

THIRD DIVISION

[G.R. No. 185211, June 06, 2011]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ARNEL BENTACAN
NAVARRETE, APPELLANT.**

D E C I S I O N

CARPIO MORALES, J.:

Arnel Bentacan Navarette (appellant) assails the April 22, 2008 Decision^[1] of the Court of Appeals (Cebu City) in CA-G.R. CR-M.C. No. 00484 which affirmed that of Branch 58 of the Regional Trial Court (RTC) of Cebu City convicting him of violating Section 5, Article II of Republic Act (R.A.) No. 9165 (the *Comprehensive Dangerous Drugs Act of 2002*) -selling 0.05 grain of *shabu*.

The inculpatory portion of the March 14, 2005 Information indicting appellant reads:

That on or about the 12th day of March 2005, at about 4:15 o'clock in the afternoon, in the City of Cebu, Philippines and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, and without authority of law, did then and there sell deliver or give away to poseur buyer one (1) heal sealed transparent plastic pocket of white crystalline substance weighing 0.05 gram, locally known as *shabu*, containing methyl amphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.^[2]

Based on the documentary and testimonial evidence for the prosecution consisting of the testimonies of Police Chief Inspector Mutchit Salinas (Inspector Salinas),^[3] Forensic Chemist of the Philippine National Police (PNP) Crime Laboratory in Cebu City, SPO1 Willard Selibio (SPO1 Selibio),^[4] Elmer Abelgas (SPO1 Abelgas)^[5] and PO2 Rene Labiaga (PO2 Labiaga),^[6] all members of the PNP assigned at Police Station 6T Cebu City, the following version is established:

After conducting a quick surveillance operation to ascertain the veracity of a report made by a confidential agent/informant on March 12, 2005 about appellant's alleged drug-related activities, a team composed of the above-named prosecution witness, together with the informant, proceeded at 4:15 p.m. on even date to Magsaysay St., Barangay Suba, Cebu City to conduct a buy-bust operation against appellant.

On reaching Barangay Suba, the informant, who was designated as poseur-buyer and given a one hundred peso bill bearing Serial No. XT848358,^[7] approached appellant at an alley near his house as the team members hid about eight meters away but within sight of the site where the two met.

As the informant-poseur-buyer handed the marked one hundred peso bill to appellant, the latter in turn handed to him a small plastic sachet containing white crystalline substance believed to be *shabu*. At that instant, the poseur-buyer executed the pre-arranged signal, and the team members rushed to the scene whereupon they arrested appellant after recovering the marked money and apprising him of his constitutional rights. The poseur-buyer thereupon turned over the plastic sachet containing *shabu* to SPO1 Selibio.^[8]

With the seized items, the team members brought appellant to the Cebu City Police Station where P/Supt. Antonio Lao Obenza prepared a memorandum dated March 12, 2005^[9] addressed to the Regional Chief of the PNP Crime Laboratory in Cebu City requesting for a laboratory examination of the substance contained in the plastic sachet. The team members subsequently executed a Joint Affidavit^[10] subscribed and sworn to on March 14, 2005 recounting the details of the operation leading to appellant's arrest.

Upon receipt of the letter-request and the plastic sachet also on March 12, 2005 at 5:20 p.m., Inspector Salinas, Forensic Chemical Officer of the PNP Crime Laboratory Office 7 in Cebu City, conducted a laboratory examination of the sachet's contents which disclosed the following findings, as recorded in Chemistry Report No. D-305-2005 dated March 13, 2005:^[11]

SPECIMEN SUBMITTED:

"A"- One (1) heat-sealed transparent plastic packet, labeled with "ANB", containing 0.05 gram of white crystalline substance, placed in a small plastic pack, x x x

PURPOSE OF EXAMINATION:

To determine the presence of dangerous drugs.

FINDINGS:

Qualitative analysis conducted on the above-mentioned specimen gave **POSITIVE** result for the presence of Methylamphetamine hydrochloride.
x x x

C O N C L U S I O N:

Specimen A contains Methylamphetamine hydrochloride, a dangerous drug. (emphasis and underscoring supplied)

Denying the accusation, appellant^[12] gave his version as follows:

At around 2:00 p.m. on March 12, 2005, while he was working as a caretaker of two video carrera machines installed in the house of one Alice Tetet, police officers kicked the door of the house and arrested him, over his resistance, as the police

officers demanded for coins from the proceeds of the machines. He was thereafter brought to the Office of the City Prosecutor before undergoing medical examination, and he was later brought to the Bagong Buhay Rehabilitation Center.

In fine, appellant claimed that the charge against him was fabricated.

By Decision^[13] of March 28, 2006, the trial court found appellant guilty as charged, disposing as follows:

Foregoing considered, this court finds the accused GUILTY as charged, and hereby sentences him to suffer LIFE IMPRISONMENT and to pay a fine of P500,000.00.

The pack of dangerous drugs (Exh. B) shall be forfeited in favor of the state for proper disposition.

SO ORDERED.^[14]

In *affirming* the trial court's decision, the Court of Appeals, by Decision of April 22, 2008, held that, contrary to appellant's claim, the chain of custody over the seized illegal drug consonant with the procedure laid down in Section 21 of R.A. No. 9165 had been preserved, the prosecution having clearly established that the plastic pack containing *shabu* was recovered by SPO1 Selibio, who handed it to SPO1 Abelgas who thereupon prepared the request for a laboratory analysis which PO1 Vicada delivered, together with the specimen, to the PNP Crime Laboratory.

The appellate court held too that the prosecution had amply proven that the plastic pack of *shabu* presented before the trial court was the same pack seized from appellant bearing the marking "ANB" and duly identified in court; and that the failure of the apprehending team to conduct a physical inventory and photograph of the seized drug is not fatal to sustain a conviction.^[15]

In brushing aside appellant's frame-up defense as self-serving and uncorroborated, it noted that appellant failed to adduce evidence on the possible motive for the police officers to fabricate the charge against him.

Hence, the present appeal.

Owing to the built-in dangers of abuse that a buy-bust operation entails, the law prescribes specific procedures on the seizure and custody of .drugs, independently o[the general procedures geared to ensure that the rights of people under criminal investigation and of the accused facing a criminal charge are safeguarded.^[16]

[B]y the very nature of anti-narcotic operations, the need for entrapment procedures, the use of shady characters as informants, the ease with which sticks of marijuana or grams of heroin can be planted in the pockets or hands of unsuspecting provincial hicks, and the secrecy that inevitably shrouds all drug deals, the possibility of abuse is great. Thus, the courts have been exhorted to be extra vigilant in trying drug cases

lest an innocent person is made to suffer the unusually severe penalties for drug offenses.^[17] (underscoring supplied)

The records of the case indicate that even the basics of the outlined procedure in the custody of seized drugs was not observed. Consider the team members' Joint Affidavit executed and sworn to by them two days after the operation or on March 14, 2005, viz, quoted *verbatim*:

x x x x

4. While positioning ourselves at a place where we can sufficiently see and observed the movement of my poseur buyer we saw the latter approached an amputated left arm man and after a brief transaction, the latter handed to our poseur buyer a small transparent plastic sachet, containing white crystalline substance, believed to be shabu, in exchange of our buy bust money;
5. At this instance, our poseur [buyer] quickly executed our prearranged signal by placing his right hand on his head, prompting us to hurriedly rushed towards them and placed Arnel Navarette under arrest and recovered from his possession and control the buy bust money described above;
6. After apprising him of his constitutional rights, we brought Arnel Navarette to our Station while the confiscated packet of white crystalline substance which our poseur buyer bought from him was later submitted for examination at the PNP Crime Laboratory 7.^[18]

Consider too team member SPO1 Selibio's testimony viz:

PROSECUTOR ALEXANDER ACOSTA:

Q: How far were you from the subject when you went to the place?

SP01 WILLARD SELIBIO:

A: Approximately 8 meters.

Q: So you could see the subject?

A: Yes, sir.

x x x x

A: The confidential agent was already instructed that after the transaction is completed the poseur buyer will have to place his right hand on the head as pre-arranger signal.

Q: How did he approach the accused?

A: He went to the subject and the transaction was going on considering that there was already an exchange of the buy bust money and the shabu.

x x x x

Q: After that pre-arranged signal, what happened next?

A: We rushed to the position of the subject then we arrested the said person after we recovered the buy bust money.