

THIRD DIVISION

[G.R. No. 193856, April 21, 2014]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. SUKARNO
JUNAIDE Y AGGA, APPELLANT.**

D E C I S I O N

ABAD, J.:

The Court addresses Sukarno A. Junaide's motion for reconsideration of the Court's Resolution of January 20, 2014.

It may be recalled that the prosecution witnesses in this case testified that on November 25, 2004 the Zamboanga Drug Enforcement Unit received a tip that accused Junaide was selling prohibited drugs at Lower Calarian, Zamboanga City. The police unit formed a buy-bust team with SPO1 Roberto Roca as *poseur*-buyer. It then went to the place mentioned. As the informant and SPO1 Roca saw accused Junaide standing near a store, they approached him. The informant told Junaide that his companion wanted to buy P100.00 worth of *shabu*.

Accused Junaide took a sachet from his pocket and handed it to SPO1 Roca who in turn gave him a marked P100.00 bill. The police officer then signaled the rest of the police team to come. When SPO1 Roca let it known that he was a police officer, Junaide tried to flee but the police stopped him. SPO1 Amado Mirasol, Jr. searched and found four sachets of suspected *shabu* and the marked money on Junaide.

Subsequently, the police brought accused Junaide to the police station where SPO1 Mirasol marked the four sachets seized from him and turned these over to the case investigator, SPO1 Federico Lindo, Jr. The latter then turned over the seized items to the police crime laboratory. The sachet Junaide sold was found to contain 0.0101 gram of methamphetamine hydrochloride or *shabu*; the other sachets contained a total of 0.0235 gram.

Accused Junaide, on the other hand, testified that he was napping at home when sounds of commotion outside his house woke him up. As he took a look, he saw people being chased and his neighbors getting arrested. Junaide left his house a little later to fetch his nephew from school but while waiting for the boy, two armed men alighted from a white jeep and handcuffed him. They frisked him but found nothing. They showed him a sachet of *shabu* and said that they would use it as evidence against him. Junaide later identified the two men as SPO1 Roca and SPO1 Mirasol. Two neighbors claimed that they had seen the incident and corroborated Junaide's story.

The Public Prosecutor charged accused Junaide before the Regional Trial Court (RTC) of Zamboanga City with (1) illegal sale of *shabu* in violation of Section 5, Article II of Republic Act (R.A.) 9165^[1] in Criminal Case 5601 (21215) and (2) illegal possession

of *shabu* in violation of Section 11, Article II of the same law in Criminal Case 5602 (21216).

On January 30, 2008 the RTC found accused Junaide guilty of both charges. The trial court sentenced him to suffer the penalties of life imprisonment and a fine of P500,000.00 for selling dangerous drugs and 12 years and 1 day to 16 years of imprisonment and a fine of P300,000.00 for illegal possession of dangerous drugs. On January 29, 2010 the Court of Appeals (CA) rendered judgment in CA-G.R. CR-HC 00593-MIN affirming the RTC Decision *in toto*, hence, the appeal in this case.

On January 20, 2014 the Court affirmed the CA's Decision. It held that, despite a few deviations from the required procedure, the prosecution sufficiently proved the integrity and evidentiary value of the seized items.

On February 24, 2014 Junaide filed a motion for reconsideration pleading for a reexamination of the Court's finding that the police officers involved substantially complied with the requirements of Section 21, Article II of the Implementing Rules and Regulations of R.A. 9165. The Court has accommodated the plea.

In a prosecution for the sale and possession of the prohibited drugs known as *shabu*, the State does not only carry the heavy burden of proving the elements of the offense. It also bears the obligation to prove the *corpus delicti*, failing in which the State would not have proved the guilt of the accused beyond reasonable doubt.

[2]

And, to prove the *corpus delicti*, it is indispensable for the prosecution to show that the dangerous drugs subject of the sale and examined in the police laboratory are the same drugs presented in court as evidence.^[3] The first stage in the chain of custody is the marking of the seized drugs or related items.^[4] Marking is the affixing of the initials or other identifying signs on the seized items by the arresting officer or the poseur-buyer. This must be done in the presence of the accused shortly after arrest.^[5]

Here, compliance with the requirement of marking is not clear. SPO1 Roca testified that he marked the plastic sachet of shabu that he bought with his initials "RR" but when the supposed sachet was presented to him in court for identification, it instead carried the marking "RR-1." This may be just a mistake but he denied having made a mistake and admitted that the "RR-1" marking could have been made by just anybody.^[6] Thus:

Prosecutor Pajarito:

Q: If this one sachet of shabu be shown to you, the one which you said sold to you by Sukarno will you recognize it?

A: Yes Ma'am.

Q: How would you be able to recognize it Mr. witness?

A: I mark my initial Ma'am.

Q: What initial did you place?

A: RR means Roberto Roca.

x x x x

Q: I have one sachet of white crystalline substance bearing RR marking what relation has this to the one sachet which you