

Examining Executive Privilege in Light of E.O. 464: A Comment on *Senate of the Philippines, et al. v. Eduardo Ermita, et al.*

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Amidst several controversies currently plaguing the Executive Branch, Pres. Gloria Macapagal-Arroyo issued Executive Order (E.O.) No. 464, declaring particular members of the Executive branch as obligated to seek her consent as a condition for before either the Senate or House of Representatives. The Supreme Court in *Senate of the Philippines, et al. v. Eduardo R. Ermita, et al.*, declared the same null and void and pronounced that it provided for an implied claim of privilege, without stating reasons for making such a claim as required by jurisprudence.

This Comment, for the sake of legal analysis, presents an alternative theory in dissecting the case — that what existed was presumptive privilege rather than an implied claim of privilege.

It is submitted that there was, in fact, no actual controversy in the present case. The matter was not yet ripe for adjudication given that the petition attaching E.O. No. 464 was filed only five days after the said order was issued, the President has not had the opportunity yet to grant or deny consent and therefore make a valid or invalid claim of privilege. Furthermore, E.O. No. 464 should be declared valid in its entirety. This is based on the principle of separation of powers and due respect for co-equal branches of government.