

Enough already: Stop the appeal

Written by BY SEN. BEN PANGELINAN
Thursday, 12 Jun 2014 03:00am

A COUPLE of weeks ago, federal District Court Judge Consuelo B. Marshall issued her latest order, ruling on the filings by the governor and his attorneys' attempts to overturn the decision on the taxpayer lawsuit that has resulted in the timely payments of the people of Guam's income tax refunds.

In this order, Judge Marshall summarized the governor's appeal and position as, "the entire case is about the government of Guam's unwillingness to timely pay its obligations. The government of Guam has also raised baseless arguments in its present attempts to avoid paying."

Based on these statements, it is clear that Judge Marshall is not sold on all of the public statements and press releases by the governor and his administration that he is already paying the tax refunds, and he will continue to do so without the District Court order and the tax refund permanent injunction. The District Court is not persuaded that the governor's assurances to pay timely are enough without the order.

With further reading of Judge Marshall's order, it is clear that she does not believe the governor, or his director of the Department of Administration, that GovGuam will pay its obligations in a timely manner. This was apparent in the order where even a declaration from the governor's director of administration – wherein she states that GovGuam guarantees full payment of the \$1.7 million owed to the taxpayers' attorneys plus interest within 30 days of the issuance of a final judgment by the Ninth Circuit Court of Appeals – was not enough for Judge Marshall. The court order stated, "The court is not persuaded that the government of Guam will timely pay..." She still required that GovGuam post a surety bond to ensure the payment of these costs.

The judge also went on to state in the court order that, "Based on the government of Guam's history of failing to timely pay its obligations, the court is not persuaded" and that the governor's "other argument – that Guam law and legislative history show that writs of execution against the government of Guam are not permitted – is also unpersuasive." Another statement was that the governor "raised two other arguments, neither of which is persuasive." Statements such as these by the judge highlight the governor's continued attempts to appeal the tax refund permanent injunction with arguments that the judge apparently found to be meritless.

The District Court has obviously seen through these apparently meritless arguments in the governor's appeal of the tax refund permanent injunction, and the time, money and effort involved in spending taxpayer monies to fight against the taxpayers is an egregious injustice to the people of Guam. I am certainly thankful that the District Court and those fighting for the taxpayers have continued their efforts to fight and rule against the governor's intent on not wanting to pay tax refunds within six months of the filing deadline.

The tax refund permanent injunction and this most recent judgment can only be viewed as a win for the taxpayers and people of Guam, as the plaintiffs of the case, Paeste, et al., are representative of the taxpayers of Guam. This is evident in the current payment of income tax refunds, although more should have been paid to date given the level of borrowing that has

Enough already: Stop the appeal

Written by BY SEN. BEN PANGELINAN
Thursday, 12 Jun 2014 03:00am

occurred over the past three and a half years.

Unfortunately, the governor does not have the same sentiments I have regarding the tax refund permanent injunction, which is obvious with his continued appeal of the permanent injunction.

I have always believed the government should provide the necessary services to its people and also should act in the best interest of those it serves. This is why it is so perplexing, appalling, and questionable that the governor continues to appeal the tax refund permanent injunction while using government and taxpayer money to pay private attorneys to continue such an appeal.

Based on the governor's arguments in his injunction appeal, I believe the governor simply wants to have complete control of who gets paid tax refunds and how much tax refunds are paid in a given fiscal year. This complete control is what brought our government to have to borrow hundreds of millions of dollars to pay, that our children and grandchildren will have to burden over the next few decades.

This appeal needs to stop and I appeal to the governor to stop using taxpayer monies to fight against the taxpayers.

Si Yu'us Ma'âse'