

SECOND DIVISION

[G.R. No. 127801, March 03, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
SAMUEL YU VALDEZ @ BEBOT, ACCUSED-APPELLANT.**

D E C I S I O N

QUISUMBING, J.:

This is an appeal from the decision^[1] rendered on November 4, 1996, by the Regional Trial Court of Lagawe, Ifugao, Branch 14, in Criminal Case No. 930, which found Samuel Valdez guilty of the crime of illegal transport of marijuana buds/leaves and sentencing him to *reclusion perpetua* and to pay a fine of P500,000.00.

In an information dated December 28, 1994, Provincial Prosecutor Jose Godofredo Naui charged herein accused-appellant with violation of Section 4 of Republic Act No. 6425, as amended, otherwise known as Dangerous Drugs Act of 1972, allegedly committed as follows:

"That on or about the 1st day of September, 1994, in the Municipality of Hingyon, Ifugao and within the jurisdiction of the Honorable Court, the above-named accused, while on board a Dangwa Tranco bus bound for Manila, did then and there, wilfully and unlawfully transport marijuana weighing more or less two kilos packed in two separate containers.

CONTRARY TO LAW."^[2]

Upon arraignment, herein accused-appellant, assisted by counsel, entered a plea of "not guilty." Thereafter, trial on the merits ensued. Subsequently, the trial court rendered the assailed judgment, the dispositive portion of which reads:

"From the foregoing, the prosecution having proven the guilt of the accused beyond reasonable doubt, he is hereby sentenced to suffer the penalty of *reclusion perpetua*. He is fined the amount of Five Hundred Thousand (P500,000.00) Pesos. The drug in question is ordered forfeited in favor of the government.

SO ORDERED."^[3]

The prosecution's evidence upon which the finding of guilt beyond reasonable doubt was based is summarized by the trial court as follows:

"In the morning of September 1, 1994, SPO1 Bernardo Mariano was in the Municipality of Banaue, Ifugao waiting for a ride to report for work in Lagawe, Ifugao. A civilian asset approached him and intimated that an Ilocano person was ready to transport marijuana. This asset described to him the physical appearance of the suspect as thin and possessing a

green bag. Mr. Mariano invited the asset and together they proceeded to Barangay O-ong, Hingyon, Ifugao. There they alighted and stopped and ordinary Dangwa passenger bus bound for Baguio City. Aboard on this bus, they did not find the person concerned and reaching Barangay Pitawan, Hingyon, Ifugao, they stepped out of the vehicle and waited for the air conditioned Dangwa bus bound for Manila. When this bus arrived, Police Officer Mariano boarded the aircon bus and looked for that person from among the passengers and noticed him holding the green bag. He immediately ordered the person to get out of the bus. This fellow followed holding the bag. Once outside, he further ordered the suspect to open the bag and saw a water jug colored red and white and a lunch box. He told this man to open the jug and the lunch box and when opened, he saw marijuana leaves as contents. At this time, suspect revealed his name to be Samuel Yu Valdez. With this discovery, the asset was left behind and Peace Officer Mariano escorted the accused to the Philippine National Police (PNP) Provincial Headquarters at Lagawe, Ifugao. He turned over the accused including the contents of the green bag to his superiors for further investigation."^[4]

In open court, SPO1 Bernardo Mariano identified the water jug, the lunch box, both stuffed with dried marijuana leaves and the green bag. He further identified the accused as the same person from whom he seized the prohibited drug. Police Senior Inspector Alma Margarita Villasenor, Forensic Chemist, PNP Crime Laboratory, Camp Dangwa, La Trinidad, Benguet averred that from her laboratory examination, the items or samples taken from the water jug and lunchbox gave positive results to the test for the presence of marijuana, a prohibited drug.

Only the accused testified in his defense. His testimony is narrated by the trial court as follows:

"Accused is a resident of Barangay Gumol, Guimba, Nueva Ecija and knows construction work and more often than not, his co-worker is a certain Edwin Andres from Cabanatuan City who married one from Banaue, Ifugao. Upon the invitation of Edwin Andres to attend the latter's birthday celebration slated on August 31, 1994, accused and Edwin Andres arrived in Banaue, Ifugao on August 30, 1994. The next day, August 31, 1994, accused partook of the birthday party and the following morning September 1, 1994, he was bound for Nueva Ecija taking the 7:00 o'clock in the morning Dangwa bus. Because of too much intake of liquor (hang-over), when he boarded the bus, he still felt groggy and sat alone on a seat near the window. While the bus was proceeding, he felt sleepy on that seat still alone. His bag was placed on the right side and the green bag was place under the seat to the right. Feeling sleepy, he noticed somebody or a passenger seated beside him and later he also felt and noticed that his seatmate was gone and at this time he was awakened by a tap on his shoulder. He saw two persons standing and one of them mentioned as 'Mariano' who he thought at first was the bus inspector as he was in fatigue uniform. Then this 'Mariano' asked him whether or not he owns the green bag but he replied saying 'I do not know. I have a fellow seated with me here but he is no more.' He was made to step out of the bus and there he was forced to declare that he is the owner of the bag. The other policeman was nearby who pointed to

the green bag. That the two policemen were the ones who opened that bag and its contents were marijuana. Thereafter, he was brought to the PNP Provincial Headquarters (termed by the accused as `barracks') in Lagawe, Ifugao. When brought to said office, he saw many people possibly police or soldiers. He was later on investigated and showed them the bag. He was told to stay for a while in the jailhouse. He could remember that he was made to sign some papers or documents which he did not read. After an overnight stay at the barracks, he was brought to the hospital for medical examination about the pain on his breast but kept mum on the blow delivered by Bernardo Mariano at the waiting shed where he was first apprehended. That from the hospital, he was brought to the Municipal Jail and later to the Provincial Jail for further detention."

[5]

Appellant, through his counsel, Public Attorney's Office, raised the following assignment of errors in his appeal:

I

"THE COURT A QUO ERRED IN ADMITTING THE SEIZED DRUGS IN EVIDENCE.

II

THE COURT A QUO ERRED IN CONVICTING THE ACCUSED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT OF THE CRIME CHARGED BEYOND REASONABLE DOUBT." [6]

Appellant contends that the marijuana allegedly seized from him was a product of an unlawful search, hence, inadmissible in evidence.

The resolution of this case hinges on the pivotal question of the constitutionality and legality of the arrest and search of herein appellant effected by the police officer.

Settled is the rule that no arrest, search and seizure can be made without a valid warrant issued by a competent judicial authority. The Constitution guarantees the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures. [7] It further decrees that any evidence obtained in violation of said rights shall be inadmissible for any purpose in any proceeding. [8]

The abovementioned constitutional provisions serve as safeguards against wanton and unreasonable invasion of the privacy and liberty of a citizen as to his person, papers and effects. The right of a person to be secure against any unreasonable seizure of his body and any deprivation of his liberty is a most basic and fundamental one. A statute, rule or situation which allows exceptions to the requirement of a warrant of arrest or search warrant must be strictly construed. We cannot liberally consider arrests or seizures without warrant or extend their application beyond the cases specifically provided or allowed by law. To do so would infringe upon personal liberty and set back a basic right so often violated and yet, so deserving of full protection and vindication. [9]

Nevertheless, the constitutional proscription against warrantless searches and seizures admits of certain legal and judicial exceptions, as follows: (1) warrantless search incidental to a lawful arrest recognized under Section 12, Rule 126 of the Rules of Court and by prevailing jurisprudence; (2) seizure of evidence in plain view; (3) search of a moving vehicle; (4) consented warrantless search; (5) customs search; (6) stop and frisk; and (7) exigent and emergency circumstances.^[10]

On the other hand, a lawful arrest without a warrant may be made by a peace officer or a private person under the following circumstances:

"(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

(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."^[11]

In this case, appellant was caught in flagrante since he was carrying marijuana at the time of his arrest. A crime was actually being committed by the appellant, thus, the search made upon his personal effects falls squarely under paragraph (a) of the foregoing provisions of law, which allow a warrantless search incident to lawful arrest. While it is true that SPO1 Mariano was not armed with a search warrant when the search was conducted over the personal effects of appellant, nevertheless, under the circumstances of the case, there was sufficient probable cause for said police officer to believe that appellant was then and there committing a crime.

Although the term eludes exact definition, probable cause signifies a reasonable ground of suspicion supported by circumstances sufficiently strong in themselves to warrant a cautious man's belief that the person accused is guilty of the offense with which he is charged; or the existence of such facts and circumstances which could lead a reasonably discreet and prudent man to believe that an offense has been committed and that the items, articles or objects sought in connection with said offense or subject to seizure and destruction by law is in the place to be searched.

^[12] The required probable cause that will justify a warrantless search and seizure is not determined by a fixed formula but is resolved according to the facts of each case.^[13]

Our jurisprudence is replete with instances where tipped information has become a sufficient probable cause to effect a warrantless search and seizure.^[14]

In *People v. Tangliben*,^[15] two police officers and a barangay tanod were conducting surveillance mission at the Victory Liner terminal compound in San Fernando, Pampanga against persons who may commit misdemeanors and also on those who may be engaging in the traffic of dangerous drugs based on information supplied by informers. At 9:30 in the evening, the policemen noticed a person carrying a red travelling bag who was acting suspiciously. An informer pointed to the accused-