

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOHN PELOTIN AND WILLIAM DOMINGO, DEFENDANTS-APPELLANTS.*G.R. Nos. 66178-79. January 31, 1989*

Ponente: GANCAYCO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-66178-79/>**GANCAYCO, J.:**

The rampant peddling of marijuana and other prohibited drugs in school premises must be a cause for alarm. Thus, the apprehension of those actively trafficking in these instruments of destruction should be relentlessly pursued. The case now before this court is one of such apprehensions. It deserves prior attention.

At about four o'clock in the afternoon of August 9, 1982, Ephraim Englis, an applicant for the Integrated National Police, upon instruction of Sgt. Mamerto Martinez, team leader of the Special Operation Group of the PHQ, conducted a surveillance at the Ramon Magsaysay Memorial Colleges in General Santos City due to reports of use of marijuana by many students. He talked to some students and pretended to be a buyer of marijuana. One of the students pointed to William Domingo as one of those pushing marijuana. He approached Domingo and asked if he had stocks with him for sale. Domingo replied that the price was P20.00 per box or P30.00 if he will buy two boxes. Englis agreed to buy two boxes. As he had no stock with him then, Domingo told Englis to meet him at the corner of Recto-Laurel Streets, General Santos City, at six o'clock in the evening of that day with the money.

At about six oclock in the evening at the agreed place, a tricycle marked as "Pelotin Family" arrived with Domingo as passenger. It stopped in front of Englis. Domingo gave two matchboxes of dried marijuana leaves to Englis who thereafter gave him P30.00. Domingo left immediately. Englis gave a signal to Sgt. Martinez and his companions, who were posted about twenty meters away at Claro M. Recto St. Martinez started their jeep and picked up Englis. Thereafter, they chased the tricycle which proceeded towards the plaza.

They overtook the tricycle. Martinez asked the driver, John Pelotin, where his companion was. Pelotin pointed to Domingo who was five to ten meters away. Englis approached Domingo whom he identified as the person who handed him the two matchboxes of marijuana. They brought Pelotin and Domingo to the PC Barracks for investigation.

During the custodial interrogation, after having been appraised of their constitutional rights, Pelotin and Domingo executed extrajudicial confessions.[1] Domingo admitted that the marijuana which he gave Englis came from a certain person from Bansalan, Davao del Sur, to be disposed of in General Santos City. He likewise stated that he encouraged his friends Jimmy Pelotin, Ronald Gregorio and Nilo Gonzaga to smoke marijuana. Sgt. Martinez showed Domingo the two matchboxes full of dried marijuana leaves which the latter gave to Englis and Domingo identified the same. Thus Martinez issued to Domingo a receipt for the two boxes which reads:

"TO WHOM IT MAY CONCERN:

THIS IS TO CERTIFY that I, Sgt. Mamerto Martinez PC have this date seized two (2) matchboxes filled with dried marijuana from the possession of William Domingo at about 6:00 o'clock in the evening, General Santos City.

Done this 9th day of August, 1982, at General Santos City, Philippines."

(SGD) TSG MAMERTO MARTINEZ PC

Team Leader SOG

CONFORME:

(SGD) WILLIAM DOMINGO

Owner of Marijuana

WITNESSES:

(1) DOMINADOR BENTULAN

(2) (SGD) illegible

MIKE ODI JR."[2]

The two matchboxes of marijuana were then indorsed to the PC Laboratory in Davao City for laboratory examination by Lt. Zenaida S. Sabio, forensic chemist. Thereafter, she submitted Chemistry Report No. D-082-82[3] wherein it appears that after conducting a dangerous drug test she found the leaves confiscated from Domingo to be positive for marijuana.

It was learned in the course of the investigation that at about six o'clock in the evening of August 5, 1982, Domingo and John Pelotin met Jimmy Pelotin, Gregorio and Gonzaga in front of a store in Barrio Obrero. Domingo brought out from his pocket a matchbox containing dried marijuana leaves. Domingo then prepared a marijuana cigarette, lighted it and passed it around. After one stick was consumed, Domingo lighted another stick. Gregorio and Gonzaga stated that after smoking the cigarette, they felt hot and weak. When they asked Domingo what they were smoking, Domingo told them that they were smoking marijuana leaves. Ronald Gregorio and Nilo Gonzaga further admitted that the same incident happened in the same place in the evening of August 8, 1982.

In due course, an information was filed in the Regional Trial Court of South Cotabato and General Santos City charging William Domingo for violation of Section 4 of Republic Act No. 6425, as amended by P.D. No. 44 and Batas Pambansa No. 179, committed as follows:

"That about 6:00 in the evening of August 9, 1982 or sometime prior thereto at corner C.M. Recto-Laurel Streets, General Santos City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, having in his possession and control two matchboxes of shredded dried marijuana leaves, and without being authorized by law, did then and there wilfully, unlawfully and feloniously sell said matchboxes of the prohibited drug to prospective buyers and in the act of selling the same, he was apprehended." (Page 17, Rollo)

In another information that was filed in the same court, William Domingo, John Pelotin, Ronald Gregorio and Nilo Gonzaga were charged with violation of Paragraph 2, Section 8 of Republic Act No. 6425, as amended by P.D. No. 1683 and Batas Pambansa Blg. 179, to wit:

"FIRST COUNT:

"About 9:30 in the evening of August 5, 1982, at Bo. Obrero, General Santos City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by the law, did then and there wilfully, unlawfully and feloniously use Indian hemp by smoking sticks of marijuana cigarettes during their pot session.

"SECOND COUNT:

"About 9:30 in the evening of August 8, 1982 at Bo. Obrero, General Santos City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by the law, did then and there wilfully, unlawfully and feloniously use Indian hemp by smoking sticks of marijuana cigarettes during their pot session." (Page 19, Rollo)

Jimmy Pelotin remained at large, while Ronald Gregorio and Nilo Gonzaga were discharged to be witnesses for the prosecution. The criminal cases proceeded against William Domingo and John Pelotin.

Both cases were jointly tried and after the trial on the merits, a decision was rendered by the trial court on May 12, 1983, the dispositive part of which reads as follows:

"ACCORDINGLY, finding:

1. JOHN PELOTIN AND WILLIAM DOMINGO guilty of VIOLATION OF PARAGRAPH 2, SECTION 8, of REPUBLIC ACT NO. 6425, as AMENDED BY PRESIDENTIAL DECREE NO. 1683 and BATAS PAMBANSA BILANG 179 in CRIMINAL CASE NO. 2718, they are hereby sentenced to an indeterminate penalty of FOUR (4) YEARS of PRISION CORRECCIONAL in its medium period as the MINIMUM to EIGHT (8) YEARS and ONE (1) DAY OF PRISION MAYOR in its medium period as the MAXIMUM, to pay a fine of P3,000.000, without subsidiary imprisonment in case of insolvency, and to pay the costs. Credited in their favor is the full period during which they were undergoing preventive imprisonment in the City Jail during the pendency of this case.

2. WILLIAM DOMINGO guilty of VIOLATION OF SECTION 4 OF REPUBLIC ACT NO. 6425, as AMENDED BY PRESIDENTIAL DECREE NOS. 44 and 1683 in CRIMINAL CASE NO. 2716, he is hereby sentenced to RECLUSION PERPETUA, to pay a fine of P20,000.00, without subsidiary imprisonment in case of insolvency, and to pay the costs.

SO ORDERED."[4]

Thus, this appeal brought by the accused. In their brief, the appellants assigned the following errors allegedly committed by the court a quo, to wit-

ASSIGNMENT OF ERRORS:

IN CRIMINAL CASE NO. 2716:

I

THE LOWER COURT ERRED IN HOLDING THAT THE TWO MATCHBOXES WERE SEIZED FROM WILLIAM DOMINGO.

II

THE LOWER COURT ERRED IN HOLDING THAT THE TWO MATCHBOXES CONTAINED MARIJUANA LEAVES.

III

THE LOWER COURT ERRED IN HOLDING THAT THE TWO MATCHBOXES GIVEN BY EPHRAIM ENGLIS TO SGT. MARTINEZ WERE THE SAME MATCH BOXES GIVEN TO LT. ZENAIDA SABIOS, THE CHEMIST, FOR FORENSIC ANALYSIS, HENCE, THE LOWER COURT ERRED IN CONVICTING THE ACCUSED.

IN CRIMINAL CASE NO. 2718:**IV**

THE LOWER COURT ERRED IN NOT HOLDING THAT THE PROSECUTION FAILED TO PROVE THE CORPUS DELICTI.

V

THE LOWER COURT ERRED IN FINDING THE ACCUSED GUILTY OF SMOKING MARIJUANA LEAVES ON AUGUST 5 & 8, 1982. (Pages 3-4 Appellants' brief)

The appeal is devoid of merit.

Under the first assigned error appellant Domingo contends that the records show that two matchboxes containing marijuana leaves were taken by Sgt. Martinez from Ephraim Englis inside the P.C. Headquarters in Dadiangas, General Santos City on the night of August 9, 1982 and not from the appellant Domingo. What the records in fact show is that it was the appellant who delivered the two matchboxes to Englis in consideration of which he was duly paid by Englis. The contraband was turned over by Englis to Martinez. Thus the receipt issued to appellant Domingo by Martinez for said matchboxes.

Under the second and third assigned errors, appellant Domingo argues that there is no showing that the match boxes that were submitted for examination at the P.C. laboratory are the very same ones taken from him.

After a receipt was issued to the appellant by Sgt. Martinez for the two matchboxes of marijuana, the same were placed in a cellophane bag properly marked with the name of William Domingo. On August 9, 1982, it was indorsed by Lt. Col. Warieto A. Capitan, PC (GSC), Provincial Commander of South Cotabato and General Santos City to the PC laboratory in Davao City for examination.[5] It was received by the duty detail man in the PC laboratory. Thereafter, Lt. Sabio conducted three examinations - physical, chemical and TLC. The examinations showed that the leaves were positive for marijuana. From the circumstances, it appears that safeguards were adopted to ensure that the two matchboxes with contents taken from appellant Domingo were the same ones turned over to the PC laboratory for examination.

Appellant Domingo capitalizes on the fact that while in the information it is alleged that he was caught in possession of "shredded dried marijuana leaves" in the Chemistry Report No. D-082-82 of Lt. Sabio she described what was submitted for examination "crushed dried leaves" of marijuana. The said descriptions mean one and the same thing, and as the Solicitor General correctly pointed out, the denomination is just a play of words.

Both appellants contend that the confession of witnesses Nilo Gonzaga and Ronald Gregorio are only admissible against them (Gonzaga and Gregorio) and not against their co-accused. The argument is without merit. Gonzaga and Gregorio testified in court so that certainly their statements are direct evidence against the appellants where the latter were given the opportunity to cross-examine the said witnesses.[6]

Appellants then point out that there is no proof of the corpus delicti. Is there any better proof than the admission of appellants that they smoked marijuana leaves?[7] Indeed Ronald Gregorio categorically testified that after appellants smoked marijuana they felt warm and weak. This disposes of the other assigned errors.

WHEREFORE, the decision appealed from is hereby **AFFIRMED** in toto with costs against appellants.

Narvasa, (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] Exhibits E, E-1 and A.

[2] Exhibit A; Tsn, September 20, 1982, pages 33 and 34.

[3] Exhibit C.

[4] Pages 51 and 52, Rollo.

[5] Exhibit B; pp. 36-37, tsn, September 30, 1982.

[6] People vs. Atencio, 22 SCRA 88, 97-98; People vs. Nierra, 96 SCRA 1, 10, citing People vs. Serrano, 105 Phil., 531, 641.

[7] Tsn, September 27, 1982, pages, 85 and 102.

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