

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DON WALTER TRIPLITT Y SUSULAN, ACCUSED-APPELLANT.

Ponente: AZCARRAGA-JACOB, J.

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AZCARRAGA-JACOB, J.:

On appeal is the 14 December 2011 Judgment[1] of the Regional Trial Court, Branch 30, Dumaguete City in Criminal Case Nos. 19484 and 19483 entitled People of the Philippines v. Don Walter Triplitt which adjudged accused-appellant guilty beyond reasonable doubt for the crime of Violation of Sections 5 and 11, Article II of Republic Act No. 9165,[2] as amended, the decretal portion of which disposition reads:

WHEREFORE, in the light of the foregoing, the Court hereby renders judgment as follows:

1. In Criminal Case No. 19484, the accused Don Walter Triplitt is hereby found GUILTY beyond reasonable doubt of the offense of illegal sale of 2.92 grams of marijuana in violation of Section 5, Article II of RA 9165 and is hereby sentenced to suffer a penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00).

The one (1) matchbox containing 2.92 grams of marijuana is hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

2. In Criminal Case No. 19483, the accused Don Walter Triplitt is hereby found GUILTY beyond reasonable doubt of the offense of illegal possession of 45.60 grams of marijuana in violation of Section 11, Article II of R.A. No. 9165 and is hereby sentenced to suffer an indeterminate penalty of twelve (12) years and one (1) day as minimum term to fourteen (14) years as maximum term and to pay a fine of Four Hundred Thousand Pesos (P400,000.00).

The thirteen (13) matchboxes containing dried marijuana leaves/fruited tops with a total aggregate weight of 42.53 grams, the one (1) stalk of 1.82 grams of dried marijuana fruited tops, the one (1) partially consumed hand-rolled cigarette containing 0.19 gram of dried marijuana leaves and the 1.06 grams of marijuana seeds are hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

In the service of sentence, the accused shall be credited with the full time during which he has undergone preventive imprisonment, provided he agrees voluntarily in writing to abide by the same disciplinary rules imposed upon conviction prisoners.

SO ORDERED.

THE ANTECEDENTS

In two (2) separate Informations filed before Branch 30, RTC of Dumaguete City, accused-appellant Don Walter Triplitt y Susulan (appellant) was charged with violating of Sections 5 and 11 of Art. II of Republic Act 9165 (The Comprehensive Dangerous Drugs Act of 2002) which reads:

Criminal Case No. 19483

That on or about the 2nd day of April, 2009, in the City of Dumaguete, Philippines, and within the jurisdiction of this Honorable Court, the said accused, not being then authorized by law, did, then and there willfully, unlawfully and feloniously possess Marijuana, a dangerous drug, more particularly described as follows:

1. thirteen (13) matchboxes containing dried Marijuana leaves/fruiting tops, with a total aggregate weight of 42.53 grams;
2. one (1) stalk of 1.82 grams of dried Marijuana fruiting tops;
3. one (1) partially consumed hand rolled cigarette containing 0.19 gram of dried Marijuana leaves; and
4. 1.06 grams of Marijuana seeds.

The accused has been found positive for THC-metabolites, a dangerous drug under R.A. 9165, as reflected in Chemistry Report No. CDT-020-09.

Contrary to Section 11, Article II of RA 9165.[3]

Criminal Case No. 19484

That on or about the 2nd day of April, 2009, in the City of Dumaguete, Philippines and within the jurisdiction of this Honorable Court, the said accused not being then authorized by law, did, then and there willfully, unlawfully and feloniously sell and deliver to a poseur-buyer one (1) Fuego brand matchbox containing 2.92 grams of dried Marijuana leaves/fruiting tops, a dangerous drug.

Contrary to Section 5, Article II, RA 9165.[4]

The established facts summarized by the court a quo can be quoted as follows:

Version of the Prosecution

The prosecution presented the following as its witnesses: PDEA Intelligence Officer I Moises Arriesgado (I01 Arriesgado), NBI Special Investigator III Marlon Manzanaris (SI Manzanaris), and NBI Special Investigator III Nicanor Ernesto Tagle (SI Tagle). Police Chief Inspector Josephine Llena (PCI Llena), Police Officer 2 Glenn Corsame (PO2 Corsame), local NBI Chief Atty. Dominador Cimafranca (Atty. Cimafranca), Barangay Captain Nicolas Ramirez, Barangay Kagawad Carmencita Espina, Juditho Fabillar of the local media, DOJ representative Anthony Chilius Benlot and PDEA Intelligence Officer I Jason Cabatana (I01 Cabatana) were also supposed to be presented for examination. The parties, however, agreed to stipulate on facts with regards to the gist of the testimonies of these witnesses. The testimonies of all these witnesses established the following facts:

On April 2, 2009 at around 4:45 in the afternoon, SI Tagle and members of Task Force 24 comprised of NBI, PDEA and CIDG elements went to Barangay Batinguel, Dumaguete City to serve Search Warrant (SW) No. 04-2009[5] at the house of one Don Walter Triplitt. This house is located around 100 to 150 meters away from the gate of Katrina Homes Subdivision in the said barangay and which the target personality occupied with his live-in partner, Annalou Rubio. Those who accompanied SI Tagle in the service of SW No. 04-2009 included I01 Arriesgado and I01 Ruenell Butch Montenegro of the local PDEA, Atty. Cimafranca and SI Manzanaris of the local NBI, and PO2 Constancio Rosales of the CIDG.

The day before, SI Tagle had applied[6] for this search warrant against the accused Don Walter Triplitt. In his application for a search warrant, SI Tagle had attached the depositions of his witnesses SI Manzanaris[7] and I01 Arriesgado,[8] the location sketch[9] of the place where the accused could be found and the pictures[10] of the house of the accused. The application was the result of a series of discreet surveillance and monitoring conducted at the vicinity of the house of the accused after receiving information that he was engaged in the

illegal drugs trade. During this series of surveillance operations, SI Manzanaris was accompanied by one or two of the following persons: SI Tagle, I01 Arriesgado, and their confidential informant.

The nefarious activities of the accused were confirmed on March 3, 2009 when SI Manzanaris, through an informant, was able to conduct a test-buy of one (1) Fuego matchbox containing dried marijuana fruiting tops. SI Manzanaris gave this matchbox that was later marked as DWT-TB- 3-3-09 to SI Tagle, who submitted the same to the PNP Crime Laboratory for examination. The said Fuego matchbox was found to contain 3.08 grams of dried marijuana fruiting tops per Chemistry Report No. D-014-09.[11]

Similarly, the forensic chemist, PCI Josephine Llena, found on March 30, 2009 that a Rizal matchbox with markings DWT-TB-2 3-30-09 earlier submitted by SI Tagle contained 2.85 grams of dried marijuana fruiting tops per Chemistry Report No. D-024-09. This Rizal matchbox with markings DWT-TB-2 3-30-09 was bought from the accused at the latter's residence that same day by I01 Arriesgado acting as poseur-buyer. During this second test-buy, SI Manzanaris accompanied I01 Arriesgado. It was SI Manzanaris who gave the bought Rizal matchbox to SI Tagle, who then submitted the same to the PNP Crime Laboratory for examination.

Consequently, when SI Tagle applied for a search warrant against the accused Don Walter Triplitt on April 1, 2009, the Honorable Fe Lualhati D. Bustamante, Presiding Judge of RTC, Branch 33, Dumaguete City issued SW No. 04-2009 the next day.

After getting a copy of SW No. 04-2009, SI Tagle and other members of Task Force 24 assembled at the NBI Office for an operational briefing for the service of the said warrant at around 4:30 in the afternoon of April 2, 2009. The team decided that should circumstances warrant, a buy-bust operation was to be conducted first prior to the service of SW No. 04-2009 upon the accused Don Walter Triplitt. For purposes of the buy-bust operation, SI Tagle prepared and marked five (5) pieces twenty peso (P20.00) bills[12] with Serial Numbers Q636255, SE733598, YW057810, QH305034, and ZW600144 which he later gave to the confidential informant acting as the poseur-buyer.

There were around ten to twelve (10-12) members of Task Force 24, including SI Tagle and the confidential informant, in the team who went to serve SW No. 04-2009 upon the accused at the latter's residence. These law enforcers rode two (2) separate vehicles in going to the target area. Upon their arrival, they positioned themselves strategically around the house of the accused. Meanwhile, the confidential informant cum poseur-buyer, together with another confidential informant, approached the gate of the fenced house of the accused. Once the accused went down from the porch towards the gate, the two (2) confidential informants began transacting with the accused. At this point, SI Tagle was hidden about twenty (20) meters away and he was able to observe that the confidential informant slash (sic) poseur-buyer gave the accused the marked money. Upon receipt of the same, the accused momentarily went inside his house and when he came back, he gave a matchbox containing suspected marijuana to the poseur-buyer. After the poseur-buyer checked the contents of the matchbox he received from the accused, he gave the pre-arranged signal by touching his head. This meant that he had successfully bought marijuana from the target personality, the accused Don Triplitt in these cases.

Upon seeing the confidential informant cum poseur-buyer make the pre-arranged signal, SI Tagle ran twenty to thirty (20-30) meters towards the operatives' vehicle on standby along the fence of Katrina Homes Subdivision. He informed the operatives waiting there that their buy-bust operation was a go. He also contacted the team in the other vehicle to proceed to the target area.

Afterwards, SI Tagle- with PO2 Corsame, I01 Arriesgado and SI Manzanaris- ran straight towards the back of the house of the accused. They were able to encounter the accused while he was grazing a cow outside the fenced area of his property. They introduced themselves to the accused, arrested him, and informed him of the reason for his arrest as well as of his constitutional rights. The accused affirmed to SI Tagle that he understood all of these. The law enforcers with the accused then went inside the fenced premises and waited at the porch area while SI Manzanaris called for barangay officials and other witnesses required by law to witness the

search and inventory of items seized.

Meanwhile, the two (2) confidential informants gave to PO2 Corsame the matchbox of marijuana earlier bought from the accused. In turn, PO2 Corsame gave this bought matchbox to SI Tagle for custody and marking. It was also during this time when SI Tagle gave a copy of the search warrant to the accused.

When Batinguel Barangay Captain Nicolas Ramirez and Barangay Kagawad Carmencita Espina arrived, shortly followed by DOJ representative Ramonito Astillero and local media member Juditho Fabillar, the search of the house began. The persons tasked to conduct the search were SI Tagle, PO2 Corsame, and NBI SI Sonny Rex Solano. The other law enforcers like SI Manzanaris and I01 Arriesgado were designated as perimeter security during the search of the premises.

Recovered during the search from various parts of the house, were a self-sealing transparent plastic pack with thirteen (13) Fuego matchboxes, containing dried suspected marijuana tops. Also recovered were the five (5) pieces twenty peso (P20.00) bills serving as marked money, another self-sealing plastic pack containing dried suspected marijuana fruiting tops, a partially-consumed hand-rolled marijuana cigarette, a tape-sealed transparent plastic pack containing suspected marijuana seeds, a weighing scale, one (1) fifty peso (P50.00) bill and thirty three (33) twenty peso (P20.00) bills. SI Tagle then marked the Fuego matchbox earlier bought from the accused as DWT-BB 4-2-09 and the thirteen (13) Fuego matchboxes recovered inside the house as DWT-P1 4-2-09 to DWT-P13 4-2-09. He also marked the self-sealing transparent plastic pack containing dried marijuana fruiting tops plus the tape-sealed transparent pack with marijuana seeds as DWT-SW 4-2-09 and DWT-Marijuana Seeds 4-2-09, respectively. However, SI Tagle did not make any markings on the partially-consumed hand-rolled marijuana cigarette as it was hard to make a marking on it. The initials DWT refer to the accused Don Walter Triplitt, the letters BB stand for buy-bust operation, the letters SW refer to search warrant, the letter-number combination from P1 to P13 stand for the offense of possession of dangerous drug and the number of items, while the numbers 4-2-09 refer to the date of the incident.

Afterwards, at the porch of the house, SI Tagle conducted an inventory of confiscated items. He prepared an Inventory/Receipt of Drugs and Other Property Seized[13] which was signed by the required witnesses to the inventory, namely, DOJ representative Benlot, media representative Fabillar, Barangay Captain Ramirez and Barangay Kagawad Espina. Atty. Cimafranca signed the inventory receipt as team leader of the operation while SI Tagle signed the same as seizing officer. I01 Arriesgado, having taken photographs[14] during the conduct of the inventory, also signed the inventory receipt as photographer.

When the inventory was finished, the accused was then brought to the NBI Office for the usual booking procedure at around 6 o'clock in the evening of that day. SI Tagle had custody of the seized items from the site to the NBI Office, where he kept the same under lock and key inside his own steel cabinet. I01 Cabatana later recorded the incident in the PDEA blotter.[15]

The following morning, on April 3, 2011, SI Tagle made a return of search warrant[16] accompanied by a Motion to Withdraw Seized Articles[17] to the Court which issued the search warrant. SI Tagle was then allowed to take custody of the following items for purposes of laboratory examination: one (1) Fuego matchbox with markings DWT-BB 4-2-09 containing dried suspected marijuana fruiting tops; one (1) self-sealing transparent plastic pack containing thirteen (13) Fuego matchboxes with markings DWT-P1 4-2-09 to DWT-P13; one (1) suspected marijuana stalk inside a self-sealing transparent pack with marking DWT-SW 4-2-09; assorted marijuana seeds inside a tape-sealed transparent pack with markings DWT-Marijuana Seeds 4-2-09; and one (1) partially consumed hand-rolled marijuana cigarette. SI Tagle then signed the Receipt[18] evidencing that after making a return of the search warrant and for purposes of laboratory examination, he took these items back from the court.

Upon his return to the NBI Office with the seized items, SI Tagle prepared a letter-request[19] for the laboratory examination of the seized items and drug test of the accused addressed to PCI Josephine Llena, forensic chemist of the Negros Oriental Provincial Crime Laboratory, Dumaguete City. Armed with the

letter-request, SI Tagle brought the items approved for retention by the issuing court to the said crime laboratory for examination. It was PCI Llana herself who received from SI Tagle the items listed in the letter-request at 1030H or 10:30 in the morning of April 3, 2009.

Prior to her examination, PCI Llana re-marked the items she received from SI Tagle x x x x x x x x.

PCI Llana's qualitative examination conducted on Specimens A, B1 to B13, C, D, and E all gave positive results to the tests for Marijuana, a dangerous drug under R.A. 9165. Her examination results were embodied in Chemistry Report No. D-028-09[20] dated April 3, 2009.

x x x.

Version of the Defense

The defense presented the accused Don Walter Triplitt and his live-in partner, one Annalou Rubio, as its witnesses whose testimonies established the following facts:

x x x x x x x x

While the accused was roughly around fifty (50) meters from his house, he was approached by two (2) male persons whom he did not recognize at the time. These two (2) men were not in uniform yet they suddenly arrested him. The accused did not resist his arrest as he feared that the two (2) men might have firearms. Out of this same fear, he did not question his arrest. He was then brought to his house via the closest entryway which led to his kitchen.

According to the two (2) men who arrested him, the accused was to be brought to his house because they had a search warrant against him. However, he was not shown this said warrant at that time and neither was he shown the same when he was led inside his house.

When the accused finally entered his house, he saw two (2) other persons in civilian clothing already there conducting a search. One of the two men was on top of the sink while the other was on top of a stool. The accused surmised that these two (2) other persons must have entered through the front door since he saw them with a ladder at his terrace. While the front gate of his fenced property was locked when he left to pasture the cow, his front door remained unlocked.

x x x x x x x x

Later, the accused overheard the men call for barangay officers. These barangay officers arrived but the accused did not know them and could not identify them as his house was already full of people. Once the barangay officers arrived, the men again searched the house while the accused remained at the terrace. He did not have any idea then that he could demand to be present inside while the search of his house was being conducted. He just stayed at the terrace with his live-in partner while an estimated seven to eight (7-8) persons went in and out of his house during the search. On the other hand, Annalou Rubio testified[21] that there were no barangay officials present during the search of the house she and the accused occupied.

The accused remembers that afterwards, an inventory was conducted at the terrace. Photos were also taken of him at this time. A person that the accused would later learn to be one Corsame made him sign the inventory receipt without explaining the same to him. Someone also showed to him a copy of the search warrant and asked him to sign it. The accused just signed these documents without any lawyer present because he was afraid of what would happen to him if he did not do so. Subsequently, those who arrested him brought him with them and he was placed in detention.

The accused denies having received any money from SI Manzanaris in exchange for marijuana. He insists that the money he had at that time in his cabinet was income from his computer gaming business; this money was to be used to buy rice for his household consumption. x x x.

ASSIGNMENT OF ERRORS

After trial on the merits, the trial court rendered the assailed Judgment. Resolute to show his innocence, appellant pleads before this Court a review of the assailed Judgment based on this sole error supposedly committed by the court a quo:

THE HONORABLE COURT A QUO SERIOUSLY ERRED WHEN IT PROCEEDED TO CONVICT THE ACCUSED WHEN THE ENTIRETY OF THE EVIDENCE AGAINST HIM IS INHERENTLY WEAK AND FRAUGHT WITH UNBELIEVABILITIES.[22]

THE COURT'S RULING

In his Brief, appellant mainly contends that the prosecution witnesses' testimonies are weak and unbelievable. Hence, he argues that the evidence of the prosecution is grossly inadequate to warrant conviction against him.

In its 14 December 2011 decision,[23] the court a quo stated:

With regard to the validity of the arrest of the accused, evidence shows that the accused was the subject of a buy-bust operation, the main goal of which was to catch him in flagrante delicto selling marijuana. While the police officers could have immediately served the search warrant that they obtained, a buy-bust operation has been proven to be an effective way of unveiling the identities of drug dealers and of luring them out of obscurity. It catches the violator in flagrante and the police officers conducting the operation are not only authorized but duty bound to apprehend the violator and to search him for anything that may have been part of or used in the commission of the crime. From the evidence for the prosecution, the accused was arrested while committing a crime- peddling of illicit drugs, a circumstance where warrantless arrest is justified under Rule 113, Section 5 (1) of the Rules of Court. Thus, from the very nature of a buy-bust operation, the absence of a warrant does not make the arrest illegal. It need not be that the poseur-buyer will be the one to arrest the peddler.

We agree with the findings of the court a quo.

To establish the crime of illegal sale of drugs, the prosecution must prove beyond reasonable doubt (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 its payment.[24]

In this case at bar, the identities of the buyer and seller, as well as the object and the consideration, were sufficiently proved by the prosecution. There is material proof showing that the transaction or sale actually took place, coupled with the presentation in court of the thing sold as evidence of the corpus delicti. SI Tagle witnessed the actual buy-bust transaction between their confidential informants and appellant himself. Tagle saw one of the confidential informants give the marked money[25] to appellant. After receiving the money, appellant went back to his house, and seconds later, he returned outside and gave to the confidential informant a matchbox containing suspected marijuana. After the informant checked the contents of the matchbox, he touched his head as a sign that the transaction had been completed.[26] Tagle informed the rest of the team and they proceeded to arrest appellant in his house and implemented the search warrant.

Appellant's argument that the conduct of a buy-bust prior to the implementation of a search warrant defies logic, common sense and tradition is devoid of merit. In this jurisdiction, the conduct of buy-bust operation is a common and accepted mode of apprehending those involved in illegal sale of prohibited or regulated drugs. It has been proven to be effective way of unveiling the identities of drug dealers and of luring them out of obscurity. It catches the violator in flagrante delicto and the police officers conducting the operation are not only authorized but duty-bound to apprehend the violator and to search him for anything that may have been part of or used in the

commission of the crime.[27] Undeniably, a buy-bust is essential in order to indict appellant for violation of Section 5, Article II of R.A. No. 9165.

In in flagrante delicto cases the accused is apprehended at the very moment he is committing or attempting to commit or has just committed an offense in the presence of the arresting officer. There are two (2) elements that must concur: (1) the person to be arrested must execute an overt act indicating that he has just committed, is actually committing, or is attempting to commit a crime; and (2) such overt act is done in the presence or within the view of the arresting officer.[28]

In this case at hand, there was no significant lapse of time from the consummation of the buy-bust operation up to time of appellant's arrest. In fact, he was arrested within more or less two (2) minutes right after SI Tagle informed the back-up team regarding the consummation of the buy-bust operation.[29] Thus, appellant's arrest is valid.

Appellant insists that it sounds illogical that SI Tagle had to wait for the pre-arranged signal from the poseur-buyer before informing the back-up team that the buy-bust was consummated. He avers that it is unbelievable and impractical that police officers use Twenty Peso (Php 20.00) bills instead of the usual One Hundred Peso (Php 100.00) bill or Five Hundred Peso (Php 500.00) bill.

Appellant's arguments cannot be sustained.

There is no textbook method of conducting buy-bust operations. Verily, the discretion in the selection of effective means to apprehend drug dealers is entrusted to the police authorities. Thus, the Supreme Court emphasized its refusal to establish on a priori basis what detailed acts the police authorities might credibly undertake in their entrapment operations.[30]

In addition, the trial judge's assessment of the credibility of the witnesses is entitled to respect. This is because of the trial judge's unique opportunity to observe the demeanor of the witnesses as they testified before him.[31] Considering that the records are patently bereft of any indicium of ill motive or of any distorted sense of duty on the part of the apprehending team, full credence was properly accorded to the prosecution's evidence incriminating the appellant. Without the clear and convincing indication of the lawmen's ill motive and irregular performance of duty, it is always good law to presume them to have performed their official duties in a regular manner.[32] That presumption became conclusive for lack of contravention.

Further, the elements of illegal possession of prohibited drugs under Section 11, Article II of R.A. No. 9165, are as follows: (a) the accused is in possession of an item or object which is identified to be a prohibited drug; (b) such possession is not authorized by law; and (c) the accused freely or consciously possessed the prohibited drug.[33]

The juridical concept of "possession" of regulated and prohibited drugs was elucidated in *People v. Lopez*,[34] viz:

This crime is *mala prohibita*, and such, criminal intent is not an essential element. However, the prosecution must prove that the accused had the intent to possess (*animus possidendi*) the drugs. Possession, under the law, includes not only actual possession, but also constructive possession. Actual possession exists when the drug is in the immediate physical possession or control of the accused. On the other hand, constructive possession exists when the drug is under the dominion and control of accused or when he has the right to exercise dominion and control over the place where it is found. Exclusive possession or control is not necessary. The accused cannot avoid conviction if his right to exercise control and dominion over the place where the contraband is located, is shared with another. (Emphasis supplied).

As a matter of law, when prohibited and regulated drugs are found in a house or other building belonging to and occupied by a particular person, the presumption arises that such person is in possession of such drugs in violation of law, and the fact of finding prohibited items is sufficient to convict.[35] Otherwise stated, the presence of illicit drugs and paraphernalia in a house owned by the appellant raised the presumption of possession and knowledge, which by itself is sufficient to convict. In this case at bar, appellant not only failed to present evidence to rebut the presumption of possession and knowledge but also failed to show license to possess the prohibited and regulated drugs in his custody.

The chain of custody has been substantially complied by the apprehending team, viz: the transmission of the matchbox and its contents from the time of seizure until its delivery to the PNP Crime Laboratory for chemical examination was properly documented, starting with SI Tagle's marking and inventory of the seized item at the crime scene, followed by his preparation of the written request, delivery to the PNP Crime Laboratory until its identification during trial.[36]

As culled from the records of the case, the police officers recovered thirteen (13) matchboxes containing dried marijuana, a pack of marijuana seeds, a stalk of marijuana, a partially-consumed hand-rolled marijuana stick, Fifty Peso bills (Php 50.00) and Twenty Peso bills (Php 20.00), among others, during the implementation of the search warrant.[37] In Chemistry Report No. D-028-09, Chemist PCI Llena of the PNP Crime Laboratory ultimately certified that the contents of the matchboxes were examined and found to be positive of marijuana, a dangerous drug.[38] Upon receipt from the Court, SI Tagle submitted the seized items to the PNP Crime Laboratory for physical and chemical examination.[39] These contrabands were marked, inventoried and identified during trial.[40] Indeed, the prosecution established the essential elements for the offense beyond moral certainty.

Against the positive testimonies of prosecution witnesses, appellant's plain denial of the offense charged, unsubstantiated by any credible and convincing evidence, simply failed. Allegations of frame-up by the police officers are common and standard defenses in most dangerous drugs cases. They are, however, viewed by this Court with disfavor, for such defenses can be easily concocted and fabricated. To prove such defenses, the evidence must be clear and convincing.[41]

A mere denial, just like alibi, is a negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters.[42] As between a categorical testimony that rings of truth on one hand, and a bare denial on the other, the former is generally held to prevail.

This Court, of course, is aware that in some instances law enforcers resort to the practice of planting evidence to extract information or even harass civilians. But the defense of frame-up in drug cases requires strong and convincing evidence because of the presumption that the law enforcement agencies acted in the regular performance of their official duties.[43] Verily, appellant's defenses of denial and frame-up necessarily crumble for his failure to buttress his imputation with clear and convincing evidence.

All told, We see no reason to disturb the findings of the trial court that appellant is guilty beyond reasonable doubt of illegal sale and possession of marijuana, a prohibited drug, as defined under Sections 5 and 11, Article II of R.A. No. 9165. Under said provision, the illegal sale of any dangerous drug, regardless of its quantity and purity, is punishable by life imprisonment to death and a fine of Five Hundred Thousand Pesos (Php 500,000.00) to Ten Million Pesos (Php 10,000,000.00).[44] Thus, for illegally selling 2.92 grams of marijuana, and there being no modifying circumstance alleged in the Information, the court a quo, correctly imposed the penalty of life imprisonment in accordance with Article 63 (2) of the Revised Penal Code and a fine of Five Hundred Thousand Pesos (Php 500,000.00).

As to Section 11, R.A. No. 9165, the illegal possession of less than three hundred (300) grams of marijuana is punishable by imprisonment of twelve (12) years and one day to twenty (20) years and a fine ranging from Three Hundred Thousand Pesos (Php 300,000.00) to Four Hundred Thousand Pesos (Php 400,000.00).[45] Since appellant illegally possessed 45.60 grams of marijuana, the court a quo correctly imposed the penalty of twelve (12) years and one (1) day as minimum term to fourteen (14) years as maximum term and to pay a fine of Four Hundred Thousand Pesos (Php 400,000.00).

WHEREFORE, premises considered, the instant Appeal is DENIED.

Accordingly, the 14 December 2011 Joint Judgment of the Regional Trial Court, Branch 30, Dumaguete City in Criminal Case Nos. 19484 and 19483, for violation of Sections 5 and 11 of R.A. No. 9165, respectively, finding accused-appellant Don Walter Triplitt y Susulan guilty beyond reasonable doubt for the crimes charged is AFFIRMED in toto.

SO ORDERED.

Ingles,[*] and Quijano-Padilla, JJ., concur.

[*] Acting Chairman per Office Order No. 14-14-GTI dated 26 June 2014 vice Justice Hernando.

[1] Records, pp. 286-300; Rollo, pp. 55-69.

[2] Comprehensive Dangerous Dugs Act of 2002.

[3] Amended Information, Record, p. 61.

[4] Id., p. 116.

[5] Exhibit “K” with sub-markings for both cases, p. 125.

[6] Exhibit “L” with sub-markings for both cases, pp. 129-130.

[7] Exhibit “N” with sub-markings for both cases, pp. 132-133.

[8] Exhibit “O” with sub-markings for both cases, pp. 134-135.

[9] Exhibit “M” with sub-markings for both cases, p. 131.

[10] Exhibit “Q” with sub-markings for both cases, pp. 140-141.

[11] Exhibit “P” with sub-markings for both cases, pp. 157-158.

[12] Exhibit “I” with sub-markings for both cases, p. 97.

[13] Exhibit “E” with sub-markings for both cases, p. 126.

[14] Exhibit “F” with sub-markings for both cases, p. 164.

[15] Exhibit “C” with sub-markings for both cases, pp. 32-34.

[16] Exhibit “R” with sub-markings for both cases, pp. 123-124.

[17] Exhibit “S” with sub-markings for both cases, p. 122.

[18] Exhibit “T” with sub-markings for both cases, p. 121.

- [19] Exhibit “A” with sub-markings for both cases, p. 45.
- [20] Exhibit “B” with sub-markings for both cases, p. 46.
- [21] TSN, 22 November 2011, p. 5.
- [22] Rollo, Appellant's Brief p. 47.
- [23] Supra, note no. 1.
- [24] People v. Bajo, G.R. No. 191726, 6 February 2013.
- [25] Marked money composed of five (5) Twenty Peso bills (Php 20.00), Exhibit “I”, Record, p. 97; TSN dated 1 August 2011, p. 7.
- [26] TSN dated 1 August 2011, pp. 6-10.
- [27] People v. Namri, G.R. No. 181037, 19 January 2009.
- [28] People v. Lualhati, G.R. No. 201363, 18 March 2013.
- [29] TSN dated 1 August 2011, p. 37.
- [30] People v. Tresballes, Id.
- [31] People v. Encila, G.R. No. 182419, 10 February 2009.
- [32] People v. Abedin, G.R. No. 179936, 11 April 2012.
- [33] People v. Evora, G.R. No. 182418, 8 May 2009.
- [34] G.R. No. 179941, 24 August 2009.
- [35] Castillo v. People, G.R. No. 185128, 30 January 2012.
- [36] TSN dated 1 August 2011, Id., pp. 9, 24, 41.
- [37] Id., pp. 14, 23.
- [38] Record., p. 46.
- [39] Id., pp. 23-24.
- [40] Id., pp. 15-20.
- [41] People v. Cepres, G.R. No. 192235, 6 July 2011.
- [42] People v. Lopez, G.R. No. 188975, 5 July 2010.
- [43] People v. dela Cruz, G.R. No. 185717, 8 June 2011.
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