

ATTY. EDWIN BETGUEN, ET AL., COMPLAINANTS, VS. DOMINGA P. MASANGCAY, RESPONDENT.*A.M. No. P-93-822. December 01, 1994*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/53edc6ff5b7d/>**PER CURIAM:**

In this complaint for dishonesty, grave misconduct, conviction of an offense and unauthorized absences, respondent is charged, primarily, with concealing the records of C.A.-G.R. 10643 entitled "People of the Philippines vs. Dominga P. Masangcay" for grave oral defamation wherein respondent Dominga P. Masangcay, Clerk IV of the Office of the Clerk of Court, RTC Cabarroguis, Quirino, is the accused/appellant.

Sometime in 1986, Jovita G. Cabanag and Luz Ancheta filed separate criminal complaints for grave oral defamation against respondent with the Municipal Trial Court of Cabarroguis, Quirino, docketed as Criminal Case Nos. 901 and 902, respectively. After joint trial, respondent was found guilty of intriguing against honor under Article 364 of the Revised Penal Code and was imposed a fine of P200.00 and ordered to indemnify complainants in the amount of P5,000.00 each. On appeal to the Regional Trial Court, the conviction was affirmed in toto. The Court of Appeals likewise affirmed respondent's conviction. The records of the case (C.A.-G.R. No. 10643) were then remanded to the Clerk of Court of RTC, Quirino, on November 18, 1991, through registered mail with Registry Receipt No. P-5007. These records are the subject of the present controversy.

On November 27, 1991, respondent Masangcay, allegedly received from a certain Betty Nasto, an employee of the Post Office of Cabarroguis, Quirino, a parcel from the Court of Appeals with Registry Receipt No. P--5007, which as later discovered, contained the records of C.A.-G.R. No. 10643. The fact of receipt by respondent is attested to by the Acting Postmaster of the aforesaid town, Santiago Palaruan, and evidenced by the signature of respondent on the registry book of the Post Office. However, the records of the case are nowhere to be found in the RTC of Quirino nor is there any record of its receipt by respondent in the court's logbook.

The loss of the records and its alleged receipt by respondent was only discovered when complainants Cabanag and Ancheta, tired of awaiting the outcome of the appeal, went to the Office of the Clerk of Court to inquire about the status of their cases. There being no record of the return of the records to the RTC, they were told to inquire at the Court of Appeals. It was upon such inquiry with the appellate court that they discovered that the records of the case were already transmitted back to the RTC. After a thorough investigation, all evidence pointed to respondent as the last person in possession of the records.

Complainant Atty. Betguen, Clerk of Court of RTC Cabarroguis, Quirino, issued a memorandum to respondent requiring her to explain why she should not be held administratively liable for concealment of the records. In her answer, respondent denied any responsibility for the loss of the records.

Notwithstanding the aforesaid loss, the decision in the case of "People of the Philippines vs. Masangcay" affirming the conviction of respondent was promulgated on April 29, 1993, on the basis of certified copies of the decision and resolution from the Court of Appeals. Weeks prior to such promulgation, respondent had already been continuously absent from work. Despite a memorandum from Atty. Betguen requiring her to explain why

she should not be administratively charged for being absent without leave, respondent failed to reply or report back for work. Even respondent's husband, who is employed in the same Court as sheriff, did not inform Atty. Betguen of respondent's absence or her whereabouts.

As a result, Atty. Betguen returned the salary checks of respondent for April 15 and 26, 1993 to the Supreme Court with a request to withhold all succeeding salaries.

On May 3, 1993, Executive Judge Gregorio Buenavista of RTC, Cabarroguis, Quirino, informed the Court Administrator that respondent has already been declared absent without leave (AWOL) and, coupled with her conviction for a criminal offense, recommended her dismissal and/or separation from service (Rollo, p. 17).

On May 17, 1993, Judge Buenavista received from respondent her belated applications for sick leave from March 22 to May 31, 1993, daily time records and medical certificate. These documents were returned to respondent on the same day by Judge Buenavista with the instruction to indorse the same to Atty. Betguen, her immediate supervisor, for appropriate action. Upon indorsement, Atty. Betguen likewise returned said documents to respondent since she has already been declared AWOL by Executive Judge Buenavista, together with a letter dated March 21, 1993 from the Executive Judge transmitting an Indorsement from the Court Administrator requiring her to answer the administrative charges filed by Atty. Betguen against her. Respondent refused to receive both letters.

On May 31, 1993, Judge Buenavista issued Administrative Order No. 01 for the temporary detail of respondent to the Municipal Trial Court of Cabarroguis, Quirino effective June 1, 1993, upon the petition of the personnel of the Office of the Clerk of Court. Such detail was opposed however by the personnel of the MTC of Cabarroguis, on the ground that respondent's detail to their office is unacceptable, respondent being persona non grata.

When directed to comment on the complaints against her, respondent admitted her conviction, not for grave oral defamation, but for intriguing against honor. However, she vehemently denied responsibility for the loss of the records of C.A.-G.R No. 10643. Although she did in fact receive the parcel containing the records of the case, she claimed that she indorsed the same to complainant clerk of court, Atty. Betguen. The latter, however, denied the allegation. Respondent further emphasized that she was not the only one receiving mails addressed to the court. Furthermore, if anybody should be held accountable for the loss of the records, it should be Atty. Betguen, and not respondent, since he is the custodian of the court records. In her comment, respondent likewise imputed several accusations against her co-employees and even against her superiors. Respondent maintains that the criminal case for defamation as well as an administrative case for misconduct was brought by Cabanag and Ancheta against her upon the instigation of Estrella V. Magat, Court Interpreter of Branch 31, Cabarroguis RTC. She further charged Judge Carlos T. Aggabao, Atty. Betguen, Magat and one Elsa V. Manuel, Cash Clerk of the same court, with pressuring Judge Bannuar C. Bon-golan, MTC Cabarroguis, Quirino to promulgate the judgment of conviction against respondent, even if the same was only a xerox copy. All of the parties referred to denied the accusations of respondent for being false and baseless.

At the outset, it must be emphasized that respondent categorically admits having been convicted by the trial court of the crime of intriguing against honor. Under Sec. 22 par. (e) of the Omnibus Rules Implementing E.O. 292 (Administrative Code of 1987), conviction of a crime involving moral turpitude, being a grave offense, is punishable by separation from service.

Article 364 of the Revised Penal Code defines "intriguing against honor" as any intrigue which has for its principal purpose to blemish the honor and reputation of a person. This felony undoubtedly falls under the coverage of crimes involving moral turpitude, the latter term having been defined as "an act of baseness, vileness, depravity in the private and social duties which a man owes his fellow man, or to society in general, contrary to

the accepted and customary rule of right and duty between man and man, or conduct contrary to justice, honesty, modesty and good morals" (Tak Ng vs. Republic of the Philippines, 106 Phil. 727 [1959]).

Respondent, having been found guilty of willfully and maliciously causing intrigue against a person for the purpose of tainting his honor and reputation, is consequently guilty of a crime involving moral turpitude. On this score alone, her dismissal from the service is warranted.

However, the crux of the case involves the charges of Dishonesty and Gross Misconduct in the service committed by concealing the records of the case entitled "People vs. Dominga Masangcay" which respondent allegedly received upon its transmittal from the Court of Appeals. An assiduous review of the records of this case establishes respondent's guilt of the aforesaid charges.

Betty Nastor, an employee of the Post Office of Cabarroguis, Quirino attests to the fact that she personally handed the parcel containing the records of the case to respondent (Rollo, p. 4). Of even greater weight, respondent's signature, which she admits as her own, appears on line 20 of the record of registered letters of the Post Office of Cabarroguis (Rollo, p. 39). No evidence could be stronger to prove the fact of respondent's receipt of the records than her own signature as well as the clear affirmation of the postal clerk who delivered the parcel.

It should be noted that before respondent was confronted with her signature on the registry book, she absolutely denied receiving the parcel containing the missing records, even arguing that she is not the only one receiving mail matter of the court. After the registry book was presented to her, however, she altered her posture and admitted having received the records but denied having opened or concealed the same. Respondent avers that she did not know that the parcel contained the records of her personal case. She affirms that after receiving the same, she indorsed the records to her immediate superior, one of the herein complainants Atty. Betguen.

Respondent is not credible when she claims that she was unaware that the parcel contained the records of her appealed case. The Court of Appeals places the docket number of the appealed case being remanded outside the mailed parcel for control purposes. Having been employed with the court since 1983, respondent is presumed to know this procedure. In fact, since part of her duties included receiving and recording mail matter of the court, it is incumbent upon respondent to know of such practice. Having appealed the case herself, it was natural for respondent to know the docket number of her case and thereafter to monitor the arrival of her case upon its remand from the appellate court. Respondent had every opportunity for committing the act of concealing the records of her case having acknowledged receipt of the same from the post office.

Respondent insists that she indorsed the records to Atty. Betguen. However, the allegation remained unsubstantiated as respondent presented no evidence to support the same. On the other hand, it is respondent herself who has an evident motive, insofar as it would benefit herself, to keep and conceal the records affirming her conviction. Respondent was convicted of committing a criminal offense by the MTC. On appeal to the RTC, her conviction was affirmed. Naturally, respondent would try to do everything she can to avert the promulgation of her conviction, should she find that the same was affirmed by the Court of Appeals. There being a motive, and finding an opportunity to carry out her intention, respondent failed to resist the impulse and concealed the records in order to keep the affirmation of her conviction a secret.

The fact that it was respondent who received and concealed the records of the case was therefore sufficiently established by substantial evidence. Substantial evidence has been defined as such relevant evidence as a reasonable mind might accept as adequate to support a conclusion (Tolentino vs. Court of Appeals, 150 SCRA 25 [1987]; Biak-na-Bato Mining Co. vs. Tanco, Jr., 193 SCRA 323 [1991]). This is the quantum of proof required in an administrative proceeding, and as far as the case at bar is concerned, the same has undoubtedly been satisfied.

Respondent's actuation in concealing the records of her case amounts to dishonesty and gross misconduct in office warranting her dismissal from service under Section 22 (a) and (c), Rule XIV, Omnibus Rules Implementing Book V of E.O. No. 292 (Administrative Code of 1987). Being in charge of court records for years, respondent was well aware that court records are confidential documents which may not be taken out of court without proper authority and without the necessary safeguards to ensure their confidentiality and integrity (*Mirasol vs. Dela Torre*, 195 SCRA 667 [1991]). But in blatant disregard of such rule of confidentiality, respondent concealed the records of her conviction, in an obvious attempt at self-preservation.

For committing the act complained of, respondent displayed gross or serious misconduct in office deserving of the extreme penalty of dismissal. Misconduct in office warranting removal must have a direct relation to and be connected with the performance of official duties amounting either to maladministration or willful, intentional neglect and failure to discharge the duties of the office; a transgression of some established and definite rule or action, an unlawful behaviour or gross negligence by the public officer; or the acts complained of were corrupt or inspired by an intention to violate the law or were in persistent disregard of well-known legal rules (*Amosco vs. Magro*, 73 SCRA 107 [1976] citing *Buenaventura vs. Benedicto*, 38 SCRA 71, *In re: Horilleno*, 43 Phil. 212). In the present case, respondent abused her position as Clerk IV of the Office of the Clerk of Court in charge of receiving court records and documents, in order to carry out her intention to thwart the promulgation of the decision convicting her. Respondent feigns innocence of the act complained of by passing the blame to herein complainant, Atty. Betguen. Respondent avers that being the custodian of the records, the liability for the loss of the subject records should fall upon Atty. Betguen.

The argument has no merit. Atty. Betguen, overall custodian of court records in his capacity as Clerk of Court, could not be faulted for the loss of the records as alleged by respondent. Respondent had direct control over the documents and records being transmitted to the court, who violated the established procedure to be followed upon receipt of court documents. As Atty. Betguen stated in his letter to respondent dated January 27, 1993:

"It has been the usual practice in our office, the Office of the Clerk of Court, that whenever a mail or parcel is delivered, the undersigned is immediately informed thereof and a corresponding acknowledgement receipt is signed by the undersigned. Thereafter, our docket clerk, Mrs. Elsa V. Manuel will enter the judgment of the higher court in the corresponding docket book if the parcel happens to be a case record or else, the Clerk IV will record all other mail matters in a separate logbook. There appears no entry in the docket book of the judgment in C.A.-G.R. No. 10643 and neither has the undersigned signed any acknowledgement receipt of the said record. Furthermore, all records of appealed cases remanded to this court contained the notation of the title or number of the said case on the face of the envelop. Being the receiving person and the interested party, being the accused in said case, it is highly unbelievable that you did not know the whereabouts (sic) of the delivered mail matter as firmly alleged by you (Rollo, p.7)."

But as borne by the records of this case, respondent never informed her superiors as to her receipt of the parcel containing the missing records. Neither did she indorse the same to Atty. Betguen according to established procedure in the office. In fact, as an added safeguard against being discovered, respondent also concealed the records of Civil Case No. 217 entitled "*Cirilo Bagaoisan vs. Fulgencio Factoran, et al.*", which arrived together with the records of her appealed case. The parcel containing the records of Civil Case No. 217 was later discovered by Normita P. Magno, Clerk III of the same office, in an old cabinet, opened and the acknowledgement receipt unsigned by Atty. Betguen. The records of C.A.-G.R. 10643, however, were never found.

Respondent is also being charged herein for Unauthorized Absences under Section 22 (q) of the same Omnibus Rules, covering the period March 18 to May 31, 1993.

Although respondent does not deny her absences, she averred that she filed the necessary applications for leave. The records however show that her applications for sick leave were not only belatedly filed, they were also addressed not to her immediate supervisor, Atty. Betguen, but to the Executive Judge, in patent violation of civil service rules and regulations.

Neither will the medical certificate submitted by respondent excuse her absence. The certificate shows that respondent was treated for sudden chest pains on March 22, 1993. Respondent has been absent since the 18th of March up to the end of May, 1993. It is quite obvious that an unexcusable two and a half month absence will not be so easily written off by the mere act of presenting a medical certificate involving one day of treatment. Moreover, the attending physician who issued the certification, Dra. Mila D. Garcia, patently denied that she advised respondent to rest for three (3) months. If at all, the medical certificate will serve to excuse only her absence from work on the actual day of her consultation on March 22, 1993. Under the aforementioned rules, unauthorized absences are punishable by suspension of six months and one day to one year for the first offense, and the penalty of dismissal for the second offense. Considering, however, that respondent is herein found to be guilty of more serious violations meriting the penalty of dismissal, such suspension has now become superfluous. Moreover, under the same Omnibus Rules aforesaid, it is provided that "if the respondent is found guilty of two or more charges or counts, the penalty imposed should be that corresponding to the most serious charge or count and the rest may be considered aggravating" (Sec. 17, Rule XIV, Omnibus Rules Implementing Book V of E.O. No. 292). From the foregoing, it is apparent that the moral propensity of respondent to commit violations of established rules and regulations is not to be discounted. Considering the gravity of the charges levelled against her, the fact that even the personnel of the MTC of Cabarroguis consider her a persona non grata and more importantly, the fact that respondent has been previously found guilty by this Court of violating Administrative Order No. 3 by not raffling an Extrajudicial Foreclosure of Mortgage, there is little left to be said of respondent's moral fitness to remain in the service.

Finally, it is quite ironic and unfortunate for respondent that through the commission of the acts complained of, she only succeeded in aggravating her dilemma. Where at the onset, her only predicament was her conviction for the crime of intriguing against honor, her malicious intent to frustrate the ends of justice mired her even more into a deeper hole from which there is now neither reprieve nor escape.

WHEREFORE, respondent Dominga P. Masangcay is hereby DISMISSED from the service with cancellation of eligibility, forfeiture of leave credits and retirement benefits and disqualification to hold office in any public office including government-owned or controlled corporations. Respondent's dismissal is without prejudice to any other liability.

SO ORDERED.

Narvasa, C.J., Padilla, Bidin, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Quiason, Puno, Vitug, Kapunan, and Mendoza, JJ., concur.

Feliciano, J., on leave.

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