



Republic of the Philippines
COMMISSION ON ELECTIONS
Intramuros, Manila

IN THE MATTER OF THE	Garcia,	G.M., <i>Chairman</i>
DISQUALIFICATION OF A	Inting,	S.B., <i>Commissioner</i>
CANDIDATE PURSUANT TO	Casquejo,	M.S. <i>Commissioner</i>
SECTION 12, ARTICLE I OF THE	Ferolino,	A.P., <i>Commissioner</i>
OMNIBUS ELECTION CODE	Bulay,	R.E., <i>Commissioner</i>
	Maceda,	E.P., <i>Commissioner</i>
	Celis,	N.J., <i>Commissioner</i>

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RESOLUTION NO. 11044-A

WHEREAS, in the case of *Jalosjos vs. COMELEC* (G.R. No. 205033, 18 June 2013), the Supreme Court stated that “[e]ven without a petition under either Section 12 or Section 78 of the Omnibus Election Code, or under Section 40 of the Local Government Code, the COMELEC is under a legal duty to cancel the certificate of candidacy of anyone suffering from the accessory penalty of perpetual special disqualification to run for public office by virtue of a final judgment of conviction” and that “[t]he disqualification of a convict to run for public office under the Revised Penal Code, as affirmed by final judgment of a competent court, is part of the enforcement and administration of ‘all laws’ relating to the conduct of elections.”

WHEREAS, it has been long-established that decisions of the Ombudsman imposing a penalty of dismissal are immediately executory under Section 7, Rule III of Administrative Order No. 7 or the Rules of Procedure of the Office of the Ombudsman.¹

WHEREAS, while the length of imprisonment/penalty imposed may be determined in a final judgment of conviction for purposes of determining the applicability of Section 12 of the Omnibus Election

¹ See HRET Case No. 19-009, which cited the cases of *Office of the Ombudsman vs. Samaniego* (G.R. No. 175573, October 5, 2010) and *Villaseñor, et al. vs. The Ombudsman* (G.R. No. 202303, June 4, 2014).

Code² and/or Section 40 of the Local Government Code,³ the same may not be appropriate subject of administrative cancellation of COCs. The special disqualification in these provisions is limited in period and may require an adjudication of facts between the parties to determine if the period of disqualification has lapsed.

WHEREAS, there is a need to harmonize the existing laws and jurisprudence relating to the disqualification of candidates *viz-a-viz* the Commission's duty to cancel the certificates of candidacy of persons convicted of crimes where the penalty of perpetual disqualification, either as a principal or as an accessory penalty, is imposed, as well as to implement the decisions of the Office of the Ombudsman imposing the penalty of dismissal.

NOW THEREFORE, after due deliberation, the Commission *En Banc*, by virtue of the powers vested in it by the Constitution, the Omnibus Election Code, the Administrative Code of 1987 and other relevant statutes, hereby **RESOLVES** that the referral for administrative cancellation of Certificate of Candidacy (COC) to the Law Department be limited to instances when there is an executory decision of the Ombudsman imposing a penalty of disqualification; or when there is a final judgment of conviction which imposes an accessory penalty or disqualification when the principal penalty of perpetual disqualification as the COMELEC is bound to implement these decisions as part of its mandate to enforce and administer all laws relating to elections under Section 2(1) of Article IX-C of the 1987 Constitution.

² SECTION 12. *Disqualifications.* - Any person who has been declared by competent authority insane or incompetent, or has been sentenced by final judgment for subversion, insurrection, rebellion or for any offense for which he has been sentenced to a penalty of more than eighteen months or for a crime involving moral turpitude, shall be disqualified to be a candidate and to hold any office, unless he has been given plenary pardon or granted amnesty.

This disqualifications to be a candidate herein provided shall be deemed removed upon the declaration by competent authority that said insanity or incompetence had been removed or after the expiration of a period of five years from his service of sentence, unless within the same period he again becomes disqualified.

³ SEC. 40. *Disqualifications.* - The following persons are disqualified from running for any elective local position: law li

- (a) Those sentenced by final judgment for an offense involving moral turpitude or for an offense punishable by one (1) year or more of imprisonment, within two (2) years after serving sentence;
- (b) Those removed from office as a result of an administrative case;
- (c) Those convicted by final judgment for violating the oath of allegiance to the Republic;
- (d) Those with dual citizenship;
- (e) Fugitives from justice in criminal or nonpolitical cases here or abroad;
- (f) Permanent residents in a foreign country or those who have acquired the right to reside abroad and continue to avail of the same right after the effectivity of this Code; and
- (g) The insane or feeble-minded.

On the other hand, cases with penalties without the accessory penalty of perpetual disqualification but may fall under Section 12, Article I of the Omnibus Election Code or any of the grounds under Section 40 of the Local Government Code of 1991 should be proper subject of a petition for disqualification and not automatic administrative cancellation.

Resolution No. 11044, promulgated 28 August 2024, is hereby AMENDED.

Let the Education and Information Department cause the publication of this Resolution in two (2) daily newspapers of general circulation in the Philippines.

SO ORDERED.

GEORGE ERWIN M. GARCIA

Chairman

SOCORRO B. INTING

Commissioner

MARLON S. CASQUEJO

Commissioner

AIMEE P. FEROLINO

Commissioner

REY E. BULAY

Commissioner

ERNESTO FERDINAND P. MACEDA, JR.

Commissioner

NELSON J. CELIS

Commissioner

CERTIFICATION

APPROVED for publication on **04 September 2024**.



CONSUELO B. DIOLA

Director IV

This Resolution can be verified at this number (02)85272987; email address comsec@comelec.gov.ph.