Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, Appellee,	**G.R. No. 205823**
	Present:
- versus -	CARPIO, *J.*, Chairperson, BRION, DEL CASTILLO, MENDOZA, and LEONEN, *JJ.*
REGIE BREIS y ALVARADO and GARY YUMOL y TUAZON,* Appellants.	Promulgated: 17 AUG 2015

x----------x

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:

---

* Also referred to in the Records as Gary Yumul y Tuazon.

1 *Rollo*, pp. 2-16. Penned by Associate Justice Rebecca De Guia-Salvador, with Associate Justices Normandie B. Pizarro and Rodil V. Zalameda concurring.

2 Records, pp. 179-185. Penned by Judge Antonio C. Reyes.

> 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/fruiting 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/fruiting 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 PDEA 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.

---

[3] *Rollo*, p. 3.

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

[4] Records, pp. 179-180.

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

---

5 Id. at 180-181.

6 CA *rollo*, p. 19.

> 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 ₱5,000,000.00.
>
> 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.

---

7 Records, p. 185.
8 CA *rollo*, p. 34.
9 Id. at 101.
10 Id. at 32-45, 59-84.
11 *Rollo*, pp. 39-40.

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 Regulations (IRR) of RA 9165, which reads:

> (a) The apprehending officer/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 (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: *Provided,* that **the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures***; Provided, further*, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items; x x x. (Boldfacing and underscoring supplied)

Appellants insist that the PDEA agents should have conducted the inventory at the place where the drugs were seized. However, the IRR clearly provides that in case of warrantless seizures, the physical inventory and photograph shall be conducted at the nearest police station or at the

---

[12] CA *rollo*, pp. 39-40.
[13] Id. at 40-41.

nearest office of the apprehending team. The physical inventory and photograph were conducted at the PDEA-CAR field office, a fact that appellants themselves acknowledge[14] and testified to by IO1 Mangili[15] and IO1 Peralta.[16]

The requirement of the presence of a representative from the media and the DOJ, and any elected public official during the physical inventory and photograph was also complied with. The representatives from the media and the DOJ and an elected barangay official were present at the inventory conducted at the PDEA-CAR field office, as evidenced by their signatures[17] on the Inventory of Seized Item[18] and photographs taken during the inventory.[19] In fact, this is not contested by appellants.[20]

Hence, we find no deviation from the procedure prescribed by Section 21, paragraph 1, Article II of RA 9165 and its IRR.

Chain of Custody Established

What IO1 Mangili did in the bus upon seizure of the drugs was to mark the same, which is not to be confused with taking the physical inventory. Marking is not a requirement of RA 9165 or its IRR, but has been held to be an initial stage in the chain of custody:

> Nonetheless, the Court has acknowledged the practical value of the process of marking the confiscated contraband and considered it as an initial stage in the chain of custody – a process preliminary and preparatory to the physical inventory and photograph requirements in Section 21 of Republic Act No. 9165:
>
> > This step initiates the process of protecting innocent persons from dubious and concocted searches, and of protecting as well the apprehending officers from harassment suits based on planting of evidence under Section 29 [of Republic act No. 9165] and on allegations of robbery or theft.
>
> "Marking" is the placing by the apprehending officer of some distinguishing signs with his/her initials and signature on the items seized. It helps ensure that the dangerous drugs seized upon apprehension are the same dangerous drugs subjected to inventory and photography when these activities are undertaken at the police station or at some other practicable

---

14 *Brief for the Accused-Appellants*, id. at 39-40.
15 TSN, 12 May 2010, pp. 26, 30-31; TSN, 7 July 2010, p. 25.
16 TSN, 25 August 2010, pp. 38-40, 43-44; TSN, 8 November 2010, p. 13.
17 Exhibits "C-1," "C-2," and "C-3," Records p. 10.
18 Exhibit "C," id.
19 Exhibits "I," "I-1," "I-2," "I-3," and "I-4," id. at 51-55.
20 *Brief for the Accused-Appellants*, CA *rollo*, pp. 40-41.

> venue rather than at the place of arrest. Consistency with the "chain of custody" rule requires that the "marking" of the seized items – to truly ensure that they are the same items that enter the chain and are eventually the ones offered in evidence -- should be done (1) in the presence of the apprehended violator (2) immediately upon confiscation.
>
> "Immediate confiscation" has no exact definition. Indeed, marking upon immediate confiscation has been interpreted as to even include marking at the nearest police station or office of the apprehending team. In this case, the dangerous drugs taken from accused-appellants were marked in his presence immediately upon confiscation at the very venue of his arrest.[21] (Citations omitted)

Chain of custody means the duly recorded authorized movements and custody of seized drugs from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction.[22] What assumes primary importance in drug cases is the prosecution's proof, to the point of moral certainty, that the prohibited drug presented in court as evidence against the accused is the same item recovered from his possession.[23]

Appellants argue that the prosecution was not able to establish the chain of custody over the seized drugs:

> The irregularities in the handling procedure of the seized items are manifold. There is no indication what steps were taken after the seizure, whether the items were turned over to the investigator or to the desk officer before SPO4 Abordo allegedly delivered it to the crime laboratory.
>
> How can the trial court rule that the integrity of the corpus delicti was preserved when in fact, the prosecution failed to identify who was in possession of the marijuana from the place of the seizure; to whom the same was turned over; and how it came to the custody of SPO4 Abordo who allegedly delivered the seized items at (sic) the laboratory. Nor was there any prosecution's evidence showing the identity of the person who had the custody and safekeeping of the drug after its examination and pending presentation in court.[24]

Appellants' argument fails to impress.

The links that the prosecution must endeavor to establish with respect to the chain of custody are the following: *first*, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the

---

21 *People v. Somoza*, G.R. No. 197250, 13 July 2013, 701 SCRA 525, 545-546.

22 *People v. Cervantes*, 600 Phil. 819 (2009).

23 *People v. De Jesus*, G.R. No. 191753, 17 September 2012, 680 SCRA 680, 690-691, citing *People v. Bautista*, 665 Phil. 815, 833 (2011).

24 CA *rollo*, p. 43.

investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.[25]

In this case, the prosecution adequately established the unbroken chain of custody over the marijuana seized from appellants.

The records show that the seized drugs were marked immediately upon confiscation by IO1 Mangili with his initials and signature, the date, and the letters A, B, C or D to distinguish the bricks, in the presence of appellants.[26]

The seized drugs were brought, together with appellants, to the PDEA-CAR field office. IO1 Mangili acted in both capacities of apprehending officer and investigating officer. IO1 Mangili and IO1 Peralta testified that they conducted the investigation and the inventory.[27]

IO1 Mangili and IO1 Peralta also testified that it was their evidence custodian, Senior Police Officer 4 Abordo (SPO4 Abordo), who brought the seized drugs to the Crime Laboratory for examination.[28] A thorough review of the records reveals that the *Request for Laboratory Exam*[29] shows that the seized drugs were delivered on 10 February 2010 by SPO4 Abordo and received by Police Officer 2 Florendo and Police Senior Inspector Rowena Fajardo Canlas (PSI Canlas). PSI Canlas was the forensic chemist who conducted the examination on the seized drugs and signed *Chemistry Report No. D-08-2010*[30] (chemistry report).

The chemistry report indicates that the "specimen submitted are retained in this laboratory for future reference."[31] Through subpoena[32] upon PSI Canlas, the marijuana was brought to court and marked during the preliminary conference held on 7 April 2010.[33]

Appellants contend that the prosecution's failure to discuss in detail each link in the chain of custody negated the integrity of the evidence. This is misplaced:

> x x x **It must be remembered that testimony about a perfect chain is not always the standard as it is almost always impossible to obtain an unbroken chain. As such, what is of importance is the preservation of the integrity and evidentiary value of the seized items.** The integrity of the evidence is presumed to be preserved, unless there is a showing of bad faith, ill will, or proof that the evidence has been

---

25 *People v. Arriola*, 681 Phil. 578, 594 (2012).
26 TSN, 12 May 2010, pp. 17-18.
27 TSN, 7 July 2010, pp. 25-26; TSN, 25 August 2010, pp. 37-42.
28 TSN, 7 July 2010, pp. 26-27; TSN, 25 August 2010, pp. 40-42.
29 Exhibit "F," Records, p. 14.
30 Exhibit "G," id. at 34.
31 Id.
32 Id. at 29.
33 *Minutes of Preliminary Conference*, id. at 31.

tampered.[34] (Emphasis supplied)

In *People v. Mali*,[35] we held:

> The *corpus delicti* in dangerous drugs cases constitutes the dangerous drug itself. To sustain conviction, its identity must be established in that the substance bought during the buy-bust operation is the same substance offered in court as exhibit. The chain of custody requirement performs this function as it ensures that unnecessary doubts concerning the identity of the evidence are removed.[36]

In this case, the prosecution was able to show that the same drugs seized and marked by IO1 Mangili were the same ones he identified at the trial.[37] Further, the records consistently show that the markings on the bricks of marijuana consisted of the initials and signature of IO1 Mangili, the date and A, B, C, or D, as evidenced by the photograph[38] taken during the inventory and the chemistry report describing the submitted specimen as follows:

> A-One (1) carton knot tied with gray plastic straw labeled GINEBRA SAN MIGUEL with markings '02-10-2010 ELM and signature', containing four (4) bricks of dried suspected marijuana fruiting tops each wrapped with plastic and further wrapped with brown packaging tape with the following markings and recorded net weights:
>
> A-1 = [**02-10-2010-A ELM and signature**] = 2000.1 grams
> A-2 = [**02-10-2010-B ELM and signature**] = 2158.3 grams
> A-3 = [**02-10-2010-C ELM and signature**] = 2051.1 grams
> A-4 = [**02-10-2010-D ELM and signature**] = 1971.5 grams[39]
>
> (Emphasis supplied)

The presumption is that the PDEA agents performed their duties regularly. There being no evidence showing bad faith, ill will or proof that the evidence has been tampered, we find that the prosecution sufficiently established the chain of custody. Consequently, the *corpus delicti* was also established.

Warrantless Search and Seizure and Arrest

Although it was not raised as an error, it is imperative that we rule on the validity of the warrantless search and seizure and the subsequent warrantless arrest of appellants.

---

[34] Supra note 25, at 597.
[35] G.R. No. 206738, 11 December 2013, 712 SCRA 776.
[36] Id. at 795.
[37] TSN, 12 May 2010, pp. 31-32.
[38] Exhibit "I" marked on 12 May 2010. Records, p. 51.
[39] Id. at 34.

It is well settled that no arrest, search and seizure can be made without a valid warrant issued by a competent judicial authority. No less than the Constitution guarantees this right –

> The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.[40]

Further, any evidence obtained in violation of this provision is inadmissible for any purpose in any proceeding.[41] However, the rule against warrantless searches and seizures admits of exceptions, such as the search of moving vehicles. In *People v. Libnao*,[42] the Court held:

> Warrantless search and seizure of moving vehicles are allowed in recognition of the impracticability of securing a warrant under said circumstances as the vehicle can be quickly moved out of the locality or jurisdiction in which the warrant may be sought. Peace officers in such cases, however, are limited to routine checks where the examination of the vehicle is limited to visual inspection. When a vehicle is stopped and subjected to an extensive search, such would be constitutionally permissible only if the officers made it upon probable cause, i.e., upon a belief, reasonably arising out of circumstances known to the seizing officer, that an automobile or other vehicle contains a[n] item, article or object which by law is subject to seizure and destruction.[43]

Although the term eludes exact definition, probable cause signifies a reasonable ground of suspicion supported by circumstances sufficiently strong in themselves to warrant a cautious man's belief that the person accused is guilty of the offense with which he is charged; or the existence of such facts and circumstances which could lead a reasonably discreet and prudent man to believe that an offense has been committed and that the items, articles or objects sought in connection with said offense or subject to seizure and destruction by law are in the place to be searched.[44] The determination of probable cause must be resolved according to the facts of each case.[45]

The Court has ruled in several dangerous drug cases[46] that tipped

---

[40] 1987 Constitution, Article III, Section 2.
[41] 1987 Constitution, Article III, Section 3(2).
[42] G.R. No. 136860, 20 January 2003, 395 SCRA 407.
[43] Id. at 414.
[44] *People v. Valdez*, 363 Phil. 481, 489 (1999).
[45] *People v. Ayangao*, 471 Phil. 379, 388 (2004).
[46] *People v. Ayangao*, id.; *People v. Libnao*, supra; *People v. Valdez*, supra; *People v. Mariacos*, 635 Phil. 315 (2010).

information is sufficient probable cause to effect a warrantless search. In *People v. Mariacos*,[47] the police received at dawn information that a baggage of marijuna was loaded on a passenger jeepney about to leave for the *poblacion*. There, the informant described the bag containing the prohibited drugs. The Court held that the police had probable cause to search the packages allegedly containing illegal drugs.[48]

In the present case, the vehicle that carried the prohibited drugs was about to leave. The PDEA agents made a judgment call to act fast, as time was of the essence. The team arrived at the terminal around 15 minutes[49] before the bus was scheduled to depart. Upon boarding the bus, IO1 Mangili and IO1 Peralta identified two men fitting the description given by the informant in possession of a box described[50] by the informant to contain marijuana.

Moreover, the PDEA agents had reasonable suspicion based on appellants' behavior that the latter were probably committing a crime. IO1 Mangili casually asked appellant Yumol who owned the box at their (appellants') feet. After answering that it belonged to them (appellants), Yumol suddenly stood up and tried to leave. IO1 Peralta prevented him from getting off the bus. Then IO1 Mangili asked appellant Breis what was contained in the box. Instead of answering, Breis shoved IO1 Mangili and tried to flee. It must be noted that IO1 Mangili identified himself as a PDEA agent before either appellant tried to leave the bus:

> Q And you wanted to confirm your suspicion by asking from Gary Yumol who owns the box?
> A Yes, sir.
>
> Q And Gary Yumol, of course, did not give you any answer?
> A He said that it is theirs.
>
> Q Did you also talk to the companion of Gary Yumol?
> **A After Gary stood up suddenly I also spoke to Regie Breis.**
> **Q And did he also give you any answer?**
> **A He just pushed me and tried to leave the bus.**
>
> x x x x
>
> **Q Before you talked to Gary Yumol did you identify yourself as PDEA agents?**

---

47 635 Phil. 315 (2010).
48 Id. at 331.
49 TSN, 7 July 2010, p. 17.
50 In contrast to *Mariacos*, the confidential informant in the present case not only described the box, but also the appearances and clothing of appellants, thus:

> Q The description given was the height and the built (sic) only, correct?
> A And also the clothes they are wearing and the description of the box. (TSN, 7 July 2010, p. 13)

A When I asked him who owns the box, I then identified myself.

Q Did you ask them if you can see the contents of the box?
A I told Regie to open the box but he did not want that's why I was the one who opened it.

Q Gary Yumol according to you stood up?
A Yes, sir.

Q And when he stood up, he was held by Agent Peralta?
A Yes, sir.

Q And Regie Breis also stood up after you talked to him?
A Yes, sir.

Q But he was also held by Agent Peralta?
A I was the one who told him to sit down.

Q Before you told him to sit down did you introduce yourself as a PDEA agent?
A Yes, sir.[51] (Emphasis supplied)

Appellants' act of standing up to leave the bus under different circumstances may be natural; but it is not so in this case. In *People v. Aminnudin*,[52] the warrantless arrest of Aminnudin based on an informant's tip that he was carrying marijuana was declared unconstitutional because there was no outward indication that called for his arrest. There, the Court found that "[t]o all appearances, he was like any of the other passengers innocently disembarking from the vessel."[53]

In contrast to the instant case, appellants were attempting to get out of a bus that was about to leave the terminal, and not one that had just arrived, where the other passengers were, as can be expected, seated in preparation for departure. It is unnatural for passengers to abruptly disembark from a departing bus, leaving their belongings behind. Any reasonable observer would be put on suspicion that such persons are probably up to no good. To a trained law enforcement agent, it signaled the probability that appellants were committing an offense and that the objects left behind might be contraband or even dangerous articles.

Indeed, as observed by the PDEA agents, appellants were not simply passengers carrying a box in a bus. They engaged in suspicious behavior when they tried to flee after IO1 Mangili showed interest in their box and identified himself as a PDEA agent. Worse, in his attempt at flight, Breis pushed IO1 Mangili, already knowing that the latter was a PDEA agent. This brazen act on the part of Breis only cemented the belief that appellants were

---

51 TSN, 7 July 2010, pp. 21-23.
52 246 Phil. 424 (1988).
53 Id. at 434.

likely hiding a wrongdoing and avoiding capture by law enforcers.

The act of Breis in physically pushing IO1 Mangili and attempting to flee constitutes resistance defined under Article 151 of the Revised Penal Code (RPC).[54] Before a person can be held guilty of the crime of resistance or disobedience to a person in authority, it must be shown beyond reasonable doubt that the accused knew that the person he disobeyed or resisted is a person in authority or the agent of such person who is actually engaged in the performance of his official duties.[55]

As a PDEA agent, IO1 Mangili is a law enforcement agent and as such is an agent of a person in authority as defined in the RPC.[56] IO1 Mangili was in the act of investigating a lead, and possibly apprehending violators of RA 9165, in accordance with the mandate of the PDEA.[57] He announced his identity as such agent to appellants. It may even be gleaned that knowing that IO1 Mangili was a PDEA agent was precisely the cause of the attempted flight of appellants.

The laying of hands or using physical force against agents of persons in authority when not serious in nature constitutes resistance or disobedience under Article 151, and not direct assault under Article 148 of the RPC.[58] This is because the gravity of the disobedience to an order of a person in authority or his agent is measured by the circumstances surrounding the act, the motives prompting it and the real importance of the transgression, rather than the source of the order disobeyed.[59] The pushing of IO1 Mangili is not of such serious defiance to be considered direct assault, but is resistance

---

[54] Art. 151. *Resistance and disobedience to a person in authority or the agents of such person.* – The penalty of *arresto mayor* and a fine not exceeding 500 pesos shall be imposed upon any person who not being included in the provisions of the preceding articles shall resist or seriously disobey any person in authority, or the agents of such person, while engaged in the performance of official duties.

When the disobedience to an agent of a person in authority is not of a serious nature, the penalty of *arresto menor* or a fine ranging from 10 to 100 pesos shall be imposed upon the offender.

[55] *Vytiaco v. Court of Appeals*, 126 Phil. 48, 59 (1967).

[56] *United States v. Taylor*, 6 Phil. 162 (1906).

[57] Republic Act No. 9165, provides in part:

Sec. 82. *Creation of the Philippine Drug Enforcement Agency (PDEA).* – To carry out the provisions of this Act, the Philippine Drug Enforcement Agency (PDEA), which serves as the implementing arm of the Board, and shall be responsible for the efficient and effective law enforcement of all the provisions on any dangerous drug and/or controlled precursor and essential chemical as provided in this Act.

x x x x

Sec. 84. *Powers and Duties of the PDEA.* – The PDEA shall:

x x x x

b) Undertake the enforcement of the provisions of Article II of this Act relative to the unlawful acts and penalties involving any dangerous drug and/or controlled precursor and essential chemical and investigate all violators and other matters involved in the commission of any crime relative to the use, abuse or trafficking of any dangerous drug and/or controlled precursor and essential chemical x x x;

x x x x

d) Arrest and apprehend as well as search all violators and seize or confiscate, the effects or proceeds of the crimes as provided by law and take custody thereof, for this purpose the prosecutors and enforcement agents are authorized to possess firearms, in accordance with existing laws;

x x x x

[58] *United States v. Taylor*, supra.

[59] *People v. Chan Fook*, 42 Phil. 230 (1921).

nonetheless.

The Court has held justified resistance to illegal or abusive acts of agents of persons in authority. In *Chan Fook*,[60] the Court quoted Groizard:

> A person in authority, his agent or a public officer who exceeds his power can not be said to be in the exercise of the functions of his office. The law that defines and establishes his powers does not protect him for anything that has not been provided for.
>
> The scope of the respective powers of public officers and their agents is fixed. If they go beyond it and they violate any recognized rights of the citizens, then the latter may resist the invasion, specially when it is clear and manifest. The resistance must be coextensive with the excess, and should not be greater than what is necessary to repel the aggression.
>
> The invasion of the prerogatives or rights of another and the excess in the functions of an office, are the sources that make for legitimate resistance, especially, in so far as it is necessary for the defense of the persons or their rights in the manner provided for in article 8 of the Penal Code.[61]

Unlike the officer in *Chan Fook*, IO1 Mangili did not exceed his authority in the performance of his duty. Prior to Breis' resistance, IO1 Mangili laid nary a finger on Breis or Yumol. Neither did his presence in the bus constitute an excess of authority. The bus is public transportation, and is open to the public. The expectation of privacy in relation to the constitutional right against unreasonable searches in a public bus is not the same as that in a person's dwelling. In fact, at that point in time, only the bus was being searched, not Yumol, Breis, or their belongings, and the search of moving vehicles has been upheld.

Moreover, appellants are not in any position to claim protection of the right against unreasonable searches as to the warrantless search of the bus. The pronouncement of the United States Supreme Court (USSC) in *Rakas v. Illinois*[62] regarding the Fourth Amendment rights[63] is instructive:

> Fourth Amendment rights are personal rights, which, like some other constitutional rights, may not be vicariously asserted. A person who is aggrieved by an illegal search and seizure only through the introduction of damaging evidence secured by a search of a third person's premises or property has not had any of his Fourth Amendment rights infringed. And since the exclusionary rule is an attempt to effectuate the guarantees of the

---

60 Id.

61 Id. at 233-234; citing 3 Groizard, p. 456, *et seq*.

62 439 U.S. 128, 99 S.Ct. 421, 58 L.Ed.2d 387 (1978).

63 The Fourth Amendment to the United States Constitution, similar to Section 2 of our Bill of Rights, states:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

> Fourth Amendment, it is proper to permit only defendants whose Fourth Amendment rights have been violated to benefit from the rule's protections.[64] (Citations omitted)

It being established that IO1 Mangili was not in violation of Yumol's or Breis' rights as he was searching the bus, there is no excess of authority, clear and manifest or otherwise, for either Yumol or Breis to lawfully resist. Hence, the act of Breis in pushing IO1 Mangili was an unlawful resistance to an agent of a person in authority, contrary to Article 151 of the RPC.

Breis' commission of a crime in view of, and against IO1 Mangili, and proclivity for resorting to acts of violence further justify the warrantless search of appellants.

A further point. Appellants each attempted to alight from a departing bus, leaving behind their belongings. They may be deemed to have abandoned the box in their flight. A thing is considered abandoned and possession thereof lost if the *spes recuperandi* (the hope of recovery) is gone and the *animus revertendi* (the intention of returning) is finally given up.[65] That appellants got up to leave a departing bus without bringing their box points to the absence of both *spes recuperandi* and *animus revertendi*. Indeed, although their flight was thwarted by the PDEA agents, both appellants intended to leave the box behind without returning for it. Abandonment has the effect of converting a thing into *res nullius*.[66]

In the United States, abandoned articles, such as those thrown away, are considered *bona vacantia*, and may be lawfully searched and seized by law enforcement authorities.[67] Put to question in *Abel v. United States*[68] was the admissibility of incriminating articles, which had been thrown away, that the Federal Bureau of Investigation recovered without warrant. The USSC held that the articles were abandoned and that there was nothing unlawful in the government's appropriation of such abandoned property.[69] In *Hester v. United States*,[70] defendants and his associates ran away from officers, and in the process discarded a jar and a jug. The USSC held no Fourth Amendment violation occurred when officers examined the contents of the discarded items without warrant.[71] In *California v. Hodari*,[72] police officers, without warrant, pursued defendant who threw a rock of cocaine into an alley as he was running. The USSC upheld the admissibility of the abandoned cocaine.[73]

---

64 Id.
65 *Domalsin v. Sps. Valenciano*, 515 Phil. 745, 764 (2006).
66 *Yu v. De Lara*, 116 Phil. 1105 (1962).
67 *Abel v. United States*, 362 U.S. 217 (1960).
68 Id.
69 Id.
70 265 U.S. 57 (1924).
71 Id.
72 499 U.S. 621 (1991).
73 Id.

Applied analogously, there is no objectionable warrantless search and seizure of the box of marijuana abandoned in the bus by appellants.

Given the above discussion, it is readily apparent that the search in this case is valid.

Having been found with prohibited drugs in their possession, appellants were clearly committing a criminal offense in the presence of IO1 Mangili and IO1 Peralta. The subsequent warrantless arrest falls under Section 5(a), Rule 113 of the Rules of Court:

> SEC. 5. *Arrest without warrant; when lawful.* – A peace officer or a private person may, without a warrant, arrest a person:
>
> (a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;
>
> x x x x

Hence, the warrantless arrest of appellants is lawful.

Defenses of Denial and Frame-Up

Appellants' defenses of denial and frame-up were disbelieved by both the trial court and the Court of Appeals. It is a settled rule that the evaluation of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court because of its unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct and attitude under grilling examination.[74] We find no reason to deviate from this rule.

The defenses of denial and frame-up cannot prevail over the positive and categorical assertions of the PDEA agents who were strangers to appellants and against whom no ill-motive was established.[75] Further, such defenses failed to overcome the documentary and physical evidence presented by the prosecution.

In light of the foregoing, appellants' conviction for illegal possession of dangerous drugs is in order.

Penalty for Illegal Possession of Dangerous Drugs

The penalty for illegal possession of dangerous drugs is provided in Section 11 of RA 9165:

> SEC. 11. *Possession of Dangerous Drugs*. – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos

---

[74] *People v. Sapigao, Jr.*, 614 Phil. 589, 599 (2009).
[75] *People v. De Jesus*, supra note 23, at 688-689.

In light of the foregoing, appellants' conviction for illegal possession of dangerous drugs is in order.

Penalty for Illegal Possession of Dangerous Drugs

The penalty for illegal possession of dangerous drugs is provided in Section 11 of RA 9165:

> SEC. 11. *Possession of Dangerous Drugs.* – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (₱500,000.00) to Ten million pesos (₱10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:
>
> x x x x
>
> 7) 500 grams or more of marijuana;
>
> x x x x

The penalty imposed upon appellants is in order.

WHEREFORE, the appeal is **DISMISSED**. The Decision dated 26 June 2012 of the Court of Appeals in CA-G.R. CR-H.C. No. 04916, affirming the Decision dated 14 February 2011 of the Regional Trial Court, Branch 61, Baguio City in Criminal Case No. 30409-R, is **AFFIRMED**.

SO ORDERED.

ANTONIO T. CARPIO
Associate Justice

WE CONCUR:

ARTURO D. BRION
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

MARVIC M.V.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