

EN BANC

[G.R. No. 136384, December 08, 1999]

HADJI HUSSEIN MOHAMMAD, PETITIONER, VS. COMMISSION ON ELECTIONS AND ABDULAJID ESTINO, RESPONDENTS.

D E C I S I O N

PURISIMA, J.:

This is a petition for certiorari under Rules 64 and 65 of the 1997 Rules of Civil Procedure assailing the Resolutions dated October 27, 1998 and December 8, 1998, respectively, of the Commission on Elections (COMELEC) in Election Protest Case (EPC) No. 96-2.

The facts that matter are as follows:

The petitioner and the private respondent were among the candidates during the September 9, 1996 elections for the Regional Legislative Assembly of the Autonomous Region for Muslim Mindanao ("ARMM") representing the Second District of the Province of Sulu.

On September 10, 1996, petitioner was proclaimed as the third winning Assemblyman with a total of 31,031 votes. Private respondent garnered a total of 29,941 votes, giving the petitioner a winning margin of 1,090 votes.

Since only three positions for Assemblymen were open, private respondent filed an election protest with the COMELEC alleging rampant substitution of voters, miscounting and/or misreading of ballots by the automated counting machine, and the inclusion in the counting of obviously marked ballots in Precinct Nos. 1, 1A, 2, 10, and 13B of the Municipality of Pata; Precinct Nos. 3, 4, 7, 9, 9A, 9B, 9C, 9D, 10, 10A, 10B, 11, 12, 21, 21A, 22C, and 22D of the Municipality of Luuk; Precinct Nos. 8, 10, 14, 15, 18, 20, 22, 23, 27, and 28 of the Municipality of Panamao; Precinct Nos. 1, 1A, 2, 4, 5, 5A, 6, 7, 8, 10, 11, 11A, 14 and 14A of the Municipality of Tongkil; and Precinct Nos. 1, 2, 3, 4, 5, 7, 8, 9, 10 and 16 of the Municipality of Pandami. Docketed as Election Protest Case No. 96-2, the case was raffled to the Second Division of the COMELEC. Thereafter, petitioner filed his answer with counter-protest questioning the election results in all the precincts of the Municipalities of Panglima Estino, Lugus, Tapul, and Precinct Nos. 2, 2B, 3, 5, 6, 7, and 8 of the Municipality of Kalingalan Caluang.

On September 11, 1997, the COMELEC (Second, formerly First Division) issued an Order directing the Election Records and Statistics Department to undertake a technical examination of the signatures and thumbprints of the voters in the Voter's Registration Records (VRR/CEF No. 1) and the List of Voters with Voting Records or Computerized Voters List (CVL/CEF No. 2) involving the protested and the counter-protested precincts. The examination yielded the following results:

RESULTS OF EXAMINATION FOR PROTESTANT^[1] (protested precincts):

"A. No. of Voters whose thumbprints in CEF-1/VRR
are identical with their thumbprints in CVL (CEF-2) . .
. 907

B. No. of Voters whose thumbprints in CEF No. 1/VRR
are not identical with their thumbprints in CVL (CEF
No. 2) 7,951

C. No. of Voters whose thumbprints in CEF No. 1/VRR
or CVL (CEF No. 2) cannot be analyzed because they
are either blurred, smudged, faint or without
sufficient basis for comparison, some have no
thumbprints no opinion. 9,935

D. No. of voters in every precinct, divided into groups
whose thumbprints in CVL (CEF No. 2) are identical to
each other using different names 4,043"

RESULTS OF EXAMINATION FOR PROTESTEE^[2] (counter-protested precincts):

"A. No. of voters whose thumbprints in CEF 1/VRR are
identical with their thumbprints in CVL (CEF 2) - - - -
- - - - - 611

B. No. of voters whose thumbprints in CEF No. 1/VRR
are not identical with their thumbprints in CVL (CEF
No. 2) - - - - - 6,892

C. No. of voters whose thumbprints in CEF No. 1/VRR
or CVL (CEF No. 2) cannot be analyzed because they
are either blurred, smudged, faint or without
sufficient basis for comparison, some have no
thumbprints no opinion - - - - - 6,449

D. No. of voters in every precinct, divided into groups
whose thumbprints in CVL (CEF No. 2) are identical to
each other using different names-- - - - - 3,224"

On October 27, 1998, on the basis of the aforesaid results of the technical examination, the COMELEC Second Division^[3] issued a Resolution^[4] which decreed:

"WHEREFORE, premises considered, the Commission (Second Division) hereby renders judgment ANNULLING the election and proclamation of protestee HADJI HUSSEIN MOHAMAD as the third winning candidate for the position of Member of the Regional Legislative Assembly of the Autonomous Region of Muslim Mindanao representing the Second District

of the Province of Sulu.

ACCORDINGLY, protestee is hereby DIRECTED to VACATE and RELINQUISH said position to the protestant ABDULAHID ESTINO upon finality of this Resolution."

On October 30, 1998, petitioner presented a Motion for Reconsideration of the said Resolution. However, the COMELEC *En Banc*,^[5] in its Resolution^[6] of December 8, 1998, disposed thus:

"After due deliberation, the Commission (*en banc*), finding no sufficient arguments which would warrant a reversal of this Commission's (Second Division) resolution, the instant motion for reconsideration is hereby DISMISSED for lack of merit. The decision subject of said motion is hereby affirmed."

With the denial of his Motion for Reconsideration, petitioner found his way to this Court *via* the present petition, contending that the COMELEC acted with grave abuse of discretion amounting to lack or excess of jurisdiction, in issuing the assailed Resolutions.

The issues presented for resolution are:

I

WHETHER THE QUESTIONED COMELEC RESOLUTIONS EXPRESS CLEARLY AND DISTINCTLY THE FACTS AND THE LAW ON WHICH THEY ARE BASED.

II

WHETHER THE TECHNICAL EXAMINATION OF THE FINGERPRINTS IN THE VOTING RECORDS WAS THE PROPER METHOD OF RESOLVING PRIVATE RESPONDENT'S ELECTION PROTEST.

III

WHETHER THE COMELEC COMMITTED AN ERROR IN APPRECIATING THE RESULTS OF THE TECHNICAL EXAMINATION OF THE VOTING RECORDS.

On the first issue, the Court rules that the Resolutions under attack express clearly and distinctly the facts and the law upon which the same were based. It is readily apparent from the Resolution promulgated on October 27, 1998 that it was anchored on the results of the technical examination of the handwritings and fingerprints of the voters in the protested precincts, to wit:

"Peripherals aside, the case at bench entails merely the technical examination of the handwritings and fingerprints of the voters in the questioned precincts by going over these details in the Lists of Voters [CEF-2] vis-a-vis the Voter's Registration Records [CEF-1] in order to ascertain the truth or falsity of the allegations of both protestant and protestee. The procedure laid down by the Commission is not a novelty nor an experiment. In *Estaniel vs. Commission on Elections*, 42 SCRA

436, and *Pimping vs. Commission on Elections*, 140 SCRA 192, the Honorable Supreme Court explicitly ruled that a protest case may be decided based on the election documents presented before the Commission without recourse to the ballots. In fact, in a Resolution promulgated on January 31, 1995 by the Commission (First Division) and affirmed by the Commission *En Banc* in the Resolution of April 27, 1995, both on unanimous vote, the Commission decided EPC No. 93-11 [*Estino vs. Burahan*] in accordance with the aforestated pronouncement. The decision in said case was subsequently affirmed by the Supreme Court in G.R. No. L-119846 dated November 2, 1995. Conversely, the Commission is not inclined to discuss the merits of the revision of ballots, the counting thereof having been done by the automated counting machine.

In keeping with these precedents and the prayer of the parties to subject the election documents to the usual technical examination, the Commission (First Division) issued an Order on September 11, 1997 directing the Election Records and Statistics Department to undertake said task with the instruction to submit its report thereon upon termination thereof. The results of the technical examination are as follows:

FOR THE PROTESTANT [protested precincts]:

A. No. of Voters whose thumbprints in CEF - 1/VRR are identical with their thumbprints in CVL (CEF-2). . .	907
B. No. of Voters whose thumbprints in CEF No. 1/VRR are not identical with their thumbprints in CVL (CEF No. 2)	7,951
C. No. of Voters whose thumbprints in CEF No. 1/VRR or CVL (CEF No. 2) cannot be analyzed because they are either blurred, smudged, faint or without sufficient basis for comparison, some have no thumbprints no opinion	9,935
D. No. of voters in every precinct, divided into groups whose thumbprints in CVL (VEF No. 2) are identical to each other using different names . . .	4,043

FOR THE PROTESTEE [counter-protested precincts]:

A. No. of voters whose thumbprints in CEF 1/VRR are identical with their thumbprints in CVL (CEF 2)	611
B. No. of voters whose thumbprints in CEF No. 1/VRR are not identical with their thumbprints in CVL (CEF No. 2)	6,892
C. No. of voters whose thumbprints in CEF No. 1/VRR	6,449