

## THIRD DIVISION

[ G.R. No. 219560, July 01, 2020 ]

### JUANDOM PALENCIA Y DE ASIS, PETITIONER, VS. PEOPLE OF THE PHILIPPINES RESPONDENT.

#### DECISION

##### LEONEN, J.:

Courts must strictly scrutinize violations of Republic Act No. 9165 when only minuscule amounts of dangerous drugs were seized from the accused. Additionally, in assessing the prosecution's evidence, courts should include the scale of operations and the government unit involved in an anti-narcotics operation. If the amount of drugs seized is disproportionate to the scale of operations, courts should not readily rely on the presumption of regularity accorded to the arresting and seizing officers.

This Court resolves the Petition for Review on Certiorari<sup>[1]</sup> assailing the Decision<sup>[2]</sup> and Resolution<sup>[3]</sup> of the Court of Appeals, which affirmed the Regional Trial Court Judgment<sup>[4]</sup> finding Juandom Palencia y De Asis (Palencia) guilty beyond reasonable doubt of possessing dangerous drugs, punished under Section 11 of Republic Act No. 9165, or the Comprehensive Dangerous Drugs Act of 2002.

On April 22, 2008, Palencia was charged with possession of dangerous drugs. The accusatory portion of the Information against him reads:

That on or about the 21<sup>st</sup> day of April, 2008, in the City of Dumaguete, Philippines, and within the jurisdiction of this Honorable Court, the said accused, not being then authorized by law, did, then and there willfully, unlawfully and feloniously possess one (1) heat-sealed transparent plastic sachet containing 0.01 gram of Methamphetamine Hydrochloride, otherwise known as "SHABU", a dangerous drug.

Contrary to Sec. 11, Art. II of R.A. 9165.<sup>[5]</sup>

Upon arraignment, Palencia pleaded not guilty to the charge against him. After pre-trial had been terminated, trial soon ensued.<sup>[6]</sup>

The prosecution evidence showed that on the morning of April 21, 2008, officers of the National Bureau of Investigation received information about the rampant sale of illegal drugs near Chicos in Zone 4, Barangay Looc, Dumaguete City. That same day, a team of law enforcers was formed to conduct an anti-narcotics operation in the

tipped site.<sup>[7]</sup> The team included Special Investigator Nicanor Tagle (SI Tagle) and two Philippine Drug Enforcement Agency agents, Senior Police Officer 1 Allen June Germodo (SPO1 Germodo) and PO2 Glenn Corsame (PO2 Corsame).<sup>[8]</sup>

At around 10:50 a.m., the team proceeded to Zone 4 with the volunteer assets.<sup>[9]</sup>

The team began walking along two parallel alleys that led to the beach while PO2 Corsame paused to park his motorcycle.<sup>[10]</sup> On their way, SI Tagle, SPO1 Germodo, and the assets saw a man walking toward their direction, his head bowed down as he looked at the plastic sachets he was holding in his left hand. They would later identify the man as Palencia.<sup>[11]</sup>

When Palencia looked up and saw the officers, he tried to run away, but SI Tagle and SPO1 Germodo caught him and tried to restrain him. Palencia struggled to escape from the officers' grasp and when he was able to free his left hand, he popped the sachets in his hand to his mouth and managed to swallow them. As the struggle continued, however, one of the sachets fell from his mouth and dropped to the ground.<sup>[12]</sup>

With the rest of the team's help, the officers were able to fully restrain Palencia. SI Tagle then picked up the sachet Palencia dropped. He also informed Palencia of his constitutional rights in both English and Visayan and the reason for his arrest.<sup>[13]</sup> As SPO1 Germodo handcuffed Palencia, SI Tagle marked the sachet by putting a piece of masking tape<sup>[14]</sup> on it and writing "JP"-P 4-21-08 on the tape.<sup>[15]</sup>

The arresting officers moved about eight meters away from the arrest site and positioned themselves near the highway. After about 10 minutes,<sup>[16]</sup> the seized sachet was inventoried<sup>[17]</sup> in the presence of Neil Rio (Rio),<sup>[18]</sup> a news reporter, Ramonito Astillero (Astillero),<sup>[19]</sup> a representative from the Department of Justice, and Merlindo Tamayo (Tamayo),<sup>[20]</sup> a barangay kagawad. SPO1 Germodo took pictures.<sup>[21]</sup>

Rio confirmed that he saw the marked sachet and signed the inventory sheet; however, he admitted that he did not witness the arrest and was only present during the inventory after being called by SPO1 Germodo.<sup>[22]</sup> Tamayo likewise testified that he did not see the actual arrest but that he only went to the inventory after being informed of the arrest. Nonetheless, he declared that he saw a marked sachet, which was why he signed the inventory sheet.<sup>[23]</sup> Astillero, meanwhile, testified that he saw a marked sachet during the inventory.<sup>[24]</sup>

After the inventory, the officers brought Palencia to the National Bureau of Investigation office where PO2 Corsame recorded the arrest.<sup>[25]</sup> SI Tagle then prepared a transmittal letter and letter request for an examination of the recovered sachet and a drug test on Palencia. Afterward, he brought the documents and the marked sachet to the Philippine National Police Crime Laboratory and handed them to Police Chief Inspector Josephine S. Llena (Chief Inspector Llena).<sup>[26]</sup>

Upon examination, Chief Inspector Llena reported that the specimen tested positive

for shabu. She then resealed the sachet and, on the seal, wrote A D-072-08.<sup>[27]</sup>  
Chemistry Report No. D-072-08<sup>[28]</sup> reads in part:

SPECIMEN SUBMITTED:

- A. One (1) heat-sealed transparent plastic sachet with markings "JP-P"  
4-21-08 containing 0.01 gram of white crystalline substance.

xxx      xxx      xxx

PURPOSE OF LABORATORY EXAMINATION:

To determine the presence of Dangerous Drugs under RA 9165.

FINDINGS:

Qualitative examination conducted on specimen A gave **POSITIVE** result to the tests for **Methamphetamine Hydrochloride**, a dangerous drug under RA 9165.

xxx      xxx      xxx

CONCLUSION:

Specimen A contains **Methamphetamine Hydrochloride**, a dangerous drug under RA 9165.<sup>[29]</sup> (Emphasis in the original)

The defense presented Palencia and his sisters, Jessica Guerrero (Guerrero) and Jingle Lugo (Lugo), as its witnesses.

Palencia testified that on the day he was arrested, he and Guerrero were on their way to Zone 3 to sell "*bihag*," or "the meat of a dead fighting cock." On their way, somebody flagged them down and bought the two pieces of *bihag* they carried for P100.00 each.<sup>[30]</sup>

After the sale, Palencia and Guerrero walked toward the main road on their way home. At that moment, they saw several persons being chased by another group of men who wielded guns. Unable to chase them, one of the armed men, whom Palencia would later discover to be SI Tagle, stopped running and turned on the siblings instead. The officer grabbed Palencia's arm and pointed the gun to his head.<sup>[31]</sup>

Together with his companions, SI Tagle patted down Palencia and emptied his pockets, where they found his cellphone and the proceeds from the *bihag* sale. Two men held down Palencia while SI Tagle repeatedly punched him in his chest and stomach. After the officer had finished and walked away, his companions handcuffed Palencia.<sup>[32]</sup>

When SI Tagle returned minutes later, he bent down in front of Palencia as if to pick something up. When he stood, he had a plastic sachet in his hand, which prompted Palencia to shout, "Planting! Planting!"<sup>[33]</sup>

Palencia denied that he was informed of his constitutional rights during his arrest, or that PO2 Corsame and SPO1 Germodo were with SI Tagle when he was arrested. He likewise denied that an inventory was conducted at the place of his arrest.<sup>[34]</sup>

Guerrero corroborated her brother's testimony.<sup>[35]</sup> She added that while her brother was being mauled and handcuffed, she was "crying and trembling," terrified of what was happening.<sup>[36]</sup>

Guerrero also testified that after her brother had been handcuffed,<sup>[37]</sup> the men brought him to the side of the road, made him sit on a stool, and investigated him without a lawyer.<sup>[38]</sup> Afterward, they made him board a car and brought him to the National Bureau of Investigation office.<sup>[39]</sup>

Lugo testified that Guerrero texted her of Palencia's arrest immediately after it happened. Thus, she went to the National Bureau of Investigation office to check on his brother. When she talked to him, he denied possessing shabu and claimed that the officers had mauled him.<sup>[40]</sup>

Lugo also testified that her brother was later transferred to the police station jail. When she visited him about three days after his arrest, she saw that he had large bruises on his chest. She gave him pain reliever and advised him not to undergo medical examination because this might only encourage the officers to gang up on him once more.<sup>[41]</sup>

On October 24, 2011, the Regional Trial Court<sup>[42]</sup> found Palencia guilty beyond reasonable doubt of illegally possessing a dangerous drug.

The Regional Trial Court found that the prosecution was able to establish that Palencia was caught possessing a sachet of shabu. It emphasized that the police officers were justified in making a warrantless seizure under the plain view doctrine because Palencia was caught *in flagrante delicto* with what appeared to be a sachet of dangerous drugs.<sup>[43]</sup>

The Regional Trial Court then brushed aside Palencia's "inherently weak defense" of denial or frame-up, made even weaker with the prosecution witnesses' positive identification of Palencia. It also pointed out that Palencia failed to show that the arresting officers had ill motive to testify against him.<sup>[44]</sup>

The Regional Trial Court likewise punctuated that the arresting officers enjoyed the presumption of regularity in the performance of their duty. It maintained that they testified in a consistent and straightforward manner, their accounts something that "could have only been described by a person who actually witnessed the event[.]"<sup>[45]</sup>

The dispositive portion of the Regional Trial Court Judgment read:

**WHEREFORE**, in the light of the foregoing, the Court hereby finds the accused Juandom Palencia y De Asis GUILTY beyond reasonable doubt of the offense of illegal possession of one (1) heat-sealed transparent plastic containing 0.01 gram of *shabu* in violation of Section 11, Article II of R.A. No. 9165 and is hereby sentenced to suffer an indeterminate penalty of twelve (12) years and one (1) day as minimum term to fourteen (14) years as maximum term and to pay a fine of Four Hundred Thousand Pesos (P400,000.00).

The one (1) heat-sealed transparent plastic sachet containing 0.01 gram of *shabu* is hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

SO ORDERED<sup>[46]</sup> (Emphasis in the original)

On November 4, 2011, the Regional Trial Court granted<sup>[47]</sup> Palencia's Motion for Temporary Liberty<sup>[48]</sup> under the same bail bond pending his appeal and ordered<sup>[49]</sup> his release.

Palencia appealed to the Court of Appeals. However, on November 25, 2014, the Court of Appeals denied<sup>[50]</sup> his appeal.

The Court of Appeals upheld the Regional Trial Court's finding that Palencia was caught *in flagrante delicto* possessing a sachet of shabu, making the warrantless arrest and seizure valid.<sup>[51]</sup>

The Court of Appeals likewise found that the prosecution accounted for all the links in the chain of custody of the seized shabu.<sup>[52]</sup> It ruled that the purported omissions by the arresting officers were minor details that did not cast doubt on the integrity of the drug seized.<sup>[53]</sup>

The dispositive portion of the Court of Appeals Decision read:

**WHEREFORE**, premises considered, the appeal is DENIED. The assailed October 24, 2011 *Decision* of the Regional Trial Court, Branch 30 of Dumaguete City in Criminal Case No. 19032 convicting accused-appellant Juandom (*sic*) Palencia for violation of Section 11, Article II of RA 9165 is hereby AFFIRMED.

**SO ORDERED.**<sup>[54]</sup> (Emphasis in the original)

Palencia moved for reconsideration,<sup>[55]</sup> but the Court of Appeals denied<sup>[56]</sup> his Motion on June 23, 2015. Hence, Palencia filed this Rule 45 Petition<sup>[57]</sup> before this