

THIRD DIVISION

[G.R. No. 177237, October 17, 2008]

**WILLIAM CHING, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

D E C I S I O N

CHICO-NAZARIO, J.:

This petition for review on *certiorari* under Rule 45 of the Rules of Court assails the Decision^[1] of the Court of Appeals dated 27 March 2007 in CA G.R. CR HC No. 00945 which affirmed *in toto* the 19 January 2004 Decision^[2] of the Regional Trial Court (RTC) of Manila, Branch 27, finding petitioner William Ching, *alias* Willy (Ching), guilty of violation of Section 15, Article III of Republic Act No. 6425, as amended, otherwise known as the Dangerous Drugs Act of 1972.

On 21 October 1999, petitioner was charged before the RTC with violating Section 15, Article III of Republic Act No. 6425 in Criminal Case No. 98-168211. The accusatory portion of the Information reads:

"That on or about October 19, 1998, at Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, a foreign national from Amoy, China but married to a Filipina with two children, and not being authorized by law to do so, did, then and there, willfully, unlawfully and feloniously sell and deliver to a NARGROUP "poseur-buyer" some 3,076.28 grams of Methamphetamine Hydrochloride, a regulated drug commonly known as "SHABU," in violation of the above-cited law."^[3]

When arraigned on 24 November 1998, petitioner pleaded not guilty. Thereafter, trial ensued.

The prosecution presented the following witnesses: (1) Senior Police Officer (SPO)1 Alfredo F. Cadoy (SPO1 Cadoy), the designated poseur-buyer of the team; (2) SPO1 Ruben M. Bernardo (SPO1 Bernardo), a member of the team who was specifically tasked to back-up SPO1 Cadoy; (3) Marilyn D. Dequito, the forensic chemist of the Philippine National Police (PNP) Crime Laboratory Office who examined the substance allegedly confiscated from Ching.

As documentary evidence, the prosecution offered the following: Exhibit "A" - Request for Laboratory Examination dated 20 October 1998 addressed to the PNP Crime Laboratory, Camp Crame of the three heat-sealed transparent plastic bags allegedly confiscated from Ching containing white crystalline substance suspected to be "shabu" and weighing approximately one kilogram each; Exhibit "B" - Initial Laboratory Report dated 20 October 1998 of the confiscated crystalline substance; Exhibit "C" - Final Report dated 20 October 1998 of the confiscated items; Exhibit

"D" - Request for Physical/Medical Examination of Ching; Exhibits "E" to "K" - The seven one thousand peso-bills used in the buy-bust operation; Exhibit "L" - Booking Sheet and Arrest Report of Ching; Exhibit "M" - Affidavit of Arrest of Ching signed by SPO1 Cadoy and SPO1 Bernardo; Exhibit "N" - Letter to the Inquest Prosecutor dated 20 October 1998; Exhibit "O" - Green Plastic Bag bearing the name Prudential Bank, where the three heat-sealed transparent plastic bags containing white crystalline substance suspected to be "shabu" were kept; Exhibits "P" to "R" - the three transparent plastic bags containing white crystalline substance; Exhibit "S" - Sketch Drawn by SPO1 Cadoy of the Location of the Buy-Bust Operation; Exhibit "T" - Original Copy Booking Sheet and Arrest Report of Ching.

The collective evidence adduced by the prosecution shows that at around 12:00 o'clock noon on 19 October 1998, while Police Chief Leonardo Suan was in his office at Camp Crame, Quezon City, he received information from a confidential informant about a drug deal to be consummated by the latter with petitioner Ching.^[4] Police Chief Suan immediately assembled a team to conduct a buy-bust operation composed of Inspector Arsenal, SPO1 Cadoy, SPO1 Bernardo, SPO1 de los Santos, PO1 Velasquez and PO2 San Jose.^[5]

SPO1 Cadoy was designated as the poseur-buyer, while SPO1 Bernardo was assigned as one of the back-ups of the former.^[6] Seven pieces of genuine one thousand-peso bills were prepared as marked money. The said bills were placed over the boodle money in an attaché case.^[7]

After the briefing, at about 1:00 p.m., the team on board three vehicles proceeded to the vicinity of the target area, a gasoline station along San Fernando Street, Binondo, Manila. The group arrived at the target place at around 2:00 p.m., and positioned themselves in different strategic locations.^[8]

The confidential informant alighted from the vehicle and walked towards San Fernando Street.^[9] When the informant returned, he was accompanied by Ching who was carrying with him a green bag bearing the name Prudential Bank.^[10] The confidential informant introduced SPO1 Cadoy to Ching and told the latter that the former wanted to buy shabu.^[11] At once, Ching requested to see the money. SPO1 Cadoy showed the money inside the attaché case. After seeing the money, Ching handed the green bag to SPO1 Cadoy saying "*Ito na ang tatlong kilo.*"^[12] SPO1 inspected the contents of the green bag which contained three plastic packs of white crystalline substance. Convinced that the white crystalline substances were illegal drugs, SPO1 Cadoy handed the attaché case to Ching.^[13] As soon as the money was in Ching's possession, SPO1 Cadoy executed the pre-arranged signal by removing his hat.^[14] SPO1 Cadoy introduced himself to Ching as a NARCOM agent, while the other members of the team rushed toward them and likewise introduced themselves to Ching as policemen and then SPO1 Cadoy and his team arrested William Ching.^[15] SPO1 Bernardo retrieved from Ching the marked money while SPO1 Cadoy marked the plastic packs containing white crystalline substance with "AFC," his initials. The arresting officers brought Ching to Camp Crame where he was subjected to custodial investigation. During the investigation, the arresting officers prepared the Affidavit of Arrest, Booking Sheet and Arrest Report, Request for Laboratory Examination, Request for Physical/Medical Examination and Referral

to the Inquest Prosecutor.

The three heat-sealed transparent plastic bags with the initials of SPO1 Cadoy were referred to the PNP Crime Laboratory Office for examination. Upon examination by Chemical Officer Marilyn D. Dequito of the contents of the plastic bags, she found that the same weighed 3,076.26 and was tested positive for methamphetamine hydrochloride or "*shabu*." The findings of Chemical Officer Marilyn D. Dequito, which are embodied in Physical Sciences Report No. D 3415-98 dated 20 October 1998, read:

- A- Exh "A" One (1) heat sealed transparent plastic bag marked AFC containing 1013.16 of white crystalline substance.
- B- Exh "B" One (1) heat sealed transparent plastic bag marked AFC containing 1026.5 g of white crystalline substance.
- C- Exh "C" One (1) heat sealed transparent plastic bag marked AFC containing 1036.6 g of white crystalline substance.

PURPOSE LABORATORY EXAMINATION:

To determine the presence of prohibited and/or regulated drug.

FINDINGS:

Qualitative examination conducted on the above-stated specimen gave POSITIVE results for the presence of methamphetamine hydrochloride, a regulated drug.

CONCLUSION:

Specimens A, B and C contain methamphetamine hydrochloride, a regulated drug.^[16]

The defense, on the other hand, put up the defense of denial and frame-up. To support this thesis, the defense presented petitioner and seven other witnesses, namely: (1) Li Ali (Ali), 17- year old niece of Ching; (2) Chuang Li Fun (Fun), Ching's sister and mother of witnesses Li Ali and Li Jia Wang. Fun resides in No. 488, Peñaranda Street, Binondo, Manila, where Ching was allegedly illegally arrested; (3) Li Jia Wang (Wang), the 13- year old nephew of Ching who was his companion when he was arrested by the police officers; (4) Eduardo B. Peralta, a pedicab driver plying the route of Peñaranda Street, Binondo, who allegedly saw Ching being dragged from the apartment by three men to an FX van; (5) Rafael A. Cantollas, utility boy of Ching; (6) Rosita C. Malait, a vendor whose place of business is across the apartment of Ching's sister; (7) Criselda E. Estrella, a housemaid residing in the same apartment and floor where Ching was allegedly arrested by the police officers.

From the testimonies of the defense witnesses, the defense's version of the incident is that on 19 October 1998, Ching stayed at his sister's apartment situated at No. 488, Peñaranda St., Binondo, Manila. Ching was accompanied by his nephew Wang, his niece Ali, and his sister, Fun. At around 12:00 noon of the said day, Fun and Ali left the apartment to visit a granduncle who resides in Nueva St., Ongpin, Manila. Ching and Wang were left behind. Ching was reading a book, clad only with a T-shirt and short pants while Wang was watching TV. At about 2:00 p.m., somebody

knocked at the door. Ching opened the door where he saw six or seven men in civilian clothes, whom he later discovered as policemen. One of the men asked him if he is William Ching. When Ching answered that he is William Ching, two of the men grabbed him by the arm and dragged him downstairs to an FX van parked at the corner of Peñaranda and San Fernando Streets, Binondo, Manila. Ching was shoved to the back of the vehicle where he was manacled and blindfolded. A plastic bag was also placed over his head. While the vehicle was moving, his abductors demanded 10 million pesos from Ching and when he answered that he did not have such amount, he was mauled and threatened that he will be killed. After sometime, the vehicle stopped in front of a police station. He was brought to a small room where the men who seized him reiterated their demand for money. When he replied that he did not have said amount, he was again mauled and then his private part was electrocuted. When Ching could no longer bear the torture, he asked that he be allowed to call his sister. Because he insisted that he cannot grant their demand, his abductors took out three packages and told him that the same were taken from him and then he was made to sign a document.

Meanwhile three or four of the policemen remained in the apartment unit and made a warrantless search. The officers were still searching the room when Fun and Ali arrived. Fun tried to drive away the police officers who flashed their police identification cards. Later, Fun received a call from Ching, informing her that he was arrested.

After the defense had rested its case, the prosecution, on rebuttal, offered the oral testimonies of Police Inspector Ramon B. Arsenal (Inspector Arsenal), Police Chief Inspector Leonardo Suan (Police Chief Suan) and SPO1 Cadoy to rebut the claim of the defense that the team arrested Ching in his sister's apartment and that the buy-bust operation was a mere fabrication.

Inspector Arsenal, a police officer assigned at the Special Operations Division, Narcotics Group, PNP and a member of the team that conducted the purported buy-bust operation against Ching, testified that the buy-bust operation conducted at a gas station in San Fernando Street, Binondo, Manila on 19 October 1998, was pursuant to an information from a confidential informant. He stated that after the team was briefed by Police Chief Suan of the planned buy-bust operation, the team left for the target area on board four vehicles, namely: Tamaraw FX, a red Toyota Corolla, a white Toyota Corolla and a Lancer. He said that the confidential informant and the poseur-buyer boarded the Tamaraw FX. He arrived at the vicinity of the gas station at around 1:45 p.m. where he saw the confidential informant alight from the Tamaraw FX and walk towards San Fernando Street. Minutes later, the informant returned with Ching. He admitted that he did not see the actual exchange of shabu with the money; however, he saw the actual arrest of Ching. He denied that Ching was taken from the apartment unit in Peñaranda Street. Inspector Arsenal, however, clarified that after Ching was arrested at the gasoline station in San Fernando Street, the team brought him to the corner of Peñaranda and San Fernando Streets because he told them that the source of the shabu, a certain William Sy, will get the money at that place. He also denied the allegation that the team tortured and demanded P10 million from Ching.

Police Chief Suan, for his part, declared that he received information from alias "Ricky" regarding a drug deal with Ching. After receiving the information, he formed a team to conduct a buy-bust operation and the designated poseur-buyer was SPO1

Cadoy, with SPO1 Bernardo as back-up. He gave seven pieces of genuine one thousand-peso bill to be used as the marked money. It was also agreed in the briefing that the pre-arranged signal to indicate that the exchange of illegal drugs and money is consummated was for the poseur-buyer to remove his hat. After the briefing, he instructed Inspector Arsenal to lead the team to the target place near San Fernando Street, Binondo, Manila. He proceeded to the agreed place using his own car. He arrived at the vicinity and positioned himself near the Binondo Church. Since his position is far from the target area, he monitored the operation through a radio. At about 2:00 p.m., he was informed that the operation was consummated. He was told to wait for a while since the arresting team would go to the corner of Peñaranda and San Fernando Streets to wait for the source of the shabu. He was then informed that the source did not show up, so he ordered the team to proceed to Camp Crame.

SPO1 Cadoy, clarified that he failed to mention the street where the buy-bust operation took place because he was not familiar with the name of the streets in that place. He likewise contradicted the defense's version that the team took Ching from the apartment in No. 488, Peñaranda Street. He insisted that there was a buy-bust operation conducted on the day in question.

On rebuttal, the prosecution presented the following documentary evidence: (1) Exhibit "A" Rebuttal, a judgment of the RTC Quezon City, Branch 79, finding Ching guilty for selling methamphetamine hydrochloride in violation of Section 15, Article III of R.A. 6425 to prove that Ching is a recidivist; (2) Exhibit "B" Rebuttal, a Sketch drawn by Inspector Arsenal of the place of the buy-bust operation.

On 28 September 2001, the RTC rendered a decision finding Ching guilty of the crime charged. In the decision, the RTC appreciated the aggravating circumstance of recidivism. With this, the supreme penalty of death was imposed against Ching.

On 5 October 2001, Ching filed Motions for Reconsideration/Re-opening of Proceedings. A Supplement to Motions for Reconsideration/Re-opening of Proceedings dated 15 October 2001 was also filed by Ching.

The RTC denied the motion for reconsideration in an order dated 11 April 2002. However, the RTC, to avoid miscarriage of justice, granted the re-opening of the proceedings to allow Ching to adduce sur-rebuttal evidence.

On sur-rebuttal, the defense did not present any witness. It merely submitted certifications from the clerks of courts of Bacoor and Imus, Cavite, certifying that there is no Branch 197 in the RTC of Cavite, nor was there a drug case entitled "*People v. Lares*" in any of the branches in any of the RTC branches in Bacoor and Imus. It must be noted that during cross-examination, SPO1 Cadoy was confused as to whether it was his team or Ching that arrived first at the target place. SPO1 Cadoy explained this confusion, saying that he just came from Cavite where he also testified in a drug case in which he was also the poseur buyer and the buy-bust operation in that case also took place near a gasoline station. These certifications were presented to destroy SPO1 Cadoy's credibility to prove that he was lying when he said that he testified in another drug case in Cavite, since no such case exists in the courts of the said place.

In a decision dated 19 January 2004, the RTC rendered a decision convicting Ching