



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 239781

Present:

- versus -

PERALTA, *C.J.*, Chairperson,
CAGUIOA,
REYES, J.,
LAZARO-JAVIER, and
LOPEZ, *JJ.*

ERIC PADUA y ALVAREZ a.k.a.
JERICK PADUA y ALVAREZ,*
Accused-Appellant.

Promulgated:

FEB 05 2020

X-----

RESOLUTION

PERALTA, C.J.:

On appeal is the April 6, 2017 Decision¹ of the Court of Appeals (*CA*) in CA-G.R. CR-HC No. 07432, which affirmed the February 26, 2015 Decision² of Regional Trial Court (*RTC*), Branch 204, Muntinlupa City, in Criminal Case No. 09-096, finding accused-appellant Eric Alvarez Padua (*Padua*), a.k.a. Jerick Alvarez Padua, guilty of violating Section 5, Article II of Republic Act (*R.A.*) No. 9165, or the *Comprehensive Dangerous Drugs Act of 2002*.

The accusatory portion of the Information³ reads:

* Also spelled "Alvares" in some parts of the records.
1 Penned by Associate Justice Elihu A. Ybañez, with Associate Justices Magdangal M. De Leon and Carmelita Salandanan Manahan concurring; *rollo*, pp. 2-23.
2 *CA rollo*, pp. 16-25.
3 Records, pp. 1-2.

That on or about the 5th day of February 2009, in the City of Muntinlupa, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there, willfully, unlawfully, and feloniously sell, deliver, and give away to another a Methylamphetamine Hydrochloride, a dangerous drug, contained in one (1) heat-sealed transparent plastic sachet weighing 0.01 gram, in violation of the above-cited law.

During arraignment, Padua pleaded not guilty when the Information was read to him in Tagalog, a dialect known and understood by him.

At the pre-trial conference, the prosecution and defense proposed and made the following admissions: (1) that the person in court who responds to the name Jerick Padua y Alvarez @ "Eric" is the same Jerick Padua y Alvarez @ "Eric" who is the accused in this case; (2) that this court has jurisdiction over the person of the accused and over this case; (3) that PS/Insp. Richard Allan Mangalip is a member of the PNP Crime Laboratory, Makati City, as of February 6, 2009, and that he is an expert in Forensic Chemistry; (4) that pursuant to the Request for Laboratory Examination, PS/Insp. Mangalip conducted a laboratory examination on the accompanying specimen which consists of one (1) small heat-sealed transparent plastic sachet with markings "JP" containing 0.01 gram of white crystalline substance, the same examination yielded positive result of the presence of Methylamphetamine Hydrochloride, a dangerous drug; and (5) the execution and authenticity of Physical Science Report No. D-078-095.⁴

The prosecution presented as its witnesses: Police Officer (PO) 1 Bob Yangson, the poseur-buyer in the buy-bust operation conducted against Padua, and PO2 Rondivar Hernaez, the backup officer of the said operation. On the other hand, the defense presented the accused and her sister, Lycka Alvarez Padua.

Version of the Prosecution

The antecedent facts, as narrated by the Office of the Solicitor General (OSG), are as follows:

On February 5, 2009, acting on a tip from an asset, Police Senior Superintendent Elmer Jamias instructed PO2 Hernaez to conduct surveillance in Upper Sucat, Purok 1 Highway and to monitor appellant, who was said to be engaged in selling illegal drugs. Upon verification, PO2 Hernaez confirmed that indeed, appellant was selling illegal drugs.

⁴ Pre-trial Order, *id.* at 53-54.

Thereafter, PO2 Hernaez looked for an asset to help the police buy illegal drugs from appellant. After PO2 Hernaez found an asset to facilitate the transaction, Police Chief Inspector Eduardo Paningbatan directed PO2 Hernaez to act as backup to PO1 Yangson, who would be acting as poseur-buyer.

PO2 Hernaez and the rest of the team prepared a [Pre-] Operational Report and a Coordination Form that was submitted to the Philippine Drug Enforcement Agency (PDEA). Police Chief Inspector Paningbatan handed the buy-bust money, consisting of one bill worth Two Hundred Pesos (Php200.00) and another bill worth One Hundred Pesos (Php100.00). The initials "BY" were placed on the buy-bust money.

Later in the evening, the buy-bust team, composed of PO2 Hernaez, PO1 Yangson, PO3 Gastanes, SPO1 Zamora, PO3 Bornilla, PO3 Villareal, PO2 Salvador Genova, and PO3 Bonifacio Aquino, arrived at Purok 1, Sucat. PO1 Yangson and the asset went to the jeepney terminal along the highway in Upper Sucat, while PO2 Hernaez was positioned ten to fifteen meters away from them.

PO1 Yangson and the asset talked to appellant. Thereafter, appellant handed a plastic sachet to PO1 Yangson, who took the same and, in turn, gave the buy-bust money. At that moment, PO1 Yangson lighted a cigarette, the pre-arranged signal that the transaction was consummated. PO2 Hernaez immediately approached appellant and arrested him. PO1 Yangson showed to PO2 Hernaez a small heat-sealed transparent plastic sachet containing white crystalline substance. Afterwards, PO1 Yangson introduced himself as a police officer and informed appellant of his constitutional rights.

After bringing appellant to the police station, the arresting officers conducted an inventory of the item seized during the buy-bust operation. They took a picture of the plastic sachet and PO1 Yangson placed the markings "JP" thereon. Thereafter, PO2 Hernaez and PO1 Yangson brought the item to the crime laboratory. The specimen tested positive for the presence of Methylamphetamine Hydrochloride.⁵

Version of the Defense

On February 5, 2009, appellant was on his way out from his house when he met two men, who asked him if he is Jerick Padua. He denied that he is Jerick and said that his name is Eric. One of the men, who was wearing a white shirt, told him that they are police officers, and that they are inviting him to the police station for questioning.⁶

⁵ Appellee's Brief, *CA rollo*, pp. 86-87.

⁶ Appellant's Brief, *id.* at 46-47.

Believing that he committed no wrong, appellant accepted the invitation of the police officers and went with them. Appellant was then brought to the police office located at the Muntinlupa City Hall. After about thirty minutes, the police officer, who was wearing a white shirt, handed him a document and asked him to sign it. He was told that it was merely for blotter purposes.⁷

When he refused, another police officer punched him and forced him to sign the document. Minutes later, his sister, Lycka Padua, arrived and talked to the police officers. Appellant later learned that the police officers were asking for Twenty Thousand Pesos (₱20,000.00) from his sister to settle the matter.⁸

Appellant's sister, Lycka Padua, corroborated appellant's testimony and averred that she was washing the dishes with her sister Ericka when they heard voices of several men. They peeped through the window and saw these men approach appellant's house. These men asked her brother, herein appellant, if he is Jerick Padua, conducted a body search on him, and brought him to the city hall. When their father arrived, she told him what happened and she was directed by her father to follow Padua. At the city hall, she saw appellant seated on a bench, handcuffed, and his statement being documented. She then learned that the police officers were charging appellant for selling illegal drugs and was told to post bail for his brother's liberty. Their family, however, could not raise the amount required.⁹

Ruling of the RTC

After trial, the RTC handed a guilty verdict on Padua for violating Section 5, Article II of R.A. No. 9165, or the *Comprehensive Dangerous Drugs Act of 2002*. The *fallo* of the February 26, 2015 RTC Decision states:

WHEREFORE, premises considered and finding the accused GUILTY beyond reasonable doubt of the crime herein charged, ERIC PADUA y ALVAREZ a.k.a. JERICK PADUA y ALVARES is sentenced to LIFE IMPRISONMENT and to pay a FINE of Php500,000.00.

The preventive imprisonment undergone by the accused shall be credited in his favor.

The drug evidence are ordered transmitted to the Philippine Drug Enforcement Agency (PDEA) for proper disposition.

⁷ *Id.*
⁸ *CA rollo*, pp. 46-47.
⁹ *Id.* at 47.

Let a commitment order be issued committing accused to the New Bilibid Prisons for the service of his sentence pending any appeal that he may file in this case.

SO ORDERED.¹⁰

The RTC ruled that the prosecution was able to establish the identity of the buyer, the seller, the money paid to the seller, and the delivery of the prohibited drug. The RTC found the prosecution evidence worthy of credence and had no reason to disbelieve the testimony of the police officers, in the absence of any ill motive that can be ascribed to them to charge the appellant with violation of Section 5 of R.A. No. 9165.

The RTC, likewise, held that the prohibited drug seized was preserved and its integrity was not compromised.

Ruling of the CA

On appeal, the CA affirmed the RTC Decision. It agreed with the findings of the trial court that the prosecution adequately established all the elements of illegal sale of a dangerous drug as the collective evidence presented during the trial showed that a valid buy-bust operation was conducted. Padua resorted to denial and could not present any proof or justification that he was fully authorized by law to possess the same.

The CA was unconvinced with appellant's contention that the prosecution failed to prove the identity and integrity of the seized prohibited drugs. The CA held that the prosecution was able to demonstrate that the integrity and evidentiary value of the confiscated drugs were not compromised. The witnesses for the prosecution were able to testify on every link in the chain of custody, establishing the crucial link in the chain from the time the seized items were first discovered until they were brought for examination and offered in evidence in court.

Appellant's mere denial of the accusations against him was not given any credence by the CA. The CA accorded the police officers the presumption of regularity in the performance of their official duty.

Before Us, both Padua and the People manifested that they would no longer file their Supplemental Brief, taking into account the thorough and substantial discussions of the issues in their respective appeal briefs before the CA.¹¹

¹⁰ *Id.* at 25.

¹¹ *Rollo*, pp. 34-43.

Essentially, appellant Padua maintains that the case records are bereft of evidence showing that the buy-bust team followed the procedure mandated in Section 21(1), Article II of R.A. No. 9165.

Our Ruling

The appeal is meritorious. Appellant Padua should be acquitted for failure of the prosecution to prove his guilt beyond reasonable doubt.

Appellant Padua was charged with the crime of illegal sale of dangerous drugs, defined and penalized under Section 5, Article II of R.A. No. 9165. In order to convict a person charged with the crime of illegal sale of dangerous drugs under Section 5, Article II of R.A. No. 9165, the prosecution is required to prove 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.¹²

In prosecution of drug-related cases, the State bears not only the burden of proving these elements, but also of proving the *corpus delicti* or the body of the crime. The dangerous drug itself is the very *corpus delicti* of the violation of the law.¹³ Therefore, compliance with the chain of custody rule is crucial. Chain of custody means the duly recorded authorized movements and custody of seized drugs or controlled chemicals from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction.¹⁴

The rule is imperative, as it is essential that the prohibited drug confiscated or recovered from the suspect is the very same substance offered in court as exhibit; and that the identity of said drug is established with the same unwavering exactitude as that requisite to make a finding of guilt.¹⁵ Thus, strict compliance with the procedures laid down under Section 21 of R.A. No. 9165 is required to ensure that rights are safeguarded.

Section 21 of R.A. No. 9165 requires that: (1) the seized items be inventoried and photographed immediately after seizure or confiscation; and (2) that the physical inventory and photographing must be done in the presence of (a) the accused or his/her representative or counsel, (b) an elected public official, (c) a representative from the media, and (d) a representative from the Department of Justice (DOJ), all of whom shall be required to sign the copies of the inventory and be given a copy thereof.

¹² *People v. Opiana*, 750 Phil. 140, 147 (2015).

¹³ *People v. Guzon*, 719 Phil. 441, 451 (2013).

¹⁴ *Id.*, citing *People v. Dumaplin*, 700 Phil. 737, 747 (2012).

¹⁵ *Id.*, citing *People v. Remigio*, 700 Phil. 452, 464-465 (2012).

We have held that the immediate physical inventory and photograph of the confiscated items at the place of arrest may be excused in instances when the safety and security of the apprehending officers and the witnesses required by law or of the items seized are threatened by immediate or extreme danger such as retaliatory action of those who have the resources and capability to mount a counter-assault.¹⁶ The present case is not one of those.

Here, the physical inventory and photograph of the seized item were not done at the place of the arrest but only at the police station. There was no showing by the prosecution that these were done due to extraordinary circumstances that would threaten the safety and security of the apprehending officers and/or the witnesses required by law or of the items seized.

Moreover, the absence of the witnesses required by law – an elected public official, representative of the DOJ and the media – to witness the physical inventory and photograph of the seized items is glaring.¹⁷ In fact, their signatures do not appear in the Inventory Receipt.

The Court stressed in *People v. Vicente Sipin y De Castro*:¹⁸

The prosecution bears the burden of proving a valid cause for noncompliance with the procedure laid down in Section 21 of R.A. No. 9165, as amended. It has the positive duty to demonstrate observance thereto in such a way that during the trial proceedings, it must initiate in acknowledging and justifying any perceived deviations from the requirements of law. Its failure to follow the mandated procedure must be adequately explained, and must be proven as a fact in accordance with the rules on evidence. It should take note that the rules require that the apprehending officers do not simply mention a justifiable ground, but also clearly state this ground in their sworn affidavit, coupled with a statement on the steps they took to preserve the integrity of the seized items. Strict adherence to Section 21 is required where the quantity of illegal drugs seized is miniscule, since it is highly susceptible to planting, tampering or alteration of evidence.¹⁹

¹⁶ *People v. Lim*, G.R. No. 231989, September 4, 2018. Also see *People v. Mola*, G.R. No. 226481, April 18, 2018.

¹⁷ Under the original provision of Section 21 (1) of R.A. No. 9165, after seizure and confiscation of the drugs, the apprehending team was required to immediately conduct a physical inventory and to photograph the same in the presence of (1) the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, (2) a representative from the media and (3) the DOJ, and (4) any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof. As amended by R.A. No. 10640, it is now mandated that the conduct of physical inventory and photograph of the seized items must be in the presence of (1) the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, (2) with an elected public official and (3) a representative of the National Prosecution Service or the media who shall sign the copies of the inventory and be given a copy thereof. (See *People v. Ocampo*, G.R. No. 232300, August 1, 2018; *People v. Allingag*, G.R. No. 233477, July 30, 2018; *People v. Vicente Sipin y De Castro*, G.R. No. 224290, June 11, 2018; *People v. Reyes*, G.R. No. 219953, April 23, 2018; and *People v. Mola*, *supra* note 16).

¹⁸ *Supra* note 17.

¹⁹ See also *People v. Reyes*, *supra* note 17, and *People v. Mola*, *supra* note 16.

It must be alleged and proved that the presence of the three witnesses to the physical inventory and photograph of the illegal drug seized was not obtained due to reason/s such as:²⁰

(1) their attendance was impossible because the place of arrest was a remote area; (2) their safety during the inventory and photograph of the seized drugs was threatened by an immediate retaliatory action of the accused or any person/s acting for and in his/her behalf; (3) the elected official themselves were involved in the punishable acts sought to be apprehended; (4) earnest efforts to secure the presence of a DOJ or media representative and an elected public official within the period required under Article 125 of the Revised Penal Code prove futile through no fault of the arresting officers, who face the threat of being charged with arbitrary detention; or (5) time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape.²¹

Earnest effort to secure the attendance of the necessary witnesses must be proven. *People v. Ramos*²² requires:

It is well to note that the absence of these required witnesses does not per se render the confiscated items inadmissible. However, a justifiable reason for such failure or a **showing of any genuine and sufficient effort to secure the required witnesses** under Section 21 of RA 9165 must be adduced. In *People v. Umipang*, the Court held that the prosecution must show that **earnest efforts** were employed in contacting the representatives enumerated under the law for "a sheer statement that representatives were unavailable without so much as an explanation on whether serious attempts were employed to look for other representatives, given the circumstances is to be regarded as a flimsy excuse." Verily, mere statements of unavailability, absent actual serious attempts to contact the required witnesses are unacceptable as justified grounds for noncompliance. These considerations arise from the fact that police officers are ordinarily given sufficient time - beginning from the moment they have received the information about the activities of the accused until the time of his arrest - to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand knowing full well that they would have to strictly comply with the set procedure prescribed in Section 21 of RA 9165. As such, police officers are compelled not only to state reasons for their non-compliance, but must in fact, also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstances, their actions were reasonable.²³

²⁰ *People v. Lim*, *supra* note 16.

²¹ *People v. Vicente Sipin y De Castro*, *supra* note 17.

²² G.R. No. 233744, February 28, 2018, 857 SCRA 175, 190-191. (Citations omitted).

²³ See also *People v. Crispo*, G.R. No. 230065, March 14, 2018, 859 SCRA 356, 376-377, and *People v. Sanchez*, G.R. No. 231383, March 7, 2018, 858 SCRA 94, 110-111. (Emphasis and underscoring supplied).

The prosecution miserably failed to explain why the police officers did not secure the presence of an elected public official, a representative from the DOJ, and the media. The testimonies of the prosecution witnesses also failed to establish that there was earnest effort to coordinate with and secure the presence of the required witnesses.

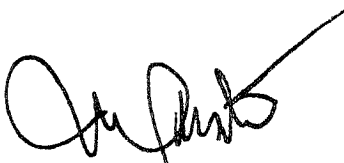
Thus, it cannot be denied that serious breaches of the mandatory procedures required by law in the conduct of buy-bust operations were committed by the police. These cast serious doubt as to the integrity of the allegedly confiscated drug specimen, hence creating reasonable doubt as to the guilt of appellant Padua.

WHEREFORE, premises considered, the April 6, 2017 Decision of the Court of Appeals in CA-G.R. CR-HC No. 07432, which affirmed the February 26, 2015 Decision of Regional Trial Court, Branch 204, Muntinlupa City, in Criminal Case No. 09-096, finding accused-appellant Eric Alvarez Padua, a.k.a. Jerick Alvarez Padua, guilty of violating Section 5, Article II of Republic Act No. 9165, or the *Comprehensive Dangerous Drugs Act of 2002*, is **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Eric Alvarez Padua, a.k.a. Jerick Alvarez Padua, is **ACQUITTED** on reasonable doubt, and is **ORDERED IMMEDIATELY RELEASED** from detention, unless he is being lawfully held for another cause. Let an entry of final judgment be issued immediately.

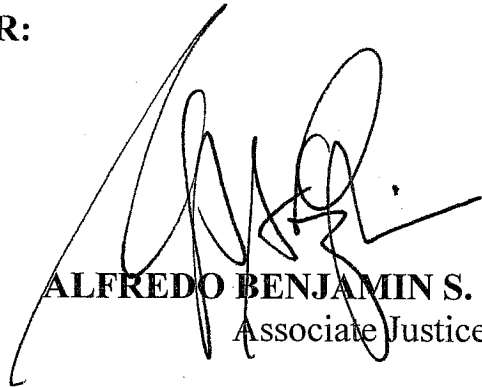
Let a copy of this Resolution be furnished the Superintendent of the Bureau of Corrections for immediate implementation. The said Superintendent is **ORDERED** to **REPORT** the action he has taken to this Court within five (5) days from receipt of this Resolution.

Further, let a copy of this Resolution be furnished the Chief of the Philippine National Police and the Regional Director of the National Capital Region Police Office, Philippine National Police. The Philippine National Police is **ORDERED** to **CONDUCT AN INVESTIGATION** on the blatant violation of Section 21 of R.A. No. 9165 committed by the buy-bust team, and **REPORT** the action they have taken to this Court within thirty (30) days from receipt of this Resolution.

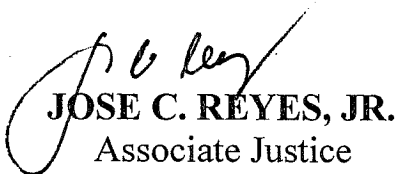
SO ORDERED.


DIOSDADO M. PERALTA
Chief Justice

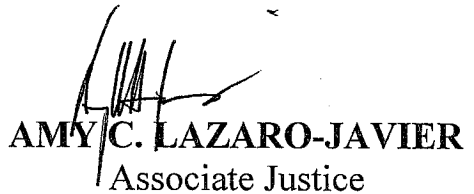
WE CONCUR:



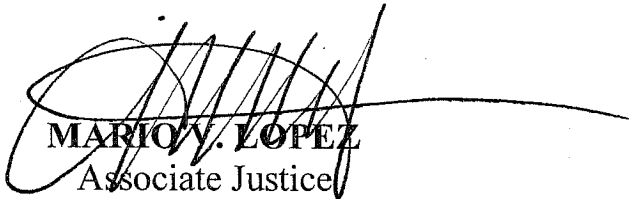
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



JOSE C. REYES, JR.
Associate Justice



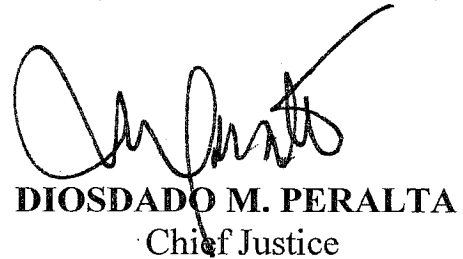
AMY C. LAZARO-JAVIER
Associate Justice



MARIO V. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Chief Justice