

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ABE VALDEZ Y DELA CRUZ, ACCUSED-APPELLANT.

G.R. No. 129296. September 25, 2000

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

For automatic review is the decision^[1] promulgated on February 18, 1997, by the Regional Trial Court of Bayombong, Nueva Vizcaya, Branch 27, in Criminal Case No. 3105. It found appellant Abe Valdez y Dela Cruz guilty beyond reasonable doubt for violating Section 9 of the Dangerous Drugs Act of 1972 (R.A. No. 6425), as amended by R.A. No. 7659. He was sentenced to suffer the penalty of death by lethal injection.

In an Information dated September 26, 1996, appellant was charged as follows:

"That on or about September 25, 1996, at Sitio Bulan, Barangay Sawmill, Municipality of Villaverde, Province of Nueva Vizcaya, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, who was caught in flagrante delicto and without authority of law, did then and there wilfully (sic), unlawfully and feloniously plant, cultivate and culture seven (7) fully grown marijuana plants known as Indian Hemp weighing 2.194 kilos, from which dangerous drugs maybe (sic) manufactured or derived, to the damage and prejudice of the government of the Republic of the Philippines.

"That the property where the said seven (7) fully grown marijuana plants were planted, cultivated and cultured shall be confiscated and escheated in favor of the government.

"CONTRARY TO LAW."^[2]

On November 15, 1996, appellant was arraigned and, with assistance of counsel, pleaded not guilty to the charge. Trial on the merits then ensued.

The first witness for the prosecution was SPO3 Marcelo Tipay, a member of the police force of Villaverde, Nueva Vizcaya. He testified that at around 10:15 a.m. of September 24, 1996, he received a tip from an unnamed informer about the presence of a marijuana plantation, allegedly owned by appellant at Sitio Bulan, Ibung, Villaverde, Nueva Vizcaya.^[3] The prohibited plants were allegedly planted close to appellant's hut. Police Inspector Alejandro R. Parungao, Chief of Police of Villaverde, Nueva Vizcaya then formed a reaction team from his operatives to verify the report. The team was composed of SPO3 Marcelo M. Tipay, SPO2 Noel V. Libunao, SPO2 Pedro S. Morales, SPO1 Romulo G. Tobias and PO2 Alfelmer I. Balut. Inspector Parungao gave them specific instructions to "uproot said marijuana plants and arrest the cultivator of same."^[4]

At approximately 5:00 o'clock A.M. the following day, said police team, accompanied by their informer, left for the site where the marijuana plants were allegedly being grown. After a three-hour, uphill trek from the nearest barangay road, the police operatives arrived at the place pinpointed by their informant. The police found appellant alone in his nipa hut. They, then, proceeded to look around the area where appellant had his kaingin and saw seven (7) five-foot high, flowering marijuana plants in two rows, approximately 25 meters from appellant's hut.^[5]

PO2 Balut asked appellant who owned the prohibited plants and, according to Balut, the latter admitted that they were his.[6] The police uprooted the seven marijuana plants, which weighed 2.194 kilograms.[7] The police took photos of appellant standing beside the cannabis plants.[8] Appellant was then arrested. One of the plants, weighing 1.090 kilograms, was sent to the Philippine National Police Crime Laboratory in Bayombong, Nueva Vizcaya for analysis.[9] Inspector Prevy Fabros Luwis, the Crime Laboratory forensic analyst, testified that upon microscopic examination of said plant, she found cystolithic hairs containing calcium carbonate, a positive indication for marijuana.[10] She next conducted a chemical examination, the results of which confirmed her initial impressions. She found as follows:

"SPECIMEN SUBMITTED: Exh "A" - 1.090 grams of uprooted suspected marijuana plant placed inside a white sack with markings.

x x x

"FINDINGS: Qualitative examination conducted on the above stated specimen gave POSITIVE result to the test for Marijuana, a prohibited drug."[11]

The prosecution also presented a certification from the Department of Environment and Natural Resources that the land cultivated by appellant, on which the growing marijuana plants were found, was Lot 3224 of Timberland Block B, which formed part of the Integrated Social Forestry Area in Villaverde, Nueva Vizcaya.[12] This lot was part of the public domain. Appellant was acknowledged in the certification as the occupant of the lot, but no Certificate of Stewardship had yet been issued in his favor.[13]

As its sole witness, the defense presented appellant. He testified that at around 10:00 o'clock A.M., September 25, 1996, he was weeding his vegetable farm in Sitio Bulan when he was called by a person whose identity he does not know. He was asked to go with the latter to "see something." [14] This unknown person then brought appellant to the place where the marijuana plants were found, approximately 100 meters away from his nipa hut.[15] Five armed policemen were present and they made him stand in front of the hemp plants. He was then asked if he knew anything about the marijuana growing there. When he denied any knowledge thereof, SPO2 Libunao poked a fist at him and told him to admit ownership of the plants.[16] Appellant was so nervous and afraid that he admitted owning the marijuana.[17]

The police then took a photo of him standing in front of one of the marijuana plants. He was then made to uproot five of the cannabis plants, and bring them to his hut, where another photo was taken of him standing next to a bundle of uprooted marijuana plants.[18] The police team then brought him to the police station at Villaverde. On the way, a certain Kiko Pascua, a barangay peace officer of Barangay Sawmill, accompanied the police officers. Pascua, who bore a grudge against him, because of his refusal to participate in the former's illegal logging activities, threatened him to admit owning the marijuana, otherwise he would "be put in a bad situation." [19] At the police headquarters, appellant reiterated that he knew nothing about the marijuana plants seized by the police.[20]

On cross-examination, appellant declared that there were ten other houses around the vicinity of his kaingin, the nearest house being 100 meters away.[21] The latter house belonged to one Carlito (Lito) Pascua, an uncle of the barangay peace officer who had a grudge against him. The spot where the marijuana plants were found was located between his house and Carlito Pascua's.[22]

The prosecution presented SPO3 Tipay as its rebuttal witness. His testimony was offered to rebut appellant's claim that the marijuana plants were not planted in the lot he was cultivating.[23] Tipay presented a sketch he made,[24] which showed the location of marijuana plants in relation to the old and new nipa huts of appellant, as well as the closest neighbor. According to Tipay, the marijuana plot was located 40 meters away from the old hut

of Valdez and 250 meters distant from the hut of Carlito Pascua.[25] Tipay admitted on cross-examination that no surveyor accompanied him when he made the measurements.[26] He further stated that his basis for claiming that appellant was the owner or planter of the seized plants was the information given him by the police informer and the proximity of appellant's hut to the location of said plants.[27]

Finding appellant's defense insipid, the trial court held appellant liable as charged for cultivation and ownership of marijuana plants as follows:

"WHEREFORE, finding the accused GUILTY beyond reasonable doubt of cultivating marijuana plants punishable under section 9 of the Dangerous Drugs Act of 1972, as amended, accused is hereby sentenced to death by lethal injection. Costs against the accused.

"SO ORDERED." [28]

Appellant assigns the following errors for our consideration:

I

THE TRIAL COURT GRAVELY ERRED IN ADMITTING AS EVIDENCE THE SEVEN (7) MARIJUANA PLANTS DESPITE THEIR INADMISSIBILITY BEING PRODUCTS OF AN ILLEGAL SEARCH.

II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING APPELLANT OF VIOLATION OF SECTION 9, REPUBLIC ACT NO. 6425 DESPITE THE INADMISSIBILITY OF THE CORPUS DELICTI AND THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

III

THE TRIAL COURT GRAVELY ERRED IN IMPOSING THE SUPREME PENALTY OF DEATH UPON APPELLANT DESPITE FAILURE OF THE PROSECUTION TO PROVE THAT THE LAND WHERE THE MARIJUANA PLANTS WERE PLANTED IS A PUBLIC LAND ON THE ASSUMPTION THAT INDEED APPELLANT PLANTED THE SUBJECT MARIJUANA.[29]

Simply stated, the issues are:

- (1) Was the search and seizure of the marijuana plants in the present case lawful?
- (2) Were the seized plants admissible in evidence against the accused?
- (3) Has the prosecution proved appellant's guilt beyond reasonable doubt?
- (4) Is the sentence of death by lethal injection correct?

The first and second issues will be jointly discussed because they are interrelated.

Appellant contends that there was unlawful search. First, the records show that the law enforcers had more than ample time to secure a search warrant. Second, that the marijuana plants were found in an unfenced lot does not remove appellant from the mantle of protection against unreasonable searches and seizures. He relies on the ruling of the US Supreme Court in *Terry v. Ohio*, 392 US 1, 20 L. Ed 2d 898, 88 S. Ct. 1868 (1968), to the effect that the protection against unreasonable government intrusion protects people, not places.

For the appellee, the Office of the Solicitor General argues that the records clearly show that there was no search made by the police team, in the first place. The OSG points out that the marijuana plants in question were grown in an unfenced lot and as each grew about five (5) feet tall, they were visible from afar, and were, in fact, immediately spotted by the police officers when they reached the site. The seized marijuana plants were, thus, in

plain view of the police officers. The instant case must, therefore, be treated as a warrantless lawful search under the "plain view" doctrine.

The court a quo upheld the validity of the search and confiscation made by the police team on the finding that:

"...It seems there was no need for any search warrant. The policemen went to the plantation site merely to make a verification. When they found the said plants, it was too much to expect them to apply for a search warrant. In view of the remoteness of the plantation site (they had to walk for six hours back and forth) and the dangers lurking in the area if they stayed overnight, they had a valid reason to confiscate the said plants upon discovery without any search warrant. Moreover, the evidence shows that the lot was not legally occupied by the accused and there was no fence which evinced the occupant's desire to keep trespassers out. There was, therefore, no privacy to protect, hence, no search warrant was required." [30]

The Constitution [31] lays down the general rule that a search and seizure must be carried on the strength of a judicial warrant. Otherwise, the search and seizure is deemed "unreasonable." Evidence procured on the occasion of an unreasonable search and seizure is deemed tainted for being the proverbial fruit of a poisonous tree and should be excluded. [32] Such evidence shall be inadmissible in evidence for any purpose in any proceeding. [33]

In the instant case, there was no search warrant issued by a judge after personal determination of the existence of probable cause. From the declarations of the police officers themselves, it is clear that they had at least one (1) day to obtain a warrant to search appellant's farm. Their informant had revealed his name to them. The place where the cannabis plants were planted was pinpointed. From the information in their possession, they could have convinced a judge that there was probable cause to justify the issuance of a warrant. But they did not. Instead, they uprooted the plants and apprehended the accused on the excuse that the trip was a good six hours and inconvenient to them. We need not underscore that the protection against illegal search and seizure is constitutionally mandated and only under specific instances are searches allowed without warrants. [34] The mantle of protection extended by the Bill of Rights covers both innocent and guilty alike against any form of high-handedness of law enforcers, regardless of the praiseworthiness of their intentions.

We find no reason to subscribe to Solicitor General's contention that we apply the "plain view" doctrine. For the doctrine to apply, the following elements must be present:

- (a) a prior valid intrusion based on the valid warrantless arrest in which the police are legally present in the pursuit of their official duties;
- (b) the evidence was inadvertently discovered by the police who have the right to be where they are; and
- (c) the evidence must be immediately apparent; and
- (d) plain view justified mere seizure of evidence without further search. [35]

In the instant case, recall that PO2 Balut testified that they first located the marijuana plants before appellant was arrested without a warrant. [36] Hence, there was no valid warrantless arrest which preceded the search of appellant's premises. Note further that the police team was dispatched to appellant's kaingin precisely to search for and uproot the prohibited flora. The seizure of evidence in "plain view" applies only where the police officer is not searching for evidence against the accused, but inadvertently comes across an incriminating object. [37] Clearly, their discovery of the cannabis plants was not inadvertent. We also note the testimony of SPO2 Tipay that upon arriving at the area, they first had to "look around the area" before they could spot the illegal plants. [38] Patently, the seized marijuana plants were not "immediately apparent" and a "further search" was needed. In sum, the marijuana plants in question were not in "plain view" or "open to eye and hand." The "plain view" doctrine, thus, cannot be made to apply.

Nor can we sustain the trial court's conclusion that just because the marijuana plants were found in an unfenced lot, appellant could not invoke the protection afforded by the Charter against unreasonable searches by agents of the State. The right against unreasonable searches and seizures is the immunity of one's person, which includes his residence, his papers, and other possessions.[39] The guarantee refers to "the right of personal security"[40] of the individual. As appellant correctly points out, what is sought to be protected against the State's unlawful intrusion are persons, not places.[41] To conclude otherwise would not only mean swimming against the stream, it would also lead to the absurd logic that for a person to be immune against unreasonable searches and seizures, he must be in his home or office, within a fenced yard or a private place. The Bill of Rights belongs as much to the person in the street as to the individual in the sanctuary of his bedroom.

We therefore hold, with respect to the first issue, that the confiscated plants were evidently obtained during an illegal search and seizure. As to the second issue, which involves the admissibility of the marijuana plants as evidence for the prosecution, we find that said plants cannot, as products of an unlawful search and seizure, be used as evidence against appellant. They are fruits of the proverbial poisoned tree. It was, therefore, a reversible error on the part of the court a quo to have admitted and relied upon the seized marijuana plants as evidence to convict appellant.

We now proceed to the third issue, which revolves around the sufficiency of the prosecution's evidence to prove appellant's guilt. Having declared the seized marijuana plants inadmissible in evidence against appellant, we must now address the question of whether the remaining evidence for the prosecution suffices to convict appellant?

In convicting appellant, the trial court likewise relied on the testimony of the police officers to the effect that appellant admitted ownership of the marijuana when he was asked who planted them. It made the following observation:

"It may be true that the admission to the police by the accused that he planted the marijuana plants was made in the absence of any independent and competent counsel. But the accused was not, at the time of police verification; under custodial investigation. His admission is, therefore, admissible in evidence and not violative of the constitutional fiat that admission given during custodial investigation is not admissible if given without any counsel." [42]

Appellant now argues that his admission of ownership of the marijuana plants in question cannot be used against him for being violative of his right to counsel during the police investigation. Hence, it was error for the trial court to have relied upon said admission of ownership. He submits that the investigation conducted by the police officers was not a general inquiry, but was meant to elicit information on the ownership of the marijuana plants. Appellant theorizes that since the investigation had narrowed down to him, competent and independent counsel should have assisted him, when the police sought information from him regarding the ownership of the prohibited plants. Appellant claims the presumption of regularity of duty of officers cannot be made to apply to his purported voluntarily confession of ownership of the marijuana plants. Nor can it override his constitutional right to counsel during investigation.

The Office of the Solicitor General believes otherwise. The OSG avers that appellant was not yet under custodial investigation when he admitted to the police that he owned the marijuana plants. His right to competent and independent counsel, accordingly, had not yet attached. Moreover, appellant's failure to impute any false motive for the police officers to falsely accuse him indicates that the presumption of regularity in the performance of official duties by police officers was not sufficiently rebutted.

The Constitution plainly declares that any person under investigation for the commission of an offense shall have the right: (1) to remain silent; (2) to have competent and independent counsel preferably of his own choice; and

(3) to be informed of such rights. These rights cannot be waived except in writing and in the presence of counsel.[43] An investigation begins when it is no longer a general inquiry but starts to focus on a particular person as a suspect, i.e., when the police investigator starts interrogating or exacting a confession from the suspect in connection with an alleged offense.[44] The moment the police try to elicit admissions or confessions or even plain information from a person suspected of having committed an offense, he should at that juncture be assisted by counsel, unless he waives the right in writing and in the presence of counsel.[45]

In the instant case we find that, from the start, a tipster had furnished the police appellant's name as well as the location of appellant's farm, where the marijuana plants were allegedly being grown. While the police operation was supposedly meant to merely "verify" said information, the police chief had likewise issued instructions to arrest appellant as a suspected marijuana cultivator. Thus, at the time the police talked to appellant in his farm, the latter was already under investigation as a suspect. The questioning by the police was no longer a general inquiry.[46]

Under cross-examination, PO2 Balut stated, he "did not yet admit that he is the cultivator of that marijuana so we just asked him and I think there is no need to inform (him of) his constitutional rights because we are just asking him..."[47] In trying to elicit information from appellant, the police was already investigating appellant as a suspect. At this point, he was already under custodial investigation and had a right to counsel even if he had not yet been arrested. Custodial investigation is "questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way." [48] As a suspect, two armed policemen interrogated appellant. Behind his inquisitors were a barangay peace officer and three other armed policemen.[49] All had been dispatched to arrest him.[50] From these circumstances, we may infer that appellant had already been deprived of his freedom of action in a significant way, even before the actual arrest. Note that even before he was arrested, the police made him incriminatingly pose for photos in front of the marijuana plants.

Moreover, we find appellant's extrajudicial confession flawed with respect to its admissibility. For a confession to be admissible, it must satisfy the following requirements: (1) it must be voluntary; (2) it must be made with the assistance of competent and independent counsel; (3) it must be express; and (4) it must be in writing.[51] The records show that the admission by appellant was verbal. It was also uncounselled. A verbal admission allegedly made by an accused during the investigation, without the assistance of counsel at the time of his arrest and even before his formal investigation is not only inadmissible for being violative of the right to counsel during criminal investigations, it is also hearsay.[52] Even if the confession or admission were "gospel truth", if it was made without assistance of counsel and without a valid waiver of such assistance, the confession is inadmissible in evidence, regardless of the absence of coercion or even if it had been voluntarily given.[53]

It is fundamental in criminal prosecutions that before an accused may be convicted of a crime, the prosecution must establish by proof beyond reasonable doubt that a crime was committed and that the accused is the author thereof.[54] The evidence arrayed against the accused, however, must not only stand the test of reason,[55] it must likewise be credible and competent.[56] Competent evidence is "generally admissible" evidence.[57] Admissible evidence, in turn, is evidence "of such a character that the court or judge is bound to receive it, that is, allow it to be introduced at trial." [58]

In the instant case, the trial court relied on two pieces of probative matter to convict appellant of the offense charged. These were the seized marijuana plants, and appellant's purportedly voluntary confession of ownership of said marijuana plants to the police. Other than these proofs, there was no other evidence presented to link appellant with the offense charged. As earlier discussed, it was error on the trial court's part to have admitted both of these proofs against the accused and to have relied upon said proofs to convict him. For said evidence is doubly

tainted.

First, as earlier pointed out, the seized marijuana plants were obtained in violation of appellant's constitutional rights against unreasonable searches and seizures. The search and seizure were void ab initio for having been conducted without the requisite judicial warrant. The prosecution's very own evidence clearly establishes that the police had sufficient time to obtain a warrant. There was no showing of such urgency or necessity for the warrantless search or the immediate seizure of the marijuana plants subject of this case. To reiterate, said marijuana plants cannot be utilized to prove appellant's guilt without running afoul of the constitutional guarantees against illegal searches and the inadmissibility of evidence procured pursuant to an unlawful search and seizure.

Second, the confession of ownership of the marijuana plants, which appellant allegedly made to the police during investigation, is not only hearsay but also violative of the Bill of Rights. The purported confession was made without the assistance of competent and independent counsel, as mandated by the Charter. Thus, said confession cannot be used to convict appellant without running afoul of the Constitution's requirement that a suspect in a criminal investigation must have the services of competent and independent counsel during such investigation.

In sum, both the object evidence and the testimonial evidence as to appellant's voluntary confession of ownership of the prohibited plants relied upon to prove appellant's guilt failed to meet the test of Constitutional competence.

The Constitution decrees that, "In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved..."[59] To justify the conviction of the accused, the prosecution must adduce that quantum of evidence sufficient to overcome the constitutional presumption of innocence. The prosecution must stand or fall on its evidence and cannot draw strength from the weakness of the evidence for the accused.[60] Absent the required degree of proof of an accused's guilt, he is entitled to an acquittal.[61] In this case, the seized marijuana plants linking appellant to the crime charged are miserably tainted with constitutional infirmities, which render these inadmissible "for any purpose in any proceeding." [62] Nor can the confession obtained during the uncounselled investigation be used against appellant, "it being inadmissible in evidence against him." [63] Without these proffered but proscribed materials, we find that the prosecution's remaining evidence did not even approximate the quantum of evidence necessary to warrant appellant's conviction. Hence, the presumption of innocence in his favor stands. Perforce, his acquittal is in order.

In acquitting an appellant, we are not saying that he is lily-white, or pure as driven snow. Rather, we are declaring his innocence because the prosecution's evidence failed to show his guilt beyond reasonable doubt. For that is what the basic law requires. Where the evidence is insufficient to overcome the presumption of innocence in favor of the accused, then his "acquittal must follow in faithful obeisance to the fundamental law." [64]

WHEREFORE, the decision promulgated on February 18, 1997, by the Regional Trial Court of Bayombong, Nueva Vizcaya, Branch 27, in Criminal Case No. 3105, finding Abe Valdez y Dela Cruz, guilty beyond reasonable doubt of violating Section 9 of the Dangerous Drugs Act of 1972, and imposing upon him the death penalty, is hereby REVERSED and SET ASIDE for insufficiency of evidence. Appellant is ACQUITTED and ordered RELEASED immediately from confinement unless held for another lawful cause.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Purisima, Pardo, Buena, Gonzaga-Reyes, and De Leon, Jr., JJ., concur.

Ynares-Santiago, J., on leave.

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- [1] Records, pp. 54-58.
- [2] Id. at 1.
- [3] TSN, November 19, 1996, p. 3.
- [4] Exhibit “1”, Exhibit “C”, Supra Note 1, at 3. See also TSN, November 20, 1996, p. 3.
- [5] TSN, November 20, 1996, pp. 5-6.
- [6] TSN, December 11, 1996, p. 3. See also Supra Note 5, at 6.
- [7] TSN, November 21, 1996, p. 3. See also Exhibit “D”, Supra Note 1, at 4.
- [8] Exhibits “I,” “I-1,” Supra Note 1, at 24-A-24-B. See also TSN, November 28, 1996, pp. 10-11.
- [9] TSN, November 28, 1996, pp. 5-6.
- [10] Ibid.
- [11] Exhibit “A,” Supra Note 1 at 16.
- [12] Exhibits “J,” “J-1” to “J-3,” Supra Note 1, at 41.
- [13] Supra.
- [14] TSN, January 15, 1997, pp. 2-3.
- [15] Id. at 6.
- [16] Id. at 4.
- [17] Id. at 5.
- [18] Supra Note 15.
- [19] Supra Note 14, at 7.
- [20] Id.
- [21] Id. at 10.
- [22] Id. at 11.
- [23] TSN, January 28, 1997, p. 2.
- [24] Exhibit “J” (should be Exhibit “K”), Supra Note 1, at 49.
- [25] Supra Note 23, at 4.
- [26] Id. at 8.
- [27] Ibid.
- [28] Supra Note 1, at 58.
- [29] Rollo, pp. 31-32.
- [30] Supra Note 28.

[31] Art. III, Sec. 2 states: “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.”

[32] *People v. Alicando*, 251 SCRA 293, 314 (1995) citing *Nardone v. US*, 308 US 388, 60 S. Ct. 266, 84 L. Ed. 307 (1939).

[33] Art. III, Sec. 3(2) provides: “Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding.”

[34] These instances include:

(a)

A search as an incident to a lawful arrest, provided that the search is made contemporaneous to the arrest and within a permissible area of search. See RULES OF COURT, Rule 126, Sec. 12.; *People v. Musa*, 217 SCRA 59 (1992); *People v. Catan*, 205 SCRA 235 (1992); *Posadas v. Court of Appeals*, 188 SCRA 288 (1990); and *People v. Tangliben*, 184 SCRA 220 (1990).

(b)

Searches of vessels and aircraft for violation of immigration, customs, and drug laws. See *Hizon v. Court of Appeals*, 265 SCRA 517 (1996); *Roldan v. Arca*, 65 SCRA 336 (1975). C.f. *People v. Ammumudin*, 163 SCRA 402 (1988)

(c)

Searches of automobiles at borders or constructive borders. See *Mustang Lumber v. Court of Appeals*, 257 SCRA 450 (1996); *People v. Balingan*, 241 SCRA 277 (1995); *People v. Lo Hoi Wing*, 193 SCRA 122 (1991); *Valmonte v. de Villa*, 185 SCRA 665 (1990), 178 SCRA 211 (1989); *People v. Court of First Instance of Rizal*, 101 SCRA 86 (1980), and *Papa v. Mago*, 22 SCRA 857 (1968).

(d)

Inspection of buildings and other premises to enforce fire safety, sanitary, and other building regulations.

(e)

Where the prohibited articles or contraband are in “plain view” See *People v. Musa*, supra; *Chia v. Acting Collector of Customs*, 177 SCRA 735 (1989)

[35] *People v. Bolasa*, G.R. No. 125754, December 22, 1999, p. 5, citing *People v. Aruta*, 288 SCRA 626, 637-638 (1998).

[36] TSN, December 11, 1996, pp. 2-3.

[37] *People v. Musa*, 217 SCRA 597, 611 (1993) citing *Coolidge v. New Hampshire*, 403 US 443, 29 L. Ed 2d 564 (1971).

[38] TSN, November 19, 1996, p. 4.

[39] *Villanueva v. Querubin*, 48 SCRA 345, 349 (1972).

- [40] *Rodriguez v. Villamiel*, 65 Phil. 230, 235 (1937); *Alvarez v. CFI of Tayabas*, 64 Phil. 33, 41 (1937).
- [41] *Terry v. Ohio*, 20 L. Ed.889, 899 (1968) citing *Katz v. United States*, 389 US 347, 351, 19 L. Ed 2d 576, 582, 88 S. Ct 507 (1967).
- [42] *Supra* Note 1, at 57.
- [43] Art. III, Sec. 12 (1).
- [44] *Gamboa v. Cruz*, 162 SCRA 642, 648 (1988); *People v. Ayson*, 175 SCRA 216, 231 (1989) uses “under investigation for the commission of an offense.”
- [45] *Gamboa v. Cruz*, *supra*, 651.
- [46] *People v. De Jesus*, 213 SCRA 345, 351 (1992).
- [47] TSN, December 11, 1996, p. 5.
- [48] *People v. Logronio*, 214 SCRA 519, 528 (1992) citing *People v. Caguioa*, 95 SCRA 2, 9, (1980).
- [49] *Supra* Note 46, at 4.
- [50] *Supra* Note 4.
- [51] *People v. Tan*, 286 SCRA 207, 214 (1998); *People v. Jerez*, 285 SCRA 393, 399 (1998); *People v. Calvo, Jr.*, 269 SCRA 676, 682 (1997); *People v. Cabiles*, 284 SCRA 199, 211 (1997).
- [52] *People v. Cabintoy*, 247 SCRA 442, 449 (1995) citing *People v. Dacoycoy*, 208 SCRA 583 (1992); *People v. Rodriguez*, 205 SCRA 791 (1992); and *People v. Gonzales*, 189 SCRA 343 (1990).
- [53] *People v. Cabintoy*, *supra*, 450, citing *People v. Penillos*, 205 SCRA 546 (1992); *People v. Repe*, 175 SCRA 422 (1989).
- [54] *People v. Chavez*, 278 SCRA 230, 242 (1997) citing *People v. Bello*, 237 SCRA 347, 352 (1994).
- [55] *People v. Vasquez*, 280 SCRA 160, 178 (1997) citing *People v. Salcedo*, 273 SCRA 473 (1997).
- [56] *People v. Berroya*, 283 SCRA 111, 121 (1997).
- [57] BLACK’S LAW DICTIONARY (6th Ed. 1991) 284.
- [58] *Id.* at 47.
- [59] Art. III, Sec. 14 (2).
- [60] *People v. Acuno*, G.R. No. 130964, September 3, 1999.
- [61] *People v. Ellore*, et al., G.R. No. 126998, September 14, 1999, pp. 30-31, citing *People v. Fider*, 223 SCRA 117 (1993).
- [62] CONST., Art. III, Sec. 3 (2).
- [63] CONST., Art. III, Sec. 12 (3).
- [64] *People v. Bolasa and Delos Reyes*, G.R. No. 125754, December 22, 1999, p. 7.

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