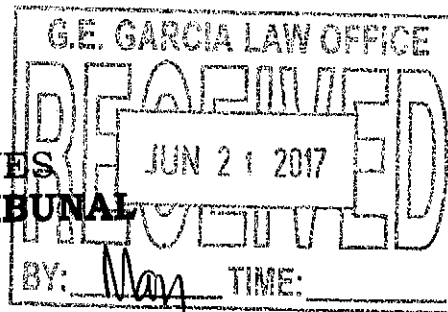


REPUBLIC OF THE PHILIPPINES
PRESIDENTIAL ELECTORAL TRIBUNAL
Manila



FERDINAND "BONGBONG" R. MARCOS, JR.,

Protestant,

- versus -

PET Case No. 005
FOR: Election Protest
Vice President

MARIA LEONOR "LENI DAANG MATUWID" G. ROBREDO,

Protestee.

x -----x

**COMMENT AND OPPOSITION
(TO MOTION FOR DECRYPTION AND PRINTING OF
BALLOT IMAGES DATED 01 JUNE 2017)**

PROTESTEE MARIA LEONOR G. ROBREDO, through counsel, by way of compliance with the June 6, 2017 Resolution of the Honorable Tribunal, copy of which was received on June 9, 2017¹, respectfully submits:

1. With due respect, protestant's motion seems to be a skillful strategy to veer away from the unresolved issue of whether or not his protest against the results in 22 provinces and 5 highly urbanized cities complied with the strict requirement of PET Rule 17 that an election protest shall allege "detailed specification of the acts or omissions complained of showing the electoral frauds, anomalies, or irregularities". This issue is still the subject of protestee's Motion for Reconsideration, *Pro Tanto*, action on which was deferred by the Honorable Tribunal as stated in its June 6, 2017 resolution. On this score alone, the motion should be denied as it is preempting the Honorable Tribunal's action on said pending motion for reconsideration.

¹ Under the Notice, protestee is required to comment on protestant's Motion for Decryption and Printing of Ballot Images dated June 1, 2017 within a non-extendible period of five (5) days from notice. Protestee has five (5) days from 09 June 2017 or until 14 June 2017 within which to file her Comment. Hence, this Comment is being timely filed.

2. To allow protestant to decrypt and print all ballots images from the secure digital (SD) cards from the entire 36,465 protested clustered precincts will practically grant his prayer for the judicial recount and revision of ballots which, as stated, is still an issue to be resolved. And this has been continuously opposed by protestee on the ground there is no clear showing of grounds necessitating the opening of the ballot boxes under protest for protestant's non-compliance with the said required detailed specification of electoral frauds in the protested precincts.

3. It should be noted that protestant made a **uniform statement** immediately after identifying the protested province or city that "**protestant shall submit affidavits of his other witnesses in the Province/City**". This clearly demonstrates the lack of the required detailed specifications of the acts or omissions complained of in protestant's election protest.

4. As such, the motion is practically giving protestant a chance to fish for evidence, if not totally confused on the remedy he wants to pursue: whether actual revision of ballots or merely decryption of ballot images.

5. Furthermore, the Honorable Tribunal has not yet resolved the issue of whether or not the ballot boxes should already be brought to the Honorable Tribunal for revision or recount purposes. This determination would be based on the allegations in the protest or counter-protest as provided under Rule 37² of the PET Rules. As previously stated by the

² Rule 37 of the 2010 Rules of the Presidential Electoral Tribunal provides:

"Rule 37. *When ballot boxes and election documents are brought before the Tribunal.* - (a) Within forty-eight hours from receipt of the answer with counter-protest, if any, the Tribunal shall, when the allegations in a protest or counter-protest warrants, order the ballot boxes and their contents with their keys, lists of voters with voting records, books of voters, the electronic data storage devices, and other documents, paraphernalia, or equipments relative to the precincts involved in the protest or counter-protest, to be brought before it.

(b) The Tribunal shall notify the parties of the date and time for the retrieval of the above-named items from their respective custodians. The parties may send representatives to witness the same. The absence, however, of a representative of a party shall not be reason to postpone or delay the bringing of the ballot boxes, election documents, and data storage devices, into the custody of the Tribunal.

(c) The Tribunal may, in its discretion, seek the assistance of the Philippine National Police or the Armed Forces of the Philippines in ensuring the safe delivery of the ballot boxes, election documents, and data storage devices, into the custody of the Tribunal.

(d) Where any of the ballot boxes, ballots, election returns, election documents or paraphernalia mentioned in the first paragraph above are also involved in election contests before other *fora*, such as the Senate Electoral Tribunal or the House of Representatives Electoral Tribunal, the Tribunal shall have preferential right over the custody and revision of ballots involved in simultaneous protests. The Tribunal shall,

protestee, the protest contains **general, sweeping and bare allegations** which violated the Rule 17³ that the allegations of electoral fraud must contain "detailed specification of such acts or omissions". The Honorable Tribunal may take note that paragraph 7.50 of protestant's election protest exposes non-compliance with this specific requirement because the allegation of protest merely states:

"7.50. The following electoral frauds, anomalies, irregularities were prevalent in the said protested areas during election day: vote buying, substitution of voters, presence of flying voters, pre-loaded SD cards, misreading of ballots, malfunctioning and tampered VCM and CCS, and abnormally high numbers of unaccounted votes/undervotes for the position of Vice-President."

however, make the appropriate coordination and request with the other electoral bodies involved as to temporary prior custody of ballot boxes and revision of ballots and other documents and storage devices, or the synchronization of such recount of ballots.

(e) The expenses necessary and incidental to the bringing of the ballot boxes, election documents, and devices shall be shouldered and promptly paid by the protestant and the counter-protestant, if any, in proportion to the precincts involved. The expenses necessary and incidental to the return of the ballot boxes, election documents, and storage devices to their original custodians or the proper electoral bodies after the termination of the case shall be shared proportionately by the protestant and protestee based on the number of precincts respectively contested by them."

³ Rule 17 of the 2010 Rules of the Presidential Electoral Tribunal provides:

"Rule 17. *Contests of the protest or petition.* - (A) An election protest or petition for *quo warranto* shall commonly state the following facts:

- (a) the position involved;
- (b) the date of proclamation; and
- (c) the number of votes credited to the parties per proclamation.

(B) A quo warranto petition shall also state:

- (a) the facts giving the petitioner standing to file the petition;
- (b) the legal requirements for the office and the disqualifications prescribed by law;
- (c) the protestee's ground for ineligibility or the specific acts of disloyalty to the Republic of the Philippines.

(C) An election protest shall also state:

- (a) that the protestant was a candidate who had duly filed a certificate of candidacy and had been voter for the same office;
- (b) the total number of precincts of the region, province, or city concerned;
- (c) the protested precincts and votes of the parties to the protest in such precincts per the Statement of Votes By Precinct or, if the votes of the parties are not specified, an explanation why the votes are not specified; and
- (d) a detailed specification of the acts or omissions complained of showing the electoral frauds, anomalies, or irregularities in the protested precincts."

6. What is only specific in this allegation is that all these alleged acts happened "**during election day.**" But as to where did they happen; how did it happen; and who committed these acts were not given with detailed specifications. Not even a whimper of allegation has been attributed to protestee as the one responsible for these alleged anomalies.

7. Indeed, if all these **uniform and identical acts** happened at the same time **on election day** in all these 36,465 clustered precincts or from 22 big provinces and 5 highly urbanized cities there would have been a pandemonium of sorts and would have been a big media event. But the Honorable Tribunal may take judicial notice that no such event was reported during and after the election.

8. Likewise, in paragraph 7.56 of his election protest, protestant merely referred to "150 (vote counting) machines", hence, he is clearly referring only to 150 clustered precincts in his protest. Protestant should be directed to specifically identify the clustered precincts allegedly affected by the 150 VCMs which allegedly "bogged down" on election day.

9. Lastly, Rule 43(q)⁴ of the Rules allows decryption only when the integrity of the ballot box and its contents had been compromised or was not preserved will decryption of ballot images be allowed. Clearly, the motion is premature.

⁴ Rule 43 (q) of the 2010 Rules of the Presidential Electoral Tribunal provides:

"Rule 43. *Conduct of the revision.* - The revision of votes shall be done through the use of appropriate PCOS machines or manually and visually, as the Tribunal may determine, and according to the following procedures:

x x x

(q) In the event that the RC determines that the integrity of the ballots and the ballot box was not preserved, as when there is proof of tampering or substitution, it shall proceed to instruct the printing of the picture image of the ballots of the subject precinct stored in the data storage device for the same precinct. The Tribunal may avail itself of the assistance of the COMELEC for the service of a non-partisan technical person who shall conduct the necessary authentication process to ensure that the data or images stored are genuine and not merely substitutes. It is only upon such determination that the printed picture image can be used for the revision of votes.

PRAYER

WHEREFORE, PREMISES CONSIDERED, it is respectfully prayed that protestant's Motion for Decryption and Printing of Ballot Images from the 36,465 clustered precincts be DENIED for its utter lack of merit.

Other reliefs just and equitable are likewise prayed for.

Pasig City for Manila. 14 June 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 Comment was each sent to the above-named parties by registered mail.



MARIA BERNADETTE V. SARDILLO

Republic of the Philippines)
Pasig City)

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


I, **KWELL SUYINN M. ZARASATE**, hereby declare that the Comment and Opposition (To Motion for Decryption and Printing of Ballot Images dated 01 June 2017) submitted electronically by use of compact disc in accordance with the Efficient Use of Paper Rule are complete and true copies of the Comment and Opposition (To Motion for Decryption and Printing of Ballot Images dated 01 June 2017) filed with the Presidential Electoral Tribunal.

Pasig City, 14 June 2017.


KWELL SUYINN M. ZARASATE
Secretary
Sardillo Sardillo Salom Law Office

SUBSCRIBED AND SWORN TO BEFORE ME, a notary public in and for Pasig City, this 14th day of June 2017 by affiant **KWELL SUYINN M. ZARASATE** who is personally known to me, and appeared with her SSS ID with No. 33-9056255-6 issued by Social Security System, known to me as the same person who personally signed the foregoing attestation before me and acknowledged that she executed the same.

Doc. No. 317 ;
Page No. 04 ;
Book No. 14 ;
Series of 2017.


GAUDENCIO A. BARBOZA, JR.
NOTARY PUBLIC
Cities of Pasig, San Juan and
in the Municipality of Patros, Metro Manila
Until December 31, 2018
PTR No. A-321714 / 01-03-17 Taguig City
IBP No. 1050940 / 11-08-16 RSM
RCM No. 41969
MCLE Comp. V/0021481 / May 02, 2016
No. 11, Unit / Freemont Arcade Bldg.
Shaw Blvd. Brgy. San Antonio, Pasig City
Appointment No. 26