



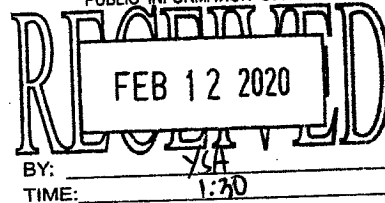
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Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

SUPREME COURT OF THE PHILIPPINES
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Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **December 2, 2019**, which reads as follows:*

“**G.R. No. 222338 (People of the Philippines v. Elmer Estabillo y Sevilla)**. – Before Us is an ordinary appeal¹ filed by accused-appellant Elmer Estabillo y Sevilla (Estabillo) assailing the Decision² dated February 23, 2015 of the Court of Appeals (CA) in CA-G.R. CR No. 06532, which affirmed the Judgment³ dated December 6, 2013 of the Regional Trial Court of Angeles City, Branch 57 (RTC), the dispositive portion of which reads:

WHEREFORE, the prosecution having established its case against the accused and having proven the guilt of the accused beyond reasonable doubt, the Court hereby finds **ELMER ESTABILLO Y SEVILLA GUILTY** beyond reasonable doubt of the crime as alleged in the Information and hereby sentences him to suffer the penalty of **LIFE IMPRISONMENT** for Violation of Section 5, R.A. 9165 and a fine of Php500,000.00.

SO ORDERED.

Antecedents

The Information⁴ charging Estabillo of violation of Section 5, Article II of Republic Act No. (R.A.) 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, which provides:

That on or about the 1st day of November, 2004 in the City of Angeles, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously sell and/or deliver to a poseur buyer one (1) small size plastic sachet containing

¹ Rollo, pp. 19-20.

² Penned by Associate Justice Fernanda Lampas Peralta, with Associate Justices Stephen C. Cruz and Ramon Paul L. Hernando (now a Member of this Court), concurring; id. at 2-17.

³ Penned by Judge Omar T. Viola, CA rollo, pp. 40-48.

⁴ Records, p. 1.

When asked to explain why there was failure to secure the presence of the required witnesses, PO3 Guarin simply said that it was an urgent operation:

x x x x

Q: Aside from Raul Suscano, who else witnessed the execution of the inventory of seized/confiscated items?

A: Members of the unit, sir.

Q: Aside from the members of the unit, who else?

A: The suspect Estabillo, sir.

Q: How about barangay officials?

A: There is no barangay official present, sir.

Q: How about representative from the Department of Justice?

A: The same, sir.

Q: Why is it so?

A: Because it is an urgent operation, sir.⁴⁴

Even the *poseur*-buyer, PO1 Torres, feigned ignorance as to why no representative of the DOJ and an elected public official were present during the inventory of the seized item:

Pros. Dela Cruz –

Q: Mr. Witness, why did you not secure the presence of the DOJ representative and barangay official?

A: They were not available during that time, and we are not aware of that because it was only newly implemented rules, sir.⁴⁵

Mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are unacceptable as justified grounds for non-compliance. As such, police officers are compelled not only to state the reasons for their non-compliance, but must in fact also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstances, their actions were reasonable.⁴⁶ As discussed, no justifiable reasons were presented.

Notably, although the marking and physical inventory of the seized drug were done immediately after the arrest at the police station, there was no

⁴⁴ TSN, August 13, 2009, p. 9.

⁴⁵ TSN, June 26, 2012, pp. 23-24.

⁴⁶ *People v. Cariño*, G.R. No. 233336, January 14, 2019.

explanation as to the failure of the buy-bust team to take the photographs of the marking and inventory-taking of the seized item. It is evident that the apprehending team, upon confiscation of the drug, immediately brought Estabillo and the seized item to the police station due to the ensuing commotion, and, once there, made the inventory of seized/confiscated items, affidavit of apprehension, certificate of initial field test, custodial investigation report, and request for laboratory examination. No photograph of the seized item was taken.

Evidently, the buy-bust team failed to give justifiable grounds for the lapses in securing the integrity and evidentiary value of the seized item, particularly, the *shabu* amounting to more or less three-tenths of a gram (0.3 gram). This quantity is so minuscule, which underscores the need for more exacting compliance with Section 21, Article II of R.A. 9165. In *People v. Holgado*,⁴⁷ the Court emphasized the need to employ heightened scrutiny, consistent with the requirement of proof beyond reasonable doubt in evaluating cases involving minuscule amounts of drugs because these can be readily planted and tampered.⁴⁸

Thus, for failure of the prosecution to comply with the mandates of Section 21, Article II of R.A. 9165, the Court is constrained to conclude that the evils of switching, planting or contamination of the small-sized plastic sachet containing methamphetamine hydrochloride, weighing more or less 0.3 grams, create serious lingering doubts as to the drug's integrity and evidentiary value. In the context of these circumstances, the guilt of the accused-appellant Estabillo was not proven beyond reasonable doubt.

WHEREFORE, the appeal is **GRANTED**. The Decision dated February 23, 2015 of the Court of Appeals in CA-G.R. CR No. 06532 is hereby **REVERSED** and **SET ASIDE**. Accused-appellant Elmer Estabillo y Sevilla is **ACQUITTED** of the crime charged against him, and is ordered to be immediately released, unless he is being lawfully held in custody for any other reason. The Bureau of Corrections is **DIRECTED** to inform this Court of the action taken hereon within five (5) days from receipt hereof.

SO ORDERED." (Gesundo, J., on official business; Lazaro-Javier, J., designated as Additional Member of the Third Division per Special Order No. 2728.)

Very truly yours,

Misael Domingo C. Battung III
MISAELO DOMINGO C. BATTUNG III
Deputy Division Clerk of Court
2/3/2020

⁴⁷ 741 Phil. 78 (2014).

⁴⁸ Id. at 100.

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The Director General
BUREAU OF CORRECTIONS
1770 Muntinlupa City

COURT OF APPEALS
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CSSupt. Gerardo F. Padilla
Superintendent
New Bilibid Prison
BUREAU OF CORRECTIONS
1770 Muntinlupa City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 57, 2009 Angeles City
(Criminal Case No. DC 04-358)

Ms. Florence P. Estabillo
5809 Zamora St., Brgy. Lourdes Northwest
2009 Angeles City, Pampanga

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Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 222338

-versus-

ELMER ESTABILLO y
SEVILLA,
Accused-Appellant.

x-----/

ORDER OF RELEASE

TO: The Director General
BUREAU OF CORRECTIONS
1770 Muntinlupa City

Thru: **CSSupt. Gerardo F. Padilla**
Superintendent
New Bilibid Prison North
BUREAU OF CORRECTIONS
1770 Muntinlupa City

GREETINGS:

WHEREAS, the Supreme Court on **December 2, 2019** promulgated a **Resolution** in the above-entitled case, the dispositive portion of which reads:

“**WHEREFORE**, the appeal is **GRANTED**. The Decision dated February 23, 2015 of the Court of Appeals in CA-G.R. CR No. 06532 is hereby **REVERSED** and **SET ASIDE**. Accused-appellant Elmer Estabillo y Sevilla is **ACQUITTED** of the crime charged against him, and is ordered to be immediately released, unless he is being lawfully held in

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custody for any other reason. The Bureau of Corrections is **DIRECTED** to inform this Court of the action taken hereon within five (5) days from receipt hereof.

SO ORDERED." (*Gesmundo, J., on official business; Lazaro-Javier, J., designated as Additional Member of the Third Division per Special Order No. 2728.*)

NOW, THEREFORE, You are hereby ordered to immediately release **ELMER ESTABILLO y SEVILLA** unless there are other lawful causes for which he should be further detained, and to return this Order with the certificate of your proceedings within five (5) days from notice hereof.

GIVEN by the Honorable **MARVIC MARIO VICTOR F. LEONEN**, Chairperson of the Third Division of the Supreme Court of the Philippines, this **2nd** day of **December 2019**.

Very truly yours,

Mis DCA Batt
MISAEAL DOMINGO C. BATTUNG III
Deputy Division Clerk of Court *Sign*
2/3/2020

Atty. Flordeliza Merelos
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The Presiding Judge
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Mr. Elmer S. Estabillo
c/o The Superintendent
New Bilibid Prison
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