



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

NOTICE

Sirs/ Mesdames:

Please take notice that in HRET Case No. 13-012 (EP), *Carlos L. Valdez, Jr. vs. Raden C. Sakaluran (First District, Sultan Kudarat)*, the Tribunal issued **Resolution No. 16-016** dated **March 7, 2016**, which reads as follows:

On February 11, 2016, protestant filed a *Motion For Reconsideration* dated February 10, 2016. In his said motion, protestant seeks the reconsideration of the *Decision* rendered by the Tribunal on January 21, 2016 dismissing the instant case for his failure to present substantial evidence to prove his allegation of massive election fraud and anomalies in the protested municipalities.

On February 15, 2016, the Tribunal issued an *Order* directing protestee to comment on protestant's said motion for reconsideration. On February 22, 2016, protestee filed his *Comment/Opposition To Protestant's Motion For Reconsideration* dated February 19, 2016.

In his comment and opposition, protestee contends, among others, that protestant's motion for reconsideration must be denied considering that protestant's allegations basically rely on conjectures and surmises, hence, utterly lack evidence, as already ruled by the Tribunal in dismissing the instant case. Further, according to protestee, the testimonies of protestant and his witnesses were not based on personal knowledge, therefore, hearsay and inadmissible as evidence.

With respect to the claim of protestant that he was not able to field his watchers in the contested polling precincts, according to protestee, the same was due to his fault due to his delayed action. As to the results of the technical examination of the voters' signatures and thumbmarks conducted in the instant case, protestant failed to show how the findings were arrived at. Moreover, protestee claims that the findings that signatures or thumbmarks appearing under one name seem to belong to a different person should not affect protestee's votes, for the evident reason that it cannot be ascertained to whose votes they pertain to, as the ballots of such persons cannot be and were, in fact, not identified. The NBI technical examiners who were called to the witness stand, according to protestee, failed to establish protestant's claim of massive fraud and irregularities in the contested precincts. Hence, the findings of "no opinion" and "no comparison" were correctly

considered inconclusive by the Tribunal. As a result, such findings failed to overcome the presumptions of validity of the ballots and regularity of the votes cast on the ballots.

As for the audit logs, protestee maintains that no evidentiary weight should be accorded to them for lack of proper authentication and for failure of protestant to present competent witnesses to explain the significance of the entries therein. As with previous election documents submitted by protestant, they failed to add substance to protestant's allegations of "highly unusual voters' turn-out" or statistical improbability. Rather than undermine the elections, protestee asserts that it should even be considered credible as it shows consistency and pattern on how the voters vote in the contested precincts.

A perusal of protestant's motion for reconsideration shows that the contentions presented by protestant were already carefully considered by the Tribunal in the deliberation of the assailed decision. The concurring and dissenting opinion of the Chairperson of the Tribunal in the case of *Macarambon vs. Balindong* (HRET Case No. 10-056, February 18, 2013) is not applicable in the instant case. In the case of *Macarambon*, the Chairperson of the Tribunal was able to opine differently with the majority of the members of the Tribunal on the treatment of the results of the voters' fingerprint or thumbmark examinations on the bases of not only the testimonies of the witnesses, but more so on the categorical findings by the NBI examiners of the fingerprint examinations and the entries shown by the audit logs. The fingerprint examination results in said case revealed that the proportion of substitute voters or the "not identical" findings constitute more than fifty percent (50%) of the entire votes cast in some protested clustered precincts. Therefore, annulment of the election results in these affected precincts, according to the Chairperson of the Tribunal, would be proper.

In the same vein, the audit logs presented by protestant Macarambon, according to the Chairperson of the Tribunal, overcome the presumption of regularity in the performance of official duty considering that, some protested clustered precincts closed in less than two (2) to four (4) hours immediately after the polls opened or some opened as early as almost midnight of May 9, 2010 or as late as May 13, 2010, extending the voting way beyond the prescribed voting hours.

In the instant case, as shown in the assailed decision, the findings of "written by two" on the voters' signatures and "not identical" on the voters' fingerprints constitute less than 50% of the voters who actually voted during the election in question. In the same manner that, except for Clustered Precinct No. 20 in the municipality of Lutayan as discussed

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in the decision, the entries in the audit logs presented by protestant were found to have shown *prima facie* no dubious or suspicious circumstances.

In dismissing the instant case, the Tribunal indeed did not categorically rule that no election fraud or anomaly was committed in the protested municipalities, during the election in question. It simply dismissed the instant case on the basis that the total evidence presented by protestant were inadequate to prove his allegations of massive electoral frauds and anomalies. Pertinently, it is a basic legal principle that fraud is never presumed; it must be sufficiently established, hence, it is the duty of the party making such allegation to present evidence to substantiate or establish such claim.

Wherefore, premises considered, the Tribunal **DENIES** protestant's *Motion For Reconsideration* dated February 10, 2016, filed on February 11, 2016 for lack of merit. Protestee's *Comment/Opposition To Protestant's Motion For Reconsideration* dated February 19, 2016, filed on February 22, 2016 is **NOTED**.


GIRLIE I. SALARDA
Secretary of the Tribunal

Copy furnished:

VALDEZ & ANIHAN LAW FIRM
Counsel for Protestant
1870 M.H. Del Pilar Street
Malate, Manila

Atty. ROMULO B. MACALINTAL and
Atty. EDGARDO CARLO L. VISTAN II
Counsel for Protestee
Unit AB-116 Galeria de Magallanes
Lapu-lapu Avenue, Magallanes 1232
Makati City