



Republic of the Philippines  
Supreme Court  
Manila

**SECOND DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
*Plaintiff-Appellee,*

**G.R. No. 188841**

Present:

- versus -

CARPIO, *Chairperson,*  
BRION,  
DEL CASTILLO,  
PEREZ, *and*  
LEONEN, *\* JJ.*

**JAIME FERNANDEZ y HERTEZ**  
**a.k.a. "DEBON",**  
*Accused-Appellant*

Promulgated:

MAR 06 2013 *HARABALOG/infesto*

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**DECISION**

**DEL CASTILLO, J.:**

For this Court's review is the May 29, 2009 Decision<sup>1</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03321 which affirmed with modification the Joint Decision<sup>2</sup> dated February 18, 2008 of the Regional Trial Court (RTC) Branch 32, Pili, Camarines Sur finding appellant Jaime Fernandez y Hertez a.k.a. "Debon"<sup>3</sup> (appellant) guilty beyond reasonable doubt of illegal possession of methamphetamine hydrochloride also known as *shabu* and illegal possession of marijuana both defined and penalized under Republic Act (RA) No. 6425, otherwise known as The Dangerous Drugs Act of 1972, as amended.

***Factual Antecedents***

At about 10:00 p.m. of July 21, 2001, combined elements of the Bula Police and the Camarines Sur Provincial Intelligence Forces implemented a search *[Signature]*

\* Per raffle dated March 4, 2013

<sup>1</sup> CA *rollo*, pp. 90-100; penned by Associate Justice Ricardo R. Rosario and concurred in by Associate Justices Vicente S.E. Veloso and Estelita M. Perlas-Bernabe (now a member of this Court).

<sup>2</sup> Records of Criminal Case No. P-3163, pp. 357-358; penned by Presiding Judge Nilo A. Malanvaon.

<sup>3</sup> Also spelled as Devon in some parts of the records

warrant<sup>4</sup> at the residence of appellant in Sagrada Familia, Bula, Camarines Sur. Police operatives found inside the house of appellant four transparent plastic sachets suspected to contain *shabu*, one tin can containing dried marijuana leaves, 49 pieces of rolled suspected dried marijuana leaves, one roll aluminum foil and cash money amounting to ₱3,840.00. After seizing these items, an inventory was conducted in the presence of *Barangay* Chairman Cesar Dolfo and *Barangay Kagawad* Pedro Ballebar.<sup>5</sup> Pictures of the seized items were also taken by the police photographer<sup>6</sup> while SPO1 Nilo Pornillos<sup>7</sup> (SPO1 Pornillos) marked and brought the seized items to their office.<sup>8</sup> The suspected marijuana leaves were later brought by SPO1 Pornillos and the suspected *shabu* by PO3 Jamie S. Villano (PO3 Villano) to the Camarines Sur Crime Laboratory. The items were both received by P/S Insp. Ma. Cristina Nobleza (PSI Nobleza) who, in turn, transmitted them to the Regional Office. After receiving the same, Forensic Chemist P/Insp. Josephine M. Clemen (PI Clemen) conducted chemical examination of the specimens and per her Chemistry Report Nos. D-120-01<sup>9</sup> and D-128-01,<sup>10</sup> they yielded positive results for the presence of marijuana and methamphetamine hydrochloride or *shabu*, respectively.

On the basis thereof, Informations for illegal possession of methamphetamine hydrochloride (Criminal Case No. P-3163) and for illegal possession of marijuana (Criminal Case No. P-3178) were filed against appellant and his son Erick Fernandez (Erick). To wit:

In Criminal Case No. P-3163

The undersigned 4<sup>th</sup> Assistant Provincial Prosecutor of Camarines Sur accuses, JAIME FERNANDEZ Y HERTEZ a.k.a. “Debon” and ERICK FERNANDEZ Y ALGURA all of Sagrada Familia, Bula, Camarines Sur for violation of Section 8, of Republic Act No. 6425 as amended by Republic Act No. 7659, committed as follows:

That on or about the 21<sup>st</sup> day of July, 2001 at around 10:00 in the evening, in Sagrada Familia, Bula, Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating with each other, without authority from law, did then and there willfully, unlawfully and feloniously, have in their possession and control Ten (10) pcs. of transparent plastic sachets containing methamphetamine hydrochloride or locally known as “shabu”, with the total weight of 2.85 grams, a regulated [drug].

ACTS CONTRARY TO LAW.<sup>11</sup>

<sup>4</sup> Exhibit “A,” records of Criminal Case No. P-3163, p. 126.

<sup>5</sup> Exhibit “B,” *id.* at 127.

<sup>6</sup> Exhibits “C” and “C-1,” *id.* at 128.

<sup>7</sup> TSN, July 12, 2002, p. 19.

<sup>8</sup> *Id.* at 22.

<sup>9</sup> Exhibit “K,” records of Criminal Case No. P-3163, p. 138.

<sup>10</sup> Exhibit “J,” *id.* at 139.

<sup>11</sup> *Id.* at 1.

In Criminal Case No. P-3178

The undersigned Assistant Provincial Prosecutor of Camarines Sur, accuses JAIME FERNANDEZ alias “DEVON” and ERICK FERNANDEZ, residents of Sagrada Familia, Bula, Camarines Sur, of the crime of VIOLATION OF SEC. 8, ART. II, IN RELATION TO SEC. 20, ART. IV, OF RA 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED BY RA 7659, [c]ommitted as follows:

That on July 21, 2001, at about 10:00 [o]’clock in the evening, at Brgy. Sagrada, Municipality of Bula, Province of Camarines Sur, Philippines, and within the Jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together, without authority from law, did then and there willfully, unlawfully, and criminally possess and control prohibited drugs, as follows: a) several paper cylindrical tubes containing dried Marijuana leaves, having a total net weight of 1,009.5 grams, and b) one rusty tin can labeled “Croley Foods” also containing dried Marijuana leaves, weighing 179.2 grams, for an over all total of 1,188.7 grams of dried Marijuana leaves, to the extreme damage and prejudice of the People of the Philippines.

ACTS CONTRARY TO LAW.<sup>12</sup>

Appellant and Erick pleaded not guilty to both charges when arraigned. They interposed denial and frame-up as their defenses.

### ***Ruling of the Regional Trial Court***

By Joint Decision dated February 18, 2008, the RTC acquitted Erick but found appellant guilty of the charges, viz:

WHEREFORE, judgment is hereby rendered[.]

1. acquitting Erick Fernandez y Algura, in both cases, and directing the BJMP Warden, Del Rosario, Naga City, to release him from his custody, unless he is being held for some lawful cause;
2. finding Jaime Fernandez y Hertez, GUILTY, beyond reasonable doubt, in

2.1. Crim. Case No. P-3163, as charged, and hereby sentences him to suffer the penalty of 6 months of arresto mayor, as minimum, to 4 years and 2 months of prision correccional, as maximum, and to pay a fine of ₱100,000.00;

2.2. Crim. Case No. P-3178, as charged, and hereby sentences him to suffer the penalty of reclusion perpetua, and a fine of ₱500,000.00;

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<sup>12</sup> Records of Criminal Case No. P-3178, p. 1.

3. directing policemen Villano, Amador and Pa-ac, to return the sum of ₱3,840.00 to Jaime Fernandez.

The accused Jaime Fernandez is credited in full for his preventive detention had he agreed in writing to abide with the rules for convicted prisoners, otherwise, for 4/5 of the same.

SO ORDERED.<sup>13</sup>

### ***Ruling of the Court of Appeals***

On appeal, the CA affirmed appellant's conviction. Like the RTC, the appellate court gave full faith and credit on the evidence for the prosecution over that of the defense. Hence,

**WHEREFORE**, the assailed 18 February 2008 Decision of the Regional Trial Court of Pili, Camarines Sur, Branch 32, in Criminal Cases Nos. P-3163 and P-3178, finding appellant Jaime Fernandez y Hertez guilty as charged, is **AFFIRMED** with the **MODIFICATION** that the fine of One Hundred Thousand Pesos (₱100,000.00) imposed in Criminal Case No. P-3163 is **DELETED**.<sup>14</sup>

### **Assignment of Errors**

Undaunted, appellant comes to this Court and insists on his innocence by adopting the same errors he raised before the CA, as follows:

#### **I**

THE LOWER COURT GRAVELY ERRED IN RENDERING A VERDICT OF CONVICTION DESPITE THE FACT THAT THE GUILT OF THE ACCUSED-APPELLANT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

#### **II**

THE LOWER COURT GRAVELY ERRED IN GIVING CREDENCE TO THE INCONSISTENT AND INCREDIBLE TESTIMONIES OF THE PROSECUTION WITNESSES.<sup>15</sup>

### **Our Ruling**

The present appeal lacks merit.

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<sup>13</sup> Records of Criminal Case No. P-3163, p. 358.

<sup>14</sup> CA *rollo*, p. 100.

<sup>15</sup> Id. at 27.

*This Court accords respect to the findings and conclusions of the RTC with regard to the credibility of the witnesses and the sufficiency of evidence of the prosecution.*

Indeed, as intimated by the appellant, prosecutions involving illegal drugs largely depend on the credibility of police officers serving as prosecution witnesses.<sup>16</sup> When a case involves violation of the Dangerous Drugs Act, “credence should be given to the narration of the incident by the prosecution witnesses especially when they are police officers who are presumed to have performed their duties in a regular manner, unless there be evidence to the contrary.”<sup>17</sup> In this regard and as this Court held in *People v. Dela Cruz*,<sup>18</sup> “the rule is that the findings of the trial court, its calibration of the testimonies of the witnesses and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings, are accorded respect, if not conclusive effect. This is more true if such findings were affirmed by the appellate court[, because in such a case,] said findings are generally binding upon this Court.”

In this case, the RTC found the witnesses for the prosecution credible. There is no showing that the members of the search team were actuated by any ill motive or that they planted the seized items. Hence, the RTC gave full faith and credit to the prosecution witnesses’ version of the events that transpired on July 21, 2001.<sup>19</sup> Moreover, the evidence of the prosecution sufficiently established that (1) by virtue of a lawful search, PO3 Villano, PO2 Bienvenido C. Amador, Jr. (PO2 Amador) and Inspector Cristino Pa-ac were able to seize from appellant’s house suspected *shabu* and marijuana, among others; and, (2) when these specimens were qualitatively examined, they yielded positive results for the said prohibited drugs. The appellate court sustained these findings and conclusions of the RTC after satisfying itself that there was no clear misapprehension of facts. In view of the CA’s affirmance of the said findings of the RTC, and there being no material facts that were overlooked by the lower courts, this Court finds no reason to disturb their findings and conclusions and, hence, accords respect to the same.

With regard to the alleged inconsistent statements of PO3 Villano and PO2 Amador with respect to appellant’s exact location during the search and seizure, the number of rooms inside the house, and the place where the *shabu* and rolled marijuana leaves were found, suffice it to say that these matters are not vital and of such significance as compared to the circumstances and the very act of finding the dangerous drugs in the possession of the appellant which constitute the elements of the crime. Criminal law jurisprudence invariably holds that inconsistencies in

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<sup>16</sup> Appellant’s Brief, id. at 27-43, 37.

<sup>17</sup> *People v. Dumlao*, G.R. No. 181599, August 20, 2008, 562 SCRA 762, 770.

<sup>18</sup> G.R. No. 177572, February 26, 2008, 546 SCRA 703, 719.

<sup>19</sup> Not January 21, 2001 as appearing in the RTC Decision.

the testimonies of witnesses on minor details do not impair their credibility. As the Court ruled in *People v. Bernabe*,<sup>20</sup> “[w]hile witnesses may differ in their recollections of an incident, it does not necessarily follow from their disagreement that all of them should be disbelieved as liars and their testimonies completely discarded as worthless. As long as the mass of testimony jibes on material points, the slightly clashing statements neither dilute the witnesses’ credibility or the veracity of their testimony, for indeed, such inconsistencies are but natural and even enhance credibility as these discrepancies indicate that the responses are honest and unrehearsed.”

*Identity of the drugs established; chain of custody not broken*

Appellant next contends that the prosecution failed to establish the identity of the prohibited drugs which constitute the *corpus delicti* of the offense.

The Court finds otherwise. The totality of the prosecution’s evidence sufficiently proved the identity of the seized prohibited items despite the intervening changes in their custody and possession. The chain of custody of the seized items from the time they were confiscated and eventually marked until the time they were presented during the trial has likewise been established. As the appellate court correctly observed:

x x x. The fact however that the dangerous drugs presented in court were the same items recovered from appellant can be gleaned from the testimonies of PO3 Villena and PO3 Amador, Jr., who narrated the incident from the time the dangerous drugs were recovered from appellant, to the time the same were inventoried in the presence of appellant and the witnesses, brought to the police station, and finally referred to the forensic chemist for qualitative examination. The integrity and identity of the confiscated items, particularly the dangerous drugs, were thus properly safeguarded.<sup>21</sup> (Citations omitted)

Like the courts below, this Court finds no circumstance whatsoever that would raise any doubt as to the identity, integrity and evidentiary value of the items subject matter of this case. The chain of custody was clearly not broken. “Besides, the integrity of the evidence is presumed preserved unless there is a showing of bad faith, ill will or proof that the evidence has been tampered with”<sup>22</sup> in which the burden of proof falls on the appellant.<sup>23</sup> Appellant failed to discharge this burden.

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<sup>20</sup> G.R. No. 185726, October 16, 2009, 604 SCRA 216, 231-232, citing *People v. Togahan*, G.R. No. 174064, June 8, 2007, 524 SCRA 557, 572-573.

<sup>21</sup> CA rollo, pp. 97-98.

<sup>22</sup> *People v. Macatingag*, G.R. No. 181037, January 19, 2009, 576 SCRA 354, 369.

<sup>23</sup> Id.

*Appellant's defenses of denial and frame-up were properly rejected by the lower courts.*

Appellant's defenses hinge primarily on denial and frame-up. He claims that while denial, like alibi, is generally considered a weak defense, it is not always false and bereft of merit where the evidence for the prosecution is even weaker. This is true but not in all cases and certainly not in this case. It bears to stress that "the defense of denial or frame-up, like alibi, has been invariably viewed with disfavor [by this Court] for it can easily be concocted and is a common defense ploy in most prosecutions for violation of the Dangerous Drugs Act."<sup>24</sup> Here, the lower courts properly rejected this defense not only because the prosecution's evidence against appellant is so overwhelming but also because he miserably failed to substantiate such defense with clear and convincing evidence.

In the light of the foregoing analysis and the applicable jurisprudence on the matter, this Court sustains the CA's assailed Decision affirming appellant's conviction by the RTC of the crimes charged.

### ***The Penalty***

The penalty prescribed under Section 8, Article II in relation to Section 20, Article IV of RA 6425, as amended by RA 7659,<sup>25</sup> for unauthorized possession of 750 grams or more of marijuana is *reclusion perpetua* to death and a fine of ₱500,000.00 to ₱10 million. Since appellant was found guilty of possessing 1,188.7 grams of marijuana in Criminal Case No. P-3178, this Court thus affirms the penalties of *reclusion perpetua* and fine of ₱500,000.00 imposed upon the appellant by the RTC and affirmed by the CA.

As regards appellant's unauthorized possession of 2.85 grams of *shabu* in Criminal Case No. P-3163, a quantity which is less than the ceiling of 200 grams provided in Section 20 of Article IV of RA 6425 as amended by RA 7659, the imposable penalty is *prision correccional* as provided in the same law.<sup>26</sup> Applying the Indeterminate Sentence Law, and there being no aggravating or mitigating circumstance that attended the commission of the crime, the maximum period is *prision correccional* in its medium period which has a duration of two (2) years, four (4) months and one (1) day to four (4) years and two (2) months. The minimum period is within the range of the penalty next lower in degree which is *arresto mayor*, the duration of which is one (1) month and one (1) day to six (6) months. Hence, we likewise affirm the penalty of six (6) months of *arresto mayor*, as minimum, to four (4) years and two (2) months of *prision correccional*,

<sup>24</sup> *People v. Ulama*, G.R. No. 186530, December 14, 2011, 662 SCRA 599, 613.

<sup>25</sup> Otherwise known as The Death Penalty Law.

<sup>26</sup> *People v. Tira*, G.R. No. 139615, May 28, 2004, 430 SCRA 134, 155.

as maximum, imposed upon the appellant for the said crime. We also affirm the CA's deletion of the fine of ₱100,000.00 imposed by the RTC since the second paragraph of Section 20 of RA 6425, as amended, provides only for the penalty of imprisonment.

**WHEREFORE**, the appeal is **DISMISSED**. The assailed Decision dated May 29, 2009 of the Court of Appeals in CA-G.R. CR-H.C. No. 03321 is **AFFIRMED in toto**.

**SO ORDERED.**

  
**MARIANO C. DEL CASTILLO**  
*Associate Justice*

WE CONCUR:

  
**ANTONIO T. CARPIO**  
*Associate Justice*  
*Chairperson*

  
**ARTURO D. BRION**  
*Associate Justice*

  
**JOSE PORTUGAL BEREZ**  
*Associate Justice*

  
**MARVIC MARIO VICTOR F. LEONEN**  
*Associate Justice*

**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**ANTONIO T. CARPIO***Associate Justice**Chairperson***CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**MARIA LOURDES P. A. SERENO***Chief Justice*