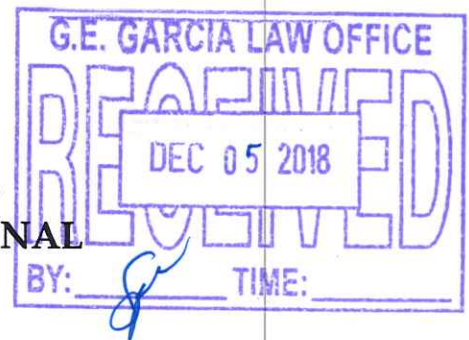


REPUBLIC OF THE PHILIPPINES  
PRESIDENTIAL ELECTORAL TRIBUNAL  
Manila



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**

**(on Protestant Marcos' Manifestation of Appreciation for  
Sustaining Rule 43 (L) of the 2010 Rules of the  
Presidential Electoral Tribunal with Omnibus Motion)**

COMES NOW, the Commission on Elections (COMELEC),  
through the undersigned counsels of the Law Department, most  
respectfully manifests:

1. On 05 November 2018, COMELEC received the Notice of  
the Resolution dated 16 October 2018 of this Honorable Tribunal,  
which provides, among others:

"The Court further Resolved to:

(b) **DIRECT** protestee Maria Leonor G Robredo and  
the Commission on Elections to **COMMENT**, within ten  
(10) days from notice hereof, on the aforesaid  
Manifestation of Appreciation for Sustaining Rule 43 (L)  
of the 2010 Rules of the Presidential Electoral Tribunal  
with Omnibus Motion;"

2. COMELEC had until 15 November 2018 within which to  
comply.

3. On 14 November 2018, COMELEC filed a *Motion for Extension of Time to File Comment*, and prayed for additional period of fifteen (15) days from 15 November 2018 or until 30 November 2018 within which to file its *Comment*, hence, this submission.

4. In his *Manifestation of Appreciation for Sustaining Rule 43 (L) of the 2010 Rules of the Presidential Electoral Tribunal with Omnibus Motion*, protestant Marcos moved:

- i. FOR PARTIAL RECONSIDERATION AND/OR CLARIFICATION OF PET RESOLUTION DATED 18 SEPTEMBER 2018 WITH REGARD TO THE AMENDMENT OF RULE 62 OF THE PET REVISOR'S GUIDE AND THE DIRECTIVE TO THE HEAD REVISORS TO REFER TO THE ELECTION RETURNS (ERs) TO MIMIC OR VERIFY THE TOTAL NUMBER OF VOTES AS READ AND COUNTED BY THE VOTE COUNTING MACHINES (VCMs); AND
- ii. FOR PARTIAL RECONSIDERATION OF THE DENIAL OF PROTESTANT'S 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)

5. The issues being raised herein by protestant Marcos are no longer new, which pertain to the fifty percent (50%) shading threshold of the ballots and the use of decrypted ballots.

#### **I. FIFTY PERCENT (50%) SHADING THRESHOLD OF THE BALLOTS**

6. To avoid being repetitious, we will adopt our **COMMENT (ON THE URGENT MOTION FOR RECONSIDERATION (OF THE RESOLUTION DATED APRIL 10, 2018) WITH REITERATIVE PRAYER TO IMMEDIATELY DIRECT THE HEAD REVISORS TO USE THE TWENTY-FIVE (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.



7. In addition, protestant Marcos, however, posited that *"ballots containing marks or shades which are less than 50% of the oval should not be considered as valid votes because the presence of sparsely-shaded ovals on the contested ballots strongly suggests that these ballots were already **PRE-SHADED** before the elections"* and that *"the transmitted election results are not authentic, and do not accurately and faithfully reflect the real and bona fide voice of the Filipino voters as regards the true and actual number of votes received by the candidates for the vice-presidential position"*.

8. We disagree.

9. Such statements are mere assumptions and/or allegations. They must be proven by other independent evidence. Without any evidence, such allegations remain a mere allegations without any probative value.

10. In the absence of evidence to the contrary, it is worthy to note that there was no pre-shading or tampering of the official ballots before the elections and that the transmitted election results represent the true will of the people because they contain the actual votes cast as captured and read by the VCMs.

## II. USE OF DECRYPTED BALLOTS IMAGES FOR THE JUDICIAL REVISION AND RECOUNT OF BALLOTS FOR THE PILOT PROTESTED PRECINCTS

11. For the use of decrypted ballots, we will also adopt our **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])** dated 22 August 2018.

12. Additionally, protestant Marcos averred that *"The presence of these squares on the decrypted ballot images, where none appears on the official paper ballots, indicates that there was an intrusion/interference on the VCM while the official paper ballots used during the last elections were being fed into the machines. That is why, the*

*decrypted ballot images and the original paper ballots are no longer identical".*

13. Again, this has no leg to stand on.

14. This allegation must also be proven by independent evidence, in the absence of which, the same has no probative value.

15. All in all, the protestant Marcos' allegations of pre-shaded ballots or tampering of ballots before the elections, intrusion/interference on the VCMs, and that the transmitted election results are not authentic, and do not accurately and faithfully reflect the real and bona fide voice of the Filipino voters as regards the true and actual number of votes received by the candidates for the vice-presidential position, constitute an election offense cases, which must be questioned in a specific action instituted mainly for that purpose and/or directly via a proper formal action with the appropriate forum.

16. It is well to stress that election offense cases are criminal in nature and are subject to the requisite preliminary investigation, and upon finding of probable cause, an Information is filed before the appropriate Regional Trial Court for trial.

### 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 prayed for.


City of Manila, 27 November 2018.

**COMMISSION ON ELECTIONS:**


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**COMMENT**  
MARCOS v. ROBREDO  
PET Case No. 005

*Copy furnished:*

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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.

City of Manila, 27 November 2018.

  
**MARIA NORINA S. TANGARO-CASENGAL**  
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-CASINGAL  
Director IV



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-CASINGAL  
Director IV

