

## SECOND DIVISION

[ G.R. No. 239887, October 02, 2019 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
JEFFREY FAYO Y RUBIO A.K.A. "JEFF", ACCUSED-APPELLANT.**

### DECISION

**CAGUIOA, J:**

Before the Court is an ordinary appeal<sup>[1]</sup> filed by the accused-appellant Jeffrey Fayoy Rubio a.k.a. "Jeff" (Fayo), assailing the Decision<sup>[2]</sup> dated January 25, 2018 (assailed Decision) of the Court of Appeals<sup>[3]</sup> (CA) in CA G.R. CR-HC No. 09060, which affirmed the Judgment<sup>[4]</sup> dated January 23, 2017 rendered by the Regional Trial Court of Pasig City, Branch 164 (RTC) in Criminal Case Nos. 20349-D and 20350-D, entitled *People of the Philippines v. Jeffrey Fayo y Rubio @ "Jeff,"* finding Fayo guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. (RA) 9165,<sup>[5]</sup> otherwise known as "The Comprehensive Dangerous Drugs Act of 2002," as amended.

#### **The Facts and Antecedent Proceedings**

As narrated by the CA in the assailed Decision and as culled from the records of the instant case, the essential facts and antecedent proceedings of the instant case are as follows:

In Crim. Case No. 20349-D, Fayo was charged with illegal sale of *shabu* under the following Information:

On or about May 27, 2015, in Pasig City and within the jurisdiction of this Honorable Court, the accused, not being authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver and give away to PO1 Jonathan Bueno y Pintuan, a member of Philippine National Police, who acted as a poseur-buyer, one (1) heat-sealed transparent plastic sachet containing 0.41 gram of white crystalline substance, which was found positive to the test of Methamphetamine Hydrochloride, a dangerous drug, in violation of the said law.

Contrary to law.

He was charged with illegal possession of *shabu* in Crim. Case No.

20350-D under an Information which reads:

On or about May 27, 2015, in Pasig City and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized to possess any dangerous drug, did then and there willfully, unlawfully and feloniously have in his possession and under his custody and control one (1) heat sealed transparent plastic sachet containing 0.47 gram, one (1) heat-sealed transparent plastic sachet containing 0.61 gram, one (1) heat-sealed transparent plastic sachet containing 0.52 gram and one (1) heat-sealed transparent plastic sachet containing 6.43 grams, all in the total amount of 8.03 grams of white crystalline substance, which were found positive to the test of Methamphetamine Hydrochloride, dangerous drug, in violation of the said law.

Contrary to law.

When arraigned, Fayo pleaded not guilty to the offenses charged.

In the ensuing trial, the prosecution presented PO1 Jonathan P. Bueno (PO1 Bueno), the poseur buyer, and PO1 Randy S. Sanoy (PO1 Sanoy), the backup officer. The testimony of forensic chemist Police Senior Inspector Anghelisa S. Vicente (PSI Vicente) was dispensed with after the prosecution and the defense stipulated, among others, that: 1) she is a Forensic Chemist assigned at "EPD Crime Laboratory" Office, Mandaluyong City; 2) she is an expert witness in the field of forensic chemistry; 3) she received from Station Anti-Illegal Drugs Special Operation Task Group of Pasig City Police Station, Pasig City the Request for Laboratory Examination together with the specimen mentioned therein; 4) she conducted physical, chemical, and confirmatory test on the specimen; 5) the result of the laboratory examination was reduced in writing and contained in the Physical Sciences Report No. D-330-15E; 6) the authenticity and due execution of the letter-request and Physical Sciences Report No. D-330-15E; 7) in compliance with the order of the RTC, she brought with her the white copy of the Physical Sciences Report No. D-330-15E, the receiving copy of the letter-request and the specimen she subjected for laboratory examination; 8) she can identify the Request for Laboratory Examination, Physical Sciences Report No. D-330-15E, the specimen she subjected for laboratory examination, and her markings on the bigger plastic sachet and on the specimen; 9) she has no personal knowledge of the source and origin of the evidence she received, and the facts and the circumstances surrounding the arrest of the accused; and 10) she received the already pre-marked specimen. The parties likewise dispensed with the testimony of PO3 Nelson G. Cruz after stipulating that he is the investigator who prepared the Chain of Custody Form and Request for Drug Test and Laboratory Examination, and he has no knowledge of the origin of the specimen or the circumstances of the arrest.

Only Fayo testified for the defense.

### **The Version of the Prosecution**

The testimonies of the prosecution's witnesses were summarized by the Office of the Solicitor General (OSG), representing the People of the Philippines, in this wise:

On May 27, 2015, at around 4:00 o'clock (*sic*) in the afternoon, Police Chief Inspector (PCI) Renata B. Castillo, Chief of the Station Anti-illegal Drugs Special Operation Task Group (SAIDSOTG), Pasig City Police Station, conducted a meeting and informed the operatives that a confidential informant can accompany any one of them to buy illegal drugs from [Fayo] who is a known pusher at Barangay Manggahan, Pasig City. A buy-bust operation was planned against [Fayo] where PO1 Jonathan P. Bueno (PO1 Bueno) was tasked as the poseur-buyer, who will buy illegal drugs from [Fayo] using a one thousand-peso bill with Serial No. FA131613 bearing the markings "JPB" on its lower left corner. The agreed pre-arranged signal will be the act of PO1 Bueno in scratching his head which will signify that the buy-bust transaction is already consummated. The other operatives were tasked as perimeter back-ups, while PO1 Randy S. Sanoy (PO1 Sanoy) was designated as the immediate back-up of the poseur-buyer.

Armed with the coordination sheet and the pre-operation report, the team reached Floodway, Barangay Manggahan, Pasig City, at around 6:00 o'clock (*sic*) in the evening of the same day. They waited for the confidential informant for a few minutes and when he finally arrived, he informed the team that he and [Fayo] agreed to meet at Phoenix Gas Station, Amang Rodriguez Avenue, Barangay Manggahan. The team together with the confidential informant immediately went to the aforesaid gas station. PO1 Bueno and the confidential informant waited for [Fayo] while the other members strategically positioned themselves. At around 6:30 o'clock (*sic*) in the evening, [Fayo] arrived and the confidential informant greeted him and introduced PO1 Bueno as the person who wanted to purchase illegal drugs.

[Fayo] then asked the confidential informant and PO1 Bueno how much they were buying, to which PO1 Bueno responded One Thousand Pesos (Php1,000.00) worth and immediately handed to [Fayo] the marked money. [Fayo] took the marked bill and kept it in his left pocket. He then took several sachets from his right pocket, choosing one and handing it to PO1 Bueno.

PO1 Bueno received the sachet from [Fayo] and executed the

pre-arranged signal to alert his fellow operatives. PO1 Bueno then introduced himself as a police officer. While being apprehended [Fayo] tried to reach for something from his waistline, but was stopped by PO1 Sanoy. Upon frisking [Fayo], PO1 Sanoy discovered that [Fayo] was reaching for a calibre .45 gun, also, [Fayo] had a grenade in his backpack.

PO1 Bueno confiscated from [Fayo] an additional four (4) transparent plastic sachets all containing the same white crystalline substance believed to be *shabu*, as well as the marked One Thousand Peso (Php 1,000.00) bill.

At the place of arrest, PO1 Bueno, in front of [Fayo], marked the subject of the buy-bust operation as 2JPB/FAYO/5-27-2015 to 5JPB/FAYO/5-27-2015, affixing his signature in all of the specimens.

The buy-bust operatives requested for the presence of Punong Barangay Bobby L. Bobis (Bobis), but the latter advised them to just proceed to the Barangay Hall of Manggahan. So, the team proceeded to the Barangay [H]all where Bobis was already awaiting their arrival. Upon arrival, [Fayo] was presented to Bobis, in whose presence an inventory of the seized evidence was made, as well as the taking of photographs of the confiscated items.

After the marking, inventory and photographing, [Fayo] was brought to the office of the SAIDSOTG. PO1 Bueno presented [Fayo] to Investigator PO3 Cruz. PO3 Cruz prepared the Chain of Custody Form, Request for Laboratory Examination and Request for Drug Test, which documents together were marked five (5) sachets of suspected *shabu* were submitted by PO1 Bueno to the EPD Crime Laboratory in Mandaluyong City, specifically to Forensic Chemist PSI Vicente. The following day, PO1 Bueno secured a copy of the Physical Sciences Report No. D-330-15E where the specimens submitted tested positive for methamphetamine hydrochloride, a dangerous drug.

### **The Version of the Defense**

Fayo denied the charges against him. At around 5 o'clock in the afternoon of May 27, 2015, he was allegedly on his way to collect the respective rent and earnings of his employer's house and store. While driving a motorcycle along Floodway, Taytay, Rizal, he had a traffic altercation with the driver and passenger of another motorcycle, later on identified as Marvin Santos (Santos) and PO1 Sanoy. Santos and PO1 Sanoy appeared drunk and hurled profane words against him. As Fayo was about to turn to Rodriguez Road, he heard a gunshot from behind

and noticed Santos and PO1 Sanoy tailgating him. When he looked back, he saw PO1 Sanoy aiming a gun at him. He panicked and fell at the Phoenix Gasoline Station. Again, PO1 Sanoy pointed a gun at him, asking why he was very arrogant, while Santos kicked him on the face. Fayoy pleaded for mercy but to no avail. Some traffic enforcers and a security guard attempted to intervene but Santos and PO1 Sanoy prevented them. Fayoy was then handcuffed and ordered to board the motorcycle driven by Santos, while PO1 Sanoy drove Fayoy's vehicle. After a while, they stopped under a bridge at Floodway where they were met by a red Toyota Innova. Fayoy was transferred to said vehicle and brought to motorpool and SAID. He was interviewed by PO1 Bueno as to the source of the P17,500.00 money recovered from him. He explained that he collected the money from the rent and income of his employer's house and store, but PO1 Bueno, Santos and a certain Major Castillo refused to believe him. The police officers even asked him to produce P100,000.00 to avoid the filing of criminal cases against him. When Fayoy failed to give the money, he was brought to Karangalan, *Barangay* Manggahan where he was presented to *Barangay* Captain Bobby Bobis (*Barangay* Captain Bobis). At the *barangay* hall, sachets of *shabu*, a gun and grenade were displayed on a table and Fayoy was instructed to point at the said items while pictures were being taken. Thereafter, he underwent drug test and medical examination at Mandaluyong City. The following day, he was brought to the Office of the City Prosecutor for inquest proceedings.<sup>[6]</sup>

### **The Ruling of the RTC**

On January 23, 2017, the RTC rendered a Judgment convicting Fayoy for committing illegal sale and possession of dangerous drugs under Sections 5 and 11, Article II of RA 9165.

The dispositive portion of the RTC's Judgment reads:

#### **WHEREFORE:**

1. In ***Criminal Case No. 20349-D***, the Court finds accused Jeffrey R. Fayoy **GUILTY** beyond reasonable doubt of the crime of selling *shabu* penalized under Section 5, Article II of RA 9165, and hereby imposes upon him the penalty of **life imprisonment and a fine of five hundred thousand pesos (P500,000.00) with all the accessory penalties under the law.**
2. In ***Criminal Case No. 20350-D***, the Court finds accused Jeffrey R. Fayoy **GUILTY** beyond reasonable doubt of violation of Section 11, Article II of RA 9165, and hereby imposes upon him an indeterminate penalty of imprisonment **from twelve (12) years and one (1) day, as minimum, to sixteen (16) years, a maximum, and a fine of three hundred thousand pesos**