



REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT

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June 10, 2011

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Executive Assistant V  
Municipality of Sudipen  
2520 La Union

DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT  
6/14/11

Dear Ms. Beninsig

This refers to your letter seeking the Department's clarification on the entitlement of backwages of Hon. Mayor Alexander O. Buquing during the period of his preventive suspension.

Before dwelling on the issue, may we first invite your attention to the provision of the **Local Government Code of 1991**, to wit;

**Sec. 64. Salary of Respondent Pending Suspension. –**

The respondent official preventively suspended from office shall receive no salary or compensation during such suspension; **but upon subsequent exoneration and reinstatement, he SHALL BE PAID full salary or compensation including such emoluments accruing during such suspension.**

**In BRUGADA vs. THE SECRETARY OF EDUCATION, CULTURE AND SPORTS, G.R. No. 142332-43. January 31, 2005.** The Court categorically declared that the payment of back wages during the period of suspension of a civil servant who is subsequently reinstated is proper if he is found **innocent of the charges** and the **suspension is unjustified.**

"The Joint Resolution of the Office of the Deputy Ombudsman for Luzon in OMB-L-C-06-0992-I, entitled Melvin Macusi, et. al vs. Alexander Q. Buquing, dismissed the case against respondent Buquing because based from records, there exist no probable cause for the charge of violation of R.A. 3019. And with regard to the charge of dereliction of duty, misconduct in office and gross negligence, the Ombudsman held that there exists substantial evidence against the respondent for Simple Misconduct in office. However, the imposition of the administrative penalty on the respondent can no longer be enforced because, in view of his re-election as Municipal Mayor in the last local election conducted on May 14, 2007, it became moot and academic by reason of the Aguinaldo Doctrine."

This Office opines that Mayor Buquing was exonerated for the charge of violation of R.A. 3019. However, he was not exonerated for the charge of Simple Misconduct. The Aguinaldo Doctrine or Doctrine of condonation does not warrant the payment of backwages because it only bars the imposition of the administrative sanction on Mayor Buquing. In short, he was not found innocent of the charge for simple misconduct.

Hence, Mayor Buquing is not entitled to receive backwages during the period of his preventive suspension because he was not fully exonerated of the charges against him.

This is a legal opinion; parties are not precluded from seeking legal opinion from higher authorities.

We hope that we have addressed your concern accordingly.

Very truly yours,

  
**MANUEL V. BIASON, CESO III**  
Regional Director f