

***JGL Eye Column***

By JOSEPH G. LARIOS

(© 2011 *Journal Group Link International*)

C HICAGO (*jGLi*) – From time to time, the United States Supreme Court would issue rulings based on the justices' personal or political belief rather than existing laws.

This is called judicial activism when the court would legislate from bench.

Some examples of this judicial phenomenon were the *Brown v. Board of Education* (1954), when the Supreme Court ordered the desegregation of public school; the *Roe v. Wade* (1973) when the Supreme Court decriminalized abortion; and *Bush v. Gore* (2000) when judges voted along ideological lines, 5-4, to halt the recount of ballots in Florida and, in effect, elect Bush President.

Similarly, the President of the U.S. can legislate from the White House when he cannot get his pet bill passed by Congress. The President sometimes waits for the time when Congress is in recess or is not in session and he would not object to proposals of his executive arm to issue a policy or the President, himself, issues an executive order that would serve the purpose of his pet bill.

Examples of the exercise of this executive prerogative were two continuing resolutions signed by President Bill Clinton on Sept. 30, 1997, extending the expiration date of Section 245(i) of Immigration and Nationality Act Amnesty No. 2 in 1994, conferring a temporary rolling amnesty for 578,000 illegal aliens. The first continuing resolution extended the deadline until Oct. 23, 1997 and the second continuing resolution extended Section 245(i) until Nov. 7, 1997.

Only recently, President Obama did not object to the announcement of Sec. Janet Napolitano of the Department of Homeland Security, halting deportation of illegal immigrants on a case-by-case basis, allowing them to stay in America if certain criteria are met such as attending school, having family in the military, or are primarily responsible for other family members' care.

**“ABSOLUTE AND UNREVIEWABLE POWER”**

Written by

Saturday, 29 October 2011 10:17 - Last Updated Monday, 31 October 2011 12:21

---

The policy shift will allow immigration judges “to more swiftly adjudicate high priority cases, such as those involving convicted felons.”

The change in deportation policy follows a similar move in June by Immigration and Customs Enforcement (ICE), the agency that handles interior immigration law enforcement, expanding its authority to reject prosecution of illegals in general, opting to focus on those illegals, who have committed crimes or are part of gangs.

This manner of not “bringing criminal charges” against the accused by the U.S. government prosecuting attorneys is called “prosecutorial discretion,” which is “nearly absolute and unreviewable power” like those exercised by U.S. consuls overseas.

This authority mirrors the reasons behind the practice of plea bargaining. It also provides a significant opportunity for leniency and mercy in a system that is frequently marked by broad and harsh criminal laws set by legislative limitation on judges’ sentencing discretion.

The exercise of “prosecutorial discretion” is nothing new. It started in 1960’s when thousands of Cubans fleeing the Castro’s regime were allowed to stay in the US under what the executive

Written by

Saturday, 29 October 2011 10:17 - Last Updated Monday, 31 October 2011 12:21

---

branch called “Extended Voluntary Departure” (EVD) that granted temporary blanket relief from deportation for nationals of certain countries who feared returning to their homeland.

## **GROUP WANTS PRESIDENT OBAMA TO USE “PROSECUTORIAL DISCRETION”**

Supporters of the 24,000 Filipino veterans denied benefits under the American Recovery and Reinvestment Act of 2009 want President Obama to use also his “prosecutorial discretion” by issuing an executive order, allowing U.S. Department of Veterans Affairs to accept their applications for benefits even if their names are not listed in the National Personnel Records Center

in

St. Louis

,

Missouri

.

If this succeeds, they plan to petition President Obama not to oppose the cases filed by Filipino veterans, denied benefits for their military service. Other petitions that can be considered are the return of the Balangiga Bells to the Philippines and the passage of the pending Save Our Industries Act (S. 1244) and counterpart measure in the U.S. House of Representatives H.R. 2387.

Written by

Saturday, 29 October 2011 10:17 - Last Updated Monday, 31 October 2011 12:21

---

Luke Perry ( [lpasvegas@hotmail.com](mailto:lpasvegas@hotmail.com) ), son-in-law of a Filipino veteran, and his group led by Caesar Elpidio ( [celpidio@aol.com](mailto:celpidio@aol.com) ), were assured by White House representatives that if they can obtain 25,000 signatures on the petition posted in the White House website ( <http://wh.gov/tpw> ) within 30 days or on before Nov. 25, 2011 to coincide with the U.S. Veterans' Day, they are going to show the petition to the President. They were also urged to post the petition on FaceBook, Tweepsters and other social media.

"I need 150 signatures in 24 hours just so it will go viral and the White House will pay attention to our cause on a daily basis and the President takes action for Justice for 24,000 WW2 denied Filipino veterans," Mr. Perry said.

### POSTING SIGNATURE, A CHALLENGE

Although, Mr. Perry has already 500 signatures signed manually, posting signatures in the White House webpage is posing to be a challenge to many people as only four have so far managed to post their signatures.

Earlier, Father Prisco Entines ( [frentines@hotmail.com](mailto:frentines@hotmail.com) ), a son of a Filipino veteran, told me he also sent a separate letter to the White House, supporting the petition sent by Messrs. Perry and Elpidio and he got an acknowledgement from the White House. Father Entines also met

## Legislating from the Oval Office - MabuhayRadio

Written by

Saturday, 29 October 2011 10:17 - Last Updated Monday, 31 October 2011 12:21

---

earlier in Las Vegas, Nevada, with some White House representatives, namely, Ms. Rozita Lee, Hector Vargas, Christopher Lu and Christina Lagdameo and they discussed the issuance of the Executive Order, which reads as follows:

<http://wh.gov/tpw>

“USE EXECUTIVE ORDER TO THE VA AND NPRC TO ACCEPT DENIED PHILIPPINE VETERANS RECORDS FROM WW 2 UNDER RECOVERY ACT 2009

This year the National Personal Records Center and the Veterans Administration denied over 24,000 elderly WW 2 Philippine Veterans their right to compensation under the American Recovery and Reinvestment Act of 2009 based on the fact they will not accept Philippine Military records as proof of service.

Filipino Veterans have provided proof they served under a US Command and

Commanders as required under the act and Title 38 of VA regulations yet the

NPRC and VA still deny them, basing proof of decisions on the fact their name

Written by

Saturday, 29 October 2011 10:17 - Last Updated Monday, 31 October 2011 12:21

---

is not listed on a reconstructed outdated roster of 1948.

We request to have these agencies follow full intent of the Act President

Obama signed in 2009 and direct these agencies to accept the records of these

denied veterans as proof to obtain their rightful compensation. # # #

**Editor's Note:** To contact the author, please e-mail him at: ( [lariosa\\_jos@sbcglobal.net](mailto:lariosa_jos@sbcglobal.net) )

[Joomla SEO powered by JoomSEF](#)