

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FRANCISCO MAGDAY, JR. Y ALCANTARA, ACCUSED-APPELLANT.

Ponente: GONZALES-SISON, M., J.

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GONZALES-SISON, M., J.:

Under consideration in this appeal is the Decision[1] of the Regional Trial Court of Tarlac City, Branch 64 convicting the herein accused-appellant Francisco Magday, Jr. y Alcantara guilty beyond reasonable doubt for violation of Section 11, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The offense was allegedly committed as follows:

“That on March 4, 2009 at on or about 9 pm at Zamora St., San Roque, in the City of Tarlac, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully and feloniously trade, transport and deliver from La Trinidad, Benguet to Tarlac City a 400 grams brick of marijuana, a dangerous drug, without the necessary permit or authority from law.

Contrary to Law.”[2]

Duly arraigned on 17 June 2009 , accused, assisted by counsel, pleaded "Not Guilty[3] to the crime charged. Trial on the merits forthwith ensued.

During the trial of the case, the prosecution presented the testimonies of: SPO2 Jorge Andasan, Jr.; SPO1 Eduardo Navarro; SPO2 Regino L. Dinoy; and PSI Jebie C. Timario, a forensic chemist. The defense, on the other hand, presented the lone testimony of the accused.

The evidence for the prosecution, as summarized by the Office of the Solicitor General, is as follows:

"Appellant is a known drug pusher included in the police's order of battle. Two weeks prior to appellant's arrest on March 4, 2009, the law enforcers conducted surveillance on his activities. Their test-buy on or around March 2, 2009 produced positive results.

In the morning of March 4, 2009, SPO2 Jorge Andasan, Jr. SPO1 Eduardo T. Navarro, Confidential Agent Domingo Ramos, the confidential asset, and PO3 Meimban, among others, had a buy-bust briefing operation in Tarlac City Police Station. During this briefing operation, they planned to purchase marijuana from appellant through their confidential asset, with PO3 Meimban acting as a poseur-buyer. The confidential asset and PO3 Meimban thus went to appellant's residence in order to buy marijuana. Appellant, however, replied that he no longer has any stock, so he volunteered to go to Baguio City in order to procure some more.

Taking up appellant's offer to purchase marijuana in Baguio City, retired Col. Pedroche gave Php4,000.00 to the confidential asset. The confidential asset, in turn, gave the money to appellant for the purchase of one (1) kilo of marijuana. He likewise gave his cell phone number to appellant. They agreed to meet at the Siesta Bus Terminal in Tarlac City later that day to consummate the transaction.

At 2:20 in the afternoon of the same day, SPO1 Navarro coordinated with the Philippine Drug Enforcement

Agency (“PDEA”), Region III. Thereafter, or at around 4:00 in the afternoon, appellant sent the confidential asset a text message which says: “Txbc k Pre nung okey na etang kpitna ala kcing gamit pre. Pre pba2 nako.txtbc.” In his message, appellant’s mention of “kpitna” is in reference to the quantity of the marijuana, or that he was only able to acquire one-half (½) kilo of marijuana. In response, the buy-bust team replied: “Okay lang balik ka na.”

At around 8:30 in the evening of the same day, the buy-bust team waited for appellant to arrive at the Siesta Bus Terminal and positioned themselves along Zamora Street. Appellant arrived shortly thereafter, on or about 9:00 in the evening. The confidential asset gave a hand signal to the buy-bust team to confirm appellant’s arrival.

Appellant and the confidential asset then boarded a tricycle where they proceeded to complete the transaction. After the confidential asset signaled to the buy-bust team by giving a thumbs-up, the police officers approached the tricycle, introduced themselves and asked appellant to lift his shirt. A brick of marijuana leaves wrapped in plastic was discovered tucked between appellant’s stomach and pants when he lifted his shirt. The barangay chairman of San Roque (Tarlac City), Romualdo Razon, and the cameraman of Hi-Tech Cable TV, Inc. (Tarlac City), Christian Reyes, documented the whole operation from its planning to appellant’s arrest.

Consequently, the marijuana in appellant’s possession was confiscated. SPO1 Navarro placed his initials on the seized item, as well as the date and time of its seizure, thus: “042100H March 09 ETN”. He also prepared a Receipt of Property Seized in the presence of the barangay chairman and tanod of San Roque, Tarlac City, which appellant refused to sign. Rene Bondoc, a member of the Task Force Bantay Droga, photographed the marijuana seized from appellant.

SPO1 Navarro brought the seized marijuana to the Crime Laboratory in Camp Macabulog. P/Sr. Insp. Jebie Timario, the forensic chemist, accompanied by SPO2 Regino L. Dinoy, Jr., the evidence custodian, received the specimen from SPO1 Navarro. The evidence submitted weighed four hundred (400) grams. Specimen samples of the item yielded a positive result for marijuana.”[4]

On the other hand, accused-appellant gave a different version of the incident. As recapitulated by the Public Attorney’s Office, the evidence for the defense is as follows:

"FRANCISCO MAGDAY, JR. (Francisco) was engaged in the buy and sell of vegetables which he usually gets from La Trinidad, Benguet. On 4 March 2009, he and some companions, including a certain “Sally”, went to Benguet to buy vegetables. He left his house at 9:00 o'clock in the morning and when he reached the crossing of their place, Manny Corpuz was waiting for him. Manny told him to give Four Thousand Pesos (P4,000.00) to Balweg, another person engaged in the buy and sell of vegetables. Balweg was already at La Trinidad at that time. Francisco agreed to Manny’s request so he boarded a bus to Baguio. He arrived at La Trinidad at 3:00 o'clock in the afternoon and directly went to the vegetable terminal or “bagsakan ng gulay.” He handed the money to Balweg and went to buy vegetables for three (3) hours then rested for fifteen (15) minutes. He then ordered the boarding of the vegetables to the truck. He left La Trinidad and headed home in Tarlac City. Before he finally left the “bagsakan”, he was able to see Balweg again. The latter requested him to give something to Manny. He did not know what it was because it was contained in a plastic. He did not ask Manny what it was, he just received it. He then boarded a Dagupan Bus to Tarlac City and he arrived at almost 10:00 o'clock in the evening but the bus is supposed to stay there until the vegetables arrive. However, upon arrival at the bus terminal, he was suddenly arrested by SPO1 Navarro and his companions. They suddenly grabbed his hands and handcuffed him and asked him “May dala ka ba?,” which he was not able to answer because he did not know what they were talking about. He was then brought to their office and was investigated upon. They asked him if he owns the thing contained in the plastic bag and he told them it is not his. The plastic bag was the one he brought from Balweg, the contents of which he was unaware of. The bag was not transparent and the contents were wrapped in a newspaper. He was surprised when the police asked him if he knows that it was marijuana and was shown its contents. He told the police he does not know

anything about it.”[5]

After trial, the lower court, on 18 September 2013, rendered a decision[6], the dispositive portion reads as follows:

“WHEREFORE, premises considered, this Court finds the accused GUILTY for Violation of Section 11, Article II of R.A. 9165 and hereby sentences him to suffer the penalty of imprisonment of twenty (20) years and one (1) day to life imprisonment and a fine of Four Hundred Thousand Pesos (P400,000.00) considering the quantity of the dangerous drugs involved.

The subject item is hereby forfeited in favor of the State. The Clerk of Court is hereby directed to transmit the same to the Philippine Drug Enforcement Authority [sic] (PDEA) for proper disposal.

SO ORDERED.”

Hence, this appeal, submitting the following assigned errors for Our resolution, to wit:

I

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF VIOLATION OF SECTION 11, ARTICLE II, REPUBLIC ACT NO. 9165, WHICH IN NOT NECESSARILY INCLUDED [sic] IN THE INFORMATION INDICTING HIM UNDER SECTION 5 OF THE SAME LAW, IN VIOLATION OF HIS CONSTITUTIONAL RIGHT TO BE INFORMED OF THE NATURE AND CAUSE OF ACCUSATION AGAINST HIM.

II

ASSUMING THAT THE ACCUSED-APPELLANT'S CONSTITUTIONAL RIGHT WAS NOT VIOLATED, THE COURT A QUO GRAVELY ERRED OM FINDING THE ACCUSED-APPELLANT GUILTY OF VIOLATION OF SECTION 11, ARTICLE II, REPUBLIC ACT NO. 9165 CONSIDERING THAT THE TRADE/TRANSPORT/DELIVERY OF MARIJUANA WAS NOT PROVEN BY THE PROSECUTION BEYOND REASONABLE DOUBT.

In essence, appellant raises the issue of whether the trial court gravely erred in finding him guilty beyond reasonable doubt for violation of Section 11, Article II of Republic Act No. 9165.

Before delving on the issues raised by appellant, it bears stressing that while courts are committed to assist the government in its campaign against illegal drugs, a conviction under the Dangerous Drugs Law will prosper only, just like in any other criminal case, after the prosecution discharges its constitutional burden to prove guilt beyond reasonable doubt. Otherwise, the Court is more duty-bound to uphold the constitutional presumption of innocence.[7]

Considering, however, that at stake is no less than the liberty of appellant, We thoroughly examined the entire records of this case. Unfortunately for appellant, We failed to identify any error committed by the trial court both in its appreciation of the evidence presented before it and in the conclusion it reached.

On the first assigned error, appellant asserts that he was charged under Section 5, Article II of R.A. No. 9165 [trade, transport and delivery of illegal drugs] and was convicted under Section 11, Article II of R.A. No. 9165 [possession of illegal drugs] which is allegedly not necessarily included in the Information indicting him, thereby violating his constitutional right to be informed of the nature and cause of accusation against him. However, it is appellant himself who admitted in his Appellant's Brief, more particularly under paragraph 15 thereof that “Well-settled in jurisprudence that the crime of illegal sale of dangerous drugs necessarily includes the crime of illegal possession of dangerous drugs. The same ruling may also be applied to the other acts penalized under Article II, Section 5 of Republic Act No. 9165 because for the accused to be able to trade, administer, dispense,

deliver, give away to another, distribute, dispatch in transit, or transport any dangerous drug, he must necessarily be in possession of said drugs.” (underscoring supplied)

Anent the second assigned error, appellant avers that the prosecution was not able to prove his guilt beyond reasonable doubt and questions the chain of custody of the seized illegal drug.

We dismiss appellant's submissions as pure nonsense and inanity that did not in anyway affect the clear and unequivocal testimonies of the prosecution witnesses. The court a quo's evaluation of the facts and evidence is utterly sufficient in substance to support accused-appellant's conviction.

Appellant demands absolute compliance with Section 21 of RA 9165 and insists that anything short of the adherence to its letter, renders the evidence against him inadmissible. Pertinently, Section 21 of the law provides:

"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. – The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(1) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof."

The pertinent implementing rules, Section 21 of the IRR, states:

"Section 21. a. xxx Provided further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items." (underscoring supplied)

From the testimonies of the police officers in the case at bench, the prosecution established that they had custody of the drug seized from the appellant from the moment he was arrested, during the time he was transported to the police station, and up to the time the seized prohibited drug was submitted to the crime laboratory for examination. As regards to the handling of the seized drug, there are no conflicting testimonies or glaring inconsistencies that would cast doubt on the integrity thereof as evidence presented and scrutinized in court.

SPO1 Navarro testified, thus:

“PROS. OLINARES

Q:

Were you able to find the marijuana that you were mentioning?

A:

Yes, ma'am.

Q:

Where, Mr. Witness?

A:

It was tucked between his pants and his belly, ma'am.

Q:

At what part?

A:

In front, ma'am.

Q:

After you saw those marijuana tucked on his belly, what did you do?

A:

We confiscated them and marked them, ma'am.

Q:

What was the thing that you confiscated?

A:

A brick of marijuana leaves, ma'am.

xxx xxx xxx

Q:

So after you confiscated the 400 grams brick of marijuana, what did you do?

A:

I put my initial, the date, the time I confiscated the marijuana, ma'am.

Q:

Can you describe the brick of marijuana that was tucked at the belly of the accused?

A:

It was wrapped with several plastic, ma'am.

Q:

After you pulled it from the belly of the accused, what did you do?

A:

I recorded the file wherein I put it on a receipt of property seized, ma'am.

Q:

Where did you record the seized items?

A:

At the scene, ma'am."[8]

xxx xxx xxx

Q:

What were the markings that you put on the seized brick marijuana, Mr. Witness?

A:

042100H March 09 ETN, ma'am.

Q:

So, after you marked the marijuana with the markings that you have mentioned, what did you do next?

A:

I brought them to the Crime Laboratory at Camp Macabulos, ma'am.

Q:

Who were with you at that time you brought the same to the Crime Laboratory?

A:

Renato Bondoc, ma'am.

Q:

What was the mode of transportation that you used in going to Camp Macabulos, Mr. Witness?

A:

My pick-up, ma'am.

Q:

When you arrived at Camp Macabulos, what did you do next?

A:

I gave the specimen to S/Insp. Jebie Timario, ma'am.

Q:

What is your proof that indeed you gave the specimen and that Jebie Timario received the same, Mr. Witness?

A:

Our request, ma'am."[9]

P/Insp. Timario confirmed that she received the specimen from SPO1 Navarro, viz:

“PROS. OLINARES .

Q:

In relation to this case, Madam Witness, do you remember having received specimen from the police officers?

A:

Yes, ma'am. I received specimen on March 4, 2009 from SPO1 Eduardo Navarro, ma'am

Q:

What is your proof that indeed you received a specimen from SPO1 Navarro?

A:

On the rubber stamped markings placed on the original letter request, ma'am.[10]

xxx xxx xxx

Q: Now Madam Witness, can you describe the specimen submitted by Eduardo Navarro at that time?

A: One (1) white plastic bag with marking 42100H marked ETN containing brick of dried Marijuana suspected a dangerous drug, ma'am.

Q: Now upon receipt of these items, Madam Witness, what did you do?

A: After receiving the specimen, I subjected the specimen for qualitative examination, ma'am.

xxx xxx xxx

Q:

I am showing to you the contents of the envelope which is wrapped in a white and green plastic. Can you take a look, Madam Witness if this is the same item that you brought inside this envelope after the examination?

A:

Yes, ma'am. This is the same item that I received from SPO1 Navarro because of his markings and also my markings D-32-09, ma'am.

Q:

Can you tell Madam Witness if this is the same item or the same object which has been the same subject of your chemical examination?

A:

Yes, ma'am.

Q:

Which you reduced into writing as D-32-09 Tarlac?

A:

Yes, ma'am.[11]

xxx xxx xxx

Q:

Now after sealing the envelope which contained the subject marijuana, madam witness, what did you do?

A:

I turned it over to the evidence custodian, PO2 Dinoy, ma'am.

Q:

And what did PO2 Dinoy do with the envelope containing the brick of marijuana?

A:

He placed the specimen inside the evidence room, ma'am.”[12]

SPO2 Dinoy also confirmed that he received the specimen subject of the case and testified, thus:

“PROS. OLINARES

Q:

As evidence custodian, Mr. Witness, what is the nature of your job?

A:

My job, ma'am, is after our Chemist examines the drugs for laboratory examination, she turns over to me the specimens for safekeeping in our evidence booth.

Q:

What is your procedure in the safekeeping of specimens given to you by the Chemist after the conduct of examination?

A:

After the examination of our Chemist, he personally turns over the specimens to me for proper safekeeping in our evidence booth.

Q:

In relation to this case, Mr. Witness, do you remember to have kept in your evidence locker the specimen subject of Chemistry Report No. D-32-09 Tarlac?

A:

Yes, ma'am.

Q:

Do you have with you the specimen?

A:

Yes, ma'am, it is with me right now.

Q:

How did you know that that is the specimen subject of the laboratory examination that I have mentioned?

A:

Because this is the one that PSI Timario turned over to me, ma'am. (Witness presented to the Court a brown envelope, attached thereto the specimens.)

Q:

So, Mr. Witness, before you went to the Court, who handed to you the items?

A:

I was the one, ma'am.

Q:

Who were the ones who possessed the key for the evidence locker, Mr. Witness?

A:

So far we have two (2) keys in our office, one is in the possession of Col. Hidalgo, he keeps one of the keys

and I cannot open the vault without him, ma'am.

Q:

So, you mean to say, Mr. Witness, that the two (2) of you opens the vault?

A:

Yes, ma'am.

Q:

After taking this from the evidence locker, who was in possession of the items from the time you took out from the evidence locker up to the time you arrived in Court?

A:

Me, ma'am.

Q:

What you have just handed to this Court, is this the same item that you yourself personally took from the evidence locker as the one which have been the subject of Chemistry Report No. D-32-09 Tarlac?

A:

Yes, ma'am.”[13]

As testified by SPO1 Navarro, after he confiscated the brick of marijuana from the appellant, he marked it by putting his initial, the date and time (042100H March 09 ETN) thereto.[14] He also prepared a receipt of property seized dated March 4, 2009 and brought the seized item to the Crime Laboratory at Camp Macabulos.[15] The specimen was given to S/Insp. Jebie Timario and which was confirmed by the said police officer in a separate testimony. P/Insp. Timario testified that she placed the marijuana in a brown envelope and marked it “D-32-09 Tarlac.” She sealed a brown envelope with a masking tape, affixed her signature thereon and turned it over to the evidence custodian, SPO2 Dinoy.[16] And finally, SPO2 Dinoy testified that he was the one who kept the specimen in the evidence locker for safekeeping purposes and brought the same to the trial court.

It is therefore safe to conclude that, to the unprejudiced mind, the testimonies show without a doubt that the evidence seized from the appellant at the time he was apprehended was the same one tested, introduced, and testified to in court. This was further bolstered by the fact that the apprehending team followed the rule on chain of custody as they in fact made physical inventory and photograph the same in the presence of the accused, a representative from the media and the barangay officials of Tarlac City. Needless to say, the integrity of the evidence against accused-appellants was indeed preserved.

As correctly found by the trial court, viz:

“From the evidence of the prosecution, adherence to the basic procedural requirements to preserve the integrity and the evidentiary value of the seized items have been shown by the unbroken chain of custody from the time the items were found, marked, recorded/inventoried or receipted and photographed in the presence of Media representative and Barangay Officials and thereafter delivered to the Crime Laboratory Office for laboratory

examination and subsequently brought to this Court for presentation as evidence. There can be no doubt that the brick of marijuana seized from the actual possession of the accused Francisco Magday, Jr. was the same item that was brought for laboratory examination and found to be positive for the presence of marijuana, a dangerous drugs [sic] and the same item that was brought to Court, presented and marked as evidence for the prosecution.”[17]

It cannot be overemphasized that in cases involving violations of 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 is evidence to the contrary. In this regard, the defense failed to show any ill motive or odious intent on the part of the police operatives to impute such a serious crime that would put in jeopardy the life and liberty of an innocent person, such as in the case of accused. Moreover, in weighing the testimonies of the prosecution witnesses vis-à-vis those of the defense, it is a well-settled rule that in the absence of palpable error or grave abuse of discretion on the part of the trial judge, the trial court's evaluation of the credibility of witnesses will not be disturbed on appeal.[18]

In the absence of any showing that substantial or relevant facts bearing on the elements of the crime have been misapplied or overlooked, this Court can only accord full credence to such factual assessment of the trial court which had the distinct advantage of observing the demeanor and conduct of the witnesses during the trial. Absent any proof of motive to falsely charge an accused of such a grave offense, the presumption of regularity in the performance of official duty and the findings of the trial court with respect to the credibility of witnesses shall prevail over his bare allegation.[19]

In fine, this Court finds that the police officers complied with the requirements of Section 21, Article II of R.A. No. 9165. Note that the subject drug confiscated from the appellant was properly accounted for and forthrightly submitted to the Crime Laboratory for its extensive examination. Consequently, considering the pieces of evidence presented by the prosecution, the mere denial of the appellant should fail. Courts generally view the defense of denial with disfavor due to the facility with which an accused can concoct it to suit his or her defense. As evidence that is both negative and self-serving, this defense cannot attain more credibility than the testimonies of the prosecution witnesses who testify clearly, providing thereby positive evidence on the various aspects of the crime committed.[20]

As to the proper penalty, the Court finds that the trial court imposed the correct penalty. Under Section 11, R.A. 9165 provides:

“Section 11. Possession of Dangerous Drugs. — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

- (1) 10 grams or more of opium;
- (2) 10 grams or more of morphine;
- (3) 10 grams or more of heroin;
- (4) 10 grams or more of cocaine or cocaine hydrochloride;
- (5) 50 grams or more of methamphetamine hydrochloride or "shabu";
- (6) 10 grams or more of marijuana resin or marijuana resin oil;
7. 500 grams or more of marijuana; and
8. 10 grams or more of other dangerous drugs such as, but not limited to, methylenedioxymethamphetamine (MDA) or "ecstasy", paramethoxyamphetamine (PMA), trimethoxyamphetamine (TMA), lysergic acid diethylamine (LSD), gamma hydroxyamphetamine (GHB), and those similarly designed or newly introduced

drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements, as determined and promulgated by the Board in accordance to Section 93, Article XI of this Act.

Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

(1) Life imprisonment and a fine ranging from Four hundred thousand pesos (P400,000.00) to Five hundred thousand pesos (P500,000.00), if the quantity of methamphetamine hydrochloride or "shabu" is ten (10) grams or more but less than fifty (50) grams;

(2) Imprisonment of twenty (20) years and one (1) day to life imprisonment and a fine ranging from Four hundred thousand pesos (P400,000.00) to Five hundred thousand pesos (P500,000.00), if the quantities of dangerous drugs are five (5) grams or more but less than ten (10) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu", or other dangerous drugs such as, but not limited to, MDMA or "ecstasy", PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or three hundred (300) grams or more but less than five (hundred) (500) grams of marijuana; and

3. Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu", or other dangerous drugs such as, but not limited to, MDMA or "ecstasy", PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.

Hence, the penalty of imprisonment of twenty (20) years and one (1) day to life imprisonment and a fine of Four Hundred Thousand Pesos (Php400,000.00) is proper.

Based on the conclusions found by this Court in the present case, the Court is convinced that the evidence presented by the prosecution proves to a moral certainty appellant's guilt of the crime of possession of dangerous drugs.

WHEREFORE, the Decision of the Regional Trial Court of Tarlac City, Branch 64 in Criminal Case No. 16094 finding accused-appellant Francisco Magday, Jr. y Alcantara, GUILTY beyond reasonable doubt of violation of Section 11, Article II of R.A. 9165 is hereby AFFIRMED in toto. Costs de oficio.

SO ORDERED.

Salazar-Fernando, R.A., Chairperson and Cruz, R. A., JJ., concur.

[1] Penned by Judge Lily C. De Vera-Vallo in Crim. Case No. 16094, promulgated on 18 September 2013, Rollo, pp. 53-67.

[2] Record, p. 1

[3] *ibid.*, p. 20.

[4] Appellee's Brief, pp. 3-5, Rollo, pp. 87-89.

[5] Appellant's Brief, p. 5, Rollo, p. 40.

[6] Supra, note 1.

[7] People v. Balag-ey, G.R.No. 141532, April 14, 2004

[8] TSN, 06 October 2010, pp. 17-19.

[9] id., pp.22-24.

[10] TSN, 02 February 2011, p. 3.

[11] id., pp. 9-10.

[12] id., pp. 13-14.

[13] TSN, 11 October 2010, pp. 3-5.

[14] TSN, 06 October 2010, p. 18.

[15] id., p. 23.

[16] TSN, 02 February 2011, p. 3-14.

[17] RTC Decision, p. 14, Rollo, p. 66.

[18] People v. Sembrano, G.R. No. 185848, 16 August 2010, 628 SCRA 328, 342 citing People v. Llamado, G.R. No. 185278, 13 March 2009, 581 SCRA 544, 552, and People v. Remerata, 449 Phil. 813, 822 (2003).

[19] People v. Soriaga, G.R. No. 191392, 14 March 2011, 645 SCRA 300, 305-306 citing People v. Tamayo, G.R. No. 187070, 24 February 2010, 613 SCRA 556, and People v. De Leon, supra note 27 at 136.

[20] People v. Steve, et. al.,G.R. No. 204911. August 6, 2014.

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