

JOEY M. PESTILOS, DWIGHT MACAPANAS, MIGUEL GACES, JERRY FERNANDEZ AND RONALD MUNOZ, VS. MORENO GENEROSO AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 182601. November 10, 2014

Ponente: BRION, J.

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BRION, J.:

We resolve the petition for review on certiorari under Rule 45 of the Rules of Court challenging the decision[1] dated January 21, 2008 and the resolution[2] dated April 17, 2008 of the Court of Appeals (CA) in CA- G.R. SP No. 91541.

The appealed decision affirmed the Order dated March 16, 2005 of the Regional Trial Court (RTC), Branch 96, Quezon City, denying Joey M. Pestilos, Dwight Macapanas, Miguel Gaces, Jerry Fernandez, and Ronald Munoz's (petitioners) Urgent Motion for Regular Preliminary Investigation, as well as their subsequent motion for reconsideration.

The Antecedent Facts

The records of the case reveal that on February 20, 2005, at around 3:15 in the morning, an altercation ensued between the petitioners and Atty. Moreno Generoso (Atty. Generoso) at Kasiyahan Street, Barangay Holy Spirit, Quezon City where the petitioners and Atty. Generoso reside.[3]

Atty. Generoso called the Central Police District, Station 6 (Batasan Hills Police Station) to report the incident.[4] Acting on this report, Desk Officer SPOI Primitivo Monsalve (SPO1 Monsalve) dispatched SP02 Dominador Javier (SP02 Javier) to go to the scene of the crime and to render assistance.[5] SP02 Javier, together with augmentation personnel from the Airforce, A2C Alano Sayson and Airman Ruel Galvez, arrived at the scene of the crime less than one hour after the alleged altercation[6] and they saw Atty. Generoso badly beaten.[7]

Atty. Generoso then pointed to the petitioners as those who mauled him. This prompted the police officers to "invite" the petitioners to go to Batasan Hills Police Station for investigation.[8]

The petitioners went with the police officers to Batasan Hills Police Station.[9] At the inquest proceeding, the City Prosecutor of Quezon City found that the petitioners stabbed Atty. Generoso with a bladed weapon. Atty. Generoso fortunately survived the attack.[10]

In an Information dated February 22, 2005, the petitioners were indicted for attempted murder allegedly committed as follows:

That on or about the 20[th] day of February, 2005, in Quezon City, Philippines, the said accused, conspiring together, confederating with and mutually helping one another, with intent to kill, qualified with evident premeditation, treachery and taking advantage of superior strength, did then and there, willfully, unlawfully and feloniously commence the commission of the crime of Murder directly by overt acts, by then and there stabbing one Atty. MORENO GENEROSO y FRANCO, with a bladed weapon, but said accused were not able

to perform all the acts of execution which would produce the crime of Murder by reason of some cause/s or accident other than their own spontaneous desistance, that is, said complainant was able to parry the attack, to his damage and prejudice.

CONTRARY TO LAW.[11]

On March 7, 2005, the petitioners filed an Urgent Motion for Regular Preliminary Investigation[12] on the ground that they had not been lawfully arrested. They alleged that no valid warrantless arrest took place since the police officers had no personal knowledge that they were the perpetrators of the crime. They also claimed that they were just "invited" to the police station. Thus, the inquest proceeding was improper, and a regular procedure for preliminary investigation should have been performed pursuant to Rule 112 of the Rules of Court.[13]

On March 16, 2005, the RTC issued its order denying the petitioners' Urgent Motion for Regular Preliminary Investigation.[14] The court likewise denied the petitioners' motion for reconsideration.[15]

The petitioners challenged the lower court's ruling before the CA on a Rule 65 petition for certiorari. They attributed grave abuse of discretion, amounting to lack or excess of jurisdiction, on the RTC for the denial of their motion for preliminary investigation.[16]

The Assailed CA Decision

On January 21, 2008, the CA issued its decision dismissing the petition for lack of merit.[17] The CA ruled that the word "invited" in the Affidavit of Arrest executed by SP02 Javier carried the meaning of a command. The arresting officer clearly meant to arrest the petitioners to answer for the mauling of Atty. Generoso. The CA also recognized that the arrest was pursuant to a valid warrantless arrest so that an inquest proceeding was called for as a consequence. Thus, the RTC did not commit any grave abuse of discretion in denying the Urgent Motion for Regular Preliminary Investigation.

The CA saw no merit in the petitioners' argument that the order denying the Urgent Motion for Regular Preliminary Investigation is void for failure to clearly state the facts and the law upon which it was based, pursuant to Rule 16, Section 3 of the Revised Rules of Court. The CA found that the RTC had sufficiently explained the grounds for the denial of the motion.

The petitioners moved for reconsideration, but the CA denied the motion in its Resolution of April 17, 2008;[18] hence, the present petition.

The Issues

The petitioners cited the following assignment of errors:

- I.
WHETHER OR NOT THE PETITIONERS WERE VALIDLY ARRESTED WITHOUT A WARRANT.
- II.
WHETHER OR NOT THE PETITIONERS WERE LAWFULLY ARRESTED WHEN THEY WERE MERELY INVITED TO THE POLICE PRECINCT.
- III.
WHETHER OR NOT THE ORDER DENYING THE MOTION FOR PRELIMINARY INVESTIGATION IS VOID FOR FAILURE TO STATE THE FACTS AND THE LAW UPON WHICH IT WAS BASED.

The petitioners primarily argue that they were not lawfully arrested. No arrest warrant was ever issued; they went to the police station only as a response to the arresting officers' invitation. They even cited the Affidavit of Arrest, which actually used the word "invited."

The petitioners also claim that no valid warrantless arrest took place under the terms of Rule 112, Section 7 of the Revised Rules of Court. The incident happened two (2) hours before the police officers actually arrived at the crime scene. The police officers could not have undertaken a valid warrantless arrest as they had no personal knowledge that the petitioners were the authors of the crime.

The petitioners additionally argue that the RTC's Order denying the Urgent Motion for Regular Preliminary Investigation is void because it was not properly issued.

The Court's Ruling

We find the petition unmeritorious and thus uphold the RTC Order. The criminal proceedings against the petitioners should now proceed.

It is unfortunate that the kind of motion that the petitioners filed has to reach this Court for its resolution. The thought is very tempting that the motion was employed simply to delay the proceedings and that the use of Rule 65 petition has been abused.

But accepting things as they are, this delay can be more than compensated by fully examining in this case the legalities surrounding warrantless warrants and establishing the proper interpretation of the Rules for the guidance of the bench and the bar. These Rules have evolved over time, and the present case presents to us the opportunity to re-trace their origins, development and the current applicable interpretation.

I. Brief history on warrantless arrests

The organic laws of the Philippines, specifically, the Philippine Bill of 1902[19] and the 1935,[20] 1973[21] and 1987[22] Constitutions all protect the right of the people to be secure in their persons against unreasonable searches and seizures. Arrest falls under the term "seizure." [23]

This constitutional mandate is identical with the Fourth Amendment of the Constitution of the United States. The Fourth Amendment traces its origins to the writings of Sir Edward Coke[24] and The Great Charter of the Liberties of England (Magna Carta Libertatum), sealed under oath by King John on the bank of the River Thames near Windsor, England on June 15, 1215.[25] The Magna Carta Libertatum limited the King of England's powers and required the Crown to proclaim certain liberties[26] under the feudal vassals' threat of civil war.[27] The declarations in Chapter 29 of the Magna Carta Libertatum later became the foundational component of the Fourth Amendment of the United States Constitution.[28] It provides:

No freeman shall be taken, or imprisoned, or be disseised[29] of his Freehold, or Liberties, or free Customs, or be outlawed, or exiled, or any otherwise destroyed; nor will we not pass upon him, nor condemn him, but by lawful Judgment of his Peers, or by the Law of the Land, We will sell to no man, we will not deny or defer to any man either Justice or Right.[30] [Emphasis supplied]

In *United States v. Snyder*,[31] the United States Supreme Court held that this constitutional provision does not prohibit arrests, searches and seizures without judicial warrant, but only those that are unreasonable.[32] With regard to an arrest, it is considered a seizure, which must also satisfy the test of reasonableness.[33]

In our jurisdiction, early rulings of the Court have acknowledged the validity of warrantless arrests. The Court based these rulings on the common law of America and England that, according to the Court, were not different from the Spanish laws.[34] These court rulings likewise justified warrantless arrests based on the provisions of separate laws then existing in the Philippines.[35]

In 1905, the Court held in *The United States v. Wilson*[36] that Section 37[37] of Act No. 183, or the Charter of Manila, defined the arresting officer's power to arrest without a warrant, at least insofar as the City of Manila was

concerned.

In *The United States v. Vallejo, et al.*,^[38] the Court held that in the absence of any provisions under statutes or local ordinances, a police officer who held similar functions as those of the officers established under the common law of England and America, also had the power to arrest without a warrant in the Philippines.

The Court also ruled in *The United States v. Santos*^[39] that the rules on warrantless arrest were based on common sense and reason.^[40] It further held that warrantless arrest found support under the then Administrative Code^[41] which directed municipal policemen to exercise vigilance in the prevention of public offenses.

In *The United States v. Fortaleza*,^[42] the Court applied Rules 27, 28, 29 and 30^[43] of the Provisional Law for the Application of the Penal Code which were provisions taken from the Spanish Law.

These rules were subsequently established and incorporated in our Rules of Court and jurisprudence. Presently, the requirements of a warrantless arrest are now summarized in Rule 113, Section 5 which states that:

Section 5. Arrest without warrant; when lawful. -A peace officer or a private person may, without a warrant, arrest a person:

(a)

When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

(b)

When an offense has just been committed, and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and

(c)

When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

In cases falling under paragraph (a) and (b) above, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail and shall be proceeded against in accordance with section 7 of Rule 112.

A warrantless arrest under the circumstances contemplated under Section 5(a) above has been denominated as one "in flagrante delicto," while that under Section 5(b) has been described as a "hot pursuit" arrest.^[44]

For purposes of this case, we shall focus on Section 5(b) - the provision applicable in the present case. This provision has undergone changes through the years not just in its phraseology but also in its interpretation in our jurisprudence.

We shall first trace the evolution of Section 5(b) and examine the applicable American and Philippine jurisprudence to fully understand its roots and its appropriate present application.

II. Evolution of Section 5(b), Rule 113

A. Prior to the 1940 Rules of Court

Prior to 1940, the Court based its rulings not just on American and English common law principle on warrantless arrests but also on laws then existing in the Philippines. In *Fortaleza*,^[45] the Court cited Rule 28 of the

Provisional Law for the Application of the Penal Code which provided that:

Judicial and administrative authorities have power to detain, or to cause to be detained, persons whom there is reasonable ground to believe guilty of some offense. It will be the duty of the authorities, as well as of their agents, to arrest:

First. Such persons as may be arrested under the provisions of rule 27. Second. A person charged with a crime for which the code provides a penalty greater than that of confinamiento.

Third. A person charged with a crime for which the code provides a penalty less than that of confinamiento, if his antecedents or the circumstances of the case would warrant the presumption that he would fail to appear when summoned by the judicial authorities.

The provisions of the preceding paragraph shall not apply, however, to a defendant who gives sufficient bond, to the satisfaction of the authority or agent who may arrest him, and who it may reasonably be presumed will appear whenever summoned by the judge or court competent to try him.

Fourth. A person coming under the provisions of the preceding paragraph may be arrested, although no formal complaint has been filed against him, provided the following circumstances are present:

First. That the authority or agent had reasonable cause to believe that an unlawful act, amounting to a crime had been committed.

Second. That the authority or agent had sufficient reason to believe that the person arrested participated in the commission of such unlawful act or crime." [Emphasis and underscoring supplied]

In the same decision, the Court likewise cited Section 37 of the Charter of Manila, which provided that certain officials, including police officers may, within the territory defined in the law, pursue and arrest without warrant, any person found in suspicious places or under suspicious circumstances, reasonably tending to show that such person has committed, or is about to commit any crime or breach of the peace.

In Santos,[46] the Court cited *Miles v. Weston*,[47] which ruled that a peace officer may arrest persons walking in the street at night when there is reasonable ground to suspect the commission of a crime, although there is no proof of a felony having been committed.

The Court ruled in Santos that the arresting officer must justify that there was a probable cause for an arrest without a warrant. The Court defined probable cause as a reasonable ground of suspicion, supported by circumstances sufficiently strong in themselves as to warrant a reasonable man in believing that the accused is guilty. Besides reasonable ground of suspicion, action in good faith is another requirement. Once these conditions are complied with, the peace officer is not liable even if the arrested person turned out to be innocent.

Based on these discussions, it appears clear that prior to the 1940 Rules of Court, it was not necessary for the arresting officer to first have knowledge that a crime was actually committed. What was necessary was the presence of reasonably sufficient grounds to believe the existence of an act having the characteristics of a crime; and that the same grounds exist to believe that the person sought to be detained participated in it. In addition, it was also established under the old court rulings that the phrase "reasonable suspicion" was tantamount to probable cause without which, the warrantless arrest would be invalid and the arresting officer may be held liable for its breach.[48]

In *The U.S. v. Hachaw*,[49] the Court invalidated the warrantless arrest of a Chinaman because the arresting person did not state in what way the Chinaman was acting suspiciously or the particular act or circumstance which aroused the arresting person's curiosity.

It appears, therefore, that prior to the establishment in our Rules of Court of the rules on warrantless arrests, the

gauge for a valid warrantless arrest was the arresting officer's reasonable suspicion (probable cause) that a crime was committed and the person sought to be arrested has participated in its commission. This principle left so much discretion and leeway on the part of the arresting officer. However, the 1940 Rules of Court has limited this discretion.

B. The 1940 Rules of Court

(Restricting the arresting officer's determination of probable cause)

Rules 27 and 28 of the Provisional Law for the Application of the Penal Code were substantially incorporated in Section 6, Rule 109 of the 1940 Rules of Court as follows:[50]

SEC. 6. Arrest without warrant -When lawful. - A peace officer or a private person may, without a warrant, arrest a person:

(a) When the person to be arrested has committed, is actually committing, or is about to commit an offense in his presence;

(b) When an offense has in fact been committed, and he has reasonable ground to believe that the person to be arrested has committed it;

(c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another. [Emphasis and underscoring supplied]

These provisions were adopted in toto in Section 6, Rule 113 of the 1964 Rules of Court.

Notably, the 1940 and 1964 Rules have deviated from the old rulings of the Court. Prior to the 1940 Rules, the actual commission of the offense was not necessary in determining the validity of the warrantless arrest. Too, the arresting officer's determination of probable cause (or reasonable suspicion) applied both as to whether a crime has been committed and whether the person to be arrested has committed it.

However, under the 1940 and the 1964 Rules of Court, the Rules required that there should be actual commission of an offense, thus, removing the element of the arresting officer's "reasonable suspicion of the commission of an offense." Additionally, the determination of probable cause, or reasonable suspicion, was limited only to the determination of whether the person to be arrested has committed the offense. In other words, the 1940 and 1964 Rules of Court restricted the arresting officer's discretion in warrantless arrests under Section 6(b), Rule 113 of the 1964 Rules of Court.

C. The more restrictive 1985 Rules of Criminal Procedure

Section 6, Rule 113 of the 1964 Rules of Court again underwent substantial changes and was re-worded and re-numbered when it became Section 5, Rule 113 of the 1985 Rules of Criminal Procedure, to wit:

Sec. 5. Arrest without warrant; when. lawful. A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

(b) When an offense has in fact just been committed, and he has personal knowledge of facts indicating that the person to be arrested has committed it; and

(c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he

is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

In cases falling under paragraphs (a) and (b) hereof, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail, and he shall be proceeded against in accordance with Rule 112, Section 7. [Emphasis and underscoring supplied]

As amended, Section 5(b), Rule 113 of the 1985 Rules of Court retained the restrictions introduced under the 1964 Rules of Court. More importantly, however, it added a qualification that the commission of the offense should not only have been "committed" but should have been "just committed." This limited the arresting officer's time frame for conducting an investigation for purposes of gathering information indicating that the person sought to be arrested has committed the crime.

D. The Present Revised Rules of Criminal Procedure

Section 5(b), Rule 113 of the 1985 Rules of Criminal Procedure was further amended with the incorporation of the word "probable cause" as the basis of the arresting officer's determination on whether the person to be arrested has committed the crime.

Hence, as presently worded, Section 5(b), Rule 113 of the Revised Rules of Criminal Procedure provides that:

When an offense has just been committed, and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it.

From the current phraseology of the rules on warrantless arrest, it appears that for purposes of Section S(b), the following are the notable changes: first, the contemplated offense was qualified by the word "just," connoting immediacy; and second, the warrantless arrest of a person sought to be arrested should be based on probable cause to be determined by the arresting officer based on his personal knowledge of facts and circumstances that the person to be arrested has committed it.

It is clear that the present rules have objectified" the previously subjective determination of the arresting officer as to the (1) commission of the crime; and (2) whether the person sought to be arrested committed the crime. According to Feria, these changes were adopted to minimize arrests based on mere suspicion or hearsay.[51]

As presently worded, the elements under Section 5(b), Rule 113 of the Revised Rules of Criminal Procedure are: first, an offense has just been committed; and second, the arresting officer has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it.

For purposes of this case, we shall discuss these elements separately below, starting with the element of probable cause, followed by the elements that the offense has just been committed, and the arresting officer's personal knowledge of facts or circumstances that the person to be arrested has committed the crime.

i) First Element of Section 5(b), Rule 113 of the Revised Rules of Criminal Procedure: Probable cause

The existence of "probable cause" is now the "objectifier" or the determinant on how the arresting officer shall proceed on the facts and circumstances, within his personal knowledge, for purposes of determining whether the person to be arrested has committed the crime.

i.a) U.S. jurisprudence on probable cause in warrantless arrests

In *Payton v. New York*, [52] the U.S. Supreme Court held that the Fourth Amendment of the Federal Constitution

does not prohibit arrests without a warrant although such arrests must be reasonable. According to *State v. Quinn*,^[53] the warrantless arrest of a person who was discovered in the act of violating the law is not a violation of due process.

The U.S. Supreme Court, however indicated in *Henry v. United States*^[54] that the Fourth Amendment limited the circumstances under which warrantless arrests may be made. The necessary inquiry is not whether there was a warrant or whether there was time to get one, but whether at the time of the arrest probable cause existed. The term probable cause is synonymous to "reasonable cause" and "reasonable grounds."^[55]

In determining the existence of probable cause, the arresting officer should make a thorough investigation and exercise reasonable judgment. The standards for evaluating the factual basis supporting a probable cause assessment are not less stringent in warrantless arrest situation than in a case where a warrant is sought from a judicial officer. The probable cause determination of a warrantless arrest is based on information that the arresting officer possesses at the time of the arrest and not on the information acquired later.^[56]

In evaluating probable cause, probability and not certainty is the determinant of reasonableness under the Fourth Amendment. Probable cause involves probabilities similar to the factual and practical questions of everyday life upon which reasonable and prudent persons act. It is a pragmatic question to be determined in each case in light of the particular circumstances and the particular offense involved. ^[57]

In determining probable cause, the arresting officer may rely on all the information in his possession, his fair inferences therefrom, including his observations. Mere suspicion does not meet the requirements of showing probable cause to arrest without warrant especially if it is a mere general suspicion. Probable cause may rest on reasonably trustworthy information as well as personal knowledge. Thus, the arresting officer may rely on information supplied by a witness or a victim of a crime; and under the circumstances, the arresting officer need not verify such information.^[58]

In our jurisdiction, the Court has likewise defined probable cause in the context of Section 5(b), Rule 113 of the Revised Rules of Criminal Procedure.

In *Abelita III v. Doria et al.*,^[59] the Court held that personal knowledge of facts must be based on probable cause, which means an actual belief or reasonable grounds of suspicion. The grounds of suspicion are reasonable when, in the absence of actual belief of the arresting officers, the suspicion that the person to be arrested is probably guilty of committing the offense is based on actual facts, i.e., supported by circumstances sufficiently strong in themselves to create the probable cause of guilt of the person to be arrested. A reasonable suspicion, therefore, must be founded on probable cause, coupled with good faith on the part of the peace officers making the arrest.

i.b) Probable cause under Section 5(b), Rule 113 of the Revised Rules of Criminal Procedure, distinguished from probable cause in preliminary investigations and the judicial proceeding for the issuance of a warrant of arrest

The purpose of a preliminary investigation is to determine whether a crime has been committed and whether there is probable cause to believe that the accused is guilty of the crime and should be held for trial.^[60] In *Buchanan v. Viuda de Esteban*,^[61] we defined probable cause as the existence of facts and circumstances as would excite the belief in a reasonable mind, acting on the facts within the knowledge of the prosecutor, that the person charged was guilty of the crime for which he was prosecuted.

In this particular proceeding, the finding of the existence of probable cause as to the guilt of the respondent was

based on the submitted documents of the complainant, the respondent and his witnesses.[62]

On the other hand, probable cause in judicial proceedings for the issuance of a warrant of arrest is defined as the existence of such facts and circumstances that would lead a reasonably discreet and prudent person to believe that an offense has been committed by the person sought to be arrested.

Hence, before issuing a warrant of arrest, the judge must be satisfied that based on the evidence submitted, there is sufficient proof that a crime has been committed and that the person to be arrested is probably guilty thereof. At this stage of the criminal proceeding, the judge is not yet tasked to review in detail the evidence submitted during the preliminary investigation. It is sufficient that he personally evaluates the evidence in determining probable cause[63] to issue a warrant of arrest.

In contrast, the arresting officer's determination of probable cause under Section 5(b), Rule 113 of the Revised Rules of Criminal Procedure is based on his personal knowledge of facts or circumstances that the person sought to be arrested has committed the crime. These facts or circumstances pertain to actual facts or raw evidence, i.e., supported by circumstances sufficiently strong in themselves to create the probable cause of guilt of the person to be arrested. A reasonable suspicion therefore must be founded on probable cause, coupled with good faith on the part of the peace officers making the arrest

The probable cause to justify warrantless arrest ordinarily signifies 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,[64] or an actual belief or reasonable ground of suspicion, based on actual facts.[65]

It is clear therefore that the standard for determining "probable cause" is invariable for the officer arresting without a warrant, the public prosecutor, and the judge issuing a warrant of arrest. It is the existence of such facts and circumstances that would lead a reasonably discreet and prudent person to believe that an offense has been committed by the person sought to be arrested or held for trial, as the case may be.

However, while the arresting officer, the public prosecutor and the judge all determine "probable cause," within the spheres of their respective functions, its existence is influenced heavily by the available facts and circumstance within their possession. In short, although these officers use the same standard of a reasonable man, they possess dissimilar quantity of facts or circumstances, as set by the rules, upon which they must determine probable cause.

Thus, under the present rules and jurisprudence, the arresting officer should base his determination of probable cause on his personal knowledge of facts and circumstances that the person sought to be arrested has committed the crime; the public prosecutor and the judge must base their determination on the evidence submitted by the parties.

In other words, the arresting officer operates on the basis of more limited facts, evidence or available information that he must personally gather within a limited time frame.

Hence, in Santos,[66] the Court acknowledged the inherent limitations of determining probable cause in warrantless arrests due to the urgency of its determination in these instances. The Court held that one should not expect too much of an ordinary policeman. He is not presumed to exercise the subtle reasoning of a judicial officer. Oftentimes, he has no opportunity to make proper investigation but must act in haste on his own belief to prevent the escape of the criminal.[67]

ii) Second and Third Elements of Section 5(b), Rule 113:

The crime has just been committed/personal knowledge of facts or circumstances that the person to be arrested has committed it

We deem it necessary to combine the discussions of these two elements as our jurisprudence shows that these were usually taken together in the Court's determination of the validity of the warrantless arrests that were made pursuant to Section 5(b), Rule 113 of the Revised Rules of Criminal Procedure.

In *Posadas v. Ombudsman*,^[68] the killing of Dennis Venturina happened on December 8, 1994. It was only on December 11, 1994 that Chancellor Posadas requested the NBI's assistance. On the basis of the supposed identification of two (2) witnesses, the NBI attempted to arrest Francis Carlo Tapanan and Raymundo Narag three (3) days after the commission of the crime. With this set of facts, it cannot be said that the officers have personal knowledge of facts or circumstances that the persons sought to be arrested committed the crime. Hence, the Court invalidated the warrantless arrest.

Similarly, in *People v. Burgos*,^[69] one Cesar Masamlok personally and voluntarily surrendered to the authorities, stating that Ruben Burgos forcibly recruited him to become a member of the NPA, with a threat of physical harm. Upon receipt of this information, a joint team of PC-INP units was dispatched to arrest Burgos who was then plowing the field. Indeed, the arrest was invalid considering that the only information that the police officers had in effecting the arrest was the information from a third person. It cannot be also said in this case that there was certainty as regards the commission of a crime.

In *People v. del Rosario*,^[70] the Court held that the requirement that an offense has just been committed means that there must be a large measure of immediacy between the time the offense was committed and the time of the arrest. If there was an appreciable lapse of time between the arrest and the commission of the crime, a warrant of arrest must be secured.

The Court held that the arrest of del Rosario did not comply with these requirements because he was arrested only a day after the commission of the crime and not immediately thereafter. Additionally, the arresting officers were not present and were not actual eyewitnesses to the crime. Hence, they had no personal knowledge of facts indicating that the person to be arrested had committed the offense. They became aware of del Rosario's identity as the driver of the getaway tricycle only during the custodial investigation.

In *People v. Cendana*,^[71] the accused was arrested one (1) day after the killing of the victim and only on the basis of information obtained from unnamed sources. The unlawful arrest was held invalid.

In *Rolito Go v. CA*,^[72] the arrest of the accused six (6) days after the commission of the crime was held invalid because the crime had not just been committed. Moreover, the "arresting" officers had no "personal knowledge" of facts indicating that the accused was the gunman who had shot the victim. The information upon which the police acted came from statements made by alleged eyewitnesses to the shooting; one stated that the accused was the gunman; another was able to take down the alleged gunman's car's plate number which turned out to be registered in the name of the accused's wife. That information did not constitute "personal knowledge."

In *People v. Tonog, Jr.*,^[73] the warrantless arrest which was done on the same day was held valid. In this case, the arresting officer had knowledge of facts which he personally gathered in the course of his investigation, indicating that the accused was one of the perpetrators.

In *People v. Gerente*,^[74] the policemen arrested Gerente only about three (3) hours after Gerente and his companions had killed the victim. The Court held that the policemen had personal knowledge of the violent death of the victim and of facts indicating that Gerente and two others had killed him. The warrantless arrest was held

valid.

In *People v. Alvario*,^[75] the warrantless arrest came immediately after the arresting officers received information from the victim of the crime. The Court held that the personal knowledge of the arresting officers was derived from the information supplied by the victim herself who pointed to Alvario as the man who raped her at the time of his arrest. The Court upheld the warrantless arrest.

In *People v. Jayson*,^[76] there was a shooting incident. The policemen who were summoned to the scene of the crime found the victim. The informants pointed to the accused as the assailant only moments after the shooting. The Court held that the arresting officers acted on the basis of personal knowledge of the death of the victim and of facts indicating that the accused was the assailant. Thus, the warrantless arrest was held valid.

In *People v. Acol*,^[77] a group held up the passengers in a jeepney and the policemen immediately responded to the report of the crime. One of the victims saw four persons walking towards Fort Bonifacio, one of whom was wearing his jacket. The victim pointed them to the policemen. When the group saw the policemen coming, they ran in different directions. The Court held that the arrest was valid.

In *Cadua v. CA*,^[78] there was an initial report to the police concerning a robbery. A radio dispatch was then given to the arresting officers, who proceeded to Alden Street to verify the authenticity of the radio message. When they reached the place, they met with the complainants who initiated the report about the robbery. Upon the officers' invitation, the victims joined them in conducting a search of the nearby area where the accused was spotted in the vicinity. Based on the reported statements of the complainants, he was identified as a logical suspect in the offense just committed. Hence, the arrest was held valid.

In *Doria*,^[79] the Court held that Section 5(b), Rule 113 of the 1985 Rules of Criminal Procedure does not require the arresting officers to personally witness the commission of the offense.

In this case, P/Supt. Doria alleged that his office received a telephone call from a relative of Rosa Sia about a shooting incident. He dispatched a team headed by SP03 Ramirez to investigate the incident. SP03 Ramirez later reported that a certain William Sia was wounded while Judge Abelita III, who was implicated in the incident, and his wife just left the place of the incident. P/Supt. Doria looked for Abelita III and when he found him, he informed him of the incident report. P/Supt. Doria requested Abelita III to go with him to the police headquarters as he had been reported to be involved in the incident. Abelita III agreed but suddenly sped up his vehicle and proceeded to his residence where P/Supt. Doria caught him up as he was about to run towards his house.

The police officers saw a gun in the front seat of the vehicle beside the driver's seat as Abelita III opened the door. They also saw a shotgun at the back of the driver's seat. The police officers confiscated the firearms and arrested Abelita III. The Court held that the petitioner's act of trying to get away, coupled with the incident report which they investigated, were enough to raise a reasonable suspicion on the part of the police authorities as to the existence of probable cause.

Based on these discussions, it appears that the Court's appreciation of the elements that "the offense has just been committed" and "personal knowledge of facts and circumstances that the person to be arrested committed it" depended on the particular circumstances of the case.

However, we note that the element of "personal knowledge of facts or circumstances" under Section 5(b), Rule 113 of the Revised Rules of Criminal Procedure requires clarification.

The phrase covers facts or, in the alternative, circumstances. According to the *Black's Law Dictionary*,^[80] "circumstances are attendant or accompanying facts, events or conditions." Circumstances may pertain to events

or actions within the actual perception, personal evaluation or observation of the police officer at the scene of the crime. Thus, even though the police officer has not seen someone actually fleeing, he could still make a warrantless arrest if, based on his personal evaluation of the circumstances at the scene of the crime, he could determine the existence of probable cause that the person sought to be arrested has committed the crime. However, the determination of probable cause and the gathering of facts or circumstances should be made immediately after the commission of the crime in order to comply with the element of immediacy.

In other words, the clincher in the element of "personal knowledge of facts or circumstances" is the required element of immediacy within which these facts or circumstances should be gathered. This required time element acts as a safeguard to ensure that the police officers have gathered the facts or perceived the circumstances within a very limited time frame. This guarantees that the police officers would have no time to base their probable cause finding on facts or circumstances obtained after an exhaustive investigation.

The reason for the element of the immediacy is this - as the time gap from the commission of the crime to the arrest widens, the pieces of information gathered are prone to become contaminated and subjected to external factors, interpretations and hearsay. On the other hand, with the element of immediacy imposed under Section 5(b), Rule 113 of the Revised Rules of Criminal Procedure, the police officer's determination of probable cause would necessarily be limited to raw or uncontaminated facts or circumstances, gathered as they were within a very limited period of time. The same provision adds another safeguard with the requirement of probable cause as the standard for evaluating these facts or circumstances before the police officer could effect a valid warrantless arrest.

In light of the discussion above on the developments of Section 5(b), Rule 113 of the Revised Rules of Criminal Procedure and our jurisprudence on the matter, we hold that the following must be present for a valid warrantless arrest: 1) the crime should have been just committed; and 2) the arresting officer's exercise of discretion is limited by the standard of probable cause to be determined from the facts and circumstances within his personal knowledge. The requirement of the existence of probable cause objectifies the reasonableness of the warrantless arrest for purposes of compliance with the Constitutional mandate against unreasonable arrests.

Hence, for purposes of resolving the issue on the validity of the warrantless arrest of the present petitioners, the question to be resolved is whether the requirements for a valid warrantless arrest under Section 5(b), Rule 113 of the Revised Rules of Criminal Procedure were complied with, namely: 1) has the crime just been committed when they were arrested? 2) did the arresting officer have personal knowledge of facts and circumstances that the petitioners committed the crime? and 3) based on these facts and circumstances that the arresting officer possessed at the time of the petitioners' arrest, would a reasonably discreet and prudent person believe that the attempted murder of Atty. Generoso was committed by the petitioners?

We rule in the affirmative.

III. Application of Section 5(b), Rule 113 of the Revised Rules of Criminal Procedure in the present case: there was a valid warrantless arrest

We deem it necessary to review the records of the CA because it has misapprehended the facts in its decision.⁸¹ From a review of the records, we conclude that the police officers had personal knowledge of facts or circumstances upon which they had properly determined probable cause in effecting a warrantless arrest against the petitioners. We note, however, that the determination of the facts in the present case is purely limited to the resolution of the issue on the validity of the warrantless arrests of the petitioners.

Based on the police blotter⁸² entry taken at 4:15a.m. on February 20, 2005, the date that the alleged crime was committed, the petitioners were brought in for investigation at the Batasan Hills Police Station. The police blotter stated that the alleged crime was committed at 3:15 a.m. on February 20, 2005, along Kasiyahan St., Brgy. Holy Spirit, Quezon City.

The time of the entry of the complaint in the police blotter at 4:15 a.m., with Atty. Generoso and the petitioners already inside the police station, would connote that the arrest took place less than one hour from the time of the occurrence of the crime. Hence, the CA finding that the arrest took place two (2) hours after the commission of the crime is unfounded.

The arresting officers' personal observation of Atty. Generoso's bruises when they arrived at the scene of the crime is corroborated by the petitioners' admissions that Atty. Generoso indeed suffered blows from petitioner Macapanas and his brother Joseph Macapanas,^[83] although they asserted that they did it in self-defense against Atty. Generoso.

Atty. Generoso's bruises were also corroborated by the Medico-Legal Certificate⁸⁴ that was issued by East Avenue Medical Center on the same date of the alleged mauling. The medical check-up of Atty. Generoso that was made about 8:10 a.m. on the date of the incident, showed the following findings: "Contusion Hematoma, Left Frontal Area; Abrasion, T6 area, right midclavicular line periorbital hematoma, left eye; Abrasion, distal 3rd posterolateral aspect of right forearm; Abrasion, 4th and fifth digit, right hand; Abrasion on area of 7th rib (L ant. Chest wall), tenderness on L peripheral area, no visible abrasion. In addition, the attending physician, Dr. Eva P. Javier, diagnosed Atty. Generoso of contusion hematoma, periorbital L., and traumatic conjunctivitis, o.s.

To summarize, the arresting officers went to the scene of the crime upon the complaint of Atty. Generoso of his alleged mauling; the police officers responded to the scene of the crime less than one (1) hour after the alleged mauling; the alleged crime transpired in a community where Atty. Generoso and the petitioners reside; Atty. Generoso positively identified the petitioners as those responsible for his mauling and, notably, the petitioners^[85] and Atty. Generoso^[86] lived almost in the same neighborhood; more importantly, when the petitioners were confronted by the arresting officers, they did not deny their participation in the incident with Atty. Generoso, although they narrated a different version of what transpired.^[87]

With these facts and circumstances that the police officers gathered and which they have personally observed less than one hour from the time that they have arrived at the scene of the crime until the time of the arrest of the petitioners, we deem it reasonable to conclude that the police officers had personal knowledge of facts or circumstances justifying the petitioners' warrantless arrests. These circumstances were well within the police officers' observation, perception and evaluation at the time of the arrest. These circumstances qualify as the police officers' personal observation, which are within their personal knowledge, prompting them to make the warrantless arrests.

Similar to the factual antecedents in Jayson,^[88] the police officers in the present case saw Atty. Generoso in his sorry bloodied state. As the victim, he positively identified the petitioners as the persons who mauled him; however, instead of fleeing like what happened in Jayson, the petitioners agreed to go with the police officers.

This is also similar to what happened in *People v. Tonog, Jr.*^[89] where Tonog did not flee but voluntarily went with the police officers. More than this, the petitioners in the present case even admitted to have been involved in the incident with Atty. Generoso, although they had another version of what transpired.

In determining the reasonableness of the warrantless arrests, it is incumbent upon the courts to consider if the police officers have complied with the requirements set under Section S(b), Rule 113 of the Revised Rules of

Criminal Procedure, specifically, the requirement of immediacy; the police officer's personal knowledge of facts or circumstances; and lastly, the propriety of the determination of probable cause that the person sought to be arrested committed the crime.

The records show that soon after the report of the incident occurred, SPO1 Monsalve immediately dispatched the arresting officer, SP02 Javier, to render personal assistance to the victim.[90] This fact alone negates the petitioners' argument that the police officers did not have personal knowledge that a crime had been committed — the police immediately responded and had personal knowledge that a crime had been committed.

To reiterate, personal knowledge of a crime just committed under the terms of the above-cited provision, does not require actual presence at the scene while a crime was being committed; it is enough that evidence of the recent commission of the crime is patent (as in this case) and the police officer has probable cause to believe based on personal knowledge of facts or circumstances, that the person to be arrested has recently committed the crime.

Considering the circumstances of the stabbing, particularly the locality where it took place, its occasion, the personal circumstances of the parties, and the immediate on-the-spot investigation that took place, the immediate and warrantless arrests of the perpetrators were proper. Consequently, the inquest proceeding that the City Prosecutor conducted was appropriate under the circumstances.

IV. The term "invited" in the Affidavit of Arrest is construed to mean as an authoritative command

After the resolution of the validity of the warrantless arrest, the discussion of the petitioners' second issue is largely academic. Arrest is defined as the taking of a person into custody in order that he may be bound to answer for the commission of an offense. An arrest is made by an actual restraint of the person to be arrested, or by his submission to the custody of the person making the arrest.[91] Thus, application of actual force, manual touching of the body, physical restraint or a formal declaration of arrest is not required. It is enough that there be an intention on the part of one of the parties to arrest the other and the intent of the other to submit, under the belief and impression that submission is necessary.[92]

Notwithstanding the term "invited" in the Affidavit of Arrest,[93] SP02 Javier could not but have the intention of arresting the petitioners following Atty. Generoso's account. SP02 Javier did not need to apply violent physical restraint when a simple directive to the petitioners to follow him to the police station would produce a similar effect. In other words, the application of actual force would only be an alternative if the petitioners had exhibited resistance.

To be sure, after a crime had just been committed and the attending policemen have acquired personal knowledge of the incidents of the crime, including the alleged perpetrators, the arrest of the petitioners as the perpetrators pointed to by the victim, was not a mere random act but was in connection with a particular offense. Furthermore, SP02 Javier had informed the petitioners, at the time of their arrest, of the charges against them before taking them to Batasan Hills Police Station for investigation.[94]

V. The Order denying the motion for preliminary investigation is valid

In their last ditch attempt at avoidance, the petitioners attack the RTC Order denying the petitioners' urgent motion for regular preliminary investigation for allegedly having been issued in violation of Article VIII, Section 14 of the 1987 Constitution[95] and Rule 16, Section 3 of the Revised Rules of Court.[96]

The RTC, in its Order dismissing the motion, clearly states that the Court is not persuaded by the evidentiary

nature of the allegations in the said motion of the accused. Aside from lack of clear and convincing proof, the Court, in the exercise of its sound discretion on the matter, is legally bound to pursue and hereby gives preference to the speedy disposition of the case."

We do not see any taint of impropriety or grave abuse of discretion in this Order. The RTC, in resolving the motion, is not required to state all the facts found in the record of the case. Detailed evidentiary matters, as the RTC decreed, is best reserved for the full-blown trial of the case, not in the preliminary incidents leading up to the trial.

Additionally, no less than the Constitution itself provides that it is the decision that should state clearly and distinctly the facts and the law on which it is based. In resolving a motion, the court is only required to state clearly and distinctly the reasons therefor. A contrary system would only prolong the proceedings, which was precisely what happened to this case. Hence, we uphold the validity of the RTC's order as it correctly stated the reason for its denial of the petitioners' Urgent Motion for Regular Preliminary Investigation.

WHEREFORE, premises considered, we hereby DENY the petition, and hereby AFFIRM the decision dated January 21, 2008 and the resolution dated April 17, 2008 of the Court of Appeals in CA-G.R. SP No. 91541. The City Prosecutor of Quezon City is hereby ORDERED to proceed with the criminal proceedings against the petitioners.

SO ORDERED.

Carpio, (Chairperson), Del Castillo, and Mendoza, JJ., concur.
Leonen, J., I dissent, see separate opinion.

[1] Penned by Associate Justice Sesonando E. Villon, and concurred in by Associate Justice Martin S. Villarama, Jr. (now a Member of this Court) and Associate Justice Noel G. Tijam; rollo, pp. 36-46.

[2] Id. at 48.

[3] According to the Certification of the Batasan Hills Police Station as regards the excerpt of the PNP Complaint at PNP Complaint Volume 19, Series of 2005, Entry No. 324, Page No. 250; RTC records, attached to the CA records, p. 72.

[4] Id. at 5.

[5] Affidavit of Arrest, id. at 6.

[6] As shown by the Certification of the Batasan Hills Police Station as regards the excerpt of the PNP Complaint at PNP Complaint Volume 19, Series of 2005, Entry No. 324, Page No. 250; id. at 72.

[7] Rollo, p. 37.

[8] RTC records, p. 6.

[9] Rollo, p. 75.

[10] Id. at 37.

[11] Id.

[12] Id.

[13] Id. at 37-38.

[14] The pertinent matters state:

Considering the opposition and issues raised by the prosecution, the Court is not persuaded by the evidentiary nature of the allegations in the said motion of the accused. Aside from lack of clear and convincing proof, the Court, in the exercise of its sound discretion on the matter, is legally bound to pursue and hereby gives preference to the speedy disposition of the case.

ACCORDINGLY, the Urgent Motion for Regular Preliminary Investigation filed by the accused is DENIED.

[15] Rollo, p. 38.

[16] Id.

[17] Supra note 1.

[18] Supra note 2.

[19] Section 5 of The Philippine Bill of 1902. That no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or things to be seized.

[20] Section 1(3), Article III- The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, 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.

[21] Section 3, Article IV - The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and whatever 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.

[22] Section 2, Article III - 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.

[23] Finkelman, *ENCYCLOPEDIA OF AMERICAN CIVIL LIBERTIES*, 2006 Ed., p. 82.

[24] Entitled *THE INSTITUTES OF THE LAWS OF ENGLAND*, cited generally by Thomas Y. Davies, *Correcting Search-and-Seizure History: Now Forgotten Common-Law Warrantless Arrest Standards and the Original Meaning of Due Process*, University of Tennessee College of Law Legal Studies Research Paper Series, April 23, 2008.

[25] http://en.wikipedia.org/wiki/Magna_Carta. last accessed October 10, 2014.

[26] Id.

[27] Thomas Y. Davies, *Correcting Search-and-Seizure History: Now Forgotten Common-Law Warrantless Arrest Standards and the Original Meaning of Due Process*, University of Tennessee College of Law Legal

Studies Research Paper Series, April 23, 2008.

[28] Id at 45.

[29] Wrongfully dispossessed.

[30] Supra note 27.

[31] 278 Fed. 650.

[32] The People of the Philippine Islands v. Malasugui, G.R. No. L-44335, 63 Phil. 221,226 (1936).

[33] Finkelman, ENCYCLOPEDIA OF AMERICAN CIVIL LIBERTIES, 2006 Ed., p. 82.

[34] The United States v. Santos, 36 Phil. 853, 856 (1917).

[35] The United States v. Fortaleza, 12 Phil. 472,474-480 (1909).

[36] 4 Phil. 317, 323-324 (1905).

[37] In The United States v. Fortaleza, the Court cited Section 37 ctf Act No. 183 (Charter of Manila), which designates certain officials, including police officers, as "peace officers" expressly provides that within the territory defined in the Act they "may pursue and arrest without warrant, any person found in suspicious places or under suspicious circumstances, reasonably tending to show that such person has committed, or is about to commit any crime or breach of the peace; may arrest, or cause to be arrested without warrant, any offender, when the offense is committed in the presence of a peace officer or within his view."

[38] 11 Phil. 193, 197 (1908).

[39] Supra note 34, at 856.

[40] Id. Citizens must be protected from annoyance and crime. Prevention of crime is just as commendatory as the capture of criminals and the officer should not wait the commission of the crime. This rule is supported by the necessities of life.

[41] Sec. 2204, 1916 ed.; Sec. 2258, 1917 ed.

[42] Supra note 35, at 477-479.

[43] Section 37 (a) If the number of barrios in a municipality is less than or equal to the number of councilors the council shall put each of its members in immediate charge of a barrio or part of a barrio, so that each barrio shall be under the direction of one or more councilors.

(b) If the number of barrios exceeds the number of councilors, including the vice-president, the council shall group the barrios into as many districts as there are councilors, and shall place each councilor in charge of one such district. Each councilor shall be empowered to appoint one lieutenant in each barrio or part of barrio which comes under his immediate supervision. A lieutenant of barrio shall serve without compensation and shall report directly to the councilor appointing him.

Sec. 38. (a) Each councilor shall keep the people of his barrio or barrios informed as to the acts of the council, or other governmental measures which directly concern them, by means of suitable notices posted in a public and conspicuous place in each barrio. He shall serve in the council as the representative of the people of his barrio or barrios and shall bring their special needs to the attention of that body.

(b) He shall further promptly inform the president of any unusual or untoward event occurring within the barrios

assigned to him.

(c) He is authorized to use as a symbol of office a cane with silver head, plated ferule and black cord and tassels.

[44] *Malacat v. CA*, 347 Phil. 462,479 (1997).

[45] *Supra* note 35, at 477-478.

[46] *Supra* note 34, at 856.

[47] 60 III. 361 [1871].

[48] *Supra* note 34, at 854-855.

[49] G.R. No. L-6909, 21 Phil. 514-516 (1912).

[50] Resolution of Motion for Reconsideration in *Sayo v. The Chief of Police*, 80 Phil. 859, 875 (1948).

[51] Oscar M. Herrera, *Remedial Law*, Book IV, 2007 Edition, citing *Feria*, *Philippine Legal Studies*, Series No.2, p. 375.

[52] 5 Am Jur 2d, p. 688, citing *Payton v. New York*, 445 U.S. 573, 63 L. Ed. 2d 639, 100 S Ct. 1371.

[53] 111SC174, 97, SE 62, 3 ALR 1500, cited in 5 Am Jur 2d, p. 689.

[54] 361 U.S. 98, 4 L. Ed. 2d 134, 80S Ct. 168, cited in 5 Am Jur 2d, p. 688.

[55] 5 Am Jur 2d, p. 690, citing *United States v. Keown*, 19 F. Supp. 639 (W.D. Ky. 1937) and *Draper v. United States*, 358 U.S. 307 (1959).

[56] 5 Am Jur 2d, pp. 691-692, citing *Moore v. Marketplace Restaurant, Inc.*, 754 F. 2d 1336; *Be Vier v. Hucal*, (CA7 Ill) 806 F. 2d 123; *Whiteley v. Warden, Wyoming State Penitentiary*, 401 U.S. 560; *Martin v. Eaton*, 140 Vt 134, 436 A. 2d 751; *Warren v. Dwyer*, 906 F. 2d 70; *State v. Kendall*, 794 P. 2d 114; *People v. Villiard*, 679 P. 2d 593; *State v. Tarica*, 59 Wash App 368, 798 P. 2d 296; *Hill v. California*, 401 U.S. 797; *United States v. Bell*, 48 F. Supp. 986; *Gaudio v. State*, 1 Md App 455, 230 A. 2d 700.

[57] 5 Am Jur 2d, pp. 692, citing *Hill v. California*, 401 U.S. 797, 28 LEd 2d 484, 91 S Ct 1106; *United States v. Bell*, 48 F. Supp. 986; *People v. Exum*, 382 Ill 204, 47 N. E. 2d 56; *Wilson v. Commonwealth*, 403 S.W. 2d 705; *Gaudio v. State*, 1 Md App 455, 230 A. 2d 700.

[58] 5 Am Jur 2d, pp. 692, citing *Thompson v. State (Del Sup)* 539 A. 2d 1052; *Ricks v. State*, 82 Md. App. 369, 571 A. 2d 887, cert gr 320 Md 3505, 578 A. 2d 778 and affd 322 Md 183, 586 A. 2d 740; *People v. Tracy*, 186 Mich App 171,46. N.W. 2d 457; *State v. Leonard (Utah App)* 825 P. 2d 664, 177 Utah Adv Rep 49, cert den (Utah) 843 P. 2d 1042.

[59] G.R. No. 170672, August 14, 2009, 596 SCRA 220, 227.

[60] *Paderanga v. Drilon et al.*, 273 Phil. 290,296 (1991).

[61] 32 Phil. 363,365 (1915).

[62] Section 3, Rule 112 of the Revised Rules of Criminal Procedure.

[63] *People v. CA*, 361 Phil. 401,413 (1999).

[64] *People v. Racho*, G.R. No. 186529, August 3, 2010,626 SCRA 633,642.

- [65] Supra note 59.
- [66] Supra note 34.
- [67] Id.
- [68] G.R. No. 131492, September 29, 2000, 341 SCRA 388.
- [69] G.R. L-68995, September 4, 1986, 144 SCRA 1.
- [70] 365 Phil. 292, 312 (1999).
- [71] 268 Phil. 571, 576 (1990).
- [72] G.R. No. 101837, February 11, 1992, 206 SCRA 138, 150.
- [73] G.R. No. 94533, February 4, 1992, 205 SCRA 772, 775, 778.
- [74] G.R. No. 95847-48, March 10, 1993, 219 SCRA 756, 761.
- [75] 341 Phil. 526, 534, 543 (1997).
- [76] 346 Phil. 847, 853-854 (1997).
- [77] 232 Phil. 406 (1994).
- [78] G.R. No. 123123, August 19, 1999, 232 SCRA 412-413.
- [79] Supra note 59.
- [80] Fifth Edition, p. 220.
- [81] *New City Builders, Inc. v. NLRC*, 499 Phil. 207, 212-213 (2005).
- [82] According to the Certification of the Batasan Hills Police Station as regards the excerpt of the PNP Complaint at PNP Complaint Volume 19, Series of 2005, Entry No. 324, Page No. 250; RTC records, p. 72.
- [83] Rollo, pp. 73-74.
- [84] Issued by the Medico Legal Officer, Dr. Charlton S. Sibal, M.D.; RTC records, p. 7.
- [85] Joey Pestilos then resided at Block 1, Lot 6, Don Primitivo Extension, Brgy. Holy Spirit, Quezon City; Dwight Macapanas then resided at No. 24 Kasiyahan St., Brgy. Holy Spirit, Quezon City; Miguel Gaces then resided at No. 13, Kasiyahan St., Brgy. Holy Spirit, Quezon City; Jerry Fernandez resided at No. 16, Kasiyahan St., Brgy. Holy Spirit, Quezon City; Ronald Mufioz then resided at No. 15, Kasiyahan St., Brgy. Holy Spirit, Quezon City; RTC records, p. 4.
- 86 Atty. Generoso then resided at No. 16 Kasiyahan St., Brgy. Holy Spirit, Quezon City per the ferral letter of the Police Inspector to the City Prosecutor, dated February 20, 2005; id.
- [87] Rollo, p. 75.
- [88] Supra note 76.
- [89] G.R. No. 144497, June 29, 2004, 433 SCRA 139.
- [90] Rollo, p. 40.
- [91] Rule 113, Section 2 of the Revised Rules of Court.

[92] *Sanchez v. Demetriou*, G.R. Nos. 111771-77, November 9, 1993, 227 SCRA 627, 637-638; see also *People v. Milado*, 462 Phil. 411, 417 (2003).

[93] The pertinent portion of the Affidavit of Arrest states:

That, immediately we proceeded at the said place and upon arrival complainant appeared complained and pointed to the undersigned to suspects [Joey] Pestilos, Dwight Macapanas, Miguel Gaces[,] Jerry Fernandez and Ronald Munoz at (sic) those who mauled him.

That, I informed all the suspects of the charges imputed [against] them by complainant Atty. Generoso then invited them to Batasan Police Station for Investigation x x x" (Emphasis ours)

[94] *Rollo*, p. 41.

[95] Sec. 14. No decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based.

No petition for review or motion for reconsideration of a decision of the court shall be refused due course or denied without stating the legal basis therefor.

[96] SEC. 3. Resolution of motion. -After the hearing, the court may dismiss the action or claim, deny the motion, or order the amendment of the pleading.

DISSENTING OPINION

LEONEN, J.:

I regret that I cannot bring myself to agree that the warrantless arrest was valid.

To review, the facts as established are as follows:

Both petitioners and respondent are residents of Kasiyahan Street, Barangay Holy Spirit, Quezon City.[1]

On February 20, 2005, at around 3:00 to 3:15 a.m., petitioners Joey M. Pestilos (Pestilos), Dwight Macapanas (Macapanas), Miguel Gaces (Gaces), Jerry Hernandez (Hernandez), and Ronald Muñoz (Muñoz), and respondent Atty. Moreno Generoso (Atty. Generoso) were waiting for the water supply on Kasiyahan Street. Pestilos and Macapanas got into an altercation with Atty. Generoso that involved physical violence. Immediately after the incident, Pestilos and Macapanas went to the barangay hall to seek help from the local barangay officials.[2]

At the barangay hall, Pestilos reported the incident and wanted to have it inscribed in the barangay blotter. The barangay tanod advised them to secure a medical certificate first before Pestilos and Macapanas could register their complaint in the barangay blotter.[3] Pestilos and Macapanas requested the barangay tanod to accompany them on their way back to their residences on Kasiyahan Street, "to avoid further trouble." [4]

At around 5:30 a.m., Pestilos and Macapanas arrived with the barangay tanod on Kasiyahan Street. By then, officers from Batasan Hills Police Station were present. Atty. Generoso pointed to Pestilos and Macapanas as perpetrators of his alleged mauling.[5] The two began complaining about Atty. Generoso's attack against them. The police officers, led by SPO2 Dominador Javier (SPO2 Javier), brought Pestilos, Macapanas, and Atty. Generoso to the police station. The other petitioners, Gaces, Hernandez, and Muñoz, were brought by Pestilos and Macapanas to act as their witnesses.

Macapanas left the police station for a while to get a medical certificate from the East Avenue Medical Center, as

advised by the barangay tanod earlier.[6] Meanwhile, at the police station, Atty. Generoso filed charges against all petitioners (Pestilos, Macapanas, Gaces, Hernandez, and Muñoz) for frustrated murder.[7]

Macapanas also filed charges against Atty. Generoso for slight physical injuries.[8] The police officers in the Batasan Hills Police Station rendered reports for both charges. In addition to the reports, SPO2 Javier executed an affidavit of arrest with respect to petitioners.[9]

At the Office of the Prosecutor, the prosecutor subjected all the petitioners to inquest, while the complaint against Atty. Generoso was treated as a case subject to preliminary investigation.[10]

Two days after the incident, the prosecutor filed an information against petitioners for attempted murder.[11]

Before arraignment, petitioners filed an urgent motion for regular preliminary investigation. However, the Regional Trial Court of Quezon City, Branch 96, denied the motion.[12] They filed a motion for reconsideration, but the motion was denied.[13]

On appeal via Rule 65, the Court of Appeals sustained the order of the Regional Trial Court:

WHEREFORE, the instant petition for certiorari is hereby DISMISSED for lack of merit.

SO ORDERED.[14]

The Court of Appeals denied petitioners' motion for reconsideration in the resolution dated April 17, 2008.[15] They came to this court via a petition for review on certiorari. They argue that they are entitled to preliminary investigation. Subjecting them to inquest proceedings was irregular because they were not properly arrested. Assuming that their decision to go to the police station was an "arrest," the arrest was invalid because it was not made in compliance with the rule on warrantless arrests.

I vote that the petition be granted. Petitioners are entitled to a preliminary investigation because the warrantless arrest was not valid.

The right of a person to his or her liberties in the form of protections against unreasonable searches and seizures enjoys a high degree of protection.[16] The Constitution only allows for reasonable searches and seizures. As a general rule, courts decide whether there is probable cause to issue a search warrant or warrant of arrest. In *People v. Burgos*,[17] this court stated that:

The right of a person to be secure against any unreasonable seizure of his body and any deprivation of his liberty is a most basic and fundamental one. The statute or rule which allows exceptions to the requirement of warrants of arrest is strictly construed. Any exception must clearly fall within the situations when securing a warrant would be absurd or is manifestly unnecessary as provided by the Rule. We cannot liberally construe the rule on arrests without warrant or extend its application beyond the cases specifically provided by law. To do so would infringe upon personal liberty and set back a basic right so often violated and so deserving of full protection.[18] (Emphasis supplied).

The limited circumstances for the conduct of reasonable warrantless arrests are enumerated in Rule 113, Section 5 of the Rules of Court.

SEC. 5. Arrest without warrant; when lawful —A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

(b) When an offense has just been committed, and he has probable cause to believe based on personal

knowledge of facts or circumstances that the person to be arrested has committed it; and

(c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

In cases falling under paragraphs (a) and (b) hereof, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail, and he shall be proceeded against in accordance with Rule 12, Section 7.

This case does not fall under the first and third exceptions. The question is whether this falls under the special circumstances of Section 5(b) of Rule 113 of the Rules of Court.

The elements of a valid warrantless arrest under Rule 113, Section 5(b) are the following: (1) the offense has just been committed; (2) the arresting officer has personal knowledge of facts or circumstances; and (3) these facts and circumstances give rise to probable cause that the person to be arrested has committed the offense.

The first element requires that there are facts leading to a conclusion that an offense has been committed. Being based on objectivity, the first element requires the occurrence of facts that, when taken together, constitutes the commission of an offense.

If we accepted the version of Atty. Generoso, it appears that he was a victim of an attack from petitioners. The facts that he narrated may, thus, constitute the possible offenses of physical injuries or even attempted or frustrated homicide or murder. The offense should be evaluated from the facts and circumstances as it appeared to the person making the warrantless arrest.

The element that the offense had “just been committed” was introduced in the 1985 revision of the Rules of Criminal Procedure. This element must be read in relation to the general requirement that a warrant of arrest must be procured to ensure a more impartial determination of the existence of facts and circumstances. This element, however, acknowledges the necessities of law enforcement. At times, the police officer arrives at the scene of the crime after the crime just happened and there are facts and circumstances — such as the sudden flight of a person or the wielding of a weapon by a person near the incident — that reasonably lead the police officer to believe that the person is the perpetrator. In such cases, to ensure that the right person can be put within the jurisdiction of a court, the rules allow a valid warrantless arrest.

This necessity is wanting in this case. Petitioners themselves, together with a barangay tanod, voluntarily went to the police station. They did so after they had gone to the barangay hall to report the incident and had their own complaints entered into the barangay blotter.

There was no urgency to arrest petitioners. They were not planning to flee. They voluntarily presented themselves as complainants against private respondent. For reasons not clear in the record, they were subjected to a warrantless arrest and then to inquest. Private respondent, on the other hand, was allowed to be a respondent in a preliminary investigation. He was not arrested.

Several cases qualified the time element of “just been committed” to range from three (3) hours^[19] to 14 days.^[20] This is not the correct approach.

In *Re* Petition for Habeas Corpus of Laurente C. Ilagan^[21] and *Umil v. Ramos*,^[22] cited by the majority, were decided under the dark days of Martial Law. The dissents in those cases were clarion calls for the protection of our liberties.

Former Chief Justice Claudio Teehankee, in his dissent in *In Re Ilagan*, was of the opinion that “just been

committed” “connotes immediacy in point of time.”[23] Former Associate Justice Florenz Regalado[24] emphasized the requirement of immediacy:

The brevity in the interval of time between the commission of the crime and the arrest, as now required by Section 5(b), must have been dictated by the consideration, among others, that by reason of such recency of the criminal occurrence, the probability of the arresting officer acquiring personal and/or reliable knowledge of such fact and the identity of the offender is necessarily enhanced, if not assured. The longer the interval, the more attenuated are the chances of his obtaining such verifiable knowledge.[25]

In the same case, Associate Justice Florentino Feliciano illustrated how a hot pursuit warrantless arrest should be made:

Turning to Section 5 (b), two (2) elements must coincide before a warrantless arrest may be sustained under this subsection: 1) the offense must have “just been committed” when the arresting officer arrived in the scene; and 2) the officer must have “personal knowledge” of facts indicating that the person to be arrested has committed the offense. In somewhat different terms, the first requirement imports that the effects or corpus of the offense which has just been committed are still visible: e.g. a person sprawled on the ground, dead of a gunshot wound; or a person staggering around bleeding profusely from stab wounds. The arresting officer may not have seen the actual shooting or stabbing of the victim, and therefore the offense can not be said to have been committed “in [his] presence.” The requirement of “personal knowledge” on the part of the arresting officer is a requirement that such knowledge must have been obtained directly from sense perception by the arresting officer. That requirement would exclude information conveyed by another person, no matter what his reputation for truth and reliability might be. Thus, where the arresting officer comes upon a person dead on the street and sees a person running away with a knife from where the victim is sprawled on the ground, he has personal knowledge of facts which rendered it highly probable that the person fleeing was the doer of the criminal deed. The arresting officer must, in other words, perceive through his own senses some act which directly connects the person to be arrested with the visible effects or corpus of a crime which has “just been committed.”[26] (Emphasis supplied)

The second element under Rule 113, Section 5(b) is that the arresting officer has personal knowledge of facts and circumstances. Personal knowledge is “derived from the [person’s] own perception.”[27]

On the other hand, information not of personal knowledge is hearsay. Hearsay is “evidence not of what the witness knows himself but of what he has heard from others.”[28]

The arresting officers must obtain personal knowledge of the facts and circumstances that lead to the conclusion that an offense has just been committed. They must also perceive facts and circumstances that would substantiate the probable liability of the person. The accused is usually identified when he or she is seen fleeing the scene because the act of fleeing suggests the attempt to evade authority. A person in possession of a weapon could also be perceived as the one liable for an offense.

There must be a reasonable amount of facts short of seeing the entire offense being committed. A collection of facts, on the other hand, is a set of circumstances. If the arresting officer saw facts and circumstances indicating that an offense has just been committed and the person is probably liable for that offense, a warrantless arrest is justified under Rule 113, Section 5(b). If the arresting officer saw the offense being committed, then the warrantless arrest will be justified under Rule 113, Section 5(a), not under subsection (b).

Facts or circumstances relating to the nature of the offense cannot substitute for personal knowledge of facts or circumstances relating to the liability of the person who probably committed the offense. One pertains to the object and the other the method of perception.

SPO2 Javier had personal knowledge of the injuries of private respondent. This is only personal knowledge with

respect to the offense, not yet as to the identity of the perpetrators.

On the other hand, the information obtained by the police officers when private respondent pointed to petitioners as the perpetrators of the crime was hearsay. Private respondent's act of pointing to petitioners communicated that petitioners committed the mauling. It becomes hearsay on the part of the police officers who did not see petitioners mauling private respondent. The only personal knowledge obtained by the police officers was that private respondent pointed to petitioners.

According to petitioners, they returned to the crime scene and saw the police officers. They also informed the police officers that private respondent attacked them. That is another hearsay received by the police officers at the crime scene.

The police officers perceived limited facts while investigating at the crime scene. These limited facts do not provide sufficient bases for the liability of anyone at the scene. No one was reported holding a weapon allegedly used against private respondent. None of the petitioners fled at the sight of the police officers.

There were only facts relating to the offense, such as the sight of an injured private respondent. This fact cannot substitute for the personal knowledge of facts and circumstances relating to the liability of petitioners.

Parenthetically, the police officers also had hearsay knowledge that private respondent was the perpetrator against petitioners. For reasons not clear in the records, however, the police officers preferred not to arrest him.

The third element requires that these facts and circumstances must lead to the conclusion that there is probable cause to believe that the person to be arrested committed the offense. Rule 113, Section 5(b) requires that "probable cause" or "actual belief or reasonable grounds of suspicion" must be supported by personal knowledge of facts or circumstances that, when taken together, builds the suspicion that an individual committed the offense.

The plurality in the phrasing suggests that there should be more than one fact or circumstance. In *People v. Cogaed*,^[29] we ruled that for there to be a "genuine reason" to execute a warrantless arrest or search, there should be more than one suspicious circumstance to infer that there was criminal activity.^[30]

In most cases that found the validity of the warrantless arrest, there was the presence of more than one circumstance that formed part of the personal knowledge of the police officers.

In *People v. Jayson*,^[31] police officers were summoned immediately to the crime scene. They found the victim, and saw the accused fleeing. These are two facts that show that the offense was committed and that the person arrested was probably responsible because he attempted to escape.

In *People v. Tonog*,^[32] there was a murder. Police officers at the crime scene saw the following: the body of the victim and a motorcab that was driven by Tonog that day. Tonog voluntarily went to the police station, and one of the police officers noticed that he had blood splatters on his jeans. All three facts and circumstances were observed by the police officers during the arrest, thereby building the probable cause that Tonog committed the murder.^[33]

On the other hand, this court ruled that there are instances when there is no personal knowledge of the police officers; hence, there is no valid warrantless arrest.

In *People v. Burgos*,^[34] a source informed the police officers that Ruben Burgos was engaged in subversive activities. This court held that the report was not enough to enact a warrantless arrest under Rule 113, Section 5(b), especially since there were no facts personally known to the police officers that a crime was committed.

In *Posadas v. Ombudsman*,^[35] the National Bureau of Investigation officers arrested two students identified by

witnesses as the perpetrators of a killing during a fraternity rumble. The arrest was made without a warrant, and this court declared the warrantless arrest invalid.

Rule 113, Section 5(b) did not apply in *People v. Briones*[36] where the accused was arrested after one eyewitness had identified him as the murderer. This court declared that the warrantless arrest was invalid “because the police officer who effected the arrest indubitably had no personal knowledge of facts indicating that the person to be arrested has committed the crime. It is [the] eyewitness . . . who had such personal knowledge.”[37]

Jurisprudence often repeats the doctrine summarized in *Umil v. Ramos*: [38]

It has been ruled that "personal knowledge of facts", in arrests without warrant must be based upon probable cause, which means an actual belief or reasonable ground of suspicion.

The grounds of suspicion are reasonable when, in the absence of actual belief of the arresting officers, the suspicion that the person to be arrested is probably guilty of committing the offense, is based on actual facts, i.e., supported by circumstances sufficiently strong in themselves to create the probable cause of guilt of the person to be arrested. A reasonable suspicion therefore must be founded on probable cause, coupled with good faith on the part of the peace officers making the arrest.[39] (Citations omitted)

The confusion with this treatment is that it qualifies personal knowledge with probable cause, not the other way around. The rule states that “probable cause . . . [is] based on personal knowledge of facts and circumstances.”[40] It does not state personal knowledge of facts based on probable cause or reasonable suspicion. The import of the text is that reasonable suspicion and probable cause is built by personal knowledge of facts and circumstances. Personal knowledge is the method of perceiving facts. Probable cause is the conclusion of all the facts so perceived.

Flight of the accused is often a sign that there is probable cause that he or she committed the offense. When he or she attempts to escape from authorities, the authorities must act immediately because not doing so might compromise the investigation.

If there is no personal knowledge of facts and circumstances on the part of the police officers, a warrantless arrest under Rule 113, Section 5(b) will be unreasonable because there is nothing to base probable cause on that the accused committed the offense.

Here, there was no flight of the accused. On the contrary, petitioners returned to the crime scene[41] because they felt that they were the victims, not the perpetrators.

The police officers were still investigating the matter when petitioners were brought to the police station. The circumstances of the situation did not call for an exception to the rule requiring a warrant of arrest. The statement made by private respondent on the identity of his perpetrators, as communicated to the police, could have been reduced to an affidavit used to support an application for a warrant of arrest. The statements made by petitioners were other pieces of evidence to be considered for the issuance of a warrant of arrest.

The police officers were not threatened by the immediate flight of the alleged perpetrators who believed that they also have a right to vindicate since they were cooperating with the police. All facts point to the reasonability of obtaining a warrant of arrest. There was no exigency to cause the warrantless arrest of petitioners.

It bears stressing that petitioners went with the police officers in their capacity as complainants against private respondent. They did not know that they were already being arrested. To their mind, the police officers just wanted to continue the investigation at the police station. This is shown by the police report dated February 20, 2005 regarding the complaint of petitioner Macapanas against private respondent Atty. Generoso. In this report,

petitioner Macapanas was the complainant, and private respondent Atty. Generoso was the accused. To wit:

It is worthy to mentioned [sic] that complainant voluntarily [sic] appeared to this Station wherein he was identified by complainant at [sic] the one who punched him(,) which also causing [sic] him to be bitten (by) a dog thereat.[42]

The existence of two police reports for two separate crimes committed during one incident — one with petitioners as accused[43] and the other with private respondent as accused[44] — proves that at the time that petitioners were taken into custody, the police officers were still uncertain about what happened. This negates the presence of probable cause, required by Rule 113, Section 5(b).

Probable cause must exist at the time of the warrantless arrest. Otherwise, any form of uncertainty should be resolved through the exercise of judicial caution.

When the police officers became more convinced that private respondent's version was more believable than petitioners', the police officers should have applied for a warrant of arrest. SPO2 Javier expedited procedure when he executed an affidavit of arrest. He made it appear that there was a valid warrantless arrest, instead of applying for a warrant of arrest. This is unacceptable in our Constitution.

Strict standards should be imposed on law enforcement. It is said that "the prosecution can bring the full resources of the state to bear on winning. Imposing a heavy burden of proof on the prosecution diminishes this advantage." [45]

Relaxing our standards in taking individuals under custody enhances the advantage of the prosecution, to the detriment of the individual. Compared to the state, the accused does not have the resources to question the legitimacy of an arrest. Some of them do not even know that they are already being arrested. Many arrested individuals may not even be able to afford lawyers until the public attorney steps in during custodial investigation or, worse, during arraignment. By then, the accused would have already been deprived of his or her liberty.

The circumstances of this case require the vigilance of this court in protecting the neglected rights of petitioners. Petitioners were just in their 20s when the altercation occurred. Pestilos was a student, Macapanas and Muñoz were unemployed, Gaces was a driver, and Fernandez was a printing press operator. Petitioners have been certified as indigents.[46] They are of limited means. At the time that they were trying to vindicate their rights at the police station, they did not have counsel.

On the other hand, it is easier for the police officers to be persuaded by private respondent, a member of the bar who is fully aware of his constitutional rights. The police officers became more inclined to believe his story because he is a lawyer, while petitioners were all non-lawyers.

Petitioners were not expected to know that a detention was an arrest. The affidavit of arrest stated that SPO2 Javier "informed all the suspects of the charges imputed against them by complainant Atty. Generoso." [47] To an ordinary citizen, they were just complaints. An invitation is really just an invitation for petitioners. They did not go to the police station because they were being arrested.

With the absence of a valid warrantless arrest, petitioners are entitled to preliminary investigation. Preliminary investigation is "an inquiry or a proceeding the purpose of which is to determine whether there is sufficient ground to engender a well-founded belief that a crime has been committed and the respondent is probably guilty thereof, and should be held for trial." [48] The right to preliminary investigation is statutory in character.[49] Being mandated by statute, a preliminary investigation becomes part of the constitutional due process rights accorded to the accused.[50]

Under Rule 112, a preliminary investigation is required if an offense has a penalty of at least four (4) years, two (2) months, and one (1) day. However, under Section 6 of the same rules, a preliminary investigation is no longer necessary if the person accused was arrested lawfully without a warrant. If there was a valid warrantless arrest under Rule 113, Section 5, inquest proceedings are required.

Based on the Manual for Prosecutors, inquests are conducted by a public prosecutor assigned as an Inquest Officer. An inquest is conducted only at the police stations or headquarters of the Philippine National Police, unless otherwise directed.[51]

Here, petitioners alleged that they were brought from Batasan Hills Police Station to the Office of the Prosecutor. At the Office of the Prosecutor, it was decided that petitioners would be subjected to inquest, while respondent would undergo preliminary investigation. This irregularly conducted inquest aggravates the fact that petitioners were subjected to an inquest despite lack of a valid warrantless arrest.

Considering that petitioners were not arrested in accordance with the strict guidelines of our Constitution and the Rules of Court, petitioners' statutory right to preliminary investigation is mandatory.

ACCORDINGLY, the petition should be GRANTED.

[1] Rollo, p. 51.

[2] Id. at 6–9.

[3] Id. at 9 and 49.

[4] Id. at 49.

[5] RTC records, p. 6, as stated in the affidavit of arrest.

[6] Rollo, p. 50.

[7] Id. at 158.

[8] Id. at 51.

[9] RTC records, p. 6.

[10] CA rollo, pp. 98-100, and RTC records, p. 2.

[11] RTC records, pp. 1–2.

[12] Id. at 59. The order was dated March 16, 2005 rendered by Presiding Judge Afable E. Cajigal.

[13] Rollo, p. 67.

[14] Id. at 35–46. The decision in CA-G.R. SP No. 91541 dated January 21, 2008 was penned by Associate Justice Sesonando E. Villon and concurred in by Associate Justices Martin S. Villarama, Jr. (now member of this court) and Noel G. Tijam of the Fifth Division of the Court of Appeals.

[15] Rollo, pp. 47–48.

[16] Const., art. III, sec. 2.

[17] 228 Phil. 1 (1986) [Per J. Gutierrez, Jr., Second Division].

[18] Id. at 15.

- [19] *People v. Gerente*, G.R. Nos. 95847–48, March 10, 1993, 219 SCRA 756 (1993) [Per J. Griño- Aquino, First Division].
- [20] *Umil v. Ramos*, 279 Phil. 266 (1991) [Per Curiam, En Banc].
- [21] 223 Phil. 561 (1985) [Per J. Melencio-Herrera, En Banc].
- [22] 279 Phil. 266 (1991) [Per Curiam, En Banc].
- [23] J. Teehankee, dissenting opinion in *In Re Petition for Habeas Corpus of Laurente C. Ilagan*, 223 Phil. 561, 622 (1985) [Per J. Melencio-Herrera, En Banc].
- [24] *Umil v. Ramos*, 279 Phil. 266 (1991) [Per Curiam, En Banc].
- [25] J. Regalado, dissenting opinion in *Umil v. Ramos*, 279 Phil. 266, 312 (1991) [Per Curiam, En Banc].
- [26] J. Feliciano, dissenting opinion in *Umil v. Ramos*, 279 Phil. 266, 325–326 (1991) [Per Curiam, En Banc].
- [27] RULES OF COURT, Rule 130, sec. 36.
- [28] *People v. Manhuyod*, 352 Phil. 866, 880 (1998) [Per J. Davide, Jr., En Banc].
- [29] G.R. No. 200334, July 30, 2014 <
<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/july2014/200334.pdf>> [Per J. Leonen, Third Division].
- [30] *Id.*
- [31] 346 Phil. 847 (1997) [Per J. Mendoza, Second Division].
- [32] G.R. No. 144497, June 29, 2004, 433 SCRA 139 [Per J. Callejo, Sr., Second Division].
- [33] The issue of warrantless arrest was not ruled upon in this case. However, *Posadas v. Ombudsman*, 395 Phil. 601 (2000) [Per J. Mendoza, Second Division] used this case to show the circumstances surrounding the warrantless arrest that led to the arrest’s validity.
- [34] 228 Phil. 1 (1986) [Per J. Gutierrez, Jr., Second Division].
- [35] 395 Phil. 601 (2000) [Per J. Mendoza, Second Division].
- [36] 279 Phil. 776 (1991) [Per J. Paras, Second Division].
- [37] *Id.* at 787.
- [38] 279 Phil. 266 (1991) [Per Curiam, En Banc].
- [39] *Id.* at 295–296.
- [40] RULES OF COURT, Rule 113, sec. 5(b).
- [41] Rollo, p. 49. In the joint-affidavit of the barangay officials, they stated that petitioners requested them “to accompany [Pestilos and Macapanas] to their place for fear that Atty. Generoso might still be looking for them. To avoid further trouble, we brought them back to Kasiyahan Street on board the Barangay vehicle.”
- [42] *Id.* at 51.
- [43] *Id.* at 158.

[44] Id. at 51.

[45] R. Cooter and T. Ulen, *Law and Economics*, 450 (2004).

[46] RTC records, pp. 17–21.

[47] Id. at 6.

[48] RULES OF COURT, Rule 112, sec. 1.

[49] *Marinas v. Siochi*, 191 Phil. 698, 718 (1981) [Per J. Melencio-Herrera, En Banc].

[50] *Duterte v. Sandiganbayan*, 352 Phil. 557, 576 (1998) [Per J. Kapunan, Third Division].

[51] *Manual for Prosecutors*, part II, sec. 2, last paragraph.

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