

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROLDAN MORALES Y MIDARASA, APPELLANT.*G.R. No. 172873. March 19, 2010*

Ponente: DEL CASTILLO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-172873/>**DEL CASTILLO, J.:**

The requirement of proof beyond a reasonable doubt has this vital role in our criminal procedure for cogent reasons. The accused during a criminal prosecution has at stake interest of immense importance, both because of the possibility that he may lose his liberty upon conviction and because of the certainty that he would be stigmatized by the conviction. Accordingly, a society that values the good name and freedom of every individual should not condemn a man for commission of a crime when there is reasonable doubt about his guilt.[1] Due process commands that no man shall lose his liberty unless the Government has borne the burden of convincing the factfinder of his guilt. To this end, the reasonable-doubt standard is indispensable, for it `impresses on the trier of fact the necessity of reaching certitude of the facts in issue.[2]

Moreover, use of the reasonable-doubt standard is indispensable to command the respect and confidence of the community in applications of criminal law. It is critical that the moral force of criminal law not be diluted by a standard of proof that leaves people in doubt whether innocent men are being condemned. It is also important in our free society that every individual going about his ordinary affairs has confidence that his government cannot adjudge him guilty of a criminal offense without convincing a proper factfinder of his guilt with utmost certainty.[3]

Lest there remain any doubt about the constitutional stature of the reasonable-doubt standard, we explicitly hold that the Due Process Clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged.[4]

On appeal is the Decision[5] of the Court of Appeals (CA) promulgated on April 24, 2006 affirming in toto the Decision[6] of the Regional Trial Court (RTC) of Quezon City, Branch 103 finding appellant Roldan Morales y Midarasa guilty of the crimes of possession and sale of dangerous drugs.

Factual Antecedents

Appellant was charged in two separate Informations before the RTC with possession and sale of methylamphetamine hydrochloride (shabu), to wit:

Criminal Case No. Q-03-114256

That on or about the 2nd day of January, 2003 in Quezon City, Philippines, the said accused not being authorized by law to possess or use any dangerous drug, did then and there, willfully, unlawfully and knowingly have in her/his/their possession and control, zero point zero three (0.03) grams of methylamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.[7]

Criminal Case No. Q-03-114257

That on or about the 2nd day of January, 2003, in Quezon City, Philippines, the said accused, not being authorized by law to sell, dispense, deliver, transport or distribute any dangerous drug, did, then and there, willfully and unlawfully sell, dispense, deliver, transport, distribute or act as broker in the said transaction, zero point zero three (0.03) gram of methylamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.[8]

Upon arraignment, appellant, assisted by counsel, pleaded not guilty to both charges read in Filipino, a language known and understood by him.[9] On motion of the City Prosecutor, the cases were consolidated for joint trial.[10] Trial on the merits ensued thereafter.

The testimonies of PO1 Eduardo Roy (PO1 Roy) and PO3 Armando Rivera (PO3 Rivera) were presented by the prosecution:

PO1 Roy testified that on January 2, 2003, at about 2:00 p.m., he was on duty at Police Station 9 where he made a pre-operation report on the buy-bust operation to be conducted on the herein appellant that same afternoon.[11] He then proceeded to Brgy. San Vicente, Quezon City with PO3 Rivera for the operation.[12] At a point near Jollibee, they met the informant who, upon seeing the subject appellant, went with him to meet PO1 Roy.[13] After being introduced to the appellant as a buyer of "piso" worth of "shabu", appellant immediately produced a sachet containing the alleged drug. When appellant received the marked money amounting to P100.00,[14] PO1 Roy raised his left hand, at which point his back-up officer, PO3 Rivera appeared and immediately arrested the appellant.[15] The appellant was immediately brought to the Police Station for investigation, while the two sachets of "shabu" and aluminum foil discovered on the said appellant were brought to the Crime Laboratory for examination.[16]

PO3 Rivera testified that he was the back-up officer of PO1 Roy, the poseur-buyer in the buy-bust operation conducted against the appellant in the afternoon of January 2, 2003.[17] In preparation for the said operation, he conducted a short briefing and recorded the particulars of the operation they were about to carry out: the place of the operation which is at the parking lot of Jollibee Philcoa; the identification of the suspect as the appellant; and the preparation of the buy-bust money to be used.[18] With respect to the buy-bust money, he prepared one P50.00 bill, two P20.00 bills and one P10.00 bill, by making the appropriate marking on the top portion of each bill and recording their respective serial numbers.[19] Later that afternoon, police officers proceeded to the meeting place. PO3 Rivera positioned himself in a parked vehicle[20] about 20 meters from the situs of the transaction.[21] He thus had a clear view of the appellant with the informant and PO1 Roy.[22] Shortly thereafter, he saw PO1 Roy make the pre-arranged signal at which point he approached the appellant to arrest him.[23] He recovered the marked money from the appellant and proceeded to frisk the latter.[24] Upon conducting the body search, he found another sachet which he suspected to be "shabu" and two aluminum foils. Appellant was brought to the Police Station for detention, while the items seized from him were brought to the Crime Laboratory for examination.[25] The two sachets tested positive for Methylamphetamine Hydrochloride (shabu) while the aluminum foil sheets tested negative of the aforementioned substance.[26]

Both PO1 Roy and PO3 Rivera identified a Joint Affidavit dated January 3, 2003 during their respective testimonies, which they acknowledged to have executed subsequent to the buy-bust operation.[27]

The defense presented the testimonies of Joaquin Artemio Marfori, Arsenia Morales and the appellant:

Appellant denied the charges against him.[28] He testified that he is a resident of Dolores, Quezon where he worked in a fertilizer store.[29] He was in Manila at that time to bring money for his parents who live at Cruz na

Ligas.[30] As his mother did not give him enough money for his fare back to Quezon, he sidelined as a parking attendant at Philcoa in order to earn the balance of his bus fare.[31] However, sometime that afternoon, two male persons in civilian clothes suddenly approached him and his co-attendant, identified themselves as policemen and poked their guns at them.[32] The said policemen handcuffed them and proceeded to frisk them.[33] He averred that nothing was found on him and yet the policemen still brought him to the police station.[34] He denied the allegation made against him that he sold, much less possessed, the "shabu" subject of this action.[35] He further testified that in the tricycle on the way to the police station, PO1 Roy took out a plastic of "shabu" from his (PO1 Roy's) pocket and once at the station, the said policeman showed it to the desk officer and claimed that the plastic sachet was found on the appellant.[36]

He likewise denied having received the buy-bust money and claimed that the P50.00 bill and the two P20.00 bills, totaling P90.00, were given to him by his mother for his bus fare to Quezon.[37] He disclaimed any knowledge of the P10.00 bill.[38] He further testified that he personally knew PO3 Rivera prior to the arrest, since his first cousin and PO3 Rivera had a quarrel which he had no involvement whatsoever.[39] He noted the fact that it was PO3 Rivera who arrested him.[40]

Witness Joaquin Artemio Marfori testified that he is the employer of the appellant in his agricultural and poultry supply store in Babayan, Calamba, Laguna.[41] He further stated that he allowed the appellant to go on vacation on December 12, 2003 to celebrate the New Year with his family in Manila.[42] However, the appellant failed to report back for work at the start of the New Year.[43]

Finally, witness Arsenia Morales (Arsenia) corroborated the testimony of her son that she gave him P90.00, consisting of one P50.00 bill and two P20.00 bills as bus fare back to Laguna where he worked.[44] Thinking that her son was already on his way home, she was surprised to receive a call from her daughter informing her that her son, the appellant, was arrested for possession and sale of "shabu".[45]

Ruling of the Regional Trial Court

On April 29, 2004, the trial court rendered a Decision finding the appellant guilty beyond reasonable doubt of illegal possession and illegal sale of dangerous drugs. The dispositive portion of the said Decision reads:

WHEREFORE, in view of the foregoing disquisition, judgment is hereby rendered finding the accused ROLDAN MORALES y Midarasa, GUILTY beyond reasonable doubt in Criminal Case No. Q-03-114257 for violation of Section 5, Article II, R.A. [No.] 9165 for drug pushing [of] zero point zero three (0.03) gram of white crystalline substance containing Methylamphetamine hydrochloride and is hereby sentenced to suffer Life Imprisonment and to pay a fine of Five Hundred Thousand (P500,000.00) pesos.

The Court likewise finds the accused ROLDAN MORALES y Midarasa GUILTY beyond reasonable doubt in Criminal Case No. Q-03-114256 for violation of Section 11, Article II, R.A. [No.] 9165 for drug possession x x x of zero point zero three (0.03) gram of white crystalline substance containing Methylamphetamine hydrochloride and is hereby sentenced to suffer an imprisonment term of Twelve (12) Years and One (1) Month to Thirteen (13) Years and to pay a fine of Three Hundred Fifty Thousand (P350,000.00) Pesos.

The sachets of shabu subject of these cases are ordered transmitted to the PDEA thru Dangerous Drugs Board for proper disposition after this decision becomes final.

SO ORDERED.[46]

The trial court held that the prosecution witnesses positively identified the appellant as the person who possessed and sold to the poseur-buyer the "shabu" subject of this case, during the buy-bust operation conducted in the afternoon of January 2, 2003.[47] The trial court found that from the evidence presented, the prosecution was able

to sufficiently establish the following: (1) the fact of the buy-bust operation conducted in the afternoon of January 2, 2003 at the parking lot of Jollibee Philcoa which led to the arrest of the appellant; and (2) the corpus delicti, through the presentation in court of the two sachets of white substance which was confirmed by the Chemistry Report to be methylamphetamine hydrochloride ("shabu"), found in the possession of and sold by the appellant.[48]

Ruling of the Court of Appeals

The CA affirmed the Decision of the trial court in toto. It found that contrary to the allegations of the appellant, there was no instigation that took place.[49] Rather, a buy-bust operation was employed by the police officers to apprehend the appellant while in the act of unlawfully selling drugs.[50] The appellate court further held that what is material in a prosecution for illegal sale of prohibited drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of the corpus delicti.[51] Stripped of non-essentials, the CA summarized the antecedent facts of the case as follows:

PO1 Eduardo Roy prepared a pre-arranged report on the buy-bust operation to be conducted against appellant at Barangay San Vicente, Quezon City upon an informant's tip that appellant was selling "shabu" in the said area. On the other hand, PO3 Armando Ragundiaz Rivera recorded the briefing, summary, identification of appellant and the buy-bust money to be used in the operation consisting of one (1) fifty peso bill, two (2) twenty peso bill[s] and one (1) ten peso bill. PO1 Roy who acted as the poseur-buyer and PO3 Rivera as his back-up proceeded to University Avenue corner Commonwealth Avenue, Barangay San Vicente, Quezon City together with the informant.

PO1 Roy and the informant met appellant at the parking lot of Jollibee restaurant while PO3 Rivera positioned himself at the side of a parked car where he can easily have a clear view of the three. After PO1 Roy was introduced by the informant to the appellant as a buyer of "shabu", the latter immediately produced a sachet containing the said prohibited drugs and handed the same to him. PO1 Roy raised his left hand as the pre-arranged signal that the transaction was consummated. Thereafter, PO3 Rivera went to the area, introduced himself as a police officer and frisked appellant from whom he recovered the marked money and a matchbox, where the suspected "shabu" was placed, and two (2) aluminum foils. They informed appellant of his constitutional rights and brought him to the police station while the two (2) small transparent heat sealed sachets containing the suspected prohibited drugs and paraphernalia were turned over to the crime laboratory for examination, and which [was] later, found to be positive for methylamphetamine hydrochloride (commonly known as "shabu").[52]

Thence, the CA rendered judgment to wit:

WHEREFORE, premises considered, the assailed decision of the Regional Trial Court of Quezon City, Branch 103 dated April 29, 2004 is hereby AFFIRMED IN TOTO.

SO ORDERED.[53]

Appellant elevated the case to this Court via Notice of Appeal.[54] In our Resolution dated July 12, 2006, we resolved to accept the case and required the parties to submit their respective supplemental briefs simultaneously, if they so desire, within 30 days from notice.[55] Both parties adopted their respective appellant's and appellee's briefs, instead of filing supplemental briefs.[56]

Our Ruling

Appellant claims that he should not be convicted of the offenses charged since his guilt has not been proven by the prosecution beyond reasonable doubt.[57] In support of his contention, appellant alleges that the arresting officers did not even place the proper markings on the alleged shabu and paraphernalia at the time and place of the

alleged buy-bust operation.[58] Appellant hence posits that this created serious doubt as to the items and actual quantity of shabu recovered, if at all.[59]

The Office of the Solicitor General, on the other hand, insists that the direct testimony of the two arresting officers sufficiently established the elements of illegal sale and possession of shabu.[60]

At the outset, we draw attention to the unique nature of an appeal in a criminal case: the appeal throws the whole case open for review and it is the duty of the appellate court to correct, cite and appreciate errors in the appealed judgment whether they are assigned or unassigned.[61] On the basis of such review, we find the present appeal meritorious.

Prevailing jurisprudence uniformly hold that the trial court's findings of fact, especially when affirmed by the CA, are, as a general rule, entitled to great weight and will not be disturbed on appeal.[62] However, this rule admits of exceptions and does not apply where facts of weight and substance with direct and material bearing on the final outcome of the case have been overlooked, misapprehended or misapplied.[63] After due consideration of the records of this case, evidence presented and relevant law and jurisprudence, we hold that this case falls under the exception.

In actions involving the illegal sale of dangerous drugs, the following elements must first be established: (1) proof that the transaction or sale took place and (2) the presentation in court of the corpus delicti or the illicit drug as evidence.[64]

On the other hand, in prosecutions for illegal possession of a dangerous drug, it must be shown that (1) the accused was in possession of an item or an object identified to be a prohibited or regulated drug, (2) such possession is not authorized by law, and (3) the accused was freely and consciously aware of being in possession of the drug.[65] Similarly, in this case, the evidence of the corpus delicti must be established beyond reasonable doubt.[66]

With respect to corpus delicti, Section 21 of Republic Act (RA) No. 9165 provides:

Section 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 or 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 persons/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; x x x (Emphasis supplied)

In *People v. Partoza*,^[67] we held that the identity of the corpus delicti was not proven beyond reasonable doubt. In the said case, the apprehending policeman did not mark the seized drugs after he arrested the appellant in the latter's presence. Neither did he make an inventory and take a photograph of the confiscated items in the presence of the appellant. There was no representative from the media and the Department of Justice, or any elected public official who participated in the operation and who were supposed to sign an inventory of seized items and be given copies thereof. Hence, we held in the afore-cited case that there was no compliance with the statutory safeguards. In addition, while the apprehending policeman admitted to have in his possession the shabu from the time the appellant was apprehended at the crime scene to the police station, records are bereft of proof on how the seized items were handled from the time they left the hands of the said police officer.

We declared in *People v. Orteza*,^[68] that the failure to comply with Paragraph 1, Section 21, Article II of RA 9165 implied a concomitant failure on the part of the prosecution to establish the identity of the corpus delicti:

In *People v. Laxa*, where the buy-bust team failed to mark the confiscated marijuana immediately after the apprehension of the accused, the Court held that the deviation from the standard procedure in anti-narcotics operations produced doubts as to the origins of the marijuana. Consequently, the Court concluded that the prosecution failed to establish the identity of the corpus delicti.

The Court made a similar ruling in *People v. Kimura*, where the Narcom operatives failed to place markings on the seized marijuana at the time the accused was arrested and to observe the procedure and take custody of the drug.

More recently, in *Zarraga v. People*, the Court held that the material inconsistencies with regard to when and where the markings on the shabu were made and the lack of inventory on the seized drugs created reasonable doubt as to the identity of the corpus delicti. The Court thus acquitted the accused due to the prosecution's failure to indubitably show the identity of the shabu.

Likewise, in *People v. Obmiranis*,^[69] we acquitted the appellant due to flaws in the conduct of the post-seizure custody of the dangerous drug allegedly recovered from the appellant, together with the failure of the key persons who handled the same to testify on the whereabouts of the exhibit before it was offered in evidence in court.

In the instant case, it is indisputable that the procedures for the custody and disposition of confiscated dangerous drugs, as mandated in Section 21 of RA 9165, were not observed. The records utterly failed to show that the buy-bust team complied with these procedures despite their mandatory nature as indicated by the use of "shall" in the directives of the law. The procedural lapse is plainly evident from the testimonies of the two police officers presented by the prosecution, namely: PO1 Roy and PO3 Rivera.

PO1 Roy, in his testimony, failed to concretely identify the items seized from the appellant. Moreover, he confirmed that they did not make a list of the items seized. The patent lack of adherence to the procedural mandate of RA 9165 is manifest in his testimony, to wit:

Fiscal Jurado

x x x You mentioned that you gave the pre-arranged signal, what is that?

Witness

A-

Raising my left hand.

Q-

And what happened next?

A-

My back up PO3 Rivera came.

Q-

What [did] your back up do when you raised your hand?

A-

He arrested Morales.

Q-

What were you doing when he arrested Morales?

A-

I put the informant away from the scene.

Q-

And what happened next after that?

A-

We brought him to the police station.

Q-

How about the shabu, what did you do with it?

A-

We brought it to the crime lab.

Q-

How did you send it to crime lab?

A-

Shabu and paraphernalia recovered by my companion from the suspect.

Q-

How many items were sent to the crime lab?

A-

2 shabu and paraphernalia.

Q-

What are the paraphernalia?

A-

Foil, sir.

Q-

How many foil?

A-

I cannot recall.

Q-

What happened to the accused in the police station?

A-

He was investigated.

Q-

Do you know the accused?

A-

Yes, sir

Q-

What is his name?

A-

Roldan Morales.

x x x x

Fiscal Jurado

Q-

If the said sachet and paraphernalia will be shown to you, how would you be able to identify the said items?

Witness

A-

I could not recall "pare-pareho yung shabu"

Atty. Mosing

I will object because that would be leading on the part of the prosecution because he could not identify on what shabu.

Court

That question is overruled.

Fiscal Jurado

I am showing to you an item, would you be able to identify?

Court

Fiscal showing several shabu.

WITNESS

A-

This one.

Fiscal Jurado

Q-

There is another plastic sachet?

Witness

A-

Recovered.

Q-

How about these two?

A-

I was not the one who confiscated that.

Q-

What happened to the said item submitted to the crime lab?

A-

Positive, sir.

x x x x

Fiscal Jurado

x x x x

Q-

How about the specimen forwarded to the crime lab?

Witness

A-

My companion brought that.

Q-

What was your participation in the case?

A-

Poseur buyer.

x x x x

Atty. Mosing

x x x x

Q-

After the arrest you brought the suspect and the items to the station?

A-

Yes, sir.

Q-

Did you not make a list of items you have confiscated in this case?

A-

No, we turned it over to the investigator.

Q-

You have presented the buy bust money a while ago, was that buy bust money suppose to be turned over to the investigator?

A-

No, inquest. Upon request, I was the one who received it.[70] (Emphasis supplied)

The testimony of the other arresting officer, PO3 Rivera further confirms the failure of the buy-bust team to observe the procedure mandated under Section 21 of RA 9165:

Court

Q-

Where did you position yourself?

Witness

A-

Parked vehicle.

Fiscal Jurado

Q-

What did you notice?

Witness

A-

The confidential informant introduced our poseur buyer to the suspect and after a few conversation I waited and I saw the pre-arranged signal. And when he raised his left hand that is the signal that the transaction is consummated.

Q-

After he made that signal, what did you do?

A-

I rushed to the area and arrest[ed] the suspect.

Q-

Who was the person you took x x x custody [of]?

A-

Roldan Morales

Q-

And what did you do with him?

A-

Because he ha[d] a marked money I got hold of it and arrest[ed] him.

Q-

And what did you do with him?

A-

I frisked him.

Q-

And what was the result of your frisking?

A-

A box of match which I was able to recover [containing] another suspected shabu.

Q-

Where did you find that on his body?

A-

Front [pocket of] pants.

Q-

How about the match?

A-

The same.

Q-

What else did you find?

A-

Aluminum foil.

Q-

And after you recovered that evidence, what did you do with the accused?

A-

We informed him of his constitutional rights and brought him to the station.

Q-

How about the items you recovered?

A-

Delivered it to the crime lab for examination.

Q-

What else did you deliver [to] the crime lab?

A-

Request, sir.[71] (Emphasis supplied)

Other than PO1 Roy and PO3 Rivera, the prosecution did not present any other witnesses. Hence, the investigator, referred to by PO1 Roy in his testimony as the one who took delivery of the seized items, was not identified nor was he presented in court. More importantly, the testifying police officers did not state that they marked the seized drugs immediately after they arrested the appellant and in the latter's presence. Neither did they make an inventory and take a photograph of the confiscated items in the presence of the appellant. There was likewise no mention of any representative from the media and the Department of Justice, or any elected public official who participated in the operation and who were supposed to sign an inventory of seized items and be given copies thereof. None of these statutory safeguards were observed.

Even PO1 Roy, the poseur-buyer, was not certain as to the identity of the confiscated shabu, to wit:

Fiscal Jurado:

Q-

If the said sachet and paraphernalia will be shown to you, how would you be able to identify the said items?

Witness

A-

I could not recall "pare-pareho yung shabu".[72]

The procedural lapses in the handling and identification of the seized items

collectively raise doubts as to whether the items presented in court were the exact same items that were confiscated from appellant when he was apprehended.

While this Court recognizes that non-compliance by the buy-bust team with Section 21 of RA 9165 is not fatal as long as there is a justifiable ground therefor, for and as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending team,[73] these conditions were not met in the case at bar. No explanation was offered by the testifying police officers for their failure to observe the rule. In this respect, we cannot fault the apprehending policemen either, as PO1 Roy admitted that he was not a PDEA operative[74] and the other witness, PO3 Rivera, testified that he was not aware of the procedure involved in the conduct of anti-drug operations by the PNP.[75] In fine, there is serious doubt whether the drug presented in court was the same drug recovered from the appellant. Consequently, the prosecution failed to prove beyond reasonable doubt the identity of the corpus delicti.

Furthermore, the evidence presented by the prosecution failed to reveal the identity of the person who had custody and safekeeping of the drugs after its examination and pending presentation in court. Thus, the prosecution likewise failed to establish the chain of custody which is fatal to its cause.

In fine, the identity of the corpus delicti in this case was not proven beyond reasonable doubt. There was likewise a break in the chain of custody which proves fatal to the prosecution's case. Thus, since the prosecution has failed to establish the element of corpus delicti with the prescribed degree of proof required for successful prosecution of both possession and sale of prohibited drugs, we resolve to ACQUIT Roldan Morales y Midarasa.

WHEREFORE, in view of the foregoing, the Decision of the Court of Appeals dated April 24, 2006 in CA-G.R.

CR-H.C. No. 00037 affirming the judgment of conviction of the Regional Trial Court of Quezon City, Branch 103 dated April 29, 2004 is hereby REVERSED and SET ASIDE. Appellant Roldan Morales y Midarasa is ACQUITTED based on reasonable doubt, and is ordered to be immediately RELEASED from detention, unless he is confined for any other lawful cause.

The Director of the Bureau of Corrections is DIRECTED to IMPLEMENT this Decision and to report to this Court the action taken hereon within five days from receipt.

SO ORDERED.

Carpio, (Chairperson), Brion, Abad, and Perez, JJ., concur.

[1] In the Matter of Samuel Winship, 397 U.S. 358, 90 S.Ct. 1068 (1970).

[2] Id.

[3] Id.

[4] Id.

[5] Rollo, pp. 3-11; penned by Associate Justice Sesonando E. Villon and concurred in by Associate Justices Edgardo P. Cruz and Rosanlinda Asuncion-Vicente.

[6] Records, pp. 63-66; penned by Presiding Judge Jaime N. Salazar, Jr.

[7] Id at 2-3.

[8] Id at 4-5.

[9] Id. at 15.

[10] Id. at 16.

[11] TSN, March 20, 2003, pp. 3-4.

[12] Id. at 4.

[13] Id.

[14] Id. at 5.

[15] Id. at 5-6.

[16] Id at 6.

[17] Id at 12-13.

[18] Id.

[19] Id.

[20] Id at 13.

[21] Id at 16.

[22] Id at 13.

- [23] Id at 13-14.
- [24] Id at 14.
- [25] Id.
- [26] Id at 14-15.
- [27] Id. at 8 and 15, respectively.
- [28] TSN, June 19, 2003, pp. 3-5.
- [29] Id. at 3 and 8.
- [30] Id. at 9.
- [31] Id. at 3 and 8.
- [32] Id.
- [33] Id.
- [34] Id. at 4.
- [35] Id.
- [36] Id. at 4-5.
- [37] Id. at 5.
- [38] Id.
- [39] Id. at 6-7.
- [40] Id.
- [41] TSN, August 5, 2003, pp. 3-4.
- [42] Id. at 4.
- [43] Id. at 5.
- [44] TSN, November 6, 2003, pp. 3-4.
- [45] Id.
- [46] Records, p. 66.
- [47] Id. at 65.
- [48] Id.
- [49] CA rollo, pp. 92-93.
- [50] Id. at 93.
- [51] Id. at 95.
- [52] Id. at 88-89.
- [53] Id. at 95.

[54] Id. at 101.

[55] Rollo, p. 12.

[56] Id. at 22-23; 25-26.

[57] CA rollo, pp. 40, 45.

[58] Id. at 48.

[59] Id. at 49.

[60] Id. at 63, 76-78.

[61] People v. Kamad, G.R. No. 174198, January 19, 2010, citing People v. Balagat, G.R. No. 177163, April 24, 2009.

[62] People v. Milan, 370 Phil. 493, 499 (1999).

[63] People v. Robles, G.R. No. 177220, April 24, 2009.

[64] People v. Darisan, G.R. No. 176151, January 30, 2009, 577 SCRA 486, 490.

[65] Id.

[66] People v. Partoza, G.R. No. 182418, May 8, 2009.

[67] Id.

[68] G.R. No. 173051, July 31, 2007, 528 SCRA 750, 758-759.

[69] G.R. No. 181492, December 16, 2008, 574 SCRA 140, 158.

[70] TSN, March 20, 2003, pp. 5-11.

[71] Id. at 13-14.

[72] Id. at 7.

[73] Section 21(a) of the Implementing Rules and Regulations of RA 9165 provides:

SECTION 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 and/or surrendered, for proper disposition in the following manner:

(a) The apprehending officer/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: 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; 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; x x x (Emphasis supplied)

[74] TSN, March 20 2003 pp. 8-9.

[75] Id. at 16.

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