IN THE HIGH COURT OF ZAMBIA 2026/HN/EP/12

AT THE DISTRICT REGISTRY
HOLDEN AT NDOLA

*(Constitutional Jurisdiction)*

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
23 NOV 2026
NDOLA HIGH COURT
P.O. BOX 70004, NDOLA

IN THE MATTER OF : PART IX (SECTIONS 96, 97 AND 98 AND PART VII (SECTIONS 83, 87 AND 89) OF THE ELECTORAL PROCESS ACT, NUMBER 35 OF 2016

AND

IN THE MATTER OF : PART III RULE 9 OF THE HIGH COURT (ELECTION PETITION) RULES 2026 OF THE LAWS OF ZAMBIA

AND

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

AND

IN THE MATTER OF : THE PARLIAMENTARY ELECTION FOR THE CHIFUBU CONSTITUENCY OF THE NDOLA DISTRICT HELD ON THE 13TH DAY OF AUGUST 2026

BETWEEN:

LLOYD LUBOZHA PETITIONER

AND

KODWANI JOHN WINGA 1ST RESPONDENT

ELECTORAL COMMISSION OF ZAMBIA (ECZ) 2ND RESPONDENT

**BEFORE THE HON. LADY JUSTICE MWAMBA CHANDA-MATE ON THE *23RD* DAY OF *NOVEMBER*, 2026.**

***Appearances***

*For the Petitioner:* *Mr. C. Magubbwi with Mrs. N. Nyangu - Zimba & Mr. S. Mutembo, All of Messrs. Magubbwi & Associates*

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| *For the 1st Respondent:* | *Mr. T. T. Shamakamba & Ms. C. Shamakamba, both of Shamakamba & Associates* |
| *For the 2nd Respondent:* | *Mr. A. Imonda of A Imonda & Company* |

# J U D G M E N T

***LEGISLATION REFERRED TO:***

1. ARTICLE 73 OF THE CONSTITUTION, SECTIONS 96, 97 AND 98 OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016,
2. RULE 9 OF THE HIGH COURT (ELECTION PETITION) RULES, STATUTORY INSTRUMENT NO. 31 OF 2026.
3. REGULATION 3(1) OF THE ELECTORAL PROCESS (CODE OF CONDUCT) (ENFORCEMENT) REGULATIONS, 2016, STATUTORY INSTRUMENT NO. 62 OF 2016, AS AMENDED BY STATUTORY INSTRUMENT NO. 35 OF 2020,
4. THE ELECTORAL PROCESS ACT, NO. 35 OF 2016

***CASES REFERRED TO:***

1. NKANDU LUO AND THE ELECTORAL COMMISSION OF ZAMBIA V DOREEN SEFUKE MWAMBA AND THE ATTORNEY GENERAL (SELECTED JUDGMENT NO. 51 OF 2018)
2. KAFWAYA V KATONGA AND OTHERS (CCZ/A 20 OF 2021)
3. CHRISTINE PHIRI AND ANOTHER V MELESSIANA PHIRI AND ANOTHER (CCZ/A 37 OF 2021)
4. AKASHAMBATWA MBIKUSITA LEWANIKA AND OTHERS V FREDERICK JACOB TITUS CHILUBA (1998) Z.R. 79
5. LUSAMBO V KANENGO AND ANOTHER (CCZ/A 19 OF 2021)
6. MICHELO V SAMPA AND ANOTHER (CCZ/A 35 OF 2021)
7. CHARLES MWELWA V STEPHEN CHIKOTA AND ANOTHER (2022/CCZ/A006)
8. SAMPA V MUNDUBILE (CCZ/A 36 OF 2021)
9. SATA V BANDA AND OTHERS (SCZ EP 1 OF 2008)
10. NG'UNI V MABONGA (CCZ/A 29 OF 2021)

## 1.0 INTRODUCTION

1.1 This Petition challenges the parliamentary election held in Chifubu Constituency on 13th August, 2026. The Petitioner, Lloyd Lubozha, stood for the United Party for National Development (UPND). The 1st Respondent, Kondwani John Winga, stood as an independent candidate. The other candidates were Frank Ngambi, William Mwale and David Nyirenda.

1.2 On 15th August, 2026, the 1st Respondent was declared elected with 15,552 votes. The Petitioner received 8,322 votes. The remaining candidates received 6,516, 668 and 226 votes, respectively. The margin between the parties was 7,230 votes.

1.3 Unhappy with the result of the poll, the Petitioner filed the Petition on 28th August, 2026, pursuant to *Article 73 of the Constitution*, *Sections 96, 97* and *98 of the Electoral Process Act No. 35 of 2016*, and *Rule 9 of the High Court (Election Petition) Rules, Statutory Instrument No. 31 of 2026*. The Electoral Commission of Zambia was joined as the 2nd Respondent.

## 2.0 THE PETITIONER'S CONTENTIONS

2.1 The Petitioner complained of bribery, false publications, undue influence, violence, intimidation and unlawful canvassing. He attributed the conduct to the 1st Respondent and persons acting with his knowledge and consent. He

contended that its cumulative effect prevented the majority of voters from freely electing their preferred candidate.

2.2 The bribery complaints concerned a K10,000 donation at Chifubu Cornerstone Church in August, 2026, and polling-day payments of K20, K50 and K100. He identified Bana Temwa, Billy and Madam Coffee among the persons said to have distributed the payments.

2.3 The allegation of false publication concerned accusations that the Petitioner had stolen Constituency Development Fund (CDF) money and favoured relatives and girlfriends. He maintained that these accusations were broadcast between 4th May, 2026 and 12th August, 2026, through vehicle-mounted public address systems, roadshows and community meetings.

2.4 He claimed that assaults occurred following campaigns at Chifubu Market on 12th June, 2026 and 4th July, 2026. He also complained of polling-station intimidation which, he said, caused voters to abandon queues. Further complaints concerned canvassing through whistles and the NRPUP lamp symbol.

2.5 The Petitioner further asserted that there had been interference with counting and ballot security at Temweni, Intulo, St Bonaventure, Chawama and other polling stations. According to him, persons associated with the 1st Respondent chanted

that "Major" had won and counting should stop. He also maintained that violence had driven out his agents, prevented access to GEN 20 forms, and caused counting to be suspended throughout the constituency and at Chifubu Secondary School totalling centre.

2.6 The Petitioner accordingly sought the following reliefs:

(a) *A declaration that the 1st Respondent was not duly elected or returned;*
(b) *A declaration that the 1st Respondent's election was null and void;*
(c) *An order that the 1st Respondent's seat be vacated;*
(d) *A recount of the votes and a declaration that the Petitioner was duly elected;*
(e) *A declaration that the 1st and 2nd Respondents committed multiple and widespread electoral offences and/or breaches; and*
(f) *Costs of the Petition against the Respondents.*

## 3.0 THE 1ST RESPONDENT'S CONTENTIONS

3.1 In his Answer and opposing affidavit filed on 4th September, 2026, the 1st Respondent disputed the allegations of misconduct and maintained that he had not authorised any such conduct. He challenged the claims concerning the church donation, CDF publications and polling-day payments. He stated that he had no brother-in-law named Billy. According to him, Madam Coffee was not his agent but represented a Kawama Ward councilor.

3.2 He rejected the accusations of violence, canvassing and interference with polling or counting. He attributed campaign disruptions to the Petitioner's team and relied on a complaint to the 2nd Respondent. He maintained that all candidates received GEN 20 forms and that he complied with the Electoral Code of Conduct.

## 4.0 THE 2ND RESPONDENT'S CONTENTIONS

4.1 The 2nd Respondent's Answer and affidavit were filed on 9th September, 2026. The Assistant Returning Officer, Ms Mulenga Chisela stated in the founding affidavit that Jimmy Chakupa served as Returning Officer and declared the candidate with the highest total elected.

4.2 The Commission stated that it provided GEN 20 forms and did not receive any complaints concerning their provision or incidents of violence. It maintained that voting and counting were peaceful and transparent. It contended that the results accurately reflected the count and that the election substantially complied with the law.

## 5.0 TRIAL

5.1 The trial commenced on 18th September, 2026. The witnesses adopted their statements as evidence-in-chief. I will now summarise the material evidence.

## 6.0 THE PETITIONER'S CASE

6.1 The Petitioner, **Lloyd Lubozha**, a 56-year-old businessman residing in Chifubu, Ndola, testified as **PW1** and called seventeen other witnesses in support of his Petition. His witness statement was dated 16th September, 2026. He attributed his electoral defeat to bribery, false publications, violence and electoral irregularities, including the Commission's failure to provide GEN 20 forms.

6.2 His complaint of bribery concerned, among other matters, a K10,000 donation which he said the 1st Respondent made at Cornerstone Church in May, 2026. He regarded the donation as an inducement intended to influence voters in the 1st Respondent's favour.

6.3 Turning to polling day, PW1 said the 1st Respondent distributed K20 notes at Twatasha Primary School and described the use of campaign symbols to solicit votes near polling stations. He attributed K100 payments in Kanyanje between 05:30 and 06:00 hours to Madam Coffee, K50 payments at RDC at about 07:30 hours, and K100 payments at Kawama Secondary School at about 09:30 hours to Billy. He further stated that Bana Temwa offered K100 at Fibobe and referred to another distribution of K100 at Kawama at about 16:00 hours.

6.4 On false publications, PW1 described repeated accusations that he had stolen Constituency Development Fund (CDF)

money and used it to benefit relatives and girlfriends. According to him, these accusations circulated through roadshows, community meetings, door-to-door visits and vehicle-mounted public address systems. He maintained that they were false and said he complained to the police. He identified Masala as an election agent of the 1st Respondent and attributed to him a broadcast in Kanyanje between 20th and 25th July, 2026 at about 06:00 hours. Masala, accompanied by two persons whom PW1 could not identify, was said to have used a white van to announce that PW1 was corrupt and reserved CDF money or loans for relatives.

6.5 PW1 attributed similar statements to the 1st Respondent and "Team Major" in Kawama on 11th and 12th August, 2026 between 07:00 and 08:00 hours, and in Kamba and Pamodzi at about 18:00 hours on 11th August, 2026. He also referred to community meetings held on 1st and 2nd August, 2026, and campaign activities conducted in Kanyanje between 15th and 20th July, 2026. These statements included accusations that he had extended benefits to relatives from Solwezi.

6.6 He described a further broadcast in Chifubu between 04:30 and 05:00 hours on 11th August, 2026 while he was providing logistics at his campaign centre. He placed the opposing campaign centres approximately 500 metres apart and explained that, from his position, he could see the other centre and hear the announcements. He did not record that incident.

6.7 His account of violence concerned assaults following campaigns at Chifubu Market on 12th June, 2026 and 4th July, 2026 as well as incidents at polling stations. He said members of Team Major entered Fibobe and St Bonaventure places and threw stones at prospective voters, causing some to leave without voting. In support of these complaints, he relied on the police and medical documents contained in his bundle.

6.8 PW1 further stated that, between 18:00 hours and midnight on polling day, the 1st Respondent visited polling stations with Bana Temwa, Billy, Brighton Chola, Cephas Daka and others. He named Temweni, Intulo and St Bonaventure as stations where the group announced that "Major" had won and demanded that counting should stop. He also described disorderly entry at Chawama, Twatasha, Garden of Hope and Hands of Compassion. His account of the Intulo incident rested partly on a letter from the school's Headmistress recording damage to school property.

6.9 Under cross-examination by counsel for the 1st Respondent, PW1 estimated that the constituency had more than 50,000 registered voters and 78 polling streams. He said more than 30,000 people voted, while between 18,000 and 20,000 did not participate, although he could not explain their reasons for abstaining. He accepted that the declared results favoured the 1st Respondent at most stations, but maintained that the

margin did not necessarily establish that voters had exercised their choice free from improper influence.

6.10 When questioned about the church donation, PW1 explained that his information came from an unidentified church member, as he had not witnessed the payment himself. He had no witness statement proving that it had been made. Counsel also put to him messages concerning a church programme on 26th April, 2026 which thanked the 1st Respondent for visiting and "ministering".

6.11 PW1 stated that the administration of CDF rested with the Council. He had served on the CDF committee, but commitments in Lusaka had limited his attendance to fewer than four meetings over five years. He said he obtained information from council reports, committee proceedings and briefings by the Town Clerk. He also accepted that CDF activities related to the Member of Parliament for the area. Although Jubek Lubozha was listed as a committee member, PW1 denied that Jubek was his brother. He was unaware of any public resentment over allegations that relatives had been appointed.

6.12 PW1 explained that the campaign videos on which he relied were stored on a flash drive. One had reached him through WhatsApp from an unknown number, while another came from persons who had attended a community meeting.

Although he retained the sender's number, he could not identify the sender and relied on the 1st Respondent's appearance in the recording. Apart from those recordings, he maintained that he had personally witnessed more than five broadcasts, although he could not give precise dates for most of them. He distinguished occasions when he saw the campaign vehicle from those when he heard only the announcements, explaining that the proximity of the wards and the use of amplification enabled messages to carry over a considerable distance.

6.13 Regarding an incident at a market campaign centre, PW1 said he heard criticism of the person responsible for CDF, who was accused of favouring relatives and girlfriends. He accepted that the words put to him did not expressly identify him, but understood them to refer to him because he was the incumbent parliamentary candidate. Although he acknowledged that Councilor Simon Muleba was a member of the CDF committee, he distinguished that role from the parliamentary contest.

6.14 PW1 also described a broadcast in Pamodzi on 12th August, 2026 which he encountered while travelling towards his shop along Mwanawasa Road. He said the campaign vehicle was moving slowly and that, with his windows open, he recognised the 1st Respondent's voice and identified Masala as the driver. He could not, however, specify Masala's campaign position.

6.15 Asked about the electoral effect of the broadcasts, PW1 could not give a definite number of affected voters. He initially estimated half of the electorate, then more than half, and later stated that the broadcasts had reached the entire constituency over three months. These estimates rested principally on the movements of the campaign vehicles. He nevertheless accepted that listeners could hear the accusations and still assess them independently.

6.16 On the polling-day payments, PW1 initially stated that he had seen the 1st Respondent distributing K50 and K100 notes. In explaining that account, he described approaching a group and asking what had occurred, whereupon its members told him that they had received money in exchange for votes. He accepted that he had neither witnessed that particular payment nor heard the accompanying request. He also confirmed that he had not personally seen K20 notes being distributed at Twatasha, while his accounts concerning the other named distributors came from persons who said they had received money.

6.17 In a separate account, PW1 maintained that he saw the 1st Respondent distributing money at Temweni as he approached in a vehicle. He could not identify the denominations or immediately name the recipients. He also referred to reports

that Racheal Nanyangwe received K50 at Hands of Compassion and Julius Banda received K20 at Twatasha.

6.18 PW1 confirmed that none of the payments had been photographed or filmed and that none of the money had been produced. He relied on ballot photographs which, according to his account, voters were required to provide as proof of voting before receiving payment. He accepted that this account did not appear in his witness statement. He estimated that more than one thousand people received money and explained that some were afraid to give evidence.

6.19 Returning to the complaints of violence, PW1 identified eleven police reports and accepted that the documents examined did not name the perpetrators. His identification of groups at polling stations rested on their use of whistles and pro-Winga chants, as he did not personally know their members. He also accepted that campaign material could be possessed by persons who were not established supporters.

6.20 PW1 explained that he was absent from the Intulo incident and relied on other witnesses for his account of what occurred. He accepted that the Head Teacher's letter referred to unknown perpetrators. He had not personally complained to the Anti-Corruption Commission about bribery and did not produce a personal police complaint concerning the broken school

windows. He confirmed that nobody had prevented him from making such reports.

6.21 As to GEN 20 forms, PW1 stated that his team had not received forms from approximately half the polling stations. He distinguished campaign violence from the intimidation and premature celebrations he described during counting, and maintained that not all his agents had signed the results without complaint.

6.22 His representatives attended a verification exercise convened by the Town Clerk, during which comparisons with the totalling-centre records remained unfinished. He explained that the exercise concerned aggregate ballot figures and rejected votes, rather than each candidate's total at every polling station. He was therefore unable to give a concluded verification finding.

6.23 Under cross-examination by counsel for the 2nd Respondent, PW1 qualified the assertion in his witness statement that GEN 20 forms had been withheld at all stations. He confirmed that he had appointed 78 polling agents, of whom only three supplied statements concerning difficulties with the forms, and acknowledged references to confusion in the accounts of Fridah Lijimu and Moses Chiamba.

6.24 He also stated that he had been unaware of the statutory objection procedure. After reading *section 70(1) and (2)* of the *Electoral Process Act*, PW1 accepted that the objection under discussion had to be made in writing, but had no evidence that his agents had submitted a written objection. He acknowledged that the constituency total was compiled from polling-station results and that two UPND representatives signed the announcement declaration form produced as exhibit "KJW1".

6.25 There was no re-examination.

6.26 **Moses Chiamba**, a 56-year-old self-employed businessman residing in Pamodzi Overspill, testified as **PW2**. He described himself as a UPND supporter who served as a polling agent at Twatasha Primary School, and his evidence concerned the provision of GEN 20 forms and statements made during the campaign.

6.27 PW2 said Presiding Officer Jacline Banda asked him to sign an incomplete GEN 20 form, which he declined to do. He regarded her conduct and that of the police officers as favouring opposition candidates. After counting, he requested a copy of the form, but the Presiding Officer did not provide one and, according to him, threatened to remove him when he persisted. He attributed his eventual departure to the confusion at the station.

6.28 His account of campaign statements concerned roadshow broadcasts accusing the Petitioner of stealing CDF money and using it to benefit relatives from Solwezi. He said these broadcasts intensified between 25th July, 2026 and 13th August, 2026, while similar messages circulated through door-to-door campaigning. In support of this account, he referred to page 31 of the Petitioner's bundle of documents.

6.29 Under cross-examination by counsel for the 1st Respondent, PW2 confirmed that he wanted the Petitioner to win, but stated that they were not related. He explained that he did not know the Petitioner's relatives or the members of the CDF committee.

6.30 Returning to events at Twatasha, PW2 maintained that the police officer inside the station witnessed the irregularities of which he complained, although he did not report the matter at the police station the following day. He explained that he left at about 06:30 hours on 14th August, 2026 before the parliamentary results were announced. Although he initially resisted describing his departure as voluntary, he later accepted that nobody had physically forced him out, maintaining that he left because of the incomplete form and the ensuing confusion.

6.31 His witness statement contained no account of the disorderly evening entry into Twatasha about which he was questioned. When pressed on that incident, he said cadres inside the station became unruly and threatened him, but distinguished those threats from physical expulsion.

6.32 On the campaign broadcasts, PW2 maintained that he personally saw the 1st Respondent making accusations against the Petitioner near his home. His observations concerned Pamodzi and the area near Chifubu Local Court, known as Sa Boma, and did not extend to every broadcast complained of throughout the constituency. He recognised the 1st Respondent from prior acquaintance and campaign posters, although he could not recall his clothing or position in the vehicle. He did not present photographs or videos in Court. He acknowledged that some of the information and material on which he relied had been supplied by others and described that information as hearsay. He nevertheless maintained that his account also rested on personal observations.

6.33 In re-examination, PW2 explained that the campaign vehicle of the 1st Respondent repeatedly passed along the same street and that the same accusations were broadcast on those recurring occasions.

6.34 **Gillisy Kunda**, called as **PW3**, was a 50-year-old farmer residing in Kawama Habitant and the UPND Vice-Chairman

for Chifubu Constituency. He stated that he voted at Pine Grove polling station at Kawama Secondary School.

6.35 The evidence adduced by PW3 was that the 1st Respondent conducted roadshow broadcasts from June until 13th August 2026, during which he allegedly called the Petitioner a thief and accused him of stealing CDF funds to benefit relatives from Solwezi. The broadcasts suggested that those relatives did not possess anything when they arrived but subsequently benefited from the funds. He maintained that the accusations were false. He also attributed similar public address announcements to Moses Kazevu and Chris Daka, known as Masala, whom he described as agents and supporters of the 1st Respondent.

6.36 Under cross-examination by counsel for the 1st Respondent, PW3 explained that his party responsibilities included keeping records, assigning duties across six wards, organising election committees and encouraging participation. Incidents of violence or disorder would ordinarily be reported to him, although his witness statement did not contain any account of violence in the constituency.

6.37 Returning to the campaign broadcasts, PW3 maintained that he personally witnessed the accusations being repeated daily, but did not produce photographs or videos in Court. He also stated that the 1st Respondent disregarded the ECZ campaign

timetable and that complaints were submitted to the conflict-management body as well as the police. He did not produce the complaint letter or the police report in Court to substantiate his claims.

6.38 PW3 described a police meeting concerning accusations of theft and misuse of CDF money, at which the Officer-in-Charge warned both sides against using demeaning language. He said both sides accepted the advice, although the 1st Respondent did not attend the meeting. When asked what action the person accused of theft had taken, he stated that the person had not reported the matter. The witness regarded an unfounded public accusation as hurtful and maintained that he had made his own complaints, although he did not produce the supporting documents in Court.

6.39 A defence document put to PW3 recorded disruption by UPND members of the 1st Respondent's roadshow at Fibobe on 12th June, 2026 between 18:00 and 18:55 hours. He initially stated that he did not know of the report, but subsequently accepted that the document recorded a breach of the campaign timetable by UPND. He did not produce an allocation showing that his team was entitled to campaign at that place and time. The same document recorded damage to three windscreens, but PW3 said he did not know about that incident.

6.40 Concerning polling day, PW3 said he visited Mulyata, Chipulukusu Secondary, Chawama Primary, Kawama Secondary and Garden of Hope. During those visits, he said he saw police officers but did not see soldiers. He maintained that illegal conduct had occurred, although his witness statement did not describe any incident at those stations. continue

6.41 **Simon Sampala**, a 66-year-old farmer residing in Kawama and the UPND Chairman for Kawama Ward, testified as **PW4** and stated that he voted at Chawama School.

6.42 He said that, between 15th July and August, 2026, he repeatedly heard the 1st Respondent, accompanied by his campaign team, make statements along Samugusu Road accusing the Petitioner of distributing CDF money only to relatives. According to PW4, the Petitioner was described as corrupt and a thief, and voters were urged to reject him. He maintained that these statements were false.

6.43 PW4 specifically recalled an encounter on 12th August, 2026 when he personally saw the 1st Respondent and approached him to exchange greetings. He said the 1st Respondent was then discouraging voters from supporting the Petitioner.

6.44 Under cross-examination by counsel for the 1st Respondent, PW4 confirmed that he did not complain to the ECZ or the

police. He accepted that he wanted the 1st Respondent to encourage voters to support the Petitioner and that he was unhappy because the 1st Respondent did not do so.

6.45 **Jennipher Mukabila** testified as **PW5** and described herself as a 45-year-old businesswoman residing in Kawama Habitant. She supported UPND but did not hold any party office, and voted at Kawama Secondary School.

6.46 She recalled returning from the market at about 18:00 hours sometime in August, 2026, when she encountered a roadshow and saw the 1st Respondent addressing a crowd through a vehicle-mounted public address system. According to her, he accused the Petitioner of stealing CDF money to benefit relatives from Solwezi and warned that the constituency would not benefit from re-electing him. She also described similar messages conveyed during door-to-door campaigning and referred to the flash disc produced on page 31 of the Petitioner's bundle.

6.47 Under cross-examination by counsel for the 1st Respondent, PW5 confirmed that she wanted the Petitioner to win and explained that she had known him since 2016, during his association with the Patriotic Front. The witness accepted that she was disappointed by his defeat, but maintained that she did not fabricate the accusations on that account.

6.48 Concerning the roadshow, PW5 confirmed that it occurred before polling day. Although she initially could not identify the type of vehicle, she later described it as a van and said the 1st Respondent stood behind it holding a microphone. She maintained that he remained visible despite the surrounding crowd, explaining that it was not fully dark, although the lighting was not particularly bright.

6.49 Asked whether she had served as a polling agent, PW5 answered affirmatively and said she remained at the polling station for approximately two hours from 06:00 hours, having left by 09:00 hours. She described voting as peaceful during her presence and stated that a female police officer was stationed there.

6.50 **Gilian Bwalya**, a 26-year-old businesswoman residing in Pamodzi, testified for the Petitioner as **PW6**. She described herself as a UPND supporter who participated in the Petitioner's roadshows.

6.51 She recounted a stone-throwing attack in Fibobe between 18:00 and 19:30 hours, while she was travelling on a Canter. According to her, one stone injured her leg and prevented her from jumping off the vehicle, while another struck her right shoulder. She identified Abel among the attackers and described him as the 1st Respondent's son-in-law.

6.52 Under cross-examination by counsel for the 1st Respondent, PW6 explained that she had known the Petitioner since 2021 and began campaigning for him in June, 2026. Her activities included participating in roadshows and campaigning on foot.

6.53 Concerning Abel, she said she identified him when he attended the police station, where, according to her, he acknowledged the assault and challenged her about what she could do. Although she initially referred to persons who were present when she reported the incident, she ultimately accepted that she did not have a witness before Court who would confirm that Abel had stoned her. In further cross examination, she disclosed that the attack in Fibobe ward occurred on 23rd July, 2026.

6.54 **Terry Chibwe**, a 32-year-old businessman residing in Pamodzi, testified as **PW7**. He stated that he did not have any political party affiliation. The witness recounted an incident of violence near Chifubu Library on 4th July, 2026, which he encountered while returning from the market.

6.55 According to PW7, supporters of the 1st Respondent threw stones at the Petitioner's supporters before turning on him and assaulting him. He said the assailants called themselves "Team Major" and declared that it was their time to rule Chifubu. Among them, he identified Cuthbert, whom he described as the 1st Respondent's commander. PW7 reported

the incident to Chifubu Police near Kamba School and relied on the medical report form produced at pages 8–11 of the Petitioner's bundle.

6.56 Under cross-examination by counsel for the 1st Respondent, PW7 stated that Cuthbert carried stones and personally beat him, although his witness statement did not include those specific details. He explained that Cuthbert was the only attacker he knew and that he could not name the others. His identification to the police concerned Cuthbert and the group involved in the assault.

6.57 The medical report recorded a bruised and painful left hip and referred to an assailant whom PW7 could identify on sight. He maintained that this description was consistent with his account of a group attack and that the incident involved stone throwing. He further stated that Cuthbert lived near Chifubu Market and acknowledged that the police had not arrested him.

6.58 **PW8** was **Julius Banda**, a 37-year-old machine operator residing in Pamodzi and employed by Lime Stone Resources Limited in Masaiti. He described himself as a UPND supporter and polling agent at Twatasha, where he also voted.

6.59 He recalled seeing a group calling itself "Team Major Movement" at about 05:00 hours on polling day, urging people

in the queue to vote for the whistle candidate. According to him, the group continued blowing whistles after voting began and chanted that "Team Major has won". He explained that the 1st Respondent was known as "Major" in connection with his business activities.

6.60 PW8 identified Cephas Daka as the group's leader and described him as the campaign manager. He said members of the group distributed K20 notes to voters, prompting him to approach the single female police officer, who told him that she had noted the situation. The solicitation nevertheless continued, and he attributed his failure to obtain a GEN 20 form to confusion which persisted during counting.

6.61 Under cross-examination by counsel for the 1st Respondent, PW8 maintained his identification of Cephas Daka and stated that he did not know the blind, tall and slim person whom counsel described as the campaign manager. He explained that he observed the distribution of money while outside and moving towards the station, describing the recipients as numerous but stating that he could not give their number. He accepted that he did not have evidence that the 1st Respondent approved the distribution.

6.62 Concerning his arrival, PW8 said voting began at 06:00 hours and that he was inside the polling room by 05:50 hours, although he also agreed with a suggestion that he had entered

by 05:00 hours. He then explained that he alighted from a minibus at about 05:00 hours and continued on foot towards the polling station. While he could not give his precise arrival time, he maintained that he had entered the polling room by 05:50 hours.

6.63 PW8 acknowledged that he was unhappy with the result but, when asked whether he wanted the Petitioner to win, he refuted the assertion. He confirmed that he did not subsequently report the matter to the ECZ or the Anti-Corruption Commission and that he had not been prevented from doing so.

6.64 Under cross-examination by counsel for the 2nd Respondent, PW8 confirmed that he was present when voting opened. He witnessed voting and counting but did not witness the closure of voting, and explained that he left because of the confusion which ensued before the results were announced.

6.65 The Petitioner next called **Fridah Lijimu**, a 43-year-old businesswoman residing in Kawama, as **PW9**. She described herself as a UPND supporter who served as a polling agent at Kamanda 1, Intulo Primary School.

6.66 PW9 recounted a disturbance at about 02:00 hours on 14th August, 2026, when a large group entered the station blowing whistles and chanting "Winga, Winga". According to her,

members of the group threw stones at those present and broke windows, causing confusion which prevented her from obtaining GEN 20 forms. She relied on the Headteacher's letter at page 53 of the Petitioner's bundle of documents to support her account.

6.67 Under cross-examination by counsel for the 1st Respondent, PW9 confirmed that police and military personnel were present and that she wanted the Petitioner to win. She estimated that the disturbance lasted approximately thirty minutes and said that, although some window panes were broken, the incident did not cause any injuries. She maintained that the perpetrators supported the 1st Respondent and explained that her view that the result was unjust rested on this incident.

6.68 Headteacher Agness Lombe's letter, dated 25th August, 2026 recorded that two window panes in the new CDF block were broken during the night of 13th August and described the perpetrators as unknown. PW9 accepted that "unknown people" and "supporters of Winga" were different descriptions, but stated that the Headteacher was absent during the incident. She also acknowledged the difference between the date recorded in the letter and her own account, while maintaining that her date was correct.

6.69 Concerning the polling and counting process, PW9 stated that the station opened at 06:00 hours and closed at 18:00 hours.

She could not recall when parliamentary counting began or ended. The witness maintained that it had not ended by 02:00 hours, which she identified as the time when stone throwing started. She said ballots were being counted while she remained at the station, but also stated that the violence began when parliamentary counting was about to start. She maintained that she did not fabricate her account, despite not giving the commencement time of that count.

6.70 PW9 initially could not specify when she left the station, but later estimated her departure at about 03:00 hours. She accepted that her witness statement did not expressly record her departure and relied instead on its reference to her failure to obtain the forms. She maintained that counting had not been completed before she left and confirmed that she departed before the results were announced. Consequently, she did not know either party's total at the station.

6.71 In re-examination, PW9 explained that 02:00 hours fell on the following calendar day, while the Headteacher discovered the damage later and attributed it to polling night. She reiterated that counting had just begun when the celebrations turned into stone throwing.

6.72 **Joseph Mukeya**, a 28-year-old unemployed resident of Pamodzi, testified as **PW10**. He stated that he did not have any

political party affiliation and his identification documents were produced at pages 34–35 of the Petitioner's bundle.

6.73 He recalled joining a UPND roadshow in Chifubu Ward on 4th July, 2026, which his witness statement described as campaigning for the Petitioner. According to him, while their Canter was near the 1st Respondent's command post, people in the yard threw stones at the vehicle, causing some occupants to flee or jump off, while those who remained sustained injuries. He further stated that a group of people appeared and attacked them with stones. He reported the incident to Chifubu Police Station, where he obtained a medical form.

6.74 Under cross-examination by counsel for the 1st Respondent, PW10 confirmed that he signed his witness statement in September, although he could not recall the precise date. He maintained that he was not a UPND member and, while initially confirming that he campaigned for the Petitioner, subsequently stated that he did not campaign to secure the Petitioner's victory. He explained that his participation in the roadshow supported the presidential candidate.

6.75 When asked whether he voted, PW10 initially invoked ballot secrecy, but confirmed after clarification that he participated in the parliamentary election. He maintained that joining the roadshow did not establish his choice of parliamentary

candidate and ultimately stated that he voted for another candidate.

6.76 Concerning the attack, PW10 accepted that campaigners should avoid an opponent's command centre, but maintained that stones struck people on the vehicle and that he was among those injured. When questioned about his statement, he explained that he was among those attacked, although his medical report did not identify the attackers. He also stated that he did not know of the damage to the opposing vehicle's windscreen attributed to UPND.

6.77 **Esther Muchindu**, whom the Petitioner called as **PW11**, was a 35-year-old businesswoman residing in Chifubu. She had supported UPND for approximately fifteen years but did not hold any party office, and voted from Chifubu A.

6.78 PW11 testified that Bana Temwa approached her at about 08:30 hours on polling day and asked her to vote for her husband, the 1st Respondent. She said that, before voting, she accepted K100 while in the company of Rhodah Daka and Mwewe Mutale. She maintained that she subsequently voted for the 1st Respondent and photographed her ballot.

6.79 Under cross-examination by counsel for the 1st Respondent, PW11 explained that she left home at about 08:00 hours and departed from the polling station after voting at approximately

10:00 hours. She knew Bana Temwa as a resident whose shop she patronised, but they were not friends, and she did not know her real name or recall what she wore that day. She said they spoke in person, rather than by telephone, and estimated that the encounter lasted between three and five minutes. She described it as the first occasion on which Bana Temwa bribed her.

6.80 Asked about her intended choice before the encounter, PW11 initially stated that she did not have a particular candidate in mind, but later said she intended to vote for the Petitioner. She nevertheless maintained that she voted for the 1st Respondent after receiving the money. She also explained that she regarded accepting the payment as permissible and did not know that accepting a bribe was an offence.

6.81 In explaining why she was giving evidence, PW11 referred to a promised "top up" after voting. She accepted that her witness statement did not mention that promise and explained that she forgot to include it. She said she received the initial payment before joining the queue but could not collect the further payment because Bana Temwa had left by the time she finished voting. She did not know whether Bana Temwa voted at that station.

6.82 PW11 explained that she had spent the K100 and could not produce it, but maintained that spending the money did not

mean she had never received it. She identified Mwewe Mutale as having been present during the payment, although the persons who might corroborate her account were not in Court.

6.83 Concerning the ballot photograph, PW11 said she took it on her Itel A90 cell phone and gave it to the Petitioner. The photograph did not bear her name, and she could not say whether the copy identified the handset used. She explained that the phone remained at home, that she had not been asked to bring it and that she believed phones were prohibited in Court. She did not know that a phone could be produced as evidence, but maintained her account under oath.

6.84 PW11 further stated that she did not insult Bana Temwa, did not recall the derogatory recording put to her and did not know of the flash-drive recording. She knew the Petitioner as the former Member of Parliament but did not know his home or businesses. Her knowledge of his former command post at the market arose through the current campaign.

6.85 **Esnart Mowa** appeared as **PW12** and described herself as a 35-year-old businesswoman residing in Pine Grove, Kawama, and a UPND supporter. She recalled arriving at Chawama Primary School at about 07:30 hours on polling day.

6.86 According to PW12, Billy called her at the gate, asked whether she had come to vote and gave her K100 to vote for the 1st

Respondent. She identified Billy as the 1st Respondent's brother-in-law and said she voted as requested and photographed her ballot as demanded. She also described two women distributing pens and money at the gate.

6.87 Under cross-examination by counsel for the 1st Respondent, PW12 explained that she had spent the K100 and could not produce the banknote. She initially said her phone was outside, but when asked to produce it for comparison, she indicated that she had not brought it. She nevertheless maintained that she took and submitted a photograph of her ballot.

6.88 Although two photographs of parliamentary ballots were before Court, PW12 did not clearly identify which was hers, and her witness statement did not give a page reference. She explained that she held the ballot while photographing it and recognised the visible fingers as her own.

6.89 Concerning Billy's authority, PW12 confirmed that she saw only him during the payment and did not see the 1st Respondent there. She believed Billy had been sent because the money accompanied a request to vote for the 1st Respondent. When asked whether she had heard the candidate authorise the payment, she said she had been told, while continuing to identify the request for electoral support as the basis of her belief.

6.90 PW12 stated that she did not see the amounts distributed by the two women and did not explain their connection to the 1st Respondent or any other group. Despite her UPND affiliation, she said she did not want the Petitioner to win as such, explaining that any candidate could win provided there was justice. She also stated that she was not seeking nullification solely because of the payment she described, but wanted future elections to be free and fair.

6.91 **Jessica Chungu**, a 26-year-old businesswoman residing in Pamodzi VLC, testified as **PW13**. She averred that she had supported UPND since 2021 but did not hold any party office, and voted at Pamodzi Combined School. She relied on her voter's card at page 72 of the Petitioner's bundle.

6.92 According to PW13, Bana Temwa approached her as well as a friend and asked them to vote for her husband, the 1st Respondent. She said she accepted K100 and subsequently voted for him, adding that other people also received payments.

6.93 Under cross-examination by counsel for the 1st Respondent, PW13 placed the encounter around lunchtime but could not give a precise time. She explained that she did not know Bana Temwa personally, although she bought goods from her shop. While she could not recall Bana Temwa's clothing, she

remembered wearing a grey trousers as well as a green and blue golf shirt herself.

6.94 PW13 identified Honourable Lubozha as her preferred candidate before the encounter and confirmed that she changed her choice after receiving the K100, which was the amount promised. She agreed that her objection to the election concerned payments to voters such as herself. She also agreed with the suggestion that she liked money and, when asked whether money could change her preference, she explained that she had been hungry.

6.95 Concerning evidence of the payment, PW13 did not produce the banknote or proof of her ballot choice and acknowledged that she did not have independent evidence beyond her testimony and witness statement. She named Grace Banda as another person who could describe the incident, although she did not identify Grace in her statement. She also confirmed that she knew accepting a bribe was an offence, but did not report the matter to the police and had not been prevented from doing so.

6.96 **Pethias Shikoni** testified as **PW14** and described himself as a 46-year-old businessman residing in Kawama. He supported UPND and voted from Nkunika in Kawama Ward.

6.97 He recalled repeated public address announcements around August, 2026, during which, according to him, the 1st Respondent called the Petitioner a thief. He placed the broadcasts between 06:00 and 22:00 hours and said he saw the speaker through his bedroom window. He maintained that the accusation was false.

6.98 Under cross-examination by counsel for the 1st Respondent, PW14 estimated that his bedroom window was approximately ten metres from the road. He explained that his house did not have a wall fence, although there were some planks. He did not record any announcement and did not produce supporting material beyond his own account.

6.99 **John Kasokomba**, a 62-year-old businessman residing in Pamodzi Overspill, testified as **PW15**. He described himself as a UPND member and polling agent who voted at Twatasha Primary School.

6.100 He recalled roadshow broadcasts between June and August, 2026, referring particularly to the final three days of the campaign. According to him, the 1st Respondent and his team accused the Petitioner of stealing CDF money for family members and urged voters to reject him. He characterised these statements as false publications and hate speech, explaining that he recognised the 1st Respondent's voice

through familiarity and that the campaign vehicles displayed the candidate's portrait.

6.101 Under cross-examination by counsel for the 1st Respondent, PW15 stated that he had supported UPND since 2016. He explained that he did not testify to give the UPND candidate another opportunity to win, but sought a sound determination and guidance on electoral conduct. His complaint concerned statements he heard during the campaign.

6.102 PW15 maintained that he heard the statements on several occasions over three months and accepted that this represented a substantial period of observation. He did not take photographs or record videos, explaining that he had simply observed the events.

6.103 When questioned about prerecorded roadshow messages, PW15 distinguished them from his own observations, but answered affirmatively to the subsequent question concerning his inability to hear such messages. Although he initially stated that he had further evidence, he said, when asked to produce it, that he did not have anything more.

6.104 **Sepiso Sitwala** appeared as **PW16** and described herself as a 43-year-old housewife residing in Kanyanje, Chipulukusu. She stated that she supported the UPND.

6.105 She recalled an attack around June, 2026, at approximately 20:00 hours, after her group had campaigned for the Petitioner and entered Chifubu Market. According to her, a mob attacked them as they were leaving. She associated the attackers with the 1st Respondent, describing them as wearing white T-shirts and green caps and carrying whistles. Among the group, she identified Cuthbert, whom she described as the commander, and Cephas Daka, whom she described as the campaign manager.

6.106 PW16 explained that the matter was reported at Chifubu Police Station and that she was taken to Ndola Teaching Hospital. She relied on the police and medical documents at pages 42–47 in support of her account.

6.107 Under cross-examination by counsel for the 1st Respondent, PW16 confirmed that she campaigned from June, 2026 until 13th August, 2026. She acknowledged that the 1st Respondent did not personally attack her and that she did not hear anyone say he had sent the attackers. She nevertheless maintained that they were his agents.

6.108 **Witty Siamutondo**, a 27-year-old resident of Pamodzi a student of Agricultural Science at Rockview University, testified as **PW17**. She stated that she did not have any political party affiliation and was registered to vote at Pamodzi Combined School.

6.109 She described public address announcements in which, according to her, the 1st Respondent accused the Petitioner of stealing CDF money for girlfriends and family members and urged voters to reject him. She maintained that these accusations were false and said the 1st Respondent was accompanied by a driver and Moses Kazevu. She stated that the statements were uttered during the campaign period. She also referred to broadcasts made a few days before polling.

6.110 Under cross-examination by counsel for the 1st Respondent, PW17 maintained that she personally observed the broadcasts on several occasions and explained that the remarks were made in Bemba. Her English statement conveyed their meaning but did not reproduce the original words or explain the translation. She could not name the driver, although she had seen him more than twice, and confirmed that she had a phone during the campaign but did not have one with her when testifying. PW17 confirmed that she voted for the Petitioner despite the accusations.

6.111 **Patricia Nyondo**, the Petitioner's final witness, testified as **PW18** and described herself as a 47-year-old businesswoman residing in Chifubu. She supported UPND and voted from St Bonaventure.

6.112 She described campaign statements made between 28th July, 2026 and 13th August, 2026, in which, according to her, the 1st Respondent accused the Petitioner of stealing money. She placed Cuthbert, Bill and Mr Kazevu with him and said the group also claimed that the Petitioner had "bought contractors from Solwezi" to install pavers at Chisankano Market. They further warned that re-electing him would bring suffering, statements which PW18 maintained were false.

6.113 PW18 recounted a separate incident after voting on 13th August, 2026 when about six men stopped her as she was leaving, called her the Petitioner's cadre and threatened to burn her house and shop. The witness said she was harassed, dragged and robbed of a K500, prompting her to report the matter at Buntungwa Police Station. The police, with assistance from unidentified persons, apprehended Lyson, whom she described as a member of the 1st Respondent's campaign team. She explained that a docket was opened, but the matter was subsequently resolved and closed.

6.114 Under cross-examination by counsel for the 1st Respondent, PW18 maintained that the broadcasts referred to Lloyd Lubozha and repeated that identification when counsel suggested that the name "Lloyd" had not been mentioned. She stated that she did not know Judge Lubozha. She also confirmed that she belonged to the Petitioner's campaign

team, which used buses and open vans among its many campaign vehicles.

6.115 Returning to the attack, PW18 maintained that six men assaulted her after she had voted. Asked whether the 1st Respondent had sent them, she said they were often seen with him, but she did not know whether he had sent them. She nevertheless answered yes when asked, hypothetically, whether their being seen with him meant that he had authorised the attack. Asked to identify any express or implied authority linking the 1st Respondent to the attack, she initially referred to the attackers' words. She ultimately accepted that her witness statement did not say that the 1st Respondent had sent them.

6.116 This marked the close of the Petitioner's case.

## 7.0 THE RESPONDENTS' CASE

7.1 The 1st Respondent, **Kondwani John Winga**, testified in his own case as **RW1** and also called four more witnesses. He described himself as a 46-year-old businessman residing in Chifubu.

7.2 RW1 placed the number of registered voters at 58,009 and attributed his winning margin of 7,230 votes to the electorate's desire for change. He described dissatisfaction with roads, persistent water shortages and CDF management during the

Petitioner's tenure. He maintained that he did not secure his election through bribery, intimidation, violence or any other illegal practice, and did not direct, approve or consent to such conduct. He also disputed the proposition that support for his candidature, by itself, established authority to act on his behalf.

7.3 He attributed provocative campaign messages to the Petitioner, stating that his campaign vehicles played a song about "ba pompwe" seeking power. He also accused the Petitioner's team of disrupting his campaigns and breaching the campaign timetable. In support of this allegation, he relied on a complaint to the Town Clerk appearing at page 1 of his bundle. The documents at pages 9–10 concerned damage to three windscreens, while he named George Bwalya Jnr among his injured supporters. He further stated that the police detained Abel Lwingi and refused to issue medical reports.

7.4 Concerning Cornerstone Pentecostal Church, RW1 said his visit preceded the campaign period and that he attended for prayer, relying on the documents at pages 3–4 of his bundle.

7.5 RW1 identified Ray Zulu as his campaign manager and disputed the identification of Cephas Daka as the holder of that position. He also stated that Betty Muyambo was not his agent, describing her as an ECZ observer in Kawama and relying on her identity card.

7.6 He adopted his main and supplementary bundles, explaining that the supplementary bundle filed on 17th September, 2026 included the campaign timetable. He also produced a flash drive containing voice notes, sermon clips and a Facebook video denouncing violence. He said the material came from his Samsung phone and social media, and that only he accessed the password-protected phone. He retained material he considered useful, deleted other messages and used a café computer to transfer the files. After playback, he identified the church recordings as extracts from sermons and described the other video as condemning violence.

7.7 RW1 sought dismissal of the Petition with costs.

7.8 Under cross-examination by counsel for the Petitioner, RW1 stated that he had lived in Chifubu for more than forty years. He maintained that the constituency comprised six wards and explained that Kaniki had been delimited into Dag Hammarskjold Constituency.

7.9 When questioned about developments during the Petitioner's tenure, RW1 acknowledged Twatasha Clinic and its maternity wing, the streetlights along Mwanawasa Road and the clinic's wall fence. He noticed the fence during campaigning but could not say when it was constructed. He also acknowledged Chifubu Magistrates' Court, Buntungwa Police Post,

renovations to Chifubu Local Court and the paving of Chisakano Street at the market.

7.10 RW1 explained that Chifubu Level 2 Hospital had been launched before 2021, while its construction and completion occurred between 2021 and 2026. He also knew of the toilets and a Shelter at Pine Grove, Mitengo Police Post, Tambalale Market Shelter, the charcoal shelter and toilets at Kamba.

7.11 Other developments he acknowledged included Minsundu Secondary School and staff houses, classrooms at Chipulukusu, the Mitengo footbridge, and clinics with maternity wings at Kanyanje and Mutambara. He said the Ndola–Mufulira Road remained partly under construction. He did not know of the Pamodzi market shelter, Twatasha Market renovations, Pamodzi Combined School classroom blocks, Intulo classroom blocks, Mitengo Clinic, Kanyanje shelter or Chifubu A classroom block put to him.

7.12 RW1 accepted that approximately fifteen developments had been mentioned as having taken place during the Petitioner's tenure and regarded the identified CDF projects as good utilisation of the funds. He nevertheless maintained that public dissatisfaction persisted in other areas. In comparing the Petitioner's tenure with that of his predecessor, Frank Ngambi, he referred to allocations of approximately K1.6 million under the predecessor and K40 million under the

Petitioner, while acknowledging that projects were undertaken under both Members of Parliament.

7.13 RW1 explained that Parliament had been dissolved during campaigning and that the candidates were not then handling CDF. He nevertheless acknowledged the Petitioner's involvement as the incumbent during 2021–2026. Although he initially stated that he did not accuse the Petitioner of CDF mismanagement, he accepted the contents of paragraphs 6–8 of his witness statement when they were read to him and ultimately confirmed that poor CDF management formed part of his campaign message.

7.14 He did not obtain CDF utilisation records from Ndola City Council and did not produce a record establishing mismanagement. He also did not have evidence to contradict the Petitioner's denial or counsel's assertion that a supporting report did not exist. He acknowledged that the Road Development Agency was responsible for main roads and that Kafubu Water and Sewerage provided water, but continued to regard the condition of roads and water shortages as reasons for public discontent.

7.15 RW1 identified Jubeck Lubozha, also known as Judge, as the Petitioner's brother and a committee appointee, relying on a name appearing in his supplementary bundle. He did not have

birth records proving that relationship and accepted that the Petitioner did not sign the Ministry document put to him.

7.16 Concerning his campaign arrangements, RW1 confirmed that members of his team spoke on his behalf and that he gave instructions and approval for ordinary campaigning, although he was not always present. He did not produce a document confirming Ray Zulu's appointment as campaign manager. When referred to a document describing Brighton Chola as campaign manager, he explained that Chola was the vice campaign manager.

7.17 RW1 stated that he owned Major Trading and that some residents called him "Major", while he regarded "umuntu mutwe" as his nickname. He confirmed that Bill was his brother-in-law and that his wife assisted with campaigning and wanted him to win. He stated that Bill did not participate in his campaign and that he could not speak for Bill's electoral preference.

7.18 As to the damaged vehicles, RW1 accepted that the documents did not expressly name Lloyd Lubozha, but relied on their reference to the sole UPND parliamentary campaign team. He explained that his representatives made the police complaints and that he did not personally report the incidents. The Inspector-General and the Provincial Commanding Officer did

not receive a complaint concerning the refusal to issue medical reports.

7.19 Returning to the church visit, RW1 accepted that an invitation message referred to 26th April, 2026, while a message dated 13th June, 2026 thanked him for visiting the church. He acknowledged that campaigning had begun by the latter date and that the video recordings demonstrated his attendance.

7.20 RW1 identified himself as the speaker in the campaign video and accepted that he mentioned Lubozha, although only one parliamentary candidate bore that name. He initially described the references to enriching relatives as concerning "others", but subsequently accepted that the Petitioner was among the former holders of parliamentary office.

7.21 He did not have CDF records proving that relatives had been enriched and did not produce a list identifying relatives who benefited. He accepted that he did not have supporting evidence and answered affirmatively when counsel described the unsupported statement as a falsehood. He nevertheless maintained that he did not repeatedly disseminate the statement throughout the constituency.

7.22 Another passage in the recording referred to the Petitioner buying a vehicle after election and to family members, including an aunt, beginning to drive. RW1 did not produce

supporting evidence before Court, but said he had seen persons whom he regarded as the Petitioner's relatives, including Judge. He estimated that the audience at the recorded occasion exceeded one hundred people and maintained that the remarks were made on that particular occasion.

7.23 RW1 explained that his campaign team comprised approximately ten people and used two public address vehicles which travelled through the constituency. He stated that accusations concerning CDF misuse or benefits to relatives and girlfriends were not repeatedly broadcast. Although he did not accompany every outing, he maintained that the recording established what was said on one occasion and did not establish the vehicles' general campaign message.

7.24 In re-examination, RW1 relied on the Petitioner's denial of responsibility for CDF management and said that, on that basis, the allegation of mismanagement did not apply to the Petitioner. He characterised the claim of wider dissemination as speculative and requested recordings of other broadcasts. He maintained that the evidence did not include any further video, voice note, police report or document supporting those other utterances.

7.25 RW1 separately explained that the social-cash-transfer passage reported the Petitioner's warning that payments

would be withdrawn unless he was re-elected. He stated that he did not himself threaten their withdrawal. He also reiterated that Chola signed the campaign document as deputy because the campaign manager was blind.

7.26 **Moses Chileshe**, a 45-year-old technician residing in Chifubu, testified for the 1st Respondent as **RW2**. His evidence concerned the campaign incident at Fibobe on 12th June, 2026.

7.27 He recalled travelling in a public address vehicle carrying the 1st Respondent when UPND cadres ordered them to turn back. He identified Judge Lubozha, whom he described as the Petitioner's brother, as the person giving the order. RW2 and the driver, Mr Zulu, initially refused because their team was entitled to campaign there under the timetable, but eventually reversed when they realised they were outnumbered.

7.28 According to RW2, the groups met again near the proposed exit, where UPND cadres threw stones and damaged three windscreens. He was in a Canter which escaped and reported the incident at Buntungwa Police the following morning. The police inspected and photographed the vehicles, but he said they were still awaiting action. RW2 presented the three vehicles outside Court, where the Court inspected the damage he identified. A police report was also on the record.

7.29 Under cross-examination by counsel for the Petitioner, RW2 confirmed that he had maintained a close association with the 1st Respondent for fifteen years and belonged to his campaign team. Although he initially described himself as a radio operator, he explained that his duties included making microphone announcements and repairing equipment. The public address system comprised a mixer, amplifier and speakers.

7.30 RW2 said he participated in numerous campaigns between May and August, 2026, although he could not give the number of roadshows. He maintained that he accompanied the 1st Respondent whenever the latter campaigned, but had never heard him discuss CDF. When admissions from RW1's evidence were put to him, he stated that he did not know of them.

7.31 Concerning Judge Lubozha, RW2 maintained that he and the Petitioner were brothers. He based this on their surnames and on Judge driving the Petitioner's campaign vehicle, a Mark X. He did not have birth records proving the relationship and accepted that he was not related to everyone bearing the surname Chileshe.

7.32 RW2 described the attackers as wearing masks and UPND clothing and said he could not name them. He nevertheless maintained his identification of Judge as the person who

ordered their retreat. He did not have evidence that the police summoned Judge and stated that the assistant manager opened a docket.

7.33 **RW3** was **Christopher Daka**, aged 46 years and a resident of Chifubu. He stated that he was a general worker. RW3 narrated that he did not make the CDF statements attributed to him in paragraph 5.2.4 of the Petition. He recalled driving a white van in Fibobe on 12th June, 2026, and attributed its shattered windscreen to the violence unleashed by UPND members. On another occasion, he said he gave his niece a whistle, which he described as the 1st Respondent's symbol, and that Dickson Phiri subsequently beat her.

7.34 Under cross-examination by counsel for the Petitioner, RW3 explained that he performed various duties, including driving, and belonged to the campaign team, where he also made announcements. He identified the Toyota Hilux bearing registration number ALE 4325 as belonging to Major Trading and confirmed that the 1st Respondent owned the business and was known as "Major".

7.35 RW3 did not produce a video of the incident involving his niece. He acknowledged his earlier denial of political violence but maintained that his account of the shattered windscreen was true.

7.36 In re-examination, RW3 maintained that he did not disseminate the recorded words throughout the wards or personally accuse the Petitioner and his relatives of abusing CDF. He identified Judge Lubozha among the UPND group but could not identify another person.

7.37 **Mercy Phiri**, a 40-year-old businesswoman residing in Chifubu, testified as **RW4**. She identified herself as the 1st Respondent's wife and explained that she was commonly called "Bana Temwa", a name associated with their child. She also linked her husband's name, "Major", to their family business called Major Trading.

7.38 RW4 recalled going to St Bonaventure Secondary School at about 05:00 hours on polling day and voting at approximately 10:00 hours. She then went to Masala before opening her shop at Chifubu Market. She stated that she was not an election agent and did not distribute money at Fibobe Primary School.

7.39 She said she returned home after closing her shop and did not visit polling stations with Brighton Chola, Billy, Cephas Daka or others between 18:00 hours and midnight. She specifically maintained that she did not chant "Major has already won, stop counting" at Temweni, Intulo or St Bonaventure.

7.40 Under cross-examination by counsel for the Petitioner, RW4 testified that she was at home when voting closed. She stated

that she did not attend St Bonaventure to distribute money in exchange for votes and rejected the accounts of witnesses who said they saw her make payments.

7.41 RW4 admitted that she occasionally helped her husband during his campaign and wanted him to win. She denied doing everything possible to secure votes, but agreed that she encouraged people to vote on his symbol.

7.42 In re-examination, RW4 explained that her husband described his intentions during campaigning and that she spoke from her knowledge of him and his character. She reiterated that she did not bribe voters and invited the production of any evidence of payments, maintaining that her purpose in attending St Bonaventure was to vote.

7.43 **Betty Muyambo**, a 43-year-old businesswoman residing in Kawama, testified as **RW5**. She stated that a polling station called RDC did not exist and that she did not distribute money during voting.

7.44 She recalled that, at about 09:00 hours on polling day, Rex Musonda took her to Garden of Hope, where she monitored the election on his behalf as an independent candidate for councillor in Kawama Ward. She relied on the ECZ identity card at page 2 of the 1st Respondent's bundle and explained that she was not the 1st Respondent's election agent. She

further stated that she did not go to Kanyanje or offer money to voters.

7.45 Under cross-examination by counsel for the Petitioner, RW5 confirmed Musonda's independent candidature. Although she could not read her identity card, she accepted that it described her as a political party official, while maintaining that Musonda did not belong to any political party.

7.46 This marked the close of the 1st Respondent's case.

7.47 **Jimmy Chakupa**, the only witness called by the 2nd Respondent, testified as **RW6** in his capacity as the Commission's Returning Officer for Chifubu. He was a 55-year-old headteacher residing in Pamodzi Extension and employed by the Ministry of Education at Chipulukusu Secondary School.

7.48 RW6 explained that votes were counted after polling closed on 13th August, 2026 and that he declared the 1st Respondent elected after he obtained the highest number of votes. He maintained that the election substantially complied with the Electoral Process Act.

7.49 The witness disclosed that the election compliance checklist for Chifubu Constituency covered registration, nominations, campaigning, voting, counting, tallying and declaration of

results, and did not identify statutory lapses in the principal stages. The checklist recorded successful campaigning and attendance by agents, and did not record objections to counting of votes or announcements at polling stations. It also recorded the proper dispatch of sealed ballot boxes and constituency tallying.

7.50 RW6 stated that completed GEN 20 forms were provided to polling agents and made available to monitors and observers who were present. He explained that the Commission did not record a written complaint from the Petitioner concerning the forms or any other complaint from him during or after voting.

7.51 Under cross-examination by counsel for the Petitioner, RW6 maintained that the election was free from violence, explaining that he did not receive information about violent incidents. He also said he had not heard of the 1st Respondent's complaint of violence. He did not bring GEN 20 forms showing the signatures of UPND agents, explaining that he had not been asked to produce them, and repeatedly accepted that he did not have a document before Court demonstrating those signatures. He confirmed that he had not brought any documents to support his statement.

7.52 Under cross-examination by counsel for the 1st Respondent, RW6 stated that he did not receive a report of vote-buying from any election or polling agent and did not have information

identifying a station where the Petitioner's agents failed to sign GEN 20 forms. He placed the number of registered voters at 58,009 and the number who participated at 31,945, confirming that the 1st Respondent obtained 15,552 votes and the Petitioner 8,322.

7.53 RW6 further stated that the Petitioner and his agents did not complain to the ECZ about the CDF accusations. He agreed with counsel's description that the Petitioner had been defeated "clean".

7.54 That concluded the case for the 2nd Respondent.

## 8.0 WRITTEN SUBMISSIONS

8.1 The parties filed final written submissions, and I am indebted to counsel for their assistance and the perspectives they have offered. Although I have not reproduced those submissions here, I shall refer to them, where necessary, in determining the Petition.

## 9.0 ANALYSIS AND DETERMINATION OF THE PETITION

9.1 I have considered the grounds advanced in the Petition, the Answers filed by both Respondents, the evidence adduced at trial and the written submissions of Counsel. The starting point is *Section 97(2)(a)* and *(b)* of the *Electoral Process Act No. 35 of 2016*, which prescribes the circumstances in which an election may be avoided. It provides:

*"(2) The election of a candidate as a 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 and consent or approval of a candidate or of that candidate's election agent or polling agent; and the majority of voters in a constituency, district or ward were or may have been prevented from electing the candidate in that constituency, district or ward whom they preferred;*

*(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."*

9.2 *Section 97(2)(a) of the Act* creates cumulative and sequential requirements. A petitioner must first establish the existence of a corrupt practice, illegal practice or other misconduct. Where the alleged act was not personally committed by the candidate, the evidence must further establish the statutory connection prescribed by paragraph (a)(ii), namely that the conduct occurred with the candidate's knowledge and consent or approval, or was committed by the candidate's election or polling agent. It is only after those antecedent requirements have been proved that the Court proceeds to consider the further question whether the misconduct prevented, or may have prevented, the majority of voters from electing the candidate whom they preferred.

9.3 The sequence is important. Where the alleged malpractice itself is not proved, the inquiry necessarily ends there. Likewise, where an act is shown to have occurred but the evidence does not establish the statutory nexus between that act and the candidate, there is no attributable misconduct upon which the second limb of *section 97(2)(a)* can operate. In either situation, it becomes unnecessary to speculate upon what effect an unproved or unattributed act might have had upon the electorate. The electoral-effect inquiry is consequential upon proof of the earlier statutory elements; it is not an independent basis upon which an election may be avoided.

9.4 This approach accords with **Nkandu Luo and the Electoral Commission of Zambia v Doreen Sefuke Mwamba and the Attorney General**[1] where it was held that the statutory scheme requires proof of the misconduct and its attribution before the wider electoral consequence falls for determination. An election court must therefore resist collapsing distinct inquiries into a general impression that an election was unsatisfactory. The Court is required to identify the misconduct proved, determine whether it is attributable in the manner prescribed by the Act and, only then where necessary, assess its effect upon the choice of the majority.

9.5 *Section 97(2)(b),* read with *subsection (4),* addresses a different species of challenge. The petitioner must first prove non-compliance with the provisions governing the conduct of the election. If no non-compliance is established, there is no occasion to inquire into its effect upon the result. Where non-compliance is proved, the Court must determine whether it was of such character that the election ceased to be substantially conducted in accordance with the governing principles of the Act and whether that non-compliance affected the result. *Subsection (4)* thus recognises that an electoral process need not be faultless in every administrative detail in order to remain legally valid.

9.6 The burden throughout rests upon the Petitioner to establish his claim on a standard higher than a balance of

probabilities. In **Kafwaya v Katonga and Others**[2], paragraphs 7.4–7.6, the Constitutional Court explained that allegations in an election petition must be established to a fairly high degree of convincing clarity. That standard reflects the seriousness of a judicial order setting aside the expressed electoral choice of a constituency. It does not insulate unlawful conduct from scrutiny, but requires that the Court act upon evidence of sufficient cogency rather than suspicion, possibility or conjecture.

9.7 In **Christine Phiri and Another v Melessiana Phiri and Another**[3], the Court reaffirmed the distinction between attribution and electoral effect. Once the first limb of *Section 97(2)(a)* has been established, the ultimate inquiry becomes whether:

> *"The majority of the voters were or may have been prevented from electing the candidate whom they preferred."*

9.8 The words "may have been" permit a conclusion founded upon cogent circumstantial evidence. They do not require a petitioner to call every affected voter or reconstruct individual ballots. They equally do not dispense with evidence. The seriousness of a particular incident, the moral objectionability of the conduct or the fact that a candidate

may have derived some political advantage from it cannot substitute for proof of the statutory elements.

10.0 **BRIBERY BEFORE AND DURING POLLING**

10.1 The Petitioner alleged that the 1st Respondent and persons acting on his behalf offered or distributed money to voters to influence their electoral choices. I shall examine these allegations in light of the law governing bribery and the requirements for nullifying an election. *Section 81(1)(a),* read with the opening words of subsection (1), provides:

> *"(1) A person shall not, either directly or indirectly, by oneself or with any other person corruptly—*
> *(a) give, lend, procure, offer, promise or agree to give, lend, procure or offer, any money to a voter or to any other person on behalf of a voter or for the benefit of a voter in order to induce that voter to vote or refrain from voting or corruptly do any such act as aforesaid on account of such voter having voted or refrained from voting at any election;"*

10.2 The effect of *Section 81(1)(a) of the Act* is that a person commits bribery by corruptly giving, offering or promising money to induce a voter to vote or refrain from voting, or to reward a voter for doing so. To establish bribery, the party alleging it must prove that money was given, offered or promised for that corrupt electoral purpose. Proof that money

changed hands, without evidence of such purpose, is insufficient. Equally, an offer or promise may constitute bribery even where no money was actually paid. Where bribery is relied upon to nullify an election, the Petitioner must further prove that the conduct was committed by the candidate or with the knowledge and consent or approval of the candidate or the candidate's election or polling agent. The Petitioner must also establish that the majority of voters were or may have been prevented from electing their preferred candidate, as required by *Section 97(2)(a) of the Act.* These matters must be proved to a fairly high degree of convincing clarity.

**The alleged church donation**

10.3 The Petitioner treated the alleged donation of K10,000 at Cornerstone Church as an inducement intended to influence voters in favour of the 1st Respondent. The evidential foundation for that allegation is, however, deficient. PW1 did not witness the alleged payment. His information came from an unidentified church member who did not testify. The evidence therefore deprived the Court of the opportunity to test the source of the allegation, the circumstances of the alleged payment and any words or conduct from which an electoral purpose could properly be inferred.

10.4 There was also uncertainty as to the date the alleged donation was made. PW1 placed the alleged donation in May,

whereas the pleading referred to August. The messages and recordings before the Court establish that the 1st Respondent attended the church and participated in ministry there. They do not establish that K10,000 was paid, still less that any payment was made upon an electoral bargain or as an inducement to those present.

10.5 I accordingly find that the alleged corrupt practice was not proved to the requisite standard. Since the first requirement under *Section 97(2)(a)* has not been established, there is no proved malpractice whose effect upon the electorate falls for consideration. The complaint concerning the church donation therefore fails at the threshold and is accordingly dismissed.

**Distribution of money at polling stations**

10.6 PW1's polling-day allegations extended materially beyond matters within his personal observation. At Twatasha he did not see the 1st Respondent distribute K20 notes and did not hear any request that accompanied an alleged payment. His allegations concerning Bana Temwa, Billy and Madam Coffee were similarly derived substantially from what others told him. The Court must therefore assess the alleged transactions primarily through the witnesses who claimed either to have observed the payments or to have been their recipients.

10.7 PW1 separately maintained that he personally saw the 1st Respondent distributing money at Temweni. That account lacked sufficient particularity. He was approaching in a vehicle, could not identify the denominations and could not immediately identify any recipient. No sufficiently precise time, words or surrounding circumstances demonstrating corrupt electoral purpose were supplied. The alleged receipt by Racheal Nanyangwe concerned Hands of Compassion, while Julius Banda's evidence concerned Twatasha. Neither provides independent confirmation of an identified Temweni transaction, and Racheal Nanyangwe was not called to testify.

10.8 PW8 gave the principal evidence concerning an alleged distribution at Twatasha. He placed it in the early morning and identified Cephas Daka as the leader of the group. His answers as to his precise time of arrival were not entirely consistent, but he maintained that he was inside the polling room by approximately 05:50 hours. More importantly, his statement did not place the 1st Respondent at the scene. While he initially attributed the conduct to instructions from the 1st Respondent, he could not identify where or when any such instruction was given. He further conceded that he had no evidence that the 1st Respondent approved the distribution.

10.9 PW12 testified that Billy gave her K100 at Chawama at about 07:30 hours and asked her to vote for the 1st Respondent. On her account, she saw Billy alone. Her conclusion that he acted for the 1st Respondent rested upon the fact that the money was accompanied by a request to vote for him. That circumstance is relevant, but it does not itself establish that Billy was a duly appointed election or polling agent or that the payment was made with the candidate's knowledge, consent or approval.

10.10 PW12 also referred to two women who were distributing pens and money at the gate. She did not identify them, did not establish the amounts they distributed and did not prove their connection to the 1st Respondent. PW1's allegation that Billy distributed money at Kawama at about 09:30 hours concerns a different place and time and therefore does not constitute independent corroboration of the alleged Chawama payment.

10.11 PW11 alleged receipt of K100 from Bana Temwa (RW4) at Chifubu A at approximately 08:30 hours. She identified Rhodah Daka and Mwewe Mutale as persons who were with her, yet neither was called to corroborate the alleged transaction. Her account was also affected by the fact that the alleged promise of a further payment emerged for the first time in cross-examination and had been omitted from her witness statement.

10.12 Her evidence concerning her intended electoral choice was not entirely consistent. She initially stated that she had no particular candidate in mind and subsequently said that she intended to vote for the Petitioner. She further conceded that she voted freely. A voter may voluntarily accept an unlawful inducement. The difficulty lies instead in the reliability of the underlying transaction itself. The inconsistent account of her prior preference, the omitted further promise and the absence of the witnesses said to have been present materially weaken the allegation.

10.13 I am therefore not satisfied that the alleged Chifubu A transaction has been proved to the fairly high degree of convincing clarity required in an election petition. There being no proved corrupt practice in relation to that transaction, it is unnecessary to proceed to the separate question of its effect upon the wider electorate.

10.14 PW13 alleged that Bana Temwa gave her K100 at Pamodzi around lunchtime and that the payment changed her preference from the Petitioner to the 1st Respondent. Grace Banda was mentioned as another person capable of speaking to the incident, but her name emerged only in cross-examination and she was not called. PW17's evidence from Pamodzi concerned campaign publications and not the alleged payment. The fact that both witnesses were

associated with the same polling school cannot convert distinct evidence into corroboration of the transaction.

10.15 The accounts must be assessed transaction by transaction. PW11's evidence was weakened by the omission of the further promise from her statement, her inconsistent evidence about her intended vote and the absence of the persons she said were present. PW13's identified corroborator was named only in cross-examination and was not called. This preserves the separate attribution requirements in *Section 97(2)(a).* PW12's evidence was confined to her own encounter with Billy. It did not establish that Billy was an election or polling agent of the 1st Respondent, or that the 1st Respondent knew of or approved the payment. I find that these matters weaken the evidence and limit what it proves.

10.16 The Petitioner urged the Court to infer agency from recurring references to "Team Major", family relationships and participation in the campaign. The 1st Respondent contended that political support or family connection did not amount to proof of appointment, authority or consent. RW1's denials of some of those relationships require qualification. His Answer disputed Billy's alleged relationship, yet in oral evidence he acknowledged a brother-in-law named Bill. His wife also admittedly assisted his campaign and naturally wanted him to succeed.

10.17 Those facts are relevant and the Court does not disregard them. They do not, however, establish that every family member or campaign supporter possessed the legal status of an election or polling agent, or that every act committed for the apparent political benefit of the candidate occurred with his knowledge, consent or approval. The Act requires more than political affinity. In **Akashambatwa Mbikusita Lewanika and Others v Frederick Jacob Titus Chiluba**[4], the Supreme Court recognised the distinction between political association and statutory responsibility. A candidate may be answerable for acts personally committed, for acts of a duly appointed election agent, or for acts done with his knowledge and consent. The law does not make a candidate legally responsible for every act of every supporter.

10.18 Equally, authority need not invariably be proved by a written instruction or express confession. In **Lusambo v Kanengo and Another**[5] the Constitutional Court inferred responsibility from the candidate's close association, presence and conduct in relation to the perpetrators. The Court observed:

> *"In our view, the two, the appellant and the 'Nato Forces', were inseparable."*

10.19 The evidence in the present case does not disclose a comparable degree of connection. There is no cogent evidence

of coordinated funding, instructions, candidate presence at the alleged payments or subsequent adoption of the transactions. A request by a third party that a voter support the 1st Respondent is relevant evidence of political purpose, but it does not, by itself, establish the statutory connection required by *Section 97(2)(a)(ii) of the Act.*

10.20 I accordingly find that the Petitioner has not proved to the requisite standard that the 1st Respondent personally committed bribery or that the alleged payments by third parties were made by his election or polling agents or with his knowledge and consent or approval. The first statutory threshold under *Section 97(2)(a) of the Act* therefore fails.

10.21 That finding is sufficient to dispose of the bribery ground. I have nevertheless considered whether the evidence concerning the alleged transactions establishes the required electoral effect. PW12's evidence was confined to her own experience. PW1's estimate that more than one thousand persons received money had no identified evidential basis, while PW8's reference to "many" recipients established neither their number nor the extent of any distribution across the constituency. The evidence does not establish that the majority of voters were, or may have been, prevented from electing their preferred candidate. The bribery ground is dismissed.

## 11.0 FALSE PUBLICATIONS

11.1 The Petitioner complained that campaign statements concerning his administration of the Constituency Development Fund, benefits allegedly conferred upon relatives and social cash transfer payments were false and calculated to discredit him before the electorate. The first task is to identify the proper statutory framework governing those statements. *Section 84(1) of the Electoral Process Act* provides:

> *"A person shall not, before or during an election, publish a false statement of the illness, death or withdrawal from election of a candidate at that election for the purpose of promoting or procuring the election of another candidate, knowing that statement to be false or not believing it to be true."*

11.2 The provision is confined to false statements concerning a candidate's illness, death or withdrawal from an election. A party relying upon it must establish that such a statement was published before or during the election to promote or procure another candidate's election, and that the publisher knew it was false or did not believe it to be true. Proof that a campaign statement was false or damaging, without bringing it within those specified subjects, is insufficient.

11.3 PW1, PW2, PW3, PW4, PW5, PW14, PW15, PW17 and PW18 gave evidence concerning accusations directed at the

Petitioner's administration of CDF at different places between June and August 2026. Their accounts varied in precision. Some described roadshows and public address broadcasts; others relied upon recognition of the 1st Respondent's voice or encounters at particular locations.

11.4 Although RW1 admitted criticising the administration of CDF and making general references to previous office-holders, I find that allegations of CDF theft or favouritism do not concern the illness, death or withdrawal of a candidate from an election. However objectionable, defamatory or politically damaging they may have been, they fall outside the narrow prohibition in *section 84(1).* The same conclusion applies to the statement concerning social cash transfer payments.

11.5 The appropriate statutory framework for considering allegations of this nature is *Regulation 15(1)(c) of the Electoral Code of Conduct* in the First Schedule to the Act. Read with its opening words, it provides:

> *"(1) A person shall not—*
>
> *(c) make false, defamatory or inflammatory allegations concerning any person or political party in connection with an election;"*

11.6 The Code establishes a mechanism for addressing breaches promptly during the electoral process. *Regulation 3(1) of the*

*Electoral Process (Code of Conduct) (Enforcement) Regulations, 2016, Statutory Instrument No. 62 of 2016,* as amended by *Statutory Instrument No. 35 of 2020,* provides:

> *"A person who witnesses a breach of the Code or alleges that a candidate or political party has breached the Code shall notify the Commission of the breach of the Code, in writing."*

11.7 *Section 110* places responsibility for enforcing the Code upon the Commission, while *section 113* provides for the establishment of conflict management committees. *Regulation 12 of the Code* permits complaints to be made to the Commission, an election officer or the relevant conflict management committee. Under *Regulation 4(1), read with Regulation 3A,* where the Commission determines that a complaint does not require an urgent hearing before it, it must refer the complaint to the relevant District Conflict Management Committee within forty-eight hours of receipt. These provisions provide a means of addressing campaign disputes while the electoral process is underway.

11.8 I accept the evidence of RW6 that the Commission received no complaint from the Petitioner or his agents concerning the particular CDF statements now relied upon. PW1 referred to reports made to the police, while PW3 spoke generally of engagement with a conflict management body

and the police. Neither produced a written complaint or determination concerning those publications. Their general references to complaints do not establish that these particular statements were formally placed before the Commission or the relevant District Conflict Management Committee.

11.9 On that evidence, I find that the Petitioner has not established that he invoked the prescribed complaints procedure in respect of the impugned publications. That procedure could have afforded an opportunity for their prompt examination and resolution during the electoral process. The District Conflict Management Committee could have heard the parties, examined the statements and sought an amicable settlement through mediation, with recommendations for further enforcement where necessary.

11.10 I further find that the publications relied upon concerned the Petitioner's administration of CDF, benefits allegedly conferred upon relatives and social cash transfer payments. None concerned his illness, death or withdrawal from the election. Those findings place the statements outside the scope of *Section 84(1) of the Electoral Process Act.* Accordingly, the Petitioner has not established a contravention of that provision, and the complaint founded upon it fails.

## 12.0 VIOLENCE AND INTIMIDATION DURING CAMPAIGNING AND POLLING

12.1 The Petitioner further alleged violence and intimidation by persons associated with the 1st Respondent during the campaign and at polling stations. The evidence requires the Court to distinguish three matters: whether violence occurred; whether it is attributable to the 1st Respondent in the manner prescribed by *Section 97(2)(a)*; and, only if those requirements are established, whether it produced the prescribed electoral consequence.

*Section 83(1)(a) and (b)* provides, in material part:

> *"(1) A person shall not directly or indirectly, by oneself or through any other person—*
>
> *(a) make use of or threaten to make use of any force, violence or restraint upon any other person;*
>
> *(b) inflict or threaten to inflict by oneself or by any other person, or by any supernatural or non-natural means, or pretended supernatural or non-natural means, any physical, psychological, mental or spiritual injury, damage, harm or loss upon or against any person;"*

12.2 These provisions prohibit both the use and the threatened use of force, violence, restraint or harm, whether committed

personally or through another person. Their protection extends beyond bodily injury to psychological, mental and spiritual harm, including threats involving supernatural or pretended supernatural means. Actual physical injury is therefore not essential: proof of a prohibited threat may itself establish a breach.

12.3 For such conduct to justify nullification under *Section 97(2)(a)*, the Petitioner must further establish that it occurred in connection with the election and was committed by the 1st Respondent, or with the knowledge and consent or approval of the 1st Respondent, his election agent or polling agent. The Petitioner must also establish that the conduct prevented, or may have prevented, a majority of voters in the constituency from electing their preferred candidate. Proof of violence or intimidation alone, without the required connection and electoral consequence, is insufficient to nullify the election under that provision.

**The alleged campaign assaults**

12.4 The incidents must be considered individually rather than treated as one continuous course of conduct merely because the participants were politically active. PW7 and PW10 described a confrontation on 4th July, 2026, in the vicinity of Chifubu Market, the library and the opposing campaign command post. PW6 described a separate attack at Fibobe on 23rd July, 2026 while PW16 referred to an incident

occurring in June at approximately 20:00 hours. PW6's account of the July incident does not establish the separately pleaded assault said to have occurred on 12th June, 2026.

12.5 The evidence of PW7 and PW10 mutually supports the occurrence of a violent confrontation on 4th July. The medical material also supports the fact of injury. It does not, however, identify the perpetrators or establish that they acted upon the instruction, authority or approval of the 1st Respondent. PW7's more particular attribution of the assault to Cuthbert emerged in cross-examination, whereas his statement did not expressly state that Cuthbert personally assaulted him or carried stones. PW10 stated that he knew one of the attackers but did not identify that person by name.

12.6 Evidence that some persons emerged from the vicinity of a campaign command post is relevant circumstantial evidence of political association. It is not proof, without more, that their conduct was authorised by the candidate. An election court must be careful not to equate political association with legal agency. The Act requires a proved connection of the kind identified in *Section 97(2)(a) of the Act.*

12.7 PW6 identified Abel as the person who assaulted her and described him as the 1st Respondent's son-in-law. She further stated that he acknowledged the assault at the police station. Her police report was not produced and no

independent witness confirmed the alleged acknowledgment. PW16 conceded in cross examination that the 1st Respondent did not personally attack her, and no witness testified that he sent or instructed the alleged assailants. The medical evidence supports injury but does not establish agency.

12.8 I find PW6 credible in her account that she was assaulted and in her identification of Abel. I also find PW16 credible as to the assault she described and the injury she sustained. The medical evidence corroborates the injuries but does not identify the assailants. PW6's account that Abel acknowledged the assault at the police station is uncorroborated: the police report was not produced and no independent witness confirmed it. PW16 acknowledged that the 1st Respondent did not personally attack her, and no witness testified that he sent or instructed the assailants. The evidence establishes that both women were assaulted and injured, but does not establish that the perpetrators acted on the 1st Respondent's instructions or with his knowledge or approval.

12.9 I have also considered the counter-allegations concerning violence and damaged campaign vehicles. The inspection confirms physical damage but does not establish who caused it or upon whose authority. Any violence attributable to persons associated with the Petitioner would neither excuse nor diminish violence independently established against the

1st Respondent or his agents. The allegations against each side must stand or fall upon their own evidence.

12.10 The Petitioner relied upon **Lusambo v Kanengo,** where the evidence specifically connected the candidate with the violent group. The 1st Respondent on the other hand relied upon **Michelo v Sampa and Another,**[7] particularly paragraphs 46–49, where the Constitutional Court emphasised the necessity of establishing personal commission, agency or the candidate's knowledge and consent.

12.11 The evidence in this case does not establish a connection comparable to that demonstrated in **Lusambo v Kanengo**. I have also considered the video recording in which the 1st Respondent publicly denounced violence. Taking the evidence as a whole, I find no sufficiently cogent basis for concluding that he was alongside the alleged perpetrators when the violence occurred, directed or instructed them, or subsequently endorsed their conduct.

12.13 The Constitutional Court's decision in **Charles Mwelwa v Stephen Chikota and Another**[8] further illustrates that even proved electoral violence does not automatically result in nullification. At paragraphs 77–80, the Court considered candidate involvement in acts of violence and threats but upheld dismissal of the petition because the necessary effect

12.15 Upon the evidence as a whole, I find that particular confrontations, assaults and injuries occurred. I am not satisfied, however, that the acts were committed by the 1st Respondent, by his duly appointed election or polling agents or by persons acting with his knowledge, consent or approval. The necessary statutory attribution under *Section 97(2)(a)* has therefore not been established.

12.16 That finding is sufficient to dispose of this ground. Since the proved violence has not been attributed to the 1st Respondent in the manner required by the Act, it is unnecessary, strictly speaking, to determine its effect upon the majority of voters. The evidence concerns individual confrontations and personal consequences and does not establish violence so widespread as to prevent the majority of voters from electing their preferred candidate. This ground is dismissed.

## 13.0 UNLAWFUL CANVASSING AND DISPLAY OF CAMPAIGN SYMBOLS NEAR POLLING STATIONS

13.1 The Petitioner alleged that persons associated with the 1st Respondent canvassed for votes and displayed campaign symbols within prohibited distances of polling stations. The allegation requires proof of the prohibited conduct itself, proof that it occurred within the prescribed geographical

limits and proof of the statutory connection to the 1st Respondent.

13.2 *Section 89(1)(e) of the Act* prohibits canvassing or solicitation on polling day at the entrance to a polling station, within the polling station itself or in a public or private place within four hundred metres of its entrance. The material provisions prohibit:

> *"(i) canvassing for votes;*
> *(ii) soliciting the vote of any person;"*

13.3 The provision is directed at active electoral persuasion within the prescribed vicinity and is distinct from mere possession of an object associated with a candidate.

13.4 *Section 89(1)(g)* separately prohibits display of election-related notices or signs within one hundred metres of the entrance to a polling station, except authorised official notices or signs. Paragraph (n) further prohibits use of an unregistered alternative symbol or the association of a candidate with such a symbol. These are statutory distances and constituent elements which must be proved rather than assumed.

13.5 PW8 provided the principal evidence of active solicitation. He described persons exhorting those in a queue to vote for the

"whistle" candidate. If proved to have occurred within the geographical limits contemplated by *Section 89(1)(e),* such exhortations are capable in law of amounting to canvassing or solicitation.

13.6 What PW8 did not establish was that the persons concerned were duly appointed election or polling agents of the 1st Respondent or that they acted on his instructions or with his knowledge and consent. The remaining evidence concerning whistles, the NRPUP lamp symbol and other campaign insignia was even less particular. It did not consistently identify the persons responsible, the polling stations concerned, the distances from the entrances or the source of any authorization.

13.7 I therefore find that the Petitioner has not proved the alleged unlawful canvassing or prohibited display in a form legally attributable to the 1st Respondent under *Section 97(2)(a).* The first statutory limb is consequently not established, and it is unnecessary to proceed to an assessment of electoral effect.

13.8 For completeness there is no evidence identifying the number of voters exposed to it, demonstrating any change in voter preference or establishing activity so widespread as to bear upon the choice of the majority. This ground is dismissed.

## 14.0 INTERFERENCE WITH COUNTING AND THE SECURITY AND INTEGRITY OF BALLOTS

14.1 The Petitioner also challenged events occurring after the close of polling, including disturbances at counting centres, alleged interference with electoral materials and premature declarations of victory. Unlike campaign conduct directed at voters, these allegations concern the integrity of the post-polling process and must therefore be assessed principally by reference to the security of the ballots, accuracy of the count and reliability of the declared result.

14.2 In **Sampa v Mundubile**[9], particularly paragraphs 79–81, the Constitutional Court recognised that:

> *"The counting of votes and announcement of results are part of the electoral process"*

14.3 Accordingly, misconduct occurring after the close of voting remains capable of founding an election petition where the statutory requirements are otherwise established.

14.4 *Section 87(1)(f)* prohibits unauthorised destruction, taking, opening or interference with a ballot box or packet of election papers. Disorderly entry into a counting centre must therefore be examined not simply as disorder, but by asking whether it resulted in access to electoral materials, alteration

of recorded votes, substitution of ballots, disruption of the count or some other impairment of electoral integrity.

14.5 Where the complaint is directed at election officers and concerns alleged failure properly to secure ballots or supervise the counting process, the relevant inquiry falls under *Section 97(2)(b),* read with subsection (4). The Petitioner must first prove the alleged non-compliance. A mere opportunity for interference, suspicion that something might have occurred, or an evidential gap in a witness's observation does not establish non-compliance.

**The disturbance at Intulo**

14.6 PW9 described a disturbance at Intulo at approximately 02:00 hours on 14th August, 2026. The Headteacher's letter referred to damage occurring during the night of 13th August. I accept PW9's explanation that the events commenced during the night and continued beyond midnight. The difference in dates does not, without more, discredit her account. The letter independently establishes damage to two window panes, although it identifies the perpetrators as unknown.

14.7 PW9 associated the incident with whistles and chants of "Winga". Those matters are capable of establishing political support or association. They do not establish that the disturbance was organised, authorised or approved by the

1st Respondent, and they do not establish that any participant gained unauthorised access to ballots, ballot boxes or result forms.

14.8 More significantly, PW9 could not give the parliamentary counting times or candidate totals recorded at the station. She left before announcement of the result and did not witness subsequent transportation of the ballot boxes. No broken seal, substituted ballot, altered result entry, missing electoral material or discrepancy between station figures and the constituency tally was established.

14.9 I therefore accept that a disturbance occurred and interrupted PW9's continuous observation. I do not accept that the interruption itself proves interference with the ballots or alteration of the count. An evidential gap created because a witness left the station cannot be converted, without affirmative evidence, into proof that manipulation occurred during her absence.

**Premature victory declarations and other stations**

14.10 The broader allegations concerning Temweni, St Bonaventure, Chawama, Garden of Hope and Hands of Compassion suffer from a similar deficiency. The evidence did not sufficiently identify the particular interference said to have occurred at each station, the person responsible, the

electoral material affected or the manner in which the counting process was compromised.

14.11 PW1's evidence concerning events between approximately 18:00 hours and midnight did not establish alteration of a candidate's tally. No witness demonstrated a discrepancy between a polling-station result and the figure ultimately declared at constituency level. No result form was proved to have been altered or substituted.

14.12 The chants or declarations that "Major" had already won may have been premature and provocative before the formal result was announced. They do not prove manipulation of the count. A declaration of victory is not evidence that ballots were interfered with, that figures were changed or that the official process produced an inaccurate result.

14.13 I find that disturbances occurred at certain stages of the post-polling process and, in some instances, curtailed continuous observation by individual witnesses. The Petitioner has nevertheless not proved interference with ballots, ballot boxes, packets of electoral documents or recorded candidate totals. No objective indicator of compromised electoral integrity was demonstrated.

14.14 The alleged non-compliance under *Section 97(2)(b) of the Act* has therefore not been proved. That being so, there is no further question whether such non-compliance affected the

result. To the extent that the disturbances are instead sought to be attributed to the 1st Respondent under *Section 97(2)(a)*, the necessary statutory connection has equally not been established. This ground is dismissed.

## 15.0 FAILURE TO SUPPLY GEN 20 FORMS AND EXCLUSION OF POLLING AGENTS

15.1 The Petitioner further challenged the administration of the counting process on the basis that some of his polling agents were denied completed GEN 20 forms, were asked to sign incomplete forms or were prevented from effectively observing the conclusion of the count. These complaints must be considered against the statutory procedure governing counting and recording of results and the requirements of *Section 97(2)(b)*.

15.2 The 2nd Respondent maintained that only three of the Petitioner's seventy-eight polling agents experienced difficulty obtaining GEN 20 forms and that their difficulties arose from confusion rather than systematic exclusion. The evidence directly relevant to this issue came principally from PW2 Moses Chiamba, PW8 Julius Banda and PW9 Fridah Lijimu. PW1 ultimately qualified the breadth of his original allegation and accepted that only three agents had provided statements concerning difficulties with the forms.

15.3 PW2 testified that he was presented with an incomplete form and properly declined to sign it. He left Twatasha before announcement of the parliamentary result. PW8 similarly departed before announcement. Neither witness identified the completed station result as inaccurate or established any discrepancy between the votes actually counted and those later incorporated into the constituency tally.

15.4 The statutory sequence is material. *Section 67(1)* requires counting at the polling station where votes were cast. *Section 68(1)(d)* requires announcement and publication of the result in figures and words. *Section 71* requires completion of the prescribed record and its announcement and transmission. A request to sign an incomplete document is therefore materially different from proof that the completed result was falsified or unlawfully withheld.

15.5 *Regulation* 5(1) of the *Electoral Code of Conduct* requires an election or polling agent to observe the opening and closing of the poll, voting, counting and announcement or declaration of the result. Regulation 5(2) provides:

> *"An election agent or polling agent shall counter sign the election results duly announced or declared by a presiding officer or returning officer, as the case may be, except that failure to countersign the election*

*results by such election agent or polling agent shall not render the results invalid."*

15.6 *Regulation 49(2) of the Electoral Process* (General) *Regulations, 2016* similarly preserves the validity of a result notwithstanding an agent's failure to countersign. *Section 36(2) of the Act* reinforces that position by providing:

*"The absence of an election or polling agent from a gazetted or prescribed place where an electoral proceeding is being conducted shall not invalidate those proceedings."*

15.7 Neither provision legitimises intimidation, obstruction or unlawful exclusion. They do, however, demonstrate that absence or non-signature, without proof of a consequential irregularity, does not invalidate the electoral proceeding.

15.8 PW2's evidence concerning the conduct of Presiding Officer Jacline Banda and the police raises a legitimate concern about the manner in which he was treated. He nevertheless accepted that he was not physically expelled. More importantly, his evidence did not establish manipulation of figures or alteration of the parliamentary result. His individual experience cannot, without further evidence, sustain the broader allegation of systematic exclusion throughout the constituency.

15.9 Section 70(1)–(3) of the Electoral Process Act provides a contemporaneous mechanism by which an election or polling agent may object before announcement of the result to an alleged inaccuracy in the counting or announcement and seek a recount. For ease of reference, *Section 70(1)-(3)* provides as follows:

> *"70 (l) An election or polling agent may object to an alleged inaccuracy in the counting of the votes or the announcement of a result under section seventy-one.*
> *(2) An objection under subsection (l) shall be made to a presiding officer, in the prescribed form, at any stage before the presiding officer has announced the result.*
> *(3) A presiding officer shall determine the objection and decide whether to order a recount."*

15.10 Subsections (6) and (7) of the Act provide for an appeal from the decision of the presiding officer and for written recording of the objection and determination. In the matter before me, no such contemporaneous written objection identifying an inaccurate entry in the tallying of votes was proved.

15.11 PW2 and PW8 left before the parliamentary results at their respective stations were announced. PW9 did not identify the parliamentary candidate totals and did not witness subsequent transportation of the ballot boxes. Their evidence

establishes local difficulties in observation and participation. It does not establish that the station results were false or that the constituency tally incorporated figures different from those actually counted. This approach accords with **Nkandu Luo and the Electoral Commission of Zambia v Doreen Sefuke Mwamba and the Attorney General**, as subsequently applied in **Michelo v Sampa and Another.** Not every defect in electoral administration warrants avoidance. The statutory inquiry remains whether proved non-compliance was of such character that the election ceased to be substantially conducted in accordance with the Act and whether the result was affected.

15.12 The final stages of the process provide additional context. *Section 72(1)*, as amended by *Act No. 12 of 2026,* requires the returning officer to tally polling-station results and announce and declare the parliamentary result. *Regulation 50(1) and (3)* similarly provides for totaling station accounts and completion of the declaration. Two representatives of the Petitioner's party signed the constituency declaration document, KJW1, thereby demonstrating representation at the constituency declaration stage.

15.13 PW1's incomplete verification exercise concerned aggregate ballot figures rather than a demonstrated station-by-station comparison of candidate totals. It disclosed no identified

misallocation of votes, false station return or discrepancy capable of affecting the parliamentary result.

15.14 I therefore find that difficulties occurred at some polling stations concerning the handling of GEN 20 forms and the participation of individual polling agents. I also accept that PW2 was entitled to refuse to sign an incomplete form. What has not been proved is deliberate or systematic withholding of completed GEN 20 forms, widespread unlawful exclusion of the Petitioner's agents, manipulation of candidate totals, a false station result, a defective constituency tally or a result procured through official partiality.

15.15 To the extent that those localised difficulties amounted to administrative shortcomings, they did not establish non-compliance of the character contemplated by *section 97(2)(b)*. No act or omission by an election officer was shown to compromise the governing principles of the election or to alter the declared parliamentary result. This ground is therefore dismissed.

## 17.0 RECOUNT AND DECLARATIONS SOUGHT

17.1 In **Sata v Banda and Others**[10], the Supreme Court stated in its interlocutory recount ruling that:

*"a recount is not granted as of right but on evidence of good grounds for believing that there has been a mistake."*

17.2 The evidence at trial left the declared count undisturbed. The alleged errors concerning votes wrongly credited, omitted or counted remained unproved. The same was true of any inconsistency in candidate totals or discrepancy between a polling-station return and the figure incorporated into the constituency tally.

17.3 A recount serves to resolve a demonstrated uncertainty in the count. An order for a recount must therefore rest on evidence of a specific counting discrepancy requiring examination. The evidence in this case fell short of establishing that foundation.

17.4 A declaration that the Petitioner was duly elected required proof that he obtained the highest lawful total of votes. His entitlement to that declaration remained unproved. Criticism of an opponent's conduct is insufficient by itself to establish that entitlement. I therefore refuse the reliefs seeking a recount and a declaration that the Petitioner was duly elected. The broader allegations of multiple and widespread electoral offences or breaches by the Respondents also remained unproved, and I accordingly refuse the declaration sought in that regard.

## 18.0 COSTS

18.1 *Section 109(1)* provides:

> *"Subject to the provisions of this section, costs, charges and expenses of, and incidental to, the presentation and trial of an election petition shall be borne in such manner and in such proportions as the High Court or a tribunal may order and in particular, any costs which in the opinion of the High Court or a tribunal have been caused by any vexatious conduct or by any frivolous or vexatious allegations or objections on the part of the petitioner or of the respondent, may be ordered to be paid by the party by whom such costs have been caused."*

18.2 In **Ng'uni v Mabonga**[11], the Constitutional Court set aside a costs order where the necessary finding had not been made, observing:

> *"In this case, the trial Judge did not make a finding before awarding costs against the Appellant."*

18.3 This Petition concerned the validity of a public election. Although the statutory grounds for nullification have not been established, some of the complaints had an evidential foundation and required determination after trial. In particular, the evidence established a breach of the Electoral Code of Conduct in relation to certain false statements. I

therefore do not find that the Petition, viewed as a whole, was frivolous or vexatious. Nor has vexatious conduct warranting a special costs order been demonstrated against either Respondent. In the circumstances, the appropriate order is that each party bears its own costs.

## 19.0 DECISION AND FINAL ORDERS

19.1 Upon consideration of the evidence as a whole, I find that the Petitioner has failed to establish a statutory ground for avoiding the election. The bribery allegations were not proved in a form attributable to the 1st Respondent; the violence proved was not shown to have the statutory connection required by *Section 97(2)(a);* the canvassing allegations similarly failed on proof and attribution; and no interference with the count or substantial non-compliance affecting the result was established.

19.2 The 1st Respondent did breach Regulation 15(1)(c) of the Electoral Code of Conduct by making the false statements identified in this judgment. That misconduct is properly censured. It does not, however, satisfy the additional requirement in *Section 97(2)(a)* that the majority of voters were or may have been prevented from electing the candidate whom they preferred. A proved breach of the Code and a statutory basis for avoiding an election are not necessarily the same thing.

19.3 The Petition is accordingly dismissed. Pursuant to *Section 108(1) of the Electoral Process Act,* I determine that Kondwani John Winga was duly elected and returned as Member of Parliament for Chifubu Constituency at the election held on 13th August, 2026. His election remains valid under *Section 108(2).* The reliefs sought by the Petitioner are refused. Each party shall bear its own costs.

19.4 In accordance with *Section 108(1)(a) of the Act,* the Registrar shall, as soon as practicable, submit a copy of this determination to the Speaker of the National Assembly and the Electoral Commission of Zambia.

Dated at Ndola this.....day of.....2026.

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**M. Chanda-Mate**
**Judge**

19.3 The Petition is accordingly dismissed. Pursuant to *Section 108(1) of the Electoral Process Act,* I determine that Kondwani John Winga was duly elected and returned as Member of Parliament for Chifubu Constituency at the election held on 13th August, 2026. His election remains valid under *Section 108(2).* The reliefs sought by the Petitioner are refused. Each party shall bear its own costs.

19.4 In accordance with *Section 108(1)(a) of the Act,* the Registrar shall, as soon as practicable, submit a copy of this determination to the Speaker of the National Assembly and the Electoral Commission of Zambia.

Dated at Ndola this.....23rd.....day of.....NOV.....2026.




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**M. Chanda-Mate**
**Judge**