

SPECIAL TWELFTH DIVISION

[CA–G.R. CR No. 35379, June 11, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
JOSEPH REYES Y PASCUAL, ACCUSED-APPELLANT.**

D E C I S I O N

DICDICAN, J.:

Subject to adjudication by this Court herein is an appeal from the Decision^[1] rendered by Presiding Judge Iluminado M. dela Peña of Branch 28 of the Regional Trial Court of the Fourth Judicial Region in Sta. Cruz, Laguna ("trial court") on October 25, 2012 in Criminal Case No. SC-13684 convicting herein accused-appellant Joseph Reyes y Pascual ("accused-appellant") of violation of Section 11 of Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002 ("RA 9165"), in the following Information^[2] which reads:

"That on June 15, 2009 at about 1:15 o'clock in the morning at Brgy. Lewin, Municipality of Lumban, Province of Laguna, and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized or permitted by law, did then and there, willfully, unlawfully and feloniously, have in his possession, control and custody two (2) heat-sealed transparent plastic sachet containing 0.02 gram of METHAMPHETAMINE HYDROCHLORIDE (SHABU), a dangerous drug.

"CONTRARY TO LAW."

On October 1, 2009, upon being arraigned of the charge against him, the accused-appellant entered a plea of not guilty^[3]. Subsequently, a pre-trial was conducted on November 4, 2009^[4]. A trial on the merits ensued thereafter.

During the trial, the prosecution adduced in evidence the lone testimony of Police Officer 2 Vergel Sayse (PO2 Sayse), a member of the Philippine National Police who was assigned at the Intel Operatives Section of the Lumban Municipal Police Station in Laguna. He was the designated intelligence operative who effected the arrest upon the person of the accused-appellant after the latter was found to be in possession of illegal drugs.

On the other hand, the accused-appellant adduced in evidence his own testimony.

The testimony of Police Chief Inspector Donna Villa P. Huelgas ("PCI Huelgas") was dispensed with upon the stipulation of the parties that she was the Forensic Chemist who received the request for laboratory examination on the confiscated items taken from the accused-appellant. It was also agreed upon by the parties that it was PCI Huelgas who conducted the necessary examinations, particularly, the physical, chemical and confirmatory examinations on the two transparent plastic sachets

which yielded positive for the presence of methamphetamine hydrochloride. Moreover, it was also admitted that Chemistry Report No. LD-121-09^[5] was prepared by PCI Huelgas which reduced into writing the results of the aforementioned examinations^[6].

The prosecution's recital of established facts is summarized as follows:

On June 15, 2009, at around 1:15 o'clock in the morning, PO2 Sayse, together with Police Officer 2 Amadeo Carpio ("PO2 Carpio"), Police Officer 1 Arvin Mangulat ("PO1 Mangulat") and Police Officer 1 Alfred Ables ("PO1 Ables"), were manning a checkpoint at Barangay Lewin, Lumban, Laguna.

Coming from the direction of Sta. Cruz, Laguna, the accused-appellant, together with one Joseph dela Rosa ("dela Rosa"), who were then crossing the checkpoint on board a motorcycle were flagged down by the group of PO2 Sayse on account of their violation of traffic rules and regulations, specifically, driving without a helmet.

Upon being accosted by the team of PO2 Sayse, the accused-appellant started to pull something out from his waist. For fear that the accused-appellant was in possession of a weapon, PO2 Sayse promptly held the hand of the former. At this point, he saw a holster in the waist of the accused-appellant the contents of which were already visible at first glance. From where PO2 Sayse was standing, he saw two plastic sachets inside the accused-appellant's holster. He then ordered the accused-appellant to remove the said holster. Upon possession of the holster, PO2 Sayse proceeded to mark the two plastic sachets with "VTS-1" and "VTS-2".

Subsequently, PO2 Sayse fully apprised the accused-appellant of his rights and simultaneously caused his arrest. The accused-appellant was then brought to the Municipal Police Station.

At the police station, PO2 Sayse prepared the request for laboratory examination as well as the receipt of object evidence. He then personally transmitted the laboratory request, together with the marked confiscated items, to the Laguna Crime Laboratory.

As evidenced by Chemistry Report No. LD-121-09^[7] as prepared by Police Chief Inspector and Forensic Chemical Officer Donna Villa P. Huelgas, the examination result confirmed that the substance was methamphetamine hydrochloride, a dangerous drug.

In an attempt to absolve himself from criminal liability, the accused-appellant vehemently denied the accusation hurled against him.

He claimed that, on June 15, 2009, at around 10:00 o'clock in the evening, he was with Joseph dela Rosa coming from a party which they allegedly attended in Pagsawitan, Sta. Cruz, Laguna. On their way home, they rode a motorcycle which was driven by dela Rosa.

Upon arriving in Barangay Lewin, Lumban, Laguna, they were allegedly stopped by four (4) men in civilian uniform who introduced themselves as police officers. Allegedly, an officer named PO1 Vergel, pointed his gun at them. Frightened, they were forced to alight from the motorcycle. A body frisk was then conducted upon them. The officers allegedly proceeded to take their wallets. The accused-appellant likewise narrated that he even questioned the police officers as to why they were

being frisked. The officers allegedly answered that they were found to be in possession of shabu.

Thereafter, the accused-appellant and dela Rosa were brought to the PAC Base. Purportedly, PO2 Carpio, together with their asset, took from the accused-appellant his citizen wrist watch and two silver rings and never returned the same. Also allegedly taken from him was his jacket and money.

The accused-appellant likewise testified that, while they were being transported to the police station, PO2 Carpio spoke with him and told him that he would be released on the same day only if he would give him the amount of P20,000.00.

According to the accused-appellant, he did not commit any crime and that he did not know the persons who arrested him. He also denied that there was a checkpoint at the time that they were accosted. He even denied that he was in possession of any holster which contained illegal drugs.

Finding the testimony of the police officer credible, the court *a quo* rendered a Decision on October 25, 2012, the dispositive portion of which reads:

"WHEREFORE, premises considered, this Court finds the accused JOSEPH REYES y PASCUAL, GUILTY BEYOND REASONABLE DOUBT of violation of Section 11, Article II, R.A. 9165 and he is sentenced to suffer the penalty of imprisonment for an indeterminate term of twelve (12) years and one (1) day, as minimum to fourteen (14) years and eight (8) months as maximum and to pay a fine of Three Hundred Pesos (P300,000.00).

xxx xxx xxx

"SO ORDERED."

Not satisfied with the foregoing decision, herein accused-appellant interposed the instant appeal raising as lone error the following act that was purportedly committed by the trial court, to wit:

THE COURT A *QUO* GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF VIOLATION OF SEC. 11, R.A. NO. 9165, DESPITE THE PROSECUTOR'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

The primordial issue brought before this Court for resolution is whether the court *a quo* erred in convicting herein accused-appellant beyond reasonable doubt of the crime of illegal possession of a dangerous drug.

After a careful and thorough review of the facts, law and issues of this case, we affirm the trial court's conviction of the accused-appellant.

The accused-appellant asserted that the trial court erred in convicting him of the charge against him because the prosecution purportedly failed to establish its case against him with moral certainty.

The crime of illegal possession of shabu is penalized under Section 11 of Republic Act No. 9165 which pertinently provides as follows:

"Section 11. *Possession of Dangerous Drugs*. – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

X X X

"Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

X X X

(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine, or cocaine hydrochloride marijuana resin or marijuana resin oil, methamphetamine hydrochloride or 'shabu,' or other dangerous drugs such as, but not limited to, MDMA or 'ecstasy,' PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana."

For the criminal offense of illegal possession of a dangerous drug, the elements are: (a) the accused was in possession of an item or object that is identified to be a prohibited or dangerous drug; (b) such possession is not authorized by law; and (c) the accused freely and consciously possessed the drug^[8].

Based on the evidence offered and submitted by the prosecution, the above elements were duly established in the present case. The accused-appellant was found in possession of two heat-sealed sachets of *shabu*, an item or object that is identified to be a prohibited or dangerous drug. Such possession by the accused-appellant of the same was not authorized by law and the accused-appellant freely and consciously possessed the said dangerous drug.

In the same manner, taking the circumstances surrounding his arrest into account, the failure of the police officers to initially file criminal charges against him for failing to wear a helmet does not, in any manner, change the fact that he was found in possession of illegal drugs. More importantly, the search conducted upon him was valid because the discovery of the plastic sachets of *shabu* was a result of a valid and regular conduct of a police checkpoint.

Searches conducted in checkpoints are valid for as long as they are warranted by the exigencies of public order and are conducted in a way least intrusive to motorists^[9]. Although the general rule is that motorists and their vehicles as well as pedestrians passing through checkpoints may only be subjected to a routine inspection, vehicles may be stopped and extensively searched when there is probable cause which justifies a reasonable belief of the men at the checkpoints that either the motorist is a law offender or the contents of the vehicle are, or have