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REPUBLIC OF ZAMBIA HIGH COURT OF ZAMBIA 27 AUG 2026 PRINCIPAL REGISTRY 1 P.O. BOX 50067 LUSAKA

RECEIVED 09:30 HRS

IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/003**
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Election Jurisdiction)

IN THE MATTER OF: ARTICLE 73 (4) 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 (1) (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

AND

IN THE MATTER OF: AN ELECTION PETITION RELATING TO BANGWEULU CONSTITUENCY PARLIAMENTARY ELECTIONS HELD ON THURSDAY, 13TH AUGUST, 2026

BETWEEN:

ANTHONY KASANDWE (MALE) **PETITIONER**

AND

HAPPY MAMPA (MALE) **1ST RESPONDENT**
ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

ELECTION PETITION

The Petition of **ANTHONY KASANDWE** a Zambian National who ordinarily resides at Malombola Village in Samfya District in Luapula Province of the Republic of Zambia and for purposes of this Petition, his address for service is Messrs. Linus and Partners of Plot No. 6, Sianjalika Road, Woodlands in the City and Province of Lusaka.

1. Your Petitioner is a person claiming to be a candidate in the Parliamentary Election for the Bangweulu Constituency in Samfya District of the Luapula Province of the Republic of Zambia having duly filed his nomination to which this Petition relates.

2. Your Petitioner states that the election to which this Petition relates was held on the 13th day of August, 2026 when your Petitioner **Anthony Kasandwe** and the Respondent **Happy Mampa** were candidates and the returning officer has declared **Happy Mampa** as being duly elected.

3. Your Petitioner says that:

   (a) On 13th August, 2026, elections were held in Bangweulu Constituency for the election of Member of Parliament and the candidates who successfully filed their nominations for the Bangweulu Constituency Parliamentary seat included Chabala Moses of Zambia Must

Prosper (ZMP), Chama Reuben standing as an Independent (IND), Chanda Derrick of Citizens First (CF), the Petitioner standing under the National Reconciliation Party for Unity and Prosperity (NRPUP) and the 1st Respondent Happy Mampa standing under the United Party for National Development (UPND).

(b) On 13th August, 2026, elections were held in Bangweulu Constituency for the election of Member of Parliament and between 14th August, 2026 and 15th August, 2026 results from 99 of 112 Polling Stations were verified. However, only results for 96 of the 99 Polling Stations were printed and announced by the Returning Officer at the totaling Centre at Samfya Town Council Chamber.

(c) The printed results for the said 96 Polling Stations were duly confirmed and accepted by all the stakeholders notwithstanding the results for the 3 Polling Stations that were not entered. Hence, at this point, only results from 13 Polling Stations remained to be verified and announced.

(d) According to the verified votes from the 96 Polling Stations for all the participating candidates, the top two contenders were the Petitioner and the 1st Respondent and from the verified votes counted from the 96 Polling Stations, the Petitioner had a total of 10,572 votes while the 1st Respondent had 9,805 votes. Therefore, the Petitioner was in the lead with 767 of the votes verified.

(e) However, on 15th August, 2026, the 2nd Respondent's Returning Officer Kabo Milton informed all the stakeholders present that he had been instructed by the 2nd Respondent to close the Totaling Centre and postpone all election related business that is the verification and announcement of election results to the following day at 10:00 hours.

(f) Upon the said announcement, armed Zambia Police Service Officers moved in and instructed that all the stakeholders to leave the Totaling Centre and come back the next day. However, the ballot boxes and the Gen 20 Forms for the remaining results from the 13 Polling Stations were left with the Returning Officer and other officers of the 2nd Respondent.

(g) When the Petitioner and other stakeholders arrived at the Totaling Centre around 09:00 hours on 16th August, 2026, they were all refused entry by the armed Zambia Police Service Officers present. As a result, the Petitioner and other stakeholders went to see the District Electoral Officer Mr. Paul Kabwebwe at his office.

(h) According to Mr. Paul Kabwebwe, the results for the 13 Polling Stations were ready for verification and announcement and that the Returning Officer would proceed in that regard at the Totaling Centre.

(i) However, when the Petitioner and the other stakeholders present approached the Returning Officer to verify and announce the results for the remaining 13 Polling Stations, the Returning Officer refused to announce the results. He however informed the stakeholders present that results would only be announced when instructions to that effect were received from the 2nd Respondent.

(j) From the agreed 10:000 hours when the verification and announcing of results was scheduled to take place as indicated the previous day, the Totaling Centre was never opened

for purposes of election business.

(k) However, around 18:00 hours on the 16th of August, 2026, the Returning Officer without verification and announcement of results from the remaining 13 Polling Stations as indicated, proceeded to announce final results for the 112 Polling Stations of the Bangweulu Constituency.

(l) According to the results of the 112 Polling Stations, the 1st Respondent received a total of 13,012 votes while the Petitioner received a total of 12,071 votes. From the results announced, the 1st Respondent won the election with a difference of 941 votes and the Returning Officer on the same day, the 16th of August, 2026 declared the 1st Respondent as duly elected Member of Parliament for Bangweulu Constituency.

(m) The Petitioner will aver that upon receipt of the record of proceedings at the totaling of votes duly signed by the Returning Officer representing the election results from all the 112 Polling Stations, the results did not represent the true reflection of the votes announced.

(n) Further, the Petitioner will aver that there were discrepancies with respect to votes counted from 8 of the 13 Polling Stations that were not announcement particularly **Kaishe 1**, **Sakala 2**, **Ninge**, **Mufimba**, **Yongolo 1**, **Chesemba**, **Chinsanka 1** and **Njipi 1**. In these named Polling Stations, the 1st Respondent was given inflated figures from the actual votes received against the figures on actual Gen 20 Forms.

(o) The Petitioner will further aver that in some of the Polling Stations, the 1st Respondent was given votes that went beyond the total number of votes cast by the registered voters before allocation of the votes to the individual participating candidates.

(p) The Petitioner will aver that contrary to the results announced by the Returning Officer, the actual outcome of the results from 112 Polling Stations including results from the 13 Polling Stations indicate the Petitioner was in fact, the duly elected Member of Parliament for Bangweulu Constituency.

(q) The Petitioner will also aver that the declaration of the 1st Respondent was based on election results which included discrepancies and did not reflect the true votes counted for all the 112 Polling Stations in the Constituency and as such, the Returning Officer failed to perform his duties as an Election Officer.

(r) The Petitioner will therefore aver that the conduct of the 2nd Respondent's Returning Officer in the circumstances contravened the provisions of Section 72, 92, 96 and 97 (1) (b) of the Electoral Process Act No. 35 of 2016.

4. **WHEREOF** your Petitioner **PRAYS** for a declaration that:

(a) The election of the 1st Respondent be declared void; or

(b) The Petitioner be declared duly elected.

Signed by: _____

THE PETITIONER

Dated at _____ this _____ day of _____, 2026.

This Petition was settled by **Messrs Linus & Partners** of Plot No. 6, Sianjalika Road, Off Mwapona Road, Woodlands, Tel: +260 211 267821, Email: linuseyaaandpartners@gmail.com P.O. Box 30675, Lusaka the Advocates for the Petitioner.

To: **THE 1ST RESPONDENT**
Happy Mampa

To: **THE 2ND RESPONDENT**
Electoral House
Haile Selassie Avenue
Longacres
LUSAKA

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

IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/003**
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**
IN THE MATTER OF:	**SECTIONS 71, 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**
AND	
IN THE MATTER OF:	**AN ELECTION PETITION RELATING TO BANGWEULU CONSTITUENCY PARLIAMENTARY ELECTIONS HELD ON THURSDAY 13TH AUGUST, 2026**

BETWEEN:

ANTHONY KASANDWE (MALE) **PETITIONER**

AND

HAPPY MAMPA (MALE) **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

1ST RESPONDENT'S ANSWER TO PETITION

The 1st Respondent responds to the Petition as follows:

1. The 1st Respondent is a Zambian national who ordinarily resides at Mwamfuli Village in the Samfya District of the Luapula Province of the Republic of Zambia.

2. The 1st Respondent was the successful candidate in the parliamentary elections for Bangweulu Constituency held on 13th August, 2026. The

Petitioner was an unsuccessful candidate, and the 1st Respondent was duly declared elected as Member of Parliament for Bangweulu Constituency.

3. The 1st Respondent's election as Member of Parliament for Bangweulu Constituency has since been challenged by way of this Petition.

4. In answer to the allegations contained in paragraph 3 of the Petition, the 1st Respondent states as follows:

   (a) The 1st Respondent does not deny the contents of paragraph 3(a) of the Petition.

   (b) The 1st Respondent does not deny the contents of paragraph 3(b) of the Petition, save to state that, insofar as the counting and announcements of results had proceeded up to that point, the process had proceeded without incident.

   (c) The 1st Respondent admits the contents of paragraph 3(c) of the Petition, save to state that there was no irregularity arising from the fact that the results from the remaining three (3) polling stations had not been entered and printed at that stage.

   (d) The 1st Respondent does not deny the contents of paragraph 3(d) of the Petition, save to state that a total of thirteen (13) polling

stations remained unverified at that point. The 1st Respondent nevertheless states that the figures referred to were not the final declared results and that he was ultimately duly declared elected upon completion of the electoral process.

(e) In answer to paragraph 3(E), the 1st Respondent states that the alleged instructions by the Returning Officer to close the tallying centre and postpone verification and announcement of results are matters within the peculiar knowledge of the Returning Officer and the Electoral Commission of Zambia, were not within the control or authority of the 1st Respondent, and cannot properly be attributed to him.

(f) In answer to paragraph 3(F), the 1st Respondent states that the allegations concerning the alleged deployment of armed Zambia Police Service officers and the removal of stakeholders from the tallying centre are matters within the peculiar knowledge of the Petitioner, and the 1st Respondent neither admits the same nor accepts any responsibility therefore.

(g) In answer to paragraph 3(g) of the Petition, the 1st Respondent states that the alleged refusal to permit the Petitioner and other stakeholders to enter the tallying centre, and their subsequent visit to the District Electoral Officer, Mr Paul Kabwewe, are

matters within the peculiar knowledge of the persons directly involved and are not attributable to the 1st Respondent.

(h) In answer to paragraph 3(h) of the Petition, the 1st Respondent states that the alleged communication by Mr Paul Kabwewe that the results from the remaining thirteen (13) polling stations were ready for verification and announcement is a matter within the peculiar knowledge of the Petitioner and the electoral authorities and is not within the knowledge or control of the 1st Respondent.

(i) In answer to paragraph 3(i) of the Petition, the 1st Respondent states that the allegation that the Returning Officer refused to announce the results from the remaining thirteen (13) polling stations pending instructions from the Electoral Commission of Zambia is a matter within the peculiar knowledge of the Petitioner and the 2nd Respondent. The 1st Respondent therefore neither admits nor denies the same, the allegation not being attributable to him.

(j) The 1st Respondent admits the contents of paragraph 3(j) of the Petition, save to state that approval to proceed with the announcement of the results had not yet been given.

(k) The 1st Respondent denies the contents of paragraph 3(k) of the Petition and states that he verily believes that the results

announced were the true, correct and accurate results and that the officers of the 2nd Respondent acted within their lawful powers and authority.

(l) The 1st Respondent admits the contents of paragraph 3(l) of the Petition, save to state that he denies any suggestion that the said results were improperly obtained.

(m) The 1st Respondent denies the contents of paragraph 3(m) of the Petition and states that the record of proceedings relating to the tallying of votes, duly signed by the Returning Officer and reflecting the votes from all 112 polling stations, represented the true and correct record of the votes announced.

(n) In answer to paragraph 3(n) of the Petition, the 1st Respondent denies that he was allocated inflated figures at Kaishe One, Sakala Two, Ninge, Mufimba, Yongola One, Chisemba, Chinsaka One and Njipi One polling stations and states that he has no knowledge of any inflation or alteration of votes and that the results announced were the results returned through the electoral process. The 1st Respondent accordingly puts the Petitioner to strict proof thereof.

(o) In answer to paragraph 3(o) of the Petition, the 1st Respondent denies that he was allocated votes exceeding the total number of

votes cast at any polling station. The 1st Respondent states that he neither participated in nor exercised control over the counting, verification or allocation of votes and accordingly puts the Petitioner to strict proof thereof.

(p) The 1st Respondent makes no admission as to the contents of paragraph 3(p) of the Petition, save to state that the record of proceedings containing the official ECZ results is the record which the 1st Respondent believes reflects the results that were announced and is true and correct.

(q) The 1st Respondent denies the contents of paragraph 3(q) of the Petition and states that his declaration as the successful candidate was based on the total votes counted from all 112 polling stations by the electoral officers duly vested with the authority to conduct the counting, verification and tallying of the votes.

(r) In answer to paragraph 3(r) of the Petition, the 1st Respondent states that the Returning Officer of the 2nd Respondent performed his duties in accordance with the Electoral Process Act No. 35 of 2016, as amended.

5. Save as expressly admitted herein, the 1st Respondent denies each and every allegation contained in the Petition and puts the Petitioner to strict proof thereof.

6. WHEREFORE, the 1st Respondent prays that this Honourable Court be pleased to grant the following relief:

   I. A declaration that the 1st Respondent was duly elected as Member of Parliament for Bangweulu Constituency;

   II. Costs.

DATED at Lusaka this _____ day of _____, 2026.

_____

HAPPY MAMPA
(1ST RESPONDENT)

Per: _____

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LUSAKA- ZAMBIA
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Advocates for the 1st Respondent

AND

Per: _____

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LUSAKA

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

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

SKELETON ARUGUEMENTS IN SUPPORT OF ANSWER TO PETITION

MAY IT PLEASE THIS HONOURABLE COURT, on behalf of the 1st Respondent we humbly submit these Skeleton Arguments in support of the Answer to Petition and Affidavit filed herein.

A. BACKGROUND AND FACTS.

1. On 13th August 2026, elections were held in the Republic of Zambia. For purposes of these submissions, the Petitioner and the 1st Respondent were contestants for the position of Member of Parliament (MP) for Bangweulu Constituency. The Petitioner was adopted by the

National Reconciliation Party for Unity and Prosperity (NRPUP), while the 1st Respondent was adopted by the United Party for National Development (UPND).

2. On 14th and 15th August 2026, officers of the 2nd Respondent commenced the process of counting and announcing the results at the totalling Centre.
3. Before the exercise could be concluded, the 2nd Respondent ordered that all election activities be stood down due security concerns until such a time as would be advised. In view of the deteriorating security situation, the Returning Officer at the totalling Centre directed that the exercise be suspended and that all persons present at the totalling centre vacate the premises until further notice.
4. In order to contain the situation and ensure the safety of persons present, the Police Officers responsible for security at the totalling centre assisted the persons present to leave the premises. Thereafter, the totalling Centre was closed to the general public.
5. On 16th August 2026, access to the totalling centre remained restricted. The UPND polling agents consequently remained outside the premises.
6. Later in the day, persons were permitted to enter the totalling centre for purposes of the announcement of the final results for the constituency.
7. Upon announcement of the results, the 1st Respondent was declared to have obtained the highest number of votes and was duly declared the winner and MP-elect for Bangweulu Constituency.

B. ARGUMENTS

1.0 STANDARD OF PROOF

1.1. My Lord/My Lady, it is trite that, generally, the standard of proof applicable in civil proceedings is proof on a balance of probabilities. This principle was affirmed in **Netta Shimwambwa Shakumbila v Chibamba (SCZ 8 248 of 2014) 2018 ZMSC 395**, citing *Murphy on Evidence*, Thirteenth Edition, at page 111, paragraph 4:15, where the standard of proof in civil proceedings is stated as follows:

> *"The standard of proof required of any party to civil proceedings for the discharge of the legal burden of proof is the balance of probabilities. This means no more than that the tribunal of fact must be able to say, on the whole of the evidence, that the case of the asserting party has been shown to be more probably true than not true. If the probabilities are equal, i.e. that the tribunal of fact is wholly undecided, the party bearing the burden of proof will fail."*

1.2. My Lord/My Lady, whilst an election petition is civil in nature, the standard of proof applicable to allegations made in an election petition is higher than the ordinary civil standard of proof on a balance of probabilities. At the same time, the standard does not rise to the criminal standard of proof beyond reasonable doubt. In **Mutapwe v Shomeno, Appeal No. 19 of 2017**, the Court held:

> *"The petitioner in an election, just as in any other civil matter, bears the burden to prove the electoral offence complained of. However,*

the standard of proof in an election petition is higher than that required in an ordinary civil action. The evidence adduced in support of the allegations made in an election petition must prove the issues raised to a fairly high degree of convincing clarity."

1.3. Accordingly, My Lord/My Lady, the question for determination is whether the Petitioner has discharged the requisite burden of proof to the required degree of convincing clarity.

1.4. It is respectfully submitted that a mere possibility or average probability that the allegations complained of may have occurred cannot, without more, satisfy the evidential threshold required in an election petition. The Court must be satisfied upon the evidence placed before it that the alleged irregularities have been established to the requisite standard.

2.0 THE PETITIONER'S PRAYER AND THE ALLEGED FAILURE TO ANNOUNCE RESULTS

2.0.1. The Petitioner seeks an order declaring the election of the 1st Respondent void. The principal basis advanced in support of this prayer is that the Returning Officer did not announce the results from 13 polling stations in the presence of the other election officers.

2.0.2. The Petitioner further alleges that there were discrepancies in the results relating to the polling stations particularised in paragraph 3(n) of the Election Petition.

2.0.3. My Lord/My Lady, in addressing this contention, we respectfully invite the Court's attention to **Section 71 of the Electoral Process Act No. 35 of 2016**, which provides, inter alia, as follows:

"71. (1) After announcing the result at a polling station, a presiding officer shall complete a form, as may be prescribed, reflecting—

(a) the number of ballot papers supplied to the polling station;

(b) the result at the polling station;

(c) the number of rejected ballot papers;

(d) the number of spoilt ballot papers; and

(e) the number of unused ballot papers.

(2) When a presiding officer has complied with subsection (1), the presiding officer shall publicly announce the result of the count at the polling station to members of the public, the accredited observers, monitors, election and polling agents present at the polling station.

(3) When the presiding officer has complied with subsection (2), the presiding officer shall inform the returning officer of the result of that count at the polling station.

(4) When the presiding officer has complied with subsection (3), the presiding officer shall—

(a) seal in separate ballot boxes each of the items mentioned in subsection (1) and the written record of any objections; and

(b) deliver the form, completed in terms of subsection (1), and the sealed ballot boxes to the returning officer."

2.0.4. It is respectfully submitted that the above statutory framework makes it abundantly clear that the initial announcement of results takes place at the respective polling station and the duty to do so is imposed on the presiding officer.

2.0.5. Consequently, the mere fact that the results from individual polling stations were not separately announced at the totalling centre by the returning officer cannot, without more, constitute an irregularity or breach of the statutory procedure.

2.0.6. Further, My Lord/My Lady, the electoral process expressly permits candidates to have polling agents present at polling stations. Those agents are not merely passive observers; their presence affords the candidates an opportunity to monitor the counting process and, where necessary, raise objections concerning the conduct or accuracy of the count.

2.0.7. This is why **sub-section 4(a)** of the provision cited above contemplates the recording of objections where concerns arise in relation to the results. In the present case, there was no objection brought to the attention of the Returning Officer in relation to the results subsequently posted to the totalling centre.

2.0.8. While the absence of an objection cannot, by itself, be treated as conclusive proof that an election was free from irregularities, it is nevertheless a relevant evidential consideration. Where polling agents were present and had the opportunity to observe the counting and raise objections, the failure to produce contemporaneous objections is significant when the Court is invited, after the event, to find that the results were fundamentally compromised.

2.0.9. My Lord/My Lady, had there been material discrepancies at any of the polling stations, it would reasonably be expected that the polling agents present would have raised such concerns and, where appropriate, recorded their objections as is demanded by the law.

2.0.10. The Petitioner has not demonstrated, by cogent evidence, that any such contemporaneous objection was made in respect of the alleged discrepancies.

2.1 THE ROLE OF THE RETURNING OFFICER

2.1.1. My Lord/My Lady, we further refer the Court to **Section 72 (1) of the Electoral Process Act No. 12 of 2026**, which provides:

"A returning officer shall, on receipt of the items specified under section 71, tally the results received from a polling station in a constituency, district and ward and shall—

(a) *announce the results of the votes for the presidential, Member of Parliament, mayoral, council chairperson or councillor elections; and*

(b) *declare the results of the votes for the Member of Parliament, mayoral, council chairperson or councillor election."*

2.1.2. The significance of Section 72 is that the statutory duty of the Returning Officer is to receive and tally the results transmitted from the polling stations and thereafter announce and, where applicable, declare the results in accordance with the Act.

2.1.3. My Lord/My Lady, the provision does not, on its face, prescribe that the Returning Officer must separately announce the results of every individual polling station at the totalling centre.

2.1.4. The law prescribes the duty to tally and announce the electoral results; it does not, in the provision relied upon, prescribe the particular format or sequence in which the individual polling-station results must be announced at the Totalling Centre.

2.1.5. It follows that the circumstances prevailing at the totalling centre must be considered in their proper context.

2.1.6. The evidence before the Court demonstrates that the totalling centre was to be closed for security reasons as was announced by the 2nd Respondent (resulting in the evacuation of persons from the premises and the temporary closure of the centre to the general public).

2.1.7. In those circumstances, the Returning Officer was faced with a difficult situation in which the integrity of the electoral process had to be balanced against the safety and security of persons present at the totalling centre.

2.1.8. It is respectfully submitted that the Returning Officer cannot fairly be faulted for taking reasonable measures to secure the premises and ensure the safe conclusion of the electoral process.

2.1.9. More importantly, there is no evidence before the Court demonstrating that the manner in which the Returning Officer proceeded; altered, distorted or otherwise affected the actual result of the election.

3.0 EFFECT OF THE ALLEGED MISCONDUCT OF AN ELECTORAL OFFICER

3.0.1. My Lord/My Lady, even assuming, without conceding, that the Court were to find that the Returning Officer failed to comply with a particular procedural requirement, it does not automatically follow that the election must be declared void.

3.0.2. We refer the Court to **Section 97 of the Electoral Process Act No. 35 of 2026**, which provides for offences relating to the failure of an election officer to perform the functions of that office. The relevant provision states:

"An election officer who wilfully fails to perform the functions of that office under this Act commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both."

3.0.3. My Lord/My Lady, the material consideration arising from this provision is the requirement of **wilfulness**. If, therefore, this Honourable Court were to form the view that the Returning Officer

ought to have separately announced the results from each polling station at the totalling centre, it is respectfully submitted that the evidence does not establish that any omission on the part of the Returning Officer was wilful.

3.0.4. The circumstances giving rise to the closure of the totalling centre were exceptional. There were security concerns announced by the 2nd Respondent which necessitated the intervention of the Police and the evacuation of persons from the premises.

3.0.5. The subsequent course adopted was therefore informed by considerations of public safety and the need to prevent further disorder while ensuring that the electoral process was brought to a conclusion. The Returning Officer's conduct must accordingly be assessed against the factual circumstances prevailing at the material time and not in isolation from those circumstances.

3.0.6. It would, with respect, be unjust to characterise a decision taken in response to an unfolding security situation as a wilful failure to perform a statutory duty in circumstances where the evidence does not demonstrate any intention to subvert, manipulate or compromise the electoral process.

3.1 WHETHER THE ALLEGED IRREGULARITY AFFECTED THE RESULT

3.1.1. My Lord/My Lady, of even greater significance is the statutory protection afforded to an election where an act or omission by an election officer does not affect the result.

3.1.2. We refer to **Section 97(4) of the Electoral Process Act No. 35 of 2016**, which provides:

"(4) 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."

3.1.3. The statutory language is clear. Not every procedural irregularity committed by an election officer has the consequence of invalidating an election.

3.1.4. The Court is required to consider, among other things, whether the election was substantially conducted in accordance with the Act and whether the alleged act or omission affected the result.

3.1.5. The Petitioner must therefore do more than identify an alleged procedural departure. The Petitioner must establish that the alleged departure was of such a nature and consequence as to affect the result of the election.

3.1.6. In the present case, the Petitioner has not demonstrated how the alleged failure to separately announce the results from the 13 polling stations affected the ultimate result declared by the Returning Officer. There is no demonstrated evidential link between the alleged omission and the victory of the 1st Respondent.

3.1.7. The Court is therefore respectfully urged to distinguish between an irregularity in procedure, assuming one existed, and an irregularity which materially affected the result of the election. The former does

not necessarily invalidate an election. It is the latter which assumes legal significance under the statutory framework.

3.2 WHETHER THE 1ST RESPONDENT WAS CONNECTED TO THE ALLEGED MISCONDUCT

3.2.1. My Lord/My Lady, we further draw the Court's attention to **Section 97(2) of the Electoral Process Act No. 35 0f 2016**, which provides, in the relevant part:

> ..."*(2) The election of a candidate as Member of Parliament, mayor, council chairperson or councillor shall be void if, on the trial of an election petition, it is proved to the satisfaction of the High Court or a tribunal, as the case may be, that—*
>
> ***(a)** a corrupt practice, illegal practice or other misconduct has been committed in connection with the election—*
>
> ***(i)** by a candidate; or*
>
> ***(ii)** with the knowledge of and consent or approval of a candidate or of that candidate's election agent or polling agent; and the majority of voters in the constituency, district or ward were or may have been prevented from electing the candidate in that constituency, district or ward whom they preferred."*

3.2.2. My Lord/My Lady, the statutory provision is material because it contemplates circumstances in which the misconduct complained of

is attributable to the candidate or was committed with the candidate's knowledge, consent or approval.

3.2.3. In the present matter, the Petitioner has not demonstrated any connection whatsoever between the 1st Respondent and the alleged misconduct of the Returning Officer.

3.2.4. There is no allegation, supported by evidence, that the 1st Respondent instructed, authorised, encouraged or participated in the alleged irregular conduct of the Returning Officer. Indeed, the Petitioner's own case appears to acknowledge that the closure of the totalling centre affected all candidates alike, as their respective election agents were similarly prevented from remaining inside the premises during the period of closure.

3.2.5. The 1st Respondent was therefore not placed in a position of advantage by the closure of the totalling centre. He was subjected to the same restrictions as the other contestants.

3.2.6. In those circumstances, it would be contrary to both the evidence and the statutory framework to attribute the acts or omissions of an electoral officer to the 1st Respondent in the absence of evidence establishing such a connection.

4.0 CONCLUSION AND PRAYER

4.1. My Lord/My Lady, having demonstrated that the Petitioner has failed to discharge the requisite evidential burden, that the Returning Officer duly performed his/her duties, and that no evidence links the 1st Respondent to the circumstances leading to

the closure of the Totalling Centre, we respectfully submit that the Petitioner's case has not been made out.

4.2. We therefore humbly pray that this Honourable Court finds that the election of the 1st Respondent as Member of Parliament for Bangweulu Constituency was validly conducted and dismisses the Petition for want of merit.

4.3. We further pray that this Honourable Court finds that no misconduct has been established against the Returning Officer in the conduct of the electoral process.

Dated at _____ this _____ day of _____ 2026.

Per: _____

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CO-ADVOCATES FOR THE 1ST RESPONDENT

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

2026/HP/EP/003

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 (1) (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
AND	
IN THE MATTER OF:	AN ELECTION PETITION RELATING TO BANGWEULU CONSTITUENCY PARLIAMENTARY ELECTIONS HELD ON THURSDAY, 13TH AUGUST, 2026

BETWEEN:

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
27 AUG 2026
PRINCIPAL REGISTRY 1
P.O. BOX 50067, LUSAKA.

ANTHONY KASANDWE (MALE) **PETITIONER**

AND

HAPPY MAMPA (MALE) **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

SKELETON ARGUMENTS FILED IN SUPPORT OF ELECTION PETITION

IF IT MAY PLEASE THIS HONOURABLE COURT, these are the Petitioner's Skeleton Arguments filed in support of Election Petition challenging the validity of the election of the 1st Respondent as Member of Parliament for Bangweulu Constituency on 13th August, 2026. The Petitioner shall therefore rely on the following authorities:

LEGISLATION:

2. THE CONSTITUTION OF ZAMBIA (AMENDMENT) ACT, NUMBER 2 OF 2016.
3. THE ELECTORAL PROCESS ACT, NUMBER 35 OF 2016.
4. THE HIGH COURT (ELECTION PETITION) RULES, 2026

INTRODUCTION

At this Juncture, is the Petitioner's submission that what needs to be determined is whether the Petition herein has been properly brought before the Court.

THE LAW

First, the Petitioner relies on the **CONSTITUTION OF ZAMBIA (AMENDMENT) ACT, NUMBER 2 OF 2016** which demands compliance by political parties and candidates participating in elections to comply with electoral code of conduct. Article 54 of the Constitution therefore provides that;

'A candidate and a political party shall comply with a prescribed electoral code of conduct.'

Therefore, failure to comply with the electoral code of conduct can give rise to an election petition challenging the election of a Member of Parliament. In this regard, **ARTICLE 73 (1) OF THE CONSTITUTION OF ZAMBIA (AMENDMENT) ACT, NUMBER 2 OF 2016**, further provides that;

'A person may file an election petition with the High Court to challenge the election of a Member of Parliament.'

Taking into consideration the foregoing authority, the **ELECTORAL PROCESS ACT NO. 35 OF 2026** under Part VIII provides for various election offences upon which an election of Member of Parliament may be challenged. **Section 96 of the Act** provides that;

"(1) A question which may arise as to whether—

(a) A person has been validly appointed or nominated as a Member of Parliament;

(b) the seat of an elected or nominated Member of Parliament, mayor, council chairperson or councilor, has become vacant, other than a question arising from the election of a candidate as a Member of the Parliament; or

(c) A petition may be heard and determined by the High Court or tribunal upon application made by—

(i) Any person to whom the question relates; or

(ii) The Attorney General; may be determined by the High Court or a tribunal, as the case may be.

(2) A person who makes an application to the High Court or a tribunal under subsection (1), has the right to appear and be represented before the High Court or tribunal.

(3) Subject to any rules of court or tribunal, the powers, practice and procedure of the High Court or a tribunal in respect of the trial of an election petition under this Part shall apply, with the necessary modifications, to the hearing and determination of such applications.

Further, the law under **SECTION 97 (1) and (2) (b) OF THE ELECTORAL PROCESS ACT** also provides that;

(1) An election of a candidate as a Member of Parliament, mayor, council chairperson or Councillor shall not be questioned except by an election petition presented under this Part.

(2) The election of a candidate as a Member of Parliament, mayor, council chairperson or councilor shall be void if, on the trial of an election petition, it is proved to the satisfaction of the High Court or a tribunal, as the case may be, that—

(b) Subject to the provisions of subsection (4), there has been non-compliance with the provisions of this Act relating to the conduct of elections, and it appears to the High Court or tribunal that the election was not conducted in accordance with the principles laid down in such provision and that such non-compliance affected the result of the election;

The provisions of **SECTION 98 OF THE ELECTORAL PROCESS ACT** also provides that;

An election petition may be presented to the High Court or a tribunal by one or more of the following persons:

(a) A person who lawfully voted or had a right to vote at the election to which the election petition relates;

(b) A person claiming to have had a right to be nominated as a candidate or elected at the election to which the election petition relates;

(c) A person claiming to have been a candidate at the election to which the election petition relates; and

(d) The Attorney General.

The Act further provides under **SECTION 99** that;

Any of the following reliefs may be claimed in an election petition:

(a) A declaration that the election was void; or

(b) A declaration that any candidate was duly elected.

In accordance with above provisions, the **HIGH COURT (ELECTION PETITION) RULES OF 2026** accordingly provides a guide to the contents of an election petition and how the election petition should be filed. Rule 9 accordingly provides as follows:

"9. (1) A person who intends to challenge the election of a Member of Parliament shall file an election Petition in Form III set out in the First Schedule on payment of a fee set out in the Second Schedule.

(2) An Election Petition referred to under sub rule (1) shall disclose the-

(a) Name and address of a petitioner or the petitioner's legal practitioner, if any;

(b) Constituency in which an election petition being challenged was held;

(c) Outcome or results of an election petition being challenged;

(d) Date of declaration of the results of an election being challenged;

(e) Grounds relied on; and

(f) Relief sought by a petitioner.

(3) An election petition referred to under sub rule (1) shall be accompanied by-

(a) An affidavit verifying facts;

(b) Skeleton arguments of not more than fifteen pages, in font size 12 and with double spacing;

(c) List of authorities and copies of those authorities;

(d) A list and description of documents, if any.

In the case in casu, the Petitioner filed this petition aimed at invalidating the election of the 1st Respondent as Member of Parliament for Bangweulu Constituency and the Petitioner in his petition has alleged non-compliance with the Electoral Process Act. The Petition submits that the no-compliance arises from the 2nd Respondents actions relating to the stopping and or adjourning the verification and announcing of election results on 15th August, 2026 to 16th August, 2026.

Further, the failure of the 2nd Respondent's Returning Officer not verifying and announcing results for 13 Polling Stations and further announcing results that did not represent the true or correct votes cast and counted for over 8 Polling Stations contrary to the provisions of **SECTION 72 (1) (b) OF THE ELECTORAL PROCESS ACT** which provides as follows:

"(1) Upon receipt of the items mentioned in section seventy-one, a returning officer shall tally the results of votes received from the polling station in the constituency, district and ward and shall-

.....(b) declare the results for the National Assembly and Ward election.."

Notwithstanding the foregoing, the Returning Officer as an election officer at the totaling centre in the circumstances, deliberately failed to perform his functions contrary when he, despite having

received the results for the 13 Polling Stations decided not to announce the said results. This was contrary to the provisions of **SECTION 92 OF THE ELECTORAL PROCESS ACT** which provides that;

"An election officer who willfully fails to perform the functions of that office under this act commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both"

With respect to the foregoing, the Petitioner's Petition herein is properly before the Court for determination.

Dated at _____ this _____ day of _____, 2026

This Petition was settled by: _____

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LUSAKA
ADVOCATES FOR THE PETITIONER

IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/003**
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 (1) (a) OF THE ELECTORAL PROCESS ACT NO. 35 OF 2026 OF THE LAWS OF ZAMBIA
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AND	
IN THE MATTER OF:	AN ELECTION PETITION RELATING TO BANGWEULU CONSTITUENCY PARLIAMENTARY ELECTIONS HELD ON THURSDAY 13TH AUGUST, 2026

BETWEEN:

ANTHONY KASANDWE (MALE) **PETITIONER**

AND

HAPPY MAMPA (MALE) **1ST RESPONDENT**
ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

REPUBLIC OF ZAMBIA HIGH COURT OF ZAMBIA 03 SEP 2026 PRINCIPAL REGISTRY P.O. BOX 50067, LUSAKA

SKELETON ARGUMENTS IN SUPPORT OF EX-PARTE SUMMONS FOR AN ORDER FOR LEAVE TO EFFECT SERVICE OF COURT PROCESS ON THE 1ST RESPONDENT BY WAY OF SUBSTITUED SERVICE

LEGISLATION REFERRED TO:

1. THE HIGH COURT (ELECTION PETITION) RULES, 2026 OF THE LAWS OF ZAMBIA

IF IT MAY PLEASE THE HONOURABLE COURT, these are the Petitioner's skeleton arguments tendered in support of the application for leave to serve Court process on the 1st Respondent by way of substituted service.

LEGAL ARGUMENT

The Application before the Court is premised on the fact that the Petitioner is unable to serve Court process on the 1st Respondent as attempts to do so have proved futile.

SUBSTITUTED SERVICE

The law governing substituted service of Court process in an election is contained in THE HIGH COURT (ELECTION PETITION) RULES, 2026 WHICH PROVIDES IN RULE 14 SUBRULE (3) AND (4) which provides that;

"(3) A Petitioner may, where the Petitioner fails to effect personal service of a nomination petition or an election petition referred to in subrule (1) make an application for substituted service within twenty four hours of failing to effect personal service.

Subrule 4 vests power in this Honourable Court to grant an Order that service be effected via substituted service where personal service cannot be effected. It thus provides that;

The Court shall, on receipt of an application under subrule (3) and where –the Court is satisfied that personal service cannot be effected on a respondent, order that service be effected by –

"... (b) Advertisement in a daily newspaper of general circulation in the Republic;..."

CONCLUSION

It is our prayer that premised on the reasoned on the provisions of the law cited above, the Petitioner's application prima facie has merit and it should accordingly be granted.

MUCH OBLIGED

Dated at Lusaka this _____ day of _____, 2026.

Skeleton Arguments settled by: **Messrs Linus & Partners,** Plot No. 6 Sianjalika Road, Off Mwapona Road, Woodlands, Email: linusvaandpartners@gmail.com, Tel: +260 211 267821, P.O Box 30675, **LUSAKA, ADVOCATES FOR THE PETITIONER**

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

2026/HP/EP/003

IN THE MATTER OF: ARTICLE 73(1) OF THE CONSTITUTION OF ZAMBIA (AMENDMENT ACT) NO. 2 OF 2016 OF THE LAWS OF ZAMBIA

AND

IN THE MATTER OF: SECTIONS 72, 92, 96, 97, 98, 99 AND 100 (1) (a) OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016 OF THE LAWS OF ZAMBIA

AND

IN THE MATTER OF: PART III OF THE HIGH COURT (ELECTION PETITION) RULES, 2026 OF THE LAWS OF ZAMBIA

AND

IN THE MATTER OF: AN ELECTION PETITION RELATING TO BANGWEULU CONSTITUENCY PARLIAMENTARY ELECTIONS HELD ON THURSDAY, 13TH AUGUST, 2026

BETWEEN:

ANTHONY KASANDWE (MALE) PETITIONER

AND

HAPPY MAMPA (MALE) 1ST RESPONDENT

ELECTORAL COMMISSION OF ZAMBIA 2ND RESPONDENT

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

LIST OF AUTHORITIES AND SKELETON ARGUMENTS IN SUPPORT OF SUMMONS FOR AN ORDER FOR DETERMINATION OF QUESTIONS ON A POINT OF LAW

IF IT MAY PLEASE THIS HONOURABLE COURT, hereunder are the List of Authorities and Skeleton Arguments in support of the Summons for an Order for Determination of Questions on a Point of Law.

1.0 LIST OF AUTHORITIES

1.1 LEGISLATION

1.1.1 The Constitution of Zambia Act No. 2 of 2026

1.1.2 The High Court (Election Petition) Rules, 2026.

1.1.3 The High Court Act Cap 27 of the Laws of Zambia

1.1.4 The Electoral Process Act, 2016

1.1.5 The Electoral Commission of Zambia Act, 2016

1.2 CASE LAW

1.2.1 Attorney-General V Silleman [1864] 10 H.L.C. 704

1.2.2 Mutale v Munaile (SCZ Judgment 14 of 2007) [2007] ZMSC 188 (25 July 2007)

2.0 BACKGROUND

2.1 The Petitioner commenced these proceedings by filing an election petition challenging the election of the 1st Respondent as Member of Parliament for Bangweulu Constituency following the parliamentary election held on 13th August, 2026.

2.2 The 1st Respondent has raised preliminary questions of law concerning, principally, the inclusion of the 2nd Respondent to the proceedings and that the Petitioner has not personally signed the petition herein.

3.0 ARGUMENTS

3.1 The application raises the following question for determination by this Honourable Court:

3.1.1 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 and, and, if so, whether the ECZ may nevertheless properly be cited and sued in its own name as the 2nd Respondent herein; and

3.1.2 Whether this Honourable Court has jurisdiction to hear and determine the Petition herein, where the Petitioner did not personally sign the Petition as required by law.

3.2 We shall proceed to address the question above in the order or manner in which it has be raised.

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 AND, AND, IF SO, WHETHER THE ECZ MAY NEVERTHELESS PROPERLY BE CITED AND SUED IN ITS OWN NAME AS THE 2ND RESPONDENT HEREIN.

3.3 The issue for determination concerns the citation of the Electoral Commission of Zambia as the 2nd Respondent. The Petition cites the Electoral Commission of Zambia as a respondent in these proceedings. The 1st Respondent respectfully submits that the question whether a particular

body may be sued in its own name is a question of legal capacity and not merely one of nomenclature.

3.4 The constitutional and statutory framework establishing a public body must, therefore, be examined to determine the nature of the legal personality conferred upon that body. Accordingly, ARTICLE 229 OF THE CONSTITUTION OF ZAMBIA ACT NO. 2 OF 2016 establishes the Electoral Commission of Zambia and prescribes its constitutional functions. The said provision provides that:

> ***"229. (1) There is established the Electoral Commission of Zambia which shall have offices in Provinces and progressively in districts.***
>
> ***(2) The Electoral Commission shall—***
>
> ***(a) implement the electoral process;***
>
> ***(b) conduct elections and referenda;***
>
> ***(c) register voters;***
>
> ***(d) settle minor electoral disputes, as prescribed;***
>
> ***(e) regulate the conduct of voters and candidates;***
>
> ***(f) accredit observers and election agents, as prescribed;***
>
> ***(g) delimit electoral boundaries; and***
>
> ***(h) perform such other functions as prescribed."***

3.5 From the above, it is evident that Article 229 is significant because the 2nd Respondent is not merely an ordinary statutory corporation created by an Act of Parliament. It is a body established directly by the Constitution and entrusted with constitutionally prescribed electoral functions.

3.6 We further submit that the constitutional character of the 2nd Respondent therefore requires any legislation regulating its legal status, powers and functions to be construed consistently with Article 229. Parliament may legislate to give effect to the constitutional establishment of the Commission, but ordinary legislation cannot be interpreted as altering, enlarging or undermining the constitutional scheme.

3.7 As can be discerned also, the 2nd Respondent is established by the Constitution of Zambia and, in its establishment, the 2nd Respondent is not a body corporate capable of suing and being

sued. Had the drafters of the Constitution of Zambia contemplated the 2nd Respondent to be a body corporate capable of suing and being sued, it would, in its establishment, have stated so.

3.8 The question therefore arises whether the general provision contained in Section 22 of the Electoral Commission of Zambia Act, 2016 can properly be construed as conferring upon the ECZ an unrestricted capacity to be cited as a respondent in an election petition.

SECTION 22 OF THE ELECTORAL COMMISSION OF ZAMBIA ACT

3.9 SECTION 22 OF THE ELECTORAL COMMISSION ACT 2016, provides that:

> ***"22. Legal proceedings***
>
> ***(1) Any legal proceedings or application of the Electoral Commission pending immediately before the commencement of this Act by or against the Electoral Commission may be continued by or against the Commission.***
>
> ***(2) After the commencement of this Act, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred or suffered by the Electoral Commission may be instituted by or against the Commission."***

3.10 From the above, it can be discerned that Section 22(1) is plainly transitional in nature. Its purpose is to preserve proceedings pending at the commencement of the Act and to ensure that such proceedings may continue by or against the Commission. Further, Section 22(2), on its face, recognizes that proceedings concerning a right, liability or obligation vested in, held, enjoyed, incurred or suffered by the Commission may be instituted by or against the Commission.

3.11 The 1st Respondent does not dispute that Section 22 confers or recognises a general capacity upon the ECZ to be a party to legal proceedings in appropriate circumstances. The submission, however, is that Section 22 cannot be read in isolation or as conferring an unrestricted right to cite the ECZ as a respondent in every form of proceeding. In particular, Section 22 does not expressly provide that the ECZ shall be a respondent in an election petition. Nor does it identify election petitions as a class of proceedings in which the Commission may necessarily be cited as a respondent.

3.12 The words "right, liability or obligation" in Section 22(2) must therefore be given meaning within the constitutional framework governing the Commission. The provision cannot properly be

construed as a freestanding source of jurisdiction permitting the ECZ to be made a respondent in proceedings in circumstances not otherwise authorized by the Constitution.

RULE 24 AND THE RULE-MAKING POWER

3.13 Rule 24 of the High Court (Election Petition) Rules, 2026 provides that the Commission may be cited by a petitioner as a respondent in a nomination petition or election petition.

3.14 The Rules were made pursuant to **SECTION 102 OF THE ELECTORAL PROCESS ACT, 2016**. Section 102 provides, in material part, that:

> ***"Subject to the other provisions of this Act, the Chief Justice may make rules regulating generally the practice and procedure of the High Court and tribunals with respect to the presentation and trial of election petitions..."***

3.15 The language of Section 102 is important. The power delegated to the Chief Justice is a power to regulate practice and procedure relating to the presentation and trial of election petitions. The power is expressly made subject to the other provisions of the Electoral Process Act.

3.16 The 1st Respondent accordingly submits that Section 102 does not confer an unlimited power to create substantive legal rights, liabilities or legal personality. A rule made under Section 102 must remain within the scope of the power delegated by Parliament.

3.17 The distinction between substantive law and procedural rules is material. A procedural rule may regulate the manner in which an existing right or cause of action is brought before the Court. It cannot, in the absence of statutory authority, create a substantive right to sue a person or body where that right does not otherwise exist.

3.18 This principle is illustrated by **ATTORNEY-GENERAL V SILLEM [1864] 10 H.L.C. 704**, where rules made under statutory authority to regulate the practice and procedure of a court were held not to extend to conferring a substantive right of appeal which the enabling legislation had not authorised. The principle arising from that decision is that delegated legislation cannot travel beyond the substance of the authority conferred by the parent legislation.

THE CONSTITUTIONAL LIMITATION

3.19 The 1st Respondent respectfully submits that the starting point in determining the legal status and capacity of the 2nd Respondent ("ECZ") is Article 229 of the Constitution, and not Section 22

of the Electoral Commission of Zambia Act, 2016 or Rule 24 of the High Court (Election Petition) Rules, 2026.

3.20 Article 229 establishes the ECZ as a constitutional public body and expressly sets out its constitutional functions. Significantly, in establishing the Commission, the Constitution does not confer upon it the status of a body corporate, nor does it expressly provide that the Commission shall have the capacity to sue or be sued in its own name.

3.21 The 1st Respondent submits that this omission is legally significant. Where the Constitution itself establishes an institution and prescribes its constitutional character, powers and functions, its legal status must be ascertained from the constitutional instrument establishing it. An ordinary Act of Parliament cannot, by implication or otherwise, alter or enlarge that constitutional status in a manner inconsistent with the Constitution.

3.22 It follows that the ECZ, as established under Article 229, is a constitutionally established public body. The Constitution does not establish it as a body corporate or confer upon it an express juridical personality separate from the constitutional office and institution established by Article 229.

3.23 Against that constitutional position, Section 22 of the Electoral Commission of Zambia Act, 2016 purports to provide that proceedings concerning rights, liabilities or obligations of the Commission may be instituted "by or against the Commission". To the extent that Section 22 is construed as conferring upon the ECZ a corporate or juridical capacity to sue and be sued in its own name, the provision purports to confer a legal status which was not conferred upon the Commission by Article 229.

3.24 The 1st Respondent accordingly submits that Section 22 cannot be used to supplement or amend the constitutional establishment of the ECZ. Parliament cannot, through ordinary legislation, confer upon a constitutional institution a legal status inconsistent with the manner in which that institution was established by the Constitution.

3.25 The same reasoning applies with greater force to Rule 24 of the High Court (Election Petition) Rules, 2026. Rule 24 purports to permit the ECZ to be cited as a respondent in a nomination petition or election petition. In substance, the Rule assumes and gives effect to a capacity of the Commission to be sued in its own name.

3.26 However, Rule 24 is subsidiary legislation made pursuant to section 102 of the Electoral Process Act. It cannot confer upon the ECZ a constitutional or corporate status which the Constitution itself has not conferred. Subsidiary legislation must remain within the limits of the enabling Act and, above all, must conform to the Constitution.

3.27 The effect of Section 22 and Rule 24, if interpreted as conferring upon the ECZ an independent juridical personality and an unrestricted capacity to sue and be sued in its own name, is therefore to alter the legal character of a body established by Article 229. Such an interpretation is inconsistent with the constitutional scheme and cannot be sustained.

3.29 The 1st Respondent accordingly submits that Section 22 of the Electoral Commission of Zambia Act, 2016 and Rule 24 of the High Court (Election Petition) Rules, 2026 are unconstitutional and ultra vires to the extent that they purport to confer upon the ECZ a corporate or juridical capacity to sue and be sued in its own name which is not conferred by Article 229 of the Constitution.

3.30 The fact that Section 22 uses the words "by or against the Commission" cannot, of itself, cure the constitutional defect. Parliament cannot confer by ordinary legislation that which the Constitution, in establishing the Commission, did not confer. Likewise, the Chief Justice, exercising delegated rule-making authority under section 102 of the Electoral Process Act, cannot confer such status through subsidiary legislation.

3.31 The 1st Respondent therefore respectfully submits that the constitutional status of the ECZ must prevail over the inconsistent statutory and subsidiary provisions. The ECZ cannot properly be cited and sued in its own name as the 2nd Respondent in these proceedings on the strength of Section 22 or Rule 24 where such capacity is inconsistent with its constitutional establishment under Article 229.

WHETHER THIS HONOURABLE COURT HAS JURISDICTION TO HEAR AND DETERMINE THE PETITION HEREIN, WHERE THE PETITIONER DID NOT PERSONALLY SIGN THE PETITION AS REQUIRED BY LAW

3.32 According to **RULE 9(5) OF THE HIGH COURT (ELECTION PETITION) RULES, 2026,** it provides:

"Subject to the Act, an election petition shall be personally signed by a petitioner or by all the petitioners, if the petitioners are more than one."

3.32 The use of the word "shall" demonstrates that personal signature is a mandatory requirement for the validity of an election petition. The requirement is not satisfied merely because a document purporting to be an election petition bears a signature. The signature must be the personal signature of the petitioner.

3.33 The purpose of the requirement is to ensure that the petitioner personally authenticates the election petition and thereby demonstrates that it is the petitioner who has invoked the special jurisdiction of the Court. The 1st Respondent submits that compliance with Rule 9(5) is therefore a condition precedent to the Court properly entertaining the Petition.

3.34 The 1st Respondent relies on **MUTALE V MUNAILE (SCZ JUDGMENT 14 OF 2007) [2007] ZMSC 188 (25 JULY 2007),** in which the Supreme Court considered the requirement that an election petition be personally signed by the petitioner. The Supreme Court treated the personal-signature requirement as mandatory and held that failure by the petitioner to personally sign the election petition rendered the petition incompetent. The significance of ***Mutale v Munaile*** is that an election petition is a special statutory proceeding. The requirements governing its institution must therefore be complied with before the Court can properly proceed to determine the substantive dispute.

3.35 The principle applies equally where, as in the present case, the Petition bears a signature but there is a genuine issue as to whether that signature was personally affixed by the Petitioner.

3.36 In the case in casu, the 1st Respondent has placed before the Court the Petition and the Petitioner's Nomination Papers lodged with the 2nd Respondent (hereinafter called "ECZ"). The signature appearing on the Petition is materially different from the signature appearing on the Petitioner's Nomination Papers. The Nomination Papers provide an official contemporaneous record containing the Petitioner's signature in the electoral process.

3.37 From the material differences between the two signatures, it can be discerned that the Petitioner did not personally sign the Petition herein. Therefore, we respectfully submit that where an election petition has not been personally signed by the petitioner, it does not comply with Rule 9(5). Such failure goes to the competence of the Petition and not merely to form or technicality. The Court cannot properly exercise its election-petition jurisdiction in respect of a petition which has not been validly instituted in accordance with the mandatory requirements governing election petitions.

3.38 Accordingly, if this Honourable Court finds that the signature appearing on the Petition is not the personal signature of the Petitioner, the Petition is incompetent and ought to be dismissed and/or struck out.

CONCLUSION

3.32 The 1st Respondent accordingly prays that the questions set out in the Summons be determined in favour of the 1st Respondent.

3.33 The 1st Respondent accordingly prays that costs be awarded in his favour.

Dated at Lusaka this _____ day of _____ 2026.

Per: _____

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P.O. Box 51140
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CO-ADVOCATES FOR THE 1ST RESPONDENT

AND

Per: _____

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LUSAKA- ZAMBIA
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ADVOCATES FOR THE 1ST RESPONDENT

IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/003**
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Election Jurisdiction)

SEP 2026
PRINCIPAL REGISTRY 8
P.O. BOX 50067, LUSAKA.

IN THE MATTER OF:	**ARTICLE 73 (1) OF THE CONSTITUTION OF ZAMBIA (AMENDMENT) ACT NO. 2 OF 2016**
IN THE MATTER OF:	**SECTIONS 71, 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**
AND	
IN THE MATTER OF:	**AN ELECTION PETITION RELATING TO BANGWEULU CONSTITUENCY PARLIAMENTARY ELECTIONS HELD ON THURSDAY 13TH AUGUST, 2026**

BETWEEN:

ANTHONY KASANDWE (MALE) **PETITIONER**

AND

HAPPY MAMPA (MALE) **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

AFFIDAVIT IN OPPOSITION TO AFFIDAVIT VERIFYING FACTS

I, **HAPPY MAMPA**, a Zambian National ordinarily resident at Mwamfuli Village in the Samfya District of the Luapula Province of the Republic of Zambia **DO HEREBY** make **OATH** and **SAY** as follows:

1. That I am the 1st Respondent in this matter and, by reason thereof, I am competent to swear to this Affidavit from facts within my own knowledge and from the official electoral process in which I participated.

2. That I was a candidate for election as Member of Parliament for Bangweulu Parliamentary Constituency in the elections held on 13th August 2026, in which the Petitioner, Anthony Kasandwe, was also a candidate.

3. That the other candidates who participated in the election included Chabala Moses of Zambia Must Prosper, Chama Reuben as an independent candidate, and Chanda Derrick of Citizens First, together with the Petitioner and myself.

4. That I participated in the election throughout the electoral process and, from my observation, the election was conducted in an orderly manner, with the electorate casting their votes and the electoral officials undertaking the counting and tallying of the results.

5. That I did not conduct the counting or of the votes, prepare the GEN20 Forms, control the tallying centre, or direct the Returning Officer in the performance of his duties.

6. That on 14th August 2026, before the Returning Officer completed the announcement of the election results, a directive was issued by the 2nd Respondent ordering that all electoral activities be suspended nationwide due to security reasons.

7. That only the officers in charge of the election, including the police officers remained at the totalling centre for security purposes.

8. That the announcement process resumed immediately upon the lifting of the suspension with all stakeholders in attendance.

9. That on the 16th August, 2026, at around 18:00 hours, the Returning Officer proceeded to announce the total results from all the polling stations in which I was leading, and I was duly announced as the winner of the election after tallying all the 112 Polling Stations from Bangweulu Constituency.

10. That I am advised by my Advocates on record, which advice I verily believe to be sound, that there was no irregularity on the part of the 2nd Respondent's Officers in the conduct of their electoral duties.

11. That I verily believe the contents of my Affidavit are true and correct to the best of my knowledge, information and belief.

SWORN by the said **HAPPY MAMPA** at Lusaka this 11th day of SEPTEMBER 2026)

DEPONENT

BEFORE ME:

COMMISSIONER FOR OATHS

I. Malama Mukande
LLB, AHCZ, ASCZ
11 SEP 2026
LEGAL PRACTITIONER
COMMISSIONER FOR OATHS

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

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
04 SEP 2026
PRINCIPAL REGISTRAR
P.O. BOX 50067, LUSAKA

2026/HP/EP/003

IN THE MATTER OF: ARTICLE 73 (1) OF THE CONSTITUTION OF ZAMBIA (AMENDMENT) ACT NO. 2 OF 2016 OF THE LAWS OF ZAMBIA

AND

IN THE MATTER OF: SECTION 72, 92, 96, 97, 98, 99 AND 100(1)(a) OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016 OF THE LAWS OF ZAMBIA

AND

IN THE MATTER OF: PART III OF THE HIGH COURT (ELECTION PETITION) RULES 2026 OF THE LAWS OF ZAMBIA

AND

IN THE MATTER OF: AN ELECTION PETITION RELATING TO BANGWEULU CONSTITUENCY PARLIAMENTARY ELECTIONS HELD ON THURSDAY, 13TH AUGUST, 2026

BETWEEN:

ANTHONY KASANDWE (MALE) **PETITIONER**

AND

HAPPY MAMPA (MALE) **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

2ND RESPONDENT'S AFFIDAVIT IN OPPOSITION

I, **KABO MILTON** do hereby **MAKE OATH** and state as follows:

1. That my full name is as stated above.

1. That my full name is as stated above.

2. That I am a Zambian National.

3. That I reside in Sekondi Village, Samfya.

4. That I was employed by the 2nd Respondent as the returning officer for Bangweulu Constituency and depose to facts and information herein which I possess by virtue of the aforesaid position.

5. That I have read what purports to be the Affidavit Verifying Facts in Election Petition (Affidavit) of one **ANTHONY KASANDWE** and wish to respond as hereunder.

6. That I am advised by the 2nd Respondent's advocates and I verily believe that in the performance of its functions, the 2nd Respondent is guided by the relevant electoral laws which, amongst others, include the Constitution of Zambia (Amendment) Act, Electoral Process Act and Regulations promulgated thereunder.

7. That contrary to paragraph 4 of the Affidavit, the election for Bangweulu Constituency was conducted in conformity with the electoral laws and procedures.

8. That the 2nd Respondent admits the contents of paragraph 5 and 6 of the Affidavit and shall aver that only 96 results were printed out of the 99 verified polling stations results at the material time. This occurred because the Assistant Returning Officer (IT) and Technical Support Officer were still actively entering

data into the system. As the data entry process is time-consuming, I had progressed ahead of the technical team in verifying results.

9. That the 2nd Respondent admits the contents of paragraph 7 of the Affidavit to the extent that the results I announced from 96 polling stations out of 112 polling stations showed the Petitioner in the lead.

10. That contrary to paragraph 8 of the Affidavit, the verification and announcement of election results were suspended nationwide by the 2nd Respondent at approximately 14:00 hours on 14th August 2026, due to a volatile security situation, persistent threats of violence against polling staff, and the theft of election materials at certain polling stations.

11. That upon the lifting of the suspension at approximately 20:00 hours on the same day, the verification and announcement of results resumed immediately in the presence of all stakeholders.

12. That contrary to paragraph 9 of the Affidavit, following the suspension of the verification and announcement of results, officers from the Zambia Police Service entered the totalling centre to address security concerns and I together with all poll staff and stakeholders exited the venue to await further instructions from the 2nd Respondent.

13. That at this point, I did not have possession of the ballot papers or Gen20 forms for the remaining unannounced polling stations. Instead, the respective presiding officers held these materials at the polling stations while waiting to be demobilised.

14. That contrary to paragraphs 11 and 12 of the Affidavit, the totalling centre was open to all accredited representatives of organisations, political parties, and candidates, in full compliance with the 2nd Respondent's guidelines.

15. That contrary to paragraphs 13 of the Affidavit, the totaling centre was open on 16th August, 2026, and the verification and announcement of results for the remaining 13 polling stations were conducted inside the totaling centre as results were received from various polling stations in Bangweulu Constituency, in accordance with the law and laid down procedures. However, I made the official declaration of the final poll results outside the totaling centre.

16. The 2nd Respondent admits the contents of paragraph 14 of the Affidavit.

17. That contrary to paragraphs 15 to 21, the results captured in the record of proceedings were compiled from official Gen 20 forms received by me from all polling stations in the constituency and I made the declaration of the 1st Respondent as duly elected Member of Parliament in good faith

18. That I depose to the above facts verily believing the same to be true and correct to the best of my knowledge and belief.

Sworn by the said)
KABO MILTON)
At Samfya this 4th day of September 2026)

Deponent

Before Me:

Commissioner for oaths

REPUBLIC OF ZAMBIA
OFFICE OF THE PRESIDENT
DISTRICT ADMINISTRATIVE OFFICER
04 SEP 2026
P.O. BOX 620050
SAMFYA
COMMISSIONER OF OATHS

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

2026/HP/EP/003

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 (1) (a) OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016 OF THE LAW 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:

ANTHONY KASANDWE (MALE) — PETITIONER

AND

HAPPY MAMPA (MALE) — 1st RESPONDENT
ELECTORAL COMMISSION OF ZAMBIA — 2ND RESPONDENT

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

AFFIDAVIT IN SUPPORT OF SUMMONS FOR AN ORDER FOR DETERMINATION OF QUESTION ON A POINT OF LAW

I, **HAPPY MAMPA**, a Zambian National ordinarily resident at Mwamfuli Village in the Samfya District of the Luapula Province of the Republic of Zambia **DO HEREBY** make **OATH** and **SAY** as follows:

1. That my particulars are as stated above.

2. That I am the 1st Respondent in this matter herein and thereof competent to depose to this Affidavit from facts known to me to the best of my knowledge, information and belief.

3. That I was a candidate in the Bangweulu Constituency Parliamentary Elections held on Thursday, 13th August, 2026, and I am the 1st Respondent in the Election Petition herein.

4. That following the said elections, I came to learn that the Petitioner, Anthony Kasandwe, commenced the Election Petition herein under Cause No. 2026/HP/EP/003, challenging the election relating to the Bangweulu Constituency.

5. That I am aware the Electoral Commission of Zambia ("ECZ") has been cited as the 2nd Respondent in the Election Petition herein.

6. That I have accordingly instructed my Advocates to seek a determination by this Honourable Court regarding the status and capacity of the 2nd Respondent as a party to these proceedings.

7. That the foregoing submission is premised on the fact that ECZ, upon its establishment, was not constituted as a body corporate.

8. That also, I verily believe that the signature appearing on the Petition is materially different from the signature of the Petitioner appearing on the nomination papers lodged with the Electoral Commission of Zambia. Now produced and shown to me are exhibits collectively marked **"HM-1"**, the same being copies of the Nomination Papers of the Petitioner and the Petition filed herein.

9. That I verily believe that, having regard to the material differences between the said signatures, the Petition was not personally signed by the Petitioner.

10. That I have been advised by my Advocates on record, which advice I verily believe to be true, that an election petition is required to be personally signed by the Petitioner.

11. That what is deposed to herein is true to the best of my knowledge, information and belief, save where otherwise stated.

Sworn by the said)
HAPPY MAMPA)
At Lusaka this 14th)
Day of SEPT 2026)

DEPONENT

BEFORE ME:

COMMISSIONER FOR OATHS

[illegible]
Advocate
of the High Court for Zambia
Commissioner for Oaths

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

2026/HP/EP/003

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 (1) (a) OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016 OF THE LAW 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:

ANTHONY KASANDWE (MALE) — PETITIONER

AND

HAPPY MAMPA (MALE) — 1st RESPONDENT
ELECTORAL COMMISSION OF ZAMBIA — 2ND RESPONDENT

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

CERTIFICATE OF EXHIBITS

THIS is the exhibit marked **"HM-1"** in the affidavit of one **HAPPY MAMPA.**

Sworn at Lusaka this 14TH day of SEPTEMBER 2026

BEFORE ME: _____

COMMISSIONER FOR OATHS

MUSA SYAKALIMA
Advocate
of the High Court for Zambia
Commissioner for Oaths

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

2026/HP/EP/ 003

REPUBLIC OF ZAMBIA HIGH COURT OF ZAMBIA 27 AUG 2026 PRINCIPAL REGISTRY P.O. BOX 50067 LUSAKA

IN THE MATTER OF: ARTICLE 73 (4) 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 (1) (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

AND

IN THE MATTER OF: AN ELECTION PETITION RELATING TO BANGWEULU CONSTITUENCY PARLIAMENTARY ELECTIONS HELD ON THURSDAY, 13TH AUGUST, 2026

BETWEEN:

ANTHONY KASANDWE (MALE) **PETITIONER**

AND

HAPPY MAMPA (MALE) **1ST RESPONDENT**
ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

AFFIDAVIT VERIFYING FACTS IN ELECTION PETITION

I, ANTHONY KASANDWE a Zambian National ordinarily resident at Malombola Village in Samfya District in Luapula Province of the Republic of Zambia **DO HEREBY** make **OATH** and **SOWETH** as **FOLLOWS**:-

1. That my full name and nationality are as stated above.

2. That I was a candidate vying for the Bangweulu Constituency Parliamentary seat in the just ended General Elections held on the 13th August, 2026 and it is in this capacity that I depose to the contents of this my Affidavit from facts within my personal knowledge and belief.

3. That the candidates who successfully filed their nominations for the Bangweulu Constituency Parliamentary seat included Chabala Moses of Zambia Must Prosper (ZMP), Chama Reuben standin as an Independent (IND), Chanda Derick of Citizen First (CF), me standing under the National Reconciliation Party for Unity and Prosperity (NRPUP) and the 1st Respondent Happy Mampa standing under the United Party for National Development (UPND).

4. That the election for Bangweulu Constituency was characterized by blatant disregard of Electoral procedures perpetrated by the 2nd Respondent in clear contravention of the electoral

process rules and guidelines.

5. That in support of paragraph 4 above, on 13th August, 2026, elections were held in Bangweulu Constituency for the election of Member of Parliament. Between 14th August, 2026 and 15th August, 2026 results from 99 of 112 Polling Stations were verified but only results for 96 of the 99 Polling Stations were printed and announced by the returning officer at the totaling Centre at Samfya Town Council Chamber.

6. That the printed results for the said 96 Polling Stations were duly verified and accepted by all the stakeholders notwithstanding the results for the 3 Polling Stations that were not entered. Hence, at this point, only results from 13 Polling Stations remained to be verified and announced.

7. That according to the verified and announced votes from the 96 Polling Stations for all the participating candidates, the top contenders was me and the 1st Respondent and according to verified votes, I had a total of 10,572 votes while the 1st Respondent had 9,805 votes. Therefore, I was in the lead with 767 of the votes verified.

8. That on 15th August, 2026, the 2nd Respondent's Returning Officer Kabo Milton informed all the stakeholders present that he had been instructed by the 2nd Respondent to close the Totaling Centre and postpone the verification and announcing of election results to the following day at 10:00 hours. Further, the Returning Officer confirmed to the stakeholders present that the ballot boxes and Gen 20 Forms for the 13 Polling Stations were in the possession of the Returning Officer.

9. That upon the said announcement armed Zambia Police Service officers moved in and instructed that all the stakeholders leave the Totaling Centre and come back the next day as advised. However, the ballot boxes and the Gen 20 Forms containing results for the remaining 13 Polling Stations were left with the officers of the 2nd Respondent at the Totaling Centre.

10. That the following day on the 16th August, 2026, when we arrived at the Totaling Centre around 09:00 hours, we were refused entry to the Totaling Centre by the armed Zambia Police Service Officers present. Upon being denied entry to the Totaling Centre, we went to see the District Electoral Officer Mr. Paul Kabwebwe at his office.

11. That upon informing the District Electoral Officer of what was transpiring at the Totaling Centre, he informed us that the results for the 13 Polling Stations were in fact ready for verification and announcement and that the Returning Officer would proceed in that regard at the Totaling Centre. He therefore advised that we return to the Totaling Centre for the verification and announcement of results

12. That when we returned to the Totaling Centre and requested for verification and announcement of results for the remaining 13 Polling Stations as advised by the District Electoral Officer, the Returning Officer refused to conduct any verification or announcement of results stating he would only announce results after receipt of instructions to that effect from the 2nd Respondent.

13. That therefore, from the time when the verification and announcing of results was scheduled to take place as indicated the previous day, the Totaling Centre was never opened. In fact, it was only after 18:00 hours on the 16th of August, 2026 that the Returning Officer without verifying and announcing results for the remaining 13 Polling Stations, proceeded to announce final results which consisted of all the 112 Polling Stations in the Bangweulu Constituency.

14. That according to the results, the 1st Respondent received a total of 13,012 votes while the Petitioner received a total of 12,071 votes. From the results announced, the 1st Respondent won the election with 941 votes and the Returning Officer declared the 1st Respondent as duly elected Member of Parliament for Bangweulu Constituency.

15. That at the announcement of the results, the parties were availed the record of proceedings at the totaling center of votes duly signed by the Returning Officer representing the election results from all the 112 Polling Stations. However, a perusal of the results recorded did not represent the true reflection of the votes announced as against the Gen 20 Froms.

16. That the results recorded had significant discrepancies with respect to votes recorded from 8 of the 13 Polling Stations that were not announcement particularly **Kaishe 1**, **Sakala 2**, **Ninge**, **Mufimba**, **Yongolo 1**, **Chesemba**, **Chinsanka 1** and **Njipi 1**. In these Polling Stations, the 1st Respondent was given inflated figures from the actual votes cast.

17. That for instance at Ninge Polling Station, the results from the Gen 20 Form showed that the 1st Respondent had obtained 145 votes while the record of proceedings indicated the 1st Respondent had obtained 545 votes which went beyond the total number of votes cast at the said polling station which was 529 votes.

18. That in addition; at Kaishe 1 Polling Station the results from the Gen 20 Form showed that the 1st Respondent had obtained 82 votes while the record of proceedings indicated the 1st Respondent had obtained 382 votes which went beyond the total number of votes cast at the said Polling station which was 363 votes.

19. That from the foregoing, the declaration of the 1st Respondent was based on election results which included discrepancies and did not reflect accurate and verified votes counted for all the 112 Polling Stations in the Constituency and as such, I have been advised by advocates and I verily believe that the Returning Officer failed to perform his duties as an Election Officer.

20. That further to paragraph 18 above, I have been advised by my advocates and I verily believe that the conduct of the 2nd Respondent's Returning Officer to postpone the announcing of election results, not verifying and announcing election results for 13 Polling Stations and announcing results that did not reflect the true votes cast in the circumstances, contravened the duly established Electoral Process Rules.

21. That with respect to the foregoing paragraphs, I have been advised by my advocates and I verily believe that the conduct of the 2nd Respondent is wrongful and the same, contravened the electoral rules and as such, renders the election of the 1st Respondent as Member of Parliament for Bangweulu Constituency void and I seek, the reliefs stated in my Petition.

22. That the contents of this Affidavit are true and correct to the best of my knowledge, information and belief.

SWORN by the said)
ANTHONY KASANDWE)
at 27th this Aug day)
of August, 2026)

Deponent

BEFORE ME: _____

COMMISSIONER FOR OATHS

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
27 AUG 2026
SENIOR ASSISTANT REGISTRAR
COMMISSIONER FOR OATHS
P. O. BOX 50067, LUSAKA