

En Banc

Agenda for June 16, 2020

Item No. 79

G.R. No. 244045 — (People of the Philippines, *plaintiff-appellee*, versus Jerry Sapla y Guerrero a.k.a. Eric Salibad y Mallari, *accused-appellant*.)

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Promulgated: June 16, 2020

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

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

² *Id.* at 440-441.

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 aforementioned statements in *Comprado*.

Likewise, I 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 reliability⁷ 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

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

⁴ *California v. Carney*, 471 US 386, 391-393 (1985).

⁵ *South Dakota v. Opperman*, 428 US 364, 368 (1976).

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


⁷ *Navarette v. California*, 134 S.Ct. 1683 (2014); *Florida v. JL*, 529 US 266 (2000).

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


⁹ *Id.* at 329. Citations omitted.

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*.


SAMUEL H. GAERLAN
Associate Justice

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EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court