

PEOPLE OF PHILIPPINES, PLAINTIFF-APPELLEE, VS. CESAR LUCERO, ACCUSED-APPELLANT.

G.R. No. 84656. January 04, 1994

Ponente: NOCON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-84656/>

NOCON, J.:

The appellant, Cesar Lucero, seeks the reversal of the trial court's decision^[1] finding him guilty of violating Section 4, Article II, of RA 6425, as amended, and sentencing "him to suffer imprisonment for life" and to pay a fine of Twenty Thousand (P20,000.00) Pesos. In proclaiming his innocence, appellant claims that the prosecution eyewitnesses, Sgts. Reyno and Bazar, of the Olivas, Pampanga, PC NARCOM, framed him up as they failed to secure his conviction on an earlier similar charge. Noting that appellant admitted he was jobless, the Court wonders how he could have obtained an appeal bond in the amount of P60,000.00 on top of his bond in the trial court in the amount of P30,000.00. Given the overwhelming testimonial and real evidence adduced by the prosecution, the constitutional presumption of innocence of the appellant has been overcome.

As summarized by the Solicitor General, the facts of the case are as follows:

"On August 3, 1986, at around 1:00 in the afternoon, Sgt. Ruben Bazar, an intelligence operative of the NARCOM assigned in San Fernando, Pampanga received information from a confidential informant that a certain Cesar Lucero alias Boy Taba was still engaged in the illegal trafficking of marijuana in Malanday, Valenzuela, Metro Manila. Upon learning this, a team of operatives composed of Sgt. Reyno, Sgt. Bazar, Crispin Velarde of the FMIB, and concerned citizens of Meycauayan, Bulacan, was immediately organized to conduct a buy-bust operation.

"The raiding team proceeded to the house of the suspected pusher at M. H. del Pilar St. in Malanday, Valenzuela, Metro Manila. Upon reaching the place, their confidential informant, pretending to be a buyer of marijuana, approached appellant Cesar Lucero even as the rest of the team watched from about twenty (20) meters away. After the informant handed marked money to appellant, the latter gave a small plastic bag of what appeared to be marijuana. Upon a pre-arranged signal given by the informant, the team of operatives effected the arrest of appellant who was then brought to Camp Olivas in San Fernando, Pampanga.

"A laboratory examination of the contents of the plastic bag received from appellant revealed that it was marijuana."^[2]

Appellant's sole assignment of error is that the trial court erred in finding that he was guilty of violating Section 4, Article II, RA 6425, as amended.

Appellant insists that what transpired is really as follows:

"On August 3, 1986 at about 1:30 p.m., accused-appellant Cesar Lucero was peacefully cooking in his house at No. 307 M. H. Del Pilar Street, Malanday, Valenzuela, Metro Manila, when armed men including Ruben Bazar and Pablito Reyno, without any warrant of arrest, entered their compound and immediately apprehended the said accused-appellant; that accused-appellant resisted the arrest and asked for help but he was dragged

from his house and brought to Banga, Meycauayan; that he was brought to Camp Olivas where they arrived at 9:30 in the evening of the same day; that accused-appellant, who was not informed of his constitutional rights, was forced by Sgts. Pablito Reyno and Ruben Bazar to admit selling marijuana; that the ten peso (P10.00) bill marked as Exhibit 'A' was not recovered from him but he signed for it under threat of bodily harm with an armalite gun and signed waiver of detention under the same circumstance and without counsel; that the marijuana does not belong to him; that he was detained at Camp Olivas for four (4) days, brought to Malolos, then to Banga, Meycauayan, back to Camp Olivas, brought back to Valenzuela on August 7, 1986; that by reason of such arrest and detention of the accused-appellant, his wife, Lilia, filed a complaint against the arresting officers; that Sgts. Bazar and Reyno have a standing grudge against the accused-appellant for reason that they were not able to testify against him in a case where said accused-appellant pleaded guilty to a lesser offense and where he was on probation.”[3]

I

Appellant claims that the testimony of the apprehending officers was totally barren of any showing that they saw their informer hand over the P10.00 marked money to the appellant in exchange for the marijuana purchased. The transcript of the stenographic notes of the hearing of May 20, 1987, however, reveals that prosecution eyewitness, Sgt. Reyno, did indeed see their confidential informant-poseur buyer hand over the marked money to the appellant as follows:

"Q

You mean to say you immediately proceeded at the back of the house of Cesar Lucero to effect the arrest?

"A

No, sir, we were asking where was he (sic).

"Q

Who was the one who handed the money?

"A

It was our CI.

"Q

Who is this CI of yours?

"A

I cannot reveal his name.

"Q

At the time when the marked money was handed to the accused where was your precise place at that time?

"A

We were outside the alley going to the house of the accused.

"Q

You mean that at that time the alleged marked money was handed to the accused you were not able to see anything about it?

“A

I saw everything because I acted as a back-up of our CI and I even saw the actual handing of the money.

“Q

How far were you when you saw the actual handing of the money? You will agree with me it is about 10 meters away?

“A

Less than 10 meters.[4]

It must be stressed that the question of money is immaterial because the Dangerous Drugs Law punishes the mere act of delivery of the prohibited drug after the offer to buy by the entrapping officer has been accepted by the prohibited drug seller.[5] In fact the Court has already held that the absence of the marked money does not create a hiatus in the evidence for the prosecution so long as the prohibited drug given or delivered by the accused was presented before the court and that he was clearly identified as the offender by the prosecution eyewitnesses,[6] specially where the testimony given by the prosecution eyewitnesses proves an actual exchange of money between the poseur-buyer and the accused-seller.[7] Unfortunately for appellant, not only was it proven that money changed hands for the teabags of marijuana between the poseur-buyer and the appellant, the marked money was presented in court as Exhibit "D" for the prosecution.

Appellant further claims that the transaction alluded to is normally or usually carried out in secrecy and not in an open place. This argument does not hold water as it is precisely the presence of many people which emboldens small-time drug pushers to ply their nefarious trade at any time and at any place[8] as this may even serve to camouflage their illicit operations.[9] In fact the Court has already sustained the conviction of drug pushers selling illegal drugs in a billiard hall, in front of a store, along a street and in front of a house.[10] It must be noted that appellant was caught red-handed selling the teabag of marijuana at his residence.[11]

Appellant now claims ludicrously that it was impossible for the prosecution eyewitnesses to see the teabag at a distance of 15 to 20 meters away since he could not see them at such a distance. To satisfy the principles of due process as the liberty of the appellant is at stake, the claim of appellant can be easily explained by the fact that in a buy-bust operation, the suspected drug pusher does not - at the moment of entrapment - even suspect that he is being watched. The entrapping agents watch his every move like the receipt of the marked money and the delivery of the teabags while the unwary suspected drug pusher cannot do likewise, i.e., watch the NARCOM officers observing him, otherwise buy-bust operations will not have a *raison d'être*.

Appellant next claims that the arresting officers do not have any evidence against him because it took all of four (4) days for them to bring him to the fiscal after they had arrested him for selling marijuana. This delay was explained by the arresting officers as follows:

“Q

You arrested the accused on August 3 and it take you 4 days to turn him over to the Valenzuela Police Station?

A

Yes because we still have to file our case to the Fiscal's Office, sir.

Q

But the case was filed in the afternoon of August 6?

Fiscal:

Answered already, Your Honor, he said he has a waiver.

Court:

He already explained it. Go to another point.

Atty. Vargas:

Q

When it was referred to the Fiscal's Office the accused was brought again to Camp Olivas?

A

Yes, sir.

Court:

Q

Why did you bring him to Camp Olivas?

A

Because we have a follow up operation regarding the marijuana confiscated from Lucero however on the 7th day of August it seems he is no longer interested so we turned him over, ma'am.

Q

Who is not interested, the accused?

A

Yes, ma'am.

Q

Interested in what?

A

In the reported source of the marijuana, ma'am.

Q

You mean to say you have to depend whether he is interested or not in following the source?

A

Yes, ma'am, because he will be the one who will guide us in the source of the marijuana.

Q

So as investigator can you have not any persuasive power to make him point to where the marijuana came from?

A

He decline to help us, ma'am."[12]

(NOTE: "SIC" omitted in order not to clutter up the testimony.)

In the light of the fact that appellant was readily able to post bail for his provisional release at the trial in the court below in the amount of P30,000.00, and subsequently an appeal bond after his conviction in the amount of P60,000.00, in spite of the fact that he admitted he was jobless, the Court can only surmise that he was a very valuable asset to whoever was supplying him with marijuana; precisely the reason why Sgts. Reyno and Bazar were trying to track down this source - to cut off once and for all one of the tentacles of this octopus of a drug menace.

Next, appellant claims that the failure of the informant-poser-buyer to testify is fatal to the prosecution's theory as to his culpability for the crime charged.

It is now well-settled that except for a situation where the appellant vehemently denies selling any prohibited drugs coupled with the inconsistent testimonies of the arresting officers[13] or coupled with the possibility that there exist reasons to believe that the arresting officers had motives to testify falsely against the appellant,[14] or the situation where it was only the informant-poser-buyer who witnessed the entire transaction,[15] the testimony of the informant-poser-buyer can be dispensed with as it will be merely corroborative[16] of the apprehending officers-eyewitnesses' testimonies. In appellant's case, the NARCOM officers clearly saw the illegal transaction take place[17] and so the informant-poser-buyer's testimony can be dispensed with.

Lastly, appellant claims that while a teabag was allegedly taken from him what the forensic chemist examined was a specimen taken from a plastic bag which allegedly turned out to be marijuana. With an air of authority, appellant states that a teabag is made out of gauze cloth or thin paper and not plastic material; ergo the prosecution has not made out a case against him.

To clear up this matter, we have examined the teabag in question and found that this particular teabag is made out of thin transparent polyethylene material with an approximate size of the P5.00, commemorative coin of the late President Marcos, which, with the marijuana inside, can be readily seen by the buyers and determine whether what they are buying is marijuana and not some other thing. It also makes the work of the entrapping officers that much easier. It is called a teabag because the bag approximates the size of legitimate teabags in the same manner that marijuana sticks are rolled to approximate legitimate cigarettes. Since this Court is not aware of any "industry" standard which dictates that teabags for marijuana purposes must be made out of gauze cloth and only thin paper if there is no supply of gauze cloth, we find appellant's last claim totally irrelevant.

Appellant's defenses are predicated on alibi and frame-up. He claims that Sgts. Reyno and Bazar were out to get him, in view of their inability to secure his conviction in an earlier case they filed against him for drug-pushing since he pleaded guilty to the lesser offense of possession.[18] Thus, they contrived to frame him for the offense of drug-pushing - when all that he was doing on that fateful day was cooking peanuts at home.

Settled is the rule that the defenses of alibi and frame-up are easily fabricated but hard to prove.[19] The positive evidence against the accused is strengthened and his self-serving assertions of innocence are weakened in the face of his previous conviction for violation of R.A. 6425, as amended - in the light of his admission that he pleaded to the lesser offense of possession to escape a conviction for the graver offense of pushing.[20] The defenses of alibi and frame-up require stronger proofs considering that at the time of the commission of the offense in question, the appellant was under probation for his conviction for the offense of possession of prohibited drugs.[21]

II

The Court takes this opportunity to make two (2) observations. The first has to do with the penalty meted out by the trial court which is "imprisonment for life." The trial court has no business putting as penalty what it thinks is the equivalent of the mandated penalty. As an example, the Court has already put out a circular advising judges of the difference between "reclusion perpetua" and "life imprisonment." [22] In this case, "imprisonment for life" is not the same as "life imprisonment." For one thing, the proper penalty is "life imprisonment." And secondly, the impression created when the phrase "imprisonment for life" is used is that the convict will stay in prison for the rest of his natural life. The proper penalty, we reiterate, is "life imprisonment." [23]

The second has to do with the manner in which the appellee's brief was written. The contents of such brief are supposed to be as follows:

"SEC. 17, Rule 46. Contents of appellee's brief. - The appellee's brief shall contain in the order herein indicated the following:

(a) A subject index of the matter in the brief with a digest of the argument and page references and a table of cases alphabetically arranged, textbooks, and statutes cited with references to the pages where they are cited;

(b) Under the heading 'Statement of Facts,' the appellee shall state that he accepts the statement of facts in the appellant's brief, or under the heading 'Counter-Statement of Facts,' he shall point out such insufficiencies or inaccuracies as he believes exist in the appellant's statement of facts with references to the pages of the record in support thereof, but without repetition of matters in appellant's statement of facts;

(c) Under the heading 'Argument,' the appellee shall set forth his arguments in the case on each assignment of error with page references to the record. The authorities relied on shall be cited by the page of the report at which the case begins and the page of the report on which the citation is found."

The Court notes that in the appellee's brief submitted are the following:

1. The subject index does not contain a digest of each and every argument the appellee has with the appropriate page references; neither does it contain a table of cases, textbooks and statutes with references to the pages where these were cited;

2. Under the heading "Argument," the appellee does not indicate the page references of the various TSNs which support its arguments. In fact, the entire appellee's brief is TOTALLY barren of any reference to the TSNs or any authorities. For example:

2.1 In the third paragraph, page 5 of the appellee's brief, it is stated:

"Yet it is clear from the record that a chemist subjected the contents of the teabag to several laboratory tests and found them to be marijuana leaves."

-- WITHOUT any page references to the TSN where the chemist testified on such fact or any laboratory report attached as an exhibit;

2.2 In the first paragraph, page 6 of the appellee's brief, it is stated:

"In the case at bar, the prosecution deemed it sufficient to forego the testimony of the confidential informant which would merely be a superfluity considering the testimonies of two of the apprehending officers."

-- WITHOUT any reference at all to any recent or not so recent case decided by the Court which had already disposed of arguments similar to appellant's [24] in such a manner.

This kind of SLOPPY brief-writing -- by a lawyer of the Office of the Solicitor General at that -- can not and should not be countenanced. The Office of the Solicitor General is advised to take steps to ensure that the contents

of the appellees' briefs to be filed in the future in criminal cases adhere to the requirements of Sec. 17, Rule 46 of the Rules of Court; otherwise, such kind of briefs will be expunged from the Records.

WHEREFORE, the appealed decision is hereby AFFIRMED with the modification that the proper penalty to be imposed is "life imprisonment." The Office of the Solicitor General's attention is hereby called to the spectacle of an appellee's brief being totally barren of any page reference to the record or citation of authorities and thereby making the work of the court harder than it already is. Moreover, it does not contribute to the speedy resolution of the case. Let a copy of this decision be PERSONALLY furnished the Solicitor General, the Hon. Raul I. Goco, himself.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Regalado, and Puno, JJ., concur.

[1] "People of the Philippines vs. Cesar Lucero," Criminal Case No. 7696-V-86, Valenzuela, MM, RTC Branch 172, promulgated February 24, 1988 by the Hon. Teresita Dizon-Capulong, presiding judge; Rollo, pp. 16-19.

[2] Rollo, pp. 181-182.

[3] Ibid., pp. 145-146.

[4] TSN, May 20, 1987, p. 6.

[5] People vs. Fabian, 204 SCRA 730.

[6] People vs. Hoble, 211 SCRA 675.

[7] People vs. Moreno, Jr., 213 SCRA 450.

[8] People vs. Alaban, 214 SCRA 301.

[9] People vs. Hilario, 196 SCRA 716.

[10] People vs. Simbulan, 214 SCRA 537.

[11] TSN, March 6, 1988, p. 5; April 3, 1987, p. 9.

[12] TSN, April 3, 1987, pp. 22-23.

[13] People vs. Ale, 145 SCRA 50.

[14] People vs. Sillo, 214 SCRA 74.

[15] People vs. Sahagun, 182 SCRA 91.

[16] People vs. Abelita, 210 SCRA 497.

[17] TSN, January 19, 1987, p. 3; March 6, 1988, p. 5.

[18] TSN, December 2, 1987, pp. 2-3.

[19] People vs. Acuram, 209 SCRA 281.

[20] People vs. Boholst, 152 SCRA 263, 271.

[21] People vs. Mariano, 191 SCRA 136, 149.

[22] SC Administrative Circular No. 6-92, October 8, 1992.

[23] *People vs. Madriaga*, 211 SCRA 698.

[24] Please see appellant's fifth claim on p. 8, *supra*.

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.