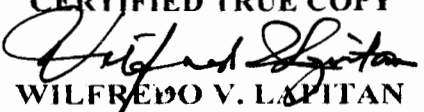




CERTIFIED TRUE COPY

 WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division

Republic of the Philippines
 Supreme Court
 Manila

JUN 07 2019

THIRD DIVISION

MARVIN PORTERIA y
 MANEBALI,

G.R. No. 233777

Petitioner,

Present:

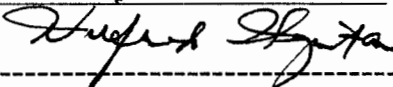
PERALTA, J.,
Chairperson,
 LEONEN,
 A. REYES, JR.,
 HERNANDO, and
 CARANDANG,* JJ.

- versus -

PEOPLE OF THE PHILIPPINES,
 Respondent.

Promulgated:

March 20, 2019



X-----X

DECISION

REYES, A., JR., J.:

This is a petition for review on *certiorari*¹ under Rule 45 of the Rules of Court, seeking to reverse and set aside the Decision² dated May 12, 2017 and the Resolution³ dated August 16, 2017 of the Court of Appeals (CA) in CA-G.R. CR No. 37273. The challenged issuances of the CA affirmed the Judgment⁴ dated December 5, 2014 of the Regional Trial Court (RTC) of Naga City, Branch 26, in Crim. Case No. 2011-0501, which found petitioner Marvin Porteria y Manebali (Marvin) guilty beyond reasonable doubt of

* Designated as additional Member per Special Order No. 2624 dated November 28, 2018.

¹ *Rollo*, pp. 12-23.

² Penned by Associate Justice Leoncia Real-Dimagiba, with Associate Justices Ramon R. Garcia and Henri Jean Paul B. Inting, concurring; *id.* at 28-37.

³ *Id.* at 39-40.

⁴ Rendered by Judge Filemon B. Montenegro; *id.* at 57-62.



violating Section 2(2) of Republic Act (R.A.) No. 6539,⁵ as amended, otherwise known as the “Anti-Carnapping Act of 1972.”

Factual Antecedents

Wilfredo Christian P. Mien (Christian) is the registered owner of a blue Honda motorcycle, 2004 model, with Engine No. KPH125ME-8005271, Chassis No. KPH12-03X-005271, and Plate No. EL5401.⁶

According to the prosecution, Christian used his motorcycle on December 10, 2010, at about 6:00 a.m., when he went to work at St. John Hospital in Panganiban Drive, Naga City. He parked his motorcycle in front of the hospital, in the parking area of the Nazareno Drug Store.⁷

After finishing his shift at about 2:00 p.m., Christian discovered that his motorcycle was no longer in its parking spot. Unable to find his motorcycle, Christian went to the Philippine National Police (PNP) Naga City Police Office, Police Precinct No. 2 to report that his motorcycle was stolen.⁸ The police recorded the incident in the Daily Record of Events.⁹

The following day, Christian and his brother, Wilfredo Angelus Mien, went to the PNP Provincial Highway Patrol Group (HPG) 5-Camarines Sur to report the incident again.¹⁰ He filled out an Alarm Sheet and a Complaint Sheet.¹¹ Afterwards, Christian was asked to submit certain documents, such as the original copies of the Official Receipt (OR) of registration and the Certificate of Registration (CR), the police blotter, the certificate of ownership, the relevant Deed of Sale, if any, and the duplicate copy of the motorcycle’s key. Christian complied with the requirements of the PNP HPG.¹²

On February 1, 2011, the police officers of Ocampo, Camarines Sur supposedly received a report that there was a suspicious person with something tucked in his waist.¹³ The Chief of Police of the Ocampo Police Station, Police Inspector Samuel De Asis Villamer (P/Insp. Villamer), dispatched a team to verify the report.¹⁴

⁵ Approved on August 26, 1972.

⁶ Records, p. 14.

⁷ TSN, February 7, 2012, pp. 3-4.

⁸ Id.

⁹ Records, p. 34.

¹⁰ TSN, February 7, 2012, p. 6.

¹¹ Records, pp. 35-36.

¹² TSN, February 7, 2012, p. 7.

¹³ TSN, July 24, 2012, p. 7; TSN, September 26, 2012, p. 9.

¹⁴ TSN, September 26, 2012, pp. 8-11.

Meyer

The report eventually resulted in the arrest of Marvin along the highway of Barangay San Francisco, Ocampo, Camarines Sur, for the illegal possession of firearm. He was, thereafter, subjected to a search of his body and of the bag allegedly found in his possession. Inside the bag, the arresting officer found an assortment of documents, including photocopies of the OR and CR of Christian's stolen motorcycle.¹⁵

At the Ocampo Police Station, Marvin was asked regarding the documents discovered in his bag. P/Insp. Villamer stated that Marvin responded voluntarily, informing the police that the motorcycle was in the possession of a certain Felix Maratas (Felix) in Sta. Rosa, Laguna.¹⁶ Later on, P/Insp. Villamer sent a text message to Christian's brother, notifying him that Marvin was arrested, and that they found the registration of the stolen motorcycle in his possession. Christian and his brother then went to the Ocampo Police Station, where they were advised that Marvin has been transferred to the Naga City District Jail (NCDJ).¹⁷

On February 5, 2011, the mother of Christian, Virgie P. Mien (Virgie), went to the NCDJ, intending to talk to Marvin.¹⁸ She asked Marvin about the registration of the subject motorcycle found in his possession, to which Marvin apparently replied by confessing his guilt. Virgie testified that Marvin admitted taking Christian's motorcycle and going on a road trip to Quezon. Marvin also allegedly told Virgie that he left the motorcycle with a certain "*Insan Joy*," whose address is Phase 5, Southville Subdivision, Sta. Rosa, Laguna.¹⁹

That night, Virgie called her friend, who was a police officer, to relay the information she obtained from Marvin. This friend of hers, Police Superintendent Teodorico Bolitic, called her a week later to inform her that the motorcycle was not at the address Marvin provided.²⁰

On March 11, 2011, at around 3:00 p.m., a checkpoint was placed at the road of Barangay Kaingin, Sta. Rosa, Laguna. Senior Police Officer 3 Jaime A. Cariaso (SPO3 Cariaso) and several other police officers were manning the checkpoint at that time. By 3:20 p.m., a blue motorcycle approached the checkpoint. Seeing that the driver was not wearing a helmet, the police flagged down the motorcycle, who refused to stop and continued to pass the checkpoint. The police officers chased the motorcycle using their police car, and finally caught up with the driver at around 3:30 p.m.²¹

¹⁵ TSN, July 24, 2012, pp. 3-7.

¹⁶ TSN, September 26, 2012, pp. 7-8.

¹⁷ TSN, February 7, 2012, pp. 7-8.

¹⁸ TSN, February 28, 2012, p. 7.

¹⁹ Id. at 11-13.

²⁰ Id. at 17-22.

²¹ TSN, November 20, 2012, pp. 2-5.

Meyer

The police officers asked the driver of the motorcycle for his license, and for the registration documents of the motorcycle. The driver, later identified as Albert Oriño (Albert), was unable to present any document. The police officers, thus, brought Albert to the barangay hall to record the incident in the barangay blotter. He was thereafter taken to the police station of Sta. Rosa, Laguna, together with the motorcycle.²²

At the police station, Albert supposedly told the police officers that he does not own the motorcycle. According to SPO3 Cariaso, Albert stated that a certain Marvin left him the motorcycle. The police then charged Albert with a traffic violation for driving without a license.²³ After verifying the ownership of the motorcycle, the police notified Christian regarding its recovery.²⁴

Marvin, for his part, denied the accusations of the prosecution. According to him, he met a friend at Barangay San Francisco, Ocampo, Camarines Sur on February 1, 2011. His friend, a certain Francis Aguilar, was driving a motorcycle and carrying a bag. His friend left the area, leaving behind the motorcycle, with the bag on top of it.²⁵ Several moments later, police officers approached Marvin and invited him to go to the police station. The invitation was purportedly pursuant to a report of a suspicious person in the area. Marvin refused, but the police officers forced him to go with them.²⁶

The police officers brought him to the Ocampo Police Station, where he was interrogated and detained. At no point was Marvin informed of his rights.²⁷ When the police officers told him about a gun recovered inside his bag, Marvin denied owning the bag, much less its contents.²⁸

On October 27, 2011, the Information against Marvin, Albert, and Felix, was filed with the RTC of Naga City, charging them with violation of R.A. No. 6539, *viz.*:

That on or about December 16, 2010, in the City of Naga, Philippines and within the jurisdiction of the Honorable Court, the above named accused, conspiring, confederating together and mutually helping each other, with intent of gain, did then and there, willfully, unlawfully and criminally take and steal, the motorcycle, with plate no. EL-5401, belonging to and owned by herein complaining witness WILFREDO CHRISTIAN P. MIEN, without his consent, while same was parked along Panganiban Avenue, Naga City, to his damage and prejudice.

²² Id. at 6-7.
²³ Id. at 8.
²⁴ TSN, February 7, 2012, pp. 10-12.
²⁵ TSN, December 9, 2013, p. 3.
²⁶ Id. at 4-5.
²⁷ Id. at 7-8.
²⁸ TSN, February 4, 2014, pp. 4-6.



ACTS CONTRARY TO LAW.²⁹

In an Order dated November 2, 2011, the RTC scheduled Marvin's arraignment on November 15, 2011, and directed the issuance of a warrant of arrest against both of his co-accused, Felix and Albert.³⁰ During his arraignment, Marvin pleaded not guilty.³¹

Trial proceeded and the prosecution presented the following witnesses: (a) Christian, the complainant; (b) Virgie, the complainant's mother; (c) SPO4 Jaime Pequiras (SPO4 Pequiras), the arresting officer; (d) P/Insp. Villamer, the Chief of Police of Ocampo, Camarines Sur; and (e) SPO3 Cariaso, the police officer manning the checkpoint in Sta. Rosa, Laguna.³²

On the other hand, the defense presented Marvin as its sole witness. The defense also intended to present SPO3 Cariaso. However, instead of testifying again, both parties agreed on the following stipulations with respect to his testimony: (a) at the time of Albert's apprehension, Marvin was not with him; and (b) the carnapped motorcycle was found in the possession of Albert only.³³

Ruling of the RTC

The trial court failed to obtain jurisdiction over the persons of Marvin's co-accused, including Albert, the person in whose possession the motorcycle was found. Nonetheless, in its Judgment³⁴ promulgated on December 5, 2014, the trial court found Marvin guilty beyond reasonable doubt of the crime of carnapping, punishable under R.A. No. 6539, thus:

WHEREFORE, in view of the foregoing, [Marvin] is found GUILTY beyond reasonable doubt for Violation of [R.A. No.] 6539 otherwise known as the Anti-Carnapping Act of 1972, as amended, and is hereby sentenced to suffer imprisonment of fourteen (14) years, eight (8) months and one (1) day, as minimum, to fifteen (15) years, as maximum. The period of accused[']s preventive detention shall be credited in his favor.

The instant case as against the two other accused [Felix] and [Albert] are hereby ordered sent to the files of ARCHIVED cases pending the arrest of said accused. Accordingly, let an alias warrant of arrest be issued for their immediate apprehension to stand trial before this Court.

²⁹ Records, p. 1.

³⁰ Id. at 21.

³¹ Id. at 31.

³² Id. at 59, 61, 104, 116, and 123.

³³ TSN, July 29, 2013, p. 3.

³⁴ *Rollo*, pp. 57-62.



SO ORDERED.³⁵

The trial court found that the circumstantial evidence presented in this case was sufficient to hold Marvin guilty beyond reasonable doubt. The RTC considered the following circumstances: (a) Marvin was apprehended on February 1, 2011, in possession of the registration documents of the stolen motorcycle; (b) P/Insp. Villamer testified that Marvin voluntarily answered their query as to the whereabouts of the motorcycle, which he left with a certain Felix in Sta. Rosa, Laguna; (c) Virgie's testimony that Marvin confessed to stealing the motorcycle, which he then drove all the way to Sta. Rosa, Laguna; and (d) the stolen motorcycle eventually being found in Sta. Rosa, Laguna on March 11, 2011.³⁶ These circumstances, according to the RTC, constitute an unbroken chain that leads to the fair and reasonable conclusion that Marvin indeed committed the crime.

Aggrieved, Marvin filed a Notice of Appeal on January 5, 2015.³⁷ The RTC, in its Order³⁸ dated January 6, 2015, allowed the appeal and elevated the records of the case to the CA.

Ruling of the CA

After the parties filed their respective briefs,³⁹ the CA rendered its Decision⁴⁰ dated May 12, 2017, affirming Marvin's conviction, thus:

WHEREFORE, foregoing considered, appeal is DENIED. The Decision of the [RTC] dated December 5, 2014 in Criminal Case No. 2011-0501, is hereby AFFIRMED with modification.

Accused-appellant, [Marvin], is found GUILTY beyond reasonable doubt for Violation of [R.A. No.] 6539 otherwise known as the Anti-Carnapping Act of 1972, as amended, and as modified, is hereby sentenced to suffer imprisonment of fourteen years (14) years (*sic*), eight (8) months as minimum, to fifteen (15) years, as maximum. The period of accused-appellant's preventive detention shall be credited to his favor.

SO ORDERED.⁴¹

The CA held that the circumstantial evidence relied upon by the trial court sufficiently supported the conviction of Marvin. It painted an unbroken series of events, which eventually resulted in the recovery of the motorcycle in Sta. Rosa, Laguna. Furthermore, the CA anchored its findings on the fact that during the course of Marvin's arrest for illegal possession of

³⁵ Id. at 62.

³⁶ Id. at 61.

³⁷ Records, p. 212.

³⁸ Id. at 214.

³⁹ CA *rollo*, pp. 35-50 and 64-80.

⁴⁰ *Rollo*, pp. 28-37.

⁴¹ Id. at 36-37.

Meyers

firearms, the police found the registration documents of the stolen motorcycle in his possession.⁴² His extrajudicial confession also corroborated the evidence of the prosecution.⁴³

Unsatisfied with the decision of the CA, Marvin moved for its reconsideration on June 9, 2017.⁴⁴ The CA denied this motion in its Resolution⁴⁵ dated August 16, 2017. Hence, Marvin filed the present petition before the Court.

Marvin alleges that the trial court and the CA should not have considered the supposed discovery of the stolen motorcycle's OR and CR in his possession because the search was not legal. He further argues that the extrajudicial confession he made to Virgie was not freely and voluntarily made.⁴⁶ Based on these grounds, Marvin asserts that his conviction does not hold water.

Ruling of the Court

The Court grants the petition. The circumstantial pieces of evidence of the prosecution are not sufficient to find Marvin guilty beyond reasonable doubt of the crime of carnapping.

The search of Marvin's body and belongings, as an incident to his warrantless arrest, was not valid.

Our constitution guarantees the inviolable right of every person to be secure in his or her persons, houses, papers, and effects, against unreasonable searches and seizures for whatever nature and for any purpose.⁴⁷ Thus, there should be a warrant duly issued on the basis of probable cause, in order to consider these searches and seizures as valid. This notwithstanding, there are several circumstances which the Court recognizes as exceptions to the requirement of a warrant: (a) a warrantless search incidental to a lawful arrest; (b) seizure of evidence in plain view; (c) search of a moving vehicle; (d) consented warrantless search; (e) customs search; (f) stop-and-frisk; and (g) the existence of exigent and emergency circumstances.⁴⁸

⁴² Id. at 34-35.

⁴³ Id. at 35.

⁴⁴ CA rollo, pp. 99-102.

⁴⁵ Rollo, pp. 39-40.

⁴⁶ Id. at 20.

⁴⁷ 1987 CONSTITUTION, Article III, Section 2.

⁴⁸ *People v. Aruta*, 351 Phil. 868, 879 (1998).

Reyes

In this case, the CA found that the discovery of the stolen motorcycle's OR and CR in the possession of Marvin was the product of a valid search incidental to a lawful arrest.⁴⁹ For the search to become valid under this exception, the inquiry of the Court should focus on the legality of the arrest. The arrest must not be used as a mere pretext for conducting the search, and the arrest, to be lawful, must precede the search. Assuming that there was a valid arrest, the arresting officer may only search the arrestee and the area within which he or she may reach for a weapon, or for evidence to destroy. The arresting officer may also seize any money or property used in the commission of the crime, or the fruit of the crime, or that which may be used as evidence, or which might furnish the arrestee the means of escaping or committing violence.⁵⁰

Since Marvin was arrested without a warrant, his apprehension may only be considered valid under the three (3) instances provided in Section 5, Rule 113 of the Rules of Court, *to wit*: (a) the arrest of a suspect *in flagrante delicto*; (b) the arrest of a suspect where, based on the personal knowledge of the arresting officer, there is probable cause that the suspect was the perpetrator of a crime that had just been committed, or a "hot pursuit" arrest; and (c) the arrest of a prisoner, who has escaped from custody, or has escaped while being transferred from one confinement to another.⁵¹ For the case at bar, the last circumstance for a valid warrantless arrest obviously cannot apply.

An *in flagrante delicto* arrest requires the concurrence of two (2) elements: (a) the person arrested must execute an overt act indicating that he or she has just committed, is actually committing, or is attempting to commit a crime; and (b) the overt act was done in the presence or within the view of the arresting officer.⁵² Meanwhile, for a hot pursuit arrest, there must be an offense that was just committed, and the arresting officer had personal knowledge of facts indicating that the accused committed it.⁵³

Upon a careful review of the records of this case, the Court holds that Marvin was not validly arrested without a warrant. The prosecution failed to establish any overt act which could lead to Marvin's *in flagrante delicto* arrest. There was also no evidence that the arresting officers, or SPO4 Pequiras in particular, knew of an offense that was just committed and that Marvin was the perpetrator of the offense.

⁴⁹ Rollo, p. 35.

⁵⁰ *Sanchez v. People*, 747 Phil. 552, 567 (2014), citing *Malacat v. CA*, 347 Phil. 462, 480 (1997).

⁵¹ *Comerciante v. People*, 764 Phil. 627, 634-635 (2015).

⁵² *Id.*, citing *People v. Villareal*, 706 Phil. 511, 517-518 (2013), further citing *Valdez v. People*, 563 Phil. 934, 947 (2007).

⁵³ *Id.*, citing *People v. Villareal*, *id.* at 517, further citing *People v. Cuizon*, 326 Phil. 345, 360 (1996).

Meyer

According to P/Insp. Villamer, the radio operator at the Ocampo Police Station received a telephone call from a concerned citizen regarding a suspicious person with something bulging in his body. This report constrained P/Insp. Villamer to send a team to verify the report.⁵⁴ One of the police officers, SPO4 Pequiras, verified the report, which resulted in the arrest of Marvin. However, he did not specify the reason why Marvin was arrested, other than the fact that there was a report of a suspicious person, thus:

[Direct examination of SPO4 Pequiras by Prosecutor Alan Fernando]

Q: Could you tell us now Mr. Witness why did you search the bag of this accused and found out inside his bag these 2 documents?

A: Because on February 1, 2011 when we apprehended the accused for illegal possession of firearm[,] we also searched his bag to secure the firearm inside his bag.

Q: And you said you have apprehended the accused for illegal possession of firearm and incident thereto you made a search on the bag whether there is a concealed firearm or explosive, is that what you mean to say?

A: Yes, sir.

x x x x

[Cross-examination of SPO4 Pequiras by Atty. Ernesto Mendiola]

Q: Were you the one or you were present when this accused was apprehended for illegal possession of firearm?

A: I was present.

x x x x

Q: Because you arrested the accused while he was in possession of that firearm you likewise bodily searched him. [C]orrect?

A: After we saw the firearm.

Q: You mean to say your search is valid?

A: Yes, sir.

Q: **What is your purpose in conducting the search on his body and his bag that he was carrying?**

A: **On February 1, 2011[,] we received information that a certain person was seen with a suspicious thing tucked on his waist.**⁵⁵
(Emphasis ours)

From this testimony, the Court cannot determine Marvin's overt actions, which led SPO4 Pequiras to believe that Marvin was illegally in possession of firearms. There is a dearth of evidence describing how Marvin committed a crime, was committing, or was about to commit a crime in the presence of the arresting officers. SPO4 Pequiras merely testified that after

⁵⁴ TSN, September 26, 2012, pp. 9-10.

⁵⁵ TSN, July 24, 2012, pp. 4-7.

Meyer

receiving the information regarding the presence of a suspicious person, they verified the report, and this eventually resulted in the arrest of Marvin. It was not established that Marvin had a firearm visibly tucked in his waist, or that he behaved in a manner which would elicit a reasonable suspicion that he committed an offense. Clearly, the trial court and the CA grievously erred in agreeing with the prosecution. The prosecution established only a suspicion that a crime was committed—nothing more—prior to the arrest of Marvin.

In the same manner, the present circumstances do not suffice to fulfill the requirements for a hot pursuit arrest. The prosecution did not allege and prove that SPO4 Pequiras and the arresting officers have personal knowledge of facts that Marvin had just committed an offense. Neither does the anonymous report of a suspicious person operate to vest personal knowledge on the police officers about the commission of an offense. In *Veridiano v. People*,⁵⁶ the Court ruled on the validity of the warrantless arrest made pursuant to a report of illicit or suspicious activity:

Failure to comply with the overt act test renders an *in flagrante delicto* arrest constitutionally infirm. In *Cogaed*, the warrantless arrest was invalidated as an *in flagrante delicto* arrest because the accused did not exhibit an overt act within the view of the police officers suggesting that he was in possession of illegal drugs at the time he was apprehended.

x x x x

In this case, petitioner's arrest could not be justified as an *in flagrante delicto* arrest under Rule 113, Section 5(a) of the Rules of Court. He was not committing a crime at the checkpoint. Petitioner was merely a passenger who did not exhibit any unusual conduct in the presence of the law enforcers that would incite suspicion. In effecting the warrantless arrest, the police officers relied solely on the tip they received. **Reliable information alone is insufficient to support a warrantless arrest absent any overt act from the person to be arrested indicating that a crime has just been committed, was being committed, or is about to be committed.**

The warrantless arrest cannot likewise be justified under Rule 113, Section 5(b) of the Revised Rules of Criminal Procedure. The law enforcers had no personal knowledge of any fact or circumstance indicating that petitioner had just committed an offense.

A hearsay tip by itself does not justify a warrantless arrest. Law enforcers must have personal knowledge of facts, based on their observation, that the person sought to be arrested has just committed a crime. This is what gives rise to probable cause that would justify a warrantless search under Rule 113, Section 5(b) of the Revised Rules of Criminal Procedure.⁵⁷ (Emphases ours and citations omitted)

⁵⁶ G.R. No. 200370, June 7, 2017, 826 SCRA 382

⁵⁷ Id. at 400-405.

Meyer

There being no valid warrantless arrest, the search conducted on Marvin's body and belongings is likewise unjustified. The law requires that there should be a lawful arrest prior to the search. The process cannot be reversed.⁵⁸ "[W]here a person is searched without a warrant, and under circumstances other than those justifying a warrantless arrest x x x **upon a mere suspicion that he has embarked on some criminal activity, and/or for the purpose of discovering if indeed a crime [was] committed by him**, then the search x x x of such person as well as his arrest are deemed illegal."⁵⁹ The CA thus committed a reversible error in deeming the search valid without making a prior determination of the legality of the arrest.

The waiver of an illegal warrantless arrest does not carry the admissibility of evidence seized during the illegal warrantless arrest.

When there is an irregularity in the arrest of an accused, the accused must object to the validity of his arrest *before* arraignment. Otherwise, the objection is deemed waived.⁶⁰ Here, Marvin may no longer raise the issue regarding the validity of his arrest, especially after participating in the proceedings before the trial court. Nonetheless, this does not preclude the Court from ruling against the admissibility of the evidence obtained from the illegal warrantless arrest.⁶¹

As such, the OR and CR allegedly found in the bag of Marvin after he was arrested for illegal possession of firearms are inadmissible. The Court cannot consider the documents supposedly seized from Marvin's possession as part of the circumstantial evidence for the prosecution.

Neither was the search of Marvin's body and belongings valid as a stop-and-frisk search.

One of the arresting officers, SPO4 Pequiras, further muddled his testimony when he stated that the search on Marvin and his bag was due to the "information [they received] that a certain person was seen with a suspicious thing tucked [in] his waist."⁶² Verily, the factual circumstances were ambiguous as to whether the arrest preceded the search, or if Marvin was stopped and frisked pursuant to the anonymous report the police received regarding a suspicious person. Regardless, the warrantless search is still unjustifiable as a stop-and-frisk search.

⁵⁸ *Sanchez v. People*, supra note 50.

⁵⁹ *People v. Cuizon*, supra note 53, at 358-359.

⁶⁰ *People v. Divina*, 558 Phil. 390, 395 (2007).

⁶¹ *Homar v. People*, 768 Phil. 195, 203 (2015).

⁶² TSN, July 24, 2012, p. 7.

Meyer

A stop-and-frisk search is defined as “the act of a police officer to stop a citizen on the street, interrogate him, and pat him for weapon(s) or contraband.”⁶³ Searches under stop-and-frisk are limited to the protective search of outer clothing for weapons.⁶⁴ For purposes of searching a person’s clothing for concealed weapons, the police officer is required to introduce himself properly, make initial inquiries, approach and then restrain the person manifesting unusual and suspicious conduct.⁶⁵

In order to be considered valid, a stop and frisk search must be premised on the manifest overt acts of an accused, which give law enforcers a “genuine reason” to conduct the search. Jurisprudence has refined the standard to less than probable cause, but more than mere suspicion. The search cannot be based on a suspicion or a hunch.⁶⁶ Their suspicion is formed on the basis of the law enforcers’ prior experience with criminals and their behavior, as well as the surrounding circumstances of the case.⁶⁷

In some cases, the Court has also required the presence of more than one activity which, when taken together, gives a reasonable inference of criminal activity.⁶⁸ This is determined on a case-to-case basis, as when a man with reddish eyes, walking in a swaying manner, avoided the police officers approaching him,⁶⁹ or when a person was seen placing a heat-sealed plastic sachet containing a white substance inside a cigarette case.⁷⁰ For this particular case, however, the Court cannot discern any circumstance that would give SPO4 Pequiras a genuine reason to stop-and-frisk Marvin.

The prosecution stated that Marvin was arrested and searched because the police received a report regarding a suspicious person with something tucked in his waist. **But in his testimony, SPO4 Pequiras did not specify the actions or behavior of Marvin, or the factual circumstances occurring prior to his arrest and search. He simply stated that Marvin was arrested due to the anonymous tip. SPO4 Pequiras did not even state how they were able to identify Marvin as the suspicious person referred to in the concerned citizen’s report.** Evidently, these are not enough to create a reasonable inference of criminal activity.

From the foregoing, the Court finds that Marvin was illegally searched. Following the exclusionary principle, the items seized as a result of this unlawful search are inadmissible as evidence. Again, the OR and CR

⁶³ *People v. Chua*, 444 Phil. 757, 773-774 (2003).

⁶⁴ *Malacat v. CA*, supra note 50.

⁶⁵ *People v. Chua*, supra.

⁶⁶ *Veridiano v. People*, supra note 56.

⁶⁷ *Comerciante v. People*, supra note 51, at 640.

⁶⁸ *Sanchez v. People*, supra note 50, at 573, citing *Manalili v. CA*, 345 Phil. 632, 643-644 (1997).

⁶⁹ *Manalili v. CA*, id.

⁷⁰ *Esquillo v. People*, 643 Phil. 577 (2010).

Meyer

of the subject motorcycle, allegedly discovered as a result of the invalid search of Marvin, cannot be used as evidence against him.

Marvin's alleged admissions of guilt do not suffice to convict him for carnapping.

Section 12, Article III of the 1987 Constitution states that persons under investigation for the commission of an offense should be informed of their right to remain silent, and their right to counsel. These rights may not be waived, except in writing and in the presence of a counsel. *Any* confession or admission obtained in violation of this provision is inadmissible as evidence against the accused.⁷¹

This principle is further reiterated in Section 2 of R.A. No. 7438.⁷² Under this statute, extrajudicial confessions made by a person arrested, detained or under custodial investigation must fulfill the following requirements:

(d) Any extrajudicial confession made by a person arrested, detained or under custodial investigation shall be in writing and signed by such person in the presence of his counsel or in the latter's absence, upon a valid waiver, and in the presence of any of the parents, elder brothers and sisters, his spouse, the municipal mayor, the municipal judge, district school supervisor, or priest or minister of the gospel as chosen by him; **otherwise, such extrajudicial confession shall be inadmissible as evidence in any proceeding.** (Emphasis ours)

These safeguards are intended to prevent the practice of extracting coerced confessions, no matter how slight, which could lead the accused to make false admissions. They are meant to insulate the accused from "coercive psychological, if not physical, atmosphere of [a custodial] investigation."⁷³

The trial court, in convicting Marvin for the crime of carnapping, relied on several circumstantial pieces of evidence. There include his supposed voluntary admission to P/Insp. Villamer that the motorcycle is in the possession of a certain Felix.⁷⁴ This admission, as shown in the following testimony of P/Insp. Villamer, was given after Marvin was arrested and taken to the police station for further investigation:

⁷¹ See *People v. Cabanada*, G.R. No. 221424, July 19, 2017, 831 SCRA 485, 493; *People v. Cabintoy*, 317 Phil. 528, 540 (1995); *People v. Basay*, 292 Phil. 413, 430 (1993); and *People v. Javar*, 297 Phil. 111, 117 (1993).

⁷² AN ACT DEFINING CERTAIN RIGHTS OF PERSON ARRESTED, DETAINED OR UNDER CUSTODIAL INVESTIGATION AS WELL AS THE DUTIES OF THE ARRESTING, DETAINING AND INVESTIGATING OFFICERS, AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF (Approved on April 27, 1992).

⁷³ *People v. Janson*, 448 Phil. 726, 746 (2003).

⁷⁴ *Rollo*, p. 61.

Meyer

[Direct examination of P/Insp. Villamer by Prosecutor Alan Fernando]

Q: Could you tell us your Memorandum with respect to the accused, [Marvin], explain to us (sic)?

A: This was addressed to the Chief of Police of Sta[,] Rosa City because on February 1, 2011[,] we apprehended [Marvin].

Q: For what crime?

A: For Illegal Possession of Firearms.

Q: Then what happened?

A: Upon verification and inspection to him (sic) we found out several registration of motorcycle and it so happened that during the inventory, one of my investigators found out the registration of the motorcycle of [Christian].

x x x x

Q: Please tell us your investigation on [Marvin]?

A: When we asked him regarding the registration of motorcycle of Mr. Mien, he told us voluntarily that the motorcycle subject matter of this case was in the possession of [Felix] of Olivia [Subdivision,] Sta. Rosa City.

x x x x

Q: And according to you, [Marvin] told the investigators that the motorcycle is in the possession of [Felix] and because of this information given to the office of [Marvin] (sic), you sent this Memorandum addressed to the Chief of Police of Sta. Rosa City.

A: Yes, Sir.⁷⁵

At that time, Marvin was already under custodial investigation, having been placed in the custody of the police, or deprived of his freedom of action in a significant manner.⁷⁶ Thus, when the police officers asked Marvin regarding the discovery of the motorcycle's registration documents in his possession, Marvin's right to counsel automatically attached. Furthermore, his answer constitutes an implied admission of guilt, which should have been done in writing, with the assistance of his counsel, or after a valid waiver of these rights.

Remarkably, neither P/Insp. Villamer nor SPO4 Pequiras testified that Marvin was informed of his rights, much less granted the opportunity to obtain a counsel of his own choice. Marvin, on the other hand, narrated in his direct examination that he was not informed of his rights:

⁷⁵ TSN, September 26, 2012, pp. 5-8.

⁷⁶ *People v. De La Cruz*, 344 Phil. 653, 660-661 (1997).

Meyer

[Direct examination of the petitioner by Atty. Jopito Agualada]

Q: The policemen presented to you the Original Receipt and the Certificate of Registration of the motorcycle of [Christian] yet you said that you do not know from where they recovered the same. And you also said that after that you were put under detention. Did they inform you Mr. witness the grounds of putting you under detention?

A: No, Sir.

Q: Did they inform you that they were able to recover a gun inside the bag of Francis Aguilar?

A: Yes, Sir.

Q: And upon being informed that a gun was found inside the bag of Francis Aguilar, what did they do to you?

A: I was put me (sic) inside the detention cell, Sir.

Q: Did they tell you that they are arresting you because of a gun that was found inside the bag of Francis Aguilar?

A: Yes, Sir.

Q: Did they show you the gun?

A: Yes, Sir.

Q: Where did they show you the gun?

A: I was moved-out of the detention cell and I returned to the office of the Chief, Sir.

Q: The Chief you are referring to the Chief of Police of Ocampo, Camarines Sur?

A: Yes, Sir.

Q: And that Office of the Chief of Police of Ocampo is at the Municipal Police Station of Ocampo, Camarines Sur?

A: Yes, Sir.

Q: When they show[ed] you a gun at [the] Municipal Police Station of Ocampo, Camarines Sur[,] was that the first time that you saw that gun that they allegedly recovered from the bag of Francis Aguilar?

A: Yes, Sir.

Q: Now, because of that, they incarcerated you because they found the gun inside the bag of Francis Aguilar?

A: Yes, Sir.

Q: They did not detain you because of their discovery of the [Official] Receipt and Certificate of Registration of the motorcycle of [Christian]?

A: No, Sir.

x x x x

Q: At the Police Station, did they inform you that they are putting you under arrest because of the recovered gun inside the bag of Francis Aguilar?

A: Yes, Sir.

Mejor

Q: **Did they inform you that you have a right to a lawyer?**

A: **No, Sir.**

Q: **Did they inform you that you have the right to remain silent?**

A: **No, Sir.**

Q: But you are sure that it was at the Police Station that they arrested you?

A: Yes, Sir.⁷⁷ (Emphases ours)

At this point, it bears reiterating that when the police officers of Ocampo, Camarines Sur began questioning Marvin about the items found in his possession, there should have been a counsel present to assist Marvin. Without the assistance of a counsel, and in the absence of a valid waiver of this right, Marvin's "voluntary" answer to P/Insp. Villamer is inadmissible as evidence of his guilt.

Another circumstantial evidence considered by the trial court is the alleged confession of Marvin to Virgie, the mother of the complainant. Unlike Marvin's admission to P/Insp. Villamer, the confession to Virgie, a private party, is not within the scope of the constitutional and statutory limitations on extrajudicial confessions.⁷⁸

This notwithstanding, the Court should still inquire upon the voluntariness of the confession. The prosecution must establish that the accused spoke freely, without inducement of any kind, and fully aware of the consequences of the confession. This may be inferred from the language of the confession, as when the accused provided details known only to him or her.⁷⁹

In the present case, the Court cannot determine the voluntariness of Marvin's supposed confession to Virgie because it was not reduced into writing or recorded in another manner. The Court can only rely on the testimony of Virgie as to the substance of Marvin's confession. Aside from her testimony, there is no independent evidence that establishes the voluntariness and substance of Marvin's alleged extrajudicial confession.⁸⁰

The testimony of Virgie as to the supposed confession of Marvin may, nonetheless, be admitted as an independently relevant statement, which proves only the fact that such statement was made. The admission of this testimony does not necessarily mean that the Court is persuaded. Virgie is competent to testify only as to the substance of what she heard—not the

⁷⁷ TSN, February 4, 2014, pp. 3-6.

⁷⁸ *People v. Ochoa*, 511 Phil. 682, 695 (2005).

⁷⁹ *People v. Satorre*, 456 Phil. 98, 107 (2003).

⁸⁰ *Id.* at 106.



truth thereof. Her testimony, by itself, is not sufficient proof of its veracity.⁸¹ As the Court explained in *People v. Satorre*:⁸²

At any rate, an extrajudicial confession forms but a *prima facie* case against the party by whom it is made. Such confessions are not conclusive proof of that which they state; it may be proved that they were uttered in ignorance, or levity, or mistake; and hence, they are, at best, to be regarded as only cumulative proof which affords but a precarious support and on which, when uncorroborated, a verdict cannot be permitted to rest.

Main prosecution witness Castañares testified that after appellant's alleged oral confession, she brought the latter to the office of the police at the Municipal Hall of Carcar, Cebu. At the police station, Castañares was investigated, after which she executed her sworn statement. Also at the police station, appellant allegedly admitted before policemen that he killed Pantilgan. His statement was not taken nor was his confession reduced into writing. This circumstance alone casts some doubt on the prosecution's account that appellant freely and voluntarily confessed killing Pantilgan. It raises questions not only as to the voluntariness of the alleged confession, but also on whether appellant indeed made an oral confession.⁸³ (Emphasis ours and citations omitted)

The Court emphasizes that an extrajudicial confession is not a sufficient ground for conviction, unless it is corroborated by either direct or circumstantial evidence.⁸⁴ If it is the latter, the accused may be convicted when: (a) there is more than one circumstance; (b) the facts from which the inferences are derived and proven; and (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.⁸⁵

Unfortunately for the prosecution, most of the circumstantial pieces of evidence are inadmissible as evidence against Marvin. The only remaining circumstance is the recovery of the stolen motorcycle in Sta. Rosa, Laguna.

Yet notably, the police officers did not recover the motorcycle through the information Marvin allegedly provided to either P/Supt. Villamer or Virgie. It was neither found in the possession of a certain Felix as Marvin supposedly told P/Supt. Villamer, or with "*Insan Joy*," in the address given to Virgie.⁸⁶ **Rather, the police officers of the Sta. Rosa City Police Station chanced upon the stolen motorcycle when they set-up a checkpoint at the Barangay Road of Kaingin, Sta. Rosa, Laguna. The driver of the stolen motorcycle was Albert, not the petitioner in this**

⁸¹ *People v. Silvano*, 431 Phil. 351, 363 (2002).

⁸² 456 Phil. 98 (2003).

⁸³ *Id.* at 108-109.

⁸⁴ RULES OF COURT, Rule 133, Section 3.

⁸⁵ *People v. Quitola*, 790 Phil. 75, 87-88 (2016).

⁸⁶ See TSN, February 28, 2012, pp. 20-22.

Meyer


case.⁸⁷ **Marvin was not even present at the time Albert was driving the motorcycle.**

For these reasons, the totality of the evidence does not corroborate the extrajudicial confession of Marvin. His conviction rests on tenuous grounds—the OR and CR were products of an illegal search, the admission to P/Supt. Villamer was in violation of his right to counsel, and the Court cannot determine the voluntariness and veracity of Marvin’s oral confession of guilt to Virgie. The doubts as to the guilt of Marvin are, therefore, more than reasonable, which warrants his acquittal.


WHEREFORE, premises considered, the present petition is **GRANTED**. The Decision dated May 12, 2017 and Resolution dated August 16, 2017 of the Court of Appeals in CA-G.R. CR No. 37273, which in turn affirmed the Judgment dated December 5, 2014 of the Regional Trial Court of Naga City, Branch 26, in Crim. Case No. 2011-0501, are **REVERSED** and **SET ASIDE**.

Petitioner Marvin Porteria y Manebali is **ACQUITTED** based on reasonable doubt. The Director of the Bureau of Corrections is directed to: (a) cause the immediate release of the petitioner, unless he is being lawfully held for another cause; and (b) inform this Court of the date of his release, or the reason for his continued confinement as the case may be, within five (5) days from notice.

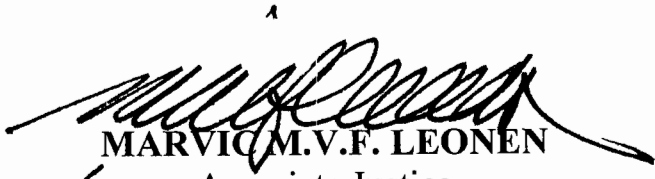
SO ORDERED.


ANDRES B. REYES, JR.
Associate Justice

WE CONCUR:


DIOSDADO M. PERALTA
Associate Justice
Chairperson

⁸⁷ TSN, November 20, 2012, pp. 3-8.

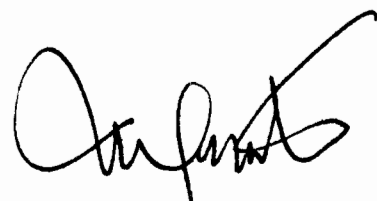

MARVIC M. V. F. LEONEN
 Associate Justice


RAMON PAUL L. HERNANDO
 Associate Justice


ROSMARIE B. CARANDANG
 Associate Justice


ATTESTATION

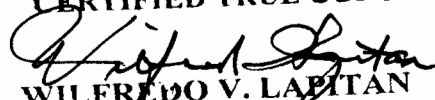
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


DIOSDADO M. PERALTA
 Associate Justice
 Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ANTONIO T. CARPIO
 Acting Chief Justice
 (Per Special Order No. 2644
 dated March 15, 2019)

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division

JUN 07 2019