

SECOND DIVISION

[G.R. No. 205823, August 17, 2015]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. REGIE BREIS Y
ALVARADO AND GARY YUMOL Y TUAZON,* APPELLANTS.**

D E C I S I O N

CARPIO, J.:

The Case

This is an appeal from the Decision^[1] dated 26 June 2012 of the Court of Appeals in CA-G.R. CR-H.C. No. 04916, affirming the Decision^[2] dated 14 February 2011 of the Regional Trial Court, Branch 61, Baguio City (trial court) in Criminal Case No. 30409-R.

The Facts

Appellants Regie Breis y Alvarado (Breis) and Gary Yumol y Tuazon (Yumol) were charged with violation of Section 11 of Republic Act No. 9165 (RA 9165) as follows:

That in the afternoon of February 10, 2010, at Gov. Pack Road, this City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, in conspiracy with each other, did then and there willfully, unlawfully, and feloniously have in their possession, custody and control marijuana with a recorded net weight of 8,181 grams of dried marijuana leaves/fruited tops wrapped in plastic and further wrapped with brown packaging tape and placed inside a brown box, without the authority of law and knowing fully well that said dried marijuana leaves/fruited tops are dangerous drugs, in violation of the afore-cited provisions of law.

CONTRARY TO LAW to Sec. 11 of RA 9165.^[3]

Upon arraignment, appellants pleaded not guilty. Trial ensued, where the prosecution presented witnesses Intelligence Officers 1 Elizer Mangili (IO1 Mangili) and Ryan Peralta (IO1 Peralta) of the Philippine Drug Enforcement Agency - Cordillera Administrative Region (PDEA-CAR); while the defense presented the testimonies of appellants.

Version of the Prosecution

The prosecution's version of the facts, as summarized by the trial court, is as

follows:

Around 3:00 o'clock PM of February 10, 2009 (sic), an informant went to the PDEA-CAR field office at Melvin Jones, Harrison Road, Baguio City and offered the information that the accused were bound to transport a box of marijuana from Baguio City to Dau, Mabalacat, Pampanga. Mangili gathered that the accused have been frequently traveling from Pampanga to Baguio to get marijuana bricks from their supplier at La Trinidad, Benguet. Mangili referred the informant to Senior PDEJA Officer Tacio for further interview and then the matter was referred to the PDEA Officer-in-Charge Edgar Apalla, who after careful evaluation, ordered Agent Tacio to form a team for the entrapment of the accused.

Agent Tacio created a team composed of Mangili and Peralta as arresting officer and seizing officer, respectively, and briefed them on the operations to be conducted. Tacio disclosed to the team that the accused were to transport by a public transport bus from Baguio City to Dau, Pampanga bricks of marijuana packed in a carton and that the departure from Baguio was scheduled at around 5:00 o'clock PM of that day. The accused Breis would be in a white t-shirt with "Starbucks" logo and dark jeans while accused Yumol would be wearing a black t-shirt with a white print and blue jeans. Both the accused were described as standing about 5 feet and 5 inches, thin, and dark complexion.

When the briefing was through, the team proceeded to the Genesis Bus terminal at Governor Pack Road, Baguio City at around 4:30 o'clock PM. Due to time constraints, the PDEA team chose not to secure any warrant nor coordinate with the nearest police station.

Upon reaching the bus terminal, Mangili asked the bus conductor to identify the bus which would leave at 5:00 o'clock PM. Mangili was directed to Genesis bus with plate number TXX 890. Thus, pretending to be passengers, Mangili and Peralta boarded the bus and they observed two male individuals whose physical appearances fitted the descriptions given by the informant. Both agents likewise saw a box placed in between the legs of accused Breis.

Mangili sat behind the accused while Peralta, stood near where the accused were seated. In order to have a clearer view of the box tucked in between the feet of accused Breis if the same fit the box described by informant, Mangili took the seat opposite where the accused were seated and saw that the box was with the markings "Ginebra San Miguel" and which was described by the informant. Mangili then casually asked accused Yumol who owned the "Ginebra San Miguel" box, the accused replied that it was theirs.

Accused Yumol suddenly stood up and tried to leave but before he could do so, Peralta blocked his way while Mangili confronted accused Breis and asked what was contained in the box. Instead of answering, Breis shoved Mangili and tried to flee but Mangili was able to block his way as he was much larger than the accused Yumol (sic). Mangili ordered him to sit

down.

Agent Peralta then summoned the back-up officers to help secure the bus and subdue the accused. After introducing themselves as PDEA agents, Mangili asked the accused Breis to open the box but Breis ignored the request which made Mangili lift and open the box. He took one brick and discovered it was marijuana. The "Ginebra San Miguel" box yielded three more bricks of marijuana. Mangili then marked the items on site.

Agent Peralta then informed the accused that they were being arrested for violation of Rep. Act No. 9165 and then he read their constitutional rights in Pilipino to them.

Thereafter, the team returned to the PDEA-CAR office of Melvin Jones, Baguio City for documentation such as the preparation of the affidavits of Agents Mangili and Peralta, Booking Sheet and Arrest Report of both accused, Request for Physical Exam and Request for Laboratory Exam. Inventory likewise was done around 7:43 o'clock PM on February 10, 2010 at the said PDEA-CAR office.

After the documentation and inventory, the accused were brought to the Baguio General Hospital and Medical Center (BGHMC) and Medico-Legal Certificates were issued showing that the accused had no external signs of physical injuries at the time of their examination. Chemistry Report No. D-08-2010 indicates that the confiscated items from the accused yielded positive to (sic) the presence of marijuana, a dangerous drugs (sic).^[4]

Version of the Defense

The defense's version of the facts, as summarized by the trial court, is as follows:

Accused, both construction workers, left Dau, Mabalacat, Pampanga for Baguio at around 6:00 o'clock AM of February 9, 2010 to visit a certain Edwin Garcia, an acquaintance and a resident of Loakan, Baguio City. Edwin Garcia had offered the accused to be upholsterers in his upholstery business way back in December of 2008.

At around 11:00 o'clock AM, the accused arrived in Baguio City and because they did not know the exact address and contact number of Edwin Garcia, they took a chance and decided to take a cab to Loakan. However, they failed to find Garcia's house despite asking the residents of Loakan. So, they decided to go back to the Genesis bus terminal and go back home to Pampanga.

Upon reaching the terminal, they ate and took the 4:30 o'clock PM bus for Pampanga. They were already boarded when accused Yumol stepped out to buy a bottle of water. Thereafter, Mangili went near accused Breis and uttered something inaudible, and thinking that the seat he was occupying was Mangili's, accused Breis stood up to give up his seat but

instead Mangili pushed him and accused Breis asked what seems to be the problem. Mangili then asked if he owns the box under the seat in front of his, Breis replied in the negative. Mangili then opened the box, got one of the bricks contained therein, sliced the same and saw that it was marijuana. Accused Breis, infuriated, retorted that the accusation is baseless and malicious.

Mangili then summoned his companions and they dragged accused Breis outside the bus when suddenly, accused Yumol arrived and inquired what the commotion was all about. The group then asked if he (Yumol) was a companion of accused Breis and when he answered positively, Yumol was likewise apprehended.

Both the accused were then brought to the PDEA Office and were forced to admit ownership of the box of marijuana, but they refused and thus they were hit with the bricks of marijuana. One of the agents even squeezed the scrotum of accused Yumol in the hope that he will admit ownership over the box of marijuana.^[5]

The Trial Court's Ruling

The trial court gave credence to the prosecution's version, upholding the presumption of regularity in favor of the PDEA agents and finding no evil or ill-motive on their part. On the other hand, the trial court found appellants' defense of frame-up too incredible and outlandishly preposterous. The trial court also held that the warrantless search and seizure and the warrantless arrest of appellants were valid. The dispositive portion of the decision reads:^[6]

WHEREFORE, judgment is rendered finding the accused Regie Breis y Alvarado and Gary Yumol y Tuazon GUILTY beyond any reasonable doubt and they are hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and each to pay a fine of P5,000,000.00.

Both the accused are immediately ORDERED TO BE TRANSFERRED to the National Penitentiary in Muntinlupa City, Metro Manila.

SO ORDERED.^[7]

The lone assignment of error in the Brief for the Accused-Appellants is as follows:

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANTS GUILTY OF THE CRIME CHARGED BEYOND REASONABLE DOUBT.^[8]

In their appeal, appellants argued that the PDEA agents did not comply with Section 21, paragraph 1, Article II of RA 9165, and that the prosecution failed to establish

the chain of custody over the seized items.

The Court of Appeals' Ruling

The Court of Appeals affirmed the decision of the trial court, holding that the requirements of Section 21, Article II of RA 9165 were satisfied. Further, the Court of Appeals found no break in the custody of the seized items that might compromise their evidentiary integrity. The appellate court also upheld the legality of the warrantless search and arrest of appellants. The dispositive portion of the decision of the Court of Appeals reads:

WHEREFORE, the foregoing premises considered, the appealed Decision dated February 14, 2011 of the Regional Trial Court (RTC) of Baguio City, Branch 61, in Criminal Case No. 30409-R, is AFFIRMED *in toto*.

SO ORDERED.^[9]

In the present appeal, appellants and appellee adopted their respective briefs^[10] filed before the Court of Appeals as their supplemental briefs.^[11]

The Court's Ruling

The appeal is without merit.

Procedure on Seizure and Custody of Drugs

Appellants argue that the procedure on seizure and custody of drugs, specified in Section 21, paragraph 1, Article II of RA 9165, was not complied with. In support of this contention, appellants state that: (1) the PDEA agents did not immediately conduct the inventory at the place where the items were seized, and did so only at the PDEA-CAR field office;^[12] and (2) the representatives from the media, barangay and Department of Justice (DOJ) were present during the inventory conducted at the field office, but not at the place of the seizure during actual confiscation.^[13]

Appellants are mistaken. The PDEA agents who apprehended appellants did not deviate from the procedure prescribed by law and regulations. Section 21, paragraph 1, Article II of RA 9165 provides the procedure to be followed in the seizure and custody of dangerous drugs:

1) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice, and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof.

This is implemented by Section 21 (a), Article II of the Implementing Rules and