



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.

X-----X

**RESOLUTION NO. 16 - 83**

Several incidents relating to the collection of the ballot boxes, election documents and paraphernalia from the pilot precincts of Protestant Francis N. Tolentino had been brought to the attention of the Tribunal, as follows:

1. Municipality of Al-Barka, Basilan

As discussed in Resolution No. 16-57 dated 15 August 2017, the Collection Team failed to collect fifteen (15) ballot boxes pertaining to the Municipality of Al-Barka, Basilan as these were already in 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*) at the time of collection.

A review of the records showed that the Municipal Treasurer of Al-Barka, Basilan did not comply 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. While Mr. Omar A. Nur, Acting Election Officer of Al-Barka, complied with the directive, 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. Records

would show that the subject ballot boxes were deposited to RTC, Branch 2, Isabela City as early as 13 June 2016.

In view thereof, the Tribunal, in Resolution No. 16-57 required the Municipal Treasurer of Al-Barka, Basilan to SHOW CAUSE why he should not be held liable for contempt of the Tribunal for his failure to comply with the directive of the Tribunal contained in Resolution No. 16-01 dated 07 July 2016; and the Acting Election Officer of Al-Barka, Basilan, Mr. Omar A. Nur, to SHOW CAUSE why he should not be held liable for contempt of the Tribunal for the misleading information contained in his letter dated 03 August 2016, both within a non-extendible period of fifteen (15) days from receipt of the Resolution.

In his letter dated 20 September 2017, Mr. Omar A. Nur, Acting Election Officer of Al-Barka, Basilan stated that it was never his intention to mislead the Tribunal. He explained, thus:

*"The truth of the matter is that notwithstanding receipt of the 09 June 2016 order of the Regional Trial Court, Branch II, Basilan Province, in Election Protest No. 04-16, for the retrieval of the ballot boxes and other election documents/paraphernalia, the list of voters with voting records, book of voters, and other documents/materials evidencing the conduct and the result of the elections remained in my custody as the then acting election officer of Al-Barka Municipality from June 7, 2016 to November 3, 2016, because of the directive from our Provincial Election Supervisor (PES) to safeguard and preserve the same in compliance with SET Resolution No. 16-01 in SET CASE No. 001-16.*

*By reason of the said directive, I was of the impression that the custody of the ballot boxes remained with the municipal treasurer since, first, I was never officially informed that he will transfer custody of the ballot boxes in compliance with the RTC's order. In fact, before I sent my 03 August 2016 letter I went to see then treasurer, Amsher D. Tungal, purposely to comply with the*

*PES' directive to submit a joint report with the treasurer in relation to SET Resolution No. 16-01, but was informed by his staff that he was detailed to Isabela City and there was no one yet designated as his replacement, which resulted in the non-submission of the report, and second, the existence of the letter from our PES dated 25 July 2016 to the Provincial Treasurer, furnishing the latter a copy SET Resolution No. 16-01 in SET CASE No. 001-16, with a reiteration of the Honorable Tribunal's directive. x x x"*

It would appear from the above-quoted explanation that the misinformation was a result of the detail of Municipal Treasurer of Al-Barka, Amsher D. Tungal, to the City of Isabela and the eagerness of Acting Election Officer Omar A. Nur , to comply with the SET and PES directives. It would also appear that the failure of the Municipal Treasurer of Al-Barka to comply with the directive was also due to his detail to another post. For this reason, the Tribunal finds the explanation well-taken.

## 2. Municipality of Pagbilao, Quezon Province

In another development, it was discovered during the revision proceedings that nine (9) out of the ten (10) ballot boxes from the Municipality of Pagbilao, Quezon Province contained ballots and election documents that were accomplished during the 2013 National and Local Elections. Such discovery was the subject of an *Urgent Manifestation with Motion* filed by Protestee de Lima on 06 November 2017, seeking an investigation on the matter and praying that the Municipal Treasurer of Pagbilao, Quezon be made to explain why the ballot boxes retrieved contained documents pertaining to the 2013 elections and to produce the documents pertaining to the 2016 elections.

The Team Leader of the collection team explained that when they arrived in the area, the ballot boxes were already segregated and ready for turn over by the Municipal Treasurer to the collection team. Considering that the labels of the ballot boxes matched with the inventory list of the ballot boxes for collection and that the ballot boxes were translucent white and looked similar with the ones

used during the 2016 National and Local Elections, the collection team accepted the turn over.

Taking into account the above explanation, there is a need to require Mr. Aristo G. Catalla, Municipal Treasurer of Pagbilao, Quezon to explain why the ballot boxes which were turned over to the SET collection team contained the ballots and election documents used or accomplished during the 2013 elections and to SHOW CAUSE why he should not be held in contempt of the Tribunal for failing to turn over the correct ballot boxes. Mr. Catalla should further be required to bring to the SET offices the ballot boxes containing the ballots and election documents used or accomplished during the 2016 National and Local Elections (NLE), the expenses for which shall be on his own personal account.

### 3. Calbayog City, Western Samar

Similarly, the ballot box for Clustered Precinct No. 8 of Calbayog City, Western Samar, contained ballots and election documents that were accomplished during the 2013 National and Local Elections. Raising serious concerns on the authenticity of the ballots that have been revised or will be revised, Protestant Tolentino filed on 30 October 2017, a *Motion* praying that the Commission on Elections (COMELEC) be directed to furnish the parties with a list of the respective ballot identification numbers for the 2,973 pilot precincts enumerated in his *Manifestation* dated 16 February 2017.

The Team Leader of the collection team offered the same explanation, i.e. the ballot boxes were already segregated and ready for turn over by the City Treasurer to the collection team when they arrived in the area. When asked why the ballot box for Clustered Precinct No. 8 looked similar to the ballot box used during the 2013 elections, the City Treasurer explained that the 2013 ballot boxes were recycled and used during the 2016 elections. With this explanation, the collection team accepted the turn over and brought all the ballot boxes pertaining to the pilot precincts of Protestant Tolentino from the City of Calbayog to the Tribunal offices.

In light of such explanation, there is a need to require Calbayog City Treasurer Ma. Evelyn O. Sunio to explain why the ballot box for Clustered Precinct No. 8 which was turned over to the SET collection team contained ballots and election documents that were used or accomplished during the 2013 elections, and to SHOW CAUSE why she should not be held in contempt of the Tribunal for failing to turn over the correct ballot box. Ms. Sunio should further be required to bring to the SET offices the ballot box used in the 2016 National and Local Elections in Clustered Precinct No. 8 of Calbayog City, the expenses of which shall be on her personal account.

4. Municipality of San Jorge, Western Samar

Also for Western Samar, a ballot box from the Municipality of San Jorge labelled as Precincts Nos. 15 and 15A/B was found to contain ballots and election documents pertaining to Precincts Nos. 17 A/B, a non-pilot precinct. It was likewise discovered during revision that the ballots contained in two (2) ballot boxes from San Jorge did not reflect the correct Ballot IDs, to wit:

Clustered Precinct	Precincts in Cluster	Per COMELEC	Per Revision
4	4A/4B	60140004	60250004
6	6A/6B	60140006	60250006

Ms. Ofelia C. Adesas, ICO Municipal Treasurer of San Jorge, Western Samar is likewise directed to explain why the ballot box which purportedly pertains to Precincts Nos. 15 and 15A/B contains ballots and election documents pertaining to Precincts Nos. 17 A/B. With respect to Clustered Precincts Nos. 4 and 6, the Commission of Elections should be requested to shed light on why the Ballot IDs differ from the COMELEC-assigned ballot IDs.

**IN VIEW OF THE FOREGOING**, the Tribunal Resolves to:

1. **NOTE** the explanation of Mr. Omar A. Nur, Acting Election Officer of Al-Barka, Basilan;

2. **REQUIRE** Mr. Aristo G. Catalla, Municipal Treasurer of Pagbilao, Quezon to **EXPLAIN** why the ballot boxes which were turned over to the SET collection team contained the 2013 ballots and election documents and to **SHOW CAUSE** why he should not be held in contempt of the Tribunal for failing to turn-over the correct ballot boxes, both within a period of ten (10) days from receipt of this Resolution. Mr. Catalla is further required to bring to the SET offices within a period of fifteen (15) days from receipt of this Resolution the ballot boxes containing the 2016 ballots and election documents, the expenses of which shall be on his personal account;
3. **REQUIRE** Ms. Ma. Evelyn O. Sunio, Assistant City Treasurer of Calbayog City, to **EXPLAIN** why the ballot box for Clustered Precinct No. 8 which was turned over to the SET collection team contained the 2013 ballots and election documents and to **SHOW CAUSE** why she should not be held in contempt of the Tribunal for failing to turn-over the correct ballot boxes, both within a period of ten (10) days from receipt of this Resolution. Ms. Sunio is further required to bring to the SET offices within a period of fifteen (15) days from receipt of this Resolution the ballot box containing the 2016 ballots and election documents, the expenses of which shall be on her personal account;
4. **REQUIRE** Ms. Ofelia C. Adesas, ICO Municipal Treasurer of San Jorge, Western Samar to **EXPLAIN** why the ballot box which purportedly pertains to Precincts Nos. 15 and 15A/B contains ballots and election documents pertaining to Precincts Nos. 17 A/B and to **SHOW CAUSE** why she should not be held in contempt of the Tribunal for failing to turn-over the correct ballot boxes, both within a period of ten (10) days from receipt of this Resolution. Ms. Adesas is further required to bring to the SET offices within a period of fifteen (15) days from receipt of this Resolution the ballot box for Precincts Nos. 15 and 15A/B, the expenses of which shall be on her personal account;

5. **REQUEST** the Commission of Elections to shed light within fifteen (15) days from receipt of this Resolution on why the Ballot IDs for Clustered Precincts Nos. 4 and 6 of San Jorge, Western Samar differ from the COMELEC-assigned ballot IDs;
6. **NOTE** Protestee de Lima's *Urgent Manifestation with Motion* dated 06 November 2017 praying that the Municipal Treasurer of Pagbilao, Quezon be made to explain why the ballot boxes retrieved contained documents pertaining to the 2013 elections and to produce the documents pertaining to the 2016 elections;
7. **NOTE** the *Motion* of Protestant Tolentino praying tha the Tribunal direct the Commission on Elections to furnish the parties with a list of the respective ballot identification numbers assigned to his pilot precincts; and
8. **DIRECT** the Canvass Board Service of the Tribunal to furnish the parties within five (5) days from receipt of this Resolution with a copy of the requested ballot identification numbers of Protestant's pilot precincts which was obtained from the COMELEC, subject to the payment of reproduction cost.

**SO ORDERED.**

22 November 2017.



**ANTONIO T. CAPIO**  
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