



Criminal Case No. Crc 211-2010

That on or about May 26, 2010, in the City of Panabo, Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, willfully, unlawfully and knowingly traded, sold and delivered two (2) packs of dried marijuana leaves wrapped with a newspaper, a dangerous drug, to IO1 Julius A. Magdadaro, who was acting as a poseur-buyer in a legitimate buy bust operation, taking and receiving one (1) marked money of One Hundred [P]eso (₱100.00) bill with [S]erial number D627328.

CONTRARY TO LAW.<sup>4</sup>

Criminal Case No. Crc 212-2010

That on or about May 26, 2010, in the City of Panabo, Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, willfully, unlawfully and knowingly had in his possession, control and custody Ten (10) packs of dried marijuana leaves wrapped in a newspaper, a dangerous drug, with a total weight of more or less 55.8873 grams.

CONTRARY TO LAW.<sup>5</sup>

When arraigned on July 30, 2010, appellant pleaded not guilty to the crimes charged against him. The two criminal cases were then tried jointly by the trial court.

***Version of the Prosecution***

The prosecution presented the following witnesses: SPO2 Romeo Obero (SPO2 Obero), IO1 Julius A. Magdadaro (IO1 Magdadaro), SO2 Bryan P. Ponferrada (SO2 Ponferrada), PO3 Norkaya G. Dica (PO3 Dica), and P/Supt. Julieta G. Razonable (P/S Razonable). Based on their testimonies, the following facts emerged:

In the morning of May 26, 2010, Agent Caludito Cañada (Agent Cañada) received information from a confidential informant that a certain alias Eric was selling marijuana at *Purok 6, Barangay Quezon, Panabo*. Agent Cañada instructed the confidential informant to arrange a transaction with the suspect. Accordingly, agent Cañada organized a buy-bust team, with IO1 Magdadaro as the poseur-buyer and SO2 Ponferrada as the back-up arresting

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<sup>4</sup> Records, Folder, p. 1.

<sup>5</sup> Id.

officer. Agent Cañada also prepared the Php100.00 bill marked money with initials "JAM". It was also agreed that the lighting of a cigarette by IO1 Magdadaro would signal the consummation of the transaction.

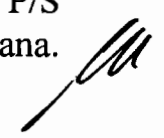
The team proceeded to the Panabo City Police Station where they conducted a final briefing. At around 5:15 p.m., IO1 Magdadaro and SO2 Ponferrada, together with the confidential informant, proceeded to the target area on board a motorcycle.

Upon arrival at the target area, the confidential informant pointed to a man sitting at a nipa hut, who was later established as appellant. The confidential informant introduced IO1 Magdadaro to appellant as his friend who wanted to buy marijuana. Appellant asked IO1 Magdadaro how much marijuana he would like to buy, to which IO1 Magdadaro answered "Php100.00 worth." Appellant then retrieved a bag from a wooden cage and took out two packets which he gave to IO1 Magdadaro. Upon confirming that the packets contained marijuana leaves, IO1 Magdadaro handed the Php100.00 marked money to appellant who placed it inside his right pocket. IO1 Magdadaro then lit a cigarette to signal the consummation of the transaction prompting SO2 Ponferrada to approach them.

SO2 Ponferrada introduced himself as a PDEA agent, handcuffed appellant and informed him of his rights. He frisked appellant and recovered from appellant's right pocket the Php100.00 marked money and from appellant's bag 10 packets of suspected marijuana. In the presence of appellant, IO1 Magdadaro marked the two packets he bought from appellant while SO2 Ponferrada marked the 10 packets and the bag. Thereafter, the police officers placed the seized items inside the evidence pouch.

They then went back to the Panabo Police Station and conducted an inventory and took photographs of appellant and the seized items in the presence of witnesses Benigno Gumban, Jr. of the media, elected official Eduardo Alas, Ian Dionela of the Department of Justice (DOJ), and appellant's representative, Leonida Sevilla. IO1 Magdadaro took custody of the two packets while the 10 packets were with SO2 Ponferrada.

After preparing the request for laboratory examination, IO1 Magdadaro and SO2 Ponferrada delivered the seized items to the PNP Crime Laboratory in Tagum City, which were received and weighed by SPO2 Obrero. SPO2 Obrero then turned over the seized items to the evidence custodian who, in turn, handed it to P/S Razonable, the forensic chemist, for examination. P/S Razonable examined the seized items and found them positive for marijuana.



### ***Version of the Defense***

The defense presented appellant as its sole witness. According to appellant, on May 26, 2010, while entering the gate of his house after arriving from work, around 10 persons followed him and one of them held both his hands. When appellant asked what his violation was, the person holding his hands accused him of selling marijuana. Appellant reacted to such false imputation by saying that he had a job. Subsequently, several persons entered his house. After about five to eight minutes, they emerged from his house and asked him if he owned the packet one of them was holding, to which he replied in the negative. He was then boarded on a Toyota Revo and was brought to the police station where pictures were taken of him together with some packets laid in front of him.

### ***Ruling of the Regional Trial Court***

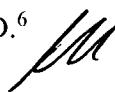
On December 1, 2014, the RTC rendered judgment finding appellant guilty beyond reasonable doubt of selling and possessing prohibited dangerous drugs. It found appellant's defenses of denial and alibi as inherently weak and not worthy of consideration. The dispositive portion of the decision reads:

WHEREFORE, judgment is hereby rendered as follows:

- a. Finding accused *Eric L. Sevilla* guilty beyond reasonable doubt in Criminal Case No. CrC No. 211-2010 of selling marijuana defined and penalized under Section 5 of Republic Act No. 9165. Accordingly, he is sentenced to suffer in this case the penalty of life imprisonment and to pay fine in the amount of Php500,000.00;
- b. Finding accused *Eric L. Sevilla* guilty beyond reasonable doubt in Criminal Case No. CrC No. 212-2010 of illegal possession of marijuana defined and penalized under Section 11 of Republic Act No. 9165. Accordingly, he is sentenced to suffer in this case the indeterminate penalty of twelve (12) years and one (1) day as minimum period to thirteen (13) years as maximum period and to pay fine in the amount of Php300,000.00.

x x x x

SO ORDERED.<sup>6</sup>



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<sup>6</sup> CA rollo, p. 33.

***Ruling of the Court of Appeals***

Appellant assailed his conviction before the CA, claiming that the prosecution failed to comply with the requirements of Section 21 of RA 9165 which creates serious doubts on the integrity and evidentiary value of the seized drugs.

On July 29, 2016, the CA affirmed the RTC's Decision. The CA found that the prosecution was able to establish a clear and unbroken chain of custody of the seized illegal drugs, and upheld the presumption of regularity in the performance of the duties of the apprehending officers. Thus, it found no reason to reverse the ruling of the RTC finding appellant guilty beyond reasonable doubt. The CA ruled:

WHEREFORE, the assailed Decision dated 1 December 2014 rendered by the Regional Trial Court, 11<sup>th</sup> Judicial Region, Branch 34 of Panabo City in Criminal Case Nos. CrC 211-2010 and CrC 212-2010 is hereby AFFIRMED.

SO ORDERED.<sup>7</sup>

**Our Ruling**

The Court finds the appeal unmeritorious.

For the successful prosecution of the illegal sale of dangerous drugs, the identity of the buyer and the seller, the object of the sale, and the consideration and the delivery of the thing sold as well its payment should be established.<sup>8</sup> For illegal possession of dangerous drugs, it should be established that the accused was in possession of an item or object identified to be a prohibited drug, which possession was not authorized by law and that the accused freely and consciously possessed the drug.<sup>9</sup> Further, apart from showing that the elements of possession or sale were present, the fact that the dangerous drug illegally possessed and sold was the same drug offered in court as exhibit must likewise be established with the same degree of certitude as that needed to sustain a guilty verdict. Hence, the identity of the dangerous drug must be established with moral certainty.<sup>10</sup>

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<sup>7</sup> *Rollo*, p. 14.

<sup>8</sup> *People v. SPO3 Ara*, 623 Phil. 939, 955 (2009).

<sup>9</sup> *People v. Manalao*, 703 Phil. 101, 114 (2013).

<sup>10</sup> *People v. Del Mundo*, G.R. No. 208095, September 20, 2017, 840 SCRA 327, 338.

In this case, appellant doubts the integrity of the marijuana because of non-compliance by the apprehending police officers with Section 21 of RA 9165 resulting in a broken chain of custody over the confiscated drugs. He submits that the failure of the arresting officers to photograph the drugs immediately after its seizure and confiscation and the absence of witnesses from the media, the DOJ, and an elected public official at the time of arrest, as well as their failure to properly seal the seized drugs upon confiscation, were fatal to the prosecution's cause.

This contention is untenable.

Section 21, Article II of RA 9165 pertinently provides:

(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;

The Implementing Rules and Regulations (IRR) of Section 21 of RA 9165 also provide that:

(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;

There is no dispute that IO1 Magdadaro, who acted as poseur-buyer during the buy-bust operation, marked the seized marijuana at the place and time of the arrest. The buy-bust team then proceeded immediately to the Panabo City Police Station where they conducted the inventory of the seized items and took photographs thereof in the presence of appellant, Leonida

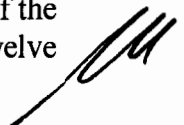


Sevilla, appellant's representative, Benigno Gumban, Jr. from the media, elected official Eduardo Alas, and Ian Dionela of the DOJ. Indeed, the police officers complied the requirements of the law contrary to the protestation of appellant.

Appellant's claim that there was no assurance that the marijuana seized at the crime scene and those presented/brought to the Police Station were the same due to the fact that said items were only sealed at the Police Station, and not at the time of confiscation, is untenable. As aptly held by the CA, the apprehending officers were able to preserve the integrity of the seized drugs after complying with the requirements of Section 21 of RA 9165 regarding the proper custody of the seized drugs and the chain of custody had been duly established. We agree on the CA's discussion on this matter, to wit:

During trial, the prosecution was able to establish that after arresting accused-appellant, IO1 Julius A. Magdadaro marked the two packs of marijuana subject of the buy-bust transaction with his signature and his initials, "JAM". On the other hand, the ten packs of marijuana seized from accused-appellant were marked by SO2 Bryan P. Ponferrada with his signature and his initials, "BPP". The said items were marked at the scene of the crime in the presence of accused-appellant. Thereafter, IO1 Magdadaro and SO2 Ponferrada brought the seized illegal drugs, along with accused-appellant, to the Panabo City Police Station where they conducted the physical inventory and took photographs of the accused-appellant and the seized items. During this time, the two packs of marijuana subject of the buy-bust transaction remained in the possession of IO1 Magdadaro while the ten packs of marijuana seized from accused-appellant remained in the possession of SO2 Ponferrada.

Then, IO1 Magdadaro and SO2 Ponferrada brought the seized illegal drugs to the Provincial Crime Laboratory in Tagum City for laboratory examination as evidenced by the Letter Request dated 26 May 2010. The seized items were then duly received by SPO2 Romeo Obrero of the Provincial Crime Laboratory. Upon receiving the seized illegal drugs, SPO2 Obrero then weighed the said items and thereafter placed his signature and final weight of the specimens on each pack. After weighing the specimens, SPO2 Obrero turned the same over to PO1 Jeffrey Cambalon, the Evidence Custodian of the Provincial Crime Laboratory. The seized illegal drugs were then turned over by PO1 Jeffrey Cambalon to P/Supt. Julieta G. Razonable, the Forensic Chemist of the Provincial Crime Laboratory, who conducted the chemical examination on the seized items. After the examination conducted by P/Supt. Razonable, all the seized items were found positive for the presence of marijuana as evidenced by Chemistry Report No. D-040DN-2010 dated 26 May 2010. P/Supt. Razonable then placed the markings "A1" and "A2", as well as her signature and the case control number, on the two packs of marijuana subject of the buy-bust transaction. P/Supt. Razonable also placed the markings "B1" to "B10", as well as her signature and the case control number, on each of the ten packs of marijuana seized from accused-appellant. The twelve



individually marked packs of marijuana were then turned over to the evidence custodian of the Provincial Crime Laboratory, PO1 Calambon. The same marked packs of marijuana were duly identified by the prosecution witnesses during the trial.

Based on the foregoing, there can be no doubt that the prosecution was able to sufficiently establish a clear and unbroken chain of custody of the seized illegal drugs in the case at bar.<sup>11</sup>

Thus, we uphold the findings of the CA that the integrity and evidentiary value of the marijuana presented in court was duly preserved and uncompromised. We see no reason to disturb the findings of the CA as to the guilt of appellant.

Under Section 5, Article II of RA 9165, the penalty for illegal sale of dangerous drugs, such as marijuana, regardless of its quantity and purity, is life imprisonment to death and a fine ranging from ₱500,000.00 to ₱10 million. However, in light of the effectivity of RA 9346,<sup>12</sup> the imposition of the penalty of death has been proscribed. Thus, the penalty of life imprisonment and a fine of ₱500,000.00 imposed on appellant by the RTC as affirmed by the CA for the illegal sale of marijuana was in order.

For the crime of illegal possession of dangerous drugs, Section 11, Article II of RA 9165 provides the penalty of imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from ₱300,000.00 to ₱400,000.00 for less than 300 grams of marijuana. In this case, appellant was found in possession of marijuana with an aggregate weight of more or less 55.8873 grams, which is less than 300 grams. Thus, the penalty of twelve (12) years and one (1) day as minimum to thirteen (13) years as maximum, and a fine of ₱300,000.00 imposed on appellant by the RTC and affirmed by the CA, was also in order.

**WHEREFORE**, the appeal is **DISMISSED**. The July 29, 2016 Decision of the Court of Appeals in CA-G.R. CR HC No. 01396-MIN affirming the December 1, 2014 Decision of the Regional Trial Court, Branch 34, Panabo City in Criminal Case Nos. CrC 211-2110 and CrC 212-2010 finding appellant Eric L. Sevilla **GUILTY** beyond reasonable doubt of violation of Sections 5 and 11, respectively, Article II of Republic Act No. 9165, is **AFFIRMED**.



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<sup>11</sup> *Rollo*, pp. 12-14.

<sup>12</sup> AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES. Approved: June 24, 2006.



**SO ORDERED.**

  
**MARIANO C. DEL CASTILLO**  
*Associate Justice*

WE CONCUR:

  
**LUCAS P. BERSAMIN**  
*Chief Justice*

  
**FRANCIS H. JARDELEZA**  
*Associate Justice*

  
**ALEXANDER G. GESMUNDO**  
*Associate Justice*

  
**ROSMARI D. CARANDANG**  
*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.

  
**LUCAS P. BERSAMIN**  
*Chief Justice*