

Republic of the Philippines  
 Supreme Court  
 Manila

SECOND DIVISION

JOEL DAVID y MANGIO,  
 Petitioner,

G.R. No. 253336

Present:

- versus -

PERLAS-BERNABE, S.A.J.,  
 Chairperson,

LAZARO-JAVIER,

PEOPLE OF THE  
 PHILIPPINES,

LOPEZ, M.,

ROSARIO, and

Respondent.

LOPEZ, J.,\* JJ.

Promulgated:

MAY 10 2021

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DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*<sup>1</sup> are the Decision<sup>2</sup> dated August 16, 2019 and the Resolution<sup>3</sup> dated August 24, 2020 rendered by the Court of Appeals (CA) in CA-G.R. CR No. 41782, which affirmed the Decision<sup>4</sup> dated May 8, 2018 of the Regional Trial Court of San Fernando City, Pampanga, Branch 44 (RTC), finding petitioner Joel David y Mangio (David) guilty beyond reasonable doubt of the crime of Illegal Possession of Dangerous Drugs, as defined and penalized under Section 11, Article II of Republic Act No. (RA) 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

\* Designated Additional Member per Special Order No. 2823 dated April 7, 2021.

<sup>1</sup> *Rollo*, pp. 12-27.

<sup>2</sup> *Id.* at 33-48. Penned by Associate Justice Eduardo B. Peralta, Jr. with Associate Justices Ramon M. Bato, Jr. and Ruben Reynaldo G. Roxas, concurring.

<sup>3</sup> *Id.* at 50-51.

<sup>4</sup> *Id.* at 71-81. Penned by Presiding Judge Esperanza S. Paglinawan-Rozario.

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### The Facts

This case stemmed from an Information<sup>5</sup> filed before the RTC charging David of the crime of Illegal Possession of Dangerous Drugs, as defined and penalized under Section 11, Article II of RA 9165, the accusatory portion of which reads:

That on or about the 8<sup>th</sup> day of September 2012, in the municipality of Bacolor, province of Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law to possess, did then and there willfully and unlawfully have in his possession and under his control one (1) heat-sealed transparent plastic sachet containing dried marijuana fruiting tops, weighing ONE HUNDRED NINETY-FIVE THOUSANDTHS (0.195), more or less, of a gram, a dangerous drug.

Contrary to law.

The prosecution alleged that at around 6:00 o'clock in the evening of September 8, 2012, Bertilla David (Bertilla) went to Bacolor Municipal Police Station to report that her son, herein petitioner, had punched her several times, and was engaged in scandalous acts in their place at Barangay San Isidro, Bacolor, Pampanga. Responding to this report, PO3 Gerald Flores (PO3 Flores), together with PO1 Viernes and PO1 Aguinaldo, were dispatched to the area with Bertilla leading the way. As they reached Bertilla's house, they heard David shouting and challenging anyone to a fight. PO3 Flores tried to pacify David, but the latter instead retorted, "[y]ou are only brave because you have a gun." David then challenged PO3 Flores to disarm himself so they can engage in a fistfight. At that point, PO3 Flores proceeded to arrest David for Alarms and Scandals, while informing him of his constitutional rights in the Kapampangan dialect. Subsequently, the officers brought David back to the police station to conduct a follow-up investigation. Thereat, PO3 Flores noticed that David's right hand was inserted inside his shorts, but not in the pocket thereof, which prompted him to ask David what he was hiding; however, the latter replied that it was nothing. Bertilla then informed PO3 Flores that David was hiding marijuana. PO3 Flores asked David to show his right hand which revealed one (1) transparent plastic sachet containing dried leaves. PO3 Flores confiscated the item and thereafter informed David that he committed illegal possession of dangerous drugs. PO3 Flores proceeded to prepare the Affidavit of Arrest,<sup>6</sup> the Request for Laboratory Examination,<sup>7</sup> and the Inventory<sup>8</sup> of the seized sachet, as well as other documents necessary to file cases for Alarms and Scandals, and for violation of Section 11, Article II of RA 9165. The inventory and photography of the sachet were witnessed by Barangay Kagawad Jaime Rodriguez, Barangay Kagawad Bryan

<sup>5</sup> Records, p. 2.

<sup>6</sup> See Complaint and Arrest Affidavit; id. at 5-6.

<sup>7</sup> Id. at 13-14.

<sup>8</sup> See Inventory of Seized/Confiscated Items; id. at 12.

Rodriguez, and Charlie Sia, a media representative, who arrived after the sachet was confiscated. PO3 Flores likewise marked the sachet with "GCF." Subsequently, PO3 Flores brought the seized sachet and the Request for Laboratory Examination to the Regional Crime Laboratory Office 3, which were received by P/Sr. Insp. Roanalaine Baligod (P/Sr. Insp. Baligod), the forensic chemist. After qualitative examination, the contents tested positive for marijuana, a dangerous drug. P/Sr. Insp. Baligod then prepared and signed Chemistry Report No. D-132-2012 RCLO3,<sup>9</sup> and deposited the specimen in a sealed brown envelope while placing her markings "RBB" thereon. The specimen remained in her custody until she brought the same to court for presentation.<sup>10</sup>

In his defense, David denied the charges against him and claimed that he was resting in his house with his parents when the police arrived and arrested him. It was at the police station that he learned that his mother had complained against him. In addition, he claimed that he only saw the marijuana at the police station.<sup>11</sup>

In a Decision<sup>12</sup> dated May 8, 2018, the RTC found David **guilty** beyond reasonable doubt of the crimes charged, and accordingly, sentenced him to suffer the penalty of imprisonment for an indeterminate period of twelve (12) years, and one (1) day, as minimum, to fourteen (14) years, as maximum, with full credit for the period of his preventive imprisonment, and to pay a fine in the amount of ₱300,000.00.<sup>13</sup> The RTC found that the prosecution, through the testimonial and documentary evidence it presented, had established beyond reasonable doubt that David committed the crime of illegal possession of one (1) transparent plastic sachet containing dried marijuana leaves, and that the chain of custody of the seized item had been observed. On the other hand, the RTC found untenable David's defenses of denial and frame-up for being uncorroborated and self-serving.<sup>14</sup>

On appeal to the CA, David's conviction was **affirmed**<sup>15</sup> in a Decision dated August 16, 2019.<sup>16</sup> It held that all the elements of the crimes charged against David were proven beyond reasonable doubt, and that the integrity and evidentiary value of the seized items have been preserved due to the police officers' substantial compliance with the chain of custody rule.<sup>17</sup>

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<sup>9</sup> Id. at 15.

<sup>10</sup> See *rollo*, pp. 34-37 and 72-74.

<sup>11</sup> Id. at 37 and 75-76.

<sup>12</sup> Id. at 71-81. Penned by Presiding Judge Esperanza S. Paglinawan-Rozario.

<sup>13</sup> Id. at 80.

<sup>14</sup> Id. at 76-80.

<sup>15</sup> Id. at 33-48.

<sup>16</sup> Id. at 48.

<sup>17</sup> See *id.* at 38-47.

David's motion for reconsideration was denied in a Resolution<sup>18</sup> dated August 24, 2020. Hence, this petition seeking the reversal of petitioner's conviction.

### The Court's Ruling

The petition is meritorious.

A thorough review of the records of the case reveals that there were unexplained lapses in complying with the witness requirement in the chain of custody rule which cast doubt on the integrity of the *corpus delicti* of the crime.

In cases for Illegal Possession of Dangerous Drugs under RA 9165,<sup>19</sup> it is essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.<sup>20</sup> Failing to prove the integrity of the *corpus delicti* renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt, and hence, warrants an acquittal.<sup>21</sup>

To establish the identity of the dangerous drug with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.<sup>22</sup> As part of the chain of custody procedure, the law requires, *inter alia*, that the marking, physical inventory, and photography of the seized items be conducted immediately after seizure and confiscation of the same.<sup>23</sup>

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<sup>18</sup> Id. at 50-51.

<sup>19</sup> The elements of Illegal Possession of Dangerous Drugs under Section 11, Article II of RA 9165 are: (a) the accused was in possession of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug. (See *People v. Crispo*, 828 Phil. 416, 429 [2018]; *People v. Sanchez*, 827 Phil. 457, 465 [2018]; *People v. Magsano*, 826 Phil. 947, 958 [2018]; *People v. Manansala*, 826 Phil. 578, 586 [2018]; *People v. Miranda*, 824 Phil. 1042, 1050 [2018]; and *People v. Mamangon*, 824 Phil. 728, 735-736 [2018]; all cases citing *People v. Sumili*, 753 Phil. 342, 348 [2015] and *People v. Bio*, 753 Phil. 730, 736 [2015]).

<sup>20</sup> See *People v. Crispo*, *id.*; *People v. Sanchez*, *id.*; *People v. Magsano*, *id.*; *People v. Manansala*, *id.*; *People v. Miranda*, *id.*; and *People v. Mamangon*, *id.* See also *People v. Viterbo*, 739 Phil. 593, 601 (2014).

<sup>21</sup> See *People v. Gamboa*, 867 Phil. 548, 570 (2018), citing *People v. Umipang*, 686 Phil. 1024, 1039-1040 (2012).

<sup>22</sup> See *People v. Año*, 828 Phil. 439, 448 (2018); *People v. Crispo*, *supra*; *People v. Sanchez*, *supra*; *People v. Magsano*, *supra* at 959; *People v. Manansala*, *supra*; *People v. Miranda*, *supra* at 1051; and *People v. Mamangon*, *supra* at 736. See also *People v. Viterbo*, *supra*.

<sup>23</sup> In this regard, case law recognizes that "marking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team." (*People v. Mamalumpon*, 767 Phil. 845, 855 [2015], citing *Imson v. People*, 669 Phil. 262, 270-271 [2011]. See also *People v. Ocfemia*, 718 Phil. 330, 348 [2013], citing *People v. Resurreccion*, 618 Phil. 520, 532 [2009]). Hence, the failure to immediately mark the confiscated items at the place of arrest neither renders them inadmissible in evidence nor impairs the integrity of the seized drugs, as the conduct of marking at the nearest police station or office of the apprehending team is sufficient compliance with the rules on chain of custody. (See *People v. Tumalak*, 791 Phil. 148, 160-161 [2016]; and *People v. Rollo*, 757 Phil. 346, 357 [2015])

The law further requires that the said inventory and photography be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (a) if **prior** to the amendment of RA 9165 by RA 10640,<sup>24</sup> “a representative from the media **and** the Department of Justice (DOJ), and any elected public official”;<sup>25</sup> or (b) if **after** the amendment of RA 9165 by RA 10640, “[a]n elected public official and a representative of the National Prosecution Service **or** the media.”<sup>26</sup> The law requires the presence of these witnesses primarily “to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.”<sup>27</sup>

As a general rule, compliance with the chain of custody procedure is strictly enjoined as the same has been regarded “not merely as a procedural technicality but as a matter of substantive law.”<sup>28</sup> Nonetheless, anent the **witness requirement**, non-compliance *may* be permitted if the prosecution proves that the apprehending officers exerted genuine and sufficient efforts to secure the presence of such witnesses, albeit they eventually failed to appear. While the earnestness of these efforts must be examined on a case-to-case basis, the overarching objective is for the Court to be convinced that the failure to comply was reasonable under the given circumstances.<sup>29</sup> Thus, mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are unacceptable as justified grounds for non-compliance.<sup>30</sup> 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 fully well that they would have to strictly comply with the chain of custody rule.<sup>31</sup>

In this case, there was a deviation from the required witnesses rule as the conduct of inventory and photography were not witnessed by a representative from the DOJ, a fact admitted to by the arresting officer himself in his testimony.<sup>32</sup> Notably, the seizure of the marijuana occurred on September 8, 2012, prior to the amendment introduced by RA 10640.

<sup>24</sup> Entitled “AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE ‘COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002.’” As the Court noted in *People v. Gutierrez* (see G.R. No. 236304, November 5, 2018), RA 10640 was approved on July 15, 2014. Under Section 5 thereof, it shall “take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.” RA 10640 was published on July 23, 2014 in *The Philippine Star* (Vol. XXVIII, No. 359, Philippine Star Metro section, p. 21) and *Manila Bulletin* (Vol. 499, No. 23; World News section, p. 6). Thus, RA 10640 appears to have become effective on August 7, 2014.

<sup>25</sup> Section 21 (1) and (2) Article II of RA 9165 and its Implementing Rules and Regulations.

<sup>26</sup> Section 21, Article II of RA 9165, as amended by RA 10640

<sup>27</sup> *People v. Miranda*, supra note 19, at 1054-1055. See also *People v. Mendoza*, 736 Phil. 749, 764 (2014).

<sup>28</sup> See *People v. Miranda*, id. at 1059. See also *People v. Macapundag*, 807 Phil. 234, 244 (2017), citing *People v. Umipang*, supra at 1038.

<sup>29</sup> See *People v. Manansala*, supra note 19.

<sup>30</sup> See *People v. Gamboa*, supra note 21, citing *People v. Umipang*, supra note 21, at 1053.

<sup>31</sup> See *People v. Crispo*, supra note 19.

<sup>32</sup> TSN, June 17, 2014, p. 9. (See *rollo*, p. 40)

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Consequently, the applicable law then requires the presence of the following witnesses: (a) a representative from the media; (b) a representative from the DOJ; and (c) an elected public official. While the inventory and the accompanying photographs show the presence of two (2) elected public officials and a representative from the media, it is clear that there was no representative from the DOJ.

Certainly, the instant case differs from the usual drugs cases wherein the seizure of the drug was done through the conduct of a pre-arranged buy bust operation. There was no sufficient time to make prior arrangements to comply with the requirements under Section 21 of the law. In fact, what is clear from the records is that upon the unplanned and spontaneous discovery and confiscation of the drug from David, PO3 Flores tried to substantially comply with the chain of custody rule by requesting the presence of the required witnesses:

### Cross-Examination

[Atty. Pangilinan]: So when your Chief of Police instructed you to file a case against the accused, what did you do, Mr. Witness?

[PO3 Flores]: I told my Chief and Vergara that we will make an inventory and requested for the presence of a media representative, a barangay official and a representative from the DOJ, sir.<sup>33</sup>

However, as earlier stated, it is incumbent upon the prosecution to account for these witnesses' absence by presenting a justifiable reason therefor or, at the very least, by showing that genuine and sufficient efforts were exerted by the apprehending officers to secure their presence. Here, while PO3 Flores did attempt to secure all three witnesses, he did not offer any justification for the eventual absence of the DOJ representative, much less any explanation or detail as to the exact efforts exerted to secure their presence. In view of this unjustified deviation from the chain of custody rule, the Court is therefore constrained to conclude that the integrity and evidentiary value of the item purportedly seized from David were compromised, which consequently warrants his acquittal.

**WHEREFORE**, the petition is **GRANTED**. The Decision dated August 16, 2019 and the Resolution dated August 24, 2020 of the Court of Appeals in CA-G.R. CR No. 41782 are hereby **REVERSED** and **SET ASIDE**. Accordingly, petitioner Joel David y Mangio is **ACQUITTED** of the crime charged.

The Director of the Bureau of Corrections is **ORDERED** to: (a) cause the immediate release of petitioner, unless he is being lawfully held in custody

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<sup>33</sup> TSN, December 5, 2014, p. 12.

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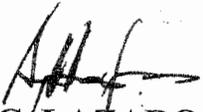
for any other reason; and (b) inform the Court of the action taken within five (5) days from receipt of this Decision.

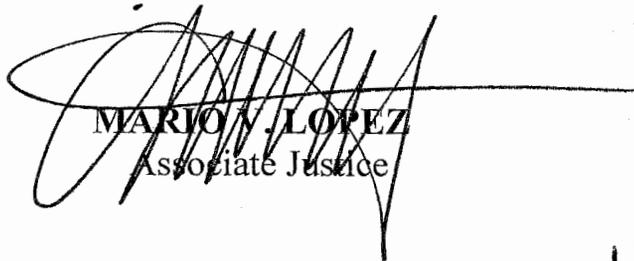
Let entry of judgment be issued immediately.

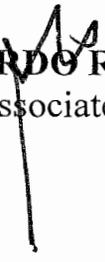
**SO ORDERED.**

  
**ESTELA M. PERLAS-BERNABE**  
Senior Associate Justice

**WE CONCUR:**

  
**AMY C. LAZARO-JAVIER**  
Associate Justice

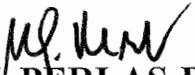
  
**MARIO V. LOPEZ**  
Associate Justice

  
**RICARDO R. ROSARIO**  
Associate Justice

  
**JHOSEP V. LOPEZ**  
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.

  
**ESTELA M. PERLAS-BERNABE**  
Senior Associate Justice  
Chairperson, Second Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify 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.



**ALEXANDER G. GESMUNDO**  
Chief Justice