

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. MIGUEL M.A DE TORO, DEFENDANT AND APPELLANT.

G.R. No. 5390. February 10, 1910

Ponente: MORELAND, J.

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MORELAND, J.:

It was claimed by the prosecution that the defendant in this case, being a public official and discharging at the time the duties of municipal treasurer and postmaster of the municipality of Culasi, in the Province of Antique, on or about the 15th day of July, 1908, intentionally and criminally, opened a letter placed in that office by Narciso Salazar, directed to Concepcion Salazar, San Jose, and extracted therefrom the sum of P10 in paper money.

The duties of the accused, as described by the post-office inspector, a witness on the trial of the accused, are in part as follows:

"The postmaster receiving a registered letter, before its reception, must be sure that it is securely sealed, legibly addressed, and" the postage stamps affixed. He then issues a receipt from record Form No. 1549, describing the registered letter received, and at the same time makes the same notation in the stub of the registry book. When he is ready to dispatch the registered letter, he fills out Form 1548, return receipt, to the sender, and Form 1550, the registry bill describing the letter, for signature by the receiving postmaster. The registry letter and these two cards are included in a registered-package envelope, and, when dispatched, the R. P. E., or registered-package envelope, must be entered in the transit outgoing local registered matter. The number on the R. P. E., or registered-package envelope, must be entered in 1549, after it has been entered or noted in Form 1553. The R. P. E. is then placed in a pouch, accompanied by a return receipt, Form No. 1556, and is dispatched to the next post-office. The post-office opening this mail pouch, finding therein this R. P. E., signs 1556 and returns it to the office of origin."

As to the defendant's not fulfilling the duties of his office, the same inspector says:

"He failed to enter in Form 1553 the alleged dispatch of registered-package envelope No. 6, which contained, according to his record 1549, registered letter No. 8, addressed to Concepcion Salazar at San Jose. No. 8 was put in No. 6, and there is no notation of No. 6 having been dispatched. On July 15 there was dispatched from Culasi registered letter No. 4, and addressed to San Jose, Antique, and also registered package No. 5, addressed to Manila, P. I. Registered package No. 6 was not dispatched from his office, according to the record."

It thus appears from the evidence that the defendant received the letter in question, issued a receipt (Exhibit C), Form No. 1549, upon the stub of which he noted that said letter, which was No. 8, had been sent to its destination in registered package No. 6, but failed to note in Form No. 1553 (Exhibit B) that he had remitted said package No. 6. Under the rules and regulations of the post-office department applicable to his office, he should have noted upon the stub of Form No. 1553 (Exhibit B) the number of the registered package which contained the letter. Furthermore, according to the receipt for registered packages (Exhibit E), Form No. 1556, it appears that the postmaster of San Jose actually received from the accused, as postmaster at Culasi, only registered packages Nos. 8, 3, 4, and 5. He did not receive No. 6.

The accused claimed upon the trial that the letter in question had been by him inadvertently inclosed in one of the registered packages sent on that day and not in No. 6, as previously claimed by him. The reason that he gave for this mistake was that he was extremely busy at the time. For the purpose of corroborating his testimony in this respect, he presented witness Sergio de los Reyes, who testified that he was present when the accused received the letter in question and when he placed it in one of the registered packages. This testimony of these two witnesses is contradicted in several important particulars. The post-office inspector testified that when he was investigating the matter in the office of the accused he asked the accused for the letter in question, and the accused answered that probably it had been lost in his office. Upon this subject the court below says:

"It stands undisputed in this case that Concepcion Salazar never received this registered letter nor the money which it contained. The accused, by his own testimony and that of a clerk in his office, has made an effort to show that through an unintentional mistake on his part this letter must have been put in what was known as registered package No. 4, sent from the office at Culasi on July 15, 1908. However, an examination of the record in connection with the sending of that package and particularly the certification cards sent by the postmaster at San Jose shows that that letter could not have been inclosed in that package. The clerk of the post-office at Culasi testifying on behalf of the defendant has, in the opinion of this court, given such false testimony that he should be prosecuted by the fiscal of this province for perjury."

The evidence of record fully supports the court in the finding of fact included in the above quotation. It is undisputed that Concepcion Salazar never received the letter in question nor the money which it contained. It does appear, however, that some two months after the letter in question had been registered, and after a complaint had been made because it had not been duly delivered, the accused, who had ceased to be the postmaster of Culasi, paid over to the father of Concepcion Salazar the P10, the amount that was alleged to have been contained in the said registered letter.

Upon the whole record we find the decision of the court below thoroughly sustained by the proofs and the penalty imposed within the provisions of the law.

The judgment of the court below is, therefore, affirmed, with the costs against the appellant. So ordered.

Arellano, C. J., Torres, Mapa, Johnson, Carson, and Elliott, JJ., concur.

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