

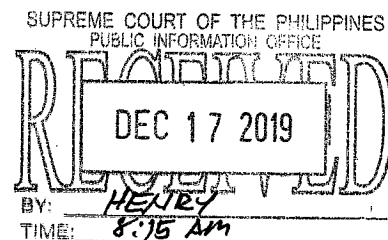


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Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **October 7, 2019**, which reads as follows:

**“G.R No. 242026 (PEOPLE OF THE PHILIPPINES, plaintiff-appellee v. JUNREY HIDLAO y MAGTAGAD, accused-appellant).** — Failure to strictly comply with the chain of custody requirements of Republic Act No. 9165, or the Comprehensive Dangerous Drugs Act of 2002, must lead to an accused’s acquittal in the absence of any justifiable grounds to excuse a deviation from what is mandated by the law.

This Court resolves an appeal assailing the Decision<sup>1</sup> of the Court of Appeals, which upheld the Regional Trial Court’s Joint Decision<sup>2</sup> finding Junrey Hidlao y Magtagad (Hidlao) guilty beyond reasonable doubt of violating Article II, Section 5 and Section 11 of Republic Act No. 9165.

Two (2) separate Informations for violation of Section 5 (illegal sale of dangerous drugs) and Section 11 (illegal possession of dangerous drugs) of the Comprehensive Dangerous Drugs Act were filed against Hidlao. The accusatory portion of the first Information read:

Criminal Case No. 2099

That on or about November 7, 2013 at about 11:45 o’clock (*sic*) in the morning, more or less, at barangay Eastern Poblacion, [M]unicipality of Lope[z] Jaena, Misamis Occidental, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without permit or license from the appropriate government agency, did then and there knowingly, willfully, unlawfully and feloniously sell one (1) sachet of Methamphetamine Hydrochloride, locally known as “shabu,” a dangerous drug with a total net weight of 0.0244 grams (*sic*) (thereafter marked as **BB-SBJ**);

<sup>1</sup> *Rollo*, pp. 3–28. The June 28, 2018 Decision was penned by Associate Justice Walter S. Ong and concurred in by Associate Justices Edgardo A. Camello and Perpetua T. Atal-Paño of the Twenty-Second Division, Court of Appeals, Cagayan de Oro City.

<sup>2</sup> *CA rollo*, pp. 47–70. The July 22, 2016 Joint Decision was penned by Presiding Judge Alma V. Azanza of Branch 12, Regional Trial Court, Oroquieta City.

One (1) pc. unused aluminum foil strip (hereafter marked as **BB-SBJ-1**) in exchange of (*sic*) **three (3) pcs. One Hundred Peso (₱300.00) with Serial No. FB330059; AH15048; XX569440 as buy-bust money** and hand over/deliver the aforementioned sachet of shabu and rolled aluminum foil to confidential agent acting as poseur buyer.

CONTRARY TO LAW.<sup>3</sup> (Emphasis in the original, citation omitted)

The accusatory portion of the second Information read:

Criminal Case No. 2100

That on or about November 7, 2013 at about 11:45 o'clock (*sic*) in the morning, more or less, at barangay Eastern Poblacion, [M]unicipality of Jaena, Misamis Occidental, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without permit or license from the appropriate government agency, did then and there knowingly, willfully, unlawfully and feloniously have in his possession and control: nine (9) pcs. triangle shape transparent heat sealed plastic sachet containing sachets of Methamphetamine Hydrochloride, locally known as "shabu," a dangerous drug with a total net weight of 0.2357 grams (*sic*) (hereafter marked as **RSA-1 to RSA-9**); nine (9) pieces unused aluminum foil strips (hereafter marked as **RSA-10 to RSA-18**].

CONTRARY TO LAW.<sup>4</sup> (Emphasis in the original, citation omitted)

During arraignment, Hidlao pleaded not guilty to both charges against him.<sup>5</sup>

The prosecution presented four (4) witnesses, namely: (1) the poseur-buyer, Investigation Agent 1 Simplicio C. Bautista, Jr. (IA1 Bautista); (2) the arresting officer, Investigation Officer 3 Rubylyn S. Alfaro (IO3 Alfaro); (3) the evidence custodian, Police Officer 2 Arnold M. Sabijon, Jr. (PO2 Sabijon); and (4) the forensic chemist, Police Inspector Kinthur Estaniel Tandog (Inspector Tandog).<sup>6</sup>

On October 7, 2015, the parties stipulated that Inspector Tandog was a qualified forensic chemist and that he received the request for laboratory examination and the following object evidence:<sup>7</sup>

<sup>3</sup> *Rollo*, p. 4.

<sup>4</sup> *Id.* at 4-5.

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

<sup>6</sup> *Id.*

<sup>7</sup> *CA rollo*, pp. 49-50.

. . . One (1) staple-sealed transparent plastic with markings "SBJ" containing one (1) heat-sealed triangular transparent plastic sachet with markings attached in masking tape "BB-SBJ 11/7/13" which further contains 0.0244 gram of white crystalline substance. . . .

. . . .

. . . One (1) staple-sealed heat-sealed transparent plastic with markings "RSA" containing nine (9) heat-sealed triangular transparent plastic sachets with the following markings attached in masking tape and net weight of white crystalline substance:

A-1(RSA-1 with initial) =0.0216 gram	A-2(RSA-2 with initial) =0.0160 gram
A-3(RSA-3 with initial) =0.0575 gram	A-4(RSA-4 with initial) =0.0212 gram
A-5(RSA -5 with initial) =0.0214 gram	A-6(RSA-6 with initial) =0.0206 gram
A-7(RSA-7 with initial) =0.0316 gram	A-8(RSA-8 with initial) =0.0231 gram
A-9(RSA-9 with initial) =0.0227 gram	

Total net weight: 0.2357 gram<sup>8</sup>

The parties further stipulated that the results of Chemistry Report Nos. D-176-2013MO and D-177-2013MO showed that the specimens examined contained methamphetamine hydrochloride, a dangerous drug.<sup>9</sup>

The prosecution's evidence showed that in the afternoon of November 6, 2013, a confidential informant went to the sub-office of the Philippine Drug Enforcement Agency Region X in Oroquieta City, Misamis Occidental. The informant reported to IO3 Alfaro, in the presence of other police officers, that Hidlao sold dangerous drugs in Lopez Jaena, Misamis Occidental.<sup>10</sup>

IO3 Alfaro informed the Regional Director about the tip. A buy-bust team was then formed to act on the relayed information.<sup>11</sup>

IO3 Alfaro immediately conducted a briefing and formed a buy-bust team, with him as team leader, IA1 Bautista as the poseur-buyer, and the rest of the team as arresting officers. IA1 Bautista was instructed to place a missed call on IO3 Alfaro's cellphone to signal that the sale had taken place. IA1 Bautista then prepared and noted the serial numbers of three (3) ₱100.00 bills to be used in the buy-bust operation. Since the briefing ended late, IO3 Alfaro deferred the operation to the following day.<sup>12</sup>

At around 9:00 a.m. the next day, the buy-bust team proceeded to Lopez Jaena for a short briefing with the confidential informant. From there, they proceeded to the target area at Purok 5, Barangay Eastern Poblacion in Lopez

<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> Id. at 51-52.

<sup>11</sup> Id. at 52.

<sup>12</sup> Id.

Jaena, while the other officers followed at a distance. As they proceeded to the target site, the informant pointed at an alley, where Hidlao was standing beside its entrance.<sup>13</sup>

The informant introduced IA1 Bautista to Hidlao as his cousin visiting from Dipolog City who also used drugs. The informant then told Hidlao that they wanted to buy ₱300.00 worth of shabu. Accordingly, IA1 Bautista handed Hidlao the buy-bust money in exchange for one (1) triangular, heat-sealed, transparent sachet and one (1) piece of rolled aluminum foil inside a used bond paper.<sup>14</sup>

IA1 Bautista immediately placed a missed call to IO3 Alfaro, signaling the transaction's consummation. Acting on the signal, IO3 Alfaro and the rest of the team quickly rushed to the scene, arresting Hidlao and informing him of his constitutional rights. IO3 Alfaro then frisked him and recovered nine (9) triangular, heat-sealed, transparent sachets and nine (9) pieces of unused aluminum foil, all wrapped in a used bond paper and tucked at the waist of Hidlao's shorts. IO3 Alfaro also recovered the buy-bust money from Hidlao's right hand.<sup>15</sup>

Since the alley was too narrow and rain had started to fall, IO3 Alfaro instructed the team to bring Hidlao to the Municipal Police Station of Lopez Jaena, which was about 800 to 900 meters away from the scene. During the transfer, IA1 Bautista kept the items seized from the sale while IO3 Alfaro kept the items recovered from the frisking.<sup>16</sup>

At the police station, IO3 Alfaro and IA1 Bautista inventoried, marked, and photographed the seized items in the presence of Hidlao, as well as Barangay Captain Sabio and Barangay Kagawad Bunga.<sup>17</sup> IO3 Alfaro and the Chief of Police tried to contact the representatives from the Department of Justice and media, but were unable to reach them.<sup>18</sup>

Subsequently, IA1 Bautista and IO3 Alfaro brought the seized items to the sub-office of the Philippine Drug Enforcement Agency in Oroquieta City. There, IO3 Alfaro filled out a Request for Laboratory Examination, which he delivered along with the seized items to Inspector Tandog for laboratory examination.<sup>19</sup>

Upon examination, all the seized sachets were found positive for shabu.<sup>20</sup> Afterwards, Inspector Tandog delivered the seized items to the evidence

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<sup>13</sup> Id. at 52 and 57.

<sup>14</sup> Id. at 52-53.

<sup>15</sup> Id. at 53 and 57-58.

<sup>16</sup> Id. at 53.

<sup>17</sup> Id. at 53 and 58.

<sup>18</sup> *Rollo*, p. 6.

<sup>19</sup> Id. at 7.

<sup>20</sup> Id.

custodian, PO2 Sabijon, who kept them in a steel cabinet containing two (2) padlocks, with him and Police Superintendent Aileen Undag Bernido (Police Superintendent Bernido) having custody of the keys.<sup>21</sup>

The defense, in turn, presented three (3) witnesses, namely: (1) Hidlao; (2) his wife, Florence Hidlao (Florence); and (3) Marcel Morales (Morales), an employee of Motorstar, a motorcycle shop.<sup>22</sup>

Hidlao testified that from 8:00 p.m. to 10:00 p.m. on November 6, 2013, he played mahjong at a wake in his neighborhood.<sup>23</sup> At around 7:00 a.m. the following day, he went back to the wake to collect a debt due him and to play more mahjong. After a few hours of playing, he left the wake at 11:00 a.m. to go home.<sup>24</sup>

On his way home, Hidlao walked through a narrow alley where two (2) persons—later identified as Philippine Drug Enforcement Agency agents—approached him asking if the road was muddy. Suddenly, one (1) of the strangers, later identified as IA1 Bautista, pointed a .45 caliber at his back while the other pointed a gun at his neck. He was then frisked, handcuffed, and had his phone taken by the strangers, who warned him not to make any untoward movement or they would kill him.<sup>25</sup>

From the alley, the group forced Hidlao to lead them to his house. As they were about to enter the house, Hidlao told IA1 Bautista that what they were doing was unlawful because they had no search warrant. But the officers paid no mind to his warning and proceeded to search the house, where they came upon Florence, Hidlao's wife. As the search went on, IA1 Bautista told Hidlao that they would let him go if he could point to three (3) other people that they could arrest.<sup>26</sup>

As this happened, a motorcycle company agent, Morales, arrived to collect payment from Hidlao. Following IO3 Bautista's instruction, Florence told Morales that her husband was not home.<sup>27</sup>

Then, three (3) more people arrived and demanded that Hidlao give the names of other persons who sold dangerous drugs. Despite their insistence,

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<sup>21</sup> CA rollo, pp. 55–56. Police Superintendent Bernido was also referred to as Engr. Bernido.

<sup>22</sup> Rollo, p. 7.

<sup>23</sup> CA rollo, p. 62.

<sup>24</sup> Id.

<sup>25</sup> Id.

<sup>26</sup> Id.

<sup>27</sup> Id.

Hidlao denied any knowledge of such illicit transactions. As such, they brought Hidlao to the police station.<sup>28</sup>

At the police station, one (1) of IA1 Bautista's three (3) companions ordered Hidlao to point to the shabu and money that were on top of a table. Held at gunpoint, a scared Hidlao pointed to the shabu and held the money, and even identified the cellphone seized from him.<sup>29</sup>

On cross-examination, Hidlao contended that he was framed up. According to him, the agents from the Philippine Drug Enforcement Agency planted the evidence against him because of a ₱10,000.00 reward.<sup>30</sup>

On the other hand, Florence testified that two (2) persons were with Hidlao when he went home. One (1) of them came upstairs and searched among the boxes. Later, the same person instructed her to deny Hidlao's presence when Morales arrived to collect payment for their motorcycle.<sup>31</sup>

The two (2) persons demanded that Hidlao name the sellers of illicit drugs, but Hidlao denied knowing anyone involved in the illegal trade. Then, four (4) more persons arrived and asked Hidlao the same questions. One (1) of them told Florence that they would bring Hidlao to the police station. Later, Florence found out that their money, worth ₱3,780.00 and hidden in a box, was missing.<sup>32</sup>

On cross-examination, Florence admitted that she was unsure whether these people who went into their house were the same ones who took the money. However, she added that they only went in and searched their house.<sup>33</sup>

Morales testified that between 10:00 a.m. and 11:00 a.m. on November 7, 2013, he went to Hidlao's residence with his account officer Lorgen B. Imfiel (Imfiel) to follow up on Hidlao's arrears. Imfiel was looking for Hidlao when Florence went out and told them that Hidlao was not around. Having discussed the overdue payments, Florence voluntarily surrendered the motorcycle.<sup>34</sup>

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<sup>28</sup> Id. at 62-63.

<sup>29</sup> Id. at 62.

<sup>30</sup> Id. at 63.

<sup>31</sup> Id. at 63-64.

<sup>32</sup> Id.

<sup>33</sup> Id.

<sup>34</sup> Id. at 65.

On April 27, 2016, the defense rested its case without presenting any documentary evidence.<sup>35</sup>

In a July 22, 2016 Joint Decision,<sup>36</sup> the Regional Trial Court found Hidlao guilty beyond reasonable doubt of violating Sections 5 and 11 of the Comprehensive Dangerous Drugs Act.

The Regional Trial Court ruled that the prosecution duly established all the elements of illegal sale and illegal possession of dangerous drugs. It, likewise, found that the prosecution was able to show an unbroken chain of custody.<sup>37</sup>

As to why the marking, inventory, and photographing were done in the Municipal Police Station instead of at the buy-bust scene, the trial court deemed the prosecution's reasons—the alley's limited space and the bad weather—to be justifiable grounds to deviate from the requirements under Section 21(1) of the law.<sup>38</sup>

The Regional Trial Court also brushed aside the absence of media and Department of Justice representatives during the inventory, finding their absence non-fatal as long as the apprehending officers properly preserved the seized items' integrity and the evidentiary value.<sup>39</sup>

The dispositive portion of the Regional Trial Court's Joint Decision read:

WHEREFORE, in view of the foregoing, judgment is hereby rendered as follows:

1. In Criminal Case No. 2099, this Court finds the accused JUNREY HIDLAO y MAGTAGAD GUILTY beyond reasonable doubt of the charge of violation of Sec. 5, Art. II, R.A. 9165 and sentences him to suffer the penalty of LIFE imprisonment and to pay a fine of Five Hundred Thousand (P500,000.00) Pesos;

2. In Criminal Case No. 2100, this Court finds the same accused JUNREY HIDLAO y MAGTAGAD GUILTY beyond reasonable doubt of the charge of violation of Sec. 11, Art. II, R.A. 9165 and sentences him to suffer the penalty of imprisonment of Twelve (12) years and one (1) day as minimum to Fourteen (14) years and 8 months as maximum and to pay a fine of Three Hundred Thousand (P300,000.00) Pesos;

The period of detention of the accused is hereby given full credit.

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<sup>35</sup> Id.

<sup>36</sup> Id. at 47–70.

<sup>37</sup> Id. at 69–70.

<sup>38</sup> Id.

<sup>39</sup> Id. at 70.

Let the dangerous drug subject matter of these cases be disposed of in the manner provided for by law.

SO ORDERED.<sup>40</sup>

Hidlao moved for reconsideration, but his Motion was denied in the Regional Trial Court's October 5, 2016 Order.<sup>41</sup>

On October 6, 2016, Hidlao appealed<sup>42</sup> the Joint Decision, but the Court of Appeals sustained his conviction in its June 28, 2018 Decision.<sup>43</sup>

The Court of Appeals affirmed the Regional Trial Court's finding that the prosecution duly established all the elements of the crimes charged against Hidlao.<sup>44</sup> Moreover, it stated that the prosecution was able to show substantial compliance with Section 21, having satisfactorily explained the arresting officers' failure to immediately mark the seized items and secure all the required witnesses during the inventory.<sup>45</sup>

The Court of Appeals characterized Hidlao's denial as "unpersuasive, incredible[,] and inherently weak."<sup>46</sup> It brushed off Hidlao's defense that the seized shabu were planted because of a ₱10,000.00 reward money.<sup>47</sup> It stressed that his denial could not prevail over the "positive, straightforward and categorical testimonies"<sup>48</sup> of the prosecution's witnesses.

The dispositive portion of the Court of Appeals Decision read:

WHEREFORE, premises considered, the instant appeal is hereby DENIED. The assailed Joint Decision dated 22 July 2016 of the Regional Trial Court, 10<sup>th</sup> Judicial Region, Branch 12, Oroquieta City, in Criminal Cases No. 2099 and No. 2100 is hereby AFFIRMED with MODIFICATION, in that appellant Junrey Hidlao y Magtagad is sentenced to suffer the penalty of life imprisonment without eligibility for parole in Criminal Case No. 2099.

SO ORDERED.<sup>49</sup>

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<sup>40</sup> Id.

<sup>41</sup> Id. at 71. The Order was penned by Presiding Judge Alma V. Azanza.

<sup>42</sup> Id. at 11.

<sup>43</sup> *Rollo*, pp. 3-28.

<sup>44</sup> Id. at 10-16.

<sup>45</sup> Id. at 18-21.

<sup>46</sup> Id. at 26.

<sup>47</sup> Id. at 25-26.

<sup>48</sup> Id. at 26.

<sup>49</sup> Id. at 28.



Hidlao filed his Notice of Appeal.<sup>50</sup> Having given course to the appeal, the Court of Appeals directed the elevation of the case records to this Court.<sup>51</sup>

This Court then noted the records forwarded by the Court of Appeals and informed the parties that they may file their respective supplemental briefs.<sup>52</sup> However, plaintiff-appellee People of the Philippines, through the Office of the Solicitor General, and accused-appellant Hidlao both manifested<sup>53</sup> that they would be adopting the briefs they filed before the Court of Appeals.

Asserting in his Brief<sup>54</sup> that the Court of Appeals erred in sustaining his conviction, accused-appellant argues that the prosecution's failure to establish an unbroken chain of custody was apparent from the following defects: (1) the items seized were not immediately marked and inventoried at the place of the incident;<sup>55</sup> (2) the apprehending officers failed to testify on the precautions taken to secure the seized items' identity and integrity when these were transferred from the buy-bust scene to the police station;<sup>56</sup> and (3) the prosecution failed to present Police Superintendent Bernido to testify on the precautions she took in safekeeping the seized items while they were under her custody.<sup>57</sup>

In addition, accused-appellant claims that his right to be informed of the charge against him was violated when the Information for the offense of illegal sale stated erroneously that the buy-bust money was handed to the confidential informant who acted as the poseur-buyer. The prosecution's testimony, he points out, later showed that the buy-bust money was handed to IA1 Bautista, not the informant.<sup>58</sup>

On the other hand, plaintiff-appellee maintains in its Brief<sup>59</sup> that the prosecution was able to establish all the elements of illegal sale and illegal possession of dangerous drugs.<sup>60</sup> It also stresses that the chain of custody and the integrity of the seized items had been sufficiently proven by the prosecution's witnesses.<sup>61</sup>

Finally, plaintiff-appellee asserts that the Information in question sufficiently apprised accused-appellant of the charge against him.<sup>62</sup>

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<sup>50</sup> Id. at 29–31.

<sup>51</sup> Id. at 32.

<sup>52</sup> Id. at 34–35.

<sup>53</sup> Id. at 36–40 and 43–47.

<sup>54</sup> CA *rollo*, pp. 27–46.

<sup>55</sup> Id. at 39–40.

<sup>56</sup> Id. at 41.

<sup>57</sup> Id. at 41–42.

<sup>58</sup> Id. at 36–38.

<sup>59</sup> Id. at 84–103.

<sup>60</sup> Id. at 93–96.

<sup>61</sup> Id. at 98–100.

<sup>62</sup> Id. at 96–98.

The sole issue for this Court's resolution is whether or not the prosecution was able to prove beyond reasonable doubt accused-appellant Junrey Hidlao y Magtagad's guilt for violating Sections 5 and 11 of the Comprehensive Dangerous Drugs Act.

## I

The presumption of an accused's innocence, in the absence of proof beyond reasonable doubt, is a substantive right guaranteed by Article III, Section 14(2) of the Constitution:

SECTION 14. (1) No person shall be held to answer for a criminal offense without due process of law.

(2) In all criminal prosecutions, *the accused shall be presumed innocent until the contrary is proved*, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable. (Emphasis supplied)

Proof beyond reasonable doubt does not require absolute certainty. The law merely demands moral certainty, or "that degree of proof which produces conviction in an unprejudiced mind."<sup>63</sup>

Concomitantly, the burden to prove an accused's guilt rests on the prosecution. Its failure to discharge this burden shall lead to the accused's acquittal. In *People v. Ganguso*:<sup>64</sup>

An accused has in his favor the presumption of innocence which the Bill of Rights guarantees. Unless his guilt is shown beyond reasonable doubt, he must be acquitted. This reasonable doubt standard is demanded by the due process clause of the Constitution which protects the accused from conviction except upon proof beyond reasonable doubt of every fact necessary to constitute the crime with which he is charged. *The burden of proof is on the prosecution, and unless it discharges that burden the accused need not even offer evidence in his behalf, and he would be entitled to an acquittal.* Proof beyond reasonable doubt does not, of course, mean such degree of proof as excluding possibility of error, produces absolute certainty. *Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind. The conscience must be satisfied that the accused is responsible for the offense charged.*<sup>65</sup> (Emphasis supplied, citations omitted)

<sup>63</sup> *People v. Ganguso*, 320 Phil. 324, 335 (1995) [Per J. Davide, Jr., First Division].

<sup>64</sup> 320 Phil. 324 (1995) [Per J. Davide Jr., First Division].

<sup>65</sup> *Id.* at 335.

## II

This Court is aware of the great menace involved in narcotics cases. But just the same, we are mindful that due to the very nature of illicit drugs, minuscule amounts can easily be planted and innocent individuals can fall prey to unscrupulous allegations. From this arises the need to practice vigilance in anti-narcotics operations:

“[T]he need for entrapment procedures, the use of shady characters as informants, the ease with which sticks of marijuana or grams of heroin can be planted in pockets or hands of unsuspecting provincial hicks, and the secrecy that inevitably shrouds all drug deals, the possibility of abuse is great.” Thus, *the courts have been exhorted to be extra vigilant in trying drug cases lest an innocent person is made to suffer the unusually severe penalties for drug offenses.*<sup>66</sup> (Emphasis supplied, citations omitted)

The elements that must be established to satisfy the quantum of proof required in actions involving illegal sale and illegal possession of dangerous drugs are settled:

In actions involving the illegal sale of dangerous drugs, the following elements must first be established: (1) proof that the transaction or sale took place and (2) the presentation in court of the *corpus delicti* or the illicit drug as evidence.

On the other hand, in prosecutions for illegal possession of a dangerous drug, it must be shown that (1) the accused was in possession of an item or an object identified to be a prohibited or regulated drug, (2) such possession is not authorized by law, and (3) the accused was freely and consciously aware of being in possession of the drug. Similarly, in this case, the evidence of the *corpus delicti* must be established beyond reasonable doubt.<sup>67</sup>

The *corpus delicti* in both cases of illegal sale and illegal possession of dangerous drugs is the illicit drug seized from the accused. To preserve the identity and integrity of the *corpus delicti*, this Court enjoins strict compliance with the chain of custody rule.<sup>68</sup>

Section 21(1) of the Comprehensive Dangerous Drugs Act provides the rule on custody and disposition of confiscated, seized, and/or surrendered drugs and/or drug paraphernalia:

<sup>66</sup> *People v. Tan*, 401 Phil. 259, 273 (2000) [Per J. Melo, Third Division].

<sup>67</sup> *People v. Morales*, 630 Phil. 215, 228 (2010) [Per J. Del Castillo, Second Division] citing *People v. Darisan*, 597 Phil. 479, 485 (2009) [Per J. Corona, First Division] and *People v. Partoza*, 605 Phil. 883, 890 (2009) [Per J. Tinga, Second Division].

<sup>68</sup> *People v. Sagana*, 815 Phil. 356, 367–368 (2017) [Per J. Leonen, Second Division].

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

- (1) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof[.]

The chain of custody rule is further elaborated in the law's Implementing Rules and Regulations, which allows for substantial compliance with Section 21 of the law as long as there is a justifiable ground to excuse the lapse. Section 21(a) of the Implementing Rules states:

- (a) The apprehending office/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; Provided, further that *non-compliance with these requirement" under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items[.]* (Emphasis supplied)

*Mallillin v. People*<sup>69</sup> is instructive of what constitutes sufficient compliance with the chain of custody rule:

As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims

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<sup>69</sup> 576 Phil. 576 (2008) [Per J. Tinga, Second Division].

it to be. It would include testimony about *every link in the chain*, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witnesses' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.<sup>70</sup> (Emphasis supplied)

Further, in *People v. Nandi*,<sup>71</sup> this Court laid down the four (4) links that should be established in the chain of custody of the confiscated item:

[F]irst, 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 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>72</sup>

The first link pertains to the indispensable step of seizure and marking of the illicit drugs recovered from accused-appellant. In *People v. Coreche*,<sup>73</sup> this Court emphasized the important role of marking to prevent the evils of switching, planting, or contamination of evidence.<sup>74</sup>

This was further elaborated in *People v. Gonzales*:<sup>75</sup>

The first stage in the chain of custody is the marking of the dangerous drugs or related items. Marking, which is the affixing on the dangerous drugs or related items by the apprehending officer or the poseur-buyer of his initials or signature or other identifying signs, should be made in the presence of the apprehended violator immediately upon arrest. The importance of the prompt marking cannot be denied, because succeeding handlers of the dangerous drugs or related items will use the marking as reference. Also, the marking operates to set apart as evidence the dangerous drugs or related items from other material from the moment they are confiscated until they are disposed of at the close of the criminal proceedings, thereby forestalling switching, planting, or contamination of evidence. In short, the marking immediately upon confiscation or recovery of the dangerous drugs or related items is indispensable in the preservation of their integrity and evidentiary value.<sup>76</sup> (Citation omitted)

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<sup>70</sup> Id. at 587.

<sup>71</sup> 639 Phil. 134 (2010) [Per J. Mendoza, Second Division].

<sup>72</sup> Id. at 144–145 citing *People v. Kamad*, 624 Phil. 289 (2010) [Per J. Brion, Second Division].

<sup>73</sup> 612 Phil. 1238 (2009) [Per J. Carpio, First Division].

<sup>74</sup> Id. at 1245.

<sup>75</sup> 708 Phil. 121 (2013) [Per J. Bersamin, First Division].

<sup>76</sup> Id. at 130–131.

The amendments brought by Republic Act No. 10640, which incorporated the provisions of the Implementing Rules and Regulations into the law, buttressed the stringency required in handling seized narcotics and drug paraphernalia. Section 21(1), as amended, now requires 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[.]”

Here, the marking of the seized items was not made immediately at the alley where the buy-bust operation took place. The prosecution asserted that the alley’s narrowness and the rain forced the arresting officers to conduct the marking, inventory, and photographing of the seized items at the Municipal Police Station. On their way there, IA1 Bautista kept in his custody the seized one (1) triangular, heat-sealed, transparent plastic sachet and one (1) piece of rolled unused aluminum foil, while IO3 Alfaro kept the other nine (9) triangular, heat-sealed, transparent sachets and nine (9) pieces of rolled unused aluminum foil.<sup>77</sup>

While the law permits that the physical inventory and the photographing could be made at the police station or at the nearest office of the apprehending officers, the records failed to show that IA1 Bautista and IO3 Alfaro had undertaken any precautions during the transfer. Demonstrating these precautions, if any, would have been important; after all, the police station was not just beside the place of arrest, but was about 800 to 900 meters away.

In *People v. Dela Cruz*,<sup>78</sup> this Court deemed reckless the police officer’s act of keeping the seized items in his pocket until they could be turned over for testing:

The prosecution effectively admits that from the moment of the supposed buy-bust operation until the seized items’ turnover for examination, these items had been in the sole possession of a police officer. In fact, not only had they been in his possession, they had been in such close proximity to him that they had been nowhere else but in his own pockets.

Keeping one of the seized items in his right pocket and the rest in his left pocket is a doubtful and suspicious way of ensuring the integrity of the items. Contrary to the Court of Appeals’ finding that PO1 Bobon took the necessary precautions, we find his actions reckless, if not dubious.

Even without referring to the strict requirements of Section 21, common sense dictates that a single police officer’s act of bodily-keeping the item(s) which is at the crux of offenses penalized under the Comprehensive Dangerous Drugs Act of 2002, is fraught with dangers. One need not engage in a meticulous counter-checking with the requirements of Section 21 to view

<sup>77</sup> CA rollo, p. 53.

<sup>78</sup> 744 Phil. 816 (2014) [Per J. Leonen, Second Division].

with distrust the items coming out of PO1 Bobon's pockets. That the Regional Trial Court and the Court of Appeals both failed to see through this and fell — hook, line, and sinker — for PO1 Bobon's avowals is mind-boggling.

Moreover, PO1 Bobon did so without even offering the slightest justification for dispensing with the requirements of Section 21.

Section 21, paragraph 1, of the Comprehensive Dangerous Drugs Act of 2002, includes a proviso to the effect that “noncompliance of (sic) 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.” Plainly, the prosecution has not shown that — on September 14, 2004, when dela Cruz was arrested and the sachets supposedly seized and marked — there were “justifiable grounds” for dispensing with compliance with Section 21. All that the prosecution has done is insist on its self-serving assertion that the integrity of the seized sachets has, despite all its lapses, nevertheless been preserved.<sup>79</sup>

In *Dela Cruz*, this Court rejected the averred segregation in two (2) different pockets of the seized dangerous drugs as a sufficient measure to preserve the integrity of the illicit drugs.<sup>80</sup>

With greater reason here should this Court be skeptical of the prosecution's bare assertions that the chain of custody “remained unbroken and the integrity of the seized items remained intact.”<sup>81</sup> It did not proffer any proof of safeguards which exceeded the safekeeping measures in *Dela Cruz*, or at the very least, simulated the same efforts employed. The prosecution cannot secure a conviction by simply making a sweeping guarantee as to the preservation of the integrity and identity of the *corpus delicti*.

### III

For faithful compliance with Section 21, earnest efforts to secure the attendance of the mandatory third-party witnesses must be demonstrated.<sup>82</sup> In *People v. Mendoza*,<sup>83</sup> this Court highlighted the importance of these witnesses' “insulating presence”:

Without the insulating presence of the representative from the media or the Department of Justice, or any elected public official during the seizure and marking of the sachets of shabu, the evils of switching, “planting” or contamination of the evidence that had tainted the buy-busts conducted under

<sup>79</sup> Id. at 834–835.

<sup>80</sup> Id.

<sup>81</sup> CA *rollo*, p. 100.

<sup>82</sup> *People v. Lim*, G.R. No. 231989, September 4, 2018, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocsfriendly/1/64400>> [Per J. Peralta, En Banc].

<sup>83</sup> 736 Phil. 749 (2014) [Per J. Bersamin, First Division].

the regime of RA No. 6425 (Dangerous Drugs Act of 1972) again reared their ugly heads as to negate the integrity and credibility of the seizure and confiscation of the sachets of shabu that were evidence herein of the *corpus delicti*, and thus adversely affected the trustworthiness of the incrimination of the accused. Indeed, the insulating presence of such witnesses would have preserved an unbroken chain of custody.<sup>84</sup>

In addition, this Court required in *People v. Que*<sup>85</sup> that the third-party witnesses must not only be present during the inventory and photographing, but rather, their insulating presence must be secured even during the actual seizure of the items:

The presence of third-party witnesses is imperative, not only during the physical inventory and taking of pictures, but also during the actual seizure of items. The requirement of conducting the inventory and taking of photographs “*immediately after seizure and confiscation*” necessarily means that the required witnesses must also be present during the seizure or confiscation. This is confirmed in *People v. Mendoza*, where the presence of these witnesses was characterized as an “insulating presence [against] the evils of switching, ‘planting’ or contamination[.]”<sup>86</sup> (Emphasis supplied, citations omitted)

Here, there was a failure to strictly comply with the rule on securing third-party mandatory witnesses. The arresting officers were not able to secure the presence of media and Department of Justice representatives during the search, seizure, physical inventory, and photographing of the seized evidence.

The prosecution offered excuses for their absence: there was supposedly no Department of Justice representative assigned in the area, while the media representative was out of town.<sup>87</sup>

These reasons, however, fail to impress.

Such bare assertions will not suffice in the face of the prosecution’s failure to demonstrate that earnest efforts were employed to secure the third-party witnesses’ presence. The exactitude expressed in Section 21 cannot easily be brushed aside, most especially when the police officers had sufficient time to plan the buy-bust operation and ensure compliance with the law.

In *People v. Jaafar*,<sup>88</sup> this Court demonstrated what constitutes an ample time to contact the required third-party witnesses:

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<sup>84</sup> Id. at 764.

<sup>85</sup> G.R. No. 212994, January 31, 2018, 853 SCRA 487 [Per J. Leonen, Third Division].

<sup>86</sup> Id. at 520–521.

<sup>87</sup> *Rollo*, p. 21.

<sup>88</sup> 803 Phil. 582 (2017) [Per J. Leonen, Third Division].



The buy-bust team had an *entire day* within which to coordinate with the persons required by law to be present during the physical inventory of the seized drugs. The Chief of Police received the confidential tip early in the morning. He immediately instructed SPO4 Morales to form a buy-bust team and coordinate with agents from the Philippine Drug Enforcement Agency. *The buy-bust team had ample time to contact an elected public official and representatives from the media and the Department of Justice.*

The prosecution established during trial and on appeal that the buy-bust operation had been carefully planned by narrating the events with intricate detail. However, at the same time, the prosecution relied heavily on the exception to the chain of custody rule. Worse, the prosecution did not even offer any explanation on why they failed to comply with what was mandated under the law. Indeed, *if the police authorities had carefully planned the buy-bust operation, then there was no reason for them to neglect such important requirements.*<sup>89</sup> (Emphasis supplied, citations omitted)

In this case, the arresting officers had a briefing at 3:30 p.m. on November 6, 2013, and conducted the actual buy-bust operation at around 9:00 a.m. the following day.<sup>90</sup> Evidently, they had more than a day to secure the presence of the third-party witnesses, a period even longer than what was considered as “ample time” in *Jaafar*. Furthermore, the mere allegation that the mandatory witnesses were unavailable, devoid of proof, cannot pass as a justifiable reason contemplated by Section 21.

This Court reiterates its ruling in *People v. Saragena*:<sup>91</sup>

Law enforcers “cannot feign ignorance of the exacting standards under Section 21 of Republic Act No. 9165. [They] are presumed and are required to know the laws they are charged with executing.”

The prosecution’s procedural shortcut finds no basis in fact or law. Its failure to comply with the chain of custody rule is equivalent to its failure to establish the *corpus delicti*, and therefore, its failure to prove that the crime was indeed committed.<sup>92</sup>

**WHEREFORE**, the Court of Appeals’ June 28, 2018 Decision in CA-G.R. CR-HC No. 01577-MIN is **REVERSED** and **SET ASIDE**. Accused-appellant Junrey Hidlao y Magtagad is **ACQUITTED** for the prosecution’s failure to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention unless he is confined for any other lawful cause.

Let a copy of this Resolution be furnished to the Superintendent of the Bureau of Corrections, San Ramon Prison and Penal Farm, Zamboanga City for

<sup>89</sup> Id. at 594.

<sup>90</sup> CA rollo, p. 52.

<sup>91</sup> 817 Phil. 117 (2017) [Per J. Leonen, Third Division].

<sup>92</sup> Id. at 145 citing *People v. Jaafar*, 803 Phil. 582, 594 (2017) [Per J. Leonen, Third Division] and *People v. Pagaduan*, 641 Phil. 432, 449–450 (2010) [Per J. Brion, Third Division].

October 7, 2019

immediate implementation. The Superintendent of the Bureau of Corrections is directed to report to this Court, within five (5) days from receipt of this Resolution, the action he or she has taken. Copies shall also be furnished to the Director General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

**SO ORDERED.” (Hernando, J., on wellness leave; Inting, J., on leave.)**

Very truly yours,

*Mis-DCBatt*  
**MISAELO DOMINGO C. BATTUNG III**  
*Deputy Division Clerk of Court* MCLE 12-09-19

Atty. Jan Edgar Rublico  
 Regional Special & Appealed Cases Unit  
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COURT OF APPEALS  
 CA G.R. CR-HC No. 01577-MIN  
 9000 Cagayan de Oro City

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 134 Amorsolo Street  
 1229 Legaspi Village, Makati City

The Presiding Judge  
 REGIONAL TRIAL COURT  
 Branch 12, Oroquieta City  
 (Crim. Case No. 2099 and 2100)

The Director General  
 BUREAU OF CORRECTION  
 1770 Muntinlupa City

CSupt. Robert A. Veneracion  
 Officer-in-Charge  
 SAN RAMON PRISON & PENAL FARM  
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 7000 Zamboanga City

Mr. Junrey Hildao  
 c/o The Officer-in-Charge  
 SAN RAMON PRISON & PENAL FARM  
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The Director General  
 PHILIPPINE NATIONAL POLICE  
 National Headquarters  
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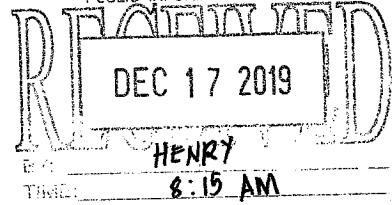
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G.R. No. 242026

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Republic of the Philippines  
**Supreme Court**  
Manila

**THIRD DIVISION**

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 242026

-versus-

JUNREY HIDLAO y  
MAGTAGAD,  
Accused-Appellant.

x-----/

**ORDER OF RELEASE**

**TO: The Director General**  
BUREAU OF CORRECTIONS  
1770 Muntinlupa City

**Thru: CSupt. Robert A. Veneracion**  
Officer-in-Charge  
SAN RAMON PRISON & PENAL FARM  
Sitio San Ramon, Brgy. Talisayin  
7000 Zamboanga City

**GREETINGS:**

WHEREAS, the Supreme Court on October 7, 2019 promulgated a Resolution in the above-entitled case, the dispositive portion of which reads:

“WHEREFORE, the Court of Appeals’ June 28, 2018 Decision in CA-G.R. CR-HC No. 01577-MIN is **REVERSED** and **SET ASIDE**. Accused-appellant Junrey Hidlao y Magtagad is **ACQUITTED** for the prosecution’s failure to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention unless he is confined for any other lawful cause. *61*

Let a copy of this Resolution be furnished to the Superintendent of the Bureau of Corrections, San Ramon Prison and Penal Farm, Zamboanga City for immediate implementation. The Superintendent of the Bureau of Corrections is directed to report to this Court, within five (5) days from receipt of this Resolution, the action he or she has taken. Copies shall also be furnished to the Director General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

**SO ORDERED.”** (Hernando, J., on wellness leave; Inting, J., on leave.)

**NOW, THEREFORE,** You are hereby ordered to immediately release **JUNREY HIDLAO y MAGTAGAD** unless there are other lawful causes for which he should be further detained, and to return this Order with the certificate of your proceedings within five (5) days from notice hereof.

**GIVEN** by the Honorable **DIOSDADO M. PERALTA**, Chairperson of the Third Division of the Supreme Court of the Philippines, this 7<sup>th</sup> day of October 2019.

Very truly yours,

*Mis PDC Batt*  
**MISAEAL DOMINGO C. BATTUNG III**  
Deputy Division Clerk of Court *mcb 12-09-19*

Atty. Jan Edgar Rublico  
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