

## FIRST DIVISION

[ G.R. No. 147677, December 01, 2003 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROGELIO PIJO MILADO, APPELLANT.**

### D E C I S I O N

**AZCUNA, J.:**

This is an appeal from the decision of the Regional Trial Court of Bontoc, Mountain Province,<sup>[1]</sup> in Criminal Case No. 1278, convicting appellant Rogelio Pijo Milado for violation of Section 4, Article III of Republic Act 6425, as amended by Republic Act 7659, otherwise known as the Dangerous Drugs Act of 1972. Appellant was sentenced to suffer the penalty of *reclusion perpetua* and to pay a fine of P500,000.<sup>[2]</sup>

The information against appellant reads, as follows:

That on or about March 10, 1999, at Poblacion, Bontoc, Mountain Province, in the morning thereof, and within the jurisdiction of this Honorable Court, the above-named accused without being authorized by law, did then and there willfully, unlawfully and feloniously transport five and one fourth (5 ¼) kilos of indian hemp or marijuana leaves, buds and stems in brick form/shape which was placed/contained in a black traveling bag by then and there carrying and bringing said marijuana from Talubin, Bontoc, Mountain Province, to Poblacion, Bontoc, Mountain Province, knowing fully well that said marijuana is a prohibited drug.

Assisted by counsel *de parte*, appellant pleaded not guilty to the information. Trial then ensued and the court *a quo* rendered the assailed decision.

A perusal of the evidence<sup>[3]</sup> adduced by the prosecution, reveals that in the morning of March 10, 1999, Police Officers Dominic Faclangen and Glen Apangchan were on duty at the Bontoc Police Station when they received information from their asset that a man, coming from Talubin, was transporting marijuana onboard a passenger jeepney. The asset described the man as sporting a pony tail, wearing a white jacket and carrying a bag.

Acting on the information given, Faclangen and Apangchan proceeded to the edge of Samoki Bridge at the Chico River, which separates Samoki and Bontoc, to set up a checkpoint. Accompanying them was another police officer, Angel Komowang, whom they picked up along the way. The policemen flagged down about four or five vehicles before coming across a jeepney that had on board appellant, who fitted the description given by the asset including the fact that he was carrying a black bag. Certain that appellant was the man earlier described by their asset as the person transporting marijuana, the policemen boarded the jeepney and invited appellant

and the driver to the police station.

Upon arriving at the police station, but while still inside the vehicle, the policemen told appellant to open the black bag. Appellant opened his bag and the policemen found what looked like 6 bricks individually wrapped in newspapers. After a laboratory analysis, the bricks were confirmed to be marijuana, totaling 5,209.2 grams.<sup>[4]</sup>

Appellant, for his part, admitted that he took a passenger jeepney bound for Bontoc in the morning of March 10, 1999. Onboard with him were some high school students, a woman and a 14-year-old child. Along the way, the jeepney picked up a certain Derick Masilian, whom appellant knew was a policeman. Upon reaching Bontoc, the high school students and the woman alighted. The child also tried to alight but Masilian stopped him and told the driver to proceed to the police station. Along the way, three other policemen boarded the jeepney. Appellant tried to ask the policemen why he was being taken to the station, but he was told to do his explaining there.

At the station, the child was allowed to go but appellant was taken inside. Appellant was then confronted with a black bag that was found inside the jeepney. The policemen asked him how many kilos of marijuana were contained inside the bag. Appellant answered that he did not know anything about it. He explained that the bag did not belong to him as he carried with him only a shoulder bag containing scissors and a manicure set. He denied transporting marijuana and claimed to be only a beautician by profession.

Only one assignment of error was raised by appellant: The trial court erred in not considering the fact that the evidence allegedly seized from the accused was the product of an illegal search and seizure and, hence, inadmissible under the Rules of Evidence and Article II, Section 3(2) of the Constitution.

The aforesaid argument is without merit.

The general rule is that a search may be conducted by law enforcers only on the strength of a valid search warrant. Nevertheless, the Constitutional proscription against warrantless searches and seizures admits of certain exceptions, such as: 1) warrantless searches incidental to a lawful arrest; 2) seizures of evidence in plain view; 3) searches of a moving vehicle; 4) consented warrantless searches; 5) customs searches; 6) stop and frisk searches; and 7) searches under exigent and emergency circumstances.<sup>[5]</sup>

The Court finds that the evidence seized from appellant was the product of a search incidental to a lawful arrest.

In *Sanchez v. Demetriou*,<sup>[6]</sup> the Court discussed the nature of an arrest:

"Arrest" is defined under Section 1, Rule 113 of the Rules of Court as the taking of a person into custody that he may be bound to answer for the commission of an offense. Under Section 2, of the same Rule, an arrest is effected by an actual restraint of the person to be arrested or by his voluntary submission to the custody of the person making the arrest.