

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ABDUL MACALABA Y DIGAYON, APPELLANT.

G.R. Nos. 146284-86. January 20, 2003

Ponente: DAVIDE JR., C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-146284-86/>

DAVIDE JR., C.J.:

Appellant Abdul Macalaba y Digayon (hereafter ABDUL) was charged before the Regional Trial Court of San Pedro, Laguna, with violations of the Presidential Decree No. 1866[1]; Article 168 of the Revised Penal Code[2]; and Section 16 of Article III of the Dangerous Drugs Act of 1972 (Republic Act No. 6425), as amended, in Criminal Cases Nos. 1236, 1237 and 1238, respectively. The accusatory portions of the informations in these cases read as follows:

Criminal Case No. 1236

That on or about April 12, 1999, in the Municipality of San Pedro, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, said accused without the required permit/license from the proper authorities, did then and there willfully, unlawfully, and feloniously have in his possession, custody and control one (1) caliber .45 pistol with Serial No. 909904, and one (1) magazine with five (5) live ammunition thereof.

CONTRARY TO LAW.[3]

Criminal Case No. 1237

That on or about April 12, 1999, in the Municipality of San Pedro, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, said accused did then and there willfully, unlawfully and feloniously have in his possession, custody and control two (2) ONE THOUSAND PESOS bill with Serial Numbers BG 021165 and BG 995998, knowing the same to be forged or otherwise falsified with the manifest intention of using such falsified or forged instruments.

CONTRARY TO LAW.[4]

Criminal Case No. 1238

That on or about April 12, 1999, in the Municipality of San Pedro, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, the said accused without being authorized by law, did then and there willfully, unlawfully and feloniously have in his possession, custody and control one (1) self-sealing transparent plastic bag of methamphetamine hydrochloride “shabu” weighing 226.67 grams (3 medium sized transparent plastic bags and 1 big heat-sealed transparent plastic bag).

CONTRARY TO LAW.[5]

The three cases were consolidated and raffled to Branch 31 of said court. Upon his arraignment, ABDUL entered in each case a plea of not guilty.

At the trial, the prosecution presented as witnesses SPO1 Generoso Pandez, PO3 Ernani Mendez, Police Inspector Anacleto Cultura and Police Inspector Lorna Tria. ABDUL was the sole witness for the defense.

SPO1 Pandez, a PNP member of the Laguna Criminal Investigation Detection Group (CIDG), testified that on 12 April 1999, at 5:15 p.m., Major R' Win Pagkalinawan ordered the search of ABDUL, alias "Boy Muslim," based on a verified information that the latter was driving a carnapped Mitsubishi olive green car with Plate No. UPV 511 and was a drug-pusher in San Pedro, Laguna. Two teams were formed for the search. The first was headed by Major Pagkalinawan, with SPO4 Aberion and five others as members; and the second was led by Capt. Percival Rumbaoa, with SPO1 Pandez and PO3 Mendez as members.[6]

Between 6:30 p.m. and 7:00 p.m., the two groups proceeded to Barangay Nueva, San Pedro, Laguna, on board a car and a van. They went to ABDUL's apartment where he was reportedly selling shabu, but they learned that ABDUL had already left. While looking for ABDUL, they saw the suspected carnapped car somewhere at Pacita Complex I, San Pedro, Laguna, going towards the Poblacion. When it stopped due to the red traffic light, the CIDG officers alighted from their vehicles. Capt. Rumbaoa positioned himself at the passenger side of the suspected carnapped car, while Major Pagkalinawan stood in front of the car. SPO1 Pandez, with PO3 Mendez beside him, went straight to the driver and knocked at the driver's window. ABDUL, who was driving the car, lowered the glass window. SPO1 Pandez introduced himself as a member of the Laguna CIDG and asked ABDUL to turn on the light and show them the car's certificate of registration.[7]

When the light was already on, SPO1 Pandez saw a black Norinco .45 caliber gun[8] inside an open black clutch/belt bag placed on the right side of the driver's seat near the gear. He asked ABDUL for the supporting papers of the gun, apart from the car's certificate of registration, but the latter failed to show them any.[9] When ABDUL opened the zipper of the clutch/belt bag, the CIDG officers saw inside it four plastic sachets of what appeared to be shabu. They likewise found a self-sealing plastic bag which contained the following items: two fake P1,000 bills, a list of names of persons, a magazine and five ammunitions for a .45 caliber gun. They confiscated the gun, the shabu, and the fake P1,000 bills and thereafter brought ABDUL to the CIDG office.[10]

PO3 Mendez substantially corroborated the testimony of SPO1 Pandez.[11]

The two P1,000 bills were found to be counterfeit after an examination conducted by Police Inspector Anacleto Cultura,[12] a document examiner at Camp Vicente Lim, Calamba, Laguna. The white crystalline substance contained in the four small plastic bags was subjected to physical and laboratory examination conducted by Police Inspector Lorna Tria, a Forensic Chemist at the PNP Crime Laboratory, Region IV, Camp Vicente Lim. Her findings[13] were as follows: (a) the three small plastic sachets weighed 29.46 grams, while the big plastic sachet weighed 197.21 grams, or a total weight of 226.67 grams; (b) representative samples taken from the specimens thereof were positive for methamphetamine hydrochloride or shabu, a regulated drug; and (c) the improvised tooter and the rolled aluminum foil with residue found in the self-sealing plastic bag were also positive of the presence for shabu residue.

As expected, ABDUL had a different story to tell. He testified that on 12 April 1999, between 6:50 and 7:00 p.m., he was driving a borrowed Mitsubishi Galant Car with Plate No. UPV 501 somewhere in San Pedro, Laguna. With him was Rose, his live-in partner, whom he fetched from Angeles City, Pampanga. He had borrowed the car from his friend Ferdinand Navares, who instructed him to return it in front of the latter's store at San Pedro Public Market.[14]

ABDUL was about to park the car when a man knocked hard on the glass window on the driver's side of the car and pointed at the former a .45 caliber pistol. Another one who was armed with an armalite rifle positioned himself in front of the car, while the third one positioned himself near the window on the passenger side and

pointed a gun at his live-in partner Rose. ABDUL then lowered the car's window. The man near him opened the door, held him, and told him to alight. When the man asked him whether he was "Boy Muslim," he answered in the negative. The same man opened the back door of the car and boarded at the back seat. Rose remained seated at the front passenger seat. [15]

The other men likewise boarded the car, which was thereafter driven by one of them. While inside the car, they saw a .45 caliber pistol at the edge of the driver's seat. They asked him whether he had a license. He showed his gun license and permit to carry. After taking his gun, license, and permit to carry, they tried to remove his belt bag from his waist, but he did not allow them.[16]

Upon reaching the headquarters, ABDUL learned that these people were C.I.S. agents. There, he was told to surrender the belt bag to the officer who would issue a receipt for it. He did as he was told, and the money inside his belt bag was counted and it amounted to P42,000. They then got his money and the cellular phone, which was also inside the bag, together with some other pieces of paper. They also took another cell phone from the car. He was never issued a receipt for these items.[17]

Thereafter, a man entered the office with a white plastic bag allegedly taken from the borrowed car. ABDUL denied ownership over the plastic bag. That same man then told him that it contained shabu. ABDUL and Rose were detained at the headquarters. The next morning, Rose was allowed to get out; and in the afternoon, he was transferred to San Pedro Municipal Jail.[18]

After the trial, the trial court acquitted ABDUL in Criminal Cases Nos. 1236 and 1237 for violations of Presidential Decree No. 1866 and Article 168 of the Revised Penal Code, respectively, due to insufficiency of evidence. However, it convicted him in Criminal Case No. 1238 for violation of Section 16, Article III of the Dangerous Drugs Act of 1972 (Republic Act No. 6425), as amended,[19] and sentenced him to suffer the penalty of reclusion perpetua and to pay a fine of P500,000, as well as the costs of the suit.

Dissatisfied with the judgment, ABDUL interposed the present appeal, alleging that the trial court erred in (1) convicting him for violation of Section 16 of Article III of the Dangerous Drugs Act of 1972, as amended, despite insufficiency of evidence; and (2) admitting the evidence presented by the prosecution although it was obtained in violation of his constitutional rights.

In his first assigned error, ABDUL argues that the prosecution failed to prove the material allegations in the information. The information charges him, among other things, that "without being authorized by law, [he] did then and there willfully and feloniously have in his possession, custody and control ... methamphetamine hydrochloride." However, the prosecution did not present any certification from the concerned government agency, like the Dangerous Drugs Board, to the effect that he was not authorized to possess shabu, which is a regulated drug. Thus, his guilt was not proved beyond reasonable doubt.

In his second assigned error, ABDUL asserts that he was not committing a crime when the CIS agents boarded his car, searched the same and ultimately arrested him. He was about to park his borrowed car per instruction by the owner when he was harassed by the operatives at gunpoint. The gun seen was properly documented; thus, there was no reason for the CIS agents to bring him and his companion to the headquarters. The shabu allegedly found in the car was brought in by somebody at the time he was under interrogation. It was taken in violation of his constitutional right against illegal search and seizure. Being a "fruit of a poisonous tree" it should not have been admitted in evidence.

Moreover, the members of the CIDG merely relied on the information received from an anonymous telephone caller who said that ABDUL was driving a carnapped vehicle. They had no personal knowledge of the veracity of

the information. Consequently, there was no legal basis for his warrantless arrest.

In the Appellee's Brief, the Office of the Solicitor General (OSG) maintains that ABDUL had the burden of proving that he was authorized to possess shabu, but he failed to discharge such burden. Therefore, it is presumed that he had no authority; consequently, he is liable for violation of Section 16, Article III of the Dangerous Drugs Act of 1972, as amended. The OSG likewise refutes ABDUL's argument that there was a violation of his right against unreasonable searches and seizures.

The general rule is that if a criminal charge is predicated on a negative allegation, or that a negative averment is an essential element of a crime, the prosecution has the burden of proving the charge. However, this rule is not without an exception. Thus, we have held:

Where the negative of an issue does not permit of direct proof, or where the facts are more immediately within the knowledge of the accused, the onus probandi rests upon him. Stated otherwise, it is not incumbent upon the prosecution to adduce positive evidence to support a negative averment the truth of which is fairly indicated by established circumstances and which, if untrue, could readily be disproved by the production of documents or other evidence within the defendant's knowledge or control. For example, where a charge is made that a defendant carried on a certain business without a license (as in the case at bar, where the accused is charged with the selling of a regulated drug without authority), the fact that he has a license is a matter which is peculiarly within his knowledge and he must establish that fact or suffer conviction.[20]

In the instant case, the negative averment that ABDUL had no license or authority to possess methamphetamine hydrochloride or shabu, a regulated drug, has been fairly indicated by the following facts proven by the testimonies of the CIDG officers and the forensic chemist: (a) ABDUL was driving the suspected carnapped vehicle when he was caught, and he appeared to be healthy and not indisposed as to require the use of shabu as medicine; (b) the contents of the sachets found in ABDUL's open clutch bag inside the car were prima facie determined by the CIDG officers to be shabu; and (c) the said contents were conclusively found to be shabu by the forensic chemist. With these established facts, the burden of evidence was shifted to ABDUL. He could have easily disproved the damning circumstances by presenting a doctor's prescription for said drug or a copy of his license or authority to possess the regulated drug. Yet, he offered nothing.

And now on the second issue. The Constitution enshrines in its Bill of Rights the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures of whatever nature and for any purpose.[21] To give full protection to it, the Bill of Rights also ordains the exclusionary principle that any evidence obtained in violation of said right is inadmissible for any purpose in any proceeding.[22]

It is obvious from Section 2 of the Bill of Rights that reasonable searches and seizures are not proscribed. If conducted by virtue of a valid search warrant issued in compliance with the guidelines prescribed by the Constitution and reiterated in the Rules of Court, the search and seizure is valid.

The interdiction against warrantless searches and seizures is not absolute. The recognized exceptions established by jurisprudence are (1) search of moving vehicles; (2) seizure in plain view; (3) customs search; (4) waiver or consented search; (5) stop and frisk situation (Terry search); and (6) search incidental to a lawful arrest. The last includes a valid warrantless search and seizure pursuant to an equally valid warrantless arrest, for, while as a rule, an arrest is considered legitimate if effected with a valid warrant of arrest, the Rules of Court recognize permissible warrantless arrests, to wit: (1) arrests in flagrante delicto, (2) arrests effected in hot pursuit, and (3) arrests of escaped prisoners.[23] Another exception is a search made pursuant to routine airport security procedure, which is authorized under Section 9 of R.A. No. 6235.[24]

The warrantless arrest of, or warrantless search and seizure conducted on, ABDUL constitute a valid exemption

from the warrant requirement. The evidence clearly shows that on the basis of an intelligence information that a carnapped vehicle was driven by ABDUL, who was also a suspect of drug pushing, the members of the CIDG of Laguna went around looking for the carnapped car.[25] They spotted the suspected carnapped car, which was indeed driven by ABDUL. While ABDUL was fumbling about in his clutch bag for the registration papers of the car the CIDG agents saw four transparent sachets of shabu.[26] These sachets of shabu were therefore in “plain view” of the law enforcers.

Under the “plain view” doctrine, unlawful objects within 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 in evidence. Nonetheless, the seizure of evidence in plain view must comply with the following requirements: (a) a prior valid intrusion in which the police are legally present in the pursuit of their official duties; (b) the evidence was inadvertently discovered by the police who had the right to be where they are; (c) the evidence must be immediately apparent; and (d) the plain view justified mere seizure of evidence without further search.[27]

We are convinced beyond any shadow of doubt under the circumstances above discussed that all the elements of seizure in plain view exist in the case at bar. Thus, the warrantless search and seizure conducted on ABDUL, as well as his warrantless arrest, did not transgress his constitutional rights.

ABDUL’s sole defense of denial is unsubstantiated. We have time and again ruled that mere denial cannot prevail over the positive testimony of a witness. A mere denial, just like alibi, is a self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters. As between a categorical testimony that rings of truth on one hand, and a bare denial on the other, the former is generally held to prevail.[28]

On the issue of credibility between ABDUL’s testimony and the declarations of the CIDG officers, we hold for the latter. As has been repeatedly held, credence shall be given to the narration of the incident by the prosecution witnesses especially when they are police officers who are presumed to have performed their duties in a regular manner, unless there be evidence to the contrary; moreover in the absence of proof of motive to falsely impute such a serious crime against the accused, the presumption of regularity in the performance of official duty, as well as the findings of the trial court on the credibility of witnesses, shall prevail over accused’s self-serving and uncorroborated claim of having been framed.[29] ABDUL miserably failed to rebut this presumption and to prove any ulterior motive on the part of the prosecution witnesses.

Unauthorized possession of 200 grams or more of shabu or methylamphetamine hydrochloride is punishable by reclusion perpetua to death under Section 16 of Article III, in relation to Section 20 of Article IV, of the Dangerous Drugs Act of 1972 (Republic Act No. 6425), as amended by P.D. Nos. 44, 1675, 1683, and 1707; Batas Pambansa Blg. 179; and R.A. No. 7659 (now further amended by R.A. No. 9165). These sections provide as follows:

SEC.16. Possession or Use of Regulated Drugs. -- The penalty of reclusion perpetua to death and fine ranging from five hundred thousand pesos to ten million pesos shall be imposed upon any person who shall possess or use any regulated drug without the corresponding license or prescription, subject to the provisions of Section 20 hereof....

SEC. 20. Application of Penalties, Confiscation and Forfeiture of the Proceeds or Instruments of the Crime. -- The penalties for offenses under Sections 3, 4, 7, 8 and 9 of Article II and Sections 14, 14-A, 15 and 16 of Article III of this Act shall be applied if the dangerous drugs involved is in any of the following quantities:

...

3. 200 grams or more of shabu or methylamphetamine hydrochloride....

There is no doubt that the charge of illegal possession of shabu in Criminal Case No. 1238 was proved beyond reasonable doubt since ABDUL knowingly carried with him at the time he was caught 226.67 grams of shabu without legal authority. There being no modifying circumstance proven, the proper penalty pursuant to Article 63(2) of the Revised Penal Code is reclusion perpetua. The penalty imposed by the trial court, including the fine, is, therefore, in order.

WHEREFORE, the appealed decision of the Regional Trial Court of San Pedro, Laguna, in Criminal Case No. 1238 convicting appellant ABDUL MACALABA y DIGAYON of the violation of Section 16 of Article III of the Dangerous Drugs Act of 1972 (R.A. No. 6425), as amended, and sentencing him to suffer the penalty of reclusion perpetua and to pay a fine of P500,000 and the costs of the suit, is hereby affirmed in toto.

Costs de officio.

SO ORDERED.

Vitug, Ynares-Santiago, Carpio, and Azcuna, JJ., concur.

[1] Codifying the Laws on Illegal/Unlawful Possession, Manufacture, Dealing in, Acquisition or Disposition of Firearms, Ammunition or Explosives or Instruments Used in the Manufacture of Firearms, Ammunition or Explosives, and Imposing Stiffer Penalties for Certain Violations Thereof and for Relevant Purposes.

[2] Illegal Possession and use of false treasury or bank notes and other instruments of credit.

[3] Original Record (OR), 1.

[4] Id., 2.

[5] Id., 3.

[6] TSN, 24 November 1999, 4-5.

[7] Id., 6-8.

[8] Id., 8, 11; OR, 10.

[9] Id., 9.

[10] TSN, 24 November 1999, 8-10.

[11] 13 January 2000, 2-12.

[12] Exhibit "I," OR, 19.

[13] OR, 9.

[14] TSN, 10 May 2000, 4-6.

[15] TSN, 18 May 2000, 2-4.

[16] Id., 4-6.

[17] Id, 4-9.

[18] TSN, 18 May 2000, 9-11.

[19] Rollo, 60-66. Per Judge Stella Cabuco Andres.

[20] *People v. Manalo*, 230 SCRA 309 [1994], cited in *People v. Fernandez*, G.R. Nos. 143850-53, 18 December 2001.

[21] Section 2, Article III, 1987 Constitution.

[22] Section 3 (2), Article III, 1987 Constitution.

[23] *People v. Chua Ho San*, 308 SCRA 432, 444 [1999]; *People v. Figueroa*, 335 SCRA 249, 263 [2000].

[24] *People v. Johnson*, 348 SCRA 526 [2000].

[25] TSN, 13 January 2000, 3-4.

[26] TSN 24 November 1999, 9; TSN, 13 January 2000, 9.

[27] *People v. Aspiras*, G.R. Nos. 138382-84, 12 February 2002.

[28] *People v. Ugang*, G.R. No. 144036, 7 May 2002.

[29] *People v. Uy*, 327 SCRA 335, 349-350 [2000].

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.