

MAY 26 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION  
UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**EMERENCIANA PETER-PALICAN,**

Plaintiff - Appellee,

v.

**GOVERNMENT OF THE  
COMMONWEALTH OF THE  
NORTHERN MARIANA ISLANDS;  
TIMOTHY VILLAGOMEZ,**

Defendants - Appellants.

No. 08-15704

D.C. No. 1:07-CV-00022

**MEMORANDUM\***

Appeal from the United States District Court  
for the District of the Northern Mariana Islands  
Alex R. Munson, District Judge, Presiding

Argued and Submitted May 12, 2009  
Honolulu, Hawaii

Before: **KOZINSKI**, Chief Judge, **BYBEE** and **CALLAHAN**, Circuit  
Judges.

There is no case law interpreting the Commonwealth of the Northern  
Mariana Islands' constitutional provision creating the Special Assistant for

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\* This disposition is not appropriate for publication and is not precedent  
except as provided by 9th Cir. R. 36-3.

Women's Affairs, and no special assistant before Emerenciana Peter-Palican asserted that the position's tenure extended past the term of the appointing governor. Any right Peter-Palican had to continued employment as special assistant past that term was therefore not clearly established. Even assuming that Acting Governor Timothy Villagomez took affirmative steps to terminate Peter-Palican's employment, which is not clear from the record, he is entitled to qualified immunity in the absence of controlling authority interpreting the provision. See Bingham v. City of Manhattan Beach, 341 F.3d 939, 946 (9th Cir. 2003).

**REVERSED.**