EN BANC

G.R. No. 237330 – ALDRIN MADREO, *Petitioner*, **v. LUCILO R. BAYRON,** *Respondent*;

G.R. No. 237579 – OFFICE OF THE OMBUDSMAN, *Petitioner*, **v. LUCILO R. BAYRON,** *Respondent.*

Promulgated:
November 3, 2020

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DISSENTING OPINION

LEONEN, *J.*:

The pivotal question before this Court is whether the now abandoned doctrine of condonation would also apply to a reelection of a public official through recall elections. The majority has ruled that it does. I disagree.

In its ruling, the majority underscored that the abandonment of the condonation doctrine is reckoned from the finality of *Carpio Morales v. Court of Appeals*[1] on April 12, 2016.[2] As the majority noted, *Carpio Morales* applies prospectively, owing to the fact that the doctrine was still good law prior to its abandonment, and along with it, the rule that a public official's *reelection* "manifests the body politic's expressed or implied forgiveness of the public official's offense or misconduct."[3] It explained:

> [W]hen *Carpio-Morales* ruled that the abandonment of the doctrine of condonation is applied *prospectively, it meant that the said doctrine does not apply to public officials reelected after its abandonment. Stated differently, the doctrine applies to those officials who have been reelected prior to its abandonment.* That is because when a public official has been reelected prior to the promulgation and finality of *Carpio-Morales*, he or she has every right to rely on the old doctrine that his [or her] [reelection] has already served as a condonation of his [or her] previous misconduct, thereby cutting the right to remove him [or her] from office, and a new doctrine decreeing otherwise would not be applicable against him or her. More telling, once reelected, the public official already had the vested right not to be removed from office by reason of the condonation doctrine, which cannot be divested or impaired by a new law or a new doctrine without violating the Constitution. . . .
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1 772 Phil. 672 (2015) [Per J. Perlas-Bernabe, En Banc].

2 Ponencia, p. 9 citing *Crebello v. Office of the Ombudsman,* G.R. No. 232325, April 10, 2019, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65037> [Per C.J. Bersamin, First Division].

3 Id. at 10.

> Thus, the Court now clarifies in simple and direct terms. *The defense of condonation doctrine is no longer available if the public official's reelection happens on or after 12 April 2016. With the abandonment of the condonation doctrine in Carpio-Morales, any reelections of public officials on 12 April 2016, and thereafter, no longer have the effect of condoning their previous misconduct.*[4] (Emphasis supplied)

The majority then proceeds to declare that "reelection" under the condonation doctrine is unqualified. Hence, whether the reinstatement to public office was through regular or recall elections does not matter.[5]

As the majority underscored, the condonation doctrine gives premium to the "protection of and respect for the sovereign will of the electorate to elect officers and to forgive the previous misconduct of their elected public servants."[6] Therefore, it declares that "reelection" should not be construed strictly so as to exclude recall elections:

> [R]ecall elections presupposes the same collective resolution of his [or her] constituents to condone his [or her] alleged misconduct. This is no different from reelection by regular election. The idea is that "when the people elected a [person] to office, it must be assumed that they did this with knowledge of his [or her] life and character, and that they disregarded or forgave his [or her] faults or misconduct, if he [or she] had been guilty of any." This is in deference to the superiority of the collective will of the people. *Accordingly, there is no persuasive reason to distinguish between reelection by regular or recall elections when applying the condonation doctrine since the controlling elements, i.e., the expression of sovereign will of the people to elect their officer and to forgive a previous misconduct, are present in both cases.* To say that condonation doctrine does not apply in recall elections when the compelling reasons and clear purpose of said doctrine are present therein would be a clear case of absurdity, and would tantamount to injustice to the electorate and to the public official concerned, in the context of the application of the doctrine of condonation at the time when the same was not yet abandoned and still considered a good law.[7] (Emphasis supplied, citation omitted)

Here, Lucilo R. Bayron (Lucilo) was reinstated as mayor of Puerto Princesa, Palawan in the 2015 ***recall*** elections. The majority declared that the condonation doctrine still applied then, and as such, Lucilo may rely on it against administrative charges filed in his previous term. It, however, noted that the doctrine cannot extend to his succeeding reelection in May 2016.[8]

In brief, the majority held the view that the administrative charge

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4 Id. at 10–11.
5 Id. at 11–12.
6 Id. at 16.
7 Id. at 17.
8 Id. at 18.

against Lucilo for a prior transgression purportedly done in July 2013 was rendered moot by his reelection in the 2015 recall elections. Thus, it affirmed the Court of Appeals' dismissal of petitioner Aldrin Madreo's Complaint against Lucilo for serious dishonesty and grave misconduct.[9]

I dissent.

We have to be cautious in endowing the People with an intention that might not objectively be there. Sovereignty is exercised through election and is also manifested through a written Constitution, which allocates the powers of government. The Constitution creates a legislature, which enacts clearly formulated laws that, in turn, provide acts that may be administratively, civilly, and criminally punished. Laws also clearly provide mechanisms to limit or extinguish liability.

In *Carpio Morales*, a unanimous Court struck down the condonation doctrine after acknowledging that it was *not* based on any law. For this Court to now claim that the doctrine must apply to recall elections would be to craft legislation that simply does not exist.

I

This Court first resolved whether an elected public official may be disciplined for an administrative offense committed during a previous term in the 1959 case of *Pascual v. Provincial Board of Nueva Ecija*.[10] In that case, the petitioner was the mayor of San Jose, Nueva Ecija in 1951 and was eventually reelected to office in 1955. Sometime in 1956, during his second term, three administrative complaints were filed against him before the Provincial Board of Nueva Ecija.

Claiming that the third charge was based on a misconduct committed during his preceding term, the petitioner moved to dismiss the complaint.[11] In ruling for the petitioner, this Court resorted to American jurisprudence and explained that his reelection effectively condoned his previous administrative offense, cutting off the right to remove him from office:

> In the absence of any precedent in this jurisdiction, we have resorted to American authorities. We found that cases on the matter are conflicting due in part, probably, to differences in statutes and constitutional provisions, and also, in part, to a divergence of views with respect to the question of whether the subsequent election or appointment condones the prior misconduct. The weight of authority, however, seems

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9 Id.
10 106 Phil. 466 (1959) [Per J. Gutierrez David, En Banc].
11 Id. at 468.

to incline to the rule denying the right to remove one from office because of misconduct during a prior term, to which we fully subscribe.

> Offenses committed, or acts done, during previous term are generally held not to furnish cause for removal and this is especially true where the constitution provides that the penalty in proceedings for removal shall not extend beyond the removal from office, and disqualification from holding office for the term for which the officer was elected or appointed. . . .
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> *The underlying theory is that each term is separate from other terms, and that the reelection to office operates as a condonation of the officer's previous misconduct to the extent of cutting off the right to remove him therefor —*
>
> The Court should never remove a public officer for acts done prior to his [or her] present term of office. *To do otherwise would be to deprive the people of their right to elect their officers. When the people have elected a man [or woman] to office, it must be assumed that they did this with knowledge of his [or her] life and character, and that they disregarded or forgave his [or her] faults or misconduct, if he [or she] had been guilty of any.* It is not for the court, by reason of such faults or misconduct to practically overrule the will of the people.[12] (Emphasis supplied, citations omitted)

Pascual was reiterated in the 1966 case of *Lizares v. Hechanova.*[13] This time, the petitioner was then the mayor of Talisay, Negros Occidental when he was administratively charged for corruption and maladministration in 1962. The Provincial Board acquitted him, but the Office of the President reversed this decision and imposed a suspension instead, prompting him to file a petition for certiorari. This Court later dismissed the case for being moot, after the petitioner's term in which he purportedly committed the misdeeds had expired, and after he was reelected in 1964. It held that he cannot be administratively sanctioned for acts made in his previous term.[14]

In 1967, this Court clarified in *Ingco v. Sanchez*[15] that *Pascual* does not extend to criminal cases. Unlike an administrative charge, a crime is a public offense more inherently appalling than a public officer's sheer malfeasance or misfeasance. A crime, after all, is detrimental not only to an individual or a group, but to the State itself.[16]

In 1992, *Aguinaldo v. Santos*[17] echoed the ruling in *Pascual.* The petitioner there was Cagayan's governor who served a four-year term from

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12 Id. at 471–472.
13 123 Phil. 916 (1966) [Per J. J.B.L. Reyes, En Banc].
14 Id. 917–919.
15 129 Phil. 553 (1967) [Per J. Angeles, En Banc].
16 Id. at 555–556.
17 287 Phil. 851 (1992) [Per J. Nocon, En Banc].

1988. Acting on a complaint for disloyalty filed in 1989, the Secretary of Local Government adjudged him guilty and directed his removal from office. Amid his reelection in the May 1992 elections, however, this Court reversed the decision, reiterating that reelection meant condonation of any administrative misconduct committed in the previous term.[18]

In the 1996 case of *Salalima v. Guingona, Jr.*,[19] the petitioners who were reelected in the May 1992 elections also benefited from *Pascual* and *Aguinaldo*. Building on these cases, this Court explicitly referred to the doctrine of forgiveness or condonation. Said to have been prescribed by "sound public policy," the condonation doctrine averts a scenario of "exacerbating endless partisan contests between the reelected official and his [or her] political enemies, who may not stop to hound the former during his [or her] new term with administrative cases for acts alleged to have been committed during his [or her] previous term."[20]

In 1999, this Court clarified in *Garcia v. Mojica*[21] that there was no need to distinguish the exact point when the public official perpetrated the transgression, "except that it must be a prior date"[22] to the reelection. That the people reelected the official with presumed knowledge of the latter's character wipes out the need to determine such timeframe. Thus, in *Garcia*, even if the petitioner committed the misconduct only four days before his reelection, this Court still declared that he cannot be held administratively accountable for an act done in his previous term.[23]

In the 2009 case of *Garcia, Jr. v. Court of Appeals*,[24] the petitioners, whom the Office of the Ombudsman had preventively suspended, sought injunctive relief with the Court of Appeals. When the appellate court merely directed the filing of comment, the petitioners went to this Court, which then ruled that the appellate court should have considered, among others, the doctrine of condonation in promptly resolving the matter.

Finally, in the 2010 case of *Salumbides, Jr. v. Office of the Ombudsman*,[25] this Court made it clear that the condonation doctrine—which, at its core, upholds the popular will through the ballot—does not extend to appointed officials because "there is neither subversion of sovereign will nor disenfranchisement of the electorate" in their case.[26]

Then again, with the advent of *Carpio Morales* in 2015, this Court

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18 Id. at 853–860.
19 326 Phil. 847 (1996) [Per J. Davide, Jr., En Banc].
20 Id. at 921.
21 372 Phil. 892 (1999) [Per J. Quisumbing, Second Division].
22 Id. at 912.
23 Id. at 912–913.
24 604 Phil. 677 (2009) [Per J. Nachura, Jr., Third Division].
25 633 Phil. 325 (2010) [Per J. Carpio Morales, En Banc].
26 Id. at 337.

had the occasion to revisit the condonation doctrine and eventually found it to be a mere jurisprudential creation in the 1959 case of *Pascual*, and thus, bereft of any statutory basis.[27]

II

In ascertaining if there exists a legal basis to sustain the condonation doctrine, *Carpio Morales* found the rule to be in contravention with pertinent provisions relating to accountability of public officers enshrined in our 1987 Constitution and relevant laws. This Court held:

> *The foundation of our entire legal system is the Constitution. It is the supreme law of the land; thus, the unbending rule is that every statute should be read in light of the Constitution. Likewise, the Constitution is a framework of a workable government; hence, its interpretation must take into account the complexities, realities, and politics attendant to the operation of the political branches of government.*
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> *As earlier intimated, Pascual was a decision promulgated in 1959. Therefore, it was decided within the context of the 1935 Constitution which was silent with respect to public accountability, or of the nature of public office being a public trust.* The provision in the 1935 Constitution that comes closest in dealing with public office is Section 2, Article II which states that "[t]he defense of the State is a prime duty of government, and in the fulfillment of this duty all citizens may be required by law to render personal military or civil service." Perhaps owing to the 1935 Constitution's silence on public accountability, and considering the dearth of jurisprudential rulings on the matter, as well as the variance in the policy considerations, there was no glaring objection confronting the *Pascual* Court in adopting the condonation doctrine that originated from select US cases existing at that time.
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> With the advent of the 1973 Constitution, the approach in dealing with public officers underwent a significant change. The new charter introduced an entire article on accountability of public officers, found in Article XIII. Section 1 thereof positively recognized, acknowledged, and declared that "[p]ublic office is a public trust." Accordingly, "[p]ublic officers and employees shall serve with the highest degree of responsibility, integrity, loyalty and efficiency, and shall remain accountable to the people."
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> *After the turbulent decades of Martial Law rule, the Filipino People have framed and adopted the 1987 Constitution, which sets forth in the Declaration of Principles and State Policies in Article II that "[t]he State shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption." Learning how unbridled power could corrupt public servants under the regime of a dictator, the Framers put primacy on the integrity of the public service by declaring it as a constitutional principle and a State policy. More significantly, the 1987 Constitution strengthened and solidified what has*

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[27] *Carpio Morales v. Court of Appeals*, 772 Phil. 672, 755 (2015) [Per J. Perlas-Bernabe, En Banc].

been first proclaimed in the 1973 Constitution by commanding public officers to be accountable to the people at all times:

> Section 1. Public office is a public trust. Public officers and employees *must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency and act with patriotism and justice, and lead modest lives.*
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> . . . .

The same mandate is found in the Revised Administrative Code under the section of the Civil Service Commission, and also, in the Code of Conduct and Ethical Standards for Public Officials and Employees.

For local elective officials . . . , the grounds to discipline, suspend or remove an elective local official from office are stated in Section 60 of Republic Act No. 7160, 292 otherwise known as the "Local Government Code of 1991" (LGC), which was approved on October 10, 1991, and took effect on January 1, 1992:

> Section 60. *Grounds for Disciplinary Action.* — An elective local official may be disciplined, suspended, or removed from office on any of the following grounds:
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> a) Disloyalty to the Republic of the Philippines;
> b) Culpable violation of the Constitution;
> c) Dishonesty, oppression, misconduct in office, gross negligence, or dereliction of duty;
> d) Commission of any offense involving moral turpitude or an offense punishable by at least *prision mayor*;
> e) Abuse of authority;
> f) Unauthorized absence for fifteen (15) consecutive working days, except in the case of members of the *sangguniang panlalawigan, sangguniang panlunsod, sanggunian bayan,* and *sangguniang barangay;*
> g) Application for, or acquisition of, foreign citizenship or residence or the status of an immigrant of another country; and
> h) Such other grounds as may be provided in this Code and other laws.
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> An elective local official may be removed from office on the grounds enumerated above by order of the proper court.

Related to this provision is *Section 40 (b) of the LGC* which states that *those removed from office as a result of an administrative case* shall be *disqualified from running for any elective local position:*

> . . . .

In the same sense, Section 52 (a) of the RRACCS provides that the *penalty of dismissal from service carries the accessory penalty of perpetual disqualification from holding public office:*

. . . .

In contrast, Section 66 (b) of the LGC states that the *penalty of suspension* shall not exceed the unexpired term of the elective local official nor constitute a bar to his candidacy for as long as he meets the qualifications required for the office. Note, however, that the provision only pertains to the duration of the penalty and its effect on the official's candidacy. *Nothing therein states that the administrative liability therefor is extinguished by the fact of re-election:*

. . . .

Reading the 1987 Constitution together with the above-cited legal provisions now leads this Court to the conclusion that the doctrine of condonation is actually bereft of legal bases.

To begin with, the concept of public office is a public trust and the corollary requirement of accountability to the people at all times, as mandated under the 1987 Constitution, is plainly inconsistent with the idea that an elective local official's administrative liability for a misconduct committed during a prior term can be wiped off by the fact that he was elected to a second term of office, or even another elective post. Election is not a mode of condoning an administrative offense, and there is simply no constitutional or statutory basis in our jurisdiction to support the notion that an official elected for a different term is fully absolved of any administrative liability arising from an offense done during a prior term. In this jurisdiction, liability arising from administrative offenses may be condoned by the President in light of Section 19, Article VII of the 1987 Constitution which was interpreted in Llamas v. Orbos to apply to administrative offenses[.]

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Relatedly, it should be clarified that there is no truth in *Pascual*'s postulation that the courts would be depriving the electorate of their right to elect their officers if condonation were not to be sanctioned. In political law, election pertains to the process by which a particular constituency chooses an individual to hold a public office. In this jurisdiction, there is, again, no legal basis to conclude that election automatically implies condonation. Neither is there any legal basis to say that every democratic and republican state has an inherent regime of condonation. If condonation of an elective official's administrative liability would perhaps, be allowed in this jurisdiction, then the same should have been provided by law under our governing legal mechanisms. May it be at the time of *Pascual* or at present, by no means has it been shown that such a law, whether in a constitutional or statutory provision, exists. Therefore, inferring from this manifest absence, it cannot be said that the electorate's will has been abdicated.

. . . .

That being said, this Court simply finds no legal authority to sustain the condonation doctrine in this jurisdiction. As can be seen from this discourse, it was a doctrine adopted from one class of US rulings way back in 1959 and thus, out of touch from — and now rendered obsolete by — the current legal regime. ***In consequence, it is high time for this Court to abandon the condonation doctrine*** that originated from

> *Pascual*, and affirmed in the cases following the same, such as *Aguinaldo*, *Salalima, Mayor Garcia,* and *Governor Garcia, Jr.* which were all relied upon by the [Court of Appeals].[28] (Emphasis supplied, citations omitted)

Nonetheless, recognizing that there was prior reliance on the condonation doctrine, this Court in *Carpio Morales* moved to *abandon it prospectively*:

> *It should, however, be clarified that this Court's abandonment of the condonation doctrine should be prospective in application for the reason that judicial decisions applying or interpreting the laws or the Constitution, until reversed, shall form part of the legal system of the Philippines.* Unto this Court devolves the sole authority to interpret what the Constitution means, and all persons are bound to follow its interpretation. As explained in *De Castro v. Judicial Bar and Council*:
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> > Judicial decisions assume the same authority as a statute itself and, until authoritatively abandoned, necessarily become, to the extent that they are applicable, the criteria that must control the actuations, not only of those called upon to abide by them, but also of those duty-bound to enforce obedience to them.
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> Hence, while the future may ultimately uncover a doctrine's error, it should be, as a general rule, recognized as "good law" prior to its abandonment. Consequently, the people's reliance thereupon should be respected. The landmark case on this matter is *People v. Jabinal*, wherein it was ruled:
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> > [W]hen a doctrine of this Court is overruled and a different view is adopted, the new doctrine should be applied prospectively, and should not apply to parties who had relied on the old doctrine and acted on the faith thereof.[29] (Emphasis supplied, citations omitted)

Yet, despite the above disquisitions in *Carpio Morales*, the majority still declared that the condonation doctrine also covers recall elections. Firm on its stance that the "compelling reason behind [it] [is] the right of the electorate to elect officers and their sovereign will to forgive[,]"[30] the majority believes that the term "reelection" should not be construed restrictively in order to give meaning to the rule's intent.[31]

For the majority, although a recall election is a manner of removal, it could work as a reelection in that it uses "the democratic process of election to achieve its end";[32] that "the same considerations behind the doctrine of

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28 Id. at 765–775.
29 Id. at 775–776.
30 Ponencia, p. 14.
31 Id. at 16.
32 Id.

condonation exist in recall elections."[33]

I beg to differ.

The majority effectively expanded the now abandoned rule's coverage when it declared that the condonation doctrine encompasses recall elections. As this doctrine now exists only as recognition of the prior reliance on it, the prospective application of *Carpio Morales* should be confined strictly to the rule's established parameters before its abandonment. Indeed, as the preceding survey of cases shows, this doctrine does *not* extend to a reinstallation to public office through recall elections.

In reality, candidates do not confess to their mistakes and transgressions when they run for office. For this reason, we cannot assume that when the people reelect an erring public officer, they already know of the candidate's previous misconduct and, by reelecting such officer, express their forgiveness or condonation. As reinforced in *Carpio Morales*, such ascribed knowledge has no basis in law, and is even contrary to ordinary human experience:

> Equally infirm is Pascual's proposition that the electorate, when re-electing a local official, are assumed to have done so with knowledge of his life and character, and that they disregarded or forgave his faults or misconduct, if he had been guilty of any. *Suffice it to state that* ***no*** *such presumption exists in any statute or procedural rule. Besides, it is contrary to human experience that the electorate would have full knowledge of a public official's misdeeds. The Ombudsman correctly points out the reality that most corrupt acts by public officers are shrouded in secrecy, and concealed from the public. Misconduct committed by an elective official is easily covered up, and is almost always unknown to the electorate when they cast their votes.* At a conceptual level, condonation presupposes that the condoner has actual knowledge of what is to be condoned. Thus, there could be no condonation of an act that is unknown. As observed in *Walsh v. City Council of Trenton* decided by the New Jersey Supreme Court:
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> > Many of the cases holding that re-election of a public official prevents his removal for acts done in a preceding term of office are reasoned out on the theory of condonation. *We cannot subscribe to that theory because condonation, implying as it does forgiveness, connotes knowledge and in the absence of knowledge there can be no condonation. One cannot forgive something of which one has no knowledge.*[34] (Emphasis supplied, citations omitted)

Besides, administrative infractions of public officers should not be taken lightly. As a public servant, Lucilo is expected to constantly present

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[33] Id.

[34] *Carpio Morales v. Court of Appeals*, 772 Phil. 672, 774 (2015) [Per J. Perlas-Bernabe, En Banc].

himself with the utmost sense of integrity and honesty. The Constitution is explicit that a public office is a public trust.[35] Erring public officials ought to face the consequences of their transgressions and should be dealt with accordingly based on pertinent rules.

The intent behind disciplining officers and employees is not simply punishment, "but the *improvement* of the public service and the preservation of the public's faith and confidence in the government."[36] To this end, the determination of administrative liability should be best left to the *courts*, and not to be simply disregarded on account of a doctrine that lacks any basis, both in law and in fact.

Lucilo's reinstatement as mayor in the 2015 recall elections is outside the confines of the now abandoned condonation doctrine. This doctrine cannot operate to condone his administrative liabilities made in 2013.

ACCORDINGLY, I vote that the consolidated Petitions be **GRANTED**, and that the assailed Court of Appeals rulings dismissing the Administrative Complaint against respondent Lucilo R. Bayron be **REVERSED and SET ASIDE**.

MARVIC M.V.F. LEONEN
Associate Justice

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35 *Civil Service Commission v. Cortez*, 474 Phil. 670, 689 (2004) [Per Curiam, En Banc].
36 Id. at 690.