IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(*Election Jurisdiction*)

2026/HP/EP/030

IN THE MATTER OF:	ARTICLE 73 (1) OF THE CONSTITUTION OF ZAMBIA (AMENDMENT) ACT NO. 2 OF 2016 OF THE LAWS OF ZAMBIA
IN THE MATTER OF:	SECTIONS 72, 92, 96, 97, 98, 99 AND 100 (2) (a) OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016 OF THE LAWS OF ZAMBIA
IN THE MATTER OF:	PART III OF THE HIGH COURT (ELECTION PETITION) RULES 2026 OF THE LAWS OF ZAMBIA
IN THE MATTER OF:	AN ELECTION PETITION RELATING TO BANGWEULU CONSTITUENCY PARLIAMENTARY ELECTIONS HELD ON THURSDAY, 13TH AUGUST, 2026

BETWEEN:

REUBEN CHAMA — PETITIONER

AND

HAPPY MAMPA — 1ST RESPONDENT

ELECTORAL COMMISSION OF ZAMBIA — 2ND RESPONDENT

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
14 SEP 2026
PRINCIPAL REGISTRY 4
P.O. BOX 50067, LUSAKA

2ND RESPONDENT'S ANSWER

The 2nd Respondent responds as follows:

1. That the contents of paragraphs 1 and 2 of the Petitioner's Petition (hereinafter referred to as "**the Petition**") are not disputed.
2. That the contents of paragraphs 3 (a) to (c) of the Petition are not disputed save to state that the recording of the results takes some time due to various factors.
3. The contents of paragraphs 3 (d) to (k) of the Petition are disputed and the 2nd Respondent shall aver as follows:

(i) The verification and announcement of election results were suspended by the 2nd Respondent nationwide at approximately 14:00 hours on the 14th August 2026;

(ii) The suspension and the subsequent deployment of officers from the Zambia Police Service to the totaling center was occasioned by security concerns following which the Returning Officer, together with all polling staff and stakeholders were instructed to exit the totaling center and await further instructions;

(iii) The ballot papers and the Gen 20 Results Forms for the remaining unannounced polling stations were in the custody of the Presiding Officers at the respective polling stations awaiting further instructions from the 2nd Respondent;

(iv) Upon the lifting of the suspension at approximately 20:00 hours on the same day, the verification and announcement of results for the remaining polling stations resumed immediately in the presence of all stakeholders;

(v) At that material time, the totaling center was open to all accredited representatives of organizations, political parties, and candidates, in full compliance with the 2nd Respondent's guidelines;

(vi) Further to the above, the Returning Officer subsequently made the official declaration of the final results outside the totaling center

4. That the contents of paragraphs 3 (l) to (p) of the Petition are denied and the 2nd Respondent shall aver that the results captured in the record of proceedings were compiled from official Gen 20 Results Forms received from all polling stations in the Constituency. The 2nd Respondent shall further aver that the declaration of the 1st Respondent as duly elected Member of Parliament was made in good faith.

5. That the contents of paragraphs 3 (q) of the Petition are denied and the 2nd Respondent shall aver that the results announced were founded upon a totaling process and figures which accurately reflected the results recorded at the affected polling stations and that the election was therefore conducted and concluded in accordance with the prescribed electoral process.

6. Save as herein expressly admitted the 2nd Respondent denies each and every allegation contained in the petition as if the same was herein set forth and transversed seriatim.

2ND RESPONDENT

Dated at Lusaka the day of 2026.

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14 SEP 2026
PRINCIPAL REGISTRY 4
P.O. BOX [illegible], LUSAKA.

2ND RESPONDENT'S SKELETON ARGUMENTS

SKELETON ARGUMENTS

1 BACKGROUND

1.1 **IF IT MAY PLEASE THIS HONOURABLE COURT,** these are the 2nd Respondent's Skeleton Arguments.

1.2 My Lord/Lady, the 2nd Respondent shall rely on the facts deposed to in its Affidavit in Opposition ("**Affidavit in Opposition**") filed herewith.

2 THE LAW AND ARGUMENTS

2.1 My Lord/Lady, we are alive to the provisions of the law that guide the conduct of parties during the course of the electoral process. The foregoing is embedded in **the Constitution of the Republic of Zambia (Amendment) Act No. 2 of 2016** ("**the Constitution**") which provides under **Article 45 (2)** as follows: *"The electoral process and system of administering elections shall ensure – (a) that elections are free and fair; (b) that elections are free from violence, intimidation and corruption; (c) independence, accountability, efficiency and transparency of the electoral process; (d) a simple and practical system of voting and tabulating votes; and (e) timely resolution of electoral disputes."* Further, **Article 54** of **the Constitution** provides that *"A candidate and a political party shall comply with a prescribed electoral code of conduct."*

2.2 My Lord/Lady, we are further guided by **the Electoral Commission of Zambia Act No. 25 of 2016** ("**the Electoral Commission of Zambia Act**") under **Section 4** which provides that the commission shall direct supervise and control elections in a fair and impartial manner. In addition, **Rule 2 of the Schedule** ("**Code of Conduct**") **to the Electoral Process No. 35 of 2016** ("**the Electoral Code of Conduct**")which

provides that *"A person shall, during an election campaign or election, promote conditions conducive to the conduct of free and fair elections and be bound by this Code."* It is our submission that in the administration of its duties, the 2nd Respondent and its agents executed their duties to the standard required of them by the law.

Standard of proof in election Petitions

2.3 My Lord/Lady, we are alive to the fact that **Article 73(1) of the Constitution** provides that *"A person may file an election petition with the High Court to challenge the election of a Member of Parliament."* However, it is important to note that in as much as a petition may be filed to challenge elections, the law prescribes that a certain threshold be met for that Petitioner to be successful. In this regard, we shall rely on the following Authorities:

2.3.1 Section 97(4) of the Electoral Process Act No. 35 of 2016 ("the Electoral Process Act") which provides that: *"An election shall not be declared void by reason of any act or omission by an election officer in breach of that officer's official duty in connection with an election if it appears to the High Court or a tribunal that the election was so conducted as to be substantially in accordance with the provisions of this Act, and that such act or omission did not affect the result of that election."*

2.3.2 Lewanika & Others v. Chiluba (1998) ZR 1 (S.C.Z. Judgment 14 of 1998) [1998] ZMSC 11 established that for an election to be nullified based on malpractices, it must be shown that the winning candidate or their agents were

directly involved, or that the malpractices were so widespread as to affect the general outcome. The Court further stated that *"Parliamentary election petitions are required to be proved to a standard higher than on a mere balance of probability";*

2.3.3 Anderson Kambela Mazoka & Others v Levy Patrick Mwanawasa & others (2005) ZR 138 established that an election will not be nullified for mere irregularities unless those irregularities prevented the majority of voters from electing their preferred candidate;

2.3.4 Saul Zulu v. Victoria Kalima (Appeal 141 of 2012) [2013] ZMSC 24 (12 December 2013), the Supreme Court reaffirmed this position and further stated that *"in an election petition, the issues raised are required to be established to a fairly high degree of convincing clarity";*

2.3.5 Levison Mumba v. Peter Daka (Appeal 38 of 2003) [2003] ZMSC 181 (20 August 2003) reiterated this principle by providing that *"it is one that falls in between the civil standard of the balance of probabilities and the criminal standard of proof beyond reasonable doubt."*

2.4 My Lord/Lady, in this regard, we humbly submit that based on the Petitioner's Petition and Affidavit Verifying Facts, the Petitioner has failed to substantiate the basis of its claims and allegations brought out therein.

Procedure relating to lodging of complaints

2.5 My Lord/Lady, we shall rely on **Rule 12** of the **Electoral Code of Conduct** provides as follows in relation to lodging of complaints: *"(1) The following persons may lodge a complaint to the Commission in relation to an election: (a) a voter or candidate in a constituency where a breach of this Code has been committed; or (b) from a political party participating in an election. (2) Complaints arising during election campaigns and elections may be made to an election officer or to a conflict management committee at the place where the conduct complained against occurred. (3) The Commission may refer and report any violation of the Code to the Zambia Police Service, Anti-Corruption Commission or any other appropriate law enforcement agency for investigation and prosecution where appropriate."* Further, **Rule 13 of the Electoral Code of Conduct** provides that *"(1) Conflict management committees established by the Commission pursuant to section one hundred and eight may resolve electoral disputes. (2) The conflict management committees shall take into account the provisions of this Code in resolving electoral disputes."*

2.6 My Lord/Lady, in addition to the foregoing, regarding the procedure to be adopted by an aggrieved party, **Section 70** of the **Electoral Process Act** provides that *"An election or polling agent may object to an alleged inaccuracy in the counting of the votes or the announcement of a result under section seventy-one. (2) An objection under subsection (l) shall be made to a presiding officer, in the prescribed form, at any stage before the presiding officer has announced the result. (3) A presiding officer shall determine the*

objection and decide whether to order a recount. (4) A presiding officer shall notify the objector and any other party involved in the objection, of the decision made under subsection (3). (5) If a presiding officer orders a recount, the presiding officer shall announce the result afresh. (6) An appeal against the decision of a presiding officer may be made to the returning officer in the prescribed form."

2.7 My Lord/Lady, despite the allegations raised by the Petitioner, the 2nd Respondent did not receive any complaints on the matters alleged, in the manner and form as provided above.

2.8 My Lord/Lady, to this effect, it is our position that it is not enough for the Petitioner to simply allege non-compliance, they must demonstrate to the requisite standard that the alleged non-compliance affected the election results.

3 PRAYER

3.1 My Lord/Lady, in the premises, it is our humble prayer that the Petition be dismissed on the basis that it is bereft of merit.

3.2 We are obliged.

Dated the day of 2026.

Per: **Messrs. Roy Mwala & Co. Legal Practitioners**

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Advocates for the 1st Respondent

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BETWEEN:

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ELECTORAL COMMISSION OF ZAMBIA — 2ND RESPONDENT

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
14 SEP 2026
PRINCIPAL REGISTRY 4
P.O. BOX 50067, LUSAKA.

2ND RESPONDENT'S LIST OF WITNESSES

The 2nd Respondent's list of Witnesses is as follows:

(i) Kabo Milton.

(ii) Any other competent or compellable witness.

Dated the day of 2026.

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REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
11 SEP 2026
PRINCIPAL REGISTRY 8
P.O. BOX 50067, LUSAKA.

2ND RESPONDENT'S LIST OF DOCUMENTS

The following is a list of documents relating to the matter in question in this action which are or have been in possession, custody or power of the above-named 2nd Respondent.

1. The 2nd Respondent has in its possession, custody or power the documents relating to the matter in question in this action set forth in the first and second parts of the first schedule hereto.

2. The 2nd Respondent objects to producing the documents set forth in the second part of the first schedule hereto, on the grounds that the same are privileged and came into existence and were made after this litigation was in contemplation and in view of such

litigation for the purpose of obtaining for and furnishing to its advocates evidence and information as to the evidence which might be obtained and otherwise for the 2nd Respondent's use, to enable it conduct this action and otherwise obtain advice.

3. The 2nd Respondent has not now and never had in its possession, custody or power or that of its advocates or agents or in the possession, custody or power of any other person, any documents of any description whatsoever in relation to the matter in question in this action other than and except the documents set forth in the First and Second Schedule hereto.

4. The documents in the first schedule are available for inspection at the 2nd Respondent's advocates office.

FIRST SCHEDULE

PART 1

Item	DESCRIPTION OF DOCUMENT
1.	Record of proceedings at the totaling of votes- Bangweulu
2.	Gen 20 Results Forms

PART 2

Memorandum, draft pleadings, correspondence, etc. passing between the 2nd Respondent and its Advocates, statements of witnesses and draft statements of proposed witnesses, original copy of documents and correspondence referred to in Schedule 1 and 2 thereof.

SECOND SCHEDULE

The Originals of the documents set forth in the second part of the First Schedule hereto, which said documents were addressed on the days they were dated.

Dated the day of 2026.

Per: **Messrs. Roy Mwala & Co. Legal Practitioners**

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3. The 2nd Respondent has not now and never had in its possession, custody or power or that of its advocates or agents or in the possession, custody or power of any other person, any documents of any description whatsoever in relation to the matter in question in this action other than and except the documents set forth in the First and Second Schedule hereto.

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Dated the day of 2026.

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2ND RESPONDENT'S LIST OF AUTHORITIES

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1. STATUTES

(i) The Constitution of the Republic of Zambia (Amendment) Act No. 2 of 2016;

(ii) Electoral Commission of Zambia Act No. 25 of 2016;

(iii) The Electoral Process Act No. 35 of 2016.

2. **CASE LAW**

(i) Anderson Kambela Mazoka & Others v. Levy Patrick Mwanawasa & Others (2005) ZR 138;

(ii) Lewanika & Others v. Chiluba (1998) ZR 1 (S.C.Z. Judgment 14 of 1998) [1998] ZMSC 11;

(iii) Saul Zulu v. Victoria Kalima (Appeal 141 of 2012) [2013] ZMSC 24 (12 December 2013); and

(iv) Levison Mumba v. Peter Daka (Appeal 38 of 2003) [2003] ZMSC 181 (20 August 2003).

Dated the day of 2026.

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