

January 2, 2008

MR. VIRGILIO RABASOL  
Calamba  
Cebu City

Dear Mr. Rabasol:

This has reference to your letter dated December 27, 2007, requesting legal opinion on whether or not a person who is under probation or who has a pending criminal case is disqualified to be appointed as barangay secretary.

In reply thereto, please be advised that Section 394 of the Local Government Code of 1991 provides for the qualifications and disqualifications of a person to be appointed as barangay secretary. As provided therein, no person shall be appointed barangay secretary if he is a sangguniang barangay member, a government employee or a relative of the punong barangay within the fourth civil degree of consanguinity or affinity. Conviction of a criminal offense (unless expressly included in the judgment as accessory penalty of perpetual disqualification to hold public office) and being under probation are not among the grounds for disqualification. In other related laws, dismissal from public service as a result of an administrative offense carries with it perpetual disqualification to hold public office.

Truly yours,

PEDRO A. NOVAL, JR.  
Regional Director

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