and see also *People v. Cañete*, 433 Phil. 781, 794 (2002).

<sup>37</sup> *People v. Dela Cruz*, 589 Phil. 259, 272 (2008).

**SO ORDERED.” (Lazaro-Javier, J., on official business.)**

By authority of the Court:

*Mis DDC Batt*  
**MISAEAL DOMINGO C. BATTUNG III**  
*Division Clerk of Court* *01.16.22*

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