



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated February 5, 2020 which reads as follows:

“G.R. No. 228815 — PEOPLE OF THE PHILIPPINES, plaintiff-appellee, versus ERIC SIASIT y CERVANTES and JEFFREY FRONDA y VILLANUEVA, accused; JEFFREY FRONDA y VILLANUEVA, accused-appellant.

After a careful review of the records of the instant case, the Court reverses and sets aside the Decision¹ dated June 13, 2016 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07589, which affirmed the Decision² dated May 21, 2015 rendered by the Regional Trial Court of Lingayen, Pangasinan, Branch 69 (RTC) in Criminal Case No. L-10076 entitled *People of the Philippines v. Eric Siasit y Cervantes and Jeffrey Fronda y Villanueva*, finding accused-appellant Jeffrey Fronda y Villanueva (accused-appellant Fronda) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

The Court acquits accused-appellant Fronda for failure of the prosecution to prove his guilt beyond reasonable doubt.

In the conduct of buy-bust operations, Section 21 of RA 9165 provides that: (1) the seized items must be marked, inventoried and photographed immediately after seizure or confiscation; and (2) **the marking, physical inventory, and photographing must be done in the presence of (a) the accused or his/her representative or counsel, (b) an elected public official, (c) a representative from the**

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¹ *Rollo*, pp. 2-17. Penned by Associate Justice Priscilla J. Baltazar-Padilla, with Associate Justices Remedios A. Salazar-Fernando and Socorro B. Inting, concurring.

² *CA rollo*, pp. 56-65. Penned by Presiding Judge Loreto S. Alog, Jr.

media, and (d) a representative from the Department of Justice (DOJ), all of whom shall be required to sign the copies of the inventory and be given a copy thereof.

In the instant case, it is not denied that the marking of the seized items was conducted *without* the presence of a representative of the media, a representative of the DOJ, and an elected public official. It was only after the marking of the seized items that the three mandatory witnesses were called in.

In *People v. Sarabia*,³ the Court explained that the authorities have the duty of securing the presence of the required witnesses during the marking of the allegedly seized drug specimen, considering that the marking of the evidence is an integral part of the physical inventory:

The marking of the evidence is an indispensable aspect of the physical inventory process. Marking the seized drug specimen is crucial as it establishes the link between the specimen seized during the buy-bust operation and the specimen that is examined and later presented as evidence during the trial. In short, the marking of the seized specimen is the definitive process undertaken by the authorities to establish the identity of the drug specimen retrieved from the accused. **Therefore, with the marking of the evidence being an integral part of the physical inventory, in accordance with Section 21 of RA 9165, the authorities had the duty of securing the presence of the required witnesses during the marking of the allegedly seized plastic sachets.**⁴

To emphasize, “the non-presence of the witnesses during the marking of the subject evidence puts into doubt the identity of the allegedly retrieved drug specimen.”⁵

The Court has held that the presence of the witnesses from the DOJ, media, and public elective office is *necessary* to protect against the possibility of planting, contamination, or loss of the seized drug.⁶ Using the language of the Court in *People v. Mendoza*,⁷ 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

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³ G.R. No. 243190, August 28, 2019.

⁴ Id.; emphasis and underscoring supplied.

⁵ Id.

⁶ *People v. Tomawis*, G.R. No. 228890, April 18, 2018, 862 SCRA 131, 149; italics and underscoring supplied.

⁷ 736 Phil. 749 (2014).

evidence that had tainted previous buy-bust operations would not be averted, negating the integrity and credibility of the seizure and confiscation of the subject dangerous drugs that were evidence of the *corpus delicti*, and thus adversely affected the trustworthiness of the incrimination of the accused.⁸

Concededly, however, there are instances wherein departure from the aforesaid mandatory procedures is permissible. Section 21 of the Implementing Rules and Regulations of RA 9165 provides that “non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items.”

For this provision to be effective, however, the prosecution must first (1) recognize any lapse on the part of the police officers and (2) be able to justify the same.⁹

Applying the foregoing in the instant case, it must be stressed that the prosecution failed to recognize the authorities’ failure to secure the presence of the mandatory witnesses during the marking of the alleged seized specimen. Moreover, the prosecution failed to make any justification for such failure.

Breaches of the procedure outlined in Section 21 committed by the police officers, left unacknowledged and unexplained by the State, militate against a finding of guilt beyond reasonable doubt against the accused as the integrity and evidentiary value of the *corpus delicti* had been compromised.¹⁰

Moreover, the Court finds that the chain of custody rule was not observed in the instant case, creating reasonable doubt as to the evidentiary value of the allegedly seized drug specimen.

The chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. This would include testimony about **every link in the chain**, from the moment the item was picked up to the time it is offered in evidence, **in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened**

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⁸ Id. at 761; italics supplied.

⁹ *People v. Alagarme*, 754 Phil. 449, 461 (2015).

¹⁰ *People v. Sumili*, 753 Phil. 342, 352 (2015).

to it while in the witnesses' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.¹¹

As applied in illegal drugs cases, chain of custody means the duly recorded authorized movements and custody of seized drugs or controlled chemicals from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction.¹²

In particular, the following links should be established in the chain of custody of the confiscated item: *first*, 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 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.¹³

The chain of custody rule is crucial, as it is essential that the prohibited drug confiscated or recovered from the suspect is the very same substance offered in court as exhibit; and that the identity of said drug is established with the same unwavering exactitude as that required to make a finding of guilt.¹⁴

Applying the foregoing discussion in the instant case, it is plain to see that the prosecution failed to establish an unbroken chain of custody of the alleged drug specimen.

On direct examination, the poseur-buyer who seized and marked the alleged drug specimen, *i.e.*, Agent Jeffrey Baguidudol (Agent Baguidudol), testified under oath that he was the one who personally transferred the retrieved specimen, together with the laboratory request, to the Philippine National Police (PNP) Crime Laboratory of Lingayen, Pangasinan for chemical analysis. Agent Baguidudol unequivocally testified that the laboratory request was received by a male officer:

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¹¹ *People v. Punzalan, et al.*, 773 Phil. 72, 90-91 (2015); citation omitted, emphasis and underscoring supplied.

¹² *People v. Guzon*, 719 Phil. 441, 451 (2013), citing *People v. Dumaplin*, 700 Phil. 452, 464-465 (2012).

¹³ *People v. Ubungen*, G.R. No. 225497, July 23, 2018; citation omitted.

¹⁴ *People v. Guzon*, *supra*, citing *People v. Remigio*, 700 Phil. 452, 464-465 (2012).

Q After the inventory was done at the police station, what did you do with the subject items?

A After that, sir, we immediately brought the suspected shabu, sir, to the PNP crime laboratory Lingayen for chemical analysis.

Q Do you have evidence to prove that indeed you brought the subject items to the crime laboratory?

A Yes, sir.

Q What particular crime laboratory, Mr. Witness?

A PNP Crime Lab of Lingayen, sir.

Q You said "yes", what is that Mr. Witness?

A We have, sir, laboratory request which was signed and received at the PNP crime lab, sir.

Q **Do you know who received the same?**

A **At that time, sir, I cannot recall the name of the person on duty at that time.**

Q **Is he a male or female?**

A **A male, sir.**¹⁵

On the other hand, the prosecution's first witness, Police Chief Inspector Myrna Malojo-Todeño (P/CIInsp. Todeño), the forensic chemist on duty at the PNP Crime Laboratory of Lingayen on May 15, 2014 testified on direct examination that **she was the one who signed and received the laboratory request and that she was the one who directly received both the retrieved specimen and the laboratory request:**

Q How did you come to the custody of that particular drugs Madam witness?

A It was delivered in our office by agent Baguidudol of PDEA together with a letter request for laboratory examination, sir.

Q Do you have evidence to prove that indeed it was delivered to you by a certain Baguidudol?

A Yes, sir.

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¹⁵ TSN, August 26, 2014, p. 15; emphasis and underscoring supplied.

Q What is that evidence?

A The rubber stamp marking on the lower portion of the letter request, sir.

Q And what prove (*sic*) that indeed he was the one who brought it with you?

A The rubber stamp marking beside the entries (*sic*) “delivered by”.

Q So, together with this letter is the object specimen?

A Yes, sir.¹⁶

Also on direct examination, P/CInsp. Todeño reaffirmed her earlier testimony that she was the one who directly received the letter request and the accompanying retrieved specimen:

Q And when the letter request was brought to you [on] May 15, within how many hours did you conduct the laboratory examination?

A Two hours, sir, more or less, sir.

Q From the time it was delivered and handed to you?

A Yes, sir.¹⁷

Moreover, as seen in the receiving stamp found on the lower left portion of the letter request for laboratory examination¹⁸ dated May 15, 2014 executed by the Philippine Drug Enforcement Agency (PDEA), Regional Office 1 and addressed to the Chief of the PNP Crime Laboratory of Lingayen, Pangasinan, it clearly stated therein that the letter request and the accompanying retrieved specimen was received by P/CInsp. Todeño.

Hence, from the foregoing testimonies of the two witnesses of the prosecution, *i.e.*, Agent Baguidudol and P/CInsp. Todeño, *a glaring inconsistency emerges*. While Agent Baguidudol, the PDEA personnel who had sole custody of the retrieved specimen from the time of seizure up until its transfer to the PNP Crime Laboratory, unequivocally testified that he ceded custody of the letter request and the attached specimen exclusively to a male person, the testimony of

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¹⁶ TSN, August 5, 2014, p. 4.

¹⁷ Id. at 11.

¹⁸ Records, p. 18.

P/CInsp. Todeño and the letter request itself unmistakably reveal that the letter request and the accompanying specimen were directly received from Agent Baguidudol by P/CInsp. Todeño, a *female*.

As Agent Baguidudol unambiguously stated under oath that he ceded the custody of the retrieved specimen to a male person, how come P/CInsp. Todeño testified that she was the one who directly received the said specimen? If Agent Baguidudol's testimony is to be given full faith and credence, from the male person who received the specimen, how did the specimen eventually come into the custody of P/CInsp. Todeño? **These questions were left completely unanswered and unaccounted for by the prosecution.**

This irreconcilable inconsistency left unexplained by the prosecution does not only create doubt as to the credibility of the prosecution's witnesses. **More importantly, the unexplained inconsistency creates serious doubt as to the integrity of the retrieved specimen.** The chain of custody of the retrieved specimen from the time it was possessed by Agent Baguidudol to the time it was transferred to P/CInsp. Todeño for forensic examination is made *uncertain*. Simply stated, the chain of custody of the retrieved specimen from Agent Baguidudol to P/CInsp. Todeño is *broken*. Hence, there is reasonable doubt that the specimen offered into evidence during the trial is the same one that was initially in the custody of Agent Baguidudol.

Moreover, while P/CInsp. Todeño testified on direct examination that she transferred the custody of the retrieved specimen to one Elmer G. Manuel (Manuel), the designated evidence custodian, and that the retrieved specimen was subsequently recovered from Manuel for the purposes of presenting the specimen before the RTC, there is absolutely no evidence on record describing the precautions Manuel took to ensure that there had been no change in the condition of the item and that there was no opportunity for someone to have possession of the same.¹⁹ Hence, another link in the chain of custody is broken.

As previously held by the Court, “[t]he State bears the burden of establishing the chain of custody of the dangerous drugs confiscated during a buy-bust operation[; and the] evidence of the chain of custody must meet the test of proof beyond reasonable doubt.”²⁰ As the prosecution failed to discharge this burden, the integrity of the *corpus*

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¹⁹ TSN, August 5, 2014, p. 8.

²⁰ *People v. Angngao*, 755 Phil. 597, 599 (2015).

delicti is stained with reasonable doubt. Necessarily, accused-appellant Fronda must be acquitted as the prosecution failed to establish his guilt beyond reasonable doubt.

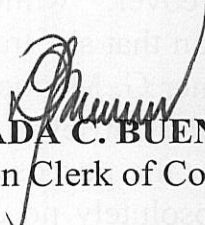
In light of the foregoing, the Court restores the liberty of accused-appellant Fronda.

WHEREFORE, in view of the foregoing, the appeal is hereby **GRANTED**. The Decision dated June 13, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 07589 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Jeffrey Fronda y Villanueva is **ACQUITTED** of the crime charged on the ground of reasonable doubt, and is **ORDERED IMMEDIATELY RELEASED** from detention unless he is being lawfully held for another cause. Let an entry of final judgment be issued immediately.

Let a copy of this Resolution be furnished the Superintendent of the New Bilibid Prison, Muntinlupa City, for immediate implementation. The said Superintendent is **ORDERED** to **REPORT** to this Court within five (5) days from receipt of this Resolution the action he has taken.

SO ORDERED.”

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court, *2020/02/05*
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Court of Appeals (x)
Manila
(CA-G.R. CR HC No. 07589)

The Hon. Presiding Judge
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