

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. SIMPLICIO PENA, DEFENDANT AND APPELLANT.

G.R. No. 4451. December 29, 1908

Ponente: MAPA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-4451/>

MAPA, J.:

This cause is a reproduction, or rather a reestablishment of a former action of which, after all the evidence had been adduced, and while judgment was pending, all the papers were destroyed at the fire which occurred in the Court of First Instance of Tarlac on the 19th of March, 1906; the accused was sentenced in the first instance, as guilty of the crime of violation of trust in the custody of documents, to the penalty of one year and twenty-one days of prision correccional, to pay a fine of 500 pesetas, or to suffer subsidiary imprisonment in case of insolvency, to disqualification for the period of eleven years and one day from holding office as postmaster, or any other of a similar character, and to pay the costs. The case was submitted to this court on appeal from the said judgment.

The repeated complaints received by the Bureau of Posts in connection with the loss of sums of money inclosed in registered letters coming from the branch post-office at Camiling, which had apparently been abstracted before the letters reached their respective addresses, induced the Director of Posts to detail Inspectors Kearney and Grant to investigate the matter. Kearney went over to Camiling and employed detective agents Damian Bivera and Leon Sopnad to cause a letter to be registered in the post-office at that place, which at the time being was in charge of the accused; in the letter they were to inclose two five peso bills belonging to Kearney who delivered the money to them for that purpose, after taking down the serial numbers of the bills.

As to what occurred thereafter the court below found as proven facts on which was based the sentence against the accused, the following:

"That on the 15th of January, 1906, Damian Rivera and Leon Sopnad, in compliance with instructions, caused a letter to be registered at the post-office in Camiling, Tarlac, addressed 'To my father, Lino Gapus, Mangatarem, Pangasinan;' that in the envelope there were two bills, or silver certificates of five pesos each, the property of Inspector J. F. Kearney of the Bureau of Posts; that said letter, containing the amount of P10 as stated, was delivered, open, to the postmaster, that is, to the accused, and the latter sent for morisqueta (boiled rice) and used it as paste for the envelope; that the letter being sealed, was certified and placed in a registered package which in turn was put in the mail bag; and that the mail carrier carried the bag to the station of Bayambang."

And the court continues:

"It is a matter of record that between Camiling and Bayambang this mail bag was not opened by the bearer, nor by anybody else. One witness did not lose sight of the bearer from the time he left the post-office of Camiling until he took a carromata to go to Bayambang; and the driver of the vehicle also declares that the conductor did not open the mail bag in the carromata. At the station of Bayambang Inspector of Posts Grant witnessed the opening of the mail bag, and watched over the certified packet in question until it was placed in another mail

bag and taken to the railroad post-office. Here the registered packet and letter were opened, and it was discovered that the P5 bills that the latter was supposed to contain had disappeared. Both the packet and letter showed signs of having been tampered with. This tampering could have taken place nowhere but at the original post-office, that is, in that of Camiling. It has been proven that neither the packet nor the letter were opened in transit. The use of the rice indicates that the letter was opened a few minutes after it was sealed, that is to say, while the paste was still fresh."

Identical conclusions are in substance arrived at in the brief of the fiscal as to the guilt of the accused. The evidence, however, is not altogether conclusive as regards certain essential points contained in the charge. To begin with, they are entirely contradictory with respect to what occurred at the Camiling post-office. Thus, for example, the secret service agents Damian Rivera and Leon Sopnad declare that the envelope containing the letter and the P10 was delivered by them open to the accused who closed it with the rice which he ordered for the purpose from the mail carrier, Isabelo Torres; while, according to the accused, he refused to receive the open letter which they gave him and told them that they themselves should seal it, and as they asked for paste and there was none in the office, he sent Torres to bring some boiled rice with which one of the bearers of the letter sealed it. This testimony of the accused was corroborated by the mail carrier Isabelo Torres, who, by the way is a witness for the prosecution, in so far as he asserts that the accused declined to receive the said letter while open, and that it was closed with the rice brought by one of the detectives and not by the accused.

The proof referring to the moment when Damian Rivera and Leon Sopnad left the office of the accused is also conflicting. Both witnesses state that after the letter was closed, and when the accused had handed them the registered receipt, they left the office, leaving, according to Rivera, the accused, the carrier Torres, and postman Mariano Castillo in the office, while the three last named agree that the detectives left the office together with the said postman and carrier, the latter carrying the mail already dispatched by the accused for Bayambang, including the letter registered by Rivera and Sopnad. The four men separated in front of the tower of the church of the town.

The fiscal states that the testimony of Rivera and Sopnad is corroborated by Albert A. Field who avers that the men who caused the letter to be registered left the post-office ten minutes before the mail carrier. At the request of Inspector Kearney, the said witness placed himself near the post-office for the express purpose of watching the carrier, and his testimony is therefore worthy of attention as far as this particular is concerned. It should be noted, however, that he did not seem to know either Rivera or Sopnad. At least there is no data in the record to positively indicate the contrary, and the fact that the witness does not call them by their own names, not even once in his whole declaration, in addition to the circumstance attested by him that he had never before seen the men who caused the letter to be registered, indicates, in our opinion, that he actually did not personally know them, inasmuch as the underlined phrase means, as it appears, that he only saw them for the first time on that occasion. And, the witness not knowing them, it can not be with certainty affirmed that the persons whom he saw leave before the carrier were the ones who caused the letter to be registered, that is, Sopnad and Rivera, for the reason that, according to said witness, he did not see them enter the post-office, neither did he enter therein, so that he could not know for sure who procured the registration of the letter. It seems that he took to be such the first persons that he saw leave the post-office building, but this can not be considered as certain and conclusive data, inasmuch as, from what we gather from the evidence, the accused and his family lived in the said building, and other persons might very well have gone in and out of it during the time that the witness was posted in the neighborhood.

It should further be observed that this witness does not state with precision the exact number of persons whom he saw leave ahead of the carrier; when alluding to them he sometimes did so in the plural, saying the persons who had registered the letter; at other times he did so in the singular, in the phrase the person who had registered the letter. It not appearing in his testimony that the persons seen by him were exactly two, neither more nor less, it can

not positively be known whether they coincided in number with those who caused the letter to be registered, namely, Rivera and Sopnad.

If the testimony of Isabelo Torres and Mariano Castillo, to the effect that the said Sopnad and Rivera left the office at the same time that they did were true, Torres carrying the mail for Bayambang in which the registered letter in question was included, it might then be concluded with all certainty that it was not the accused who opened the letter and abstracted therefrom the ten pesos in bills, inasmuch as Rivera and Sopnad did not lose sight of the letter, as they themselves declare, during the time that they remained in the office, which, in such case would have been until the mail was dispatched to Bayambang, and the bag containing it was properly closed and delivered to Torres.

But ignoring altogether Sopnad and Rivera, and admitting that they left ten minutes ahead of the carrier, Isabelo Torres, it is certain that the latter remained in the office together with the postman, Mariano Castillo and the accused, according to the declaration of Rivera himself. Isabelo Torres, in referring to the affair, said that, after the letter was closed by one of the persons who had it registered, the latter placed it on the desk and that the accused commenced to write in the register in order to register the letter; that after the registration was completed in the large book, the accused took three postal cards and again wrote, and after that, took a large envelope used for registered letters and placed the registered letter within it; that the accused then handed the receipt therefor to the persons who had asked for the registration, and subsequently placed the correspondence in the mail bag wherein the letter in question was inclosed, and afterwards delivered the bag to him duly sealed; this witness states categorically that he was present all the time until the letter was placed in the mail bag, and that the latter was not again opened after being closed and delivered to him. He was cross-examined by the prosecution with a view to proving that, after the registration of the letter, the witness had been carrying water, but it clearly appears from the evidence, that this took place before the letter was registered. With regard to this matter the witness literally states as follows: When I reached the post-office, his son begged me (the son of the accused) to bring in some water and I went for it at once * * * and when those persons arrived (Sopnad and Rivera) I was still near the staircase fixing the can. This was corroborated by Rivera who testified that he and Sopnad found the carrier at the door carrying a pail of water. Between the place where the witness obtained the water and the postoffice there is nothing but the street.

It was after the work of carrying the water was finished that the witness saw all that he testified to in regard to said letter. He did not again leave the office except for the purpose of bringing some boiled rice and water by order of the accused, and it is evident that this happened prior to the moment when the letter was sealed and registered, as it was sealed with the rice that the said witness brought. From that moment, and there is no doubt that Sopnad and Rivera were still there, the witness, according to his testimony, remained constantly inside the office by the side of, or close to the accused until the mail was dispatched and the mail bag that contained the correspondence, including the registered letter above referred to, was delivered to said witness.

The postman, Mariano Castillo, testifies in substance the same as Isabelo Torres. When this witness arrived at the office Rivera and Sopnad were already there, and he saw the sealed letter on the desk; in his testimony he states as follows: "I saw the accused dispatching this registered letter; I saw it entered in the register; I also saw it placed in the registered package; I saw also the accused address it and I saw it placed in the mail bag." He added that he was standing in line with Sopnad and Rivera at a distance of about one braza from the accused without leaving said place during all that time; that Torres was also present, and that the packet was not again opened after being sealed.

The testimony of these two witnesses has not been contradicted or overcome in any manner in the proceedings, and constitutes direct and positive proof in favor of the accused. Isabelo Torres is furthermore a witness for the

prosecution. Mariano Castillo was also a witness for the prosecution in the original proceedings, the records of which were burnt; he declared therein according to his statement, to the same facts that he has testified to herein. For this reason the prosecution did not introduce him as a witness in this case, notwithstanding the fact that the defense expressly requested it, and the latter in consequence was obliged to present him as his own witness. The testimony of Castillo and Torres is so much more worthy of consideration as it is an undeniable fact that on the occasion in question they were actually present in the office of the accused. The witness for the Government, Damian Rivera, expressly acknowledged this when he said that at the time he left the office there were present in addition to the accused, the carrier of the mail and the postman.

For the purpose of refuting part of the testimony of Mariano Castillo the prosecution offered in evidence the document marked Exhibit D, signed by Castillo himself. This document, which appears to be a declaration made before the secret service man, Damian Rivera, the Government's witness in the present proceedings, is apparently written in the Ilocano dialect and has not been translated into Spanish. Whatever may be its contents we do not think that we need consider it inasmuch as, according to Castillo, he signed the said document at the Constabulary headquarters in Tarlac, without being informed of its contents, and only because he was compelled to do so by Damian Rivera under threat of being shot if he refused to sign it. This declaration of Castillo has not been contradicted in the proceedings; on the contrary, it has been corroborated in all its particulars by Isabelo Torres. Castillo's signature to the said exhibit having been obtained by means of grave intimidation, is absolutely lacking in legal value, and can not detract in the least from his testimony in the present case.

As opposed to the proofs in favor of the accused set up in the uniform testimony given by both Castillo and Torres, evidence is adduced which the prosecution holds to be conclusive as against the said accused. Thus for example, it is stated in the judgment appealed from that "the employment of the morisqueta or rice paste, indicates that the letter was opened shortly after it had been sealed; that is, while the paste was yet fresh." All the evidence, however, seems to indicate the contrary. Inspector Wm. H. Grant describes the indications that the letter had been tampered with in the following terms: "Across the stamp there was evidence that the stamp had been detached, and a portion of the upper flap had also been detached to an extent that would permit the lower flap to be opened. I wish to explain that the indications on the envelope were that the upper flap had been lifted up in order to detach that which was under it, that is, the lower flap." The other inspector, John F. Kearney, also testified as follows: "The letter bore signs that the lower flap had been detached and again sealed, and showed evidence of the use of water and some kind of paste."

It appears from the evidence of Damian Rivera that the lower flap was already glued when he presented the letter to be registered; that the upper flap alone was open and was afterwards pasted with morisqueta. If the latter was still fresh when the letter was opened in order to abstract the bills, it would have been much easier to have removed the upper flap than the lower one which must have been so well pasted that it was necessary, according to Inspector Kearney, to employ water in order to detach or remove it. On this assumption it would seem natural that instead of opening the lower flap, as was done, the upper one, which afforded greater facilities therefor, would have been opened, unless it be supposed that the author of the deed preferred to do what was more difficult and required more time to do, which would certainly appear most strange. And it would be stranger still if the accused were the author thereof because, by the testimony of the witness Albert Field, only ten minutes elapsed between the departure of the secret service men, Sopnad and Rivera, and Isabelo Torres, the mail carrier, and he must have availed himself of so short a time not only to open and again close the letter in question, but to do the same with the certified packet which, according to inspector Kearney, was opened with great care, besides finishing the dispatch of the mail which Torres was to carry to Bayambang. In view of the short space of time at his disposal it is not to be presumed that the accused, if he were the guilty party, would take up time in detaching the lower flap requiring the use of paste and water, when it was far easier to detach the upper flap, on the

supposition that the morisqueta with which it had been sealed was still fresh; and particularly so if it is taken into account that the said Torres and the postman, Mariano Castillo, were all this time present in the office of the accused.

The supposition that the letter in question was not opened outside of the post-office of Camiling has been adduced against the accused. "It has been proven," says the fiscal, "by the testimony of Isabelo Torres, Albert A. Field, and Vicente Ferrer, that the letter was not opened on the way between Camiling and Bayambang; it is proven by the testimony of Irineo Sabado and W. H. Grant that neither was it opened at the Bayambang post-office, and by the testimony of Grant, that the letter already bore evidence of having been opened when it reached the post-office in Bayambang." In view of which the fiscal concludes that the letter must have been opened at the post-office in Camiling after the departure of Rivera and Sopnad.

It is true that the declarations of Field, Ferrer, and Torres tend to establish the fact that the letter was not opened on the way between Camiling and Bayambang. Nevertheless, there are some points of importance which do not appear to be sufficiently clear in the said testimony. No doubt exists as to the fact that Torres carried the mail from Camiling to Bayambang partly on foot, and partly in a carromata. Albert Field states that he saw him leave the Camiling post-office and followed him down to the river, and that in traveling this distance Torres did not open the bag that contained the mail. Vicente Ferrer, the driver of the carromata that took Torres to Bayambang, also says that the latter did not open the bag while traveling in his carromata. But at what point on the road Torres engaged the carromata does not appear in an altogether satisfactory manner. According to Torres himself and Vicente Ferrer, it was prior to reaching the river, apparently of Camiling; but there is nothing in the testimony of Field to corroborate this. On the contrary, his statement that he followed Torres down to the river would seem to indicate that he traveled on foot to that point, inasmuch as, if he had taken a carromata before reaching the river, Field, who was walking, could not have followed him. Moreover, it is very strange that Field should not make the least mention of such a fact when he was expressly and particularly requested to watch Torres' actions after his departure from the Camiling post-office. The importance of the point under examination rests upon the consideration that, if Torres took the carromata after Field lost sight of him, then the testimony of the latter could not be connected with that of the driver, Ferrer, for the reason that it is not known what period of time elapsed from the moment when Field left Torres and the time the latter engaged the carromata. Whether the interval between one act and the other were long or short, it is sure that during that time Torres would have been out of sight of Ferrer and Field who, therefore, would be unable to testify as to what he had done with the mail bag in the meantime.

Furthermore, there is another obscure point in the case which might very well bear relation to the former, or perhaps corroborate the point of view which has just been indicated. Vicente Ferrer asserts that the distance from Camiling to Bayambang is only of one hour by carromata. This witness is a regular driver engaged in taking passengers from Camiling to Bayambang, for which reason he ought to be well acquainted with the road. And it was he who took the mail carrier, Isabelo Torres, to Bayambang on the morning in question. Now then, Torres left the post-office of Camiling with the mail at 7 a. m. sharp, and reached Bayambang at about 9.30 a. m. That is to say, it took him two hours and a half instead of only one hour which, according to Ferrer, the journey should have lasted. Nothing is to be found in the case to satisfactorily explain such an extraordinary delay in Torres' travel on that occasion. Neither he nor the driver, Ferrer, say or even hint that they made a stop, and still less for so long a time, in any part of the road. The trip is of only one hour, and such is more or less the time that Torres ought to have been in the company of Ferrer until reaching Bayambang. The whereabouts of Torres, and what he did during the remaining hour and a half, is a thing which has not been cleared up at the trial, and has been entirely ignored by the prosecution. If during that time, or part of it, Torres was out of sight of Ferrer and Field, and there is nothing certain and positive to prevent this supposition, it is evident that he would have been able to open the

mail bag and therefore the letter in question, without being seen by either the one or the other; consequently, as this point has not been properly cleared up the testimony of the latter can not be considered sufficient to prove, with certainty, that the letter was not opened on the road from Camiling to Bayambang.

The evidence being circumstantial it becomes necessary to carefully weigh all details and circumstances tending to establish with all clearness and certainty the fact from which the conclusion is derived. When this does not appear duly proven, the conclusion is without foundation and can not serve as a basis for the conviction of the accused. The evidence adduced in this case does not fully convince us of the culpability of the latter, and in consequence thereof we grant him the benefit of a reasonable doubt.

The judgment appealed from is hereby reversed, and the accused is acquitted with the costs of both instances de oficio. So ordered.

Arellano, C. J., Torres, Willard, and Tracey, JJ., concur.

Carson, J., dissents.

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.