

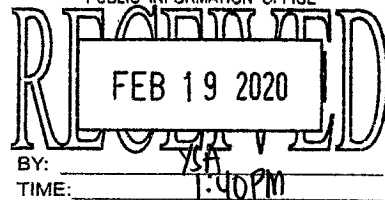


Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **January 8, 2020**, which reads as follows:

“G.R. No. 231955 (PEOPLE OF THE PHILIPPINES, plaintiff-appellee v. DJAWARIL DARIDAY Y MANUEL, accused-appellant). — In prosecuting crimes involving dangerous drugs, the prosecution’s failure to prove the *corpus delicti* beyond reasonable doubt obliges courts to acquit the accused.

This Court resolves the Appeal,¹ challenging the Decision² of the Court of Appeals, which affirmed the Regional Trial Court Decision³ convicting Djawaril Dariday y Manuel (Dariday) of the illegal sale of dangerous drugs.⁴

Dariday was charged with illegal sale of dangerous drugs, punished under Section 5 of Republic Act No. 9165, or the Comprehensive Dangerous Drugs Act of 2002. The Information read:

That on or about October 11, 2004, in the City of Davao, and within the jurisdiction of this Honorable Court, the above-mentioned accused, without being authorized by law, willfully, unlawfully and consciously sold and delivered one (1) sachet of Methamphetamine Hydrochloride, otherwise known as Shabu, weighing 0.0182 of a gram, which is a dangerous drug; and that in the commission of the above crime, herein accused was found positive for use of a dangerous drug which is a qualifying aggravating circumstance.

Contrary to law.⁵

¹ Rollo, pp. 12–13.

² Id. at 3–11. The Decision dated February 14, 2017 in CA-G.R. CR HC No. 01311-MIN was penned by Associate Justice Ruben Reynaldo G. Roxas, and concurred in by Associate Justices Edgardo T. Lloren and Rafael Antonio M. Santos of the Twenty-Third Division, Court of Appeals, Cagayan de Oro City.

³ CA rollo, pp. 50–59. The Decision dated May 16, 2014 in Criminal Case No. 55, 765-04 was penned by Judge Carlos L. Espero II of Branch 9, Regional Trial Court, Davao City.

⁴ Id. at 58.

⁵ Rollo, p. 4.

On December 17, 2004, Dariday was arraigned.⁶ He pleaded not guilty to the charge. Afterwards, pre-trial and trial ensued.⁷

During trial, the prosecution presented Makati Drug Abuse Council Special Police Officer 1 Juanito P. Tanudtanud (SPO1 Tanudtanud) and Police Officer 1 Anthony A. Alpiz (PO1 Alpiz) as witnesses.⁸ The testimonies of PO2 Arnel Betita, PO1 Nilo Paraiso (PO1 Paraiso), and Police Chief Inspector Noemi P. Austero (PCI Austero) were dispensed with upon a stipulation of facts.⁹

According to the prosecution, at around 4:00 p.m. on October 11, 2004,¹⁰ a confidential informant went to the office of SPO1 Tanudtanud and PO1 Alpiz. The informant reported that a certain Alias Macmac Dariday of St. Michael Village, Ma-a, Davao City was selling shabu in the area.¹¹

At about 6:30 p.m., after coordinating with the Philippine Drug Enforcement Agency, SPO1 Tanudtanud, designated poseur-buyer PO1 Alpiz, and the informant surveilled the reported area. At around 8:30 p.m., they met Dariday in front of a sari-sari store. The informant introduced PO1 Alpiz to Dariday., Dariday asked PO1 Alpiz how much shabu he was willing to buy to which PO1 Alpiz replied ₱300.00 worth. He took out one (1) sachet supposedly containing shabu and exchanged it with the marked money. PO1 Alpiz then raised his right hand to notify his team of the sale's consummation.¹²

The police officers took Dariday and the seized item to their office for booking and documentation purposes.¹³ PO1 Alpiz then showed the seized item to the desk officer for blotter. Subsequently, he retrieved the seized item and kept it in his custody.¹⁴

On October 12, 2004, at 11:45 a.m., the apprehending police officers conducted a physical inventory of the seized item at the Philippine National Police Crime Laboratory. It was done in Dariday's presence along with three (3) witnesses: "Kagawad Sepe of Barangay 76-A, Ma-a, Davao City; media representative Engr. Ricky P. Perez, and Alvin Estrella from the Department of Justice."¹⁵

⁶ CA rollo, p. 50

⁷ Id. at 51.

⁸ Id. at 52.

⁹ Id. at 51.

¹⁰ The Regional Trial Court incorrectly stated June 3, 2005 in its narration of facts. However, records reveal it should have been October 11, 2004.

¹¹ Rollo, p. 4.

¹² Id. at 5.

¹³ Id.

¹⁴ CA rollo, p. 43.

¹⁵ Rollo, p. 5.

PCI Austero examined the seized item. It tested positive for shabu, per Chemistry Report No. D-353-2004.¹⁶

Dariday and his brother, Djamila Manuel Dariday, testified for the defense.¹⁷ Dariday recalled that he was playing basketball on the evening of October 11, 2004, and went home after. Upon finding out that they did not have any food available at home, he proceeded to his aunt's store. When he arrived at the store, several persons appeared and arrested him. The apprehending officers did not seize anything from him.¹⁸

In its May 16, 2014 Decision,¹⁹ the Regional Trial Court convicted Dariday of the crime charged.²⁰ It ruled that the prosecution established all the elements of the crime through its witnesses.²¹ It held that “[w]hat is essential is the preservation of the integrity and the evidentiary value of the seized items[.]”²² It found that PO1 Alpiz's identification of the drug presented in court as the same one Dariday sold to him was sufficient.²³ The dispositive portion of the Regional Trial Court Decision read:

WHEREFORE, premises considered, accused DJAWARIL DARIDAY Y MANUE [sic] is found GUILTY beyond reasonable doubt of the crime of violation of Section 5, Article II of Republic Act 9165 (for pushing), as [sic] charged and he is sentenced to suffer a jail term of LIFE IMPRISONMENT and to pay a fine of PHP500,000.00, Philippine Currency.

If the prosecution finds that the substances involved in this case will still be used by them in some other case/s, they must inform the court within five (5) days from receipt of this decision, otherwise, once this decision shall become final and executory, the turn-over and destruction of the substances involved in this case shall be carried out anytime.

SO ORDERED.²⁴

In its February 14, 2017 Decision,²⁵ the Court of Appeals affirmed Dariday's conviction. It ruled that “PO1 Tanudtanud's testimony is merely corroborative to the principal evidence of the prosecution,” which is PO1 Alpiz's narration.²⁶ It found that PO1 Alpiz's testimony sufficiently established that the sale took place.²⁷ SPO1 Tanudtanud's only role was to assist in the arrest. Thus, he did not have to properly identify what Dariday

¹⁶ CA rollo, p. 55.

¹⁷ Id. at 53–54.

¹⁸ Rollo, pp. 5–6.

¹⁹ CA rollo, pp. 50–59.

²⁰ Id. at 56–57.

²¹ Id. at 55.

²² Id. at 57.

²³ Id.

²⁴ Id. at 58.

²⁵ Rollo, pp. 3–11.

²⁶ Id. at 7.

²⁷ Id. at 8.

handed PO1 Alpiz. The totality of the evidence left no doubt on the integrity and evidentiary value of the seized drugs from Dariday.²⁸

The dispositive portion of the Court of Appeals' Decision read:

WHEREFORE, premises considered, the 16 May 2014 Decision rendered by the Regional Trial Court, Branch 9, Davao City in Criminal Case No. 55,765-04 is **AFFIRMED**.

SO ORDERED.²⁹ (Emphasis in the original)

On February 27, 2017, Dariday filed a Notice of Appeal,³⁰ which the Court of Appeals gave due course to in its March 10, 2017 Resolution.³¹

In its August 2, 2017 Resolution,³² this Court noted the case records forwarded by the Court of Appeals and required the parties to simultaneously file their respective supplemental briefs.

The Office of the Solicitor General,³³ on behalf of plaintiff-appellee People of the Philippines and accused-appellant,³⁴ manifested that they would no longer file supplemental briefs. This Court noted these in its December 13, 2017 Resolution.³⁵

Accused-appellant assails SPO1 Tanudtanud's testimony. He asserts that the police officer stood eight (8) meters away from where the transaction took place. SPO1 Tanudtanud testified on what he saw, but could not identify what Dariday allegedly handed to PO1 Alpiz due to the distance. Accused-appellant claims it could have been anything other than shabu.³⁶

Accused-appellant also points out that after poseur-buyer PO1 Alpiz seized the supposed shabu, it was brought to the Philippine Drug Enforcement Agency office, and was allegedly received by an unnamed desk officer. Furthermore, the crime laboratory personnel who signed on the specimen was not presented in court.³⁷

²⁸ Id. at 10-11.

²⁹ Id. at 11.

³⁰ Id. at 12-14.

³¹ Id. at 15.

³² Id. at 17.

³³ Id. at 24-26.

³⁴ Id. at 27-30.

³⁵ Id. at 32-33.

³⁶ CA *rollo*, p. 40.

³⁷ Id. at 43.

The alleged inventory was not immediately done upon arrest and seizure, and no photographs were taken to prove that an inventory was indeed conducted.³⁸ Invoking *People v. Pagaduan*,³⁹ accused-appellant stresses that in order to sanction noncompliance with Section 21(a) of the Implementing Rules and Regulations of Republic Act No. 9165, the prosecution must provide and prove justifiable grounds.⁴⁰

On the other hand, the Office of the Solicitor General maintains that the prosecution sufficiently proved the identity and integrity of the item seized from accused-appellant.⁴¹ It alleges that the duty officer's identity, PO1 Paraiso, and his testimony were stipulated upon.⁴² Furthermore, the trial court's assessment of the credibility of the witnesses must be accorded with great respect, if not finality by this Court.⁴³

For this Court's resolution is the lone issue of whether or not the guilt of accused-appellant Djawaril Dariday y Manuel was proven beyond reasonable doubt.

This Court grants the appeal and acquits accused-appellant of the charge.

I

*People v. Que*⁴⁴ instructs that conviction for illegal sale of drugs under Section 5 of the Comprehensive Dangerous Drugs Act rests upon the prosecution's proof beyond reasonable doubt that "the transaction or sale took place[,]"⁴⁵ and that the very *corpus delicti* was presented in court.⁴⁶

Contrary to the Solicitor General's position, the testimony that the sale occurred is insufficient to prove the seized item's integrity. Essential is the *corpus delicti*, the illegal drug confiscated from the accused.⁴⁷ This Court previously explained the significance of presenting it as evidence:

It is of paramount importance that the existence of the drug, the *corpus delicti* of the crime, be established beyond doubt. Its identity and

³⁸ CA rollo, p. 44.

³⁹ 641 Phil. 432 (2010) [Per J. Brion, Third Division].

⁴⁰ CA rollo, p. 46.

⁴¹ Id. at 73-74.

⁴² Id. at 75.

⁴³ Id. at 78.

⁴⁴ G.R. No. 212994, January 31, 2018, 853 SCRA 487 [Per J. Leonen, Third Division].

⁴⁵ *People v. Que*, G.R. No. 212994, January 31, 2018, 853 SCRA 487, 500-501 [Per J. Leonen, Third Division] citing *People v. Morales*, 630 Phil. 215, 228 (2010) [Per J. Del Castillo, Second Division]; *People v. Darisan*, 597 Phil. 479, 485 (2009) [Per J. Corona, First Division]; and *People v. Partoza*, 605 Phil. 883, 890 (2009) [Per J. Tinga, Second Division].

⁴⁶ Id.

⁴⁷ *People v. Sagana*, 815 Phil. 356, 367-368 (2017) [Per J. Leonen, Second Division] citing *People v. Ismael*, 806 Phil. 21 (2017) [Per J. Del Castillo, First Division].

integrity must be proven to have been safeguarded. Aside from *proving the elements of the charges*, the fact that the substance illegally possessed and sold [was] the same substance offered in court as exhibit must likewise be established with the same degree of certitude as that needed to sustain a guilty verdict. The chain of custody carries out this purpose as it ensures that *unnecessary doubts concerning the identity of the evidence are removed*.⁴⁸ (Emphasis supplied, citations omitted)

The nature of dangerous drugs, especially when only a miniscule amount is involved, calls for a more stringent standard when authenticated:⁴⁹

[T]he likelihood of tampering, loss or mistake with respect to an exhibit is greatest when the exhibit is small and is one that has physical characteristics fungible in nature and similar in form to substances familiar to people in their daily lives. . .

A unique characteristic of narcotic substances is that they are not readily identifiable as in fact they are subject to scientific analysis to determine their composition and nature. The Court cannot reluctantly close its eyes to the likelihood, or at least the possibility, that at any of the links in the chain of custody over the same there could have been tampering, alteration or substitution of substances from other cases – by accident or otherwise – in which similar evidence was seized or in which similar evidence was submitted for laboratory testing. Hence, in authenticating the same, *a standard more stringent than that applied to cases involving objects which are readily identifiable must be applied*, a more exacting standard that entails a chain of custody of the item with sufficient completeness if only to render it improbable that the original item has either been exchanged with another or been contaminated or tampered with.⁵⁰ (Emphasis supplied, citations omitted)

Accused-appellant was charged with selling 0.0182 gram of shabu. Thus, as *Mallillin v. People*⁵¹ espoused, it is imperative to employ the heightened scrutiny in assessing evidence.

II

The buy-bust operation was conducted on October 11, 2004, prior to the Comprehensive Dangerous Drugs Act's amendment.⁵² We partly quote Section 21 of the law which provides the requirements for the custody and disposition of the seized drugs and paraphernalia:

⁴⁸ Id. at 367–368 citing *Lopez v. People*, 725 Phil. 499, 507 (2014) [Per J. Perez, Second Division]; *People v. Lagahit*, 746 Phil. 896, 908 (2014) [Per J. Perez, First Division]; and *People v. Ismael*, 806 Phil. 21 (2017) [Per J. Del Castillo, First Division].

⁴⁹ *People v. Holgado*, 741 Phil. 78, 92–93 (2014) [Per J. Leonen, Third Division].

⁵⁰ Id.

⁵¹ 576 Phil. 576 (2008) [Per J. Tinga, Second Division].

⁵² Republic Act No. 9165 has been amended by Republic Act No. 10640.

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[.]* (Emphasis supplied)

According to *People v. Nandi*,⁵³ the prescribed procedure may be encapsulated into four (4) links, which establish the chain of custody of the confiscated item:

[F]irst, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.⁵⁴ (Emphasis in the original, citation omitted)

*People v. Holgado*⁵⁵ explained how observation of the law's requirements preserves the integrity of the seized items:

Compliance with the chain of custody requirement provided by Section 21, therefore, ensures the integrity of confiscated, seized, and/or surrendered drugs and/or drug paraphernalia in four (4) respects: first, the nature of the substances or items seized; second, the quantity (e.g., weight) of the substances or items seized; third, the relation of the substances or items seized to the incident allegedly causing their seizure; and fourth, the relation of the substances or items seized to the person/s alleged to have been in possession of or peddling them. *Compliance with this requirement forecloses opportunities for planting, contaminating, or tampering of evidence in any manner.*⁵⁶ (Emphasis supplied)

⁵³ G.R. No. 188905, July 13, 2010, 625 SCRA 123 [Per J. Mendoza, Second Division].

⁵⁴ *People v. Nandi*, G.R. No. 188905, July 13, 2010, 625 SCRA 133 [Per J. Mendoza, Second Division].

⁵⁵ 741 Phil. 78 (2014) [Per J. Leonen, Third Division].

⁵⁶ *Id.* at 93.

The Comprehensive Dangerous Drugs Act requires the apprehending officers to physically inventory and photograph the drugs *immediately* after seizure and confiscation. The language mandates the inventory and taking of photographs *at the place of arrest*.⁵⁷ It thwarts the possibility of “planting, contaminating, or tampering” the object evidence.

Here, the prosecution claimed that the arresting officers brought accused-appellant to their office for booking and documentation purposes.⁵⁸ No inventory was done in the place of arrest.

When inventory and taking of photographs are not plausible in the place of apprehension, the Implementing Rules and Regulations of the Comprehensive Dangerous Drugs Act offers practicable options under Section 21(a):

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. (Emphasis supplied)

There was no showing of whether bringing accused-appellant to the office was the practicable option.

However, what is fatal to the prosecution’s cause and is more alarming, was how the police officers deferred the conduct of inventory for approximately fifteen (15) hours after the supposed seizure of the drugs. This appreciable lapse of time from accused-appellant’s arrest to the physical inventory raises suspicion on the origin of the seized item. As *Que* explained:

Section 21 (1)'s requirements are designed to make the first and second links foolproof. Conducting the inventory and photographing immediately after seizure, exactly where the seizure was done, or at a location as practicably close to it, minimizes, if not eliminates, room for adulteration or the planting of evidence. The presence of the accused, or a representative, and of third-party witnesses, coupled with their attestations on the written inventory, ensures that the items delivered to the investigating officer are the items which have actually been inventoried.⁵⁹

⁵⁷ *People v. Luna*, G.R. No. 219164, March 21, 2018, 860 SCRA 1, 20 [Per J. Caguioa, Second Division], see *People v. Banding*, G.R. No. 233470, August 14, 2019, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65513>> [Per J. Leonen, Third Division].

⁵⁸ *Rollo*, p. 4-5.

⁵⁹ G.R. No. 212994, January 31, 2018, 853 SCRA 487, 519 [Per J. Leonen, Third Division].

The arresting officers glaringly deviated from Section 21's plain directive. Granted, the Implementing Rules and Regulations allows noncompliance when there are justifiable grounds:

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. (Emphasis supplied)

Que enumerated requisites to justify noncompliance:

In order that there may be conscionable non-compliance, two (2) requisites must be satisfied: first, the prosecution must specifically allege, identify, and prove "justifiable grounds"; second, it must establish that despite non-compliance, the integrity and evidentiary value of the seized drugs and/or drug paraphernalia were properly preserved. Satisfying the second requisite demands a showing of positive steps taken to ensure such preservation. Broad justifications and sweeping guarantees will not suffice.⁶⁰

Prosecution must "allege, identify, and prove" an excusable instance, and show that this did not affect the integrity and evidentiary value of the seized drugs and/or paraphernalia.

This Court scoured the records and found no attempt to justify the police officers' fatal deviation from the simple requirement of Section 21. No reason appears why the law enforcers utterly disregarded their mandate of immediately conducting inventory upon seizing the drugs.

Worst, no photographs of the confiscated drugs were taken. These procedural lapses, taken together, cast serious doubts on the identity and integrity of the allegedly illegal drug seized from accused-appellant. This amounts to failing to establish the *corpus delicti*, an essential element of illegal sale of dangerous drugs.⁶¹

The prosecution is charged with establishing with moral certainty that the accused is guilty beyond reasonable doubt of the crime charged. This proceeds from the constitutional right of an accused to "be presumed innocent until the contrary is proved."⁶²

⁶⁰ G.R. No. 212994, January 31, 2018, 853 SCRA 487, 523 [Per J. Leonen, Third Division].

⁶¹ *People v. Morales*, 630 Phil. 215, 229 (2010) [Per J. Del Castillo, Second Division].

⁶² CONST., art. III, sec. 14(2) provides:
SECTION 14.

.....

(2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence

As the prosecution failed to prove the *corpus delicti* beyond reasonable doubt, this Court is constrained to acquit accused-appellant.

WHEREFORE, the Court of Appeals' February 14, 2017 Decision in CA-G.R. CR-HC No. 01311-MIN is **REVERSED** and **SET ASIDE**. Accused-appellant Djawaril Dariday y Manuel is **ACQUITTED** for the prosecution's failure to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention unless confined for any other lawful cause.

Let a copy of this Resolution be furnished to the Director of the Bureau of Corrections for immediate implementation. The Director of the Bureau of Corrections is directed to report to this Court the action he has taken within five (5) days from receipt of this Resolution. Copies shall also be furnished to the Director General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

The Regional Trial Court 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 final judgment be issued immediately.

SO ORDERED."

Very truly yours,

Misael Domingo C. Battung III
MISAELO DOMINGO C. BATTUNG III
Deputy Division Clerk of Court
grw 2/12/20

Regional Special & Appealed Cases Unit
PUBLIC ATTORNEY'S OFFICE
2/F BJS Building
Tiano Brothers cor. San Agustin Sts.
9000 Cagayan de Oro City

COURT OF APPEALS
CA G.R. CR HC No. 01311-MIN
9000 Cagayan de Oro City

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
1229 Legaspi Village, Makati City

in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.

The Director
Bureau of Corrections
1770 Muntinlupa City

CSSupt. Melencio S. Faustino
Regional Superintendent
DAVAO PRISON & PENAL FARM
8105 B.E. Dujali, Davao del Norte

Mr. Djawaril Dariday y Manuel
c/o The Regional Superintendent
DAVAO PRISON & PENAL FARM
8105 B.E. Dujali, Davao del Norte

The Director General
PHILIPPINE NATIONAL POLICE
National Headquarters
Camp Crame, Quezon City

The Director General
PHILIPPINE DRUG ENFORCEMENT AGENCY
PDEA Bldg., NIA Northside Road
National Government Center
Brgy. Pinyahan, Quezon City

DANGEROUS DRUGS BOARD
3rd Floor DDB-PDEA Bldg.,
NIA Northside Road
National Government Center
Brgy. Pinyahan, Quezon City

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