



Republic of the Philippines
Supreme Court
Manila

CERTIFIED TRUE COPY
Wilfredo V. Lapitan
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

DEC 19 2017

THIRD DIVISION

ARNEL CALAHI, ENRIQUE
CALAHI, AND NICASIO RIVERA,
Petitioners,

G.R. No. 195043

Present:

VELASCO, JR., J.,
Chairperson,
BERSAMIN,
LEONEN,
MARTIRES, and
GESMUNDO, JJ.

- versus -

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:

November 20, 2017

X

Wilfredo V. Lapitan

X

DECISION

MARTIRES, J.:

This Petition for Review on Certiorari under Rule 45 seeks to reverse and set aside the 22 July 2010 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR No. 28889 which affirmed the 17 May 2004 Decision² of the Regional Trial Court, Branch 86, Cabanatuan City (RTC), in Criminal Case No. 7907 finding petitioners guilty beyond reasonable doubt of illegal possession and use of dangerous drugs under Section 16, Article III of Republic Act No. 6425 (R.A. No.6425), or the Dangerous Drugs Act of 1972.

THE FACTS

An Information filed 21 November 1997 charged petitioners Enrique Calahi (*Enrique*), Arnel Calahi (*Arnel*), and Nicasio Rivera (*Nicasio*), including accused Nicolas Macapagal (*Nicolas*), with the following:

¹ Rollo, pp. 44-54.

² Id. at 92-96; Penned by Presiding Judge Raymundo Z. Annang.

Arnel

That on or about the 20th day of November 1997, in the City of Cabanatuan, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused were all caught in the act of sniffing shabu inside the XLT passenger type jeepney and accused Nicasio Rivera was further caught in possession of the remaining Methamphetamine Hydrochloride or shabu, a regulated drug, approximately weighing zero point thirty six (0.36) gram, without any authority of law.³

When arraigned on 24 September 1998, the petitioners pleaded not guilty.

On the other hand, accused Nicolas pleaded guilty to the crime charged when arraigned on 13 May 1999. Satisfied that Nicolas entered a plea of guilty voluntarily and understood the consequences of his act, the court applied the provisions of the Indeterminate Sentence Law and the mitigating circumstance of the voluntary plea of guilty and sentenced him to suffer the penalty of *prision correccional* in its minimum period.

Trial ensued for Enrique, Arnel, and Nicasio.

Version of the Prosecution

On the evening of 20 November 1997, members of the PNP Criminal Investigation and Detection Group (*CIDG*), Cabanatuan City, consisting of SPO3 Danilo Padilla (*SPO3 Padilla*) and confidential agents Santiago Maligson (*Agent Maligson*) and Fernando Lopez (*Agent Lopez*), served a search warrant on Elsie Valenzuela (*Elsie*) at San Josef Norte, Cabanatuan City. While serving the search warrant, the CIDG members noticed an XLT jeep parked near Elsie's house. Suspicious, they approached said jeep and saw four (4) persons holding a pot session inside. They noticed the following items inside the vehicle: an aluminum foil, an improvised tooter, a lighter, and remnants of *shabu*. SPO3 Padilla and his team immediately arrested the four who were later identified as Enrique, Arnel, Nicasio, and Nicolas and confiscated the white substance found with them. Then they were brought to the police station in Cabanatuan City.⁴

Thereafter, SPO3 Padilla requested a laboratory examination on the confiscated substance by the PNP Crime Laboratory, Cabanatuan City.

Kathlyn L. Vigilia (*Vigilia*), a forensic analyst at the Nueva Ecija Provincial Crime Laboratory Field Office, conducted an initial examination

³ Id. at 92.

⁴ TSN, 6 January 2000, pp. 4-7.

on the confiscated substance. In her Initial Laboratory Examination Report,⁵ dated 21 November 1997, Vigilia indicated that two specimens were submitted for examination: a white crystalline substance weighing 0.36 gram, denominated as Specimen "A," and one (1) small piece of aluminum foil, designated as Specimen "B." She found that Specimen "A" was positive for methamphetamine hydrochloride (i.e., *shabu*) while Specimen "B" was negative for said substance.

Version of the Defense

At around 9:30 p.m. on 20 November 1997, Enrique, Arnel, Nicasio, and Nicolas drove to San Josef Norte, Cabanatuan City, to inquire from Elsie if the baptism of a certain child would proceed the following day. They parked their jeep near Elsie's house. Suddenly, policemen arrived and searched the XLT for *shabu* but did not find any. The police officers then told them to alight from the jeep and brought them to Elsie's house. The policemen then conducted a search inside Elsie's house, pursuant to a search warrant issued against her, but were not able to find any *shabu*.

After the search, one of the CIDG members reported the incident to their team leader, Captain Noel Caligagan (*Captain Caligagan*), through radio, who told them to bring the suspects, including Elsie, to the CIDG office. They were detained therein, but were subsequently released from police custody after posting their bail bond.⁶

The RTC Ruling

The RTC convicted Enrique, Arnel, and Nicasio for violation of Section 16, Article III of R.A. No. 6425.

The dispositive portion reads:

WHEREFORE, premises considered, judgment is hereby rendered convicting the accused Enrique Calahi, Arnel Calahi, and Nicasio Rivera of the crime of violation of Section 16, Article III of Republic Act No. 6425, as amended, and hereby sentences them to suffer the penalty of prision mayor which has a range of 6 years and 1 day to 12 years imprisonment. As the quantity of "shabu" charged in the Information is only 0.36 gram and applying the Indeterminate Sentence Law in favor of the accused, the penalty imposable upon each accused is prision correccional in its minimum period which has a range of 6 months and 1 day to 2 years and 4 months imprisonment. Said accused are likewise ordered to pay a fine of P3,000.00 each.



⁵ *Rollo*, p. 122.

⁶ *Id.* at 48.

The “shabu” weighing 0.36 gram which is the subject matter of this case is hereby ordered forfeited in favor of the government, the same to be immediately turned over to the Dangerous Drugs Board of the National Bureau of Investigation pursuant to the provision of Section 16, Republic Act No. 6425, as amended, for the reason that it is no longer needed as evidence in judicial proceeding.⁷

In rendering the judgment of conviction, the trial court gave more credence to the evidence of the prosecution. It held that the prosecution was able to establish beyond reasonable doubt all the elements of the crime charged, noting that the testimonies of the prosecution witnesses were natural, straightforward, probable, and credible. On the other hand, petitioners only offered mere denials.⁸

The petitioners filed a motion for reconsideration of the said decision, but it was denied by the RTC in an Order⁹ dated 6 July 2004. Aggrieved, they appealed before the CA.

The CA Ruling

The CA denied the appeal and affirmed the decision of the RTC *in toto*. It explained that the court a quo’s evaluation on the witnesses’ credibility is generally accorded great weight and respect unless it is shown that it overlooked or misapplied certain facts relative to the weight and substance bearing on the elements of the offense. It held that the RTC correctly found that the prosecution was able to prove beyond reasonable doubt that the petitioners violated Section 16, Article III of R.A. No. 6425.¹⁰

Hence, this petition.

ISSUE

The following are raised:

1. WHETHER OR NOT THE ABSENCE OF AN INVENTORY AND PHOTOGRAPH OF THE SPECIMEN PURPORTEDLY SEIZED AFFECTED THE CONTINUITY OF THE CUSTODY OF THE SAME THAT WILL TARNISH THE INTEGRITY OF THE EVIDENCE;



⁷ Id. at 69.

⁸ Id. at 68.

⁹ Id. at 74-75.

¹⁰ Id. at 53-54.

2. IN ANY EVENT, WHETHER OR NOT THE PENALTY IMPOSED THEREON IS PROPER.

Essentially, the question posed for this Court's determination is whether or not the petitioners' guilt has been proven beyond reasonable doubt.

Petitioner posits that the integrity and identity of the seized items were tarnished because the arresting officers failed to inventory and photograph the seized items in petitioners' presence, contrary to the mandate of Dangerous Drugs Board Regulation No. 3, series of 1979, as amended by Board Regulation No. 2, series of 1990; that the prosecution also failed to show that the arresting officers marked the items immediately after the alleged seizure; and that the identity of the drug is consequently suspect.

On the other hand, the Office of the Solicitor General (*OSG*) argues that a violation of the regulation relied upon by petitioners is a matter strictly between the Dangerous Drugs Board and the arresting officers, having no bearing on the prosecution of the criminal case; that noncompliance thereof will not necessarily render the seized items inadmissible; and that absent proof to the contrary, the arresting officers are presumed to have regularly performed their duty.

THE COURT'S RULING

The Court finds merit in the petition.

As object evidence, the nature of narcotic substances requires the establishment of a chain of custody.

At the outset, the use of dangerous drugs necessarily entails possession thereof. A conviction for illegal possession of dangerous drugs requires an indubitable showing of the following elements: (1) the accused was in possession of dangerous drugs; (2) such possession was not authorized by law; and (3) the accused was freely and consciously aware of being in possession of dangerous drugs.¹¹

The dangerous drug seized from the accused constitutes the *corpus delicti* of the offense. It is thus paramount for the prosecution to establish that the identity and integrity of the seized drug were duly preserved in order to sustain a conviction.¹² Otherwise, there would be no basis to convict for

¹¹ *People v. Ismael*, G.R. No. 208093, 20 February 2017.

¹² *People v. Casacop*, G.R. No. 210454, 13 January 2016, 780 SCRA 645, 653.



illegal possession of dangerous drugs because “the mere fact of unauthorized possession will not suffice to create in a reasonable mind the moral certainty required to sustain a finding of guilt. More than just the fact of possession, the fact that the substance illegally possessed in the first place is the same substance offered in court as exhibit must also be established with the same unwavering exactitude as that requisite to make a finding of guilt.”¹³

In *People v. Obmiranis*,¹⁴ this Court held that “a unique characteristic of narcotic substances such as *shabu* is that they are not distinctive and are not readily identifiable as in fact they are subject to scientific analysis to determine their composition and nature. And because they cannot be readily and properly distinguished visually from other substances of the same physical and/or chemical nature, they are susceptible to alteration, tampering, contamination, substitution and exchange — whether the alteration, tampering, contamination, substitution, and exchange be inadvertent or otherwise not.”

Considering the above circumstances, that (1) the existence of *shabu* seized from the accused is essential to a judgment of conviction, and (2) by its nature, it is an object evidence that is not readily identifiable, it is therefore imperative to apply a stricter standard in authenticating a narcotic substance by establishing a chain of custody with sufficient completeness in order to ensure that the original item has not been exchanged, altered, or tampered with.¹⁵

The chain of custody rule requires proof of every link in the chain, from the moment the item was seized to the time it is presented in court and offered into evidence, such that witnesses constituting the chain are able to testify on how it was given and received, including the precautions taken to ensure that the seized item was not altered or tampered with.¹⁶

The prosecution failed to establish that the shabu was marked upon seizure, creating a gap in the initial stage of the chain of custody.

After a careful examination of all the evidence on record, this Court finds that the prosecution failed to establish the identity of the *shabu* by the requisite proof.



¹³ *Zafra v. People*, 686 Phil. 1095, 1106 (2012).

¹⁴ 594 Phil. 561, 572 (2008).

¹⁵ *Id.*

¹⁶ *Fajardo v. People*, 691 Phil. 752-759 (2012), citing *Mallillin v. People*, 576 Phil. 576, 587 (2008).

Notably, the records are bereft of any showing that the seized items were marked upon seizure.

SP03 Padilla, who requested the examination of the seized items by the crime laboratory, did not indicate that the apprehending team marked the items immediately after confiscating them, *viz*:

Fiscal

(to SPO3 Padilla)

Q. How did you see that those four persons were actually having pot session inside when it was nighttime?

A. The XLT passenger type jeep was parked not far from the house where we effected the search warrant, sir.

Q. Were there lights or were there no lights?

A. There is, sir.

Q. **What did you do thereafter?**

A. **We arrested them and we brought them to our office, sir.**

x x x x

Q. **Now, after you and your companions placed those persons under arrest and eventually took them to your station in the Provincial Compound, what else happened?**

A. **I made a request with the crime laboratory to make an examination of those materials or substances which we were able to take from them, sir.**¹⁷

x x x x

Q. **What happened after you found the shabu weighing approximately one (1) gram and the residue in the aluminum foil positive for shabu, a regulated drug, what did you do?**

A. **We filed a case against them in the Fiscal's Office for inquest, sir.**¹⁸
(emphasis and underlining supplied)

The foregoing only establishes that after seizure of the items and arrest of the petitioners, the apprehending team took the latter to the police station, then requested a laboratory examination of the confiscated items, and eventually requested inquest proceedings in connection with the petitioners' arrest. It was not in any way established that the items were marked after seizure.



¹⁷ TSN, 6 January 2000, p. 7.

¹⁸ Id. at 9.

These events were confirmed by the testimony of Agent Lopez, who accompanied SPO3 Padilla in apprehending the petitioners, *viz*:

Fiscal

(to Agent Lopez)

Q. You mentioned that you observed the group holding a toother (sic) and aluminum foil, wh[a]t make (sic) you conclude that this group was sniffing shabu?

A. Because that happening is already familiar, sir.

Q. And what made you become familiar with that kind of articles, the toother (sic) and the aluminum foil?

A. Because I was once a Narcom agent and we encountered several cases similar to that, sir.

Q. What else transpired?

A. We arrested them, sir.

Q. Who were arrested?

A. Enrique Calahi and Arnel Calahi, sir. Nicasio Rivera and Nicolas Macapagal, sir.

Q. **After arrest was effected, what else did you do, if you did anything?**

A. **We brought them to our office, sir.**

Q. **And what happened at your office?**

A. **I do not know anymore because after we reached our office I already left, sir.**¹⁹ (emphasis and underlining supplied)

Even the testimony of Vigilia, the forensic analyst who conducted the laboratory examination on the items, is devoid of any showing that the items she received pursuant to SPO3 Padilla's request for examination were duly marked upon receipt, *viz*:

Fiscal

(to Vigilia)

Q. Did you bring to Court the specimens that you had examined?

A. Yes, sir.

Q. Will you show it to the Honorable Court.



¹⁹ TSN, 26 July 2001, p. 8.

A. Here, sir. (Witness handed over to the Fiscal a small paper envelope with markings KLV-D151-97 and submarkings "A" and "B," with an illegible signature)

Q. What is the significance of these markings on the envelope, Miss Witness?

A. These markings are for identification and safe-keeping purposes, sir.

Q. There appears a signature on this envelope, do you know whose signature is this?

A. This is mine, sir.

Q. Will you kindly open the envelope.

A. Yes, sir. (Witness opening the envelope)

Fiscal:

For the record, the envelope, when opened, contained a transparent plastic pack and inside the transparent plastic pack are an aluminum foil and a smaller transparent plastic pack with a staple wire on it with markings NR, AC, EC, NM and the aluminum foil contained markings NR, AC, EC, NM.²⁰ (emphasis and underlining supplied)

While it appears that the specimen presented in court, namely, the aluminum foil and the white substance identified as *shabu*, were marked with the initials "NR, AC, EC, NM," (presumably the initials of the accused) it was not shown who marked the same and when it was done, and whether it was done by the apprehending team upon seizure and before submission to the crime laboratory for examination or not.

It is also worth noting that while SPO3 Padilla readily admits that he was the one who requested the laboratory examination on the seized items, none of the prosecution witnesses recounted which apprehending officer seized the items and had possession and control thereof after said confiscation and while in transit to the police station.

The above-mentioned circumstances created a gap in the initial stage of the chain of custody from the time of seizure until the request for examination, wherein the seized item could have been altered, substituted, or contaminated, inadvertently or otherwise.



²⁰ TSN, 15 June 2000, p. 6.

The gap in the chain of custody caused by the lack of marking upon confiscation undermined the identity and integrity of the confiscated drug, raising reasonable doubt that the specimen presented in court is the same one confiscated from the petitioners.

In *Lopez v. People*,²¹ where the petitioner therein was charged with illegal possession of dangerous drugs under Section 16 of R.A. No. 6425, the Court found that there was an irregularity in the first link of the chain of custody because, while the arresting officer testified that the confiscated items were marked at the police station, it was uncertain who placed the markings and no other witness testified on the supposed markings. The Court held therein that “failure of the authorities to immediately mark the seized drugs raises reasonable doubt on the authenticity of the *corpus delicti* and suffices to rebut the presumption of regularity in the performance of official duties. Failure to mark the drugs immediately after they were seized from the accused casts doubt on the prosecution evidence, warranting acquittal on reasonable doubt.”

In the same case, the Court also explained that “marking after seizure is the starting point in the custodial link, thus, it is vital that the seized contraband is immediately marked because succeeding handlers of the specimens will use the markings as reference. The marking of the evidence serves to separate the marked evidence from the corpus of all other similar or related evidence from the time they are seized from the accused until they are disposed at the end of criminal proceedings, obviating switching, ‘planting,’ or contamination of evidence.”

In *Zarraga v. People*,²² which charged the accused of conspiring in the illegal sale of dangerous drugs under R.A. No. 6425, the Court found that material inconsistencies in the testimonies of the policemen conducting the buy-bust operation with regard to when and where the markings on the *shabu* were made, created reasonable doubt as to the identity of the *corpus delicti*. The Court ruled that “the *corpus delicti* must be presented as evidence in court. The *corpus delicti* should be identified with unwavering exactitude.”

In *People v. Simbahon*,²³ involving illegal possession of a prohibited drug under R.A. No. 6425, the Court found that the prosecution failed to identify that the marijuana presented in court was the very

²¹ 725 Phil. 499, 510 (2014).

²² 519 Phil. 614, 620-623 (2006).

²³ 449 Phil. 74, 82-83 (2003).

same marijuana allegedly seized from the accused because while one of the apprehending officers testified that the confiscated brick of marijuana was marked by the investigator, such marking could not be found when the brick was presented in court.

The records reveal that the instant case does not merely involve irregularities in the marking of the confiscated *shabu*, but also the complete absence of evidence indicating that it was even marked in the first instance. The lack of due marking upon confiscation renders the identity of the *shabu*, the *corpus delicti* presented in court, highly questionable. It cannot satisfy the standard of proof required in criminal cases and thus warrants the acquittal of petitioners.

While the Court, on certain occasions, relaxed the stringent application of rules and regulations relative to the handling of dangerous drugs after seizure and confiscation, it is vital that the identity and integrity of the confiscated drug is shown to have been duly preserved.

The petitioners contend that the apprehending officers' failure to comply with the pertinent provision of Dangerous Drugs Board Regulation No. 3, series of 1979, as amended by Board Regulation No. 2, series of 1990, which prescribes the procedure in the seizure of dangerous drugs under R.A. No. 6425, was fatal to the prosecution's case. Said regulation provides:

Section 1. All prohibited and regulated drugs, instruments, apparatuses and articles specially designed for the use thereof when unlawfully used or found in the possession of any person not authorized to have control and disposition of the same, or when found secreted or abandoned, shall be seized or confiscated by any national, provincial or local law enforcement agency. **Any apprehending team having initial custody and control of said drugs and/or paraphernalia, should immediately after seizure or confiscation, have the same physically inventoried and photographed in the presence of the accused, if there be any, and/or his representative, who shall be required to sign the copies of the inventory and be given a copy thereof.** Thereafter, the seized drugs and paraphernalia shall be immediately brought to a properly equipped government laboratory for a qualitative and quantitative examination. (emphasis and underlining supplied)

In its Comment,²⁴ the Office of the Solicitor General (OSG) cites *People v. Salak*²⁵ and *People v. Gratil*²⁶ to support its argument that a

²⁴ *Rollo*, pp. 224-241.

violation of the said rule is not fatal to the prosecution; that it does not render petitioners' arrest illegal nor the seized items inadmissible in evidence, because said violation is a matter strictly between the Dangerous Drugs Board and the arresting officers and is totally irrelevant to the prosecution of the criminal case; and that the presumption of regularity in the performance of official duty stands.

A reading of the cases cited by the OSG shows that despite the non-compliance of the regulation by the arresting officers, the integrity and evidentiary value of the confiscated drugs were preserved and were never put into serious doubt. In fact, the drugs seized in those cases were found to have been duly marked upon confiscation, which justified the Court's reliance on the presumption of regularity.

As previously discussed, the same scenario does not obtain in the case at bar, because the lack of marking tarnished the identity and integrity of the confiscated *shabu* and rebutted the presumption of regularity.

Further raising doubt on the identity of the confiscated shabu are the contrasting laboratory findings between the remaining shabu and the shabu residue contained in the aluminum foil allegedly confiscated from the petitioners and submitted to the crime laboratory.

SPO3 Padilla and Agent Lopez testified that when they approached the petitioners' vehicle, they saw that a pot session was going on, *viz*:

Fiscal

(to SPO3 Padilla)

Q. Now, you said that you chanced upon a passenger jeepney parked not far from where you implemented the search warrant, what type of vehicle was that?

A. It is an XLT passenger jeep, sir.

Q. And what happened after that?

A. After we saw the parked vehicle, we saw four (4) persons in a pot session in that vehicle, sir.



²⁵ 660 Phil. 568, 580 (2011).

²⁶ 667 Phil. 681, 696-697 (2011).

Q. And where were these four (4) persons when you saw them having pot session?

A. Inside the passenger XLT, sir.

Q. And what made you conclude that those four persons were really having pot session?

A. We saw the following, sir: aluminum foil, improvised toother (sic), lighter, and the remaining shabu weighing approximately one (1) gram.²⁷

x x x x

Fiscal

(to Agent Lopez)

Q. And **what happened after approaching the jeep?**

A. **We saw that they were sniffing something, sir.**

Fiscal:

May we request, Your Honor, that the exact words be incorporated in the records.

Court:

Alright, enter the answer of the witness on record.

Witness:

“Nakita naming na may hinihithit sila,” sir.²⁸ (emphasis and underlining supplied)

In fact, one of the items transmitted by SPO3 Padilla to the crime laboratory for examination was an aluminum foil with *shabu* residue, viz:

Fiscal

(to SPO3 Padilla)

Q. Now, after you and your companions placed those persons under arrest and eventually took them to your station in the Provincial Compound, what else happened?

A. **I made a request with the crime laboratory to make an examination of those materials or substances which we were able to take from them, sir.**



²⁷ TSN, 6 January 2000, p. 6.

²⁸ TSN, 26 July 2001, p. 5.

Q. **Was the request in writing?**

A. Yes, sir.

Q. Do you have it with you now?

A. Yes, sir.

Q. Will you show it to the Honorable Court?

A. Here, sir. (Witness presenting a piece of paper dated November 21, 1997)

FISCAL:

We request, Your Honor, that this request shown by the witness be marked in evidence as Exhibit "A."

COURT:

Mark it, Exhibit "A."

FISCAL:

And the articles enumerated therein be bracketed and marked as Exhibit "A-1."

COURT:

Mark it.

Q. Now, **your request mentioned of the following items: aluminum foil with remaining residue**, improvised toother [sic], lighter, and the **remaining shabu** weighing approximately one (1) gram. Where are these articles now?

A. The substance is in the crime laboratory for examination, sir.²⁹ (emphasis and underlining supplied)

The foregoing tends to establish that the petitioners used certain paraphernalia, including aluminum foil, in holding their pot session. Aside from the remaining *shabu*, these paraphernalia were also confiscated from the petitioners and submitted for laboratory examination.

However, the findings in the Initial Laboratory Examination Report³⁰ issued by Vigilia indicate that Specimen "B," the aluminum foil, is negative for *shabu*. She confirmed during trial that she reached the same conclusion after conducting a more thorough examination afterwards, which she wrote in a chemistry report, viz:



²⁹ TSN, 6 January 2000, pp. 7-8.

³⁰ *Rollo*, p. 122.

Fiscal

(to Vigilia)

Q. What did you do next after conducting your initial laboratory examination?

A. First I took a representative sample from the specimens and treated them with a Marquis reagent wherein an orange to brown color appeared on Specimen A indicating that it was positive of methamphetamine hydrochloride or shabu, a regulated drug, **but Specimen B, contained in an aluminum foil, was negative of the said regulated drug.** Next, another sample from Specimen A was treated with Simons reagent wherein a deep blue color appeared which indicated that it was positive for methamphetamine hydrochloride, or shabu, a regulated drug. Then, finally, I did the confirmatory test. Under the confirmatory test, I took another sample from the said specimen including a standard methamphetamine hydrochloride and spotted them in a thin layer chromatographic (TLC) plate and soaked that plate in a solvent system. After that I sprayed it with a locator and two identical spots appeared which indicated that Specimen A was positive of methamphetamine hydrochloride, or shabu, a regulated drug. Then I put my findings into a written report, sir.³¹ (emphasis and underlining supplied)

The Court finds perturbing the differing laboratory findings as to the remaining *shabu* (Specimen "A") and the residue contained in the aluminum foil (Specimen "B"), both supposedly confiscated from petitioners. It stands to reason that if petitioners were indeed caught while their pot session was ongoing, and the aluminum foil was among the confiscated paraphernalia used in such activity, the residue found in the foil would match that of the remaining unused *shabu* seized from them. This discrepancy further renders questionable the identity and integrity of the *corpus delicti* and, therefore, raises serious doubt as to the petitioners' guilt.

In view of the foregoing, the Court is constrained to acquit.

Owing to the basic constitutional principle that an accused in a criminal prosecution is presumed innocent until proven otherwise, it is well-established that the prosecution must stand or fall on its own merits and cannot draw strength from the weakness of the defense.³² When the prosecution fails to overcome the presumption of evidence by failing to present the required amount of evidence, the defense need not even present evidence on its behalf.³³



³¹ TSN, 15 June 2000, pp. 4-5.

³² *People v. Dacuma*, 753 Phil. 276, 287 (2015).

³³ *Id.*

Accordingly, while petitioners' defense of denial is admittedly weak, this Court finds it unnecessary to discuss it, in view of the prosecution's failure to indubitably show the identity of the *shabu* allegedly confiscated from them. It is also unnecessary to discuss the other issues raised in the petition, as the Court finds that the acquittal of petitioners based on reasonable doubt is in order.

WHEREFORE, the petition is **GRANTED**. The 22 July 2010 Decision of the Court of Appeals in CA-G.R. CR. No. 28889 is **REVERSED** and **SET ASIDE**. Petitioners Arnel Calahi, Enrique Calahi, and Nicasio Rivera are hereby **ACQUITTED** of the crime charged against them.

SO ORDERED.

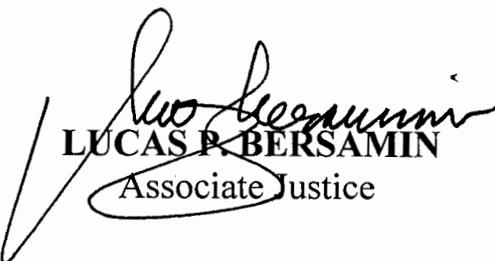


SAMUEL R. MARTIRES
Associate Justice

WE CONCUR:



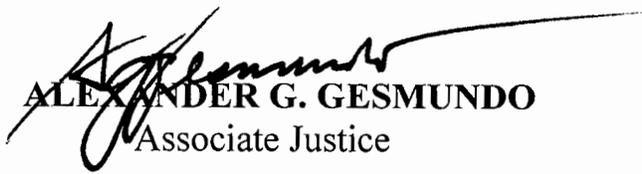
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



LUCAS P. BERSAMIN
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice



ALEXANDER G. GESMUNDO
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



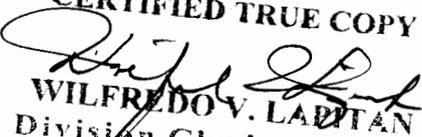
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice

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WILFREDO V. LAPIDAN
Division Clerk of Court
Third Division

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