

Consilium 21

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Concerning a headache that was simulated in order to obtain an assistant in a [religious] benefice, and from what inferences simulation can be revealed.

To the same Lord Petrus Castellus.

Argument

The Ecclesiastical Treasurer at Jaén made an appeal to the Most Holy Father, alleging that he suffered from several serious illnesses, and expressly mentioned a certain very severe headache, of such a kind as to prevent him from performing any of the duties appropriate to his office. He said that he was forced to request an assistant, as he had no hope left of recovering his health. The Promotor Fiscal opposed the Treasurer's petition, arguing that the grace he had obtained was null, because it was obtained under false pretences. He based himself mainly on the argument that the Treasurer had not given any definite signs proving that he suffered from the pain he described. Opposing him, the Treasurer argued that the pain could not be discerned by signs of this kind, and so reliance should be placed on his assertion and the trustworthiness of the doctors. So the question is whether the aforesaid headache could be recognized through external signs, so that the Treasurer was obliged to prove that he suffered from it by means of competent witnesses, or whether, as he claimed, the right thing to do was to rely on his assertion alone.

Summary

1. A mild illness is not a sufficient reason for appointing an assistant.
2. A mild illness does not deserve to be called an illness.
3. Which people should be given an assistant.
4. Serious headaches are considered to be serious and burdensome illnesses.
5. Serious illnesses have very obvious signs.
6. Serious illnesses presuppose serious causes.

7. A serious illness signifies a serious departure from a natural state.
8. Serious causes generate serious illnesses.
9. When there are no signs that a cause for pain is present, one should assume there is no pain.
10. When the principal parts of the body are affected, numerous obvious signs follow as a result.
11. Medical experience is very well able to decide through various inferences whether someone is in pain or not.
12. The best way to infer that pain is simulated.
13. A single impediment is not enough to obtain an assistant, if the request has claimed that several were present.

I think the fundamental point in the discussion of this question has been made by the juriconsults: a mild illness is not enough to entitle someone to an assistant, even if it is unremitting. See Rota, in the cited passage, relating to the treasury at Jaén, no. 18, because a mild illness does not prevent a person from fulfilling his responsibilities, (see the book of questions, pages relating to the case under judgment), and, among medical writers, Galen, *De Constitutione artis medicae*¹, chapter 19, and *Isagoge*, a mild illness definitely does not deserve to be called an illness. [For this argument], see book 1, section *sed. Sciend*, pages *De aedil. Ed.*, and Galen, (see above), speaks for doctors in medical terms: in that passage he states that a mild headache is not an illness. So in this case the disease must be more than moderate, of a kind that hampers the body and offers no hope of future flourishing; see Rota, *ibid.*, no. 25, [Giovanni Luigi] Ricci, *Collect. Decis.* p. 3 *Collectan.* 484. For an assistant is granted to people who are so weighed down by old age or permanent ill-health that they are unable to fulfil the duties of their office, as is stated in the single chapter. *De cleric[is] aegrot[antibus].*, [section?] 6. In the present case, for the treasurer to be able to obtain an assistant, his headache would have had to be severe, acute, and intolerable enough to disable him from his administrative duties, at least during exacerbations, as long as they were frequent. Then he could be said to be suffering from a severe illness: Galen includes headaches of this kind among severe and serious illnesses, *De sanitate tuenda*, book 2, chapter 12; Rota, in this case of the treasurer at Jaén, *coram Verospio*, number 3. So, on this basic assumption, that the headache that the treasurer of

¹ I assume that *constitut. Act* in the text is a printer's error.

Jaén claimed to suffer from needed to be severe, I can definitely conclude that he could and should have made it evident to anyone, not just to a doctor, through numerous signs, so that he could and should have been able to prove it conclusively by competent witnesses.

Firstly, because in serious illnesses serious and very obvious signs appear, since serious symptoms are produced by the seriousness of the illness: see Galen, *De symptomatum causis*, book 2, chapter 2, and Rota, as above, numbers 6 and 7. This is demonstrated by the example of acute illnesses, which, being serious illnesses, are revealed by many obvious accompanying signs. As a result, even in the very beginning, when illnesses are less recognizable, they are not just easy for doctors to recognize, but even lay people, as we see clearly in Galen, *De diebus decretoriis*, book 1, chapter 6.

Second, because serious diseases presuppose serious causes, the effect must be equivalent to the cause, so that a serious illness causes a major departure from the natural state, Galen, *De symptomatum [causis]*, book 1, chapter 2. Moreover, these causes could not be hidden, because of their magnitude. Therefore, either intemperance was causing the pain, which I do not believe, or, as the cause would be great, it would either be obvious to the sense of touch, if the head felt excessively hot or cold, or there would be great abundance of matter [i.e. suppurating matter?], which would inevitably give evidence of its presence by excretions through the nostrils, mouth, eyes, urine, or elsewhere, and by a thousand other very obvious signs. So once it has been established that a serious cause of pain is present in the head, anyone can affirm conclusively that the Treasurer suffers from a severe headache, for major causes create serious diseases. See [Francisco] Valles, *Commentaria*. 3 tit. 3 Epidem. Text 2 and comm.. 2 in 6, same text. 28. When the assumed cause and the necessary dispositions are present on the side of both agent and patient, the effect is taken for granted, as philosophers know, and, among the jurists, [André] Tiraqueau, in the treatise *Cessante causa, [cessat effectus]* Limit. 20 no. 1. And conversely, when there are no signs that a cause of pain is present, we must believe that there is no pain.

Third, because the part suffering the disease was a principal part, affecting the whole body in concordance with it, since all the other principal parts of the body depend the use of the head, as the doctors

demonstrate: see Fernel, *Physiol[ogia]* Book 1, chapter 6. But when principal parts [of the body] are badly affected, it is well known that several conspicuous signs and many obvious symptoms appear; if they do not appear, the illness cannot be called serious, and it does not hinder human activities.

Fourth, despite these points, even if we grant that there may be no obvious or scientific signs of the presence of a headache, who will dare to deny that we can still have conjectural signs? But if these are significant and numerous and appear together at the same time, they are undoubtedly comparable to certain and evident signs. Medical experience is entirely capable of reaching knowledge of the truth through some conjectures, especially if the disease is serious and powerful, (which is supposed in our case). The words are Galen's, in *Quomodo morbum simulantes sint deprehendendi*.

Fifth, serious illnesses, especially if they are accompanied by serious pain, demand powerful and extremely noble remedies. So, if this headache afflicting the treasurer was as cruel, tenacious, and long-lasting as he alleged, there should be evidence that he used medicines of this kind, such as cauterizing, cutting, blistering agents, mustard plasters, decoctions with drying or sweat-inducing properties, shower baths, and any number of other highly efficacious aids. Galen says, in the book quoted above, [*Quomodo morbum simulantes sint deprehendendi*], that when sick people are troubled with pain of this kind, and not pretending, they are willing to undergo anything. If they refuse these remedies and do not seek or accept help, it is a sign that they are suffering no pain, or slight pain.

I pass over several other matters, the consideration of which does not seem to demand medical competence, such as the fact that it has not been established how long or how consistently he suffered from the disease. None of the witnesses state that they saw him suffering from a headache more than two or three times, whereas it is obvious from the basis of his argument that the headache should have been continual, or at least happened much more frequently. The doctor who took care of him stated that he had been under his care for barely a year, when the Treasurer stated that he had suffered from this disease for eight years. Even if the facts about his headache were established, nothing has been established about the other diseases which the Treasurer claimed to

suffer from in his appeal to the Most Holy Father. But establishing one impediment is not enough to obtain a coadjutor, if one is claiming several impediments. [Nicolaus] Garcia, *De beneficiis*, per.6 cap.2 n. 195. Rota, *In Melevitana Thesaurariae ... 1643 coram Verospio*.

Finally, there is no proof from the witnesses that establishes anything about the nature or severity of the headaches. Even if there was, or if it came from the Treasurer's own testimony, it would prove nothing. Either the two witnesses gave evidence purely from what they heard him report, which proves nothing; or their testimony was based on certain knowledge, derived from definite signs and conjectures, and his pain could be recognized indisputably, and proved by competent witnesses, which is not the claim he made.