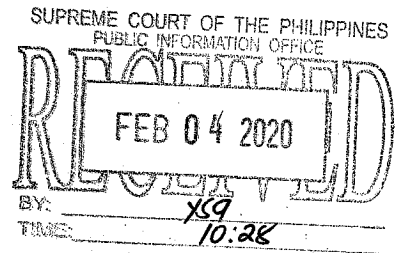




Republic of the Philippines
Supreme Court
Manila



FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **January 22, 2020** which reads as follows:*

“G.R. No. 243575 — PEOPLE OF THE PHILIPPINES, plaintiff-appellee, versus LEOPOLDO PICCIO y SUMAGAYSAY @ “POLDO,” accused-appellant.

After a careful review of the records of the instant case, the Court reverses and sets aside the assailed Decision¹ dated May 30, 2018 of the Court of Appeals, Cebu City in CA-G.R. CR-HC No. 02511, which affirmed the Decision² dated March 20, 2017 rendered by the Regional Trial Court of Bacolod City, Branch 47 in Criminal Case No. 14-38762, entitled *People of the Philippines v. Leopoldo Piccio y Sumagaysay @ “Poldo,”* finding accused-appellant Leopoldo Piccio y Sumagaysay (Piccio) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165, otherwise known as “The Comprehensive Dangerous Drugs Act of 2002.” The Court acquits Piccio for failure of the prosecution to prove his guilt beyond reasonable doubt.

In the conduct of buy-bust operations, Section 21 of RA 9165 provides that: (1) the seized items be inventoried and photographed immediately after seizure or confiscation; and (2) **the physical inventory and photographing must be done in the presence of (a) the accused or his/her representative or counsel, (b) an elected public official, (c) a representative from the media, and (d) a representative from the Department of Justice (DOJ), all of whom shall be required to sign the copies of the inventory and be given a copy thereof.**

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¹ *Rollo*, pp. 4-10. Penned by Associate Justice Edward B. Contreras, with Associate Justices Edgardo L. Delos Santos (now a Member of this Court) and Louis P. Acosta, concurring.

² *CA rollo*, pp. 44-54. Penned by Presiding Judge Therese Blanche A. Bolunia.

In the instant case, it is not denied that the marking and inventory of the seized items were conducted in the presence of two (2) barangay officials. It is admitted that **there was no representative from the media and from the DOJ**.³

The Court has held that the presence of the witnesses from the DOJ, media, and from public elective office is necessary to protect against the possibility of planting, contamination, or loss of the seized drug.⁴ Using the language of the Court in *People v. Mendoza*,⁵ without the *insulating presence* of the representative from the media or the DOJ and any elected public official during the seizure and marking of the drug, the evils of switching, “planting” or contamination of the evidence that had tainted buy-bust operations in the past would not be averted, negating the integrity and credibility of the seizure and confiscation of the subject drug that was evidence of the *corpus delicti*, and thus adversely affected the trustworthiness of the incrimination of the accused.⁶

Concededly, however, there are instances wherein departure from the aforesaid mandatory procedures is permissible. Section 21 of the Implementing Rules and Regulations of RA 9165 provides 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.”

For this provision to be effective, however, the prosecution must first (1) recognize any lapse on the part of the police officers and (2) be able to justify the same.⁷

Applying the foregoing in the instant case, it must be stressed that the prosecution failed to recognize the authorities’ failure to obtain the mandatory witnesses during the marking and inventory of the seized specimen. Moreover, the prosecution failed to make any justification for the non-observance of the law.

Breaches of the procedure outlined in Section 21 committed by the police officers, left unacknowledged and unexplained by the State, militate against a finding of guilt beyond reasonable doubt against the

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³ Id. at 71; emphasis supplied.

⁴ *People v. Tomawis*, G.R. No. 228890, April 18, 2018, 862 SCRA 131, 149; underscoring supplied.

⁵ 736 Phil. 749 (2014).

⁶ Id. at 761; italics supplied.

⁷ *People v. Alagarme*, 754 Phil. 449, 461 (2015).

accused as the integrity and evidentiary value of the *corpus delicti* would have been compromised.⁸



In light of the foregoing, the Court restores the liberty of Piccio.

WHEREFORE, in view of the foregoing, the appeal is hereby **GRANTED**. The Decision dated May 30, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 02511 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Leopoldo Piccio y Sumagaysay @ "Poldo" is **ACQUITTED** of the crime charged on the ground of reasonable doubt, and is **ORDERED IMMEDIATELY RELEASED** from detention unless he is being lawfully held for another cause. Let an entry of final judgment be issued immediately.

Let a copy of this Resolution be furnished the Director of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The said Director is **ORDERED** to **REPORT** to this Court within five (5) days from receipt of this Resolution the action he has taken.

SO ORDERED."

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court 
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6000 Cebu City
(CA-G.R. CR HC No. 02511)

Mr. Leopoldo S. Piccio (x)
Accused-Appellant
c/o The Director General
Bureau of Corrections
1770 Muntinlupa City

The Hon. Presiding Judge
Regional Trial Court, Branch 47
Bacolod City, 6100 Negros Occidental
(Crim. Case No. 14-38762)

The Director General (x)
Bureau of Corrections
1770 Muntinlupa City

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⁸ *People v. Sumili*, 753 Phil. 342, 352 (2015).