

PEOPLE OF THE PHILIPPINES PLAINTIFF-APPELLEE, VS. ERNESTO AVILA Y MENDOZA AND JOHN DOE, ACCUSED-APPELLANT.

G.R. No. 82374. December 10, 1990

Ponente: CRUZ, J.

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CRUZ, J.:

Sentenced to life imprisonment and a P20,000.00 fine for violation of the Dangerous Drugs Act, the accused-appellant comes before us to plead that his conviction was a mistake. This Court will state at the outset that the mistake was his.

The evidence for the prosecution shows that having learned in the morning of August 11, 1987, that a certain Cristy was selling marijuana in Fernandez St., Dagupan City, Capt. Francisco Bustamante of the Office of Narcotics organized a team composed of Sgt. Florentino Baillo, Sgt. Feliciano de Vera, and Pat. Maximiano Peralta, to seek him out. The team proceeded to the said street and there found the accused-appellant in front of the Rodela Theater. Sgt. Baillo approached him and offered to buy marijuana, for which the latter demanded the sum of P15.00 a foil. Baillo agreed. Cristy then asked a man called Alex, who was passing by, to get the marijuana. Alex returned at about 11:30 that same morning and upon Cristy's instructions handed an object wrapped in aluminum foil to Baillo. Baillo unwrapped the package and found it contained dried marijuana leaves. He then made the pre-arranged signal of removing his sun-glasses, and the other members of the team, who had unobtrusively positioned themselves some ten meters away, moved in. They arrested both Cristy and Alex. On the way to the police station, however, Alex jumped off the jeep where they were riding and escaped. Cristy, who was later identified as Ernesto Avila, was left to face the charge.

The above narration was made at the trial by Baillo, Peralta and De Vera.[1] Marieta Bien, forensic chemist of the National Bureau of Investigation, testified on the results of her microscopic, chemical and chromatographic examination of the marijuana after it had been turned over to the NBI by De Vera.[2]

Avila denied the charge. He said that in the morning in question he was in front of their shop attending to the wood lamination of some pictures when Sgt. Baillo accosted him and asked him if he knew a person by the name of Alex Querrer. He averred he pointed to Alex, who happened to be passing by, and Baillo left to approach Alex, whereupon he himself went inside the shop to attend to his work. Shortly afterwards, Baillo, accompanied by two other persons in civilian clothes, returned and, holding him by the wrist, told him to come with them and Alex for interrogation. They rode in a jeep, but on the way Alex jumped off and escaped. He himself stayed put because he was terrified of the men's firearms. He was taken to a house in Tapuac St. and told he would be released if he would reveal the whereabouts of Alex. As he could not, he was detained at police headquarters and eventually charged with selling marijuana.[3] His testimony was corroborated by his sisters, Josephine and Fermina Avila.[4]

After assessing the evidence of the parties, Judge Crispin C. Labong of the Regional Trial Court of Dagupan City found the accused-appellant guilty beyond reasonable doubt of the crime imputed to him. We defer to his decision in view of his superior opportunity to observe the demeanor of the witnesses and to test their credibility on the

stand under direct and cross examination. In the absence of a showing that they were reached arbitrarily or without sufficient basis, the factual findings of the trial judge are received with much respect by, and indeed are binding on, even this Court.

In his brief, the accused-appellant points to certain discrepancies in the testimonies of the prosecution witnesses, but we find they are only minor inconsistencies that do not militate against the validity of his conviction. As we have repeatedly declared, the witnesses testifying on the same event do not have to be consistent in every detail as differences in recollections or viewpoints or impressions are inevitable. Total recall or perfect symmetry is not required. As long as the witnesses concur on the material points, slight differences in their remembrance of the details do not reflect on the essential veracity of their testimonies.

The non-presentation by the prosecution of the money used for the buy-bust operation was not, contrary to the defense theory, a fatal omission. There is no rule that such kind of evidence is indispensable in a prosecution for the illegal sale of dangerous drugs. The marijuana itself was offered as an exhibit.[5] It was properly marked, not only by Baillo, who wrote the name of Avila and then affixed his own signature on the aluminum foil wrapper, but also Bien, who signed the back of the envelope where she placed the marijuana after her examination, and the masking tape she used to seal the envelope.

The Court notes that the prosecution witnesses who conducted the buy-bust operation had not known Avila before they arrested him on August 11, 1987, and so had no reason to arrest and charge him without cause. The accused-appellant has not shown any evil motive that may have prompted them to accuse him unjustly. By contrast, it is not unnatural that when Avila's sisters testified, their statements under oath were made out of loyalty more to their brother than to the truth.

We find that the trial court has not erred in finding, on the basis of the evidence on record, that the accused-appellant committed the crime of selling a prohibited narcotic in violation of the Dangerous Drugs Act. And so he must be punished as the law demands. It truly is tragic that a man of only 24 years must spend the rest of his life behind bars for his offense. But the greater tragedy is in the damaged lives of thousands of our youth who have been ensnared the evil of drug addiction by heartless persons like the convict in the dock.

WHEREFORE, the appealed decision is **AFFIRMED** in toto with costs against the accused-appellant.

SO ORDERED.

Narvasa, (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] TSN, September 23, 1987, pp. 44-53; TSN, September 21, 1987, pp. 7-16; TSN, September 25, 1987, pp. 73-84.

[2] Ibid., October 6, 1987, pp. 124-126.

[3] id., October 27, 1987, pp. 163-168.

[4] id., November 4, 1987, pp. 187-191; id., November 19, 1987, pp. 207-210.

[5] Exhibit F.

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