

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANTONIO DELA CERNA Y DELA CRUZ, ACCUSED-APPELLANT.

Ponente: SANTIAGO-LAGMAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/521927c86c76/>

SANTIAGO-LAGMAN, J.:

Accused-appellant Antonio Dela Cerna y Dela Cruz (“appellant”) appeals from the Decision[1] of the Regional Trial Court of Quezon City (Branch 103), dated February 15, 2005, in Criminal Case Nos. 03-116326-27, convicting him of selling 0.06 gram and possession of 0.05 gram of methamphetamine hydrochloride (shabu) in violation of Sections 5 and 11 of Article II, Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and sentencing him to life imprisonment and a fine of One Million Pesos (P1,000,000.00) in Criminal Case No. 03-116326 (sale) and a prison term of twelve (12) years and one (1) day, as minimum to thirteen (13) years as maximum and to pay a fine of Four Hundred Thousand Pesos (P400,000.00) in Criminal Case No. 03-116327 (possession).

The Informations charging appellant with sale and possession of a dangerous drug reads:

-Criminal Case No. 03-116326-

“x x x That on or about the 27th day of March 2003, in Quezon City, Philippines, the said accused, not being authorized by law to sell, dispense, deliver, transport or distribute any dangerous drug, did, then and there, wilfully and unlawfully sell, dispense, deliver, transport, distribute, or act as broker in the said transaction, ZERO POINT ZERO SIX (0.06) gram of white crystalline substance containing Methylamphetamine Hydrochloride, a dangerous drug.

CONTRARY TO LAW.”[2]

-Criminal Case No. 03-116327-

“x x x That on or about the 27th day of March 2003, in Quezon City, Philippines, the said accused, not being authorized by law to possess or use any dangerous drug, did then and there, wilfully, unlawfully and knowingly have in her/his/their possession and control, ZERO POINT ZERO FIVE (0.05) gram of white crystalline substance containing Methylamphetamine Hydrochloride, a dangerous drug.

CONTRARY TO LAW.”[3]

When arraigned on July 21, 2003, appellant, assisted by counsel, entered a plea of “Not Guilty to the offenses charged.”[4] On the same day, pre-trial was conducted[5], after which trial on the merits ensued.

The prosecution presented as witnesses PO3 Faustino Tabilin[6] and PO2 Edsel Ibasco[7] both of Station Drug Enforcement Unit (SDEU), Central Police District (CPD), Police Station 1, La Loma, Quezon City. Their testimonies, support the following findings of facts by the trial court:

“x x x On March 27, 2003, the OIC at the Station Drug Enforcement Unit (SDEU), P/Insp. Villanueva directed a team of police officers to conduct a buy-bust operation against a certain 'Boy' at No. 154 Tendido St., Brgy. San Jose, Quezon City. PO2 Ibasco was tasked to act as poseur-buyer and was given a P100.00 bill which PO2

Ibasco marked with his initials. They went to their target -about five (5) minutes ride away- in an unmarked police vehicle, bringing in tow their informant who is known to alias 'Boy'. This was at a little past 8:00 o'clock in the evening.

Near the target address, PO2 Ibasco and his informant alighted from their vehicle and walked together towards the address of the target drug peddler. The others (were) deployed separately within seeing distance at nearby places.

PO2 Ibasco and his informant met the peddler, whom he identified in court as herein accused Antonio dela Cerna, standing in front of the house where he lives at the above mentioned address. The informant introduced PO2 Ibasco to the accused as a person in need of "shabu". PO2 Ibasco then talked to the accused. He bought P100.00 worth of "shabu." He examined the contents of the plastic sachet taken from the pocket of the suspect (and which was) given to him. Then, he scratched his head -the team's pre-arranged signal. As PO2 Ibasco was scratching his head, the accused ran away towards his residence. At that point, PO3 Tabilin who was about ten (10) meters away saw the accused ran and so PO3 Tabilin gave chase and was able to head-off and arrest the accused. PO3 Tabilin searched the suspect and found a plastic sachet in his pocket. He was handcuffed, recited his Miranda rights and brought to the Police Station desk officer and investigator who again recited his Miranda rights. The confiscated items, the plastic sachet, were turned over by the SDEU investigator to the PNP Crime Lab where, as aforesaid, they were both found to contain 'shabu'." [8]

In his defense, appellant denied the charges against him, alleging that he was sleeping around 8:00 o'clock in the evening of March 27, 2003 when he was suddenly awakened by the banging of the door of his house, followed by the barging in of three (3) persons who turned out to be the arresting officers. Appellant purportedly asked why the three entered his house but he got no response. Without being shown any warrant of arrest, he was allegedly handcuffed, dragged outside and brought to the La Loma Police Station. He was detained in said Police Station, according to appellant, without any investigation being conducted on him. He only learned why he was incarcerated when he was brought to the prosecutor for inquest a week later. [9]

Appellant's testimony was corroborated by his other witness in the person of his niece, Cassandra Kris D. Reyes, who testified that she was washing clothes in front of the house appellant, where she also lived, when five (5) armed men suddenly entered their house. A strong commotion ensued followed by the arrest of appellant. Reyes also testified that before his arrest, appellant earned his living by making frames for religious photographs. [10]

In a Decision [11] dated February 15, 2005, the trial court convicted the appellant of illegal sale and possession of a dangerous drug, shabu. The dispositive portion of the Decision reads:

"ACCORDINGLY, judgment is hereby rendered finding the accused ANTONIO DELA CERNA y dela Cruz, GUILTY beyond reasonable doubt of the crimes of violating Section 5 (by selling shabu) and Section 11 (by possessing shabu) of R.A. 9165 as charged and he is hereby sentenced as follows:

- In Q-03-116326 – the accused is sentenced to a jail term of LIFE IMPRISONMENT and to pay a fine of P1,000,000.00; and
- In Q-03-116327 – the same accused is sentenced to a jail term of TWELVE (12) YEARS and ONE (1) DAY, as minimum, and THIRTEEN (13) YEARS, as maximum and to pay a fine of P400,000.00.

The Methamphetamine hydrochloride or "shabu" subject of these two (2) cases are ordered transmitted to the Philippine Drug Enforcement Agency (PDEA) thru the Dangerous Drugs Board for proper disposition as per R.A. 9165.

SO ORDERED." [12]

Unconvinced, appellant interposed the present appeal on March 21, 2005, [13] citing the following errors allegedly

committed by the trial court:

“I

THE COURT A QUO GRAVELY ERRED IN NOT CONSIDERING THE ILLEGALITY OF THE ACCUSED-APPELLANT'S ARREST GIVEN THE FACT THAT THE EXISTENCE OF A BUY BUST OPERATION WAS DOUBTFUL;

II

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF VIOLATION OF SECTIONS 5 AND 11, ARTICLE II, R.A. 9165 DESPITE THE INSUFFICIENCY OF EVIDENCE TO WARRANT HIS CONVICTION.”[14]

It is well-entrenched in this jurisdiction that findings of the trial court on the credibility of witnesses are accorded great weight and respect and will not be disturbed on appeal inasmuch as the matter of assigning values to the testimony of witnesses is a function best performed by the trial court which can best weigh said testimony in the light of the witness' demeanor, conduct and attitude during the trial.[15] Unless it is clearly shown that the trial court had arbitrarily overlooked or disregarded the facts and circumstances of significance in the case, appellate courts will not disturb the credence, or lack of it, accorded by the trial court to the testimonies of witnesses.[16] On the basis of the evidence presented, there seems to be no cogent reason to deviate from this general rule.

In his brief, appellant relies on alleged inconsistencies in the testimonies of prosecution witnesses PO3 Faustino Tabilin (“PO3 Tabilin”) and PO2 Edsel Ibasco (“PO2 Ibasco”). Specifically, he points to the testimony of PO3 Tabilin to the effect that he did not know who the target or suspect was at the time his team was dispatched to conduct the buy-bust operation, as opposed to the testimony of PO2 Ibasco that they were dispatched to conduct the buy-bust and effect the arrest of a suspected drug dealer known as “Alias Boy.” It is also argued that PO3 Tabilin's failure to mention the presence of the informant in the buy-bust operation and the absence of any statement on his part that PO2 Ibasco gave the pre-arranged signal to arrest appellant by scratching his (PO2 Ibasco's) head, are inconsistent with the latter's positive averment that their team was accompanied by a confidential informant when they proceeded to the target area and that the said pre-arranged signal which he made, prompted his back-up arresting officers to make the arrest. This inconsistencies, argued the appellant, not only affected the credibility of the prosecution witnesses but operated to prove that the arresting team failed to conduct the required surveillance prior to the buy-bust operation. Appellant also contends that PO3 Tabilin's failure to testify that he saw PO2 Ibasco execute the pre-arranged signal proves that PO3 Tabilin arrested him without personal knowledge that he was committing a crime. Hence, appellant insists that his arrest was illegal.

Appellant's contentions are without basis.

The contradictions and inconsistencies, if any, cited by appellant are normal infirmities that result from individual differences in the appreciation of events, time, place and circumstances. Even the most honest witness may make mistakes sometimes but such honest lapses do not necessarily impair his credibility or destroy the essential integrity of the prosecution evidence as a whole.[17] The fact that PO3 Tabilin did not actually know at the outset the full identity of the person to be arrested is understandable. Note should be taken that he was a mere back-up of PO2 Ibasco, who acted as the poseur-buyer and who, together with the confidential informant knew of the appellant's identity.

As to appellant's further protestation that no surveillance was conducted before the buy-bust operation, the rule is that prior surveillance is not a pre-requisite for the validity of an entrapment operation, especially when the buy-bust team members were accompanied to the scene by their informant.[18] In the instant case, the arresting

officers were led to the scene by such confidential informant. Granting that there was no surveillance conducted before the buy-bust operation, there is no rigid or textbook method of conducting buy-bust operations.[19] Flexibility is a trait of good police work.[20] The police officers may decide that time is of the essence and dispense with the need for prior surveillance.[21]

We hasten to add that law enforcers are presumed to have performed their duties regularly in the absence of evidence to the contrary.[22] When police officers have no motive for testifying falsely against the accused, courts are inclined to uphold the presumption of regularity in the performance of their duties;[23] and if, as in this case, no evidence whatsoever was presented which would suggest any improper motive on the part of the police enforcers, then We must accord great respect to and treat with finality the findings of the trial court on the matter of their credibility.

Coming now to appellant's objection against the legality of his arrest, We note that the same, having been raised late in the day in this appeal, deserves scant consideration. Record shows that appellant did not question the legality of his arrest in the form of a motion to quash the Information before the trial court and instead entered his plea of not guilty to the crime charged against him. It is well-settled that any objection involving a warrant of arrest or procedure in the acquisition by the court of jurisdiction over the person of an accused must be made before he enters his plea, otherwise, the objection is deemed waived.[24] Added to this, is the fact that trial on the merits ensued with appellant's active participation and without any objection on his part. Appellant therefore submitted himself completely to the jurisdiction of the trial court.[25]

Again, insisting on his innocence, appellant points to an alleged failure of the police officers in this case to conduct an inventory and mark the specimens of shabu in his presence immediately after the arrest. This, said the appellant, casts grave doubt as to whether the specimens marked by the investigator in the police station were indeed recovered from him.

In point is paragraph 1, Section 21 of Republic Act No. 9165 (The Comprehensive Dangerous Drugs Act of 2002), which provides that:

Sec. 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.

x x x x x x x x

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, x x x"

We are not convinced. While it may be argued that the marking of the specimens of shabu was not done by the arresting officers in strict compliance with Section 21, Article II of R.A. No. 9165, there is no doubt that said specimens were the same specimen recovered from appellant. This was affirmed by the arresting officers, PO2 Ibasco and PO3 Tabilin, who corroborated each other's testimonies narrating the incident from the time the specimens were recovered from appellant until the time they were marked by the police investigator in their presence and finally when the same were referred to the forensic chemist for qualitative examination. The identity of the prohibited drugs in this case was thus certainly safeguarded. If at all, the arresting officers' failure to strictly comply with the provisions of Section 21, Article II of R.A. No. 9165 may result in administrative liability on their part, but the same does not derogate from the facts established by their testimonies that the sachets of shabu presented in court and identified by them were the same specimens recovered from appellant.

In the face of the positive and categorical declarations of the witnesses for the prosecution, appellant's bare defense of denial crumbles. Such type of defense has been viewed by courts with disfavor for it can just as easily be concocted and is a common and standard defense ploy in most prosecutions for violation of the Dangerous Drugs Act.[26] Indeed, standing by itself, appellants' defense is too trite and hackneyed to be accepted at its face value.

Enshrined in the Bill of Rights is the right of an accused in a criminal case to be presumed innocent until the contrary is proved,[27] and to overcome this presumption, nothing but proof beyond reasonable doubt must be established by the prosecution.[28] Proof beyond reasonable doubt, however, does not refer to that which produces absolute certainty—only moral certainty is required or that degree of proof which produces conviction in an unprejudiced mind.[29] In the case at bar, we have thoroughly examined the evidence on record and we entertain no doubt as to the guilt of appellant.

Finally, a review of the penalties imposed by the trial court shows that the same are proper, being within the range of penalties prescribed under Sections 5 and 11 of Article II, Republic Act No. 9165.

WHEREFORE, the appealed Decision of the Regional Trial Court of Quezon City (Branch 103), dated February 15, 2005, is AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Guevara-Salonga, (Chairman) and Pizarro, JJ., concur.

[1] Record, pp. 72-75; Rollo, pp. 15-A-18.

[2] Record, p. 2.

[3] Record, p. 4.

[4] Certificate of Arraignment dated July 21, 2003, Record, p. 20.

[5] Order dated July 21, 2003, id., p. 22.

[6] TSN, October 9, 2003, pp. 7-20.

[7] TSN, October 20, 2003, pp. 3-22.

[8] Pages 1-2 of the appealed Decision, Record, pp. 72-73; Rollo, pp. 15-A-16.

[9] TSN, April 29, 2004, pp. 2-11.

[10] TSN, November 23, 2004, pp. 2-9.

[11] Supra.

[12] Page 4 of the appealed Decision, Record, p. 75; Rollo, p. 18.

[13] Notice of Appeal dated March 17, 2005, Record, p. 77.

[14] Page 1 of the Appellant's Brief, Rollo, p. 28.

[15] People v. Invencion, 398 SCRA 592, 599 (2003).

[16] People vs. Simbulan, 214 SCRA 537 (1992).

[17] *People vs. Guiamil*, 277 SCRA 658 (1997).

[18] *People vs. Cadley*, 425 SCRA 493 (2004); *People vs. Lacbanes*, 270 SCRA 193 (1997); *People vs. Bay*, 222 SCRA 723 (1993).

[19] *People vs. Tranca*, 235 SCRA 455 (1994); *People vs. Lacbanes*, *id.*

[20] *Id.*

[21] *Id.*

[22] *People vs. Jones*, 278 SCRA 345 (1997).

[23] *People vs. Guiamil*, 277 SCRA 658 (1997).

[24] *People vs. Cabiles*, 284 SCRA 199 (1998).

[25] *People vs. Bustamante*, 397 SCRA 326, 338 (2003), citing *People vs. Costelo*, 316 SCRA 895 (1999).

[26] *People vs. Alegro*, 275 SCRA 216 (1997).

[27] Paragraph (2), Section 14, Article III of the 1987 Constitution; Paragraph (a), Section 1, Rule 115 of the Revised Rules on Criminal Procedure, as amended; *People vs. Bato*, 284 SCRA 223 (1998); *People vs. Medel*, 286 SCRA 567 (1998); *People vs. Maluenda*, 288 SCRA 225 (1998).

[28] *People vs. Belen*, 383 SCRA 314 (2002); *People vs. Mijano*, 311 SCRA 81 (1999); *People vs. Santiago*, 319 SCRA 644 (1999).

[29] *Juliano vs. Sandiganbayan*, 269 SCRA 52 (1997); *People vs. Gomez*, 270 SCRA 432 (1997).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.