



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 6, 2022, which reads as follows:

“G.R. No. 253091 (*Edwin Patron y Onesta, petitioner v. People of the Philippines, respondent*). — This petition for review on *certiorari* assails the Decision¹ dated September 13, 2019 of the Court of Appeals in CA-G.R. CR No. 40948 affirming the conviction of Edwin Patron y Onesta (Petitioner) for violation of Section 11, Article II of Republic Act No. 9165 (RA No. 9165).²

Proceedings before the Regional Trial Court

In **Criminal Case R-QZN-15-07600-CR**, petitioner was charged with violation of Section 11, as follows:

That on or about the 14th day of August 2015, Quezon City, Philippines, the above-named accused, without authority of law, did then and there willfully, unlawfully and knowingly have in his possession and under his control one (1) heat-sealed transparent plastic sachet containing ZERO POINT ZERO SIX (0.06) gram of white crystalline substance positive to the test for Methamphetamine hydrochloride, a dangerous drug, in violation of law.

CONTRARY TO LAW.³

Also, in **Criminal Case No. R-QZN-15-07601-CR**, petitioner was charged with violation of Section 12 of RA 9165, *viz.*:

That on or about the 14th day of August 2015, in Quezon City, Philippines, the above-named accused, without any authority of law, have in his possession and under his control equipment, instrument, apparatus and other paraphernalia fit or intended for smoking, consuming, administering, injecting, ingesting or introducing any dangerous drug into

¹ Penned by Associate Justice Ruben Reynaldo G. Roxas and concurred in by Associate Justices Samuel H. Gaerlan (now an Associate Justice of the Supreme Court) and Eduardo B. Peralta, Jr., *rollo*, p. 43.

² Otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

³ *Rollo*, pp. 34-35.

the body, to wit: One (1) piece folded aluminum foil and One (1) piece color violet disposable lighter, in violation of law.

CONTRARY TO LAW.⁴

On arraignment, petitioner pleaded “not guilty” to both charges.⁵

Prosecution’s Version

PO2 Glen L. Laron (PO2 Laron) and PO2 Maximo R. Tarape (PO2 Tarape) are members of Station Anti-Illegal Drugs - Special Operation Task Group (SAID-SOTG). On August 14, 2015, around 4:40 in the afternoon, they were conducting surveillance along Maliwanag Street, Quezon City, when petitioner started shouting and challenging people to a fight. They approached petitioner and introduced themselves as police officers.⁶

PO2 Laron then instructed petitioner to empty his pockets. The latter produced a heat-sealed transparent plastic sachet containing crystalline substance which the police officers suspected as shabu. This prompted PO2 Laron to frisk petitioner. After conducting a body search, PO2 Laron retrieved the following: an open transparent plastic sachet with residue of white crystalline substance which he also suspected as shabu, an aluminum foil, and a disposable lighter.⁷

The police officers arrested petitioner and brought him to the police station when people started to gather around the scene. Upon reaching the police station, PO2 Laron marked the heat-sealed transparent plastic sachet as “GLL-EOP-A-08-14-15,” the open plastic sachet as “GLL-EOP-B-08-14-15,” the aluminum foil as “GLL-EOP-C-08-14-15,” and the disposable lighter as “GLL-EOP-D-08-14-15.”⁸ Both the marking and the inventory were done by PO2 Laron in the presence of Kagawad Rodelio Lim. According to the designated investigating officer, PO2 Gragasin, he also tried calling for representatives from the media and the National Prosecution Office but got no response.

PO2 Laron turned over the confiscated items to PO2 Alvin Gragasin, who delivered the seized items to Forensic Chemist PCI Anamelisa S. Bacani (PCI Bacani) in the crime laboratory for examination. PCI Bacani issued Chemistry Report No. D-646-15, confirming that the contents of the heat-sealed plastic sachet and the traces of residue in the open plastic sachet and aluminum foil were all positive for methamphetamine hydrochloride, a

⁴ Id. at 35.

⁵ Id.

⁶ Id. at 35-36.

⁷ Id. at 36.

⁸ Id.

dangerous drug.⁹ She then turned over the seized items to the evidence custodian and subsequently retrieved the same for presentation to the court.

Defense's Version

Petitioner vehemently denied the accusations against him. He claimed that he is a construction worker who had his day-off on August 14, 2015. On even date, he was riding his bicycle along Maliwanag Street, Quezon City, when two (2) persons in civilian clothes approached and introduced themselves as police officers.¹⁰

The police officers informed him that there was a "noise complaint" against him. He was subjected to a body search, but the police officers did not find anything. He was then arrested and detained at the police station. When he underwent inquest proceedings, he learned that he was being charged with drug-related offenses. He admitted in open court that he had been using illegal drugs but stopped three (3) months prior to his arrest.¹¹

The Ruling of the Trial Court

By Decision dated October 6, 2017, the trial court convicted petitioner for violating Section 11 of RA No. 9165; but acquitted him of violation of Section 12 of the same Act. It held that he knowingly possessed the heat-sealed sachet despite not being authorized by law. The trial court, thus, disposed of the case, as follows:

WHEREFORE, premises considered, the Court finds accused EDWIN PATRON Y ONESTA:

- a. For Criminal Case No. 15-07600-CR, GUILTY beyond reasonable doubt for the crime of violation of Section 11[,] Art. II of R.A.[.] 9165. He is hereby sentenced to suffer the penalty of twelve (12) years and one (1) day to fourteen (14) years imprisonment and payment of fine of three hundred thousand pesos (P300,000.00); and
- b. For Criminal Case No. 15-07601-CR, ACQUITTED, for failure of the prosecution to prove his guilt beyond reasonable doubt.

The accused EDWIN PATRON [y] ONESTA is ordered COMMITTED to the National Bilibid Prisons until further orders. The preventive imprisonment undergone by the accused shall be credited in his favor.

⁹ Id.

¹⁰ Id.

¹¹ Id.

Let the illegal drug subject of the instant cases be turned-over to the PDEA for destruction and/or proper disposal, in accordance with the pertinent implementing guidelines of R.A. No. 9165.

SO ORDERED.¹²

The Ruling of the Court of Appeals

On appeal, the Court of Appeals affirmed under its assailed Decision dated September 13, 2019.¹³

The Present Appeal

Petitioner now prays anew for his acquittal. In compliance with the Resolution¹⁴ dated January 25, 2021, petitioner filed his Petition for Review on *Certiorari*¹⁵ while the OSG manifested¹⁶ that it was adopting its *Brief for the Appellee* before the Court of Appeals as its *Comment* on the present petition.

Ruling

We acquit.

Petitioner Edwin Patron y Onesta was charged with Illegal Possession of Dangerous Drugs allegedly committed on August 14, 2015. Thus, RA No. 9165, as amended by RA No. 10640¹⁷ which took effect on August 7, 2014, governs the disposition of this case.

In drug related cases, the burden rests on the State to prove the elements of the offense as well as the *corpus delicti*,¹⁸ which are the dangerous drugs found in the possession of the accused. The prosecution is therefore required to establish that the substance illegally possessed by the accused is the same substance presented in court.¹⁹ Such is the rule due to the unique characteristics of illegal drugs which render them indistinct, not readily

¹² Id. at 37-38.

¹³ Id. at 34-43.

¹⁴ Id. at 129.

¹⁵ Id. at 11-27.

¹⁶ Id. at 134.

¹⁷ 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."

¹⁸ *People v. Calates*, 829 Phil. 262, 269 (2018).

¹⁹ *People v. Galisim*, G.R. No. 231305, September 11, 2019.

identifiable, and easily open to tampering, alteration, or substitution either by accident or otherwise.²⁰

The chain of custody refers to the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of the seized items shall include the identity and signature of the person who held temporary custody thereof, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition. The prosecution, therefore, must establish the following links in the chain of custody:

First, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer;

Second, the turnover of the illegal drug seized by the apprehending officer to the investigating officer;

Third, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and

Fourth, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.

We focus on the *first* and *fourth* links.

The **first link** refers to the seizure and marking which must be done immediately at the place of the arrest. Too, it includes the physical inventory and taking of photograph of the seized drug which should be done in the presence of the accused or his or her representative or counsel, together with an elected public official and a representative of the Department of Justice (DOJ) or the media.

Marking is the placing by the arresting officer or the poseur-buyer of his or her initials and signature on the items after seizure. While the matter of marking of the seized illegal drugs in warrantless seizures is not expressly specified in Section 21, consistency with the chain of custody rule requires that such marking be done (1) in the presence of the apprehended violator and

²⁰ *Jacson v. People*, G.R. No. 199644, June 19, 2019.

(2) *immediately upon confiscation*. This step initiates the process of protecting innocent persons from dubious and concocted searches, on one hand, and of protecting the apprehending officers from harassment suits based on planting of evidence under Section 29 and on allegations of robbery or theft, on the other.²¹

In *People v. Areola, Jr.*,²² the Court emphasized that the immediate marking of the seized illegal drugs is vital because succeeding handlers of the specimens will use the markings as reference. The marking obviates switching, “planting,” or contamination of evidence as it separates the marked evidence from the *corpus* of all other similar or related evidence from the time they are seized from the accused until they are disposed of at the end of criminal proceedings. Failure to immediately mark the seized drugs raises reasonable doubt on the authenticity of the *corpus delicti* and suffices to rebut the presumption of regularity in the performance of official duties.

Here, as correctly pointed out by petitioner, PO2 Laron who handled the seized items failed to mark the same immediately after confiscation. The marking was done only at the police station in direct violation of RA 9165.²³ The prosecution tried to justify the delayed marking, claiming that a number of people were starting to gather at the *situs criminis* after they seized the drugs from petitioner. But this allegation was never established. Nor was it shown that the so called number of people who had gathered at the *situs criminis* posed a threat to the operation.

As the Court reiterated in *People v. Omamos*,²⁴ marking after seizure is the starting point in the custodial link. If the item seized remained unmarked from the time of seizure up until it was brought to the office of the arresting officers, alteration, substitution, or contamination of the seized item could happen. Here, PO2 Laron’s failure to immediately mark the seized items from seizure until the same were brought to their office allowed the possibility of alteration, substitution, and contamination of the illegal drugs.

²¹ *People v. Areola, Jr.*, G.R. No. 251919 (Notice), May 12, 2021.

²² *Id.*

²³ Section 21 (a), Article II of the Implementing Rules and Regulations (IRR) of RA 9165:

x x x x

(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 the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items.

x x x x

²⁴ G.R. No. 223036, July 10, 2019.

Another essential element in the **first link** which is aimed to remove any suspicion of switching, planting, or contamination of evidence, is the requirement that the inventory and taking of photograph be done in the presence of **two (2) witnesses**, namely: **a representative from the media OR the (DOJ), AND any elected public official.**²⁵

As admitted by the prosecution, only Barangay Kagawad Rodelio Lim witnessed the inventory of the seized items. No media or DOJ representative was present. PO2 Gragasin's bare allegation that he tried but did not succeed in securing the presence of a representative from the media and the National Prosecution Office does not justify non-compliance with the two insulating witness rule. In *People v. Buniel*,²⁶ the Court held 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." Also, in *People v. Balbarez*,²⁷ the Court reiterated that "sheer statements of unavailability of the insulating witnesses, without actual serious attempt to contact them, cannot justify non-compliance."

Lastly, the Court notes that PCI Bacani transferred the seized items to the evidence custodian and retrieved them for presentation in court. But the prosecution never identified who the evidence custodian was, much less, present him or her in court to testify on the safeguards he or she employed to ensure that the integrity and evidentiary value of the seized drugs was preserved before he or she turned them over to the trial court.

Indeed, the miniscule quantity of confiscated illicit drugs here demanded stringent conformity with the procedures laid down by RA 9165, as amended, and its implementing rules. Unfortunately, the police officers' attempt at compliance fell short of the requirements of the law. Verily, the unjustified deviation from the chain of custody rule was deemed to have compromised the integrity and identity of the *corpus delicti*.

All told, the prosecution failed to establish an unbroken chain of custody in this case. The integrity and identity of the corpus delicti was not proved to have been properly preserved. Petitioner's acquittal, therefore, is in order.

WHEREFORE, the petition is **GRANTED**. The Decision dated September 13, 2019, of the Court of Appeals in CA-G.R. CR No. 40948 is **REVERSED** and **SET ASIDE**.

²⁵ See Republic Act No. 9165, as amended by Republic Act No. 10640; see also *People v. Santos*, G.R. No. 236304, November 5, 2018; see also *People v. Dela Cruz*, G.R. No. 238212, January 27, 2020.

²⁶ G.R. No. 243796 (Resolution), September 8, 2020, citing *People v. Ramos*, 826 Phil. 981 (2018).

²⁷ G.R. No. 246999 (Resolution), July 28, 2020, citing *Matabilas v. People*, G.R. No. 243615, November 11, 2019.

Petitioner **EDWIN PATRON y ONESTA** is **ACQUITTED** of violation of Section 11, Article II of Republic Act No. 9165. The Court **DIRECTS** the Director General of the Bureau of Corrections, Muntinlupa City to cause the immediate release of Edwin Patron y Onesta from custody unless he is being held for some other lawful case, and to submit his report on the action taken within five (5) days from notice.

Let an entry of judgment immediately issue.

SO ORDERED.”

By authority of the Court:

Mis+Dc Batt
MISAEAL DOMINGO C. BATTUNG III
Division Clerk of Court *per 10-1-22*

Special & Appealed Cases Service
PUBLIC ATTORNEY'S OFFICE
DOJ Agencies Building
East Avenue cor. NIA Road
Diliman, 1104 Quezon City

COURT OF APPEALS
CA G.R. CR No. 40948
1000 Manila

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
Legaspi Village, 1229 Makati City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 228, Quezon City
(Criminal Case Nos. R-QZN-15-07600 to R-QZN-15-07601-CR)

The Director General
BUREAU OF CORRECTIONS
1770 Muntinlupa City

The Superintendent
New Bilibid Prison
BUREAU OF CORRECTIONS
1770 Muntinlupa City

Mr. Edwin Patron y Onesta
c/o The Superintendent
New Bilibid Prison
BUREAU OF CORRECTIONS
1770 Muntinlupa City

PGEN. Rodolfo S. Azurin, Jr.
CHIEF, PHILIPPINE NATIONAL POLICE
National Headquarters
Camp Crame, Quezon City

The Director General
PHILIPPINE DRUG ENFORCEMENT AGENCY
PDEA Bldg., NIA Northside Road
National Government Center
Brgy. Pinyahan, Quezon City

The Chairman
DANGEROUS DRUGS BOARD
3rd Floor DDB-PDEA Bldg.,
NIA Northside Road
National Government Center
Brgy. Pinyahan, Quezon City

PHILIPPINE JUDICIAL ACADEMY
Research Publications and Linkages Office
Supreme Court, Manila
[research_philja@yahoo.com]

PUBLIC INFORMATION OFFICE
Supreme Court, Manila
[For uploading pursuant to A.M. 12-7-1-SC]

LIBRARY SERVICES
Supreme Court, Manila

Judgment Division
JUDICIAL RECORDS OFFICE
Supreme Court, Manila

G.R. No. 253091 *TV*

pp


**(120)
URES**