

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MICHAEL ALEJANDRO Y MARIANO, ACCUSED-APPELLANT.

G.R. No. 94644. August 17, 1993

Ponente: CRUZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-94644/>

CRUZ, J.:

Michael Alejandro was convicted of violating Section 4, Article II of Republic Act No. 6425 as amended, otherwise known as the Dangerous Drugs Act, and sentenced to life imprisonment and a fine of P20,000.00 plus the costs.[1] In this appeal, he asks for the reversal of his conviction or at least the reduction of his penalty "in the interest of justice and equity."

The evidence for the prosecution consisted mainly of the testimonies of the NARCOM operatives who conducted the buy-bust operation that led to the appellant's arrest and prosecution.[2]

That evidence showed that at about half past five in the afternoon of June 4, 1989, a confidential informer reported to Sgt. Amos Foncardas at the NARCOM Headquarters in Calarian, Zamboanga City, that the appellant was selling marijuana on Natividad St., Tetuan, Zamboanga City. Acting on this information, the Commanding Officer, P/Major Claudio Cabayacruz, organized a surveillance and buy-bust team with Sgt. Foncardas as leader and C1C Bonifacio Morados and C2C Vicente Estillote as members.[3]

Upon arrival of the team at the target area, the informer pointed to Alejandro, who was standing near the Anaud Store at Natividad St., as the drug trafficker. Foncardas forthwith told the informer to leave and instructed Morados to pose as buyer, furnishing him for this purpose with a marked P5.00 bill with serial number SN-LL-742686.[4]

Morados approached Alejandro and asked him in chavacano: "Tiene ba quita alli?" (Do you have anything there?) The latter answered: "Tiene aqui valor de P5.00 lang de marijuana. (I have here worth only P5.00 of marijuana.) Morados then said: "Saca yo se, compra yo conose." (I will take that, I will buy it.)[5]

Alejandro thereupon took from the right pocket of his shirt an object wrapped in a piece of newspaper and handed it to Morados. After opening the parcel and finding what appeared to be dried marijuana leaves with three rolling papers, Morados gave the marked money to Alejandro. He then gripped Alejandro's right hand, identified himself as a NARCOM agent, and placed his quarry under arrest.[6]

Foncardas and Estillote, who were about ten meters away from the two, rushed to assist Morados. Foncardas retrieved the marked money from Alejandro and received the wrapped parcel from Morados. The team then took the accused to the NARCOM headquarters at Calarian, Zamboanga City.[7]

Custody of the accused, together with the seized parcel and the marked money, was turned over to NARCOM Investigator Norberto Francia. Francia prepared an Investigation Report,[8] Booking Sheet and Arrest Report,[9] and a written request addressed to the PC Crime Laboratory for the examination of the contents of the seized parcel.[10]

Athena Elisa P. Anderson, the forensic chemist of the PC Crime Laboratory, subjected the contents of the parcel to physical, micro-chemical and confirmatory or duoquinois tests and found them positive for marijuana. Her findings were embodied in her Official Dangerous Drugs Report,[11] which was offered as an exhibit along with the marijuana and affirmed by her at the trial.[12]

The accused denied the charge against him and gave a different version of the incident. He claimed that in the afternoon of June 4, 1989, he had gone on orders of his father to buy fish at the public market on Falcatan St. On his way home, someone driving a motorcycle blocked his way and immediately handcuffed him. The bicycle he was riding fell to the ground, spilling the fish he had bought. He was then brought to the NARCOM headquarters at Calarian by several men who said they were NARCOM agents.[13]

Abraham Narag and Roberto Feliciano testified that they were at the Anaud Store and witnessed Alejandro's arrest. They also saw his parents standing on the other side of the street across the store, only about two meters away from their son. Alejandro's father later picked up the fish that were scattered on the street.[14]

Alejandro swore that at the police headquarters, the NARCOM agent took his wallet from his pocket and laid his money on the table. They then placed a P5.00 bill on top, telling him it was the marked money. The accused denied ownership of the bill but the agents insisted that it was his. The policemen later returned his money but retained the marked bill.[15]

Going over the appellant's brief, the Court notes that it does not point to any error committed by the trial court. It simply hints, and rather vaguely at that, that the evidence may have been "planted" on Alejandro and points to newspaper reports of abuses committed by the police who "blackmail and profit from their alleged suspects." No evidence of this charge is offered. The brief is practically an admission of guilt. The appellant is in effect throwing himself at the mercy of this Court and praying that the original sentence "be reduced to make itself more palatable to reason."

An appeal in criminal cases throws the whole case wide open for review and empowers (indeed obligates) the appellate court to correct such errors as may be found in the appealed judgment even if they have not been assigned.[16] However, a careful study of the record yields no compelling reason for a reversal of the respondent court. The prosecution has adequately established that the accused was caught in the act of selling P5.00 worth of marijuana in violation of the Dangerous Drugs Act.

The appellant's claim that he was a victim of a frame-up is not convincing. It has not been shown that the NARCOM agents planted evidence on him in order to extort money from him or to exact personal vengeance or to harass him or to just strengthen an otherwise weak case.[17] This defense, like alibi, is inherently weak, as easy to fabricate as it is difficult to prove.

Alejandro's denial cannot prevail against his positive identification as the marijuana peddler. As a mere negative self-serving averment, his defense cannot have heavier evidentiary weight than the sworn declarations of the police officers who testified affirmatively on his sale of the prohibited drugs.

The trial court considered it significant that when the appellant was blocked and handcuffed, he did not even make any protest or outcry. We have noted this too. No less strangely, his parents who, according to the appellant and his witnesses, were only two meters away from him, did not even bother to ask the policemen why their son was being arrested. There was no explanation for this odd indifference. The parents were not even presented as witnesses to corroborate their son.

We come now to the appellant's contention that the penalty of life imprisonment imposed upon him for the sale of five pesos worth of marijuana is excessive and grossly disproportionate to the offense, to the extent of being cruel

and unjust. He asks that the penalty be reduced if he cannot be acquitted.

The law imposes the penalty of life imprisonment to death and a fine ranging from P20,000.00 to P30,000.00 regardless of the amount involved in the sale of prohibited drugs.[18] This is not cruel punishment. It is settled that "it takes more than merely being harsh, excessive, out of proportion, or severe for a penalty to be obnoxious to the Constitution" as it may be that it was prescribed to prevent or discourage the proliferation of crimes that are especially hurtful to the public interest.

As Justice Tuason said in *People v. Estoista*:^[19]

xxx The rampant lawlessness against property, person, and even the very security of the Government, directly traceable in large measure to promiscuous carrying and use of powerful weapons, justify imprisonment which in normal circumstances might appear excessive. If imprisonment from 5 to 10 years is out of proportion to the present case in view of certain circumstances, the law is not to be declared unconstitutional for this reason.

x x x

It takes more than merely being harsh, excessive, out of proportion, or severe for a penalty to be obnoxious to the Constitution. "The fact that the punishment authorized by the statute is severe does not make it cruel and unusual." (24 C. J. S., 1187-1188.) Expressed in other terms, it has been held that to come under the ban, the punishment must be "flagrantly and plainly oppressive," "wholly disproportionate to the nature of the offense as to shock the moral sense of the community." (Idem.) Having in mind the necessity for a radical measure and the public interest at stake, we do not believe that five years' confinement for possessing firearms, even as applied to appellant's and similar cases, can be said to be cruel and unusual, barbarous, or excessive to the extent of being shocking to public conscience.

A similar justification was made in *People v. De la Cruz*,^[20] where the penalty of six months imprisonment and a fine of P2,000.00 was imposed for profiteering because the offense was especially inimical to the national economy and the consuming public, and in *People v. Dionisio*,^[21] where a "bookie" was sentenced to one month imprisonment and the penalty, although disproportionate to the offense, was sustained by this Court on the ground that "the social scourge of gambling must be stamped out."

There is no question that the illicit distribution of drugs is one of the most serious problems of our society and that nothing less than the most determined efforts are needed to combat it. The stern penalties prescribed by the Dangerous Drugs Act are intended to deter the aggravation of this problem, which has already prejudiced the lives and future of thousands of our people, especially the youth. The persons who peddle prohibited drugs are, as described in one decision,^[22] "evil merchants of misery and death." The penalties imposed on them are neither cruel nor inhuman but totally condign, if not in fact even inadequate.

WHEREFORE, the appealed judgment is **AFFIRMED** and the appeal **DISMISSED**, with costs against the appellant.

SO ORDERED.

Griño-Aquino, Davide, Jr., Bellosillo, and Quason, JJ., concur.

[1] Decided by Judge T. Hamoy; Rollo, p. 13.

[2] TSN, July 24, 1989, pp. 2-24, Sgt. Bonifacio Morados; September 20, 1989, pp. 2-9, Sgt. Amos Foncardas; September 20, 1989, pp. 25-32, Sgt. Norberto Francia.

- [3] TSN, July 24, 1989, pp. 4-6; Sept. 20, 1989, p. 3.
- [4] TSN, July 24, 1989, pp. 7-10; Sept. 20, 1989, p. 4; Exh. "A."
- [5] TSN, September 6, 1989, p. 20.
- [6] TSN, July 24, 1989, pp. 11-15.
- [7] TSN, July 24, 1989, pp. 18-19; September 20, 1989, pp. 5-6.
- [8] Exhibit "I."
- [9] Exhibit "H."
- [10] Exhibit "C."
- [11] Exhibit "E."
- [12] TSN, September 6, 1989, pp. 51-53.
- [13] TSN, November 8, 1989, pp. 4-7, 10.
- [14] TSN, October 25, 1989, pp. 5-11, 32, 35, 38-39.
- [15] TSN, November 8, 1989, pp. 10-11.
- [16] Regalado, Remedial Law Compendium, 1988 Ed., Vol. 2, p. 405 citing: *People vs. Geredias, et al.* (CA) 51 OG 4614; *People v. Borbano*, 76 Phil. 702; *Villareal v. People*, 84 Phil. 264.
- [17] TSN, November 8, 1989, p. 15.
- [18] Section 4, Article II, Republic Act No. 6425 as amended; *People vs. de Guzman*, 188 SCRA 407; *People v. Bati*, 189 SCRA 97; *People v. Garcia*, 198 SCRA 603; *People v. Celiz*, 214 SCRA 255; *People v. Labra*, 215 SCRA 822.
- [19] 93 Phil. 647.
- [20] 92 Phil. 906.
- [21] 22 SCRA 1299.**
- [22] *People v. de Guzman*, 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.