



CENTER FOR JUSTICE AND CONSTITUTIONAL LITIGATION

At the Nevada Policy Research Institute

For Immediate Release
November 30, 2011

Contact Victor Joecks
(702) 222-0642, cell (360) 359-3656

NPRI's litigation center files in court to halt constitutional violation by state senator

CARSON CITY, Nev. — State Sen. Moises Denis has violated and continues to violate the Nevada Constitution by holding executive-branch employment while also legislating in the Nevada Senate, charges a lawsuit filed by the Center for Justice and Constitutional Litigation.

The lawsuit was filed on behalf of Bill Pojunis, a computer technician, by the Center for Justice and Constitutional Litigation at the Nevada Policy Research Institute. Named defendants are Denis, the Public Utilities Commission (which is Denis' executive-branch employer), and the state of Nevada.

Denis' dual employment, according to the complaint, violates Article 3, Section 1, of the Nevada Constitution, which reads: "The powers of the Government of the State of Nevada shall be divided into three separate departments,—the Legislative,—the Executive and the Judicial; and no persons charged with the exercise of powers properly belonging to one of these departments shall exercise *any functions*, appertaining to either of the others ..." (Emphasis added)

"Nevada's constitution is perfectly clear: One individual cannot serve in two branches of government," said Joseph Becker, chief legal officer and director of CJCL. "As numerous examples in the last decade have shown — highlighted by the Wendell Williams scandal — no one can serve two masters. Legislators who also work for the executive or judicial branch have competing interests, and it's the taxpayers who are hung out to dry.

"Allowing one person to exercise power in two branches of government leads to numerous conflicts of interests and invites corruption. It also destroys the checks and balances that were built into Nevada's government to protect citizens from power-hungry politicians," said Becker.

Becker noted that Moises Denis, by illegally occupying an executive-branch position, prevents Pojunis and others from holding that position, and that the State of Nevada, by collaborating in this illegality, is violating those individuals' constitutional rights.

During this legislative session, multiple state lawmakers have held executive- or judicial-branch positions while also sitting in the Nevada Legislature. Seated in the Assembly were Kelvin

Atkinson, Olivia Diaz, Jason Frierson, Scott Hammond, Melissa Woodbury and Speaker John Ocegüera. Seated in the Senate were Denis, Ruben Kihuen and Sheila Leslie.

Becker said that anyone who is interested in and qualified for executive- or judicial-branch positions currently occupied by state lawmakers should contact CJCL through its website, <http://justice.npri.org>.

He noted that James Madison, in Federalist Paper 47, had written: “The accumulation of all powers, legislative, executive, and judiciary in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.”

Many of Nevada’s current problems, said Becker, stem from the state’s failure to adhere to its own constitution.

The Center for Justice and Constitutional Litigation is a public-interest law organization that litigates when necessary to protect the fundamental rights of individuals as set forth in the state and federal constitutions.

An unofficial copy of the complaint is available here: <http://justice.npri.org/assets/cases/final-complaint-pojunis.pdf>

A fact sheet on the case is available here: <http://justice.npri.org/assets/cases/fact-sheet-pojunis.pdf>

A list of lawmakers who have or had executive- or judicial-branch employment during their current legislative term is available here: <http://justice.npri.org/assets/cases/lawmakers-working-in-executive-or-judicial-branch.pdf>

** In a previous version of this document, Assemblywoman Lucy Flores was incorrectly listed as having an executive-branch position while serving in the Legislature.*

Previous attention to the separation-of-powers issue by the Nevada Policy Research Institute:

- City of Las Vegas hires elected officials, because they “[added value](#)” in Carson City. <http://www.npri.org/publications/the-lawmakers-vs-the-law-part-i>:

The de facto policy that had existed within Las Vegas city management when she had been a deputy city manager in the early 1990s, said the now-councilwoman, Lynette Boggs McDonald, had been quite clear.

City officials, she said, definitely wanted legislators on the city payroll — because they “[added value](#).”

No other city bigwig at the hearing wanted to touch that radioactive factoid with a 10-foot pole.

[Wendell] Williams himself, however, was more than happy to elaborate.

Given his position as a lawmaker, he said, [city officials would call him](#) to "open doors" in the Legislature that regular employees — i.e., hired lobbyists — could not.

- Wendell Williams, assemblyman and city of Las Vegas employee:
<http://www.npri.org/publications/the-lawmakers-vs-the-law-part-iv>
<http://www.npri.org/publications/the-lawmakers-vs-the-law-part-i>
- Then-assemblywoman Chris Giunchigliani and then-assemblyman Mark Manendo, employed by the College of Southern Nevada, then called Community College of Southern Nevada: <http://www.npri.org/publications/the-lawmakers-vs-the-law-part-iii>
- Kelvin Atkinson, assemblyman and Clark County employee:
<http://www.npri.org/publications/the-lawmakers-vs-the-law-part-ii>
- Why the separation of powers is a vital constitutional principle:
<http://www.npri.org/publications/the-lawmakers-vs-the-law-part-v>

Other reference material:

- A listing of current elected officials who have or had government employment:
<http://www.lvrj.com/opinion/power-play-state-s-separation-of-powers-doctrine-effectively-ignored-121851449.html>

###

The Nevada Policy Research Institute • 7130 Placid St., Las Vegas, NV 89119
Phone: (702) 222-0642 • Fax: (702) 227-0927 • Web site: <http://justice.npri.org>