

## SECOND DIVISION

[ G.R. No. 252902, June 16, 2021 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SPO1  
ALEXANDER ESTABILLO Y PALARA, ACCUSED-APPELLANT.**

### D E C I S I O N

**LAZARO-JAVIER, J.:**

#### **The Case**

This appeal assails the following dispositions of the Court of Appeals in CA-G.R. CR-HC No. 08244 entitled *People of the Philippines v. SPO1 Alexander Estabillo y Palara*:

1. Decision<sup>[1]</sup> dated April 26, 2019 affirming the conviction of SPO1 Alexander Estabillo y Palara for violation of Sections 5 and 11 of Republic Act No. (RA) 9165; and
2. Resolution<sup>[2]</sup> dated October 9, 2019 denying reconsideration.

#### **Antecedents**

Under two (2) separate Informations dated July 13, 2010, appellant was charged with violation of Sections 5 and 11, RA 9165,<sup>[3]</sup> thus:<sup>[4]</sup>

#### **Criminal Case No. 17172-D-PSG**

That on or about June 14, 2010, at Barangay Ugong, Pasig City and within the jurisdiction of this Honorable Court, the above-named accused, without having been authorized by law, did then and there willfully, unlawfully, knowingly and feloniously have in his possession, custody, and control the following: two (2) bricks sealed with packaging tape, each weighing more or less 1078.89 grams and 1041.57 grams of cocaine, a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.

#### **Criminal Case No. 17173-D-PSG**

That on or about June 14, 2010, at Barangay Ugong, Pasig City and within the jurisdiction of this Honorable Court, the above-named accused, without having been authorized by law, did then and there willfully, unlawfully, knowingly and feloniously sell, trade, deliver, give away to another and distribute to SPO1 Leonardo G. Taldo, of the Philippine National Police-Anti-Illegal Drugs Special Operations Task Force (PNP-AIDSOTF), who acted as poseur buyer, two (2) bricks sealed with

packaging tape, each weighing more or less 1046.22 grams and 1065.75 grams of cocaine, a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.

On arraignment, appellant pleaded *not guilty* to both charges.<sup>[5]</sup> Trial ensued.

During the trial, forensic chemist PSI Mark Alain B. Ballesteros (PSI Ballesteros), SPO2 Leonardo Taldo (SPO2 Taldo),<sup>[6]</sup> PO3 Lawrence Perida (PO3 Perida), SPO3 Miguel Ngo (SPO3 Ngo), and SPO3 Glenn Marlon Caluag (SPO3 Caluag)<sup>[7]</sup> testified for the prosecution. Meanwhile, appellant, his daughter Carla Mendoza (Carla), and Dennis Perillo (Perillo) of GMA 7 News and Current Affairs testified for the defense.<sup>[8]</sup>

### **Version of the Prosecution**

On June 13, 2010, P/SSupt. Eduardo P. Acierto (P/SSupt. Acierto) received a report from a confidential informant regarding the drug activities of a certain "Alex", a member of the Philippine National Police (PNP) assigned at the Ninoy Aquino International Airport. According to the confidential informant, "Alex" operated in Makati City and had in his possession a huge amount of cocaine. Acting on the information, P/SSupt. Acierto instructed Police Superintendent Ismael G. Fajardo, Jr. (P/Supt. Fajardo) to conduct a buy-bust operation against "Alex". Thus, P/Supt. Fajardo designated Police Inspector Jay James Nepomuceno as the team leader, SPO2 Taldo as the poseur-buyer, and SPO3 Ngo and PO3 Perida as the arresting officers. Meanwhile, the confidential informant arranged a test buy with "Alex" for the following day.<sup>[9]</sup>

On June 14, 2010, around 8:20 in the evening, the buy bust team, together with the confidential informant arrived at A Venue along Makati Avenue, Makati City. There, the confidential informant introduced SPO2 Taldo to "Alex", later identified as appellant Estabillo. Appellant informed SPO2 Taldo that the price of cocaine was P1,500,000.00 per kilo. SPO2 Taldo ordered four (4) kilos of cocaine and asked for a sample. Appellant gave SPO2 Taldo a gram of suspected cocaine, for which the latter paid P1,500.00. Before they separated, they agreed that appellant would contact the confidential informant once the four (4) kilos of cocaine becomes available.<sup>[10]</sup>

SPO2 Taldo brought the sample to the PNP Crime Laboratory for examination which yielded positive for cocaine.<sup>[11]</sup>

On June 15, 2010, around 10:30 in the morning, SPO2 Taldo received news from the confidential informant that the four (4) kilos of cocaine he ordered from appellant was already available. Too, SPO2 Taldo was to pay appellant P6,000,000.00 at Mercury Drugstore, Las Fiestas Drive, Frontera Verde, Barangay Ugong, Pasig City at 11 o'clock that evening. Thus, the buy bust team prepared for the operation.<sup>[12]</sup>

Around 6 o'clock in the evening, P/Supt. Fajardo presided over a final briefing at the PNP-AIDSOTF. He gave SPO2 Taldo six (6) P500.00 bills dusted with ultraviolet powder. The bills were placed on top of 60 bundles of boodle money inside a striped red paper bag. The buy bust team agreed that SPO2 Taldo would dial SPO3 Ngo's

mobile number once the transaction had been consummated. They also coordinated with the Philippine Drug Enforcement Agency (PDEA) after the final briefing.<sup>[13]</sup>

Around 9 o'clock in the evening, the team proceeded to the area of operation. About two (2) hours later, appellant arrived on board a white and silver Mitsubishi Strada with plate number XDH 474. Appellant stopped in front of SPO2 Taldo and told the latter to board the front passenger seat of his car.<sup>[14]</sup>

Inside the vehicle, appellant handed to SPO2 Taldo a maroon-brown shoebox labeled Otto containing two (2) bricks of suspected cocaine. In exchange, SPO2 Taldo handed appellant the boodle money. Before appellant could start counting its contents, SPO2 Taldo dialed SPO3 Ngo's number.<sup>[15]</sup>

The other members of the team rushed to the vehicle and arrested appellant. PO3 Perida recovered the boodle money from appellant while SPO2 Taldo proceeded to mark the two (2) bricks of suspected cocaine in the Otto shoebox with LPP 06152315 2010 and LPP1 06152315 2010 together with his signature.<sup>[16]</sup> Upon further search of the vehicle, PO3 Perida recovered a yellow Mario D'Boro box containing two (2) more bricks of suspected cocaine from behind the driver seat which he marked LPP2 06152315 2010 and LPP3 06152315 2010 with his signature.<sup>[17]</sup> The seized items were then placed in front of the vehicle for the witnesses to see.<sup>[18]</sup>

The marking was done in the presence of Barangay Kagawad Felix Santos (Kagawad Santos) and two (2) representatives from the media, Erika Tapalla (Tapalla) from ABC 5 and Perillo from GMA 7. An inventory of the seized items was then prepared in the presence of appellant and the witnesses. Photographs were taken during the marking and inventory. No prosecutor from the Department of Justice (DOJ) was available to witness the inventory that night.<sup>[19]</sup>

On June 16, 2010, around 10'clock in the morning, after the marking and inventory, SPO2 Taldo and PO3 Perida turned over the seized items to the investigator SPO3 Caluag. Upon concluding his investigation in half an hour, SPO3 Caluag turned over the two (2) boxes containing two (2) bricks each of suspected cocaine to PCI Paul Ed C. Ortiz (PCI Ortiz)<sup>[20]</sup> of the PNP Crime Laboratory. All these happened at the place of arrest. Subsequently, at 2:55 in the morning, PCI Ortiz turned over the suspected cocaine to PSI Ballesteros of the PNP Crime Laboratory for testing. Per Chemistry Report No. D-43-10, all four (4) bricks tested positive for cocaine.<sup>[21]</sup>

## **Version of the Defense**

Appellant denied the charges.<sup>[22]</sup>

On June 15, 2010, around 8 o'clock in the evening, he was with his daughter Carla at SM Marikina. While they were about to leave the parking area, he noticed three (3) manned vehicles parked near his car but didn't think much of it. When they got out of the parking area, however, the three (3) vehicles he saw earlier started following them. Worried, he dropped off his daughter at the corner of Ligaya and Marcos Highway and proceeded to Ortigas.<sup>[23]</sup>

The three (3) vehicles continued following him, thus, he decided not to pass through the flyover and go to the well-lighted area of Tiendesitas instead. Suddenly, one of the vehicles cut his path and blocked his way. The passengers of the three (3) vehicles alighted, poked their guns at him, and dragged him on board a grey Mitsubishi Lancer. From inside, he saw that some of those who were following him had opened his vehicle and were searching it. He also noticed that other personalities arrived at the scene, including some members of the media. After some time, he was dragged out of the Mitsubishi Lancer and brought in front of his vehicle where he saw various items placed on top of the hood. He denied ownership of said items.<sup>[24]</sup>

### **Ruling of the Trial Court**

By Decision<sup>[25]</sup> dated December 7, 2015, the Regional Trial Court, Branch 151, Pasig City rendered a verdict of conviction, thus:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. Re: Criminal Case No. 17173-D. this Court finds the accused, **ALEXANDER ESTABILLO y PALARA, GUILTY** beyond reasonable doubt of the crime of violation of Section 5, Article II of Republic Act No. 9165, and accordingly, hereby sentences him to suffer the penalty of **LIFE IMPRISONMENT** and pay a **fine in the amount of Ten Million pesos (P10,000,000.00)**.

2. Re: Criminal Case No. 17172-D, this Court finds the accused, **ALEXANDER ESTABILLO y PALARA, GUILTY** beyond reasonable doubt of the crime of violation of Section 11, Article II of Republic Act No. 9165, and accordingly, hereby sentences him to suffer the penalty of **LIFE IMPRISONMENT** and pay a **fine in the amount of Ten Million pesos (P10,000,000.00)**.

The Officer-In-Charge/Branch Clerk of Court is ordered to transfer the possession and custody of the dangerous drugs subject of these cases to the Philippine Drug Enforcement Agency for its disposal in accordance with law.

**SO ORDERED.**

It held that the elements of illegal sale of dangerous drugs were all present, considering that appellant was arrested following a buy bust operation. Too, the arresting officers recovered two (2) bricks of cocaine at the back of appellant's driver seat following his lawful arrest. Thus, appellant was also convicted of illegal possession of dangerous drugs. The trial court further held that the prosecution sufficiently established all four links in the chain of custody.<sup>[26]</sup>

The trial court denied reconsideration on February 4, 2016.<sup>[27]</sup>

### **Proceedings Before the Court of Appeals**

On appeal,<sup>[28]</sup> appellant faulted the trial court for rendering a verdict of conviction. He argued:

**First.** He was illegally arrested. The arresting officers did not have probable cause to arrest him since at that time, they were still unaware of whether the bricks inside the Otto shoebox truly contained cocaine. None of the arresting officers had personal knowledge of the actual contents of the shoebox.<sup>[29]</sup>

**Second.** The arresting officers did not have reason to arrest appellant other than SPO2 Taldo's call to SPO3 Ngo. Said call was insufficient to establish probable cause for his warrantless arrest.<sup>[30]</sup>

**Third.** The prosecution failed to show that he dusted positive for ultraviolet powder after he allegedly took possession of the buy bust money.<sup>[31]</sup>

**Fourth.** GMA 7 reporter Perillo denied seeing any actual cocaine during his coverage of the incident.<sup>[32]</sup>

**Fifth.** There was no DOJ representative present during the inventory and photograph.<sup>[33]</sup>

**Sixth.** There is doubt on whether items examined by PSI Ballesteros were the same items seized from appellant. For records show that there were two (2) requests for laboratory examination made concerning the same items allegedly seized from him. On the one hand, PSI Ballesteros testified that PCI Ortiz delivered the seized items to him. On the other hand, one of the requests for laboratory examination stated that the seized items were delivered by SPO3 Caluag.<sup>[34]</sup>

**Seventh.** The prosecution failed to adduce documentary proof of compliance with Section 21 of RA 9165. At any rate, PCI Ortiz did not testify during the trial, breaking the link between the investigator and the forensic chemist.<sup>[35]</sup>

**Finally.** the trial court did not perform an ocular inspection of the seized items within 72 hours as required under Section 21 of RA 9165.<sup>[36]</sup>

The Office of the Solicitor General (OSG), on the other hand, defended the verdict of conviction.<sup>[37]</sup> It maintained that all the elements of illegal sale and possession of dangerous drugs were present.<sup>[38]</sup> It also refuted appellant's arguments, thus:

**First.** The arresting officers had every right to believe the four (4) bricks recovered from appellant contained cocaine, considering that they earlier performed a test buy which yielded positive results. More, there was already a meeting between the minds of appellant and SPO2 Taldo concerning the sale of four 4 kilos of cocaine; the arresting officers did not have reason to doubt that appellant would not uphold his end of the bargain. At any rate, an on the spot laboratory examination of the drug items is ludicrous and unrealistic.<sup>[39]</sup>

**Second.** The call to SPO3 Ngo was the buy bust team's pre-determined signal for