

New SC justice's first test of independence: Neri case

On the virtues of honesty and integrity, he is said to be beyond reproach. But a cloud of doubt hangs over newly appointed Supreme Court Justice Arturo Brion when it comes to independence.

Twice bypassed by Malacañang, Brion finally made it on his third try to the Tribunal, reportedly due to the strong lobby of Justice Renato Corona, President Arroyo's chief of staff when she was Vice President. Brion and Co-

rona were classmates at the Ateneo College of Law and belong to the Fraternal Order of Utopia.

His appointment comes at a time when Malacañang and the Senate are clashing over the issue of executive privilege. Commission on Higher Education chair Romulo Neri was asked to testify in the Senate to answer questions on President Arroyo's extent of participation in the overpriced national broadband

deal.

Neri brought his case to the Supreme Court when the Senate ordered him arrested. The High Court issued a status quo order which meant that Neri need not testify in the Senate. It is scheduled to decide on Neri's case on March 25. The case could be Brion's first test of independence.

In a phone interview with abs-chnNews.com/Newsbreak, Brion confirmed that he and Corona "have kept in touch over the years" and listed him as one of his character references in his application with the Judicial and Bar Council (JBC).

He also said he expects to participate in the deliberations and voting of the Neri petition since he is now a "full-fledged" member of the Court. "I don't see any reason why I should inhibit."

In a separate interview with justice reporters, Brion said that as a full member of the court, "I will participate in all the activities of the Court" and that includes the Neri petition. "What is so special about the Neri case? I would guess that I would be at the SC

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for the next nine years and there will be a lot of hot issues that the court will deliberate upon. So why not start early?" he said.

As far as independence is concerned, Brion said his "records speak for themselves" and that he was not a "newcomer" in the judiciary. Prior to assuming the labor portfolio in 2006, Escudero said, Brion served on the Court of Appeals as justice for three years.

No Hindrance

Speaker Prospero Nograles lauded Brion's appointment and cited the case of Senate President Manuel Villar to show that the new SC justice's closeness with the President will not be a hindrance to his new job.

"Villar ran under the opposition but I could not even say that he is biased against the President. He has to do what he has to do. So will SC Justice Brion," Nograles said. "He is an appointee of the President but he needs to do what he's got to do. Uphold the law no matter who gets hurt."

"He (Villar) decides like a businessman. Everything is business. But the law is the law. It's not business. It's got a traditional set of rules and precedents," Nograles said.

"I expect that from Villar, too. Support the President when she is right and criticize her when she is wrong," Nograles said.

The Speaker said Brion "is certainly more than qualified" and that media "should look at his resume before they say anything about the guy."

"He is a Bar topnotcher and has very impressive credentials," he said.

Sen. Manuel Roxas II said, "The appointment of Secretary Arturo Brion to the Supreme Court is well-deserved. He has a clean record of public service and is well-respected in legal circles."

"Given Justice Brion's unblemished record of public service, I am hopeful that he will fulfill his new mandate competently, fairly and with absolute fidelity to the Constitution," Roxas said. "He should be given the opportunity to prove himself true to his oath."

But Sen. Francis Escudero said Brion should come up with a separate opinion on Neri's case.

"I hope I would be able to see that in the next couple of days and be stated already that he won't inhibit in the Neri case, although he is a former Cabinet member and he was under the auspices of EO (Executive Order) 454 and MC (Memorandum Circular) 108," Escudero said. "I

would want to see how he will be voting on that issue if he indeed will participate. And I hope he will come up with a separate opinion."

EO 464 and MC 108 banned executive officials from attending legislative inquiries without prior permission from Malacañang.

"Of course it's safer to say that he will inhibit himself, but he went out saying he will participate," Escudero said.

Escudero said although Brion was nominated by the JBC and underwent a tedious process of getting the appointment, it remains to be seen whether or not he deserves the seat.

"More often than not, some SC justices who are newly appointed do not participate in pending cases anymore because they have to catch up, but given his statement I will respect that and I will wait for his vote and his decision on this issue. And I do hope for his sake and for our sake it would be fair," Escudero said.

Independent streak

At the labor department, Brion exhibited a streak of independence that riled Malacañang more than once. During the nursing examination scandal, he clashed with the Palace on the issue of the board examination retake. The matter was referred to the CA, which decided that the retake would be done on a partial basis.

Brion also clashed with Malacañang over the deployment of workers in Nigeria, Lebanon, Iraq and Afghanistan when he issued an order partially lifting the ban of deployment to these countries. Brion, however, hastily recalled the partial lifting when the Palace insisted that the ban stays due to security risks in those war-plagued countries.

His independence of mind, however, borders on being authoritarian. Brion has gained his share of critics both from the labor department and the labor sector. He centralized the decision-making process that rendered inique the different undersecretaries, some of whom were his colleagues. A number of labor undersecretaries opted to "revert" to lower positions to avoid confrontations with him.

On the labor front, labor leaders said Brion leaned towards the interests of "capitalists" and has no significant contribution to the labor cause. Kilusang Mayo Uno chair Elmer Labog said Brion failed to protect the workers' interest when he was at the DOLE.

Labog cited the labor cases involving workers of Toyota, Nissan and Nestlé where Brion supposedly refused to implement SC decisions.

Labog said the number of strikes has drastically gone down, not because the workers are no longer restive but because Brion immediately issues assumption of jurisdiction orders which prevent workers from going on strike. The assumption of jurisdiction orders, Labog said, favored management since these prevent workers from airing their grievances.

For his part, Brion said he did "quite well" citing the relative peaceful labor situation and the increasing employment. "We have record minimum number of strikes for the past 21 months. We have maximum number of employment, maximum number of remittances in the past year at \$14.4 billion and we have several other accomplishments."

Brion said among his significant achievements were the tapping and opening of new labor markets for Filipino

workers in Canada and Europe.

SC ambition

Those who know Brion vouch for his honesty and integrity. But they also describe him as ambitious and that securing an SC post was part of his career plan.

A close friend said Brion precisely left the CA and moved to the executive department as labor secretary in 2006 because of being named to the Tribunal. "He knew that if he stayed in the CA, his chances would be slim because they follow senior members."

He was relatively new in the CA, having been away from the court for many years. After his stint as member of the Batasang Pambansa in the early 1980s, he then became Ferdinand Marcos, he left for Canada. He belonged to the ruling KBL and feared that the new government would be hostile to him.

When he returned in 1995, he resumed his law practice and later joined the labor department when Brig Ople became secretary.

In 2003, he was named associate justice of the CA. Then he replaced Patricia Sto. Tomas as labor secretary in 2006.

Sto. Tomas told abs-chnNews.com/Newsbreak that Brion only agreed to take the labor post after being assured that he would not have to "beg" for it. "I will take the post as long as I don't have to beg for it," Sto. Tomas quoted Brion as saying.

Brion said he had set his eyes on the SC even before joining the CA. In 2004, he called applying for the SC when he was still with the labor department as undersecretary for labor relations.

Last year, he twice applied as SC justice but was bypassed by Malacañang, in favor of Justice Ruben Reyes and Teresita de Castro. Brion said had he been bypassed for the third time, he would apply again next year, pointing out that his chances would be better with six vacancies to be filled up. But there was no denying the SC post this time.

Bar topnotcher

After topping the bar in 1974 with a grade of 91.65 percent, Brion joined the Simon Reyta, Montecillo, and Ongsiako Law Offices where he stayed for seven years. He left private practice when he became the position as executive director of the Institute of Labor and Manpower Studies (ILMS) by former labor minister Bas Ople, whom he considers his mentor.

In 1984, he sought and won an appointment to the National Assembly, he served as vice-chair of the committee of labor and employment committee vice-chair, and a member of the committee on revision of laws and constitutional amendments.

In 1986, Brion returned to private law practice with the Natividad, Delos Reyes, Maaring and Brion law office. He and his family however moved to Canada shortly thereafter.

After almost 30 years abroad, Brion returned to the Philippines and went back to practice law, rejoining his law firm.

In March 2001, former labor secretary Sto. Tomas tapped him as undersecretary for labor relations.

In 2003, he was named to the CA as associate justice. In 2006, he was back at the labor department but was soon handed by Sto. Tomas, as her replacement. — With Delon Porcella and Aurea Celica



President Arroyo talks with newly appointed Associate Justice Arturo Brion in this photo taken during a labor event when Brion was still labor secretary.