



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

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

“G.R. No. 256772 (Ronald Versales y Tawag, petitioner, v. People of the Philippines, respondent). — Before the Court is a petition for review on *certiorari*¹ filed by petitioner Ronald Versales y Tawag (Ronald), assailing the June 22, 2020 Decision² and June 4, 2021 Resolution³ of the Court of Appeals (CA) in CA-G.R. CR No. 38888, which affirmed his conviction for violation of Sections 11 and 12, Article II of Republic Act (RA) No. 9165.⁴

The antecedents are as follows.

Ronald was charged with Illegal Possession of Dangerous Drugs and Illegal Possession of Drug Paraphernalia, as defined and penalized under Sections 11 and 12, Article II of RA No. 9165, respectively, under the following Informations:

Criminal Case No. 15603

That on or about the 21st day of September 2012, in the early morning thereof, at Purok 8, Brgy. Ibingay, Masbate City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized to carry dangerous paraphernalia, did then and there willfully, unlawfully, knowingly and deliberately, have in his possession, custody and control the following: one (1) large unsealed transparent sachet with traces of methamphetamine hydrochloride; twelve [12] pieces of unsealed transparent plastic sachet[s] with residue of methamphetamine hydrochloride; and nine (9) crumpled/used aluminum

¹ *Rollo*, pp. 12–29.

² *Id.* at 34–51. Penned by Associate Justice Maria Elisa Sempio Diy, with the concurrence of Associate Justices Ramon A. Garcia and Florencio Mallanao Mamauag, Jr.

³ *Id.* at 53–57.

⁴ Entitled “AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES,” approved on June 7, 2002.

foil[s], which are instruments, apparatuses or paraphernalia [fit] or intended for ingesting or introducing any dangerous drug into the body.

CONTRARY TO LAW.⁵

Criminal Case No. 15606

That on or about the 21st day of September 2012, in the early morning thereof, at Purok 8, Brgy. Ibingay, Masbate City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully, deliberately and knowingly, have in his possession, custody and control seven (7) pieces of sealed transparent plastic sachet containing a total of point two hundred fifteen (0.215) gram of white crystalline substance, which when subjected to laboratory examination gave positive result for the presence of methamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.⁶

When arraigned, Ronald pleaded not guilty to the crimes charged. Trial on the merits ensued.⁷

The prosecution through the testimonies of Police Officer (PO) 2 Gilbert Danao (PO2 Danao), PO1 Wilbur Villaflores (PO1 Villaflores), and Police Senior Inspector (PSI) Wilfredo I. Pabustan (PSI Pabustan) established that, on September 21, 2012, members of the Masbate City Police Station went to the residence of Ronald located at Boulevard, Barangay Ibingay, Masbate City, Masbate to implement a search warrant against Ronald for violation of Section 11, Article II of RA No. 9165. When the team arrived at Ronald's residence, Barangay (Brgy.) Kagawad Edmundo Martinez, Jr. (Brgy. Kagawad Martinez), Department of Justice (DOJ) representative Danilo Liao (Liao), and media representative Bobby Bormilo⁸ (Bormilo) were waiting. After service of the warrant upon Ronald, PO2 Danao and PO1 Villaflores proceeded to search the house in the presence of the occupants, Ronald's family, and the witnesses.⁹

On the first floor of the house, PO1 Villaflores found: (a) four (4) used transparent plastic sachets with residue of a substance suspected to be methamphetamine hydrochloride or shabu; (b) eight (8) pieces of crumpled aluminum foil with suspected shabu residue; and (c) seven (7) pieces of .45 caliber live ammunition. Meanwhile, PO2 Danao found a plastic container containing two (2) medium-sized plastic sachets and five (5) small plastic sachets, all containing suspected shabu. On the second floor of the house, PO1 Villaflores found six (6) more transparent plastic sachets in different sizes, all

⁵ *Rollo*, pp. 35 and 76-77.

⁶ *Id.* at 35 and 77.

⁷ *Id.* at 35 and 78.

⁸ "Bormelio" in some parts of the *rollo*.

⁹ *Rollo*, pp. 36-37 and 78-79.

with residue of suspected shabu; while PO2 Danao found: (a) a box with a small heat-sealed transparent plastic sachet containing suspected shabu and two (2) empty transparent plastic sachets; and (b) a piece of crumpled aluminum foil with shabu residue.¹⁰

Immediately after the search, PO2 Danao marked the seized items with his initials – “GCD,” his signature, and the date – “9/21/12,”¹¹ conducted an inventory, and took photographs of the seized items in the presence of Ronald, Brgy. Kagawad Martinez, DOJ representative Liao, and media representative Bormilo. Ronald was then arrested and was brought to the police station. Meantime, PO2 Danao remained in custody of the seized items.¹²

At the police station, PO2 Danao kept the seized items inside a cabinet while the return for the search warrant was being prepared. After presentation to the court that issued the warrant, PO2 Danao delivered the seized items, except the live ammunition, to the Regional Trial Court of Masbate City, Branch 47. Meanwhile, the live ammunition were surrendered to the Philippine National Police Masbate Provincial Crime Laboratory, where they were received by PSI Florante Nobleza (PSI Nobleza).¹³

PSI Nobleza turned over the items and the letter-request for examination to PSI Pabustan for examination. PSI Pabustan performed qualitative examination on the specimens, which yielded a positive result for methamphetamine hydrochloride from eight (8) transparent plastic sachets containing white crystalline substance.¹⁴ After examination, PSI Pabustan

¹⁰ Id. at 36–37.

¹¹ Id. at 37–38 and 80–81. The specific markings for the items recovered are as follows:

- One (1) piece of large transparent plastic sachet containing residue of white crystalline substance believed to be methamphetamine hydrochloride marked “GCD-1”
- Four (4) assorted sizes of transparent plastic sachets containing residue of white crystalline substance believed to be methamphetamine hydrochloride marked “GCD-2a, GCD-2b, GCD-2c, GCD-2d” placed inside one (1) piece of large transparent sachet marked as “GCD-2”
- One (1) piece medium-sized transparent plastic sachet containing white crystalline substance believed to be methamphetamine hydrochloride marked “GCD-3”
- Two (2) pieces of empty transparent plastic sachets marked “GCD-4a-4b” placed inside one (1) piece rechargeable shaver box marked as “GCD-4”
- One (1) piece small heat-sealed transparent plastic sachet containing white crystalline substance believed to be methamphetamine hydrochloride marked “GCD-5”
- One (1) piece of small crumpled/use aluminum foil with residue believed to be methamphetamine hydrochloride marked “GCD-6”
- Four (4) pieces used transparent plastic sachets with residue of white crystalline substance believed to be methamphetamine hydrochloride, and eight (8) pieces of used/crumpled aluminum foil with residue of methamphetamine hydrochloride marked “GCD-7”
- Two (2) pieces of medium sized sealed transparent plastic sachets containing white crystalline substance believed to be methamphetamine hydrochloride marked as “GCD-A” and GCD-B” and five (5) pieces of small transparent plastic sachets containing white crystalline substance believed to be methamphetamine hydrochloride marked as “GCD-C, GCD-D, GCD-E, GCD-F, GCD-G” placed inside one (1) piece white film container marked as “GCD-8”
- Seven (7) pieces live ammunition for suspected caliber .45 marked “GCD-1-7”

¹² Id. at 38.

¹³ Id. at 38 and 81.

¹⁴ Id. at 38–39 and 82–83. Per PSI Pabustan’s examination, one (1) specimen contained unquantifiable traces of shabu, while the other seven (7) specimens contained the following weight of shabu:

- GCD-A – 0.047 gram (H-1a)

marked the items with his initials – “WIP,” his signature, the chemistry report number – “D-137-12,” and the date – “21 SEPT 2012,” and turned them over to Maribel Bagato, the evidence custodian, for safekeeping. On December 11, 2013, PSI Pabustan withdrew the items for presentation as evidence to the court.¹⁵

For his part, Ronald denied the charges, and alleged that his family occupied only the second floor of the house and that the first floor was rented to Joseph Cortes. Around 8:30 p.m. of September 21, 2012, he was at home when police officers showed up and served upon him a search warrant. The police officers did not find anything in their search on the second floor where Ronald lived, but they allegedly found shabu on the first floor.¹⁶

In a Joint Decision¹⁷ dated March 21, 2016, the Regional Trial Court of Masbate City, Branch 45 (RTC) found Ronald guilty of the crimes charged. He was sentenced as follows:

WHEREFORE, in view of the foregoing, in Criminal Case No. 15606, the Court finds RONALD VERSALES y TAWAG **GUILTY** beyond reasonable doubt of violation of Section 11 of Article II of the (*sic*) Republic Act No. 9165 or the Dangerous Drugs Act of 2002, and accordingly sentences him to suffer the indeterminate penalty of imprisonment of from (*sic*) Twelve (12) years and one (1) day, as minimum, to Fifteen (15) years, as maximum, and to pay a fine of Three Hundred Thousand ([P]300,000.00) Pesos.

In Criminal Case No. 15603, the Court also finds RONALD VERSALES y TAWAG **GUILTY** beyond reasonable doubt for violating Section 12, of Art. II of the same Act, and accordingly sentences him to suffer the indeterminate penalty of imprisonment of from (*sic*) six [6] months and one [1] day as minimum to two [2] years as maximum, and to pay a fine of Twenty Thousand ([P]20,000.00) Pesos.

X X X X

SO ORDERED.¹⁸

The RTC gave credence to the testimonies of PO1 Villaflores and PO2 Danao as to the validity and regularity of the search made on the residence of Ronald.¹⁹

- GCD-B – 0.027 gram (H-1b)
- GCD-C – 0.036 gram (H-1c)
- GCD-D – 0.032 gram (H-1d)
- GCD-E – 0.032 gram (H-1e)
- GCD-F – 0.009 gram (H-1f)
- GCD-G – 0.032 gram (H-1g)

¹⁵ Id. at 39.

¹⁶ Id. at 39–40 and 83–84.

¹⁷ Id. at 75–90. Penned by Judge Manuel L. Sese.

¹⁸ Id. at 88–90; emphases in the original.

¹⁹ Id. at 85–88.

On appeal, Ronald argued that the arresting officers failed to comply with the requirements of Section 21 of RA No. 9165.²⁰ Ronald alleged that, while the prosecution witnesses claimed that the inventory was witnessed representatives from the media and the DOJ, as well as an elected public official, and their signatures appear in the inventory, it was not clear in what capacity Liao and Bormilo represented the DOJ and media, respectively.²¹ Moreover, the prosecution failed to establish an unbroken chain of custody when PO2 Danao failed to testify on the safeguards he took to preserve the integrity of the seized items before he turned them over to the crime laboratory, as well as the circumstances by which he transmitted the seized items to the crime laboratory. Likewise, PSI Nobleza, who received the specimens at the crime laboratory was not presented as a witness. Lastly, PSI Pabustan, who examined the specimens, did not testify on the turnover of the specimen to their office's evidence custodian, Maribel Bagato, up to the items' presentation in court as evidence.²²

The CA, in its Decision dated June 22, 2020,²³ affirmed Ronald's conviction and confirmed that all the elements of the crimes charged were present and that the identity of the prohibited drugs and drug paraphernalia had been sufficiently established by the prosecution.²⁴ Ronald was deemed in constructive possession of the items found by the search team since the premises where the items were found were under his control and management.²⁵ The CA also held that every link in the chain of custody over the confiscated items was accounted for.²⁶

Aggrieved, Ronald filed a motion for reconsideration,²⁷ but was denied.²⁸

²⁰ Id. at 66–70.

²¹ Id. at 67.

²² Id. at 68–69.

²³ Id. at 34–51. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, the instant appeal is **DENIED**. The Joint Decision dated March 21, 2016 rendered by Branch 45, Regional Trial Court of Masbate City in Criminal Case Nos. 15603 and 15606 is **AFFIRMED**.

SO ORDERED. (Emphases in the original)

²⁴ Id. at 44.

²⁵ Id. at 46.

²⁶ Id. at 46–49.

²⁷ Dated July 23, 2020. Id. at 115–122.

²⁸ Id. at 53–57. The Resolution dated June 4, 2021 disposed Ronald's motion for reconsideration in the following manner:

After a scrutiny of the arguments raised by accused-appellant, We find that the same had already been considered and passed upon in Our assailed Decision dated June 22, 2020.

We stress that the filing of a motion for reconsideration does not impose on Us the obligation to discuss and rule again on the grounds relied upon by the movant, which are mere reiteration[s] of the issues previously raised and thoroughly determined and evaluated in the decision being questioned.

x x x x

Thus, for lack of new and substantial justification, We find no compelling reason to warrant a modification, much less a reversal, of Our assailed Decision.

Hence, this petition, restating the allegations made in his appeal brief filed before the CA.

At the outset, we note that the petition was filed beyond the extended period requested. The June 4, 2021 CA Resolution, which denied Ronald's motion for reconsideration, was received on June 16, 2021, giving him until July 1, 2021 to file his petition for review on *certiorari*. Ronald was granted a 30-day extension within which to file his petition, or until July 31, 2021. However, the petition was filed, through registered mail, only on August 26, 2021. Counsel for Ronald, the Public Attorney's Office, citing Administrative Circular No. 56-2021, alleges that the Court suspended the filing of the petition. However, the circular only suspended the filing of pleadings before appellate collegiate courts and the first and second level court, and not before this Court.²⁹

Nonetheless, in the interest of justice, we consider the merits of the case and thus, acquit Ronald on the ground of the prosecution's failure to prove that the search 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*.

A successful prosecution of cases involving dangerous drugs requires more than the perfunctory presentation of evidence establishing each element of the crime. It is imperative to prove with moral certainty that the intrinsic worth of the pieces of evidence, especially the identity of the *corpus delicti*, has been preserved. Evidence must show beyond reasonable doubt that the illegal drug presented in court is the same illegal drug actually seized from the accused. The rationale behind this stringent requirement is the unique characteristic of illegal drugs that renders it indistinct, not readily identifiable, and usually open to tampering, alteration, or substitution, either by accident or by deliberate act, especially when seized in small quantity.³⁰

In this regard, the law provides procedural safeguards to remove any doubt on the identity and integrity of the seized items under the chain of custody rule. Chain of custody is the duly recorded authorized movements and custody of seized drugs, controlled chemicals, plant sources of dangerous drugs, or laboratory equipment of each stage from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping in court for identification and destruction.³¹

WHEREFORE, premises considered, the Motion for Reconsideration filed by accused-appellant Ronald Versales y Tawag is **DENIED**. Accordingly, Our Decision dated June 22, 2020 **STANDS**.

x x x x

SO ORDERED. (Emphases in the original)

²⁹ Id. at 11-13.

³⁰ *People v. Nuarin*, 764 Phil. 550, 557 and 562 (2015).

³¹ See Dangerous Drugs Board Regulation No. 1-02, entitled "GUIDELINES ON THE CUSTODY AND DISPOSITION OF SEIZED DANGEROUS DRUGS, CONTROLLED PRECURSORS AND ESSENTIAL CHEMICALS,

Specifically, Section 21, Article II of RA No. 9165 outlines the post-seizure procedure to be observed by the apprehending officers for the custody and disposition of the seized items. The alleged crime in this case happened on September 21, 2012, or before the enactment of the amendatory law.³² Hence, the original provision of Section 21 of RA No. 9165³³ applies to wit:

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 [DOJ], and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof;

AND LABORATORY EQUIPMENT,” approved on October 18, 2002. See also *People v. Omamos*, G.R. No. 223036, July 10, 2019, 908 SCRA 367, 378.

³² See RA No. 10640, entitled “AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE ‘COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002,’” approved on July 15, 2014. RA No. 10640 states that it shall “take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.” Verily, a copy of the law was published on July 23, 2014 in the respective issues of “The Philippine Star” (Vol. XXVIII, No. 359, Philippine Star Metro section, p. 21) and the “Manila Bulletin” (Vol. 499, No. 23, World News section, p. 6). Hence, RA No. 10640 became effective on August 7, 2014.

³³ This provision 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, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. – The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

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

x x x x

x x x x

The prosecution must satisfactorily establish the movement of and custody over the seized items through the following links: *first*, the confiscation and marking of the specimen seized from the accused by the apprehending officer; *second*, the turnover of the seized items by the apprehending officer to the investigating officer; *third*, the investigating officer's turnover of the specimen to the forensic chemist for examination; and *fourth*, the submission of the items by the forensic chemist to the court.³⁴

Here, records reveal several gaps in the chain of custody.

Serious irregularities abound the handling of the confiscated items by the search team. Anent the first link in the chain of custody, PO2 Danao testified that he marked all the items recovered from the search. Notably, PO2 Danao was conducting his own search on the first floor of Ronald's house when PO1 Villaflores discovered plastic sachets and pieces of crumpled aluminum foil with residue on the first and second floors of the house. PO2 Danao did not see the search made by PO1 Villaflores. PO2 Danao, thus, lacked the personal knowledge as to the source of the items he marked and that the effects found were the exact things obtained from PO1 Villaflores' search. Thereafter, from the time of arrest and seizure and during transit from Ronald's house to the police station, PO2 Danao failed to elaborate what precautionary measures he undertook to ensure the integrity and identity of the confiscated items.³⁵

The second link in the chain of custody requires the prosecution to establish the safekeeping 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.³⁶ At the police station, there was no turnover to an investigating officer. PO2 Danao merely stated that he kept the items inside a cabinet while necessary documents were being prepared. Subsequently, the seized articles were brought to the court that issued the search warrant. During transit from the police station to the court, it was not indicated who possessed the items. There was likewise no mention of who were able to take possession of the items during their presentation in court up to their release for delivery to the crime laboratory.

Further, the third link in the chain of custody requires that the movement from the investigating officer to the forensic chemist be established.³⁷ Similarly, records are bereft of details as to who handled the confiscated items from the court en route to the crime laboratory. At the crime

³⁴ *People v. Bugtong*, 826 Phil. 628, 638–639 (2018); and *People v. Enad*, 780 Phil. 346, 358–359 (2016).

³⁵ *Rollo*, pp. 36–38 and 78–81.

³⁶ *People v. Dahil*, 750 Phil. 212, 235 (2015).

³⁷ *People v. Veloo*, G.R. No. 252154, March 24, 2021, <<https://sc.judiciary.gov.ph/20023/>>.

laboratory, the articles were received by PSI Nobleza. However, there was no testimony to establish the integrity and identity of the seized items from the moment of receipt at the crime laboratory until their turnover to PSI Pabustan for examination. After PSI Pabustan's examination, the turnover to the evidence custodian and the items' safekeeping equally lacked material details.

Lastly, the prosecution was not able to establish the fourth link in the chain of custody, or that relating to the turnover and submission of the seized items from the forensic chemist to the court. Without these material details pertaining to the handling of the seized items and whether the search team and the crime laboratory personnel undertook precautionary measures to ensure the integrity and identity of the seized items, compliance with the chain of custody requirements becomes suspicious. Corollary, the prosecution failed to establish that measures were 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 provisions of Section 21, Article II of RA No. 9165 embody the constitutional aim to prevent the imprisonment of an innocent person. 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.

Indeed, when the performance of duty is tainted with irregularities, such presumption is effectively destroyed.

All told, Ronald must be acquitted of the charges against him given the prosecution's failure to prove an unbroken chain of custody.

FOR THE STATED REASONS, the petition is **GRANTED**. The June 22, 2020 Decision and June 4, 2021 Resolution of the Court of Appeals in CA-G.R. CR No. 38888 are **REVERSED** and **SET ASIDE**. Petitioner Ronald Versales y Tawag is **ACQUITTED** and **ORDERED** to be **RELEASED IMMEDIATELY** from detention, unless he is being lawfully held for another cause. Let entry of judgment be issued immediately.

Let a copy of this Resolution be furnished to the Provincial Warden of the Masbate Provincial Jail for immediate implementation. The Provincial Warden is directed to report to the Court the action taken within five (5) days from receipt of this Resolution.

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

By authority of the Court:

Misael DC Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court *4/25/22*

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