

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

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

Ponente: LEONARDO-DE CASTRO, J.

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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[1] 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[2] 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[3] 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[4] 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[5] 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).

The Legal Department of the Comelec is hereby directed to investigate and determine whether or not any election offense or crime under the Revised Penal Code has been committed by respondent Lintang Bedol and to initiate the filing of the necessary charge/s therefor.

SO ORDERED.

Aggrieved, petitioner filed a motion for reconsideration which was denied by the COMELEC in the other assailed Resolution dated August 31, 2007.

Hence, petitioner filed before the Court the instant petition for certiorari raising the following issues:

I

WHETHER OR NOT THE COMMISSION ON ELECTIONS HAS JURISDICTION TO INITIATE OR PROSECUTE THE CONTEMPT PROCEEDINGS AGAINST THE PETITIONER.

II

WHETHER OR NOT THE COMMISSSION HAS ALREADY PREJUDGED THE CASE AGAINST THE PETITIONER IN VIOLATION OF HIS DUE PROCESS RIGHTS

III

WHETHER OR NOT THE FINDINGS OF THE COMELEC ON ELECTIONS, ASSUMING IT HAS JURISDICTION TO PUNISH FOR CONTEMPT, ARE SUPPORTED BY SUBSTANTIAL, CREDIBLE AND COMPETENT EVIDENCE.

We dismiss the petition.

The main thrust of petitioner's argument is that the COMELEC exceeded its jurisdiction in initiating the contempt proceedings when it was performing its administrative and not its quasi-judicial functions as the National Board of Canvassers for the election of senators. According to petitioner, the COMELEC may only punish contemptuous acts while exercising its quasi-judicial functions.

The COMELEC possesses the power to conduct investigations as an adjunct to its constitutional duty to enforce and administer all election laws, by virtue of the explicit provisions of paragraph 6, Section 2, Article IX of the 1987 Constitution, which reads:

Article IX-C, Section 2. xxx

(6) xxx; investigate and, where appropriate, prosecute cases of violations of election laws, including acts or omissions constituting election frauds, offenses, and malpractices.

The above-quoted provision should be construed broadly to give effect to the COMELEC's constitutional mandate as enunciated in *Loong v. Commission on Elections*,^[6] which held:

xxx. Section 2(1) of Article IX(C) of the Constitution gives the COMELEC the broad power "to enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum and recall." Undoubtedly, the text and intent of this provision is to give COMELEC all the necessary and incidental powers for it to achieve the objective of holding free, orderly, honest, peaceful, and credible elections. Congruent to this intent, this Court has not been niggardly in defining the parameters of powers of COMELEC in the conduct of our elections.

The powers and functions of the COMELEC, conferred upon it by the 1987 Constitution and the Omnibus Election Code, may be classified into administrative, quasi-legislative, and quasi-judicial. The quasi-judicial power of the COMELEC embraces the power to resolve controversies arising from the enforcement of election laws, and to be the sole judge of all pre-proclamation controversies; and of all contests relating to the elections, returns, and qualifications. Its quasi-legislative power refers to the issuance of rules and regulations to implement the election laws and to exercise such legislative functions as may expressly be delegated to it by Congress. Its administrative function refers to the enforcement and administration of election laws. In the exercise of such power, the Constitution (Section 6, Article IX-A) and the Omnibus Election Code (Section 52 [c]) authorize the COMELEC to issue rules and regulations to implement the provisions of the 1987 Constitution and the Omnibus Election Code.^[7]

The quasi-judicial or administrative adjudicatory power is the power to hear and determine questions of fact to which the legislative policy is to apply, and to decide in accordance with the standards laid down by the law itself in enforcing and administering the same law. The Court, in *Dole Philippines Inc. v. Esteva*,^[8] described quasi-judicial power in the following manner, viz:

Quasi-judicial or administrative adjudicatory power on the other hand is the power of the administrative agency to adjudicate the rights of persons before it. It is the power to hear and determine questions of fact to which the legislative policy is to apply and to decide in accordance with the standards laid down by the law itself in enforcing and administering the same law. The administrative body exercises its quasi-judicial power

when it performs in a judicial manner an act which is essentially of an executive or administrative nature, where the power to act in such manner is incidental to or reasonably necessary for the performance of the executive or administrative duty entrusted to it. In carrying out their quasi-judicial functions the administrative officers or bodies are required to investigate facts or ascertain the existence of facts, hold hearings, weigh evidence, and draw conclusions from them as basis for their official action and exercise of discretion in a judicial nature. Since rights of specific persons are affected, it is elementary that in the proper exercise of quasi-judicial power due process must be observed in the conduct of the proceedings. [Emphasis ours.]

The Creation of Task Force Maguindanao was impelled by the allegations of fraud and irregularities attending the conduct of elections in the province of Maguindanao and the non-transmittal of the canvassing documents for all municipalities of said province.

Task Force Maguindanao's fact-finding investigation - to probe into the veracity of the alleged fraud that marred the elections in said province; and consequently, to determine whether the certificates of canvass were genuine or spurious, and whether an election offense had possibly been committed - could by no means be classified as a purely ministerial or administrative function.

The COMELEC, through the Task Force Maguindanao, was exercising its quasi-judicial power in pursuit of the truth behind the allegations of massive fraud during the elections in Maguindanao. To achieve its objective, the Task Force conducted hearings and required the attendance of the parties concerned and their counsels to give them the opportunity to argue and support their respective positions.

The effectiveness of the quasi-judicial power vested by law on a government institution hinges on its authority to compel attendance of the parties and/or their witnesses at the hearings or proceedings. As enunciated in *Arnault v. Nazareno*[9] -

Experience has shown that mere requests for such information are often unavailing, and also that information which is volunteered is not always accurate or complete; so some means of compulsion is essential to obtain what is needed.

In the same vein, to withhold from the COMELEC the power to punish individuals who refuse to appear during a fact-finding investigation, despite a previous notice and order to attend, would render nugatory the COMELEC's investigative power, which is an essential incident to its constitutional mandate to secure the conduct of honest and credible elections. In this case, the purpose of the investigation was however derailed when petitioner obstinately refused to appear during said hearings and to answer questions regarding the various election documents which, he claimed, were stolen while they were in his possession and custody. Undoubtedly, the COMELEC could punish petitioner for such contumacious refusal to attend the Task Force hearings.

Even assuming *arguendo* that the COMELEC was acting as a board of canvassers at that time it required petitioner to appear before it, the Court had the occasion to rule that the powers of the board of canvassers are not purely ministerial. The board exercises quasi-judicial functions, such as the function and duty to determine whether the papers transmitted to them are genuine election returns signed by the proper officers.[10] When the results of the elections in the province of Maguindanao were being canvassed, counsels for various candidates posited numerous questions on the certificates of canvass brought before the COMELEC. The COMELEC asked petitioner to appear before it in order to shed light on the issue of whether the election documents coming from Maguindanao were spurious or not. When petitioner unjustifiably refused to appear, COMELEC undeniably acted within the bounds of its jurisdiction when it issued the assailed resolutions.

In *Santiago, Jr. v. Bautista*, [11] the Court held:

xxx. The exercise of judicial functions may involve the performance of legislative or administrative duties, and

the performance of and administrative or ministerial duties, may, in a measure, involve the exercise of judicial functions. It may be said generally that the exercise of judicial functions is to determine what the law is, and what the legal rights of parties are, with respect to a matter in controversy; and whenever an officer is clothed with that authority, and undertakes to determine those questions, he acts judicially.

On the procedure adopted by the COMELEC in proceeding with the indirect contempt charges against petitioner, Section 52 (e), Article VII of the Omnibus Election Code pertinently provides:

Section 52. Powers and functions of the Commission on Elections.

xxx

(e) Punish contempts provided for in the Rules of Court in the same procedure and with the same penalties provided therein. Any violation of any final and executory decision, order or ruling of the Commission shall constitute contempt thereof. [Emphasis ours.]

The aforecited provision of law is implemented by Rule 29 of COMELEC's Rules of Procedure, Section 2 of which states:

Rule 29 - Contempt

Sec. 1. xxx

Sec. 2. Indirect Contempt. - After charge in writing has been filed with the Commission or Division, as the case may be, and an opportunity given to the respondent to be heard by himself or counsel, a person guilty of the following acts may be punished for indirect contempt:

(a) Misbehavior of the responsible officer of the Commission in the performance of his official duties or in his official transactions;

(b) Disobedience of or resistance to a lawful writ, process, order, judgment or command of the Commission or any of its Divisions, or injunction or restraining order granted by it;

(c) Any abuse of or any unlawful interference with the process or proceedings of the Commission or any of its Divisions not constituting direct contempt under Section 1 of this Rules;

(d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice by the Commission or any of its Divisions;

(e) Assuming to be an attorney and acting as such without authority; and

(f) Failure to obey a subpoena duly served.

SEC. 3 Penalty for Indirect Contempt. - If adjudged guilty, the accused may be punished by a fine not exceeding one thousand (P1,000.00) pesos or imprisonment for not more than six (6) months, or both, at the discretion of the Commission or Division.

The language of the Omnibus Election Code and the COMELEC Rules of Procedure is broad enough to allow the initiation of indirect contempt proceedings by the COMELEC *motu proprio*. Furthermore, the above-quoted provision of Section 52(e), Article VII of the Omnibus Election Code explicitly adopts the procedure and penalties provided by the Rules of Court. Under Section 4, Rule 71, said proceedings may be initiated *motu proprio* by the COMELEC, viz:

SEC. 4. How proceedings commenced. - Proceedings for indirect contempt may be initiated *motu proprio* by the court against which the contempt was committed by an order or any other formal charge requiring the respondent to show cause why he should not be punished for contempt.

In all other cases, charges for indirect contempt shall be commenced by a verified petition with supporting particulars and certified true copies of documents or papers involved therein, and upon full compliance with the requirements for filing initiatory pleadings for civil actions in the court concerned. If the contempt charges arose out of or are related to a principal action pending in the court, the petition for contempt shall allege that fact but said petition shall be docketed, heard and decided separately, unless the court in its discretion orders the consolidation of the contempt charge and the principal action for joint hearing and decision.

Hence, the COMELEC properly assumed jurisdiction over the indirect contempt proceedings which were initiated by its Task Force Maguindanao, through a Contempt Charge and Show Cause Order, notwithstanding the absence of any complaint filed by a private party.

We turn now to petitioner's claim that the COMELEC pre-judged the case against him, and that its findings were not supported by evidence. His claim deserves scant consideration.

The fact that the indirect contempt charges against petitioner were initiated *motu proprio* by the COMELEC did not by itself prove that it had already prejudged the case against him. As borne out by the records, the COMELEC gave petitioner several opportunities to explain his side and to present evidence to defend himself. All of petitioner's belatedly filed pleadings were admitted and taken into consideration before the COMELEC issued the assailed Resolution finding petitioner guilty of indirect contempt.

The COMELEC complied with the aforementioned Section 4, Rule 71 of the Rules of Court and with the requirements set by Rule 29 of the COMELEC Rules of Procedure, when it issued the Contempt Charge and Show Cause Order against petitioner directing him to appear before it and explain why he should not be held in contempt.

Petitioner claims that the challenged Resolution finding him guilty of indirect contempt was based merely on hearsay, surmises, speculations and conjectures, and not on competent and substantial evidence. He contends that there is no convincing evidence that he deliberately refused to heed the summonses of the COMELEC or that he was sufficiently notified of the investigative hearings. He further argues that the loss of the election documents should not even be automatically ascribed to him.

We are not persuaded.

Petitioner was found guilty of contempt on four (4) grounds. First, he repeatedly failed to attend, despite notice of the scheduled^[12] canvassing of the Provincial Certificates of Canvass, the hearing of the Task Force Maguindanao; and refused to submit his explanation for such absences, which he had undertaken to submit, in violation of paragraphs (b) and (f) of Section 2, Rule 29 of the COMELEC Rules of Procedure.

Petitioner was duly notified of the scheduled hearings. It was his official responsibility to be present during the scheduled hearing to shed light on the allegedly stolen election documents but he failed to do so without offering any valid justification for his non-appearance.

Second, he unlawfully assumed custody of accountable election documents, which were lost while in his possession, and consequently failed to deliver the same, in violation of paragraphs (a), (c) and (d) Section 2, Rule 29 of same Rules.

Petitioner admitted that the subject certificate of canvass and other election documents were lost while in his custody. Petitioner himself admitted during the hearing held on June 11, 2007 that the documents were stolen sometime on May 29, 2007. Apart from the said loss of the vital election documents, his liability stemmed from the fact that he illegally retained custody and possession of said documents more than two weeks after the elections. The COMELEC viewed such act as a contemptuous interference with its normal functions.

Third and fourth, he publicly displayed disrespect for the authority of the COMELEC through the media (interviews on national television channels, and in newspapers and radios) by flaunting an armory of long firearms and side arms in public, and posing for the front page of a national broadsheet, with a shiny pistol tucked in a holster, in violation of paragraphs (a) and (d), Section 2, Rule 29 of same Rules.

Petitioner questions the probative value of the newspaper clippings published in the Philippine Daily Inquirer on June 26, 2007 which showed a photo of him with a firearm tucked to his side and his supposed exclusive interview. He claims that said newspaper clippings are mere hearsay, which are of no evidentiary value.

True, there were instances when the Court rejected newspaper articles as hearsay, when such articles are offered to prove their contents without any other competent and credible evidence to corroborate them. However, in *Estrada v. Desierto, et al.*,^[13] the Court held that not all hearsay evidence is inadmissible and how over time, exceptions to the hearsay rule have emerged. Hearsay evidence may be admitted by the courts on grounds of "relevance, trustworthiness and necessity."^[14] When certain facts are within judicial notice of the Court, newspaper accounts "only buttressed these facts as facts."^[15]

Another exception to the hearsay rule is the doctrine of independently relevant statements, where only the fact that such statements were made is relevant, and the truth or falsity thereof is immaterial. The hearsay rule does not apply; hence, the statements are admissible as evidence. Evidence as to the making of such statement is not secondary but primary, for the statement itself may constitute a fact in issue or be circumstantially relevant as to the existence of such a fact.^[16]

Here, the newspaper clippings were introduced to prove that petitioner deliberately defied or challenged the authority of the COMELEC. As ratiocinated by the COMELEC in the challenged Resolution of August 7, 2007, it was not the mere content of the articles that was in issue, but petitioner's conduct when he allowed himself to be interviewed in the manner and circumstances, adverted to in the COMELEC Resolution, on a pending controversy which was still brewing in the COMELEC. While petitioner claimed that he was misquoted, he denied neither the said interview nor his picture splashed on the newspaper with a firearm holstered at his side but simply relied on his objection to the hearsay nature of the newspaper clippings. It should be stressed that petitioner was no ordinary witness or respondent. He was under the administrative supervision of the COMELEC^[17] and it was incumbent upon him to demonstrate to the COMELEC that he had faithfully discharged his duties as dictated by law. His evasiveness and refusal to present his evidence as well as his reliance on technicalities to justify such refusal in the face of the allegations of fraud or anomalies and newspaper publication mentioned to the Contempt Charge and Show Cause Order amounted to an implied admission of the charges leveled against him.

All told, petitioner brought this predicament upon himself when he opted to dispense with the presentation of his evidence during the scheduled hearings and to explain his non-appearance at the hearings of Task Force Maguindanao and the loss of the certificates of canvass and other election documents.

WHEREFORE, the petition is hereby DISMISSED and the prayer for a Temporary Restraining Order and/or a Writ of Preliminary Injunction is hereby DENIED. No costs.

SO ORDERED.

Puno, C.J., Carpio, Carpio Morales, Chico-Nazario, Nachura, Brion, Bersamin, Del Castillo, Abad, and Villarama, JJ., concur.

Corona, Velasco, Jr., and Peralta, JJ., on official leave.

- [1] Rollo, pp. 56-76.
- [2] Id. at 77-78.
- [3] Rollo, pp. 79-80.
- [4] Id. at 81.
- [5] Id. at 123-146.
- [6] G.R. No. 133676, April 14, 1999, 305 SCRA 832, 866-867.
- [7] Akbayan - Youth, et al. v. COMELEC, G.R. No. 147066, March 26, 2001, 355 SCRA 318, 364.
- [8] G.R. No. 161115, November 30, 2006, 509 SCRA 332, 369-370.
- [9] 87 Phil. 29, 45 (1950).
- [10] Torres v. Ribo, 81 Phil 44, 48 (1948).
- [11] No. L-25024, March 30, 1970, 32 SCRA 188, 198; citing In State ex rel. Board of Commrs. v. Dunn (86 Minn. 301, 304).
- [12] May 22, 2007 and May 30, 2007.
- [13] G.R. Nos. 146710-15, April 3, 2001, 356 SCRA 108, 128.
- [14] Id.
- [15] Id. at 124.
- [16] People v. Malibiran, G.R. No. 178301, April 24, 2009.
- [17] Canicosa v. COMELEC, G.R. No. 120318, December 5, 1997, 282 SCRA 512, 521-522.

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