

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARSENIO ALFONSO Y CAWADING, DEFENDANT-APPELLANT.

G.R. No. 78954. June 18, 1990

Ponente: GUTIERREZ, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-78954/>

GUTIERREZ, JR., J.:

An information was filed against the accused Arsenio Alfonso y Cawading on August 14, 1986, charging him with violation of Sec. 4, Article II of Republic Act No. 6425, otherwise known as the “Dangerous Drugs Act of 1972,” as amended. It reads:

“The undersigned Special Counsel accuses ARSENIO ALFONSO Y CAWADING for Violation of Section 4, Article II, of Republic Act No. 6425, Otherwise known as “The Dangerous Drugs Act of 1972, as amended, committed as follows:

That on or about the 30th day of July, 1986, at Km. 16, Municipality of Tublay, Province of Benguet, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, without any authority of law, did then and there willfully, unlawfully and knowingly transport and carry in transit from Km. 63 to Baguio City, 2,900 grams more or less, of dried marijuana leaves contained in a white sack marked ‘14-14-14 compound fertilizer’, which are sources and from which dangerous and prohibited drugs may be derived and manufactured, in violation of the said law.

“CONTRARY TO LAW.” (At p. 108, Orig. Records)

The accused-appellant entered a plea of not guilty during the arraignment. Trial on the merits proceeded and a judgment of conviction was subsequently rendered by the court a quo.

Arsenio Alfonso now seeks a reversal of the said decision. The decretal portion of the assailed decision reads:

“WHEREFORE, finding accused Arsenio Alfonso y Cawading guilty beyond reasonable doubt of transporting 2.65 kilos of dried marijuana leaves, a crime defined and penalized under Sec. 4, Article II, of Republic Act No. 6425, as amended, otherwise known as ‘The Dangerous Drugs Act of 1972’, the Court hereby sentences him to suffer the penalty of life imprisonment and a fine of Twenty Thousand Pesos, with subsidiary imprisonment in case of insolvency, and to pay the costs.

“The sack of marijuana leaves taken from the accused is hereby declared forfeited in favor of the government and ordered destroyed without delay. Let it be turned over to the Dangerous Drugs Board for proper disposal without delay.” (At p. 155, Orig. Records)

The accused-appellant specifically assigns the following alleged errors of the trial court in his appeal:

I

THE TRIAL COURT ERRED IN GIVING WEIGHT AND CREDENCE TO THE EVIDENCE FOR THE PROSECUTION AND IN TOTALLY DISREGARDING THE EVIDENCE FOR THE DEFENSE.

II

THE TRIAL COURT ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED IN THE INFORMATION. (At p. 43, Appellant's Brief)

The facts of the case upon which the finding of guilt was based have been summarized in the People's Brief as follows:

"On July 29, 1986, the Narcotics Command Office at Baguio City received a report from a civilian informer that on July 30, 1986, a certain Arsenio Alfonso y Cawading will be transporting a sack of marijuana to Baguio City (TSN pp. 3, 14, Nov. 17, 1986). Acting on said information, three (3) narcotics agents, namely: 2nd Lt. Jerry Valeroso, Sgt. Oscar Parajas, and Lt. Carlos Figueroa and eight (8) other civilians set-up a temporary checkpoint at Km. 16, Tublay, Benguet to intercept Arsenio Alfonso on July 30, 1986 (Id. pp. 2-3).

"At 2:05 p.m. of that day, the Narcom Agents stopped a Dangwa Tranco passenger bus bound for Baguio City. The agents boarded the bus, introduced themselves as Narcom Agents and proceeded to inspect the luggages and belongings of the passengers (Id.). Sgt. Parajas approached the appellant who was seated on the second row, right side facing the driver (TSN, p. 7, March 2, 1987). He requested appellant if he could inspect the latter's belongings. A sack with the markings 14-14-14 compound fertilizer, placed on the seat beside appellant, was claimed by the latter as his. Upon inspection, the sack yielded various vegetables like string beans and carrots and underneath, wrapped in a plastic bag was marijuana (TSN, pp. 15, 17, Nov. 17, 1986)

"Appellant was arrested and taken down from the bus. He was brought to the detachment in Baguio City where the interrogation continued. The arresting agents executed a joint affidavit of arrest of appellant, Exhibit "B" for the prosecution (TSN, pp. 4, 6, 7, Nov. 17, 1986).

"The marijuana found in the jute sack was sent to the Laboratory at PCCL Camp Dangwa for examination. Carlos Figueroa, the chemist who examined the marijuana testified that what he examined is marijuana as indicated in his chemistry report (Exhibit "F"). The jute sack contained 2.65 kilos of marijuana flowering tops (TSN, pp. 3-4, Nov. 25, 1986).

"Appellant testified that, on July 29, 1986 his older Brother Fianzo Alfonso sent him to Cabuguiasan, Natublay, (sic) Benguet to inform their other brother Fernando that their mother is seriously ill (TSN, p. 3, Feb. 4, 1987). He testified that he arrived at Cabuguiasan that same day, talked with his brother and tried to return home immediately. As there was no more ride available, he was forced to sleep at his brother's house. The following morning, he and Fernando went to the latter's employer in Pakyaw, Natublay, (sic) Benguet to borrow money for Fernando's fare. While there, they were asked to help load vegetables on the jeep. By lunchtime, Fernando was still not able to borrow money for his fare so appellant left (TSN, pp. 27, 35, Feb. 4, 1987)

"At 2:00 o'clock p.m., appellant was able to get a bus for Baguio. While seated inside the bus, Augusto Banghito came, placed a sack beside appellant and told the latter to drop the sack at Km. 5 in La Trinidad, Benguet as someone will claim it (TSN, pp. 6-7, 36-38, Feb. 4, 1987)

"When the bus was approaching Ambassador at Km. 16, it was flagged down by soldiers who boarded the same. The soldiers, who were Narcom Agents, inspected the passenger's baggages. The sack of appellant yielded marijuana and he was told to get down the bus and was interrogated. He was brought to the detachment in Gen. Luna Street in Baguio City, then to the Office in Tranconville and was finally committed to the provincial jail (TSN, pp. 8, 10, 12, Feb. 4, 1987).

"Appellant's brother Fianzo testified that indeed, he sent appellant to Cabuguiasan to inform Fernando of their mother's illness (TSN, pp. 3-4, April 28, 1987). Fernando also testified that his brother Arsenio arrived in Cabuguiasan, Benguet on July 29, 1986 and informed him that their mother is seriously ill and that appellant

slept in his house that night and on the following morning, appellant accompanied him to his employer to help load the vegetables so that they can ride in the jeep if there is space available. But after loading, there was no space left and Fernando still has to wait for his employer to be able to sell the vegetables before he can borrow money. Fernando told his brother to go ahead (TSN, pp. 2-5, May 26, 1987).

“Silvester Litawen also testified that when he rode the bus in the afternoon of July 30, 1987, he saw petitioner inside the bus. While they were talking, a man carrying a bag of vegetables came over and told appellant to take the bag and leave it at Km. 15. While the bus was approaching Ambassador at Km. 21, it was stopped by soldiers who conducted an inspection of the passenger belongings. They found marijuana in the baggage of appellant who was told to get down from the bus. (TSN, pp. 3-6, March 2, 1987).” (At p. 56-59, Rollo)

The evidence for the defense is built around the defendant’s allegation that the sack containing marijuana belongs to Augusto Banghito. He was only requested to carry it and drop it at Km. 5 La Trinidad. Somebody would pick it up. Moreover, Banghito would be following the bus in a private vehicle.

As in all criminal cases, the issue before us is whether or not the accused is guilty of the crime charged.

The accused-appellant specifically questions the trial court’s disregard for the evidence of the defense and its subsequent conclusion that the accused is indeed guilty as charged.

First, he contends that the prosecution failed to prove that the sack was owned by him.

We agree with the Solicitor-General that ownership is not the basic issue here. The accused-appellant is charged with transporting marijuana which he in fact did. In his testimony, he stated that he admitted being the owner of the sack containing the marijuana when questioned by the Narcom agent in the bus (TSN, p. 7, March 2, 1987). He later denied ownership in an effort to exculpate himself. How could it be believed that he had no knowledge of the contents of the sack being in possession of it and admitting its ownership? And if it were true that he was not really the owner but that he simply accepted the errand from one who was not even a friend, the explanation, standing by itself, is too trite and hackneyed to be accepted at its face value, it being contrary to human experience. For one, it was not clear whether the person from whom he received the sack was a stranger or someone closely known to him. Or worst, he could be non-existent as he was never apprehended nor presented in evidence. In his testimony on February 4, 1983 (TSN, pp. 36-37), the appellant stated that it was the first time he saw Banghito in his brother’s house and that their relationship to each other was not close. Under the circumstances, it would appear that Augusto Banghito was virtually a stranger to the appellant. The particulars under which the errand was being requested should have raised doubts about the mysterious nature of the transaction. There are several questions which come to mind and which even a man of little learning would have contemplated, to wit:

- (1) Why would Banghito ask the appellant to carry the sack when he hardly knows the accused?
- (2) Why was the instruction simply to leave the sack of vegetables at Km. 5 with no specific person or address to deliver it to? A market is a public place and anything of economic value might be picked up by other persons.
- (3) If Banghito was following in a private vehicle, why should the former still request the accused to deliver a sack of vegetables when he could very well do it himself?

The absence of any suspicious reaction on his part is not in accordance with human nature. And if he did not mind carrying a sack from someone he hardly knew and who was following behind in a car, it is obvious that the accused accepted the nature of the assignment from Banghito as something he was willing to do and that there was something strange about the transaction and he was aware of it.

The accused-appellant further contends that there are inconsistencies in the testimony of the prosecution

witnesses. He specifically questions the prosecution witnesses' statement that the sack contained dried marijuana leaves whereas the chemical report revealed the same to be flowering tops. There is nothing questionable about the description given by the arresting officers because as stated by the Solicitor General, "It is dried marijuana, presumably brown in color already. It is hard to distinguish by ordinary eye which part of the marijuana plant it is. By its look and smell, the agents identified it as marijuana and mistakenly labelled it marijuana leaves when it turned out to be flowering tops upon laboratory analysis."

The appellant further questions the mark on the sack. According to the prosecution, the sack had a label which read '14-14-14 Compound Fertilizer' whereas the sack forwarded to the laboratory for analysis was labeled 'Yongnara Chemical Co., Ltd.' Whatever portions of the writings on the sack were cited in testimonies, the fact remains that it was the same sack which contained the marijuana and that it was marked by the initials of the apprehending agent.

The questions raised by the appellant refer to mere inconsistencies on minor details. The alleged inconsistencies and improbabilities in the testimonies of the prosecution witnesses stressed by the appellant, refer to insignificant details which cannot destroy the credibility of said witnesses. Besides, the alleged discrepancies were fully explained. The issue involves the credibility of witnesses. Their testimony on the appellant's being caught with a sack of marijuana appears convincing. We find no reason to set aside the findings of fact of the trial court (*People v. Cabale, et al.*, G.R. Nos. 73249-50, May 8, 1990)

The fact that the appellant boarded the bus only at Natubley, Buguias, Benguet, and not from Sagada to Baguio as indicated in the information given to the agents of the law is of no moment. What is material is that the accused was transporting marijuana.

Credence should be accorded to the prosecution's evidence. It consisted mainly of testimonies of policemen who received confidential information and acted on the basis of that information. Under the facts of this case, the law enforcers are presumed to have regularly performed their duty in the absence of proof to the contrary (*People v. Dela Cruz and Beltran*, G.R. No. 83260, April 18, 1990; *People v. Marcos*, G.R. No. 83325, May 8, 1990; *People v. Laredo, et al.*, G.R. Nos. 81249-51, May 14, 1990). There is nothing in the records which would suggest any reason that would motivate them to testify falsely against the accused (*People v. Guiagui*, G.R. No. 78527, April 25, 1990; *People v. Sariol*, G.R. No. 83809, June 22, 1989; *People v. Javier*, G.R. No. 77756, March 26, 1990).

In contrast, the testimonies of defense witnesses are incredible. The thrust of the defense testimony is that the accused went to Cabaguasan to fetch his brother, Fernando because their mother is seriously ill but that the brother was unable to accompany him due to lack of fare; that while inside the bus, the accused was requested by Augusto Banghito to carry a sack of vegetables for him to La Trinidad, Benguet with instructions to leave it at Km. 5, with no particular addressee or place to whom or where it would be delivered.

We note that the defense witnesses are mostly brothers of the accused. As such, they may be expected to cover-up for the crime. While relationship between the accused and the witnesses is not necessarily detrimental, this relationship, taken together with the want of logic of the defense testimonies, yields the conclusion that it lacks credibility.

The testimony of the accused that his brother, Fernando was unable to go with him because he had no fare is contrary to the brother's testimony that he produces vegetables from his less than a hectare of land and has a regular buyer for his produce.

Considering the urgency of the need for them to go to their mother's place and the fact that it was the only reason for the appellant's going to his brother's place, they should have been able to raise the necessary fare by selling

Fernando's produce to Lilia Dalmose, his regular buyer. Instead, they chose to go to Dionisio Copas who insisted that they first load the vegetables inside the vehicle. When there was no space available for them in the vehicle, they were instructed to meet him at the provincial restaurant at Natubleng, Cabaguiasan, Benguet where he would hand them the money they are borrowing.

It is quite puzzling that the two (2) brothers should insist on borrowing from Copas when Fernando could just sell his produce to Dalmose whose place was only a short ten minutes walk from the place of Copas. For the need to see a seriously ill mother, a son would normally do everything within his means to be able to go to her. As it is, the reason of Fernando for not going to Dalmose to sell his goods was quite flimsy - that it was far which it was not, if he was already at the address of Copas. Moreover, Fernando testified that he eventually left Buguias on July 30, 1986 and sold the vegetables for P5,000 to Dalmose on July 31, 1986 (TSN, pp. 122-123). He could have gone directly to Dalmose and gotten more than enough money for bus fares. Besides, he told his brother he would follow the next day but he later testified that he followed the same day because he was able to sell his produce to Dalmose in Betag, La Trinidad, Banguet. He likewise admitted in his testimony that he arrived at Alilem, Ilocos Sur their mother's place one week afterwards.

Silver Litawen, the other defense witness was also not credible. The arrest was made in July 1986 and he testified only in February 1987. If he really believed his friend was innocent, he could have told the soldiers sooner that the sack did not belong to Alfonso. Consequently, Litawen would have been able to extricate the appellant from the mess he had gotten himself into. When asked why he did not go to the rescue of Alfonso, he simply said they were not close neighbors, that they seldom saw each other. He likewise thought the accused had been released although he knew that Alfonso had been arrested.

For testimony to be believable, it must not only proceed from the mouth of a credible witness, but it must be credible in itself.

It is significant that the Trial Judge noted that the defense witnesses were hesitant, inconsistent, and illogical in their testimonies. We quote the trial court's observation on the behavior of the defense witnesses:

“Not only did the the Court find the defense of the accused unworthy of belief, but the Court also observed from the demeanor of the witnesses that they are untruthful. To the mind of the Court, the accused was inside the bus for no other purpose than to deliberately transport that sack containing dried marijuana leaves.” (At pp. 7-8, Rollo)

WHEREFORE, premises considered, the decision of the TRIAL COURT is hereby AFFIRMED in toto.

Fernan, C.J., (Chairman), Feliciano, and Bidin, JJ., concur.

Cortes, J., on leave.

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.