EN BANC

NOTICE

Sirs/Mesdames:

Please take notice that the Court en banc issued a Resolution dated **MARCH 17, 2016,** *which reads as follows:*

"**G.R. No. 222731** (Bagumbayan-VNP Movement, Inc. and Richard J. Gordon, as Chairperson of the Bagumbayan-VNP Movement, Inc. vs. Commission on Elections).- The Court resolved to:

(a) **DENY** for lack of merit the Motion for Leave to Intervene dated March 11, 2016 filed by Atty. H. Harry Roque;

(b) **NOTE WITHOUT ACTION** the Petition-in-Intervention dated March 11, 2016 filed by Atty. H. Harry Roque in view of the denial of the Motion for Leave;

(c) **GRANT** the Urgent Motion to Allow Petitioner to Bring its Own Resource Persons dated March 16, 2016 filed by petitioners; and

(d) **NOTE** the separate Compliances, both dated March 17, 2016, filed by petitioners and respondent.

At the hearing of this case this morning, the following parties and counsel appeared:

RESPONDENT-MOVANT COMELEC
Chairperson Andres D. Bautista
Commissioner Christian Robert S. Lim
Commissioner Sheriff M. Abas

COUNSEL FOR RESPONDENT-MOVANT
Solicitor General Florin T. Hilbay
Atty. Maximo Paulino T. Sison III
Associate Solicitor Lilibeth C. Perez
Associate Solicitor Jose Angelo A. David

PETITIONER/COUNSEL FOR PETITIONERS

Senator Richard J. Gordon
Atty. Reynaldo A. Dario
Atty. Rodolfo O. Reyes
Atty. Caesar Augustus P. Blanco
Atty. Sharwina W. Gonzales

The issues for the purpose of the oral arguments were as follows:

(a)   Whether the March 8, 2016 Writ of Mandamus can be complied with in good faith for the May 9, 2016 elections considering the material time left for preparation; and

(b)   Whether there are sufficient safeguards that can meet the purpose, if not the letter, of the statutory requirement of a voter-verified paper audit trail.

The COMELEC Chairperson delivered his opening statement, followed by Solicitor General Hilbay who presented the oral arguments for the COMELEC. Thereafter, Commissioner Lim proceeded with the demonstration of the actual voting process, with and without the issuance of the voter's receipt. Upon the directive of the Court, the Clerk of Court marked the receipts issued during the demonstration as evidence for the COMELEC, to wit:

Evidence "A" - Receipt issued to the first voter who yanks the receipt

Evidence "B" - Receipt issued to the second voter following the first voter

Evidence "C" - Receipt issued to the voter who casts his/her vote after the resetting of the vote-counting machine due to paper jam or paper roll change.

Thereafter, petitioner Senator Richard J. Gordon presented the oral arguments for himself and in behalf of petitioner Bagumbayan.
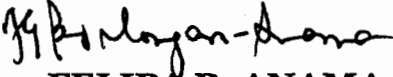
Interpellation by the Justices immediately followed. During the interpellation, both parties were directed, among others, to present their proposed timelines leading to the election on May 9, 2016. Commissioner Lim manifested that the timeline for the COMELEC was prepared with the assistance of Messsrs. Marlon Garcia, Elie Moreno and Miguel Avila of SMARTMATIC and of Directors Jose M. Tolentino, Jr. and Ester L. Villaflor-Roxas of the COMELEC. The timeline presented by the petitioners was prepared with the assistance of Atty. Glenn Chong and Mr. Ernesto R. Del Rosario.

After hearing the issues and arguments raised, the Court Resolved, in open court, to consider the pending motion for reconsideration of the COMELEC submitted for resolution." Carpio and Bersamin, JJ., on leave. (adv1-a)

Very truly yours,

FELIPA B. ANAMA
Clerk of Court

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HON. ANDRES D. BAUTISTA (x)
HON. CHRISTIAN ROBERT S. LIM (x)
HON. SHERIFF M. ABAS (x)
Comelec
Intramuros, Manila

Solicitor General FLORIN T. HILBAY (x)
ATTY. MAXIMO PAULINO T. SISON III (x)
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Makati City

G.R. No. 222731
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EN BANC

NOTICE

Sirs/Mesdames:

Please take notice that the Court en banc issued a Resolution dated **MARCH 17, 2016,** *which reads as follows:*

"**G.R. No. 222731 (Bagumbayan-VNP Movement, Inc. and Richard J. Gordon, as Chairperson of Bagumbayan-VNP Movement, Inc. v. Commission on Elections)** – For this Court's resolution is the Commission on Elections' Motion for Reconsideration[1] of the March 8, 2016 Resolution[2] of this Court.

On February 22, 2016, petitioners filed a Petition[3] for Mandamus praying that a writ be issued to compel the Commission on Elections to comply with the provisions of Section 6[4](e), (f), and (n) of Republic Act No. 8436, as amended.[5] In view of the urgent nature of the case, this Court ordered the Commission on Elections to comment on the Petition within a non-extendible period of five (5) days.[6] However, the Commission on Elections failed to file the Comment within the time allotted.[7] Hence, this Court was constrained to decide the case based on the merits presented

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[1] *Rollo*, pp. 152–164.

[2] Id. at 136–151; *Bagumbayan-VNP Movement, Inc. et al. v. Commission on Elections*, G.R. No. 222731, March 8, 2016 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/march2016/222731.pdf> [Per J. Leonen, En Banc]. The Resolution was concurred in by Chief Justice Maria Lourdes P. A. Sereno and Associate Justices Antonio T. Carpio, Presbitero J. Velasco, Jr., Teresita J. Leonardo-De Castro, Diosdado M. Peralta, Lucas P. Bersamin, Mariano C. Del Castillo, Jose Portugal Perez, Jose Catral Mendoza, Bienvenido L. Reyes, Estela M. Perlas-Bernabe, Francis H. Jardeleza, and Alfredo Benjamin S. Caguioa. Associate Justice Arturo D. Brion was on leave.

[3] Id. at 3–27.

[4] Rep. Act No. 8436 (1997), sec. 6(e)(f) and (n), as amended, provides:
SEC. 6. Minimum System Capabilities. — The automated election system must at least have the following functional capabilities:

. . . .

(e) Provision for voter verified paper audit trail;
(f) System auditability which provides supporting documentation for verifying the correctness of reported election results;

. . . .

(n) Provide the voter a system of verification to find out whether or not the machine has registered his choice[.]

[5] *Rollo*, p. 23.

[6] Id. at 70, Supreme Court Resolution dated February 23, 2016.

[7] Id. at 79–80, Commission on Elections' Motion for Additional Time to File Comment.

solely in the Petition.[8]

In the Resolution dated March 8, 2016, this Court granted the Petition and issued a Writ of Mandamus.[9] Thus:

> **WHEREFORE**, the Petition for Mandamus is **GRANTED**. The Commission on Elections is **ORDERED** to enable the vote verification feature of the vote-counting machines, which prints the voter's choices without prejudice to the issuance of guidelines to regulate the release and disposal of the issued receipts in order to ensure a clean, honest, and orderly elections such as, but not limited to, ensuring that after voter verification, receipts should be deposited in a separate ballot box and not taken out of the precinct.
>
> **SO ORDERED.**[10] (Emphasis in the original)

In its Motion for Reconsideration,[11] the Commission on Elections restates some of the arguments presented in a Comment[12] attached to a Motion[13] to Admit, which were belatedly filed. The Commission on Elections also presents new arguments regarding the logistical difficulties it will face to comply with this Court's Writ of Mandamus.[14]

On March 15, 2016, this Court set the case for oral arguments on March 17, 2016[15] to allow the parties to present their case and arguments on the following issues:

> A.   Whether the March 8, 2016 Writ of Mandamus can be complied with in good faith for the May 9, 2016 elections considering the material time left for preparations;
>
> B.   Whether there are sufficient safeguards that can meet the purpose, if not the letter, of the statutory requirement of a voter-verified paper audit trail[.][16]

We deny the Motion for Reconsideration.

The Commission on Elections recognizes the mandatory nature of the

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[8]   Id. at 84–A, Supreme Court Resolution dated March 1, 2016.

[9]   Id. at 149, Supreme Court Resolution dated March 8, 2016; *Bagumbayan-VNP Movement, Inc. et al. v. Commission on Elections*, G.R. No. 222731, March 8, 2016 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/march2016/222731.pdf> 14 [Per J. Leonen, En Banc].
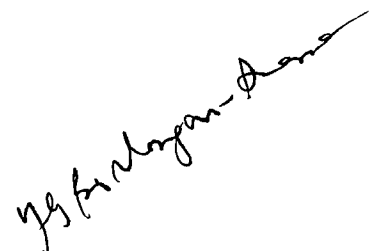
[10] Id.

[11] *Rollo*, pp. 152–164.

[12] Id. at 116–125.

[13] Id. at 113–115.

[14] Id. at 159–161.

[15] Id. at 192–A, Supreme Court Resolution dated March 15, 2016.

[16] Id. at 192–A, Supreme Court Advisory dated March 15, 2016.

voter-verified paper audit trail (VVPAT) requirement in the Terms of Reference[17] for the 2016 National and Local Elections Automation Project. The Terms of Reference clearly specify that the machine must have a "vote verification feature which shall display and print the voter's choices[.]"[18]

Yet, the Commission on Elections argues that the provision of paper ballots complies with the VVPAT requirement under Section 6(e), (f), and (n) of Republic Act No. 8436, as amended.[19] It argues that the purpose of the VVPAT is to provide "(1) **system auditability** which provides supporting documentation for verifying the correctness of reported election results; and (2) **providing the voter a system of verification** to find out whether or not the machine has registered his/her choice."[20] The Commission on Elections emphasizes that "the law does not require each voter to personally verify whether the [vote-counting machines] have been able to count [his or her] votes."[21]

According to the Commission on Elections, a voter's receipt requirement is only necessary when it uses a direct recording electronic election system, or a system where voters input their votes on the machine's monitor and select candidates through a touch-screen terminal.[22] In the direct recording electronic election system, only electronic audit trails are created; hence, a voter's receipt is necessary in order to provide a paper-based audit trail to "prevent electoral fraud and *to verify that the votes were interpreted correctly by the machine.*"[23]

On the other hand, our current system of automated elections is through an optical mark reader, which requires voters to utilize paper ballots in order to cast votes. Thus, according to the Commission on Elections:

> The situation is entirely different in a paper-based election system where, as in the present case, there are numerous audit trails of the votes cast which protect the sanctity of the vote, specifically: (1) the paper ballot, (2) the ballot image, (3) storage media cards, and (4) the on-screen verification functionality. In this instance where there is a paper audit trail of the paper ballot and other various electronic audit trails, the issuance of a voting receipt is a surplusage.[24]

[17] COMELEC, 2016 National and Local Elections Automation Project, Terms of Reference <http://www.comelec.gov.ph/uploads/AboutCOMELEC/BidsandAwards/ProcurementProjects/BAC01 2014AESOMR/BAC012014AESOMRITB_TermsOfReference.pdf> (visited March 8, 2016).
[18] Id. at 18.
[19] *Rollo*, p. 153, Commission on Elections' Motion for Reconsideration.
[20] Id.
[21] Id.
[22] Id. at 154.
[23] Id.
[24] Id.

The Commission on Elections cites *Archbishop Capalla, et al. v. Commission on Elections*[25] and *Roque, Jr., et al. v. Commission on Elections, et al.*[26] as this Court's recognition of the difference in the demands of auditability between the direct recording electronic and the optical mark reader election systems.[27] The Commission on Elections also notes that petitioner Richard J. Gordon himself acknowledged that paper audit trails are not limited to voting receipts during the Senate deliberations for the amendments of Republic Act No. 8436.[28]

The law is clear. A voter's receipt is necessary to fully comply with the requisites of Section 6(e), (f), and (n) of Republic Act No. 8436, as amended. The paper ballots cannot substitute for the voter's receipt.

Section 6(e), (f), and (n) of Republic Act No. 8436, as amended, may be interrelated but are distinct requirements under the law. To recall, the provision states:

> SEC. 6. *Minimum System Capabilities.* —The automated election system must at least have the following functional capabilities:
>
> . . . .
>
> (e) Provision for voter verified paper audit trail;
>
> (f) System auditability which provides supporting documentation for verifying the correctness of reported election results;
>
> . . . .
>
> (n) Provide the voter a system of verification to find out whether or not the machine has registered his choice[.]

Section 6(e) requires a "voter verified paper audit trail[.]" The phrase "voter verified" modifies the "paper audit trail[,]" which means that the voter himself or herself must verify the paper audit trail. It is incorrect for the Commission on Elections to argue that the law does not require each voter to verify whether the vote-counting machines recorded his or her votes properly. In addition to the clear phrasing under Section 6(e), Section 6(n) emphasizes the need for the voter to verify whether or not the machine has properly registered his or her choice.
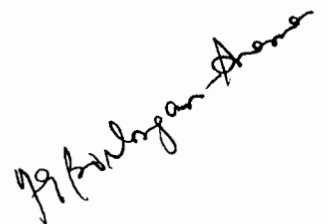
If the law only intended for system auditability, then it would not have included Section 6(e) and (n), and would just have relied on Section 6(f).

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[25] 687 Phil. 617 (2012) [Per J. Peralta, En Banc].
[26] 615 Phil. 149 (2009) [Per J. Velasco, Jr., En Banc].
[27] *Rollo*, pp. 154–155, Commission on Elections' Motion for Reconsideration.
[28] Id. at 155–156.

Section 6(e) cannot be interpreted to mean that the paper ballots may be considered as the voter-verified paper audit trail. The paper ballots may be a form of a paper audit trail, but they are not voter-verified. Voter verification may only be done after the voter casts his or her votes. Voter verification of whether the vote-counting machine considered his or her ballot cannot simply be done with just the paper ballot.

The paper ballot's counterpart in a direct recording electronic election system is the touchscreen terminal, not the voter's receipt. The Commission on Elections pointed out that in a direct recording electronic election system, the voter's receipt is necessary for the voter to be able to verify if his or her vote was correctly recorded by the machine.[29] This necessity is not eliminated merely because the Commission on Elections chose the optical mark reader voting machines instead of a direct recording electronic machine. Even if the voter records his or her votes through a paper ballot, without a voter's receipt, the voter still cannot verify if the machine correctly read his or her vote. *While the paper ballot assists in preventing electoral fraud, it does not provide the security to the voter that the machine has correctly recorded his or her vote.*

Nothing in the law states that the VVPAT requirement is only limited to direct recording electronic election systems. Not even this Court's earlier Decisions limit the VVPAT requirement to the direct recording electronic election system.

The Commission on Elections incorrectly cited our Decisions in *Archbishop Capalla* and *Roque, Jr.* Both cases questioned the propriety of the agreements between Commission on Elections and Smartmatic-TIM.[30] In both cases, the petitioners did not question the resolutions of the Commission on Elections denying the provision of a voter's receipt.

In *Archbishop Capalla*, the petitioners questioned the Commission on Elections' exercise of the option to purchase the Precinct Count Optical Scan (PCOS) machines.[31] This Court declared that the Deed of Sale between the Commission on Elections and Smarmatic-TIM as valid.[32] The Commission on Elections cited the Separate Concurring Opinion of Associate Justice Presbitero J. Velasco, Jr.,[33] which stated:

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[29] Id. at 154.

[30] *Archbishop Capalla, et al. v. Commission on Elections*, 687 Phil. 617, 655–658 (2012) [Per J. Peralta, En Banc]; *Roque, Jr., et al. v. Commission on Elections, et al.*, 615 Phil. 149, 191 (2009) [Per J. Velasco, Jr., En Banc].

[31] *Archbishop Capalla, et al. v. Commission on Elections*, 687 Phil. 617, 663 (2012) [Per J. Peralta, En Banc].

[32] Id. at 644 and 688.

[33] *Rollo*, p. 154, Commission on Elections' Motion for Reconsideration.

> [I]t is important to note that the AES in question is still paper-based, unlike a Direct Recording Electronic election where the vote is cast directly on a machine by the use of a touchscreen, touchpad, keypad or other device, and the machine records the individual votes and calculates the vote totals electronically; thus, without a printed receipt, it leaves no paper-trail which can be utilized for audit purposes.[34] (Citations omitted)

It is a grave error to read Associate Justice Velasco's Separate Concurring Opinion as an indication that voter's receipts are unnecessary under an optical mark reader election system.

The Commission on Elections also claimed that in *Roque, Jr.*, this Court "ruled that the paper ballot satisfies the VVPAT requirement[.]"[35] The relevant portion in the *Roque, Jr.* case stated:

> Intervenor Cuadra's concern relates to the auditability of the election results. In this regard, it may suffice to point out that PCOS, being a paper-based technology, affords audit since the voter would be able, if need be, to verify if the machine had scanned, recorded and counted his vote properly. Moreover, it should also be noted that the PCOS machine contains an LCD screen, one that can be programmed or configured to display to the voter his votes as read by the machine.[36] (Citation omitted)

There is no categorical ruling in *Roque, Jr.* that the paper ballot satisfies the VVPAT requirement. The discussion only mentions that the PCOS machine affords auditability. The paragraph talks about two kinds of audits: through paper or through the LCD screen. Nothing in the cited text states that the paper ballots are the mechanism where the voter can verify if the machine properly scanned, recorded, and counted the vote properly.

Even if we consider Former Chief Justice Reynato Puno's Separate Concurring Opinion, nothing in his conclusive remarks states that the paper ballots fulfill the voter-verified paper audit trail feature. Chief Justice Puno merely stated that the PCOS System "ha[d] a provision for system auditability and a voter-verified paper trail."[37] While he did mention that official ballots could be used for a manual recount, the Opinion did not state that the paper ballots could substitute for the voter's receipt.

The Commission on Elections formally manifested its Resolution No. 10071[38] dated March 3, 2016, on the use the on-screen verification

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[34] J. Velasco, Jr., Separate Concurring Opinion in *Archbishop Capalla, et al. v. Commission on Elections*, 687 Phil. 617, 746–747 (2012) [Per J. Peralta, En Banc].

[35] *Rollo*, p. 120, Commission on Elections' Comment.

[36] *Roque, Jr., et al. v. Commission on Elections, et al.*, 615 Phil. 149, 225–226 (2009) [Per J. Velasco, Jr., En Banc].

[37] C.J. Puno, Separate Concurring Opinion in *Roque, Jr., et al. v. Commission on Elections, et al.*, 615 Phil. 149, 312 (2009) [Per J. Velasco, Jr., En Banc].

[38] *Rollo*, pp. 165–167.

functionality. According to the Commission on Elections:

> 20. The on-screen verification of votes allows the voter to immediately confirm whether the VCM has correctly registered his/her chosen candidates. Once the paper ballot is fed into the VCM, the monitor flashes the voter's chosen candidates and only then asks the voter to confirm whether the VCM has registered his/her paper ballot, before it is "dropped into the ballot box."
>
> 21. The additional measure of on-screen verification, apart from the paper ballot, is a protective redundancy to ensure honest and credible elections. It also allows the voter to rest assured that his/her votes are identical with the machine counts. The COMELEC has therefore enabled numerous security features of the paper ballot and the VCM, which render electronic electoral fraud highly improbable.[39] (Citation omitted)

While the on-screen verification feature is an improvement that provides voters with a system of verification to find out whether or not the machine has registered their choice, the feature only complies with the requirement under Section 6(n), and not Section 6(e). The on-screen verification is not the VVPAT because it is not paper-based. Hence, it only complies with one of the two requisites of the VVPAT as we enumerated in our Resolution dated March 8, 2016.[40]

The Commission on Elections also argued that the voter's receipt could not have avoided the situation in *Mayor Maliksi v. Commission on Elections, et al.*[41] because in instances of over voting, the machine automatically invalidates the votes cast for a certain position.[42] The problem in *Mayor Maliksi* arose after the votes were cast, not during.[43]

The Commission on Elections erroneously read *Mayor Maliksi*. We reiterate that the problem in *Mayor Maliksi* shows the value of a separate paper audit trail apart from the actual ballots. In *Mayor Maliksi,* the paper ballots did not match the digitized ballot images because they were tampered with after they were read by the vote-counting machines.[44] While this Court ruled on the evidentiary value of the digitized ballot images, ultimately, due to procedural infirmities, the re-count using the digitized ballot images was not considered by this Court.

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[39] Id. at 154, Commission on Elections' Motion for Reconsideration.

[40] Id. at 13, Supreme Court Resolution dated March 8, 2016. This court stated: "A 'voter verified paper audit trail' requires the following: (a) individual voters can verify whether the machines have been able to count their votes; and (b) that the verification at minimum should be paper based."

[41] 706 Phil. 214 (2013) [Per J. Carpio, En Banc]; G.R. No. 203302, April 11, 2013, 693 SCRA 272 [Per J. Bersamin, En Banc].

[42] *Rollo*, pp. 158–159, Commission on Elections' Motion for Reconsideration.

[43] Id. at 159.

[44] J. Carpio, Dissenting Opinion in *Mayor Maliksi v. Commission on Elections, et al.*, G.R. No. 203302, April 11, 2013, 693 SCRA 272, 306 [Per J. Bersamin, En Banc].

The governing statutory policy is that the true will of the electorate is better secured if the Commission on Elections generates VVPAT. As recognized by the Commission on Elections, the paper ballots in *Mayor Maliksi* were tampered with by shading another candidate's circle for a specific position after the votes were cast.[45] A voter's receipt would not be vulnerable to the same type of tampering. The name of the candidate chosen by the voter for the position would already be printed on the voter's receipt and could no longer be changed. It would be more difficult to subject the receipts to tampering or fraud. In instances when the paper ballots are subject to post-election tampering, the digitized ballot images, alongside the voter's receipts, may be considered by the Commission on Elections.

The digitized ballot images by themselves cannot fulfill the VVPAT requirement because as we stated in our earlier Resolution, the VVPAT must allow the individual voters to verify whether the machines have been able to count their votes, and that the verification at minimum should be paper-based. Both these purposes are not achieved with mere digital ballot images.

We clarify that the voter's receipt is indeed evidence of the vote cast, but it is not the only piece of evidence that may be relied upon for all purposes. The voter's receipt should be considered alongside the digital image and the actual ballot. The voter's receipt is principally for the voter to physically verify his or her vote.

Despite the arguments presented by the Commission on Elections, Republic Act No. 8436, as amended, demands the provision of a voter's receipt. It was because of this need to implement the law as it is written that we have issued the Writ of Mandamus as soon as we could.

There is an absolute constitutional necessity of holding clean, honest, and orderly elections on the second Monday of May 2016. Unless a law is passed, these elections cannot be postponed.[46] The statutory mandate to implement automated elections is likewise evident.

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[45] *Rollo*, pp. 158–159, Commission on Elections' Motion for Reconsideration.

[46] CONST., art. VI, sec. 8 and art. VII, sec. 4, provide:

ARTICLE VI. The Legislative Department

. . . .

SECTION 8. Unless otherwise provided by law, the regular election of the Senators and the Members of the House of Representatives shall be held on the second Monday of May.
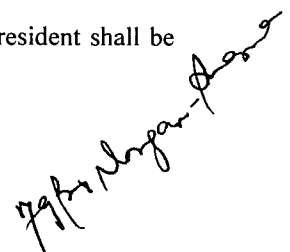
. . . .

ARTICLE VII. Executive Department

. . . .

SECTION 4. . . .

. . . .

Unless otherwise provided by law, the regular election for President and Vice-President shall be held on the second Monday of May.

We recognize that there will be technical and logistical difficulties in enforcing our Resolution dated March 8, 2016, with the elections approaching in the next two (2) months. However, after the oral arguments on March 17, 2016, this Court has become convinced that the Commission on Elections is capable of fully implementing the VVPAT feature in the vote-counting machines in accordance with this Court's Writ of Mandamus.

The Commission on Elections conducted a demonstration of the workings of the vote-counting machine. It also presented a timeline that proposes revising the vote-counting machines' source code so that (a) the receipt will indicate certain security features such as the ballot number, precinct number, and hash code, and that (b) the machines will not shut off if the paper for receipts jams or runs out. The Commission on Elections presented a timeline that moves the election day to May 23, 2016.

The Commission on Elections categorically manifested that, if the source code is not amended, the vote-counting machines can still be reconfigured to enable the machines to generate the voter's receipts in time for the May 9, 2016 elections.

We clarify. This Court's Writ of Mandamus requires a voter's receipt. The Writ of Mandamus is substantially complied with when a voter's receipt is printed and the voter can physically verify his or her vote. Additional features may be added in the voter's receipt for future elections.

Also, during the Oral Arguments, Commission on Elections Chairperson Andres Bautista raised their concerns regarding the lack of prosecutorial mechanisms against individuals who keep the voter's receipts and take them outside the precinct. Contrary to the views of the Commission on Elections Chairperson, the Omnibus Election Code provides for an election offense that applies to the scenario:

ARTICLE XXII

Election Offenses

SECTION 261. *Prohibited Acts.* – The following shall be guilty of an election offense:

. . . .

(z) *On voting*:

. . . .

(12) Any person who, without legal authority, destroys, substitutes or takes away from the possession of those having legal custody

thereof, or from the place where they are legally deposited, *any election form or document* or ballot box which contains official ballots or other documents used in the election.
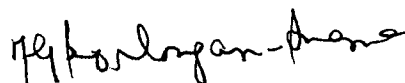
The voter's receipt or VVPAT is an official election document or election paraphernalia because it is a document generated in the course of the election. The Commission on Elections has enough power and discretion to instruct the Board of Election Inspectors to have legal custody of the voter's receipt after the voter inspects the contents of these receipts, or otherwise to mandate that the receipts be deposited in the old ballot boxes or any other receptacle to be used by the Commission on Elections. Any person who takes away the voter's receipt—an official election document—commits an election offense under Section 261 (z) (12) of the Omnibus Election Code.

The Commission on Elections has assured this Court that it is capable and has the competence to address all issues and problems that may arise before, during, and after the elections. These include paper jams or machine malfunctions, possible extension of the voting period, improvement of voter's experience, and training of officials and staff. The Commission on Elections has assured that it will perform its constitutionally and statutorily mandated tasks to ensure a free, orderly, honest, peaceful, credible, and automated elections on May 9, 2016, as constitutionally required.

WHEREFORE, the Commission on Elections' Motion for Reconsideration dated March 11, 2016 filed by respondent Commission on Elections is **DENIED WITH FINALITY**, the basic issues raised having previously been duly considered and passed upon by this Court in its Resolution dated March 8, 2016.

The Writ of Mandamus issued in the Resolution dated March 8, 2016 must be fully implemented for the upcoming elections. The Commission on Elections is ordered to enable the vote verification feature of the vote-counting machines, which prints the voter's choices without prejudice to the issuance of guidelines to regulate the release and disposal of the issued receipts as well as other measures that it deems necessary to ensure clean, honest, and orderly elections such as, but not limited to, ensuring that after voter verification, receipts should be deposited in a separate ballot box and not be taken out of the precinct." Carpio and Bersamin, JJ., on leave. (adv1-b)

Very truly yours,

FELIPA B. ANAMA
Clerk of Court

- OWf -

ATTYS. REYNALDO A. DARIO, RODOLFO O. REYES,
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