

THIRD DIVISION

[A.M. NO. P-06-2170, July 11, 2006]

**REY C. MUTIA, PETITIONER, VS. COURT STENOGRAPHER III,
REGIONAL TRIAL COURT, BRANCH 40, MANILA, RESPONDENT.**

R E S O L U T I O N

TINGA, J.:

Under consideration is the administrative complaint filed by Rey C. Mutia ("Mutia") charging Lucila C. Pacariem ("Pacariem"), Court Stenographer III, Regional Trial Court ("RTC"), Branch 40, Manila, with grave misconduct in relation to an alleged libelous remark made by her in a letter^[1] addressed to their Branch Clerk of Court, Atty. Lyn L. Llamasares. The Presiding Judge Placido Marquez and Executive Judge Enrico Lanzanas of the RTC Manila were each furnished with a copy of the letter. Then Chief Justice Hilario Davide, then Court Administrator (now Supreme Court Justice) Presbiterio Velasco, Jr., Deputy Court Administrator (now Court Administrator) Christopher Lock, Ms. Caridad Pabello of the Court Management Office, and the Administrative Services Division of the Office of the Court Administrator ("OCA") were each likewise furnished with a copy of the letter.

It seems that the controversy sprang from a Memorandum dated 9 August 2004 issued by Atty. Llamasares to Pacariem regarding her work inefficiency. There is no copy of this memorandum in the records of this case but it appears that Atty. Llamasares sent a copy of the same to the OCA. Pacariem answered the memorandum and took the opportunity to inform the Supreme Court of the grievances in their office. It appears that in her answer, Pacariem resented the fact that Atty. Llamasares did not confront her on her shortcomings before submitting a copy of her memorandum to the Supreme Court. It was only after the memorandum was filed with the Supreme Court Administrative Division that Pacariem received a copy. It is in this same answer that the alleged libelous remark against Mutia was made.

In her letter, Pacariem stated that their Clerk of Court and Presiding Judge signed the Daily Time Record ("DTR") of a new employee for the period 1-15 May 2004 even though the employee had not yet assumed office at that time. The pertinent portion of the letter follows, to wit:

I am aware of the case of one new staff of this office, that his DTR for the period of May 1-15, 2004 were signed by you and the Presiding Judge without thinking that you were not authorized to sign it because during that time he was not still assuming his duty, but if we are the one requesting for the signing of DTR you would find any [sic] wrong with it.

^[2]

Mutia feels alluded to in the letter, as he was the only new employee in said office at that time. Records show that he worked as Court Interpreter III in RTC, Branch 81,

Romblon before he was transferred to RTC, Branch 40, Manila on 17 May 2004. Contrary to the imputation in the letter, neither Atty. Llamasares nor Presiding Judge Marquez signed Mutia's DTR for 1-15 May 2004. Instead, Atty. Karen M. Silverio-Buffe, who was Mutia's supervisor in RTC Romblon, signed his DTR covering the said period.^[3] Mutia avers that Pacariem's totally baseless and malicious accusation against him, Atty. Llamasares and Presiding Judge Marquez, of falsifying his DTR, amounts to libel and constitutes grave misconduct for which she should be disciplined.

In her Comment,^[4] Pacariem admits authorship of the letter but denies that she was motivated by malice to destroy the good name and reputation of Mutia. She opines that the letter is privileged, the same being a private communication between her and the persons and authorities concerned in relation to her duties and obligations as court stenographer. As to the portion of her letter concerning Mutia's DTR, she avers that it was an honest mistake or misapprehension of facts made in good faith and apologizes for her lapse of judgment.

In its Report,^[5] the OCA made no findings as to Pacariem's alleged grave misconduct. The OCA noted, however, that there is an undercurrent of animosity among the three employees that reflects adversely on the good image of the judiciary. While stressing that Pacariem is expected to observe propriety and decorum not only to party litigants but to her co-employees as well, the OCA urged Atty. Llamasares to promote unity and cooperation in her office and to instill professionalism in her subordinates. In this wise, the OCA made the following recommendations:

Respectfully submitted for the consideration of the Honorable Court are our recommendations that:

- 1) respondent Lucila Pacariem be **ADMONISHED** to be more circumspect in her dealings with other court employees; and
- 2) the Branch Clerk of Court having administrative supervision over court employees, be **ADVISED** to promote and maintain harmony among her subordinates.^[6]

We adjudicate the matter differently from what the OCA has recommended.

Pacariem is accused of committing libel, which allegedly is tantamount to grave misconduct. The offense of libel cannot be loosely considered as misconduct in office. To constitute an administrative offense, misconduct should relate to or be connected with the performance of the official functions and duties of a public officer, amounting to either maladministration, or willful intentional neglect and failure to discharge the duties of the office.^[7] Although an officer may be suspended or dismissed for malfeasance which is not related to, or connected with, the functions of the office, such as commission of a crime, the officer may not be proceeded against administratively based thereon until a final judgment of conviction is rendered by a court of justice.^[8] The exception is when the crime or act committed also constitutes a violation of administrative rules; there no conviction is required.^[9] Furthermore, in grave misconduct as distinguished from simple misconduct, the elements of corruption, clear intent to violate the law or