

CIPRIANO RAYMUNDO, PROTACIO LICSI, RUFO REYES, ELIGIO MARCELO, MARIANO CRUZ, JR., FELICIANO BUENSUCESO, AND NESTORIO SAN JOSE, PETITIONER, VS. PRIMITIVO L. GONZALES, JUDGE OF T...

G.R. No. L-2010. April 09, 1948

Ponente: PERFECTO, J.

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PERFECTO, J.:

Petitioners, protestants in election contests involving the positions of mayor, vice-mayor and councilors of Pasig, Rizal Province, pray that respondent judge be ordered (1) to allow petitioners' handwriting expert to examine protestees' ballots in nine precincts and (2) that the recount of the votes cast for vice-mayor and councilors in nine other precincts be order without delay.

By resolution of February 12, 1948, Exhibit E—4, respondent judge denied a motion where petitioners prayed that their handwriting expert be allowed to examine the ballots revised by the court's commissioners, in order to be able to specify the ballots to which they may object as written by two hands and groups of ballots written by the same hand. The denial is based on the theory that the examination by the handwriting expert tantamount to a second revision, which, according to respondent, is not authorized by law.

Ballots counted or recounted and revised by commissioners appointed by a Court of First Instance are among the documentary evidence in an election contest. They can be examined by the parties, their attorneys and handwriting experts at any time during the trial or proceedings before the decision, subject to the supervision of the court so as to avoid loss, destruction, or tampering. The parties are not bound by objections made at the revision made by the commissioners, and, at the hearing, they may withdraw said objections or formulate others. Ballots reported by commissioners as uncontested may be objected at the hearing, and parties may call experts to examine them and testify as to their findings. That right should not be denied to any party nor curtailed. The purpose of utilizing commissioners of revision is to facilitate and expedite the counting of great numbers of ballots, and the selection of large groups of those that may appear objectionable. The law has expressly authorized it as a timesaving device, for the convenience of the court and the parties.

The prompt disposal of election cases, as commanded by the Election Code, will be better served by avoiding controversies on finical matters of procedure and by being more practical in acting upon incidents so that, while offering to litigants all opportunities to present fairly their side, their evidence, and the questions they raise, the court may without any delay determine the truth of controverted facts, and in due time render judgment upholding the freely expressed will of the majority of the electorate.

As prayed for, respondent judge is ordered to allow the handwriting expert of petitioners to examine the ballots revised by the commissioners on revision, with costs in favor of petitioners.

The recounting of votes for vice-mayor and councilors, mentioned in the second prayer of petitioners, having been

made and completed on February 23, 1948, as alleged by respondents in their supplemental answer of March 24, 1948, averment not disputed by petitioners, action on said prayer is unnecessary.

Paras, Bengzon, Briones, and Padilla, JJ., concur.

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