



Republic of the Philippines
COMMISSION ON ELECTIONS
Manila



EN BANC

IN THE MATTER OF FURTHER AMENDING RESOLUTION NO. 10057 (GENERAL INSTRUCTIONS TO BOARD OF ELECTION INSPECTORS ON THE TESTING AND SEALING OF VOTE COUNTING MACHINES (VCMs), AND VOTING, COUNTING, AND TRANSMISSION OF ELECTION RESULTS IN CONNECTION WITH THE MAY 9, 2016 NATIONAL AND LOCAL ELECTIONS), AS AMENDED, AND CERTAIN PROVISIONS OF RESOLUTION NO. 9371

BAUTISTA, Juan Andres D.,	Chairperson
LIM, Christian Robert S.,	Commissioner
PARRENO, Al A.,	Commissioner
GUIA, Luie Tito F.,	Commissioner
LIM, Arthur D.,	Commissioner
GUANZON, Rowena Amelia V.,	Commissioner
ABAS, Sheriff M.,	Commissioner

Promulgated:

May 3, 2016

RESOLUTION NO. 10112

WHEREAS, on March 6, 2012, the Commission on Elections promulgated Resolution No. 9371 to serve as the Rules and Regulations on detainee registration and voting for the May 13, 2013 National and Local Elections and subsequent elections thereafter;

WHEREAS, pursuant to the prevailing rules, the automated election system is configured in such a way that the votes of detainee voters for national and local positions are counted by the same VCM used to count the votes of regular voters from the clustered precincts where said detainee voters are registered;

WHEREAS, the Supreme Court, on April 19, 2016, in the case of *Aguinaldo v. New Bilibid Prison (Bureau of Corrections) et. al.*, G.R. No. 221201, issued a Temporary Restraining Order (TRO) enjoining the Commission on Elections, among others, from applying the following provisions of COMELEC Resolution No. 9371 on the local level: (i) Rule 1, Section 1; (ii) Rule 1, Section 2(a) and (c); (iii) Rule 3, Section 1; and (iv) Rule 7, Section 1;

WHEREAS, the TRO effectively declared that for the May 9, 2016 National and Local Elections detainee voters can only vote for candidates for national positions;

WHEREAS, the Commission on Elections, to comply with the aforesaid order, has to adopt the most practical, and least disruptive adjustment procedure on detainee voting, given the very limited time to adjust, to ensure that the detainees' right to vote is maintained and respected in the coming elections;

NOW, THEREFORE, pursuant to the powers vested in it by the Constitution, the Omnibus Election Code, and other pertinent election laws, the Commission on Elections has RESOLVED, as it hereby RESOLVES, as follows:

SECTION 1. Section 29 of Resolution No. 10057, otherwise known as the *General Instructions to Board of Election Inspectors (BEI) on the Testing and Sealing of Vote Counting Machines (VCMs), and Voting, Counting, and Transmission of Election Results in Connection with the May 9, 2015 National and Local Elections*, is hereby amended to read as follows:

“SEC. 29. Disposition of VCMs, ballot boxes, election returns, and other documents.-

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f) Deliver to the EO the following documents:

1. EDCVL;
2. PCVL;
3. Envelope containing the copy of the Minutes intended for the COMELEC (CEF No. A11);
4. Envelope containing the other half of torn unused official ballots (CEF No. A15);
5. Envelope containing the Initialization Report, Precinct Audit Log Report and Precinct Statistical Report;
6. The envelopes containing copies of the election returns intended for the City/Municipal Board of Canvassers, Provincial Board of Canvassers, and Regional Board of Canvassers, in case the of ARMM, and the COMELEC;
7. Other pertinent papers and documents, and in clustered precincts where there are detainee ballots, the envelope containing DV ballots referred to in Section 41 of this Instruction, as amended.”

SECTION 2. Section 40 of Resolution No. 10057 is likewise amended to read as follows:

“SEC. 40. *Manner of Voting.* -

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c) In case of an escorted DV who personally appear to vote in the polling place, the BEI shall instruct the DV, in clear terms, that, pursuant to the TRO of the Supreme Court in *Aguinaldo vs. National Bilibid Prison, et. al.* (G.R. 221201) he or she can only vote for national candidates namely, candidates for President, Vice-President, Senators and Parties and Organization under the Party-List System of Representation and not for the other positions.”

SECTION 3. Section 41 of Resolution No. 10057 is likewise amended to read:

“SEC. 41. - *Scanning of detainee voters' ballots from the special polling places.* - The BEI shall:

- a) Receive from the SBEI-DV support staff the accomplished ballots by the detainee voters before the close of voting hours on election day;
- b) Upon receipt of the sealed envelope containing the accomplished ballots, such fact shall be entered in the Minutes;
- c) Announce to the public that the accomplished ballots of DVs and torn unused ballots, if there are any, have been received. The BEI shall also announce that pursuant to the TRO of the Supreme Court in *Aguinaldo vs. National*

Bilibid Prison, et. al. (G.R. 221201) detainee voters can only vote for national candidates namely, candidates for President, Vice-President, Senators and Parties and Organization under the Party-List System of Representation and not for the other positions.

- d) Open the envelopes only when all the voters in the clustered precincts have finished voting, or when the voting time has ended and there are no more voters within thirty (30) meters of the polling place waiting to vote;
- e) Examine each DV ballot and separate those that contain votes for positions elected locally, that is, Representative, Governor, Vice-Governor, Sanggunian Panlalawigan Members, Mayor, Vice-Mayor, Sangguniang Panlungsod or Bayan Members (including Regional Governor, Regional Vice-Governor, and Regional Assemblymen for those in the Autonomous Region in Muslim Mindanao);
- f) Feed the ballots with votes only for national positions or the ballots with no votes at all to the VCM;
- g) Ballots that contain votes for local positions shall be separated and not be fed to the VCM;
- h) Place the separated ballots referred to above back to the envelope they came from;
- i) Seal said envelopes and mark the same with the notation "DV ballots with votes for local position/s," and submit the same to the Election Officer;
- j) One half of the torn unused ballots shall be placed inside the envelope for the purpose (CEF No. A15) for submission to the Election Officer and the other half for the torn unused ballots inside the other envelope (CEF No. A15) which will be deposited inside the ballot; and,
- k) Enter such facts into the minutes."

SECTION 4. The following shall be added:

"SEC. 41a - Disposition and Custody of the envelope containing DV ballots with votes for local position/s. - The envelope containing DV ballots with votes for local position/s, if any, shall be handed over by the BEI to the Election Officer, together with the other documents the BEI is required to transmit. Said envelope shall then be transmitted, together with the other documents, to COMELEC Manila for counting of the votes for national positions, if any, should appear in said ballots. A Special Board of Election Inspectors for counting shall be established for the purpose."

SECTION 5. Any provision of previous resolutions of the Commission that is inconsistent with this Resolution shall be deemed repealed or amended accordingly.

SECTION 6. This Resolution shall take effect immediately upon promulgation and publication. Let the Education and Information Department (EID), this Commission, cause the publication of this Resolution in two (2) daily newspapers of general circulation in the Philippines.

The Committee on Detainee Voting, through the Deputy Executive Director for Operations and the Education and Information Department, shall immediately furnish copies hereof to the Department of Education, Bureau of Jail Management and Penology, Armed Forces of the Philippines, Philippine National Police, Bureau of Corrections and all departments and agencies or instrumentalities of the national government, and all Regional Election Directors, Provincial Election Supervisors of the

Commission, who shall in turn furnish copies thereof to their respective Election Officers.

SO ORDERED.

Should comply with existing laws and jurisprudence

J. ANDRES D. BAUTISTA
Chairman
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CHRISTIAN ROBERT S. LIM
Commissioner


AL A. PARRENO
Commissioner


LUIE/TITO F. GUIA
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SHERIFF M. ABAS
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