

SECRETARY OF JUSTICE, COMPLAINANT, VS. HONORABLE PIO MARCOS, DISTRICT JUDGE, SECOND JUDICIAL DISTRICT, CFI OF BENGUET AND BAGUIO CITY, BRANCH I, STATIONED AT THE CITY OF BAGUIO,...*Adm. Case No. 207-J. April 22, 1977*

Ponente: FERNANDO, J.

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The administrative complaint for gross inefficiency filed by Secretary of Justice Vicente Abad Santos against the then respondent Judge Pio Marcos of the Court of First Instance of Benguet and Baguio City, now retired after having reached the age of seventy,[1] arose from the issuance of a search warrant past 12:00 midnight of April 4, 1971, and thereafter served and executed approximately two hours later, long before dawn. The grounds alleged were that the search warrant was not limited to one offense covering both illegal possession of firearms and violation of Central Bank rules and regulations; that it did not particularly describe the property to be seized; that he did not carefully examine under oath the applicant and his witnesses; that articles not mentioned were taken; and that thereafter the return and the inventory although appearing to have been prepared on said date were not actually submitted to respondent Judge until April 13, 1971 and the objects seized delivered only about a week later on April 19.

There was a lengthy and detailed answer submitted by respondent Judge, the essence of which was substantial compliance with the requirements of the Constitution and the Rules of Court, the procedure followed by him conforming to the practice he found quite conducive to fruitful results in the campaign against smuggling, resulting in intensified tax collection. He asserted that he is legally and morally convinced of his innocence of the charge of gross inefficiency, his actuations being guided by the prescriptions of the Constitution and the rules or the spirit thereof as well as the best interest of the State. He then alleged that the application for the search warrant was filed by the Chief of Police of Baguio City, Colonel Victorino S. Calano, duly supported by the affidavit of one Romeo Amansec, who was subjected to intensive examination and interrogation, the other witness, one Sergeant Victorino de Vera of the Philippine Constabulary, also being thus examined and interrogated, all three of them describing with particularity and in detail the place to be searched and the things to be seized; that the applicant and his witnesses arrived at his place at about 10:30 p.m. and the warrant issued at 11:45, the promptness with which he acted being due to the urgency of the matter; that there was only one specific offense therein covered, namely robbery in band with the use of a firearm then in the possession of the alleged leader Rogelio Roxas, who had allegedly taken by force a treasure in the form of a golden Buddha; that after the interrogation, he was convinced that the offense of robbery in band was committed and that the Buddha had to be seized before dawn as it would be taken out of Baguio and smuggled out of the country; that the delay in the delivery to the court could be explained by the conclusion reached by him that from the angle of security and safety, the articles seized should be kept and guarded by the CIS agents at Camp Holmes, only a few kilometers from Baguio, under tight security and personal responsibility of Colonel Calano; and that as to those things taken

or seized not covered by the warrant, the persons aggrieved could file a motion for their return, his duty to act on the matter starting to commence only when it is submitted judicially. Respondent Judge prayed that the complaint be dismissed for lack of merit.

The complaint and the answer were then referred for investigation, report and recommendation to the then Associate, now Acting Presiding, Justice Magno S. Gatmaitan of the Court of Appeals. He conducted a thorough investigation and thereafter submitted an exhaustive and comprehensive report on May 31, 1974. The grounds alleged in the complaint to show inefficiency he classified into the following: The first, the failure to follow the legal procedure by respondent Judge when he issued the warrant; the second, the defects manifest on the face thereof as two offenses were included and the description of the premises to be searched and the objects to be seized being too general; the third, the absence of a probable cause; and the fourth, the articles seized having included objects not mentioned in the warrant and the delay in the delivery thereof to respondent Judge.

As to the first ground, the failure to follow the legal procedure by respondent Judge when he issued the warrant, Justice Gatmaitan stated the following in his Report: "There can be no question that from a reading of the application for search warrant by Col. Calano, and the affidavit by witness Romeo Amansec, as well as the search warrant itself, it can be deduced that—the deposition in writing of Sgt. De Vera had not been taken contrary to Sec. 4 of Rule 126; but Investigator must agree with Defense that Respondent did examine under oath, both applicant, Col. Calano, and witnesses, Romeo Amansec and Sgt. De Vera; for Investigator notes that complainant Secretary of Justice himself presented as his sole witness, Clerk of Court, Fernando R. Romero, and this witness declared that, 'Q. Would you be able to tell us more or less what sorts of questions were propounded by Judge Marcos by way of interrogating these witnesses? A. I cannot repeat the words because it was a long time ago, but if I may be permitted to make a gist I may be able to relate. Q. Please do so. A. After administering the oath individually to Col. Calano, Amansec and de Vera, after giving their names and other personal circumstances, he dealt on the questions "What were those articles that were the subject of the application? And they described the articles, what I heard are a golden Buddha, a rifle with some ammunitions." ' This being the case, Investigator is bound to accept this testimony and must hold that outside of the literal defect in that Respondent had not taken the written deposition of Sgt. de Vera, the proceedings he had adopted were not fatally wrong; in fact, it might as well be added that there is something very probable and therefore credible, in the testimony of this witness that time was of the extreme essence, the urgency of the situation could no longer permit further going back to the Office of the Clerk of Court for renewed typing of application and affidavits and warrant, at any rate, since it was complainant Secretary of Justice himself who presented Clerk of Court Romero, he should be bound by latter's testimony; * * * "[2] As to the second ground consisting of the warrant itself being defective because it was issued for two offenses and the description of the premises to be searched and the objects to be seized being too general, Justice Gatmaitan discussed the matter thus: "Since the warrant really stated that it was issued for, 'Illegal possession of firearms and Violation of Central Bank Rules and Regulations,' and the body recited that, 'Accused Rogelio Roxas illegally possess[es] firearms and ammunition without license or permit to possess the same and a golden Buddha which he is keeping and concealing at his premises at No. 47 Ledesma St., Baguio City in violation of Central Bank Rules and Regulations; Investigator must concur with complainant that this warrant violated Sec. 3 of Rule 126 which provides that, 'No Search warrant shall issue for more than one specific offense. 'Investigator must even add that the particular Central Bank circular or regulation is not determined; as to the attack on the description of the premises to be searched and the objects to be seized, what Investigator understands is that the test of a good description for purposes of sufficiency of the warrant is that it be one that would not permit seizure of the wrong property, * * * indeed the very jurisprudence cited by Complainant * * * where the search warrant described the objects as, 'books, documents, receipts, lists, chits and other papers used by him in connection with his activities as money lender charging a usurious rate of interest in violation of the law,' this description was held

to be good enough, the Supreme Court reasoning, 'Taking into consideration the nature of the articles so described, it is clear that no other more adequate and detailed description could be given, particularly because it is difficult to give a particular description of the contents thereof. The description so made substantially complies with the legal provisions because the officer of the law who executed the warrant was thereby placed in a position enabling him to identify the articles in question, which he did,' * * * so that here, since certainly, no one would be mistaken in identifying the Buddha, whose image is well known, and even the firearms and ammunition because these were those without permit to possess, and all located at No. 47 Ledesma St., Baguio City, so far as description was concerned, the search warrant perhaps could not be said to have suffered fatal defects." [3] As to the third charge that the search warrant was issued without probable cause, Justice Gatmaitan started with the affidavit of Amansec showing that "on or about 6:30 a.m. of March 31, 1971, I went to Baguio City and while I passed by a house at No. 47 Ledesma Street, Baguio City I was attracted by several persons inside the house; That I peeped from outside the house and when the curtain was moved I saw a Buddha that was inside the house; That I observed what was going on inside the house and I heard someone say that the golden Buddha was actually for sale and when I observed them closer I overheard that it was being offered for sale for 100, 000 pesos; That I peeped again and I actually saw for myself again the Buddha and I heard one of the persons inside whom I later found out to be Mr. Rogelio Roxas that it was a golden Buddha but that a down payment was needed; That I am executing this affidavit because I actually saw the Buddha and that I also saw a firearm and some bullets inside the house.' * * * which can easily sustain, contrary to complainant's position, that Amansec's knowledge was not hearsay at all; as to Sgt. De Vera, it will be seen that according to his testimony, 'Q. Upon arrival in Baguio, did you seek the coordination of the Police Force in Baguio? A. Not upon our arrival, but late in the evening, sir. Q. What else did you do between 10:00 a.m. and 4:00 p.m. that same day, April 4, 1971, when you went to see Col. Calano? A. We conducted a survey and tried to find out and I found out that the Buddha is really existing in the house of Rogelio Roxas, at No. 47 Ledesma Street. Q. Were you able to pinpoint where the Buddha is? A. Yes, sir. We went to the place at No. 47 Ledesma Street, Baguio City to determine that. Q. What did you find out? A. That it was really existing.' * * * from which investigator concludes that Sgt. de Vera's knowledge neither was hearsay either; now complainant point[ed] out * * * certain alleged discrepancies between the affidavit of Amansec and his interrogation, * * * but perhaps, neither should it be overlooked that all these if they existed at all were directed to the conscience of examining Judge, who was the one called upon to grade their credibility, to act with precision; the point is that while at the beginning the knowledge of witnesses had come thru their information from their undercover men, the fact also was that they were able to confirm the same with their own eyes, the existence of the suspected articles within the premises, and that was what they certified under interrogation, —from respondent, — as declared no less by complainant's own witness, the Clerk of Court, Fernando R. Romero who was present thereat." [4] As to the fourth accusation of gross inefficiency, based on the delay in the return as well as the delivery of the objects seized, Justice Gatmaitan did concur "with complainant that the return was quite delayed; for in the words of Sec. 11, Rule 126, the searching officer should forthwith deliver the seized articles, yet, while search had been made on the night of 5 April, or better stated, early morning of 6 April, 1971, the return was made only on 13 April, 1971. As to the Buddha, it was stated in the return that it was, 'under the control and custody of Government Security Agents for safekeeping and will be turned over to this Honorable Court when directed to do so.' * * * Now if it be remembered that Police Chief Calano kept the Buddha in his residence in Camp Holmes, * * * for several days, that provided the most fertile ground for suspicion of possible substitution; however, Investigator will concede that the duty to make immediate return devolved upon the searching party, perhaps a Judge cannot, considering that he has other duties, be expected to immediately act and require immediate return; perhaps, if there might and probably could be, danger of substitution, the attention of the Judge should be immediately called to that, here it was not ever, at least, there is nothing in the evidence to that effect; * * * However, the searching officer's duty is to immediately return to the Court with the seized

articles; here the raiding party returned 7 days later, but without the Buddha, although Investigator sees that on that date, 13 April, 1971, when the return was made without the Buddha, respondent issued the order reading, "In the 1st Indorsement dated April 5, 1971 signed by the Acting Chief of Police of Baguio, the following articles were seized by virtue of Search Warrant No. 296 issued by the under-signed, to wit: One (1) Buddha allegedly golden about 28 inches in height more or less; * * *. All these articles were delivered to this Court, except the first item which is 'one (1) Buddha allegedly golden about 28 inches in height more or less.' To complete the record of search warrant No. 296, the Acting Chief of Police is hereby ordered to deliver to this Office the 'one (1) Buddha allegedly golden about 28 inches in height more or less.' [It is so ordered]. City of Baguio, Philippines, this 13th day of April, 1971. * * * Although not mentioned in the memorandum but mentioned in the complaint, is the fact that articles not mentioned in the warrant, i.e., '1 old saber with scabbard, and 14 pieces of brassbars, appearance similar to gold bars.' were seized * * * —as to this, respondent's answer that Fiscal had the right to take action, as well as aggrieved person to file corresponding pleading in court, * * * — this is correct. Therefore, as to the delay in the return and the seizure of other articles not mentioned in the search warrant, Investigator must conclude that he can find no way to blame respondent." [5]

The conclusions reached by Justice Gatmaitan follow: "From foregoing, Investigator has come to the conclusions that Respondent: 1st—Issued subject search warrant after examining the witnesses as well as complainant thereof under oath, that the examination sufficiently complied with the requirements as to the description of the place to be searched and the object to be seized and that the knowledge of the witnesses was not hearsay but on their own knowledge; however, insofar as the fact that the written deposition of witness Sgt. De Vera was not taken down and the same attached to the record, Respondent violated Sec. 4 of Rule 126; 2nd—There was probable cause to issue the warrant; but the warrant itself suffered of the defect that it was for two (2) offenses and one of these was not even specified by stating with precision what Central Bank circular or regulation had been infringed, contrary to Rule 126, Sec. 3; 3rd—As to the delay in the return, and as to the seizure of brass bars and a saber not mentioned in the warrant, herein Investigator has not seen that Respondent should be made liable." [6]

Then came his recommendation: "In view whereof, while Investigator believes that aforesaid defects in the search warrant might perhaps have justified setting it aside on certiorari, this being however an administrative case, maybe something more should have been shown to justify punishment, for otherwise, all Judges whose orders are assailed and annulled under the extraordinary legal remedies must be visited with definite sanctions, ? something more should have been shown, some partiality, bias, prejudice, wrongful motive, — but which Complainant has not shown nor even attempted to show, and Investigator after some reflection having come to believe that in the extreme urgency in which Respondent had found himself, even other Judges, even Investigator himself, would have fallen into the same mistakes, — therefore, he respectfully desists from recommending a specific severe or even less than severe punishment, — this subject of course to this Highest Court's other wiser criterion." [7]

What immediately attracts attention in the above sentence of Justice Gatmaitan's recommendation is the extreme care he took to indicate that he is not to be understood as intruding in any way with the full discretion that appropriately belongs to this Court. It reflects his high sense of delicadeza. Nonetheless, it would appear obvious, considering the exhaustive report and the language employed after his pains-taking appraisal of the evidence of record, that there is not sufficient warrant for any disciplinary action against respondent. As he correctly pointed out, a certiorari proceeding could have been availed of for corrective purposes. Moreover, it must have been Justice Gatmaitan's sense of realism fortified by long years of service as a trial judge and possibly excessive modesty that did lead him to say that he could have fallen into the same mistake. As was categorically affirmed by retired Chief Justice Makalintal in *Dizon v. de Borja*: [8] "To hold a judge administratively accountable for every erroneous ruling or decision he renders, assuming that he has erred, would be nothing short of harassment and

would make his position unbearable." [9] Nonetheless, it is not inappropriate to place on record that a trial judge in the position of respondent ought to have abided with the settled juristic norm that a search warrant should not be issued for more than one offense and that the depositions of the witness should be made in writing and thereafter attached to the record.

One last word. It is to be recalled that, as noted at the outset, respondent Judge retired on July 11, 1975. The writer of this opinion is of the view, following *Diamalon v. Quintillan*, [10] that as an administrative proceeding is predicated on the holding of an office or position in the government, the resignation or retirement calls for its dismissal. Nonetheless, in *Perez v. Abiera*, [11] this Court, in an opinion by Justice Muñoz Palma, ruled: "In short, the cessation from office of a respondent Judge either because of resignation, retirement or some other similar cause does not per se warrant the dismissal of an administrative complaint which was filed against him while still in the service. Each case is to be resolved in the context of the circumstances present thereat." [12]

WHEREFORE, the administrative complaint for gross inefficiency against Judge Pio Marcos is dismissed. Let a copy of this resolution be placed on his record.

Makasiar, Antonio, Muñoz Palma, Aquino, Concepcion, Jr., and Martin, JJ., concur.

Castro, C.J., did not take part.

Teehankee, J., dissents in a separate opinion.

Barredo, J., in the result.

[1] He reached the compulsory retirement age of seventy on July 11, 1975. As he was appointed under the 1935 Constitution, the present retirement age of sixty did not apply as to him.

[2] Report, 7-8.

[3] Ibid, 8-9

[4] Ibid, 10-11.

[5] Ibid, 11-14.

[6] Ibid, 14-15.

[7] Ibid, 15.

[8] Adm. Case No. 163-J, January 28, 1971, 37 SCRA 46.

[9] Ibid, 52. Cf. *Santiago v. Santos*, Adm. Case No. 772-CJ, April 18, 1975, 63 SCRA 392, per Aquino, J. and *De Nacional v. Zosa*, Adm. Case No. 392, July 31, 1975, 65 SCRA 532, per Martin, J.

[10] Adm. Case No. 116, August 29, 1969, 29 SCRA 347.

[11] Adm. Case No. 223-J, June 11, 1975, 64 SCRA 302.

[12] Ibid, 308. The writer of this opinion did not take part in *Perez v. Abiera*. However, as he is speaking for the Court, he is bound by such a doctrine.

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DISSENTING OPINION

TEEHANKEE, J.:

I dissent. The facts as found in the resolution sufficiently justify the complaint for gross inefficiency filed by the complainant Secretary of Justice against respondent Judge, arising from the latter's issuance at around midnight of April 4, 1971 of a constitutionally-proscribed general search warrant that unlawfully covered more than one offense and failed to particularly describe the property to be seized. The record also does not show that respondent Judge complied with the prescribed prerequisites for the issuance of a search warrant of personally examining the complainant and witnesses, taking their depositions in writing and attaching them to the record. Furthermore, contrary to standing instructions that such warrants except for compelling urgent reasons should be served in the daytime, the warrant was served and executed within two hours of its issuance long before dawn (allegedly because the golden Buddha subject thereof would be taken out of Baguio and smuggled out of the country, notwithstanding that the house where it was kept was under close surveillance of the police and constabulary); no receipt for the properties seized appears to have been issued and the return of the warrant and delivery of the properties seized with an inventory thereof were made to respondent judge not forthwith but only about two weeks later on April 19, 1971.

It seems quite clear that Rule 126 on search and seizure was thus violated in five principal sections thereof, viz. sections 3, 4, 5, 10 and 11 thereof, which provide as follows:

"SEC. 3. Requisites for issuing search warrant.-- A warrant shall not issue but upon probable cause in connection with one specific offense to be determined by the judge or justice of the peace after examinations 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.

"No search warrant shall issue for more than one specific offense.

"SEC. 4. Examination of the applicant. --The judge or justice of the peace must, before issuing the warrant, personally examine on oath or affirmation the complainant and any witnesses he may produce and take their depositions in writing, and attach them to the record, in addition to any affidavits presented to him.

"SEC. 5. Issuance and form of search warrant. -- If the judge or justice of the peace is thereupon satisfied of the existence of facts upon which the application is based, or that there is probable cause to believe that they exist, he must issue the warrant, which must be substantially in the form prescribed by these rules."

The form prescribed by the Rules of Court as referred to in section 5 is Form 26 thereof, which reads:

"FORM 26.--SEARCH WARRANT.

THE PEOPLE OF THE PHILIPPINES, plaintiff

Criminal Case No. _____

- versus - for

A. B., Accused (State nature of the offense)

TO ANY PEACE OFFICER:

Greetings:

It appearing to the satisfaction of the undersigned after examining under oath (name of applicant) and his witnesses (name of witness) that there is probable cause to believe that (describe the act charged) has been committed or is about to be committed and that there are good and sufficient reasons to believe that (name of person or persons to be searched) has in his possession or control in (describe premises) in (name of street), district of _____, (name property subject of the offense; or stolen or embezzled and other proceeds or fruits of the offense; or used or intended to be used as the means of committing an offense) which should be seized and brought to the undersigned. (Cancel description not applicable.)

You are hereby commanded to make an immediate search at any time in the day (or night) of the premises above described and forthwith seize and take possession of the following personal property, to wit: (give a complete and detailed description of the property to be seized) and bring said property to the undersigned to be dealt with as the law directs.

Witness my hand this ____ day of _____, 19____.

_____, Judge"

"SEC. 10. Receipt for the property seized.-- The officer seizing property under the warrant must give a detailed receipt for the same to the person on whom or in whose possession it was found, or in the absence of any person, must, in the presence of at least one witness, leave a receipt in the place in which he found the seized property.

"SEC. 11. Delivery of property and inventory thereof to court. -- The officer must forthwith deliver the property to the justice of the peace or judge of the municipal court, or of the Court of First Instance which issued the warrant, together with a true inventory thereof duly verified by oath. " (Emphasis supplied.)

The non-observance and breach of the cited vital provisions for the issuance of search and seizure warrants which are grounded on the constitutional guaranty of the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures^[1] and with which provisions all members of the bench and bar are rightly expected to be familiar, make out a case of gross inefficiency, as charged by the complainant Secretary of Justice. The doctrine of *Dizon vs. de Borja*^[2] that a judge should not be held administratively liable "for every erroneous ruling or decision he renders" is not applicable here, for the elements of partiality, bias, prejudice or wrongful motive do not enter into consideration in a charge of gross inefficiency or concretely as in this case a charge of breach and violation of the constitutional injunction against unreasonable searches and of the basic and well-known implementing rules.

In the leading case of *Stonehill vs. Diokno*,^[3] the Court through then Chief Justice Roberto Concepcion stressed two points in connection with the constitutional mandate, "namely: (1) that no warrant shall issue but upon probable cause, to be determined by the judge in the manner set forth in said provision; and (2) that the warrant shall particularly describe the things to be seized."

There as in this case, the implementing rule that "no search warrant shall issue for more than one specific offense" was disregarded and violated and the warrants that were issued were general warrants that did not refer to any specific offense or determinative provision of law alleged to have been violated (as stated by the Investigator, the particular Central Bank circular or regulation is not even determined) and did not particularly describe the properties to be seized. The Court, in emphasizing that such general warrants are outlawed and therefore may not be issued by judges to whom the responsibility was at the time exclusively entrusted by the Constitution (so that the determination of the existence of probable cause for the issuance of the warrant may be properly left to "a neutral and detached magistrate instead of being judged by the officer engaged in the often competitive enterprise

of ferreting out crime[4]), held that "(T)o uphold the validity of the warrants in question would be to wipe out completely one of the most fundamental rights guaranteed in our Constitution, for it would place the sanctity of the domicile and the privacy of communication and correspondence at the mercy of the whims, caprice or passion of peace officers. This is precisely the evil sought to be remedied by the constitutional provision above quoted -- to outlaw the so-called general warrants." In unanimously adopting the exclusionary rule, the Court recognized its salutary purpose -- to compel respect for the constitutional guaranty in the only effectively available way, by removing the incentive to disregard it since otherwise "the ignoble shortcut to conviction left open to the State tends to destroy the entire system of constitutional restraints on which the liberties of the people rest." [5]

The Court reaffirmed in *Asian Surety & Ins. Co. Inc. vs. Herrera*[6] in declaring void an outlawed general warrant that was wrongfully served in "the wee hours of the morning", that "(O)f all the rights of a citizen, few are of greater importance or more essential to his peace and happiness than the right of personal security, and that involves the exemption of his private affairs, books, and papers from the inspection and scrutiny of others. While the power to search and seize is necessary to the public welfare, still it must be exercised and the law enforced without transgressing the constitutional rights of the citizens, for the enforcement of no statute is of sufficient importance to justify indifference to the basic principles of government." The Court once again stressed that the evident purpose and intent of the constitutional mandate requiring a particular description in the search warrant of the place to be searched and of the things to be seized is "to leave the officers of the law with no discretion regarding what articles they shall seize, to the end that unreasonable searches and seizures' may not be made."

In line with the foregoing, judges of inferior courts who have been entrusted with this great responsibility must be placed on notice that they will be held administratively liable for disregard and breach of the Constitutional guaranty of immunity from unreasonable searches and seizures and of the cited implementing rules of court.

[1] Art. III, sec. 1, par. 3, 1935 Constitution provides that: "(3) The rights 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, to be determined 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."

Art. IV, sec. 3, 1973 Constitution substantially reproduces the text of the 1935 Constitution emphasizing the people's right against unreasonable searches and seizures "of whatever nature and for any purpose" although adding that the warrant may also be issued by "such other responsible officer as may be authorized by law." The text reads: "SEC. 3. 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 not be violated, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined by the judge, or such other responsible officer as may be authorized by law, 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."

[2] 37 SCRA 46, cited in the Resolution at page 8 thereof.

[3] 20 SCRA 383, 391 (1967).

[4] *Johnson vs. U.S.*, 333 U.S. 10, 13-14 (1947).

[5] *Mapp vs. Ohio*, 367 U.S. 643, 660 (1961).

[6] 54 SCRA 312, 316 (1973) per Esguerra, J., citing *People vs. Elias*, 147 NE 472. See *Bache & Co. (Phil.) Inc. vs. Ruiz*, 37 SCRA 823 (1971) to same effect.

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