

OCA CIRCULAR NO. 210-2018, October 01, 2018

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TO :

ALL JUDGES AND CLERKS OF COURT OF THE SECOND LEVEL COURTS

SUBJECT:

DECISION DATED 4 SEPTEMBER 2018 IN G.R. NO. 231989 (PEOPLE OF THE PHILIPPINES v. ROMY LIM y MIRANDA) PROVIDING, AMONG OTHERS, FOR THE MANDATORY POLICY THAT SHALL GOVERN THE PRACTICE IN MAINTAINING THE CHAIN OF CUSTODY TO PRESERVE THE INTEGRITY AND EVIDENTIARY VALUE OF SEIZED/CONFISCATED ILLEGAL DRUGS AND OTHER DRUG-RELATED ITEMS

For the information, guidance and strict observance of all the second level courts, appended herein as Annex "A" is the Decision dated 4 September 2018 of the Honorable Court, En Banc, in G.R. No. 231989 (People of the Philippines v. Romy Lim y Miranda), penned by Associate Justice Diosdado M. Peralta.

Particular attention should be given to the pronouncement of the Court that "in order to weed out early on from the court's already congested docket any orchestrated or poorly built up drug-related cases, the following should henceforth be enforced as a mandatory policy:"

"1. In the sworn statements/affidavits, the apprehending/seizing officers must state their compliance with the requirements of Section 21 (1) of R.A. No. 9165, as amended, and its IRR.

"2. In case of non-observance of the provision, the apprehending/seizing officers must state the justification or explanation therefor as well as the steps they have taken in order to preserve the integrity and evidentiary value of the seized/confiscated items.

"3. If there is no justification or explanation expressly declared in the sworn statements or affidavits, the investigating fiscal (prosecutor) must not immediately file the case before the court. Instead, he or she must refer the case for further preliminary investigation in order to determine the (non) existence of probable cause.

"4. If the investigating fiscal (prosecutor) filed the case despite such absence, the court may exercise its discretion to either refuse to issue a commitment order (or warrant of arrest) or dismiss the case outright for lack of probable cause in accordance with Section 5, Rule 112, Rules of Court."

Incidentally, in the same Decision, the Court also declared that:

"It must be alleged and proved that the presence of the three witnesses to the physical inventory and photograph of the illegal drug seized (as required in Section 21[1] of R.A. No. 9165, as amended) was not obtained due to reason/s such as:

"(1) their attendance was impossible because the place of arrest was a remote area; (2) their safety during the inventory and photograph of the seized drugs was threatened by an immediate retaliatory action of the accused or any person/s acting for and in his/her behalf; (3) the elected official(s) themselves were involved in the

punishable acts sought to be apprehended; (4) earnest efforts to secure the presence of a DOJ or media representative and an elected public official within the period required under Article 125 of the Revised Penal Code prove futile through no fault of the arresting officers, who face the threat of being charged with arbitrary detention; or (5) time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape. [2]"

01 October 2018

(SGD.) RAUL BAUTISTA VILLANUEVA

Deputy Court Administrator

and

Officer-in-Charge

Office of the Court Administrator

[1] R.A. No. 10640 approved on 15 July 2014 (An Act to Further Strengthen the Anti-Drug Campaign of the Government, Amending for the Purpose Section 21 of Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002")

[2] People v. Vicente SipinyDe Castro, G.R. No. 224290, 11 June 2018; See also People v. Reyes, G.R. No. 219953, 23 April 2018, and People v. Mola, G.R. No. 226481, 18 April 2018

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