

CASTILLO, Gilbert S.

Re: Authority to Practice; Representation
of Local or National Candidate; Query

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RESOLUTION NO. 01-0982

Atty. Gilbert S. Castillo, Executive Director, Secretariat, Congressional Commission on Labor, Congress of the Philippines, inquires from the Commission as to whether the act of representing a local or national candidate by a government employee permitted to practice his profession constitutes a violation of the Constitution, Civil Service Law and Code of Conduct and Ethical Standards for Public Officials and Employees, or simply engaging in the limited practice of law.

In his query, Atty. Castillo represents, as follows:

“While working at the Philippine Senate, I was authorized to practice my profession by former Senate Presidents Maceda, Fernan, Ople and Drilon and the current Senate President, Senate President Aquilino Pimentel, Jr. xxx.

“Upon my assumption of the position of Executive Director at the LABORCOM Secretariat, I was also authorized to practice law by Sen. Gregorio B. Honasan, Chair of the Congressional Commission on Labor xxx.

“My principal query is this: will I violate the Constitution, the Administrative Code of 1987, the Civil Service Law or the Code of Ethical Standards for Public Officials and Employees if I act as counsel for any local or national candidate before, during and after the May 14, 2001 elections?”

“A corollary question is: would a civil servant acting as counsel for any candidate xxx be considered as engaging in partisan political activity xxx or, xxx, simply engaging in limited practice of law?”

The Commission rules that the representation of lawyer who is employed in the public sector for and on behalf of a candidate for national or local office before, during or after the poll in any election or election related proceeding constitutes a violation of his limited authority to practice his profession because such engagement contravenes the prohibitory provisions on the law against partisan political activities.

This is expressly provided for in **Section 2 (b), Article IX-B of the 1987 Constitution** which explicitly proscribes officials and employees in the civil service to engage in partisan political campaign. Said section reads, as follows:

“(4) No officer or employee in the civil service shall engage, directly or indirectly, in any electioneering or partisan political campaign.”

Said prohibition is also stated in **Section 55, Chapter 8 of Executive Order No. 292** which

reads, as follows:

“SEC. 55. Political Activity. No officer or employee in the Civil Service including members of the Armed Forces, shall engage directly or indirectly in any partisan political activity or take part in any election except to vote nor shall use his official authority or influence to coerce the political activity of any other person or body. Nothing herein provided shall be understood to prevent any officer or employee from exercising his views on current political problems or issues, or from expressing his views on current political problems or issues, or from mentioning the names of candidates for public office whom he supports. Xxx”

The same prohibition is provided under CSC Memorandum Circular No. 2, Series of 1992. In particular, it makes mention of the aforementioned laws. It also reiterated **Item 4, Section 79 of the Omnibus Election Code of the Philippines (Batas Pambansa Blg. 881)** which specifically declares that the act or activity of becoming publicly identified with the success or failure of a candidate or candidates constitutes a partisan political activity. Said Section and Item read, as follows:

“Section 79. Political Activities. - No officer or employee in the civil service including members of the Armed Forces, shall engage directly or indirectly in any partisan political activity or take part in any election to vote nor shall he use his official authority or influence to coerce the political activity of any other person or body. xxx

“4. Being publicly identified with the success or failure of any candidate or

candidates.”

Election process is a partisan political activity *per se*. The engagement of the services of a lawyer by a political candidate, needless to say, is inevitably intended to ensure the success of the latter’s interest. This is because a lawyer who accepts such engagement is bound to represent his client’s interest to the best of his ability and with zeal (**Rule 18.04, Canon 18, Legal and Judicial Ethics**). Under the circumstances, the lawyer who is tasked to maintain political neutrality would eventually be actively representing the partisan political interest of a candidate.

Similar to other privileges, the limited authority to practice law extended to lawyers in the government service is inherently subject to the limitation that such authority shall not be utilized whenever the same would result in violation of the law on partisan political activity.

WHEREFORE, the Commission rules that the representation of an election candidate by a lawyer employed in the government and practicing as such under limited authority to practice profession constitutes partisan political activity and therefore prohibited.

Quezon City, June 1, 2001

(SIGNED)

JOSE F. ERESTAIN, JR.

Commissioner

(SIGNED)

KARINA CONSTANTINO-DAVID

Chairman

(ON LEAVE)

J. WALDEMAR V. VALMORES

Commissioner

Attested by:

(SIGNED)

ARIEL G. RONQUILLO

Director III

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