



Republic of the Philippines
COMMISSION ON ELECTIONS
Manila

SECOND DIVISION

BERNADETTE P. SABILI,
Protestant,

-versus-

EPC NO. 2019-003

ERIC B. AFRICA,
Protestee.

x-----x

NOTICE

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THE CHIEF
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THE DIVISION CHIEF
General Services Division
Administrative Services Department
Commission on Elections
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ARNOLD M. DIZON
Acting Division Chief
Judicial Records Division
Electoral Contests Adjudication Dept.
Commission on Elections
Intramuros, Manila

GREETINGS!

Attached is a copy of the **ORDER** issued by the Commission (Second Division) on October 05, 2020, in the above-entitled case.

Given this 05th day of October 2020, City of Manila, Philippines.

FOR THE DIVISION:


ATTY. JOHN GERALD B. DE LA CRUZ
Division Clerk of Court of the Commission

Encl. as.:

Pursuant to Comelec Resolution 10673, all copies of herein Notice and the attached Order are sent via the recipients' respective email addresses on record and/or via registered mail.



Republic of the Philippines
COMMISSION ON ELECTIONS
Manila

Second Division

BERNADETTE P. SABILI,
Protestant,

- versus -

EPC No. 2019-003

ERIC B. AFRICA,
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ORDER

Subject for consideration is the *Manifestation with Motion to Conduct Technical Examination [of the Voter's Signatures/Thumbmarks Appearing in the Election Day Computerized Voter's List (EDCVL) vis-à-vis the Voter's Registration Records (VRRs)]* filed by Protestant Bernadette P. Sabili on June 15, 2020 praying that the technical examinations be conducted ahead of the revision of ballots. According to her, the Commission has yet to issue guidelines in the recount of ballots amidst the COVID 19 pandemic. Considering that that the resolution of the case is imbued with public interest, the conduct of technical examination ahead of the recount proceedings is suitable in the meantime. There would be less possibility of violating the governmental guidelines amidst the pandemic in the conduct of technical examination as only a handful of Comelec personnel would facilitate the same and the parties would have no direct hand thereon except as observers. Further, she asserted the necessity of technical examinations as it is only through the conduct thereof that the allegations of 1) massive, rampant, prevalent, fearless and audacious vote-buying in Lipa City, 2) pre-shaded ballots in favor of the protestee distributed in the polling centers, 3) hundreds of protestee's

supporters allowed to vote despite their identities being challenged by the watchers, could be proven.

Protestee Eric B. Africa opposed the *Manifestation with Motion*. In his *Comment on the Protestee's Manifestation with Motion to Conduct Technical Examination*, the protestee asserted that aside from the bare allegations in the election protest, there is no factual basis for the procedure being prayed for. The election protest did not allegedly bear the prayer for the conduct of technical examination. According to him, in the preliminary conference brief, the protestant intended to raise the conduct of technical examination if the recount proceedings show irregularities and badges of fraud. Considering that the revision proceedings have not yet been scheduled, the technical examination is premature.

We resolve.

The sworn statements of registered voters attached to the election protest specifying how the election fraud and irregularities stated above were committed and where they took place must be ascertained by the Commission consistent with its authority to *exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials*.¹ The Commission must determine within its power the veracity of the stated allegations as the non-resolution thereof would cast a blight in the credibility of the 2019 National and Local Elections particularly in Lipa City. As held by the Supreme Court in *Suliguin v. Comelec et al.*:²

In an election case, the Comelec is mandated to ascertain by all means within its command who the real candidate elected by the electorate is. The Court frowns upon any interpretation of the law or the rules that would hinder in any way not only the free and intelligent casting of the votes in an election but also the correct ascertainment of the results

Indeed, it is through the conduct of technical examinations could we ascertain that the registered voters in a particular community are the ones who voted during the scheduled elections. By comparing the signatures and/or thumbmarks appearing in the Voter's Registration Records (VRRs) and the Election Day

¹ Sec. 2(2), Article IX-C, 1987 Philippine Constitution

² G.R. No. 166046, March 23, 2006.

Computerized Voter's List (EDCVL) can we recognize the presence or absence of flying voters, substituted voting and other electoral fraud stated by the protestant in her *Manifestation and Motion*. As held in *Sahali v. Comelec et al.*:³

Otherwise stated, the express grant of power to the COMELEC to resolve election protests carries with it the grant of all other powers necessary, proper, or incidental to the effective and efficient exercise of the power expressly granted. Verily, the exclusive original jurisdiction conferred by the constitution to the COMELEC to settle said election protests includes the authority to order a technical examination of relevant election paraphernalia, election returns and ballots in order to determine whether fraud and irregularities attended the canvass of the votes.

The Commission (Second Division) finds Protestant's *Manifestation and Motion* to be in order. The prayer for the conduct of technical examination was expressed in the Protestant's *Preliminary Conference Brief*. The Commission finds that it would be within the interest of the electorate of Lipa City to allow the technical examination of the VRRs and the EDCVLs to determine whether or not there was a massive substitution of voters as alleged by the protestant. Undeniably, the conduct of the technical examination is a reasonable, efficient and expeditious means to determine the truth or falsity of the allegation.

So as not to cause further delay in the proceedings in the instant election protest case amidst the COVID-19 pandemic, the Commission (Second Division) finds it practical to conduct the technical examination through the Voters Identification Division, Election Records and Statistics Department (VID-ERSD) side-by-side with the revision/recount proceedings through the Electoral Contests Adjudication Department (ECAD) considering that the subject ballot boxes containing the ballots pertaining to the 49 pilot protested precincts of Protestant are now identified and securely stored at the Comelec-Philpost Warehouse and in view of the issuance of the Resolution on COVID Protocol by the Bureau of the Treasury and the Palacio del Gobernador Condominium Corporation (PDGCC).

WHEREFORE, the Commission (Second Division) hereby **RESOLVES** to:

ON THE CONDUCT OF TECHNICAL EXAMINATION:

³ G.R. No. 201796, January 15, 2013.

1. **DIRECT** the Judicial Records Division (JRD), Electoral Contests Adjudication Department (ECAD) under the supervision of its Acting Division Chief to deliver the sealed boxes purporting to contain Book of Voters, VRRs and EDCVLs pertaining to the pilot protested precincts stored at the Comelec Philpost Warehouse to the VID-ERSD, with prior notice to the parties who may wish to send their respective representatives to accompany the same, in accordance with the guidelines set forth by the JRD, bearing in mind the strict observance of health protocols, within five (5) days from receipt hereof.
2. **DIRECT** the Voters Identification Division (VID) of the Election Records and Statistics Department (ERSD) to conduct the technical examination of the voters' signatures/thumbmarks appearing in the EDCVLs vis-à-vis the VRRs in the 49 pilot protested precincts under the supervision of its Division Chief. The Director IV of the ERSD shall make all the necessary steps to ensure the smooth and prompt conduct of the proceedings until its completion. For this purpose, the protestant is hereby **DIRECTED** to coordinate with the VID-ERSD as to the conduct of the said technical examination. The parties are reminded of the guidelines set forth in Comelec Resolution No. 10200 (*The Uniform Procedure and Payment of Fees on the Technical Examination of Election Documents Related to Election Protest Cases filed before the Commission on Elections*);
3. **DIRECT** the VID-ERSD to conduct the technical examination within 120 days from the payment by the protestant of the required cash deposit and the delivery of the VRRs and EDCVLs by the JRD. The VID-ERSD Division Chief shall submit every 30 days therefrom a status report showing the progress of the VID-ERSD in the technical examination.

ON THE RECOUNT/REVISION PROCEEDINGS:

4. **COMMENCE** the recount of ballots in the pilot protested precincts in the instant case on October 15 to 17, 2020 and October 22 to 24, 2020 from 9:00 am to 3:00 pm at the Bureau of

Treasury Convention Hall, 3rd Floor, Palacio del Gobernador Bldg., Intramuros, Manila;

The parties shall pay the expenses for the rental of the said venue at the rate of ₱10,000.00 per day which shall be deducted from their respective cash deposits, to wit:

Protestant – Php 51,429.00

Protestee - Php 8,571.00

The above computation is based on the number of clustered precincts protested by the parties.

5. **DIRECT** the ECAD Security Personnel assigned at the Comelec Philpost Warehouse to secure the ballot boxes stored therein. For this purpose, Efren Agustin and Victor Gonzales shall provide assistance in securing said ballot boxes until the termination of the recount proceedings;
6. **CREATE** five (5) Recount Committees⁴ herein below constituted:

COMMITTEE NO. 1

Chairperson	ATTY. ALLEN FRANCIS B. ABAYA
Recorder	LOWELYN ELARDO
Ballot Box Custodian	ARIEL VERZOSA / JOHN PAUL SANDOY

COMMITTEE NO. 2

Chairperson	ATTY. ROSELLER B. ABAD
Recorder	ARNOLD DIZON
Ballot Box Custodian	ARMAN CASTRO

COMMITTEE NO. 3

⁴ The number of recount committees is decreased to five (5) from the eight (8) as indicated in the Preliminary Conference Order to meet the standard of social distancing, taking into consideration the area in the BTR Conference Room.

Chairperson	ATTY. FRITZIE CLAIRE C. CAIGOY
Recorder	MA. VICTORIA TARROZA
Ballot Box Custodian	FROILAN SALANGSANG

COMMITTEE NO. 4

Chairperson	ATTY. MAGELLAN FERRER
Recorder	MARYGLEEN PAGAYON
Ballot Box Custodian	RICARDO MADJUS / CHRISTIAN KARL DE JESUS

COMMITTEE NO. 5

Chairperson	ATTY. MANUEL T. LUCERO
Recorder	ARNEL A. BAYER
Ballot Box Custodian	GENER DOMINGO / NICOLAS KERVIN STA ANA.

Alternate Chairperson

ATTY MICHAEL GARCIA

Alternate Recorders

**JELSON SAMONTE
AMY OAS
JOSELITO P. LADRA
EDITHA SANTOS**

Alternate Ballot Box Custodians

**ADONIS REGUALOS
RICO BAGUIO
JOEL SANTIAGO**

Photocopy watcher

ERWIN NATAN

Overall Chairperson

**ATTY. JOHN GERALD B.DELA
CRUZ**

Revision Chairpersons, Recorders and Ballot Box Custodians are not precluded from being assigned to other Committees if the need arises. The Comelec Personnel shall be compensated at 1.5 of their hourly rates during revision proceedings scheduled on Saturdays to be deducted from the cash deposit of the protestant;

7. **NOTIFY** the above-participants in the recount proceedings;
8. **DIRECT** the parties to ensure that they are represented by their respective revisors in each of the committees. The parties have until October 12, 2020 to submit modifications, additions or amendments to their representatives indicated therein.

Considering that the authorized number of persons inside the BTR conference room is 35 persons, the parties may send one representative aside from their respective Committee Revisors to the recount venue. The parties shall submit on October 12, 2020 a list of persons including their respective revisors, ballot box haulers and their photocopiers, who are authorized to enter the venue for the recount, together with their respective addresses, contact number and email addresses for contact tracing purposes. They are required to be tested for COVID within the week of the scheduled activity using the RT-PCR test. They shall submit their test results negative for the COVID 19 on October 15, 2020. The parties or their representatives who fail to comply with the foregoing requirements shall not be allowed to enter the recount venue.

The Division Clerk of Court shall conduct a briefing via video conference (Microsoft Teams) on October 13, 2020 to discuss the guidelines and safety procedures employed by the Commission (Second Division) during the recount proceedings;

9. **DIRECT** the attendees to send via the official ECAD Second Division email a scanned copy of their 2x2 photo IDs on or before October 13, 2020.
10. **DIRECT** the respective counsel of record of the parties to see to it that their respective revisors are punctual in attending the recount proceedings. Absence of any revisor shall not delay or postpone the said proceedings. For this purpose the parties are

hereby reminded of Section 4 (c) and (d),⁵ Rule 15 of the COMELEC Resolution No. 8804, as amended;

11. **DIRECT** the parties to bring their respective photocopying machines not later than October 15, 2020. They shall ensure that no delays in the recount proceedings shall be caused by the malfunction of the photocopying machines;

12. **ALLOW** the entry of 35 attendees during the recount proceedings:

COMELEC	<i>Over-all Chairperson</i>	1
	<i>Committee Chairpersons</i>	5
	<i>Committee Recorders</i>	5
	<i>Ballot Box Custodians</i>	8
	<i>Photocopy Watcher</i>	1
	<i>PSPG</i>	1
PROTESTANT	<i>Representative</i>	1
	<i>Photocopier</i>	1
	<i>Revisors</i>	5
PROTESTANT	<i>Representative</i>	1
	<i>Photocopier</i>	1
	<i>Revisors</i>	5
TOTAL		35

13. **DIRECT** the parties to each provide four (4) handlers who will haul the ballot boxes in the course of

⁵ a) xxx

b) xxx

c) If the representative of the protestee is absent or late, - If the representative of the protestee is absent or late for thirty minutes and no alternate appears as a substitute, the recount shall, nevertheless, commence; the protestee shall be deemed to have waived the right to appear and to object to the ballots in the precincts or precincts scheduled for recount on that particular day.

d) If the representative of the protestant or counter-protestant, or of both parties are failed to appear.- If the representative of the protestant, or of both parties and alternates fail to appear for no justifiable reason within one hour after fixed hours from the start of the recount, the ballot boxes scheduled for that day, and the corresponding keys in the possession of the chairperson, shall be returned to the ballot box custodian of the Commission and shall no longer be recounted; it is understood that the parties waive their right to recount the same, and the Recount Coordinator concerned shall state such facts in the corresponding Recount report.

transferring the boxes from the storage area to the recount venue and *vice-versa*. The parties shall submit their names, addresses and contact numbers for contact-tracing purposes on October 12, 2020. Beginning October 15, 2020 and until termination of the recount proceedings, the handlers will report to Mr. Alfonso Abina, Acting Ballot Box Custodian at exactly 8:00 o'clock in the morning, Comelec-Philpost Warehouse, Tondo, Manila for the preparation and transfer of the ballot boxes from the Comelec-Philpost Warehouse to the Recount Proceedings Venue, following strict social distancing guidelines. They shall only enter the venue of the recount for the purpose of transporting the ballot boxes and are not allowed to stay in the recount area during the recount proceedings.

14. **DIRECT** the Acting Division Chief of the JRD-ECAD to see to it that the Acting Ballot Box Custodian and his party are at their work station not later than 8:00 A.M. the scheduled recount dates and personally oversee the orderly and effective release and return of the contested ballot boxes;
15. **DIRECT** the parties to provide their own padlocks for the Committee Ballot Boxes;
16. **DIRECT** the Recount Committee Chairpersons to submit the recount reports after their completion;
17. **DIRECT** the Over-all Chairperson to make ready and available the recount materials for the use in the revision proceedings;
18. **DIRECT** the Chief of the Comelec Organic Security Force (COSF) to assign two (2) personnel who will provide security escort in the transportation of the ballot boxes from the Comelec-Philpost Warehouse to the recount venue and its return in the afternoon. They shall submit their directive and present themselves to the Division Clerk of the Second Division on or before October 15, 2020;
19. **DIRECT** the ASD, through the General Services Division (GSD) of this Commission, to provide for the necessary vehicles and two (2) drivers for the transport of the ballot

boxes from the storage area to the recount venue and *vice versa*. The drivers shall submit their directives on or before October 15, 2020; and

20. **DIRECT** the Head of the Police Security Protection Group (PSPG) to assign one (1) personnel who will secure the recount area. He shall submit his directive to the Division Clerk on or before October 15, 2020.

21. **DIRECT** all attendees to the recount proceedings to observe the guidelines set forth by the PDGCC Board:

- a. All attendees must wear face masks and face shields
- b. Attendees are not allowed to wander in other rooms. They are not allowed access in any other rooms or areas of the building
- c. Upon entry to the Palacio del Gobernador Building, all attendees shall be subjected to mandatory temperature scan and use of sanitizer or alcohol spray.
- d. Those with cough, cold, fever or exhibiting COVID 19 symptoms are barred from entry.
- e. The ballot box custodians of every recount committee shall wipe and sanitize their respective committee workplaces prior to and after the recount proceedings each day.
- f. All attendees shall ensure that the entire recount venue is sanitized prior to and after the recount proceedings.

SO ORDERED.

Given this 5th day of October 2020, City of Manila, Philippines.

FOR THE DIVISION:


SOCORRO B. INTING
Presiding Commissioner