

BY: YSA
TIME: 1:46pm

Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PAULO JACKSON POLANGCOS
y FRANCISCO,

G.R. No. 239866

Petitioner,

Present:

-versus-

CARPIO, J., *Chairperson*,
CAGUIOA,
J. REYES, JR.,
LAZARO-JAVIER, and
INTING,* *JJ.*

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:

11 SEP 2019

X ----- *MAH Cabalag/Bergido* ----- X
DECISION

CAGUIOA, J.:

Before the Court is a Petition for Review on *Certiorari*¹ filed by the petitioner Paulo Jackson F. Polangcos (Polangcos) assailing the Decision² dated March 28, 2018 and Resolution³ dated June 7, 2018 of the Court of Appeals (CA) in CA-G.R. CR No. 39705, which affirmed the Decision⁴ dated November 2, 2016 of the Regional Trial Court of Marikina City, Branch 263 (RTC) in Criminal Case No. 2015-4818-D-MK, finding Polangcos guilty beyond reasonable doubt of violating Section 11, Article II of Republic Act No. (RA) 9165, otherwise known as “The Comprehensive Dangerous Drugs Act of 2002,”⁵ as amended.

* Designated as Additional Member per Raffle dated August 22, 2019.
¹ *Rollo*, pp. 11-34.

² *Id.* at 36-47. Penned by Associate Justice Renato C. Francisco, with Associate Justices Magdangal M. De Leon and Rodil V. Zalameda (now a Member of this Court), concurring.

³ *Id.* at 49-50. Penned by Associate Justice Renato C. Francisco, with Associate Justices Magdangal M. De Leon and Rodil V. Zalameda (now a member of this Court), concurring.

⁴ *Id.* at 71-75. Penned by Presiding Judge Armando C. Velasco.

⁵ Entitled “AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES” (2002).

The Facts

An Information was filed against Polangcos for violating Section 11 of RA 9165, the accusatory portion of which reads:

That on or about the 16th day of AUGUST 2015, in the City of Marikina, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law to possess any dangerous drugs, did then and there willfully, unlawfully and knowingly have in his possession, direct custody and control of one (1) plastic sachet containing 0.05 grams of white crystalline substance suspected as shabu and subsequently marked as “PJP-1 08-16-15” which gave a positive result to the test of methamphetamine hydrochloride, a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.⁶

When arraigned, Polangcos pleaded not guilty to the charge. Thereafter, pre-trial and trial on the merits ensued.⁷

The prosecution’s version, as summarized by the CA, is as follows:

SPO2 Juntanilla testified that on 16 August 2015 at around 6:40 p.m., he was on board a mobile patrol car with his team along J.P. Rizal St., Marikina City, when they spotted a motorcycle without a plate number. They then pursued the motorcycle. The succeeding events were narrated by *SPO2 Juntanilla* in his *Pinagsamang Sinumpaang Salaysay* which he identified in court, thus:

“xxx Na, ito ay aming naabutan, at ako (*SPO2 Juntanilla*) ay akin siyang tinikitan sa kadahilanang walang plaka ang isang RACAL motorcycle na kulay green at expired na ang driver’s license ng nagmamanihong aming nakilala bilang si Paulo Jackson Polang[c]os y Francisco (appellant) xxx. Na, sa aking pagsisiyasat (Body Frisk) ay nalaglag mula sa suot na sombrero ng suspetsado ang isang pirasong plastic sachet na naglalaman ng pinaghihinalaang shabu.

Na, sa puntong yaon ay agad namin siyang inaresto at aming ipinaalam sa kanya ang kanyang nailabag na batas at ang kanyang mga karapatan bilang akusado sa ilalim ng ating binagong saligang batas xxx

Na, ako (*SPO2 Juntanilla*) ay aking minarkahan ang aking nakumpiska na isang pirasong heat sealed transparent plastic sachet na naglalaman ng pinaghihinalaang shabu at ito ay minarkahan ko ng “PJP-1 8/16/15”. Na, ang pag-iimbertyo ng mga ebidensya ay sinaksihan ni Brgy. Kagawad Rogel Santiago ng Brgy. Malanday, Marikina City, xxx”

On cross-examination, *SPO2 Juntanilla* clarified that he apprehended appellant at about 11:40 p.m. He stated that appellant was

⁶ *Rollo*, p. 37; citation omitted.

⁷ *Id.*

arrested for violation of a city ordinance. SPO2 Juntanilla narrated that he frisked appellant first before issuing the Ordinance Violation Receipt. He also recalled that he marked the plastic sachet seized from appellant along J.P. Rizal. Afterwards, SPO2 Juntanilla turned over the seized item to PO2 Diola who was not named in the Chain of Custody Form.

On re-direct examination, SPO2 Juntanilla mentioned that PO2 Diola handed the seized item to Forensic Chemist Police Chief Inspector Margarita Libres (PCI Libres). SPO2 Juntanilla stated that the item he marked was the very same item he submitted to the crime laboratory and which he identified in open court.

Based on Physical Science Report No. MCSO-D-148-15 by PCI Libres, qualitative examination conducted on the heat-sealed transparent plastic sachet with marking "PJP-1 08-16-15" containing 0.05 gram of white crystalline substance gave positive result for the presence of methamphetamine hydrochloride.⁸

On the other hand, the defense was unable to present any evidence. Polangcos was not able to take the witness stand as he was absent during the scheduled presentation of defense evidence.⁹ The case was thus submitted for decision.

Ruling of the RTC

In its Decision¹⁰ dated November 2, 2016, the RTC convicted Polangcos of the crime charged. The dispositive portion of the said Decision reads:

WHEREFORE, above premises considered, the court finds accused PAULO JACKSON POLANGCOS y FRANCISCO **GUILTY** beyond reasonable doubt of violation of Section 11 of Article II of [RA 9165] or the Comprehensive Dangerous Drugs Act of 2002.

The accused is hereby sentenced to suffer the penalty of imprisonment of **TWELVE (12) YEARS and ONE (1) DAY to TWENTY (20) YEARS.**

He is also ordered to pay the fine in the amount of Three Hundred Thousand Pesos (P300,000.00).

SO ORDERED.¹¹

In finding Polangcos guilty, the RTC relied on the presumption of regularity in the performance of official duty to hold that the prosecution was able to demonstrate that the integrity and evidentiary value of the seized item were preserved.¹² It further held that the non-compliance with the procedure outlined in Section 21, RA 9165 did not render Polangcos' arrest illegal.

⁸ Id. at 37-39; italics in the original, citations omitted.

⁹ Id. at 74.

¹⁰ Supra note 4.

¹¹ *Rollo*, p. 75; emphasis in the original.

¹² Id. at 74.



Finally, the RTC ruled that while perfect compliance with the chain of custody rule is the ideal, it was its view that it was impossible to always obtain an unbroken chain of custody. It thus considered as not fatal the perceived break in the chain of custody pointed out by the defense, *i.e.* the absence of the name of the officer to whom the seized item was turned over in the Chain of Custody Form.¹³ It ultimately declared Polangcos guilty of the crime charged.

Aggrieved, Polangcos appealed to the CA.

Ruling of the CA

In the CA, Polangcos questioned the admissibility of the evidence against him. He contended that (1) the seized item was obtained by virtue of an invalid warrantless arrest, and (2) that the integrity and evidentiary value of the seized drug were not preserved.¹⁴

In the questioned Decision¹⁵ dated March 28, 2018, the CA affirmed the RTC's conviction of Polangcos. It ruled that the prosecution was able to establish all the elements of the crime,¹⁶ namely: (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the said drug.¹⁷

Moreover, the CA held that despite the fact that the police officers failed to strictly comply with the chain-of-custody requirement, it was not fatal for the prosecution's cause as "[w]hat is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused."¹⁸

The CA further declared that Polangcos could no longer assail the validity of his arrest because "any objection, defect or irregularity attending an arrest must be made before the accused enters his plea on arraignment."¹⁹ It thus ruled that any irregularity was already cured upon Polangcos' voluntary submission to the court's jurisdiction. The CA therefore affirmed Polangcos' conviction.

Polangcos filed a motion for reconsideration, but the CA denied the same in a Resolution²⁰ dated June 7, 2018.

Hence, the instant appeal.

¹³ Id. at 75.

¹⁴ Id. at 40.

¹⁵ Supra note 2.

¹⁶ *Rollo*, p. 41.

¹⁷ Id., citing *People v. Unisa*, 674 Phil. 89, 109-110 (2011); citation omitted.

¹⁸ Id. at 43.

¹⁹ Id. at 45, citing *People v. Vasquez*, 724 Phil. 713 (2014).

²⁰ Supra note 3.

Issue

For resolution of the Court is the issue of whether the RTC and the CA erred in convicting Polangcos.

The Court's Ruling

The petition is meritorious.

The CA manifestly overlooked the undisputed fact that the seized item was confiscated from Polangcos as he was being issued a traffic violation ticket. His violations consisted of (1) not having a plate number, and (2) expired official receipt (OR) and certificate of registration (CR) of the motorcycle he was riding.²¹

Polangcos' main violation or the violation for which he was apprehended, which was the lack of a plate number in his motorcycle, was punishable only by a city ordinance that prescribes as penalty the fine of ₱500.00. Even SPO2 Rey J. Juntanilla (SPO2 Juntanilla), the apprehending officer, recognized that he arrested Polangcos even though the penalty for his violation was merely a fine. The RTC, in its Decision, noted that:

On cross-examination, the witness [SPO2 Juntanilla] admitted that he arrested the accused for violation of the city ordinance of driving a motorcycle without a plate number, however, he issued a receipt for such violation and further admitted that the penalty for such offense is the payment of P500.00 fine. He likewise admitted that after they caught up with the accused when the latter alighted from his motorcycle[,] [h]e immediately frisked the accused before the issuance of the ticket and mentioned that he conducted the frisking due to his initial traffic violation.²²

Meanwhile, Polangcos' second violation – having expired OR and CR for the motorcycle – is likewise punishable only by fine. Land Transportation Office (LTO) Department Order No. 2008-39, or the “Revised Schedule of LTO Fines and Penalties for Traffic and Administrative Violations,” provides that the offense of “[o]perating/allowing the operation of MV with a suspended/revoked Certificate/Official Receipt of registration” is punishable only with a fine of ₱1,000.00.

In view of the foregoing, SPO2 Juntanilla thus conducted an illegal search when he frisked Polangcos for the foregoing violations which were punishable only by fine. He had no reason to “arrest” Polangcos because the latter's violation did not entail a penalty of imprisonment. It was thus not, as it could not have been, a search incidental to a lawful arrest as there was no, as there could not have been any, lawful arrest to speak of.

²¹ Rollo, p. 73.

²² Id.; emphasis and underscoring supplied.

In the very recent case of *People v. Cristobal*,²³ (*Cristobal*) the driver of the motorcycle was flagged because he was not wearing a helmet, and he did not have in his possession the OR and CR of the motorcycle. The accused therein was then frisked to search for a deadly weapon, but the police officers did not find any. The apprehending officer thereafter noticed that there was a bulge in the pocket of his pants, so the officer asked the accused to remove the thing in his pocket. When the accused obliged, it was then revealed that the thing in his pocket was a small plastic bag containing seven sachets of *shabu*. The accused was then charged with Illegal Possession of Dangerous Drugs, similar to Polangcos in this case.

When the case reached the Court, the accused was acquitted as the Court found that the seized items were borne of an illegal search. The Court similarly held that the search was unlawful because it was not preceded by a valid arrest. As the violations of the accused therein were only punishable by fine, the Court ruled that there was no reason to arrest the accused, and, as a consequence, no valid arrest preceded the search thereafter conducted. Accordingly, the Court held that the accused therein must be acquitted as the evidence against him was rendered inadmissible by the exclusionary rule provided under the Constitution. The Court elucidated:

Thus, any item seized through an illegal search, as in this case, cannot be used in any prosecution against the person as mandated by Section 3(2), Article III of the 1987 Constitution. As there is no longer any evidence against Cristobal in this case, he must perforce be acquitted.²⁴

The case of *Cristobal* squarely applies to this case. There was likewise no valid arrest to speak of in this case – as Polangcos’ violations were also punishable by fine only – and there could thus be no valid “search incidental to lawful arrest.” Ultimately, Polangcos must be similarly acquitted, as the *corpus delicti* of the crime, *i.e.* the seized drug, is excluded evidence, inadmissible in any proceeding, including this one, against him.

Parenthetically, it must be pointed out that the CA erred in equating the validity of the arrest of Polangcos with the admissibility of the evidence used against him. While the CA was correct in ruling that “any objection, defect or irregularity attending an arrest must be made before the accused enters his plea on arraignment,”²⁵ the said principle, however, would not apply to Polangcos’ contention that the evidence used to convict him was inadmissible. Polangcos’ argument was not only that he was illegally arrested, but that he was also wrongfully convicted because the evidence used against him was inadmissible. The Court thus stresses that any evidence seized as a result of searches and seizures conducted in violation of Section 2, Article III of the 1987 Constitution is inadmissible “for any purpose in any proceeding” in accordance with the exclusionary rule in Section 3(2), Article III of the 1987 Constitution.

²³ G.R. No. 234207, June 10, 2019.

²⁴ *Id.*; emphasis and underscoring in the original.

²⁵ *Rollo*, p. 45, citing *People v. Vasquez*, 724 Phil. 713 (2014).



There was also no valid consented search

The Court required the People, through the Office of the Solicitor General (OSG), to submit its comment on the petition filed by Polangcos. In its Comment²⁶ dated January 10, 2019, the OSG opined that the search conducted on Polangcos was valid as it was a consented search. They argue:

17. In this case, it is quite clear that when the police officers were able to caught (*sic*) up with petitioner, the latter alighted from his motorcycle and allowed SPO2 Juntanilla to do a search on his person. This led to the discovery of the dangerous drug when it fell from his cap.²⁷

The above contention of the OSG is untenable.

In *People v. Chua Ho San*,²⁸ the Court held that “to constitute a waiver [of the constitutional guarantee against obtrusive searches], it must first appear that the right exists; secondly, that the person involved had knowledge, actual or constructive, of the existence of such a right; and lastly, that said person had an actual intention to relinquish the right.”²⁹

Following the foregoing standard, there is no legitimate waiver of the constitutional right against illegal searches because there is no proof of an actual intention to relinquish the said right.

To recall, SPO2 Juntanilla admitted that he “immediately frisked the accused before the issuance of the ticket and mentioned that he conducted the frisking due to his initial traffic violation.”³⁰ It was a unilateral decision on the part of SPO2 Juntanilla to frisk Polangcos **even if he had no reason to** because, as discussed, the penalty for the latter’s violations was only by fine. It was not intimated, much less was it proved, that Polangcos knowingly consented to any search conducted on him by SPO2 Juntanilla. Thus, there could be no valid consented search in this case.

It is also worth pointing out that the circumstances under which the seized item was discovered appears to be dubious. SPO2 Juntanilla claims that the plastic sachet fell from Polangcos’ cap when the latter removed it as SPO2 Juntanilla was conducting a search on him.

It bears emphasis, however, that “[e]vidence to be believed must not only proceed from the mouth of a credible witness **but it must be credible in itself, such as the common experience and observation of mankind can**

²⁶ Id. at 135-152.

²⁷ Id. at 142; citation omitted.

²⁸ 367 Phil. 703 (1999).

²⁹ Id. at 721; citation omitted.

³⁰ *Rollo*, p. 73.

approve as probable under the circumstances.³¹ In contrast to this, the testimony of SPO2 Juntanilla as to the circumstances surrounding the discovery of the seized item does not inspire belief.

For one, common sense dictates that if a person indeed carries contraband in his possession, then he would try, as much as possible, to hide the said item. Here, SPO2 Juntanilla claimed that Polangcos **voluntarily and without instigation** took off his cap which allegedly contained the plastic sachet. It does not make sense, however, for Polangcos to do the said act if it was true that he was hiding illegal drug in the said cap. Why would Polangcos incriminate himself and remove the cap if he knew that the cap was containing contraband?

Moreover, there is serious doubt as to whether Polangcos was really even wearing a cap during his apprehension. This is because SPO2 Juntanilla himself testified that Polangcos' violations were only, to repeat: (1) not having a plate number, and (2) expired OR and CR of the motorcycle he was riding.

SPO2 Juntanilla never suggested or asserted that Polangcos was not wearing a helmet. It must be pointed out that RA 10054, or the Motorcycle Helmet Act of 2009, requires that "[a]ll motorcycle riders, including drivers and back riders, shall at all times wear standard protective motorcycle helmets while driving, whether long or short drives, in any type of road and highway."³² If Polangcos was not violating RA 10054 – and was therefore wearing a helmet – at the time of his apprehension, then how could he have worn a cap and a helmet at the same time?

The foregoing makes the circumstances surrounding the supposed discovery of the seized item, as well as the ensuing arrest of Polangcos, highly doubtful. The Court cannot, therefore, rely on the same to establish that Polangcos consented to the search conducted on him.

On the presumption of innocence

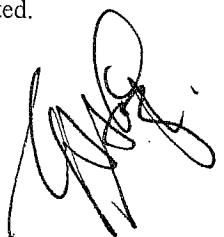
The Court also takes this opportunity to elaborate on the presumption of innocence granted by the Bill of Rights.

Article III, Section 14(2) of the 1987 Constitution provides that every accused is presumed innocent unless his guilt is proven beyond reasonable doubt.³³ It is "a basic constitutional principle, fleshed out by procedural rules which place on the prosecution the burden of proving that an accused is guilty of the offense charged by proof beyond reasonable doubt. Corollary thereto,

³¹ *People v. Capuno*, 655 Phil. 226, 244 (2011); emphasis and underscoring supplied, citation omitted.

³² RA 10054, Sec. 3.

³³ *People v. Maraorao*, 688 Phil. 458, 465 (2012).



conviction must rest on the strength of the prosecution's evidence and not on the weakness of the defense."³⁴

This presumption in favor of the accused remains until the judgment of conviction becomes final and executory. Borrowing the words of the Court in *Mangubat, et al. v. Sandiganbayan, et al.*,³⁵ "[u]ntil a promulgation of final conviction is made, this constitutional mandate prevails."³⁶ Hence, even if a judgment of conviction exists, as long as the same remains pending appeal, the accused is still presumed to be innocent until his guilt is proved beyond reasonable doubt. Thus, in *People v. Mingming*,³⁷ the Court outlined what the prosecution must do to hurdle the presumption and secure a conviction:

First, the accused enjoys the constitutional presumption of innocence until final conviction; conviction requires no less than evidence sufficient to arrive at a moral certainty of guilt, not only with respect to the existence of a crime, but, more importantly, of the identity of the accused as the author of the crime.

Second, the prosecution's case must rise and fall on its own merits and cannot draw its strength from the weakness of the defense.³⁸

To the mind of the Court, Polangcos' case is a prime example of how the foregoing constitutional right works.

To recall, the defense was not able to present any evidence, not even the testimony of the accused. Despite this, the Court still acquits Polangcos for failure of the prosecution to offer proof beyond reasonable doubt. ***This is the essence of the presumption of innocence; the accused need not even do anything to establish his innocence as it is already presumed.*** The burden to overcome this presumption rests solely on the prosecution, which, in this particular case, clearly failed to discharge said burden as it essentially had no evidence against the accused with the ruling on the inadmissibility of the *corpus delicti* of the crime.

That Polangcos was found guilty by both the RTC and the CA is likewise irrelevant, for while the Court is generally bound by the findings of the lower courts, it is equally true that, as earlier discussed, the accused is presumed to be innocent until the judgment of conviction has become final. **To be sure, the Court, in the course of its review of criminal cases elevated to it, still commences its analysis from the fundamental principle that the accused before it is presumed innocent.** Thus, each accused, even those whose cases are already on appeal, can hide behind this constitutionally protected veil of innocence which only proof establishing guilt beyond reasonable doubt can pierce.

³⁴ Id. at 466-467; citation omitted.

³⁵ 220 Phil. 392 (1985).

³⁶ Id. at 395.

³⁷ 594 Phil. 170 (2008).

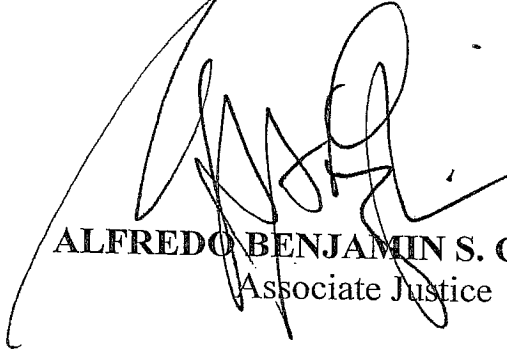
³⁸ Id. at 185; italics in the original.

All told, the Court acquits Polangcos of the crime charged as the prosecution failed to overcome this presumption of innocence, more specifically because the evidence it offered to try to overturn that presumption is inadmissible for violating the constitutional right against unreasonable searches and seizures.

WHEREFORE, in view of the foregoing, the appeal is hereby **GRANTED**. The Decision dated March 28, 2018 and Resolution dated June 7, 2018 of the Court of Appeals in CA-G.R. CR No. 39705 are hereby **REVERSED** and **SET ASIDE**. Accordingly, petitioner Paulo Jackson Polangcos y Francisco is **ACQUITTED** of the crime charged, 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.

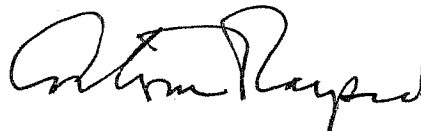
Let a copy of this Decision be furnished the Director of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The said Director is **ORDERED** to **REPORT** to this Court within five (5) days from receipt of this Decision the action he has taken.

SO ORDERED.

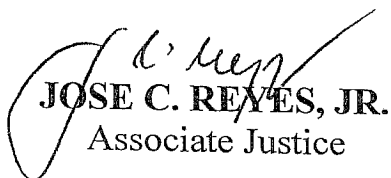


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

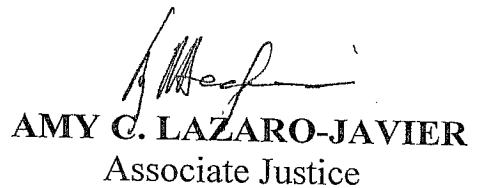
WE CONCUR:



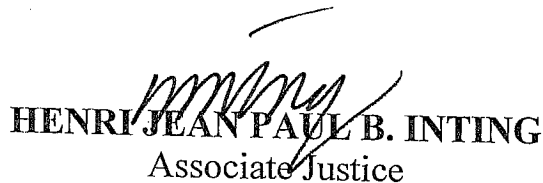
ANTONIO T. CARPIO
Associate Justice
Chairperson



JOSE C. REYES, JR.
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice

ATTESTATION

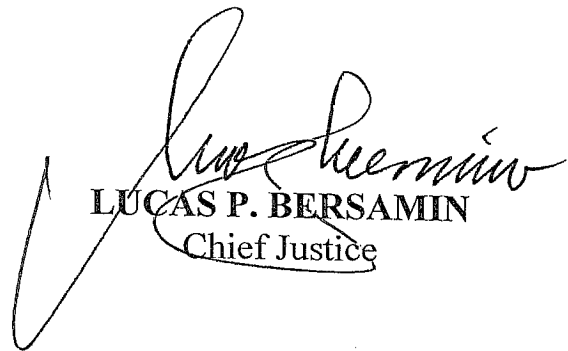
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



LUCAS P. BERSAMIN
Chief Justice

