

REPUBLIC OF THE PHILIPPINES
PRESIDENTIAL ELECTORAL TRIBUNAL
Manila

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

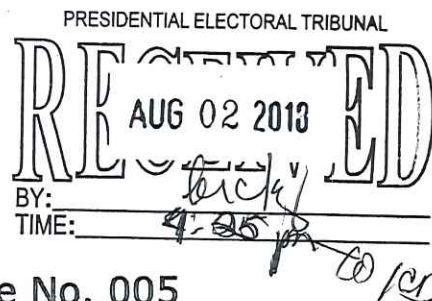
Protestant,

- versus -

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

Protestee.

X - - - - -X



PET Case No. 005
FOR: Election Protest
Vice President

**URGENT EX-PARTE OMNIBUS MOTION (1) TO
SEGREGATE THE BALLOTS WITH SHADES BELOW
FIFTY PERCENT (50%) BUT WITHIN TWENTY FIVE
PERCENT (25%); AND, (2) RESOLVE THE URGENT
MOTION FOR RECONSIDERATION DATED 18 APRIL
2018 FILED BY PROTESTEE ROBREDO**

PROTESTEE MARIA LEONOR G. ROBREDO, by the undersigned counsel, to the Honorable Tribunal, respectfully states:

1. On 05 April 2018, protestee Maria Leonor G. Robredo (hereafter "Robredo" for brevity) filed an Urgent Ex-Parte Motion to Direct the Head Revisors to Apply the Correct Threshold Percentage as Set by the Commission on Elections in the Revision, Recount and Re-Appreciation of Ballots in Order to Expedite Proceedings.

2. In the Resolution dated 10 April 2018, the Honorable Tribunal denied the said Motion.

3. Thereafter, on 19 April 2018, protestee Robredo filed an Urgent Motion for Reconsideration (of the Resolution dated 10 April 2018) with Reiterative Prayer to Immediately

Direct the Head Revisors to Use the Twenty Five Percent (25%) Threshold Percentage in the Revision, Recount and Re-Appreciation of Ballots dated 18 April 2018 ("Urgent Motion for Reconsideration").

4. Recently or on 23 July 2018, the Commission on Elections ("COMELEC"), in compliance with the Resolution of the Honorable Tribunal, filed its Comment (Urgent Motion for Reconsideration (of the Resolution dated 10 April 2018) with Reiterative Prayer to Immediately Direct the Head Revisors to Use the Twenty Five Percent (25%) Threshold Percentage in the Revision, Recount and Re-Appreciation of Ballots dated April 18, 2018 filed by counsel for protestee Robredo) dated 18 July 2018 ("Comment").

5. Noteworthy, COMELEC, in its Comment, clarified that the threshold percentage used in the 09 May 2016 National and Local Elections, including the revision and recount proceedings is **twenty-five percent (25%)**:

"15. This confirmation on the part of the COMELEC shows that it had already adopted the application of a 25% threshold in the shading of ballots.

16. In fact, the RMA Guide is what guides the COMELEC's recount and revision process, in all protest cases relative to the 09 May 2016 National and Local Elections filed with and pending before the COMELEC, all of which are to be resolved in the exercise of its original or appellate jurisdiction.

17. To reiterate, for purposes of the 09 May 2016 National and Local Elections, COMELEC, in order to ensure that votes are not wasted due to inadequate shading or that no accidental or unintended small marks are counted as votes in order to reflect the true intent of the voter, had set the ballot shading threshold at 25%."

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29. It was not COMELEC Minute Resolution No. 16-0600 that set the 25% threshold. The resolution merely states in effect that the Random Manual Audit Guide for Appreciation of Markings is based on how the automated elections system is designed to read and "appreciate" votes on the ballots. It confirmed the setting of the so called "voting threshold" of 25%. When PET sought information from COMELEC on how it can be guided in the "revision" of ballots in the pending election protest before it, COMELEC forwarded the RMA Guide because the visual examination of the paper ballots and the vote markings thereon, in the course of the audit, is like that performed during the revision of ballots in election protests.

30. All told, COMELEC Minute Resolution No. 16-0600 affirms the standing policy of the Commission to set the shading threshold at 25%." [Emphasis supplied.]

6. On the standards to be used in election disputes, COMELEC went further to state that the standards and procedures used during the conduct of elections must be applied:

"22. In deciding election disputes, like election protest, decisions should be based on the standards and procedures used during the conduct of elections and in ascertainment of election results. To use different standard would be erroneous and may result to unnecessary questions on the legitimacy of all elected officials,

from the President down to the last Sangguniang Bayan member. It cannot be overemphasized that the threshold issue as it is now being presented is more of an issue of fact than a question of law. Otherwise stated, it is more an issue of what was used to appreciate, count votes, and proclaim winners, than an issue of which rule, as between those of COMELEC and the Supreme Court, should prevail." [Emphasis supplied.]

7. Finally, COMELEC pointed to the rationale behind the deletion of the fifty percent (50%) threshold:

"28. With the deletion of the 50% threshold, the polestar in ballot appreciation ensures that no votes will be wasted due to inadequate shading by counting those votes that reflect the will of the electorate."

8. Meanwhile, prior thereto, protestant Ferdinand R. Marcos, Jr. (hereafter "Marcos" for brevity), in his Comment/Opposition dated 22 May 2018 asked the Honorable Tribunal to ***DISCONTINUE and NULLIFY the Instructions on Segregation of Ballots With Threshold Issues and its Supplemental Instructions both dated 26 April 2018 for LACK OF BASIS and for UNDULY DELAYING the recount and revision proceedings.***

9. It would appear that protestant Marcos is referring to the segregation and markings for ballots containing shades below fifty percent (50%) but within twenty five percent (25%) which have been considered stray by the Head Revisors.

10. This argument is hinged on the premise that the correct threshold percentage to be applied in the recount proceedings should be fifty percent (50%).

11. Without preempting the Honorable Tribunal, considering the categorical pronouncements and clarifications made by COMELEC in its Comment, protestee Robredo asks that these ballots containing shades below fifty percent (50%) but within twenty five percent (25%) be not considered stray.

12. Instead, protestee Robredo asks that these ballots with threshold issues be included in the physical count albeit segregated and marked as such.

13. This way, pending the resolution of the Urgent Motion for Reconsideration, no unnecessary delay will ensue.

14. Further, this would avoid the disenfranchisement of voters whose votes have been treated as stray with the application of the fifty percent (50%) threshold percentage.

15. Finally, the Urgent Motion for Reconsideration has been pending before the Honorable Tribunal since April 2018.

16. In the interim, the Honorable Tribunal was not able to resolve the Urgent Motion for Reconsideration due to the requests for extensions made by the Office of the Solicitor General.

17. However, with COMELEC filing its Comment on 23 July 2018, the issues have now been joined.

18. Protestee Robredo earnestly believes that the Honorable Tribunal now has all the facts necessary for it to resolve the Urgent Motion for Reconsideration.

19. The Honorable Tribunal is now fully appraised on the correct threshold percentage to be applied in the ongoing revision, recount and re-appreciation of ballots.

20. This motion is not intended for delay but dictated solely by the foregoing exigencies.

PRAYER

WHEREFORE, PREMISES CONSIDERED, it is respectfully prayed to the Honorable Tribunal that, upon receipt of this motion or pending resolution thereof, in the highest interest of justice:

1. A Resolution be ISSUED, that pending the resolution of the Urgent Motion for Reconsideration, the Head Revisors be DIRECTED to segregate the ballots containing shades below fifty percent (50%) but within twenty five percent (25%) in the physical count; and

2. The Urgent Motion for Reconsideration dated 18 April 2018 be IMMEDIATELY RESOLVED on the basis of the Comment of the Comelec on the twenty five percent (25%) threshold it used on the 2016 National and Local Elections.

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

Pasig City for Manila. 02 August 2018.

ATTY. ROMULO B. MACALINTAL

Lead Counsel for Protestee

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By

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Maria Cynthia Antonia V. Sardillo-Pimentel

MARIA CYNTHIA ANTONIA V. SARDILLO-PIMENTEL

IBP No. 034190/RSM/02 March 2018

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Roll No. 47275

MCLE Compliance No. V-0023811 / 05 September 2016

yang.pimentel@s3law.com

REQUEST

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

Please submit the foregoing "*Urgent Ex-Parte Omnibus Motion (1) To Segregate the Ballots With Shades Below Fifty Percent (50%) but Within Twenty Five Percent (25%); and, (2) Resolve the Urgent Motion for Reconsideration dated 18 April 2018 filed by Protestee Robredo*" for the consideration and approval of the Honorable Tribunal immediately upon receipt hereof without need for oral arguments.

Maria Cynthia Antonia V. Sardillo-Pimentel

MARIA CYNTHIA ANTONIA V. SARDILLO-PIMENTEL

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 undersigned counsel will submit the foregoing "*Urgent Ex-Parte Omnibus Motion (1) To Segregate the Ballots With Shades Below Fifty Percent (50%) but Within Twenty Five Percent (25%); and, (2) Resolve the Urgent Motion for Reconsideration dated 18 April 2018 filed by Protestee Robredo*" for the consideration and approval of the Honorable Tribunal immediately upon receipt thereof without need for further oral arguments.

Maria Cynthia Antonia V. Sardillo-Pimentel
MARIA CYNTHIA ANTONIA V. SARDILLO-PIMENTEL

Copy furnished:

ATTY. GEORGE ERWIN M. GARCIA
ATTY. JOAN M. PADILLA
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Lead Counsel for Protestant
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1002 Manila

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134 Amorsolo Street
Legaspi Village, 1229 Makati City

EXPLANATION

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

Maria Cynthia Antonia V. Sardillo-Pimentel
MARIA CYNTHIA ANTONIA V. SARDILLO-PIMENTEL

Republic of the Philippines)
MANDALUYONG CITY)

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

I, **LAILA T. ENDIC**, hereby declare that the Urgent Ex-Parte Omnibus Motion (1) To Segregate The Ballots With Shades Below Fifty Percent (50%) But Within Twenty Five Percent (25%); And, (2) Resolve The Urgent Motion For Reconsideration Dated 18 April 2018 Filed By Protestee Robredo submitted electronically by use of compact disc in accordance with the Efficient Use of Paper Rule are complete and are true copies of the Urgent Ex-Parte Omnibus Motion (1) To Segregate the Ballots With Shades Below Fifty Percent (50%) But Within Twenty Five Percent (25%); And, (2) Resolve The Urgent Motion For Reconsideration Dated 18 April 2018 Filed By Protestee Robredo filed with the Presidential Electoral Tribunal.

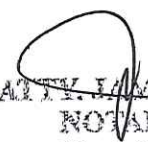
Pasig City. 02 August 2018.


LAILA T. ENDIC
Secretary

Sardillo Sardillo Salom Law Office

SUBSCRIBED AND SWORN TO BEFORE ME, a notary public in and for ^{MANDALUYONG CITY} this 2nd day of August 2018 by affiant **LAILA T. ENDIC** who is personally known to me, and appeared with her SSS ID with NO. 3438031871 issued by Social Security System Office, known to me as the same person who personally signed the foregoing attestation before me and acknowledged that she executed the same.

Doc. No. 466;
Page No. 94;
Book No. 92;
Series of 2018.


ATTY. JAMES K. ABUGAN
NOTARY PUBLIC
Until Dec. 31, 2018
IBP No. 021498/1-5-2018
Rizal Chapter
Roll No. 26890
MCLE No. V-0004484-10/31/2014
PTR # 3369955 - 01/05/2014
Mandaluyong City
TIN # 116-239-956
Tel. 631-40-90

Republic of the Philippines)
MANDALUYONG CITY)S.S.

AFFIDAVIT OF SERVICE

I, **TEODERICO A. MESA**, as Liaison Officer of **SARDILLO SARDILLO SALOM LAW OFFICE**, with postal address at Unit 802 The Taipan Place, F. Ortigas Junior Road, Ortigas Center, Pasig City after being duly sworn depose and say:

That on 2nd day of August 2018, I served a copy of the following pleading/paper.

URGENT EX-PARTE OMNIBUS MOTION (1) TO SEGREGATE THE BALLOTS WITH SHADES BELOW FIFTY PERCENT (50%) BUT WITHIN TWENTY FIVE PERCENT (25%); AND, (2) RESOLVE THE URGENT MOTION FOR RECONSIDERATION DATED 18 APRIL 2018 FILED BY PROTESTEE ROBREDO

In **PET CASE No. 005 For Election Protest**, entitled, **FERDINAND "BONGBONG R. MARCOS, JR., Protestant vs MARIA LEONOR "LENI DAANG MATUWID" G. ROBREDO, Protestee**" pursuant to Sections 3, 4, 5 and 10, Rule 13 of the Rules of Court, as follows:

By Registered Mail:

ATTY. GEORGE ERWIN M. GARCIA
ATTY. JOAN M. PADILLA
G. E GARCIA LAW OFFICE
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
Commission on Elections


By depositing copies on 2nd day of August 2018 in the _____ at MANDALUYONG as evidenced by Registry Receipt Nos. _____ and _____ are hereto attached and indicated after the name of the addressees and with instructions to the postmaster to return the mail to the sender after ten (10) days if undelivered.

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of August 2018 at MANDALUYONG CITY


TEODERICO A. MESA
Affiant

SUBSCRIBED AND SWORN to before me this 2nd day of August 2018, at MANDALUYONG CITY by **TEODERICO A. MESA**, who has satisfactorily proven to me his identity through his valid **SSS No. 33-5698806-4**, who personally signed before me the foregoing Affidavit of Service and acknowledged that he executed the same.

Doc. No. 567;
Page No. 94;
Book No. 97;
Series of 2018


ATTY. JAMES K. ABUGAN
NOTARY PUBLIC
Until Dec. 31, 2018
IBP No. 021498/1-5-2018
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Roll No. 26890
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