

## EN BANC

G.R. No. 268891 – GERARDO “JERRY” A. NOVERAS, Petitioner, v. COMMISSION ON ELECTIONS AND NARCISO DELA CRUZ AMANSEC, Respondents.

Promulgated:

October 22, 2024

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### DISSENTING OPINION

CAGUIOA, J.:

Before the Court is the question of the validity of the Resolution<sup>1</sup> dated July 10, 2023 of the Commission on Elections (COMELEC) First Division and Resolution<sup>2</sup> dated September 6, 2023 of the COMELEC *En Banc*, which disqualified petitioner Gerardo “Jerry” A. Noveras (Noveras) from running for the vice-gubernatorial position of the province of Aurora in the 2022 National and Local Elections (NLE), under Section 68 of the Omnibus Election Code (OEC) in relation to Sections 261(d)(1)<sup>3</sup> and (e)<sup>4</sup> thereof. Noveras alleges that COMELEC gravely abused its discretion amounting to lack or excess of jurisdiction when COMELEC found him guilty of violating: [a] Section 261(d) of the OEC, despite its express repeal; and [b] Section 261(e) for lack of legal basis, alleging that COMELEC’s findings are based on suppositions and inferences.

The *ponencia* agrees with Noveras to the extent that Section 261(d)—coercion of subordinates—in relation to Section 68, may no longer be used as

<sup>1</sup> *Rollo*, pp. 252–280. Signed by Presiding Commissioner Socorro B. Inting, Commissioners Aimee P. Ferolino and Ernesto Ferdinand P. Maceda, Jr. (with Separate Opinion).

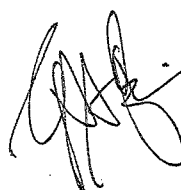
<sup>2</sup> *Id.* at 350–373. Signed by Chairperson George Erwin M. Garcia and Commissioners Socorro B. Inting, Marlon S. Casquejo (no part), Aimee P. Ferolino, Rey F. Bulay (no part), Ernesto Ferdinand P. Maceda, Jr. and Nelson J. Celis.

<sup>3</sup> SEC. 261. *Prohibited Acts*. — The following shall be guilty of an election offense:

....  
(d) *Coercion of subordinates*. — (1) Any public officer, or any officer of any public or private corporation or association, or any head, superior, or administrator of any religious organization, or any employer or land-owner who coerces or intimidates or compels, or in any manner influence, directly or indirectly, any of his subordinates or members or parishioners or employees or house helpers, tenants, overseers, farm helpers, tillers, or lease holders to aid, campaign or vote for or against any candidate or any aspirant for the nomination or selection of candidates.

<sup>4</sup> SEC. 261. *Prohibited Acts*. — The following shall be guilty of an election offense:

....  
(e) *Threats, intimidation, terrorism, use of fraudulent device or other forms of coercion*. — Any person who, directly or indirectly, threatens, intimidates or actually causes, inflicts or produces any violence, injury, punishment, damage, loss or disadvantage upon any person or persons or that of the immediate members of his family, his honor or property, or uses any fraudulent device or scheme to compel or induce the registration or refraining from registration of any voter, or the participation in a campaign or refraining or desistance from any campaign, or the casting of any vote or omission to vote, or any promise of such registration, campaign, vote, or omission therefrom.



basis for disqualifying candidates in view of its express repeal by Republic Act (R.A.) No. 7890,<sup>5</sup> as extensively discussed in *Gov. Javier v. COMELEC*.<sup>6</sup> Notwithstanding, the *ponencia* upholds COMELEC *En Banc*'s finding that there is substantial evidence that Noveras violated Section 261(e), i.e., using a fraudulent scheme to induce voters to cast their votes in his favor,<sup>7</sup> and threatening or intimidating a government employee to participate in his election campaign.<sup>8</sup> Accordingly, the *ponencia* affirms the disqualification of Noveras.<sup>9</sup>

I dissent.

I submit that COMELEC gravely abused its discretion amounting to lack or excess of jurisdiction when it disqualified Noveras **based on grounds not alleged in the Petition for Disqualification** filed by respondent Narciso Dela Cruz Amansec (Amansec). As the Petition for Disqualification is based solely on an alleged violation of Section 261(o) of the OEC, COMELEC violated Noveras's constitutional right to due process when it ruled that Noveras may nonetheless be disqualified under Sections 261(d) and (e). Contrary to the findings of COMELEC, the material allegations in the Petition for Disqualification do not charge Noveras with election offenses under these two provisions, and neither are these offenses necessarily included in the sole offense alleged to have been violated.

Even assuming that COMELEC may disqualify a candidate based on grounds not alleged in the petition, COMELEC still erred in disqualifying Noveras on the basis of Sections 261(d) and (e).

While I agree that Section 261(d) is repealed under the clear and categorical language of R.A. No. 7890, and thus can no longer be considered a ground for disqualification under Section 68, I disagree that there is substantial evidence to prove that Noveras violated Section 261(e) — **to the contrary, there is no evidence as to any involvement of Noveras in the alleged offense.**

### *Factual background of the case*

Noveras, then incumbent governor of Aurora, filed his Certificate of Candidacy (COC) for the position of vice-governor of the province of Aurora in the 2022 NLE.<sup>10</sup> Amansec likewise filed his COC for the same position.<sup>11</sup> Meanwhile, Christian Noveras (Christian), the son of Noveras and then incumbent vice-governor of Aurora, filed his COC for the position of

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<sup>5</sup> *Ponencia*, pp. 9–16.

<sup>6</sup> 777 Phil. 700 (2016) [Per J. Brion, *En Banc*].

<sup>7</sup> *Ponencia*, pp. 17–21.

<sup>8</sup> *Id.* at 21–25.

<sup>9</sup> *Id.* at 25.

<sup>10</sup> *Rollo*, pp. 35–36. Amansec's Petition for Disqualification dated April 26, 2022.

<sup>11</sup> *Id.* at 331, COMELEC First Division's Resolution dated August 31, 2022.



governor.<sup>12</sup>

According to Amansec, on March 30, 2022, he went to the Aurora Training Center (ATC), a government-owned property which houses different offices and agencies of the Province of Aurora. At the ATC, Amansec allegedly witnessed a certain Michael Tecuico (Tecuico), a casual government employee of the province, printing the campaign materials of Noveras and Christian, using the tarpaulin printer owned by the government.<sup>13</sup> When Amansec confronted Tecuico about the campaign materials, Tecuico allegedly called someone with his cellphone who Tecuico referred to as “boss” and thereafter forcibly removed Amansec out of the building.<sup>14</sup>

On the same date, Amansec applied for the issuance of a warrant to search the printing room at the ATC for possible violation of Section 261(o)<sup>15</sup> of the OEC.<sup>16</sup> The application was granted on April 1, 2022.<sup>17</sup>

On April 2, 2022, the police officers enforced the search warrant and seized several campaign materials of Noveras and Christian, among other items.<sup>18</sup> The seized campaign materials all contained the statement, “Paid by: Christian M. Noveras.”<sup>19</sup>

### ***Proceedings before COMELEC***

On April 26, 2022, Amansec filed before COMELEC the subject Petition for Disqualification<sup>20</sup> against Noveras, in which Amansec alleged that, “[a]s the incumbent Governor of the Province of Aurora, [Noveras] took undue advantage of his position and abused the power and authority of his office by utilizing and using the property, equipment, and facilities of the Provincial Government of Aurora for his own personal interest and for the benefit of his campaign as a vice-gubernatorial candidate of the said

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 37–38. Amansec’s Petition for Disqualification dated April 26, 2022.

<sup>14</sup> *Id.* at 39.

<sup>15</sup> SEC. 261. *Prohibited Acts.* — The following shall be guilty of an election offense:

....  
(o) *Use of public funds, money deposited in trust, equipment, facilities owned or controlled by the government for an election campaign.* — Any person who uses under any guise whatsoever, directly or indirectly, (1) public funds or money deposited with, or held in trust by, public financing institutions or by government offices, banks, or agencies; (2) any printing press, radio, or television station or audio-visual equipment operated by the Government or by its divisions, sub-divisions, agencies or instrumentalities, including government-owned or controlled corporations, or by the Armed Forces of the Philippines; or (3) any equipment, vehicle, facility, apparatus, or paraphernalia owned by the government or by its political subdivisions, agencies including government-owned or controlled corporations, or by the Armed Forces of the Philippines for any election campaign or for any partisan political activity.

<sup>16</sup> *Rollo*, p. 39, Amansec’s Petition for Disqualification dated April 26, 2022.

<sup>17</sup> *Id.* at 40.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 42, Amansec’s Petition for Disqualification dated April 26, 2022; *id.* at 105, Photographs of seized tarpaulins.

<sup>20</sup> *Id.* at 35–49.



province.”<sup>21</sup> Amansec emphasized that the ATC and the printer used to print the campaign materials are both owned by the government.<sup>22</sup> Considering that the seized campaign materials have the same layout as the materials used by Noveras and his running mates in their campaign, it is allegedly impossible for Noveras to claim that he has no knowledge where his campaign materials are being printed.<sup>23</sup> Thus, Amansec claimed that Noveras should be disqualified from running and continuing as a candidate for the vice-gubernatorial post for committing an election offense under Section 261(o) of the OEC<sup>24</sup> which prohibits the use of government-owned or controlled facilities and equipment for an election campaign.

Notably, Amansec also filed a Petition for Disqualification against Christian, ultimately alleging the same facts as alleged in the Petition for Disqualification against Noveras.<sup>25</sup> He also filed a criminal complaint against Noveras and Christian, among others, for Malversation of Public Funds and against Noveras, Christian, Tecuico, Joel D. Friginal (Friginal) and Ricardo Q. Bautista (Bautista) for violation of Section 261(o) of the OEC.<sup>26</sup> Friginal was the Supervising Administrative Officer of the Supply and Property Management Division, while Bautista was the Provincial General Services Officer.<sup>27</sup> Both were the immediate supervisors of Tecuico.<sup>28</sup>

In his Answer<sup>29</sup> to the Petition for Disqualification, Noveras prayed for the dismissal of the petition, arguing that a violation of Section 261(o) is not a ground for disqualification under Section 68<sup>30</sup> of the OEC.<sup>31</sup> Meanwhile, a final judgment of guilt for an offense is required for disqualification under

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<sup>21</sup> *Id.* at 37.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* at 44.

<sup>24</sup> *Id.* at 45.

<sup>25</sup> *Id.* at 330–332, COMELEC First Division’s Resolution dated August 31, 2022.

<sup>26</sup> *Id.* at 122–123, Noveras’ Answer dated May 13, 2022; *id.* at 128, Amansec’s Sinumpaang Salaysay ng Paghahabla dated April 20, 2022; *id.* at 321, Department of Justice’s Resolution dated June 16, 2023.

<sup>27</sup> *Id.* at 323. Department of Justice’s Resolution dated June 16, 2023.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* at 118–127.

<sup>30</sup> SEC. 68. *Disqualifications* — Any candidate who, in an action or protest in which he is a party is declared by final decision of a competent court guilty of, or found by the Commission of having (a) given money or other material consideration to influence, induce or corrupt the voters or public officials performing electoral functions; (b) committed acts of terrorism to enhance his candidacy; (c) spent in his election campaign an amount in excess of that allowed by this Code; (d) solicited, received or made any contribution prohibited under Sections 89, 95, 96, 97 and 104; or (e) violated any of Sections 80, 83, 85, 86 and 261, paragraphs d, e, k, v, and cc, subparagraph 6, shall be disqualified from continuing as a candidate, or if he has been elected, from holding the office. Any person who is a permanent resident of or an immigrant to a foreign country shall not be qualified to run for any elective office under this Code, unless said person has waived his status as permanent resident or immigrant of a foreign country in accordance with the residence requirement provided for in the election laws. (*Sec. 25, 1971 EC*)

<sup>31</sup> *Rollo*, pp. 119, 122.

Section 12<sup>32</sup> of the OEC and under Section 40<sup>33</sup> of the Local Government Code of 1991, and that, in that regard, the criminal complaints against him are then still pending before the Office of the Provincial Prosecutor.<sup>34</sup> As the petition does not allege any grounds for disqualification other than a violation of Section 261(o), Noveras asserted that the petition has no basis in fact and in law.<sup>35</sup>

In the Resolution dated July 10, 2023, the COMELEC First Division granted the Petition for Disqualification, but not for violation of Section 261(o). Rather, Noveras was found to have violated Section 261(d)(1) of the OEC,<sup>36</sup> i.e., coercing a subordinate to campaign for a candidate. Notably, unlike Section 261(o), Section 261(d)(1) is an offense that Section 68 references as a ground for disqualification.

Noveras filed a Motion for Reconsideration,<sup>37</sup> arguing that as R.A. No. 7890 expressly repealed Section 261(d) of the OEC, there is no legal basis for his disqualification on said ground. Even assuming that one may be disqualified under Section 261(d), Noveras alleged that the COMELEC First Division's finding that he exercised moral ascendancy over Tecuico and consequently coerced and/or influenced the latter to perform acts to aid his candidacy are based on mere suppositions and inferences.<sup>38</sup>

On August 14, 2023, Noveras filed a Supplement to the Motion for Reconsideration,<sup>39</sup> alleging that the Department of Justice, in a Resolution<sup>40</sup> dated June 16, 2023, dismissed the criminal complaint against him for violation of Section 261(o) for lack of probable cause since Amansec "failed to establish how . . . [Noveras] and Christian . . . provided moral assistance

<sup>32</sup> SEC. 12. *Disqualifications* — Any person who has been declared by competent authority insane or incompetent, or has been sentenced by final judgment for subversion, insurrection, rebellion or for any offense for which he has been sentenced to a penalty of more than eighteen months or for a crime involving moral turpitude, shall be disqualified to be a candidate and to hold any office, unless he has been given plenary pardon or granted amnesty.

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

<sup>33</sup> SEC. 40. *Disqualifications* — The following persons are disqualified from running for any elective local position:

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

<sup>34</sup> *Rollo*, pp. 122–123, Noveras' Answer dated May 13, 2022.

<sup>35</sup> *Id.* at 122.

<sup>36</sup> *Id.* at 260–268.

<sup>37</sup> *Id.* at 298–312.

<sup>38</sup> *Id.* at 307.

<sup>39</sup> *Id.* at 316–320.

<sup>40</sup> *Id.* at 321–328.



and asserted moral ascendancy over . . . [Tecuico] to commit the crime charged”<sup>41</sup> or “instructed [the latter] to print [the] campaign materials.”<sup>42</sup> Noveras likewise noted that the disqualification case against Christian was dismissed by the COMELEC First Division for lack of merit because Section 261(o) is not among the grounds for disqualification listed under Section 68 of the OEC,<sup>43</sup> and that said case and the disqualification case filed against him (Noveras) are based on virtually the same facts.

In a Resolution dated September 6, 2023, the COMELEC *En Banc* denied the Motion for Reconsideration and disqualified Noveras for violation of Section 261(d)(1) and, additionally, Section 261(e) of the OEC, i.e., commission of a fraudulent scheme to compel Tecuico to participate in the campaign.

While the COMELEC *En Banc* agreed that Section 261(o) is not among the offenses warranting disqualification under Section 68,<sup>44</sup> it nonetheless agreed with the COMELEC First Division that Noveras’ “extensive control over employees and appointees of the Provincial Government establishes the use of coercion against a provincial casual worker to commit partisan activities in violation of Section 261(d)(1) of the OEC.”<sup>45</sup> Further, with respect to Section 261(e), the COMELEC *En Banc* ruled that:

[T]he material facts of the case and the supporting evidence clearly establish that [Noveras’] use of a fraudulent scheme by unlawfully using government resources and premises has enabled him to compel and induce Mr. Tecuico, a provincial casual worker, to print materials for his campaign. This is a prohibited act of Section 261 (e) of the OEC. Thus, he can be disqualified pursuant to Section 68 of the OEC.<sup>46</sup>

The COMELEC *En Banc* also referred the criminal aspect of the said election offenses to its Law Department for preliminary investigation.<sup>47</sup>

***Noveras’ constitutional right to due process was violated when COMELEC disqualified him based on grounds not alleged in the Petition for Disqualification.***

Administrative proceedings, such as disqualification proceedings before COMELEC, are not exempt from basic and fundamental procedural principles—including the right to due process.<sup>48</sup> A basic requirement of due process is that a person be duly informed of the charges against him or her,<sup>49</sup>

<sup>41</sup> *Id.* at 317, Noveras’ “Supplement to the Motion for Reconsideration dated 11 July 2023,” dated August 11, 2023.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.* at 360–361. COMELEC *En Banc*’s Resolution dated September 6, 2023.

<sup>45</sup> *Id.* at 362. (Citation omitted)

<sup>46</sup> *Id.* at 372. COMELEC *En Banc*’s Resolution dated September 6, 2023.

<sup>47</sup> *Id.*

<sup>48</sup> *Civil Service Commission v. Lucas*, 361 Phil. 486, 491 (1999) [Per J. Pardo, *En Banc*].

<sup>49</sup> *Id.*



and consequently be given an opportunity to present a defense on the accusations constituting such charges:

Administrative due process demands that the party being charged is given an opportunity to be heard. Due process is complied with “if the party who is properly notified of allegations against him or her is given an opportunity to defend himself or herself against those allegations, and such defense was considered by the tribunal in arriving at its own independent conclusions.”

....

*An important component of due process is the right of the accused to be informed of the nature of the charges against him or her. A proper appraisal of the accusations would give the accused an opportunity to adequately prepare for his or her defense. Otherwise, substantial justice would be undermined.*<sup>50</sup> (Emphasis supplied, citations omitted)

As such, the Court has held that, “even in an administrative proceeding[, a person has] the right to be informed of the charges against him, *as well as the right not to be convicted of an offense for which he was not charged.*”<sup>51</sup> He likewise cannot be, even in administrative proceedings, “convicted of a much serious offense, carrying a more severe penalty, without him being properly informed thereof or being provided with the opportunity to be heard thereon.”<sup>52</sup>

I am mindful that an administrative charge need not be drafted with the same precision as is expected in a criminal prosecution.<sup>53</sup> Indeed, due process requirements are satisfied when the parties are afforded fair and reasonable opportunity to explain their side of the controversy at hand.<sup>54</sup> ***However***, such opportunity to explain is contingent on whether the person so charged was sufficiently informed of the same—as one cannot truly defend himself or herself—and therefore be heard—absent any knowledge of the offense charged against that person. Hence, such failure to sufficiently inform the respondent or accused of the charge amounts to a violation of the basic right to due process, which should result in the dismissal of the charges.<sup>55</sup>

Here, the violation of Noveras’s right to be duly informed of the charges upon which his disqualification is based was committed not just once, but twice—before the COMELEC First Division and then before the COMELEC *En Banc*.

To recall, Amansec sought the disqualification of Noveras based solely on the latter’s alleged violation of Section 261(o) of the OEC. Consequently, in his Answer, Noveras prepared a defense on the basis of Section 261(o),

<sup>50</sup> *Iglesias v. Ombudsman*, 817 Phil. 338, 358–359 (2017) [Per J. Leonen, Third Division].

<sup>51</sup> *Civil Service Commission v. Ledesma*, 508 Phil. 569, 579 (2005) [Per J. Carpio, *En Banc*]. (Emphasis supplied, citation omitted)

<sup>52</sup> *Office of the Ombudsman v. Magno*, 592 Phil. 636, 660 (2008) [Per J. Chico-Nazario, Third Division].

<sup>53</sup> *Id.* at 659.

<sup>54</sup> *Abang Lingkod Party-List v. COMELEC*, 720 Phil. 120, 132 (2013) [Per J. Reyes, *En Banc*].

<sup>55</sup> *Dadubo v. Civil Service Commission*, 295 Phil. 825 (1993) [Per J. Cruz, *En Banc*].





countering that a violation of Section 261(o) does not automatically result in his disqualification without a final conviction for the same, as it is not included in the offenses listed in Section 68 of the OEC.

Indeed, as the COMELEC *En Banc* later confirmed, Noveras' motion for reconsideration was correct in that it (the COMELEC First Division) cannot disqualify Noveras based on Section 261(o) as it would be beyond its jurisdiction. The COMELEC First Division should have ended its discussion there as the foregoing pronouncement already warranted the dismissal of the disqualification case against Noveras. Notably, in the disqualification case against Christian, involving the same factual circumstances and grounds, the COMELEC First Division correctly dismissed the petition precisely on this basis—a violation of Section 261(o) does not warrant disqualification under Section 68 of the OEC.

However, in this case, under the guise of substantial justice, the COMELEC First Division went further and ruled that it is not bound by the allegations of the petition<sup>56</sup> and disqualified Noveras based on Section 261(d)(1).

Unfortunately, when Noveras moved for reconsideration with the COMELEC *En Banc*, the latter added yet another charge against Noveras for violation of Section 261(e), stating that this new ground “can equally serve as basis for [Noveras'] disqualification.”<sup>57</sup>

I simply cannot subscribe to the COMELEC *En Banc*'s opinion that the factual allegations in the Petition for Disqualification for the violation of Section 261(o) likewise support the disqualification under Sections 261(d)(1) and (e). These three sections, while all election offenses, have different elements, and as such, necessitate different factual allegations.

To determine if Noveras was properly informed of the grounds on which he was disqualified, so that he had a real opportunity to defend himself, the allegations of *facts* in the Petition for Disqualification must be examined. If said facts as alleged in the petition constitute the offenses under Sections 261(d)(1) and 261(e), then there could not have been any violation of Noveras' due process rights. On the other hand, if such alleged facts do not constitute such offenses, or if any essential element of these offenses cannot be established by the alleged facts, even on the assumption that they are true, then there was violation of Noveras' right to notice and hearing, i.e. right to due process.<sup>58</sup>

A closer reading of the assailed Resolutions of COMELEC shows that there were, in fact, three distinct offenses that Noveras was found to have

<sup>56</sup> *Rollo*, p. 259. COMELEC First Division's Resolution dated July 10, 2023.

<sup>57</sup> *Id.* at 360. COMELEC *En Banc*'s Resolution dated September 6, 2023.

<sup>58</sup> See *Exec. Sec. Ochoa v. Atty. Buco*, 888 Phil. 117 (2020) [Per J. Inting, Second Division]; *Iglesias v. Ombudsman*, *supra* note 50; *Civil Service Commission v. Ledesma*, *supra* note 51; *Bernardo v. Court of Appeals*, 473 Phil. 284 (2004) [Per J. Callejo, Sr., Second Division].



allegedly committed:

- 1) Violation of Section 261(d)(1), i.e., that he directly or indirectly coerced, intimidated, compelled, or in any manner, influenced his subordinate—in this case, Tecuico—to aid and campaign for him (Noveras);
- 2) Violation of Section 261(e)—first manner—by directly or indirectly threatening, intimidating or actually causing, inflicting, or producing any violence, injury, punishment, damage, loss, or disadvantage upon Tecuico to compel or induce the latter's participation in the campaign for Noveras; and
- 3) Violation of Section 261(e)—second manner—by directly or indirectly using any fraudulent device or scheme to induce the voters to cast their votes for him (Noveras).

Dissecting these relevant provisions on the alleged offenses, the following relevant elements for each offense come to light:

- 1) For violation of 261(d)(1): 1) the offender is a public officer; 2) he or she coerces or intimidates or compels or in any manner influences, directly or indirectly his or her subordinates; and 3) the purpose of these acts is for the subordinates to aid or campaign for the public officer;
- 2) For the first manner of violating Section 261(e): 1) the offender is any person; 2) he or she directly or indirectly threatens or intimidates or actually causes injury, punishment, loss, or disadvantage upon another person; and 3) the offender's purpose is to compel or induce the participation of the victim in a campaign; and
- 3) For the second manner of violating Section 261(e): 1) the offender is any person; 2) he or she directly or indirectly uses any fraudulent device or scheme; and 3) the purpose of these acts is to compel another to cast a desired vote.

Again, as Noveras was found guilty of having committed all three offenses by COMELEC, leading to his disqualification, all of the elements—or all of the acts constituting such elements—of all these three offenses must have been alleged as facts in the Petition for Disqualification.

But a cursory reading of the Petition for Disqualification shows that it only alleged the following facts: 1) that on March 30, 2022, as Amansec was walking inside the ATC Compound, he noticed tarpaulins bearing the images of Noveras and Christian being printed in the tarpaulin printer;<sup>59</sup> 2) that the

<sup>59</sup> *Rollo*, p. 37.



same tarpaulins are posted all over Aurora Province;<sup>60</sup> 3) that the person manning the printer was Tecuico, an Administrative Aide III under the Provincial General Services Office;<sup>61</sup> 4) that Tecuico was appointed by Noveras as shown by an official document later obtained by him from the capitol;<sup>62</sup> 5) that Tecuico submits his Accomplishment Report to Friginal and his Daily Time Record (DTR) to Bautista;<sup>63</sup> 6) that when Amansec reprimanded Tecuico, the latter got angry and forcibly dragged Amansec out of the building;<sup>64</sup> 7) that during Tecuico and Amansec's conversation, before the latter was forced out of the building, Tecuico said "*Teka lang po[,] Sir. Tatawagan ko boss ko,*"<sup>65</sup> and actually called his "boss" on the phone. During such phone conversation, Tecuico blurted the words, "*Sir, may problema... si Amansec;*"<sup>66</sup> 8) that later, Amansec, reported the incident to the authorities, who, in turn, was able to obtain a search warrant on the ATC Compound, and that several campaign tarpaulins were recovered therefrom, all belonging to Noveras and his running mates;<sup>67</sup> and 9) that in one of the supporting affidavits for the petition for disqualification, a Punong Barangay mentioned having seen a material during the search which showed that Christian paid for the printing of the tarpaulin.<sup>68</sup>

Given these allegations, it becomes readily apparent that absolutely *none* of the acts which would constitute the three offenses above were alleged in the Petition for Disqualification.

For the first offense—violation of Section (d)(1), there is absolutely no allegation showing elements 2 and 3. For the second offense—the first manner of violating Section (e), there is no allegation which can constitute elements 2 and 3. For the third offense—the second manner of violating Section (e), there is as well no allegation showing elements 2 and 3. In other words, even on the assumption that Amansec's factual allegations were true and accurate, none of the offenses that Noveras was found to have committed by COMELEC could have been established.

To be sure, Noveras's defenses were aimed at refuting the factual allegations of Amansec and the latter's conclusion that these allegations were true and constituted the offense of violation of Section 261(o). *From the allegations of the Petition for Disqualification, Noveras could not have known that he was to be disqualified for violations of Sections 261(d)(1) and 261(e).* Thus, he could not have seasonably and reasonably put up defenses against such a conclusion by COMELEC. If anything, he was only afforded an opportunity to be heard on the Section 261(d)(1) charge in his motion for reconsideration before the COMELEC *En Banc*.

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<sup>60</sup> *Id.* at 38.

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.* at 39. (Emphasis in the original)

<sup>66</sup> *Id.* (Emphasis in the original)

<sup>67</sup> *Id.* at 39-41.

<sup>68</sup> *Id.* at 42.



Yet, exacerbating the violation to Noveras's right to due process, the COMELEC *En Banc* introduced another theory in resolving the motion for reconsideration—a violation of Section 261(e), without affording Noveras, again, an opportunity to refute the new charge.

From the facts of the case, it appears that COMELEC concocted the subsequent charges for violations of Sections 261(d)(1) and (e) because it knew that the charge in Amansec's Petition for Disqualification—violation of Section 261(o)—cannot support said petition as the same is not a ground therefor. Thus, COMELEC imputed other charges which it claimed were likewise supported by Amansec's allegations. Unfortunately for COMELEC, these charges, as mentioned, cannot prosper even assuming that Amansec was speaking the truth in his allegations.

**To my mind, COMELEC's repeated alterations of the theories upon which Noveras should be disqualified blatantly violated his right to due process—particularly, his right to be informed of the accusations against him and his right to defend himself from such accusations. In these lights, I respectfully submit that COMELEC acted with grave abuse of discretion amounting to lack or excess of jurisdiction when it issued the assailed Resolutions.**

At any rate, even assuming that the COMELEC *En Banc* may validly disqualify Noveras based on Section 261(e), I find that the evidence presented during the proceedings do not support a finding that Noveras violated Section 261(e).

*There is no substantial evidence to prove that Noveras threatened or intimidated Tecuico with punishment, damage, loss or disadvantage, thereby inducing him to print the former's campaign materials.*

The *ponencia* finds that the prevailing power relation between Noveras and Tecuico “inevitably carried with it an element of intimidation, insofar as Tecuico would not have agreed to print [Noveras'] campaign materials in the ATC printing room if not for the moral and legal ascendancy relations between them.”<sup>69</sup> Considering that Noveras had the power and authority to deprive Tecuico of any rights, privileges, or benefits he enjoys as an employee of the Aurora Local Government Unit (LGU), his moral ascendancy substitutes for force and intimidation.<sup>70</sup> Furthermore, the *ponencia* considers intimidation as “inherent in the LGU chief executive-employee relation

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<sup>69</sup> *Ponencia*, p. 23.

<sup>70</sup> *Id.*



between Noveras and Tecuico.”<sup>71</sup> In this connection, the *ponencia* submits that the identity of the higher-up whom Tecuico called “boss” is immaterial as the threat or intimidation may be made indirectly, and the ultimate beneficiary of Tecuico’s acts was Noveras.<sup>72</sup>

Again, I disagree.

Just as there are no allegations constituting the commission of the acts charged, as discussed above, there is also no proof that Noveras committed any of the first class of punishable acts under Section 261(e). The relevant portion of Section 261(e) of the OEC reads:

SEC. 261. *Prohibited Acts.* — The following shall be guilty of an election offense:

....  
(e) *Threats, intimidation, terrorism, use of fraudulent device or other forms of coercion.* — Any person who, directly or indirectly, threatens, intimidates or actually causes, inflicts or produces any violence, injury, punishment, damage, loss or disadvantage upon any person or persons or that of the immediate members of his family, his honor or property, . . . to compel or induce the registration or refraining from registration of any voter, or the participation in a campaign or refraining or desistance from any campaign, or the casting of any vote or omission to vote, or any promise of such registration, campaign, vote, or omission therefrom. (Emphasis supplied)

From the foregoing, the acts punished under the first class of acts in Section 261(e) are: (1) threatening; (2) intimidating; or (3) actually causing, inflicting, or producing—violence, injury, punishment, damage, loss or disadvantage, upon another person or the person’s immediate family, honor or property.

To determine whether one has indeed committed (1) and (2) of the above punishable acts, it is necessary to define how threats and intimidations may be inflicted upon persons.

*Threats* are “[w]ords or acts which are calculated and intended to cause an ordinary person to fear an injury to his person, business or property.”<sup>73</sup> On the other hand, there is *intimidation* when the words<sup>74</sup> or acts<sup>75</sup> of a person produce an intense fear in the mind of the victim which restricts or hinders the exercise of free will.<sup>76</sup> What is apparent is that in both threats and intimidation, the person must be proven to have uttered words or behaved or acted a certain way in order to cause the fear in the mind of the victim.

<sup>71</sup> *Id.* at 25.

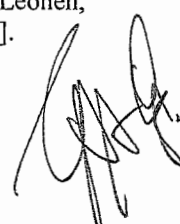
<sup>72</sup> *Id.*

<sup>73</sup> *Phimco Industries, Inc. v. Phimco Industries Labor Assn. (PILA)*, 642 Phil. 275, 300 (2010) [Per J. Brion, Third Division] (Citation omitted)

<sup>74</sup> *See United States v. Zaballero*, 13 Phil. 405 (1909) [Per J. Mapa, *En Banc*].

<sup>75</sup> *Id.*

<sup>76</sup> *See People v. Salazar*, G.R. No. 239138, February 17, 2021, 974 SCRA 390, 403–404 [Per J. Leonen, Third Division]; *Ablaza v. People*, 840 Phil. 627, 647 (2018) [Per J. Del Castillo, First Division].



Verily, a finding of violation of any law or the commission of offenses, even those which are administrative in nature, requires evidence that the perpetrator is guilty of an *act or omission*, viz.:

This Court cannot be any clearer in laying down the rule on the quantum of evidence to support an administrative ruling: “*In administrative cases, substantial evidence is required to support any findings. Substantial evidence is such relevant evidence as a reasonable mind may accept as adequate to support a conclusion. The requirement is satisfied where there is reasonable ground to believe that the petitioner is guilty of the act or omission complained of, even if the evidence might not be overwhelming.*”<sup>77</sup> (Emphasis supplied, citation omitted)

As applied in this case, it must thus be proven with substantial evidence, that Noveras performed an overt act constituting any of the punishable acts covered by the first manner of violating Section 261(e) before he could be found liable for the same. **By the very definition of threats and intimidation, it must be shown, with substantial evidence, that Noveras uttered words or behaved or acted a certain way in order to cause fear in the mind of Tecuico.**

However, the records are bereft of any evidence that Noveras—whether directly or indirectly—threatened or intimidated punishment, damage, loss or disadvantage upon Tecuico. To be sure, there were no allegations at all that Noveras committed any overt act which can be taken to mean that he induced, threatened, intimidated, or directly inflicted any harm on Noveras. In fact, there is not a single allegation that Noveras ever talked to Tecuico or that he even personally met or knew Tecuico, or even any of the latter’s immediate supervisors who could have acted as “middlemen” between Noveras and Tecuico. Indeed, there is not a single allegation in the Petition for Disqualification of any *overt act* that Noveras committed which could indicate any sort of connection or understanding between him and Tecuico. Notably, Tecuico was not even assigned to Noveras’s office; he was an Administrative Aide at the Provincial General Services Office—one of the several departments under the office of the Governor.<sup>78</sup>

The finding that Noveras is the “ultimate beneficiary” of Tecuico’s acts<sup>79</sup> is not an element of the offense, and neither does it establish, to any extent, an employment of threat or intimidation by Noveras.

Indeed, aside from his status as then incumbent governor of the Province of Aurora and the appointing authority of employees in the provincial government, there is no other evidence linking Noveras to Tecuico.

Most importantly, and as the *ponencia* itself acknowledges, the identity

<sup>77</sup> *Office of the Ombudsman v. Dechavez*, 721 Phil. 124, 130 (2013) [Per J. Brion, Second Division].

<sup>78</sup> *Rollo*, p. 38. Amansec’s Petition for Disqualification dated April 26, 2022.

<sup>79</sup> *Ponencia*, p. 25.



of the “boss” who Tecuico called when Amansec confronted him regarding the campaign materials was never established.<sup>80</sup>

The *ponencia* infers threat or intimidation from the supposed existence of moral ascendancy by virtue *solely* of the relationship between Noveras and Tecuico as superior and subordinate.<sup>81</sup> However, the mere existence of a superior-subordinate relationship is not an act punishable under Section 261(e)—this is not even act or an element of the offense but is merely a legal fiction/relationship between the parties. The mere existence of this relationship, in the absence of evidence of an act or omission constitutive of the offense, should not, in any way, warrant a finding of liability on the part of the superior—whether criminal or administrative.

The superior-subordinate relationship or, as in this case, “*LGU chief executive-employee relation*”<sup>82</sup> between the parties, cannot, on its own, be interpreted as outright evidence of threat, intimidation, or actually causing, inflicting, or producing violence, injury, punishment, damage, loss, or disadvantage.<sup>83</sup> To stress, the offense in question—or any offense, really—requires the doing of an act or an omission which violates a law. A relationship or a status is evidently not an act or omission. It would have been different if Noveras was alleged or shown to have communicated with Tecuico before the latter was caught printing the campaign materials. Such overt act of communicating, coupled with the relationship or supposed moral ascendancy of Noveras over Tecuico, could have reasonably supported the conclusion that Noveras must have had some sort of hand in the offense that Tecuico was caught committing. As it stands, however, no such communication or any form of interaction was alleged or shown between Noveras and Tecuico.

Indeed, inferring threats or intimidation simply from the position or status of a person, absent any other act or omission showing the threat or intimidation, sets a dangerous precedent. **It will result in absurd and unjust scenarios where a superior officer is conclusively found to have employed threats or intimidation upon a subordinate or employee, by mere fact of being a superior to the latter.** Every superior officer will be deemed to have threatened or intimidated a subordinate by mere existence of a lopsided power relationship between them. Simply stated, it punishes the superior simply because he is superior.

The *ponencia* and the COMELEC *En Banc* impute upon Noveras knowledge and consent of the offensive acts of Tecuico from, again, the mere fact that Noveras is the chief executive who supposedly has primary accountability over the properties used as such, and supervision over

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<sup>80</sup> *Id.* at 24–25.

<sup>81</sup> *Id.* at 25.

<sup>82</sup> *Id.* (Emphasis supplied)

<sup>83</sup> See *Velasco v. Angeles*, 557 Phil. 1 (2007) [Per J. Carpio, *En Banc*].



Tecuico.<sup>84</sup> Such imputation is unfounded. To stress, Tecuico's acts of printing the campaign materials are not evidently part of his functions as Administrative Aide of the province. In fact, the printing of the campaign materials is illegal and therefore, far beyond the functions of his post as Administrative Aide. There can be no presumption that these acts were regular and within the functions imposed upon Tecuico by Noveras as appointing officer. Stated differently, Noveras appointed Tecuico only as Administrative Aide and with the functions expressly stated in the latter's appointment documents. It would thus be the height of injustice to hold Noveras responsible for acts done outside of such official functions without actual and concrete proof that the latter actually consented to, or, at the very least, had knowledge of such acts.

All told, I find that the conclusion that Noveras threatened or intimidated Tecuico with punishment, damage, loss, or disadvantage, which then induced him to print the former's campaign materials is not supported by substantial evidence to warrant the disqualification of Noveras. A mere superior-subordinate relationship, without more, is not substantial evidence of threats or intimidation.

***There is no substantial evidence to prove that Noveras used a fraudulent scheme to induce voters to cast their votes in his favor.***

As the *ponencia* discusses, the election offense of use of fraudulent scheme or device has the following elements:

- 1) The existence of a fraudulent device or scheme;
- 2) The use of said fraudulent device or scheme for the purpose of inducement or compulsion; and
- 3) The inducement or compulsion is intended to produce, or actually produces, the following results:
  - a. Registration or refraining from registration of any voter;
  - b. Participation in a campaign;
  - c. Refraining or desistance from any campaign;
  - d. Casting of any vote;

<sup>84</sup> See LOCAL GOV'T CODE of 1991, sec. 375, par. a, viz.:

SEC. 375. *Primary and Secondary Accountability for Government Property.* – (a) Each head of department or office of a province, city, municipality or barangay shall be primarily accountable for all government property assigned or issued to his department or office.





- e. Omission to vote; or
- f. Any promise to do the foregoing acts.<sup>85</sup>

The *ponencia* finds that the unlawful use of government resources by public officers constitutes fraud.<sup>86</sup> As such, the printing of campaign materials for the election campaign of an incumbent public official by a government employee within government premises is a fraudulent device or scheme involving the diversion of government resources to unauthorized ends.<sup>87</sup> The *ponencia* likewise finds that the campaign materials were calculated to induce the electorate of Aurora to cast their votes in favor of Noveras and his ticket. Furthermore, since Noveras was the “ultimate beneficiary” of the acts committed by Tecuico and he exercised moral and legal ascendancy over the latter, he may be disqualified under Section 261(e) even if the unauthorized printing was done by someone else.<sup>88</sup>

I agree that the unlawful and unauthorized use of government resources by public officers constitutes fraud. However, the nature by which the *ponencia* holds Noveras liable for the use of the fraudulent device or scheme—by virtue of being the ultimate beneficiary and by having moral and legal ascendancy—is akin to a principal by inducement or a co-conspirator.

In order to be made liable as a principal by inducement, the person must have either **directly forced or directly induced another** to commit the crime.<sup>89</sup> Directly forcing another to commit a crime may be accomplished by: (i) using irresistible force, or (ii) causing uncontrollable fear; whereas, directly inducing the commission of a crime may be: (i) by giving a price, reward, or promise, or (ii) by using words of command.<sup>90</sup> On the other hand, in order to be made liable as a co-conspirator, the person **must have performed an overt act** in pursuance of or in furtherance of the conspiracy, i.e., active participation in the actual commission of the offense itself, or extending moral assistance to his or her co-conspirators by being present at the time of the commission of the crime, or by exerting a moral ascendancy over the other co-conspirators by moving them to execute or implement the criminal plan.<sup>91</sup>

Verily, liability as either a principal by inducement or a co-conspirator necessitates an overt act. Corollary to the rule on burden of proof in administrative cases, such overt act must be proven with substantial evidence.

Thus, similar to the previous discussion, I submit that, even if the use of fraudulent scheme or device may be committed indirectly, there must still be at least some iota of evidence linking the person to these acts to justify holding him or her responsible or accountable for the same. It must be shown

<sup>85</sup> *Ponencia*, pp. 18–19.

<sup>86</sup> *Id.* at 20.

<sup>87</sup> *Id.* at 21.

<sup>88</sup> *Id.*

<sup>89</sup> REV. PEN. CODE, art. 17.

<sup>90</sup> *People v. Manzanilla*, 873 Phil. 529, 538–539 (2020) [Per J. Gaerlan, Third Division].

<sup>91</sup> *People v. Raguro*, 858 Phil. 613, 624 (2019) [Per C.J. Bersamin, First Division].

through substantial evidence that he committed an overt act which shows his or her involvement or participation, whether direct or indirect, in the use of the fraudulent device or scheme. At the very least, there must be substantial evidence to prove knowledge and approval of the fraudulent scheme.

Here, as mentioned, **there is absolutely no evidence** that (1) Noveras was involved in or even knew of the tarpaulin printing incident, (2) Noveras directly or indirectly instructed Tecuico to print his party's campaign materials using government equipment, and (3) Noveras directly or indirectly authorized the use of the government tarpaulin printer to print the campaign materials. Knowledge or permission cannot be inferred from Noveras' position as governor, especially as there is no showing that use of these government resources would absolutely be impossible without Noveras' authorization.

Further, the orchestration of a fraudulent scheme cannot likewise be automatically imputed against Noveras on the basis of him being the "ultimate beneficiary" of the campaign materials. As can be gleaned from the records, the seized campaign materials endorsed the entire slate of Partido ng Demokratiko Pilipino (PDP) Laban, including candidates for city and municipal offices.<sup>92</sup> It was also indicated in the materials that Christian supposedly paid for the same.<sup>93</sup> To conclude that Noveras is the perpetrator of this scheme on account of his name and face appearing in the materials is *non sequitur*.

Lastly, I submit that the fraudulent scheme of using government resources for partisan activities was not "calculated to *induce* the electorate of Aurora to cast their votes in favor of Noveras and his ticket"<sup>94</sup>—at least, not in the sense intended by the law.

In determining the "inducement" contemplated by Section 261(e), the Court's discussion in *Aisporna v. CA*<sup>95</sup> is instructive:

Legislative intent must be ascertained from a consideration of the statute as a whole. The particular words, clauses and phrases should not be studied as detached and isolated expressions, but the whole and every part of the statute must be considered in fixing the meaning of any of its parts and in order to produce harmonious whole. A statute must be so construed as to harmonize and give effect to all its provisions whenever possible. The meaning of the law, it must be borne in mind, is not to be extracted from any single part, portion or section or from isolated words and phrases, clauses or sentences but from a general consideration or view of the act as a whole. Every part of the statute must be interpreted with reference to the context. This means that *every part of the statute must be considered*

<sup>92</sup> *Rollo*, pp. 96–99. PMSG Geoffrey M. Bolante and Pat Marvin E. Gonzales' Pinagsamang Sinumpaang Salaysay dated April 20, 2022.

<sup>93</sup> *Id.* at 105. Photographs of seized tarpaulins.

<sup>94</sup> *Ponencia*, p. 21. (Emphasis supplied, citation omitted)

<sup>95</sup> 198 Phil. 838 (1982) [Per J. De Castro, First Division].



together with the other parts, and kept subservient to the general intent of the whole enactment, not separately and independently. More importantly, the doctrine of associated words (*Noscitur a Sociis*) provides that where a particular word or phrase in a statement is ambiguous in itself or is equally susceptible of various meanings, its true meaning may be made clear and specific by considering the company in which it is found or with which it is associated.<sup>96</sup> (Emphasis supplied, citations omitted)

Here, the “inducement” or “compulsion” punished under Section 261(e) must be read in conjunction with the other prohibited acts in the provision, i.e., threatening, intimidating, or inflicting violence, injury, punishment, damage, loss or disadvantage. From the title of the sub-section alone, “*threats, intimidation, terrorism, use of fraudulent device[,] or other forms of coercion,*” it is evident that the offense is intended to pertain to a certain degree of devious acts or machinations. Accordingly, the fraudulent scheme to induce or compel the casting of votes penalized under Section 261(e), involves a level of deceit akin to an infliction of violence upon persons. Notably, Section 261(e) has indeed been used to prosecute and disqualify candidates who commit vote-buying, terrorism, and similar schemes to induce voters and/or to rig the elections in their favor.<sup>97</sup>

As such, campaign materials *per se* cannot “induce” the electorate to cast their votes in favor of a certain candidate under the contemplation of Section 261(e). By its very nature, campaign materials endorse specific candidates and persuade voters to cast their votes in favor of these candidates. As such, mere printing of campaign materials using government resources can hardly be considered as calculated to induce the electorate to vote in favor of a certain candidate.

Accordingly, I submit that there is likewise no substantial evidence to find Noveras guilty of committing the second class of acts prohibited under Section 261(e). There is, thus, no basis to disqualify Noveras on this ground.

***There is no evidence—direct or circumstantial—proving the guilt of Noveras.***

During the case deliberations wherein I raised the opinion which I now write, it was suggested that: 1) I am espousing the view that only direct evidence can be sufficient to hold Noveras accountable, and 2) that such a view is mistaken because circumstantial evidence, as laid down in the *ponencia*, suffices to support a finding of guilt.

For clarity, I do not think that direct evidence is necessary in this case. I agree that circumstantial evidence—or evidence which proves another fact than the act in issue but nevertheless proves the same by inference or logic—can be enough, as long as the requisites therefore as established in

<sup>96</sup> *Id.* at 847.

<sup>97</sup> See *Albaña v. Belo*, 617 Phil. 340 (2009) [Per J. Leonardo-De Castro, *En Banc*].



jurisprudence are satisfied.

Under Section 4, Rule 133 of the Revised Rules of Court, circumstantial evidence is sufficient for conviction if the following requisites concur: (a) there is more than one circumstance; (b) the facts from which the inferences are derived are proven; and (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt. These circumstances must be consistent with one another, and the only rational hypothesis that can be drawn therefrom must be the guilt of the accused.<sup>98</sup>

While this provision appears to refer only to criminal cases, the Court has applied its principles to administrative cases. In *Re: AC No. 04-AM-2002 (Josejina Fria v. Gemiliana de los Angeles)*,<sup>99</sup> the Court ruled:

For the third requisite to seal the circumstantial evidence against respondent, it is essential that *the circumstantial evidence presented must constitute an unbroken chain which leads one to a fair and reasonable conclusion pointing to the person being accused, to the exclusion of others, as the guilty person.*

Though administrative proceedings are not strictly bound by formal rules on evidence, the liberality of procedure in administrative actions is still subject to the limitations imposed by the fundamental requirement of due process, especially if the charge, as in the case at bar, if found to be true, also warrants her indictment criminally.<sup>100</sup> (Emphasis supplied, citations omitted)

To be clear and as shown by a plain reading of this opinion, what I submit is not that direct evidence is indispensable, but that no evidence—***either direct or circumstantial***—was proven or alleged in this case which can support a fair and reasonable conclusion of Noveras's guilt. As mentioned, even assuming as true the allegations of Amansec, there can be no reasonable inference that the elements of the charges were proven.

The truth is that there is not even a reasonable connection among these allegations and the elements of the offenses. To stress an example I gave earlier, the *ponencia* relies on the "circumstantial evidence" of employer-employee relationship between Noveras and Tecuico to infer that the former employed threats and intimidation on Tecuico for the latter to help in the campaign by printing his (Noveras') tarpaulins using the machines in Tecuico's office.

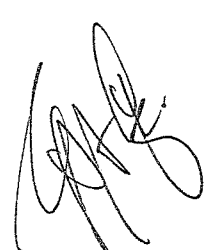
With due respect, I submit that the inference that the *ponencia* makes (employment of threats, intimidation) from the fact established (Noveras is Tecuico's superior) nowhere near satisfies the requirements of the law. It is not an inference that is "*a fair and reasonable conclusion [that points to Noveras], to the exclusion of [all] others, as the guilty person.*"<sup>101</sup> The fact that

<sup>98</sup> *People v. Cachuela*, 710 Phil. 728, 742 (2013) [Per J. Brion, Second Division].

<sup>99</sup> 474 Phil. 462 (2004) [Per J. Carpio Morales, *En Banc*].

<sup>100</sup> *Id.* at 473.

<sup>101</sup> *Id.* (Emphasis in the original, citation omitted)



Noveras is Tecuico's superior, alone, cannot, by any stretch of imagination, lock in Noveras as the only possible "mastermind" in Tecuico's acts or even that Tecuico was instructed to commit the offense and did not act by his own volition.

### ***Conclusion***

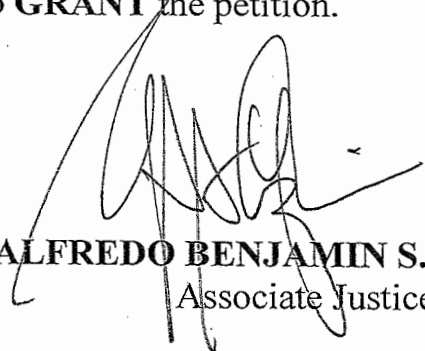
Any decision based on unsubstantiated allegations cannot stand without offending due process.<sup>102</sup> The offense against such a fundamental right is all the more vile when, as in this case, the allegations, even if assumed to be true, cannot still support the decision because the conclusions drawn therefrom do not follow.

It is true that in administrative proceedings, only substantial evidence is needed, or such relevant evidence as a reasonable mind may accept as adequate to support a conclusion.

Here, the factual allegations made, and the evidence presented, do not at all make out the conclusions arrived at. In a nutshell, the allegations and the facts established are merely that Noveras was the Governor and the superior of Tecuico; therefore, the acts of Tecuico must have been committed upon the threats, intimidation, and fraudulent schemes of Noveras. Surely, such a grave inference that it can disqualify a person from running for public service—and, inversely, deprive the people of such person as a political option—should not be as easily made. Otherwise, our leaders in public service will constantly be at the risk of administrative sanctions of any kind by the wrongdoings of any or some of their respective subordinates, even in the absence of an iota of showing that the wrongdoing was sanctioned, expressly or impliedly from his or her inaction despite knowledge thereof, by the superior.

While COMELEC is rightfully earnest in the implementation of our election laws—as, indeed, those who transgress laws for political gain should not be allowed to continue to operate with impunity—in doing so, however, neither COMELEC nor this Court can dispense with the observance of the most fundamental constitutional rights.

Given the foregoing, I vote to **GRANT** the petition.

  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

<sup>102</sup> *Nedira v. NJ World Corporation*, G.R. No. 240005, December 6, 2022 [Per C.J. Gesmundo, *En Banc*] at 7. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.