



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
 PUBLIC INFORMATION OFFICE

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EN BANC

WILSON CARITERO AMAD,
Petitioner,

G.R. No. 258448

Present:

GESMUNDO, *C.J.*,
 LEONEN,
 CAGUIOA,
 HERNANDO,
 LAZARO-JAVIER,
 INTING,*
 ZALAMEDA,
 LOPEZ, M.,
 GAERLAN,
 ROSARIO,
 LOPEZ, J.,
 DIMAAMPAO,
 MARQUEZ,
 KHO,* and
 SINGH, *JJ.*

- versus -

COMMISSION ON ELECTIONS,
Respondent.

Promulgated:

July 5, 2022

X-----
Chonitas - Guendo
 X-----

DECISION

GAERLAN, J.:

Before the Court is a Petition for *Certiorari* (With Extremely Urgent Application for Temporary Restraining Order and/or Preliminary Injunction)¹ dated January 4, 2022 filed by petitioner Wilson Caritero Amad (Amad), assailing the Resolution² dated December 13, 2021 of the Commission on Elections (COMELEC), First Division and the Order³ dated

* No part.
 1 *Rollo*, pp. 6-49.
 2 *Id.* at 50-56; penned by Presiding Commissioner Ma. Rowena Amelia V. Guanzon with Commissioners Marlon S. Casquejo and Aimee P. Ferolino concurring.
 3 *Id.* at 57-59; penned by Chairman Sheriff M. Abas with Commissioners Ma. Rowena Amelia V. Guanzon, Socorro B. Inting, Marlon S. Casquejo, Antonio T. Kho, Jr. (now a Member of the Court) and Aimee P. Ferolina, concurring.

January 3, 2022 of the COMELEC-*En Banc*, and praying that a Temporary Restraining Order (TRO) or Writ of Preliminary Injunction (WPI) be issued restraining the COMELEC from enforcing the same.

Factual Antecedents

On October 7, 2021, Amad filed his Certificate of Candidacy (COC) for Vice President for the May 9, 2022 National and Local Elections (NLE).⁴ Thereafter, the COMELEC filed a Petition⁵ dated October 11, 2021 entitled “In Re: *Motu Proprio* Petition to Declare Wilson Caritero Amad as Nuisance Candidate,” docketed as SPA No. 21-057 (DC)(MP) (the Nuisance Petition).

In the Nuisance Petition, the COMELEC averred, among others, that: (1) Amad does not appear to have a genuine intention to run for public office; (2) he does not have a nationwide network of supporters; (3) he is not personally capable of persuading a substantial number of voters from different parts of the country; and (4) he is not virtually known to the entire country except possibly in the locality where he resides. The COMELEC likewise made much of the fact that in Amad’s COC, he stated that he was running as an independent candidate with no political party to support him.⁶

Ruling of the COMELEC (First Division)

On December 15, 2021, Amad received a copy of the COMELEC (First Division) Resolution⁷ dated December 13, 2021 which granted the Nuisance Petition, the dispositive portion of which reads:

WHEREFORE, premises considered, the instant Petition is **GRANTED**. Accordingly, Respondent **WILSON CARITERO AMAD** is hereby declared as a **NUISANCE CANDIDATE** and his Certificate of Candidacy for Vice President for the 09 May 2022 National and Local Elections is hereby **CANCELLED**.

SO ORDERED.⁸

In declaring Amad as a nuisance candidate, the COMELEC (First Division) ruled that “[t]o run for a national position, one must have an organized and established support that will help enable him to be known

⁴ Id. at 98.

⁵ Id. at 97-113.

⁶ Id. at 103.

⁷ Id. at 50-56.

⁸ Id. at 55.

nationwide, even in the remotest of areas in the country.”⁹ The COMELEC (First Division) likewise added:

As a media broadcaster, catechist and advocate, Respondent, may have a solid support in the areas within the coverage of these endeavors: Northern Mindanao. But the same does not hold true when viewed in the National context. It is worthy to note that Respondent attached letters of support from organizations from areas in Northern Mindanao, and no other Regions elsewhere.

Also, social media may provide Respondent with an avenue where he can present and promote himself and his program of government as well as his advocacy works. Yet, the use of the platform is not without limitations and hitches. To be able to counter these setbacks and to maximize the platform to benefit him, an established network nationwide and strong political machinery will come into play. Unfortunately, Respondent also failed to prove that he possesses the same.

All told, Respondent, failed to prove that he has a bona fide intention to run for Vice President. He failed to refute Petitioner’s assertions and convince the Commission that his popularity in parts of the South coupled with the capitalization of the use of social media will be enough to launch and sustain a nationwide campaign for Vice Presidency.¹⁰

Ruling of the COMELEC (En Banc)

On December 20, 2021, at 5:00 p.m., Amad filed his Motion for Reconsideration,¹¹ *via* email in accordance with COMELEC Resolution No. 10673. The Office of the Clerk of the COMELEC (OCC), in an email dated December 21, 2021, acknowledged receipt of Amad’s motion for reconsideration. The OCC likewise assessed Amad for the filing fees on the motion for reconsideration, and issued an Order of Payment.¹²

Immediately thereafter, and in compliance with the OCC’s directive, Amad paid the filing fees and submitted copies of Official Receipt Nos. 11972559 and 11972558¹³ to the OCC.

On January 3, 2022, Amad received a copy of the Order¹⁴ issued by the COMELEC (*En Banc*), which noted Amad’s payment of the filing fees for his motion for reconsideration, to wit:

⁹ Id. at 54.

¹⁰ Id. at 55.

¹¹ Id. at 60-73.

¹² Id. at 141-143.

¹³ Id. at 146.

¹⁴ Id. at 153.

The Commission (*En Banc*) hereby **NOTES** and **REFERS** to ponente for appropriate action the Official Receipt dated 21 December 2021 of the payment of filing fee for the Motion for Reconsideration filed by the Respondent, and received by the Office of the Clerk of the Commission on 22 December 2021.

SO ORDERED.¹⁵

On the same date, and to Amad's surprise, he also received a copy of the COMELEC (*En Banc*) Order¹⁶ dated January 3, 2022, denying his motion for reconsideration. Particularly, the COMELEC (*En Banc*) stated that Amad's motion for reconsideration was filed at 5:01 p.m. on December 20, 2021, which is past the five-day prescribed period in COMELEC Resolution No. 10673. The COMELEC (*En Banc*) likewise averred that the motion for reconsideration was unverified, and that Amad failed to submit any proof of payment of the prescribed filing fees.¹⁷ Thus, the COMELEC (*En Banc*) ruled as follows:

IN VIEW OF THE FOREGOING, the Commission (*En Banc*) hereby **DENIES** the *Motion for Reconsideration* for being defective and filed out of time.

SO ORDERED.¹⁸

The Instant Petition

On January 4, 2022, Amad timely filed the instant Petition,¹⁹ where he raised the following issues:

- I. WHETHER OR NOT PETITIONER'S MOTION FOR RECONSIDERATION OF THE RESOLUTION DATED DECEMBER 13, 2021 WAS DEFECTIVE AND FILED OUT OF TIME.**
- II. WHETHER OR NOT PETITIONER WILSON CARITERO AMAD IS A NUISANCE CANDIDATE.**²⁰

Anent the first issue, Amad argued that the COMELEC committed grave abuse of discretion amounting to lack or excess of jurisdiction when it declared his motion for reconsideration as defective and filed out of time, considering that the records clearly show that the same was verified and

¹⁵ Id.

¹⁶ Id. at 57-59.

¹⁷ Id.

¹⁸ Id. at 58-59.

¹⁹ Id. at 6-49.

²⁰ Id. at 10-11.

filed on time. Moreover, Amad submitted proof of payment, which was even acknowledged by the OCC.²¹ In any case, Amad argued that a liberal interpretation of COMELEC's rules of procedure is warranted since matters brought before the COMELEC are imbued with public interest.²²

Anent the second issue, Amad argued that the COMELEC failed to clearly demonstrate that he has no *bona fide* intention to run for Vice President. There was no allegation in the Nuisance Petition that Amad filed his COC to cause confusion among voters.²³ Moreover, Amad alleged that his status as an independent candidate, who supposedly has no financial capacity to aspire for a national elective post, cannot be used to declare him as a nuisance candidate, considering that the Constitution only sets forth age, citizenship, voting, and residence qualifications to be able to run for Vice President.²⁴

Finally, in Amad's prayer for the issuance of a TRO/WPI, he argued that because of the COMELEC's grave abuse of discretion, its Resolution dated December 13, 2021 and the Order dated January 3, 2022 are void, and to implement the same will cause him irreparable injury and will result to a denial of Amad's right to participate in the May 2022 NLE.²⁵

Issuance of TRO

Acting on Amad's petition, the Court issued a Resolution²⁶ on January 20, 2022, granting Amad's application for a TRO, and directing the COMELEC to file a comment within 10 days from notice:

NOW, THEREFORE, respondent COMELEC is hereby required to **COMMENT** on the petition within a **NON-EXTENDIBLE** period of ten (10) days from notice hereof. Meanwhile, a **TEMPORARY RESTRAINING ORDER** is **ISSUED**, effective immediately and continuing until further orders from this Court, enjoining You, respondent COMELEC, your agents, representatives, or persons acting in your place or stead, from enforcing the assailed Resolution dated December 13, 2021 and Order dated January 3, 2022 in SPA No. 21-057 (DC)(MP).²⁷

Meanwhile, on January 25, 2022, Amad filed before the Court his Extremely Urgent Motion,²⁸ containing the following prayer:

²¹ Id. at 12.

²² Id. at 16-20.

²³ Id. at 22-23.

²⁴ Id. at 30-31.

²⁵ Id. at 41-44.

²⁶ Id. at 153-A-153-C.

²⁷ Id. at 153-B.

²⁸ Id. at 154-161.

WHEREFORE, premises considered, it is respectfully prayed of the Honorable Court that an Order be issued:

1. Directing the respondent COMELEC to include herein petitioner in the final and official list of candidates for the Vice President for the May 9, 2022 National and Local Elections subject to the final determination of the Honorable Court in this case; and

2. Requiring respondent COMELEC to show cause why it should not be cited in contempt for violation of the Temporary Restraining Order dated 20 January 2022.

Alternatively, in the event that the published ballot face does not contain the *final and official* list of candidates for vice president for the May 9, 2022 National and Local Elections, petitioner respectfully entreats the Honorable Court to NOTE the foregoing manifestations as maybe relevant to the resolution of the Petition.²⁹

In his Extremely Urgent Motion, Amad explained that the TRO issued by the Court effectively entails that he should be treated as a candidate for the position of Vice President. Amad argued that to exclude his name from the official ballots is to enforce the assailed Resolution dated December 13, 2021 and the Order dated January 3, 2022 which declared him as a nuisance candidate.³⁰

However, as noted in the Extremely Urgent Motion, Amad was surprised when, on January 25, 2022, several news articles reported that the COMELEC has already released what appears to be the ballot face for the May 9, 2022 NLE, which does not include Amad's name in the list of candidates for Vice President.³¹

Thus, Amad prayed that the Court issue an Order directing the COMELEC: (1) to include his name in the official ballot for the May 9, 2022 NLE; and (2) to show cause why it should not be cited in contempt for violation of the TRO.³²

On February 2, 2022, the COMELEC filed its Comment,³³ where it primarily argued that: (1) *certiorari* will not lie because Amad's petition only raises errors of judgment; and (2) Amad failed to prove that he possesses a *bona fide* intention to run for national office in the May 2022 NLE.³⁴

²⁹ Id. at 157-158.

³⁰ Id. at 155.

³¹ Id. at 156.

³² Id. at 157.

³³ Id. at 187-208.

³⁴ Id. at 191-192.

Relevantly, on March 11, 2022, the COMELEC filed another Comment,³⁵ where it manifested, among others, that before the issuance of the TRO, the COMELEC had already commenced several pre-election activities, including the preparation of the printing of the official ballots. In particular, the COMELEC stated that on January 9, 2022, the generation of the final ballot face templates had already begun, while the loading of the finalized list of candidates in the COMELEC's Election Management System and the subsequent generation of the Serialized Machine-Readable Official Ballots were done on January 15, 2022. The COMELEC further manifested that on January 19, 2022, the COMELEC had already commenced the configuration of the Secure Digital cards for use in the Vote-Counting Machines and that starting January 23, 2022, the COMELEC already began printing the serialized ballots. Thus, with the foregoing manifestations, the COMELEC argued that the case had already been moot and academic, and should be dismissed.³⁶

The Court's Ruling

The petition is partly meritorious.

On the issue of mootness

To recount, the COMELEC, in its comment, argued that the conduct of the May 2022 NLE rendered Amad's petition moot and academic, and should therefore be dismissed. Notably, the ruling of the Court in *Marquez v. Commission on Elections*³⁷ (*Marquez* case) is instructive vis-à-vis the issue of mootness.

In the *Marquez* case, which involves similar circumstances to the present case, the COMELEC *En Banc*, in its Resolution dated January 23, 2019, cancelled the COC of Norman Cordero Marquez (Marquez) on the ground that he is a nuisance candidate. Marquez elevated his case before the Court, but before the Court could render a decision, the NLE had been concluded.

In giving due course to Marquez's petition despite its being moot with the conclusion of the NLE, the Court explained that it may exercise jurisdiction even over moot issues, if it finds that the case is capable of repetition, yet evading review, to wit:

³⁵ Id. at 180-186.

³⁶ Id. at 181.

³⁷ G.R. No. 244274, September 3, 2019.

The Court is well aware that the May 13, 2019 national and local elections have concluded, with the proclamation of the top 12 candidates receiving the highest number of votes as senators-elect. This development would ordinarily result in the dismissal of the case on the ground of mootness. Since a judgment in one party's (*i.e.*, Marquez) favor will not serve any useful purpose nor have any practical legal effect because, in the nature of things, it cannot be enforced, the Court would normally decline jurisdiction over it.

The Court's power to adjudicate is limited to actual, ongoing controversies. Paragraph 2, Section 1, Article VIII of the 1987 Constitution provides that "judicial power includes the duty of the courts of justice **to settle actual controversies** involving rights which are legally demandable and enforceable x x x." Thus, and as a general rule, this Court will not decide moot questions, or abstract propositions, or declare principles or rules of law which cannot affect the result as to the thing in issue in the case before it.

Such rule, however, admits of exceptions. A court will decide a case which is otherwise moot and academic if it finds that: (a) there was a grave violation of the Constitution; (2) the case involved a situation of exceptional character and was of paramount public interest; (3) the issues raised required the formulation of controlling principles to guide the Bench, the Bar and the public; and (4) the case was capable of repetition yet evading review.

We find that the fourth exception obtains in this case.

x x x x

Here, it was only on January 23, 2019 that the COMELEC *En Banc* rendered its assailed ruling and ultimately decided that Marquez is a nuisance candidate. After receiving a copy of the Resolution on January 28, 2019, he filed this petition on February 14, 2019. Meanwhile, the COMELEC finalized the list of senatorial candidates on January 31, 2019, started printing ballots for national candidates on February 9, 2019, and completing the printing of the same on April 26, 2019. Given this chronology of events, this Court was little wont to issue a TRO, as the same would only delay the conduct of the May 13, 2019 elections.

Moreover, given that the COMELEC appears to be applying the same rule with respect to other aspiring candidates, there is reason to believe that the same issue would likely arise in future elections. Thus, the Court deems it proper to exercise its power of judicial review to rule with finality on whether lack of proof of financial capacity is a valid ground to declare an aspirant a nuisance candidate.³⁸ (Underscoring supplied; emphasis in the original; citations omitted)

Applying the foregoing in the instant case, the Court deems it proper to also delve into the merits of the case despite the conclusion of the May

³⁸ Id.

2022 NLE, considering that, as ruled in the *Marquez* case, similar issues would also likely arise in future elections.

COMELEC's grave abuse of discretion

To recount, Amad ascribes grave abuse of discretion on the part of the COMELEC because the latter ruled that: (1) Amad's motion for reconsideration was defective and filed out of time; and (2) Amad is a nuisance candidate.

Upon review of all the records submitted before the Court, the Court finds that the COMELEC committed grave abuse of discretion in denying Amad's motion for reconsideration and declaring him as a nuisance candidate.

With regard to the COMELEC's ruling that Amad's motion for reconsideration was defective and filed out of time, a plain review of the records reveal otherwise.

COMELEC Resolution No. 10673, which provides for guidelines on the electronic filing of pleadings before the COMELEC, provides:

Rule 2
ELECTRONIC FILING AND SERVICE OF PLEADINGS
AND OTHER PAPERS BY THE PARTIES

SECTION 1. *Filing Through Electronic Mail.* - The filing of verified pleadings, memoranda, comments, briefs, and other submissions, in PDF Format, before the Commission shall be done by the parties through electronic mail (E-mail). **The date of E-mail shall be considered as date of filing.**

Immediately after filing through E-mail, the party shall send, through the fastest means available, including registered mail or any courier service, all pleadings, answers motions, comments, notices, and other court submissions, with complete annexes in four (4) hard copies, to the OCOC, ECAD, or CFO. Proof of payment of the required fees, deposits, and fines, if any, shall be attached thereto.

In case of variance between the hard copy sent through registered mail or any courier service and that filed through E-mail, the latter shall prevail. The party and/or his/her counsel found guilty of deliberately submitting varying copies shall be subjected to the appropriate penalty, including contempt charges or dismissal of the case upon the discretion of the Commission.

Marking of exhibits shall be done on the original copy sent through registered mail or any courier service.

X X X X

SECTION 5. *Schedule of Filing through E-mail.* - The schedule of filing of verified pleadings, memoranda, comments, briefs, and other submissions through E-mail shall be from **Monday to Friday, 8:00 am to 5:00 pm**, excluding holidays. **E-mails received beyond 5:00 pm shall be considered filed at 8:00 am of the next working day.**

Where a deadline falls on a Saturday, a Sunday, or a legal holiday, official transaction shall be done on the next working day. (COMELEC Resolution 8665, September 2, 2009) (Emphasis supplied)

In this case, Amad filed his motion for reconsideration *via* email, within the prescribed time. The time stamp of the email, a copy of which is attached to the petition, indicates that it was sent at 5:00 p.m. Clearly, and contrary to the ruling of the COMELEC, the same was not belatedly filed. In fact, Amad's email was even acknowledged by the OCC, as evidenced by the copy of the email attached to the instant petition. The records also reveal that the motion for reconsideration filed by Amad was verified, and that Amad submitted proof of payment of the prescribed fees to the OCC.

Given the foregoing, it is clear that the COMELEC committed grave abuse of discretion when it denied Amad's motion for reconsideration.

On the other hand, as regards COMELEC's ruling that Amad is a nuisance candidate, the Court is likewise convinced that the COMELEC committed grave abuse of discretion.

Again, the COMELEC granted the Nuisance Petition based on the following grounds: *first*, it appears that Amad's support is only limited to areas within Northern Mindanao; *second*, it appears that Amad failed to prove that he possesses an established network nationwide and a strong political machinery; and *third*, Amad failed to prove that: (1) he has a *bona fide* intention to run for Vice President, and (2) his popularity in the South coupled with the capitalization of the use of social media will be enough to launch and sustain a nationwide campaign.

Relevantly, as pointed out by Amad in the instant petition, the Constitution only prescribes age, citizenship, voting and residence qualifications to be able to run for Vice President. Clearly, being known throughout the Philippines and having an established network nationwide are not qualifications for Vice President. In fact, the lack thereof are not even

grounds to be declared as a nuisance candidate in accordance with the Omnibus Election Code.

Section 69 of the Omnibus Election Code of the Philippines³⁹ provides:

Sec. 69. Nuisance candidates. - The Commission may, *motu proprio* or upon a verified petition of an interested party, refuse to give due course to or cancel a certificate of candidacy if it is shown that said certificate **has been filed to put the election process in mockery or disrepute or to cause confusion among the voters by the similarity of the names of the registered candidates or by other circumstances or acts which clearly demonstrate that the candidate has no bona fide intention to run for the office for which the certificate of candidacy has been filed and thus prevent a faithful determination of the true will of the electorate.** (Emphasis supplied)

Thus, pursuant to the above-cited provision, the only grounds for which a candidate may be declared as a nuisance candidate are as follows: (1) that such candidate only filed his or her COC to put the election process in mockery or to cause disrepute; (2) that such candidate only filed his or her COC to cause confusion among the voters; and (3) that there exists circumstances that clearly demonstrate that the candidate has no *bona fide* intention to run for office to prevent a faithful determination of the true will of the electorate.

Here, the records are bereft of any evidence to clearly establish that Amad's filing of his COC was intended to put the election process in mockery or to cause confusion among the voters. Moreover, the COMELEC's allegation that Amad is only known within Northern Mindanao also does not establish that he has no *bona fide* intention to run for Vice President.

Thus, it is manifestly clear that the COMELEC committed grave abuse of discretion when, without any factual or legal basis, it denied Amad's motion for reconsideration, and declared him a nuisance candidate.

Violation of TRO and indirect contempt of Court

As previously mentioned, on January 20, 2022, the Court issued a TRO directing the COMELEC to include Amad's name in the official ballots. However, it is undisputed that the COMELEC did not comply with

³⁹ Batas Pambansa Blg. 881. Approved, December 3, 1985.

such directive, considering that, as explained by the COMELEC, several pre-election activities had already commenced even before the issuance of the TRO. Particularly, the COMELEC stated in its comment that on **January 9, 2022**, the generation of the final ballot face templates had already begun, while the loading of the finalized list of candidates in the COMELEC's Election Management System and the subsequent generation of the Serialized Machine-Readable Official Ballots were done on **January 15, 2022**. The COMELEC further manifested that on **January 19, 2022**, the COMELEC had already commenced the configuration of the Secure Digital cards for use in the Vote-Counting Machines and that starting **January 23, 2022**, the COMELEC already began printing the serialized ballots.

While the Court commiserates with the efforts of the COMELEC to avoid logistical nightmares and time constraints in the preparation of the 2022 NLE, it bears noting that as early as **January 4, 2022**, or a day after the COMELEC (*En Banc*) Order denying his motion for reconsideration was promulgated, Amad availed of his statutory remedies before the Court to challenge the COMELEC's dispositions. In other words, the COMELEC knew from the onset, and even prior to the commencement of its pre-election activities, that: (1) Amad was challenging his being declared as a nuisance candidate; (2) the Court may resolve his case in his favor; and (3) a TRO may be issued enjoining the COMELEC from enforcing its Resolution dated December 13, 2021 and Order dated January 3, 2022.

Notably, without considering Amad's statutory right to challenge the COMELEC's dispositions, the COMELEC proceeded with its pre-election activities, and even commenced the printing of the serialized ballots without Amad's name on January 23, 2022, **after** the Court's issuance of the TRO. Thus, it is simply undeniable that the COMELEC violated the Court's TRO.

In this regard, it is worthy to recall that Amad also sought that the COMELEC be cited in contempt for its violation of the Court's TRO.

The Court's contempt powers over the COMELEC has been exhaustively discussed in *Philippine Guardians Brotherhood, Inc. v. Commission on Elections (PGBI case)*,⁴⁰ where the Court cited the COMELEC in contempt for violating the Court's *Status Quo* Order.

In the *PGBI* case, the Court issued a *Status Quo* Order directing the COMELEC to include PGBI in the list of candidates for the party-list system in the May 10, 2010 elections pending the final determination of PGBI's qualification to be voted upon as a party-list organization. Eventually, the

⁴⁰ 661 Phil. 427 (2011).

Court issued a Resolution declaring that PGBI was qualified to be voted upon as a party-list organization. However, despite the *Status Quo* Order and the Court's Resolution, PGBI was never included in the ballot as one of the accredited party-list groups or organizations eligible for election under the party-list system. In view thereof, the Court found that the COMELEC Chair and Members were guilty of indirect contempt of court and severely reprimanded them for their disobedience of the Court's *Status Quo* Order:

After due consideration of the attendant facts and the law, we find the Comelec guilty of indirect contempt of this Court.

The Comelec Chair and Members are guilty of indirect contempt of Court

We explained in *Ang Bagong Bayani-OFW Labor Party v. COMELEC* the Court's contempt power as follows:

The power to punish contempt is inherent in all courts, because it is essential to the preservation of order in judicial proceedings, and to the enforcement of judgments, orders and mandates of the courts; and, consequently, to the due administration of justice.

Under our Rules of Court, contempt is classified into direct and indirect. Direct contempt, which may be summary, is committed "in the presence of or so near a court as to obstruct or interrupt the proceedings before the same, including disrespect toward the court, offensive personalities toward others, or refusal to be sworn or to answer as a witness, or to subscribe an affidavit or deposition when lawfully required to do so."

Indirect contempt, on the other hand, is not committed in the presence of the court and can be punished only after notice and hearing. Disobedience or resistance to a lawful writ, process, order or judgment of a court or injunction granted by a court or judge constitutes indirect contempt. x x x.

x x x x

Based on the recited antecedent facts, **it cannot be disputed that the Comelec did not comply with our *Status Quo* Order**; it simply pleaded *insurmountable and tremendous operational constraints and costs implications* as reasons for its avoidance of our Order. It essentially posited that compliance with our *Status Quo* Order was rendered impossible by the automation of the May 10, 2010 elections.

x x x x

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The Appropriate Penalty

Section 7, Rule 71 of the Rules of Court provides the penalty for indirect contempt. Section 7 of Rule 71 reads:

SEC. 7. *Punishment for indirect contempt.* — If the respondent is adjudged guilty of indirect contempt committed against a Regional Trial Court or a court of equivalent or higher rank, he may be punished by a fine not exceeding thirty thousand pesos or imprisonment not exceeding six (6) months, or both. x x x

In the past, we have found the Chairman and members of the Comelec guilty of indirect contempt in *Ang Bagong Bayani-OFW Labor Party v. COMELEC*. In that case, we held that the Chairman and members of the COMELEC guilty of contempt and required them to pay a fine in the amount of [P]20,000.00 for “degrading the dignity of th[e] Court; for brazen disobedience to its lawful directives, in particular its Temporary Restraining Order dated May 9, 2001; and for delaying the ultimate resolution of the many incidents of the case, to the prejudice of the litigants and of the country.” We also warned the Comelec that a repetition of the same or similar acts shall be dealt with more severely in the future.

Evidently, the Rule cited above does not provide that reprimand may be imposed on one found guilty of indirect contempt. However, we have in recent cases imposed a penalty less than what is provided under the Rules **if the circumstances merit such.**

x x x x

In the present case, special circumstances exist which call for our leniency and compel us to impose the penalty of severe reprimand instead of imprisonment and/or fine under Section 7, of Rule 71 of the Rules of Court as we have ruled in *Ang Bagong Bayani-OFW Labor Party*. We emphasize that although automation is a special circumstance that should be considered in the present incidental matter, however, its effect on the Comelec’s non-compliance is merely to **mitigate, not to totally exculpate**, the Comelec from liability for its failure to comply with our *Status Quo* Order. In other words, even if we grant that automation might have posed some difficulty in including a new party in the party-list listing, the Comelec still failed to prove to our satisfaction that the PGBI’s inclusion was technically impossible and could not have been done even if the Comelec had wanted to. Thus, at the most, we can give the Comelec the benefit of the doubt to the extent of recognizing its excuse as a mitigating factor.

Therefore, instead of imposing the penalty of imprisonment and/or fine provided under Section 7, Rule 71 of the Revised Rules of Court, we deem it proper to impose upon the Comelec, particularly on its Chair and Members the penalty of severe reprimand, with a stern warning that a repetition of the same offense shall be dealt with more severely.⁴¹

⁴¹ Id. at 437-443.

Applying the foregoing jurisprudential guide, the Court also finds it proper to cite the members of the COMELEC in contempt for violation of the TRO, and to impose the penalty of severe reprimand. On this note, however, the Court recognizes that the composition of the COMELEC has changed since the issuance of the TRO and its consequent violation. As such, the Court clarifies that the resolution of this case only affects the COMELEC and its membership who were the ones directly responsible for the TRO's violation.

Final Word

The COMELEC is a constitutional body⁴² which is tasked to ensure a free, orderly, honest, peaceful and credible elections,⁴³ thereby safeguarding the democratic process. Relevantly, part of such duty is to secure that every person is given a fair opportunity to participate, either as a voter or as a candidate.

In this regard, the Court observes that, in several instances, candidates who face disqualification cases or suits for their declaration as nuisance candidates, are rendered moot because their cases remain pending even after the conclusion of the NLE. Thus, to prevent similar situations to occur in the future, the COMELEC must resolve with dispatch all cases pending before it, in accordance with the prescribed periods provided in the COMELEC Rules of Procedure.⁴⁴ With cases promptly resolved by the COMELEC, interested parties are immediately able to elevate their cases before the Court.

Moreover, the Court enjoins the COMELEC to publish its schedule of events, including its pre-election activities, to inform the public, particularly interested parties who seek to challenge the COMELEC's rulings.

As stated above, for the 2022 NLE, the COMELEC began the printing of the official ballots on January 23, 2022. Noteworthy is the fact that the

⁴² 1987 CONSTITUTION, Article 9.

⁴³ 1987 CONSTITUTION, Article 9, Section 2(4).

⁴⁴ COMELEC RULES OF PROCEDURE, Rule 18, Sections 7 and 8 provides:

SECTION 7. *Period to Decide by the Commission En banc.* — Any case or matter submitted to or heard by the Commission *en banc* shall be decided within thirty (30) days from the date it is deemed submitted for decision or resolution, except a motion for reconsideration of a decision or resolution of a Division in Special Actions and Special Cases which shall be decided within fifteen (15) days from the date the case or matter is deemed submitted for decision, unless otherwise provided by law.

SECTION 8. *Period to Decide by a Division.* — Any case or matter heard by a Division shall be decided within ten (10) days from the date it is deemed submitted for decision or resolution, except in Special Actions and Special Cases which shall be decided or resolved within five (5) days from the date they are deemed submitted for decision or resolution, unless otherwise provided by law.


schedule of printing of official ballots and the other pre-election activities were not included in the COMELEC's calendar of events as indicated in COMELEC Resolution No. 10695 dated February 10, 2021. Thus, interested parties, such as Amad, were not made aware of the COMELEC's timeline, which, incidentally, overlapped with the prescribed periods within which Amad could validly question the COMELEC's rulings against him. Resultantly, Amad and other aggrieved parties, while availing their statutory remedies before the Court, had their cases rendered moot.

The Court, too, was left unaware of the COMELEC's timeline of events and pre-election activities. Plain and simple, while the Court was in the process of reviewing the records and resolving the cases, including applications for TRO, with urgency, the COMELEC's acts rendered these cases moot.

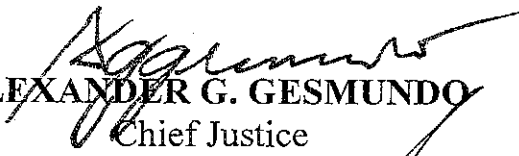
Therefore, in order to prevent similar issues in the future, and to avoid violations of the Court's lawful orders, the COMELEC must find an intricate balance between: (1) safeguarding the democratic process which necessitates respecting parties' rights to avail of their statutory remedies; and (2) ensuring a clean and fair elections which entails the timely conduct of pre-election activities.

WHEREFORE, the Petition for *Certiorari* filed by Wilson Caritero Amad is **DENIED** insofar as it has become **MOOT** and **ACADEMIC**. Nevertheless, the members of the Commission on Elections are found **GUILTY** of **CONTEMPT** of the Supreme Court for their disobedience to the Court's lawful directive, specifically the Temporary Restraining Order dated January 20, 2022. Accordingly, they are **REPRIMANDED** for this disobedience.

SO ORDERED.


SAMUEL H. GAERLAN
Associate Justice

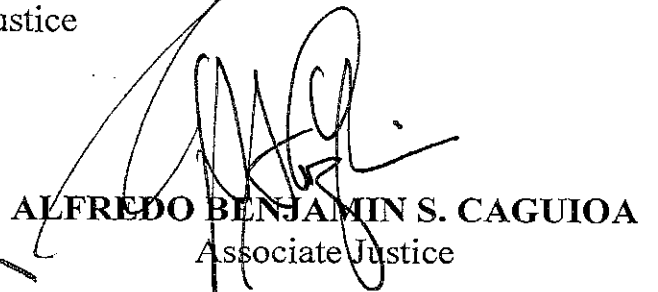
WE CONCUR:



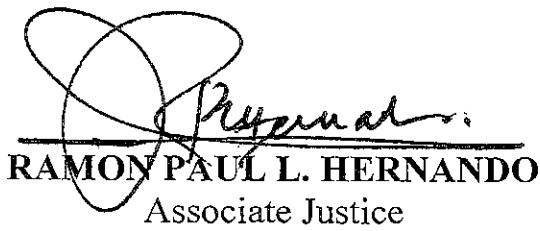
ALEXANDER G. GESMUNDO
Chief Justice



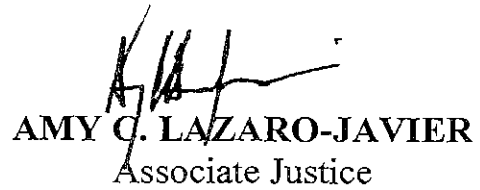
MARVIC M.V.F. LEONEN
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

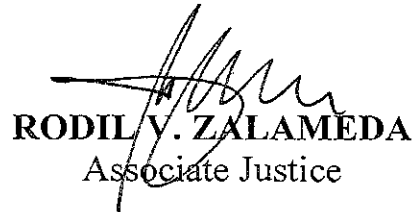


RAMON PAUL L. HERNANDO
Associate Justice

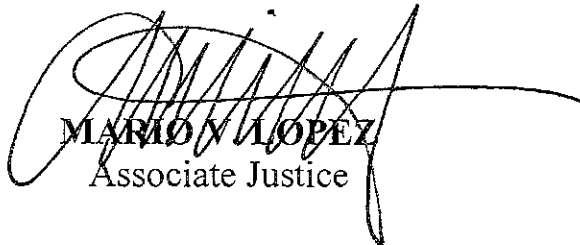


AMY C. LAZARO-JAVIER
Associate Justice

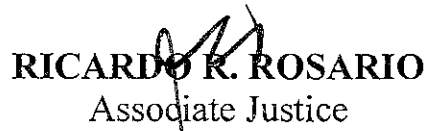
(No part)
HENRI JEAN PAUL B. INTING
Associate Justice



RODIL V. ZALAMEDA
Associate Justice



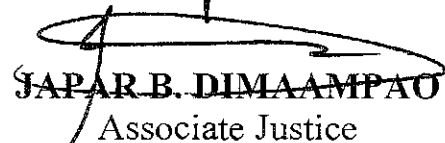
MARIO V. LOPEZ
Associate Justice



RICARDO R. ROSARIO
Associate Justice



JHOSEP V. LOPEZ
Associate Justice

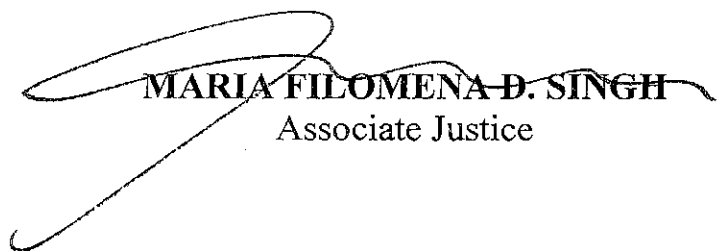


JAPAR B. DIMAAMPAO
Associate Justice



JOSE MIDAS P. MARQUEZ
Associate Justice

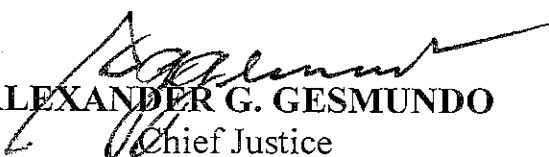
(No part)
ANTONIO T. KHO, JR.
Associate Justice



MARIA FILOMENA D. SINGH
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.


ALEXANDER G. GESMUNDO
Chief Justice

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