

JUANDOM PALENCIA Y DE ASIS, PETITIONER, VS. PEOPLE OF THE PHILIPPINES RESPONDENT.

G.R. No. 219560. July 01, 2020

Ponente: LEONEN, J.

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LEONEN, J.:

Courts must strictly scrutinize violations of Republic Act No. 9165 when only minuscule amounts of dangerous drugs were seized from the accused. Additionally, in assessing the prosecution's evidence, courts should include the scale of operations and the government unit involved in an anti-narcotics operation. If the amount of drugs seized is disproportionate to the scale of operations, courts should not readily rely on the presumption of regularity accorded to the arresting and seizing officers.

This Court resolves the Petition for Review on Certiorari[1] assailing the Decision[2] and Resolution[3] of the Court of Appeals, which affirmed the Regional Trial Court Judgment[4] finding Juandom Palencia y De Asis (Palencia) guilty beyond reasonable doubt of possessing dangerous drugs, punished under Section 11 of Republic Act No. 9165, or the Comprehensive Dangerous Drugs Act of 2002.

On April 22, 2008, Palencia was charged with possession of dangerous drugs. The accusatory portion of the Information against him reads:

That on or about the 21[st] day of April, 2008, in the City of Dumaguete, Philippines, and within the jurisdiction of this Honorable Court, the said accused, not being then authorized by law, did, then and there willfully, unlawfully and feloniously possess one (1) heat-sealed transparent plastic sachet containing 0.01 gram of Methamphetamine Hydrochloride, otherwise known as "SHABU", a dangerous drug.

Contrary to Sec. 11, Art. II of R.A. 9165.[5]

Upon arraignment, Palencia pleaded not guilty to the charge against him. After pre-trial had been terminated, trial soon ensued.[6]

The prosecution evidence showed that on the morning of April 21, 2008, officers of the National Bureau of Investigation received information about the rampant sale of illegal drugs near Chicos in Zone 4, Barangay Looc, Dumaguete City. That same day, a team of law enforcers was formed to conduct an anti-narcotics operation in the tipped site.[7] The team included Special Investigator Nicanor Tagle (SI Tagle) and two Philippine Drug Enforcement Agency agents, Senior Police Officer 1 Allen June Germodo (SPO1 Germodo) and PO2 Glenn Corsame (PO2 Corsame).[8]

At around 10:50 a.m., the team proceeded to Zone 4 with the volunteer assets.[9]

The team began walking along two parallel alleys that led to the beach while PO2 Corsame paused to park his motorcycle.[10] On their way, SI Tagle, SPO1 Germodo, and the assets saw a man walking toward their direction, his head bowed down as he looked at the plastic sachets he was holding in his left hand. They would later identify the man as Palencia.[11]

When Palencia looked up and saw the officers, he tried to run away, but SI Tagle and SPO1 Germodo caught him and tried to restrain him. Palencia struggled to escape from the officers' grasp and when he was able to free his left hand, he popped the sachets in his hand to his mouth and managed to swallow them. As the struggle continued, however, one of the sachets fell from his mouth and dropped to the ground.[12]

With the rest of the team's help, the officers were able to fully restrain Palencia. SI Tagle then picked up the sachet Palencia dropped. He also informed Palencia of his constitutional rights in both English and Visayan and the reason for his arrest.[13] As SPO1 Germodo handcuffed Palencia, SI Tagle marked the sachet by putting a piece of masking tape[14] on it and writing "JP"-P 4-21-08 on the tape.[15]

The arresting officers moved about eight meters away from the arrest site and positioned themselves near the highway. After about 10 minutes,[16] the seized sachet was inventoried[17] in the presence of Neil Rio (Rio),[18] a news reporter, Ramonito Astillero (Astillero),[19] a representative from the Department of Justice, and Merlindo Tamayo (Tamayo),[20] a barangay kagawad. SPO1 Germodo took pictures.[21]

Rio confirmed that he saw the marked sachet and signed the inventory sheet; however, he admitted that he did not witness the arrest and was only present during the inventory after being called by SPO1 Germodo.[22] Tamayo likewise testified that he did not see the actual arrest but that he only went to the inventory after being informed of the arrest. Nonetheless, he declared that he saw a marked sachet, which was why he signed the inventory sheet.[23] Astillero, meanwhile, testified that he saw a marked sachet during the inventory.[24]

After the inventory, the officers brought Palencia to the National Bureau of Investigation office where PO2 Corsame recorded the arrest.[25] SI Tagle then prepared a transmittal letter and letter request for an examination of the recovered sachet and a drug test on Palencia. Afterward, he brought the documents and the marked sachet to the Philippine National Police Crime Laboratory and handed them to Police Chief Inspector Josephine S. Llena (Chief Inspector Llena).[26]

Upon examination, Chief Inspector Llena reported that the specimen tested positive for shabu. She then resealed the sachet and, on the seal, wrote A D-072-08.[27] Chemistry Report No. D-072-08[28] reads in part:

SPECIMEN SUBMITTED:

- One (1) heat-sealed transparent plastic sachet with markings "JP-P" 4-21-08 containing 0.01 gram of white crystalline substance.

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PURPOSE OF LABORATORY EXAMINATION:

To determine the presence of Dangerous Drugs under RA 9165.

FINDINGS:

Qualitative examination conducted on specimen A gave POSITIVE result to the tests for Methamphetamine Hydrochloride, a dangerous drug under RA 9165.

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CONCLUSION:

Specimen A contains Methamphetamine Hydrochloride, a dangerous drug under RA 9165.[29] (Emphasis in the original)

The defense presented Palencia and his sisters, Jessica Guerrero (Guerrero) and Jingle Lugo (Lugo), as its witnesses.

Palencia testified that on the day he was arrested, he and Guerrero were on their way to Zone 3 to sell "bihag," or "the meat of a dead fighting cock." On their way, somebody flagged them down and bought the two pieces of bihag they carried for P100.00 each.[30]

After the sale, Palencia and Guerrero walked toward the main road on their way home. At that moment, they saw several persons being chased by another group of men who wielded guns. Unable to chase them, one of the armed men, whom Palencia would later discover to be SI Tagle, stopped running and turned on the siblings instead. The officer grabbed Palencia's arm and pointed the gun to his head.[31]

Together with his companions, SI Tagle patted down Palencia and emptied his pockets, where they found his cellphone and the proceeds from the bihag sale. Two men held down Palencia while SI Tagle repeatedly punched him in his chest and stomach. After the officer had finished and walked away, his companions handcuffed Palencia.[32]

When SI Tagle returned minutes later, he bent down in front of Palencia as if to pick something up. When he stood, he had a plastic sachet in his hand, which prompted Palencia to shout, "Planting! Planting!"[33]

Palencia denied that he was informed of his constitutional rights during his arrest, or that PO2 Corsame and SPO1 Germodo were with SI Tagle when he was arrested. He likewise denied that an inventory was conducted at the place of his arrest.[34]

Guerrero corroborated her brother's testimony.[35] She added that while her brother was being mauled and handcuffed, she was "crying and trembling," terrified of what was happening.[36]

Guerrero also testified that after her brother had been handcuffed,[37] the men brought him to the side of the road, made him sit on a stool, and investigated him without a lawyer.[38] Afterward, they made him board a car and brought him to the National Bureau of Investigation office.[39]

Lugo testified that Guerrero texted her of Palencia's arrest immediately after it happened. Thus, she went to the National Bureau of Investigation office to check on his brother. When she talked to him, he denied possessing shabu and claimed that the officers had mauled him.[40]

Lugo also testified that her brother was later transferred to the police station jail. When she visited him about three days after his arrest, she saw that he had large bruises on his chest. She gave him pain reliever and advised him not to undergo medical examination because this might only encourage the officers to gang up on him once more.[41]

On October 24, 2011, the Regional Trial Court[42] found Palencia guilty beyond reasonable doubt of illegally possessing a dangerous drug.

The Regional Trial Court found that the prosecution was able to establish that Palencia was caught possessing a sachet of shabu. It emphasized that the police officers were justified in making a warrantless seizure under the plain view doctrine because Palencia was caught in flagrante delicto with what appeared to be a sachet of dangerous drugs.[43]

The Regional Trial Court then brushed aside Palencia's "inherently weak defense" of denial or frame-up, made even weaker with the prosecution witnesses' positive identification of Palencia. It also pointed out that Palencia failed to show that the arresting officers had ill motive to testify against him.[44]

The Regional Trial Court likewise punctuated that the arresting officers enjoyed the presumption of regularity in the performance of their duty. It maintained that they testified in a consistent and straightforward manner, their accounts something that "could have only been described by a person who actually witnessed the event[.]"[45]

The dispositive portion of the Regional Trial Court Judgment read:

WHEREFORE, in the light of the foregoing, the Court hereby finds the accused Juandom Palencia y De Asis GUILTY beyond reasonable doubt of the offense of illegal possession of one (1) heat-sealed transparent plastic containing 0.01 gram of shabu in violation of Section 11, Article II of R.A. No. 9165 and is hereby sentenced to suffer an indeterminate penalty of twelve (12) years and one (1) day as minimum term to fourteen (14) years as maximum term and to pay a fine of Four Hundred Thousand Pesos (P400,000.00).

The one (1) heat-sealed transparent plastic sachet containing 0.01 gram of shabu is hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

SO ORDERED[46] (Emphasis in the original)

On November 4, 2011, the Regional Trial Court granted[47] Palencia's Motion for Temporary Liberty[48] under the same bail bond pending his appeal and ordered[49] his release.

Palencia appealed to the Court of Appeals. However, on November 25, 2014, the Court of Appeals denied[50] his appeal.

The Court of Appeals upheld the Regional Trial Court's finding that Palencia was caught in flagrante delicto possessing a sachet of shabu, making the warrantless arrest and seizure valid.[51]

The Court of Appeals likewise found that the prosecution accounted for all the links in the chain of custody of the seized shabu.[52] It ruled that the purported omissions by the arresting officers were minor details that did not cast doubt on the integrity of the drug seized.[53]

The dispositive portion of the Court of Appeals Decision read:

WHEREFORE, premises considered, the appeal is DENIED. The assailed October 24, 2011 Decision of the Regional Trial Court, Branch 30 of Dumaguete City in Criminal Case No. 19032 convicting accused-appellant Juandum (sic) Palencia for violation of Section 11, Article II of RA 9165 is hereby AFFIRMED.

SO ORDERED.[54] (Emphasis in the original)

Palencia moved for reconsideration,[55] but the Court of Appeals denied[56] his Motion on June 23, 2015. Hence, Palencia filed this Rule 45 Petition[57] before this Court.

Petitioner questions the constitutionality of Section 21(a) of the Comprehensive Dangerous Drugs Act's Implementing Rules and Regulations for supposedly going beyond[58] the confines of the law. He claims that the implementing rules "trivialized the rigid requirements of the 'chain of custody' rule." [59]

Petitioner also contends that Section 11 of the Comprehensive Dangerous Drugs Act itself violated substantive due process and the equal protection clause because it failed to provide graduated penalties for confiscated drugs weighing less than five grams.[60]

Additionally, petitioner maintains that the sachet supposedly recovered from him was inadmissible in evidence for being a "fruit of the poisoned tree." [61] He insists that the arresting officers failed to inform him of his constitutional rights when he was arrested and taken into custody.[62]

Finally, petitioner stresses that the integrity and evidentiary value of the seized drug were not preserved as there were numerous gaps in the chain of custody.[63] Among these gaps, he raises the trial court's failure to conduct an ocular inspection of the seized drug.[64]

In its Comment,[65] respondent People of the Philippines, represented by the Office of the Solicitor General,

points out that the issues raised by petitioner were the same issues already considered by the lower courts. Further, it states that law and jurisprudence proscribed collateral attacks on the Comprehensive Dangerous Drugs Act and its Implementing Rules and Regulations. It explains that if a judgment can be had on other grounds, the constitutional question should not be resolved.[66]

Respondent likewise states that the issue of the arresting officers' compliance with the chain of custody rule was a factual issue, which made it improper to be raised in a Rule 45 petition.[67] It then maintains that petitioner only objected to the Regional Trial Court's failure to conduct an ocular inspection for the first time on appeal.[68]

In his Reply,[69] petitioner merely restates the arguments in his Petition and does not directly address the points raised by respondent.

The issues for this Court's resolution are:

First, whether or not Section 11 of the Comprehensive Dangerous Drugs Act of 2002 and Section 21(a) of its Implementing Rules and Regulations are invalid for being unconstitutional;

Second, whether or not a valid warrantless search and seizure was made; and

Finally, whether or not the prosecution was able to prove the integrity and evidentiary value of the seized shabu.

I

A court's power of judicial review, which includes the power to "declare executive and legislative acts void if violative of the Constitution[,]"[70] is provided in Article VIII, Section 1 of the Constitution. It states:

SECTION 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the government.

Judicial review of the constitutionality of a statute is not limited to an action "for declaratory relief" and may be sought through any of the cognizable actions by courts of law.[71]

However, for the court to exercise its power of judicial review, the constitutional issue "(a) must be properly raised and presented in the case, and (b) its resolution is necessary to a determination of the case, i.e., the issue of constitutionality must be the very *lis mota* presented." [72] Thus, a court will only pass upon the constitutionality of a statute "to the extent that, it is directly and necessarily involved in a justiciable controversy and is essential to the protection of the rights of the parties concerned." [73] This is called the constitutional policy of avoidance.

Additionally, the issue of a statute's constitutionality can only be assailed through a direct attack, with the purported unconstitutionality pleaded directly before the court.[74] *San Miguel Brewery, Inc. v. Magno* [75] emphasized that a collateral attack—"an attack, made as an incident in another action, whose purpose is to obtain a different relief"[76]—on a presumably valid law is forbidden by public policy,[77] *Tan v. Bausch & Lomb, Inc.* [78] explains:

Furthermore, the order of the trial court was a patent nullity. In resolving the pending incidents of the motion to transfer and motion to quash, the trial court should not have allowed petitioners to collaterally attack the validity of A.O. Nos. 113-95 and 104-96. We have ruled time and again that the constitutionality or validity of laws, orders, or such other rules with the force of law cannot be attacked collaterally. There is a legal presumption of validity of these laws and rules. Unless a law or rule is annulled in a direct proceeding, the

legal presumption of its validity stands.[79] (Citation omitted)

This was reiterated in *Vivas v. The Monetary Board of the Bangko Sentral ng Pilipinas*,[80] where this Court stated:

Preliminarily, Vivas' attempt to assail the constitutionality of Section 30 of R.A. No. 7653 constitutes collateral attack on the said provision of law. Nothing is more settled than the rule that the constitutionality of a statute cannot be collaterally attacked as constitutionality issues must be pleaded directly and not collaterally. A collateral attack on a presumably valid law is not permissible. Unless a law or rule is annulled in a direct proceeding, the legal presumption of its validity stands.[81] (Citations omitted)

It is likewise well established that a challenge to a statute's constitutionality "must be raised at the earliest opportunity." [82] Nonetheless, *San Miguel Brewery* noted that in a criminal case, the constitutionality of a statute "may be raised at any stage of the proceedings," even on appeal.[83]

Finally, a legal presumption exists that an enacted law is valid.[84] Thus, if the controversy on the constitutionality of a statute can be settled on other grounds, this Court stays its hand from ruling on the constitutional issue.[85] The policy of constitutional avoidance finds its genesis in a concurring opinion on the United States case of *Ashwander v. Tennessee Valley Authority*. [86] In his concurrence, Justice Louis Brandeis set forth the seven pillars of limitations of judicial review:

- The Court will not pass upon the constitutionality of legislation in a friendly, non-adversary proceeding, declining because to decide such questions "is legitimate only in the last resort, and as a necessity in the determination of real, earnest and vital controversy between individuals. It never was the thought that, by means of a friendly suit, a party beaten in the legislature could transfer to the courts an inquiry as to the constitutionality of the legislative act."
- The Court will not "anticipate a question of constitutional law in advance of the necessity of deciding it." "It is not the habit of the Court to decide questions of a constitutional nature unless absolutely necessary to a decision of the case."
- The Court will not "formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied."
- The Court will not pass upon a constitutional question, although properly presented by the record, if there is also present some other ground upon which the case may be disposed of. This rule has found most varied application. Thus, if a case can be decided on either of two grounds, one involving a constitutional question, the other a question of statutory construction or general law, the Court will decide only the latter. Appeals from the highest court of a state challenging its decision of a question under the Federal Constitution are frequently dismissed because the judgment can be sustained on an independent state ground.
- The Court will not pass upon the validity of a statute upon complaint of one who fails to show that he is injured by its operation. Among the many applications of this rule, none is more striking than the denial of the right of challenge to one who lacks a personal or property right. Thus, the challenge by a public official interested only in the performance of his official duty will not be entertained. In *Fairchild v. Hughes*, the Court affirmed the dismissal of a suit brought by a citizen who sought to have the Nineteenth Amendment declared unconstitutional. In *Massachusetts v. Mellon*, the challenge of the federal Maternity Act was not entertained, although made by the Commonwealth on behalf of all its citizens.
- The Court will not pass upon the constitutionality of a statute at the instance of one who has availed himself of its benefits.
- "When the validity of an act of the Congress is drawn in question, and even if a serious doubt of

constitutionality is raised, it is a cardinal principle that this Court will first ascertain whether a construction of the statute is fairly possible by which the question may be avoided." [87] (Citations omitted)

These rules of avoidance were then summarized in *Francisco, Jr. v. House of Representatives*, [88] as follows:

The foregoing "pillars" of limitation of judicial review, summarized in *Ashwander v. TVA* from different decisions of the United States Supreme Court, can be encapsulated into the following categories:

- that there be absolute necessity of deciding a case
- that rules of constitutional law shall be formulated only as required by the facts of the case
- that judgment may not be sustained on some other ground
- that there be actual injury sustained by the party by reason of the operation of the statute
- that the parties are not in estoppel
- that the Court upholds the presumption of constitutionality. [89] (Emphasis in the original)

Here, it is of no moment that petitioner only raised the issue of constitutionality for the first time on appeal, [90] as it was still properly and timely raised in a direct action. However, delving into the constitutionality of the assailed provisions of the law and implementing rules is not essential to the disposition of the case. It can still be resolved in favor of petitioner on other grounds without resorting to a review of the law.

II

The inviolability of a person's right against unreasonable searches and seizures finds its mooring in Article III, Section 2 of the Constitution. It provides:

SECTION 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

The general rule is that a judicial warrant is needed before a search and seizure may be carried out. Without it, the search and seizure would violate the Constitution and any evidence gathered from it "shall be inadmissible for any purpose in any proceeding." [91]

Nonetheless, the constitutional prohibition only encompasses unreasonable searches and seizures. In fact, this Court has recognized several instances of reasonable warrantless searches and seizures:

- Warrantless search incidental to a lawful arrest recognized under Section 12, Rule 126 of the Rules of Court and by prevailing jurisprudence;
- Seizure of evidence in "plain view," the elements of which are:
 - (a) a prior valid intrusion based on the valid warrantless arrest in which the police are legally present in the pursuit of their official duties;
 - (b) the evidence was inadvertently discovered by the police who had the right to be where they are;
 - (c) the evidence must be immediately apparent, and
 - (d) "plain view" justified mere seizure of evidence without further search;
- Search of a moving vehicle. Highly regulated by the government, the vehicle's inherent mobility reduces expectation of privacy especially when its transit in public thoroughfares furnishes a highly reasonable suspicion amounting to probable cause that the occupant committed a criminal activity;

- Consented warrantless search;
- Customs search;
- Stop and Frisk; and
- Exigent and Emergency Circumstances.[92] (Emphasis supplied, citations omitted)

The exceptions of a warrantless search incidental to a lawful arrest and a "stop and frisk" search are often confused. In *Malacat v. Court of Appeals*,^[93] this Court explained that those two exceptions "differ in terms of the requisite quantum of proof before they may be validly effected and in their allowable scope."^[94]

For the first instance to operate, the arrest, as the name suggests, must be established to have been lawful. For an arrest to be deemed lawful, a court of law must have issued a warrant of arrest. Otherwise, the arrest must have fallen within the purview of a lawful warrantless arrest in Rule 113, Section 5 of the Rules of Court. It states in part:

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

(a)

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

(b)

When an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and

(c)

When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

For valid warrantless arrests under both Section 5(a) and (b), it is imperative that the arresting officer had personal knowledge of the offense. The primary difference between the two subsections is that with Section 5(a), the arresting officer personally witnessed the crime, while under Section 5(b), the arresting officer had reason to believe that the person to be arrested committed an offense.^[95] Either way, the lawful arrest generally precedes^[96] or is substantially contemporaneous^[97] with the search.

In direct contrast to warrantless searches incidental to a lawful arrest, stop and frisk searches are conducted to prevent crime. Such operations are necessary for law enforcement, as underscored in *People v. Cogaed*.^[98] Yet, in that same case, this Court warned that this necessity must be balanced with one's right to privacy:

"Stop and frisk" searches (sometimes referred to as Terry searches) are necessary for law enforcement. That is, law enforcers should be given the legal arsenal to prevent the commission of offenses. However, this should be balanced with the need to protect the privacy of citizens in accordance with Article III, Section 2 of the Constitution.

The balance lies in the concept of "suspiciousness" present in the situation where the police officer finds himself or herself in. This may be undoubtedly based on the experience of the police officer. Experienced police officers have personal experience dealing with criminals and criminal behavior. Hence, they should have the ability to discern — based on facts that they themselves observe — whether an individual is acting in a

suspicious manner. Clearly, a basic criterion would be that the police officer, with his or her personal knowledge, must observe the facts leading to the suspicion of an illicit act.[99] (Citation omitted)

In *Manalili v. Court of Appeals*,^[100] police officers responded to a report that drug addicts were roaming the front of Kalookan City Cemetery. There, they saw a man with bloodshot eyes who was swaying as he walked,^[101] *Manalili* upheld the validity of the warrantless search and seizure, deemed as a stop and frisk search, since the officers' observation and assessment led them to believe that the man was high on drugs and compelled them to investigate and search the man.

Similarly, in *People v. Solayao*,^[102] police officers responded to reports that armed men were roaming the streets at night. As the police officers patrolled the streets, they saw a group of drunk men, among them the accused who was clad in a camouflage uniform. Upon seeing the police, the men all fled, but the officers managed to collar the accused, frisk him, and find that he carried an unlicensed firearm.^[103] This Court held that the warrantless search and seizure made was valid for being a stop and frisk search, as the rapidly unfolding events did not leave the police officers enough time to apply for a search warrant.

Manalili and *Solayao* both upheld the warrantless searches conducted as valid stop and frisk searches because "the police officers[,] using their senses[,] observed facts that led to the suspicion."^[104] Furthermore, the totality of the circumstances in each case, as assessed by the police officers, provided ample and genuine reason for them to suspect that something illicit was happening.

To substantiate a warrantless search and seizure, more than one suspicious circumstance is needed. In *Manibog v. People*,^[105] this Court, citing Justice Lucas Bersamin's dissent in *Esquillo v. People*,^[106] cautioned against warrantless searches based on a single suspicious circumstance. It stressed that there should be "more than one seemingly innocent activity, which, taken together, warranted a reasonable inference of criminal activity"^[107] for a valid stop and frisk search.

For this Court to uphold the validity of a stop and frisk search, the arresting officer must have had personal knowledge of facts that would have aroused a reasonable degree of suspicion of an illicit act. Cogea emphasized that the arresting officer's personal observation of suspicious circumstances as basis for the search is necessary, and anything less than their personal observation is an infringement on the "basic right to security of one's person and effects."^[108]

Here, both SI Tagle and SPO1 Germodo testified that in an area notorious for the buying and selling of dangerous drugs, they saw petitioner checking out some plastic sachets in his left hand. They then both testified that when petitioner saw them, he tried to make a run for the other direction and, after getting caught, swallowed the plastic sachets in his hand, save for that one sachet that fell from his mouth.^[109] When SI Tagle picked up the sachet, he saw that it contained white crystalline granules which he suspected to be shabu.^[110] Thus, the totality of circumstances rightfully created a reasonable suspicion in the arresting officers' mind that petitioner was possessing illegal drugs. This justifies the stop and frisk search they conducted on petitioner.

The lower courts erred in designating the warrantless search done as a consequence of an *in flagrante delicto* arrest^[111] under Rule 113, Section 5(a) rather than a valid stop and frisk search. However, the seizure remains valid since it fell under the established exemptions under reasonable warrantless searches and seizures.

Nonetheless, as the records will bear out, the prosecution still failed to prove petitioner's guilt beyond reasonable doubt. His acquittal is inexorable.

III (A)

Rule 133, Section 2 of the Revised Rules on Evidence requires proof beyond reasonable doubt for an accused's

conviction:

SECTION 2. Proof beyond reasonable doubt. — In a criminal case, the accused is entitled to an acquittal, unless his guilt is shown beyond reasonable doubt. Proof beyond reasonable doubt does not mean such a degree of proof as, excluding possibility of error, produces absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind.

The requirement of proof beyond reasonable doubt in a criminal case finds its basis in the due process^[112] clause and in an accused's presumption of innocence,^[113] both enshrined in the Constitution. In *People v. Ganguso*:^[114]

An accused has in his favor the presumption of innocence which the Bill of Rights guarantees. Unless his guilt is shown beyond reasonable doubt, he must be acquitted. This reasonable doubt standard is demanded by the due process clause of the Constitution which protects the accused from conviction except upon proof beyond reasonable doubt of every fact necessary to constitute the crime with which he is charged. The burden of proof is on the prosecution, and unless it discharges that burden the accused need not even offer evidence in his behalf, and he would be entitled to an acquittal. Proof beyond reasonable doubt does not, of course, mean such degree of proof as excluding possibility of error, produces absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind. The conscience must be satisfied that the accused is responsible for the offense charged.^[115] (Citations omitted)

Thus, the prosecution carries the burden of proving the accused's guilt beyond reasonable doubt. Conviction rests on the strength of the prosecution's evidence and not on the weakness of the accused's defense.^[116]

Here, petitioner was charged with illegal possession of dangerous drugs, whose elements are: "(a) the accused was in possession of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug."^[117]

The seized narcotic is the corpus delicti in drug cases. Hence, the chain of custody must be preserved to establish with moral certainty that the drug presented as evidence in court be the same drug seized from an accused.^[118] The requirement of an unbroken chain of custody was reiterated in *People v. Tanes*:^[119]

In drug cases, the dangerous drug itself is the very corpus delicti of the violation of the law. Consequently, compliance with the rule on chain of custody over the seized illegal drugs is crucial in any prosecution that follows a buy-bust operation. The rule is imperative, as it is essential that the prohibited drug recovered from the suspect is the very same substance offered in court as exhibit; and that the identity of said drug is established with the same unwavering exactitude as that requisite to make a finding of guilt.^[120]

Mallillin v. People^[121] instructs what comprises sufficient compliance with the chain of custody rule:

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.^[122] (Emphasis supplied, citations omitted)

People v. Nandi^[123] enumerated the four links that should be established by the prosecution to prove a complete chain of custody:

[F]irst, 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 from the forensic chemist to the court.[124] (Emphasis in the original, citation omitted)

The first link in the chain is the marking of the illicit drug recovered. *People v. Coreche*[125] stressed the indispensability of marking to prevent the evils of switching, planting, or contamination of evidence.[126] *People v. Sanchez*[127] then emphasized that "marking" pertains to "the placing by the apprehending officer or the poseur-buyer of his/her initials and signature on the item/s seized." [128]

Placing identifying marks, such as the apprehending officer's initials and signature, on the seized dangerous drug serves to set apart as evidence the dangerous drugs from other similar items. But more than the apprehending officer's initials or the accused's initials, what really sets the seized drug apart is the apprehending officer's signature. Initials and dates are easy to reproduce, but forging a signature is much harder to accomplish and can be detected by the arresting officer.

Here, SI Tagle marked the seized sachet by sticking a masking tape on it, and there wrote petitioner's initials and the date of arrest.[129] However, he did not place his signature on the masking tape.[130]

SI Tagle's failure to do so creates doubt, because without his signature, the generic marking of petitioner's initials and date of arrest may as well have been replicated by just about anybody on a piece of masking tape placed on any plastic sachet of shabu.

SI Tagle himself admitted the possibility of tampering with his use of a masking tape to mark the seized sachet:

[Atty. Sedillo] Q Now tell this court why did you use a masking tape and a ball pen instead of using a pentel pen with a small point and have it written on the sachet itself? Why the masking tape where it can be easily removed and replaced? Or is it part of your operational guideline to use a masking tape and not pentel pens on the sachets where it cannot be erased?

A We have ball pens where it cannot be erased also, we just used the tape as our usual practice.

Q Yes, the ball pen cannot be erased but the masking tape can be easily removed, right?

A Yes, sir.

Q It can be easily removed from the plastic?

A Yes, sir.

Q It can be?

A Yes, sir.[131]

Aside from that, other glaring lapses surrounded the first link in the chain. Testimonies from prosecution witnesses conflicted on who actually conducted the inventory, with SI Tagle[132] and PO2 Corsame[133] both claiming to be the one that did it. Furthermore, Astillero, the Department of Justice representative, testified that when the sachet was inventoried after the arrest, it not only carried the marking "JP"-P 4-21-08, but also A D-072-08—the marking Chief Inspector Llena, the forensic chemist, made after testing the substance inside the seized sachet.[134] Astillero testified:

Court-

Q-

During the inventory, when you looked at the sachet, all these markings were already there?

A-

Yes sir, the markings were already there. I checked the inventory but I cannot remember how big the evidence was.

Q-

These markings were already there?

A-

Yes sir, there were already markings.

Q-

You did not know who made those markings?

A-

I cannot remember who made them.

Q-

These markings JP-P 4-21-08, these were already in the sachet?

A-

Yes, they were already there but the size of the evidence, I cannot remember.

Q-

How about these markings A D-072-08, these were already there?

A-

Yes sir.

Q-

These markings A D-072-08 were also there already on the sachet?

A-

Yes, it was already attached.[135]

With the substantial gap in the chain of custody caused by the insufficient marking and the prosecution witnesses' conflicting testimonies, the prosecution was unable to prove with moral certainty that the sachet supposedly seized from petitioner was the same sachet presented in court. Hence, the prosecution failed to establish the identity of the corpus delicti, warranting petitioner's acquittal.

III (B)

People v. Holgado[136] directed the courts to exercise heightened scrutiny when minuscule amounts of narcotics are presented into evidence, and for good reason. Behind this lies an inversely proportional relationship: the smaller the amount of narcotics is seized, the higher the probability of tampering and switching will be. Thus, this Court held:

Trial courts should meticulously consider the factual intricacies of cases involving violations of Republic Act No. 9165. All details that factor into an ostensibly uncomplicated and barefaced narrative must be scrupulously considered. Courts must employ heightened scrutiny, consistent with the requirement of proof beyond

reasonable doubt, in evaluating cases involving miniscule amounts of drugs. These can be readily planted and tampered.[137]

Here, petitioner was charged with possessing 0.01 gram of shabu, or less than half a grain of rice. The minuscule amount of the seized illegal drug, while not a basis to acquit per se, should have prompted the trial court to strictly scrutinize the prosecution's testimony regarding the seizure.

The arresting officers testified that while they were trying to restrain petitioner, he managed to swallow the sachets in his hand except for one sachet that fell to the ground and was picked up by SI Tagle.[138] However, when SI Tagle was asked by the 'defense why he failed to retrieve the swallowed sachets, the arresting officer claimed that it was "impractical" to wait for petitioner to defecate the sachets, further noting that the single sachet of shabu he retrieved was enough evidence.[139]

On the other hand, petitioner testified that the seized sachet was merely planted on him by SI Tagle. This was corroborated by Guerrero:

Q

So since the NBI officers only retrieved a cell phone and [the] proceeds of the sale of the "bihag", tell this court what happened thereafter?

A

The one armed person walked away going outside.

Q

Now, tell this court what happened to that person, to that armed person?

A

Minutes later, he came back and when he was already near Juandom, he picked up something.

Q

And what was that something and where did he pick up that something?

A

He just pretended to pick up something and said, "Here it is, here it is."

Q

And did you have an occasion to see what he said, "Here it is, here it is?"

A

What he said was it was shabu.

Q

So after that incident where that officer who left and came back later and pretending to pick up something and said, "Here it is, here it is," and said that it was shabu, can you tell this court what was the reaction of your brother Juandom Palencia?

A

Juandom was shouting saying, "Planting, planting." [140]

Between the arresting officers' failure to substantiate their claim that petitioner swallowed several sachets of shabu on one hand, and petitioner's corroborated testimony of planting on the other, the trial court should not have quickly applied the presumption of regularity in the performance of the arresting officers' official duty and discredited the defense.

Testimony as fantastic as a single accused who was being restrained by two officers, but still managed to swallow several sachets of shabu, engenders disbelief for being contrary to human experience. Thus, it was incumbent upon the prosecution to prove its assertion beyond reasonable doubt. The easiest way to do this would have been to retrieve the swallowed sachets after they had left petitioner's body, but the prosecution failed to give a satisfactory answer why the arresting officers opted against it, only asserting that retrieval would have been impractical.

Aside from being vigilant of anti-narcotics operations that only yield tiny amounts of illegal drugs, courts should likewise consider the scale of operations and the government unit involved when assessing the proffered evidence.

Republic Act No. 9165 created the Philippine Drug Enforcement Agency to be primarily responsible for "the efficient and effective law enforcement of all the provisions on any dangerous drug and/or controlled precursor and essential chemical as provided in this Act." [141] It was thus tasked with implementing the "national drug control strategy" [142] formulated by the Dangerous Drugs Board.

With the Philippine Drug Enforcement Agency now the primary agency to enforce and implement the law, Section 68 abolished the offices with similar anti-drug operations in the National Bureau of Investigation, Philippine National Police, and Bureau of Customs. Their functions were transferred to the Philippine Drug Enforcement Agency as the lead agency, with them only providing support or detail services:

Section 86. Transfer, Absorption, and Integration of All Operating Units on Illegal Drugs into the PDEA and Transitory Provisions. — The Narcotics Group of the PNP, the Narcotics Division of the NBI and the Customs Narcotics Interdiction Unit are hereby abolished; however they shall continue with the performance of their task as detail service with the PDEA, subject to screening, until such time that the organizational structure of the Agency is fully, operational and the number of graduates of the PDEA Academy is sufficient to do the task themselves: Provided, That such personnel who are affected shall have the option of either being integrated into the PDEA or remain with their original mother agencies and shall, thereafter, be immediately reassigned to other units therein by the head of such agencies. Such personnel who are transferred, absorbed and integrated in the PDEA shall be extended appointments to positions similar in rank, salary, and other emoluments and privileges granted to their respective positions in their original mother agencies.

The transfer, absorption and integration of the different offices and units provided for in this Section shall take effect within eighteen (18) months from the effectivity of this Act: Provided, That personnel absorbed and on detail service shall be given until five (5) years to finally decide to join the PDEA.

Nothing in this Act shall mean a diminution of the investigative powers of the NBI and the PNP on all other crimes as provided for in their respective organic laws: Provided, however, That when the investigation being conducted by the NBI, PNP or any ad hoc anti-drug task force is found to be a violation of any of the, provisions of this Act, the PDEA shall be the lead agency. The NBI, PNP or any of the task force shall immediately transfer the same; to the PDEA: Provided, further, That the NBI, PNP and the Bureau of Customs shall maintain close coordination with the PDEA on all drug related matters.

Thus, the Philippine Drug Enforcement Agency takes the lead in narcotics-related cases. An agency such as the National Bureau of Investigation, with its mandate of investigating crimes and other offenses, [143] generally assists in the case build-up leading to an arrest or provides reinforcement during an operation planned and initiated by the Philippine Drug Enforcement Agency.

In pursuit of its primary role of providing investigative and technical assistance, the National Bureau of Investigation has been allotted vast resources, which it uses not only in anti-narcotics operations, but also in investigating other crimes and offenses as public interest may require. Hence, it is not expected to be active in the daily operations of the anti-narcotics drive, as that is the Philippine Drug Enforcement Agency's mandate. Instead, its assistance is generally reserved for special cases that will create a considerable impact on the drive to eradicate illegal drugs once and for all.

Here, the National Bureau of Investigation, together with the Philippine Drug Enforcement Agency, investigated a report they had just received about rampant drug selling in Barangay Looc, Dumaguete City. However, despite the planned operation involving two separate government agencies, their efforts only led to a single charge of illegal possession of 0.01 gram of shabu.

The amount of drugs seized was highly disproportionate to the government resources mobilized for the operation. This should have led the trial court to scrutinize whether planting of evidence occurred, as alleged by the defense, instead of merely relying on the presumption of regularity accorded to the arresting officers. Clearly, there was nothing regular about the Philippine Drug Enforcement Agency and the National Bureau of Investigation conducting a joint operation that only yielded a minuscule amount of illegal drugs.

Planned narcotics operations that net minuscule amounts of dangerous drugs are judicially inefficient, taxing the courts' time and resources and swamping us with cases that barely create a ripple in the anti-narcotics drive. Worse, these cases are focused on the retail end of the drug war, targeting small-time drug users and retailers who more often than not turn to dangerous drugs because of poverty or the lack of any opportunity to better their lives.

In *Holgado*, this Court spurred our law enforcers to go beyond and focus their attention and resources toward capturing the big fish—the drug kingpins that supply dangerous drugs—if they are really serious in stomping out our country's narcotics problem for good:

It is lamentable that while our dockets are clogged with prosecutions under Republic Act No. 9165 involving small-time drug users and retailers, we are seriously short of prosecutions involving the proverbial "big fish." We are swamped with cases involving small fry who have been arrested for miniscule amounts. While they are certainly a bane to our society, small retailers are but low-lying fruits in an exceedingly vast network of drug cartels. Both law enforcers and prosecutors should realize that the more effective and efficient strategy is to focus resources more on the source and true leadership of these nefarious organizations. Otherwise, all these executive and judicial resources expended to attempt to convict an accused for 0.05 gram of shabu under doubtful custodial arrangements will hardly make a dent in the overall picture. It might in fact be distracting our law enforcers from their more challenging task: to uproot the causes of this drug menace. We stand ready to assess cases involving greater amounts of drugs and the leadership of these cartels.[144]

Every effort to arrest those with as little as, not even a tenth, but a hundredth of a gram, wastes law enforcement, prosecution, and judicial time. The inequality in our prisons is underscored by the numerous arrests on the retail side. We cannot continue hoping to reduce the drug menace by merely focusing most of our resources on small fry. By combining the full force of the law with our vast government resources, we should be able to successfully target the source of illegal drugs and dismantle its widespread network to finally rid our society of its pernicious effects.

WHEREFORE, the Court of Appeals' November 25, 2014 Decision and June 23, 2015 Resolution in CA-G.R. CR No. 01827 are REVERSED and SET ASIDE. Petitioner Juandom Palencia y De Asis is ACQUITTED for the prosecution's failure to prove his guilt beyond reasonable doubt. The Regional Trial Court is ordered to RELEASE his bail bond.

For their information, copies of this Decision shall also be furnished to the Philippine Drug Enforcement Agency and the National Bureau of Investigation.

The Regional Trial Court is also directed to turn over the seized sachet of shabu to the Dangerous Drugs Board for destruction in accordance with law.

Let entry of judgment be issued immediately.

SO ORDERED.

Gesmundo, Carandang, Zalameda, and Gaerlan, JJ., concur.

[1] Rollo, pp. 4-36.

[2] Id. at 37-55. The Decision dated November 25, 2014 in CA-G.R. CR No. 01827 was penned by Associate Justice Jhosep Y. Lopez and concurred in by Associate Justices Pamela Ann Abella Maxino and Marilyn B. Lagura-Yap of the Special Nineteenth Division, Court of Appeals, Cebu City.

[3] Id. at 56-58. The Resolution dated June 23, 2015 in CA-G.R. CR No. 01827 was penned by Associate Justice Jhosep Y. Lopez and concurred in by Associate Justices Pamela Ann Abella Maxino and Marilyn B. Lagura-Yap of the Former Special Nineteenth Division, Court of Appeals, Cebu City.

[4] CA rollo, pp. 12-21. The Judgment dated October 24, 2011 and docketed as Criminal Case No. 19032 was penned by Judge Rafael Crescencio O. Tan, Jr.

[5] Rollo, p. 38.

[6] Id. at 39.

[7] Id. at 39 and RTC records, p. 11.

[8] Id. SPO1 Germodo was sometimes referred to as SPO2 Germodo.

[9] RTC records, p. 11.

[10] TSN March 2, 2011, p. 5.

[11] RTC records, p. 11.

[12] Id. at 11 and rollo, p. 40.

[13] Id.

[14] TSN March 16, 2011, p. 9.

[15] RTC records, p. 11.

[16] TSN March 16, 2011, p. 9.

[17] TSN March 2, 2011, p. 10.

[18] TSN April 20, 2011, p. 2.

[19] TSN March 23, 2011, p. 3.

[20] TSN May 4, 2011, pp. 2-3.

- [21] TSN March 30, 2011, p. 8.
- [22] TSN April 20, 2011, pp. 4-5
- [23] TSN May 4, 2011, pp. 3-5.
- [24] TSN March 23, 2011, p. 6.
- [25] TSN March 2, 2011, pp. 13-14 and RTC records, p. 29.
- [26] RTC records, p. 20.
- [27] TSN March 9, 2011, p. 8.
- [28] *Id.* at 10.
- [29] RTC records, p. 37.
- [30] CA rollo, p. 14.
- [31] *Id.* at 14 and TSN July 5, 2011, pp. 5-7.
- [32] *Id.*
- [33] *Id.*
- [34] *Id.* at 15.
- [35] TSN July 20, 2011, pp. 5-8.
- [36] *Id.* at 7.
- [37] *Id.* at 7-8.
- [38] *Id.* at 9 and 17.
- [39] *Id.* at 9.
- [40] TSN August 9, 2011, pp. 3-5.
- [41] *Id.* at 5-6.
- [42] CA rollo, pp. 12-21.
- [43] *Id.* at 16-17.
- [44] *Id.* at 17.
- [45] *Id.* at 18.
- [46] *Id.* at 20.
- [47] RTC records, p. 265. The Order was penned by Judge Rafael Crescendo C. Tan, Jr.
- [48] *Id.* at 255-256.
- [49] *Id.* at 266.
- [50] Rollo, pp. 37-55.
- [51] *Id.* at 47.

[52] Id. at 50-51.

[53] Id. at 52-53.

[54] Id. at 55.

[55] CA rollo, pp. 117-123.

[56] Rollo, pp. 56-58.

[57] Id. at 4-36.

[58] Id. at 9-13.

[59] Id. at 10.

[60] Id. at 13-15.

[61] Id. at 18-19.

[62] Id. at 21-22.

[63] Id. at 23-32.

[64] Id. at 30.

[65] Id. at 66-77.

[66] Id. at 67-69.

[67] Id. at 69-70.

[68] Id. at 74.

[69] Id. at 92-104

[70] *Angara v. Electoral Commission*, 63 Phil. 139, 139-140 (1936) [Per J. Laurel, En Banc].

[71] *Planters Products, Inc. v. Fertiphil Corp.*, 572 Phil. 270, 291 (2008) [Per J. Reyes, R.T., Third Division].

[72] Id. at 291 citing *Tropical Homes, Inc. v. National Housing Authority*, 236 Phil. 580 (1987) [Per J. Gutierrez, Jr., En Banc].

[73] *Philippine Association of Colleges and Universities v. Secretary of Education*, 97 Phil. 806, 809 (1955) [Per J. Bengzon, En Banc].

[74] *Vivas v. The Monetary Board of Bangko Sentral ng Pilipinas*, 716 Phil. 132, 153 (2013) [Per J. Mendoza, Third Division].

[75] 128 Phil. 328 (1967) [Per J. Angeles, En Banc].

[76] *Go v. Echavez*, 765 Phil. 410, 424 (2015) [Per J. Brion, Second Division].

[77] *San Miguel Brewery, Inc. v. Magno*, 128 Phil. 328, 335 (1967) [Per J. Angeles, En Banc].

[78] 514 Phil. 307 (2005) [Per J. Corona, Third Division].

[79] *Tan v. Bausch Lomb, Inc.*, 514 Phil. 307, 316 (2005) [Per J. Corona, Third Division].

[80] 716 Phil. 132 (2013) [Per J. Mendoza, Third Division].

[81] Id. at 153.

[82] Philippine National Bank v. Palma, 503 Phil. 917, 918 (2005) [Per J. Panganiban, Third Division].

[83] San Miguel Brewery, Inc. v. Magno, 128 Phil. 328, 335 (1967) [Per J. Angeles, En Banc].

[84] NAWASA v. Reyes, 130 Phil. 939, 947 (1968) [Per J. Angeles, En Banc].

[85] Gios-Samar, Inc. v. Department of Transportation and Communications, G.R. No. 217158, March 12, 2019, < <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64970> > [Per J. Jardeleza, En Banc] citing ASSOCIATE JUSTICE VICENTE V. MENDOZA, JUDICIAL REVIEW OF CONSTITUTIONAL QUESTIONS 89 (2004).

[86] 297 U.S. 288 (1936).

[87] Ashwander v. Tennessee Valley Authority, 297 U.S. 288, 347-348 (1936) as cited in Gios-Samar, Inc. v. Department of Transportation and Communications, G.R. No. 217158, March 12, 2019, < <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64970> > [Per J. Jardeleza, En Banc].

[88] 460 Phil. 830 (2003) [Per J. Carpio Morales, En Banc].

[89] Id. at 923.

[90] In the prayer in petitioner's Memorandum (RTC records, pp. 228-240) before the Regional Trial Court, he asked to be acquitted due to the prosecution's purported failure to prove his guilt beyond reasonable doubt. He did not put in issue the unconstitutionality of the Comprehensive Dangerous Drugs Act of 2002 and its Implementing Rules and Regulations.

[91] CONST., art. III, sec. 3(2).

[92] People v. Aruta, 351 Phil. 868, 879-880 (1998) [Per J. Romero, Third Division].

[93] 347 Phil. 462 (1997) [Per J. Davide, Jr., En Banc].

[94] Id. at 479-480.

[95] Sindac v. People, 794 Phil. 421, 429-430 (2016) [Per J. Perlas-Bernabe, First Division].

[96] Malacat v. Court of Appeals, 347 Phil. 462, 480 (1997) [Per J. Davide, Jr., En Banc]; People v. Racho, 640 Phil. 669, 676 (2010) [Per J. Nachura, Second Division]; and Sanchez v. People, 747 Phil. 552, 569 (2014) [Per J. Mendoza, Second Division].

[97] People v. Tudtud, 458 Phil 752, 773 (2003) [Per J. Tinga, Second Division].

[98] 740 Phil. 212, 229 (2014) [Per J. Leonen, Second Division].

[99] Id. at 229-230.

[100] 345 Phil. 632 (1997) [Per J. Panganiban, Third division].

[101] Id. at 638.

[102] 330 Phil. 811 (1996) [Per J. Romero, Second Division].

[103] Id. at. 815.

[104] People v. Cogaed, 740 Phil. 212, 231 (2014) [Per J. Leonen, Second Division].

[105] G.R. No. 211214, March 20, 2019, < <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65164> > [Per J. Leonen, Third Division].

[106] 643 Phil. 577 (2010) [Per J. Carpio Morales, Third Division].

[107] C.J. Bersamin, Dissenting Opinion in *Esquillo v. People*, 643 Phil. 577, 609 (2010) [Per J. Carpio Morales, Third Division].

[108] *People v. Cogaed*, 740 Phil. 212, 232 (2014) [Per J. Leonen, Second Division].

[109] TSN March 16, 2011, pp. 5-6. See also TSN March 20, 2011, p. 6.

[110] *Id.* at 6-8.

[111] *Rollo*, pp. 47-48 and *CA rollo*, pp. 16-17.

[112] CONST., art. III, sec. 1 provides:

SECTION 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

[113] CONST., art. III, sec. 14(2) provides:

(2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.

[114] 320 Phil. 324 (1995) [Per J. Davide, Jr., First Division].

[115] *Id.* at 335.

[116] *Macayan, Jr. v. People*, 756 Phil. 202 (2015) [Per J. Leonen, Second Division].

[117] *Anyayahan v. People*, G.R. No. 229787, June 20, 2018, < <http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64228> > [Per J. Perlas-Bernabe, Second Division] citing *People v. Bio*, 753 Phil. 730, 736 (2015) [Per J. Del Castillo, Second Division].

[118] *People v. Lorenzo*, 633 Phil. 393, 402-403 (2010) [Per J. Perez, Second Division].

[119] G.R. No. 240596, April 3, 2019, < <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65152> > [Per J. Caguioa, Second Division].

[120] *Id.*

[121] 576 Phil. 576 (2008) [Per J. Tinga, Second Division].

[122] *Id.* at 587.

[123] 639 Phil. 134 (2010) [Per J. Mendoza, Second Division].

[124] *Id.* at 144-145 citing *People v. Kamad*, 624 Phil. 289 (2010) [Per J. Brion, Second Division].

[125] 612 Phil. 1238 (2009) [Per J. Carpio, First Division].

[126] *Id.* at 1245.

[127] 590 Phil, 214 (2008) [Per J. Brion, Second Division].

[128] Id. at 241.

[129] TSN March 16, 2011, pp. 9 and 25-26.

[130] Id. at 9.

[131] Id. at 25-26.

[132] Id. at 9.

[133] TSN March 2, 2011, p. 10.

[134] TSN March 9, 2011, p. 8.

[135] TSN March 23, 2011, pp. 8-9.

[136] 741 Phil. 78 (2014) [Per J. Leonen, Third Division].

[137] *People v. Holgado*, 741 Phil. 78, 100 (2014) [Per J. Leonen, Third Division].

[138] RTC records, p. 11.

[139] TSN March 16, 2011, pp. 23-24.

[140] TSN July 20, 2011, pp. 7-8.

[141] Republic Act No. 9165 (2002), sec. 82 provides:

SECTION 82. Creation of the Philippine Drug Enforcement Agency (PDEA). — To carry out the provisions of this Act, the PDEA, which serves as the implementing arm of the Board, and shall be responsible for the efficient and effective law enforcement of all the provisions on any dangerous drug and/or controlled precursor and essential chemical as provided in this Act.

[142] Republic Act No. 9165 (2002), sec. 84(a) provides:

SECTION 84. Powers and Duties of the PDEA. — The PDEA shall:

(a) Implement or cause the efficient and effective implementation of the national drug control strategy formulated by the Board thereby carrying out a national drug campaign program which shall include drug law enforcement, control and prevention campaign with the assistance of concerned government Agencies[.]

[143] Republic Act No. 157 (1947), sec. 1(a).

[144] *People v. Holgado*, 741 Phil. 78, 100 (2014) [Per J. Leonen, Third Division].

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