Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

N O T I C E

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **December 9, 2020** *which reads as follows:*

"G.R. No. 241918 – RAMIR VILLAMOR y LAGONOY, *petitioner*, ***versus*** **PEOPLE OF THE PHILIPPINES,** *respondent.*

RESOLUTION

After a careful review of the records of the instant case, the Court grants the Petition for Review on *Certiorari*[1] under Rule 45 filed by the petitioner Ramir Villamor y Lagonoy (Villamor). The Court reverses and sets aside the Decision[2] dated May 30, 2018 of the Court of Appeals (CA) in CA-G.R. CR No. 39908 and Resolution[3] dated September 3, 2018, which affirmed the Decision[4] dated November 3, 2016 by Branch 31, Regional Trial Court, City of Manila (RTC) in Criminal Case No. 15-316345 titled "*People of the Philippines v. Ramil Villamor y Lagonoy*," finding Villamor guilty beyond reasonable doubt for violation of Section 11, Article II of Republic Act (R.A.) No. 9165, otherwise known as *The Comprehensive Dangerous Drugs Act of 2002*, as amended.

Central to the resolution of this case is the determination of whether the alleged dangerous drug seized from Villamor was pursuant to a valid warrantless search.

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1 *Rollo*, pp. 12-33.
2 Id. at 35-49. Penned by then Associate Justice Priscilla J. Baltazar-Padilla (now a member of the Court) with Associate Justice Nina G. Antonio-Valenzuela and Associate Justice Jhosep Y. Lopez concurring.
3 Id. at 51-52.
4 Id. at 69-108. Penned by Judge Maria Sophia T. Solidum-Taylor.

Article III, Section 2[5] of the 1987 Constitution mandates that a search and seizure must be carried out through or on the strength of a judicial warrant predicated upon the existence of a probable cause, absent which, such search and seizure becomes unreasonable within the meaning of said constitutional provision. To protect the people from unreasonable searches and seizures, the same constitutional guarantee provides that evidence obtained from unreasonable searches and seizures shall be inadmissible in evidence for any purpose in any proceeding.[6] **Evidence obtained and confiscated proceeding from an unreasonable search and seizure is deemed tainted and should be excluded for being the proverbial fruit of the poisonous tree.**[7]

Should the Court arrive at the conclusion that the alleged dangerous drug was a product of an unreasonable search and seizure, the same shall be inadmissible as evidence against the accused. As a necessary consequence, the very *corpus delicti* of the charge for violation of illegal possession of dangerous drugs is rendered unproven.

In the case at bar, the trial court ruled that the search was incidental to a lawful arrest. The CA, on the other hand, found that it was a valid "stop and frisk" search.

The Court disagrees.

There could not have been a valid warrantless search and seizure incidental to a lawful arrest. The RTC and CA manifestly overlooked the undisputed fact that Villamor was apprehended for urinating in public in violation of Section 2(a) of the MMDA Regulation No. 96-009[8] (MMDA Regulation) which provides:

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5 CONSTITUTION, Art III, Sec. 2 states:
Section 2. 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.

6 CONSTITUTION, Art III, Sec. 3(2) states that "Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding."

7 *Sindac v. People*, 794 Phil. 421 (2016), citing *People v. Manago*, 793 Phil. 505 (2016), further citing *Comerciante v. People*, 764 Phil. 627 (2015).

8 PROHIBITING LITTERING/DUMPING/THROWING OF GARBAGE, RUBBISH OR ANY KIND OF WASTE IN OPEN OR PUBLIC PLACES, AND REQUIRING ALL OWNERS, LESSEES, OCCUPANTS OF RESIDENTIAL, COMMERCIAL ESTABLISHMENTS, WHETHER PRIVATE OR PUBLIC, TO CLEAN AND MAINTAIN THE CLEANLINESS OF THEIR FRONTAGE AND IMMEDIATE SURROUNDINGS AND PROVIDING PENALTIES FOR VIOLATION THEREOF, August 22, 1996.

Sec. 2. Prohibited Acts. —

> a) **It is unlawful** to dump, throw or litter, garbage, refuse, or any form of solid waste in public places and immediate surroundings, including vacant lots, rivers, canals, drainage and other water ways as defined in Section 1 of this Regulation and **to urinate**, defecate and spit **in public places**. (Emphasis supplied)

A violation of the MMDA Regulation carries only a penalty of a fine of Five Hundred Pesos (₱500.00) or community service of one day.[9]

Considering that the alleged violation is not punishable by imprisonment, it cannot be said that the warrantless search was preceded by a lawful arrest as there could not have been any valid arrest to begin with.

In *Picardal v. People*,[10] the accused therein was apprehended by a police officer for urinating in public in violation of the same MMDA Regulation. The accused therein was likewise frisked and the police officer recovered an unlicensed firearm. The accused was charged, tried, and found guilty by the trial court for Qualified Illegal Possession of Firearms penalized under Section 28(a) in relation to Section 28(e-1) of R.A. No. 10591, otherwise known as the *Comprehensive Firearms and Ammunition Regulation Act*. The Court overturned the conviction since the seizure of the alleged firearm was a product of an unlawful search:

> x x x The CA manifestly overlooked the undisputed facts that: (1) the firearm subject of this case was seized from Picardal after he was frisked by the police officers for allegedly urinating in a public place; and (2) the aforementioned case for "urinating in a public place" filed against Picardal was subsequently dismissed by the Metropolitan Trial Court of Manila. The act supposedly committed by Picardal — urinating in a public place — is punished only by Section 2 (a) of Metro Manila Development Authority (MMDA) Regulation No. 96-009 (MMDA Regulation) x x x
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> x x x x

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9 MMDA Regulation No. 96-009, Sec. 4(a).

10 G.R. No. 235749, June 19, 2019, accessed at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65319>.

> The MMDA Regulation, however, provides that the penalty for a violation of the said section is only a **fine** of five hundred pesos (PhP500.00) or community service of one (1) day. The said regulation did not provide that the violator may be imprisoned for violating the same, precisely because it is merely a regulation issued by the MMDA. **Stated differently, the MMDA Regulation is, as its name implies, a mere regulation, and not a law or an ordinance**.[11] (Emphasis and underscoring in the original)

A similar conclusion was reached by the Court in the case of *Luz v. People*[12] (*Luz*). In *Luz*, a man who was driving a motorcycle was flagged down for violating a municipal ordinance requiring drivers of motorcycles to wear a helmet. While the police officer was issuing him a ticket, the officer noticed that the man was uneasy and kept touching his jacket. When the officer ordered the man to take the contents out from his jacket, a small tin can, which contained sachets of *shabu*, was discovered. The Court acquitted the accused as the confiscated drugs were discovered through an unlawful search. The search did not qualify as one incidental to a lawful arrest, nor did it fall under any of the recognized instances of a warrantless search:

> We find the Petition to be impressed with merit, but not for the particular reasons alleged. In criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors.
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> ***First*, there was no valid arrest of petitioner. When he was flagged down for committing a traffic violation, he was not, *ipso facto* and solely for this reason, arrested.**
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> Arrest is the taking of a person into custody in order that he or she may be bound to answer for the commission of an offense. It is effected by an actual restraint of the person to be arrested or by that person's voluntary submission to the custody of the one making the arrest. Neither the application of actual force, manual touching of the body, or physical restraint, nor a formal declaration of arrest, is required. It is enough that there be an intention on the part of one of the parties to arrest the other, and that there be an intent on the part of the other to submit, under the belief and impression that submission is necessary.
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> Under R.A. 4136, or the Land Transportation and Traffic Code, the general procedure for dealing with a traffic violation is

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11 Id.

12 683 Phil. 399 (2012).

> not the arrest of the offender, but the confiscation of the driver's license of the latter[.]
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> x x x x
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> **It also appears that, according to City Ordinance No. 98-012, which was violated by petitioner, the failure to wear a crash helmet while riding a motorcycle is penalized by a fine only. Under the Rules of Court, a warrant of arrest need not be issued if the information or charge was filed for an offense penalized by a fine only. It may be stated as a corollary that neither can a warrantless arrest be made for such an offense.**[13]
> (Emphasis supplied; italics in the original)

In *People v. Cristobal*[14] (*Cristobal*), the violations of the accused therein which yielded the search and subsequent seizure of dangerous drugs were for R.A. No. 10054, or the Motorcycle Helmet Act of 2009, all punishable by the payment of fines. The Court found that the police officers conducted an illegal search when they frisked the accused. It was not a search incidental to a lawful arrest as there could not have been any lawful arrest to speak of.[15]

Similarly, in *Polangcos v. People*[16] (*Polangcos*), the Court acquitted the accused since the search which yielded the alleged dangerous drugs proceeded from an invalid arrest. As in *Luz* and *Cristobal*, the violations of the accused in *Polangcos* were punishable by payment of fines. Clearly, there was no reason for the police officer to arrest and frisk the accused. There being no valid search incidental to a lawful arrest, the seized items were inadmissible in evidence.

Neither could the warrantless search be justified as a valid "stop and frisk" search.

In *Terry v. Ohio*[17] (*Terry*), the Decision of the United States Supreme Court from which our local "stop and frisk" doctrine was based, the purpose and parameters of this species of warrantless search and seizure were explained as follows:

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13 Id. at 406-409.

14 G.R. No. 234207, June 10, 2019, accessed at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65317>.

15 Id.

16 G.R. No. 239866, September 11, 2019, accessed at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65740>.

17 392 U.S 1 (1968).

> At the time he seized petitioner and searched him for weapons, Officer McFadden had reasonable grounds to believe that petitioner was armed and dangerous, and it was necessary for the protection of himself and others to take swift measures to discover the true facts and neutralize the threat of harm if it materialized. The policeman carefully restricted his search to what was appropriate to the discovery of the particular items which he sought. Each case of this sort will, of course, have to be decided on its own facts. We merely hold today that[,] **where a police officer observes unusual conduct which leads him reasonably to conclude in light of his experience that criminal activity may be afoot and that the persons with whom he is dealing may be armed and presently dangerous, where[,] in the course of investigating this behavior[,] he identifies himself as a policeman and makes reasonable inquiries, and where nothing in the initial stages of the encounter serves to dispel his reasonable fear for his own or others' safety, he is entitled for the protection of himself and others in the area to conduct a *carefully limited search of the outer clothing* of such persons in an attempt to discover weapons which might be used to assault him.**[18] (Emphasis, underscoring, and italics supplied)

Hence, *Terry* found permissible a ***limited protective search of outer clothing*** for weapons proceeding from a careful observation by the police officer of unusual conduct leading him or her to conclude in light of his or her experience that criminal activity may be afoot and that the person with whom he is dealing may be armed and presently dangerous. A valid *Terry* search further requires that in the course of investigating such unusual behavior, the police officer identifies himself or herself as such and makes reasonable inquiries, and where nothing in the initial encounter dispels the reasonable fear for safety.

Further developed in jurisprudence, searches of such nature were allowed despite the constitutionally enshrined right against unreasonable searches and seizures because of the recognition that law enforcers should be given the legal arsenal to prevent the commission of offenses.[19] It must be emphasized, however, that these "stop and frisk" searches are exceptions to the general rule that warrants are necessary for the State to conduct a search and, consequently, for a permissible intrusion into a person's privacy. The doctrine of "stop and frisk" should be balanced with the need to protect the privacy of the citizens in accordance with Article III, Section 2 of the Constitution.[20]

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18 Id. at 30-31.
19 *People v. Cogaed*, 740 Phil. 212, 229 (2014).
20 Id. at 229-230.

Hence, a "stop and frisk" search does not justify the indiscriminate frisking of persons on the remote possibility that weapons or contraband may be recovered. In fact, a "stop and frisk" search cannot proceed on the basis of a mere suspicion or hunch.[21]

Otherwise stated, a "stop and frisk" search should be allowed only under specific and limited instances: (1) it should proceed on the basis of the police officer's reasonable suspicion, in light of his or her experience, that criminal activity may be afoot and that the persons with whom he/she is dealing may be armed and presently dangerous; (2) the search must only be a *carefully limited search of the outer clothing*; and (3) it must be conducted for the purpose of discovering weapons which might be used to assault him/her or other persons in the area. Being an exception to the rule requiring a search warrant, this limited protective search should be strictly construed.

In his direct examination PO3 Noel Mabini (PO3 Mabini) testified that Villamor was acting "suspiciously" after he was accosted for urinating in public.[22] It should be noted, however, that the prosecution failed to elicit from PO3 Mabini the specific circumstances and acts done by Villamor which meet the required standard of reasonable suspicion viewed through the eyes of a reasonable, prudent police officer.[23] Moreover, there is absolutely no indication that PO3 Mabini engendered any reasonable suspicion that Villamor was armed and that the former feared for his safety.

On the contrary, PO3 Mabini admitted that he merely frisked Villamor per "SOP."[24] The specifics of this alleged "standard operating procedure" are lost to the Court as the details thereof were not explained by the prosecution. In any case, no "standard operating procedure" could supplant the stringent requirements of a valid "stop and frisk" search.

All told, the confiscation of the alleged dangerous drug from the person of Villamor was in violation of his right against unreasonable searches and seizures. An impermissible intrusion into his concomitant right to privacy, the seized item is inadmissible in evidence.

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21 *Malacat v. Court of Appeals*, 347 Phil. 462, 481 (1997).
22 TSN dated June 6, 2016, p. 3.
23 See *Bost v. State*, 406 Md. 341, 356 (2008).
24 TSN dated June 6, 2016, p. 3.

On a final note, even if the seized item is admissible in evidence, the handling thereof was in clear violation of the chain of custody rule in Section 21, Article II of R.A. No. 9165. This erodes the identity and integrity of the alleged seized dangerous drug and militates against a finding of guilt beyond a reasonable doubt.

A review of the records would reveal that the prosecution made no attempt at justifying the lapses in the chain of custody.

Only the Barangay Chairman witnessed the marking, inventory, and photography taking of the seized item.[25] The prosecution offered no explanation for the failure to secure the required witnesses, *i.e.*, an elected public official and a representative of the National Prosecution Service or the media.[26]

In a long line of cases that includes *People v. Mendoza*,[27] *People v. Reyes*,[28] *People v. Sagana*,[29] *People v. Calibod*,[30] *People v. Tomawis*,[31] *Hedreyda v. People*,[32] *People v. Sta. Cruz*,[33] *Tañamor v. People*,[34] *People v. Arellaga*,[35] and *People v. Casilang*,[36] the Court has consistently emphasized that the presence of all the required witnesses at the time of the inventory and photography of the seized illegal drug is mandatory and the law imposes the said requirement because their presence serves to protect against the possibility of planting, switching, contamination or loss of the seized drug. The presence of these disinterested witnesses would belie any doubt as to the source, identity, and integrity of the seized drug.

Furthermore, there is an unaccounted movement of the seized item as the prosecution failed to show how it was stored and handled from the time of inventory until it was turned over to the Crime

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25 TSN dated June 6, 2016, p. 4.
26 The commission of the crime charged occurred after R.A. No. 10640, amending R.A. No. 9165, came into effect.
27 736 Phil. 749 (2014).
28 797 Phil. 671 (2016).
29 815 Phil. 356 (2017).
30 820 Phil. 1225 (2017).
31 830 Phil. 385 (2018).
32 G.R. No. 243313, November 27, 2019, accessed at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66031>.
33 G.R. No. 244256, November 25, 2019, accessed at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65946>.
34 G.R. No. 228132, March 11, 2020, accessed at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66109>.
35 G.R. No. 231796, August 24, 2020, accessed at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66340>.
36 G.R. No. 242159, February 5, 2020, accessed at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66075>.

Laboratory for testing. No witness was presented testifying on this intervening period.

In *Mallillin v. People*,[37] *People v. Obmiranis*,[38] *People v. Garcia*,[39] and *Carino v. People*,[40] the Court declared that the failure of the prosecution to offer the testimony of key witnesses to establish a sufficiently complete chain of custody and the irregularity which characterized the handling of the evidence before the same was finally offered in court, fatally conflict with every proposition relative to the culpability of the accused.

The foregoing breaches of the procedure outlined in Section 21 of R.A. No. 9165 committed by the police officers, left unacknowledged and unexplained by the State, militate against a finding of guilt beyond a reasonable doubt.[41] Without any justifiable explanation, which must be proven as a fact,[42] the evidence of the *corpus delicti* is unreliable.

Ultimately, since the item seized from Villamor is inadmissible for being obtained in violation of his constitutional right against unreasonable searches and seizures, and given that the alleged dangerous drug is the very *corpus delicti* of the crime charged, the Court finds Villamor's conviction to be improper and, therefore, he must perforce be acquitted.

WHEREFORE, all premises considered, the petition is **GRANTED** and the Decision dated May 30, 2018 and Resolution dated September 3, 2018 of the Court of Appeals in CA-G.R. CR No. 39908 are hereby **REVERSED** and **SET ASIDE**. Petitioner RAMIR VILLAMOR Y LAGONOY is hereby **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt and is **ORDERED IMMEDIATELY RELEASED** from detention unless he is being lawfully held for another cause. Let an entry of final judgment be issued immediately.

Let a copy of this Resolution be furnished the Director General of the New Bilibid Prison, Muntinlupa City for immediate implementation. The said Director General is **ORDERED** to

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37 576 Phil. 576 (2008).
38 594 Phil. 561 (2008).
39 599 Phil. 416 (2009).
40 600 Phil. 433 (2009).
41 *People v. Fulinara*, G.R. No. 237975, June 19, 2019, 905 SCRA 488, citing *People v. Sumili*, 753 Phil. 342 (2015).
42 See *People v. De Guzman*, 630 Phil. 637, 649 (2010).

REPORT to this Court within five (5) days from receipt of this Resolution the action he has taken.

SO ORDERED."

By authority of the Court:

LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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