

THIRD DIVISION

[G.R. No. 113498, January 16, 1997]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ALFREDO BRIONES Y RUVERA, ACCUSED-APPELLANT.**

DECISION

FRANCISCO, J.:

Appellant Alfredo Briones y Ruvera was charged before the trial court^[1] with violation of Section 15, Article III of Republic Act No. 6425,^[2] as amended. The accusatory pleading reads as follows:

"That on or about March 4, 1993 in the City of Manila, Philippines, the said accused, not having been authorized by law to sell, dispense, deliver, transport or distribute any regulated drug, did then and there wilfully and unlawfully sell or offer for sale 0. 1458 grams of white crystalline substance known as "SHABU" containing methamphetamine hydrochloride, which is a regulated drug."^[3]

Appellant pleaded not guilty when arraigned. Thereafter, a full dress trial ensued culminating in the trial court's verdict of conviction sentencing him to suffer life imprisonment based on the following narration of facts:

"[O]n March 4, 1993, at around 5:30 o'clock in the afternoon a police posse led by SPO1 Eulalio Alilio and composed of PO3 Amorsolo Maravilla, PO3 Roque Blanco, and a civilian police informer named Danny proceeded to Topacio Street to conduct buy-bust operation. SPO1 Eulalio Alilio acted as poseur buyer. When they reached the target area and saw the accused, SPO1 Eulalio Alilio and the civilian informer discreetly approached him, while the other two police officers posted themselves strategically nearby. The informer asked the accused if he had 'shabu'. When the latter replied in the affirmative, SPO1 Eulalio Alilio offered to buy some, worth P100.00. The police officer then handed a marked P100-bill (Exhibit A) to the accused who in turn gave a deck of white crystalline substance contained a small plastic packet (Exhibit E-2) to the former. The exchange having been completed, SPO1 Eulalio Alilio gave to his companions their pre-arranged signal by placing his hand on the shoulder of the accused. The other two officers then approached them. The policemen arrested the accused and frisked (sic) his pockets which yield (sic) two or more small plastic packets containing similar substance. The marked P100-bill (Exhibit A) was recovered from the accused who was still holding the money when the policemen apprehended him. They took him to their Police Station No. 6 for investigation.

"Meanwhile, SPO1 Eulalio Alilio submitted to the National Bureau of Investigation the crystalline substance confiscated from the accused for

laboratory examination to determine its chemical composition. (Exhibit D.) The examinations made on the specimens taken from the said crystalline substance yield (sic) positive results for methamphetamine hydrochloride. (Exhibits F and G.)"[4]

In this at appeal, appellant contends that "the trial court erred in convicting [him] of violation of Section 15 of Republic Act 6425, otherwise known as the Dangerous Drugs Act of 1972, as amended, despite the utter failure of the prosecution to prove all the elements of the aforesaid offense." [5]

We find merit in this appeal.

The conviction of the appellant was predicated principally on the testimonies of SPO1 Eulalio Alilio - the alleged poseur-buyer, and PO3 Amorsolo Maravilla - one of the two police officers who acted as "back up" during the alleged buy-bust operation. According to the trial court, "PO3 Maravilla substantially corroborated [the testimony of, SPO1 Alilio, particularly about the buy bust operation they conducted on March 4, 1994, x x x along Topacio street, Sta. Ana Manila." [6]

Our careful review of their separate testimonies, however, reveals that far from corroborating each other, the same are replete with contradictions and tainted with inconsistencies as herein illustrated.

In his direct examination, SPO1 Alilio testified that when the shabu was already in his possession and the marked money was already in the hands of the appellant, PO3 Maravilla and PO3 Roque appeared and arrested the appellant. [7] However, this was belied by PO3 Maravilla who categorically declared in his direct examination that SPO1 Alilio was the one who actually made the arrest. [8] He narrated his account of the buy-bust operation in this wise:

- Q** How did you act as back-up to Alilio?
A I posted myself at a distance where I can see him because I cannot penetrate the place, sir.
Q Why, where did Alilio go?
A It is a small interior or alley, sir
Q What else, where did he go?
A He talked to somebody, sir.
Q Did you see the person to whom Alilio talked with?
A I saw him, sir.
Q When SPO1 Alilio talked to the accused, what happened. if any?

COURT:

- Q** Before that, did you hear what Alilio and the accused talked about?
A No, Your Honor.
COURT: Answer the question

WITNESS: A He placed his arm over his shoulder, sir.

PROSECUTOR:

Q Who placed his arm to whose shoulder?

A SPO1 Alilio placed his arm on the shoulder of the suspect, sir.

Q What else did you see?

A No more because they already approached us and we approached him, sir.

Q Also, other than that, what happened next

A We brought him to the police station already, sir."^[9]
(Underscoring ours)

Just as the trial court concluded, PO3 Maravilla could have corroborated the testimony of SPO1 Alilio in its material points considering that the former had posted himself at a place where he can see the latter and the appellant.^[10] After all, SPO1 Alilio asserted that they (SPO1 Alilio and appellant) "were in the acts of exchanging things with each other" when PO3 Maravilla and PO3 Blanco showed up.^[11] However, notwithstanding this claim of SPO1 Alilio, all that PO3 Maravilla testified seeing was that SPO1 Alilio talked with and thereafter placed his arm over appellant's shoulder. Nowhere in his testimony did he ever state that SPO1 Alilio and the appellant did exchange something prior to the latter's arrest. It is inconceivable that such exchange, if there was any, could have escaped his attention considering that it was supposedly the event which immediately preceded their pre-arranged signal, viz., the placing of SPO1 Alilio's arm over appellant's shoulder.

But what perplexed us more are the following declarations of PO3 Maravilla which further casts serious doubt on the veracity of SPO1 Alilio's testimony. Thus:

Q Do you know why you brought the accused to the station?

A Allegedly, a shabu was confiscated from him, sir.

Q Who confiscated the shabu from the accused?

A I did not see that thing, sir.

Q What about at the police station, did you see the shabu?

A No, sir, because I left the place, sir."^[12] (Underlining ours.)

On cross-examination, PO3 Maravilla's denial was as stunning, thus:

Q But you did not know what took place between them?

A No, sir.

Q And after their talk and after police officer Alilio placed his arm around the accused, that was the time that you approached them?

A Yes, sir.

Q And that was the time that you know that the accused was