



**Republic of the Philippines
Supreme Court
Manila**

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 197550

Present:

SERENO, *CJ.*,
Chairperson,
LEONARDO-DE CASTRO,
REYES,
PERLAS-BERNABE,* and
LEONEN,** *JJ.*

- versus -

Promulgated:

**ARTURO ENRIQUEZ y DE LOS
REYES,**

Accused-Appellant.

SEP 25 2013

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DECISION

LEONARDO-DE CASTRO, J.:

This is an appeal¹ of the February 11, 2011 Decision² of the Court of Appeals, in CA-G.R. CR.-H.C. No. 03430, which affirmed the Regional Trial Court's (RTC) February 28, 2008 Decision³ in Criminal Case Nos. DC 03-209 and DC 03-210, wherein accused-appellant **ARTURO ENRIQUEZ y DE LOS REYES** (Enriquez) was found guilty beyond reasonable doubt of violating **Sections 5 and 11, Article II of Republic Act No. 9165**.

In two separate Informations⁴ filed before Branch 57 of the RTC of Angeles City, Enriquez was charged with violating Sections 5 and 11, Article II of Republic Act No. 9165 or the "Comprehensive Dangerous Drugs Act of 2002." The pertinent portions of the Informations, both dated June 4, 2003, are hereby quoted as follows:

* Per Special Order No. 1537 (Revised) dated September 6, 2013.

** Per Special Order No. 1545 (Revised) dated September 16, 2013.

¹ Rollo, pp. 22-24.

² Id. at 2-21; penned by Associate Justice Franchito N. Diamante with Associate Justices Josefina Guevara-Salonga and Mariflor P. Punzalan Castillo, concurring.

³ CA rollo, pp. 9-22; penned by Judge Omar T. Viola.

⁴ Records, pp. 1-2, 12-13.

Criminal Case No. DC 03-209

That on or about the 3rd day of June, 2003, in [Brgy.] Manibaug Libutad, municipality of Porac, province of Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, ARTURO ENRIQUEZ y DELOS REYES, without any authority of law, did then and there wilfully, unlawfully and feloniously had in his possession, custody and control forty[-]five (45) small size heat-sealed transparent plastic sachets containing Methylamphetamine Hydrochloride (shabu) weighing TWO GRAMS AND SIX THOUSAND ONE TEN THOUSANDTHS (2.6001g) of a gram and one (1) pc. big size heat-sealed transparent plastic sachet containing Methylamphetamine Hydrochloride (shabu) weighing ONE THOUSAND TWO HUNDRED TWELVE TEN THOUSANDTHS (0.1212g) of a gram, a dangerous drug.⁵

Criminal Case No. DC 03-210

That on or about the 3rd day of June, 2003, in Brgy. Manibaug Libutad, municipality of Porac, province of Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, ARTURO ENRIQUEZ y DELOS REYES, without having been lawfully authorized, did then and there wilfully, unlawfully and feloniously, deliver and/or sell one (1) small size heat sealed transparent plastic sachet containing Methylamphetamine Hydrochloride (shabu) with an actual weight of FOUR HUNDRED TWENTY[-]TWO TEN THOUSANDTH (0.0422g) of a gram, a dangerous drug.⁶

Enriquez pleaded not guilty to both charges upon his arraignment⁷ on June 19, 2003.

Trial on the merits ensued after the termination of the pre-trial conference on September 25, 2003.⁸

As culled from the records and transcript of stenographic notes, the contradictory versions of the prosecution and defense are as follows:

Prosecution's Version

Sometime in May 2003, Senior Police Officer (SPO) 2 Edilberto David, SPO2 Ernesto Divina, and SPO1 Saturnino Garung received reports from the *barangay* office and other concerned citizens of drug-dealing activities in the locality of Porac, Pampanga. They immediately conducted a casing and surveillance operation to verify the reports. About four operations were carried out, on a weekly basis, which confirmed that Enriquez was indeed dealing drugs among the truck drivers and helpers within the vicinity. After confirming the reports, SPO2 David, together with one civilian asset, conducted a test-buy on June 2, 2003.⁹ During the test-

⁵ Id. at 1.

⁶ Id. at 12.

⁷ Id. at 23.

⁸ Id. at 29-30.

⁹ TSN, February 26, 2004, pp. 3-4.

buy, SPO2 David's asset was able to buy ₱200.00 worth of *shabu*, which he confirmed to be so by burning it, contrary to standard police procedure.¹⁰

After the test-buy, SPO2 David organized a team, composed of himself, SPO2 Divina, and SPO1 Garung, to conduct a buy-bust operation.¹¹ On June 3, 2003, after SPO2 Divina coordinated with the Philippine Drug Enforcement Agency (PDEA) for their on-going narcotics operation,¹² their Chief of Police Ricardo Erese briefed the team at Kababayan Center No. 2, at Barangay Sta. Cruz, Porac, Pampanga. At the briefing, SPO2 David was designated as the poseur-buyer, with the other two police officers as back-ups. To purchase the *shabu*, Chief of Police Erese gave SPO2 David a ₱100-peso bill and five ₱20-peso bills, which SPO2 David marked by placing a small bar on the lower right corner of the bills. The team thereafter proceeded to Brgy. Manibaug, Libutad in Porac, Pampanga. Upon arriving at the target area at around 11:00 a.m., SPO2 David approached Enriquez, whom they spotted sitting in a *sari-sari* store, while SPO2 Divina and SPO1 Garung hid behind a dump truck parked across the store. SPO2 David called the attention of Enriquez by saying "*dalawang (2) piso*"¹³ while handing him the ₱200.00. Without saying anything, Enriquez took the money and went to the back of the store. After one to two minutes, Enriquez emerged and handed SPO2 David a sachet of *shabu*. This prompted SPO2 David to put his hand at the back of his head, to signal his teammates that the sale had been consummated. Upon the execution of the pre-arranged signal, SPO2 Divina and SPO1 Garung approached the site of engagement, introduced themselves as police officers to Enriquez, and thereafter conducted a body search on him, which resulted to the discovery of a plastic game card containing one big and 45 small plastic sachets of white crystalline substance.¹⁴ SPO2 David prepared the Confiscation Receipt for the above-seized items, then subsequently brought Enriquez to the Porac Police Station, wherein the team prepared the papers necessary in filing a case against Enriquez.¹⁵

As per Chemistry Report No. D-219-2003,¹⁶ prepared by Police Inspector and Forensic Chemical Officer Divina Mallare Dizon (P/Insp. Dizon), upon the request for laboratory examination¹⁷ submitted by Chief of Police Erese, the plastic sachets confiscated from Enriquez tested positive for methylamphetamine hydrochloride.

¹⁰ TSN, February 3, 2005, pp. 16-19.

¹¹ TSN, February 26, 2004, p. 4.

¹² Exhibits Folder, Certification from PDEA.

¹³ TSN, February 3, 2005, p. 26.

¹⁴ Exhibits Folder, Exhibit C, "Receipt."

¹⁵ TSN, March 2, 2004, pp. 2-6.

¹⁶ Exhibits Folder, Exhibit D.

¹⁷ Id., Exhibit E.

Defense's Version

The defense's version of the events, as quoted from Enriquez's own brief, are as follows:

In truth, Enriquez was alone, eating in an eatery in Manibaug, Porac, Pampanga, when three (3) men, all in civilian clothes, alighted from an owner-type jeep and approached him. One of the men, SPO2 David, then poked a gun at him. The former asked Enriquez if he knew a certain truck driver who is suspected of selling *shabu*. When he denied knowledge thereof, he was immediately handcuffed and was brought to the police station for further investigation. He was detained and was told that he is being suspected of selling *shabu*.

Nora Pangilinan, a 37-year old helper of the sari-sari store, corroborated [Enriquez]'s testimony. She saw how the apprehending team rudely approached and arrested [Enriquez].¹⁸ (Citations omitted.)

On February 28, 2008, the RTC convicted Enriquez in its Decision, the dispositive portion of which reads:

WHEREFORE, the prosecution having proven the guilt of the accused beyond reasonable doubt in the two (2) cases, the Court finds accused ARTURO ENRIQUEZ Y DE LO[S] REYES **GUILTY** of the offense as charged and hereby sentences him to suffer the penalty of **LIFE IMPRISONMENT** and **a fine of Php 500,000.00**, in Criminal Case No. DC 03-210 for violation of Section 5, Art. II of R.A. 9165. Accused Enriquez is also sentenced to suffer the penalty of imprisonment of **TWELVE YEARS (12) AND ONE (1) DAY**, as minimum, to **FOURTEEN (14) YEARS AND EIGHT (8) MONTHS**, as maximum, of **Reclusion Temporal** in Criminal Case No. DC 03-209 for violation of Section 11 of R.A. 9165 and **a fine of Php 300,000.00**.¹⁹

Aggrieved, Enriquez appealed²⁰ to the Court of Appeals, which, on February 11, 2011, affirmed the decision of the RTC.²¹

Issues

Enriquez is now before this Court, assigning²² the same errors he presented before the Court of Appeals, to wit:

I

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE IRREGULARITY OF THE BUY-BUST OPERATION.

¹⁸ CA rollo, p. 59.

¹⁹ Id. at 21.

²⁰ Records, p. 117.

²¹ Rollo, p. 21.

²² Id. at 29-32.

II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE WITH MORAL CERTAINTY THE IDENTITY OF THE *CORPUS DELICTI*.

III

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE ARRESTING OFFICERS' NON-COMPLIANCE WITH THE REQUIREMENTS FOR THE PROPER CUSTODY OF SEIZED DANGEROUS DRUGS UNDER REPUBLIC ACT NO. 9165.²³

Enriquez questions the fact that despite a month-long surveillance and casing operation against him, the police operatives still opted to conduct a buy-bust operation instead of securing a warrant for his arrest.²⁴ Moreover, Enriquez points out, the police officer, to test the substance they allegedly recovered from him during their test-buy operation, burned such substance instead of going through the proper testing procedures.²⁵

Aside from the foregoing procedural infractions, Enriquez finds it irregular that the police officers commuted to the target area instead of using their precinct's service mobile. Enriquez adds: "The lack of a service vehicle, therefore, is an irregularity that is too uncommon and virtually affects the preservation of the seized pieces of evidence."²⁶

Enriquez also claims that the prosecution was not able to prove with moral certainty the identity of the *corpus delicti* for failure of the police officers to comply with Section 21(a) of Republic Act No. 9165, on the custody and disposition of confiscated or seized dangerous drugs. He avers that there was neither physical inventory nor a photograph of the seized items. Moreover, Enriquez says, the markings on the confiscated items were not immediately made upon its seizure, at the place of the incident, nor were there any indication in the records that it was made in his presence. Enriquez points out that while "non-compliance x x x with Section 21 is not fatal, as police lapses, may at times occur, these errors, however, must be supported with justifiable grounds and the integrity and the evidentiary value of the seized items must be preserved."²⁷

Ruling of the Court

This Court has painstakingly reviewed the records of this case and after a thorough deliberation, resolves to ***acquit*** Enriquez for the

²³ CA rollo, p. 55.

²⁴ Id. at 60.

²⁵ Id. at 61-63.

²⁶ Id. at 64.

²⁷ Id. at 65-67.

prosecution's failure to prove his guilt beyond reasonable doubt. This Court finds that the prosecution was not able to establish with moral certainty that the integrity and evidentiary value of the items confiscated from Enriquez were preserved such that they could be used as basis for Enriquez's conviction.

The Constitution²⁸ demands that an accused in a criminal case be presumed innocent until otherwise proven beyond reasonable doubt.

Likewise, Section 2, Rule 133 of the Rules of Court requires proof beyond reasonable doubt to justify a conviction; anything less than that entitles the accused to an acquittal.

Enriquez was charged and convicted for the sale and possession of methylamphetamine hydrochloride, more popularly known as *shabu*, in violation of Sections 5 and 11, Article II of Republic Act No. 9165, to wit:

Section 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (₱500,000.00) to Ten million pesos (₱10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (₱100,000.00) to Five hundred thousand pesos (₱500,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any controlled precursor and essential chemical, or shall act as a broker in such transactions.

X X X X

Section 11. *Possession of Dangerous Drugs.* - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (₱500,000.00) to Ten million pesos (₱10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

- (1) 10 grams or more of opium;
- (2) 10 grams or more of morphine;
- (3) 10 grams or more of heroin;

²⁸

Article III, Section 14(2).

- (4) 10 grams or more of cocaine or cocaine hydrochloride;
- (5) 50 grams or more of methamphetamine hydrochloride or “shabu;”
- (6) 10 grams or more of marijuana resin or marijuana resin oil;
- (7) 500 grams or more of marijuana; and
- (8) 10 grams or more of other dangerous drugs such as, but not limited to, methylenedioxymethamphetamine (MDMA) or “ecstasy,” paramethoxyamphetamine (PMA), trimethoxyamphetamine (TMA), lysergic acid diethylamide (LSD), gamma hydroxybutyrate (GHB), and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements, as determined and promulgated by the Board in accordance to Section 93, Article XI of this Act.

Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

- (1) Life imprisonment and a fine ranging from Four hundred thousand pesos (₱400,000.00) to Five hundred thousand pesos (₱500,000.00), if the quantity of methamphetamine hydrochloride or “shabu” is ten (10) grams or more but less than fifty (50) grams;
- (2) Imprisonment of twenty (20) years and one (1) day to life imprisonment and a fine ranging from Four hundred thousand pesos (₱400,000.00) to Five hundred thousand pesos (₱500,000.00), if the quantities of dangerous drugs are five (5) grams or more but less than ten (10) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or “shabu,” or other dangerous drugs such as, but not limited to, MDMA or “ecstasy,” PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or three hundred (300) grams or more but less than five hundred (500) grams of marijuana; and
- (3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (₱300,000.00) to Four hundred thousand pesos (₱400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or “shabu,” or other dangerous drugs such as, but not limited to, MDMA or “ecstasy,” PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.

When prosecuting the sale of a dangerous drug, the following elements must be proven: (1) the identities of the buyer and seller, object,

and consideration; and (2) the delivery of the thing sold and the payment therefor.²⁹ In cases of illegal possession of dangerous drugs, the essential requisites that must be established are: (1) the accused was in possession of the dangerous drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the dangerous drug.³⁰

As the dangerous drug itself constitutes the very *corpus delicti* of both offenses, its identity and integrity must definitely be shown to have been preserved.³¹ “This means that on top of the elements of possession or illegal sale, the fact that the substance [possessed or illegally sold], in the first instance, the very substance adduced in court must likewise be established with the same exacting degree of certitude as that required sustaining a conviction.”³² Thus, the prosecution must be able to account for each link in the chain of custody over the dangerous drug, from the moment it was seized from the accused up to the time it was presented in court as proof of the *corpus delicti*.³³ The chain of custody requirement “ensures that unnecessary doubts respecting the identity of the evidence are minimized if not altogether removed.”³⁴

Paragraph 1, Section 21, Article II of Republic Act No. 9165 outlines the procedure on the chain of custody of confiscated, seized, or surrendered dangerous drugs, viz:

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[.]

Its Implementing Rules and Regulations state:

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

²⁹ *People v. Del Rosario*, G.R. No. 188107, December 5, 2012, 687 SCRA 318, 326.

³⁰ *People v. Martinez*, G.R. No. 191366, December 13, 2010, 637 SCRA 791, 810.

³¹ *People v. Alcuizar*, G.R. No. 189980, April 6, 2011, 647 SCRA 431, 437.

³² *People v. Adrid*, G.R. No. 201845, March 6, 2013.

³³ *People v. Del Rosario*, supra note 29 at 329.

³⁴ *People v. Adrid*, supra note 32.

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:

(a) The apprehending officer/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: Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; Provided, further, 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.

Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002,³⁵ which implements the Comprehensive Dangerous Drugs Act of 2002, defines “chain of custody” as follows:

Chain of Custody means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition.

Describing the mechanics of the custodial chain requirement, this Court, in *People v. Cervantes*,³⁶ said:

As a mode of authenticating evidence, 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. In context, this would ideally include testimony about every link in the chain, from the seizure of the prohibited drug up to the time it is offered into evidence, in such a way that everyone who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness’ possession, the condition in which it was received, and the condition in which it was delivered to the next link in the chain. x x x. (Citation omitted.)

³⁵ Guidelines of the Custody and Disposition of Seized Dangerous Drugs, Controlled Precursors and Essential Chemicals and Laboratory Equipment.

³⁶ G.R. No. 181494, March 17, 2009, 581 SCRA 762, 777.

Thus, the following are the links that must be established in the chain of custody in a buy-bust situation:

First, the seizure and marking, if practicable, 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.³⁷

While non-compliance with the prescribed procedural requirements will not automatically render the seizure and custody of the items void and invalid, this is true only when “(i) there is a justifiable ground for such non-compliance, and (ii) the integrity and evidentiary value of the seized items are properly preserved.”³⁸ Thus, any divergence from the prescribed procedure must be justified and should not affect the integrity and evidentiary value of the confiscated contraband. Absent any of the said conditions, the non-compliance is an irregularity, a red flag, that casts reasonable doubt on the identity of the *corpus delicti*.

In the case at bar, not only was there no justifiable ground offered for the non-compliance with the chain of custody requirement, there was an apparent failure to properly preserve the integrity and evidentiary value of the seized items to ensure the identity of the *corpus delicti* from the time of seizure to the time of presentation in court.³⁹ In other words, the prosecution’s evidence failed to establish the chain that would have shown that the sachets of *shabu* presented in court were the very same items seized from Enriquez.

The **first** crucial link in the chain of custody starts with the seizure from Enriquez of the dangerous drugs and its subsequent marking. Under the law, such marking should have been done immediately after confiscation and in the presence of the accused or his representative. While it is true that the items presented in court bore the initials of SPO2 David, who was also the poseur-buyer and primary apprehending officer, nowhere in the documentary and testimonial evidence of the prosecution can it be found when these items were actually marked and if they were marked in the presence of Enriquez or at least his representative. Emphasizing the importance of this first link, this Court in *People v. Zakaria*,⁴⁰ pronounced:

³⁷ *People v. Magpayo*, G.R. No. 187069, October 20, 2010, 634 SCRA 441, 451.

³⁸ *People v. Martinez*, *supra* note 30 at 813.

³⁹ *Id.* at 813-814.

⁴⁰ G.R. No. 181042, November 26, 2012, 686 SCRA 390, 403.

Crucial in proving the chain of custody is the marking of the seized dangerous drugs or other related items immediately after they are seized from the accused, for the marking upon seizure is the starting point in the custodial link that succeeding handlers of the evidence will use as reference point. Moreover, the value of marking of the evidence is to separate the marked evidence from the *corpus* of all other similar or related evidence from the time of seizure from the accused until disposition at the end of criminal proceedings, obviating switching, “planting” or contamination of evidence. A failure to mark at the time of taking of initial custody imperils the integrity of the chain of custody that the law requires. (Citation omitted.)

The *second* link in the chain of custody is the turnover of the illegal drug by the apprehending officer to the investigating officer. Both SPO2 David and SPO2 Divina testified that after the buy-bust operation, they brought Enriquez and the seized items to the police station. However, they both failed to identify the person to whom they turned over the seized items. Records show that the request for laboratory examination was prepared by Chief of Police Erese, and yet there is no evidence to show that he was the person who received the seized items from the apprehending officers. There is therefore a crucial missing link, *i.e.*, what happened to the seized items after they left the hands of SPO2 David and SPO2 Divina and before they came to the hands of Chief of Police Erese.

As for the *third* and the *last* links, although records show that Chief of Police Erese signed the request for laboratory examination, he was not presented in court to testify as such. The testimony of Chief of Police Erese is indispensable because he could have provided the critical link between the testimony of SPO2 David, and the tenor of the testimony of P/Insp. Dizon, which the parties have stipulated on. The unaccounted for whereabouts of the seized items from the time they were brought to the police station to the time they were submitted to P/Insp. Dizon for examination constitutes a clear break in the chain of custody. Moreover, no one testified as to how the confiscated items were handled and cared for after the laboratory examination.⁴¹

Overall, the prosecution failed to observe the requirement that the testimonies of all persons who handled the specimen are important to establish the chain of custody.⁴² Of all the individuals who came into direct contact with or had physical possession of the *shabu* allegedly seized from Enriquez, only SPO2 David testified for the specific purpose of identifying the evidence.⁴³ However, his testimony miserably failed to demonstrate an unbroken chain as it ended with his identification of the money and seized items he marked and documents he signed. In effect, the custodial link ended with SPO2 David when he testified that he brought the seized items, together with Enriquez, to the police station.

⁴¹ *People v. Adrid*, supra note 32.

⁴² *People v. Somoza*, G.R. No. 197250, July 17, 2013.

⁴³ TSN, October 4, 2005, pp. 4-7.


Under the above premises, it is clear that there was a break in the chain of custody of the seized substances. The failure of the prosecution to establish the evidence's chain of custody is fatal to its case as we can no longer consider or even safely assume that the integrity and evidentiary value of the confiscated dangerous drug were properly preserved.⁴⁴

WHEREFORE, the Decision of the Court of Appeals in CA-G.R. CR.-H.C. No. 03430 dated February 11, 2011 is **REVERSED** and **SET ASIDE**. Accused-Appellant **ARTURO ENRIQUEZ y DELOS REYES** is hereby **ACQUITTED** in Criminal Case Nos. DC 03-209 and DC 03-210 for the failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention, unless he is confined for another lawful cause.


The Director of the Bureau of Corrections is **DIRECTED** to implement this Decision and to report to this Court on the action taken within five (5) days from receipt of this Decision.


No pronouncement as to costs.


SO ORDERED.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson


BIENVENIDO L. REYES
Associate Justice

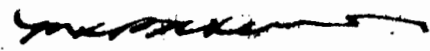

ESTELA M. PERLAS-BERNABE
Associate Justice



MARVIC MARIO VICTOR F. LEONEN
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