

SECOND DIVISION

[G.R. No. 253336, May 10, 2021]

JOEL DAVID Y MANGIO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

D E C I S I O N

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*^[1] are the Decision^[2] dated August 16, 2019 and the Resolution^[3] dated August 24, 2020 rendered by the Court of Appeals (CA) in CA-G.R. CR No. 41782, which affirmed the Decision^[4] dated May 8, 2018 of the Regional Trial Court of San Fernando City, Pampanga, Branch 44 (RTC), finding petitioner Joel David y Mangio (David) guilty beyond reasonable doubt of the crime of Illegal Possession of Dangerous Drugs, as defined and penalized under Section 11, Article II of Republic Act No. (RA) 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

The Facts

This case stemmed from an Information^[5] filed before the RTC charging David of the crime of Illegal Possession of Dangerous Drugs, as defined and penalized under Section 11, Article II of RA 9165, the accusatory portion of which reads:

That on or about the 8th day of September 2012, in the municipality of Bacolor, province of Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law to possess, did then and there willfully and unlawfully have in his possession and under his control one (1) heat-sealed transparent plastic sachet containing dried marijuana fruiting tops, weighing ONE HUNDRED NINETY-FIVE THOUSANDTHS (0.195), more or less, of a gram, a dangerous drug.

Contrary to law.

The prosecution alleged that at around 6:00 o'clock in the evening of September 8, 2012, Bertilla David (Bertilla) went to Bacolor Municipal Police Station to report that her son, herein petitioner, had punched her several times, and was engaged in scandalous acts in their place at Barangay San Isidro, Bacolor, Pampanga. Responding to this report, PO3 Gerald Flores (PO3 Flores), together with PO1 Viernes and PO1 Aguinaldo, were dispatched to the area with Bertilla leading the way. As they reached Bertilla's house, they heard David shouting and challenging anyone to a fight. PO3 Flores tried to pacify David, but the latter instead retorted, "[y]ou are only brave because you have a gun." David then challenged PO3 Flores to disarm himself so they can engage in a fistfight. At that point, PO3 Flores proceeded to arrest David for Alarms and Scandals, while informing him of his constitutional rights in the Kapampangan dialect. Subsequently, the officers brought David back to

the police station to conduct a follow-up investigation. Thereat, PO3 Flores noticed that David's right hand was inserted inside his shorts, but not in the pocket thereof, which prompted him to ask David what he was hiding; however, the latter replied that it was nothing. Bertilla then informed PO3 Flores that David was hiding marijuana. PO3 Flores asked David to show his right hand which revealed one (1) transparent plastic sachet containing dried leaves. PO3 Flores confiscated the item and thereafter informed David that he committed illegal possession of dangerous drugs. PO3 Flores proceeded to prepare the Affidavit of Arrest,^[6] the Request for Laboratory Examination,^[7] and the Inventory^[8] of the seized sachet, as well as other documents necessary to file cases for Alarms and Scandals, and for violation of Section 11, Article II of RA 9165. The inventory and photography of the sachet were witnessed by Barangay Kagawad Jaime Rodriguez, Barangay Kagawad Bryan Rodriguez, and Charlie Sia, a media representative, who arrived after the sachet was confiscated. PO3 Flores likewise marked the sachet with "GCF." Subsequently, PO3 Flores brought the seized sachet and the Request for Laboratory Examination to the Regional Crime Laboratory Office 3, which were received by P/Sr. Insp. Roanalaine Baligod (P/Sr. Insp. Baligod), the forensic chemist. After qualitative examination, the contents tested positive for marijuana, a dangerous drug. P/Sr. Insp. Baligod then prepared and signed Chemistry Report No. D-132-2012 RCLO3,^[9] and deposited the specimen in a sealed brown envelope while placing her markings "RBB" thereon. The specimen remained in her custody until she brought the same to court for presentation.^[10]

In his defense, David denied the charges against him and claimed that he was resting in his house with his parents when the police arrived and arrested him. It was at the police station that he learned that his mother had complained against him. In addition, he claimed that he only saw the marijuana at the police station.^[11]

In a Decision^[12] dated May 8, 2018, the RTC found David **guilty** beyond reasonable doubt of the crimes charged, and accordingly, sentenced him to suffer the penalty of imprisonment for an indeterminate period of twelve (12) years, and one (1) day, as minimum, to fourteen (14) years, as maximum, with full credit for the period of his preventive imprisonment, and to pay a fine in the amount of P300,000.00.^[13] The RTC found that the prosecution, through the testimonial and documentary evidence it presented, had established beyond reasonable doubt that David committed the crime of illegal possession of one (1) transparent plastic sachet containing dried marijuana leaves, and that the chain of custody of the seized item had been observed. On the other hand, the RTC found untenable David's defenses of denial and frame-up for being uncorroborated and self-serving.^[14]

On appeal to the CA, David's conviction was **affirmed**^[15] in a Decision dated August 16, 2019.^[16] It held that all the elements of the crimes charged against David were proven beyond reasonable doubt, and that the integrity and evidentiary value of the seized items have been preserved due to the police officers' substantial compliance with the chain of custody rule.^[17]

David's motion for reconsideration was denied in a Resolution^[18] dated August 24, 2020. Hence, this petition seeking the reversal of petitioner's conviction.

The Court's Ruling

The petition is meritorious.

A thorough review of the records of the case reveals that there were unexplained lapses in complying with the witness requirement in the chain of custody rule which cast doubt on the integrity of the *corpus delicti* of the crime.

In cases for Illegal Possession of Dangerous Drugs under RA 9165,^[19] it is essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.^[20] Failing to prove the integrity of the *corpus delicti* renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt, and hence, warrants an acquittal.^[21]

To establish the identity of the dangerous drug with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.^[22] As part of the chain of custody procedure, the law requires, *inter alia*, that the marking, physical inventory, and photography of the seized items be conducted immediately after seizure 'and confiscation of the same.'^[23] The law further requires that the said inventory and photography be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (a) if **prior** to the amendment of RA 9165 by RA 10640,^[24] "a representative from the media **and** the Department of Justice (DOJ), and any elected public official";^[25] or (b) if **after** the amendment of RA 9165 by RA 10640, "[a]n elected public official and a representative of the National Prosecution Service **or** the media."^[26] The law requires the presence of these witnesses primarily "to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence."^[27]

As a general rule, compliance with the chain of custody procedure is strictly enjoined as the same has been regarded "not merely as a procedural technicality but as a matter of substantive law."^[28] Nonetheless, anent the **witness requirement**, non-compliance *may* be permitted if the prosecution proves that the apprehending officers exerted genuine and sufficient efforts to secure the presence of such witnesses, albeit they eventually failed to appear. While the earnestness of these efforts must be examined on a case-to-case basis, the overarching objective is for the Court to be convinced that the failure to comply was reasonable under the given circumstances.^[29] Thus, mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are unacceptable as justified grounds for non-compliance.^[30] These considerations arise from the fact that police officers are ordinarily given sufficient time – beginning from the moment they have received the information about the activities of the accused until the time of his arrest – to prepare for a buy-bust operation, and consequently, make the necessary arrangements beforehand, knowing fully well that they would have to strictly comply with the chain of custody rule.^[31]

In this case, there was a deviation from the required witnesses rule as the conduct of inventory and photography were not witnessed by a representative from the DOJ, a fact admitted to by the arresting officer himself in his testimony.^[32] Notably, the seizure of the marijuana occurred on September 8, 2012, prior to the amendment