

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JUVYLEN DUMAT-OL Y MIRAFLOR, ACCUSED-APPELLANT.

G.R. No. 242887, April 14, 2026

Ponente: LAZARO-JAVIER, J.

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LAZARO-JAVIER, J.:

The Case

This resolves the Motion for Reconsideration[1] of accused-appellant Juvylen Dumat-ol y Miraflor (Dumat-ol) seeking a review of Court's Resolution[2] dated September 9, 2019, which dismissed her appeal for failure to sufficiently show that the Court of Appeals committed reversible error to warrant the exercise of this Court's discretionary appellate jurisdiction.

Antecedents

The Charge

In an Information[3] dated June 27, 2014, Dumat-ol was charged with illegal sale of dangerous drugs under Section 5[4] of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, viz.:

That on or about the 25[th] day of June, 2014 in Quezon City, Philippines, the said accused, without lawful authority, did, then and there, willfully and unlawfully sell, dispense, deliver, give away to another, transport, distribute or act as broker in the said transaction, one (1) knot-tied transparent plastic bag containing one zero zero point five six one four (100.5614) grams of white crystalline substance containing Methamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.[5] (Emphasis in the original)

On arraignment, Dumat-ol pleaded not guilty. During pre-trial, the parties limited the issue on the identity of Dumat-ol as the seller of the seized dangerous drugs and the jurisdiction of the trial court.[6] Trial then ensued.

Version of the Prosecution

Agent Marc Junef Avenido (Agent Avenido) of the Philippine Drug Enforcement Agency (PDEA) testified that around 10:00 a.m. on June 25, 2014, he was at the PDEA Regional Office-National Capital Region (PDEA-NCR) when one of PDEA's regular confidential informants (CI) arrived. The CI reported to PDEA Team Leader Agent Rick Raynold Simbulan (Agent Simbulan) the illegal drug trade of one "Jovy" in Quezon City. Agent Simbulan relayed the information to Regional Director Atty. Jacquelyn de Guzman (Regional Director De Guzman), who ordered a buy-bust operation to apprehend "Jovy." According to the CI, he already gained the trust of "Jovy," who asked him to look for a buyer of 100 grams of shabu worth PHP 200,000.00.[7]

The PDEA buy-bust team conducted a briefing and instructed the CI to call "Jovy" and inform her that he had secured a buyer for the illegal drugs. Over the phone, "Jovy" agreed to deliver 100 grams of shabu worth PHP

200,000.00. They agreed to meet at Gen. McArthur Highway Avenue corner Gen. Araneta Avenue, Cubao, Quezon City at 5:30 p.m. that same day.[8]

Agent Avenido was designated as the poseur buyer while Agent Arcadio Saplan (Agent Saplan) was his back-up. Agent Avenido took two authentic PHP 1,000.00 bills from the evidence custodian, marked them with his initials "MJPA," and placed them on top of the boodle money. Meanwhile, Agent Simbulan prepared the Authority to Operate and the Pre-Operation Report. Regional Director De Guzman then approved the Certificate of Coordination.[9]

Armed with the Authority to Operate, the PDEA buy-bust team coordinated with the Philippine National Police at the Quezon City Police District. Around, 5:00 p.m., the PDEA buy-bust team reached the place of operation. The CI and Agent Avenido alighted from their vehicle and waited for "Jovy" while the other team members positioned themselves around the vicinity.[10]

A few minutes later, a woman arrived and the CI introduced Agent Avenido to her as the buyer of shabu. The woman asked him if he brought the money. When he confirmed, she showed him a small red pouch. Inside, he saw a knot-tied transparent plastic bag containing white crystalline substance that he suspected was shabu. As he placed this red pouch in his pocket, the woman offered to supply more upon request. He nodded in response. When the woman demanded for the payment, Agent Avenido handed the PHP 200,000.00 buy-bust money. Once she accepted it, he gave the pre-arranged signal by scratching his head.[11]

The rest of the buy-bust team closed in and Agent Saplan, who was observing from a nearby drugstore, arrested the woman who they later identified as Dumat-ol. Agent Saplan recovered the buy-bust money from Dumat-ol and turned it over to Agent Avenido. Agent Avenido marked the plastic sachet containing the shabu subject of the buy-bust and the red pouch that it came with in the presence of Dumat-ol and the PDEA buy-bust team. Although Agent Simbulan intended to conduct the inventory on-site, he decided to continue the process at the office for security reasons because Dumat-ol resisted arrest and a crowd began to gather. Agent Avenido maintained custody of the buy-bust money and the seized item en route to the office. Upon arrival of the media and the barangay representatives, Agent Avenido conducted the inventory and photographing of the shabu, red pouch, and buy-bust money. A certification from Barangay Pinyahan, Quezon City confirming the buy-bust operation was also issued.[12]

Agent Avenido prepared the laboratory requests for the seized items and Dumat-ol's physical examination. He then delivered these items to the laboratory while Agent Saplan escorted Dumat-ol for drug testing. Although Dumat-ol's urine specimen tested negative for shabu, the examination of the confiscated item yielded the following results:[13]

CHEMISTRY REPORT NO. PDEA-DD014-139

CASE: Alleged Violation of RA 9165 SUSPECT: JUVYLEN M. DUMAT-OL @ JOVY

TIME AND DATE RECEIVED : 1925H 25 June 2014

REQUESTING PARTY/UNIT : PDEA RO-NCR

SPECIMEN SUBMITTED:A- One (1) red pouch with blue stars with markings on a marking tape EXH A MJPA 6/25/14 containing:

A-1 – One (1) knot-tied transparent plastic bag with markings on a masking tape EXH A-1 MJPA 6/25/14 containing white crystalline substance with a net weight of 100.5614 grams.

PURPOSE OF EXAMINATION:

To determine the presence of dangerous drugs in the above-stated specimen.

FINDINGS:

Qualitative examination conducted on specimen A-1 gave POSITIVE results for the presence of Methamphetamine hydrochloride.

CONCLUSION:

Specimen A-1 contains Methamphetamine hydrochloride, a dangerous drug under RA 9165.

[....]

TIME AND DATE COMPLETED: 0940H 26 June 2014.[14] (Emphasis in the original)

Agent Saplan narrated that he had been with the PDEA for about six years. He essentially substantiated the testimony of Agent Avenido. He took a tactical position at a nearby drugstore, maintaining distance of approximately 10 to 15 meters from the operation site. The CI and Agent Avenido proceeded to the corner of Gen. McArthur and Gen. Araneta Avenues, Cubao, Quezon City. From his vantage point, he observed them speaking with a woman. Minutes later, Agent Avenido scratched his head to signal that the sale had been consummated. Responding to the signal, Agent Saplan rushed to the scene and apprehended Dumat-ol who was then shouting and resisting arrest. He ordered her to remain quiet. Before leaving the scene, Agent Avenido marked the drugs he purchased from Dumat-ol. The team then returned to their office. Following PDEA standard operating procedures, Agent Avenido maintained custody of the seized items during the transit to the office.[15]

Upon reaching the office, the team prepared an Inventory of Seized Property signed by Barangay Kagawad Marites Palma (Kagawad Palma) and media representative Jimmy Mendoza (media representative Mendoza) of Sonshine Radio. No representative from the Department of Justice (DOJ) witnessed the inventory because no one was available at that time. Photographs were also taken during the inventory. Later, Agent Avenido delivered the seized items to the laboratory service—about 20 meters away from their office.[16]

The parties dispensed with the presentation of Forensic Chemist Maria Christine Barquilla (Forensic Chemist Barquilla) and stipulated on her supposed testimony, thus:

1. She is one of the Chemists of the Philippine Drug Enforcement Agency;
2. On June 25, 2014, she received a request for laboratory examination, together with one (1) piece red pouch bag containing one (1) heat sealed transparent plastic sachet containing white crystalline substance suspected [shabu] with markings "EXH A-1 MJPA 6/25/14";
3. After she received the request, she conducted a Qualitative Examination of the specimen and it gave positive result for the presence of Methamphetamine Hydrochloride, a dangerous drug;
4. She issued Chemistry Report No. PDEA-DD014-139;
5. After her examination, she turned over the drug specimen to the evidence custodian, Majella Muñasque;
6. She retrieved the drug specimen on September 24, 2014 for pre-trial of this case pursuant to the subpoena issued by the court;
7. She can identify the specimen subject of her examination; and
8. She has no personal knowledge as to the facts and circumstances surrounding the arrest of the accused, and the source of the specimen turned over to her for examination.[17]

Version of the Defense

Dumat-ol narrated that while she was looking for a job inside Farmer's Plaza, Cubao on June 26, 2014, a man

suddenly approached her and requested a conversation. She asked him why but she did not understand his response. Suddenly, he grabbed her and dragged her into a vehicle where three other men were waiting. These strangers interrogated her for approximately three minutes before finally accusing her of possessing illegal drugs. The men brought her to the police station where she was further interrogated. They detained her at Camp Karingal in Quezon City for two days.[18]

When asked about her application documents, Dumat-ol admitted she carried only barangay identification card from her residence in Muntinlupa. She explained that a friend at a restaurant encouraged her to apply for a cook position there; however, she could not recall the restaurant's name.[19]

Dumat-ol denied possessing or selling shabu and asserted that her arrest occurred on June 26, 2014, rather than the previous day. She also explained that her incarceration prevented her from filing a case against the arresting officers.[20]

Ruling of the Regional Trial Court

Through its Judgment[21] dated November 23, 2016, the trial court rendered a verdict of conviction, viz.:

WHEREFORE, judgment is hereby rendered finding accused JUVYLEN DUMAT-OL [y] MIRAFLORE GUILTY beyond reasonable doubt of violation of Section 5; Article II, of Republic Act 9165, and she is sentenced to suffer life imprisonment, and to pay a fine of Five Hundred Thousand Pesos ([PHP] 500,000.00).

The Branch Clerk of Court is directed to immediately turn over to the Chief of the PDEA Crime Laboratory the subject drugs, covered by Chemistry Report No. PDEA-DD[0]14-139, to be disposed of in strict conformity with the provisions of Republic Act No. 9165 and implementing rules and regulations on the matter.

SO ORDERED.[22] (Emphasis in the original)

The prosecution was able to prove all the essential elements of illegal sale of dangerous drugs. The apprehending officers caught Dumat-ol in flagrante delicto selling shabu worth PHP 200,000.00 during a buy-bust operation. Laboratory analysis by Forensic Chemist Barquilla also identified the white crystalline substance within the knot-tied transparent bag as methamphetamine hydrochloride (shabu).[23]

The prosecution also showed that the integrity and evidentiary value of the drugs sold by Dumat-ol had been preserved. Following the arrest, Agent Avenido marked the purchased item at the scene in the presence of Dumat-ol. After marking the evidence, the buy-bust team returned to their office while Agent Avenido kept possession of the shabu purchased from Dumat-ol. Upon arrival, the team prepared an inventory, which media representative Mendoza and Kagawad Palma witnessed. The team also took photographs of the seized items. Agent Avenido prepared the Request for Laboratory Examination and brought it to the laboratory along with the seized items. The parties stipulated that Forensic Chemist Barquilla received the laboratory examination request and the red pouch. This pouch contained one heat-sealed transparent plastic sachet containing white crystalline substance marked "EXH A-1 MJPA 6/25/14." The qualitative examination of the submitted specimen tested positive for methamphetamine hydrochloride per Chemistry Report No. PDEA-DD014-139. After her examination, Forensic Chemist Barquilla then turned over the specimen to the evidence custodian, Majella Muñasque.[24]

The trial court emphasized that the arresting officers' failure to immediately photograph and inventory the drugs at the scene, along with the absence of a DOJ representative, did not render the seized items inadmissible in evidence.[25]

Proceedings before the Court of Appeals

On appeal,[26] Dumat-ol faulted the trial-court for rendering a verdict of conviction despite the failure of the prosecution to prove the legality of her arrest.[27] According to her, no buy-bust operation ever took place. Such operation, if at all, was nothing but a concocted tale of prosecution witnesses Agents Avenido and Saplan. The prosecution fabricated tall story by claiming that she readily sold the illegal drugs to Agent Avenido after the CI identified her to the buy-bust team.[28] For the nefarious nature of drug dealing necessitates the need to conduct them in secrecy, unlike the version of the prosecution that she readily sold a dangerous drug as if she was selling a household item.[29] Dumat-ol reiterated that she was merely walking at Farmers Cubao to apply for a job as a cook when a stranger suddenly approached her. By no stretch of imagination could walking around a market or looking for a job constitute an overt act indicating a commission of a crime.[30] By reason of the illegality of her arrest, the allegedly recovered dangerous drug is inadmissible in evidence.[31]

Too, the prosecution failed to establish an unbroken chain of custody. The seized item was not marked in the presence of any of the insulating witnesses.[32] The inventory and taking of photographs of the seized items were conducted without the presence of the representative from the DOJ and without compelling reason or justification.[33] Lastly, the records were bereft of the precautionary measures in place after Forensic Chemist Barquilla turned over the seized items to the evidence custodian.[34]

The People of the Philippines, through the Office of the Solicitor General (OSG), supported the verdict of conviction. It argued that the prosecution sufficiently established all the elements of illegal sale of dangerous drugs and the chain of custody of the seized item.[35]

Ruling of the Court of Appeals

Through its Decision[36] dated January 11, 2018, the Court of Appeals affirmed.

Proceedings before the Court

Dumat-ol elevated the case to the Court and prayed anew for her acquittal on the ground of the failure of the apprehending officers to establish an unbroken chain of custody. No representative from the DOJ was present during the physical inventory of the seized drugs. The record also did not show that Dumat-ol and the alleged representatives from the media and barangay elected official were furnished a copy of the said inventory. Neither were the representatives from the media and barangay elected official physically present at the time when the dangerous drugs were allegedly seized. In fact, the insulating witnesses appeared only at the PDEA office and not at the place of apprehension. Sans their insulating presence, the PDEA operatives had ample opportunity to plant incriminating evidence against her.[37]

The OSG, on the other hand, dispensed with the filing of a supplemental brief through its Manifestation[38] dated April 2, 2019.

By Resolution[39] dated September 9, 2019, the Court dismissed the appeal for failure of Dumat-ol to sufficiently show that the Court of Appeals committed reversible error as to warrant the exercise of this Court's discretionary appellate jurisdiction.

Dumat-ol moves for reconsideration[40] reiterating the same grounds raised in her appeal before the Court.

On the contrary, the OSG,[41] prays for the denial of the motion for reconsideration of Dumat-ol on the ground for lack of merit.

Our Ruling

The Court finds no reason to revisit, much less reverse its ruling in the Resolution[42] dated September 9, 2019.

Dumat-ol was charged with illegal sale of dangerous drugs under Section 5[43] of Republic Act No. 9165

allegedly committed on June 25, 2014. The governing law, therefore, is Republic Act No. 9165 prior to its amendment by Republic-Act No. 10640[44] on August 7, 2014.

To secure a conviction for illegal sale of dangerous drugs under Section 5 of Republic Act No. 9165? the prosecution must establish: (a) the identity of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and the payment.[45]

Here, the prosecution sufficiently proved all the elements of illegal sale of dangerous drugs. During a buy-bust operation, the apprehending officers caught Dumat-ol in flagrante delicto as she sold shabu worth PHP 200,000.00. The transaction involved a knot-tied transparent bag containing a white crystalline substance, which Forensic Chemist Barquilla officially identified as methamphetamine hydrochloride—a prohibited substance—under Chemistry Report No. PDEA-DD014-139.

The prosecution substantially complied with the chain of custody.

In the prosecution of cases involving illegal drugs, the drug itself constitutes the corpus delicti of the offense.[46] The prosecution, therefore, is tasked to establish the identity of the seized drugs with moral certainty, and it must be proven with exactitude that the substance bought or recovered during the buy-bust operation is exactly the same substance offered in evidence before the court.[47]

Section 21 of Republic Act No. 9165 provides:

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

The Implementing Rules and Regulations of Republic Act No. 9165 further commands:

Section 21. Custody and Disposition of Confiscated, Seized and/or Surrendered Dangerous Drugs, Plants Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment - ...

(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.

(Emphasis in the original)

To ensure the integrity of the seized drug item, the prosecution must account for each link in its chain of custody:

First, the seizure and marking of the illegal drug recovered from the accused by the apprehending officer;

Second, the turnover of the illegal drug seized by the apprehending officer to the investigating officer;

Third, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and

Fourth, the turnover and submission of the marked illegal drug seized by the forensic chemist to the court.[48]

First Link

The first link in the chain of custody refers to the seizure and marking of the illegal drug recovered from the accused by the apprehending officers. The marking of the seized drug is crucial in establishing an unbroken chain of custody because succeeding handlers of the dangerous drugs or related items will use the marking as reference. Too, it serves to separate the marked evidence from the corpus of all other similar or related evidence from the time they are seized until disposal at the end of the criminal proceedings, thus preventing switching, planting, or contamination of evidence. In other words, the immediate marking is indispensable in the preservation of the seized items' integrity and evidentiary value.[49]

Here, Agent Avenido marked the seized drug by placing his markings "EXH A MJPA 6-25-14" at the place of arrest. "MJPA" stood for his name while "6-25-14" was the date of operation.[50]

In *People v. Nisperos*,[51] the Court highlighted the immediacy of marking the seized items although the insulating witnesses need to be present only during the inventory and taking of photographs of the seized items and not during the seizure or apprehension, let alone, the buy bust itself, viz.:

In order to guide the bench, the bar, and the public, particularly our law enforcement officers, the Court hereby adopts the following guidelines:

1. The marking of the seized dangerous drugs must be done:
 - a. Immediately upon confiscation;
 - b. At the place of confiscation; and
 - c. In the presence of the offender (unless the offender eluded the arrest).
2. The conduct of inventory and taking of photographs of the seized dangerous drugs must be done:
 - a. Immediately after seizure and confiscation;
 - b. 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; and
 - c. Also in the presence of the insulating witnesses, as follows:
 - i. if the seizure occurred during the effectivity of R.A. No. 9165, or from July 4, 2002 until August 6, 2014, the presence of three (3) witnesses, namely, an elected public official; a Department of Justice (DOJ) representative; and a media representative;
 - ii. if the seizure occurred after the effectivity of R.A. No. 10640, or from August 7, 2014 onward, the presence of two (2) witnesses, namely, an elected public official; and a National Prosecution Service representative or a media representative.
3. In case of any deviation from the foregoing, the prosecution must positively acknowledge the same and prove (1) justifiable ground/s for non-compliance and (2) the proper preservation of the integrity and evidentiary value

of the seized item/s.[52]

Meanwhile, Section 21 Republic Act No. 9165 commands that the seized drugs be inventoried and photographed in the presence of the accused or their representative or counsel, and the three insulating witnesses, namely: (a) a representative from the media; (b) a representative of the DOJ; and (c) an elected public official.[53]

Although only the barangay representative (Kagawad Palma) and the media representative (Mendoza of Sonshine Radio)[54] witnessed the conduct of the inventory at the office of the PDEA, it does not warrant the acquittal of Dumat-ol.

For one, the apprehending officers tried to secure the presence of a representative from the DOJ but nobody was available. Agent Avenido further testified:

Q:

Why is it that there is no signature from the Department of Justice?

A:

We tried to contact a representative but nobody was available.[55]

For another, Dumat-ol resisted the arrest and a crowd was already gathering at the place of operation, prompting the apprehending officers to conduct the inventory at the PDEA office for security purposes. Agent Avenido further testified:

Q:

Okay. You made the marking at the place?

A:

I just marked it at the place of arrest, because, at first, the team leader decided that we would conduct the inventory at the area, but the operation generated some crowd, so we decided to continue the inventory at the office, sir.

....

Q:

Why did you not conduct the inventory at the place where you arrested the accused?

A:

Because it generated some crowd in the area, and maybe for security purpose, our team leader decided that we continue the inventory at office.[56]

Inventory of the seized items ought not be delayed. Thus, the buy-bust team decided to push through with the procedure even with the absence of the DOJ representative. While this is not what the law intended it to be, we consider it substantial compliance with the chain of custody rule as the situation in this case calls for an immediate procedure.

In *Xiuquin Shi v. People*,[57] the Court held that the absence of representatives from the DOJ and media during the inventory and taking of photographs did not render the seized items inadmissible, thus:

In this case, only Barangay Kagawads Padilla and Noble were present during the inventory and photographing of the seized items at Camp Bagong Diwa, Bicutan, Taguig City.

As a general rule, compliance with the chain of custody procedure is strictly enjoined as the same has been regarded not merely as a procedural technicality but as a matter of substantive law. This is because the law has been crafted by Congress as a safety precaution to address potential police abuses, especially considering that the penalty imposed may be life imprisonment. The Court, nonetheless, has recognized that due to varying field conditions, strict compliance with the chain of custody procedure may not always be possible. As such, the failure of the apprehending team to strictly comply with the same would not ipso facto render the seizure and custody over the seized items invalid[.][58]

So must it be.

Second and Third Links

The second link to the turnover of the seized drug from the apprehending officer to the investigating officer, and the third link, to its turnover by the investigating officer to the forensic chemist for laboratory examination.[59]

In this case, Agent Avenido was the one in possession of the seized drug from confiscation until he transferred custody over it to the laboratory services.[60] As shown by the request for laboratory examination, he personally delivered the request form and the confiscated item and these were received by Forensic Chemist Barquilla on June 25, 2014 at 7:25 p.m.[61]

Fourth Link

The fourth link pertains to the turnover and submission of the seized item from the forensic chemist to the court.[62]

It is imperative in drug related cases that the forensic chemist testifies on the details pertaining to the handling and analysis of the dangerous drug submitted for examination. Specifically, the forensic chemist should narrate when and from whom the dangerous drug was what identifying labels or other things accompanied it; description of the specimen; and the container it was in. The forensic chemist must also identify the name and method of analysis used in determining the chemical composition of the subject specimen.[63]

In case of stipulation by the parties to dispense with the attendance and testimony of the forensic chemist, it should be stipulated that the forensic chemist would have testified that he or she took the precautionary steps required in order to preserve the integrity and evidentiary value of the seized item, thus: (1) the forensic chemist received the seized article as marked, properly sealed, and intact; (2) he or she resealed it after examination of the content; and (3) he or she placed his or her own marking on the same to ensure that it could not be tampered pending trial.

Here, the parties dispensed with the presentation of Forensic Chemist Barquilla and stipulated on her supposed testimony, thus:

1. She is one of the Chemists of the Philippine Drug Enforcement Agency;
2. On June 25, 2014, she received a request for laboratory examination, together with one (1) piece red pouch bag containing one (1) heat sealed transparent plastic sachet containing white crystalline substance suspected [shabu] with markings "EXH A-1 MJPA 6/25/14";
3. After she received the request, she conducted a Qualitative Examination of the specimen and it gave positive result for the presence of Methamphetamine Hydrochloride, a dangerous drug;
4. She issued Chemistry Report No. PDEA-DD014-139;
5. After her examination, she turned over the drug specimen to the evidence custodian, Majella Muñasque;
6. She retrieved the drug specimen on September 24, 2014 for pre-trial of this case pursuant to the subpoena issued by the court;
7. She can identify the specimen subject of her examination; and

8. She has no personal knowledge as to the facts and circumstances surrounding the arrest of the accused, and the source of the specimen turned over to her for examination.[64]

Per Chemistry Report No. PDEA-DD014-139[65] dated June 26, 2014, the seized items tested positive for methamphetamine hydrochloride.

While the chain of custody should ideally be perfect and unbroken, in reality it is not, as it is almost always impossible to obtain an unbroken chain.[66] An unbroken chain of custody comes to fore when the evidence is not distinctive and is not readily identifiable, or when its condition at the time of testing or trial is critical, or when a witness has failed to observe its uniqueness. The same standard likewise obtains in case the evidence is susceptible to alteration, tampering, contamination, and even substitution and exchange.[67]

In any event, the chain of custody rule was instituted to prevent the possibility of tampering with or planting of evidence,[68] a remote possibility with the volume involved in this case—100.56 grams of shabu.

Penalty

The lower courts correctly imposed the penalty of life imprisonment and a fine of PHP 500,000.00 pursuant to Section 5 of Republic Act No. 9165.

ACCORDINGLY, the Motion for Reconsideration filed by accused-appellant Juvylen Dumat-ol y Miraflor is DENIED.

SO ORDERED.

Leonen, SAJ. (Chairperson), Rosario,[*] and Kho, Jr., JJ., concur.
Villanueva, J., see dissenting opinion.

[*] Designated additional member vice Lopez, J. per Raffle dated July 26, 2022.

[1] Rollo, pp. 45-50.

[2] Id. at 43-44.

[3] RTC Records, p. 1-2.

[4] Republic Act No. 9165 (2002), Comprehensive Dangerous Drugs Act of 2002, sec. 5 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 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] RTC Records, p. 1.

[6] Rollo, p. 6.

[7] Id. at 2-3.

[8] Id. at 3.

[9] Id.

[10] Id.

[11] Id. at 3-4.

[12] Id. at 4.

[13] Id.

[14] Id. at 4-5.

[15] CA rollo, p. 51.

[16] Id. at 51-52.

[17] Id. at 48-49.

[18] Rollo, p. 5.

[19] Id. at 5-6.

[20] Id. at 6.

[21] CA rollo, pp. 48-60. Penned by Presiding Judge Nadine Jessica Corazon J. Fama, Branch 79, Regional Trial Court, Quezon City.

[22] Id. at 60.

[23] Id. at 53.

[24] Id. at 58-59.

[25] Id. at 59.

[26] Id. at 29-45.

[27] Id. at 35.

[28] Id. at 37.

[29] Id.

[30] Id. at 36-37.

[31] Id. at 37.

[32] Id. at 40.

[33] Id. at 41.

[34] Id. at 43.

[35] Id. at 90-97.

[36] Rollo, pp. 2-19. Penned by Associate Justice Jhosep Y. Lopez (now a member of this Court) and concurred in by Associate Justices Celia C. Librea-Leagogo and Manuel M. Barrios, Eighth Division, Court of Appeals, Manila.

[37] Id. at 37-40.

[38] Id at 27-29.

[39] Id. at 43.

[40] Id. at 45-50.

[41] Id. at 64-66.

[42] Rollo, p. 43.

[43] Republic Act No. 9165 (2002), Comprehensive Dangerous Drugs Act of 2002, sec. 5 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.

[44] An Act to further Strengthen the Anti-Drug Campaign of the Government, amending for the purpose Section 21 of Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002 (2014).

[45] People v. Camiñas, 845 Phil. 456, 461 (2019) [Per J. Perlas-Bernabe, Second Division].

[46] People v. Posos, 864 Phil. 125, 136 (2019) [Per J. Lazaro-Javier, Second Division].

[47] People v. Almonia, Jr, G.R. No. 242472, May 10, 2021 [Notice, Third Division].

[48] People v. Galisim, 862 Phil. 703, 717 (2019) [Per J. Lazaro-Javier, Second Division].

[49] People v. Quijano, 871 Phil. 547, 564-565 (2020) [Per J. Lazaro-Javier, First Division].

[50] TSN, Agent Marc Junef Avenido, September 4, 2015, p. 6.

[51] Nisperos v. People, 931 Phil. 945 (2022) [Per J. Rosario, En Banc].

[52] Id. at 956-957.

[53] Xiuquin Shi v. People, 921 Phil. 123, 149 (2022) [Per J. Lazaro-Javier, Third Division], citing People v. Manansala, 878 Phil. 292, 301 (1020) [Per J. Reyes, Jr., First Division].

[54] TSN, Agent Marc Junef Avenido, September 4, 2015, p. 10.

[55] Id.

[56] Id. at 6-7.

[57] Xiuquin Shi v. People, 921 Phil. 123 (2022) [Per J. Lazaro-Javier, Third Division].

[58] Id. at 149.

[59] See People v. Leaño, 878 Phil. 526, 547 (2020) [Per J. Lazaro-Javier, First Division].

[60] TSN, Agent Marc Junef Avenido, September 4, 2015, p. 12.

[61] RTC Records, p. 17.

[62] People v. Lacdan, 859 Phil. 792, 804 (2019).

[63] *People v. Delos Reyes*, G.R. No. 253604, March 29, 2022 [Notice, First Division].

[64] CA rollo, 48-49.

[65] RTC Records, p. 18.

[66] *People v. Havana*, 776 Phil. 462, 474 (2016) [Per J. Del Castillo, Second Division], citing *People v. Mendoza*, 683 Phil. 339, 350 (2012) [Per J. Leonardo-De Castro, First Division].

[67] *People v. Barte*, 806 Phil. 533, 543 (2017) [Per J. Bersamin, Third Division].

[68] See *Tolentino v. People*, 870 Phil. 706, 717 (2020) [Per J. A Reyes, Jr., Second Division].

DISSENTING OPINION

VILLANUEVA, J.:

A mere statement by law enforcement officers that they attempted to contact the Department of Justice (DOJ) for a representative, but that none was available, is insufficient to establish compliance with the requirement on insulating witnesses under Section 21 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

In affirming the conviction of accused-appellant Juvylen Dumat-ol y Miraflor (Dumat-ol) for illegal sale of dangerous drugs in violation of Section 5 of Republic Act No. 9165, the ponencia ruled that there was substantial compliance with the chain of custody rule.

I respectfully dissent.

The prosecution failed to show that earnest efforts were made to secure the presence of a representative from the DOJ

In cases involving dangerous drugs, the prosecution bears the burden of proving an unbroken chain of custody in accordance with the requirements under Section 21 of Republic Act No. 9165, or of providing a sufficient explanation in case of noncompliance therewith.[1] Failure to comply with the chain of custody requirements is tantamount to a failure to establish an essential element of the crime of illegal sale of dangerous drugs, and may consequently result in the acquittal of the accused.[2]

In particular, the prosecution must establish the following links in the chain of custody to sustain a conviction:

1. First, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer;
2. Second, the turnover of the illegal drug seized by the apprehending officer to the investigating officer;
3. Third, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and
4. Fourth, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.[3]

The first link involves the seizure, marking and conduct of inventory of the items seized from the accused.[4]

In the conduct of the inventory, the prosecution must show, among others, that it was done in the presence of the required insulating witnesses. Section 21 of Republic Act No. 9165 originally required the presence of three insulating witnesses during the inventory of the seized items, namely: "a representative from the media and the [DOJ], and any elected public official." This was later amended by Republic Act No. 10640,[5] such that only two insulating witnesses are now required: (1) an elected public official; and (2) a representative of the National Prosecution Service or the media.

To guide the Bench, the Bar, and the public, the Court in *Nisperos v. People*[6] adopted guidelines in the marking, inventory, and taking of photographs, and clarified the rule with respect to the number of insulating witnesses required to be present during the conduct of inventory, depending on when the dangerous drugs were seized, following the enactment of Republic Act No. 10640:

- The marking of the seized dangerous drugs must be done:
 - Immediately upon confiscation;
 - At the place of confiscation; and
 - In the presence of the offender (unless the offender eluded the arrest).
- The conduct of inventory and taking of photographs of the seized dangerous drugs must be done:
 - Immediately after seizure and confiscation;
 - 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; and
 - Also in the presence of the insulating witnesses, as follows:
 - if the seizure occurred during the effectivity of [Republic Act] No. 9165, or from July 4, 2002 until August 6, 2014, the presence of three (3) witnesses, namely, an elected public official; a Department of Justice (DOJ) representative; and a media representative;
 - if the seizure occurred after the effectivity of [Republic Act] No. 10640, or from August 7, 2014 onward, the presence of two (2) witnesses, namely, an elected public official; and a National Prosecution Service representative or a media representative.
- In case of any deviation from the foregoing, the prosecution must positively acknowledge the same and prove (1) justifiable ground/s for non-compliance and (2) the proper preservation of the integrity and evidentiary value of the seized item/s.[7] (Emphasis supplied)

Clearly, the amended provision does not apply retroactively. Where the seizure occurred prior to the effectivity of Republic Act No. 10640 on August 7, 2014, the presence of three insulating witnesses is necessary.

In the present case, the seizure occurred on June 25, 2014.[8] Following *Nisperos*, the original text of Section 21 of Republic Act No. 9165 applies, and the presence of all three insulating witnesses specified under the law is mandatory during the conduct of the inventory and photographing of the seized items.[9]

As pointed out by *Dumat-ol* and admitted by the prosecution, there was no DOJ representative present when the Philippine Drug Enforcement Agency (PDEA) team conducted the inventory of the items seized during the buy-bust operation. Only two out of the three mandatory witnesses were present. When asked about the absence, the PDEA agents, Agent Marc Junef Avenido (Agent Avenido) and Agent Arcadio Saplan (Agent Saplan), merely stated that they tried to contact a DOJ representative, but nobody was available:

ACP BARTOLOME:

Q:

Who were present during the conduct of the inventory and preparation of this document, Mr. Witness?

A:

The media representative, Jimmy Mendoza, and barangay elected officials, sir.

....

Q:

Why is it that there is no signature from the Department of Justice?

A:

We tried to contact a representative but nobody was available.

ACP BARTOLOME:

Your Honor, may I request that the signatures of the witnesses Palma and Mendoza be marked as Exhibits "I-3" and "I-4"?[10] (Emphasis supplied)

....

Q:

And there are also signatures above the names Marites Palma, Kagawad, Jimmy Mendoza, of Sonshine Radio, whose signatures are these?

A:

That's the signatures of Kag. Marites Palma, and Jimmy Mendoza from the Media, sir.

....

Q:

Why is it that there is no representative from the DOJ?

A:

There was no available representative from the DOJ at that time, sir.

Q:

How about photographs, were there photographs taken during the inventory?

A:

There were, sir.[11] (Emphasis supplied)

Aside from these statements, the prosecution offered no further explanation for the absence of the required witness.

It is true that the law contains a saving clause to "ensure that not every case of noncompliance will irretrievably prejudice the prosecution's case." [12] However, before the courts may allow a deviation of the requirements, it is

imperative that the prosecution prove the following twin requirements: (1) the existence of "justifiable grounds" allowing departure from the rule on strict compliance; and (2) the integrity and the evidentiary value of the seized items are properly preserved by the apprehending team.[13] Failure to prove the first prong bars the prosecution from invoking the saving clause.[14]

Consequently, it is incumbent upon the law enforcement officers to justify the non-observance of the law, including proof that earnest efforts were made to secure the presence of the required witnesses.[15]

In *People v. Gepitulan*,^[16] the Court held that general averments of police officers that the DOJ representatives were unavailable are insufficient to justify the absence of the required witnesses, to wit:

It must be stressed that the attendance of the insulating witnesses during the inventory and taking of photographs is indispensable because it is "their presence at that point that would insulate against the police practices of planting evidence." Hence, in case of non-compliance with the law, the prosecution must prove that earnest efforts were employed in contacting the DOJ or media representative. A general averment that the representatives were unavailable, "without so much as an explanation on whether serious attempts were employed to look for other representatives, given the circumstances is to be regarded as a flimsy excuse."

Here, to justify the absence of a representative from the media or DOJ during the inventory and photographing of the seized items, PO1 Calamba mentioned that the plantation site was "out of the way." He stated that he exerted efforts to find a representative from the media or the DOJ to witness the inventory of the items seized. Significantly, however, these "efforts" consisted of no more than bare allegations that were left unsubstantiated by any other evidence appearing on record.

A closer scrutiny of PO1 Calamba's testimony also reveals that, in truth, the police officers exerted no earnest efforts to secure the attendance of a DOJ or media representative to witness the inventory and photographing of the seized items. On recross-examination, PO1 Calamba admitted that the apprehending police officers failed to contact any media before leaving the police station to travel to the site[.][17] (Emphasis supplied)

The Court made a similar ruling in *People v. Globa*,^[18] emphasizing that a mere statement that a representative was contacted but did not arrive does not constitute sufficient justification:

As we have held previously, a sheer statement that "their Chief tried to call a representative from the DOJ but no one arrived," cannot be considered as sufficient and acceptable justification/or non-compliance with the strict requirements of the law. Due to the vital role played by said witnesses in the preservation of the integrity and evidentiary value of the corpus delicti in drugs cases, police officers are compelled not only to state reasons for the non-compliance, but must, in fact, also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstances, their actions were reasonable.[19] (Emphasis supplied)

Likewise, in *People v. Crispo*,^[20] the Court acquitted the accused therein due to the prosecution's failure to provide justifiable reasons for the absence of the representatives of the DOJ and the media, reiterating that mere statements of unavailability, absent serious and actual efforts to secure their presence, are unacceptable. The Court discussed that:

At this point, it is well to note that the absence of these required witnesses does not per se render the confiscated items inadmissible. However, a justifiable reason for such failure or a showing of any genuine and sufficient effort to secure the required witnesses under Section 21, Article II of [Republic Act No.] 9165 must be adduced. In *People v. Umipang*, the Court held that the prosecution must show that earnest efforts were employed in contacting the representatives enumerated under the law for "[a] sheer statement that representatives were unavailable—without so much as an explanation on whether serious attempts were employed to look for other representatives, given the circumstances—is to be regarded as a flimsy excuse."

Verily, mere statements of unavailability, absent actual serious attempts to contact the required witnesses are unacceptable as justified grounds for non-compliance. These considerations arise from the fact that police officers are ordinarily given sufficient time—beginning from the moment they have received the information about the activities of the accused until the time of his arrest—to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand knowing full well that they would have to strictly comply with the set procedure prescribed in Section 21, Article II of [Republic Act No.] 9165. As such, police officers are compelled not only to state reasons for their non-compliance, but must in fact, also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstances, their actions were reasonable.

Thus, for failure of the prosecution to provide justifiable grounds or show that special circumstances exist which would excuse their transgression, the Court is constrained to conclude that the integrity and evidentiary value of the items purportedly seized from Crispo have been compromised. It is settled that in a prosecution for the sale and possession of dangerous drugs under [Republic Act No.] 9165, the State carries the heavy burden of proving not only the elements of the offense, but also to prove the integrity of the corpus delicti, failing in which, renders the case for the State insufficient to prove the guilt of the accused beyond reasonable doubt.[21] (Emphasis supplied)

Following these pronouncements, the bare allegations of the PDEA agents in the present case are clearly lacking to justify noncompliance with the requirements of the law. The Court in *People v. Lim*[22] enumerated acceptable reasons that may excuse the absence of the three witnesses, to wit:

It must be alleged and proved that the presence of the three witnesses to the physical inventory and photograph of the illegal drug seized was not obtained due to reason/s such as:

(1) their attendance was impossible because the place of arrest was a remote area; (2) their safety during the inventory and photograph of the seized drugs was threatened by an immediate retaliatory action of the accused or any person/s acting for and in his/her behalf; (3) the elected official themselves were involved in the punishable acts sought to be apprehended; (4) earnest efforts to secure the presence of a DOJ or media representative and an elected public official within the period required under Article 125 of the Revised Penal Code prove futile through no fault of the arresting officers, who face the threat of being charged with arbitrary detention; or (5) time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape.[23] (Emphasis in the original)

None of these grounds are availing in the instant case. In affirming Dumat-ol's conviction, the CA relied on the testimony of Agent Avenido that they tried to contact the DOJ for a representative, but nobody was available to join the buy-bust team at the time of the request.[24] The CA's pronouncement on this issue reads:

The defense stresses on the apparent non-participation of a representative from the Department of Justice (DOJ) during the inventory as a gross irregularity which renders the chain of custody questionable. This absence was, however, explained by Agent Avenido who testified that they tried to contact the DOJ for a representative but "nobody was available" to join the buy-bust team at the time of request. Hence, this Court is also cognizant of the fact that this particular absence is not the fault of the buy-bust team. We also take into consideration that the PDEA buy-bust team properly coordinated with the Quezon City Police District and the barangay involved; these attest to their observance of proper procedure. Verily, under varied field conditions, the strict compliance with the requirements of Section 21, Article II of [Republic Act No.] 9165 may not always be possible.[25]

I submit that the bare allegations of Agent Avenido and Agent Saplan that there were no available DOJ representatives are inadequate. The buy-bust team neither alleged nor proved that they exerted genuine efforts to secure the presence of the DOJ representative.

Considering that a buy-bust operation is a pre-planned activity, the officers should have had sufficient time to make the necessary arrangements to comply with the requirements of the law.[26] Agent Avenido managed to talk to the accused-appellant prior to the conduct of the buy-bust operation and designated the meeting time and place for the transaction. Thus, the PDEA had ample opportunity to set the proposed transaction at a time when the required witnesses were available. Otherwise, they could have provided reasons why they could not delay the conduct of the operations.

The ponencia cited the case of *Xiuquin Shi v. People*[27] wherein the Court affirmed the conviction of the accused therein upon finding substantial compliance with the chain of custody rule despite the absence of representatives from the DOJ and the media during the inventory and photographing of the seized items. However, the circumstances in *Xiuquin* are far unrelated in the instant case.

In *Xiuquin*, the absence of a media representative was justified by the apprehending officers' deliberate decision to exclude them so as not to compromise the follow-up operation. When questioned by the trial court, the prosecution witness explained that there was a need to conduct follow-up operations because the accused informed them that what was recovered did not belong to him and offered to identify the source.[28]

With respect to the absence of a DOJ representative, the Court in *Xiuquin* found that the "apprehending officers seriously exerted efforts to secure the presence of a representative from the DOJ but to no avail".[29] The Court surmised that no one from the DOJ was available to witness the procedure because the time of the operation was already after office hours—7:00 p.m.[30] The apprehending officers in *Xiuquin* received the tip at around 2:00 p.m.[31]

Xiuquin cited the case of *People v. Estabillo*,[32] which likewise excused the absence of the DOJ representative because the operation was conducted at the very late hour of 12:00 a.m.[33] The Court in *Estabillo* also considered the arresting officers' decision to invite more witnesses than required as indicative of good faith and earnest effort to comply with the witness requirement under the law.[34]

In contrast the factual milieu of the present case does not justify the same conclusion. Here, the confidential informant relayed the tip at 10:00 a.m. and the buy-bust operation was conducted at 5:30 p.m.[35] Unlike in *Xiuquin*, the apprehending officers in this case had more time within office hours to coordinate with the DOJ. More importantly, the testimonies of the PDEA agents are bereft of any specific explanation to demonstrate that earnest efforts made to secure the attendance of the DOJ representative.[36]

While the ponencia posits that the case calls for an immediate procedure, jurisprudence requires the prosecution to both allege and prove the justification for its noncompliance with the rules, which was not done in this case.[37] Hence, it is difficult to hold that they were able to substantially comply with the chain of custody rule.

The Court in *People v. De Vera*[38] expressly held that mere substantial compliance with the chain of custody rule is insufficient to convict the accused of a violation of the provisions of Republic Act No. 9165. The Court discussed in *De Vera* that:

To reiterate, strict compliance—not just substantial compliance—is required of the mandatory provisions of Sec. 21. The Court cannot absolve the failure of the buy-bust team to comply fully with Sec. 21 for its successful observance of only some of the law's provisions. Selective and partial compliance is tantamount to non-compliance which, as have been repeatedly emphasized, is fatal to establishing the corpus delicti. Then, unless excused by the saving clause, the acquittal of the accused must follow.[39] (Emphasis in the original)

All told, it is respectfully submitted that, unless the prosecution proves the twin requisites to successfully invoke the saving clause of Section 21, a finding that the apprehending officers only substantially complied with the

chain of custody rule creates reasonable doubt as to the commission of the crime, and, thus, calls for the Court to rule in favor of the accused.

The amount of the dangerous drugs involved does not excuse noncompliance with the mandatory requirements of Section 21

The ponencia likewise pointed to the substantial amount of the dangerous drugs involved, raising that the chain of custody rule was instituted to prevent the possibility of tampering with or planting of evidence, which is a remote possibility with the volume of shabu subject to the illegal sale in this case.

In *People v. Uy*,^[40] the Court acknowledged the large and substantial amounts of dangerous drugs involved, but still acquitted the accused due to the failure of the law enforcement agents to comply with the mandatory requirements of Section 21 of Republic Act No. 9165. In highlighting the importance of proving the corpus delicti regardless of the amount of dangerous drugs involved, the Court explained:

The obligatory quality of proving the corpus delicti cannot be gainsaid and this obligatory quality is not diminished or affected when large or substantial amounts of dangerous drugs are involved. This is because the law itself, [Republic Act] No. 9165, as amended, makes no distinction between large or small amounts of seized drugs in applying the procedural safeguards in Sec. 21. As the familiar legal maxim goes, where the law does not distinguish, we should not distinguish.^[41] (Emphasis in the original)

In relation to the issue of the required insulating witnesses, the Court found that the absence was not justified given the circumstances:

Herein, the Court finds untenable the ground proffered by the prosecution to justify the absence of the three insulating witnesses during the November 10, 2003 operation and the absence of the DOJ representative during the November 11, 2003 operation.

For the November 10, 2003 operation, the prosecution argues that the police officers could not secure the presence of the insulating witnesses due to the urgency of the situation arising from Co Ching Ki and Jackie Ong's offer of 10 kg. of shabu in exchange for their freedom. However, the Court fails to see the urgency cited by the prosecution. The police officers had all the advantage, and held all of the cards so to speak, at that point. When they were informed by Co Ching Ki that the 10 kg. of shabu were ready for pick-up and that a vehicle was needed to deliver them, the police officers could have simultaneously secured the presence of the insulating witnesses while preparing the pick-up of the alleged drugs. The supposed urgency of the situation is not apparent to the Court.

As to the November 11, 2003 operation, it is glaring that the prosecution did not even offer any excuse for the absence of the DOJ representative. There is also no allegation that they attempted to secure the presence of the DOJ representative.

On the basis of the foregoing, the Court finds that there was noncompliance with the requirements of Sec. 21 and such failure cannot be excused. Thus, the corpus delicti of the seized items during both operations was not proven.^[42]

Hence, prevailing jurisprudence dictates that the prosecution is not excused from proving compliance with the mandatory requirements of Section 21, notwithstanding the significant amount of dangerous drugs involved in the case.

The stipulations as to the testimony of the forensic chemist are inadequate to establish the third and fourth links

Anent the second, third, and fourth links, the prosecution must prove how the specimen was turned over from the apprehending officer to the investigating officer, to the forensic chemist, and, finally, to the court. Based on the prosecution's narration of facts, Agent Avenido himself turned over the seized items to the laboratory for examination.[43] The items were received by Chemist Maria Christine L. Barquilla (Chemist Barquilla).[44]

In *Besenio v. People*,[45] the Court held that, to prove compliance with the fourth link, the forensic chemist must testify on the details relating to his or her possession of the evidence, such as the manner of receipt of the dangerous drugs, the identifying labels and description of the specimen, the name and method of the analysis used, and the precautionary measures taken before, during, and after the laboratory examination, viz.:

The Court reverberates that judicial admission excuses lapses only up to the third link. The prosecution must still prove compliance with the fourth link. In order to do so, the forensic chemist must testify "on the details pertaining to the handling and analysis of the dangerous drug[s] submitted for examination, i.e., when and from whom the dangerous drug[s] was received; what identifying labels or other things accompanied it; description of the specimen; and the container it was in." They must also identify "the name and method of analysis used in determining the chemical composition of the subject specimen." Moreover, the forensic chemist must testify "that he received the seized article as marked, properly sealed and intact; that he resealed it after examination of the content; and that he placed his own marking on the same to ensure that it could not be tampered pending trial." Furthermore, there must be information as to how the seized drugs was stored after it was examined by the forensic chemist, who handled the drugs specimen after examination, and where it was kept until it was retrieved and presented in court.[46]

The RTC's Order[47] dated March 17, 2015 shows that the parties stipulated on the testimony of Chemist Barquilla, which, according to the CA, showed her participation in the investigation and the results of the laboratory examination she conducted on the seized illegal drug.[48] The stipulations were as follows:

1.

[S]he is one of the Chemist [sic] of Philippine Drug Enforcement Agency;

2.

[O]n June 25, 2014, she received a request for laboratory examination, together with one (1) piece red pouch bag containing one (1) heat[-]sealed transparent plastic sachet containing white crystalline substance suspected shabu with markings "EXH A-1 MJPA 6/25/14";

3.

[A]fter she received the request, she conducted a Qualitative Examination of the specimen and it gave positive result for the presence of Methamphetamine hydrochloride, a dangerous drug;

4.

[S]he issued Chemistry Report No. PDEA-DD014-139;

5.

[A]fter examination, she turned over the specimen to the evidence custodian, Majella Muñasque;

6.

[S]he retrieved the specimen on September 24, 2014 for pre-trial of the case pursuant to the subpoena issued

by the court;

7.

[S]he can identify the specimen subject of her examination; and

8.

[S]he has no personal knowledge as to the facts and circumstances surrounding the arrest of the accused and the source of the specimen turned over to her for examination.[49]

Based on the stipulations, Chemist Barquilla received "one (1) heat-sealed transparent plastic sachet containing white crystalline substance." [50] However, the Chemistry Report and the testimony of Agent Avenido consistently referred to a knot-tied transparent plastic bag. [51]

Generally, stipulations are binding on the parties and may not be set aside unless for a good cause. [52] Nevertheless, a party may be relieved therefrom upon showing of sufficient cause on such terms as will serve justice in a particular case. [53] Here, the stipulation made is evidently contrary to the evidence on record. The inconsistency refers to the very corpus delicti of the case and should not be easily brushed aside.

Furthermore, the stipulations did not touch upon the precautionary measures taken by Chemist Barquilla in handling the evidence. In *People v. Atanacio*, [54] the Court faulted the prosecution when the forensic chemist failed to testify how she handled the drug specimens before, during, and after she conducted the laboratory examination. [55] Similarly, the Court in *Besenio* found the testimony of the forensic chemist lacking and ruled that the prosecution did not establish the fourth link, thus holding:

Apropos the issue at hand, PINSP Severo, the forensic chemist, testified: (1) as to how he received the drugs specimen from Llona, the receiving clerk; (2) how the specimen was identified and marked; and (3) what qualitative tests were done to confirm the contents thereof. Nonetheless, he failed to testify: (1) whether he resealed the specimen after examination of the contents of the sachet; (2) the manner of handling and storage of the specimen before, during, and after the chemical examination; and (3) whether he took precautionary measures after examination of the seized drugs specimen to preserve its integrity and evidentiary value before the same was submitted to the RTC. [56] (Emphasis supplied)

In the present case, there was only a general stipulation that Chemist Barquilla turned over the specimen to the evidence custodian, Majella Muñasque. Aside from this, there was no other information from Chemist Barquilla that would confirm how she resealed and stored the specimen after examination or when she turned over the evidence to the court. Thus, following the ruling in *Besenio* and *Atanacio*, the prosecution likewise failed to establish the third and fourth link in the chain of custody.

The procedural lapses warrant the acquittal of Dumat-ol

The procedural lapses of the prosecution raise doubts as to the integrity and evidentiary value of the seized items from the buy-bust operations. While minor deviations from the procedures set out under the law will not automatically exonerate an accused, there must first be a showing that the law enforcement officers intended to comply with the procedure and were only prevented from doing so because of some justifiable reason. [57]

The Court arrived at the same conclusion in *People v. Chung*, [58] where only a representative from the media and an elected public official signed the inventory receipt and the prosecution failed to prove justifiable grounds for the non-compliance with the three-witness rule. Moreover, the fourth link was not sufficiently accounted for

because the stipulations of the parties regarding the testimony of the forensic chemist lacks vital pieces of information, such as the condition of the contraband at the time of receipt and whether it was resealed after examination. Notwithstanding the substantial amount of drugs involved in Chung, the Court deemed it proper to acquit the accused in view of the lapses in the requirements mandated by law.[59]

The Court in Casa[60] underscored the duties of the arresting officers:

Accordingly, before the prosecution can invoke the saving clause, they must satisfy the two requisites:

- The existence of "justifiable grounds" allowing departure from the rule on strict compliance; and
- The integrity and the evidentiary value of the seized items are properly preserved by the apprehending team.

Whenever the first prong is not complied with, the prosecution shall not be allowed to invoke the saving clause to salvage its case. In *Valencia v. People*, it was underscored that the arresting officers are under obligation, should they be unable to comply with the procedures laid down under Sec. 21, Art. II of [Republic Act] No. 9165, to explain why the procedure was not followed and prove that the reason provided a justifiable ground. Otherwise, the requisites under the law would merely be fancy ornaments that may or may not be disregarded by the arresting officers at their own convenience. Similarly, in *People v. Acub*, the Court also did not apply the first prong of the saving clause because, despite the blatant lapses, the prosecution did not explain the arresting officers' failure to comply with the requirements in Sec. 21.[61] (Emphasis supplied)

To reiterate, the law recognizes that strict compliance with the chain of custody requirements is not always possible, hence the saving clause in Section 21. Nevertheless, such proviso is not a free pass for law enforcement officers to disregard the procedure set out in the law.

ACCORDINGLY, I vote to GRANT the Motion for Reconsideration[62] dated December 17, 2019 and ACQUIT accused-appellant Juvylen Dumat-ol y Miraflor of violating Section 5 of Republic Act No. 9165.

[1] *People v. Dela Cruz*, 844 Phil. 1012, 1020-1021 (2018) [Per J. Caguioa, Second Division].

[2] *People v. Casacop*, 755 Phil. 265, 282 (2015) [Per J. Leonen, Second Division], citing *People v. dela Cruz*, 744 Phil. 816, 830 (2014) [Per J. Leonen, Second Division].

[3] *People v. Magpayo*, 648 Phil. 641, 650 (2010) [Per J. Perez, First Division].

[4] *People v. Atanacio*, G.R. No. 276735, April 7, 2025 [Per J. Singh, Third Division] at 11. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[5] Entitled "An Act to Further Strengthen the Anti-Drug Campaign of the Government, Amending for the Purpose Section 21 of Republic Act No. 9165, Otherwise Known as the 'Comprehensive Dangerous Drugs Act of 2002'" (2014).

[6] 931 Phil. 945 (2022) [Per J. Rosario, En Banc].

[7] *Id.* at 956-957.

[8] *Rollo*, p. 2; *CA rollo*, pp. 48-49.

[9] *Nisperos v. People*, 931 Phil. 945, 956 (2022) [Per J. Rosario, En Banc].

[10] TSN, Agent Marc Junef Avenido, September 4, 2015, p. 10.

[11] TSN, Agent Arcadio Saplan, March 2, 2016, p. 4.

- [12] *People v. Taglucop*, 920 Phil. 941, 957 (2022) [Per C.J. Gesmundo, First Division].
- [13] *People v. Luna*, 828 Phil. 671, 686 (2018) [Per J. Caguioa, Second Division].
- [14] *People v. Taglucop*, 920 Phil. 941, 958 (2022) [Per C.J. Gesmundo, First Division].
- [15] 951 Phil. 551, 576 (2024) [Per J. Inting, Third Division].
- [16] *Id.*
- [17] *Id.* at 576-577.
- [18] 867 Phil. 870 (2019) [Per J. Reyes, Jr., First Division].
- [19] *Id.* at 886-887.
- [20] 828 Phil. 416 (2018) [Per J. Perlas-Bernabe, Second Division].
- [21] *Id.* at 435-436.
- [22] 839 Phil. 598 (2018) [Per J. Peralta, En Banc].
- [23] *Id.* at 621-622.
- [24] *Rollo*, p. 17.
- [25] *Id.*
- [26] *People v. Casa*, 928 Phil. 356, 381 (2022) [Per C.J. Gesmundo, En Banc].
- [27] 921 Phil. 123 (2022) [Per J. Lazaro-Javier, Third Division].
- [28] *Id.* at 133.
- [29] *Id.* at 150.
- [30] *Id.* at 150-151.
- [31] *Id.* at 126.
- [32] 904 Phil. 852, 879 (2021) [Per J. Lazaro-Javier, Second Division].
- [33] *Xiuquin Shi v. People*, 921 Phil. 123, 140 (2022) [Per J. Lazaro-Javier, Third Division].
- [34] *People v. Estabillo*, 904 Phil. 852, 873 (2021) [Per J. Lazaro-Javier, Second Division].
- [35] *Rollo*, pp. 2-3.
- [36] TSN, Agent Marc Junef Avenido, September 4, 2015, p. 10; TSN, Agent Arcadio Saplan, March 2, 2016, p. 4.
- [37] *People v. Lim*, 839 Phil. 598, 625 (2018) [Per J. Peralta, En Banc].
- [38] *People v. De Vera*, 837 Phil. 348 (2018) [Per J. Caguioa, Second Division].
- [39] *Id.* at 378.
- [40] 936 Phil. 635 (2023) [Per C.J. Gesmundo, En Banc].
- [41] *Id.* at 657.

- [42] Id. at 664.
- [43] Rollo, p. 4; CA rollo, pp. 49-52.
- [44] RTC records, p. 17.
- [45] 955 Phil. 690 (2024) [Per J. Dimaampao, Third Division].
- [46] Id. at 703-704.
- [47] RTC records, pp. 94-95.
- [48] Rollo, p. 17.
- [49] RTC records, p. 94.
- [50] Id.
- [51] Id. at 1. See also TSN, Agent Marc Junef Avenido, September 4, 2015, pp. 4, 8, 12.
- [52] Bayas v. Sandiganbayan, 440 Phil. 54, 59 (2002) [Per J. Panganiban, Third Division].
- [53] Id. at 65.
- [54] People v. Atanacio, G.R. No. 276735, April 7, 2025 [Per J. Singh, Third Division].
- [55] Id. at 17-18. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.
- [56] Besenio v. People, 955 Phil. 690, 704 (2024) [Per J. Dimaampao, Third Division].
- [57] People v. Umipang, 686 Phil. 1024, 1053 (2012) [Per J. Sereno, Second Division].
- [58] People v. Chung, G.R. No. 253463, August 30, 2023 [Resolution, Third Division].
- [59] Id.
- [60] People v. Casa, 928 Phil. 356, 381 (2022) [Per C.J. Gesmundo, En Banc].
- [61] Id. at 389.
- [62] Rollo, pp. 45-50.

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