



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **August 3, 2022** which reads as follows:*

“G.R. No. 252694 (*People of the Philippines v. Winefredo Villarba y Tabagan*). — Subject for review in the Appeal before this Court is the conviction of Winefredo Villarba y Tabagan (Winefredo) for violation of Sections 5¹ and 11,² Article II³ of Republic Act (RA) No. 9165.⁴

The antecedents follow.

Winefredo was charged with illegal sale and possession of dangerous drugs under the following Information:

Crim. Case No. RTC 2014-0314 – for violation of Sec. 11, Art. II, [RA] No. 9165 (illegal possession of dangerous drugs)

That on or about May 19, 2014, in the City of Naga, Philippines and within the jurisdiction of [the] Honorable Court, the above-named accused, without authority of law did, then and there, willfully, unlawfully and criminally have in his possession, custody and control **one (1) Commando matchbox with markings DAA-5 05-19-14, containing two (2) small heat-sealed transparent plastic sachets each containing white crystalline substance with the following markings and recorded net weights:**

- 1. D-1 (DAA-5A 5-19-14) = 0.025 grams**
- 2. D-2 (DAA-5B 5-19-14) = 0.026 grams**

¹ Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.

² Possession of Dangerous Drugs.

³ Unlawful Acts and Penalties.

⁴ Comprehensive Dangerous Drugs Act of 2002.

with OVER ALL WEIGHT of 0.051 grams of Methamphetamine Hydrochloride popularly known as “shabu”, a¹ dangerous drug, in violation of [Section 11 of Republic Act No. 9165.]

ACTS CONTRARY TO LAW.⁵

Crim. Case No. RTC' 2014-0315 – for violation of Sec. 5, Art. II, R.A. No. 9165 (illegal sale of dangerous drugs)

That on or about **May 19, 2014**, in the City of Naga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did, then and there, willfully, unlawfully and criminally sell, dispense and deliver **three (3) heat-sealed transparent plastic sachets each containing white crystalline substance with the following markings and recorded net weights: DAA-1 5-19-14 = 0.018 grams, DAA-2 5-19-14 = 0.015 grams and DAA-3 5-19-14 = 0.022 grams with a total weight of 0.055 grams**, to the [*poseur buyer*], which yielded positive for the presence of Methamphetamine Hydrochloride, popularly known as “shabu”, a prohibited drug, in violation of [Section 5 of Republic Action No. 9165.]

ACTS CONTRARY TO LAW.⁶

When arraigned, Winefredo pleaded not guilty to both charges. Trial then ensued.⁷

The prosecution, through the testimonies of Police Senior Inspector (PS/Insp.) Jun Fernandez Malong (PS/Insp. Malong), Police Officer (PO) II Dennis Alferez Altez (PO2 Altez), and Senior Police Officer IV Feliciano B. Aguilar, Jr. (SPO4 Aguilar), established that, in the morning of May 17, 2014, a confidential informant went to the Intelligence Branch Office of Naga City Police Station and reported that Winefredo was engaged in illegal drug activities at Zone 6B, Sampaguita Street, Igualdad, Naga City. PO2 Altez relayed the information to their chief, P/Insp. Eymard Z. Gomez (P/Insp. Gomez), who directed PO2 Altez and PO3 August T. Florece (PO2 Florece) to verify the tip.⁸

Around 7:00 p.m. of the same day, PO2 Altez, PO3 Florece, and the informant went to the target area to conduct surveillance. They stayed in a house near Winefredo's residence and witnessed people, personally entertained by Winefredo, come and go. According to the informant, the people were drug pushers and drug users who transact with Winefredo.⁹

On May 18, 2014, P/Insp. Gomez formed a team to conduct a buy-bust operation. SPO4 Aguilar was designated as team leader, PO2 Altez as *poseur buyer* and arresting officer, PO2 Vivian Relloso (PO2 Relloso) as recorder, PO2 Glenda Berango (PO2 Berango) as photographer, while PO2 Florece,

⁵ CA *rollo*, p. 71.

⁶ Id.

⁷ Id.

⁸ Id. at 72.

⁹ Id.

PO1 Joker Albao (PO1 Albao) and PO1 Jose Manzano, Jr. (PO1 Manzano) as back up and perimeter security. During the briefing, it was agreed that PO2 Altez will transfer his sling bag from his left shoulder to his right shoulder to signal the completion of the transaction. PO2 Altez then photocopied a ₱500-bill with serial number WH919797 to be used as buy-bust money.¹⁰

In the afternoon of the following day, PO2 Altez and the informant proceeded to the target area, while the rest of the team followed and positioned themselves strategically. Before PO2 Altez and the informant reached Winefredo's house, they already met Winefredo. The informant introduced PO2 Altez as a buyer of shabu. PO2 Altez then told Winefredo that he will buy ₱500 worth of shabu. Winefredo went back to his house and returned to give PO2 Altez three (3) small heat-sealed transparent plastic sachets of shabu, which he took from a Commando matchbox. In turn, PO2 Altez handed the buy-bust money to Winefredo, executed the pre-arranged signal, and arrested Winefredo. PO2 Altez then confiscated the Commando matchbox, which contained two (2) more small plastic sachets with shabu. Thereafter, PO2 Altez marked the seized items with his initials and the date: the three (3) sachets bought from Winefredo with, 'DAA-1 5-19-14,' 'DAA-2 5-19-14,' and 'DAA-3 5-19-14;' and the matchbox with 'DAA-5 5-19-14,' and the two (2) small heat-sealed transparent plastic with, 'DAA-5A 5-19-14' and 'DAA-5B 5-19-14.'¹¹

At the place of arrest, an inventory of confiscated items was made in the presence of Winefredo, Domingo Villareal from the Department of Justice, *Barangay Kagawad* Exequiel B. Alamer, and Eutequio Agor of DWKM Radio Station. Pictures were also taken to show the conduct of the inventory.¹²

The team brought the seized articles to the police station where PO2 Altez prepared the Request for Laboratory Examination. Thereafter, PO2 Altez delivered the confiscated items to the Camarines Sur Provincial Crime Laboratory Office. Shortly after, Philippine National Police Forensic Chemist PS/Insp. Malong received the Request for Laboratory Examination and the specimens for examination. PS/Insp. Malong's chemical and confirmatory examination of the specimens yielded positive results for methamphetamine hydrochloride. After his examination, PS/Insp. Malong kept the specimens on his table secured with lock. On the morning of the following day, May 20, 2014, he turned over the specimens to their evidence custodian, PO2 Carlo Canet (PO2 Canet).¹³

For his defense, Winefredo denied the charges and claimed that he was at home on May 19, 2014, when PO2 Altez barged in and then forcibly pulled him outside their house while pointing a gun at him. While he was outside,

¹⁰ Id. at 72--73.

¹¹ Id. at 73.

¹² Id. 73--74.

¹³ Id. at 74--75.

PO2 Altez went back to the house and returned carrying a matchbox.¹⁴ Winefredo's mother, Noemi T. Villarba (Noemi), corroborated Winefredo's narrative.¹⁵ In addition, Noemi alleged that she used to be a police asset, but when she stopped giving information, the police started to threaten her children and implicated them in illegal drug activities.¹⁶

SPO4 Aguilar belied the claims of Noemi and denied that she was never an asset of the police. He never approached Noemi to help them or become their asset. SPO4 likewise denied that the police set up Winefredo because Noemi refused to cooperate with them or become an asset.¹⁷

In its Joint Judgment dated August 14, 2017,¹⁸ the Regional Trial Court (RTC) ruled that Winefredo was caught *in flagrante delicto* in a valid buy-bust operation. PO2 Altez positively identified Winefredo as the seller of shabu, from whom he was able to buy three (3) small heat-sealed transparent plastic sachets of shabu for ₱500.00.¹⁹ After the sale, two (2) more plastic sachets of shabu were recovered from Winefredo.²⁰ Winefredo was sentenced as follows:

WHEREFORE, in view of the foregoing, judgment is hereby rendered as follows:

1. Finding accused **WINEFREDO VILLARBA Y TABAGAN GUILTY beyond reasonable doubt** of violation of Section 5, Article II of Republic Act No. 9165 in Criminal Case No. 2014-0315 and sentencing him to **SUFFER the penalty of life imprisonment** and to **PAY a fine of Five hundred thousand pesos (₱500,000.00)** with accessory penalties as provided in Section 35 of the same Act.
2. Finding accused **WINEFREDO VILLARBA Y TABAGAN GUILTY beyond reasonable doubt** of violation of Section 11, Article II of Republic Act No. 9165 in Criminal Case No. 2014-0314 and sentencing him to **SUFFER the penalty of imprisonment of twelve (12) years and one (1) day, as minimum to fourteen (14) years, as maximum**, and to **PAY a fine of Three [H]undred [T]housand [P]esos (₱300,000.00)** with the same accessory penalties as provided in Section 35 of the same Act.

X X X X

SO ORDERED.²¹

On appeal, Winefredo argued that the prosecution failed to prove delivery of payment for the illegal drugs allegedly sold since PO2 Altez did not state that he paid Winefredo after he was given three (3) plastic sachets of shabu.²² Winefredo also alleged that the search conducted in his house was

¹⁴ Id. at 75–76.

¹⁵ Id. at 76.

¹⁶ Id. at 77.

¹⁷ Id.

¹⁸ Id. 70–83. Penned by Acting Presiding Judge Pablo Cabitan Formaran III.

¹⁹ Id. at 78.

²⁰ Id. at 80.

²¹ Id. at 82–83.

²² Id. at 58–59.

illegal because PO2 Altez did not have a warrant when he entered and searched the house.²³ In effect, any evidence obtained from the illegal search is inadmissible as evidence against Winefredo.²⁴ Moreover, the prosecution failed to establish an unbroken chain of custody considering that PO3 Amelia Nierva Rosaldo (PO3 Rosaldo), who received the seized drugs at the crime laboratory, PO2 Canet, crime laboratory evidence custodian, and PO2 Puresima, from whom PS/Insp. Malong received the specimens for testing, did not testify.²⁵

The People of the Philippines, through the Office of the Solicitor General (OSG), countered that the trial court correctly ruled that all the elements of illegal sale and possession of dangerous drugs are present and have been established by the prosecution beyond reasonable doubt.²⁶ Winefredo was caught *in flagrante delicto* during a buy-bust; thus, his arrest and the subsequent search are legitimate and valid.²⁷ Also, the prosecution adequately established that the chain of custody rule was complied with and that the identity and integrity of the confiscated drugs were preserved.²⁸

On January 28, 2020, the Court of Appeals (CA) sustained Winefredo's conviction.²⁹ The CA explained that PO2 Altez's Affidavit clearly declared that he gave the ₱500.00 buy-bust money to Winefredo in exchange for the three (3) plastic sachets of shabu.³⁰ The CA recognized the conduct of a valid buy-bust operation where Winefredo was caught *in flagrante delicto* selling dangerous drugs. Considering a valid warrantless arrest, the subsequent search that led to the confiscation of two (2) more plastic sachets of shabu is likewise valid, and the evidence is admissible.³¹ PO2 Altez clearly narrated how the buy-bust operation was conducted, which led to the arrest of Winefredo. This account is more credible than that of the defense, especially since there is no showing that PO2 Altez had no improper or ill motive in accusing Winefredo.³² Lastly, the CA held that the integrity and evidentiary value of the illegal drugs were preserved.³³

²³ Id. at 60–61.

²⁴ Id. at 61.

²⁵ Id. at 62–63.

²⁶ Id. at 95–97.

²⁷ Id. at 97–98.

²⁸ Id. at 98–100.

²⁹ *Rollo*, p. 3–18. Decision in CA-G.R. CR-IIC No. 09819. Penned by Associate Justice Ronaldo Roberto B. Martin, with the concurrence of Associate Justices Danton Q. Bueser and Walter S. Ong. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, the instant Appeal is hereby **DENIED**.

The assailed *Joint Judgment* dated 14 August 2017 is **AFFIRMED**.

SO ORDERED.

³⁰ Id. at 11.

³¹ Id. at 11–12.

³² Id. at 13–14.

³³ Id. at 14–17.

Hence, this appeal.³⁴ Winefredo³⁵ and the OSG,³⁶ filed their respective Manifestations that they adopt the allegations made in their Appeal Brief and will no longer file supplemental briefs.

The Appeal is meritorious. We acquit Winefredo due to the prosecution's failure to prove an unbroken chain of custody over the seized drugs.

Successful prosecution of cases involving dangerous drugs requires more than the perfunctory presentation of evidence establishing each element of the crime. It is imperative to prove with moral certainty that the intrinsic worth of the pieces of evidence, especially the identity of the *corpus delicti*, has been preserved. Evidence must show beyond reasonable doubt that the illegal drugs presented in court are the same illegal drugs actually seized from the accused. The rationale behind this stringent requirement is the unique characteristic of illegal drugs that renders 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.³⁷

In this regard, the law provides procedural safeguards to remove any doubt on the identity and integrity of seized drugs under the chain of custody rule. Chain of custody is the duly recorded authorized movements and custody of seized drugs, controlled chemicals, plant sources of dangerous drugs, or laboratory equipment at each stage from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping and to delivery to the court for identification and destruction after court proceedings.³⁸

Specifically, Section 21, Article II of RA No. 9165 outlines the post-seizure procedure to be observed by the apprehending officers for the custody and disposition of the seized drug. The alleged crime, in this case, happened on May 19, 2014, or before the enactment of the amendatory law.³⁹ Hence, the original provision of Section 21 of RA No. 9165⁴⁰ applies.

³⁴ Id. at 19.

³⁵ Id. at 31–33.

³⁶ Id. at 38–40.

³⁷ *People v. Nuarin*, 764 Phil. 550, 557 (2015).

³⁸ Dangerous Drugs Board Regulation No. 1, Series of 2002; *People v. Omamos*, G.R. No. 223036, July 10, 2019.

³⁹ See RA No. 10640 entitled "AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE 'COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002'" approved on July 15, 2014. RA No. 10640 states that it shall "take effect fifteen days after its complete publication in at least two (2) newspapers of general circulation." Verily, a copy of the law was published on July 23, 2014 in the respective issues of "*The Philippine Star*" (Vol. XXVIII, No. 359, *Philippine Star Metro* section, p. 21) and the "*Manila Bulletin*" (Vol. 499, No. 23, *World News* section, p. 6). Hence, RA No. 10640 became effective on August 7, 2014, or before the commission of the crime on February 2, 2006.

⁴⁰ Section 21, Article II of RA No. 9165 provides:

SEC. 21. *Custody and Disposition of Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment* – The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

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.⁴¹

In this case, the records reveal a broken chain of custody. After the seized drugs were marked at the place of arrest, the buy-bust team proceeded to the Naga City Police Station for Winefredo's booking. PO2 Altez's sweeping statement that he remained in the custody of the confiscated drugs from the time of seizure until delivery to the crime laboratory cannot suffice to establish compliance with the chain of custody rule. He failed to show how he handled the seized drug during its transport from the place of arrest to the police station 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 items and no opportunity for someone not in the chain to have possession of the same.

We stress that the chain of custody rule requires the prosecution to establish the movement and custody of the confiscated items. The second link in the chain requires the turnover of the seized drugs 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

(1) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof;

x x x x

This provision is implemented by Section 21(a) Article II of the Implementing Rules and Regulations of RA No. 9165 which states:

SEC. 21. Custody and Disposition of Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. - The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof. *Provided*, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; *Provided, further*, that non-compliance with these requirements under justifiable grounds, as long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending team, shall not render void and invalid such seizures of and custody over said items;

⁴¹ *People v. Bugiong*, 826 Phil. 628, 638-639 (2018)

crime laboratory for testing.⁴² Further, the third link in the chain of custody requires that the movement from the investigating officer to the forensic chemist be established. The prosecution's evidence failed to demonstrate compliance in this regard. PO2 Altez testified that he prepared the Request for Laboratory Examination, signed by PS/Insp. Melvin Manalang Florida, Jr. (PS/Insp. Florida). However, PO2 Altez did not state whether the seized items were turned over to PS/Insp. Florida. PO2 Altez merely claimed that he remained in possession of the articles from the time of seizure. Without a clear specification of the handling of the drugs while at the police station, the chain of custody over the confiscated drugs is deemed breached. Moreover, at the crime laboratory, it was not established who really received the drugs from PO2 Altez. PO3 Rosaldo's name appeared in the Chain of Custody Form as the person who received the drugs from PO2 Altez, however, PO3 Rosaldo did not testify, nor was her non-presentation sufficiently justified by the prosecution witnesses.

Moreover, the prosecution was not able to establish the fourth link in the chain of custody or that relating to the turnover and submission of the seized drug from the forensic chemist to the court. Similar to PO2 Altez, PS/Insp. Malong made sweeping declarations pertaining to his compliance with the chain of custody rule, without providing details as to the condition of the seized drugs upon his receipt, from whom he received them, how he conducted the examination on the specimens, and the particular steps and precautions he took in safekeeping the drugs after examination until their delivery to the court for presentation as evidence. PS/Insp. Malong simply alleged that, after examination, he kept the specimens in a locked drawer before turning them over for safekeeping to their evidence custodian, PO2 Canet. PS/Insp. Malong did not elaborate on the measures he undertook to preserve the identity and integrity of the drugs, that is, whether he placed his own markings, the packaging he used to keep the items or the contents of the drawer in which he placed the drugs. Also, PS/Insp. Malong testified that he retrieved the drugs from a certain PO2 Puresima, instead of PO2 Canet. Notably, both PO2 Canet and PO2 Puresima did not testify on their participation in the handling of the drugs.

The provisions of Section 21, Article II of RA No. 9165 embody the constitutional aim to prevent the imprisonment of an innocent person. The Court cannot tolerate the lax approach of law enforcers in handling the very *corpus delicti* of the crime. While 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.⁴³ Indeed, when the performance of duty is tainted with irregularities, such presumption is effectively destroyed.⁴⁴ All told, Winefredo must be

⁴² *People v. Dahil*, 750 Phil. 212, 235 (2015).

⁴³ *Malillin v. People*, 576 Phil. 576, 593 (2008); and *People v. Cañete*, 433 Phil. 781, 794 (2002).

⁴⁴ *People v. Dela Cruz*, 589 Phil. 259, 272 (2008).

August 3, 2022

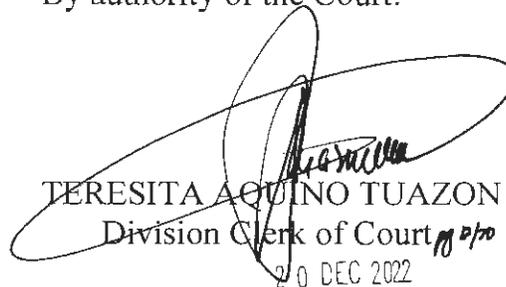
acquitted of the charge against him given the prosecution's failure to prove an unbroken chain of custody.

FOR THESE REASONS, the Appeal is **GRANTED**. The Decision dated January 28, 2020 of the Court of Appeals in CA-G.R. CR-HC No. 09819 is **REVERSED**. Accused-appellant Winefredo Villarba y Tabagan is **ACQUITTED** of the crimes charged on the ground of reasonable doubt and is **ORDERED IMMEDIATELY RELEASED** from detention unless he is being lawfully held for other causes. Let an entry of final 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 **ORDERED** to **REPORT** to the Court within five (5) days from receipt of this Resolution the action he has taken. Copies shall also be furnished to the Police General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

SO ORDERED." (Kho, J., on leave.)

By authority of the Court:



TERESITA AQUINO TUAZON
Division Clerk of Court
20 DEC 2022

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- more -

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THE SUPERINTENDENT (x)
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(Crim. Case Nos. RTC 2014-0314 & RTC 2014-0315)

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