



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **06 July 2020** which reads as follows:*

“**G.R. No. 251332** (*Dolores Panti y Solsona v. People of the Philippines*). – After a judicious study of the case, the Court resolves to **DENY** the instant petition and **AFFIRM** the Decision<sup>1</sup> dated 6 September 2019 and Resolution<sup>2</sup> dated 14 January 2020 of the Court of Appeals (CA) in CA-G.R. CR No. 40638 for failure of petitioner to show that the CA committed any reversible error in affirming the conviction of Dolores Panti y Solsona of violation of Section 11, Article II of Republic Act (RA) No. 9165, also known as the Comprehensive Dangerous Drugs Act of 2002.

At the outset, it is fundamental in the Constitution and basic in the Rules of Court that the accused in a criminal case enjoys the presumption of innocence until proven guilty. Likewise, it is well-established in jurisprudence that the prosecution bears the burden to overcome such presumption. If the prosecution fails to discharge this burden, the accused deserves a judgment of acquittal. On the other hand, if the existence of proof beyond reasonable doubt is established by the prosecution, the accused gets a guilty verdict. In order to merit conviction, the prosecution must rely on the strength of its own evidence and not on the weakness of evidence presented by the defense.<sup>3</sup>

In this case, the Court firmly holds that the prosecution successfully discharged its burden of overcoming the constitutional presumption of innocence of petitioner and in proving her guilt beyond reasonable doubt for illegal possession of dangerous drugs.

<sup>1</sup> Penned by Associate Justice Germano Francisco D. Legaspi, with Associate Justices Remedios A. Salazar-Fernando and Tita Marilyn B. Payoyo-Villordon, concurring; *rollo*, pp. 31-38.

<sup>2</sup> Penned by Associate Justice Germano Francisco D. Legaspi, with Associate Justices Remedios A. Salazar-Fernando and Tita Marilyn B. Payoyo-Villordon, concurring; *id.* at 40-41.

<sup>3</sup> *People of the Philippines v. Hilario*, G.R. No. 210610, January 11, 2018.

The Court cannot give credence to petitioner's contention that the prosecution failed to prove an unbroken chain of custody in consonance with the requirements of law. Contrary to the petitioner's contention, the CA correctly declared that the requirements of Section 21 of RA No. 9165 were substantially complied with in this case.

Section 21 of the Comprehensive Dangerous Drugs Act, as amended by RA No. 10640, lays down the requirements for the custody and disposition of confiscated, seized, and/or surrendered drugs and/or drug paraphernalia, viz –

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 dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment 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 person/s 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.

(2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;

(3) A certification of the forensic laboratory examination results, which shall be done by the forensic laboratory examiner, shall be issued immediately upon the receipt of the subject items: Provided, That when the volume of dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous

drugs still to be examined by the forensic laboratory: Provided, however, That a final certification shall be issued immediately upon completion of the said examination and certification[.]<sup>4</sup>

The chain of custody requirement ensures the preservation of the integrity and evidentiary value of the seized items such that doubts as to the identity of the evidence are eliminated. “To be admissible, the prosecution must show by records or testimony, the continuous whereabouts of the exhibit at least between the time it came into possession of the police officers and until it was tested in the laboratory to determine its composition up to the time it was offered in evidence.”<sup>5</sup>

Thus, 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 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>6</sup>

On the first link, jurisprudence dictates that “marking” is the placing by the apprehending officer of some distinguishing signs with his/her initials and signature on the items seized. It helps ensure that the dangerous drugs seized upon apprehension are the same dangerous drugs subjected to inventory and photography when these activities are undertaken at the police station or at some other practicable venue rather than at the place of arrest. Consistency with the “chain of custody” rule requires that the marking of the seized items – to truly ensure that they are the same items that enter the chain and are eventually the ones offered in evidence – should be done (1) in the presence of the apprehended violator and (2) immediately upon confiscation.<sup>7</sup>

In this case, it has been established that marking of the seized *marijuana* leaves was immediately done at the place of arrest and seizure. The immediate marking of the seized items with her signature and the date “12-10-13” was categorically testified to by the arresting officer, JO1 Ella Vargas (JO1 Vargas), and corroborated by the other prosecution witnesses. After marking, an inventory and photography of the seized items were conducted in the presence of petitioner and the required witnesses who then signed the inventory receipt.

The marking and inventory of the seized illegal drugs immediately after the arrest and right at the place of seizure in this case discounted, if not completely eliminated, the possibility of adulteration or the planting of

<sup>4</sup> Emphasis supplied.

<sup>5</sup> *People of the Philippines v. Tripoli*, 810 Phil. 788, 796 (2017).

<sup>6</sup> *People of the Philippines v. Nandi*, 639 Phil. 134, 144-145 (2010), citing *People v. Kamad*, 624 Phil. 289 (2010).

<sup>7</sup> *People of the Philippines v. Santos*, G.R. No. 223142, January 17, 2018.

evidence. Furthermore, the presence of the required witnesses during the inventory, verified by their attestation on the inventory receipt, ensured that the specimen submitted to the crime laboratory for examination was the same item actually seized from petitioner, marked and inventoried.

The evidence for the prosecution further showed that after the marking and conduct of inventory, JO1 Vargas personally brought petitioner, together with the seized items and the letter-request, to the crime laboratory for examination. Taking into account that JO1 Vargas acted both as the arresting officer and the investigating officer who turned over the specimens to the crime laboratory, the seized illegal drugs clearly did not change hands. Thus, there could not have been a break in the second and third links in the chain of custody.

In the same vein, the fourth link was duly proven by the prosecution. The testimony of the forensic chemist, PCI Josephine Macura Clemen (PCI Clemen), supported by the chemistry report she issued, sufficiently showed that PCI Clemen had custody of the specimens from the time these were handed over to her by PO1 Agawa, during and after the examination, and up to the time the latter presented the evidence in court. Significantly, PCI Clemen positively identified in court the specimens submitted in evidence against petitioner as the same specimens she subjected to examination and which yielded a positive result for the presence of *marijuana*.

Contrary to what petitioner would like the Court to believe, the failure of the officers to accomplish a chain of custody form was not fatal to the prosecution's case. The custody, handling, and disposition of the seized illegal drugs from the time they were seized, inventoried, and examined, until their final disposition, were duly recorded and established by other documentary pieces of evidence presented by the prosecution, and reinforced by the testimony of the prosecution witnesses. The inventory receipt duly signed by the required witnesses contains the material details as to who confiscated the *marijuana* leaves and had custody thereof from the time of seizure and marking as well as during the conduct of inventory. The letter-request shows the details as to who turned over the specimens and to whom these were handed at the crime laboratory. Finally, the chemistry report exhibits the details on the custody of the evidence from the time they were submitted to the crime laboratory, during and after the examination, and until they were presented by the forensic chemist in court.

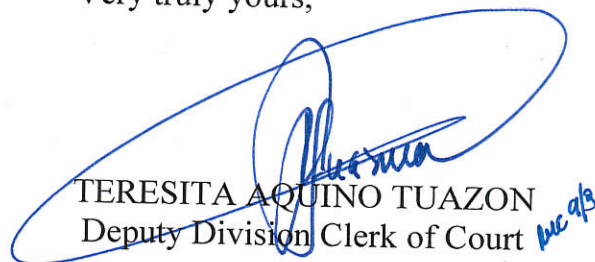
Verily, the prosecution's evidence on the custody and handling of the seized illegal drugs, from its seizure up to its presentation in court, shows that there was no significant gap in the chain of custody.

Minor deviations from the procedures under R.A. 9165 would not automatically exculpate an accused from the crimes of which he or she was convicted. Jurisprudence teems with pronouncements that failure to strictly comply with Section 21(1), Article II of R.A. No. 9165 does not necessarily render an accused's arrest illegal or the items seized or confiscated from him

or her inadmissible. What is of utmost importance is the *preservation of the integrity and the evidentiary value of the seized items*, as these would be utilized in the determination of the guilt or innocence of the accused.<sup>8</sup> In this case, the Court finds substantial compliance by the arresting officers with the required procedure on the custody and control of the confiscated items, thus showing that the integrity and evidentiary value of the marijuana leaves seized from the petitioner were not compromised.

**SO ORDERED.**” (J. Gaerlan, designated Additional Member per Special Order No. 2780 dated May 11, 2020.)

Very truly yours,

  
 TERESITA AQUINO TUAZON  
 Deputy Division Clerk of Court *mc 9/3*

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