

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JERRY SAPLA Y GUERRERO A.K.A. ERIC SALIBAD Y MALLARI, ACCUSED-APPELLANT.

G.R. No. 244045. June 16, 2020

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CAGUIOA, J:

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

In threshing out this issue, it must be remembered that in criminal prosecutions, including prosecutions for violations of the law on dangerous drugs, our constitutional order does not adopt a stance of neutrality – the law is heavily in favor of the accused. By constitutional design, the accused is afforded the presumption of innocence[1] – it is for the State to prove the guilt of the accused. Without the State discharging this burden, the Court is given no alternative but to acquit the accused.

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

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

The Case

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

The Facts and Antecedent Proceedings

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

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

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

CONTRARY TO LAW."

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

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

Trial ensued thereafter.

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

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

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

The passenger jeepney then arrived at around 1:20 in the afternoon, wherein the police officers at the Talaca checkpoint flagged down the said vehicle and told its driver to park on the side of the road. Officers Labbutan and Mabiasan approached the jeepney and saw [accused-appellant Sapla] seated at the rear side of the vehicle. The police officers asked [accused-appellant Sapla] if he [was] the owner of the blue sack in front of him, which the

latter answered in the affirmative. The said officers then requested [accused-appellant Sapla] to open the blue sack. After [accused-appellant Sapla] opened the sack, officers Labbutan and Mabiasan saw four (4) bricks of suspected dried marijuana leaves, wrapped in newspaper and an old calendar. PO3 Labbutan subsequently arrested [accused-appellant Sapla], informed him of the cause of his arrest and his constitutional rights in [the] Ilocano dialect. PO2 Mabiasan further searched [accused-appellant Sapla] and found one (1) LG cellular phone unit. Thereafter, PO2 Mabiasan seized the four (4) bricks of suspected dried marijuana leaves and brought [them] to their office at the Talaca detachment for proper markings.

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

At the said office, PO2 Mabiasan personally turned over the seized items to the investigator of the case, PO2 Alexander Oman (hereinafter referred to as PO2 Oman), for custody, safekeeping and proper disposition. Also, PSI Lingbawan wrote a letter addressed to the Provincial Chief, which requested that a chemistry examination be conducted on the seized items. The following specimens were submitted for initial laboratory examination: 1) one (1) blue sack with label J&N rice, marked "2:30PM JAN. 10, 2014 EXH. "A" PNP-TALACA and signature"; 2) one (1) brick of suspected dried marijuana leaves, which weighed 998.376 grams, marked "2:30PM JAN. 10, 2014 EXH. "A-1" PNP-TALACA and signature"; 3) one (1) brick of suspected dried marijuana leaves, which weighed 929.735 grams, marked "2:30PM JAN. 10, 2014 EXH "A-2" PNP-TALACA and signature"; 4) one (1) brick of suspected dried marijuana leaves, which weighed 1,045.629 grams, marked "2:30PM JAN. 10, 2014 EXH "A-3" PNP-TALACA and signature"; 5) one (1) brick of suspected dried marijuana leaves, which weighed 979.371 grams, marked "2:30PM JAN. 10, 2014 EXH. "A-4" PNP-TALACA and signature." The said initial examination revealed that the specimens "A-1" to "A-4" with a total net weight of 3,9563.111 grams, yielded positive results for the presence of marijuana, a dangerous drug. In addition, Chemistry Report No. D-003-2014 revealed that indeed the said specimens [did] contain marijuana and that the said report indicated that the "specimen[s] submitted are retained in this laboratory for future reference."

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

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

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

were shown to him.[7]

The Ruling of the RTC

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

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

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

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

SO ORDERED.[8]

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

The Ruling of the CA

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

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

SO ORDERED.[9]

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

Hence, the instant appeal.

The Issue

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

The Court's Ruling

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

The Constitutional Right against Unreasonable

Searches and Seizures

As eloquently explained by the Court in *People v. Tudtud* (Tudtud),[10] "the Bill of Rights is the bedrock of constitutional government. If people are stripped naked of their rights as human beings, democracy cannot survive

and government becomes meaningless. This explains why the Bill of Rights, contained as it is in Article III of the Constitution, occupies a position of primacy in the fundamental law way above the articles on governmental power."^[11]

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

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

Section 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

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

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

Valid Warrantless Searches and Seizures

There are, however, instances wherein searches are reasonable even in the absence of a search warrant, taking into account the "uniqueness of circumstances involved including the purpose of the search or seizure, the presence or absence of probable cause, the manner in which the search and seizure was made, the place or thing searched, and the character of the articles procured."^[13]

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

- (1) warrantless search incidental to a lawful arrest;
- (2) seizure of evidence in plain view;
- (3) search of a moving vehicle;
- (4) consented warrantless search;
- (5) customs search;
- (6) stop and frisk; and
- (7) exigent and emergency circumstances.^[14]

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

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

According to jurisprudence, "warrantless search and seizure of moving vehicles are allowed in recognition of the impracticability of securing a warrant under said circumstances as the vehicle can be quickly moved out of the locality or jurisdiction in which the warrant may be sought. Peace officers in such cases, however, are limited to routine checks where the examination of the vehicle is limited to visual inspection." [15]

On the other hand, an extensive search of a vehicle is permissible, but only when "the officers made it upon probable cause, i.e., upon a belief, reasonably arising out of circumstances known to the seizing officer, that an automobile or other vehicle contains [an] item, article or object which by law is subject to seizure and destruction." [16]

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

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

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

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

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

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

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

Probable Cause as an Indispensable
Requirement for an Extensive and Intrusive

Warrantless Search of a Moving Vehicle

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

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

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

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

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

It was in *Valmonte v. de Villa*^[24] (*Valmonte*) where the Court first held that vehicles can be stopped at a checkpoint and extensively searched only when there is "probable cause which justifies a reasonable belief of the men at the checkpoints that either the motorist is a law-offender or the contents of the vehicle are or have been instruments of some offense."^[25] This doctrine was directly adopted from United States jurisprudence, specifically from the pronouncement of the Supreme Court of the United States (SCOTUS) in *Dyke v. Taylor*.^[26]

As subsequently explained by the Court in *Caballes v. Court of Appeals*,^[27] probable cause means that there is the existence of such facts and circumstances which could lead a reasonably discreet and prudent man to believe that an offense has been committed and that the items, articles or objects sought in connection with said offense or subject to seizure and destruction by law is in the place to be searched:

x x x a reasonable ground of suspicion supported by circumstances sufficiently strong in themselves to warrant a cautious man's belief that the person accused is guilty of the offense with which he is charged; or the existence of such facts and circumstances which could lead a reasonably discreet and prudent man to believe that an offense has been committed and that the items, articles or objects sought in connection with said offense or subject to seizure and destruction by law is in the place to be searched. The required probable cause that will justify a warrantless search and seizure is not determined by a fixed formula but is resolved according to the facts of each case.^[28]

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

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

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

The Court has already held with unequivocal clarity that in situations involving warrantless searches and seizures, "law enforcers cannot act solely on the basis of confidential or tipped information. A tip is still hearsay no matter how reliable it may be. It is not sufficient to constitute probable cause in the absence of any other circumstance that will arouse suspicion." [30]

A.

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

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

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

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

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

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

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

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

B.

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

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

Subsequently, in *People v. Cuizon*, [39] the Court, through former Chief Justice Artemio V. Panganiban, held that the warrantless search and subsequent arrest of the accused were deemed illegal because "the prosecution failed to establish that there was sufficient and reasonable ground for the NBI agents to believe that appellants had committed a crime at the point when the search and arrest of Pua and Lee were made." [40] In reaching this conclusion, the Court found that the authorities merely relied on "the alleged tip that the NBI agents purportedly received that morning." [41] The Court characterized the tip received by the authorities from an anonymous informant as "hearsay information" [42] that cannot engender probable cause.

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

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

In finding that there was an unlawful warrantless search, the Court in *Aruta* held that "it was only when the informant pointed to accused-appellant and identified her to the agents as the carrier of the marijuana that she was singled out as the suspect. The NARCOM agents would not have apprehended accused-appellant were it not for the furtive finger of the informant because, as clearly illustrated by the evidence on record, there was no reason

whatsoever for them to suspect that accused-appellant was committing a crime, except for the pointing finger of the informant." [47] Hence, the Court held that the search conducted on the accused therein based solely on the pointing finger of the informant was "a clear violation of the constitutional guarantee against unreasonable search and seizure." [48]

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

In finding that there was no probable cause on the part of the police that justified a warrantless search, the Court, through Associate Justice Marvic Mario Victor F. Leonen, astutely explained that in cases finding sufficient probable cause for the conduct of warrantless searches, "the police officers using their senses observed facts that led to the suspicion. Seeing a man with reddish eyes and walking in a swaying manner, based on their experience, is indicative of a person who uses dangerous and illicit drugs." [50] However, the Court reasoned that the case of the accused was different because "he was simply a passenger carrying a bag and traveling aboard a jeepney. There was nothing suspicious, moreover, criminal, about riding a jeepney or carrying a bag. The assessment of suspicion was not made by the police officer but by the jeepney driver. It was the driver who signaled to the police that *Cogaed* was 'suspicious.'" [51]

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

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

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

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

The Court correctly explained that "law enforcers cannot act solely on the basis of confidential or tipped information. A tip is still hearsay no matter how reliable it may be. It is not sufficient to constitute probable cause

in the absence of any other circumstance that will arouse suspicion."[59]

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

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

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

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

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

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

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

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

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

checkpoint, the arresting officers went ahead to initiate a search asking the driver about inspecting the vehicle. Only upon this insistence did the driver alight. It was also only upon a police officer's further prodding did he open the hood.

The records do not show, whether on the basis of indubitably established facts or the prosecution's mere allegations, that the three (3) people on board the pickup were acting suspiciously, or that there were other odd circumstances that could have prompted the police officers to conduct an extensive search. Evidently, the police officers relied solely on the radio message they received when they proceeded to inspect the vehicle.[69]

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

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

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

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

Without objective facts being presented here by which we can test the basis for the officers' suspicion about the block-shaped bundle contained marijuana, we should not give unquestioned acceptance and belief to such testimony. The mere subjective conclusions of the officers concerning the existence of probable cause is never binding on the court whose duty remains to "independently scrutinize the objective facts to determine the existence of probable cause," for, indeed, "the courts have never hesitated to overrule an officer's determination of probable cause when none exists."

But SPO2 Felizarte also claimed that it was about then when the accused-appellant panicked and tried to get down from the van, impelling him and PO1 Rosales to restrain her. Did such conduct on her part, assuming it did occur, give sufficient cause to search and to arrest?

For sure, the transfer made by the accused-appellant of the block-shaped bundle from one bag to another should not be cited to justify the search if the search had earlier commenced at the moment PO1 Rosales required her to produce her baggage. Neither should the officers rely on the still-unverified tip from the unidentified informant, without more, as basis to initiate the search of the personal effects. The officers were themselves well aware that the tip, being actually double hearsay as to them, called for independent verification as its substance and reliability, and removed the foundation for them to rely on it even under the circumstances then obtaining. In short, the tip, in the absence of other circumstances that would confirm their suspicion coming to the knowledge of the searching or arresting officer, was not yet actionable for purposes of effecting an arrest or conducting a search. [73]

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

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

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

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

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

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

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

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

C.

The Divergent Line of Jurisprudence

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

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

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

in a plastic wrapper inside the bag.

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

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

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

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

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

In *People v. Quebral*,^[84] the authorities did not solely rely on the police informer's report that two men and a woman on board an owner type jeep with a specific plate number would deliver shabu, a prohibited drug, at a Petron Gasoline Station in Balagtas, Bulacan. The authorities conducted a surveillance operation and personally saw the accused handing out a white envelope to her co-accused, a person included in the police's drug watch list.

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

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

In *People v. Solayao*,^[88] "police officers noticed a man who appeared drunk. This man was also 'wearing a

camouflage uniform or a jungle suit.' Upon seeing the police, the man fled. His flight added to the suspicion. After stopping him the police officers found an unlicensed 'homemade firearm' in his possession." [89]

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

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

However, in *Tampis*, as in the aforementioned jurisprudence, the police did not merely rely on information relayed by an informant. Prior to the warrantless search conducted, the police actually "conducted a surveillance on the intended place and saw both appellants packing the suspected marijuana leaves into a brown bag with the markings 'Tak Tak Tak Ajinomoto' inscribed on its side." [93] In *Tampis*, the authorities were able to personally witness the accused packing illegal drugs into the brown bag prior to the warrantless search and seizure.

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

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

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

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

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

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

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

Does *Carroll* support the notion that an unverified tipped information engenders probable cause? In *Carroll*, which

upheld the validity of a warrantless search of a vehicle used to transport contraband liquor in Michigan, the SCOTUS found that the warrantless search was justified in light of the following circumstances:

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

x x x x

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

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

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

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

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

In the case at bar, the NARCOM agents searched the bag of the accused on the basis alone of an information they received that a woman, 23 years of age with naturally curly hair, and 5'2" or 5'3" in height would be transporting marijuana. The extensive search was indiscriminately made on all the baggages of all passengers of the bus where the accused was riding, whether male or female, and whether or not their physical appearance answered the description of the suspect as described in the alleged information. If there really was such an information, as claimed by the NARCOM agents, it is a perplexing thought why they had to search the baggages of ALL passengers, not only the bags of those who appeared to answer the description of the woman suspected of carrying marijuana.

Moreover, the accused was not at all acting suspiciously when the NARCOM agents searched her bag, where they allegedly found the marijuana.

From the circumstances of the case at bar, it would seem that the NARCOM agents were only fishing for evidence when they searched the baggages of all the passengers, including that of the accused. They had no probable cause to reasonably believe that the accused was the woman carrying marijuana alluded to in the information they allegedly received. Thus, the warrantless search made on the personal effects of herein accused on the basis of mere information, without more, is to my mind bereft of probable cause and therefore, null and void. It follows that the marijuana seized in the course of such warrantless search was inadmissible in evidence.[100]

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

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

Adopting a contrary rule would set an extremely dangerous and perilous precedent wherein, on the sheer basis of an unverified information passed along by an alleged informant, the authorities are given the unbridled license to undertake extensive and highly intrusive searches, even in the absence of any overt circumstance that engenders a reasonable belief that an illegal activity is afoot.

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

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

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

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

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

Simply stated, the citizen's sanctified and heavily-protected right against unreasonable search and seizure will be at the mercy of phony tips. The right against unreasonable searches and seizures will be rendered hollow and meaningless. The Court cannot sanction such erosion of the Bill of Rights.

D.

The Absence of Probable Cause in the Instant Case

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

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

cannot reasonably produce probable cause that warrants the conduct of an intrusive search.

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

Q

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

A

The duty guard, sir.

Q

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

A

Yes, sir.

Q

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

A

Our duty guard just informed us the information, sir.

Q

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

A

Yes, sir.

Q

Who is you duty guard, Mr. Witness?

A

I cannot remember, sir.[104]

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

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

Q

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

A

Yes, sir.

Q

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

A

Not at that time, sir.[105]

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

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

Therefore, with the glaring absence of probable cause that justifies an intrusive warrantless search, considering that the police officers failed to rely on their personal knowledge and depended solely on an unverified and anonymous tip, the warrantless search conducted on accused-appellant Sapla was an invalid and unlawful search of a moving vehicle.

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

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

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

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

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

Invalid Consented Warrantless Search

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

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

The Court disagrees.

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

- It must appear that the rights exist;
- The person involved had knowledge, actual or constructive, of the existence of such right; and
- Said person had an actual intention to relinquish the right. [112]

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

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

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

The very recent case of *Yanson* is likewise instructive. As in the instant case, "Sison, [the therein accused] who was then unarmed, was prodded by the arresting officers to open the pickup's hood. His beguiling conformity is easily accounted by how he was then surrounded by police officers who had specifically flagged him and his companions down. He was under the coercive force of armed law enforcers. His consent, if at all, was clearly vitiated." [119]

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

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

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

The Exclusionary Rule or Fruit of the
Poisonous Tree Doctrine

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

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

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

Therefore, with the inadmissibility of the confiscated marijuana bricks, there is no more need for the Court to discuss the other issues surrounding the apprehension of accused-appellant Sapla, particularly the gaps in the chain of custody of the alleged seized marijuana bricks, which likewise renders the same inadmissible. The prosecution is left with no evidence left to support the conviction of accused-appellant Sapla. Consequently, accused-appellant Sapla is acquitted of the crime charged.

Epilogue

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

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

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

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

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

SO ORDERED.

Peralta, C. J., Perlas-Bernabe, Gesmundo, J. Reyes, Jr., and Hernando, JJ., concur.

Leonen, J., I concur. See separate opinion.

Carandang, J., I join the dissenting opinion of J. Javier and Justice Lopez.

[1] SECTION 14 (1), THE 1987 CONSTITUTION.

[2] See Notice of Appeal dated April 24, 2018; rollo, pp. 16-18.

[3] Id. at 2-15. Penned by Associate Justice Jane Aurora C. Lantion and concurred in by Associate Justices Remedios A. Salazar-Fernando and Zenaida T. Galapate-Laguilles.

[4] Second Division.

[5] Records, pp. 325-334. Penned by Presiding Judge Marcelino K. Wacas.

[6] Entitled "AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES," approved on June 7, 2002.

[7] Rollo, pp. 3-7. Emphasis in the original.

[8] Records, pp. 333-334.

[9] Rollo, p. 14.

[10] 458 Phil. 752-802 (2003).

[11] Id. at 788.

[12] Id. at 788-789.

[13] *People v. Cogaed*, 740 Phil. 212, 228 (2014), citing *Esquillo v. People*, 643 Phil. 577, 593 (2010).

[14] Id. at 228.

[15] *People v. Comprado*, G.R. No. 213225, April 4, 2018, 860 SCRA 420, 440. Italics supplied.

[16] Id.

[17] Id.

[18] Id. at 440-441. Emphasis supplied.

[19] Id. at 441.

[20] Id.

[21] 793 Phil. 505, 519 (2016).

[22] Id. at 519-520.

[23] Id. at 520. Emphasis and italics supplied.

[24] 264 Phil. 265 (1990).

[25] Id. at 266.

[26] 391 US 216, 20 L Ed 538, 88 S Ct 1472.

[27] 424 Phil. 263 (2002).

[28] Id. at 279.

[29] Rollo, p. 10.

[30] *Veridiano v. People*, 810 Phil. 642, 668 (2017). Emphasis, italics, and underscoring supplied.

[31] 378 U.S. 108 (1964).

[32] *Id.*

[33] *Id.* Emphasis supplied.

[34] 462 U.S. 213 (1983).

[35] *Id.*

[36] *Id.* Italics and underscoring supplied.

[37] 246 Phil. 424 (1988).

[38] *Id.* at 433-434.

[39] 326 Phil. 345 (1996).

[40] *Id.* at 363. Italics in the original.

[41] *Id.* at 361.

[42] *Id.* at 362.

[43] 345 Phil. 301-324 (1997).

[44] *Id.* at 318.

[45] *Id.* at 319.

[46] 351 Phil. 868 (1998).

[47] *Id.* at 885. Emphasis supplied.

[48] *Id.* Emphasis supplied.

[49] 740 Phil. 212 (2014).

[50] *Id.* at 231.

[51] *Id.*

[52] *Id.* at 232. Emphasis and underscoring supplied.

[53] *Id.* at 230. Emphasis and underscoring supplied.

[54] 643 Phil. 577, 606 (2010).

[55] *People v. Cogaed*, *supra* note 13, at 233-234.

[56] *Id.* at 234.

[57] *Supra* note 30.

[58] *Id.* at 665.

[59] *Id.* at 668. Emphasis supplied.

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

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

[62] *Id.*

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

[64] *Id.*

[65] *Id.*

[66] *Id.* Emphasis supplied.

[67] *Id.* Italics supplied.

[68] *Id.*

[69] *Id.*

[70] *Id.* Emphasis and underscoring supplied.

[71] *Id.*

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

[73] *Id.* Emphasis supplied.

[74] G.R. No. 215305, April 3, 2018, 860 SCRA 231, 256.

[75] *Id.* at 253. Underscoring supplied.

[76] *Id.* at 256.

[77] See *People v. Valdez*, 363 Phil. 481 (1999) and *People v. Mariacos*, 635 Phil. 315 (2010).

[78] 263 Phil. 106 (1990).

[79] 266 Phil. 815 (1990).

[80] 288 Phil. 828 (1992).

[81] 275 Phil. 447 (1991).

[82] *Id.*

[83] 588 Phil. 759 (2007).

[84] 621 Phil. 226 (2009).

[85] 306 Phil. 359 (1994).

[86] 345 Phil. 632 (1997).

[87] *People v. Aruta*, *supra* note 46, at 884.

[88] 330 Phil. 811 (1996).

[89] *People v. Cogaed*, supra note 13, at 230-231.

[90] 271 Phil. 120 (1991).

[91] 455 Phil. 371-385 (2003).

[92] *Id.* at 381.

[93] *Id.*

[94] *Id.*

[95] *Valmonte v. de Villa*, supra note 24, at 269.

[96] *Id.* at 270.

[97] 267 U.S. 132, 153 (1925).

[98] Supra note 80, at 836.

[99] Supra note 97.

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

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

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

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

[104] TSN, April 3, 2014, p. 22. Emphasis and underscoring supplied.

[105] *Id.* at p. 23.

[106] TSN, April 22, 2015, p. 15.

[107] *Id.* at 16.

[108] *People v. Veridiano*, supra note 30 at 662.

[109] 347 Phil. 462 (1997).

[110] *Id.* at 481.

[111] Rollo, p. 11.

[112] *People v. Tudtud*, supra note 10, at 785.

[113] *Id.* at 786. Emphasis and underscoring supplied.

[114] *People v. Aruta*, supra note 46.

[115] *People v. Encinada*, supra note 43.

[116] *People v. Tudtud*, supra note 10, at 786.

[117] Veridiano v. People, *supra* note 30, at 666. Emphasis supplied.

[118] *Id.* Emphasis supplied.

[119] *Supra* note 63.

[120] TSN dated May 8, 2014, p. 49. Italics supplied.

[121] People v. Comprado, *supra* note 15, at 441.

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

[123] *Id.*

[124] *Id.*

CONCURRING OPINION

LEONEN, J.:

I concur.

To aid courts in upholding the constitutional right against unreasonable searches, I revisit the doctrines regarding two (2) exceptions often invoked to justify warrantless searches of passengers on moving vehicles, such as the one in this case: first, stop-and-frisk searches based on probable cause, genuine reason, or reasonable suspicion; and second, the search of a moving vehicle.

I

Philippine doctrine on stop-and-frisk searches originates in the American case of *Terry v. Ohio*.^[1] In that case, the United States Supreme Court ruled on the admissibility of evidence obtained from a warrantless search of a person whose actions suggested to a police officer that he was casing a joint for a robbery. According to it, a limited search was permissible when preceded by unusual conduct that, by virtue of a police officer's experience, led him to reasonably conclude that criminal activity was afoot, and the person to be searched may have been armed and dangerous.^[2]

Terry was later cited in *Posadas v. Court of Appeals*.^[3] There, this Court held that to deem a warrantless search justified, a court must look into its reasonableness, which was, in turn, predicated on the presence of observable suspicious acts by the person to be searched:

Thus, as between a warrantless search and seizure conducted at military or police checkpoints and the search thereat in the case at bar, there is no question that, indeed, the latter is more reasonable considering that unlike in the former, it was effected on the basis of a probable cause. The probable cause is that when the petitioner acted suspiciously and attempted to flee with the buri bag there was a probable cause that he was concealing something illegal in the bag and it was the right and duty of the police officers to inspect the same.^[4]

This Court then cited *Terry* by way of quoting the following submission of the Solicitor General:

The assailed search and seizure may still be justified as akin to a "stop and frisk" situation whose object is either to determine the identity of a suspicious individual or to maintain the status quo momentarily while the police officer seeks to obtain more information. This is illustrated in the case of *Terry vs. Ohio*, 392 U.S. 1 (1968).... The United States Supreme Court held that "a police officer may in appropriate circumstances and in

an appropriate manner approach a person for the purpose of investigating possible criminal behavior even though there is no probable cause to make an arrest." In such a situation, it is reasonable for an officer rather than simply to shrug his shoulder and allow a crime to occur, to stop a suspicious individual briefly in order to determine his identity or maintain the status quo while obtaining more information[.][5]

Applying Terry to Posadas, this Court concluded that because of the petitioner's suspicious actions, it was reasonable for the police officers to believe that he was concealing something illegal in his bag, and thus, reasonable for them to search it.

In *People v. Solayao*,^[6] this Court upheld the validity of the warrantless search based on the circumstances that reasonably aroused the officers' suspicions: the accused looked drunk, wore a "camouflage uniform," and fled upon seeing the officers. It also considered the context within which the officers observed those suspicious actions: they were then verifying reports of armed persons roaming around the barangay at night.

Similarly, in *Manalili v. Court of Appeals*,^[7] this Court found that the police officers had sufficient reason to stop and search the petitioner after observing that he had red eyes, was wobbling like a drunk person, and was in an area that was frequented by drug addicts.

Refining the doctrine further, this Court in *Malacat v. Court of Appeals*^[8] emphasized that for a stop-and-frisk search to be reasonable, a police officer's suspicion must be based on a "genuine reason." In that case, the officer's claim that the petitioner was part of a group that had earlier attempted to bomb Plaza Miranda was unsupported by any supporting police report, record, or testimonies from other officers who chased that group. This Court also found that the petitioner's behavior—merely standing in a corner with his eyes "moving very fast" – could not be considered genuine reason.

The ponente of *Manalili*, Justice Artemio Panganiban, wrote a concurring opinion, elaborating further on the concept of genuine reason. Comparing and contrasting the facts in each case, he explained why the stop-and-frisk search in *Malacat* was founded on no genuine reason, yet the search in *Manalili* was:

Thus, when these specially trained enforcers saw *Manalili* with reddish eyes and walking in a wobbly manner characteristic of a person "high" on drugs per their experience, and in a known hangout of drug users, there was sufficient genuine reason to stop and frisk the suspect. It is well to emphasize that under different circumstances, such as where the policemen are not specially trained and in common places where people ordinarily converge, the same features displayed by a person will not normally justify a warrantless arrest or search on him.

The case before us presents such a situation. The policemen merely observed that *Malacat*'s eyes were moving very fast. They did not notice any bulges or packets about the bodies of these men indicating that they might be hiding explosive paraphernalia. From their outward look, nothing suggested that they were at the time armed and dangerous. Hence, there was no justification for a stop-and-frisk.^[9]

The concept of genuine reason as the basis for reasonable suspicion has been expounded upon further such that, in Philippine jurisprudence, an officer must observe more than one (1) circumstance, which when taken alone is apparently innocent, but when taken together with other circumstances, arouse suspicion.

In his dissent in *Esquillo v. People*,^[10] Justice Lucas Bersamin (Justice Bersamin) parsed the factual circumstances in cases where the police officers' suspicions were found reasonable, so as to justify a stop-and-frisk search. He concluded that "[t]he common thread of these examples is the presence of more than one seemingly innocent activity, which, taken together, warranted a reasonable inference of criminal activity."^[11]

Justice Bersamin's analysis was echoed in *People v. Cogaed*,^[12] which was in turn reiterated in a line of cases.^[13] In *Cogaed*, this Court agreed that "reliance on only one suspicious circumstance or none at all will not

result in a reasonable search." [14]

Thus, to not violate the constitutional right against unreasonable searches, a stop-and-frisk search must be based on suspicion, which, to be deemed reasonable, requires the presence of more than one (1) suspicious circumstance that aroused the officer's suspicion that criminal activity is afoot.

Considering this requirement, information provided by a confidential informant, without additional grounds for suspicion, is not enough to arouse suspicion that may be characterized as reasonable. That a person matches the informant's tip is not an additional circumstance separate from the fact that information was given. They are part and parcel of one (1) strand of information. Thus, assuming that a person arrives matching an informant's description, for an officer's suspicion of that person to be deemed reasonable, there must be another observed activity which, taken together with the tip, aroused such suspicion.

II

When warrantless searches target individuals who happen to be on motor vehicles, recognized exceptions pertaining to searches of motor vehicles are often invoked to justify them. These searches are valid only under specific circumstances, for exceptional reasons.

In *Valmonte v. De Villa*, [15] this Court considered the constitutionality of warrantless searches of motor vehicles at military checkpoints. In declining to hold that military checkpoints are per se unconstitutional, this Court observed that certain non-intrusive searches of motor vehicles are reasonable, and thus, need no warrant:

Where, for example, the officer merely draws aside the curtain of a vacant vehicle which is parked on the public fair grounds, or simply looks into a vehicle, or flashes a light therein, these do not constitute unreasonable search. [16] (Citations omitted)

Thus, this Court concluded that searches at military checkpoints may be valid, provided that they are conducted "within reasonable limits":

True, the manning of checkpoints by the military is susceptible of abuse by the men in uniform, in the same manner that all governmental power is susceptible of abuse. But, at the cost of occasional inconvenience, discomfort and even irritation to the citizen, the checkpoints during these abnormal times, when conducted within reasonable limits, are part of the price we pay for an orderly society and a peaceful community. [17]

Acting on a motion for reconsideration, this Court in its Resolution [18] in *Valmonte* clarified the limitations that must be observed:

Admittedly, the routine checkpoint stop does intrude, to a certain extent, on motorist's right to "free passage without interruption," but it cannot be denied that, as a rule, it involves only a brief detention of travellers during which the vehicle's occupants are required to answer a brief question or two. For as long as the vehicle is neither searched nor its occupants subjected to a body search, and the inspection of the vehicle is limited to a visual search, said routine checks cannot be regarded as violative of an individual's right against unreasonable search. [19] (Emphasis supplied, citation omitted)

Thus, as stated in *Valmonte*, to be deemed reasonable, a search of a motor vehicle at a checkpoint must be limited only to a visual search, and must not be extensive. A reasonable search at a routine checkpoint excludes extensive searches, absent other recognized exceptional circumstances leading to an extensive search.

This was reiterated in *Aniag, Jr. v. Commission on Elections*, [20] in which this Court declared a warrantless search made at a checkpoint illegal. This Court reiterated that warrantless searches of moving vehicles are reasonable when these are searches and "seizure of evidence in plain view"; [21] conversely, an extensive search is

not reasonable simply because it was conducted on a moving vehicle.

After observing that no genuine reason for suspicion was present in Ania, Jr., this Court considered whether the evidence seized was nonetheless admissible because of consent from the person searched. Rejecting the claim, this Court evaluated how the checkpoint was set up, as well as the circumstances of the person searched:

It may be argued that the seeming acquiescence of Arellano to the search constitutes an implied waiver of petitioner's right to question the reasonableness of the search of the vehicle and the seizure of the firearms.

While Resolution No. 2327 authorized the setting up of checkpoints, it however stressed that "guidelines shall be made to ensure that no infringement of civil and political rights results from the implementation of this authority," and that "the places and manner of setting up of checkpoints shall be determined in consultation with the Committee on Firearms Ban and Security Personnel created under Sec. 5, Resolution No. 2323." The facts show that PNP installed the checkpoint at about five o'clock in the afternoon of 13 January 1992. The search was made soon thereafter, or thirty minutes later. It was not shown that news of impending checkpoints without necessarily giving their locations, and the reason for the same have been announced in the media to forewarn the citizens. Nor did the informal checkpoint that afternoon carry signs informing the public of the purpose of its operation. As a result, motorists passing that place did not have any inkling whatsoever about the reason behind the instant exercise. With the authorities in control to stop and search passing vehicles, the motorists did not have any choice but to submit to the PNP's scrutiny. Otherwise, any attempt to turnabout albeit innocent would raise suspicion and provide probable cause for the police to arrest the motorist and to conduct an extensive search of his vehicle.

In the case of petitioner, only his driver was at the car at that time it was stopped for inspection. As conceded by COMELEC, driver Arellano did not know the purpose of the checkpoint. In the face of fourteen (14) armed policemen conducting the operation, driver Arellano being alone and a mere employee of petitioner could not have marshalled the strength and the courage to protest against the extensive search conducted in the vehicle. In such scenario, the "implied acquiescence," if there was any, could not be more than a mere passive conformity on Arellano's part to the search, and "consent" given under intimidating or coercive circumstances is no consent within the purview of the constitutional guaranty.[22] (Citations omitted)

The concept of consent to extensive warrantless searches was elaborated in *Dela Cruz v. People*,^[23] which involved routine security inspections conducted at a seaport terminal.

Citing *People v. Suzuki*,^[24] which recognized the reasonableness of airport security procedures, this Court in *Dela Cruz* likened seaports to airports and explained that the extensive inspections regularly conducted there proceed from the port personnel's "authority and policy to ensure the safety of travelers and vehicles within the port."^[25] In ports of travel, persons have a reduced expectation of privacy, due to public safety and security concerns over terrorism and hijacking. Travelers are generally notified that they and their baggage will be searched, and even subject to x-rays; as such, they are well aware ahead of time that they must submit to searches at the port. This Court pointed out that if the petitioner did not want his bag inspected, he could have opted not to travel.

The authority and policy of port personnel to ensure the safety of travelers, as with the resulting reduced expectation of privacy at a port of travel, distinguishes the search conducted in *Dela Cruz* from that in *Ania, Jr.* In *Ania, Jr.*, the petitioner's driver was stopped at a checkpoint that had only been installed 30 minutes prior, and he did not even know what it was for. In *Dela Cruz*, a traveler voluntarily submits to being searched at a port, informed of why it was being done. It may not have involved moving vehicle searches, but it articulates that a traveler consents to extensive searches at ports as a condition of entry, pursuant to recognized reasonable safeguards for ensuring the traveling public's safety.

Saluday v. People[26] extended this reasoning to cover warrantless searches of public buses. There, a bus was stopped at a military checkpoint and its male passengers were asked to disembark, while its female passengers were allowed to stay put. When a military task force member boarded the bus to inspect it, he noticed a small bag on the rear seat and lifted it, only to find it much heavier than it looked. Upon learning that the petitioner and his brother had been seated near the bag, he asked them to board the bus and open the bag. The petitioner obliged, revealing that the bag contained a gun, ammo, a hand grenade, and a 10-inch hunting knife.[27]

In deciding on whether the items were admissible in evidence, this Court separately evaluated the initial inspection, which consisted of merely lifting the suspicious bag; and the latter inspection, in which the officer inspected the bag after having it opened.

As to the initial inspection, this Court observed that, like in the ports of Suzuki and Dela Cruz, the traveling public's safety is a concern in buses. This moderates the expectation of privacy a person may reasonably have in that space. Given this, and considering that the act of lifting the bag was visual and minimally intrusive, this initial inspection was deemed reasonable.

As for the more extensive search of the bag's contents, this Court did not conclude that, because of security issues, it was reasonable. Its only basis for not rejecting the search as unreasonable was that, prior to the intrusive search, the officer obtained clear consent to open the bag:

When SCAA Bucu asked if he could open petitioner's bag, petitioner answered "yes, just open it" based on petitioner's own testimony. This is clear consent by petitioner to the search of the contents of his bag. In its Decision dated 26 June 2014, the Court of Appeals aptly held:

A waiver was found in *People v. Omaweng*. There, the police officers asked the accused if they could see the contents of his bag and he answered "you can see the contents but those are only clothings." When asked if they could open and see it, he said "you can see it." In the present case, accused-appellant told the member of the task force that "it was only a cellphone" when asked who owns the bag and what are its contents. When asked by the member of the task force if he could open it, accused-appellant told him "yes, just open it." Hence, as in *Omaweng*, there was a waiver of accused-appellant's right against warrantless search.[28] (Citation omitted)

Thus, although this Court in *Saluday* did not declare the evidence seized inadmissible, the intrusive search of the bag was not categorically found reasonable. It did not rule on the reasonableness of the intrusive search. Rather, the validity of the search was anchored on the waiver of the petitioner's right when he told the officer, "yes, just open [the bag]."[29]

III

Finally, in reference to the dissent, the guidelines laid down in *Saluday* would be sufficient to address those concerns. I quote:

Further, in the conduct of bus searches, the Court lays down the following guidelines. Prior to entry, passengers and their bags and luggages can be subjected to a routine inspection akin to airport and seaport security protocol. In this regard, metal detectors and x-ray scanning machines can be installed at bus terminals. Passengers can also be frisked. In lieu of electronic scanners, passengers can be required instead to open their bags and luggages for inspection, which inspection must be made in the passenger's presence. Should the passenger object, he or she can validly be refused entry into the terminal.

While in transit, a bus can still be searched by government agents or the security personnel of the bus owner in the following three instances. First, upon receipt of information that a passenger carries contraband or illegal articles, the bus where the passenger is aboard can be stopped en route to allow for an inspection of the person

and his or her effects. This is no different from an airplane that is forced to land upon receipt of information about the contraband or illegal articles carried by a passenger onboard. Second, whenever a bus picks passengers en route, the prospective passenger can be frisked and his or her bag or luggage be subjected to the same routine inspection by government agents or private security personnel as though the person boarded the bus at the terminal. This is because unlike an airplane, a bus is able to stop and pick passengers along the way, making it possible for these passengers to evade the routine search at the bus terminal. Third, a bus can be flagged down at designated military or police checkpoints where State agents can board the vehicle for a routine inspection of the passengers and their bags or luggages.

In both situations, the inspection of passengers and their effects prior to entry at the bus terminal and the search of the bus while in transit must also satisfy the following conditions to qualify as a valid reasonable search. First, as to the manner of the search, it must be the least intrusive and must uphold the dignity of the person or persons being searched, minimizing, if not altogether eradicating, any cause for public embarrassment, humiliation or ridicule. Second, neither can the search result from any discriminatory motive such as insidious profiling, stereotyping and other similar motives. In all instances, the fundamental rights of vulnerable identities, persons with disabilities, children and other similar groups should be protected. Third, as to the purpose of the search, it must be confined to ensuring public safety. Fourth, as to the evidence seized from the reasonable search, courts must be convinced that precautionary measures were in place to ensure that no evidence was planted against the accused.

The search of persons in a public place is valid because the safety of others may be put at risk. Given the present circumstances, the Court takes judicial notice that public transport buses and their terminals, just like passenger ships and seaports, are in that category.[30] (Emphasis in the original)

The facts in *Saluday* are not on all fours with this case. The initial search in *Saluday* was the third of the permissible searches of public vehicles in transit: the routine inspection at a military checkpoint. This case, on the other hand, is a targeted search of an individual on board a public vehicle based on an anonymous informant's tip.

It may be argued that this case falls under one (1) of the permissible searches of a public vehicle in transit: "upon receipt of information that a passenger carries contraband or illegal articles[.]"[31] Because the *Saluday* guidelines do not qualify "receipt of information," it may be tempting to say that when officers are told by anyone at all—an anonymous phone call and text message, in this case—that a passenger on a public vehicle is carrying anything illegal, they may stop the vehicle en route and intrusively search such passenger.

This, however, is ultimately untenable. The permitted searches in *Saluday* pertain to an exception to the general rule against warrantless searches, i.e., cases where the safety of others may be at risk. Courts must be more circumspect when invoking it, and law enforcers must not treat it as an expedient way to circumvent the Constitution. Before accepting that a search was permissible based on the received information, courts must at the very least evaluate the circumstances of the supposed information.

Even if this case had involved a permissible inspection upon receipt of information that a passenger is carrying contraband, the search would still not be deemed reasonable, as it failed to satisfy the conditions under the *Saluday* guidelines.

The guidelines require that the manner of search be the least intrusive, yet the search here involved an intrusive probing of the bag. The guidelines also require that the search be conducted only to ensure public safety; however, the search here was unequivocally made to apprehend a person who, as reported by an anonymous phone call and text message, was transporting marijuana. Finally, the guidelines require that "courts must be convinced that precautionary measures were in place to ensure that no evidence was planted against the accused," but there were no such measures here.

For all these reasons, I find the search conducted on accused-appellant Jerry Sapla y Guerrero a.k.a. Eric Salibad y Mallari unreasonable.

ACCORDINGLY, I concur.

[1] 392 U.S. 1 (1968).

[2] People v. Cristobal, G.R. No. 234207, June 10, 2019, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65317>> [Per J. Caguioa, Second Division].

[3] 266 Phil. 306 (1990) [Per J. Gancayco, First Division].

[4] Id. at 311-312.

[5] Id. at 312-313.

[6] 330 Phil. 811 (1996) [Per J. Romero, Second Division].

[7] 345 Phil. 632 (1997) [Per J. Panganiban, Third Division].

[8] 347 Phil. 462 (1997) [Per J. Davide, Jr., En Banc].

[9] Id. at 489-490.

[10] 643 Phil. 577 (2010) [Per J. Carpio Morales, Third Division].

[11] Id. at 606.

[12] 740 Phil. 212 (2014) [Per J. Leonen, Third Division].

[13] Sanchez v. People, 747 Phil. 552 (2014) [Per J. Mendoza, Second Division]; Veridiano v. People, 810 Phil. 642 (2017) [Per J. Leonen, Second Division]; and People v. Comprado, G.R. No. 213225, April 4, 2018, 860 SCRA 420 [Per J. Martires, Third Division].

[14] Id. at 233-234 citing J. Bersamin, Dissenting Opinion in Esquillo v. People, 643 Phil. 577 (2010) [Per J. Carpio Morales, Third Division].

[15] 258 Phil. 838 (1989) [Per J. Padilla, En Banc].

[16] Id. at 843.

[17] Id. at 844.

[18] 264 Phil. 265 (1990) [Per J. Padilla, En Banc].

[19] Id. at 270.

[20] 307 Phil. 437 (1994) [Per J. Bellosillo, En Banc].

[21] Id. at 448.

[22] Id. at 450-451.

[23] 776 Phil. 653 (2016) [Per J. Leonen, Second Division].

[24] 460 Phil. 146 (2003) [Per J. Sandoval-Gutierrez, En Banc].

[25] *Dela Cruz v. People*, 776 Phil. 653, 684 (2016) [Per J. Leonen, Second Division].

[26] G.R. No. 215305, April 3, 2018, 860 SCRA 231 [Per Acting C.J. Carpio, En Banc].

[27] *Id.* at 237.

[28] *Id.* at 254-255.

[29] *Id.* at 254.

[30] *Id.* at 255-257.

[31] *Id.* at 256.

DISSENTING OPINION

LAZARO-JAVIER, J.:

This case involves a police operation that netted a sack of almost four (4) kilos of marijuana. The Majority acquit appellant based on what essentially is the distrust in the reasonableness of the police officers' on--the-spot judgment call. It is my hope that the decision reached in this case does not dishearten the legitimate enthusiasm of our police forces in law enforcement.

The Majority set aside appellant's conviction for transportation of dangerous drugs in violation of Section 5, Article II of Republic Act 9165 (RA 9165) on ground that the apprehending officers violated appellant's constitutional right against unreasonable searches and seizures; hence, the drugs seized from him were inadmissible in evidence.

With due respect, I cannot concur in the decision to acquit appellant of the charge of transporting almost four (4) kilos of marijuana through a public jeepney as the lower courts' rulings were fully consistent with valid and binding jurisprudence.

First, the ponencia prefaces with this question:

Can the police conduct a warrantless intrusive search of a vehicle on the sole basis of an unverified tip relayed by an anonymous informant?

In the first place, the police officers here did not conduct an intrusive search of the passenger jeepney. The object of their surveillance and search was targeted to a very specific individual.

Secondly, the police officers did not rely on an unverified tip. The tip was verified by a subsequent tip describing in detail the person who was actually riding the passenger jeepney and the sack he was actually carrying. The tip was also verified by the exact match of the tip with the description of the passenger whom the police officers were targeting and actually approached.

Thirdly, the police officers were not just relying on the "tip." They were acting as well on the bases of the exact match as stated and their professional experience as regards the route plied by the passenger jeepney. It is not as if the police officers were guarding the premises of a religious institution where the transportation or even possession of marijuana would most likely be improbable. The police officers were situated along the silk road of marijuana transportation that the police officers could not have lightly ignored. Further, the police officers relied upon their personal knowledge of what they were then perceiving to be a suspicious bulky sack and the actual contents thereof through a visual and minimally intrusive observation thereof after appellant's act of opening this

sack. Appellant did not even protest that he was carrying only camote crops or cauliflower or broccoli or smoked meat, had this been the case.

Fourthly, there was urgency in conducting the search because appellant was then a passenger in a passenger jeepney en route to another province. The same exceptional urgency involved in the warrantless search of a motor vehicle carries over to the search of a targeted passenger and a targeted baggage of the passenger in the moving vehicle. It is not feasible to obtain a search warrant in the situation presented to the police officers in the present case, especially where the passenger jeepney is in the process of crossing boundaries of court jurisdictions.

Clearly, the police officers did not just rely upon one (1) suspicious circumstance and certainly not just upon the "tip." This is not a case where a "mere passenger in a jeepney who did not exhibit any act that would give police officers reasonable suspicion to believe that he had drugs in his possession. x x x There was no evidence to show that the police had basis or personal knowledge that would reasonably allow them to infer anything suspicious." A tip is not sufficient to constitute probable cause ONLY in the absence of any other circumstance that will arouse suspicion. But that is not the situation here.

Second, I do not agree that "our constitutional order does not adopt a stance of neutrality," especially this statement "the law is heavily in favor of the accused,"[1] which then cites the presumption of innocence.

To begin with, the reference to the presumption of innocence is inappropriate.

We do not deal here with the calibration of evidence on the merits of the accusation against appellant. The right to be presumed innocent and the concomitant burden of the prosecution to prove guilt beyond a reasonable doubt do not therefore come into play.

The burden of the prosecution was only to prove the search to be reasonable – the standard of proof is simply one of probable cause. Probable cause requires a fair probability that contraband or evidence of a crime will be found – whether a fair-minded evaluator would have reason to find it more likely than not that a fact (or ultimate fact) is true, which is quantified as a fifty-one percent (51%) certainty standard (using whole numbers as the increment of measurement).[2] What probable cause entails was described sharply in this manner:

The Court of Appeals held that the DEA agents seized respondent when they grabbed him by the arm and moved him back onto the sidewalk. 831 F.2d at 1416. The Government does not challenge that conclusion, and we assume – without deciding – that a stop occurred here. Our decision, then, turns on whether the agents had a reasonable suspicion that respondent was engaged in wrongdoing when they encountered him on the sidewalk. In *Terry v. Ohio*, 392 U.S. 1, 392 U.S. 30 (1968), we held that the police can stop and briefly detain a person for investigative purposes if the officer has a reasonable suspicion supported by articulable facts that criminal activity "may be afoot," even if the officer lacks probable cause.

The officer, of course, must be able to articulate something more than an "inchoate and unparticularized suspicion or hunch." *Id.* at 27. The Fourth Amendment requires "some minimal level of objective justification" for making the stop. *INS v. Delgado*, 466 U.S. 210, 466 U.S. 217 (1984). That level of suspicion is considerably less than proof of wrongdoing by a preponderance of the evidence. We have held that probable cause means "a fair probability that contraband or evidence of a crime will be found," *Illinois v. Gates*, 462 U.S. 213, 462 U.S. 238 (1983), and the level of suspicion required for a *Terry* stop is obviously less demanding than that for probable cause, see *United States v. Montoya de Hernandez*, 473 U.S. 531, 473 U.S. 541, 473 U.S. 544 (1985).

The concept of reasonable suspicion, like probable cause, is not "readily, or even usefully, reduced to a neat set of legal rules." *Gates*, *supra*, at 462 U.S. 232. We think the Court of Appeals' effort to refine and elaborate the requirements of "reasonable suspicion" in this case creates unnecessary difficulty in dealing with one of the relatively simple concepts embodied in the Fourth Amendment. In evaluating the validity of a stop such as this,

we must consider "the totality of the circumstances – the whole picture." *United States v. Cortez*, 449 U.S. 411, 449 U.S. 417 (1981). As we said in *Cortez*:

"The process does not deal with hard certainties, but with probabilities. Long before the law of probabilities was articulated as such, practical people formulated certain common sense conclusions about human behavior; jurors as fact finders are permitted to do the same – and so are law enforcement officers." [3]

Further, the statement does disservice to years of jurisprudence that, while recognizing the Bill of Rights to be a check on government power, has taken stock of the varying interests that require balancing if not accommodation. Effective law enforcement is a legitimate interest that is not less favored by the law.

Certainly, the Court cannot quantify the legal rights of one (1) subset of our community to be heavily favored when the Court has not established a weighing scale by which to measure its validity, accuracy, and reliability.

The statement chills our law enforcers from doing their job in good faith of enforcing the law and keeping peace and order, and emboldens criminally-disposed persons to commit crimes as they please, because in any event the law would lend these criminal enterprises the veneer of protection that law-abiding citizens do not have. We cannot nonchalantly refuse to see the totality of circumstances, and choose to close our eyes to the whole picture and the common sense conclusions about human behavior.

Third, the case law research of the ponencia is quite impressive. Yet, it seems to have missed on a golden opportunity to refine the motor vehicle exemption to the warrant requirement.

We all agree that the motor vehicle exemption emanated from outside jurisprudence, particularly the United States. But as early as 1991, at least in that jurisdiction, the motor vehicle exemption has undergone refinements that our own jurisprudence has adopted implicitly if not expressly.

In *California v. Acevedo*, 500 U.S. 565 (1991), [4] the United States Supreme Court considered the motor vehicle exemption to the warrant requirement of its Fourth Amendment and its application to the search of a closed container within the motor vehicle.

Acevedo is keenly relevant to our present case because the police targeted not exactly the passenger jeepney in which our transporter of four (4) kilos of marijuana but the transporter and more particularly the sack in which the four (4) kilos of marijuana was being stored for transportation.

Acevedo ruled that the motor vehicle exemption extends to containers carried by passengers inside a moving vehicle, even if there is no probable cause to search the motor vehicle itself and the probable cause and the interest of the police officers has been piqued only by the circumstances of the passenger and the container he or she is carrying and transporting. As held in *Acevedo*:

[W]e now hold that the Fourth Amendment does not compel separate treatment for an automobile search that extends only to a container within the vehicle....

The interpretation of the Carroll doctrine set forth in *Ross* now applies to all searches of containers found in an automobile. In other words, the police may search without a warrant if their search is supported by probable cause. The Court in *Ross* put it this way:

"The scope of a warrantless search of an automobile... is not defined by the nature of the container in which the contraband is secreted. Rather, it is defined by the object of the search and the places in which there is probable cause to believe that it may be found."

....

Until today, this Court has drawn a curious line between the search of an automobile that coincidentally turns up a container and the search of a container that coincidentally turns up in an automobile. The protections of the Fourth Amendment must not turn on such coincidences. We therefore interpret *Carroll* as providing one rule to govern all automobile searches. The police may search an automobile and the containers within it where they have probable cause to believe contraband or evidence is contained.

Indeed, the distinction between probable cause as to the motor vehicle and probable cause as to the specific person and his or her specific container actually endangers the privacy interest that the right against unreasonable searches and seizures protects. *Acevedo* succinctly explains:

The line between probable cause to search a vehicle and probable cause to search a package in that vehicle is not always clear, and separate rules that govern the two objects to be searched may enable the police to broaden their power to make warrantless searches and disserve privacy interests. We noted this in *Ross* in the context of a search of an entire vehicle. Recognizing that, under *Carroll*, the "entire vehicle itself... could be searched without a warrant," we concluded that "prohibiting police from opening immediately a container in which the object of the search is most likely to be found, and instead forcing them first to comb the entire vehicle, would actually exacerbate the intrusion on privacy interests."

At the moment when officers stop an automobile, it may be less than clear whether they suspect with a high degree of certainty that the vehicle contains drugs in a bag or simply contains drugs. If the police know that they may open a bag only if they are actually searching the entire car, they may search more extensively than they otherwise would in order to establish the general probable cause required by *Ross*.

Such a situation is not far-fetched.... We cannot see the benefit of a rule that requires law enforcement officers to conduct a more intrusive search in order to justify a less intrusive.

In greater detail, *Acevedo* ruled thus:

The facts in this case closely resemble the facts in *Ross*. In *Ross*, the police had probable cause to believe that drugs were stored in the trunk of a particular car. See 456 U.S. at 456 U. S. 800. Here, the California Court of Appeal concluded that the police had probable cause to believe that respondent was carrying marijuana in a bag in his car's trunk. Furthermore, for what it is worth, in *Ross*, as here, the drugs in the trunk were contained in a brown paper bag.

This Court in *Ross* rejected *Chadwick's* distinction between containers and cars. It concluded that the expectation of privacy in one's vehicle is equal to one's expectation of privacy in the container, and noted that "the privacy interests in a car's trunk or glove compartment may be no less than those in a movable container." 456 U.S. at 456 U.S. 823. It also recognized that it was arguable that the same exigent circumstances that permit a warrantless search of an automobile would justify the warrantless search of a movable container. *Id.* at 456 U.S. 809. In deference to the rule of *Chadwick* and *Sanders*, however, the Court put that question to one side. *Id.* at 456 U.S. 809-810. It concluded that the time and expense of the warrant process would be misdirected if the police could search every cubic inch of an automobile until they discovered a paper sack, at which point the Fourth Amendment required them to take the sack to a magistrate for permission to look inside. We now must decide the question deferred in *Ross*: whether the Fourth Amendment requires the police to obtain a warrant to open the sack in a movable vehicle simply because they lack probable cause to search the entire car. We conclude that it does not.

IV

Dissenters in *Ross* asked why the suitcase in *Sanders* was "more private, less difficult for police to seize and store, or in any other relevant respect more properly subject to the warrant requirement, than a container that police discover in a probable cause search of an entire automobile?"

We now agree that a container found after a general search of the automobile and a container found in a car after a limited search for the container are equally easy for the police to store and for the suspect to hide or destroy. In fact, we see no principled distinction in terms of either the privacy expectation or the exigent circumstances between the paper bag found by the police in *Ross* and the paper bag found by the police here. Furthermore, by attempting to distinguish between a container for which the police are specifically searching and a container which they come across in a car, we have provided only minimal protection for privacy, and have impeded effective law enforcement.

....

To the extent that the *Chadwick-Sanders* rule protects privacy, its protection is minimal. Law enforcement officers may seize a container and hold it until they obtain a search warrant. "Since the police, by hypothesis, have probable cause to seize the property, we can assume that a warrant will be routinely forthcoming in the overwhelming majority of cases."

And the police often will be able to search containers without a warrant, despite the *Chadwick-Sanders* rule, as a search incident to a lawful arrest. In *New York v. Belton*, 453 U.S. 454 (1981), the Court said: "[W]e hold that, when a policeman has made a lawful custodial arrest of the occupant of an automobile, he may, as a contemporaneous incident of that arrest, search the passenger compartment of that automobile." "It follows from this conclusion that the police may also examine the contents of any containers found within the passenger compartment."

Under *Belton*, the same probable cause to believe that a container holds drugs will allow the police to arrest the person transporting the container and search it.

Finally, the search of a paper bag intrudes far less on individual privacy than does the incursion sanctioned long ago in *Carroll*. In that case, prohibition agents slashed the upholstery of the automobile. This Court nonetheless found their search to be reasonable under the Fourth Amendment. If destroying the interior of an automobile is not unreasonable, we cannot conclude that looking inside a closed container is. In light of the minimal protection to privacy afforded by the *Chadwick-Sanders* rule, and our serious doubt whether that rule substantially serves privacy interests, we now hold that the Fourth Amendment does not compel separate treatment for an automobile search that extends only to a container within the vehicle.

V

The *Chadwick-Sanders* rule not only has failed to protect privacy, but it has also confused courts and police officers and impeded effective law enforcement. The conflict between the *Carroll* doctrine cases and the *Chadwick-Sanders* line has been criticized in academic commentary....

Although we have recognized firmly that the doctrine of *stare decisis* serves profoundly important purposes in our legal system, this Court has overruled a prior case on the comparatively rare occasion when it has bred confusion or been a derelict or led to anomalous results.... We conclude that it is better to adopt one clear-cut rule to govern automobile searches and eliminate the warrant requirement for closed containers set forth in *Sanders*.

VI

The interpretation of the *Carroll* doctrine set forth in *Ross* now applies to all searches of containers found in an automobile. In other words, the police may search without a warrant if their search is supported by probable cause. The Court in *Ross* put it this way:

"The scope of a warrantless search of an automobile... is not defined by the nature of the container in which the contraband is secreted. Rather, it is defined by the object of the search and the places in which there is probable cause to believe that it may be found."

"Probable cause to believe that a container placed in the trunk of a taxi contains contraband or evidence does not justify a search of the entire cab."

We reaffirm that principle. In the case before us, the police had probable cause to believe that the paper bag in the automobile's trunk contained marijuana. That probable cause now allows a warrantless search of the paper bag. The facts in the record reveal that the police did not have probable cause to believe that contraband was hidden in any other part of the automobile and a search of the entire vehicle would have been without probable cause and unreasonable under the Fourth Amendment.

Our holding today neither extends the Carroll doctrine nor broadens the scope of the permissible automobile search delineated in Carroll, Chambers, and Ross. It remains a "cardinal principle that 'searches conducted outside the judicial process, without prior approval by judge or magistrate, are per se unreasonable under the Fourth Amendment – subject only to a few specifically established and well-delineated exceptions.'"

We held in Ross: "The exception recognized in Carroll is unquestionably one that is specifically established and well delineated."

Until today, this Court has drawn a curious line between the search of an automobile that coincidentally turns up a container and the search of a container that coincidentally turns up in an automobile. The protections of the Fourth Amendment must not turn on such coincidences. We therefore interpret Carroll as providing one rule to govern all automobile searches. The police may search an automobile and the containers within it where they have probable cause to believe contraband or evidence is contained.

The judgment of the California Court of Appeal is reversed, and the case is remanded to that court for further proceedings not inconsistent with this opinion.

Fourth, the Acevedo doctrine has been adopted in our jurisprudence, consciously or unconsciously as a matter of common sense, under the rubric of a valid warrantless search of a moving public utility vehicle.

Saluday v. People,[5] discussed below in greater detail, is one (1) such pinpoint example confirming the validity of the ruling and reasoning in Acevedo.

There is no dispute that the search of a moving vehicle is a jurisprudentially recognized exception to the rule that a search to be valid must be pursuant to a court-issued warrant.

The ponencia, however, insists that there was no valid search of a moving vehicle in this case, citing the following discussion in People v. Comprado:[6]

The search in this case, however, could not be classified as a search of a moving vehicle. In this particular type of search, the vehicle is the target and not a specific person. Further, in search of a moving vehicle, the vehicle was intentionally used as a means to transport illegal items. It is worthy to note that the information relayed to the police officers was that a passenger of that particular bus was carrying marijuana such that when the police officers boarded the bus, they searched the bag of the person matching the description given by their informant and not the cargo or contents of the said bus. Moreover, in this case, it just so happened that the alleged drug courier was a bus passenger. To extend to such breadth the scope of searches on moving vehicles would open the floodgates to unbridled warrantless searches which can be conducted by the mere expedient of waiting for the target person to ride a motor vehicle, setting up a checkpoint along the route of that vehicle, and then stopping such vehicle when it arrives at the checkpoint in order to search the target person.[7]

This restrictive definition of a search of a moving vehicle is found in no other judicial precedent and in fact, Comprado cites none. Comprado abides by a reasoning that has long been rejected from where we have obtained our motor vehicle exemption.

Our prevailing jurisprudence is, to be sure, contrary to what Comprado implies – which is that, as held in

Comprado, if the confidential tip describes with particularity the person and the baggage to be searched, aside from giving a description of the vehicle, then the search conducted is no longer a search of a moving vehicle but a search of a particular person and his or her baggage, and that unless an accused is proved to have "intentionally used" the vehicle to transport illegal drugs, the motor vehicle exemption would not apply.

I cannot subscribe to this narrow definition laid down in Comprado as it ignores well-settled jurisprudence.

To be sure, the only case cited by Comprado in relation to searches of moving vehicles, *People v. Libnao*,^[8] in fact enumerates the varied types of situations that are considered valid searches of moving vehicles, including those involving persons "targeted" based on a description given by an informant/agent, to wit:

In earlier decisions, we held that there was probable cause in the following instances: (a) where the distinctive odor of marijuana emanated from the plastic bag carried by the accused;^[9] (b) where an informer positively identified the accused who was observed to be acting suspiciously; (c) where the accused who were riding a jeepney were stopped and searched by policemen who had earlier received confidential reports that said accused would transport a quantity of marijuana;^[10] (d) where Narcom agents had received information that a Caucasian coming from Sagada, Mountain Province had in his possession prohibited drugs and when the Narcom agents confronted the accused Caucasian because of a conspicuous bulge in his waistline, he failed to present his passport and other identification papers when requested to do so; (f) where the moving vehicle was stopped and searched on the basis of intelligence information and clandestine reports by a deep penetration agent or spy – one who participated in the drug smuggling activities of the syndicate to which the accused belong – that said accused were bringing prohibited drugs into the country;^[11] (g) where the arresting officers had received a confidential information that the accused, whose identity as a drug distributor was established in a previous test-buy operation, would be boarding MV Dona Virginia and probably carrying shabu with him;^[12] (h) where police officers received an information that the accused, who was carrying a suspicious - looking gray luggage bag, would transport marijuana in a bag to Manila;^[13] and (i) where the appearance of the accused and the color of the bag he was carrying fitted the description given by a civilian asset.^[14]

An example of a warrantless search on a moving vehicle based on details given by an informant can be found in *People v. Mariacos*.^[15] What should be emphasized is that the ruling in Comprado handed down by the Court's Third Division did not expressly reverse previous doctrine on warrantless searches of moving vehicles since a Division of this Court has no power to do so.

I see no compelling reason for the Court En Banc to adopt the impractical restrictions imposed in Comprado.

Does the Court mean to require a search warrant if a specifically described person and baggage reasonably suspected to be carrying illegal drugs does so on a moving vehicle?

But this artificial distinction has long been discarded in the United States, where we took our motor vehicle exemption.

How exactly is the prosecution supposed to prove that a public or private vehicle was intentionally chosen to transport dangerous drugs if the mere apprehension of the accused possessing dangerous drugs in flagrante on such moving vehicle does not suffice?

We cannot perpetuate a rule that has long lost its vitality.

To stress, Acevedo provides a stirring counterpoint to a rule that the ponencia seeks to memorialize:

Although we have recognized firmly that the doctrine of stare decisis serves profoundly important purposes in our legal system, this Court has overruled a prior case on the comparatively rare occasion when it has bred confusion or been a derelict or led to anomalous results.... We conclude that it is better to adopt one clear-cut rule to govern automobile searches and eliminate the warrant requirement for closed containers set forth in

Sanders.

Fifth, jurisprudence likewise recognizes the validity of warrantless searches and arrests based on a tip from a confidential informant as a legitimate basis for a police officer's determination of probable cause.

Notably, here, this tip is not just a whimsical tip but objectified by these circumstances:

- (i) the police officers' long experience in dealing with marijuana coming from this route in northern Luzon;
- (ii) the fact that appellant was a passenger on board a moving public jeepney crossing provincial boundaries; and
- (iii) photographs of the bricks of marijuana show that they were of such size and bulk that they were readily the most conspicuous items in the blue sack, and therefore, no "probing" of the sack's contents would have even been necessary.

It is conceded that although searches of moving vehicles may be done without warrant, police officers do not have unlimited discretion in the conduct of such searches. As we held in *People v. Tuazon*:^[16]

Nevertheless, the exception from securing a search warrant when it comes to moving vehicles does not give the police authorities unbridled discretion to conduct a warrantless search of an automobile. To do so would render the aforementioned constitutional stipulations inutile and expose the citizenry to indiscriminate police distrust which could amount to outright harassment. Surely, the policy consideration behind the exemption of search of moving vehicles does not encompass such arbitrariness on the part of the police authorities. In recognition of the possible abuse, jurisprudence dictates that at all times, it is required that probable cause exist in order to justify the warrantless search of a vehicle. (Emphasis supplied.)

While the ponencia was able to cite jurisprudence to the effect that tipped information is insufficient and police officers must have personal knowledge of facts giving them probable cause to conduct a search, the Court also cannot simply disregard long standing jurisprudence holding that probable cause may be based on reliable, confidential information received by police.

In *People v. Bagista*,^[17] we ruled that the officers involved had probable cause to stop and search all vehicles coming from the north at Acop, Tublay, Benguet in view of the confidential information they had received that a woman having the same appearance as that of accused would be bringing marijuana from up north. They likewise had probable cause to search accused's belongings since she fit the description provided by the informant.

We have also upheld the warrantless search in *People v. Valdez*^[18] where a police officer was informed by a civilian asset that a thin Ilocano person with a green bag was about to transport marijuana on a public bus from Banaue, Ifugao. That the search targeted a specifically described individual was even the basis for the reasonableness of the search, viz.:

Said information was received by SPO1 Mariano the very same morning he was waiting for a ride in Banaue to report for work in Lagawe, the capital town of Ifugao province. Thus, faced with such on-the-spot information, the law enforcer had to respond quickly to the call of duty. Obviously, there was not enough time to secure a search warrant considering the time involved in the process. In fact, in view of the urgency of the case, SPO1 Mariano together with the civilian "asset" proceeded immediately to Hingyon, Ifugao to pursue the drug trafficker. In Hingyon, he flagged down buses bound for Baguio City and Manila, and looked for the person described by the informant. It must be noted that the target of the pursuit was just the "thin Ilocano person with a green bag" and no other. And so, when SPO1 Mariano inspected the bus bound for Manila, he just singled out the passenger with the green bag. Evidently, there was definite information of the identity of the person engaged in transporting prohibited drugs at a particular time and place. SPO1 Mariano had already an inkling of the identity of the person he was looking for. As a matter of fact, no search at all was conducted on the baggages of other passengers. Hence, appellant's claim that the arresting officer was only fishing for evidence

of a crime has no factual basis.

In that case, we deemed the accused caught in flagrante since he was carrying marijuana at the time of his arrest.

In *People v. Mariacos*,^[19] we justified the warrantless search of a jeepney in this wise:

It is well to remember that on October 26, 2005, the night before appellant's arrest, the police received information that marijuana was to be transported from Barangay Balbalayang, and had set up a checkpoint around the area to intercept the suspects. At dawn of October 27, 2005, PO2 Pallayoc met the secret agent from the Barangay Intelligence Network, who informed him that a baggage of marijuana was loaded on a passenger jeepney about to leave for the poblacion. Thus, PO2 Pallayoc had probable cause to search the packages allegedly containing illegal drugs.

Meanwhile, in *People v. Quebral*,^[20] where police officers acted on an informer's report that two (2) men and a woman on board an owner type jeep with a specific plate number would deliver shabu at a gas station, we explained:

As the lower court aptly put it in this case, the law enforcers already had an inkling of the personal circumstances of the persons they were looking for and the criminal act they were about to commit. That these circumstances played out in their presence supplied probable cause for the search. The police acted on reasonable ground of suspicion or belief supported by circumstances sufficiently strong in themselves to warrant a cautious man to believe that a crime has been committed or is about to be committed. Since the seized shabu resulted from a valid search, it is admissible in evidence against the accused. (Emphasis supplied.)

The citations may go on and on.^[21] From the foregoing cases, it is clear that police officers, acting on a tip from an informant, may lawfully apprehend drug offenders.

This doctrine has not been abandoned.

The United States cases cited in the ponencia, *Aguilar v. Texas*,^[22] *U.S. v. Ventresca*,^[23] and *Illinois v. Gates*^[24] are not on all fours with this case.

To begin with, these United States cases involved probable cause for issuance of a search warrant by a court while here we are discussing the search of a moving vehicle, an accepted exception to the need to secure a court-issued search warrant.

For another, *Aguilar* and *Ventresca* involved the search of a house while *Illinois* involved the search of a house and a private vehicle purportedly regularly used to transport illegal drugs. Thus, in *Aguilar* and *Illinois*, police officers would have had time to investigate further the veracity of the tip received perhaps through a surveillance or a test buy. *Ventresca* did not even involve an anonymous tip but concerned an investigator's affidavit which was used as basis for the issuance of a search warrant but was assailed as being partly hearsay for some of the information therein was gathered by fellow investigators. *Ventresca* is hardly even relevant here at all.

Still, a careful reading of *Illinois* demonstrates that United States jurisprudence does not prohibit law enforcement officers from relying on anonymous tips, even when they may constitute hearsay. *Illinois* even expressly abandoned the rigid two (2)-pronged test under *Aguilar* requiring that "(1) the informant's 'basis of knowledge' be revealed and (2) sufficient facts to establish either the informant's 'veracity' or the 'reliability' of the informant's report must be provided."^[25] Instead, it held that "[w]hile a conscientious assessment of the basis for crediting such tips is required by the Fourth Amendment, a standard that leaves virtually no place for anonymous citizen informants is not."^[26]

To be sure, *Illinois* in proposing the "totality of circumstances test" merely recognized that corroboration of

details of an informant's tip by prior independent police work bolstered the veracity of the tip but it was not requisite to a finding of probable cause. Illinois also amply discussed the evidentiary value of on-site verification of the accuracy of the anonymous information received by the police, to wit:

The corroboration of the letter's predictions that the Gateses' car would be in Florida, that Lance Gates would fly to Florida in the next day or so, and that he would drive the car north toward Bloomington all indicated, albeit not with certainty, that the informant's other assertions also were true. "[B]ecause an informant is right about some things, he is more probably right about other facts"[27] x x x including the claim regarding the Gateses' illegal activity.[28]

Relating this principle to the present case, the anonymous tip received by the police officers turned out to be accurate as their on-site investigation showed. There was a passenger jeepney with plate number AYA 270 bound for Roxas, Isabela that passed through their checkpoint. There was a man on board fitting the description in the anonymous tip who had a blue sack. That blue sack indeed contained illegal drugs, a large and hard to ignore quantity of it. All of these facts came to the personal knowledge of the arresting officers upon investigation of the tip.

In Illinois, the United States Supreme Court aptly observed:

This totality-of-the-circumstances approach is far more consistent with our prior treatment of probable cause than is any rigid demand that specific "tests" be satisfied by every informant's tip. Perhaps the central teaching of our decisions bearing on the probable cause standard is that it is a "practical, nontechnical conception."

In dealing with probable cause,... as the very name implies, we deal with probabilities. These are not technical; they are the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act. Our observation in *United States v. Cortez*, regarding "particularized suspicion," is also applicable to the probable cause standard:

"The process does not deal with hard certainties, but with probabilities. Long before the law of probabilities was articulated as such, practical people formulated certain common sense conclusions about human behavior; jurors as factfinders are permitted to do the same – and so are law enforcement officers. Finally, the evidence thus collected must be seen and weighed not in terms of library analysis by scholars, but as understood by those versed in the field of law enforcement."

As these comments illustrate, probable cause is a fluid concept – turning on the assessment of probabilities in particular factual contexts – not readily, or even usefully, reduced to a neat set of legal rules. Informants' tips doubtless come in many shapes and sizes from many different types of persons. As we said in *Adams v. Williams*:

"Informants' tips, like all other clues and evidence coming to a policeman on the scene, may vary greatly in their value and reliability."

Rigid legal rules are ill-suited to an area of such diversity. "One simple rule will not cover every situation." [29] (Emphasis supplied; citations omitted.)

The ponencia acknowledges that jurisprudence on this matter is divergent but has now set in stone that a confidential tip is insufficient to establish probable cause to conduct a warrantless search. It holds that despite the detailed nature of a tip, it must be accompanied by other circumstances that come to the arresting officers' personal knowledge, such as the observation that the person might be a drug user as in *People v. Manalili*[30] or was otherwise acting suspiciously as in *People v. Tangliben*[31] and the other cases cited in the ponencia.

The ponencia's reasoning, however, is based on the assumption that drug couriers are all drug users or would all act suspiciously while in the act of committing the crime of possession of illegal drugs.

We have long recognized that people may act differently in the same situation.[32] This is true not only in the

case of victims of a crime but also of perpetrators.

Indeed, as early as the case of *People v. Saycon*,^[33] the Court observed that "unlike in the case of crimes like, e.g., homicide, murder, physical injuries, robbery or rape which by their nature involve physical, optically perceptible, overt acts, the offense of possessing or delivering or transporting some prohibited or regulated drug is customarily carried out without any external signs or indicia visible to police officers and the rest of the outside world."

Thus, in evaluating the evidence against the accused, the Court must account for this fact.

Sixth, since appellant consented to the warrantless search, he cannot claim that it is invalid.

Time and again, the Court has ruled the constitutional immunity against unreasonable searches and seizures is a personal right which may be waived and a person may voluntarily consent to have government officials conduct a search or seizure that would otherwise be barred by the Constitution.^[34] Hence, in the oft-cited *People v. Montilla*, where the accused spontaneously performed affirmative acts of volition by himself opening his bag without being forced or intimidated to do so, such acts should properly be construed as a clear waiver of his right.^[35] *Montilla* is still good law and had been most recently cited in the 2018 case of *Saluday v. People*.^[36]

The ruling in *Montilla* is applicable here since appellant freely and readily acceded to the police officers' request for him to open the blue sack that he also voluntarily acknowledged was his.

The ponencia relies heavily on our pronouncement in *People v. Cogaed* that mere silence or passive acquiescence given under intimidating or coercive circumstances does not constitute a valid waiver of the constitutional right against unreasonable searches.^[37]

We must, however, distinguish the present case from *Cogaed* where the police officers themselves testified that the accused therein seemed frightened during the search.

Here, there is absolutely no indication in the records that appellant was intimidated or moved by fear in his act of opening the sack and thereby displaying the four (4) bricks of marijuana to the apprehending officers' view.

By appellant's own account, there were only two (2) policemen manning the checkpoint and who conducted the search of the jeepney.^[38] Throughout his testimony which spanned several hearing dates, appellant never even mentioned whether these policemen were armed nor did he claim that he was threatened by them.

PO3 Mabiasan's testimony that when appellant was asked to open his sack, it was only after a while that he voluntarily opened it does not necessarily indicate appellant acted under duress or fear.^[39] Appellant's hesitation could have just been hesitation easily indicative of guilt. In any event, it is best left to the trial court to decipher such factual details as it was the one that had the opportunity to observe the witnesses during their testimony.

Seventh, I do not agree with the ponencia's finding that the police conducted a probing, highly intrusive search on appellant.

In truth, it is the rule espoused by the ponencia and *Comprado* that endangers the people's right to privacy. The rationale in *Acevedo*, extensively quoted above, affirms this conclusion.

People v. Manago,^[40] *Valmonte v. de Villa*,^[41] and *Caballes v. Court of Appeals*^[42] where the "visual and minimally intrusive" standard was applied, all involved searches of private vehicles conducted at routine military or police checkpoint. It stands to reason that only a visual and minimally intrusive search would be permissible at routine checkpoints as any number of vehicles and persons would pass through them and in all likelihood, these vehicles or persons would not be involved in criminal activity.

Interestingly, the ponencia cites *Saluday v. People*[43] as another example of a "visual and minimally intrusive" search by focusing on the fact that the authorities merely lifted the bag containing the illegal firearms but it ignores the extensive discussion in the same case on the validity of law enforcement officers' inspections of persons and the opening of their belongings in instances when they have reduced expectations of privacy, particularly in public places, such as airports, seaports, bus terminals, malls, and even on board public transportation that is in transit. In connection with inspections of public buses and their passengers, *Saluday* had this to say:

Further, in the conduct of bus searches, the Court lays down the following guidelines. Prior to entry, passengers and their bags and luggages can be subjected to a routine inspection akin to airport and seaport security protocol. In this regard, metal detectors and x-ray scanning machines can be installed at bus terminals. Passengers can also be frisked. In lieu of electronic scanners, passengers can be required instead to open their bags and luggages for inspection, which inspection must be made in the passenger's presence. Should the passenger object, he or she can validly be refused entry into the terminal.

While in transit, a bus can still be searched by government agents or the security personnel of the bus owner in the following three instances. First, upon receipt of information that a passenger carries contraband or illegal articles, the bus where the passenger is aboard can be stopped en route to allow for an inspection of the person and his or her effects. This is no different from an airplane that is forced to land upon receipt of information about the contraband or illegal articles carried by a passenger onboard. Second, whenever a bus picks passengers en route, the prospective passenger can be frisked and his or her bag or luggage be subjected to the same routine inspection by government agents or private security personnel as though the person boarded the bus at the terminal. This is because unlike an airplane, a bus is able to stop and pick passengers along the way, making it possible for these passengers to evade the routine search at the bus terminal. Third, a bus can be flagged down at designated military or police checkpoints where State agents can board the vehicle for a routine inspection of the passengers and their bags or luggages.[44] (Emphasis in the original; underscoring supplied.)

Verily, *Saluday* considers the opening and inspection of a passenger's bag/belongings by authorities in a public place or on board public transportation as a reasonable and minimally intrusive search.

Here, appellant, a passenger on board a public jeepney, voluntarily opened his blue sack at the request of police officers who had previously received information that such blue sack most likely contained illegal drugs.

As soon as appellant opened the sack, the two (2) police officers, without any need to do more, immediately saw the four (4) large bricks of marijuana inside. Not only did the testimonies of the two (2) police officers coincide on these material points but also their testimonies were corroborated by the physical evidence.

Photographs of the bricks of marijuana show that they were of such size and bulk that they were readily the most conspicuous items in the blue sack. No "probing" of the sack's contents would have even been necessary.

Significantly, too, appellant did not plead, much less prove, that these police officers had some ill motive for testifying against him.

Eighth, the ponencia now relies on the exclusionary rule or the fruit of the poisonous tree doctrine as a basis to acquit accused-appellant. Suffice it to state, since it is my view there was a valid warrantless search of a moving vehicle in this case, I likewise hold that the prosecution's evidence is admissible against appellant and fully supports the lower courts' finding of guilt.

A final word. I whole-heartedly agree with the doctrine in drugs cases that the presumption of regularity accorded to acts undertaken by police officers in the pursuit of their official duties cannot be used to negate the

constitutional presumption of innocence.[45]

The Court, however, should not go so far as to presume at the outset that our law enforcement officers are negligent or in bad faith. It chills our law enforcers from their important mission to preserve peace and order and destroy the menace of illegal drugs. Equally foreboding, it goes against our duty to judge cases with cold neutrality.

Neither do I believe that the Court should undeservedly place a premium on the quantity of past precedents that have applied a certain principle, especially when a mechanical application of this principle would not only defeat the ends of justice but also resurrect and worse perpetuate a ruling and rationale that others whose interest in the right to privacy has been firm have long discarded.

We must not evade our duty to revisit previously established doctrine, abandon or, perhaps, at least carve out exceptions or reconcile contradictory rulings when warranted.

For the foregoing reasons, I vote to AFFIRM the Court of Appeals' Decision dated April 24, 2018 in CA-G.R. CR-HC No. 09296 and to uphold the trial court's judgment of conviction, but with the modification that appellant be sentenced to life imprisonment instead of reclusion perpetua, in line with the nomenclature used in RA 9165 and to pay a fine of P1,000,000.00 as warranted under prevailing jurisprudence.

[1] Italics added.

[2] United States v. Sokolow, 490 US 1 (1989).

[3] Id.

[4] <https://supreme.justia.com/cases/federal/us/500/565/>

[5] Saluday v. People, G.R. No. 215305, April 3, 2018.

[6] G.R. No. 213225, April 4, 2018.

[7] Id.

[8] 443 Phil. 506 (2003).

[9] Referring to People v. Claudio, 243 Phil. 795 (1988), wherein a policeman accosted a fellow passenger on a public bus who was acting suspiciously.

[10] See, People v. Maspil, Jr., 266 Phil. 815 (1990).

[11] See, People v. v. Lo Ho Wing, 271 Phil. 120, (1991).

[12] See, People v. Saycon y Baquiran, 306 Phil. 359 (1994).

[13] Referring to People v. Balingan y Bobbonan, 311 Phil. 290 (1995).

[14] See, People v. Valdez, 363 Phil. 481 (1990).

[15] 635 Phil. 315 (2010).

[16] 558 Phil. 759 (2007).

[17] 288 Phil. 828 (1992).

[18] Supra note 9.

[19] 635 Phil. 315 (2010).

[20] 621 Phil. 226 (2009).

[21] Macad v. People, G.R. No. 227366, August 01, 2018; Veridiano v. People, G.R. No. 200370, June 07, 2017; People v. Macalaba, 443 Phil. 565 (2003); Caballes v. People, 424 Phil. 263 (2002).

[22] 378 US 108 (1964).

[23] 380 US 102 (1965).

[24] 462 US 213 (1983).

[25] Ponencia, p. 12.

[26] 462 US 213, 238.

[27] Citing Spinelli v. United States, 393 US 410, 427 (1969).

[28] 462 US 213, 244.

[29] 62 US 213, 230.

[30] 345 Phil. 632 (1997).

[31] G.R. No. L-63630, April 6, 1990.

[32] People v. Cabel y Iwag, 347 Phil. 82 (1997).

[33] 306 Phil. 359 (1994).

[34] People v. O'Cochlain, G.R. No. 229071, December 10, 2018.

[35] People v. Mantilla y Gatdula, 349 Phil. 640 (1998).

[36] G.R. No. 215305, April 3, 2018.

[37] 740 Phil. 212 (2014).

[38] TSN dated November 9, 2015, p. 121.

[39] Ponencia, p. 29.

[40] 793 Phil. 505 (2016).

[41] 264 Phil. 265 (1990).

[42] 424 Phil. 263, (2002).

[43] Saluday v. People, G.R. No. 215305, April 3, 2018.

[44] Id.

[45] See, for example, People v. Dela Cruz, G.R. No. 229053, July 17, 2019.

DISSENTING OPINION

LOPEZ, J.:

Not all searches and seizures are prohibited.
Those which are reasonable are not forbidden.
A reasonable search is not to be determined by
any fixed formula but is to be resolved
according to the facts of each case.[1]

The ponencia reversed the conviction of the accused for the crime of illegal transportation of dangerous drugs on the ground that the contraband was obtained in violation of the right against unreasonable searches. It pointed out that the police conducted a warrantless intrusive search of a vehicle based solely on an unverified tip from an anonymous informant. Also, there was no consented warrantless search but a mere passive conformity within a coercive and intimidating environment.

For proper reference, there is a need to revisit the facts of the case.

On January 10, 2014 at around 11:30 a.m., the police received a phone call from a concerned citizen that a person will be transporting marijuana out of Kalinga province. At 1:00 p.m., the police received a text message that the transporter of marijuana is a male person wearing a collared white shirt with green stripes, red ball cap and is carrying a blue sack on board a passenger jeepney with plate number AYA 270 bound for Roxas, Isabela. A checkpoint was then established. After 20 minutes, the identified jeepney arrived and was flagged down. The police saw the accused who matched the description with a blue sack in front of him. The police asked about the sack and the accused admitted its ownership. Thereafter, the police requested the accused to open the sack. The accused opened it which yielded four bricks of dried marijuana leaves with a total weight of 3,953.111 grams.

In these circumstances, I believed that what transpired is a reasonable search of the vehicle and not a warrantless search. Obviously, the law enforcers did not have sufficient time to obtain a search warrant. They only have less than two hours between the receipt of the information and the arrival of the passenger jeepney. However, this does not necessarily mean that the authorities have no choice but to conduct a warrantless search. In *Saluday v. People*,^[2] we distinguished a reasonable search from a warrantless search and described them as mutually exclusive, thus:

To emphasize, a reasonable search, on the one hand, and a warrantless search, on the other, are mutually exclusive. While both State intrusions are valid even without a warrant, the underlying reasons for the absence of a warrant are different. A reasonable search arises from a reduced expectation of privacy, for which reason Section 2, Article III of the Constitution finds no application. Examples include searches done at airports, seaports, bus terminals, malls, and similar public places. In contrast, a warrantless search is presumably an "unreasonable search," but for reasons of practicality, a search warrant can be dispensed with. Examples include search incidental to a lawful arrest, search of evidence in plain view, consented search, and extensive search of a private moving vehicle. (Emphases Supplied).

Moreover, we clarified that the constitutional guarantee under Section 2, Article III of the Constitution^[3] is not a blanket prohibition. Rather, it operates against "unreasonable" searches and seizures only. Thus, the general rule is that no search can be made without a valid warrant subject to certain legal and judicial exceptions.^[4] Otherwise, any evidence obtained is inadmissible in any proceeding.^[5] On the other hand, the recognized exceptions do not apply when the search is "reasonable" simply because there is nothing to exempt.

In *Saluday*, this Court expounded as to what qualifies as a reasonable search. We cited foreign^[6] as well as local^[7] jurisprudence and explained that the prohibition of unreasonable search and seizure ultimately stems from

a person's right to privacy. Hence, only when the State intrudes into a person's expectation of privacy, which society regards as reasonable, is the Fourth Amendment[8] triggered. Conversely, where a person does not have an expectation of privacy or one's expectation of privacy is not reasonable to society, the alleged State intrusion is not a "search" within the protection of the Fourth Amendment. More importantly the reasonableness of a person's expectation of privacy must be determined on a case-to-case basis since it depends on the factual circumstances surrounding the case. In *Saluday*, we ruled that the bus inspection constitutes a reasonable search, viz.:

In view of the foregoing, the bus inspection conducted by Task Force Davao at a military checkpoint constitutes a reasonable search. Bus No. 66 of Davao Metro Shuttle was a vehicle of public transportation where passengers have a reduced expectation of privacy. Further, SCAA Buco merely lifted petitioner's bag. This visual and minimally intrusive inspection was even less than the standard x-ray and physical inspections done at the airport and seaport terminals where passengers may further be required to open their bags and luggages. Considering the reasonableness of the bus search, Section 2, Article III of the Constitution finds no application, thereby precluding the necessity for a warrant. (Emphases Supplied)

In that case, we likewise formulated guidelines in conducting reasonable searches of public transport buses and any moving vehicle that similarly accepts passengers at the terminal and along its route, to wit:

Further, in the conduct of bus searches, the Court lays down the following guidelines. Prior to entry, passengers and their bags and luggages can be subjected to a routine inspection akin to airport and seaport security protocol. In this regard, metal detectors and x-ray scanning machines can be installed at bus terminals. Passengers can also be frisked. In lieu of electronic scanners, passengers can be required instead to open their bags and luggages for inspection, which inspection must be made in the passenger's presence. Should the passenger object, he or she can validly be refused entry into the terminal.

While in transit, a bus can still be searched by government agents or the security personnel of the bus owner in the following three instances. First, upon receipt of information that a passenger carries contraband or illegal articles, the bus where the passenger is aboard can be stopped en route to allow for an inspection of the person and his or her effects. This is no different from an airplane that is forced to land upon receipt of information about the contraband or illegal articles carried by a passenger onboard. Second, whenever a bus picks passengers en route, the prospective passenger can be frisked and his or her bag or luggage be subjected to the same routine inspection by government agents or private security personnel as though the person boarded the bus at the terminal. This is because unlike an airplane, a bus is able to stop and pick passengers along the way, making it possible for these passengers to evade the routine search at the bus terminal. Third, a bus can be flagged down at designated military or police checkpoints where State agents can board the vehicle for a routine inspection of the passengers and their bags or luggages.

In both situations, the inspection of passengers and their effects prior to entry at the bus terminal and the search of the bus while in transit must also satisfy the following conditions to qualify as a valid reasonable search. First, as to the manner of the search, it must be the least intrusive and must uphold the dignity of the person or persons being searched, minimizing, if not altogether eradicating, any cause for public embarrassment, humiliation or ridicule. Second, neither can the search result from any discriminatory motive such as insidious profiling, stereotyping and other similar motives. In all instances, the fundamental rights of vulnerable identities, persons with disabilities, children and other similar groups should be protected. Third, as to the purpose of the search, it must be confined to ensuring public safety. Fourth, as to the evidence seized from the reasonable search, courts must be convinced that precautionary measures were in place to ensure that no evidence was planted against the accused.

The search of persons in a public place is valid because the safety of others may be put at risk. Given the present circumstances, the Court takes judicial notice that public transport buses and their terminals, just like passenger ships and seaports, are in that category.

Aside from public transport buses, any moving vehicle that similarly accepts passengers at the terminal and along its route is likewise covered by these guidelines. Hence, whenever compliant with these guidelines, a routine inspection at the terminal or of the vehicle itself while in transit constitutes a reasonable search. Otherwise, the intrusion becomes unreasonable, thereby triggering the constitutional guarantee under Section 2, Article III of the Constitution. (Emphases Supplied)

Applying these guidelines, it becomes clearer that what happened is a reasonable search. First, the accused is on board a passenger jeepney or a vehicle of public transportation where passengers have a reduced expectation of privacy. Second, the authorities properly set up a checkpoint. The guidelines in *Saluday* are explicit that upon receipt of information that a passenger is carrying contraband, the law enforcers are authorized to stop the vehicle en route to allow for an inspection of the person and his or her effects. Third, the police did not perform an intrusive search of the jeepney but merely inquired by asking about the ownership of the blue sack which the accused admitted. As such, Section 2, Article III of the Constitution finds no application in the reasonable search conducted in this case. Corollarily, there is no need to discuss whether the law enforcers have probable cause to search the vehicle. The requirement of probable cause is necessary in applications for search warrant and warrantless searches but not to a reasonable search. Otherwise, to require probable cause before the authorities could conduct a search, no matter how reasonable, would cripple law enforcement resulting in non-action and dereliction of duty. It must be emphasized that police officers are duty bound to respond to any information involving illegal activities. But the involution of intelligence materials obliges them to be discerning and vigilant in scintillating truthful information from the false ones.

In *People v. Montilla*,^[9] experience shows that although information gathered and passed on by assets to law enforcers are vague and piecemeal, and not as neatly and completely packaged as one would expect from a professional spymaster, such tip-offs are sometimes successful. If the courts of justice are to be of understanding assistance to our law enforcement agencies, it is necessary to adopt a realistic appreciation of the physical and tactical problems, instead of critically viewing them from the placid and clinical environment of judicial chambers.

Here, it can hardly be said that search was conducted based solely on an unverified tip from an anonymous informant. The information given exactly matched the descriptions of the vehicle and passenger to be searched. More especially, the blue sack which is apparent to the eye arouses reasonable suspicion as to its content. On that point, the police officers are left with no choice because letting a suspect pass without further investigation is a euphemism of allowing a crime to run. To hold that no criminal can, in any case, be arrested and searched for the evidence and tokens of his crime without a warrant, would be to leave society, to a large extent, at the mercy of the shrewdest, the most expert, and the most depraved of criminals, facilitating their escape in many instances,^[10] even exploiting public utility vehicles to boost their nefarious activities.

Nonetheless, even assuming that what occurred is a warrantless search, there is still no violation of the accused's constitutional right. In *Valmonte v. De Villa*,^[11] the general allegation to the effect that the petitioner had been stopped and searched without a search warrant by the military manning the checkpoints is insufficient to determine whether there was a violation of the right against unlawful search and seizure. Moreover, the inherent right of the state to protect its existence and promote public welfare should prevail over an individual's right against a warrantless search which is however reasonably conducted. Besides, warrantless searches and seizures at checkpoints are quite similar to searches and seizures accompanying warrantless arrests during the commission of a crime, or immediately thereafter.^[12]

There is no need to discuss on whether the accused acceded to the search. A consented search is an exception to a warrantless search. To reiterate, this exception does not apply in a reasonable search simply because there is

nothing to exempt. At any rate, the accused performed affirmative acts of volition without being forced and intimidated to do so. In this case, the police asked the passengers about the sack and the accused admitted its ownership. Thereafter, the police requested the accused to open the sack. The accused voluntarily opened it which yielded four bricks of Marijuana. These facts are similar in *Montilla* where the appellant consented to the search. In that case, when the officers approached appellant and introduced themselves as policemen, they asked him about the contents of his luggage, and after he replied that they contained personal effects, the officers asked him to open the traveling bag. Appellant readily acceded, presumably or in all likelihood resigned to the fact that the law had caught up with his criminal activities.

Finally, while the ponencia aptly stated that the right against an unreasonable search should not be sacrificed for expediency's sake, its premise that there is an unreasonable seizure in this case is unfounded. To invalidate a mere request to open the sack on the ground that it created a coercive and intimidating environment is taking the provisions of Section 2, Article III of the Constitution too far in favor of the accused. To reiterate, the constitutional guarantee protects only against an unreasonable search. It does not cover a reasonable search, nor is it intended to discourage honest police work.

FOR THESE REASONS, I vote to DENY the appeal.

[1] *Valmonte v. De Villa*, G.R. No. 83988, September 29, 1989, citing *U.S. v. Robinowitz*, N.Y., 70 S. Ct. 430, 339 U.S. 56, 94 L. Ed. 653; *Harries v. U.S.*, Okl., 67 S. Ct. 1098 & 331 U.S. 145, 94 L. Ed. 1871; and *Martin v. U.S.*, C.A. Va., 183 F.2d 436; 66, 79 C.J.S., 835-836.

[2] G.R. No. 215305, April 3, 2018.

[3] The 1987 Constitution, Article III, Section 2 provides that [t]he 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 or 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. Notably, this right has been included in the Philippine Constitution since 1899 through the Malolos Constitution and has been incorporated in the various organic laws governing the Philippines during the American colonization, the 1935 Constitution, and the 1973 Constitution.

[4] The exceptions include: (1) search incidental to a lawful arrest; (2) search of moving vehicles; (3) seizure in plain view; (4) customs searches; (5) consented warrantless search; (6) stop and frisk; and (7) exigent and emergency circumstances. In *Valmonte v. De Villa*, 258 Phil. 838 (1989), the Supreme Court held that not all searches are prohibited. Those which are reasonable are not forbidden. See also *Esquillo v. People*, G.R. No. 182010, August 25, 2010; *People v. Nuevas*, 545 Phil. 356 (2007), *People v. Aruta*, 351 Phil. 868 (1998).

[5] The 1987 Constitution, Article III, Section 2 & (3) provides an exclusionary rule which instructs that evidence obtained and confiscated on the occasion of such unreasonable searches and seizures are deemed tainted and should be excluded for being the proverbial fruit of a poisonous tree. In other words, evidence obtained from unreasonable searches and seizures shall be inadmissible in evidence for any purpose in any proceeding. See *Comerciante v. People*, G.R. No. 205926, July 22, 2015, citing *Ambre v. People*, 692 Phil. 681 (2012).

[6] In the seminal case of *Katz v. United States*, 389 U.S. 347 (1967), the U.S. Supreme Court held that the electronic surveillance of a phone conversation without a warrant violated the Fourth Amendment. According to the U.S. Supreme Court, what the Fourth Amendment protects are people, not places such that what a person

knowingly exposes to the public even in his or her own home or office, is not a subject of fourth Amendment protection in much the same way that what he or she seeks to preserve as private, even in an area accessible to the public may be constitutionally protected. Further, Justice John Harlan laid down in his concurring opinion the two-part test that would trigger the application of the Fourth Amendment. First, a person exhibited an actual (subjective) expectation of privacy. Second, the expectation is one that society is prepared to recognize as reasonable (objective).

[7] In *People v. Johnson*, 401 Phil. 734 (2000), the Court declared airport searches as outside the protection of the search and seizure clause due to the lack of an expectation of privacy that society will regard as reasonable. In *Dela Cruz v. People*, 776 Phil. 653 (2016), the Court described seaport searches as reasonable searches on the ground that the safety of the traveling public overrides a person's right to privacy. In *People v. Breis*, 766 Phil. 785 (2015), the Court also justified a bus search owing to the reduced expectation of privacy of the riding public.

[8] It is a part of the Bill of Rights in the United States Constitution which provides that the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

[9] G.R. No. 123872, January 30, 1998.

[10] *People v. Malasugui*, G.R. No. L-44335, July 30, 1936, citing *United States v. Snyder* (278 Fed., 650).

[11] G.R. No. 83988, September 29, 1989.

[12] *Valmonte v. De Villa*, G.R. No. 83988, May 24, 1990.

SEPARATE CONCURRING OPINION

GAERLAN, J.:

I concur with the ponencia of our esteemed colleague Justice Alfredo Benjamin S. Caguioa. The circumstances leading to the apprehension of appellant Jerry Sapla (Sapla) are tainted with constitutional infirmities which render his conviction invalid. Nevertheless, I find it necessary to raise a few points regarding traffic stops and constitutionally permissible searches of a moving automobile.

I submit that despite the absence of any citation of sources, the conception of a moving vehicle search in *People v. Comprado*[1] is nevertheless supported by applicable jurisprudence. For reference, that case described moving vehicle searches in this manner:

The search in this case, however, could not be classified as a search of a moving vehicle. In this particular type of search, the vehicle is the target and not a specific person. Further, in search of a moving vehicle, the vehicle was intentionally used as a means to transport illegal items. It is worthy to note that the information relayed to the police officers was that a passenger of that particular bus was carrying marijuana such that when the police officers boarded the bus, they searched the bag of the person matching the description given by their informant and not the cargo or contents of the said bus. Moreover, in this case, it just so happened that the alleged drug courier was a bus passenger. To extend to such breadth the scope of searches on moving vehicles would open the floodgates to unbridled warrantless searches which can be conducted by the mere expedient of waiting for the target person to ride a motor vehicle, setting up a checkpoint along the route of that vehicle, and then stopping such vehicle when it arrives at the checkpoint in order to search the target person.[2]

American jurisprudence cites three bases for the constitutionality of a warrantless search of an automobile in

motion. First, the "ready mobility" of automobiles, and the consequent utility thereof in the transport of contraband, makes it impracticable for police officers to secure a warrant prior to stopping and searching an automobile.[3] Second, there is a lesser expectation of privacy with respect to an automobile as compared to a dwelling or an office;[4] and third, related to the first two bases, is the "pervasive regulation of vehicles capable of traveling on the public highways." On this point, The Supreme Court of the United States (SCOTUS) noted that "automobiles x x x are subjected to pervasive and continuing governmental regulation and controls, including periodic inspection and licensing requirements." [5] As such, American jurisprudence on automobile searches and seizures amply illustrates how the automobile exception is rooted in the attributes of ready mobility and pervasive state regulation, which are inherent and unique to automobiles. The cases likewise recognize that perpetrators intentionally utilize these unique attributes of automobiles as a means for committing or concealing crimes. These jurisprudential insights find concrete expression in the aforequoted statements in *Comprado*.

Likewise, do not subscribe to the assertion that an anonymous tip, standing alone, constitutes probable cause sufficient to validate an automobile search. Recourse must be had once again to American jurisprudence on the matter, given that most of our jurisprudential doctrines on the matter are adopted from American precedents.

In *Lampkins v. White*, it was observed that "x x x as a general rule, an anonymous tip alone is not likely to constitute the reasonable suspicion necessary for a valid Terry stop. However, where significant aspects of the tip are corroborated by the police, a Terry stop is likely valid." [6] Thus, to constitute probable cause sufficient to make a traffic stop and automobile search, the SCOTUS has required anonymous tips to either meet certain criteria of reliability [7] or be corroborated by other police work. [8] *Alabama v. White* puts it succinctly:

"Some tips, completely lacking in indicia of reliability, would either warrant no police response or require further investigation before a forcible stop of a suspect would be authorized x x x." Simply put, a tip such as this one, standing alone, would not "warrant a man of reasonable caution in the belief that [a stop] was appropriate." [9]

In the case at bar, the ponencia has more than adequately shown that the anonymous tip relied upon by the police when they arrested appellant *Sapla* is utterly unreliable. Standing alone, it cannot, therefore, validate the automobile search and subsequent arrest of *Sapla*.

For the following reasons, I concur with the ponencia.

[1] *People v. Comprado*, G.R. No. 213225, April 4, 2018, 860 SCRA 420.

[2] *Id.* at 440-441.

[3] *Carroll v. United States*, 267 U.S. 132 (1925).

[4] *California v. Carney*, 471 U.S. 386, 391-393 (1985).

[5] *South Dakota v. Opperman*, 428 U.S. 364, 368 (1976).

[6] 682 N.E.2d 1268 (1997), citing *Alabama v. White*, 496 U.S. 325, 329-30 (1990).

[7] *Navarete v. California*, 134 S.Ct. 1683 (2014); *Florida v. JL*, 529 U.S. 266 (2000).

[8] *Alabama v. White*, *supra*; *Illinois v. Gates*, 462 U.S. 213 (1983).

[9] *Id.* at 329. Citations omitted.

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