

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PEDRO PAGAURA Y TICLING, ACCUSED-APPELLANT.

G.R. No. 95352. January 28, 1997

Ponente: TORRES, JR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-95352/>

TORRES, JR, J.:

Accused-appellant Pedro Pagaura assails the decision of the Regional Trial Court, Branch XV, Ozamiz City, dated July 19, 1990, convicting him of violation of Section 4, Article II of Republic Act No. 6425, otherwise known as the Anti Dangerous Drugs Act of 1972, the dispositive portion of which reads:

"WHEREFORE, finding the accused Pedro Pagaura y Ticling guilty beyond reasonable doubt of the violation of the provisions of Section 4, Article II of RA 6425, otherwise known as the Anti-Dangerous Drugs Act of 1972, as amended, he is hereby sentenced to the penalty of imprisonment of reclusion perpetua, and to pay a fine of Twenty Thousand Pesos (P20,000.00), to suffer the other accessory penalties of the law and to pay the costs.

It appearing that the accused Pedro Pagaura has been under detention since his arrest on September 17, 1989, he is hereby credited four-fifths (4/5) of his detention as he did not agree in writing to abide by the rules for convicted prisoners in accordance with RA 6127. The remaining 12.0730 grams of marijuana leaves confiscated from the possession of the accused is forfeited in favor of the government and should be burned by the Clerk of Court in the presence of the public.

SO ORDERED." [1]

On April 3, 1990, an information for violation of Section 4, Article II of RA 6425 was filed against herein accused-appellant Pedro Pagaura' and which reads as follows:

"That on the 17th day of September, 1989, at about 7:00 o'clock in the morning, more or less, at Wharf Area, Ozamiz City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, feloniously and unlawfully have in his possession and control one (1) kilo dried marijuana leaves.

Contrary to Section 4, Article 11 of Republic Act 6425, otherwise known as the Dangerous Drugs Act of 1972, as amended." [2]

The accused-appellant pleaded not guilty during the arraignment. Trial on the merits ensued thereafter.

Prosecution witnesses P/Sgt. Rolando Atacador P/Lt. Gualberto Bacarro Jr., P/Sgt. George Amerkhan testified that on September 17, 1989, they were on duty at the wharf area of Ozamiz City and they were assisting in the joint PC-INP Philippine Ports Authority and Philippine Coast Guard team conducting baggage inspection on passengers disembarking from the boat coming from Cebu City. These policemen were in civilian wear and while Sgt. Atacador and Sgt. Amerkhan were standing at the waiting shed of the PPA, which was about 50 meters away from the boat, accused-appellant Pedro Pagaura approached them and requested them to help him secure a ticket to Tubod, Lanao del Norte. The two directed Pagaura to the counter of the Tamula Shipping Lines, Inc., but the

latter insisted on their help alleging that he was afraid of the inspection because his black bag contained a kilo of marijuana. To convince the two policemen, accused-appellant opened his bag and showed them the marijuana leaves wrapped in paper. Sgt. Amerkhan then called Lt. Baccaro, Jr. and informed him about the matter. Then they identified themselves to the accused-appellant and placed him under arrest. They later brought him to the office the Philippine Coast Guard for further investigation. From the Coast Guard office, accused-appellant was brought to the Police station where he was turned over to the Investigation Division. The marijuana leaves were confiscated and accused-appellant was also made to sign the confiscation receipt in the presence of one Atty. Peterson Durias, Jr.

NBI Forensic Chemist Bernabe Arenga conducted microscopic, chemical, and chromatographic tests on the confiscated leaves which later revealed that they were actually marijuana leaves. Arenga prepared Report No. DDM-89-76 (NEMRO) dated September 27, 1989 and sent a copy thereof to the Station Commander of Ozamiz City upon the request of Lt. Bacarro, Jr.

The marijuana leaves were sent to the City Prosecutor's Office for safekeeping. On March 12, 1990, at about 4:30 o'clock in the afternoon, the Hall of Justice, wherein the Prosecutor's office was located, was completely destroyed by fire. None of the records, books, and supplies were saved from the conflagration. Even the marijuana leaves, which were kept inside a vault, were also burned.

The defense had only one witness, accused-appellant Pedro Pagaura who was 20 years old, single, jobless, and a resident of Tubod, Lanao del Norte. Pagaura was in Ozamiz City to visit his cousin Sosiso Maceda who was studying in Misamis University. He was usually asked by his aunt to bring provisions and money for his cousin. Once, when he was in Ozamis City in the first week of June, 1989, he was searched by Sgt. Amerkhan and Sgt. Atacador. The two policemen again approached him in the first week of August, this time not to search him but to ask him information about people selling marijuana. Pagaura, himself, was one of the suspected pushers but the policemen wanted him to be their "asset" (informer). When he failed to provide them the needed information, the policemen became mad at him and told him that he was hard-headed. Lt. Bacarro, Jr. warned him to better watch out. Thus, in the morning of September 17, 1989, while he was in the wooden wharf waiting for the launch for Tubod, Sgt. Atacador and Sgt. Amerkhan apprehended him and searched his bag. Having found nothing the two asked him where the marijuana was. He had nothing to show but still he was nevertheless arrested and brought to the Coast Guard Office. Later, he was brought to the police station for further interrogation. From the police station, they proceeded to the house of one Fiscal Uy where he was made to sign a waiver. He was also made to sign another paper, the contents of which he did not know, in the presence of one Atty. Peterson Durias.

The trial court gave more weight and credence to the testimonies of the prosecution witnesses and convicted the accused-appellant of the crime charged.

Hence, this appeal with the following assignment of errors:

I

The trial court erred in holding that accused was caught in flagrante delicto in the possession of one kilo of dried marijuana leaves on September 17, 1989 and was transporting said prohibited drugs from Cebu City to Tubod, Lanao del Norte via Ozamiz City.

II

The trial court erred in relying on the weakness of the defense rather than on the strength of the prosecution's evidence.

III

The trial court erred in convicting accused-appellant of violation of Section 4, Article II of RA 6425, as amended, despite the failure of the prosecution to prove his guilt beyond reasonable doubt and in imposing upon the accused the penalty of imprisonment of reclusion perpetua and the payment of twenty thousand pesos (P20,000.00) fine.

The appeal has merit.

The testimonies of the prosecution witnesses not only appears to be improbable but also incredible. We find it rather foolish that one who peddles illegal drugs, would boldly and unashamedly present his wares to total strangers lest he be caught in flagrante when as has been demonstrated in similar cases, such nefarious deals are carried on with utmost secrecy or whispers to avoid detection. Yet, the three policemen persuaded the lower court that this was what transpired at the wharf area in Ozamiz City the day they arrested the accused-appellant. They all declared that it was accused-appellant who approached them to seek their assistance in buying a ticket and who even voluntarily opened his bag without the slightest prodding to prove that he was in possession of marijuana leaves. There was no showing, however that the "marijuana, object of the sale (arrest), was presented in court to support the allegation of the prosecution that accused-appellant was engaged in the sale of marijuana.[3] Although declarations of law enforcers are accorded weight, their testimonies, to be worthy as evidence, must themselves be credible and not suspect.

Accused-appellant was made to sign a waiver without the assistance of a lawyer. Although there was one Atty. Durias present, there was no showing that he explained to the accused-appellant the contents and purpose of the paper. Accused-appellant testified that he did not know what it was about and he merely signed thereon because he was threatened by Sgt. Atacador and Sgt. Amerkhan. These allegations were never rebutted by the two policemen. There was likewise no proof that accused-appellant was assisted by a lawyer during the interrogation. Thus, even granting that accused-appellant was allegedly a drug pusher, he would still be entitled to his basic constitutional rights.

Thus, in *People vs. Basay*, [4] we ruled that --

"xxx this Court declared that one's right' to be informed of the right to remain silent and to counsel contemplates "the transmission of meaningful information rather than just the ceremonial and perfunctory recitation of an abstract constitutional principle." Thus, it is not enough for the interrogator to merely repeat to the person under investigation the provisions of Section 20, Article IV of the 1973 Constitution, now Section 12, Article III of the 1987 Constitution; the former must also explain the effects of such provision in practical terms -- e.g., what the person under interrogation may or may not do -- and in a language the subject fairly understands."

Consequently, non-observance of the above rule would result in the inadmissibility of evidence against the accused.

The court must be extra vigilant in trying drug cases lest an innocent person is made to suffer the unusually severe penalties for drug offenses. We are aware that in some instances law enforcers resort to the practice of planting evidence to extract information or even to harass civilians. Hence, the presumption that regular duty was performed by the arresting officers could not prevail over the constitutional presumption of the innocence of the accused.

In our criminal justice system, the overriding consideration is not whether the court doubts the innocence of the accused but whether it entertains a reasonable doubt as to his guilt.[5] It is therefore, incumbent upon the prosecution to prove that the accused is indeed guilty beyond reasonable doubt. The presumption of regularity of performance of official duty cannot, by itself, constitute proof of guilt beyond reasonable doubt. [6]

Clearly, the guilt of the accused-appellant was not proven beyond reasonable doubt measured by the required moral certainty of conviction. The evidence presented by the prosecution was not enough to overcome the presumption of innocence as constitutionally ordained. Thus, in *People vs. Parayano*, we ruled emphatically that --

"If the inculpatory facts and circumstances are capable of two (2) or more explanations, one which is consistent with the innocence of the accused and the other consistent with his guilt, then the evidence does not fulfill the test of moral certainty and is not sufficient to support a conviction (24 SCRA 3)."

In resume, considering the evidence for the prosecution and the attendant circumstances, we entertain grave doubt on the culpability of the accused-appellant and our minds cannot rest at peace upon the certainty of guilt of the accused.

IN VIEW WHEREOF, on reasonable doubt, the decision dated July 19, 1990 is hereby SET ASIDE and accused-appellant is hereby ACQUITTED of the crime charged. His release from detention is hereby ordered forthwith, unless he is otherwise detained for some other lawful cause.
SO ORDERED.

Regalado, (Chairman), Romero, Puno, and Mendoza, JJ., concur.

[1] Decision, Records, p. 67.

[2] Records, p. 1.

[3] *People vs. Gesmundo*, 219 SCRA 743.

[4] 219 SCRA 418.

[5] *People vs. Villagonzalo*, G.R. No. 105388, November 18, 1994.

[6] *People vs. Vivar*, G.R. No. 110260, August 11, 1994.

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.