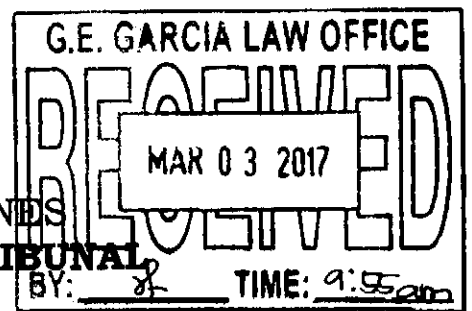


REPUBLIC OF THE PHILIPPINES
PRESIDENTIAL ELECTORAL TRIBUNAL
MANILA



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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**MOTION FOR RECONSIDERATION, PRO TANTO
WITH PRAYER TO SET FOR HEARING**

PROTESTEE, through counsel, respectfully moves for the reconsideration, *pro tanto*, of the 24 January 2017 Resolution of the Honorable Tribunal, to the extent that it denied her motion for preliminary hearing on her special and affirmative defenses. Protestee received a copy of said Resolution on 15 February 2017, and as such, this Motion is timely filed. In support of this Motion, Protestee respectfully submits the following

A R G U M E N T S.

With due respect, the Honorable Tribunal erred when it ruled that the instant Protest "contained narration of ultimate facts on the alleged irregularities and anomalies in the contested clustered precincts (thus, it) finds the Protest sufficient in form and substance.¹" On the contrary, a close perusal of said Protest reveals that there are NO SUCH "ULTIMATE FACTS" alleged in the entire protested provinces and cities, except for one or two affidavits for certain municipalities.

¹ Resolution dated 24 January 2017, p. 6. (Underscoring Supplied).

In affirming its jurisdiction over the instant protest and in ruling that said protest is sufficient in form and substance, the only reason given by the Honorable Tribunal is that "the Protest contained narrations of ultimate facts on the alleged irregularities and anomalies in the contested clustered precincts²".

Protestee respectfully disagrees because a close review of the Protest reveals that NO SUCH "ultimate facts" are alleged in all the contested clustered precincts showing the alleged irregularities and anomalies supporting said protest. If such "ultimate facts" refer to the affidavits attached to the Protest, the same only pertain to selected municipalities or barangays or clustered precincts but does not refer to an entire province where such municipalities, precincts, barangays were mentioned.

Thus, in paragraph 7.10 of the Protest, protestant himself specifically enumerated only certain **specific municipalities/cities per province wherein he himself said he "presented" the "detailed specification of the acts, omissions and incidences of electoral fraud, anomalies and irregularities committed thereat."**³ Therefore, following the resolution of the Honorable Tribunal sought to be reconsidered herein, the protest for annulment of election results should be limited to said municipalities/cities where protestant himself "presented" narrations of alleged poll anomalies and irregularities, as discussed hereunder:

1. **LANAO DEL SUR.** While this province is comprised of 39 municipalities and 1 city, the Protest contains only one or two affidavits of alleged witnesses trying in vain to narrate supposed poll anomalies, **without even mentioning which specific clustered precincts are contested.** These affidavits pertain only to 4 municipalities (Bacolod, Kalawi, Tamparan, Pagayawan, and Lumbaca Unayan) and 1 city (Marawi) out of the 39 municipalities and 1 city in this Province.

Thus, NO "ULTIMATE FACTS OF ALLEGED IRREGULARITIES OR ANOMALIES" WERE STATED OR NARRATED IN THE REMAINING 35 MUNICIPALITIES OF LANAO DEL SUR.

² *Id.*

³ Paragraph 7.10, page 965, Election Protest.

The Honorable Tribunal's ruling is to the effect that - to be sufficient in form and substance the Protest must contain a narration of **"ultimate facts on the alleged irregularities and anomalies"**. Thus, granting **arguendo or without admitting**, that such one or two affidavits for the municipalities of Bacolod Kalawi, Tamparan, Pagayawan, Lumbaca Unayan and Marawi City contain such "ultimate facts", then the Protest for annulment of the election results in Lanao del Sur **should be limited to said four (4) municipalities and Marawi City and that the Protest should be dismissed in the remaining 34 municipalities of Lanao del Sur for insufficiency in form and substance, there being no "ultimate facts" in said remaining 34 municipalities.**

In addition, to pursue such Protest for the annulment of the results in said 4 municipalities of Bacolod Kalawi, Tamparan, Pagayawan and Marawi City, the Protestant must be directed to identify the specific affected clustered precincts referred to in said affidavits as the same are not reflected therein.

Further, in all these affidavits and in all the allegations in the Protest, Protestee was never mentioned to have any direct participation, knowledge or consent to the alleged election irregularities and anomalies stated in said Protest. Thus, as enunciated in *Abayon v. HRET*⁴, "absent anything that would concretely and directly establish Protestee as the one who had induced or actually perpetuated the commission of terroristic acts and demonstrate that these incidents were part of scheme to frustrate the free expression of the will of the electorate xxx xxx xxx, do not per se make him responsible for the charges of terrorism."

In the instant case, the acts and anomalies stated in said 4 municipalities and Marawi City could not be the basis of annulling the results of the election therein that would result in reducing the votes lawfully garnered by Protestee.

Lastly, in *Aguillo v Comelec*⁵, the Supreme Court sustained the dismissal of an election protest for insufficiency in form and substance when no evidence of election

⁴ G.R. No. 222236, 3 May 2016.

⁵ G.R. No. 197975-76, 19 March 2013.

irregularities were attached to the election protest. Here, the same should be applied to the 35 municipalities of Lanao del Sur where no "ultimate facts" or affidavits or specific allegations of fraud and irregularities were attached or narrated.

2. **MAGUINDANAO**. While this province is comprised of 36 municipalities, the Protest contains only two affidavits of alleged witnesses trying in vain to narrate supposed poll anomalies, **without even mentioning which specific clustered precincts are contested**. These affidavits pertain only to 1 municipality (Datu Saudi Ampatuan) out of the 36 municipalities in this Province.

Thus, NO "ULTIMATE FACTS OF ALLEGED IRREGULARITIES OR ANOMALIES" WERE STATED OR NARRATED IN THE REMAINING 35 MUNICIPALITIES OF MAGUINDANAO.

The Honorable Tribunal's ruling is to the effect that - to be sufficient in form and substance the Protest must contain a narration of **"ultimate facts on the alleged irregularities and anomalies"**. Thus, granting **arguendo or without admitting**, that such one affidavit for the municipality of Datu Saudi Ampatuan contains such "ultimate facts", **then the Protest for annulment of the election results in Maguindanao should be limited to said municipality of Datu Saudi Ampatuan and that the Protest should be dismissed in the remaining 35 municipalities of Maguindanao for insufficiency in form and substance, there being no "ultimate facts" in said remaining 35 municipalities.**

In addition, to pursue such Protest for the annulment of the results in said municipality of Datu Saudi Ampatuan, the Protestant must be directed to specifically identify the specific affected clustered precincts referred to in said affidavit as the same is not reflected therein.

Further, in said affidavit and in all the allegations in the Protest, Protestee was never mentioned to have any direct participation, knowledge or consent to the alleged election irregularities and anomalies stated in said Protest. Thus, as

enunciated in *Abayon v. HRET*⁶, “absent anything that would concretely and directly establish Protestee as the one who had induced or actually perpetuated the commission of terroristic acts and demonstrate that these incidents were part of scheme to frustrate the free expression of the will of the electorate xxx xxx, do not per se make him responsible for the charges of terrorism.”

In the instant case, the acts and anomalies stated in said municipality of Datu Saudi Ampatuan could not be the basis of annulling the results of the election therein that would result in reducing the votes lawfully garnered by Protestee.

Lastly, in *Aguillo v Comelec*⁷, the Supreme Court sustained the dismissal of an election protest for insufficiency in form and substance when no evidence of election irregularities were attached to the election protest. Here, the same should be applied to the 35 municipalities of Maguindanao where no “ultimate facts” or affidavits or specific allegations of fraud and irregularities were attached or narrated.

3. **BASILAN.** While this province is comprised of 11 municipalities and 1 city, the Protest contains only around four affidavits in certain areas of alleged witnesses trying in vain to narrate supposed poll anomalies, **without even mentioning which specific clustered precincts are contested.** These affidavits pertain only to 3 municipalities (Tuburan, Akbar and Sumisip) and 1 city (Iligan) out of the 11 municipalities and 1 city in this Province.

Thus, NO “ULTIMATE FACTS OF ALLEGED IRREGULARITIES OR ANOMALIES” WERE STATED OR NARRATED IN THE REMAINING 8 MUNICIPALITIES OF BASILAN.

The Honorable Tribunal’s ruling is to the effect that - to be sufficient in form and substance the Protest must contain a narration of **“ultimate facts on the alleged irregularities and anomalies”**. Thus, granting **arguendo or without admitting**, that such 4 affidavits per area in said 3 municipalities – Tuburan, Akbar and Sumisip and Iligan City

⁶ G.R. No. 222236, 3 May 2016.

⁷ G.R. No. 197975-76, 19 March 2013.

contain such “ultimate facts”, then the Protest for annulment of the election results in Basilan should be limited to said 3 municipalities and 1 city and that the Protest should be dismissed in the remaining 8 municipalities of Basilan for insufficiency in form and substance, there being no “ultimate facts” in said remaining 8 municipalities.

In addition, to pursue such Protest for the annulment of the results in said 3 municipalities and 1 city of Basilan, the Protestant must be directed to specifically identify the specific affected clustered precincts referred to in said affidavits as the same is not reflected therein.

Further, in said affidavit and in all the allegations in the Protest, Protestee was never mentioned to have any direct participation, knowledge or consent to the alleged election irregularities and anomalies stated in said Protest. Thus, as enunciated in *Abayon v. HRET*⁸, “absent anything that would concretely and directly establish Protestee as the one who had induced or actually perpetuated the commission of terroristic acts and demonstrate that these incidents were part of scheme to frustrate the free expression of the will of the electorate xxx xxx, do not per se make him responsible for the charges of terrorism.”

In the instant case, the acts and anomalies stated in said 3 municipalities and 1 city of Basilan could not be the basis of annulling the results of the election therein that would result in reducing the votes lawfully garnered by Protestee.

Lastly, in *Aguillo v Comelec*⁹, the Supreme Court sustained the dismissal of an election protest for insufficiency in form and substance when no evidence of election irregularities were attached to the election protest. Here, the same should be applied to the 8 municipalities of Basilan where no “ultimate facts” or affidavits or specific allegations of fraud and irregularities were attached or narrated.

⁸ G.R. No. 222236, 3 May 2016.

⁹ G.R. No. 197975-76, 19 March 2013.

REVISION AND RECOUNT OF BALLOTS

For revision and recount of ballots, the Protestant included in his Protest 20 provinces and 5 highly-urbanized cities (HUCs). The 20 provinces include 518 municipalities and their respective 56 component cities. The HUCs consist of 2,537 clustered precincts.

PROVINCES:

1. **LEYTE**. While this province consists of 40 municipalities and 3 component cities, the Protest contains only **one affidavit** narrating the so-called "ultimate facts of alleged irregularities and anomalies. This affidavit pertains **only to 1 municipality (Abuyog) out of the 40 municipalities and 3 component cities.**

Thus, granting **arguendo or without admitting**, that such affidavit for the Municipality of Abuyog contains such "ultimate facts", then the Protest for revision and recount of results in Leyte should be limited to said municipality of Abuyog and that the Protest should be dismissed in the remaining 39 municipalities and 3 component cities of Leyte for insufficiency in form and substance, there being no "ultimate facts" in said remaining 39 municipalities and 3 component cities in this province.

2. **NEGROS OCCIDENTAL**. While this province is comprised of 19 municipalities and 13 component cities, the Protest contains only one or two affidavits per area narrating the so-called ultimate facts of alleged irregularities and anomalies. These affidavits pertain **only to 2 municipalities (Kabankalan and Manapia) and 1 city (Bacolod) out of the 19 municipalities and 13 component cities in this province.**

Thus, granting **arguendo or without admitting**, that such affidavits for Bacolod City and municipalities of Kabankalan and Manapia contain such "ultimate facts", then the Protest for revision and recount of results in Negros Occidental should be limited to said municipalities and city and that the Protest should be dismissed in the remaining 17 municipalities and 12 component cities of Negros Occidental for insufficiency in form and substance, there being no

“ultimate facts” in said remaining 17 municipalities and 12 component cities.

3. **NEGROS ORIENTAL.** While this province is comprised of 19 municipalities and 6 component cities, the Protest only contains affidavits narrating the so-called ultimate facts of alleged irregularities and anomalies in **only 1 municipality (Valle Hermoso) and 1 city (Dumaguete) out of the 19 municipalities and 6 component cities.**

Thus, granting **arguendo or without admitting**, that such affidavits for the Municipality of Valle Hermoso and Dumaguete City contain such “ultimate facts”, then the Protest for revision and recount of results in Negros Oriental should be limited to said municipality of Valle Hermoso and Dumaguete City and that the Protest should be dismissed in the remaining 18 municipalities and 5 component cities of Negros Oriental for insufficiency in form and substance, there being no “ultimate facts” in said remaining 18 municipalities and 5 component cities.

4. **MASBATE.** While this province is comprised of 20 municipalities and 1 component city, the Protest only contains affidavits narrating the so-called ultimate facts of alleged irregularities and anomalies in **only 3 municipalities (Cawayan, Dimasalang, and Pasil) and 1 city (Masbate) out of the 20 municipalities and 1 component city.**

Thus, granting **arguendo or without admitting**, that such affidavits for the Municipalities of Cawayan, Dimasalang, and Pasil and Masbate City contain such “ultimate facts”, then the Protest for revision and recount of results in Masbate should be limited to said Municipalities of Cawayan, Dimasalang, and Pasil and Masbate City and that the Protest should be dismissed in the remaining 17 municipalities of Masbate for insufficiency in form and substance, there being no “ultimate facts” in said remaining 17 municipalities.

5. **ZAMBOANGA DEL SUR.** While this province is comprised of 26 municipalities and 2 component cities, the Protest only contains affidavits narrating the so-called ultimate facts of alleged irregularities and anomalies in **only 1 city (Pagadian) out of the 26 municipalities and 2 component cities.**

Thus, granting **arguendo or without admitting**, that such affidavits for Pagadian City contain such "ultimate facts", then the Protest for revision and recount of results in Zamboanga del Sur should be limited to said Pagadian City and that the Protest should be dismissed in the remaining 26 municipalities and 1 component city of Zamboanga del Sur for insufficiency in form and substance, there being no "ultimate facts" in said remaining 26 municipalities and 1 component city.

6. **ZAMBOANGA DEL NORTE.** While this province is comprised of 25 municipalities and 2 component cities, the Protest only contains affidavits narrating the so-called ultimate facts of alleged irregularities and anomalies in **only 1 municipality (Kalawit) out of the 25 municipalities and 2 component cities.**

Thus, granting **arguendo or without admitting**, that such affidavits for municipality of Kalawit contain such "ultimate facts", then the Protest for revision and recount of results in Zamboanga del Norte should be limited to said Municipality of Kalawit and that the Protest should be dismissed in the remaining 24 municipalities and 2 component cities of Zamboanga del Norte for insufficiency in form and substance, there being no "ultimate facts" in said remaining 24 municipalities and 2 component cities.

7. **BUKIDNON.** While this province is comprised of 20 municipalities and 2 component cities, the Protest only contains affidavits narrating the so-called ultimate facts of alleged irregularities and anomalies in **only 2 cities (Valencia and Malaybalay) out of the 20 municipalities and 2 component cities.**

Thus, granting **arguendo or without admitting**, that said affidavits for the above-mentioned cities contain such "ultimate facts", then the Protest for revision and recount of results in Bukidnon should be limited to said cities of Valencia and Malaybalay and that the Protest should be dismissed in the remaining 20 municipalities of Bukidnon for insufficiency in form and substance, there being no "ultimate facts" in said remaining 20 municipalities.

8. **ILOILO.** While this province is comprised of 42 municipalities and 1 component city, the Protest only contains affidavits narrating the so-called ultimate facts of alleged irregularities and anomalies in **only 1 municipality (Oton)** out of the 42 municipalities and 1 component city.

Thus, granting **arguendo or without admitting**, that said affidavits for the above-mentioned municipality contain such "ultimate facts", then the Protest for revision and recount of results in Iloilo should be limited to said municipality of Oton and that the Protest should be dismissed in the remaining 41 municipalities and 1 component city of Iloilo for insufficiency in form and substance, there being no "ultimate facts" in said remaining 41 municipalities and 1 component city.

9. **QUEZON.** While this province is comprised of 39 municipalities and 2 component cities, the Protest only contains affidavits narrating the so-called ultimate facts of alleged irregularities and anomalies in **only 1 municipality (Calauag) and 1 city (Lucena)** out of the 39 municipalities and 2 component cities.

Thus, granting **arguendo or without admitting**, that said affidavits for the above-mentioned municipality and city contain such "ultimate facts", then the Protest for revision and recount of results in Quezon should be limited to said municipality of Calauag and Lucena City and that the Protest should be dismissed in the remaining 38 municipalities and 1 component city of Quezon for insufficiency in form and substance, there being no "ultimate facts" in said remaining 38 municipalities and 1 component city.

10. **BATANGAS.** While this province is comprised of 31 municipalities and 3 component cities, the Protest only contains affidavits narrating the so-called ultimate facts of alleged irregularities and anomalies in **only 8 municipalities (Nasugbu, Lemery, Lipa, Tanauan, Agoncillo, Balayan, Lian, and San Juan)** and **1 city (Batangas)** out of the 31 municipalities and 3 component cities.

Thus, granting **arguendo or without admitting**, that said affidavits for the above-mentioned municipalities and city contain such "ultimate facts", then the Protest for revision and

recount of results in Batangas should be limited to said municipalities of Nasugbu, Lemery, Lipa, Tanauan, Agoncillo, Balayan, Lian, and San Juan and Batangas city and that the Protest should be dismissed in the remaining 23 municipalities and 2 component cities of Batangas for insufficiency in form and substance, there being no "ultimate facts" in said remaining 23 municipalities and 2 component cities.

11. **WESTERN SAMAR.** While this province is comprised of 24 municipalities and 2 component cities, the Protest only contains affidavits narrating the so-called ultimate facts of alleged irregularities and anomalies in **only 1 city (Catbalogan) out of the 24 municipalities and 2 component cities.**

Thus, granting **arguendo or without admitting**, that said affidavits for the above-mentioned city contain such "ultimate facts", then the Protest for revision and recount of results in Western Samar should be limited to said Catbalogan city and that the Protest should be dismissed in the remaining 24 municipalities and 1 component city of Western Samar for insufficiency in form and substance, there being no "ultimate facts" in said remaining 24 municipalities and 1 component city.

12. **MISAMIS ORIENTAL.** While this province is comprised of 23 municipalities and 3 component cities, the Protest only contains affidavits narrating the so-called ultimate facts of alleged irregularities and anomalies in **only 3 municipalities (Laguindingan, Opol, and Manticao) 1 city (El Salvador) out of the 23 municipalities and 3 component cities.**

Thus, granting **arguendo or without admitting**, that said affidavits for the above-mentioned municipalities and city contain such "ultimate facts", then the Protest for revision and recount of results in Misamis Oriental should be limited to said municipalities of Laguindingan, Opol and Manticao and El Salvador city and that the Protest should be dismissed in the remaining 20 municipalities and 2 component cities of Misamis Oriental for insufficiency in form and substance, there being no "ultimate facts" in said remaining 20 municipalities and 2 component cities.

13. **CAMARINES SUR.** While this province is comprised of 35 municipalities and 2 component cities, the Protest only contains affidavits narrating the so-called ultimate facts of alleged irregularities and anomalies in **only 1 municipality (Camaligan) and 1 city (Naga) out of the 35 municipalities and 2 component cities.**

Thus, granting **arguendo or without admitting**, that said affidavits for the above-mentioned municipality and city contain such "ultimate facts", then the Protest for revision and recount of results in Camarines Sur should be limited to said municipality of Camaligan and Naga City and that the Protest should be **dismissed in the remaining 34 municipalities and 1 component city** of Camarines Sur for insufficiency in form and substance, there being no "ultimate facts" in said remaining 34 municipalities and 1 component city.

14. **NORTHERN SAMAR.** While this province is comprised of 10 municipalities, the Protest only contains affidavits narrating the so-called ultimate facts of alleged irregularities and anomalies in **only 4 municipalities (Cagamutan, Sta. Maria, Burabod, and Gamay) out of the 10 municipalities.**

Thus, granting **arguendo or without admitting**, that said affidavits for the above-mentioned municipalities contain such "ultimate facts", then the Protest for revision and recount of results in Northern Samar should be limited to said municipalities of Cagamutan, Sta. Maria, Burabod, and Gamay, and that the Protest should be **dismissed in the remaining 6 municipalities** of Northern Samar for insufficiency in form and substance, there being no "ultimate facts" in said remaining 6 municipalities.

15. **PALAWAN.** While this province is comprised of 23 municipalities and 1 component city, the Protest only contains affidavits narrating the so-called ultimate facts of alleged irregularities and anomalies in **only 6 municipalities (Aborlan, Puerto Princesa, Roxas, Balacbac, Taytay, Quezon and Dumarán) out of the 23 municipalities and 1 component city.**

Thus, granting **arguendo or without admitting**, that said affidavits for the above-mentioned municipalities contain

such "ultimate facts", then the Protest for revision and recount of results in Palawan should be limited to said municipalities of Aborlan, Puerto Princesa, Roxas, Balacbac, Taytay, Quezon, and Dumarán and that the Protest should be dismissed in the remaining 17 municipalities and 1 component city of Palawan for insufficiency in form and substance, there being no "ultimate facts" in said remaining 17 municipalities and 1 component city.

16. **ALBAY.** While this province is comprised of 15 municipalities and 3 component cities, the Protest only contains affidavits narrating the so-called ultimate facts of alleged irregularities and anomalies in **only 2 municipalities (Daraga and Camalig)** out of the 15 municipalities and 3 component cities.

Thus, granting **arguendo or without admitting**, that said affidavits for the above-mentioned municipalities contain such "ultimate facts", then the Protest for revision and recount of results in Albay should be limited to said municipalities of Daraga and Camalig and that the Protest should be dismissed in the remaining 13 municipalities and 3 component cities of Albay for insufficiency in form and substance, there being no "ultimate facts" in said remaining 13 municipalities and 3 component cities.

17. **ZAMBOANGA SIBUGAY.** While this province is comprised of 16 municipalities, the Protest only contains affidavits narrating the so-called ultimate facts of alleged irregularities and anomalies in **only 2 municipalities (Patuburan Palomoc and Titay)** out of the 16 municipalities.

Thus, granting **arguendo or without admitting**, that said affidavits for the above-mentioned municipalities contain such "ultimate facts", then the Protest for revision and recount of results in Zamboanga Sibugay should be limited to said municipalities of Patuburan Palomoc and Titay and that the Protest should be dismissed in the remaining 14 municipalities of Zamboanga Sibugay for insufficiency in form and substance, there being no "ultimate facts" in said remaining 14 municipalities.

18. **MISAMIS OCCIDENTAL.** While this province is comprised of 13 municipalities and 3 component cities, the Protest only contains affidavits narrating the so-called ultimate facts of alleged irregularities and anomalies in **only 1 municipality (Clarin) and 1 city (Ozamis) out of the 13 municipalities and 3 component cities.**

Thus, granting **arguendo or without admitting**, that said affidavits for the above-mentioned municipality and city contain such "ultimate facts", then the Protest for revision and recount of results in Misamis Occidental should be limited to said municipality of Clarin and Ozamis City and that the Protest should be dismissed in the remaining 12 municipalities and 2 component cities of Misamis Occidental for insufficiency in form and substance, there being no "ultimate facts" in said remaining 12 municipalities and 2 component cities.

19. **PANGASINAN.** While this province is comprised of 44 municipalities and 4 component cities, the Protest only contains affidavits narrating the so-called ultimate facts of alleged irregularities and anomalies in **only 6 municipalities (Binaloan, Tayug, San Quintin, Laoac, San Manuel and Agiapao) out of the 44 municipalities and 4 component cities.**

Thus, granting **arguendo or without admitting**, that said affidavits for the above-mentioned municipalities contain such "ultimate facts", then the Protest for revision and recount of results in Pangasinan should be limited to said municipalities of Binaloan, Tayug, San Quintin, Laoac, San Manuel and Agiapao and that the Protest should be dismissed in the remaining 38 municipalities and 4 component cities of Pangasinan for insufficiency in form and substance, there being no "ultimate facts" in said remaining 38 municipalities and 4 component cities.

20. **ISABELA.** While this province is comprised of 34 municipalities and 3 component cities, the Protest only contains affidavits narrating the so-called ultimate facts of alleged irregularities and anomalies in **only 1 municipality (Naguilian) and 1 city (Cauayan) out of the 34 municipalities and 3 component cities.**

Thus, granting **arguendo or without admitting**, that said affidavits for the above-mentioned municipality and city contain such "ultimate facts", then the Protest for revision and recount of results in Isabela should be limited to said municipality of Naguilian and Cauayan City and that the Protest should be dismissed in the remaining 33 municipalities and 2 component cities of Isabela for insufficiency in form and substance, there being no "ultimate facts" in said remaining 33 municipalities and 2 component cities.

REVISION AND RECOUNT OF
BALLOTS IN FIVE (5) HIGHLY
URBANIZED CITIES - ILOILO,
BACOLOD, CEBU, LAPU-LAPU AND
ZAMBOANGA.

These five (5) highly urbanized cities (HUCs) consist of 2,537¹⁰ clustered precincts.

Again, with due respect, we have thoroughly reviewed the allegations in these 5 HUCs and we have not found nor read any "narrations of ultimate facts on the alleged irregularities and anomalies in the contested clustered precincts" which the Tribunal ruled to have been "contained."¹¹

NOT A SINGLE CLUSTERED PRECINCT, OUT OF THE SAID 2,537 CLUSTERED PRECINCTS OF THESE FIVE (5) HUCs WAS SPECIFICALLY IDENTIFIED BY THE PROTESTANT AS SUBJECT OF HIS PROTEST. WHILE AFFIDAVITS OF ALLEGED WITNESSES WERE ATTACHED FOR THESE HUCs, NOT EVEN ONE OF THESE AFFIDAVITS SPECIFICALLY IDENTIFIED THE SPECIFIC PRECINCTS WHERE THE ALLEGED ACTS OF POLL IRREGULARITIES OCCURRED.

With due respect, the Honorable Tribunal erred when it ruled that these HUCs "contained narration ultimate facts on the alleged irregularities and anomalies in the contested precincts" because there is NONE. Protestant merely made a uniform and very general allegation that he rejects and

¹⁰ Iloilo City, 430 clustered precincts (CPs); Bacolod City, 392 CPs; Cebu City, 837 CPs; Lapu-Lapu-City, 261, CPs; and Zamboanga City, 617 CPs.

¹¹ Paragraph 2, last sentence, page 5, Resolution.

disputes the results in Iloilo City¹², Bacolod City¹³, Cebu City¹⁴, Lapu Lapu City¹⁵ and Zamboanga City¹⁶ "because the same do not reflect the true results of the election thereat" and made a scatter shot allegations of vote buying and undervotes or unaccounted votes. In all these affidavits Protestee was not even mentioned as the one responsible or have any direct participation in the commission of the acts complained of. The affidavits are even cut-and-paste or fill-in-the-blanks affidavits which were clearly identical with the other affidavits from other protested provinces, cities or municipalities.

In each of these five (5) HUCs, Protestant merely attached around seven (7) affidavits of his alleged witnesses WITHOUT EVEN IDENTIFYING THE SPECIFIC PRECINCTS where the alleged anomalies existed. Surely, the Honorable Tribunal will be justified in rejecting the protest in these five (5) HUCs because this clearly demonstrate the FAILURE OF PROTESTANT to make a "detailed specification of the acts or omissions complained of" since not even the precinct nor specific barangay was narrated or alleged or mentioned.

Unless, the protestant could specifically identify the SPECIFIC CLUSTERED PRECINCTS referred to in the affidavits for these five (5) HUCs, then the protest for revision or recount of ballots in these cities must be DISMISSED for insufficiency in form and substance.

With due respect, the Tribunal erred when it ruled that the issuance of summons proved the sufficiency in form and substance of the Protest. Such ruling is contrary to the Supreme Court's teaching in *Pena vs HRET*¹⁷ that a summon to answer an election protest is "NOT a ruling on the formal and substantive sufficiency of the petition (but) a matter of course" under the rules.

¹² Paragraph 7.275, page 1027, Election Protest.

¹³ Paragraph 7.284, page 1029, Election Protest.

¹⁴ Paragraph 7.294, page 1031, Election Protest.

¹⁵ Paragraph 7.306, page 1033, Election Protest.

¹⁶ Paragraph 7.312, page 1035, Election Protest.

¹⁷ G. R. No. 123037, March 21, 1997.

In denying protestee's motion for preliminary hearing on her special and affirmative defenses to dismiss the Protest, the Honorable Tribunal also ruled that "with the issuance of summons, the Honorable Tribunal has found the Protest to be sufficient in form and substance."¹⁸

With utmost due respect, the Honorable Tribunal should not overlook or disregard the doctrine it laid down in *Pena vs HRET*¹⁹ when it functioned as a regular Supreme Court. In that case, the Supreme Court sustained the decision of the HRET dismissing Pena's election protest after a hearing on his rival's Affirmative defenses. Pena argued that the fact that his protest was not summarily dismissed by the HRET and his rival was required to file an answer, "the HRET has thus made a prior determination that the petition is sufficient in form and substance." The Supreme Court ruled that:

"We do not agree.

"In the first place, in requiring the private respondent to answer the petition, the HRET was not ruling on the formal and substantive¹ sufficiency of the petition. The order to require an answer is **but a matter of course (under) the Revised Rules of Procedure of the HRET.**"

And so it should be in the instant case. Since decisions of the Supreme Court "formed part of the land (and) ignorance thereof can no longer be countenanced"²⁰, the *Pena* doctrine is still the "law of the land" on said issue. Thus, while summons had been issued by the Tribunal for Protestee to Answer, it was, like in *Pena*, **not a ruling on the formal and substantive sufficiency of protestant's protest but a matter of course, as under the Revised Rules of the Honorable Tribunal, upon the filing of an election protest the corresponding summons shall be issued requiring the Protestee to answer within ten (10) days from receipt of said summons and copy of the protest.**

¹⁸ Par. 2, page 5, Resolution.

¹⁹ Id.

²⁰ *Calucag vs Comelec*, G. R. No. 123673, June 19, 1997.

Hence, it is respectfully submitted that said ruling of the Tribunal be REVERSED and SET ASIDE to the effect that the issuance of the summons did not deprive the Tribunal to rule on the formal and substantive sufficiency of the instant Protest. More so with the above-stated clear and apparent **ABSENCE OF 'ULTIMATE FACTS'** in the municipalities and component cities of the protest for annulment of the election results and the municipalities and component cities of the protested provinces and the clustered precincts of the five (5) HUCs mentioned in the protest.

In Pena, the Honorable Tribunal, as the Supreme Court of the land said that "We cannot allow an election protest based on such flimsy averments to prosper, otherwise the whole election process will deteriorate into an endless stream of crabs pulling at each other, racing to disembark from the water." Further, Pena taught us the lesson that the detailed specification of the precincts where the alleged poll irregularities occurred "**is required in order to apprise the contestee (protestee herein) of the issues which he has to meet.**" And this jurisprudence is still the law of the land in all election cases where, as here, the election protest does not contain the detailed specification of the acts or omissions complained of as well as the specific clustered precincts where such poll anomalies allegedly occurred.

PRAYER

WHEREFORE, in view of the foregoing, it is respectfully prayed that, after due notice and hearing, the 24 January 2017 resolution of the Honorable Tribunal be RECONSIDERED PRO TANTO to the extent that it denied protestee's Motion for Preliminary Hearing on Her Special and Affirmative Defenses in the nature of a motion to dismiss and that another Resolution be issued that:

a) On Protestant's Protest for **Annulment of Election Results in the Province of Lanao del Sur**, the same should be limited to the **Municipalities of Bacolod, Kalawi, Tamparan, Pagayawan, and Lumbaca Unayan and Marawi City** and the Protest insofar as the remaining **34 municipalities of Lanao Del Sur** wherein no allegations or narrations of "ultimate facts" on poll irregularities and anomalies be DISMISSED for insufficiency in form and substance.

b) On Protestant's Protest for Annulment of Election Results in the Province of Maguindanao, the same should be limited to the Municipality of Datu Saudi Ampatuan and the Protest insofar as the remaining 35 municipalities of Maguindao wherein no allegations or narrations of "ultimate facts" on poll irregularities and anomalies be DISMISSED for insufficiency in form and substance.

c) On Protestant's Protest for Annulment of Election Results in the Province of Basilan, the same should be limited to the Municipalities of Tuburan, Akbar and Sumisip and Iligan City and the Protest insofar as the remaining 8 municipalities of Basilan wherein no allegations or narrations of "ultimate facts" on poll irregularities and anomalies be DISMISSED for insufficiency in form and substance.

In all these provinces, the protestant be DIRECTED to specifically identify the SPECIFIC CLUSTERED PRECINCTS where such alleged poll irregularities or anomalies occurred which could be the subject of the annulment of election results.

d) **On Protestant's protest for Revision or Recount of Ballots** the same should be limited to the municipalities or cities wherein the protestant attached affidavits of his alleged witnesses and the protest insofar as the other remaining municipalities and cities where no such affidavits or narration of "ultimate facts on the alleged irregularities and anomalies" were alleged or contained SHOULD BE DISMISSED for insufficiency in form and substance, as discussed in Items 1-20, inclusive, under the heading "**REVISION AND RECOUNT OF BALLOTS (PROVINCES)**".

In all these provinces, the protestant be DIRECTED to specifically identify the SPECIFIC CLUSTERED PRECINCTS where such alleged poll irregularities or anomalies occurred which could be the subject of the said revision and recount of ballots.

e) On protestant's protest for revision/recount of ballots from the five (5) highly urbanized cities (HUCs), namely: Iloilo City, Bacolod City, Cebu City, Lapu-Lapu City and Zamboanga City, the protestant should be DIRECTED to identify the SPECIFIC CLUSTERED PRECINCTS, out of the **2,537**

clustered precincts of these five (5) HUCs, subject of his revision and recount of ballots in these areas.

PROTESTEE further prays that this Motion for Reconsideration be SET FOR HEARING and prays for such other reliefs just and equitable in the premises.

Pasig City for Manila. 24 February 2017.

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MCLE Compliance No. V-0012797/09 December 2015

REQUEST

**THE SECRETARY OF THE TRIBUNAL
PRESIDENTIAL ELECTORAL TRIBUNAL
MANILA**

Greetings:

Please submit the foregoing Motion for Reconsideration for the Honorable Tribunal's action and to SET IT FOR HEARING on such date and time most convenient to the calendar of the Honorable Tribunal.


MARIA BERNADETTE V. SARDILLO

NOTICE OF HEARING

**ATTY. GEORGE ERWIN M. GARCIA
ATTY. JOAN M. PADILLA
G. E GARCIA LAW OFFICE**
Lead Counsel for Protestant
Ground Floor Laiko Building
372 Cabildo Street, Intramuros,
1002 Manila

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
Legaspi Village, 1229 Makati City

Please take note that the undersigned counsel will submit the foregoing Motion for Reconsideration for the Honorable Tribunal's action and to SET IT FOR HEARING on such date and time most convenient to the calendar of the Honorable Tribunal.


MARIA BERNADETTE V. SARDILLO

Copy furnished:

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EXPLANATION

Due to unavailability of messengers and the distance of the parties, a copy of the herein "Motion for Reconsideration" were 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 Motion for Reconsideration, Pro Tanto With Prayer To Set For Hearing, submitted electronically by use of compact disc in accordance with the Efficient Use of Paper Rule are complete and true copies of the Motion for Reconsideration, Pro Tanto With Prayer To Set for Hearing filed with the Presidential Electoral Tribunal.

Pasig City. 27 February 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 27th day of February 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. 309;
Page No. 62;
Book No. 5;
Series of 2017.


GAUDENCIO A. BARBOZA, JR.
NOTARY PUBLIC
Cities of Pasig, San Juan and
in the Municipality of Pateros, Metro Manila
Until December 31, 2018
PTR No. A-3217144 / 01-03-17 Taguig City
IBP No. 1060340 / 11-08-16 RSM
ROLL No. 41969
MCLE Comp. V. 0021431 / May 02, 2016
No. 11, Unit 1 Freemont Arcade Bldg.
Shaw Blvd. Brgy. San Antonio, Pasig City
Appointment No. 26