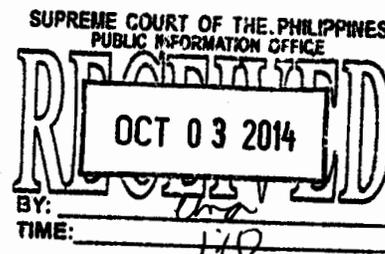




Republic of the Philippines
Supreme Court
 Manila
FIRST DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **September 8, 2014** which reads as follows:*

“G.R. No. 191074 - PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee, v. ANDRES MAMARANGCAS y AMPASO, Accused-Appellant.

Under review is the decision promulgated on October 27, 2009,¹ whereby the Court of Appeals (CA) affirmed the conviction of the accused for violation of Section 5 of Republic Act No. 9165 (Comprehensive Dangerous Drugs Act of 2002) in CA-G.R. CR-HC No. 00572-MIN.

The accused, together with one Miguel Taratanto, was charged with the illegal sale of dangerous drugs under the information filed in the Regional Trial Court (RTC) in Butuan City by the Office of the Provincial Prosecutor of Agusan Del Norte,² the accusatory portion of which reads:

That on or about the 10th day of September, 2002 at about 4:30 o'clock in the afternoon, more or less, at Barangay 8, Buenavista, Agusan del Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating and mutually helping one another, in consideration of Two (2) pcs. ONE HUNDRED PESO (₱100.00) bills, bearing Serial Number VP258532 and WM622985 and One (1) pc. FIFTY PESO (₱50.00) bill, bearing Serial Number YP282377 received from the poseur buyer, and without being authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver and distribute one (1) sachet of Methamphetamine Hydrochloride, **weighing 0.0657**, commonly known as shabu, a regulated drug.

CONTRARY TO LAW.

¹ *Rollo*, pp. 3-24; penned by Associate Justice Rodrigo F. Lim, Jr. (retired) with Associate Justice Ruben C. Ayson (retired) and Associate Justice Leoncia R. Dimagiba, concurring.

² RTC Records, Amended Information, pp. 6-7.

The Prosecution established that the accused had been suspected to be a small-time drug dealer operating in the Municipality of Buenavista, Agusan del Norte; that after a prior surveillance, the police force of the municipality organized a buy-bust team composed of PO3 Allan B. Delfin, PO3 Victor Lafuente, and PO2 Alex Autor on September 10, 2002 to entrap the accused; that the members of the team then conducted the operation against the accused; that in the course of the operation, the members of the team spotted the accused upon his arrival at the target site on board a bicycle; that with the accused at the time was Miguel Taratanto, another suspected drug pusher; that the two of them transacted with the designated poseur-buyer; that once the poseur-buyer gave the pre-arranged signal, the team apprehended the accused despite his attempting to escape; that the police officers frisked the accused, and recovered one ₱50.00 bill, and two ₱100.00 bills with serial numbers VP258532 and WM622985, among others; that the bills had been marked and photocopied by the team prior to the buy-bust operation; that the police officers also retrieved the purse that the accused had thrown while attempting to escape, which turned out to contain five sachets of suspected *shabu*; that the sachets were handed to PO3 Delfin at the police station, who then marked the same and delivered them to the laboratory for testing; and that in the chemistry report, P/Insp. Cramwell T. Banogon confirmed that the recovered sachets all contained *shabu*.³

On his part, the accused denied the charge.⁴ He claimed that he was on an errand and collected ₱50.00 as payment for the food he had sold to a certain Camad; that while waiting for a ride, Taratanto came by on his bike, and offered him a ride on the bike; that he accepted the offer, and while they were on their way, their path was blocked by a tri-motor; that Taratanto jumped off the bike and ran away, leaving him; that he was arrested and brought to the police station by PO3 Delfin; and that the money retrieved from him was his own, and was not the marked money.⁵

On September 24, 2007, the RTC rendered its decision finding the accused guilty as charged, disposing:

WHEREFORE, the Court finds the accused **ANDRES MAMARANGCAS GUILTY BEYOND REASONABLE DOUBT** for [v]iolation of Section 5, Article II of Republic Act 9165 and hereby sentences the accused Andres Mamarangcas to suffer the penalty of **LIFE IMPRISONMENT** and a **FINE** of **FIVE HUNDRED THOUSAND (₱500,000.00) PESOS**.

- over -

112

³ Rollo, pp. 5-6.

⁴ CA rollo, p. 22.

⁵ Id. at. 24-25.

x x x x

SO ORDERED.⁶

On appeal, the CA affirmed the conviction, holding that the State proved beyond reasonable doubt all the elements of illegal sale of dangerous drugs because the marked money seized from the accused clearly showed that money had changed hands in the sale of *shabu*. It believed the testimony of PO3 Delfin to the effect that the marked bills that had been photocopied and marked prior to the buy-bust operation were the same bills recovered from the accused. It observed that the Prosecution had established the chain of custody of the illegal substance seized from the accused.

Nonetheless, the accused appealed, insisting that the CA gravely erred in convicting him despite the failure of the Prosecution to prove his guilt beyond reasonable doubt.⁷ He maintains that the chain of custody was broken when: (a) the *shabu* that came from the poseur-buyer was not immediately turned over to PO3 Delfin; and (b) P/Insp. Banogon received the seized substance for examination from a certain PO2 Ocate.⁸

We **AFFIRM** the decision of the CA.

To convict for illegal sale of dangerous drugs, the Prosecution must establish beyond doubt that: (a) the transaction or sale took place; (b) the *corpus delicti* or the illicit drug was presented as evidence; and (c) the buyer and seller were identified.⁹

The Prosecution established all the elements in this case. In its decision, the RTC found as follows:

In the case at hand, the following events were proved beyond reasonable doubt by the prosecution.

1.) The positive identification of accused Andres Mamarangcas by PO3 Allan Delfin as the one who peddled the *shabu*, unequivocally established the said illicit sale as he is the best witness to the transaction. This is shown in the testimony of PO3 Allan Delfin in TSN page 23 dated March 26, 2003, x x x

x x x x

- over -

112

⁶ Id. at 28.

⁷ Id. at 10.

⁸ *Rollo*, pp. 18-19.

⁹ *People v. De Guzman*, G.R. No. 186498, March 26, 2010, 616 SCRA 652, 658-659.

In TSN page 24 dated May 29, 2003, witness PO3 Allan Delfin confirmed that the one sachet turned over to him by the poseur buyer was really shabu, x x x

x x x x

The illicit sale of shabu was corroborated by the testimony of PO3 Victor Lafuente in TSN page 5 dated September 17, 2003 x x x

x x x x

2.) PO3 Allan Delfin also testified that he used the three (3) money bills, namely two (2) hundred peso bills and one (1) fifty peso bill marked and xeroxed before the buy-bust operation x x x

The three (3) money bills were also recorded in the police blotter xxx before the buy-bust operation. There were also initials made on the said three bills located on the side of the bills where a picture of Pres. Roxas and Quezon appear x x x.

3.) PO3 Allan Delfin also testified in the TSN p. 9 dated March 26, 2003 that the said three money bills namely two, one hundred peso bills bearing Serial Numbers VP258532 and VM622985 and one fifty peso bill with Serial Number YP282377 were let out by the accused, Andres Mamarangcas from his pocket at the police station.

x x x x

4.) PO3 Allan Delfin also testified that the said two (2) one hundred peso bills that were let out from the pocket of the accused, Andres Mamarangcas, were the same money used in the buy-bust and they were [x]eroxed and police blotted before the buy-bust operation. Please see TSN p. 12 dated March 26, 2003 on the testimony of PO3 Allan Delfin x x x

x x x x

5.) P/INSP Cramwell Banogon, forensic chemist of the PNP Crime Laboratory in Regional Crime Laboratory Office 13 in Caraga, Butuan City, confirmed that the six sachets which also included the one sachet turned over by the poseur buyer as sold to him by accuse[d] Andres Mamarangcas, were confirmed positive for methamphetamine hydrochloride or "shabu" x x x. This evidence of shabu confirmation complied with the requirement of corpus delicti.¹⁰

On the accused's contention that the chain of custody was broken, we find this to be unfounded.

In the prosecution of the illegal sale of dangerous drugs, law enforcers and public officers have the duty to preserve the chain of custody over the seized drugs.¹¹ It is always essential that the identity of the

¹⁰ CA rollo, pp. 26-27.

¹¹ Supra note 9, at 658.

dangerous drugs involved in the transaction be established beyond doubt.¹² The requirement of chain of custody is aimed at removing any doubts regarding the identity of the evidence because it monitors and tracks the movements of the seized drugs from the time of its seizure from the accused until its submission for forensic examination and, finally, its presentation in the court as evidence.¹³

The chain of custody of the seized *shabu* was established by the Prosecution. The *shabu* sachets were intact and in the sole possession of SPO3 Delfin from the time of the arrest of the accused until their turnover for laboratory examination to P/Insp. Banogon, viz:

PO3 Delfin has likewise identified the sachet that was the subject of the illegal transaction and the content of the sachet was later confirmed to be methamphetamine hydrochloride or shabu. x x x.

x x x x

A perusal of the Transcript of Stenographic Notes of this case shows that while the seized illegal substance may not have been immediately turned over to the police operatives, the integrity and evidentiary value of the seized illegal substance was not shown to have been compromised by reason of such delay.

Albeit the other police operatives had to pursue Taratanto, it should be noted, that PO3 Delfin, the poseur-buyer and accused-appellant stayed and thereafter proceeded to the police station where the poseur-buyer then turned over the item bought during the conduct of the buy-bust operation. The items were thereafter marked and transmitted for forensic examination in accordance with Section 21, Republic Act No. 9165.

Anent accused-appellant's claim that the chain of custody over the seized illegal substance was handed first to a certain SPO2 Ocate before P/Insp. Banogon conducted the chemical test to determine the illegality of the substance, the testimony of P/Insp Banogon during cross-examination is enlightening, thus:

“CROSS-EXAMINATION”

“ATTY. OMAR:

Q Mr. Witness, by the way, who delivered the specimen to your office for purposes of laboratory examination?

A **It was delivered by a certain PO3 Delfin as indicated herein the stamp mark receipt copy of the Crime Laboratory in the original letter-request for laboratory examination. It is indicated here sir.**

¹² *People v. Zakaria*, G.R. No. 181042, November 26, 2012, 686 SCRA 390, 401.

¹³ *People v. Martinez*, G.R. No. 191366, December 13, 2010, 637 SCRA 791, 811.

Q So you received this with entry already on September 10, 2002.

A Yes, sir, at 7:20 in the evening of 10th September 2002.

Q Were you the very person who received these specimens?

A It was the duty officer, SPO2 Ocate, who received that case, however, I was also the duty chemist at that time so after SPO2 Ocate received it, he immediately turned it over to me. That is indicated actually, sir, in the stamp mark. It is indicated here.

COURT:

Below

WITNESS:

Below. It is used to establish the chain of custody.

COURT INTERPRETER:

Witness indicating to the rubber stamp mark which is located at the left bottom portion of the request for laboratory examination original copy dated September 10, 2002.

ATTY. OMAR:

Q Were you the official in charge of the laboratory in this region?

A Yes, sir. At that time because I'm the only forensic chemist here in the region I'm automatically 24 hours, 7 days a week on call regarding dangerous drugs examination. It was only fortunate that at that time when SPO2 Ocate received that, the duty PNCO, because at that time he received that, I was also present as indicated in the stamp mark, sir.

ATTY. OMAR:

May I see the transmittal.

Q So, it is your policy to directly examine the specimen when brought to your office without first requiring the arresting policemen to confirm the veracity of the specimen submitted to your office.

A Sir, it is the policy of the Crime Laboratory to cater (sic) to the letter-request addressed to our crime laboratory by the Chief of Police of Buenavista Police Station. So, as the national support unit of the PNP, we are obliged or mandated to cater (sic) to their request. Being the forensic chemist at that time, I was mandated to right then and there examine that specimen for purposes of inquest.

ATTY. OMAR:

Q On September 10, could you remember what day was this?

A I could no longer remember, sir, but I remember that it was at nighttime, 7:20 in the evening of 10 September 2002.

Q You mean to say that even during nighttime your office is still open?

A Yes, sir. Our office, the Crime Laboratory particularly the Chemistry Section which I'm the head, is open 24 hours a day seven (7) days a week. So, even on Sundays, the investigators can turn over any drug-related specimen request to the crime laboratory anytime of the day any day of the week. And I'm also there, sir, to examine it directly."

We thus, cannot consider the delay in the turn-over of the seized shabu and the fact that the same was first handled by a certain SPO2 Ocate before it was handed to P/Insp. Banogon, breaks in the chain of custody as would necessitate the acquittal of accused-appellant.

Moreover, police operatives enjoy the presumption of regularity in the conduct of official functions. While such presumption is merely disputable, accused-appellant has not presented any evidence to overthrow the same. Said police operatives likewise were not shown to have harbored any ill-motive against accused-appellant as would impel them to cause the arrest of accused-appellant on the basis other than that accused-appellant was indeed caught peddling shabu.¹⁴(Emphases in the original)

Under the foregoing circumstances, we are bound by the findings of fact of the RTC, as affirmed by the CA, both because the findings were entirely supported by the records, and because the accused did not persuasively demonstrate that the chain of custody had been broken.

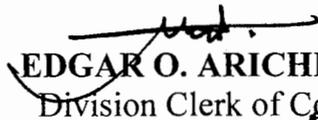
WHEREFORE, the Court **AFFIRMS** the decision promulgated on October 27, 2009 in CA-G.R. CR-HC No. 00572-MIN; and **ORDERS** the appellant to pay the costs of suit.

- over -

¹⁴ *Rollo*, pp. 15-23.

SO ORDERED.” SERENO, C.J., on leave; **VELASCO, JR., J.**, acting member per S.O. No. 1772 dated August 28, 2014.

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court
112

The Solicitor General (x)
Makati City

Court of Appeals
9000 Cagayan de Oro City
(CA-G.R. CR H.C. No. 00572-MIN)

The Superintendent
Davao Prison and Penal Farm
Dujali, Davao del Norte

The Hon. Presiding Judge
Regional Trial Court, Br. 4
8600 Butuan City
(Crim. Case No. 9644)

Public Information Office (x)
Library Services (x)
Supreme Court
(For uploading pursuant to A.M.
No. 12-7-1-SC)

PUBLIC ATTORNEY’S OFFICE
Counsel for Accused-Appellant
Special and Appealed Cases Division -
Mindanao Station
Hall of Justice
9000 Cagayan de Oro City

Judgment Division (x)
Supreme Court

PUBLIC ATTORNEY’S OFFICE
DOJ Agencies Bldg.
1128 Diliman, Quezon City

Mr. Andres A. Mamarangcas
Accused-Appellant
c/o The Superintendent
Davao Prison and Penal Farm
Dujali, Davao del Norte

SR

