

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSEPH ESPERA Y BANÑANO @ JOJO, ACCUSED-APPELLANT.*G.R. No. 227313, April 21, 2026*

Ponente: LEONEN, SAJ.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-227313/>**LEONEN, SAJ.:**

The general rule remains that the inventory and photographing of the seized items after a buy-bust operation must be done at the place of apprehension. The insulating witnesses must likewise be physically present at or near the place of arrest. Any deviation from these requirement requires a justifiable and practicable reason, which must be duly alleged in the affidavits executed by the police officers involved. Failure to provide such justification may result in the acquittal of the accused.

This Court resolves a Motion for Reconsideration^[1] filed by Joseph Espera y Banñano alias Jojo (Espera), assailing the November 21, 2018 Decision of this Court.^[2] Espera contends that the buy-bust team that apprehended him failed to comply with Section 21^[3] of Republic Act No. 9165 on the chain of custody rule. He points out that the representatives from the media, the Department of Justice (DOJ), and an elected public official were present only during the inventory at the Philippine Drug Enforcement Agency (PDEA) Regional Office, and not at the place where the shabu was allegedly seized from his person. He further asserts that the inventory was conducted at the PDEA Regional Office No. 02, rather than at the place of arrest. According to Espera, these lapses rendered the seizure of the shabu and his subsequent conviction void.

To recall, in a September 3, 2010 Information, Espera was charged with violating Section 5^[4] of Republic Act No. 9165 for allegedly selling 0.17 grams of shabu to Investigating Officer 1 Johnny A. Sumalag (IO1 Sumalag) in a buy-bust operation. The accusatory portion of the Information provided:

That on September 02, 2010, in the City of Tuguegarao, Province of Cagayan, and within the jurisdiction of this Honorable Court, the accused JOSEPH ESPERA y BANÑANO alias "JOJO," without authority of law and without any permit to sell, transport, deliver, and distribute dangerous drugs, did then and there, willfully, unlawfully, and feloniously, sell, and distribute one (1) piece of heat-sealed transparent plastic sachet containing 0.17 gram of METHAMPHETAMINE HYDROCHLORIDE, commonly known as "shabu," a dangerous drug, to IO1 JOHNNY A. SUMALAG, who acted as a poseur buyer; that when the accused received the total amount of P3,000.00 consisting of two (2) pcs. of genuine P500.00 peso-bills bearing Serial Nos. MA127213 and ZF114638 marked buy bust money which were placed on top of Two Thousand Pesos (P2000.00) Boodle Money consisting of four (4) pcs. P500.00 peso-bills which was the agreed purchase price of the dangerous drug from the said poseur buyer, he in turn handed the heat-sealed plastic sachet containing the dangerous drug to the said poseur buyer and this led to the apprehension and arrest of the accused and the recovery of the genuine two (2) P500.00 buy-bust money and the four (4) pcs. of P500.00 peso-bill boodle money from his possession and control, and the confiscation of the dangerous drug at an alley at the back of the Barangay Gymnasium of Atulayan Norte, Tuguegarao City, by members of the Philippine Drug Enforcement Agency (PDEA), Regional Office N[o]. 02, Camp Adduru, this city, who formed the buy-bust team.

CONTRARY TO LAW.[5]

During his arraignment, Espera pleaded not guilty to the charge. Trial thereafter ensued.[6]

The prosecution presented the following witnesses: (1) IO1 Sumalag; (2) Intelligence Officer I Jun Clyde Cabanilla (IO1 Cabanilla); (3) media representative Dina Tuddao (Dina); (4) Police Senior Inspector Glenn Ly Tuazon (PSI Tuazon); and (5) Intelligence Officer 2 Joseph Sacolles. Taken together, their testimonies tended to establish the following version of facts.

On September 2, 2010, at about 10:00 a.m., IO2 Sacolles, a PDEA agent, received information from a confidential informant that Espera distributed shabu in Atulayan Norte, Tuguegarao City and was then looking for a buyer.[7]

Based on the confidential informant's information, a buy-bust team was formed, with IO2 Sacolles as team leader, IO1 Sumalag as poseur buyer, IO1 Cabanilla as arresting officer, Intelligence Officer 1 Mark Anthony Ventura (IO1 Ventura) as investigating officer, and the rest of the team members as back-up.[8]

Upon reaching the target area, the confidential informant introduced IO1 Sumalag to Espera, saying, "Pre, ka tropa." [9] Espera then told IO1 Sumalag, "Dala ko na yung item," [10] to which the latter replied, "Dala ko na yung pera." [11]

Espera then took out a heat-sealed transparent plastic sachet containing a white crystalline substance from his right pocket and handed it to IO1 Sumalag. In exchange, IO1 Sumalag gave Espera the marked money consisting of two genuine PHP 500.00 bills, along with the PHP 2,000.00 in boodle money. Upon completion of the exchange, IO1 Sumalag removed his bull cap, which served as the pre-arranged signal that the transaction had already been consummated.[12]

The other members of the buy-bust team rushed to the scene. IO1 Cabanilla frisked Espera and recovered the buy-bust money. While being handcuffed by IO1 Cabanilla, Espera was informed of his constitutional rights by IO1 Socalles. Meanwhile, at the crime scene, IO1 Sumalag marked the confiscated plastic sachet with his initials, "JAS 09-02-10," and signed it.[13]

The buy-bust team then returned to the PDEA Regional Office No. 02, with Espera on board the PDEA Toyota Revo service vehicle. IO1 Sumalag had custody of the seized plastic sachet while en route to their office, while IO1 Cabanilla kept possession of the marked money.[14]

At the PDEA Regional Office, IO1 Ventura prepared the Inventory of Seized Properties/Items and other documents in the presence of Espera. The proceedings at the PDEA office were likewise documented through photographs. The inventory taking of the seized items was witnessed by Espera; media representatives Dina, Cayetano Tuddao, and Edmund Pancha; Barangay Captain Jimmy Pagulayan (Barangay Captain Pagulayan); and DOJ representative Ferdinand Gangan.[15]

IO1 Sumalag then personally brought the seized plastic sachet to the PNP Regional Crime Laboratory, together with the letter-requests for laboratory examination and physical examination. IO1 Sumalag turned over the plastic sachet to PSI Tuazon, who conducted a qualitative examination to determine the presence of dangerous drugs.[16]

Based on Chemistry Report No. D-37-2010, the seized item tested positive for methamphetamine hydrochloride, commonly known as shabu, a dangerous drug. Thereafter, PSI Tuazon sealed the specimen, affixed his own marking, "D-37-2010 9-02-10 GLT," and turned it over to the evidence custodian.[17]

For the defense, Espera, his wife, Niña Grace Espera, and a relative, Ana Lasam, testified and presented the following version of facts.

On September 2, 2010, Espera went to the house of Engr. Butch Iquin (Engr. Iquin) to confirm whether the job previously promised to him was still available. Espera had earlier been employed by Engr. Iquin as a painter.[18]

On his way to Engr. Iquin's house, Espera noticed several men gathered at a nearby vacant lot. Upon entering the gate of Engr. Iquin's house and reaching the receiving area, Espera saw a man beside Engr. Iquin.[19]

Suddenly, the persons who had been at the vacant lot entered the house and handcuffed Espera. The arresting officers introduced themselves as PDEA agents and informed Espera that he was being arrested for selling dangerous drugs. They also showed him evidence and photographs taken in the vicinity of Engr. Iquin's house.[20]

While Espera was being arrested, Engr. Iquin went inside his house.[21]

In its December 13, 2013 Judgment,[22] the Regional Trial Court convicted Espera as charged. The trial court held that the prosecution proved the following elements of illegal sale of dangerous drugs: first, that "the accused sold and delivered a dangerous drug";[23] and, second, that "the accused knew what he had sold and delivered was a dangerous drug." [24] It likewise upheld the prosecution witnesses' positive identification of Espera over his denial of the charge.[25]

As to the absence of a media representative when IO1 Sumalag placed his initials on the seized item at the place of the transaction, the trial court held that no inventory had yet been conducted, and that IO1 Sumalag merely placed his initials to "ensure that the buy-bust stuff [item] would be the same item presented at the inventory taking." [26]

The dispositive portion of the December 13, 2013 Judgment reads:

WHEREFORE, in view of all the foregoing, the Court finds that the evidence for the prosecution has established the guilt of accused JOSEPH ESPERA y Baniño @ "JOJO" beyond reasonable doubt for the offense of selling dangerous drug, in violation of Section 5, 1[st] paragraph of Article II of Republic Act No. 9165, otherwise known as "The Comprehensive Dangerous Drugs Act of 2000" and hereby sentences him to life imprisonment and to pay a fine of P 500,000.00, without subsidiary imprisonment in case of insolvency.

The methamphetamine hydrochloride is hereby forfeited in favor of the government and the OIC Branch Clerk of Court is hereby ordered to transmit the same to the Philippine Drug Enforcement Agency for its proper disposition, together with a copy of this judgment.

SO ORDERED.[27]

In the September 15, 2015 Decision,[28] the Court of Appeals affirmed the trial court's Judgment, with modification that Espera was not eligible for parole.[29] Like the trial court, the Court of Appeals held that the prosecution established all the elements of the crime of illegal sale of dangerous drugs.[30] It likewise rejected Espera's denial and alibi.[31] Lastly, the Court of Appeals found that the prosecution established all the links in the chain of custody over the item seized from Espera.[32]

The dispositive portion of the September 15, 2015 Decision reads:

WHEREFORE, the appeal is DENIED. Consequently, the assailed Decision is AFFIRMED with the MODIFICATION that accused-appellant shall not be eligible for parole under Act No. 4180 (Indeterminate Sentence Law, as amended) in accordance with Section 3 of Republic Act No. 9346.

IT IS SO ORDERED.[33]

In its November 21, 2018 Decision,[34] this Court affirmed Espera's conviction. Specifically, it affirmed the

Court of Appeals' conclusion that "the integrity and evidentiary value of the seized shabu had been preserved,"[35] and that "the prosecution's evidence sufficiently established an. unbroken chain of custody over the seized sachet of shabu from the entrapment team[,] to the crime laboratory, to the evidence custodian for safekeeping, up to the time it was offered in evidence before the court."[36]

The dispositive portion of the November 21, 2018 Decision reads:

WHEREFORE, the appeal is DISMISSED. The assailed September 15, 2015 Decision of the Court of Appeals in CA-G.R. CR.-H.C. No. 06621 convicting Joseph Espera y Baniñano for violation of Section 5, Article II of Republic Act No. 9165 is hereby AFFIRMED.

SO ORDERED.[37]

On January 22, 2019, Espera filed his Motion for Reconsideration.[38] Acting on the Motion, this Court, in its April 2, 2025 Resolution,[39] required the Office of the Solicitor General to file a comment on behalf of the People of the Philippines. In compliance with this Court's directive, the Office of the Solicitor General filed its Comment[40] on July 28, 2025.

Espera insists that the buy-bust team that apprehended him violated Section 21 of Republic Act No. 9165. Instead of being present at the place of arrest, the media representative, the DOJ representative, and the elected public official were present only during the inventory conducted at PDEA Regional Office No. 02.[41] Furthermore, the inventory was conducted at the PDEA Regional Office, not at the place of apprehension, contrary to the requirement that the inventory and photographing be done "immediately after seizure and confiscation." [42] These lapses, according to Espera, cast doubt on whether the items allegedly seized from his person were the same items offered in evidence before the court. Espera thus prays for his acquittal.

The People of the Philippines, through the Office of the Solicitor General, counters that the arguments Espera raises in his Motion for Reconsideration are merely a rehash of those he had already raised in his appeal brief. Thus, the People argues that there is no reason to reverse his conviction for the illegal sale of dangerous drugs.[43]

The issue for this Court's resolution is whether accused-appellant Joseph Espera y Baniñano's guilt for illegal sale of dangerous drugs was proven beyond reasonable doubt, including whether the deviations from the chain of custody rule under Section 21 of Republic Act No. 9165 were justified.

The Motion for Reconsideration must be granted. The prosecution failed to conduct the inventory and photographing "immediately after the seizure and confiscation," contrary to Section 21 of Republic Act No. 9165. It likewise failed to justify why the inventory and photographing were conducted at the PDEA Regional Office rather than at the place of arrest. Further, it did not explain the absence of a media representative, a DOJ representative, and an elected public official present at or near the place of arrest. Absent any justifiable reason for noncompliance with Section 21 of Republic Act No. 9165, Espera must be acquitted.

In 2010, when Espera allegedly committed the crime of illegal sale of dangerous drugs, Section 21 of Republic Act No. 9165 on the chain of custody rule partly provided:

Section 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. – The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(1) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof[.] (Underscoring provided)

On the other hand, under the Implementing Rules and Regulations of Republic Act No. 9165 then in effect in 2010, noncompliance with Section 21 may be excused on justifiable grounds, provided that "the integrity and evidentiary value of the seized items are properly preserved by the apprehending officer/team:"

SECTION 21. Custody and Disposition of Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. — The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner: (a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof:

Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items[.] (Underscoring provided)

Section 21 of Republic Act No. 9165 requires that the inventory and photographing be conducted "immediately after seizure and confiscation." This phrase has been interpreted to mean that the inventory and photographing should be done at the place of arrest or, if not practicable, at the nearest police station or office of the apprehending officer or team, as allowed under the Implementing Rules and Regulations.[44]

Section 21 likewise required that the inventory and photographing be conducted in the presence of the media representative, a DOJ representative, and an elected public official. Whether the inventory and photographing are conducted at the place of arrest or at the nearest police station or office of the apprehending team, these insulating witnesses must already be present at or near the place of apprehension.[45] The rationale for the three-witness rule is to insulate the accused from possible switching, planting, or contamination of evidence.[46] Considering that a buy-bust operation is a planned activity, this requirement can be easily complied with,[47] and there must be an earnest effort to secure the presence of the insulating witnesses prior to the conduct of the buy-bust operation.[48]

Here, it is undisputed that the inventory and photographing were conducted at the PDEA Regional Office No. 02, and not at the place of arrest in Atulayan Norte. The elected public official present during the inventory, Barangay Captain Pagulayan of Barangay Balzain East, Tuguegarao City, testified that Espera was "presented to him during the inventory." [49] This indicates that Barangay Captain Pagulayan was not present at or near the place of apprehension. Based on the prosecution's own evidence, there was noncompliance with Section 21 of Republic Act No. 9165.

The prosecution invokes "substantial compliance" and the "presumption of regularity" to justify the absence of the media representative, the DOJ representative, and elected public official at or near the place of arrest, as well as

the conduct of the inventory and photographing at the PDEA Regional Office, rather than at the place of arrest. As contended by the People in its appeal brief:

In the case at bar, the trial court found the PDEA operatives to have substantially complied with the mandate of Section 21 of R. A. No. 9165: The defense brought to the attention of the court the fact that when Sumalag, the poseur buyer, placed his marking on the buy bust stuff at the place of the transaction, there was no representative. . . . When Sumalag placed his marking on the buy bust stuff immediately after the buy bust operation, the PDEA buy bust team did not yet conduct an inventory; it was only a measure taken by Sumalag to ensure that the buy bust stuff would be the same item when presented at the inventory taking, thus preserving its integrity. The inventory was conducted at the PDEA Regional Office No. 02 duly witnessed by media and DOJ representatives and elected officials

. . . .

Verily, unless there is a showing of bad faith, ill will, or proof that the evidence has been tampered or meddle with, the presumptions that the integrity of such evidence had been preserved and that the police officers who handled the seized drugs had discharged their duties properly and with regularity remain. The burden to overcome such presumptions lies on appellant, and the trial court found that he failed to do so. . . .

The presumption that official duty has been regularly performed, and the corresponding testimony of the arresting officers, can only be overcome through clear and convincing evidence- showing either of two things: (1) that they were inspired by an improper motive. In the face of the straightforward and direct testimony of the police officers, and absent any improper motive on their part to frame up appellant, stacked against his bare and thin self-serving testimony, there is no reason to overturn the lower courts' findings. . . . As the trial court aptly puts it:

Further, the court upholds the presumption of regularity in the performance of official duties because the defense failed to present clear and convincing evidence that the police officers did not properly perform their duty or that they were inspired by an improper motive. According to the accused, it was his first time to see the PDEA agents and that there was no misunderstanding between them.[50]

Notwithstanding the saving clause in the Implementing Rules and Regulations, substantial compliance and the presumption of regularity in the performance of official duty cannot excuse the absence of the insulating witnesses at or near the place of arrest. As to the presumption of regularity, it applies only when "nothing in the record suggests that the law enforcers deviated from the standard conduct of official duty required by law[.]"[51] Here, the prosecution's own submissions show that the buy-bust team deviated from the standard conduct required by Section 21. To reiterate, the inventory and photographing were not done at the place of apprehension, and no insulating witnesses were present at or near the place of arrest. Worse, the prosecution failed to allege, identify, and prove any justifiable ground for deviating from Section 21. For these reasons, the prosecution cannot invoke presumption of regularity to excuse its noncompliance. As this Court held in *People v. Dela Cruz*:[52]

The prosecution cannot conveniently seek sanctuary in the presumption of regularity and the substantial compliance umbrella to disregard the law enforcers' glaring lapses. These are not incantations that may swiftly overturn the constitutionally-guaranteed presumption of innocence. The presumption of regularity should not be a license to forgo prudence, or worse, to further violate the rights of an accused.[53]

It must be emphasized that the requirements in Section 21 are "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." [54] Even with the amendments introduced by Republic Act No. 10640,[55] the inventory and photographing of the seized items must be conducted at the place of arrest.[56] Furthermore, the insulating witnesses must be present at or near the place of arrest.[57] Failure to comply with Section 21, absent any justifiable grounds, warrants the acquittal of the accused.

ACCORDINGLY, the Motion for Reconsideration is GRANTED. The November 21, 2018 Decision of this Court in G.R. No. 227313 is REVERSED and SET ASIDE, and a new one is entered ACQUITTING accused-appellant Joseph Espera y Baniño alias "Jojo" of violation of Section 5 of Republic Act No. 9165 on the ground that the prosecution failed to prove his guilt beyond reasonable doubt. He is ordered immediately RELEASED from detention, unless he is confined for some other lawful cause.

Let a copy of this Resolution be FURNISHED to the Director General of the Bureau of Corrections for immediate implementation. The Director General is DIRECTED to report to this Court, within five (5) days from receipt of this Resolution, the action he has taken. Copies shall also be furnished to the Chief of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

Let entry of final judgment be issued immediately.

SO ORDERED.

Lazaro-Javier, Kho, Jr., and Villanueva, JJ., concur.

J. Lopez,[*] J., on leave.

[*] On leave.

[1] Rollo, pp. 51-57.

[2] Id. at 41-50. The November 21, 2018 Decision in G.R. No. 227313 was penned by Associate Justice Mariano C. Del Castillo and concurred in by Associate Justices Lucas P. Bersamin, Francis H. Jardeleza, and Noel Gimenez Tijam of the First Division of the Supreme Court of the Philippines. Associate Justice Alexander G. Gesmundo (now Chief Justice of this Court), was on official leave.

[3] Republic Act No. 9165 (2002), sec. 21(l) provides:

Section 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. – The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(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[.]

[4] Republic Act No. 9165, sec. 5 partly provides:

Section 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act

as a broker in any of such transactions.

. . . .

[5] Rollo, p. 42.

[6] Id.

[7] Id.

[8] Id.

[9] Id. at 43.

[10] Id.

[11] Id.

[12] Id.

[13] Id.

[14] Id.

[15] Id.

[16] Id. at 43-44.

[17] Id. at 44.

[18] CA rollo, p. 49.

[19] Rollo, p. 8.

[20] Id.

[21] Id.

[22] CA rollo, pp. 45-53. The December 13, 2013 Judgment in Criminal Case No. 13610 was penned by Judge Marivic A. Cacatian-Beltran of Branch 3, Regional Trial Court, Tuguegarao City.

[23] Id. at 51.

[24] Id.

[25] Id. at 51-52.

[26] Id. at 52.

[27] Id. at 52-53.

[28] Rollo, pp. 2-18. The September 15, 2015 Decision in CA-G.R. CR. H.C. No. 06621 was penned by Associate Justice Apolinario D. Bruselas, Jr. and was concurred in by Associate Justices Danton Q. Bueser and Victoria Isabel A. Paredes of the Special Fourteenth Division of the Court of Appeals, Manila.

[29] Id. at 18.

[30] Id. at 10-13.

[31] Id. at 13-14.

[32] Id. at 15-17.

[33] Id. at 18.

[34] Id. at 41-50.

[35] Id. at 48.

[36] Id.

[37] Id. at 48-49.

[38] Id. at 51-57.

[39] Id. at 62.

[40] Id. at 74-79.

[41] Id. at 51-52.

[42] Id. at 52-53.

[43] Id. at 74.

[44] *People v. Tomawis*, 830 Phil. 385, 405 (2018) [Per J. Caguioa, Second Division]. The same rule applies even after the enactment of Republic Act No. 10640 (2014), amending Section 21, Article II of Republic Act No. 9165. See also *People v. Casa*, 928 Phil. 356, 376-377 (2022) [Per C.J. Gesmundo, En Banc].

[45] *People v. Tomawis*, 830 Phil. 385, 405 (2018) [Per J. Caguioa, Second Division]. However, see *Nisperos v. People*, 931 Phil. 945, 952-954 (2022) [Per J. Rosario, En Banc], which interpreted Section 21, Article II of Republic Act No. 9165, as amended by Republic Act No. 10640. In *Nisperos*, this Court held that insulating witnesses "are not required to witness the arrest and the seizure or confiscation of the drugs or drug paraphernalia. They need only be readily available to witness the immediately ensuing inventory."

[46] *People v. Dela Cruz*, 857 Phil. 178, 198 (2019) [Per J. Leonen, Third Division]. 198, citing *People v. Que*, 824 Phil. 882, 911 (2018) [Per J. Leonen, Third Division].

[47] See *People v. Tomawis*, 830 Phil. 385, 405 (2018) [Per J. Caguioa, Second Division].

[48] See *People v. Dela Cruz*, 857 Phil. 178, 198 (2019) [Per J. Leonen, Third Division].

[49] Rollo, pp. 48-49.

[50] CA rollo, pp. 74-75.

[51] *People v. Dela Cruz*, 857 Phil. 178, 200 (2019) [Per J. Leonen, Third Division], citing *People v. Que*, 824 Phil. 882, 899 (2018) [Per J. Leonen, Third Division].

[52] 857 Phil. 178 (2019) [Per J. Leonen, Third Division].

[53] Id. at 201.

[54] *People v. Tomawis*, 830 Phil. 385, 404 (2018) [Per J. Caguioa, Second Division].

[55] Republic Act No. 9165 (2002), sec. 21, as amended by Republic Act No. 10640, partly provides:

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 dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items 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, with an elected public official and a representative of the National Prosecution Service or the media who shall be required to sign the copies of the inventory and be given a copy thereof: Provided, That the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures: Provided, finally, That noncompliance of these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items.

[56] *People v. Casa*, 928 Phil. 356, 376-377 (2022) [Per C.J. Gesmundo, En Banc].

[57] *Nisperos v. People*, 931 Phil. 945, 952-954 (2022) [Per J. Rosario, En Banc].

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.