

## EN BANC

[ G.R. No. 179830, December 03, 2009 ]

### LINTANG BEDOL, PETITIONER, VS. COMMISSION ON ELECTIONS, RESPONDENT.

#### D E C I S I O N

##### LEONARDO-DE CASTRO, J.:

Challenged in this petition for *certiorari* are the twin Resolutions issued by the respondent Commission on Elections (COMELEC) *En Banc* in the case entitled "*In the Matter of the Charge of Contempt of the Commission Against Election Supervisor Lintang Bedol.*" The first Resolution<sup>[1]</sup> dated August 7, 2007, held petitioner guilty of contempt of the COMELEC and meted out to him the penalty of six (6) months imprisonment and a fine of P1,000.00. The second Resolution<sup>[2]</sup> dated August 31, 2007, denied petitioner's motion for reconsideration.

The facts as stated by the COMELEC follow:

On May 14, 2007, the National and Local elections were held under the auspices of this Commission.

As Chair of the Provincial Board of Canvassers (PBOC) for the province of Maguindanao, the respondent [petitioner] discharged his official functions and was able to ensure the PBOC's performance of its ministerial duty to canvass the Certificates of Canvass coming from the twenty two (22) city and municipalities in the province.

At that time, respondent [petitioner] also was charged with the burdensome and gargantuan duty of being the concurrent Provincial Elections Supervisor for the Province of Shariff Kabunsuan a neighboring province of Maguindanao.

Respondent [petitioner] Bedol failed to attend the scheduled canvassing of the Provincial Certificates of Canvass (PCOC) of Maguindanao of which he is the Provincial Election Supervisor which was slated on May 22, 2007.

On May 25, 2007, respondent appeared before the Commission, en banc sitting as the National Board of Canvassers (NBOC) for the election of senators to submit the provincial certificate of canvass for Maguindanao, pursuant to his functions as Provincial Elections Supervisor and chair of the PBOC for Maguindanao. Due to certain 'observations' on the provincial certificates of canvass by certain parties, canvassing of the certificate was held in abeyance and respondent was queried on the

alleged fraud which attended the conduct of elections in his area.

He was already informed of the resetting of the canvassing for May 30, 2007, but failed to appear despite prior knowledge.

On June 4, 2007, Celia B. Romero, Director II, ERSD & Concurrent Chief of the Records and Statistics Division of the COMELEC issued a certification that as of even date, the canvassing documents for all municipalities of the province of Maguindanao in connection with the May 14, 2007 elections were not transmitted by the Provincial Election Supervisor of said province nor the respective Board of Canvassers.

The Commission and not just the NBOC, in the exercise of its investigatory powers to determine existing controversies created the Task Force Maguindanao, headed by Commissioner Nicodemo Ferrer, which was tasked to conduct a fact-finding investigation on the conduct of elections and certificates of canvass from the city and municipalities in Maguindanao.

Respondent [petitioner] appeared before the Task Force during its June 11, 2007 fact finding activity and responded to the queries from the chair. It was during this hearing that respondent [petitioner] Bedol explained that, while in his custody and possession, the election paraphernalia were stolen sometime on May 29, 2007, or some fifteen (15) days after the elections. This was the first time such an excuse was given by the respondent [petitioner] and no written report was ever filed with the Commission regarding the alleged loss.

Respondent [petitioner] Bedol was duly informed to be present in the next scheduled investigative proceedings set for June 14, 2007 as the Task Force wanted to delve deeper into the alleged loss by propounding additional questions to Atty. Bedol during the next scheduled proceedings, such as why he still had in his possession said documents which should have already been turned over to the Commission, why he did not report to the COMELEC or to the police authorities the purported theft, and other pertinent questions. However, despite actual notice in open session, Atty. Bedol failed to appear, giving the impression that respondent [petitioner] Bedol does not give importance to this whole exercise and ignores the negative impact his attitude has on this Commission.

Also respondent [petitioner] failed and refused to submit a written explanation of his absences which he undertook to submit on June 13, 2007, but was only received by this Commission belatedly on July 03, 2007.

On June 26, 2007, [petitioner] came out on national newspapers, in an exclusive interview with the '*Inquirer*' and GMA-7, with a gleaming 45 caliber pistol strapped to his side, and in clear defiance of the Commission posted the challenge by saying that 'those that are saying that there was cheating in Maguindanao, file a case against me

tomorrow, the next day. They should file a case now and I will answer their accusations.'(Words in brackets ours)

On June 27, 2007, the COMELEC through Task Force Maguindanao head, Commissioner Nicodemo T. Ferrer, issued a Contempt Charge and Show Cause Order<sup>[3]</sup> against petitioner citing various violations of the COMELEC Rules of Procedure, viz:

You are hereby formally charged of contempt of this Commission for having committed during the period between May 14, 2007, and June 26, 2007, acts in violation of specific paragraphs of Section 2, Rule 29 of the COMELEC Rules of Procedure, as follows:

1. (a) Your (PES Bedol's) failure to attend the scheduled canvassing of the Provincial Certificates of Canvass (PCOC) of Maguindanao of which he (sic) is (sic) the Provincial Election Supervisor on May 22, 2007; (b) your failure to attend the reset schedule of the canvassing on May 30, 2007, despite knowledge thereof when you attended the previously scheduled but again reset canvassing of said PCOCs on May 25, 2007; (c) your failure to attend the continuation of hearing of the Task Force Maguindanao on June 14, 2007, despite notice to him in open session in the hearing held on June 11, 2007, and personal service to you of a subpoena which you duly signed on the same date; and your failure/refusal to submit your written explanation of your said absences which you undertook to submit on June 13, 2007 - all of these failures on your part are violations of paragraphs (b) and (f) of Section 2, Rule 29 of COMELEC Rules of Procedure.

2. Your unlawful assumption of custody in your office in Maguinadanao of the municipal certificates of canvass (MCOC) and other accountable election documents of all the municipalities of Maguinadanao used in the last elections of 2007, but which should have been delivered to the Commission on Elections in its main office in Intramuros, Manila, and your admission that said accountable documents were lost from your said custody - these constitute violations of paragraphs (a), (c) and (d), section 2, Rule 29 of said Rules.

3. Your pronouncements in the media flaunting [disrespect to] the authority of the COMELEC over you, challenging the institution to file a case against you in court as it is only in court that you are ready to face your accuser are violations of paragraphs (a) and (d), Section 2, Rule 29 of said Rules.

4. Your regaling the media (interviews in national television channels, newspapers and radios) with your boast of possession of an armory of long firearms and side arms, displaying in public for all to see in your front-page colored portrait in a national broadsheet and during a television interview a shiny pistol tucked in a holster at your waist in a `combative mode (sic)' - these are clear violations of paragraphs (a) and (d), Section 2, Rule 29 of said Rules. (Words in brackets ours)

Through the foregoing June 27, 2007 Order, petitioner was directed to appear before the COMELEC En Banc on July 3, 2007 at 10:00 o'clock in the morning to personally explain why he should not be held in contempt for the above-mentioned offenses.

On July 2, 2007, petitioner was arrested by members of the Philippine National Police on the basis of an Order of Arrest<sup>[4]</sup> issued on June 29, 2007 by the COMELEC after petitioner repeatedly failed to appear during the fact-finding proceedings before Task Force Maguindanao.

During the July 3, 2007 hearing, petitioner questioned the COMELEC's legal basis for issuing the warrant of arrest and its assumption of jurisdiction over the contempt charges. Upon petitioner's motion, he was granted a period of ten (10) days within which to file the necessary pleading adducing his arguments and supporting authorities. The continuation of the hearing was set on July 17, 2007.

On July 17, 2007, which was beyond the ten-day period he requested, petitioner submitted an Explanation *Ad Cautelam* with Urgent Manifestation, containing the following averments:

1. Respondent [petitioner] urgently manifests that he is making a special appearance as he assails the jurisdiction of the Honorable Commission and its capacity to prosecute the present case in an impartial and fair manner.
2. Respondent [petitioner] questions the issuance of a warrant of arrest against him. He can not be validly arrested or re-arrested as a witness who is being compelled to testify in a hearing before the Honorable Commission.
3. Respondent [petitioner] has not committed any contemptuous acts against the Commission. He has not committed those acts charged against him by the Commission *motu proprio*. (Words in brackets ours.)

During the hearing on July 17, 2007, petitioner reiterated his objection to the jurisdiction of the COMELEC over the contempt charges due to the absence of a complaint lodged with the COMELEC by any private party. Petitioner's objection was treated as a motion to dismiss for lack of jurisdiction, which was denied forthwith by the COMELEC. Petitioner was then required to present evidence which he refused to do. Various exhibits were then marked and presented to the COMELEC. However, the latter allowed petitioner to file a Memorandum within a period of ten (10) days and gave him the opportunity to attach thereto his documentary and other evidence.

On July 31, 2007, petitioner again belatedly filed his Memorandum<sup>[5]</sup> maintaining his objection to the jurisdiction of the COMELEC to initiate the contempt proceedings on ground that the COMELEC, sitting *en banc* as the National Board of Canvassers for the election of senators, was performing its administrative and not its quasi-judicial functions. Petitioner argued that the COMELEC, in that capacity, could not punish him for contempt.

On August 7, 2007, the COMELEC *En Banc* rendered the first assailed Resolution, the dispositive part of which reads:

WHEREFORE, considering all the foregoing, respondent Atty. Lintang Bedol is hereby found guilty of Contempt of the Commission for the following acts and omissions:

1. (a) The failure to attend the scheduled canvassing of the Provincial Certificates of Canvass (PCOC) of Maguindanao of which he is the Provincial Election Supervisor on May 22, 2007 (b) failure to attend the reset schedule of the canvassing on May 30, 2007, despite knowledge thereof when Respondent Bedol attended the previously scheduled but again reset canvassing on May 25, 2007 (c) failure to attend the continuation of hearing of the Task Force Maguindanao on June 14, 2007, despite notice to Respondent in open session in the hearing held on June 11, 2007, and personal service to him of the subpoena which he duly signed on the same date; the failure/refusal to submit written explanation of respondent's absences which he undertook to submit on June 13, 2007 --- all of these failures are violations of paragraphs (b) and (f) of Section 2, Rule 29 of COMELEC Rules of Procedure.

2. The unlawful assumption of custody in the Respondent's office in Maguindanao of the Municipal Certificates of Canvass (MCOC) and other accountable election documents of all the municipalities of Maguindanao used in the last elections of 2007, but which should have been delivered to the Commission on Elections in its main office in Intramuros, Manila, and Respondent's plain admission that said accountable documents were lost from his said custody --- these constitute violations of paragraphs (a), (c) and (d), Section 2, Rule 29 of said Rules.

3. The respondent's pronouncements in media flaunting disrespect to the authority of the COMELEC over him, challenging the institution to file a case against him in court as it is supposedly only in court that Respondent Bedol was ready to face his accuser are violations of paragraphs (a) and (d), Section 2, Rule 29 of said Rules.

4. Regaling the public through the media (interviews in national television channels, newspapers and radios) with boast of possession of an armory of long firearms and side arms, displaying in public, for all to see in his front-page colored portrait in a national broadsheet and during a television interview, a shiny pistol tucked in a holster at your waist in a 'combative mode' (sic) --- these are clear violations of paragraphs (a) and (d), Section 2, Rule 29 of said Rules.

All the foregoing constitute an exhibition of contumacious acts showing disrespect for the institution, of which respondent is even a ranking official, which is clearly contemptuous of this Commission, for which Respondent Lintang Bedol is hereby sentenced to suffer the penalty of imprisonment of six (6) months and to pay a fine of One Thousand Pesos (P1,000.00).