



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **June 22, 2022** which reads as follows:*

“G.R. No. 253302 (*People of the Philippines v. Jayson Duero y Serrano and John Ernest Villaluz y Bacuño*). — The Court NOTES accused-appellants’ supplemental appeal brief dated July 19, 2021 in compliance with the Resolution dated January 25, 2021. The Court resolves the appeal filed by Jayson Duero y Serrano (Jayson) and John Ernest Villaluz y Bacuño (John) from the July 3, 2019 Decision¹ and June 11, 2020 Resolution² of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09269, which affirmed their conviction for illegal sale and possession of dangerous drugs.

In an Information Jayson and John were charged with violation of Section 5,³ Article II⁴ of Republic Act (RA) No. 9165⁵, to wit:

That on or about 10:30 in the evening of April 9, 2013 at Purok 5, Barangay Camambugan, Municipality of Daet, Province of Camarines Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to gain, conspiring, confederating and mutually helping one another, did then and there, willfully, unlawfully and feloniously sell, trade, administer, dispense, deliver, distribute or transport one (1) piece of heat[-]sealed transparent plastic sachet containing 0.14g of white crystalline substance marked as specimen A-1 which when [*sic*] after qualitative examination conducted on specimen A-1 gave positive result to

¹ CA *rollo*, pp. 130-144. Penned by Associate Justice Gabriel T. Robeniol, with the concurrence of Associate Justices Ramon R. Garcia and Eduardo B. Peralta, Jr.

² CA *rollo*, pp. 192-196. Penned by Associate Justice Gabriel T. Robeniol, with the concurrence of Associate Justices Ramon R. Garcia and Eduardo B. Peralta, Jr.

³ Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.

⁴ Unlawful Acts and Penalties.

⁵ Comprehensive Dangerous Drugs Act of 2002.

the tests for the presence of methamphetamine hydrochloride or shabu, a dangerous drug per Chemistry Report No. D-19-13, without authority of law.

CONTRARY TO LAW.⁶

Jayson was also charged with violation of Section 11,⁷ Article II of RA No. 9165 under the following Information:

That on or about 10:30 in the evening of April 9, 2013 at Purok 5, Barangay Camambugan[,] [M]unicipality of Daet, Province of Camarines Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully, unlawfully and feloniously have in his possession, custody and control two (2) pieces of heat[-] sealed transparent plastic sachets each containing white crystalline substance with marking 'MDD-2 04/9/13' and 'MDD-3' and marked as specimens A and B. The recorded net weights are the following: A - 0.87g and B - 0.03g, which when [*sic*] after qualitative examination conducted on the above specimens gave positive result to the test for the presence of methamphetamine hydrochloride or shabu, a dangerous drug, per Chemistry Report No. D-20-013 without authority of law.

CONTRARY TO LAW.⁸

When arraigned, Jayson and John pleaded not guilty to the charges.⁹ During trial, the prosecution presented Police Chief Inspector (PCI) Grace Gorospe (PCI Gorospe), Intelligence Officer (IO) II Judith Rigo (IO II Rigo), and IO I Manuel David (IO I David).¹⁰ The prosecution witnesses established that, on April 9, 2013, the Philippine Drug Enforcement Agency (PDEA) Provincial Office of Camarines Norte received a report from a confidential informant regarding the illegal drug activities of Jayson and John. Consequently, a buy-bust operation was planned and a team was formed, composed of IO II Rigo, IO I Jaireh Llaguno, Agent David Tan and IO I David, who will serve as the poseur-buyer. The confidential informant, through a phone call with Jayson, arranged a transaction. Jayson agreed to sell ₱7,500.00 worth of *shabu* to the informant's two friends. IO I David was then given one (1) ₱500.00 bill and seven (7) pieces bogus money to be used in the buy-bust.¹¹

Around 10:00 p.m. of the same day, the team and the informant proceeded to the target area at the residence of a certain Apuya in Purok 5, Brgy. Camambugan, Daet, Camarines Norte. After a few minutes of waiting, Jayson and John, accompanied by Expedito Andes, Jr., arrived on board separate motorcycles. Jayson approached the informant, IO II Rigo, and IO I David, and asked the informant, 'sila na ba yan tol?' and the informant nodded

⁶ Records (Crim. Case No. 15610), p. 1.

⁷ Possession of Dangerous Drugs.

⁸ Records (Crim. Case No. 15609), p. 1

⁹ CA *rollo*, p. 96.

¹⁰ *Rollo*, p. 5.

¹¹ TSN, April 1, 2014, pp. 2-6; September 23, 2014, pp. 3-5.

in confirmation. Jayson led them inside the house and went to a room on the second floor. John asked IO I David if they will use the shabu there; IO I David nodded in agreement. John told Jayson, 'labas mo na tol.' Jayson then took out three (3) plastic sachets from the right pocket of his cargo shorts - gave one (1) to John, who placed it on top of a table, one to IO I David, and retained the last plastic sachet.¹²

Thereafter, IO I David instructed the informant to buy cigarettes. Meanwhile, John demanded payment for the drugs. In turn, IO I David handed the buy-bust money to John. Immediately, IO I David grabbed John's hand, while IO II Rigo held Jayson. IO I David and IO II Rigo introduced themselves as PDEA agents and arrested the two accused appellants. IO II Rigo searched Jayson and recovered the plastic sachet he kept. The plastic sachet placed by John on top of the table was also recovered.¹³

After the seizure of the drugs, IO I David took possession of the three (3) plastic sachets and marked them with his initials and the date - "MDD-1 04/9/2013" for the sachet bought from Jayson and John, "MDD-2 04/9/2013" and "MDD-3" for the sachet taken from Jayson and the one (1) placed by John on a table. While at the place of arrest, an inventory¹⁴ was made and photographs¹⁵ were taken in the presence of Barangay Kagawads Robert Paris (Paris) and Romeo Bacuño (Bacuño), and media representative Ricky Pera (Pera). Subsequently, the team brought Jayson and John, and the seized items to the PDEA office, where requests for the examination of the seized drugs were prepared.¹⁶ The confiscated drugs and the requests were then brought by IO I David to the crime laboratory.¹⁷

At the crime laboratory, PCI Gorospe received the seized drugs from IO I David and conducted a qualitative examination, which yielded positive results for methamphetamine hydrochloride.¹⁸ She reduced her finding in Chemistry Report Nos. D-19-13 and D-20-13.¹⁹ Before the trial court, PCI Gorospe identified the plastic sachets marked with "MDD-1 04/9/2013," "MDD-2 04/9/2013," and "MDD-3" as the specimens she examined and tested positive for *shabu*.²⁰

As defense, Jayson denied the accusations against him, and claimed that, on April 9, 2013, he went to the house of his brother-in-law, Apuya. There he asked John to bring his newly repaired motorcycle. John arrived with Andes to deliver Jayson's motorcycle. As Jayson was opening the gate, two men barged in, introduced themselves as PDEA agents, ordered Jayson, John

¹² TSN, April 1, 2014, pp. 8-12; June 4, 2014, pp. 2-3; September 23, 2014, pp. 6-10.

¹³ TSN, April 1, 2014, pp. 12-14; September 23, 2014, pp. 10-12.

¹⁴ Records (Crim. Case No. 15609), p. 171.

¹⁵ Id. at 172-174.

¹⁶ Id. at 167.

¹⁷ TSN, June 4, 2014, pp. 3-4; September 23, 2014, pp. 12-13, 17-23.

¹⁸ *Rolla*, p. 7.

¹⁹ Records (Crim. Case No. 15609), p. 169.

²⁰ *CA rollo*, p. 65.

and Andes to go inside the house, staged the crime scene and arrested them.²¹ For his part, John corroborated Jayson's narration and alleged that there was no conspiracy between him and Jayson for illegal sale of dangerous drugs and that the police officers planted the evidence against them.²²

On December 5, 2016, the Regional Trial Court (RTC), in a Consolidated Judgment, convicted Jayson and John as charged,²³ and sentenced them as follows:

WHEREFORE, premises considered, finding accused **JAYSON DUERO Y SERRANO GUILTY** beyond reasonable doubt for **Violation of Section 11, Article II of R.A. 9165**, he is hereby sentenced to suffer imprisonment from **Twelve (12) years and One (1) day to Fourteen (14) years** and **pay the fine of [P]300,000.00**.

In Crim. Case No. 15610, the prosecution having proven the guilt of both accused beyond reasonable doubt in Crim. Case No. 15610, Accused **JAYSON DUERO Y SERRANO and JOHN ERNEST VILLALUZ Y BACUÑO for Violation of Section 5, Article II of R.A. 9165** said accused are hereby sentenced to suffer each [*sic*] the penalty of **life imprisonment and [P]500,000.00 fine**.

x x x x

SO ORDERED.²⁴ (Emphases in the original)

The RTC found that Jayson and John were arrested *in flagrante delicto* during a valid buy-bust operation. The prosecution proved Jayson and John's roles and overt acts in the initial contact, consummation of the sale, delivery of the illicit drugs, payment for the drugs, as well as illegal possession of shabu. In addition, the integrity and evidentiary value of the drugs have been preserved despite the absence of a representative from the Department of Justice (DOJ) during the inventory since the presence of the other witnesses satisfied the procedural requirements of the law and safeguarded the *corpus delicti*.

On appeal,²⁵ Jayson and John claimed that the plastic sachet allegedly bought from them was inadmissible as evidence because the sachet itself was unmarked. The poseur-buyer, IO I David, knew that the plastic sachet he bought had another plastic sachet inside, but he did not mark the inner plastic sachet.²⁶ PCI Gorospe confirmed that the specimen she received was a plastic sachet with marking 'MDD-1,' which contained an unmarked plastic sachet with white crystalline substance.²⁷ Given the inadmissibility of the drugs allegedly bought from Jayson and John, the sachets subsequently confiscated

²¹ Id. at 180-185; TSN, March 24, 2015, pp. 5-16.

²² Id. at 199-204; TSN, July 22, 2015, pp. 2-7.

²³ Id. at 64-75.

²⁴ Id. at 75.

²⁵ Docketed as CA-G.R. CR No. 09269.

²⁶ CA *rollo*, p. 41.

²⁷ Id. at 38-39.

from them are also inadmissible as evidence. Moreover, Jayson and John raised inconsistencies in the testimonies of the prosecution witnesses with regard to the phone call made by the informant with Jayson to arrange the transaction, the mode of transportation used by Jayson and John upon arrival at the target area, the number of sachets seized from Jayson and the time of the pre-arranged signal.

In a Decision dated July 3, 2019,²⁸ the CA affirmed the conviction of Jayson and John. The CA held that a valid buy-bust operation was established by the prosecution. The alleged inconsistencies in the testimonies of IO II Rigo and IO I David are minor and inconsequential and did not undermine their credibility. Their testimonies clearly established who sold the illicit drugs, who delivered the drugs, and who accepted the payment. The CA likewise ruled that the confiscated drugs were properly marked. The CA was convinced that IO I David ‘exercised judgment well. He marked the specimen as he seized it without manipulating the manner by which it was packaged, *i.e.*, with a double plastic sachet.’ The marking made by IO I David served the purpose of maintaining the integrity of its contents. The chain of custody over the confiscated drugs was not compromised.²⁹ Jayson and John moved for reconsideration,³⁰ but was denied.³¹

Hence, this Appeal.³² The People of the Philippines, through the Office of the Solicitor General, filed a Manifestation and Motion (in Lieu of Supplemental Brief)³³ manifesting that it will no longer file a supplemental brief. On the other hand, Jayson and John, in their supplemental brief averred that the seized drugs were compromised when no DOJ representative was present during the inventory and photography of the seized dangerous drugs.³⁴

The appeal is meritorious.

²⁸ *Rollo*, pp. 3-17. Penned by Associate Justice Gabriel T. Robeniol, with the concurrence of Associate Justices Ramon R. Garcia and Eduardo B. Peralta, Jr.

²⁹ *Id.* at 10-16.

WHEREFORE, the appeal is DENIED. The *Consolidated Judgment* dated December 5, 2016 of the Regional Trial Court of Daet, Camarines Norte, Branch 38, in Criminal Case Nos. 15609-15610, is **AFFIRMED in toto**.

SO ORDERED. (Emphases in the original)

³⁰ *CA rollo*, pp. 146-170.

³¹ *Id.* at 192-193. The CA, in its June 11, 2020 Resolution, resolved Jayson and John’s motion for reconsideration as follows:

Accused-appellants *Motion* is unimpressive.

A perusal of the said *Motion* reveals no new cogent or plausible justification for a reversal, much less a modification, of the assailed *Consolidated Judgment*. The contentions relied upon therein by the accused-appellants were already settled and put to rest by the Court. Accordingly, accused-appellants’ *Motion* fails to convince.

WHEREFORE, accused-appellants Jayson Duero y Serrano and John Ernest Villaluz y Bacuño’s *Motion for Reconsideration* is **DENIED** for lack of merit. x x x

SO ORDERED. (Emphases in the original)

³² *Rollo*, p. 18-19.

³³ *Id.* at 28-31

³⁴ *Id.* at 41-52.

We acquit on the ground of the prosecution's failure to prove that the apprehending team complied with the mandatory chain of custody requirements under Section 21 of RA No. 9165 resulting in serious doubts as to the identity of the *corpus delicti*.

For prosecutions involving dangerous drugs, the dangerous drug itself constitutes the *corpus delicti* of the offense, and its existence is vital to sustain a judgment of conviction beyond reasonable doubt. Like the elements of the offense charged, the identity of the dangerous drugs must be established with moral certainty.³⁵ The prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.³⁶ The movement and custody of the seized drugs must be satisfactorily established 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.³⁷ Here, the records reveal a broken chain of custody.

Notably, the alleged crime happened before RA No. 9165 was amended by RA No. 10640. Section 21 of the original law reads in part as:

Section 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:

(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[.] (Emphasis supplied)

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

SECTION 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, x x x so

³⁵ *People v. De Guzman*, 825 Phil. 43, 53 (2018).

³⁶ *People v. De Dios*, G.R. No. 243664, January 22, 2020.

³⁷ *People v. Bugtong*, 826 Phil. 628, 638-639 (2018)

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 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[.]** (Emphases supplied)

In this case, the prosecution failed to prove material details pertaining to the handling of the seized items and whether the apprehending team and the crime laboratory personnel undertook precautionary measures to ensure the integrity and identity of the seized items in compliance with the chain of custody requirements. Anent the first link in the chain of custody, while the items were marked immediately after seizure and arrest and an inventory was made, the mandatory insulating witnesses under the law is incomplete. Under RA No. 9165, three (3) witnesses are required: (1) a representative from the media, (2) a representative from the DOJ; and (3) any elected public official. Here, the post-seizure activities done by the buy-bust team were witnessed by Barangay Kagawads Paris and Bacuño, and media representative Pera. Notably, no DOJ representative was present. The prosecution failed to proffer a justifiable reason for the failure to secure the presence of the required witnesses or a showing of any genuine and sufficient effort to secure their attendance. The prosecution witness altogether did not mention the incompleteness of the required witnesses during trial. Verily, there was no indication that the apprehending officers exerted genuine efforts to secure the presence of a representative from the DOJ, or that their efforts failed.

The second link in the chain of custody 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.³⁸ Further, the third link in the chain of custody requires that the movement from the investigating officer to the forensic chemist be established. Here, there are marked irregularities in the second and third links of the chain of custody. IO I David failed to show how he handled the seized drugs during their transport from the place of arrest to the PDEA provincial office until they were

³⁸ *People v. Dahil*, 750 Phil. 212, 235 (2015).

delivered and turned over to the forensic chemist at the crime laboratory. There was no turnover to an investigating officer. Thus, 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 prosecution bears the positive duty to initiate 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.³⁹

Finally, 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 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.⁴⁰ Indeed, when the performance of duty is tainted with irregularities, such presumption is effectively destroyed.⁴¹ All told, Jayson and John must be acquitted of the charge against them given the prosecution's failure to prove an unbroken chain of custody.

FOR THESE REASONS, the appeal is **GRANTED**. The Decision dated July 3, 2019 and Resolution dated June 11, 2020 of the Court of Appeals in CA-G.R. CR-HC No. 09269 are **REVERSED** and **SET ASIDE**. Accused-appellants Jayson Duero y Serrano and John Ernest Villaluz y Bacuño are **ACQUITTED** of the crimes charged on the ground of reasonable doubt and are **ORDERED IMMEDIATELY RELEASED** from detention unless they are being lawfully held for other causes.

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 the action he has taken within five (5) days from receipt of this Resolution.

Let an entry of final judgment be issued immediately.

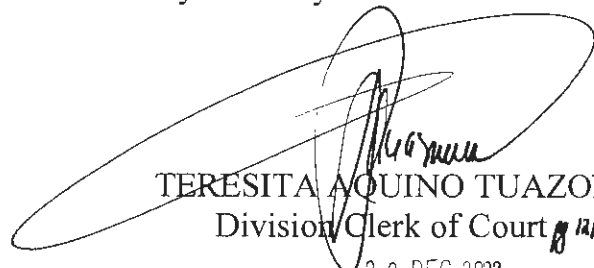
³⁹ *People v. Padua*, G.R. No. 239781 (Resolution), February 5, 2020; citing *People v. Sipin*, 833 Phil 67, 92 (2018).

⁴⁰ *Malillin v. People*, 576 Phil. 576, 595 (2008); and *People v. Cañero*, 433 Phil. 781, 794 (2002).

⁴¹ *People v. Dela Cruz*, 589 Phil. 259, 272 (2008).

SO ORDERED.”

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court *12/20*
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