

SECOND DIVISION

[G.R. No. 173790, October 11, 2007]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RUSSEL NAVARRO
Y MARMOJADA ALIAS "JHONG," APPELLANT.**

D E C I S I O N

CARPIO MORALES, J.:

Branch 64 of the Regional Trial Court of Makati^[1] convicted, as charged, appellant Russel Navarro y Marmojada alias "Jhong" for violation of Sections 5 and 11, Article II of Republic Act (R.A.) No. 9165 (The Comprehensive Dangerous Drugs Act of 2002). The Court of Appeals, to which this Court referred the cases following *People v. Mateo*, affirmed^[2] his conviction, hence, his present appeal.

The accusatory portion of the Information charging appellant with violation of Section 5, Article II of R.A. No. 9165, which was docketed as Crim. Case No. 03-1941, reads:

That on or about the 7th day of June, 2003, in the City of Makati, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously without being authorized by law, sell, distribute and transport zero point zero two gram (0.02) of Methylamphetamine Hydrochloride (shabu) a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.^[3] (Underscoring supplied)

The accusatory portion of the Information charging him with violation of Section 11 of Article II of the same Act, which was docketed as Crim. Case No. 03-1942, reads:

That on or about the 7th day of June, 2003, in the City of Makati, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized to possess or otherwise use any dangerous drug and without the corresponding license or prescription, did then and there willfully, unlawfully and feloniously have in his possession, direct custody and control Methylamphetamine Hydrochloride (shabu) weighing zero point zero one gram (0.01) which is a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.^[4] (Underscoring supplied)

From the evidence for the prosecution, the following version is culled:

The Makati Anti-Drug Abuse Council (MADAC) Cluster 5 received a tip from an informant that one alias "Jhong" was involved in the sale of illegal drugs in East

Rembo, Makati. MADAC Cluster 5 thus coordinated with the Drug Enforcement Unit of the Makati City Police Station and organized a buy-bust team composed of MADAC member Juan Siborboro (Siborboro) as poseur-buyer, PO1 Randy Santos, and another MADAC member Edgardo Lumawag (Lumawag).

As planned, the team, together with the informant, repaired to and arrived at around 3:30 p.m. of June 7, 2003 at the reported *locus criminis* along 17th Avenue, East Rembo, Makati City. Upon sighting "Jhong," who was later identified to be appellant Russel Navarro y Marmojada, the informant introduced Siborboro to him and told him that Siborboro wanted to buy some *shabu*. Appellant asked how much. Siborboro answered "*piso lang*," at the same time handing a marked hundred peso bill^[5] to appellant who in turn handed over to him a plastic sachet containing suspected *shabu*. Siborboro then lighted a cigarette, which was the pre-arranged signal that the transaction was completed,^[6] and PO1 Santos and Lumawag immediately closed in, introduced themselves as a police officer and a MADAC member, respectively, and arrested appellant.

Lumawag recovered from appellant the marked one hundred peso bill-buy-bust money and another plastic sachet containing *shabu*. The team members thereupon informed appellant the reason for his arrest and his constitutional rights.

The plastic sachet containing suspected *shabu* sold to Siborboro and that confiscated from appellant by Lumawag were marked by Siborboro with "RNM" and "RNM-1," respectively. On examination by the Philippine National Police Crime Laboratory,^[7] the substances inside the two plastic sachets were found positive for methylamphetamine hydrochloride or *shabu*.^[8]

Upon the other hand, appellant gave his version as follows:

At around 11 a.m. of June 7, 2003, as he was at the site of the alleged buy-bust operation to look for and summon his children for lunch, he saw a white Toyota Revo, on which the word MADAC was printed, parked in front of his house. The passengers of the vehicle alighted and dragged him into it. He was there maltreated by PO1 Santos, asked if he is Jhong Navarro to which he answered in the affirmative, and told that he was being accused of selling *shabu*. Despite his denial of the charge, he was brought to the Criminal Investigation Division where he was shown a plastic sachet containing *shabu* and told that it was his. He was thereafter brought to Fort Bonifacio for a drug test.^[9] Parenthetically, he, on cross-examination, claimed that it was Siborboro who maltreated him, contrary to his testimony on direct that it was PO1 Santos.

In its Decision of June 1, 2005, the trial court convicted appellant of both charges, disposing as follows:

WHEREFORE, in view of the foregoing, judgment is rendered against accused RUSSEL NAVARRO alias "Jhong" as follows:

1. Finding him GUILTY beyond reasonable doubt of the crime of violation of Section 5 of R.A. No. 9165 (Criminal Case No 03-1941) and sentencing him to suffer the penalty of life imprisonment and to pay a fine of P500,000.00,

2. Finding him GUILTY beyond reasonable doubt of the crime of violation of Section 11 of R.A. No. 9165 (Criminal Case No. 03-1942) and (considering that the quantity of shabu subject matter of the case is only 0.01), sentencing him to suffer the indeterminate penalty of imprisonment of twelve (12) years and one day as minimum, to fourteen (14) years and one day, as maximum pursuant to the Indeterminate Sentence Law. (R.A. [No.] 4103, as amended).

In both cases, the period during which he was under detention shall be considered in his favor.

The Branch Clerk of Court (OIC) is directed to transmit to the Philippine Drug Enforcement Agency (PDEA) the two (2) plastic sachets of Methylamphetamine Hydrochloride with a combined weight of 0.03 gram[s] subject of these cases, for said agency's appropriate disposition.

SO ORDERED.^[10] (Underscoring supplied)

As stated early on, the Court of Appeals affirmed the decision of the trial court.^[11]

Before this Court, appellant manifested that he was no longer filing a Supplemental Brief and would just adopt the Brief he filed before the Court of Appeals. In said Brief,^[12] appellant faulted the trial court to have erred

I

. . . IN FINDING [HIM] GUILTY BEYOND REASONABLE DOUBT OF THE CRIMES CHARGED.

II

. . . IN NOT CONSIDERING THE ILLEGALITY OF [HIS] ARREST.^[13]

While, with a few exceptions, this Court has, as a rule, deferred to trial courts' assessment of the credibility of witnesses and their determination of facts, considering the gravity of the offenses and the severity of the penalties imposed, a thorough, hard review of the records of the cases was conducted. No ground or reason to reverse the decision on review has been gathered, however, albeit a modification of the penalty in the case for illegal possession of *shabu* is in order.

In similar dangerous drugs cases involving buy-bust operations, the Court has, on various occasions, pronounced as follows:

It is a settled rule that in cases involving violations of the Dangerous Drugs Act, credence is given to prosecution witnesses who are police officers for they are presumed to have performed their duties in a regular manner, *unless* there is evidence to the contrary.

x x x x

Unless there is clear and convincing evidence that the members of the

buy-bust team were inspired by any improper motive or were not properly performing their duty, their testimonies with respect to the operation deserve full faith and credit.^[14]

Bare denials cannot prevail over the prosecution witnesses' positive identification of appellants as the persons who were in possession of the shabu, who delivered it to the poseur-buyer, and who received payment for it. The records clearly show that they were entrapped through a buy-bust operation. Their denial cannot prevail over the positive testimony of the police officers who had no reason or ill motive to testify falsely against them. As earlier adverted to, the officers' testimonies were consistent, unequivocal and replete with details of the transaction with appellants and, therefore, merit our full faith and credence.^[15]

From the transcript of stenographic notes of the proceedings in the cases, this Court finds the testimonies of the police officer and the two MADAC operatives credible, straightforward, and corroborate each other. Appellant's denial, absent any evidence to buttress it, is, like alibi, a self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testified on affirmative matters.^[16]

It bears noting that appellant has not even imputed any motive which could have impelled the buy-bust team to falsely charge him.

Appellant nevertheless contended that 1) his warrantless arrest was illegal; 2) the warrantless search of his person was illegal; 3) assuming that there was indeed a buy-bust operation, no proof was presented that the substance inside the sachets was indeed *shabu*; and 4) the equipoise rule applies to his case, hence, the presumption of innocence should incline in his favor.

Section 5, Rule 113 of the Rules of Court provides:

Arrest without warrant; when lawful. "A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

(b) When an offense has just been committed, and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and

(c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

In cases falling under paragraphs (a) and (b) hereof, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail, and he shall be proceeded against in accordance with Rule 112, Section 7. (*Italics in the original; emphasis supplied*)