Republic of the Philippines
Supreme Court
Manila

EN BANC

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

- versus -

JERRY SAPLA y GUERRERO a.k.a. ERIC SALIBAD y MALLARI,
Accused-Appellant.

G.R. No. 244045

Present:
PERALTA, *CJ.*
PERLAS-BERNABE,
LEONEN,
CAGUIOA,
GESMUNDO,
J. REYES, JR.,
HERNANDO,
CARANDANG,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ,
DELOS SANTOS, and
GAERLAN, *JJ.*

Promulgated:
June 16, 2020

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DECISION

CAGUIOA, *J.*:

Can the police conduct a warrantless intrusive search of a vehicle on the sole basis of an unverified tip relayed by an anonymous informant? On this question, jurisprudence has vacillated over the years. *The Court definitively settles the issue once and for all.*

In threshing out this issue, it must be remembered that in criminal prosecutions, including prosecutions for violations of the law on dangerous drugs, our constitutional order does not adopt a stance of neutrality — *the law is heavily in favor of the accused.* By constitutional design, the accused

is afforded the presumption of innocence[1] — it is for the State to prove the guilt of the accused. Without the State discharging this burden, the Court is given no alternative but to acquit the accused.

Moreover, if the process of gathering evidence against the accused is tainted by a violation of the accused's right against unreasonable searches and seizures, which is a most cherished and protected right under the Bill of Rights, the evidence procured must be excluded, inevitably leading to the accused's acquittal.

Therefore, while the Court recognizes the necessity of adopting a decisive stance against the scourge of illegal drugs, the eradication of illegal drugs in our society cannot be achieved by subverting the people's constitutional right against unreasonable searches and seizures. In simple terms, *the Constitution does not allow the end to justify the means*. Otherwise, in eradicating one societal disease, a deadlier and more sinister one is cultivated — the trampling of the people's fundamental, inalienable rights. The State's steadfastness in eliminating the drug menace must be equally matched by its determination to uphold and defend the Constitution. This Court will not sit idly by and allow the Constitution to be added to the mounting body count in the State's war on illegal drugs.

The Case

Before the Court is an appeal[2] filed by the accused-appellant Jerry Sapla *y* Guerrero a.k.a. Eric Salibad *y* Mallari (accused-appellant Sapla), assailing the Decision[3] dated April 24, 2018 (assailed Decision) of the Court of Appeals (CA)[4] in CA-G.R. CR HC No. 09296, which affirmed the Judgment[5] dated January 9, 2017 of the Regional Trial Court (RTC) of Tabuk City, Branch 25 in Criminal Case No. 11-2014-C entitled *People of the Philippines v. Jerry Sapla y Guerrero a.k.a. Eric Salibad y Mallari*, finding accused-appellant Sapla guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (R.A.) 9165,[6] otherwise known as the "Comprehensive Dangerous Drugs Act of 2002," as amended.

The Facts and Antecedent Proceedings

The facts and antecedent proceedings, as narrated by the CA in the assailed Decision, and as culled from the records of the case, are as follows:

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1 SECTION 14 (1), THE 1987 CONSTITUTION.
2 See Notice of Appeal dated April 24, 2018; *rollo*, pp. 16-18.
3 Id. at 2-15. Penned by Associate Justice Jane Aurora C. Lantion and concurred in by Associate Justices Remedios A. Salazar-Fernando and Zenaida T. Galapate-Laguilles.
4 Second Division.
5 Records, pp. 325-334. Penned by Presiding Judge Marcelino K. Wacas.
6 Entitled "AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES," approved on June 7, 2002.

In an *Information* dated 14 January 2014, the appellant was charged with violation of *Section 5, Article II of R.A. No. 9165.* The accusatory portion of the said *Information* reads:

> "That at around 1:20 in the afternoon of January 10, 2014 at Talaca, Agbannawag, Tabuk City, Kalinga and within the jurisdiction of this Honorable Court, the said accused, did then and there, willfully, unlawfully and knowingly have in his possession, control and custody four (4) bricks of marijuana leaves, a dangerous [drug], with a total net weight of 3,9563.11[1] grams and transport in transit through a passenger [jeepney] with Plate No. AYA 270 the said marijuana without license, permit or authority from any appropriate government entity or agency.
>
> **CONTRARY TO LAW."**

The next day, or on 15 January 2014, [accused-appellant Sapla] was committed to the Bureau of Jail Management and Penology (BJMP) at Tabuk City, Kalinga.

Upon his arraignment on 29 January 2014, [accused-appellant Sapla] pleaded "*not guilty*" to the crime charged against him. In the court *a quo's Pre-Trial Order* dated 11 March 2014, the Prosecution and the Defense stipulated their respective legal issues to be resolved by the court *a quo.* Also, the Prosecution identified and marked its pieces of evidence, while the Defense made no proposals nor pre-mark[ed] any exhibits.

Trial ensued thereafter.

The Prosecution presented three (3) police officers as its witnesses, namely: 1) Police Officer (PO) 2 Jim Mabiasan (hereinafter referred to as ***PO2 Mabiasan***), an officer assigned at the 3rd Maneuver Company, Regional Public Safety Battalion (***RPSB***) at Tabuk City and was the seizing officer; 2) PO3 Lito Labbutan (hereinafter referred to as ***PO3 Labbutan***), an intelligence operative of Kalinga Police Provincial Office – Provincial Anti-Illegal Drugs Special Operations Task Group (***KPPO-PAIDSOTG***) who was tasked as the arresting officer; and 3) Police Senior Inspector (***PSI***) Delon Ngoslab (hereinafter referred to as ***PSI Ngoslab***), deputy company commander of the RPSB and team leader of the joint checkpoint operation.

The evidence for the Prosecution established that on 10 January 2014, at around 11:30 in the morning, an officer on duty at the RPSB office received a phone call from a concerned citizen, who informed the said office that a certain male individual [would] be transporting marijuana from Kalinga and into the Province of Isabela. PO2 Mabiasan then relayed the information to their deputy commander, PSI Ngoslab, who subsequently called KPPO-PAIDSOTG for a possible joint operation. Thereafter, as a standard operating procedure in drug operations, PO3 Labbutan, an operative of KPPO-PAIDSOTG, coordinated with the Philippine Drug Enforcement Agency (***PDEA***). Afterwards, the chief of KPPO-PAIDSOTG, PSI Baltazar Lingbawan (hereinafter referred to as ***PSI Lingbawan***), briefed his operatives on the said information. Later on, the said operatives of KPPO-PAIDSOTG arrived at the RPSB. PSI Ngoslab immediately organized a team and as its team leader, assigned PO2 Mabiasan as the seizing officer, PO3 Labbutan as the arresting

officer, while the rest of the police officers would provide security and backup. The said officers then proceeded to the Talaca detachment.

At around 1:00 in the afternoon, the RPSB hotline received a text message which stated that the subject male person who [would] transport marijuana [was] wearing a collared white shirt with green stripes, red ball cap, and [was] carrying a blue sack on board a passenger jeepney, with plate number AYA 270 bound for Roxas, Isabela. Subsequently, a joint checkpoint was strategically organized at the Talaca command post.

The passenger jeepney then arrived at around 1:20 in the afternoon, wherein the police officers at the Talaca checkpoint flagged down the said vehicle and told its driver to park on the side of the road. Officers Labbutan and Mabiasan approached the jeepney and saw [accused-appellant Sapla] seated at the rear side of the vehicle. The police officers asked [accused-appellant Sapla] if he [was] the owner of the blue sack in front of him, which the latter answered in the affirmative. The said officers then requested [accused-appellant Sapla] to open the blue sack. After [accused-appellant Sapla] opened the sack, officers Labbutan and Mabiasan saw four (4) bricks of suspected dried marijuana leaves, wrapped in newspaper and an old calendar. PO3 Labbutan subsequently arrested [accused-appellant Sapla], informed him of the cause of his arrest and his constitutional rights in [the] Ilocano dialect. PO2 Mabiasan further searched [accused-appellant Sapla] and found one (1) LG cellular phone unit. Thereafter, PO2 Mabiasan seized the four (4) bricks of suspected dried marijuana leaves and brought [them] to their office at the Talaca detachment for proper markings.

At the RPSB's office, PO2 Mabiasan took photographs and conducted an inventory of the seized items, one (1) blue sack and four (4) bricks of suspected dried marijuana leaves, wherein the same officer placed his signature on the said items. Also, the actual conduct of inventory was witnessed by [accused-appellant Sapla], and by the following: 1) Joan K. Balneg from the Department of Justice; 2) Victor Fontanilla, an elected barangay official; and 3) Geraldine G. Dumalig, as media representative. Thereafter, PO3 Labbutan brought the said [accused-appellant Sapla] at the KPPO-PAIDSOTG Provincial Crime Laboratory Office at Camp Juan M. Duyan for further investigation.

At the said office, PO2 Mabiasan personally turned over the seized items to the investigator of the case, PO2 Alexander Oman (hereinafter referred to as ***PO2 Oman***), for custody, safekeeping and proper disposition. Also, PSI Lingbawan wrote a letter addressed to the Provincial Chief, which requested that a chemistry examination be conducted on the seized items. The following specimens were submitted for initial laboratory examination: 1) one (1) blue sack with label J&N rice, marked "**2:30PM JAN. 10, 2014 EXH. "A" PNP-TALACA and signature**;" 2) one (1) brick of suspected dried marijuana leaves, which weighed 998.376 grams, marked "**2:30PM JAN. 10, 2014 EXH. "A-1" PNP-TALACA and signature**;" 3) one (1) brick of suspected dried marijuana leaves, which weighed 929.735 grams, marked "**2:30PM JAN. 10, 2014 EXH "A-2" PNP-TALACA and signature**;" 4) one (1) brick of suspected dried marijuana leaves, which weighed 1,045.629 grams, marked "**2:30PM JAN. 10, 2014 EXH "A-3" PNP-TALACA and signature**;" 5) one (1) brick of suspected dried marijuana leaves, which weighed 979.371 grams, marked "**2:30PM JAN. 10, 2014 EXH. "A-4" PNP-TALACA and signature.**" The said initial examination revealed

that the specimens "A-1" to "A-4" with a total net weight of 3,9563.111 grams, yielded positive results for the presence of marijuana, a dangerous drug. In addition, *Chemistry Report No. D-003-2014* revealed that indeed the said specimens [did] contain marijuana and that the said report indicated that the "specimen[s] submitted are retained in this laboratory for future reference."

Also, further investigation revealed that [accused-appellant Sapla] tried to conceal his true identity by using a fictitious name – *Eric Mallari Salibad*. However, investigators were able to contact [accused-appellant Sapla's] sister, who duly informed the said investigators that [accused-appellant Sapla's] real name is *Jerry Guerrero Sapla*.

On the other hand, the Defense presented [accused-appellant Sapla] as its sole witness.

The [accused-appellant Sapla] denied the charges against him and instead, offered a different version of the incident. He claimed that on 8 January 2014, he went to Tabuk City to visit a certain relative named Tony Sibal. Two (2) days later, [accused-appellant Sapla] boarded a jeepney, and left for Roxas, Isabela to visit his nephew. Upon reaching Talaca checkpoint, police officers flagged down the said jeepney in order to check its passenger[s'] baggages and cargoes. The police officers then found marijuana inside a sack and were looking for a person who wore fatigue pants at that time. From the three (3) passengers who wore fatigue pants, the said police officers identified him as the owner of the marijuana found inside the sack. [Accused-appellant Sapla] denied ownership of the marijuana, and asserted that he had no baggage at that time. Thereafter, the police officers arrested [accused-appellant Sapla] and brought him to the Talaca barracks, wherein the sack and marijuana bricks were shown to him.[7]

The Ruling of the RTC

On January 9, 2017, the RTC rendered its Decision convicting accused-appellant Sapla for violating Section 5 of R.A. 9165. The RTC found that the prosecution was able to sufficiently establish the *corpus delicti* of the crime. The dispositive portion of the Decision reads:

ACCORDINGLY, in view of the foregoing, this Court finds accused **JERRY SAPLA Y GUERRERO, a.k.a. ERIC SALIBAD Y MALLARI** guilty beyond reasonable doubt of the crime charged and suffer the penalty of reclusion perpetua.

The accused to pay the fine of Five Million (P5,000,000.00) Pesos.

The 4 bricks of dried marijuana leaves be submitted to any authorized representative of the PDEA for proper disposition.

SO ORDERED.[8]

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7 *Rollo*, pp. 3-7. Emphasis in the original.

8 Records, pp. 333-334.

Feeling aggrieved, accused-appellant Sapla filed an appeal before the CA.

The Ruling of the CA

In the assailed Decision, the CA denied accused-appellant Sapla's appeal and affirmed the RTC's Decision with modifications. The dispositive portion of the assailed Decision reads:

> **WHEREFORE**, the instant appeal is **DENIED**. The *Decision* dated 9 January 2017 of the Regional Trial Court of Tabuk City, Branch 25 in *Criminal Case No. 11-2014-C* is hereby **AFFIRMED with MODIFICATIONS** in that accused-appellant Jerry Sapla y Guerrero is sentenced to suffer the penalty of life imprisonment and to pay the fine of P1,000,000.00.
>
> **SO ORDERED.**[9]

The CA found that although the search and seizure conducted on accused-appellant Sapla was without a search warrant, the same was lawful as it was a valid warrantless search of a moving vehicle. The CA held that the essential requisite of probable cause was present, justifying the warrantless search and seizure.

Hence, the instant appeal.

The Issue

Stripped to its core, the essential issue in the instant case is whether there was a valid search and seizure conducted by the police officers. The answer to this critical question determines whether there is enough evidence to sustain accused-appellant Sapla's conviction under Section 5 of R.A. 9165.

The Court's Ruling

The instant appeal is impressed with merit. The Court finds for accused-appellant Sapla and immediately orders his release from incarceration.

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9 *Rollo*, p. 14.

The Constitutional Right against Unreasonable Searches and Seizures

As eloquently explained by the Court in *People v. Tudtud* (*Tudtud*),[10] "the Bill of Rights is the bedrock of constitutional government. If people are stripped naked of their rights as human beings, democracy cannot survive and government becomes meaningless. This explains why the Bill of Rights, contained as it is in Article III of the Constitution, occupies a position of primacy in the fundamental law way above the articles on governmental power."[11]

And in the Bill of Rights, the right against unreasonable searches and seizures is "at the top of the hierarchy of rights, next only to, if not on the same plane as, the right to life, liberty and property, x x x for the right to personal security which, along with the right to privacy, is the foundation of the right against unreasonable search and seizure."[12]

The right of the people against unreasonable searches and seizures is found in Article III, Section 2 of the 1987 Constitution, which reads:

> Section 2. 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.

Hence, as a rule, a search and seizure operation conducted by the authorities is reasonable *only* when a court issues a search warrant after it has determined the existence of probable cause through the personal examination under oath or affirmation of the complainant and the witnesses presented before the court, with the place to be searched and the persons or things to be seized particularly described.

Because of the sacrosanct position occupied by the right against unreasonable searches and seizures in the hierarchy of rights, any deviation or exemption from the aforementioned rule is not favored and is *strictly construed against the government*.

Valid Warrantless Searches and Seizures

There are, however, instances wherein searches are reasonable even in the absence of a search warrant, taking into account the "uniqueness of circumstances involved including the purpose of the search or seizure, the presence or absence of probable cause, the manner in which the search and

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10 458 Phil. 752-802 (2003).
11 Id. at 788.
12 Id. at 788-789.

seizure was made, the place or thing searched, and the character of the articles procured."[13]

The known jurisprudential instances of reasonable warrantless searches and seizures are:

(1) warrantless search incidental to a lawful arrest;

(2) seizure of evidence in plain view;

(3) search of a moving vehicle;

(4) consented warrantless search;

(5) customs search;

(6) stop and frisk; and

(7) exigent and emergency circumstances.[14]

Search of a Moving Vehicle and its Non-Applicability in the Instant Case

In upholding the warrantless search and seizure conducted by the authorities, the RTC and CA considered the police operation as a valid warrantless *search of a moving vehicle*.

According to jurisprudence, "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*."[15]

On the other hand, an extensive search of a vehicle is permissible, but only when "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 [an] item, article or object which by law is subject to seizure and destruction."[16]

The Court finds error in the CA's holding that the search conducted in the instant case is a search of a moving vehicle. The situation presented in the instant case *cannot* be considered as a search of a moving vehicle.

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13 *People v. Cogaed*, 740 Phil. 212, 228 (2014), citing *Esquillo v. People*, 643 Phil. 577, 593 (2010).
14 Id. at 228.
15 *People v. Comprado*, G.R. No. 213225, April 4, 2018, 860 SCRA 420, 440. Italics supplied.
16 Id.

The fairly recent case of *People v. Comprado*[17] (*Comprado*) is controlling inasmuch as the facts of the said case are *virtually identical* to the instant case.

In *Comprado*, a confidential informant (CI) sent a text message to the authorities as regards an alleged courier of marijuana who had in his possession a backpack containing marijuana and would be traveling from Bukidnon to Cagayan de Oro City. The CI eventually called the authorities and informed them that the alleged drug courier had boarded a bus with body number 2646 and plate number KVP 988 bound for Cagayan de Oro City. The CI added that the man would be carrying a backpack in black and violet colors with the marking "*Lowe Alpine*." With this information, the police officers put up a checkpoint, just as what the authorities did in the instant case. Afterwards, upon seeing the bus bearing the said body and plate numbers approaching the checkpoint, again similar to the instant case, the said vehicle was flagged down. The police officers boarded the bus and saw a man matching the description given to them by the CI. The man was seated at the back of the bus with a backpack placed on his lap. The man was asked to open the bag. When the accused agreed to do so, the police officers saw a transparent cellophane containing dried marijuana leaves.

In *Comprado*, the Court held that the search conducted "**could not be classified as a search of a moving vehicle. In this particular type of search, the vehicle is the target and not a specific person.**"[18] The Court added that "in search of a moving vehicle, the vehicle was intentionally used as a means to transport illegal items. It is worthy to note that the information relayed to the police officers was that a passenger of that particular bus was carrying marijuana such that when the police officers boarded the bus, they searched the bag of the person matching the description given by their informant and not the cargo or contents of the said bus."[19]

Applying the foregoing to the instant case, it cannot be seriously disputed that the target of the search conducted was not the passenger jeepney boarded by accused-appellant Sapla nor the cargo or contents of the said vehicle. The target of the search was the person who matched the description given by the person who called the RPSB Hotline, *i.e.*, the person wearing a collared white shirt with green stripes, red ball cap, and carrying a blue sack.

As explained in *Comprado*, "to extend to such breadth the scope of searches on moving vehicles would open the floodgates to unbridled warrantless searches which can be conducted by the mere expedient of waiting for the target person to ride a motor vehicle, setting up a checkpoint along the route of that vehicle, and then stopping such vehicle when it arrives at the checkpoint in order to search the target person."[20]

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17 Id.
18 Id. at 440-441. Emphasis supplied.
19 Id. at 441.
20 Id.

Therefore, the search conducted in the instant case cannot be characterized as a search of a moving vehicle.

Probable Cause as an Indispensable Requirement for an Extensive and Intrusive Warrantless Search of a Moving Vehicle

In any case, even if the search conducted can be characterized as a search of a moving vehicle, the operation undertaken by the authorities in the instant case *cannot be deemed a valid warrantless search of a moving vehicle*.

In *People v. Manago*,[21] the Court, through Senior Associate Justice Estela M. Perlas-Bernabe, explained that a variant of searching moving vehicles without a warrant may entail the setting up of military or police checkpoints. The setting up of such checkpoints is not illegal *per se* for as long as its necessity is justified by the exigencies of public order and conducted in a way least intrusive to motorists.

However, in order for the search of vehicles in a checkpoint to be non-violative of an individual's right against unreasonable searches, **the search must be limited to the following**: (a) **where the officer merely draws aside the curtain of a vacant vehicle which is parked on the public fair grounds**; (b) **where the officer simply looks into a vehicle**; (c) **where the officer flashes a light therein without opening the car's doors**; (d) **where the occupants are not subjected to a physical or body search**; (e) **where the inspection of the vehicles is limited to a visual search or visual inspection**; and (f) **where the routine check is conducted in a fixed area**.[22]

Routine inspections do not give the authorities *carte blanche* discretion to conduct intrusive warrantless searches in the absence of probable cause. When a vehicle is stopped and subjected to an extensive search, as opposed to a mere routine inspection, "**such a warrantless search has been held to be valid only as long as the officers conducting the search have *reasonable or probable cause* to believe before the search that they will find the instrumentality or evidence pertaining to a crime, in the vehicle to be searched.**"[23]

Simply stated, a more extensive and intrusive search that goes beyond a mere visual search of the vehicle necessitates ***probable cause*** on the part of the apprehending officers.

It was in *Valmonte v. de Villa*[24] (*Valmonte*) where the Court first held that vehicles can be stopped at a checkpoint and extensively searched only

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21 793 Phil. 505, 519 (2016).
22 Id. at 519-520.
23 Id. at 520. Emphasis and italics supplied.
24 264 Phil. 265 (1990).

when there is "probable cause which justifies a reasonable belief of the men at the checkpoints that either the motorist is a law-offender or the contents of the vehicle are or have been instruments of some offense."[25] This doctrine was directly adopted from United States jurisprudence, specifically from the pronouncement of the Supreme Court of the United States (SCOTUS) in *Dyke v. Taylor*.[26]

As subsequently explained by the Court in *Caballes v. Court of Appeals*,[27] probable cause means that there is 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 is in the place to be searched:

> x x x 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 is in the place to be searched. The required probable cause that will justify a warrantless search and seizure is not determined by a fixed formula but is resolved according to the facts of each case.[28]

Sheer Unverified Information from an Anonymous Informant does not engender Probable Cause on the part of the Authorities that warrants an Extensive and Intrusive Search of a Moving Vehicle

As readily admitted by the CA, **the singular circumstance that engendered probable cause on the part of the police officers was the information they received through the RPSB Hotline (*via* text message) from an anonymous person**. Because of this information, the CA held that there was probable cause on the part of the police to conduct an intrusive search.[29]

Does the mere reception of a text message from an anonymous person suffice to create probable cause that enables the authorities to conduct an extensive and intrusive search without a search warrant? **The answer is a resounding *no*.**

The Court has already held with unequivocal clarity that in situations involving warrantless searches and seizures, "**law enforcers cannot act solely on the basis of confidential or tipped information. A tip is still**

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25 Id. at 266.
26 391 US 216, 20 L Ed 538, 88 S Ct 1472.
27 424 Phil. 263 (2002).
28 Id. at 279.
29 *Rollo*, p. 10.

hearsay no matter how reliable it may be. *It is not sufficient to constitute probable cause in the absence of any other circumstance that will arouse suspicion*."[30]

A. United States Jurisprudence on Probable Cause vis-à-vis Tipped Information

Considering that the doctrine that an extensive warrantless search of a moving vehicle necessitates probable cause was adopted by the Court from United States jurisprudence, examining United States jurisprudence can aid in a fuller understanding on the existence of probable cause *vis-à-vis* tipped information received from confidential informants.

In the 1964 case of *Aguilar v. Texas*,[31] the SCOTUS delved into the constitutional requirements for obtaining a state search warrant. In the said case, two Houston police officers applied to a local Justice of the Peace for a warrant to search for narcotics in the petitioner's home based on "reliable information" received from a supposed credible person that the "heroin, marijuana, barbiturates and other narcotics and narcotic paraphernalia are being kept at the above described premises for the purpose of sale and use contrary to the provisions of the law."[32]

In invalidating the search warrant, the SCOTUS held that a two-pronged test must be satisfied in order to determine whether an informant's tip is sufficient in engendering probable cause, *i.e.*, (1) the informant's "basis of knowledge" must be revealed and (2) sufficient facts to establish either the informant's "veracity" or the "reliability" of the informant's report must be provided:

> Although an affidavit may be based on hearsay information, and need not reflect the direct personal observations of the affiant, *Jones v. United States*, 362 U. S. 257, the magistrate must be informed of **some of the underlying circumstances from which the informant concluded that the narcotics were where he claimed they were, and some of the underlying circumstances from which the officer concluded that the informant, whose identity need not be disclosed**, *see Rugendorf v. United States,* 376 U. S. 528, **was "credible" or his information "reliable."**[33]

Subsequently, in the 1983 case of *Illinois v. Gates*,[34] the police received an anonymous letter alleging that the respondents were engaged in selling drugs and that the car of the respondents would be loaded with drugs. Agents of the Drug Enforcement Agency searched the respondents' car, which contained marijuana and other contraband items.

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30 *Veridiano v. People*, 810 Phil. 642, 668 (2017). Emphasis, italics, and underscoring supplied.
31 378 U.S. 108 (1964).
32 Id.
33 Id. Emphasis supplied.
34 462 U.S. 213 (1983).

In finding that there was probable cause, the SCOTUS adopted the *totality of circumstances test* and held that tipped information may engender probable cause under "a balanced assessment of the relative weights of all the various indicia of reliability (and unreliability) attending an informant's tip"[35] In the said case, the SCOTUS found that the details of the informant's tip were corroborated by independent police work.

The SCOTUS emphasized however that "*standing alone*, the anonymous letter sent to the Bloomingdale Police Department would not provide the basis for a magistrate's determination that there was probable cause to believe contraband would be found in the Gateses' car and home. x x x Something more was required, then, before a magistrate could conclude that there was probable cause to believe that contraband would be found in the Gateses' home and car."[36]

B. The Line of Philippine Jurisprudence on the Inability of a Solitary Tip to Engender Probable Cause

As early as 1988, our own Court had ruled that an extensive warrantless search and seizure conducted on the sole basis of a confidential tip is tainted with illegality. In *People v. Aminnudin*,[37] analogous to the instant case, the authorities acted upon an information that the accused would be arriving from Iloilo on board a vessel, the M/V Wilcon 9. The authorities waited for the vessel to arrive, accosted the accused, and inspected the latter's bag wherein bundles of marijuana leaves were found. The Court declared that the search and seizure was illegal, holding that, at the time of his apprehension, Aminnudin was not "committing a crime nor was it shown that he was about to do so or that he had just done so. x x x To all appearances, he was like any of the other passengers innocently disembarking from the vessel. It was only when the informer pointed to him as the carrier of the marijuana that he suddenly became suspect and so subject to apprehension."[38]

Subsequently, in *People v. Cuizon*,[39] the Court, through former Chief Justice Artemio V. Panganiban, held that the warrantless search and subsequent arrest of the accused were deemed illegal because "the prosecution failed to establish that there was sufficient and reasonable ground for the NBI agents to believe that appellants had committed a crime *at the point when the search and arrest of Pua and Lee were made*."[40] In reaching this conclusion, the Court found that the authorities merely relied on "the alleged tip that the NBI agents purportedly received that morning."[41] The Court characterized the tip received by the authorities from an

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35 Id.
36 Id. Italics and underscoring supplied.
37 246 Phil. 424 (1988).
38 Id. at 433-434.
39 326 Phil. 345 (1996).
40 Id. at 363. Italics in the original.
41 Id. at 361.

anonymous informant as "hearsay information"[42] that cannot engender probable cause.

In *People v. Encinada*,[43] the authorities acted solely on an informant's tip and stopped the tricycle occupied by the accused and asked the latter to alight. The authorities then rummaged through the two strapped plastic baby chairs that were loaded inside the tricycle. The authorities then found a package of marijuana inserted between the two chairs. The Court, again through former Chief Justice Artemio V. Panganiban, held that "raw intelligence"[44] was not enough to justify the warrantless search and seizure. "The prosecution's evidence did not show any suspicious behavior when the appellant disembarked from the ship or while he rode the *motorela*. No act or fact demonstrating a felonious enterprise could be ascribed to appellant under such bare circumstances."[45]

Likewise analogous to the instant case is *People v. Aruta*[46] (*Aruta*) where an informant had told the police that a certain "Aling Rosa" would be transporting illegal drugs from Baguio City by bus. Hence, the police officers situated themselves at the bus terminal. Eventually, the informant pointed at a woman crossing the street and identified her as "Aling Rosa." Subsequently, the authorities apprehended the woman and inspected her bag which contained marijuana leaves.

In finding that there was an unlawful warrantless search, the Court in *Aruta* held that "it was only when the informant pointed to accused-appellant and identified her to the agents as the carrier of the marijuana that she was singled out as the suspect. The NARCOM agents would not have apprehended accused-appellant were it not for the furtive finger of the informant because, as clearly illustrated by the evidence on record, there was no reason whatsoever for them to suspect that accused-appellant was committing a crime, except for the pointing finger of the informant."[47] Hence, the Court held that **the search conducted on the accused therein based solely on the pointing finger of the informant was "a clear violation of the constitutional guarantee against unreasonable search and seizure."**[48]

Of more recent vintage is *People v. Cogaed*[49] (*Cogaed*), which likewise involved a search conducted through a checkpoint put up after an "unidentified civilian informer" shared information to the authorities that a person would be transporting marijuana.

In finding that there was no probable cause on the part of the police that justified a warrantless search, the Court, through Associate Justice

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42 Id. at 362.
43 345 Phil. 301-324 (1997).
44 Id. at 318.
45 Id. at 319.
46 351 Phil. 868 (1998).
47 Id. at 885. Emphasis supplied.
48 Id. Emphasis supplied.
49 740 Phil. 212 (2014).

Marvic Mario Victor F. Leonen, astutely explained that in cases finding sufficient probable cause for the conduct of warrantless searches, "the police officers using their senses observed facts that led to the suspicion. Seeing a man with reddish eyes and walking in a swaying manner, based on their experience, is indicative of a person who uses dangerous and illicit drugs."[50] However, the Court reasoned that the case of the accused was different because "he was simply a passenger carrying a bag and traveling aboard a jeepney. There was nothing suspicious, moreover, criminal, about riding a jeepney or carrying a bag. The assessment of suspicion was not made by the police officer but by the jeepney driver. It was the driver who signaled to the police that Cogaed was 'suspicious.'"[51]

In *Cogaed*, the Court stressed that in engendering probable cause that justifies a valid warrantless search, "[i]t is the police officer who should observe facts that would lead to a reasonable degree of suspicion of a person. ***The police officer should not adopt the suspicion initiated by another person***. This is necessary to justify that the person suspected be stopped and reasonably searched. Anything less than this would be an infringement upon one's basic right to security of one's person and effects."[52] The Court explained that "***the police officer, with his or her personal knowledge, must observe the facts leading to the suspicion of an illicit act," and not merely rely on the information passed on to him or her***.[53]

Adopting former Chief Justice Lucas P. Bersamin's Dissenting Opinion in *Esquillo v. People*,[54] the Court in *Cogaed* stressed that reliance on only one suspicious circumstance or none at all will not result in a reasonable search.[55] The Court emphasized that the matching of information transmitted by an informant "still remained only as one circumstance. This should not have been enough reason to search Cogaed and his belongings without a valid search warrant."[56]

Subsequently, in *Veridiano v. People*[57] (*Veridiano*), a concerned citizen informed the police that the accused was on the way to San Pablo City to obtain illegal drugs. Based on this tip, the authorities set up a checkpoint. The police officers at the checkpoint personally knew the appearance of the accused. Eventually, the police chanced upon the accused inside a passenger jeepney coming from San Pablo, Laguna. The jeepney was flagged down and the police asked the passengers to disembark. The police officers instructed the passengers to raise their t-shirts to check for possible concealed weapons and to remove the contents of their pockets. The

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50 Id. at 231.
51 Id.
52 Id. at 232. Emphasis and underscoring supplied.
53 Id. at 230. Emphasis and underscoring supplied.
54 643 Phil. 577, 606 (2010).
55 *People v. Cogaed*, supra note 13, at 233-234.
56 Id. at 234.
57 Supra note 30.

police officers recovered from the accused a tea bag containing what appeared to be marijuana.

In finding the warrantless search invalid, the Court, again through Associate Justice Marvic Mario Victor F. Leonen, held that the accused was a "mere passenger in a jeepney who did not exhibit any act that would give police officers reasonable suspicion to believe that he had drugs in his possession. x x x There was no evidence to show that the police had basis or personal knowledge that would reasonably allow them to infer anything suspicious."[58]

The Court correctly explained that "**law enforcers cannot act solely on the basis of confidential or tipped information. A tip is still hearsay no matter how reliable it may be. It is not sufficient to constitute probable cause in the absence of any other circumstance that will arouse suspicion.**"[59]

A year after *Veridiano*, the Court decided the case of *Comprado*. As in the instant case, the authorities alleged that they possessed reasonable cause to conduct a warrantless search solely on the basis of information relayed by an informant.

The Court held in *Comprado* that the sole information relayed by an informant was not sufficient to incite a genuine reason to conduct an intrusive search on the accused. The Court explained that "**no overt physical act could be properly attributed to accused-appellant as to rouse suspicion in the minds of the arresting officers that he had just committed, was committing, or was about to commit a crime.**"[60]

The Court emphasized that **there should be the "presence of more than one seemingly innocent activity from which, taken together, warranted a reasonable inference of criminal activity.**"[61] In the said case, as in the instant case, the accused was just a passenger carrying his bag. "There is nothing suspicious much less criminal in said act. Moreover, such circumstance, by itself, could not have led the arresting officers to believe that accused-appellant was in possession of marijuana."[62]

Recently, the Court unequivocally declared in *People v. Yanson*[63] (*Yanson*) that a solitary tip hardly suffices as probable cause that warrants the conduct of a warrantless intrusive search and seizure.

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58 Id. at 665.

59 Id. at 668. Emphasis supplied.

60 *People v. Comprado*, supra note 15, at 435. Emphasis supplied.

61 Id., at 438; citing C.J. Lucas P. Bersamin's Dissenting Opinion in *Esquillo v. People*, 643 Phil. 577, 606 (2010). Emphasis supplied.

62 Id.

63 G.R. No. 238453, July 31, 2019, accessed at <http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65605>.

In *Yanson*, which involves an analogous factual milieu as in the instant case, "the Municipal Police Station of M'lang, North Cotabato received a radio message about a silver gray Isuzu pickup — with plate number 619 and carrying three (3) people — that was transporting marijuana from Pikit. The Chief of Police instructed the alert team to set up a checkpoint on the riverside police outpost along the road from Matalam to M'lang."[64]

Afterwards, "[a]t around 9:30 a.m., the tipped vehicle reached the checkpoint and was stopped by the team of police officers on standby. The team leader asked the driver about inspecting the vehicle. The driver alighted and, at an officer's prodding, opened the pickup's hood. Two (2) sacks of marijuana were discovered beside the engine."[65]

In the erudite *ponencia* of Associate Justice Marvic Mario Victor F. Leonen, the Court held that, in determining whether there is probable cause that warrants an extensive or intrusive warrantless searches of a moving vehicle, "**bare suspicion is never enough**. While probable cause does not demand moral certainty, or evidence sufficient to justify conviction, it requires the existence of 'a reasonable ground of suspicion supported by circumstances sufficiently strong in themselves to warrant a cautious man to believe that the person accused is guilty of the offense with which he is charged.'"[66]

The Court explained that in prior cases wherein the Court validated warrantless searches and seizures on the basis of tipped information, "the seizures and arrests were not merely and exclusively based on the initial tips. Rather, they were prompted by other attendant circumstances. Whatever initial suspicion they had from being tipped was progressively heightened by other factors, such as the accused's failure to produce identifying documents, papers pertinent to the items they were carrying, or their display of suspicious behavior upon being approached."[67] In such cases, the finding of probable cause was premised "on more than just the initial information relayed by assets. It was the confluence of initial tips and a myriad of other occurrences that ultimately sustained probable cause."[68] However, the case of *Yanson* was markedly different from these other cases. Just as in the instant case, the police officers proceeded to effect a search, seizure, and arrest on the basis of a solitary tip:

> This case is markedly different. The police officers here proceeded to effect a search, seizure, and arrest on the basis of a solitary tip: the radio message that a certain pickup carrying three (3) people was transporting marijuana from Pikit. When the accused's vehicle (ostensibly matching this description) reached the checkpoint, the arresting officers went ahead to initiate a search asking the driver about inspecting the vehicle. Only

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64 Id.
65 Id.
66 Id. Emphasis supplied.
67 Id. Italics supplied.
68 Id.

> upon this insistence did the driver alight. It was also only upon a police officer's further prodding did he open the hood.
>
> The records do not show, whether on the basis of indubitably established facts or the prosecution's mere allegations, that the three (3) people on board the pickup were acting suspiciously, or that there were other odd circumstances that could have prompted the police officers to conduct an extensive search. Evidently, the police officers relied solely on the radio message they received when they proceeded to inspect the vehicle.[69]

In ruling that the sole reliance on tipped information, on its own, furnished by informants cannot produce probable cause, the Court held that "**[e]xclusive reliance on information tipped by informants goes against the very nature of probable cause. A single hint hardly amounts to "the existence of such facts and circumstances which would lead a reasonably discreet and prudent man to believe that an offense has been committed and that the objects sought in connection with the offense are in the place to be searched.**"[70]

As correctly explained by the Court in *Yanson*, "[t]o maintain otherwise would be to sanction frivolity, opening the floodgates to unfounded searches, seizures, and arrests that may be initiated by sly informants."[71]

And very recently, on September 4, 2019, the Court, through former Chief Justice Lucas P. Bersamin, promulgated its Decision in *People v. Gardon-Mentoy*[72] (*Gardon-Mentoy*). In the said case, police officers had set up a checkpoint on the National Highway in Barangay Malatgao, Narra, Palawan based on a tip from an unidentified informant that the accused-appellant would be transporting dangerous drugs on board a shuttle van. Eventually, the authorities flagged down the approaching shuttle van matching the description obtained from the informant and conducted a warrantless search of the vehicle, yielding the discovery of a block-shaped bundle containing *marijuana*.

In holding that the warrantless search and seizure were without probable cause, the Court held that a tip, in the absence of other circumstances that would confirm their suspicion coming from the personal knowledge of the searching officers, was not yet actionable for purposes of conducting a search:

> Without objective facts being presented here by which we can test the basis for the officers' suspicion about the block-shaped bundle contained *marijuana*, we should not give unquestioned acceptance and belief to such testimony. The mere subjective conclusions of the officers

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69 Id.

70 Id. Emphasis and underscoring supplied.

71 Id.

72 G.R. No. 223140, September 4, 2019.

> concerning the existence of probable cause is never binding on the court whose duty remains to "independently scrutinize the objective facts to determine the existence of probable cause," for, indeed, "the courts have never hesitated to overrule an officer's determination of probable cause when none exists."
>
> But SPO2 Felizarte also claimed that it was about then when the accused-appellant panicked and tried to get down from the van, impelling him and PO1 Rosales to restrain her. Did such conduct on her part, assuming it did occur, give sufficient cause to search and to arrest?
>
> For sure, the transfer made by the accused-appellant of the block-shaped bundle from one bag to another should not be cited to justify the search if the search had earlier commenced at the moment PO1 Rosales required her to produce her baggage. **Neither should the officers rely on the still-unverified tip from the unidentified informant, without more, as basis to initiate the search of the personal effects. The officers were themselves well aware that the tip, being actually double hearsay as to them, called for independent verification as its substance and reliability, and removed the foundation for them to rely on it even under the circumstances then obtaining. In short, the tip, in the absence of other circumstances that would confirm their suspicion coming to the knowledge of the searching or arresting officer, was not yet actionable for purposes of effecting an arrest or conducting a search.**[73]

The Court is not unaware that in the recent case of *Saluday v. People*[74] (*Saluday*), a bus inspection conducted by Task Force Davao at a military checkpoint was considered valid. However, in the said case, the authorities merely conducted *a* "*visual and minimally intrusive inspection*"[75] of the accused's bag — by simply lifting the bag that noticeably appeared to have contained firearms. **This is markedly dissimilar to the instant case wherein the search conducted entailed the probing of the contents of the blue sack allegedly possessed by accused-appellant Sapla**.

Moreover, in *Saluday*, the authorities never received nor relied on sheer information relayed by an informant, unlike in the instant case. In *Saluday*, the authorities had relied on their own senses in determining probable cause, *i.e.*, having personally lifted the bag revealing that a firearm was inside, as well as having seen the very suspicious looks being given by the accused therein.

Further, in *Saluday*, the Court laid down the following conditions in allowing a reasonable search of a bus while in transit: (1) the manner of the search must be least intrusive; (2) the search must not be discriminatory; (3) as to the purpose of the search, it must be confined to ensuring public safety; and (4) the courts must be convinced that precautionary measures were in place to ensure that no evidence was planted against the accused.[76]

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73 Id. Emphasis supplied.
74 G.R. No. 215305, April 3, 2018, 860 SCRA 231, 256.
75 Id. at 253. Underscoring supplied.
76 Id. at 256.

It must be stressed that *none of these conditions exists in the instant case*.

First, unlike in *Saluday* wherein the search conducted was merely visual and minimally intrusive, the search undertaken on accused-appellant Sapla was extensive, reaching inside the contents of the blue sack that he allegedly possessed.

Second, the search was directed exclusively towards accused-appellant Sapla; it was discriminatory. Unlike in *Saluday* where the bags of the other bus passengers were also inspected, the search conducted in the instant case focused exclusively on accused-appellant Sapla.

Third, there is no allegation that the search was conducted with the intent of ensuring public safety. At the most, the search was conducted to apprehend a person who, as relayed by an anonymous informant, was transporting illegal drugs.

Lastly, the Court is not convinced that sufficient precautionary measures were undertaken by the police to ensure that no evidence was planted against accused-appellant Sapla, considering that the inventory, photographing, and marking of the evidence were not immediately conducted after the apprehension of accused-appellant Sapla at the scene of the incident.

C. The Divergent Line of Jurisprudence

At this juncture, the Court clarifies that there is indeed a line of jurisprudence holding that information received by the police provides a valid basis for conducting a warrantless search,[77] tracing its origins to the 1990 cases of *People v. Tangliben*[78] (*Tangliben*) and *People v. Maspil, Jr.*[79] (*Maspil, Jr.*). Several of the cases following this line of jurisprudence also heavily rely on the 1992 case of *People v. Bagista*[80] (*Bagista*).

It is high time for a re-examination of this divergent line of jurisprudence.

In *Tangliben*, acting on information supplied by informers that dangerous drugs would be transported through a bus, the authorities conducted a surveillance operation at the Victory Liner Terminal compound in San Fernando, Pampanga. At 9:30 in the evening, the police noticed a person carrying a red travelling bag who was acting suspiciously. They confronted him and requested him to open his bag. The police found marijuana leaves wrapped in a plastic wrapper inside the bag.

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77 See *People v. Valdez*, 363 Phil. 481(1999) and *People v. Mariacos*, 635 Phil. 315 (2010).
78 263 Phil. 106 (1990).
79 266 Phil. 815 (1990).
80 288 Phil. 828 (1992).

It must be stressed that in *Tangliben*, the authorities' decision to conduct the warrantless search did not rest *solely* on the tipped information supplied by the informants. *The authorities, using their own personal observation, saw that the accused was acting suspiciously.*

Similar to *Tangliben*, in the ***great majority*** of cases upholding the validity of a warrantless search and seizure on the basis of a confidential tip, the police did not rely *exclusively* on information sourced from the informant. ***There were overt acts and other circumstances personally observed by the police that engendered great suspicion***. Hence, the holding that an intrusive warrantless search can be conducted on the *solitary* basis of tipped information is far from being an established and inflexible doctrine.

To cite but a few examples, in the early case of *People v. Malmstdedt*,[81] the authorities set up a checkpoint in response to some reports that a Caucasian man was coming from Sagada with dangerous drugs in his possession. At the checkpoint, the officers intercepted a bus and inspected it. Upon reaching the accused, the police personally observed that there was a bulge on the accused's waist. This prompted the officer to ask for the accused's identification papers, which the accused failed to provide. The accused was then asked to reveal what was bulging on his waist, which turned out to be hashish, a derivative of marijuana. In this case, the Court ruled that the probable cause justifying the warrantless search was based on the *personal observations* of the authorities and not solely on the tipped information:

> It was only when one of the officers noticed a bulge on the waist of accused, during the course of the inspection, that accused was required to present his passport. The failure of accused to present his identification papers, when ordered to do so, only managed to arouse the suspicion of the officer that accused was trying to hide his identity.[82]

In *People v. Tuazon*,[83] the authorities did not solely rely on confidential information that the accused would deliver an unspecified amount of *shabu* using a Gemini car bearing plate number PFC 411. Upon conducting a visual search of the motor vehicle that was flagged down by the authorities, the police personally saw a gun tucked on the accused's waist. Moreover, the accused was not able to produce any pertinent document related to the firearm. This was what prompted the police to order the accused to alight from the vehicle.

In *People v. Quebral*,[84] the authorities did not solely rely on the police informer's report that two men and a woman on board an owner type jeep with a specific plate number would deliver *shabu*, a prohibited drug, at a Petron Gasoline Station in Balagtas, Bulacan. The authorities conducted a

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81 275 Phil. 447 (1991).
82 Id.
83 588 Phil. 759 (2007).
84 621 Phil. 226 (2009).

surveillance operation and personally saw the accused handing out a white envelope to her co-accused, a person included in the police's drug watch list.

In *People v. Saycon*,[85] in holding that the authorities had probable cause in conducting an intrusive warrantless search, the Court explained that probable cause was not engendered solely by the receipt of confidential information. Probable cause was produced because a prior test-buy was conducted by the authorities, which confirmed that the accused was engaged in the transportation and selling of *shabu*.

In *Manalili v. Court of Appeals and People*,[86] the person subjected to a warrantless search and seizure was personally observed by the police to have reddish eyes and to be walking in a swaying manner. Moreover, he appeared to be trying to avoid the policemen. When approached and asked what he was holding in his hands, he tried to resist. The Court held that the policemen had sufficient reason to accost the accused-appellant to determine if he was actually "high" on drugs due to his suspicious actuations, coupled with the fact that based on information, this area was a haven for drug addicts.[87]

In *People v. Solayao*,[88] "police officers noticed a man who appeared drunk. This man was also 'wearing a camouflage uniform or a jungle suit.' Upon seeing the police, the man fled. His flight added to the suspicion. After stopping him, the police officers found an unlicensed 'homemade firearm' in his possession."[89]

In *People v. Lo Ho Wing*,[90] the authorities did not rely on an anonymous, unverified tip. Deep penetration agents were recruited to infiltrate the crime syndicate. An undercover agent actually met and conferred with the accused, personally confirming the criminal activities being planned by the accused. In fact, the agent regularly submitted reports of his undercover activities on the criminal syndicate.

The jurisprudence cited by the CA in holding that the anonymous text message sent to the RPSB Hotline sufficed to engender probable cause on the part of the authorities, *i.e.*, *People v. Tampis*[91] (*Tampis*), stated that "tipped information is sufficient to provide probable cause to effect a warrantless search and seizure."[92]

However, in *Tampis*, as in the aforementioned jurisprudence, the police did not merely rely on information relayed by an informant. Prior to the warrantless search conducted, the police actually "conducted a

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85 306 Phil. 359 (1994).
86 345 Phil. 632 (1997).
87 *People v. Aruta*, supra note 46, at 884.
88 330 Phil. 811 (1996).
89 *People v. Cogaed*, supra note 13, at 230-231.
90 271 Phil. 120 (1991).
91 455 Phil. 371-385 (2003).
92 Id. at 381.

surveillance on the intended place and saw both appellants packing the suspected marijuana leaves into a brown bag with the markings 'Tak Tak Tak Ajinomoto' inscribed on its side."[93] In *Tampis*, the authorities were able to personally witness the accused packing illegal drugs into the brown bag prior to the warrantless search and seizure.

Moreover, it is observed that when the Court in *Tampis* held that "tipped information is sufficient to provide probable cause to effect a warrantless search and seizure,"[94] the Court cited the case of *Aruta* as its basis. However, the Court in *Aruta* did not hold that tipped information in and of itself is sufficient to create probable cause. In fact, in *Aruta*, as already previously explained, despite the fact that the apprehending officers already had prior knowledge from their informant regarding Aruta's alleged activities, the warrantless search conducted on Aruta was deemed unlawful for lack of probable cause.

The earliest case decided by the Court which upheld the validity of an extensive warrantless search based *exclusively* on a solitary tip is the case of *Maspil, Jr.*, wherein the authorities set up a checkpoint, flagged down the jeep driven by the accused, and examined the contents thereof on the sole basis of information provided by confidential informers.

In justifying the validity of the warrantless search, the Court in *Maspil, Jr.* depended heavily on the early case of *Valmonte*, which delved into the constitutionality of checkpoints set up in Valenzuela City.

It bears stressing that the Court in *Valmonte* never delved into the validity of warrantless searches and seizures on the pure basis of confidential information. *Valmonte* did not hold that in checkpoints, intrusive searches can be conducted on the sole basis of tipped information. *Valmonte* merely stated that checkpoints are not illegal *per se*.[95] In fact, in *Valmonte*, the Court stressed that "[f]or as long as the vehicle is neither searched nor its occupants subjected to a body search, and the inspection of the vehicle is limited to a visual search, said routine checks cannot be regarded as violative of an individual's right against unreasonable search."[96]

Hence, the jurisprudential support of the Court's holding in *Maspil, Jr.* is, at best, frail.

With respect to *Bagista*, the Court held therein that the authorities had probable cause to search the accused's belongings without a search warrant based solely on information received from a confidential informant.

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93 Id.
94 Id.
95 *Valmonte v. de Villa*, supra note 24, at 269.
96 Id. at 270.

In *Bagista*, the Court relied heavily on the SCOTUS' decision in *Carroll vs. U.S*[97] (*Carroll*) in holding that "[w]ith regard to the search of moving vehicles, this had been justified on the ground that the mobility of motor vehicles makes it possible for the vehicle to be searched to move out of the locality or jurisdiction in which the warrant must be sought."[98]

Does *Carroll* support the notion that an unverified tipped information engenders probable cause? In *Carroll*, which upheld the validity of a warrantless search of a vehicle used to transport contraband liquor in Michigan, the SCOTUS found that the warrantless search was justified in light of the following circumstances:

> The search and seizure were made by Cronenwett, Scully and Thayer, federal prohibition agents, and one Peterson, a state officer, in December, 1921, as the car was going westward on the highway between Detroit and Grand Rapids at a point 16 miles outside of Grand Rapids. The facts leading to the search and seizure were as follows: on September 29th, Cronenwett and Scully were in an apartment in Grand Rapids. Three men came to that apartment, a man named Kruska and the two defendants, Carroll and Kiro. Cronenwett was introduced to them as one Stafford, working in the Michigan Chair Company in Grand Rapids, who wished to buy three cases of whiskey. The price was fixed at $13 a case. The three men said they had to go to the east end of Grand Rapids to get the liquor and that they would be back in half or three-quarters of an hour. They went away, and in a short time Kruska came back and said they could not get it that night, that the man who had it was not in, but that they would deliver it the next day. They had come to the apartment in an automobile known as an Oldsmobile Roadster, the number of which Cronenwett then identified, a[s] did Scully. The proposed vendors did not return the next day, and the evidence disclosed no explanation of their failure to do so. One may surmise that it was suspicion of the real character of the proposed purchaser, whom Carroll subsequently called by his first name when arrested in December following. Cronenwett and his subordinates were engaged in patrolling the road leading from Detroit to Grand Rapids, looking for violations of the Prohibition Act. This seems to have been their regular tour of duty. On the 6th of October, Carroll and Kiro, going eastward from Grand Rapids in the same Oldsmobile Roadster, passed Cronenwett and Scully some distance out from Grand Rapids. Cronenwett called to Scully, who was taking lunch, that the Carroll boys had passed them going toward Detroit, and sought with Scully to catch up with them to see where they were going. The officers followed as far as East Lansing, half way to Detroit, but there lost trace of them. On the 15th of December, some two months later, Scully and Cronenwett, on their regular tour of duty, with Peterson, the State officer, were going from Grand Rapids to Ionia, on the road to Detroit, when Kiro and Carroll met and passed them in the same automobile, coming from the direction of Detroit to Grand Rapids. The government agents turned their car and followed the defendants to a point some sixteen miles east of Grand Rapids, where they stopped them and searched the car.
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97 267 U.S. 132, 153 (1925).

98 Supra note 80, at 836.

> We know in this way that Grand Rapids is about 152 miles from Detroit, and that Detroit and its neighborhood along the Detroit River, which is the International Boundary, is one of the most active centers for introducing illegally into this country spirituous liquors for distribution into the interior. It is obvious from the evidence that the prohibition agents were engaged in a regular patrol along the important highways from Detroit to Grand Rapids to stop and seize liquor carried in automobiles. They knew or had convincing evidence to make them believe that the Carroll boys, as they called them, were so-called "bootleggers" in Grand Rapids, *i.e.,* that they were engaged in plying the unlawful trade of selling such liquor in that city. The officers had soon after noted their going from Grand Rapids half way to Detroit, and attempted to follow them to that city to see where they went, but they escaped observation. Two months later, these officers suddenly met the same men on their way westward, presumably from Detroit. The partners in the original combination to sell liquor in Grand Rapids were together in the same automobile they had been in the night when they tried to furnish the whisky to the officers which was thus identified as part of the firm equipment. They were coming from the direction of the great source of supply for their stock to Grand Rapids, where they plied their trade. That the officers, when they saw the defendants, believed that they were carrying liquor we can have no doubt, and we think it is equally clear that they had reasonable cause for thinking so. Emphasis is put by defendant's counsel on the statement made by one of the officers that they were not looking for defendants at the particular time when they appeared. We do not perceive that it has any weight. As soon as they did appear, the officers were entitled to use their reasoning faculties upon all the facts of which they had previous knowledge in respect to the defendants.[99]

Hence, in *Carroll*, the probable cause justifying the warrantless search was *not* founded on information relayed by confidential informants; there were no informants involved in the case whatsoever. Probable cause existed because the state authorities themselves had personally interacted with the accused, having engaged with them in an undercover transaction.

Therefore, just as in *Maspil, Jr.*, the jurisprudential support upon which *Bagista* heavily relies is not strong.

It is also not lost on the Court that in *Bagista*, *the Court did not decide with unanimity*.

In his Dissenting Opinion in *Bagista*, Associate Justice Teodoro R. Padilla expressed the view that "the information alone received by the NARCOM agents, *without other suspicious circumstances surrounding the accused*, did not give rise to a probable cause justifying the warrantless search made on the bag of the accused." In explaining his dissent, Justice Padilla correctly explained that:

> In the case at bar, the NARCOM agents searched the bag of the accused *on the basis alone* of an information they received that a woman, 23 years of age with naturally curly hair, and 5'2" or 5'3" in height would be transporting marijuana. The extensive search was indiscriminately

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[99] Supra note 97.

> made on *all* the baggages of *all* passengers of the bus where the accused was riding, whether male or female, and whether or not their physical appearance answered the description of the suspect as described in the alleged information. If there really was such an information, as claimed by the NARCOM agents, it is a perplexing thought why they had to search the baggages of ALL passengers, not only the bags of those who appeared to answer the description of the woman suspected of carrying marijuana.
>
> Moreover, the accused was not at all acting suspiciously when the NARCOM agents searched her bag, where they allegedly found the marijuana.
>
> From the circumstances of the case at bar, it would seem that the NARCOM agents were only fishing for evidence when they searched the baggages of all the passengers, including that of the accused. They had no probable cause to reasonably believe that the *accused* was *the woman* carrying marijuana alluded to in the information they allegedly received. Thus, the warrantless search made on the personal effects of herein accused on the basis of mere information, *without more*, is to my mind bereft of probable cause and therefore, null and void. It follows that the marijuana seized in the course of such warrantless search was inadmissible in evidence.[100]

It is said that dissenting opinions often appeal to the intelligence of a future age.[101] For Justice Padilla's Dissenting Opinion, such age has come. This holding, which is reflected in the recent tide of jurisprudence, must now fully find the light of day as it is more in line with the basic constitutional precept that the Bill of Rights occupies a *position of primacy* in the fundamental law, hovering above the articles on governmental power. The Court's holding that tipped information, on its own, cannot engender probable cause is guided by the principle that the right against unreasonable searches and seizures sits at the very top of the hierarchy of rights, wherein any allowable transgression of such right is subject to the most stringent of scrutiny.

Hence, considering the foregoing discussion, the Court now holds that **the cases adhering to the doctrine that *exclusive* reliance on an unverified, anonymous tip *cannot engender probable cause* that permits a warrantless search of a moving vehicle that goes beyond a visual search** — *which include both long-standing and the most recent jurisprudence* — **should be the prevailing and controlling line of jurisprudence**.

Adopting a contrary rule would set *an extremely dangerous and perilous precedent* wherein, on the sheer basis of an unverified information passed along by an alleged informant, the authorities are given the unbridled license to undertake extensive and highly intrusive searches, even in the

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[100] Dissenting Opinion of Associate Justice Teodoro R. Padilla in *People v. Bagista*, supra note 80, at 838-840.

[101] SCOTUS Associate Justice Ruth Bader Ginsburg, *Remarks on Writing Separately*, 65 WASH. L.REV. 133, 144 (1990).

absence of any overt circumstance that engenders a reasonable belief that an illegal activity is afoot.

This fear was eloquently expressed by former Chief Justice Artemio V. Panganiban in his Concurring and Dissenting Opinion in *People v. Montilla*.[102] In holding that law and jurisprudence require *stricter grounds* for valid arrests and searches, former Chief Justice Panganiban explained that allowing warrantless searches and seizures based on tipped information alone places the sacred constitutional right against unreasonable searches and seizures in great jeopardy:

> x x x **Everyone would be practically at the mercy of so-called informants, reminiscent of the *Makapilis* during the Japanese occupation. Any one whom they point out to a police officer as a possible violator of the law could then be subject to search and possible arrest. This is placing limitless power upon informants who will no longer be required to affirm under oath their accusations, for they can always delay their giving of tips in order to justify warrantless arrests and searches. Even law enforcers can use this as an oppressive tool to conduct searches without warrants, for they can always claim that they received raw intelligence information only on the day or afternoon before. This would clearly be a circumvention of the legal requisites for validly effecting an arrest or conducting a search and seizure. Indeed, the majority's ruling would open loopholes that would allow unreasonable arrests, searches and seizures.**[103]

It is not hard to imagine the horrid scenarios if the Court were to allow intrusive warrantless searches and seizures on the solitary basis of unverified, anonymous tips.

Any person can easily hide in a shroud of anonymity and simply send false and fabricated information to the police. Unscrupulous persons can effortlessly take advantage of this and easily harass and intimidate another by simply giving false information to the police, allowing the latter to invasively search the vehicle or premises of such person on the sole basis of a bogus tip.

On the side of the authorities, unscrupulous law enforcement agents can easily justify the infiltration of a citizen's vehicle or residence, violating his or her right to privacy, by merely claiming that raw intelligence was received, even if there really was no such information received or if the information received was fabricated.

Simply stated, *the citizen's sanctified and heavily-protected right against unreasonable search and seizure will be at the mercy of phony tips*. The right against unreasonable searches and seizures will be rendered

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[102] Concurring and Dissenting Opinion of Associate Justice Artemio V. Panganiban in *People v. Montilla*, 349 Phil. 640 (1998).

[103] Id. at 733-734 Emphasis and underscoring supplied.

hollow and meaningless. The Court cannot sanction such erosion of the Bill of Rights.

D. The Absence of Probable Cause in the Instant Case

Applying the foregoing discussion in the instant case, to reiterate, the police merely adopted the unverified and unsubstantiated suspicion of another person, *i.e.*, the person who sent the text through the RPSB Hotline. Apart from the information passed on to them, the police simply had no reason to reasonably believe that the passenger vehicle contained an item, article or object which by law is subject to seizure and destruction.

What further militates against the finding that there was sufficient probable cause on the part of the police to conduct an intrusive search is the fact that the information regarding the description of the person alleged to be transporting illegal drugs, *i.e.*, wearing a collared white shirt with green stripes, red ball cap, and carrying a blue sack, **was relayed merely through a text message from a *completely anonymous person***. The police did not even endeavor to inquire how this stranger gathered the information. The authorities did not even ascertain in any manner whether the information coming from the complete stranger was credible. After receiving this anonymous text message, without giving any second thought, the police accepted the unverified information as gospel truth and immediately proceeded in establishing the checkpoint. To be sure, information coming from a complete and anonymous stranger, *without the police officers undertaking even a semblance of verification*, on their own, cannot reasonably produce probable cause that warrants the conduct of an intrusive search.

In fact, as borne from the cross-examination of PO3 Mabiasan, **the authorities did not even personally receive and examine the anonymous text message. The contents of the text message were only relayed to them by a duty guard, whose identity the police could not even recall**:

Q **x x x [W]ho received the information, was it you or another person, Mr. Witness?**

A **The duty guard, sir**.

Q And usually now, informations (*sic*) is usually transmitted and text (*sic*) to the duty guard, Mr. Witness?

A Yes, sir.

Q Can you produce the transcript of the text message (*sic*) can you write in a piece of paper, Mr. Witness?

A **Our duty guard just informed us the information, sir**.

Q **So the text was not preserve (*sic*), Mr. Witness?**

A **Yes, sir.**

Q **Who is you duty guard, Mr. Witness?**

A **I cannot remember, sir.**[104]

Simply stated, the information received through text message was not only hearsay evidence; it is ***double hearsay***.

Moreover, as testified by PO3 Mabiasan himself, tipped information received by the authorities through the duty guard was unwritten and unrecorded, *violating the Standard Operating Procedure* that any information received by a police station that shall be duly considered by the authorities should be properly written in a log book or police blotter:

Q Is it not an (*sic*) Standard Operating Procedure that any information received by the Police Stations or a detachment properly written in a log book or written in a Police blotter, that is the Standard Operating Procedure, correct, Mr. Witness?

A Yes, sir.

Q It was not written the information that you received, correct, Mr. Witness?

A Not at that time, sir.[105]

Further, it does not escape the attention of the Court that, as testified to by PSI Ngoslab on cross-examination, the mobile phone which received the anonymous person's text message *was not even an official government-issued phone*.[106] From the records of the case, *it is unclear as to who owned or possessed the said phone used as the supposed official hotline of the RPSB Office*. Furthermore, PSI Ngoslab testified that he was not even sure whether the said official hotline still existed.[107]

Surely, probable cause justifying an intrusive warrantless search and seizure cannot possibly arise from double hearsay evidence and from an irregularly-received tipped information. A reasonably discreet and prudent man will surely not believe that an offense has been committed and that the item sought in connection with said offense are in the place to be searched based *solely* on the say-so of an unknown duty guard that a random, unverified text message was sent to an unofficial mobile phone by a complete stranger.

Therefore, with the glaring absence of probable cause that justifies an intrusive warrantless search, considering that the police officers failed to rely

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104 TSN, April 3, 2014, p. 22. Emphasis and underscoring supplied.
105 Id. at p. 23.
106 TSN, April 22, 2015, p. 15.
107 Id. at 16.

on their personal knowledge and depended solely on an unverified and anonymous tip, ***the warrantless search conducted on accused-appellant Sapla was an invalid and unlawful search of a moving vehicle.***

The Inapplicability of The Other Instances of Reasonable Warrantless Searches and Seizures

Neither are the other instances of reasonable warrantless searches and seizures applicable in the instant case.

Without need of elaborate explanation, the search conducted on accused-appellant Sapla was not incidental to a lawful arrest. Such requires a lawful arrest that precedes the search, which is not the case here. Further, the prosecution has not alleged and proven that there was a seizure of evidence in plain view, that it was a customs search, and that there were exigent and emergency circumstances that warranted a warrantless search.

Neither can the search conducted on accused-appellant Sapla be considered a valid *stop and frisk* search. The Court has explained that *stop and frisk* searches refer to "'the act of a police officer to stop a citizen on the street, interrogate him, and pat him for weapon(s) or contraband.' Thus, the allowable scope of a 'stop and frisk' search is limited to a "protective search of outer clothing for weapons.'"[108] The search conducted by the authorities on accused-appellant Sapla went beyond a protective search of outer clothing for weapons or contraband.

Moreover, while it was clarified by the Court in *Malacat v. Court of Appeals*[109] that probable cause is not required to conduct *stop and frisk* searches, "mere suspicion or a hunch will not validate a 'stop and frisk.' A genuine reason must exist, in light of the police officer's experience and surrounding conditions, to warrant the belief that the person detained has weapons concealed about him."[110] In *Comprado*, *Cogaed*, and *Veridiano*, the Court has held that mere reliance on information relayed by an informant does not suffice to provide a genuine reason for the police to conduct a warrantless search and seizure. In other words, in the aforesaid cases, the Court has held that information from an informant is mere suspicion that does not validate a *stop and frisk* search.

Invalid Consented Warrantless Search

Neither can the Court consider the search conducted on accused-appellant Sapla as a valid consented search.

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108 *People v. Veridiano*, supra note 30, at 662.
109 347 Phil. 462 (1997).
110 Id. at 481.

The CA found that accused-appellant Sapla "consented to the search in this case and that the illegal drugs – *four (4) bricks of marijuana*, discovered as a result of consented search [are] admissible in evidence."[111]

The Court disagrees.

In *Tudtud*, the Court held that there can only be an effective waiver of rights against unreasonable searches and seizures if the following requisites are present:

1. It must appear that the rights exist;

2. The person involved had knowledge, actual or constructive, of the existence of such right; and

3. Said person had an actual intention to relinquish the right.[112]

Considering that a warrantless search is in derogation of a constitutional right, the Court has held that "**[t]he fundamental law and jurisprudence require more than the presence of these circumstances to constitute a valid waiver of the constitutional right against unreasonable searches and seizures. Courts indulge every reasonable presumption against waiver of fundamental constitutional rights; acquiescence in the loss of fundamental rights is not to be presumed. The fact that a person failed to object to a search does not amount to permission thereto**."[113]

Hence, even in cases where the accused voluntarily handed her bag[114] or the chairs containing marijuana to the arresting officer,[115] the Court has held there was no valid consent to the search.[116]

Again, in *Veridiano*, the Court emphasized that the consent to a warrantless search and seizure must be **unequivocal, specific, intelligently given and unattended by duress or coercion.**[117] **Mere passive conformity to the warrantless search is only an implied acquiescence which does not amount to consent and that the presence of a coercive environment negates the claim that the petitioner therein consented to the warrantless search.**[118]

The very recent case of *Yanson* is likewise instructive. As in the instant case, "Sison, [the therein accused] who was then unarmed, was prodded by the arresting officers to open the pickup's hood. His beguiling conformity is easily accounted by how he was then surrounded by police

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111 *Rollo*, p. 11.
112 *People v. Tudtud*, supra note 10, at 785.
113 Id. at 786. Emphasis and underscoring supplied.
114 *People v. Aruta*, supra note 46.
115 *People v. Encinada*, supra note 43.
116 *People v. Tudtud*, supra note 10, at 786.
117 *Veridiano v. People*, supra note 30, at 666. Emphasis supplied.
118 Id. Emphasis supplied.

officers who had specifically flagged him and his companions down. He was under the coercive force of armed law enforcers. His consent, if at all, was clearly vitiated."[119]

In the instant case, the totality of the evidence presented convinces the Court that accused-appellant Sapla's apparent consent to the search conducted by the police was not unequivocal, specific, intelligently given, and unattended by duress or coercion. It cannot be seriously denied that accused-appellant Sapla was subjected to a *coercive environment*, considering that he was confronted by several armed police officers in a checkpoint.

In fact, from the testimony of PO3 Mabiasan himself, it becomes readily apparent that accused-appellant Sapla's alleged voluntary opening of the sack was *not unequivocal*. When PO3 Mabiasan asked accused-appellant Sapla to open the sack, the latter clearly hesitated and it was only "[*a*]*fter a while* [that] he voluntarily opened [the sack]."[120]

At most, accused-appellant Sapla's alleged act of opening the blue sack was *mere passive conformity* to a warrantless search conducted in a *coercive and intimidating environment*. Hence, the Court cannot consider the search conducted as a valid consented search.

The Exclusionary Rule or Fruit of the Poisonous Tree Doctrine

The necessary and inescapable consequence of the illegality of the search and seizure conducted by the police in the instant case is the *inadmissibility* of the drug specimens retrieved.

According to Article III, Section 3(2) of the Constitution, any evidence obtained in violation of the right against unreasonable searches and seizures shall be inadmissible for any purpose in any proceeding.

Known as the *exclusionary rule*, "evidence obtained and confiscated on the occasion of such unreasonable searches and seizures [is] deemed tainted and should be excluded for being the proverbial fruit of a poisonous tree. In other words, evidence obtained from unreasonable searches and seizures shall be inadmissible in evidence for any purpose in any proceeding."[121]

Therefore, with the inadmissibility of the confiscated marijuana bricks, there is no more need for the Court to discuss the other issues surrounding the apprehension of accused-appellant Sapla, particularly the gaps in the chain of custody of the alleged seized marijuana bricks, which

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[119] Supra note 63.
[120] TSN dated May 8, 2014, p. 49. Italics supplied.
[121] *People v. Comprado*, supra note 15, at 441.

likewise renders the same inadmissible. **The prosecution is left with no evidence left to support the conviction of accused-appellant Sapla.** ***Consequently, accused-appellant Sapla is acquitted of the crime charged.***

Epilogue

The Court fully recognizes the necessity of adopting a resolute and aggressive stance against the menace of illegal drugs. Our Constitution declares that the maintenance of peace and order and the promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy.[122]

Nevertheless, by sacrificing the sacred and indelible right against unreasonable searches and seizures for expediency's sake, the very maintenance of peace and order sought after is rendered wholly nugatory. By disregarding basic constitutional rights as a means to curtail the proliferation of illegal drugs, instead of protecting the general welfare, oppositely, the general welfare is viciously assaulted. In other words, when the Constitution is disregarded, the battle waged against illegal drugs becomes a self-defeating and self-destructive enterprise. **A battle waged against illegal drugs that tramples on the rights of the people is not a war on drugs;** ***it is a war against the people.***[123]

The Bill of Rights should never be sacrificed on the altar of convenience. Otherwise, the malevolent mantle of the rule of men dislodges the rule of law.[124]

WHEREFORE, in view of the foregoing, the appeal is hereby **GRANTED**. The Decision dated April 24, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 09296 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Jerry Sapla *y* Guerrero a.k.a. Eric Salibad *y* Mallari is **ACQUITTED** of the crime charged on the ground of reasonable doubt, and is **ORDERED IMMEDIATELY RELEASED** from detention unless he is being lawfully held for another cause. Let an entry of final judgment be issued immediately.

Let a copy of this Decision be furnished the Director of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The said Director is **ORDERED** to **REPORT** to this Court within five (5) days from receipt of this Decision the action he has taken.

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122 *People v. Narvasa*, G.R. No. 241254, July 8, 2019, accessed at <http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65495>.

123 Id.

124 Id.

SO ORDERED.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

WE CONCUR:

DIOSDADO M. PERALTA
Chief Justice

I concur. See separate opinion.

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC M. V. F. LEONEN
Associate Justice

ALEXANDER G. GESMUNDO
Associate Justice

JOSE C. REYES, JR.
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

I join the dissenting opinions of J. Jardeleza & J. Lopez

ROSMARI D. CARANDANG
Associate Justice

Please see dissenting opinion

AMY C. LAZARO-JAVIER
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

Please see dissenting opinion

MARIO V. LOPEZ
Associate Justice

Please see separate concurring opinion

EDGARDO L. DELOS SANTOS
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified 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.

DIOSDADO M. PERALTA
Chief Justice

CERTIFIED TRUE COPY

EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court