

43 Phil. 180

[ G. R. No. 17633. March 14, 1922 ]

**CLARA W. GILMER, PLAINTIFF AND APPELLANT, VS. L. HILLIARD, DEFENDANT AND APPELLEE.**

**D E C I S I O N**

STATEMENT

The plaintiff is a citizen of the United States and a resident of the Province of Albay in the Philippine Islands, and a teacher in the public schools of that province, with a salary of P200 a month, and at the times alleged she was in the Government classified civil service. For cause of action, she alleges that, as the result of libelous, false, and malicious communications written and published by the defendant, she was dismissed from the public service and deprived of her employment as a teacher in the public schools. Copies of the alleged libelous and malicious communications are attached to, and made a part of, the complaint. It is then alleged that their publications prejudiced her reputation and honor as a native born citizen of the United States, and she prays judgment for pecuniary damages in the sum of P200 per month to date, with interest; personal damages in the sum of P15,000 and penal damages for P5,000, all in Philippine currency. For answer, the defendant makes a general denial, and as a further and separate defense, alleges:

“1. That said defendant admits having written the communication transcribed in said complaint, but that the same has been made by him reservedly and in good faith, and on the occasion while he was holding an official duty inherent to the office which he was then exercising.

“2. That, in writing the said communication, he has not taken any more motive than to protect the interests of the Government of the United States of America, under whose sovereignty he was then legally rendering services.

“3. That said communication is of privileged character.

“Wherefore, this representation respectfully” asks the Honorable Court to render a judgment dismissing the complaint and absolving the defendant, after due proceedings, with costs against the plaintiff.”

After the evidence was taken, the lower court rendered judgment for the defendant, from which the plaintiff appealed, claiming that the court erred in the admission and rejection of evidence, in not rendering judgment for the plaintiff and in the rendition of judgment for the defendant.

JOHNS, J.:

Defendant’s plea of privileged communication must be sustained.

Section 9 of Act No. 277 provides:

“A private communication made by any person to another, in good faith, in the performance of any duty, whether legal, moral, or social, solely with the fair and reasonable purpose of protecting the interests of the person making the communication or the interests of the person to whom the communication is made, is a privileged communication, and the person making the same shall not be guilty of libel nor be within the provisions of this Act.”

September 13, 1918, the acting secretary of the Governor- General wrote a letter to the Chief of Constabulary enclosing a confidential communication from the Director of Civil Service, concerning information received of the disloyalty of the plaintiff, and requested that a confidential investigation be made, for the purpose of ascertaining whether the charges were true. September 16, 1918, the Assistant Adjutant ordered an investigation to be made, and the defendant was directed to make it. September 28, 1918, the defendant made a report to the Adjutant of the Philippine Constabulary, to the effect that plaintiff was pro-German, and had “refused to take any part in Red Cross or Liberty Bond work,” “That the United States was a rich country and would not get any Filipino Red Cross money,” and that she had “made seditious and disparaging remarks about the United States and her allies,” and that Germany was justified in her. methods, and that she was spreading “pro-German sentiments and hurt both Red Cross and Liberty Bond work in this province.”

Through the mail and in the ordinary course of business, this report reached R. M. Crame, Chief of Constabulary, and on October 3, 1918, a letter was written from the intelligence officer to the provincial commander at Albay saying:

“Please ascertain and report dates that Miss Gilmer made the pro-German remarks.”

October 12, 1918, the defendant wrote a letter to the intelligence officer of the Philippine Constabulary at Manila, in which he says:

“1. It is impossible to get dates of remarks made by Miss Gilmer.

“2. Mrs. Bowler can only remember that it was during the Red Cross drive in July, 1918, that Miss Gilmer made the remarks about P. I. Red Cross funds.

“3. Mrs. Goddard does not remember just what was said or just when, but states that Mr. and Mrs. Noon now teaching in Malolos will be able to throw some light on this subject.

“4. This is a case where everybody seems to know that Miss Gilmer is pro-German and has been talking pro-German but no one seems to know just when or what, with exception of Mrs. Bowler.”

October 19, 1918, James A. Noon made an affidavit before Vicente Platon, notary public, as to specific conversations with the plaintiff, tending to show that she was pro-German.

All of which resulted in the plaintiff being discharged as a teacher in the public schools.

It will be noted that all of the defendant's communications were of a public nature and addressed to his superior officers, and that his investigation was made in the line of his duty. There is no evidence that defendant was actuated by any malicious motive in the making of his original report on September 18, 1918, and his letter of October 12, clearly shows that his report was the result of an investigation, and that the charges against plaintiff were largely based upon rumors which were indefinite and uncertain both as to time and what she was reported to have said. Ruling Case Law, vol. 17, section 74, p. 328, says:

“Privileged communications are by some authorities divided into four classes: (1) those wherein the author or publisher of the alleged slander acted in the bona fide discharge of a public or private duty, legal or moral, or in the prosecution of his own rights or interests; \* \* \*”

Section 9 of Act No. 277, above quoted, is in accord with this general rule.

In the instant case, the alleged libel is based upon the official letters of the defendant to his superior officers, which were written in the discharge of his official duties, and for which he is not liable in an action for damages. They were also written at a time when there was an intense feeling, and, as a war measure, the Government was very active in its investigation of any and all persons, especially of anyone reputed to be pro-German.

It is but just and fair to the plaintiff to say that she is an apparent victim of circumstances, and that the evidence does not sustain the charge that she was pro-German or in any manner disloyal to her own country.

The judgment is affirmed, without costs. So ordered.

*Araullo, C. J., Malcolm, Avanceña, Villamor, Ostrand, and Romualdez, JJ., concur.*