



REPUBLIC OF THE PHILIPPINES
SENATE ELECTORAL TRIBUNAL

COA-NCR Bldg., Batasan Road, Quezon City

FRANCIS N. TOLENTINO,
Protestant,

SET Case No. 001-16

-versus-

LEILA M. DE LIMA,
Protestee.

X-----X

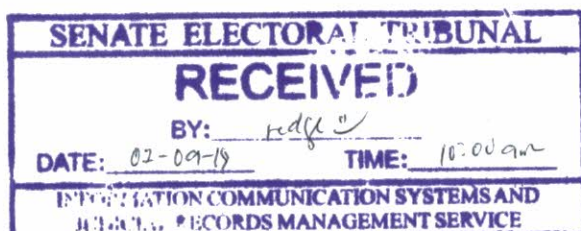
RESOLUTION NO. 16 - 91

On 22 November 2017, the Tribunal issued Resolution No. 16-84 requiring the Commission on Elections (COMELEC) to identify which among those six (6) Consolidated Canvassing System (CCS) laptops mentioned in Resolution No. 16-37 dated 02 March 2017 has the least amount of protested data, or better yet, does not have any protested data for all elected positions and bring the identified CCS laptop before the Tribunal within ten (10) days from receipt of said Resolution.

The purpose of the aforementioned Order is to allow the COMELEC-designated IT to conduct a demonstration of the system date change in order to validate the statements made by Mr. Alvin V. Genota of the COMELEC's Information and Technology Department (ITD) in his Internal Memorandum dated 24 August 2017, wherein he alleged the following:

"We need to change the dates of the CCS Laptop so that all the reports created by the CCS in the May 9, 2016 National and Local Elections (NLE) can be backed-up. Changing the system dates of a CCS Laptop will not affect any election data contained therein. It will:

- 1. Allow access to canvassing reports. All canvassing reports (the Initialization Report, Canvass Report, Certificate of Canvass and Proclamation, and the Statement of Votes that were already generated during the May 9, 2016 National and Local Elections (NLE) canvassing will not be altered in any way (all information including the date of generation of the report). The change of date will be reflected in the audit logs and all reports will be antedated.*



2. *Transactions that will be recorded in the audit logs after changing the date will show the current (modified) date of the CCS.*
3. *Allow back-up of all reports generated and elections results."*

In compliance with said Resolution, COMELEC delivered to the Tribunal on 06 December 2017 the CCS Kit for the Municipal Board of Canvassers of Basco, Batanes. On 08 January 2018, the Acting Secretary of the Tribunal notified all parties concerned as to the schedule for the actual system date change, which shall take place on 25 of January 2018 at 10:00 o'clock in the morning at the SET Conference Room.

On 18 January 2018, Protestant Tolentino filed an *Urgent Motion* praying that the conduct of the system date change of the CCS laptop scheduled on 25 January 2018 be made subject to pre and post technical and forensic examination by his representatives to ensure that there have been no modifications to the CCS laptop and that the system date change will not result to other intended or unintended modifications that will modify the way the CCS laptop operates.

Resolution No. 16-84 dated 22 November 2017 is very clear. The only reason why the Tribunal intervened in this issue is to settle once and for all whether or not the proposed system date change will allow the COMELEC to back up the statistical data contained in the CCS laptops used during the 09 May 2016 National and Local Elections without compromising the integrity of the data contained therein.

Records show that this issue has been dragging since 03 April 2017 when Protestant Tolentino opposed the proposed change in the system date during the COMELEC scheduled demonstration. Upon motion of the Protestant, the Tribunal, in Resolution No. 16-54 dated 18 July 2017, directed COMELEC to hold in abeyance the implementation of the proposed system date change until further notice from the Tribunal. The exchange of opinions and positions from the parties and their opposition to the COMELEC stand on the matter had prevented the resolution of this issue. The Tribunal had to find feasible ways and means to settle such pending issue in order not to hamper the COMELEC's performance of its duties and functions.

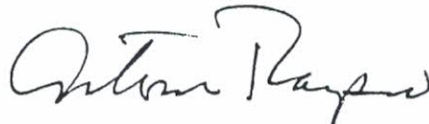
By permitting the conduct of the system date change "under a controlled environment", meaning a demonstration of the activity using a CCS laptop that has the least amount of protested data, or none at all, for all elected positions, the Tribunal will be able to evaluate objectively the results of the proposed system date change without interference from any party as no interest is thereby affected. The upcoming COMELEC demonstration does not, and shall not, include a technical and forensic examination of the CCS laptop. The same is not within the scope of Tribunal Resolution No. 16-84.

The COMELEC demonstration of the system date change shall be undertaken without intervention on the part of the parties. The Tribunal is likewise not at liberty to allow anyone, not even its own IT personnel, to handle the CCS laptop. Only the duly designated COMELEC IT personnel may hold the equipment at any given time, unless the COMELEC allows otherwise. The parties are invited to observe the proceedings for purposes of transparency, but not to intervene in any way.

IN VIEW OF THE FOREGOING, the Executive Committee of the Tribunal Resolves to **DENY** the *Urgent Motion* of Protestant Tolentino dated 18 January 2018 for lack of merit.

SO ORDERED.

22 January 2018.



ANTONIO T. CARPIO
Senior Associate Justice
Chairperson


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Member


LUCAS P. BERSAMIN
Associate Justice
Member