

MICHAEL SAN JUAN Y CRUZ, PETITIONER, vs. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 177191. May 30, 2011

Ponente: NACHURA, J.

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NACHURA, J.:

Before this Court is a Petition[1] for Review on Certiorari under Rule 45 of the Rules of Civil Procedure, seeking the reversal of the Court of Appeals (CA) Decision[2] dated December 21, 2006, which affirmed the decision[3] of the Regional Trial Court (RTC) of Pasay City, dated July 8, 2004, finding petitioner Michael San Juan y Cruz (petitioner), together with Rolando Pineda y Robledo (Pineda), Cynthia Coderes y Habla (Coderes), guilty beyond reasonable doubt for violation of Section 5,[4] Article II of Republic Act (R.A.) No. 9165.[5]

The Facts

Petitioner, together with Pineda and Coderes (accused), was charged with the crime of Transporting Illegal Drugs in an Information[6] dated December 16, 2003, which reads:

That on or about the 15th day of December 2003, in Pasay City, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping one another, without authority of law, did then and there wilfully, unlawfully and feloniously transport a total of 978.7 grams of Methamphetamine Hydrochloride (shabu) a dangerous drug[s].

Contrary to law.

When arraigned on February 17, 2004, the three accused entered separate pleas of not guilty to the offense charged.[7] During the pre-trial stage, the three accused did not enter into any stipulation or admission of facts with the prosecution.[8] Thereafter, trial on the merits ensued. In the course of the trial, two varying versions arose.

Version of the Prosecution

On December 15, 2003, at about 10:00 a.m., elements of the Intelligence Unit of the Pasay City Police, namely: Police Inspector Grant Golod (P/Insp. Golod), Police Officer (PO)3 Zoilo Manalo (PO3 Manalo), and PO2 Roberto Jovenir (PO2 Jovenir), together with Senior Police Officer (SPO)2 Soriño Aure (SPO2 Aure), PO2 Froilan Dayawon (PO2 Dayawon), PO2 Carlito Bintulan, and PO1 Angel dela Cruz, who were all in civilian attire, conducted surveillance, monitoring, and intelligence gathering to arrest violators of the law along Senator Gil Puyat (formerly Buendia) Avenue in Pasay City due to numerous reports of rampant snatching, robbery, and holdup in the area. P/Insp. Golod and PO3 Manalo boarded a vehicle driven by PO2 Jovenir, while SPO2 Aure and the rest of the officers occupied another.[9]

While cruising along Senator Gil Puyat Avenue, the police officers noticed a blue Toyota Corolla 4-door sedan car (car), which had no license plate at its rear, parked in front of a liquor store. Thus, P/Insp. Golod called the other group using his cellphone, and informed them that they should check the said car.[10]

SPO2 Aure and PO2 Dayawon approached the driver side of the car, whereas PO3 Manalo and PO2 Jovenir approached the passenger side[11] thereof. SPO2 Aure knocked on the car's window. When the driver, later identified as petitioner, opened the car's windows, SPO2 Aure asked for the Official Receipt (OR) and the Certificate of Registration (CR) of the car but none was produced. SPO2 Aure was about to accost petitioner, when a commotion ensued at the passenger side of the car because PO2 Jovenir noticed that the passenger, later identified as Pineda, was trying to hide a plastic bag under his seat, the contents of which accidentally came out (lumawit). PO2 Jovenir opened the door, held Pineda's right hand and asked him, "Ano yan?" The contents were discovered to be plastic containers containing white crystalline substance which the police officers suspected to be shabu[12] so much so that PO2 Jovenir uttered, "Pare, may dala to, shabu, positive." [13] At this juncture, Pineda said, "Sir, baka pwede nating ayusin ito." [14]

SPO2 Aure instructed petitioner to alight. When he was frisked, SPO2 Aure recovered two small plastic sachets containing white crystalline substance. SPO2 Aure turned over these sachets to PO2 Jovenir. At the back seat of the car was another passenger who was later identified as Coderes. Upon questioning, Coderes replied that the owner of the shabu was a certain Mike who was waiting for the accused at her condominium unit at Unit 1225, 12th Floor of the Cityland Condominium on Dela Rosa Street, Makati City (Cityland Condominium). [15]

Immediately thereafter, the police officers, with them the car, the accused, and the illegal drugs, went to Cityland Condominium for a follow-up operation. Upon arrival, P/Insp. Golod coordinated with the Security Officer of the said condominium, while SPO2 Aure, PO3 Manalo, and PO2 Jovenir were led by Coderes to Unit 1225. SPO2 Aure, PO3 Manalo, PO2 Jovenir allowed Coderes to walk ahead of them. Upon reaching Unit 1225, Coderes pretended to knock on the door but the police officers did not notice that she had a key with her. Coderes immediately opened the door, went inside the unit and locked herself in. The police officers forcibly opened the door by kicking it and rearrested Coderes. They then searched the unit for "Mike," but they discovered that Coderes was the only one inside. From Cityland Condominium, the police officers brought all the accused to the Pasay City Police Headquarters for investigation. [16]

Subsequently, upon examination, the two plastic containers and the two plastic sachets containing white crystalline substance were positively identified as shabu, [17] but the supposed testimony of Engineer Richard Allan B. Mangalip, Forensic Chemical Officer before the RTC, was the subject of stipulation by the parties. [18]

Version of the Defense

Pineda and Coderes denied that they were arrested while on board the car and that they possessed the illegal drugs. They claimed that, on December 15, 2003, between 9:00 and 10:00 a.m., they were inside Unit 1225 and were preparing to go out shopping; that somebody knocked on the door; and Pineda asked who that person was, but there was no reply; that the door was forcibly opened and armed men gained entry and ordered them to lie down on the bed face down; that she said men searched the unit and took their personal belongings and money; that they later recognized the said armed men as Pasay City police officers; that they presented no warrant of arrest and/or search warrant; that they were brought to separate rooms in Sinta Court Motel (Sinta Motel) at the corner of F.B. Harrison and EDSA Extension in Pasay City; that the police officers demanded money from them in the amount of P500,000.00 in exchange for their release; and that they were brought to the Criminal Investigation Division (CID) of the Pasay City Police Headquarters at around 7:00 or 8:00 p.m. [19] On that day, Coderes only saw petitioner at the CID. [20]

On June 2, 2004, petitioner testified that: he knew Pineda because he is the godfather of one of Pineda's children; that he also knew Coderes because she is the live-in partner of Pineda; that around 10:00 a.m. on December 15, 2003, he was at the lobby of the Cityland Condominium and was waiting for an elevator ride in order to see

Pineda and Coderes for the purpose of offering them the car; that upon riding the elevator, three (3) male persons joined him who were all in civilian attire and whom he later came to know to be Pasay City police officers, namely: PO2 Jovenir and P/Insp. Golod and another one whom he failed to identify; that one of them pressed the number four (4) button of the elevator; and that at the time, petitioner was calling Pineda through his cellular phone, but, there was no signal.[21]

Petitioner asseverated that P/Insp. Golod suddenly held petitioner's hand which was holding the cellular phone, and PO2 Jovenir punched him on the stomach and was told to peacefully go with them so that he would not be hurt; that they did not introduce themselves to him; that the elevator opened on the fourth floor, and the person who pressed the number four (4) button went out and the elevator went down; that when the elevator reached the ground floor, P/Insp. Golod pulled him towards the lobby, while PO2 Jovenir remained by the door of the elevator; that there was another man who held him and he was pulled out of the Cityland Condominium; that he was brought to a parked white car, handcuffed at his back, and made to board at the backseat of the said white car with his face down, and thereafter the car left; that he was not able to know what kind of white car it was because he was ordered to bow down and not to look out, and they were always holding his head; that he was with P/Insp. Golod and the other policemen inside the white car; that he was also brought to Sinta Motel; that he was brought inside a room, and frisked, and the police officers took from him his watch, his wallet and the money inside his wallet, the car key, and the parking ticket; that he was asked if he knew Pineda and Coderes to which he affirmed; that when he was asked who was the owner of the car key, he said that the car did not belong to him as it was just being offered for sale; that in going to the Cityland Condominium, he used the car; that when he was brought out of the Cityland Condominium, the car was left at the parking area of the Cityland Condominium; that, as a car sales agent, he made sure that the OR, CR, and plate number of the car were complete; that the car had a rear plate number; that P/Insp. Golod demanded that petitioner pay P200,000.00 in exchange for his release; that he stayed at the Sinta Motel for five (5) hours before he was brought to the CID; that he stayed at the CID for two (2) hours and he was made to sit on a chair; that after two (2) hours he was brought inside a room of the same building where he stayed until the following day; that on the following day, the accused were brought to Fort Bonifacio for drug testing; and that they were brought back to the CID and, in the afternoon, petitioner was brought to the Pasay City Jail. While inside the CID, petitioner saw the car parked at the back of the Pasay City Hall.[22]

The RTC's Ruling

The RTC gave greater weight to the evidence presented by the prosecution, and found the testimonies of the arresting officers more credible and worthy of belief. Thus, in its decision dated July 8, 2004, the RTC convicted petitioner, Pineda, and Coderes of the crime charged, the dispositive portion of which reads:

WHEREFORE, in the light of the foregoing premises and considerations, this Court hereby renders judgment finding the three accused Rolando Pineda y Robledo, Cynthia Coderes y Habla and Michael San Juan y Cruz all GUILTY beyond reasonable doubt of the crime of Violation of Section 5, Article II of R.A. No. 9165 and they are hereby sentenced to suffer the penalty of Life Imprisonment and to pay a fine of Php 500,000.00 each, plus costs. The 978.7 grams of Methylamphetamine Hydrochloride (shabu) involved in this case is hereby declared forfeited in favor of the Government and ordered to be turned-over to the Philippine Drug Enforcement Agency for its appropriate disposition in accordance with the provisions of the Comprehensive Dangerous Drugs Law.

SO ORDERED.

Aggrieved, the accused, through their respective counsels, appealed their case.[23]

The CA's Ruling

On December 21, 2006, the CA affirmed the ruling of the RTC. The CA opined that the inconsistencies pointed out by the defense were unimportant matters which do not delve into the material elements of the crime. The CA also relied on the presumption that the aforementioned police officers regularly performed their official functions. Thus, the CA disposed of the case in this wise:

WHEREFORE, premises considered, the Decision dated July 8, 2004 of the Regional Trial Court, Branch 116 of Pasay City convicting accused-appellants Rolando R. Pineda, Cynthia H. Coderes and Michael C. San Juan of violation of Section 5, Rule II of Republic Act No. 9165 or the Dangerous Drugs Act of 2002 in Criminal Case No. 03-2804CFM is hereby AFFIRMED.

SO ORDERED.

Undaunted, petitioner alone filed a Motion for Reconsideration[24] which the CA, however, denied in its Resolution[25] dated March 21, 2007.

Hence, this Petition based on the following grounds:

- THE HONORABLE APPELLATE COURT COMMITTED REVERSIBLE ERROR IN ADMITTING AND CONSIDERING THE PROSECUTION'S EVIDENCE DESPITE THE GLARING VIOLATIONS OF PETITIONER'S CONSTITUTIONAL RIGHTS AND R.A. 9165 MAKING SUCH EVIDENCE INADMISSIBLE.

- THE HONORABLE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN AFFIRMING THE DECISION OF CONVICTION OF THE TRIAL COURT DESPITE THE ADMITTED CONFLICTING AND INCONSISTENT TESTIMONIES OF ALL THE PROSECUTION WITNESSES WHICH CLEARLY PUTS THE CONVICTION IN DOUBT.

- THE HONORABLE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN AFFIRMING THE DECISION OF THE TRIAL COURT DESPITE THE LATTER'S CLEAR VIOLATION OF ESTABLISHED PROCEDURAL RULES AND CONSTITUTIONAL RIGHTS ON DUE PROCESS BY NOT ALLOWING PETITIONER TO PRESENT A MATERIAL WITNESS.[26]

Petitioner avers that the police officers initially apprehended the accused for a mere traffic violation; hence, there was no justifiable reason for them to search the car in the absence of any search warrant and/or the fact that the accused were not caught in flagrante delicto. The police officers also failed to apprise the accused of their rights. Petitioner points out that the follow-up operation conducted in Unit 1225 was unlawful as the police officers were not armed with any search warrant, and they simply relied on the alleged information given by Coderes. In view of the numerous, conflicting, and material inconsistencies in the respective testimonies of PO2 Jovenir, SPO2 Aure and P/Insp. Golod, petitioner submits that such would lend credence to the unanimous claim of all the accused that they were arrested in Cityland Condominium in Makati City and not on board the car parked in Pasay City. Moreover, petitioner, invoking R.A. No. 9165, asseverates that the police officers did not follow the procedure prescribed by law. He questions the identity of the illegal drugs alleged to have been seized from the accused from those presented before the RTC because instead of proceeding immediately to the Pasay City Police Headquarters, the police officers went to the Cityland Condominium, making planting of evidence highly probable.[27] The police officers also failed to make any inventory in clear violation of the law.[28]

On the other hand, respondent People of the Philippines, through the Office of the Solicitor General (OSG), argues that only questions of law may be entertained by this Court. The issue of whether petitioner was apprehended in the act of violating R.A. No. 9165 is factual in nature. The OSG claims that petitioner was lawfully caught in flagrante delicto, thus, any evidence seized from him may be used against him as evidence. Citing the CA's ruling, the OSG avers that the police officers were clear, positive, and categorical in their

testimonies against the accused. Lastly, the OSG invokes the rule that findings of fact of the trial court, when affirmed by the CA, are accorded not only respect, but also finality by this Court.[29]

Our Ruling

The instant Petition is impressed with merit.

It is the unique nature of an appeal in a criminal case that 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.[30] We find the Petition meritorious on the basis of such review.

Well-settled is the rule that findings of fact of the trial court are given great respect. But when there is a misappreciation of facts as to compel a contrary conclusion, the Court will not hesitate to reverse the factual findings of the trial court. In such a case, the scales of justice must tilt in favor of an accused, considering that he stands to lose his liberty by virtue of his conviction. The Court must be satisfied that the factual findings and conclusions of the trial court leading to an accused's conviction must satisfy the standard of proof beyond reasonable doubt.[31]

Section 21 of R.A. No. 9165 charts the procedure on the custody and disposition of confiscated, seized, and/or surrendered dangerous drugs, given the severity of the penalties imposed for violations of said law, viz.: 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, 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 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.[32]

On the other hand, the Implementing Rules and Regulations (IRR) of R.A. 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 of 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: (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.[33]

The Court finds that the apprehending police officers failed to comply with the guidelines set forth in R.A. No.

9165 and its IRR which are designed to clearly identify the existence of the corpus delicti – the seized illegal drugs – the integrity of which the prosecution must show to have been preserved, considering that the same is not readily identifiable by sight or touch and can easily be tampered with or substituted.[34]

On Direct Examination, PO2 Jovenir testified:

FISCAL PUTI:

Q - And did you make any inventory?

A - Right after I confiscated the said item from the passenger, I put my initial on the paper bag and its content.

Q - My question is, did you make any inventory?

A - Yes sir.

Q - Do you have a copy of that inventory?

A - None sir.[35]

Likewise, on Cross-Examination, PO2 Jovenir stated:

ATTY. CARAG, JR.:

x x x x

Q - Now, Mr. Witness, you made an inventory with these items that you confiscated from the three (3) accused, am I right?

A - Yes, sir.

Q - Who were with you when [you] made an inventory of these items you confiscated from the accused?

PROSECUTOR PUTI:

May I know from the defense where the inventory was made, at the police office, at the scene or where?

THE COURT:

Witness may answer.

THE WITNESS:

A - SPO2 Aure, PO2 Dayawon, PO3 Manalo and I, sir.

THE COURT:

Q - Was the inventory in writing?

A - It was not in writing, Your Honor.[36]

The answers elicited from PO2 Jovenir raise numerous questions and ultimately cast doubts on the identity, integrity, and evidentiary value of the seized illegal drugs. Obviously, the drugs were not photographed. It is also not clear if PO2 Jovenir immediately marked and inventoried these items in the presence of the accused or their representatives or counsel, a representative from the media and the DOJ, and any elected public official. Surely, the persons required by law to sign the copies of the inventory and be given a copy thereof were not given any inventory for the obvious reason that no written inventory was prepared.

While it is true that non-compliance with the inventory, not to mention the photograph requirement of R.A. No. 9165, does not necessarily render void and invalid the seizure of the dangerous drugs, there must, however, be justifiable grounds to warrant an exception therefrom, provided that the integrity and evidentiary value of the seized items are properly preserved by the apprehending officer/s.[37] No justifiable ground, however, was advanced by the police officers.

In this case, even if the requirement to conduct an inventory were to be excused, the prosecution still failed to discharge its burden. Although PO2 Jovenir identified Exhibits “A-1” “A-2” “A-3” and “A-4” as the drugs seized from accused, he did not disclose the name of the investigator to whom he turned them over, other than saying that he turned them over to the Station Anti-Illegal Drugs Special Operations Task Force (SAID/SOFT).[38] And there is no showing if that same investigator was the one who turned the drugs over to the forensic chemist, or if the forensic chemist whose name appears in the physical science report was the one who received them from that investigator, or where the drugs were kept for safekeeping after the chemical test was conducted up to the time they were presented in court. The prosecution failed to provide the details of these essential matters. Thus, this Court in *People of the Philippines v. Elmer Peralta y de Guzman alias “Memeng,”*[39] for the guidance of our public prosecutors, recommended questions that would aid the court in determining the innocence or guilt of the accused.

Most importantly, this Court cannot close its eyes to the fact that instead of bringing the accused immediately to the Pasay City Police Headquarters, as required by law, the police officers opted to go to the Cityland Condominium in Makati City, bringing with them the car, all of the accused, and the illegal drugs seized. Even

the prosecution considered such act of the police officers as dangerous.[40] In *People of the Philippines v. Ronaldo de Guzman y Danzil*,^[41] we held that the length of time that lapsed from the seizure of the items from the accused until the delivery thereof to the investigating officer for marking is too long to be inconsequential. This considered such length of time an important factor in acquitting the accused therein. In this case, a similar vacuum in the chain of custody of the seized items was likewise created which this Court cannot simply brush aside.

In sum, there is a serious doubt whether the illegal drugs presented before the RTC were the same drugs recovered from petitioner and accused. Consequently, the prosecution failed to prove beyond reasonable doubt the identity of the corpus delicti.

Finally, the evidence presented by the prosecution failed to reveal the identity of the person who had custody and safekeeping of the drugs after their examination and pending presentation in court. Thus, the prosecution likewise failed to establish the chain of custody required by law, the absence of 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 an unexplained break in the chain of custody, fatal to the prosecution's case.^[42]

WHEREFORE, the Court REVERSES and SETS ASIDE the Decision dated December 21, 2006 of the Court of Appeals in CA-G.R. CR No. 00180, and ACQUITS petitioner Michael San Juan y Cruz for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately RELEASED from detention unless he is confined for another lawful cause.

Let a copy of this Decision be furnished the Director, Bureau of Corrections, Muntinlupa City, for immediate implementation. The Director of the Bureau of Corrections is DIRECTED to report the action he has taken to this Court within five days from receipt of this Decision.

SO ORDERED.

Carpio, Peralta, Abad and Mendoza, JJ., concur.

[1]Rollo, pp. 29-48.

[2]Penned by Associate Justice Rodrigo V. Cosico, with Associate Justices Edgardo F. Sundiam and Celia C. Librea-Leagogo, concurring; id. at 51-68.

[3]Id. at 74-90.

[4]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.

[5]AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES. Also known as the "Comprehensive Dangerous Drugs Act of 2002." Approved on June 7, 2002.

[6]Records, p. 2.

[7]Id. at 39.

[8]Id. at 44.

[9]TSN, March 3, 2004, pp. 7-11.

[10]Id.

[11]TSN, March 11, 2004, pp. 9-14.

[12]TSN, March 3, 2004, pp. 16-17.

[13]TSN, March 11, 2004, p. 37.

[14]TSN, March 3, 2004, p. 17.

[15]TSN, March 11, 2004, pp. 15-21.

[16]Id. at 21-30.

[17]Records, p. 12.

[18]TSN, March 11, 2004, pp. 59-65.

[19]TSN, April 14, 2004, pp. 11-43. Please also see TSN, May 6, 2004, pp. 3-22.

[20]TSN, May 6, 2004, p. 19.

[21]TSN, June 22, 2004, pp. 7-11.

[22]Id. at 11-63.

[23]Records, pp. 237-238, 241-242.

[24]CA rollo, pp. 247-266.

[25]Id. at 273-274.

[26]Rollo, p. 35.

[27]Id.

[28]Reply; id. at 911-916.

[29]Comment; id. at 899-907.

[30]People v. Balagat, G.R. No. 177163, April 24, 2009, 586 SCRA 640, 644-645.

[31]Violeta Bahilidad v. People of the Philippines, G.R. No. 185195, March 17, 2010.

[32]Emphasis supplied.

[33]Emphasis supplied.

[24]Malilin v. People, G.R. No. 179253, April 30, 2008, 553 SCRA 619, 632-633.

[35]TSN, March 3, 2004, p. 25.

[36]TSN, March 9, 2004, p. 21.

[37]Section 21 (a), Article II of the Implementing Rules and Regulations of R.A. No. 9165: (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, 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.

[38]TSN, March 9, 2004, p. 7.

[39]G.R. No. 173472, February 26, 2010.

[40]TSN, June 8, 2004, p. 47.

[41]G.R. No. 186498, March 26, 2010.

[42]People of the Philippines v. Roldan Morales y Midarasa, G.R. No. 172873, March 19, 2010.<!--

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