



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

ALEX BESENIO y CLEDORO,
Petitioner,

G.R. No. 237120

Present:

CAGUIOA, *Chairperson,*
INTING,*
GAERLAN,
DIMAAMPAO, and
SINGH, *JJ.*

- versus -

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:

June 26, 2024

Mis-DCB-#

DECISION

DIMAAMPAO, J.:

This Petition for Review on *Certiorari*¹ before the Court seeks to overturn the Decision² and the Resolution³ of the Court of Appeals (CA), which affirmed the conviction of petitioner Alex Besenio y Cledoro (Besenio) for illegal possession of dangerous drugs⁴ in Criminal Case No. IR-7722, and denied his Motion for Reconsideration⁵ thereof, respectively.

The case has its provenance in an Information⁶ filed before the Regional Trial Court (RTC) of Iriga City, Camarines Sur, indicting Besenio for violation of Article II, Section 11 of Republic Act No. 9165.⁷ The inculpatory averments of the Information read:

* On official leave.

¹ *Rollo*, pp. 11–30.

² *Id.* at 32–43. The June 30, 2017 Decision in CA-G.R. CR No. 38608 was penned by Associate Justice Rodil V. Zalameda (now a Member of the Court), with the concurrence of Associate Justices Sesinando E. Villon and Ma. Luisa Quijano-Padilla of the Tenth Division, Court of Appeals, Manila.

³ *Id.* at 45–46. Dated January 18, 2018.

⁴ Republic Act No. 9165 (2002), sec. 11, Comprehensive Dangerous Drugs Act of 2002.

⁵ *Rollo*, pp. 47–53.

⁶ RTC records, p. 1.

⁷ Republic Act No. 9165 (2002), Comprehensive Dangerous Drugs Act of 2002.

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That on or about 5:00 a.m. of August 24, 2006 at [sic] Brgy. Sta. Teresita, Baao, Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there knowingly, willfully and unlawfully, have in his possession, control and custody 0.1 grams of methamphetamine hydrochloride or “*shabu*”, a dangerous drug.

ACTS CONTRARY TO LAW.⁸

Besenio pled not guilty during his arraignment on September 19, 2006.⁹ Trial thenceforth ensued.

The prosecution averred that on August 23, 2006, the Philippine National Police (PNP) Provincial Headquarters of Camarines Sur Intelligence Section, in coordination with the Philippine Drug Enforcement Agency (PDEA), sought the issuance of a search warrant against Besenio. They avouched that after culminating a surveillance and a test buy operation,¹⁰ there was reasonable ground to believe that Besenio was keeping methamphetamine hydrochloride or *shabu* at his house located in Barangay Sta. Teresita, Baao, Camarines Sur.¹¹ Forthwith, the Executive Judge of the RTC of Iriga City issued Search Warrant No. 06-13.¹²

At around 5 a.m. on August 24, 2006, the search warrant was implemented by the police team, which included the Chief of Police of PNP Baao, Senior Inspector Ricardo Arce (PSINSP Arce) and Police Officer II Andrew J. Alcomendas¹³ (PO2 Alcomendas).¹⁴ The police team secured the presence of Barangay Kagawad Wilfredo Bayos (Kagawad Bayos) and Agapito Baronio, Jr. (Kagawad Baronio) to witness the execution of the warrant.¹⁵ Upon arriving at Besenio’s house and being granted access thereto, the police team conducted the search in the presence of Besenio, his wife and children, his mother, and the two barangay officials. In one of the rooms in the house, PSINSP Arce discovered a heat-sealed plastic sachet containing substance suspected to be *shabu*.¹⁶ They immediately took pictures of the sachet and PO2 Alcomendas, the investigator on duty, placed his initials “AJA” thereon to mark the same.¹⁷ This was witnessed by Besenio and the two barangay officials as evidenced by the Certificate of Inventory/Inventory Receipt.¹⁸

⁸ RTC records, p. 1.

⁹ *Id.* at 22, Certificate of Arraignment.

¹⁰ *Id.* at 351, RTC Judgment.

¹¹ *Rollo*, p. 34; RTC records, p. 245.

¹² RTC records, p. 245.

¹³ “Police Officer III” in the TSN.

¹⁴ RTC records, p. 351.

¹⁵ *Id.*

¹⁶ *Id.* at 351–352; TSN, Alex C. Besenio, May 28, 2014, p. 10.

¹⁷ *Id.* at 352; TSN, PO3 Andrew J. Alcomendas, March 17, 2009, pp. 8–9; TSN, Alex C. Besenio, May 28, 2014, p. 9.

¹⁸ *Id.* at 7.

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Besenio was then brought to Baa Police Station where the arrest was effected. Thereafter, a separate Certificate of Inventory¹⁹ was prepared and signed by media representative Joan Verdeflor and Municipal Councilor Ulysses Dato. No representative from the Department of Justice (DOJ) was present as it was still early in the morning. PO2 Alcomendas then prepared the return for the search warrant,²⁰ along with a motion to withdraw evidence²¹ to secure possession of the seized heat-sealed plastic sachet after submitting the same to the issuing court.²²

Upon withdrawal of the seized sachet, PO2 Alcomendas delivered the same to the crime laboratory where it was received by the clerk, Rosemarie P. Llona (Llona). Llona then turned over the sachet to the forensic chemist,²³ Police Inspector Richard Severo (PINSP Severo).²⁴ After a qualitative examination, the contents of the sachet tested positive for methamphetamine hydrochloride or *shabu*—a dangerous drug.²⁵

For his part, Besenio invoked the defenses of denial and frame-up.²⁶

Ensuingly, the RTC rendered its Judgment,²⁷ convicting Besenio, viz.:

WHEREFORE, finding accused *ALEX BESENIO Y CLEDORO guilty* beyond reasonable doubt of a [sic] violation of Section 11 of [Republic Act No.] 9165, said accused is hereby imposed a *prison sentence of twelve (12) years and one (1) day as minimum to thirteen (13) years and eight (8) months as maximum and to pay a fine of Three Hundred Thousand ([PHP] 300,000.00) Pesos.*

SO ORDERED.²⁸ (Emphasis in the original)

On appeal,²⁹ the CA sustained the conviction of Besenio³⁰—

WHEREFORE, premises considered, instant Appeal is hereby **DENIED**. Accordingly, the Judgment dated 03 March 2016, issued by Branch 35, Regional Trial Court of Iriga City is hereby **AFFIRMED in toto**.

SO ORDERED.³¹ (Emphasis in the original)

¹⁹ *Id.* at 8.

²⁰ *Id.* at 5.

²¹ *Id.* at 6.

²² *Id.* at 352; TSN, PO3 Andrew J. Alcomendas, March 17, 2009, pp. 11–13.

²³ *Id.*

²⁴ *Id.* at 353.

²⁵ *Id.* at 247, Chemistry Report No. D-67-2006.

²⁶ *Id.* at 353–354.

²⁷ *Id.* at 350–358. The March 3, 2016 Judgment in Criminal Case No. IR-7722 was penned by Presiding Judge Salve Eva Q. Villareal-Dimabayao of Branch 35, Regional Trial Court, Iriga City.

²⁸ *Id.* at 358.

²⁹ *Id.* at 363–364. Notice of Appeal & Motion to Appeal as Pauper Litigant with Urgent Motion to Allow Accused to be on Provisional Liberty Under the Same Bailbond.

³⁰ *Rollo*, pp. 32–43.

³¹ *Id.* at 42.

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The CA held that the prosecution was able to prove all the elements for the charge of illegal possession of dangerous drugs.³² While the police officers failed to strictly comply with the chain of custody rule under Section 21 of Republic Act No. 9165—owing to the absence of a DOJ representative during the inventory and the taking of photographs of the seized item—the integrity and evidentiary value of the drugs were still properly preserved based on the testimonies of prosecution’s witnesses.³³ Besenio’s bare denial and allegation of frame-up cannot prevail over the positive testimonies of the police officers.³⁴

With his bid for reconsideration having been denied by the CA in the oppugned Resolution, Besenio now seeks refuge before this Court via the instant Petition.

The Court’s Ruling

The Petition carries weight and conviction.

In illegal drugs cases, aside from proving the elements of the crime charged, the prosecution also bears the burden of proving beyond reasonable doubt that the substance illegally sold or possessed by the accused is the very same substance presented in court.³⁵ This proceeds from the elementary principle that the drugs itself constitutes the *corpus delicti* of these crimes.³⁶ In order to discharge its burden, the prosecution must be able to show full compliance with the chain of custody rule.³⁷ It bears emphasizing that adherence to this rule applies regardless of whether the confiscation of the drugs proceeded from a warrantless search and seizure or from the implementation of a search warrant,³⁸ as in this case.

Chain of custody has been defined as “the duly recorded, authorized movements, and custody of the seized drugs at each stage, from the moment of confiscation to the receipt in the forensic laboratory for examination until it is presented to the court.”³⁹ It is embodied in Article II, Section 21 of Republic Act No. 9165:

SEC. 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

³² *Id.* at 38.

³³ *Id.* at 39–41.

³⁴ *Id.* at 42.

³⁵ *See People v. David*, G.R. No. 260990, June 21, 2023 [Per J. Inting, Third Division] at 7. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

³⁶ *See id.*

³⁷ *See id.*

³⁸ *See Sio v. People*, G.R. No. 224935, March 2, 2022 [Per J. Leonen, Third Division] at 10. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

³⁹ *People v. Del Rosario*, 874 Phil. 881, 894 (2020) [Per J. Gesmundo, Third Division].

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 [DOJ], and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof;

(2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination; [and]

(3) A certification of the forensic laboratory examination results, which shall be done under oath by the forensic laboratory examiner, shall be issued within twenty-four (24) hours after the receipt of the subject item/s: Provided, That when the volume of the dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: Provided, however, That a final certification shall be issued on the completed forensic laboratory examination on the same within the next twenty-four (24) hours[.]

From the foregoing provision, there are four critical links in the chain of custody of seized drugs that must be proven: (1) the seizure and marking of the illegal drugs recovered from the accused by the apprehending officer; (2) the turnover of the illegal drugs seized by the apprehending officer to the investigating officer; (3) the turnover by the investigating officer of the illegal drugs to the forensic chemist for laboratory examination; and (4) the turnover and submission by the forensic chemist of the marked illegal drugs to the court.⁴⁰

Anent the *first link*, in the landmark case of *Nisperos v. People*,⁴¹ the Court had the occasion to establish the following parameters:

In order to guide the [B]ench, the [B]ar, and the public, particularly our law enforcement officers, the Court hereby adopts the following guidelines:

1. The marking of the seized dangerous drugs must be done:

⁴⁰ See *People v. Rivera*, G.R. No. 252886, March 15, 2021 [Per J. Perlas-Bernabe, Second Division]. (Citation omitted)

⁴¹ G.R. No. 250927, November 29, 2022 [Per J. Rosario, *En Banc*].



- a. [i]mmediately *upon* confiscation;
 - b. [a]t the place of confiscation; and
 - c. [i]n the presence of the offender (unless the offender eluded the arrest);
2. The conduct of inventory and taking of photographs of the seized dangerous drugs must be done:
- a. [i]mmediately *after* seizure and confiscation;
 - b. [i]n the presence of the accused, or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel; and
 - c. [a]lso in the presence of the insulating witnesses, as follows:
 - i. [I]f the seizure occurred during the effectivity of [Republic Act] No. 9165, or from July 4, 2002 until August 6, 2014, **the presence of three (3) witnesses, namely, an elected public official; a [DOJ] [] representative; and a media representative; [and]**
 - ii. [I]f the seizure occurred after the effectivity of [Republic Act] No. 10640, or from August 7, 2014 onward, the presence of two (2) witnesses, namely, an elected public official; and a National Prosecution Service representative *or* a media representative.
3. In case of any deviation from the foregoing, the prosecution must positively acknowledge the same and prove (1) justifiable ground/s for non[]compliance and (2) the proper preservation of the integrity and evidentiary value of the seized item/s.⁴² (Emphasis supplied)

Given the foregoing and after a perspicacious examination of the records of the case, it is undisputed that the police officers committed unjustified deviations from the prescribed chain of custody rule, which casts doubt on the integrity and evidentiary value of the seized drugs.

In the case at bench, it is plain as day that the required insulating witnesses were not present during the seizure of the illegal drugs. The Certificate of Inventory/Inventory Receipt, which was prepared during the execution of the search warrant and after the seizure of the illegal drugs, clearly shows that the only witnesses present were two elected public officials,

⁴² *Id.* at 9–10. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.



i.e., Kagawad Bayos and Kagawad Baronio. This was categorically and consistently declared by PSINSP Arce, who led the execution of the search warrant⁴³—

[PROS. RAMOS:]

Q After arriving at [sic] Brgy. Sta. Teresita, Baao, Camarines Sur, what did you and your men do?

A I ordered my men to coordinate with the Brgy. Captain of such barangay but[] incidentally[,] the Brgy. [Captain] was not around[,] so two (2) [barangay] [o]fficials went with us.

THE COURT:

What were they [sic] barangay officials?

THE WITNESS:

Brgy. Kagawad Wilfredo Bayos and Brgy. Kagawad Agapito Ba[r]onio, Jr.

....

PROS. RAMOS:

Q And after coordinating with the said barangay officials[,] what happened next?

A They went with us during the conduct of the search.

....

THE COURT:

Where was the accused at the time you found the heat-sealed plastic sachet?

THE WITNESS:

He was in the *sala*. He was seated in the *sala*. I called his mother. He was observing with me during the conduct of the search together with the Brgy. Kagawads. Then I told them that [sic] what is this? The mother commented that it was nothing because it was a small item. Then I called the attention of the accused, Alex Besenio, the suspect and other of [sic] my personnel to identify the said item.

....

PROS. RAMOS:

Q So to clarify, who were present inside the room where you [sic] able to find the said heat-sealed plastic sachet?

A Inside the room is [sic] the mother of Alex Besenio because she is [sic] the one observing me while conducting the search and the Brgy. Kagawad.⁴⁴

Notably, the subsequent Certificate of Inventory that was prepared at Baao Police Station was only signed by a media representative and another

⁴³ TSN, [PSINSP] Ricardo Arce, January 29, 2007, p. 8.

⁴⁴ *Id.* at 8–9, 13, 16.

elected public official, with no representative from the DOJ. When asked about this omission, PO2 Alcomendas explained that it was too early to secure the presence of a DOJ representative:

PROS. RAMOS:

Q You said on cross that media representative of the DOJ be/present [sic] during the inventory[.] [W]hy did you fail to request the signature of this DOJ representative?

A Sir, it was 5:00 o'clock [sic] in the morning, it's too early.

....

Q How about this other certificate of inventory which according to you was made at the PNP station of Baao?

A Sir, since it was only the barangay officials who confers [sic] at the time of the searched [sic] so we decided to conduct another inventory at the police station. At that time[,] we called the presence of the media representative but we failed to get the DOJ representative.⁴⁵

Since the search warrant was executed on August 24, 2006, or prior to the 2014 amendment⁴⁶ of Section 21 of Republic Act No. 9165, the law required the presence of *three* insulating witnesses: a media representative, a DOJ representative, and any elected public official. The amended provision does not retroactively apply.

As earlier adumbrated, *Nisperos* mandates that such insulating witnesses must be present during the conduct and taking of photographs which must be done *immediately after* seizure and confiscation of the illegal drugs. Here, not only were there two separate inventories done, but also, the required witnesses were incomplete in both instances—in the first, only elected public officials witnessed the inventory conducted at the place of seizure; and in the second, only a media representative and another elected public official witnessed the inventory conducted at Baao Police Station. All the same, there was no DOJ representative. Even if the Court were to validate the belated second inventory conducted, the absence of a DOJ representative thereat, and the flimsy justification proffered by the police officers to explain their absence, falls short of the earnest efforts required under the law and jurisprudence.⁴⁷

To be sure, it is well-settled that the presence of insulating witnesses during the seizure and marking of the illegal drugs “protects the seizure and arrest from possibilities of switching, ‘planting’ or contamination of the

⁴⁵ TSN, PO3 Andrew J. Alcomendas, March 17, 2009, pp. 32–33.

⁴⁶ Republic Act No. 10640 (2014), 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.

⁴⁷ See *Tañamor v. People*, 872 Phil. 982, 1005–1006 (2020) [Per J. Caguioa, First Division]. (Citation omitted)

evidence, which compromise the integrity of the confiscated items.”⁴⁸ Consequently, “[f]ailure to comply with this jeopardizes the trustworthiness of *corpus delicti*, breaks the chain of custody and, by result, puts the guilt of the accused in doubt.”⁴⁹ This failure to observe the first link is heightened by the fact that the seizure of the illegal drugs was effected through a search warrant.⁵⁰ Necessarily, a search warrant entails advance planning and preparation, especially in this instance when the search was preceded by months of surveillance and even a test buy, which means that noncompliance was all the more unjustified.⁵¹

Notwithstanding the above discourse, ***there is a peculiarity in the case at bench which warrants a deeper analysis from the Court.***

During the trial, specifically in the course of PSINSP Arce’s examination as a witness to identify the specimen seized and submitted to the forensic laboratory, Besenio’s counsel admitted to the identity thereof—

THE COURT:

Yes, but, there is the but. In fact, the prosecution has not yet said that the witness has already finished his testimony.

ATTY. CABALTERA:

According to the prosecutor[,] except to the identity of the specimen[,] nothing more.

THE COURT:

Yes, but, let him finish with his testimony.

ATTY. CABALTERA:

Anyway your Honor, I am amenable that ***what is in the possession of the chemist from the laboratory is the same items the one he allegedly found***, your Honor.

THE COURT:

So, we can already admit that.

PROS. RAMOS:

He can identify your Honor.

THE COURT:

Admit that what he found is the same specimen that was submitted to the crime laboratory.

PROS. RAMOS:

We admit that, your Honor.

⁴⁸ *Id.* at 1005.

⁴⁹ *Id.*

⁵⁰ *See Sio v. People*, G.R. No. 224935, March 2, 2022 [Per J. Leonen, Third Division] at 12. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁵¹ *See id.*

THE COURT:

So, we can now cross examine the witness.

PROS. RAMOS:

Yes, your Honor.

THE COURT:

And you already admit that this specimen found in the house of the accused is the same specimen which he submitted for examination. Okay. So, it is agreed that the witness will no longer return to this court to identify the items found from the house of the accused.

ATTY. CABALTERA:

Yes, your Honor.⁵² (Emphasis supplied)

This exchange resulted in the RTC concluding that “[t]he defense admitted that the plastic sachet containing a substance found in the house of the accused is the same one submitted for examination in the crime laboratory.”⁵³

The Court agrees.

It is ingrained in this jurisdiction that the prosecution always has the burden of proving compliance with Section 21 of Republic Act No. 9165 given that the burden of proof to establish the guilt of an accused never shifts.⁵⁴ This is borne from the presumption of innocence enjoyed by the accused.⁵⁵ In the same vein, compliance therewith cannot be subject to waiver by the accused by their failure to probe prosecution’s witnesses on the matter.⁵⁶

However, judicial admissions, whether made by the accused or their counsel, have been accepted by the Court in other kinds of criminal cases to prove elements of the crimes charged therein.⁵⁷

Judicial admission is defined as “a verbal declaration or written statement made by a party in the course of the proceedings in the same case, which does not require proof.”⁵⁸ It is considered binding upon the party making these admissions and is a waiver of proof whereby production of evidence is dispensed with as it removes an admitted fact from the field of controversy.⁵⁹ Under Rule 129, Section 4 of the Revised Rules on Evidence, a judicial admission may only be contradicted upon “showing that it was made

⁵² TSN, [PSINSP] Ricardo Arce, January 29, 2007, pp. 24–25.

⁵³ RTC records, pp. 352–353.

⁵⁴ See *People v. Angeles*, 843 Phil. 914, 936 (2018) [Per J. Caguioa, Second Division].

⁵⁵ See *id.*

⁵⁶ See *id.*

⁵⁷ See *Castil v. People*, G.R. No. 253930, July 13, 2022 [Per J. Hernando, First Division] at 10–11. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁵⁸ *Id.* at 10.

⁵⁹ See *id.*

through palpable mistake or that the imputed admission was not, in fact, made.”

Here, neither Besenio nor his counsel claimed that such admission was made by palpable mistake or denied making such admission even after the RTC made a categorical recognition of such admission in its Judgment.

This admission effectively authenticates the identity of the seized illegal drugs from the time of seizure up until it was turned over to the forensic chemist for qualitative examination, i.e., from the first link to the third in the chain of custody. As a result, the above-discussed errors in the first link would be absolved since the admission of Besenio’s counsel ensured the identity and integrity of the seized illegal drugs up to that point in time.

Despite this, Besenio’s acquittal is still in order.

The Court reverberates that judicial admission excuses lapses only up to the third link. The prosecution must still prove compliance with the *fourth link*. In order to do so, the forensic chemist must testify “on the details pertaining to the handling and analysis of the dangerous drug[s] submitted for examination, i.e., when and from whom the dangerous drug[s] was received; what identifying labels or other things accompanied it; description of the specimen; and the container it was in.”⁶⁰ They must also identify “the name and method of analysis used in determining the chemical composition of the subject specimen.”⁶¹ Moreover, the forensic chemist must testify “that he received the seized article as marked, properly sealed and intact; that he resealed it after examination of the content; and that he placed his own marking on the same to ensure that it could not be tampered pending trial.”⁶² Furthermore, there must be information as to how the seized drugs was stored after it was examined by the forensic chemist, who handled the drugs specimen after examination, and where it was kept until it was retrieved and presented in court.⁶³

Apropos the issue at hand, PINSP Severo, the forensic chemist, testified: (1) as to how he received the drugs specimen from Llona, the receiving clerk;⁶⁴ (2) how the specimen was identified and marked;⁶⁵ and (3) what qualitative tests were done to confirm the contents thereof.⁶⁶ Nonetheless, he failed to testify: (1) whether he resealed the specimen after examination of the contents of the sachet; (2) the manner of handling and storage of the specimen before, during, and after the chemical examination;

⁶⁰ *People v. Rivera*, G.R. No. 252886, March 15, 2021 [Per J. Perlas-Bernabe, Second Division].

⁶¹ *Id.*

⁶² *People v. Fandialan*, G.R. No. 254412, July 6, 2022 [Per J. Inting, Third Division] at 7. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website. (Citation omitted)

⁶³ *See id.* at 9. (Citation omitted)

⁶⁴ TSN, [PINSP] Richard F. Severo, February 26, 2007, p. 9.

⁶⁵ *Id.* at 12–13.

⁶⁶ *Id.* at 6–7, 14–16.

and (3) whether he took precautionary measures after examination of the seized drugs specimen to preserve its integrity and evidentiary value before the same was submitted to the RTC.

At this juncture, the Court discerns that given the inadequate testimony of the forensic chemist, the prosecution was unable to prove compliance with the fourth link.

Considering that the prosecution failed to establish with moral certainty the identity and unbroken chain of custody of the dangerous drugs purportedly bought and seized from Besenio, a verdict of acquittal is therefore in order.

ACCORDINGLY, the Petition for Review on *Certiorari* is **GRANTED**. The June 30, 2017 Decision and the January 18, 2018 Resolution of the Court of Appeals in CA-G.R. CR No. 38608 are **REVERSED** and **SET ASIDE**. Petitioner Alex Besenio y Cledoro is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt. He is **ORDERED IMMEDIATELY RELEASED** from custody unless he is confined for some other lawful cause.

Let a copy of this Decision be furnished to the Director General of the Bureau of Corrections, Muntinlupa City, for immediate implementation. Furthermore, the Director General is **DIRECTED to REPORT** to this Court, within five days from receipt of this Decision, in compliance with this order. Copies shall also be furnished to the Chief of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

Branch 35 of the Regional Trial Court, Iriga City, Camarines Sur is **DIRECTED** to turn over the seized sachet of methamphetamine hydrochloride to the Dangerous Drugs Board for destruction in accordance with law.

Let entry of judgment be **ISSUED** immediately.

SO ORDERED.

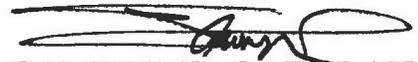

JAPAR B. DIMAAMPAO
Associate Justice

WE CONCUR:



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

On official leave
HENRI JEAN PAUL B. INTING
Associate Justice



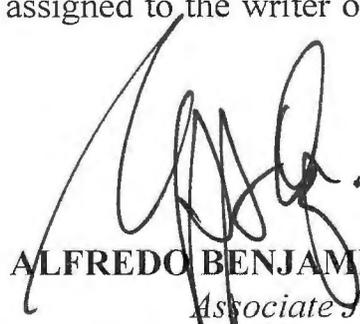
SAMUEL H. GAERLAN
Associate Justice



MARIA FILOMENA D. SINGH
Associate Justice

ATTESTATION

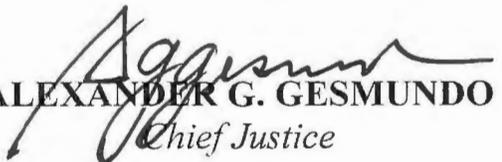
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Article VIII, Section 13 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 this Court.


ALEXANDER G. GESMUNDO
Chief Justice