

## SECOND DIVISION

[ G.R. No. 224708, October 02, 2019 ]

**NOEL FERNANDEZ Y VILLEGAS AND ANDREW PLATA Y SUMATRA,  
PETITIONERS, V. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### R E S O L U T I O N

**J. REYES, JR., J.:**

Before us is a Manifestation<sup>[1]</sup> dated January 3, 2019 filed by Noel Fernandez y Villegas (Fernandez) and Andrew Plata y Sumatra (Plata) seeking the reduction of the penalty of imprisonment imposed on them by the Regional Trial Court (RTC), Branch 30, Dumaguete City in Criminal Case Nos. 19668 and 19669, respectively, which was affirmed by the Court of Appeals-Cebu City (CA-Cebu) and this Court.

On May 15, 2012, the RTC rendered a Joint Judgment<sup>[2]</sup> finding Fernandez and Plata guilty beyond reasonable doubt of illegal possession of dangerous drugs, defined and penalized under Section 11, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002. The dispositive portion of the Joint Judgment provides:

x x x x

1. In Criminal Case No. 19668, the accused Noel Fernandez y Villegas is hereby found GUILTY beyond reasonable doubt of the offense of illegal possession of 0.03 gram of *shabu* in violation of Section 11, Article II of R. A. No. 9165 and is hereby sentenced to suffer an indeterminate penalty of twelve (12) years and one (1) day as minimum term to fourteen (14) years as maximum term and to pay a fine of Four Hundred Thousand Pesos (P400,000.00).

The one (1) heat-sealed transparent plastic sachet containing 0.03 gram of Methamphetamine Hydrochloride or *shabu* is hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

2. In Criminal Case No. 19669, the accused Andrew Plata y Sumatra is hereby found GUILTY beyond reasonable doubt of the offense of illegal possession of 0.03 gram of *shabu* in violation of Section 11, Article II of R.A. No. 9165 and is hereby sentenced to suffer an indeterminate penalty of twelve (12) years and one (1) day as minimum term to fourteen (14) years as maximum term and to pay a fine of Four Hundred Thousand Pesos (P400,000.00).

The one (1) heat-sealed transparent plastic sachet containing

0.03 gram of Methamphetamine Hydrochloride or *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 Noel Fernandez y Villegas and the accused Andrew Plata y Sumatra shall be credited with the full time during which they have undergone preventive imprisonment, provided they agree voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners.

SO ORDERED.<sup>[3]</sup>

On appeal, the CA-Cebu affirmed the RTC's Joint Judgment in its Decision<sup>[4]</sup> dated June 30, 2015 and Resolution<sup>[5]</sup> dated April 12, 2016 in CA-G.R. CR No. 01948.

On June 13, 2016, Fernandez and Plata, through the Public Attorney's Office (PAO), filed a Petition for Review on *Certiorari* under Rule 45 of the Rules of Civil Procedure assailing the June 30, 2015 Decision and April 12, 2016 Resolution of the CA-Cebu.

On August 3, 2016, the Court issued a Resolution<sup>[6]</sup> denying the Petition for Review on *Certiorari* for the PAO's failure to: (1) sufficiently show any reversible error in the challenged decision and resolution as to warrant the exercise of the Court's discretionary appellate jurisdiction; (2) state the material date of filing of the motion for reconsideration in violation of Sections 4(b) and 5, Rule 45 of the Rules of Civil Procedure in relation to Section 5(d), Rule 56; and (3) submit a soft copy of the petition pursuant to Administrative Matter (A.M.) No. 11-9-4-SC (Efficient Use of Paper Rule) in relation to Section 5(e), Rule 56 of the Rules of Court.

On November 9, 2016, the PAO filed a Manifestation/Compliance with attached Motion for Reconsideration<sup>[7]</sup> submitting the soft copy of the petition and its annexes. Fernandez and Plata imputed error on the part of the court *a quo* in not giving credence to their testimony that no illegal drugs were confiscated from their possession when the police officers arrested them. They argued that the procedures in preserving the integrity and evidentiary value of the seized items were not properly observed especially with respect to the marking of the item seized from Fernandez. They challenged the identity of the *corpus delicti* in the light of the prosecution's failure to present all persons who marked and had custody of the confiscated illegal drugs.<sup>[8]</sup>

In its Resolution<sup>[9]</sup> dated March 27, 2017, the Court denied the Motion with finality, as no compelling reason exists and no substantial arguments were raised to warrant its reconsideration. Thus, the August 3, 2016 Resolution of the Court became final and executory and an Entry of Judgment was made.

On January 11, 2019, Fernandez and Plata filed the instant Manifestation asking the Court to grant them leniency and to allow the application of the plea bargaining framework in A.M. No. 18-03-16-SC for the purpose of reducing their sentence. They hinged their request on the fact that at the time of the trial of their case, plea bargaining in drugs cases was still prohibited.

The Court resolves to DENY the plea for the reduction of the penalty imposed on Fernandez and Plata.