

REYES, Joel
Re: Multiple Positions

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RESOLUTION NO. 001373

Vicente A. Sandoval, Congressman, First District, Palawan, seeks a ruling from the Commission regarding the legality of the designation of Vice-Governor Joel Reyes as Overall Coordinator, of the Malaria Eradication Project of Palawan and whether or not public funds may be used for fuel and maintenance of private vehicles used to carry out the mandate of a public office.

Portions of Congressman Sandoval's letter are, as follows:

"xxx, may we be apprised on the following

'a) The legality of the designation of (the) Vice-Governor Reyes to the position of Overall Coordinator of the malaria eradication program of the province;

'b) The liability of Vice Governor Reyes in assuming and continuing to hold and perform the duties and functions of the position, in case the designation is illegal;

'c) The liability of Governor Socrates in making the aforesaid appointment; and

'd) The actions, if any, of Vice Governor Reyes which are void ab initio in the course of the performance of his functions under the Executive Order;

'e) May public funds be used for the fuel and maintenance of private vehicles which, aside from being used for personal purposes, are likewise used in carrying out the mandate of a public office."

The issues to be resolved in the instant case are whether or not there is a prohibition on the designation of Vice-Governor Reyes as Malaria Elimination Project Coordinator of the Province of Palawan and whether or not public funds may be used for the fuel and maintenance of private vehicles.

Separate to the issues above, an information is also being sought on the probable liabilities of the Program Director for purportedly misrepresenting her civil status.

As culled from the records, the designation of Reyes as Over-all Coordinator of the project, came from Governor Salvador

Socrates, through Executive Order No. 10, series of 1999.

Portions of said Executive Order No. 10 are, as follows:

"WHEREAS, the Local Government Code grants local government units the power to device their own health project and the structure of their own health delivery agencies and programs without constraints;

"WHEREAS, any effort to eliminate the malaria parasite from the blood of a population as big and as widely dispersed as Palawan's must be community based to succeed;

"WHEREAS, the Honorable Joel T. Reyes, Vice Governor is launching a movement to liberate Palawan from the scourge of Malaria, the Kilusang Malaya sa Malarya sa Palawan'

"NOW THEREFORE, I, Salvador P. Socrates, Governor of Palawan, by virtue of the powers vested in me by law and the sovereign will of the Palawan electorate, do hereby order:

"1. Vice Governor Joel T. Reyes is hereby designated as the overall coordinator of all local, national and international efforts in Palawan to eliminate malaria from our province."

After a careful evaluation of the relevant provisions of the Constitution, the Local Government Code as well as applicable Supreme Court jurisprudence, the Commission is of the view and so holds that the designation of Vice-Governor Joel Reyes as Overall Coordinator of the Malaria Eradication Project of Palawan is legally proper.

Applicable to the instant case is Section 7 of Article IX-B of the 1987 Constitution, which provides:

"No elective official shall be eligible for appointment or designation in any capacity to any public office or position during his tenure.

"Unless otherwise allowed by law or by the primary functions of his position, no appointive official shall hold any other office or employment in the Government or any subdivision , agency or instrumentality thereof, including government-owned or controlled corporations or their subsidiaries."

Indeed, the Constitution prohibits the designation or appointment of an elective official to another public office or position. "The basic idea is really to prevent a situation where a local elective official will work for his appointment in an executive position in government, and thus neglect his constituents xxx" (Records of the Constitutional Commission, as cited in the case of Flores vs. Drilon, 223 SCRA 569). In the case of Vice-Governor Reyes, he was merely tasked to coordinate the Malaria Prevention Program efforts in the Province of Palawan and not being appointed or designated to another public office

of position. The prohibition therefore in Section 7, Article IX-B of the 1987 Constitution in so far as appointment or designation to another public office or position is concerned, is not applicable. As overall coordinator of the Malaria Prevention Program of Palawan, Vice-Governor Reyes is merely given additional duties and function which, under the Local Government Code, (Paragraph 5, Section 466) may be made. To equate therefore Vice-Governor Reyes' function, as over all coordinator of the Malaria Prevention Program to another public office position is erroneous.

As to the issue of whether public funds may be used for the fuel and maintenance of private vehicles, Section 340 of the Government Auditing and Auditing Manual (GAAM) provides:

"Section 340. E. Under no circumstances should fuel be issued for privately owned motor vehicles. No reimbursement for the cost of gasoline or diesel fuel and oil shall be allowed where a private vehicle used."

Anent the case of one Mari Trudeau, the Program Director who allegedly misrepresents her civil status, Section 8 of the Uniform Rules on Administrative Cases in the Civil Service, provides:

"A complaint against a civil service official or employee shall not be given due course unless it is in writing and subscribed and sworn to by the complainant. Xxx

"The complaint should be written in a clear, simple and concise language and in a systematic manner as to apprise the civil servant concerned of the nature and cause of accusation against him and to enable him to intelligently prepare his defense or answer."

To give a ruling at this point in time on the alleged infractions of law of Trudeau is premature in lieu of the requirements provided forth by the Uniform Rules on Administrative Cases in the Civil Service.

WHEREFORE, the designation of Vice-Governor Joel Reyes as Over-All Coordinator of the Palawan Malaria Eradication Project by Governor Salvador Socrates is hereby declared valid. Likewise, the Commission rules that public funds may not be disbursed for fuel and maintenance of private vehicle notwithstanding the fact that said vehicle may, from time to time, be used to carry out a public purpose.

Quezon City, June 09, 2000

(Sgd.) CORAZON ALMA G. DE LEON

Chairman

(Sgd.) JOSE F. ERESTAIN, JR.

Commissioner

(Sgd.) ELMOR D. JURIDICO

Commissioner

Attested by:

NOEMI A. BRILLO

(For) ARIEL G. RONQUILLO