



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.

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RESOLUTION NO. 16 - 81

In Resolution No. 16-64 dated 14 September 2017, Protestant Francis N. Tolentino was required to:

1. Manifest to the Tribunal within five (5) days from receipt of the 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 the 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; and
2. Designate within ten (10) days from receipt of the 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.

Pursuant to Protestant Tolentino's *Manifestation* dated 25 September 2017 of his desire to collect subject ballot boxes from Quezon and Bulacan and with the

permission granted by the Presidential Electoral Tribunal to open the ballot boxes to facilitate the identification of the contested ballot boxes by the SET Collection Teams, the Canvass Board Service of the Tribunal undertook the collection of the four (4) remaining ballot boxes from Sta. Maria, Bulacan on October 24, 2017 and the eleven (11) remaining ballot boxes from San Antonio, Quezon on October 24-25, 2017.

With respect to the second directive, Protestant Tolentino filed on 02 October 2017 a *Motion for Extension*, praying that he be given an extension of ten (10) days from 02 October 2017, or until 12 October 2017, within which to designate the substitute pilot precincts. Said *Motion* was approved by the Tribunal in Resolution No. 16-67 dated 10 October 2017, with a warning that the fifty-four (54) uncollected ballot boxes shall be deemed withdrawn as part of the pilot precincts should Protestant Tolentino fail to identify his substitute precincts within the extension given.

However, instead of identifying his substitute precincts, Protestant Tolentino filed a *Manifestation and Motion* dated 12 October 2017, stating that he intends to pursue the collection of the fifteen (15) ballot boxes pertaining to the Municipality of Al-Barka, Basilan and the thirty-nine (39) ballot boxes from Lanao del Sur, subject of the order for substitution. He gives as reason for his decision not to forego the collection of the said ballot boxes, election documents and paraphernalia the fact that the Armed Forces of the Philippines (AFP) only advised the Tribunal to put on hold the collection, and not cancel the same.

Protestant avers that in praying for the collection of the contested ballot boxes, election documents and paraphernalia in the Provinces of Basilan and Lanao del Sur, he does not intend to endanger the lives of the members of the Tribunal's collection teams because he is of the utmost belief that the Tribunal has the capability to seek the assistance of both the AFP and Philippine National Police (PNP) in facilitating the collection activities in the said provinces. He claims that since the implementation of Martial Law in the Mindanao area, no significant incidents of violence therein were reported because the AFP was able to contain the crisis within Marawi City.

Furthermore, Protestant alleges that he has compelling reasons to believe that the provinces of Basilan and Lanao del Sur are areas where irregularities during the 2016 National and Local Elections were blatantly committed.

The order to substitute the 54 uncollected ballot boxes was made to hasten the resolution of the instant electoral protest. Collection operations cannot forthwith be undertaken as coordination for security assistance from the AFP and PNP would entail considerable time.

Be that as it may, the Tribunal respects the decision of the Protestant to proceed with the collection of ballot boxes, election documents and paraphernalia from the Provinces of Basilan and Lanao del Sur. While the directive to substitute does not intend to infringe on Protestant's right as the substitute precincts would still come from among the pilot precincts identified in his Preliminary Conference Brief, the Tribunal recognizes the right of the Protestant to identify the precincts which he deems as best exemplifying or demonstrating the electoral fraud or anomaly pleaded.

As previously reported, the fifteen (15) uncollected ballot boxes pertaining to the Municipality of Al-Barka, Basilan 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*). In this regard, the Presiding Judge, Hon. Danilo M. Bucoy, must expedite the proceedings therein to ensure that the fifteen (15) ballot boxes pertaining to the Municipality of Al-Barka, Basilan are ready for transfer to the custody of the Tribunal not later than 08 January 2018.

ACCORDINGLY, the Tribunal Resolves to:

1. **NOTE** the *Manifestation* of Protestant Tolentino dated 25 September 2017, as well as the collection activities undertaken by the Canvass Board Service pursuant thereto;

2. **GRANT** Protestant Tolentino's motion to proceed with the collection of the fifteen (15) ballot boxes pertaining to Al-Barka, Basilan and the thirty-nine (39) ballot boxes from Lanao del Sur;
3. **DIRECT** the Canvass Board Service of the Tribunal to prepare the cost estimates for the collection in the Provinces of Basilan and Lanao del Sur and to coordinate with the Armed Forces of the Philippines and the Philippine National Police on the collection schedule and security arrangements; and
4. **DIRECT** Hon. Danilo M. Bucoy, Presiding Judge of the Regional Trial Court, Branch 2, Isabela City, Basilan to expedite the 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, Basilan are ready for transfer to the custody of the Tribunal not later than 08 January 2018.

SO ORDERED.

22 November 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