

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE VS. NEIL TEJADA, ACCUSED-APPELLANT.

G.R. No. 81520. February 21, 1989

Ponente: GUTIERREZ, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-81520/>

GUTIERREZ, JR., J.:

This is appeal from the decision of the Regional Trial Court of Caloocan City, Branch 131, finding appellant NEIL TEJADA Y QUERO guilty beyond reasonable doubt of violating Section 4, Article 2 of Rep Act 6425 (Dangerous Drugs Act of 1972 as amended) and sentencing him to suffer the penalty of reclusion perpetua and to pay a fine of P30,000.00 and to pay the cost.

The information filed against the appellant alleged:

“That on or about the 7th day of August 1987 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully and feloniously sell and deliver to S/Sgt. Rodelito Obice who posed as poseur-buyer 50 grams of marijuana a prohibited drug knowing the same to such.” (p. 7, Rollo)

The prosecution’s evidence upon which the finding of guilt beyond reasonable doubt was based is narrated by the trial court as follows:

“That on the afternoon of August 7, 1987, Lt. Manuel T. Rosal, commanding officer of the NARCOM, dispatched a team of NARCOM agents composed of Capt. Arturo Avila, S/Sgt. Rodelio Obice and Pfc. Ernesto Labucay to conduct surveillance and buy-bust operation on a suspected marijuana pusher on Libis Gochico Street, Caloocan City, acting on the report of a confidential informant that marijuana was being peddled on said street.

Before proceeding to the target place, Sgt. Obice was given marked P100.00 and P50.00 bills to act the poseur-buyer by jotting down the serial numbers.

Upon reaching the designated place, Sgt. Obice together with the confidential informant proceeded in front of a sari-sari store where accused NEIL TEJADA alias Boyet was at that time. Capt. Avila positioned himself about 20 meters away but within seeing distance while Pfc. Labucay was stationed at the opposite direction of Capt. Avila. Sgt. Obice was introduced to Tejada by the informant. Tejada asked Sgt. Obice how much marijuana he needed and when told worth P150.00, Tejada left and proceeded to an alley. After a few minutes, Tejada came back carrying a brown paper and handed it to Sgt. Obice who examined the contents thereof and found out that the suspected dried marijuana flowering tops was inside a transparent plastic bag. When Sgt. Obice examined the specimen and found to be suspected marijuana he gave pre-arranged signal, by scratching his head, to his companions who immediately arrived even before Sgt. Obice was able to hand the marked P100.00 and P50.00 bills to Tejada.

Only Tejada was placed under arrest, apprised of his constitutional rights and a spot interrogation was conducted about the source of marijuana. Tejada mentioned a certain alias ‘attorney’. An immediate follow-up to locate the said alias ‘attorney’ was made but he was found. Tejada was then brought to the NARCOM

office in Camp Crame where preparation of the pertinent papers regarding the arrest such as the joint affidavit of the NARCOM agents, receipts for property seized, booking sheet and arrest report, securing the signature of Tejada, and letter referral to the PC Crime laboratory was made. Tejada was then turned over to the Narcotics Investigation Unit for proper disposition of the case.

The 83.82 grams of dried marijuana fruiting tops after being marked for identification with the signature of the accused were sent to the PC Crime Laboratory Service for examination. P/Capt. Luena E. Layador, OIC Forensic Chemist thereat, conducted the examination and found the aforesaid positive of marijuana.

The marijuana contained in a transparent plastic bag as well as the accused were positively identified in open Court by the prosecution witnesses." (Rollo, pp. 18-19)

Appellant Tejada raised the following assignment of errors in this appeal:

I

"THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE TESTIMONIES OF PROSECUTION WITNESSES AND IN DISREGARDING THE EVIDENCE FOR THE DEFENSE.

II

THE TRIAL COURT ERRED IN APPLYING AGAINST THE ACCUSED THE DISPUTABLE PRESUMPTION THAT OFFICIAL DUTY HAS BEEN REGULARLY PERFORMED.

III

THE TRIAL COURT IN HOLDING THAT ACCUSED NEIL TEJADA HAS IN FACT RUN AFOUL OF THE LAW.

IV

THE TRIAL COURT ERRED IN FINDING THE ACCUSED NEIL TEJADA GUILTY BEYOND REASONABLE DOUBT OF VIOLATION OF SECTION 4, ARTICLE II OF REPUBLIC ACT 6425, AS AMENDED." (Rollo, p. 37)

After a careful review of the records, this Court rules that the grounds relied upon by the accused appellant are without merit.

The well-settled rules that "finding of the trial court on the issue of credibility of witnesses and their testimonies are entitled to great respect and accorded the highest consideration by appellate courts" (People v. Carido, G. R. No. 32242, November 18, 1988; People v. Ramos, G. R. No. 76744, June 28, 1988; People v. Natipravat, 145 SCRA 483 (1986); People v. Rosario, 134 SCRA 496 [1985]) and that credibility "is a matter that is peculiarly within the province of the trial judge, who had first-hand opportunity to watch and observe the demeanor and behavior of the witnesses both for the prosecution and the defense, at the time of their testimony" (People v. Turla, G. R. No. 70270, November 11, 1988) are clearly applicable under the circumstances of this case. The exception that there are facts and circumstances which were overlooked and would substantially alter the result of this case (Arcadio Cortez y Vengson, et al v. Court of Appeals and People of the Philippines, G. R. No. 32246-48, June 30, 1988. See also People v. Ale, 145 SCRA 50 [1986] and People v. Canada, 144 SCRA 121 [1986]) has not been shown by the appellant.

The appellant questions the credibility of the prosecution evidence with respect to the manner the marijuana was sold. The appellant contends that the alleged sale which was effected near a sari-sari store and within the view of people other than the poseur-buyer, the informant and the appellant, strains credibility.

The contention is without merit. The circumstances that the transaction was not done in utmost secrecy does not in any way destroy the fact that the sale was actually made to someone who was ready and willing to buy the drug quickly in just a few minutes. We sustain the arguments posed by the Solicitor General:

“For one, it is erroneous and highly presumptuous to say that the sale and distribution of marijuana are not being done in public places. Perhaps, what may not be true is the open display of the sale of marijuana to prospective buyers or users in public places which inevitably could invite police arrest, so that pushers would naturally shy away from this mode of pending. The facts as well established in the case at bar however demonstrate very clearly that the consummation of the sale of the sale of the marijuana in question happened so fast in less than five minutes and involved only appellant, the informer and S/Sgt. Obice, without the persons numbering about seven who passed by or who were in said place at that time noticing said transaction (pp. 27-28, tsn, Sept. 4, 1987); pp. 4-7, tsn, September 8, 1987).

What is indeed pertinent is the fact that appellant had acknowledged that said marijuana was taken from him by the NARCOM agents (Exhs. “D”, “D-1”, “D-2”, “D-4”, “D-5”, p. 13, tsn, Sept. 28, 1987)” (Emphasis Supplied; p. 60, Rollo)

The circumstances surrounding the sale even served to conceal the fact that prohibited drugs were being sold as people will not usually mind dealings where there is no sign of furtiveness or misbehavior.

The appellant maintains that since one of the prosecution witnesses, Sgt Obice, testified that the appellant “doubted” his identity as poseur-buyer and left immediately upon having been introduced, it is contrary to common experience that the accused-appellant would return to deliver the marijuana to a stranger. (See Rollo, p. 44) In support of this, he notes the ruling in *People v. Patog*, (144 SCRA 429 [1986] which states that: “Evidence must not only proceed from the mouth of a credible witness but it must be credible in itself such as common experience and observation of mankind can approve as probable under the circumstances.”

We do not find this contention meritorious. It is true that the poseur-buyer was newly introduced to the accused-appellant by the informer. The purpose of the introduction was to accommodate someone who, at the time, was already disposed to buy marijuana. Knowing this offer to buy, the seller did not hesitate to proceed with the sale. Even if the appellant truly had a “doubt” as to the identity of the poseur-buyer, he nevertheless agreed and did sell and deliver the brown paper containing the marijuana. Clearly, therefore, the appellant cannot capitalize on a rather ambiguous statement of Sgt. Obice in his direct examination:

“Q.

When this confidential informant introduced to you the accused, were able to talk to the accused before the accused went through the alley and get the stuff?

A.

We had a conversation with the accused.

Q.

Now, what was that conversation all about?

A.

He asked me how much marijuana I need and I told the accused, worth P150.00.

Q.

Now, what was that conversation all about?

A.

After that sir, he doubt (sic) my true identity immediately left us and proceeded to an alley and after a few minutes he came back carrying the brown paper presumed to be a suspected marijuana and handed it to me.” (TSN, Sept. 4, 1987, p. 35; Italics supplied)

Moreover, what matters is not an existing familiarity between the buyer and the seller but their agreement and the acts constituting the sale and delivery of the marijuana leaves.

The appellant likewise contends that the lack of evidence of the alleged marked money casts doubt on the testimony for the prosecution since it shows that there was no consideration for the sale, thus, there was never a sale. (Rollo, p. 45) The circumstances show that there was an agreement between the poseur buyer and the appellant to consummate the sale. The fact that the appellant returned with the amount of marijuana corresponding to the offered price suffices to constitute if not sale, then the delivery or giving away to another and distribution of the prohibited drug punishable under Section 4, Article II of Rep. Act 6425. The absence of evidence of the marked money arose from the fact that the other law officers arrived before the appellant could get the money. It does not destroy the prosecution’s identification of the appellant as the offender, and of the contents of the brown paper taken from him as marijuana.

The Solicitor General, in his comment, asserts:

“(T)his omission of the prosecution could not establish appellants innocence xxx. Besides, it becomes irrelevant to present said marked money as evidence inasmuch as S/Sgt. Obice was not able to actually use said marked money during the buy-bust operation in question.” (Rollo, p. 60)

So long as the marijuana actually given by the appellant was presented before the lower court, the absence of the marked money does not create a hiatus in the prosecution evidence.

The appellant notes the silence of the prosecution evidence on what the confidential informant did after introducing Sgt. Obice to the appellant, i.e. whether he left immediately or stayed on with NARCOM agents. The appellant maintains that “this vacuum in the prosecution’s evidence gave credence to the testimony of the defense witnesses, to the effect that a certain teenager pointed the accused to the group of three (3) men, Two (2) of them were armed, while the accused was conversing with Tony Escapo (should be Escapol) at the barbecue stand and thereafter, this teenager ran away.” (Rollo, p. 46; see TSN, November 3, 1987, p. 123; Italics supplied)

Mere silence of the prosecution on a certain point on which the defense makes own averment does not automatically discredit the testimony of the prosecution. It only creates a gap which the defense has opportunity to question at the time of trial in order to avail of a factual finding not accessible before this Court on appeal.

The appellant questions the discrepancy in the number of grams of marijuana as alleged in the information, i.e., “more or less 50 grams” and as presented as evidence before the lower court through P/Capt. Luena E. Layador the OIC Forensic Chemist of the PC Crime Laboratory Service, i.e., 83.82 grams. A disparity of 33.82 grams is too small to provoke suspicion. At the onset, or at the time of the arrest, the police officers could only make a rough estimate of the weight of the marijuana leaves to be alleged in the information and no apparatus was then available. The discrepancy does not incite us to doubt the proof vis-à-vis the allegation. It is a minor detail that cannot override the credibility and substance of the prosecution evidence especially when there is no proof that the NARCOM agents actually and directly received the marijuana from the appellant. (People v. Tunhawan, G. R. No. 81470, Oct. 27, 1988; People v. Natipravat, supra)

Taking into account the objections of the appellant, the trial court was correct in adhering to our ruling re-stated in People v. Anita Claudio y Bagtang (G. R. No. 72564, April 15, 1988):

“Credence is accorded to the prosecution’s evidence more so as it consisted mainly of testimonies of policemen. Law enforcers are presumed to have regularly performed their duty in the absence of proof to the contrary (People v. De Jesus, 145 SCRA 521). We also find no reason from the records why the prosecution witnesses should fabricate their testimonies and implicate appellant in such a serious crime (People v. Bautista, 147 SCRA 500.)”

The appellant says that the presumption found in Section 5 (m), Rule 131 of the Rules of Court that official duty has been lawfully exercised and regularly performed by public officers has been overthrown by the prosecution evidence itself in this wise:

“The records show that the alleged marijuana confiscated from the accused on August 7, 1987 was sent for laboratory examination to the Philippine Constabulary Crime Laboratory (PCCL) only on August 8, 1987 when it could be examined on the same date of August 7, 1987 considering that the PCCL is open 24 hours every day and in just a short distance away from the Narcom headquarters. The Narcom personnel who brought the alleged marijuana to the PCCL did not even bother to wait for the result of the examination when it was brought there on August 8, 1987, when according to Capt. Luena Layador, the forensic chemist, the result or certification can be obtained in about 10 to 15 minutes only after the examination but instead said Narcom personnel returned and got the result only on August 10, 1987 (TSN, Sept. 28, 1987, p. 9). The laboratory examination result was obtained from the PCCL on August 10, 1987 but the case against the accused was only presented to the Fiscal for inquest on August 12, 1987 or five days after his arrest (TSN, Sept. 8, 1987, p. 13). The accused was taken into custody and detained on August 7, 1987 and granting without admitting that he was caught in the act of selling marijuana and legally detained, the case against him should have been brought to the proper judicial authorities within eighteen (18) hours after he was taken into custody (Art. 125, Revised Penal Code). With this reglementary period, the alleged marijuana should have been brought to the PCCL at once and the case against the accused should have been filed within said reglementary period. Clearly, the Narcom agents not only committed serious irregularity in the performance of duty but they are also liable criminally for arbitrary detention under the above-cited article of the Revised Penal Code or their equivalent offenses in the military.” (Rollo, pp. 4647)

The appellant adds that these circumstances reflect the real purpose of the delay, i.e., to give time for the appellant’s father to raise the amount of P10,000.00 demanded by the Narcom agents or to present an alternate or “palit-ulo” to take the place of the appellant who then detained. (TSN, Sept. 30, 1987, pp. 110-111).

We hold that none of these circumstances defeat the presumption in favor of the regular performance by the police officers. This case is not their only work. This explains why the case was not forwarded immediately to the Fiscal. The delay in delivering the appellant to the proper judicial authorities could have been due to the surrounding circumstances or the modus operandi adopted by the Narcom agents including the time of the arrest, detention at Camp Crame, submission of the specimen subject of the offense to the resident chemist therein, the submission of the laboratory report, the investigation and finally, the completion of all documents in preparation for the appellant’s referral to the fiscal’s office. (TSN, Sept. 24, 1987, pp. 27-28). The appellant failed to show proof of any improper motive on the part of the police officers to compel them to arrest him for an offense carrying a grave penalty (People v. de Jesus, 145 SCRA 21 [1986]). Even assuming that the delay was intentional he should have taken steps to report or to file charges against the officers for delay in the delivery of detained persons penalized under Article 125 of the Revised Penal Code. Failing in this, he cannot use alleged administrative shortcomings of police officers to get a judgment of acquittal.

The allegation of extortion is a standard defense in prosecutions involving drugs. The appellant’s father never reported said extortion to the higher authorities if it were really true. Neither did he make any formal charges. (Rollo, p. 23) We note this Court’s ruling in People v. Madarang (147 SCRA 123 [1987]), which we quoted in the lower court’s decision:

“For someone as desperate as Madarang who was caught red-handed peddling illicit drugs, such an imputation of wrong-doing, so easily fabricated, can be expected. In the case of *People v, Adriano*, 133 SCRA 132, the factual background of which is similar to the case at bar, We ruled that:

“It is a clear case of *res ipsa loquitor*. His imputation to the police of attempted extortion and maltreatment do not weaken the fact that he was caught red-handed in possession of contraband. The presumption that the police performed their duties regularly was not overthrown.” (See *Rollo*, pp. 22-23)

We have looked carefully into this case for a showing or proof that the whole buy-bust operation was a mere frame-up, enough to overcome the presumption that public duty has been regularly performed by public officers. There is no satisfactory proof in the records.

All things considered, we find that the guilt of appellant Tejada has been established beyond reasonable doubt.

WHEREFORE, the judgment of the trial court in Criminal Case No. C-29207 for the sale of prohibited drugs is hereby AFFIRMED.

SO ORDERED.

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

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.