

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALLAN SARMIENTO Y LARGO AND ALBERTO MOORE, ACCUSED. ALLAN SARMIENTO Y LARGO, ACCUSED-APPELLANT.

G.R. No. 72141. January 12, 1987

Ponente: CRUZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-72141/>

CRUZ, J.:

The Court will have to affirm the decision of the lower court sentencing the accused-appellant to the penalty of reclusion perpetua, for violation of the Dangerous Drugs Act. We do this with a heavy heart for he was less than sixteen years old when he committed the crime on September 20, 1984, and even now he is still a minor.[1] But the law is the law. As judges, we have the duty to apply it, for all its seeming harshness, notwithstanding considerations of compassion that can at best only mitigate but not entirely condone the punishment.

The case is simplicity itself. On the above date, the accused-appellant was arrested at a billiard hall in the City of Tagbilaran by agents of the PC Narcotics Command shortly after passing four marijuana sticks to a PC informant who was posing as a buyer. The accused-appellant had obtained the cigarettes from Albert Moore, to whom he also gave the marked money paid by the buyer. Moore escaped although he was apprehended later. Sarmiento was taken to the NARCOM headquarters for investigation, and there he signed a confession that he was subsequently to repudiate at his trial.[2]

The accused-appellant originally pleaded guilty to the charge against him, but upon arraignment on motion of his new counsel, he changed his plea to not guilty.[3] Moore, his co-accused, was not tried because he was found to be a drug dependent. In accordance with Section 31 of R.A. No. 6425, he was committed to the NBI Treatment and Rehabilitation Center on recommendation of an accredited doctor of the Dangerous Drugs Board.[4]

The prosecution established the basic facts as narrated above through the testimony of Sgt. Renato Remetiera, NARCOM detachment commander, Sgt. Alejandro Biñan, and Agent Teodosio Rosaroso.[5] It also introduced the PC Crime Laboratory chemistry report, admitted by the defense at the pre-trial conference, that the cigarettes seized by the arresting officers at the time of the accused-appellant's arrest were positive for marijuana.[6] In addition to the said cigarettes and other exhibits, the sworn confession signed by the accused-appellant was also offered in evidence against him.[7]

Testifying as the lone witness for the defense, the accused-appellant practically admitted, on both direct and cross examination, that he had been approached by a person he identified as John Tagalog for marijuana cigarettes; that he said he would ask Moore; that he got the narcotics from Moore after paying him the money he got from Tagalog; and that he then gave the four sticks of marijuana to Tagalog. The rest of his testimony sought to show that he had been forced to sign his confession; that he did not know its contents; and that at the time it was taken he did not have the assistance of counsel or even his parents.[8]

Although there is no evidence of the physical maltreatment of the accused-appellant, we nevertheless will reject the said confession because the record shows that it was obtained from Sarmiento without advice of counsel.[9]

Despite the reservations of some members of this Court, including the writer of this opinion, the ruling doctrine still requires that the waiver of the assistance of counsel should be made with the assistance of counsel.[10]

But such rejection notwithstanding, the Court believes that the other evidence presented by the prosecution, not to mention Sarmiento's own testimony, is sufficient to establish his guilt beyond reasonable doubt. The narration by the prosecution witnesses of the actual commission of the crime has not been refuted but was in fact supported by the defendant himself.[11]

Significantly, the argument of the accused-appellant in his brief is limited to a little more than one double-spaced page only and does not deny the allegation that he actually passed the four sticks of marijuana from Moore to the poseur-buyer.[12] His disclaimer of criminal responsibility is based on the argument that a) he did not benefit from the transaction; b) none of the sticks was found in his possession; c) the marked money was never presented in evidence; and d) the buyer was not called to testify.[13]

The applicable provision of the Dangerous Drugs Act is as follows:

"Sec. 4. Sale, Administration, Delivery, Distribution and Transportation of Prohibited Drugs. — The penalty of life imprisonment to death and a fine ranging from P20,000.00 to P30,000.00 shall be imposed upon any person who, unless authorized by law, shall sell, administer, deliver, give away to another, distribute, dispatch in transit or transport any prohibited drug, or for acting as a broker of any such transactions. If the victim of the offense is a minor or should a prohibited drug involved in any offense under this section be the proximate cause of the death of victim hereof, the maximum penalty herein provided be imposed (as amended by PD 1675 dated Feb. 17, 1980)."

It is obvious from the above-quoted section that criminal liability shall attach to any unauthorized person who shall "sell, administer, deliver, give away to another, distribute, dispatch in transit or transport any prohibited drug, or for acting as a broker of any such transaction." No pecuniary advantage need be proven. Actual physical possession at the time of arrest is not necessary and is in fact incompatible with the various acts punished, which involve precisely a transfer of possession.

It was not necessary either to present the marked money because Sarmiento had already admitted receiving the same from the poseur-buyer and giving it to Moore, who had escaped.[14] As for the non-presentation of the buyer, the Solicitor General correctly observed that the defense had every right to call such witness if it wanted to and could not now fault the prosecution for not doing so.[15] For its part, the prosecution had the right to present its case as it saw fit.

It is ironic that Albert Moore, who actually owned and sold the marijuana cigarettes, has been spared the severe penalties of the law, and this because he was a drug dependent. His own addiction saved him from a prison term. By contrast, the accused-appellant, who is not a drug addict, must face the consequences of his act which has condemned him to imprisonment for life. The theory is that, having better control of his will, the violator who is not a drug dependent cannot claim the tenderness extended by the law to the latter.

There seems to be something unfair in the situation of Sarmiento, who was not yet sixteen when he was arrested, but as we remarked at the beginning of this opinion, *dura lex, sed lex*. In these circumstances, this youthful offender, who on top of everything is not entitled to suspension of his life sentence under the Child and Youth Welfare Code, as amended,[16] can only hope for the grant to him of executive clemency if and when he can show he deserves it.

Drug addiction is an international problem that, unfortunately, has not spared our country and in fact has victimized not an inconsiderable number of our people, especially the youth. That problem is far from contained and indeed may even get worse unless adequate steps are taken to prevent it from spreading even wider. It is for

this reason that our government is taking serious measures, including severe penalties not normally permitted but for the gravity and proliferation of this terrible offense. Against this affliction that has irretrievably destroyed the future of millions of persons who could otherwise have been useful members of society, we must take a united and determined stand.

WHEREFORE, the decision of the trial court is affirmed, without any pronouncement as to costs. It is so ordered.

Yap, (Chairman), Narvasa, Melencio-Herrera, and Feliciano, JJ., concur.

[1] Exhibit 1.

[2] TSN, Aug. 5, 1985, pp. 33-34.

[3] Rollo, p. 12.

[4] Ibid., pp. 11-12.

[5] Id., pp. 14-16.

[6] Exh. G.

[7] Exhs. C and C-1.

[8] August 5, 1985, pp. 30-38.

[9] Exhs. C and C-1, *supra*.

[10] *Morales v. Ponce Enrile*, 121 SCRA 538; *People v. Galit*, 135 SCRA 465, reiterated in *People v. Hon. Luis Sison*, 142 SCRA 219, *People v. Quizon*, 142 SCRA 362, and *People v. Pecardal*, G.R. No. 71381, November 24, 1986.

[11] Rollo, pp. 17-18.

[12] Brief for the Appellant, pp. 3-4

[13] Ibid., pp. 2-4.

[14] TSN, August 5, 1985, p. 32.

[15] Brief for the Appellee, p. 10.

[16] Art. 192, last par. P.D. 603, as amended by P.D. 1179.

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.