

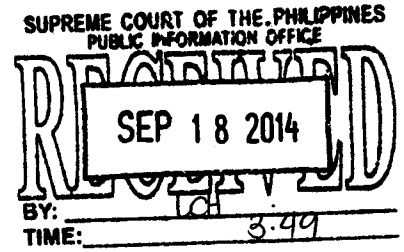
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Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **June 30, 2014** which reads as follows:*

“G.R. No. 206920 – PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee, v. IBRAHIM DATULIYO y ABDULPATAK, Accused-Appellant.

Accused-appellant Ibrahim Datuliyo y Abdulpatak seeks this Court’s review of the Decision dated September 28, 2012 of the Court of Appeals in CA-G.R. CR No. 04379, which affirmed the Judgment dated January 28, 2010 of the Regional Trial Court (RTC), Branch 204 of Muntinlupa City, which found accused-appellant guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. 9165 or the Comprehensive Dangerous Drugs Act of 2002.

Accused-appellant was charged in an Information dated November 8, 2006, to wit:

That on or about the 7th day of November 2006, in the City of Muntinlupa, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there willfully and unlawfully sell, trade, deliver and give away to another, Methylamphetamine Hydrochloride, a dangerous drug, contained in one (1) heat sealed transparent plastic bag weighing 49.2072 grams, in violation of the above-cited law.¹

He pleaded not guilty when arraigned.

The assailed Decision of the Court of Appeals presented the evidence for the prosecution as follows:

According to the prosecution, in the morning of November 7, 2006, a confidential informant tipped off the [Philippine Drug Enforcement Agency] PDEA Metro Manila Regional Office about the

¹ Records, p. 1.

sale of illegal drugs taking place in Alabang, Muntinlupa City by one known in the alias Gen. On the same date, a buy-bust operation was planned, headed by Major [Police Chief Inspector Helson B.] Walin. SPO1 [Jonathan Andres] Cruz was tasked to act as poseur-buyer with PO2 [Leticia Fernandez] Moreno as back-up. SPO1 Cruz was provided with two (2) bundles, appearing as fifty thousand pesos each, composed of four (4) pieces of genuine five hundred peso bills with the markings "JAC" and the rest in boodle money. The confidential informant then called up alias Gen and informed the latter that he has a buyer who offered to purchase 50 grams of shabu. Gen agreed and the meeting place was set in Metropolis Star Mall in Alabang, Muntinlupa City.

Once there, the team proceeded to the food court. SPO1 Cruz and the confidential informant waited for the seller in one of the tables while the rest of the team scattered within the vicinity. A few hours later, the seller, who turned out to be [accused-appellant], approached the confidential informant and was introduced by the latter to SPO1 Cruz. The [accused-appellant] inquired how much shabu SPO1 Cruz needed and the latter replied 50 grams. Upon demand, SPO1 Cruz showed the [accused-appellant] the money. No sale transpired yet and they were told to wait by the [accused-appellant] while he [got] the illegal drugs. The team remained and waited for the return of the [accused-appellant].

At around 4:00 o'clock in the afternoon, the [accused-appellant] came back, carrying with him a red rectangular box. Inside the box was a white airmail envelope and in it was one (1) heat-sealed transparent plastic sachet containing white crystalline substance ("seized item"). After the contents of the box were shown to SPO1 Cruz, the exchange of the commodity and money took place. Immediately thereafter, SPO1 Cruz held the [accused-appellant's] hand and made the pre-arranged signal, prompting the rest of the team to come forward. PO2 Moreno recovered the buy-bust money from the [accused-appellant]. The [accused-appellant] was apprised of his constitutional rights and was taken to the barangay hall in Alabang. An inventory of the confiscated items was done in the presence of the [accused-appellant] and the Barangay Captain and marked as follows – (a) red rectangular box, IAD 11-07-06, Exhibit "A"; (b) white airmail envelope, IAD Exhibit "B" 11-07-06; and (c) heat-sealed transparent plastic sachet containing white crystalline substance, IAD Exhibit "C" 11-07-06. A Certificate of Inventory and a Memorandum Receipt were prepared and signed by SPO1 Cruz and witnessed by Victor Ulanday, Barangay Captain.

Subsequently, the appellant was taken to the PDEA Regional Office. A Request for Laboratory Examination was prepared and the seized item was then submitted by SPO1 Cruz to the PNP Crime Laboratory for examination.

When subjected to a qualitative examination, Forensic Chemist PS Inspector Jesille C. Baluyot, in a Laboratory Report dated November 7, 2006, rendered the findings that the subject specimen consisting of 49.2072 grams of white crystalline substance, tested positive for methamphetamine hydrochloride, otherwise known as "shabu."²

²

Rollo, pp. 4-6.

The Court of Appeals summarized the accused-appellant's position, thus:

Vehemently denying the prosecution's version of events, [accused-appellant] countered that on the day in question, he was standing in front of the Petron Gasoline Station in Alabang, Muntinlupa City, waiting for a ride home when two (2) men suddenly alighted from a white Toyota Revo and approached him. They placed their hands on his shoulder and ordered him not to move. He asked them what they wanted from him and was told he would find out in their office. He went with them after being assured that nothing bad will happen to him.

There were five (5) men inside the vehicle. He was handcuffed, mauled, and electrocuted with a wire, as a result of which, he lost consciousness. When he came about, he was still inside the vehicle and it was then that he was told the reason for his arrest. He vehemently denied the accusation.

Upon arrival at the PDEA office, he was immediately locked up. He stayed in the detention cell for one (1) month and six (6) days. Subsequently, he was transferred to the Muntinlupa City Jail and he learned that a complaint was filed against him for violation of Section 5, Article II of R.A. 9165.³

On January 28, 2010, the RTC of Muntinlupa City rendered its Decision finding accused-appellant guilty of the crime charged. The dispositive portion reads:

WHEREFORE, premises considered and finding the accused IBRAHIM DATULIYO y ABDULPATAK **GUILTY** of violating Sec. 5 of the Comprehensive Dangerous Drugs Act of 2002 beyond reasonable doubt, he is sentenced to LIFE IMPRISONMENT and to pay a fine of FIVE HUNDRED THOUSAND PESOS (Php500,000.00).

The Branch Clerk of Court is directed to transmit the subject "shabu" contained in a transparent plastic sachet to the Philippine Drug Enforcement Agency (PDEA) for proper disposition.

Accused IBRAHIM DATULIYO y ABDULPATAK is ordered committed to the New Bilibid Prisons pending any appeal that he may file in this case.

The preventive imprisonment undergone by the accused shall be credited in his favor.⁴

The accused-appellant elevated the case to the Court of Appeals which affirmed his conviction in the Decision dated September 28, 2012.

In the present appeal, the accused-appellant insists that the Court of Appeals erred in giving full faith and credence to the evidence of the prosecution based on the testimonies of Senior Police Officer (SPO) 1 Cruz

³ Id. at 6-7.

⁴ CA rollo, pp. 85-86.

and Police Officer (PO) 2 Moreno which showed inconsistencies on material details; that the prosecution failed to establish the *corpus delicti* of the offense as there was no immediate inventory of the seized item and “perfect chain of custody;” and that the evidence for the prosecution failed to establish the guilt of the accused-appellant beyond reasonable doubt.

The appeal fails.

It is well to stress that the trial court’s evaluation of the credibility of the witnesses and their testimonies is entitled to great weight and will not be disturbed on appeal absent a showing that it overlooked, misunderstood or misapplied some facts or circumstances of weight and substance that would affect the result of the case,⁵ especially when such findings have been affirmed by the Court of Appeals.

After a careful review and examination of the records of this case, this Court finds no indication that the RTC and the Court of Appeals overlooked or failed to appreciate facts that, if considered, would change the outcome of this case. Thus, we uphold the conviction of accused-appellant.

The accused-appellant was charged and convicted for the sale of dangerous drugs in violation of Section 5, Article II of Republic Act No. 9165 or the Comprehensive Dangerous Drugs Act of 2002. The law reads:

Section 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (₱500,000.00) to Ten million pesos (₱10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

For a successful prosecution of offenses involving the sale of dangerous drugs, the following elements must be proven: (1) the identity of the buyer and the seller, the object of the sale and the consideration; and (2) the delivery of the thing sold and the payment therefor. What is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of the *corpus delicti* as evidence.⁶

In the instant case, the prosecution was able to successfully establish the aforementioned elements. SPO1 Cruz, the police officer who acted as the poseur-buyer, positively identified accused-appellant as the person who

⁵ *People v. Ibay*, 371 Phil. 81, 96 (1999).

⁶ *People v. Zapata*, G.R. No. 184054, October 19, 2011, 659 SCRA 691, 693.

sold and handed to him the rectangular box with a white envelope containing a heat-sealed plastic sachet with white crystalline substance in exchange for ₱100,000.00. PO2 Moreno, the police officer who acted as back-up, also identified accused-appellant as the seller of the dangerous drug in the buy-bust operation which they conducted. The white crystalline substance contained in the heat-sealed plastic sachet was later on confirmed to be Methylamphetamine Hydrochloride or *shabu*, pursuant to the Request for Laboratory Examination and per Initial Laboratory Report No. D-564-06 made by P/Insp. Glenn Ly Tuazon. The marked money, together with the boodle money (yellow paper cut and tied in a bundle), was positively identified by the prosecution witnesses as the same one they prepared and used for the buy-bust operation. Likewise, the heat-sealed sachet containing 49.2072 grams of *shabu* was marked as "IAD Exhibit 'C' 11-07-06."

The failure of the buy-bust team to take pictures of the seized drugs immediately upon seizure and at the site of the accused-appellant's apprehension, and to mark and make an inventory of the same in the presence of all the persons named in Section 21 of Republic Act No. 9165, are not fatal and did not render the seized drug inadmissible in evidence given that the prosecution was able to sufficiently trace and establish each and every link in the chain of custody of the seized drug; and, hence, the identity and integrity of the said drug had been duly preserved.

The accused-appellant argues that the testimonies of PO1 Cruz and PO2 Moreno were riddled with discrepancies in specific details, such as the length of time they talked about the sale, the number of bundles of marked money, and the pre-arranged signal, which allegedly cast doubt on his culpability and his guilt for the crime charged. This Court, however, finds the alleged inconsistencies too inconsequential and irrelevant to the elements of the offense charged. In contrast, these trivial inconsistencies strengthen rather than diminish the prosecution's case as they erase suspicion of a rehearsed testimony and negate any misgivings that the same was perjured.⁷

Contrary to accused-appellant's assertion, the prosecution was able to demonstrate that the chain of custody over the seized item was not broken and that the integrity and the evidentiary value of the evidence had been preserved. The testimonial, documentary, and object evidence established the following: (1) The accused-appellant sold one heat-sealed sachet of white crystalline substance to PO1 Cruz; (2) After PO1 Cruz gave the pre-arranged signal, PO2 Moreno assisted in apprehending the accused-appellant after recovering the marked money; (3) The accused-appellant was brought to the Barangay Hall of Alabang for inventory of the seized items before the Barangay Chairman; (4) A Certificate of Inventory and a

⁷ *People v. Unisa*, G.R. No. 185721, September 28, 2011, 658 SCRA 305, 329.

Memorandum Receipt were prepared and signed by the Barangay Chairman of Barangay Alabang, Muntinlupa City; (5) The accused-appellant was then brought to the PDEA office where the Booking Sheet/Arrest Report, Spot Report of the operation, Request for Laboratory Examination, and Request for Drug Test were accomplished; (6) Police Chief Inspector Walin brought the seized item to the Philippine National Police (PNP) Crime Laboratory Service and requested for the laboratory examination of the same; and (7) Forensic Chemist P/Insp. Tuazon prepared the Initial Laboratory Report No. D-564-06 which showed that the heat-sealed plastic sachet containing white crystalline substance yielded positive results to the tests for Methylamphetamine Hydrochloride.

As to the accused-appellant's defense of denial and frame-up, it cannot prevail over the prosecution witnesses' positive testimonies, coupled with the presentation in court by the prosecution of the *corpus delicti*. Prosecutions involving illegal drugs depend largely on the credibility of the police officers who conducted the buy-bust operation. Oft-repeated is the rule that in cases involving violations of Republic Act No. 9165, credence is given to the prosecution witnesses who are police officers for they are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary. Here, there was none. In fact, the accused-appellant did not allege, much less show, that PO1 Cruz was prompted by improper and malicious motives to impute upon him such a serious charge. Absent any indication that PO1 Cruz was ill-motivated in testifying against the accused-appellant, his testimony deserves full credence.⁸ This being so, the categorical and positive identification of the accused-appellant prevails over the latter's bare denial and assertion of frame-up. All told, the accused-appellant's plain denial of the offense charged, unsubstantiated by any credible and convincing evidence, must necessarily fail. This Court has often viewed with disfavor the defense of denial for it can easily be concocted and is a common and standard defense ploy in most prosecutions for violation of the Dangerous Drugs Act.⁹ In order to prosper, the defenses of denial and frame-up must be proved with strong and convincing evidence.¹⁰ Alas, the accused-appellant presented no such evidence in this case.

This Court therefore finds no error on the part of the RTC and the Court of Appeals in convicting accused-appellant for violation of Section 5, Article II of Republic Act No. 9165.

The penalty for illegal sale of *shabu*, regardless of the quantity and purity involved, under Section 5, Article II of Republic Act No. 9165, shall be life imprisonment to death and a fine ranging from Five Hundred Thousand Pesos (₱500,000.00) to Ten Million Pesos (₱10,000,000.00).

⁸ *People v. Vicente, Jr.*, G.R. No. 188847, January 31, 2011, 641 SCRA 186, 197-198.

⁹ *People v. Astudillo*, 440 Phil. 203, 224 (2002).

¹⁰ *People v. Lazaro, Jr.*, G.R. No. 186418, October 16, 2009, 604 SCRA 250, 269.

Considering that no aggravating circumstance was alleged and proved to justify the imposition of the death penalty, plus the fact that the imposition of the death penalty has been prohibited by Republic Act No. 9346, entitled "An Act Prohibiting the Imposition of Death Penalty in the Philippines," the RTC, as affirmed by the Court of Appeals, properly imposed upon the accused-appellant the penalty of life imprisonment and ordered him to pay a fine of Five Hundred Thousand Pesos (₱500,000.00).

WHEREFORE, the Decision of the Court of Appeals in CA-G.R. CR No. 04379 dated September 28, 2012 is hereby **AFFIRMED**.

SO ORDERED."

Very truly yours,


EDGAR O. ARICHETA

Division Clerk of Court *of ctu*
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Makati City

Court of Appeals (x)
Manila
(CA-G.R. CR H.C. No. 04379)

The Director
Bureau of Corrections
1770 Muntinlupa City

The Hon. Presiding Judge
Regional Trial Court, Br. 204
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(Crim. Case No. 06-975)

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