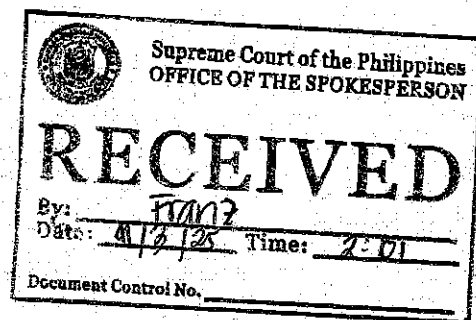




Republic of the Philippines
Supreme Court
Manila

EN BANC

SUBAIR GUINTHUM MUSTAPHA,
Petitioner,

G.R. No. 277177

Present:

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

- versus -

COMMISSION ON ELECTIONS,
Respondent.

Promulgated:

July 8, 2025

X

DECISION

GESMUNDO, C.J.:

This *Petition for Certiorari*¹ with prayer for the issuance of a temporary restraining order (TRO) and/or writ preliminary injunction (WPI) assails the

* On wellness leave.

** On leave.

¹ Rollo, pp. 3-14.

November 29, 2024 Resolution² of the Commission on Elections (COMELEC) *En Banc*, which affirmed the COMELEC Second Division's November 14, 2024 Omnibus Resolution³ (collectively, assailed Resolutions). The Second Division's Omnibus Resolution declared petitioner Subair Guinthum Mustapha (Mustapha) a nuisance candidate and consequently, cancelled his Certificate of Candidacy⁴ (CoC) for the position of senator in the forthcoming National and Local Elections (NLE) on May 12, 2025.

Antecedents

On October 8, 2024, Mustapha, through an authorized representative, filed with the COMELEC his CoC and Certificate of Nomination and Acceptance⁵ under the Workers and Peasants Party (WPP) for the position of senator in the 2025 NLE.⁶

In a verified *motu proprio* Petition⁷ dated October 14, 2024, the COMELEC Law Department sought to declare Mustapha as a nuisance candidate and accordingly, deny due course to and/or cancel his CoC. The COMELEC Law Department argued that Mustapha's candidacy is merely a farce that puts the election process in mockery or disrepute.⁸ Moreover, it maintained that Mustapha has no bona fide intent to run for senator.⁹

In support of its arguments, the COMELEC Law Department alleged the following circumstances, namely: (1) Mustapha has no propensity to serve the public or be of service to others;¹⁰ (2) Mustapha has no track record of his advocacies or civic engagements;¹¹ (3) Mustapha, through his representative, has not discussed his advocacies or platforms of government despite the opportunity given him immediately after the filing of his CoC on October 8, 2024;¹² (4) Mustapha has shown no interest in engaging with the public or making himself known to the masses;¹³ and (5) Mustapha once ran for the

² *Id.* at 86–91. The November 29, 2024 Resolution in SPA No. 24-097 (DC)(MP) was signed by Chairman George Erwin M. Garcia and Commissioners Socorro B. Inting, Marlon S. Casquejo, Aimee P. Ferolino, Rey E. Bulay, Ernesto Ferdinand P. Maceda, Jr., and Nelson J. Celis of the Commission on Elections *En Banc*, Intramuros, Manila.

³ *Id.* at 64–71. The November 14, 2024 Omnibus Resolution in SPA No. 24-098 (DC)(MP) was signed by Presiding Commissioner Marlon S. Casquejo and Commissioners Rey E. Bulay and Nelson J. Celis of the Second Division, Commission on Elections, Intramuros, Manila.

⁴ *Id.* at 15.

⁵ *Id.* at 16.

⁶ *Id.* at 4.

⁷ *Id.* at 19–31.

⁸ *Id.* at 24.

⁹ *Id.* at 27.

¹⁰ *Id.* at 24.

¹¹ *Id.* at 25.

¹² *Id.*

¹³ *Id.* at 27.

position of Member, House of Representatives, in the Province of Lanao del Sur but gained only 5,387 votes or 2.01% of the total votes cast, suggesting that Mustapha's participation in the election served as more of a distraction, preventing the faithful determination of the true will of the electorate.¹⁴

In his Answer¹⁵ dated October 19, 2024, Mustapha denied all of the COMELEC Law Department's allegations. He averred that he is not a nuisance candidate and that he is a qualified and serious contender for the position of senator as evidenced by his academic background, leadership experience, commitment to labor advocacy, and personal program of governance.¹⁶

As regards his academic background and capability, Mustapha claimed that he holds a law degree from Manuel L. Quezon School of Law and a specialization in Shari'ah Law from Mindanao State University, and earned units in the University of the Philippines' masteral program for Islamic studies.¹⁷ He asserted that these achievements more than qualify him for senator as he is equipped with the skills necessary to address complex legislative matters, particularly those affecting the marginalized communities and workers.¹⁸

On his advocacies and civic engagements, Mustapha claimed that he has actively participated in the labor sector, together with his co-aspirant and party-mate Atty. Jose Sonny Matula, who is the only remaining senatorial candidate of the WPP.¹⁹ He averred that he has been, and still is, actively involved in assisting workers. He also maintained that he is dedicated to social justice and to the advancement of workers' rights.²⁰

Anent his platforms of government, Mustapha asserted that he subscribes to the WPP's platforms namely, the nationalization of the wage-setting system, termination of contractualization, regularization of long-term workers, and in general, the empowerment of workers through unionization and collective bargaining.²¹ He further claimed that his personal platforms include the uplifting of marginalized sectors, promoting peace and development in Mindanao, and addressing corruption in the government.²²

¹⁴ *Id.* at 28.

¹⁵ *Id.* at 38-45.

¹⁶ *Id.* at 39.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* at 39-40.

²² *Id.* at 40.

On his alleged failure to present his platforms of government when he filed his CoC, he explained that he was unable to do so because he was suffering from high blood pressure at that time. He argued that his representative's failure to explain his platform of government should not be taken against him.²³

As regards his leadership, influence, and public engagement, Mustapha claimed that he is a Sultan and a recognized leader of Marawi, and thus, he has the respect of, and maintains a deep connection with the people he seeks to represent.²⁴ He added that his role as a Sultan reinforces his capacity for public service and leadership.²⁵ He posited that his party is a well-recognized national political party since 1963 and that it has a long-standing engagement in Philippine politics.²⁶ Finally, he contended that lack of political machinery or financial resources are not sufficient grounds to disqualify a candidate as a nuisance candidate, and that the key consideration is the bona fide intention to run for public office.²⁷

In sum, Mustapha submitted that his legal training, his nomination by the WPP, his deep engagement with labor issues, his role as a Sultan, and his dedication to national reforms clearly reflect his bona fide intention to run for the position of senator.²⁸

On November 5, 2024, the WPP filed its Motion to Intervene.²⁹ In its Motion, the WPP alleged that it is a duly accredited and recognized national political party by the COMELEC since February 3, 1963. It maintained that since said time, it has actively participated in various national and local elections by itself or in alliance with other national political parties.³⁰

The WPP expressed support for Mustapha and its other candidates, insisting that they are not nuisance candidates and asserting that they are all qualified and deserving of the positions they each aspired for. It added that its senatorial candidates will not put the election process in mockery or disrepute, and that all of them have the intention and capability to run a viable campaign. Further, the WPP railed against the COMELEC's stance that its candidates have no internet media presence, as internet media is not the only vehicle by which a candidate promotes his or her political agenda. It explained that such political agenda can also be promoted through the different national

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.* at 41.

²⁹ *Id.* at 59–63.

³⁰ *Id.* at 59.

organizations and factions from which their candidates belong. WPP concluded that its candidates are not nuisance candidates and hence, their CoCs must be given due course.³¹

The COMELEC consolidated the Petition against Mustapha with petitions against two other prospective candidates. On November 14, 2024, the COMELEC Second Division issued an Omnibus Resolution,³² declaring Mustapha and the two others as nuisance candidates because they purportedly filed their CoCs with the intent to put the election process in mockery or disrepute, and that they had no bona fide intention to run for senator. The dispositive portion of the Second Division's Resolution reads:

WHEREFORE, premises considered, the Commission (Second Division) **RESOLVED**, as it hereby **RESOLVES** to **GRANT** the Petitions. The Certificates of Candidacy of **EDGARDO LIBUAN DUQUE**, **SUBAIR GUINTHUM MUSTAPHA**, and **ARTEMIO MADRIDEJO MAQUIISO** are hereby **CANCELLED**.

SO ORDERED.³³ (Emphasis in the original)

Explaining its ruling, the COMELEC Second Division determined that the subject candidates have no serious intention to mount a nationwide campaign. It added that said candidates filed their CoCs merely to gain attention, promote a general advocacy, or to simply be noticed in the political sphere.³⁴ Likewise, the COMELEC Second Division observed that the candidates' behavior during the filing of their CoCs reflected their lack of serious intent, capability, or suitability for public office. This supposed behavior includes making exaggerated or frivolous promises that are patently unrealistic or irrelevant to the national office they seek to be elected.³⁵ Furthermore, the COMELEC Second Division noted that none of the candidates have articulated defined agendas or policy positions, supposedly indicating their lack of bona fide intention to fulfill the responsibilities of the office they seek.³⁶ Finally, the COMELEC Second Division found that the subject candidates participated in the 2022 NLE as candidates for various positions but received low turnout of votes. It underscored that the foregoing circumstances clearly displayed the subject candidates' lack of sincerity in

³¹ *Id.* at 61–63.

³² *Id.* at 64–71.

³³ *Id.* at 70.

³⁴ *Id.* at 68.

³⁵ *Id.* at 68–69.

³⁶ *Id.* at 69.

their candidacy and of their intention to disrupt the election process and put it to mockery.³⁷

Aggrieved, Mustapha filed a Motion for Reconsideration³⁸ before the COMELEC *En Banc*, reiterating his arguments in support of his claim that he is not a nuisance candidate.³⁹

On November 29, 2024, the COMELEC *En Banc* issued the assailed Resolution denying Mustapha's Motion for Reconsideration and affirming the COMELEC Second Division's November 14, 2024 Omnibus Resolution, viz.:

WHEREFORE, premises considered, the Commission (*En Banc*) **RESOLVED**, as it hereby **RESOLVES**, to **DENY** the Motion for Reconsideration.

SO ORDERED.⁴⁰ (Emphasis in the original)

Undaunted, Mustapha filed the present Petition ascribing grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the COMELEC when it rendered the assailed Resolutions.

First, he claims that the findings of the COMELEC therein were merely based on the speculations and conjectures made by the COMELEC Legal Department. He insists that the COMELEC literally adopted, even without proof, the submissions of its Legal Department. He points out that this effectively shifted the burden of proof to him instead, which is contrary to the ruling of the Court in *Marquez v. Commission on Elections*⁴¹ (Marquez 2022).⁴²

Second, he avers that his circumstances are very similar to those in *Marquez 2022*, namely: (1) he too filed a CoC which is a sworn document; (2) this is not the first time he filed a CoC as admitted by the COMELEC; (3) he was initially declared a nuisance candidate and is now seeking judicial remedy; (4) he has been very vigilant in defending his candidacy; and (5) he crafted his own program of governance to be implemented should he win the election.⁴³

³⁷ *Id.* at 69–70.

³⁸ *Id.* at 72–75.

³⁹ *Id.* at 72–74.

⁴⁰ *Id.* at 89–90.

⁴¹ 924 Phil. 179 (2022) [Per J. Lazaro-Javier, *En Banc*].

⁴² *Rollo*, p. 9.

⁴³ *Id.* at 11.

Third, he maintains that he has adequately rebutted the allegations of the COMELEC Law Department by laying down his full credentials, trainings, activities of serving the Filipino people, and his platform of government.⁴⁴

Finally, he criticizes as preposterous and illogical the COMELEC's declaration that his receipt of minimal votes during the 2022 NLE is indicative of his lack of sincerity in his candidacy.⁴⁵

Based on the above, Mustapha further prays for the issuance of a TRO and/or WPI pending the resolution of his Petition.⁴⁶

On December 11, 2024, Mustapha filed an Urgent Motion to Issue Temporary Restraining Order,⁴⁷ reiterating his prayer for the Court to issue a TRO to restrain the enforcement of the assailed Resolutions, and to order the COMELEC to include his name in the 2025 NLE ballot as an official candidate under the WPP for the position of senator.⁴⁸ Mustapha alleges that the COMELEC will start printing the ballot for the 2025 NLE on December 13, 2024 and argues that he will suffer injustice and irreparable injury if a TRO will not be issued considering that a substantial number of his constituents in Mindanao have committed to support him.⁴⁹ He states anew that his bona fide intent to run for senator is clear, contrary to the bare allegations of the COMELEC.⁵⁰

On January 14, 2025, the Court issued a TRO⁵¹ enjoining COMELEC from implementing the assailed Resolutions insofar as it cancelled the CoC of Mustapha for the position of senator and denied his Motion for Reconsideration.⁵² The Court likewise required Mustapha to cure the noted procedural defects in his Petition and directed the COMELEC to file its comment to said Petition.⁵³

On January 22, 2025, the COMELEC, through the Office of the Solicitor General, filed its Comment.⁵⁴ In said Comment, the COMELEC

⁴⁴ *Id.*

⁴⁵ *Id.* at 12.

⁴⁶ *Id.* at 12–13.

⁴⁷ *Id.* at 92–96.

⁴⁸ *Id.* at 93.

⁴⁹ *Id.* at 92–93.

⁵⁰ *Id.* at 93.

⁵¹ *Id.* at 111–113.

⁵² *Id.* at 112.

⁵³ *Id.* at 111–112.

⁵⁴ *Id.* at 132–150.

counters that it did not commit grave abuse of discretion, and maintains that Mustapha is a nuisance candidate.⁵⁵

The COMELEC states that it is vested by no less than the Constitution with the administration of elections, and that it was endowed with considerable latitude in adopting means and methods to ensure the promotion of free, orderly, and honest elections.⁵⁶ It posits that no grave abuse of discretion can be attributed to it because it merely exercised its mandate of ensuring the removal of nuisance candidates.⁵⁷ Further, it asserts that the assailed Resolutions were based on its own appreciation of the facts vis-à-vis the laws and jurisprudence pertinent thereto.⁵⁸ Finally, the COMELEC argues that even assuming that it committed an error in the appreciation of the facts, the same is, at best, an error in judgment and not an error of jurisdiction.⁵⁹

The COMELEC reiterates its finding that Mustapha is a nuisance candidate.⁶⁰ In addition, the COMELEC argues, for the first time, that the most obvious badge of Mustapha's lack of bona fide intention to run for office and his mockery of the election process is his supposed patent lack of caution in making false representations in his curriculum vitae submitted to the COMELEC.⁶¹ The COMELEC notes the following:

- 1) Mustapha represented himself as a former assistant resident ombudsman in the Office of Muslim Affairs from 1990-1992. However, in a certification dated January 17, 2025, the Office of the Ombudsman stated that "there is/was no employee in this Office by the name of SUBAIR GUINTHUM MUSTAPHA."⁶²
- 2) Mustapha represented himself as a former instructor/professor of the Philippine Military Academy (PMA). However, in a certification dated January 15, 2025, the PMA stated that Mustapha was not employed as a civilian professor at the PMA.⁶³

⁵⁵ *Id.* at 136.

⁵⁶ *Id.* at 137.

⁵⁷ *Id.*

⁵⁸ *Id.* at 138.

⁵⁹ *Id.* at 139.

⁶⁰ *Id.* at 139-142.

⁶¹ *Id.* at 142.

⁶² *Id.*

⁶³ *Id.* at 143.

- 3) Mustapha claimed to have served as a former government diplomatic attache in Ghana, Africa for a considerable length of time, however, in a certification from the Department of Foreign Affairs (DFA), it stated that there is no record of an individual named Subair Guinthum Mustapha in the Department.⁶⁴

On January 23, 2025, Mustapha filed his Compliance⁶⁵ dated January 22, 2025 to the Court's January 14, 2025 Resolution requiring him to comply with certain procedural requirements.

Thereafter, or on February 4, 2025, Mustapha filed his Reply⁶⁶ dated February 3, 2025. In his Reply, Mustapha denies making false representations in his curriculum vitae.⁶⁷ He explains that he did not state that he was employed in the Office of the Ombudsman, PMA, and DFA. Instead, he claims that he merely included them in his curriculum vitae as work experiences.⁶⁸ Mustapha clarifies that he worked pro bono as civilian instructor at the PMA, and as assistant to the resident ombudsman for Muslim Affairs.⁶⁹ Anent his experience with the DFA, he explains that he was locally hired and worked at the pleasure of the ambassadors concerned, that is why his engagement was not among those in the plantilla of the DFA.⁷⁰ Moreover, Mustapha adds that as additional proof of his seriousness in running for senator in the forthcoming elections, he had already disseminated through his social media account his introduction to the public.⁷¹ He avers that last January 22, 2025, he was interviewed in the TV program *Balitaan*, where he was asked regarding his program of governance.⁷² Moreover, he alleges that he has been invited as guest speaker in several conferences, one of which is the 29th Awarding Ceremony and Grand Academic Convocation by the International Academy of Leadership and Management held last February 1, 2025 at Aberdeen Hotel, Quezon City.⁷³

Issue

Did the COMELEC commit grave abuse of discretion amounting to lack or excess of jurisdiction when it declared Mustapha a nuisance candidate

⁶⁴ *Id.*

⁶⁵ *Id.* at 151–157.

⁶⁶ *Id.* at 159–163.

⁶⁷ *Id.* at 161.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.* at 162.

⁷² *Id.*

⁷³ *Id.*

resulting in the cancellation of his CoC for the position of senator in the 2025 NLE?

The Court's Ruling

At the outset, the Court states that the Petition has been rendered moot and academic.

A case is moot and academic when it ceases to present a justiciable controversy by virtue of supervening events, so that a declaration thereon would be of no practical value.⁷⁴ In this case, Mustapha seeks to nullify the COMELEC's declaration that he is a nuisance candidate and the consequent cancellation of his COC. However, with the conclusion of the 2025 NLE and the proclamation of the 12 senatorial candidates who received the highest number of votes, Mustapha excluded, it is beyond cavil that a declaration herein would be of no practical value to the parties. Thus, the case is now moot and academic.

As a rule, a court would normally decline jurisdiction over a case when it becomes moot and academic, as "its resulting judgment will not serve any useful purpose or have any practical legal effect because, in the nature of things, it cannot be enforced."⁷⁵ Nonetheless, courts may decide cases otherwise moot and academic if: *first*, there is a grave violation of the Constitution; *second*, the exceptional character of the situation and the paramount public interest is involved; *third*, when the constitutional issue raised requires formulation of controlling principles to guide the bench, the bar, and the public; or *fourth*, the case is capable of repetition yet evading review.⁷⁶

The Court finds that this petition falls under the fourth exception, as it is a case capable of repetition yet evading review.⁷⁷ As observed by the Court in *De Alban v. Commission on Elections*,⁷⁸ "elections are held at regular intervals and the issues of nuisance candidates will inescapably reach the Court."⁷⁹ Thus, in view of the issue's susceptibility of recurrence, the Court will proceed to resolve the present case on its merits. By elucidating further on the meaning, scope, and application of Section 69 of the Omnibus Election

⁷⁴ *Oclarino v. Navarro*, 863 Phil. 949, 955 (2019) [Per J. Reyes, J. Jr., Second Division].

⁷⁵ *National Electrification Administration v. Borja*, 961 Phil. 22, 26 (2024) [Per J. Dimaampao, Third Division]; citing *Philippine Veterans Bank v. Court of Appeals*, 928 Phil. 907, 910 (2022) [Per J. Kho, Jr., Second Division].

⁷⁶ *De Alban v. Commission on Elections*, 921 Phil. 524, 528 (2022) [Per J. Lopez, M., *En Banc*].

⁷⁷ *See Marquez v. Commission on Elections*, 861 Phil. 667 (2019) [Per J. Jardeleza, *En Banc*].

⁷⁸ 921 Phil. 524 (2022) [Per J. Lopez, M., *En Banc*].

⁷⁹ *Id.* at 528.

Code (OEC), the Court trusts that the COMELEC will be provided with clearer guidance on how to better execute its mandate of ensuring and promoting fair, honest, and credible elections.

The Court rules that the COMELEC committed grave abuse of discretion amounting to lack or excess of jurisdiction when it declared Mustapha a nuisance candidate resulting in the cancellation of his CoC for the position of senator in the 2025 NLE. As will be further explained below, the assailed Resolutions were issued in violation of the due process requirements in quasi-judicial proceedings. The assailed Resolutions were not supported by substantial evidence, were issued without considering the evidence submitted by Mustapha, and were couched in sweeping and general statements making it difficult, if not impossible, for Mustapha to know which of the COMELEC's findings apply or pertain to him.

The COMELEC, in declaring Mustapha as a nuisance candidate, relied on the unsubstantiated allegations of its law department. In essence, the COMELEC again employed a "cookie-cutter" motion, a practice already condemned by the Court in the recent cases of *Marquez 2022*; *Marquez v. Commission on Elections*⁸⁰ (*Marquez 2019*); and *Ollesca v. Commission on Elections*.⁸¹ Moreover, the COMELEC failed to give due consideration on the evidence and arguments presented by Mustapha. It should be remembered that in a Section 69 proceeding under the OEC, the COMELEC serves a dual role – that of a petitioner and a quasi-judicial agency.

It is settled that when a lower court or tribunal renders a Decision that is patently inconsistent with existing jurisprudence, or in disregard of the parties' right to due process, it commits grave abuse of discretion.⁸²

The Court is mindful of the COMELEC's mandate to promote fair, honest, and credible elections, and appreciates its desire to eliminate nuisance candidates from the ballot. The Court is likewise mindful of the reality that there cannot be an honest, fair, and credible election if its very foundation – the right to vote and be voted for – does not get the strongest protection it rightfully deserves. Thus, the Court hereby restates the legal principles underlying the right to candidacy and the proper application of Section 69 of the OEC, particularly on a candidate's lack of bona fide intent to run for public office.

⁸⁰ 861 Phil. 667 (2019) [Per J. Jardeleza, *En Banc*].

⁸¹ 956 Phil. 889 (2024) [Per J. Leonen, *En Banc*].

⁸² *Spouses Abayon v. Bank of the Philippine Islands*, 939 Phil. 347, 356 (2023) [Per J. Dimaampao, Third Division]; *De Alban v. Commission on Elections*, 921 Phil. 524, 550–551 (2022) [Per J. Lopez, M., *En Banc*].

I. *The Right to Candidacy*

To run for an elective office, herein simply referred to as candidacy, is a right.⁸³ It is not simply a privilege that is subject to whatever limitations imposed by law.⁸⁴ It is not a concession by the State, but one enjoyed by every qualified citizen who lives in a democracy such as ours.⁸⁵

While candidacy is properly categorized as a right, it is settled that it is not a fundamental right.⁸⁶ As such, it may be regulated or restricted by the

⁸³ The right to candidacy has been recognized in this jurisdiction just as the same time as our ancestors chose a democratic form of government – a government whose authority emanates from the people. In *Maquera v. Borra*, 122 Phil. 412, 414–415 (1965) [*Per Curiam, En Banc*], the Court aptly declared that the right to be voted for is available to all citizens, rich or poor alike. Accordingly, this is consistent with the principle on which our democratic government is premised that sovereignty resides in the people and all government authority emanates from them, thus:

That said property qualifications are inconsistent with the nature and essence of the Republican system ordained in our Constitution and the principle of social justice underlying the same, *for said political system is premised upon the tenet that sovereignty resides in the people and all government authority emanates from them, and this, in turn, implies necessarily that the right to vote and to be voted for shall not be dependent upon the wealth of the individual concerned*, whereas social justice presupposes equal opportunity for all, rich and poor alike, and that, accordingly, no person shall, by reason of poverty, be denied the chance to be elected to public office. (Emphasis and underscoring supplied)

The pronouncement of the Court in *Maquera* that candidacy is a right has since been reiterated in subsequent cases such as *Ollesca v. Commission on Elections*, 956 Phil. 889 (2024) [*Per J. Leonen, En Banc*] and *Cipriano v. Commission on Elections*, 479 Phil. 677 (2004) [*Per J. Puno, En Banc*]. See also *Timbol v. Commission on Elections*, 754 Phil. 578 (2015) [*Per J. Leonen, En Banc*]; *Sobejana-Condon v. Commission on Elections*, 692 Phil. 407 (2012) [*Per J. Reyes, En Banc*]; and *Moreno v. Commission on Elections*, 530 Phil. 279 (2006) [*Per J. Tinga, En Banc*].

Our treatment of candidacy as a right is also consistent with the international agreements of which the Philippines is a party namely, the 1948 Universal Declaration of Human Rights (UDHR) and the 1966 International Covenant on Civil and Political Rights (ICCPR).

Article 2, Section 2 of the UDHR states that “[e]veryone has the right of equal access to public service in his country.” On the other hand, Article 25 of the ICCPR provides that “[e]very citizen shall have the right and the opportunity, [without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status] and without unreasonable restrictions, [t]o vote and to be elected at genuine and periodic elections[.]”

In *Macalintal v. Commission on Elections*, 943 Phil. 212 (2023) [*Per J. Kho, Jr., En Banc*], the Court held that the UDHR and the ICCPR are binding on the Philippines and have thus the force of domestic law in this jurisdiction. (*Id.* at 231–232.)

⁸⁴ In the case of *Pamatong v. Commission on Elections*, 470 Phil. 711, 716 (2004) [*Per J. Tinga, En Banc*], the Court categorized candidacy as a privilege subject to limitations imposed by law. This pronouncement of the Court in *Pamatong* has been reiterated in the subsequent cases of *Albano v. Commission on Elections*, 934 Phil. 343, 362 (2023) [*Per J. Lopez, Jr., En Banc*]; *Marquez v. Commission on Elections*, 861 Phil. 667, 686 (2019) [*Per J. Jardeleza, En Banc*]; and *Timbol v. Commission on Elections*, 754 Phil. 578, 586 (2015) [*Per J. Leonen, En Banc*].

This notwithstanding, the Court has consistently treated candidacy as no less than a right. This is very clear from the Court’s discussions in the same cases where it categorized candidacy as a privilege, and from the strong protection it has accorded to political candidacy.

⁸⁵ See *Maquera v. Borra*, 122 Phil. 412, 415 (1965) [*Per Curiam, En Banc*]; Article 21, UDHR, December 10, 1948; Article 25, ICCPR, December 16, 1966.

⁸⁶ In the case of *Pamatong v. Commission on Elections*, 470 Phil. 711, 716 (2004) [*Per J. Tinga, En Banc*], the Court categorized candidacy as simply a privilege subject to limitations imposed by law. This pronouncement of the Court in *Pamatong* has been reiterated in the subsequent cases of *De Alban v. Commission on Elections*, 921 Phil. 524, 543 (2022) [*Per J. Lopez, Jr., En Banc*]; *Marquez v. Commission on Elections*, 861 Phil. 667, 686 (2019) [*Per J. Jardeleza, En Banc*]; and *Timbol v. Commission on Elections*, 754 Phil. 578, 586 (2015) [*Per J. Leonen, En Banc*].

State to achieve a legitimate and compelling State interest. Thus, as correctly observed by Senior Associate Justice Marvic M.V.F. Leonen, candidacy has been restricted not only by the Constitution, but also by statutes passed by Congress, viz.:

While the Constitution guarantees “equal access to opportunities for public service,” it could never be the intent to allow just any one to run. The aspirant must possess the qualifications and eligibilities required for the public office sought. ... Congress, in the exercise of its plenary legislative power, prescribes conditions for the exercise of the right to run for office and additional qualifications and disqualifications for elective office, consistent with the Constitution.⁸⁷ (Citation omitted)

It must be stressed, however, that any such limitation or restriction to the right to candidacy must be reasonable and non-discriminatory.⁸⁸ Moreover, such limitations and/or restrictions must be properly and conscientiously enforced or implemented.

II. *Nuisance candidacy – a reasonable restriction to the right to candidacy*

In our jurisdiction, nuisance candidacy is a settled reasonable restriction to the right to candidacy.⁸⁹ Nuisance candidacy is governed by and clearly defined in Section 69 of the OEC, viz.:

Section 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.

⁸⁷ J. Leonen, Concurring Opinion.

⁸⁸ See *Albano v. Commission on Elections*, 934 Phil. 343 (2023) [Per J. Lopez, J., *En Banc*]; UN Declaration, ICCPR.

⁸⁹ Even prior to reaching our statute books, nuisance candidacy has already been perceived as an evil to be remedied. In the early case of *Alvear v. Commission on Elections*, 103 Phil. 643 (1958) [Per J. Bautista, *En Banc*], the Court cited the case of *Garcia v. Imperial*, G.R. No. L-12930, October 22, 1957, concerning the presidential candidacy of Ciriaco S. Garcia. The Court did not give due course to the candidacy of Garcia stating that his candidacy was filed merely to create confusion in the mind of the electorate and of the election inspectors, and not to win the election. For a scholarly exposition of the history of nuisance candidacy in this jurisdiction, see Paolo Celeridad, *Nuisance Candidacies in Philippine Election Law: Legal History, Legal Analysis, and Legal Reform*, 94 Phil. L.J. 752 (2021).



In *Pamatong v. Commission on Elections*,⁹⁰ the Court described the compelling state interest that justifies the prohibition against nuisance candidates. The Court stated that there are practical considerations in the conduct of elections, such that the greater the number of candidates, the greater the opportunities for logistical confusion.

The rationale behind the prohibition against nuisance candidates and the disqualification of candidates who have not evinced a [bona fide] intention to run for office is easy to divine. The State has a compelling interest to ensure that its electoral exercises are rational, objective, and orderly. Towards this end, the State takes into account the practical considerations in conducting elections. Inevitably, the greater the number of candidates, the greater the opportunities for logistical confusion, not to mention the increased allocation of time and resources in preparation for the election. These practical difficulties should, of course, never exempt the State from the conduct of a mandated electoral exercise. At the same time, remedial actions should be available to alleviate these logistical hardships, whenever necessary and proper. Ultimately, a disorderly election is not merely a textbook example of inefficiency, but a rot that erodes faith in our democratic institutions.

....

The organization of an election with [bona fide] candidates standing is onerous enough. To add into the mix candidates with no serious intentions or capabilities to run a viable campaign would actually impair the electoral process. This is not to mention the candidacies which are palpably ridiculous so as to constitute a one-note joke. The poll body would be bogged by irrelevant minutiae covering every step of the electoral process, most probably posed at the instance of these nuisance candidates. It would be a senseless sacrifice on the part of the State.

Owing to the superior interest in ensuring a credible and orderly election, the State could exclude nuisance candidates and need not indulge in, as the song goes, "their trips to the moon on gossamer wings."⁹¹

The same justification of the restriction was stressed in the recent case of *Ollesca*, to wit:

It is imperative to recognize and uphold the fundamental democratic principle that a citizen has the right to participate in the electoral processes by running for public office. However, this right must be harmonized with the practical constraints faced by COMELEC, with respect to overseeing and ensuring a "free, orderly, honest, peaceful and credible elections."

⁹⁰ 470 Phil. 711 (2004) [Per J. Tinga, *En Banc*].

⁹¹ *Id.* at 719-721.

The sheer volume of candidates poses logistical challenges, potentially leading to an unwieldy ballot and hampering the electorate's ability to make informed choices. COMELEC must streamline the electoral process while simultaneously allowing a fair and accessible competition among candidates by effectively managing its resources and reducing voter confusion through its ability to regulate a finite number of candidates and a manageable ballot.⁹² (Citation omitted)

Considering the aforementioned legitimate State interest, it is reasonable for the State to cancel or deny due course to the CoCs of those candidates who have not shown any bona fide intention to run for public office, or those whose only intention in filing their CoCs is to put the election process into mockery or disrepute.

III. *Present and proper application of the restriction*

As previously intimated, the protection accorded to the right to candidacy does not end with the assurance that the restrictions thereto are reasonable and non-discriminatory. The protection extends to ensuring that valid restrictions on the right are properly and conscientiously applied by the agencies primarily tasked with enforcing the same. This is so because a misapplication of a valid restriction impairs the right to candidacy just as seriously and effectively as when the restriction is not valid at all.

A. *COMELEC, as the petitioner in Section 69, must prove by substantial evidence that the candidate is a nuisance candidate*

Under Section 69 of the OEC, the COMELEC may, *motu proprio* or upon a verified petition, declare candidates as nuisance and consequently, disqualify them from participating in the election. While Section 69 allows two distinct modes of initiating the process of declaring a candidate nuisance, it nonetheless imposes uniform conditions and/or requirements before a candidate is ultimately declared as such. In other words, whether the process is commenced via a verified petition by interested parties or via a verified petition by the COMELEC in the exercise of its power to commence the process on its own initiative, Section 69 requires the petitioner in either case to adduce evidence showing that the respondent is a nuisance candidate. This

⁹² *Ollesca v. Commission on Elections*, 956 Phil. 889, 895–896 (2024) [Per J. Leonen, *En Banc*].



is clear not only from the text⁹³ of Section 69, but also from the deliberations of the members of Congress⁹⁴ who voted in favor of its present formulation or wordings.

Thus, the COMELEC, as a petitioner in Section 69, must “prove, by substantial evidence, that the candidacy of [the candidate] falls within any of the three (3) grounds provided in Section 69 of the Omnibus Election Code.”⁹⁵ “When the [COMELEC] fails to show in a satisfactory manner the facts upon which [it] bases [its] claims, the [respondent-candidate] is under no obligation to prove [his or her] exception or defense.”⁹⁶ In the event that the COMELEC, in its capacity as petitioner, fails to discharge its burden, then the COMELEC, sitting as a tribunal, is duty bound to dismiss the *motu proprio* petition and sustain the respondent-candidate’s candidacy.

B. The COMELEC, acting as a tribunal in Section 69 proceedings, must comply with the requirements of administrative due process

Once a verified petition to declare a candidate nuisance is filed either by an interested party or by the COMELEC *motu proprio*, the COMELEC shall resolve such petition in its capacity as a quasi-judicial tribunal.

As a quasi-judicial tribunal, the COMELEC must thus observe the due process requirements in quasi-judicial proceedings, namely: (1) it must afford the parties appearing before it an opportunity to be heard and to submit evidence in support of their assertions; (2) it must consider the evidence presented; (3) its decision must be based on the evidence presented at the hearing, or at least contained in the record and disclosed to the parties affected; (4) its decision must be based on substantial evidence; (5) it must act on its own independent consideration of the law and the facts of the case, and not simply accept the views of a subordinate; (6) it must render its decision in such manner that the parties to the proceedings can know the various issues involved and reasons for its decision.⁹⁷

⁹³ The provision uses the words “shown” and “clearly demonstrates”, indicating the intent of Congress to require the presentation of evidence establishing that a candidate is a nuisance under any or all of the three categories.

⁹⁴ IV Record, House 99th Congress, 2nd Session, 1874–1878 (February 20, 1985).

⁹⁵ *Marquez v. Commission on Elections*, 924 Phil. 179, 193 (2022) [Per J. Lazaro-Javier, *En Banc*].

⁹⁶ *Id.* at 192–193.

⁹⁷ *Tolentino v. Commission on Elections*, 631 Phil. 568, 589 (2010) [Per J. Bersamin, *En Banc*], citing *Ang Tibay v. Court of Industrial Relations*, 69 Phil. 635, 642–644 (1940) [Per J. Laurel, *En Banc*].

The COMELEC Divisions, and eventually the COMELEC *En Banc*, must ensure that parties appearing before it are afforded an opportunity to be heard. This means giving the parties a chance “to explain [their] side or an opportunity to seek a reconsideration of the action or ruling complained of.”⁹⁸ This is especially true with respect to the respondent whose candidacy is at stake. Thus, in *Timbol v. Commission on Elections*,⁹⁹ the Court ruled that the “[COMELEC] commits grave abuse of discretion if it denies due course to or cancels a certificate of candidacy without affording the candidate an opportunity to be heard.”¹⁰⁰

Of course, the COMELEC should not simply afford the parties an opportunity to be heard and to submit evidence in support of their assertions; it must also consider the parties’ arguments and evidence in arriving at its decision. The COMELEC cannot simply adopt the submissions of one party without considering those of the opposing side. Otherwise, the entire requirement of affording the parties the opportunity to be heard and to submit evidence will be rendered useless and meaningless. “The right to adduce evidence, without the corresponding duty on the part of the board to consider it, is vain. Such right is conspicuously futile if the person or persons to whom the evidence is presented can thrust it aside without notice or consideration.”¹⁰¹

Additionally, the COMELEC must confine its findings to the evidence presented and submitted by the parties, or to the evidence contained in the records that were previously disclosed to the parties affected. “Only by confining [itself] to the evidence disclosed to the parties, can the latter be protected in their right to know and meet the case against them.”¹⁰²

Moreover, the COMELEC, acting as a tribunal, must ensure that its findings and conclusions are supported by substantial evidence. “Substantial evidence is more than a mere scintilla, [but] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.”¹⁰³ As the Court held in *Uy v. Commission on Elections*,¹⁰⁴ the COMELEC cannot “perfunctorily invoke the evil caused by nuisance candidates without adequate

⁹⁸ *Timbol v. Commission on Elections*, 754 Phil. 578, 587 (2015) [Per J. Leonen, *En Banc*], citing *Trinidad v. Commission on Elections*, 373 Phil. 802, 811 (1999) [Per J. Ynares-Santiago, *En Banc*].

⁹⁹ 754 Phil. 578 (2015) [Per J. Leonen, *En Banc*].

¹⁰⁰ *Id.* at 588.

¹⁰¹ *Ang Tibay v. Court of Industrial Relations*, 69 Phil. 635, 642 (1940) [Per J. Laurel, *En Banc*].

¹⁰² *Id.* at 643.

¹⁰³ *Id.* at 642.

¹⁰⁴ 945 Phil. 446 (2023) [Per J. Lopez, M., *En Banc*].

proof to support a conclusion that a candidate is a nuisance in the first place.”¹⁰⁵

Therefore, the COMELEC, sitting as a tribunal, must act on its own independent consideration of the law and the facts of the case, and not simply accept the views of its Law Department or such other office, committee, or officer deputized to gather evidence or to perform the duties of initiating a *motu proprio* petition. The COMELEC must bear in mind that when exercising its quasi-judicial powers, it is acting as an independent tribunal, theoretically and operationally, detached from any of its officers or departments and acting in their respective capacities as petitioner or party in an election case or proceeding.

Finally, the COMELEC must render its decision in such manner that the parties to the proceedings can know the various issues involved and reasons for its decision. As much as possible, it should refer to that portion of the records or cite the relevant and material evidence supporting its findings or conclusion. It should attempt to be specific as much as possible, especially in consolidated cases. That is to say, the COMELEC must specify the violations, acts, omissions, or circumstances committed by, attendant to, or applicable to each party.

If the COMELEC’s decision or resolution is noncompliant with any of the aforementioned requirements, thereby denying the parties’ right to procedural due process, then such decision or resolution is issued with grave abuse of discretion.

The COMELEC, in its capacity as petitioner in a Section 69 proceeding, bears the burden of proving its assertion that the candidate it seeks to disqualify is a nuisance candidate. It must adduce substantial evidence and not merely rely on bare allegations. In turn, the COMELEC, in its capacity as a tribunal, must comply with the due process requirements in quasi-judicial proceedings.

C. What constitutes nuisance candidacy

Dissecting Section 69 of the OEC, the Court ruled in *Amad v. Commission on Elections*¹⁰⁶ that there are three grounds for declaring a candidate as a nuisance candidate, namely: (1) that such candidate only filed

¹⁰⁵ *Id.* at 477.

¹⁰⁶ 924 Phil. 861 (2022) [Per J. Gaerlan, *En Banc*].

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.¹⁰⁷

In *De Alban* the Court ruled that the common thread of the three instances is that nuisance candidates filed their CoCs **not to aspire or seek public office but to prevent “a faithful determination of the true will of the electorate.”**¹⁰⁸ Elsewise stated, “the pivotal criterion that characterizes a nuisance candidate lies in the absence of a [bona fide] intent to run for public office.”¹⁰⁹

Further clarifying the meaning of a candidate’s bona fide intent to run for public office, the Court in *Marquez 2019* explained that bona fide intent to run for office should not be confused with lack of financial capacity to wage a national campaign.¹¹⁰ Accordingly, to use lack of financial capacity to wage a national campaign as a yardstick in determining a candidate’s seriousness to run for office is tantamount to imposing property qualifications on the right to run for public office.¹¹¹

It must be stressed that the imposition of property requirements upon an aspirant for public office is constitutionally impermissible. In his Concurring Opinion in *Maquera v. Borra*,¹¹² former Chief Justice Cesar Bengzon aptly explained the rationale therefor.

The Constitution, in providing for the qualification of Congressmen, sets forth only age, citizenship, voting and residence qualifications. No property qualification of any kind is thereunder required. Since the effect of Republic Act No. 4421 is to require of candidates for Congress a substantial property qualification, and to disqualify those who do not meet the same, it goes against the provision of the Constitution which, in line with its

¹⁰⁷ *Id.* at 872.

¹⁰⁸ *De Alban v. Commission on Elections*, 921 Phil. 524, 533–534 (2022) [Per J. Lopez, M., *En Banc*].

¹⁰⁹ *Ollesca v. Commission on Elections*, 956 Phil. 889, 905 (2024) [Per J. Leonen, *En Banc*].

¹¹⁰ *Marquez v. Commission on Elections*, 861 Phil. 667, 673, 686 (2019) [Per J. Jardeleza, *En Banc*]. In said case, the COMELEC filed a *motu proprio* petition to declare Marquez a nuisance candidate alleging that he was “virtually unknown to the entire country except maybe in the locality where he resides” and that “though a real estate broker, he, absent clear proof of financial capability, will not be able to sustain the financial rigors of a nationwide campaign.” We ruled that COMELEC may not use lack of proof of financial capacity to sustain the financial rigors of waging a nationwide campaign, by itself, as a ground to declare an aspirant for senator a nuisance candidate.

¹¹¹ See also the cases of *Marquez v. Commission on Elections*, 924 Phil. 179, 192 (2022) [Per J. Lazaro-Javier, *En Banc*]; *De Alban v. Commission on Elections*, 921 Phil. 524, 547–548 (2022) [Per J. Lopez, M., *En Banc*]; and *Maquera v. Borra*, 122 Phil. 412, 419–420 (1965) [Per *Curiam*, *En Banc*].

¹¹² 122 Phil. 412 (1965) [Per *Curiam*, *En Banc*].

democratic character, requires no property qualification for the right to hold said public office.

Freedom of the voters to exercise the elective franchise at a general election implies the right to freely choose from all qualified candidates for public office. The imposition of unwarranted restrictions and hindrances precluding qualified candidates from running, is, therefore, violative of the constitutional guaranty of freedom in the exercise of elective franchise. It seriously interferes with the right of the electorate to choose freely from among those eligible to office whomever they may desire.

....

Nuisance candidates, as an evil to be remedied, do not justify the adoption of measures that would bar poor candidates from running for office. Republic Act 4421 in fact enables rich candidates, whether nuisance or not, to present themselves for election. Consequently, it cannot be sustained as a valid regulation of elections to secure the expression of the popular will.¹¹³

Subsequently, the Court in *Marquez 2022* ruled that circumstances such as (1) candidate's lack of ability to make himself or herself known to the entire country and the electorate; (2) candidate's lack of a nationwide network or organization of supporters to assist him or her during the campaign; (3) candidate's incapability to persuade a substantial number of voters in different parts of the country; and (4) candidate's lack of political machinery; are substantially the same as the circumstance that the candidate lacks financial capacity to wage a national campaign. Accordingly, when these circumstances were used by the COMELEC in *Marquez 2022*, they were exposed as "shrouded property qualifications" and are thus proscribed under the Constitution.¹¹⁴

Then, in *De Alban*, the Court also ruled that non-membership in a political party, or being unknown nationwide, or a candidate's low probability of getting elected, or a candidate's circumstance of being a first-time candidate, do not equate to the absence of a bona fide intent to run for public office, viz.:

In the same vein, the Court finds that non-membership in a political party or being unknown nationwide, or the low probability of success do not by themselves equate to the absence of bona fide intention to run for public office under Section 69 of the OEC. Membership in a political party is not a requirement to run for senator under the current electoral framework while non-membership does not prevent a faithful determination of the will of the electorate. Also, the candidate's degree of success is irrelevant to [bona

¹¹³ *Id.* at 420–421.

¹¹⁴ *Marquez v. Commission on Elections*, 924 Phil. 179, 190–192 (2022) [Per J. Lazaro-Javier, *En Banc*].

fide] intention to run for public office. A candidate “*has no less a right to run when he faces prospects of defeat as when he expected to win.*” Neither the candidate’s act of participating for the first time in elections be equated with the absence of good faith. The Court had overruled the Comelec’s postulation that a [bona fide] intention to run for public office is absent if there is no “*tiniest chance to obtain the favorable indorsement of a substantial portion of the electorate.*”¹¹⁵ (Emphasis in the original, citations omitted)

The afore-quoted pronouncement in *De Alban* is an affirmation of the Court’s rationale in *Marquez 2022* on why a candidate’s popularity or lack thereof cannot be a criterion in determining his or her bona fide intent to run for public office. The Court in *Marquez 2022*, through Associate Justice Amy C. Lazaro-Javier, emphatically articulated such rationale in this wise:

[D]eclaring one a nuisance candidate simply because he or she is not known to the entire country reduces the electoral process—a sacred instrument of democracy—to a mere popularity contest. The matter of the candidate being known (or unknown) should not be taken against that candidate but is best left to the electorate. As it is, our democratic and republican state is based on effective representation. Thus, the electorate’s choices must be protected and respected.¹¹⁶

The Court adds that the OEC’s provision of a 60 to 90-day period, during which candidates are supposed to introduce themselves and their platforms of government, supports the conclusion that popularity and winnability were not intended by Congress to be a criterion in determining whether a candidate is a nuisance. In other words, that the law gives candidates a 60 to 90-day period to make themselves “known” and increase their “winnability” is a plain indication that unpopular or unknown candidates, or candidates with low chances of winning, are not necessarily nuisance candidates. This is so because one of the evident purposes of the two to three-month long campaign period is precisely to give legitimate yet unpopular candidates a time to make themselves and their platforms of government known, and consequently, increase their chances of getting elected in office. As keenly observed by Senior Associate Justice Leonen:

Indeed, the law prescribes a 90-day campaign period – a getting to know – so anyone whether rich or poor or popular or not, can be given the opportunity to become known and to convince the voters that they are the best choice. During this period, the candidates engage in numerous activities to push for their election and respective platforms. Such activities include attending public rallies, distributing campaign materials, doing door to door campaigning and motorcades, delivering political pitches and

¹¹⁵ *De Alban v. Commission on Elections*, 921 Phil. 524, 549 (2022) [Per J. Lopez, M., *En Banc*].

¹¹⁶ *Marquez v. Commission on Elections*, 924 Phil 179, 195 (2022) [Per J. Lazaro-Javier, *En Banc*].

through social media platforms. It is in this critical period where the voting public come to know the official candidates, what they stand for and what their plans are.

At this time, people are most engaged in political discourse. Citizens seek information on candidates and, in turn, campaign and persuade other people to likewise vote for their candidate.¹¹⁷ (Citation omitted)

To reiterate, the provision on campaign period is a manifest indication of the legislators' intent not to consider unpopular or unknown candidates as nuisance. In fact, such provision is a recognition of the reality that candidates with bona fide intent to run for public office are not always popular and may thus need a wide window through which they make themselves known and resultantly persuade the electorate into electing them in office. Needless to state, our history of electoral exercises is teeming with examples of initially unpopular candidates who, through their diligent and persistent efforts in making themselves known during the campaign period, eventually persuaded the electorate and got themselves elected in office.

Just recently, the Court reiterated in *Ollesca* its rulings in *Marquez 2019*, *Marquez 2022*, and *De Alban* that (a) financial capacity should not be conflated with the bona fide intention to run for public office; and (b) the imposition of having financial capacity to hit the campaign trail is a property qualification that is prohibited under the Constitution and is likewise not a valid ground to declare a candidate as nuisance.¹¹⁸

In sum, the foregoing recent Court pronouncements provide that when confronted with the question on whether a candidate is legitimate or a nuisance, the COMELEC must investigate and consider the purpose of the candidate's filing of his or her CoC. The COMELEC must determine whether a candidate filed his or her CoC for the purpose of seeking elective office, or merely to gain attention, promote a general advocacy, or simply be noticed in the political sphere. Additionally, the COMELEC must look into whether the candidate filed his or her CoC in good faith, or only for the purpose of deceiving the voters, mocking the election process, or preventing a faithful determination of the will of the electorate.

In determining whether a candidate lacks bona fide intent to run for public office, the COMELEC must consider only those acts and/or circumstances that CLEARLY demonstrate such lack of bona fide intent. The COMELEC must not SOLELY rely on circumstances that are remotely related to or faintly indicative of a candidate's bona fide intent to run for

¹¹⁷ J. Leonen, Concurring Opinion.

¹¹⁸ *Ollesca v. Commission on Elections*, 956 Phil. 889, 905 (2024) [Per J. Leonen, *En Banc*].

public office. Finally, the COMELEC must NOT consider such acts and/or circumstances that effectively impose property qualifications, or such acts and/or circumstances that have no bearing or direct relation to a candidate's seriousness to run for public office such as popularity, degree of success in the elections, or having received minimal votes in the previous elections.

Of course, in making its determination in accordance with the foregoing discussions, the COMELEC must tread with utmost caution. The COMELEC must thoroughly assess all the circumstances to avoid an erroneous finding of nuisance candidacy. Before declaring a candidate nuisance, the COMELEC must have been completely convinced that the absence of bona fide intent to run for public office is evident and clearly demonstrated.¹¹⁹ These impositions upon the COMELEC are all consistent with its mandate to protect and promote the constitutional guarantees of equal access to opportunities for public service, including the right to candidacy.

IV. Application of the above principles to the facts of the case

In this case, the COMELEC argues that Mustapha's candidacy is merely a farce that puts the election process in mockery or disrepute, and that he had no bona fide intention to run for senator.

In particular, the COMELEC Law Department alleged: (1) the absence of even a modicum of indication of Mustapha's propensity to serve the public or be part of service to others; (2) that Mustapha failed to introduce and/or discuss his political platforms or agenda upon filing his CoC; (3) that Mustapha lacks any track record of advocacies or civic engagement, indicative of his unwillingness to commit to the rigors of campaigning and public service; (4) that Mustapha lacks interest in making himself known to the masses and lacks social media presence; (5) that Mustapha once ran for the position of Member, House of Representatives, in the Province of Lanao del Sur but gained only 5,387 votes or 2.01% of the total votes cast; and (6) that Mustapha lacks substantial public support.

In the assailed Omnibus Resolution, the COMELEC Second Division found that the behavior of Mustapha and his fellow candidates during the filing of their respective CoCs reflected their lack of serious intent, capability, or suitability for public office. This supposed behavior pertained to their acts

¹¹⁹ See *De Alban v. Commission on Elections*, 921 Phil. 524, 546–548 (2022) [Per J. Lopez, M., *En Banc*].

of making exaggerated or frivolous promises that are patently unrealistic or irrelevant to the national office they seek to be elected.

Finding the COMELEC Law Department's October 14, 2024 *motu proprio* Petition meritorious, the COMELEC Second Division, later affirmed by the COMELEC *En Banc*, declared Mustapha and his fellow respondents therein as nuisance candidates, and held that they have no serious intention to mount a nationwide campaign, and that they filed their CoCs merely to gain attention, promote a general advocacy, or to simply be noticed in the political sphere. The COMELEC arrived at this conclusion based on the following findings: (1) the respondents made exaggerated or frivolous promises during the filing of their CoCs that indicated their lack of suitability for the positions they seek; (2) they failed to articulate any defined agenda or clear policy position, showing that they lack the intention to fulfill the responsibilities of the office being sought; and (3) they received a low turnout of votes during the 2022 NLE, reflecting their inability to garner meaningful support from the electorate, which is indicative of a lack of sincerity in their candidacy. In its Comment before the Court, the COMELEC added that the most obvious badge of Mustapha's lack of bona fide intention to run for public office and his mockery of the election process is his supposed patent lack of caution in making false representations in his curriculum vitae submitted to the COMELEC.

We disagree.

The assailed COMELEC Resolutions finding that Mustapha is a nuisance candidate are void insofar as Mustapha is concerned because they were issued in violation of the due process requirements in quasi-judicial proceedings, and are contrary to existing jurisprudence

To reiterate, in a Section 69 proceeding, the burden is upon the COMELEC, as the petitioner, to prove by substantial evidence that the candidacy falls within any of the three grounds provided in said provision of the OEC. On the other hand, the COMELEC, acting as a tribunal, is in turn obliged to ensure that its decision declaring a candidate as nuisance is: (1) arrived at after affording the parties real opportunities to be heard; (2) rendered after considering the evidence submitted by the parties; and (3) supported by substantial evidence. If the COMELEC's decision declaring a



candidate as a nuisance candidate fails to comply with any of these, then such decision is void insofar as the candidate challenging the same is concerned.

Our own review of the records convinces Us that there is no sufficient evidence showing that Mustapha lacks bona fide intent to run for senator. Moreover, the acts or circumstances mentioned by the COMELEC in its assailed Resolutions that are purportedly demonstrative of Mustapha's lack of bona fide intent to run for senator are not only too general, but also immaterial to a determination of a candidate's bona fide intention to run for public office.

To recall, the COMELEC, in its assailed Resolutions, cited three circumstances to support its findings that the respondents before it, including Mustapha, have no serious intention to mount a nationwide campaign, and that they filed their CoCs merely to "gain attention, promote a general advocacy, or to simply be noticed in the political sphere,"¹²⁰ namely: (1) respondents' supposed behavior during the filing of their CoC reflects a lack of serious intent, capability, or suitability for public office; (2) respondents' supposed failure to articulate a defined agenda or clear policy positions; and (3) respondents' obtaining minimal votes during the 2022 NLE.

In addition to the three circumstances stated in its assailed Resolutions, the COMELEC, in its Comment before this Court, argued that the most obvious badge of Mustapha's lack of bona fide intention to run for office and his mockery of the election process is his supposed patent lack of caution in making false representations in his curriculum vitae submitted to the COMELEC.

With respect to the *first circumstance*, the COMELEC pointed out that the respondents' behavior during the filing of their respective CoCs which pertained to their acts of making exaggerated or frivolous promises that are patently unrealistic or irrelevant to the office they seek to be elected. According to the COMELEC, these actions imply a lack of genuine intent to serve the public interest.

The COMELEC, however, did not mention or state what these supposed exaggerated or frivolous promises were, nor did it point to the portion of the records where these supposed promises could be found. Certainly, this is violative of the due process requirement that the COMELEC must state in its decision the particular facts on which said decision is based. Without complying with such requirement, Mustapha would be unable to know which of his supposed statements were found to be ridiculous.

¹²⁰ Rollo, p. 68.



Consequently, he would be unable to refute the allegations head on. Likewise, the Court in this instant petition is left without basis to determine if Mustapha's promises were indeed ridiculous and thus, warranting a further assessment on whether Mustapha really has a bona fide intent to run for public office.

On the contrary, a review of the records reveals that Mustapha was not even present during the filing of his CoC because the same was filed through an authorized representative, as he was suffering from high blood pressure at that time. Therefore, Mustapha could not have made any such promise or statement, much less a ridiculous one, at the time of the filing of his CoC.

As regards the *second circumstance*, the COMELEC found that Mustapha failed to articulate a defined political agenda or clear policy positions. This finding, however, is inconsistent with the records.

In his Answer before the COMELEC, Mustapha categorically denied the general averment of the COMELEC's Law Department that he has no platform of government or clear policy positions. He attached his personal platforms and advocacies,¹²¹ and stated that his platforms are focus on the uplifting of the marginalized sectors, promoting peace and development in Mindanao, and addressing corruption in the government.¹²² Mustapha likewise mentioned that he has been and still actively involved in promoting the rights of laborers and in the advancement of social justice. Finally, Mustapha is a member and candidate of the WPP and necessarily, he subscribes to its platforms and policies, namely: the nationalization of the wage-setting system, termination of contractualization, regularization of long-term workers, and in general, the empowerment of workers through unionization and collective bargaining.¹²³

The above notwithstanding, the COMELEC still found that Mustapha failed to articulate a defined political agenda or clear policy position. Such finding is violative of the due process requirement that quasi-judicial agencies must consider the evidence submitted by the parties. Clearly, the COMELEC failed to consider Mustapha's evidence for if it did, then it would have found that he has in fact articulated his platforms of government and his policy positions.

At the very least, if Mustapha's platforms of government, as stated in his Answer, did not meet the standards of what the COMELEC considers as

¹²¹ *Id.* at 46-47.

¹²² *Id.* at 40.

¹²³ *Id.* at 39-40.

a defined agenda or clear policy positions, then the COMELEC could have addressed and explained the same in its assailed Resolutions. Unfortunately, the COMELEC did not do so.

In any event, as the COMELEC Law Department admitted in its *motu proprio* Petition, the law does not require a candidate to submit or present his or her program of government at the time he or she files his or her CoC. Section 74 of the OEC provides that the statement of a program of government is merely discretionary, and not a requirement when a person files his CoC, viz.:

Section 74. *Contents of certificate of candidacy.* –

....

The person filing a certificate of candidacy shall also affix his latest photograph, passport size; a statement in duplicate containing his bio-data and program of government not exceeding one hundred words, *if he so desires*. (Emphasis supplied)

The discretionary nature of presenting one's program of government at the time of filing of his or her CoC, as well as the rationale therefor, is also clear from the legislative deliberations, to wit:

MR. GARCIA (R.). ... I move for the deletion from the word "and program of government not exceeding one hundred words, and attach proof of payment of the filing fee prescribed by the Commission".

THE PRESIDING OFFICER (Mr. Asok). What does the sponsor say?

MR. GARCIA (M.M.). Well, may I just inform the Gentleman from South Cotabato that this program of government is really intended to unmask those who wish to run but do not really have their own platform no, I mean, this will really expose to the public the kind of candidates who would impose themselves upon the public. So I think it is best that we should tell the voters the kind of candidates that offer their services no.

MR. GARCIA (R.). But, Mr. Speaker ...

MR. GARCIA (M.M.). But as far as we, Members of the parties are concerned, we have our own platform of government. So actually, what we just put there is what our party stands for. But for those especially who wish to run just for the sake of running, I think this is one way of exposing their at least capability to the public even if they cannot express themselves in one hundred words and really that is the best way to discourage people from

accepting their offer to be their officials, whether in the local, national or in Batasan.

MR. GARCIA (R.). Would this mean, Mr. Speaker, that this refers primarily to those independent candidates or to those alleged nuisance candidates considering that political parties where they have official candidates of their own political programs ...

MR. GARCIA (M.M.). Yes, Mr. Speaker, this is really one way of telling the people: "these are the candidates, judge them initially on what they believe is their own platforms", so in that way they would have knowledge of who are these people running and offering their services.

MR. GARCIA (R.). Well, I agree, Mr. Speaker. In view of that, Mr. Speaker, I withdraw for that particular motion, then I moved that instead "and program of government exceeding one hundred words, then the comma should be changed to period and attach proof of payment of filing fee prescribed by the Commission" should be removed, considering that Sec. 70, the following page, where there is a fee requirement is being sought to be abolished, Mr. Speaker.

MR. GARCIA (M.M.). We will agree to the last part of the amendment.

M.R. GARCIA (R.). Yes, Mr. Speaker. Thank you.

THE PRESIDING OFFICER (Mr. Asok). The sponsor has accepted the amendment. Is there any objection?

MR. ATIENZA. Mr. Speaker.

THE PRESIDING OFFICER (Mr. Asok). The Gentleman from Manila.

MR. ATIENZA. Before we rule on the amendment, may I just be allowed to clarify a point that the honorable sponsor mentioned about line 26.

MR. GARCIA (M.M.). Yes, about the program of government.

THE PRESIDING OFFICER (Mr. Asok). The sponsor may yield if he so desires.

MR. ATIENZA. Did I hear you right, Mr. Speaker, when you said that this is meant for the independent candidates?

MR. GARCIA (M.M.). No, what I am saying is that this is one way of exposing to the public the kind of candidates who would wish to offer their services to the voting public. But in the case of candidates with their



own platform, meaning these registered political parties, they should not have a hard time because each one of us belonging to different parties have our own platform of government. But so, it was the statement of the Gentleman from South Cotabato that this is really meant towards the independent and nuisance candidates, no.

MR. ATIENZA. So, anybody who runs for public office will have to explain his program of government, is that the right interpretation?

MR. GARCIA (M.M.). Yes, yes, not exceeding one hundred words.

MR. ATIENZA. Isn't that redundant, Mr. Speaker, anybody seeking office is understood to have an intention of form or plans for government asking him to write down his program.

MR. GARCIA (M.M.). Well, the Committee Chairman has also pointed out that under Section 86, page 48, we have a COMELEC information bulletin. So, this is in amplification of what I have said earlier, Mr. Speaker, that this is one way of informing the public, the voting public, who these candidates are offering their services. If, for example, a nuisance candidate files his certificate and offers his program of government which is not even... does not even have sense in it because ... I mean, after 100 words cannot even ably express himself as to what program of government he has, then at least the people are now informed who these candidates are. So, anyway we are helping the voting public choose the kind of officers who will run our government through these means.

MR. ATIENZA. Would inability or would a candidate's inability to provide this particular requirement disqualify him from running or ... in the election?

MR. GARCIA (M.M.). Well, I think there is a provision here which says that it must be complied with. And I don't know if it is disqualification.

....

MR. GARCIA (M.M.). After discussing it with our resource persons, I was informed that it is not a ground for disqualification but more towards informing the public not only through the written explanation but also through the COMELEC information bulletin the ... what is the kind of candidates that are offering themselves for service to the voting public.

MR. ATIENZA. *That is the most important point, Mr. Speaker, that I wanted brought out because I did not want to disqualify people or persons who would run for public office who may not be able to write in beautiful words like a student would or a good student of English would from having his ideas that are in his heart and in his mind from performing his duties or even an elective official.* Thank you.

MR. GONZALES. Mr. Speaker.



THE PRESIDING OFFICER (Mr. Asok). The Gentleman from San Juan and Mandaluyong.

MR. GONZALES: In order to put into statute the results of this debate, may I propose on line 17 the following amendments then ... I mean, after ...

....

MR. GONZALES. ... page 38 that after "words," and before "and", then include the clause IF HE SO DESIRES.

THE PRESIDING OFFICER (Mr. Asok). What does the proponent of the motion say? Gentleman from South Cotabato.

MR. GONZALES. In short, it is not mandatory upon him. It is ... It might ... He may do it if he feels that it may enhance his certificate of candidacy, his candidacy.

THE PRESIDING OFFICER (Mr. Asok). Will the Gentleman from San Juan and Mandaluyong please restate his amendment so that the Gentleman from South Cotabato could react on the same?

MR. GONZALES. On line 27, page 38, after comma (,) following the word ... of the word "words" and before "and" insert the following phrase: IF HE SO DESIRES COMMA (,)[.]

MR. BATERINA. Mr. Speaker.

THE PRESIDING OFFICER (Mr. Asok). Period (.) The Gentleman from Ilocos Sur.

MR. BATERINA. May I ask some questions on the proponent?

THE PRESIDING OFFICER (Mr. Asok). The proponent may yield if he so desires.

MR. GONZALES. Gladly, Your Honor.

MR. BATERINA. The word or the phrase "IF HE SO DESIRES", Mr. Speaker, would also modify "bio-data and program," not only "program of government" but also his "bio-data"?

MR. GONZALES. The intention, as I have said, is to put into statute the ... the interpellation ... I mean, the results of the interpellation of the distinguished sponsor by the distinguished Member of Parliament from Manila and it is limited to the program of government ... "program of government not exceeding one hundred words", but as grammatically,

grammatically, it would refer now to both his biodata and a statement of program of government.

MR. BATERINA. Thank you, Mr. Speaker.¹²⁴

As can be gleaned from the aforequoted exchanges, the legislators deliberately made the submission of a program of government optional so as not to give the impression that a candidate's failure to submit or articulate his or her program of government can result to his or her disqualification. As such, any alleged failure to submit or articulate a program of government at the time of the filing of a CoC cannot be used as an indicator of a candidate's supposed lack of bona fide intent to run for public office. While a candidate's compliance with such discretionary requirement may, as envisioned by the legislators, indeed enhance his or her candidacy, the candidate's noncompliance therewith, being a discretionary requirement, does not and should not cast doubt to the candidate's seriousness to run for public office.

With respect to the *third circumstance*, the COMELEC found that Mustapha's minimal share of votes in the 2022 NLE for the position of Member, House of Representatives in the province of Lanao del Sur is indicative of his lack of sincerity in his candidacy. It further found that Mustapha, in running for senator, failed to demonstrate a bona fide intent to campaign or actively participate in the electoral process.

Although Mustapha admittedly received only 2% of the votes cast for the position of congressman in the province of Lanao del Sur during the 2022 NLE, this does not necessarily prove his lack of seriousness to run for the position of senator in the upcoming 2025 NLE. There is simply no logical connection between Mustapha's alleged minimal votes during the previous elections and his seriousness to run for public office in the current elections.

Notably, the COMELEC correctly stated that "[t]he mere fact that an individual has previously run for public office does not automatically exempt them (sic) from being classified as nuisance candidates (sic) [in the present elections]."¹²⁵ Inversely, the mere fact that a candidate has been previously declared a nuisance candidate in a prior election does not automatically mean that he or she is likewise a nuisance candidate in the present elections. If a candidate cannot be automatically declared a nuisance candidate now despite his or her being declared a nuisance candidate in a previous election, with more reason should such candidate be not declared a nuisance candidate now

¹²⁴ IV Record, House 99th Congress, 2nd Session, 2025–2033 (February 20, 1985).

¹²⁵ *Rollo*, p. 69.

simply because he or she obtained a minimal share of votes in a previous election.

Besides, there is not always a direct relation between one's seriousness to run for office and the votes that a candidate will eventually obtain in the position aspired for. A candidate may be very serious in running for office and employs all possible legal means to obtain enough votes to win, but despite his or her seriousness and efforts, he or she may still lose. Conversely, a candidate may not have bona fide intent to run for public office but because of sheer popularity, political machinery, or for a plethora of possible reasons, he or she manages to win an election. This latter scenario has in fact been contemplated by the legislators when they were trying to grasp the meaning of nuisance candidacy, thus:

MR. GONZALES. In connection with this, just to clarify it in order that we may know the legislative intention. If a candidate openly states in his campaign that he is not ... he will not assume office, but he is running in order to preserve his political leadership, let us say, in the province or in the municipality to enable the ... to enable his running mate to assume office or to get elected but he will not assume office, will he be a guest candidate since that is a circumstance or act which shows that he has no bona fide intention to run for that office?

MR. PEREZ (L.). *He will be considered a nuisance candidate if he does not have a bona fide intention to assume the position if elected.*

MR. GONZALES. I recall that [this] had happened a number of times before where, in spite of that, they still get elected. Shall we overturn the will of the people? [T]here is a disclosure to the people and yet the people still elects (sic) him.

MR. PEREZ (L.). If he is disqualified before the election because that ... those are facts that he has no bona fide intention to assume the office if elected, he becomes a nuisance candidate.

....

MR. VILLAFUERTE. Mr. Speaker. Just one comment, Mr. Speaker. The bona fide requirements so as not to become a nuisance candidate does not pertain to the assumption but to the running for public office.

MR. PEREZ (L.) But, Mr. Speaker, the very [lis] mota or the very sole and purpose of running is to be in office, but if you are just running in order to create a vacancy for your running mate, you should not be considered a bona fide candidate.

MR. VILLAFUERTE. Well, then if that is your interpretation, Your Honor, that will not be consistent with the language of Section 64. Let me read it:

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 the certificate has been filed to put the election process in mockery or in disrepute or to cause confusion among the voters by the similarity of the names of the registered candidates by other circumstances or acts which 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 a (sic) prevent a faithful determination of the true will of the people.

I should think, Mr. Speaker, that once the people has decided because the attack on a nuisance candidate pertains to his disqualification through the filing, the certificate of candidacy filed but once the election has been held and the will of the people has been decided, I don't think that he can be considered a nuisance candidate simply because he did not assume his office.

MR. PEREZ (L.). Mr. Speaker, my understanding is that the declaration of a nuisance candidacy is made before the election.

MR. VILLAFUERTE. Yes.

MR. PEREZ (L.). And if there is no determination of his nuisance candidacy and he is allowed to run and he wins, then the candidacy is over. There is no more occasion to declare him as a nuisance candidate.

MR. VILLAFUERTE. Yes, I agree with your statement, Your Honor, because that means, therefore, that unless prevented through the cancellation of the certificate of candidacy ...

MR. PEREZ (L.). Before the election.

MR. VILLAFUERTE. ... And he gets elected, the mere fact that he did not assume would not make him retroactively a nuisance candidate.

MR. PEREZ (L.). No, no, Mr. Speaker. The declaration of his nuisance candidacy must [be] before the election.

MR. VILLAFUERTE. Yes; thank you.

MR. [PEREZ] (L.). If they don't declare him a nuisance candidate, then he is voted upon and he wins, I think that you cannot be declaring him a nuisance candidate anymore because his candidacy is over. He has been elected and may be proclaimed.



MR. VILLAFUERTE. That would be a very good interpretation, your Honor.¹²⁶

To reiterate, the aforequoted exchanges confirm that there is no logical connection between a candidate's seriousness to run for public office and the number of votes cast in his or her favor during the election itself, more so, his or her garnered votes during the previous elections. This is because, as shown above, there are instances where a candidate who has no bona fide intention to run for office can win an election. Conversely, there are instances when a serious candidate obtains dismal votes during the election.

If the COMELEC is allowed to declare one as a nuisance candidate simply because he or she obtained minimal votes in previous elections, and/or simply because such candidate could not possibly obtain sufficient number of votes during the present election, then the COMELEC will be virtually exercising that which is exclusively reserved to the voters on election day. In a democratic institution such as ours, it is the people who are vested with the sole authority to decide whether a candidate wins or not, and such decision is to be passed upon only during the day of election. The COMELEC, therefore, should not deprive the people of a legitimate choice by declaring candidates as nuisance candidates simply because it perceives that said candidates have low chances of winning as purportedly shown by their previous dismal votes.

As to the finding that Mustapha failed to demonstrate a bona fide intent to campaign or actively participate in the electoral process, suffice it to state that this remains unsubstantiated. The COMELEC failed to allege, much less prove, the circumstances, actions, or events that would support its conclusion.

Lastly, anent the *fourth circumstance*, the COMELEC claims that the most obvious badge of Mustapha's lack of bona fide intent to run for public office and his mockery of the election process is his supposed patent lack of caution in making false representations in his curriculum vitae submitted to the COMELEC. In support thereof, COMELEC attached the certifications issued by the Ombudsman, PMA, and the DFA, purportedly attesting that Mustapha was never employed in their respective offices.

Notably, these certifications were presented for the first time during the proceedings before this Court. Of course, the Court cannot now consider the truthfulness and veracity of these newly submitted evidence because they were not submitted together with the *motu proprio* Petition filed by the

¹²⁶ IV Record, House 99th Congress, 2nd Session, 1869-1872 (February 20, 1985).



COMELEC Law Department, and thus, not previously considered by the COMELEC when it rendered its assailed Resolutions.

While Mustapha has no obligation to prove his defense considering the COMELEC Law Department's failure to establish its allegations in the proceedings below, Mustapha has, nonetheless, presented evidence and tenable legal arguments that clearly show his bona fide intent to run for senator. Mustapha's bona fide intent to seek and assume public office is apparent from the following circumstances:

First, Mustapha is an official candidate of the WPP. Notably, the WPP is a recognized and accredited national political party with various platforms and policies in the areas of labor and other social justice causes. In *Uy*, the Court ruled that membership in a political party weighs heavily against a finding of a nuisance candidacy, viz.:

Foremost, Frederico's membership in NUP is not trivial and weighs heavily against a finding of nuisance candidacy. The law defines a political party as "*an organized group of persons pursuing the same ideology, political ideas or platforms of government.*" Here, NUP's registration as a political party means it has met all the criteria under the law. The Comelec even verified NUP's government programs and extent of constituency. Corollarily, the nomination of Frederico and his acceptance as NUP's official candidate meant that he embodies the party's ideals and principles which he is obliged to carry out and represent to the electorates. Indeed, Frederico enjoyed NUP's full logistical, financial, and organizational support in his candidacy.¹²⁷ (Emphasis in the original, citations omitted)

As a matter of fact, the WPP even filed a Motion to Intervene,¹²⁸ arguing that Mustapha is not a nuisance candidate and that Mustapha has the backing of the WPP. This is another indication that Mustapha's candidacy is legitimate for he enjoys the full logistical, financial, and organizational support of the WPP.

Second, and as already previously discussed, Mustapha submitted his programs of government, and was able to clearly articulate and present his individual platforms such as the uplifting of the marginalized sectors, promoting peace and development in Mindanao, and addressing corruption in the government.¹²⁹ Mustapha likewise mentioned in his pleadings before the

¹²⁷ *Uy v. Commission on Elections*, 945 Phil. 446, 475 (2023) [Per J. Lopez, M., *En Banc*].

¹²⁸ *Rollo*, pp. 59–63.

¹²⁹ *Id.* at 40.

COMELEC that he has been and is still involved in promoting the rights of laborers and in the advancement of social justice.¹³⁰

Third, Mustapha consistently asserted that he is a Sultan in Marawi, a position that commands the respect and recognition of his constituents in said locality. Moreover, Mustapha holds a law degree from Manuel L. Quezon School of Law, and a specialization in Shari'ah Law. He also averred that he obtained units in the University of the Philippines' masteral program for Islamic studies.¹³¹ Finally, he claimed to have served the public and private sectors in various capacities. These assertions of Mustapha were not rebutted by the COMELEC. Mustapha was thus able to show that he has the capability to discharge the functions of a senator should he win in the upcoming elections.

Finally, Mustapha exercised utmost vigilance in the protection of his candidacy. From the filing of the petition to declare him as a nuisance candidate, until the same reached this Court, Mustapha actively participated in the proceedings and filed responsive pleadings to contradict the COMELEC Law Department's allegations and assail the COMELEC's findings and conclusions. In *Marquez 2022*, the Court ruled that it is contrary to human experience for a candidate to go through the rigorous process of defending his or her candidacy up to the Supreme Court if such candidate lacks seriousness in his or her candidacy.¹³²

Taken together, the foregoing circumstances, which are all supported by the records, show that Mustapha is serious in running for the position of senator. Thus, in declaring Mustapha a nuisance candidate, the COMELEC committed grave abuse of discretion amounting to lack or excess of jurisdiction.

Conclusion

The effective implementation of the right to candidacy ensures that persons entitled to vote have a free choice of candidates.¹³³ Thus, persons who are eligible to stand for election should not be unceremoniously excluded using unreasonable or discriminatory requirements.¹³⁴

While the Court lauds the COMELEC's zeal in weeding out nuisance candidates from the ballot, the poll body is reminded that it should exercise

¹³⁰ *Id.* at 39.

¹³¹ *Id.* at 49.

¹³² *Marquez v. Commission on Elections*, 924 Phil. 179, 194 (2022) [Per J. Lazaro-Javier, *En Banc*].

¹³³ Covenant on Civil and Political Rights General Comment No. 25, p. 15.

¹³⁴ *Id.*

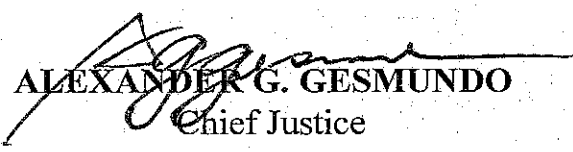
its discretion with utmost scrutiny so as not to disqualify an otherwise legitimate candidate. Caution should be taken so that grounds, which the Court has already ruled to be invalid grounds for declaring one as a nuisance candidate, are not used or recycled against prospective candidates, particularly, the ground that one has no financial capacity to mount a national campaign, or the ground that one is perceived to be unpopular or has a tiny chance of winning the election.

We hope that the COMELEC, in the execution of its mandate, will be able to adopt or propose measures for such candidate to instead evolve from and overcome his or her perceived incapacities and disadvantages. The promotion of a robust right to candidacy will not only give all candidates the real opportunity to prove their promise, but more importantly, ensure that the electorate has enhanced freedom and informed choice of their potential representatives.

ACCORDINGLY, the instant Petition for *Certiorari* is **GRANTED**. The November 14, 2024 Omnibus Resolution of the Commission on Elections Second Division, and the November 29, 2024 Resolution of the Commission on Elections *En Banc* in SPA No. 24-098 (DC)(MP) and SPA No. 24-097 (DC)(MP), respectively, are **ANNULLED** and **SET ASIDE** but only as to the cancellation of the Certificate of Candidacy of petitioner Subair Guinthum Mustapha.

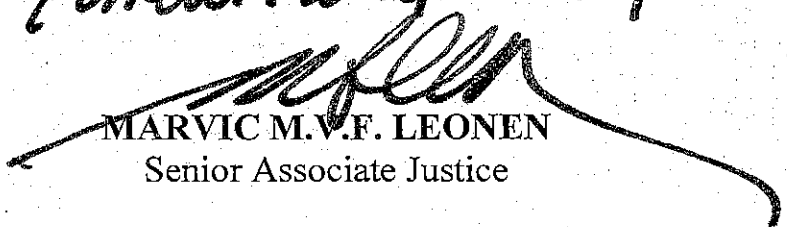
The Court's Temporary Restraining Order dated January 14, 2025 is made **PERMANENT**.

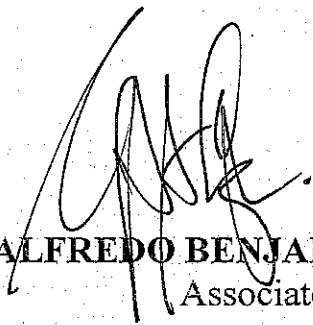
SO ORDERED.

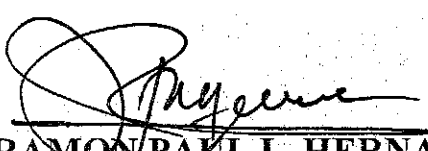

ALEXANDER G. GESMUNDO
Chief Justice

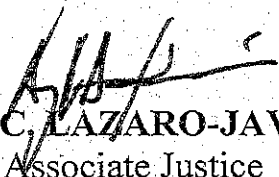
WE CONCUR:

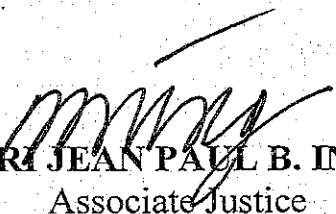
I concur. We separate opinions

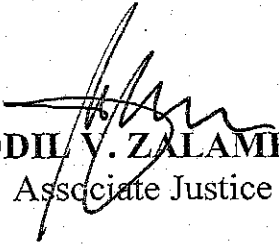

MARVIC M.V.F. LEONEN
Senior Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice

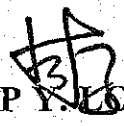

AMY C. LAZARO-JAVIER
Associate Justice

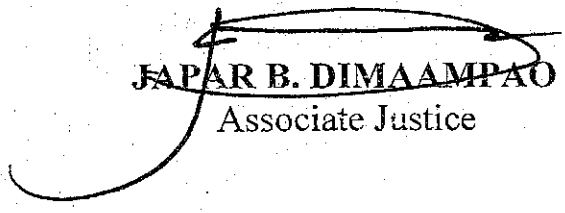

HENRI JEAN PAUL B. INTING
Associate Justice

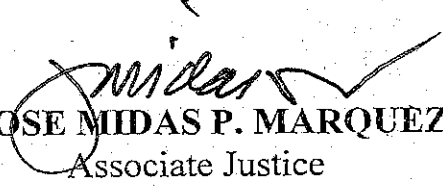

RODIL V. ZALAMEDA
Associate Justice


SAMUEL H. GAERLAN
Associate Justice

(On Wellness Leave)
RICARDO R. ROSARIO
Associate Justice

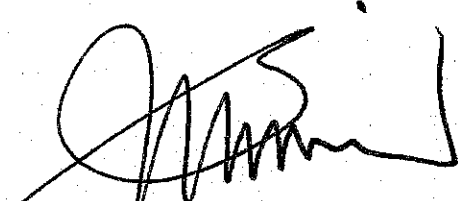

JHOSEP Y. LOPEZ
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice

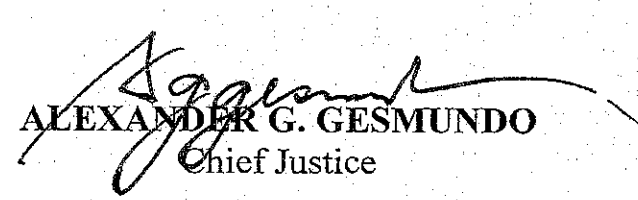

ANTONIO T. KHO, JR.
Associate Justice

(On Leave)
MARIA FILOMENA D. SINGH
Associate Justice


RAUL B. VILLANUEVA
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 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