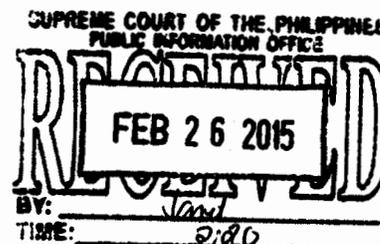




Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **January 14, 2015** which reads as follows:*

“G.R. No. 212162 (*People of the Philippines v. Antonio Basco y Baclayon a.k.a. “Nonoy”*). – We resolve the appeal filed by Antonio Basco y Baclayon a.k.a. “Nonoy” from the Decision¹ dated 08 January 2014 issued by the Twenty-Second Division of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00980-MIN.

THE ANTECEDENT FACTS

Accused appellant Antonio Basco y Baclayon a.k.a. “Nonoy” was charged with violation of Section 5, Article II of Republic Act (R.A.) No. 9165 or The Comprehensive Dangerous Drugs Act of 2002 in an Information² dated 17 September 2005, which reads:

That on or about 16 September 2005, in the City of Zamboanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused not being authorized by law to sell, deliver, give away to another, transport or distribute any dangerous drug, did then and there willfully, unlawfully and feloniously SELL and DELIVER to SPO2 ROBERTO L. ROCA, a bonafide member of the PNP assigned with the ZCPO Anti-Illegal Drug Special Operation Task Force, who acted as poseur-buyer, one (1) piece heat-sealed transparent plastic sachet containing 0.0131 gram of white crystalline substance which subjected to qualitative examination gave positive result to the test for the presence of METHAMPHETAMINE HYDROCHLORIDE (shabu), knowing the same to be a dangerous drug.

- over – five (5) pages

71

¹ *Rollo*, pp. 3-12; Penned by CA Associate Justice Henry Jean Paul B. Inting and concurred in by Associate Justices Edgardo A. Camello and Jhosep Y. Lopez.

² *Rollo*, p. 5.

CONTRARY TO LAW.

Accused pleaded not guilty to the charge.³

PROSECUTION'S VERSION

Evidence for the prosecution reveals that an informant told Chief Inspector (C/Insp.) Haywin Salvado of the Zamboanga City Central Police Office that a certain "Nonoy" was selling "shabu" (methamphetamine hydrochloride) in the area.⁴ After conducting surveillance operations to confirm the report, C/Insp. Salvado formed a buy-bust team and proceeded to the area.⁵ The designated poseur-buyer, Senior Police Officer II (SPO2) Robert Roca, was introduced by the informant to Antonio.⁶ Roca told Antonio that the former wanted to buy ₱100-worth of shabu from the latter, who then left and came back with a sachet of shabu.⁷ Antonio handed the sachet to Roca, who in turn gave the ₱100 marked money.⁸ The pre-arranged signal was made, and Antonio was arrested.⁹ He was later on identified as Antonio Basco y Baclayon.¹⁰

DEFENSE'S VERSION

The accused claimed that on 16 September 2005, he was resting at home, as it was his day off as a construction worker.¹¹ When he went out to buy snacks, he was approached successively by three men, until he was arrested and placed in a detention cell.¹² He alleged that he was arrested because a man pointed to him as the person who had sold the shabu.¹³

THE RULING OF THE RTC

The Regional Trial Court (RTC) Branch 13 of Zamboanga City, in its Decision¹⁴ dated 26 August 2011, convicted petitioner of the offense charged. The dispositive portion of the Decision reads:

WHEREFORE, the foregoing considered, this Court finds accused ANTONIO BASCO Y BACLAYON aka "NONOY" GUILTY beyond reasonable doubt of the crime of VIOLATION OF SECTION 5,

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³ Records, p. 38.

⁴ *Rollo*, p. 4.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at p.5.

¹² *Id.*

¹³ *Id.*

¹⁴ Penned by Judge Eric D. Elumba; *CA rollo*, pp. 40-47.

ARTICLE II OF R.A. 9165 and hereby sentences him to suffer a penalty of LIFE IMPRISONMENT and a fine of FIVE HUNDRED THOUSAND PESOS (Php500,000) without subsidiary imprisonment in case of insolvency. Let the Methamphetamine Hydrochloride weighing 0.0131 gram involved in this case be turned over to the Philippine Drug Enforcement Agency (PDEA) for proper disposition.

SO ORDERED.¹⁵

THE RULING OF THE CA

On 8 January 2014, the appellate court affirmed the ruling of the lower court.

Hence, this appeal raising the lone issue of appellant's conviction by the court *a quo* despite the prosecution's failure to prove his guilt beyond reasonable doubt.¹⁶

THIS COURT'S RULING

We see no error in the conviction of accused-appellant by the court *a quo*.

Accused-appellant insists on the need for coordination with the PDEA and for the conduct of a briefing and surveillance by the police officers.¹⁷ As correctly pronounced by the CA, however, "coordination with the PDEA is not an indispensable requirement,"¹⁸ and "lack of prior surveillance is not fatal."¹⁹ The records reveal nonetheless that two surveillance operations were made before the buy-bust operation to confirm the informant's report.²⁰

Accused-appellant, too, argues that the procedure for the seizure and custody of drugs was not complied with.²¹ This Court has pronounced on various occasions that noncompliance with the requirements of Section 21 of Republic Act 9165 will not necessarily render the items seized or confiscated inadmissible, as what is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items. Nevertheless, the records show that the prosecution was able to establish

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71

¹⁵ *Rollo*, p. 6.

¹⁶ *Id.* at p. 7.

¹⁷ *Id.*

¹⁸ *People v. Roa*, G.R.No.186134, 6 May 2010, 620 SCRA 359.

¹⁹ *People v. Ganguso*, 320 Phil. 324 (1995).

²⁰ *Rollo*, p. 8.

²¹ *Id.*

the chain of custody: (1) the seizure and marking of the sachets by the poseur-buyer, SPO2 Roca, with his initials "R R";²² (2) the turnover of the sachets and the two ₱50-bills marked money to the investigator of the case, SPO3 Frederico Lindo, Jr.;²³ (3) the turnover of the sachet of shabu to Police Senior Inspector Melvin Manuel, pursuant to a request for laboratory examination²⁴; and (4) the presentation and turnover to the court of the marked illegal drug with the Chemistry Report No.D-319-2005.²⁵

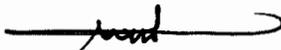
The denial by appellant and his allegation of frame-up in the absence of any evidence to support or corroborate both defenses necessarily fail in light of the overwhelming evidence that warrants his conviction.

WHEREFORE, premises considered, the appeal is hereby **DENIED**. The assailed Decision dated 08 January 2014 issued by the Twenty-Second Division of the CA in CA-G.R. CR-HC No. 00980-MIN is hereby **AFFIRMED** *in toto*.

The confirmation of confinement of accused-appellant Antonio Basco y Baclayon at the San Ramon Prison and Penal Farm, Zamboanga City, on August 26, 2011 in compliance with the Resolution dated July 2, 2014 is **NOTED**; the Office of the Solicitor General's manifestation and motion, stating that it is no longer filing any supplemental brief and that it is adopting its Brief for the Appellee previously filed on September 27, 2012 as well as the accused-appellant's manifestation in lieu of supplemental brief, adopting the theory and defenses in his appellant's brief in lieu of supplemental brief are likewise both **NOTED**.

SO ORDERED."

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court
71

The Solicitor General (x)
Makati City

Court of Appeals
9000 Cagayan de Oro City
(CA-G.R. CR H.C. No. 00980-MIN)

- over -

²² TSN, 23 June 2008, pp. 16-17.

²³ Id.

²⁴ Records, p. 8.

²⁵ Id. at p. 9.

The Hon. Presiding Judge
Regional Trial Court, Br. 13
7000 Zamboanga City
(Crim. Case No. 588 [21959])

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71

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