

JOE ANNE FERNANDEZ Y BUENO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 254320. July 05, 2021

Ponente: PERLAS-BERNABE, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-254320/>

PERLAS-BERNABE, J.:

Assailed in this petition for review on certiorari is the Decision[1] dated December 11, 2019 of the Court of Appeals (CA) in CA-G.R. CR. No. 42023, which affirmed the Decision[2] dated June 7, 2018 of the Regional Trial Court of Iba, Zambales, Branch 71 (RTC) in Criminal Case Nos. RTC-9313-I to RTC-9315-I, finding petitioner Joe Anne Fernandez y Bueno (petitioner) guilty beyond reasonable doubt of Illegal Possession of Dangerous Drugs, as defined and penalized under Section 11, Article II of Republic Act No. (RA) 9165, otherwise known as the 'Comprehensive Dangerous Drugs Act of 2002.'

[*] Designated Additional Member pursuant to Special Order No. 2822 Jated April 7, 2021.

The Facts

This case stemmed from three (3) Informations[3] filed before the RTC charging petitioner with the crimes of Illegal Possession of Dangerous Drugs, Illegal Possession of Drug Paraphernalia, and Illegal Use of Dangerous Drugs under Sections 11, 12 and 15, Article II of RA 9165, respectively, the accusatory portions of which read:

Criminal Case No. RTC-9313-I

That on or about [the] 30[th] day of October 2015 at about 3:20p.m., in Barangay San Juan, Cabangan, Zambales, Philippines, and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously, have in his possession, custody and control, four (4) heat-sealed transparent plastic sachets containing Methylamphetamine Hydrochloride, a dangerous drug, which were subsequently marked as AAC1, AAC2, AAC3, and AAC4, containing 0.176 gram, 0.137 gram, 0.149 gram and 0.158 gram, respectively, without any authority, permit nor prescription to possess the same from the appropriate government agency.

CONTRARY TO LAW.[4]

Criminal Case No. RTC-9314-I

That on or about [the] 30[th] day of October 2015 at about 3:20p.m., in Barangay San Juan, Cabangan, Zambales, Philippines, and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously, without any lawful authority, possess and have under their custody and control the following, to wit:

- Eleven (11) pieces rolled aluminum foil used as improvised tooter
- Two (2) pieces of tooter
- Seven (7) pieces assorted lighters
- Two (2) pieces small nail polish removal used as improvised burner
- One (1) piece improvised shabu pan Assorted used transparent plastic sachet One (1) piece wooden stick
- One (1) piece rolled aluminum foil

- One (1) piece fiber glass as chopping board for shabu

which are equipments, instruments, apparatus and/or paraphernalia fit and/or intended for smoking, consuming, administering, ingesting and/or introducing dangerous drug into the body.

CONTRARY TO LAW.[5]

Criminal Case No. RTC-9315-I

That on or about [the] 30th day of October 2015 at about 3:20p.m., in Barangay San Juan, Cabangan, Zambales, Philippines, and within the jurisdiction of this Honorable Court, the said accused, when apprehended by the police officers, and after a confirmatory test, was found to have willfully, unlawfully and feloniously use(d) or introduce[d] into his body Methylamphetamine, a dangerous drug, without being lawfully allowed to use said substance.

CONTRARY TO LAW.[6]

The prosecution alleged that at around 3:20 in the afternoon of October

30,2015, several members of the Cabangan Municipal Police Station, which included PO2 Anthony Cacho (PO2 Cacho), PO3 Eliseo Bayona (PO3 Bayona), and SPO1 Eduagen, accompanied by some barangay officials, implemented a search warrant at petitioner's residence allegedly known as a drug den in Barangay San Juan, Cabangan, Zambales. Upon arrival thereat, the police officers saw petitioner handing over a plastic sachet of suspected shabu to a man later identified as Martin Hatchaco (Hatchaco), who managed to escape. When petitioner noticed the presence of the police officers, he ran towards the house but the police chased him and presented to him the search warrant. After explaining to him the contents thereof, they searched his house in his presence and those of the barangay officials. The search yielded four (4) plastic sachets containing white crystalline substance in one of the rooms while PO3 Bayona retrieved assorted drug paraphernalia at the back of the house.[7]

Thereafter, the police officers conducted the marking, inventory, and photography of the seized items at the crime scene in the presence of petitioner and the barangay officials. PO2 Cacho took custody of the four (4) plastic sachets while PO3 Bayona held on to the drug paraphernalia recovered from petitioner's house. Petitioner and the confiscated items were then brought to the police station, where another inventory and the return on the search warrant were prepared. However, since October 31 to November 1, 2015 were declared holidays, PO2 Cacho stated that he kept the four (4) plastic sachets in his custody inside his locker in the meantime, to which only he had access.[8]

On November 2, 2015, PO2 Cacho turned over the four (4) plastic sachets containing white crystalline substance as well as the request for laboratory examination to PO2 Norman Ricky Aquino (PO2 Aquino), the evidence custodian of the Zambales Provincial Crime Laboratory Office (ZPCLO) at Iba, Zambales, who then turned them over to Police Chief Inspector (PCI) Vernon Rey Santiago (PCI Santiago), the forensic chemist assigned at the ZPCLO, on the same day. PCI Santiago conducted a qualitative examination on the specimens, which tested positive for methylamphetamine hydrochloride, a dangerous drug. Thereafter, he handed the specimens, the request for laboratory examination, and Chemistry Report No. D-162-2015ZPCLO containing his findings to PO2 Aquino for safekeeping.[9]

Meanwhile, the confiscated drug paraphernalia were not surrendered to the crime laboratory to determine the presence of any drug residue thereon.[10] Further, during trial, the parties stipulated on the testimony of Punong Barangay Conrado Betonio (Punong Barangay Betonio) that he was one of the witnesses called upon during the

search and conduct of the inventory and that no photographs were taken showing that he was present during the search.[11]

For his part, petitioner denied[12] the charges against him and instead, claimed that on the date and time material to this case, he was sleeping inside his room when the police officers arrived, poked a gun at him, and informed him that they had a search warrant. They then started searching his house and found several plastic sachets, the contents of which he was not aware. However, the police officers forced him to admit ownership thereof. Thereafter, they called the barangay officials and took photographs of him together with the pieces of evidence that they allegedly found in his house. He was also made to sign a document. Subsequently, he was brought to the police station and detained.[13]

The RTC Ruling

In a Decision[14] dated June 7, 2018, the RTC found petitioner guilty beyond reasonable doubt of Illegal Possession of Dangerous Drugs and accordingly, sentenced him to suffer the penalty of imprisonment of twelve (12) years and one (1) day to fourteen (14) years and to pay a fine of P300,000.00. The RTC held that the prosecution successfully established the elements of the said offense and the unbroken chain of custody of the seized illegal drugs. As such, despite the contention of the defense that there was no representative from the media and the Department of Justice (DOJ) during the conduct of the marking and inventory of the seized items and that the specimens were submitted to the crime laboratory past the twenty-four (24) hour period from its confiscation, the RTC ruled that the integrity and evidentiary value of the seized items had been duly preserved.[15]

Nonetheless, petitioner was acquitted of Illegal Possession of Drug Paraphernalia on reasonable doubt. The RTC noted that the drug paraphernalia purportedly retrieved from petitioner's house were not presented as evidence and PO3 Bayona failed to explain the omission. Finally, the RTC dismissed the charge for Illegal Use of Dangerous Drugs, the same being absorbed in the offense of Illegal Possession of Dangerous Drugs in accordance with Section 15,[16] Article II of RA 9165.[17]

Dissatisfied, petitioner appealed to the CA.

The CA Ruling

In a Decision[18] dated December 11, 2019, the CA affirmed in toto the RTC ruling, finding that all the elements of the crime of Illegal Possession of Dangerous Drugs had been successfully established. The CA found as justified the absence of the other required witnesses apart from the barangay officials by taking note of the fact that petitioner's house is located in a far-flung area in Cabangan, a poor fourth-class municipality in Zambales. Further, the CA found that there was an unbroken chain of custody of the confiscated drugs in this case, to wit: (a) PO2 Cacho, after implementing the search warrant, took in his custody the four (4) plastic sachets containing white crystalline substance; (b) after preparing the return on the search warrant and the request for laboratory examination, PO2 Cacho turned over the seized items to PO2 Aquino, the evidence custodian; (c) on the same day, PO3 Aquino surrendered the specimens to PCI Santiago, who conducted the laboratory examination thereon and found the same positive for methylamphetamine hydrochloride, and; (d) finally, PCI Santiago returned the specimens to PO2 Aquino for safekeeping until the same were presented in court for identification. As such, the CA held that there was substantial compliance with the chain of custody requirement of the seized drugs and that, on the basis thereof, petitioner's conviction must be sustained.[19]

Hence, this petition.

The Issue Before the Court

The core issue for the Court's resolution is whether or not petitioner is guilty beyond reasonable doubt of the crimes charged.

The Court's Ruling

The petition is meritorious.

At the outset, it must be stressed that an appeal in criminal cases opens the entire case for review and, thus, it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned.[20] The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.[21]

The elements of Illegal Possession of Dangerous Drugs under Section

11, Article II of RA 9165 are: (a) the accused was in possession of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.[22] Jurisprudence states that in cases of this nature, it is essential that the identity of the seized drug and/or drug paraphernalia be established with moral certainty. Thus, in order to obviate any unnecessary doubts on such identity, the prosecution has to show an unbroken chain of custody over the same. It must be able to account for each link in the chain of custody over the dangerous drug/paraphernalia from the moment of seizure up to its presentation in court as evidence of the corpus delicti.[23]

As part of the chain of custody procedure, the apprehending team is mandated, immediately after seizure and confiscation, to conduct a physical inventory and to photograph the seized items in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (a) if prior to the amendment of RA 9165 by RA 10640,[24] "a representative from the media and the Department of Justice (DOJ), and any elected public official";[25] or (b) if after the amendment of RA 9165 by RA 10640, "[a]n elected public official and a representative of the National Prosecution Service or the media." [26] The presence of these witnesses safeguards "the establishment of the chain of custody and remove[s] any suspicion of switching, planting, or contamination of evidence." [27]

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." [28] This is because "[t]he law has been crafted by Congress as safety precautions to address potential police abuses, especially considering that the penalty imposed may be life imprisonment." [29]

Nevertheless, the Court acknowledges that strict compliance with the chain of custody procedure may not always be possible. [30] During such eventualities, the failure of the apprehending team to strictly comply with the same would not ipso facto render the seizure and custody over the items as void and invalid, provided that the prosecution satisfactorily proves that: (a) there is a justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved.[31] The foregoing is based on the saving clause found in Section 21 (a), [32] Article II of the Implementing Rules and Regulations (IRR) of RA 9165, which was later adopted into the text of RA 10640.[33] However, in *People v. Almorfe*, [34] the Court stressed that for the saving clause to apply, the prosecution must explain the reasons behind the procedural lapses. Further, in *People v. De Guzman*, [35] the justifiable ground for non-compliance must be proven as a fact, because the Court cannot presume what these grounds are or that they even exist.

With regard to the required witnesses rule, non-compliance therewith may be permitted only if the prosecution proves that the apprehending officers exerted genuine and sufficient efforts to secure their presence, although they eventually failed to appear. Although the earnestness of these efforts must be examined on a case-to-case basis, the primary objective is for the Court to be convinced that the failure to comply was reasonable under the given circumstances. [36] Thus, mere statements of unavailability, absent actual serious attempts to contact the required

witnesses, are unacceptable as justified grounds for non-compliance.[37] 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 make the necessary arrangements beforehand, knowing fully well that they would have to strictly comply with the chain of custody rule. [38] This fact especially rings true in the implementation of search warrants, as in this case, wherein the implementing officers would have more than enough time to plan and prepare for the said operation.

In this case, records show that during the marking, inventory, and photography conducted, only barangay officials of Barangay San Juan were present. No representative from the National Prosecution Service (NPS) or the media had been invited to witness the proceedings, as required under Section 21 of RA 9165 and its IRR taking into consideration the date of the implementation of the search warrant on October 30, 2015, hence, falling after the amendment of RA 9165 by RA 10640 on August 7, 2014. This much was admitted by PO2 Cacho in open court when he testified that they were not assisted by any media or DOJ representative during the inventory at the police station.³⁹ Further, the absence of either the NPS or the media representative had not been sufficiently explained by the arresting officers; neither has it been shown that they exerted genuine and sufficient efforts to secure the witness' presence even though he/she eventually failed to appear.

On this note, the Court finds unsatisfactory the excuse that petitioner's house was located in a "far-flung area" in Cabangan, a poor fourth-class municipality in Zambales, perhaps to justify the inability of the police officers to secure the presence of the other required witnesses. It bears pointing out that this case stemmed from the implementation of a search warrant against petitioner, and as already adverted to, it is safe to presume that the police officers had more than enough time to find a media or an NPS representative for purposes of complying with the stringent chain of custody rule. As such, the explanation that petitioner's house is in a remote area vis-a-vis the sufficient time available for the police officers to secure the complete required witnesses is unacceptable to say the least. Such unfortunate failure on the part of the prosecution thereby renders the integrity and evidentiary value of the seized items to be highly compromised, consequently warranting petitioner's acquittal.

WHEREFORE, the petition is GRANTED. The Decision dated December 11, 2019 of the Court of Appeals in CA-G.R. CR. No. 42023 is hereby REVERSED and SET ASIDE. Accordingly, petitioner Joe Anne Fernandez Bueno is ACQUITTED of the crime charged.

The Director of the Bureau of Corrections is ORDERED to: (a) cause the immediate release of the petitioner, unless he is being lawfully held in custody for any other reason; and (b) inform the Court of the action taken within five (5) days from receipt of this Decision.

Let entry of judgment be issued immediately.

SO ORDERED.

Lazaro-Javier, M. Lopez, Rosario, and J. Lopez[*], JJ., concur.

[1] Rollo, pp. 38-49. Penned by Associate Justice Edwin D. Sorongon with Associate Justices Fernanda Lampas Peralta and Geraldine Fiel-Macaraig, concurring.

[2] Id at 76-83. Permed by Presiding Judge Consuelo Amog-Bocar.

[3] Id. at 76-77.

[4] Records. pp. 2-3.

[5] Not attached to the rollo and records; see rollo, pp. 76-77.

[6] Not attached to the rollo and records; see rollo, p. 77.

[7] Rollo, p. 4 I.

[8] Id. at 41 and 77-78.

[9] Id. at 39-40.

[10] Id. at 78.

[11] Id. at 40.

[12] Id. at 41-42.

[13] Id. at 41-42 and 78.

[14] Id. at 76-83.

[15] Id. at 79-83.

[16] SEC. 15. Use of Dangerous Drugs. -A person apprehended or arrested, who is found to be positive for use of any dangerous drug, after a confirmatory test, shall be imposed a penalty of a minimum of six (6) months rehabilitation in a government center for the first offense, subject to the provisions of Article V III of this Act. If apprehended using any dangerous drug for the second time, he/she shall suffer the penalty of imprisonment ranging from six (6) years and one (1) day to twelve (12) years and a fine ranging from Fifty thousand pesos (P50,000.00) to Two hundred thousand pesos (P200,000.00): Provided, That this Section shall not be applicable where the person tested is also found to have in his/her possession such quantity of any dangerous drug provided [or under Section II of this Act. in which case the provisions stated therein shall apply. (Emphasis and underscoring supplied)]

[17] Rollo, p. 8?-83.

[18] Id. at 38-49.

[19] Id. at 43-49.

[20] See *People v. Dahil*, 750 Phil. 212, 225 (2015).

[21] *People v. Comboy*, 782 Phil. 187- 196 (2015).

[22] See *People v. De Dios*, G.R. No. 243664 January 22, 2020.

[23] *People v. Ching*, 819 Phil. 576 (2017).

[24] Entitled "AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSES: SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE 'COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002.'" As the Court noted in *People v. Gutierrez*: (see G.R. No. 236304, November 5, 2018), RA 10640 was approved on July 15, 2014. Under Section 5 thereof, it shall "take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation." RA 10640 was published on July 23, 2014 in *The Philippine Star* (Vol. XXVIII, No. 359, Philippine Star Metro section, p. 2 I) and *Manila Bulletin* (Vol. 499, No. 23, World News section, p. 6). Thus, RA 10640 appears to have become effective on August 7, 2014.

[25] Section 21 (1) and (2) Article II of RA 9165 and its Implementing Rules and Regulations.

[26] Section 21 , Article II of RA 9165, as amended by RA 10640

[27] See *People v. Mendoza*, 736 Phil. 749, 764 (2014).

[28] *People v. Miranda*, 824 Phil. 1042, 1050 (2018). See also *People v. Macapundag*, 807 Phil. 234, 244 (2017).citing *People v. Umipang*, 686 Phil. 1024, 1039-1040 (2012).

[29] See *People v. Segundo*, G.R. No 205614, July 26, 2017, citing *People v. Umipang*, id.

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

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

[32] Section 21 (a), Article II of the IR R of RA 9165 pertinently states: "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"

[33] Section 1 of RA 10640 pertinently states:"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."

[34] 631 Phil. 51 ,60 (2010).

[35] 630 Phil. 637. 649 (2010).

[36] See *People v. Manansala*, 826 Phil. 578, 586 (2018).

[37] See *People v. Gamboa*, 867 Phil. 548, 570 (2018), citing *People v. Umipang*, supra note 28, at 1053.

[38] See *People v. Crispo*, 828 Phil. 416, 429 (2018).

[39] Rollo. p. 77.

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.