Supreme Court E-Library

EN BANC

[A.M. No. P-10-2872. February 24, 2015]
(Formerly A.M. No. 10-10-118-MTC)

OFFICE OF THE COURT ADMINISTRATOR, *complainant, vs.* **CLERK OF COURT EMMANUELA A. REYES, Municipal Trial Court, Bani, Pangasinan,** *respondent.*

SYLLABUS

POLITICAL LAW; ADMINISTRATIVE LAW; COURT PERSONNEL; CLERKS OF COURT; NON-SUBMISSION OF FINANCIAL REPORTS, NON-REPORTING AND NON-DEPOSIT OF COLLECTIONS, UNDUE DELAY IN THE DEPOSIT OF COLLECTIONS, UNAUTHORIZED WITHDRAWAL, AND NON-EXPLANATION OF INCURRED SHORTAGES AND UNDEPOSITED COLLECTIONS ARE INFRACTIONS CONSTITUTING GROSS NEGLIGENCE, DISHONESTY, AND GRAVE MISCONDUCT; PENALTY.— The undeposited collections and delayed remittances resulted to loss of interests that should have accrued had the collections been deposited promptly to their respective fund accounts. Under Section 3-C of the JDF and SAJF procedural guidelines in Administrative Circular No. 35-2004, as amended, dated August 20, 2004, the daily remittance of JDF and SAJF collections is required. In relation to this, Section 4 of OCA Circular No. 50-95 provides that all collections from bailbonds, rental deposits and other Fiduciary collections shall be deposited by the Clerk of Court concerned, within twenty-four (24) hours upon receipt thereof with the Landbank of the Philippines. Indubitably, Reyes violated the trust reposed in her as a collecting officer of the judiciary. The Court cannot tolerate non-submission of financial reports, non-reporting and non-deposit of collections, undue delay in the deposit of collections, unauthorized withdrawal, and non-explanation of incurred shortages and undeposited collections. Reyes failed to fully settle her deficit in the court funds despite the ample time given to her to do so. The request for an extension of time to be able to come up with the amount needed is merely a delaying tactic to evade full responsibility

Supreme Court E-Library

for the violation committed. Said infractions certainly constitute gross negligence, dishonesty, and grave misconduct which are serious offenses that deserve the penalty of dismissal under Section 52, Rule IV of the Civil Service Uniform Rules on Administrative Cases. Failure to completely settle her accountability may likewise give rise to criminal liability.

D E C I S I O N

***PER CURIAM*:**

This pertains to the administrative complaint against Emmanuela A. Reyes, Clerk of Court II, Municipal Trial Court (*MTC*), Bani, Pangasinan for her non-submission of financial reports to the Court, non-reporting and non-deposit of collections, delayed remittance of collections, unauthorized withdrawal, and non-explanation of the incurred shortages and undeposited collections.

The facts of the present case are as follows:

On June 16, 2009, the Office of the Court Administrator (*OCA*) issued a Memorandum relative to the examination conducted on Reyes's books of accounts covering the period of June 15, 2004 until March 31, 2009. It directed Reyes to explain in writing why she should not be held administratively liable for the delayed remittances of collections of the Judiciary Development Fund (*JDF*), Fiduciary Fund (*FF*), Special Allowance for the Judiciary Fund (*SAJF*), Sheriff's Trust Fund (*STF*), and Mediation Fund (*MF*) for the years 2004 to 2009. Interests earned on Fiduciary deposits which were withdrawn from the Fiduciary Fund Account were likewise not deposited promptly to the proper fund account on the day they were withdrawn. Reyes reasoned out that since no one called her attention, she had presumed that there was nothing wrong as long as the court's collections were intact in her possession. Also, the Landbank branch in Alaminos City is fourteen (14) kilometers away such that she would only go to the bank if she needed to withdraw from the court's Fiduciary Fund Account.

Supreme Court E-Library

As to the interests on Fiduciary deposits, Reyes did not present any explanation.

The audit team then evaluated said explanation and it found that the delayed remittances resulted to loss of interests that should have otherwise been earned had the collections been deposited promptly to their respective fund accounts. Lack of provision for transportation expenses is a lame excuse for non-remittance of collections, since personal money spent for a valid undertaking would be subject to reimbursement. Reyes should also have immediately remitted the aforesaid interests to the proper fund account on the day they were withdrawn. After a thorough review and evaluation of the case, the OCA recommended that Reyes be directed to pay a fine of ₱5,000.00 for the interest that should have been earned and deposit the same to the SAJF Account. Reyes was likewise sternly warned that a repetition of her failure to promptly remit the court's collections to their respective fund accounts in the future would be dealt with more severely.[1]

For failing to submit the court's monthly financial reports to the Revenue Section, Accounting Division, Financial Management Office (*FMO*), OCA, Reyes's salaries were withheld in February 2009. These were, however, subsequently released in November 2010 upon her compliance with the directives of said office.

Thereafter, Reyes was directed to comment to another OCA Memorandum dated April 16, 2012 with regard to the audit team's examination of her books of accounts for April 1, 2009 to October 31, 2011 and December 2, 2011 to January 6, 2012. Reyes was required to explain the shortages she incurred amounting to ₱217,869.40, partial unremitted collections of ₱112,175.00, unauthorized withdrawal of ₱82,755.00 from the Municipal Treasurer's Office (*MTO*) of Bani in May 2005, late issuances of several Official Receipts in December 2011,

---

[1] Evaluation and recommendation submitted by Court Administrator Jose Midas P. Marquez and Deputy Court Administrator Raul Bautista Villanueva, dated October 12, 2010.

Supreme Court E-Library

and delayed remittances of collections of the JDF, FF, SAJF, General Fund (*GF*), STF, and MF for the years 2009 to 2011. She was also directed to deposit the total amount of ₱217,869.40 but she was only able to settle ₱35,110.00, still leaving a deficit of ₱182,759.40. As to the unauthorized withdrawal of ₱82,755.00, Reyes explained that she withdrew the amount upon instruction of Emmanuel R. Odero, former Sheriff IV of the Alaminos RTC and Officer-in-Charge, in order for the latter to remit the same to the SC Account. But when she gave the money to Odero, the official receipt was also left with him. For the late issuances of receipts, Reyes merely blamed this to the confusion and harried minds brought about by the holidays. However, she failed to justify the incurred shortages and delayed remittances of collections.

From the audit report and investigation, the OCA recommended that Reyes be dismissed from the service for gross neglect of duty, dishonesty and grave misconduct, with forfeiture of all benefits except accrued leave credits, and with prejudice to re-employment in the government service, including government-owned and controlled corporations. It also ordered her to deposit any remaining balance of the shortages and penalties within one (1) month from receipt of the Court's Resolution, after the money value of her leave credits shall have been applied to her accountabilities. Further, it imposed a fine of ₱5,000.00 for the non-remittance and delayed deposit of court collections, and a penalty of ₱1,437.28 for the loss of interest that should have been earned had the collections been immediately remitted.[2]

The Court's Ruling

The Court affirms the findings and recommendations of the OCA. Reyes should thus be held administratively liable for gross neglect of duty, dishonesty, and grave misconduct.

After her salaries were released, Reyes was not only late in her deposits, she had also ceased remitting her collections

---

[2] Evaluation and recommendation submitted by Court Administrator Jose Midas P. Marquez and Deputy Court Administrator Raul Bautista Villanueva, dated July 10, 2012.

Supreme Court E-Library

beginning July 2011 and resumed her non-submission of financial reports to the FMO, OCA. If not for the emergency audit of her accounts at the Bani MTC on January 9, 2012, her continuous abuse of authority as an accountable officer of the court would have gone unnoticed. Reyes also failed to present any proof that the court ordered her to withdraw the amount of ₱82,755.00 from the Bani MTO in May 2005.

The undeposited collections and delayed remittances resulted to loss of interests that should have accrued had the collections been deposited promptly to their respective fund accounts. Under Section 3-C of the JDF and SAJF procedural guidelines in Administrative Circular No. 35-2004, as amended, dated August 20, 2004, the daily remittance of JDF and SAJF collections is required. In relation to this, Section 4 of OCA Circular No. 50-95 provides that all collections from bailbonds, rental deposits and other Fiduciary collections shall be deposited by the Clerk of Court concerned, within twenty-four (24) hours upon receipt thereof with the Landbank of the Philippines. Indubitably, Reyes violated the trust reposed upon her as a collecting officer of the judiciary. The Court cannot tolerate non-submission of financial reports, non-reporting and non-deposit of collections, undue delay in the deposit of collections, unauthorized withdrawal, and non-explanation of incurred shortages and undeposited collections. Reyes failed to fully settle her deficit in the court funds despite the ample time given to her to do so. The request for an extension of time to be able to come up with the amount needed is merely a delaying tactic to evade full responsibility for the violation committed.

Said infractions certainly constitute gross negligence, dishonesty, and grave misconduct which are serious offenses that deserve the penalty of dismissal under Section 52, Rule X of the Civil Service Uniform Rules on Administrative Cases.[3] Failure to completely settle her accountability may likewise give rise to criminal liability.

---

[3] *Office of the Court Administrator v. Dion*, 654 Phil. 609, 613 (2011).

Supreme Court E-Library

WHEREFORE, respondent **EMMANUELA A. REYES**, Clerk of Court II, Municipal Trial Court, Bani, Pangasinan, is found **GUILTY** of gross neglect of duty, dishonesty, and grave misconduct. She is hereby **DISMISSED** from service effective immediately, and all benefits, except accrued leave credits that may ordinarily be due her, are **ORDERED** forfeited with prejudice to re-employment in the government service, including government-owned and controlled corporations. She is further **DIRECTED** to pay any remaining balance of the shortages, penalties and fines for the non-remittance and delayed deposit of court collections and for the loss of interest that should have accrued, within a non-extendible period of one (1) month from receipt of the Court's Resolution, after deducting the money value of her leave credits from her accountabilities.

The Legal Office, Office of the Court Administrator is **DIRECTED** to **IMMEDIATELY FILE** civil and criminal cases against Reyes upon receipt of a Report from the Fiscal Monitoring Division, Court Management Office that she failed to restitute the portion of her shortages and penalties not covered by the money value of her leave credits.

SO ORDERED.

Sereno, C.J., Carpio, Velasco, Jr., Leonardo-de Castro, Peralta, Bersamin, del Castillo, Villarama, Jr., Perez, Mendoza, Reyes, Perlas-Bernabe, and *Leonen, JJ.,* concur.

Brion, J., on leave.

Jardeleza, J., on official leave.

Supreme Court E-Library

EN BANC

[G.R. No. 206004. February 24, 2015]

JOSEPH B. TIMBOL, *petitioner, vs.* **COMMISSION ON ELECTIONS,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; RULES OF COURT; ACTIONS; MOOT AND ACADEMIC CASES; DOES NOT PRECLUDE THE COURT FROM SETTING FORTH "CONTROLLING AND AUTHORITATIVE DOCTRINES" FOR THE GUIDANCE OF RESPONDENT COMMISSION ON ELECTIONS IN *MOTU PROPRIO* DENYING DUE COURSE TO OR CANCELLING CERTIFICATES OF CANDIDACY OF ALLEGED NUISANCE CANDIDATES.— A case is moot and academic if it "ceases to present a justiciable controversy because of supervening events so that a declaration thereon would be of no practical use or value." When a case is moot and academic, this court generally declines jurisdiction over it. There are recognized exceptions to this rule. This court has taken cognizance of moot and academic cases when: (1) there was a grave violation of the Constitution; (2) the case involved a situation of exceptional character and was of paramount public interest; (3) the issues raised required the formulation of controlling principles to guide the Bench, the Bar and the public; and (4) the case was capable of repetition yet evading review. We may no longer act on petitioner's prayer that his name be included in the certified list of candidates and be printed on the ballots as a candidate for Member of the Sangguniang Panlungsod. Petitioner filed with this court his Petition for Certiorari on March 15, 2013, 39 days after respondent began printing the ballots on February 4, 2013. Also, the May 13, 2013 elections had been concluded, with the winners already proclaimed. That this case is moot and academic, however, does not preclude us from setting forth "controlling and authoritative doctrines" to be observed by respondent in *motu proprio* denying due course to or cancelling certificates of candidacy of alleged nuisance candidates. This *motu proprio* authority is always subject to the alleged nuisance candidate's opportunity to be heard — an essential element of procedural due process.

Supreme Court E-Library

2. POLITICAL LAW; 1987 CONSTITUTION; GUARANTEE OF EQUAL ACCESS TO OPPORTUNITIES FOR PUBLIC OFFICE IS SUBJECT TO LIMITATIONS IMPOSED BY LAW.— Under Article II, Section 26 of the Constitution, "[t]he State shall guarantee equal access to opportunities for public service[.]" This, however, does not guarantee "a constitutional right to run for or hold public office[.]" To run for public office is a mere "privilege subject to limitations imposed by law." Among these limitations is the prohibition on nuisance candidates. Nuisance candidates are persons who file their certificates of candidacy "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." In *Pamatong v. Commission on Elections*, this court explained why nuisance candidates are prohibited from running for public office.

3. ID.; ID.; ID.; RESPONDENT COMMISSION'S POWER TO *MOTU PROPRIO* DENY DUE COURSE TO A CERTIFICATE OF CANDIDACY OF AN ALLEGED NUISANCE CANDIDATE IS SUBJECT TO THE CANDIDATE'S OPPORTUNITY TO BE HEARD.— To minimize the logistical confusion caused by nuisance candidates, their certificates of candidacy may be denied due course or cancelled by respondent. This denial or cancellation may be "*motu proprio* or upon a verified petition of an interested party," "subject to an opportunity to be heard." The opportunity to be heard is a chance "to explain one's side or an opportunity to seek a reconsideration of the action or ruling complained of." In election cases, due process requirements are satisfied "when the parties are afforded fair and reasonable opportunity to explain their side of the controversy at hand." x x x Respondent 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. Respondent declared petitioner a nuisance candidate without giving him a chance to explain his *bona fide* intention to run for office. Respondent had already issued Resolution No. 9610 on January 11, 2013 when petitioner appeared before Election Officer Valencia in a clarificatory hearing on January 17, 2013. This was an ineffective opportunity to be heard.

Supreme Court E-Library

4. ID.; ID.; ID.; AUTOMATION IS NOT THE END-ALL AND BE-ALL OF AN ELECTORAL PROCESS; RESPONDENT COMMISSION SHOULD ALSO BALANCE ITS DUTY TO ENSURE THAT THE ELECTORAL PROCESS IS CLEAN, HONEST, ORDERLY, AND PEACEFUL WITH THE RIGHT OF A CANDIDATE TO EXPLAIN HIS OR HER *BONA FIDE* INTENTION TO RUN FOR PUBLIC OFFICE BEFORE HE OR SHE IS DECLARED A NUISANCE CANDIDATE.— That petitioner was able to file a Petition for inclusion in the certified list of candidates did not cure the defect in the issuance of Resolution No. 9610. First, he would not have to file the Petition had he been given an opportunity to be heard in the first place. Second, in the Minute Resolution dated February 5, 2013, respondent denied petitioner's Petition on the sole ground that the printing of ballots had already begun on February 4, 2013. We understand the "insurmountable and tremendous operational constraints and costs implications" of reprinting ballots had respondent ordered the inclusion of petitioner's name in the certified list of candidates. The ballots already printed would have to be recalled, leading to the waste of the ballots previously printed. It should be noted that these ballots are special as they have the capability of being optically scanned by Precinct Count Optical Scan machines. Reprinting another batch of ballots would, indeed, be costly. Still, "automation is not the end-all and be-all of an electoral process." Respondent should also balance its duty "to ensure that the electoral process is clean, honest, orderly, and peaceful" with the right of a candidate to explain his or her *bona fide* intention to run for public office before he or she is declared a nuisance candidate.

APPEARANCES OF COUNSEL

Jose Ventura Aspiras for petitioner.
The Solicitor General for respondent.

R E S O L U T I O N

LEONEN, *J.*:

The power of the Commission on Elections (COMELEC) to restrict a citizen's right of suffrage should not be arbitrarily

Supreme Court E-Library

exercised. The COMELEC cannot *motu proprio* deny due course to or cancel an alleged nuisance candidate's certificate of candidacy without providing the candidate his opportunity to be heard.

This is a Petition[1] for Certiorari with prayer for issuance of preliminary mandatory injunction against the following issuances of the COMELEC: first, Resolution No. 9610[2] dated January 11, 2013, declaring petitioner Joseph B. Timbol (Timbol) a nuisance candidate and ordering the removal of his name from the certified list of candidates;[3] and second, Minute Resolution[4] dated February 5, 2013, denying his Petition to have his name listed in the certified list of candidates and printed on the ballots for the May 13, 2013 elections.[5]

On October 5, 2012, Timbol filed a Certificate of Candidacy[6] for the position of Member of the Sangguniang Panlungsod of the Second District of Caloocan City. On January 15, 2013, he received a Subpoena[7] from COMELEC Election Officer Dinah A. Valencia (Election Officer Valencia), ordering him to appear before her office on January 17, 2013 for a clarificatory hearing in connection with his Certificate of Candidacy.[8]

Timbol, together with his counsel, appeared before Election Officer Valencia. During the clarificatory hearing, Timbol argued that he was not a nuisance candidate. He contended that in the 2010 elections, he ranked eighth among all the candidates who ran for Member of the Sangguniang Panlungsod of the

---

[1] *Rollo*, pp. 3-9. This Petition was filed under Rule 64 in relation to Rule 65 of the Rules of Court.

[2] *Id*. at 12-17.

[3] *Id*. at 14 and 16.

[4] *Id*. at 18-19.

[5] *Id*. at 19.

[6] *Id*. at 23.

[7] *Id*. at 24.

[8] *Id*. at 4.

Supreme Court E-Library

Second District of Caloocan City. He allegedly had sufficient resources to sustain his campaign.[9]

He pointed out before the clarificatory hearing panel that his name already appeared in the list of nuisance candidates posted in the COMELEC website pursuant to Resolution No. 9610 dated January 11, 2013. The clarificatory hearing panel allegedly assured him that his name would be deleted from the list and that his Certificate of Candidacy would be given due course.[10]

In the Memorandum[11] dated January 17, 2013, Election Officer Valencia recommended that Timbol's Certificate of Candidacy be given due course.[12]

Despite Election Officer Valencia's favorable recommendation, Timbol's name was not removed from the list of nuisance candidates posted in the COMELEC's website. With the printing of ballots for the automated elections set on February 4, 2013, Timbol filed on February 2, 2013 a Petition[13] praying that his name be included in the certified list of candidates for the May 13, 2013 elections.[14]

In the Minute Resolution dated February 5, 2013, the COMELEC denied the Petition for being moot, considering that the printing of ballots had already begun.[15]

On March 15, 2013,[16] Timbol filed his Petition for Certiorari with this court, arguing that the COMELEC gravely abused its discretion in declaring him a nuisance candidate.[17] According

---

[9] *Id*. at 4-5.

[10] *Id*. at 5.

[11] *Id*. at 30-34.

[12] *Id*. at 34.

[13] *Id*. at 35-37.

[14] *Id*. at 35-36.

[15] *Id*. at 19.

[16] *Id*. at 3.

[17] *Id*. at 6-7.

Supreme Court E-Library

to Timbol, the COMELEC deprived him of due process of law when he was declared a nuisance candidate even before Election Officer Valencia conducted the clarificatory hearing.[18] He prayed for a preliminary mandatory injunction ordering the COMELEC to include his name in the certified list of candidates for the position of Member of Sangguniang Panlungsod of the Second District of Caloocan City.[19]

In the Resolution[20] dated April 16, 2013, this court ordered the Office of the Solicitor General to comment on behalf of the COMELEC.

In its Comment,[21] the COMELEC argued that the Petition was already moot and academic, considering that the May 13, 2013 elections had already been conducted.[22]

Even assuming that the Petition was not moot and academic, the COMELEC maintained that it did not gravely abuse its discretion. Contrary to Timbol's argument, he was given an opportunity to be heard when Election Officer Valencia heard him during the clarificatory hearing. He even admitted that he attended the clarificatory hearing with his counsel.[23]

Moreover, the COMELEC did not gravely abuse its discretion in denying Timbol's Petition to be included in the certified list of candidates, considering that the printing of ballots had already started.[24]

With these arguments, the COMELEC prayed that this court deny the Petition for lack of merit.[25]

---

[18] *Id*.

[19] *Id*. at 8.

[20] *Id*. at 38.

[21] *Id*. at 44-55.

[22] *Id*. at 49.

[23] *Id*. at 52.

[24] *Id*. at 53.

[25] *Id*. at 54.

Supreme Court E-Library

In the Resolution[26] dated August 6, 2013, this court ordered Timbol to file a reply. When Timbol failed to file his reply despite receipt of the order,[27] we required Atty. Jose Ventura Aspiras (Atty. Aspiras), counsel for Timbol, to show cause why he should not be disciplinarily dealt with for failing to file a reply on behalf of his client in the Resolution[28] dated September 2, 2014. We likewise reiterated our order for Atty. Aspiras to file a reply for Timbol.[29] Still, Atty. Aspiras failed to comply with our show cause resolution.

We dispense with the filing of the reply and resolve to decide this case based on the Petition and the Comment.

The issues for this court's resolution are the following:

First, whether this case is moot and academic; and

Second, whether respondent COMELEC gravely abused its discretion in denying petitioner Timbol's Petition for inclusion in the certified list of candidates.

We deny the Petition.

I

This case is moot and academic.

A case is moot and academic if it "ceases to present a justiciable controversy because of supervening events so that a declaration thereon would be of no practical use or value."[30] When a case is moot and academic, this court generally declines jurisdiction over it.[31]

---

[26] *Id*. at 57.

[27] *Id*. at 60-61.

[28] *Id*. at 67.

[29] *Id*.

[30] *COCOFED-Philippine Coconut Producers Federation, Inc. v. Commission on Elections*, G.R. No. 207026, August 6, 2013, 703 SCRA 165, 175 [Per *J*. Brion, *En Banc*].

[31] *Baldo, Jr. v. Commission on Elections*, 607 Phil. 281, 286-287 (2009) [Per *J*. Chico-Nazario, *En Banc*]; *Garcia v. Commission on Elections*, 328

Supreme Court E-Library

There are recognized exceptions to this rule. This court has taken cognizance of moot and academic cases when:

(1) there was a grave violation of the Constitution; (2) the case involved a situation of exceptional character and was of paramount public interest; (3) the issues raised required the formulation of controlling principles to guide the Bench, the Bar and the public; and (4) the case was capable of repetition yet evading review.[32] (Citation omitted)

We may no longer act on petitioner's prayer that his name be included in the certified list of candidates and be printed on the ballots as a candidate for Member of the Sangguniang Panlungsod. Petitioner filed with this court his Petition for Certiorari on March 15, 2013, 39 days after respondent began printing the ballots on February 4, 2013. Also, the May 13, 2013 elections had been concluded, with the winners already proclaimed.

That this case is moot and academic, however, does not preclude us from setting forth "controlling and authoritative doctrines"[33] to be observed by respondent in *motu proprio* denying due course to or cancelling certificates of candidacy of alleged nuisance candidates. This *motu proprio* authority is always subject to the alleged nuisance candidate's opportunity to be heard[34] — an essential element of procedural due process.[35]

Phil. 288, 292 (1996) [Per *J.* Francisco, *En Banc*]; *De la Victoria v. Commission on Elections*, 276 Phil. 610 (1991) [Per *J.* Griño-Aquino, *En Banc*].

[32] *Alliance for Rural and Agrarian Reconstruction, Inc. v. Commission on Elections*, G.R. No. 192803, December 10, 2013, 712 SCRA 54, 75-76 [Per *J.* Leonen, *En Banc*].

[33] *De la Camara v. Enage*, 148-B Phil. 502, 504 (1971) [Per *J.* Fernando, *En Banc*].

[34] COMELEC **Rules of Procedure**, Rule 24, Sec. 4, as amended by COMELEC Resolution No. 9523.

[35] See *De la Camara v. Enage*, 148-B Phil. 502, 504 (1971) [Per *J.* Fernando, *En Banc*], where the court, despite the case being moot and academic, proceeded to set forth "controlling and authoritative doctrines" for the guidance of lower courts in fixing the amount of bail "in order

Supreme Court E-Library

II

Respondent's power to *motu proprio* deny due course to a certificate of candidacy is subject to the candidate's opportunity to be heard.

Under Article II, Section 26 of the Constitution, "[t]he State shall guarantee equal access to opportunities for public service[.]" This, however, does not guarantee "a constitutional right to run for or hold public office[.]"[36] To run for public office is a mere "privilege subject to limitations imposed by law."[37] Among these limitations is the prohibition on nuisance candidates.

Nuisance candidates are persons who file their certificates of candidacy "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."[38] In *Pamatong v. Commission on Elections*,[39] this court explained why nuisance candidates are prohibited from running for public office:

> . . . 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

---

that full respect be accorded to such a constitutional right."

[36] *Pamatong v. Commission on Elections*, G.R. No. 161872, April 13, 2004, 427 SCRA 96, 100 [Per *J.* Tinga, *En Banc*].

[37] *Id*.

[38] ELECTION CODE, Sec. 69.

[39] G.R. No. 161872, April 13, 2004, 427 SCRA 96 [Per *J.* Tinga, *En Banc*].

Supreme Court E-Library

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.[40]

To minimize the logistical confusion caused by nuisance candidates, their certificates of candidacy may be denied due course or cancelled by respondent. This denial or cancellation may be "*motu proprio* or upon a verified petition of an interested party,"[41] "subject to an opportunity to be heard."[42]

The opportunity to be heard is a chance "to explain one's side or an opportunity to seek a reconsideration of the action or ruling complained of."[43] In election cases, due process requirements are satisfied "when the parties are afforded fair and reasonable opportunity to explain their side of the controversy at hand."[44]

---

[40] *Id*. at 104-105.

[41] ELECTION CODE, Sec. 69.

[42] COMELEC RULES OF PROCEDURE, Rule 24, Sec. 4, as amended by COMELEC Resolution No. 9523.

[43] *Trinidad v. Commission on Elections*, 373 Phil. 802, 811 (1999) [Per *J*. Ynares-Santiago, *En Banc*], citing *Paat v. Court of Appeals*, 334 Phil. 146, 156 (1997) [Per *J*. Torres, Jr., Second Division], in turn citing *Navarro III v. Damasco*, 316 Phil. 322, 328 (1995) [Per *J*. Quiason, First Division].

[44] *Id*.

Supreme Court E-Library

In *Cipriano v. Commission on Elections*,[45] this court explained:

> [T]he determination whether a candidate is eligible for the position he is seeking involves a determination of fact where both parties must be allowed to adduce evidence in support of their contentions. Because the resolution of such fact may result to a deprivation of one's right to run for public office, or, as in this case, one's right to hold public office, it is only proper and fair that the candidate concerned be notified of the proceedings against him and that he be given the opportunity to refute the allegations against him. It should be stressed that it is not sufficient, as the COMELEC claims, that the candidate be notified of the Commission's inquiry into the veracity of the contents of his certificate of candidacy, but he must also be allowed to present his own evidence to prove that he possesses the qualifications for the office he seeks.[46]

Respondent 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.[47]

Respondent declared petitioner a nuisance candidate without giving him a chance to explain his *bona fide* intention to run for office. Respondent had already issued Resolution No. 9610 on January 11, 2013 when petitioner appeared before Election Officer Valencia in a clarificatory hearing on January 17, 2013. This was an ineffective opportunity to be heard.

That petitioner was able to file a Petition for inclusion in the certified list of candidates did not cure the defect in the issuance of Resolution No. 9610. First, he would not have to file the Petition had he been given an opportunity to be heard in the first place. Second, in the Minute Resolution dated February 5, 2013, respondent denied petitioner's Petition on the sole ground that the printing of ballots had already begun on February 4, 2013.

---

[45] 479 Phil. 677 (2004) [Per *J.* Puno, *En Banc*].

[46] *Id.* at 691.

[47] See *Cipriano v. Commission on Elections*, 479 Phil. 677, 689-690 (2004) [Per *J.* Puno, *En Banc*].

Supreme Court E-Library

We understand the "insurmountable and tremendous operational constraints and costs implications"[48] of reprinting ballots had respondent ordered the inclusion of petitioner's name in the certified list of candidates. The ballots already printed would have to be recalled, leading to the waste of the ballots previously printed. It should be noted that these ballots are special as they have the capability of being optically scanned by Precinct Count Optical Scan machines. Reprinting another batch of ballots would, indeed, be costly.

Still, "automation is not the end-all and be-all of an electoral process."[49] Respondent should also balance its duty "to ensure that the electoral process is clean, honest, orderly, and peaceful"[50] with the right of a candidate to explain his or her *bona fide* intention to run for public office before he or she is declared a nuisance candidate.

III

Counsel for petitioner must be fined for failure to comply with the Show Cause Resolution dated September 2, 2014.

Atty. Aspiras, counsel for petitioner, failed to obtain the injunctive reliefs prayed for in time for the May 13, 2013 elections. However, this was no reason for him to defy our orders to file a reply on behalf of his client. For such contumacious acts, he should be ordered to show cause why he should not be proceeded with administratively.

WHEREFORE, this Petition for Certiorari is **DENIED** for being moot and academic.

Moreover, Atty. Jose Ventura Aspiras is **ORDERED** to show cause within a non-extendible period of ten (10) days

---

[48] *Philippine Guardians Brotherhood, Inc. v. Commission on Elections*, G.R. No. 190529, March 22, 2011, 646 SCRA 63, 71 [Per *J.* Brion, *En Banc*].

[49] *Id*. at 80.

[50] *Cipriano v. Commission on Elections*, 479 Phil. 677, 687-688 (2004) [Per *J*. Puno, *En Banc*].

Supreme Court E-Library

from receipt of this Resolution why he should not be the subject of administrative actions for his contumacious attitude towards repeated orders of this court, specifically, for his failure to comply with the Resolutions dated August 6, 2013 and September 2, 2014. The action against Atty. Jose Ventura Aspiras will be docketed as a new and separate administrative case.

Let a copy of this decision be given to the Office of the Bar Confidant for the initiation of the proper disciplinary action against Atty. Jose Ventura Aspiras.

SO ORDERED.

Sereno, C.J., Carpio, Velasco, Jr., Leonardo-de Castro, Peralta, Bersamin, del Castillo, Villarama, Jr., Perez, Mendoza, Reyes, and *Perlas-Bernabe, JJ.,* concur.

Jardeleza, J., no part.

Brion, J., on leave.

EN BANC

[G.R. No. 211362 . February 24, 2015]

FIRST CLASS CADET ALDRIN JEFF P. CUDIA of the Philippine Military Academy, represented by his father RENATO P. CUDIA, who also acts on his own behalf, and BERTENI CATALUÑA CAUSING, *petitioners, vs.* **THE SUPERINTENDENT OF THE PHILIPPINE MILITARY ACADEMY (PMA), THE HONOR COMMITTEE (HC) OF 2014 OF THE PMA and HC MEMBERS, and the CADET REVIEW AND APPEALS BOARD (CRAB),** *respondents.*

FILIPINA P. CUDIA, in behalf of CADET FIRST CLASS ALDRIN JEFF P. CUDIA, and on her own behalf, *petitioner-intervenor.*