

SECOND DIVISION

[G.R. No. 172603, August 24, 2007]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. DONALDO
PADILLA Y SEVILLA, APPELLANT.**

D E C I S I O N

CARPIO MORALES, J.:

Appellant, Donaldo Padilla y Sevilla, was charged before the Regional Trial Court (RTC) of Las Piñas for violation of Section 15, Article III, Republic Act No. 6425, otherwise known as the Dangerous Drugs Act, the accusatory portion of which reads:

That on or about the 20th day of December, 1995, in the Municipality of Las Piñas, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, **the above-named accused, conspiring and confederating together with one Jose J[e]b Hidalgo, Jr. y Garcia, whose present whereabouts[s] is still unknown** and both of them mutually helping and aiding one another, without being authorized by law, did, then and there willfully, unlawfully and feloniously, dispense, deliver, transport or distribute 156.28 grams and 244.32 or a total of 400.60 grams of Methamphetamine Hydrochloride "shabu", which is a regulated drug, using a red Toyota Corolla car, in violation of the above-cited law.^[1] (Emphasis and underscoring supplied)

Culled from the testimonies of prosecution witnesses SPO2 Mabini Rosale and Police Inspector Virgilio Pelaez is the following version:

Acting on a tip given by an informant, the Las Piñas police conducted two weeks before December 20, 1995 surveillance of the residence at BF Homes, Las Piñas of Malou Padilla (Malou), appellant's wife, for alleged drug trafficking.

On application of the police, a warrant for the search of Malou's residence was issued by the RTC of Imus, Cavite on December 19, 1995.

Armed with the warrant, SPO2 Mabini Rosale and Police Inspector Virgilio Pelaez, together with six other operatives, proceeded on December 20, 1995, around 2:30 a.m., to the residence of the Padilla spouses. On reaching the residence, the police noticed a Nissan Altima car bearing Plate No. UBD-109 speeding away.

The policemen were soon informed by the Padillas' helper that the couple was on board the Nissan Altima.

The policemen, in coordination with Antonio Antonio (Antonio), President of the BF Homeowners' Association, proceeded to search the Padilla residence in the course of

which they recovered aluminum foils and suspected shabu tubes.

While the policemen and Antonio were still at the Padilla residence, the security guard stationed at the village gate informed them via radio that persons on board a red Toyota car wanted to go to the Padilla residence. The guard was thus advised to stall the car and ask those on board what their purpose was in wanting to go to the Padilla residence.

In the meantime, the policemen immediately proceeded to, and arrived at the village gate. When they asked the driver of the red car, Jose Hidalgo, Jr. (Hidalgo), why he was going to the Padilla residence, he replied that he had an important transaction. Soon the policemen heard sounds emanating from the trunk of the car, prompting them to inquire from Hidalgo what they were. Without hesitation, Hidalgo opened the trunk of the car where appellant was hiding. At that instant, appellant readily handed over to the policemen a blue plastic bag, saying: "*Ito ang hinahanap ninyo.*"

After taking the photograph of appellant while he was inside the trunk, SPO2 Rosale opened the blue plastic bag which yielded three heat-sealed transparent packets and one self-sealing packet all containing suspected shabu.

The policemen at once arrested appellant and brought him to the NARCOM Headquarters in Quezon City.

Examination by the PNP Crime Laboratory of the contents of the four packets found inside the blue plastic bag revealed the following data, which were noted by Forensic Chemist Sonia Sahagun:

SPECIMEN SUBMITTED:

Exh "A" - One (1) unsealed transparent plastic bag labeled "EVIDENCE BAG" containing one (1) blue clutch bag marked as Exh "A-1" containing the following:

1. Three (3) pieces of heat-sealed transparent plastic bags marked as Exhs "A-2" through "A-4" respectively, each with white crystalline substance and having a total weight of **156.28 grams**.
2. One (1) self-sealing transparent plastic bag marked as "Exh. "A-5" containing **244.32 grams** of moist yellowish crystalline substance.

x x x x

FINDINGS:

Qualitative examination conducted on the above-stated specimens gave POSITIVE result to the tests for Methamphetamine Hydrochloride, a regulated drug.^[2] (Emphasis supplied)

Proffering a different version, the defense gave the following tale:

After appellant, his brother Luis Padilla, and Hidalgo attended a party at the house of the Padillas' cousin at Matahimik St., V. Luna, Quezon City where they stayed until 3:00 a.m. of December 20, 1995, they proceeded to BF Homes, Las Piñas to

bring appellant home.

When appellant and company arrived at the gate of the village at around 4:00 a.m., they were stopped by the security guard because the car they were on board did not bear the village sticker. Appellant thus showed his face to the guard and informed him that he would just be brought home. The guard thereupon informed appellant that there were policemen in his house who were armed with a search warrant against his wife, and advised appellant to just wait at the gate as the policemen were on their way.

Appellant and company thus alighted from the car and in a few minutes the policemen, together with some officers of the homeowners' association, arrived at the gate. After appellant identified himself as Donaldo Padilla, he asked for the search warrant but the policemen replied that it was in the possession of their companions who remained at his residence.

Without the permission of appellant and company, the police started searching the car but found nothing.

Afterwards, appellant, together with his companions and the policemen, repaired to his residence. As appellant was contacting via cellular phone his wife who was then at her sister's house, the policemen told him that all of them would go to where she was, which they did.

When appellant's wife asked for the search warrant, the policemen showed her "bulky" documents. When asked if they found anything in their house, the policemen claimed that they found shabu paraphernalia which they never showed, however.

The policemen then invited appellant, his wife, his brother Luis Padilla and Hidalgo to, as they did, go to a police station in Kamuning, Quezon City. Appellant and his wife were placed in one room at the station while Luis Padilla and Hidalgo were placed in another.

After sometime, one Colonel Alcantara, who was supposedly the commanding officer of the raiding team, informed appellant that they found evidence against him and told him: "*Ayusin mo na lang ito. Alam ko namang ginagawa ninyo ito.*" When appellant asked how much would be needed to settle the matter, Colonel Alcantara answered P200,000.

Appellant could not produce the amount, however, drawing Colonel Alcantara to tell him to just choose who among them would be charged. As his wife was needed by their kids, appellant volunteered himself. His wife Malou, Luis Padilla, and Hidalgo were thus released hours later.

Branch 255 of the Las Piñas RTC convicted appellant by Decision of June 3, 2002,^[3] the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered finding accused DONALDO PADILLA Y SEVILLA Guilty beyond reasonable doubt and sentenced to suffer the extreme penalty of death by means provided for by law and pay a fine of P2,000,000.00 and costs.^[4]

The trial court found unbelievable appellant's claim that the charge against him came about because he could not raise the P200,000 demanded by Colonel Alcantara for, so the trial court held, it was not even shown that the latter was charged for the alleged attempt to extort money from him.

And the trial court found defense witnesses-appellant's brother Luis Padilla and security guard Romeo Placido (Placido) to be biased.

On elevation of the case to this Court for automatic review, it referred the same to the Court of Appeals pursuant to *People v. Mateo*.^[5]

By Decision of May 31, 2005,^[6] the appellate court affirmed that of the trial court, with the modification that the death penalty imposed was reduced to *reclusion perpetua*.

In sustaining the conviction of appellant, the appellate court ratiocinated:

We cannot give credence to appellant's claim that he was merely framed by the policemen and the instant charge came simply because appellant could not raise the P200,000.00 demanded of him by the policemen. The prosecution witnesses in the persons of the arresting officers **positively and categorically pointed to the appellant as being in possession of 400.6 grams of shabu while hiding in the baggage compartment of the red Toyota car.** x x x

x x x x

In the case at bench, **appellant similarly failed to present evidence to establish his claim of failed extortion.** The fact that appellant did not file any criminal or administrative charges against the arresting officers bolsters Our conclusion that the alleged frame up merely exists as a figment of appellant's imagination. On the other hand, appellant's story that after the failed extortion attempt, Col. Alcantara asked him to choose who would be charged and "sacrificed" by choosing himself and thus **he was the only one charged, is belied by the Information itself which charged both him and Jose "Jeb" Hidalgo[, Jr. y Garcia for the crime.**

Appellant's claim that the police merely planted the shabu (400.6 grams) deserves scant consideration. **It is incredible that the police officers would plant such a large quantity of shabu when a few grams or even a sachet would have sufficed** to frame up appellant. Moreover, the policemen as public officers are **presumed to have performed their official duties with regularity and in accordance with law.** In the absence of the proof of motive to falsely impute such a serious crime against appellant, the presumption of regularity in the performance of official duty, as well as the findings of the trial court on the credibility of witness, prevails over appellant's self-serving and uncorroborated defense.

x x x x