

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. BENITO FILOTEO, DEFENDANT AND APPELLANT.

G.R. No. 4426. August 28, 1909

Ponente: TORRES, J.

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TORRES, J.:

On the 20th of December, 1906, Eleuterio Matildo delivered to Benito Filoteo, postmaster in charge of the post office of the town of Oroquieta, Misamis, a letter containing a 10-peso bill and addressed to Gorgonio Boaqueno, Manila, to be forwarded by registered mail; Filoteo received the letter and issued the receipt which appears at folio 19, offered in evidence at the trial and marked Exhibit J. In view of the fact that after the lapse of one month no answer had been received from the addressee, Matildo called on Filoteo and spoke to him about said letter; the latter replied that probably the letter had not reached its destination but that he believed that it was then about due. However, a few days later Eleuterio received a letter from his brother, Gorgonio Boaqueno, complaining that he, Gorgonio, had received no letter from him, nor even an answer to the letter that he had written. It appears that the registered letter in question, numbered 153, had not been entered in accordance with the receipt on the stub marked "Exhibit E," in case No. 941 of said court, and 4425 in the general register; and on comparing the handwriting and signature on the receipt marked "Exhibit J" with that in the book marked "Exhibit E" and the documents marked "Exhibits A, B, and C" in cause No. 908 of Misamis, and No. 4424 of the general register of this court, admitted as evidence herein, both appear to be in the handwriting of postmaster Filoteo.

In view of the foregoing, a complaint was filed by the provincial fiscal on the 16th of September, 1907, charging Benito Filoteo with faithlessness in the custody of documents, inasmuch as he had stolen, concealed, and destroyed a letter received by him from Eleuterio Matildo for registration, profiting thereby to the extent of the P10 which the letter contained, to the serious prejudice of a third party and the public service, and in violation of the law. Proceedings having been instituted, the trial judge, after hearing the evidence adduced, rendered judgment on the 30th of September, 1907, sentencing the accused to the penalty of one year eight months and twenty-one days of prison correccional, to the accessory penalties, to a fine of P200, to the payment to Eleuterio Matildo of the sum of P10, and in case of insolvency in both amounts to suffer the corresponding subsidiary imprisonment, to special disqualification from public office for a period of eleven years and one day, and to pay the costs of the proceedings. From said judgment the accused has appealed.

It is a fully proven fact that the letter addressed to Gorgonio Boaqueno, a resident of Manila, delivered to Benito Filoteo on the 20th of December, 1906, to be registered and forwarded by mail from Oroquieta, Province of Misamis, and for which Filoteo issued, filled out in his own handwriting, and signed a printed receipt, has disappeared, and was not received in this city by the addressee, nor was the sum of P10 in paper currency which the said letter contained; therefore, there can be no doubt as to the fact that the crime of faithlessness in the custody of documents has been committed by a public official specially designated to look after and forward by mail, such letters, both ordinary and registered, as were deposited in the post-offices for dispatch to their destination, and the disappearance of said registered letter together with the money therein contained leads one to

presume that it was stolen or destroyed in order to gain possession of and benefit by the amount contained therein, a crime covered by article 360 of the Penal Code.

The mere act of retaining mail matter and not forwarding to their destination letters deposited at the post-office, or the act of missending them by changing their ordinary route with malicious intent and for a purpose other than that which the law and regulations authorize, even without opening them or rifling their contents, constitutes per se the crime of faithlessness on the part of the officer whose imperative duty it is to dispatch public and private mails to their destination without undue delay.

The accused pleaded not guilty and absolutely denied having received the said letter from Eleuterio Matildo, repudiating and denying as his, the handwriting and signature which appears on the receipt marked "Exhibit J," notwithstanding the fact that the sender of the letter testified that he had sealed it in the presence of the accused, who, after receiving it issued the receipt marked "Exhibit J." The dispatch of the certified letter No. 153 mentioned in the aforesaid receipt, Exhibit J. does not appear in the book, Exhibit E, which was offered as evidence against the accused in another case, and which has also been admitted as evidence in the present case, but the handwriting and signatures appearing on Exhibit J are similar to or identical with the handwriting and signatures on the documents or receipts marked "Exhibits A, B, and C," offered in evidence in case No. 908, tried before the same court, general register No. 4424 of this court, and were admitted as evidence in this case; besides, it has also been proved that the sender, Matildo, the holder of receipt marked "J" issued by the accused, had called at least twice at the post-office of Oroquieta, in charge of the accused, and, oddly enough, while postmaster Filoteo recognized and admitted as authentic all the books used in his office, he persistently refused to acknowledge or recognize the book marked "E" wherein all registered letters were entered. All of the foregoing facts and the merits of the case produce in the mind a full conviction, beyond all doubt, that the accused stole and destroyed the letter which figures in receipt marked "Exhibit J" in order to obtain the sum of P10 contained therein and to the prejudice of the sender thereof.

In the commission of the crime herein no aggravating or mitigating circumstances are present, and in view of the nature and character of the crime it is considered that the sentence imposed in the medium degree by the judgment appealed from is in accordance with the law and the merits of the case.

For the reasons above set forth it is our opinion that the said judgment should be affirmed as we do hereby affirm it with the costs against the accused. So ordered.

Arellano, C. J., Johnson, Carson, and Moreland, JJ., concur.

[1] The following causes against the same defendant, involving the same subject matter, were considered and decided with the same result: No. 4424, September 1, 1909; No.4425, August 28, 1909; No. 4427, September 1, 1909.

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