

described the clothes he would be wearing and the bag he would be carrying; the informant, however, gave no basis for his information. FBI agents met the train, observed that the defendant fully fit the description, and arrested him. The Court held that the corroboration of part of the informer's tip established probable cause to support the arrest. A case involving a search warrant, *Jones v. United States*,¹²⁰ apparently considered the affidavit as a whole to see whether the tip plus the corroborating information provided a substantial basis for finding probable cause, but the affidavit also set forth the reliability of the informer and sufficient detail to indicate that the tip was based on the informant's personal observation. *Aguilar v. Texas*¹²¹ held insufficient an affidavit that merely asserted that the police had "reliable information from a credible person" that narcotics were in a certain place, and held that when the affiant relies on an informant's tip he must present two types of evidence to the magistrate. First, the affidavit must indicate the informant's basis of knowledge—the circumstances from which the informant concluded that evidence was present or that crimes had been committed—and, second, the affiant must present information that would permit the magistrate to decide whether or not the informant was trustworthy. Then, in *Spinelli v. United States*,¹²² the Court applied *Aguilar* in a situation in which the affidavit contained both an informant's tip and police information of a corroborating nature.

The Court rejected the "totality" test derived from *Jones* and held that the informant's tip and the corroborating evidence must be separately considered. The tip was rejected because the affidavit contained neither any information which showed the basis of the tip nor any information which showed the informant's credibility. The corroborating evidence was rejected as insufficient because it did not establish any element of criminality but merely related to details which were innocent in themselves. No additional corroborating weight was due as a result of the bald police assertion that defendant was a known gambler, although the tip related to gambling. Returning to the totality test, however, the Court in *United States v. Harris*¹²³ approved a warrant issued largely on an informer's tip that over a two-year period he had purchased illegal whis-

¹²⁰ 362 U.S. 257 (1960).

¹²¹ 378 U.S. 108 (1964).

¹²² 393 U.S. 410 (1969). Both concurring and dissenting Justices recognized tension between *Draper* and *Aguilar*. See *id.* at 423 (Justice White concurring), *id.* at 429 (Justice Black dissenting and advocating the overruling of *Aguilar*).

¹²³ 403 U.S. 573 (1971). See also *Adams v. Williams*, 407 U.S. 143, 147 (1972) (approving warrantless stop of motorist based on informant's tip that "may have been insufficient" under *Aguilar* and *Spinelli* as basis for warrant).