

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SATURNINA SALAZAR Y PALANAS, ACCUSED-APPELLANT.

G.R. No. 98060. January 27, 1997

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

As her defense in this appeal, appellant alleges violation of her constitutional rights against warrantless search and seizure, and to counsel during custodial investigations. However, the search, being merely an incident of a legitimate buy-bust operation against illegal drugs, needed no warrant. And while her right to counsel during the custodial investigation was indeed violated, there were other evidence sufficient to warrant her conviction beyond reasonable doubt.

This appeal seeks the reversal of the Decision[1] in Criminal Case No. 925 of the Regional Trial Court of Oroquieta City, Branch 13, finding appellant Saturnina Salazar y Palanas guilty beyond reasonable doubt of violation of Section 4, Article II of Republic Act No. 6425 (Dangerous Drugs Act of 1972), as amended by Presidential Decree No. 1675, and imposing upon her the penalty of life imprisonment and payment of P20,000.00 as fine, with costs.

The Facts

According to the Prosecution

Appellant was tried under an Information [2] the accusatory portion of which reads: [3]

"That on or about the 23rd day of August 1988, at 1:35 o'clock in the afternoon, more or less, in Barangay Poblacion II, Oroquieta City, Philippines, and within the jurisdiction of this Honorable Court, the said accused did then and there and without authority of law, wilfully, unlawfully and feloniously sell, deliver and give away five (5) marijuana sticks to a NARCOM Agent posing as a buyer in consideration of the amount of Five Peso (P5.00) marked bill with Serial No. FJ526501; and, as a result of the said Buy-Bust operation, confiscated from the control and possession of the accused were six (6) marijuana sticks and five (5) grams, more or less, of dried marijuana leaves in addition to the five (5) marijuana sticks aforestated.'

Contrary to law."

On arraignment, appellant, assisted by counsel pleaded not guilty to the crime charged. [4] The prosecution presented Sgt. Jim Cubillan, Cpl. Emilio de Guzman, and Forensic Chemist Bernabe Arenga and various evidence proving the following facts:

After being informed of the activities of drug pushers in Oroquieta City, Sgt. Cubillan and Cpl. de Guzman of the Narcotics Command (NARCOM) of the Philippine Constabulary (PC), left Ozamis City on August 23, 1988, for the former city. Upon their arrival at noon, they were met by the police informer who accompanied them to the place where a pusher operated. Near the City Hall, the informer pointed to them the residence-cum-store of appellant and thereafter left the two constabulary operatives.

Right then and there, Sgt. Cubillan took a five-peso bill with Serial No. FJ526501 from his billfold, marked it with his initials and handed it to Cpl. de Guzman. The latter then went to the store and told the woman seated on the windowsill that he wanted "to score" [5] ("mag-score nga ako"). [6] The woman nodded. After indicating that he wanted five (5) sticks of marijuana, Cpl. de Guzman asked her if what she was about to give him was "genuine" and gave her the five-peso bill. After the woman gave him five sticks of marijuana, Cpl. de Guzman unwrapped one stick. He smelled its contents and at the same time noticed the seeds therein. He then placed the contraband in his pocket, showed his identification card to the woman and told her that he was a NARCOM agent. [7]

At that moment, Sgt. Cubillan approached the two. He had positioned himself at the back of the store, around four or five meters away from Cpl. de Guzman and the woman. [8] He and Cpl. de Guzman arrested the woman, whom they later learned to be Saturnina "Nena" Salazar. They recovered from appellant the P5.00-bill. Upon being informed by Cpl. de Guzman that appellant had taken the five marijuana sticks from a plastic container on the table inside the store, Sgt. Cubillan took the container which had six (6) more marijuana sticks and around five (5) grams of dried marijuana leaves. [9]

The NARCOM agents took appellant to the local PC headquarters. On board a motorcar, Sgt. Cubillan asked her if she knew of other pushers in the vicinity. She pointed to the place of Josephine Bayotas. When they passed by Bayotas' residence, the two PC operatives also arrested her. [10]

At the PC headquarters in Camp Naranjo, Sgt. Cubillan interrogated appellant while Cpl. de Guzman took her bio-data. [11] Her fingerprints were also taken. [12] Thereafter, Cpl. de Guzman made her sign her bio-data and the paper containing her fingerprints. It was Sgt. Cubillan who instructed her to sign the piece of bond paper which was used to wrap the marijuana sticks before they were submitted to the laboratory for examination. [13]

For their part, Sgt. Cubillan and Cpl. de Guzman executed a joint affidavit to support the complaint that was to be filed against appellant. [14]

The confiscated and dried leaves were turned over to Sgt. Dominador Berjuega who sent the specimen to the National Bureau of Investigation (NBI) in Cagayan de Oro City. NBI Forensic Chemist Bernabe Arenga, who conducted the examination, executed a Certification, dated August 29, 1988, (Exh. D) [15] stating that the laboratory examinations conducted on the eleven (11) confiscated cigarette sticks and the "crushed dried stalks and flowering tops suspected to be marijuana" yielded "positive results for marijuana." [16] He also submitted Dangerous Drugs Report No. DDM-88-107 (Exh. E) finding: [17]

"Gross weight of specimens 15.3280 grams

Microscopic, chemical and chromatographic examinations conducted on the above-mentioned specimens gave **POSITIVE RESULTS for MARIJUANA.**"

According to the Defense

The defense presented Jeanife Mission, appellant's 12-year-old daughter, to testify on the manner by which the arrest was conducted by the NARCOM agents. According to Jeanife, at around 1:35 p.m. on August 23, 1988, she was at home with her mother. Jeanife was watching their sari-sari store in front of their house as her mother took a nap. Two persons arrived and went inside their house. One of them ransacked their things. When her mother woke up, she was held by one of the two persons and taken to the sala. Jeanife failed to hear their conversation, but she saw the two persons take her mother away. It was at the jail when she next saw her mother. [18]

In her own defense, Nena Salazar testified that at around 1:30 p.m. of August 23, 1988, she was sleeping in the only bedroom of their house which was separated from the sala by a bamboo divider. When she heard someone "doing something" in the sala, she stood up to see what the matter was, but she was met by a big fellow who, by

the identification card he showed her, was named Jimmy Cubillan. She also identified the other person as de Guzman by his ID card.

Cubillan held her left hand. She tried to untangle herself from Cubillan's hold and asked him, "why do you hold my hand, sir?" Cubillan said, "This is (a) raid, we are looking for something." He did not, however, show any search warrant, but he asked her where she had placed the marijuana that she was allegedly selling. She denied selling the contraband as she was still on probation after she had been convicted of selling marijuana in 1986. [19]

Because Cubillan could not find marijuana in her house, he pulled out his pistol and told her threateningly that should she refuse to tell him where the marijuana was, he would "salvage" her. The two persons brought her to the PC headquarters where she was investigated by Cubillan. She was not informed of her right to counsel nor her right to remain silent. However, she kept silent, not answering any of Cubillan's questions. Later, they held her right hand and forced her to sign something. They also asked her to affix her thumbmark to a piece of paper, telling her that she could refuse to do so only if she would divulge to them the names of drug pushers in the area. She just signed and affixed her thumbmark to a piece of paper the contents of which she was not even allowed to read. By then, it was almost midnight. The following day, she was brought to the city jail. Bayotas was also arrested, but she was already in the PC headquarters when she (appellant) was brought there. [20]

As stated earlier, Saturnina "Nena" Salazar was convicted of the crime charged. Thus, the case was disposed in this wise: [21]

"WHEREFORE, finding the accused Saturnina Salazar guilty beyond reasonable doubt of selling a prohibited drug without being authorized by law, she is hereby sentenced to life imprisonment and to pay a fine of P20,000.00.

Costs against accused.

SO ORDERED."

Through her counsel, she interposed the instant appeal. [22]

After the parties had filed their respective briefs, appellant, through the Public Attorney's Office, filed an urgent manifestation and motion stating that since she was found in possession of five (5) grams of dried marijuana leaves and eleven (11) sticks of marijuana which, at .02 gram per stick, would all sum up to less than 6 grams only and therefore would involve a penalty of only six (6) years, her appeal should be referred to the Court of Appeals for review. As legal basis therefor, she cited the Decision in *People vs. Simon* [23] and the August 15, 1994 Resolution in G.R. No. 113360, *People vs. Margarita Joseco y Magbanua*, where the total weight of the subject illegal drugs was 400 grams. [24] However, in the Resolution of March 27, 1995, the Court merely noted the said urgent manifestation and motion. [25] Hence, notwithstanding the insignificant amount of marijuana involved, the Court itself shall consider this case. [26] After all, the penalty actually imposed by the trial court was life imprisonment.

Ruling of the Trial Court

The trial court gave full faith and credence to the testimonies of the prosecution witnesses. On the other hand, it found that the defense was unable to sufficiently rebut the presumption of regularity in the government witnesses' performance of their duty, finding it hard to believe that the NARCOM agents brought her to their headquarters to force her into divulging the identity of other drugs pushers in the area and that the case against her was only a "trumped-up charge". Appellant's defense consisting of denials did not overcome the positive testimony of the prosecution witnesses.

Assignment of Errors

Appellant alleges in this appeal that the trial court gravely erred in (a) convicting her of the crime charged despite the unreasonable and unlawful search and seizure conducted by the NARCOM agents; (b) disregarding her constitutional right to presumption of innocence, and (c) finding her guilty beyond reasonable doubt of the offense charged.

The Court's Ruling

Appellant's Guilt Sufficiently Proven

Section 4, Article II of R.A. 6425 provides:

"SEC. 4. Sale, Administration, Delivery, Distribution and Transportation of Prohibited Drugs. — The penalty of reclusion perpetua to death and a fine ranging from five hundred thousand pesos to ten million pesos shall be imposed upon any person who, unless authorized by law, shall sell, administer, deliver, give away to another, distribute, dispatch in transit or transport any prohibited drug, or shall act as a broker in any of such transactions.

Indispensable in every prosecution for illegal sale of marijuana, a prohibited drug, is the submission of proof that the sale of the illicit drug took place between the poseur-buyer and the seller thereof, coupled with the presentation of the corpus delicti as evidence in court. [27] The element of sale must be unequivocally established in order to sustain a conviction.

This is precisely the import of the testimony of Cpl. de Guzman when he said: [28]

Q And what was your purpose in coming to Oroquieta City?

A We came here because we were informed by our informant that there were drung (sic) pushers here.

xxx xxx xxx

Q And after you met your informant in Oroquieta City what happened next?

A He accompanied us to the store of the pusher.

xxx xxx xxx

Q And what happened when you reached the place where the pusher was?

A When he pointed to us the alleged drug pusher we talked with Sgt. Cubillan who got a marked money and I posed as a buyer.

Q Did you approach the store pointed to you by your informant?

A Yes.

Q And what happened at the staore (sic) of the alleged pusher?

A I went to the store and talked to the owner that I wanted to buy marijuana.

Q How exactly did you tell the owner of the store?

A I said I wanted to score.

COURT:

Q Do you know what is the meaning of score?

A That is the term used by the users so that they will not be identified.

Q And what did the suspected pusher say?

A She nodded.

xxx xxx xxx

FISCAL RAMOS:

Q What happened after she gave you the five sticks of marijuana?

A I bought five sticks of marijuana and asked her if this is genuine and I gave the money. I opened one stick, I smelled and saw that there were seeds inside. I placed it in my pocket and then I showed my ID and identified (sic) myself as a NARCOM agent.

Q What made you conclude that the 5 cigarette sticks which the alleged pusher gave you were marijuana cigarettes?

A I learned that from my training and schooling.

Q What happened after you identified yourself as a NARCOM agent?

A Sgt. Cubillan came near and he arrested her.

Q What happened after that?

A I informed Sgt. Cubillan that the container from where the marijuana was (sic) taken is on the table and in it were 6 sticks and 5 grams of dried leaves.

Q What did Sgt. Cubillan do when you pointed to the container?

A He took it and looked inside.

Q And what happened after that?

A We brought her to the PC."

Sgt. Cubillan corroborated Cpl. de Guzman's account testifying that:

"Q And what did you do upon (sic) being informed that there is a pusher in Oroquieta City?

A I asked him to accompany me to where is (sic) pusher is.

Q Did your informant lead you to where the pusher was?

A Yes.

Q And what happened thereafter?

A He led us and pointed to a woman inside a store and said that she is a pusher.

xxx xxx xxx

Q And after your informant pointed to you a particular woman inside a store as a pusher what step if any did you take?

A I and Cpl. de Guzman decided to conduct a buy bust operation.

Q Please explain who (sic) that is done?

A That is entrapment by the use of marked money.

Q And from whom will this marked money come from?

A From me.

Q And who will be the buyer in that buy bust operation?

A Cpl. de Guzman.

Q And so you conducted a buy bust operation against the woman with Cpl. de Guzman as the buyer, what happened next?

A I got a P5.00 bill in my folder and signed my signature thereon and gave it to Cpl. de Guzman to buy marijuana.

Q How much was the money?

A P5.00.

xxx xxx xxx

FISCAL RAMOS:

Q What happened next after you gave this P5.00 bill to Cpl. de Guzman?

A He went to the store.

Q And how about you, where were you?

A I was just outside at the back of the store.

Q And did you see what happened after Cpl. de Guzman went to the store?

A Cpl. de Guzman talked to the woman.

Q Did you hear their conversation?

A No, because she has a low voice.

Q What else did you see?

A I saw that the woman gave something to Cpl. de Guzman.

Q And what did Cpl. de Guzman do after receiving that something given by the woman?

A He looked at it and examined it and smelled it.

Q And what happened next after Cpl. de Guzman examined and smelled that something given by the woman?

A Cpl. de Guzman showed an ID and when I saw him do that I went near him.

Q What happened after you went near him?

A We arrested her.

Q And will you please tell us why you arrested that woman?

A We arrested her because our Narcom agent bought marijuana from her (sic) and after that we arrested her.

xxx xxx xxx

A We arrested her because she sold a suspected marijuana cigarette.

Q How many suspected marijuana cigarettes were sold to Cpl. de Guzman?

A Five sticks.

Q Were you able to recover those five sticks of suspected marijuana cigarettes?

A These were delivered to Cpl. de Guzman and those five suspected sticks of marijuana were in the possession of Cpl. de Guzman.

Q What else if any were you able to recover from the woman?

A The marked money, P5.00 bill, and also Cpl. de Guzman told me that the marijuana was taken by the woman from the table in a plastic container.

Q And this table were (sic) the plastic container was placed from where the five suspected marijuana cigarettes were taken, where was it located?

A Inside the store.

Q And what did you do after you were informed by de Guzman that the five suspected marijuana cigarettes were taken from the plastic container?

A I got the plastic container and I saw six sticks of suspected marijuana cigarettes and five grams of dried marijuana leaves.

xxx xxx xxx

Q What did you do after confiscating from the woman the 6 suspected marijuana cigarettes and 5 grams more or less dried marijuana leaves in addition to the five rolled suspected marijuana cigarettes, what happened next?

A I brought the suspect to the PC headquarters at Camp Naranjo." [29]

Combined with the findings of Forensic Chemist Arenga that the cigarette sticks confiscated from appellant were marijuana, the corpus delicti of the crime had thus been established with certainty and conclusiveness.

Search Warrant Unnecessary

In alleging that the NARCOM agents conducted an unlawful search and seizure in her house, appellant contends that, because said agents had known of alleged drug-pushing activities in Oroquieta City, they should have obtained a search warrant before intruding into her residence. Appellant's contention is devoid of merit as the necessity of acquiring a search warrant has not been proven in this case.

In going to Oroquieta City on the strength of reports of drug-pushing activities, the NARCOM agents did not know of the identity of the alleged pushers. [30] When they conducted the buy-bust operation, it was precisely for the purpose of entrapping and identifying the culprit. A buy-bust operation has been considered as an effective mode of apprehending drug pushers. If carried out with due regard to constitutional and legal safeguards, a buy-bust operation deserves judicial sanction. [31]

Because the drug pusher had been caught in flagrante delicto, the arresting officers were duty-bound to apprehend the culprit immediately and to search her for anything which may be used as proof of the commission of the crime. [32] The search, being an incident of a lawful arrest, needed no warrant for its validity. In fact, in *People vs. Figueroa*, [33] this Court said:

"The warrantless search and seizure, as an incident to a suspect's lawful arrest, may extend beyond the person of the one arrested to include the premises or surrounding under his immediate control. Objects in the 'plain view' of an officer who has the right to be in the position to have that view are subject to seizure and may be presented as evidence."

Hence, appellant may not successfully claim the right against a warrantless search, [34] even as regards the plastic container with dried marijuana leaves which was found on the table in her house/store. Contrary to appellant's contention, the contraband seized from her, having been obtained as a result of the buy-bust operation to which the defense failed to impute any irregularity, was correctly admitted in evidence.

Informer's Testimony Merely Corroborative

Neither is her right to confront witnesses against her affected by the prosecution's failure to present the informer who pointed to her as a drug pusher. The presentation of an informant in an illegal drugs case is not essential for conviction nor is it indispensable for a successful prosecution because his testimony would be merely corroborative and cumulative. [35] In a case involving the sale of illegal drugs, what should be proven beyond reasonable doubt is the fact of the sale itself. Hence, like the non-presentation of the marked money used in buying the contraband, the non-presentation of the informer on the witness stand would not necessarily create a hiatus in the prosecutions' evidence. [36]

Appellant's claim that she was threatened by the NARCOM agents is self-serving. That her daughter corroborated that portion of appellant's account did not make her claim credible. The trial court, which was in a better position than this Court in determining the issue of credibility, unequivocally said: [37]

"The Court finds that the defense has not sufficiently rebutted the presumption of regularity in the government witnesses' performance of duty. Jennife (sic) Mission, for the defense, sought refuge from cross-examination by resorting to evasive 'I don't knows' and her demeanor on the stand did not inspire this Court's faith in her testimony. Accused herself claimed that she has stopped selling marijuana after being charged in 1986, for which she is now under probation, but she had no satisfactory explanation as to why she was brought to PC headquarters despite the fact that the Narcom agents did not find any contraband in her house. The Court finds it hard to believe that the Narcom agents brought her to headquarters only for the purpose of forcing her to divulge the names of drug pushers in the city, failing in which they would hie her off to court on trumped-up charges."

It should be added that, according to appellant, she recognized the NARCOM agents by the 5" x 7" identification cards they pulled from their shirts, which they showed her. [38] It is simply contrary to human experience for an officer of the law to exhibit his identification card if his intention in arresting an offender is to commit mischief.

Violation of Appellant's Right to Counsel

We find appellant's claim that she was not informed of her right to counsel during custodial investigation to be correct. Moreover, the NARCOM agent's admission that they made her sign and thumbmark the bond paper which they used to wrap the marijuana found in her possession was violative of her constitutional right to counsel. While the bond paper does not appear to have been considered as a pivotal piece of evidence against appellant, such act of the NARCOM agents is worth noting if only to provide guidance to law enforcement operatives. In *People vs. Simon*, [39] where the accused was made to sign the booking sheet and arrest report stating that he was arrested for selling two tea bags of suspected marijuana and the receipt for the seized property, the Court said:

"x x x. Appellant's conformance to these documents are declarations against interest and tacit admissions of the crime charged. They were obtained in violation of his right as a person under custodial investigation for the commission of an offense, there being nothing in the records to show that he was assisted by counsel. Although appellant manifested during the custodial investigation that he waived his right to counsel, the waiver was not made in writing and in the presence of counsel, hence whatever incriminatory admission or confession may be extracted from him, either verbally or in writing, is not allowable in evidence. Besides, the arrest report is self-serving and hearsay and can easily be concocted to implicate a suspect."

Prosecution's Other Evidence Sufficient for Conviction

As in the *Simon* case, where the non-admission of certain pieces of evidence did not weaken the prosecution's case, there is proof beyond reasonable doubt of the consummation of the sale of marijuana by appellant to a NARCOM agent. Hence, the presumption of innocence in her favor has been sufficiently overturned in accordance with law. Her contention that a mother-of-five like her would not resort to selling illegal drugs in such a small amount as the marijuana involved in this case, is belied by her own admission that when she committed the crime, she was still on probation for having been caught in another occasion selling marijuana in 1986. [40]

Neither could the location of her residence and store behind the DSWD office and near the city jail as well as the fact that she did not know Cpl. de Guzman deter her from committing the offense. In *People vs. Simon*, [41] the Court noted that

"x x x (D)rug-pushing, when done on a small scale as in this case, belongs to that class of crimes that may be committed at any time and in any place. It is not contrary to human experience for a drug pusher to sell to a total stranger, for what matters is not an existing familiarity between the buyer and seller but their agreement and the acts constituting the sale and delivery of the marijuana leaves. x x x."

Appellant's contention that she could not have taken the risk of selling the five (5) marijuana sticks for only five pesos and therefore the contraband was "planted," is totally baseless. She herself did not bring out this alleged

irregularity in the performance of the NARCOM agents' duty at the witness stand. On the other hand, the testimony of the two (2) peace officers carried with it the presumption of regularity in the performance of official functions. [42]

Appellant claims that the prosecution evidence is weak because Sgt. Cubillan was allegedly caught lying on the witness stand. She alleges that the prevarication of said witness was reflected by his testimony that after arresting appellant, they proceeded to the PC headquarters. Later, he testified that they still dropped by Bayotas' residence to arrest her. This alleged change in testimony which was explained by the witness himself, [43] is too inconsequential to dent the prosecution's compelling evidence on the fact of sale of illegal drugs.

The Court also finds too preposterous to merit scrutiny appellant's contention that in convicting her, the trial court relied on her previous conviction for violation of the Dangerous Drugs Law. Her being under probation was not alleged in the Information. It was brought out in the trial where she herself admitted that she was on probation when she committed the offense in this case. However, while the trial court mentioned that fact in the Decision of March 1, 1991, it based its findings on evidence presented by both the prosecution and the defense and not on the fact that appellant was a probationer convicted of engaging in the abominable trade of illegal drugs when she committed the offense.

The Proper Penalty

As in all other cases decided by the Court after the effectivity of Republic Act. No. 7659 on December 31, 1993, the beneficial provisions of said law shall be applied to this case although the offense was committed prior thereto. Because the marijuana recovered from appellant was less than 750 grams, the penalty imposable upon her shall, under the ruling in the Simon case, range from prision correccional to reclusion temporal or more specifically the penalty of prision correccional, considering that the marijuana involved was less than 250 grams.

No mitigating circumstances have been proven in this case. In regard to aggravating circumstances, the prosecutor volunteered at the start of the trial that appellant was then on probation. Appellant herself admitted that she was on probation when she was arrested by Sgt. Cubillan and Cpl. de Guzman. [44]

As such, the circumstance of quasi-recidivism should ideally aggravate her offense considering that she committed the felony after having been convicted by final judgment and before serving sentence. [45] That she was on probation would not erase the fact of her conviction even though service of her sentence was suspended. However, for its appreciation as an aggravating circumstance, quasi-recidivism must be proven by records of the previous sentence. [46] As this Court stated in *People vs. Capillas*, [47] the evidence (or the lack of it) must prevail over appellant's admission that she was a probationer when she committed the crime.

Consequently, under Art. 64 (1) of the Revised Penal Code which provides that in the absence of mitigating and aggravating circumstances the medium period of the penalty shall be imposed, the penalty should be the medium period of prision correccional. [48] There being no circumstance to disqualify appellant from availing of the benefits of the Indeterminate Sentence law, the same must be applied.

Prescinding from the foregoing, this Court is convinced that the guilt of appellant has been sufficiently proven beyond reasonable doubt by the evidence on record.

WHEREFORE, the appealed Decision convicting appellant Saturnina Salazar y Palanas of the crime of violation of Section 4, Article II of Republic Act. No. 6425, as amended, is hereby **AFFIRMED** subject to the **MODIFICATION** that appellant shall suffer the indeterminate sentence of four (4) months of arresto mayor as minimum penalty to four (4) years and two (2) months of prision correccional as maximum penalty.

Considering that appellant has been detained for the maximum penalty herein imposed, her IMMEDIATE RELEASE from custody, unless she is being held for other valid reasons, is hereby ordered.
SO ORDERED.

Narvasa, C.J., (Chairman), Davide, Jr., Melo, and Francisco, JJ., concur.

[1] Penned by Judge Ma. Nimfa Penaco-Sitaca.

[2] Filed by Third Assistant City Fiscal Jaime R. Ramos.

[3] Rollo, p. 7.

[4] Record, p. 20.

[5] TSN, March 20, 1989, p. 4.

[6] Ibid., pp. 14-15; TSN, April 19, 1989, p. 10.

[7] TSN, March 20, 1989, p. 5.

[8] TSN, February 20, 1989, pp. 6, 17.

[9] Ibid, pp. 5-6.

[10] TSN, February 20, 1989, p. 21.

[11] TSN, April 19, 1989, p. 15-16.

[12] TSN, March 20, 1989, p. 5.

[13] TSN, April 19, 1989, p. 19-21.

[14] Record, p. 5.

[15] Exh. D; Record, p. 42.

[16] TSN, February 20, 1989, p. 10; TSN, March 20, 1989, p. 6; TSN, June 28, 1990, pp. 7-10.

[17] Record, p. 43.

[18] TSN, November 6, 1990, pp. 3-4.

[19] TSN, November 9, 1990, pp. 3-4.

[20] Ibid., pp. 6-7.

[21] Rollo, p. 14.

[22] Record, p. 137.

[23] 234 SCRA 555, July 29, 1994.

[24] Rollo, pp. 121-125.

[25] Ibid., p. 126.

[26] This Court has decided a number of illegal drugs cases wherein the subject contraband is even less than a gram. Some of these cases are as follows: People vs. Ganguso, 250 SCRA 268, November 23, 1995; People vs.

Reyes, 236 SCRA 264, September 2, 1994; People vs. Constantino, 235 SCRA 384, August 16, 1994; People vs. Caneja, 235 SCRA 328, August 15, 1994; People vs. Vivar, 235 SCRA 257 August 11, 1994; People vs. Evangelista, 235 SCRA 247, August 11, 1994; and People vs. Bagares, 235 SCRA 30, August 4, 1994.

[27] People vs. Pacleb, 217 SCRA 92, 97-98, January 18, 1993; People vs. Vocente, 188 SCRA 100, 108, July 30, 1990; and People vs. Mariano, 191 SCRA 136, 148, October 31, 1990.

[28] TSN, March 20, 1989, pp. 3-5.

[29] TSN, February 20, 1989, pp. 4-8.

[30] TSN, February 20, 1989, p. 15.

[31] People vs. Herrera, 247 SCRA 433, 439, August 21, 1995.

[32] Ibid., citing People vs. Basilgo, 235 SCRA 191, August 5, 1994.

[33] 248 SCRA 679, 682, October 2, 1995, quoting People vs. Musa, 217 SCRA 597, 610, January 27, 1993.

[34] Appellant's Brief, Rollo, pp. 59-60.

[35] People vs. Ballagan, 247 SCRA 535, 546, August 23, 1995.

[36] People vs. Ganguso, supra at p. 279.

[37] Rollo, p. 14.

[38] TSN, November 9, 1990, p. 8.

[39] Supra at pp. 566-567.

[40] TSN, November 9, 1990, pp. 4-5.

[41] Supra at p. 567.

[42] People vs. Sanchez, 173 SCRA 305, 312, May 12, 1989.

[43] Appellant quoted, on page 17 of her brief, Sgt. Cubilla's testimony, vide:

""xxx xxx xxx

Q — What prompted you tell a lie because now you said that you went directly to the house of Nene Salazar to the PC. My question is what prompted you to tell a lie?

A — At first we intended to go directly to the PC headquaters but he (sic) informed us there is another pusher so we pass by (sic) the house of that pusher.' (TSN, February 20, 1989, pp. 21-22.)"

[44] TSN, November 9, 1990, pp. 4-5.

[45] Art. 160, Revised Penal Code provides:

"ART. 160. Commission of another crime during service of penalty imposed for another previous offense — Penalty. — Besides the provisions of rule 5 of article 62, any person who shall commit a felony after having been convicted by final judgment, before beginning to serve such sentence, or while serving the same, shall be punished by the maximum period of the penalty prescribed by law for the new felony.

xxx xxx xxx"

[46] *People vs. Ochavido*, 142 SCRA 193, 206, May 30, 1986 and *People vs. Santos*, 130 SCRA 443, 445, November 4, 1985.

[47] 133 SCRA 171, 177, November 13, 1984.

[48] Cf. *Reynaldo Garcia vs. Court of Appeals*, 254 SCRA 542, 552-553, March 8, 1996 and *Jesusa Cruz vs. Correctional Institute for Women*, G.R. No. 15672, September 27, 1996, pp. 3-4.

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