



Republic of the Philippines
House of Representatives Electoral Tribunal
Electoral Tribunal Building
Commonwealth Avenue, Quezon City

JUN OMAR C. EBDANE
Protestant,

-versus-

HRET Case No. 13-031 (EP)
Second District, Zambales

CHERYL P. DELOSO-MONTALLA
Protestee.

Promulgated:

DEC 16 2013

x-----x

RESOLUTION

Protestant and protestee were the only two (2) candidates in the May 13, 2013 elections for membership in the House of Representatives, Second District, Province of Zambales.

On May 31, 2013 or fourteen (14) days from protestee's proclamation, as per *Certificate of Canvass Of Votes And Proclamation Of Winning Candidates For Member Of The House Of Representatives*, CEF No. 22,¹ dated May 17, 2013,² protestant filed the instant verified "*Petition*" for election protest dated May 29, 2013, impugning the results of elections in all the 306 clustered precincts that functioned in the congressional district in question.

As per CEF No. 22, protestee was proclaimed as the elected candidate for the position, having obtained a total of 98,433 votes, while protestant, as alleged, garnered a total of 76,742 votes or a margin of 21,691 votes.

Protestant contends, *inter alia*, that had it not been for the alleged presence and commission of electoral frauds, anomalies and other electronic irregularities committed to favor and benefit protestee, he would have garnered the most number of votes and emerged as the winning candidate for the contested congressional post.

On July 17, 2013, or nine (9) days from receipt of the summons on July 8, 2013, protestee filed her *Answer* of even date contending, *inter alia*, that protestant's grounds for the election protest were exaggerated, the allegations are not specifically stated and the specific instances how such anomaly could affect the final outcome were not properly indicated.

Further, as an affirmative defense, protestee contends that, protestant filed his protest beyond the reglementary period of fifteen (15) days required under Rule

¹ Commission on Elections Form

² Attached to the protest as *Annex "D."*

16 of the 2011 HRET Rules, considering that she was proclaimed not on May 17, 2013, as alleged in the protest, but on May 15, 2013, as evidenced by a certified true copy of Comelec CEF No. 24, which is the *Manual Certificate of Canvass of Votes and Proclamation of the Winning Candidates for City/Municipal/Provincial*³ dated May 15, 2013, signed by the Board of Canvassers, and a *Certification*⁴ signed by Atty. Elaiza S. Sabile-David, Provincial Election Supervisor II of Iba, Zambales, certifying that protestee was proclaimed on May 15, 2013, having received the highest number of votes cast of 97,274 for the said office. Hence, protestee prays for the dismissal of the instant protest.

In his *Comment (To The Protestee's Affirmative Allegations and Special Defenses) with Motion (To Set The Case For Preliminary Conference)* dated July 24, 2013, filed on July 26, 2013, protestant insists on his allegations of several election anomalies and irregularities attributable to protestee and claims that the counting of the fifteen (15) day period, within which the instant protest should be filed, should be based on CEF No. 22 dated May 17, 2013, which he provided in his protest, not on CEF No. 24 dated May 15, 2013, as provided for by protestee in her answer.

In *Resolution No. 13-086* dated August 15, 2013, the Tribunal directed the Acting Secretary of the Tribunal to calendar the instant case for preliminary conference and authorized the Chairperson of the Tribunal to issue an order for the collection of ballot boxes containing the ballots and their keys, list of voters with voting records, book of voters and other election documents and paraphernalia.

On August 14, 2013, protestee filed an *Opposition (To Protestant's Comment's With Motion To Set The Case for Preliminary Conference dated July 24, 2013) With Motion (To Set The Case For Preliminary Hearing On The Grounds For Dismissal)* maintaining that protestant's allegations of electoral anomalies and irregularities against her are unsubstantiated and merely couched in general statements. Further, she contends that the fifteen (15) day period within which to file the instant protest should be reckoned from the date stated in CEF No. 24 which is manually prepared in case the proclamation is by virtue of lowered canvassing threshold, as in this case, when the results not yet transmitted would not affect the standing of the candidates, pursuant to Comelec *Resolution No. 9700* dated May 14, 2013. On the other hand, CEF No. 22 is used when a winning candidate is proclaimed based on completed results, without lowering the threshold. Hence, protestee prays that the issues relating to the true date of the proclamation be set for preliminary hearing, as provided for in Rule 25 of the 2011 HRET Rules, and that, thereafter, a ruling be issued dismissing the instant case.

In *Resolution No. 13-108* dated September 2, 2013, the Tribunal gave due course to protestee's motion to set the instant case for preliminary hearing to resolve her affirmative defense of failure of protestant to file the instant protest within the prescribed period of fifteen (15) days from proclamation. Hence, on September 24, 2013, the said preliminary hearing was held before the Hearing

³ Pursuant to Comelec *Resolution No. 9700* dated May 14, 2013 and attached to protestee's answer as *Annex "1."*

⁴ Attached to protestee's answer as *Annex "2."*

Commissioner of the instant case to determine the actual date of protestee's proclamation. In the meantime, the Tribunal held in abeyance the conduct of the preliminary conference and the collection of the ballot boxes involved in the instant case.

During the said preliminary hearing, protestant and protestee argued in support of their respective positions.

Protestee, in support of her position, presented the following documents:

1. As *Exhibit "1,"* an original copy of a *Certification* from the Comelec, Office of the Provincial Election Supervisor of Iba, Zambales, issued on July 9, 2013, certifying that the actual date of protestee's proclamation was May 15, 2013;

2. As *Exhibit "2,"* a certified true copy of *CEF No. 24* dated May 15, 2013, signed by the members of the BOC and with their respective thumbmarks stamped on the said certification, proclaiming protestee as the duly elected Member of the House of Representatives for the Second District of Zambales; and

3. As *Exhibit "3,"* a certified true copy of the original of said *CEF No. 24* on file with the Office of the Secretary-General of the House of Representatives.

Being official documents emanating from Comelec, protestant admitted the existence and authenticity of the foregoing documents.

Protestee introduced a videotape showing the actual proclamation of protestee on May 15, 2013 by the Board of Canvassers, and press releases with picture to show that said proclamation, as shown by the videotape, was indeed held on May 15, 2013.

Considering that the main issue left to be resolved is basically legal in nature, *i.e.*, the interpretation of the two (2) Comelec certificates in question, protestant and protestee agreed to dispense with the presentation of their respective witnesses. The hearing culminated with a directive to protestant and protestee to submit their respective memoranda in support of their contentions, within fifteen (15) days from the said preliminary hearing or until October 9, 2013.

On October 8, 2013, protestant submitted his *Memorandum (Re: Timeliness Of The Filing Of The Instant Protest)* dated October 7, 2013.

On October 9, 2013 protestee submitted her *Memorandum [Re:] Preliminary Hearing On The Issues On The Proclamation Date, Timeliness Of The Protest, And Dismissal* dated October 8, 2013 and on November 6, 2013, she submitted her *Comment On Memorandum (Preliminary Hearing On The Issues On The Proclamation Date, Timeliness Of The Protest, And Dismissal)*, dated October 29, 2013.

Hence, this Resolution.

The task now at hand before this Tribunal is to determine which between the two (2) Comelec certificates, CEF Form No. 22 dated May 17, 2013 and CEF Form No. 24 dated May 15, 2013, both proclaiming protestee as the winning candidate for the contested position, should the fifteen-day reglementary period for the filing of the instant protest be reckoned with.

For reference and easy elucidation, scanned copies of CEF No. 24 and CEF No. 22 are herein presented, thus:

CEF No. 24

Handwritten notes:
 - "Accepted by Regional" (with a heart symbol)
 - "6/10/13" (with a heart symbol)
 - "2:10 + 9.773"

MINIUAL CERTIFICATE OF CANVASS OF VOTES AND PROCLAMATION OF THE WINNING CANDIDATES FOR CITY/MUNICIPAL/PROVINCIAL (Pursuant to Comelec Resolution No. 9700 dated May 14, 2013)

MAY 15, 2013 NATIONAL AND LOCAL ELECTIONS

WE, THE UNDERSIGNED MEMBERS OF THE CITY/MUNICIPAL/DISTRICT/PROVINCIAL BOARD OF CANVASSERS of ZAMBALS, pursuant to COMELEC Resolution No. 9700 dated May 14, 2013, and on the basis of the attached "GROUPED CANVASS REPORT" wherein GERYL P. DELOSO received 99,274 the same being the highest number of votes received for said office, do hereby PROCLAIM DELOSO MONTALLA, GERYL P. as the duly elected MEMBER, Party of FERRELLANITA SECOND DISTRICT.

IN WITNESS WHEREOF, we have signed these presents at 1st, ZAMBALS this 15 day of MAY 2013.

THE CITY/MUNICIPAL/PROVINCIAL BOARD OF CANVASSERS

ATTY. PANFILO C. DOCTOR, JR.
ACTING PROVINCIAL ELECTION SUPERVISOR
CHAIRMAN

JORGE D. BACUER
PROVINCIAL FISCAL
MEMBER-SECRETARY

ZENIA C. MUSTILES Ed.D.
OFFICER-IN-CHARGE
OFFICE OF THE SCHOOLS DIVISION SUPERINTENDENT
MEMBER-SECRETARY

5-15-2013

NINETY SEVEN THOUSAND TWO HUNDRED SEVENTY FOUR VOTES

Handwritten signature: Angelina
5/15/13

Handwritten signature:
5-15-13

CERTIFIED TRUE COPY:
SEP 20 2013

Handwritten signature:
Office of the Secretary General
HOUSE OF REPRESENTATIVES

CEF No. 22



CEF No. 22

Instructions: Prepare in four (4) copies to be distributed as follows: First copy to the EXCO, Commission on Elections in Manila; Second copy shall be kept by the Chairman of the Provincial Board of Canvassers; Third copy shall be given to the candidate/province; and fourth copy shall be posted on the bulletin board of the Provincial Capitol.

**CERTIFICATE OF CANVASS OF VOTES AND PROCLAMATION
OF WINNING CANDIDATES FOR MEMBER OF THE HOUSE OF REPRESENTATIVE**

May 13, 2013 National and Local Elections
May 13, 2013

WE, THE UNDERSIGNED MEMBERS of the **PROVINCIAL/CITY/DISTRICT BOARD OF CANVASSERS OF ZAMBALES** do hereby certify under oath that we have duly canvassed the votes cast in the **DISTRICT/CITY/PROVINCE** for the Candidates therein for the Office of the Member of the House of Representatives in the National and Local Elections held on May 13, 2013 and that **DELOSO-MONTALLA, Cheryl P.** obtained a total of **99433** votes representing the highest number of votes legally cast for said office. Attached hereto and forming part hereof is a Statement of Votes by Precinct (CEF No. 20-A) in the case of cities comprising one or more legislative districts, or Statement of Votes by City/Municipality (CEF No. 20-A-1) in the case of Provinces, received by each candidate.

ON THE BASIS OF THE FOREGOING, we hereby proclaim the above-mentioned candidate as the duly elected Member of the House of Representatives for the **ZAMBALES - SECOND LEGDIST-MEMBER, HOUSE OF REPRESENTATIVES** Legislative District of **ZAMBALES**

IN WITNESS WHEREOF, we have signed these presents in the Province of **ZAMBALES**, this May 17, 2013.

THE PROVINCIAL BOARD OF CANVASSERS

Right Thumbprint Right Thumbprint Right Thumbprint

VICE-CHAIRMAN
(Signature above printed name)
Jorge D. Bacul
JORGE D. BACUL
PROVINCIAL FISCAL

CHAIRMAN
(Signature above printed name)
Panfilo C. Doctor, Jr.
ATTY. PANFILO C. DOCTOR, JR.
ACTING PROVINCIAL ELECTION SUPERVISOR

MEMBER - SECRETARY
(Signature above printed full name)
Zenia E. Bustos E.L.D.
ZENIA E. BUSTOS E.L.D.
OFFICER-IN-CHARGE
OFFICE OF THE OFFICIAL ELECTION SUPERVISOR

CERTIFIED TRUE COPY
OF THE PROV'L CENTRAL FILE
DATE: May 20 2013

As set forth, the two Comelec documents are both canvass of votes and proclamation certificates that categorically proclaim protestee as the duly elected Member for the contested position, having garnered the highest number of votes.

The two certificates are signed and thumbmarked by the same BOC. Only that in CEF No. 22, one member of the BOC, Provincial Fiscal George D. Bacul, failed to stamp his thumbmark on it. On the other hand, unlike CEF No. 22, CEF No. 24 bears the signatures of protestant's and protestee's respective counsels at the lower portion.⁵

In CEF No. 24 protestee's votes is 97,274, while in CEF No. 22 his votes indicated is 98,433. This is because, as set forth, CEF No. 24 was issued pursuant to Comelec Resolution No. 9700, entitled *In The Matter Of the Lowering Of Threshold Of the Canvassing and Consolidation System In Connection With The May 13, 2013 National And Local Elections*, dated May 14, 2013, the pertinent portions of which read:

“ x x x

WHEREAS, Section 28 (f) (3) of said Resolution No. 9648 provides that if not all of the expected results are received, the board of canvassers may lower the 100% canvassing threshold, upon approval of the Commission, through the issuance by the National Support Center of the appropriate “ADMIN USERNAME”;

WHEREAS, there are precincts results that, for varied reasons, could no longer be transmitted, and the concerned boards are requesting for authority to lower the threshold to enable them to proclaim winning candidates whose respective standing in a contested position will no longer be affected by the results not received by the CCS;

WHEREAS, in connection with the May 10, 2010 National and Local Elections, the Commission promulgated Resolution No. 8912 dated May 11, 2010, authorizing Regional Election Directors to approve requests of boards of canvassers in their respective regions to lower the canvassing threshold to enable said boards to proclaim winning candidates and to generate Certificate of Canvass for transmission to the next level of canvassing;

NOW, THEREFORE, the Commission on Elections, by virtue of the powers vested in it by the Constitution, Omnibus Election Code and Republic Act Number 9369 and consistent with Resolution No. 8912 dated May 11, 2010, RESOLVED, as it hereby RESOLVES, as follows:

⁵ As manifested by protestee during the preliminary hearing held on September 24, 2013, which was never controverted by protestant.

1. The Municipal, City, Provincial, District, and Regional Boards of Canvassers shall proclaim the winning candidates on the basis of the last "Grouped Canvass Report" generated by the CCS, by manually preparing a Certificate of Canvass and Proclamation of Winning Candidates, supported by a copy of the also generated "Grouped Canvass Report," even if not all results are received by their respective CCS; **Provided, that the standing of the candidates will not be affected by the results not yet transmitted to, and received by the CCS, without prejudice to the ranking of the winning candidates.** x x x⁶

Hence, CEF No. 24 was issued based on canvass of votes with lowered threshold while CEF No. 22 was based on completed canvass of votes.

Considering that there were three (3) clustered precincts that failed to transmit electronically their respective results, which created a delay in the consolidation of the final results of the election in the contested district, the BOC, applying the aforementioned Comelec Resolution No. 9700, issued CEF No. 24 dated May 15, 2013. On even date, protestee was formally proclaimed on the basis of said certificate, with the presence of protestant's and protestee's respective counsels, as evidenced by the counsels' respective signatures at the lower portion of the said certificate and some other candidates who were likewise proclaimed on said dates.⁷

Two (2) days thereafter, CEF No. 22 was issued by the same BOC, which indicates that protestee garnered a total of 98,433 votes. Hence, 1,159 votes were added to protestee's 97,274 votes stated in CEF No. 24.

Protestant claims that, as consistently held by the Tribunal, in the cases of *Jolly P. Silverio vs. Heberston T. Alvarez*,⁸ *Benjamin Matias vs. Romeo Salalima*⁹ and *Randolph S. Ting vs. Manuel Mamba*,¹⁰ the best evidence to establish the date of protestee's proclamation is CEF No. 22.

Unfortunately for the protestant, the Tribunal's pronouncements in the aforementioned HRET cases are inapplicable in the instant case.

The controversies in all of these cases did not arise from the Comelec certificates in question, but only CEF No. 22 as against other Comelec documents or pronouncements,¹¹ that cannot be categorically considered as proclamation certificates. Logically, as against these other documents, the Tribunal would

⁶ Emphasis supplied.

⁷ *Id.*

⁸ HRET Case No. 98-019, November 16, 1998.

⁹ HRET Case No. UDK-95-001, August 17, 1995.

¹⁰ HRET Case No. 07-028, Tribunal Resolutions dated June 19, 2007 and August 3, 2007.

¹¹ As in the case of *Ting vs. Mamba, Id.*

consider *CEF No. 22* as the best evidence in proving the proclamation date of the protestees concerned in said cases.

Protestant contends that *CEF No. 24* is manually prepared and based on an incomplete canvass, while *CEF No. 22* is electronically printed and based on completed canvass, transmitted and consolidated electronically, as categorically mandated under *Sec. 2 par. 6* and *Sec. 20* of *RA 9639* or the *Automated Election System Act*. Hence, *CEF No. 22* should be given credence as against *CEF No. 24*.

This protestant's argument must fail.

The pertinent provisions of *RA 9639* cited by protestant was issued as general policy guidelines in contemplation of canvass and consolidation proceedings unrestricted by any difficulty or untoward intervening circumstance.

Recognizing that said proceedings may not always proceed without impediments, *Sec. 37* of *RA 9639* gives Comelec the authority to prescribe other manner of procedures for the canvassing and consolidation of votes, thus:

Sec. 37. Rules and Regulation. – The Commission shall promulgate rules and regulations for the implementation and enforcement of this Act.

Notwithstanding the foregoing canvassing procedure, the Commission is authorized to prescribe other manner of procedure for the canvassing and consolidation of votes as technology evolves, subject to the provisions of Section 7 hereof on the minimum capabilities of the AES and other pertinent laws.

Comelec *Resolution 9700* was likewise issued pursuant to Omnibus Election Code (OEC) or *Batas Pambansa Bilang 88*, the pertinent provision of which reads:

“Section 233 . When the election returns are delayed, lost, or destroyed. –

x x x

The board of canvassers, notwithstanding the fact that not all the election returns have been received by it, may terminate the canvass and proclaim the candidates elected on the basis of the available election returns if the missing election returns will not affect the results of the elections.”

Clearly, *Sec. 2 par. 6* and *Sec. 20* of *RA 9639* are not mandatory provisions that cannot be modified by the Comelec, as protestant would like to impress upon before this Tribunal.

In an effort to substantiate his contentions in his memorandum, protestant likewise erroneously applied Supreme Court cases, wherein the High Court has held that an incomplete canvass of vote is illegal and cannot be the basis of a subsequent proclamation.¹²

Similar with the HRET cases cited by protestant, the point of controversy in all these Supreme Court cases is not the existence of both CEF No. 22 and CEF No. 24.

Likewise in these Supreme Court cases, the remaining election results not included in the canvass of votes were contested and held to affect materially the outcome of the elections, not only on the parties involved in the cases, but also on the ranking of the other candidates that might be affected by the canvass of the remaining results as well.

In the case of *Utto vs. Comelec*,¹³ the Supreme Court held that:

“Considering that petitioner had a very small margin of 149 votes over respondent, and there were 944 registered voters from the five (5) excluded election returns, the results of the municipal election would be undoubtedly adversely affected by the contested returns. The proclamation thus made is void *ab initio*.”

In the case of *Samad vs. Comelec*,¹⁴ the Supreme Court has also this to say:

“It is only when authorized by Comelec or when the missing election returns will not affect the results of the election that the board can terminate the canvass and proclaim the candidates elected on the basis of the available returns. Precinct No. 13 had 224 registered voters and the margin between the petitioner and the private respondent is allegedly 153 votes only. As the missing returns of that precinct will affect the outcome of the election, no proclamation can as yet be made.”

In *Duremdes vs. Comelec*,¹⁵ the Supreme Court likewise held:

“In this case, with 110 contested election returns and 25,930 ballots questioned (Comelec Resolution, September 20, 1988, p.4., p.115, Rollo), Duremdes’ margin of 7,286 non-contested votes could very well be offset.

¹² *Mutuc vs. Comelec*, G.R. 1-28517, February 21, 1968; *Samad vs. Comelec*, G.R. No. 107854, July 16, 1993; *Abdulakarim D. Utto vs. Commission on Elections*, G.R. No. 150111, January 31, 2002, and; *Duremdes vs. Comelec*, G.R. No. 86362, October 27, 1989.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

Moreover, Duremdes proclamation was made on the basis of an official canvass of votes cast in 2,377 precincts only (Annex "N," Petition) when there were actually 2,487 precincts. The votes in 110 precincts, therefore, were not included, which is exactly the number of 110 returns questioned by Penaflorida. Further, Duremdes was certified to have garnered 157,361 votes (*ibid.*), which number represents the non-contested votes only, and clearly excludes the totality of the 'contested/deferred votes' of the candidates concerned."

In the case of *Mutuc vs. Comelec*,¹⁶ in the penultimate paragraph of its decision the Supreme Court held that:

"In deciding this case in the way we now do, we are by no means to be understood as formulating a rule to control future cases which, although factually and substantially similar to the present case, may require an altogether different qualitative approach. And we recognize that situation may- and do- arise where it becomes advisable and wholly justified not to wait all returns before proceeding with the proclamation of the winning candidates. The solution we have here adopted has been impelled by, and is predicated solely upon, the peculiar and unusual circumstances here obtaining, relative to which the Comelec acted with inordinate haste."

Further, in recognizing petitioner's arguments in said case, the High Court states that:

"As it is, the Comelec's judgment that the results of the election in Makati would not be materially changed by the inclusion of the votes in precinct 124 is seriously disputed by petitioners, and indeed it is admitted by the respondents that between respondent Cesar Alzona, who garnered 18,190 votes to place eighth among the councilors, and petitioner Michael Joseph, who polled 17,969 to land on the ninth spot, there is a difference of only 221 votes. Conceivably, the 263 votes in precinct 124 could upset the balance."

Clearly, the foregoing Supreme Court cases cited by protestant are not at all on all fours with the instant case. Had protestant only judiciously scrutinized the factual circumstances surrounding the cases, he would have known that these cases do not support his contentions. In fact, the rulings in these cases, in effect, uphold the authority given to BOC to lower the canvassing threshold, in accordance with Section 233 of the OEC.

¹⁶ *Id.*

The case of *Barbers vs. Commission on Elections* (460 SCRA 569),¹⁷ is instructive in the instant case, thus, the Supreme Court ruled that:

“An incomplete canvass of votes is illegal and cannot be the basis of a subsequent proclamation. A canvass is not reflective of the true vote of the electorate unless the board of canvassers considers all returns and omits none. **However, this is true only where the election returns missing or not counted will not affect the results of the elections.**”¹⁸

Hence, it held that, “the Comelec did not commit grave abuse of discretion in issuing the assailed Resolutions affirming Biazon’s proclamation since the uncanvassed returns and the results of the special elections to be held would not materially affect the results of the elections.”

CEF No. 22 was issued two (2) days after CEF No. 24 was issued by the same BOC, which indicates that protestee garnered a total of 98,433 votes. Hence, 1,159 votes were added to protestee’s 97,274 votes stated in CEF No. 24.

The votes that would eventually be obtained from the three clustered precincts excluded in CEF No. 24, to the judgment of the BOC concerned, would not materially affect the results of the elections, considering that protestee had an immense lead of 21,355 votes over protestant even before the inclusion of the election results from the said clustered precincts. Protestee has a final lead of 21,691 votes after their inclusion in CEF No. 22.

It was on the basis of CEF No. 24 that protestee’s proclamation was formally made known to the public by the BOC concerned, witnessed by protestant’s and protestee’s respective counsels, other candidates who were also proclaimed based on lowered canvassing threshold and media personalities who covered the said event on May 15, 2013. There was therefore a strong probability that protestant’s and protestee’s supporters might also be present during the said proclamation. Hence, protestee’s proclamation cannot be made more complete by any other act. Consequently, protestant, by this date, already knew fully well that he lost the election. He should have reckoned the filing of his protest on this date and should not have waited on the electronically printed certificate of canvass of votes and proclamation, on the pretext that it is the completed canvass.

The subsequent execution of CEF No. 22 dated May 17, 2013 is a mere confirmatory act to complement CEF No. 24 dated May 15, 2013. Hence, the two proclamation certificates actually complement each other.

¹⁷ *Robert Z. Barbers, petitioner, vs. Commission on Elections, National Board of Canvassers for Senators and Party-List Representatives, and Rodolfo G. Biazon, respondents*, G.R. No. 165691, June 22, 2005.

¹⁸ Emphasis supplied.

In *Salalima* case earlier cited, the Tribunal held that, "proclamation is the certification or announcement by the Board of Canvassers of the winner as embodied in a Certificate of Canvass of Votes and Proclamation. It is the last act necessary to complete an election."¹⁹

In the instant case, that certificate of canvass and proclamation is CEF No. 24 dated May 15, 2013, the same certificate that was read to the public, which announced protestee's election to the contested position and, thereafter with the raising of the hand, made protestee's proclamation complete.

Thus, the Tribunal considers CEF No. 24 dated May 15, 2013, which is more complete on its face, bearing the thumbmarks and signatures of all the members of the BOC concerned and, also, the signatures of protestant's and protestee's respective counsels, as the reckoning period for the filing of the instant protest.


Rule 16 of 2011 HRET Rules states that:

Rule 16. Election Protest. – A verified petition contesting the election or returns of any Member of the House of Representatives shall be filed by any candidate who has duly filed a certificate of candidacy and has been voted for the same office, within fifteen (15) days after the proclamation of the winner. x x x"

In relation to Rule 16, Rule 19 of the said HRET Rules states that:

Rule 19. Periods Non-Extendible. – The period for the filing of the appropriate petition, as prescribed in Rules 16 and 17, is jurisdictional and cannot be extended.

WHEREFORE, considering that the instant *Petition* for election protest was filed on May 31, 2013, or sixteen (16) days after protestee's proclamation on May 15, 2013, the instant protest is **DISMISSED** for having been filed beyond the reglementary period of fifteen (15) days.


PRESBITERO J. VELASCO, JR.
Associate Justice, Supreme Court
Chairperson


¹⁹ Citing the cases of *Manalo vs. Sevilla*, 24 Phil. 609 and *Sanchez vs. Comelo*, 114 SCRA 454.



DIOSDADO M. PERALTA
Associate Justice, Supreme Court
Member



LUCAS P. BERSAMIN
Associate Justice, Supreme Court
Member



FRANKLIN P. BAUTISTA
Representative
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Member




JOSELITO ANDREW R. MENDOZA
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Member




MA. THERESA B. BONOAN
Representative
Manila, Fourth District
Member



WILFRIDO MARK M. ENVERGA
Representative
Quezon, First District
Member



JERRY P. TREÑAS
Representative
Iloilo City, Lone District
Member



LUZVIMINDA C. ILAGAN
Representative
Party List - GABRIELA
Member

CERTIFICATION

Pursuant to Rule 66 of the 2011 Rules of the House of Representatives Electoral Tribunal, it is hereby certified that the conclusions in the above *Resolution* of the Tribunal were arrived at in consultation before the case was assigned to a Member for writing the same.



PRESBITERO J. VELASCO, JR.
Chairperson

Copy furnished:

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