

BENJAMIN BARRERA, PETITIONER, VS. MARTY DESACADA, RESPONDENT.

A.M. No. P-2108. July 31, 1981

Ponente: BARREDO, J.

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BARREDO, J.:

Considering the following report and recommendation of the Court Administrator, Justice Lorenzo Relova:

"The charge of misconduct against respondent Court Interpreter Marty Desacada of the Court of First Instance of Cavite, Branch I is cast by Court Stenographer Benjamin Barrera, of the same court, in a letter-complaint dated January 24, 1979 alleging that respondent twice slapped complainant and uttered slanderous words, to wit: 'Porke't malakas ka kay Judge ... Sinong ipinagmamalaki mo, si Judge? Hindi ako natatakot. Basagin ko pa yang salamin sa mukha mo. Putang-ina ninyong mga Ilocano, kabago-bago pa lang kayo dito e.'

"It is further alleged that the incident took place at the session hall of the court, in the presence of Presiding Judge Pablo D. Suarez, Assistant Provincial Fiscal Herminio Gervacio, court personnel, attending lawyers and about fifty other persons, as the trial of cases was about to begin.

"When required to comment on the complaint, respondent in a letter dated March 22, 1979 did not deny complainant's allegations but merely mentioned the latter's withdrawal made earlier. Said withdrawal, in a letter dated March 20, 1979, disclosed complainant's forgiveness upon accepting respondent's apology. In it, complainant also expressed his sufferance, that: 'It is hard and painful to be aggrieved, especially when you are only considered a stranger in a particular place, but I felt it is better to forgive and be oppressed (in Cavite) than seek redress but have enemies.'

"The undersigned in a letter dated November 28, 1979, again required respondent to submit his comment on the complaint. To date, respondent has remained silent.

"The circumstances considered, it should be fit to now determine respondent's administrative accountability under this complaint. Having chosen not to comment and deny the charge cast against him, respondent is to be deemed having admitted complainant's inculpatory allegations. Respondent's admission is also to be implied from his giving assent to complainant's letter of withdrawal which revealed his offer of apology to complainant.

"Complainant's desistance cannot be an obstacle in taking disciplinary action against respondent where the basis of his accountability has been sufficiently established (*Bais vs. Tugaoen*, Adm. Matter No. 1575-MJ, April 20, 1979). Furthermore, to condition, administrative action upon the will of the complainant, who may, for one has reason or another, candone a detestable act is to strip this Court of its supervisory power to discipline those who err. (*Anguluan and Anguluan vs. Taguba*, Adm. Matter No. 1402-MJ, September 14, 1979).

"Accordingly, for his misconduct, taking into consideration respondent's heretofore un-blemished record of service in Court since 1960, it is respectfully recommended that respondent Marty Desacada beheld administratively liable and meted the penalty of suspension of fifteen (15) days without pay."

The Court, after carefully considering all relevant circumstances extant in the record resolved to APPROVE said re-commendation, and respondent is hereby suspended accordingly.

SO ORDERED.

Aquino, Abad Santos, and De Castro, JJ., concur.

Fernandez, J., concurred. Member of the First Division and was designated to sit in the Second Division.

Concepcion, J., on official leave.

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