



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 3, 2021** which reads as follows:*

**“G.R. No. 225603 – (PEOPLE OF THE PHILIPPINES, plaintiff-appellee v. EDDIE BOY CALIMLIM, accused-appellant).** – This is an ordinary appeal under Rule 122 of the Rules of Court, seeking to reverse and set aside the Decision<sup>1</sup> dated August 27, 2015 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06121. The said issuance affirmed the March 12, 2013 Decision<sup>2</sup> of Branch 68 of the Regional Trial Court (RTC) of Camiling, Tarlac in Criminal Case Nos. 11-105 and 11-106 which, in turn, found accused-appellant Eddie Boy Calimlim (appellant) guilty beyond reasonable doubt of violation of Sections 5 and 15 of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

**The Antecedents**

Appellant was indicted of the crimes charged by virtue of two Informations, the accusatory portions of which read as follows:

Criminal Case No. 11-105

That on or about October 5, 2011 at around 12:10 noon at Romulo Street, Poblacion 1, Municipality of Camiling, Province of Tarlac, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously without being authorized by law, sell, trade and deliver one (1) heat sealed transparent sachet containing

- over – fourteen (14) pages ...

172-A

<sup>1</sup> *Rollo*, pp. 2-18; penned by Associate Justice Ramon A. Cruz and concurred in by Associate Justices Danton Q. Bueser and Myra V. Garcia-Fernandez.

<sup>2</sup> *CA rollo*, pp. 61-65.

white crystalline substance Methamphetamine Hydrochloride, known as “shaby,” a dangerous drug weighing 0.02 grams.

Contrary to law.<sup>3</sup>

Criminal Case No. 11-106

That on or about October 5, 2011 at around 12:10 noon at Romulo Street, Poblacion 1, Municipality of Camiling, Province of Tarlac, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously was found positive for the use of “shabu” or methamphetamine hydrochloride, a dangerous drug, without being authorized by law.

Contrary to law.<sup>4</sup>

When he was arraigned on October 25, 2011, appellant, assisted by counsel, pleaded not guilty to the offenses charged.<sup>5</sup> Thereafter, pre-trial ensued, followed by trial on the merits.

The evidence for the prosecution established the following:

After receiving a tip from an informant that appellant sells prohibited drugs,<sup>6</sup> the police officers stationed at the Camiling, Tarlac station of the Philippine National Police (PNP) organized a buy-bust operation, scheduled on October 5, 2011, for the purpose of catching appellant in the act committed of the said crime. Police Officer 3 Daniel Suelen (PO3 Suelen) was designated as poseur-buyer,<sup>7</sup> while a ₱500.00 bill with serial number TC639330<sup>8</sup> served as marked money for the said police operation.<sup>9</sup> The buy-bust operation took place at Romulo St., Poblacion 1, Camiling, Tarlac at around 12:10 in the afternoon, during which, one plastic sachet containing white crystalline substance weighing 0.02 grams was confiscated from appellant and marked with the letters “EC” at the crime scene.<sup>10</sup> PO3 Suelen then prepared a handwritten Confiscation Receipt<sup>11</sup> which was witnessed by Barangay Captain Diomedes F. Castro, Jr. who, in turn, affixed his signature thereto.<sup>12</sup>

- over -

172-A

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<sup>3</sup> Records, p. 1.

<sup>4</sup> Id. at. 2.

<sup>5</sup> Id. at 19.

<sup>6</sup> TSN, May 24, 2012, p. 4.

<sup>7</sup> Id. at 3.

<sup>8</sup> Records, p. 13.

<sup>9</sup> TSN, May 24, 2012, p. 5.

<sup>10</sup> Id. at 16.

<sup>11</sup> Records, p. 7.

<sup>12</sup> TSN, May 24, 2012, p. 11.

Thereafter, appellant was brought to the Camiling Police Station, along with the confiscated item and the marked money. Separate requests for laboratory examination of the contents of the seized plastic sachet<sup>13</sup> and the drug testing of appellant<sup>14</sup> were made by Police Chief Inspector Diosdado R. Lagasca.

The requests both yielded positive results. Chemistry Report No. D-146-11 TARLAC,<sup>15</sup> which was prepared by Forensic Chemist and Police Senior Inspector Angelito S. Angel, found that the plastic sachet contained methamphetamine hydrochloride or *shabu*, a dangerous drug. On the other hand, Chemistry Report No. CDT-187-11 TARLAC,<sup>16</sup> prepared by Forensic Chemical Officer and Police Chief Inspector Ma. Elvira A. Bautista, declared that appellant's urine sample tested positive for the presence of methamphetamine hydrochloride.

Professing innocence, appellant asserted that he was framed.

Appellant alleged that on October 5, 2011, at around 12:00 noon, he was at Mendoza *gotohan* in Camiling, Tarlac to buy food.<sup>17</sup> As he was leaving the said eatery, he was grabbed by Camiling Municipal Mayor Erlon Agustin who, thereafter brought appellant to his office to talk to him.<sup>18</sup> Afterwards, Mayor Agustin brought appellant to the police station. When Mayor Agustin saw PO3 Suelen, he told the latter, "*Bahala na kayo diyán*".<sup>19</sup> At one of the rooms in the police station, appellant was frisked. A small plastic sachet containing white substance fell from appellant's pants, which the latter never knew about.<sup>20</sup> In fine, appellant insisted that no buy-bust operation was ever conducted against him.<sup>21</sup>

On March 12, 2013, the RTC rendered a Decision finding appellant guilty of beyond reasonable doubt of the crimes charged, disposing as follows:

WHEREFORE, accused Eddie Boy Calimlim is found guilty beyond reasonable doubt for violation of Section 5 and 15, Article II of RA 9165 (illegal sale of shabu and illegal use of

- over -

172-A

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<sup>13</sup> Records, p. 11.

<sup>14</sup> Id. at 12.

<sup>15</sup> Id. at 9.

<sup>16</sup> Id at 10.

<sup>17</sup> TSN, February 26, 2013, p. 3.

<sup>18</sup> Id.

<sup>19</sup> Id. at 4.

<sup>20</sup> Id. at 5.

<sup>21</sup> Id. at 8.

prohibited drugs) and hereby sentences him to a penalty of life imprisonment and a fine of Php500,000.00 in Criminal Case No. 11-105 for illegal sale of shabu, and another penalty of six (6) months rehabilitation in a government drug rehabilitation center in Criminal Case No. 11-106 for use of prohibited drugs.

The OIC Branch Clerk of Court is hereby directed to transmit the subject item in this case to the PDEA for proper disposal.

SO ORDERED.<sup>22</sup>

Undaunted, appellant interposed an appeal with the CA contending, *inter alia*, that the prosecution failed to prove the presence of all the elements of the crimes charged; and the grave lapses in the chain of custody of the seized item purported to contain *shabu*. Said appeal was, however, denied by the CA in the herein assailed Decision dated August 27, 2015. Thus:

WHEREFORE, in view of the foregoing, the appeal is hereby DISMISSED for lack of merit. The Decision dated March 12, 2013 rendered by the Regional Trial Court of Camiling, Tarlac, Branch 68, in Criminal Case Nos. 11-105 and 11-106 is AFFIRMED.

SO ORDERED.<sup>23</sup>

Hence, the present recourse.

On October 23, 2015, the CA issued a Minute Resolution<sup>24</sup> giving due course to the Notice of Appeal<sup>25</sup> filed by appellant, thereby ordering the elevation of the records of the instant case to this Court.

In a Resolution<sup>26</sup> dated October 3, 2016, this Court noted the records of the case forwarded by the CA. The parties were then ordered to file their respective supplemental briefs, should they so desire, within 30 days from notice.

On February 8, 2017, the Office of the Solicitor General filed a Manifestation (In Lieu of Supplemental Brief)<sup>27</sup> on behalf of the People stating that it would no longer file a supplemental brief because all of its contentions have been amplified in full in the

- over -

172-A

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<sup>22</sup> CA rollo, p. 30.

<sup>23</sup> Rollo, p. 16.

<sup>24</sup> CA rollo, p. 154.

<sup>25</sup> Id. at 151-152.

<sup>26</sup> Rollo, p. 18.

<sup>27</sup> Id. at 27-29.

Appellee's Brief<sup>28</sup> that it submitted to the CA. On March 3, 2017, appellant, through the Public Attorney's Office, filed a similar Manifestation (In Lieu of Supplemental Brief).<sup>29</sup>

The Court now resolves the instant case.

### The Issue

The issue raised for the Court's consideration is whether or not the CA erred in affirming appellant's conviction.

### The Ruling of the Court

The appeal is meritorious.

In order to convict a person charged with the crime of illegal sale of dangerous drugs under Article II, Section 5 of R.A. No. 9165, the prosecution is required to prove the following elements: (1) the identity of the buyer and the seller, the object and the consideration; and (2) the delivery of the thing sold and the payment therefor.<sup>30</sup> As a general rule, it is essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.<sup>31</sup> The only way by which the State could lay the foundation of the *corpus delicti* is to establish beyond reasonable doubt the illegal sale or illegal possession of the dangerous drug by preserving the identity of the drug offered as evidence against the accused. The State does so only by ensuring that the drug presented in the trial court was the same substance bought from the accused during the buy-bust operation or recovered from his possession at the moment of arrest.<sup>32</sup> Thus, it is of utmost importance that the integrity and identity of the seized drugs must be shown to have been duly preserved.<sup>33</sup> In *People v. Jaafar*,<sup>34</sup> the Court explained further:

Narcotic substances are not readily identifiable. To determine their composition and nature, they must undergo scientific testing and analysis. Narcotic substances are also highly susceptible to alteration, tampering, or contamination. It is

- over -

172-A

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<sup>28</sup> CA rollo, pp. 74-98.

<sup>29</sup> Rollo, pp. 34-36.

<sup>30</sup> *People v. Manabat*, G.R. No. 242947, July 19, 2019.

<sup>31</sup> *People v. De Dios*, G.R. No. 243664, January 22, 2020.

<sup>32</sup> *People v. Nepomuceno*, G.R. No. 216062, September 19, 2018.

<sup>33</sup> *People v. Ubungen*, G.R. No. 225497, July 23, 2018.

<sup>34</sup> 803 Phil. 582 (2017).

imperative, therefore, that the drugs allegedly seized from the accused are the very same objects tested in the laboratory and offered in court as evidence. The chain of custody, as a method of authentication, ensures that unnecessary doubts involving the identity of seized drugs are removed.<sup>35</sup>

It is the obligation of the prosecution to establish the chain of custody for evidence sent to testing laboratories — that is, to establish “the identity and integrity of physical evidence by tracing its continuous whereabouts.”<sup>36</sup> Indeed, the trial court requires a more stringent foundation “entailing a ‘chain of custody’ of the item with *sufficient completeness* to render it *improbable* that the original item has either been exchanged with another or been contaminated or tampered with.”<sup>37</sup> The prosecution must introduce sufficient proof so that a reasonable juror could find that the items seized are in “substantially the same condition” as when they were seized.<sup>38</sup> The government need only show that “it took reasonable precautions to preserve the original condition of the evidence.”<sup>39</sup>

Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002<sup>40</sup> defines chain of custody in the following manner:

“Chain of Custody” means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/ confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition[.]

Thus, the Court has declared that the following links should be established in the chain of custody of the confiscated item: *first*, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal

- over -

172-A

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<sup>35</sup> Id. at 591.

<sup>36</sup> *Melendez-Diaz v. Massachusetts*, 557 U.S. 305 (2009).

<sup>37</sup> *United States v. Cardenas*, 864 F. 2d 1528 (1989).

<sup>38</sup> *United States v. Harrington*, 923 F. 2d 1371 (1991).

<sup>39</sup> *United States v. Prieto*, 549 F. 3d 513 (2008).

<sup>40</sup> GUIDELINES ON THE CUSTODY AND DISPOSITION OF SEIZED DANGEROUS DRUGS, CONTROLLED PRECURSORS AND ESSENTIAL CHEMICALS, AND LABORATORY EQUIPMENT. See [https://www.ddb.gov.ph/images/Board\\_Regulation/2002/Bd.%20Reg.%202002.pdf](https://www.ddb.gov.ph/images/Board_Regulation/2002/Bd.%20Reg.%202002.pdf).

drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.<sup>41</sup>

Corollarily, Article II, Section 21 (1) of R.A. No. 9165 outlines the procedure which the police officers must follow when handling the seized drugs in order to preserve their integrity and evidentiary value.<sup>42</sup> Thus:

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

(1) The apprehending team having initial custody and control of the 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[.]

Under the foregoing section, prior to its amendment by R.A. No. 10640,<sup>43</sup> the apprehending team shall, among others, **immediately after seizure and confiscation conduct a physical inventory and photograph the seized items in the presence of the accused or the person from whom the items were seized, or his 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 of the same, and the seized drugs must be turned over to the PNP Crime Laboratory within twenty-four (24) hours from confiscation for examination.<sup>44</sup> The law requires the presence of an elected public official, as well as representatives from

- over -  
172-A

<sup>41</sup> *People v. Nandi*, 639 Phil. 134, 144-145 (2017).

<sup>42</sup> *People v. Baptista*, G.R. No. 225783, August 20, 2018.

<sup>43</sup> 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", signed by President Benigno S. Aquino III on July 15, 2014.

<sup>44</sup> *People v. Dela Victoria*, 829 Phil. 675, 683 (2018).

the DOJ and the media to ensure that the chain of custody rule is observed and thus, remove any suspicion of tampering, switching, planting, or contamination of evidence which could considerably affect a case.<sup>45</sup>

Alternatively stated, R.A. No. 9165 **strictly requires** that (1) the seized items be inventoried and photographed **immediately after seizure or confiscation**; and (2) the physical inventory and photographing must be done in the presence of (a) the accused or his/her representative or counsel, (b) an elected public official, (c) a representative from the media, and (d) a representative from the [DOJ].<sup>46</sup>

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.<sup>47</sup> The provisions were crafted by Congress as safety precautions to address potential police abuses, especially considering that the penalty imposed may be life imprisonment.<sup>48</sup> It is true that there are cases where the Court had ruled that the failure of the apprehending team to strictly comply with the procedure laid out in Section 21 of R.A. No. 9165 does not *ipso facto* render the seizure and custody over the items as void and invalid. However, this is with the caveat that the prosecution still needs to satisfactorily prove that: (a) there is justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved.<sup>49</sup> The Court has repeatedly emphasized that the prosecution should explain the reasons behind the procedural lapses.<sup>50</sup>

In the landmark case of *People v. Lim*,<sup>51</sup> this Court stressed the importance of the presence of the three insulating witnesses and ruled that where they are absent, the prosecution must allege and prove the reasons for their absence and like show that earnest efforts were made to secure their attendance.<sup>52</sup> Thus:

The Court stressed in *People v. Vicente Sipin y De Castro*:

The prosecution bears the burden of proving a valid cause for noncompliance with the procedure laid down in

- over -

172-A

<sup>45</sup> *People v. Crispo, et al.*, 828 Phil. 416, 434 (2018).

<sup>46</sup> *People v. Galuken*, G.R. No. 216754, July 17, 2019.

<sup>47</sup> *People v. Flores*, G.R. No. 241261, July 29, 2019.

<sup>48</sup> *People v. Ancheta, et al.*, 687 Phil. 569, 579 (2012).

<sup>49</sup> *People v. Musor*, G.R. No. 231843, November 7, 2018.

<sup>50</sup> *Id.*

<sup>51</sup> G.R. No. 231989, September 4, 2018.

<sup>52</sup> *People v. Manansala*, G.R. No. 229509, July 3, 2019.



Section 21 of R.A. No. 9165, as amended. It has the positive duty to demonstrate observance thereto in such a way that during the trial proceedings, it must initiate in acknowledging and justifying any perceived deviations from the requirements of law. Its failure to follow the mandated procedure must be adequately explained, and must be proven as a fact in accordance with the rules on evidence. It should take note that the rules require that the apprehending officers do not simply mention a justifiable ground, but also clearly state this ground in their sworn affidavit, coupled with a statement on the steps they took to preserve the integrity of the seized items. Strict adherence to Section 21 is required where the quantity of illegal drugs seized is miniscule, since it is highly susceptible to planting, tampering or alteration of evidence.

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.

Earnest effort to secure the attendance of the necessary witnesses must be proven. *People v. Ramos* requires:

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 of RA 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 noncompliance. 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 of RA 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.<sup>53</sup>

In the case at bar, the seized plastic sachet containing suspected *shabu* was not photographed by the apprehending officers at the place of arrest. Neither was its inventory witnessed by a representative from the media or the DOJ. In fact, the Confiscation Receipt that PO3 Suelen prepared was signed only by the barangay captain. When he was prodded about these lapses during cross-examination, PO3 Suelen failed to adduce any sufficient explanation. Thus:

- Q: After Eddie brought out these items, what did you do next?  
A: We prepared the confiscation receipt, sir.
- Q: Where did you prepare that?  
A: Beside [C]howking, sir.
- Q: That Confiscation Receipt which was marked as Exhibit “F”, after you prepared the Confiscation Receipt, what did you do next?  
A: We brought to the police station, sir. [sic]
- Q: What did you bring to the police station was the [c]onfiscated item already marked as Exhibit “C”?  
A: Yes sir.
- Q: When you arrived at the police station, what did you do?  
A: I made a spot report and request for laboratory test sir.
- Q: What else aside from the spot report and request for lab test, Mr. witness?  
A: *Bali* I took pictures, sir.

- over -

172-A

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<sup>53</sup> Id.

Q: You took pictures of Eddie Boy?

A: Yes sir.

Q: **At the place where you prepared the Confiscation Receipt there were no photograph[s] taken there?**

A: **No available camera sir.**

Q: No available camera so, you took pictures of Eddie Boy at the police station?

A: Yes sir.

Q: That in the police station there [was] an available camera?

A: Yes sir.

Q: I observed in this Confiscation Receipt your name does not appear here, correct?

A: Yes sir.

Q: You never signed the Confiscation Receipt?

A: Yes sir.

x x x x

Q: In this operation you conducted it was participated by 4 police officers and one confidential agent?

A: Yes sir.

Q: **You did not invite any elected officials, the mayor, barangay officials before the operation?**

A: **We coordinate[d] with barangay officials in the person of barangay captain Castro, sir. *Siya po ang nag-signed [sic] sa Confiscation Receipt sir.***

Q: So you are saying that the barangay captain arrived only after the operation?

A: I did not notice him sir.<sup>54</sup> (Emphasis ours)

The arresting officers are under obligation, should they be unable to comply with the procedures laid down under Section 21, of R.A. No. 9165, to explain why the procedure was not followed and prove that the reason provided a justifiable ground.<sup>55</sup> In the instant case, no such earnest efforts were exerted by the apprehending officers to exhibit compliance with the requirements of Section 21 of R.A. No. 9165. The result of the prosecution's failure to provide such an explanation is the acquittal of the accused. In *People v. Barte*,<sup>56</sup> the Court so declared:

- over -

172-A

<sup>54</sup> TSN, July 12, 2012, pp. 7-9.

<sup>55</sup> *People v. Adobar*, G.R. No. 222559, June 6, 2018, 865 SCRA 220, 261.

<sup>56</sup> 806 Phil. 533 (2017).

When there is failure to comply with the requirements for proving the chain of custody in the confiscation of contraband in a drug buy-bust operation, the State has the obligation to credibly explain such noncompliance; otherwise, the proof of the *corpus delicti* is doubtful, and the accused should be acquitted for failure to establish his guilt beyond reasonable doubt.<sup>57</sup>

Applying the above principles, the Court finds that the police officers in this case committed unexplained and unjustified deviations from the prescribed chain of custody rule, thereby putting into question the integrity and evidentiary value of the item purportedly seized from appellant.<sup>58</sup> Considering that the procedural lapses committed by the arresting officers, which were unfortunately left unjustified, militate against a finding of guilt beyond reasonable doubt against appellant, as the integrity and evidentiary value of the *corpus delicti* had been compromised, the Court must perforce rule that appellant's acquittal for violation of Section 5 of R.A. No. 9165 is in order.<sup>59</sup>

In the same vein, appellant's conviction for violation of Section 15 of R.A. No. 9165 must also overturned. The said provision reads:

SECTION 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 VIII 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 for under Section 11 of this Act, in which case the provisions stated therein shall apply.

In order for an accused to be found guilty for violation of Section 15, the following elements must concur: (1) a person is apprehended or arrested; (2) the said person was subjected to a drug test, to which he or she was found positive for drug use; and (3) a confirmatory test affirms the initial finding of drug use.<sup>60</sup> Here, nowhere in the records can it be shown that appellant was ever

- over -

172-A

<sup>57</sup> Id. at 536.

<sup>58</sup> *People v. Libre*, G.R. No. 235980, August 20, 2018.

<sup>59</sup> *People v. Dela Torre*, G.R. No. 238519, June 26, 2019.

<sup>60</sup> See *Dela Cruz v. People*, 739 Phil. 578, 585 (2014) and *People v. PO1 Sullano*, 827 Phil. 613, 621-622 (2018)

subjected to a confirmatory test. Thus, there is insufficient evidence to find him guilty for the said offense.

A final note. It is a basic principle of constitutional law that the accused shall be presumed innocent until the contrary is proved, and this by the most convincing evidence constituting proof beyond reasonable ground. Lacking such certainty, the trial court has the duty to render a verdict of acquittal indeed even if the prisoner on the dock utters not a word on his behalf on the equally well-known precept that the strength of the prosecution lies not in the weakness of the defense.<sup>61</sup> Indeed, no person should be subjected to punishment unless the evidence shows beyond a reasonable doubt the existence of every fact necessary to constitute the crime charged.<sup>62</sup>

Our Constitution declares that the maintenance of peace and order, the protection of life, liberty, and property, and the promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy.<sup>63</sup> Those who are supposed to enforce the law are not justified in disregarding the rights of the individual in the name of order. Order is too high a price for the loss of liberty.<sup>64</sup>

**WHEREFORE**, the appeal is **GRANTED**. The Decision dated August 27, 2015 of the Court of Appeals in CA-G.R. CR-HC No. 06121 is hereby **REVERSED** and **SET ASIDE**. For failure on the part of the prosecution to prove his guilt beyond reasonable doubt, accused-appellant Eddie Boy Calimlim is **ACQUITTED** of the crimes charged. He is **ORDERED** immediately **RELEASED** from detention unless he is being detained for some other lawful cause.

Let a copy of this Resolution be furnished the Director of the Bureau of Corrections for immediate implementation and to report the action he has taken to this Court within five (5) days from receipt of this Resolution.

Let entry of judgment be issued immediately.

- over -

172-A

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<sup>61</sup> *People v. Macasinag*, 25 Phil. 279, 281 (1989).


<sup>62</sup> *United States v. White*, 569 F. 2d 263 (1978).

<sup>63</sup> *People v. Dumanjug*, G.R. No. 235468, July 1, 2019.

<sup>64</sup> *People v. Aminnudin*, 246 Phil. 424, 429 (1988).

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court *mul.1*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
**172-A**

The Solicitor General  
134 Amorsolo Street, Legaspi Village  
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Court of Appeals (x)  
Manila  
(CA-G.R. CR HC No. 06121)

The Hon. Presiding Judge  
Regional Trial Court, Branch 68  
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(Crim. Case Nos. 11-105 & 11-106)

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DOJ Agencies Building  
Diliman, 1101 Quezon City

Mr. Eddie Boy Calimlim (x)  
Accused-Appellant  
c/o The Director General  
Bureau of Corrections  
1770 Muntinlupa City

The Director General (x)  
Bureau of Corrections  
1770 Muntinlupa City

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