

ALFREDO T. MENDOZA, COMPLAINANT, VS. FRANCISCO C. ECLAVEA, RESPONDENT.*A.M. No. P-167. July 22, 1975*

Ponente: MARTIN, J.

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Respondent Francisco C. Eclavea is charged by complainant Alfredo T. Mendoza with (1) having transcribed the stenographic notes of the testimony of Gregorio Reyes Uy Un taken by another stenographer without authority of the court; and (2) having sewed the transcript of the said stenographic notes to the records of Naturalization Case No. 28, thus making it appear to be a part of the official record.

The records reveal that sometime in 1968, a certain person who represented himself to be a son of Gregorio Reyes Uy Un requested respondent Francisco C. Eclavea, a court stenographer of the Court of First Instance of Quezon, Branch II to transcribe for him the stenographic notes of the testimony of said Gregorio Reyes Uy Un which was taken down by another stenographer in a naturalization proceeding.[1] Due to petty jealousies in their shipping business, complainant Alfredo T. Mendoza, sent a verified letter-complaint to the Secretary of Justice and other government agencies impeaching the Philippine citizenship of Domingo Reyes, son of Gregorio Reyes Uy Un.[2] This led to the filing of an action for damages by Domingo Reyes against complainant Mendoza before the Court of First Instance of Calauag, Quezon, docketed as Civil Case No. C-420.[3] It was in said case that the transcript of the stenographic notes of the testimony of Gregorio Reyes Uy Un prepared by respondent Eclavea, was presented and admitted as evidence against complainant Mendoza. The alleged testimony of Gregorio Reyes Uy Un appearing in the transcript allegedly tends to prove that Domingo Reyes is not a Chinese but a Filipino citizen because according to said testimony, Domingo Reyes was born out of wedlock. Complainant claims that he was prejudiced by the presentation of said testimony because he lost his case and ordered to pay Domingo Reyes the amount of P270,000.00 or representing damages and attorney's fees.

Respondent Eclavea's version of the incident is different. He claims that in 1968, a certain Manuel Uy Reyes of Lucena City came to his office and requested him to transcribe the stenographic notes of the testimony of his deceased father Gregorio Reyes Uy Un in Naturalization Case No. 28. He refused because he was not the one who took the stenographic notes of the testimony of said Gregorio Reyes Uy Un. Manuel Uy Reyes then manifested that the stenographer concerned was no longer available and that anyway all he (Manuel Uy Reyes) wanted to know was the nature of the testimony of his father regarding the filiation of Domingo Reyes. Respondent then allegedly explained to Manuel Uy Reyes that the transcript of the stenographic notes in question would serve no legal purpose because he was not the one who took them down. However, Manuel Uy Reyes insisted and even insinuated that the parties in the case, being relatives, would ultimately settle the case amicably. Acting on the belief that he would be doing a good turn to the family of the Reyeses he was finally persuaded to transcribe the stenographic notes in question. Manuel Uy Reyes requested from the Clerk In-Charge of Archived Cases the records of Naturalization Case No. 28 and delivered the same to the respondent. Respondent then studied minutely the strokes of the stenographer who took down the stenographic notes until he was able to read them.

However, in transcribing the stenographic notes he indicated in his transcript portions of the notes which he could not decipher by marking them with "x x x". After transcribing the aforesaid stenographic notes, he attached the transcript to the records of the case and returned them to the Clerk-In-Charge.

The complaint against respondent Eclavea was referred to the Honorable Executive Judge of the Court of First Instance of Calauag, Quezon for investigation, report and recommendation. In her report, the Investigating Judge readily declared that she sensed no bad faith in respondent's act of transcribing the stenographic notes in question because at the time he did so there was not even a case yet between complainant Mendoza and Domingo Reyes. So it could not be used to prejudice anyone. On the contrary in transcribing the stenographic notes in question the respondent thought he would be able to help in preserving harmony in the family of the Reyeses.

At any rate, respondent allegedly did his best to make his transcript substantially correct. Nobody has ever complained about the inaccuracy of his transcription, not even complainant. He transcribed the stenographic notes openly and left out portions therein which he could not read. In fine, there is nothing in the act of the respondent that would suggest malice on his part. The only fault of respondent is his failure to ask the permission of the Court before transcribing the stenographic notes in question.

We agree with the Investigating Judge that the respondent has erred when he transcribed the stenographic notes of the testimony of Gregorio Uy Un without authority of the Court. For he ought to know that only the court can give him the authority to transcribe the stenographic notes of the testimony taken by another stenographer. When he has thus failed to obtain such authority he was at the very least violating office regulations. Said violation can be classified as insubordination and considered a light offense pursuant to paragraph III, sub-paragraph C, No. 4 of Memorandum Circular No. 8, Series of 1970 of the Civil Service Commission. Pursuant to paragraph VI-A of the same memorandum circular, reprimand is the minimum of the penalty that may be imposed on the respondent in the absence of aggravating circumstance. It is not disputed that the respondent was in the service of the government since 1935 and has been a court stenographer since 1945. His long stay in the government with a clean record of public service except his behavior in the incident herein involved is to our mind a mitigating factor in the imposition of the penalty against him.

IN VIEW OF THE FOREGOING, the respondent is hereby reprimanded with the stern admonition that a repetition of a similar act will be dealt with more severely.

SO ORDERED.

Castro, Makasiar, Esguerra, and Muñoz Palma, JJ., concur.

[1] Naturalization Case No. 28, p. 51, Rollo.

[2] Rollo, p. 96.

[3] Rollo, p. 53.

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