



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE
PHILIPPINES,

Plaintiff-Appellee,

- versus -

EDWARD DALISAY y BAGRO,
Accused-Appellant.

G.R. No. 258060

Present:

CAGUIOA, *J.*, Chairperson,
INTING,
GAERLAN,
DIMAAMPAO, and
SINGH,* *JJ.*

Promulgated:

August 16, 2023

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DECISION

CAGUIOA, *J.*:

Before this Court is an appeal assailing the Decision¹ dated January 13, 2021 of the Court of Appeals – Manila, First Division (CA) in CA-G.R. CR-HC No. 10365. The CA Decision affirmed the Joint Decision² dated July 12, 2017 by Branch 7, Regional Trial Court of Batangas City (RTC) in Criminal Case Nos. 19010 and 19011. The CA and the RTC found accused-appellant Edward Dalisay (accused-appellant) guilty beyond reasonable doubt of violation of Section 28(a) and (e), Article V in relation to Section 3(dd), subparagraph 1(ii), Article I of Republic Act (R.A.) No. 10591,³ otherwise known as the “Comprehensive Firearms and Ammunition Regulation Act”

* On wellness leave.

¹ *Rollo*, pp. 8–39. Penned by Associate Justice Walter S. Ong with Presiding Justice Remedios A. Salazar-Fernando and Associate Justice Victoria Isabel A. Paredes concurring.

² *Id.* at 43–68. Penned by Presiding Judge Aida C. Santos.

³ AN ACT PROVIDING FOR A COMPREHENSIVE LAW ON FIREARMS AND AMMUNITION PROVIDING PENALTIES FOR VIOLATIONS THEREOF, approved on May 29, 2013.

and Section 11, Article II of R.A. No. 9165,⁴ otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

Antecedents

Two separate Informations for violation of Section 28(a) and (e), Article V in relation to Section 3(dd), subparagraph 1(ii), Article I of R.A. 10591 and Section 11, Article II of R.A. 9165 were filed against accused-appellant, the accusatory portions of which provide as follows:

CRIMINAL CASE NO. 19010

That on or about July 22, 2014 at around 9:35 in the evening at Brgy. Gulod Itaas, Batangas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and deliberately have in his possession and under his custody one (1) homemade Black Widow Magnum caliber .22 revolver marked with “PVA,” loaded with five (5) live ammunitions for the same caliber, without first having obtained the proper license and permit therefor.

CONTRARY TO LAW.⁵

CRIMINAL CASE NO. 19011

That on or about July 22, 2014 at around 9:35 in the evening at Brgy. Gulod Itaas, Batangas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and not being authorized by law, did then and there knowingly, willfully, and criminally possess, or have under his custody and control one (1) heat-sealed transparent plastic sachet containing 11.50 grams of Methamphetamine Hydrochloride, more commonly known as “[*shabu*],” a dangerous drug, which is a clear violation of the above-cited law.

CONTRARY TO LAW.⁶

Upon arraignment, accused-appellant pleaded not guilty to both charges. After the pre-trial, the trial took place.

The version of the prosecution, as culled by the CA from the Appellee’s Brief, is as follows:

On July 22, 2014, at around 8:45 in the evening, while [PO2 Ponciano V. Asilo (“PO2 Asilo”)] was on duty as a member of the Station Anti-Illegal Drugs Special Operations Task Force (SAIDSOTE) (*sic*) of the PNP Batangas City Police Station (station), his confidential informant (CI), who resided in Barangay Gulod Itaas, informed that alias Edu/Puwit, who has long been a subject of police surveillance for his involvement in the illegal drug trade, was [at] the corner leading to the elementary school in

⁴ 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 June 7, 2002.

⁵ *Rollio*, p. 44.

⁶ *Id.*

said barangay, carrying a gun. PO2 Asilo relayed the information to PO3 Alexander Narvacan Olea (PO3 Olea) and PO3 Jonas Manook Guarda (PO3 Guarda) and together, they planned on how to arrest alias Edu/Puwit. Before they departed from the station, they recorded their intended operation with duty desk officer SPO2 Leur Libio. Then, aboard a tinted unmarked vehicle, they departed for the target area.

At the corner leading to the elementary school in Brgy. Gulod Itaas, still aboard the van, they spotted alias Edu/Puwit sitting on a parked black motorcycle, showing something to another man. As they approached nearer the two men, PO2 Asilo set the headlights on bright. Thereupon, PO2 Asilo saw[,] glistening in the dark[,] a gun still in the hand of alias Edu/Puwit. The police officers immediately alighted from the vehicle and accosted alias Edu/Puwit. PO2 Asilo forthwith confiscated the gun from the possession of the latter. Upon closer inspection, PO2 Asilo ascertained that it is a homemade .22-caliber Magnum revolver with label Black Widow[,] but without serial number[,] and containing five (5) live ammunitions. Upon inquiry whether the gun was covered by a valid license, alias Edu/Puwit was not able to present any documents, so PO2 Asilo placed him under arrest and apprised him of his constitutional rights. In accordance with standard operating procedure (SOP), PO2 Asilo frisked him to determine if he was in possession of other deadly weapons or contraband. He found[,] in [accused-appellant's] right pocket[,] one (1) transparent plastic sachet containing suspected [shabu]. Then and there, while PO3 Olea took pictures, PO2 Asilo put his marking "PVA" on the gun, [and] "PVA 07-22-14" on the single plastic sachet of suspected [shabu]. Upon questioning, the man identified himself as [accused-appellant]. They brought him to the barangay hall of Brgy. Gulod Itaas. From the place where they arrested [accused-appellant] until their arrival at the said barangay hall, PO2 Asilo kept the evidence in his pocket.

At the said barangay hall, they caused the recording of the arrest of the suspect in the barangay blotter. Shortly, [SPO1 Pepito Reyes Adelantar (SPO1 Adelantar)] prepared the Certificate of Inventory and conducted the inventory of evidence in the presence of [accused-appellant], Department of Justice (DOJ) representative Leonides Cueto, and Barangay Councilor [Cueto], who, then[,] signed the said document. No media representative was present during the inventory because, although they contracted (*sic*) Lito Rendura, Boy Griño, and the one from the City Hall, they were not available at the time. After the inventory, PO2 Asilo turned over the gun with marking "PVA", the five (5) live ammunitions with marking "PVA 1" to "PVA 5" and one transparent plastic sachet containing suspected [shabu] with marking "PVA 07-22-14" to SPO1 Adelantar. The team then left for the station. From the said barangay hall to the station, SPO1 Adelantar kept the evidence in his custody.

At the station, the arrival of the team was recorded in the police blotter. SPO1 Adelantar prepared the letter-requests for laboratory examination of the plastic sachet of suspected [shabu] and for the drug test of the suspect. Forthwith, he brought the said requests with the suspect and the evidence to the Batangas Provincial Crime Laboratory Office.⁷ (Citations omitted)

⁷ *Id.* at 14-16

Meanwhile, several other testimonies were stipulated on by the parties, likewise summarized by the CA, *viz.*:

As noted in the trial court's *Order* dated 11 December 2014, the prosecution and the defense stipulated on the testimony of Barangay Councilor Lito C. Cueto ("Cueto") of Barangay Gulod Itaas, Batangas City, as follows: (i) that he entered the incident involving [accused-appellant]'s arrest on 22 July 2014 in the barangay blotter, and that he has no personal knowledge as to the manner of [accused-appellant]'s arrest and the source of the seized specimens; (ii) that the photocopy of the pertinent page of the barangay blotter covering the entry made on 22 July 2014 is a faithful reproduction of the original; (iii) that one of the signatures at the bottom of the barangay blotter belongs to Cueto; (iv) that, if presented to testify, he would state that he was present during the inventory of the evidence seized from [accused-appellant] conducted at the Barangay Hall of Gulod Itaas, Batangas City, and that the signature appearing on the *Certificate of Inventory* dated 22 July 2014 belongs to him; and (v) that, if presented, he would be able to identify his signature thereon.

The parties likewise stipulated on the testimony of [SPO1 Adelantar], as follows: (i) that he is a police officer tasked to investigate cases involving drugs and assigned to the Batangas City Police Station; (ii) that, on 22 July 2014, he was tasked to conduct an investigation involving [accused-appellant], and that he proceeded to the Barangay Hall of Barangay Gulod Itaas, Batangas City for that purpose; (iii) that he prepared the *Certificate of Inventory* dated 22 July 2014; (iv) that, during the inventory, the "Black Widow Magnum caliber .22 with markings 'PVA' containing five (5) live ammunitions marked with 'PVA 1 to PVA 5' [and] one (1) transparent plastic sachet containing suspected [*shabu*] marked with 'PVA 07-22-14'" were presented to "the witness for the Department of Justice and the elected official"; (v) that he took photographs during the inventory; (vi) that [PO2 Asilo] turned the evidence over to him; (vii) that, if presented, he will be able to identify his signature and the signature of PO2 Asilo on the *Chain of Custody Form* dated 22 July 2014; (viii) that the evidence remained in his custody while he proceeded to the Police Station, where he prepared the *Request for Laboratory Examination* dated 22 July 2014; (ix) that he brought the transparent plastic sachet containing suspected *shabu* to the Batangas Provincial Crime Laboratory, where it was received by SPO4 Jesus T. Agustin, Jr. ("SPO4 Agustin"); (x) that he also prepared the *Request for Drug Test* dated 22 July 2014 and had it received by the Batangas Provincial Crime Laboratory where he submitted [accused-appellant] for drug test; (xi) that he subsequently received the *Chemistry Report No. BD-495-2014* dated 23 July 2014; (xii) that, after receiving the result of the laboratory examination, he "collated and prepared" the *Kusang Loob na Sinumpaang Salaysay* dated 24 July 2014 of PO2 Asilo, the *Booking Sheet/Arrest Report* dated 23 July 2014, the *Request for Laboratory Examination* dated 22 July 2014, the *Chemistry Report No. BD-495-2014* dated 23 July 2014, the *Spot Report* dated 22 July 2014, the *Request for Drug Test* dated 22 July 2014, the photocopy of the pertinent page of the barangay blotter covering the entry made on 22 July 2014, the photocopy of the pertinent page of the police blotter covering the entries made on 22 July 2014, the *Certificate of Inventory* dated 22 July 2014, the *Chain of Custody Form* dated 22 July 2014, and the relevant photographs, and he also submitted the "Magnum Caliber .22 revolver with Black Widow marked 'PVA', containing five (5) live ammunitions marked with 'PVA 1



to PVA 5” to the Office of the City Prosecutor; (xiii) that, if presented, he would be able to identify the pieces of evidence mentioned; and (xiv) that he would likewise be able to identify the transparent plastic sachet containing white crystalline substance with marking “PVA 07-22-14”; and (xv) that he would be able to identify [accused-appellant].

In an *Order* dated 17 February 2015, the trial court noted that the parties further stipulated on the testimony of SPO4 Agustin, as follows: (i) that he is the evidence custodian of the Batangas Provincial Crime Laboratory; (ii) that, at around midnight on 23 July 2014, he received from SPO1 Adelantar the *Request for Laboratory Examination* dated 22 July 2014 and the *Chain of Custody Form* dated 22 July 2014; (iii) that he also received the *Request for Drug Test* dated 22 July 2014; (iv) that he turned the *Request for Laboratory Examination* and the subject specimen over to PSI Herminia Carandang Llacuna (“PSI Llacuna”); (v) that, at around 8:10 in the morning of 23 July 2014, he received the subject specimen from PSI Llacuna for custody; (vi) that, at around 1:00 p.m. on 28 October 2014, he released the evidence to PO2 Isidro Manalo (“PO2 Manalo”); (vii) that, if presented, he would be able to identify the subject specimen; and (viii) that he would likewise be able to identify the *Chain of Custody Form* dated 22 July 2014.

In a subsequent *Order* dated 17 June 2015, the trial court noted that parties stipulated on the testimony of PSI Llacuna, as follows: (i) that PSI Llacuna is a chemist of the Batangas Provincial Crime Laboratory and is qualified to conduct an examination on the subject specimen and determine its composition; (ii) that, at around 6:00 in the morning on 23 July 2014, she received a *Request for Laboratory Examination* dated 22 July 2014, together with the subject specimen, and that she conducted a qualitative examination of the specimen which gave a positive result for the presence of methamphetamine hydrochloride, which findings she reduced into writing in the *Chemistry Report No. BD-495-2014* dated 23 July 2014; (iii) that *Chemistry Report No. BD-495-2014* exists and was duly executed, and the signature thereon is genuine; (iv) that, after she conducted her examination, she sealed and marked the subject specimen; (v) that, thereafter, she turned the subject specimen over to SPO4 Agustin; and (vi) that, if presented, she would be able to identify the *Request for Laboratory Examination* dated 22 July 2014, the *Chain of Custody Form* dated 22 July 2014, and the subject specimen.

In another *Order* dated 23 February 2015, the trial court noted that the parties stipulated on the testimony of PO2 Manalo, as follows: (i) that, on 28 October 2014, PO2 Manalo withdrew the subject specimen from the custody of SPO4 Agustin and delivered it to the trial court; and (ii) that the Firearms and Explosives Office of the Philippine National Police (“PNP”), Camp Crame, Quezon City issued a *Certification* dated 23 October 2014 stating that, per the records of the office, [accused-appellant] “is not a licensed/registered firearm holder of any kind and caliber.”⁸

Meanwhile, accused-appellant denied the accusations against him.

He recounted that on July 22, 2014, at around 7:00 p.m., he was buying candles from a store in *Buklod-Unlad* in Barangay Dumantay, Batangas City,

⁸ *Id.* at 11–14.



when three armed men wearing white plastic masks on board three motorcycles grabbed him, asking him if he was “Joey.” Accused-appellant said that he was not Joey and showed the men his driver’s license to prove it, but the men kept insisting he was “Joey.” Frightened, accused-appellant managed to request his cousin to report the incident to his father. When the latter arrived, the men told accused-appellant’s father not to interfere, or else he would get involved. The men then forcibly boarded accused-appellant inside a van, where accused-appellant asked the men if they have evidence against him. However, the men, asked accused-appellant to produce ₱100,000.00 in exchange for his liberty. Since accused-appellant told the men that he had no money, the men threatened him and told him, “*Tuluyan ka [na lang] namin.*” Subsequently, the men brought accused-appellant to a police station, where they showed him the pieces of evidence against him. Afterwards, at around 9:00 p.m., accused-appellant was brought somewhere in Barangay Gulod, where his pictures were taken. Thereafter, he was brought to the barangay hall of Barangay Gulod Itaas, where accused-appellant told the barangay officials that the items were not his and that he was not even arrested at the said barangay. Brgy. Councilor Cueto even wondered aloud why they did not know about the arrest but the police did not react.⁹

RULING OF THE RTC

In a Joint Decision¹⁰ dated July 12, 2017, the RTC convicted accused-appellant of both charges. The dispositive portion of the Joint Decision reads:

WHEREFORE, judgment is hereby rendered, [viz].:

- 1) In Criminal Case No. 19010, finding accused EDWARD DALISAY y BAGRO GUILTY beyond reasonable doubt of violation of Section 28 (paragraphs a & e), Article V in relation to Section 3, paragraph dd, subpar. 1 (i), Article I of Republic Act No. 10591, otherwise known as the “Comprehensive Firearms and Ammunition Regulation Act” and sentencing him to suffer the indeterminate penalty of imprisonment from eight (8) years and one (1) day of prision mayor as minimum to fifteen (15) years, six (6) months and nineteen (19) days of reclusion temporal, as maximum; and
- 2) In Criminal Case No. 19011, finding accused EDWARD DALISAY y BAGRO alias “EDU/PUWIT” GUILTY of violation of Section 11, Article II of R.A. No. 9165. Accordingly, he is hereby sentenced to suffer life imprisonment and to pay a fine of Four hundred thousand pesos (₱400,000.00), without subsidiary imprisonment in case of insolvency.

⁹ *Id.* at 50--51.

¹⁰ *Supra* note 2.



SO ORDERED.¹¹

The RTC concluded that the arrest of accused-appellant was valid, even without a warrant, due to the fact that he was apprehended in *flagrante delicto* while holding a firearm without a license therefor. This justifies the admissibility of the Black Widow Magnum caliber .22 revolver marked with “PVA” and the five live rounds of ammunition found inside the gun as evidence against accused-appellant. Furthermore, accused-appellant’s failure to provide an explanation for possessing the firearm, coupled with the Certification from the PNP’s Firearms and Explosives Office confirming his lack of registration as a firearm holder, established the elements of the offense of illegal possession of firearms and ammunition.¹²

In convicting accused-appellant for the crime of illegal possession of drugs under Section 11 of R.A. 9165, the RTC found that all elements were present. First, accused-appellant was apprehended while in *flagrante delicto*, openly possessing the illegal substance. Second, although the police officers failed to comply strictly with Section 21 of R.A. 9165, the court was satisfied that the integrity of the drugs was preserved. The RTC noted that there was no confusion or doubt regarding the confiscation, handling, custody, and examination of the seized *shabu*, establishing a continuous and unbroken chain of custody.¹³

Aggrieved, accused-appellant appealed the Joint Decision to the CA.

RULING OF THE CA

In the assailed Decision¹⁴ dated January 13, 2021, the CA affirmed accused-appellant’s conviction for the crimes charged. The dispositive portion of the Decision reads:

The appeal is DENIED. The *Joint Decision* dated 12 July 2017 rendered by Branch 7 of the Regional Trial Court, Fourth Judicial Region, Batangas City in Criminal Case No. 19010 and Criminal Case No. 19011 is AFFIRMED, with the MODIFICATION that the sentence imposed on [accused-appellant] Edward Dalisay y Bagro in Criminal Case No. 19010 shall be reduced to an indeterminate sentence of eight (8) years and one (1) day of *prision mayor* in its medium period, as minimum, to eleven (11) years and four (4) months of *prision mayor* in its maximum period, as maximum.

IT IS SO ORDERED.¹⁵

¹¹ *Rollo*, pp. 66–67.

¹² *Id.* at 52–57.

¹³ *Id.* at 58–65.

¹⁴ *Supra* note 1.

¹⁵ *Rollo*, p. 38.



In his appeal before the CA, accused-appellant contended that PO2 Asilo's claim — that he was openly brandishing an unlicensed firearm in a public space --- was a sheer fabrication. It would be highly irregular, accused-appellant argued, for a holder of an unlicensed firearm to flaunt his possession of the same so recklessly in public. However, the CA was unmoved by this argument and instead, the CA gave credence to PO2 Asilo's testimony. PO2 Asilo maintained that they surveilled on accused-appellant after a receiving a tip that he was carrying a gun. From their vantage point aboard their tinted van, PO2 Asilo claimed to see accused-appellant seemingly display a shiny, nickel-plated object — suspected to be the firearm in question — to another individual. Consequently, the CA upheld the legality of the warrantless arrest, affirming that PO2 Asilo had probable cause to believe that accused-appellant was carrying an unlicensed weapon. The CA likewise upheld the findings of the RTC that the elements for illegal possession of firearms and illegal possession of dangerous drugs were adequately proven.

Hence, this appeal.

ISSUES

There are three issues to be resolved:

First, whether accused-appellant was validly arrested, and concomitant to that, whether there was a valid search against accused-appellant;

Second, whether the CA was correct in affirming accused-appellant's conviction in Criminal Case No. 19010 for illegal possession of firearms and ammunition, as punished under Section 28(a) and (e), Article V in relation to Section 3(dd), subparagraph 1(ii), Article I of R.A. 10591; and

Third, whether the CA is correct in affirming accused-appellant's conviction in Criminal Case No. 19011 for illegal possession of dangerous drugs, as penalized by Section 11, Article II of R.A. 9165.

RULING OF THE COURT

The appeal is partly meritorious.

The Court has repeatedly emphasized that an appeal in criminal cases throws wide open the entire case for review. Thus, the reviewing tribunal is duty-bound to correct, cite, and appreciate errors in the appealed judgment, whether assigned or unassigned.¹⁶ The appeal confers the appellate court full jurisdiction over the case, making it fully equipped to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.¹⁷

¹⁶ See *People v. Añon*, 828 Phil 439, 447 (2018)

¹⁷ See *id*



In this case, the police successfully carried out a valid warrantless search upon accused-appellant. As a result of this search, accused-appellant was found to be illegally in possession of a firearm and, when frisked, was also in illegal possession of drugs. The Court therefore upholds accused-appellant's conviction for illegal possession of firearm and ammunition. However, as to the charge for illegal possession of dangerous drugs, accused-appellant should be acquitted because of the prosecution's failure to prove the integrity of the drugs seized from accused-appellant.

***There was a valid warrantless search
– stop-and-frisk***

Every citizen's right to be secure against unreasonable searches and seizures is **sacrosanct**. Section 2, Article III of the Constitution¹⁸ guarantees that the State cannot trespass into the citizen's persons, house, papers, and effects without a warrant issued by a judge finding probable cause.

Yet, the constitutional proscription against warrantless searches and seizures admits of certain exceptions. These exceptions are: (1) warrantless search incidental to a lawful arrest recognized under Section 12, Rule 126 of the Rules of Court and by prevailing jurisprudence; (2) seizure of evidence in plain view; (3) search of moving vehicles; (4) consented warrantless search; (5) customs search; (6) stop-and-frisk situations (*Terry* search); and (7) exigent and emergency circumstances.¹⁹

Upon close examination of the facts of this case, the search conducted can be categorized as a stop-and-frisk encounter. A stop-and-frisk search was defined as "the act of a police officer to stop a citizen on the street, interrogate him [or her], and pat him [or her] for weapon(s) or contraband."²⁰ To determine whether a stop-and-frisk warrantless search is valid, the test is whether "a reasonably prudent man [or woman], in the circumstances, would be warranted in the belief that his [or her] safety or that of others was in danger."²¹ In turn, "in determining whether the officer acted reasonably in such circumstances, due weight must be given not to his [or her] inchoate and unparticularized suspicion or 'hunch,' but to the specific reasonable inferences which he [or she] is entitled to draw from the facts in light of his [or her] experience."²²

¹⁸ CONSTITUTION, Article III, Sec. 2 provides:

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

¹⁹ *Dominguez v. People*, 849 Phil. 610, 622 (2019).

²⁰ *People v. Chua*, 444 Phil. 757 (2003).

²¹ *Terry v. Ohio*, 392 U.S. 1 (1968).

²² *Id.*

In this case, the arresting officer, PO2 Asilo, testified that they proceeded to Brgy. Gulod Itaas pursuant to a call made to him by an informant that accused-appellant was seen in a corner leading up to the elementary school therein.²³ In his *Salaysay*, PO2 Asilo likewise narrated that they proceeded quickly to Brgy. Gulod Itaas because accused-appellant was reported to have a gun with him.²⁴

During the cross-examination of PO2 Asilo, he testified that accused-appellant has been under the relentless surveillance by Station Anti-Illegal Drugs Special Operations Task Force (SAIDSOTF) since 2011 or three years before accused-appellant's arrest. Accused-appellant, along with his two other brothers, Edison and alias "Ulo," have been the targets of their monitoring and surveillance operations because of their suspected involvement in the illegal drug trade. PO2 Asilo testified that they were already able to arrest Edison a while back, but admitted that they have not yet secured a warrant against accused-appellant despite the fact that it has been three years since he has been under surveillance.²⁵

In the case of *Telen v. People*,²⁶ the Court had the opportunity to discuss the balance that must be observed by the law enforcement operatives when it conducts stop-and-frisk searches. Particularly, the Court explained the concept of "suspiciousness" that should be present before a stop-and-frisk search is conducted, *viz.*:

However, in *People v. Cogaed*, this Court emphasized that while a [stop-and-frisk] search was necessary for law enforcement and to deter crime, it should always be balanced with a citizen's right to privacy:

"[Stop-and-frisk]" searches (sometimes referred to as Terry searches) are necessary for law enforcement. That is, law enforcers should be given the legal arsenal to prevent the commission of offenses. However, this should be balanced with the need to protect the privacy of citizens in accordance with Article III, Section 2 of the Constitution.

The balance lies in the concept of "suspiciousness" present in the situation where the police officer finds himself or herself in. This may be undoubtedly based on the experience of the police officer. Experienced police officers have personal experience dealing with criminals and criminal behavior. Hence, they should have the ability to discern — based on facts that they themselves observe — whether an individual is acting in a suspicious manner. Clearly, a basic criterion would be that the police officer, with his or her personal knowledge, must observe the facts leading to the suspicion of an illicit act.

²³ TSN dated May 7, 2015, pp. 4-5.

²⁴ Records (Crim. Case No. 19010), p. 3.

²⁵ TSN dated December 9, 2015, pp. 3-8.

²⁶ G.R. No. 228107, October 9, 2019, 923 SCRA 108

For a valid [stop-and-frisk] search, this Court instructed in *Manibog v. People* that the arresting officer should have personally observed at least two (2) or more suspicious circumstances. A reasonable inference must be deduced from the totality of circumstances to justify further investigation by the arresting officer.²⁷

In sum, the facts demonstrate that accused-appellant was lawfully subjected to a stop-and-frisk search as there were at least two suspicious circumstances in this case. Firstly, PO2 Asilo received information from an informant indicating that accused-appellant was seen in possession of a firearm in Brgy. Gulod Itaas. Secondly, upon arriving at the location, PO2 Asilo himself observed accused-appellant displaying a nickel-colored metal object to a companion. There is also the matter of accused-appellant having been under the unwavering gaze of the police officers for around three years prior to his arrest. These circumstances created a reasonable inference of criminal activity, authorizing the stop-and-frisk conducted by PO2 Asilo and his colleagues upon the person of accused-appellant.

Therefore, the item retrieved from accused-appellant, *i.e.*, a homemade Black Widow Magnum caliber .22 revolver marked with “PVA,” along with the five live rounds of ammunition loaded inside the gun, marked with “PVA 1” to “PVA 5,” are considered valid pieces of evidence that may be utilized against accused-appellant.

Considering the validity of the stop-and-frisk search, accused-appellant was thus properly arrested for illegal possession of firearm and was properly convicted therefor

Under Section 5, Rule 113 of the Rules of Court, a warrantless arrest may be made under the following circumstances:

Section 5. *Arrest without warrant; when lawful.* — A peace officer or a private person may, without a warrant, arrest a person:

- (a) When, in his [or her] presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;
- (b) When an offense has just been committed, and he [or she] has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and
- (c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he [or she] is serving final judgment or is temporarily

²⁷ *Id.* at 122-123. Citations omitted.



confined while his [or her] case is pending, or has escaped while being transferred from one confinement to another. . .

In turn, for an arrest effected under Section 5(a), Rule 113 to be valid, it is required that: (a) the person to be arrested must execute an overt act indicating that he or she has just committed, is actually committing, or is attempting to commit a crime; and, (b) such overt act is done in the presence or within the view of the arresting officer.²⁸

In this case, it is evident that the arrest made aligns with the provisions of Section 5(a) of Rule 113. The available evidence supports the conclusion that accused-appellant was subjected to a lawful stop-and-frisk procedure. During this procedure, it was discovered that accused-appellant was in possession of an unregistered firearm, leading to his subsequent arrest.

As the seizure of the unregistered firearm was valid, then accused-appellant was thus properly convicted of illegal possession of firearms.

To sustain convictions for illegal possession of firearms, the prosecution must show two essential elements: (1) that the firearm subject of the offense exists; and (2) that the accused who possessed or owned that firearm had no corresponding license for it.²⁹

The *corpus delicti* in the crime of illegal possession of firearms lies not in the act of possession, which is permissible under the law, but rather in the accused's lack of license or permit to possess or carry the firearm.³⁰ To firmly establish the *corpus delicti*, the prosecution has the burden of proving that: (a) the firearm exists; and (b) the accused who owned or possessed it does not have the corresponding license or permit to possess or carry the same.³¹

In this particular case, PO2 Asilo's testimony confirmed that a firearm was discovered in the possession of accused-appellant³² and subsequently turned over to SPO1 Adelantar following the inventory held at the barangay hall.³³ The defense assented to the fact that the firearm and ammunition remained secure in SPO1 Adelantar's custody, were submitted to the Office of the City Prosecutor, and could be identified if presented.³⁴ When brought into the court, the firearm and ammunition were presented and identified by PO2 Asilo, thereby conclusively establishing their existence and identity beyond a reasonable doubt.³⁵ Moreover, the crucial element of license

²⁸ *Castil v. People*, G.R. No. 253930, July 13, 2022, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/68437>>.

²⁹ *De Guzman v. People*, 857 Phil. 800, 811 (2019).

³⁰ *See People v. Alcira*, G.R. No. 242831, June 22, 2022, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/68462>>.

³¹ *Peralta v. People*, 817 Phil. 554, 562 (2017).

³² TSN dated May 7, 2015, pp. 6–8.

³³ TSN dated October 20, 2015, pp. 3–4.

³⁴ Records (Crim. Case No. 19010), pp. 69–73.

³⁵ TSN dated May 7, 2015, pp. 7–8.



deficiency was substantiated by the Certification dated October 23, 2014 issued by the PNP's Firearms and Explosives Office, which declared that accused-appellant was not a registered firearm holder of any kind or caliber according to their records.³⁶

Section 28(a) and (e)(1), Article V of R.A. 10591 provides:

SEC. 28. *Unlawful Acquisition, or Possession of Firearms and Ammunition.* — The unlawful acquisition, possession of firearms and ammunition shall be penalized as follows:

- (a) The penalty of *prision mayor* in its medium period shall be imposed upon any person who shall unlawfully acquire or possess a small arm;

....

- (e) **The penalty of one (1) degree higher than that provided in paragraphs (a) to (c) in this section shall be imposed upon any person who shall unlawfully possess any firearm under any or combination of the following conditions:**

- (1) Loaded with ammunition or inserted with a loaded magazine[.]** (Emphasis supplied)

Thus, the imposable penalty is *prision mayor* in its maximum period. In the absence of aggravating or mitigating circumstances, the penalty shall be within the medium range of *prision mayor* in its maximum period or ten (10) years, eight (8) months and one (1) day to eleven (11) years and four (4) months. Applying Indeterminate Sentence Law,³⁷ the minimum period should be the penalty next lower in degree, which is *prision mayor* in its medium period or from eight (8) years and one (1) day to ten (10) years. Therefore, the CA aptly adjusted the penalty to eight (8) years and one (1) day of *prision mayor* in its medium period, as minimum, to eleven (11) years and four (4) months of *prision mayor* in its maximum period, as maximum.

The arrest for illegal possession of firearms justifies the warrantless search that yielded the dangerous drugs

As a consequence of the foregoing ruling that there was a valid stop-and-frisk search that resulted in accused-appellant's arrest for illegal

³⁶ *Rollo*, p. 30.

³⁷ Act No. 4103, as amended by Act No. 4225 and R.A. 4203, titled "AN ACT TO PROVIDE FOR AN INDETERMINATE SENTENCE AND PAROLE FOR ALL PERSONS CONVICTED OF CERTAIN CRIMES BY THE COURTS OF THE PHILIPPINE ISLANDS; TO CREATE A BOARD OF INDETERMINATE SENTENCE AND TO PROVIDE FUNDS THEREFOR; AND FOR OTHER PURPOSES," approved December 5, 1933.

possession of firearms, the subsequent search upon accused-appellant's person which yielded the dangerous drugs was thus likewise valid.

A search incidental to a lawful arrest necessitates that a lawful arrest must precede the search; "the process cannot be reversed."³⁸ For there to be a lawful arrest, law enforcers must be fortified with a valid warrant, or at the very least, any of the instances when a valid warrantless arrest may be effected is present.

As previously discussed, accused-appellant was validly arrested as he was caught in *flagrante delicto* of possessing an unregistered firearm. Subsequently, a search was conducted as per standard police protocol following a warrantless arrest, during which a plastic sachet containing 11.50 grams of methamphetamine hydrochloride, subsequently marked as "PVA 07-22-14," was found. Consequently, the items recovered from accused-appellant falls within the purview of a criminal case for illegal possession of dangerous drugs. The dangerous drug seized cannot be deemed inadmissible given that the search, as an incidental measure to a lawful arrest, was conducted in a valid manner.

***Accused-appellant must be acquitted
of the charge of illegal possession of
dangerous drugs***

Nevertheless, a review of the records would show that the lower courts erred in convicting accused-appellant of illegal possession of dangerous drugs, as penalized by Section 11, Article II of R.A. 9165.

In any case related to illegal drugs, mere proof beyond a reasonable doubt of the commission of the offense is insufficient. It is also crucial to demonstrate, with evidence, the identity and integrity of the *corpus delicti*, which pertains to the illicit substance itself.³⁹ To preserve the integrity of a seized drug item, the prosecution must establish an unbroken chain of custody, which involves several stages. First, the illegal drug must be seized and marked by the apprehending officer. Second, the apprehending officer must turn over the seized illegal drug to the investigating officer. Third, the investigating officer must transfer the illegal drug to a forensic chemist for laboratory examination. Finally, the forensic chemist must turn over and submit the marked illegal drug to the court.⁴⁰ These links in the chain of custody are vital and must be accounted for to ensure the validity of the evidence presented in court.⁴¹

³⁸ *Veridiano v. People*, 810 Phil. 642, 657 (2017).

³⁹ *See People v. Asaytuno, Jr.*, G.R. No. 245972, December 2, 2019, 926 SCRA 613.

⁴⁰ *See People v. Andanar*, G.R. No. 246284, June 16, 2021, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67444>>.

⁴¹ *Id.*



As earlier concluded, accused-appellant was validly searched pursuant to a lawful arrest. Despite this, the chain of custody of the dangerous drugs seized must still be proven unbroken before conviction may be had. The Court, in *Tumabini v. People*⁴² (*Tumabini*) ruled that Section 21 of R.A. 9165, as amended, applies whether the drugs were seized either in a buy-bust operation or pursuant to a search warrant.⁴³ However, the Court hastens to clarify that **Section 21 also applies in warrantless stop-and-frisk searches**, as the language of Section 21 does not qualify in terms of its applicability.

The wisdom of the Court in *Tumabini* resonates clearly with the present case, *viz.*:

Section 21 of R.A. No. 9165 applies whether the drugs were seized either in a buy-bust operation or pursuant to a search warrant.

Chain of custody means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of the seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition. To ensure the establishment of the chain of custody, Sec. 21(1) of R.A. No. 9165 specifies that:

- (1) The apprehending team having initial custody and control of the drugs shall, immediately after **seizure and confiscation**, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof.

Sec. 21 of R.A. No. 9165 requires the apprehending team, after seizure and confiscation, to immediately conduct a physical inventory and photograph the same in the presence of (1) the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel; (2) a representative from the media and (3) the DOJ; and (4) any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof.

A plain reading of the law shows that it applies as long as there has been a seizure and confiscation of drugs. There is nothing in the statutory provision which states that it is only applicable when there is a warrantless seizure in a buy-bust operation. Thus, it should be applied in every situation when an apprehending team seizes and confiscates drugs from an accused, whether through a buy-bust operation or through a search warrant.

⁴² 871 Phil. 289 (2020).

⁴³ *Id.*



A cardinal rule in statutory construction is that when the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation. There is only room for application. As the statute is clear, plain, and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. This is what is known as the plain-meaning rule or *verba legis*. It is expressed in the maxim, *index animi sermo*, or “speech is the index of intention.” Furthermore, there is the maxim *verba legis non est recedendum*, or “from the words of a statute there should be no departure.”

Based on *verba legis*, Sec. 21 of R.A. No. 9165, as amended, operates as long as there is seizure and confiscation of drugs. It does not distinguish between warrantless seizure of the drugs in a buy-bust operation and in the implementation of a search warrant. Accordingly, in every situation where there is a seizure and confiscation of drugs, the presence of the accused, or his/her representative or counsel, a representative from the media and the DOJ, and any elected public official, is required during the physical inventory and taking of photographs of the seized drugs, because they shall be required to sign the copies of the inventory and be given a copy thereof.⁴⁴ (Emphasis and underscoring supplied)

In essence, a straightforward interpretation of Section 21 mandates that the law enforcement team initially seizing the drugs conduct an immediate physical inventory and photographic documentation, and this should happen in the presence of the accused and the designated witnesses. Notably, this mandate is not restricted to drug items unearthed in buy-bust operations — **it applies universally to all items recovered lawfully, whether through the implementation of a warrant or through other forms of warrantless searches and seizures, alike.**

The rationale for this interpretation is twofold. Firstly, the law is unambiguous. Section 21 does not specify its applicability, and as the *Tumabini* case justified, a plain reading of the provision shows it does not distinguish between warrantless seizure of the drugs in a buy-bust operation and in the implementation of a search warrant.⁴⁵ Secondly, it is well established that the *corpus delicti* in all prosecutions involving dangerous drugs is the dangerous drug itself.⁴⁶ Hence, since Section 21 provides for the procedure to ensure that the integrity of the *corpus delicti* is preserved, the said procedure must be observed for all drugs cases. Otherwise, if the Court were to exempt the application of Section 21 to drugs recovered from a frisk, it could provide a loophole for corrupt law enforcement officers to alter narratives from those of buy-bust operations to those of stop-and-frisk procedures. Even though stop-and-frisk procedures are not as common as buy-bust operations, clarification remains vital. This interpretation aligns with the constitutional presumption of innocence of an individual.

⁴⁴ *Id.* Citations omitted.

⁴⁵ *See id.*

⁴⁶ *Sio v. People*, G.R. No. 224935, March 2, 2022, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/21/68177>>.



In this case, law enforcement officers frisked accused-appellant due to suspicion of unlicensed firearm possession. This led to the arrest of accused-appellant for illegal possession of a gun, and the consequent recovery of a transparent plastic sachet, believed to contain *shabu*, on accused-appellant's person. Upon suspecting that the sachet contained illicit drugs, law enforcement officers were immediately obligated by law to ensure the integrity of the seized item, in accordance with the applicable version of Section 21.

In essence, there are four critical links in the chain of custody of seized drugs and paraphernalia that must be proven: **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.⁴⁷

In the case of *Nisperos v. People*,⁴⁸ the Court further outlined what ought to be observed in ensuring compliance with the first link, *viz.*:

In order to guide the bench, the bar, and the public, particularly our law enforcement officers, the Court hereby adopts the following guidelines:

1. The marking of the seized dangerous drugs must be done:
 - a. Immediately *upon* confiscation;
 - b. At the place of confiscation; and
 - c. In the presence of the offender (unless the offender eluded the arrest);
2. The conduct of inventory and taking of photographs of the seized dangerous drugs must be done:
 - a. Immediately *after* seizure and confiscation;
 - b. 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; and
 - c. Also in the presence of the insulating witnesses, as follows:

⁴⁷ *People v. Serojales*, G.R. No. 243985, September 3, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66832>>.

⁴⁸ G.R. No. 250927, November 29, 2022, accessed at <<https://sc.judiciary.gov.ph/250927-mario-nisperos-y-padilla-vs-people-of-the-philippines/>>.



- i. if the seizure occurred during the effectivity of R.A. No. 9165, or from July 4, 2002 until August 6, 2014, the presence of three (3) witnesses, namely, an elected public official; a Department of Justice (DOJ) representative; *and* a media representative;
 - ii. if the seizure occurred after the effectivity of R.A. No. 10640, or from August 7, 2014 onward, the presence of two (2) witnesses, namely, an elected public official; and a National Prosecution Service representative *or* a media representative.
3. In case of any deviation from the foregoing, the prosecution must positively acknowledge the same and prove (1) justifiable ground/s for non-compliance and (2) the proper preservation of the integrity and evidentiary value of the seized item/s.⁴⁹

As already stressed, Section 21 of R.A. 9165 demands strict compliance. Any deviation therefrom must not only be recognized, but also be explained or justified by the prosecution.⁵⁰ This rigor is warranted because, considering the peculiar nature of anti-narcotics operations, the need for entrapment procedures, the reliance informants of questionable character, the ease with which narcotics can be planted, and the clandestine nature of drug deals, the possibility of abuse is vast.⁵¹

The events of this case transpired on July 22, 2014. Hence, Section 21 of R.A. 9165, prior to its amendment by R.A. 10640, shall apply. In sum, Section 21 of R.A. 9165 requires that the seized drugs must be inventoried and photographed immediately after seizure and that the same must be conducted in the presence of the accused and three other witnesses, namely: (a) a representative from the media; (b) representative from the DOJ; and (c) an elected public official.⁵²

Here, the facts show that once accused-appellant was arrested, he was immediately frisked by PO2 Asilo. Upon frisking the right pocket of accused-

⁴⁹ *Id.* at 9–10. Citations omitted.

⁵⁰ *See Belga v. People*, G.R. No. 241836, November 11, 2021, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/68125>>.

⁵¹ *See People v. Manabat*, G.R. No. 242947, July 17, 2019, 909 SCRA 543, 562.

⁵² *People v. Malabanan*, 851 Phil. 1155, 1166 (2019).

appellant's shorts,⁵³ PO2 Asilo found a plastic sachet of what was later confirmed to be *shabu*. While still at the location where the gun and the plastic sachet were confiscated, PO2 Asilo then marked the plastic sachet as "PVA 07-22-14."⁵⁴

After the seizure and marking of the items, PO2 Asilo and his team transported accused-appellant and the seized items to the barangay hall of Brgy. Gulod Itaas, where an inventory was conducted. Notably, the blotter records of Brgy. Gulod Itaas indicate that the police officers arrived there at around 9:45 p.m.,⁵⁵ which is consistent with the prosecution's evidence stating that the encounter with accused-appellant took place at around 9:35 p.m.⁵⁶ These testimonies also coincide with the records which indicate that the team left the police station at 9:00 p.m. to conduct surveillance in Brgy. Gulod Itaas.⁵⁷

While the police officers were not able to secure the presence of a media representative during the inventory, PO2 Asilo testified that they attempted to call for the media representatives, but no one was available to witness the inventory.⁵⁸ As there were earnest efforts exerted to comply with the law, the non-compliance in this case is deemed excusable. After all, the Implementing Rules and Regulations (IRR) of R.A. 9165 allows some flexibility.⁵⁹ Deviations may be permitted, so long as the prosecution proves: (1) the existence of "justifiable grounds" allowing departure from the rule on strict compliance; and (2) the integrity and the evidentiary value of the seized items are properly preserved by the apprehending team.⁶⁰ Thus, when the authorities flout procedure, the prosecution must recognize such and compellingly justify the same in order to warrant the application of the saving mechanism.⁶¹

⁵³ TSN dated May 7, 2015, p. 9.

⁵⁴ *Id.* at 9–10.

⁵⁵ Records (Criminal Case No. 19011), p. 10.

⁵⁶ *Id.* at pp. 5–6 and pp. 8–9.

⁵⁷ Records (Criminal Case No. 19010), p. 9.

⁵⁸ TSN dated June 30, 2015, pp. 8–9.

⁵⁹ IRR of R.A. 9165, Article II provides:

SEC. 21. *Custody and Disposition of Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment.* — The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner: (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 the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items[.]

⁶⁰ *Dizon v. People*, 850 Phil. 518, 530 (2019).

⁶¹ *See id.*



The prosecution was able to show compliance with the second link, as well. PO2 Asilo testified that after he conducted the inventory of the seized items in the Barangay Hall of Brgy. Gulod Itaas, he turned over the seized items to SPO1 Adelantar, the investigating officer of the case.⁶²

However, it appears that the third and fourth links were not properly established by the prosecution.

SPO1 Adelantar's testimony, which was stipulated during trial, paints a picture of PO2 Asilo passing on a transparent sachet, marked "PVA 07-22-14" and suspected to contain *shabu*, into his custody. SPO1 Adelantar took charge of the transparent sachet, prepared the Request for Laboratory Examination at the police station, and then transported the sachet to the Batangas Provincial Crime Laboratory. **Supposedly, here, it lands in the hands of SPO4 Jesus T. Agustin⁶³, Jr. (SPO4 Agustin).**⁶⁴

SPO4 Agustin, evidence custodian at the Batangas Provincial Crime Laboratory, acknowledged receiving from SPO1 Adelantar, around midnight of July 23, 2014, the following: **the Request for Laboratory Examination dated July 22, 2014, the Chain of Custody Form dated July 22, 2014, and the Request for Drug Test dated July 22, 2014.** He further testifies that he handed over the Request for Laboratory Examination along with the contentious specimen to PSI Herminia Carandang Llacuna (PSI Llacuna).⁶⁵

However, there's a glaring omission in SPO4 Agustin's testimony. **He does not confirm having received the specimen, as marked, from SPO1 Adelantar.** Thus, a fog of doubt begins to enshroud the chain of custody as the stipulation fails to clarify that SPO4 Agustin indeed received the seized sachet from SPO1 Adelantar.

Conversely, PSI Llacuna's testimony, which is also stipulated, notably lacks information about the state in which she received the seized items, and from whom she received the same. Its summary is presented below for context:

In a subsequent *Order* dated 17 June 2015, the trial court noted that parties stipulated on the testimony of PSI Llacuna, as follows: (i) that PSI Llacuna is a chemist of the Batangas Provincial Crime Laboratory and is qualified to conduct an examination on the subject specimen and determine its composition; (ii) **that, at around 6:00 in the morning on 23 July 2014, she received a Request for Laboratory Examination dated 22 July 2014, together with the subject specimen,** and that she conducted a qualitative examination of the specimen which gave a positive result for the presence of methamphetamine hydrochloride, which findings she reduced into writing in the *Chemistry Report No. BD-495-2014* dated 23 July 2014; (iii) that *Chemistry Report No. BD-495-2014* exists and was duly executed, and

⁶² TSN dated October 20, 2015, pp. 3-5.

⁶³ Also appears as SPO3 Agustin in some parts of the records.

⁶⁴ Records (Crim. Case No. 19010), pp. 69-71.

⁶⁵ *Id.* at 94-95.



the signature thereon is genuine; (iv) that, after she conducted her examination, she sealed and marked the subject specimen; (v) that, thereafter, she turned the subject specimen over to SPO4 Agustin; and (vi) that, if presented, she would be able to identify the *Request for Laboratory Examination* dated 22 July 2014, the *Chain of Custody Form* dated 22 July 2014, and the subject specimen.⁶⁶ (Emphasis supplied)

As regards the fourth link, case law provides that:

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 drug 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.⁶⁷

In addition, in the absence of the forensic chemist's testimony, parties must stipulate the following: (a) the forensic chemist received the seized article as marked, properly sealed, and intact; (b) he/she resealed it after examination of the contents; and (c) he/she placed his/her own marking on the same to ensure that it could not be tampered pending trial. Absent such stipulations, the fourth link cannot be established, thus, resulting in acquittal/s.⁶⁸

Here, the testimony of PSI Llacuna glaringly does not provide the condition in which she received the seized items. PSI Llacuna does not even state from whom exactly she received the drugs from.⁶⁹ To stress, it is crucial for the prosecution to establish the *unbroken chain of custody*. Without confirmation as to how and from whom the drug item was received by PSI Llacuna, the prosecution was not able to establish the fourth link. The prosecution's failure to tie up loose ends in maintaining the chain of custody ultimately undermines their case. Consequently, pursuant to the verdict in *People v. Rivera*,⁷⁰ the gaps in the stipulations regarding the testimony of the forensic chemist cannot be overlooked. This constrains the Court to order accused-appellant's acquittal.

In conclusion, this Court once again underscores the absolute necessity for the prosecution to adhere meticulously to rules and protocols, particularly Section 21 of R.A. 9165, when handling and presenting drug evidence. Regrettably, in an era where unfounded drug charges are not uncommon, often levied by corrupt elements within law enforcement agencies, the importance of these procedural safeguards cannot be overstated. This is not to tarnish the reputation of the entirety of law enforcement operatives, many of whom diligently uphold their duty to protect and serve. Rather, it is an appeal for

⁶⁶ *Rollo*, pp. 13–14.

⁶⁷ *People v. Rivera*, G.R. No. 252886, March 15, 2021, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66945>>. Citation omitted.

⁶⁸ *Id*

⁶⁹ Records (Crim. Case No. 19010), p. 114.

⁷⁰ *Supra* note 67.

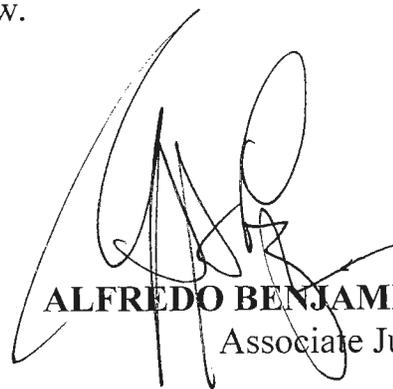
integrity in the process, particularly given the extensive resources at the disposal of the State. These procedural safeguards have been designed to uphold the sacrosanct principle of justice that every accused is presumed innocent until proven guilty. When these safeguards are ignored or bypassed, it is not just an individual person that suffers, but the entire edifice of our justice system. Hence, let this ruling be a reminder that diligent adherence to these rules is a testament to our collective commitment to the rule of law, and a vital bulwark against the miscarriage of justice.

WHEREFORE, the appeal is **PARTIALLY GRANTED**. The Court of Appeals' January 13, 2021 Decision in CA-G.R. CR-HC No. 10365 is hereby **MODIFIED** as follows:

- 1) In Criminal Case No. 19010, **EDWARD DALISAY y BAGRO** is found **GUILTY** beyond reasonable doubt of violation of Section 28, paragraphs (a) and (e), Article V in relation to Section 3, paragraph dd, Article I of Republic Act No. 10591, otherwise known as the "Comprehensive Firearms and Ammunition Regulation Act" and is sentenced to an indeterminate sentence of eight (8) years and one (1) day of *prision mayor* in its medium period, as minimum, to eleven (11) years and four (4) months of *prision mayor* in its maximum period, as maximum; and
- 2) In Criminal Case No. 19011, **EDWARD DALISAY y BAGRO** is **ACQUITTED** for the prosecution's failure to prove his guilt beyond reasonable doubt for the crime of illegal possession of dangerous drugs as punished by Section 11 of Republic Act No. 9165.

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

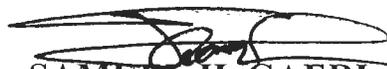
SO ORDERED.

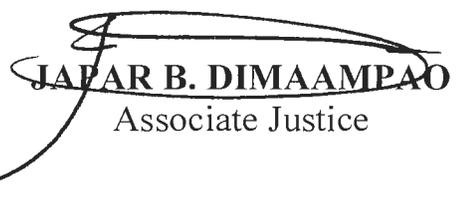


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

WE CONCUR:


HENRI JEAN PAUL B. INTING
Associate Justice

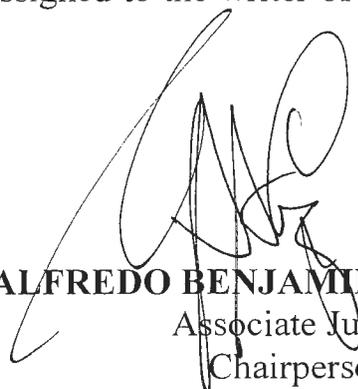

SAMUEL H. GAERLAN
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice

(on wellness leave)
MARIA FILOMENA D. SINGH
Associate Justice

ATTESTATION

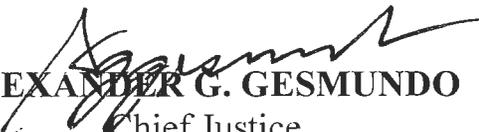
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson



CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice

