



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 – 64

As directed in Resolution No. 16-50 dated 25 May 2017, the Canvass Board Service (CBS) of the Tribunal commenced on 19 June 2017 the collection of ballot boxes, election documents and other paraphernalia from the designated pilot areas of Protestant Tolentino. The CBS report on the collection operations showed that as of 25 August 2017, six hundred eighty-one (681) ballot boxes out of the seven hundred fifty-one (751) ballot boxes identified by Protestant Tolentino were retrieved, as follows:

Date (CY 2017)	Province	For Collection	Collected	Uncollected
June 19 - 23	Quezon	121	110	11
June 26 - July 2	Cebu	51	51	
June 26 - July 2	Iloilo	107	107	
July 3 - 10	Western Samar	94	94	
July 17 - 20	Tawi-Tawi	2	2	
July 24 - 27	Pampanga	57	57	
July 24 - 28	Basilan	34	19	15
July 25 - 26	Bulacan	43	39	4
August 7-11	Sulu	26	26	
August 14 -17	Lanao del Norte	13	13	
August 14 -25	Zamboanga del Norte	138	137	1

August 21 - 25	Maguindanao	16	16	
August 21 - 25	North Cotabato (Pikit)	2	2	
August 21 - 25	Lanao del Sur (Picong & Malabang)	47	8	39
TOTAL		751	681	70

During the retrieval of ballot boxes in the Province of Tawi-Tawi on 17 July 2017, the Ballot Box for Clustered Precinct No. 4 (Grouped Precincts Nos. 8A and 8B) of the Municipality of Turtle Islands was found to be in the custody of the Regional Trial Court, Branch 5, Bongao, Tawi-Tawi in connection with the election protest cases pending before said court involving the positions of municipal mayor (EPC No. 78-5, *Tang vs. Oliveros*) and vice-mayor (EPC No. 79-5, *Ibnosali vs. Sahibil*).

Upon his request, Presiding Judge Abdulmoin M. Pakam was given in Resolution No. 16-56 dated 02 August 2017, until 10 August 2017 to turn over the said ballot box to the Tribunal. Unable to deliver the ballot box on 10 August 2017 due to budgetary constraints and conflict of schedule, Judge Pakam was given by the Tribunal in Resolution No. 16-60 dated 23 August 2017 until 01 September 2017 to do the turn over. On 29 August 2017, Judge Pakam personally delivered to the Tribunal the subject ballot box together with the corresponding election documents.

It will be recalled that this same ballot box was the subject of a clearance granted to the House of Representatives Electoral Tribunal (HRET) in Resolution No. 16-51 dated 25 May 2017, allowing it to take prior custody thereof in connection with its proceedings in HRET Case No. 16-007 (*Ajihil vs. Sahali*).

The reasons given for the non-retrieval of seventy (70) ballot boxes were:

Zamboanga del Norte. - The uncollected ballot box from Zamboanga del Norte pertains to Clustered Precinct No. 1 (Grouped Precinct Nos. 1A and 1B) of the Municipality of Gutalac. The Collection Team was informed by the Election Officer of the said municipality that subject ballot box was included in

the Random Manual Audit conducted by the Commission on Elections (COMELEC) and was accordingly turned over to the COMELEC main office.

Quezon and Bulacan. - The Collection Team for Quezon Province was unable to collect eleven (11) ballot boxes from the Municipality of San Antonio while the Bulacan Collection Team also failed to collect four (4) ballot boxes from the Municipality of Sta. Maria for the simple reason that the ballot boxes did not have external markings that would enable the Teams to identify the precinct numbers. The Collection Teams could not ascertain which of the ballot boxes pertained to the pilot contested precincts.

In this connection, the Tribunal requested and was granted permission by the Presidential Electoral Tribunal, in a Resolution dated 11 July 2017, to open the ballot boxes during the collection operations to facilitate the identification of the contested ballot boxes by the Collection Teams subject to the condition that the necessary number-coded metal seals be provided to replace the old security seals in order to preserve the integrity of the ballot boxes and the contents therein.

Armed with this authority, CBS may now proceed to retrieve the aforesaid uncollected ballot boxes from the Municipality of San Antonio, Quezon Province and Municipality of Sta. Maria, Bulacan. For this purpose, Protestant Tolentino is required to manifest to the Tribunal whether or not he still intends to have these ballot boxes collected.

Basilan. - Also uncollected were fifteen (15) ballot boxes pertaining to the Municipality of Al-Barka, Basilan as these are under the custody of the Regional Trial Court, Branch 2, Isabela City, Basilan in connection with the proceedings in Election Protest No. 04-16 (*Bhenzar J. Yusoph vs. Darussalam S. Lajid*).

Although the Tribunal, in Resolution No. 16-57 dated 15 August 2017, directed Presiding Judge Danilo M. Bucoy to expedite the proceedings in Election Protest No. 04-16 (*Yusoph vs. Lajid*) and to 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, the Tribunal cannot at this point send representatives to retrieve the subject ballot boxes. Security arrangements with the AFP and the PNP have to be made once again. Immediate collection cannot be assured as the schedule is subject to the availability of personnel from the said agencies who will act as escorts and provide such other security assistance needed by the Collection Team.

Lanao del Sur. - Except for the Municipalities of Picong and Malabang, no collection operations were undertaken in the Province of Lanao del Sur. The collection activity was put on hold upon the advice of the Armed Forces of the Philippines (AFP) in view of the armed conflict in Marawi City. Thirty-nine (39) ballot boxes from this province remain uncollected.

It must be emphasized that the Mindanao collection dates were set after a series of meetings with the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP). These security agencies had to create joint task forces to provide security to the SET Collection Teams during the entire collection operations in Mindanao from 17 July 2017 to 25 August 2017. The Tribunal, through the CBS, was advised by the AFP that collection operations in Lanao del Sur may be undertaken only after a month or two from the cessation of hostilities in Marawi City, but still subject to AFP's assessment of the peace and order condition in the SET's areas of operations. It may, thus, take a while before the Tribunal can undertake the retrieval of the thirty-nine (39) ballot boxes of the Province of Lanao del Sur.

In order not to delay the proceedings in the instant case, the Tribunal deems it wise to require Protestant Tolentino to designate as substitute pilot precincts for the uncollected Mindanao ballot boxes, fifty-four (54) precincts from among his other contested precincts which were initially included as pilot precincts in his Preliminary Conference Brief dated 05 October 2016. The substituted precincts will remain to be part of the contested ballot boxes, but to be classified as non-pilot precincts.

IN VIEW OF THE FOREGOING, the Tribunal resolves to:

1. **REQUIRE** Protestant Tolentino to manifest to the Tribunal within five (5) days from receipt of this Resolution whether or not he still intends to pursue the collection of the eleven (11) ballot boxes pertaining to the Municipality of San Antonio, Quezon Province and four (4) ballot boxes of the Municipality of Sta. Maria, Bulacan which were not collected in view of the then inability of the Collection Teams to identify the precinct numbers of the ballot boxes;
2. **REQUIRE** Protestant Tolentino to designate within ten (10) days from receipt of this Resolution as substitute pilot precincts for the uncollected Mindanao ballot boxes, fifty-four (54) precincts from among his other contested precincts which were initially included as pilot precincts in his Preliminary Conference Brief dated 05 October 2016;
3. **NOTE** the compliance of Hon. Abdulmoin M. Pakam, Presiding Judge, Regional Trial Court, Branch 5, Bongao, Tawi-Tawi with Resolution No. 16-60, dated 23 August 2017, by personally delivering the ballot box for Clustered Precinct No. 4 (Grouped Precincts Nos. 8A and 8B) of the Municipality of Turtle Islands, Tawi-Tawi, together with the corresponding election documents and **INFORM** the HRET that the said ballot box and election documents are now in the custody of SET;
4. **NOTE** the information that the ballot box of Clustered Precinct No. 1 (Grouped Precinct Nos. 1A and 1B) of the Municipality of Gutalac, Zamboanga del Norte was included in the Random Manual Audit that was conducted by the COMELEC; and
5. **INFORM** Hon. Danilo M. Bucoy, Presiding Judge, Regional Trial Court, Branch 2, Isabela City, Basilan that retrieval of the fifteen

(15) ballot boxes pertaining to the Municipality of Al-Barka, Basilan has been postponed to a later date.

SO ORDERED.

14 September 2017.



ANTONIO T. CARPIO
Senior Associate Justice
Chairperson



TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Member



LUCAS P. BERSAMIN
Associate Justice
Member



MARIA LOURDES "NANCY" S. BINAY
Senator
Member



GRACE L. POE
Senator
Member



RICHARD J. GORDON
Senator
Member



JOEL VILLANUEVA
Senator
Member



FRANKLIN M. DRILON
Senator
Member



ANTONIO "SONNY" F. TRILLANES IV
Senator
Member