

SECOND DIVISION

[G.R. No. 138881, December 18, 2000]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE,
VS. LEILA JOHNSON Y REYES, ACCUSED-APPELLANT.**

D E C I S I O N

MENDOZA, J.:

This is an appeal from the decision,^[1] dated May 14, 1999, of the Regional Trial Court, Branch 110, Pasay City, finding accused-appellant Leila Johnson y Reyes guilty of violation of §16 of R.A. No. 6425 (Dangerous Drugs Act), as amended by R.A. No. 7659, and sentencing her to suffer the penalty of *reclusion perpetua* and to pay a fine of P500,000.00 and the costs of the suit.

The information against accused-appellant alleged:

That on June 26, 1998 inside the Ninoy Aquino International Airport, and within the jurisdiction of this Honorable Court, the above-named Accused did then and there willfully, unlawfully and feloniously possess three plastic bags of methamphetamine hydrochloride, a regulated drug, each bag weighing:

#1 ONE HUNDRED EIGHTY SEVEN POINT FIVE (187.5) grams;

#2 ONE HUNDRED NINETY EIGHT POINT ZERO (198.0) grams; and

#3 ONE HUNDRED NINETY FOUR POINT SEVEN (194.7) grams, respectively,

or a total of **FIVE HUNDRED EIGHTY POINT TWO (580.2) grams of methamphetamine hydrochloride.**

That the above-named accused does not have the corresponding license or prescription to possess or use said regulated drug.

CONTRARY TO LAW.^[2]

Upon being arraigned, accused-appellant pleaded not guilty,^[3] whereupon trial was held.

The prosecution presented four witnesses, namely, NBI Forensic Chemist George de Lara, SPO4 Reynaldo Embile, duty frisker Olivia Ramirez, and SPO1 Rizalina Bernal. The defense presented accused-appellant who testified in her own behalf.

The facts are as follows:

Accused-appellant Leila Reyes Johnson was, at the time of the incident, 58 years old, a widow, and a resident of Ocean Side, California, U.S.A. She is a former Filipino citizen who was naturalized as an American on June 16, 1968 and had since been working as a registered nurse, taking care of geriatric patients and those with Alzheimer's disease, in convalescent homes in the United States.^[4]

On June 16, 1998, she arrived in the Philippines to visit her son's family in Calamba, Laguna. She was due to fly back to the United States on July 26. On July 25, she checked in at the Philippine Village Hotel to avoid the traffic on the way to the Ninoy Aquino International Airport (NAIA) and checked out at 5:30 p.m. the next day, June 26, 1998.^[5]

At around 7:30 p.m. of that day, Olivia Ramirez was on duty as a lady frisker at Gate 16 of the NAIA departure area. Her duty was to frisk departing passengers, employees, and crew and check for weapons, bombs, prohibited drugs, contraband goods, and explosives.^[6]

When she frisked accused-appellant Leila Johnson, a departing passenger bound for the United States via Continental Airlines CS-912, she felt something hard on the latter's abdominal area. Upon inquiry, Mrs. Johnson explained she needed to wear two panty girdles as she had just undergone an operation as a result of an ectopic pregnancy.^[7]

Not satisfied with the explanation, Ramirez reported the matter to her superior, SPO4 Reynaldo Embile, saying "*Sir, hindi po ako naniniwalang panty lang po iyon.*" ("Sir, I do not believe that it is just a panty.") She was directed to take accused-appellant to the nearest women's room for inspection. Ramirez took accused-appellant to the rest room, accompanied by SPO1 Rizalina Bernal. Embile stayed outside.^[8]

Inside the women's room, accused-appellant was asked again by Ramirez what the hard object on her stomach was and accused-appellant gave the same answer she had previously given. Ramirez then asked her "to bring out the thing under her girdle." Accused-appellant brought out three plastic packs, which Ramirez then turned over to Embile, outside the women's room.^[9]

The confiscated packs, marked as Exhibits C-1, C-2 and C-3, contained a total of 580.2 grams of a substance which was found by NBI Chemist George de Lara to be methamphetamine hydrochloride or "shabu."^[10]

Embile took accused-appellant and the plastic packs to the 1st Regional Aviation and Security Office (1st RASO) at the arrival area of the NAIA, where accused-appellant's passport and ticket were taken and her luggage opened. Pictures were taken and her personal belongings were itemized.^[11]

In her defense, accused-appellant alleged that she was standing in line at the last boarding gate when she was approached by Embile and two female officers. She claimed she was handcuffed and taken to the women's room. There, she was asked

to undress and was then subjected to a body search. She insisted that nothing was found on her person. She was later taken to a room filled with boxes, garbage, and a chair. Her passport and her purse containing \$850.00 and some change were taken from her, for which no receipt was issued to her. After two hours, she said, she was transferred to the office of a certain Col. Castillo.^[12]

After another two hours, Col. Castillo and about eight security guards came in and threw two white packages on the table. They told her to admit that the packages were hers. But she denied knowledge and ownership of the packages. She was detained at the 1st RASO office until noon of June 28, 1999 when she was taken before a fiscal for inquest.^[13] She claimed that throughout the period of her detention, from the night of June 26 until June 28, she was never allowed to talk to counsel nor was she allowed to call the U.S. Embassy or any of her relatives in the Philippines.^[14]

On May 14, 1999, the trial court rendered a decision, the dispositive portion of which reads:^[15]

WHEREFORE, judgment is hereby rendered finding the accused LEILA JOHNSON Y REYES, GUILTY beyond reasonable doubt of the offense of Violation of Section 16 of Republic Act 6425 as amended and hereby imposes on her the penalty of RECLUSION PERPETUA and condemns said accused to pay a fine of FIVE HUNDRED THOUSAND PESOS (P500,000.00) without subsidiary imprisonment in case of insolvency and to pay the costs of suit.

The Methamphetamine Hydrochloride (shabu) having a total net weight of 580.2 grams (Exhibits "G", "C-2" and "C-3") are hereby confiscated in favor of the government and the Branch Clerk of Court is hereby ordered to cause the transportation thereof to the Dangerous Drugs Board for disposition in accordance with law.

The accused shall be credited in full for the period of her detention at the City Jail of Pasay City during the pendency of this case provided that she agreed in writing to abide by and comply strictly with the rules and regulations of the City Jail.

SO ORDERED.

Accused-appellant contends that the trial court convicted her: (1) "despite failure of the prosecution in proving the negative allegation in the information;" (2) "despite failure of the prosecution in proving the quantity of methamphetamine hydrochloride;" (3) "despite violation of her constitutional rights;" and (4) "when guilt was not proven beyond reasonable doubt."^[16]

First. Accused-appellant claims that she was arrested and detained in gross violation of her constitutional rights. She argues that the "shabu" confiscated from her is inadmissible against her because she was forced to affix her signature on the plastic bags while she was detained at the 1st RASO office, without the assistance of counsel and without having been informed of her constitutional rights. Hence, she argues, the methamphetamine hydrochloride, or "shabu," should have been

excluded from the evidence.^[17]

The contention has no merit. No statement, if any, was taken from accused-appellant during her detention and used in evidence against her. There is, therefore, no basis for accused-appellant's invocation of Art. III, §12(1) and (3). On the other hand, what is involved in this case is an arrest *in flagrante delicto* pursuant to a valid search made on her person.

The trial court held:

The constitutional right of the accused was not violated as she was never placed under custodial investigation but was validly arrested without warrant pursuant to the provisions of Section 5, Rule 113 of the 1985 Rules of Criminal Procedure which provides:

Sec. 5. 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 in fact just been committed, and he has personal knowledge of facts indicating that the person to be arrested has committed it; and

(Underscoring supplied)

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A custodial investigation has been defined in *People. v. Ayson* 175 SCRA 230 as "the questioning initiated by law enforcement officers after a person has been taken [in] custody or otherwise deprived of his freedom in any significant way. This presupposes that he is suspected of having committed an offense and that the investigator is trying to elicit information or [a] confession from him."

The circumstances surrounding the arrest of the accused above falls in either paragraph (a) or (b) of the Rule above cited, hence the allegation that she has been subjected to custodial investigation is far from being accurate.^[18]

The methamphetamine hydrochloride seized from her during the routine frisk at the airport was acquired legitimately pursuant to airport security procedures.

Persons may lose the protection of the search and seizure clause by exposure of their persons or property to the public in a manner reflecting a lack of subjective expectation of privacy, which expectation society is prepared to recognize as reasonable.^[19] Such recognition is implicit in airport security procedures. With increased concern over airplane hijacking and terrorism has come increased security at the nation's airports. Passengers attempting to board an aircraft routinely pass through metal detectors; their carry-on baggage as well as checked luggage are routinely subjected to x-ray scans. Should these procedures suggest the presence of

suspicious objects, physical searches are conducted to determine what the objects are. There is little question that such searches are reasonable, given their minimal intrusiveness, the gravity of the safety interests involved, and the reduced privacy expectations associated with airline travel.^[20] Indeed, travelers are often notified through airport public address systems, signs, and notices in their airline tickets that they are subject to search and, if any prohibited materials or substances are found, such would be subject to seizure. These announcements place passengers on notice that ordinary constitutional protections against warrantless searches and seizures do not apply to routine airport procedures.

The packs of methamphetamine hydrochloride having thus been obtained through a valid warrantless search, they are admissible in evidence against the accused-appellant herein. Corollarily, her subsequent arrest, although likewise without warrant, was justified since it was effected upon the discovery and recovery of "shabu" in her person *in flagrante delicto*.

Anent her allegation that her signature on the said packs (Exhibits C-1, C-2 and C-3 herein) had been obtained while she was in the custody of the airport authorities without the assistance of counsel, the Solicitor General correctly points out that nowhere in the records is it indicated that accused-appellant was required to affix her signature to the packs. In fact, only the signatures of Embile and Ramirez thereon, along with their testimony to that effect, were presented by the prosecution in proving its case.

There is, however, no justification for the confiscation of accused-appellant's passport, airline ticket, luggage, and other personal effects. The pictures taken during that time are also inadmissible, as are the girdle taken from her, and her signature thereon. Rule 126, §2 of the Revised Rules of Criminal Procedure authorizes the search and seizure only of the following:

Personal property to be seized. ^{3/4} A search warrant may be issued for the search and seizure of personal property:

- (a) Subject of the offense;
- (b) Stolen or embezzled and other proceeds or fruits of the offense; and
- (c) Used or intended to be used as the means of committing an offense.

Accordingly, the above items seized from accused-appellant should be returned to her.

Second. Accused-appellant argues that the prosecution failed to fully ascertain the quantity of methamphetamine hydrochloride to justify the imposition of the penalty of *reclusion perpetua*.

Section 20 of R.A. No. 6425, as amended by R.A. No. 7659, states:

Section 20 - Application Of Penalties, Confiscation And Forfeiture Of The Proceeds or Instrument Of The Crime - The penalties for offenses under Section 3, 4, 7, 8 and 9 of Article II and Sections 14, 14-A, 15 and 16 of