



SUPERIOR ELECTORAL COURT

JUDGMENT

REGIMENTAL APPEAL IN ELECTORAL SPECIAL APPEAL NO. 0600201-63.2024.6.06.0118 – FORTALEZA – CEARÁ

Rapporteur: Minister Ricardo Villas Bôas Cueva

Appellant: Evandro Sá Barreto Leitão

Lawyers: Bruna Ferreira de Araújo Bezerra – OAB: 42637/CE and others

Appellant: André Fernandes de Moura

Lawyers: Damião Soares Tenório – OAB: 26614/CE and others

2024 ELECTIONS. MAYOR. INTERNAL APPEAL. SPECIAL APPEAL. REPRESENTATION. ELECTORAL PROPAGANDA. INTERNET. SOCIAL NETWORK. DIGITAL MANIPULATION. ALTERATION OF IMAGE AND VOICE. *DEEP FAKE*. ART. 9-C, § 1, OF TSE RESOLUTION NO. 23,610/2019. OBJECTIVE NATURE. CONFIGURATION. FINE. NOT GRANTED.

1. In the appealed decision, the special appeal was granted to overturn the judgment of the TRE/CE (Regional Electoral Court of Ceará) and reinstate the sentence that imposed a fine of R\$15,000.00 on the appellant, a candidate for mayor of Fortaleza/CE in the 2024 Elections, for engaging in irregular electoral propaganda by disseminating, on his TikTok profile, a video manipulated by artificial intelligence, with altered images and voices of international public figures, creating the false impression that they were expressing support for his candidacy.

2. Pursuant to Article 9-C, § 1, of TSE Resolution No. 23,610/2019, "the use of synthetic content in audio, video, or a combination of both formats, generated or manipulated digitally, even with authorization, to create, replace, or alter the image or voice of a living, deceased, or fictitious person (*deep fake*), is prohibited for the purpose of harming or favoring a candidacy."

3. In this case, according to the factual framework of the original judgment, the appellant disseminated a video in which internationally renowned public figures – Barack Obama, Taylor Swift, Tom Cruise, and Cristiano Ronaldo – appear with artificially manipulated speech using artificial intelligence, in order to simulate support for his candidacy, with the pronunciation of the expression "Closed with Leitão".

4. The falsification of digital content for electoral purposes is sufficient to characterize the irregularity of the expression, regardless of proof of potential to mislead the voter, since the prohibition of art. 9º-C, § 1º, of TSE Resolution nº 23.610/2019 has an objective nature.

5. There are no elements in the regional court's decision that would allow for a reduction of the fine. Furthermore, its imposition within legal limits, as in the present case, does not violate the principles of proportionality and reasonableness. Precedents.

6. The reversal of the judgment did not require a re-examination of facts and evidence, but merely a legal re-framing of the premises contained in the regional court's decision.

7. Internal appeal denied.

The ministers of the Superior Electoral Court unanimously agree to deny the internal appeal, in accordance with the rapporteur's vote.

Brasilia, May 8, 2026.

MINISTER RICARDO VILLAS BÔAS CUEVA – RAPPORTEUR

REPORT

MINISTER RICARDO VILLAS BÔAS CUEVA: Madam President, this is an internal appeal filed by Evandro Sá Barreto Leitão, candidate for mayor of Fortaleza/CE in the 2024 Elections, against a monocratic decision summarized as follows:

2024 ELECTIONS. MAYOR. APPEAL GRANTED. SPECIAL APPEAL. REPRESENTATION. ELECTORAL PROPAGANDA. INTERNET. SOCIAL NETWORK. DIGITAL MANIPULATION. ALTERATION OF IMAGE AND VOICE. *DEEPPFAKE* . ART. 9-C, § 1, OF TSE RESOLUTION NO. 23,610/2019. OBJECTIVE NATURE. CONFIGURATION. FINE. APPLICABILITY. PROVISION.

1. With the grounds for the negative admissibility ruling being overturned, the appeal is granted for analysis of the special appeal.

2. Special appeal filed against a judgment rendered by the TRE/CE (Regional Electoral Court of Ceará), which reversed a lower court's decision to dismiss a fine imposed on the respondent, a candidate for mayor of Fortaleza/CE in the 2024 elections, for engaging in irregular electoral campaigning by disseminating, on his TikTok profile , a video manipulated by artificial intelligence, altering the images and voices of international public figures, creating the false impression that they were expressing support for his candidacy.

3. Pursuant to Article 9-C, § 1, of TSE Resolution No. 23,610/2019, "the use of synthetic content in audio, video, or a combination of both formats, generated or manipulated digitally, even with authorization, to create, replace, or alter the image or voice of a living, deceased, or fictitious person (*deep fake*), is prohibited for the purpose of harming or favoring a candidacy."

4. In this case, it can be inferred from the factual framework of the regional court's decision that the respondent disseminated a video in which internationally renowned public figures – Barack Obama, Taylor Swift, Tom Cruise, and Cristiano Ronaldo – appear with artificially manipulated speech using artificial intelligence, in order to simulate support for his candidacy, with the pronunciation of the expression "Closed with Leitão".

5. Contrary to the understanding of the court of origin, the adulteration of digital content for electoral purposes is sufficient to characterize the irregularity of the expression, regardless of proof of potential to mislead the voter, since the prohibition of art. 9º-C, § 1º, of TSE Resolution nº 23.610/2019 has an objective nature.

6. Granting the special appeal does not require a re-examination of facts and evidence, but merely a legal reclassification of the premises contained in the regional court's decision.

7. Special appeal granted to reinstate the judgment that upheld the claim in the representation and imposed a fine.

(Id. 165198449)

In the internal appeal, it is alleged (id. 165261643):

a) “[...] the challenged single-judge decision went beyond the admissibility review and overturned the regional court's decision by replacing the factual framework established by the TRE/CE (Regional Electoral Court of Ceará) that there was no offense under Article 9-C, which would only be possible through a re-examination of the factual and evidentiary record, prohibited by Precedent No. 24 of the TSE (Superior Electoral Court)” (p. 5);

b) the rule in art. 9-C, § 1, of TSE Resolution No. 23,610/2019 “aims to curb subtly and imperceptibly manipulated content that disseminates notoriously false information [...] the video in question, as defined by the Regional Court, does not serve to confuse or deceive the electorate, being a piece clearly identifiable as humorous and with crude editing” (p. 7);

c) “the Supreme Federal Court, when judging ADI No. 4,451, established the understanding that freedom of expression protects not only truthful or socially acceptable manifestations, but also those that are satirical, exaggerated and humorous” (p. 7);

d) “the jurisprudence of the Regional Electoral Courts has consolidated in the understanding that the characterization of *deep fake* requires that the content present an appearance of verisimilitude, excluding crude or rustic manipulations that do not have the real potential to induce the voter to error” (p. 8); and

e) “considering the factual premises established in the TRE/CE ruling, it is evident that this is a simplistic setup, devoid of any potential to mislead the voter, especially due to the use of precarious and easily identifiable resources. [...] Therefore, the material disseminated does not fall under the typicality foreseen in the *caput* of article 9-C of TSE Resolution No. 23,610/2019. It should be noted that the hypotheses described in its paragraphs are conditional upon compliance with the typicality established in the aforementioned *caput*” (p. 10).

Finally, it is requested that the internal appeal be acknowledged and granted so that the representation's requests are deemed unfounded, excluding the imposed fine or, if the conviction is upheld, that the amount of the fine be reduced, in accordance with the principles of reasonableness and proportionality.

Counter-arguments (id. 165299545).

This is the report.

VOTE

MINISTER RICARDO VILLAS BÔAS CUEVA (rapporteur): Madam President, the internal appeal document was filed within the legal deadline by a duly authorized attorney (Dr. Bruna Ferreira de Araújo Bezerra, IDs 164685900 and 164685901).

In the appealed decision, the special appeal was granted to overturn the judgment of the TRE/CE (Regional Electoral Court of Ceará) and reinstate the sentence that imposed a fine of R\$15,000.00 on the appellant, a candidate for mayor of Fortaleza/CE in the 2024 Elections, for engaging in irregular electoral propaganda by disseminating, on his TikTok profile, a video manipulated by artificial intelligence, with altered images and voices of international public figures, creating the false impression that they were expressing support for his candidacy.

The arguments presented in the grounds for the internal appeal are insufficient to justify reversing the challenged decision.

According to Article 9-C, § 1, of TSE Resolution No. 23,610/2019, the use of synthetic content generated or manipulated digitally – in audio, video, or a combination of both – intended to create, replace, or alter the image or voice of real or fictitious persons, with the purpose of favoring or harming candidacies, is prohibited in electoral propaganda. See:

Article 9-C. The use of fabricated or manipulated content in electoral propaganda, regardless of its form or modality, to disseminate demonstrably false or decontextualized facts with the potential to harm the balance of the election or the integrity of the electoral process is prohibited. (Included by Resolution No. 23.732/2024)

§ 1. **The use of synthetic content in audio, video, or a combination of both formats, generated or manipulated digitally, even with authorization, to create, replace, or alter the image or voice of a living, deceased, or fictitious person (*deep fake*)**, is prohibited for purposes of harming or favoring a candidacy. (Included by Resolution No. 23.732/2024)

[...]

(Emphasis added)

In the case at hand, it can be inferred from the factual framework of the original judgment that the appellant posted a video on his TikTok profile *featuring* internationally renowned personalities – such as Barack Obama, Taylor Swift, Tom Cruise, and Cristiano Ronaldo – with artificially altered speech to simulate support for his candidacy, through the pronunciation of the expression "Closed with Leitão". I quote a passage from the judgment:

The controversy, therefore, boils down to assessing whether **the disputed video, released by the then-candidate for Mayor of Fortaleza/CE on his TikTok profile**, violated electoral law by **using a foreign language and Artificial Intelligence resources** without disclosing the use of this technology, thus warranting the application of a financial penalty by this Court.

[...]

In the case at hand, the video in question was published on *TikTok (@evandroleitao_)*, which is alleged to constitute irregular advertising due to the improper use of artificial intelligence, *deep fakes*, the creation of mental states, and advertising in a foreign language.

[...]

In this case, it is impossible to conclude that the **video featuring Barack Obama, Taylor Swift, Tom Cruise, and Cristiano Ronaldo supporting the then-recurrent candidate, with the expression "Closed with Leitão" being used**, has the power to favor or harm the candidacy, or even to create mental states in voters.

(Id. 164685985 – emphasis added)

As can be seen, there was manipulation of audiovisual content through artificial intelligence, characterizing the practice of so-called *deep fake*, in violation of Article 9-C, § 1, of TSE Resolution No. 23,610/2019, which prohibits the dissemination of fabricated or manipulated content that distorts the reality of the facts.

Contrary to the understanding of the court of origin, the adulteration of digital content for electoral purposes is sufficient to characterize the irregularity of the expression, regardless of proof of potential to mislead the voter, since the prohibition of art. 9º-C, § 1º, of TSE Resolution nº 23.610/2019 has an objective nature.

Incidentally, I highlight the monocratic decision in AREspE No. 0600090-18.2024.6.26.0411/SP, Rapporteur Justice André Mendonça, published in the Official Gazette on 5/3/2025, which, in the case where a video was disseminated using artificial intelligence (*deep fake*) to create a false statement that the President of the United States, Donald Trump, politically supports the candidate of the appealing coalition, upheld the fine due to the violation of Article 9-C of TSE Resolution No. 23,610/2019.

Similarly, the single-judge decision preferred by Minister Floriano de Azevedo Marques in AREspE No. 0600191-83.2024.6.17.0127/PE, published in the Official Gazette on 05/23/2025, which upheld the decision of the TRE/PE (Regional Electoral Court of Pernambuco), recognizing the illicit nature of the propaganda carried out through the publication of a video on the *Instagram* social network with digital manipulation by altering human image and voice (*deep fake*), in violation of Article 9-C, § 1, of TSE Resolution No. 23,610/2019.

Thus, once the irregularity of the advertising disseminated in the case at hand is recognized, the offender is subject to the fine stipulated in Article 57-D, § 2, of Law No. 9.504/97, which, according to the jurisprudence of this Court, is not restricted to cases of anonymity, being equally applicable to instances of abuse of freedom of expression occurring in electoral advertising disseminated on the internet. Along these lines:

2024 ELECTIONS. REGIMENTAL APPEAL. APPEAL IN SPECIAL ELECTORAL APPEAL. REPRESENTATION. IRREGULAR PROPAGANDA. DISSEMINATION OF ADVERTISING WITH OFFENSIVE CONTENT. INTERNET. FINE PROVIDED FOR IN ART. 57-D, § 2, OF LAW NO. 9.504/1997. APPLICABILITY. CONFORMITY OF THE REGIONAL COURT'S DECISION WITH THE JURISPRUDENCE OF THE SUPERIOR ELECTORAL COURT (TSE). TSE PRECEDENT NO. 30. DENIAL OF PROVISION.

1. The fine stipulated in Article 57-D, § 2, of Law No. 9.504/1997 is not limited to cases of anonymity, and may be applied to instances of abuse of freedom of expression occurring in electoral propaganda disseminated via the internet with the publication of injurious, defamatory, or knowingly false information. Application of Ruling No. 30 of the TSE (Superior Electoral Court) Summary.

2. The appeal is denied.

(AgR-AREspE No. 0600589-77.2024.6.26.0386/SP, Justice André Mendonça, DJe of 04/30/2025)

On the other hand, the appellant seeks a reduction of the fine – set at R\$15,000.00 in the judgment – based on the principles of reasonableness and proportionality. I emphasize, however, that there are no elements in the regional court's decision that would allow for such a measure.

Furthermore, according to the jurisprudence of the TSE (Superior Electoral Court), a fine set within legal limits does not violate these principles. In this regard, see:

2024 ELECTIONS. REGIMENTAL APPEAL. APPEAL. SPECIAL ELECTORAL APPEAL. REPRESENTATION. IRREGULAR ELECTORAL PROPAGANDA. PRINTED CAMPAIGN MATERIAL. FLYERS. SPILLAGE. FINE. RE-EXAMINATION OF FACTS AND EVIDENCE. IMPOSSIBILITY. REGIONAL DECISION IN ACCORDANCE WITH THE JURISPRUDENCE OF THIS SUPERIOR COURT. TSE SUMMARIES Nos. 24 AND 30. APPLICABILITY. DENIAL OF PROVISION.

[...]

5. A fine imposed within legal limits does not violate the principles of proportionality and reasonableness .

6. The appeal is denied.

(AgR-AREspE No. 0600358-49.2024.6.18.0038/PI, Rel. Min. André Mendonça, DJe of 4/2/2026 – emphasis added)

Finally, as highlighted in the appealed decision, granting the special appeal did not imply a re-examination of facts and evidence, which is prohibited by Precedent No. 24/TSE, but rather a legal reclassification of the factual premises contained in the regional court's decision.

Based on the factual guidelines established in the original ruling, the court concluded that the post was irregular, given the use of *deepfake*, a prohibited method provided for in Article 9-C, § 1, of TSE Resolution No. 23,610/2019, whose nature is objective, not requiring proof of potential to mislead the voter, contrary to what the TRE/CE understood.

Therefore, I reject the claim that the single-judge decision involved a re-examination of the factual and evidentiary record to reach a conclusion different from that adopted by the court of origin.

The appealed decision, therefore, does not warrant reversal.

In light of the foregoing, **I deny** the motion for reconsideration.

It's the vote.

EXTRACT FROM THE MINUTES

Appeal No. 0600201-63.2024.6.06.0118/CE. Rapporteur: Minister Ricardo Villas Bôas Cueva.
Appellant: Evandro Sá Barreto Leitão (Attorneys: Bruna Ferreira de Araújo Bezerra – OAB: 42637/CE and others).
Appellee: André Fernandes de Moura (Attorneys: Damião Soares Tenório – OAB: 26614/CE and others).
Decision: The Court, unanimously, denied the appeal, in accordance with the rapporteur's vote.
Composition: Ministers Cármen Lúcia (President) and Estela Aranha, Ministers Nunes Marques, André Mendonça, Antonio Carlos Ferreira, Ricardo Villas Bôas Cueva and Floriano de Azevedo Marques.
Deputy Attorney General for Electoral Affairs: Alexandre Espinosa Bravo Barbosa.

Virtual Ordinary Session from May 1st to 8th, 2026.