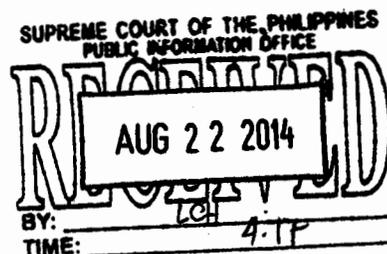




Republic of the Philippines
Supreme Court
Manila
FIRST DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated July 28, 2014 which reads as follows:

“G.R. No. 198671 (Fidel Tango, Jr. y Guillermo vs. People of the Philippines). – On appeal is the Decision¹ dated June 29, 2011 of the Court of Appeals (CA) in CA-G.R. CR No. 32053 which affirmed the Decision² dated September 16, 2008 of the Regional Trial Court (RTC) of Laoag City, Branch 13, in Criminal Case No. 13634-13 convicting Fidel Tango y Guillermo (petitioner) of violation of Section 11, Article II of Republic Act (R.A.) No. 9165 or the Comprehensive Dangerous Drugs Act of 2002.

The criminal information to which the petitioner pleaded “not guilty” contained the following accusation, *viz*:

“That on or about the 14th day of April 2008, in the City of Laoag, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there wilfully, unlawfully and feloniously have in his possession, control and custody dried marijuana leaves wrapped in a piece of paper, weighing more or less 2.38 grams including the paper wrapper, a prohibited drug, without any license or authority to do so.

CONTRARY TO LAW.”³

During the pre-trial held on May 21, 2008, the prosecution and the defense stipulated on the following facts, *viz*: (1) the petitioner was in Laoag City, specifically at his residence, on April 14, 2008 at around 9:30 a.m; (2) on said date, Senior Police Officer 4 Rovimmanuel Balolong (SPO4 Balolong) and SPO3 Arthur Mateo (SPO3 Mateo) went to the petitioner’s residence; (3) Maribel Tango (Maribel) was examined by Dr. Modesty Irmina A. Corpuz at the Laoag City General Hospital on April 14, 2008 at

¹ Penned by Associate Justice Celia C. Librea-Leagogo, with Associate Justices Remedios A. Salazar-Fernando and Michael P. Elbinias, concurring; *rollo*, pp. 29-53.

² Issued by Presiding Judge Philip G. Salvador, *id.* at 85-93.

³ *Id.* at 85.

- over – twelve (12) pages

10:20 a.m. as shown in her medico-legal certificate issued on the same date; (4) Maribel is the petitioner's wife or live-in partner; (5) SPO4 Balolong and SPO3 Mateo arrested the petitioner on April 14, 2008 at around 9:30 a.m.; (6) the petitioner does not have any license to use or possess marijuana; (7) the marijuana leaves allegedly taken from his possession were submitted as specimen to the Philippine National Police (PNP) Crime Laboratory for forensic examination; (8) the existence and authenticity of the Initial Laboratory Report which was prepared by Police Senior Inspector Emelda Besarra Roderos (PSI Roderos); (9) the authenticity and genuineness of Chemistry Report No. D-007-2008 also prepared by PSI Roderos; (10) if presented as a witness, PSI Roderos would be able to identify the specimen submitted to her for examination as well as the written result of her examination and the markings that she affixed in the specimen; (11) PSI Roderos received the specimen together with the Letter Request for Laboratory Examination from SPO3 Diosdado Mamotos (SPO3 Mamotos) of the PNP Crime Laboratory; (12) the specimen was transmitted to the PNP Crime Laboratory by PO1 Jonathan Alonzo (PO1 Alonzo) as shown in the Letter Request for Laboratory Examination, particularly on the lower left hand corner bearing the stamp mark of the PNP Crime Laboratory where the signatures of PO1 Alonzo and SPO3 Mamotos appear; (13) the existence and authenticity of the Letter Request for Laboratory Examination; and (14) PO1 Alonzo delivered the specimen to the PNP Crime Laboratory personally handing it to SPO3 Mamotos in the presence of PSI Roderos.⁴

During trial, the prosecution presented the lone testimony of SPO3 Mateo, one of the police officers who arrested the petitioner. The testimony of the other arresting officer, SPO4 Balolong was waived due to his reluctance to testify because Maribel, the petitioner's wife, is a confidential informant of the police.⁵

SPO3 Mateo testified that at around 9:30 a.m. of April 14, 2008, while at the Investigation Section of the Laoag City Police Station, he received a phone call from Maribel requesting for police assistance because she was being maltreated by the petitioner. SPO3 Mateo informed SPO4 Balolong of Maribel's request and the two of them proceeded to the spouses' residence. Upon arrival thereat, SPO3 Mateo saw the petitioner maltreating his wife. The petitioner was holding Maribel's head and beating her. SPO3 Mateo and SPO4 Balolong immediately entered the house and held the petitioner. SPO3 Mateo then frisked the petitioner and was able to recover from his pockets five (5) pieces of live ammunition and dried marijuana leaves wrapped in paper. SPO3 Mateo thereupon placed the petitioner under arrest and informed him of his constitutional rights.

⁴ Id. at 85-86.

⁵ Id. at 86.

The two police officers thereafter brought the petitioner and the confiscated items to the police station, where SPO3 Mateo prepared a Letter Request for Laboratory Examination.⁶

The letter request and the confiscated marijuana leaves were then brought by PO1 Alonzo to the PNP Crime Laboratory for examination. SPO3 Mateo also recorded the incident in the police blotter and executed a Joint Affidavit of Arrest with SPO4 Balolong. SPO3 Mateo also advised Maribel to go to the Laoag City General Hospital for medical check-up.⁷

The petitioner took the witness stand for the defense. He admitted that he and his wife were indeed fighting in the morning of April 14, 2008 but he clarified that when the police officers arrived, their quarrel has already ceased. He denied that marijuana was found in his possession and that when SPO3 Mateo frisked him he found nothing in the former's pockets. He was taken to the police station but he was not handcuffed. As he boarded the police vehicle, SPO4 Balolong returned to the house and asked Maribel for the thing that she had previously called about. Maribel then went to the bamboo groves where she hid it and then handed it over to SPO4 Balolong who, after opening and inspecting the package, discovered that it was marijuana. According to the police officers, the petitioner was detained for beating his wife, however, on arraignment, the petitioner found out that he was actually charged for illegal possession of the marijuana handed over by his wife.⁸

Maribel corroborated her husband's testimony. According to her, she immediately ran to the police officers when they arrived at her house. The police officers thereafter called her husband who was in the kitchen and talked to him. She was so angry with her husband then and she told the police officers to take and imprison him. Before inviting the petitioner to come to the police station, SPO3 Mateo searched his (petitioner) pockets but found nothing. After her husband boarded the car, SPO4 Balolong asked Maribel, "*Where is that thing, the reason that you called.*" She then took the marijuana from the bamboo groves and handed it over to SPO4 Balolong. Maribel asserted that SPO3 Mateo's testimony on the discovery of marijuana in the petitioner's pockets was not true because she was the one who personally handed the marijuana to the police. She confirmed that she is a confidential asset of SPO3 Mateo and SPO4 Balolong. She declared that she wanted her husband imprisoned because she was angry at him but her anger has now subsided and she is willing to do anything to save her husband from this predicament. She revealed that she did not pursue a case for physical injuries case against her husband neither did she file any case against SPO4 Balolong and SPO3 Mateo for unlawfully incriminating him.⁹

⁶ Id. at 86-87.

⁷ Id.

⁸ Id. at 87-88.

⁹ Id. at 32-33.

Ruling of the RTC

In its Decision¹⁰ dated September 16, 2008, the RTC found the petitioner guilty as charged. The RTC found the testimony of prosecution witness SPO3 Mateo credible, spontaneous, straightforward and candid. The trial court thus sustained the same over the contradictory version proffered by the defense as regards the discovery of the illegal drugs in the petitioner's pockets. The RTC further noted the petitioner's admission that there is no reason for SPO3 Mateo to wrongfully indict him for illegal possession of marijuana or to falsely testify as to the actual discovery of the drugs. The RTC thus concluded that the petitioner's pockets were validly searched pursuant to a lawful warrantless arrest because he was caught in the act of committing or has just committed the crime of inflicting physical injuries on his wife. Both instances are allowed under Rule 113, Section 5 of the Rules of Criminal Procedure. Accordingly, the RTC decision disposed as follows:

“WHEREFORE, the Court hereby renders judgment finding accused Fidel Tango, Jr. y Guillermo GUILTY beyond reasonable doubt as charged of illegal possession of marijuana weighing 2.38 grams and is therefore sentenced to suffer the indeterminate penalty of imprisonment ranging from TWELVE (12) YEARS and ONE (1) DAY as minimum to FOURTEEN (14) YEARS as maximum and to pay a fine of THREE HUNDRED THOUSAND PESOS ([P]300,000.00).

The marijuana subject hereof is confiscated, the same to be disposed as the law prescribes, with costs *de oficio*.

SO ORDERED.¹¹

Ruling of the CA

On appeal, the petitioner argued that the prosecution failed to: (1) establish the integrity of the confiscated illegal drugs; (2) prove compliance by the police officers on the proper custody of seized dangerous drugs under R.A. No. 9165; and (3) prove beyond reasonable doubt that the petitioner was caught *in flagrante delicto* in possession of the marijuana that could justify his warrantless arrest. The petitioner also faulted the trial court in presuming regularity in the performance by the police officers of their duties and argued that the constitutional presumption of innocence must prevail.

In its Decision¹² dated June 29, 2011, the CA denied the appeal. The CA sustained the weight and credibility accorded by the trial court to the testimony of SPO3 Mateo. Based on such testimony and the documentary evidence submitted by the prosecution, the CA ruled that all the elements

¹⁰ Id. at 85-93.

¹¹ Id. at 93.

¹² Id. at 29-53.

of illegal possession of dangerous drugs were proven. The petitioner also failed to satisfactorily explain his possession of the drugs hence, his possession constituted *prima facie* evidence of knowledge or *animus possidendi* sufficient to convict him for the crime.

The CA further held that the integrity and evidentiary value of the seized illegal drugs was preserved because the chain of their custody was not broken as shown in the testimony of SPO3 Mateo and those custody-related admissions made by the defense during pre-trial. This being so, the supposed procedural infirmities with regard to the custody, photographing, inventory and marking of the seized items did not render them inadmissible or made the petitioner's arrest illegal. The CA decision disposed thus:

"WHEREFORE, premises considered, the appeal is **DENIED** for lack of merit. The Decision dated 16 September 2008 of the Regional Trial Court, First Judicial Region, Branch 13, Laoag City in *Crim. Case No. 13634-13* finding accused-appellant Fidel Tango, Jr. y Guillermo guilty beyond reasonable doubt of violation of Section 11, Article II of Republic Act No. 9165 and sentencing him to suffer the indeterminate penalty of imprisonment of twelve (12) years and one (1) day, as minimum, to fourteen (14) years, as maximum, and to pay a fine of three hundred thousand pesos ([P]300,000.00) is **AFFIRMED**.

SO ORDERED."¹³

The petitioner moved for reconsideration but his motion was denied in the CA Resolution¹⁴ dated September 21, 2011. Hence, the present petition grounded on this sole issue:

WHETHER THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMING THE REGIONAL TRIAL COURT'S DECISION DESPITE THE PROSECUTION'S FAILURE TO PROVE THE INTEGRITY AND EVIDENTIARY VALUE OF THE ALLEGEDLY SEIZED MARIJUANA LEAVES.¹⁵

Ruling of the Court

The petition has no merit.

The argument proffered in support of the petitioner's plea for acquittal has already been exhaustively traversed by the CA and based on evidence on record, the Court finds no reversible error imputable to the CA and the trial court in finding him guilty beyond reasonable doubt of illegal possession of marijuana as defined and penalized under Section 11, Article II of R.A. No. 9165.

¹³ Id. at 49-50.

¹⁴ Id. at 55-56.

¹⁵ Id. at 16.

In prosecutions for illegal possession of a dangerous drug, the following elements must be established with moral certainty, viz: (a) the accused was in possession of an item or an object identified to be a prohibited or regulated drug; (b) such possession is not authorized by law; and (c) the accused was freely and consciously aware of being in possession of the drug.¹⁶

All these elements exist in the present case. As testified by SPO3 Mateo, upon arriving at Maribel's house, he saw the petitioner holding her head while beating her. SPO3 Mateo thereupon entered the house and held the petitioner. He immediately frisked him and discovered from his right pocket, five (5) live ammunitions and dried leaves wrapped in paper which, when subjected to forensic examination on the same day, tested positive for marijuana. The petitioner failed to present any document proving that he is authorized by law to possess the confiscated drug. Lastly, there is no doubt that he was freely and consciously aware of such possession since the marijuana was found in his person.

The averment of the defense that the marijuana was not found in the petitioner's pockets but was rather handed over by Maribel to SPO3 Mateo is inadequate to overturn the above findings.

Prosecutions for drug cases are often highlighted by the opposing versions of the parties. The trial becomes a contest of credibility of witnesses and their contradictory testimonies. In such a situation, this Court generally relies upon the assessment by the trial court, which had the distinct advantage of observing the conduct or demeanor of the witnesses¹⁷ and as such, was in the best position to recognize and distinguish spontaneous declaration from rehearsed spiel, straightforward assertion from a stuttering claim, definite statement from tentative disclosure, and to a certain degree, truth from untruth.¹⁸ Hence, the settled rule that factual findings and evaluation by the trial court of the credibility of witnesses are accorded the highest respect and even conclusive effect, especially when affirmed by the CA.¹⁹

By way of exception, the trial court's findings will be re-opened for review only upon a showing of highly meritorious circumstances such as when the court's evaluation was reached arbitrarily, or when the trial court overlooked, misunderstood or misapplied certain facts or circumstances of weight and substance which, if considered, would affect the result of the case.²⁰ None of these circumstances obtain in the present case.

¹⁶ *David v. People*, G.R. No. 181861, October 17, 2011, 659 SCRA 150, 157.

¹⁷ *People v. Tuan*, G.R. No. 176066, August 11, 2010, 628 SCRA 226, 241.

¹⁸ *Miclat, Jr. v. People*, G.R. No. 176077, August 31, 2011, 656 SCRA 539, 556-557.

¹⁹ *People v. Scmoza*, G.R. No. 197250, July 17, 2013, 701 SCRA 525, 540.

²⁰ *People v. De Jesus*, G.R. No. 191753, September 17, 2012, 680 SCRA 680, 687.

After a careful review of the records, the Court finds no reason to deviate from the foregoing settled principles especially considering the affirmation accorded by the CA on the factual findings of the trial court on the credibility of SPO3 Mateo and his testimony.

Moreover, the assiduousness with which the trial court carefully weighed the conflicting testimonies of the parties is shown in the following portions of its judgment, *viz*:

[T]he denial of the [petitioner] and his wife cannot be considered to be based on concrete and convincing evidence. It is rather bare and self-serving. It is rather easy for them to say that, as opposed to the testimony of SPO3 Mateo, they were no longer quarrelling when the two police officers arrived and that there was no marijuana taken from his possession when he was searched. In fact, their denial has all the *indicia* of being contrived. Especially with the claim of Maribel that the marijuana was not taken from the possession of her husband because she gave the same to SPO4 Balolong, the Court cannot simply be convinced.

As it tried to on cross-examination, the defense was insisting upon SPO3 Mateo that Maribel had informed him or SPO4 Balolong about the dangerous drug that she had found earlier before the incident. The defense tried to elicit from SPO3 Mateo that he tried to take the occasion when they responded on that day of April 14, 2008 to ask Maribel about the said dangerous drug, which SPO3 Mateo however denied. Despite said negative answer, the defense still insisted during the presentation of its evidence to inject what Maribel claimed that she had supposedly called the two policemen prior to the incident about the marijuana that she found allegedly at a place south of the bamboo groove [sic] where she later on hid it. These may seem to be a clever maneuver by the [petitioner] and his wife in their effort at exculpation but the Court is not simply persuaded not only because of the denial of SPO3 Mateo but more importantly because if Maribel has been a police asset for sometime, for about 7 to 8 months to the time of the arrest of her husband, she should have presented the marijuana to her handlers when she discovered it instead of keeping it in the bamboo grooves [sic]. It is rather self-serving and ill-timed for her to now claim that the police officers asked for the marijuana at a time when they responded to her call for police assistance and to assert that it is the same marijuana she gave that the [petitioner] is now being charged with.²¹ (Citations omitted)

This Court is thus assured that the factual basis of the RTC's conclusions was drawn from the witnesses themselves who appeared live and in person in open court. More importantly, the petitioner himself admitted that he knew of no reason that could have impelled the police officers to falsely incriminate him for illegal possession of dangerous drugs. Hence, in the absence of clear and convincing evidence that SPO3 Mateo was stirred by illicit motive or failed to properly perform his duties, his testimony deserve full faith and credit.

²¹ *Rollo*, pp. 91-92.

Indeed, against the overwhelming evidence of the prosecution, petitioner's denial and frame-up theory cannot stand. The defense of denial and frame-up are invariably viewed by this Court with disfavor, for it can easily be concocted and is a common and standard defense ploy in prosecutions for violation of R.A. No. 9165. In order to prosper, they must be proved with strong and convincing evidence,²² which the petitioner, however, failed to do. Aside from his and Maribel's self-serving assertions, the petitioner presented no other plausible proof to bolster his allegations.

With the true account of the events having been determined, it thus becomes clear that the search made by SPO3 Mateo on the petitioner's pockets was valid. Based on the factual circumstances of the present case, the requisites of warrantless arrest in *flagrante delicto*,²³ which justifies a warrantless search,²⁴ are attendant: (1) the person to be arrested must execute an overt act indicating that he has just committed, is actually committing, or is attempting to commit a crime; and (2) such overt act is done in the presence or within the view of the arresting officer.²⁵ Records show that the petitioner's pockets were searched after he was placed under arrest for being caught in *flagrante delicto* beating his wife within the view of SPO3 Mateo and SPO4 Balolong.

There is likewise no merit in the petitioner's contention that the integrity and evidentiary value of the seized marijuana was not preserved because the arresting officers failed to strictly observe the requirements of Section 21, R.A. No. 9165, specifically on: (a) the marking of the seized items at the place of arrest; (b) their physical inventory and photograph in the presence of petitioner or his representative; and (c) participation of a representative from the media, Department of Justice or any elected public official in the operation and their signatures in the physical inventory of the seized illegal drugs.²⁶

²² Supra note 18, at 557.

²³ Rules of Court, Rule 113, Section 5. *Arrest without warrant; when lawful.* — A peace officer or a private person may, without a warrant, arrest a person:

(a) **When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;**

(b) When an offense has just been committed, and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and

(c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another. (Emphasis ours)

²⁴ Rules of Court, Rule 126, Sec. 13. *Search incident to lawful arrest.* — A person lawfully arrested may be searched for dangerous weapons or anything which may have been used or constitute proof in the commission of an offense without a search warrant.

²⁵ *Ambre v. People*, G.R. No. 191532, August 15, 2012, 678 SCRA 552, 562.

²⁶ *Rollo*, pp. 10-26.

The Court has stressed that non-compliance with Section 21, Article II of R.A. No. 9165²⁷ and its Implementing Rules and Regulations²⁸ is not a serious flaw that can invalidate the arrest of the accused or render inadmissible the illegal drugs seized from him. What is essential 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.”²⁹

A thorough examination of the records in the present case shows that the courts *a quo* correctly ruled that the integrity and evidentiary value of the seized drugs had been preserved. After confiscating the marijuana leaves from the petitioner’s pocket and while still at the latter’s house, SPO3 Mateo immediately marked the paper wrapper with “LCPS”, which is the acronym for Laoag City Police Station, and “FT”, which means Fidel Tango. SPO3 Mateo then immediately brought the confiscated drugs to the police station where he forthwith prepared a Request for Laboratory Examination. As stipulated by the parties during pre-trial, PO1 Alonzo brought the letter request and the confiscated drugs to the PNP Crime Laboratory where it was personally received by SPO3 Mamotos in the presence of PSI Roderos. In her Chemistry Report No. D-007-2008, PSI Roderos confirmed that after being subjected to tests, the submitted specimen tested positive for marijuana.

²⁷ 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 charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(1) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof;

(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;

x x x x.

²⁸ (a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items.

²⁹ *People v. Cardenas*, G. R. No. 190342, March 21, 2012, 668 SCRA 827, 837, citing *People v. Ara*, G.R. No. 185011, December 23, 2009, 609 SCRA 304.

The petitioner argued that there was significant break in the chain of custody because the prosecution failed to establish how the confiscated illegal drug was turned over and submitted by the forensic chemist to the court. There is likewise no evidence on how the laboratory examination was conducted and how the forensic chemist handled the specimens at the time they were in her possession and custody.

We disagree.

Ideally, the procedure on the chain of custody should be perfect and unbroken. However “a testimony about a perfect chain is not always the standard as it is almost always impossible to obtain an unbroken chain.”³⁰ In fact, there is nothing in R.A. No. 9165 or in its implementing rules, which requires each and everyone who came into contact with the seized drugs to testify in court. “What is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items, because the same will be utilized in ascertaining the guilt or innocence of the accused.”³¹

As above discussed, the prosecution was able to demonstrate beyond moral certainty that the integrity and evidentiary value of the evidence seized had been preserved through the categorical and consistent testimony of SPO3 Mateo, pertinent documentary evidence, as well as the judicial admission of facts during the pre-trial.

SPO3 Mateo was able to identify in open court that the specimen drug presented as evidence was the very same illegal drug that he confiscated from the petitioner because the markings “LCPS” and “FT” found on the former were the very same markings he placed on the illegal drugs he seized from the petitioner on April 14, 2008.³² This proves that the illegal drugs remained intact and their integrity duly preserved from the time they were subjected to laboratory examination until they were submitted to the court.

Further, the defense stipulated with the prosecution during pre-trial on the authenticity and genuineness of Chemistry Report No. D-007-2008. The parties also agreed that if PSI Roderos would be presented on the witness stand, she would be able to identify the specimen submitted to her for examination, as well as the written results of her examination thereof and the markings she affixed in the specimen.³³ The petitioner cannot now be permitted to disavow these stipulations. Pre-trial stipulations bind the parties who made them; they are judicial admissions of facts and a party cannot be permitted to unilaterally withdraw from stipulations he had freely and voluntarily entered into. Thus, pre-trial stipulations are to be respected

³⁰ *People v. Amansec*, G.R. No. 186131, December 14, 2011, 662 SCRA 574, 594.

³¹ *Id.* at 594-595.

³² *Rollo*, p. 92-93.

³³ *Id.* at 85-86.

as the true will and intention of the parties with regard to the facts and evidence of the case.³⁴

It must also be stressed that the petitioner's defense theory from the very beginning was that the illegal drugs were not found in his possession but were instead handed by Maribel to the police officers. He did not raise before the trial court the issue of lapses in the safekeeping of the illegal drugs. He posed the issue for the first time when he appealed his conviction before the CA contrary to the rule that "[o]bjection to evidence cannot be raised for the first time on appeal; when a party desires the court to reject the evidence offered, he must so state in the form of objection. Without such objection he cannot raise the question for the first time on appeal."³⁵

All told, there exists no reason for the Court to overturn the courts *quo* in finding the petitioner guilty beyond reasonable doubt of illegal possession of marijuana. The penalties imposed were likewise consistent with Section 11, Article II of R.A. No. 9165³⁶ and current jurisprudence.³⁷

WHEREFORE, premises considered, the Petition is **DENIED** and the Decision dated June 29, 2011 of the Court of Appeals in CA-G.R. CR No. 32053 is hereby **AFFIRMED**.

SO ORDERED."

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court, *Am*
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³⁴ *Bayas v. Sandiganbayan*, 440 Phil. 54, 69-70 (2002).

³⁵ Supra note 30, at 596, citing *People v. Sta. Maria*, 545 Phil. 520, 534 (2007).

³⁶ Section 11. *Possession of Dangerous Drugs*. –

x x x x

(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (₱300,000.00) to Four hundred thousand pesos (₱400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu", or other dangerous drugs such as, but not limited to, MDMA or "ecstasy", PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana. (Emphasis ours)

³⁷ *People v. Diwa*, G.R. No. 194253, February 27, 2013, 692 SCRA 260, 275-276.

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