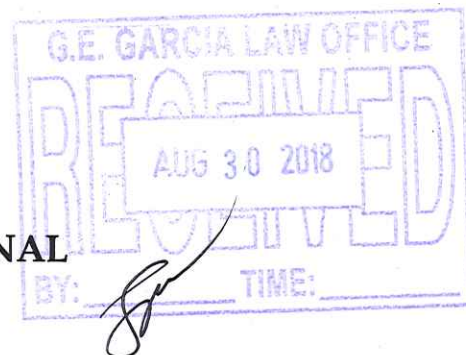


REPUBLIC OF THE PHILIPPINES  
PRESIDENTIAL ELECTORAL TRIBUNAL  
Manila



FERDINAND "BONGBONG" R.  
MARCOS,

*Protestant,*

-versus -

**PET Case No. 005**  
For: Election Protest  
Vice-President

MARIA LEONOR "LENI DAANG  
MATUWID" G. ROBREDO,

*Protestee.*

x -----x

**COMMENT**

(TO THE STRONG OPPOSITION [ON THE USE OF DECRYPTED  
BALLOT IMAGES FOR THE JUDICIAL REVISION AND RECOUNT OF  
BALLOTS FOR THE PILOT PROTESTED PRECINCTS SUBJECT OF THIS  
ELECTION PROTEST])

COMES NOW, the Commission on Elections (COMELEC), through  
the undersigned counsels of the Law Department, and unto this Honorable  
Tribunal, most respectfully states *THAT*:

1. On 24 July 2018, the Honorable Presidential Electoral Tribunal  
(PET) issued a Resolution, which pertinently states:

"Acting on the Strong Opposition (to the Use of  
Decrypted Ballot Images for the Judicial Revision and Recount  
of Ballots for the Pilot Protested Precincts Subject of This  
Election Protest) dated July 6, 2018 filed by counsel for  
protestant Marcos, Jr., the Court Resolved to **DIRECT** the  
COMELEC to **COMMENT** thereon within a **NON-  
EXTENDIBLE** period of five (5) days from notice hereof."

2. The said resolution was received by COMELEC, through its  
Law Department on 09 August 2018.

3. COMELEC had until 14 August 2018 within which to comply.

4. On 14 August 2018, COMELEC filed a *Motion for Extension of Time to File Comment*, and prayed for additional period of fifteen (15) days from 14 August 2018 or until 29 August 2018 within which to file its *Comment*, hence, this submission.

5. In his *Strong Opposition*, protestant Marcos raised that the decrypted ballot images re: Clustered Precinct No. 22 (Precincts 0050A, 0051A and 0052A), Barangay Puerto Princesa, Barotac Viejo, Iloilo cannot be used for purposes of the judicial recount and revision proceedings in this case because, *allegedly*:

- i. The decrypted ballot images are compromised.
- ii. Even before the commencement of the revision proceedings, protestant Marcos expressed his reservations on the use of the decrypted ballot images from the pilot protested provinces of Iloilo and Camarines Sur and even Negros Oriental as it appears that the integrity thereof is dubious and highly questionable.
- iii. The original paper ballots used during the 2016 elections do not contain squares. However, a review of the decrypted ballot images from the pilot protested provinces of Iloilo, Camarines Sur and Negros Oriental confirms the presence of squares on the decrypted ballot images, specifically on the oval intended for protestee Robredo.
- iv. The presence of the squares proves that the decrypted ballot images are not faithful images of the original paper ballots used during the 2016 elections

6. We disagree.

7. To begin with, the decrypted ballot images are not simply the faithful reproduction of the original ballots. Instead, they are the true and genuine representation and captured images of the official ballots themselves.

8. The decrypted ballot image represents the digital image of the ballot as the Vote Counting Machine (VCM) was able to capture such when the ballot was fed by the voter into the said machine when he cast his vote.



9. Relevantly, the squares on the decrypted ballot images, this alone, cannot make the decrypted ballot images compromised and its integrity dubious and highly questionable.

10. In fact, the squares are intended to facilitate in the determination by the VCM of the ballot shading, whether or not the same has met the threshold. Verily, at the last page of the digital image is a summary of votes as to how the VCM appreciated the votes as either valid, invalid, overvote, or otherwise.

11. Further, to shed light and to erase any doubt as to their authenticity, the ballot images can be readily compared to the actual ballots themselves, using their respective serial numbers in form of barcodes, as captured by the VCM vis-à-vis the ones printed on the official ballots themselves.

12. Worthy to note that the ballots have security features like bar codes, ultra-violet inks, watermarks and such other security marks to assure its genuineness as well as to be able to preserve its integrity coupled with the security measure that the VCMs were programmed to accept genuine and valid ballots only. Further, the ballots used in the elections were precinct specific, meaning, the VCM assigned to a specific precinct will only accept those ballots designated to such precinct. This follows that the digital images stored in the SD cards are digital images of genuine, authentic and valid ballots.

13. More importantly, the digital images of the physical ballots, which are instantaneously saved as captured in the SD cards by the VCM the moment the ballots are fed, read and counted, are equivalent to the original for the purpose of the best evidence rule.

14. The ballot images are accorded higher evidentiary value because their integrity are secured for the following reasons:

- (1) The digital images are encrypted to prevent unauthorized alteration or access;
- (2) The ballot images cannot be decrypted or in anyway accessed without the necessary decryption key;
- (3) The ballot images may only be decrypted using a special system designed by the COMELEC and not by any ordinary operating system or computer;

(4) The SD cards storing the digital images of all the ballots are kept in a secured facility within the Commission to prevent unauthorized access.

15. The evidentiary value of the digital ballot images cannot be overemphasized. As consistently held by the Supreme Court, and applied in the case of *Maliksi vs. COMELEC and Saquilayan*, G.R. No. 203302, March 12, 2013:

“We have already ruled that the ballot images in the CF cards, as well as the printouts of such images, are the functional equivalent of the official physical ballots filled up by the voters, and may be used in an election protest.”

16. In the consolidated cases of *Vinzons-Chato v. House of Representatives Electoral Tribunal and Panotes and Panotes v. House of Representatives Electoral Tribunal and Vinzons-Chato*, G.R. Nos. 199149 and 201350, 22 January 2013, the Court ruled that “the picture images of the ballots, as scanned and recorded by the PCOS, are likewise ‘official ballots’ that faithfully capture in electronic form the votes cast by the voter, as defined by Section 2 (3) of R.A. No. 9369.” The Court declared that the printouts of the ballot images in the CF cards “are the functional equivalent of the paper ballots filled out by the voters and, thus, may be used for purposes of revision of votes in an electoral protest.” In short, both the ballot images in the CF cards and the printouts of such images have the same evidentiary value as the official physical ballots filled up by the voters.

17. Lastly, it cannot also be overemphasized that the ballot images, which are digital, are electronically generated and written in the SD cards when the ballots are fed into the VCMs. The ballot images are the counterparts produced by electronic recording which accurately reproduce the original, and thus are the equivalent of the original.

### PRAYER

WHEREFORE, it is most respectfully prayed of this Honorable Tribunal that this SUBMISSION BE NOTED and DEEMED SATISFACTORY COMPLIANCE with the Order of the Honorable Tribunal.



Other reliefs just and equitable under the premises are likewise most respectfully prayed for.

Intramuros, Manila, Philippines, 22 August 2018.

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**NOTICE**

**CLERK OF TRIBUNAL**

Presidential Electoral Tribunal

Padre Faura, Manila

Greetings:

Please submit the foregoing *Comment* for the consideration of the Honorable Tribunal.

Manila, 22 August 2018.

  
MARIA NORINA S. TANGARO-CASINAL  
Director IV

### EXPLANATION OF SERVICE

A copy of this *Comment* was furnished the parties by registered mail due to time constraints and lack of messengerial personnel.

  
MARIA NORINA S. TANGARO-CASENGAL  
Director IV

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### SUBMISSION OF DIGITAL COPIES

Pursuant to the Efficient Use of Paper Rule, soft copy of this *Comment*, saved in a compact disc is being filed simultaneously with its Tribunal-bound paper.

  
MARIA NORINA S. TANGARO-CASENGAL  
Director IV

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