

## SECOND DIVISION

[ G.R. No. 205614, July 26, 2017 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JAIME SEGUNDO Y IGLESIAS, ACCUSED-APPELLANT.**

### DECISION

**LEONEN, J.:**

Although the miniscule quantity of confiscated illicit drugs is by itself not a reason for acquittal, this instance accentuates the importance of conformity to Section 21<sup>[1]</sup> of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

This is an appeal<sup>[2]</sup> filed by Jaime Segundo y Iglesias (Segundo) from the June 26, 2012 Decision<sup>[3]</sup> of the Court of Appeals in CA-G.R. CR-HC No. 04377.

The Court of Appeals affirmed the Regional Trial Court's ruling<sup>[4]</sup> that Segundo was guilty beyond reasonable doubt of sale of dangerous drugs or of violation of Section 5 of Republic Act No. 9165.<sup>[5]</sup>

On July 8, 2001, an Information<sup>[6]</sup> for violation of Section 5 of Republic Act No. 9165, docketed as Criminal Case No. MC-03-7134-D,<sup>[7]</sup> was filed before Branch 213, Regional Trial Court, Mandaluyong City against Segundo.<sup>[8]</sup>

The undersigned Associate Prosecution Atty. II accuses JAIME SEGUNDO of the crime of VIOLATION OF SECTION 5, ARTICLE II OF THE REPUBLIC ACT 9165, committed in the manner herein narrated, as follows:

That on or about the 6<sup>th</sup> day of July 2003, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, did, then and there willfully, unlawfully and feloniously sell to a poseur-buyer, PO1 Cesar Claveron, (1) heat-sealed transparent plastic sachet with markings "JSI-1" containing 0.03 gram of white crystalline substance, which was found positive to the test for Methamphetamine [sic] Hydrochloride, commonly known as "shabu", a [prohibited] drug for the amount of two (2) pieces of One Hundred Pesos with serial no. SN HZ558445 and BT254391, without the corresponding license and prescription in violation of the above[-]cited law.

CONTRARY TO LAW.<sup>[9]</sup>

On the same date, two (2) separate Informations for violation of Sections II<sup>[10]</sup> and 12<sup>[11]</sup> in relation to Section 14<sup>[12]</sup> of Republic Act No. 9165 were also filed against Dominador Gubato

y Ibuho (Gubato).<sup>[13]</sup>

Criminal Case No. MC-03-7135-D

The undersigned Associate Prosecution Atty. II accuses **DOMINADOR GUBATO y IBUHO** of the crime of **VIOLATION OF SECTION 11, ARTICLE II OF THE REPUBLIC ACT 9165**, committed in the manner herein narrated, as follows:

That on or about the 6<sup>th</sup> day of July 2003, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized to possess or otherwise use any dangerous drug, did, then and there willfully, unlawfully and feloniously and knowingly have in his possession, custody and control two (2) heat-sealed transparent plastic sachet with markings "JSI-1" containing 0.03 grams and 0.30 grams or a total of 0.33 grams of white crystalline substance, which was found positive to the test for Methylamphetamine [sic] Hydrochloride, commonly known as "shabu", and one (1) heat-sealed transparent plastic sachet with markings "JSI-3" containing 2.27 grams of dried suspected Marijuana fruiting tops, without the corresponding license and prescription.

CONTRARY TO LAW.<sup>[14]</sup>

Criminal Case No. MC-03-7136-D

The undersigned Associate Prosecution Atty. II accuses **DOMINADOR GUBATO y IBUHO** of the crime of **VIOLATION OF SECTION 12 IN RELATION TO SECTION 14, ARTICLE II OF THE REPUBLIC ACT 9165**, committed in the manner herein narrated, as follows:

That on or about the 6<sup>th</sup> day of July 2003, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, did, then and there willfully, unlawfully and feloniously and knowingly possess and have in his control one (1) strip aluminium foil with markings "JSI-7" containing traces of white crystalline substance and one (1) improvised glass tooter with markings "JSI-4" containing traces of white crystalline substance, all equipments and other paraphernalia, which are fit or intended for smoking, consuming, administering or inducing a dangerous drug into the body, a violation of the above-cited law.

CONTRARY TO LAW.<sup>[15]</sup> (Emphasis in the original)

Upon arraignment, both accused pleaded not guilty to the charges.<sup>[16]</sup>

On August 27, 2003, Gubato posted bail for his provisional liberty,<sup>[17]</sup> however, he later jumped bail.<sup>[18]</sup>

Joint trial on the merits commenced.<sup>[19]</sup>

The testimonies of the prosecution's witnesses corroborated the following account of events:

At around 3:00 p.m.<sup>[20]</sup> of July 6, 2003,<sup>[21]</sup> a tip was received by the Mandaluyong Police Station from a "confidential informant" about Segundo's sale of illegal drugs in Talumpong Street, Barangay Malamig, Mandaluyong City.<sup>[22]</sup>

A buy-bust team was created upon the order of Officer in Charge PO3 Victor Santos (PO3 Santos)<sup>[23]</sup> to PO2 Oliver Yumul (PO2 Yumul), who was stationed as team leader of the operatives at the Drug Enforcement Unit.<sup>[24]</sup> PO1 Cesar Claveron (PO1 Claveron) was assigned as the poseur-buyer while PO2 Yumul, PO1 Angel Von Occeña (PO1 Occeña), PO2 Pascual, PO1 Garro, PO1 Buted, PO1 Boyles, PO2 Pucan, and POS Bernardino Adriano (POS Adriano) operated as backups.<sup>[25]</sup>

Two (2) P100.00 bills served as marked buy-bust money.<sup>[26]</sup> PO1 Occeña prepared a pre-coordination form, which was faxed to the Philippine Drug Enforcement Agency before the operation.<sup>[27]</sup>

When the police officers reached their destination, PO1 Claveron and the confidential informant came near Segundo, who was then positioned along an alley.<sup>[28]</sup> Meanwhile, PO2 Yumul was about 10 to 15 meters away where he could supervise the operation without being easily noticed.<sup>[29]</sup> PO1 Claveron was introduced as a buyer of shabu.<sup>[30]</sup> Segundo was initially hesitant but the confidential informant persuaded him to finally sell illegal drugs.<sup>[31]</sup>

PO1 Claveron gave the buy-bust money to Segundo.<sup>[32]</sup> In return, Segundo handed him "one heat-sealed transparent plastic sachet" with *shabu*.<sup>[33]</sup> PO2 Yumul allegedly saw this exchange although he could not tell what Segundo gave PO1 Claveron, considering his distance.<sup>[34]</sup>

PO1 Claveron made the pre-arranged signal, which prompted the other members of the team to make the arrest.<sup>[35]</sup> Segundo ran to his house and was pursued by PO2 Yumul, PO1 Occeña, and POS Adriano.<sup>[36]</sup>

Inside Segundo's house, the police officers coincidentally saw Gubato "repacking prohibited drugs scattered on the floor."<sup>[37]</sup> POS Adriano pursued Segundo<sup>[38]</sup> while PO2 Yumul apprehended Gubato<sup>[39]</sup> and PO1 Occeña collected the evidence.<sup>[40]</sup> Later, POS Adriano arrested Segundo.<sup>[41]</sup>

PO1 Occeña made a body search on Segundo and Gubato.<sup>[42]</sup> He retrieved "one (1) heat[-]sealed transparent plastic sachet containing three (3) suspected shabu and one (1) heat[-]sealed transparent plastic sachet containing marijuana" from Gubato's right pocket.<sup>[43]</sup> PO2 Yumul marked these items in the presence of the two (2) accused as "JSI 1" to "JSI 10, where "JSI" stood for "Jaime Segundo y Iglesias."<sup>[44]</sup>

Segundo and Gubato were subsequently brought to the Mandaluyong Medical Center and to the Criminal Investigation Unit<sup>[45]</sup> while the drug paraphernalia and shabu were submitted to the investigator.<sup>[46]</sup>

PO2 Yumul prepared a request for the examination of the seized items,<sup>[47]</sup> which was submitted to Karen Palacios,<sup>[48]</sup> and the Spot Report, which PO1 Occeña forwarded to the Philippine Drug Enforcement Agency.<sup>[49]</sup> The drug paraphernalia and the plastic sachet yielded positive for methamphetamine hydrochloride.<sup>[50]</sup>

During cross examination, PO1 Claveron testified that he only knew the names of the accused during the investigation. He identified Segundo as the person who gave him the alleged shabu after taking the P200.00 buy-bust money. Additionally, he mentioned that he did not state in his affidavit that the confidential informant told Segundo, "[P]are, may kasama ako dito. Iiskor siya. Kung pwede pagbigyan mo." [51]

Further, PO1 Claveron admitted that PO3 Santos did not give him a receipt for the bills used as marked money but he photocopied them in their office. He clarified that he had no personal knowledge on what happened inside Segundo's house when Segundo was pursued by the police officers. He averred that Segundo and Gubato did not have a counsel when they were brought in for investigation. [52]

PO2 Yumul attested that he made the inventory and took the photographs of the pieces of evidence collected. However, he admitted that the photos were lost and could not be submitted to the prosecutor for inquest. He claimed that he did not know the two (2) accused before their arrest on the day of the operation. [53]

PO1 Occeña averred that he did not know Segundo prior to their operation and confirmed that "there was no representative of the media and the Barangay when the markings were placed on the recovered evidence." [54]

PO3 Romarico D. Sta. Maria, the police investigator on duty when this case was brought to the Mandaluyong Criminal Investigation Unit for proper action, [55] identified the marked bills as the buy-bust money used in the operation. [56] He verified that the items and the operational coordination form were submitted to him. [57]

SPO1 Ruperto Balsamo (SPO1 Balsamo), the assigned investigator to the case, [58] affirmed that the two (2) accused and the physical evidence were turned over to him. [59] He confirmed that the prohibited drugs retrieved from the accused were recorded in their book at the Drug Enforcement Unit. He admitted that *"no picture [was] taken"* on the alleged recovered object evidence. [60]

On the other hand, the defense presented Segundo, who denied all the accusations against him and accused the police officers of extortion. [61]

Segundo insisted that on the date of the incident, he was in his sari-sari store when he saw several police officers barging in his neighbor's house. Suddenly, two (2) men in civilian clothes stood in front of his store and several others entered his store. They hurriedly handcuffed Segundo and "poked a gun at him." [62] Segundo was dragged outside and was boarded into a van. [63]

He was allegedly brought for a medical examination at the Mandaluyong Medical Center. Thereafter, they proceeded to the office of the Drug Enforcement Unit where he was bodily searched in a small room. When they got nothing from him, one (1) of the police officers demanded P100,000.00. Since he could not give the demanded amount, he was subsequently detained. [64]

Gubato was reportedly at large since November 15, 2005. [65] For this reason, the defense had no other witness to present. [66] Hence, the case was submitted for decision. [67]

On February 25, 2010, the Regional Trial Court [68] found Segundo guilty of selling dangerous [69]

drugs. It ruled that in prosecution of illegal possession or sale of prohibited drugs, great weight is given to prosecution witnesses, particularly when they are police officers.<sup>[70]</sup> In the absence of any ill-motive on their part, the presumption of regularity in the performance of their duty stands except when there is proof to the contrary.<sup>[71]</sup> Hence, this presumption prevails over the accused's unsubstantiated defense of denial and claim of frame-up.<sup>[72]</sup> The dispositive portion of the decision read:

WHEREFORE, premises considered, judgment is hereby rendered, viz:

- a) in **Criminal Case No. MC-03-7134-D**, accused **JAIME SEGUNDO y IGLESIAS** is hereby found **GUILTY** beyond reasonable doubt for violation of Section 5, Article II of Republic Act No. 9165 or for sale of dangerous drugs. As a consequence thereof, accused **JAIME SEGUNDO y IGLESIAS** is sentenced to suffer the penalty of ***LIFE IMPRISONMENT*** and to pay the fine of FIVE HUNDRED THOUSAND PESOS (P 500,000.00);
- b) in **Criminal Case No. MC-03-7135-D**, accused **DOMINADOR GUBATO y IBUHO** is hereby found **GUILTY** beyond reasonable doubt for violation of Section 11, Article II of Republic Act No. 9165 or for illegal possession [of] dangerous drugs. Accused **DOMINADOR GUBATO y IBUHO** is sentenced to suffer the penalty of imprisonment from **TWELVE (12) YEARS AND ONE (1) DAY**, as minimum, **to FIFTEEN (15) YEARS**, as maximum, and to pay the fine of THREE HUNDRED THOUSAND PESOS (P 300,000.00); and
- c) in **Criminal Case No. MC-03-7136-D**, accused **DOMINADOR GUBATO y IBUHO** is hereby found **GUILTY** beyond reasonable doubt for violation of Section 12 in relation to Section 14, Article II of Republic Act No. 9165 or for illegal drug paraphernalia. Accused **DOMINADOR GUBATO y IBUHO** is sentenced to suffer the penalty of imprisonment from **SIX (6) MONTHS AND ONE (1) DAY**, as minimum, **to FOUR (4) YEARS**, as maximum, and to pay the fine of TWENTY THOUSAND PESOS (P 20,000.00).

All the pieces of evidence confiscated are forfeited in favor of the government to be disposed of in accordance with law.

The period of detention of accused, Jaime Segundo y Iglesias, at the Mandaluyong City Jail is hereby credited in his favor.

Finally, considering that accused **DOMINADOR GUBATO y IBUHO** is at-large, issue an **ALIAS WARRANT** for his immediate arrest to serve the sentence imposed upon him in Criminal Case Nos. MC-03-7135-D and MC-03-7136-D.

**SO ORDERED.**<sup>[73]</sup> (Emphasis in the original)

In his appeal, Segundo assailed the broken chain of custody in handling the alleged confiscated shabu.<sup>[74]</sup>

On June 26, 2012, the Court of Appeals<sup>[75]</sup> affirmed the trial court's ruling.<sup>[76]</sup> It held that the prosecution's failure to prove that the police handled the seized items based on the guidelines provided for under Section 21 of Republic Act No. 9165 and its implementing rules did not



immediately make Segundo's arrest illegal and the confiscated items inadmissible as evidence.<sup>[77]</sup>

The Court of Appeals held that non-compliance with the rules was permissible provided that the reasons were justifiable "and as long as the integrity and evidentiary value of the confiscated/seized items, [were] properly preserved by the apprehending officer/team."<sup>[78]</sup> Nevertheless, records of this case revealed that the confiscated items "were marked at the scene of the incident in the presence of appellant."<sup>[79]</sup>

Hence, an appeal<sup>[80]</sup> before this Court has been submitted.

On February 1, 2013<sup>[81]</sup> the Court of Appeals elevated to this Court the records of this case pursuant to its July 31, 2012 Resolution,<sup>[82]</sup> which gave due course to the Notice of Appeal<sup>[83]</sup> filed by Segundo.

In its April 10, 2013 Resolution,<sup>[84]</sup> this Court noted the records of the case forwarded by the Court of Appeals. The parties were then ordered to file their supplemental briefs, should they desire, within 30 days from notice.

On June 6, 2013, the Office of the Solicitor General filed a Manifestation<sup>[85]</sup> on behalf of the People of the Philippines stating that it would no longer file a supplemental brief. A similar Manifestation<sup>[86]</sup> was filed by the Public Attorney's Office on behalf of Segundo.

For resolution is whether Jaime Segundo's guilt was proven beyond reasonable doubt. Subsumed in this issue is whether the police officers complied with the chain of custody provided for under Section 21 of Republic Act No. 9165 and its Implementing Rules in handling the alleged confiscated shabu.

Segundo insists,<sup>[87]</sup> that in the prosecution for illegal sale of dangerous drugs, it is essential that there is evidence showing that the sale occurred, together with the presentation in court of proof of *corpus delicti*.<sup>[88]</sup>

In this case, the prosecution failed to establish the elements of the crime.<sup>[89]</sup> To emphasize, it was only PO1 Claveron and the confidential informant who purportedly met Segundo to purchase the prohibited drugs.<sup>[90]</sup> The other members of the buy-bust team namely PO2 Yumul, POS Adriano, and PO3 Occeña were positioned as immediate back-ups.<sup>[91]</sup> PO2 Yumul and PO3 Occeña even stated that they failed to see what Segundo gave PO1 Claveron in exchange for the buy-bust money.<sup>[92]</sup>

Similarly, while PO1 Claveron claims that Segundo handed him "a small plastic sachet containing white crystalline substance," there was still no assurance that what it contained was shabu.<sup>[93]</sup>

Segundo asserts that PO2 Yumul was incompetent to identify the marked seized items since he was not the one who confiscated them.<sup>[94]</sup> Worse, he failed to clearly recognize which among those items was the one retrieved from Segundo.<sup>[95]</sup>

Segundo contends that the testimonies of the police officers were not categorical and reliable.<sup>[96]</sup> The following inconsistencies on the material circumstances of this case should be underscored:

1. PO2 Claveron testified that PO3 Occeña was the one who faxed the pre-coordination form to the PDEA. PO3 Occeña, however, did not confirm the same, and instead relayed that it was PO3 Victor Santos who faxed the said form.
2. In their joint affidavit, the police officers stated that when they arrived at the target area, the accused-appellant was seen waiting for customers. PO1 Claveron, however, testified that the accused-appellant was just standing along the alley.
3. PO1 Claveron stated that it was PO3 Occeña who received the information from the confidential informant about the selling of prohibited drugs in Talumpong Street, Mandaluyong. PO2 Yumul, however, relayed that it was POS Adriano who received the said information.
4. PO1 Claveron narrated that after Jaime [Segundo] and Dominador [Gubato] were arrested, they were brought to the Mandaluyong Medical Center for medical examination. PO2 Yumul, however, declared that the duo was brought to their office to file the necessary charges.
5. PO1 Claveron admitted that the recovered items were not inventoried so as to avoid trouble in the area. PO2 Yumul, however, testified that he was the one who inventoried the said items.
6. PO3 Occeña declared that PO2 Yumul placed the markings on the seized items. PO2 Yumul, however, did not categorically state he was the one who placed the markings.
7. SPO1 Ruperto Balzamo<sup>[97]</sup> admitted that no photographs were taken on the confiscated items. PO2 Yumul, however, recalled that pictures were taken, but they could no longer be found.<sup>[98]</sup> (Citations omitted)

Segundo insists that even assuming that he perpetrated the charge, the trial court still erred in finding him guilty due to the broken chain of custody of the alleged seized prohibited drugs.<sup>[99]</sup> In this case, no picture was taken.<sup>[100]</sup> Similarly, PO3 Occeña confessed that "no members of the media and representative from the barangay were present when the said items were allegedly marked."<sup>[101]</sup>

His claim of extortion should not be immediately disfavored.<sup>[102]</sup> Hence, there is a need to be "extra vigilant in trying drug cases" because there are circumstances when "law enforcers resort to the practice of planting evidence to extract information or even harass civilians."<sup>[103]</sup> An assumption on regularity cannot prevail over the accused's constitutional presumption of innocence.<sup>[104]</sup>

On the other hand, the Office of the Solicitor General<sup>[105]</sup> contends that the prosecution was able to prove that Segundo illegally sold prohibited drugs. PO1 Claveron's testimony, together with the identification of the *corpus delicti*, has substantiated the claim against Segundo. Apart from PO1 Claveron's narration of how Segundo sold him shabu, this assertion was also corroborated by the other members of the buy-bust team.<sup>[106]</sup>

The Office of the Solicitor General also insists that the police officers' failure to strictly comply with Section 21 of Republic Act No. 9165 and its implementing rules neither "render[ed] [Segundo's] arrest illegal nor the evidence adduced against him inadmissible."<sup>[107]</sup>

The Office of the Solicitor General mainly relies on the police officers' presumption of regularity in the performance of their duties. It asserts that in drug cases, the presumption that the police officers have fulfilled their duties in a regular manner absent evidence to the contrary prevails and their testimonies are given weight.<sup>[108]</sup>

Furthermore, the defense of frame-up is generally disfavored because "it can easily be concocted and is a common and standard defense ploy in most prosecutions for violation of [Republic Act No.] 9165."<sup>[109]</sup> In this kind of defense, "the evidence must be clear and convincing."<sup>[110]</sup>

The Office of the Solicitor General then concludes "that the positive identification of the accused—when categorical and consistent and without any ill motive on the part of the prosecution witnesses—prevails over alibi and denial which are negative and self-serving, undeserving of weight in law."<sup>[111]</sup> Compared with the well- substantiated resolution of the trial court, Segundo's denial is immaterial.<sup>[112]</sup>

This Court rules in favor of Segundo.

I

Every criminal prosecution begins with the "constitutionally-protected presumption of innocence in favor of the accused that can only be defeated by proof beyond reasonable doubt."<sup>[113]</sup> "Proof beyond reasonable doubt, or that quantum of proof sufficient to produce a moral certainty that would convince and satisfy the conscience of those who act in judgment" is crucial in defeating the presumption of innocence.<sup>[114]</sup>

During proceedings, the prosecution initially presents proof substantiating the elements of the charge.<sup>[115]</sup> The prosecution must rest "on the strength of its case rather than on the weakness of the case for the defense."<sup>[116]</sup> After proving the elements, "the burden of evidence shifts to the accused" to negate the prosecution's claim.<sup>[117]</sup> Thereafter, the courts shall resolve whether the guilt of the accused was proven beyond reasonable doubt.<sup>[118]</sup>

In sustaining a conviction for illegal sale of prohibited drugs, the prosecution must establish the following elements:

- (1) the identity of the buyer and the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor.<sup>[119]</sup>

Accordingly, these entail proof "that the *sale transaction transpired*, coupled with the *presentation in court of the corpus delicti*."<sup>[120]</sup>

Proof beyond reasonable doubt requires "that unwavering exactitude be observed in establishing the *corpus delicti*—the body of the crime whose core is the confiscated illicit drug."<sup>[121]</sup> Moreover, "every fact necessary to constitute the crime must be established."<sup>[122]</sup> The rule on chain of custody plays this role in buy-bust operations, warranting that there are no doubts on the identity of evidence.<sup>[123]</sup>

"Proof of the *corpus delicti* in a buy-bust situation requires evidence, not only that the transacted drugs actually exist, but evidence as well that the drugs seized and examined are the same drugs presented in court."<sup>[124]</sup> This is a pre-condition "for conviction as the drugs are the main subject of the illegal sale constituting the crime and their existence and identification must be proven for the crime to exist."<sup>[125]</sup>

Although the meaning of chain of custody is not explicitly provided for under Republic Act



No. 9165, it is defined<sup>[126]</sup> in Section 1(b) of Dangerous Drugs Board Regulation No. 1,<sup>[127]</sup> Series of 2002:

b. "Chain of custody" means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment at each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition[.]

Chain of custody is composed of testimonies on each link of the sequence. The account starts from the time the item was taken until it was presented as evidence such that each person who had contact with "the exhibit would describe how and from whom it was received, where it was and what happened to it while in [his or her] possession, the condition in which it was received and . . . in which it was delivered to the next."<sup>[128]</sup> Every person in the chain must attest to the precautions observed while in his or her possession to guarantee that the item's condition has not been altered and that there is no opportunity for anyone not in the chain to take hold of it.<sup>[129]</sup>

Compliance with the chain of custody is necessary due to the unique nature of narcotics. In *Mallillin v. People*,<sup>[130]</sup>

*A unique characteristic of narcotic substances is that they are not readily identifiable as in fact they are subject to scientific analysis to determine their composition and nature. The Court cannot reluctantly close its eyes to the likelihood, or at least the possibility, that at any of the links in the chain of custody over the same there could have been tampering, alteration or substitution of substances from other cases — by accident or otherwise — in which similar evidence was seized or in which similar evidence was submitted for laboratory testing. Hence, in authenticating the same, a standard more stringent than that applied to cases involving objects which are readily identifiable must be applied, a more exacting standard that entails a chain of custody of the item with sufficient completeness if only to render it improbable that the original item has either been exchanged with another or been contaminated or tampered with.*<sup>[131]</sup> (Emphasis provided)

The prosecution offered testimonies to establish the identity of the buyer and seller, as well as the consideration that sustained the alleged deal and how the sale had transpired.<sup>[132]</sup> It failed, however, to comply with the chain of custody that would supposedly ensure that the miniscule amount of 0.03 grams of *shabu* offered as evidence in court was the one retrieved from Segundo at the time of the operation.

## II

To confirm the tip that Segundo was selling prohibited drugs, a buy-bust operation was conducted.<sup>[133]</sup> This manner of action has been attested to be useful in "flush[ing] out illegal transactions that are otherwise conducted covertly and in secrecy."<sup>[134]</sup>

A buy-bust operation, however, poses a danger "that has not escaped the attention of the framers of the law."<sup>[135]</sup> Thus, it is prone to abuse, "the most notorious of which is its use as a tool for extortion."<sup>[136]</sup> As explained in *People v. Tan*,<sup>[137]</sup>

[B]y the very nature of anti-narcotics operations, the need for entrapment procedures, the use of shady characters as informants, the ease with which sticks of marijuana or grams of heroin can be planted in pockets or hands of unsuspecting provincial hicks, and the secrecy that inevitably shrouds all drug deals, *the possibility of abuse is great.*<sup>[138]</sup> (Emphasis provided)

For this reason, Republic Act No. 9165 provides for a definite procedure relevant to the confiscation and handling of prohibited drugs.<sup>[139]</sup> Accordingly, the prosecution is mandated to prove that this procedure has been complied with to establish the elements of the charge.<sup>[140]</sup>

The initial procedural safeguard<sup>[141]</sup> provided for under Section 21, paragraph 1 of Republic Act No. 9165,<sup>[142]</sup> the then prevailing law,<sup>[143]</sup> states:

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:

- (1) The apprehending 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[.]** (Emphasis supplied)

In this case, a perusal of the testimonies of the prosecution witnesses reveals that the procedure provided for under Republic Act No. 9165 was not complied with "despite [its] mandatory nature as indicated by the use of '*shall*' in the directives of the law."<sup>[144]</sup>

PO2 Occeña testified that PO2 Yumul marked the seized items with "JSI 1" to "JSI 10" inside Segundo's house and in front of the two (2) accused.<sup>[145]</sup> PO2 Yumul's testimony, however, did not reveal much about the marking he allegedly made. He merely stated that he was the one who "inventoried and took photographs of the pieces of evidence recovered."<sup>[146]</sup> PO3 Occeña added that when the items were marked, "no representative of the media and the [b]arangay" were present.<sup>[147]</sup>

Furthermore, the prosecution's initial witness, SPO1 Balsamo, admitted that no pictures of the alleged confiscated items were taken.<sup>[148]</sup> Contrary to this assertion, PO2 Yumul testified differently. While he insisted that he took photographs of the seized items, which he also inventoried, the photos purportedly got lost.<sup>[149]</sup>

Apparently, these were the only testimonies that comprise the entirety of the prosecution's evidence on the inventory and photographs of the confiscated items. To underscore, the step-by-step process under Republic Act No. 9165 is "a matter of substantive law, which cannot be simply brushed aside as a simple procedural technicality."<sup>[150]</sup> The law has been "crafted by Congress as safety precautions to address potential police abuses, especially considering that the penalty imposed may be life imprisonment."<sup>[151]</sup>

The **concern with narrowing the window of opportunity for tampering with evidence** found legislative expression in Section 21 (1) of RA 9165 on the inventory of seized dangerous drugs and paraphernalia by putting in place a three-tiered requirement on the time, witnesses, and proof of inventory by imposing on the apprehending team having initial custody and control of the drugs the duty to "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."<sup>[152]</sup> (Emphasis provided)

The varying testimonies on the photographing of the articles direct this Court to a logical conclusion that there were really no photos taken during the seizure of the items. Apart from this, nothing in the records shows that there was "genuine and sufficient effort to seek the third-party representatives" specified under the law.<sup>[153]</sup> Despite having enough time to contact the needed parties after the tip was received, the police officers merely dispensed with this requirement. To note, it is the prosecution who had the concomitant part to "establish that earnest efforts were employed in contacting the representatives enumerated" under the law.<sup>[154]</sup>

Section 21 sets out "matters that are imperative."<sup>[155]</sup> Accomplishing acts which seemingly exact compliance but do not really conform with the pre-conditions provided for under Section 21 are not enough.<sup>[156]</sup> "This is especially so when the prosecution claims that the seizure of drugs and drug paraphernalia is the result of carefully planned operations, as is the case here."<sup>[157]</sup>

Moreover, a perusal of the Informations against Segundo and Gubato creates doubt whether the seized items were properly marked. As pointed out by Segundo, both Informations explicitly contained the markings "JSI-1."<sup>[158]</sup>

In Criminal Case No. MC-03-7134-D Segundo was charged with selling prohibited drugs.

[T]he above-named accused, did, then and there willfully, unlawfully and feloniously sell to a poseur-buyer, PO1 Cesar Claveron, ***one (1) heat-sealed transparent plastic sachet with markings "JSI-1"*** containing 0.03 gram of white crystalline substance, which was found positive to the test for Methamphetamine [sic] Hydrochloride, commonly known as "shabu[.]"<sup>[159]</sup> (Emphasis provided)

On the other hand, the other Information in Criminal Case No. MC-03-7135-D charged Gubato with possession of dangerous drugs.

[T]he above-named accused, not being lawfully authorized to possess or otherwise use any dangerous drug, did, then and there willfully, unlawfully and feloniously and knowingly have in his possession, custody and control ***two (2) heat-sealed transparent plastic sachet with markings "JSI-1" containing 0.03 grams and 0.30 grams or a total of 0.33 grams of white crystalline substance***, which was found positive to the test for Methylamphetamine [sic] Hydrochloride, commonly known as "shabu[.]"<sup>[160]</sup> (Emphasis provided)

Based on the prosecution's narration of the story, the articles allegedly retrieved from Segundo were different from the ones seized from Gubato. Supposedly, these separate items should be marked differently to identify which among the articles were seized from Segundo and which ones were from Gubato.

Crucial in proving chain of custody is the marking of the seized drugs or other related items immediately after they are seized from the accused. ***Marking after seizure is the starting point in the custodial link***, thus it is vital that the seized contraband[s] are immediately marked because succeeding handlers of the specimens will use the markings as reference. The ***marking of the evidence serves to separate the marked evidence from the corpus of all other similar or related evidence from the time they are seized from the accused until they are disposed of at the end of criminal proceedings, obviating switching, "planting", or contamination of evidence.***<sup>[161]</sup> (Emphasis provided)

However, the two (2) Informations both involve an article similarly marked as "JSI 1" that creates confusion. Hence, it casts doubt on whether the prosecution was able to establish the identity of the alleged seized shabu.<sup>[162]</sup>

Negligible departures from the procedures under Republic Act No. 9165 would not certainly absolve the accused from his or her charges. Nonetheless, "when there is gross disregard of the procedural safeguards prescribed in the substantive law . . . serious uncertainty is generated about the identity of the seized items that the prosecution presented in evidence."<sup>[163]</sup>

This Court also emphasizes that there were apparent inconsistencies in the testimonies of the police officers who were part of the buy-bust team.

First, according to PO1 Claveron, who was allegedly at their office that time, it was PO1 Occeña who received the tip from the informant.<sup>[164]</sup> However, PO3 Occeña who was supposedly "on duty,"<sup>[165]</sup> testified differently, and said that it was PO2 Yumul who received the information.<sup>[166]</sup>

Further, according to PO1 Claveron, it was PO1 Occeña who prepared the request for Segundo's drug test, as well as the drug examination of the seized articles.<sup>[167]</sup> On the contrary, PO2 Yumul testified that he "prepared a request addressed to the . . . Crime Laboratory for the examination of the evidence confiscated."<sup>[168]</sup>

According to PO2 Yumul, when he apprehended Gubato, he directed "PO1 Occeña to gather all evidence scattered on the floor."<sup>[169]</sup> But according to PO1 Occeña, he confiscated the articles "on top of the table."<sup>[170]</sup>

As the law enforcers who planned and conducted the operation, they should know the details of



the incident. In this case, however, the police officers posited contradictory statements, casting uncertainty on the veracity of their narrative.

III

This Court acknowledges that strict conformity with the conditions provided for under Section 21 of Republic Act No. 9165 might not be probable under field situations. "[T]he police operates under varied conditions, and cannot at all times attend to all the niceties of the procedures in the handling of confiscated evidence."<sup>[171]</sup> With this, Section 21, paragraph 1 of the Implementing Rules and Regulations of Republic Act No. 9165 reads:

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 —*

. . . .

- (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 the 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**[.] (Emphasis provided)*

Failure to comply with Section 21 "is not fatal to the prosecution's case provided that the integrity and evidentiary value of the seized items are properly preserved by the apprehending officers."<sup>[172]</sup> This exception, however, "will only be triggered by the existence of a ground that justifies departure from the general rule."<sup>[173]</sup>

In this case, the prosecution offered no justifiable reason why they failed to comply with the conditions provided for under the law. To underscore, "for the saving clause to apply, it is important that the prosecution explain the reasons behind the procedural lapses, and that the integrity and value of the seized evidence had been preserved."<sup>[174]</sup> Simply put, "the justifiable ground for noncompliance must be proven as a fact."<sup>[175]</sup> Hence, courts cannot assume what these reasons are, if they even exist at all.<sup>[176]</sup>

Moreover, the presumption of regularity in the performance of their duties cannot work in favor of the law enforcers since the records revealed severe lapses in complying with the requirements provided for under the law.<sup>[177]</sup> "The presumption stands when no reason exists in the records by which to doubt the regularity of the performance of official duty."<sup>[178]</sup> Thus, this presumption "will never be stronger than the presumption of innocence in favor of the



accused. Otherwise, a mere rule of evidence will defeat the constitutionally enshrined right of an accused to be presumed innocent."<sup>[179]</sup>

To emphasize, this case merely involves 0.03 grams of shabu. Thus, "the miniscule amount of narcotics supposedly seized . . . amplifies the doubts on their integrity."<sup>[180]</sup>

To sum, "[l]aw enforcers should not trifle with the legal requirement to ensure integrity in the chain of custody of seized dangerous drugs and drug paraphernalia."<sup>[181]</sup> Thus, "[t]his is especially true when only a miniscule amount of dangerous drugs is alleged to have been taken from the accused."<sup>[182]</sup>

Although the miniscule quantity of confiscated illicit drugs is solely by itself not a reason for acquittal, this instance accentuates the importance of conformity to Section 21<sup>[183]</sup> that the law enforcers in this case miserably failed to do so. If initially there were already significant lapses on the marking, inventory, and photographing of the alleged seized items, a doubt on the integrity of the *corpus delicti* concomitantly exists. For this reason, this Court acquits Segundo as his guilt was not proven beyond reasonable doubt.

This Court ends with the words in *People v Holgado*:<sup>[184]</sup>

It is lamentable that while our dockets are clogged with prosecutions under Republic Act No. 9165 involving small-time drug users and retailers, we are seriously short of prosecutions involving the proverbial "big fish." We are swamped with cases involving small fry who have been arrested for miniscule amounts. While they are certainly a bane to our society, small retailers are but low-lying fruits in an exceedingly vast network of drug cartels. Both law enforcers and prosecutors should realize that the more effective and efficient strategy is to focus resources more on the source and true leadership of these nefarious organizations. Otherwise, all these executive and judicial resources expended to attempt to convict an accused for 0.05 gram of shabu under doubtful custodial arrangements will hardly make a dent in the overall picture. It might in fact be distracting our law enforcers from their more challenging task: to uproot the causes of this drug menace. We stand ready to assess cases involving greater amounts of drugs and the leadership of these cartels.<sup>[185]</sup>

**WHEREFORE**, the June 26, 2012 Decision of the Court of Appeals in CA-G.R. CR-HC No. 04377 is **REVERSED and SET-ASIDE**. Accused-appellant JAIME SEGUNDO y IGLESIAS is hereby **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention, unless he is confined for any other lawful cause.

Let a copy of this decision be furnished to the Director of the Bureau of Corrections, Muntinlupa City for immediate implementation. The Director of the Bureau of Corrections is directed to report to this Court the action he has taken within five (5) days from receipt of this decision. Copies shall also be furnished to the Director General of Philippine National Police and the Director General of Philippine Drugs Enforcement Agency for their information.

Let entry of judgment be issued immediately.

**SO ORDERED.**

*Carpio, (Chairperson), Peralta, Mendoza, and Martires, JJ., concur.*

- [1] *People v. Holgado*, 741 Phil. 78, 93(2014) [Per J. Leonen, Third Division].
- [2] *CA rollo*, pp. 150-151.
- [3] *Rollo*, pp. 2-14. The Decision was penned by Associate Justice Japar B. Dimaampao and concurred in by Associate Justices Michael P. Elbinias and Nina G. Antonio-Valenzuela of the Fifteenth Division of the Court of Appeals, Manila.
- [4] *CA rollo*, pp. 13-35. The Decision, promulgated on February 25, 2010, was penned by Judge Carlos A. Valenzuela of Branch 213, Regional Trial Court, Mandaluyong City.
- [5] Rep. Act No. 9165, sec. 5, par. 1 provides:

Section 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

[6] *CA rollo*, pp. 11-12. The Information was filed by Associate Prosecution Atty. II Regina T. Figura-Tronco.

[7] *Id.* at 13.

[8] *Id.* at 11.

[9] *Id.*

[10] Section 11. *Possession of Dangerous Drugs.* — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

...  
Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:  
...

- (3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), ***if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu", or other dangerous drugs*** such as, but not limited to, MDMA or "ecstasy", PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana. (Emphasis supplied)

[11] Section 12. *Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs*. — The penalty of imprisonment ranging from six (6) months and one (1) day to four (4) years and a fine ranging from Ten thousand pesos (P10,000.00) to Fifty thousand pesos (P50,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess or have under his/her control any equipment, instrument, apparatus and other paraphernalia fit or intended for smoking, consuming, administering, injecting, ingesting, or introducing any dangerous drug into the body: *Provided*, That in the case of medical practitioners and various professionals who are required to carry such equipment, instrument, apparatus and other paraphernalia in the practice of their profession, the Board shall prescribe the necessary implementing guidelines thereof.

The possession of such equipment, instrument, apparatus and other paraphernalia fit or intended for any of the purposes enumerated in the preceding paragraph shall be *prima facie* evidence that the possessor has smoked, consumed, administered to himself/herself, injected, ingested or used a dangerous drug and shall be presumed to have violated Section 15 of this Act.

[12] Section 14. *Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs During Parties, Social Gatherings or Meetings*. — The maximum penalty provided for in Section 12 of this Act shall be imposed upon any person, who shall possess or have under his/her control any equipment, instrument, apparatus and other paraphernalia fit or intended for smoking, consuming, administering, injecting, ingesting, or introducing any dangerous drug into the body, during parties, social gatherings or meetings, or in the proximate company of at least two (2) persons.

[13] *Rollo*, pp. 4-5, CA Decision.

[14] *Id.*

[15] *Id.* at 5.

[16] *Id.*

[17] *CA rollo*, p. 16.

[18] *Rollo*, p. 5.

[19] *Id.*

[20] *Id.* at 6. Claveron stated 1:00 p.m. while Occeña claimed it was at 12:30 p.m. *See CA rollo*, p. 19 and 25, respectively.

[21] The date appearing on p. 22 of the RTC Decision was June 6, 2003 however it should be July 6, 2003 pursuant to the Information attached.

[22] *Rollo*, p. 6. Claveron testified that it was Occeña who received the tip while Occeña stated that it was Yumul. *See CA rollo*, p. 19 and 25, respectively.

[23] *CA rollo*, p. 19.

[24] *Id.* at 22.

[25] *Rollo*, p. 6. The complete names of the other police officers are not mentioned in any of the

documents.

[26] Id.

[27] CA *rollo*, p. 19.

[28] *Rollo*, p. 6.

[29] CA *rollo*, p. 23.

[30] *Rollo*, p. 6.

[31] Id.

[32] Id.

[33] Id.

[34] CA *rollo*, p. 23.

[35] *Rollo*, p. 6.

[36] Id.

[37] Id. PO1 Occeña claimed it was shabu while PO2 Yumul held that it was marijuana. *See* CA *rollo*, p. 26 and 23, respectively.

[38] CA *rollo*, p. 23.

[39] Id. and 20.

[40] PO1 Occeña stated that the pieces of evidence collected were "on top of the table" while PO2 Yumul attested that they were "scattered on the floor." *See* CA *rollo*, p. 26 and 23, respectively.

[41] CA *rollo*, p. 20.

[42] Id. at 26.

[43] Id.

[44] Id.

[45] Id.

[46] *Rollo*, p. 6 and CA *rollo*, p. 20.

[47] CA *rollo*, p. 23.

[48] Id. at 24.

[49] Id. at 20.

[50] Id. The substance was misspelled as "methy lamphetamine hydrochloride."

[51] Id.

[52] Id. at 21.

[53] Id. at 25. The RTC Decision reported June 6, 2003. However, it should be July 6, 2003, which was the date appearing on the Information against Segundo.

[54] Id. at 27.

[55] Id. at 21.

[56] Id. at 22.

[57] Id.

[58] Id. at 18.

[59] Id. at 19.

[60] Id.

[61] Id. at 27.

[62] *Rollo*, p. 7.

[63] Id.

[64] Id.

[65] *CA Rollo*, p. 27.

[66] Id.

[67] Id.

[68] Id. at 13-35.

[69] Id. at 34.

[70] Id. at 32.

[71] Id.

[72] Id.

[73] Id. at 34-35.



[74] *Rollo*, p. 7.

[75] *Id.* at 2-14.

[76] *Id.* at 14.

[77] *Id.* at 10.

[78] *Id.*

[79] *Id.*

[80] *Id.* at 15-16.

[81] *Id.* at 1.

[82] *Id.* at 18.

[83] *CA Rollo*, pp. 150-151.

[84] *Rollo*, p. 31.

[85] *Id.* at 23-24.

[86] *Id.* at 27-28.

[87] *CA Rollo*, pp. 49-69, Brief for the Accused-Appellant.

[88] *Id.* at 58.

[89] *Id.*

[90] *Id.*

[91] *Id.*

[92] *Id.*

[93] *Id.*

[94] *Id.*

[95] *Id.* at 59.

[96] *Id.* at 63.

[97] Balzamo also spelled as **Balsamo**. *See CA rollo*, p. 18, RTC Decision.

[98] *CA rollo*, pp. 61-63.

[99] Id. at 64.

[100] Id.

[101] Id.

[102] Id. at 67.

[103] Id.

[104] Id.

[105] Id. at 109-127, Brief for the Appellee.

[106] Id. at 120.

[107] Id. at 122.

[108] Id. at 123.

[109] Id. at 124.

[110] Id.

[111] Id.

[112] Id.

[113] *People v. Garcia y Ruiz*, 599 Phil. 416, 426 (2009) [Per J. Brion, Second Division].

[114] *People v. Sanchez y Espiritu*, 590 Phil. 214, 230 (2008) [Per J. Brion, Second Division].

[115] *People v. Garcia y Ruiz*, 599 Phil. 416, 426 (2009) [Per J. Brion, Second Division].

[116] *People v. Sanchez y Espiritu*, 590 Phil. 214, 230 (2008) [Per J. Brion, Second Division].

[117] *People v. Garcia y Ruiz*, 599 Phil. 416, 426 (2009) [Per J. Brion, Second Division].

[118] Id.

[119] *People v. Pagaduan y Tamayo*, 641 Phil. 432, 442-443 (2010) [Per J. Brion, Third Division].

[120] Id.

[121] Id. at 447.

[122] Id.

[123] Id.

[124] *People v. Kamad y Ambing*, 624 Phil. 289, 300 (2010) [Per J. Brion, Second Division].

[125] *Id.*

[126] *People v. Dahil*, 750 Phil. 212, 226 (2012) [Per J. Mendoza, Second Division].

[127] Guidelines on the Custody and Disposition of Seized Dangerous Drugs, Controlled Precursors and Essential Chemicals, and Laboratory Equipment (2002).

[128] *Lopez v. People*, 725 Phil. 499, 507 (2014) [Per J. Perez, Second Division].

[129] *Id.*

[130] 576 Phil. 576 (2008) [Per J. Tinga, Second Division].

[131] *Id.* at 588-589.

[132] *People v. Garcia y Ruiz*, 599 Phil. 416, 426 (2009) [Per J. Brion, Second Division].

[133] *Rollo*, p. 6.

[134] *People v. Garcia y Ruiz*, 599 Phil. 416, 426-427 (2009) [Per J. Brion, Second Division].

[135] *Id.*

[136] *Id.*

[137] 401 Phil. 259 (2000) [Per J. Melo, Third Division].

[138] *Id.* at 273.

[139] *People v. Garcia y Ruiz*, 599 Phil. 416, 427 (2009) [Per J. Brion, Second Division].

[140] *Id.*

[141] *Id.*

[142] Comprehensive Dangerous Drugs Act (2002).

[143] This was ***amended by Republic Act No. 10640 (2013)*** which provides:

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:

- (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.

The ***Implementing Rules and Regulations*** of Republic Act No. 10640 was issued on May 28, 2015 and was further amended on August 3, 2016.

[144] *People v. Morales y Midarasa*, 630 Phil. 215, 230 (2010) [Per J. Del Castillo, Second Division].

[145] CA *rollo*, p. 26.

[146] *Id.* at 25.

[147] *Id.* at 27.

[148] *Id.* at 19.

[149] *Id.* at 25.

[150] *People v. Umipang y Abdul*, 686 Phil. 1024, 1038 (2012) [Per CJ. Sereno, Second Division].

[151] *Id.*

[152] *Id.* at 1039.

[153] *Id.* at 1050.

[154] *Id.* at 1053.

[155] *Lescano y Carreon v. People*, G.R. No. 214490, January 13, 2016, < <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/january2016/214490.pdf> > 12 [Per J. Leonen, Second Division].

[156] *Id.* at 14.

[157] *Id.* at 12.

[158] CA *rollo*, p. 59.

[159] *Rollo*, p. 4.

[160] *Id.* at 4-5.

[161]

*People v. Umipang y Abdul*, 686 Phil. 1024, 1049 (2012) [Per C.J. Sereno, Second Division].

[162] CA *rollo*, p. 59.

[163] *People v. Umipang y Abdul*, 686 Phil. 1024, 1054 (2012) [Per C.J. Sereno, Second Division].

[164] CA *rollo*, p. 19.

[165] *Id.* at 25.

[166] *Id.*

[167] *Id.* at 20.

[168] *Id.* at 23.

[169] *Id.* at 23.

[170] *Id.* at 26.

[171] *People v. Pagaduan y Tamayo*, 641 Phil. 432, 446 (2010) [Per J. Brion, Third Division].

[172] *People v. Jaafar y Tambuyong*, G.R. No. 219829, January 18, 2017, < <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2017/january2017/219829.pdf> > 8 [Per J. Leonen, Second Division].

[173] *Id.*

[174] *People v. Pagaduan y Tamayo*, 641 Phil. 432, 447 (2010) [Per J. Brion, Third Division].

[175] *Id.*

[176] *Id.*

[177] *People v. Dahil*, 750 Phil. 212, 238 (2015) [Per J. Mendoza, Second Division].

[178] *Id.*

[179] *Id.*

[180] *Lescano y Carreon v. People*, G.R. No. 214490, January 13, 2016, < <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/january2016/214490.pdf> > 14 [Per J. Leonen, Second Division].

[181] *People v. Holgado*, 741 Phil. 78, 81 (2014) [Per J. Leonen, Third Division].

[182] *Id.*

[183] *Id.* at 93.



[184] Id. at 100.

[185] Id.