IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/030**
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(ELECTION JURISDICTION)



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 13TH AUGUST, 2026

BETWEEN:

REUBEN CHAMA (MALE)	**PETITIONER**
AND	
HAPPY MAMPA (MALE)	**1ST RESPONDENT**
ELECTORAL COMMISSION OF ZAMBIA	**2ND RESPONDENT**

Coram: Chigali Mikalile, J. in chambers this 22nd day September, 2026

For the Petitioner: Messrs. M.K. Achiume & Advocates

For the 1st Respondent: Messrs. NM Mbuyi Legal Practitioners

RULING

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Introduction

1. This is a ruling on an application for an Order for determination of questions on points of law taken out by the 1st respondent pursuant to section 13 of the High Court Act, Rules 14(1)(b), (2), (3) and 17(1) of the High Court (Election Petition) Rules, 2026, Order 14A of the Rules of the Supreme Court of England, 1999 Edition, and the inherent jurisdiction of the Court.
2. The 1st respondent seeks the determination of the following questions:

> *(i) Whether this Court has jurisdiction to hear and determine the election petition, the same having been presented outside the mandatory fourteen-day period prescribed by section 100(3) of the Electoral Process Act No. 35 of 2016; and*
>
> *(ii) Whether Rule 24 of the High Court (Election Petition) Rules, 2026, read together with section 22 of the Electoral Commission of Zambia Act, 2016, insofar as it permits the Electoral Commission of Zambia (ECZ) to be cited as a respondent in an election petition, is* ultra vires *the Constitution.*

The 1st Respondent's Case

3. In the affidavit in support of summons, the 1st respondent told Court that he was a candidate in the Bangweulu Constituency Parliamentary election held on 13th August, 2026.

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4. He averred that following the election, the petitioner, Reuben Chama, commenced this petition, challenging the election for Bangweulu Constituency. According to him, the election results were announced on 16th August, 2026, while the petition was filed on or about 31st August, 2026. It is his contention that the petition was consequently presented outside the prescribed period.

5. The deponent further averred that the Electoral Commission of Zambia (ECZ) has been cited as the 2nd respondent. Consequently, he seeks the Court's determination regarding the status and capacity of ECZ as a party to these proceedings, his contention being that ECZ was not constituted as a body corporate upon its establishment.

6. In support of the application, learned counsel for the 1st respondent submitted that section 100(3) of the Electoral Process Act No. 35 of 2016 mandatorily requires an election petition to be presented within fourteen days of the declaration of the election result. Counsel contended that the results in the present case were declared on 16th August, 2026, whereas the petition was filed on 31st August, 2026, and was therefore presented outside the prescribed period. Counsel accordingly argued that non-compliance with the statutory timeframe deprived the Court of jurisdiction to entertain the petition.

7. Reference was made to amongst others, the case of **Guardall Security Limited v. Rainford Kabwe, CAZ Appeal No. 44/2019** in support of the importance of compliance with

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prescribed procedural time limits. The Court was consequently urged to dismiss the petition for want of jurisdiction.

8. On the second question, counsel submitted that the legal capacity of the ECZ must be determined principally by reference to Article 229 of the Constitution, which establishes ECZ and prescribes its functions. It was argued that Article 229 neither constitutes ECZ as a body corporate nor expressly confers upon it capacity to sue and be sued in its own name.

9. Counsel acknowledged that section 22 of the Electoral Commission of Zambia Act, 2016 permits proceedings concerning rights, liabilities or obligations of the Commission to be instituted by or against it. It was, however, contended that the provision does not confer an unrestricted capacity upon ECZ to be cited as a respondent in every proceeding and, in particular, does not expressly make it a respondent to an election petition.

10. As regards Rule 24 of the High Court (Election Petition) Rules, 2026, which permits ECZ to be cited as a respondent in an election petition, counsel submitted that the Rule was made pursuant to section 102 of the Electoral Process Act, which confers rule-making power concerning practice and procedure. It was argued, relying on **Attorney-General v. Sillem (1864) 10 H.L.C. 704** that subsidiary legislation cannot create substantive legal rights or confer juridical personality beyond that authorised by the enabling legislation.

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11. The 1st respondent, therefore, contended that to the extent that section 22 and Rule 24 purport to confer upon ECZ a juridical capacity to sue and be sued in its own name which is not conferred by Article 229 of the Constitution, they are inconsistent with the Constitution and *ultra vires*. The Court was accordingly urged to determine both preliminary questions in favour of the 1st respondent.

The Petitioner's Case

12. In opposition to the application, the petitioner, Reuben Chama, deposed that the results of the Bangweulu Constituency Parliamentary election were declared on Sunday, 16th August, 2026. He stated that he promptly instructed his advocates to challenge the result and remained desirous of diligently prosecuting the petition.

13. The petitioner averred that the prescribed filing fees were paid on Saturday, 29th August, 2026, through Zanaco Express. However, as the Court Registry was closed on both Saturday, 29th August and Sunday, 30th August, 2026, the petition and related payment were processed on Monday, 31st August, 2026, being the next working day. On advice from his advocates, he contended that, upon excluding the date of declaration, the fourteenth day fell on Sunday, 30th August, 2026 and that the petition was consequently presented within the prescribed period.

14. Regarding the joinder of the ECZ, the petitioner deposed that ECZ was cited as the 2nd respondent because the petition challenges aspects of the tallying, verification and declaration process undertaken by ECZ and its officers.

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He referred, in particular, to alleged discrepancies between polling-station result forms and the constituency totalling record, the relevant documents having been exhibited to his affidavit verifying facts as "RC1" collectively and "RC2", respectively.

15. The petitioner further averred that ECZ may properly be cited as a respondent in an election petition. He maintained that, in any event, any question concerning the joinder or description of ECZ is severable from the substantive petition against the 1st respondent and ought not to result in the petition being extinguished.

16. He accordingly contended that the 1st respondent would suffer no procedural prejudice if the petition proceeded to hearing, whereas summary dismissal would prevent determination of the substantive electoral complaints raised.

17. In the skeleton arguments, learned counsel for the petitioner submitted that the petition was presented within the statutory fourteen-day period. Counsel relied on section 35 of the Interpretation and General Provisions Act, contending that the date of declaration, 16th August, 2026, was excluded from the computation. Accordingly, the fourteenth day fell on Sunday, 30th August, 2026, and the period extended to the next non-excluded day, Monday, 31st August, 2026. Reference was also made to Rule 25 of the High Court (Election Petition) Rules, 2026, which provides for Registry opening days and hours.

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18. Counsel distinguished the authorities relied upon by the 1st respondent, submitting that the mandatory nature of section 100(3) was not in dispute; rather, the issue was the proper computation of the fourteen-day period.

19. On the citation of ECZ, counsel relied principally on Rule 24 of the High Court (Election Petition) Rules, 2026, which expressly permits ECZ to be cited as a respondent in an election petition. It was argued that the absence of the words "body corporate" from the legislation establishing ECZ did not displace this express provision. Counsel further submitted that the broader statutory framework assigns ECZ functions connected with election petitions and that, given the allegations concerning tallying, verification and declaration of results, its presence in the proceedings was material.

20. Counsel further contended that the summary procedure invoked by the 1st respondent should not be employed to foreclose determination of the substantive petition where matters requiring adjudication remain. The Court was consequently urged to dismiss the application, hold that the petition was presented within time and that ECZ was properly cited as the 2nd respondent, and allow the petition to proceed to determination on its merits. The petitioner also prayed for costs of the application.

Consideration and Decision

21. I have carefully considered the affidavit evidence and the respective submissions of the parties. The application raises two questions for determination. The first is whether

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the petition, presented on 31st August, 2026, was filed outside the fourteen-day period prescribed by section 100(3) of the Electoral Process Act No. 35 of 2016 and, consequently, whether this Court lacks jurisdiction to entertain it. The second concerns the propriety of citing ECZ as the 2nd respondent.

Whether the petition was presented out of time

22. It is common cause that the results of the Bangweulu Constituency Parliamentary election were duly declared on 16th August, 2026, and that the petition was filed on 31st August, 2026.

23. Section 100(3) of the Electoral Process Act indeed provides that an election petition must be presented not later than fourteen days after the date on which the election result is duly declared. I accept the 1st respondent's submission that this requirement is mandatory. The real question, however, is whether the petition in this case fell outside that mandatory period.

24. The answer lies in section 35 of the Interpretation and General Provisions Act, Chapter 2. It states as follows relevant portion only):

> *In computing time for the purposes of any written law-*
>
> *(a) a period of days from the happening of an event or the doing of any act or thing shall be deemed to be exclusive of the day on which the event happens or the act or thing is done;*
>
> *(b) if the last day of the period is Sunday or a public holiday (which days are in this section referred to as* "excluded

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days") the period shall include the next following day, not being an excluded day;

25. As can be seen, paragraph (a) excludes the day upon which the relevant event occurs. More significantly paragraph (b) provides that where the last day of a prescribed period falls on a Sunday or public holiday, the period includes the next following day which is not an excluded day.

26. Applying that provision, the date on which the results were declared, namely Sunday, 16th August, 2026, is excluded. The first day was therefore Monday, 17th August, 2026. On that computation, the fourteenth day fell on Sunday, 30th August, 2026. Since Sunday is expressly an excluded day under section 35(b), the statutory period extended to the next following non-excluded day, which was Monday, 31st August, 2026. The petition presented on that date was therefore presented within time.

27. This conclusion is fortified by Rule 25 of the High Court (Election Petition) Rules, 2026, which provides that, for purposes of filing documents under the Rules, the Principal and District Registries are open to the public on weekdays other than Saturdays, Sundays and public holidays. Thus, the Rules themselves contemplate that a petition cannot ordinarily be presented at the Registry on a Sunday.

28. I note the petitioner's argument that he paid the prescribed fees through Zanaco Express on Saturday, 29th August, 2026. However, this is of no consequence as payment of the fee cannot, by itself, substitute for

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presentation of the petition in the manner contemplated by section 100(3). What matters is that the actual presentation on Monday, 31st August, 2026 was, by virtue of section 35(b), within the prescribed period.

29. I accordingly find that the petition was presented within the fourteen-day period prescribed by section 100(3) of the Electoral Process Act. The first preliminary question therefore fails.

Whether ECZ was properly cited as the 2nd respondent

30. I turn to the second question. The 1st respondent's contention, in essence, is that Article 229 of the Constitution establishes ECZ but does not constitute it as a body corporate or expressly confer upon it capacity to sue and be sued. On that premise, it is argued that neither section 22 of the Electoral Commission of Zambia Act nor Rule 24 of the High Court (Election Petition) Rules, 2026 can confer upon ECZ a juridical personality which the Constitution itself does not confer.

31. Rule 24, however, is explicit. It provides:

> *"The Commission may be cited by a petitioner as a respondent in a nomination petition or an election petition."*

32. The present proceedings are an election petition and ECZ has been cited by the petitioner as a respondent. On its plain wording, therefore, Rule 24 expressly provides a procedural mechanism by which the Commission may be cited as a party to an election petition. It is significant also that Rule 24 forms part of the High Court (Election Petition)

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Rules, 2026, made pursuant to section 102 of the Electoral Process Act specifically to regulate the practice and procedure relating to election petitions. The same Rules define an election petition as one relating to a parliamentary election and provide the procedural framework governing its presentation, service and trial.

33. The 1st respondent, however, goes further and invites this Court to hold that Rule 24, read with section 22 of the Electoral Commission of Zambia Act, is *ultra vires* the Constitution because Article 229 does not confer corporate or juridical personality upon ECZ. That argument necessarily calls for a determination whether the statutory and subsidiary legislative provisions are inconsistent with, or impermissibly enlarge, the legal status conferred upon ECZ by the Constitution. It is, therefore, in substance, a question concerning the interpretation of the Constitution and the constitutional validity of the impugned provisions.

34. It is common cause, however, that it is not within this Court's province to interpret the Constitution. My consideration is confined to the Election Petition Rules governing the proceedings before me. Rule 24 is expressed in clear and unambiguous terms and remains part of the applicable law. There is nothing before me establishing that it has been declared unconstitutional or otherwise invalid.

35. I, therefore find that for purposes of the present election petition, the citation of ECZ as the 2nd respondent is expressly permitted by Rule 24. The second preliminary question must accordingly also fail.

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Conclusion and Orders

36. In the result, I find that the petition presented on 31st August, 2026 was presented within the fourteen-day period prescribed by section 100(3) of the Electoral Process Act, No. 35 of 2016. I further find that Rule 24 of the High Court (Election Petition) Rules, 2026, S.I No. 31 of 2026, expressly permits the Electoral Commission of Zambia to be cited as a respondent in an election petition.

37. The 1st respondent's application is accordingly dismissed. The election petition shall proceed to hearing and determination in accordance with the applicable law and the directions of the Court.

38. Costs are for the petitioner to be agreed or taxed in default of agreement.

39. Leave to appeal is denied.

Delivered this 22nd day of September, 2026

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HIGH COURT JUDGE

REPUBLIC OF ZAMBIA
HIGH COURT FOR ZAMBIA
22 SEP 2026
JUDGE
INDUSTRIAL RELATIONS DIVISION
P.O. BOX 50067 LUSAKA

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AT THE PRINCIPAL REGISTRY

HOLDEN AT LUSAKA

(ELECTION JURISDICTION)

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HIGH COURT OF ZAMBIA
22 SEP 2026
PRINCIPAL REGISTRY 1
P.O. BOX 50067, LUSAKA.

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