

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JEFFERSON BRAVO CRUZ, ACCUSED-APPELLANT.

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

This is an appeal from the Judgment[1] dated July 23, 2012, of the Regional Trial Court, 7[th] Judicial Region, Branch 30, Dumaguete City convicting beyond reasonable doubt herein accused-appellant Jefferson Bravo Cruz, in Criminal Case No. 19793 for possession of marijuana, an illegal drug, in violation of Section 11, Article II, of R.A. 9165 or the Comprehensive Dangerous Drugs Act of 2002.

The Facts

On December 28, 2009, accused-appellant Jefferson Bravo Cruz [Cruz] was charged for violation of Section 11, Article II of R.A. 9165 or the Comprehensive Dangerous Drugs Act of 2002. The Information[2] reads:

“That on or about the 25[th] day of December, 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, keep and have under his control two (2) sticks of handrolled cigarette containing 0.29 gram and 0.36 gram of marijuana leaves, a dangerous drug.

Contrary to Section 11, Article II, R.A. 9165.”

Upon his arraignment, on January 11, 2010, Cruz with the assistance of his counsel, Atty. Araula pleaded not guilty to the offense charged.[3]

The defense agreed to stipulate on the facts with regard to the gist of the testimony of Forensic Chemist Josephine S. Llena, OIC of the Negros Oriental Provincial Crime Laboratory Office, as the one who personally received from PO3 Gonzaga on December 25, 2009 at 7:30 o'clock in the evening two [2] sticks of marijuana cigarette marked as JBC-P1-12-25-09 and JBC-P-2-12-25-09, respectively and after the laboratory examination on the specimens gave positive results to the tests for marijuana. That she is the same person who prepared Chemistry Report No. D-111-09[4] and that prior to her delivery of the specimens before the RTC, she kept the same in the evidence vault of their crime laboratory and that the RTC received the same on January 6, 2010.[5]

Likewise defense stipulated that the testimonies of Juditho Fabillar, a media practitioner; Ramonito Astillero, an employee of the City Prosecution's Office, Dumaguete City; Gemma Villaflores, the Barangay Kagawad of Barangay Calindagan, Dumaguete City and Marie Germodo, who was connected with the Philippine Drug Enforcement Agency [PDEA], be dispensed with.[6]

After the conclusion of the pre-trial[7] on April 23, 2010, trial on the merits proceeded.

VERSION OF THE PROSECUTION

Prosecution presented the arresting officers: SPO1 Orlando Elli Gonzaga (then PO3 Gonzaga) and PO3 Derek T. Alcoran (then PO2 Alcoran) who established, that:

On December 25, 2009, SPO1 Gonzaga and PO3 Alcoran were conducting a mobile visibility and detective patrol within Dumaguete City when they were called in through a radio message from the Desk Investigator of Dumaguete Police Station, SPO3 Macasilhig in order to render assistance to a swindling victim.[8]

When they arrived at the police station, they met the victim, Desirita C. Dales [Dales] who was then accompanied by Barangay Councilor, Gregorio Sarita Oira. Dales reported to them that she was recently scammed into giving a certain Genelyn Cabalag P2,500.00 in order to join the “labahan challenge” of ACS Manufacturing, the maker of Pride Detergent. She was told that she would surely win “kabuhayan showcase” worth P70,000.00 and a chance to win as TV product endorser.[9]

On December 25, 2009, Dales received a phone call from an unidentified male person representing himself to be the supervisor of ACS Manufacturing Corporation, informing her that she won as the Ariel's product endorser and that she should pay them P2,300.00 before 7:00 pm on that day, in order to finalize the contract.[10] After ascertaining that there was no such promotional activities from ACS Manufacturing, she believed that she was already scammed. Suspecting that she will be meeting another one of the swindlers, she then reported the matter to the police.

The police planned an entrapment operation against the male person who called Dales. They prepared the marked money provided by the complainant and recorded the serial numbers in the blotter.

Dales and this male person agreed to meet at Mang Inasal fastfood restaurant inside Robinson's Place, Dumaguete City and the pre-arranged signal for the police officers to effect the arrest would be when Dales would hand the marked money to the swindler.[11]

After strategically placing themselves inside Mang Inasal fastfood posing as customers, the police officers waited for a while until 4:30 p.m. struck and a male person approached Dales. After they conversed and Dales handed him the money SPO1 Gonzaga arrested the male person for the crime of estafa who was later identified as accused-appellant Jefferson Bravo Cruz.

While PO3 Alcoran conducted a body search on Cruz, he recovered from the latter's right hand the marked money.[12] Further, PO3 Alcoran found inside the black wallet of Cruz two [2] pieces of handrolled cigarette suspected to be marijuana which he immediately turned over to SPO1 Gonzaga who was a touching distance away from him as he was still busy conducting a search on Cruz. SPO1 Gonzaga immediately marked the contraband as “JBC-P1-12-25-09” and “JBC-P2-12-25-09”, respectively.[13]

When the arresting officers were about to conduct a physical inventory, they discovered that they were not able to bring the forms thereof and that one of the staff of the establishment complained about the disorder brought about by the commotion,[14] so that they decided to continue the physical inventory at the police station.[15]

At the police station, PO3 Alcoran conducted the inventory of the items seized from Cruz, and witnesses from PDEA, DOJ, media and barangay officials were present. Then SPO1 Gonzaga prepared the Certificate of Inventory[16] dated December 25, 2009 and likewise took pictures of the proceedings.[17]

SPO1 Gonzaga delivered the contraband at the PNP Crime Laboratory together with the letter request[18] which was personally received by PCI Josephine S. Llana.[19]

The specimens marked “JBC-P1-12-25-09” and “JBC-P2-12-25-09” when subjected to chemical analysis yielded positive results for the presence of marijuana, a dangerous drug.

After the conclusion of the testimonies of the prosecution witnesses, Exhibits “A” to “H”[20] were offered with their sub-markings, which were duly admitted[21] by the RTC.

VERSION OF THE DEFENSE

Defense presented accused-appellant himself.

Accused-appellant Cruz in denying the charge against him testified that a certain Michael Santos was looking for someone who would promote Pride, a laundry detergent. He jumped at the opportunity because his common-law wife and him were expecting their third child.[22]

Michael Santos told him that he would be assigned in Dumaguete City, so on December 22, 2009 they boarded a boat and sailed from Malabon City, Manila to Dumaguete City. They arrived in Dumaguete on December 24, 2009 and stayed in a lodge near a cockpit. Michael Santos then instructed him to go to Robinson's and wait for him there.

When he arrived at Robinson's he roamed for a while and decided to take a seat at Mang Inasal's when he was suddenly held by two [2] unidentified persons. When he asked the persons why they were holding him the latter identified themselves as police officers and that they were arresting him in connection with a “budol-budol” complaint.[23]

After placing him under arrest, he was not read his rights and was immediately brought to the police station. It was only on December 26, 2009 that he knew that he was charged with drugs and asked his fellow prisoners what drugs were all about.[24]

No documentary evidence was presented by the defense.

On July 23, 2012, the RTC convicted accused-appellant Cruz for Violation of Section 11, Article II of RA 9165, the dispositive portion of the decision, reads:

“WHEREFORE, in light of the foregoing, the Court hereby finds the accused Jefferson Bravo Cruz GUILTY beyond reasonable doubt of the offense of illegal possession of two (2) sticks of hand rolled cigarette containing 0.29 gram and 0.36 gram of dried marijuana leaves, a dangerous drug, in violation of Section 11, Article II of RA 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 two (2) sticks of hand rolled cigarette containing 0.29 gram and 0.36 gram of dried marijuana leaves 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 Jefferson Bravo Cruz 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 convicted prisoners.

SO ORDERED.”[25]

From the adverse decision, accused-appellant Cruz, appealed to Us, with the following assignment of errors:

“I. THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF POSSESSING ILLEGAL DRUGS DESPITE THE SERIOUS GAPS IN THE CHAIN OF CUSTODY OF THE CORPUS DELICTI OF THE CRIME COMPROMISING ITS INTEGRITY AND IDENTITY;

II. THE TRIAL COURT ERRED IN FINDING THAT ACCUSED-APPELLANT GUILTY OF POSSESSION OF ILLEGAL DRUGS DESPITE THE FACT THAT THE POLICE OFFICERS VIOLATED SECTION 21, OF R.A. 9165; AND

III. THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF POSSESSING ILLEGAL DRUGS DESPITE THE INADMISSIBILITY OF THE EVIDENCE AGAINST HIM FOR HAVING BEEN OBTAINED UNDER AN INVALID WARRANTLESS ARREST IN VIOLATION OF HIS CONSTITUTIONAL RIGHTS.”[26]

Our Ruling

Accused-appellant Cruz asserts that the police officer who allegedly seized the illegal drug from him was PO3 Alcoran but the said police officer was never made to identify the two [2] sticks of marijuana thereby creating a serious gap in the chain of custody of the corpus delicti.[27] Another gap was created when there were conflicting testimonies as to where the two [2] sticks marijuana were marked, SPO1 Gonzaga stated it was at the scene of the crime while PO3 Alcoran said it was at the police station.[28] Cruz clarifies that the issue is not where the two [2] sticks were marked but rather why was there an inconsistency in the first place.[29]

Another thing, based on the photographs presented, there appears to be different sets of marijuana that was subjected to a photograph. In Exhibit “F-2” there depicts two marijuana sticks with some kind of masking tape on it yet Exhibits “F-1”, “F-3” and “F-4” shows two [2] marijuana sticks without some kind of masking tape evidently showing that there were different items that were being photographed in front of different persons.[30]

Lastly, accused-appellant Cruz questions the validity of his arrest. For failure of the prosecution to establish the fact of swindling and for their failure to present the victim thereto his subsequent arrest was therefore illegal.[31]

Accused-appellant's conviction stands.

Accused-appellant Cruz was arrested pursuant to an entrapment operation conducted on December 25, 2009 at around 4:30 o'clock in the afternoon at Mang Inasal fastfood restaurant at Robinson's, Dumaguete City for the crime of estafa. After he was read his Miranda rights,[32] PO3 Alcoran searched his person and he was found in possession of two [2] sticks of marijuana an illegal drug. Inevitably, the recovery of the contraband was incidental to his lawful arrest. His arrest being valid, he may be searched for dangerous weapons or anything which may have been used or constitute proof in the commission of an offense without a search warrant pursuant to Section 13, Rule 126[33] of the Rules of Court.

For the successful prosecution of illegal possession of dangerous drugs, like marijuana, the following essential elements must be established: (a) the accused is in possession of an item or object that is identified to be a prohibited or dangerous drug; (b) such possession is not authorized by law; and (c) the accused freely and consciously possessed the drug.[34]

We find that the prosecution established beyond reasonable doubt the presence of all the foregoing elements.

It must be noted that possession of dangerous drugs constitutes prima facie evidence of knowledge or animus possidendi, which is sufficient to convict him, unless there is a satisfactory explanation of such possession. The burden of evidence is, thus, shifted to Cruz to explain the absence of knowledge or animus possidendi. In this case, the illegal possession came about when Cruz was incidentally searched after his lawful arrest.[35] The following narration of SPO1 Gonzaga shows Cruz's wilful possession of illegal drugs:

“Q: Why did you go to Robinson's place?

A: Because that was the arranged place between the complainant and the male person who called her, sir.

Q: And where particularly in Robinson's place did you go?

A: As agreed by them, sir, they are to meet at Mang Inasal Restaurant.

Q: So when you arrived at Mang Inasal Restaurant, what did you do?

A: We waited for a few minutes, sir, that whenever the complainant handed the marked money to the male person, she is going to meet, then, that's the signal for us to approach them and effect the arrest, sir.

Q: And did this complainant Dales meet somebody at Mang Inasal?

A: Yes, sir, at around 4:30 that day, Desirita Dales was able to meet with a person later known to us as Jefferson Bravo Cruz.[36]

Q: Where were you at that time when the two (2) met?

A: We were very near to them, sir. We were also eating at Mang Inasal, sir.

Q: How far from them?

A: Visible distance, sir, or I think Derek was about a few meters, I think five (5) meters to ten (10) meters and me inside. Derek and the suspect and the complainant were outside the Mang Inasal but within the vicinity of Mang Inasal at the table of Mang Inasal. Me, I was inside, sir.

Q: You were inside Mang Inasal?

A: Yeah, looking at the mirror, sir, the transparent mirror, sir, the glass.

Q: What did you notice that they did when they met?

A: They were talking, sir, and a few minutes later, sir, they handed the money of course, sir.

Q: Who handed the money?

A: The complainant, sir.

Q: To whom did she hand the money?

A: To Jefferson Bravo Cruz, sir.

Q: So when you saw the handing of the money, what did you do?

A: We immediately proceeded to them, sir.

Q: And what happened after that?

A: We effected the arrest, sir.

Q: Who effected his arrest?

A: Me, sir.

Q: You were the one?

A: We, the two (2) of us, Derek Alcoran and I, sir.

Q: Why did you arrest this person?

A: We arrested as to assist the arrest of Desirita Dales (sic) for estafa, sir.[37]

Q: Was this reason for the arrest communicated to the person you have arrested?

A: Yes, sir.

Q: How did you inform him of his arrest?

A: At first, sir, I informed him as to the arrest that he is arrested for estafa.

Q: And what else?

A: And after that, sir, his constitutional rights, sir.

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Q: And do you know if he understood the rights that you gave him?

A: Yes, sir.

Q: How did you know?

A: Affirmatively, he said, yes, sir.

Q: So what happened after that?

A: Yes, sir, Derek Alcoran conducted, ah, at first Derek Alcoran recovered the marked money from the right hand of the suspect, sir.

Q: What else did your companion do?

A: Derek Alcoran conducted the body search, sir.[38]

Q: Where were you when Derek Alcoran conducted the body search?

A: At a touching distance from them, sir.

Q: And do you know if Derek Alcoran found anything when he conducted the body search?

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A: Yes, sir.

Pros. Zerna: So what was it that he found?

A: Derek Alcoran found from the inside of the black wallet of the suspect two (2) pieces handrolled marijuana cigarette, sir.”[39]

In contrast, Cruz only proffered the defense of denial. However, other than Cruz's bare allegations, there is no other evidence on record to corroborate his version of the events that transpired on December 25, 2009. Denial as a rule is a weak form of defense, particularly when it is not substantiated by clear and convincing evidence. The defense of denial or frame-up, like alibi, has been invariably viewed by the 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.[40]

Next, accused-appellant points out that there were serious gaps in the chain of custody of the corpus delicti because the PO3 Alcoran who retrieved the two (2) sticks of marijuana was not made to identify the same in court thereby putting in serious question the integrity of the evidence.

We find otherwise.

What is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused. In the present case, the succession of events, established by evidence, shows that the items seized were the same items tested and subsequently identified and testified to in court, despite the intervening changes in their custody and possession. We thus hold that the integrity and evidentiary value of the drugs seized from Cruz were duly proven not to have been compromised.[41] Thus, the chain of custody of the seized items from the time they were confiscated and eventually marked until the time they were presented during the trial has likewise been established by the prosecution.[42]

As testified by SPO1 Gonzaga, thus:

“Q: After finding that marijuana cigarettes, what happened next?

A: Because Derek Alcoran was still busy conducting a search upon him, sir, he turned over to me the two (2) pieces of marijuana cigarette, sir.

Q: And what did you do with these two (2) pieces of handrolled marijuana cigarette?

A: Derek Alcoran after handing the two (2) pieces of marijuana, I at once put the markings on that, sir.

Q: Can you still remember the markings that you placed on these two (2) items?

A: Yes, sir.

Q: What were these markings?

A: The markings were JBC-P1-12-25-09, sir, and JBC-P2....

Q: Can you tell us the significance of these markings?[43]

Q: What does these markings mean if any?

A: JBC means Jefferson Bravo Cruz, sir.

Q: How did you know that his name is Jefferson Bravo Cruz?

A: Because, we, before that, sir, we asked of his name, sir.

Q: Who asked him of his name?

A: Me, sir.

Q: You were the one and what was the name he gave you?

A: Jefferson Bravo Cruz, sir, and we also, ah, seen the ID which was in his wallet, sir.

Q: And if you were shown these two (2) items again which you said you marked, can you still identify these items?

A: Yes, sir.

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Pros. Zerna: Mr. witness, we have here two (2) handrolled cigarettes and these are already marked as Exhibits "D" and "D-1", kindly examine these items and tell us if you can identify them?

A: Yes, sir, these are the two (2) handrolled marijuana cigarettes which Derek Alcoran seized from the suspect, sir.

Q: Can you tell us how you were able to identify these items?

A: Because of the markings of each, sir.

Q: Can you again repeat the markings that you said you said you have made on these items?

A: JBC-P1 and up to P2-12-25-09, sir.[44]

Q: And these items that you have just identified contained those markings as written on paper, handrolled paper?

A: Yes, sir.

Q: And these are your handwritings?

A: Yes, sir.

Q: After you have made these markings, what did you do next?

A: I reiterated to him the, I informed him of his violation sir, re-arrested for violation of Section 11, Article II of RA 9165, sir, and reiterated to him the constitutional rights, sir, in Pilipino language which was also understood by him, sir.

Q: After that, what happened next?

A: We were about to conduct a physical inventory at the place, however, the forms for the inventory, we did not bring it with us, sir, that's why and one of the staff of the establishment complained regarding the disorder it made that we decided to continue our physical inventory at the station, sir.

Q: And when you went back to the police station, where were the handrolled cigarettes that you have confiscated?

A: They were with me, sir.

Q: They were with you?

A: Yes, sir.

Q: When you arrived at the police station, what happened to these items?

A: We continued the physical inventory at the station, sir.

Q: Who conducted the inventory?

A: PO3 Derek Alcoran prepared the inventory, sir.

Q: Then what were you doing while Police Alcoran was preparing the inventory?[45]

A: I served as the photographer, sir.

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Q: And in the course of the inventory can you still remember if Mr. Alcoran made the documentary form of the inventory?

A: Yes, sir.

Q: If you are shown that inventory sheet, can you still identify it?

A: Yes, sir.

Q: (May I borrow the records, Your Honor?) Now, Mr. witness, we have already marked as Exhibit "E" the Certificate of Inventory dated 12-25-2009, is this the inventory?

A: Yes, sir, this is the inventory prepared by Derek Alcoran, sir.[46]

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Q: You were the one. After the conduct of this inventory, Mr. witness, what happened next?

A: Right after the conduct of the inventory, sir, PO3 Derek Alcoran and I delivered the seized items which were the two (2) pieces marijuana cigarette to the crime lab, sir, which is located right at the back of our police station, sir.

Q: Who was the one who actually brought the two (2) handrolled marijuana sticks to the crime laboratory?

A: Me, sir.

Q: You were the one and to whom did you submit these items?

A: To Major Llana, sir, Police Chief Inspector Josephine Llana, sir.[47]

Q: Do you have any proof that you have submitted it to this Police Chief Inspector Llana?

A: Yes, sir.

Q: What is the proof that you are mentioning?

A: The letter request for or memorandum request for the conduct of examination regarding the substance of marijuana and we request for drug examination of the suspect, sir.

Q: Now also part of the record of this case is this memorandum which we have already marked as Exhibit "A", is this the one that you said a while ago?

A: Yes, sir, this is the one, sir.

Q: Now in the document there is a stamp of the PNP Crime Laboratory at the bottom portion which says in part that it was delivered by PO3 Orlando E. Gonzaga with a signature beside that name sub-marked as Exhibit "A-1-b", whose signature is this?

A: This is mine, sir.

Q: Now as you have also described as shown in this stamp of the crime laboratory, it says that it was received by PCI Josephine S. Llana, is this the very same PCI Josephine S. Llana whom you mentioned as the chief of the crime laboratory?

A: Yes, sir.

Q: Was it to her that you actually handed the marijuana cigarettes?

A: Yes, sir, it was to her, sir.”[48]

Here, We are quoting with approval the line of reasoning of the OSG when it stated that the non-identification of PO3 Alcoran of the seized item was not fatal, because:

“It must be noted herein that PO3 Alcoran was only at a touching distance away from SPO1 Gonzaga when the former handed the subject marijuana sticks to the latter, as both of them jointly effected arrest and apprehension of appellant during the said entrapment operation.

Definitely, the very short period from the time PO3 Alcoran handed the said marijuana sticks to SPO1 Gonzaga did not represent a serious gap in the chain of custody that would give rise to any indication that the integrity of the said evidence has been greatly compromised.

Also, considering that it was SPO1 Gonzaga who identified the said marijuana sticks during the trial in court, as the same marijuana sticks on which he placed the said markings immediately upon their confiscation from appellant, and same marijuana sticks that he transmitted to the PNP Crime Laboratory, together with the letter request for the conduct of the qualitative examination, and which were also the same specimen submitted by PCI Llana to the court during trial, hence, it logically became unnecessary for PO3 Alcoran to still identify the same in court under the obtaining circumstances.”[49]

Next, Cruz avers that another gap was created in the chain of custody rule when there were inconsistencies between the contents of the joint affidavit executed by the arresting officers and the testimony given in court. In the joint affidavit it stated therein that the marking was done at the police station but when SPO1 Gonzaga was called on the witness stand, he testified that he marked the two [2] sticks of marijuana at the scene of the crime.

The reason why We could not agree with Cruz line of thought is because the infirmity of affidavits as a species of evidence is a common occurrence in judicial experience. An affidavit taken ex parte is almost always incomplete and often inaccurate, sometimes from partial suggestion or for want of suggestions and inquiries. Generally, it is considered to be inferior to the testimony given in open court and does not affect the credibility of the witness.[50]

Lastly, Cruz points out that in the photographs offered in evidence by the prosecution, particularly Exhibit “F-2”thereon, there appears to be some sort of marking on the contraband, while the subsequent exhibits marked as “F-1”, “F-3”and “F-4” the said marking were no longer there, creating a reasonable doubt that there were different sticks of marijuana that were being photographed.

This argument is specious.

The reason for this is explained by SPO1 Gonzaga, thus:

“Q: And you said that when you were at the police station you have the items photographed by you, am I correct?

A: Yes, sir.

Q: And you have the items allegedly inventoried by the witnesses, am I correct?

A: Yes, sir.

Q: You said that you were also the photographer, am I correct?[51]

A: Yes, sir.

Q: And you have laid down all the items on the table to be photographed, Mr. witness, am I correct?

A: Yes, sir.

Q: And at that time the two (2) sticks of marijuana were also presented there, am I correct?

A: Yes, sir.

Q: In the presence of two (2) ah, no, the witnesses, am I correct?

A: Yes, sir.

Q: And the marijuana that you placed there were the two (2) sticks of marijuana?

A: Yes, sir.

Q: With your alleged marking?

A: Yes, sir.

Q: And you did not place anything in that alleged sticks of marijuana except for the marking?

A: Yes, sir.

Q: Not even a masking tape, you also did not place any, am I correct?

A: As far as I can remember, sir, later portion of that, sir, we decided to take it out or detach for there was already a marking.[52]

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Atty. Martinez: Marie Germodo, sorry, Your Honor. And the media representative, you will agree with me that there is no masking tape on the two (2) sticks of marijuana cigarette, am I correct?

A: Yes, sir.

Q: But in the place where Astillero signed, there is already that masking tape?

A: We decided to detach because there was already a marking, sir.

Q: But in the picture where there was Marie Germodo-PDEA representative and Astillero, there is no masking tape also, am I correct?

A: Yes, sir.

Q: Masking tape attached to the sachets, okay. Mr. witness, you also said that you were the one who delivered the items to the crime laboratory, am I correct?

A: Yes, sir.”[53]

In sum We find no circumstance whatsoever that would raise any doubt as to the identity, integrity and evidentiary value of the items subject matter of this case. The chain of custody was clearly not broken. Besides, the integrity of the evidence is presumed preserved unless there is a showing of bad faith, ill will or proof that the evidence has been tampered with in which the burden of proof falls on appellant. Cruz failed to discharge this burden.[54]

Indeed, prosecutions involving illegal drugs largely depend on the credibility of police officers serving as prosecution witnesses. When a case involves violation of the Dangerous Drugs Act, credence should be given to the narration of the incident by the prosecution witnesses especially when they are police officers who are presumed to have performed their duties in a regular manner, unless there be evidence to the contrary.[55] This presumption is overturned only if there is clear and convincing evidence that they were not properly performing their duty or that they were inspired by improper motive.[56] Cruz was not able to overturn such presumption.

Moreover, the rule is that the findings of the trial court, its calibration of the testimonies of the witnesses and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings, are accorded respect, if not conclusive effect and in that case said findings are generally binding upon this Court.[57]

WHEREFORE, in view of the foregoing, the Judgment dated July 23, 2012, of the Regional Trial Court, 7[th] Judicial Region, Branch 30, Dumaguete City in Criminal Case No. 19793 is hereby affirmed in toto.

SO ORDERED.

Ingles,[*] and Azcarraga-Jacob, JJ., concur.

[*] Acting Chairperson in lieu of J. Ramon Paul L. Hernando, per Office Order No. 19-14-GTI dated July 7, 2014.

[1] Records, pp. 119-126, penned by the Honorable Judge Rafael Crescencio C. Tan, Jr.

[2] Records, p. 3.

[3] Records, p. 40.

[4] Records, p. 21.

[5] Evidence Folder, p. 3.

[6] Records, pp. 90-91.

[7] Records, pp. 55-60.

[8] Rollo, p. 74.

[9] Records, p. 12.

[10] Records, p. 12.

[11] Rollo, p. 75.

[12] TSN, April 24, 2012, p. 8.

[13] TSN, April 24, 2012, pp. 9-10.

[14] Rollo, p. 76.

[15] TSN, April 24, 2012, p. 11.

[16] Records, p. 18.

[17] Rollo, p. 76.

[18] Records, p. 24.

[19] TSN, April 24, 2012, p. 16.

[20] Records, pp. 102-103.

“A”- Letter request for laboratory examination;

“B”- Chemistry Report No. D-111-09;

“C”- Receipt issued by the Clerk of Court;

- “D”- One handrolled cigarette with marking “JBC-P1-12-25-09” containing 0.29 gram of marijuana;
- “D-1”- One handrolled cigarette with marking “JBC-P2-12-25-09” containing 0.36 gram of marijuana;
- “E”- Receipt and Inventory of Property Seized and Confiscated;
- “F”- Photographs showing accused with the seized items;
- “G”- Joint Affidavit of PO3 Orlando Gonzaga and PO2 Derek Alcoran; and
- “H”- PDEA Blotter

[21] Records, p. 104.

[22] TSN, July 3, 2012, p. 3.

[23] TSN, July 3, 2012, p. 4.

[24] TSN, July 3, 2012, p. 5.

[25] Records, p. 126.

[26] Rollo, p. 30.

[27] Rollo, p. 31.

[28] Rollo, pp. 33-34.

[29] Rollo, p. 38.

[30] Rollo, pp. 39-40.

[31] Rollo, p. 44.

[32] TSN, April 24, 2012, p. 8.

[33] Sec. 13. Search incident to lawful arrest. – A person lawfully arrested may be searched for dangerous weapons or anything which may have been used or constitute proof in the commission of an offense without a search warrant.

[34] *Marquez v. People*, G.R. No. 197207, March 13, 2013.

[35] *People v. Lucio*, G.R. No. 191391, June 19, 2013.

[36] TSN, April 24, 2012, p. 6.

[37] TSN, April 24, 2012, p. 7.

[38] TSN, April 24, 2012, p. 8.

[39] TSN, April 24, 2012, p. 9.

[40] *People v. Velasquez*, G.R. No. 177224, April 11, 2012.

[41] *Marquez v. People*, G.R. No. 197207, March 13, 2013.

[42] *People v. Fernandez*, G.R. No. 188841, March 6, 2013.

[43] TSN, April 24, 2012, p. 9.

- [44] April 24, 2012, p. 10.
- [45] TSN, April 24, 2012, p. 11.
- [46] TSN, April 24, 2012, p. 13.
- [47] TSN, April 24, 2012, p. 15.
- [48] TSN, April 24, 2012, p. 16.
- [49] Rollo, pp. 82-83.
- [50] People v. Sumbillo, et al., G.R. No. 105292, April 18, 1997.
- [51] TSN, April 24, 2012, p. 23.
- [52] TSN, April 24, 2012, p. 24.
- [53] TSN, April 24, 2012, p. 25.
- [54] People v. Fernandez, G.R. No. 188841, March 6, 2013.
- [55] People v. Fernandez, G.R. No. 188841, March 6, 2013.
- [56] People v. dela Rosa, G.R. No. 185166, January 26, 2011.
- [57] People v. Fernandez, G.R. No. 188841, March 6, 2013.

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