

On Warrantless Arrests

On 1 February 1988, Rolando Dural, who was bedridden while being treated for a gunshot wound at the St. Agnes Hospital in Quezon City, was arrested by agents of the Regional Intelligence Operations Unit of the CAPCOM, and forcibly taken to the Regional Medical Services of the military unit. Dural was arrested without even the benefit of an arrest warrant. The military justified its warrantless arrest by claiming that Dural was a member of the NPA liquidation squad.

When the plight of Dural reached the Supreme Court in a petition for his release in *Umil v. Ramos*, the High Tribunal agreed with the military. In an *en banc* resolution with five other related cases on 9 July 1990, the Supreme Court justified the warrantless arrest by invoking the Rules of Court and jurisprudential doctrine that since subversion is a "continuing offense"; the arresting officers need not avail themselves of a warrant of arrest as Dural "can be said to be committing an offense when arrested". This the Court did, relying upon *Garcia-Padilla v. Enrile*, a 1983 case decided under the auspices of the dictatorial regime.

The decision in *Umil v. Ramos* once again casts a dark cloud on the state of political and civil liberties in our country today. As summed up by the dissenting opinion of Justice Abraham Sarmiento, "with this Court's ruling, we have frittered away, by the stroke of the pen, what we had so painstakingly built in four years of democracy, and almost 20 years of struggle against tyranny".

The *Umil* ruling runs counter to the libertarian bias of our new Constitution which mandates that "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...". Moreover, it collides with the charter's mandate that "no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge...". (1987 Constitution, Sec. 2, Art. II)

One effect of this decision is that "probable cause" may now be determined by military agents who can now effect warrantless arrests on the basis of their suspicion and surveillance. And with the military organization's track record in this respect, the repercussions of this judicial sanction are almost frightening to think, with the power to arrest and search lodged in the thousands of military elements on constant lookout for suspected "rebels" and "subversives".

The *Umil* ruling has laid the basis for the military's power for arrest and seizure. On the other hand, it threatens the very foundations of individual rights safeguarded in the Constitution. By virtually expanding the powers of the authorities, the decision has also effectively narrowed the scope of individual rights and liberties.

The legal throwback to repressive rule has no place in a democratic setting. Moreso, in an era where government makes it a policy to reinstitute democratic forms and institutions, the

Umil decision sets the basis and opportunity for the abuse of power by state authorities. It betrays those who had shed blood and tears in the long twilight struggle against the Marcos dictatorship. It betrays our democratic ideals.

The *Law Student Government* calls on all students and faculty of the College of Law of the University of the Philippines to support this statement of protest on the Supreme Court's decision in the *Umil* case.

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