

EN BANC

G.R. No. 258459 [Formerly UDK 17258] (FRANCISCO JUEGOS TITO and PARTIDO PARA SA DEMOKRATIKONG REPORMA Represented by Its Chairperson, PANTALEON ALVAREZ, *petitioners* vs. COMMISSION ON ELECTIONS and ALEXANDER PETALCORIN AGUSTIN, *respondents*.)

Promulgated:

August 16, 2022

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DISSENTING OPINION

CAGUIOA, J.:

The *ponencia* partially grants the Petition for *Certiorari*¹ (Petition) filed by petitioners Francisco Juegos Tito (Tito) and Partido Para sa Demokratikong Reporma (Partido Reporma) and finds respondent Commission on Elections (COMELEC) to have committed grave abuse of discretion amounting to lack or excess of jurisdiction when it denied due course to the Certificate of Candidacy (CoC) filed by Tito as substitute to Alexander Petalcorin Agustin (Agustin), who was an official candidate of Partido Reporma for the position of Vice Governor of Davao de Oro for the 2022 National and Local Elections (2022 NLE).²

To recall, Tito and Agustin filed their CoCs under Partido Reporma for the positions of Governor and Vice Governor, respectively. Later, Tito filed with the Office of the Provincial Election Supervisor of Davao his Affidavit of Withdrawal with Substitution³ for the position of Governor and expressed his desire to be substituted by another member of Partido Reporma. Subsequently, Tito filed a CoC for the position of Vice Governor in place of Agustin, along with a Statement of Withdrawal⁴ purportedly executed by Agustin and naming Tito as his substitute and a Special Power of Attorney⁵ (SPA) authorizing Tito to file his withdrawal with the COMELEC. According to Tito, Agustin was not able to personally file his withdrawal as the latter had to isolate after having been identified as a close contact with a person who had tested positive for COVID-19.⁶

A few days after he filed his CoC and Agustin's alleged withdrawal, Tito discovered that his name was not in the list of candidates for Governor

¹ Denominated as "Petition for Certiorari with Prayer for the Issuance of a Preliminary Mandatory Injunction," *rollo*, pp. 3-73, including Annexes.

² *Ponencia*, pp. 20-21.

³ *Rollo*, p. 8.

⁴ *Id.* at 41.

⁵ *Id.* at 42.

⁶ *Ponencia*, pp. 1-2.



and that Agustin's name was retained in the list of candidates for Vice Governor in the COMELEC website. Tito thereafter sent a letter to the COMELEC to inquire into the matter.⁷

Meanwhile, in a Letter⁸ dated November 8, 2021, Agustin informed the COMELEC that he was repudiating his Certificate of Nomination and Acceptance (CONA) as the official candidate for Vice Governor of Partido Reporma. He then requested the COMELEC or its Law Department to declare him as an independent candidate pursuant to Section 31(c)⁹ of COMELEC Resolution No. 10717.¹⁰

In a Letter¹¹ dated December 7, 2021, the COMELEC, through its Law Department, explained that Tito's withdrawal of his CoC for the position of Governor was given due course but Agustin's withdrawal, and necessarily Tito's filing of CoC as his substitute for the position of Vice Governor, was denied.¹²

According to the COMELEC Law Department, Agustin's withdrawal was not given due course because it was not personally filed by Agustin as required by Section 39¹³ of COMELEC Resolution No. 10717. Further, the

⁷ Id. at 2.

⁸ *Rollo*, p. 55.

⁹ **SECTION 31. Independent Candidate.** – An independent candidate is one who falls in any of the following circumstances:

x x x x

(c) Who has not accepted a nomination, or has repudiated a CONA from a duly registered [Political Party] or Coalition;

x x x x

¹⁰ RULES AND REGULATIONS GOVERNING: 1) POLITICAL CONVENTIONS; 2) SUBMISSION OF NOMINEES OF GROUPS OR ORGANIZATIONS PARTICIPATING UNDER THE PARTY-LIST SYSTEM OF REPRESENTATION; AND 3) FILING OF CERTIFICATES OF CANDIDACY AND NOMINATION OF AND ACCEPTANCE BY OFFICIAL CANDIDATES OF REGISTERED POLITICAL PARTIES OR COALITIONS OF POLITICAL PARTIES IN CONNECTION WITH THE MAY 9, 2022 NATIONAL AND LOCAL ELECTIONS, August 18, 2021.

¹¹ Document No. 21-6753, *rollo*, pp. 52-54.

¹² *Ponencia*, p. 2; id. at 52-53.

¹³ **SECTION 39. Withdrawal of Certificate of Candidacy.** – Any aspirant may personally file, at any time before Election Day and subject to Section 40 hereof, a sworn Statement of Withdrawal, in five (5) original copies; with the Office where the COC is filed.

No Statement of Withdrawal filed by a person other than the aspirant or if filed by mail, electronic mail, or facsimile shall be accepted.

The Regional Election Director, Provincial Election Supervisor, or the Election Officer concerned, upon the receipt of the sworn Statement of Withdrawal, shall notify the Law Department through electronic mail at law.coc@comelec.gov.ph in PDF format of the said withdrawal, stating the following:

- a. Name of the withdrawing aspirant;
- b. Position aspired for;
- c. Nominating [Political Party] or Coalition of [Political Parties], if any; and
- d. Name of the substitute, if any.

On the same day, the Receiving Officer shall immediately forward to the Law Department, two (2) original copies of the sworn Statement of Withdrawal. The Law Department shall, in turn, forward the other copy to the ERSD.

The Receiving Officer shall retain the three (3) remaining copies of the sworn Statement of Withdrawal for file.

The filing of a sworn Statement of Withdrawal of a COC shall not affect whatever civil, criminal or administrative liability an aspirant may have incurred.

The Law Department is authorized to act on all sworn Statements of Withdrawal and substitution of aspirants for local position. All actions of the Law Department shall remain valid and effective unless otherwise reversed or set aside by the Commission.

All sworn Statements of Withdrawal and substitution of aspirants for national positions shall be submitted to the Commission *En Banc* for resolution.

A sample form of the Statement of Withdrawal is hereto attached as **Annex "N"**.

COMELEC Law Department said that while filing through a representative may be allowed in some cases,¹⁴ the same must comply with the requirements provided under the two (2) Memoranda¹⁵ issued by the Office of the Executive Director (the COMELEC Memoranda). Unfortunately, Tito, who was allegedly the authorized representative of Agustin, failed to submit the following requirements: (1) a Certification issued by the *Barangay* Chairperson or any other authorized office in the Local Government Unit (LGU) stating that the withdrawing candidate was identified as a close contact with any person who was tested positive for COVID-19 and on quarantine or isolation; (2) Tito's proof of identity; and (3) a recording or CD/USB showing clearly the act of the aspirant signing the Statement of Withdrawal.¹⁶

Subsequently, in a Letter¹⁷ dated December 13, 2021, Partido Reporma informed the COMELEC that it was not notified of Agustin's CONA repudiation. According to Partido Reporma, its right to due process was violated and it thereby requested that the repudiation be "treated as a mere scrap of paper."¹⁸ Partido Reporma also said that it will only accept Agustin's resignation "so long as COMELEC accepts [Tito] as the substitute candidate of Partido Reporma for Vice Governor in the province of Davao de Oro. Otherwise, Partido Reporma will be left with no candidate for said position."¹⁹

On December 28, 2021, the COMELEC posted another tentative list of candidates for the 2022 NLE and Tito's name was still not included in the said list.²⁰ Thereafter, Tito filed a motion for reconsideration but was advised by the COMELEC Clerk of Court to instead file a petition that can be docketed as an election matter.²¹ Hence, Tito filed a petition which was docketed as EM-22-003.²² Later on, the COMELEC *En Banc* denied the said petition in a Minute Resolution dated January 12, 2022 (COMELEC *En Banc* Minute Resolution) based on the following grounds: (1) the signatures of Agustin appearing on the documents are different; and (2) lack of municipal health certification on Agustin's exposure to a COVID-19 positive patient, among others.²³

¹⁴ *Rollo*, p. 53. According to the Letter dated December 7, 2021 of the COMELEC Law Department, a withdrawing aspirant is allowed to file through an authorized representative in the following instances:

1. The withdrawing aspirant is in area under a granular lockdown or identified as a "critical zone" by the concerned [LGU];
2. The withdrawing aspirant was tested positive for COVID-19; and
3. The withdrawing aspirant was identified as a close contact with any person who was tested positive for COVID-19 and on quarantine or isolation.

¹⁵ Memorandum of the Office of the Executive Director No. 21-2972 dated October 2, 2021, as supplemented by the Memorandum of the Office of the Executive Director No. 21-3335-A dated October 20, 2021. See *ponencia*, p. 12 and *rollo*, p. 53.

¹⁶ *Ponencia*, p. 2; *rollo*, pp. 53-54.

¹⁷ *Rollo*, pp. 57-58.

¹⁸ *Ponencia*, p. 3; *rollo*, p. 57.

¹⁹ *Id.*; *id.* at 58.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*



Tito requested for a certification as to the fact of denial of his petition, but considering the proximity of the printing of ballots and without any response from the COMELEC, Tito filed this Petition with an application for a writ of preliminary mandatory injunction to compel the COMELEC to include his name in the ballots as the official candidate of Partido Reporma for the position of Vice Governor.²⁴

On January 26, 2022, the Court issued a temporary restraining order²⁵ (TRO) enjoining the COMELEC from enforcing the COMELEC *En Banc* Minute Resolution and requiring the COMELEC to comment on the Petition. Tito was also directed to submit a legible duplicate original or certified true copy of the COMELEC *En Banc* Minute Resolution and to implead Agustin and Partido Reporma as parties, which the Court also required to comment. Eventually, the Court received the Compliance²⁶ and Amended Petition²⁷ filed by Tito with Partido Reporma as co-petitioner.²⁸

The Office of the Solicitor General (OSG) filed a Comment²⁹ on behalf of the COMELEC. In its Comment, the OSG alleged that the Petition should be dismissed outright as it was filed without an attached legible duplicate original or certified true copy of the COMELEC *En Banc* Minute Resolution. It also asserted that the Petition raises mere errors of judgment, which are clearly beyond the ambit of a petition filed under Rule 65 of the Rules of Court.³⁰ With respect to the TRO, the OSG reasoned that the COMELEC could not comply with the Court's directive because the printing of the official ballots had already commenced and that "any adjustment, postponement or suspension on the same would be significantly detrimental to the timeliness of [the COMELEC], which shall ultimately affect the conduct of credible elections."³¹

Petitioners subsequently filed a Motion for Leave of Court to File Reply and to Admit Reply³² where they asserted, among other things, that the failure to attach a copy of the assailed COMELEC *En Banc* Minute Resolution was due to the fault of the COMELEC and the COMELEC's findings of forgery on the documents signed by Agustin is not merely an error of judgment, but grave abuse of discretion.³³

Later, petitioners furnished the Court with a copy of an Order³⁴ dated March 7, 2022 issued by the COMELEC *En Banc* dismissing EM-22-003.³⁵

²⁴ Id. at 3-4.

²⁵ *Rollo*, pp. 74-A to 74-C.

²⁶ Id. at 90-95.

²⁷ Id. at 96-153, including Annexes.

²⁸ *Ponencia*, pp. 4-5.

²⁹ *Rollo*, pp. 155-173.

³⁰ *Ponencia*, p. 5.

³¹ Id. at 5-6. Emphasis omitted.

³² *Rollo*, pp. 175-194, including Annexes.

³³ *Ponencia*, p. 6.

³⁴ *Rollo*, pp. 200-205.

³⁵ *Ponencia*, p. 6.

In the said Order, the COMELEC *En Banc* affirmed the findings of its Law Department³⁶ and dismissed Tito's petition based on the following: (1) records showed that the Statement of Withdrawal was not filed personally by Agustin as required by Section 39 of COMELEC Resolution No. 10717; (2) Tito failed to establish that Agustin's case warrants an exception to the rule on personal filing; and (3) liberal construction of the rules cannot be justified in the present case. To date, the Court has yet to receive a Comment from Agustin.³⁷

In the *ponencia*, the Court rules on the merits despite the mootness of the Petition and petitioners' initial failure to attach the assailed COMELEC Order.³⁸ The *ponencia* then proceeds to rule that the COMELEC committed grave abuse of discretion when it denied due course to the CoC filed by Tito as substitute to Agustin.³⁹ According to the *ponencia*, although personal filing of the withdrawal by the candidate is mandated under Section 39 of COMELEC Resolution No. 10717, Tito substantially complied with the requirements imposed by the COMELEC when the filing of a candidate's withdrawal was done through an authorized representative.⁴⁰ The *ponencia* also mentions that regardless of whether Agustin withdrew his candidacy or repudiated the CONA issued to him, Partido Reporma will be left without a candidate from its own ranks and of its own choosing.⁴¹ This defeats Partido Reporma's right to field a substitute candidate and "unduly limits the exercise of the sovereign will of the electorate to be expressed through the ballot."⁴²

I respectfully register my disagreement with the foregoing.

First, a cardinal rule in statutory construction is that when the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation.⁴³ There is only room for application.⁴⁴ Under Section 39 of COMELEC Resolution No. 10717, the withdrawal of a CoC must be done personally. Indeed, and as the *ponencia* itself finds, COMELEC Resolution No. 10717 makes no mention of an exception to the rule on personal filing.

In the present case, Tito filed the withdrawal of Agustin's CoC. Hence, Tito has the burden of proving that such non-personal filing is exempted under any law or rule. Tito's failure to invoke any exemption principally justifies the COMELEC's denial of Agustin's withdrawal and consequently, Tito's CoC as Vice Governor.

Even assuming that non-personal filing is allowed based on the COMELEC Memoranda, it cannot be said that Tito complied with the same

³⁶ Id. at 12.

³⁷ Id. at 6-7.

³⁸ Id. at 7-10.

³⁹ Id. at 10, 20-21.

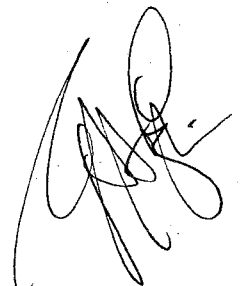
⁴⁰ Id. at 14-15.

⁴¹ Id. at 17.

⁴² Id.

⁴³ *Bolos v. Bolos*, 648 Phil. 630, 637 (2010).

⁴⁴ Id. at 637.



and that the documents he submitted to the COMELEC were “in accordance with the spirit behind the requirements laid down by COMELEC Resolution No. 10717.”⁴⁵

Based on the records, Tito failed to submit: (1) a Certification issued by the *Barangay* Chairperson or any other authorized office in the LGU stating that the withdrawing candidate was identified as a close contact with any person who was tested positive for COVID-19 and on quarantine or isolation; (2) his proof of identity; and (3) a recording showing clearly the act of the aspirant signing the Statement of Withdrawal, all of which are requirements for non-personal filing of a candidate’s withdrawal.

Tito further posits that he should not be faulted for the absence of the conduct of an online video verification as required by the COMELEC Memoranda since it is upon the COMELEC Receiving Officer, and not Tito, who is tasked to do such requirement.⁴⁶

Tito is wrong.

As correctly pointed out by the COMELEC *En Banc*, the failure to conduct an online video verification was due to Tito’s fault and the reception of documents by the Receiving Officer cannot be binding when the submission goes against the law. The COMELEC *En Banc* held:

Likewise, [Tito’s] argument that he should not be faulted for the absence of the conduct of online verification since it is a directive to the Receiving Officer and not to [Tito] is also without basis. **The *Certification*⁴⁷ issued by PES Caballero clearly stated that failure to conduct online video verification was due to the fact that the withdrawing party cannot be contacted. The same *Certification* also stated that [when Tito], himself, tried to contact Mr. Agustin in her presence, he could not be reached. [Tito] did not controvert or deny the contents of the *Certification*. Indeed, the directive is with the Receiving Officer, however the attempts made by PES Caballero to contact Mr. Agustin were sufficient when even [Tito] himself cannot contact the candidate he is claiming to substitute. In addition, alternatively, [Tito] could have presented a video showing clearly the act of signing of the *Statement of Withdrawal* and a photo of the withdrawing candidate holding the duly signed *Statement of Withdrawal* stored in a CD or USB but failed to do so.**

Similarly, [Tito’s] claim that the issue of the validity of the *Statement of Withdrawal* was already settled when the Receiving Officer accepted the same and stamped it as “received” is without basis. **[Tito’s] argument that it cannot be ruled otherwise since the judgment of the Receiving Officer cannot be substituted and that the power to evaluate a *Statement of Withdrawal* is vested with the Receiving Officer is absurd. The reception of the documents of the Receiving Officer cannot**

⁴⁵ *Rollo*, p. 25. Emphasis and italics omitted.

⁴⁶ *Id.* at 28-29.

⁴⁷ *Id.* at 59.

be binding when such submission goes patently against the law.⁴⁸
(Emphasis supplied; italics in the original)

Based on the foregoing, whether the filing of the withdrawal is personal or through an authorized representative, Tito ultimately did not comply with the pertinent requirements provided under the law.

Second, based on the COMELEC's factual findings, the documents pertaining to Agustin's withdrawal bear different signatures.⁴⁹ The *ponencia* does not seem to reverse these factual findings. Moreover and indeed, a perusal of the annexes attached to the Petition shows that Agustin's signature appearing in the Statement of Withdrawal and in the SPA submitted by Tito is visibly different from Agustin's signature in his Letter⁵⁰ dated November 8, 2021 submitted to the COMELEC.

In the Petition, Tito asserts that the documents signed by Agustin were notarized and thus, under the law, enjoy a presumption of regularity.⁵¹ He also stated that the authenticity of Agustin's signatures is supported by the Affidavit⁵² dated November 15, 2021 by Mr. Edwin Jubahib, Partido Reporma's Secretary General.⁵³ Further, Tito claims that the COMELEC is bereft of any power to judge whether the signature on the documents signed by Agustin was really that of the latter's since the COMELEC is not an expert on the matter.⁵⁴

Tito misses the point.

In several instances, the Court has ruled that while it is true that a notarized document carries the evidentiary weight conferred upon it with respect to its due execution, and has in its favor the presumption of regularity, this presumption is not absolute.⁵⁵

In *City of Tanauan v. Millonte*,⁵⁶ the Court held that the due execution of a document cannot be sustained simply because it was notarized. In that case, the petitioner, among other things, alleged that the validity of the assailed Deed of Absolute Sale should be upheld simply because the document was notarized. In denying the petition, the Court held that the presumption of regularity in notarized documents is not conclusive as it can be refuted by clear and convincing evidence.⁵⁷ Further, the Court observed

⁴⁸ Id. at 204.

⁴⁹ *Ponencia*, p. 3.

⁵⁰ *Rollo*, p. 55.

⁵¹ Id. at 18-19.

⁵² Id. at 50-51.

⁵³ Id. at 18-19.

⁵⁴ Id. at 19.

⁵⁵ *City of Tanauan v. Millonte*, G.R. No. 219292, June 28, 2021, p. 9, citing *Mendoza v. Fermin*, 738 Phil. 429, 444 (2014), further citing *Adelaida Meneses (deceased) v. Venturozo*, 675 Phil. 641, 651-652 (2011).

⁵⁶ Id.

⁵⁷ Id. at 9.

that since the petitioner did not present the testimony of the notary public who notarized the assailed Deed of Absolute Sale, there was no convincing basis to conclude that the signatories on the document were the real owners of the property.⁵⁸ According to the Court, the petitioner did not even attempt to submit other documents which could help in ascertaining that the signatures in the assailed Deed of Absolute Sale were genuine.⁵⁹

Similar to the present case, Tito cannot insist on asserting the validity of the documents he submitted on behalf of Agustin simply because they were all notarized. To be sure, there was a factual finding by the COMELEC *En Banc* that the signatures of Agustin appearing on the documents are different.⁶⁰ Records show that Tito was not able to controvert such factual finding. He was unable to present the notary public who allegedly notarized the subject documents nor submit other documents bearing Agustin's signature for comparison.

Notably, Tito's failure to make an online video verification before the COMELEC Receiving Officer, as required by the COMELEC Memoranda, further weakens his claim that the Statement of Withdrawal and the SPA he submitted on behalf of Agustin were duly executed. If only to ascertain that the signatures found therein were genuine, Tito could have complied with this simple requirement.

Additionally, Tito cannot claim that the COMELEC is bereft of any power to ascertain the genuineness of Agustin's signatures on the documents⁶¹ if a plain visual comparison of the signatures found in the documents easily reveals prominent dissimilarities.⁶²

Third, records show that Agustin, in fact, intended to stay in the Vice Gubernatorial race. To recall, Agustin sent a letter dated November 8, 2021 to the COMELEC informing the latter that he is repudiating his nomination by Partido Reporma with a prayer that he be considered as an independent candidate pursuant to Section 31(c) of COMELEC Resolution No. 10717, which states that candidates who repudiate their nominations by parties are considered independent candidates.

Although COMELEC Resolution No. 10717 does not provide for a specific procedure on how a nominee from a political party or coalition can repudiate his or her CONA, Section 39 (Withdrawal of Certificate of

⁵⁸ Id.

⁵⁹ Id.

⁶⁰ *Ponencia*, p. 3.

⁶¹ *Rollo*, p. 19.

⁶² Section 1, Rule 41 of the COMELEC Rules of Procedure state that in the absence of any applicable provisions in the COMELEC Rules, the pertinent provisions of the Rules of Court shall be applicable by analogy or in suppletory character and effect. Under Section 22, Rule 132 of the Rules of Court, the court is authorized, by itself, to make a comparison of the disputed handwriting with writings admitted or treated as genuine by the party against whom the evidence is offered, or proved to be genuine to the satisfaction of the judge. See also *Almeda v. Heirs of Ponciano Almeda*, 818 Phil. 239, 259 (2017).

Candidacy) of the same COMELEC Resolution provides that any aspirant may *personally* file a sworn Statement of Withdrawal any time before election day, subject to Section 40⁶³ of the same COMELEC Resolution. Section 39 further states that “[n]o Statement of Withdrawal filed by a person *other than the aspirant* or if filed by mail, electronic mail, or facsimile shall be accepted.”⁶⁴

As earlier discussed, Agustin did not personally file the purported Statement of Withdrawal. Thus, it cannot be said that he withdrew his CoC. Also, in the Letter dated November 8, 2021, Agustin was categorical in his repudiation of his CONA and his request to be declared as an independent candidate.⁶⁵

As Agustin repudiated his nomination, he is considered an independent candidate and consequently, cannot be substituted pursuant to Section 40 of COMELEC Resolution No. 10717, which states that no substitutes shall be allowed for any independent candidates. Moreover, under Section 77⁶⁶ of the Omnibus Election Code⁶⁷ (OEC), only official candidates of political parties can be substituted.

Finally, although the *ponencia* does not expressly mention Agustin, the necessary effect of granting Agustin’s withdrawal and affirming Tito’s CoC for Vice Governor is the retention of *both* Agustin and Tito as candidates for Vice Governor. This is not sanctioned under any law and creates a legal absurdity.

As mentioned, Section 77 of the OEC allows substitution in case of a withdrawal by an official candidate of a registered political party. The substitute and the substituted, which in this case are allegedly Tito and Agustin respectively, cannot remain as candidates simultaneously. Notably, the *ponencia*, which does not order the removal of Agustin from the ballot, retains him as a candidate for Vice Governor and at the same time allows his supposed substitute, Tito, to run for the same position.

Considering that, based on the law and factual circumstances of the present case, (i) Agustin did not personally file his Statement of Withdrawal, (ii) Tito failed to invoke any law or rule that warrants Agustin’s case to be

⁶³ SECTION 40. *Substitution of Aspirants/Official Candidates in Case of Death, Disqualification or Withdrawal of Another.* – An aspirant/official candidate of a duly registered [Political Party] or Coalition who dies, withdraws or is disqualified for any cause after the last day for the filing of CoCs may be substituted by an aspirant/official candidate belonging to, and nominated by, the same [Political Party] or Coalition.
No substitute shall be allowed for any independent candidate.

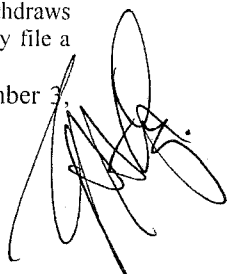
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⁶⁴ Italics supplied.

⁶⁵ *Rollo*, p. 205.

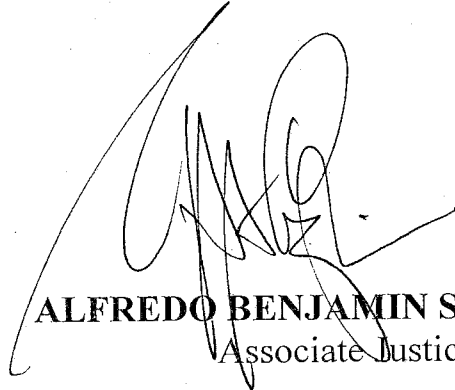
⁶⁶ SECTION 77. *Candidates in case of death, disqualification or withdrawal of another.* – If after the last day for the filing of certificates of candidacy, an official candidate of a registered or accredited political party dies, withdraws or is disqualified for any cause, only a person belonging to, and certified by, the same political party may file a certificate of candidacy to replace the candidate who died, withdrew or was disqualified. x x x

⁶⁷ Batas Pambansa Blg. 881, OMNIBUS ELECTION CODE OF THE PHILIPPINES, approved on December 3, 1985.



considered as an exception to the rule on personal filing, (iii) Tito was unable to controvert the findings of the COMELEC that the purported signatures on the documents pertaining to Agustin's withdrawal were different from his other signatures, and (iv) Agustin clearly intended to remain as a candidate for Vice Governor, having repudiated his CONA with a request that he be declared as an independent candidate, then undeniably, petitioners were not able to establish any justifiable reason to warrant the reversal of the COMELEC *En Banc*'s Order dated March 7, 2022 dismissing Tito's petition in EM-22-003.

All told, I vote to **DENY** the instant Petition for *Certiorari* as the COMELEC did not commit any grave abuse of discretion amounting to lack or excess of jurisdiction when it denied due course to the CoC filed by Tito as substitute for Agustin.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice