

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FLORDELIZA ARRIOLA Y DE LARA, ACCUSED-APPELLANT.

G.R. No. 187736. February 08, 2012

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the August 14, 2008 Decision[1] of the Court of Appeals (CA), in CA-G.R. CR-HC. No. 02870, which affirmed the April 23, 2007 Decision[2] of the Regional Trial Court, Branch 76, Malolos City, Bulacan (RTC).[3] The RTC convicted accused Flordeliza Arriola (Arriola) of having committed a violation of Section 5, Article II of Republic Act (R.A.) No. 9165, otherwise known as The Comprehensive Dangerous Drugs Act of 2002.

On December 17, 2002, Criminal Case No. 3503-M-2002 was filed with the RTC charging accused Arriola with illegal sale of dangerous drugs in violation of Section 5, Article II of R.A. No. 9165. The Information reads:

That on or about the 13th day of December, 2002, in San Jose del Monte, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without the authority of law and legal justification, did then and there wilfully, unlawfully and feloniously sell, deliver, dispatch in transit and transport dangerous drug consisting of four (4) heat-sealed transparent plastic sachets having a total weight of 0.186 gram.

Contrary to law.[4]

The evidence for the prosecution would show that a buy-bust operation was conducted on December 13, 2002 based on an information received by Col. Makusi, the Chief of Police of San Jose del Monte, Bulacan, from a barangay tanod. On the basis of said report, surveillance was conducted around the house of Arriola located at Phase 1, Section 7 of Pabahay 2000. It was observed that men were going in and out of the house and that Arriola was peddling shabu therein.

Subsequently, a buy-bust operation team was formed to act on the intelligence report they had gathered. SPO4 Abelardo Taruc (SPO4 Taruc) was designated as the poseur-buyer and he was to be assisted by four (4) police aides and a civilian asset. Before going to the target site, they prepared the marked money that would be used. Two (2) one hundred (?100) peso bills with serial numbers LE627251 and FP609651 were marked by placing SPO4 Taruc's initial "AT" on the bills.

When the team reached Arriola's house, the civilian asset told Arriola that "Iiscore daw siya," referring to SPO4 Taruc who was just beside him. Arriola replied by asking, "Magkano?" The asset answered, "P200.00 po," and then simultaneously handed over the marked money. In exchange for the amount, Arriola gave them four (4) heat-sealed transparent plastic sachets containing crystalline substance. After the exchange of the marked money and the merchandise, SPO4 Taruc arrested Arriola. Upon her arrest, he recovered the marked money that was earlier paid to her. The asset, on the other hand, turned over the four (4) sachets that Arriola gave in exchange for the O200.00 paid to her.

After the operation, the buy-bust team brought Arriola and the seized articles to the police station, where the four (4) confiscated sachets of shabu were marked “AT” and “FA,” the initials, of SPO4 Taruc and that of Flordeliza Arriola, respectively. Thereafter, they reported to the office of the Bulacan provincial police the successful buy-bust operation which resulted in the apprehension of Arriola. Also, a laboratory examination request for the seized articles was prepared and the said four (4) sachets of shabu were then brought to the Bulacan Provincial Crime Laboratory Office.

The resident forensic chemical officer, P/Insp. Nelson Cruz Sta. Maria (P/Insp. Sta. Maria), conducted a qualitative examination of the specimen submitted. His findings contained in Chemistry Report No. D-742-2002, showed that the four (4) sachets with markings AT-FA, Exhibits A-1 to A-4, containing white crystalline substance yielded a positive result of the presence of methylamphetamine hydrochloride, a dangerous drug.

Arriola, however, has a different version of what happened on the day of the buy-bust operation. According to her, at around 2:00 o’clock in the afternoon of December 13, 2002, she was at home with her child resting when all of a sudden policemen with firearms kicked the door of her house. She tried to block the door but she was shoved aside by one of the men. She told them not to push because she was pregnant but to no avail since one of them simply said, “Wala akong pakialam.” She also testified that one of the men asked her if she knew the whereabouts of a certain Ogie dela Cruz. When she answered that the man they were looking for was not residing in her house but in the “kanto” or corner, she was the one who was brought to the precinct.

Arriola further testified that while at the police station, they entered the office of the Chief of Police, Col. Makusi, where she was asked her name and her address. Then, he brought out a plastic sachet which he took from another room. Later, she was brought outside the office and escorted to a room with a group of men where she was made to point at the plastic sachet. Afterwards, she was brought back to the office of Col. Makusi but this time SPO4 Taruc was already inside. It was at this moment when he asked her, “Gusto mong makalaya? Pagbigyan mo lang ako ng kahit isang gabi.” Arriola replied by saying that she would not agree to his proposal because, to begin with, she did not commit any crime. This reply angered SPO4 Taruc. In sum, she was saying that there was no valid buy-bust operation as everything was a set-up. The drugs as well as the marked money were all just taken from the table of Col. Makusi and not from her as claimed by the prosecution.

On April 23, 2007, RTC rendered the assailed decision convicting Arriola. The dispositive portion of the decision reads:

WHEREFORE, accused Flordeliza Arriola y Lara is hereby convicted for sale of the dangerous drugs methylamphetamine hydrochloride commonly known as shabu in violation of Section 5, Article II of Republic Act No. 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002” and is sentenced to suffer life imprisonment and to pay the fine of five hundred thousand pesos (Php500,000.00).

The specimen subject matter of this case which consists of four (4) heat sealed transparent plastic sheets having a total weight of 0.186 gram is hereby confiscated in favor of the government. The Clerk of Court is directed to dispose of said specimen in accordance with the existing procedure, rules and regulations.

Furnish both parties of this judgment and the Provincial Jail Warden.

SO ORDERED.[5]

Aggrieved by the pronouncement of the RTC, Arriola interposed an appeal with the CA. On August 14, 2008, the CA denied the appeal and affirmed the RTC decision based on the testimony of SPO4 Taruc whom the said court considered to be the best witness as he was the poseur-buyer.

According to the CA, the account of SPO4 Taruc, the poseur-buyer, was corroborated in every material detail by

the affidavits executed under oath by the buy-bust team, debunking the version of Arriola that what transpired was a set-up. The CA held that denial and frame-up were intrinsically weak defenses as they were viewed with disfavor as they could easily be concocted.

As to the position of Arriola that the buy-bust operation was illegal because of the absence of coordination between the buy-bust team and the Philippine Drug Enforcement Agency (PDEA), the CA debunked it citing *People v. Sta. Maria*[6] where the Court held that there is nothing in R.A. No. 9165 which indicates an intention on the part of the legislature to consider an arrest made without the participation of the PDEA illegal and evidence obtained pursuant to such an arrest inadmissible.

Finally, the CA also agreed with the RTC that failure of the operatives to strictly comply with Section 21 of R.A. No. 9165 was not fatal. It did not render the arrest of Arriola illegal and the evidence gathered against her inadmissible. As noted by the CA, the alleged violations of Sections 21 and 86 of R.A. No. 9165 were never raised before the RTC but were brought out for the first time only on appeal. This, according to the CA, was against the ruling in the case of *People v. Uy*[7] where it was held that when a party wants a court to reject the evidence offered, he must so state in the form of objection. In other words, one cannot raise said question for the first time on appeal.

Hence, the present appeal.

From the records, the following are the principal issues raised by the Arriola for our consideration, to wit:

- I.
WHETHER OR NOT THERE WAS REALLY A BUY-BUST OPERATION.
- II.
WHETHER OR NOT THE CHAIN OF CUSTODY RULE HAS BEEN PROPERLY OBSERVED.
- III.
WHETHER OR NOT NON-COMPLIANCE WITH THE REQUIREMENTS OF SECTION 21 OF R.A. NO. 9165 IS DETRIMENTAL TO THE PROSECUTION'S CASE.

The Court finds no merit in the petition.

On the first issue, Arriola argues that no buy-bust operation took place but rather a frame-up with her as the victim. She stuck to her story that when the policemen arrived at her house, they were looking for a certain Ogie Dela Cruz. And when she could not help them, she was brought to the police station where all the evidence against her were produced by Col. Makusi.

Time and again, this Court has ruled that alibi and frame up are weak forms of defense usually resorted to in drug-related cases. In this regard, the Court is careful in appreciating them and giving them probable value because this type of defense is easy to concoct. This Court is, of course, not unaware of instances when our law enforcers would utilize means like planting evidence just to extract information, but then again the Court does realize the disastrous consequences on the enforcement of law and order, not to mention the well-being of society, if the courts, solely on the basis of the police officers' alleged rotten reputation, accept in every instance this form of defense which can be so easily fabricated. It is precisely for this reason that the legal presumption that official duty has been regularly performed exists. Bare denial cannot prevail over the positive identification by SPO4 Taruc of Arriola as the one who sold them the shabu.[8] For the defense position to prosper, the defense must adduce clear and convincing evidence to overcome the presumption that government officials have performed their duties in a regular and proper manner.[9] This, unfortunately, Arriola failed to supply. What she made was a bare allegation of frame-up without presenting any credible witness that would support her claim.

Furthermore, she failed to show any motive on the part of the arresting officers to implicate her in a crime she claimed she did not commit. On this point, it is good to note the case of *People v. Dela Rosa*, where this Court held that in cases involving violations of the Dangerous Drugs Act, credence is given to prosecution witnesses who are police officers for they are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary suggesting ill-motive on the part of the police officers.[10] In fact, Arriola herself testified that it was the first time she saw SPO4 Taruc and the rest of the arresting team and that she did not know of any motive why SPO4 Taruc or any of the police aides would arrest her.[11] Thus, there could be no reason for SPO4 Taruc or any member of the buy-bust team to begrudge her since they did not know each other. This only goes to show that she was not arrested by reason of any personal vendetta or prejudice on the part of the raiding team as what Arriola was trying to impress. The simple fact was that she was caught in flagrante delicto peddling prohibited drugs.

In the prosecution of illegal sale of dangerous drugs, the following elements must be established: (1) identities of the buyer and seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment thereof.[12] What is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the corpus delicti. The delivery of the contraband to the poseur-buyer and the receipt of the marked money consummate the buy-bust transaction between the entrapping officers and the accused.[13] In other words, the commission of the offense of illegal sale of dangerous drugs, like shabu, merely requires the consummation of the selling transaction, which happens the moment the exchange of money and drugs between the buyer and the seller takes place.

In the present case, all the elements have been clearly established during the direct and cross-examination of SPO4 Taruc:

Fiscal:

Q:

What happened when you reached the place?

A:

We conducted the buy bust operation, Sir.

Q:

How did you carry out the buy bust?

A:

After I gave the money to our civilian asset, we proceeded to the house, Sir, of the target.

Q:

And when you said you proceeded to the house of Flordeliza together with your civilian asset, what happened next?

A:

The civilian asset gave the P200.00 to Flordeliza in exchange of what Flordeliza gave him, the 4 sachet of shabu, Sir. And after that, I arrested her and introduced myself as a police officer.

Q:

Who actually received the 4 pieces of sachet?

A:

The civilian asset who is in my company.

Fiscal

Q:

How far were you when the exchange was made?

A:

Just beside him.

Fiscal

Q:

You said you arrested her, what did you do upon the arrest of Flordeliza?

A:

After I have arrested her, I brought her to our police station and marked the evidence with my initials and prepared the request for the laboratory examination for me to bring the items for examination.

Q:

What happened to the 4 sachets handed to by Flordeliza to your asset?

A:

I marked them with my initials to prepare the request to be brought to the crime laboratory.

Fiscal

Q:

Will you be able to identify those 4 sachets [since] you were the one who saw the transaction and [was] the one who prepared the request for laboratory examination?

A:

Yes, Sir.

Q:

Why?

A:

I placed my initial and the initial of Flordeliza Arriola.

Q:

Where were you at the time you placed your initials?

A:

She was there at the investigating room, Sir.

Fiscal

I am showing to you 4 sachets; please identify the relevance of these 4 sachets to one you referred earlier as the subject of [the] transaction between your asset and Flordeliza.

A:

These are the items bought from her and in fact here are the initials I placed. Sachet with initials "AT" and FA 1, 2, 3, 4.

Q:

The brown envelope on which these 4 sachets was placed were already marked as Exh. C. And the medium size transparent plastic sachet as Exh. C-1. The 4 sachets in which shabu were placed were previously marked as Exh. C-2, 3, 4, 5.

Q:

How about the money, what happened to the testimony given to Flordeliza by your asset?

A:

In arresting her, I recovered money from her.

Q:

In what part of her body were you able to recover that?

A:

In her hand, Sir.

Q:

Now, will you be able to identify those bills used in that buy bust operation?

A:

Yes sir.

Q:

I have here a photocopy of the bills, by the way what marking did you place?

A:

The initial of my name, "AT", Sir.

Fiscal

Do you remember where you placed the initials "AT"?

A:

Yes Sir.

Q:

Where?

A:

In the collar of the picture depicted in the said bills

Q:

I am showing to you 2 photocopies of P100 peso bills, please identify if these were the one you used in the operation.

A:

These were the bills used, Sir.

Fiscal

Witness is identifying the photocopies the first 100 peso bill with serial number LE627251 we request as Exh. D.

Q:

In this bill, can you please point to us the initials you mentioned.

A:

Here Sir. (Witness pointing to the initial "AT" on the left collar of the person in the bill).

Q:

We request likewise for the marking of the initial pointed to by the witness in the collar of Manuel Roxas as Exh. D-1. The second bill with serial number FP609605 earlier identified as Exh. E and E-1 for the initial. Provisional marking your Honor.

Court: Mark them.

Fiscal

You mentioned of the preparation for drug examination, tell us who delivered the request as well as the accompanying specimen to the Crime Laboratory.

A:

My entrusted co-police officer in the investigation section, Sir.[14]

XXX

Atty. Mendoza

Q:

Mr. Witness, when you conducted the said buy bust operation and you told this Honorable Court that you were near with the poseur buyer, what happened Mr. Witness?

A:

I have seen the transaction Sir while they were talking and when our civilian asset was able to buy.

XXX

Q:

What exactly Mr. Witness if you have said any?

A:

When we arrived there, our civilian asset told that he will buy.

Q:

Can you tell this Honorable Court the phrase that the poseur buyer told the accused?

A:

He said that “iiscore daw siya.”

Q:

And what will be the response if the person allegedly selling?

A:

Magkano?

Q:

Then what is the reply?

A:

P200.00

Q:

And then what happened?

A:

Our asset immediately gave her the money.

Court

Q:

How about the seller, what did she do after the money was paid to her?

A:

After giving the money, she took from her pocket 4 sachets and gave it to our asset.[15]

As shown by the above-quoted testimony, SPO4 Taruc, as the poseur- buyer, was able to positively identify the seller. He categorically stated that it was Arriola who dealt with their civilian asset who was just beside him. According to him, Arriola was the one who asked “Magkano?” when their civilian asset told her that “iiscore daw siya,” referring to SPO4 Taruc. She was the one who handed the 4 heat-sealed transparent plastic sachets with white crystalline substance to the civilian asset, which later on tested positive for methylamphetamine hydrochloride or shabu, in exchange of the ₱200.00 that she received as payment. He was also able to identify the marked money with serial numbers LE627251 and FP609605 both bearing the initials “AT” as well as the sachets with initials “AT” and “FA” that contained the shabu. Clearly, the exchange of the buy-bust money and the four (4) heat-sealed transparent plastic sachets of shabu established the fact that Arriola was, without a doubt, engaged in the sale of illegal drugs.

Regarding the second issue, Arriola is of the position that there was no proof that the alleged confiscated shabu was taken from her. She adds that there was violation of the chain of custody on the part of the buy-bust team. Specifically, she claims that SPO4 Taruc did not explain how the corpus delicti transferred hands from the time it

was supposedly confiscated from her to the time it was presented in court as evidence.[16]

In the prosecution of drug related cases, it is of paramount importance that the existence of the drug, the corpus delicti of the crime, be established beyond doubt. Its existence is a condition sine qua non. It is precisely in this regard that central to this requirement is the question of whether the drug submitted for laboratory examination and presented in court was actually the one that was seized from or sold by Arriola.[17] As such, the chain of custody rule has been adopted in order to address this core issue.

Black's Law Dictionary explains chain of custody in this wise:

In evidence, the one who offers real evidence, such as the narcotics in a trial of drug case, must account for the custody of the evidence from the moment in which it reaches his custody until the moment in which it is offered in evidence, and such evidence goes to weight not to admissibility of evidence. *Com. v. White*, 353 Mass. 409, 232 N.E.2d 335.

Likewise, Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002 which implements R.A. No. 9165 defines "chain of custody" as follows:

"Chain of Custody" means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition[.]

Instructive in this issue is the case of *Malilin v. People*[18] which discussed how the chain of custody of the seized items should be established. In said case, the Court said:

As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.

Further, in the case of *People v. Kamad*,[19] the Court enumerated therein the different links that the prosecution must endeavor to establish with respect to the chain of custody in a buy-bust operation, namely: 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 by the forensic chemist to the court.

Bearing in mind the abovementioned guidelines in the application of the chain of custody rule, the prosecution in the present case adequately proved all the links in the chain. This could be deduced from the testimony of their lone witness, SPO4 Taruc. Pertinent portions of his testimony are hereafter quoted, to wit:

Q:

You said you arrested her, what did you do upon the arrest of Flordeliza?

A:

After I have arrested her, I brought her to our police station and marked the evidence with my initials and prepared the request for the laboratory examination for me to bring the items for examination.

Q:

What happened to the 4 sachets handed to by Flordeliza to your asset?

A:

I marked them with my initials to prepare the request to be brought to the crime laboratory.

Fiscal

Q:

Will you be able to identify those 4 sachets [since] you were the one who saw the transaction and [was] the one who prepared the request for laboratory examination?

A:

Yes, Sir.

Q:

Why?

A:

I placed my initial and the initial of Flordeliza Arriola.

Q:

Where were you at the time you placed your initials?

A:

She was there at the investigating room, Sir.

Fiscal

I am showing to you 4 sachets; please identify the relevance of these 4 sachets to one you referred earlier as the subject of [the] transaction between your asset and Flordeliza.

A:

These are the items bought from her and in fact here are the initials I placed. Sachet with initials "AT" and FA 1, 2, 3, 4.

Q:

The brown envelope on which these 4 sachets was placed were already marked as Exh. C. And the medium size transparent plastic sachet as Exh. C-1. The 4 sachets in which shabu were placed were previously marked as Exh. C-2, 3, 4, 5[20]

XXX

Fiscal

You mentioned of the preparation for drug examination, tell us after the preparation, who delivered the request as well as the accompanying specimen to the Crime Laboratory?

A:

My trusted co-police officer in the investigation section, Sir.

Fiscal

I am showing to you the request for laboratory examination dated December 13, 2002, is this the one you prepared?

A:

Yes, Sir.[21]

XXX

ATTY. MENDOZA:

Afterwards you immediately brought her to the police station?

A:

Yes, Sir.

Q:

In the police [station] what happened next?

A:

The statement was taken then at our office and we learned that her full name is Flordeliza Arriola.

Q:

Did you bring this case [to] the investigator?

A:

Yes, Sir

Q:

Together with the shabu?

A:

Yes, Sir.

Q:

From the scene of the crime or from the house of the accused, upon arriving at the police station did you immediately turn over the accused and the drug to the police investigator?

A:

Yes, Sir.

ATTY. MENDOZA

When you arrived [at] the police station, did you immediately turn over the accused and the drug to the investigator?

A:

Before I turned them over Sir, I arranged the evidence and put my marking on it.

Q:

So, you only put your marking only when you were at the police station?

A:

Yes sir in the presence of the accused.

Q:

From the time that you received the said alleged shabu or drugs from your asset, where did you put the drugs?

A:

In my hand.

ATTY. MENDOZA:

Up to the police station?

A:

Yes, Sir.

Q:

Who [accompanied] the accused when she [was] brought to the police station?

A:

Me and my back-up.

Q:

Mr. Witness, who brought the alleged shabu to the crime lab?

A:

I am not sure but it is our investigator Sir.[22]

For the first link, SPO4 Taruc testified that after the buy-bust, the civilian asset turned over the sachets to him. From the site, he brought Arriola and the sachets to their police station where he marked the items. He marked the evidence with his initials and the initials of Arriola and all these were done in her presence. As to the second link, he told the court that after he put his markings on the seized items, he turned them over, together with Arriola, to the investigating officer. With respect to the third link, SPO4 Taruc said that the person who brought the specimen to the crime laboratory for examination was his trusted co-police in the investigating section. Forensic chemist, P/Insp. Sta. Maria, examined the specimens submitted to him which tested positive for shabu and issued a chemistry report[23] dated December 13, 2002, or within the same day that the buy-bust operation was conducted. Therefore, from the account made by SPO4 Taruc, the RTC did not err in convicting Arriola as there seemed to be no showing that the evidence might have been altered.

The position of Arriola that the prosecution failed to discuss in detail the different links in the chain as to the transfer of hands of the evidence will not necessarily render said evidence to be incompetent to convict Arriola for the crime of sale of illegal drugs. It must be remembered that testimony about a perfect chain is not always the

standard as it is almost always impossible to obtain an unbroken chain.[24] As such, what is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items.[25] The integrity of the evidence is presumed to be preserved, unless there is a showing of bad faith, ill will, or proof that the evidence has been tampered. Besides, all that Arriola did in her supplemental brief was make a general allegation that prosecution failed to observe the chain of custody rule without pinpointing the exact link or links that may have been compromised to bring doubt to the integrity of the evidence.

So, in this case, Arriola has the burden to show that the evidence was tampered or meddled with to overcome a presumption of regularity in the handling of exhibits by public officers, as well as a presumption that said public officers properly discharged their duties.[26] Resultantly, since she failed to discharge such burden, it cannot be disputed that the drugs seized from her were the same ones examined in the crime laboratory. The prosecution, therefore, established the crucial link in the chain of custody of the seized drugs.[27]

Finally, Arriola raised the issue of the prosecution's non-compliance with the requirements of Section 21 of R.A. No. 9165, particularly the fact that the buy-bust operation was conducted without the proper coordination or clearance with the PDEA or with the barangay authorities of the place where the operation was made. This supposition is misguided.

In the case of *People v. Roa*,[28] the Court explained that the requirement of coordination with the PDEA with respect to a buy-bust operation is not indispensable. In said case, it said:

In the first place, coordination with the PDEA is not an indispensable requirement before police authorities may carry out a buy-bust operation. While it is true that Section 86 of Republic Act No. 9165 requires the National Bureau of Investigation, PNP and the Bureau of Customs to maintain "close coordination with the PDEA on all drug-related matters," the provision does not, by so saying, make PDEA's participation a condition sine qua non for every buy-bust operation. After all, a buy-bust is just a form of an in flagrante arrest sanctioned by Section 5, Rule 113 of the Rules of the Court, which police authorities may rightfully resort to in apprehending violators of Republic Act No. 9165 in support of the PDEA. A buy-bust operation is not invalidated by mere non-coordination with the PDEA.

WHEREFORE, the August 14, 2008 Decision of the Court of Appeals, in CA-G.R. CR-HC. NO. 02870 is AFFIRMED.

SO ORDERED.

Velasco, Jr., (Chairperson), Peralta, Abad, and Perlas-Bernabe, JJ., concur.

[1] Rollo, pp. 2-12. Penned by Associate Justice Isaias Dicdican and concurred in by Associate Justice Juan Q. Enriquez, Jr. and Associate Justice Marlene Gonzales-Sison.

[2] Records, pp. 154-164. Penned by Judge Albert R. Fonacier.

[3] In Criminal Case No. 3503-M-2002.

[4] Records, p. 2.

[5] Id. at 163-164.

[6] G.R. No. 171019, February 23, 2007, 516 SCRA 621, 631.

[7] 384 Phil. 70, 93 (2000).

- [8] *People v. Dela Cruz*, G.R. No. 177324, March 30, 2011.
- [9] *People v. Del Monte*, G.R. No. 179940, April 23, 2008, 552 SCRA 627, 639.
- [10] G.R. No. 185166, January 26, 2011, 640 SCRA 635, 657.
- [11] TSN, November 21, 2006, pp. 37-38.
- [12] *People v. Naelga*, G.R. No. 171018, September 11, 2009, 599 SCRA 477, 490.
- [13] *People v. Mala*, 458 Phil. 180, 190 (2003).
- [14] TSN, December 6, 2005, pp. 10-12.
- [15] TSN, February 28, 2006, p. 24.
- [16] Rollo, p. 52.
- [17] *People v. Kimura*, 471 Phil. 895, 909 (2004).
- [18] G.R. No. 172953, April 30, 2008, 553 SCRA 619, 632-633.
- [19] G.R. No. 174198, January 19, 2010, 610 SCRA 295, 307-308.
- [20] TSN, December 6, 2005, pp. 86-87.
- [21] *Id.* at 88-89
- [22] TSN, February 28, 2006, pp. 26-27.
- [23] Records , p. 6.
- [24] *People v. Quiamanlon*, G.R. No. 191198, January 26, 2011, 640 SCRA 697, 718.
- [25] *Id.*
- [26] *People v. Castro*, G.R. No. 194836, June 15, 2011, citing *People v. Ventura*, G.R. No. 184957, October 27, 2009, 604 SCRA 543, 562.
- [27] *Id.*
- [28] G.R. No. 186134, May 6, 2010, 620 SCRA 359, 368-369.

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