

FIRST DIVISION

[G.R. No. 198701, December 10, 2012]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
JAYSON CURILLAN HAMBORA, ACCUSED-APPELLANT.**

R E S O L U T I O N

REYES, J.:

This is an appeal filed by Jayson C. Hambora (Hambora) from the Decision^[1] dated July 29, 2011 of the Court of Appeals (CA) in CA-G.R. CR- HC No. 00756-MIN. The CA affirmed the Decision^[2] dated October 1, 2009 of the Regional Trial Court (RTC) of Butuan City, Branch 4, finding him guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. 9165.^[3]

The accusatory portion of the Information reads as follows:

That on or about 12:05 o'clock in the afternoon of February 13, 2004 at Montilla Street, Butuan City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully and feloniously sell, deliver to a poseur-buyer for a consideration of FOUR HUNDRED ([P]400.00) PESOS, Philippine Currency, one (1) sachet of methamphetamine hydrochloride, otherwise known as shabu, weighing a total of zero point zero seven four three (0.0743) grams (sic), which is a dangerous drug.

CONTRARY TO LAW: (Violation of Sec. 5, Art. II of R.A. No. 9165)^[4]

When arraigned, he entered a plea of "not guilty." After pre-trial, trial on the merits ensued.

The facts, according to the prosecution are, as follows:

That on February 13, 2004, at about 12:05 noon, a group of police officers of the Criminal Investigation and Detection Group (CIDG) of the PNP were at Montilla St., Butuan City, to conduct [a] buy-bust operation.

The designated place of operation was reportedly a lair of persons engaged in illegal drug trade. This information was gathered by a discreet surveillance conducted by the (CIDG) PNP.

Prior to the buy-bust, a police surveillance was conducted to determine and verify whether rampant illegal drug trade was conducted in the area.

When (sic) the police were convinced that [the] information was accurate, hence, the buy-bust operation.

The police team was divided into two (2) groups, Team A was composed of Police Officers Palabrica, Yaoyao and a confidential asset, while Team B, composed by (sic) PO1 Jessie Rama, Lasco and Salubre.

In the buy-bust operation, to act as poseur-buyer was Policeman Andrew Lasco who will use a buy-bust money of four hundred pesos ([P]400.00) in one hundred peso denomination[s]. (Exh. "A" to "A-4")

That, when both teams arrived at the designated place at Montilla Blvd., in front of a store identified as Francing Store, members of each team positioned themselves at their assigned places, while poseur-buyer (Lasco) posted himself at the side of the store, pretending to be a customer of illegal drugs.

After a while, somebody approached Lasco which turns (sic) out to be the accused, who asked (Lasco) whether he wants (sic) to buy a shabu.

With an affirmative answer and after a meeting of the minds, accused gave a sachet of shabu to Lasco in exchange of Four Hundred Pesos ([P]400.00).

Upon consummation of the sale Lasco identified himself as a police officer, [then] arrested accused. His two (2) other companions, Police Officers Rama and Salubre, upon hearing the utterance of Lasco, saying he was a police officer, assisted Lasco.

After informing accused why he was arrested, accused was brought to the CIDG Office for further investigation. Furthermore, accused was physically searched and found were the marked monies.

The seized sachet of shabu was marked with the initials JAR, which stands for Jessie, Andrew and Raul.

Eventually, the sachet of shabu was submitted for laboratory examination at the PNP Crime Laboratory and was examined by PSI Cramwell Banogon, the Forensic Chemical Officer, who submitted a Laboratory Report No. D-026-04 (Exh. "F") confirming that the submitted specimen is a prohibited drug.^[5]

On the other hand, the version of the defense states, as follows:

[O]n February 13, 2004, at 12:00 o'clock noon, he was at his residence at Purok 9, Langihan Road, Butuan City.

That after eating, he went to Montilla St., to run an errand of a Merlinda to collect a debt.

That this Merlinda is engaged in a small-time lending business.

That he was to see a certain Gigi. He was unable to collect at that time and was told [to] come back sometime. While going home, he was arrested by a certain Police Officer Lasco, and was told that he was selling prohibited drug. After the arrest, he was subjected to a physical search and nothing was found on him.

That he requested of (sic) the presence of barangay officials during the search but his pleas went unheeded.

That the police proceeded with the search and after he was boarded on a motorcycle and brought to the CIDG office.

That he was interrogated of the matter of selling prohibited drugs in the area, and was specifically asked if he knows anybody selling illegal drugs. He answered that he has NO information about the matter.

Eventually, he was charged of this case. That he vehemently denied selling prohibited drugs.

Upon cross-examination, he admitted it was the first time that Merlinda asked him to collect a debt and he does not know the full name of the person [to] whom the debt is due.^[6]

On October 1, 2009, the RTC rendered a Decision^[7] convicting Hambora for illegal sale of *shabu* pursuant to Section 5, Article II of R.A. 9165 as it gave full credence to the testimonies of the police officers who conducted the buy-bust operation vis-à-vis Hambora's denial of the charge against him. The RTC decreed in this wise:

WHEREFORE, premises considered, accused **JAYSON CURILLAN HAMBORA** is hereby found guilty beyond reasonable doubt of the crime of Violation of Section 5, Article II of Republic Act 9165, Otherwise Known as the Comprehensive Dangerous Drugs Act of 2002 and is hereby sentenced to suffer the penalty of Life Imprisonment and to pay a fine of Five Hundred Thousand Pesos ([P]500,000.00), without subsidiary imprisonment in case of insolvency.

Accused shall serve his sentence at the Davao Prison and Penal Farm at Braulio E. Dujali, Davao del Norte and shall be credited in the service thereof with his preventive imprisonment conformably with Art. 29 of the Revised Penal Code, as amended.

The one (1) sachet of shabu marked JAR-1 (Exh. "G" and "G-1") is hereby ordered confiscated in favor of the government to be dealt with in accordance with law.

SO ORDERED.^[8]