

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSEPH ESPALLARDO Y REYES, AND ALFONSO BANGATE Y AREVALO, ACCUSED. JOSEPH ESPALLARDO Y REYES, ACCUSED-APPELLANT.

G.R. Nos. 88368-69. June 19, 1991

Ponente: GRIÑO-AQUINO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-88368-69/>

GRIÑO-AQUINO, J.:

This is an appeal of Joseph Espallardo y Reyes from the decision of the Regional Trial Court, Branch 109, Pasay City, in Criminal Case No. 85-8972-P, finding him guilty of selling prohibited drugs in violation of Section 4, Republic Act No. 6425, as amended, otherwise known as the Dangerous Drugs Act, and sentencing him to suffer the penalty of reclusion perpetua, to pay a fine of Twenty Thousand Pesos (P20,000.00), with the accessory penalties provided by law and to pay the costs.

The case was tried jointly with Criminal Case No. 85-8973-P, entitled "People of the Philippines vs. Alfonso Bangate y Arevalo," for possession of prohibited drugs (violation of Section 8 of R.A. 6425, as amended) but the accused Bangate, after being arraigned, jumped bail. He was tried in absentia and sentenced to suffer the penalty of imprisonment for six (6) years and one (1) day and to pay a fine of Six Thousand Pesos (P6,000.00).

On November 16, 1985, at around 12:30 P.M., several Pasay City policemen of the Anti-Narcotics Unit, namely: Cpl. Angelito Lacap, Patrolmen Marcos Butay, Serenio Aure, Carlos Ogalinola and Wilfredo Jerios were on routine patrol in the vicinity of the Pasay Public Market when they noticed the appellant, Joseph Espallardo, and four (4) other persons sniffing something from a cellophane bag at Primero de Mayo Street near the public market. When the policemen approached the group, the latter scampered in different directions, except the appellant Espallardo who was not fleet-footed enough to avoid being caught after a brief chase.

A routine check of his person by Cpl. Lacap yielded fifteen (15) sticks of handrolled marijuana cigarettes in his right pants pocket.

On the way to the police station, the appellant pointed to Alfonso Bangate who was vending vegetables on the sidewalk at the corner of Taft Avenue and Primero de Mayo Streets, as one of his customers for marijuana sticks. The policemen accosted Bangate and asked him if they may search him. He submitted to the search made by Cpl. Lacap, who found two sticks of marijuana cigarettes inside his wallet.

At the police station, Espallardo was asked to write his name on the fifteen (15) marijuana sticks confiscated from him. Cpl. Lacap countersigned them.

The two sticks of marijuana which were confiscated from Bangate were similarly signed by him and Cpl. Lacap.

All the seventeen (17) sticks of marijuana cigarettes were immediately submitted to the National Bureau of Investigation for examination and testing and they were found positive for marijuana by Forensic Chemist Aida Vilorio Magsipoc.

On November 18, 1985, the following information was filed by Assistant Fiscal Manuel Garcia charging Espallardo with selling marijuana cigarettes:

"That on or about the 16th day of November, 1985, in Pasay City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, JOSEPH ESPALLARDO Y REYES, without authority of law, did then and there wilfully and feloniously sell, give away to another, deliver, distribute or act as a broker in the sale transaction of marijuana cigarette, a prohibited drug." (p. 1, Rollo.)

Another information was filed on the same day against Alfonso Bangate y Arevalo for possession of marijuana cigarettes as follows:

"That on or about the 16th day of November 1985, in Pasay City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, ALFONSO BANGATE Y AREVALO, without having been authorized by law, did then and there wilfully, unlawfully and feloniously have in his possession, custody and control two (2) sticks of marijuana cigarette, a prohibited drug." (p. 7, Rollo.)

Upon arraignment, both accused, with the assistance of their respective counsel pleaded not guilty.

The evidence for the prosecution consisted of the testimonies of the following witnesses:

1. Aida Vilorio Magsipoc, Senior Forensic Chemist of the National Bureau of Investigation, affirmed that after a microscopic and chemical examination of all the sticks of suspected marijuana cigarettes brought to her by Pat. Serino Aure of the Pasay City Police Station, with a letter-request dated November 16, 1985, she found them all to be positive for the presence of marijuana;
2. Pat. Marcos Butay testified that on November 16, 1985, he was on patrol with Cpl. Angelito Lacap, Pfc. Carlos Ogalinola, Pat. Serino Aure and Pfc. Wilfredo Jerios, in the vicinity of the Pasay City Public Market, when they chanced upon Joseph Espallardo sniffing rugby; that Espallardo tried to flee upon seeing the policemen, but the policemen gave chase until they caught him at Primero de Mayo Street: and that Espallardo pointed to Alfonso Bangate as one of his customers who had just purchased from him two sticks of marijuana cigarettes at P5.00 per stick; and
3. Cpl. Lacap, Pfc. Carlos Ogalinola, Pat. Serino Aure and Pfc. Wilfredo Jerios corroborated Pat. Butay.

In his defense, Espallardo alleged that he was playing billiards on November 16, 1985 at Interior P. Villanueva Street, Pasay City at 12:00 o'clock noon when five (5) police officers approached him and told him to go with them to the police station. He did not know what wrong he had done. Alfonso Bangate had been introduced to him by a cousin in 1984, but he has not seen him since then. At the police headquarters, his statement was taken, and he was forced to admit ownership of the marijuana cigarettes which he saw there for the first time. He denied selling any marijuana cigarettes. He denied that the fifteen (15) marijuana cigarettes had been confiscated from him. He denied that Bangate bought marijuana cigarettes from him.

Espallardo was identified in open court by the police witnesses as the person whom they caught sniffing rugby and in whose possession they found fifteen (15) sticks of marijuana cigarettes. Bangate, who jumped bail after arraignment, was identified by the police officers thru his photographs in his personal bail bond.

After the trial, judgment was rendered by the trial court as follows:

"In view of all the foregoing, the Court finds accused Joseph Espallardo y Reyes guilty beyond reasonable doubt as charged in Criminal Case No. 85-8972-P for Violation of Section 4, Republic Act 6425 as amended and hereby sentences him to Life Imprisonment and to pay a fine of Twenty Thousand (P20,000.00) Pesos with all the accessory penalty (sic) provided for by law and to pay the cost.

"Likewise, the Court finds accused Alfonso Bangate y Arevalo guilty beyond reasonable doubt as charged in Criminal Case No. 85-8973-P for Violation of Section 8, Republic Act 6425 as amended and hereby sentences him to suffer an imprisonment of Six (6) Years, One (1) Day and to pay a fine of Six Thousand (P6,000.00) Pesos.

"The seventeen (17) sticks of marijuana cigarette (sic) are hereby ordered forfeited in favor of the government and the Officer-In-Charge of this Court is hereby ordered to transmit the same to the Dangerous Drugs Board thru the National Bureau of Investigation for proper disposition." (pp. 38-39, Rollo.)

Only Espallardo appealed to this Court. He alleges that the trial court erred:

1. in giving credence to the lackadaisical testimonies of the witnesses for the prosecution, without due regard to his own straightforward declarations; and
2. in concluding that he was not entitled to the basic rights provided for by the procedural and substantive laws.

The appeal has no merit. The trial court's findings on the credibility of the prosecution witnesses deserve full respect (*Vda. de Portugal vs. IAC*, 159 SCRA 178). Thus, said the court:

"After a careful perusal of all the evidences on record, this Court gives credence to the evidence of the prosecution as against the uncorroborated evidence for the defense. The Court gives great weight to the testimonies of the police witnesses there being nothing on record to show that the said police witnesses has (sic) any ill motive in testifying against both accused. On the contrary, the police officers has (sic) in their favor the presumption of regularity of the performance of their public functions. As against the unsubstantiated denial of accused Joseph Espallardo, the Court considered the testimonies of the peace officers more convincing and credible.

"Pursuant to the rulings laid down by the Supreme Court in *People versus Roberto Toledo* (SCRA 140 page 259) 'possession of considerable quantity of marijuana leaves and seeds coupled with the fact that accused is not a user of prohibited drugs indicates an intention of the accused to sell, distribute and deliver marijuana.' In this particular case, accused Joseph Espallardo was caught in flagrante delicto in possession of fifteen (15) sticks of handrolled marijuana and verbally admitted to the police officers having just sold two (2) sticks of marijuana to accused Alfonso Bangate on whose person was also found two (2) sticks of handrolled marijuana when arrested at the corner of Taft Avenue when pointed to by accused Espallardo." (pp. 37-38, Rollo.)

Appellant adverts to the alleged inconsistency between the testimony of Pat. Butay who implied that he alone accosted appellant, and that of Pat. Serenio Aure who stated that he and Pat. Butay together arrested the appellant. Appellant also invites the court's attention to Pat. Aure's testimony that four to seven persons were sniffing rugby, while Pat. Jerios, on the other hand, testified that appellant was alone when they chased him.

The alleged contradictions among the police witnesses are imaginary. The supposed inconsistencies can be reconciled and do not alter the fact that the five policemen found fifteen (15) sticks of marijuana in the possession of Espallardo when they apprehended him. His possession of a substantial quantity of marijuana cigarettes plus Bangate's disclosure that he purchased his two sticks of marijuana cigarettes from Espallardo, confirmed the charge that the latter was engaged in the nefarious trade of selling marijuana cigarettes.

While the appellant capitalizes Pat. Jerios' error in testifying that Alfonso Bangate was the source of Espallardo's marijuana, that error was rectified by the witness in his re-direct examination when he clarified that the marijuana sticks were "bought from Joseph Espallardo" (p. 5, tsn, February 23, 1987).

Appellant's assertion that the testimony of the forensic chemist was insufficient to convict him was answered by the Solicitor General in his brief for the People as follows:

"This claim is without basis. The forensic chemist's testimony shows that she is a graduate B.S. Chemistry in PWU in 1971 and thereafter took up Master of Science in U.P. where she graduated in 1973. She also passed the board examination for chemists in 1972. She taught at the PWU and thereafter joined NBI in May 1973 up to the time she testified in January 17, 1986. Her duties as chemist at the NBI were: 'do laboratory examination on the specimen submitted to us by the police authorities and some private persons which submit specimen for examination' and she conducted more than one thousand cases of examination (p. 2, tsn, Jan. 17, 1986). These undisputed evidence qualifies her as an expert witness as regards the fifteen (15) sticks confiscated being positive for marijuana upon her examination in the laboratory." (p. 93, Rollo.)

The testimonies of the five law enforcement officers who arrested appellant, the NBI forensic chemist who made the laboratory tests on the marijuana specimens, and the other accused Bangate, were sufficient for the conviction of the appellant. Being law enforcers, the police officers are "presumed to have regularly performed their duty in the absence of proof to the contrary" (People vs. Khan. 161 SCRA 406).

There is no merit in the appellant's contention that the search of his person conducted by the policemen was illegal because he had not yet been charged with a violation of P.D. No. 1619 (illegal possession of volatile substance) hence, the marijuana confiscated from him was inadmissible as evidence.

The marijuana sticks were seized from him after his arrest for possession of rugby (a volatile substance whose use or possession for the purpose of inhalation to induce intoxication is punishable under Section 2 of P.D. No. 1619), hence, they may be used as evidence against him. In People vs. Salondro, Jr., 170 SCRA 763, we ruled that evidence taken from the accused as an incident to his arrest, may be presented against him in court.

WHEREFORE, the conviction of the accused, Joseph Espallardo y Reyes, is affirmed and he is sentenced to suffer the penalty of life imprisonment and to pay a fine of P20,000 with the accessory penalties provided by law and to pay the costs (Sec. 4, R.A. 6425, as amended).

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Medialdea, JJ., concur.

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.