



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 227741

Present:

- versus -

BERSAMIN, C.J.,
DEL CASTILLO,
JARDELEZA,*
GESMUNDO, and
CARANDANG, JJ.

WILLARD LAWAY y CANOY,
Accused-Appellant.

Promulgated:
MAR 27 2019

X ----- 

DECISION

DEL CASTILLO, J.:

This is an appeal filed by appellant Willard Laway y Canoy from the August 12, 2016 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR HC No. 01425-MIN, affirming the May 25, 2015 Decision² of the Regional Trial Court (RTC) of Lanao Del Norte, Iligan City, Branch 6, in Criminal Case No. 06-16101 finding appellant guilty of violation of Section 5, Article II of Republic Act (RA) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The Factual Antecedents

Appellant was charged under the following Amended Information:

That on or about the 14th [day] of May 2012, in the City of Iligan, Philippines, and within the jurisdiction of this Honorable Court[,] the above named [appellant], not being lawfully authorized by law, did then and there willfully and feloniously sell, give away, distribute, and deliver a total of zero point zero eight (0.08) [gram] of met[h]amph[e]tamine Hydrochloride (shabu), a dangerous drug, which is contained in four (4) pcs[.] heat[-]sealed transparent cellophane each containing 0.02 [gram] of Met[h]amph[e]tamine Hy[dr]ochloride for the amount of six hundred pesos (Php600.00) Philippine

* On official leave.
¹ *Rollo*, pp. 3-16; penned by Associate Justice Rafael Antonio M. Santos and concurred in by Associate Justices Edgardo T. Lloren and Ruben Reynaldo G. Roxas.
² *CA rollo*, pp. 50-58; penned by Judge Leonor S. Quiñones.

Currency.

Contrary to and in violation of Article II, Sec. 5 of Republic Act 9165 otherwise known as [the] Comprehensive Dangerous Drugs Act of 2002.³

When arraigned, appellant pleaded not guilty to the crime charged.⁴

Version of the Prosecution

During the trial, the prosecution presented the testimonies of the following witnesses: (1) PO3 Duane Acain, the poseur-buyer; (2) SPO1 Sedric⁵ Sansarona, the arresting officer; (3) SPO1⁶ Rusto Ceniza, the field investigator; (4) P/Supt. Mary Leocy M. Jabonillo, the Forensic Chemist; and (5) *Kagawad* Ma. Ella Villaroya Emnace (Emnace), an elected public official.

The evidence of the prosecution, as summarized by the CA is, as follows:

On 14 May 2012, the Office of the Philippine National Police (PNP), Police Station 2 of N[o]nucan, Iligan City (PNP Station 2) received an information from a confidential informant that [appellant] was engaged in the selling of prohibited drugs in Purok 1-A, Buru-un, Iligan City. Upon receiving the information, the Station Commander of PNP Station 2, PC/Insp. Sherwin Molina Lapiz, conducted a briefing to plan a buy-bust operation to be undertaken against [appellant]. A buy-bust team was formed composed of PO3 Acain, SPO1 [C]edric Sansarona, PO3 Luceno, and PO3 Labares. Also present during the briefing were PC/Insp. Lapiz and the investigator, PO3 Rusto Ceniza, as well as media representative Jun Bacus, Barangay Kagawad Ella Emnace, and the confidential informant. During the briefing, PO3 Acain was designated as the poseur-buyer while the rest of the team were designated as the apprehending officers. It was also discussed in the briefing that, as the pre-arranged signal, PO3 Acain will tap his head to indicate that the buy-bust transaction has been consummated. The buy-bust team then prepared a marked Php 500 bill and a marked Php 100 bill to be used by the poseur-buyer, PO3 Acain, in transacting with [appellant]. The two marked bills were then handed by PC/Insp. Lapiz to PO3 Acain. At 9 o'clock in the evening of 14 May 2012, the buy-bust team proceeded to Purok 1-A, Buru-un, Iligan City.

Upon arriving at the target area, the confidential informant asked PO3 Acain how much *shabu* he intended to buy from [appellant] to which they both agreed that PO3 Acain will buy Php 600 worth of *shabu*. At this point, the confidential informant pointed PO3 Acain to [appellant] who was at the target area. On the other hand, the other members of the buy-bust team positioned themselves about nine to ten meters away from PO3 Acain. Thereafter, the confidential informant approached [appellant] and told him that the buyer

³ Records, 1-A.

⁴ *Rollo*, p. 5.

⁵ Referred to as "Cedric" in some parts of the records.

⁶ Referred to as "PO3" in some parts of the records.

wanted to purchase Php 600 worth of *shabu*. Then, [appellant] went inside his house and later came back and approached PO3 Acain. [Appellant] then handed to PO3 Acain three sachets containing white crystalline substance. In turn, PO3 Acain gave the two marked bills worth a total of Php 600 to [appellant]. PO3 Acain then signaled to his companions by tapping his head, which was the pre-arranged signal that the buy-bust transaction with [appellant] was already consummated. Thereupon, SPO1 Sansarona and PO3 Labares, who were able to see what PO3 Acain and [appellant] were doing, moved in and arrested [appellant]. The police officers then searched [appellant] and found in his possession another sachet containing white crystalline substance and six pieces of aluminum foil. The police officers also recovered from [appellant] the two marked bills used in the buy-bust transaction.

Immediately after the arrest and search conducted by the police officers and while still at the crime scene, an inventory was conducted by PO3 Ceniza, the evidence custodian. The police officers likewise took photographs of the seized items. The inventory was done in the presence of Jun Bacus, representing the media, and Kagawad Emnace who acted as witnesses, as well as [appellant]. During this time, PO3 Acain marked the three sachets containing white crystalline substance which were subject of the buy-bust transaction with the initials "WL-1," "WL-2," and "WL-3." On the other hand, the sachet containing white crystalline substance which was recovered from [appellant] was marked by PO3 Acain with the initials, "WL- 4." Thereafter, the police officers brought the seized items, as well as [appellant] to the PNP Station 2.

At the PNP Station 2, PO3 Ceniza prepared a Letter Request for the laboratory examination of the items seized during the buy-bust operation. The said Letter Request was then signed by PC/Insp. Lapiz. Thereafter, PO3 Acain, PO3 Ceniza, and SPO1 Sansarona brought the seized items, along with the Letter Request, to the PNP Crime Laboratory for examination. At the PNP Crime Laboratory, the seized items were subjected to qualitative examination for the presence of dangerous drugs. After the laboratory examination, the items seized were found to be positive for methamphetamine hydrochloride as shown by Chemistry Report No. D-55-2012 dated 15 May 2012.⁷

Version of the Appellant

The defense, on the other hand, presented the lone testimony of appellant who denied the accusations against him. He testified that, on the said date at around 10:00 p.m., he was outside of the waiting shed of the mini-terminal in Buru-un, Iligan City,⁸ on his way to Camague, Iligan City, to borrow money from his sister;⁹ that while he was waiting for a passenger jeepney, he was suddenly arrested by policemen who accused him of "selling" drugs;¹⁰ that they told him not to run;¹¹ that he did not run because he did nothing wrong;¹² that they frisked

⁷ *Rollo*, pp. 5-7.

⁸ *Id.* at 8; *CA rollo*, p. 56. (See TSN dated February 4, 2015, p. 3.)

⁹ *Id.*; *id.* (See *id.* at 4.)

¹⁰ *Rollo*, p. 8. (See *id.* at 4-5.)

¹¹ *Id.* (See *id.* at 5.)

¹² *Id.* (See *id.*)

him but did not find anything;¹³ that he was handcuffed and made to board a service vehicle;¹⁴ and that he was detained at the police station in Nonucan, Iligan City.¹⁵

Ruling of the Regional Trial Court

On May 25, 2015, the RTC rendered a Decision finding appellant guilty beyond reasonable doubt of the crime of illegal sale of dangerous drugs under Section 5, Article II of RA 9165. The RTC gave more weight and credence to the testimonies of the prosecution witnesses than to the defense of denial of appellant, especially since appellant failed to show any ill motive on the part of the prosecution witnesses to falsely accuse him of the crime charged.¹⁶ Although the RTC noted inconsistencies in the statements of the prosecution's witnesses, it ruled that these were minor and did not affect the credibility of the witnesses.¹⁷ Thus –

WHEREFORE, premises considered, this Court hereby finds [appellant] WILLARD LAWAY y Canoy GUILTY beyond reasonable doubt for Violation of Section 5, Article II of Republic Act 9165, and sentences him to suffer the penalty of LIFE IMPRISONMENT and a fine of Five Hundred Thousand pesos (₱500,000.00).

Meanwhile, Exhibits I, I-1, I-2, J, J-1, J-2, J-3, J-4, J-5, J-6, K, K-1, K-2, K-3 and K-4 are ordered confiscated in favor of the government.

The [appellant] has been under preventive imprisonment since May 13, 2012. The period of such detention shall be credited in full in the service of his sentence.

SO ORDERED.¹⁸

Ruling of the Court of Appeals

Appellant elevated the case to the CA.

On August 12, 2016, the CA rendered the assailed Decision affirming the RTC Decision. The CA found that all the elements of the crime charged were sufficiently established by the prosecution. As to the alleged inconsistencies pointed out by appellant, the CA agreed with the RTC that these were minor inconsistencies which did not touch on any of the elements of the crime of illegal

¹³ Id. (See id. at 5-6.)

¹⁴ Id. (See id. at 6.)

¹⁵ Id. (See id.)

¹⁶ CA *rollo*, pp. 57-58.

¹⁷ Id. at 57.

¹⁸ Id. at 58.

sale of dangerous drugs. The CA likewise found that all the links in the chain of custody were established by the prosecution.

Unfazed, appellant filed the instant appeal.

Our Ruling

The appeal is meritorious.

Appellant contends that the prosecution failed to prove his guilt beyond reasonable doubt as there was a failure on the part of the police officers to preserve the integrity of the alleged seized items.¹⁹

The Court agrees with appellant.

Section 21, Article II of RA 9165,²⁰ the law applicable at the time of the commission of the crime charged, provides –

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.

(2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination.

¹⁹ Id. at 41.

²⁰ AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES. Approved: June 7, 2002.

(3) A certification of the forensic laboratory examination results, which shall be done under oath by the forensic laboratory examiner, shall be issued within twenty-four (24) hours after the receipt of the subject item/s: *Provided*, That when the volume of the dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: *Provided, however*, That a final certification shall be issued on the completed forensic laboratory examination on the same within the next twenty-four (24) hours.

x x x x

Under the said provision, the physical inventory and taking of photographs of the seized items must be witnessed by three necessary witnesses (*i.e.* any elected public official and representatives from the media and the DOJ).

In *People v. Lim*,²¹ the Court ruled that, in case any of the necessary witnesses are not available, the prosecution must allege and prove the reasons for their absence and convince the Court that earnest efforts were exerted to secure their attendance. The Court explained –

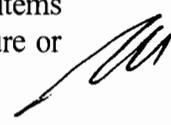
It must be **alleged and proved** that the presence of the three witnesses to the physical inventory and photograph of the illegal drug seized was not obtained due to reason/s such as:

(1) their attendance was impossible because the place of arrest was a remote area; (2) their safety during the inventory and photograph of the seized drugs was threatened by an immediate retaliatory action of the accused or any person/s acting for and in his/her behalf; (3) the elected official themselves were involved in the punishable acts sought to be apprehended; (4) earnest efforts to secure the presence of a DOJ or media representative and an elected public official within the period required under Article 125 of the Revised Penal Code prove futile through no fault of the arresting officers, who face the threat of being charged with arbitrary detention; or (5) time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape.

Earnest effort[s] to secure the attendance of the necessary witnesses must be proven. *People v. Ramos* requires:

It is well to note that the absence of these required witnesses does not *per se* render the confiscated items inadmissible. However, a justifiable reason for such failure or

²¹ G.R. No. 231989, September 4, 2018.



a **showing of any genuine and sufficient effort to secure the required witnesses** under Section 21 of RA 9165 must be adduced. In *People v. Umipang*, the Court held that the prosecution must show that **earnest efforts** were employed in contacting the representatives enumerated under the law for “a sheer statement that representatives were unavailable without so much as an explanation on whether serious attempts were employed to look for other representatives, given the circumstances is to be regarded as a flimsy excuse.” Verily, mere statements of unavailability, absent actual serious attempts to contact the required witnesses are unacceptable as justified grounds for noncompliance. These considerations arise from the fact that police officers are ordinarily given sufficient time — beginning from the moment they have received the information about the activities of the accused until the time of his arrest — to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand knowing full well that they would have to strictly comply with the set procedure prescribed in Section 21 of RA 9165. As such, police officers are compelled not only to state reasons for their non-compliance, but must in fact, also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstances, their actions were reasonable.

In this case, the physical inventory and the taking of photographs of the seized items were witnessed by media representative Jun Lino Bacus and *Kagawad* Emnace.²² Since there was no representative from the Department of Justice (DOJ) present at that time, the required witnesses rule was not complied with. Thus, it was incumbent upon the prosecution to justify the absence of the DOJ representative and convince the Court that earnest efforts were exerted to secure the presence of the same. Unfortunately, records show that no justification was offered by the prosecution. Neither did it show that earnest efforts were exerted to secure the presence of the DOJ representative. In view of the failure of the prosecution to provide a justifiable reason for the non-compliance with Section 21, Article II of RA 9165 which created doubt as to the integrity and evidentiary value of the seized items, the Court is constrained to acquit the appellant based on reasonable doubt.

WHEREFORE, the appeal is **GRANTED**. The August 12, 2016 Decision of the Court of Appeals in CA-G.R. CR HC No. 01425-MIN, which affirmed the May 25, 2015 Decision of the Regional Trial Court of Lanao Del Norte, Iligan City, Branch 6, in Criminal Case No. 06-16101, finding appellant Willard Laway y Canoy guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. 9165, is **REVERSED** and **SET ASIDE**. Accordingly, appellant Willard Laway y Canoy is **ACQUITTED** on reasonable doubt, and is **ORDERED IMMEDIATELY RELEASED** from detention, unless he is being lawfully held for another case.

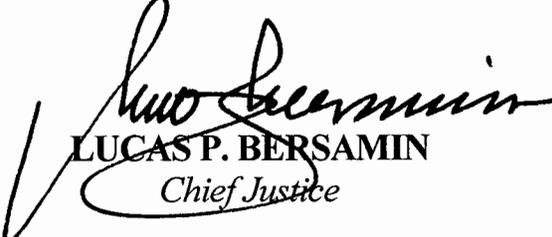
²² Records, p. 51, Certificate of Inventory, Exhibit “D.”



SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


LUCAS P. BERSAMIN
Chief Justice

(On official leave)
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