

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDGAR LAGMAY Y ALARCON, ACCUSED-APPELLANT.

G.R. No. 125310. April 21, 1999

Ponente: PARDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-125310/>

PARDO, J.:

"In our criminal justice system, the overriding consideration is not whether the court doubts the innocence of the accused but whether it entertains a reasonable doubt as to his guilt. This determinant, with the constitution presumption of innocence which can be overthrown only by the strength of the prosecution's own evidence proving guilt beyond reasonable doubt, irresistibly dictate an exoneration in this case."[1]

"The constitutional presumption of innocence is not an empty platitude meant only to embellish the Bill of Rights. Its purpose is to balance the scales in what would otherwise be an uneven contest between the lone individual pitted against the People of the Philippines and all the resources at their command. Its inexorable mandate is that, for all the authority and influence of the prosecution, the accused must be acquitted and set free if his guilt cannot be proved beyond the whisper of a doubt. That mandate shall be enforced."[2]

The presumption of innocence is not a mere procedural tool of the law. It is not overcome by the presumption of regularity; indeed, it can be rebutted only by proof beyond reasonable doubt.

"x x x the prosecution must overthrow the presumption of innocence with proof of guilt beyond reasonable doubt. The proof against him must survive the test of reason, the strongest suspicion must not be permitted to sway judgment."[3]

In order to convict an accused the circumstances of the case must exclude all and each and every hypothesis consistent with his innocence."[4]

In offenses involving the capital punishment, the presumption of innocence takes an even more paramount significance. "It is safely entrenched in our jurisprudence that unless the prosecution discharges its burden to prove the guilt of the accused beyond reasonable doubt, the latter need not even offer evidence in his behalf."[5]

"The prosecution must rely on the strength of its own evidence and must not simply depend on the weakness of the defense. The slightest possibility of an innocent man being convicted for an offense he has never committed, let alone when no less than a capital punishment is imposed, would be far more dreadful than letting a guilty person go unpunished for a crime he may have perpetrated."[6] The presumption of innocence provides the fulcrum from where the scales of justice can be balanced and allowed to take its course.

The case before us is an automatic review, of the decision of the Regional Trial Court, Davao City, Branch 17, in Criminal Case No. 34, 149-94, for violation of Section 8, Republic Act 6425, as amended by Batas Pambansa Blg. 179, finding accused Edgar Lagmay y Alarcon guilty as charged. The dispositive portion of the decision reads:

"WHEREFORE, finding the evidence of the prosecution more than sufficient, to prove the guilt of accused of the offense charged, pursuant to Sec. 20 of Republic Act 76 paragraph 5 thereof, accused EDGAR LAGMAY y ALARCON, is sentenced to suffer a maximum penalty of death by electrocution, in accordance with Sec. 24

of Republic Act 7659.

"Notwithstanding the imposition of the above-death penalty against accused, Edgar Lagmay y Alarcon, this court finding the above-penalty, harsh and clearly excessive, considering the personal circumstances of accused, as first offender, without prior derogatory record against him, pursuant to Art. 5, par. 3 of the Revised Penal Code, it is recommended to His Excellency President Fidel V. Ramos, President of the Republic of the Philippines, through the Secretary of Justice, Manila, to extend Executive Clemency to accused, on account of the strict enforcement of the provision of Republic Act 7659 can be considered harsh or clearly excessive penalty deserving exercise of Presidential Pardon and/or commutation of sentence, along with appropriate legislative remedial measures, as may be recommended with Congress of the Philippines, to correct the disparity in the Imposition of penalty as above-pointed out."[7]

The antecedent facts of the case are as follows:

In an Information dated June 13, 1994, City Prosecutor of Davao City Jose Emmanuel M. Castillo charged the accused, Edgar Lagmay y Alarcon with violation of Section 8, Republic Act No. 6425, as amended, as follows:

"That on or about June 7, 1994, in the city of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused, did then and there willfully, unlawfully and feloniously had in his possession 3.2 kilograms of dried marijuana leaves and one stick marijuana cigarette roch, a prohibited drug."[8]

On June 21, 1994, the court issued a warrant for the arrest of the accused.[9] On July 14, 1994, the court arraigned the accused and he entered a plea of not guilty.[10] The court issued an order[11] setting the case for continuous trial beginning with the presentation of the prosecution's evidence on August 4 and 5, 1994, at 8:30 in the morning, and for the accused on August 30 and 31, 1994, at 8:30 in the morning.

The lower court in its decision narrated a succinct account of the events that transpired on that fateful day of June 7, 1994.

In the afternoon of June 7, 1994. accused-appellant, a Marine Engineering graduate, was at MATS College in Agdao, Davao City to get his SOLAS Certificate for his application as a seaman. He was at the school premises at about 2:30 in the afternoon and left at about 6:30 in the evening. He took a pedicab bound for the Agdao public market to check if his father was still at the market selling pork. After talking with his father, he left for home at Toril, Davao City. At around 7:30 in the evening, he boarded a jeep at the corner of Anda and San Pedro streets. Including him, the jeep he was riding in had five other passengers. They passed through Uyanguren or Ramon Magsaysay Avenue, Reyes, Bolton, San Pedro Streets and finally stopped in front of the Datu Complex at Bankerohan, Davao City.

Along the way, the jeep picked up passengers and some alighted at several stops. At Bankerohan, three or four more passengers boarded the jeep and they proceeded towards their destination at Toril. The accused fell asleep during this segment of the trip. When the jeep stopped at a police checkpoint in Ulas, a tap on the shoulder awakened him. Someone asked him if he owned the bag beside his seat. The accused answered that the bag was not his. SP03 Laput, one of the policemen in the checkpoint, kept asking him if the bag belonged to him. Again, he said no. The policeman then asked the accused to alight from the jeep and carry the bag. He alighted from the jeep but did not carry the bag. The policeman immediately frisked him at the waist and asked if he was a military man, to which he answered that he was not.

At that time, there were many passengers inside the jeep, both men and women, but the police officer did not bother to question them. Instead, he insisted that the accused carry the bag. Accused reiterated that the bag did not belong to him and refused to carry it. At this instance, the policeman cocked his armalite rifle and pointed it at the

accused, and told him that he would shoot the accused, which caused the latter to scamper and hide.

From his hiding place, the accused overheard the policeman say that he would not be shot but arrested instead. Only then did he come out of his hiding place. Whereupon, he was immediately accosted by the policeman and ordered to lie face flat on the ground while they tied his hands. They again asked him if he owned the bag. Again, he denied owning the bag.

Accused was brought to the Ulas Police Sub-Station, and again questioned about the bag which was found to contain 3,051.3 grams of dried marijuana leaves.[12] He again denied ownership of the bag. A certain Captain Yu arrived at the sub-station and asked if the accused already admitted ownership of the bag. He was told that the accused refused to admit ownership of the bag. Capt. Yu then threatened the accused that he would be delivered to the NARCOM. When accused asked where he would be taken, he was hit with the butt of the rifle at the right side of his stomach and was told that he would be brought to the "smokey mountain" a known salvage area in Davao.

While on their way to "smokey mountain", they stopped at a dimly lit place somewhere in Ma-a, Davao City, a well known salvage area where Capt. Yu ordered the accused to run. He refused and was asked again whether he owned the bag. Again, he denied ownership of the bag.

At around 10:00 in the evening of June 7, 1994, Capt. Yu fired his gun in the air and declared that the next shot would be for the accused, after which Capt. Yu pointed his gun at the back of the accused's neck. Accused pleaded for his life and told the Captain that the bag was not his. Capt. Yu, however, did not heed his pleas and informed him that he would count up to ten. After which, if he still would not admit ownership of the bag, he would be killed.

When Capt. Yu was at the count of seven, by some stroke of luck, two cars passed by and their lights caused Capt. Yu to stop. The accused was brought back inside the jeep and they proceeded to the Catitipan station. Upon arrival, somebody pointed a gun at him and he was again asked if he owned the bag.

During the entire interrogation accused was never asked whether he needed a lawyer. In Catitipan, a certain Major Laza, promised to help him if he would admit ownership of the bag. According to accused, he was hit repeatedly by the policemen until he could no longer move and until the policemen got tired of hitting him. He was detained for four (4) days and was made to lie down on a table, with handcuffs on and then transferred to a place they called a stockade at Catitipan, Diversion Highway, Davao City.

Accused strongly denied the accusation against him. The trial court, however, after hearing the evidence presented by both the prosecution and the defense ruled in favor of the prosecution and sentenced the accused to death.

The accused through counsel filed a motion for new trial, to introduce newly discovered evidence.

At the hearing of the motion for new trial, the testimony of six (6) witnesses were presented, namely: the conductor of the jeep, Hesorenan[13] de la Cerna; passengers of the jeep, Victor Degamo, Teresita Pecson, sisters of the accused, Crispina Lagmay and Marichu Lagmay-Garcia; and the wife of the accused.

Victor Degamo, and Teresita Pecson, both passengers of the jeep, declared that the reason they came out in the open and testified for the accused was that they could not, in conscience, allow an innocent man to die, when they knew that it was not the accused who owned the bag. They testified that they were hesitant to talk at the checkpoint when asked by, the police because they were afraid of the true owner of the bag, who was still inside the jeep at that time.

The conductor of the jeep, Hesorenan de la Cerna, testified in the following manner:

Q. What was your work before becoming a fisherman?

A. I was a conductor.

Q. What is the work of a conductor?

A. The work of a conductor is to attend to the passengers to see to it that they are properly seated and to collect their fare.

Q. You mean to say that you are a conductor of a passenger vehicle?

A. Yes.

Q. What kind of passenger vehicle?

A. A PUJ.

Q. What kind of a PUJ, if you know?

A. Lawin

Q. Who is the owner of that PUJ Lawin where you were a conductor?

A. Fernando Calvo.

Q. Where is he staying?

A. At Toril in front of the Color Plaza.

Q. Who is the driver of that jeep where you are a conductor?

A. Efren Sustiger.

Q. Since when did you become the conductor of said Jeep?

A. January 1994.

Q. Where is the route of that Lawin jeep where you are a conductor?

A. Toril Agdao and vice versa.[14]

x x x

Q. Will, you please tell the court if you remember on June 7, 1994 if you were a conductor in that jeep?

A. Yes.

Q. At about 7:00 in the evening of the said date June 7, 1994 do you remember where were you?

A. Yes.

Q. Where were you

A. I was at that time at the Assumption School.

Q. Where is this Assumption School located?

A. Cabaguio Avenue, Agdao Davao City.

Q. Why were you at Assumption School?

A. It is where we execute a U-turn.

Q. Will you tell the court at Assumption School if you have a passenger?

A. One passenger boarded the vehicle.

Q. From Assumption School where did your jeep proceed?

A. We are on our way to Toril.

Q. Going to Toril from Assumption School what route did you pass.?

A. The road in front of the Agdao public market.

Q. On your way to Agdao public market what do you noticed if any?

A. A passenger in front of the SSS boarded the vehicle.[15]

x x x

Q. You said you passed in front of the Agdao public market, while you were passing in front of the Agdao public market, what did you observe if any?

A. Two passengers boarded the jeep.

Q. What kind of passengers if you know?

A. A woman and a man.

Q. These two passengers can you tell us whether they were companion (sic)?

A. No.

Q. Why do you say that they are not companion (sic)?"

A. Because they were standing (sitting) quite a distance apart.

Q. Who boarded ahead of the two.

A. The woman boarded ahead.

Q. Please tell the court if the woman who boarded ahead brought anything with her in riding the vehicle?

A. She was not carrying anything.

Q. How about the male passenger, please tell the court if he brought anything with him when he boarded that jeep?

A. None.

Q. Can you tell us what particular place in front of Agdao public market where did your jeep proceed?

A. Towards Uyanguren.[16]

x x x

Q. Will you please tell the court from Assumption School up to Bankerohan, if your jeep has any baggage or bag inside the jeep?

A. None.

Q. How long you waited (sic) at Bankerohan for some more passengers?

A. More than half an hour.

Q. After waiting more than half an hour where did you proceed?

A. We proceeded towards the direction of Toril.

Q. How many passengers can you recall from Bankerohan? Were you full?

A. About 24 passengers.

Q. What is the seating capacity of your jeep?

A. 22

Q. How about the excess of two (2), where are they seated?

A. They were just clinging to the jeep.

Q. From Bankerohan where did you proceed?

A. Going towards Toril.

Q. While you were on your way to Toril tell us what happened if any?

A. A passenger disembarked at Bangkal and Lombisco.

Q. From Lombisco where did you proceed.

A. Proceeding towards Toril.

Q. While travelling from Lombisco towards Toril what happened if any?

A. Somebody flagged our jeep at Ulas.

Q. Who stopped you at Ulas?

A. Policemen.

Q. Why do you know that they are policemen?

A. Because they were in uniform and they were armed.

Q. Did you stop?

A. Yes.

Q. What happened when you stopped your jeep.?

A. A policeman checked the inside portion of the jeep and he went towards the driver's seat.

Q. What happened when the policeman inspected the inside of the jeep?

A. He saw a bag inside the jeep.

Q. Where is that bag located?

A. Inside the jeep

Q. Inside the jeep at the ceiling or at the flooring?

A. At the Flooring.

Q. Please tell us how far from the driver?

A. Half a pathom.

Q. When the policeman saw that bag what did he do if any?

A. He told me to get the bag

Q. And what did you do?

A I got it and handed (sic) to the policeman.

Q. What did the policeman do with the bag?

A. He opened the bag

Q. After he opened the bag where were you?

A. Just near him.

Q. Do you know what is the contents of the bag?

A. yes.

Q. What is the content when the policeman opened the bag?

A. A (sic) dried leaves that were already grounded.

Q. What happened when the policeman saw the contents of the bag?

A. He closed it back.

Q. When he closed, what did he do?

A. He placed it back inside the jeep

Q. After he placed the bag inside the jeep, what did the policeman do?

A. He tried to awaken that (sic) was sleeping at that time.

Q. That man is one of the passengers or not?

A. Passenger.

Q. What happened to that man awaken by the policeman?

A. The man woke up.

Q. Do you know that man that was sleeping and awaken by the policeman?

A. Only by his face.

Q. Why do you know him by face?

A. Because he already rode our jeep so many times.

Q. When this man was awaken by the policeman what happened after that?

A. The man was asked by the policeman if he was the owner of the bag.

Q. What was the answer if any?

A. The answer was "that is not my bag".

Q. After he answered, what did the policeman do?

A. He again asked the question.

Q. What is the answer for the second question?

A. He again said that the bag was not his.

Q. After the second answer what did the policeman. do if any?

A. For the third time, he asked the same question.

Q. What was the answer when the policeman asked the same question for the third time?

A. He again answered that the bag was not his.

Q. After that man awoken by the policeman answered for the third time that the bag was not his, what did the policeman do if any?

A. The man was asked by the policeman to go down and bring along with him the bag.

Q. And what did the man do if any?

A. He went down the jeep but he did not bring along the bag.

Q. When the man already went down from the jeep what did the policeman do if any to that man?

A. The man was asked by the policeman whether he was a police or a military man.

Q. What was the answer?

A. I am a civilian, was the answer.

Q. After the answer I am a civilian, what happened?

A. He was frisked by the policeman.

Q. After the man was frisked what happened next?

A. He was asked his name.

Q. What was the answer?

A. He said "I am Edgar Lagmay".

Q. Where were you when he answered I am Lagmay?

A. I was just near them.

Q. By the way that bag that the policeman ordered the man to bring down, what is the color of that bag?

A. A fatigue bag.[17]

The sisters and the wife of the accused testified that they went to see the accused at the detention center at Camp Catitipan and judging from his physical appearance, it was clear that he was physically abused. They went to the human rights office in Davao City to request for assistance and was given a letter addressed to Major Lasa. They went to Camp Catitipan to deliver the letter to Major Lasa. One of the guards advised them not to give the letter if they still wanted to see the accused alive.

However, after consideration, on September 18, 1995, the trial court issued an order which reads:

"WHEREFORE, finding the evidence of accused to support his petition for new trial, not sufficient beyond reasonable doubt, to overturn and or defeat the judgment of this court, dated February 24, 1995, convicting accused of the offense charged, accused petition for new trial, is denied.

"The judgment in this case dated February 24, 1995, is ordered reinstated and enforced, effective immediately upon receipt of accused through counsel of this order.

"The Branch Clerk of Court, is accordingly ordered to elevate the entire records of this case with the Hon. Supreme Court, Manila, through the Clerk of Court of said Court for automatic review of the original judgment of this court, dated February 24, 1995." [18]

Hence, this automatic review.

The lower court relied heavily, on the testimony of Efren Sustiger, driver of the jeep that it was accused Edgar Lagmay y Alarcon who owned the bag, containing the dried marijuana leaves. During the direct examination of the driver, he declared the following:

Q. Could you tell this Honorable Court what you were driving on June 7, 1994, in the evening.

A. In June 7, 1994 I was driving a Lawin jeep colored orange.

Q. Is that a passengers jeepney?

A. Yes, sir, passengers jeepney.

Q. Who owns the jeep?

A. Mr. Calma.

Q. Now, on June 7, 1994 in the evening, while passing through San Pedro and Anda Street, Davao City, can you recall of any passenger, who took your vehicle?

A. A person boarded my vehicle.

Q. Can you still identify that particular person?

A. Yes, sir.

Q. Who?

A. That one (witness pointing to Edgar Lagmay). [19]

x x x

Q. You said he boarded your vehicle in the corner of Anda and San Pedro what was his physical appearance when you first saw him?

A. At the time he held my vehicle he was carrying military backpack.

Q. What was he wearing?

A. He was wearing a polo.

Q. Where was he bound?

A. He was going to Toril.

Q. As a driver do you have a conductor?

A. Yes, Sir.

Q. Can you still remember the name of your conductor?

A. Alias Antik.

Q. Now, while upon reaching the crossing Ulas can you recall what incident happened if any?

A. When we reached the crossing of Ulas there was a checkpoint placed there.

Q. But before that you mentioned the accused was carrying a bag.

A. Yes sir.

Q. Can you remember the bag if shown to you again?

A. I can still recognize it.

Q. I would like to show you Mr. Witness, can you still recognize?

A. Similar to this.

Q. Please open it?

A. (witness untying the bag). It is really similar to this.

Q. You said when you reached crossing Ulas, you noticed that there was a military mobile checkpoint?

A. Yes, sir.

Q. What happened?

A. When we reached there, personnel from the military approached us.

Q. Can you still recall who was that military officer?

A. If it (sic) will be shown to me again this person, I can recognize.

Q. What was the purpose of this military officer in going to your jeep.

A. He was doing an inspection round on my passengers.

Q. What happened next?

A. I saw, a person carrying a (sic) similar to this bag, then the military man asked that man, why is that he is carrying that bag.

Q. Who was that person who was asked that (sic) military about the bag?

A. My passenger, that one (witness pointing to the direction of the accused).

Q. And what was the answer of the person?

A. He answered that he was a military man.

Q. And what else did the military do?

A. He was requested if possible he should (sic) go down from the vehicle, because of (sic) this bag be inspected by the police.

Q. Did the accused comply?

A. Yes, he went down.

Q. What happened?

A. He was told by the military from the checkpoint, if it would were possible for him he can open his bag.

Q. Did the accused open the bag?

A. He only acted to open this bag, but he ran away.

Q. Where did he go

A. On a dark portion of that area.

Q. How about that (sic) bag?

A. This was left to that military man who requested him to open this bag.

Q. Then what happened later on about you said that accused ran away?

A. He was chased by that military man who carried that bag.

Q. Can you recall the names of the military man who chased that accused?

A. If I can see his face again, I can recognize him.

Q. Do you know if the accused was recaptured'?

A. Yes, Sir.

Q. Where was he brought?

A. He was brought to the sub-station at Ulas.

Q. How about you?

A. They fetch my (sic) vehicle and this is also brought to Ulas station.

Q. While at the UIas station what happened?

A. They showed to me the person asking if he was the man who was my passenger.

Q. What happened next?

A. The passenger was requested to open this bag.

Q. Who requested him to open the bag?

A. The one who apprehended him.

Q. Did the accused comply with the request'?

A. Yes sir.

Q. What was found if any?

A. Dried leaves.

Q. If you can see him, (sic) that dried leaves, can you more or less, identify?

A. Yes, sir.

Q. We would like you to see (sic) the dried leaves Mr. Witness, can you tell the Honorable Court, more or less? (Witness shown the dried leaves)

A. Similar to this, but that one was placed inside the plastic bag.[20]

According to the trial court, the testimony of Efren Sustiger without any impeaching evidence from the accused holds true and convincing. The court held that the testimony of Efren Sustiger as against that of Lilia Pecson was more credible, decisive and free of any error.

The trial court was of the opinion that the witnesses provided by the accused during the motion for new trial could not overturn the court's conclusion in the case. In an order dated September 18, 1995, the court declared "the corresponding motivations and individual interest allegedly coming out only this late time, after their silence during the original trial of this case, on the expedient alleged noble and sacred crusade of telling the truth because they were bothered by their conscience, do not receive from this court a worthy appreciation with merit rather pregnant of suspicion and apparent spectacle of falsity and pretension." [21]

However, a close examination of the testimony of the driver, Efren Sustiger, will show, inconsistencies and the impossibility of some of his claims. In the cross-examination of driver Efren Sustiger, he gave the following answers to the questions of the defense lawyer:

Q. Now, in the checkpoint, you were still on the wheel, you did not alight from your vehicle, is that correct?

A. Yes, sir.

Q. And the passengers alighted already?

A. I saw, one passenger going down my vehicle.

Q. What is the instruction of the military man in the checkpoint to you?

A. He had no instruction given to us, but he only said, they will be doing an inspection.

Q. There are no instruction to the passengers to alight from the vehicle?

A. Only that person who was carrying this pack bag, who was ask to go down.

x x x

Q. You said you were at the driver's wheel, you want to tell the honorable court, that you saw the passengers in the mirror at the top of the driver's seat?

A. No, I turn around looking towards many people.

Q. Now, you turn around and it is a policeman talking to you?

A. No, I was watching him when he instructed that man the person who carried the bag, to go down the vehicle.

Q. How many military men manning the check point?

A. I cannot count there were many of them.[22]

It would be difficult for the driver, seated in front of the jeep by the steering wheel to see the contents of the bag when the accused allegedly opened the bag at the other end of the jeep, considering that it was that time and the distance from the driver's seat to the other end of the jeep was more or less twenty (20) feet.

Also, between the driver and the conductor, the conductor was in a better position to identify and describe the appearance of the riding in the jeep. The driver will, of course, be busy minding the wheel and the road rather than observing the demeanor, appearance and luggage of the passengers.

The conductor was the one directly interacting with the passengers, helping them board and alight from the jeep and taking their fare. He was in a better position to adjudge what the passengers were carrying at the time they boarded the jeep.

It is noteworthy to mention that the distance from Agdao to Anda-San Pedro Street is at least four (4) kilometers, and during the trip several passengers boarded and alighted from the vehicle. For the driver to remember the appearances and bags carried by the passengers is very doubtful.

This Court in many cases has held that "evidence to be believe must not only proceed from the mouth of a credible witness but it must also be credible in itself, such that common experience and observation of mankind lead to the inference of its probability under the circumstances." [23]

The opinion of the lower court that the delay in the testimony of the witnesses is questionable and leads one to doubt their true motive and intention is disappointing. We have expressed in a long line of decisions that "it is not uncommon for a witness to a crime to show some reluctance about getting involved in a criminal case as in fact the natural reticence of most people to get involved is of judicial notice" [24]

"Delay of a witness in revealing to the authorities what he knows about a crime does not render his testimony false, for the delay may be explained by the natural reticence of most people and their abhorrence to get involved in a criminal case." [25]

Another reason this Court doubts the testimony of the driver, Efren Sustiger, is that the driver and his conductor, Hesorenan de la Cerna, were threatened by the police so they would testify in favor of the prosecution and against the accused Lagmay.

In fact, the conductor de la Cerna failed to show up and testify in court. for fear of his life, and transferred residence to avoid being called to testify at the initial trial. This, de La Cerna confirmed in his testimony at the new trial:

Q. When you went out from the office of the City Prosecutor, what happened?

A. We were told by the policemen to be a witness, to testify that Edgar Lagmay was the one who brought the bag.

Q. That was the second time you were told by the policemen to testifying that Edgar Lagmay was the one who brought the bag?

A. Yes

Q. Did you agree after coming out of the office, from the office of the City Prosecutor?

A. No.

Q. Because you did not agree what did you do?

A. I just kept silent.

Q. What do you mean by keeping silent?

A. I did not agree.

Q. After the policemen told you two times to testify to point to Edgar Lagmay as to one who brought the bag, did you have the intention to testify?

A. No.

Q. Did you tell anybody that you did not have any intention to testify?

A. There was.

Q. Who (sic) did you tell?

A. My parents.

Q. What was the (sic) reaction when you told them you have no intention to testify?

A. They agreed with me.

Q. Since you have no intention to testify, what did you do if any?

A. I transferred residence.[26]

PO3 Christopher Laput who headed the team that conducted the checkpoint and arrested the accused was also presented as a witness. In his testimony P02 Laput stated:

Q. On June 7, 1994 at around 9:35 in the evening where were you?

A. On June 7, 1994 at 9:35 in the evening we received the directive from our commanding officer to conduct a checkpoint at crossing Ulas.

Q. Who is your commanding officer?

A. Police Inspector Romero Tubesa.

Q. Did you actually go to the area as directed?

A. Yes, sir.

Q. While at crossing Ulas what happened?

A. Because there are two teams, one team will be assigned in the direction of Toril, Davao City, and one team where I was assigned in direction to Toril.[27]

x x x

Q. With respect to the team which was assigned towards the direction of Toril, what happened if any, about that time June 7, 1994?

A. Around 9:45, P.M. I flagged down a particular passenger's jeep bound for Toril then as I observed the jeep in the center there were three persons hanging on the jeep.

Q. What did you observed if any?

A. I observed that there was one person inside the jeep that was carrying a bag.

Q. You said. you observed a person carrying a bag, what did you do?

A. I approached him and ask him his name.

Q. What did he tell you, as to his name?

A. Because he did not answer when I asked him about his name so I again further said, what are you, are you a policeman or military.[28]

xxx

Q. Now will you ask other passengers aside from him as to the ownership of the bag?

A Only he.

Q. Am I correct to say that what lead you ask him because he looks like a military is that correct?

A. No.[29]

x x x

Q. Now, you will admit that you instructed the accused to open the that army, bag?

A. Yes sir.

Q. And you will admit that he denied the ownership of the bag?

A. He did not deny.

Q. But you will admit that you never made an instruction to the other passengers to confirm the ownership of that bag?

A. Yes, sir.

Q. You also failed to get the name of the woman passenger whom you tell the Honorable Court that is seated beside the accused?[30]

In the instant case, the Court is faced with the dilemma of whether or not to give weight to the testimonies of the conductor (de La Cerna) and the passengers of the jeep Victor Degamo and Teresita Pecson. They, failed to testify in the original trial of the case and only went into the open upon learning that accused Lagmay was sentenced to death.

This Court has ruled that the findings of the trial court as to the credibility of witnesses are generally not disturbed. In the instant case, however we can not disregard the testimonies of three witnesses on the basis of this general rule.

The trial court was of the opinion that the silence of the witnesses for almost a year and their sudden change of heart after hearing over the radio about the fate of the accused, is of no consequence. We, however, view the turn of events differently. The three witnesses, namely, Herosenan de la Cerna, Victor Degamo and Teresita Pecson, decided to come out in the open because of their honest and sincere desire to serve the ends of justice. Such act should not be spurned lest a wrong signal be given to would be witnesses.

Their testimonies were clear and leave no room to doubt as to their true intention, which is to save the life of a man who was wrongly convicted because they refused to heed the call of their conscience and retreated into the safe haven of being indifferent to the call of justice.

In this case, the prosecution failed to establish the guilt of accused Edgar Lagmay y Alarcon beyond reasonable doubt. We are convinced that there was another passenger in the jeep who was the true owner of the bag containing the 3,051.3 grams of dried marijuana leaves.

We understand the drug menace that our country is facing, and the direct link of certain crimes to drug abuse. We condemn the pusher, strive to convince users to undergo rehabilitation, and commiserate with the victims and kin of drug related crimes. As herein-above stated, the law requires proof beyond reasonable doubt of the commission of an offense before an accused may be convicted.

We have held that "if the inculpatory facts and circumstances are capable of two or more explanations, one of which is consistent with the innocence of the accused and the other consistent with his guilt, then the evidence does not fulfill the test of moral certainty and is not sufficient to support a conviction"[31]

Furthermore, "the equipoise rule provides that where the evidence in a criminal case evenly balanced, the constitutional presumption of innocence should tilt the scales in favor of the accused." [32]

We therefore "take this opportunity to repeat this age-old observation and experience of mankind on the penological and societal effect of capital punishment: If it is justified, it serves as a deterrent, if injudiciously imposed, it generates resentment." [33]

IN VIEW WHEREOF, the Court hereby REVERSES the appealed decision and ACQUITS the accused, with costs de oficio. The Court orders the immediate release of the accused, unless he is held for other causes. The Director, Bureau of Corrections, shall report to this Court his compliance herewith within five (5) days from notice.

SO ORDERED.

Davide, Jr., C.J., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Buena, Gonzaga-Reyes, and Ynares Santiago, JJ., concur.

[1] People vs. Salangga, 234 SCRA 407, 423.

[2] People vs. De Guzman, 194 SCRA 601, 606.

[3] People vs. Austria, 195 SCRA 700

[4] People vs. Del Rosario, 234 SCRA 246, 254.

[5] People vs. Sulit, 233 SCRA 117, 125.

[6] People vs. Manzano, 227 SCRA 780.

[7] Rollo, Decision, pp. 38-39.

[8] Original Record, Information, p. 1.

[9] Ibid., Warrant of Arrest, p. 12.

[10] Ibid., Certificate of Arraignment, p. 20.

[11] Ibid., Order, p.21.

[12] TSN, September 13, 1994, p. 5.

[13] Also spelled as Jesorinan in some of the pleadings and the tsn.

[14] tsn, July 24, 1995, pp. 3-4.

[15] Ibid., pp. 4-5.

[16] Ibid., pp. 5-6.

[17] Ibid, pp. 6-11.

[18] Original Record, Order, September 18, 1995, pp. 184-185.

[19] tsn September 13, 1994. p. 15.

[20] tsn. September 13, 1994, pp. 15-18.

[21] Original Record, Order, p. 183.

[22] Ibid., pp. 22-23.

[23] People vs. Manambit, 271 SCRA 344, see also People vs. Ulpindo, 256 SCRA 201; People vs. Alba, 256 SCRA 505, People vs. Arcilla, 256 SCRA 757.

[24] People vs. Fuertes, 229 SCRA 289, see also People vs. Bongadillo, 234 SCRA 233; People vs. Lase, 219 SCRA 584, People vs. Cabuang, 217 SCRA 675 and People vs. Gundran, 228 SCRA 583.

[25] Antonio vs. Court of Appeals, 273 SCRA 328.

[26] tsn, July 24, 1995, pp. 20-21.

[27] tsn. October 14, 1994, testimony of C. Laput, p. 10.

[28] Ibid.

[29] Ibid., p. 15

[30] Ibid., p. 18.

[31] People vs. Jubilag, 263 SCRA 604; People vs. Remorosa, 200 SCRA 350; People vs. Ale, 145 SCR64, People vs. Timtiman, 215 SCRA 364.

[32] People vs. Benemerito, 264 SCRA 677.

[33] People vs. Godoy, 250 SCRA 676, 732.

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.