

That [the] accused is found positive for use of Methamphetamine, as reflected in Chemistry Report No. CDT-044-08.

Contrary to Section 5, Article II of R.A. 9165.³

During arraignment held on April 25, 2008, appellant pleaded not guilty to the charge against him. Thereafter, trial on the merits followed.

Version of the Prosecution

The prosecution presented the following witnesses: SPO1 Allen June Germodo (SPO1 Germodo) and Special Investigator III Nicanor Ernesto Tagle (SI Tagle). Police Chief Inspector Josephine S. Llana (PCI Llana) was presented to identify the results of the drug test she conducted on the appellant. The testimonies of the witnesses established the following facts:

In the morning of April 2, 2008, SI Tagle received information from a confidential informant that a known drug pusher had just delivered a large amount of *shabu* at *Barangay Dos*, Dumaguete City. SI Tagle informed his local National Bureau of Investigation (NBI) Chief, Atty. Dominador Cimafranca (Atty. Cimafranca) and SPO1 Manuel Y. Sanchez (SPO1 Sanchez), head of the local Philippine Drug Enforcement Agency (PDEA) Office, about the tip. Atty. Cimafranca then gave SI Tagle instructions to conduct an anti-narcotics operation in the area. Thus at 10:30 a.m. of the said date, a team of NBI and PDEA agents, as well as police officers from the Dumaguete Police Station, were assembled at the local PDEA office where a briefing was held. During the briefing, SPO1 Sanchez provided two one hundred peso (₱100.00) bills to be used as marked money in the buy-bust operation. He gave these bills to SPO1 Germodo who placed his initials in the middle of the seal of *Bangko Sentral ng Pilipinas* on the bills. The two marked bills were given to the informant who was designated as the poseur-buyer. It was agreed that SPO1 Germodo would accompany the informant-poseur buyer while SI Tagle would lead the back-up team. After the briefing, the team proceeded to Luke Wright Street located at *Barangay Dos*.

Upon their arrival at Luke Wright Street, SPO1 Germodo and the informant got off from their vehicle while the back-up team of SI Tagle remained inside the vehicle and waited for the prearranged signal, a missed call from SPO1 Germodo. The informant walked towards an interior part of the area bounded by Luke Wright Street followed by SPO1 Germodo at a distance of about six or seven meters away. A man then gestured at the informant to come closer. When the informant approached the man, who

³ Id. at 42.

was later identified as herein appellant, the former gave him the marked money. Upon receipt of the marked money, appellant in turn handed over a sachet to the informant who checked the sachet. SPO1 Germodo witnessed these activities from a distance of about five meters away. SPO1 Germodo then gave a missed call to SI Tagle to signal that the sale had been consummated. Upon seeing the approaching back-up team, SPO1 Germodo rushed to the place where the informant and the appellant were standing. The appellant saw SPO1 Germodo and immediately ran away. SPO1 Germodo then took the sachet from the informant and pursued the appellant. Eventually, SPO1 Germodo and SI Tagle succeeded in apprehending the appellant. Upon his arrest, SI Tagle informed him of his constitutional rights. SPO1 Germodo searched the appellant and recovered the marked money.

At the place of the arrest, SPO1 Germodo marked the confiscated sachet with the initials "JE-BB" 4-2-08 referring to the initials of the appellant Jojo Ejan, the "BB" for buy-bust operation, and the numbers for the date of the incident. SPO1 Germodo also conducted an inventory of the seized item in the presence of the appellant and the required witnesses, Department of Justice (DOJ) representative Anthony Chilius Benlot (Benlot), media representative Juditho Fabillar (Juditho) and *Kagawad* Joel Laspiñas (Joel). SI Tagle prepared the inventory/receipt of drugs and other property seized which was signed by these witnesses, including SPO1 Germodo as seizing officer, SI Tagle as Team Leader, and SPO1 Sanchez as PDEA representative. SPO1 Germodo also signed as photographer, having taken the photographs of the appellant with the seized item. After the inventory, the appellant was led towards the vehicle of the team at Luke Wright Street. SPO1 Germodo kept the seized item with him at all times. While on the way to the police vehicle, the appellant managed to escape and tried to flee. The appellant hid in a residential house while the operatives ran after him. When informed that the appellant was at the house of one Dario, SPO1 Germodo and SI Tagle asked Dario's permission to enter the house. Accompanied by Dario, SPO1 Germodo and SI Tagle found the appellant hiding under a bed inside one of the rooms in Dario's house. The appellant was then brought to the PDEA office.

At the PDEA office, appellant underwent the usual booking procedure. SPO1 Germodo then prepared a memorandum request for the laboratory examination of the seized dangerous drug and a drug test on the appellant addressed to the Provincial Chief of the Philippine National Police (PNP) Crime Laboratory. SPO1 Germodo recorded the incident in the PDEA logbook.

SPO1 Germodo then brought the appellant and the seized item to the Provincial Crime Laboratory for examination. PCI Llana received the seized



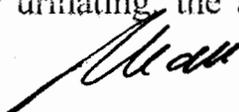
item and conducted physical and chemical examinations on the same. The results of the examination as contained in Chemistry Report No. D-052-08 and Certification dated April 2, 2008 revealed that the plastic sachet with markings "JE-BB" 4-2-08 contained 0.06 gram of white crystalline substance which tested positive for Methamphetamine Hydrochloride, a dangerous drug under RA 9165.

PCI Llena also conducted a drug test on the urine sample taken from the appellant and her findings, as contained in Chemistry Report No. CDT-044-08, indicated that the urine sample contained traces of THC-metabolites and Methamphetamine, both dangerous drugs.

Version of the Defense

The defense presented the appellant as its sole witness. His testimony established the following facts:

At around 10:30 a.m. of April 2, 2008, the appellant, a resident of Luke Wright Street in Dumaguete City, was sniffing "rugby" beside the house of one Baby Quizon (Baby). While sniffing "rugby," the appellant saw four or five persons being chased by SI Tagle who had earlier arrested his brother Julius. Fearing apprehension as he was then sniffing "rugby," the appellant entered the house of Baby and hid in one of the rooms. SI Tagle also entered the house and asked the appellant to come out of the room. SI Tagle then forcibly opened the room and pointed a gun at the appellant ordering him to come out, as he was already caught. SI Tagle and the appellant then went out of the room with the appellant's hands behind his head. Appellant asked SI Tagle what wrong he had done. Once outside the room, SI Tagle told the appellant that he was going to search the latter's pockets which yielded the amount of ₱52.00 that the appellant received as change when he bought "rugby." The appellant was brought outside the house where he was made to sit beside a table. At the table, the appellant saw a plastic sachet with *shabu* and money amounting to two hundred pesos (₱200.00). These items were placed there by SPO1 Germodo. The appellant told SI Tagle and SPO1 Germodo that the plastic sachet with *shabu* and the money were not his, but nobody listened to him. The appellant was then asked his name and age and was made to sign "something" which he did not understand, as it was in English. Thereafter, a *barangay* official arrived who also signed "something." A photograph was taken of the appellant, after which he was made to board a van and brought to a police station. At the police station, the appellant was made to enter a room and urinate. After urinating, the appellant was handcuffed and put inside a detention cell.



Ruling of the Regional Trial Court

On March 18, 2011, the RTC rendered judgment finding appellant guilty beyond reasonable doubt of violating Section 5, Article II of RA 9165. The RTC was convinced that the prosecution was able to establish the guilt of the appellant since he was positively identified by SPO1 Germodo as the seller of 0.06 gram of *shabu* after receipt of the ₱200.00 marked money from the informant-poser buyer. The RTC found appellant's defense of denial inherently weak in contrast to the prosecution's positive identification of the appellant as the seller of *shabu* who was caught *in flagrante delicto*. Furthermore, the RTC found that the integrity of the seized drugs was properly preserved.

The dispositive part of the RTC's decision reads:

WHEREFORE, in the light of the foregoing, the Court hereby finds the accused Jojo Ejan y Bayato GUILTY beyond reasonable doubt of the offense of violating Section 5, Article II of R.A. No. 9165 and is hereby sentenced to suffer a penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (₱500,000.00).

The one (1) heat-sealed transparent plastic sachet containing 0.06 gram of *shabu* is hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

In the service of sentence, the accused shall be credited with the full time during which he has undergone preventive imprisonment, provided he agrees voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners.

SO ORDERED.⁴

Aggrieved by the RTC's decision, appellant appealed to the CA.

Ruling of the Court of Appeals

On December 11, 2013, the CA affirmed the RTC's Judgment and held as follows:

WHEREFORE, in view thereof, the appeal is DENIED. The Judgment dated March 18, 2011 of the Regional Trial Court of Negros Oriental, Branch 30, Dumaguete City in Criminal Case No. 18994 finding accused-appellant Jojo Ejan y Bayato guilty of the crime charged is hereby AFFIRMED.

⁴ Id. at 114.

SO ORDERED.⁵

Dissatisfied with the CA's Decision, appellant elevated his case to this Court. On July 9, 2014, the Court issued a Resolution requiring both parties to submit their Supplemental Briefs. However, the parties manifested that they would no longer file supplemental briefs since they had exhaustively discussed their arguments before the CA.

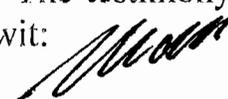
The main issue raised in his Appellant's Brief is whether the trial court erred in convicting the appellant of illegal sale of *shabu* despite the prosecution's failure to prove the offense beyond reasonable doubt. Appellant maintains that the prosecution's failure to present the informant during trial was fatal since the identity of the buyer was not duly established. Because of this, the appellant posits that it is not clear whether the purported illegal transaction even took place. Appellant likewise argues that the distance of seven meters between SPO1 Germodo and the appellant made it improbable for SPO1 Germodo to witness the alleged transaction or sale of *shabu*. Appellant also doubts the integrity of the sachet of *shabu* since the same was handed by an unknown informant to the arresting officers. Appellant thus prays for his acquittal.

Our Ruling

The appeal is unmeritorious.

Both the RTC and the CA correctly found appellant guilty beyond reasonable doubt of violating Section 5, Article II of RA 9165. The prosecution was able to satisfactorily establish the following elements of illegal sale of dangerous drugs: "(1) [the] identity of the buyer and the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor. x x x What is material in a prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of the *corpus delicti* x x x."⁶

In this case, appellant was positively identified by SPO1 Germodo as the seller of a sachet containing 0.06 gram of *shabu* and the person who received the ₱200.00 marked money from the poseur-buyer. SPO1 Germodo testified that the poseur-buyer bought *shabu* from the appellant during a buy-bust operation. The testimony of SPO1 Germodo established the elements of the crime, to wit:



⁵ CA rollo, p. 104.

⁶ *People v. Marcelo*, 741 Phil. 412, 422 (2014).

- Q: And what happened when you were already 30 meters into the interior?
- A: So, I noticed that our informant [was] called by a person, Sir, a man.
- Q: And when you said your informant [was] called by a man, did you hear the calling?
- A: Yes, Sir.
- Q: How was your informant called?
- A: What I saw, Sir, is that he had a gesture (witness is raising his right hand with a motion towards himself) and the words following "how much is that?"
- Q: And did you hear your informant [give] any reply?
- A: No, our informant, Sir, just approached near him and I was just at a distance considering that I could not be seen, and what I saw was that our informant handed over to him (2) 100 peso bills.
- Q: When you said that you were just about a distance watching, how far was that distance?
- A: More or less, 5 meters, Sir.
- Q: And to whom did your informant hand over the (2) 100 peso bills that were marked?
- A: The person who called him, Sir.
- Q: What did that person do when that money was handed over to him?
- A: He received the money, Sir, and thereafter he handed the sachet.
- Q: To [whom] did he hand it over?
- A: To that civilian informant, Sir.
- Q: And did your informant receive the sachet that was handed over to him?
- A: Yes, Sir.
- Q: So what happened next?
- A: He examined it, Sir, then upon seeing it, I gave a [missed] call to TAGLE and then after the [missed] call, I saw them x x x approaching towards us and x x x that was the time that we rushed up.⁷

From the testimony above, it is clear that the elements of illegal sale of dangerous drugs are present. SPO1 Germodo was categorical that he witnessed the exchange of marked money and sachet of *shabu* from a distance of five meters. The Court finds no reason to doubt the credibility of SPO1 Germodo especially since the RTC found the same to be "categorical and candid, untainted by inconsistencies, contradictions or evasions."⁸ And

⁷ TSN, April 21, 2010, pp. 5-6.

⁸ Records, p. 113.

since these findings were sustained by the CA, it is with more reason that this Court will not disturb the same. In *People v. Macatingag*,⁹ this Court held that:

It is a fundamental rule that findings of the trial courts which are factual in nature and which involve credibility are accorded respect when no glaring errors; gross misapprehension of facts; or speculative, arbitrary, and unsupported conclusions can be gathered from such findings. The reason for this is that the trial court is in a better position to decide the credibility of witnesses, having heard their testimonies and observed their deportment and manner of testifying during the trial. The rule finds even more stringent application where said findings are sustained by the Court of Appeals.

In an attempt to escape culpability, appellant insists that the failure to present the poseur-buyer in court and divulge his identity is fatal to the case of the prosecution. The Court is unconvinced. Time and again, this Court has ruled that, “the presentation of an informant in an illegal drugs case is not essential for the conviction nor is it indispensable for a successful prosecution because his testimony would be merely corroborative and cumulative.”¹⁰ In *People v. Legaspi*,¹¹ we held that, “[t]he presentation of an informant is not a requisite for the successful prosecution of drug cases. Informants are almost always never presented in court because of the need to preserve their invaluable service to the police.”

In the present case, despite the non-presentation of the informant, the guilt of the appellant was proven beyond reasonable doubt through the testimonies of SPO1 Germodo who witnessed the whole transaction or sale of *shabu* unfold firsthand.

Appellant’s argument against the integrity of the sachet of *shabu* is likewise untenable. The Court finds that the arresting officers were able to preserve the integrity of the seized drug after faithfully complying with the requirements of Sec. 21 of RA 9165 regarding the custody and disposition of seized drugs. On this matter, the RTC observed that:

While still at the crime scene, SPO1 Germodo marked the one (1) heat-sealed transparent plastic containing white crystalline substance of methamphetamine hydrochloride bought from the accused. An inventory of this item in the presence of the accused and the witnesses required by law was also conducted by SPO1 Germodo. Photographs were also taken of the accused with the seized item and with some of the witnesses to the inventory. This plastic sachet containing white crystalline substance was

⁹ 596 Phil. 376, 388 (2009).

¹⁰ *People v. Amansec*, 678 Phil. 831, 849 (2011).

¹¹ 677 Phil. 181, 195 (2011).

immediately forwarded to the Negros Oriental Provincial Crime Laboratory for examination to determine the presence of a dangerous drug. The forensic chemist found that the white crystalline substance inside the one (1) heat-sealed transparent plastic sachet was positive for methamphetamine hydrochloride or *shabu*, a dangerous drug. There can be no doubt that the dangerous drug bought from the accused was the same one examined in the crime laboratory. Plainly, the prosecution has established the crucial link in the chain of custody of the sold sachet of *shabu*, from the time they were first bought from the accused, until they were brought for examination. This court thus finds the integrity and the evidentiary value of the dangerous drug coming from the accused to have *not* been compromised.¹²

Additionally, SPO1 Germodo marked the sachet of *shabu* at the place of the arrest with “JE-BB” 4-2-08, which are the initials of the appellant and the corresponding date of the buy-bust operation. An inventory was then taken in the presence of the appellant with the required witnesses: DOJ representative Benlot, media representative Juditho, and *barangay kagawad* Joel, all of whom signed the inventory along with the arresting officers, SPO1 Germodo and SI Tagle. Undoubtedly, the integrity of the seized drug was properly preserved from the time of appellant’s arrest until the sachet was presented in court.

All told, since the prosecution was able to establish appellant’s guilt beyond reasonable doubt of violating Section 5, Article II of RA 9165, the Court finds no reason to disturb the Decision of the CA.

WHEREFORE, the appeal is **DISMISSED**. The December 11, 2013 Decision of the Court of Appeals in CA-G.R. CR-HC No. 01335 is **AFFIRMED**.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

¹² Records, pp. 112-113.

WE CONCUR:



MARIA LOURDES P. A. SERENO

Chief Justice

Chairperson

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

Lucas P. Bersamin
LUCAS P. BERSAMIN
Associate Justice

Noel G. Tijam
NOEL G. TIJAM
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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

