

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. SEBASTIAN MISOLA, DEFENDANT AND APPELLANT.*G.R. No. 5156. September 15, 1909*

Ponente: TORRES, J.

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On the 6th of February, 1907, Lino Paloma called at the post-office of the municipality of La Carlota, Occidental Negros, and delivered to Sebastian Misola, the postmaster in charge, a letter containing a 2 peso bill addressed to Jacinto Canton, a resident of Bacolod. The letter was registered as No. 44, as shown by the receipt issued by Misola on the same day, which receipt is offered in evidence as Exhibit E, and the letter was forwarded on the 8th of the same month. On the 12th of March following, however, as the addressee could not be found, the letter was returned from Bacolod to La Carlota in the registered packet No. 316 which appears as Exhibit F, and it thus remained at the post-office of La Carlota until the same was delivered to Paloma, early in February, 1908, by Juan de la Cruz, who had succeeded Misola in office on the 28th of the previous January. Misola, during the time the letter remained in the post-office stole therefrom the amount inclosed and when Paloma opened and examined it in the presence of the postmaster and of a telegraph operator he discovered that the 2 peso bill and the note advising the remittance of said amount were missing. On meeting Misola on the street on the evening of the same day he recovered the letter, he spoke to him about the loss of the money in-closed, and Misola thereupon offered to pay the P2 conditional on his taking no action in the matter. The injured party, in order to avoid trouble, kept silent for the time being, but as a matter of fact, Misola has never paid him the amount.

For the above reason a complaint was filed by the provincial fiscal on the 17th of March, 1908, with the Court of First Instance of Occidental Negros, charging Sebastian Misola with the crime of stealing mail matter, and the corresponding proceedings having been instituted, the trial court, after hearing the evidence adduced, entered judgment therein on the 15th of the following April, sentencing the accused to the penalty of one year eight months and one day of prision correccional, to pay a fine of 1,301 pesetas, to indemnify Lino Paloma in the sum of P2, and in case of insolvency as to the payment of the fine or of the indemnity to suffer the corresponding subsidiary imprisonment, to pay the costs, and to special disqualification from public office for a term of eleven years and one day. From this sentence the representative of the accused has appealed.

From the above-stated facts it appears that the crime of faithlessness in the custody of documents has been committed by a public official who was in charge of the post-office of the town of La Carlota, as defined and punished by article 360 of the Penal Code, inasmuch as it has been fully proven herein that after the sealed and registered letter which Lino Paloma gave the accused was returned from the Bacolod post-office to that of La Carlota, because Jacinto Canton, the addressee, could not be found, and after the same had been received sealed, at the latter post-office in charge of the accused in March, 1907, he did not at once return it to the sender, Paloma, notwithstanding the fact that the latter had called several times at the office in order to obtain, as addressee, registered correspondence. The letter remained in Misola's possession for almost eleven months after its return, or until he ceased to hold office in January, 1908. It was only in the beginning of February when the new postmaster

who succeeded the accused found the letter on the desk in the office and sent for the sender, Paloma, for the purpose of returning it to him, and the latter on receiving the letter noticed signs of its having been opened, and upon examination found that the 2-peso bill and the letter of advice were missing.

The reprehensible conduct of the accused, as well as the proven fact that he agreed to refund the amount which was missing on condition that the injured person did not report the matter to the authorities, conclusively establishes his guilt as the sole and convicted author of the violation of the mail, he having opened the said letter and stolen from it a 2-peso bill with a note of the remittance of the same, in addition to retaining and keeping it for nearly eleven months without returning it to the sender, in manifest violation of the criminal law.

In spite of the denial of the accused and of the explanations of his conduct made by him to exculpate himself from the charge, the data and other merits of the case fully show his responsibility for the commission of said crime and abuse of the confidence which the Government had reposed in him in appointing him postmaster of La Carlota. The mere fact of detaining the mail without forwarding the letters to their destination, or the changing of their ordinary route with malicious intent, for a purpose not authorized by the law or the regulations, even though without opening them, or rifling them of their contents, constitutes, per se, the crime of faithlessness on the part of the officer whose imperative duty it is to dispatch the mail to its destination without delay.

In the commission of the crime herein no mitigating or aggravating circumstance is present, and in view of the nature and character of the same it is considered that the sentence imposed in the judgment appealed from is in accordance with the law, although the penalty should be imposed in the medium degree:

In view of the foregoing it is our opinion that the said judgment should be affirmed, and we do hereby affirm it with costs, provided, however, that the penalty shall be one year eight months and one day of prision correccional. So ordered.

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

[1] Cause No. 5157, against the same defendant, and involving the same subject matter, was considered and decided at the same time with the same result.

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