

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. MARLON CASCO Y VILLAMER, ACCUSED-APPELLANT.*G.R. No. 212819. November 28, 2018*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-212819/>**CAGUIOA, J:**

Before the Court is an ordinary appeal[1] filed by accused-appellant Marlon Casco y Villamer (accused-appellant Casco) assailing the Decision[2] dated March 24, 2014 of the Court of Appeals, Seventeenth Division (CA), in CA-G.R. CR-HC No. 05820, which affirmed the Decision[3] dated July 23, 2012 of the Regional Trial Court (RTC) of Quezon City, Branch 82 in Criminal Case No. Q-08-153250, finding accused-appellant Casco guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165,[4] otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

The Facts

Accused-appellant Casco was charged with Illegal Sale of Dangerous Drugs, defined and punished under Section 5, paragraph 1, Article II of RA 9165, in an Information[5] dated July 23, 2008, the accusatory portion of which reads:

That on or about the 21[st] day of July, 2008, in Quezon City, Philippines, the said accused, without lawful authority did, then and there willfully and unlawfully sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport, or act as broker in said transaction, a dangerous drug, to wit: zero point zero two gram (0.02 gm) of white crystalline substance containing Methamphetamine Hydrochloride, a dangerous drug.

CONTRARY TO LAW.[6]

When arraigned, accused-appellant Casco pleaded not guilty to the indictment.[7] During the pre-trial conference, the parties agreed to dispense with the testimony of PSI May Andrea Bonifacio (PSI Bonifacio) and instead, stipulated on the following: (a) that PSI Bonifacio is a Forensic Chemist of the Philippine National Police (PNP); (b) that her office received a request for laboratory examination; (c) that, together with said request, was a plastic sachet which contained one (1) heat-sealed transparent plastic sachet; (d) that PSI Bonifacio conducted the requested laboratory examination and, in connection therewith, she submitted a Chemistry Report showing that the specimen was positive for methylamphetamine hydrochloride; and (e) that PSI Bonifacio turned over the specimen to the Evidence Custodian and retrieved the same for the pre-trial.[8]

Similarly, the testimony of PO1 Carlito Gula, Jr. (PO1 Gula) was dispensed with and the parties instead stipulated on the following: (a) that PO1 Gula was the police investigator assigned to the case; (b) that in connection with the investigation he conducted, he took the Joint Affidavit of Arrest of PO1 Percival T. Kalbi (PO1 Kalbi) and PO1 Rommel Quinio (PO1 Quinio); (c) that the specimen subject of the case was turned over to him by the arresting officers; (d) that in connection therewith, he prepared a request for laboratory examination and relative thereto, he received a copy of the Chemistry Report; (e) that he likewise received a photocopy of the buy-bust money, the Coordination Form, the Pre-Operation Report and the picture of accused-appellant Casco; (f) that he

likewise prepared an Inventory Receipt, Arrest and Booking Sheet, and Affidavit of Attestation; and (g) that he, thereafter, prepared a letter-referral to the Office of the City Prosecutor of Quezon City.[9]

Thereafter, trial ensued. The prosecution presented PO1 Kalbi whose testimony was summarized by the CA as follows:

x x x [O]n July 21, 2008 at around 11:00 o'clock in the morning, the District Anti-Illegal Drugs (DAID) Special Operations Task Force in Quezon City received a tip from an informant that a certain "Marco" was selling illegal drugs along Loans Street, Project 8, Barangay Sangandaan, Quezon City. A team was immediately formed, [who conducted a surveillance in the area at around 1:00 p.m.[10]]. At about 4:20 in the afternoon, the team arrived at the place, [with PO1 Kalbi acting as the poseur buyer.] PO1 Kalbi and the informant went to a sari-sari store where Marco was standing. The informant then talked to Marco and told him, "Ito yung sinasabi ko sa iyo na kasama ko, gustong kumuha ng item, SHABU sa halagang limang piso, panggamit lang." Marco then asked "Atin ba 'yan?", to which the informant replied that "Oo atin 'yan, hindi 'yan kalaban. " Marco then took from his pocket a sachet with white crystalline substance and handed it to PO1 Kalbi, who, in exchange, gave a P500.00 bill which had been marked with his initials "PK". After that, PO1 Kalbi removed his cap as a pre-arranged signal of the completion of the buy-bust operation. The other members of the team immediately descended on the place, arrested Marco and brought him to the police station. The buy-bust money and the plastic sachet taken from Marco were turned over to [PO1 Gula], the police investigator. During the trial, PO1 Kalbi identified accused-appellant as Marco. He also identified the buy-bust money (Exhibit "E") and the plastic sachet (Exhibit "B").[11]

For his defense, accused-appellant Casco denied the charge and narrated that:

x x x [O]n July 21, 2008, at around 4:00 o'clock in the afternoon, he was at home at 3-C Loans Street, Barangay Sangandaan, Quezon City, watching television together with his wife and two kids, when all of a sudden, three armed men entered the house and pointed their guns at him. One of the armed men was prosecution witness PO1 Kalbi. They immediately handcuffed accused-appellant and boarded him in a red van. They also searched the house but found nothing. Accused-appellant was then brought to Camp Karingal in Quezon City. There, [PO1 Gula] demanded P200,000.00 in exchange for his freedom. When he failed to produce the money, he was then brought to jail and the next thing he knew, he was charged with selling illegal drugs.[12]

To corroborate accused-appellant Casco's claim that he was arrested and his house was searched without lawful basis, the defense presented accused-appellant Casco's daughter, Michelle Casco, and two neighbors, Rowena Luna and Ma. Theresa Recamata, whose testimonies are summarized as follows:

[Michelle Casco testified that]: Accused Casco is her father and she is living with him on July 21, 2008. On said date, at around 4:30 p.m., she was at the second floor of their house at 3-C Loans St., Bgy. Sangandaan, Quezon City together with her parents watching TV when three (3) armed men in civilian clothes went upstairs. One of them poked a gun at his father. Her mother asked them what the violation of [her] father was. They answered they were policemen from Karingal. The armed men dragged his father outside the house and brought him inside a red van parked in front, and they proceeded to Camp Karingal. They followed. At Camp Karingal they saw the accused handcuffed. The investigator told them that the accused is charged with selling drugs. During the investigation of the accused, the investigator asked the amount of Php 200,000.00 for his release. He was given until midnight to produce the amount and when he was unable to do so, he was detained.

x x x

xxx x

[Rowena Luna] x x x testified [that] [o]n July 21, 2008, at about 4:00 p.m., she was at 3-C Loan Ext. Bgy. Sangandaan, Quezon City about to buy biscuit from the wife of the accused. When she was about to go

upstairs, three (3) armed men came rushing. She then heard a commotion. The three men, together with accused, who was already handcuffed, went out and the latter was dragged outside and boarded in a red van. She learned later that the three men were police officers. She saw the wife and daughter of the accused crying. After seeing the red van leave, she went home. She did not know why the three men brought the accused.

x x x x

x x x [Ma. Theresa Recamata narrated that]: On July 21, 2008, between 3:00 and 4:00 p.m., she was at home at Loans St., Proj. 8, Bgy. Sangandaan, Quezon City cooking for dinner when three unidentified men entered the door of accused. They were armed. She heard a commotion inside and when they went out they had the accused with them already handcuffed. She did not know what happened next because she went to her kids who were inside the house of the accused.

On cross-examination she testified that there was no buy bust operation conducted on July 21, 2008 involving the accused who is her neighbor.[13]

Ruling of the RTC

In its Decision[14] dated July 23, 2012, the RTC found accused-appellant Casco guilty beyond reasonable doubt for violation of Section 5 of RA 9165, sentenced him to life imprisonment and ordered him to pay P500,000.00. The RTC found nothing irregular in the buy-bust operation conducted against accused-appellant Casco; and thus, held that from the evidence on record, the prosecution was able to establish all the elements of illegal sale of dangerous drugs.[15]

Ruling of the CA

On appeal, the CA, in the assailed Decision,[16] sustained accused-appellant Casco's conviction. The CA held that the prosecution, through the testimony of PO1 Kalbi, together with the stipulations with respect to the proposed testimony of PSI Bonifacio and PO1 Gula, was able to establish an unbroken chain of custody of the seized drug from the time it came into the possession of the police officers until it was tested in the laboratory to determine its composition up to the time it was offered in evidence.[17]

The CA also found accused-appellant Casco's claim of "frame-up" weak and self-serving vis-a-vis the positive testimony of PO1 Kalbi, the police officer, who is presumed to have performed his duties regularly, in the absence of evidence to the contrary.[18]

Hence, the instant appeal.[19]

Issue

Whether the CA erred in sustaining accused-appellant Casco's conviction for violation of Section 5, Article II of RA 9165.

The Court's Ruling

The appeal is meritorious. Accused-appellant Casco is accordingly acquitted.

In cases involving dangerous drugs, the confiscated drug constitutes the very corpus delicti of the offense[20] and the fact of its existence is vital to sustain a judgment of conviction.[21] It is essential, therefore, that the identity and integrity of the seized drugs be established with moral certainty.[22] Thus, in order to obviate any unnecessary doubt on its identity, the prosecution has to show an unbroken chain of custody over the same and account for each link in the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.[23]

In this regard, Section 21,[24] Article II of RA 9165, the applicable law at the time of the commission of the alleged crime, outlines the procedure which the police officers must strictly follow to preserve the integrity of the confiscated drugs and/or paraphernalia used as evidence. The provision requires that: (1) the seized items be inventoried and photographed immediately after seizure or confiscation; and (2) the physical inventory and photographing must be done in the presence of (a) the accused or his/her representative or counsel, (b) an elected public official, (c) a representative from the media, and (d) a representative from the Department of Justice (DOJ), all of whom shall be required to sign the copies of the inventory and be given a copy of the same and the seized drugs must be turned over to the PNP Crime Laboratory within twenty-four (24) hours from confiscation for examination.

The phrase "immediately after seizure and confiscation" means that the physical inventory and photographing of the drugs were intended by the law to be made immediately after, or at the place of apprehension. It is only when the same is not practicable that the Implementing Rules and Regulations (IRR) of RA 9165 allow the inventory and photographing to be done as soon as the buy-bust team reaches the nearest police station or the nearest office of the apprehending officer/team. In this connection, this also means that the three (3) required witnesses should already be physically present at the time of apprehension — a requirement that can easily be complied with by the buy-bust team considering that the buy-bust operation is, by its nature, a planned activity. Verily, a buy-bust team normally has enough time to gather and bring with them the said witnesses.[25]

The Court, however, has clarified that under varied field conditions, strict compliance with the requirements of Section 21 of RA 9165 may not always be possible;[26] and, the failure of the apprehending team to strictly comply with the procedure laid out in Section 21 of RA 9165 does not ipso facto render the seizure and custody over the items void and invalid. However, this is with the caveat that the prosecution still needs to satisfactorily prove that: (a) there is justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved.[27] It has been repeatedly emphasized by the Court that the prosecution has the positive duty to explain the reasons behind the procedural lapses.[28] Without any justifiable explanation, which must be proven as a fact,[29] the evidence of the corpus delicti is unreliable, and the acquittal of the accused should follow on the ground that his guilt has not been shown beyond reasonable doubt.[30]

In this case, the Court finds that the police officers committed unjustified deviations from the prescribed chain of custody rule, thereby putting into question the identity and evidentiary value of the item purportedly seized from accused-appellant Casco.

The police officers failed to comply
with the mandatory requirements
under Section 21.

An examination of the records reveals that the buy-bust team failed to comply with the mandatory witnesses' rule. Here, none of the three (3) required witnesses under Section 21 was present at the time the subject drug was allegedly seized from accused-appellant Casco or during the conduct of the inventory at the police station. As admitted by PO1 Kalbi himself, only the buy-bust team and their confidential asset were present at the place of arrest.[31] Moreover, the inventory of the seized drug was made not in the presence of accused-appellant Casco or his representative or counsel, an elected public official, a representative from media and a representative from the DOJ, as mandated by Section 21. To be sure, the only witnesses who signed the Inventory Receipt[32] were the police officers themselves – PO3 Leonardo Ramos and SPO2 Arnold H. Yu.

In *People v. Callejo*,[33] the Court explained that the presence of the three (3) witnesses must be secured not only during inventory but more importantly at the time or near the place of the buy-bust arrest, because it is at this

point when their presence is most needed to ensure the source, identity, and integrity of the seized drug. Thus, if the buy-bust operation was legitimately conducted, the presence of the insulating witnesses would controvert the usual defense of frame-up and extortion. Conversely, without the presence of any of the required witnesses at the time of apprehension or during inventory, or worse, the police officers themselves acting as witnesses, as in this case; then, doubt exists whether there was actually a buy-bust operation as there are no unbiased witnesses to prove the source, identity and integrity of the corpus delicti.[34]

Indeed, case law states that the procedure enshrined in Section 21, Article II of RA 9165 is a matter of substantive law, and cannot be brushed aside as a simple procedural technicality; or worse, ignored as an impediment to the conviction of illegal drug suspects.[35] For indeed, however noble the purpose or necessary the exigencies of the campaign against illegal drugs may be, it is still a governmental action that must always be executed within the boundaries of law.[36]

The saving clause does not apply to this case.

As earlier stated, following the IRR of RA 9165, the courts may allow a deviation from the mandatory requirements of Section 21 in exceptional cases, where the following requisites are present: (1) the existence of justifiable grounds to allow departure from the rule on strict compliance; and (2) the integrity and the evidentiary value of the seized items are properly preserved by the apprehending team.[37] If these elements are present, the seizure and custody of the confiscated drug shall not be rendered void and invalid regardless of the non-compliance with the mandatory requirements of Section 21. It has also been emphasized that the State bears the burden of proving the justifiable cause.[38] Thus, for the said saving clause to apply, the prosecution must first recognize the lapse or lapses on the part of the buy-bust team and justify or explain the same.[39]

In the present case, the prosecution neither recognized, much less tried to justify or explain, the police officers' deviation from the procedure contained in Section 21. Even in the Joint Affidavit of Arrest[40] of PO1 Kalbi and PO1 Quinio, there was no attempt whatsoever to place on record that the buy-bust team failed to secure the presence of the three (3) witnesses and the reasons for their non-compliance. Undeniably, the police officers did not exert even the slightest effort to secure the attendance of the required witnesses considering that they had ample time to comply with the requirements established by law from the time they were informed of an alleged peddling of illegal drugs by accused-appellant Casco.

Breaches of the procedure outlined in Section 21 committed by the police officers, left unacknowledged and unexplained by the State, militate against a finding of guilt beyond reasonable doubt against the accused as the integrity and evidentiary value of the corpus delicti had been compromised.[41] As the Court explained in *People v. Reyes*: [42]

Under the last paragraph of Section 21 (a), Article II of the IRR of R.A. No. 9165, a saving mechanism has been provided to ensure that not every case of non-compliance with the procedures for the preservation of the chain of custody will irretrievably prejudice the Prosecution's case against the accused. To warrant the application of this saving mechanism, however, the Prosecution must recognize the lapse or lapses, and justify or explain them. Such justification or explanation would be the basis for applying the saving mechanism. Yet, the Prosecution did not concede such lapses, and did not even tender any token justification or explanation for them. The failure to justify or explain underscored the doubt and suspicion about the integrity of the evidence of the corpus delicti. With the chain of custody having been compromised, the accused deserves acquittal. x x x [43] (Emphasis supplied)

Moreover, contrary to the findings of the CA, the prosecution failed to establish the unbroken chain of custody of the seized drug. Records reveal that gaps exist in the chain of custody of the seized item which create reasonable doubt as to the identity and integrity thereof.

While PO1 Kalbi narrated that he marked the item he bought and recovered from accused-appellant Casco with his initials,[44] there is no evidence as to when and where the seized drug was marked and whether the marking was made in accused-appellant Casco's presence. In *People v. Ameril*,^[45] the Court stressed that marking of the seized items should be done immediately upon seizure and in the presence of the accused to ensure that they are the same items that enter the chain and are eventually the ones offered in evidence.

In addition, it has been consistently ruled that to establish an unbroken chain of custody, "[i]t is necessary that every person who touched the seized item describe how and from whom he or she received it; where and what happened to it while in the witness' possession; its condition when received and at the time it was delivered to the next link in the chain."^[46] This requirement was, however, not complied with in this case.

PO1 Kalbi testified that he turned over the confiscated drug to PO1 Gula for inventory, and then personally delivered the same to the PNP Crime Laboratory for examination.^[47] However, the Court does not see from the records the details on how the specimen was handled from the time it was handed to PO1 Gula to the time it was returned to PO1 Kalbi until it was submitted to PSI Bonifacio for examination. PO1 Kalbi's testimony was sorely lacking on these details; while the stipulations on the proposed testimony of PO1 Gula do not relate to or do not cover the specific manner by which the seized drug was handled while in the latter's possession. Further, they do not indicate how the item was subsequently turned over to the next responsible person.

Similarly, PSI Bonifacio did not testify on how she handled the seized item during examination and before it was transferred to the court — which testimony is required to ensure that there was no change in the condition of the seized drug and no opportunity for someone not in the chain to have possession while in her custody. Instead of the forensic chemist turning over the substance to the court and testifying, the parties merely made stipulations, which do not in any way prove how the drugs were handled by said chemist.

As the seized drugs themselves are the *corpus delicti* of the crime charged, it is of utmost importance that there be no doubt or uncertainty as to their identity and integrity. The State, and no other party, has the responsibility to explain the lapses in the procedures taken to preserve the chain of custody of the dangerous drugs. Without the explanation by the State, the evidence of the *corpus delicti* is unreliable,^[48] as in this case. Consequently, accused-appellant Casco must perforce be acquitted.

The presumption of innocence of the accused vis-a-vis the presumption of regularity in performance of official duties.

The Court likewise finds the CA's reliance on the presumption of regularity in the performance of official duty despite the lapses in the procedures undertaken by the buy-bust team fundamentally unsound because the lapses themselves are affirmative proofs of irregularity.^[49] The presumption of regularity in the performance of duty cannot overcome the stronger presumption of innocence in favor of the accused.^[50] Otherwise, a mere rule of evidence will defeat the constitutionally enshrined right to be presumed innocent.^[51] This Court, in *People v. Catalan*,^[52] had already warned the lower courts against this pitfall:

Both lower courts favored the members of the buy-bust team with the presumption of regularity in the performance of their duty, mainly because the accused did not show that they had ill motive behind his entrapment.

We hold that both lower courts committed gross error in relying on the presumption of regularity.

Presuming that the members of the buy-bust team regularly performed their duty was patently bereft of any

factual and legal basis. We remind the lower courts that the presumption of regularity in the performance of duty could not prevail over the stronger presumption of innocence favoring the accused. Otherwise, the constitutional guarantee of the accused being presumed innocent would be held subordinate to a mere rule of evidence allocating the burden of evidence. Where, like here, the proof adduced against the accused has not even overcome the presumption of innocence, the presumption of regularity in the performance of duty could not be a factor to adjudge the accused guilty of the crime charged.

Moreover, the regularity of the performance of their duty could not be properly presumed in favor of the policemen because the records were replete with indicia of their serious lapses. As a rule, a presumed fact like the regularity of performance by a police officer must be inferred only from an established basic fact, not plucked out from thin air. To say it differently, it is the established basic fact that triggers the presumed fact of regular performance. Where there is any hint of irregularity committed by the police officers in arresting the accused and thereafter, several of which we have earlier noted, there can be no presumption of regularity of performance in their favor.[53] (Emphasis supplied)

What further militates against according the police officers in this case the presumption of regularity is the fact that even the pertinent internal anti-drug operation procedures then in force were not followed. Under the 1999 Philippine National Police Drug Enforcement Manual,[54] the conduct of buy-bust operations required the following:

ANTI-DRUG OPERATIONAL PROCEDURES

x x x x

V. SPECIFIC RULES

x x x x

B. Conduct of Operation: (As far as practicable, all operations must be officer led)

1. Buy-Bust Operation - in the conduct of buy-bust operation, the following are the procedures to be observed:

- a. Record time of jump-off in unit's logbook;
- b. Alertness and security shall at all times be observed[;]
- c. Actual and timely coordination with the nearest PNP territorial units must be made;
- d. Area security and dragnet or pursuit operation must be provided[;]
- e. Use of necessary and reasonable force only in case of suspect's resistance[;]
- f. If buy-bust money is dusted with ultra violet powder make sure that suspect ge[t] hold of the same and his palm/s contaminated with the powder before giving the pre-arranged signal and arresting the suspects;
- g. In pre-positioning of the team members, the designated arresting elements must clearly and actually observe the negotiation/transaction between suspect and the poseur-buyer;
- h. Arrest suspect in a defensive manner anticipating possible resistance with the use of deadly weapons which maybe concealed in his body, vehicle or in a place within arms' reach;
- i. After lawful arrest, search the body and vehicle, if any, of the suspect for other concealed evidence or deadly weapon;
- j. Appraise suspect of his constitutional rights loudly and clearly after having been secured with handcuffs;
- k. Take actual inventory of the seized evidence by means of weighing and/or physical counting, as the case

may be;

l. Prepare a detailed receipt of the confiscated evidence for issuance to the possessor (suspect) thereof;

m. The seizing officer (normally the poseur-buyer') and the evidence custodian must mark the evidence with their initials and also indicate the date, time and place the evidence was confiscated/seized;

n. Take photographs of the evidence while in the process of taking the inventory, especially during weighing, and if possible under existing conditions, the registered weight of the evidence on the scale must be focused by the camera; and

o. Only the evidence custodian shall secure and preserve the evidence in an evidence bag or in appropriate container and thereafter deliver the same to the PNP CLG for laboratory examination. (Emphasis and underscoring supplied)

Given the above police operational procedures and the fact that buy-bust is a planned operation, it strains credulity why the buy-bust team could not have ensured the presence of the required witnesses pursuant to Section 21 or at the very least marked, photographed and inventoried the seized items according to the procedures in their own operations manual.[55]

All told, the prosecution failed to prove the corpus delicti of the offense due to the police officers' unjustified deviations from the requirements of the law. In other words, the prosecution was not able to overcome the presumption of innocence of accused-appellant Casco.

Accused-appellant Casco's defense of frame-up.

The defense of frame-up in drug cases requires strong and convincing evidence because of the presumption that the law enforcement agencies acted in the regular performance of their official duties.[56] However, such defense assumes significance when the presumption of regularity had been undoubtedly overcome by evidence that the police officers who conducted the buy-bust operation committed lapses in the seizure and handling of the allegedly seized plastic sachet of shabu, as in this case.[57] The police officers' deliberate disregard of the requirements under the law, puts in doubt the conduct of the buy-bust operation and leads the Court to believe that the buy-bust against accused-appellant Casco was a mere pretense.

To recall, the three (3) required witnesses were not present during the buy-bust operation when the alleged drug was seized from accused-appellant Casco; hence, there was no unbiased witness to prove the veracity of the events that transpired on the day of the incident or whether the said buy-bust operation actually took place. Also, the police officers unjustifiably failed to mark the seized drug at the place of arrest[58] and to inventory and photograph the same in the presence of the other statutory witnesses,[59] which again, are required under the law to prevent planting, switching and contamination of evidence. These circumstances lend credence to accused-appellant Casco's testimony, as corroborated by his witnesses, that the policemen entered his house, pointed their guns at him, immediately handcuffed him, and boarded him in a red van; that he was brought to Camp Karingal where PO1 Gula demanded P200,000.00 in exchange for his freedom; and when he failed to produce the money, he was then brought to jail and was charged with selling illegal drugs.[60] The Court is totally bewildered how the CA could arrive at its finding, in the presence of testimonies coming from three (3) other witnesses whose credibility was never questioned by the prosecution.

Indeed, the Court is not unaware that, in some instances, law enforcers resort to the practice of planting evidence to extract information or even to harass civilians.[61] This is despicable. Thus, the Court reminds the trial courts to exercise extra vigilance in trying drug cases, and directs the PNP to conduct an investigation on this incident

and other similar cases, lest an innocent person is made to suffer the unusually severe penalties for drug offenses.

Finally, the Court exhorts the prosecutors to diligently discharge their onus to prove compliance with the provisions of Section 21 of RA 9165, as amended, and its IRR, which is fundamental in preserving the integrity and evidentiary value of the corpus delicti. To the mind of the Court, the procedure outlined in Section 21 is straightforward and easy to comply with. In the presentation of evidence to prove compliance therewith, the prosecutors are enjoined to recognize any deviation from the prescribed procedure and provide the explanation therefor as dictated by available evidence. Compliance with Section 21 being integral to every conviction, the appellate court, this Court included, is at liberty to review the records of the case to satisfy itself that the required proof has been adduced by the prosecution whether the accused has raised, before the trial or appellate court, any issue of non-compliance. If deviations are observed and no justifiable reasons are provided, the conviction must be overturned, and the innocence of the accused affirmed.[62]

WHEREFORE, in view of the foregoing, the appeal is hereby GRANTED. The Decision dated March 24, 2014 of the Court of Appeals, Seventeenth Division in CA-G.R. CR-HC No. 05820 is hereby REVERSED and SET ASIDE. Accordingly, accused-appellant MARLON CASCO y VILLAMER is ACQUITTED of the crime charged on the ground of reasonable doubt, and is ORDERED IMMEDIATELY RELEASED from detention unless he is being lawfully held for another cause. Let an entry of final judgment be issued immediately.

Let a copy of this Decision be sent to the Superintendent of the New Bilibid Prison, Muntinlupa City, for immediate implementation. The said Superintendent is ORDERED to REPORT to this Court within five (5) days from receipt of this Decision the action he has taken.

Further, the National Police Commission is hereby DIRECTED to CONDUCT AN INVESTIGATION on the police officers involved in the buy-bust operation conducted in this case.

SO ORDERED.

Carpio (Chairperson), A. Reyes, Jr., and J. Reyes, Jr.,[*] JJ., concur.
Perlas-Bernabe, J., on wellness leave.

[*] Designated additional Member per Special Order No. 2587 dated August 28, 2018.

[1] See Notice of Appeal dated April 4, 2014; CA rollo, pp. 102-103.

[2] CA rollo, pp. 87-100. Penned by Associate Justice Ramon M. Bato, Jr., with Associate Justices Rodil V. Zalameda and Myra V. Garcia-Fernandez concurring.

[3] Id. at 51-58. Penned by Presiding Judge Severino B. De Castro, Jr.

[4] 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 (2002).

[5] Records, pp. 1-2.

[6] Id. at 1.

[7] CA rollo, p. 88.

[8] Id.

[9] Id. at 88-89.

[10] Id. at 53.

[11] Id. at 89.

[12] Id. at 89-90.

[13] Id. at 55-56.

[14] Id. at 51-58.

[15] Id. at 56-58.

[16] Id. at 87-100.

[17] Id. at 96-97.

[18] Id. at 99.

[19] Id. at 102-103.

[20] See *People v. Sagana*, G.R. No. 208471, August 2, 2017, 834 SCRA 225, 240.

[21] *Derilo v. People*, 784 Phil. 679, 686 (2016).

[22] *People v. Alvaro*, G.R. No. 225596, January 10, 2018, pp. 6 and 9.

[23] *People v. Manansala*, G.R. No. 229092, February 21, 2018, p. 5.

[24] The said Section reads as follows:

SEC. 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;

(2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination[.]

[25] *People v. Callejo*, G.R. No. 227427, June 6, 2018, p. 10.

[26] See *People v. Sanchez*, 590 Phil. 214, 234 (2008).

[27] *People v. Ceralde*, G.R. No. 228894, August 7, 2017, 834 SCRA 613, 625.

[28] *People v. Almorfe*, 631 Phil. 51, 60 (2010).

- [29] See *People v. De Guzman*, 630 Phil. 637, 649 (2010).
- [30] *People v. Gonzales*, 708 Phil. 121, 123 (2013).
- [31] See TSN, August 17, 2009, pp. 7-12 and 24-25.
- [32] Records, p. 18.
- [33] *Supra* note 25.
- [34] *Id.* at 13.
- [35] *People v. Gamboa*, 799 Phil. 584,597 (2016), citing *People v. Umipang*, 686 Phil. 1024, 1038-1039 (2012).
- [36] *Id.* at 597.
- [37] *People v. Callejo*, *supra* note 25, at 9-10, citing *People v. Cayas*, 789 Phil. 70, 79-80 (2016).
- [38] *People v. Beran*, 724 Phil. 788, 822 (2014).
- [39] *People v. Reyes*, 797 Phil. 671, 690 (2016).
- [40] Records, pp. 8-9.
- [41] See *People v. Sumili*, 753 Phil. 342, 350-352 (2015).
- [42] *Supra* note 39.
- [43] *Id.* at 690.
- [44] TSN, August 17, 2009, p. 14.
- [45] 799 Phil. 484, 494-495 (2016).
- [46] *People v. Gap*, G.R. No. 217026, January 22, 2018, p. 8.
- [47] TSN, August 17, 2009, pp. 13-15.
- [48] *People v. Supat*, G.R. No. 217027, June 6, 2018, p. 16.
- [49] See *People v. Mendoza*, 736 Phil. 749, 770 (2014).
- [50] *Id.* at 770.
- [51] *Id.*
- [52] 699 Phil. 603, 621 (2012).
- [53] *Id.* at 621.
- [54] PNPM-D-O-3-1-99 [NG], the precursor anti-illegal drug operations manual prior to the 2010 and 2014 AIDSOTF Manual.
- [55] *People v. Supat*, *supra* note 48, at 18-19.
- [56] *People v. Daria, Jr.*, 615 Phil. 744, 767 (2009).
- [57] See *People v. Pepino-Consulta*, 716 Phil. 733, 761 (2013).
- [58] See CA rollo, pp. 89-90.

[59] See *id.* at 94-95.

[60] *Id.* at 89-90.

[61] *People v. Daria, Jr.*, *supra* note 56, at 767.

[62] *People v. Otico*, G.R. No. 231133, p. 23, citing *People v. Jugo*, G.R. No. 231792, January 29, 2018, p.

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