



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Baguio City

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated April 17, 2023 which reads as follows:

“G.R. No. 264542 (JOHN MORONEY *y* DELLOSA,* JR., Petitioner *v.* PEOPLE OF THE PHILIPPINES, Respondent). – The Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court seeks to reverse the following dispositions of the Court of Appeals in CA-G.R. CR No. 03578:

(1) Decision² dated July 21, 2021 affirming the conviction of petitioner John Moroney *y* Dellosa, Jr. for violation of Section 11, Article II of Republic Act No. 9165;³ and

(2) Resolution⁴ dated August 23, 2022 denying reconsideration.

Antecedents

Under Information dated March 30, 2015,⁵ petitioner was charged with violation of Section 11, Article II of Republic Act No. 9165, thus:

That on or about February 9, 2015, in Brgy. Concepcion, Hilongos, Leyte, within the jurisdiction of this Honorable Court the above-named accused, without being authorized by law, did then and there, willfully, unlawfully, and knowingly have in his possession, custody, and control four (4) sachets of methamphetamine hydrochloride, locally known as “shabu”, a dangerous drug, with a total net weight of point ten (.10) gram.

CONTRARY TO LAW.⁶

* Also referred to as “Dollosa” in some parts of the *Rollo*.

¹ *Rollo*, pp. 13–44.

² *Id.* at 93–105; Penned by Associate Justice Marilyn B. Lagura-Yap and concurred in by Associate Justices Robert P. Quiroz and Nancy C. Rivas-Palmones.

³ Otherwise known as the Comprehensive Dangerous Drugs Act of 2002, approved January 23, 2002.

⁴ *Rollo*, pp. 118–120.

⁵ *Id.* at 93.

⁶ *Id.*

On arraignment, petitioner pleaded “not guilty.” Trial ensued.⁷

Version of the Prosecution

On February 4, 2015, Police Chief Vicente Bullecer, Jr. (PC Bullecer) received information that petitioner was engaged in illegal drug trade. He assigned Police Officer 2 Rey Juyo (PO2 Juyo) and Police Officer 1 Nelson Mancio (PO1 Mancio) to conduct surveillance on petitioner. PO2 Juyo, PO1 Mancio, together with the confidential informant, then arranged for a test-buy and they were able to buy *shabu* inside petitioner’s house located in Barangay Concepcion, Hilongos, Leyte. After the successful test-buy, the team applied for a search warrant, which was granted by Judge Ephrem S. Abando (Judge Abando) of the Regional Trial Court, Branch 18, Hilongos, Leyte.⁸

On February 9, 2015, at 9:30 p.m., PC Bullecer conducted a briefing for the implementation of Search Warrant 01-2015 against petitioner. The team then proceeded to petitioner’s house at around 11:30 p.m. When they arrived, they found the gate open so they proceeded inside the house. They saw petitioner and introduced themselves to him as police officers of Hilongos Police Station, and they read the search warrant to him.⁹

Petitioner’s father, John Moroney, Sr., Barangay Kagawad Elroy Wagas (Kagawad Wagas), Barangay Kagawad Reynaldo Sotto (Kagawad Sotto), and media representative Paul Cotosos (media representative Cotosos), were present to witness the proceedings conducted inside the house. With the witnesses complete, PO2 Juyo and PO1 Mancio began searching the premises and found four sachets of *shabu*, two tooters, a pair of scissors, and rolled tin foil all placed inside a “durabox” inside petitioner’s bedroom.¹⁰

PO2 Juyo turned over the seized items to Police Officer 3 Reynaldo Rosario (PO3 Rosario), the designated investigator, who then conducted the inventory right outside the bedroom where the plastic sachets of suspected *shabu* were seized. He marked the recovered plastic sachets containing white crystalline substance with initials “JMJR-1” to “JMJR-4.” Police Officer 1 Valentino Villafañe (PO1 Villafañe) took photographs of petitioner and the seized items. The inventory, marking, and photograph taking were all done in the presence of petitioner, petitioner’s father, Kagawad Wagas, Kagawad Sotto, and media representative Cotosos. Petitioner was then brought to the police station along with the seized items. PO2 Juyo kept the seized items with him while in transit to the police station, where he then secured the items inside a cabinet for safekeeping before making a return on the search warrant.¹¹

⁷ *Id.* at 94.

⁸ *Id.* at 53.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

The following morning, PO2 Juyo made a return on the search warrant to the issuing court. Thereafter, he brought the seized items to the crime laboratory together with the request for examination. PO2 Juyo turned over the seized items to Forensic Chemist Police Chief Inspector Benjamin A. Cruto (Forensic Chemist Cruto) for examination. Forensic Chemist Cruto conducted a qualitative examination of the items, which yielded positive results for the presence of methamphetamine hydrochloride, a dangerous drug, per Chemistry Report No. D-96-2015.¹²

After examination, Forensic Chemist Cruto placed the specimens inside a brown small envelope which he marked with his initials, "BAC," then turned over the same to evidence custodian Lea Nartea.¹³ Finally, Forensic Chemist Cruto turned over and submitted the marked seized items to the court.¹⁴

Version of the Defense

Petitioner interposed denial and frame-up. He testified that on February 9, 2015, he was in his living room, when a group of police officers suddenly entered his house and forced him to go outside. He resisted so PO2 Juyo punched him. The police officers then showed the search warrant issued against him. He told the police officers to wait for the barangay kagawad, but they forcibly brought him inside the house, went inside his room, and searched the premises. While the search was ongoing, he was held against the wall of his room, hence, he could not see what was happening.¹⁵

After the search, barangay officials were called. To his surprise, the plastic sachets of *shabu* were already there inside his room. The police officers showed him the sachets and detained him in the Hilongos Police Station.¹⁶

The Ruling of the Regional Trial Court

By Decision¹⁷ dated February 15, 2017, the trial court found petitioner guilty of illegal possession of dangerous drugs, *viz.*:

WHEREFORE, in view of the foregoing, accused JOHN MORONEY y DELLOSA, JR., is found GUILTY beyond reasonable doubt of the crime in Violation of Section 11, Article II, RA 9165 and hereby sentenced to suffer the imprisonment from Twelve (12) Years and One (1)

¹² *Id.* at 51.

¹³ *Id.* at 52.

¹⁴ *Id.* at 57.

¹⁵ *Id.* at 95.

¹⁶ *Id.* at 95-96.

¹⁷ *Id.* at 50-58.

day as minimum to Fourteen (14) Years as maximum. And to pay a fine of P300,000.00. Pay the costs.

SO ORDERED.¹⁸ (Emphasis in the original)

The trial court held that all the elements of illegal possession of dangerous drugs were present. Too, every link in the chain of custody was indubitably shown, hence, the police officers were able to preserve and safeguard the integrity and evidentiary value of the seized items.¹⁹

Proceedings Before the Court of Appeals

On appeal, petitioner faulted the trial court for rendering a verdict of conviction despite the alleged failure of the prosecution to prove his guilt beyond reasonable doubt; the illegality of the search and seizure; and the police officers' non-compliance with the chain of custody under Section 21, Republic Act No. 9165, as amended.²⁰

Meanwhile, the People of the Philippines, through the Office of the Solicitor General riposted that the trial court did not commit any reversible error in convicting petitioner of violation of Section 11, Article II of Republic Act No. 9165 because there was no gap in the chain of custody of the seized drugs.²¹

The Ruling of the Court of Appeals

In its assailed Decision dated July 21, 2021,²² the Court of Appeals affirmed.

It found that the search warrant was valid. There was probable cause to issue the same. Judge Abando personally examined the applicant, PC Bullecer, and the witnesses, PO2 Juyo and PO2 Mancio, who attested that they had conducted a confirmatory test-buy of *shabu* from petitioner inside his house. Too, the particularity requirement was duly observed as the search warrant described the place and subject of the search with specificity, i.e., "*in his residence located at Brgy. Concepcion, Hilongos, Leyte as indicated in the attached sketch of the house.*" The search warrant also specifically mentioned that the *shabu* could be found inside the plastic durabox located in his bedroom. Hence, the four plastic sachets of *shabu* recovered during the search are deemed admissible as evidence.²³

¹⁸ *Id.* at 58

¹⁹ *Id.* at 56–58.

²⁰ *Id.* at 59–75.

²¹ *Id.* at 76–90.

²² *Id.* at 93–104; Penned by Associate Justice Marilyn B. Lagura-Yap and concurred in by Associate Justices Robert P. Quiroz and Nancy C. Rivas-Palmones.

²³ *Id.* at 98–99.

More, all the elements of illegal possession of dangerous drugs were sufficiently established. Finally, there was no break in the chain of custody here, thus, the *corpus delicti* of the offense of illegal possession of dangerous drugs has been proven by the prosecution beyond doubt.²⁴

Petitioner's Motion for Reconsideration²⁵ was denied by Resolution²⁶ dated August 23, 2022.

The Present Petition

Petitioner now seeks affirmative relief from the Court and prays anew for his acquittal. He maintains that the search warrant was invalid for having been issued without probable cause. Too, the prosecution failed to establish an unbroken chain of custody.²⁷

Ruling

The Petition is devoid of merit.

Petitioner was charged with illegal possession of dangerous drugs, allegedly committed on February 9, 2015. Thus, Republic Act No. 9165, as amended by Republic Act No. 10640 which took effect on August 7, 2014, governs the disposition of this case.

The prosecution sufficiently established all the elements of illegal possession of dangerous drugs.

Illegal possession of dangerous drugs requires the following elements: (a) the accused was in possession of an item or object identified as prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed said drug.²⁸

Possession, under the law, includes not only actual possession, but also constructive possession. **Actual possession** exists when the drug is in the immediate physical possession or control of the accused. **Constructive possession**, on the other hand, exists when the drug is under the dominion and control of the accused or when he or she has the right to exercise dominion and control over the place where it is found,²⁹ as in this case.

²⁴ *Id.* at 99-103.

²⁵ *Id.* at 106-115.

²⁶ *Id.* at 118-120.

²⁷ *Id.* at 22-44.

²⁸ *Plan et al. v. People*, G.R. No. 247589, August 24, 2020 [Per J. Perlas-Bernabe, Second Division].

²⁹ *Quelnan v. People*, 553 Phil. 618, 630 (2007) [Per J. Tinga, Second Division].

To recall, PO2 Juyo and PO1 Mancio conducted the search inside petitioner's bedroom after reading the search warrant to petitioner. During the search, PO2 Juyo was able to recover four plastic sachets of *shabu*, together with two tooters, a pair of scissors, and tin foil inside a durabox found inside petitioner's bedroom. The search was witnessed by petitioner, petitioner's father, Kagawad Wagas, Kagawad Sotto, and media representative Cotosos.

Verily, the fact that the four plastic sachets of *shabu* were recovered from the durabox inside his bedroom is a convincing proof that petitioner had control and dominion over them. Notably, petitioner failed to adduce satisfactory explanation for his possession of such drug, or that he had authority to possess the same. Too, his mere possession constitutes *prima facie* evidence of knowledge or *animus possidendi* sufficient to convict him of the crime charged.

In fine, all the elements of illegal possession of dangerous drugs are present here.

The apprehending officers complied with the chain of custody rule.

In drug related cases, the State bears the burden not only of proving the elements of the offense but also the *corpus delicti* itself.³⁰ Apart from the elements of possession, the identity of the substance illegally possessed, on one hand, and the substance offered in court as exhibit, on the other, must likewise be established with the same degree of certitude.³¹ This is the chain of custody rule. The rule came to fore due to the unique characteristics of illegal drugs which render them indistinct, not readily identifiable, and easily open to tampering, alteration, or substitution either by accident or otherwise.³²

The chain of custody refers to 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 the seized items shall include the identity and signature of the person who held temporary custody thereof, 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.³³ The prosecution, therefore, must establish the following links in the chain of custody:

First, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer;

³⁰ *People v. Calates*, 829 Phil. 262, 269 (2018) [Per J. Bersamin, Third Division].

³¹ *People v. Lorenzo*, 633 Phil. 393, 403 (2010) [Per J. Perez, Second Division].

³² *Jacson v. People*, 854 Phil. 67, 78 (2019) [Per J. Lazaro-Javier, Second Division].

³³ *Tumabini v. People*, G.R. No. 224495, February 19, 2020 [Per J. Gesmundo, Third Division].

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.³⁴

The **first link** refers to the seizure and marking which must be done immediately at the place of the arrest. Too, it includes the physical inventory and taking of photograph of the seized drug which should be done in the presence of the accused or his/her representative or counsel, together with an elected public official and a representative of the Department of Justice or the media.

The marking of the seized items operates to set apart as evidence the dangerous drugs or related items from other material from the moment they are confiscated until they are disposed of at the close of the criminal proceedings, thereby forestalling switching, planting, or contamination of evidence.³⁵

Here, immediately after the search, right outside the room where the search was conducted, and in the presence of petitioner, petitioner's father, and the insulating witnesses, Kagawad Wagas, Kagawad Sotto, and media representative Cotesos, PO3 Rosario conducted the inventory and marked the plastic sachets containing white crystalline substance with initials "JMJR-1" to "JMJR-4." Photographs of petitioner and the seized items were also taken.

Evidently, the *first link* remained intact.

Going now to the *second link*, the same pertains to the turnover of the dangerous drug seized by the apprehending officer to the investigating officer while the *third link* refers to the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination.

PO2 Juyo testified that after PO3 Rosario conducted the inventory and marking, he (PO2 Juyo) took custody of the seized items. The seized items then remained in the custody of PO2 Juyo while in transit to the police station. Upon arrival at the police station, PO2 Juyo placed the seized items inside a cabinet for safekeeping. He later on made a return of the search warrant and submitted the same along with the drugs to the issuing court. After making the return, PO2 Juyo personally delivered to the crime laboratory the four plastic

³⁴ *People v. Gayoso*, 808 Phil. 19, 31 (2017) [Per J. Del Castillo].

³⁵ *People v. Siapno*, G. R. No. 218395, (Notice) November 3, 2020, citing *People v. Lumaya*, 827 Phil. 473, 489 [Per J. Perlas-Bernabe, Second Division].

sachets of *shabu*, together with the Request for Laboratory Examination. The Request was stamped “delivered by PO2 Juyo and received by PCI Cruto.”³⁶

This shows that the *second* and *third links* remained unbroken.

As for the *fourth* link, the prosecution was able to establish that Forensic Chemist Cruto received the four plastic sachets containing *shabu* from PO2 Juyo. Forensic Chemist Cruto then conducted a qualitative examination of the submitted specimens and found that they were positive for *shabu*. He formalized his findings and conclusion in Chemistry Report No. D-96-2015, which he identified in open court.

After examination, Forensic Chemist Cruto placed the specimens in a brown small envelope which he marked with his initials, “BAC” and turned over the specimen to evidence custodian Lea Nartea.³⁷ Finally, Forensic Chemist Cruto submitted the marked seized items to the court.³⁸

Verily, the prosecution established the identity, integrity, and evidentiary value of the seized items which have remained intact from seizure up to the time they were presented in evidence at the trial. So must it be.

All told, the Court of Appeals did not err when it affirmed the verdict of conviction of petitioner for violation of illegal possession of dangerous drugs under Section 11, Article II of Republic Act No. 9165.

Penalty

We now go to the penalty.

To recall, the *shabu* confiscated here had a total net weight of 0.10 gram. Considering this is less than five grams, the penalty should be within the range of twelve (12) years and one (1) day to twenty (20) years and a fine of Three Hundred Thousand (PHP 300,000.00) to Four Hundred Thousand (PHP 400,000.00).³⁹

³⁶ *Rollo*, p. 102.

³⁷ *Id.* at 52.

³⁸ *Id.* at 57

³⁹ Section 11. *Possession of Dangerous Drugs.* xxx

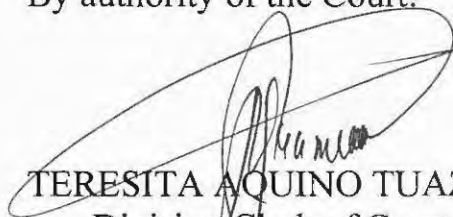
(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine 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.

Hence, the trial court, as affirmed by the Court of Appeals, did not err when it sentenced petitioner to twelve (12) years and one (1) day as minimum to fourteen (14) years as maximum, and to pay a fine of PHP 300,000.00.

FOR THESE REASONS, the Petition is **DISMISSED**. The Decision dated July 21, 2021 and Resolution dated August 23, 2022 of the Court of Appeals in CA-G.R. CR No. 03578, **AFFIRMED**.

SO ORDERED.”

By authority of the Court:


TERESITA AQUINO TUAZON
 Division Clerk of Court ^{mm} 12/15
 18 DEC 2023

PUBLIC ATTORNEY'S OFFICE (reg)
 Regional Special & Appealed Cases Unit
 3F, Taft Commercial Center
 Metro Colon Carpark, Osmeña Boulevard,
 Brgy. Kalubihan, 6000 Cebu City

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

JOHN MORONEY y DELLOSA, JR. (reg)
 Accused-Appellant
 c/o The Superintendent
 Leyte Regional Prison
 Abuyog, 6510 Leyte

THE SUPERINTENDENT (reg)
 Leyte Regional Prison
 Abuyog, 6510 Leyte

HON. PRESIDING JUDGE (reg)
 Regional Trial Court, Branch 18
 Hilongos, Leyte
 (Crim. Case No. H-2294)

COURT OF APPEALS (reg)
 Visayas Station
 Cebu City
 CA-G.R. CR No. 03578

JUDGMENT DIVISION (x)
 Supreme Court, Manila

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 PHILIPPINE JUDICIAL ACADEMY (x)
 Supreme Court, Manila

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