

VIRGILIO CAÑETE, COMPLAINANT, VS. JUDGE MARCELO B. RABOSA, SR. (RETIRED) AND CLERK OF COURT FELY C. CARRIEDO, RESPONDENTS.*A.M. No. MTJ-96-1111 (OCA-IPI No. 96-155-MTJ). September 05, 1997*

Ponente: BELLOSILLO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/52e3177bc0b9/>**BELLOSILLO, J.:**

This is a complaint filed by Virgilio Cañete, Court Stenographer II, RTC-Br. 24, Ipil, Zamboanga del Sur, dated 28 November 1995 against Judge Marcelo Rabosa Sr., now retired, and Clerk of Court Fely C. Carriedo, MCTC, Ipil-Tungawan, Zamboanga del Sur, charging them with the unlawful taking of a .45-caliber pistol with 7 rounds of ammunition submitted as exhibit in Crim. Case No. 2044, "People v. Arturo Pilapel and Herman Baate," for Illegal Possession of Firearm pending preliminary investigation in the Municipal Circuit Trial Court. The complaint alleges that on mere verbal order of respondent Judge, respondent Clerk of Court delivered to him allegedly for ballistics examination the .45-caliber pistol with 7 rounds of ammunition, and that months later respondent Judge had the gun licensed in his name.

Respondent Judge was not required to comment on the complaint as he retired sometime in 1992 and no longer under the administrative supervision of the Court. It is believed that the case could have been referred to the Provincial Prosecutor's Office for whatever legal action it would take it appearing that, if true, respondent Judge appropriated to himself the firearm that was used as exhibit in his court.

In her comment respondent Carriedo claimed that she should not be held liable as the gun subject matter of the complaint was returned by respondent Judge by personally delivering it to the Provincial Prosecutor's Office. She submitted an acknowledgment receipt purportedly issued by respondent Judge relieving her from any liability with respect to the firearm.

An investigation conducted by Deputy Court Administrator Bernardo Abesamis revealed that in 1987 the gun was licensed in the name of respondent Judge. Although the firearm was supposedly returned in July 1988, respondent Clerk of Court should have informed this Court of the misappropriation, albeit temporary, particularly so that the Judge had already retired. The Clerk of Court is the custodian of all records, papers, files, exhibits and public property committed to his charge.[1] Viewing the offense charged as amounting to infidelity in the custody of court exhibits, Deputy Court Administrator Abesamis recommended in his Memorandum of 28 November 1996 that respondent Clerk of Court be fined in the amount of P5,000.00 with a stern warning to her against the commission of similar offenses. He also recommended that this IPI (Initial Preliminary Investigation) be accordingly docketed as an "Administrative Matter."

Court Administrator Alfredo L. Benipayo while approving the recommendation of DCA Abesamis reduced the recommended fine of P5,000.00 to P1,000.00 "in view of the circumstances and the extent of the fine imposed in Art. 226 of the Revised Penal Code." [2]

We affirm the accountability of Clerk of Court Fely C. Carriedo. Under Sec. 7, Rule 136, of the Rules of Court, it

is her duty as Clerk of Court to safely keep all records, papers, files, exhibits and public property committed to her charge. Obviously, it was due to her negligence, if not acquiescence, that respondent Judge was able to possess the firearm and have it licensed in his name. She should not have presumed that the taking of the gun by respondent Judge was for ballistics examination. The irregularities attached to the taking of the disputed firearm cannot be considered rectified with the issuance by respondent Judge of a certification relieving her of her accountability.

Respondent Clerk of Court should have known better the responsibilities of her office.

As regards the penalty to be imposed on respondent, we cannot sustain the fine of 1,000.00 as reduced by the Court Administrator, citing Art. 226 of the Revised Penal Code. Since this is not a criminal but an administrative case, the Court may impose a much higher fine than that fixed in Art. 226, or suspend respondent for a reasonable period or even dismiss her, which certainly is much more serious than the mere imposition of a fine of 1,000.00.

We take this opportunity to remind all Clerks of Court to be more vigilant in the custody and safekeeping of court exhibits, particularly firearms and other weapons, as well as dangerous and prohibited drugs. The Court has been receiving reports that these are now the favorite objects of thievery and robbery all over the country, resulting in the failure of the prosecutors to successfully bring the criminals to justice. Worse, the perpetrators go scot-free only to pursue further their nefarious activities with the use of these exhibits.

Accordingly, acting on the Memorandum of DCA Abesamis, this Court RESOLVES to docket this case, "IPI No. 96-155-MTJ," into a formal "Administrative Matter" and direct the Clerk of Court of this Court to assign it an appropriate number. However, instead of the recommended imposition of fine, respondent Clerk of Court FELY C. CARRIEDO is suspended from office for a period of one (1) month without pay to commence immediately upon service hereof with a stern warning that a repetition of the same or similar act in the future will be dealt with more severely.

SO ORDERED.

Vitug, Kapunan, and Hermosisima, Jr., JJ., concur.

[1] Lloveras v. Sanchez, A.M. No. P-93-817, 18 January 1994, 229 SCRA 302; Basco v. Gregorio A.M. No. P-94-1026, 6 July 1995, 245 SCRA 614.

[2] Art. 226. Removal, concealment or destruction of documents. - Any public officer who shall remove, destroy or conceal documents or papers officially entrusted to him, shall suffer:

1. The penalty of prision mayor and a fine not exceeding 1,000 pesos, whenever serious damage shall have been caused thereby to a third party or to the public interest.
2. The penalty of prision correccional in its minimum and medium period and a fine not exceeding 1,000 pesos, whenever the damage to a third party or to the public interest shall not have been serious.

In either case, the additional penalty of temporary special disqualification in its maximum period to perpetual special disqualification shall be imposed.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.