



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **July 6, 2022** which reads as follows:*

“G.R. No. 256260 (People of the Philippines, plaintiff-appellee v. Mark Anthony Cuchay Nido and Chester Claudio y Macapagal, accused; Chester Claudio y Macapagal, accused-appellant). — This Court resolves an appeal pursuant to a Notice of Appeal filed by accused-appellant Chester Claudio y Macapagal (*Claudio*) assailing the Decision¹ dated November 19, 2020 of the Court of Appeals (*CA*) in CA-G.R. CR-HC No. 12396 affirming the conviction of Claudio for violation of Sections 5, 11, and 12 of Republic Act (*R.A.*) No. 9165 or the Comprehensive Dangerous Drugs Act of 2002.

The Antecedents

The facts, as culled from the CA Decision, are as follows:

On September 2, 2014, six separate Informations were filed against Claudio and his co-accused Anthony Cuchay Nido (*Nido*), to wit:

Criminal Case No. 7473-V-2014

The undersigned accuses MARK ANTHONY CUCHAY NIDO and CHESTER MACAPAGAL CLAUDIO of the crime of Violation of Article II, Section 5 of R.A. No. 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002,” committed as follows:

That on or about the 1st of day of September, 2014, in the City of Vigan, Province of Ilocos Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping each other, without having been duly authorized by law, did then and there knowingly, willfully, unlawfully and feloniously sell and deliver to a poseur buyer 0.1033 gram and 0.1045 gram respectively, more or less of Methamphetamine Hydrochloride otherwise known as “SHABU”, a dangerous drug.

Contrary to law.²

¹ Penned by Associate Justice Danton Q. Bueser, with Associate Justices Geraldine C. Fiel-Macaraig and Tita Marilyn B. Payoyo-Villordon, concurring: *rollo*, pp. 4-28.

² Records (Crim Case No. 7473-V-2014), p. 1.

x x x x

Criminal Case No. 7474-V-2014

The undersigned accuses CHESTER M. CLAUDIO and MARK ANTHONY CUCHAY NIDO of the crime of Violation of Section 12 of Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002", committed as follows:

That on or about the 1st day of September, 2014, in the City of Vigan, Province of Ilocos Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping each other, without having been duly authorized by law, did then and there knowingly, willfully, unlawfully and feloniously have in their joint possession one (1) pc. Improvised tooter, one (1) lighter, one (1) scoop and one (1) clip used for repacking and one (1) rolled foil, fit or intended in consuming and administering dangerous drugs.

Contrary to law.³

x x x x

Criminal Case No. 7475-V-2014

The undersigned accuses CHESTER MACAPAGAL CLAUDIO of the crime of violation of Section 11 of Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002", committed as follows:

That on or about the 1st day of September, 2014, in the City of Vigan, Province of Ilocos Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without having been duly authorized by law, did then and there knowingly, willfully, unlawfully and feloniously have in his possession, control and custody twenty (20) heat-sealed transparent plastic sachets respectively containing, more or less, 0.1034 gram, 0.0930 gram, 0.0857 gram, 0.0737 gram, 0.0830 gram, 0.0935 gram, 0.0954 gram, 0.0990 gram, 0.0770 gram, 0.1097 gram, 0.1129 gram, 0.1182 gram, 0.1134 gram, 0.1014 gram, 0.0948 gram, 0.1188 gram, 0.1152 gram, 0.1021 gram, 0.1049 gram, and 0.0985 gram of Methamphetamine Hydrochloride, otherwise known as "SHABU" a dangerous drugs (sic).

Contrary to law.⁴

x x x x

Criminal Case No. 7476-V-2014

That on or about 1st day of September, 2014, in the City of Vigan, Province of Ilocos Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without having been duly authorized by law, did then and there knowingly, willfully, unlawfully and feloniously use Methamphetamine Hydrochloride otherwise known as "SHABU", a dangerous drug"⁵

³ Records (Crim. Case No. 7474-V-2014), p. 1.

⁴ Records (Crim. Case No. 7475-V-2014), p. 1.

⁵ *Rollo*, p. 6

per

x x x x

Criminal Case No. 7477-V-2014

That on or about the 1st day of September, 2014, in the City of Vigan, Province of Ilocos Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without having been duly authorized by law, did then and there knowingly, willfully, unlawfully and feloniously have in his possession, control and custody two (2) heat-sealed transparent plastic sachets respectively containing, more or less, 0.1028 gram, and 0.1052 gram of Methamphetamine Hydrochloride otherwise known as "SHABU", a dangerous drugs (sic).⁶

x x x x

Criminal Case No. 7478-V-2014

That on or about the 1st day of September, 2014, in the City of Vigan, Province of Ilocos Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-names accused, without having been duly authorized by law, did then and there knowingly, willfully, unlawfully, and feloniously have in his use Methamphetamine Hydrochloride, otherwise known as "SHABU", a dangerous drug (sic).⁷

Acting upon the above Informations, the Regional Trial Court, Branch 20 of Vigan City, Ilocos Sur (*RTC*), in its Order⁸ dated September 8, 2014, found probable cause and issued a Commitment Order⁹ on even date. The prosecution moved for the consolidation of all the cases before the *RTC*, which was granted in its Order¹⁰ dated November 24, 2014.

During the scheduled arraignment, Claudio and Nido entered a plea of not guilty. Pre-trial was conducted and a Pre-Trial Order dated October 7, 2015 was issued. Trial then ensued.¹¹

The prosecution presented the following as its witnesses: Police Senior Inspector Maria Theresa Amor C. Manuel (*PSI Manuel*), Police Officer 3 Jose Bucasas (*PO3 Bucasas*), who is the evidence custodian at the Regional Crime Laboratory Office (*RCLO*) located at San Fernando City, La Union, Police Officer 1 Jaybert Almondia (*PO1 Almondia*), Senior Police Officer 1 Amado Somera, Jr. (*SPO1 Somera*), Agent Rechie Camacho (*Agent Camacho*) and Senior Police Officer 1 Chester Dandin (*SPO1 Dandin*). The defense, on the other hand, presented Nido and Claudio as its witnesses.¹²

⁶ *Id.* at 7.

⁷ *Id.*

⁸ Penned by Judge Marita B. Bailloquing; records (Crim Case No. 7473-V-2014), p. 16.

⁹ *Id.* at 17.

¹⁰ *Id.* at 34.

¹¹ *Rollo*, pp. 7-8.

¹² *Id.* at 8.

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The prosecution established that Nido, a resident of *Barangay IX*, Vigan City, and Claudio, a resident of *Barangay VIII*, Vigan City, were listed as number 5 and 6, respectively, in the Provincial Level Watch List of Drug Personalities in Vigan City, and that they were both known to be actively engaged in selling illegal drugs, particularly methamphetamine hydrochloride or *shabu*.¹³

Knowing the identities and place of residence of the two individuals, the Philippine National Police (*PNP*) assigned at Vigan City Police Station and the Philippine Drug Enforcement Agency (*PDEA*) Ilocos Sur Sector Special Enforcement Team 1 (*ISSET 1*) conducted a week-long surveillance on Claudio and Nido in order to determine their latest activities, including their place of operation, contact persons, armaments and mobile capacity. It was during this surveillance that they were able to determine that Claudio was using a Mitsubishi Lancer, dark violet in color, bearing the plate number PJV 970, in his illegal drug operations within Vigan City. A civilian agent was then assigned to monitor the two individuals and gather more information.¹⁴

On September 1, 2014, sometime in the morning, members of the PNP Vigan City received a report from the civilian agent that Nido and Claudio were selling *shabu* in *Barangay V*. The police officers met with the civilian agent around noon on that day and was able to confirm that Nido and Claudio had agreed to meet the civilian agent along Gov. E. Reyes St., *Barangay V*, Vigan City in order to sell illegal drugs.¹⁵

Having previously coordinated with PDEA ISSET 1, PO1 Almondia prepared a ₱1,000.00 bill, marked with his initials to be used as buy-bust money. Claudio agreed to meet with the civilian agent along Gov. E. Reyes St., within 10 minutes from their phone call. A short briefing was conducted by the buy-bust team, wherein PO1 Almondia was designated as the poseur-buyer and they agreed that he would remove his cap as soon as the transaction was done.¹⁶

SPO1 Somera, SPO1 Dandin, PO3 Reoliquio, and Agent Camacho, who are the other members of the buy-bust team, pre-positioned themselves at the agreed place ahead of PO1 Almondia and the civilian agent who followed on board a motorcycle. Around 12:15 p.m. SPO1 Somera and Agent Camacho spotted the vehicle of Claudio coming from the west of Gov. E. Reyes Street. The said vehicle stopped at the corner where PO1 Almondia and the civilian agent were waiting.¹⁷

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* at 8-9.

¹⁶ *Id.* at 9.

¹⁷ *Id.*

PO1 Almondia and the civilian agent approached the vehicle driven by Claudio, and PO1 Almondia was able to confirm that the persons inside the vehicle were Claudio and Nido. PO1 Almondia handed to Claudio the buy-bust money, which the latter received. Thereafter, Claudio took out two pieces of heat-sealed plastic sachets containing some white crystalline substance from his right pocket and handed them over to PO1 Almondia. After evaluating the contents of the two heat-sealed plastic sachets as consistent with what he suspected to be *shabu*, PO1 Almondia then took off his cap to alert the back-up operatives that a sale had been consummated.¹⁸

When the rest of the team saw PO1 Almondia execute the pre-arranged signal, they immediately approached him and the vehicle to assist. When Claudio and Nido noticed the buy-bust team's vehicle approaching, the two tried to escape using their vehicle, but they were blocked by the team and subsequently apprehended.¹⁹

SPO1 Somera and Agent Camacho approached the vehicle of the suspects and asked them to alight. PO1 Almondia then effected the arrest of both Claudio and Nido and informed them of their rights. PO1 Almondia marked the two pieces of heat-sealed transparent plastic sachets that he confiscated from Claudio by affixing his signature and initials "A1 JRA-09-01-14" and "A2 JRA-09-01-14" on them.²⁰

SPO1 Somera also did a body search on Claudio to determine the presence of deadly weapons. He then recovered from Claudio the marked buy-bust money and 20 pieces of heat-sealed transparent plastic sachets containing white crystalline substances, suspected to be *shabu*. SPO1 Somera marked the items he recovered by placing his initials "C1-AES 09-01-14" to "C20-AES 09-01-14" with his signatures on the sachets.²¹

Agent Camacho did the same to Nido and was able to recover two heat-sealed transparent plastic sachets containing white crystalline substances, which he suspected to be *shabu*. He likewise marked the seized items with his initials "B1 09-01-14 RQC" and "B2 09-01-14 RQC" with his signatures on the sachets.²²

Meanwhile, inside the vehicle used by Claudio and Nido, SPO1 Somera allegedly saw in plain sight what he suspected to be drug paraphernalia. They recovered one improvised glass tooter with residue, one vial containing liquid substances, one scoop and one clip which they suspect as being used for repacking, one roll aluminum foil, and one piece lighter. SPO1 Somera

¹⁸ *Id.*

¹⁹ *Id.* at 9-10.

²⁰ *Id.* at 10.

²¹ *Id.*

²² *Id.*

marked the said items with his initials “D1-AES 09-01-14” to “D5-AES 09-01-14,” all with his signature.²³

The markings and documentation of the items recovered from Claudio and Nido were done at the place of arrest and were witnessed by *Barangay* Chairman Leonardo Donato (*Chairman Donato*), Glenn Tulas (*Tulas*) from the Department of Justice (*DOJ*), and Fernando Berina (*Berina*) of Bombo Radyo Vigan²⁴ as a representative from the media. SPO1 Dandin was the one who prepared the inventory of the items,²⁵ duly signed by the witnesses present, while it was PO3 Reoliquio who took photographs of the operation. After that, Nido and Claudio were brought to the police station for further investigation and were subjected to medico-legal examination by the Vigan City Health Office.²⁶

SPO1 Somera, PO1 Almondia, Agent Camacho, all having been in custody of the items they recovered from Claudio and Nido, personally brought the items seized to the Regional Crime Laboratory Office (*RCLO*) in San Fernando City, La Union, and requested that a laboratory examination be done on the said items. Both Claudio and Nido were taken to the RCLO for drug testing, where it was determined after a screening test that the urine sample that they provided gave a positive result for *shabu*.²⁷

Qualitative and quantitative examinations were conducted on the seized items brought to the RCLO. Based on the initial laboratory report issued by the forensic chemist, PSI Manuel, the specimens yielded positive results for *shabu*, save for the one vial with liquid substances, which was for further analysis.²⁸

During the prosecution’s presentation of evidence, both parties agreed to stipulate on the testimonies of PO3 Bucasas and SPO1 Somera. On January 31, 2018, the prosecution made an oral formal offer of their evidence. All the evidence was admitted by the RTC in its Order²⁹ on even date.

On the other hand, instead of presenting his evidence, Nido opted to file a Motion to Dismiss by Way of Demurrer to Evidence without leave of court. However, the trial court merely noted the said motion and decided not to act upon the same on two grounds; *first*, because it was filed beyond the prescribed period of filing, and *second*, because the motion was not set for hearing.³⁰

²³ *Id.*

²⁴ Records (Crim Case No. 7473-V-2014), p. 13.

²⁵ *Id.*

²⁶ *Rollo*, p. 11.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.* at 12.

Both of the accused, thereafter, filed a motion to allow them to enter into a plea bargaining. The prosecution opposed the same. The RTC, in its Resolution dated August 14, 2018, disapproved the motion and directed the defense to present their evidence.³²

On the part of the defense, Claudio and Nido denied the charges against them and averred that at around 12:15 p.m. on September 1, 2014, Nido was on board Claudio's vehicle and they had just come from the house of a certain Cabotaje in Pagpartian, Vigan City, where they bought fighting cocks. They were surprised when suddenly a police mobile patrol car suddenly cut them and blocked their way. Police officers alighted from the patrol car, pointed their guns toward Claudio and Nido, asked them to get out of their vehicle, and to drop down facing the ground.³³ After doing as instructed, Claudio claimed that the police officers searched his vehicle, and then produced several sachets of *shabu*.³⁴ Claudio stated, however, that he did not actually see any police officer place illegal items in his car.³⁵

Claudio recalled that it was only about after 30 minutes that the members of the *barangay* arrived. He likewise claimed that PO1 Almondia arrived at the scene only after the police officers arrived. Additionally, Claudio claimed that he knew the police officers, particularly naming SPO1 Somera, Agent Camacho, SPO1 Dandin, and PO1 Almondia. He mentioned that he was familiar with them because the police station was near their house and that he was previously implicated in a homicide case of a chief *tanod* of their *barangay*. Claudio surmises that it was the reason why he was also being implicated in the alleged selling of dangerous drugs.³⁶

After the examinations of Claudio and Nido were terminated and with no documentary or object evidence to formally offer, the defense rested its case. There being no rebuttal evidence from the prosecution, the case was then deemed submitted for decision.³⁷

In its Decision³⁸ dated December 3, 2018, the RTC found Claudio guilty beyond reasonable doubt for all the offenses charged against him, except for the charge for violation of Section 15 of R.A. No. 9165.³⁹ Nido was only found guilty of illegal possession of dangerous drugs in Criminal Case No. 7477-V-2014 and acquitted for the rest of the charges, to wit:

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ Records (Crim Case 7473-V-2014), p. 189.

³⁶ *Rollo*, pp. 12-13.

³⁷ *Id.* at 13.

³⁸ Penned by Judge Marita Bernales Balloquing; records (Crim Case 7473-V-2014), pp. 173-202.

³⁹ Under the last sentence of paragraph 15 of R.A. No. 9165, Section 15 shall not be applicable where the person tested is also found to have in his/her possession such quantity of any dangerous drug provided for under Section 11 of this Act, in which case the provisions stated therein shall apply.

WHEREFORE, in view of the foregoing disquisitions, judgments are hereby rendered as follows:

In Criminal Case No. 7473-V-2014

The accused CHESTER MACAPAGAL CLAUDIO is declared **GUILTY beyond reasonable doubt** of violating Section 5 of R.A. 9165. Accordingly, he is sentenced to suffer LIFE IMPRISONMENT and to pay a fine of Five Hundred Thousand Pesos ([P]500,000.00).

Based on reasonable doubt, the accused MARK ANTHONY CUCHAY NIDO is **ACQUITTED**.

In Criminal Case No. 7474-V-2014

The accused CHESTER MACAPAGAL CLAUDIO is likewise found **GUILTY beyond reasonable doubt** for violating Section 12 of R.A. 9165. Accordingly, he is sentenced to suffer the indeterminate penalty of SIX (6) MONTHS and ONE (1) DAY to TWO (2) YEARS and to pay a fine of [P]20,000.00 without subsidiary imprisonment in case of insolvency.

Due to **reasonable doubt**, the accused MARK ANTHONY CUCHAY NIDO is **ACQUITTED** of the offense charged.

In Criminal Case No. 7475-V-2014

The accused CHESTER MACAPAGAL CLAUDIO is hereby **CONVICTED** of the offense charged. Thus, he is sentenced to suffer the indeterminate penalty of TWELVE (12) YEARS and ONE (1) DAY as minimum to FOURTEEN (14) years as maximum, and to pay a fine of Three Hundred Thousand Pesos ([P]300,000.00) without subsidiary penalty in case of insolvency.

In Criminal Case No. 7477-V-2014

The accused MARK ANTHONY CUCHAY NIDO is **CONVICTED** of the offense charged and thus sentenced to suffer the indeterminate penalty of TWELVE (12) YEARS and ONE (1) DAY as minimum to FOURTEEN (14) years as maximum, and to pay a fine of Three Hundred Thousand Pesos ([P]300,000.00) without subsidiary penalty in case of insolvency.

Criminal Cases Nos. 7476-V-2014 and 7478-V-2014

These charges are **DISMISSED** pursuant to the last portion of Section 15 of Republic Act 9165.

All the illegal items – object evidence (methamphetamine hydrochloride and drug paraphernalia) indicated respectively in the Informations under Criminal Cases Nos. 7473, 7474, 7475 and 7477 and offered in evidence are forfeited for proper disposal by the PDEA.

The PDEA Ilocos Sur Office is directed to receive the said items from the Branch Clerk of Court within ten days from notice. The OIC-Branch Clerk of Court is ordered to notify PDEA Ilocos Sur.

Pursuant to OCA Circular 85-2017, let a copy of this Joint-Decision be furnished to the NATIONAL BUREAU OF INVESTIGATION in Manila. Also furnish the PNP and PDEA Provincial Offices with copies of this Joint Decision.

The Branch Clerk of Court is directed to prepare the MITTIMUS.

SO ORDERED.³⁹

Only Claudio filed his Notice of Appeal dated December 19, 2018. This Notice, together with a motion for exemption from payment of docket and other fees, were both granted by the trial court in separate Orders both dated December 20, 2018.⁴⁰

In the assailed Decision, the CA ruled that there was no compelling reason to deviate from the RTC's finding that Claudio's violations of Sections 5, 11, and 12 of R.A. No. 9165 were sufficiently proven by the prosecution beyond reasonable doubt. The dispositive portion stated thus:

WHEREFORE, premises considered, the instant appeal is hereby **DENIED**. The Decision dated December 3, 2018 rendered by the Regional Trial Court, Branch 20, Vigan City, Ilocos Sur, in Criminal Case Nos. 7473-V-2014, 7474-V-2014, 7475-V-2014 and 7477-V-2014 is hereby **AFFIRMED** in **TOTO**.

SO ORDERED.⁴¹

In a Resolution⁴² dated January 6, 2021, the CA gave due course to the Notice of Appeal filed by Claudio through the Public Attorney's Office.

In a Resolution⁴³ dated July 5, 2021, this Court notified the parties that they may file their Supplemental Briefs, if so desired, within 30 days from notice.⁴⁴ On November 10, 2021, Claudio filed a Manifestation in Lieu of Supplemental Brief,⁴⁵ adopting all the allegations and arguments in their Appellant's Brief. The Office of the Solicitor General (*OSG*) filed a similar Manifestation⁴⁶ on February 7, 2022 to avoid a repetition of arguments.

³⁹ Records (Crim Case 7473-V-2014), pp. 201-202.

⁴⁰ *Rollo*, pp. 14-15.

⁴¹ *Id.* at 27.

⁴² *Id.* at 32.

⁴³ *Id.* at 35.

⁴⁴ *Id.*

⁴⁵ *Id.* at 49-51.

⁴⁶ *Id.* at 38.

Issues

I.

Whether the elements for the illegal sale of dangerous drugs under Section 5 of R.A. No. 9165 were proven beyond reasonable doubt;

II.

Whether the elements for the illegal possession of dangerous drugs under Section 11 of R.A. No. 9165 were proven beyond reasonable doubt;

III.

Whether the elements for illegal possession of drug paraphernalia under Section 12 of R.A. No. 9165 were proven beyond reasonable doubt;

IV.

Whether the two-witness requirement under R.A. No. 9165, as amended by R.A. No. 10640, was met; and

V.

Whether the prosecution complied with the rules on the chain of custody.

Our Ruling

The elements for the illegal sale of dangerous drugs were established beyond reasonable doubt.

R.A. No. 9165 prohibits the sale of dangerous drugs and provides the penalties for violations thereof. It states thus:

SECTION 5.

Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos ([P]500,000.00) to Ten million pesos ([P]10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

Case law provides that in order to properly secure the conviction of an accused charged with illegal sale of dangerous drugs, the prosecution must

prove the following elements: (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.⁴⁷

Both elements have been duly established in this case. As found by the CA, PO1 Almondia, who acted as the poseur-buyer, categorically identified Claudio as the one who sold him illegal drugs worth ₱1,000.00. The direct testimony of PO1 Almondia states:

(PO1 Almondia, directly examined by Pros. Duldulao)

Q: And in the course of your testimony, you mentioned about buying of two heat sealed transparent plastic sachet each of it containing white crystalline substance from the accused?

A: Yes, ma'am.

Q: My question now is, who between the accused did you receive these two heat sealed transparent plastic sachets?

A: Chester Macapagal Claudio, ma'am.⁴⁸

This narration was corroborated by the testimonies of SPO1 Somera and Agent Camacho.

Agent Camacho, who was part of the back-up operatives, confirmed that it was only accused-appellant who transacted with PO1 Almondia, the poseur-buyer:

(Agent Camacho, cross-examined by Atty. Florentino)

Q: Who was the driver of the vehicle?

A: Chester Claudio, Sir.

Q: You are telling me that only Chester Cludio was the only one who transacted with Almondia?

A: Yes Sir.

x x x x

Q: So there was only one presumption of transaction?

A: Yes, sir.

Q: Who found the buy-bust money?

A: It was SPO2 Amado Somera, sir.⁴⁹

⁴⁷ *People v. Cabrellos*, 837 Phil. 428, 438 (2018). (Citation omitted).

⁴⁸ TSN, August 30, 2017, p. 2.

⁴⁹ TSN, December 20, 2017, pp. 6-7, and 9.

PO1 Somera, also one of the members of the buy-bust team, testified that he conducted a bodily search on accused-appellant immediately after his arrest. He testified that he was able to recover the buy-bust money, as well as twenty (20) pieces of heat-sealed plastic sachets containing white crystalline substance on his right front pocket.⁵⁰

This Court concurs with the findings of the CA which affirmed, *in toto*, the findings of the RTC that accused-appellant was caught *in flagrante delicto* selling *shabu* to PO1 Almondia, an undercover police officer, since there is no reason to disbelieve their disclosures.⁵¹ Police officers Almondia and Somera narrated their facts in unison with PDEA agent Camacho which elaborated on the details of the buy-bust operation.

Addressing the defense's bare allegation of a frame-up, We reiterate the case of *People v. Lung Wai Tang*⁵² which explained the presumption of regularity in the performance of duties by police officers:

Without proof of any intent on the part of the police officers to falsely impute to appellants the commission of a crime, the presumption of regularity in their performance of official duty and the principle that the findings of the trial court on the credibility of witnesses are entitled to great respect, deserve to prevail over the bare denials and self-serving claims of frame-up by appellants.⁵³

In this case, accused-appellant does not offer any proof of intent by the officers to falsely charge him of a commission of a crime. At most, he surmises that his former implication in the homicide of the *barangay tanod* was the reason why he was also being implicated in the selling of dangerous drugs. This speculation alone cannot overturn the presumption in favor of the regularity in performance of official duty by police officers Almondia and Somera. All the elements for violation of Section 5 of R.A. No. 9165 are present in this case.

The elements for illegal possession of dangerous drugs were established beyond reasonable doubt.

R.A. No. 9165 prohibits the possession of dangerous drugs and metes out the penalties for violations according to the weight of the dangerous drugs involved. In this case, the weight of the 20 sachets recovered from accused-appellant amounted to 1.9936 grams. Thus, the pertinent provisions are the following:

⁵⁰ TSN, November 8, 2017, p. 4.

⁵¹ Records (Crim Case No. 7473-V-2014), p. 192.

⁵² *People v. Lung Wai Tang*, G.R. No. 238517, November 27, 2019, 926 SCRA 271.

⁵³ *Id.* at 287.

Section 11. Possession of Dangerous Drugs. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos ([P]500,000.00) to Ten million pesos ([P]10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

x x x x

(5) 50 grams or more of methamphetamine hydrochloride or "shabu";

x x x x

Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

x x x x

(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos ([P]300,000.00) to Four hundred thousand pesos ([P]400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu", or other dangerous drugs such as, but not limited to, MDMA or "ecstasy", PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.

This Court has provided that the prosecution must establish the following elements to warrant a conviction for Illegal Possession of Dangerous Drugs: (a) the accused was in possession of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.⁵⁴

The defense, adopting its arguments from its Accused-Appellant's Brief, asserts that the police officers failed to secure a search warrant, despite having ample opportunity to do so. They argue that the seized sachets of *shabu* were obtained during an illegal search and seizure, thus cannot be used as evidence against accused-appellant.⁵⁵

This defense does not hold water. While indeed, the general rule provides that a search must be accompanied by a search warrant, there are certain exceptions, including searches that are incidental to a lawful arrest.

⁵⁴ *People v. Cabrellas*, *supra* note 48, at 438. (Citation omitted).

⁵⁵ *CA rollo*, p. 49.

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A lawful arrest, in turn, is also generally accompanied by a warrant of arrest. The Rules of Criminal Procedure, however, provides that a person may be arrested when he is committing, or is attempting to commit an offense. This is also known as an *in flagrante delicto* (or in the very act of wrongdoing) arrest.⁵⁶ The case of *People v. Adriano*⁵⁷ categorizes a buy-bust operation, such as what was conducted with accused-appellant, as an instance when a person is arrested *in flagrante delicto*, thus:

A buy-bust operation is a form of entrapment, in which the violator is caught *in flagrante delicto* and the police officers conducting the operation are not only authorized but duty-bound to apprehend the violator and to search him for anything that may have been part of or used in the commission of the crime.⁵⁸

Given that there is no ground to exclude the seized items, we see no compelling reason to depart from the findings of the lower courts that the elements for Section 11 were likewise proven.

We emphasize that the illegal sale of dangerous drugs will not always absorb the illegal possession thereof. As we have explained in *People v. Chi Chan Liu, et al.*:⁵⁹

The illegal sale of dangerous drugs absorbs the illegal possession thereof except if the seller was also apprehended in the illegal possession of another quantity of dangerous drugs not covered by or not included in the illegal sale, and the other quantity of dangerous drugs was probably intended for some future dealings or use by the accused.⁶⁰

In this case, SPO1 Somera was able to retrieve 20 other sachets of *shabu* from accused-appellant when he conducted a bodily inspection to check for deadly weapons. Undoubtedly, these additional 20 sachets found in his possession were not part of the consummated sale and intended for some future dealings or use by accused-appellant.

The second and third elements are likewise present. We note from the records that accused-appellant did not make any assertion that such possession was authorized. We emphasize that despite his claim that the drugs were “produced” by the officers, he did not actually see any police officer place illegal items in his car.⁶¹

⁵⁶ *People v. Adriano*, 745 Phil. 203, 212-213 (2014).

⁵⁷ 745 Phil. 203 (2014).

⁵⁸ *Id.* at 213.

⁵⁹ 751 Phil. 146 (2015).

⁶⁰ *Id.* at 165. (Citation omitted).

⁶¹ Records (Crim. Case 7473-V-2014), p. 189.

The elements for illegal possession of equipment, instrument, apparatus and other paraphernalia for dangerous drugs were not established beyond reasonable doubt.

R.A. No. 9165 prohibits the possession of paraphernalia for dangerous drugs and provides the penalties for violations thereof:

Section 12. Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs. - The penalty of imprisonment ranging from six (6) months and one (1) day to four (4) years and a fine ranging from Ten thousand pesos ([P]10,000.00) to Fifty thousand pesos ([P]50,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess or have under his/her control any equipment, instrument, apparatus and other paraphernalia fit or intended for smoking, consuming, administering, injecting, ingesting, or introducing any dangerous drug into the body: *Provided*, That in the case of medical practitioners and various professionals who are required to carry such equipment, instrument, apparatus and other paraphernalia in the practice of their profession, the Board shall prescribe the necessary implementing guidelines thereof.

The possession of such equipment, instrument, apparatus and other paraphernalia fit or intended for any of the purposes enumerated in the preceding paragraph shall be *prima facie* evidence that the possessor has smoked, consumed, administered to himself/herself, injected, ingested or used a dangerous drug and shall be presumed to have violated Section 15 of this Act.

Jurisprudence provides only two elements of illegal possession of equipment, instrument, apparatus and other paraphernalia for dangerous drugs under Section 12, Article II of R.A. No. 9165: *first*, the possession or control by the accused of any equipment, apparatus or other paraphernalia fit or intended for smoking, consuming, administering, injecting, ingesting, or introducing any dangerous drug into the body; and *second*, such possession is not authorized by law.⁶²

The prosecution narrates that SPO1 Somera saw in plain view the following: one improvised glass tooter with residue, one vial containing liquid substances, one scoop and one clip which they suspect as being used for repacking, one roll aluminum foil, and one piece lighter before confiscating them.

We agree with the findings of the trial court that such claim of plain view does not seem plausible considering that these items were positioned under the backseat which, as the photographs show, was lifted.⁶³ A

⁶² *Saroun v. People*, 779 Phil. 122, 128 (2016). (Citation omitted).

⁶³ CA rollo, p. 84.

requirement for the application of the plain view doctrine is that the discovery of the evidence in plain view should be inadvertent.⁶⁴ The circumstances, however, makes it appear that the arresting officers actively searched the underside of the backseat.

We disagree, however, with the trial court, as affirmed by the CA, which still admitted the items in evidence under the justification that the items were found as an incident to a lawful arrest and search of a moving vehicle.⁶⁵

Jurisprudence explains how extensive an arresting officer can conduct a search as an incident to a lawful arrest:

When an arrest is made, it is reasonable for the arresting officer to search the person arrested in order to remove any weapons that the latter might seek to use in order to resist arrest or effect his escape. Otherwise, the officer's safety might well be endangered, and the arrest itself frustrated. In addition, it is entirely reasonable for the arresting officer to search for and seize any evidence on the arrestee's person in order to prevent its concealment or destruction. And the area into which an arrestee might reach in order to grab a weapon or evidentiary items must, of course, be governed by a like rule. A gun on a table or in a drawer in front of one who is arrested can be as dangerous to the arresting officer as one concealed in the clothing of the person arrested. There is ample justification, therefore, for a search of the arrestee's person and the area 'within his immediate control' — construing that phrase to mean the area from within which he might gain possession of a weapon or destructible evidence.

There is no comparable justification, however, for routinely searching any room other than that in which an arrest occurs — or, for that matter, for searching through all the desk drawers or other closed or concealed areas in that room itself.⁶⁶

Clearly, the spirit behind this valid warrantless search is the safety of the arresting officer, upon which the success of the arrest is contingent on. As explained above, the search should generally be confined to the person of the accused, where dangerous weapons may be hidden and used to resist the arrest and effect his/her escape. As an exception, a search may be conducted on the “area within his immediate control,” where a weapon or destructible evidence may be placed. Any evidentiary items found on the person of the accused during this search may likewise be confiscated in order to avoid its concealment.

⁶⁴ *People v. Leng Haiyun*, G.R. No. 242889, March 14, 2022.

⁶⁵ *CA rollo*, p. 84.

⁶⁶ *People v. Estella*, 443 Phil. 669, 685 (2003). (Citation omitted); citing *Chimel v. California*, 23 L. Ed. 2d 685 (1969).

Here, considering that accused-appellant was at the driver's seat of the vehicle, the search by the arresting officers under the backseat was clearly not an area within his immediate control where he may gain possession, at that moment, of dangerous weapons. The justification of a search incidental to a lawful arrest, therefore, cannot apply in this case.

The finding of the RTC that this case was a search of a moving vehicle is all the more misplaced. This doctrine is premised on the impracticability of applying for a warrant to search a moving vehicle, bearing in mind the requirement for applications to state the place to be searched. This doctrine, allowing a warrantless search of a moving vehicle, precisely considers that a vehicle can be quickly moved out of the indicated locality or jurisdiction in which the warrant must be implemented.⁶⁷

In the instant case, accused-appellant's vehicle was no longer moving at the moment the arresting officers searched the underside of the backseat. As established by the prosecution, when the two men noticed the buy-bust team's vehicle approaching, they tried to escape using their vehicle, but they were blocked by the team and subsequently apprehended. There was no longer any threat that a crime would be committed while traversing different localities.

Any evidence obtained in violation of the right against unreasonable search and seizures shall be inadmissible for any purpose in any proceeding.⁶⁸ Given the prosecution's failure to establish the very object of the crime, the *corpus delicti*, we acquit accused-appellant for the charge of a violation of Section 12 of the RA No. 9165.

Compliance with the two-witness rule was sufficiently established by the prosecution.

Section 21, Article II of R.A. No. 9165, as amended by R.A. No. 10640, provides the required procedural safeguards in a buy-bust operation:

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:

⁶⁷ See *People v. Lo Ho Wing*, 271 Phil. 120, 128 (1991). (Citation omitted).

⁶⁸ Constitution, Art. III, 3(2).

(1) The apprehending team having initial custody and control of the dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items 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, with an elected public official and a representative of the National Prosecution Service or the media 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, finally, That noncompliance of 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 and custody over said items.

In this case, the arrest happened on September 1, 2014, which was after the effectivity of R.A. No. 10640.⁶⁹ Hence, only two witnesses were required by law to be present during the physical inventory and photographing of the seized items: an elected public official **and** a representative of the National Prosecution Service **or** the media.⁷⁰ The law requires the presence of these witnesses primarily “to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.”⁷¹

A consideration of the records would show that the prosecution has sufficiently complied with the required witnesses, even producing three witnesses. The direct testimony of the arresting officer, PO1 Almondia, provides:

(PO1 Almondia, directly examined by Pros. Duldulao)

x x x x

Q: Where did they do the markings?

A: At the place of the operation ma'am.

⁶⁹ See *People v. Gutierrez*, G.R. No. 236304, November 5, 2018, 884 SCRA 276, 286 (2018) which states, “Note, however, that under Section 5 of RA 10640, the “Act shall take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation” RA 10640 was published on July 23, 2014 in *The Philippine Star* (Vol. XXVIII, No. 359, *Philippine Star Metro* section, p. 21) and *Manila Bulletin* (Vol. 499, No. 23; *World News* section, p. 6) – both considered as newspapers of general circulation. Thus, following Section 5 thereof, RA 10640 appears to have become effective on August 7, 2014 or fifteen days after its publication in the *Philippine Star* and *Manila Bulletin*.”

⁷⁰ *People v. Maganon*, G.R. No. 234040, June 26, 2019, 906 SCRA 406, 417. (Citation omitted); citing *People v. Lim*, G.R. No. 231989, September 4, 2018, 879 SCRA 31, 57-58. (Citation omitted); and *People v. Gutierrez*, *supra* at 285-286. (Citations omitted).

⁷¹ *People v. Gutierrez*, *supra* at 286. (Citation omitted).

Q: Who were around when the three (3) of you placing markings on the items that each of you confiscated?

A: The two (2) respondents, barangay official Barangay Captain Leonardo Donato, DOJ representative Glenn Tulas and one of the media representative Fernando Verino ma'am.⁷²

His testimony was likewise substantiated with the document captioned Receipt of Properties / Items/ Articles Seized,⁷³ which states:

Confiscated from Chester Macapagal Claudio and Mark Anthony Cuchay Nido of Barangay V, Vigan City, Ilocos Sur, the following articles as a result of the search conducted on or about 12:15 pm, September 1, 2014, by the PNP elements of Vigan City Police Station led by PSupt. Maximo Almachar Taclas for violation of RA 9165 at Gov. E. Reyes St., at Brgy. V, Vigan City wherein a reported Pot session was ongoing at said place, to wit:

(2) pieces heat sealed transparent plastic sachet containing white crystalline substance believed to be methamphetamine hydrochloride locally known as shabu marked as A1 JRA-0-01-14 signature and BB and A2 JRA-092 -01-14 with Signature

(2) pieces heat sealed transparent plastic sachet containing white crystalline substance believed to be methamphetamine hydrochloride locally known as shabu marked as B1 01-14 RQC and B2 09-01-14 RQC with signatures respectively

Twenty (20) pieces heat sealed transparent plastic sachet containing whit chrySTALLINE substance believed to be methamphetamine hydrochloride locally known as shabu marked C1-AES 09-01-14 to C20-AES 09-01-14 with signatures respectively

One (1) improvised glass tooter (broken) with residue marked as D1-AES-09-01-14 with signature

One (1) vial with liquid substance marked as D3-AES 09-01-14 with signature

Two (2) pieces improvised (1 scoop and 1 clip) with initial markings D4-AES 09-01-14 with signature use for repacking

One (1) roll aluminum foil with markings D2-AES-09-01-14 with signature and one (1) piece lighter marked as D5-AES 09-01-14 with signature

One (1) piece lighter marked as D6-AES-09-01-14 with signature

One (1) onc-thousand-peso bill bearing serial # J1/421902

⁷² TSN, December 8, 2016, pp. 6-7.

⁷³ Records (Crim. Case 7473-V-2014), p. 13.

Witness/es:

Name	Signature	Affiliation	Address
Glenn Tulas	(sgd)	DOJ	XCIS
Leonardo Donato	(sgd)	Brgy. Captain	Brgy. X
Fernando Barina	(sgd)	Media	Bombo Radyo Vigan ⁷⁴

Supporting photographs were also submitted by the prosecution depicting the marking of the seized items and the signing of the Receipt of Properties / Items/ Articles Seized.⁷⁵

The requirement for the chain of custody of evidence was complied with.

Jurisprudence provides that in order to obviate any unnecessary doubt on the identity of the dangerous drugs, the prosecution has to show an unbroken chain of custody over the same.⁷⁶ Each link in the chain of custody must be accounted for, from the moment the drugs are seized up to their presentation in court as evidence of the crime.⁷⁷

Following the provisions on the custody of dangerous drugs under Section 21 of R.A. No. 9165⁷⁸ and in the Implementing Rules and Regulations of R.A. No. 9165, the Dangerous Drugs Board (DDB) provided a detailed definition for the chain of custody involving drugs and other substances in Section 1(b) of DDB Regulation No. 1, Series of 2002:⁷⁹

⁷⁴ *Id.*

⁷⁵ *Id.* at 129.

⁷⁶ *People v. Cabrellos*, *supra* note 48, at 438. (Citation omitted).

⁷⁷ *Id.*

⁷⁸ 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;

(2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;

(3) A certification of the forensic laboratory examination results, which shall be done under oath by the forensic laboratory examiner, shall be issued within twenty-four (24) hours after the receipt of the subject item/s: *Provided*, That when the volume of the dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: *Provided, however*, That a final certification shall be issued on the completed forensic laboratory examination on the same within the next twenty-four (24) hours[.]

⁷⁹ Dated October 18, 2002.

b. "*Chain of Custody*" means 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 seized item shall include the identity and signature of the person who held temporary custody of the seized item, 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[.]

This Court has previously explained that the chain of custody of evidence is divided into four links:

[F]irst, 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 by the forensic chemist to the court.⁸⁰

As the CA ruled, the prosecution here was able to account for every link in the chain.

With regard to the first link, the prosecution has established that the seized items were adequately marked by the poseur-buyer, PO1 Almondia, and his back-up operatives, SPO1 Somera, and Agent Camacho at the place of the arrest and in the presence of three witnesses. As provided in the Chain of Custody Form for Seized Dangerous Drugs,⁸¹ the items were marked as such:

(2) pieces heat sealed transparent plastic sachet containing white crystalline substance believed to be methamphetamine hydrochloride locally known as shabu marked as A1 JRA-0-01-14 signature and BB and A2 JRA-092 -01-14 with Signature

(2) pieces heat sealed transparent plastic sachet containing white crystalline substance believed to be methamphetamine hydrochloride locally known as shabu marked as B1 01-14 RQC and B2 09-01-14 RQC with signatures respectively

Twenty (20) pieces heat scaled transparent plastic sachet containing whit chrystalline substance believed to be methamphetamine hydrochloride locally known as shabu marked C1-AES 09-01-14 to C20-AES 09-01-14

One (1) improvised glass tooter (broken) with residue marked as D1-AES-09-01-14 with signature

⁸⁰ *People v. Villalon, Jr.*, G.R. No. 249412, March 15, 2021; citing *Dela Riva v. People*, 769 Phil. 872 (2015). (Citation omitted).

⁸¹ Records (Crim. Case 7473-V-2014), p. 13.

myg

x x x x

One (1) vial with liquid substance marked as D3-AES 09-01-14 with signature

x x x x⁸²

As to the second link, We take into account that PO1 Almondia acted both as the arresting officer and the investigating officer who turned over the specimens to the crime laboratory, hence the seized illegal drugs clearly did not change hands.⁸³

The third link was duly established when PO1 Almondia, SPO1 Somera and Agent Camacho turned over the seized items to the forensic chemist, PSI Manuel, on the same day of the arrest. As elucidated in the direct testimony:

(PO1 Almondia directly examined by Pros. Duldulao)

x x x x

Q: When you arrived at the Police Station, what happened thereat?

A: Upon arrival at the Police Station, we prepared the necessary documents which are the request for laboratory examination for the confiscated items and a request for the drug tests of the respondents ma'am.

Q: Who signed in those requests?

A: Our Commanding Officer ma'am.

Q: You mean your chief of police?

A: Yes ma'am.

Q: After you prepared the request for laboratory examination and the drug tests of the two (2) accused, where did you proceed?

A: After which, we then proceeded to the Regional Crime Laboratory Office, Camp Oscar Florendo, Parian, San Fernando City, La Union for the drug test and laboratory examination on the confiscated items ma'am.

Q: Who were your companions in proceeding to the Regional Crime Laboratory Office?

A: SPO2 Amado Somera, Agent Richie Camacho and the rest of the Police Station ma'am.

x x x x

Q: Were you able to deliver the items together with the request at the Regional Crime Laboratory Office?

A: Yes ma'am.

⁸² *Id.*

⁸³ See *Panti v. People* (Notice), G.R. No. 251332, July 6, 2020.

Q: Who received the items and the request?

A: The chemist, PSI Ma. Theresa Amor-Manuel ma'am.

Q: Do you have proof to show that the request together with the items were received by the chemist, PSI Ma. Teresa Amor-Manuel?

A: Yes, our receipt ma'am.

x x x x⁸⁴

A review of the records would likewise show a Request for Laboratory Examination⁸⁵ with a stamp on the upper right of the document, bearing certain fields including "delivered by" and "received by." These were filled out with handwritten entries, showing that it was SPO1 Somera, Agent Camacho, and PO1 Almondia who delivered it, and it was PSI Manuel, the forensic chemist, who received it. On the next day, PSI Manuel turned over the items to PO3 Bucasas, the evidence custodian, for safekeeping.

For the fourth and final link, the prosecution and defense entered into stipulations that PO3 Bucasas only released the items for their presentation in court, thus:

(Stipulations made between Pros. Duldulao and Atty. Florentino)

Pros Duldulao: The witness is the evidence custodian of the PNP Regional Crime Laboratory, San Fernando City, La Union on September 2, 2014.

Atty. Florentino: Admitted.

Pros. Duldulao: He reported for duty on September 2, 2014.

Atty. Florentino: Admitted.

Pros. Duldulao: While on duty, he received from Chemist PSI Maria Thesesa Manuel for safekeeping certain documents at 8:30 in the morning documents particularly request for laboratory examination, request for drug test examination, result of drug test examination, chain of custody form, and two chemistry reports pertaining to these cases.

Atty. Florentino: Admitted.

Pros. Duldulao: He only released to PSI Manuel for court presentation those documents as well as the items that he earlier received from her, on February 23, 2016 at around 5:30 in the morning.

Atty. Florentino: Admitted.⁸⁶

Each link in the chain of custody having been accounted for by the prosecution, We see no reason to overturn the findings of the CA for the conviction of Claudio for the offenses charged.

⁸⁴ TSN, December 8, 2016, pp. 7-8.

⁸⁵ Records (Crim. Case. No. 7473-V-2014), p. 11.

⁸⁶ TSN, April 14, 2016, pp. 2-3.

*Ultraviolet dusting of marked money
not a requirement.*

Finally, We concur with the CA on the issue of ultraviolet dusting of marked money. While the defense maintains that the buy-bust money used in the transaction was not valid for not being subjected to ultraviolet dusting, the CA aptly debunked this in its discussion:

On the matter of dusting buy-bust money with ultra-violet powder, Section 3.1 (a)(3) of the 2014 PNP Manual instructs:

3.1 Buy-Bust Operation. All warrantless arrests, searches, and seizures to be undertaken by PNP members/Anti-Illegal Drugs Units shall be in accordance with Section 5, Paragraphs (a) and (b), Rule 113 and Section 13, Rule 126 of the Rules of Court, and relevant Supreme Court Decisions.

a. Prior to Buy-Bust.

xxx

3) Preparation of the buy-bust money. The “buy-bust” money shall be duly marked or dusted with ultra-violet powder by the PDEA Laboratory Service or PNP Crime Laboratory. It shall be properly photographed, reproduced and/or recorded indicating the serial numbers and the person who released the money, the Officer who received the same and had it delivered to the PDEA Laboratory Service or PNP Crime Laboratory for dusting. The Officer receiving the money shall issue a receipt for the purpose.⁸⁷

Indubitably, the provision explains that the marking or dusting the buy-bust money prior to operation is merely an option, and not a mandatory requirement. Stated differently, the buy-bust money can either be marked or dusted. In this case, PO2 Almondia properly marked the buy-bust money in order to differentiate it from the other monies that the suspect may have in his possession.⁸⁸

In addition, We agree with the counter argument posed by the People that the dusting or non-dusting of the buy- bust money is not an element of the crime violated by the accused-appellant. What the prosecution has established was that the buy-bust money was prepared and marked, the same was used by the poseur-buyer to buy illegal drugs from the accused-appellant, and after the consummation of the sale and apprehension of the latter, the same buy-bust money previously marked was seized from his possession.⁸⁹

⁸⁷ *Rollo*, p. 19.

⁸⁸ *Id.*

⁸⁹ *Id.* at 19-20.

PNP

In this case, the records show that the ₱1,000.00 bill used for the buy-bust was marked with “JRA,” the initials of PO1 Almondia,⁹⁰ rendering the requirement of ultraviolet dusting unnecessary.

After exhausting all the issues in this case, We see no reason to depart from the findings of the trial courts and the CA which convicted Claudio for violation of Sections 5 and 11 of R.A. No. 9165. For the reasons discussed above, however, We acquit accused-appellant of the charge of a violation of Section 12 of R.A. No. 9165.

FOR THESE REASONS, the Decision dated November 19, 2020 of the Court of Appeals in CA-G.R. CR-HC No. 12396 is **AFFIRMED** with the **MODIFICATION** that Chester Claudio y Macapagal is **ACQUITTED** of the charge of a violation of Section 12 under R.A. No. 9165 in Criminal Case No. 7474-V-2014. Accordingly, the Decision of the Regional Trial Court with regard to Chester Claudio y Macapagal is affirmed as follows:

In Criminal Case No. 7473-V-2014

The accused CHESTER MACAPAGAL CLAUDIO is declared GUILTY beyond reasonable doubt of violating Section 5 of R.A. 9165. Accordingly, he is sentenced to suffer LIFE IMPRISONMENT and to pay a fine of Five Hundred Thousand Pesos ([₱]500,000.00).

Based on reasonable doubt, the accused MARK ANTHONY CUCHAY NIDO is acquitted.

In Criminal Case No. 7475-V-2014

The accused CHESTER MACAPAGAL CLAUDIO is hereby CONVICTED of the offense charged. Thus, he is sentenced to suffer the indeterminate penalty of TWELVE (12) YEARS and ONE (1) DAY as minimum to FOURTEEN (14) years as maximum, and to pay a fine of Three Hundred Thousand Pesos ([₱]300,000.00) without subsidiary penalty in case of insolvency.

SO ORDERED.”

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court *pg 12/18*

28 DEC 2022

⁹⁰ Records (Crim. Case. No. 7473-V-2014), p. 120.

*PUBLIC ATTORNEY'S OFFICE (reg)
Special & Appealed Cases Service
Department of Justice
5th Floor, PAO-DOJ Agencies Building
NIA Road corner East Avenue
Diliman, 1104 Quezon City

*OFFICE OF THE SOLICITOR GENERAL (reg)
134 Amorsolo Street
1229 Legaspi Village
Makati City

*CHESTER CLAUDIO y MACAPAGAL (reg)
Accused-Appellant
c/o The Director
Bureau of Corrections
1770 Muntinlupa City

THE DIRECTOR (reg)
Bureau of Corrections
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 20
2700 Vigan City, Ilocos Sur
(Crim. Case Nos. 7473-V-2014 to 7475-V-2014 & 7477-V-2014)

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COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. CR-HC No. 12396

*with a copy of the CA Decision dated November 19, 2020.
Please notify the Court of any change in your address.
GR256260. 7/06/2022(120)URES

MTC