

NELIA B. ESMERALDA-BAROY, COMPLAINANT, VS. JUVY N. COSCA, RESPONDENT.*A.M. No. P-93-799. June 21, 1995*

Ponente: MENDOZA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/846d44694c7c/>**MENDOZA, J.:**

This is a complaint charging violation of Rule 136, §§14 and 17, of the Rules of Court. The complainant was the clerk of court of the Municipal Trial Court of Tinambac, Camarines Sur, while respondent Juvy N. Cosca is a court stenographer of the same court. The charge is that respondent brought home with her the stenographic notes which she had taken in certain cases pending before the MTC and failed to submit the corresponding transcripts and her notes despite demand by the judge of the MTC. According to complainant, respondent was able to submit the transcript of stenographic notes in only one case.

Respondent admits the allegation but claims that she brought home the notes so that she could transcribe them there, because she lives far from the court. She claims that the complaint was filed against her by the complainant and the presiding judge of the court in retaliation for the administrative complaint filed by her and three other court employees against complainant and Judge Lucio P. Palaypayon, Jr. She further claims that she had to bring home the stenographic notes for fear that "something may happen to them if [she] left them in the office of complainant," because it was apparent that the judge and the clerk of court were bent on getting back at her.

The pertinent provisions of Rule 136 invoked by complainant in support of her complaint state:

Sec.14. Taking of record from the clerk's office. — No record shall be taken from the clerk's office without an order of the court except as otherwise provided by these rules. However, the Solicitor General or any of his assistants, the provincial fiscal or his deputy, the attorneys de oficio shall be permitted, upon proper receipt, to withdraw from the clerk's office the record of any cases in which they are interested.

X X X X X X X X

Sec. 17. Stenographer. — It shall be the duty of the stenographer who has attended a session of a court either in the morning or in the afternoon, to deliver to the clerk of court, immediately at the close of such morning or afternoon session, all the notes he has taken, to be attached to the record of the case; and it shall likewise be the duty of the clerk to demand that the stenographer comply with said duty. The clerk of court shall stamp the date on which such notes are received by him. When such notes are transcribed the transcript shall be delivered to the clerk, duly initialed on each page thereof, to be attached to the record of the case.

Whenever requested by a party, any statement made by a judge of first instance, or by a commissioner, with reference to a case being tried by him, or to any of the parties thereto, or to any witness or attorney, during the hearing of such case, shall be made of record in the stenographic notes.

The requirement in §17 that stenographers must deliver the notes taken by them immediately at the close of the morning or afternoon session during which they were taken, to be attached to the record of the case, must be

considered in light of the provision of Rule 41, §12 (civil cases) and Rule 122, §7 (criminal cases) which required the transcription of the notes only in the event of an appeal, except in those instances where any of the parties made a request for transcripts. However, with the promulgation of Administrative Circular No. 24-90 on July 12, 1990 directing all stenographers "to transcribe all stenographic notes and to attach the transcripts to the record of the case not later than twenty (20) days from the time the notes are taken," the requirement to deliver the notes to the clerk of court immediately at the close of the session so that they can be attached to the record must be understood to have been pro tanto modified in the sense that stenographers are required to deliver their notes only after transcribing them, which must be done within twenty (20) days after the notes have been taken. Indeed, it would be incongruous to require stenographers to deliver their notes to the clerk immediately at the close of a session and at the same time to require that their notes be transcribed within twenty (20) days.

Consequently, the failure of respondent to deliver her notes immediately after taking them cannot be charged as a violation of any rule. Indeed, Judge Lucio P. Palaypayon originally faulted respondent for having failed to transcribe some notes ? not for having failed to deliver her notes immediately ? even going to the extent of revoking the clearance which he had issued to respondent in connection with her proposed transfer to the MTC of Bombon, Camarines Sur.[1] It was only after respondent had submitted the transcripts in Criminal Case No. 5682 (People v. Crisostomo Maynog) that complainant clerk of court thought of asking respondent for the notes from which the transcripts had been made.[2]

On the other hand, there is reason to believe that the present complaint was filed only because respondent had filed an administrative complaint against the herein complainant and Judge Palaypayon, Jr., as a result of which complainant was ordered dismissed from the service while Judge Palaypayon, Jr. was fined P20,000.00.[3] The complaint in the administrative case was filed on October 5, 1992. On October 28, 1992, Judge Palaypayon, Jr. revoked the clearance he had previously issued to respondent on the ground that the latter still had notes which had not been transcribed. When respondent transcribed her notes and lost no time in submitting the transcripts, complainant asked for the notes. From then on the charge against respondent became one for failure to deliver stenographic notes as required by Rule 136, §17.

Even if §17 has not been modified, it will be noted that a duty equally devolves on complainant to see to it that stenographers deliver their notes immediately after taking them and to attach them to the record of the case. Complainant is, therefore, equally at fault for the failure of respondent to deliver her notes immediately. There is nothing in the record to show that complainant ever required respondent to submit her notes immediately after taking them.

Indeed there is no claim in this case that in failing to deliver her notes immediately after the hearing in a case respondent had any ulterior motive. There is every reason to believe that her failure to comply with the rule was due more to ignorance of the rule than to any improper motive.

It is also charged that respondent brought home with her the notes which she had taken, in violation of §14 of Rule 136 which prohibits records from being "taken from the clerk's office without an order of the court." But if the notes had not been attached to the record of cases, how could respondent have taken the records out? Respondent says she brought her notes home so that she could transcribe them there.

The transcription of notes must be done in office. With the requirement in Administrative Circular No. 24-90 to transcribe notes within a short time, however, we can accord to the presumption of good faith. As respondent states in her rejoinder to the complainant's reply:

The fact of the matter was that, there were times in the past that the undersigned had to bring with her certain stenographic notes for transcription at home when they were needed immediately. And the undersigned did so in

good faith and without any ulterior motive; prompted only by the thought of helping more effectively in the speedy administration of justice.

Complainant makes a belated claim that respondent still has to account for the notes taken by her in Criminal Case Nos. 5667, 5669, 5709, 5710 and 5719. If so, she should be given 100 days within which to transcribe them and only if she fails to do so should disciplinary action be taken against her.

WHEREFORE, respondent is WARNED that in the future the transcription of stenographic notes should be done by her in the office and that violation of this requirement will be dealt with accordingly; to TRANSCRIBE, if she has not already done so, within 100 days from notice the notes taken in Criminal Case Nos. 5667, 5669, 5709, 5710 and 5719; and thereafter to SUBMIT the transcripts together with the notes within five (5) days.

SO ORDERED.

Narvasa, (Chairman), Regalado, and Puno, JJ., concur.

[1] See the memorandum dated October 28, 1992 of Judge Lucio P. Palaypayon, Jr. to respondent, Rollo, p. 30.

[2] Letter of complainant to respondent, dated December 7, 1992, Rollo, p. 32.

[3] *Cosca v. Palaypayon, Jr.*, A.M. No. MTJ-92-721, Sept. 30, 1994.

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.