



March 30, 2015

**ARLYN M. GARCIA**  
Municipal Accountant  
Tubao, La Union

Dear Ms. Garcia:

This has reference to your letter seeking clarification relative to the status of the newly appointed member of the Sangguniang Bayan of Tubao, La Union who was dismissed from the government service due to a case filed against him.

Before dwelling on the issue, may we invite your attention to Section 40 of RA 7160 otherwise known as The Local Government Code of the Philippines, to wit:

**Section 40. Disqualifications.** - The following persons are disqualified from running for any elective local position:

xxx

(b) Those removed from office as a result of an administrative case;

xxx

Once the order of dismissal is final and executory, a government employee dismissed from the government service is already disqualified from holding elective position. However, if the order of dismissal is subject of an appeal under Rule 43 of the Rules of Court, the said order is not yet final and executory.

It is true that Mr. Domingo S. Estoesta was dismissed by the Office of the Ombudsman, however, his dismissal is not yet final and executory because he filed an appeal before the Court of Appeals. Hence, the dismissal of Mr. Estoesta is not yet final and executory although the same was already implemented due to the nature of the order of the Ombudsman which is to be *executed pending appeal*. This means that an appeal shall not stop the decision of the Ombudsman from being implemented.

Regardless of the facts surrounding the case of Mr. Estoesta, please be informed that this office does not have any authority to determine the legality of his appointment or render it a nullity. Court of law does have such authority since it involved justiciable



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issues. Justiciable issues are those that require adjudication by the courts of law as to who have a better right over a given controversy.

Warm regards.

JULIE J. DAQUIOAG, Ph.D., CESO IV  
Officer-In-Charge

By:

  
VICTORIA H. RAMOS, CESO V  
OIC-Asst. Regional Director *g*

Legal/foa

