

**LUZVIMINDA E. GARCIA, COMPLAINANT, VS. ANATOLIO NAPE,
COURT INTERPRETER, MTC, PIO DURAN, ALBAY, RESPONDENT.**

A.M. No. P-93-797. August 11, 1994

Ponente: ROMERO, J.

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ROMERO, J.:

In a complaint filed February 1, 1993, respondent Anatolio Nape was charged with (1) grave misconduct and/or conduct prejudicial to the best interest of the service by acting as counsel for the accused in Criminal Case No. 1441, preparing counter affidavits in their behalf and filing the same before the court for which he performs the duties of an interpreter; (2) drinking during office hours resulting in his failure to perform his duties; (3) knowingly releasing court funds to persons not entitled thereto; and (4) misrepresenting authority by making it appear that he wields influence over the presiding judge.

Respondent Anatolio Nape filed his comment denying the charges on May 17, 1993. On November 8, 1993, this Court issued a resolution severely censuring respondent Anatolio Nape for acting as counsel for accused in Criminal Case No. 1441. With regard to the other charges abovementioned, the court ordered Executive Judge Emmanuel R. Real, RTC, Ligao, Albay to conduct an investigation and submit his report and recommendation thereon.

The final report submitted on March 30, 1994 exonerated respondent Anatolio Nape of the charge of drinking during office hours and misappropriating court funds. However, he was found guilty of grave misconduct prejudicial to the best interest of the service, in connection with the charge of misrepresenting authority.

Lack of evidence supporting the charge of drinking during office hours led to the recommendation to exonerate respondent. According to the report, the testimony of retired Judge Generoso V. Mirasol, MTC, Pioduran, to the effect that in the afternoon of August 20, 1991, he spotted from a distance the respondent who appeared to be red-faced and tipsy is insufficient evidence to support said charge. The report underscored the weakness of said testimony because the judge did not actually see respondent drinking but merely perceived him to be drunk from a distance.

Similarly, the charge that respondent misappropriated court funds by releasing the same to persons not entitled thereto was unsubstantiated. The same judge testified that a woman who owns a grocery store in Pioduran dropped by his house and in the course of their conversation, accidentally pulled out from her bag, a salary check issued in October 1991 in the name of Jose O. de la Torre Jr. who was separated from the service as Clerk of Court of Pioduran way back in April 1991. The judge inquired about the source of the check but the woman could not remember who gave her the check in exchange for goods purchased from her store. This prompted the judge to conduct an investigation of his staff to find out who released the check to de la Torre, Jr. The investigation, however, yielded no positive results. Consequently, said judge surmised that it could have been respondent who released the check because he was one of those assigned to claim letter-checks from the post office for subsequent distribution to the staff.

The report stated that pinning responsibility on respondent was purely conjectural, especially since the judge himself openly admitted that his other staff members could likewise claim the checks.

Sufficient evidence, on the other hand, was presented to prove the charge of misrepresenting authority. Based on the report, two witnesses testified on this particular charge: (1) Blandino Pavia; (2) Caridad Obejas.

Summarized, their testimonies are:

"BLANDINO PAVIA has a son named Asher Pavia. The son is charged with homicide in Criminal Case No. 1414 before the Municipal Trial Court of Pioduran where the respondent is the court interpreter. This case was settled with payment by the father of the accused to the wife of the victim the amount of P17,000.00. The negotiation and settlement of the case took place in the house of the respondent. One Sunday, the date of which could not be recalled anymore, the father of the accused was sent for by the respondent. Arriving at the house of the respondent, the father was told by the respondent to settle his son's case with the wife of the victim who was already in the house. Both talked in the presence of the respondent. However, no settlement of the case was arrived at during this first meeting. It was followed by two more meetings in the house of the respondent. On the third meeting, they reached a settlement. The father paid for the son's case to the wife of the victim the sum of P17,000.00. This was paid in the presence of the respondent. The respondent prepared the Affidavit of Desistance and Motion to Dismiss which were the basis for dismissing the case.

CARIDAD OBEJAS got interested in the case of Marvin Monilla for Rape, because of the father who requested for her assistance. She arranged the bailbond, and Marvin was released after 29 days of detention. After the release of Marvin, she met the respondent and the latter told her that Marvin still has an obligation to pay for the food while in detention. She was rather irked because she knows that the food of the detainees is provided for by the municipal government. She reported the matter to the Judge who reprimanded the respondent. The respondent reacted angrily and tried to box her in the presence of the Judge."

Reacting to the testimonies, respondent merely interposed the defense of denial after failing to demolish the same. Their testimonies stand, there being no evidence that these witnesses, a simple farmer and a mere housewife, conspired against respondent with the ulterior motive of framing him up.

On the basis of these findings, the investigating officer found respondent Anatolio Nape liable for grave misconduct prejudicial to the best interest of the service and recommended his suspension for three (3) months without pay.

We uphold the recommendation of the investigating officer. Respondent Nape did intervene in the prosecution of the criminal case by (1) convincing the father of the accused in Criminal Case No. 1414 to reach a settlement with the wife of the victim by paying her P17,000.00, (2) preparing the affidavit of desistance and motion to dismiss the criminal case.

Likewise, there is evidence on record that respondent told Caridad Obejas about an alleged obligation on the part of Marvin Monilla to pay for the food he consumed while in detention. Monilla was detained in the Municipal Jail of Pioduran for a rape case and was released after 29 days upon a bailbond arranged by Caridad Obejas at the request of the father of the accused. But the food of the prisoners or detainees in the Municipal Jail, as correctly pointed out by Caridad Obejas, is supplied by the Municipal Government. It is rather odd that respondent should concern himself about the food taken by the detainee. Such is not the concern of the court, much less the function of a court interpreter. Although there was no demand for any specific amount, what is reasonably inferable from the act is that there seems to be an attempt to make money out of it. By his own act, the respondent opened himself to reproach and placed his integrity under a cloud of doubt.

WHEREFORE, the Court resolves, as it hereby resolved, to SUSPEND respondent Anatolio Nape for three

months without pay for GRAVE MISCONDUCT.

Feliciano, (Chairman), Bidin, Melo, and Vitug, JJ., concur.

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