

ELISEO M. TENZA, COMPLAINANT, VS. RODOLFO M. ESPINELLI, RESPONDENT.*A.M. No. P-2095. October 23, 1981*

Ponente: FERNANDEZ, J.

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In a sworn complaint filed on January 29, 1979 Atty. Eliseo M. Tenza charged Rodolfo M. Espinelli, a deputy sheriff of Quezon City, with grave misconduct in office in that on or about December 18, 1978 at about 2:00 to 2:30 o'clock in the afternoon during office hours, while the complainant was walking in the corridor of the sixth floor of the City Hall of Quezon City on his way to the Court of First Instance of Rizal in Quezon City, the respondent, without any valid reason whatsoever, immediately accosted and boxed the complainant, after pretending to ask why said complainant re-fused to give documents in his office in connection with a pending case in the Court of Appeals, thus catching the complainant off-guard and by surprise; that the complainant was boxed on the left side of the head causing him to lose consciousness and while dozed, the respondent followed the attack with another blow on complainant's right jaw thus causing both his upper and lower teeth to be thrown far away; and that it was only when the complainant was personally escorted and brought to the room of Judge Eduardo C. Tutaan that the complainant was able to get away from the place of attack.[1]

In his explanation, the respondent denied having physically assaulted the complainant and alleged that while the respondent was on the sixth floor of the Quezon City Hall Building he met the complainant; that the respondent inquired from the complainant about pertinent documents relating to Civil Case No. CA-50577 involving the respondent's parents; that the complainant who was the counsel of record, took offense and answered bluntly that the respondent is not concerned with the case, at the same time pointing his right index finger to the respondent's face in front of so many persons; that the respondent merely parried the complainant's hand; that the complainant became violent and assaulted the respondent with fistic blows; that the respondent simply acted in self defense; that the respondent suffered physical injuries and he filed a criminal case against the complainant; and that after a preliminary investigation, the case was filed in the City Court of Quezon City and docketed as Criminal Case No. 192949 entitled "People of the Philippines vs. Eliseo Tenza" and a warrant of arrest was issued.[2]

In a fifth indorsement dated August 7, 1980, the Court Administrator referred the case to Executive City Judge, Hon. Aloysius Alday for investigation, report and recommendation.[3]

Judge Aloysius C. Alday found as a fact that the respondent inflicted physical injuries on the complainant and recommended that the respondent "be meted the penalty of forced resignation without prejudice to reinstatement x x x." [4]

It will be noted that the acts complained of are not in any manner connected with the performance of the official duties of the respondent as deputy sheriff of Quezon City. The respondent did not look for the complainant. Their meeting at the sixth floor of the Quezon City Hall Building was accidental. Moreover, it does not appear that when the incident took place the courts were in session.

It is, therefore, clear that the respondent cannot be guilty of misconduct in office because:

"Misconduct in office has a definite and well-understood legal meaning. By uniform legal definition, it is a misconduct such as affects his performance of his duties as an officer and not such only as affects his character as a private individual. In such cases, it has been said at all times, it is necessary to separate the character of the man from the character of the officer. (Mechem, supra, section 457). 'It is settled that misconduct, misfeasance, or malfeasance warranting removal from office of an officer, must have direct relation to and be connected with the performance of official duties amounting either to maladministration or willful, intentional neglect and failure to discharge the duties of the office...' (43, Am. Jur., 39, 40)."[5]

It is a fact, however, that the respondent inflicted physical injuries on a member of the Philippine Bar in the premises of the Quezon City Hall building where the court rooms are located. For this conduct, the respondent should be punished.

WHEREFORE, the respondent, Rodolfo M. Espinelli, deputy sheriff of Quezon City, is hereby found guilty of inflicting injuries on a member of the Philippine Bar and is hereby suspended from office for four months effective from the finality of this decision, without salary, and the period of suspension should not be charged to his accumulated leave.

Let this decision be made a part of the personal record of the respondent.

SO ORDERED.

Fernando, C.J., Teehankee, Makasiar, Concepcion, Jr., Guerrero, and Abad Santos, JJ., concur.

Barredo, J., votes with J. Melencio-Herrera.

Aquino, J., dissents. The boxing incident does not justify any administrative disciplinary action against the respondent.

De Castro, J., see separate opinion.

Melencio-Herrera, J., The incident involved herein is a private matter between the parties, in no way connected with the functions of private respondent's office. But because the disturbance occurred in the corridor of a Government building where the court rooms are located, and, as an exemplary punishment, suspension from office for one (1) month, suffices.

[1] Record, pp. 1-5.

[2] Record, pp. 22-26.

[3] Record, p. 33.

[4] Record, pp. 220-222.

[5] Lacson vs. Roque, etc., et al., 92 Phil. 456, 465.

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DISSENTING OPINION

DE CASTRO, J.:

I agree with Justice Herrera in her observation that what is involved is purely private matter between the parties - a physical confrontation between the complainant and private respondent when the former refused to give the records of a case; then handled by complainant as the lawyer of respondent's father. Private respondent wanted to have another lawyer to handle the case after it was decided on appeal by the Court of Appeals against private respondent's father, so he asked for the records from complainant. His father having left for the United States as immigrant, private respondent was given a special power of attorney to attend to the case in behalf of his father. Being such a purely private matter, the incident should not be the basis of an administrative case against private respondent.

If complainant felt aggrieved for being allegedly inflicted with physical injury by respondent, proper criminal action is the remedy. But from the facts recited, it was private respondent who filed such action against complainant, Criminal Case No. 192949, in the City Court of Quezon City, with no mention made whether complainant filed a similar action against private respondent. If he did, and the private respondent is convicted, then an administrative case may be filed. If the conviction is for an offense involving moral turpitude, he might even be dismissed; otherwise, no administrative disciplinary action could be taken.

I, therefore, vote for exoneration, without prejudice to proper administrative action being taken should the criminal case result in respondent's conviction, if such action has been filed against private respondent, of which no mention is made in the decision. The records of this case fails to show what criminal action, if any, is pending against respondent as of the present moment. It seems that complainant also filed a countercharge for less serious physical injuries against private respondent, but the case was dismissed; and so was the case filed by private respondent against complainant. There would then be no basis for any administrative action against private respondent. In any case, as far as the instant administrative case is concerned, same should be dismissed for being service unconnected.

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