



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 19, 2022** which reads as follows:*

“G.R. No. 255095 (Christian Navarro y Rosario, Petitioner v. People of the Philippines, Respondent). — Assailed in this Petition for Review on *Certiorari*¹ are the Decision² dated June 29, 2020 and the Resolution³ dated December 22, 2020 of the Court of Appeals (CA) in CA-G.R. CR No. 42344, which affirmed the Joint Decision⁴ dated May 22, 2018 of the Regional Trial Court of Quezon City, Branch 87 (RTC) finding petitioner Christian Navarro y Rosario (Christian) guilty beyond reasonable doubt of illegal possession of dangerous drugs under Section 11, Article II of Republic Act No. (RA) 9165,⁵ otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

The Facts

In two separate Informations,⁶ both dated August 1, 2017, Christian was charged with violations of Section 5 and Section 11, Article II of RA 9165, the accusatory portions of which read:

Criminal Case No. R-QZN-17-09258-CR
(Illegal Sale of Dangerous Drugs)

That on or about the 29th day of July, 2017, in Quezon City, Philippine[s], the above-named accused, did then and there willfully and unlawfully sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit, or transport, or act as broker in the said transaction two (2) pieces heat-sealed transparent plastic sachets containing zero point zero four (0.04) gram and zero point zero five (0.05) gram, with

¹ *Rollo*, pp. 11-27.

² *Id.* at 33-43. Penned by Associate Justice Danton Q. Bueser with Associate Justices Geraldine C. Fiel-Macaraig and Alfredo D. Ampuan, concurring.

³ *Id.* at 45-47.

⁴ *Id.* at 71-77. Penned by Presiding Judge Aurora A. Hernandez-Calledo.

⁵ 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.

⁶ *Records*, pp. 4-7.

a total net weight of zero point zero nine (0.09) gram of Methamphetamine hydrochloride, known as "SHABU", a dangerous drug.⁷

Criminal Case No. R-QZN-17-09259-CR
(Illegal Possession of Dangerous Drugs)

That on or about the 29th day of July, 2017, in Quezon City, Philippine[s], the above-named accused, not being authorized by law to possess or use any dangerous drugs, did then and there willfully, unlawfully and knowingly have in his possession and control one (1) piece heat-sealed transparent plastic sachet containing zero point zero two (0.02) gram of Methamphetamine hydrochloride, known as "SHABU", a dangerous drug.⁸

The criminal cases were consolidated and Christian pleaded not guilty to both charges. The prosecution presented four witnesses: Police Officer 2 (PO2) Mark Joseph Alonte (PO2 Alonte), the poseur-buyer, PO2 Jimmy Joy Fajardo (PO2 Fajardo), the immediate back-up, PC/Insp. Bernardo Rivera Roque (PC/Insp. Roque), the chemist, and PO1 Bengie Nalogoc (PO1 Nalogoc), the case investigator. Meanwhile, the defense presented the lone testimony of Christian.⁹

The prosecution established that at around 7:00 p.m. of July 29, 2017, the Station Drug Enforcement Unit of the La Loma Police Station-Quezon City Police District (QCPD) received a report from a confidential informant (CI) about the illegal activities of a certain "Christian" along Sto. Cristo St., Barangay Balingasa, Quezon City. Acting on the report, Police Senior Inspector Felipe Fermin, Jr. (PS/Insp. Fermin, Jr.), formed a buy-bust team composed of eight members including PO2 Alonte and PO2 Fajardo, who were assigned as poseur-buyer and back-up, respectively. PO2 Alonte was then given three pieces of ₱100.00 bill, which he marked with his initials "MJA." The pre-arranged signal that the sale was consummated was for PO2 Alonte to light a cigarette.¹⁰

At around 9:00 p.m. of even date, the CI called up Christian, who agreed to meet at the basketball court located along Sto. Cristo St., Brgy. Balingasa, Quezon City. Upon arrival at the location at around 10:20 p.m., the team parked their vehicles along A. Bonifacio Avenue near the corner of Sto. Cristo St., which was approximately 40 to 50 meters away from the target area. After a few minutes, PO2 Alonte and the CI alighted from their vehicle and walked towards the target place while PO2 Fajardo and the other operatives clandestinely followed and positioned themselves in a viewing distance of approximately 10 to 15 meters away from the target area.¹¹

⁷ *Rollo*, p. 34.

⁸ *Id.*

⁹ *Id.* at 37.

¹⁰ *Id.* at 35.

¹¹ *Id.*

At 10:30 p.m., PO2 Alonte and the CI approached Christian and the CI introduced PO2 Alonte to Christian as the supposed buyer. After a brief conversation, PO2 Alonte asked Christian, “*Boss, baka meron ka diyang halagang tatlong daan pang-gamit lang?*”¹² and Christian pulled out from the right front pocket of his pants two small heat-sealed transparent plastic sachets containing white crystalline substance and handed it to PO2 Alonte. In turn, PO2 Alonte gave him the ₱300.00 marked money. After the exchange, PO2 Alonte lighted a cigarette and PO2 Fajardo immediately rushed to the scene, introduced himself and PO2 Alonte as police officers, and arrested Christian after he was informed of his constitutional rights. PO2 Fajardo then conducted a search wherein the buy-bust money was recovered from the right hand of Christian, and another one heat-sealed transparent plastic sachet containing white crystalline substance was found in the right front pocket of Christian’s pants.¹³

While at the place of arrest, PO2 Alonte marked the buy-bust items with “MJA-CN1 7/29/17” and “MJA-CN2 7/29/17,” while PO2 Fajardo marked the sachet he recovered from Christian’s possession with “JJF-CN 7/29/17.” The police officers then transferred and conducted the inventory at the barangay hall of Barangay Balingasa because people started to flock the place of arrest.¹⁴

At the barangay hall, PO2 Alonte presented the seized items to PO1 Nalogoc as the case investigator and proceeded to have the items inventoried and photographed in the presence of Christian and Barangay *Kagawad* Ma. Nenita Magdaraong (Brgy. Kgw. Magdaraong). Prior to the conduct of the inventory, PS/Insp. Fermin, Jr. contacted the Department of Justice (DOJ) and the media for them to send representatives to act as witnesses, but to no avail.¹⁵

Afterwards, PO2 Alonte and PO2 Fajardo brought the seized items to the QCPD Crime Laboratory for examination, which were received by PC/Insp. Roque. The seized items yielded a positive result for the presence of methamphetamine hydrochloride.¹⁶

The testimony of PC/Insp. Roque was the subject of stipulations between the prosecution and the defense: that PC/Insp. Roque personally received the subject specimens from the seizing officers, that he conducted a qualitative laboratory examination on the subject specimens and reduced his findings in Chemistry Report No. D-1266-17 and Chemistry Report No. QCDT-2353-17, and that after examination, PC/Insp. Roque sealed the specimens and turned them over to the evidence custodian until their presentation in court.¹⁷

¹² Records, p. 45.

¹³ *Rollo*, pp. 35-36.

¹⁴ *Id.* at 36.

¹⁵ *Id.*

¹⁶ *Id.* at 36-37.

¹⁷ Records, pp. 58-60

The testimony of PO1 Nalogoc was also stipulated that he was the investigator-on-case, and he prepared several documents such as the Chain of Custody Form and the Request for Laboratory Examination, and that he took photographs of the accused and the recovered evidence.¹⁸

In his defense, Christian denied the allegations against him and averred that sometime in July 2017, he was on his way home from work when two (2) police officers suddenly arrested him under the Balintawak bridge and immediately brought him to the police station.¹⁹

The RTC Ruling

In a Joint Decision²⁰ dated May 22, 2018, the RTC ruled as follows: (a) in Criminal Case No. R-QZN-17-09258-CR for violation of Section 5, Article II of RA 9165, Christian was acquitted for failure of the prosecution to prove his guilt beyond reasonable doubt; and (b) in Criminal Case No. R-QZN-17-09259-CR for violation of Section 11, Article II of the same law, Christian was found guilty beyond reasonable doubt, and accordingly, sentenced to suffer the penalty of imprisonment for an indeterminate period of twelve (12) years and one (1) day as minimum to twenty (20) years as maximum and to pay a fine of ₱300,000.00, with subsidiary imprisonment in case of insolvency.²¹

In acquitting Christian of illegal sale of dangerous drugs, the RTC ruled that the failure of the prosecution to turn over the buy-bust money was fatal because the identity of the consideration of the sale is one of the elements that must be duly established in illegal sale of dangerous drugs. On the other hand, in convicting Christian of illegal possession of dangerous drugs, the RTC found all the elements present: (a) the accused is in possession of a prohibited drug; (b) such possession is not authorized by law; and (c) the accused freely and consciously possessed the said drug. Christian's conscious possession of the illegal drug was established by the positive, spontaneous, categorical, and straightforward testimonies of the prosecution witnesses as well as documentary and object evidence on record.²²

Further, the RTC ruled that all the four links in the chain of custody were substantially followed by the arresting officers. *First*, the specimens seized from Christian were marked immediately at the place of the arrest after apprehension. Inventory and taking of photographs were carried out at the barangay hall of Brgy. Balingasa, Quezon City in the presence of Christian and Brgy. Kgw. Magdaraong. *Second*, the specimens were presented to PO1 Nalogoc for the purpose of investigation. The Receipt/Inventory of

¹⁸ Id. at 60.

¹⁹ *Rollo*, p. 37

²⁰ Id. at 71-77.

²¹ Id. at 76-77.

²² Id. at 75.

Confiscated/Seized Evidence and Chain of Custody Form confirmed the same. *Third*, PO2 Alonte and PO2 Fajardo personally turned over the seized drug specimens to PC/Insp. Roque at the Chemistry Section of the QCPD Crime Laboratory Office on July 30, 2017 at 2:20 a.m. and they all signed on the Chain of Custody Form. *Fourth*, on September 27, 2017, PC/Insp. Roque turned over to Court the seized drug specimens.²³

While the RTC noted the absence of a representative from the DOJ or from the media, the RTC nevertheless ruled that the arresting officers substantially complied with the procedure set forth in Section 21 of RA 9165, as amended. The saving clause under Section 21 of RA 9165, as amended, was applied in the instant case as the prosecution was able to sufficiently explain the procedural lapses committed and discharge its burden of proving that the identity and integrity of the seized evidence had been preserved despite the procedural lapses. Notably, the defense failed to raise the issue of non-compliance with the mandated procedure during trial. All told, the RTC opined that it has reached the point of moral certainty as to the possession by the accused of the seized specimens which contained methamphetamine hydrochloride, a dangerous drug, as well as the identity and evidentiary value of the evidence recovered from him.²⁴

Aggrieved, Christian appealed to the CA.

The CA Ruling

In a Decision²⁵ dated June 29, 2020, the CA affirmed the RTC ruling.²⁶ The CA ruled that the prosecution satisfactorily established the movement and custody of the seized item through the following links: (1) at the area where the buy-bust operation was conducted, PO2 Fajardo marked the sachet recovered from Christian with “JJF-CN 7/29/17;” (2) After the buy-bust operation, the police brought Christian to the barangay hall of Brgy. Balingasa where all the illicit items were photographed and inventoried in the presence of Christian and Brgy. Kgw. Magdaraong; (3) after the inventory, the seized items were turned over to PO1 Nalogoc, the case investigator, who then prepared the documents necessary in filing a complaint including a request for laboratory examination of the seized items and the Chain of Custody Form. Thereafter, the items were returned to PO2 Alonte and PO2 Fajardo; (4) PO2 Alonte and PO2 Fajardo then brought the marked seized items and the request letter to the Philippine National Police-QCPD Crime Laboratory Office and were received by PC/Insp. Roque, who conducted the laboratory examination. After examination, PC/Insp. Roque sealed the specimens in a large transparent sachet and marked it with “D-1266-17” with sub-marking “BRR,” and turned it over to the evidence custodian until it was brought to court during trial; (5)

²³ Id. at 75-76.

²⁴ Id. at 76.

²⁵ Id. at 33-43.

²⁶ Id. at 42.

Chemistry Report No. D-1266-17 confirmed that the contents of the marked items seized from Christian were *shabu*; (6) the seized drugs were presented in court and offered in evidence as Exhibit "O," "O-1," and "O-2."²⁷

The CA justified that the absence of a representative from the DOJ or the media is not fatal because there was substantial compliance with the requisite witnesses of the inventory of the seized items considering that the inventory was done in the presence of Christian and an elected public official, and that prior to the inventory, the team leader made efforts to seek representatives from the media or DOJ, but no one was available.²⁸

The CA further ruled that in any case, the failure to strictly follow the directives of Section 21 of RA 9165, as amended by RA 10640, will not necessarily render the items confiscated from an accused inadmissible. While the law recognizes that the presentation of a perfect and unbroken chain is ideal, the realities and variables of an actual police operation usually makes an unbroken chain impossible. What is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused. Here, the records and testimonies of the police officers convincingly showed the continuous whereabouts of the dangerous drugs from the time they were confiscated and tested in the laboratory until they were offered in evidence. Thus, the integrity of the seized items had not been compromised at some stage, and the items recovered from Christian were the same illegal drugs presented in the trial court.²⁹

Christian's motion for reconsideration³⁰ was denied by the CA in a Resolution³¹ dated December 22, 2020; hence, this petition.

The Issue Before the Court

The issue for the Court's resolution is whether or not the CA correctly upheld Christian's conviction for illegal possession of dangerous drugs.

The Court's Ruling

The Petition is meritorious.

At the outset, it must be stressed that in criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct

²⁷ Id. at 39-40.

²⁸ Id. at 40-41.

²⁹ Id.

³⁰ Id. at 48-53.

³¹ Id. at 45-47.

errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors. The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.³²

Guided by the foregoing consideration, the Court is constrained to acquit Christian of the crime charged, as will be explained below.

In cases of violation of RA 9165, it is essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.³³ To obviate any unnecessary doubts on the identity of the dangerous drugs, the prosecution has to show an unbroken chain of custody over the same. It must be able to account for each link in the chain of custody over the dangerous drug, from the moment of seizure up to its presentation in court as evidence of the *corpus delicti*.³⁴ Failing to prove the integrity of the *corpus delicti* renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt and, hence, warrants an acquittal.³⁵

In this regard, case law instructs that there are four links in the chain of custody of the purported drugs confiscated from the accused, namely: *first*, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.³⁶ Notably, an unjustified deviation from any of the links in the chain of custody shall be sufficient to produce an acquittal on the ground that the integrity and evidentiary value of the *corpus delicti* had not been adequately preserved.³⁷

After a thorough review of the records, the Court finds that there were unjustified deviations in the first and fourth links, as will be explained below.

There are four activities that are performed during the first link in relation to the drugs, namely: (a) apprehension/seizure; (b) marking; (c) **conduct of inventory**; and (d) taking of photographs.

³² *People v. Bernardo*, G.R. No. 242696, November 11, 2020, citing *Arambulo v. People*, G.R. No. 241834, July 24, 2019.

³³ See *People v. Delina*, G.R. No. 243578, June 30, 2020, citing *People v. Fulinara*, G.R. No. 237975, June 19, 2019.

³⁴ See *People v. Alvaro*, 823 Phil. 444 (2018), citing *People v. Viterbo*, 739 Phil. 593 (2014).

³⁵ See *People v. Gamboa*, 833 Phil. 1055 (2018), citing *People v. Umipang*, 686 Phil. 1024, 1039-1040 (2012).

³⁶ See *People v. Que*, 824 Phil. 882 (2018), citing *People v. Nandi*, 639 Phil. 134 (2010).

³⁷ See *People v. Villalon, Jr.*, G.R. No. 249412, March 15, 2021.

The first link requires that the inventory and taking of photographs of the seized items be done “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” and 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.”³⁸

It is undeniable that the inventory was not witnessed by a representative from the DOJ or from the media. However, the prosecution justified that PS/Insp. Fermin, Jr. called the DOJ and the media but they failed to send representatives.³⁹

While it is already settled that non-compliance with the witness requirement may be permitted, it is equally settled that the prosecution must prove that the apprehending officers exerted ***genuine and sufficient efforts*** to secure the presence of such witnesses, albeit they eventually failed to appear.⁴⁰

In *People v. Lim (Lim)*⁴¹ the Court instructs that it must be proved that the presence of the required witnesses to the physical inventory and photography of the seized drugs was not obtained due to reason/s, such as: (a) their attendance was impossible because the place of arrest was a remote area; (b) their safety during the inventory and photograph of the seized drugs was threatened by an immediate retaliatory action of the accused or any person/s acting for and in his/her behalf; (c) the elected official themselves were involved in the punishable acts sought to be apprehended; (d) earnest efforts to secure the presence of a DOJ or media representative and an elected public official within the period required under Article 125 of the Revised Penal Code prove futile through no fault of the arresting officers, who face the threat of being charged with arbitrary detention; or (e) time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape.⁴² **Finally, Lim further mandates that the prosecution must prove that the arresting officers had exerted earnest efforts to secure the attendance of the witnesses, as sheer statements that representatives were unavailable without so much as an explanation on whether serious attempts were employed to look for other representatives, are to be regarded as a flimsy excuse.**⁴³

³⁸ See Section 21 of RA 9165, as amended by RA 10640.

³⁹ *Rollo*, pp. 40-41.

⁴⁰ See *Matabilas v. People*, G.R. No. 243615, November 11, 2019.

⁴¹ 839 Phil. 597 (2018).

⁴² *Id.*, citing *People v. Sipin*, 833 Phil. 67 (2018).

⁴³ *Id.*, citing *People v. Ramos*, 826 Phil. 981 (2018).

The prosecution failed to justify the deviation made by the police when it conducted the inventory without the presence of a representative from the DOJ or the media. The Court notes that PS/Insp. Fermin, Jr. was not presented in Court to explain the efforts taken to secure the presence of a representative from either the DOJ or the media. It was only PO2 Alonte who testified that PS/Insp. Fermin, Jr. called the DOJ and the media.

Further, as regards the fourth link in the chain of custody, “it is of paramount necessity that the forensic chemist testifies on the details pertaining to the handling and analysis of the dangerous drug submitted for examination, *i.e.*, when and from whom the dangerous drugs was received; what identifying labels or other things accompanied it; description of the specimen; and the container it was in. Further, the forensic chemist must also identify the name and method of analysis used in determining the chemical composition of the subject specimen.”⁴⁴ Relatedly, should the prosecution and the defense opt to stipulate and dispense with the attendance of the forensic chemist, case law instructs that “it should be stipulated that the forensic chemist would have testified that he took the precautionary steps required in order to preserve the integrity and evidentiary value of the seized item, thus: (1) the forensic chemist received the seized article as marked, properly sealed, and intact; (2) he resealed it after examination of the content; and (3) he placed his own marking on the same to ensure that it could not be tampered pending trial.”⁴⁵

Here, the stipulations on PC/Insp. Roque were as follows: (1) the qualification and expertise of the witness; (2) that he is presently assigned at QCPD Crime Laboratory Office, Kamuning, Quezon City; (3) that on July 30, 2017, he reported for work and personally received a Request for Laboratory Examination and Request for Drug Test together with the subject specimens from the seizing officers and signed the said Requests as proof of receipt by the Chemistry Section; (4) that he conducted a qualitative laboratory examination on the subject specimens and reduced his findings in Chemistry Report No. D-1266-17 and Chemistry Report No. QCDDT-2353-17; (5) that the said witness will be able to identify a Request for Laboratory Examination, Request for Drug Test, and the Chemistry Reports subject of the cases; (6) that the witness will be able to identify his signature on the mentioned documents and the signatures of the approving and noting authorities therein; (7) that the witness will be able to identify the subject specimens turned over to him for examination as appearing in Chemistry Report No. D-1266-17; (8) that after examination, the witness sealed the specimens and turned them over to the evidence custodian; (9) that the witness could also identify the Chain of Custody Form and his signature appearing therein; and (10) that the witness

⁴⁴ See *People v. Rivera and Estanislao*, G.R. No. 252886, March 15, 2021, citing *People v. Omamos*, G.R. No. 223036, July 10, 2019.

⁴⁵ See *People v. Villalon, Jr.*, G.R. No. 249412, March 15, 2021, citing *People v. Ubungen*, 836 Phil. 888 (2018).

has no personal knowledge as to the circumstances which led to the arrest of the accused, as well as the confiscation of the seized items.⁴⁶

Verily, the prosecution and the defense failed to agree on the required stipulations such as that the forensic chemist received the seized items as marked, properly sealed, and intact, and whether PC/Insp. Roque placed his own markings on the seized items, thereby resulting in a break insofar as the fourth link of the chain of custody is concerned. The Court notes that the CA found that after examination, PC/Insp. Roque sealed the specimens in a large transparent sachet and marked them with "D-1266-17" with sub-marking "BRR." This, however, was not stipulated on. In fact, it was the prosecutor who noticed these markings, not PC/Insp. Roque.⁴⁷

To reiterate, establishing every link in the chain of custody is crucial to the preservation of the integrity, identity, and evidentiary value of the seized illegal drug. As such, the failure to demonstrate compliance with even just one of these links creates reasonable doubt that the substance confiscated from the accused is the same substance offered in evidence. Accordingly, in light of the unjustified deviations in the first and fourth links in the chain of custody as above-described, the Court is constrained to conclude that the integrity and evidentiary value of the item seized from Christian had been compromised. Perforce, his acquittal is in order.

FOR THESE REASONS, the Petition is **GRANTED**. The Decision dated June 29, 2020 and the Resolution dated December 22, 2020 of the Court of Appeals in CA-G.R. CR No. 42344 are **REVERSED** and **SET ASIDE**. Accordingly, petitioner Christian Navarro y Rosario is hereby **ACQUITTED** of the crime charged.

The Director-General of the Bureau of Corrections is **ORDERED** to:
(a) cause the immediate release of petitioner Christian Navarro y Rosario unless he is being lawfully held in custody for any other lawful reason; and
(b) inform the Court of the action taken within five (5) days from receipt of this Resolution. Copies shall also be furnished to the Police General of the Philippine National Police and the Director-General of the Philippine Drug Enforcement Agency for their information.

Let entry of judgment be issued immediately.

SO ORDERED. (LOPEZ, M., J., on official business)

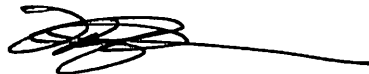
⁴⁶ Records, pp. 73-74.

⁴⁷ Id. at 59.

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court ^{mmg}

19 JUL 2023

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HON. PRESIDING JUDGE (reg)
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(Crim. Cases Nos. R-QZN-17-09258-CR &
R-QZN-17-09259-CR)

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