PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WILFREDO ENCILA Y SUNGA, ACCUSED-APPELLANT.

G.R. No. 182419. February 10, 2009

Ponente: CHICO-NAZARIO, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-182419/

CHICO-NAZARIO, J.:

Before Us is an appeal from the Decision[1] dated 11 October 2007 of the Court of Appeals in CA-G.R. CR-HC No. 02146 entitled, People of the Philippines v. Wilfredo Encila Y Sunga alias "Freddie," affirming the Decision[2] rendered by the Regional Trial Court (RTC) of Makati City, Branch 64, in Criminal Cases No. 03-3693 and No. 03-3694, finding accused-appellant Wilfredo Encila y Sunga alias "Freddie" guilty beyond reasonable doubt of illegal sale, and illegal possession of methamphetamine hydrochloride, more popularly known as "shabu."

On 19 September 2003, two separate Informations were filed against accused-appellant before the RTC of Makati City for violation of Sections 5 and 11, Article II, Republic Act No. 9165, as amended, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, for allegedly (a) selling 0.22 gram of shabu and (b) being in illegal possession of 2.63 grams of shabu.

The offense involved in Criminal Case No. 03-3693 for violation of Section 5,[3] Article II of Republic Act No. 9165, was allegedly committed as follows:

> That on or about the 18[th] day of September 2003, in the City of Makati Philippines and a place within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously sell, distribute and transport zero point twenty two (0.22) grams of Methylamphetamine Hydrochloride (shabu) which is a dangerous drug in consideration of five hundred (P500.00) pesos.[4]

On the other hand, the Information pertaining to Criminal Case No. 03-3694 for violation of Section 11, [5] Article II of the same law, reads:

> That on or about the 18[th] day of September 2003, in the City of Makati Philippines and a place within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized to possess any dangerous drug and without the corresponding license or prescription, did then and there willfully, unlawfully and feloniously have in possession two point sixty three (2.63) grams of Methylamphetamine Hydrochloride, which is a dangerous drug.[6]

Upon his arraignment on 22 October 2003, accused-appellant, assisted by a counsel de oficio, pleaded "NOT GUILTY" to both charges.[7] Pre-trial was conducted. Trial on the merits followed.

During trial, the prosecution presented four witnesses: Forensic Chemist Police Inspector (P/Insp.) Richard Allan Mangalip, whose testimony was the subject of stipulation during the initial trial of the case; Makati City Anti Drug Abuse Council (MADAC) operative Ruben Potencion, the designated poseur-buyer; MADAC operative Richard Prior, back-up operative; and Police Officer 3 (PO3) Jay Lagasca, the team leader.

The prosecution's version is as follows:

Sometime in September 2003, an informant[8] reported to the MADAC office in Barangay San Isidro that accused-appellant Wilfredo Encila alias "Freddie" was rampantly selling illegal drugs. On the basis of this information, a buy-bust operation against the latter was planned by the MADAC operatives, headed by PO3 Jay Lagasca. The buy-bust operation was coordinated[9] with the Philippine Drug Enforcement Agency (PDEA). It was agreed upon by the team conducting the buy-bust operation that MADAC operative Ruben Potencion was to act as poseur-buyer. He was provided with one piece of marked five hundred peso bill.[10]

On 18 September 2003, at about 3:30 in the afternoon, the buy-bust team, composed of ten people on board two vehicles, proceeded to E. Ramos Street, Barangay Pio del Pilar, Makati City. After a fifteen-minute wait, appellant was spotted by the team standing near a sari-sari store along E. Ramos Street. The informant and MADAC operative Ruben Potencion approached appellant. The informant introduced Ruben Potencion to appellant as a potential buyer of shabu. Accused-appellant asked Ruben Potencion how much shabu was needed. The latter replied that he needed P500.00 worth of shabu. Appellant received the marked money from Ruben Potencion and took out one plastic sachet containing shabu from his left pocket. Ruben Potencion examined the sachet and, upon being satisfied that the sachet contained shabu, gave the pre-arranged signal by throwing his lighted cigarette.

PO3 Jay Lagasca, with the assistance of back-up MADAC operative Richard Prior, rushed in and frisked appellant. Upon orders to empty his pockets, accused-appellant was found in possession of one piece of P500.00 bill, which was the marked buy-bust money, and six plastic sachets with suspected shabu. PO3 Lagasca placed appellant under arrest, informing him of the crime he committed and of his constitutional rights. Accused-appellant was asked his full name, and he answered. Ruben Potencion marked the plastic sachet of shabu with the initials of accused-appellant, "WSE," for the illegal sale; and the other plastic sachets recovered from the latter after his arrest, "WSE-1 to "WSE-6."

Accused-appellant was brought to the Makati City Police Station, Anti-Illegal Drugs Special Operation Task Force; then to the Philippine National Police (PNP) Crime Laboratory, to which all seven sachets were sent for examination.[11] The examination yielded the following results:

SPECIMEN SUBMITTED:

Seven (7) small heat-sealed transparent plastic sachet each containing white crystalline substance having the following markings and recorded net weights:

A (WSE) = 0.22 gram

B (WSE-1) = 1.30 grams

C (WSE-2) = 0.53 gram

D (WSE-3) = 0.41 gram

E (WSE-4) = 0.01 gram

F (WSE-5) = 0.25 gram

G (WSE-6) = 0.13 gram

FINDINGS:

Qualitative examination conducted on the above stated specimen gave POSITIVE result to the tests for the

presence of Methylamphetamine Hydrochloride, a dangerous [drug].[12]

The contents of the seven plastic sachets were found positive for methylamphetamine hydrochloride (shabu), a dangerous drug, as evidenced by Physical Science Report No. D-1160-03S issued by Forensic Chemist Richard Allan B. Mangalip.

The accused's urine sample was found positive for THC[13] metabolites and methylamphetamine hydrochloride, which meant he was a user of marijuana and methylamphetamine hydrochloride or shabu, both dangerous drugs.

The prosecution also submitted, apart from the testimonial evidence given by the three witnesses, several documentary pieces of evidence:

(1)

Makati City Police Anti-Illegal Drug Special Operation Sub Task Force PNP Aid SOTF Coordination Form dated 18 September 2003 with control number PDEA NOC 1809-03-14 indicating the details of the buy-bust operation (area, duration, vehicles, members of the buy-bust team, equipment);

(2)

Request for Laboratory Examination dated 18 September 2003;

(3)

Physical Science Report No. D-1160-03S;

(4)

White crystalline substance with marking "WSE";

(5)

Photocopy of the P500-Peso Bill marked C2 above the Serial Number EJO88272;

(6)

Sworn Statements of MADAC Ruben Potencion and PO3 Jay Lagasca;

(7)

Spot Report dated 18 September 2003 made by the DEU of the PNP Anti-Illegal Drugs Special Operation Sub Task Force regarding accused-appellant's arrest;

(8)

Final Investigation Report dated 19 September 2003 of the Makati City Police.[14]

The charges were denied by accused-appellant. The defense presented him and his alleged daughter, and they gave their own version.

Accused-appellant testified that he was 43 years old and worked as a contractual painter, having finished Grade III only.

Wilfredo Encila[15] and daughter Jocelyn Encila[16] testified that there was no buy-bust operation on 18 September 2003. On direct examination, accused-appellant asserted that at around 4:00 o'clock in the afternoon of 18 September 2003, he was arrested by the MADAC Police operatives at the house of a certain Danny, located at E. Ramos St., Barangay Pio del Pilar in Makati City. He was at said place because he brought his TV set to Danny

for repair. The house of Danny was just a block away from his house. Danny, whose surname the accused-appellant did not know, was engaged in repairing of TV sets and other house appliances at his residence. He was not aware of any violation he committed.

On cross examination, however, accused-appellant mentioned that he was with his daughter at the house of Danny when four armed men in civilian clothes barged into the house and introduced themselves as police officers. He and Danny were frisked, but the police officers did not recover anything from the two of them. Despite their strong protests, accused-appellant and Danny were handcuffed. They asked the policemen why they were being apprehended, but they were simply ignored and forced to board a vehicle. Jocelyn Encila ran away in fear and reported the incident to their relatives. The two men were thereafter brought to the Makati City police station for further investigation, and Wilfredo Encila was turned over to the Crime Investigation Division. Danny was later released. It was only during the inquest proceedings in court that accused-appellant learned of the charges filed against him. Danny was not charged.

Accused-appellant also testified that, of the three prosecution witnesses who testified in court, only PO3 Jay Lagasca was among the four men who held him in the house of Danny.[17]

On 21 February 2006, after the prosecution and the defense rested their respective cases, Makati RTC Branch 64 convicted accused-appellant after determining that the prosecution had proven his guilt beyond reasonable doubt in Criminal Cases No. 03-3693 for illegal sale of shabu and No. 03-3694 for illegal possession of shabu. In its joint Decision,[18] the trial court disposed of the cases as follows:

> WHEREFORE, in view of the foregoing, judgment is rendered as follows:
>
> - In Criminal Case No. 03-3693, the accused WILFREDO ENCILA y SUNGA is found GUILTY beyond reasonable doubt of the crime of violation of Section 5, Article II, Republic Act No. 9165 and is sentenced to suffer the penalty of the (sic) life imprisonment and to pay the fine of P500,000.00; and
>
> - In Criminal Case No. 03-3694, the accused WILFREDO ENCILA y SUNGA is found GUILTY beyond reasonable doubt of the crime of violation of Section 11, Art. II, Republic Act No. 9165 and is sentenced to suffer the indeterminate penalty of TWELVE (12) YEARS and ONE (1) DAY as minimum to FOURTEEN (14) YEARS and ONE (1) DAY as maximum pursuant to the Indeterminate Sentence Law (R.A. No. 4103, as amended).
>
> The accused is likewise ordered to pay a fine of P300,000.00.
>
> The period during which the accused was under detention shall be considered in his favor pursuant to existing rules.[19]

Aggrieved by the decision, accused-appellant filed a Notice of Appeal, informing the trial court that he was appealing the same to the Court of Appeals.[20] He thereafter filed his appellant's brief on 18 October 2006. The Office of the Solicitor General filed the People's brief on 19 March 2006.

In a Decision dated 11 October 2007, the Court of Appeals affirmed the challenged RTC decision, disposing as follows:

> WHEREFORE, premises considered, the Appeal is hereby DENIED and the questioned Decision dated February 21, 2006 of the Regional Trial Court (RTC), Branch 64, Makati City in Criminal Case Nos. 03-3693 & 03-3694 is AFFIRMED.[21]

Accused-appellant then filed a Notice of Appeal with the Court of Appeals on 30 October 2007 to appeal its decision before this Court.[22] In the meantime, accused-appellant remained committed at the Bureau of

Corrections in Muntinlupa City.[23]

Presented before this Court, via Notice of Appeal, is accused-appellant's lone assignment of error:

> THE COURT A QUO ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

The core issue for resolution is whether or not error attended the trial court's findings, as affirmed by the Court of Appeals, that accused-appellant is guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. 9165.

In praying for his acquittal, accused-appellant denies the charges and claims that the prosecution's evidence failed to establish his guilt beyond reasonable doubt. According to the defense, the trial court relied heavily on the deficiency or weakness of the defense evidence,[24] instead of looking at the weight of the evidence presented by the prosecution. The defense argued that the trial court erred in finding fault in every minor and inconsequential discrepancy in the testimony of the defense witnesses -- such as discrepancies in Jocelyn Encila's age, the residence of accused-appellant, the number of policemen who apprehended the accused-appellant, the tools and fixtures found at the shop of Danny -- instead of focusing on the prosecution's evidence, which failed to discharge its burden of proving accused-appellant's guilt beyond reasonable doubt. The trial court belabored these non-issues, instead of ascertaining whether the accused was arrested in a legitimate entrapment operation, or in flagrante delicto.[25]

The defense assails the credibility of prosecution witness MADAC operative Ruben Potencion, claiming that the following testimony showed that even he was confused as to whether six sachets of shabu where found in accused-appellant's left pocket:

> Q:
>
> And what did you do after the sachet of shabu was handed to you?
>
> A:
>
> I examined it first, sir.
>
> Q:
>
> What happened after that?
>
> A:
>
> When I was sure that what I bought was really shabu, I gave the pre-arranged signal, sir.
>
> x x x x
>
> Q:
>
> What happened next after you gave the pre-arranged signal?
>
> A:
>
> PO3 Jay Lagasca and my back-up Richard Prior rushed to us, sir.
>
> Q:
>
> What did Richard Prior and PO3 Lagasca do after they rushed to the place where you were at that time?

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

A:

They introduced themselves as MADAC and police operatives, sir.

Q:

And what did they do after they introduced themselves as such?

A:

They asked the name of the accused and PO3 Lagasca informed the accused of his constitutional rights, sir.

Q:

How about Richard Prior, what else did he do?

A:

He frisked the accused, sir.

Q:

What did he find out if he found anything?

A:

Nothing, sir.

Q:

So, what happened after he failed to find anything from the accused?

A:

Richard Prior ordered the accused to empty his pockets, sir.

Q:

And what happened after the accused was ordered to empty his pockets?

A:

The marked money was recovered and another six (6) plastic sachets were recovered from the left pocket of the accused, sir.[26]

The defense laments that while the witness may have expertly recognized the shabu just by looking at it, however, what is also apparent is his confusion as to whether the six sachets of shabu were found in the possession of the accused, further stating that accused-appellant was not even called upon to offer evidence on his behalf.

On the other hand, the Office of the Solicitor General (OSG), argues otherwise, maintaining that the prosecution presented overwhelming evidence proving his guilt beyond reasonable doubt of violation of Sections 5 and 11, Article II of Republic Act No. 9165.

We sustain accused-appellant's conviction.

The presumption of innocence accorded the accused was overturned by the evidence presented by the prosecution.

First of all, we reiterate the fundamental rule that findings of the trial courts, which are factual in nature and which involve the credibility of witnesses, are accorded respect when no glaring errors, gross misapprehension of facts

or speculative, arbitrary and unsupported conclusions can be gathered from such findings.[27] This rule finds an even more stringent application where said findings are sustained by the Court of Appeals as in the case at bar.[28]

Prosecutions involving illegal drugs largely depend on the credibility of the police officers who conducted the buy-bust operation.[29] In the process of converting into written form the statements of living human beings, not only fine nuances but a world of meaning apparent to the judge present, watching and listening, may escape the reader of the translated words. Considering that this Court has access only to the cold and impersonal records of the proceedings, it generally relies upon the assessment of the trial court, which had the distinct advantage of observing the conduct and demeanor of the witnesses during trial.[30] Hence, factual findings of the trial courts are accorded respect, absent any showing that certain facts of weight and substance bearing on the elements of the crime have been overlooked, misapprehended or misapplied. We have no reason to deviate from this rule.

Considering, however, that what is at stake is no less than the liberty of accused-appellant, this Court conducted a painstaking review of the entire records of the case. Contrary to accused-appellant's allegation, we find that the prosecution presented overwhelming evidence to prove his guilt beyond reasonable doubt.

When what is involved is a prosecution for illegal sale of regulated or prohibited drugs, conviction can be had if the following elements are present: (1) the identity of the buyer and the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor. What is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the corpus delicti of the crime. The delivery of the contraband to the poseur-buyer and the receipt of the marked money consummate the buy-bust transaction between the entrapment officers and the accused.[31] The crime of illegal sale of dangerous drugs is committed as soon as the sale transaction is consummated.

All of the foregoing elements were present in Criminal Case No. 03-3693.

The prosecution clearly showed that the sale of shabu actually took place. Accused-appellant was caught in flagrante delicto, selling shabu through a buy-bust operation, which is a form of entrapment employed by peace officers as an effective way of apprehending a criminal in the act of the commission of an offense.[32]

MADAC operative and "poseur-buyer" Ruben Potencion categorically identified[33] accused-appellant Wilfredo Encila y Sunga alias "Freddie" as the "seller" who sold to him one plastic sachet of shabu,[34] and who received the P500.00 marked bill as payment for it on 18 September 2004 along E. Ramos Street, in Barangay Pio del Pilar, Makati City. The shabu, subject of the sale, was recovered and identified in court by Ruben Potencion.[35] He testified:

> Q:
>
> Mr. Witness, if the sachet of shabu that you bought from the accused will be shown to you, will you be able to identify the same?
>
> A:
>
> Yes, sir.
>
> Q:
>
> I'm showing to you several pieces of plastic sachets. Will you please go over the same and identify the sachet of shabu that you bought from the accused during the operation?
>
> Witness

This one, sir.

Pros. Bagaoisan

Why are you certain Mr. Witness that this is the same sachet of shabu that you bought from the accused?

A:

Because I was the one who put the marking "WSE", sir.

Q:

Where were you when you placed this marking?

A:

At the place of operation, sir.

Q:

What does this marking "WSE" stand for?

A:

It's the initial of the accused - Wilfredo Sunga Encila, sir.

Pros. Bagaoisan:

x x x With respect to the six (6) other sachets which were taken by MADAC Operative Richard Prior from the possession of the accused, were you able to see them?

Witness:

Yes, sir.

Pros. Bagaoisan:

Where were you when you first saw these six (6) other sachets?

A:

I was also there, sir.

Q:

Please go over these sachets I presented to you earlier and identify the six (6) sachets which were taken by Richard Prior from the possession of the accused.

A:

These are the six (6) sachets, sir.

Q:

Why are you certain that these are the same sachets that were recovered by Richard Prior from the possession of the accused?

A:

Because I was the one who placed the markings, sir.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

Q:

For the record, what were the markings that you placed?

Witness

WSE-1 to WSE-6, sir.

Pros. Bagaoisan:

The witness Your Honor identified Exhibits C-1 to C-6 as the sachets subject matter of possession. After you have arrested the accused, where did you bring him?

A:

We brought him to the Makati City Police Station, Anti-Illegal Drugs Special Operation Task Force, sir.

Q:

From that office, where did you bring the accused as well as the pieces of evidence?

A:

We brought the accused together with the pieces of evidence to the PNP Crime Laboratory, sir.[36]

Based on the Physical Science Report[37] conducted by Forensic Chemist Richard Allan B. Mangalip, the substance, weighing 0.22 gram, which was bought from accused-appellant, was examined and determined to be methamphetamine hydrochloride. The other six sachets of shabu, weighing a total of 2.66 grams, found in accused-appellant's pockets upon being asked to empty his pockets after his arrest, were also examined and tested to be methamphetamine hydrochloride (shabu). The testimony of poseur-buyer Ruben Potencion was later corroborated on material points by the other members of the buy-bust team, particularly PO3 Jay Lagasca (team leader) and MADAC operative Richard Prior (backup).

While this Court has ruled in People v. Cueno[38] that the failure to present the marked money in evidence is not indispensable for the conviction of the accused, as long as the sale can be adequately proved in some other way by the prosecution. The production of the marked money recovered from the possession of accused-appellant further strengthened the testimony of the prosecution witnesses that a buy-bust operation was conducted.

We herein quote the material portions of the testimony of the poseur-buyer detailing accused-appellant's arrest, to wit:

Pros. Bagaoisan

How long did you wait for the accused?

Witness

Fifteen (15) minutes, sir.

Q:

And what happened after the lapse of fifteen (15) minutes waiting period?

A:

We were just there watching, observing his movements, sir.

Q:

And what happened next after you watched his movements?

x x x x

Q:

And after you saw the accused, what did you do next?

Witness

The informant and I approached the accused, sir.

Pros. Bagaoisan

And what happened after you approached the accused?

A:

The accused and the informant talked with each other, sir.

Q:

Where were you when the informant and the accused talked with each other?

A:

I was there, sir.

Q:

What was the topic of their conversation?

A:

The informant introduced me to the accused as someone who was in need of shabu, sir.

x x x x

Pros. Bagaoisan

Q:

What was your answer?

A:

Tapatan mo na lang tong limang daan ko.

Q:

After you said that, what did you do?

A:

I then handed to him the marked money, sir.

Q:

After the accused received the same, what did he do?

A:

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

He put it inside his right pocket and he drew out from his left pocket one (1) plastic sachet and he handed the same to me, sir.

Q:

What did you do after the sachet of shabu was handed to you?

A:

I examined it first, sir.

Pros. Bagaoisan

What happened after that?

Witness

When I was sure that what I bought was really shabu, I gave the pre-arranged signal, sir.

Q:

What was the pre-arranged signal that you gave?

A:

I threw my lighted cigarette, sir.

Q:

What happened next after you gave the pre-arranged signal?

A:

PO3 Jay Lagasca and my backup Richard Prior rushed to us, sir.

Q:

What did Richard Prior and PO3 Lagasca do after they rushed to the place where you were at that time?

A:

They introduced themselves as MADAC and police operatives, sir.

Pros. Bagaoisan

And what did they do after they introduced themselves as such?

Witness

They asked the name of the accused and PO3 Lagasca informed the accused of his constitutional rights, sir.

Q:

How about Richard Prior, what else did he do?

A:

He frisked the accused, sir.

Q:

What did he find out, if he found anything?

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

A:

Nothing, sir.

Q:

So, what happened after he failed to find anything from the accused?

A:

Richard Prior ordered the accused to empty his pockets, sir.

Q:

And what happened after the accused was ordered to empty his pockets?

Witness

The marked money was recovered and another six (6) plastic sachets were recovered from the left pocket of the accused, sir.

Pros. Bagaoisan

How far were you from Richard Prior and the accused when Prior was able to recover the buy-bust money and six (6) other plastic sachets?

A:

We were near each other, sir.[39]

On the other hand, for an accused to be convicted of illegal possession of prohibited or regulated drugs, the following elements must concur: (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possesses the said drug.[40]

With respect to the charge of illegal possession of dangerous drugs under Section 11, Article II of Republic Act No. 9165, all of these elements were present and duly proven in Criminal Case No. 3694. These are: (1) accused was found to be in possession of 2.63 grams of shabu, a dangerous drug; (2) his identity as the person found in possession of the dangerous drug was established; and (3) the person found to be in possession was not authorized to posses the dangerous drug. The prosecution has established that the arresting officers were able to retrieve six more plastic sachets of shabu in accused-appellant's possession when he was directed to empty his pockets upon being arrested in flagrante delicto in the buy-bust operation.

Material points in the testimony of MADAC operative Richard Prior's testimony are herein quoted:

PROSECUTOR

From that distance of ten to fifteen meters away, what did you observe or notice in the place where the transaction was going on?

WITNESS

I saw Ruben Potencion and the suspect talking with each other together with the informant.

x x x x

WITNESS

I saw MADAC Ruben Potencion [hand] the money to the accused.

x x x x

WITNESS

The accused received the money and in turn, he gave something to Ruben Potencion.

x x x x

WITNESS

I saw Ruben Potencion looking at the item that was handed to him.

PROSECUTOR

What happened after that?

WITNESS

Ruben Potencion gave the pre-arranged signal.

PROSECUTOR

What was the pre-arranged signal that was given by MADAC Ruben Potencion?

WTINESS

By throwing a lighted cigarette, sir.

x x x x

PROSECUTOR

After the pre-arranged signal was given, what did you do?

WITNESS

We proceeded to the place where Ruben Potencion and the accused were at that time to arrest Wilfredo.

x x x x

PROSECUTOR

What happened after you proceeded to the place where the transaction took place?

WITNESS

PO3 Jay Lagasca introduced himself as operative of the DEU and we ordered the accused to empty his pocket.

PROSECUTOR

What happened after you ordered the accused to empty his pocket?

WITNESS

I recovered the buy-bust money and six pieces of plastic sachets containing suspected shabu, sir.

PROSECUTOR

What happened after the recovery of the buy-bust money and six more sachets from the possession of the accused?

WITNESS

I gave the marked money to PO3 Lagasca and I gave the plastic sachets to Ruben Potencion.

PROSECUTOR

Why did you give the plastic sachets you recovered to MADAC Ruben Potencion?

WITNESS

For markings, sir.

x x x x

PROSECUTOR

How about the six sachets that you were able to recover from the possession of the accused, will you be able to identify the same?

WITNESS

Yes, sir.

x x x x

PROSECUTOR

Now, Mr. Witness, who brought the items to the crime laboratory for laboratory examination and the accused for drug testing?

WITNESS

Me, sir.[41]

Accused-appellant raised as his defense the seemingly confusing statements made by MADAC operative Richard Prior in open court as to the retrieval of the six additional plastic sachets of shabu found in his possession. The alleged confusion and incredibility are more imaginary than real. Taken as a whole, the testimony of MADAC operative Richard Prior clearly showed that when accused-appellant was searched and directed to empty his pockets, they found six more plastic sachets of shabu in his possession.

On another point, the rigid testimonies of the witnesses for the defense leave this Court with no other alternative but to discredit the evidence for being incredible. Accused-appellant's defense was anchored on his assertions of denial and alibi. The defense claims that at the time the alleged buy-bust operation took place, accused-appellant was with his 17-year-old daughter Jocelyn at the repair shop of a certain Danny. This defense seemed more like an afterthought considering that, on his direct examination, this corroborating detail that his daughter was with him at that time was not even mentioned by accused-appellant. It was only on cross-examination that this detail was revealed. He also testified that four armed men entered the house of Danny. Jocelyn, on the other hand, said there were three armed persons. Accused-appellant and Jocelyn could not give the surname of Danny despite the fact that the accused had known him for more than a year. The defense also provided no explanation as to why this certain Danny was not presented as defense witness, considering what would have been the weight of his corroborating testimony.

Accused-appellant's defense of denial and alibi deserves scant consideration when presented vis-a-vis the positive identification by poseur-buyer Ruben Potencion and back-up Richard Prior, who enjoy in their favor the presumption of regularity in the performance of their duties. The defense of denial, like alibi, are viewed by the

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

Court 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. Bare denials cannot prevail over the direct and positive testimony of the witness pointing to accused as the perpetrator of the offense[42] and cannot overcome the presumption that the police officers performed their duties regularly.[43]

Much weight is to be given to the testimony of the police operatives, who are presumed to have performed their duties in a regular manner. Accused-appellant has not imputed any improper motive on the part of the arresting officers nor filed a case against them in court. He also admitted that he had never met or encountered any of the police officers involved in the buy-bust operation prior to his arrest. He had no prior altercation or misunderstanding with the arresting officers as to doubt the reasons for his arrest.

The defense did not adduce any evidence that could have shown that the policemen deviated from the regular performance of their duty and that could have overcome this presumption. Neither did the defense interpose any evidence to show that said police officers were not performing their duty properly when the buy-bust operation was conducted. When the police officers involved in the buy-bust operation have no motive to falsely testify against the accused, the courts shall uphold the presumption that they have performed their duties regularly.[44] And unless there is clear and convincing evidence to the contrary suggesting ill motive on the part of the police officers or deviation from the regular performance of their duties, their testimonies with respect to the operation deserve full faith and credit.[45] The presumption in favor of the prosecution witnesses, who are all police officers, taken together with the overwhelming evidence presented by the prosecution against the accused, should therefore stand.

Drug-pushing, as a crime, has been condemned as "an especially vicious crime,"[46] which is "one of the most pernicious evils that has ever crept into our society."[47] We find that:

Indeed nothing is more depraved than for anyone to be a merchant of death by selling prohibited drugs, an act which, as this Court said in one case, "often breeds other crimes. It is not what we might call a `contained' crime whose consequences are limited to that crime alone, like swindling and bigamy. Court and police records show that a significant number of murders, rapes, and similar offenses have been committed by persons under the influence of dangerous drugs, or while they are `high.' While spreading such drugs, the drug-pusher is also abetting, through his greed and irresponsibility, the commission of other crimes."[48]

With respect to the penalties imposed in Criminal Case No. 03-3693 for violation of Section 5, Article II of Republic Act No. 9165, the trial court, as affirmed by the Court of Appeals, was correct in imposing the penalty of life imprisonment and a fine of P500,000. Under Republic Act No. 9165, the unauthorized sale of shabu carries with it 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). Pursuant to the enactment of Republic Act No. 9346 entitled, "An Act Prohibiting the Imposition of Death Penalty in the Philippines," only life imprisonment and fine, instead of death, shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any or all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

On the penalty imposed in Criminal Case no. 03-3694 for violation of Section 11, Article II of Republic Act No. 9165, the penalty of imprisonment of 12 years and 1 day to 20 years and a fine ranging from P300,000.00 to P400,000.00 are to be imposed, if the quantities of dangerous drugs are less than five (5) grams of shabu. Following the provisions of Republic Act No. 4103, otherwise known as the "Indeterminate Sentence Law," the indeterminate penalty of imprisonment of twelve (12) years and one (1) day as minimum to fourteen (14) years

and one (1) day as maximum and a fine of P300,000.00 imposed by the trial court, as affirmed by the Court of Appeals, are proper.

WHEREFORE, in view of the foregoing, the Court of Appeals Decision dated 11 October 2007 in CA-G.R. CR-H.C. No. 02146 affirming the Decision promulgated on 21 February 2006 by the Regional Trial Court of Makati City, Branch 64, in Criminal Cases No. 03-3693 and No. 03-3694, finding accused-appellant Wilfredo Encila y Sunga, alias "Freddie," guilty beyond reasonable doubt of violating Sections 5 (illegal sale of regulated and prohibited drugs) and 11 (illegal possession of regulated and prohibited drugs) of the Comprehensive Dangerous Drugs Act of 2002, and imposing upon him the penalties of (a) life imprisonment and a fine of P500,000.00 in Criminal Case No. 03-3693; and (b) the indeterminate penalty of imprisonment of twelve (12) years and one (1) day as minimum to fourteen (14) years and one (1) day as maximum pursuant to the Indeterminate Sentence Law (Republic Act No. 4103) and a fine of P300,000.00 in Criminal Case No. 03-3694, is hereby AFFIRMED.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Brion,[*] and Peralta, JJ., concur.

---

[*] Associate Justice Arturo D. Brion was designated to sit as additional member replacing Justice Antonio Eduardo B. Nachura per Raffle dated 28 January 2009.

[1] Penned by Associate Justice Ramon R. Garcia with Associate Justices Josefina Guevara-Salonga and Vicente Q. Roxas, concurring; rollo, pp. 2-16.

[2] Penned by Judge Benjamin M. Aquino; 2 April 2004; CA rollo, pp. 54-61.

[3] SECTION 5. Sale, Trading, Administration, Dispensation, Delivery, Distribtuion and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. - 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 sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any controlled precursor and essential chemical, or shall act as a broker in such transactions.

If the sale, trading, administration, dispensation, delivery, distribution or transportation of any dangerous drug and/or controlled precursor and essential chemical transpires within one hundred (100) meters from the school, the maximum penalty shall be imposed in every case.

For drug pushers who use minors or mentally incapacitated individuals as runners, courtiers and messengers, or in any other capacity directly connected to the dangerous drugs and/or controlled precursor and essential chemicals trade, the maximum penalty shall be imposed in every case.

If the victim of the offense is a minor or a mentally incapacitated individual, or should a dangerous drug and/or a controlled precursor and essential chemical involved in any offense herein provided be the proximate cause of death of a victim thereof, the maximum penalty provided for under this Section shall be imposed.

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

The maximum penalty provided for under this Section shall be imposed upon any person who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section. (Emphasis ours.)

[4] Records, p. 3.

[5] Section 11. Possession of Dangerous Drugs. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand persos (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:

> x x x x
>
> (5) 50 grams or more of metamphetamine hydrochloride or "shabu";
>
> x x x x

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

> x x x x
>
> (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.

[6] Records, p. 5.

[7] Id. at 23.

[8] Id. at 6.

[9] Id. at 14.

[10] Id. at 17.

[11] Request for Laboratory Examination; id. at 89.

[12] Exhibits B and B-3, Physical Science Report No. D-1160-03S; id. at 90.

[13] Records, p. 97.

[14] Records, pp. 89-100.

[15] Testified that his daughter was 21 years old.

[16] Stated on testimony that she was only 17 years old.

[17] TSN, 7 November 2005, p. 16.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

[18] CA rollo, pp. 19-26.

[19] Id. at 60-61.

[20] Id. at 27.

[21] Rollo, p. 16.

[22] Id. at 18-19.

[23] Id. at 22.

[24] Id. at 49.

[25] Id.

[26] Testimony of Ruben Potencion, TSN, pp. 14-17, 23 September 2004.

[27] People v. Soriano, G.R. No. 173795, 3 April 2007, 520 SCRA 458, 463-464.

[28] Teodosio v. Court of Appeals, G.R. No. 124346, 8 June 2004, 431 SCRA 194, 203.

[29] People v. Nicolas, G.R. No. 170234, 8 February 2007, 515 SCRA 187, 204.

[30] People v. Ahmad, 464 Phil. 848, 857 (2004).

[31] People v. Mala, 458 Phil. 180, 190 (2003).

[32] People v. Jocson, G.R. No. 169875, 18 December 2007, 540 SCRA 585, 592; People v. Doria, 361 Phil. 595, 610 (1999), citing People v. Basilgo, G.R. No. 107327, 5 August 1994, 235 SCRA 191, 195-196.

[33] TSN, 23 September 2004, p. 6.

[34] Id. at 14-15.

[35] Id. at 17-19.

[36] Id. at 17-20.

[37] Records, p. 90.

[38] 359 Phil. 151, 162 (1998).

[39] TSN, 23 September 2004, pp. 12-17.

[40] People v. Lagata, 452 Phil. 846, 853 (2003).

[41] TSN, 7 June 2005, pp. 7-15.

[42] TSN, 23 September 2003, p. 6.

[43] People v. Pacis, 434 Phil. 148, 160 (2002).

[44] People v. Villanueva, G.R. No. 172116, 30 October 2006, 506 SCRA 280, 288.

[45] People v. De Guzman, G.R. No. 177569, 28 November 2007, 539 SCRA 306, 317.

[46] People v. Nario, G.R. No. 94863, 19 July 1993, 224 SCRA 647, 652.

[47] People v. Policarpio, G.R. No. L-69844, 23 February 1988, 158 SCRA 85, 91.

[48] Office of the Court Administrator v. Librado, 329 Phil. 433, 436 (1996).

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.