



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **21 June 2021** which reads as follows:*

**“G.R. No. 251576 (People of the Philippines v. Bobby Jimenez y Omero alias “Dodong/Dodong Balbal”).** — The Court NOTES the supplemental brief dated January 15, 2021 (mistakenly typed as January 15, 2020) of accused-appellant in compliance with the Resolution dated July 13, 2020.

The conviction of Bobby Jimenez y Omero (Bobby) for Illegal Sale of Dangerous Drugs and Illegal Possession of Dangerous Drugs, is the subject of review in this appeal assailing the Decision<sup>1</sup> dated October 16, 2018 of the Court of Appeals-Cebu City (CA) in CA-G.R. CR-HC No. 02251, which affirmed the Joint Judgement<sup>2</sup> dated March 14, 2016 of the Regional Trial Court of Dumaguete City, Branch 30 (RTC) in Criminal Case Nos. 2014-22513 and 2014-22514.

**ANTECEDENTS**

Bobby was charged with violation of Sections 5<sup>3</sup> and 11,<sup>4</sup> Article II of Republic Act (RA) No. 9165<sup>5</sup> in two separate Informations:

<sup>1</sup> *Rollo*, pp. 5-24. Penned by Associate Justice Louis P. Acosta, with the concurrence of Associate Justices Gabriel T. Ingles and Dorothy P. Montejo-Gonzaga.

<sup>2</sup> *CA rollo*, pp. 40-47. Penned by Judge Rafael Crescencio C. Tan, Jr.

<sup>3</sup> Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.

<sup>4</sup> Possession of Dangerous Drugs.

<sup>5</sup> Entitled “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 on June 7, 2002.

*[Criminal Case No. 2014-22513  
For Illegal Sale of Dangerous Drugs]*

That on or about the 22<sup>nd</sup> day of September 2014, in the City of Dumaguete, Philippines, and within the jurisdiction of this Honorable Court, the said accused not being then authorized by law, did, then and there willfully, unlawfully and feloniously sell to a poseur buyer one (1) heat-sealed transparent plastic sachet containing a net weight of 0.03 gram of Methamphetamine Hydrochloride, otherwise known as “SHABU”, a dangerous drug.

That the urine sample taken from the accused contains Methamphetamine and THC-metabolites both are dangerous drugs, per Chemistry Report No. DT-296-14, dated September 30, 2014.

Contrary to Sec. 5, Art. II of R.A. 9165.<sup>6</sup>

*[Criminal Case No. 2014-22514  
For Illegal Possession of Dangerous Drugs]*

That on or about the 22<sup>nd</sup> day of September 2014, in the City of Dumaguete, Philippines, and within the jurisdiction of this Honorable Court, the said accused not being then authorized by law, did, then and there willfully, unlawfully and feloniously possess four (4) heat-sealed transparent plastic sachets containing a total net weight of 0.29 gram of Methamphetamine Hydrochloride, otherwise known as “SHABU”, a dangerous drug.

That the urine sample taken from the accused contains Methamphetamine, a dangerous drug[,] per Chemistry Report No. DT-296-14, dated September 30, 2014.

Contrary to Sec. 11, Art. II of R.A. 9165.<sup>7</sup>

Arraigned, Bobby pleaded not guilty,<sup>8</sup> hence, trial ensued.

The prosecution proved that sometime in the second week of September 2014, the Negros Oriental Provincial Police Office – Special Operations Group (SOG) received a report from a confidential informant that Bobby was selling illegal drugs at Zone 2, Barangay Lo-oc, Dumaguete City. The informant described Bobby to be about 5’6” to 5’7” tall, of thin built, and around 20 years old or younger. After the report was confirmed, Senior Police Officer 4 Allen June Germodo (SPO4 Germodo) organized a buy-bust operation composed of Police Officer 3 Rulymar Laquinon (PO3 Laquinon) as the poseur-buyer, and Police Officer 1 Archimedes Olasimah as the back-up officer. The team coordinated with Intelligence Officer 1 Carlito Mascardo, Jr. of the Philippine Drug Enforcement Agency, and prepared the buy-bust money – a 500-peso bill marked with SPO4 Germodo’s signature.<sup>9</sup>

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<sup>6</sup> CA *rollo*, p. 40.

<sup>7</sup> *Id.* at 40, dorsal portion.

<sup>8</sup> *Rollo*, p. 7.

<sup>9</sup> *Id.* at 7; CA *rollo*, pp. 40-41, including the dorsal portion.

At around 1:00 p.m. of September 22, 2014, the team, together with the informant proceeded to Barangay Lo-oc to conduct the buy-bust. PO3 Laquinon and the informant walked toward a house near the Philippine Ports Authority gate. There, PO3 Laquinon saw a man who fit Bobby's description. The man asked PO3 Laquinon and the informant, '*Unsa inyo, bunga? Pila inyong kuhaon?*' (What's yours, shabu? How much will you get?). PO3 Laquinon answered 'kenye' which meant five hundred pesos, and handed the marked 500-peso bill to the man who then went inside the house. Soon after, the man came out of the house, and gave PO3 Laquinon one small plastic sachet containing white crystalline substance. PO3 Laquinon examined the sachet, and missed call SPO4 Germodo to signal the completion of the transaction.<sup>10</sup>

When the buy-bust team arrived, PO3 Laquinon arrested the man who was identified as Bobby Jimenez *alias* 'Dodong Balbal.' After frisking, PO3 Laquinon recovered a long, green plastic container with four (4) plastic sachets containing white crystalline substance. At the place of arrest, the seized items were marked, inventoried, and photographed in the presence of Bobby, Barangay Captain Angelita Ragay (Ragay), and Department of Justice (DOJ) representative Anthony Chilus Benlot (Benlot). PO3 Laquinon used a blue ink pen to mark (a) the sachet he bought with 'BJ-BB' and his signature, (b) the green container he recovered with 'BJ-P' and his signature, and (c) the four (4) sachets inside the green container with 'BJ-P1' to 'BJ-P4' and his signature. However, the slippery masking tape rendered the initial blue markings illegible, and PO3 Laquinon used a black pentel pen to mark the items. The team then brought Bobby and the contraband to the SOG office. En route, PO3 Laquinon remained in possession of the seized items. Media practitioners Juancho Gallarde and Anthony Manginsay arrived at the SOG office where they were shown the marked items and signed the inventory. Later, Bobby was required to submit his urine for drug testing.<sup>11</sup>

At 3:31 P.M. of the same day, PO3 Laquinon delivered the seized items and the urine sample, along with a Memorandum Request for Laboratory Examination and Drug Test, to Negros Oriental Provincial Crime Laboratory where they were personally received by Police Chief Inspector Josephine Llena (PCI Llena). In Chemistry Report No. D-381-14, PCI Llena concluded that all sachets yielded positive results for methamphetamine hydrochloride, a dangerous drug. Likewise, in Chemistry Report No. DT-296-14, the urine sample gave positive results for methamphetamine hydrochloride and THC-metabolites, both dangerous drugs.<sup>12</sup>

Bobby denied the accusations against him and claimed that he was illegally arrested. He testified that he was fixing a motorcycle inside a sari-sari store when six policemen arrived and asked if he was 'Dodong Balbal.' Bobby replied that 'Dodong Balbal' was his father's nickname. The police

<sup>10</sup> *Rollo* p. 8; *CA rollo*, pp. 41, 43, including the dorsal portion.

<sup>11</sup> *Id.* at 8; *id.* at 41, 43-44, including the dorsal portion.

<sup>12</sup> *Id.* at 8-10; *id.* at 41-42, including the dorsal portion.

then handcuffed him, and brought him to an office where he was shown *shabu* for the first time. Bobby's grandmother, Evelyn Jimenez, corroborated that she never saw Bobby sell or possess *shabu* at the time of his arrest.<sup>13</sup>

On March 14, 2016, the RTC ruled that Bobby was validly arrested when he was caught *in flagrante delicto* selling and possessing dangerous drugs. Absent clear and convincing evidence, the RTC rejected the defense of denial and frame-up in light of the positive identification of Bobby as the person who sold and possessed *shabu*,<sup>14</sup> to wit:

WHEREFORE, in the light of the foregoing, the Court hereby renders judgment as follows:

1. In Criminal Case No. 2014-22513, the accused BOBBY JIMENEZ y OMERO alias "DODONG/DODONG BALBAL" is hereby found GUILTY beyond reasonable doubt of the offense of illegal sale of 0.03 gram of *shabu* in violation of Section 5, Article II of RA 9165 and is hereby sentenced to suffer a penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00).

The one (1) heat-sealed transparent plastic sachet with markings "BJ-BB" containing 0.03 gram of *shabu* is hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

2. In Criminal Case No. 2014-22514, the accused BOBBY JIMENEZ y OMERO alias "DODONG/DODONG BALBAL" is hereby found GUILTY beyond reasonable doubt of the offense of illegal possession of 0.29 gram of *shabu* in violation of Section 11, Article II of R.A. No. 9165 and is hereby sentenced to suffer an indeterminate penalty of twelve (12) years and one (1) day as minimum term to fourteen (14) years as maximum term and to pay a fine of Four Hundred Thousand Pesos (P400,000.00).

The four (4) heat-sealed transparent plastic sachets with markings "BJ-P1" to "BJ-P4," respectively, containing a total net weight of 0.29 gram of *shabu* are hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

In the service of sentence, the accused BOBBY JIMENEZ y OMERO alias "DODONG/DODONG BALBAL" shall be credited with the full time during which he has undergone preventive imprisonment, provided he agrees voluntarily in writing to abide by the same disciplinary rules imposed upon convicted persons.

SO ORDERED.<sup>15</sup>

Aggrieved, Bobby appealed before the CA contending that he was illegally arrested. He also questioned the apprehending team's compliance with the chain of custody requirement. The markings on the seized items, as depicted in the photographs, were written in blue ink. In contrast, during trial,

<sup>13</sup> Id. at 11-12; id. at 42, including the dorsal portion.

<sup>14</sup> CA *rollo*, pp. 40-46, including the dorsal portion.

<sup>15</sup> Id. at 46, dorsal portion.

the seized items were shown to be marked using black pentel pen.<sup>16</sup> On the other hand, the Office of the Solicitor General countered that the prosecution adequately established that a valid buy-bust operation was conducted through the testimonies of PO3 Laquinon and SPO4 Germodo, among others. Moreover, PO3 Laquinon sufficiently explained that he used a black pentel pen to mark the items after observing that the initial blue markings cannot be clearly read.<sup>17</sup> On October 16, 2018, the CA upheld the conviction.<sup>18</sup> The dispositive portion reads:

**ACCORDINGLY**, the appeal is **DENIED**. The Decision dated 14 March 2016 of the Regional Trial Court of Negros Oriental, 7<sup>th</sup> Judicial Region, Branch 30, Dumaguete City is hereby **AFFIRMED**.

**SO ORDERED.**

Hence, this recourse. Bobby interposes the illegality of his arrest, and a broken chain of custody.<sup>19</sup>

### RULING

The appeal is devoid of merit.

At the outset, we stress that any objection, defect, or irregularity attending an arrest must be made before the accused enters his plea on arraignment.<sup>20</sup> Without moving to quash the information before arraignment, the accused, in effect, admits the trial court's jurisdiction over his person upon entering a plea, and becomes estopped from questioning the legality of his arrest.<sup>21</sup> His active participation in the trial establishes voluntary submission to the trial court's jurisdiction, and cures any irregularity in the arrest.<sup>22</sup> Differently stated, any objection involving a warrant of arrest, or the procedure for the acquisition by the court of jurisdiction over the person of the accused must be made before he enters his plea; otherwise, the objection is deemed waived.<sup>23</sup> In this case, Bobby admitted the jurisdiction of the trial court to try and decide the case during the arraignment. He did not move to quash the Informations, pleaded guilty to the charges without any objection as to his arrest, and actively participated during the trial. Thus, Bobby can no longer assail the validity of his arrest.

<sup>16</sup> Id. at 24-39, Appellant's Brief.

<sup>17</sup> Id. at 55-73, Brief for the Appellee.

<sup>18</sup> *Rollo*, pp. 5-24.

<sup>19</sup> Id. at 35-38. Manifestation and Motion, the appellee dispensed with the filing of a Supplemental Brief, and adopts its Appellee's Brief filed before the CA as its Supplemental Brief. The filing of the appellant's Supplemental Brief is deemed waived.

<sup>20</sup> *People v. Vasquez*, 724 Phil. 713, 730 (2014), citing *People v. Tampis*, 455 Phil. 371, 382 (2003).

<sup>21</sup> Id. at 730-731.

<sup>22</sup> Id. at 731; *Valdez v. People*, 563 Phil. 934, 946 (2007).

<sup>23</sup> *People v. Torres*, G.R. No. 241012, August 28, 2019, citing *People v. Alunday*, 586 Phil. 120, 133 (2008); *Lapi v. People*, G.R. No. 210731, February 13, 2019; 892 SCRA 680, 695.

The elements of Illegal Sale of Dangerous Drugs under Section 5, Article II of RA No. 9165, were proven by the prosecution, namely: (1) the identities of the buyer and seller; (2) the transaction or sale of the illegal drug; and (3) the existence of the *corpus delicti*.<sup>24</sup> PO3 Laquinon, acting as the poseur-buyer, positively identified Bobby as the seller from whom he bought a sachet of *shabu* for ₱500.00. He narrated in detail how the transaction happened from the time he and the confidential informant arrived outside the house, and was introduced to Bobby, until the time he handed the marked money in exchange for one plastic sachet containing 0.03 gram of white crystalline substance,<sup>25</sup> proven to be *shabu*.<sup>26</sup> Thus, the delivery of the illicit drug to PO3 Laquinon and the receipt by Bobby of the marked money consummated the sale.

On the other hand, in Illegal Possession of Dangerous Drugs under Section 11, Article II of RA No. 9165, it must be shown that: (1) the accused was in possession of an item or object identified to be a prohibited or regulated drug; (2) the possession is not authorized by law; and (3) the accused freely and consciously possessed the drug.<sup>27</sup> After the sale, Bobby was frisked and found in possession of four (4) plastic sachets containing white crystalline substance,<sup>28</sup> which was later confirmed to be *shabu*.<sup>29</sup> Bobby did not offer any satisfactory explanation why he was in possession of the dangerous drugs; hence, there is *prima facie* evidence of his intent to possess.<sup>30</sup>

In both cases, it must be established beyond reasonable doubt that the *corpus delicti*, which is the dangerous drug itself, is the same object tested to be positive for dangerous drug and presented in court.<sup>31</sup> To this end, the prosecution must establish the unbroken chain of custody of the seized item through the following links: *first*, the confiscation and marking of the specimen seized from the accused by the apprehending officer; *second*, the turnover of the seized item by the apprehending officer to the investigating officer; *third*, the investigating officer's turnover of the specimen to the forensic chemist for examination; and *fourth*, the submission of the item by the forensic chemist to the court.<sup>32</sup>

Section 21, Article II of RA No. 9165,<sup>33</sup> outlines the post-seizure

<sup>24</sup> *People v. De Guzman*, 825 Phil. 43, 54 (2018).

<sup>25</sup> CA rollo, p. 43, including the dorsal portion.

<sup>26</sup> Rollo, p. 9.

<sup>27</sup> *People v. Quijano*, G.R. No. 247558, February 19, 2020; *People v. Que*, 824 Phil. 882, 893 (2018).

<sup>28</sup> CA rollo, p. 44.

<sup>29</sup> Rollo, p. 9.

<sup>30</sup> See *People v. Eda*, 793 Phil. 885, 898 (2016).

<sup>31</sup> *People v. Quijano*, *supra* note 27; *People v. Que*, 824 Phil. 882, 902 (2018).

<sup>32</sup> *People v. Bugtong*, 826 Phil. 628, 638-639 (2018); *People v. Enad*, 780 Phil. 346, 358-359 (2016).

<sup>33</sup> RA No. 9165, as amended by RA No. 10640, Section 21, reads:

SFC 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, x x x so confiscated, seized and/or surrendered, for proper disposition in the following manner:

procedure for the custody and disposition of the seized drugs. The law mandates that the officer taking initial custody of the drugs shall, immediately after seizure and confiscation, conduct the physical inventory and photograph of the drugs 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, an elected public official, and a representative from the media or the National Prosecution Service (NPS) of the DOJ,<sup>34</sup> who shall be required to sign the copies of the inventory and be given a copy thereof. The crime, in this case, was committed on September 22, 2014, or after the enactment of the amendatory law, RA No. 10640,<sup>35</sup> which relaxed the requirement on insulating witnesses, and now allows the physical inventory to be made at the nearest police station instead of the place of arrest.

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(1) The apprehending team having initial custody and control of the dangerous drugs, x x shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items 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, with an elected public official and a representative of the National Prosecution Service or the media who shall be required to sign 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, finally*, That noncompliance of 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 and custody over said items.

x x x x

This is implemented by Section 21(a), Article II of the Implementing Rules and Regulations (IRR) of RA No. 9165 which states:

*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, x x x so confiscated, 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 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[.]

<sup>34</sup> The NPS falls under the DOJ. See Section 1 of Presidential Decree No. 1275, entitled "REORGANIZING THE PROSECUTION STAFF OF THE DEPARTMENT OF JUSTICE AND THE OFFICES OF THE PROVINCIAL AND CITY FISCALS, REGIONALIZING THE PROSECUTION SERVICE, AND CREATING THE NATIONAL PROSECUTION SERVICE," dated April 11, 1978; and Section 3 of RA No. 10071, entitled "AN ACT STRENGTHENING AND RATIONALIZING THE NATIONAL PROSECUTION SERVICE" otherwise known as the "PROSECUTION SERVICE ACT OF 2010," which lapsed into law on April 8, 2010.

<sup>35</sup> Entitled "AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF [RA] NO. 9165, OTHERWISE KNOWN AS THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002," approved on July 15, 2014, states that it shall "take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation." Verily, a copy of the law was published on July 23, 2014 in the respective issues of "The Philippine Star" (Vol. XXVIII, No. 359, Philippine Star Metro section, p. 21) and the "Manila Bulletin" (Vol. 499, No. 23, World News section, p. 6); hence, RA No. 10640 became effective on August 7, 2014.

To be sure, both this Court and the Legislature<sup>36</sup> are not unaware of, or indifferent to, the varying field conditions that render strict compliance with the chain of custody procedure impractical or impossible. Verily, Section 21 of the Implementing Rules and Regulations of RA No. 9165 provides that deviation from the procedure would not *ipso facto* render the seizure and custody over the items, void and invalid, provided, that the prosecution satisfactorily proves that: (a) there is a justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items were properly preserved. For this saving clause to apply, however, the prosecution must satisfactorily explain the reasons behind the procedural lapses, and prove the justifiable ground for non-compliance as a fact.<sup>37</sup>

Here, the dangerous drugs, which constitute the *corpus delicti* of the offenses, were properly secured. The prosecution established the movement and custody of the seized drugs. At the place of arrest, the apprehending team immediately marked, inventoried and photographed the sachets in the presence of the accused Bobby, elected public official Ragay, and DOJ representative Benlot,<sup>38</sup> in conformity with the witness requirement under RA No. 10640. The apprehending team then went to the SOG office where a request for laboratory examination was then prepared.<sup>39</sup> At all times, PO3 Laquinon remained in possession of the seized items.<sup>40</sup> Later, PO3 Laquinon personally delivered the contraband to PCI Llena of the Negros Oriental Provincial Crime Laboratory.<sup>41</sup> After qualitative examination, PCI Llena issued Chemistry Report No. D-381-14 confirming that the contents of the five sachets were methamphetamine hydrochloride, a dangerous drug.<sup>42</sup> Finally, PCI Llena preserved the specimens in the evidence room where she alone had access to, and subsequently submitted them to the court.<sup>43</sup> The records clearly showed the continuous custody of the dangerous drugs from the time they were confiscated from Bobby until they were offered in evidence.

The contention that there is a material variance in the markings of the seized items, as depicted in the photographs, and as examined during the trial, is specious. PO3 Laquinon, who marked the items, explained the presence of the blue and black markings. He clarified that the initial marking using the blue pen was blurred by the slippery masking tape, and he was constrained to mark the items using a black pentel pen.<sup>44</sup> There were no alterations of the pieces evidence that were marked and identified. The prosecution ably recognized and reasonably explained the discrepancy.

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<sup>36</sup> Senate Journal, Senate Session No. 80, 16<sup>th</sup> Congress, 1<sup>st</sup> Regular Session, June 4, 2014, p. 349. See <http://legacy.senate.gov.ph/lisdata/19306164391.pdf>, last accessed: June 20, 2021.

<sup>37</sup> See *People v. Suarez*, G.R. No. 249990, July 8, 2020.

<sup>38</sup> *Rollo*, pp. 8, 21-22; *CA rollo*, p. 45.

<sup>39</sup> *CA rollo*, p. 45.

<sup>40</sup> *Id.*

<sup>41</sup> *Rollo*, pp. 8-9.

<sup>42</sup> *Id.* at 9.

<sup>43</sup> *Id.* at 10.

<sup>44</sup> *Id.* at 8.

It must be stressed that the purpose of Section 21 of RA No. 9165, as amended, is to protect the accused from malicious imputation of guilt by abusive police officers. However, Section 21 cannot be used to thwart the legitimate efforts of law enforcement agents. Slight infractions or nominal deviations by the police officers from the prescribed method of handling the *corpus delicti* should not exculpate an otherwise guilty defendant. Substantial adherence to Section 21 will suffice as long as the integrity and the evidentiary value of the seized item is properly preserved by the apprehending officers.<sup>45</sup>

Against the overwhelming evidence of the prosecution, Bobby merely denied the accusations against him. We have invariably viewed with disfavor the defenses of denial and frame-up because it can easily be concocted. These are common and standard defense ploys in prosecutions for violations of RA No. 9165. To prosper, these defenses must be proved with strong and convincing evidence.<sup>46</sup> In this case, Bobby's self-serving denial, which was supported only by the testimony of his grandmother whose partiality is undoubted, cannot prevail over the positive testimonies of the prosecution witnesses. Bobby thus, miserably failed to discharge his burden, as duly found by the CA<sup>47</sup> and the RTC.<sup>48</sup>

All told, after a careful review of the records of the case and the issues submitted by the parties, the Court finds no error committed in the assailed Decision of the CA. The facts, as borne out by the records, sufficiently support the conclusion that Bobby is guilty of Illegal Sale of Dangerous Drugs and Illegal Possession of Dangerous Drugs. The issues and matters raised before the Court are the same ones raised in the CA, and were sufficiently addressed and correctly ruled upon by the CA. Lastly, the CA and the RTC correctly imposed life imprisonment and a fine of ₱500,000.00 under Section 5, Article II of RA No. 9165; and imprisonment of twelve (12) years and one (1) day to fourteen (14) years, and a fine of ₱400,000.00 under Section 11, Article II of RA No. 9165.

**FOR THESE REASONS**, the appeal is **DISMISSED**. The Decision of the Court of Appeals-Cebu City dated October 16, 2018 in CA-G.R. CR-HC No. 02251, convicting accused-appellant Bobby Jimenez y Omero alias "Dodong/Dodong Balbal" of (a) violation of Section 5, Article II of Republic Act No. 9165, and sentencing him with life imprisonment and imposing a fine of ₱500,000.00; and (b) violation of Section 11, Article II of Republic Act No. 9165, and sentencing him with twelve (12) years and one (1) day, to fourteen (14) years imprisonment and imposing a fine of ₱400,000.00 – is hereby **AFFIRMED**.

<sup>45</sup> *People v. Sahibil*, G.R. No. 228953, January 28, 2019; *People v. O'Cochnain*, G.R. No. 229071, December 10, 2018.

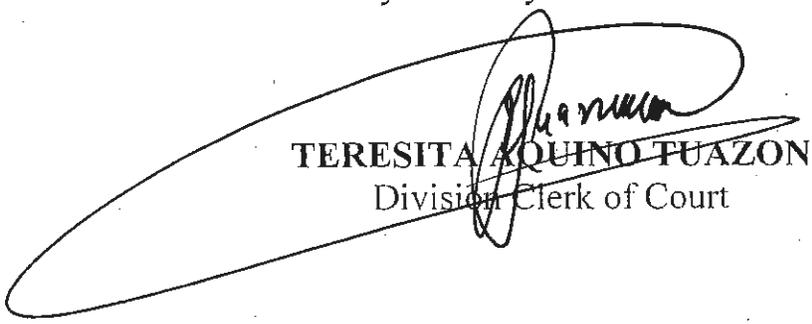
<sup>46</sup> *People v. Magalong*, G.R. No. 231838, March 4, 2019.

<sup>47</sup> *Rollo*, p. 18.

<sup>48</sup> *CA rollo*, p. 46.

**SO ORDERED.** (Lopez, J. Y., J., designated additional member *per* Special Order No. 2822 dated April 7, 2021.)

By authority of the Court:



**TERESITA AQUINO TUAZON**  
Division Clerk of Court

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THE DIRECTOR (reg)  
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THE SUPERINTENDENT (reg)  
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HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 30  
Dumaguete City  
(Crim. Case Nos. 2014-22513 & 2014-22514)

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