



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE
PHILIPPINES,

Plaintiff-appellee,

-versus-

MARK PAUL ILDEFONSO,
Accused-appellant.

G.R. No. 249858

Present:

LEONEN, *SAJ.*, *Chairperson*,
CAGUIOA, A.B.S.,
LAZARO-JAVIER,
LOPEZ, J., and
KHO, JR., *JJ.*

Promulgated:

FEB 19 2025

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DECISION

LOPEZ, J., *J.*:

This Court resolves the Appeal¹ from the Decision² of the Court of Appeals (CA), which affirmed with modification the conviction of Mark Paul Ildefonso (Ildefonso) for violation of the following offenses: (1) Commission on Elections (COMELEC) Resolution No. 9561-A, in relation to COMELEC Resolution No. 9735 and the Omnibus Election Code; (2) Section 5 of Republic Act No. 9165; and (3) Section 11 of Republic Act No. 9165.³

* Additional Member per Raffle dated May 21, 2024.

¹ *Rollo*, p. 25.

² *Id.* at 3–24. The September 21, 2018 Decision in CA-G.R. CR-HC No. 08716 was penned by Associate Justice Carmelita Salandanan Manahan and concurred in by Associate Justices Mario V. Lopez and Henri Jean Paul B. Inting (now Members of this Court) of the Special Fifteenth Division, Court of Appeals, Manila.

³ *Id.* at 22–23.

The instant case stemmed from three Informations⁴ filed against Ildefonso for violation of COMELEC Resolution No. 9561-A, in relation to COMELEC Resolution No. 9735 and the Omnibus Election Code; and Sections 5 and 11 of Republic Act No. 9165. The accusatory portions of the Informations read:

Criminal Case No. 15710-65

(For Violation of COMELEC Resolution No. 9561-A, in relation to COMELEC Resolution No. 9735 and the Omnibus Election Code)

That on or about 11:45 o'clock in the evening of October 14, 2013 within the election period as prescribed by law in the City of Laoag, Philippines and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and [sic] feloniously and knowingly have in his possession, control and custody one (1) piece knife a deadly weapon and carry away outside his residence in public place measuring more or less ten (10) inches long, which he possessed not in connection with his lawful profession without having secured the necessary permit, license or authority to possess the same from the COMELEC in violation of the aforesaid law.

CONTRARY TO LAW.⁵

Criminal Case No. 15711-13

(For Violation of Section 5 of Republic Act No. 9165)

That on or about 11:45 o'clock in the evening of October 14, 2013 at [sic] in the City of Laoag, Philippines and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously sell and deliver to a poseur buyer one (1) heat sealed transparent plastic sachet containing Methamphetamine Hydrochloride locally known as "*shabu*", a dangerous drug, with a weight of 0.0615 grams. [sic], without any license or authority, in violation of the aforesaid law.

CONTRARY TO LAW.⁶

Criminal Case No. 15712-13

(For Violation of Section 11 of Republic Act No. 9165)

That on or about 11:45 o'clock in the evening of October 14, 2013 at [sic] in the City of Laoag, Philippines and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously have in his possession, custody and control one (1) heat sealed transparent plastic sachet containing Methamphetamine Hydrochloride locally known as "*shabu*", a dangerous drug, with a weight of 0.0676 grams. [sic], without any license or authority, in violation of the aforesaid law.

CONTRARY TO LAW.⁷

⁴ RTC records (Criminal Case No. 15710-65), p. 1; RTC records (Criminal Case No. 15711-13), p. 1; RTC records (Criminal Case No. 15712-13), p. 1.

⁵ RTC records (Criminal Case No. 15710-65), p. 1.

⁶ RTC records (Criminal Case No. 15711-13), p. 1.

⁷ RTC records (Criminal Case No. 15712-13), p. 1.

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Upon arraignment, Ildefonso pleaded not guilty to the crimes charged.⁸ Pre-trial commenced, and then trial on the merits proceeded.⁹

The prosecution presented the following witnesses: (1) Police Officer II Engelbert Ventura¹⁰ (PO2 Ventura); (2) Police Officer III Lawrence Ganir¹¹ (PO3 Ganir); and (3) Senior Police Officer II Jonathan Alonzo¹² (SPO2 Alonzo). During trial, the testimony of Police Inspector Amiely Ann Navarro¹³ (PINSP Navarro), the forensic chemist who conducted the laboratory examination on the contents of the plastic sachets seized, and Police Officer III John Edwin Padayao (PO3 Padayao), the police officer who received the seized items for examination, were dispensed with by the parties.¹⁴

According to the prosecution, at around 8:00 p.m. on October 14, 2013, PO2 Ventura received instructions to go to the Intel Operation Section where a buy-bust operation was being arranged. Upon arriving, PO2 Ventura was designated as the poseur buyer, while the other police officers were assigned as back-up. It was agreed upon that the confidential informant (CI) would accompany PO2 Ventura to buy *shabu* worth PHP 1,000.00 from a certain individual named Mark, who was later identified as Ildefonso.¹⁵ PO2 Ventura then walked with the CI to the target area, which was near Siazan Park and the police station. The rest of the apprehending team boarded an unmarked vehicle. The CI then sent a text message to Ildefonso, informing him that they had arrived.¹⁶

Subsequently, Ildefonso approached the CI, and the CI introduced PO2 Ventura as the buyer of the prohibited drugs. PO2 Ventura then handed a PHP 1,000.00 bill to Ildefonso, who, in turn, gave him a small plastic sachet containing the alleged *shabu*. At this point, PO2 Ventura called PO3 Ganir's mobile number, signaling that the sale had been completed. The apprehending team rushed to them and handcuffed Ildefonso.¹⁷ PO2 Ventura frisked Ildefonso and recovered another plastic sachet allegedly containing *shabu* and the buy-bust money. PO3 Ganir also frisked Ildefonso and recovered a 10-inch knife, a disposable lighter, and a PHP 100.00 bill.¹⁸ Ildefonso was apprised of his rights and brought to the police station. In the meantime, PO2 Ventura placed the plastic sachets in his pocket. Upon arriving at the police station, PO2 Ventura marked the sachets with his initials "ERV-LCPS-1" and "ERV-LCPS-2" and prepared the pertinent

⁸ RTC records (Criminal Case No. 15710-65), p. 19.

⁹ *Rollo*, p. 6.

¹⁰ Also referred to as "PO1 Ventura" in some parts of the *rollo* and records.

¹¹ Also referred to as "PO2 Ganir" in some parts of the *rollo* and records.

¹² Also referred to as "SPO1 Alonzo" in some parts of the *rollo* and records.

¹³ Also referred to as "PCINSP Navarro" in some parts of the *rollo* and records.

¹⁴ RTC records (Criminal Case No. 15711-13), p. 100.

¹⁵ *Rollo*, p. 10.

¹⁶ *Id.* at 10.

¹⁷ *Id.* at 10-11.

¹⁸ *Id.* at 11.

documents. PO3 Ganir also marked the items he confiscated from Ildefonso with his initials. The seized items were then turned over to SPO2 Alonzo.¹⁹

SPO2 Alonzo then turned over the seized items together with the Letter Request for Laboratory Examination to the evidence custodian of the Crime Laboratory Office, PO3 Padayao.²⁰ Then, PINSP Navarro conducted the confirmatory test.²¹

Based on Chemistry Report No. D-128-2013-IN,²² the contents of the two plastic sachets and the disposable lighter tested positive for methamphetamine hydrochloride or *shabu*.²³

On the other hand, Ildefonso denied the allegations against him. He narrated that at the time of the incident, he was walking with Charles Santiago (Santiago) near Sta. Maria Elementary School and passed by a convenience store to buy cigarettes before heading to the slaughterhouse where he worked. Ildefonso claimed that a van passed them while they were walking. The vehicle reversed and stopped near them, then an individual alighted from the passenger side and inquired if his name was "Mark." When Ildefonso asked why, PO3 Ganir approached from behind and tried to insert his hand on Ildefonso's waist. Ildefonso added that PO2 Ventura suddenly handcuffed him and refused to respond when he asked why he was being arrested. Ildefonso admitted that during the search, PO2 Ventura recovered from him a knife, money amounting to PHP 100.00, and his cellphone.²⁴ Ildefonso maintained that throughout the incident, the police officers ignored Santiago.²⁵

In its Decision,²⁶ the Regional Trial Court (RTC) convicted Ildefonso of the crimes charged against him, the dispositive portion of which states:

WHEREFORE, judgment is hereby rendered finding accused **Mark Paul Ildefonso** GUILTY as charged in all theses three (3) cases and is accordingly sentenced to suffer as follows:

1. for carrying a deadly weapon during the election period for the October 28, 2013 Synchronized Barangay and Sangguniang Kabataan Elections as charged in Crim. Case No. 15710[-65], the indeterminate penalty of imprisonment OF ONE (1) YEAR as minimum to TWO (2) YEARS as maximum, without probation;

¹⁹ *Id.*

²⁰ *Id.* at 8.

²¹ *Id.* at 7.

²² RTC records (Criminal Case No. 15711-13), p. 22.

²³ *Id.*

²⁴ *Rollo*, p. 12.

²⁵ *Id.*

²⁶ *CA rollo*, pp. 56-78. The September 20, 2016 Decision was penned by Presiding Judge Philip G. Salvador of Branch 13, Regional Trial Court, Laoag City.

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2. for illegal sale of *shabu* as charged in Criminal Case No. 15711, the penalty of LIFE IMPRISONMENT and to pay a fine of FIVE HUNDRED THOUSAND PESOS ([PHP] 500,000.00); and
3. for illegal possession of *shabu* weighing 0.0676 gram as charged in Criminal Case No. 15712, the indeterminate penalty of imprisonment of TWELVE (12) YEARS and ONE (1) DAY as minimum to FOURTEEN (14) YEARS as maximum and to pay a fine of THREE HUNDRED THOUSAND PESOS ([PHP] 300,000.00).

The *shabu* and the knife confiscated are forfeited for proper disposition as the law prescribes.

SO ORDERED.²⁷ (Emphasis in the original)

In convicting Ildefonso of violation of Sections 5 and 11 of Republic Act No. 9165, the RTC found that the elements of illegal sale and illegal possession of dangerous drugs were proven beyond reasonable doubt through the testimonies of the members of the buy-bust team, and the documents issued in relation to the operation.²⁸ Ildefonso was found guilty of illegal possession of dangerous drugs for the *shabu* found in his possession.²⁹ The RTC ruled that the prosecution was able to demonstrate an unbroken chain of custody that negated the possibility of the drugs being compromised.³⁰

As regards the knife that was confiscated from Ildefonso, the RTC found that the elements for violation of the election ban on carrying of firearm or any deadly weapon were duly proven. The RTC did not give credence to the excuse proffered by him that the knife was intended to be used at a slaughterhouse where he worked.³¹ The RTC noted that he did not present any proof to substantiate his claim that he was employed at a slaughterhouse.³²

Aggrieved, Ildefonso appealed to the CA.³³

In its Decision,³⁴ the CA affirmed with modification the conviction of Ildefonso. The dispositive portion of the Decision states:

²⁷ *Id.* at 78.

²⁸ *Id.* at 60–68.

²⁹ *Id.* at 70.

³⁰ *Id.* at 72–75.

³¹ *Id.* at 76–77.

³² *Id.* at 77.

³³ *Rollo*, p. 25.

³⁴ *Id.* at 3–24.

WHEREFORE, premises considered, the Decision dated September 20, 2016 rendered by [the] Regional Trial Court, Branch 13, Laoag City in **Criminal Case Nos. 15710-65, 15711-13, and 15712-13** are **AFFIRMED WITH MODIFICATION**. The Court finds accused-appellant Mark Paul Ildefonso **guilty** of violation of:

1. COMELEC Resolution No. 9561-A in relation to COMELEC Resolution No. 9735 and in further relation to the Omnibus Election Code as charged in Criminal Case No. 15710-65 for carrying a deadly weapon during the election period for the October 28, 2013 Synchronized Barangay and Sangguniang Kabataan Elections. He shall suffer the indeterminate penalty of imprisonment of One (1) Year, as minimum, to Two (2) Years, as maximum, without probation. He shall likewise suffer disqualification to hold public office and deprivation of the right of suffrage;
2. Section 5, Article II of [Republic Act] No. 9165 for illegal sale of *shabu* as charged in Criminal Case No. 15711-13. He shall suffer the penalty of life imprisonment and shall pay a fine of Five Hundred Thousand Pesos ([PHP] 500,000.00); and
3. Section [11(3)], Article II of [Republic Act] No. 9165 for illegal possession of *shabu* as charged in Criminal Case No. 15712-13. He shall suffer the indeterminate penalty of imprisonment of Twelve (12) Years and One (1) Day, as minimum, to Fourteen (14) Years, as maximum. He shall further pay a fine of Three Hundred Thousand Pesos ([PHP] 300,000.00).

SO ORDERED.³⁵ (Emphasis in the original)

In upholding the conviction of Ildefonso for violation of Sections 5 and 11 of Republic Act No. 9165, the CA found that the buy-bust team substantially complied with the chain of custody rule and preserved the integrity and evidentiary value of the confiscated items. Even if the marking was not immediately done after the seizure and confiscation, the CA was convinced that the items turned over for confirmatory examination were the same items seized from him during the buy-bust.³⁶ The CA also ruled that the nonpresentation of the marked money as evidence is not fatal in prosecuting a case for sale of illegal drugs.³⁷

In affirming Ildefonso's conviction for violation of COMELEC Resolution No. 9561-A, in relation to COMELEC Resolution No. 9735 and the Omnibus Election Code, the CA gave credence to his admission that he was in possession of a knife at the time of the arrest that occurred during an election period.³⁸

³⁵ *Id.* at 22-23.

³⁶ *Id.* at 16-20.

³⁷ *Id.* at 21.

³⁸ *Id.* at 22.

Hence, Ildefonso filed this appeal.

This Court notified the parties to file their supplemental briefs.³⁹ In his Manifestation,⁴⁰ Ildefonso stated that he had lost contact with his counsel, and only his relatives are communicating with the secretary of his counsel as he is presently detained in the New Bilibid Prison.⁴¹ This Court then issued a Resolution⁴² dispensing with the filing of Ildefonso's supplemental brief. For its part, the Office of the Solicitor General manifested that it is adopting its Appellee's Brief.⁴³

Issues

First, whether the integrity and evidentiary value of the dangerous drugs allegedly seized from accused-appellant Mark Paul Ildefonso were properly preserved in compliance with Section 21 of Republic Act No. 9165; and

Second, whether accused-appellant Mark Paul Ildefonso was properly convicted of violation of COMELEC Resolution No. 9561-A, in relation to COMELEC Resolution No. 9735 and the Omnibus Election Code, for carrying a large knife during an election period.

This Court's Ruling

The appeal is meritorious.

The integrity and evidentiary value of the dangerous drugs allegedly seized from accused-appellant were not properly preserved in compliance with Section 21 of Republic Act No. 9165

Accused-appellant argues that the evidence presented by the prosecution did not comply with Section 21 of Republic Act No. 9165, and that the integrity and evidentiary value of the seized items were not properly preserved. These matters are evidently factual because they require careful examination of the evidence on record. As a rule, the trial court's findings of fact are entitled to great weight and will not be disturbed on appeal.

³⁹ *Id.* at 31.

⁴⁰ *Id.* at 74–75.

⁴¹ *Id.* at 74.

⁴² *Id.* at 81–82. Resolution (Notice), October 30, 2024.

⁴³ *Id.* at 58–60.

However, this rule does not apply where facts of weight and substance have been overlooked, misapprehended, or misapplied in a case under appeal.⁴⁴

After a careful examination of the records, this Court finds material facts and circumstances that the RTC and the CA had overlooked which, if properly considered, would justify a different conclusion.

In ascertaining the liability of accused-appellant for violation of Republic Act No. 9165, it is imperative to determine whether the identity of the dangerous drugs allegedly confiscated from him were established with moral certainty. The dangerous drugs form an integral part of the *corpus delicti* of the crime. Failure to prove the integrity of the *corpus delicti* renders the drugs seized insufficient to prove his guilt beyond reasonable doubt; thus, warranting his acquittal.

Notably, the alleged buy-bust operation transpired before Republic Act No. 10640⁴⁵ amending Republic Act No. 9165 took effect on August 7, 2014. Thus, the original provisions governing the chain of custody in drug cases found in Section 21 of Republic Act No. 9165 and its implementing rules and regulations shall apply. Section 21 of Republic Act No. 9165 states:

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[.]

Based on the foregoing, the presence of the following insulating witnesses is required during the conduct of physical inventory and photograph: (1) a representative from the media; (2) a representative from the Department of Justice; and (3) any elected public official. The presence of these witnesses during the inventory of the seized items is critical in drug

⁴⁴ *People v. Gonzales*, 850 Phil. 444, 452 (2019) [Per J. Carandang, First Division].

⁴⁵ Republic Act No. 10640 took effect on August 7, 2014, as clarified in *People v. Gutierrez*, 842 Phil. 681 (2018) [Per J. Perlas-Bernabe, Second Division].

cases and the unjustified absence of any of these witnesses casts serious doubt on the integrity and evidentiary value of the seized items.

To establish the integrity and evidentiary value of the dangerous drug seized with moral certainty, the prosecution must sufficiently establish the following links in the chain of custody:

[F]irst, the seizure and marking 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 turn over by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turn over and submission of the marked illegal drug seized by the forensic chemist to the court.⁴⁶ (Emphasis in the original)

Each link in the chain of custody must be established to ensure that the integrity and evidentiary value of the seized items are preserved. In the present case, the first link in the chain of custody was not sufficiently established. Here, records indicate that none of the insulating witnesses were immediately available for the ensuing inventory and photograph of the seized items. Further, marking was not conducted immediately at the place of confiscation.

In *People v. Tomawis*,⁴⁷ this Court emphasized that:

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

....

[T]he 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.”⁴⁸ (Emphasis in the original, citations omitted)

⁴⁶ *People v. Watamama*, 692 Phil. 102, 107 (2012) [Per J. Villarama, Jr., First Division].

⁴⁷ 830 Phil. 385 (2018) [Per J. Caguioa, Second Division].

⁴⁸ *Id.* at 389, 408–409.

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In establishing the first link in the chain of custody, the pronouncements of this Court in *Tomawis* must be read with the case of *Nisperos v. People*,⁴⁹ in which this Court underscored the immediacy and proximity factors that are essential in the implementation of the requirements of Section 21 of Republic Act No. 9165. This Court outlined the guidelines to be observed in buy-bust operations as follows:

1. The marking of the seized dangerous drugs must be done:
 - a. Immediately *upon* confiscation;
 - b. At the place of confiscation; and
 - c. In the presence of the offender (unless the offender eluded the arrest);
2. The conduct of inventory and taking of photographs of the seized dangerous drugs must be done:
 - a. Immediately *after* seizure and confiscation;
 - b. In the presence of the accused, or the person/s from whom such items were confiscated and/or seized, or [their] representative or counsel; and
 - c. Also in the presence of the insulating witnesses, as follows:
 - i. if the seizure occurred during the effectivity of [Republic Act] No. 9165, or from July 4, 2002 until August 6, 2014, the presence of three (3) witnesses, namely, an elected public official; a Department of Justice representative; and a media representative;
 - ii. if the seizure occurred after the effectivity of [Republic Act] No. 10640, or from August 7, 2014 onward, the presence of two (2) witnesses, namely, an elected public official; and a National Prosecution Service representative or a media representative.
3. In case of any deviation from the foregoing, the prosecution must positively acknowledge the same and prove (1) justifiable ground/s for [noncompliance] and (2) the proper preservation of the integrity and evidentiary value of the seized item/s.⁵⁰ (Emphasis supplied, citations omitted)

In the present case, the prosecution's witnesses and the documents presented to establish the chain of custody failed to mention any discussion involving the insulating witnesses. Likewise, the Inventory Receipt presented during trial was only signed by SPO2 Alonzo. This bolsters the view that no insulating witness was present at or near the place of the

⁴⁹ 931 Phil. 945 (2022) [Per J. Rosario, *En Banc*].

⁵⁰ *Id.* at 956–957. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

buy-bust operation. This is not in keeping with the underlying immediacy and proximity factors that are crucial in ensuring an unbroken chain of custody. As emphasized in *Tomawis*, the insulating witnesses must be present “at or near” the place of apprehension. The failure to comply with this requirement calls into question the identity of the items seized that were marked and inventoried.

It is settled that while the absence of the required witnesses may be justified, the prosecution has the burden to show that earnest efforts were undertaken in contacting them.⁵¹ Here, the prosecution failed to offer any justifiable reason for deviating from the requirements in Section 21 of Republic Act No. 9165. Despite arranging the buy-bust operation at 8:00 p.m. and waiting for almost three hours before proceeding to the target area,⁵² there was no mention of any effort to secure the presence of the insulating witnesses. While the prosecution witnesses were not confronted about this glaring deviation in the requirements, the prosecution has the burden of proving an unbroken chain of custody. To stress, the presence at or proximity of the insulating witnesses to the place of operation becomes even more critical when there is an allegation that the items seized were not properly handled by the apprehending officers.

In addition, in *People v. Dela Cruz*,⁵³ this Court held that keeping narcotics in the pockets of the apprehending officer before these are turned over for examination “is a doubtful and suspicious way of ensuring the integrity of the items.”⁵⁴ In the said case, the plastic sachets of suspected *shabu* confiscated by the apprehending officer, who acted as poseur buyer, were placed immediately into his pocket without marking them, and these were only marked and inventoried at the police station. This Court stressed that the police officer’s “subsequent identification in open court of the items coming out of [their] own pockets is self-serving.”⁵⁵

In the recent case of *People v. Cabriole*,⁵⁶ this Court highlighted that the act of placing the seized sachet inside the pocket of the apprehending officer prior to handing it over for marking and inventory “calls into question the identity of the item that was later marked and inventoried.”⁵⁷ This Court explained that:

[T]he third-party witnesses would not have known whether the seized item delivered by PO1 Doño [the apprehending officer] being marked and inventoried in their presence was actually confiscated from

⁵¹ *People v. Ramos*, 826 Phil. 981, 996 (2018) [Per J. Perlas-Bernabe, Second Division].

⁵² TSN, PO2 Engelbert Ventura, May 29, 2014, p. 10.

⁵³ 744 Phil. 816 (2014) [Per J. Leonen, Second Division].

⁵⁴ *Id.* at 834.

⁵⁵ *Id.*

⁵⁶ 902 Phil. 243 (2021) [Per J. Caguioa, First Division].

⁵⁷ *Id.* at 256.

accused-appellant. The belated marking adversely affected the integrity and evidentiary value of the seized drug subject of the sale. . . .⁵⁸

Here, assuming that the prosecution was able to prove that PO2 Ventura had sole custody of the seized items from the moment of confiscation until marking and inventory were conducted, this alone is hardly sufficient to guarantee the integrity and evidentiary value of the seized items. In *People v. Sultan*,⁵⁹ this Court highlighted that:

[A]n officer's act of personally and bodily keeping allegedly seized items, without any clear indication of safeguards other than his or her mere possession, has been viewed as prejudicial to the integrity of the items.⁶⁰

During the cross-examination of PO2 Ventura, he confirmed placing the plastic sachet subject of the sale in his pocket immediately after arresting accused-appellant, as revealed in the following exchange:

Q So, it was only the two (2) sachets of crystalline substance that was in your possession?

A Aside from one I bought, I also recovered one (1) small sachet and the buy-bust money, [S]ir.

Q Are you saying that you still recovered from the possession of the accused the buy-bust money?

A That is what I can recall, [S]ir.

Q Alright, you did not do anything anymore about these two (2) plastic sachets of crystalline substance and the buy-bust money?

A I put it in my pocket, [S]ir.⁶¹

This Court cannot simply disregard and ignore the possibility that the items allegedly seized may have been tampered with, altered, or substituted before marking and inventory were conducted. Following the pronouncements of this Court on the proper handling of confiscated drug evidence, it is clear that the first link in the chain of custody was not established.

In *People v. Arposeple*,⁶² this Court emphasized the importance of the first link, thus:

The first link in the chain of custody was undoubtedly inherently weak which caused the other links to miserably fail. The first link, it is emphasized, primarily deals on the preservation of the identity and integrity of the confiscated items, the burden of which lies with the

⁵⁸ *Id.*

⁵⁹ 858 Phil. 1050 (2019) [Per J. Leonen, Third Division].

⁶⁰ *Id.* at 1068.

⁶¹ TSN, PO2 Engelbert Ventura, November 20, 2014, p. 29.

⁶² 821 Phil. 340 (2017) [Per J. Martires, Third Division].

prosecution. The marking has a twin purpose: viz[.]: **first**, to give the succeeding handlers of the specimen a reference, and **second**, to separate the marked evidence from the *corpus* of all other similar or related evidence from the moment of seizure until their disposition at the end of criminal proceedings, thereby obviating switching, "planting," or contamination of evidence. Absent therefore the certainty that items that were marked, subjected to laboratory examination, and presented as evidence in court were exactly those that were allegedly seized from Arposeple, there would be no need to proceed to evaluate the succeeding links or to determine the existence of the other elements of the charges against appellants. Clearly, the cases for the prosecution had been irreversibly lost as a result of the weak first link irretrievably breaking away from the main chain.⁶³ (Emphasis in the original, citation omitted)

Since the first link in the chain of custody is unreliable, examining the subsequent links is no longer necessary. To this Court's mind, the prosecution failed to prove compliance with the stringent rules governing the chain of custody as the first link was not established with moral certainty. Thus, accused-appellant must be acquitted of violation of Sections 5 and 11 of Republic Act No. 9165.

*Accused-appellant must be acquitted
of violation of COMELEC Resolution
No. 9561-A, in relation to COMELEC
Resolution No. 9735 and the Omnibus
Election Code*

To recall, in criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal may correct errors, though unassigned, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors. The appellate court is vested with full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.⁶⁴

In resolving the issue of whether accused-appellant is guilty of violating COMELEC Resolution No. 9561-A, in relation to COMELEC Resolution No. 9735 and the Omnibus Election Code, for having been caught in possession of a 10-inch knife during an election period, it is imperative to discuss the relevant statutes from which the prohibition emanates.

Section 261(q) of the Omnibus Election Code states that:

⁶³ *Id.* at 368-369.

⁶⁴ *People v. Paguio*, 923 Phil. 42, 45 (2022) [Per J. Kho, Jr., Second Division].

SECTION 261. *Prohibited Acts.* — The following shall be guilty of an election offense:

....

(q) *Carrying firearms outside residence or place of business.* — Any person who, although possessing a permit to carry firearms, carries any firearms outside his residence or place of business during the election period, unless authorized in writing by the Commission: Provided, That a motor vehicle, water[,] or air craft shall not be considered a residence or place of business or extension hereof.

This prohibition shall not apply to cashiers and disbursing officers while in the performance of their duties or to persons who by nature of their official duties, profession, business[,] or occupation habitually carry large sums of money or valuables.

Similarly, Section 32 of Republic Act No. 7166 provides that:

SECTION 32. *Who May Bear Firearms.* — During the election period, no person shall bear, carry[,] or transport firearms or other deadly weapons in public places, including any building, street, park, private vehicle[,] or public conveyance, even if licensed to possess or carry the same, unless authorized in writing by the Commission. The issuance of firearms licenses shall be suspended during the election period.

Only regular members or officers of the Philippine National Police, the Armed Forces of the Philippines[,] and other enforcement agencies of the Government who are duly deputized in writing by the Commission for election duty may be authorized to carry and possess firearms during the election period: Provided, That, when in the possession of firearms, the deputized law enforcement officer must be: (a) in full uniform showing clearly and legibly his name, rank[,] and serial number which shall remain visible at all times; and (b) in the actual performance of his election duty in the specific area designated by the Commission.

Under Section 261(q) of the Omnibus Election Code and Section 32 of Republic Act No. 7166, COMELEC promulgated Resolution No. 9561-A on December 4, 2012 to provide for rules and regulations on the ban on bearing, carrying, or transporting of firearms or other deadly weapons during the election period for the May 13, 2013 Automated Synchronized National, Local Elections and Autonomous Region of Muslim Mindanao (ARMM) Regional Elections. Section 1 of COMELEC Resolution No. 9561-A provides:

SECTION 1. *General Guiding Principles.* — During the election period:

a. no person shall bear, carry[,] or transport firearms or other deadly weapons outside his residence or place of business, and in public places including any buildings, streets, parks, and private vehicles or public conveyances, even if licensed to possess or to carry the same[.]

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Section 2(c) of COMELEC Resolution No. 9561-A defines the term “deadly weapon” as follows:

- c. **Deadly weapon** includes bladed instrument, hand grenades[,] or other explosives, except pyrotechnics.

A bladed instrument is not covered by the prohibition when possession of the bladed instrument is necessary to the occupation of the possessor or when it is used as a tool for legitimate activity. (Emphasis in the original)

Apart from Resolution No. 9561-A, COMELEC also promulgated other resolutions in which “bladed instruments” were considered to be within the purview of “deadly weapons” for their respective election periods. As identified in the recent case of *Buella v. People*,⁶⁵ these include:

1. Sec. 2(a) of Resolution No. 8298, as amended, for the October 29, 2007 Barangay/SK Elections;
2. Sec. 2(c) of Resolution No. 8714, as amended, for the May 10, 2010 National and Local Elections;
3. Sec. 1(a), Rule II, in relation to Sec. 1(f), Rule I of COMELEC Resolution No. 10015 for the May 9, 2016 Synchronized National and Local Elections;
4. Sec. 1(l) of Resolution No. 10446, as amended, for the May 13, 2019 National and Local Elections; and
5. Sec. 1(g) of Resolution No. 10728 for the May 9, 2022 National and Local Elections.⁶⁶

The sudden inclusion of bladed instruments in the definition of “deadly weapon” that is prohibited to be carried in public places during a particular election period had been addressed in *Buella*. In the said case, this Court resolved the issue of whether it was within COMELEC’s scope of legislative authority under the Omnibus Election Code and Republic Act No. 7166 to include bladed instruments in the list of deadly weapons prohibited during the election period in COMELEC Resolution No. 10015. This Court declared that:

“[B]laded instruments” [are] excluded from the term “deadly weapons” under Sec. 1(f), Rule I, in relation to Sec. 1(a), Rule II, of COMELEC Resolution No. 10015. Sec. 1(f), Rule I is void insofar as it includes “bladed instruments” in the definition of “deadly weapons,” thereby converting the possession or carriage of bladed instruments without the

⁶⁵ G.R. No. 244027, April 11, 2023 [Per C.J. Gesmundo, *En Banc*].

⁶⁶ *Id.* at 47. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

necessary permit from the COMELEC during the election period to an election offense. This is not what [Republic Act] No. 7166 contemplates.⁶⁷

In *Buella*, this Court is instructive in resolving the culpability of accused-appellant as the nature of the prohibition involved in Rule I, Section 1(a), in relation to Rule II, Section 1(f) of COMELEC Resolution No. 10015; and Section 2(c), in relation to Section 1(a) of COMELEC Resolution No. 9561-A, are the same. Both issuances emanate from the same statutes prohibiting possession or carriage of firearms or other deadly weapons without the necessary permit from COMELEC during the election period an election offense. Both issuances considered “bladed instruments” as prohibited “deadly weapons.”

A judicious examination of Rule II, Section 1(a) of COMELEC Resolution No. 10015 and Section 1(a) of COMELEC Resolution No. 9561-A reveal that they are similarly phrased, as demonstrated below:

Section 1(a), Rule II of COMELEC Resolution No. 10015	Section 1(a) of COMELEC Resolution No. 9561-A
Section 1. Prohibited Acts. — During the Election Period: a. No person shall bear, carry[,] or transport Firearms or Deadly Weapons outside his residence or place of business, and in all public places, including any building, street, park, and in private vehicles or public conveyances, even if he is licensed or authorized to possess or to carry the same, unless authorized by the Commission, through the CBFSP, in accordance with the provisions of this Resolution[.]	Section 1. General Guiding Principles. — During the election period: a. no person shall bear, carry[,] or transport firearms or other deadly weapons outside his residence or place of business, and in public places including any buildings, streets, parks, and private vehicles or public conveyances, even if licensed to possess or to carry the same[.]

In addition, the term “deadly weapons” appear to be similarly defined as illustrated below:

Section 1(f), Rule I of COMELEC Resolution No. 10015	Section 2(c) of COMELEC Resolution No. 9561-A
Section 1. Definition of Terms. — As used in this Resolution: 	Section 2. Definition of Terms. As used in this Resolution:

⁶⁷ *Id.* at 47–48.

f. Deadly Weapon includes all types of bladed instruments, hand grenades[,] or other explosives, except pyrotechnics. Provided, that a bladed instrument is not covered by the prohibition when possession of the bladed instrument is necessary to the occupation of the possessor or when it is used as a tool for a legitimate activity.	c. Deadly weapon includes bladed instrument, hand grenades[,] or other explosives, except pyrotechnics. A bladed instrument is not covered by the prohibition when possession of the bladed instrument is necessary to the occupation of the possessor or when it is used as a tool for legitimate activity.
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Admittedly, none of the parties raised the constitutionality of the inclusion of bladed instruments in the prohibition in Section 2(c), in relation to Section 1(a) of COMELEC Resolution No. 9561-A. Notably, the assailed Resolution in *Buella* also originated from Section 261(q) of the Omnibus Election Code and Section 32 of Republic Act No. 7166, albeit covered by a different election period. This Court must take into consideration the pronouncements in *Buella*.

In *Buella*, this Court underscored that the statutes from which the issuances of COMELEC were derived did not intend to prohibit the possession and carriage of bladed instruments, as explained below:

The COMELEC exceeded the scope of legislative authority granted to it when it included bladed instruments in the term "deadly weapons." Bladed instruments do not fall within the purview of [Republic Act] No. 7166. Bladed instruments are not regulated since no license is issued for possession or carriage of such. Further, the COMELEC does not issue a permit for the possession or carriage of bladed instruments during the election period. It must be emphasized that:

[I]t is a well-entrenched rule that penal laws are to be construed strictly against the State and liberally in favor of the accused. They are not to be extended or enlarged by implications, intendments, analogies[,] or equitable considerations. They are not to be strained by construction to spell out a new offense, enlarge the field of crime[,] or multiply felonies. Hence, in the interpretation of a penal statute, the tendency is to subject it to careful scrutiny and to construe it with such strictness as to safeguard the rights of the accused. [. . .] The principle is that acts in and of themselves innocent and lawful cannot be held to be criminal unless there is a clear and unequivocal expression of the legislative intent to make them such. Whatever is not plainly within the provisions of a penal statute should be regarded as without its intendment.

Again, nothing in [Republic Act] No. 7166 remotely suggests that bladed instruments are covered by the prohibition. Further, the exemption much

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touted by the OSG does not appear, in any manner, in [Republic Act] No. 7166. The exemption cannot, and does not, correct COMELEC Resolution No. 10015 for exceeding the scope of legislative authority under [Republic Act] No. 7166.

In addition to the foregoing, the Court also adopts with approval the enlightening exposition of the distinguished Senior Associate Justice (SAJ) Leonen concerning the vagueness of the COMELEC definition for “deadly weapons.”

SAJ Leonen astutely propounded that “the [COMELEC]’s definition of ‘deadly weapon’ is vague and unclear, not only on what may be considered deadly, but also on what may be considered a weapon.” He observed that no law defines what a “deadly weapon” is. Meanwhile, the COMELEC-provided definition is unnecessarily broad as it includes all types of bladed instruments that are not necessary to the occupation of the possessor or are not used as tool for a legitimate activity. There is also no definition on what is considered “necessary” to the possessor’s occupation or a “legitimate activity.” Said definition does not even require that the bladed instrument be sharp or capable of doing harm. He further elucidated:

This Court has stated that a statute or act is vague “when it lacks comprehensible standards that men of common intelligence must necessarily guess at its meaning and differ as to its application. *People v. Nazario* explains that the statute or act is unconstitutional since “(1) it violates the process for failure to accord persons, especially the parties targeted by it, fair notice of the conduct to avoid; and (2) it leaves law enforcers unbridled discretion in carrying out its provisions and becomes an arbitrary flexing of the Government muscle.” *Nazario*, however, cautions that the vagueness must be such that “it cannot be clarified by either a saving clause or by construction.” The statute or act may still be valid if merely “couched in imprecise language—but which nonetheless specifies a standard though defectively phrased—in which case, it may be “saved” by proper construction.

Thus, SAJ Leonen concluded that for the definition under Sec. 1(f), Rule I to be valid, “it must state a more specific standard of what constitutes a ‘deadly weapon’.”

The Court agrees with the erudite discussion offered by SAJ Leonen. Thus, it echoes his call for the COMELEC “to provide a clearer and more concise definition of ‘deadly weapon’ in their future resolutions.” The COMELEC must be more discerning and detailed in providing such definition. It must keep in mind, at all times, the bounds of authority granted to it by the Congress and ensure that it does not exceed such bounds, as it did in the instant case.

....

As elucidated in the preceding paragraphs, the phrase “other deadly weapons” in Sec. 32 of [Republic Act] No. 7166 does not contemplate “bladed instruments.” A plain reading of the same, from its short title to its very language, reveals the intent of the Congress to limit

said provision to firearms and other deadly weapons circumscribed by regulatory restrictions.

....

Furthermore, COMELEC Resolution No. 10015, an issuance of the COMELEC itself, categorically and expressly states in Sec. 2 of Rule X that any person who shall bear, carry, or transport **other deadly weapons during election period without a valid and subsisting Certificate of Authority shall be guilty of an election offense.**

....

Considering that the requirement of a valid and subsisting Certificate of Authority applies to the phrase "other deadly weapons," the ruling in *Orceo* is relevant. To reiterate, the Court held in said case that the inclusion of airsoft guns and airguns in the term "firearms" for purposes of the gun ban during the election period is a reasonable restriction because the same was regulated. Meanwhile, it declared as excluded from the term "firearms" replicas and imitations of airsoft guns and airguns "because they are not subject to any regulation, unlike airsoft guns." The same legal reasoning applies to the instant case. Bladed instruments are not regulated and, thus, do not fall within the purview of the prohibition.⁶⁸ (Emphasis in the original, citations omitted)

As exhaustively discussed in *Buella*, the prohibition on the unauthorized possession and carriage of firearms and deadly weapons during an election period under Section 261(q) of the Omnibus Election Code and Section 32 of Republic Act No. 7166 pertains only to firearms and deadly weapons that are regulated. Since bladed instruments such as knives are not regulated, possession and carriage of such items should not be made punishable under Section 2(c), in relation to Section 1(a) of COMELEC Resolution No. 9561-A. To reiterate, COMELEC exceeded the scope of its legislative authority when it included bladed instruments in the term "deadly weapons." It was not the intention of the legislature to make possession and carriage of bladed instruments during election period punishable.

The foregoing construction is in keeping with the statutory construction precept that penal laws are to be construed strictly against the State and liberally in favor of the accused. Section 2(c), in relation to Section 1(a) of COMELEC Resolution No. 9561-A, is void insofar as it includes "bladed instruments" in the definition of "deadly weapons." As such, accused-appellant must be acquitted of the charge for violation of COMELEC Resolution No. 9561-A, in relation to COMELEC Resolution No. 9735 and the Omnibus Election Code.

⁶⁸ *Id.* at 38-48.

ACCORDINGLY, the Appeal is **GRANTED**. The September 21, 2018 Decision of the Court of Appeals in CA-G.R. CR-HC No. 08716 is **REVERSED**.

Bladed instruments are **DECLARED** excluded from the term "deadly weapons" in COMELEC Resolution No. 9561-A.

Accused-appellant Mark Paul Ildefonso is **ACQUITTED** in Criminal Case Nos. 15711-13 and 15712-13 for violation of Sections 5 and 11 of Republic Act No. 9165, respectively. He is also **ACQUITTED** in Criminal Case No. 15710-65 for violation of COMELEC Resolution No. 9561-A, in relation to COMELEC Resolution No. 9735 and the Omnibus Election Code. He is **ORDERED to be IMMEDIATELY RELEASED** from detention unless he is being held for some other valid or lawful cause.

Let a copy of this Decision be furnished to the Director General of the Bureau of Corrections for immediate implementation. The Director General of the Bureau of Corrections is **DIRECTED** to report to this Court, within five days from receipt of this Decision, the action he has taken. Copies shall also be furnished to the Chief of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

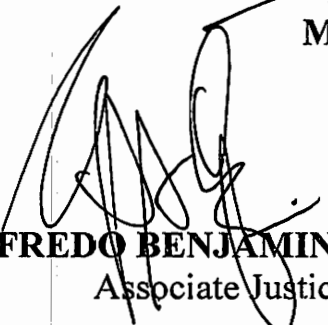
Let entry of final judgment be issued immediately.


SO ORDERED.


JHOSE P. LOPEZ
Associate Justice

WE CONCUR:


MARVIC M.V.F. LEONEN
Senior Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

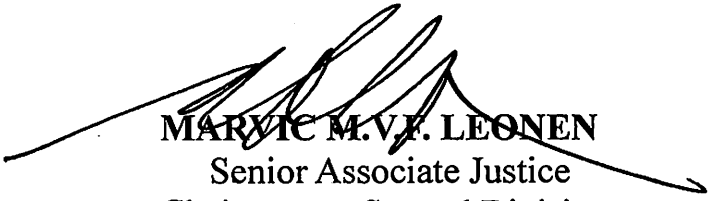
With Dissent

AMY C. LAZARO-JAVIER
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION

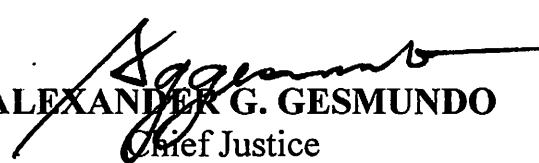
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Article VIII, Section 13 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.



ALEXANDER G. GESMUNDO
Chief Justice