



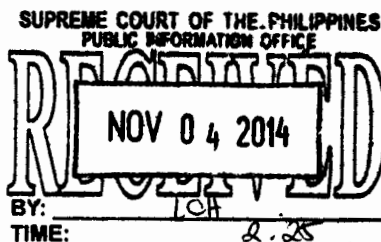
Republic of the Philippines

Supreme Court

Manila

FIRST DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated September 17, 2014 which reads as follows:

“G.R. No. 212909— ART AÑONUEVO Y MERCADO, petitioner v. PEOPLE OF THE PHILIPPINES, respondent.

Acting on an informant’s tip about the rampant use of *marijuana* in *Barangay 73*, PNR Compound, Samson Road in Caloocan City, Police Senior Inspector Christopher Prangan, Chief of the Station Anti-Illegal Drugs-Special Operation Unit ordered Police Officer 2 George Ardedon (PO2 Ardedon) and Police Officer 2 William Lopez (PO2 Lopez) to conduct an ocular inspection in the area. On 30 August 2008, at around 5:00 p.m., PO2 Ardedon and PO2 Lopez proceeded to the area. Thereat, they saw petitioner holding a transparent plastic sachet while talking to another man. They surreptitiously approached the two men and within a distance of 2 meters, they saw petitioner holding a sachet containing dried *marijuana* leaves. PO2 Ardedon then introduced himself to petitioner as a police officer. PO2 Ardedon grabbed petitioner’s right hand and confiscated the plastic sachet and put it in his pocket. Petitioner was arrested while his companion fled the scene. PO2 Lopez frisked petitioner and recovered from him another plastic sachet containing dried *marijuana* leaves. Petitioner was apprised of his constitutional rights and markings were put on the two sachets by the two police officers. Petitioner was then brought to the police station. The confiscated illegal drugs were turned over to the investigator. The investigator submitted the specimens to the Philippine National Police (PNP) Crime Laboratory. Petitioner was tested positive for illegal drugs while the specimens weighing 0.49 gram and 0.57 gram, respectively, were found positive for *marijuana*.

On the other hand, petitioner testified that he was eating inside his house on 30 August 2008 at around 11:00 a.m. when four policemen suddenly barged into his house, poked a gun at him, frisked him, took his cellular phone and other personal belongings, and searched his house.

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Thereafter, he was brought to the police station where they showed him a plastic sachet containing *marijuana*. Evangeline Quitalig (Quitalig), petitioner's sister, narrated that six policemen entered their house and was looking for their neighbor, a certain Nonoy Kabayan whom she knew was selling "dried leaves inside the plastic sachet" in their area. She saw PO2 Ardedon brought out two plastic sachets containing dried leaves from his pocket and claimed to have recovered them inside petitioner's house. Quitalig added that petitioner was arrested and detained at the police headquarters.

After trial, the Regional Trial Court (RTC), Branch 120 of Caloocan City found petitioner guilty beyond doubt for illegal possession of dangerous drugs. The dispositive portion reads:

Premises considered, this Court finds the accused Art Añonuevo y Mercado GUILTY beyond reasonable doubt for violation of Section 11, Art. II of Republic Act No. 9165 and hereby imposes upon him the penalty of Imprisonment of Twelve (12) years and one (1) day to Fourteen (14) years and a fine of Three Hundred Thousand Pesos (₱300,000.00).

The drugs subject matter of this case is hereby confiscated and forfeited in favor of the government to be dealt with in accordance with law.¹

On appeal, the Court of Appeals affirmed the Decision of the RTC.

The appellate court ruled that appellant was validly arrested without a warrant because he was caught in possession of the dangerous drug in the presence of a police officer and the subsequent search on him was incidental to a lawful arrest. The appellate court gave credence to the version of the prosecution. The appellate court dismissed the alleged contradictions in the testimonies of the prosecution witnesses as minor and which do not affect the credibility of these witnesses. Regarding the non-compliance with the chain of custody rule and the requirements under Section 21(a) of Republic Act No. 9165, such as, 1) there was no photograph of the confiscated items or inventory signed by petitioner and an elected official or a media representative or Department of Justice official and, 2) there was no coordination with Philippine Drug Enforcement Agency, the appellate court noted that petitioner did not raise these issues during trial. Nevertheless, the appellate court emphasized that the prosecution was able to prove beyond reasonable doubt that the integrity and the evidentiary value of the seized items have been preserved.

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¹ Rollo, p. 92.

In the instant petition, petitioner refutes the appellate court's ruling that he did not raise the issues of chain of custody and non-compliance with Section 21 of Republic Act No. 9165. Petitioner submits that the defense and the prosecution discussed the custody and control of the allegedly seized drugs in the examination of the witnesses even though the RTC did not discuss said issues in its decision. Petitioner reiterates that the prosecution was fatally remiss in establishing an unbroken link in the chain of custody. Petitioner claims that the first link in the chain was broken because the testimonies of the police officers were silent as to how they handled and transported the allegedly confiscated items from the time they marked them until they reached the police station. The second link was also broken, according to petitioner, because the police officers failed to identify the investigator when they turned over petitioner and the seized items. Petitioner avers that the third link in the chain was broken because no testimony was given as to how the seized drugs were turned over to the forensic chemist. Petitioner alleges that the fourth link in the chain was broken because the identity of the person who received the seized drugs at the forensic laboratory and exercised custody and possession of the same while in the said facility was omitted. Petitioner also points out alleged various material inconsistencies of the prosecution witnesses which raise doubt as to their credibility.

We find no cogent reason to reverse the Court of Appeals' decision.

The prosecution has satisfactorily established an unbroken chain of custody through the following links:

1. The sachets containing suspected *marijuana* leaves were seized from petitioner at *Barangay 73, Samson Road, PNR Compound, Caloocan City* on 30 August 2008 at about 5:20 p.m.
2. PO2 Ardedon immediately put the markings "AMA/GA-1" on the sachet that he seized from the possession of petitioner.
3. PO2 Lopez also put markings "AMA/WL-2" on the sachet that he recovered from petitioner after frisking him.
4. PO2 Ardedon and PO2 Lopez then proceeded to their station where they turned over the specimens to PO3 Dela Cruz who acknowledged receipt thereof at 9:50 p.m. and deposited the sachets in a bigger plastic sachet.

5. At 10:55 p.m., the specimens were delivered by PO3 Dela Cruz to the PNP Crime Laboratory Office in Caloocan City with an accompanying Memorandum request for laboratory examination.
6. The specimens delivered by PO3 Dela Cruz were received by the forensic chemist and the same specimens brought to the court were tested and found positive for *marijuana*.²

The arresting officers' non-compliance with Section 21 of Republic Act No. 9165 does not warrant petitioner's acquittal. It has been ruled that non-compliance with the procedure shall not render void and invalid the seizure and custody of the drugs when the non-compliance is attended by justifiable grounds, and the integrity and the evidentiary value of the seized items are properly preserved by the apprehending team.³

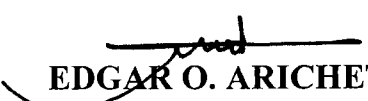
It is settled that where the arresting officers failed to take a physical inventory and photograph of the seized drugs as required under Section 21 of Republic Act No. 9165, such procedural lapse is not fatal and will not render the items seized inadmissible in evidence.⁴

We also find that the Court of Appeals correctly sustained the RTC ruling imposing the penalty of imprisonment of 12 years and 1 day to 14 years and a fine of ₱300,000.00 pursuant to Section 11, Article II of Republic Act No. 9165.

WHEREFORE, the 7 February 2014 Decision of the Court of Appeals in CA-G.R. CR No. 34514 is hereby **AFFIRMED**.

SO ORDERED."

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court

167

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² Id. at 48-49.

³ Resolution, *Masajo v. People*, G.R. No. 207934, 11 September 2013.

⁴ *People v. Yable*, G.R. No. 200358, 7 April 2014 citing *People v. Almodiel*, G.R. No. 200951, 5 September 2012, 680 SCRA 306, 323; *People v. Campos*, G.R. No. 186526, 25 August 2010, 629 SCRA 462, 468 citing *People v. Concepcion*, 578 Phil. 957, 971 (2008).

PUBLIC ATTORNEY'S OFFICE
Counsel for Petitioner
DOJ Agencies Bldg.
1128 Diliman, Quezon City

Court of Appeals (x)
Manila
(CA-G.R. CR No. 34514)

The Solicitor General (x)
Makati City

The Hon. Presiding Judge
Regional Trial Court, Br. 120
1400 Caloocan City
(Crim. Case No. C-80143)

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167 /

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