

RULE 113: ARREST

I. Warranted Arrest (Sections 1-4)

Arrest is the taking of a person into custody in order that he may be bound to answer for the commission of an offense.

- **How Made (Section 2):** It is made by an actual restraint of a person or by his submission to the custody of the person making the arrest. No violence or unnecessary force shall be used.
- **Issuance of Warrant (Rule 112, Section 5):** A judge personally evaluates the prosecutor's report and supporting documents to determine probable cause.
- **Duty of Officer (Section 3):** The officer must deliver the accused to the nearest police station or jail without unnecessary delay.

II. Warrantless Arrest (Section 5)

A peace officer or a private person (citizen's arrest) may, without a warrant, arrest a person only in the following instances:

1. **In Flagrate Delicto:** When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense.
2. **Hot Pursuit:** When an offense has just been committed, and he has probable cause to believe, based on personal knowledge of facts or circumstances, that the person to be arrested has committed it.
3. **Escaped Prisoners:** When the person is a prisoner who has escaped from a penal establishment or place of confinement.

III. Method of Arrest (Sections 6-12)

- **Time of Arrest:** An arrest may be made on any day and at any time of the day or night.
- **Arrest with Warrant:** The officer need not have the warrant in his possession at the time of the arrest but must inform the person of the cause of the arrest and the fact that a warrant has been issued.
- **Breaking into Building:** An officer may break into a building if he is refused admittance after announcing his authority and purpose.

IV. Use of Body-Worn Cameras (A.M. No. 21-06-08-SC)

- **Requirement:** Law enforcement officers must wear body-worn cameras and at least one alternative recording device during the execution of warrants.
- **Notification:** Occupants of the premises must be notified as early as practicable that the execution of the warrant is being recorded.
- **Effect of Failure:** Failure to use cameras does not render the arrest unlawful or the evidence inadmissible per se, provided facts can be proven by other testimonies; however, the officer may be liable for contempt.

V. Waiver of Objections to Irregularity

- **Timing:** Any objection to the legality of the arrest must be raised **before entering a plea**; otherwise, the objection is deemed waived.
- **Bail:** Admission to bail does **not** bar the accused from challenging the validity of the arrest, provided the challenge is made before the plea.

Rodel Luz y Ong vs. People of the Philippines

G.R. No. 197788

February 29, 2012

FACTS:

Petitioner Rodel Luz y Ong filed this Petition for Review on Certiorari under Rule 45 against respondent People of the Philippines seeking to set aside the Court of Appeals Decision and Resolution which affirmed the Regional Trial Court's judgment of conviction for illegal possession of dangerous drugs. On March 17, 2003, at around 3:00 a.m., a police officer flagged down the petitioner for a traffic violation—specifically, for driving a motorcycle without a helmet. While the officer was at the sub-station issuing a citation ticket, the petitioner was told to empty his pockets, leading to the discovery of a sachet of shabu. The petitioner was then arrested. The trial court and the Court of Appeals both held that there was a lawful warrantless search incidental to a lawful arrest. Petitioner argued that the search was invalid because there was no lawful arrest at the time it was conducted, as he was not even issued a citation ticket or charged with the traffic violation before the search took place.

ISSUES:

Whether a person flagged down for a traffic violation is considered "under arrest" to justify a warrantless search incident to a lawful arrest under Rule 113, Section 5 (Warrantless Arrest, When Lawful).

RULINGS:

No. The Supreme Court ruled that there was no valid arrest of petitioner because when he was flagged down for committing a traffic violation, he was not, *ipso facto* and solely for this reason, arrested. Under Rule 113, Section 1, an arrest is the taking of a person into custody in order that he may be bound to answer for the commission of an offense. In this case, the officer was merely issuing a citation ticket, which is the typical procedure for traffic violations rather than taking a person into custody. Since the petitioner was not under arrest at the time the officer required him to empty his pockets, the warrantless search cannot be justified as an incident to a lawful arrest. Consequently, the evidence obtained is inadmissible under the exclusionary rule.

Doctrine: A lawful arrest must precede the search of a person and his belongings; the process cannot be reversed. A mere "invitation" to a police station for a traffic violation is not a substitute for a lawful arrest that would justify a search.

Section Category: This case falls under Rule 113, Section 5 (Warrantless Arrest, When Lawful).

Alfonso Patotoy y Centeno @ "Nonoy" vs. People of the Philippines

G.R. No. 257910

March 4, 2025

FACTS:

Petitioner Alfonso C. Patotoy filed a petition for review on *certiorari* against respondent People of the Philippines seeking to set aside his conviction for illegal possession of firearms. While police officers were conducting anti-criminality operations along Hermosa railroad track, they saw Alfonso Patotoy holding a bottle of Red Horse beer and drinking it, in violation of Manila City Ordinance No. 5555. They approached him, informed him of his violation, and effected the arrest. During the subsequent frisking, officers discovered an unlicensed firearm tucked into his waist. The RTC found Patotoy guilty beyond reasonable doubt and upheld the legality of Patotoy's warrantless arrest, and the CA affirmed the decision, concluding that the petitioner was validly caught *in flagrante delicto*. The Supreme Court denied the petition but noted that due to the service of his sentence, he must be immediately released.

ISSUES:

Whether the warrantless arrest of the petitioner was valid as an *in flagrante delicto* arrest under Rule 113, Section 5.

RULINGS:

Yes. The Supreme Court affirmed that the arrest was a valid *in flagrante delicto* arrest because the petitioner was caught in the act of violating a municipal ordinance in the presence of the police officers. Under Section 5(a), Rule 113, a peace officer may, without a warrant, arrest a person when, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense. Since the officers personally witnessed Patotoy violating Manila City Ordinance No. 5555 by drinking beer in a public place, they had the authority to arrest him without a warrant. Because the arrest was lawful, the subsequent search of his person that yielded the unlicensed firearm was a valid search incidental to a lawful arrest.

Doctrine: Visible possession of an unlicensed firearm or committing a violation of a municipal ordinance in the presence of an officer justifies an immediate warrantless arrest under the *in flagrante delicto* exception of Rule 113.

Rule 113 Section Category: This case falls under Section 5(a) (Warrantless Arrest; When Lawful - *In flagrante delicto*).

Saturnino C. Ocampo vs. Hon. Ephrem S. Abando, et al.

G.R. No. 176830

February 11, 2014

FACTS:

Petitioner Saturnino C. Ocampo filed this special civil action for *certiorari* and prohibition against respondents Hon. Ephrem S. Abando, in his capacity as Presiding Judge of the Regional Trial Court (RTC) of Hilongos, Leyte, and various prosecutors. The case stems from the discovery of a mass grave in Inopacan, Leyte, containing remains of victims of "Operation Venereal Disease," a purge launched by the CPP/NPA/NDFP to kill suspected military informers. Following a preliminary investigation, Investigating Prosecutor Rosulo U. Vivero recommended the filing of an Information for multiple murder against 71 individuals, including the petitioner. The Information was filed in the RTC Hilongos, Leyte, and Judge Abando subsequently issued an Order finding probable cause and directing the issuance of warrants of arrest against the accused with no recommended bail. Petitioner Ocampo argued that his right to due process was violated because the judge did not comply with constitutional requirements in finding probable cause, specifically by failing to conduct a "searching inquiry" or a personal examination of the witnesses before issuing the warrant. The Supreme Court ultimately dismissed the consolidated petitions and ordered the trial to proceed.

ISSUES:

Whether the judge is required to personally examine the complainant and the witnesses before issuing a warrant of arrest under Rule 113 in relation to the requisites for a warranted arrest.

RULINGS:

No. The Supreme Court ruled that the Constitution and the Rules of Court do not require the judge to personally examine the complainant and the witnesses for the purpose of issuing a warrant of arrest. It is sufficient that the judge personally evaluates the prosecutor's report and supporting documents to determine the existence of probable cause for the indictment. The judge is only required to conduct a personal examination when the evidence submitted by the prosecutor is insufficient to form a belief that the accused is probably guilty. In this case, Judge Abando sufficiently complied with the requirement by reviewing the resolution, Information, affidavits of complainants, sworn statements of witnesses, and other pertinent documents like pictures of the grave site and skeletal remains before finding probable cause.

Doctrine:

The judge's "personal determination" of probable cause for the issuance of a warrant of arrest does not mandatorily require the personal examination of the complainant and his witnesses; he sufficiently complies with the requirement if he reviews the Information and the documents attached thereto, and on the basis thereof forms a belief that the accused is probably guilty.

Rule 113 Section Category: This case falls under Rule 113, Section 1 (Warranted Arrest; Requisites for the Issuance of Warrant of Arrest).

Rizaldy Sanchez y Cajili vs. People of the Philippines

G.R. No. 204589

November 19, 2014

FACTS:

Petitioner Rizaldy Sanchez y Cajili filed this petition for certiorari (which the Court treated as a petition for review on certiorari) against respondent People of the Philippines to reverse the Court of Appeals (CA) decision affirming his conviction for illegal possession of dangerous drugs. Acting on a tip that a certain "Intang" was selling drugs to tricycle drivers, police officers dispatched to the area spotted a tricycle carrying Sanchez leaving "Intang's" house. The officers chased the tricycle, requested Sanchez to alight, and noticed him holding a matchbox. Sanchez voluntarily handed over the matchbox, which the officers opened to find a plastic sachet of shabu. The RTC found Sanchez guilty, ruling he was caught *in flagrante delicto*, and the CA affirmed the conviction, concluding that the police had probable cause to believe he was committing a crime based on the tip and his presence at the drug dealer's residence. Sanchez maintained that the warrantless arrest and subsequent search were invalid due to the absence of probable cause.

ISSUES:

Whether the warrantless arrest of the petitioner was valid as an *in flagrante delicto* arrest under the provisions of Rule 113, Section 5.

RULINGS:

No. The Supreme Court ruled that neither an *in flagrante delicto* arrest nor the "stop-and-frisk" principle applied to justify the warrantless search and seizure. For an *in flagrante delicto* arrest under Rule 113, Section 5(a) to be valid, the person must perform an overt act indicating that a crime has just been, is being, or is about to be committed; merely leaving the house of a suspected drug dealer and boarding a tricycle does not constitute such an act. The search was unlawful because the law requires a lawful arrest to precede the search of a person and his belongings; the process cannot be reversed. Since the warrantless arrest was illegal, the search was also void, and the evidence obtained is inadmissible.

Doctrine: A lawful arrest must precede the search of a person and his belongings; the process cannot be reversed.

Rule 113 Section Category: This case falls under Rule 113, Section 5 (Warrantless Arrest; When Lawful).

Roger Posadas, Rosario Torres-Yu, and Marichu Lambino vs. The Hon. Ombudsman, The Special Prosecutor, and Orlando V. Dizon

G.R. No. 131492

September 29, 2000

FACTS:

Petitioners Roger Posadas (then Chancellor of U.P. Diliman), Rosario Torres-Yu, and Marichu Lambino filed this petition for certiorari and prohibition against respondents Orlando V. Dizon (Chief of the Special Operations Group of the NBI), the Ombudsman, and the Special Prosecutor. The case arose after Dennis Venturina, a member of the Sigma Rho fraternity, was killed in a rumble on December 8, 1994. Petitioner Posadas requested NBI assistance in the investigation, and on December 12, 1994, respondent Dizon and NBI agents attempted to arrest two Scintilla Juris fraternity members, Francis Carlo Tapanan and Raymundo Narag, without a warrant while they were at the U.P. Police Station for peace talks. Petitioners refused to turn the students over to the NBI because the agents lacked a warrant. Consequently, the Ombudsman filed an Information for obstruction of justice (violation of P.D. No. 1829) against the petitioners, ruling that the students could be validly arrested without a warrant on mere suspicion. The Supreme Court ultimately prohibited the prosecution and ordered the dismissal of the Information against the petitioners.

ISSUES:

Whether the attempted warrantless arrest of the student suspects by the NBI was valid under the provisions of Rule 113, Section 5 (Warrantless Arrest; When Lawful).

RULINGS:

No. The Supreme Court ruled that the attempted arrest was illegal because it did not fall under any of the authorized exceptions for warrantless arrests. First, it was not an *in flagrante delicto* arrest because the NBI agents were not present when the crime was committed. Second, it did not qualify as a "hot pursuit" arrest because the killing had occurred four days prior, and the agents' belief that the students committed the crime was based on the statements of alleged eyewitnesses rather than "personal knowledge of facts or circumstances" of the crime itself as required by the rules. The Court emphasized that law enforcement cannot disregard constitutional requirements even when requested for assistance.

Doctrine: Arrest without a warrant on mere suspicion is not allowed; for a warrantless arrest to be valid under the "hot pursuit" exception, it must be based on the arresting officer's personal knowledge of facts or circumstances indicating that the person to be arrested has committed the offense.

Rule 113 Section Category: This case falls under Rule 113, Section 5 (Warrantless Arrest; When Lawful).