

SUPREME COURT OF JUSTICE

SUPREME SEL

CRIMINAL CHAMBER

SUPREME ORDER No. 201/2018-RA

Sucre, March 21, 2018

File: Santa Cruz 175/2017

Prosecuting Party: Public Prosecutor's Office

Accused Party: Luis Fernando Riaño Doblado and

others Crime: Transportation of Controlled

Substances

RESULTING

By memorial presented on August 28, 2017, appearing on pages 1848 to 1849, Luis Fernando Riaño Doblado, files an appeal challenging the Order of View 45 of July 26, 2017, from pages 1839 to 1845, issued by the First Criminal Chamber of the Departmental Court of Justice of Santa Cruz, within the criminal process followed by the Public Ministry against Carlos Eduardo Nieva Ruiz and Kevin Rivera Soruco (both declared rebels), Walkiria Goncalves de Oliveira, Camila Carolina de Matos Vilas Boas and the appellant, for the alleged commission of the crime of Transportation of Controlled Substances, provided for and sanctioned by art. 55 in relation to art. 33 inc. m) of the Law of Cocaine and Controlled Substances Regime (Law 1008).

I. BACKGROUND OF THE PROCESS

From the background information received at the cassation court, the following is established:

a) Prior to the substantive process through Resolutions 11/2015 and 67/2015 of September 10 (pages 1616 to 1621 and 1666) a 1675), the defendants Camila Carolina de Matos Vilas Boas and Walkiria Goncalves de Oliveira, through a procedure They were sentenced to eight years in prison, both of them waiving their right to appeal in a restricted manner; on the other hand, part, by Judgment 17/2017 of March 22 (pages 1813 to 1818 back), the Technical Judge (President) of the Seventh Court of the Judgment of the Departmental Court of Justice of Santa Cruz, declared Luis Fernando Riaño Doblado acquitted of penalty and guilt for the crime of Transport of Controlled Substances, provided for in art. 55 in relation to art. 33 inc. m) of Law 1008, due to reasonable doubt regarding his criminal responsibility due to insufficient evidence against him provided by the public prosecution, with Judge Freddy Coronel Alanoca dissenting, who considered the participation of the accused in the crime involved in the degree of complicity.

CERTIFIED TRANSLATED COPY  
FROM: Spanish TO: English  
SOURCE PGS: 8 TOTAL DOCS: 8  
RQSTD BY: Kafil Sana MOB:  
ISSUED ON: 16/02/25  
SIGN: [Signature] 16/02/25  
WORD DEALERS PVT. LTD.  
WWW.WORDDEALERS.COM  
+91-9993619075 101 0763734000



b) Against the aforementioned Sentence, the Public Prosecutor filed a restricted appeal (pages 1825 to 1833), which was resolved by Order of Vista 45 of July 26, 2017, issued by the First Criminal Chamber of the Court

Department of Justice of Santa Cruz, which declared the appeal admissible and appropriate and completely annulled

the appealed judgment, ordering the reinstatement of the trial by another Sentencing Court called by Law.

c) By means of a document dated August 21, 2017 (page 1847), the appellant was notified of the aforementioned Order of View; and, on August 28,

of the same month and year, filed the appeal for cassation that is the subject of this admissibility analysis.

II. OF THE GROUNDS FOR THE APPEAL

The following grievances are extracted from the appeal brief:

1) The appellant argues that it is not apparent that the Public Prosecutor's Office has made a reservation of appeal in any of the assumptions of procedural defects not observed by the Court that conducted the oral trial, a requirement essential according to art. 407 of the Code of Criminal Procedure (CPP).

2) He alleges that the Public Prosecutor's Office misled the Court of Appeal by assuming the marriage bond between the appellant and Camila Carolina Matos, an extreme that was not proven in oral trial, moreover, contradictorily it was spoken of that they had separate rooms, when it would be logical that if such a bond existed they would live in the same bed.

3) He argues that the reference to a "gram scale" that was not subjected to expert analysis so that the existence of the scale can be confirmed of a controlled substance; in any case, the presence of that object is due to the activity carried out by the appellant, that is, "jeweler".

4) The Sentencing Court assessed the evidence considering that it is not related to controlled substances and is not proved the causal link with the accused crime, nor did it justify the way in which those would be used  
evidence to base a conviction sentence since the precepts are not "explained or specified" wrongly applied" (sic).

5) Under the heading "Applicable Jurisprudence" (sic), a portion of Supreme Court Ruling 200/2012-RRC of 24 is transcribed August, to finally request the revocation of the contested Order of the Court.

III. REQUIREMENTS THAT MAKE THE ADMISSION OF THE APPEAL VIABLE

**CERTIFIED TRANSLATED COPY**  
FROM: Spanish TO: English  
SOURCE PGS: 5 TOTAL DOCS: 6  
POSTED BY: Karol Soria MOB:  
ISSUED ON: 16.02.25  
SIGN: [Signature] 16/02/25  
WORDMAGAZINE PVT LTD.  
WWW.WORDMAGAZINE.COM  
91-9993619075, 91-913277



Art. 180.II of the Political Constitution of the State (CPE) guarantees the principle of challenge in the processes judicial, which in turn constitutes a judicial guarantee as determined by arts. 8.2 inc. h) of the American Convention on Human Rights and 14.5 of the International Covenant on Civil and Political Rights; The procedural subjects must, at the time of filing the different appeals that the procedural rule provides, observe the conditions of time and form established by law in accordance with the provisions contained in art. 396 inc. 3) of the CPP.

In this context, art. 416 of the CPP establishes that the appeal for cassation is available to challenge the Court's Orders, issued by the Departmental Courts of Justice, which are contrary to other precedents issued by the

Criminal Chambers of these Courts or of the Supreme Court of Justice; it being understood that there is a contradiction when In a similar factual situation, the legal meaning assigned to the contested Order of the Court does not coincide with the precedents invoked, whether because different rules have been applied or the same rule with different scope; since it must It should be noted that in the current appeal system established by the Code of Criminal Procedure, the appeal of cassation, given its nomophylactic function, has the function that the Supreme Court of Justice develops the task to unify jurisprudence, in order to guarantee the correct and uniform application of criminal law, for reasons of legal certainty and respect for the right to equality, so that every citizen has the certainty and security that the The procedural and material rule will be effectively applied equally; furthermore, this work is recognized by art. 42 of the Law of the Judicial Branch (LOJ), which establishes, among other powers, the specialized Chambers of this Court, to establish and standardize jurisprudence, resulting in the particular case of the Criminal Chamber, that before the filing of the appeal, it is their responsibility, based on objective law, to establish the existence or not of contradiction between the contested ruling and the precedents invoked.

On the other hand, for the admissibility of the appeal it is necessary to observe the requirements prescribed in arts. 416 and 417 of the aforementioned legal body, which are:

- i) Filing of the appeal within five days following notification of the Court's Order challenged or, where appropriate, with the Complementary Order, before the Chamber that issued the challenged resolution.
- ii) Invocation of the contradictory precedent at the time of filing the restricted appeal, which must be the appellant pointed out in clear and precise terms the contradiction between the contested Order of Hearing and the precedent invoked; that is, this requirement constitutes a procedural burden for the appellant to carry out the due justification on the existence of contradictory precedents between the contested judicial resolution and others precedents consisting of Supreme Decisions issued by the Criminal Chambers of the Supreme Court of Justice or Decisions of View issued by the Departmental Courts of Justice; which must be clearly stated and precise based on the comparison of similar facts and the rules applied with different legal meanings;

**CERTIFIED TRANSLATED COPY**  
 FROM: Spanish TO: English  
 SOURCE PGS: 5 TOTAL DOCS: 5  
 REQSTD BY: Karel Szwak MOB:  
 ISSUED ON: 16/02/25  
 SIGN: [Signature] 16/02/25  
 WORD DEALERS PVT. LTD.  
 WWW.WORDDEALERS.COM



Plurinational State of  
Bolivia Judicial

CONFIRMED TRANSLATED COPY  
 FROM: Spanish TO: English  
 PRICE PGS: 6 TOTAL DOCS: 8  
 ORDERED BY: Rafael Serna MOB:  
 ORDERED ON: 16/02/25  
 WORD DEALERS PVT. LTD.  
 WWW.WORDD DEALERS.COM  
 TEL: +91 8903618005 FAX: +91 876 2773192



specifying what the defects of the contested ruling consist of, the provisions not observed or wrongly applied, what precepts should be applied and the intended solution.

This means that a simple mention, invocation, transcription of the precedent, or subjective justification is not enough of the appellant regarding how he believes the allegation should have been resolved; but rather, the adequacy of the appeal inevitably to the legal regulations, so that from there, this Court of Justice can comply with its competence (art. 419 of the CPP), without this means of challenge being considered a new opportunity for review of the merit ruling.

iii) As the only admissible evidence, a copy of the restricted appeal will be attached, since the precedent The contradictory judgment must be invoked at the time of its filing; unless the judgment was initially favorable to the party and therefore that judicial resolution does not cause any harm, but rather it arises in appeal when the Order of View was issued; in which case, the appellant has the procedural burden of invoking the contradictory precedent at the time of filing the appeal.

The legal precept contained in the aforementioned art. 417 of the Criminal Procedure Law concludes by pointing out that failure to comply with These requirements will determine the declaration of inadmissibility of the appeal.

However, there are situations where the requirements for admissibility of the appeal for cassation are relaxed. It allows the competition to be opened exceptionally in those cases in which the existence of serious and obvious violations of the rights of the parties and which constitute absolute defects not susceptible to validation; a possibility that is justified taking into account: a) That the ultimate goal of law is justice; b) The task entrusted by law to the Supreme Court referred to above; c) The need to ensure that the precautionary measures are observed Procedural rules that are of public order and of obligatory compliance that provide that procedural acts are not committed defective, taking into account that according to the provision contained in art. 115.II of the CPE, the State guarantees among others, the rights to due process and defense; and, d) The provisions relating to the nullity of acts procedural measures provided for in art. 17 of the LOJ.

This understanding does not imply that the appellant limits himself in the appeal to formulating a simple complaint of defective procedural activity without proper justification; on the contrary, in this type of situation,



the party The appellant must formulate the complaints related to the existence of absolute defects, having the obligation to meet the following requirements: a) provide the factual background that generated the appeal; b) specify the constitutional right or guarantee violated or restricted; c) detail precisely what the restriction or diminution of the right or guarantee; and, d) explain the harmful result arising from the defect.

It should be noted that this doctrine of relaxing the requirements of admissibility and permissibility of activating the appeal against the complaint of absolute defects adopted by this Court, has been ratified by the Constitutional Court in Constitutional Sentences 1112/2013 of July 17, 0128/2015-S1 of February 26 and 0326/2015-S3 of March 27, among others, stating that it is in compliance with the values of justice and equality and the principle of effectiveness of fundamental rights, including access to justice and material justice, the latter being demands the adoption of criteria that allow for the correction and repair of serious violations of constitutional rights and guarantees occurred during the processing of the proceedings.

#### IV. ANALYSIS OF COMPLIANCE WITH THESE REQUIREMENTS

In the present case, it is noted that the appellant was notified of the contested Order of Inspection on August 21, 2017, filing his appeal on the 28th of the same month and year; that is, within the period of five days abilities granted by law, in compliance with the time requirement required by art. 417 of the CPP.

As regards the other admissibility requirements, it is clear that they were not met by the appellant at all, since in addition to transcribing a fragment of Supreme Order 200/2012-RRC of 24 August, and mentioning that it was a contradictory precedent, there is not at least the minimum effort in the compliance with the requirements that enable the opening of jurisdiction in cassation, since the similar factual situation that it is reported as contradictory is not set out in the appeal brief. The argumentative negligence comes Furthermore, in addition to referring to two assumptions about the appellant's marital status and the origin of a weighing tool, the text of the resource simply falls into speculation, its link with the background of the process and more precisely with the Resolution that is challenged is non-existent. Consequently, this Criminal Chamber sees prevented from opening its jurisdiction due to non-compliance with the requirements set out in arts. 416 and 417 of the CPP, both in the appeal for cassation as well as due to the vagueness of the arguments that the appellant presents, even resorting to the flexibility criteria argued and explained in the previous section of this Resolution, becoming consequently the appeal for cassation under analysis is inadmissible.

**CERTIFIED TRANSLATED COPY**  
FROM: Spanish TO: English  
SOURCE PGS: 8 TOTAL DOCS: 8  
ROSTD BY: Kalle Suñat MOB:  
ISSUED ON: 16/02/25  
SIGN:  WORD DEALERS PVT. LTD.  
WWW.WORDDALERS.COM  
+91-9993619075, +91-9752773192



THEREFORE

The Criminal Chamber of the Supreme Court of Justice, with the power conferred by art. 418 of the CPP, declares INADMISSIBLE the appeal for cassation filed by Luis Fernando Riaño Doblado, from pages 1848 to 1849.

Sign up, let us know, and come back.

Signed


Presiding Magistrate Dr. Olvis Eiguez Oliva

Judge Dr. Edwin Aguayo Arando

Secretary of the Chamber Dr. Cristhian G. Miranda Dávalos

**CERTIFIED TRANSLATED COPY**

FROM: *spanish* TO: *english*  
SOURCE PGS: *6* TOTAL DOCS: *8*  
RQSTD BY: *Kapil Jawa* MOB: .....  
ISSUED ON: *16/02/23*

SIGN:  WORD DEALERS PVT. LTD.  
WWW.WORDDEALERS.COM  
+91-9993619075, +91-9752773192

