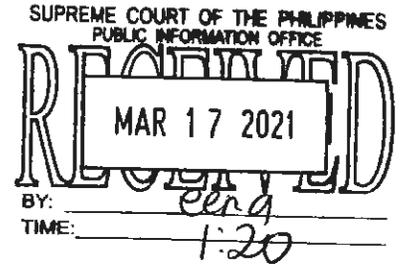




Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **February 10, 2021**, which reads as follows:*

“G.R. No. 242828 (PEOPLE OF THE PHILIPPINES, *plaintiff-appellee* v. EDUARDO SORIANO y SANTOS and JOHN KENNETH PERALTA y PEQUIT, *accused-appellants*). — For this Court’s resolution is the appeal¹ challenging the Court of Appeals Decision,² which affirmed the Regional Trial Court Judgment³ finding Eduardo Soriano y Santos (Eduardo) guilty of illegal sale of dangerous drugs, and John Kenneth Peralta y Pequit (Peralta) of illegal possession of dangerous drugs.

Two (2) separate items of Information were filed against Eduardo and Peralta, charging them with violation of Sections 5 and 11 of Republic Act No. 9165, respectively:

Criminal Case No. 19430-D

On or about August 9, 2014, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver, and give away to PO1 Jerico Armando Galimba, a police poseur-buyer, one (1) heat-sealed transparent plastic sachet containing 0.08 gram of white crystalline substance which was found positive to the test for methamphetamine hydrochloride, a dangerous drug, in violation of the said law.

Contrary to law.⁴

¹ *Rollo*, pp. 15–17.

² *Id.* at 2–13. The Decision was penned by Associate Justice Rosmari D. Carandang (now a member of this Court) and concurred in by Associate Justices Stephen C. Cruz and Nina G. Antonio-Valenzuela of the Second Division, Court of Appeals, Manila.

³ *Id.* at 57–69. The February 24, 2016 Judgment was penned by Presiding Judge Jennifer Albano Pilar of Branch 164, Regional Trial Court, Pasig City.

⁴ *Id.* at 57.

Criminal Case No. 19431-D

On or about August 9, 2014, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized to possess any dangerous drug, did then and there willfully, unlawfully and feloniously have in his possession and under his custody and control one heat-sealed transparent plastic sachet containing 0.04 gram each of white crystalline substance, which was found positive to the tests for methamphetamine hydrochloride, a dangerous drug, in violation of the said law.

Contrary to law.⁵

On arraignment, Eduardo and Peralta pleaded not guilty to the respective charges against them. Trial on the merits then ensued.⁶

The prosecution presented four witnesses, namely: (1) Police Senior Inspector Anghelisa S. Vicente; (2) Police Officer 1 Jerico Armando A. Galimba (PO1 Galimba); (3) PO1 Jimposse I. Chua (PO1 Chua); and (4) PO1 Lodjie N. Coz (PO1 Coz).⁷

The prosecution's version of facts, as narrated by the Regional Trial Court, begins when a confidential informant went to the Pasig City police station and reported that there was rampant selling of drugs along Dr. Sixto Avenue, Barangay Rosario, Pasig City. Eduardo and Evelyn Soriano (Evelyn) were allegedly the most notorious sellers in the area and were using their house in selling illegal drugs.⁸

A buy-bust team was accordingly organized consisting of PO1 Galimba, the designated poseur-buyer, and PO1 Chua as back-up. PO1 Galimba received a ₱200.00 bill to be used as buy-bust money. He placed his initials "JAAG" on the corner of the bill.⁹

On the evening of August 9, 2014, the buy-bust team, accompanied by the confidential informant, went to Dr. Sixto Avenue. While the buy-bust team strategically positioned themselves near the target place, PO1 Galimba and the informant proceeded to an alley leading to Eduardo and Evelyn's house. On their way, PO1 Galimba and the informant chanced upon two men standing and talking near Eduardo's house. They recognized one of them as Eduardo while the other was later identified as Peralta.¹⁰

⁵ Id. at 58.

⁶ Id.

⁷ Id.

⁸ Id. at 59.

⁹ Id.

¹⁰ Id. at 60.

PO1 Galimba approached Eduardo and told him that he wanted to buy ₱200.00 worth of shabu. He handed Eduardo the money while the latter took from his pocket two pieces of heat-sealed transparent plastic sachets containing white crystalline substance. Eduardo gave PO1 Galimba and Peralta one plastic sachet each.¹¹

Upon receiving the plastic sachet, PO1 Galimba scratched his ear to signal the sale's consummation. PO1 Galimba then introduced himself as a police officer and arrested Eduardo. Peralta attempted to escape but was apprehended by PO1 Chua. Upon frisking, PO1 Chua recovered the plastic sachet in Peralta's possession.¹²

PO1 Galimba and PO1 Chua marked and inventoried the two plastic sachets at the place of arrest and in front of Eduardo and Peralta. Afterward, they requested the presence of a media representative and a barangay elected official. The police officers, however, failed to contact a media representative. Since it was getting late and they were worried for their safety and that of the seized items, the buy-bust team proceeded to the barangay hall. There, they saw Barangay Kagawad Nike Cruz (Kagawad Cruz), to whom they presented the arrested individuals and the seized items. Cruz signed the inventory after being informed of the situation.¹³

The arrested individuals and the seized items were later brought to the police station. The confiscated items were turned over to PO1 Coz, who prepared the chain of custody form and the request for laboratory examination. The substances in each sachet tested positive for shabu.¹⁴

For their part, Soriano and Peralta both denied the charges. They alleged that on the day of the incident, Peralta and his stepfather, Eduardo, were inside their house on Dr. Sixto Avenue when police officers suddenly barged into their house and pointed a gun at Eduardo. The two were bodily frisked, but nothing was recovered. Despite this, they were still brought to the barangay hall where they were showed the sachets of shabu allegedly taken from them. They were forced to sign a document without knowing its contents. They were later taken to the police headquarters where they learned of the charges against them.¹⁵

On February 24, 2016, the Regional Trial Court convicted Eduardo and Peralta of the crimes charged.¹⁶ It gave credence to PO1 Galimba's

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* at 60-61.

¹⁴ *Id.* at 61.

¹⁵ *Id.* at 62.

¹⁶ *Id.* at 69.

testimony on the circumstances surrounding the arrest.¹⁷ It noted that the prosecution was able to establish an unbroken chain of custody and preserve the integrity and evidentiary value of the seized items.¹⁸ It ruled:

WHEREFORE:

1. In Criminal Case No. 19430-D, the Court finds accused Eduardo S. Soriano *alias* Eddie **GUILTY** beyond reasonable doubt of the crime of selling *shabu* penalized under Section 5, Article II of RA 9165, and hereby impose[s] upon him the penalty of **life imprisonment and a fine of five hundred thousand pesos (P500,000.00) with all the accessory penalties under the law.**
2. In Criminal Case No. 19431-D, the Court finds accused John Kenneth P. Peralta *alias* Kenneth **GUILTY** beyond reasonable doubt of violation of Section 11, Article II of RA 9165, and hereby impose[s] upon him an indeterminate penalty of imprisonment **from twelve (12) years and one (1) day, as minimum, to sixteen (16) years, a[s] maximum, and a fine of three hundred thousand pesos (P300,000.00) with all the accessory penalties under the law.**

The two (2) transparent plastic sachets of *shabu* (Exhibits “O” and “P”) are hereby ordered confiscated in favor of the government, and the Branch Clerk of this Court is directed to turn over the said evidence to the Philippine Drug Enforcement Agency for destruction in accordance with law.

SO ORDERED.¹⁹ (Emphasis in the original)

Aggrieved, Soriano and Peralta appealed to the Court of Appeals,²⁰ arguing that the Regional Trial Court erred in convicting them.

Soriano and Peralta claimed that no buy-bust operation was conducted.²¹ The two also pointed out diverging testimonies and procedural lapses that cast doubt on the integrity of the seized items.²² They stressed that while PO1 Galimba testified that the inventory was conducted at the place of arrest, PO1 Chua recounted that it was made at the barangay hall.²³ They likewise pointed out that none of the required third-party witnesses was present at the time of the inventory.²⁴

The Office of the Solicitor General,²⁵ on behalf of the People of the Philippines, countered that the buy-bust team’s substantial compliance with

¹⁷ Id. at 63–67.

¹⁸ Id. at 67–68.

¹⁹ Id. at 69.

²⁰ Id. at 12–13.

²¹ Id. at 36–43.

²² Id. at 47–48.

²³ Id. at 43.

²⁴ Id. at 48–49.

²⁵ Id. at 75–95.

Section 21 of Republic Act No. 9165 preserved the integrity and evidentiary value of the seized items. As for the lack of witnesses, it averred that the buy-bust team tried to secure representatives from the media and Department of Justice, “but they could not be contacted and failed to arrive.”²⁶ Finally, it contended that absent proof of ill motive on the officers’ part, their testimonies should be given full weight and credit.²⁷

In its August 25, 2017 Decision,²⁸ the Court of Appeals sustained Soriano’s and Peralta’s conviction.²⁹ It decreed that the seized items’ integrity and evidentiary value were properly preserved, as testified to by the prosecution witnesses,³⁰ who were law enforcers presumed to have regularly performed their duties. In the absence of proof that they were improperly motivated, the appellate court gave credence to their testimonies.³¹

Soriano and Peralta, dissatisfied with the decision, filed a Notice of Appeal.³²

In its December 10, 2018 Resolution, this Court noted the records of this case forwarded by the Court of Appeals and notified the parties that they may file their supplemental briefs.³³

The Office of the Solicitor General manifested³⁴ that the facts, issues, and arguments involved have been discussed in its Brief filed before the Court of Appeals.

For their part, accused-appellants filed a Supplemental Brief.³⁵ They adopted the Brief they had filed before the Court of Appeals, and argued further that the prosecution’s justification for not securing the presence of third-party witnesses was a flimsy excuse.³⁶

For this Court’s resolution are the following issues:

First, whether or not accused-appellant Eduardo Soriano y Santos is guilty beyond reasonable doubt of violating Section 5 of Republic Act No. 9165; and

²⁶ Id. at 88–89.

²⁷ Id. at 93.

²⁸ *Rollo*, pp. 2–13.

²⁹ Id. at 13.

³⁰ Id. at 11.

³¹ Id.

³² Id. at 15–17.

³³ Id. at 20–21.

³⁴ Id. at 36–41.

³⁵ Id. at 56–70.

³⁶ Id. at 65.

Second, whether or not accused-appellant John Kenneth Peralta y Pequit is guilty beyond reasonable doubt of violating Section 11 of the same law.

This Court acquits accused-appellants.

To sustain a conviction for illegal sale and illegal possession of dangerous drugs, the prosecution must establish the following elements:

In actions involving the illegal sale of dangerous drugs, the following elements must first be established: (1) proof that the transaction or sale took place and (2) the presentation in court of the *corpus delicti* or the illicit drug as evidence.

On the other hand, in prosecutions for illegal possession of a dangerous drug, it must be shown that (1) the accused was in possession of an item or an object identified to be a prohibited or regulated drug, (2) such possession is not authorized by law, and (3) the accused was freely and consciously aware of being in possession of the drug. Similarly, in this case, the evidence of the *corpus delicti* must be established beyond reasonable doubt.³⁷ (Citations omitted)

In both cases, the *corpus delicti* pertains to the dangerous drugs confiscated by the police officers. To establish the accused's guilt, the prosecution must ensure that the integrity and evidentiary value of the seized drugs have been preserved.³⁸ It must be shown that the items seized from the accused are the same items presented in court. The rule is based on the "illegal drug's unique characteristic that renders it indistinct, not readily identifiable, and easily open to tampering, alteration or substitution either by accident or otherwise."³⁹

To remove unnecessary doubts on the items' integrity and evidentiary value, Section 21 of Republic Act No. 9165, as amended,⁴⁰ provides for the procedure to be followed in their custody and disposition:

SECTION 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:

³⁷ *People v. Morales*, 630 Phil. 215 (2010) [Per J. Del Castillo, Second Division].

³⁸ *People v. Casacop*, 755 Phil. 265 (2015) [Per J. Leonen, Second Division].

³⁹ *People v. Denoman*, 612 Phil. 1165, 1175 (2009) [Per J. Brion, Second Division].

⁴⁰ Republic Act No. 10640 (2014).

- (1) The apprehending team having initial custody and control of the dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment 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 persons 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 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, 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;
- (2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;
- (3) A certification of the forensic laboratory examination results, which shall be done by the forensic laboratory examiner, shall be issued immediately upon the receipt of the subject item/s: *Provided*, That when the volume of dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: *Provided, however*, That a final certification shall be issued immediately upon completion of the said examination and certification[.]

The law and jurisprudence mandate that the items taken from the accused be marked, inventoried, and photographed immediately after seizure. This procedure shall be done in the presence of the accused, an elected public official, and a representative from either the media or the National Prosecution Service. The presence of these third-party witnesses guarantees that the items taken from the accused are the same items presented in court, protecting them from “the evils of switching, ‘planting’ or contamination[.]”⁴¹

In this case, it is undisputed that the inventory was conducted without the presence of the third-party witnesses. PO1 Galimba testified that an

⁴¹ *People v. Mendoza*, 736 Phil. 749, 764 (2014) [Per J. Bersamin, First Division].

inventory had already been prepared before the items were presented to Kagawad Cruz:

Q: After you prepared the inventory, where did [you] proceed, if any?

A: We proceeded to [the] barangay hall of Rosario.

....

Q: What happened in the barangay if any?

A: We presented the evidence and the accused to Kagawad Nike Cruz.

Q: What happened next after that?

A: **Kagawa Nike Cruz asked the accused whether the incident narrated to him was true and they in fact owned the evidence and they admitted the same and so Kagawad Cruz signed the inventory and we let the accused signed (sic) the inventory.**

....

Q: You presented the inventory to Kagawad Nike Cruz?

A: Yes ma'am.

Q: **So meaning, Kagawad Cruz did not see how the inventory was prepared?**

A: **No ma'am.**⁴² (Emphasis in the original)

Without the third-party witnesses' insulating presence, this Court is left with no guarantee, other than the self-serving testimonies of the apprehending officers, to ensure that the confiscated items have not been compromised.⁴³ While the law permits noncompliance with the chain of custody rule, this saving clause only operates when two requirements concur: first, the noncompliance must be based on a justifiable ground; and second, the integrity and evidentiary value of the seized items must be properly preserved.⁴⁴

Here, the arresting officers offered no justifiable reason why none of the third-party witnesses was present during the inventory. They allegedly exerted efforts to secure the presence of media and Department of Justice representatives, but they could not contact them.⁴⁵ The prosecution, however, failed to detail the efforts allegedly made by the officers, merely offering a generic assertion which cannot justify their noncompliance with the law's mandate.

Worse, PO1 Galimba and PO1 Chua gave diverging testimonies on the place and time of the alleged inventory:

⁴² CA rollo, pp. 48-49.

⁴³ *People v. Que*, 824 Phil. 882, 911 (2018) [Per J. Leonen, Third Division].

⁴⁴ *People v. Bartolini*, 791 Phil. 626, 636 (2016) [Per J. Carpio, Second Division].

⁴⁵ CA rollo, pp. 88-89.

Direct (PO1 Galimba)

Q: After marking the evidence that you bought from alias Eddie. (sic) [s]achet that according to you containing (sic) shabu, what happened next if any?

A: I also prepared the inventory **at the place of arrest**. . . .

Direct (PO1 Chua)

Q: When you reached the **barangay hall**, what happened next?

A: **There we made the inventory**.

Q: Do you know why did you not prepare the inventory at the place where the buy bust happened?

A: *Dumadami na po iyong mga tao duon at delikado na po sa aming seguridad (sic), umalis na po kami duon at para mas safety (sic) po sa amin, sa barangay na po kami gumawa ng inventory.*⁴⁶ (Emphasis in the original)

Their conflicting testimonies only cast more doubt on the integrity and evidentiary value of the seized items.

Finally, this Court stresses that the presumption of regularity in the performance of official duty “stands only when no reason exists in the records by which to doubt the regularity of the performance of official duty. And even in that instance, the presumption of regularity will never be stronger than the presumption of innocence in favor of the accused.”⁴⁷ In *People v. Mirantes*:⁴⁸

The oft-cited presumption of regularity in the performance of official functions cannot by itself affect the constitutional presumption of innocence enjoyed by an accused, particularly when the prosecution’s evidence is weak. The evidence of the prosecution must be strong enough to pierce the shield of this presumptive innocence and to establish the guilt of the accused beyond reasonable doubt. And where the evidence of the prosecution is insufficient to overcome this presumption, necessarily, the judgment of conviction of the court *a quo* must be set aside. The *onus probandi* on the prosecution is not discharged by casting doubts upon the innocence of an accused, but by eliminating all reasonable doubts as to his guilt.⁴⁹ (Citations omitted)

WHEREFORE, the August 25, 2017 Decision of the Court of Appeals in CA-G.R. CR-HC No. 08374 is **REVERSED** and **SET ASIDE**. Accused-appellants Eduardo Soriano y Santos and John Kenneth Peralta y Pequit are **ACQUITTED** for the prosecution’s failure to prove their guilt

⁴⁶ Id. at 48.

⁴⁷ *People v. Prudencio*, 800 Phil. 128, 143 (2016) [Per J. Brion, Second Division].

⁴⁸ 284-A Phil. 630 (1992) [Per J. Regalado, Second Division].

⁴⁹ Id. at 642.

beyond reasonable doubt. They are ordered immediately **RELEASED** from detention, unless they are confined for some other lawful cause.

Let a copy of this Resolution be furnished to the Director General of the Bureau of Corrections for immediate implementation. The Director General of the Bureau of Corrections is directed to report to this Court, within five days of receiving this Resolution, the action he has taken. Copies shall also be furnished to the Police General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

The Regional Trial Court is directed to turn over the drugs subject of this case to the Dangerous Drugs Board for destruction in accordance with law.

Let entry of final judgment be issued immediately.

SO ORDERED.”

By authority of the Court:

Misael C. Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
GER
3/4/21

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(Criminal Case Nos. 10430-D and 10431-D)

The Director General
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The Superintendent
New Bilibid Prison
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Mr. John Kenneth P. Peralta
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