Upholding the Supremacy of the Bill of Rights: An Examination and Critique of the Development of Philippine Jurisprudence on the Validity of Intrusive Warrantless Searches of Moving Vehicles Conducted on the Solitary Basis of Unverified Tipped Information

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Cite as 64 ATENEO L.J. 1810 (2020).

I. INTRODUCTION

A. The Unsettling Power of Confidential Informants and Tipped Information

In furtherance of the State's infamous *war on drugs*, President Rodrigo Roa Duterte, during the early months of his presidency in 2016, brandished and publicized a master list of names of people who are allegedly involved in the illegal drug trade.[1] The roster includes politicians, members of the police and the armed forces, businesspersons, ordinary citizens, and many other personalities.[2] The narco-list, as it was informally called, was drawn up by the authorities based on what they believe to be reliable tipped information.[3] According to a law enforcer tasked to add names to the narco-list, much reliance was placed on confidential informants who would inform the authorities about the prevalence of the drug trade in a specific area.[4]

Despite enjoying the right of presumption of innocence, many personalities named in the list were constrained to surrender to the authorities or to publicly defend themselves due to the publication of the narco-list.[5] Others suffered a more cruel fate.

For instance, Samsudin Dimaukom, then Mayor of Datu Saudi-Ampatuan, Maguindanao, was included in President Duterte's narco-list.[6] In October 2016, while traversing through Old Bulatukan, Makilala, North Cotabato, Dimaukom's convoy was flagged down at a checkpoint manned

1. Eimor P. Santos, Duterte's drug list: What we know so far, *available at* https://cnnphilippines.com/news/2016/08/19/President-Duterte-list-of-drug-personalities-politicians.html (last accessed Aug. 15, 2020).

2. *Id. See also The Duterte list: Judges, mayors, police officials linked to drugs*, RAPPLER, Aug. 7, 2016, *available at* https://www.rappler.com/nation/142210-duterte-list-lgu-police-officials-linked-drugs (last accessed Aug. 15, 2020).

3. Rambo Talabong, *Big funds, little transparency: How Duterte's drug list works*, RAPPLER, FEB. 16, 2020, *available at* https://www.rappler.com/newsbreak/iq/251964-how-duterte-drug-list-works (last accessed Aug. 15, 2020).

4. Patrick Symeees, *President Duterte's List*, N.Y. TIMES, Jan. 10, 2017, *available at* https://www.nytimes.com/2017/01/10/magazine/president-dutertes-list.html (last accessed Aug. 15, 2020).

5. *See, e.g.*, Katerina Francisco, '*Drug' mayors surrender to PNP chief*, RAPPLER, Aug. 5, 2016, *available at* https://www.rappler.com/nation/142062-mayors-surrender-pnp-chief (last accessed Aug. 15, 2020).

6. ABS-CBN News, Maguindanao mayor tagged as 'narco-politician' slain, *available at* https://news.abs-cbn.com/news/10/28/16/maguindanao-mayor-tagged-as-narco-politician-slain (last accessed Aug. 15, 2020).

by the Anti-Illegal Drugs Group and the Philippine National Police (PNP) Regional Public Safety Battalion 12, because of tipped information that the group would transport illegal drugs.[7] A shootout occurred, killing Dimaukom and nine of his companions.[8] The Senate conducted an investigation on the highly suspicious killing of Dimaukom, suspecting that the incident, and similar other incidents, were cases of extrajudicial killings.[9] Many other persons included in the narco-list have shared the same fate.[10]

This illustrates the power and influence wielded by confidential informants and the information they provide over the State's offensive against criminality. The authorities' observance of certain rights enshrined under the Bill of Rights is made contingent on the existence or non-existence of tipped information. And in the extreme but common cases, particularly within the context of the war on drugs, an accusation made by a confidential informant even endangers the life of the person pinpointed by the informant. Tipped information supplied by confidential informants is dangling like the sword of Damocles over our constitutional rights.

This is reflected in the existing operational procedures of the PNP, which allows police officers to conduct warrantless searches and seizures on the mere basis of tipped information provided by confidential informants.[11] Under the PNP's Revised Operational Procedures, "[i]f the police officers have reasonable grounds to believe that the subjects are engaged in illegal activities, *the tipped information is sufficient to provide probable cause to effect a warrantless search and seizure*."[12] Notably, however, the Revised Operational Procedures is glaringly silent as to who qualifies as a confidential informant, how confidential informants are engaged, and how the tipped information received by the authorities are verified, if at all.

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7. *Id.*

8. *Id.*

9. Camille Elemia, *Senate to probe killings of mayors on Duterte drug list*, RAPPLER, Nov. 7, 2016, *available at* https://www.rappler.com/nation/151579-senate-probe-killings-mayors-espinosa-dimaukom (last accessed Aug. 15, 2020).

10. *See* Jodesz Gavilan, *Culture of Impunity: Who are the Mayors, Vice-Mayors Killed Under Duterte?*, RAPPLER, July 11, 2018, *available at* https://specials.rappler.com/newsbreak/videos-podcasts/206931-things-to-know-mayors-vice-mayors-killed-duterte-administration/index.html (last accessed Aug. 15, 2020).

11. Philippine National Police, Revised Philippine National Police Operational Procedures [PNPM-DO-DS-3-2-13], rule 14.8 (g) (Dec. 2013).

12. *Id.* (emphasis supplied).

B. Valid Warrantless Searches and Seizures

"As a component of the [constitutional] right to privacy,"[13] the 1987 Constitution safeguards the right of the people against unreasonable searches and seizures, specifically under Article III, Section 2, which reads —

> 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.[14]

Therefore, as a general rule, the police may conduct an intrusive search and seizure operation only when a court issues a search warrant after determining the existence of probable cause through the personal examination under oath or affirmation of the complainant and the witnesses he or she may produce, and particularly describing the place to be searched and the persons or things to be seized.[15]

However, Philippine jurisprudence recognizes certain instances wherein extensive searches may be conducted by the authorities even in the absence of a search warrant, considering 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."[16]

Based on jurisprudence, the other instances when searches and seizures may be conducted without a search warrant are: "(1) warrantless search incidental to a lawful arrest ... ; (2) [s]eizure of evidence in 'plain view[']; (3) [s]earch of a moving vehicle ... ; (4) [c]onsented warrantless search; (5) [c]ustoms search; (6) [s]top and frisk; and (7) [e]xigent and emergency circumstances."[17]

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13. Veridiano v. People, 826 SCRA 382, 396 (2017) (citing People v. Cogaed, 731 SCRA 427, 439 (2014)).

14. *Veridiano*, 826 SCRA at 396-97 (citing PHIL. CONST. art. III, § 2).

15. PHIL. CONST. art. III, § 2.

16. *Cogaed*, 731 SCRA at 440 (citing Esquillo v. People, 629 SCRA 370, 383 (2010)).

17. *Cogaed*, 731 SCRA at 440-41 (citing People v. Aruta, 288 SCRA 626, 637-38 (1998)) (emphases omitted).

C. Warrantless Searches of Moving Vehicles

The search of a moving vehicle is "one of the doctrinally accepted exceptions to the constitutional mandate that no search or seizure shall be made except by virtue of a warrant issued by a judge after personally determining the existence of a probable cause."[18]

As explained by the Court in *Caballes v. Court of Appeals*,[19] the rationale of allowing the search of an automobile sans a search warrant goes into a motor vehicle's inherent mobility, which "reduces expectation of privacy especially when its transit in public thoroughfares furnishes a highly reasonable suspicion amounting to probable cause that the occupant committed a criminal activity."[20] The Court further explained that "a warrantless search of a moving vehicle is justified on the ground that it is not practicable to secure a warrant because the vehicle can be quickly moved out of the locality or jurisdiction in which the warrant must be sought."[21]

Another type of warrantless searches of moving vehicles is the setting up of military or police checkpoints.[22] Warrantless searches of vehicles conducted at checkpoints "are 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."[23]

However, routine inspections conducted in checkpoints are not unrestricted or unlimited in scope.[24] The warrantless search of a vehicle in a checkpoint becomes permissible only when

> (a) the police officer merely draws aside the curtain of a vacant vehicle which is parked on the public fair grounds; (b) [the police officer] simply looks into a vehicle; (c) [the police officer] flashes a light therein without opening the car's doors; (d) the occupants are not subjected to a physical or body search; (e) the inspection of the vehicles is limited to a visual search or visual inspection; and (f) the routine check is conducted in a fixed area.[25]

18. People v. Tampis, 407 SCRA 582, 590-91 (2003).

19. Caballes v. Court of Appeals, 373 SCRA 221 (2002).

20. *Id.* at 232 (citing Padilla v. Court of Appeals, 269 SCRA 402, 418-19 (1997)).

21. *Caballes*, 373 SCRA at 233 (citing Asuncion v. Court of Appeals, 302 SCRA 490, 498 (1999) & People v. Lo Ho Wing, 193 SCRA 122, 128-29 (1991)).

22. People v. Manago, 801 SCRA 103, 117 (2016).

23. *Id.* (citing *Caballes*, 373 SCRA at 234).

24. *See Manago*, 801 SCRA at 117-18.

25. *Id.* at 117-18 (citing *Caballes*, 373 SCRA at 234).

Simply stated, the warrantless search of a vehicle is legally permissible only when the search is not extensive — the search does not go beyond a mere visual search of the vehicle. When then can the authorities legally undertake an intrusive search of a moving vehicle without a search warrant?

D. Probable Cause That Warrants Extensive Warrantless Searches of Moving Vehicles

In *Valmonte v. De Villa*,[26] the Court explained that vehicles can be stopped at a checkpoint and can be searched extensively 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."[27]

The Court's pronouncement in *Valmonte* was adopted from the United States (U.S.) Supreme Court's decision in *Dyke v. Taylor*,[28] which held that

> [a]utomobiles, because of their mobility, may be searched without a warrant upon facts not justifying a warrantless search of a residence or office. The cases so holding have, however, always insisted that the officers conducting the search have 'reasonable or probable cause' to believe that they will find the instrumentality of a crime or evidence pertaining to a crime before they begin their warrantless search.[29]

In *People v. Manago*,[30] the Court held that an extensive search of a vehicle that goes beyond a "mere routine inspection" attains legality only when, before the search is conducted, there is *probable cause* on the part of the authorities that the instrumentalities or evidence pertaining to a crime can be located inside the vehicle,[31] *viz.* —

> It is well to clarify, however, that routine inspections do not give police officers *carte blanche* discretion to conduct 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

26. Valmonte v. De Villa, 185 SCRA 665 (1990).

27. *Id.* at 670 (emphasis supplied).

28. Dyke v. Taylor, 391 U.S. 216 (1968).

29. *Valmonte*, 185 SCRA at 670 (citing *Dyke*, 391 U.S. at 221).

30. People v. Manago, 801 SCRA 103 (2016).

31. *Id.* at 118 (citing People v. Mariacos, 621 SCRA 327, 340 (2010)).

> the search that they will find the instrumentality or evidence pertaining to a crime, in the vehicle to be searched.[32]

As articulated by the Court in *Caballes*, probable cause entails "the existence of facts and circumstances which could lead a reasonably discreet and prudent [person] to believe that [a crime] has been committed and that the items ... sought in connection with said offense ... [are] in the [vehicle] to be searched."[33]

> Although the term eludes exact definition, probable cause signifies 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.[34]

Bearing the foregoing discussion, an important point of inquiry emerges — in a situation wherein authorities receive tipped information from an informant that a vehicle by which a driver or a passenger fitting a certain set of features would traverse a certain road and that contraband would be transported through such vehicle, can the authorities, on the sole basis of the said tip, conduct an extensive warrantless search of the vehicle that matches the description provided by the confidential informant? Does tipped information coming from a confidential informant, on its own, suffice to satisfy the jurisprudential standard of probable cause that permits a warrantless search and seizure? In other words, if a confidential informant provides information to the authorities, accusing someone of committing a crime or transporting some contraband items, will that serve as enough justification for the police to flag that person's vehicle (perhaps in a checkpoint) and conduct an intrusive search of the vehicle and the person?

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32. *Id.*

33. *Caballes*, 373 SCRA at 233 (citing People v. Valdez, 304 SCRA 140, 148-49 (1999)).

34. *Caballes*, 373 SCRA at 233-34 (citing *Valdez*, 304 SCRA at 148-49; People v. Barros, 231 SCRA 557, 566 (1994); United States v. Rabinowitz, 339 U.S. 56, 63 (1950); & Martin v. United States, 183 F.2d 436, 439 (4th Cir. 1950) (U.S.)).

II. JURISPRUDENCE ON THE ABILITY OF UNVERIFIED TIPPED INFORMATION TO PRODUCE PROBABLE CAUSE THAT JUSTIFIES AN EXTENSIVE WARRANTLESS SEARCH OF A MOVING VEHICLE

There is a line of jurisprudence that supports an affirmative answer to the question posed above, holding that receiving tipped information, on its own, may engender probable cause on the part of the authorities to conduct an extensive warrantless search of a moving vehicle that goes beyond a visual search.

Several cases which subscribe to this line of jurisprudence[35] often find reliance on the cases of *People v. Tangliben*,[36] *People v. Maspil*,[37] and *People v. Bagista*.[38]

In *Tangliben*, the authorities received information supplied by anonymous informers that illegal drugs will be transported through a bus.[39] Hence, the anti-narcotics agents conducted a surveillance operation at the Victory Liner Terminal compound in San Fernando, Pampanga, wherein they "noticed a person carrying a red travelling bag ... who was acting suspiciously[.]"[40] The agents then confronted the accused and requested him to open his bag, wherein marijuana leaves wrapped in plastic were found.[41] Finding that there was probable cause to conduct a warrantless search and seizure, the Court sustained the legality of the warrantless search and upheld the conviction of the accused.[42]

In *Maspil*, a checkpoint along the Halsema Highway in Benguet was established by anti-narcotics agents to check on vehicles proceeding to Baguio City "because their Commanding Officer ... had been earlier tipped off by some confidential informers that [certain individuals] would be transporting a large volume of marijuana to Baguio City."[43] Early morning of the next day, "the operatives intercepted a Sarao type jeep driven by [the

35. *See, e.g.*, People v. Barros, 231 SCRA 557 (1994); People v. Lacerna, 278 SCRA 561 (1997); & People v. Valdez, 304 SCRA 140 (1999).

36. People v. Tangliben, 184 SCRA 220 (1990).

37. People v. Maspil, 188 SCRA 751 (1990).

38. People v. Bagista, 214 SCRA 63 (1992).

39. *Tangliben*, 184 SCRA at 221.

40. *Id.*

41. *Id.* at 222.

42. *Id.* at 224-26.

43. *Maspil*, 188 SCRA at 753-54.

accused]. Upon inspection, the jeep was found loaded with ... several bundles of suspected dried marijuana leaves."[44] Citing the earlier case of *Valmonte*, the Court found that probable cause was attendant in the conduct of the warrantless search and that "[t]he search was conducted within reasonable limits. There was information that a sizeable volume of marijuana will be transported to take advantage of the All Saints Day holiday wherein there will be a lot of people going to and from Baguio City ... ."[45]

In *Bagista*, the authorities "received information from one of [their] regular informants that a certain woman, 23 years of age, with naturally curly hair, and with a height of 5'2" or 5'3", would be transporting marijuana from up north."[46] This prompted the authorities to put up a checkpoint at Acop, Tublay, Benguet, and "flagged down all vehicles ... coming from the north to check if any of these vehicles were carrying marijuana on board."[47] Eventually, the anti-narcotics agents stopped a Dangwa Tranco bus and boarded the same.[48] One of the agents "noticed a woman with curly hair seated at the right side ... of the last seat of the bus, with a travelling bag with black and orange stripes on her lap."[49] The agent "inspected the bag and discovered three [ ] bundles of marijuana leaves covered by assorted clothing."[50] In upholding the validity of the warrantless search, the Court held that

> [t]he [Narcotics Command (NARCOM)] officers ... had probable cause to stop and search all vehicles ... in view of the confidential information they received from their regular informant that a woman having the same appearance as that of accused-appellant would be bringing marijuana from up north. They likewise have probable cause to search accused-appellant's belongings since she fits the description given by the NARCOM informant.[51]

In *People v. Tampis*,[52] the authorities acted on a report received from an informant that "marijuana was about to be sold at Sitio Bugnay, Tinglayan,

44. *Id.* at 754.

45. *Id.* at 761.

46. *Bagista*, 214 SCRA at 65.

47. *Id.*

48. *Id.*

49. *Id.*

50. *Id.*

51. *Id.* at 69.

52. People v. Tampis, 407 SCRA 582 (2003).

Kalinga."[53] A checkpoint was set up, wherein a Red Eagle Bus was flagged down.[54] The authorities "searched the bus and found a brown bag marked with 'Tak Tak Tak Ajinomoto' under the seat on the left-hand side of the driver, right in front of [the accused]."[55] The authorities opened the brown bag and found seven bricks of marijuana leaves inside.[56] In rejecting the accused's defense that the warrantless search conducted was illegal, citing *People v. Aruta*,[57] the Court made the sweeping statement that "*tipped information is sufficient to provide probable cause to effect a warrantless search and seizure*."[58]

In explaining that the information received by the police sufficiently created probable cause to conduct a warrantless search, the Court explained that

> [t]he information given to the [p]olicemen at the Sabang Police Station, who eventually apprehended the appellants, provided them sufficient ground to believe that a crime has been committed or is being committed and justified the arrest of the appellants without a warrant. To reiterate, PO1 Fagcayang alighted at Tocucan and called the [p]olicemen stationed at the Provincial Headquarters to inform them that a pregnant woman with a brown bag and a thin man were transporting suspected marijuana leaves from Bontoc. In response, PO1 Awichen organized a team to check on the buses leaving Bontoc. One of them spotted a pregnant woman on board the Red Eagle Bus with body number 2008, which, however, left before further inspection and/or apprehension could be made. Immediately thereafter, the [p]olicemen requested the Sabangan Police Station to monitor the bus which carried appellants. Even if the message, as regards the identities of the appellants, was merely relayed through a radio, there was a clear description of them to enable the [p]olicemen to identify appellants. Under these circumstances, the [p]olicemen had reasonable grounds to believe that appellants were dealing or transporting prohibited drugs. It has been held that tipped information is sufficient to provide probable cause to effect a warrantless search and seizure.[59]

53. *Id.* at 585.

54. *Id.* at 586.

55. *Id.*

56. *Id.*

57. People v. Aruta, 288 SCRA 626 (1998).

58. *Tampis*, 407 SCRA at 590 (citing *Aruta*, 288 SCRA at 639) (emphasis supplied).

59. *Tampis*, 407 SCRA at 589-90.

Similarly, in *People v. Valdez*,[60] acting on information received from a civilian asset that an Ilocano who was described as thin and possessing a green bag was transporting marijuana, the police boarded a bus and searched for the person matching the description from among the passengers.[61] The police noticed that the accused was holding a green bag.[62] The police then immediately ordered the accused to get out of the bus and instructed the latter to open the bag, which contained marijuana leaves.[63] In holding that the police's receipt of the information coming from the confidential informant, on its own, constituted probable cause to conduct the warrantless search and seizure, the Court held that

> [c]learly, SPO1 Mariano had probable cause to stop and search the buses coming from Banaue in view of the information he got from the civilian 'asset' that somebody having the same appearance as that of appellant and with a green bag would be transporting marijuana from Banaue. He likewise had probable cause to search appellant's belongings since he fits the description given by the civilian 'asset.' Since there was a valid warrantless search by the police officer, any evidence obtained during the course of said search is admissible against appellant.[64]

Also citing *Aruta* as its basis, the Court in *Valdez* pronounced that "[o]ur jurisprudence is replete with instances where tipped information has become a sufficient probable cause to effect a warrantless search and seizure."[65]

In supporting the aforementioned statement on the existence of judicial precedent that the receipt of tipped information creates sufficient probable cause to effect a warrantless search and seizure, the Court in *Valdez* referred to the cases of *Tangliben*, *Maspil*, *People v. Malmstedt*,[66] *Bagista*, and *Manalili v. Court of Appeals*.[67]

In *Tangliben*, two police officers and a barangay *tanod* were conducting a surveillance mission at the Victory Liner terminal compound in San Fernando, Pampanga "against persons who may commit misdemeanors ... [and] also on [those] who may be engaging in the traffic of dangerous drugs

60. People v. Valdez, 304 SCRA 140 (1999).

61. *Id.* at 144.

62. *Id.* at 145.

63. *Id.*

64. *Id.* at 152.

65. *Id.* at 149 (citing *Aruta*, 288 SCRA at 639).

66. People v. Malmstedt, 198 SCRA 401 (1991).

67. Manalili v. Court of Appeals, 280 SCRA 400 (1997).

based on information supplied by informers."[68] At 9:30 in the evening, the policemen "noticed a person carrying a red travelling bag who was acting suspiciously[.]"[69] An informer "pointed to the accused-appellant as carrying marijuana.[70] They confronted him and requested him to open his bag but he refused.[71] He acceded later on when the policemen identified themselves.[72] Inside the bag were "marijuana leaves wrapped in a plastic wrapper[.]"[73] The police officers only knew of the activities of Tangliben on the night of his arrest.[74] Hence, "[f]aced with such on-the-spot [tip], the police officers ... act[ed] quickly[as t]here was not enough time to secure a search warrant."[75]

In *Maspil*, a checkpoint was set up by elements of the First Narcotics Regional Unit of the Narcotics Command at Sayangan, Atok, Benguet, to monitor, inspect, and scrutinize vehicles on the highway going towards Baguio City.[76] This was done because of a confidential report by informers that "Maspil and Bagking would be transporting a large quantity of marijuana to Baguio City."[77] In fact, the informers were with the policemen manning the checkpoint.[78] As expected, at about 2 o'clock in the early morning of 1 November 1986, a jeepney approached the checkpoint.[79] The officers stopped the vehicle and saw that on it were loaded two plastic sacks, a jute sack, and three big round tin cans.[80] When opened, the sacks and cans were seen to contain what appeared to be marijuana leaves.[81] The policemen thereupon placed Maspil and Bagking under arrest, and confiscated the leaves which, upon scientific examination, were verified to be marijuana leaves.[82]

68. *Tangliben*, 184 SCRA at 221.

69. *Id.*

70. *Id.* at 226.

71. *Id.* at 221.

72. *Id.* at 221–22.

73. *Id.* at 222.

74. *Tangliben*, 184 SCRA at 228.

75. *Id.* at 226.

76. *Maspil*, 188 SCRA at 753.

77. *Id.* at 754.

78. *Id.*

79. *Id.*

80. *Id.*

81. *Id.*

82. *Maspil*, 188 SCRA at 754.

The Court upheld the validity of the search thus conducted, as being incidental to a lawful warrantless arrest and declared that Maspil and Bagking had been caught *in flagrante delicto* transporting prohibited drugs.[83]

In *Malmstedt*, NARCOM agents set up checkpoint at Acop, Tublay, Mountain Province in view of reports that vehicles coming from Sagada were transporting marijuana.[84] They likewise received information that "a Caucasian coming from Sagada had in his possession prohibited drugs."[85] There was no reasonable time to obtain a search warrant, especially since the identity of the suspect could not be readily ascertained.[86] Accused's actuations also aroused the suspicion of the officers conducting the inspection aboard the bus.[87] The Court held that in light of such circumstances, "[t]o deprive the NARCOM agents of the ability and facility to act [promptly], including, to search without a warrant[,] would be to sanction impotence and ineffectiveness in law enforcement, to the detriment of society."[88]

In *Bagista*,

> [t]he NARCOM officers ... had probable cause to stop and search all vehicles coming from the north to Acop, Tublay, Benguet in view of the confidential information they received from their regular informant that a woman having the same appearance as that of accused-appellant would be bringing marijuana from up north. They likewise had probable cause to search accused-appellant's belongings since she fitted the description given by the NARCOM informant.[89]

In *Manalili*, the policemen conducted a surveillance in an area of the Kalookan Cemetery based on information that drug addicts were roaming therein.[90] Upon reaching the place, they "chanced upon a man in front of the cemetery who appeared to be high on drugs."[91] He was "observed to have reddish eyes and to be walking in a swaying manner."[92] Moreover, he

83. *Id.* at 761-62.

84. *Malmstedt*, 198 SCRA at 404.

85. *Id.*

86. *Id.* at 408.

87. *Id.* at 409.

88. *Id.* at 410.

89. *Bagista*, 214 SCRA at 69.

90. *Manalili*, 280 SCRA at 405.

91. *Id.*

92. *Id.* at 406.

appeared to be trying to avoid the policemen.[93] When approached and asked what he was holding in his hands, he tried to resist.[94] When he showed his wallet, it contained marijuana.[95] The Court held that the policemen had sufficient reason to accost 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.[96]

III. THE DIVERGENT LINE OF JURISPRUDENCE

By no means is the jurisprudential holding that tipped information is sufficient to create probable cause to affect a warrantless search and seizure unanimous nor undisputed.

There have been several cases decided by the Court wherein warrantless searches conducted upon persons who alighted or were made to alight from vehicles on the sheer basis of tipped information provided by informants were deemed unconstitutional.

In *People v. Aminnudin*,[97] the authorities acted upon information obtained from an informant that the accused would be arriving from Iloilo on board a vessel.[98] The authorities then waited for the vessel to arrive, accosted the accused, and inspected the latter's bag wherein bundles of marijuana leaves were found.[99] The Court deemed the search and seizure illegal, holding that, at the time of his apprehension, the accused was not

> committing a crime nor was it shown that he was about to do so or that he had just done so. ... 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.[100]

The Court was emphatic in stressing that "[t]he Constitution covers with the mantle of its protection the innocent and the guilty alike against

93. *Id.*

94. *Id.*

95. *Id.*

96. *Manalili*, 280 SCRA at 414-15.

97. People v. Aminnudin, 163 SCRA 402 (1988).

98. *Id.* at 404.

99. *Id.*

100. *Id.* at 409-10.

any manner of high-handedness from the authorities, however praiseworthy their intentions."[101]

Subsequently, in *People v. Cuizon*,[102] the Court held that the warrantless search conducted on the accused was 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*[.]"[103] The Court found that the authorities solely relied on "the alleged tip that the NBI agents purportedly received that morning[.]"[104] The Court characterized the tip received by the authorities from an anonymous informant as "hearsay information" that cannot produce probable cause.[105]

In *People v. Encinada*, [106] the authorities acted exclusively on an informant's tip that the accused "would be arriving in Surigao City from Cebu City in the morning of [21 May] 1992 ... bringing with him 'marijuana.'"[107] The police eventually spotted a *motorela* being driven by the accused.[108] The police then flagged down the *motorela* and asked the accused to alight.[109] The authorities then conducted an extensive inspection of the plastic chairs that were loaded inside the vehicle.[110] The search yielded a package which contained marijuana.[111]

The Court held that raw intelligence was not enough to justify the warrantless search and seizure, explaining that "[t]he 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."[112] The Court added that the fact that "the search disclosed a

101. *Id.* at 410.

102. People v. Cuizon, 256 SCRA 325 (1996).

103. *Id.* at 343.

104. *Id.* at 341.

105. *Id.* at 343.

106. People v. Encinada, 280 SCRA 72 (1997).

107. *Id.* at 78.

108. *Id.*

109. *Id.*

110. *Id.* at 79.

111. *Id.*

112. *Encinada*, 280 SCRA at 88.

prohibited substance in appellant's possession, and thus confirmed the police officers' initial information and suspicion, did not cure its patent illegality. An illegal search cannot be undertaken and then an arrest effected on the strength of the evidence yielded by the search."[113]

Likewise analogous is *Aruta*, wherein a confidential informant gave information to the authorities that a certain "Aling Rosa" would be transporting illegal drugs from Baguio City by bus.[114] Upon receiving this information, the police officers "proceeded to West Bajac-Bajac, Olongapo City at around 4:00 in the afternoon of [14 December] 1988 and deployed themselves near the Philippine National Bank (PNB) building along Rizal Avenue and the Caltex gasoline station."[115] Eventually,

> a Victory Liner Bus with body number 474 and the letters BGO printed on its front and back bumpers stopped in front of the PNB building at around 6:30 in the evening of the same day from where two females and a male got off. It was at this stage that the informant pointed out to the team 'Aling Rosa' who was then carrying a travelling bag.[116]

This prompted the authorities to apprehend the accused and inspect her bag, where the police discovered marijuana leaves packed inside a plastic bag.[117]

In acquitting the accused, the Court deemed the search illegal.[118] Finding no probable cause to justify the warrantless search, the Court explained that

> [i]t 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.[119]

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113. *Id.* at 92.

114. *Aruta*, 288 SCRA at 632.

115. *Id.* at 633.

116. *Id.*

117. *Id.*

118. *Id.* at 643.

119. *Id.*

The Court concluded that "there was no legal basis for the NARCOM agents to effect a warrantless search of accused-appellant's bag, there being no probable cause and the accused-appellant not having been lawfully arrested"[120] and 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."[121]

In more recent years, a string of Court cases has emerged wherein the Court emphasized in more explicit terms that the police cannot conduct warrantless searches and seizures on the sheer basis of confidential or tipped information.[122] In these cases, the Court stressed that a tip is, on its own, hearsay evidence no matter how reliable it may be.[123] It cannot constitute probable cause in the absence of any other circumstance that will arouse the police's suspicion that criminality is afoot.[124]

In the 2014 case of *People v. Cogaed*,[125] "Police Senior Inspector Sofronio Bayan ... of the [San Gabriel, La Union] Police Station 'received a text message from an unidentified civilian informer' that [the accused] 'would be transporting [illegal drugs] ... to the Poblacion of San Gabriel, La Union."[126] Hence, the police "organized checkpoints in order 'to intercept the [accused.]'"[127] Subsequently, a passenger jeepney from Barangay Lun-Oy was flagged down at the checkpoint.[128] "The jeepney driver disembarked and signaled to [the police] that two male passengers [ ] were carrying marijuana."[129] The police officer approached the accused who was carrying a blue bag and a sack while the co-accused was holding a yellow bag.[130]

120. *Aruta*, 288 SCRA at 643.

121. *Id.*

122. *See, e.g.*, *Cogaed*, 731 SCRA; Sanchez v. People, 741 SCRA 294 (2014); *Veridiano*, 826 SCRA; & People v. Comprado, 860 SCRA 420 (2018).

123. *Id.*

124. *Id.*

125. *Cogaed*, 731 SCRA.

126. *Id.* at 433.

127. *Id.*

128. *Id.*

129. *Id.*

130. *Id.*

Afterwards, the accused was made to open the blue bag, "revealing three bricks of what looked like marijuana."[131]

The Court ruled that the warrantless search was illegally conducted, explaining that

> [t]he person searched was not even the person mentioned by the informant. The informant gave the name of Marvin Buya, and the person searched was Victor Cogaed. Even if it was true that Cogaed responded by saying that he was transporting the bag to Marvin Buya, this still remained only as one circumstance. This should not have been enough reason to search Cogaed and his belongings without a valid search warrant.[132]

The Court stressed that in order for there to be probable cause that justifies a valid warrantless search, the authorities 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.[133]

The Court stressed that the authorities should not merely rely on the information relayed to him or her, but "*the police officer, with his or her personal knowledge, must observe the facts leading to the suspicion of an illicit act*."[134]

The Court in *Cogaed* echoed former Chief Justice Lucas P. Bersamin's Dissenting Opinion in the case of *Esquillo v. People*,[135] a case which involved the conviction of a drug suspect who was apprehended in a stop-and-frisk operation. In his Dissenting Opinion, former Chief Justice Bersamin maintained that

> police officers must not rely on a single suspicious circumstance. There should be 'presence of *more than one* seemingly innocent activity, which, taken together, warranted a reasonable inference of criminal activity.' The Constitution prohibits 'unreasonable searches and seizures.' Certainly,

131. *Cogaed*, 731 SCRA at 434.

132. *Id.* at 446-47.

133. *Id.* at 444-45 (citing Malacat v. Court of Appeals, 283 SCRA 159, 166 (1997)) (emphasis supplied).

134. *Cogaed*, 731 SCRA at 442 (emphasis supplied).

135. Esquillo v. People, 629 SCRA 370 (2010).

> reliance on only one suspicious circumstance or none at all will not result in a reasonable search.[136]

In another 2014 case decided after *Cogaed*, *Sanchez v. People*,[137] authorities

> acting on the information that [one] Jacinta Marciano, a.k.a 'Intang,' was selling drugs to tricycle drivers, [police officers were] dispatched to Barangay Alapan 1-B, Imus, Cavite to conduct an operation.
>
> While at the place, the group waited for a tricycle going to, and coming from, the house of Jacinta. After a few minutes, they spotted a tricycle carrying [the accused] coming out of the house. The group chased the tricycle. After catching up with it, they requested [the accused] to alight. It was then that they noticed [that the accused] was holding a match box[,] ... [wherein] a small transparent plastic sachet which contained a white crystalline substance [was found.][138]

Despite the police's receipt of tipped information from the confidential informant, the Court found that the acts of the accused and the surrounding circumstances could not have engendered any probable cause on the part of the police officers to conduct a warrantless search and seizure.

> The Court does not find the totality of the circumstances described by SPO1 Amposta as sufficient to incite a reasonable suspicion that would justify a stop-and-frisk search on Sanchez. Coming out from the house of a drug pusher and boarding a tricycle, without more, were innocuous movements, and by themselves alone could not give rise in the mind of an experienced and prudent police officer of any belief that he had shabu in his possession, or that he was probably committing a crime in the presence of the officer. There was even no allegation that Sanchez left the house of the drug dealer in haste or that he acted in any other suspicious manner. There was no showing either that he tried to evade or outmaneuver his pursuers or that he attempted to flee when the police officers approached him. Truly, his acts and the surrounding circumstances could not have engendered any reasonable suspicion on the part of the police officers that a criminal activity had taken place or was afoot.[139]

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136. *Cogaed*, 731 SCRA at 446 (citing PHIL. CONST. art. III, § 2 & *Esquillo*, 629 SCRA at 397 (J. Bersamin, dissenting opinion)).

137. Sanchez v People, 741 SCRA 294 (2014).

138. *Id.* at 299.

139. *Id.* at 315.

Subsequently, in the 2017 case of *Veridiano v. People*,[140] acting on a tip coming from a concerned citizen that a certain alias "Baho" was on the way to San Pablo City to procure illegal drugs, the authorities established a checkpoint at Brgy. Taytay, Nagcarlan, Laguna.[141] The police officers at the checkpoint had personal knowledge of the physical appearance of the accused.[142] Eventually, a passenger jeepney coming from San Pablo, Laguna appeared, with the accused found inside.[143] The police

> flagged down the jeepney and asked the passengers to disembark. The police officers [then] instructed the passengers to raise their t-shirts to check for possible concealed weapons and to remove the contents of their pockets.
>
> [Upon searching the person of the accused,] the police officers recovered ... 'a tea bag containing what appeared to be *marijuana*.'[144]

In finding the warrantless search unconstitutional for want of probable cause, the Court 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."[145] The Court believed that "[t]here was no evidence to show that the police had basis or personal knowledge that would reasonably allow them to infer anything suspicious."[146]

In *Veridiano*, the Court emphatically pronounced that in conducting an extensive search of a vehicle stopped at a checkpoint, "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."[147]

Enlightening is the discussion of the Court, to wit —

> Another instance of a valid warrantless search is a search of a moving vehicle. The rules governing searches and seizures have been liberalized

140. Veridiano v. People, 826 SCRA 382 (2017).

141. *Id.* at 390.

142. *Id.*

143. *Id.* at 390–91.

144. *Id.* at 391.

145. *Id.* at 407.

146. *Veridiano*, 826 SCRA at 408.

147. *Id.* at 411.

when the object of a search is a vehicle for practical purposes. Police officers cannot be expected to appear before a judge and apply for a search warrant when time is of the essence considering the efficiency of vehicles in facilitating transactions involving contraband or dangerous articles. However, the inherent mobility of vehicles cannot justify all kinds of searches. Law enforcers must act on the basis of probable cause.

A checkpoint search is a variant of a search of a moving vehicle. Due to the number of cases involving warrantless searches in checkpoints and for the guidance of law enforcers, it is imperative to discuss the parameters by which searches in checkpoints should be conducted.

Checkpoints *per se* are not invalid. They are allowed in exceptional circumstances to protect the lives of individuals and ensure their safety. They are also sanctioned in cases where the government's survival is in danger. Considering that routine checkpoints intrude 'on [a] motorist's right to 'free passage' to a certain extent, they must be 'conducted in a way least intrusive to motorists.' The extent of routine inspections must be limited to a visual search. Routine inspections do not give law enforcers carte blanche to perform warrantless searches.

In *Valmonte v. De Villa*, this Court clarified 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 [searches].' Thus, a search where an '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' is not unreasonable.

However, an extensive search may be conducted on a vehicle at a checkpoint when law enforcers have probable cause to believe that the vehicle's passengers committed a crime or when the vehicle contains instruments of an offense.

Thus, [routine] and indiscriminate searches of moving vehicles are allowed if they are limited to a visual search. This holds especially true when the object of the search is a public vehicle where individuals have a reasonably reduced expectation of privacy. On the other hand, extensive searches are permissible only when they are founded upon probable cause. Any evidence obtained will be subject to the exclusionary principle under the Constitution.

That the object of a warrantless search is allegedly inside a moving vehicle does not justify an extensive search absent probable cause. Moreover, 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.

> Although this Court has upheld warrantless searches of moving vehicles based on tipped information, there have been other circumstances that justified warrantless searches conducted by the authorities.
>
> In *People v. Breis*, apart from the tipped information they received, the law enforcement agents observed suspicious behavior on the part of the accused that gave them reasonable ground to believe that a crime was being committed. The accused attempted to alight from the bus after the law enforcers introduced themselves and inquired about the ownership of a box which the accused had in their possession. In their attempt to leave the bus, one of the accused physically pushed a law enforcer out of the way. Immediately alighting from a bus that had just left the terminal and leaving one's belongings behind is unusual conduct.
>
> In *People v. Mariacos*, a police officer received information that a bag containing illegal drugs was about to be transported on a passenger jeepney. The bag was marked with 'O.K.' On the basis of the tip, a police officer conducted surveillance operations on board a jeepney. Upon seeing the bag described to him, he peeked inside and smelled the distinct odor of marijuana emanating from the bag. The tipped information and the police officer's personal observations gave rise to probable cause that rendered the warrantless search valid.
>
> The police officers in *People v. Ayangao* and *People v. Libnao* likewise received tipped information regarding the transport of illegal drugs. In *Libnao*, the police officers had probable cause to arrest the accused based on their three [ ] month long surveillance operation in the area where the accused was arrested. On the other hand, in *Ayangao*, the police officers noticed marijuana leaves protruding through a hole in one [ ] of the sacks carried by the accused.
>
> In the present case, the extensive search conducted by the police officers exceeded the allowable limits of warrantless searches. They had no probable cause to believe that the accused violated any law except for the tip they received. They did not observe any peculiar activity from the accused that may either arouse their suspicion or verify the tip. Moreover, the search was flawed at its inception. The checkpoint was set up to target the arrest of the accused.[148]

148. *Id.* at 409-12 (citing *Manago*, 801 SCRA at 117; *Valmonte*, 185 SCRA at 668-69; People v. Vinecario, 420 SCRA 280, 290-91 (2004); People v. Breis, 767 SCRA 40, 48-49 & 64-65 (2015); People v. Mariacos, 621 SCRA 327, 333, 336, & 339-40; People v. Ayangao, 427 SCRA 428, 430 (2010); & People v. Libnao, 395 SCRA 407, 415 (2003)).

In 2018, the Court promulgated its decision in *People v. Comprado*.[149] In the said case, a confidential informant sent a text message to the police that "an alleged courier of marijuana ... was sighted at Cabanglasan, Bukidnon. The alleged courier had in his possession a backpack containing marijuana and would be traveling from Bukidnon to Cagayan de Oro City."[150] The informant also told the police that

> the alleged drug courier had boarded a bus with body number .2646 and plate number KVP 988 bound for Cagayan de Oro City[,] ... [adding] that the man would be carrying a backpack in black and violet colors with the marking 'Lowe Alpine.' Thus, ... the police officers ... put up a checkpoint in front of the police station.
>
> [Afterwards,] ... the policemen stopped a bus bearing the aforementioned body and plate numbers. [The police officers] boarded the bus and saw a man matching the description given to them by the [confidential informant.] The man was seated at the back of the bus with a backpack placed on his lap. After [a police officer] asked the man to open the bag, the police officers saw a transparent cellophane containing dried marijuana leaves.[151]

Holding that the warrantless search was tainted with illegality, the Court held that the receipt of information relayed by the confidential informant was not, on its own, sufficient to justify an intrusive search, explaining 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."[152]

Similar to the Court's pronouncement in *Cogaed*, the Court in *Comprado* cited the Dissenting Opinion of former Chief Justice Bersamin in *Esquillo*, "[emphasizing] that there should be [the] 'presence of more than one seemingly innocent activity from which, taken together, warranted a reasonable inference of criminal activity.'"[153] As the accused "was just a passenger carrying his bag[, t]here is nothing suspicious[,] much less criminal[,] in [the] said act. Moreover, such circumstance, by itself, could not

149. People v. Comprado, 860 SCRA 420 (2018).

150. *Id.* at 426.

151. *Id.*

152. *Id.* at 434.

153. *Id.* at 438 (citing *Esquillo*, 629 SCRA at 397 (J. Bersamin, dissenting opinion)).

have led the arresting officers to believe that accused-appellant was in possession of marijuana."[154]

In fact, in *Comprado*, the Court went beyond merely holding that the search was illegal and maintained that the search conducted by the authorities "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."[155] The Court explained 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.[156]

The Court believed that

> 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.[157]

In the 31 July 2019 case of *People v. Yanson*,[158] the Court was unequivocal in holding that a solitary tip does not suffice to produce probable cause.[159] In the said case, the police "received a radio message about a silver gray Isuzu pickup with plate number 619 ... that was transporting marijuana from Pikit. The Chief of Police then instructed the alert team to set up a checkpoint[.]"[160] Subsequently, "the tipped vehicle reached the checkpoint and was stopped by the team of police officers[.] The team leader asked the driver about inspecting the vehicle. The driver

154. *Comprado*, 860 SCRA at 438.

155. *Id.* at 440-441.

156. *Id.* at 441.

157. *Id.*

158. People v. Yanson, G.R. No. 238453, July 31, 2019, *available at* http://sc.judiciary.gov.ph/8657 (last accessed Aug. 15, 2020).

159. *Id.* at 1.

160. *Id.* at 3.

alighted and, at an officer's prodding, opened the pickup's hood. Two [ ] sacks of marijuana were discovered beside the engine."[161]

In finding that the police made a mistake in relying on the tipped information in conducting the warrantless search, the Court held that

> warrantless searches can only be carried out when founded on probable cause, or '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.' *There must be a confluence of several suspicious circumstances. A solitary tip hardly suffices as probable cause; items seized during warrantless searches based on solitary tips are inadmissible as evidence.*[162]

And most recently, in *People v. Gardon-Mentoy*,[163] which was decided on 4 September 2019, the Court found that "[b]ased on the alleged tip from the unidentified informant to the effect that the accused-appellant would be transporting dangerous drugs on board a Charing 19 shuttle van with plate number VRA 698, the police officers had set up a checkpoint on the National Highway in Barangay Malatgao in Narra, Palawan. [Afterwards,] ... 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.[164]

In ruling that the warrantless search and seizure undertaken was not attendant with probable cause, the Court held that

> [w]ithout 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

161. *Id.*

162. *Id.* at 1-2 (emphases supplied).

163. People v. Gardon-Mentoy, G.R. No. 223140, Sep. 4, 2019, *available at* http://sc.judiciary.gov.ph/9885 (last accessed Aug. 15, 2020).

164. *Id.* at 7.

> 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.[165]

IV. ANALYSIS AND SYNTHESIS

In the recent decisions solidifying the doctrine that tipped information, on its own, cannot engender probable cause, it is submitted that the Court has been moving in the right trajectory. Such cases should continue to be the prevailing line of jurisprudence.

A. Weak Jurisprudential Foundation

A close examination of the cases discussed above reveals that the jurisprudential underpinnings of the Court's holding that "tipped information is sufficient to provide probable cause to effect a warrantless search and seizure"[166] are, at best, frail.

Preliminarily, to recall, both *Tampis* and *Valdez* cited *Aruta* as basis in holding that tipped information is sufficient.[167] However, a closer reading of the Court's decision in *Aruta* reveals that the case does not support this holding. As explained above, the Court in *Aruta* acquitted the accused therein and invalidated the warrantless search and seizure conducted by the authorities for lack of probable cause despite the fact that the apprehending officers had received tipped information regarding the accused.

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165. *Id.* at 7-8 (citing United States ex. rel. Senk v. Brierly, 381 F. Supp. 447, 463 (U.S.) & *Veridiano*, 826 SCRA at 411).

166. *Tampis*, 407 SCRA at 590 (citing *Aruta*, 288 SCRA at 639).

167. *Id.* & *Valdez*, 304 SCRA at 149 (citing *Aruta*, 288 SCRA at 639).

While it is true that in *Aruta*, the Court held that "there are instances where information has become a sufficient probable cause to effect a warrantless search and seizure[,]"[168] and cited the cases of *Tangliben*, *Malmstedt*, *Bagista*, and *Manalili*, the Court further clarified that in these cited cases, "*additional factors and circumstances were present* which, when taken together with the information, constituted probable causes which justified the warrantless searches and seizures in each of the cases."[169]

In fact, in a vast majority of cases wherein the Court upheld the validity of a warrantless search and seizure on the basis of tipped information, the authorities did not rely exclusively on information provided by confidential informants; there were overt acts and other circumstances personally observed by the police that engendered probable cause.

For instance, in *Tangliben*, as explained by the Court in *Aruta*, the accused "was acting suspiciously. His actuations and surrounding circumstances led the policemen to reasonably suspect that Tangliben [wa]s committing a crime."[170] Hence, the authorities' decision to conduct the warrantless search did not depend exclusively on tipped information; the authorities personally observed that the accused was acting suspiciously.

Similarly, in *Malmstedt*,

> [i]t 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.[171]

In *Manalili*, the law enforcement agents personally "observed [that the accused had] reddish eyes[, was] walking in a swaying manner[,]" and appeared to be trying to avoid the police officers.[172] The accused's discernable suspicious behavior, coupled with information that the area was a drug haven, were held to be sufficient in creating probable cause.[173]

In fact, in *Tampis*, prior to the warrantless search, the police actually "conducted a surveillance on the intended place and saw both appellants

168. *Aruta*, 288 SCRA at 639.

169. *Id.* at 641 (emphasis supplied).

170. *Id.* at 639.

171. *Malmstedt*, 198 SCRA at 409.

172. *Manalili*, 280 SCRA at 406.

173. *Id.* at 414-15.

packing the suspected marijuana leaves into a brown bag with the markings 'Tak Tak Tak Ajinomoto' inscribed on its side[.]"[174] The authorities did not solely rely on the tipped information as they were able to personally witness the accused's illicit activities prior to the warrantless search and seizure.

Hence, in the enumeration of cases often cited to provide basis for the holding that receiving tipped information is enough to create probable cause to conduct a warrantless search, it was only in *Maspil* and *Bagista* where the extensive warrantless searches deemed valid by the Court were based *purely* on tipped information without any other additional factors and circumstances.

In *Maspil*, in finding that "[t]he search was conducted within reasonable limits [as] [t]here was information that a sizeable volume of marijuana will be transported[,]"[175] the Court cited as its basis the following pronouncement in *Valmonte*, thus —

> 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.[176]

A closer look at *Valmonte* reveals that the Court's pronouncement therein does not support whatsoever the holding that receiving tipped information alone can justify a warrantless search. *Valmonte*'s main issue centered on the constitutionality of checkpoints set up in Valenzuela City, so the Court never delved into the validity of warrantless searches and seizures in the situation that the authorities received tipped information. *Valmonte*'s *ratio decidendi* centered on the ruling that "checkpoints are not illegal *per se*."[177] 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."[178]

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174. *Tampis*, 407 SCRA at 589.

175. *Maspil*, 188 SCRA at 761.

176. *Id.* (citing *Valmonte*, 178 SCRA at 217).

177. *Valmonte*, 185 SCRA at 668.

178. *Id.* at 669.

Therefore, the jurisprudential foundation of the Court's pronouncement in *Maspil* is, to say the least, weak.

The same conclusion can be had with respect to *Bagista*.

In *Bagista*, in finding that the conduct of the warrantless search was justified by "the confidential information they received from their regular informant that a woman having the same appearance as that of accused-appellant would be bringing marijuana from up north[,]"[179] the Court reasoned 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[,]"[180] citing the U.S. Supreme Court's decision in *Carroll vs. U.S.*,[181] wherein the U.S. Supreme Court upheld the legality of the warrantless search and seizure of a vehicle used to transport illegal liquor, holding that

> if an officer seizes an automobile or the liquor in it without a warrant and the facts as subsequently developed do not justify a judgment of condemnation and forfeiture, the officer may escape costs or a suit for damages by a showing that he had reasonable or probable cause for the seizure.[182]

In determining whether there was probable cause that justified the warrantless search of the vehicle, the U.S. Supreme Court found that "the officers here had justification for the search and seizure"[183] in light of the following circumstances, *viz.* —

> 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

179. *Bagista*, 214 SCRA at 69.

180. *Id.* (citing Carroll v. U.S., 267 U.S. 132, 153 (1925)).

181. Carroll v. U.S., 267 U.S. 132 (1925).

182. *Id.* at 155.

183. *Id.* at 162.

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.

...

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 defendants' 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.[184]

It is apparent from the foregoing that probable cause was not founded on the receipt of information provided by informants. In fact, the case does not involve tipped information whatsoever. The U.S. Supreme Court held that probable cause was extant because the state officers themselves had personally interacted with the accused, having engaged with them in an undercover transaction involving contraband liquor.[185]

Hence, similar to *Maspil*, the Court's holding in *Bagista* is not well-supported by judicial precedence.

It is also well to note that the decision in *Bagista* was not promulgated by a unanimous Court. In his Dissenting Opinion to Justice Rodolfo A. Nocon's *ponencia*, Justice Teodoro R. Padilla argued that the information received by the anti-narcotics agents did not give rise to a probable cause for a warrantless search "*without other suspicious circumstances surrounding the accused*[.]"[186]

> 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 baggage[ ] 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 baggage[ ] of ALL passengers, not only the bags of those who appeared to answer the description of the woman suspected of carrying marijuana.

184. *Id.* at 134-36 & 160-61 (emphasis omitted).

185. *Id.* at 162.

186. *Bagista*, 214 SCRA at 72 (J. Padilla, dissenting opinion).

> 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 baggage[ ] 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.[187]

B. Tipped Information as Hearsay Evidence

Beyond the frailty of the jurisprudential foundation of the holding that tipped information is sufficient to provide probable cause to effect a warrantless search and seizure, it should also be stressed that, as pointed out by the Court in *Veridiano* and *Gardon-Mentoy*, tipped information is hearsay evidence,[188] i.e., evidence that is beyond one's personal knowledge and is not derived from one's own perception.[189] Information relayed through a tip line by informants who are often anonymous can be easily categorized as hearsay evidence, unless independently and personally verified by the police.

As held by the Court in *People v. Maderazo*,[190] "[w]hile hearsay information or tips from confidential informants could very well serve as basis for the issuance of a search warrant, *the same is only true if such information or tip was followed-up personally by the recipient and validated.*"[191]

In *Estrada v. Office of the Ombudsman*,[192] the Court, citing the U.S. Supreme Court's decision in *U.S. v. Ventresca*[193] as its basis, held that while "the determination of probable cause can rest partially, or even entirely, on hearsay evidence,"[194] the credibility of the person making the hearsay

187. *Id.* at 73.

188. *Veridiano*, 826 SCRA at 411 & *Gardon-Mentoy*, G.R. No. 223140, at 8.

189. *See* 2019 REVISED RULES ON EVIDENCE, rule 130, § 37.

190. People v. Maderazo, G.R. No. 235348, Dec. 10, 2018, *available at* http://sc.judiciary.gov.ph/3856 (last accessed Aug. 15, 2020).

191. *Id.* at 9 (citing Cupcupin v. People, 392 SCRA 203, 214–25 (2002)).

192. Estrada v. Office of the Ombudsman, 748 SCRA 1 (2015).

193. U.S. v. Ventresca, 380 U.S. 102 (1965).

194. *Estrada*, 748 SCRA at 50.

statement must be established and that there is substantial basis for crediting the hearsay.[195]

To understand the potentiality of hearsay evidence, such as tipped information, in producing probable cause, examining the originating case of *Ventresca* is helpful.

In *Ventresca*, the affidavit of one Walter Mazaka, an Alcohol and Tobacco Tax Division Investigator who executed the affidavit in question to justify the issuance of a search warrant of the house of Ventresca, where an illegal distillery operation was conducted, was prefaced with the following statement —

> Based upon observations made by me, and based upon information received officially from other Investigators attached to the Alcohol and Tobacco Tax Division assigned to this investigation, and reports orally made to me describing the results of their observations and investigation, this request for the issuance of a search warrant is made.
>
> The affidavit then described seven different occasions between [28 July] and [30 August] 1961, when a Pontiac car was driven into the yard to the rear of Ventresca's house. On four occasions, the car carried loads of sugar in 60-pound bags; it made two trips loaded with empty tin cans; and once it was merely observed as being heavily laden. Garry, the car's owner, and Incardone, a passenger, were seen on several occasions loading the car at Ventresca's house and later unloading apparently full five-gallon cans at Garry's house late in the evening. On [28 August], after a delivery of empty tin cans to Ventresca's house, Garry and Incardone were observed carrying from the house cans which appeared to be filled and placing them in the trunk of Garry's car. The affidavit went on to state that, at about 4 a.m. on [18 August], and at about 4 a.m. on [30 August], 'Investigators' smelled the odor of fermenting mash as they walked along the sidewalk in front of Ventresca's house. On [18 August], they heard, '[a]t or about the same time, ... certain metallic noises.' On [30 August], the day before the warrant was applied for, they heard (as they smelled the mash) 'sounds similar to that of a motor or a pump coming from the direction of' Ventresca's house. The affidavit concluded:
>
> 'The foregoing information is based upon personal knowledge and information which has been obtained from Investigators of the Alcohol and Tobacco Tax Division, Internal Revenue Service, who had been assigned to this investigation.'[196]

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195. *Id.* at 50-51.

196. *Ventresca*, 380 U.S. at 103-04.

Thus, "Ventresca was convicted in the U.S. District Court for the District of Massachusetts of possessing and operating of an illegal distillery. The conviction was reversed by the Court of Appeals [ ] on the ground that the affidavit for the search warrant ... was insufficient to establish probable cause."[197] The warrant was held insufficient because

> it read the affidavit as not specifically stating in so many words that the information it contained was based upon the personal knowledge of reliable investigators. The Court of Appeals reasoned that all of the information recited in the said affidavit might conceivably have been obtained by investigators other than Mazaka, and it could not be certain that the information of the other investigators was not in turn based upon hearsay received from unreliable informants rather than their own personal observations.[198]

It is within this context that the U.S. Supreme Court ruled that

> hearsay may be the basis for issuance of the warrant 'so long as there is a substantial basis for crediting the hearsay.' And, in *Aguilar*, we recognized that 'an affidavit may be based on hearsay information and need not reflect the direct personal observations of the affiant,' so long as the magistrate is 'informed of some of the underlying circumstances' supporting the affiant's conclusions and his belief that any informant involved 'whose identity need not be disclosed ... was 'credible' or his information 'reliable.'[199]

The U.S. Supreme Court added —

> The affidavit at issue here, unlike the affidavit held insufficient in *Aguilar*, is detailed and specific. It sets forth not merely 'some of the underlying circumstances' supporting the officer's belief, but a good many of them. This is apparent from the summary of the affidavit already recited, and from its text, which is reproduced in the Appendix.
>
> The Court of Appeals did not question the specificity of the affidavit. It rested its holding that the affidavit was insufficient on the ground that '[t]he affidavit failed to clearly indicate which of the facts alleged therein were hearsay or which were within the affiant's own knowledge,' and therefore '[t]he Commissioner could only conclude that the entire affidavit was based on hearsay.' While the Court of Appeals recognized that an affidavit based on hearsay will be sufficient, 'so long as a substantial basis for crediting the hearsay is presented,' it felt that no such basis existed here because the hearsay consisted of reports by 'investigators,' and the affidavit did not

197. *Id.* at 103.

198. *Id.* at 104-05.

199. *Id.* at 108 (citing Jones v. United States, 362 U.S. 257, 272 (1960) & Aguilar v. Texas, 378 U.S. 108, 114 (1964)).

recite how the investigators obtained their information. The Court of Appeals conceded that the affidavit stated that the investigators themselves smelled the odor of fermenting mash, but argued that the rest of their information might itself have been based upon hearsay thus raising 'the distinct possibility of hearsay upon hearsay.' For this reason, it held that the affidavit did not establish probable cause.

We disagree with the conclusion of the Court of Appeals. Its determination that the affidavit might have been based wholly upon hearsay cannot be supported in the light of the fact that Mazaka, a Government Investigator, swore under oath that *the relevant information was in part based* '*upon observations made by me*' *and* '*upon personal knowledge*,' *as well as upon* '*information which has been obtained from Investigators of the Alcohol and Tobacco Tax Division, Internal Revenue Service, who have been assigned to this investigation*.'

It also seems to us that the assumption of the Court of Appeals that all the information in Mazaka's affidavit may in fact have come from unreliable anonymous informers passed on to Government Investigators, who in turn related this information to Mazaka, is without foundation. Mazaka swore that, insofar as the affidavit was not based upon his own observations, it was 'based upon information received officially from other Investigators attached to the Alcohol and Tobacco Tax Division assigned to this investigation, and reports orally made to me describing the results of their observations and investigation.' ... The Court of Appeals itself recognized that the affidavit stated that 'Investigators' (employees of the Service) smelled the odor of fermenting mash in the vicinity of the suspected dwelling.' *A qualified officer's detection of the smell of mash has often held a very strong factor in determining that probable cause exists so as to allow issuance of a warrant*. Moreover, upon reading the affidavit as a whole, it becomes clear that the detailed observations recounted in the affidavit cannot fairly be regarded as having been made in any significant part by persons other than full-time Investigators of the Alcohol and Tobacco Tax Division of the Internal Revenue Service. Observations of fellow officers of the Government engaged in a common investigation are plainly a reliable basis for a warrant applied for by one of their number. We conclude that the affidavit showed probable cause, and that the Court of Appeals misapprehended its judicial function in reviewing this affidavit by giving it an unduly technical and restrictive reading.[200]

200. *Ventresca*, 380 U.S. at 109-11 (citing *Jones*, 362 U.S. at 269) (emphases supplied).

Hence, while the U.S. Supreme Court held that "hearsay may be the basis for issuance of the warrant 'so long as there is a substantial basis for crediting the hearsay[,]'"[201] such statement must be taken within the factual context of the case — that the investigator did not rely merely on second-hand reports, but was himself armed with personal knowledge, personally observing certain factual circumstances that engendered probable cause. It is clear from the foregoing discussion that tipped information, on its own, cannot produce probable cause absent any independent verification as to its substance and reliability.

C. Opening the Pandora's Box of Abuse and Misuse

From a policy standpoint, allowing intrusive warrantless searches and seizures to be conducted on the sheer basis of unverified tipped information is an extremely perilous policy as it makes police operations highly susceptible to misuse and abuse.

It is not hard to illustrate how criminals and unscrupulous persons can easily exploit and take advantage of police operations to further illicit motives. In order to commit harassment or intimidation, one can simply send false or fabricated information to the police implicating the commission of a crime against another, allowing the authorities to invasively search the vehicle or premises of such person on the sole basis of the bogus tip. Hence, ultimately, allowing the police to act unrestrictedly on the sheer basis of tipped information will impair the integrity and credibility of police operations.

More so, on the side of police enforcement, the policy allows corrupt law enforcement agents to justify with ease the infiltration of any vehicle or residence and violate the citizen's right to privacy by simply claiming that raw intelligence was received, even if in reality there was no such information received or if the information received was purely fabricated.

As recognized by the Court in *People v. Rasos, Jr.*,[202] with "the usual practice of utilizing unreliable characters as informants, and the great ease by which drug specimen can be planted in the pockets or hands of unsuspecting persons, most of whom come from the marginalized sectors of society, *the*

201. *Ventresca*, 380 U.S. at 108 (citing *Jones*, 362 U.S. at 272).

202. People v. Rasos, Jr., G.R. No. 243639, Sept. 18, 2019, *available at* http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65758 (last accessed Aug. 15, 2020).

propensity for police abuse is great."[203] Jurisprudence is not unfamiliar with the usual police practice of initiating operations "based on dubious claims of shady persons[,]"[204] utilizing "shady characters as informants[.]"[205]

The fear of police abuse was expressed by former Chief Justice Artemio V. Panganiban in his Concurring and Dissenting Opinion in *People v. Montilla*.[206] In stressing that stricter grounds are required for valid warrantless arrests and searches, former Chief Justice Panganiban believed that allowing warrantless searches and seizures based on tipped information alone places the Bill of Rights in great jeopardy as law enforcers can easily use warrantless searches as an oppressive tool, thus —

> 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.[207]

V. IN CONCLUSION: UPHOLDING THE SUPREMACY OF THE BILL OF RIGHTS

The Court in *People v. Tudtud*[208] emphasized that

> 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

203. *Id.*

204. People v. Saragena, 837 SCRA 529, 543 (2017).

205. People v. Gireng, 241 SCRA 11, 19 (1995).

206. People v. Montilla, 285 SCRA 703 (1998).

207. *Id.* at 733-34 (J. Panganiban, concurring and dissenting opinion).

208. People v. Tudtud, 412 SCRA 142 (2003).

> position of primacy in the fundamental law way above the articles on governmental power.[209]

Hence, any deviation from the observation of constitutionally protected rights, such as the allowance of warrantless searches and seizures, requires the highest level of scrutiny. Such deviation is not favored and is strictly construed against the government.

To hold that tipped information, in itself, cannot produce probable cause that warrants an intrusive warrantless search and seizure is consistent with the holding that the right against unreasonable searches and seizures sits

> 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 ... [f]or ... the right to personal security which, along with the right to privacy, is the foundation of the right against unreasonable search and seizure[.][210]

While some may make the argument that prohibiting the authorities from conducting warrantless searches upon receiving tipped information is not attuned to the realities of law enforcement and unduly stifles the government's anti-criminality efforts, especially in the State's current anti-narcotics drive, jurisprudence reminds us that by easily 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, by disregarding the Constitution, the war on illegal drugs becomes a self-defeating and self-destructive enterprise. *A battle waged against illegal drugs that resorts to short cuts and tramples on the rights of the people is not a war on drugs; it is a war against the people.*[211]

Jurisprudence also serves as a good reminder that the Bill of Rights "should not be sacrificed on the altar of expediency. Otherwise, by choosing convenience over the rule of law, the nation loses its very soul. This desecration of the rule of law is impermissible."[212]

While the Court's recent decisions holding that receiving tipped information in itself does not justify a warrantless search duly uphold the supremacy of the Bill of Rights, it is observed, however, that the cases

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209. *Id.* at 168.

210. *Id.*

211. People v. Cardenas, G.R. No. 229046, Sep. 11, 2019, at 17, *available at* http://sc.judiciary.gov.ph/9839 (last accessed Aug. 15, 2020) (emphasis supplied and underscoring omitted).

212. *Id.*

discussed herein are all decisions promulgated by Supreme Court divisions.

Considering that "no doctrine or principle of law laid down by the [C]ourt in a decision rendered *en banc* or in division may be modified or reversed except by the [C]ourt sitting *en banc*[,]"[213] for a definitive harmonization of the conflicting lines of jurisprudence, a clear and unequivocal abandonment of the prior holding on the sufficiency of tipped information to create probable cause in an *en banc* Court decision is essential.

213. PHIL. CONST. art. XIII, § 4 (3).