

Republic of the Philippines
OFFICE OF THE OMBUDSMAN
176 Former MWSS Bldg., Arroceros Street, Ermita, 1000 Manila

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TINANGGAP

CALIP

MEMORANDUM CIRCULAR NO. 10
Series of 1995.

T O : ALL HEADS OF DEPARTMENTS, OFFICES, BUREAUS AND AGENCIES OF THE NATIONAL AND LOCAL GOVERNMENTS, INCLUDING GOVERNMENT-OWNED AND CONTROLLED CORPORATION.

R E : REVISED CIRCULAR ON OMBUDSMAN CLEARANCE

Section 12 of Republic Act No. 3019, as amended, otherwise known as the "Anti-Graft and Corrupt Practices Act" provides that "(N)o public officer shall be allowed to resign or retire pending an investigation, criminal or administrative, or pending a prosecution against him, for any offense under this Act or under the provisions of the Revised Penal Code on bribery".

This Office has interpreted said provision as prohibiting the payment of retirement benefits due to a retiring public official or employee who has pending criminal or administrative case. Realizing the need to implement the said provision, Memorandum Circular No. I was issued enjoining all concerned not to allow the retirement of any public official or employee as defined under said Act without first securing/presenting a clearance to the effect that he has no pending criminal or administrative case in this Office.

Objections were raised on the propriety of requiring an Ombudsman clearance, based on a different interpretation of the subject provision to the effect that despite the pendency of a criminal or administrative case against a retiree, he may still be paid his retirement benefits subject to the condition that if found guilty, he is liable to reconstitute whatever benefits he may have received during the pendency of the case, citing the provision of the second paragraph of Section 13 of the Act which provides that "(I)n the event that such convicted officer, who may have already been separated from the service, has already received such benefits, he shall be liable to reconstitute the same to the government".

Until a judicial pronouncement as to the correct interpretation of Sections 12 and 13 of R.A. 3019 has been made, this Office hereby revises its existing guidelines on the issuance of Ombudsman clearance. Henceforth, a person retiring from the government service whether optional or compulsory, needs only to present a certification from this Office whether or not he has a pending criminal or administrative case with it. In the event the certification presented states that the prospective retiree has a pending case, the

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responsibility of determining whether to release his retirement benefits, as well as the imposition of necessary safeguards to ensure restitution thereof in the event retiree is found guilty, rests upon and shall be left at the sound discretion of the head of the department, office or agency concerned.

Manila, Philippines, January 24, 1995.


CONRADO M. VASQUEZ
Ombudsman

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