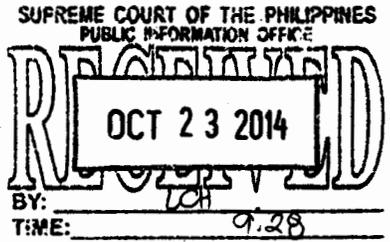




REPUBLIC OF THE PHILIPPINES  
 SUPREME COURT  
 Manila

SECOND DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **17 September 2014** which reads as follows:

**G.R. No. 197906 (Denverlou Obando y Ranile v. People of the Philippines).** – We resolve Denverlou Obando’s petition for review on *certiorari*<sup>1</sup> assailing the March 18, 2011 decision<sup>2</sup> and July 25, 2011 resolution<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. CR No. 00426.

The challenged CA decision affirmed the November 16, 2006 judgment<sup>4</sup> of the Regional Trial Court (RTC), Branch 25, Cagayan de Oro City, finding the petitioner guilty beyond reasonable doubt of violating Section 11 (Possession of Dangerous Drugs), Article II of Republic Act (R.A.) No. 9165.<sup>5</sup> The assailed resolution, on the other hand, denied the petitioner’s motion for reconsideration.

In its judgment dated November 16, 2006, the RTC found the petitioner guilty beyond reasonable doubt of illegal possession of 0.96 gram of shabu, penalized under Section 11, Article II of R.A. No. 9165. The RTC held that the prosecution successfully established with moral certainty all the elements of illegal possession of shabu.

The trial court found the testimonies of the witnesses credible, more so because the petitioner did not impute any improper motive on their part to falsely testify against him (petitioner). The RTC also disregarded the petitioner’s denial for being self-serving. Accordingly, the RTC sentenced the petitioner to suffer the indeterminate penalty of twelve (12) years and one (1) day, as minimum, to twenty (20) years, as maximum. It likewise ordered him to pay a ₱300,000.00 fine.

On appeal, the CA affirmed the RTC decision *in toto*. The CA ruled that the elements of illegal possession of shabu had been duly proven. It held that Senior Police Officer (SPO) 1 Reynaldo dela Victoria narrated in detail how the police recovered 12 small packs of heat-sealed transparent plastic sachets inside the petitioner’s room; his testimony was corroborated in material points by PO2 Evan Viñas. The CA sustained the credibility accorded by the RTC to the testimonies of these police officers.

The CA also pointed out that the petitioner raised the issue of non-compliance with Section 21, Article II of R.A. No. 9165 only on appeal. It nonetheless held that the prosecution was able to show that the

<sup>1</sup> Under Rule 45 of the Rules of Court; *rollo*, pp. 18-53.  
<sup>2</sup> *Rollo*, pp. 54-68; penned by Associate Justice Edgardo T. Lloren, and concurred in by Associate Justice Romulo V. Borja and Associate Justice Ramon Paul L. Hernando.  
<sup>3</sup> *Id.* at 77-78.  
<sup>4</sup> *Id.* at 88-90.  
<sup>5</sup> Comprehensive Dangerous Drugs Act of 2002.

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integrity and evidentiary value of the seized items had been properly preserved.

The petitioner moved to reconsider this decision, but the CA denied his motion for lack of merit in its resolution dated July 25, 2011.

In the present petition, the petitioner claims that the police failed to strictly comply with the procedures outlined under Section 21, Article II of R.A. No. 9165. He also argues that the chain of custody over the seized items has been broken. He thus maintains that the prosecution failed to prove the *corpus delicti* of the offense charged.

### Our Ruling

**The petitioner's conviction for illegal possession of shabu stands.**

For the successful prosecution of illegal possession of dangerous drugs, like shabu, the following essential elements must be established: (a) the accused's possession of an item or object that is identified to be a prohibited or dangerous drug; (b) the possession is not authorized by law; and (c) the accused freely and consciously possessed the drug.<sup>6</sup>

The prosecution established the presence of all the required elements for the illegal possession charged.

The records show that at around 3:00 p.m. of May 22, 2004, several members of the Special Operations Unit of the Cagayan de Oro City Police (namely SPO1 dela Victoria, PO2 Viñas, SPO2 Mario Pelaez, PO2 Jimmy Vicente, PO2 Rustom Gines, PO3 Ramil Gighe), together with *Barangay* Kagawad Allan Egot, went to the petitioner's house to serve the search warrant issued by Judge Isabelo E. Sabanal.<sup>7</sup>

On arrival, SPO1 dela Victoria knocked on the door of the petitioner's house. It was the petitioner who opened the door. The police officers introduced themselves and showed the search warrant to him. During the search, PO2 Viñas found one (1) transparent "plastic pocket" with twelve (12) small packs of heat-sealed transparent plastic containing white crystalline substance inside the drawer located at the petitioner's room; he also found three (3) disposable lighters, one (1) pair of scissors, several aluminium foils, and ₱200.00.<sup>8</sup>

The police forwarded the 12 plastic sachets to the Philippine National Police (PNP) Crime Laboratory for a qualitative examination, which was undertaken by the PNP forensic chemical officer, Police

<sup>6</sup> See *People v. Posada*, G.R. No. 194445, March 12, 2012, 667 SCRA 790, 813, 814.

<sup>7</sup> Executive Judge of the Municipal Trial Court in Cities, Branch 5, Cagayan de Oro City.

<sup>8</sup> Consisting of two ₱100.00 bills.

Senior Inspector (*P/Sr. Insp.*) April Garcia Carbajal.<sup>9</sup> Per Chemistry Report No. D-239-2004,<sup>10</sup> the submitted specimens tested positive for the presence of shabu, a dangerous drug. Significantly, the petitioner failed to show that he had any legal authority to possess these drugs.

We rely on the lower courts' assessment of the credibility of the prosecution witnesses, in the absence of any showing that it overlooked facts of weight and substance bearing on the elements of the crime.

The records also showed that the chain of custody over the confiscated sachets of shabu was not broken. To recall, upon confiscation of the shabu and other drug paraphernalia, SPO1 dela Victoria made a list of the items confiscated, and this list was signed by *Kagawad* Egot and SPO2 Pelaez. Thereafter, PO2 Viñas marked the 12 sachets with "A-1" to "A-12," and then placed these sachets inside a plastic which he marked with "X."

On May 24, 2004,<sup>11</sup> Arnold Pedroza brought the laboratory request and the seized specimens to the PNP Crime Laboratory, where they were received by SPO2 Ricardo Maisog, the receiving clerk of the PNP Crime Laboratory.<sup>12</sup> SPO2 Maisog recorded his receipt of the forwarded items in the logbook (Control No. 430-04), and then forwarded these items to P/Sr. Insp. Carbajal for examination. P/Sr. Insp. Carbajal placed her initials ("AGC") on the sachets, and then conducted a qualitative examination on the submitted specimen.

Per Chemistry Report No. D-239-2004, the 12 sachets "with markings A-1 to A-12 x x x placed in a plastic bag with markings X" were found to be positive for the presence of shabu, a dangerous drug. P/Sr. Insp. Carbajal's findings were noted by P/Sr. Insp. Theodore Ipan Baja, the officer-in-charge. From these sequence of events, we hold that the prosecution established the crucial links in the chain of custody of the seized items.

On the failure of the police to strictly comply with the provisions of Section 21 Article II of R.A. No. 9165, it is settled that the failure to strictly follow the directives of this section is not fatal and will not necessarily render the items confiscated from an accused inadmissible. What is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused.

In the present case, the succession of events established by evidence show that the items seized were the same items tested by the

<sup>9</sup> In the TSN, she is also referred to as Police Senior Inspector April Carbajal-Madroño.

<sup>10</sup> Records, p. 147.

<sup>11</sup> The next working day, since May 22, 2004 was a Saturday.

<sup>12</sup> Records, p. 146.

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forensic chemist, and subsequently identified through oral testimony in court.

To reiterate, PO2 Viñas marked the 12 sachets with “A-1” to “A-12,” and not with his initials; it was the forensic chemist who made additional markings in the sachets, by writing her initials “AGC.” We thus find misleading the petitioner’s claim that the initials written on the sachets was not made by PO2 Viñas. Accordingly, we hold that the integrity and evidentiary value of the drugs seized from the petitioner were duly proven not to have been compromised. Moreover, the police explained during trial the reason for their failure to strictly comply with Section 21.

We sustain the penalty imposed by the RTC and affirmed by the CA, as it is in accordance with the penalty prescribed under Section 11, Article II of R.A. No. 9165.

**WHEREFORE**, in light of all the foregoing, we **AFFIRM** the March 18, 2011 decision and July 25, 2011 resolution of the Court of Appeals in CA-G.R. CR No. 00426.

**SO ORDERED.**

Very truly yours,

  
MA. LOURDES C. PERFECTO  
Division Clerk of Court 

\* Mendoza, J., on leave; Villarama, Jr., J., designated as acting member per S.O. No. 1767 dated August 27, 2014.

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GR197906. 09/17/14(54[b])sr <sup>10/11</sup>