

## SECOND DIVISION

[ G.R. No. 135406, July 11, 2000 ]

**DAVID GUTANG Y JUAREZ, PETITIONER, VS. PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**DE LEON, JR., J.:**

Before us is a petition for review on *certiorari* assailing the Decision<sup>[1]</sup> dated September 9, 1998 rendered by the former Twelfth Division of the Court of Appeals in CA-G.R. CR No. 19463. The assailed Decision affirmed the judgment<sup>[2]</sup> dated October 13, 1995 of the Regional Trial Court of Pasig, Metro Manila, finding petitioner David J. Gutang guilty beyond reasonable doubt for violation of Sections 8 and 16 of RA 6425, as amended, (for illegal possession and use of prohibited drugs) as charged in Criminal Cases Nos. 2696-D and 2697-D, respectively.

The facts are as follows:

On March 5, 1994, accused-appellant David Gutang, together with Noel Regala, Alex Jimenez and Oscar de Venecia, Jr., was arrested by elements of the PNP NARCOM, in connection with the enforcement of a search warrant<sup>[3]</sup> in his residence at No. 331 Ortigas Avenue, Greenhills, San Juan, Metro Manila. When the police operatives of the PNP-NARCOM served the search warrant, which was issued by Judge Martin Villarama, Jr. of the Regional Trial Court, Branch 156, Pasig, Metro Manila, they found the petitioner and his three (3) companions inside the comfort room of the master's bedroom, at the second floor of the house.<sup>[4]</sup> During the search, the following materials were found on top of a glass table inside the master's bedroom:

- a. shabu paraphernalias, such as tooters;
- b. aluminum foil;
- c. two (2) burners (one small, one big);
- d. fourteen (14) disposable lighters;
- e. three (3) weighing scales;
- f. plastic sealant used in repacking shabu;
- g. several transparent plastic bags of different sizes;
- h. about 1.4 grams of suspected marijuana fruiting tops contained in a small white plastic;

- i. about 0.7 gram of suspected dried marijuana contained in a small plastic container.<sup>[5]</sup>

The PNP-NARCOM team also inspected the cars of accused Regala, Jimenez and de Venecia, Jr. which were parked inside the compound of the residence of petitioner Gutang. They found a Winchester Rayban case (sunglasses) with an undetermined amount of suspected shabu residues and tooters in a black plastic container and aluminum foil inside the car of Regala. The cars of Jimenez and de Venecia, Jr. yielded negative results. The items which were confiscated were then brought to the crime laboratory of the Philippine National Police (PNP) at Camp Crame, Quezon City for laboratory tests. The results of the laboratory examinations showed that the said items found in the master's bedroom of the residence of petitioner Gutang were positive for marijuana and methamphetamine hydrochloride (shabu). The items found inside the car of Regala were also positive for shabu.

The findings are as follows:

"PHYSICAL SCIENCES REPORT NO. D-168-94

CASE: Alleged Viol. Of RA 6425

SUSPECTS: DAVID GUTANG Y JUAREZ  
NOEL REGALA Y YORRO  
ALEX JIMENEZ Y ESPINOSA  
CAREY DE VENECIA Y LOCSIN

TIME AND DATE RECEIVED: 1430H, 05 MARCH 1994

REQUESTING PARTY/UNIT: C, 2<sup>nd</sup> SOG NARCOM  
Camp Crame, Q.C.

SPECIMEN SUBMITTED:

Exh. "A" - One (1) white plastic bag containing the following:

Exh. "A-1" - One (1) white film case with dried suspected marijuana fruiting tops weighing 1.56 grams.

Exh. "A-2" - One (1) small black box with dried suspected marijuana fruiting tops weighing 0.70 gram.

Exh. "A-3" - Two (2) pieces of improvised tooter with white crystalline residue.

Exh. "A-4" - Several foil and small plastic bag with white crystalline residue.

Exh. "B" - One (1) white plastic bag marked "ROEL REGALA" containing the following:

Exh. "B-1" - One (1) Winchester case with white crystalline substance.

Exh. "B-2" - One (1) black case containing several tooters with white crystalline residue.

PURPOSE OF LABORATORY EXAMINATION:

To determine the presence of prohibited and/or regulated drug.

FINDINGS:

Qualitative examination conducted on the above-stated specimen gave the following results:

1. Exhs. "A-1" and "A-2" - POSITIVE to the test for Marijuana, a prohibited drug.
2. Exhs. "A-3", "A-4", "B-1" and "B-2" - POSITIVE to the test for methamphetamine hydrochloride (shabu), a regulated drug.

CONCLUSION

Exhs. "A-1" and "A-2" contain marijuana, a prohibited drug.

Exhs. "A-3", "A-4", "B-1" and "B-2" contain Methamphetamine Hydrochloride (shabu) a regulated drug. xxx

REMARKS:

TIME AND DATE COMPLETED: 1630H, Or

March 1994

(Annex "A", pp. 6-8)

On the same day, March 5, 1994, immediately after Gutang, Regala, Jimenez and de Venecia, Jr. were placed under arrest, they were brought to the PNP Crime Laboratory at Camp Crame. According to PNP Forensic Chemist Julita De Villa, their office received from PNP-NARCOM which is also based in Camp Crame a letter-request for drug dependency test on the four (4) men.<sup>[6]</sup> After receiving the said request, Mrs. Esguerra of the PNP Crime Laboratory asked the four (4) men including the petitioner to give a sample of their urine. The petitioner and his co-accused complied and submitted their urine samples to determine the presence of prohibited drugs. After examining the said urine samples, PNP Forensic Chemist De Villa came out with Chemistry Report No. DT-107-94<sup>[7]</sup> and Physical Report No. DT-107-94<sup>[8]</sup> dated March 9, 1994, showing that the said urine samples all tested positive for the presence of methamphetamine hydrochloride (shabu).

Consequently, the informations in Criminal Cases Nos. 2696-D and 2697-D were filed in court against the petitioner and his companions for violation of Sections 8 and 16 of Republic Act No. 6425, (otherwise known as the Dangerous Drugs Act) as amended by Republic Act No. 7659. Incidentally, the charge against accused Oscar de Venecia, Jr. was dismissed by the trial court in an Order<sup>[9]</sup> dated August 3, 1994 on the ground that he voluntarily submitted himself for treatment, rehabilitation and confinement at the New Beginnings Foundation, Inc., a private rehabilitation center

accredited by the Dangerous Drugs Board.

Upon arraignment, petitioner Gutang entered a plea of not guilty. His co-accused, Regala and Jimenez, likewise pleaded not guilty. Thereafter, joint trial of the cases proceeded. However, petitioner Gutang did not present any evidence.

After trial, the lower court rendered its decision, the dispositive portion of which reads:

"WHEREFORE, foregoing considered, the Court finds 1) accused DAVID GUTANG and ALEXANDER JIMENEZ in Criminal Case No. 2696-D, GUILTY beyond reasonable doubt for violation of Section 8 of R.A. 6425 as amended (Possession and use of prohibited drug); and are hereby sentenced to suffer a penalty of six (6) months of arresto mayor to two (2) years, four (4) months of prision correccional and to pay the costs; 2) In Criminal Case No. 2697-D (Possession) accused DAVID GUTANG, NOEL REGALA and ALEXANDER JIMENEZ, GUILTY beyond reasonable doubt of violation of Section 16 (ibid) and are hereby sentenced to suffer a penalty of six (6) months of arresto mayor to two (2) years, four (4) months of prision correccional and to pay the costs; 3) accused NOEL REGALA, in Criminal Case No. 2698-D (Possession of regulated drugs) is hereby sentenced to suffer a penalty of six (6) months of arresto mayor to two (2) years, four (4) months of prision correccional and to pay the costs.

"The items confiscated are ordered forfeited in favor of the government and to be disposed of in accordance with law.

"SO ORDERED."<sup>[10]</sup>

The judgment of conviction of the lower court was affirmed by the Court of Appeals.

Hence, this petition wherein the petitioner raises the following assignments of error:

## I

THE COURT OF APPEALS ERRED IN NOT FINDING THAT THE RECEIPT FOR PROPERTY SEIZED; EXHIBIT "I" AND EXHIBIT "R"; THE PHYSICAL SCIENCE REPORT NO. D-168-94. EXHIBIT "D"; THE CHEMISTRY REPORT NO. DT-107-94, EXHIBIT "L"; AND THE PHYSICAL SCIENCE REPORT NO. DT-107-94, EXHIBIT "M" ARE INADMISSIBLE IN EVIDENCE.

## II

THE COURT OF APPEALS ERRED IN NOT FINDING THAT THE PRESUMPTION OF INNOCENCE OF THE ACCUSED HAS NOT BEEN OVERCOME BY PROOF BEYOND REASONABLE DOUBT.

We affirm the conviction of the petitioner.

Petitioner insists that the trial court erred in admitting in evidence Exhibits "I" and "R", which are the Receipts of Property Seized, considering that it was obtained in violation of his constitutional rights. The said Receipts for Property Seized, which