

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MOHAMMAD NASSER Y IKO AND MAUNARA MAAMOR Y SULTAN,
ACCUSED-APPELLANTS.**

Ponente: YBAÑEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/e7d013d8b3b1/>

YBAÑEZ, J.:

This is an appeal from the Decision dated 9 February 2010, of the Regional Trial Court, Branch 9, Manila, in Crim. Case No. 07-251467 for Violation of Section 5, Article II in relation to Section 26 of Republic Act No. 6165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, finding both accused guilty beyond reasonable doubt of the crime charged, disposing that:

WHEREFORE, this Court finds both accused MOHAMMAD NASSER Y IKO and MAUNARA MAAMOR Y SULTAN “GUILTY” beyond reasonable doubt of the crime charged; and considering that accused Mohammad Nasser y Iko is a minor, being sixteen (16) years of age at the time of the commission of the offense, is hereby ordered to suffer a suspended sentence of RECLUSION TEMPORAL and a fine of ONE HUNDRED THOUSAND PESOS (Php1000,000.00) Philippine Currency; and accused Maunara Maamor y Suntan is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay the fine of FIVE HUNDRED THOUSAND PESOS (Php500,000.00) Philippine Currency.

Both accused shall be credited with the full period of their preventive imprisonment as provided for and mandated in Article 29 of the Revised Penal Code of the Philippines.

The Jail Warden of Manila City Jail is directed to transfer the custody of accused Mohammad Nasser y Iko to the National Training School For Boys, Sampaloc, Tanay, Rizal.

Let a Mittimus Order be issued to the Bureau of Corrections, Muntinlupa City for accused Maunara Maamor y Sultan.

The two (2) small heat sealed transparent plastic sachet containing zero point one one nine (0.119) and zero point one four zero (0.140) grams of methamphetamine hydrochloride known as “SHABU”, are hereby ordered forfeited in favor of the government; and the Branch Clerk of Court is hereby directed to surrender the same to the Dangerous Drugs Board for proper disposition.

Let this Decision be recorded in the Criminal Case Docket of this Court.

SO ORDERED.[1]

As can be culled from the records, it appears that:

On 28 February 2007, PO3 Eduardo David was assigned at the District Mobile Force, Western Police District, UN Avenue, Manila. That night, SPO1 Cabacangan received an information from a confidential informant regarding the drug activities of the two (2) suspects.[2] SPO1 Cabacangan then relayed the information to the DAID Chief Superintendent Florencio T. Ortilla who afterwards, organized a buy bust operation. The Team Leader prepared a Pre-operation Report, boodle money and coordinated with PDEA the planned buy bust operation.[3] After the briefing, the team proceeded to Palanca Street, Sta. Cruz, Manila, which is the target area of the operation to meet the confidential agent.[4] The team waited for the suspects at around 8:00 o'clock in the evening. The suspect, Mohammad Nasser arrived with a male companion at around 8:30 o'clock in the evening. The confidential informant talked to Mohammad Nasser and thereafter the former introduced Nasser to PO3 David as buyer. The confidential agent informed Mohammad Nasser that PO3 David will buy One Hundred Pesos (P100.00) worth of shabu. Nasser then asked for the money and PO3 David showed him the money inside an envelope. PO3 David told Nasser that he will give him the money once he hands him in the shabu. Nasser then went to the other suspect Maunara Maamor. When Nasser returned, he handed to PO3 David the two (2) plastic suspected to contain shabu. At that point, PO3 David arrested Nasser with the assistance of SPO1 Cabacangan while SPO2 Benitez and Borinaga arrested Maamor.[5]

Upon the arrest of Nasser and Maamor, PO3 David confiscated from Nasser the boodle money and the shabu. He then informed them of their constitutional rights but the two (2) suspects remained silent. PO3 David put a mark DAID and DAID-1 on the two (2) confiscated plastic sachets.[6] The two (2) suspects Nasser and Maamor were brought and turned over to the DAID together with the marked specimens.[7] After the investigation, the two (2) plastic sachets were forwarded to the Crime Laboratory of the Manila Police District for laboratory examination.[8] Per Chemistry Report No. D-271-07 dated 1 March 2007, a qualitative examination conducted on the specimens marked "DAID AND "DAID-1" gave positive result for Methylamphetamine Hydrochloride, a dangerous drug.[9] In relation to the case, SPO2 Borinaga, SPO1 Cabacangan, PO3 David and PO2 Benitez executed a Joint Affidavit of Apprehension dated 1 March 2007.

On 9 March 2007, the two (2) suspects, Mohammad Nasser y Iko and Maunara Maamor y Sultan were charged in an Information for Violation of Section 5, Article II in relation to Section 26 of Republic Act No. 9165, alleging that:

That on or about February 28, 2007, in the City of Manila, Philippines, the said accused, conspiring and confederating together and mutually helping each other, not being been authorized by law to sell, trade, deliver or give away to another any dangerous drug, did then and there wilfully, (sic) unlawfully and knowingly sell two (2) heat sealed transparent plastic sachet containing zero point one one nine (0.119) and zero point one four zero (0.140) gram of white crystalline substance containing methamphetamine hydrochloride known as "SHABU", which is a dangerous drug.

Contrary to law.[10]

On 18 September 2007, both accused, assisted by counsel de oficio, pleaded not guilty to the charge.[11]

On 5 August 2008, pre-trial was held.[12] Thereafter, trial ensued.

In a Decision dated 9 February 2010,[13] the trial court found the two (2) accused guilty beyond reasonable doubt

of the crime charged and sentenced them to suffer the penalty aforesated.

Before Us, accused-appellants contend that:

I

THE TRIAL COURT GRAVELY ERRED IN PRONOUNCING THE GUILT OF THE ACCUSED-APPELLANTS DESPITE THE OBVIOUS NON-COMPLIANCE WITH THE REQUIREMENTS FOR THE PROPER CUSTODY OF SEIZED DANGEROUS DRUGS UNDER REPUBLIC ACT NO. 9165.

II

THE TRIAL COURT GRAVELY ERRED IN PRONOUNCING THE GUILT OF THE ACCUSED-APPELLANTS NOTWITHSTANDING THE FAILURE OF THE PROSECUTION TO PRESERVE THE INTEGRITY AND EVIDENTIARY VALUE OF THE ALLEGEDLY SEIZED DANGEROUS DRUGS.[14]

The appeal is not meritorious.

We shall pass upon the two (2) assigned errors jointly and simultaneously.

Accused-appellants contend that the chain of custody of the seized illegal drugs as set forth in Section 21 of R.A. No. 9165 particularly the physical inventory and photographing of the seized items were not followed, which is fatal fact to their conviction.

We are not persuaded.

Under Section 5, Article II of Republic Act No. 9165, the elements necessary for the prosecution of illegal sale of drugs are: (1) the identities of the buyer and the seller, the object, and consideration; and (2) the delivery of the thing sold and the payment therefor. What is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of corpus delicti.[15]

In the present case, the prosecution has established that: (1) the buy bust operation took place, and (2) the two (2) plastic sachets containing white crystalline substance confiscated from the two (2) accused gave positive result for methylamphetamine hydrochloride, a dangerous drug, (3) the prosecution witnesses identified the same accused-appellants as the persons who sold the two (2) plastic sachets containing white crystalline substance, and (4) the specimens subject of the sale was brought and identified in court. Prosecution witness PO3 David was also consistent in his testimony that the shabu was bought from the two (2) accused-appellants for which a pre-marked P100.00 bill was given as a consideration.[16] And the specimens confiscated during the buy bust operation yielded positive for shabu. Verily, the prosecution has established the guilt of the accused-appellants beyond reasonable doubt.

Likewise, contrary to the claim of the accused-appellants, the totality of the evidence presented by the prosecution leads to an unbroken chain of custody of the confiscated specimens from the accused-appellants. While there were

deviations from the required procedure, i.e., making physical inventory and taking photograph of the seized items, still, the integrity and the evidentiary value of the dangerous drug seized from the accused-appellants were duly proved by the prosecution to have been properly preserved; its identity, quantity and quality untarnished.

It must also be pointed out that the chain of custody is not solely established by compliance with the prescribed physical inventory and photographing of the seized drugs in the presence of the enumerated persons. The Implementing Rules and Regulations of Republic Act No. 9165 on the handling and disposition of seized dangerous drugs states that as long as the integrity and 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. What is essential is "the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused." [17]

To establish the chain of custody in a buy-bust operation is as follows: first, 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. [18]

A perusal of the present case would reveal that after the dangerous drugs were seized from the accused-appellants, the same were marked "DAID" and "DAID-1" by PO2 David. The latter in turn, turned over "DAID" and "DAID-1" to Police Superintendent Florencio Ortilla who delivered the same to the Crime Laboratory of the Manila Police District. Based on the Chemistry Report No. D-271-07 dated 1 March 2007, a qualitative examination conducted by Police Inspector-Forensic Chemical Officer Maritess F. Mariano on the specimens marked "DAID AND "DAID-1" gave positive result for Methylamphetamine Hydrochloride, a dangerous drug. [19] Both sachets were then presented and turned over by P/SInsp. Mariano to the court. The request for laboratory examination and the testimonies in court leaves no doubt that the chain of custody rule was duly followed.

When the prosecution presented the marked specimens in court, the witnesses positively identified it to be the same plastic sachets seized from the accused-appellants. Thus, the prosecution had indubitably established the crucial links in the chain of custody as the evidence clearly show that the integrity and evidentiary value of the confiscated substance have been preserved. This is the clear import of the chain of custody rule — to ensure the preservation of the integrity and the evidentiary value of the seized item as it would determine the guilt or innocence of the two (2) accused.

We are inclined however, to modify the penalty of reclusion temporal imposed upon accused-appellant Mohammad Nasser who is found to be a minor being only sixteen (16) years old at the time of the commission of the offense. In the recent case of *People vs. Musa, et al.* [20] the Supreme Court citing *People vs. Mantalaba*, [21] held that: (a) pursuant to Sec. 98 of RA 9165, the penalty for acts punishable by life imprisonment to death provided in the same law shall be reclusion perpetua to death when the offender is a minor; and (b) that the penalty should be graduated since the said provision adopted the technical nomenclature of penalties provided for in the Revised Penal Code.

Thus, the privileged mitigating circumstance of minority can now be appreciated in fixing the penalty that should be imposed. Necessarily, applying the Indeterminate Sentence Law (ISLAW), the minimum penalty should be taken from the penalty next lower in degree which is prision mayor and the maximum penalty shall be taken from the medium period of reclusion temporal, there being no other mitigating circumstance nor aggravating circumstance. The ISLAW is applicable in the present case because the penalty which has been originally an

indivisible penalty (reclusion perpetua to death), where ISLAW is inapplicable, became a divisible penalty (reclusion temporal) by virtue of the presence of the privileged mitigating circumstance of minority. Therefore, a penalty of six (6) years and one (1) day of prision mayor, as minimum, and fourteen (14) years, eight (8) months and one (1) day of reclusion temporal, as maximum, would be the proper imposable penalty upon accused-appellant Mohammad Nasser.

WHEREFORE, the Decision dated 9 February 2010, of the Regional Trial Court, Branch 9, Manila, in Crim. Case No. 07-251467 finding both accused-appellant guilty beyond reasonable doubt of the crime or Violation of Section 5, Article II in relation to Section 26 of Republic Act No. 6165, is hereby **AFFIRMED** with **MODIFICATION** that accused-appellant Mohammad Nasser y Iko is sentenced to suffer the indeterminate penalty of imprisonment of six (6) years and one (1) day of prision mayor, as minimum, and fourteen (14) years, eight (8) months and one (1) day of reclusion temporal, as maximum.

SO ORDERED.

Dimaampao, (Chairperson), and Sadang, JJ., concur.

[1] Records, pp. 9-10 of the Decision, pp. 84-93.

[2] TSN, 6 September 2008, p. 4.

[3] Records, Exhibits E and F, respectively; TSN, 6 September 2008, p. 5.

[4] TSN, 26 September 2008, pp. 7-8.

[5] TSN, 26 September 2008, pp. 8-11.

[6] TSN, 26 September 2008, pp. 10 and 14.

[7] Records, Exhibit C, p. 5, Records; TSN, 26 November 2008, p. 11.

[8] Records, Exhibit G, p. 49; TSN, 26 September 2008, p. 18.

[9] Records, Exhibit D, p. 48.

[10] Records, p. 1.

[11] Records, p. 33.

[12] Records, p. 47.

[13] Records, pp. 84-93.

[14] Rollo, p. 3 of the Brief for the Accused-Appellants, pp. 44-74.

[15] *People of the Philippines vs. Godofredo Mariano y Feliciano and Allan Doringo y Guna*, G.R. No. 191193, November 14, 2012.

[16] Records, Exhibit F, p. 9.

[17] *People of the Philippines vs. Mylene Torres y Cruz*, G.R. No. 191730, June 5, 2013.

[18] *People of the Philippines vs. Renato Lapasaran y Medinilla, a.k.a. "Mao,"* G.R. No. 198820, December 10, 2012.

[19] Records, Exhibit D, p. 48.

[20] People of the Philippines vs. Aisa Musa y Pinasilo, Ara Monongan y Papao, Faisah Abas y Mama and Mike Solalo y Mlok, G.R. No. 199735, October 24, 2012.

[21] G.R. No. 186227, July 20, 2011.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.