

THIRD DIVISION

[A.M. No. P-02-1559 (formerly, A.M. OCA IPI No. 98-510-P), May 28, 2002]

**ROSARIO S. PANUNCIO, COMPLAINANT, VS. OSCAR T. ESPIRITU,
CLERK III, REGIONAL TRIAL COURT, PASIG CITY, BRANCH 165,
RESPONDENT.**

D E C I S I O N

CARPIO, J.:

The Case

This administrative case originated from a case filed with the Office of the Ombudsman, docketed as OMB-0-94-4239 and entitled "Rosario S. Panuncio vs. Morrel Callueng, et al." for violation of R.A. 3019 (Anti-Graft and Corrupt Practices Act) and unlawful arrest allegedly committed by the respondents therein, who are agents of the National Bureau of Investigation ("NBI" for brevity), in connection with a criminal case (No. CCC-VII-3359-Rizal) for Murder pending before the Regional Trial Court of Pasig ("RTC-Pasig" for short), Branch 165. The Office of the Ombudsman dismissed OMB-0-94-4239 but found through its Fact-Finding and Intelligence Bureau that the records of the Criminal Case No. CCC-VII-3359-Rizal could no longer be located. The Office of the Ombudsman therefore, recommended that Oscar Espiritu, the criminal records custodian of the RTC-Pasig, Branch 165, be charged with the crime of Infidelity in the Custody of Documents for the loss of the records of Criminal Case No. CCC-VII-3359-Rizal.

The Facts

From the records, it appears that herein complainant Rosario Panuncio was arrested on November 17, 1994 by NBI agents by virtue of a warrant of arrest dated March 1, 1989 issued by the RTC-Pasig, Branch 165 in Criminal Case No. CCC-VII-3359-Rizal. Panuncio was able to produce a copy of the Order dated April 4, 1989 issued by the same court recalling the warrant of arrest it earlier issued. To clarify the matter, the NBI agents brought Panuncio to the RTC-Pasig, Branch 165 but the records of Criminal Case No. CCC-VII-3359-Rizal could not be located by respondent Oscar Espiritu ("Espiritu" for brevity), the custodian of the criminal records in said court. Upon verification in the docket book of the Prosecutor's Office, the NBI agents were informed that the criminal case had been dismissed as early as July 26, 1989. Hence, Panuncio was released from detention in the afternoon of November 17, 1994. As a consequence, Panuncio filed a case before the Office of the Ombudsman against the NBI agents for unlawfully arresting her and for allegedly attempting to extort money from her. The case was docketed as OMB-0-94-4239 which was eventually dismissed but the Fact-Finding and Intelligence Bureau ("Bureau" for brevity) of the Office of the Ombudsman was tasked to investigate the loss of the case records of Criminal Case No. CCC-VII-3359-Rizal. This matter was re-docketed