



Republic of the Philippines

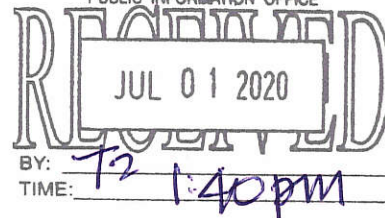
Supreme Court

Manila

THIRD DIVISION

NOTICE

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **February 10, 2020**, which reads as follows:

“G.R. No. 224921 (PEOPLE OF THE PHILIPPINES, *plaintiff-appellee* v. ELBERT MANAGBANAG TARUSA, *accused-appellant*). — This Court resolves an appeal from the Court of Appeals Decision,¹ which affirmed *in toto* the Regional Trial Court’s conviction² of Elbert Managbanag Tarusa (Tarusa) for the illegal sale of dangerous drugs, penalized under Section 5³ of Republic Act No. 9165, or the Comprehensive Dangerous Drugs Act.

Tarusa, along with his co-accused Jimmy Galarpe (Galarpe), was charged with the illegal sale of dangerous drugs in an Information dated June 24, 2008, which partly read:

On 24 June 2008, at about 6:00 o’clock more or less in the evening, in Sihayon, Sta. Cruz, Tagoloan, Misamis Oriental, Philippines, within the jurisdiction of the Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully and feloniously sell, trade, deliver and give away to the poseur-buyer, during the drug buy-bust operation, 21.74 grams dried Marijuana leaves and fruiting tops, a dangerous drug, placed in four [4] heat sealed transparent plastic sachets, after receipt of the buy-bust money consisting of two [2] One Hundred Peso [P100.00] bills with Serial Nos. UH987139 and YC801761 confiscated from the possession and control of the accused.

¹ *Rollo*, pp. 3–10. The Decision dated January 25, 2016 was penned by Associate Justice Edgardo A. Camello and concurred in by Associate Justices Maria Filomena D. Singh and Perpetua T. Atal-Paño of the Twenty-Second Division, Court of Appeals, Cagayan de Oro City.

² *CA rollo*, pp. 35–42. The Judgment dated January 22, 2014 was penned by Presiding Judge Arthur L. Abundiente of Branch 25, Regional Trial Court of Misamis Oriental, Cagayan de Oro City.

³ Republic Act No. 9165 (2002), sec. 5 provides in part:

SECTION 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

The defense presented the testimonies of Tarusa and Galarpe.²⁴

Tarusa and Galarpe narrated that at around 4:00 p.m. on the day of the incident, they were in Radoc's house cooking dog meat. A couple of hours later, while they were in the kitchen, armed men in civilian attire barged in and pointed their guns at them. Galarpe escaped, leaving Tarusa and Radoc who were ordered to lie face down on the floor. Then, they were told to move to the living room.²⁵

To their surprise, there was marijuana placed atop the table, which both Tarusa and Radoc alleged did not belong to them. As neighbors gathered in the house, photos of the marijuana were taken. However, Tarusa and Radoc claimed to not have been informed of their constitutional rights. Neither was a barangay official, media representative, or Department of Justice official present during the entire arrest and seizure. Thereafter, the two were brought to the Cagayan de Oro City office of the Philippine Drug Enforcement Agency.²⁶

Tarusa and Galarpe claimed that hours before their arrest, IO1 Dela Cerna came to the house and talked to Radoc. Tarusa said that only when the agent left did the armed men barge in, though he did not notice if IO1 Dela Cerna was among them. He also claimed that he never saw a plastic bag that contained marijuana hanging in Radoc's kitchen.²⁷

Galarpe, who had by then hidden himself for almost three (3) hours, later went to a nearby store, and from there saw Tarusa and Radoc being handcuffed. He explained that while he initially ran away, he came forward because he knew he committed no crime and had nothing to fear.²⁸

In its December 18, 2013 Decision,²⁹ the Regional Trial Court convicted Tarusa, finding that the testimony of IO1 Dela Cerna established the illegal sale.³⁰ It upheld the presumption of regularity in the officers' performance of duties as weighed against the defense's testimonies. Nonetheless, it acquitted Galarpe, finding that his participation in the sale was limited to handing the teabags to IO1 Dela Cerna. The trial court found no evidence of their conspiracy or of Galarpe's knowledge of the illegal nature of the teabags' contents. At most, Galarpe was shown to have been subservient to Tarusa.³¹ The dispositive portion of the Decision read:

²⁴ *Rollo*, p. 7.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.* at 7 and *CA rollo*, p. 39.

²⁸ *Id.* at 7-8.

²⁹ *CA rollo*, pp. 41-42.

³⁰ *Id.* at 40.

³¹ *Id.* at 40-41.

WHEREFORE, premises considered, this Court hereby finds accused ELBERT MANAGBANAG TARUSA GUILTY BEYOND REASONABLE DOUBT of the crime defined and penalized under Section 5, Article II of R.A. 9165, and hereby imposes the penalty of LIFE IMPRISONMENT, and to pay the Fine in the amount of Five Hundred Thousand Pesos [P500,000.00] without subsidiary imprisonment in case of non-payment of Fine. Accused JIMMY "BUBOY" GALARPE is hereby ACQUITTED for failure of the prosecution to prove his guilt beyond reasonable doubt.

The Warden of the Misamis Oriental Provincial Jail having custody of JIMMY GALARPE is hereby directed to immediately cause her release from detention unless he is being accused of other crimes which will justify his continued incarceration.

Let the penalty imposed on ELBERT MANAGBANAG TARUSA be a lesson to all who have the same proclivity and propensity to commit the same forbidden acts that crime does not pay, and that the momentary financial gain and psychological well-being which one will experience from committing any act defined and penalized under R.A. 9165 cannot compensate if one is arrested, charged, prosecuted, and penalized, to the full extent of the law.

SO ORDERED.³²

Tarusa appealed his conviction. He argued that no illegal sale or buy-bust procedure actually took place, and he was instead illegally arrested and searched without a warrant.³³ He alleged that he had no counsel when he was investigated at the Philippine Drug Enforcement Agency office. He also maintained that he took no part in any transaction among the informant, IO1 Dela Cerna, and Radoc, pointing out that the marijuana was found in Radoc's house, not his. He claimed it was never shown that the marijuana came from him or that he sold it to IO1 Dela Cerna.³⁴

Tarusa also argued that the arresting officers failed to comply with the chain of custody rule under Section 21 of the Comprehensive Dangerous Drugs Act, and failed to give any justifiable reason for this failure.³⁵ He allegedly neither signed nor was given a copy of the inventory. Moreover, he asserted that no required third-party witness was present at the actual buy-bust operation. He pointed out that the only witness was the media representative, who came only after the arrest to sign the inventory, and without even seeing Tarusa.³⁶

The Office of the Solicitor General, on the other hand, insisted that its witnesses sufficiently proved the buy-bust operation. It argued that Radoc

³² Id. at 41-42.

³³ Id. at 27.

³⁴ Id. at 28-29.

³⁵ Id. at 29-30.

³⁶ Id. at 30.

simply ushered IO1 Dela Cerna and the informant inside his house. It was still Tarusa to whom IO1 Dela Cerna was introduced, and later paid the marked money. It was still him who ordered Galarpe to hand the marijuana to the agent.³⁷

The Office of the Solicitor General also asserted that the agents' noncompliance with Section 21 was not fatal since the chain of custody remained unbroken and the integrity and evidentiary value of the seized items were properly preserved. It alleged that the seized items were immediately marked, inventoried, and photographed upon seizure. Despite the media representative only signing the inventory at the office, IO1 Tablate took custody of the seized items until they were turned over to the crime laboratory for examination. It argued that Tarusa failed to impute any ill motive on the buy-bust team and to overturn the presumption of regularity in the officers' performance of official duties.³⁸

In its January 25, 2016 Decision,³⁹ the Court of Appeals affirmed Tarusa's conviction *in toto*.⁴⁰ It found that the prosecution was able to prove all the elements of the offense. It held that the arresting officers' testimonies were credible and consistent as to the buy-bust operation, Tarusa's identity as the marijuana seller, and the observance of the chain of custody rule.⁴¹

The Court of Appeals did not find Tarusa's defenses of denial and frame-up credible, as they were unsupported by strong evidence. It did not lend credence to his contention that the agents released Radoc after he had paid them ₱20,000.00.⁴² The dispositive portion of the Decision read:

For reasons cited above, the judgement (*sic*) is affirmed *in toto*. We find ELBERT MANAGBANAG TARUSA guilty beyond reasonable doubt of violating Section 5, Article II of R.A. 9165. He is sentenced to suffer the penalty of life imprisonment, and to pay the fine of Five Hundred Thousand Pesos (₱500,000.00).

SO ORDERED.⁴³

Thus, Tarusa filed a Notice of Appeal. In a July 27, 2016 Resolution, this Court acknowledged receipt of the records forwarded by the Court of Appeals and ordered the parties to file their supplemental briefs.⁴⁴ Both

³⁷ Id. at 55.

³⁸ Id. at 56.

³⁹ *Rollo*, pp. 3–10.

⁴⁰ Id. at 10.

⁴¹ Id. at 9.

⁴² Id.

⁴³ Id. at 10.

⁴⁴ Id. at 16–17.

accused-appellants⁴⁵ and the Office of the Solicitor General,⁴⁶ however, manifested that they would no longer do so.

The principal issue in this case is whether or not the prosecution proved beyond reasonable doubt that accused-appellant Elbert Managbanag Tarusa violated Section 5 of the Comprehensive Dangerous Drugs Act for selling dangerous drugs.

This Court acquits accused-appellant.

To sustain a conviction, the prosecution is duty bound to establish the accused's guilt through proof beyond reasonable doubt of all the elements of the charged offense.

In this case, accused-appellant was charged with the illegal sale of dangerous drugs, penalized under Section 5 of Republic Act No. 9165:

SECTION 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.*— The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

The following elements must be established to warrant a conviction of illegal sale of dangerous drugs: “(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.”⁴⁷

In many cases, the first element is proven through a buy-bust operation.⁴⁸ The sale is committed through a poseur-buyer who transacts with the offender. When the illegal drug is exchanged for consideration, the offense is consummated:

[A] buy-bust operation is a valid and legitimate form of entrapment of the drug pusher. In such operation, the poseur buyer transacts with the suspect by purchasing a quantity of the dangerous drug and paying the price agreed

⁴⁵ Id. at 20–23.

⁴⁶ Id. at 24–27.

⁴⁷ *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].

⁴⁸ *People v. Andaya*, 745 Phil. 237, 246 (2014) [Per J. Bersamin, First Division].

upon, and in turn the drug pusher turns over or delivers the dangerous drug subject of their agreement in exchange for the price or other consideration. Once the transaction is consummated, the drug pusher is arrested, and can be held to account under the criminal law. The justification that underlies the legitimacy of the buy-bust operation is that the suspect is arrested *in flagrante delicto*, that is, the suspect has just committed, or is in the act of committing, or is attempting to commit the offense in the presence of the arresting police officer or private person.⁴⁹ (Citations omitted)

The second element, however, requires that the item sold to the poseur-buyer is a dangerous drug prohibited under Republic Act No. 9165. Thus, the prosecution is tasked with producing the *corpus delicti*, or the body of the crime,⁵⁰ and must: (1) show the seized item in court; (2) establish that it is a dangerous drug; and (3) prove that it is the same item confiscated from the accused—not planted, replaced, substituted, or tampered with.⁵¹

Thus, Section 21 of the Comprehensive Dangerous Drugs Act⁵² strictly sets several requirements to ensure that the item presented in court is the same item seized from the accused. It provides:

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;
- (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 under oath by the forensic laboratory

⁴⁹ *Id.*

⁵⁰ *People v. de Leon*, 624 Phil. 786, 796 (2010) [Per J. Velasco, Jr., Third Division].

⁵¹ *See Malillin v. People*, 576 Phil. 576 (2008) [Per J. Tinga, Second Division].

⁵² Republic Act No. 9165 has been amended by Republic Act No. 10640 in July 15, 2014. However, since the incident occurred on April 26, 2014, the applicable law is still Republic Act No. 9165.

examiner, shall be issued within twenty-four (24) hours after the receipt of the subject item/s: *Provided*, That when the volume of the 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 on the completed forensic laboratory examination on the same within the next twenty-four (24) hours[.]

Otherwise known as the chain of custody rule, Section 21 requires proof of the integrity of the seized item at every stage, from its arrest all the way to its presentation in court. It must be shown *who* had custody of the seized item and *how* it was kept, and how each link in the chain is connected. The four (4) links were discussed in *People v. Nandi*:⁵³

[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.⁵⁴

Failure to comply with the chain of custody rule puts reasonable doubt on the integrity of the confiscated item. It leads to the conclusion that the prosecution failed to prove the second element of the offense.⁵⁵

There are exceptions to the chain of custody rule. For crimes committed before the enactment of Republic Act No. 10640 on July 15, 2014, the applicable exception is found in the Implementing Rules and Regulations of Republic Act No. 9165. Its Section 21(a) states:

(a) The apprehending officer/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 requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly*

⁵³ 639 Phil. 134 (2010) [Per J. Mendoza, Second Division].

⁵⁴ *Id.* at 144–145 citing *People v. Kamad*, 624 Phil. 289, 312 [Per J. Brion, Second Division].

⁵⁵ *People v. Que*, G.R. No. 212994, January 31, 2018, 853 SCRA 487, 509 [Per J. Leonen, Third Division].

it granted the petition for bail on the ground that the evidence of Tanes' guilt was not strong due to doubts as regards the preservation of the chain of custody. Such ruling by the RTC has unquestionable jurisprudential basis. Consequently, the CA was correct in upholding the RTC.⁵⁹ (Emphasis in the original, citations omitted)

The three-witness rule accounts for the ample amount of time and preparation that goes into buy-bust initiatives. In *People v. Reyes*:⁶⁰

Thirdly, another substantial gap in the chain of custody concerned the absence of any representative of the media or of the Department of Justice (DOJ), and of the elected public official during the buy-bust operation and at the time of the confiscation of the dangerous drugs from the accused in the area of operation. *The Prosecution did not attempt to explain why such presence of the media or DOJ representatives, and of the elected public official had not been procured despite the buy-bust operation being mounted in the afternoon of November 27, 2002 following two weeks of surveillance to confirm the veracity of the report on the illegal trading in drugs by the accused.* The objective of requiring their presence during the buy-bust operation and at the time of the recovery or confiscation of the dangerous drugs from the accused in the area of operation was to ensure against planting of evidence and frame up. It was clear that ignoring such objective was not an option for the buy-bust team if its members genuinely desired to protect the integrity of their operation. Their omission attached suspicion to the incrimination of the accused. *The trial and appellate courts should not have tolerated the buy-bust team's lack of prudence in not complying with the procedures outlined in Section 21(1), in light of the sufficient time for them to comply.*⁶¹ (Emphasis supplied, citations omitted)

The three-witness requirement is meant to ensure the absence of any irregularities in the arrest and seizure of the accused. Additionally, it is meant to protect the apprehending officers from accusations of frame-ups. In *People v. Tomawis*:⁶²

From the above testimonies, it can be gleaned that *barangay* councilors Burce and Gaffud were not present near to or at the place of arrest. They were merely called to witness the inventory at the Pinyahan *barangay* hall and then the drugs were shown to them by the PDEA agents. They did not even have prior knowledge of the buy-bust operation.

The presence of the witnesses from the DOJ, media, and from public elective office is necessary to protect against the possibility of planting, contamination, or loss of the seized drug. Using the language of the Court in *People v. Mendoza*, without the *insulating presence* of the representative from the media or the DOJ and any elected public official during the seizure and marking of the drugs, the evils of switching, "planting" or contamination of the evidence that had tainted the buy-busts conducted

⁵⁹ Id.

⁶⁰ *People v. Reyes*, 797 Phil. 671 (2016) [Per J. Bersamin, First Division].

⁶¹ Id. at 689–690.

⁶² G.R. No. 228890, April 18, 2018, 862 SCRA 131 [Per J. Caguioa, Second Division].

under the regime of RA 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 subject sachet that was evidence of the *corpus delicti*, and thus adversely affected the trustworthiness of the incrimination of the accused.

The presence of the three witnesses must be secured not only during the inventory but more importantly at the time of the warrantless arrest. It is at this point in which the presence of the three witnesses is most needed, as it is their presence at the time of seizure and confiscation that would belie any doubt as to the source, identity, and integrity of the seized drug. If the buy-bust operation is legitimately conducted, the presence of the insulating witnesses would also controvert the usual defense of frame-up as the witnesses would be able to testify that the buy-bust operation and inventory of the seized drugs were done in their presence in accordance with Section 21 of RA 9165.

The practice of police operatives of not bringing to the intended place of arrest the three witnesses, when they could easily do so — and “calling them in” to the place of inventory to witness the inventory and photographing of the drugs only after the buy-bust operation has already been finished — does not achieve the purpose of the law in having these witnesses prevent or insulate against the planting of drugs.

To restate, *the presence of the three witnesses at the time of seizure and confiscation of the drugs must be secured and complied with at the time of the warrantless arrest; such that they are required to be at or near the intended place of the arrest so that they can be ready to witness the inventory and photographing of the seized and confiscated drugs “immediately after seizure and confiscation.”*⁶³ (Emphasis supplied, citations omitted)

Likewise, in *People v. Mendoza*:⁶⁴

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 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.⁶⁵

Yet, in this case, only after the actual arrest and seizure did a member of the media appear at the office and sign the inventory. Even then, the media representative was not able to see those arrested. The prosecution neither denied these factual findings nor reasoned for its omissions.

⁶³ Id. at 149–150.

⁶⁴ 736 Phil. 749 (2014) [Per J. Bersamin, First Division].

⁶⁵ Id. at 764.

The prosecution failed not only to comply with Section 21, but to give any justifiable reason for it. Such noncompliance is precisely why the arresting officers cannot rely on the presumption of regularity in the performance of their official duties. In *People v. Kamad*:⁶⁶

Given the flagrant procedural lapses the police committed in handling the seized shabu and the obvious evidentiary gaps in the chain of its custody, a presumption of regularity in the performance of duties cannot be made in this case. *A presumption of regularity in the performance of official duty is made in the context of an existing rule of law or statute authorizing the performance of an act or duty or prescribing a procedure in the performance thereof. The presumption applies when nothing in the record suggests that the law enforcers deviated from the standard conduct of official duty required by law; where the official act is irregular on its face, the presumption cannot arise.* In light of the flagrant lapses we noted, the lower courts were obviously wrong when they relied on the presumption of regularity in the performance of official duty.

....

From the constitutional law point of view, *the prosecution's failure to establish with moral certainty all the elements of the crime and to identify the accused as the perpetrator signify that it failed to overturn the constitutional presumption of innocence that every accused enjoys in a criminal prosecution. When this happens, as in this case, the courts need not even consider the case for the defense in deciding the case; a ruling for acquittal must forthwith issue.*⁶⁷ (Emphasis supplied, citation omitted)

In failing to prove compliance with Section 21, the prosecution failed to prove with moral certainty the *corpus delicti*, the second element of the offense. This casts reasonable doubt on whether the dangerous drugs presented in court were indeed the same items seized during the arrest. Accordingly, this Court cannot affirm accused-appellant's conviction.

WHEREFORE, the January 25, 2016 Decision of the Court of Appeals in CA-G.R. CR HC No. 01269-MIN is **REVERSED AND SET ASIDE**. Accused-appellant Elbert Managbanag Tarusa 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 Director of the Bureau of Corrections for immediate implementation. He is directed to report the action he has taken to this Court within five (5) days from receipt of this Resolution. 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.

⁶⁶ 624 Phil. 289 (2010) [Per J. Brion, Second Division].

⁶⁷ Id. at 311.

Let entry of final judgment be issued immediately.

SO ORDERED.” (Carandang, J., *on special leave.*)

Very truly yours,

Misa DC Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court

PUBLIC ATTORNEY'S OFFICE
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CA G.R. CR HC No. 01269-MIN
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OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
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The Penal Superintendent
DAVAO PRISON & PENAL FARM
B.E. Dujali, 8105 Davao del Norte

Mr. Elbert Managbanag Tarusa
c/o The Penal Superintendent
DAVAO PRISON & PENAL FARM
B.E. Dujali, 8105 Davao del Norte

The Presiding Judge
REGIONAL TRIAL COURT
Branch 25, 9000 Cagayan de Oro City
(Criminal Case No. 2009-30)

The Director
Bureau of Corrections
1770 Muntinlupa City

The Director General
PHILIPPINE NATIONAL POLICE
National Headquarters
Camp Crame, Quezon City

The Director General
PHILIPPINE DRUG ENFORCEMENT AGENCY
PDEA Bldg., NIA Northside Road
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Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 224921

-versus-

ELBERT MANAGBANAG
TARUSA,
Accused-Appellant.

x-----/

ORDER OF RELEASE

TO: The Director
BUREAU OF CORRECTIONS
1770 Muntinlupa City

Thru: The Penal Superintendent
DAVAO PRISON & PENAL FARM
B.E. Dujali, 8105 Davao del Norte

GREETINGS:

WHEREAS, the Supreme Court on February 10, 2020 promulgated a Resolution in the above-entitled case, the dispositive portion of which reads:

“WHEREFORE, the January 25, 2016 Decision of the Court of Appeals in CA-G.R. CR HC No. 01269-MIN is **REVERSED AND SET ASIDE**. Accused-appellant Elbert Managbanag Tarusa 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 Director of the Bureau of Corrections for immediate implementation. He is directed to report the action he has taken to this Court within five (5) days from receipt of this Resolution. 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.

Let entry of final judgment be issued immediately.

SO ORDERED." (Carandang, J., on special leave.)

NOW, THEREFORE, You are hereby ordered to immediately release **ELBERT MANAGBANAG TARUSA**, 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 MARVIC MARIO VICTOR F. LEONEN, Chairperson of the Third Division of the Supreme Court of the Philippines, this 10th day of February 2020.

Very truly yours,

Misael DC Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
6/20/20

PUBLIC ATTORNEY'S OFFICE
Special & Appealed Cases Unit
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9000 Cagayan de Oro City

COURT OF APPEALS
CA G.R. CR HC No. 01269-MIN
9000 Cagayan de Oro City

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
Legaspi Village, 1229 Makati City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 25, 9000 Cagayan de Oro City
(Crim. Case No. 2009-30)

Mr. Elbert Managbanag Tarusa
c/o The Penal Superintendent
DAVAO PRISON & PENAL FARM
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The Director General
PHILIPPINE NATIONAL POLICE
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G.R. No. 224921



