Fruit of the Poisonous Tree

 [Name of the Writer]

[Name of the Institution]

**Fruit of the Poisonous Tree**

**Introduction**

The “Fruit of Poisonous Tree” is a doctrine that aids in extending the exclusionary rule. This makes the evidence prohibited in court if it was obtained illegally. It can be seen through the metaphor as well if the evidence is tainted (tree), then the derivatives (fruit) that are obtained from it are also contaminated. The decision of Silverthorne Lumber Co. v. United States in 1920 established the doctrine. Justice Frankfurter gave the doctrine the phrase "Fruit of the Poisonous Tree” in his opinion in the Nardone v. United States case. He made it very clear that any evidence that is obtained through illegal means and by breaching a citizen's privacy will not be permissible in the court of law. This paper will discuss the pros and cons of the “fruit of a poisonous tree” doctrine and the “exclusionary rule” in detail.

**Discussion**

 Similar to the exclusionary rule, there are three main exceptions to the fruit of the poisonous tree doctrine. The evidence will not be excluded in the case:

1. If it came to discovery from a source that was free of the illegal action.
2. The evidence getting discovered was unavoidable.
3. If there is tempering amid the discovery of the evidence and the illegal activity.

Additionally, if the prime evidence was obtained illegally, yet it is permissible underneath the good-faith exception, its byproducts (fruit) can also be acceptable (Lemley, 2017). When it comes to the Silverthorne Lumber Co. v. United States case, it was a US Supreme Court case. It was pretty simple, Silverthorne tried to escape paying the taxes. So, to cater to that the Federal agents apprehended all Silverthorne’s tax books. They also created copies of all the tax book records. The main issue of this case was that are the byproducts of the illegible evidence admissible in the court of law? The ruling that was delivered by then judge Oliver Wendell Holmes, Jr., suggested that if the police are given the permission to get derivatives it would cause problems. He thought by doing so the police will be encouraged to evade the Fourth Amendment. Hence, the illegal tax book record copies were considered tainted and they were prohibited. This led to the formation of the doctrine “fruit of the poisonous tree.”

Coming to the Nardone v. United States 1939, the main question was that in a trial occurring in the federal court, is it permissible to present evidence procured by tapping wires? The tapping of telephone wires is the violation of the Communication Act of 1934, hence it is not permissible. Any knowledge that was gained by hearing such a conversation is not allowed in the court of law. Nardone was taken in under the accusation of fraud on the revenue (Lemley, 2017). However, the evidence was tainted as it was obtained through illegal means which breached the Communication Act of 1934.

Having said everything, there are certain exceptions to the exclusionary rule as well. The evidence is not denied in case of:

1. Independent Source Doctrine
2. Good Faith Exception
3. Inevitable Discovery Doctrine
4. Attenuation Doctrine
5. Evidence Admissible for Impeachment
6. Qualified Immunity

When it comes to Exclusionary Rule, it prohibits the government from making use out of the majority of the evidence collected in the violation of the Constitution of the United States. The decision that was made in Mapp v. Ohio recognized the exclusionary rule is applied to any evidence that is gained through means which are in violation of the Fourth Amendment. Further, the evidence that is obtained in violation of the 5th and 6th Amendment will also not be permissible either (Manojlović & Jović, 2018). However, these rules do not work for civil cases, which are inclusive of deportation trials.

There are many cases in which the exclusionary rule is deemed to be controversial. Hypothetically speaking, if the police stop a driver for a simple speeding problem, and in the development of citation they find cocaine in one of the car's compartments. If per se, the driver did not give permission for the search and the police did not have a proper cause, this act can be deemed illegal under the 4th Amendment. In order to appeal for the exclusionary rule, the defendant will claim that the drugs were illegally detained. One way or the other, the defense will have to prove that the victim’s rights were violated (Manojlović & Jović, 2018). By doing so, the main evidence (Cocaine) will be repressed in pending. Further, based on a few leads if the police decide to search an individual's house without consent or cause, whatever the nature of the evidence the proof will be suppressed.

**Conclusion**

There is no doubt in the fact that law enforcement can work in different ways. There are going to be times when the impact will be positive, but on certain occasions, the effect can be negative. Both the "fruit of the poisonous tree" and the exclusionary rule have pros and cons. One of the worst outcomes of both laws has been seen in rape cases and drug abuse cases. However, the privacy of the general public should always be kept under consideration whenever there are any kind of leads regarding illegal activity. However, the police can ask for a search warrant to get the information that they want and the general public should not deny it. The reason behind it is the public's own safety. There is no doubt in the fact that the exceptions of warrants and inevitability are also applied to the cases as well.

**References**

Lemley, M. A. (2017). The Fruit of the Poisonous Tree in IP Law. *Iowa L. Rev.*, *103*, 245.

Manojlović, D., & Jović, V. (2018). Issuing search warrants based on the information obtained from police sources (A comparative research of adversial and continental legal system). *Strani pravni život*, *62*(4).