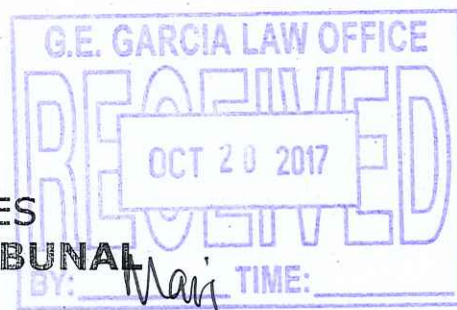


REPUBLIC OF THE PHILIPPINES  
**PRESIDENTIAL ELECTORAL TRIBUNAL**  
Manila



**FERDINAND "BONGBONG" R.  
MARCOS, JR.,**

*Protestant,*

- versus -

PET Case No. 005  
FOR: Election Protest  
Vice President

**MARIA LEONOR "LENI DAANG  
MATUWID" G. ROBREDO,**

*Protestee.*

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**COMMENT AND OPPOSITION  
(TO THE PARTIAL MOTION FOR RECONSIDERATION  
DATED 15 SEPTEMBER 2017)**

PROTESTEE **MARIA LEONOR G. ROBREDO**, by the undersigned counsel, to the Honorable Tribunal, in compliance with the Resolution dated 19 September 2017<sup>1</sup>, submits her Comment and Opposition to the Partial Motion for Reconsideration dated 15 September 2017, and respectfully states:

1. The technical examination of the voter's signatures appearing on the Election Day Computerized Voter's List (EDCVL) as against the voter's signatures appearing on the Voter's Registration Records (VRRs) in the Provinces of Lanao del Sur, Maguindanao and Basilan is premature.

2. Protestant Ferdinand R. Marcos, Jr. (hereafter "Marcos" for brevity) cannot take in piecemeal the causes of action in his Election Protest.

<sup>1</sup> Protestee Robredo received copy of the Resolution dated 19 September 2017 by the Honorable Tribunal on 02 October 2017. Under the said Resolution, protestee Robredo is directed to file her Comment on the Partial Motion for Reconsideration within a period of ten (10) days from receipt of notice. Protestee Robredo has ten (10) days from 02 October 2017 or until 12 October 2017 within which to file her Comment. Hence, this Comment is being timely filed.

3. Based on the records, the undisputed facts are:

3.1. Protestant Marcos, in his Election Protest, alleged that *(o)n the ground of electoral fraud, anomalies and irregularities as aforestated, protestant Marcos hereby also protests, assails and contests the results in thirty-nine thousand two hundred twenty one (39,221) clustered precincts* in the above-identified protested areas.<sup>2</sup>

3.2. Further, protestant Marcos alleged that his Causes of Action in his Election Protest are:

**"IV  
GROUNDS IN SUPPORT  
OF THE ELECTION PROTEST**

**A.  
(First Cause of Action)**

**The proclamation of protestee Robredo as the duly elected Vice-President is null and void because the COCs generated by the CCS are not authentic, and may not be used as basis to determine the number of votes that the candidates for Vice-President received for the following reasons:**

**(1) The reliability of the system employed to canvass the votes received by the candidates for Vice-President was not established before the elections, which was exploited to favor protestee Robredo.**

(a) The mandatory requirements of Republic Act No. 8436, as amended, were

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<sup>2</sup> Paragraph 5.30, Election Protest.

not shown to have been complied with.

(b) The use of the AES supplied by Smartmatic violated Republic Act No. 8436, as amended.

**(2) Other violations of Republic Act No. 8436, as amended, as well as a confluence of irregularities, and breaches of security protocols and procedures severely undermined the integrity and credibility of the entire electoral exercise, particularly the COCs on the basis of which protestee Robredo was proclaimed as the duly elected Vice-President.**

(a) The COMELEC acted unlawfully by issuing and implementing certain resolutions relating to the SD cards of the VCM.

(b) The COMELEC acted unlawfully by reconfiguring **30** CCS of **4** provinces and **26** cities/municipalities contrary to its own contingency procedure.

(c) Smartmatic introduced a new program into the Transparency Server in breach of protocol and without proper authority, and betraying the fact that a software was used in a component of the AES without being subjected to review by political parties and candidates as required by Republic Act No. 8436, as amended.

(d) An intermediary/queue server was unlawfully utilized in gross violation and disregard of Republic Act No. 8436, as amended, and COMELEC Resolution No. 10057.

(e) The AES supplied by Smartmatic was a vulnerable system as per report of SysTest Labs, Inc. ("SLI").

**B.**

**(Second Cause of Action)**

**Massive electoral fraud, anomalies and irregularities, such as, but not limited to terrorism, violence, force, threats, force, intimidation, pre-shading of ballots, vote-buying, substitution of voters, flying voters, pre-loaded SD cards, misreading of ballots, unexplained, irregular and improper rejection of ballots containing votes for protestant Marcos, malfunctioning VCM, and abnormally high unaccounted votes/undervotes for the position of Vice President compromised and corrupted the conduct of the elections and the election results for the position of Vice-President in the protested precincts."**

3.3. Thereafter, protestant Marcos emphasized that *(t)he second ground raised by protestant Marcos in this Election Protest is the presence of massive electoral fraud, irregularities, and anomalies which pervaded the conduct of elections in thirty-nine thousand two hundred twenty-one (39,221) clustered precincts that functioned*

*in Lanao Del Sur, Maguindanao, Basilan, Cebu Province, Leyte, Negros Occidental, Negros Oriental, Masbate, Zamboanga Del Sur, Zamboanga Del Norte, Bukidnon, Iloilo Province, Bohol, Quezon Province, Batangas, Western Samar, Misamis Oriental, Camarines Sur, 2<sup>nd</sup> District of Northern Samar, Palawan, Albay, Zamboanga Sibugay, Misamis Occidental, Pangasinan, Isabela, Iloilo City, Bacolod City, Cebu City, Lapu-Lapu City and Zamboanga City.*<sup>3</sup>

3.4. Thus, protestant Marcos prayed to the Honorable Tribunal:

"(8) To **DETERMINE** the candidate who received the highest number of valid votes for the position of Vice-President after the **ANNULMENT** of the election results in the provinces of Lanao Del Sur, Maguindanao and Basilan, and/or after the conduct of the **MANUAL RECOUNT** and **JUDICIAL REVISION** of the paper ballots and/or the ballot images in the following protested areas: **CEBU PROVINCE, LEYTE, NEGROS OCCIDENTAL, NEGROS ORIENTAL, MASBATE, ZAMBOANGA DEL SUR, ZAMBOANGA DEL NORTE, BUKIDNON, ILOILO PROVINCE, BOHOL, QUEZON PROVINCE, BATANGAS, WESTERN SAMAR, MISAMIS ORIENTAL, CAMARINES SUR, 2<sup>ND</sup> DISTRICT OF NORTHERN SAMAR, PALAWAN, ALABAY, ZAMBOANGA SIBUGAY, MISAMIS OCCIDENTAL, PANGASINAN, ISABELA, ILOILO CITY, BACOLOD CITY, CEBU CITY, LAPU-LAPU CITY and ZAMBOANGA CITY."**

3.5. Consistent thereto, in his Preliminary Conference Brief, protestant Marcos designated the

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<sup>3</sup> Paragraph 7.1., Election Protest.

provinces of Camarines Sur, Iloilo and Negros Oriental as his pilot areas.<sup>4</sup>

3.6. Finally, during the Preliminary Conference, protestant Marcos affirmed that his Election Protest is grounded on two (2) causes of action<sup>5</sup> which are complementary to each other<sup>6</sup>.

4. The Election Protest is assailing, impugning and contesting the results of the elections for Vice-President in **Thirty Nine Thousand Two Hundred Twenty One (39,221)** clustered precincts which functioned during the 09 May 2016 National and Local Elections.

5. In assailing, impugning and contesting the results of the elections in the **Thirty Nine Thousand Two Hundred**

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<sup>4</sup> Pages 74-75, Preliminary Conference Brief of protestant Marcos:

"V. LIST OF PROVINCES FOR THE PILOT PROTEST PURSUANT TO RULE 65 OF THE 2010 PET RULES

Protestant Marcos is hereby designating the provinces of **CAMARINES SUR, ILOILO** and **NEGROS ORIENTAL** as his pilot areas for the **MANUAL RECOUNT** and **JUDICIAL REVISION** of the paper ballots and/or ballot images as well as the **TECHNICAL EXAMINATION, FORENSIC INVESTIGATION, VERIFICATION** and **ANALYSIS** of the voter's receipts, election returns, audit logs, transmission logs, the lists of voters, particularly the Election Day Computerized Voter's List (EDCVL), and voters registration records (VRRs), the books of voters and other pertinent election documents and/or paraphernalia used in the elections, as well as the automated election equipment and records such as the Vote Counting Machines (VCM), Consolidation and Canvass System (CCS) units, Secure Digital (SD) cards (main and back up)m and the other storage devices containing electronic data and ballot images used during the 09 May 2016 National and Local Elections, pursuant to **Rule 65** of the **2010 PET Rules.**"

<sup>5</sup> Page 8, Transcript of Stenographic Notes dated 11 July 2017:

**"JUSTICE CAGUIOA:**

So the period will be ten (10) days from today. Yes. I just have some clarificatory preliminary questions and I'd like to ask the counsel for the protestant to please take the podium.

Counsel, the protest is grounded on essentially two causes of action, correct?

**ATTY. GARCIA:**

That is correct, Your Honor."

<sup>6</sup> Page 10, Transcript of Stenographic Notes dated 11 July 2017:

**"JUSTICE CAGUIOA:**

Alright, then. . . in other words, should you be successful in your First Cause of Action, that the entire system is flawed, that would mean that the Tribunal will still have to look at all the ballots in the 92,509 clustered precincts, am I correct?

**ATTY. GARCIA:**

That is correct, Your Honor, because the First Cause of Action is actually complementary to the Second and Third Causes of Action, Your Honor.

**Twenty One (39,221)** clustered precincts, Protestant Marcos raised several grounds.

6. However, protestant Marcos cannot separate and take in piecemeal his causes of action in his Election Protest.

7. On the other hand, **Rule 65 of the 2010 Rules of the Presidential Electoral Tribunal** expressly provides that:

*"Dismissal; when proper.* – The Tribunal may require the **protestant** or counter-protestant **to indicate, within a fixed period, the province or provinces numbering not more than three**, best exemplifying the frauds or irregularities alleged in his petition; and the revision of ballots and reception of evidence will begin with such provinces. If upon examination of such ballots and proof, and after making reasonable allowances, the Tribunal is convinced that, taking all circumstances into account, the protestant or counter-protestant will most probably fail to make out his case, the protest may forthwith be dismissed, without further consideration of the other provinces mentioned in the protest.

The preceding paragraph shall also apply when the election protest involves correction of manifest errors."

8. Under the Rules, protestant Marcos is mandated to identify only three (3) provinces as his pilot provinces.

9. In his Preliminary Conference Brief, protestant Marcos identified the provinces of Camarines Sur, Iloilo and Negros Oriental as his pilot provinces.

10. Protestant Marcos is now bound by his choice of pilot provinces.

11. Thus, protestant Marcos cannot and should not be allowed to add three (3) more provinces and circumvent the Rules.

12. Worse, by insisting on the immediate conduct of a technical examination in the Provinces of Lanao del Sur, Maguindanao and Basilan, protestant Marcos is clearly in bad faith.

13. Whether he admits it or not, protestant Marcos is blatantly and shameless attempting to circumvent the Rules.

14. Clearly, protestant Marcos has not come to the Honorable Tribunal with so to speak "clean hands".

15. Finally, the conduct of technical examination in the provinces of Lanao del Sur, Maguindanao and Basilan is premature.

16. As aforesated, the Rules mandates protestant Marcos to designate only three (3) provinces as his pilot provinces.

17. Whether the cause of action is revision, recount and re-appreciation of ballots or annulment of elections, the Honorable Tribunal will make an initial determination of whether the Election Protest may proceed or not.

18. Should the Honorable Tribunal find that protestant Marcos has shown sufficient recovery, then, the other protested provinces maybe considered and the Election Protest will proceed.

19. This means, protestant Marcos must first show in his pilot provinces that it is statistically possible for him to offset the winning margin of protestee Maria Leonor G. Robredo (hereafter "Robredo" for brevity).

20. In the alternative, should protestant Marcos fail to show sufficient recovery or *will most probably fail to make out his case*, his Election Protest will be dismissed.



21. Thus, the conduct of technical examination of the signatures in EDCVL vis-à-vis the VRRs will be for naught.

22. To indulge protestant Marcos will involve unnecessary expense and time on the parties and the Honorable Tribunal.

23. A final note. On several interviews, protestant Marcos has confidently announced that should the recount and revision in the three (3) provinces proceed, he can sufficiently show discrepancy in the votes that he received vis-à-vis what was counted by the Vote Counting Machines.

24. In fact, protestant Marcos went as far to say that the result of the revision, recount and re-appreciation of the ballots in these three (3) provinces would be enough to offset the winning margin of protestee Maria Leonor G. Robredo (hereafter "Robredo" for brevity).

25. With his insistence on the conduct of a technical examination, it would appear that the confidence of protestant Marcos in his choice of pilot provinces has wavered.

### **PRAYER**

WHEREFORE, PREMISES CONSIDERED, it is respectfully prayed to the Honorable Tribunal that the Partial Motion for Reconsideration dated 15 September 2017 be DENIED for utter lack of merit.

Protestee Robredo prays for such other reliefs and remedies as may be equitable under the premises.

Pasig City for Manila. 02 October 2017.



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By



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## **EXPLANATION**

Due to unavailability of messengers and the distance of the parties, a copy of the herein "Manifestation" were sent to the above-named parties by registered mail.

  
**MARIA BERNADETTE V. SARDILLO**

Republic of the Philippines )

MANDALUYONG CITY

**VERIFIED DECLARATION OF COMPLIANCE WITH THE  
EFFICIENT USE OF PAPER RULE**

I, **LINO B. MAPUTOL, JR.**, hereby declare that *Comment and Opposition (To The Partial Motion For Reconsideration Dated 15 September 2017)* hereof submitted electronically by use of compact disc in accordance with the Efficient Use of Paper Rule are complete and true copies of Comment and Opposition hereof filed with the Presidential Electoral Tribunal.

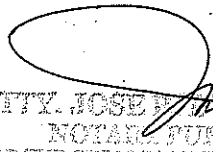
Pasig City. 12 October 2017.

  
**LINO B. MAPUTOL, JR.**  
Secretary

*Sardillo Sardillo Salom Law Office*

**SUBSCRIBED AND SWORN TO BEFORE ME**, a notary public in and for Pasig City, this 12<sup>th</sup> day of October 2017 by affiant LINO B. MAPUTOL, JR. who is personally known to me, and appeared with his Driver's License ID with No. N25-11-006996 issued by Land Transportation Office, known to me as the same person who personally signed the foregoing attestation before me and acknowledged that he executed the same.

Doc. No. 316 ;  
Page No. 73 ;  
Book No. 70 ;  
Series of 2017.

  
**ATTY. JOSE P. DELA CRUZ**  
NOTARY PUBLIC  
FOR THE CITY OF MANDALUYONG  
Unit Decree No. 11, 2017  
COMMISSION NO. 238-16  
RP Decree No. 151733 (Pasig City, 4-27-2017)  
117 Bldg. (2/F), 1-3-17, Calala, Rizal  
RULES OF 1997  
ACLE CODE NO. 24022171, 6-15-16  
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