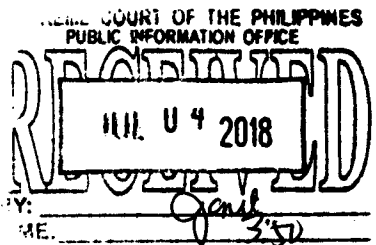




Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION



PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 223525

- versus -

Present:

LEONARDO-DE CASTRO, *
 BERSAMIN,**
 DEL CASTILLO,
*Acting Chairperson,****
 TIJAM, and
 GESMUNDO,**** JJ.

BENEDICTO VEEDOR, JR.
y Molod a.k.a. "Brix",
Accused-Appellant.

Promulgated:
JUN 25 2018

X-----

DECISION

DEL CASTILLO, J.:

Assailed in this appeal is the February 24, 2015 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 04177 which affirmed the June 23, 2009 Decision² of the Regional Trial Court (RTC), Branch 16, Manila, finding appellant Benedicto Veedor, Jr., y Molod a.k.a. "Brix" (appellant) guilty beyond reasonable doubt of violating Section 11, Article II of Republic Act No. 9165 (RA 9165), or The Comprehensive Dangerous Drugs Act of 2002.

The Antecedent Facts

Appellant was charged with illegal possession of dangerous drugs under Section 11, Article II of RA 9165 in an Information³ dated September 7, 2004 which reads:

* On official leave.

** Per November 29, 2017 raffle vice J. Jardeleza who recused due to prior action as Solicitor General.

*** Per Special Order No. 2562 dated June 20, 2018.

**** Per Special Order No. 2560 dated May 11, 2018.

¹ *Rollo*, pp. 2-12; penned by Associate Justice Ricardo R. Rosario and concurred in by Presiding Justice Andres B. Reyes, Jr. (now a Member of this Court) and Associate Justice Edwin D. Sorongon.

² *CA rollo*, pp. 21-28; penned by Presiding Judge Carmelita S. Manahan.

³ Records, p. 1.

Criminal Case No. 04-229997

That on or about September 2, 2004, in the City of Manila, Philippines, the said accused, without being authorized by law to possess any dangerous drug, did then and there willfully, unlawfully and knowingly have in his possession and under his custody and control

[O]ne (1) Duty Free shopping bag containing NINE HUNDRED NINETY[-]SEVEN (997) grams of crushed dried flowering tops of marijuana[; and,]

Three Hundred Twenty[-]Three (323) plastic sachets containing a total weight of THREE HUNDRED EIGHTY[-]TWO (382) grams [of] crushed dried flowering tops separately contained in seven (7) plastic bags.

a dangerous drug.

Contrary to law.

During his arraignment on December 9, 2004, appellant entered a plea of not guilty.⁴ Trial thereafter ensued.

Version of the Prosecution

The prosecution's version of the incident is as follows:

On September 2, 2004, at around 9:00 a.m., a team of operatives from the Reaction Arrest and Interdiction Division of the National Bureau of Investigation (NBI), in coordination with the Philippine Drug Enforcement Agency (PDEA),⁵ served a search warrant⁶ on appellant at the latter's house located along an alley near Patria⁷ Street, Balut, Tondo, Manila.⁸ The team was composed of Special Investigator (SI) Salvador Arteche, Jr., SI Melvin Escurel (SI Escurel), and Atty. Daniel Daganzo, and several others.⁹

After explaining the nature of the search warrant to appellant,¹⁰ the NBI agents searched the house and found a shopping bag containing suspected marijuana inside a cabinet at the first floor.¹¹ They also found 323 small plastic

⁴ Id. at 22.

⁵ Id. at 9.

⁶ Id. at 11-12; issued by Executive Judge Enrico A. Lanzas on August 31, 2004.

⁷ Patricia in some parts of the records.

⁸ CA rollo, p. 102.

⁹ Rollo, p. 3.

¹⁰ CA rollo, p. 104.

¹¹ Id. at 102 and 104.



sachets of suspected marijuana in seven transparent plastic bags, several empty transparent plastic sachets, an electric sealer and a pair of scissors.¹²

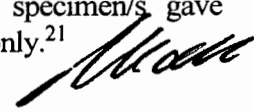
SI Escurel marked the seized items with his initials and prepared the Inventory of Seized Property.¹³ Photographs of the items found in the premises were also taken.¹⁴ The NBI operation was witnessed by ABS-CBN's Jesus Alcantara, *Barangay* Chairman Nonny Francisco (Brgy. Chairman Francisco), and *Barangay* Councilor Randy Almalvez.¹⁵

The NBI agents thereafter brought appellant to their office where they prepared the following documents: (a) the request for laboratory examination;¹⁶ (b) the Booking Sheet and Arrest Report;¹⁷ (c) the Joint Affidavit of Arrest,¹⁸ and (d) the Spot Report.¹⁹ On the same day, at 6:30 p.m., SI Escurel turned over the seized items to the Forensic Chemistry Division of the NBI.²⁰

On September 3, 2004, Forensic Chemist Mary Ann T. Aranas (Forensic Chemist Aranas) conducted a quantitative and qualitative examination of the subject specimens which yielded the following results:

1. One (1) Duty Free shopping bag containing crushed dried flowering tops suspected to be [marijuana]; Weight = 997 grams;
2. Three hundred twenty[-]three (323) plastic sachets containing crushed dried flowering tops separately contained in seven (7) plastic bags with markings; Total weight = 382 grams
3. One (1) electric sealer marked "MEE-10";
4. Empty plastic bags in a plastic bag marked "MEE-9"; and
5. One (1) pair of scissors marked "MEE-11"

Examinations conducted on the above-mentioned specimen/s gave POSITIVE RESULTS for [marijuana] on specimens 1 and 2 only.²¹



¹² Id. at 103.

¹³ Records, p. 6. Only a *photocopy* of the Inventory of Seized Property can be found in the records.

¹⁴ CA *rollo*, p. 104.

¹⁵ Id. at 102 and 104.

¹⁶ Id. at 102.

¹⁷ Records, p. 10.

¹⁸ Id. at 4-5.

¹⁹ Id. at 13.

²⁰ See Joint Affidavit of Arrest dated September 3, 2004, id. at 4-5.

²¹ Id. at 7.

Version of the Defense

Appellant raised the defenses of denial and alibi.²² He narrated that:

x x x [O]n September 1, 2004[,] at about 11:30 in the afternoon, two (2) male persons, Jeric and Jeff with one male whom he does not know arrived in his house and requested him to watch DVD movie entitled ‘Hell Boy.’ That was the third time the three requested him to do so. They introduced [the other] male person as Booter. He did not finish the movie because he went upstairs to sleep but let them finish the movie. He just reminded them to turn off and unplug the TV set and the DVD player after watching.

At around 11:20 am on September 2, 2004, NBI agents arrested him. Barangay officials came only after his arrest. He denied any knowledge on the one (1) kilo of marijuana. He stated that he does not know the whereabouts of Jeric and Jeff but he trusted them and let them watch DVD at his home even at midnight because these two (2) boys are poor but own the DVDs to be watched [sic].²³

Ruling of the Regional Trial Court

In its Decision dated June 23, 2009, the RTC found appellant guilty beyond reasonable doubt of violating Section 11, Article II of RA 9165. It held that:

The story concocted by the accused is unbelievable. Accused would like this Court to believe that he went upstairs to sleep and allowed his visitors to finish the movie with the reminder of unplugging the TV set and DVD player after watching. In times like this when crimes are rampant, reason would dictate not to allow strangers inside one’s house. The owner of [the] house would not dare to sleep while his visitors are still there and nobody would see to it that his door is locked when visitors leave.²⁴

The RTC further pointed out that “the search warrant was applied for and against the house owned by the accused.”²⁵ It then emphasized that the “possession necessary for conviction of the offense of [illegal] possession of dangerous drugs may be constructive as well as actual – it is only necessary that the accused must have dominion and control over the contraband.”²⁶

Accordingly, the RTC sentenced appellant to suffer the penalties of life imprisonment and a fine of ₱1,000,000.00 for violation of Section 11, Article II of



²² CA rollo, p. 27.

²³ Id. at 25. See also Appellant’s Brief, id. at 67.

²⁴ Id. at 27.

²⁵ Id.

²⁶ Id.

RA 9165 in Criminal Case No. 04-229997. It also ordered that the confiscated marijuana with a total weight of 1,379 grams be turned over to the PDEA for proper disposition.²⁷

Appellant thereafter appealed the RTC Decision before the CA.

Ruling of the Court of Appeals

In its Decision dated February 24, 2015, the CA affirmed the assailed RTC Decision *in toto*. It found that appellant was unable to discharge his burden of proving the absence of the element of *animus possidendi*, given that the dangerous drugs were found in a cabinet inside appellant's house and he failed to present evidence to show that his possession of said drugs was authorized by law.²⁸

The CA further held that:

Contrary to [appellant's] asseveration, [w]e find that the apprehending officers substantially complied with the prescribed procedure. While the photographs taken were not offered and the certificate of inventory was not admitted, [w]e find that the prosecution sufficiently established that the markings on the seized drugs were made by SI Escurel at [appellant's] house in the presence of appellant, a media representative and barangay officials.²⁹

Thus, the CA concluded that there was no reason to disturb the ruling of the RTC finding appellant guilty beyond reasonable doubt of the offense charged, as the elements of illegal possession of marijuana had been proven and the integrity of the sized items was shown to have been preserved.³⁰

Aggrieved, appellant filed the present appeal.

The Issues

Appellant raises the following issues for the Court's resolution:

First, whether the CA committed an error when it disregarded the testimony of Brgy. Chairman Francisco who categorically stated that the marijuana and other



²⁷ Id. at 28.

²⁸ *Rollo*, p. 6.

²⁹ Id. at 10-11.

³⁰ Id. at 11.

pieces of evidence presented in court were *different* from what he saw when he opened the cabinet in appellant's house;³¹

And *second*, whether the *corpus delicti* of the offense charged was proven beyond reasonable doubt, considering the inconsistency in the description of the dangerous drugs seized – the NBI agents consistently referred to the seized items as 'dried marijuana leaves' while the items actually submitted to the forensic chemist, based on her Certification dated September 3, 2004, and later presented in court were 'crushed dried marijuana flowering tops.'³²

The Court's Ruling

For prosecutions involving dangerous drugs, we have consistently held that "the dangerous drug itself constitutes as the *corpus delicti* of the offense and the fact of its existence is vital to sustain a judgment of conviction beyond reasonable doubt."³³ It is therefore fundamental that the identity of the dangerous drug be established beyond reasonable doubt,³⁴ along with the other elements of the offense/s charged. "Proof beyond reasonable doubt in these cases demands an unwavering exactitude that the dangerous drug presented in court as evidence against the accused is the same as that seized from him in the first place."³⁵

However, it must be stressed that "the presentation of evidence establishing the elements of the offenses of illegal sale and possession of dangerous drugs *alone* is insufficient to secure or sustain a conviction under RA 9165."³⁶ Given the unique characteristics of dangerous drugs which render them *not readily identifiable and easily susceptible to tampering, alteration or substitution*, it is essential to show that the identity and integrity of the seized drugs have been preserved. Thus, we explained in *People v. Denoman*³⁷ that:

A successful prosecution for the sale of illegal drugs requires more than the perfunctory presentation of evidence establishing each element of the crime: the identities of the buyer and seller, the transaction or sale of the illegal drug and the existence of the *corpus delicti*. In securing or sustaining a conviction under RA No. 9165, the intrinsic worth of these pieces of evidence, especially the identity and integrity of the *corpus delicti*, must definitely be shown to have been preserved. This requirement necessarily arises from the illegal drug's unique characteristic that renders it indistinct, not readily identifiable, and easily open to tampering, alteration or substitution either by accident or otherwise. **Thus, to remove any doubt or uncertainty on the identity and integrity of the seized**

³¹ CA rollo, p. 67.

³² Id. at 73.

³³ *Derilo v. People*, 784 Phil. 679, 686 (2016).

³⁴ *People v. Bartolini*, 791 Phil. 626, 634 (2016).

³⁵ *Derilo v. People*, supra note 33 at 686.

³⁶ *People v. De Guzman*, G.R. No. 219955, February 5, 2018.

³⁷ 612 Phil. 1165 (2009).



drug, evidence must definitely show that the illegal drug presented in court is the same illegal drug actually recovered from the accused-appellant; otherwise, the prosecution for possession or for drug pushing under RA No. 9165 fails.³⁸ (Emphasis supplied)

It is in this context that we highlight the utmost significance of the chain of custody requirement under Section 21, Article II of RA 9165, as amended by Republic Act No. 10640, in drug-related prosecutions.

Section 21 provides the procedural safeguards that the apprehending team should observe in the handling of seized illegal drugs in order to remove all doubts concerning the identity of the *corpus delicti*. “As indicated by their *mandatory terms*, strict compliance with the prescribed procedure is essential and the prosecution must show compliance in every case.”³⁹ The procedure under Section 21, par. 1 is as follows:

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, x x x so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(1) The apprehending team having initial custody and control of the dangerous drugs, x x x shall, immediately after seizure and confiscation, conduct a **physical inventory** of the seized items and **photograph** the same in the presence of the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel, with an elected public official and a representative of the National Prosecution Service or the media who shall be required to sign the copies of the inventory and be given a copy thereof; *Provided*, That the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures: *Provided, finally*, That noncompliance of these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items. (Emphasis supplied)

To show an *unbroken* chain of custody, the prosecution’s evidence must include testimony about **every link** in the chain, from the moment the dangerous drug was seized to the time it is offered in court as evidence.⁴⁰ **“It is from the testimony of every witness who handled the evidence from which a reliable assurance can be derived that the evidence presented in court is one and the same as that seized from the accused.”**⁴¹

³⁸ Id. at 1175.

³⁹ Id. Italics supplied.

⁴⁰ *Derilo v. People*, supra note 33 at 687.

⁴¹ Id. Emphasis in the original, underscoring supplied.

In *Derilo v. People*,⁴² we enumerated the links in the chain of custody that must be established in order to ensure the preservation of the identity and integrity of seized dangerous drugs, *viz.*:

Thus, the following links must be established to ensure the preservation of the identity and integrity of the confiscated drug: 1) the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; 2) the turnover of the illegal drug seized by the apprehending officer to the investigating officer; 3) the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and 4) the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.⁴³

The first and most *crucial* step in proving an unbroken chain of custody in drug-related prosecutions is the **marking of the seized dangerous drugs** and other related items thereto, as it is “the starting point in the custodial link that succeeding handlers of [said items] will use as a reference point.”⁴⁴ “Also, the marking of the evidence serves to separate the marked evidence from the *corpus* of all other similar or related evidence,” thus preventing the switching, “planting” or contamination of evidence, whether by accident or otherwise.⁴⁵

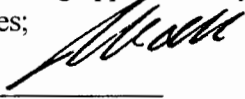
As such, we have consistently held that “the failure of the authorities to immediately mark the seized drugs raises reasonable doubt on the authenticity of the *corpus delicti* and suffices to rebut the presumption of regularity in the performance of official duties.”⁴⁶

In this case, we find that the prosecution failed to establish the **first link** in the chain of custody for failure of the NBI agents to *properly* conduct the inventory and marking of the seized items.

Per the records, the following items were inventoried and marked by SI Escurel while still at the scene:

DRUG/EVIDENCE SEIZED:

01. One (1) plastic [D]uty [F]ree bag with markings MEE-1 dated 9-02-04 containing approximately [o]ne (1) kilogram of suspected dried marijuana leaves;



⁴² Id.

⁴³ Id. at 687.

⁴⁴ *People v. Bartolini*, supra note 34 at 634.

⁴⁵ *Derilo v. People*, supra note 33 at 688.

⁴⁶ See *People v. Bartolini*, supra note 34 at 635. Italics in the original.

02. Seven (7) transparent plastic [bags] containing suspected dried marijuana leaves marked as[:] MEE-2, MEE-3, MEE-4, MEE-5, MEE-6, MEE-7 and MEE-8 dated 9-02-04;
03. One (1) piece electric sealer marked as MEE-10;
04. Undetermined quantity of transparent plastic sachet[s] marked as MEE-9;
05. One (1) pair of scissor[s] marked as MEE-11.⁴⁷

We note, in this regard, the NBI agent's failure to account for and mark the three hundred twenty-three (323) plastic sachets supposedly contained in the seven plastic bags marked as MEE-2 to MEE-8 which, curiously, only surfaced in the Certification⁴⁸ dated September 3, 2004 issued by Forensic Chemist Aranas.

In fact, the **absence of a physical count and marking** of said plastic sachets even prompted the public prosecutor to ask the court for permission to open Exhibits MEE-2 to MEE-8 and *count* the plastic sachets contained therein in open court during the direct testimony of SI Escurel, *viz.*:

Prosecutor:

We would like to make a stipulation[,] your [h]onor[,] to the defense counsel.

Court:

Okay.

Prosecutor:

A manifestation to the defense counsel that Exhibit[s] "MEE-2" up to "MEE-8" contain[ed] several plastic sachets [of] [m]arijuana.

Court:

No count? No number?

Defense:

We will not admit.

Court:

Of course.

Prosecution:

In that case[,] your [h]onor, **may we be allowed to count each plastic contained in each exhibit[,]** your [h]onor.

As to Exhibit MEE-2, may I request that the same be opened.⁴⁹ (Emphasis supplied)

⁴⁷ See Spot Report dated September 3, 2004, records, p. 13.

⁴⁸ Id. at 7.

⁴⁹ TSN, February 1, 2006, pp. 19-21.

We consider, too, the inconsistency in the **description** of the seized dangerous drugs in the records – in the Joint Affidavit of Arrest⁵⁰ and the Spot Report,⁵¹ the seized drugs were described as ‘dried marijuana **leaves**’ while the forensic chemist, in her Certification⁵² dated September 3, 2004, referred to the same as ‘crushed dried marijuana **flowering tops**.’ Regrettably, this inconsistency was not clarified by the prosecution.

In *People v. Quintana*,⁵³ we held that the discrepancy in the description of the seized marijuana cast doubt on the accused’s guilt, *viz.*:

And there is the evidence of the marijuana leaves themselves which also casts doubt on the accused-appellant’s guilt. The team members claim they seized from Quintana 100 grams of *dried marijuana leaves*, otherwise known as “five finger” marijuana, in a plastic bag wrapped in a newspaper. Yet, according to the certification made by Julieta Flores, the chemist of the National Bureau of Investigation who examined the package allegedly taken from Quintana, its contents were *marijuana flowering tops* weighing only 55.5280 grams. Considering that the examination took place on April 28, 1987, the day following Quintana’s arrest, one can only wonder how the 100 grams of marijuana leaves with seeds suddenly *bloomed* overnight and at the same time *dried up* by 45%.⁵⁴

At this juncture, we deem it necessary to strongly emphasize the importance of *accuracy* and *precision* in conducting an inventory of seized dangerous drugs and other related paraphernalia not only to preserve the identity and integrity of the evidence, but also to safeguard the rights of the accused whose life and liberty hang in the balance.

Another significant point to consider is the prosecution’s failure to: (a) submit the original or the duplicate original copy of the Inventory of Seized Property⁵⁵ dated September 2, 2004 which led the court to exclude from evidence the *photocopy* thereof;⁵⁶ and (b) include the photographs taken of appellant and the seized items in its Formal Offer of Evidence⁵⁷ dated September 5, 2007.

While admittedly, the fault on this matter squarely falls on the part of the public prosecutor and not on the NBI agents, still, this gap in the documentary evidence makes it increasingly difficult to rule that the identity and integrity of the seized dangerous drugs had been preserved. Lest we forget – the purpose of the

⁵⁰ Records, pp. 4-5.

⁵¹ Id. at 13.

⁵² Id. at 7.

⁵³ 256 Phil. 430 (1989).

⁵⁴ Id. at 435.

⁵⁵ Records, p. 6.

⁵⁶ See Resolution/Order dated October 5, 2007, id. at 102; issued by Judge Carmelita S. Manahan.

⁵⁷ Id. at 98.



inventory and photographs is precisely to safeguard and remove any doubts as to the identity of the *corpus delicti*.

We also draw attention to the testimony of Brgy. Chairman Francisco, a prosecution witness, who was present during the NBI operation in appellant's house. The pertinent portion of his testimony is quoted below:

MACP SALANGA:

Q: What did you see when the cabinet was opened?

A: Marijuana[,] sir.

Q: Will you described [sic] that [sic] marijuana which you said you saw?

A: *Parang ganito po, kasi isang paper bag plastic.*

(Witness is referring to one of the evidence on top of the table.)⁵⁸

x x x x

Q: What is the plastic bag which you saw?

A: **The plastic bag that I saw is smaller than this bag[,] sir.**

Q: What about the contents? [Did] you [see] the contents?

A: This is the same[,] sir.

Q: How about in the other plastic [bag] colored blue[?] [Did] you see that?

A: I did not see [it,] sir.

Q: How about in this white plastic[,] [did] you [see] that?

A: I did not notice this[,] sir.

Q: Now, attached to the record on page 6, Exhibit E is the inventory of plastic sachet of the seized property... (interrupted)

COURT:

To make the transcript to be very pictorial, only the dried marijuana leaves were seen by the witness. The one shown to him on the plastic SM bag contained several sachets, the sealer and the scissors were not seen by him.⁵⁹
(Emphasis supplied)

The public prosecutor repeatedly asked the same questions regarding the marijuana that Brgy. Chairman Francisco saw, and at one point, even reminded the latter that he was under oath, but the answer remained the same – that he did not see the contents of an SM plastic bag (which, oddly, was never mentioned in the NBI reports, not even in the photocopy of the Inventory of Seized Property⁶⁰ that could

⁵⁸ TSN, April 18, 2007, pp. 21-22.

⁵⁹ Id. at 24-26.

⁶⁰ Records p. 6.

be found in the records) supposedly containing several sachets of dried marijuana leaves, a plastic container, and a plastic sealer.⁶¹

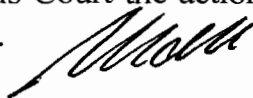
The RTC brushed aside Brgy. Chairman Francisco's testimony on the rationale that the latter was protecting appellant because "[i]ndirectly, [appellant] being branded as [a] 'pusher' will have an effect on the barangay and o[n] the barangay chairman's leadership."⁶² This conclusion, however, is mere speculation on the part of the trial court.

Finally, we note the serious evidentiary gaps in the **second, third and fourth** links in the chain of custody over the seized dangerous drugs. Based on the records, the seized evidence was turned over by SI Escurel to the Forensic Chemistry Division of the NBI for a quantitative and qualitative examination on September 2, 2004, at 6:30 p.m.⁶³ In this regard, the prosecution failed to disclose the identities of: (a) the person who had custody of the seized items after they were turned over by SI Escurel; (b) the person who turned over the items to Forensic Chemist Aranas; and (c) the person who had custody thereof after they were examined by the forensic chemist and before they were presented in court.

The totality of these circumstances – the failure to mark the 323 plastic sachets supposedly containing marijuana, the discrepancy in the description of the seized dangerous drugs, and the prosecution's failure to disclose the identities of the persons who had custody of said items after they were turned over by SI Escurel – broke the chain of custody and tainted the integrity of the seized marijuana ultimately presented as evidence before the trial court. Given the prosecution's failure to prove the indispensable element of *corpus delicti*, appellant must necessarily be acquitted on the ground of reasonable doubt.

WHEREFORE, premises considered, the appeal is **GRANTED**. The February 24, 2015 Decision of the Court of Appeals in CA-G.R. CR-HC No. 04177 is **REVERSED** and **SET ASIDE**. Appellant Benedicto Veedor Jr. y Molod is hereby **ACQUITTED** of the charge of violation of Section 11, Article II of Republic Act No. 9165, for failure of the prosecution to prove his guilt beyond reasonable doubt. He is **ORDERED** immediately released from detention unless he is being held for another lawful cause.

Let a copy of this Decision be furnished the Director of the Bureau of Corrections, Muntinlupa City for immediate implementation, who is then also directed to report to this Court the action he has taken within five days from his receipt of this Decision.



⁶¹ TSN, April 18, 2007, pp. 28-29.

⁶² CA *rollo*, p. 26.

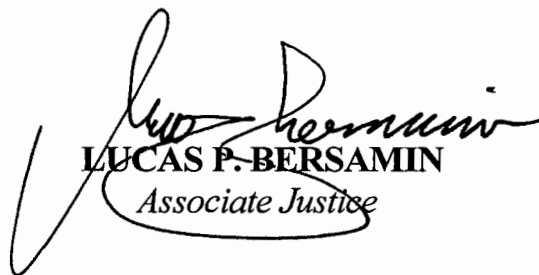
⁶³ TSN, February 1, 2006, p. 24. See also Certification dated September 3, 2004, records, p. 7.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:

On official leave
TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


NOEL GIMENEZ TIJAM
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIANO C. DEL CASTILLO
Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CAPIO
Acting Chief Justice

