

EN BANC

[G.R. No. 133509, February 09, 2000]

AQUILINO Q. PIMENTEL, JR., PETITIONER, VS. COMMISSION ON ELECTIONS, LIGAYA SALAYON, ANTONIO LLORENTE, AND REYNALDO SAN JUAN, RESPONDENTS.

D E C I S I O N

DE LEON, JR., J.:

Before Us is a petition for *certiorari* under Rule 65 seeking the invalidation of the Resolutions, dated January 8, 1998^[1] and March 10, 1998,^[2] issued by public respondent Commission on Elections (COMELEC) dismissing, for lack of probable cause, petitioner Aquilino Pimentel's complaint^[3] against private respondents Attys. Ligaya Salayon and Antonio Llorente, Chairman and Vice-Chairman, respectively, of the City Board of Canvassers for Pasig City, and Reynaldo San Juan, Campaign Manager of senatorial candidate Juan Ponce Enrile, for decreasing petitioner's votes in the Statement of Votes (SoVs) per precinct and in the City Certificate of Canvass (CoC)^[4] for Pasig City.

The following facts are not in dispute:

On May 8, 1995, petitioner ran in the national elections as a candidate for senator. Among others, Anna Dominique M. Coseteng, Juan Ponce Enrile, Marcelo B. Fernan, Gregorio Honasan, Ramon V. Mitra, and Rodolfo G. Biazon also ran as senatorial candidates.

Based on the election returns from all the precincts in Pasig City, the total votes^[5] garnered by petitioner and the other abovementioned candidates are as follows:

Biazon	86,068
Coseteng	66,498
Enrile	54,396
Fernan	69,910
Honasan	60,974
Mitra	55,823
Pimentel	72,377

Said election returns were turned over to the City Board of Canvassers of Pasig City for canvassing.

The Certificate of Canvass (CoC) for Pasig City showed the same aforementioned candidates to have each garnered a different number of votes, *viz.*:

Biazon	83,731
Coseteng	54,126
Enrile	91,798

Fernan	69,712
Honasan	62,159
Mitra	56,097
Pimentel	68,040

Said CoC was certified as to the correctness of the entries made therein, by private respondents Salayon and Llorente who signed the same^[6] and affixed their thumbmarks^[7] thereto.

The same private respondents, in their capacity as Chairman and Vice-Chairman of said board, prepared the Statement of Votes (SoVs) for every precinct in Pasig City. Likewise, they certified as to the correctness of the entries made in the SoVs by signing the same and affixing their thumbmarks thereto.

When totalled, the votes reflected in said SoVs as having been garnered by the same candidates above, add to a yet different result, viz.:

Biazon	87,214
Coseteng	67,573
Enrile	90,161
Fernan	72,031
Honasan	62,077
Mitra	56,737
Pimentel	67,936

In sum, the total votes garnered by said candidates as recorded in the election returns, the CoC, and the SoVs for Pasig City, are as follows:

Candidates	Election Returns	Certificate of Canvass	Statement of Votes
Biazon	86,068	83,731	87,214
Coseteng	66,498	54,126	67,573
Enrile	54,396	91,798	90,161
Fernan	69,910	69,712	72,031
Honasan	60,974	62,159	62,077
Mitra	55,823	56,097	56,737
Pimentel	72,377	68,040	67,936

Based on the election returns, the following increase or decrease in the total number of votes garnered by said candidates is evident:

Candidates	Election Returns	Certificate of Canvass	Increase/Decrease	Statement of Votes	Increase/Decrease
Biazon	86,068	83,731	-2,337	87,214	+1,146
Coseteng	66,498	54,126	-12,372	67,573	1,075
Enrile	54,396	91,798	+37,402	90,161	+35,765
Fernan	69,910	69,712	-198	72,031	+2,121
Honasan	60,974	62,159	+1,185	62,077	+1,103
Mitra	55,823	56,097	+274	56,737	+914
Pimentel	72,377	68,040	-4,337	67,936	-4,441

Significantly, the total number of votes for senatorial candidate Enrile showed a substantial increase of 35,765 while that for petitioner showed a substantial decrease of 4,337 in the CoC and 4,441 in the SoVs. The same pattern was revealed in the way the number of Enrile votes per precinct in some 101 precincts in Pasig City exceeded the total number of voters who actually voted in the May 8, 1995 elections. Only 9,031 voters actually voted, as recorded in the SoVs of said precincts, but the Enrile votes totalled 11,255, broken down as follows:

SOV Precinct Number	Precinct Number	Number Who Voted	Enrile votes appearing in SOV
14336	401	100	115
14336	403-A	74	90
14336	402-A	81	90
14336	400	87	98
14338	273-A	11	15
14338	268-B-1	7	15
14340	56	114	120
14340	46	136	150
14340	503-A-1	70	96
14340	391-B	80	101
14342	311-A	105	140
14342	299	107	122
14342	296	107	170
14342	294-B	115	183
14342	339-A	59	142
14342	351-A	82	142
14384	290-A-1	33	40
14384	495-A	82	98
14384	290-D-1	84	95
14384	385-A-1	86	92
14384	293	98	99
14424	324-A	116	147
14424	323-A	121	140
14424	326-A	90	91
14426	114	104	127
14426	130	107	145
14426	125	108	149
14426	442-B	108	151
14426	129-A	115	155
14426	131-A	120	139
14426	440-A	122	138
14426	101-A	141	144
14426	137	144	145
14426	123	146	152
14428	46-A-D-1	28	88
14428	493-A	103	119
14428	457	121	125
14428	384-A	65	76
14428	286	68	71
14428	378-A	72	79
14428	288-A-D-1	92	105
14428	291-B	97	190
14430	191-A-1	27	91

14430	273-B-1	103	110
14430	223	105	111
14430	270	108	110
14430	267	11	20
14430	264-A	119	120
14430	263	67	70
14430	221-A	84	95
14430	224-A	89	94
14430	273-A-D-1	94	102
14430	271	96	100
22793	432-A	67	84
22831	495-A-1	113	125
22833	50-A	121	124
22835	465-B	105	125
22835	465	109	132
22835	452-B	115	121
22835	382-B	84	101
22835	471-A-1	91	99
22841	397-A	165	180
22841	350-A	97	125
22841	466-A	160	165
22843	290-A	62	80
22845	379-A-D-1	42	120
22845	380-A-1	110	118
22845	292-A-1	120	128
22845	384	43	55
22845	288-D-1	45	90
22845	287-B	64	69
22845	381-D-1	69	92
22845	382-A	75	85
22845	492-A	77	134
22845	286-B	78	90
22845	378-A	84	140
22845	382-A-1	90	98
22845	377	93	98
22911	63-A-D-1	160	165
22911	367	67	111
22911	372	70	101
22911	356-A	84	98
22911	499	88	120
22948	161-A	50	89
22948	155	51	95
22948	158	59	89
22948	522	76	125
22948	167	91	127
22949	21-A-1	80	95
22949	5	96	105
5685	300	114	12
5685	320-A	69	126
5685	372-A-D-1	72	115
5685	373-A	77	99
5693	327	114	156
5693	325	114	127
5694	357	69	123
5694	360	75	133

5694	294-A	82	83
5694	341-A	89	129
5694	330-A	96	142
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Total		9,031	11,255

On September 17, 1996, citing the above discrepancies, petitioner filed with the COMELEC, a Complaint-Affidavit charging private respondents with violation of Section 27 (b) of Republic Act (R.A.) No. 6646, otherwise known as the Electoral Reforms Law of 1987. Petitioner therein alleged, thus:

"x x x

"3. A comparison of the COMELEC'S copy of the election returns for the various precincts in Pasig City and the SoVs per precinct for Pasig City reveals that the votes for senatorial candidates Enrile, Coseteng, Honasan, Fernan, Mitra and Biazon, among others, were illegally increased, while my votes were reduced x x x.

"x x x

"4. A perusal of the x x x SoVs shows that padded votes were written in the spaces corresponding to certain precincts regardless of the actual votes reflected in the election return concerned;

"x x x

"In addition, Enrile's votes in 101 precincts exceeded the total number of voters who actually voted in the May 8, 1995 elections in the said precincts xxx;

"7. These illegal acts of padding the votes of the senatorial candidates were willfully committed as clearly evidenced by the magnitude of the totals padded in 575 precincts out of a total of 1,263 as appearing in the SoVs, which in the case of Enrile increased by 35,903 more votes than what he had actually received. By no means can these illegal acts be attributed to mere random 'clerical errors' or due to fatigue;

"8. In fact, the existence of a conspiracy to pad the votes of various senatorial candidates, particularly that of Enrile, is shown, among other things, by the following:

"a) On May 20, 1995, during the national canvassing at the PICC, a letter was sent by one of my staff members to x x x Pasig City Treasurer Victor B. Endriga, with the endorsement of Dir. Mejrada of the Comelec, NCR, requesting for certified copies of the Treasurer's copy of the SoVs;

"x x x

"b) Later we learned that the letter was forwarded from the office of x x x Pasig City Treasurer Endriga to respondent Dr. Reynaldo R. San Juan, Campaign Manager of senatorial