

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BOISAN CABUGATAN Y MACARAMBON, ACCUSED-APPELLANT.

G.R. No. 172019. February 12, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

For Review is the Decision[1] of the Court of Appeals dated 28 October 2005 in CA-G.R. CR-H.C. No. 00174 entitled, "People of the Philippines v. Boisan Cabugatan y Macarambon," affirming the Decision[2] rendered by the Regional Trial Court of Baguio City, Branch 61, in Criminal Cases No. 20441-R and No. 20442-R, finding appellant guilty of illegal sale and of illegal possession of methamphetamine hydrochloride more popularly known as "shabu."

On 9 August 2002, two Informations were filed against appellant before the Regional Trial Court of Baguio City for violations of Republic Act No. 9165 or the Comprehensive Dangerous Drugs Act of 2002.

The offense involved in Criminal Case No. 20441-R for violation of Section 5, Article II, of Republic Act No. 9165[3] was allegedly committed as follows:

That on or about the 8[th] day of August, 2002 in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused and without any authority of law, did then and there willfully, unlawfully and feloniously SELL, DISTRIBUTE and/or DELIVER a small transparent plastic heat sealed sachet containing white crystalline substance "Shabu" weighing 0.1 gram for ONE HUNDRED FIFTY PESOS (P150.00), Philippine Currency to PO3 Benedict Del-ong, a member of the Philippine National Police who acted as poseur-buyer, knowing fully well that said methamphetamine hydrochloride (SHABU), is a regulated [drug], in violation of the aforementioned provision of law.[4]

On the other hand, the Information relative to Criminal Case No. 20442-R for infringement of Section 11, Article II of the same law[5] reads:

That on or about 8[th] day of August, 2002 in the City of Baguio, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously have in his/her possession and control one transparent plastic containing four (4) small transparent plastic sachet containing white crystalline substance "Shabu" weighing approximately 0.2 gm., marked as "RUA" "JF"; 0.2 gm marked "RUA" "JF"; 0.1 gm. Marked "RUA" "JF" and 0.1 gm marked "RUA" "JF", respectively; a regulated drug, without the corresponding license or prescription, in violation of the aforecited provision of law.[6]

During his arraignment on 21 August 2002, appellant pleaded not guilty to both charges.[7]

On 17 September 2002, the pre-trial of the cases was held at which time appellant admitted the existence of the following documents:

- Certification of Preliminary test on the five sachets marked as Exh. A and B as to the findings of the positive result for methamphetamine hydrochloride.

- Chemistry Report No. D-070-2002
- Buy-bust money
- Request for Drug Test
- Booking Sheet and Arrest Report of the accused.[8]

During the trial of the cases, the prosecution presented the testimonies of PO2 Benedict Del-ong, PO2 Gilbert Bulalit, and PO3 Roy Aguirre who were all members of the Baguio City Police.

The prosecution's version of the facts shows that on 8 August 2002, a reliable civilian informant, accompanied by a barangay kagawad, went to the Station 7 of the Baguio City Police. The informant purportedly advised Police Chief Inspector Eduardo Z. Garcia that a person by the name of Boisan was engaged in the illegal sale of shabu at Villacor Billiard Hall located on Otek St., Baguio City.[9]

Police Chief Inspector Garcia immediately formed a team to conduct a buy-bust operation to apprehend Boisan with PO2 Del-ong as the designated poseur-buyer.[10] Police Chief Inspector Garcia gave PO2 Bulalit one piece of P100.00 bill and a P50.00 bill. PO2 Bulalit proceeded to have the bills photocopied and authenticated by the City Prosecutor's Office.[11]

Later in the afternoon, the team proceeded to Villacor Billiard Hall. PO3 Aguirre and PO2 Bulalit positioned themselves inside a public utility jeepney parked near the entrance of the billiard hall. The other member of the team, PO1 Eugene Raymundo, stood about four to five meters away.[12]

When they reached the designated place, they were met by a man wearing a black bull cap and a gray sweatshirt with collar. This person was identified during the trial to be appellant. After the civilian informant introduced PO2 Del-ong and appellant to each other, the latter asked PO2 Del-ong how much worth of shabu was he willing to purchase. PO2 Del-ong replied that he had only P150.00 with him. After he handed this sum to appellant, the latter drew from his right front pocket a small sachet which he gave to PO2 Del-ong. PO2 Del-ong then examined the content of the sealed plastic sachet. Certain that what appellant gave him was shabu, PO2 Del-ong scratched his head using his left hand to alert his fellow team members that the sale of shabu was already consummated. Thereupon, the rest of the buy-bust team rushed towards appellant and informed him that he was being arrested. They likewise advised him of his constitutional rights.[13]

PO3 Aguirre then frisked appellant and recovered from the latter four small transparent sachets containing crystalline substance.

Appellant was thereafter taken to the police station where the buy-bust team prepared the arrest report, booking sheet, and their joint affidavit. They also made a request for the initial testing of the evidence they confiscated from appellant. The task of conducting the preliminary test was performed by PO2 Joseph Filog who issued a certification dated 8 August 2002, the pertinent portion of which states:

The purpose of which is to determine the presence of regulated drug on the above specimen.

That by using the "SIMONS REAGENT" to the white crystalline substance from the five (5) plastic heat sachets, gave POSITIVE result of "DARK BLUE COLOR" which indicates the presence of Methamphetamine Hydrochloride, an active component of Shabu, a regulated drug.[14]

The sachets of white crystalline substance were also examined by the Regional Crime Laboratory Office of the Philippine National Police. This test yielded the following results:

FINDINGS:

Qualitative examination conducted on the above-stated specimens (Exhs. "A", B-1 thru B-4) gave POSITIVE result to the test for the presence of Methamphetamine hydrochloride (SHABU), a regulated drug. x x x

CONCLUSION:

Exhs. "A", B-1 thru B-4 contain Methamphetamine hydrochloride, a regulated drug. x x x.[15]

Appellant was likewise subjected to a drug test which allegedly showed that he was a shabu user.[16]

Expectedly, accused presented an entirely different version of what transpired during that afternoon and claimed that the buy-bust never took place.[17] According to appellant, he is a Maranaw who earns a living by peddling sunglasses in Baguio City. At the time the supposed buy-bust operation took place, he was playing billiard with two others at the Villacor Billiard Hall when three men in civilian clothes arrived.[18] Appellant identified two of the men who came inside the billiard hall to be PO2 Del-ong and PO3 Aguirre.[19]

The group of PO2 Del-ong allegedly frisked appellant's fellow players and was able to recover a single plastic sachet from one of them. PO2 Del-ong, who was then standing beside appellant, held the latter's hand, pointed a gun at his head, and warned him not to do anything or else he would be shot.[20] PO3 Aguirre then called for a mobile car and appellant, together with his two companions, was brought to the Station 7 of the Baguio City Police.[21] In the police station, appellant was handcuffed to the window rail. After a few hours, one of the arresting officers came to see him and asked appellant if he could settle his case by paying a sum of money to the police[22] or he could just identify others who are engaged in drug trade in Baguio City.[23] Appellant likewise claimed that he learned later on that the two others who were arrested with him were able to settle their cases and had been set free.[24]

As for the result of his drug test, appellant stated that he was a drug user while he was still residing in Mindanao and that he decided to move to Baguio City to evade the habit.[25]

The prosecution presented PO2 Del-ong as a rebuttal witness. He stated that while they were waiting for the mobile patrol car after the appellant's arrest, a minor boy and a companion approached appellant and asked if he still had drugs to sell.[26] The buy-bust team then decided to arrest the two would-be-buyers. As the drug test of the boy revealed that he was a drug user, he was referred to the Youth and Women Section of the Baguio City Police Office. They were, however, compelled to release his companion as his drug test established that he was not a drug user and because he claimed that he had just met the minor boy that afternoon.[27]

On 1 December 2003, the trial court rendered its decision sustaining the prosecution, thus:

WHEREFORE, judgment is rendered finding the accused GUILTY as charged on both counts and he is hereby sentenced as follows: a) in Criminal Case No. 20441-R, to Life Imprisonment and to pay a fine of P1,000,000.00, and b) in Criminal Case No. 20442-R, to a prison term of twelve (12) years and one (1) day to fifteen (15) years, to pay a fine of P300,000.00, and the costs.[28]

Appellant seasonably filed a Notice of Appeal elevating the case to this Court.[29]

As the trial court meted a penalty of life imprisonment, the case was transferred to the Court of Appeals for appropriate action and disposition pursuant to our ruling in *People v. Mateo*. [30]

On 28 October 2005, the Court of Appeals rendered the now assailed decision affirming in toto the decision of the trial court.[31] Appellant is again before us proclaiming his innocence.[32]

Appellant assigns the following errors:

I

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL FAITH AND CREDENCE TO THE TESTIMONIES OF THE PROSECUTION WITNESSES AND IN CONVICTING THE ACCUSED-APPELLANT FOR VIOLATION OF SECTIONS 5 AND 11, ARTICLE II OF REPUBLIC ACT NO. 9165.

II

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE OFFENSES CHARGED.[33]

Appellant claims that the prosecution failed to establish his guilt beyond reasonable doubt. He faults the trial court for giving "full faith and credence to the [testimonies] of the prosecution witnesses"[34] even when he had categorically denied the occurrence of any buy-bust operation. He also assails his arrest by the Baguio City Police as it was carried out without a valid warrant.[35] As his arrest was illegal, it follows that the search conducted by the police upon his person was similarly unlawful.[36]

Appellant's arguments fail to persuade.

It is a fundamental rule that findings of the trial courts which are factual in nature and which involve the credibility of witnesses are accorded respect when no glaring errors, gross misapprehension of facts and speculative, arbitrary and unsupported conclusions can be gathered from such findings. The reason for this, being, that the trial court is in a better position to decide the credibility of witnesses having heard their testimonies and observed their deportment and manner of testifying during the trial.[37] The rule finds an even more stringent application where said findings are sustained by the Court of Appeals as in this case.[38]

Considering, however, that at stake is no less than the liberty of appellant, we thoroughly examined the entire records of this case. Unfortunately for appellant, we failed to identify any error committed by the trial court both in its appreciation of the evidence presented before it and in the conclusion it reached.

In the prosecution of offenses involving this provision of the statute, it is necessary that the following elements be established: (1) the identity of the buyer and seller, object, and consideration; and (2) the delivery of the thing sold and the payment therefore.[39] 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.[40]

In this case, all the elements of the crime have been sufficiently established. The witnesses for the prosecution were able to prove that the buy-bust operation indeed took place and the shabu subject of the sale was brought and duly identified in court. The poseur-buyer (PO2 Del-ong) positively identified appellant as the one who sold to him a packet of white crystalline substance[41] which was later confirmed by two chemical examinations to be shabu.[42]

As recalled by the PO2 Del-ong, the designated poseur-buyer, the events that led to the apprehension of appellant are as follows:

Q

When the male Civilian Informant went to your office and gave those informations, what happened next?

A

Acting on said information and with supervision of our Chief of office, Police Chief Inspector Garcia formed

our team to conduct Narcotics buy-bust operation against the suspect, Sir.

Q

What was your role in that buy-bust operation?

A

Poseur-buyer to be introduced by the Civilian Informant to the suspect, Sir.

Q

Did you use buy-bust money?

A

Yes, Sir.

Q

How much?

A

In the amount of P150.00, Sir.

Q

Did you have any xerox copy of that money authenticated prior to the buy-bust operation?

A

Yes, actually when we will conduct the buy-bust operation, our Chief of office handed to PO2 Bulalit one (1) piece of one hundred peso bill and one (1) piece of fifty peso bill to be photocopied and have it authenticated to the City Prosecutor's Office, Sir.

PROS. VERGARA:

May we know from the defense if they admit this authenticated copy to be a true and faithful reproduction/copy of the original?

ATTY. MARAMAT:

We'll just have to see the original, your Honor.

x x x x

Q

Would you be able to identify the authenticated/xerox copy?

A

Yes, Sir.

Q

Considering that the (sic) you were the poseur-buyer and the P100.00 peso bill P50.00 bill were handed to you as buy-bust money, will you please tell the Honorable Court if this authenticated xerox copy represents the P100.00 peso bill and P50.00 peso bill that were used as buy-bust money?

A

Yes, Sir.

PROS. VERGARA:

May we pray that that document be marked as Exhibit "C," your Honor.

COURT:

Mark it, please.

PROS. VERGARA:

Q

After the P150.00 was authenticated by Officer Bulalit, what happened next?

A

At about 2:00 p.m. of the same date I together with the Civilian Informant proceeded at Otek Street, Baguio City particularly at Villacor Billiard Hall while the rest of the group followed us secretly, Sir.

Q

About what time was the authentication made?

A

Between 1:30 to 2:00, Sir.

Q

It was early afternoon of August 8, 2002 when your Civilian Informant came to your office?

A

Yes, Sir.

Q

And before 2:00 o'clock the authentication was made?

A

Yes, Sir.

Q

At about 2:00 you proceeded to conduct the buy-bust operation?

A

Yes, Sir.

x x x x

Q

You said that at about 2:00 p.m. of August 8, 2002 you proceeded to the Villacor Billiard Hall, where is that

establishment located?

A

Otek St., Baguio City, Sir.

Q

Who were with you in proceeding to that place?

A

The Civilian Informant, Sir.

Q

Who else?

A

The rest of the group followed us secretly, Sir.

Q

Were you able to reach the place?

A

Yes, Sir.

x x x x

Q

With that situation after you and the Civilian Informant arrived at the billiard hall, what happened next?

A

Upon arrival at the said place, a male person wearing a black bull cap and gray sweatshirt with collar approached us outside the said billiard hall, Sir.

PROS. VERGARA:

Q

What happened after that person approached you and the Civilian Informant outside of the Villacor billiard hall?

A

The Civilian Informant introduced me to the suspect as an interested buyer of shabu, Sir.

Q

After you were introduced, what happened next?

A

The alleged suspect asked me how much will I buy, Sir.

Q

What was your response?

A

I told him that I have only P150.00 and handed to him immediately, Sir.

Q

After you handed to him the P150.00, what happened next?

A

He got the P150.00 and put it inside of his left front pocket, Sir.

Q

After that what happened next?

A

And then he got something from his right front pocket a small sachet and handed it to me, Sir.

Q

After he handed that to you, what did you do?

A

I ascertained the content of it and I found out that the small plastic heat sealed sachet contains white crystalline substance, shabu, Sir.

Q

After you found out that the contents were suspected shabu, what happened next?

A

After the completion of the deal, I made the pre-arranged signal by scratching my head using my left hand, Sir.

Q

After you scratched your head, what happened next?

A

The back-up operatives rushed to our place and informed him of his constitutional rights and the violation, Sir.[43]

These pronouncements were corroborated on their material points by PO2 Bulalit and PO3 Aguirre whose respective testimonies were just as straightforward and candid as that of PO2 Del-ong's.

For his part, appellant could not offer any viable defense except to claim that he was a victim of frame-up and extortion by the police officers. However, like alibi, we view the defense of frame-up with disfavor as it can easily be concocted and is commonly used as a standard line of defense in most prosecutions arising from illegal sale of drugs.[44] For the claim of frame-up to prosper, the defense must present clear and convincing evidence to overcome the presumption that the arresting policemen performed their duties in a regular and proper manner.[45]

Appellant failed to substantiate his claim that he was an unfortunate prey to a supposed ploy concocted by the police. By all indications, he did not know anyone of the members of the buy-bust team which apprehended him. There was, therefore, no motive for them to frame him up. Absent any proof of motive to falsely accuse him of such a grave offense, the presumption of regularity in the performance of official duty and the findings of the trial court with respect to the credibility of witnesses shall prevail over appellant's bare allegation that he was framed-up.[46] In other words, the categorical and convincing testimonies of the policemen, backed up by physical evidence, overcome the unsubstantiated claim of ill-motive by appellant.

In this jurisdiction, the conduct of buy-bust operation is a common and accepted mode of apprehending those involved in illegal sale of prohibited or regulated drugs. It has been proven to be an effective way of unveiling the identities of drug dealers and of luring them out of obscurity. Thus, unless the defense could persuade us

otherwise, we are inclined to confer full credit and faith to the testimonies of the members of the buy-bust team as regards the conduct of their operation.

Appellant's claim that his warrantless arrest was invalid is similarly devoid of merit. The rule is settled that an arrest made after an entrapment does not require a warrant inasmuch as it is considered a valid warrantless arrest pursuant to Rule 113, Section 5(a) of the Rules of Court^[47] which states:

SEC. 5. Arrest without warrant; when lawful. - A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense.

As the legitimacy of the buy-bust operation is beyond question, the subsequent warrantless arrest as well as the warrantless search and seizure was permissible, thus:

This interdiction against warrantless searches and seizures, however, is not absolute and such warrantless searches and seizures have long been deemed permissible by jurisprudence in instances of (1) search of moving vehicles, (2) seizure in plain view, (3) customs searches, (4) waiver or consented searches, (5) stop and frisk situations (Terry search), and search incidental to a lawful arrest. The last includes a valid warrantless arrest, for, while as a rule, an arrest is considered legitimate [if] effected with a valid warrant of arrest, the Rules of Court recognize permissible warrantless arrest, to wit: (1) arrest in flagrante delicto, (2) arrest effected in hot pursuit, and (3) arrest of escaped prisoners.^[48] (Emphasis supplied.)

Having established the guilt of the appellant for the crimes charged, we shall now proceed to a determination of the appropriate penalties to be imposed upon him.

The unauthorized sale of shabu carries with it the penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00).^[49] On the other hand, the unauthorized possession of less than five grams of said substance is penalized with a prison term of twelve (12) years and one (1) day to twenty (20) years and a fine of Three hundred thousand pesos (P300,000.00) up to Four hundred thousand pesos (P400,000.00).^[50]

Section 98, Article XIII of Republic Act No. 9165 expressly provides for the limited application of the provisions of the Revised Penal Code on said law. This section reads:

SEC. 98. Limited Applicability of the Revised Penal Code. - Notwithstanding any law, rule or regulation to the contrary, the provisions of the Revised Penal Code (Act No. 3815), as amended, shall not apply to the provisions of this Act, except in the case of minor offenders. Where the offender is a minor, the penalty for acts punishable by life imprisonment to death provided herein shall be reclusion perpetua to death.

Under the aforesaid section, the provisions of the Revised Penal Code shall no longer apply to the provisions of Republic Act No. 9165 except when the offender is a minor. Thus, Article 63(2) of the Revised Penal Code shall not be used in the determination of the penalty to be imposed on the accused. Since Section 98 of the said law contains the word "shall," the non-applicability of the Revised Penal Code provisions is mandatory, subject only to the exception in case the offender is a minor.

With the advent of Republic Act No. 9165, the Courts, in determining the appropriate minimum and maximum of the penalty to be meted out to offenders, shall be guided solely by the pertinent part of the Indeterminate Sentence Law, to wit:

SECTION 1. xxx; and if the offense is punished by any other law, the court shall sentence the accused to an

indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same.

In the imposition of the proper penalty, the courts, taking into account the circumstances attendant in the commission of the offense, are given discretion to impose either life imprisonment or death, and the fine as provided for by law. In light, however, of the effectivity of Republic Act No. 9346 entitled, "An Act Prohibiting the Imposition of Death Penalty in the Philippines," the imposition of the supreme penalty of death shall only be life imprisonment and fine. Hence, the penalty of life imprisonment imposed on appellant in Criminal Case No. 20441-R is proper. We, however, find the fine of P1,000,000.00 to be excessive and hereby reduce the same to P500,000.00 considering that the records do not reveal any prior arrest or conviction of appellant for a drug-related offense.

We likewise affirm the conviction and penalty of imprisonment of twelve (12) years and one (1) day to fifteen (15) years and the fine of P300,000.00 meted out by the trial court with respect to Criminal Case No. 20442-R.

WHEREFORE, premises considered, the Decision dated 28 October 2005 of the Court of Appeals in CA-G.R. CR-H.C. No. 00174, affirming, in toto, the Decision of the Regional Trial Court of Baguio City, Branch 61 is hereby AFFIRMED with MODIFICATION in that the fine imposed on appellant in Criminal Case No. 20441-R is reduced to P500,000.00. No costs.

SO ORDERED.

Ynares-Santiago, Austria-Martinez, and Callejo, Sr., JJ., concur.
Nachura, J., on leave.

[1] Penned by Associate Justice Eliezer R. de los Santos (now deceased) with Associate Justices Eugenio S. Labitoria and Jose C. Reyes, Jr., concurring. Rollo, pp. 3-11.

[2] Penned by Judge Antonio C. Reyes. Records, Vol. II, pp. 179-187.

[3] SEC. 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

[4] Records, Vol. I, p. 1.

[5] Sec. 11. Possession of Dangerous Drugs. - x x x.

x x x x

(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroine, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu," or other dangerous drugs such as, but not limited to, MDMA or "ecstasy," PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams or marijuana.

- [6] Records, Vol. II, p. 1.
- [7] Id. at 18.
- [8] Id. at 22.
- [9] TSN, 15 January 2003, p. 3.
- [10] Id. at 4.
- [11] Id. at 5.
- [12] Id. at 7.
- [13] Id. at 8-9.
- [14] Exhibit "E" for the prosecution; records, Vol. II, p. 27.
- [15] Exhibits "G" and "G-2" for the prosecution; id. at 29.
- [16] TSN, 15 January 2003, p. 14.
- [17] TSN, 29 July 2003, p. 10.
- [18] Id. at 3.
- [19] Id. at 6.
- [20] Id. at 5.
- [21] Id. at 6-7.
- [22] Id. at 8.
- [23] Id. at 7.
- [24] Id. at 8.
- [25] Id. at 9.
- [26] TSN, 10 September 2003, p. 8.
- [27] Id.
- [28] Records, Vol. II, p. 187.
- [29] Id. at 190.
- [30] G.R. Nos. 147678-87, 7 July 2004, 433 SCRA 640.
- [31] Rollo, pp. 108-116.
- [32] Id. at 134.
- [33] Id. at 54.
- [34] Id. at 60.
- [35] Id. at 120.
- [36] Id. at 121.

- [37] *People v. Julian-Fernandez*, 423 Phil. 895, 910 (2001).
- [38] *Teodosio v. Court of Appeals*, G.R. No. 124346, 8 June 2004, 431 SCRA 194, 203.
- [39] *People v. Lee Hoi Ming*, 459 Phil. 187, 193 (2003).
- [40] *People v. Padasin*, 445 Phil. 448, 461 (2003).
- [41] TSN, 15 January 2003, p. 10.
- [42] Exhibits "E" and "G" for the prosecution; records, Vol. II, pp. 27, 29.
- [43] TSN, 15 January 2003, pp. 4-9.
- [44] *Supra* note 39 at 195.
- [45] *Supra* note 38 at 204.
- [46] *People v. Bongalon*, 425 Phil. 96, 116 (2002).
- [47] *Supra* note 38 at 207.
- [48] *Supra* note 37 at 912-913.
- [49] Section 5, Article II of Republic Act No. 9165.
- [50] Section 11 (3), *id.*

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