THE FUTURE OF ADMINISTRATIVE WARRANTS: ANALYZING *BOARD OF COMMISSIONERS OF THE BUREAU OF IMMIGRATION V. YUAN WENLE* AND ITS IMPLICATIONS ON ADMINISTRATIVE POWER[*]

Kyle Christian G. Tutor[**]

ABSTRACT

The Supreme Court *en banc* ruled in *Board of Commissioners of the Bureau of Immigration v. Yuan Wenle* that administrative agencies, like courts, can issue search and seizure warrants and warrants of arrest, subject to the Court's guidelines. This Note analyzes the *Yuan Wenle* ruling given its potential impact on the powers of administrative agencies and their dynamic with the courts.

The Note first introduces the *Yuan Wenle* decision and discusses the background of administrative warrants in the United States and in the Philippines, finding that the administrative warrants ordinarily contravenes the language of the Constitution and the intent of the framers. It proceeds with a legal and practical analysis of *Yuan Wenle*, and an evaluation of its guidelines and their applicability to other powers of administrative agencies. The final sections of the Note predict the ruling's impact on the administrative and regulatory framework and conclude that while *Yuan Wenle* and its guidelines will serve to enhance the administrative and regulatory functions of agencies, changes are necessary to enable them to fully utilize the potential of administrative warrants without violating the people's rights.

[*] *Cite as* Kyle Christian G. Tutor, *The Future of Administrative Warrants: Analyzing Board of Commissioners of the Bureau of Immigration v. Yuan Wenle and its Implications on Administrative Power*, 98 PHIL. L.J. 77, [page cited] (2024).

An earlier draft of this Note was awarded the Salvador T. Carlota Prize for Best Paper in Administrative Law and the Law on Public Officers (2024), University of the Philippines College of Law.

[**] J.D., *cum laude* (2024) & B.A. in Political Science, *cum laude*, (2017), University of the Philippines. Vice-Chair, Vol. 97, PHILIPPINE LAW JOURNAL.

I. INTRODUCTION

Administrative agencies represent a "provocative fusion" of governmental powers because they are vested with powers which generally belong to different branches of the government, such as investigating, rulemaking, and adjudication.[1] Quasi-judicial agencies, for example, conduct hearings and decide on cases before them, but in furtherance of their regulatory objectives.[2] As such, quasi-judicial agencies are not considered part of the judicial system and cannot exercise purely judicial functions or the inherent powers of courts.[3]

Despite their differences, quasi-judicial agencies and courts are deemed to be collaborative instrumentalities of justice.[4] The Supreme Court has even empowered administrative agencies by recognizing their expertise and reinforcing their authority. To this end, the Court has applied in several cases the doctrines of primary administrative jurisdiction, exhaustion of administrative remedies, and judicial deference to administrative findings.

In 2023, the Court in *Board of Commissioners of the Bureau of Immigration v. Yuan Wenle*[5] further empowered administrative agencies by ruling that they, like courts, may also issue warrants. Justice Amy Lazaro-Javier describes the ruling as a "forward-thinking project long overdue," which provides a framework that "ensures utmost protection of the rights of our people without sacrificing the legitimate goals of our regulatory mechanisms." However, the ruling affects the dynamic between quasi-judicial agencies and courts, disturbs the doctrine that administrative agencies cannot issue

---

[1] HECTOR DE LEON & HECTOR DE LEON, JR., ADMINISTRATIVE LAW: TEXT AND CASES 11 (2010).

[2] *Id.* at 26.

[3] *Id.* at 25–26.

[4] *See id.* at 16.

[5] [Hereinafter, "*Yuan Wenle*"], G.R. No. 242957, Feb. 28, 2023 (Decision) (slip op.).

warrants,[6] and shatters the conception that a warrant requires a judicial determination of probable cause to serve as a check on law enforcement.[7]

Given the possible effects of the *Yuan Wenle* ruling, this Note analyzes the case and its implications on administrative power. The next subsections discuss the case in full, while Section II provides the background and framework of administrative warrants in the United States. Section III reviews the history of administrative warrants and the development of the search, seizure, and warrant clauses in the Philippines. Section IV presents a constitutional and practical analysis of the Court's ruling in *Yuan Wenle* and provides the proper legal framework and recommendations. Section V analyzes the implications of *Yuan Wenle* on administrative power by evaluating the Court's guidelines and their applicability to other administrative powers. Section VI predicts the implications of *Yuan Wenle* on future legislation and case doctrines, while Section VII concludes the Note.

A. *Yuan Wenle* Case

Even though the parties in *Yuan Wenle* never raised the issue on the constitutionality of administrative warrants, the Supreme Court still ruled on the issue and overturned the well-settled rule that only judges may determine the existence of probable cause for the issuance of warrants.[8]

In *Yuan Wenle* , the Chinese Embassy in the Philippines wrote to the Bureau of Immigration (BI), seeking its assistance in arresting and deporting Yuan Wenle, whose Chinese passport has been cancelled for alleged criminal activities in China.[9] Accordingly, the BI issued a Charge Sheet against Yuan Wenle, tagging him as an undocumented foreigner "whose presence in the

---

[6] "The Constitution grants the authority to issue [warrants] only to a judge upon fulfillment of certain basic constitutional requirements." ANTONIO NACHURA, OUTLINE REVIEWER IN POLITICAL LAW 149 (2016 ed.). "The framers of the Constitution confined the determination of probable cause as basis for [the issuance of warrants] to judges to better secure the people against unreasonable searches and seizures."; I HECTOR DE LEON & HECTOR DE LEON, JR., PHILIPPINE CONSTITUTIONAL LAW: PRINCIPLES AND CASES 349 (2017), *citing* Mantaring v. Roman, 254 SCRA 158, Feb. 28, 1996. "The 1987 Constitution has returned to the 1935 rule that warrants may be issued only by judges. However, the Commissioner of Immigration may order the arrest of an alien in order to carry out a deportation order that has become final."; JOAQUIN BERNAS, THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES: A COMMENTARY 177 (2009 ed.), *citing* jurisprudence.

[7] Lindsay Nash, *Deportation Arrest Warrants*, 73 STAN. L. REV. 433, 436 (2021).

[8] *Yuan Wenle*, G.R. No. 242957, slip op. at 12.

[9] *Id.* at 2–3.

Philippines 'poses a risk to public interest.'"[10] The Board of Commissioners ("Board") of the BI then issued a Summary Deportation Order (SDO) against Yuan Wenle. When he was about to leave for Hong Kong, Yuan Wenle was arrested pursuant to the SDO at the airport's pre-departure area.[11]

Yuan Wenle filed a Petition for *habeas corpus* with the Regional Trial Court (RTC), principally asserting that the SDO was void for having been issued without notice and hearing, which the RTC granted.[12] The Board then filed a Petition for Review on *Certiorari* with the Supreme Court.

Although the parties focused their arguments on whether the SDO violates due process, the Court deemed it necessary to rule on the validity of administrative warrants. The Court reasoned that it could still review an issue not raised by the parties if it is necessary for a complete resolution of the case.[13] It explained that the due process issue could not be meaningfully resolved without ruling on the constitutionality of administrative warrants since an SDO is basically an administrative warrant.[14] The Court added that skirting the issue on administrative warrants is "a form of rendering piecemeal *ex post facto* 'justice'" and would amount to "an *ex post facto* promulgation of doctrinal policies [which] […] would create a judicial atmosphere of instability and unfairness[.]"[15]

Ruling on the issue, the Court recognized the concern of the framers of the 1987 Constitution that "allowing authorities or officials of the Executive Branch to issue warrants will expose the people's rights, especially of liberty and of privacy, to the danger of State abuses[,]"[16] as was done during the administration of former President Ferdinand Marcos, Sr. The Court also acknowledged that it was this concern which led the framers to delete the phrase "or such other responsible officer as may be authorized by law" found in the 1973 Constitution which allowed officers other than judges to determine probable cause in the issuance of warrants.[17] Nevertheless, the Court still ruled that administrative warrants are constitutional for the following reasons: (1) Section 37(a) of the Immigration Act,[18] which

[10] *Id.* at 3.
[11] *Id.*
[12] *Id.* at 3–4.
[13] *Id.* at 12.
[14] *Id.* at 13.
[15] *Id.*
[16] *Id.* at 18.
[17] *Id.*
[18] Com. Act No. 613 (1940), § 37(a). The Philippine Immigration Act of 1940.

empowers the Commissioner of Immigration ("Commissioner") to issue arrest warrants, has continued to be valid; (2) the framers recognized the need for administrative determination in concerns relating to national security, public safety, and public health; (3) *Salazar v. Achacoso*[19] has already established that the general rule that only judges may issue warrants is subject to the exception that the President or the Commissioner may issue arrest warrants in cases of deportation; (4) the prohibition against unreasonable searches and seizures was intended by the framers to apply only to criminal cases; (5) the Constitution is silent on other compulsory processes used in non-criminal cases such as subpoenas, injunctions, and directives; (6) the necessity of administrative warrants cannot be disregarded in its entirety; and (7) the validity of warrants should be based on the reasonableness standard rather than the personality of the adjudicator.[20]

The Court proceeded to fix the guidelines for the validity of administrative warrants, explaining that two reasons necessitate the establishment of the guidelines. First, the Constitution's silence on deportation of aliens seems to be an inadequate [basis] to justify administrative warrants. Second, the Court realized that "the lingering fear — that agencies or officers in the Executive Branch might abuse their powers by summarily depriving private rights or entitlements without due process — cannot be downplayed."[21] The Court then declared that it cannot allow executive and judicial functions to be "absolutely and indistinguishably fused in a single authority," which, to the Court, "may result in violence and oppression[.]" The Court thus deemed that there is a "pressing need to fix a set of guidelines which are unequivocally necessary to prevent an administrative agency or officer from legally performing oppressive acts."[22]

The Supreme Court *en banc* appears to have made up its mind on the constitutionality of administrative warrants considering that only one justice dissented.[23] However, it is submitted that the ruling on the issue will be revisited in the future for two reasons.

---

[19] [Hereinafter "*Salazar*"], G.R. No. 81510, 183 SCRA 145, Mar. 14, 1990.

[20] *Yuan Wenle*, G.R. No. 242957, slip op. at 18–19, 60.

[21] *Id.* at 60.

[22] *Id.*

[23] Only Justice Caguioa dissented to the ruling on the validity of administrative warrants. Justice Leonen concurred, opining that "the Executive, in order to effectively enforce and administer the laws, must be empowered to temporarily and provisionally detain persons and affect liberties." Justice Lazaro-Javier also concurred and found that jurisprudence and existing laws show that "administrative warrants have continued to exist

First, as pointed out by Justice Singh, it was not the proper time for the Court to rule on the validity of administrative warrants because the issue was never raised by the parties. Thus, the Court did not have jurisdiction over the issue and the Court's ruling and guidelines amount to *obiter*.[24]

Second, because the parties were not able to argue extensively on the issue, important legal points and considerations were not fully examined and addressed by the Court in its ruling. As will be discussed, the text of the Constitution, the history and essence of the right, the intent of the Framers, and the prevailing rules and jurisprudence show that warrants issued by administrative agencies are generally disallowed by the Constitution. Moreover, the necessity of administrative warrants perceived by the Court may not be entirely accurate because the administrative powers considered by the Court as warrants are not considered warrants under the Constitution.

Given these issues surrounding *Yuan Wenle* and its implications on administrative power, this Note aims to provide perspectives that the Court may consider should it find an opportunity to discuss administrative warrants again in the future and to give recommendations to improve the current legal framework which the Court, Congress, and agencies might find helpful.

B. Warrants, Judicial Warrants & Administrative Warrants

1. Warrants in General

A warrant is a writ which directs or authorizes someone to do an act and usually directs a law enforcer to make an arrest, a search, or a seizure.[25]

---

under the regime of the 1987 Constitution." Notwithstanding her opinion that the Court did not have jurisdiction over the issue and that the Court's ruling and guidelines were mere obiter, Justice Singh still shared her view that the rule should distinguish between administrative arrest warrants and administrative search warrants. She states that arrest warrants, except in deportation cases, should only be issued by courts." Thus, "if an administrative agency finds that there is a necessity to detain a person or restrain his or her liberty, the rule should still be that a judicial warrant should be obtained, unless a warrantless arrest is allowed." *Yuan Wenle* (Caguioa, Leonen, Lazaro-Javier & Singh, *JJ.*, *concurring and dissenting*).

[24] *Yuan Wenle*, G.R. No. 242957, slip op. at 11–12 (Singh, *J.*, *concurring*). (Emphasis supplied.)

[25] BLACK'S LAW DICTIONARY 4902 (8th ed. 2004). This definition was also used in *Yuan Wenle*, *citing* Gethers v. State of Florida, 838 So.2d 504 (2003); United States v. Block, 927 F.3d 978 (2019); Yith v. Nielsen, 881 F.3d 1155 (2018); Commonwealth of Kentucky v. Tapp, 497 S.W.3d 239 (2016); and United States v. Collazo-Castro, 660 F.3d 516 (2011).

The understanding of a warrant in *Yuan Wenle* is more general in that it is a writ which allows a summary but temporary deprivation of liberty or property rights, "which deprivation occurs prior to the hearing proper justified by some valid governmental interest at stake."[26]

Generally, the purpose of warrants is to protect and enforce the people's right to privacy and right against unreasonable searches and seizures.[27] Article III, Section 2 of the 1987 Constitution, which contains the warrant clause, protects the privacy and sanctity of persons as it guarantees their right to be secure against unreasonable searches and seizures.[28] It is a "safeguard against wanton and unreasonable invasion of the privacy and liberty of a citizen as to his person, houses, papers, and effects by officers of the law […] and gives a remedy against such usurpation when attempted."[29]

The essence of warrants comes from their protective function because the plain import of the language of the Constitution is that, generally, searches and seizures are unreasonable unless authorized by a valid warrant.[30] The protection given by the warrant clause is "that between person and police must stand the protective authority of a magistrate clothed with power to issue or refuse to issue search warrants or warrants of arrest."[31] Thus, warrants "allow a neutral judicial officer to assess whether the police have probable cause to make an arrest or conduct a search,"[32] and serve as a check on law enforcement discretion by "interposing a neutral arbiter between officers and the enforcement action they seek to take."[33] This is why warrantless searches are presumed to be unreasonable[34] and why judges, in issuing warrants, must strictly comply with the requirements under the law.[35]

---

[26] *See Yuan Wenle*, G.R. No. 242957, slip op. at 27.

[27] *See*, *generally*, S. Sharpe, *Search Warrants: Process Protection or Process Validation?*, 3 INT'L J. EVID. & PROOF 101, 101 (1999); *The Warrant Requirement*, 48 ANN. REV. CRIM. PROC. 26, 26 (2019).

[28] JOAQUIN BERNAS, THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES: A COMMENTARY 168 (2009 ed.).

[29] I HECTOR DE LEON & HECTOR DE LEON, JR., PHILIPPINE CONSTITUTIONAL LAW: PRINCIPLES AND CASES 335 (2017).

[30] BERNAS, *supra* note 6, at 168.

[31] *Id.*

[32] Nash, *supra* note 7, at 450, *citing* Steagald v. United States, 451 U.S. 204, 212 (1981).

[33] *Id.*

[34] Acosta v. Ochoa [hereinafter "*Acosta*"], 865 Phil. 400, 498 (2019).

[35] I DE LEON & DE LEON, JR., *supra* note 29, at 337–38.

Warrants also ensure that any evidence obtained is not excluded, as evidence obtained in violation of the requirements of the law (including a warrant) becomes inadmissible for any purpose in any proceeding.[36]

Corollary thereto, warrants serve the important function of legitimizing actions by law enforcement officers in the perception of the public as searches and seizures appear more valid if previously approved by a neutral judge.[37] With this, warrants have also been said to give law enforcement officers an "assurance of immunity from suit if the search or seizure is subsequently found to be flawed[,]"[38] as the search or seizure has been legitimized by a warrant.

Given the important purposes or functions that warrants serve in the legal system and in law enforcement, any ruling which deviates from the established rules on the authority to issue warrants and the requirements for the validity of warrants must be closely analyzed.

2. Judicial Warrants

A judicial warrant is a warrant issued by a judge or magistrate for the arrest of a person or the search of his or her property.[39] From this, it can be gathered that judicial warrants are generally either search or arrest warrants.

In Philippine law, a search warrant "is an order in writing issued in the name of the People of the Philippines, signed by a judge and directed to a peace officer, commanding him to search for personal property described therein and bring it before the court."[40] There is a debate amongst justices and scholars as to what accurately or appropriately constitutes a search that would trigger constitutional protection in light of technological developments and the governmental intrusions that come with them.[41] However, it is generally accepted that any intrusion by the State where a person has "reasonable expectation of privacy" is a "search" within the

---

[36] CONST. art. III, § 3(2).

[37] Nash, *supra* note 7, at 451.

[38] *Id.*

[39] A DICTIONARY OF LAW 534 (Oxford University Press, Elizabeth Martin ed., 5th ed. 2002).

[40] RULES OF COURT, Rule 126, § 1.

[41] *See*, *generally*, Russell L. Weaver, *The Fourth Amendment: History, Purpose, and Remedies*, 52 TEX. TECH L. REV. 127 (2019) & Orin S. Kerr, *The Curious History of Fourth Amendment Searches*, 2012 SUP. CT. REV. 67 (2012).

meaning of the Constitution that would thus require a search warrant.[42] This is following the doctrine in *Katz v. United States*.[43] Search warrants essentially serve an evidentiary purpose,[44] which "is to authorize a search and seizure of evidence of a suspected crime"[45] or a search for and seizure of evidence, instrumentalities, fruits of a crime, or contraband.[46] Hence, search warrant proceedings have the crucial purpose of assisting "the State's efforts in building its case and eventually prosecuting."[47]

On the other hand, an arrest warrant commands an executive officer to arrest a specific person.[48] 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."[49] It is made by actual restraint of a person or when the person to be arrested submits to the custody of the arresting officer.[50]

The purpose of arrest warrants is to compel an executive officer "to arrest a defendant and bring him before the issuing court for arraignment,"[51] so that the arrested person may be tried and held accountable for violating the law. Arrest warrants enable the courts to bring a person under their jurisdiction should he or she refuse to enter his or her appearance.[52]

Evidently, judicial warrants serve evidentiary, investigatory, preparatory, or jurisdictional purposes. Search warrants are evidentiary, investigatory, and preparatory because they enable the State to fulfill its evidence-gathering and case-building functions. Arrest warrants are investigatory, preparatory, and jurisdictional because they allow the State to take custody of a person so that he may be subjected to further investigation and proceedings. These are the functions which "warrants" under the Constitution are meant to fulfill. In other words, a writ or process, even if

---

[42] *Acosta*, 865 Phil. at 496.

[43] 389 U.S. 347 (1967).

[44] Patricia Donald, *Commentary on the Provisions of C-61 Canada's New Proceeds of Crime Legislation (S.C. 1988, c.51), in* 47 ADVOCATE (VANCOUVER) 423, 425 (1989).

[45] Ronald E. Van Buskirk & Alan D. Palter, *Environmental Search and Seizure - What to Do When the Inspector Is at the Door*, 16 W. ST. U. L. REV. 87, 92 (1988).

[46] Jennifer Murphy, *Trash, Thermal Imagers, and the Fourth Amendment: The New Search and Seizure*, 53 S.M.U. L. REV. 1645, 1652 (2000).

[47] *Yuan Wenle*, G.R. No. 242957, slip op. at 29.

[48] I DE LEON & DE LEON, JR., *supra* note 29, at 333.

[49] RULES OF COURT, Rule 113, § 1.

[50] Rule 113, § 2.

[51] Michael Verde, *The Unwarranted Choice: Arrest Warrants and Problems Inherent in the Payton Doctrine*, 32 N. Y. L. SCH. L. REV. 169, 174 (1987).

[52] *Yuan Wenle*, G.R. No. 242957, slip op. at 29.

denominated as a "warrant," is not a warrant within the meaning of the Constitution if it does not serve these said purposes. Understanding this is crucial to the analysis of the *Yuan Wenle* ruling.

3. Administrative Warrants

The concept of administrative warrants is understood differently in the United States. In the United States, an administrative warrant is a "warrant issued by a judge at the request of an administrative agency,"[53] usually for purposes of searching for violations of administrative rules and regulations, which "requires a lower standard of probable cause."[54] Administrative agencies which are granted enforcement powers "rely on the use of administrative warrants to ensure compliance with their standards."[55] For example, the US Environmental Protection Agency is authorized to obtain administrative search warrants to investigate whether establishments comply with the requirements for the disposal of solid waste and hazardous waste and the disposal of chemicals.[56]

In the Philippines, administrative warrants are "warrants akin to search warrants or warrants of arrest, but are issued by 'adjudicative authorities other than regular courts.'"[57] According to *Yuan Wenle*, administrative warrants are necessary because they address "disputes involving technical matters," "some specialized, exigent or important public need," and some "public welfare or public interest concern."[58] They are also needed by administrative agencies to implement specific acts pursuant to their well-defined regulatory functions.[59]

Yuan Wenle used the Philippine understanding or concept of administrative warrants, and it is also this understanding or concept of administrative warrants that this Note uses.

---

[53] BLACK'S LAW DICTIONARY 4902 (8th ed. 2004).

[54] *Administrative Warrant*, LEGAL INFORMATION INSTITUTE WEX WEBSITE, *at* https://www.law.cornell.edu/wex/administrative_warrant.

[55] *Id.*

[56] *Id.*; 42 U.S.C. § 6927(a); & 15 U.S.C. § 2610.

[57] *Yuan Wenle*, G.R. No. 242957 (Leonen, *J.*, *concurring*), slip op. at 7, *citing* Decision, slip op. at 11. This definition of administrative warrants has been used in Philippine jurisprudence prior to *Yuan Wenle*. *See infra* Section III of this Note.

[58] *Id.* at 25.

[59] *Id.* at 20.

II. ADMINISTRATIVE WARRANTS IN THE UNITED STATES

Notwithstanding the different concepts of administrative warrants in the United States and the Philippines, it is still important to examine the legal framework of the United States because Article III, Section 2 of 1987 Philippine Constitution is based on the Fourth Amendment of the US Constitution which, in turn, was born out of the United States' colonial experience. [60] In fact, our Court has traced the history of our right against unreasonable searches and seizures from the Fourth Amendment.[61] Countless Philippine Supreme Court decisions have also referred to Fourth Amendment history and jurisprudence for guidance and application.[62] In *People v. Marti* and *Saluday v. People*, it was said that pronouncements of the US Federal Supreme Court and State Appellate Courts are doctrinal in our jurisdiction because the 1935 Constitution's search and seizure clause was "derived almost verbatim from the Fourth Amendment."[63]

A. The Fourth Amendment and its History

The Fourth Amendment provides:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.[64]

It consists of two clauses: the reasonableness clause, which prohibits unreasonable searches and seizures, and the warrant clause, which specifies the requirements for warrants.[65] There are two approaches to interpreting the Fourth Amendment.[66] The reasonableness approach states that, "the

---

[60] Calleja v. Executive Secretary [hereinafter *Calleja*], 918 Phil. 1, 231 (2021).

[61] *Acosta*, 865 Phil. at 494, *citing* LEONARD W. LEVY, ORIGINS OF THE BILL OF RIGHTS 150–179 (2000).

[62] *See e.g. Acosta*, 865 Phil. 400; Saluday v. People, 829 Phil. 65 (2018); Pollo v. Constantino-David, 675 Phil. 225 (2011); Venus Commercial Co., Inc. v. Dep't of Health [Hereinafter "*Venus Commercial Co.*"], 916 Phil. 16 (2021).

[63] G.R. No. 81561, Jan. 18, 1991; & 829 Phil. 65 (2018).

[64] U.S. CONST. amend. IV. That the Fourth Amendment covers arrests is well-established.

[65] Robert C. Maybank, *Constitutional Requirements for Administrative Warrants in Canada and the United States: Opposite Trends*, 39 U. TORONTO L.J. 55, 56 (1989).

[66] *Id.*

reasonableness clause should be read separately from the warrant clause, and that the existence of a warrant is only one factor in determining the reasonableness of a search," while the warrant approach maintains that the two clauses should be read together, so that "warrantless searches are *per se* unreasonable unless the situation makes it impractical to secure a warrant."[67]

Unlike the Philippine warrant clause, the Fourth Amendment does not provide who has the authority to issue warrants, and the US Supreme Court has also not yet resolved the question.[68] The Supreme Court has said that this is one remarkable difference between the Philippine and US Constitutions. It is also for this reason that the US Supreme Court was able to rule in *Shadwick v. City of Tampa*[69] that an arrest warrant issued by the Municipal Court clerk is not *per se* invalid. In said case, the US Court held that the Fourth Amendment does not exclusively vest to judges the authority to issue warrants but only requires that probable cause be determined by a neutral and detached person. The US Court found that the Municipal Court clerk satisfied the requirement because the said clerk is supervised by the Municipal Court judge and is detached from law enforcement. The Court noted, however, that its ruling applied only "to persons connected with the judicial branch, disassociated from the role of law enforcement."[70]

The Fourth Amendment grew directly out of the traumatic experience of the original US colonies with the use of "writs of assistance."[71] Abuse of the search and seizure power was "a source of discontent in Great Britain" because the Crown, after the development of printing, "devised methods to restrict the freedom of the press[,]" and the government exercised broad powers through the issuance of general warrants to search for libelous publications.[72] In the historic case of *Entick v. Carrington*, in 1765, Lord Camden ruled that a general warrant is invalid because a specific grant of power is required for such searches.[73]

---

[67] *Id.*

[68] Nash, *supra* note 7, at 436.

[69] 407 U.S. 345 (1972).

[70] John A. Robertson, *The Supreme Court and Limited Jurisdiction Courts - Ward and Shadwick*, 1 JUST. SYS. J. 55, 59 (1974).

[71] *Fourth Amendment—Search and Seizure*, UNITED STATES GOVERNMENT PRINTING OFFICE 1199, *available at* https://www.govinfo.gov/content/pkg/GPO-CONAN-1992/pdf/GPO-CONAN-1992-10-5.pdf.

[72] Leila Obier Schroeder, *The Warrant Clause: The Key to the Castle*, 49 FED. PROBATION 65, 65 (1985).

[73] *Id.*

These abusive practices were "transplanted to the American colonies" as general warrants called "writs of assistance" became just as unpopular in the colonies as they were in England.[74] In the colonies, however, it was smuggling and the enforcement of customs laws rather than seditious libel which became the leading examples of the necessity for protecting the people against unreasonable searches and seizures.[75] The British Government enacted various trade regulations and restrictions applicable to the American colonies to protect England's own industries and commerce.[76] The Molasses Act, which required the colonists to purchase molasses and other goods from England, is one of the regulations enacted by the British Government.[77] In order to enforce the revenue or customs laws, ensure that customs duties were properly paid, and detect smuggled goods, English authorities used general warrants called "writs of assistance[,]" which authorized the bearer to enter any place to search for and seize prohibited and uncustomed goods.[78]

Upon George II's death in 1760, James Otis assailed such writs on libertarian grounds.[79] Although Otis lost, his arguments "were much cited in the colonies […] on the immediate subject[.]"[80] Thus, the Fourth Amendment was "born out of the American colonists' widespread hostility to the British writs of assistance."[81] and was added by the drafters to ensure that these practices would be banned in the new country.[82]

Evidently, the background of the search and seizure clause and the warrant clause could be said to have also been inspired by the colonists' interests in protecting property rights. The protection provided by the Fourth Amendment under the common law, after all, as said by Lord Camden in *Entick*, is to secure one's property.[83] The US Supreme Court

---

[74] *Id.*

[75] UNITED STATES GOVERNMENT PRINTING OFFICE, *supra* note 71, at 1199.

[76] NELSON LASSON, HISTORY AND DEVELOPMENT OF THE FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION 51 (1937).

[77] *See* Craig Ettinger, *Does the History behind the Adoption of the Fourth Amendment Demand Abolishing the Third-Party Doctrine*, 29 GEO. MASON U. C.R. L.J. 1, 15 (2018), *citing* Robert J. McWhirter, *Molasses and the Sticky Origins of the 4th Amendment: A Pictorial History*, 43 ARIZ. ATT'Y 16, 27–31 (2007).

[78] UNITED STATES GOVERNMENT PRINTING OFFICE, *supra* note 71, at 1200; LASSON, *supra* note 76, at 51.

[79] *Id.* at 1200.

[80] *Id.*

[81] Constance Pfeiffer, *Feeling Insecure: United States v. Bin Laden and the Merits of a Foreign-Intelligence Exception for Searches Abroad*, 23 REV. LITIG. 209, 213 (2004).

[82] Schroeder, *supra* note 72, at 65.

[83] UNITED STATES GOVERNMENT PRINTING OFFICE, *supra* note 71, at 1205.

accepted the notion that the protection of property interests was the basis of the Fourth Amendment, and this notion was controlling in numerous cases.[84] However, the Court's understanding of Fourth Amendment protection has developed and deepened since then, with recent cases showing that the Court has rejected the property interest approach and recognized that the principal object of the Fourth Amendment is the protection of privacy rather than property.[85]

Another lesson that can be learned from the history and background of the Fourth Amendment is that the right was not intended to apply only to criminal cases.[86] The development of the right even demonstrates that its essence is the protection of the people from unreasonable and arbitrary government intrusions. This will also be shown below.

B. In U.S. Jurisprudence

Since administrative warrants in the United States are warrants issued by courts upon the application of administrative agencies, the biggest issue involving administrative search warrants in the United States is not whether administrative agencies can issue a warrant, but whether a warrant is required for a particular administrative search or seizure. Robert C. Maybank's[87] and Senior Associate Justice Marvic Leonen's[88] review of US jurisprudence on administrative searches and inspections are comprehensive.

Although warrantless searches or inspections incidental to regulation had existed for a long time, it was only in 1959, in *Frank v. Maryland*,[89] that the US Supreme Court had the opportunity to rule on the constitutionality of such regulatory inspections under the Fourth Amendment.[90] In *Frank*, the Court "upheld the validity of a city code provision authorizing a health inspector to conduct a warrantless inspection of a dwelling[,]" and ruled that a warrant requiring probable cause as in criminal cases would obstruct the maintenance of public health in the community.[91]

---

[84] *Id.*

[85] *Id.* at 1206.

[86] Robert J. McWhirter, *Molasses and the Sticky Origins of the 4th Amendment*, 43 ARIZ. ATT'Y 16, 32 (2007); *See also* J. Douglas' *dissent* in Frank v. Maryland, 359 U.S. 360, 375 (1959), *concurred* in by C.J. Warren, J. Black, and J. Brennan, explaining why the history of the Fourth Amendment teaches that it applies not only to criminal proceedings.

[87] Maybank, *supra* note 65, at 58–68 (1989).

[88] *Acosta*, 865 Phil. 400.

[89] [Hereinafter "*Frank*"], 359 U.S. 360 (1959).

[90] Maybank, *supra* note 65, at 58–59 (1989).

[91] *Id.* at 58.

Eight years later, *Camara v. Municipal Court*[92] overturned *Frank*.[93] In overturning *Frank*, the US Supreme Court held that while routine inspections are less hostile than a search in relation to a criminal investigation, Fourth Amendment protection is not limited to individuals suspected of criminal behavior as even mere inspections greatly involve privacy interests of the persons inspected.[94] In other words, the Fourth Amendment safeguards against arbitrary governmental invasions, whether in criminal or civil cases.[95] It was held that if "there is no compelling urgency to inspect at a particular time or on a particular day[,]" a warrant is generally required only if entry is refused.[96] Notably, *Camara* created a distinction between criminal and civil warrants, and ruled that warrants for administrative searches need not meet the same probable cause standards in criminal cases.[97]

The US Supreme Court in *See v. City of Seattle*,[98] afforded the same protection to owners of private commercial establishments.[99] The Court ruled that there is "'no justification for so relaxing Fourth Amendment safeguards where the official inspection is intended to aid enforcement of laws prescribing minimum physical standards for commercial premises.'"[100] Thus, the warrant rule in *Camara* equally applies to commercial premises.

Camara and *See* replaced the reasonableness approach in *Frank* with the warrant preference since the Court in both cases ruled that the warrantless inspections were invalid and that the exception to the warrant requirement created by *Frank* for administrative searches should be abandoned.[101] However, exceptions were also later laid down in the 1970 case of *Colonnade Catering Corp. v. U.S.*,[102] where a warrantless inspection by the Internal Revenue Service was held valid due to the "'the long history of the regulation of the liquor industry' justified the inspection,"[103] and the 1972 case of *U.S. v. Biswell*,[104] where the "large governmental interests" behind the

---

[92] [Hereinafter "*Camara*"], 387 U.S. 523 (1967).
[93] *Acosta*, 865 Phil. at 503.
[94] *Id.*
[95] Maybank, *supra* note 65, at 59 (1989).
[96] *Acosta*, 865 Phil. at 507.
[97] Maybank, *supra* note 65, at 59 (1989).
[98] [Hereinafter "*See*"], 387 U.S. 541 (1967).
[99] *Acosta*, 865 Phil. at 507.
[100] *Id.* at 508, *citing* 387 U.S. 541 (1967).
[101] Maybank, *supra* note 65, at 59–60 (1989).
[102] [Hereinafter "*Colonnade*"], 397 U.S. 72 (1970).
[103] *Acosta*, 865 Phil. at 509, *citing* 397 U.S. 72 (1970).
[104] [Hereinafter "*Biswell*"], 406 U.S. 311 (1972).

inspection of firearms was held as superior "against a relatively low expectation of privacy in a closely regulated business."[105]

Six years later, the US Supreme Court in *Marshall v. Barlow*[106] upheld the *Camara* rule that inspections of private commercial premises require a warrant.[107] The Court reiterated *Camara* and *See* that "warrantless inspections of dwellings and business premises are unreasonable, thus requiring a search warrant" with the exception of closely regulated industries "long subject to close supervision and inspection," like in *Colonnade*."[108]

Three years later, however, the Court promulgated *Donovan v. Dewey*,[109] which for Maybank is "virtually irreconcilable with *Barlow*."[110] Here, the Court upheld Section 103 (a) of the Federal Mine Safety and Health Act of 1977, "which allowed the warrantless inspection of underground mines at least four (4) times a year and surface mines at least twice a year."[111]

The legal framework for administrative search warrants in the United States tells us that the US Supreme Court after *Frank* had already established that the Fourth Amendment applies even to non-criminal cases or to administrative searches or inspections. Given that the Philippine search and seizure clause and warrant clause are superior[112] and "cast in stronger terms"[113] than the Fourth Amendment, it would be strange to limit the application of said clauses only to criminal cases, which was what the Court did in *Yuan Wenle*, as will be discussed in more detail later.

As to administrative arrest warrants, American law has similarly been confronted by the issue faced by the Philippine Supreme Court in *Yuan Wenle*: whether non-judicial officers may issue such arrest warrants. The Department of Homeland Security (DHS), an administrative agency in the United States, is empowered to issue arrest warrants by the Immigration and Nationality Act, which provides that an alien may be arrested and detained

---

[105] *Id.*

[106] [Hereinafter "*Barlow*"], 436 U.S. 307 (1978).

[107] *Acosta*, 856 Phil. at 511, *citing* 436 U.S. 307 (1978).

[108] *Id.* at 512.

[109] 452 U.S. 594 (1981).

[110] Maybank, *supra* note 65, at 64.

[111] *Acosta*, 865 Phil. at 512.

[112] Eloisa D. Palazo & Ricardo A. Santos, *Myth and Policy: A Legal Critique of Valmonte, Guanzon and Umil*, 65 PHIL. L.J. 442, 447 (1991).

[113] Pacifico Agabin, *Integrating DNA Technology in the Judicial System*, 1 CONT'G LEG. EDUC. J. 27, 44 (2001).

pending deportation upon issuance of a warrant.[114] According to Lindsay Nash, the issue comes from the fact that "neither the [US] Constitution nor the [US] Supreme Court has fully defined who can issue arrest warrants within the meaning of the Fourth Amendment,." Both are likewise silent as to the "constitutional significance" of arrest 'warrants' that are not within it, as well as "when (if ever) warrants of any type are constitutionally required for deportation-related arrests."[115] Due to this silence, the DHS has issued several administrative arrest warrants which needed to be authorized only by the DHS' own enforcement officers without any judicial or neutral review.[116]

It should be clarified, however, that administrative arrest warrants are not usual in federal law enforcement and are common only in civil immigration enforcement.[117] It is also worthy to note that deportation arrest warrants are those "use[d] to take custody of individuals when initiating removal proceedings or in connection with pending removal proceedings" before the person is removed, while removal warrants are those which authorize the arrest to effect removal of persons who have already been adjudicated and ordered removed.[118] It is from deportation arrest warrants that the constitutional issue arises and not from removal warrants.[119] This is similar to the doctrine in Philippine jurisprudence that warrants issued to carry out a final order of deportation are constitutional, as shown *infra*.

According to Nash, the issue of the constitutionality of deportation arrest warrants issued by federal immigration enforcement officers had already been touched upon in *Abel v. United States*,[120] where the US Supreme Court "recognized that these warrants give rise to a significant and open constitutional question," yet declined to rule on the issue.[121] Still, the Court in its *obiter dictum* observed that there is "impressive historical evidence of acceptance" of statutes that empower agencies to make administrative deportation arrests.[122] Nash, however, contradicts this, pointing out that a review of the history of deportation arrest warrants and the removal laws adopted by the states during the "Framing Era,"[123] ultimately shows that said

---

[114] 8 U.S.C. § 1226 (a).
[115] Nash, *supra* note 7, at 436.
[116] *Id.*
[117] *Id.* at 436–37.
[118] Nash, *supra* note 7, at 453–55.
[119] *Id.*
[120] 362 U.S. 217 (1960).
[121] Nash, *supra* note 7, at 439–40.
[122] *Id.* at 441, *citing* 362 U.S. 217 (1960).
[123] As used in Nash's work, the Framing Era "includes, at minimum, the period in which the Constitution and the Bill of Rights were framed[.]"

laws authorized arrests for removal proceedings pursuant only to warrants issued by magistrates and tribunals with judicial power or judicial officers.[124]

Nash also cites literature that have argued to show that immigration arrests and administrative arrest warrants are constitutionally problematic.[125] Mary Holper, for example, shows that the Fourth Amendment applies to immigration arrests based on jurisprudence even though it is nominally civil and requires the involvement of a neutral judge for probable cause review.[126] She also argues that immigration judges in the United States cannot be the neutral judges required by the Fourth Amendment because of the structural issues that "cause judges to rely on the [Department of Justice (DOJ)] for their professional livelihoods" and the laws and regulations that allow a DHS prosecutor to override decisions of immigration judges.[127]

Like Holper, Michael Kagan suggests that the Fourth Amendment applies to immigration arrests, recognizing that immigration arrests entail "a substantial infringement of liberty much like a criminal arrest."[128] He discussed that based on developments in case law, (1) the plenary power doctrine—suggesting judicial deference to Congress and the Executive in decisions relating to immigration—does not mean that constitutional rights can be ignored in immigration; (2) the "civil-criminal distinction no longer appears to determine the results of immigration cases with the Court increasingly finding close connections between immigration and criminal law;" and (3) the "procedures used to take immigrants into custody fall short of the safeguards used in other civil contexts, such as involuntary commitment proceedings."[129] Thus, Kagan, in view of the Fourth Amendment, proposes that immigration judges rather than the immigration

---

[124] Nash, *supra* note 7, at 444–45, 448, 490–92. Nash, at 490, *citing* other authors and authorities, noted that while most of the said magistrates and tribunals were not entirely independent judicial officers as they are today since most of them also handled administrative and executive functions, still, their role in said proceedings was widely considered to be judicial. It should be noted, however, that what Nash concluded to be anomalous during the Framing era were law enforcement-issued arrest warrants. *Id.* at 509.

[125] *Id.* at 446–47 n.36–40.

[126] Mary Holper, *The Fourth Amendment Implications of "U.S. Imitation Judges"*, 104 MINN. L. REV. 1275, 1292–1306 (2020). Holper argues that the Fourth Amendment requires that such arrests be reviewed for probable cause by a neutral judge for continued pretrial detention to be valid.

[127] *Id.* at 1306–31.

[128] Michael Kagan, *Immigration Law's Looming Fourth Amendment Problem*, 104 GEO. L.J. 125, 170 (2015).

[129] *Id.* at 167.

enforcement officers should determine probable cause and issue immigration arrest warrants.[130]

Thomas Y. Davies suggests that it was the expectation of the Framers that authorized arrests are done pursuant to judicial warrants.[131] Laura K. Donohue also discusses that the Founders were concerned with the "amassing of tyrannical power in one place" and the "impact [that] such an accumulation of power would have on the separation of powers."[132] The Founders also wanted to ensure that officers did not have the "discretion to set the boundaries of their own authority" or would be the "judge in [their] own cause" as "the executive branch could not be impartial when its interests were involved." Thus, it is necessary to involve the judiciary in the process because it is the duty of judges to check the executive and protect the rights of citizens.[133]

Thus, some legal scholars in the United States are also of the view that arrest warrants issued by administrative agencies should not be constitutional. Even if the issue has not yet been settled, it is evident that only administrative warrants in immigration have been historically accepted as valid. Finally, it is well to remember that unlike the US Constitution, which is silent on who may issue warrants, the Philippine Constitution expressly provides that it is judges who must determine probable cause for warrants.

III. HISTORY OF ADMINISTRATIVE WARRANTS IN THE PHILIPPINES

The *ponencia* and the concurring opinions[134] in *Yuan Wenle* state that various Philippine laws and cases support the view that administrative warrants are valid. However, a review of the history of administrative warrants in the Philippines shows that: (1) the Constitution does not allow administrative warrants, (2) statutory provisions authorizing administrative

---

[130] *Id.* at 168–70 (2015). Notably, for Kagan, immigration judges are sufficient and what is invalid is when immigration officers themselves issue warrants. This is different from Holper's view that even immigration judges cannot be neutral judges.

[131] Thomas Y. Davies, *The Fictional Character of Law-and-Order Originalism: A Case Study of the Distortions and Evasions of Framing-Era Arrest Doctrine in Atwater v. Lago Vista*, 37 WAKE FOREST L. REV. 239, 372 (2002), *citing* Thomas Y. Davies, *Recovering the Original Fourth Amendment*, 98 MICH. L. REV. 547, 649–50 (1999).

[132] Laura K. Donohue, *The Original Fourth Amendment*, 83 U. CHI. L. REV. 1181, 1322–24 (2016).

[133] *Id.*

[134] *See Yuan Wenle,* G.R. No. 242957 (Leonen and Lazaro-Javier, *JJ. separate concurring opinions*).

warrants have been invalidated, and (3) case law has established that administrative warrants are invalid based on well-founded grounds.

A. Under the 1935 Constitution

1. Article III, Section 1(3) of the 1935 Constitution

The rule that only courts or judges can issue warrants was established by the 1935 Constitution which expressly identifies who must determine probable cause for warrants:

> "The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, *to be determined 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."[135]

To reiterate, the Supreme Court has traced the history of the Philippine search and seizure clause from the Fourth Amendment, explaining that when the Americans arrived, Section 5 of the Philippine Bill of 1902 took effect. It provided that "the right to be secure against unreasonable searches and seizures shall not be violated."[136] Section 3 of the Jones Law of 1916 also provided the same right.[137] Article III, Section 1 of the 1935 Constitution was "worded quite similarly with the Fourth Amendment," but added that "probable cause shall be determined by the judge."[138] As noted in *Yuan Wenle*, it is interesting that the Immigration Act, the law which empowers the Commissioner of Immigration to issue arrest warrants, was enacted during the regime of the 1935 Constitution. However, the Court in its decisions has already clarified how the law should be interpreted to make it compatible to the Constitution.

2. In Statutes and Jurisprudence

The National Internal Revenue Code (NIRC) of 1939[139] allowed the Collector of Internal Revenue or authorized revenue officers to issue

---

[135] CONST. (1935), art. III, § 1(3). (Emphasis supplied.)
[136] *Acosta*, G.R. No. 211559, Oct. 15, 2019.
[137] *Id.*
[138] *Id.*
[139] TAX CODE (1939). Com. Act No. 466.

warrants of distraint as a civil remedy for the collection of taxes when the demand to pay the taxes due is not paid by a taxpayer.[140] These warrants authorize the levying in distraint of personal property of taxpayers which will be subject to a subsequent sale for the satisfaction of the tax due from them. The NIRC also empowered the Collector and authorized revenue officers to "make arrests and seizures for the violation of any penal law or regulation administered by the Bureau of Internal Revenue" subject to the requirement that persons so arrested are immediately brought before a magistrate who shall then be dealt with according to law.[141] The NIRC also authorized internal revenue officers to enter any place where articles subject to excise tax are produced or kept to examine, discover, or seize the same, and to stop and search any vehicle upon reasonable ground to believe that such vehicle carries an article which excise tax has not been paid.[142] The NIRC also contains provisions regarding the power to inspect returns, records, books, journals, ledgers, goods or stock of goods, and weights and measures.[143]

Under Section 37(a) of the Philippine Immigration Act,[144] the law subject of *Yuan Wenle*, deportable aliens may be arrested upon the warrant of the Commissioner of Immigration or of any other designated officer. After a determination by the Board of Commissioners that a ground exists to deport, an alien may be deported upon the warrant of the Commissioner of Immigration, subject to release upon posting of a bond.[145] Under Republic Act (R.A.) No. 144, which amended the Philippine Immigration Act, immigration inspectors may arrest, without warrant, aliens who in their view or presence enter the Philippines in violation of laws or regulations.[146]

In her concurrence, Justice Singh cited the Civil Code provisions on abatement of nuisances *per se* which allow extrajudicial abatement of such nuisances when the district health officer determines abatement to be the best remedy against a public nuisance.[147] The *ponencia* also approved Justice Singh's citation of the Revised Fire Code and the Building Code which authorize the immediate abatement of hazards and dangerous buildings.

---

[140] § 319.
[141] § 14.
[142] § 167.
[143] TAX CODE (1939), §§ 81, 157–58, 274, 280, 282, 302, 335, 337, & 342.
[144] Com. Act No. 613 (1940), § 37(a). The Philippine Immigration Act of 1940.
[145] § 37(e).
[146] Rep. Act No. 144 (1947), § 6.
[147] *See Yuan Wenle*. G.R. No. 242957 (Singh, *J.*, *concurring*), *citing* CIVIL CODE, art. 699 & art. 702.

R.A. No. 832 authorizes the Secretary of Health or his representative, "upon proper warrant duly issued," to enter upon any business establishment or vehicle where home pounded, undermilled, milled or polished rice may be found, to inspect, take samples of, and analyze these products when offered for sale.[148] The said law also authorizes the Secretary of Health, upon probable cause, to seize rice products that violate this law.[149]

R.A. No. 1168 authorized the Price Control Office or duly deputized government officials, upon the issuance of a search warrant by a competent court, to inspect premises, bodegas or storerooms where stocks of controlled commodities or certain documents are kept.[150]

The Social Security Act of 1954 empowered the Social Security Commission to collect contributions from persons in default through the issuance of a warrant to the sheriff of any province or city commanding him to levy upon and sell any real and personnel property of the debtor.[151]

The Tariff and Customs Code,[152] particularly Title IV (Administrative and Judicial Proceedings), Part 1 (Search, Seizure, and Arrest), expressly empowers customs officers to perform searches and seizures. The Code authorizes certain persons to exercise police authority and effect searches, seizures, and arrests for the enforcement of customs and tariff laws.[153] As provided by the Code, these persons have the duty to seize any movable property subject to forfeiture or liable for any fine imposed under customs and tariff laws and to "arrest any person subject to arrest for violation of any customs and tariff laws."[154] They may enter any private

---

[148] Rep. Act No. 832 (1952), § 4. An Act to Regulate the Sale, Exchange, or Delivery of Home Pounded, Under-Milled, Milled or Polished Rice, and Providing Penalty for Violation Thereof.

[149] § 6.

[150] Rep. Act No. 1168 (1954), § 5. An Act to Provide for the Fixing, under certain conditions, of the Maximum Selling Prices of Commodities in Short Supply, Creating the Price Control Office, and for Other Purposes.

[151] Rep. Act No. 1161 (1954), § 22(c)(2). Social Security Act of 1954.

[152] Rep. Act No. 1937 (1957). Tariff and Customs Code of the Philippines.

[153] § 2203. The persons authorized are the following: (a) officials of the Bureau of Customs, collectors, assistant collectors, deputy collectors, surveyors, security and secret-service agents, inspectors, port patrol officers and guards of the Bureau of Customs; (b) officers of the Philippine Navy when authorized by the Commissioner; (c) any person especially authorized in writing by the Commissioner; (d) officers generally empowered by law to effect arrests and execute processes of courts, when acting under direction of the Collector; and (e) any person especially authorized by a Collector.

[154] § 2205.

property, save for a dwelling,[155] so they may effectively discharge their duties.[156] In addition, any person exercising police authority under said Code is authorized to board vessels or aircrafts to inspect, search, and examine them and any trunk, package, box or envelope on board,[157] as well as search persons on board and hail and stop such vessel or aircraft if under way.[158] If a breach or violation of customs and tariff laws appears to have been committed, such persons may seize the same or any part thereof to effect forfeiture.[159] The Code also authorizes persons to open any box or package reasonably suspected to contain dutiable or prohibited articles introduced into the Philippines contrary to law.[160] Finally, the Code empowers the collector to arrest and bring back a vessel which arrived within the limits of a collection district but departed or attempts to depart before entry.[161]

The Land Transportation and Traffic Code authorizes the Land Transportation Commission to "issue a warrant of constructive or actual distraint or and levy to any owner of motor vehicle who has any balance of fees for registration […] of a motor vehicle remaining unpaid."[162]

None of these statutes establishes or proves that administrative bodies may issue arrest or search warrants. The administrative actions or warrants mentioned in the statutes above are not the "warrants" within the contemplation of the Constitution because they do not serve investigatory, evidentiary, or jurisdictional purposes. Instead, the actions or warrants referred to in these statutes serve executory or enforcement purposes since they are issued to carry out a final determination of a violation of law or to carry out a provision of law, such as the collection of taxes, rather than for the purpose of further investigation or further proceedings. Furthermore, the provisions in these laws that allow for searches, inspections, seizures, or arrests also do not authorize the issuance of administrative warrants because these provisions are justifiable under the rules on valid warrantless searches or arrests. If anything, these statutes even require administrative agencies to secure warrants from courts for specific administrative actions.

---

[155] For a dwelling house, probable cause is required to enter, and the warrant is issued by a judge.

[156] § 2208.

[157] § 2210.

[158] § 2210.

[159] § 2210.

[160] § 2211.

[161] § 1013.

[162] Rep. Act No. 4136 (1964), § 60. Land Transportation and Traffic Code.

Jurisprudence carries a similar trend. In the 1958 case of *Tiu Chun Hai v. Commissioner of Immigration*,[163] the Commissioner issued warrants for the arrest of the petitioners who were Chinese citizens overstaying their temporary visitor's permit. The warrants ordered for the petitioners to be brought before the Commissioner and show cause why they should not be deported. The petitioners filed a petition for a writ of *habeas corpus* before the Court of First Instance (CFI), which ruled that their detention was illegal because no court proceedings were instituted. In reversing the CFI's decision, the Supreme Court held that deportation proceedings are not criminal proceedings but are merely administrative proceedings which are summary in nature and thus do not follow the rules prescribed in criminal cases for the protection of the accused. This case is where the Court first held that the rule that only judges may determine probable cause for the issuance of warrants does not extend to administrative cases.[164]

The *Tiu Chun Hai* ruling lost its authority through a clearer decision by Supreme Court *En Banc* in *Qua Chee Gan v. Deportation Board*.[165] In said case, the Special Prosecutor charged petitioners before the Deportation Board with purchasing $130,000 without the necessary license, illegally remitting said money, and attempting to commit bribery. The Deportation Board then issued arrest warrants against the petitioners who challenged their arrest via a petition for *habeas corpus* with the CFI, which was dismissed. Before the Supreme Court, the petitioners assailed the power of the President to deport aliens and the delegation to the Deportation Board of the ancillary power to investigate.

The Court held that under existing laws, deportation may be done in two ways: by order of the President, after due investigation, pursuant to Section 69 of the Revised Administrative Code (RAC); and by the Commissioner of Immigration, upon recommendation by the Board of Commissioners, under Section 37 of Commonwealth Act (CA) No. 613. While the Court upheld the authority of the President to delegate the power of investigation, it ruled that unlike CA No. 613 which expressly granted the Commissioner the power to issue arrest warrants, the RAC did not provide the President with the same power. The Court assumed that it was for this reason that President Quirino issued Executive Order (E.O.) No. 398 which authorized the Deportation Board to issue arrest warrants upon the filing of

---

[163] [Hereinafter "*Tiu Chun Hai*"], G.R. No. 10009, Dec. 22, 1958.

[164] Jamie Renato B. Gatmaytan & Peter H. Santiago, *The Arrest Powers of the Commissioner on Immigration: Some Comments on Harvey v. Defensor-Santiago and Law Instructions No. 39*, 63 PHIL. L.J. 403, 423 (1988).

[165] [Hereinafter "*Qua Chee Gan*"], G.R. No. 10280, Sept. 30, 1963.

charges by the Special Prosecutor. In response to the Solicitor General's argument that the President has the power to order the arrest of an undesirable alien by necessary implication, the Court made a very insightful discussion on the validity of administrative warrants:

> As observed by the late Justice Laurel in his concurring opinion in the case of *Rodriguez, et al. vs. Villamiel, et al.* (65 Phil. 230, 239), *[Article III, Section 1 (3) of the 1935 Constitution] is not the same as that contained in the Jones Law wherein this guarantee is placed among the rights of the accused.* Under our Constitution, the same is declared *a popular right of the people* and, of course, indisputably it equally applies to both citizens and foreigners in this country. *Furthermore, a notable innovation in this guarantee is found in our Constitution in that it specifically provides that the probable cause upon which a warrant of arrest may be issued, must be determined by the judge* after examination under oath, etc., of the complainant and the witnesses he may produce. This requirement — *"to be determined by the judge"— is not found in the Fourth Amendment of the U. S. Constitution, in the Philippine Bill or in the Jones Act, all of which do not specify who will determine the existence of a probable cause.* Hence, under their provisions, any public officer may be authorized by the legislature to make such determination, and thereafter issue the warrant of arrest. Under the express terms of our Constitution, it is, therefore, even doubtful whether the arrest of an individual may be ordered by any authority other than the judge if the purpose is merely to determine the existence of a probable cause, leading to an administrative investigation. *The Constitution does not distinguish between warrants in a criminal case and administrative warrants in administrative proceedings.* And, if one suspected of having committed a crime is entitled to a determination of the probable cause against him, by a judge, why should one suspected of a violation of an administrative nature deserve less guarantee? […]
>
> The contention of the Solicitor General that the arrest of a foreigner is necessary to carry into effect the power of deportation is *valid only* when, as already stated, there is already *an order of deportation.* To carry out the order of deportation, the President obviously has the power to older the arrest of the deportee. But, certainly, during the investigation, it is not indispensable that the alien be arrested.[166]

Accordingly, the Court concluded that an alleged implied power that would curtail fundamental rights must be rejected and declared E.O. No. 398

[166] G.R. No. 10280, Sept. 30, 1963. (Emphasis supplied.)

insofar as it empowers the Deportation Board to issue arrest warrants and the order of arrest against the petitioners null and void.

The Supreme Court *en banc* applied the *Qua Chee Gan* ruling in the 1967 case of *Morano v. Vivo*[167] wherein the constitutionality of Section 37(a) of the Immigration Act was put in issue by the petitioners. In particular, the petitioners argued that Article III, Section 1(3) of the 1935 Constitution limits the authority to issue warrants to judges and that such authority could not be delegated validly by Congress to the Commissioner. In its ruling, the Court stated that the Constitution "does not require judicial intervention in *the execution of a final order of deportation* issued in accordance with law" because the "constitutional limitation contemplates an order of arrest in the exercise of judicial power *as a step preliminary or incidental to prosecution or proceedings* for a given offense or administrative action, *not as a measure indispensable to carry out a valid decision by a competent official*, such as a legal order of deportation, issued by the Commissioner of Immigration, in pursuance of a valid legislation."[168] Thus, the constitutional guarantee set forth in the Constitution requiring that the issue of probable cause be determined by a judge, does not extend to deportation proceedings. The Court also found that its decision was supported by the constitutional convention which recognized "cases of deprivation of liberty, other than by order of a competent court" as in a contempt proceeding of Congress.[169]

In *Vivo v. Montesa*,[170] the Court *en banc* applied the *Qua Chee Gan* and *Morano* doctrines. *Vivo* involved the issuance by the Commissioner of Immigration of arrest warrants against the respondents, so that they may show cause why they should not be deported. *Vivo* declared that "the issuance of warrants of arrest by the Commissioners of Immigration, *solely for purposes of investigation and before a final order of deportation* is issued, *conflicts* with paragraph 3, Section 1, of Article III (Bill of Rights) of our Constitution."[171]

In *Neria v. Vivo*, the Court *en banc* cited *Vivo* and expressly ruled that "no warrant of arrest can be issued by immigration authorities *before a final order of deportation is made*."[172]

---

[167] [Hereinafter "*Morano*"], G.R. No. 22196, 20 SCRA 562, June 30, 1967.
[168] *Id.* at 568.
[169] *Id.* at 563.
[170] [Hereinafter "*Vivo*"], G.R. No. 24576, 24 SCRA 155, July 29, 1968.
[171] *Id.* at 161.
[172] Neria v. Vivo, G.R. No. 26611-12, 29 SCRA 701, 708, Sept. 30, 1969.

Vivo was likewise applied by Justice J.B.L. Reyes in his *ponencia* in the 1970 case of *Contemprate v. Acting Commissioner of Immigration*,[173] where the Court again held that the issuance of an arrest warrant to secure the presence of respondent in the hearing of the charges against him for allegedly violating immigration laws is improper. The Court discussed that the established rule in Philippine law "circumscribes the authority to issue [warrants] only to judges, […] with the power of the Immigration Commissioner to issue similar warrants being confined to those necessary for the execution of a final deportation order."[174] The Court, however, reiterated that Immigration authorities are not rendered helpless in securing the attendance before them of persons charged with violating immigration laws because their remedy has already been established by E.O. No. 69 of President Roxas—to require persons charged to post a cautionary bond.

Contrary to the statements of the *ponencia* and the concurring opinions in *Yuan Wenle*, jurisprudence under the 1935 Constitution was clear that administrative agencies could not issue search or arrest warrants under the Constitution and could only issue warrants for the execution of a final order, finding, or decision. Moreover, the case law here establishes, based on solid legal grounds, that the search and seizure clause and the warrant clause is not limited to criminal proceedings only.

B. Under the 1973 Constitution

1. Article IV, Section 3 of the 1973 Constitution

The 1973 Constitution changed the rule and allowed officers, other than judges, to determine the existence of probable cause for the issuance of warrants by adding the phrase "or such other responsible officer as may be authorized by law," to wit:

> 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 not be violated, and no search warrant or warrant of arrest shall issue except upon probable cause *to be determined by the judge, or such other responsible officer as may be authorized by law,* after examination under oath or affirmation of the complainant and the witnesses he may produce,

---

[173] G.R. No. 28604, 35 SCRA 623, Oct. 30, 1970.

[174] *Id.* at 631.

> and particularly describing the place to be searched, and the persons or things to be seized.[175]

Another notable change under the 1973 Constitution is that the right against unreasonable searches and seizures was expanded and made to cover all such searches and seizure "of whatever nature and for any purpose." The phrase "of whatever nature and for any purpose" was added "to check the increasing incidence of abuse of administrative searches, such as health and sanitary inspections and immigration checks"[176] and "to clarify that the right is not limited to criminal searches, as it was then commonly perceived."[177]

According to Fr. Joaquin Bernas, the addition of the phrase "such other responsible officer" was discussed by the 166-Man Special Committee of the 1971 Constitutional Convention during its November 16, 1972 meeting.[178] In response to a question of Delegate De la Serna about who these responsible officers were, Delegate R. Ortiz said that "the provision contemplated the 'situation where the law may authorize the fiscals to issue search warrants or warrants of arrest.'"[179] The phrase was thereafter deleted because of "the fear of the dire consequences that could follow from giving such authority to local chiefs of police and similar officers."[180] Subsequently, however, the phrase was restored without any floor discussion.[181]

Thus, under the 1973 Constitution, officers from the executive branch or any other branch of government could be authorized to issue warrants as long as such authority is provided by law. This rule was exploited by the Marcos dictatorship which led to State abuses and grave violations of the right to privacy and liberty. In fact, in Section 3 of the Human Rights Victims Reparation and Recognition Act of 2013, one of the acts recognized

---

[175] CONST. (1973) art. IV, § 3. (Emphasis supplied).

[176] Simeon Ken R. Ferrer, Angelica S. Hernandez, Virgilio S. Jacinto, & Alexander A. Padilla, *The Supreme Court Record on Human Rights under Martial Law*, 55 PHIL. L.J. 247, 267 (1980).

[177] Axel Rupert M. Cruz, *Competition Litigation: Dawn Raids and Administrative Searches and Seizures*, 61 ATENEO L.J. 491, 509 (2016), *referring to* Material Distributors (Phil.) Inc. v. Natividad, 84 Phil. 127, 135–36 (1949). Interestingly, Cruz submits that the phrase "was brought about—if not inspired—by *Camara*, the U.S. landmark decision on administrative searches, decided five years before the Convention" at 537.

[178] BERNAS, *supra* note 6, at 175.

[179] *Id.*, *citing* the Meeting of the 166-Man Special Committee, Nov. 16, 1972. *But see* Presidential Anti-Dollar Salting Task Force v. Court of Appeals, G.R. No. 83578, Mar. 16, 1989. Here, the Court interpreted the term "other responsible officer" as one capable of approximating the cold neutrality of an impartial judge.

[180] BERNAS, *supra* note 6, at 175.

[181] *Id.*

to be a human rights violation under the said reparation law is the "arrest, detention or deprivation of liberty carried out during the covered period on the basis of an 'Arrest, Search and Seizure Order (ASSO)', a 'Presidential Commitment Order (PCO)' or a 'Preventive Detention Action (PDA)' and such other similar executive issuances as defined by decrees of former President Ferdinand E. Marcos."[182]

2. In Statutes and Jurisprudence

Section 207 of the National Building Code,[183] cited by Justice Leonen, authorizes a building official to enter a building to determine compliance with the Code's requirements and the terms of the issued building permit. However, like inspections authorized under the previously discussed laws, Section 207 does not authorize the issuance of administrative warrants, but rather is justified by the rule on valid warrantless inspections.

The NIRC of 1977 retained the provisions of the NIRC of 1939 discussed previously.[184] It also carried over from the NIRC of 1939 the provisions authorizing the inspection of returns, records, books, journals, ledgers, goods or stock of goods, and weights and measures.[185]

Former President Marcos, by virtue of the legislative powers granted to him, issued various decrees which allowed executive officials to determine probable cause and issue warrants. General Order (G.O.) No. 60 authorized the Secretary of National Defense to issue Arrest, Search, and Seizure Orders (ASSOs) to effect, upon probable cause, the arrest, search, and seizure of persons and things in relation to offenses cognizable by military tribunals and those which undermine national security or public order as determined by him.[186] Persons arrested by virtue of an ASSO were detained until ordered released by the Secretary or the President.[187] Remarkably, said authority could, for a limited period and with presidential approval, be delegated to other officials of the Department of National Defense or officers of the Armed Forces of the Philippines.[188] In a subsequent G.O., the specific

[182] Rep. Act No. 10368 (2013), § 3. Human Rights Victims Reparation and Recognition Act of 2013.

[183] BLDG. CODE (1977).

[184] TAX CODE (1977), §§ 15, 178, 304 & 305. Pres. Dec. No. 1158 (1977).

[185] §§ 81, 168-69, 171, 288, 322 & 324.

[186] Gen. Order No. 60 (1977), § 1 & 3.

[187] § 2.

[188] § 2.

offenses for which an ASSO could be issued were expanded to include crimes punishable under special penal laws and the Revised Penal Code.[189]

Several Presidential Decrees (P.D.) were also issued by Marcos to empower himself to issue orders of arrest, commitment orders, or preventive detention actions (PDA). P.D. No. 1836, for example, granted Marcos the power to issue orders of arrest or commitment orders against any person whose arrest or detention was, in his judgment, "required by public safety and as a means to repel or quell an invasion, insurrection or rebellion, or imminent danger thereof."[190] Persons so arrested or detained could not be released until it was ordered by Marcos or his representative.[191] P.D. No. 1877 provides that persons charged with insurrection, rebellion, subversion, conspiracy or proposal to commit such crimes, and all other crimes or offenses committed in furtherance thereof, or on the occasion thereof, or incident thereto, or in connection therewith may be arrested only upon a warrant issued by a court or other officer authorized by law in conformity with the 1973 Constitution.[192] However, it creates an exception that when a military commander or head of a law enforcement agency ascertains that the person to be arrested has committed, is actually committing, or is about to commit the said crimes, or would probably escape or commit further acts which would endanger public order and safety and the stability of the state before a warrant could be obtained, the President may issue a PDA when resorting to judicial processes is not possible or expedient without endangering public order and safety or when in the President's judgment, applying for a judicial warrant may prejudice peace and order and the safety of the state. P.D. No. 1877-A amended P.D. No. 1877 by adding crimes for which a PDA may be issued, granting Marcos the power to issue PDAs against persons "whose arrest and detention is, in his judgment, required by public safety as a means to repel or quell the existing rebellion."[193]

P.D. No. 1727 provides that those who willfully make any threat or maliciously disseminate false information, knowing the same to be false, concerning an attempt or alleged attempt being made to kill, injure, or

---

[189] Gen. Order No. 62 (1977), § 1, & Gen. Order No. 65 (1980), § 1. The specific crimes include hijacking, carnapping, murder, kidnapping and serious illegal detention, arson, robbery, piracy and highway robbery, other offenses involving the theft, robbery, or destruction of military of police arms, supplies, and equipment, and violation of the Dangerous Drugs Act.

[190] Pres. Dec. No. 1836 (1981), § 1.

[191] § 2.

[192] Pres. Dec. No. 1877 (1983), §§ 1–2.

[193] Pres. Dec. No. 1877-A (1983), §§ 1–2.

intimidate any individual or damage any property, by means of explosives and other similar destructive shall be arrested by means of an ASSO.[194]

P.D. No. 1464 or the Decree to Consolidate and Codify All the Tariff and Customs Laws of the Philippines did not substantially change any of the previously mentioned provisions of the Tariff and Customs Code.[195] One noticeable change, however, is that officers exercising police authority under the Decree may search dwelling houses not only upon a warrant issued by a judge but also upon a warrant issued by other officers authorized by law.[196] Clearly, the law reflected the change under the 1973 Constitution.

Section 3 of P.D. No. 1936 authorized prosecutors designated by the Presidential Anti-Dollar Salting Task Force, upon prior approval of the Task Force's Chairman, to issue search or arrest warrants, in connection with a dollar-salting or dollar black-marketing charge, upon probable cause to be determined by him.[197] This provision was later declared invalid.[198]

The Omnibus Election Code[199] reflected the rule change in the 1973 Constitution that allowed for the issuance of warrants by non-judicial officers. The Code expressly vested the Commission on Elections (COMELEC) the power to "issue search warrants after examination under oath or affirmation of the complainant and the witnesses he may produce and particularly describing the place to be searched, the things to be seized, and which power shall be exercised during the election period."[200]

P.D. No. 2018, which amended Article 38 of the Labor Code, granted the Minister of Labor and Employment or his authorized representatives the power to cause the arrest and detention of persons who engage in recruitment activities without the license or authority to do so if "after investigation it is determined that his activities constitute a danger to national security and public order or will lead to further exploitation of job-seekers."[201] The Minister was also empowered to order the search of the

---

[194] Pres. Dec. No. 1727 (1980), §§ 1–2.

[195] Pres. Dec. No. 1464 (1978), §§ 1010, 1013, 2203–12.

[196] § 2209.

[197] Pres. Dec. No. 1936 (1984), § 3.

[198] Presidential Anti-Dollar Salting Task Force v. Ct. of Appeals, G.R. No. 83578, Mar. 16, 1989.

[199] ELECT. CODE (1985).

[200] § 57(1).

[201] Pres. Dec. No. 2018 (1986), § 1, *amending* LAB. CODE, Pres. Dec. No. 442 (1974), § 38.

office or premises and seizure of documents and properties used in illegal recruitment activities." In the seminal case of *Salazar v. Achacoso*, the Court declared these powers unconstitutional under the 1987 Constitution.[202]

Undeniably, the statutes above authorized executive and administrative warrants. However, these statutes reflected the change under the 1973 Constitution, allowing non-judicial officers to determine probable cause for the issuance of warrants. Notably, some of these laws or provisions were later declared unconstitutional under the 1987 Constitution.

In jurisprudence, the 1975 cases of *Po Siok Pin v. Vivo* and *Ang Ngo Chiong v. Galang* again assailed Section 37(a) of the Immigration Act.[203] However, the Court, citing the previously discussed cases, ruled that the constitutionality of Section 37(a), which empowers the Commissioner to order the arrest of aliens who should be deported, has already been upheld:

> Section 1(3), Article III of the 1935 Constitution (now section 3, Article IV of the New Constitution) does not mean that only judges can issue warrants of arrest. What it means is that it is the judge who should issue the warrant of arrest where the proceeding is for the *determination of a probable cause*[.] On the other hand, the [Commissioner] can issue a warrant of arrest for the *execution of a final deportation order*. The Commissioner cannot issue a warrant of arrest *solely for purposes of investigation and before a final order of deportation*[.][204]

Although *Lim v. Ponce de Leon*[205] did not directly deal with the validity of administrative warrants and involved a seizure performed during the 1935 Constitution, it highlighted the new rule under the 1973 Constitution. Here, the prosecutor directed the seizure of a motor launch which was the subject of an alleged robbery. He justified the seizure on the grounds that he had the inherent power to order the seizure of the *corpus delicti* of a crime since he was a quasi-judicial officer who has control of the prosecution and presentation of evidence. The Court ruled that the seizure was illegal because the prosecutor had no authority to order it. The Court emphasized that *unlike the 1973 Constitution which allows any authorized officer to issue warrants*, the 1935 Constitution, which was effective when the seizure was made, vested the power to issue search warrants only in a judge and in no other officer.

---

[202] G.R. No. 81510, Mar. 14, 1990.
[203] G.R. No. 24792, Feb. 14, 1975; G.R. No. 21426, Oct. 22, 1975.
[204] *Id.*
[205] G.R. No. 22554, Aug. 29, 1975.

In *Collector of Customs v. Villaluz*[206] the Court cited *Vivo* and ruled that the authority of fiscals to conduct preliminary investigations does not include the authority to issue warrants which only courts can issue. The Court explained that it is clear from the provisions of the 1973 Constitution that at the time the case was decided, only judges could issue the warrant of arrest because no law or presidential decree had been enacted vesting the same authority in a particular "responsible officer." In other words, while the 1973 Constitution empowered the National Assembly to grant the power to issue search or arrest warrants to "other responsible officer," until such a law is enacted, only judges can validly conduct a preliminary examination for the issuance of an arrest or search warrant.[207] At the time of this 1976 decision, no law authorizing other responsible officers to issue warrants had yet been passed but several executive officers and administrative boards were given such authority later on, as the statutes above show.[208]

C. Under the 1987 Constitution

1. Article III, Section 2 of the 1987 Constitution

With the abuses during Martial Law in mind, the 1987 Constitution reinforced the right against unreasonable searches and seizures by deleting the phrase "or such other responsible officer as may be authorized by law" found in the 1973 Constitution, thus ensuring that only judges can issue warrants. The phrase "of whatever nature and for any purpose" was also retained, indicating again that the right extends to non-criminal actions.[209] Article III, Section 2 now 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.[210]

---

[206] G.R. No. 34038, June 18, 1976.
[207] Emphasis supplied.
[208] BERNAS, *supra* note 6, at 177.
[209] Cruz, *supra* note 177, at 510, *citing* BERNAS, *supra*, note 28, at 186–91.
[210] CONST. art. III, § 2. (Emphasis supplied.)

The Records of the Constitutional Commission also show the clear intent of the Framers to restore the rule under the 1935 Constitution. Committee Report No. 23 shows that proposals to limit the power to issue search, seizure, and arrest warrants to judges were made and substantially reproduced in Proposed Resolution No. 486, which was the resolution to incorporate the Bill of Rights in the new Constitution.[211] This intent of the Framers is evident from the deletion of the phrase from the 1973 Constitution and the insertion of the word "personally" in the provision:

> COMMISSIONER FR. BERNAS: [T]he provision on Section 3 *reverts* to the 1935 formula by *eliminating* the 1973 phrase "or such other responsible officer as may be authorized by law," and also *adds* the word PERSONALLY on line 18. In other words, *warrants under this proposal can be issued only by judges*. I think one effect of this would be that, as soon as the Constitution is approved, *the PCGG will have no authority to issue warrants*, search and seizure orders, because it is *not a judicial* body. So, proposals with respect to clipping the powers of the PCGG will be almost unnecessary if we approve this. We will need explicit provisions extending the power of the PCGG if it wants to survive.
>
> * * *
>
> COMMISSIONER NOLLEDO: [W]ith respect to Section 3, lines 13 up to 20, am I right if I say that there are actually two parts of the section: the first part refers to the right of the people against unreasonable searches and seizures; and then the second part refers to the authority who will issue the search warrant or warrant of arrest?
>
> COMMISSIONER FR. BERNAS: That is one way of putting it. Another way, the way I would put it is, the first part states *what the right is* and the second part *states how the right is protected*.[212]

In other sessions, the Framers debated on whether to take away the power of the PCGG to issue search and seizure orders in light of the new policy in the draft of the new Constitution and whether the PCGG's power of sequestration constitutes a search and seizure which only the courts can allow. There, the unanimous and clear understanding of the Framers that only judges could issue search and seizure warrants became apparent:

---

[211] *See* 1 RECORD CONST. COMM'N 32, 674–75 (July 17, 1986).

[212] 1 RECORD CONST. COMM'N 32, 674–76 (July 17, 1986). During this stage, the provision on the right against unreasonable searches and seizures was contained in Section 3 instead of Section 2. (Emphasis supplied.)

> COMMISSIONER OPLE: One of the provisions of the Bill of Rights states that *only* the courts may issue search and seizure order. The amendment, although this is not yet acknowledged, proposes the deletion of the words "search and seizure" in Section 8.
>
> * * *
>
> COMMISSIONER OPLE: Does this also mean that if this section as amended is approved, that for search and seizure proceedings, the PCGG from the time of the ratification of this Constitution *must apply to the court?*
>
> COMMISSIONER ROMULO: Let me say this that normally, if we request a writ of search and seizure, the new Bill of Rights mandates that we go to the court because it is *only the court*, […] which can issue a search and seizure.
>
> * * *
>
> COMMISSIONER PADILLA: [M]adam President, the Bill of Rights provides that *warrant of arrest and search and seizure is judicial.* We have *eliminated* in Section 3 of the Bill of Rights *the clause inserted in the 1973 Constitution "or such other responsible officer as may be authorized by law."* So, the deletion of the phrase "search and seizure" in Section 8 of the committee report is correct, so that said section shall be limited to sequestration or freeze order. And as the Bill of Rights covers warrants of arrest and search and seizure *which must be issued by a judge* after examining the complainant and the witnesses he may produce, it does not exactly cover sequestration or freeze order to recover ill-gotten wealth.[213]
>
> COMMISSIONER SUAREZ: [T]he Commissioner will recall that under the 1935 Constitution's Bill of Rights, *only judicial officers are duly authorized to issue warrants of seizure.* But this was changed and amended *dramatically* in the 1973 Constitution, *allowing even responsible public officials to issue not only writ of warrants of arrest but also warrants of seizure.*
>
> * * *
>
> COMMISSIONER PADILLA: Madam President, the original draft of the committee refers to writ of sequestration, freeze,

[213] 5 RECORD CONST. COMM'N 101, 525 (Oct. 6, 1986). (Emphasis supplied.)

> search and seizure order. The new proposal has excluded search and seizure. It is only limited to sequestration or freeze order. So, I believe that *if it is a search and seizure order,* it must comply with the provision of the Bill of Rights*, which particularly requires a judicial action* and prohibits a general search and seizure, because the things and the place to be seized or searched must be specific.
>
> * * *
>
> *Under the 1973 Constitution, it is not only a judge who is authorized to issue a seizure order, but also a responsible officer. But under the 1986 Constitution, we deleted the words "responsible officer."* Therefore, it is on this basis, Madam President — I would like to emphasize this — that there is really *an inconsistency and a possible impairment by the PCGG* when it issues a seizure order later on in the light of the *new provision* of the Bill of Rights.[214]

The Framers restored the 1935 Constitution rule to address the Marcos Administration's abuse of ASSOs, PCOs, and PDAs, which were executive warrants used by State forces to commit illegal searches and arrests.

> COMMISSIONER PADILLA: Madam President, we all agree that a constitution must not only guarantee the rights of the people, but it should be an instrument of the people for their own promotion and welfare.
>
> * * *
>
> [T]he proceedings went on towards the drafting of the 1973 Constitution, where a number of *objectionable provisions*, particularly the transitory provisions, were inserted in the 1935 Constitution. I will only mention one — that in the Bill of Rights against warrants of arrest and/or unreasonable searches and seizures, which are essentially judicial in nature to be determined by the judge upon examination of the complainant and the witnesses he may produce. The 1971 Convention inserted *the objectionable phrase* "or any other officer authorized by law," which means that the Executive, like Mr. Marcos, or the Minister of Defense or any other executive officer, if authorized, could issue warrants of arrest. And that *unfortunate insertion* in the Bill of Rights led to and justified the Arrest, Search and Seizure Orders (ASSO),

---

[214] 5 RECORD CONST. COMM'N 102, 539 (Oct. 7, 1986). (Emphasis supplied.)

> Presidential Commitment Order (PCO) and even the last Presidential Detention Action (PDA).[215]
>
> COMMISSIONER GUINGONA: [T]he rights that are enshrined in the Constitution reflect the people's growing concern for their inherent and inalienable rights which are given legal recognition and enforceability in this Constitution. The clamor for human rights intensified during the tyrannical years of the Marcos rule. *The 1986 Constitutional Commission, conscious of this longing of our people, has sought to adopt an expanded enumeration of these rights.* […] A few of these include the following: *whereas under the 1973 Constitution a search warrant or warrant of arrest may be issued by a judge or such other responsible officer as may be authorized by law, under the draft Constitution only a judge may issue warrants subject to the requirements specified by the Constitution.*[216]
>
> CHAIRPERSON OF THE CONSTITUTIONAL COMMISSION CECILIA MUÑOZ-PALMA: […] The Marcos provision that search warrants or warrants of arrest may be issued *not only by a judge* but by any responsible officer authorized by law is discarded. *Never again will the Filipino people be victims of the much-condemned presidential detention action or PDA or presidential commitment orders, the PCOs, which desecrate the rights to life and liberty, for under the new provision a search warrant or warrant of arrest may be issued only by a judge.*[217]

To repeat, the text of the Constitution and the intent of the Framers are clear that the legal framework for the issuance of warrants has returned to the 1935 Constitution formula that only judges can determine probable cause for the issuance of warrants. The only thing that was retained from the 1973 Constitution formula is the clarification that the search and seizure and warrant clauses extend to all searches and seizures of whatever nature and purpose, even to non-criminal searches, seizures, or proceedings. Although *Yuan Wenle* made a keen observation that the ASSOs, PCOs, and PDAs which were abused were prosecutorial and not quasi-judicial warrants, there is nothing in the text and the records to indicate that quasi-judicial officers were excepted from the rule that only judicial officers could issue warrants.

---

[215] 1 RECORD CONST. COMM'N 3, 50–51 (June 4, 1986). (Emphasis supplied.)
[216] 5 RECORD CONST. COMM'N 106, 909 (Oct. 12, 1986). (Emphasis supplied.)
[217] 5 RECORD CONST. COMM'N 109, 1009 (Oct. 15, 1986). (Emphasis supplied.)

2. In Statutes and Jurisprudence

The NIRC of 1997 contains the provisions of the NIRC of 1939 and the NIRC of 1977 which have been explained above. With some slight changes, the Customs Modernization and Tariff Act (CMTA)[218] contains substantially the same provisions as the previous tariff and customs law.[219]

Under the Seed Industry Development Act of 1992, the Executive Director of the National Seed Industry Council is authorized to search and seize seed lots which have been labeled, identified, or imported in violation of said law. However, the law expressly requires that a search warrant be secured first from the proper court and that the search warrant be enforced with the assistance of the police or the National Bureau of Investigation.[220]

The Food and Drug Administration (FDA) Act of 2009 added a provision to R.A. No. 3720 which empowers the Director-General to issue orders of seizure of food, device, cosmetics, household hazardous substances and health products that is adulterated, counterfeited, misbranded or unregistered, or drug, in-vitro diagnostic reagent, biologicals, and vaccine that is adulterated or misbranded, when introduced into domestic commerce pending hearing.[221] In *Venus Commercial Co., Inc. v. Department of Health*,[222] the Court ruled that a warrantless search ordered by the Director-General under this law was a valid warrantless administrative search.[223]

R.A. No. 7610 and R.A. No. 11188 empower the Department of Social Welfare and Development (DSWD) to rescue and place abused children and children in armed conflict into its protective custody.[224] Justice Lazaro-Javier and Justice Leonen, with the approval of the *ponencia* cite these laws to assert that administrative warrants are valid and necessary. However, as shown later, these administrative powers do not really constitute warrants.

---

[218] Rep. Act No. 10863 (2016). Customs Modernization and Tariff Act.

[219] §§ 214-223, 1209.

[220] Rep. Act No. 7308 (1992), § 18. Seed Industry Development Act.

[221] Rep. Act No. 9711 (2009), § 14. Food and Drug Administration (FDA) Act of 2009.

[222] 916 Phil. 16 (2021).

[223] G.R. No. 240764, Nov. 18, 2021.

[224] Rep. Act No. 7610 (1992), § 28. Special Protection of Children Against Abuse, Exploitation and Discrimination Act; Rep. Act No. 11188 (2019), § 22. Special Protection of Children in Situations of Armed Conflict Act.

The Revised Corporation Code authorizes the Securities and Exchange Commission to exercise visitorial powers over all corporations and examine and inspect their records.[225] This is another inspection authorized by law which is justified by the rule on warrantless searches.

Most importantly, two statutes and Supreme Court rules prove that the search and seizure and warrant clauses were never intended or considered to apply only to criminal actions.[226] The rights or powers in these statutes are exercised in civil or administrative proceedings and properly constitute warrants because they serve investigatory and evidentiary purposes.

The first is the Intellectual Property Code which expressly grants to persons whose intellectual property rights have been infringed the remedy of applying for a writ from the appropriate court for the seizure and impounding of any article which may serve as evidence in the civil action for infringement.[227] Pursuant thereto, the Supreme Court issued its Rule on Search and Seizure in Civil Actions for Infringement of Intellectual Property Rights[228] which governs the procedure for search and seizure in civil actions for infringement. The Rule specifies that it is the Special Commercial Courts that have authority to issue said writs which are enforceable nationwide.[229]

The second is the Philippine Competition Act which empowers the Philippine Competition Commission (PCC) to undertake, upon order of the court, inspections of business premises, records, and properties it reasonably suspects are relevant to an investigation.[230] In 2019, the Supreme Court issued the Rule on Administrative Search and Inspection under the Philippine Competition Act which requires the PCC to file an application before a Special Commercial Court and the conduct of an examination of the applicant before the issuance of an inspection order.[231]

---

[225] REV. CORP. CODE, § 178. Rep. Act No. 11232 (2019).

[226] *See* Cruz, *supra* note 177, at 505 & 544. "By issuing the IP Rules, the Supreme Court recognized that search warrants can be issued in non-criminal cases." "Significantly, by issuing the IP Rules, the Supreme Court has deviated from its 1949 ruling in *Material Distributors (Phil.) Inc.*, and now recognizes that search warrants are not exclusive to criminal cases." (Citation omitted).

[227] Rep. Act No. 8293 (1998), *as amended by* Rep. Act No. 10372 (2013), § 216.

[228] INTELL. PROP. SEARCH & SEIZURE RULE (2002). A.M. No. 02-1-06-SC.

[229] REV. INTELL. PROP. RTS. CASES PROC. RULE (2020), Rule 2, § 2. A.M. NO. 10-3-1 -SC.

[230] Rep. Act No. 10667 (2015), §12(g).

[231] ADM. SEARCH AND INSPECTION UNDER THE PHIL. COMPETITION ACT RULE. A.M. No. 19-08-06-SC.

Without claiming to be exhaustive, this Note has found no statute that allows administrative warrants. As per Justice Caguioa, aside from the BI, no other agency has been authorized to issue warrants that function in the same manner as search or seizure warrants.[232]

Jurisprudence under the current constitutional regime prior to *Yuan Wenle* follow this logic. However, in 1988, in *In re Harvey v. Commissioner Defensor-Santiago*,[233] the Second Division of the Supreme Court made a very strained reasoning to justify its decision which deviated from *Qua Chee Gan*, *Morano*, and *Vivo*. In this *habeas corpus* case, the petitioners who were surveilled, apprehended, and found to be in possession of photos depicting child sexual abuse assail their arrest. In dismissing the petition, the Court ruled that the existence of probable cause, which was determined after close surveillance, justified the warrantless arrest and seizure. More importantly, the Court said that Section 37(a) is not unconstitutional as per *Morano* and the requirement that judges determine probable cause and issue warrants under both the 1935 and 1987 Constitutions "contemplate prosecutions essentially criminal in nature" and therefore do not apply to deportation proceedings which are administrative in character.

The Court also reasoned that its ruling does not deviate from *Qua Chee Gan* and *Vivo* because "probable cause had already been shown to exist before the warrants of arrest were issued." The Court highlighted the State's commitment to protecting children and concluded that every sovereign power has the inherent power to exclude aliens for its self-preservation. This case, which is described by Justice Nachura as an aberrant case, is problematic and is no longer authoritative.[234]

The Supreme Court *En Banc* in *Presidential Anti-Dollar Salting Task Force v. Court of Appeals* resolved the issue of whether the said Presidential Task Force can be considered "such other responsible officer as maybe authorized by law" that may issue warrants under the 1973 Constitution.[235] The Court declared that the issue had become moot and academic because under the 1987 Constitution, the power to issue warrants is now exclusive to judges. Still, the Court ruled on the issue since it was raised when the 1973

---

[232] *Yuan Wenle*, G.R. No. 242957 (Caguioa, *J. concurring and dissenting*).

[233] [Hereinafter "*In re Harvey*"], G.R. No. 82544, June 28, 1988.

[234] ANTONIO NACHURA, OUTLINE REVIEWER IN POLITICAL LAW 150 (2016 ed.). *See also* Gatmaytan & Santiago, *supra* note 164 for an extensive discussion on why *In re Harvey* is a problematic case.

[235] G.R. No. 83578, Mar. 16, 1989.

Constitution was still effective; it ruled that the Presidential Task Force could not be a neutral and detached "judge" to determine the existence of probable cause for purposes of arrest or search since it was meant to exercise prosecutorial powers, and a prosecutor, unlike a judge, is "naturally interested in the success of his case."

The seminal case of *Salazar v. Achacoso*, which involved the validity of the power of the Secretary of Labor under Article 38(c) of the Labor Code to issue warrants, was decided by the Supreme Court *En Banc* in 1990.[236] In ruling that Article 38(c) is unconstitutional, the Court declared that under the 1987 Constitution, "it is *only a judge* who may issue warrants of search and arrest" and that "the Secretary of Labor, *not being a judge, may no longer* issue search or arrest warrants." The Court also rejected the OSG's reliance on *Morano*, ratiocinating that the power of the President to order the arrest of aliens to carry out a final decision of deportation is exceptional and cannot extend to other cases. In closing, the Court reaffirmed these principles:

> 1. Under Article III, Section 2, of the 1987 Constitution, it is *only* judges, and *no other*, who may issue warrants of arrest and search;
>
> 2. The *exception* is in cases of deportation of illegal and undesirable aliens, whom the President or the Commissioner of Immigration may order arrested, following a *final order* of deportation, for the purpose of deportation.[237]

The prevailing *Qua Chee Gan* doctrine was again applied in 1991 in *Board of Commissioners v. Dela Rosa*.[238] Here, the Court *en banc* found that the arrest warrant was defective because it was issued by the Commissioner only for purposes of investigation of the suspects. The Court reiterated that in implementing the Immigration Act, the Commissioner may issue arrest warrants only after the Board of Commissioners determined the existence of the ground for deportation charged against the alien.

Although *Acosta v. Ochoa*[239] does not directly deal with the validity of administrative warrants, it is important because it shows that the warrant clause applies to administrative inspections. The Court ruled that the Comprehensive Firearms and Ammunition Regulation Act and its

---

[236] G.R. No. 81510, Mar. 14, 1990. (Emphasis supplied.)
[237] *Id.* (Emphasis supplied.)
[238] G.R. No. 95122, May 31, 1991.
[239] *Acosta,* 865 Phil. 400.

Implementing Rules, insofar as they require applicants for firearms licenses to consent to warrantless inspections of their firearms at their residence, were invalid.[240] The Court explained that the warrantless inspection requirement could not be a reasonable search because there is a legitimate and almost absolute expectation of privacy in one's residence unlike in routine inspections in public places where the expectation of privacy is reduced.

In the 2021 case of *Venus Commercial Co. Inc. v. Department of Health*,[241] petitioner assailed Section 30(4) of the FDA Act authorizing the Director-General to issue orders of seizure for being violative of the right against unreasonable search and seizure. In ruling that the assailed acts were constitutional, the Court highlighted that certain warrantless searches and seizures are permissible such as administrative searches or "searches incident of inspection, supervision, and regulation sanctioned by the State in the exercise of its police power."[242] The Court explained that jurisprudence has recognized that "administrative searches are allowed in certain situations where special needs arise and securing a prior search warrant is rendered impracticable."[243]

Decided by the Court *en banc* in 2021, the case of *Calleja v. Executive Secretary*[244] involved petitions assailing the constitutionality of the Anti-Terrorism Act of 2020. The petitioners argued, among other things, that Section 29 of the law was invalid because it authorizes the Anti-Terrorism Council (ATC) to authorize arrest and detention without judicial warrant which constitutes an executive arrest warrant. Before ruling on the issue, the Court explained that "[t]he right protected in Section 2, Article III is guaranteed by the well-established rule […] that *only judges* can issue warrants of arrest after a personal determination that there is probable cause to arrest an individual"[245] and that "[a]n examination of the *history* of the Constitution's phraseology of the right protected under Section 2, Article III would show a *clear intention to limit the authority of issuing warrants of arrests to the courts*."[246]

The Court narrated that when the phrase "such other responsible officer" in the 1973 Constitution became the basis for the issuance of the

---

[240] *Id.* at 500–01.
[241] *Venus Commercial Co.,* 916 Phil. 16 (2021).
[242] *Id*, at 41.
[243] *Id.* at 46, *citing* People v. O'Cochlain, G.R. No. 229071, Dec. 10, 2018.
[244] *Calleja*, 918 Phil. 1.
[245] *Id.* at 228. (Emphasis supplied.)
[246] *Id.* at 229. (Emphasis supplied.)

notorious and the much-abused ASSOs by the Secretary of National Defense during Martial Law, it was only then that the danger was realized.[247] The Court illuminated that this traumatic experience led the framers of the 1987 Constitution to delete the said phrase. According to the Court, the constitutional limit that only judges, not legislative or executive officers, may issue arrest warrants was not an accident but is a corollary to separation of powers and was borne out also of America's experience with writs of assistance described as "the worst instrument of arbitrary power."[248] Thus, "[i]t is because of this that the Court vigilantly guards against any attempt to remove or reallocate *the judiciary's exclusive power to issue warrants of arrest*."[249]

Ruling on the issue, the Court held that the ATC's written authorization was not an executive warrant which violates the rule that only judges may issue warrants because the ATC issues the written authorization only after a valid warrantless arrest has been effected to permit the extended detention of the person arrested. Hence, the written authorization is different from the feared ASSO because it is not an authority to arrest, but only serves as an authority to detain a person who was been validly arrested without warrant beyond the period allowed under the Revised Penal Code.[250]

Contrary to the statements of *Yuan Wenle*'s *ponencia* and concurrences, jurisprudence during the 1987 Constitution has settled that the warrant clause extends to non-criminal proceedings, and the BI can only issue warrants to carry out a final order of deportation. This is not violative of the Constitution because such execution warrants are not the warrants contemplated under the Constitution to be issued exclusively by judges.

IV. ANALYZING *YUAN WENLE*

A. Legal Analysis

1. Deliberations of the 1986 Constitutional Commission

One of the reasons of the Court as to why administrative warrants are valid is that "even the framers, specifically Commissioner Joaquin G. Bernas, recognized the need for administrative determination in concerns

[247] *Id.* at 229–30.
[248] *Id.* at 231.
[249] *Id.*
[250] *Id.* at 240–44.

relating to national security, public safety, and public health — especially in matters relating to the entry of aliens within Philippine borders which affect national security."[251] The Court based its inference on the following interpellation on Section 5 of Commissioner Bernas' proposed Bill of Rights:

> COMMISSIONER NOLLEDO: My next question is with respect to Section 5, lines 8 to 12 of page 2. It says here that the liberty of abode shall not be impaired except upon lawful order of the court or — underscoring the word "or" — when necessary in the interest of national security, public safety or public health. So, in the first part, there is the word "court"; in the second part, *it seems that the question arises as to who determines whether it is in the interest of national security, public safety, or public health. May it be determined merely by administrative authorities*?
>
> COMMISSIONER BERNAS: *The understanding we have of this is that, yes, it may be determined by administrative authorities provided that they act*, according to line 9, *within the limits prescribed by law*. For instance, when this thing came up, what was in mind were *passport officers*. If they want to deny a passport on the first instance, do they have to go to court? The position is, they may deny a passport provided that the denial is based on the limits prescribed by law. The phrase "within the limits prescribed by law" is something which is added here. That did not exist in the old provision.[252]

However, Section 5, which is the subject of the interpellation above, was the proposed provision on the right to liberty of abode and travel, not on the right against unreasonable searches and seizures which contains the warrant clause.[253] As such, the discussion of the Framers thereon cannot be the basis of the inference that the framers recognized the validity of or the need for administrative warrants as said interpellation relates only to the limits on the constitutional rights to travel and to liberty of abode.[254]

As discussed *supra*, the clear intent of the Framers of the 1987 Constitution, including Commissioner Bernas, the sponsor of the proposed

---

[251] *Yuan Wenle*, G.R. No. 242957, slip op. at 18.

[252] 1 RECORD CONST. COMM'N 32, 674-677 (July 17, 1986).

[253] Justice Caguioa made the same observation in his separate opinion in *Yuan Wenle*, G.R. No. 242957 (Caguioa, *J. concurring and dissent*ing). Section 5 of the proposed Bill of Rights provides: "The liberty of abode and of changing the same and of travel, within the limits prescribed by law, shall not be impaired except upon lawful order of the court, or when necessary in the interest of national security, public safety, or public health." This eventually became Section 6 of the present Bill of Rights.

[254] *Yuan Wenle,* G.R. No. 242957 (Caguioa, *J. concurring and dissent*ing).

Bill of Rights, was to revert to the rule under the 1935 Constitution and make the issuance of warrants an exclusively judicial function. Again, this was a clear response to the nation's traumatic experience during the 1973 Constitution. This clear intent of the Framers is reflected not only in the discussions of the Constitutional Commission and in the unequivocal language of Article III, Section 2, but also in the Court's discussions in recent jurisprudence. Hence, the clear intent of the Framers should not be second-guessed on the basis of an inference improperly gathered from a brief discussion of the Framers on another provision of the Bill of Rights.

2. Continuing validity of the Immigration Act and Salazar v. Achacoso

The Court also mentioned that the fact that Section 37(a) was enacted under the 1935 Constitution and has not been invalidated but continues to exist despite constitutional challenges supports the view that administrative warrants are not unconstitutional. The Court cited *Morano* in explaining that Section 37(a) continues to be valid because the requirement of judicial determination does not extend to deportation proceedings.

However, jurisprudence under the 1935 and 1987 Constitutions show that the reason why Section 37(a) has not been invalidated is because it is not unconstitutional in all contexts or applications of the law. The Court has already explained how Section 37(a) can be applied validly: when the arrest warrant is issued in the execution of a final order of deportation. It is only when the arrest warrant is issued as a preliminary step for further investigation or as a step incidental to prosecution or further administrative proceedings that the application of Section 37(a) becomes unconstitutional. Thus, when Section 37(a) is applied unconstitutionally, what the courts should do is declare the warrants issued invalid but not declare Section 37(a) as unconstitutional. This is precisely what was done in *Contemprate* and *Dela Rosa* where the Court only declared the warrants issued therein to be invalid but did not declare the entire provision of the law unconstitutional.

Conversely, it was also in this context that the Court in *Morano* declared that judicial determination does not extend to deportation proceedings. To quote the Court, the Constitution "does not require judicial intervention in the *execution of a final order of deportation* issued in accordance with law." It was "in this *context* that [the Court ruled] that Section 37 (a) of the Immigration Act of 1940 is not constitutionally proscribed." As such, to apply the Court's statement in any other context or in a context broader than what was intended would be improper.

The clarification in *Salazar*—that the President or the Commissioner may issue arrest warrants following a final order of deportation for the purpose of deportation—was also used by the Court as basis to justify its ruling that administrative warrants are not entirely invalid. However, this clarification highlighted by the Court is merely an exception to "the general rule […] that only judges may issue warrants." In fact, the exception is so strictly limited that it covers only cases of deportation of illegal and undesirable aliens following a final order of deportation and for the purpose of deportation. The exception is proper because as explained above, the warrant contemplated by the Constitution is one issued as a preliminary step for further investigation or proceedings. This is precisely why the Court in *Salazar* declared Article 38(c) of the Labor Code which empowered the Secretary of Labor to issue investigative warrants as unconstitutional. Hence, *Salazar* cannot be the basis for the validity of administrative warrants.

In her concurring opinion, Justice Lazaro-Javier also opined that the validity of administrative warrants finds support in the cases of *In re Harvey*, *Secretary of Justice v. Koruga*, and *Tze Sun Wong v. Kenny Wong*.[255] In *Koruga*, *however,* the only issues brought before the Court were whether the Board of Commissioners' exclusive authority over deportation proceedings bars judicial review and whether there was a legal ground for the deportation of the respondent therein. On the other hand, *Tze Sun Wong* concerned only the proper remedy from decisions of the BI and the propriety of the deportation of the petitioner therein based on the charges. In both cases, the parties never questioned, and the Court never ruled on, the validity of the arrest orders therein or of administrative warrants in general. Therefore, these cases cannot serve as authorities for the validity of administrative warrants.

3. Limited Application of Article III, Section 2 to Criminal Cases

One of the most interesting aspects of *Yuan Wenle* is the Court's ruling that the right against unreasonable searches and seizures applies only to criminal cases.[256] The Court held that since warrants, as seen from the Rules of Criminal Procedure, are utilized by courts in criminal cases, "the nature of such writ logically suggests that the prohibition against

---

[255] *Yuan Wenle,* G.R. No. 242957 (Lazaro-Javier, *J.*, *concurring*), *citing In re Harvey*; Secretary of Justice v. Koruga [hereinafter "*Koruga*"], G.R. No. 166199, Apr. 24, 2009; and Tze Sun Wong v. Kenny Wong [hereinafter "*Tze Sun Wong*"], G.R. No. 180364, Dec. 3, 2014.

[256] This argument has already been raised in a previous case. Gatmaytan & Santiago, *supra* note 164, at 445–52, have countered that argument in the context of deportation proceedings. Their arguments are limited by the authorities and considerations present at that time. This Note tries to add to their discussion and address the arguments in *Yuan Wenle.*

unreasonable searches and seizures was definitely intended by the framers of the 1987 Constitution to strictly apply to criminal cases—where a person's right, liberty, and property is *mostly vulnerable* to governmental abuses." The Court added that such interpretation is proper "because as to non-criminal cases where other compulsory processes are utilized (e.g., subpoenas, injunctions, directives, etc.) instead of warrants, the Constitution is silent."

The limited application of Article III, Section 2 to criminal cases and the distinction between criminal cases and administrative cases, however, are not warranted or supported by the historical background and essence of the right against unreasonable searches and seizures, the jurisprudence in the United States and in the Philippines, and the language of the provision itself.

As shown in Section II of this Note, the historical background of the right against unreasonable searches and seizures teaches us that the right was not intended to have limited application to criminal cases only.[257] This is precisely why the US Supreme Court applied the Fourth Amendment to non-criminal cases as well.[258] Since Article III, Section 2 is largely based on the Fourth Amendment, any interpretation of that provision should not disregard the Fourth Amendment, its history, and background.

Furthermore, the essence of the right is to protect the people from all kinds of arbitrary government intrusion on personal security, privacy, and dignity and not merely to protect an accused from government intrusion in pursuit of or in relation to criminal prosecution. A person's right to privacy and to security do not disappear in administrative cases. The supposition that intrusions on privacy, liberty, and dignity or that the possibility of abuses are more serious in criminal cases do not justify the limitation of the right. After all, intrusions on privacy or liberty in administrative cases, even if arguably less serious than intrusion in criminal proceedings, still constitute invasions or deprivations which can be arbitrary and detrimental to the people. Government intrusions due to administrative causes may possibly be as substantial as government intrusions in criminal proceedings.[259] Even the

---

[257] Robert J. McWhirter, *Molasses and the Sticky Origins of the 4th Amendment*, 43 ARIZ. ATT'Y 16,32 (2007). *See also* J. Douglas' *dissent* in Frank v. Maryland, 359 U.S. 360, 374 (1959), *concurred* in by C.J. Warren, J. Black, and J. Brennan, explaining why the history of the Fourth Amendment teaches that it applies not only to criminal proceedings.

[258] *See* Camara v. Municipal Court, 387 U.S. 523 (1967).

[259] *See* Gatmaytan & Santiago, *supra* note 164, at 448. "An alien who has established legitimate residence and is engaged in lucrative commerce in the Philippines and who is subjected to an action for his expulsion from the country would likewise be deprived of

previously accepted essence of the right as a protection on property contradicts any limitation thereof to criminal cases because property rights must be protected in both criminal and administrative cases.

As discussed in Section II, since 1967, US jurisprudence has settled that Fourth Amendment protections—particularly the requirement of probable cause and warrants—extend to cases which are non-criminal in nature.[260] The necessity of securing warrants for certain administrative actions is even a contentious issue in US jurisprudence, proving that in the United States, there is no strong notion that the Fourth Amendment is limited to criminal cases. Likewise, Philippine jurisprudence, prior to *Yuan Wenle*, has established that Section 2 does not exclude non-criminal cases from its scope. In fact, in the recent cases of *Salazar*, *Acosta*, and *Venus Commercial Co.*, the Supreme Court applied Section 2 to non-criminal proceedings and actions such as administrative searches and inspections. Even the issuance by the Supreme Court of the rules on searches and seizures in civil infringement cases and PCC searches confirm the view that Section 2 protections apply to non-criminal cases. Evidently, the US Supreme Court and the Philippine Supreme Court, at least prior to *Yuan Wenle*, did not limit the application of the right to criminal cases only.

As a final point on the matter, it must be remembered that our search and seizure clause is superior to and couched in stricter terms than the United States' search and seizure clause because it specifies who must issue warrants and provides that it applies to all kinds of searches and seizures. As such, it would be unintuitive to create a limitation to this right in Philippine law that is not found in its more loosely-written American counterpart.

The Constitution, in its unequivocal language, also makes no distinction between criminal and non-criminal cases. Unlike Article III, Sections 12, 13, and 14, the words used in Section 2 do not suggest that the provision was meant to apply only to criminal cases. As often repeated by the Court, *ubi lex non distinguit nec nos distinguere debemos*; when the law makes no distinction, the Court ought not to recognize any distinction, especially if to do so would result in a strained interpretation of the law and defeat the

---

certain rights if such deportation is made effective. Viewed in this context, the argument that deportation proceedings are not criminal in nature and that deportation is not a penalty as the word is understood in criminal law *seems to be purely an academic distinction* not based on real and substantial differences." (Emphasis supplied.)

[260] Kagan, *supra* note 128, at 146 *citing* Camara v. Municipal Court, 387 U.S. 523, 538-39 (1967). Gatmaytan & Santiago, *supra* note 164, at 452.

evident purpose of the Framers.[261] If anything, the language of Section 2 goes against the view that it applies only to criminal cases inasmuch as it expressly provides that the right against unreasonable searches and seizures applies to searches and seizures "*of whatever nature and for any purpose*." This means that Section 2, contrary to the view of the majority in *Yuan Wenle*, applies not just to searches and seizures in criminal cases but to "all kinds of searches and seizures, including administrative searches done by administrative officers."[262] Applying *verba legis non est recedendum*,[263] Article III, Section 2 should not be limited and should not be understood to exclude non-criminal proceedings since the provision was meant to be broad.

Lastly, the Court cannot rely on the Constitution's silence on compulsory processes in non-criminal cases to conclude that administrative warrants are valid. While the Constitution is silent on administrative processes, it is loud and clear that warrants in general and searches or seizures, of whatever nature and for any purpose, are covered by Section 2. More importantly, the Framers could not be expected to provide for all kinds of non-criminal compulsory processes considering the various kinds and nomenclatures thereof. Instead, what should be remembered, is that when the Framers of the 1987 Constitution were discussing Article III, Section 2 they were aware of the *Qua Chee Gan*, *Morano*, and *Vivo* rulings concerning administrative warrants, yet maintained the substantial import of the 1935 Constitution and made no qualification regarding compulsory processes used in non-criminal cases. As remarked by the Court, "construction cannot supply the omission, for doing so would generally constitute an encroachment upon the field of the Constitutional Commission."[264]

B. Practicality and Rationalization Analysis

1. Necessity of Administrative Warrants in Administrative Law

Perhaps the most compelling reason given by the Court is the practical necessity of administrative warrants. The "necessity of administrative warrants cannot be disregarded in its entirety — just as the existence of quasi-judicial bodies is imperative to address disputes involving technical matters […] under the Executive Branch" because of its ability to

---

[261] Yu v. Samson-Tatad, G.R. No. 170979, Feb. 9, 2011 & Aytona v. Castillo, G.R. No. L-19313, Jan. 19, 1962.

[262] I DE LEON & DE LEON, JR., *supra* note 29, at 335.

[263] Ifurung v. Carpio-Morales, G.R. No. 232131, Apr. 24, 2018.

[264] De Castro v. Jud. & Bar Council, G.R. No. 191002, Apr. 20, 2010.

address an urgent and specific public need.[265] Despite the possible dangers in fusing Executive and Judicial powers in a single authority, the Court acknowledged that "the growing complexities of modern life necessitate a hybrid approach to implementing the law and resolving disputes."

This is compelling because the development of administrative law is based on the growing complexities of modern life which has caused an increase in the subjects of government regulation, which in turn caused the creation of more administrative agencies specialized in particular fields which the courts are not equipped to administer properly and efficiently.[266] Considering the important functions of administrative bodies, it is only wise that they be granted the powers necessary to enable them to effectively enforce governmental policies and regulations.

Nevertheless, the necessity of empowering administrative bodies cannot defeat any express command or fundamental principle of the Constitution. Indeed, any "concern […] for the inability of the agencies of the government to comply with official duties […] cannot be given precedence over fundamental rights guaranteed by the Constitution."[267] The Bill of Rights and the principles of separation of powers and checks and balances must be heeded by the government no matter how noble its goals. This is especially so when, as shown below,[268] the need for warrants in quasi-judicial cases can be addressed without contravening the Constitution.

More importantly, the necessity of administrative warrants perceived by the *ponencia* and the concurring opinions might not have been entirely accurate. This is because they cited the administrative powers of abatement, closure, cancellation, and protective custody to highlight the necessity of administrative warrants in the legal system and in public regulatory governance. However, as discussed in detail in Section V.B. of this Note, these administrative powers are not "warrants" under Article III, Section 2 of the Constitution and are therefore not covered by the rule that only judges may issue them. Administrative agencies may exercise their discretion and expertise and issue orders to carry out abatements, closures, cancellations,

---

[265] *Yuan Wenle*, G.R. No. 242957, slip op. at 19–20. In their concurring opinions, Justices Leonen and Lazaro-Javier also assert the necessity of administrative warrants. *See Yuan Wenle*, G.R. No. 242957 (Leonen and Lazaro-Javier, *JJ.*, *concurring*).

[266] DE LEON & DE LEON, JR., *supra* note 1, at 10.

[267] Gatmaytan & Santiago, *supra* note 164, at 449.

[268] *See infra* Section IV.C. of this Note on the Proper Legal Framework and Recommendations.

and protective custody without contravening the Constitution because the exercise of these powers is not purely judicial but can be administrative.

2. Reasonableness, rather than Personality, and the Passive-Active Distinction

The *ponencia* made two more compelling contentions—that passive warrants are different from active warrants and that reasonableness rather than personality is the standard. According to the *ponencia*, the warrants that were abused during Martial Law were active warrants issued pursuant to prosecutorial functions of administrative agencies where no complaint and proof of probable cause were required. On the other hand, the warrants considered valid in *Yuan Wenle* are passive warrants issued pursuant to and as a complement of the adjudicative functions of administrative agencies, at the instance of an applicant who is required to establish probable cause.

The *ponencia* adds that probable cause determinations should be rationalized by making reasonableness—not the personality of the adjudicator—the test of whether a search or seizure warrant is constitutional. Otherwise, reasonable warrantless searches and seizures would be invalidated because law enforcers, not judges, determine probable cause in such situations. This is problematic to the Court especially since specialized quasi-judicial bodies, in certain cases, may be better judges of probable cause.

However, it should be recalled that judges and the judiciary as an institution possess an independent character that is constitutionally guaranteed which might not be guaranteed or even required for quasi-judicial bodies and officers. The personality of the judge was chosen by the Framers not because of their supposed legal expertise but because of the independence and accompanying neutrality that they are required to possess.

Under the Constitution, one of the qualifications for judges is independence.[269] Lack of independence bars one from becoming a judge and is a ground for removal of an incumbent judge.[270] The establishment by the 1987 Constitution of the Judicial and Bar Council (JBC) and the nomination and screening process of candidates for judicial positions were also meant to strengthen the independence of members of the judiciary, depoliticize judges, and ensure that prospective judges possess the qualifications required

[269] CONST. art. VIII, § 7(3). A Member of the Judiciary must be a person of proven competence, integrity, probity, and independence.

[270] Republic v. Sereno, G.R. No. 237428, May 11, 2018.

by law and the Constitution.[271] Judicial independence as guaranteed by the Constitution,[272] consists of two concepts: decisional independence or the "ability to render decisions free from political or popular influence," and institutional independence or the "separation of the judicial branch from the executive and legislative branches of government."[273]

There are also other constitutional safeguards to ensure judicial independence such as security of tenure of the members of the judiciary, administrative supervision by the Supreme Court over all inferior courts and personnel, the exclusive power of the Supreme Court to discipline judges or justices of inferior courts, the rule on non-reduction of salaries of judges, the fiscal autonomy of the judiciary, the exclusive power of the Supreme Court to promulgate rules, and the exclusive power of the Supreme Court to temporarily detail judges and appoint employees of the judiciary.[274]

On the other hand, while there are some quasi-judicial agencies that are constitutionally independent like the Constitutional Commissions,[275] quasi-judicial agencies cannot be considered completely independent. Under the Constitution and the RAC, executive power is vested in the President who has control of all the executive departments, bureaus, and offices and has the duty to ensure that the laws are faithfully executed.[276] This power of control includes the authority "to act directly whenever a specific function is entrusted by law or regulation to a subordinate; direct the performance of duty; restrain the commission of acts; review, approve, reverse or modify acts and decisions of subordinate officials or units[.]"[277] Thus, it includes the

---

[271] CONST. art. VIII, 8-9. *Background of the Creation of the Judicial and Bar Council*, JUDICIAL AND BAR COUNCIL, *at* https://jbc.judiciary.gov.ph/index.php/about-us/judicial-and-bar-council/3-about-jbc (accessed 24 March 2024). *Briefer: The Judicial and Bar Council*, OFFICIAL GAZETTE, *at* https://www.officialgazette.gov.ph/about/gov/judiciary/sc/briefer-jbc/ (accessed 24 March 2024). *See also* De Castro v. Judicial and Bar Council, G.R. No. 191002, Mar. 17, 2010.

[272] *See In re* COA Opinion on the Computation of the Appraised Value of the Properties Purchased by the Retired Chief/Associate Justices of the Supreme Court, A.M. No. 11-7-10-SC, July 31, 2012.

[273] *Id.*

[274] NACHURA, *supra* note 234, at 380-83. CONST. art. VIII, §§ 2, 3, 5(5) 10, 11; art. XI, §2.

[275] CONST. art. IX, § 1. The Constitutional Commissions, which shall be independent, are the Civil Service Commission, the Commission on Elections, and the Commission on Audit.

[276] CONST. art. VII, § 1, 17 & ADM. CODE, bk. II, § 11 & bk. III, § 1.

[277] ADM. CODE, bk. IV, § 38.

power to interfere with the discretion of quasi-judicial officials.[278] In addition, quasi-judicial bodies are subject to the appointment and reorganization powers of the executive.[279]

Independence, both individual and institutional, is a crucial element of neutrality, for one cannot be neutral if one is not independent from any pressure or influence. In turn, neutrality is the central requirement of the warrant clause and the right against unreasonable searches and seizures because only warrants issued by neutral officers guarantee the protection of said fundamental right. Considering that quasi-judicial agencies and officers may be overruled by department heads or the President, and are subjected to the President's power to appoint, quasi-judicial agencies and officers cannot be considered to be completely independent.

It is possible too for quasi-judicial officers to be pressured by political forces considering that their appointment and tenure are subject to the sole discretion of political persons. This is different with judicial officials, whose appointments are subject to the recommendatory process of the JBC and are protected from external influence by the constitutional safeguards on judicial independence. This neutrality is the reason why personality was important to the Framers, who intentionally specified judges as those who may issue warrants. Hence, while probable cause is indeed the standard, the personality of the issuer is also an important component of the right.

The passive-active distinction argument is also undermined because it does not guarantee the independence and neutrality of the warrant issuer. Without prejudgment, a quasi-judicial officer could still become non-neutral because his/her independence is not a guaranteed qualification. Moreover, unless the structure of the agency completely separates those with prosecutorial functions from those with quasi-judicial functions, it is still possible that a quasi-judicial officer is subjected to the influence of enforcement-oriented officials in the agency. The possibility of these undesirable situations is reduced by limiting the power to issue warrants to only those whose individual and institutional independence are guaranteed. However, unless an extensive review of quasi-judicial independence is conducted that would show the decisional neutrality of agencies, it would be the better rule to limit the authority to issue warrants to judicial officers.

---

[278] Diane A. Desierto, *The Presidential Veil of Administrative Authority over Foreign-Financed Public Contracts in the Philippines*, 27 UCLA PAC. BASIN L.J. 71,71 (2009), *citing* Ople v. Torres, G.R. No. 127685, July 23, 1998.

[279] ADM. CODE, bk. III, § 16 & 31.

C. Proper Legal Framework and Recommendations

There is no merit in trying to deny the necessity of warrants in the accomplishment of the quasi-judicial functions of administrative agencies. This necessity is underscored by the complexity of the subject matter and issues dealt with by administrative agencies and the importance of the regulatory functions of quasi-judicial bodies. Without a doubt, quasi-judicial and regulatory agencies would be more effective and efficient if they could utilize warrants. However, the proper legal framework, together with the proposed recommendations below, can address this need for warrants by quasi-judicial agencies without contravening the Constitution.

To reiterate, the warrant clause in Article III, Section 2 only covers warrants issued as a preliminary step for further investigation or as a step incidental to prosecution or further administrative proceedings. Section 2 means that only a judge may issue a warrant "where the proceeding is for the determination of a probable cause in a given case."[280] Thus, administrative agencies can issue warrants for the purpose of executing or enforcing a final order or judgement or carrying out a valid decision by a competent official or body. Conversely, an administrative agency cannot issue warrants for purposes of investigation and before the issuance of a final decision.[281] In other words, an arrest, search, or seizure warrant issued by an administrative body to carry out or execute a final order or judgment is valid.

As such, the real issue for quasi-judicial agencies is figuring out how they can use pre-decision warrants or those issued for investigatory and evidentiary purposes. This is crucial since the principal function of quasi-judicial agencies—adjudicating the rights of persons before it or hearing and determining questions of fact to which the legislative policy is to apply and deciding in accordance with the standards of the law in enforcing and administering the same[282]—takes place before judgement and does not yet concern enforcement. Warrants are valuable to this primary function because

---

[280] Po Siok Pin v. Vivo, G.R. No. L-24792, Feb. 14, 1975; Ang Ngo Chiong v. Galang, G.R. No. L-21426, Oct. 22, 1975.

[281] *Id.*

[282] *Yuan Wenle,* G.R. No. 242957, slip op. at 34, *citing* Narra Nickel Mining and Development Corp. v. Redmont Consolidated Mines Corp., 775 Phil. 238, 248 (2015) & Smart Communications, Inc. v. National Telecommunications Commission, 456 Phil. 145, 156 (2003).

it involves the investigation and ascertainment of facts, holding of hearings, weighing of evidence, and exercise of discretion in a judicial nature.[283]

This issue, however, is already addressed by the proper legal framework—requiring administrative officials or applicants to secure arrest, search, or seizure warrants from judges which they can use in their quasi-judicial cases. This legal framework addresses the need for warrants of quasi-judicial agencies and is faithful to the Constitution because in this framework, judges would be the ones to determine the existence of probable cause for the issuance of warrants as mandated by Article III, Section 2. This framework is also in keeping with the intent of the Framers that independent and neutral judges would be the ones to determine whether invasions of privacy are reasonable in given cases. This likewise eliminates the risks which might arise from allowing warrants to be issued by administrative officers such as the influence that an enforcement-minded administrative official might have on the quasi-judicial body. Lastly, this solution is practically beneficial as it ensures the validity of searches or seizures conducted by administrative officers since they have prior judicial imprimatur.

This framework had already been provided for in some statutes.[284] Although some of these statutes may not only pertain to the quasi-judicial functions of administrative agencies but also to their enforcement functions, the concept of requiring judges to issue warrants for administrative cases is the same. This solution can also already be inferred from the Court's rulings in *Acosta* and *Venus Commercial Co.*, which is why it is surprising that the Court in *Yuan Wenle* decided to create a new legal framework. This legal framework is also used in the United States,[285] where, for example, when consent is not given and none of the exceptions to the warrant requirement is present, administrative officers or bodies may obtain warrants from courts.[286]

---

[283] *Yuan Wenle,* G.R. No. 242957, slip op. at 35, *citing* So v. Philippine Deposit Insurance Corporation, 828 Phil. 529, 535 (2018).

[284] *See e.g.* Rep. Act No. 1168 (1954), § 5; Rep. Act No. 2610 (1959), § 4; Rep. Act No. 7308 (1992), § 18; Rep. Act No. 10863 (2016), § 214; INTELL. PROP. CODE, § 216; Rep. Act No. 10667 (2015), § 12(g).

[285] *See supra* Section II.2. of this Note on Administrative Warrants in the U.S.

[286] 49 U.S. Code § 32707. As discussed in Section II.3. of this Note, deportation arrest warrants in the United States are unique because they authorize searches and seizures but are not issued by a judge. However, these warrants do not authorize a search or seizure in private areas (where there is a reasonable expectation of privacy) such as a person's home. In other words, immigration officers still need a judicial warrant, not merely a deportation arrest warrant, to be able to enter a person's home. Hillel R. Smith, *Immigration Arrests in the Interior of the United States: A Primer*, CONG. RES. SERV., *at*

That said, it is possible that delays and other operational and logistical challenges may arise from this framework. Thus, three recommendations are proposed in this Note.

First, the Supreme Court may consider assigning certain courts as special "administrative warrants" courts and providing them with the training and tools necessary to decide on "administrative warrant" applications properly and efficiently. By designating special courts, possible delays and operational challenges are diminished and addressed because the judges acting on such applications will possess sufficient expertise and tools to decide thereon quickly and properly. The use of e-warrants is an example of how judges can be armed with equipment to allow them to quickly issue warrants.[287] The Court should also issue rules, similar to the Rules on PCC searches, that will govern the issuance of "administrative warrants" in general, specifying the process, requirements, and period within which courts must act on applications to address any delay and operational issues.

Second, the Court should set concrete and definite exemptions to the warrant requirement in quasi-judicial cases. This will make clear the instances when applications for warrants are necessary, thereby reducing any operational and logistical issues that may arise from the framework. To be clear, this does not contradict the framework or affirm *Yuan Wenle*'s rationale that administrative bodies should be allowed to determine probable cause for warrants because this recommendation only reinforces the exception to the general rule that warrants must be issued by courts. *Yuan Wenle* makes administrative determination of probable cause part of the general rule, subject to its guidelines, while this recommendation still makes judicial determination of probable cause the only general rule although supplemented by the exceptions to the warrant requirement.

Third, the power of administrative bodies to issue compulsory processes or resort to other legal devices should be reinforced to enable administrative agencies to perform their functions without having to rely too much on warrants. For instance, reinforcing administrative agencies' power

---

https://sgp.fas.org/crs/homesec/LSB10362.pdf; *Warrants and Subpoenas 101*, NAT'L IMMIG. L. CTR., *at* https://www.nilc.org/wp-content/uploads/2020/10/Warrants-and-Subpoenas-101.pdf (Sept. 2020); *Know your Rights: Immigrants' Rights*, AM. CIV. LIBERTIES UNION, *at* https://www.aclu.org/know-your-rights/immigrants-rights.

[287] Dona Pazzibugan, *SC allows courts to issue e-warrants to PNP arresting officers*, INQUIRER.NET, Sept. 9, 2020, at https://newsinfo.inquirer.net/1333041/sc-allows-courts-to-issue-e-warrants-to-pnp-arresting-officers.

of contempt and power to issue subpoenas or require bonds will lessen the need to resort to warrants and therefore, mitigate any operational or logistical challenges arising from the above legal framework.

For completeness, the disfavor of splitting of jurisdiction, which is a possible argument against this legal framework, should be discussed. It is a rule that "when an administrative body or agency is conferred quasi-judicial functions, all controversies relating to the subject matter pertaining to its specialization are deemed to be included within its jurisdiction" because split jurisdiction is not favored.[288] However, the proposed framework does not create split jurisdiction because the determination of the reasonableness or validity of searches and seizures and of warrants have always been under the jurisdiction of courts. Thus, any issue involving searches, seizures, and warrants will always end up in court as a judicial question. In fact, even *Yuan Wenle*'s seventh guideline requires notice to the nearest court in case of deprivation of liberty by virtue of an administrative warrant.

V. IMPLICATIONS ON ADMINISTRATIVE POWER

Yuan Wenle is groundbreaking and will inevitably have implications on administrative power. This is apparent from the Court's statement on the applicability of its guidelines to all intrusive administrative actions:

> On a related note, administrative issuances directing agents or enforcers to conduct inspections function essentially like warrants. As the familiar saying goes: "[I]f it looks like a duck, swims like a duck, and quacks like a duck, then it probably is a duck." Whether coming from a judicial or administrative officer, an issuance amounts to some form of deprivation when it is adverse or detrimental to the rights or legitimate claims to entitlement of persons or entities. Not equating intrusive administrative issuances (e.g., inspection orders) as warrants and treating them as valid warrantless intrusions will be more detrimental to libertarian rights. Stated differently, it would all the more be violative of the constitutional proscription against unreasonable searches and seizures if this Court should allow the existence of intrusive administrative arrest, seizure or inspection orders to be conducted sans probable cause. *In this case, however, the Court has harmonized all the guidelines and, instead of making slippery justifications to warrantless administrative intrusions, has now both classified*

[288] DE LEON & DE LEON, JR., *supra* note 1, at 154.

> *all intrusive administrative actions as "warrants" and required all of them to follow the same procedure as judicial warrants which is to require the presence of probable cause.* Doing so would be more in keeping with the Constitutional requirement of reasonableness, as well as of due process.[289]

Hence, it is important to evaluate the Court's guidelines to understand the implications. The application of the guidelines to other administrative powers should be analyzed to determine the proper legal framework within which administrative agencies must act.

A. Analysis of the Guidelines and Recommendations

To avoid the fear of the Framers that executive officers might abuse their powers, the Court categorically declared that administrative warrants are valid only if they strictly comply with the Court's guidelines, viz:

1. The danger, harm, or evil sought to be prevented by the warrant must be imminent and must be greater than the damage or injury to be sustained by the one who shall be temporarily deprived of a right to liberty or property.[290]

2. The warrant's resultant deprivation of a right or legitimate claim of entitlement must be temporary or provisional, aimed only at suppressing imminent danger, harm, or evil and such deprivation's permanency must be strictly subjected to procedural due process requirements.[291]

3. The issuing administrative authority must be empowered by law to perform specific implementing acts pursuant to well-defined regulatory purposes.[292]

4. The issuing administrative authority must be necessarily authorized by law to pass upon and make final pronouncements on conflicting rights and obligations of contending parties, as well as to issue warrants or orders that are incidental to or reasonably necessary for the performance of the executive or administrative duty entrusted to it.[293]

---

[289] *Yuan Wenle*, G.R. No. 242957, slip op. at 61. (Emphasis supplied.)
[290] *Id.* at 21.
[291] *Id.* at 25.
[292] *Id.* at 30.
[293] *Id.* at 31.

5. The issuance of an administrative warrant must be based on tangible proof of probable cause and must state a specific purpose or infraction allegedly committed with particular descriptions of the place to be searched and the persons or things to be seized.[294]

6. The warrant issued must not pertain to a criminal offense or pursued as a precursor for the filing of criminal charges and any object seized pursuant to such writ shall not be admissible in evidence in any criminal proceeding.[295]

7. The person temporarily deprived of a right or entitlement by an administrative warrant shall be formally charged within a reasonable time if no such period is provided by law and shall not be denied any access to a competent counsel of his or her own choice. Furthermore, in cases where a person is deprived of liberty by virtue of an administrative warrant, the adjudicative body which issued the warrant shall immediately submit a verified notice to the RTC nearest to the detainee for purposes of issuing a judicial commitment order.[296]

8. A violation of any item of these guidelines is a *prima facie* proof of usurpation of judicial functions, malfeasance, misfeasance, nonfeasance, or graft and corrupt practices on the part of responsible officers.[297]

According to the Court, the first guideline requires administrative authorities, before issuing any warrant, to first determine from the applicant whether: "(1) there is a pressing need to implement the law in a swift manner or an immediate need for the prospective respondent to answer for a legal infraction — both to address a public welfare or public interest concern; and (2) the public harm is greater than the damage to be suffered by the person subject of the warrant."[298] However, the Court did not expound on the second requirement of greater public harm, which makes the second requirement subjective and dependent on the appreciation of the administrative authorities of the importance of their regulatory mandates. If this requirement is not properly interpreted, it may render the issuance of administrative warrants too difficult, thereby undermining their necessity and the power of administrative agencies. Conversely, an improper interpretation

[294] *Id.* at 36.
[295] *Id.* at 38.
[296] *Id.* at 41.
[297] *Id.* at 44.
[298] *Id.* at 25.

of this requirement could make the issuance of administrative warrants too easy especially considering that public interest or welfare is a broad standard.

To illustrate, in *Yuan Wenle*, the Court found that "the danger, harm, or evil to be prevented by the subject SDO and the Charge Sheet pertains to both national security and public safety which outweigh the privilege of aliens to continue their stay in the Philippines."[299] The Court also stated that the Constitution "makes it a 'prime duty' on the part of the State to protect the people and promote general welfare for being 'essential for the enjoyment by all the people of the blessings of democracy.'"[300] It also cited the constitutionally-permitted impairments on the right to travel. Lastly, the Court held that the statutory bases of the agency action is hinged on "the all-sufficient and primitive reason of the benefit and protection of its own citizens and of the self-preservation and integrity of its dominion."[301] It is argued, however, that the danger to the public welfare in the case was not greater than the damage that Yuan Wenle would suffer because of the SDO. To recall, the SDO was grounded on the cancellation of Yuan Wenle's Chinese passport for crimes allegedly committed in China. The SDO did not even cite any violent crime committed by Yuan Wenle in the Philippines or the specific danger to public welfare that Filipinos suffered.

To further illustrate, it is arguable that in the future, an administrative warrant could be immediately issued against foreigners if they are alleged to have committed a crime in their country and if their passport has been cancelled by their state, as discussed in *Yuan Wenle*. Thus, to safeguard liberty, the second requirement must be further expounded on and specified by the Court to reduce subjectivity and better guide administrative authorities.

With regard to the second guideline, the Court stated that administrative warrants shall: "(1) only operate to provisionally deprive a person a right or entitlement allegedly being exercised to the detriment of public interest or welfare; and (2) provide for a subsequent mechanism to challenge such deprivation."[302] This reflects the true nature of warrants as principally provisional and incidental to further proceedings. However, the second requirement might call for the application of the rule on exhaustion of administrative remedies, since the said subsequent mechanism to challenge a deprivation is administrative rather than judicial. Hence, in

[299] *Id.* at 45.
[300] *Id.* at 46.
[301] *Id.* at 47.
[302] *Id.* at 30.

subsequent cases, it is recommended that the Court clarify whether a person who is provisionally deprived of liberty by virtue of an administrative warrant is required to challenge the same administratively before going to court having in mind the requirement of notice to the nearest court in such cases. Lastly, the Court's statement that the "only exception where the State can effect a summary but permanent deprivation of a right or entitlement is if the same endangers public safety or public health which is […] a nuisance *per se*"[303] is confusing, as it suggests that abatement is a warrant. This should also be clarified by the Supreme Court.

As for the third guideline, the Court explained that "it prevents agencies and officers in the Executive Branch from performing acts which are beyond their authority"[304] and that if it is complied with, "a warrant would provide assurances from a neutral officer that the inspection: (1) is reasonable under the Constitution; and (2) is pursuant to an administrative plan containing specific neutral criteria."[305] The importance of this guideline is obvious, but it still lacks an important requirement—ensuring that the issuing administrative authority is independent and neutral. Hence, it is recommended that the Court declare that for administrative warrants to be valid, they must meet independence and neutrality requirements.

This can be done by ensuring that the laws empowering administrative authorities to issue warrants provide the qualifications of the issuing official, making independence a requirement. The law could also provide for a safeguard in the selection, promotion, and security of tenure of such officials to guarantee their neutrality and independence. Lastly, the law must ensure that the structure of the administrative agency supports both individual and institutional independence. After all, it would be difficult to have neutrality and independence when the independent adjudicator is part of an administrative agency that is not institutionally independent.[306]

The sixth guideline is one of the most important safeguards from abuse or oppressive acts because it requires executive officers to think twice before resorting to administrative warrants and prevents any potential circumvention through their use. However, this guideline might discourage

---

[303] *Id.* at 29.

[304] *Id.* at 31.

[305] *Id.*

[306] Such a situation would create a vagueness in the conception of an independent agency according to Reginald Parker, *The Removal Power of the President and Independent Administrative Agencies*, 36 IND. L.J. 63, 72 (1960).

administrative officials from issuing administrative warrants and thereby defeat the progressive innovation envisioned by the Court.

Lastly, the seventh guideline could address issues on the validity of administrative warrants because it involves the judiciary in the process. That argument, however, will be difficult to support because it still contravenes the express language of the Constitution and the intent of the Framers. Also, the requirement only applies to deprivation of liberty and not to other cases. As such, it would be better if the requirement of giving notice to the court also applied to cases of deprivation of property. Aside from protections to due process and property rights of the owner, it would ensure accountability of the seizing officer and prevent tampering of the seized property.

B. Applicability to Other Administrative Powers

The *ponencia* concluded that treating all intrusive administrative actions as warrants and extending the application of the guidelines to them would be "more in keeping with the Constitutional requirement of reasonableness, as well as of due process."[307] However, in doing so, the Court may have possibly hindered the exercise of necessary administrative powers, unsettled established rules and doctrines on administrative powers, and blurred the proper understanding of warrants under Article III, Section 2. The importance of understanding the implications of this statement in administrative law cannot be downplayed. Thus, whether all intrusive administrative actions should be considered warrants and whether the guidelines apply to them is analyzed here.

1. Administrative Searches, Inspections, Subpoenas duces tecum, and Production Orders

Administrative agencies with quasi-judicial powers have inquisitorial powers "to inspect the records and premises, and investigate the activities of persons or entities coming under [their] jurisdiction, or to require disclosure of information by means or accounts, records, reports, testimony of witnesses, production of documents, or otherwise."[308]

---

[307] *Yuan Wenle,* G.R. No. 242957, slip op. at 61.

[308] *Yuan Wenle,* G.R. No. 242957 (Caguioa, *J., concurring & dissenting*), slip op. at 34–35, *citing* Secretary of Justice v. Lantion, 379 Phil. 165, 198 (2000).

Even prior to *Yuan Wenle*, the Supreme Court[309] and legal scholars[310] had already considered administrative searches and inspections to be covered by the warrant clause in Article III, Section 2. As to subpoenas *duces tecum* or production orders, the Supreme Court, in a case decided under the 1935 Constitution, held that such orders pertaining to civil cases were not covered by the search and seizure clause, which applied only to criminal cases.[311] However, this ruling is no longer correct because the 1987 Constitution now provides that the right covers all searches and seizures of any nature.[312] Fr. Bernas opines that the search and seizure clause extends to subpoenas *duces tecum*, orders for the production of books and papers, and administrative inspections. Although he admits that he has found nothing explicit in the discussions of the Constitutional Convention to support his position, he bases his view on the phrase "of whatever nature and for any purpose."[313]

Indeed, administrative searches and inspections are covered by the warrant clause because these intrusive administrative actions, whether routine inspections or extensive targeted searches, are conducted not for the purpose of carrying out a final finding of a violation of law but for the purpose of investigation or further administrative proceedings. Accordingly, the application of the Court's guidelines to administrative searches and inspections is proper. However, considering that some administrative searches and inspections have been deemed exceptions to the warrant requirement, depending on the reasonable expectation of privacy in each case, the proper application of the guidelines must be clarified. For example, regulatory inspections of buildings and other premises for the enforcement of fire, sanitary, and building regulations do not require warrants.[314] In such cases, should the *Yuan Wenle* guidelines apply? It is submitted that the guidelines should still be applicable, albeit with some parts relaxed or dispensed with based on the reasonable expectations of privacy, the intrusiveness, and the practicality or necessity of each circumstance.

---

[309] *See Salazar*, G.R. No. 81510, Mar. 14, 1990; *Acosta*, G.R. No. 211559, Oct. 15, 2019; and *Venus Commercial Co.*, G.R. No. 240764, Nov. 18, 2021.

[310] BERNAS, *supra* note 6, at 186–91; Agabin, *supra* note 113; Cruz, *supra* note 177; Ferrer, et al., *supra* note 176; Cesar L. Villanueva, *Tax Inquiries, Surveillance, Warrantless Searches and Seizures: Their Constitutional Limitations*, 25 ATENEO L.J. 41 (1981).

[311] Material Distributors (Phil.) Inc. v. Natividad, 84 Phil. 127 (1949).

[312] BERNAS, *supra* note 6, at 186–91. Villanueva, *supra* note 310, at 43–44. Cruz, *supra* note 177, at 511, explains that the Court in this case considered the search and seizure clause to apply only to criminal cases because General Order No. 58, the antecedent of the 1935 Constitution, was the rule on criminal procedure.

[313] BERNAS, *supra* note 6, at 186–91.

[314] NACHURA, *supra* note 234, at 182.

As opined by Justice Lazaro-Javier, the guidelines represent a flexible framework which considers circumstances relevant to an administrative agency's mandates for the common good.[315] Therefore, in the case of a regulatory inspection by an administrative agency with quasi-judicial powers that does not require a warrant, the guidelines, especially numbers one and five, should be relaxed. In cases of extensive targeted searches where there is greater reasonable expectation of and intrusion on privacy and minimal urgency, or where a warrant would have been required in the past, the guidelines should be applied completely and strictly.

As to subpoenas *duces tecum* and production orders, it is respectfully submitted that the warrant rule under Section 2 would not apply. The reason is not that Section 2 only applies to criminal cases because as shown above, the clause applies to all kinds of searches or seizures. Rather, it is because subpoenas *duces tecum* and production orders are distinct from warrants. True, subpoenas *duces tecum* and production orders, like warrants, are issued for purposes of investigation or further administrative proceedings. However, directing an officer to make a search or seizure on a person or place and directing a person to produce a document, book, or record are distinct processes and should be treated differently. Subpoenas *duces tecum* and production orders should not be considered as warrants and the ruling and guidelines should technically not extend to them. However, the guidelines should extend to these intrusive administrative actions for the purposes of protecting due process rights.[316] In other words, the guidelines apply not because these processes are warrants covered by Section 2 but because they are safeguards against government intrusions on people's due process rights.

2. Administrative Abatement, Closure, Cancellation, Protective Custody, and Contempt

The *ponencia* and the concurring opinions cite several administrative powers to prove the necessity of administrative warrants. They cite the power to abate nuisances or hazardous structures under the Civil Code, the National Building Code, and the Revised Fire Code, emphasizing that "specialized administrative agencies possessing technical knowledge, expertise, or experience are in a better position to evaluate the degree of public harm that may likely be caused by a nuisance for purposes of abatement."[317] The *ponencia* also cites the summary closure of banks in dire straits, stating that "[s]wift, adequate, and determined actions must be taken

---

[315] *Yuan Wenle,* G.R. No. 242957 (Lazaro-Javier, *J., concurring*).
[316] *See Yuan Wenle,* G.R. No. 242957 (Caguioa, *J., concurring & dissenting*).
[317] *Yuan Wenle,* G.R. No. 242957, slip op. at 24.

against financially distressed and mismanaged banks"[318] to ensure public faith in the financial system. The *ponencia* also cites the power of administrative agencies to summarily neutralize a mad dog on the loose; destroy pornography, contaminated meat, and narcotic drugs; cancel the passport and compel the return of a fleeing suspected criminal; and padlock unsanitary establishments in the interest of the public. These administrative actions, however, even if intrusive, do not constitute warrants.

Administrative abatement under the Civil Code provides that when the district health officer, in the exercise of quasi-judicial power, determines that a nuisance is a nuisance *per se*, the nuisance can be removed.[319] Similarly, under the Revised Fire Code and National Building Code, abatement requires the determination by an administrative officer of the propriety of removing a fire hazard or dangerous building.[320] Undoubtedly, abatement does not constitute a warrant under Article III, Section 2 because abatement is not ordered for the purpose of further investigation or proceedings. Abatement calls for the carrying out of a final finding of a violation of law and does not serve the same purpose as a search or seizure warrant.

The administrative power of contempt should also be discussed, as certain quasi-judicial bodies possess contempt powers that allow them to arrest and punish non-cooperative persons.[321] Luckily, it is already settled that an order of contempt or an order of arrest for contempt does not fall under Article III, Section 2, as it is a warrant issued for the purpose of carrying out a final finding of a violation of law and not for investigation.[322]

This is precisely why understanding the nature and purpose of warrants is crucial for determining the proper legal framework for administrative warrants. Hence, the discussion in Section I.C. and relevant jurisprudence should be considered, as they serve as a test for determining whether an action is a warrant covered by Article III, Section 2. To emphasize, warrants serve an evidentiary, investigatory, jurisdictional, or preparatory purpose and must be secured to protect privacy and personal

---

[318] *Id.* at 24, *citing* Vivas v. Monetary Bd. of the Bangko Sentral ng Pilipinas, 716 Phil. 132, 151–152 (2013).

[319] *See* CIVIL CODE, art. 702.

[320] *See* Rep. Act No. 9514 (2008), § 9. Revised Fire Code; & Pres. Dec. No. 1096 (1977), § 215.

[321] An administrative body cannot exercise the power of contempt unless authorized by law because such power is inherently judicial in nature. DE LEON & DE LEON, JR., *supra* note 1, at 71.

[322] NACHURA, *supra* note 233, at 150 *citing* Morano v. Vivo, 128 Phil. 923 (1967).

security. If an administrative order directing an intrusive action does not serve the purposes and is not issued to protect the privacy and personal security of the subject, then it is likely that such order is not a warrant under the contemplation of the Constitution.

Perhaps the better test for determining whether administrative actions are warrants is checking whether the quantum of proof in such actions is probable cause which would be better determined by a judge. After all, it is the determination of probable cause by a judge that the Constitution requires. Using this test, an order of abatement would not be a warrant because an order of abatement requires more than just probable cause. Similarly, orders for the closure of banks in distress, cancellation of passports, and protective custody of abused children would likely also require more than probable cause.

Based on the foregoing analysis, the administrative powers cited by the *ponencia* and the concurring opinions are not warrants because they do not serve the same purpose as judicial arrest, search, or seizure warrants.[323] Rather, these intrusive administrative actions are performed by administrative agencies to execute or enforce a final order or the law, which they are mandated to do, as well as to accomplish their regulatory functions. The necessity of granting administrative agencies the power to issue "warrants" was therefore not correctly appreciated by the Court, as these "administrative warrants" are in fact not warrants. Accordingly, the guidelines should only serve as due process safeguards when it comes to these administrative powers. When administrative agencies exercise these powers, they will be limited by the procedural due process standards of *Ang Tibay v. Court of Industrial Relations*[324] and by the substantive due process standards of *Yuan Wenle*.

However, as long as the *Yuan Wenle* ruling stands, these intrusive administrative actions are to be considered administrative warrants and the guidelines of the Court apply to them. Unless the guidelines are followed, these administrative actions will be considered invalid. That said, the Court's application of the guidelines to all intrusive administrative actions will only work to facilitate and enhance the exercise of administrative power. First, the guidelines provide agencies with clear rules to follow when they exercise their

---

[323] *See also Yuan Wenle,* G.R. No. 242957 (Caguioa, *J., concurring & dissenting*), slip op. at 9 explaining that these "administrative warrants clearly do not function in the same manner as judicial warrants."

[324] G.R. No. 46496, Feb. 27, 1940.

intrusive functions, which will reduce any delay and possible reluctance on their part. Second, the guidelines will protect the validity of administrative actions and create uniformity, which will undoubtedly assist agencies in fulfilling their regulatory functions. Still, the recommendations above are necessary to further enable administrative agencies to fully utilize the potential of their new power.

VI. THE FUTURE OF ADMINISTRATIVE WARRANTS

Philippine Administrative Law will change because of *Yuan Wenle*. The role of administrative agencies may expand should they exercise warrant-issuing functions under this case. Congress is also likely to maximize the potential created by the ruling. The Court will consequently have to deal with subsequent cases that may require it to lay down additional doctrines pertaining to administrative warrants. With these possibilities presented by *Yuan Wenle*, it would be good to suggest possible applications, doctrines, and legislations that might be helpful to them in the future.

A. Future Application

Congress may consider amending some laws that require administrative agencies to secure warrants from courts or judges to perform certain actions. One example is the provision on searches by the PCC under the Philippine Competition Act. As the law now provides, the PCC, through an authorized officer, must secure an inspection order from the court for it to be able to conduct a search or inspection. However, with *Yuan Wenle*, Congress may consider dispensing with the requirement of going to court and instead empower the PCC, possibly through an internal but independent division, to issue search warrants upon compliance with the guidelines. While such legislation would facilitate the functions of administrative agencies, the soundness should be examined through extensive study.

Congress may also consider authorizing the use of administrative warrants in the field of health, which has gained more importance in light of the country's experience during the COVID-19 pandemic. The pandemic has shown the importance of giving experts in the field the tools necessary to prevent and address pandemics and other health-related disasters. The importance of regulation and enforcement in the digital industry has also been raised by the recent cyberattacks on government institutions and private financial institutions. Congress may deem it proper in the future to allow agencies in the health and digital sectors to issue and use warrants.

B. Future Doctrines

One possible doctrine that the Court may establish in the future is a lower standard of probable cause for the issuance of administrative warrants. In its guidelines, the Court stated that administrative warrants "must be based on tangible proof of probable cause" but did not clearly define the standards of probable cause in the case of administrative warrants. This may be because probable cause is generally understood in law or because the Court intends the standard to be flexible given the complexity and variety of cases in which administrative warrants may be utilized. However, the Court will most likely fix the standard in future cases and establish a lower standard for probable cause (and possibly varying depending on the level of intrusion) in administrative cases, similar to what has been done in the United States. Cruz provides an illuminating and extensive discussion on this matter and even proposes his own definition of administrative probable cause for targeted administrative searches, particularly in the context of the search and inspection powers of the PCC.[325]

Another possible doctrine is the application of the doctrine of deference to administrative discretion in cases involving the determination of probable cause by administrative agencies. It is a settled doctrine in administrative law that findings of fact by quasi-judicial agencies are accorded respect and even finality by the Court because of their expertise in specific matters under their jurisdiction, as long as such findings are supported by the applicable quantum of evidence.[326] Accordingly, it is not for the reviewing court to "substitute its judgment for that of the administrative agency on the sufficiency of evidence," and courts should not interfere with administrative matters addressed to the sound discretion of administrative agencies unless there is a showing of arbitrary, capricious, or grave abuse of discretion.[327] Since the determination of probable cause is a factual and evidentiary question, the doctrine of deference will likely be applied by the Court in such cases if the question of probable cause is tied-up with matters within the field of expertise of administrative agencies.

---

[325] Cruz, *supra* note 177, at 543–50.
[326] NACHURA, *supra* note 233, at 526.
[327] *Id.* at 526–27.

VII. CONCLUSION

The innovation brought about by *Yuan Wenle* was motivated by the Court's desire "to strike a balance between civil liberties and the pursuit of legitimate or compelling state interests" and can be attributed to the Court's forward-thinking and progressive character. However, it was not necessary for the Court to rule on the validity of administrative warrants because the issue was never raised by the parties.

The ruling in *Yuan Wenle* that administrative agencies, like courts, can issue search and seizure warrants and warrants of arrest contravenes the express language of the Constitution and disregards well-established doctrines. It also goes against the intent of the Framers to prevent the recurrence of the abuses committed by the Marcos Administration by limiting to courts the authority to issue warrants. Likewise, the pronouncement that Article III, Section 2 applies only to criminal cases is contrary to the history and essence of the right, US and Philippine jurisprudence, and the textual development of Article III, Section 2. Moreover, the necessity of administrative warrants perceived in *Yuan Wenle* is not entirely existent because not all intrusive administrative actions are warrants within the meaning of the Constitution. Even if this necessity exists, this Note submits that the proper legal framework, together with the recommendations, addresses this necessity without going against the command of the Constitution and the intent of the Framers.

Yuan Wenle and its guidelines will facilitate and enhance the exercise of administrative power. However, the first and sixth guidelines must be clarified to better guide administrative agencies in their issuance and use of administrative warrants. This will give agencies more confidence in exercising their new power, allowing them to fully utilize the potential of administrative warrants. Additional safeguards are likewise recommended for the second, third, and seventh guidelines to ensure better protection of the rights of the subjects of warrants.

This Note anticipates that, with the new rule, Congress will consider amending laws and introducing new ones that would allow agencies to take advantage of the *Yuan Wenle* ruling. Immigration efforts may be the primary beneficiary of this, although public interest considerations in the health and digital sectors may likewise call for warrant-issuing powers of their respective agencies. As a response, the Court can be expected to consider establishing specific levels of probable cause for different kinds of administrative actions, depending on the degree of intrusions or deprivations produced by them.

While one can predict that *Yuan Wenle* and its guidelines will remain valid for a considerable time, it is difficult to predict the future of administrative warrants in our legal system. It is hoped that this Note has provided valuable insights and recommendations that will be considered by administrative agencies, Congress, and the Court.

- o0o -