

Midnight Appointments in the Light of the Day

Reynaldo G. Geronimo

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The Article attempts to clarify the constitutional provision on the disposition of the appointments made by the out-going president at the end of his term, more popularly known as “midnight” appointments. This was done by examining a string of Supreme Court decisions which served as the foundation of the known doctrines on the said issue. The established doctrines provide that midnight appointments are not illegal per se since the President, until the day of the proclamation of the president-apparent, is still granted the rights and prerogatives of a Chief Executive. Even so, the Court ruled that in such case, the president stands merely as a caretaker and his conduct should be in conformity with his role. Hence, though not illegal, midnight appointments were declared inequitable. Through this decision, a standard of equity was established and applied to a series of cases that followed. Nevertheless, this standard should not be employed arbitrarily, especially if the appointment was not tainted with any irregularity and made merely to prevent disruption in government affairs. Hence, whether an appointment was to be upheld or not depends on the circumstances surrounding the appointment in question.

The Article ends by discussing various modes of terminating ad interim appointments as done by past presidents and upheld by the Court, namely: by issuing administrative orders, through the disapproval of Commission on Appointments, and through the adjournment of Congress.