

Republic of the Philippines  
Presidential Electoral Tribunal  
Manila

NOTICE

Sirs/Mesdames:

*Please take notice that the Tribunal issued a Resolution dated **OCTOBER 10, 2017**, which reads as follows:*

**“PET Case No. 005 – FERDINAND “BONGBONG” R. MARCOS, JR., protestant, versus MARIA LEONOR “LENI DAANG MATUWID” G. ROBREDO, protestee.**

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RESOLUTION

In a Resolution dated July 12, 2016,<sup>1</sup> the Tribunal issued a Precautionary Protection Order (PPO) ordering the COMELEC and its agents to preserve and safeguard the integrity of all the ballot boxes and their contents in the 92,509 clustered precincts.<sup>2</sup>

Subsequently, however, in a Resolution dated August 29, 2017,<sup>3</sup> the Tribunal resolved to dismiss the First Cause of Action for judicial economy and the prompt resolution of the Protest. The Tribunal explained that allowing the First Cause of Action to proceed would be an exercise in futility, considering that protestant is only seeking the annulment of votes in the 2,756 clustered precincts and the revision of ballots in 36,465 clustered precincts.<sup>4</sup> Thus, given that the allegations in the Second and Third Causes of Action are specific only to the 39,221 clustered precincts, only the said precincts remain subject of the Protest as a result of the dismissal of the First Cause of Action. In this regard, the Tribunal deems it proper to **LIFT** the PPO with respect to the forty-five thousand seven hundred fifty-one (45,751) clustered precincts not covered by the Second and Third Causes of Action of the Protest and the Counter-Protest. Given the delimited scope of the Protest, there is no more purpose in further preserving the ballot boxes and other election paraphernalia corresponding to the 45,751 clustered precincts.

<sup>1</sup> Rollo (Vol. XX), p. 16009.

<sup>2</sup> Id. at 16012-16013.

<sup>3</sup> Rollo (Vol. XXXII), pp. 24482-24515.

<sup>4</sup> Id. at 24483-24484.

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In this connection, the Tribunal likewise resolves the Letter dated July 10, 2017 from the COMELEC, through Atty. Maria Lea Alarkon, Director III of the COMELEC Office for Overseas Voting (OFOV) (COMELEC Letter)<sup>5</sup>.

In the COMELEC Letter, the COMELEC forwarded to the Tribunal requests from several Philippine Foreign Posts (Posts) for payment of storage facilities and other necessary expenses in connection with the protection and safekeeping of election materials and paraphernalia used in the 2016 National and Local Elections in the custody of said Posts (Subject Expenses).

In compliance with the Resolution of the Tribunal dated July 18, 2017,<sup>6</sup> protestant filed on August 7, 2017 his Comment to the letter,<sup>7</sup> praying that the Tribunal direct the COMELEC to pay the Subject Expenses. In support of said prayer, protestant submitted that COMELEC has the duty to safeguard the integrity of the election materials and paraphernalia. Moreover, the 2010 PET Rules exclude the Subject Expenses from the expenses chargeable against protestant's cash deposit. For protestant, Rule 33 of the 2010 PET Rules provides that the deposit shall be applied only to the payment of all expenses incidental to the bringing of the election materials and paraphernalia to the Tribunal and returning them after the case is terminated, and to the compensation of the members of the Revision Committees.

On the other hand, in compliance with the Tribunal's Resolution dated August 29, 2017,<sup>8</sup> the COMELEC filed on September 25, 2017 its Reply to Protestant's Comment (Reply), where it alleged that in COMELEC Resolution No. 10035 dated January 13, 2016, the Posts were directed to retain the election materials and paraphernalia in their custody until further instructions from the OFOV. As in the 2013 elections, the OFOV was supposed to give the instructions to transmit to the COMELEC Central Office said election materials and paraphernalia within three (3) months from election day. However, due to the broad language of, and in faithful compliance to, the PPO, it withheld such instructions. As a consequence, said election materials and paraphernalia were retained in the custody of the Posts thus resulting in the Subject Expenses being incurred.

Likewise, COMELEC submitted that Rule 40 of the 2010 PET Rules mandates application of said deposit to expenses for the storage of the election paraphernalia for purposes of revision while Rule 33 allows the Tribunal to require additional cash deposit should it determine that such is

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<sup>5</sup> *Rollo* (Vol. XXXI), pp. 24011-24012.

<sup>6</sup> *Id.* at 24040-24041.

<sup>7</sup> *Rollo* (Vol. XXXII), pp. 24430-24436.

<sup>8</sup> *Id.* at 24562-24640.

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demanded by the circumstances. Thus, the COMELEC prayed that it should not be held liable for the payment of the Subject Expenses.

The Tribunal holds that COMELEC is liable for the Subject Expenses.

The PPO directed the COMELEC and its agents to **preserve and safeguard the integrity** of the ballots and other election materials and paraphernalia used in the 2016 elections for the position of Vice President. There is nothing in the PPO that prohibited the physical transfer of the election materials and paraphernalia; the COMELEC was merely required to preserve and safeguard their integrity. Thus, the COMELEC's proffered reason that its failure to instruct the return of the materials and paraphernalia was due to its faithful compliance to the PPO has no basis. As mentioned, the PPO is clear in that the COMELEC and its agents were ordered to preserve and safeguard the integrity of the election materials and paraphernalia which could be done even if they needed to be transmitted to the COMELEC Central Office. To be sure, in several occasions since the PPO was issued on July 12, 2016, the COMELEC had moved and transferred election materials and paraphernalia covered by the PPO after securing permission from the Tribunal. As to why it would treat differently the materials and paraphernalia in the custody of the Posts escapes this Tribunal as the PPO did not make such distinction. Indeed, the COMELEC could have simply secured permission from the Tribunal for their transfer to the COMELEC Central Office. The COMELEC made no such request.

Further, while it is true that the 2010 PET Rules allow the charging of miscellaneous expenses against protestant's cash deposit if so needed, applying this to the payment of the Subject Expenses is unwarranted under the circumstances. Protestant never requested that the election materials and paraphernalia be physically retained in the custody of the Posts. Rather, it was the COMELEC that made the decision not to instruct the Posts to transmit the election materials and paraphernalia to the COMELEC Central Office, despite the absence of any prohibition for the same. Had the COMELEC made such instruction, the Subject Expenses would not have been incurred. Accordingly, the COMELEC must bear the responsibility of paying for the Subject Expenses incurred by the Posts.

*The COMELEC's Manifestation/Compliance  
with Motion dated September 15, 2017*

In a Resolution dated August 29, 2017, the Tribunal directed the COMELEC to inform the Tribunal of its recommended procedures, logistics, schedule, and cost of the decryption and printing of the ballot images for the pilot provinces of Camarines Sur, Iloilo, and Negros Oriental.

In compliance, the COMELEC submitted its Manifestation/Compliance with Motion on September 15, 2017, attaching thereto Resolution No. 10155

*JLP Logan-Done*



on the Guidelines to Decryption Ballot images and other related resolutions, the Order of Payment, and Summary of Supplies. However, aside from the general procedure and costs, and for the guidance of the Tribunal and the parties, more details are needed specifically on the **logistics and timeline** of the decryption and the printing process, such as:

1. the estimated duration of decryption and printing process per pilot province, and for all three pilot provinces;
2. the number of computers and printers to be used and COMELEC personnel to be assigned to conduct the decryption and printing process;
3. the number of party representatives that may be allowed to witness the decryption and printing process; and
4. other information on the decryption and printing process that the COMELEC may deem useful to the Tribunal and the parties, including but not limited to the storage of the printed ballot images, audit logs and election returns.

**IN VIEW OF THE FOREGOING**, the Tribunal resolves to:

- (a) **LIFT** the Precautionary Protection Order (PPO) dated July 12, 2016 with respect to the **forty-five thousand seven hundred fifty-one (45,751)** clustered precincts not subject of the Protest and Counter-Protest. The PPO remains effective with respect to the **two thousand seven hundred fifty-six (2,756)** clustered precincts in Lanao Del Sur, Maguindanao, and Basilan and the **thirty-six thousand four hundred sixty-five (36,465)** clustered precincts in the 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, 2nd District of Northern Samar, Palawan, Albay, Zamboanga Sibugay, Misamis Occidental, Pangasinan, Isabela, Iloilo City, Bacolod City, Cebu City, Lapu-lapu City, and Zamboanga City; and the **seven thousand five hundred forty-seven (7,547)** clustered precincts in the following thirteen (13) provinces covered by the Counter-Protest: Apayao, Mountain Province, Abra, Kalinga, Bataan, Capiz, Aklan, Antique, Sarangani, Sulu, Sultan Kudarat, South Cotabato, and North Cotabato.
- (b) **DENY** the requests for payment of storage fees and other necessary expenses as stated in the COMELEC's Letter dated July 10, 2017; and

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- (c) **DIRECT** the COMELEC, within a non-extendible period of ten (10) days from receipt, to provide information on the following matters related to the decryption and printing process:
1. the estimated duration of decryption and printing process per pilot province, and for all three pilot provinces;
  2. the number of computers and printers to be used and COMELEC personnel to be assigned to conduct the decryption and printing process;
  3. the number of party representatives that may be allowed to witness the decryption and printing process; and
  4. other information on the decryption and the printing process that the COMELEC may deem useful to the Tribunal and the parties, including but not limited to the storage of the printed ballot images, audit logs and election returns.

The Tribunal further **RESOLVES** to:

- (d) **GRANT** the MOTION FOR ADDITIONAL TIME (3<sup>rd</sup>) dated October 4, 2017 filed by the Office of the Solicitor General (OSG) for the COMELEC;
- (e) **NOTE** the COMPLIANCE (with the resolution dated September 19, 2017) dated October 4, 2017 filed by the OSG for the COMELEC;
- (f) **NOTE** the MANIFESTATION dated October 7, 2017 filed by the COMELEC and **GRANT** the request for the conduct of the decryption and printing of ballot images, etc. on October 23, 2017 at 9:00 a.m. until termination thereof, without prejudice to COMELEC's compliance in (c) above;
- (g) **NOTE** the LETTER dated October 5, 2017 from John Gerald B. Dela Cruz, Division Clerk, First Division, Electoral Contests Adjudication Department, COMELEC; and **GRANT** the request to continue proceedings in (i) EAC No. 26-2016 (*Luzvina Sumiton, protestant-appellant vs. Paul John Reinante, et al., protestees-appellees*); (ii) EAC No. 27-2016 (*Roldan P. Dalman, protestant-appellant vs. Patchito T. Eguia, protestee-appellee*); and (iii) EAC No. 14-2017 (*Indana K. Daud, protestant-appellant vs. Hanie A. Bud, protestee-appellee*); and
- (h) **NOTE** the REPORT dated October 9, 2017 from the Exploratory Mission/Retrieval Team and **GRANT** the requests

*granted*



October 10, 2017

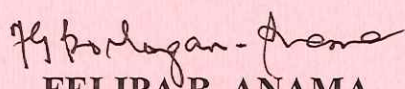
for the (i) issuance of Authority to Travel to Camarines Sur from October 16 to October 20, 2017 or October 23 to October 27, 2017 to the following members of the Exploratory Mission/Retrieval Team:

1. Atty. Mercedes G. Mostajo, Team Leader;
  2. Atty. Linuel G. Alindogan, Member;
  3. Joery L. Gayanan, Assistant Chief of Security Officer;
  4. Jeffrey Raymond Atienza, Special Disbursing Officer;
- and

(ii) approval of the total expenses for the exploratory mission in the amount of Php104,585.80, to be charged against the cash deposit of the protestant.

Let copies of this resolution be **PERSONALLY SERVED** on the parties and the COMELEC.” Martires, J., on official leave. (1)

Very truly yours,

  
**FELIPA B. ANAMA**  
Clerk of the Tribunal *mdmc*

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**Commissioner Robert S. Lim** (x)  
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**Ester L. Villaflor-Roxas** (x)  
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