



REPUBLIC OF THE PHILIPPINES  
**SENATE ELECTORAL TRIBUNAL**  
COA-NCR Bldg., Batasan Road, Quezon City

**FRANCIS N. TOLENTINO,**  
Protestant,

-versus-

**SET Case No. 001-16**

**LEILA M. DE LIMA,**  
Protestee.

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**RESOLUTION NO. 16 – 57**

In Resolution No. 16-01 dated 07 July 2016, the Tribunal directed the City/Municipal Treasurers, Election Officers and other responsible personnel and custodians, serving in the contested areas identified by Protestant Tolentino, to safeguard and preserve the integrity of the ballot boxes, election documents and other paraphernalia used or accomplished in connection with the 09 May 2016 National and Local Elections; to hold all such materials/documents subject to further orders and instructions of the Tribunal; and to submit to the Tribunal the corresponding report of compliance with the Resolution within ten (10) days from receipt thereof.

Records show that the Office of the Election Officer of Al-Barka, Basilan received a copy of the aforesaid Resolution on 29 July 2016 while the Office of the Treasurer of the same municipality received its copy on 03 August 2016. In compliance with the directive, Mr. Omar A. Nur, Acting Election Officer of Al-Barka, informed the Tribunal, thru a letter dated 03 August 2016, that the ballot boxes and counted official ballots were under the custody of the Municipal Treasurer while the other election materials and paraphernalia remained in the custody of the Election Officer. No report of compliance was received from the Municipal Treasurer.

Subsequently, in Resolution No. 16-50 dated 25 May 2017, the Tribunal ordered the Canvass Board Service of the Tribunal to commence not later than 19 June 2017 the collection of the ballot boxes, election documents and other paraphernalia from the designated pilot areas of Protestant Tolentino. Collection operations in the pilot precincts in the Province of Basilian was scheduled starting 24 July 2017.

It thus came as a surprise to the SET Collection Team that fifteen (15) contested ballot boxes pertaining to the Municipality Al-Barka were in the custody of the Regional Trial Court, Branch 2, Isabela City, Basilan in connection with Election Protest No. 04-16 (*Bhenzar J. Yusoph vs. Darussalam S. Lajid*) involving the position of mayor. In view of this pending local protest, the SET Collection Team failed in its mission to collect and transfer to custody of the Tribunal the subject ballot boxes.

The situation at hand could have been easily avoided had the Municipal Treasurer of Al-Barka, Basilian complied with the directive in Resolution No. 16-01 dated 07 July 2016, requiring the custodians of the ballot boxes to submit to the Tribunal the corresponding report of compliance with the Resolution within ten (10) days from receipt thereof. Per certification dated 26 July 2017 issued by OIC-Clerk of Court Pat Adalina B. Yu, the subject ballot boxes were deposited to RTC, Branch 2, Isabela City on 13 June 2016. Thus, at the time the Municipal Treasurer of Al-Barka received a copy of Resolution No. 16-01 on 03 August 2016, custody of the 15 subject ballot boxes had already been transferred to the RTC, Branch 2, Isabela City.

Had the Tribunal been properly informed of the earlier transfer of custody, the Tribunal could have coordinated with the RTC by giving it sufficient notice and opportunity to wind up its proceedings before the scheduled date of collection; thereby preventing the loss and wastage of precious time, money and effort.

While Mr. Omar A. Nur, Acting Election Officer of Al-Barka, Basilan, complied with the directive in Resolution No. 16-01, he however gave the wrong

information when he stated in his letter dated 03 August 2016 that the ballot boxes and counted official ballots were under the custody of the Municipal Treasurer.

In this regard, there is a need to require the Municipal Treasurer and Acting Election Officer Omar A. Nur of Al-Barka, Basilan to SHOW CAUSE why they should not be held in contempt of the Tribunal for failure of the former to comply with the directive, and for the misleading information contained in the compliance letter of the latter.

Per SET Timetable, revision of the aforesaid ballot boxes will be undertaken on 18 September 2017. Such being the case, the Regional Trial Court, Branch 2, Isabela City, Basilan must expedite its proceedings in Election Protest No. 04-16 (*Yusoph vs. Lajid*), and ensure that the said ballot boxes are ready for transfer to the Tribunal not later than 14 September 2017.

The trial court may well be reminded of the order of preference in the custody and revision of ballots and other documents contained in the ballot boxes laid down by the COMELEC in Resolution No. 2812, dated 17 October 1995, as follows: (1) Presidential Electoral Tribunal (PET); (2) Senate Electoral Tribunal (SET); (3) House of Representatives Electoral Tribunal (HRET); (4) Commission on Elections (COMELEC); and (5) Regional Trial Courts (RTC).

It may be worth to note that SET requested and was granted by the PET, in a Resolution dated 28 March 2017, prior access to and custody of the subject ballot boxes. The Tribunal's preferential right, over the trial court, to the custody of the subject ballot boxes is therefore clear and indubitable.

**ACCORDINGLY**, the Executive Committee of the Tribunal Resolves to:

1. **DIRECT** Hon. Danilo M. Bucoy, Presiding Judge of the Regional Trial Court, Branch 2, Isabela City, Basilan to expedite its proceedings in Election Protest No. 04-16 (*Bhenzar J. Yusoph vs. Darussalam S. Lajid*) and ensure that the fifteen (15) ballot boxes pertaining to the

Municipality of Al-Barka, Basilian are ready for transfer to the custody of the Tribunal not later than 14 September 2017;

2. **REQUIRE** the Municipal Treasurer of Al-Barka, Basilian to **SHOW CAUSE** within a non-extendible period of fifteen (15) days from receipt of this Resolution why he should not be held liable for contempt of the Tribunal in view of his failure to comply with the directive of the Tribunal contained in Resolution No. 16-01 dated 07 July 2016; and
3. **REQUIRE** Acting Election Officer Omar A. Nur of Al-Barka, Basilian to **SHOW CAUSE** within a non-extendible period of fifteen (15) days from receipt of this Resolution why he should not be held liable for contempt of the Tribunal for the misleading information contained in his letter dated 03 August 2016.

**SO ORDERED.**

15 August 2017.



**ANTONIO T. CARPIO**  
Senior Associate Justice  
Chairperson

  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice  
Member

  
**LUCAS P. BERSAMIN**  
Associate Justice  
Member