



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **September 5, 2022** which reads as follows:

“**G.R. No. 250855 (People of the Philippines, plaintiff-appellee v. AAA250855, Almiron Lomigis y Garay and Dustin Legaspi, accused; Almiron Lomigis y Garay and Dustin Legaspi, accused-appellants).**” — This Court resolves an Appeal under Rule 122 of the Revised Rules of Court assailing the Decision¹ rendered by the Court of Appeals. The Court of Appeals earlier affirmed the Omnibus Judgment² rendered by the Regional Trial Court, finding Almiron Lomigis y Garay (*Lomigis*) guilty of committing illegal possession of dangerous drugs, as defined and penalized under Section 11, Article II of Republic Act No. 9165. Lomigis and Dustin Legaspi (*Legaspi*) were also found guilty of illegal sale of dangerous drugs, as defined and penalized under Section 5, Article II of Republic Act No. 9165.

At around 3:00 p.m. on August 14, 2011, Intelligence Officer 1 Alex Subang Jr. (*IO1 Subang*) received a tip from their confidential informant (*CI*) that Legaspi, Lomigis, and AAA250855 were engaged in some illegal drug activities.³ IO1 Subang relayed the information to his superior, Officer-in-Charge Director II Joel Plaza (*Dir. Plaza*), who in turn instructed Intelligence Agent 3 Christy Silvan (*IA3 Silvan*) to verify it. Upon verification, they formed a team for the conduct of a buy-bust operation. It was agreed that IO1 Subang would act as poseur buyer with Intelligence Officer 1 Donesa Janito⁴ (*IO1 Janito*) as arresting officer. To alert IO1 Janito that the sale transaction has been consummated, IO1 Subang was instructed to give him a missed call. IO1 Subang was then given a PHP 500.00 bill marked with the letters “ABS” on the lower right portion.⁵

* In line with Amended Administrative Circular No. 83-2015, the names of the private offended parties, along with all other personal circumstances that may tend to establish their identities, are made confidential to protect their privacy and dignity.

¹ *Rollo*, pp. 4–21. The August 30, 2019 Decision was penned by Associate Justice Loida S. Posadas-Kahulugan, and concurred in by Associate Justices Edgardo T. Lloren and Angelene Mary W. Quimpo-Sale of the Twenty-Second Division, Court of Appeals, Cagayan de Oro City.

² *CA rollo*, pp. 172–191. The May 17, 2017 Omnibus Judgment was penned by Judge Eduardo S. Casals of Branch 1, Regional Trial Court, Butuan City.

³ TSN, August 20, 2014, p. 5.

⁴ Also referred to as “Intelligence Officer 1 Donesa Jacinto” in some parts of the records.

⁵ TSN, August 20, 2014, pp. 6–7.

At around 2:00 p.m. the next day, after a briefing, IO1 Subang went to [REDACTED] with the CI and the rest of the buy-bust team. Upon arrival, the CI identified Legaspi as the one standing in the waiting shed. IO1 Subang and the CI then approached him. The CI told Legaspi that IO1 Subang wanted to purchase *shabu*. Legaspi asked IO1 Subang how much he wanted to buy. IO1 Subang then replied that he wanted to purchase PHP 500.00 worth of *shabu*. After giving Legaspi the marked PHP 500.00 bill, Legaspi told IO1 Subang to wait.⁶

Legaspi then approached the two persons who were standing around five meters away. They were later identified as Lomigis and AAA250855. Legaspi gave the PHP 500.00 bill to AAA250855, who in turn instructed Lomigis to give IO1 Subang one plastic sachet of *shabu*. While examining the plastic sachet that he received, IO1 Subang secretly dialed IO1 Janito's number on his phone.⁷

Upon receiving IO1 Subang's call, IO1 Janito, along with the other members of the buy-bust team, immediately rushed to the waiting shed. They introduced themselves as agents from the Philippine Drug Enforcement Agency. Upon hearing this, Legaspi, Lomigis, and AAA250855 tried to escape. IO1 Janito even saw AAA250855 throw away the marked money. Fortunately, the team was able to apprehend all three. Legaspi, Lomigis, and AAA250855 were informed why they were being arrested and were apprised of their constitutional rights.⁸

IO1 Subang frisked Legaspi, Lomigis, and AAA250855, and he was able to recover the three plastic sachets of *shabu* from Lomigis, while IO1 Janito recovered the marked money that AAA250855 threw away and gave it to IO1 Subang. With all four plastic sachets and the marked money in IO1 Subang's custody, he marked the plastic sachet of *shabu* that he bought from Legaspi as "ABS-1" while the other three plastic sachets of *shabu* that were found in Lomigis' possession were marked as "ABS-2", "ABS-3", and "ABS-4". Thereafter, the team went back to the Agency Regional Office 13 along with the three accused.⁹

When they arrived, they called Barangay Chairman Menelio P. Galan (*Chairman Galan*), Barangay *Kagawad* Jocelyn Amado (*Kagawad Amado*) both of [REDACTED], and Esteb D. Paican¹⁰ (*Paican*), a representative from *Bombo Radyo*, to their office to witness the conduct of the inventory of the seized items.¹¹ When they arrived, the Philippine Drug Enforcement Agency agents showed them the inventory of the seized items that they made, which were on top of a table. Thereafter, they subscribed the

⁶ TSN, August 20, 2014, pp. 12–13.

⁷ *Id.* at 14.

⁸ *Id.* at 15.

⁹ *Id.* at 16–17.

¹⁰ Also referred to as "Steve Paican" in some parts of the records.

¹¹ TSN, August 20, 2014, pp. 20–23. TSN, September 3, 2014, p. 9.

inventory before the Deputy City Prosecutor of Butuan Aljay O. Go (*Fiscal Go*), as it is their standard operating procedure.¹²

After preparing the requests for laboratory examination, IO1 Subang brought the four plastic sachets of *shabu* to the Philippine National Police Crime Laboratory. He was accompanied by IO1 Janito, who assisted him in restraining Legaspi, Lomigis, and AAA250855. When they arrived, Senior Police Officer 4 Ocariz (*SPO4 Ocariz*)¹³ received the request for laboratory examination along with the four plastic sachets, while Police Officer 2 Dumaging (*PO2 Dumaging*) received the request for drug examination of Legaspi, Lomigis, and AAA250855.¹⁴

On August 16, 2011, Police Inspector Engineer Joel Polines Signar¹⁵ (*PI Signar*) reduced his findings in his Chemistry Report No. D-127-2011, to wit:

SPECIMEN SUBMITTED:

Four (4) heat-sealed transparent plastic sachets each containing white crystalline substance having the following markings and recorded net weight:

A (ABS-1)	=	0.0689 gram
B (ABS-2)	=	0.0590 gram
C (ABS-3)	=	0.0528 gram
D (ABS-4)	=	0.0548 gram

PURPOSE OF LABORATORY EXAMINATION:

To determine the presence of dangerous drug.

FINDINGS:

Qualitative examination conducted on the above-stated specimen gave **POSITIVE** result to the test for the presence of **Methamphetamine hydrochloride**, a dangerous drug.

CONCLUSION:

Specimen **A** through **D** contains **Methamphetamine hydrochloride**, a dangerous drug.¹⁶ (Emphases in the original)

In his Chemistry Report No. DT-118 through 120-2011, PI Signar summarized his findings as regards the tests that he conducted on Legaspi, Lomigis, and AAA250855, to wit:

SPECIMEN SUBMITTED:

Urine samples taken from the following living persons of:

¹² TSN, August 20, 2014, p. 21.

¹³ Also referred to as "SPO4 Ocaris" in some parts of the records.

¹⁴ TSN, September 3, 2014, p. 19.

¹⁵ Also referred to as "Engr. Joel Signal" in some parts of the records.

¹⁶ Records (Criminal Case No. 15300), p. 11.

DT-118-2011 Junay Ondaraan @ Tagupi
DT-119-2011 Dustin Legaspi @ Dodong
DT-120-2011 Almiron Lomigis @ Olo

PURPOSE OF LABORATORY EXAMINATION:

To determine the presence of THC-metabolites and Methamphetamine.

FINDINGS:

Qualitative examination conducted on the above-stated specimen gave the following results:

DT-118-2011 = POSITIVE to the test for the presence of **Methamphetamine** and **THC-metabolites**, a dangerous drug.

DT-119-2011 and DT-120-2011 = POSITIVE to the test for the presence of **Methamphetamine**, a dangerous drug.

CONCLUSION:

The urine sample of **Junay Ondaraan** contains **Methamphetamine** and **THC-metabolites**.

The urine sample of **Dustin Legaspi** and **Almiron Lomigis** contain **Methamphetamine**.¹⁷ (Emphases in the original)

Consequently, Lomigis was charged of illegal possession of dangerous drugs as defined and penalized under Section 11, Article II of Republic Act No. 9165. The Information indicting him reads as follows:

Information for Criminal Case No. 15300

That on or about 2:30 in the afternoon of August 15, 2011, at [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law and without the corresponding license or prescription did then and there willfully, unlawfully and feloniously had in his possession, control and custody three (3) sachets of methamphetamine hydrochloride, otherwise known as shabu, weighing in the total net weight of zero point one six six six (0.1666) gram which is a dangerous drug.

CONTRARY TO LAW: (Violation of Section 11, Art. II of R.A. No. 9165)¹⁸

Along with AAA250855 and Legaspi, Lomigis was also charged with conspiring to commit illegal sale of dangerous drugs as defined and penalized under Section 5, in relation to Section 26(b), Article II of Republic Act No. 9165. The Information indicting them reads as follows:

Information for Criminal Case No. 15301

That on or about 2:30 in the afternoon of August 15, 2011 at Butuan City, Philippines and within the jurisdiction of this Honorable Court, the

¹⁷ Records (Criminal Case No. 15300), p. 13.

¹⁸ Records (Criminal Case No. 15300), p. 1.

above-named accused, without authority of law, conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully and feloniously sell and deliver one (1) sachet of methamphetamine hydrochloride, otherwise known as shabu, weighing zero point zero six eight nine (0.0689) gram more or less, which is a dangerous drug to a poseur buyer for a consideration of P500.00 marked money.

CONTRARY TO LAW: (Violation of Section 5, in relation to Art. 26(b) (sic), Art. II of R.A. No. 9165)¹⁹

The two cases were later consolidated. During the pendency of the hearing, Lomigis and Legaspi were both detained in [REDACTED] Jail while AAA250855, who was a minor at the time the crime was committed, was referred to the Regional Rehabilitation Center for Youth, upon the recommendation of the City Social Welfare Development Office, Butuan City.²⁰

During their arraignment, all three accused pleaded not guilty to the crimes charged.²¹ On June 18, 2013, AAA250855, with the assistance of his counsel, spontaneously and voluntarily changed his plea to “guilty” to the crime charged. Accordingly, he was sentenced to suffer imprisonment for 10 to 16 years. Considering, however, that he was still a minor, his sentence was suspended, and he was placed in the custody of Regional Rehabilitation Center for Youth in [REDACTED], Agusan del Sur.²² As for Lomigis and Legaspi, they interposed the defense of denial.

For his part, Lomigis averred that he just dropped off his passenger at [REDACTED] at around 2:30 p.m. on August 15, 2011. When he headed to a nearby waiting shed, he saw a lot of people scampering in different directions. Lomigis got scared when he heard a gunshot. He took refuge inside a house that was around eight meters away. Therein, he found AAA250855 also taking refuge. A few minutes later, the Philippine Drug Enforcement Agency agents knocked on the door, and they were ordered to go outside where they were frisked by the said agents. The agents confiscated PHP 42.00 from his pocket, which was his earnings for that day. Subsequently, they were brought to the Philippine Drug Enforcement Agency office, where they were placed inside a detention cell for around two hours. They were later brought out and were made to identify some drugs and a PHP 500.00 bill.²³

As for Legaspi, he claimed that he was eating his snack under a waiting shed when he saw some police officers arrest someone. Not wanting to get

¹⁹ Records (Criminal Case No. 15301), p. 1.

²⁰ *Id.* at 37.

²¹ Order dated November 9, 2012, Records (Criminal Case No. 15301), p. 37. Order dated January 27, 2012, Records (Criminal Case No. 15300), p. 23.

²² Judgment dated June 18, 2013, penned by Judge Eduardo S. Casals; records (Criminal Case No. 15301), p. 60.

²³ TSN, August 19, 2015, pp. 3-6.

involved, he distanced himself by casually walking towards the *sari sari* store, which was about seven or eight meters away. It was of no use though because an armed person frisked him and ordered him to lie on his stomach. He later found out that the said armed individual was IO1 Subang. Just like Lomigis, Legaspi was also brought to the Agency office where he was once again bodily searched but the Agency agents did not find anything.²⁴

After trial on the merits, the Regional Trial Court held that the prosecution was able to establish by proof beyond reasonable doubt that Lomigis was guilty of illegal possession of dangerous drugs, as defined and penalized under Section 11, Article II of Republic Act No. 9165. Also, the witnesses for the prosecution were able to establish with moral certainty that the three accused conspired in the illegal sale of dangerous drugs, as defined and penalized under Section 5, in relation to Section 26(b), Article II of Republic Act No. 9165. The Regional Trial Court found that the three accused were validly arrested without a warrant as they were caught *in flagrante delicto*. Moreover, there is nothing in the records that would show that the Philippine Drug Enforcement Agency agents were motivated by ill will when they testified against the three accused.²⁵ Thus, the Regional Trial Court disposed as follows:

Wherefore, viewed from the foregoing and after carefully weighing the evidence, in Criminal Case No. 15300, accused Almiron Lomigis y Garay is hereby found guilty beyond reasonable doubt of the crime charged. Accordingly, he is sentenced to suffer imprisonment of six (6) years and one (1) day to twelve (12) and to pay a fine of [PHP] 300,000.00.

In Criminal Case No. 15301, accused Almiron Lomigis y Garay and Dustin Legaspi are hereby found guilty beyond reasonable doubt of the crime charged. Accordingly, both accused are sentenced to life imprisonment and to pay a fine of [PHP] 500,000.00 each.

They shall serve their sentence at Davao Prison and Penal Farms, Dujali Davao del Norte, plus to pay the cost of this suit.

SO ORDERED.²⁶

Aggrieved, Lomigis and Legaspi filed an appeal²⁷ with the Court of Appeals. On August 30, 2019, the Court of Appeals rendered its Decision²⁸ affirming the ruling of the Regional Trial Court *in toto*. The Court of Appeals concurred that the prosecution was able to establish all the elements of the crimes charged by proof beyond reasonable doubt. Moreover, by accounting for all the links in the chain of custody of evidence, the prosecution was able

²⁴ TSN, September 28, 2016, pp. 7-9.

²⁵ CA *rollo*, pp. 189-191.

²⁶ *Id.* at 191.

²⁷ Docketed as CA-G.R. CR-HC No. 02000-MIN.

²⁸ CA *rollo*, pp. 229-246.

to show that the integrity of the confiscated drugs was preserved by the police officers.²⁹ Thus, the Court of Appeals disposed as follows:

WHEREFORE, premises considered, the appeal is hereby **DENIED**.

The Omnibus Judgment dated 17 May 2017 promulgated by the Regional Trial Court, Branch 1 of ██████████ in Criminal Case No. 15300 and Criminal Case No. 15301 for Violation of Section[s] 11 and 5 of R.A. 9165[,] respectively[,] is **AFFIRMED**. In Criminal Case No. 15300, accused-appellant Almiron Lomigis is sentenced to suffer imprisonment of six (6) years and one (1) day to twelve (12) years and to pay a fine of [PHP] 300,000.00. In Criminal Case No. 15301, accused-appellants Almiron Lomigis and Dustin Legaspi are sentenced to life imprisonment and to pay a fine of [PHP] 500,000.00 each.

SO ORDERED.³⁰ (Emphases in the original)

Hence this Appeal.

Issues

I.

Whether the prosecution was able to prove the due execution of the alleged buy-bust operation.

II.

Whether the *corpus delicti* was proven beyond reasonable doubt.

This Court's Ruling

Accused-appellants Lomigis and Legaspi maintain in their supplemental brief³¹ that they were illegally arrested and searched without a warrant since no buy-bust operation was actually conducted. They posit that they were only implicated in the instant case because it was the ploy of the Philippine Drug Enforcement Agency agents to charge more people with committing a crime.³²

They further contend that the identity and integrity of the seized items were not preserved by the Philippine Drug Enforcement Agency agents. First, IO1 Subang used his initials in marking the seized items. With such generic markings, there was no way to distinguish the seized items in this case from those that are subject of another case. It was also likely that another Philippine

²⁹ *Rollo*, pp. 12-21.

³⁰ *CA rollo*, p. 245-246.

³¹ *Rollo*, pp. 35-49.

³² *Id.* at 36-39.

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Drug Enforcement Agency agent shared the same initials. Hence, this raises the possibility of mix-up. Second, there was no insulating witness during the conduct of the marking of the seized items and the arrest. Third, there was an inconsistency in the records as to the identity of the officer who received the items from IO1 Subang in the crime laboratory. Lastly, the testimonies of the other officers, who handled the seized items were not presented in court. With the foregoing, Lomigis and Legaspi pray for their acquittal.³³

The State, through the Office of the Solicitor General, manifested that it will be adopting the arguments that it raised in its brief before the Court of Appeals.³⁴ In the said brief, the Office of the Solicitor General counters that the prosecution was able to establish all the elements of the crimes charged. Also, the warrantless arrest and search were both valid as there was a valid buy-bust operation that was conducted. The Office of the Solicitor General further asseverates that the identity and integrity of the seized items were preserved as there was substantial compliance with the rule on the chain of custody.³⁵

Upon a careful review with the records of this case, this Court finds the Appeal to be meritorious.

Lomigis was charged of illegal possession of dangerous drugs as defined and penalized under Section 11, Article II of Republic Act No. 9165. He was also accused of conspiring with Legaspi in the illegal sale of dangerous drugs as defined and penalized under Section 5 in relation to Section 26 (b), Article II of Republic Act No. 9165. It was further alleged that they committed the crimes charged on August 15, 2011. Accordingly, the applicable law is Republic Act No. 9165 before it was amended by Republic Act No. 10640.

This Court has held in several cases that the prosecution bears the burden of proving the following elements before an accused can be convicted of committing illegal sale of dangerous drugs, to wit: (1) prove that the transaction or sale took place; (2) present in evidence the *corpus delicti* or the illicit drug; and (3) identify the buyer and seller.³⁶ Meanwhile, in charges of illegal possession of dangerous drugs, the following circumstances must be established by proof beyond reasonable doubt: (a) the accused was in possession of an item or object identified to be a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.³⁷

³³ *Id.* at 39–47.

³⁴ *Id.* at 32–33.

³⁵ CA *rollo*, pp. 208–216.

³⁶ *People v. Dadang*, G.R. No. 242880, January 22, 2020 [Per J. Reyes, J., Jr., First Division].

³⁷ *Id.*

Settled also is the rule that for the charges under Republic Act No. 9165 to prosper, the dangerous drug confiscated from the accused would comprise as the *corpus delicti*.³⁸ Accordingly, it is also the burden of the prosecution to prove that the dangerous drugs that are presented in court are the same as the ones that were seized from the accused.³⁹ This is done by proving in court that the procedure provided under Section 21, Article II of Republic Act No. 9165 was strictly complied with. This is to ensure the preservation of the identity and integrity of the seized dangerous drugs, controlled precursors and essential chemicals, instruments, paraphernalia and laboratory equipment.⁴⁰ These drugs can easily be tampered with or substituted⁴¹ and it has been acknowledged that these dangerous drugs are not readily identifiable by sight or touch. While there have been cases when the prosecution was accorded some leniency, such was only permitted upon showing that there was justifiable ground for the same and that the integrity and evidentiary value of the seized items had nonetheless been preserved.⁴² Thus, those who were accused of violating any provision under Republic Act No. 9165 may be acquitted upon a mere showing that there were lapses in the handling of the *corpus delicti*.

Consistent with the need to preserve the identity and integrity of the *corpus delicti*, the chain of custody rule under Section 21, Article II of Republic Act No. 9165 has been summarized as follows:

[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 from the forensic chemist to the court.⁴³

Before the amendment, Republic Act No. 9165 requires that the conduct of physical inventory and photograph of the seized items be done in the presence of the following: (1) accused or the person from whom the items were seized, or their representative or counsel; (2) an elected public official; (3) a representative from the National Prosecution Service (NPS); and (4) a representative from the media. The said insulating witnesses would then be required to sign and be given a copy of the inventory. Then, the seized drugs

³⁸ *People v. Oliva*, G.R. No. 234156, January 7, 2019 [Per J. Peralta, Third Division].

³⁹ *Id.* at 6. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website, citing *People v. Gallabayam*, 699 Phil. 240, 252 (2011) [Per J. Brion, Second Division].

⁴⁰ *People v. Asislo*, 778 Phil. 509, 517 (2016) [Per J. Peralta, Third Division], citing *People v. Cayas*, 766 Phil. 534, 547 (2015) [Per J. Villarama, Jr., Third Division].

⁴¹ *People v. Guzon*, 719 Phil. 441, 459 (2013) [Per J. Reyes, First Division]. (Citations omitted)

⁴² *People v. Año*, 828 Phil. 439, 450 (2018) [Per J. Perlas-Bernabe, Second Division], citing *People v. Almorfe*, 631 Phil. 51 (2010) [Per J. Carpio Morales, First Division].

⁴³ *People v. Gayoso*, 808 Phil. 19, 31 (2017) [Per J. Del Castillo, First Division], citing *People v. Nandi*, 639 Phil. 134, 144 (2010) [Per J. Mendoza, Second Division].

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must be turned over to the Philippine National Police Crime Laboratory within 24 hours from confiscation for examination.⁴⁴

Here, the prosecution failed to prove that the dangerous drugs that were presented in court were the same as the ones that were seized from Lomigis and Legaspi because some of the links in the chain of custody of the seized items were not accounted for by the prosecution.

First, the conduct of the inventory was not witnessed by any representative from the DOJ. IO1 Subang testified that they subscribed their inventory form before Fiscal Go.⁴⁵ This, however, is not the witness requirement contemplated under Section 21, Article II of Republic Act No. 9165. It should also be pointed out that the Philippine Drug Enforcement Agency agents received the tip a day before they conducted their buy-bust operation. Evidently, they had sufficient time to contact the three insulating witnesses for them to be present during the conduct of the inventory but failed to do so.

Second, there was no police investigator who was supposed to conduct the investigation and prepare the necessary documents for the transfer of the seized items to the police crime laboratory for testing.⁴⁶ This Court has held in several cases that the failure of the apprehending officer to turn over the confiscated items to an investigating officer is deemed to be a break in the chain of custody of evidence.⁴⁷ IO1 Subang and IO1 Janito both testified that the former was in custody of the four plastic sachets from the time they were confiscated from Legaspi, Lomigis, and AAA250855 until they were delivered to the Philippine National Police crime laboratory for examination.⁴⁸ Also, it was IO1 Subang who allegedly prepared the requests for the laboratory examination of the contents of the four plastic sachets that they confiscated and the drug examination of Lomigis, Legaspi, and AAA250855. Then again, it would appear from a mere perusal of the said requests that it was Dir. Plaza who signed the same. IO1 Subang's name was nowhere to be found in the said documents.⁴⁹ Likewise, it was also not clear if Dir. Plaza was able to examine the seized items before he signed the said requests. If he did, the witnesses for the prosecution failed to narrate how IO1 Subang turned over the seized items to Dir. Plaza and how the latter returned the said items to the former.

⁴⁴ See Section 2 (1) and (2), Article II of R.A. No. 9165.

⁴⁵ TSN, August 20, 2014, pp. 21–23.

⁴⁶ *People v. Rapanan*, G.R. No. 252020 (Notice), May 5, 2021, citing *People v. Del Rosario*, G.R. No. 235658, June 22, 2020 [Per J. Gesmundo, Third Division].

⁴⁷ *Aduca v. People of the Philippines*, G.R. No. 237183 (Notice), July 8, 2020, citing *People v. Bangcola*, G.R. No. 237802, March 18, 2019 [Per J. Gesmundo, First Division].

⁴⁸ TSN, August 20, 2014, pp. 16–17, 27; TSN, September 3, 2014, p. 10.

⁴⁹ Request for Laboratory Examination dated August 15, 2011, Records (Criminal Case No. 15300), p. 10; Request for Drug Test Examination dated August 15, 2011; *id.* at 12.

Third, IO1 Subang and IO1 Janito both testified that the former was the one who delivered the seized items and the three accused to the crime laboratory.⁵⁰ IO1 Subang could not recall the name of the police officer who received the seized items at the crime laboratory, despite having served in the same office for four years.⁵¹ On the other hand, IO1 Janito testified that SPO4 Ocariz was the one who received the four plastic sachets while PO2 Dumaging was the one who received the request for drug test of Lomigis, Legaspi, and AAA250855.⁵² Then again, PI Signar testified that it was SPO4 Ocate who received the requests and the samples for his examination.⁵³ With such apparent discrepancies, the identity of the officer who received the seized items from IO1 Subang can no longer be determined with certainty. Moreover, it was not clear from the records as to how and when this unidentified officer turned over the seized items to PI Signar.

Fourth, it was not clear from the records of this case what happened to the dangerous drugs after they were examined by the forensic chemist, PI Signar, until they were presented in court. PI Signar testified that he turned over the seized items to their evidence custodian, Police Officer I Jonathan Migullas (*PO1 Migullas*) for safe-keeping.⁵⁴ Then again, the prosecution failed to present the testimony of PO1 Migullas in court. Consequently, this Court has no way of knowing how the integrity and identity of the seized items were preserved by PO1 Migullas before PI Signar retrieved them for presentation in court. Notably, when the seized items were presented in court, they were inside a small envelope with the chemistry report number written outside.⁵⁵ The prosecution also failed to identify the person who placed them inside the said envelope and when this was done. As pointed out by Legaspi and Lomigis in their supplemental brief, the seized items were marked with IO1 Subang's initials. Considering that IO1 Subang has participated in at least twenty buy-bust operations conducted by their office,⁵⁶ using a generic marking like that of his initials raises the likelihood that the seized items in the instant case were commingled with those of the other cases.

With all these blatant violations of the chain of custody rule under Section 21, Article II of Republic Act No. 9165, the identity and integrity of the seized items are placed in serious doubt. The unaccounted links in the chain of custody of the seized drugs open up the likelihood that the pieces of evidence that were presented against Lomigis and Legaspi were planted, switched or tampered.⁵⁷ Worse, the prosecution failed to present any reason justifying the noncompliance.

⁵⁰ TSN, August 20, 2014, p. 27. TSN, September 3, 2014, p. 10.

⁵¹ TSN, August 20, 2014, p. 39.

⁵² TSN, September 3, 2014, p. 19.

⁵³ TSN, October 8, 2014, p. 4.

⁵⁴ *Id.* at 8 and 11.

⁵⁵ Records (Criminal Case No. 15300), p. 87.

⁵⁶ TSN, August 20, 2014, pp. 39-40.

⁵⁷ *People v. Querijero*, G.R. No. 252564 (Notice), June 21, 2021, citing *People v. Lumaya*, 827 Phil. 473, 487 (2018) [Per J. Perlas-Bernabe, Second Division].

Settled is the rule that the procedure provided under Section 21, Article II of Republic Act No. 9165 must be strictly complied with especially in this case where the total quantity of illegal drugs seized was only 0.2355 gram. While a minuscule amount of dangerous drug would not automatically warrant the dismissal of the criminal charges, it has been recognized, however, that such amount is highly susceptible to planting, tampering, or alteration.⁵⁸ With the doubts engendered by the paucity of the prosecution's evidence, this Court has no recourse but to give Lomigis and Legaspi the benefit of the doubt under the law and acquit them of the drug charges imputed against them.

FOR THESE REASONS, the appeal is **GRANTED**. The Decision dated August 30, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 02000-MIN is hereby **REVERSED** and **SET ASIDE**. Accused-appellants Almiron Lomigis y Garay and Dustin Legaspi are hereby **ACQUITTED**. They are ordered **RELEASED** from confinement unless they are being held for some other legal grounds.

Let a copy of this Resolution be furnished to the Director General of the Bureau of Corrections for immediate implementation. The Director General of the Bureau of Corrections is directed to report the action he/she has taken to this Court within five (5) days from receipt of this Resolution. For their information, copies shall also be furnished to the Chief of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency.

The Regional Trial Court is directed to turn over the seized sachets of *shabu* to the Dangerous Drugs Board for destruction in accordance with the law.

Let entry of final judgment be issued immediately.

SO ORDERED.”

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court^{mmj/7}
07 .111. 2023

⁵⁸ *People v. Viliran*, G.R. No. 247503 (Notice), November 16, 2020. *People v. Dela Cruz*, G.R. No. 205821, 744 Phil. 816 (2014) [Per J. Leonen, Second Division].

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DUSTIN LEGASPI (reg)
Accused-Appellant
c/o The Superintendent
Davao Prison and Penal Farm
B.E. Dujali, 8105 Davao del Norte

THE SUPERINTENDENT (reg)
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B.E. Dujali, 8105 Davao del Norte

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(Crim Cases Nos. 15300 & 15301)

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