IN THE HIGH COURT OF ZAMBIA
AT THE DISTRICT REGISTRY
HOLDEN AT MAZABUKA
(Civil Jurisdiction)

2026/HP/EP/028

IN THE MATTER OF: **AN ELECTION PETITION RELATING TO THE CHIRUNDU CONSTITUENCY PARLIAMENTARY ELECTIONS HELD ON THE 13TH DAY OF AUGUST, 2026.**

BETWEEN:



NEVERS MUCHINDU **PETITIONER**

AND

THE ELECTORAL COMMISSION OF ZAMBIA **1ST RESPONDENT**
JAMES K. MWANJA **2ND RESPONDENT**

Delivered in Open Court before the Honourable Mrs. Justice K. E. Mwenda-Zimba on the 25th day of November, 2026.

For the Petitioner : *Mr. K. Mubita of Kamui Andeleki Legal Practitioners.*
For the 1st Respondent : *Mr. Z. M. Mubiana of Nsapato and Company*
For the 2nd Respondent : *Mr. W. Simutenda of TMB Advocates*

JUDGMENT

Cases referred to:

1. ***Anderson Kambela Mazoka and 2 Others v. Levy Patrick Mwanawasa and 2 Others (2005) ZR 138.***
2. ***Akashambatwa Mbikusita Lewanika and Others v. Frederick Jacob Titus Chiluba (1998) ZR 49.***
3. ***Abiud Kawangu v. Elijah Muchima, CCZ Appeal No. 8 of 2017. (Unreported)***
4. ***Nkandu Luo and the Electoral Commission of Zambia v. Doreen Sefuke Mwamba and Attorney-General, Selected Judgment No. 51 of 2018.***
5. ***Austin Liato v. Sitwala Sitwala Selected Judgment No. 23 of 2018.***
6. ***Brelsford James Gondwe v. Catherine Namugala, SCZ Appeal No. 129 of 2012. (Unreported)***
7. ***Mubika Mubika v. Poniso Njeulu, SCZ Appeal No. 114 of 2007. (Unreported)***

8. *Mubita Mwangala v. Inonge Mutukwa Wina SCZ, Appeal No. 80 of 2007. (Unreported)*
9. *Josephat Mlewa v. Eric Wightman (1995/1997) ZR 106.*
10. *Mabenga v. Wina and Others (2003) ZR 110.*
11. *Kafuka Kafuka v. Mundia Ndalamei, CCZ Appeal No. 15 of 2016. (Unreported)*
12. *Direct Shopping Guide Zambia Ltd v. Zambian Inside Ltd, Appeal No. 48 of 2010.*
13. *Austin C. Milambo v. Machila Jamba CCZ, Appeal No. 6 of 2016. (Unreported)*
14. *Steven Masumba v. Elliot Kamondo 2016/HP/EP/0026. (Unreported)*
15. *Bowman Lusambo v. Bernard Kanengo and The Electoral Commission of Zambia 2021/CCZ/A0019.*
16. *The Bradford Case, Storey v. Forster (1869) 1 O'Malley & Hardcastle 34.*

Legislation referred to:

1. *The Electoral Process Act, No. 35 of 2016, Section 83(1), (a), (d) and 2(b), 96, 97(4), 98, 99 and 108.*
2. *The Constitution of Zambia Act, Articles 47 (2) and 68(2).*

Other work(s) referred to:

1. *Halsbury's Laws of England, 5th Edition, Volume 38A, Paragraph 667.*
2. *Halsbury's Laws of England "Elections and Referendums" Vol. 15(3) 4th Ed. (Re-Issue) Paragraph 855.*

1.0 INTRODUCTION AND BACKGROUND

1.1 On the 13th of August, 2026, Zambians went to vote in the general elections. The Petitioner, 2nd Respondent and one Mwape M. Lucky stood as candidates for the position of Member of Parliament for Chirundu Constituency. After the vote, the 2nd Respondent scored the highest number of votes and was declared Member of Parliament, while the Petitioner scored the second highest votes and Mwape M. Lucky scored the least votes.

1.2 Dissatisfied with the declaration of the 2nd Respondent as Member of Parliament for Chirundu Constituency, the Petitioner took out this Petition alleging violence, intimidation,

bribery and unauthorised use of the United Party for National Development (UPND) songs, campaign materials and branding as the grounds for the challenge.

1.3 The facts relied upon in the Petition are-

1. **that the Petitioner contested the Chirundu Parliamentary Constituency Elections on the (UPND) ticket against Mwape M. Lucky of the Resolute Party (RP) and James K. Mwanja, an Independent Candidate. The results were declared on 15th August, 2026 and the 2nd Respondent obtained 12,721 votes while the Petitioner obtained 11,698 votes and Mwape M. Lucky, obtained 677 votes;**

2. **prior to the election, the Petitioner and his supporters were subjected to several violent attacks such that on 14th July, 2026 after campaigns and while moving from Kanyanga Ward to the UPND Command Centre, the Petitioner was attacked by known agents of the 2nd Respondent who threw stones at the Petitioner and his supporters. Following the attack, Jethro Mandeva, a known agent of the 2nd Respondent was apprehended and taken to Chirundu Police Station and dockets for assault and malicious damage to property were recorded in the occurrence book under 7704/26 and 7718/26;**

3. **that on 17th July, 2026, Clement Boombe while on his way to Chibwebezi to pick up the Petitioner's supporters, was attacked by the 2nd Respondent and his supporters and in the process, Given Moonga was injured and the matter was reported to the Police and recorded in the occurrence book under number 7850/26. That a complaint was made to the Election Conflict Management Committee which**

summoned the 2nd Respondent but he did not attend and no further action was taken;

4. **during the campaign period, the 2nd Respondent used branding that was misleading and a significant number of voters were misled into believing that he was standing as a candidate under the UPND ticket and that he had blessings of the President of the Republic of Zambia. He distributed UPND branded campaign material during the campaign and a complaint was made to the Election Conflict Management Committee which summoned him and despite being guided to stop, he continued and no further action was taken by either the Police or the Committee;**

5. **on or about the 10th of August, 2026, the Petitioner was shot at while moving with his supporters in a convoy of about ten, along T2 Road, near Chirundu junction and on their way back from Lusitu Ward heading to the UPND Command Centre. That the 2nd Respondent came from behind, joined the convoy after which he went to the right lane, fired gunshots, and speedily drove away;**

6. **on 12th August, 2026, the 2nd Respondent and his agents distributed money to voters and encouraged them to vote for him. That the distribution of money was also done on election day;**

7. **the 1st Respondent allowed the 2nd Respondent to have more than 4 agents in the Polling Centres while some monitors of the Petitioner were blocked from accessing the polling stations;**

8. **on voting day, the 13th of August, 2026, the 2nd Respondent in the presence of his supporters stormed Sikongo polling station and forced their way into the**

Polling Centre which caused violence and the Polls were suspended;

9. **during the sorting and counting of votes, the Petitioner's agents raised objections to votes at 10 polling stations but the objections were not dealt with by the presiding officers and subsequently, by the Returning Officer. That due to the miscounting and mismanagement of the elections at the aforementioned polling stations, the Petitioner was prejudiced as votes that belonged to him were not tabulated;**

10. **on 14th August, 2026, the 2nd Respondent transported voters and supporters to the Totalling Centre where they were given money by the 2nd Respondent and his agents as they waited for the results to be tallied;** and

11. **as a result of the violence and intimidation attributed to the 2nd Respondent, some polling stations had low voter turnout as they were afraid to go and vote. That as a result, the 2nd Respondent contravened Sections 81 and 83(1) (a) and (d) and 2(b) of the Electoral Process Act No. 35 of 2016. Further, that the 1st respondent failed to carry out its mandate of ordering a recount.**

1.4 As a result, the Petitioner seeks the following reliefs:

1. **an order for a re-count of votes in the following polling stations-**
    a. **Chisamo polling station – 01;**
    b. **Agriculture Lusitu – 02;**
    c. **Nzimbe Apostolic Church – 01;**
    d. **Reformed Church, 01;**
    e. **Mandenga polling station – 02;**
    f. **Kayuni – 01;**
    g. **Kapululira – 01;**

h. **Siabulembo New Apostolic Church – 01;**

i. **Chirundu New Apostolic Church – 01;** and

j. **Jamba polling station.**

2. **a declaration that the Petitioner was duly elected;**
3. **a declaration that the 2nd Respondent was not duly elected in the Chirundu Constituency Parliamentary Election;**
4. **Costs;** and
5. **any other relief that the Court may deem fit.**

1.5 On the 8th of September, 2026, I held a Scheduling Conference where it was agreed that the Respondents file their Answers and ALL accompanying documents by the 9th of September, 2026. The Respondents filed their Answers and Affidavits without the bundles of documents. The 2nd Respondent filed his bundle of documents on the 16th of September, 2026 while the 1st Respondent did not file any bundle. In the meantime, the Petitioner had not complied with the Rules in that he had not filed his bundle of documents together with the Petition. He filed his bundle of documents on the 18th of September, 2026. There being no objection by either side on the non-compliance with the Rules, I allowed the Petitioner's and 2nd Respondent's bundles of documents to stay on record.

1.6 During the trial, the 1st respondent sought to produce its documents during the testimony of its witnesses. As there was

no objection from the other parties and in the interest of justice, I allowed the 1st Respondent to proceed.

2.0 THE AFFIDAVIT VERIFYING FACTS

2.1 The affidavit verifying facts was sworn by the Petitioner and the contents are more or less a repetition of the facts in support of the Petition.

2.2 He exhibited a copy of the declaration of results as exhibit **"NM1"** and deposed that the election was characterised by violence, threats of violence, intimidation, plagiarism, deception, vote buying and voter manipulation perpetrated by the 2nd Respondent and condoned by the 1st Respondent. He added that after the attack of 14th July, 2026, at Shoprite in Chirundu, Jethro Mandeva was arrested under Occurrence No. APPB1265/2026. He exhibited pictures of the damage occasioned to the vehicle he was using, Registration No. NOV 7 as **"NM2".** He also exhibited Medical Reports for Popix Siambwelu and Peter Bbakasa as **"NM3"**. He exhibited photos of the damage occasioned to Clement Boombe's bus as **"NM4"**. He exhibited a flash disc showing a vehicle belonging to the 2nd Respondent branded in UPND colours as **"NM5"**.

2.3 On the objections raised, he exhibited them as **"NM6"** and a copy of the letter to the Returning Officer of 14th August, 2026, raising concern over the counting and tallying of votes as **"NM7"**.

2.4 That the flash disc exhibited as **"NM5"** has a video showing a queue of people receiving money and a woman saying she received ZMW480 as well as another one, labelled "Mwanja entering the Totalling Centre" and "Mwanja addressing his supporters."

3.0 THE 1ST RESPONDENT'S ANSWER

3.1 In its answer of 7th September, 2026, the 1st Respondent denied the Petitioner's allegations. It averred that there was no miscounting or mismanagement of elections at the polling stations and no prejudice was occasioned to the Petitioner.

3.2 That the 1st Respondent carried out its mandate and declared the duly elected Member of Parliament for Chirundu through the elections conducted on 13th August, 2026.

3.3 It added that the Petitioner is not entitled to the reliefs sought in the Petition and that it should be dismissed with costs.

4.0 THE 1ST RESPONDENT'S AFFIDAVIT IN OPPOSITION

4.1 The 1st Respondent's affidavit in opposition was sworn by Benson Bweenje, the District Election Officer for Chirundu. He deposed that the elections were free and fair and the 2nd Respondent was declared Member of Parliament for Chirundu Constituency as shown by the GEN 20 Form, marked as **"BB1"**. He swore that the objections made at the polling stations were attended to but there was nothing to warrant a recount. That there was no miscounting and mismanagement of the elections and therefore, no inaccurate counting was done.

5.0 THE 2ND RESPONDENT'S ANSWER

5.1 In the answer of 9th September, 2026, the 2nd Respondent denied the facts in the Petition.

5.2 He denied the attacks of 14th July, 2026 and stated that in fact, it was the Petitioner, his agents and supporters who gruesomely attacked him and his supporters and further damaged his vehicle and that at the trial, he would refer to video footage of the unprovoked gruesome attack. Following the said attack, he reported the incident to the Zambia Police and his supporters were issued with Medical Reports including

Jethro Mandeva who was assaulted by the Petitioner and the Petitioner's agents and that at the trial, he would rely on video footage to this extent.

5.3 He denied being summoned at any material time by the Conflict Management Committee and failing to appear before it. He denied using the UPND colour scheme and that he used his own colours and branding style. He further denied distributing UPND campaign material. He admitted that the Petitioner made a complaint to the Conflict Management Committee but that this was at the very outset of the campaign period and following guidance of the Committee, he used his own colours and branding and that to this effect, he would rely on video footage. He denied stating that he was sent by the President of the Republic of Zambia.

5.4 As regards the attacks of 10th August, 2026 on T2, he denied them as misleading and alleged that it was the Petitioner and his supporters who fired 3 gunshots at him and his entourage and that the incidence was reported to the Zambia Police. That the Petitioner's supporters namely, Norman Naluha, an aspiring councillor, Suzyo Mbozi, a party chairman and

Sheleni Chipule, the District Youth Chairperson ambushed the 2nd Respondent at his residence/camp house.

5.5 He denied distributing money to voters either by himself or his supporters during the campaign time or on election day.

5.6 He further denied blocking the Petitioner's agents from entering Polling Centres.

5.7 As regards the incidents at Sikongo polling station, he stated that he received reports of electoral failures at the said polling station and visited it with a view to establishing facts. Upon reaching, he was allowed entry by officers of the 1st Respondent to get first-hand information of the alleged failures and whilst he was at the said polling station, voting was never disrupted in any way.

5.8 He denied that objections were raised at the time of counting of votes and that the counting proceeded smoothly and that the objections were manufactured for purposes of this Petition. That this is confirmed by the fact that the 2nd Respondent and his agents were never furnished with any objections and he was seeing them for the first time. He denied that there was any miscounting and mismanagement of the elections.

5.9 He also denied perpetrating violence and intimidation and that instead, throughout the campaign, these were perpetrated by the Petitioner and his agents.

6.0 THE AFFIDAVIT IN OPPOSITION

6.1 In the affidavit in opposition, the 2nd Respondent's evidence was more or less a repetition of the contents of his Answer.

6.2 He, however, referred to various documents and videos in support. He deposed that the GEN 20b exhibited as **"NM1"** in the Petitioner's affidavit is false and fabricated and that the actual declaration of results, duly filled in by officers, agents and servants of the 1st Respondent, which is genuine and legitimate, is exhibited as **"JKM1"**. He denied that the Petitioner and his supporters were subjected to violent attacks and intimidation but that in fact, these were perpetrated by the Petitioner and his supporters on numerous occasions during the campaign period. He exhibited copies of photographs showing the assault on himself and malicious damage to a motor vehicle collectively marked as **"JKM2".**

6.3 As regards the incident of 14th July, 2026 at Shoprite, he deposed that this was at the instigation of the Petitioner and his supporters who ruthlessly assaulted Jethro Mandeva in

full view of Zambia Police Officers as per video footage and recording and that Jethro Mandeva reported the matter to the Police. That the alleged reporting, by the Petitioner, of Jethro Mandeva to the Zambia Police under APPB1265/2026, was merely a cover-up of the criminal ruthless assault occasioned to him by the Petitioner and his supporters. In fact, neither him nor his supporters where ever summoned by the Zambia Police for any of the alleged subject offences. He exhibited Medical Reports collectively marked as **"JKM3"**.

6.4 In relation to the attacks of 17th July, 2026, he denied that they were perpetrated by him or his supporters. Further, that they were not summoned by the Zambia Police despite the Petitioner alleging that he reported the matter to the Police.

6.5 On the mediation before the Conflict Management Committee, he exhibited the Mediation Settlement as well as his campaign branding material as **"JKM4"** and **"JKM5"**, respectively.

6.6 In relation to the incidents of 10th August, 2026 on T2 Road, he deposed that the Petitioner and his supporters were the perpetrators of the acts. They fired 3 gunshots at him and his entourage after which he reported the incident to the Zambia Police. That the Petitioner and his supporters namely, Norman

Naluba, an aspiring councillor, Suzyo Mbozi, a party chairman and Sheleni Chipule, the District Youth Chairperson, ambushed the 2nd Respondent at his residence/camp house.

6.7 He denied transporting voters to the Totalling Centre and that even assuming that he did, on the 14th of August, 2026, voting had already closed and therefore, had no effect or consequence on the election results.

7.0 THE REPLIES TO THE RESPONDENTS' ANSWERS AND AFFIDAVITS IN OPPOSITION TO THE PETITION

7.1 In reply to the 1st respondent's Answer and affidavit in opposition, the Petitioner denied that the elections were free and fair. He added that recounts should have been ordered following serious irregularities raised through the objections.

7.2 In reply to the 2nd Respondent's Answer and affidavit in opposition, the Petitioner more or less repeated the contents of the Petition and the affidavit verifying facts. He denied all of the allegations made by the 2nd Respondent.

8.0 THE PETITIONER'S CASE

8.1 The Petitioner, **Nevers Muchindu** was the first witness.

8.2 He testified that following his adoption to stand as Member of Parliament for Chirundu Constituency under the UPND, he observed that, during campaigns, the 2nd Respondent had branded his vehicles using UPND colours and stated that he had been sent by the President to campaign for the UPND. As a result, on 26th May, 2026, he tasked his constituency secretary to file a complaint and on the 1st of June, 2026, the 2nd Respondent and himself appeared before the Conflict Management Committee.

8.3 It was resolved that the 2nd Respondent desists from using UPND colours and that he should rebrand his motor vehicles within 5 days. He referred to the Mediation Settlement Agreement at pages 40 to 42 of his bundle of documents. That he observed that the 2nd Respondent continued distributing materials, including T-shirts, using the name of the UPND President and claiming that he was sent by the President.

8.4 He testified that on 14th July, 2026, while on his way from Ng'ombe Ilede, he arrived at Shoprite Chirundu around 18 hours, aboard a Ford Ranger Registration No. NOV 7, where he was targeted and attacked by agents and supporters of the

2nd Respondent. He referred to photos of a damaged Ford Ranger at pages 2 to 5 of his bundle of documents.

8.5 That the 2nd Respondent's agents and supporters threw stones at him and in the process, some of the injured youths including, Popix Siambwelu and Peter Bbakasa were admitted, for a night, at Mtendere Mission Hospital. He relied on a copy of a medical report and discharge slip at pages 6 to 16 of his bundle of documents. That later, the people who attacked them were arrested and detained at Chirundu Police Station. After two days, a bus which carried his supporters was attacked and one of the rear windows was shattered and the matter reported to the Police. He referred to a photo of a damaged bus at page 17 of his bundle of documents.

8.6 It was his evidence that on the 11th of August, 2026, while moving in a convoy of ten vehicles, headed to Chirundu and just after Siavonga junction, the 2nd Respondent fired 2 gunshots at him and his team and then overtook them.

8.7 He added that on voting day, the 2nd Respondent's agents were brandishing guns and machetes while going around polling stations in the District.

8.8 That he was informed by his agents in Sikongo Ward that the 2nd Respondent went to the polling station with a bag while flashing his campaign symbol. After being confronted, a quarrel erupted and Sikongo polling station was closed for about 2 hours.

8.9 He added that he was informed by his agent, Malumbe, that the 2nd Respondent was distributing money to voters on polling day at Sikongo polling station.

8.10 Further, that some polling stations had poor lighting and consequently, failed to properly sort or count the votes causing agents to raise objections to the counting. The affected polling stations include; Chisamu, Lusitu Agricultural, Nzimbe New Apostolic Church, Reformed Church of Zambia, Mandenga 02, Kayuni 01, Kapululila 01, Shabulembo New Apostolic Church 01, Chirundu New Apostolic Church 01 and Jamba. He referred to objections and appeals at pages 18 to 37 of his bundle of documents.

8.11 Upon unsatisfactory decisions, his agents appealed to the Returning Officer who gave various responses including the fact that a recount was not possible because of the volatile situations at the Polling Centres. He petitioned the District

Elections Officer, through a letter at pages 38 and 39 of the Petitioner's bundle of documents. That despite the objections, the 2nd Respondent was declared winner and Member of Parliament for Chirundu. He added that one of his members, Namwene Munahambala, was beaten by the 2nd Respondent and detained in the presence of the District Electoral Officer (DEO). That the elections were not free and fair and were characterised by violence, intimidation, vote buying and breaches to the provisions of the law and the Electoral Code of Conduct.

8.12 When cross-examined by Mr. Mubiana, the Petitioner testified that he voted from New Apostolic Church polling station and that nothing happened that prevented him from voting. He added that there was no violence that would sway him from voting.

8.13 When cross-examined by Mr. Simutenda, the Petitioner agreed that after the mediation settlement before the Conflict Management Committee, campaigns proceeded.

8.14 He agreed that there was no evidence in his bundle of documents to show that the 2nd Respondent was using UPND colours or that he was distributing UPND materials and saying

that he was sent by the President. That however, he had produced videos where the vehicles were painted in UPND colours.

8.15 He testified that he did not know that his supporters pulled down campaign materials belonging to the 2nd Respondent on the 14th of July, 2026. He stated that he was actually targeted but that he did not go to the Police. However, that the people who were injured went.

8.16 As regards the attack of 11th August, 2026, as he was leaving Sikongo Ward into Chirundu, he denied that it was the 2nd Respondent who was actually beaten. When shown photos of the 2nd Respondent covered in blood, he admitted that he had not produced photos to show that he was injured.

8.17 He admitted that gunshots were fired and that his team did not report these incidences to the Police.

8.18 He further admitted that there was no evidence before Court to show that the 2nd Respondent entered Sikongo polling station with a bag and that a quarrel ensued. He further added that there's no evidence to show that the 2nd Respondent distributed money on polling day at Sikongo polling station.

8.19 When asked about GEN 20 Forms, he admitted that party agents signed the forms and that the total on the forms is what was tallied at the Totalling Centre. He admitted that he had not produced any GEN 20 Forms before Court.

8.20 In re-examination, he testified that all the objections raised before the 1st Respondent were rejected.

8.21 The second witness was **Kenny Mupande Kasamu**, a member of the Petitioner's campaign team, owner and driver of the motor vehicle, Ford Ranger, Registration No. NOV 7.

8.22 He testified that on or about 14th July, 2026, he was driving the Petitioner and his supporters in the said vehicle and on their way back from Lusitu, they approached Shoprite area in Chirundu and saw a banner of the 2nd Respondent hanging on two poles across the road. When they reached the banner, they heard two stones on the rear end of the vehicle but as he sensed that they had been ambushed by the 2nd Respondent's agents and supporters, he continued driving and stones were hitting people in the cargo bed and the people jumped out of the vehicle.

8.23 That the stones continued to be thrown and they hit the rear screen and others hit the rear bar on the cargo bed and caused

serious impact. However, he did not stop and went and dropped the Petitioner at his residence which was also the command centre. He later proceeded to the Police Station, where he found members of the UPND identifying those who were throwing stones. Two people who were supporters or agents of the 2nd Respondent were identified and they ran away.

8.24 He added that on 13th August, 2026, during voting, he was assigned to Kanyanga ward in the company of Kenny Hamwanyu and Collins Halwiindi. When they were conducting patrols, they reached Jamba Primary School and requested to enter the polling station. But despite being accredited, they were denied entry into the polling station. He inquired what the position of an unknown person was and after 20 minutes, that person presented documentation that he represented the 2nd Respondent. He buttressed the need for him to be allowed in and after inquiries, he was allowed entry.

8.25 When cross-examined by Mr. Mubiana, Mr. Kasamu admitted voting from Chirundu New Apostolic Church and that when he went to vote, no one influenced his decision on who to vote for and that there was no violence at the time he went to vote. He

testified that the person who stopped him from entering the polling station, is a representative of the 2nd Respondent and that he did not lodge any complaint to ECZ despite having been taught how to lodge complaints.

8.26 When cross-examined by Mr. Simutenda, he testified that he is a member of the UPND and would not want to see the Petitioner lose. He refused to confirm that the people he was carrying in the vehicle were the ones that pulled down the 2nd Respondent's banner. Further, he admitted that when he was denied entry into the polling station, people continued voting.

8.27 This witness was not re-examined.

8.28 The third witness was **Robert Singuwa**, the UPND Constituency Secretary and part of the Petitioner's campaign team.

8.29 He testified that throughout the campaign period, the 2nd Respondent represented himself as working with the UPND and used UPND campaign songs, regalia and told people to vote for President Hakainde Hichilema and himself as Member of Parliament. That sometime in May, 2026, he wrote a letter to the Conflict Management Committee and the Settlement Agreement appearing at pages 40-42 of the Petitioner's bundle

was signed. However, the 2nd Respondent continued with the same conduct up to the 13th of August, 2026, despite consenting to stop.

8.30 Upon noticing the continued behaviour, he approached Philip Lubinda, the Secretary of the Conflict Management Committee to complain and that he was advised that another meeting would be called but this never happened.

8.31 When cross-examined by Mr. Mubiana, Mr. Singuwa testified that he wrote the letter to the Conflict Management Committee on 26th May, 2026 and the conflict was resolved.

8.32 He however admitted that he had not brought any evidence to show that he approached the Conflict Management Committee a second time to complain that the 2nd Respondent continued using UPND colours and regalia.

8.33 When cross-examined by Mr. Simutenda, he testified that neither the branding of the campaign material at page 4 nor the one for the vehicle appearing at page 5 of the 2nd Respondent's bundle of documents is for UPND. He agreed that the individuals in the vehicle at page 5 are not in UPND Regalia.

8.34 He admitted that he had not produced anything showing that the 2nd Respondent or his supporters were in UPND colours. He added that he has a strong bond with the UPND party and its candidate.

8.35 The fourth witness was **Popix Siambwelu**, a member of the UPND and Petitioner's campaign team.

8.36 He testified that he used to move with the Petitioner and on the 14th of July, 2026, the day of the incidence at Shoprite, he jumped out of the Toyota Hilux Registration Number NOV 7 and Jethro Mandeva, the 2nd Respondent's campaign manager, charged at him and threw a stone at him which hit him on the right side of his head. He went to the Police and obtained a medical report, exhibited as **"NM3"**. Afterwards, he went to Mtendere Mission Hospital where he was treated from the 14th to the 15th of July, 2026.

8.37 That Jethro Mandeva was detained on the 14th of July and released from custody on 15th of July, 2026.

8.38 When cross-examined by Mr. Simutenda, Mr. Siambwelu testified that he did not know about any video pertaining to the Shoprite incident. Further, he denied that the violence was

by the UPND. He stated that he would not want his candidate to lose the election.

8.39 This witness was not re-examined.

8.40 The fifth witness was **Boston Syakanoko**, a member of the UPND and part of the Petitioner's campaign team.

8.41 He testified that the Chirundu Parliamentary Constituency elections were characterised by incidents of violence leading to voting day.

8.42 On the 18th of July, 2026, in the company of Clement Boombe, who was driving a Toyota Hiace Bus Registration No. BLC4537, they followed each other and in front, there were four private vehicles in a convoy going to Chiwambezi. When they reached Zambeef Chirundu, a group of the 2nd Respondent's agents began throwing stones at them and the rear screen and windows on the left side of the mini bus got damaged. He was hit with a stick on his hand, which became swollen but he could not identify the actual person who hit him as the 2nd Respondent's agents were wearing masks. He came out to ask the group why they were beating people and later proceeded to the police to report and afterwards went to Mtendere Hospital where he was treated.

8.43 In cross-examination, Mr. Syakanoko testified that he wouldn't know where the people that had hit him were from since they were a lot and his assailants wore masks.

8.44 He was not re-examined.

8.45 The sixth witness was **Modern Sikayamba**, a member of the UPND and the Petitioner's campaign team.

8.46 He testified that on 11th August, 2026, he was in the Petitioner's entourage in Sikongo Ward. After the campaigns, they started off, heading back to the command centre and he was in a black unregistered Toyota Bandit. When they reached Siavonga turnoff, he parked by the layby to allow all the cars and the Petitioner's entourage pass and after they passed, he followed behind the last car. He then saw a Toyota Land Cruiser, partial Registration, ALG, grey in colour, coming from the back and approaching speedily. As it approached the convoy, it attempted to overtake but wasn't successful as it was unsafe. The car, which he identified as a vehicle used by the 2nd Respondent during campaigns, followed them. After being unable to overtake, the driver extended his hand outside the window and fired 2 gunshots and overtook the convoy. He parked opposite Westgate truck park and stopped the convoy

to let them know what had happened and proceeded to the command centre where he informed the UPND officials about what had happened. He learnt, with shock, through members of the public, that the 2nd Respondent alleged that the gunshots were fired by members of the UPND.

8.47 In cross-examination, Mr. Sikayamba stated that he did not report the matter to the Police and that no one was injured. He further disclosed that these incidents did not stop him and everybody in the entourage from campaigning or voting on the 13th of August, 2026. That they voted freely. He disclosed that he reported the incident to the party.

8.48 This witness was not re-examined.

8.49 The seventh witness was **Tedius Siamapabi**, the Petitioner's accredited polling agent at Kayuni polling station.

8.50 He testified that on the 18th of April, 2026, he went to Banamoonga and found people talking about the commotion that had occurred and caused by the 2nd Respondent. He discovered that the 2nd Respondent had fired gunshots and people were injured and taken to the hospital and the matter reported to the Police.

8.51 He testified that on the 13th of August, 2026, voting day, there was violence at Kayuni polling station-stream 2 instigated by the 2nd Respondent. That some unknown people arrived at the polling station in a Toyota Land Cruiser Prado, grey in colour and attempted to enter the polling station. The presiding officer intervened and they were authorised to enter the polling stations as they were agents of the 2nd Respondent and had identification cards. However, the voters did not understand and confusion erupted after which the agents left, the Police arrived and order was restored.

8.52 Counting started after 18 hours after which there was a power outage and the ECZ officials started using torches and other lighting. Later, people started throwing stones on the roof to create confusion but the presiding officer did not stop the counting of votes. Due to the above, he raised objections and filled in the GEN15 Forms which objection was rejected and he lodged in an appeal. Both documents appear at pages 28 and 29 of the Petitioner's bundle of documents, respectively.

8.53 When cross-examined by Mr. Mubiana, he testified that he voted on the 13th of August, 2026 and that voting resumed after the commotion he spoke about. He added that he had not

brought any evidence to show that there was violence and that voting was suspended.

8.54 When cross-examined by Mr. Simutenda, he admitted that he never experienced the violence or the gunshots and that he was not there. He testified that the employees of the 1st Respondent had torches. He admitted not presenting any document to show that the numbers were different. Further, that the people who were throwing stones on the roof, were not identified. He admitted that from the Declaration of Results Form, there were 3 candidates standing for Member of Parliament. He added that he had been part of the Petitioner's campaign team.

8.55 This witness was not re-examined.

8.56 The eighth witness was **Charity Muchimba**, an accredited polling agent on behalf of the Petitioner.

8.57 She testified that she was assigned to Mandenga polling station-stream 2 where she experienced violence, threats and intimidation instigated by the 2nd Respondent's supporters and agents. On voting day, 13th August, 2026, she was the only agent for the UPND whilst the 2nd Respondent had four and during health breaks, there was no UPND agent to exchange

with as they were not allowed to exchange with anyone. After voting, the 2nd Respondent's agents surrounded the polling station with offensive weapons, which included bottles, machetes, stones and intimidated and chased away UPND supporters. That she knew them because she had seen them during campaigns, singing his songs, chanting his slogans and exhibiting his campaign material. That before counting, she requested the presiding officer for another UPND official, but the request was denied.

8.58 During counting, some ballots were counted twice and she raised this issue with the presiding officer, but it was denied. She called the Petitioner to inform him of what was happening and he advised that they wait for the following day to act. Counting concluded around 2 AM on 14th August, 2026 and the 2nd Respondent's supporters started threatening her. She raised an objection with the assistant Returning Officer but the request for a recount was rejected. She referred to the objection and the appeal at pages 26 and 27 of the Petitioner's bundle of documents. That after the announcement, the 2nd Respondent's supporters followed them until they reached the

Totalling Centre where they handed over the ballot boxes and she went home.

8.59 When cross-examined by Mr. Mubiana, she testified that the objections were rejected and that the appeal was not in the Petitioner's bundle of documents.

8.60 When cross-examined by Mr. Simutenda, she testified that she was alone, so she did not lodge any complaint about the violence. That there were about 700 registered voters at Mandenga polling station-stream two. That she was alone and others were not allowed to enter the polling station but that she did not know their names, she only knew their faces. She agreed that there is no formal document to show that the 1st Respondent denied the agents, of a ruling party, entry into the polling station. She admitted not having any evidence to show that the numbers were manipulated during health breaks.

8.61 She further admitted not having evidence to show that the Respondent's supporters were carrying offensive weapons. She added that she did not bring the GEN 20 Forms to show that the numbers were doubled. She agreed not mentioning the people who were threatened and that she had no evidence of the people who were threatened.

8.62 She testified that the UPND party means a lot to her and would support it.

8.63 She was not re-examined.

8.64 The ninth witness was **Michael Mafuta**, a driver of Sikongo.

8.65 He testified that on 13th August, 2026, around 10 hours, the 2nd Respondent arrived at Sikongo polling station and started greeting people. He went to the classrooms where voting was taking place and was ushered into the polling station after which, the door was closed and people were stopped from entering. The people on the queue started questioning why the 2nd Respondent and his agents were allowed into the polling station and as the questions persisted, the 2nd Respondent and his agents left and one of the 2nd Respondent's supporters grabbed his T-shirt and a fracas erupted. The 2nd Respondent then took out a ZMW500 and gave voters on the queue. During this whole episode, the polling station was closed for about 2 hours until more Police Officers were sent to man it.

8.66 When cross-examined by Mr. Simutenda, he denied being aware that the 2nd Respondent went to Sikongo polling station because he was informed that there were on-going anomalies. He admitted that the 2nd Respondent spoke to ECZ officials

who allowed him into the polling station. He admitted not having any picture or video showing the Respondent giving money to someone on the voting queue.

8.67 He admitted being a member of the UPND.

8.68 The tenth witness was **Namwene Munahambala**, a member of the Petitioner's campaign team and media director for Chirundu District under the UPND.

8.69 She testified that on 13th August, 2026, she was covering elections under her media team and moving from one polling station to another. At about 19 hours, she went to New Apostolic Church polling station and was allowed in upon presenting her identification card. She discovered that counting had not commenced and she temporarily left to go and pick a power bank for her phone. When coming back to the polling station, she saw one of the 2nd Respondent's agents telling a Police Officer that; *"tell your boss to pay me the remaining money. He is not answering my calls. My friends have already been paid. My balance is ZMW1000."* That she told a colleague about it and later attempted to enter the polling station but she was denied entry despite presenting her

ID. She stood outside until 4 AM after which she proceeded home.

8.70 On 14th August, 2026, around 12 hours, she was sleeping in the car at the Totalling Centre when Michelo Munsanje woke her up and she saw a crowd and people running. She followed the crowd to observe what was happening while capturing what was going on with her phone. She saw the 2nd Respondent's agents and supporters entering the passage leading to the Totalling Centre and she followed. Upon entering the passage, the 2nd Respondent pulled her hair and grabbed her phone and ID and his supporters joined in beating her. In the process, her spectacles broke and glass went into her eyes. They forced her to unlock her phone and to delete the videos that she had taken.

8.71 Later, a police officer, she came to know as the CIO for Chirundu District, took her to a room where she was locked up. After about 5 minutes, he came back together with the Council Secretary who was the District Elections Officer. They spoke to her, saying that these were just elections and that the 2nd Respondent was UPND and therefore, they should work with him. After some time, a female Police Officer intimidated

her and asked her to apologise to the 2nd Respondent after which, they detained her for over an hour. Later, another group of female Police Officers asked her if she had captured any videos and directed her to open her phone. After checking, they gave her back her phone.

8.72 Following the videos that were deleted, she went on Facebook and came across videos of what was happening at the Totalling Centre and downloaded them on her phone and placed them on a flash disc which appears at page 16 of the Petitioner's bundle of documents.

8.73 On 26th August, 2026, she reported the matter to the Police and was given a Police Medical Report form.

8.74 In cross-examination, Ms. Munahambala, admitted that she had not given the name of the person who perpetrated violence before elections. Further, that she did not name any place where violence took place.

8.75 She clarified that the Police Officer was claiming money from a person with muscles and that this person with muscles is not the 2nd Respondent. She admitted that it is not the 2nd Respondent who denied her entry into the polling station.

8.76 When cross-examined on her evidence that people were receiving money on the 14th of August, 2026, she admitted that this date is after elections and that the people who were receiving money are agents of the 2nd Respondent who had worked without food.

8.77 She testified that she was apprehended by the Police.

8.78 She was not re-examined.

8.79 The eleventh witness was **Able Muletwa**, a member of the Petitioner's campaign team.

8.80 He testified that the election for Chirundu Constituency was characterised by intimidation and violence. That he was an election agent for UPND at Jamba polling station and on 13th August, 2026, around 18 or 19 hours, the 2nd Respondent's agents went to the polling station in a Toyota Mark X, partial registration CAA. When they arrived, the presiding officer left the classroom and stayed outside for about 10 to 15 minutes. When they asked him where he had come from, he did not respond. That the lighting was poor at the polling station but ECZ officials ignored the concerns on lighting and continued with their duties. After counting the ballots, the presiding officer left the polling station for about 10 minutes and came

back. He raised objections again about the ligbting which were rejected by the presiding officer as shown at page 36 and the appeal at page 37 of the Petitioner's bundle of documents.

8.81 He testified that on 14th September, 2026, he witnessed queues of people receiving money from the 2nd Respondent's agents.

8.82 When cross-examined by Mr. Mubiana, Mr. Muletwa testified that he appealed through the Petitioner who wrote to the District Electoral Officer and that he did not have evidence to show that he appealed.

8.83 When cross-examined by Mr. Simutenda, he admitted that he had not mentioned the place where the violence took place. He disclosed that there were about 500 registered voters at Jamba polling station and that he was aware that the 1st Respondent provided torches for lighting.

8.84 He disclosed that he is a member of the UPND.

8.85 This witness was not re-examined.

8.86 The twelfth witness was **Justin Simalo**, a member of the Petitioner's campaign and agent of the UPND at New Apostolic Church polling station.

8.87 He testified that during counting on 13th August, 2026, he observed that it was done hurriedly and he raised an objection the first time and the presiding officer allowed the officers to restart the count. The second time he raised an objection, the presiding officer refused to start afresh and said that they needed to proceed. That after violence erupted outside, agents of the 2nd Respondent pushed their way into the polling station and beat up councillor Nalube. That the Police managed to remove them after some minutes.

8.88 It was his evidence that he filled in an objection but that the presiding officer informed him that due to the violence, he could not start a recount. On the same day, he informed the Petitioner of the presiding officer's refusal and the Petitioner advised him to appeal in the prescribed form.

8.89 In cross-examination, Mr. Simalo, admitted that he had not mentioned the name of the person responsible for the violence or the place where the violence took place. He agreed that there were other polling agents apart from him. He disclosed that there were about 800 to 900 registered voters at the said polling station and that he had his own document for tallying

but however, he did not bring this to Court. He revealed that he is a member of the UPND and involved in the campaign.

8.90 He was not re-examined.

8.91 The thirteenth witness was **Peter Bbakasa**, a member of the Petitioner's campaign team and a polling agent at Nzimbe polling station.

8.92 He testified that on the 14th day of July, 2026, he witnessed the violence at Shoprite in that he had accompanied the Petitioner to Ng'ombe Ilede and on their way back, he was in the cargo bed of a Toyota Hilux Registration Number, NOV 7. When they reached Shoprite area around 18 to 19 hours, he found that the 2nd Respondent's agents and supporters had put a banner across the road. They proceeded but the 2nd Respondent's agents and supporters started throwing stones and to protect himself, he jumped out of the motor vehicle. Gift Syayumbu, a supporter and agent of the 2nd Respondent, charged at him with a big stick and hit him on his leg. Fortunately, the Petitioner's car went close to him which he boarded and they fled the scene. He exhibited a medical report form at pages 11 to 15 of the Petitioner's bundle of documents.

8.93 On 13th August, 2026, he witnessed violence erupt at Nzimbe polling station as votes were being counted. He raised objections with the presiding officer who responded that the recount could not be conducted because of violence and this led him to appeal to the Returning Officer. He referred to the objection and appeal at pages 22 and 23 of the Petitioner's bundle of documents.

8.94 When cross-examined by Mr. Mubiana, he testified that the fate of his objection is that it was rejected.

8.95 When cross-examined by Mr. Simutenda, he denied beating Jethro Mandeva and that the violence of 14th July, 2026 was a month before the election.

8.96 He disclosed that he voted on the 13th of August, 2026 and that there were a number of polling agents at Nzimbe polling station. He admitted that he did not have evidence to show that the numbers recorded by him, the 1st Respondent or other agents were different.

8.97 This witness was not re-examined.

8.98 **Gregory Maseko**, an accredited polling agent for UPND at Lusitu Agricultural polling station Hall number 2, was the fourteenth witness.

8.99 He testified that on voting day, the UPND only had one agent, NRPUP had two agents and the 2nd Respondent had five agents. Around 19 hours, counting started and he observed that some rejected votes were being counted as valid votes for the 2nd Respondent. He raised objections but the objections were rejected. That one of the 2nd Respondent's agents, Kila Hang'andu, who was standing by the window, threatened him that if they steal votes, one would be killed. Counting of votes was completed around 3 AM on 14th August, 2026 and on the same day, he lodged in an objection and after his rejection, he appealed and that these documents appear at pages 20 to 21 of the Petitioner's bundle of documents.

8.100 When cross-examined by Mr. Mubiana, he testified that his objections were rejected.

8.101 When cross-examined by Mr. Simutenda, he testified that he had not brought any document to show that the rejected votes were counted in favour of the 2nd Respondent. He admitted

that it was not the 2nd Respondent's duty to give the Petitioner more agents.

8.102 This witness was not re-examined.

8.103 The fifteenth witness was **Goodson Halwiindi**, an assistant to the Returning Officer.

8.104 He testified that on the 14th of August, 2026, while waiting for results at the Totalling Centre, the Returning Officer gave him an assignment to handle an issue of 10 objections raised by Polling Agents. He rejected the request and put it in writing. The reasons for rejecting were that the environment was not okay in that the Returning Officer had been taken away from the room and secondly, that he was too junior as he had supervisors.

8.105 When cross-examined by Mr. Mubiana, he testified that he rejected all the objections raised.

8.106 The sixteenth witness was **Philip Lubinda**, the Secretary of the Conflict Management Committee.

8.107 He testified that on 23rd May, 2026, before campaigns, all parties were oriented on the use of party symbols, songs and materials.

8.108 On 26th May, 2026, the Committee received a written complaint from the UPND through Mr. Singuwa, the campaign manager for the Petitioner. The complaint was that the 2nd Respondent was using UPND party symbols, songs and materials.

8.109 On 1st June, 2026, the matter was mediated in the presence of both parties and a settlement agreement appearing at pages 40 to 42 of the Petitioner's bundle of documents agreed to. Afterwards, he continued to receive phone calls from Mr. Singuwa on the same complaint.

8.110 When cross-examined by Mr. Simutenda, he testified that the complaint was a few days after the official opening of the campaigns and that it was in writing and the Committee dealt with it in writing.

8.111 When referred to the pictures at pages 4 and 5 of the 2nd Respondent's bundle of documents, he testified that it shows the 2nd Respondent's campaign material and colours which are white, blue and yellow. As regards the phone calls he received later, he stated that he received them personally and that he had not brought any record to show that these phone calls

were made. Further, that the Committee never acted on the phone calls.

8.112 This witness was not re-examined.

8.113 The seventeenth witness was **Clement Boombe**, a member of the Petitioner's campaign team.

8.114 He testified that on 18th July, 2026, he was in a convoy of vehicles heading to Chiwambezi together with the Petitioner. When they reached Zambeef Chirundu, the 2nd Respondent's agents started throwing stones at them and the rear screen of the minibus he was driving got damaged. Further, five UPND members were injured. He moved a little distance and followed a person commonly known as "Socks" and asked him why he was stoning his vehicle. Mr. "Socks" strangled him by the neck, until he overpowered him and walked back to his vehicle. He exhibited a picture of a damaged window at page 17 of the Petitioner's bundle of documents and added that he went to the Police Station and gave a statement.

8.115 In cross-examination, Mr. Boombe testified that he had not brought any medical report to show that he was strangled. Further, that he has been a member of the UPND since 2016 and a member of the Petitioner's campaign team.

8.116 This witness was not re-examined.

8.117 The eighteenth witness was **Mox Mudimina**, the Officer-in-Charge at Chirundu Police Station.

8.118 He testified that he had come to Court to produce the occurrence books for Chirundu Police Station and Lusitu Police Post in relation to reports received by the Police on the 14th, 15th and 18th of July, 2026. That some reports were made at Chirundu Police Station while others were made at Lusitu Police Post and taken down and written in the occurrence books.

8.119 It was his evidence that he received a report that there was a disruption in voting at Sikongo polling station after the 2nd Respondent went there. That he deployed his deputy who went and calmed the situation and voting continued.

8.120 As regards the incident at Kayuni, he was informed that gunshots were fired by the 2nd Respondent who found the road blocked. That an assault was also reported on this same day, being the 18th of April, 2026. That the other incident referred to was by Edward at Chirundu Police Station where the 2nd Respondent reported that gunshots were fired at his vehicle or motorcade.

8.121 He testified that on 12th August, 2026, between 19 and 20 hours, he received a report that some cadres and supporters of the 2nd Respondent were trying to remove the 1st Respondent's officials from a classroom to protect the ballot. He instructed his deputy, who upon arrival, found the supporters and four were picked up, severely warned and released.

8.122 As regards the incidences of 14th or 15th July, 2026, he referred me to entries OB 7706, on 14th July, 2026 for assault and OB 7718, on the 15th of July, 2026, being reports for assault by Popix Siambwelu. He stated that he could not find a report for the 18th of July, 2026 in the OB book. As regards the assaults at Kayuni of April, 2026, reported at Lusitu Police Post, he referred me to OB 270 being assault reported by Francis Nakayuni and another one, OB 272, an assault reported by Joe Siabusiki and OB 274 reported by Crispin Siamatika. He disclosed that during elections, all Police Stations receive additional manpower and that he did receive additional manpower.

8.123 When cross-examined by Mr. Mubiana, Mr. Mudimina testified that there were pockets of violence in Chirundu and he

deployed officers during the incidents and the situation was calm.

8.124 When cross-examined by Mr. Simutenda, he testified that the events of 18th April, 2026 happened prior to the official opening of the campaign.

8.125 He admitted that on 18th April, 2026, the 2nd Respondent was moving and found that people had blocked the road. That he received a report from his officers that the gun that was discharged was to scare the group that charged at the 2nd Respondent's team. He disclosed that Jethro Mandeva, claimed that he was assaulted on 18th April, 2026 and that the case is still undergoing investigations.

8.126 As regards the incidents of 14th July, 2026, he testified that this is the incidence that happened at Shoprite. When referred to exhibit **"JKM3"**, being a medical report in the affidavit in opposition to verifying facts, issued by Mable Mutale, a police officer, in favour of Jethro Mandeva, he testified that it shows that Jethro Mandeva of the 2nd Respondent's team was assaulted. That Mr. Mandeva, Crispin and Chileleko, were assaulted too and the reports appear in the OB on 15th April,

2026. That the reporters of the cases referred to under OB 7731 and OB 7729, is Chileleko and Mandeva, respectively.

8.127 When questioned on the events of 11th August, 2026, he testified that the 2nd Respondent reported that people had shot at him and his team.

8.128 As regards the commotion at Sikongo, he stated that he was not present, therefore, he wouldn't know if it was just the presence of the 2nd Respondent which caused the noise. He testified that the 2nd Respondent had not been charged with any offence over the incident at Sikongo.

8.129 As regards election day, he stated that he only received one report and that if there were other reports, he would have been alerted.

8.130 This witness was not re-examined.

9.0 THE 1ST RESPONDENT'S CASE

9.1 **Benson Bweenje**, the Council Secretary for Chirundu Town Council and District Electoral Officer was the first witness for the 1st Respondent.

9.2 He testified that in the run up to the General Elections, the Returning Officer, Royd Martin Mweemba was assisted by Ms.

Lucy Phiri, Goodson Halwiindi, Andrew Mwaba and Emmanuel Matiza as well as poll staff in the 62 polling stations in the District.

9.3 On 12th August, 2026, he received a report from Martin Mweemba that additional vehicles were needed. Therefore, he authorised three additional vehicles to speed up the process. Around 15 hours, he went to check on the Returning Officer and team and, in the process, he encountered a situation where he found that the vehicle heading to Nzimbe polling station had been stopped by supporters of the 2nd Respondent. They accused the presiding officer for Nzimbe, who they said was a Mr. Simpunde, of belonging to a political party.

9.4 In the presence of the Officer-in-Charge, Zambia Police, he asked for the presiding officer's identification and discovered that he was not Mr. Simpunde but Mr. Moonga. He asked him whether he was willing to go in the field considering the environment and he responded in the affirmative. The agents who had accused him were called and informed that he was not Mr. Simpunde but Mr. Moonga after which they apologised and the officer left.

9.5 The following day, which was poll day, around 11 to 12 hours, he received a phone call from the Returning Officer that there were campaigns at Sikongo polling station, one and two. He communicated with the Officer-in-Charge and, in less than an hour, he received a report that voting had resumed and they would extend the time by the time lost.

9.6 The Totalling Centre started receiving results around 02AM on the 14th of August, 2026 and around 12 hours, the same day, he received a circular suspending counting of votes which received sharp reactions from stakeholders. When the suspension was lifted around 17 to 18 hours, they continued counting and around 2 AM, the Returning Officer informed him that they were tired and needed to rest. Stakeholders were informed and counting resumed around 9 hours until 19 to 20 hours when the Returning Officer made the announcement and declaration of the winner. Immediately after that, the UPND candidate presented an appeal to him for a recount but he had no jurisdiction at that time.

9.7 When cross-examined by Mr. Mubita, Mr. Bweenje testified that the agents of the 2nd Respondent had no lawful authority

to stop the presiding officer from going to Nzimbe polling station.

9.8 He testified that when he spoke about the environment, he meant that there were people that were surrounding the vehicle. That somewhat, the presiding officer for Nzimbe was being intimidated by agents of the 2nd Respondent.

9.9 He testified that there was no intimidation at the Totalling Centre.

9.10 When referred to an objection at page 18 of the Petitioner's bundle of documents, he testified that the agents complained of lack of enough lighting and that the reason for not conducting the recounting was that the lighting provided went off.

9.11 When cross-examined by Mr. Simutenda, he testified that Mr. Moonga went to Nzimbe and that on the material day, he discharged his duties as presiding officer and that there were no voting anomalies at the said polling station.

9.12 It was his evidence that he was just told about the Sikongo incident but he did not witness it. He clarified that all streams are now called polling stations.

9.13 That there were only 10 out of 62 polling stations for which objections were raised and that as the 1st Respondent, the objections were properly dealt with and the duly elected winner was declared. He testified that as the 1st Respondent, the lighting did not affect the vote.

9.14 This witness was not re-examined.

9.15 **Lloyd Martin Mweemba**, the Returning Officer for Chirundu Constituency was the second witness for the 1st Respondent.

9.16 He testified that he was working with about 362 poll staff with four Assistant Returning Officers. Of the 362, 62 were presiding officers for each of the 62 polling stations. He testified that after being appointed Returning Officer, he embarked on ensuring that all stakeholders were sensitized.

9.17 On 12th August, 2026, he started distributing materials and transporting poll staff and around 14 hours, cadres for the 2nd Respondent stopped one of the vehicles from transporting staff, accusing the presiding officer of being a cadre and that he had been seen campaigning. When he failed to deal with this matter, he informed the District Electoral Officer, Mr. Bweenje and it was later discovered that the person they were

accusing of being a cadre was not the person they thought he was. They were warned and they verbally apologised.

9.18 It was his evidence that he received numerous phone calls from presiding officers about cadres from the 2nd Respondent who wanted to take over the security of the ballot papers from the Police. That the most notable ones were at Lusumpuko and RCZ polling stations. That for these, he called the Police directly through the Officer-in-Charge, Mr. Mudumina, and around 19:30 hours, he received a response that the Police had picked up four of those cadres and they were taken to the Police, warned and counseled.

9.19 Whilst at the Totalling Centre, around 12 hours, he received a call from the presiding officer at Sikongo polling station that there was violence and he quickly informed the District Electoral Officer who immediately asked the Officer-in-Charge, as they were together, and officers were dispatched. That this situation, according to the information he received, was calmed after about an hour. That the presiding officers from Lusitu Agricultural polling station and Kayuni polling stations reported the same issue of violence which he reported through

the District Electoral Officer and officers were dispatched to restore order.

9.20 He testified that around 18 hours, he opened the Totalling Centre and around 20 hours, results started coming in from polling stations. The presiding officers' complaint was that the 1st Respondent provided solar lamps which could neither provide sufficient light nor last. Therefore, he sent backup and lantern lights but unfortunately, some were receiving these lights in the morning due to distance. They worked the whole night of 13th August, 2026 and on 14th August, 2026 around 13 hours, the Commission halted the counting due to violence. At the Totalling Centre, the Assistant Returning Officer-Field presented objections from the UPND and appeals.

9.21 He testified that at some point, he was dragged outside by the 2nd Respondent and he delegated the issue to Mr. Halwiindi to handle. He found himself surrounded and in a state of confusion, he was asked to explain about a box with election materials that was outside. The cadres were shouting that he should be beaten. He was scared and tried to look for the Police but because of the confusion, he could not see them. He doesn't know how he managed to escape back into the

Totalling Centre and informed the District Electoral Officer. That he received shame and embarrassment as the incident was all over social media and people were calling him a rigger.

9.22 Around 3 AM of the 15th of August, 2026, he requested to rest and continue the following day. Due to phone calls, he almost boycotted because he was scared but considering that he had sworn to do the job, he went and continued to do the work. He remained fearful and just wanted to conclude the work. After he was done, the Assistant Returning Officer asked if he had looked at the papers and he reiterated that there was nothing he could do and asked him to act on them again.

9.23 Considering he had received all results from all polling stations, he asked the Assistant Returning Officer for IT and Technical to print out the Announcement and Declaration Forms. In a state of fear, he got the forms for National Assembly and gave one each to the representative for the Petitioner and the 2nd Respondent. That he could not see the representative for NRPUP. He requested each party to sign and exchange so that they could have witnesses on each form. That he had appended his signature on each form. That because he

just wanted the work done, he announced the results and declared Mr. Mwanja, winner.

9.24 When he asked for the forms to normalize the paperwork, on NRPUP, no one signed as a witness, UPND, through their candidates, said there is an issue, therefore, they refused to sign and on Mr. Mwanja's form, four people signed. That he later left as he was scared.

9.25 He received dairies with names of the polling stations from some presiding officers. He also referred to the 10 objections and appeals.

9.26 When cross-examined by Mr. Simutenda, he testified that after the incidence of 12th August, 2026, the presiding officer for Nzimbe proceeded to his station and did his work.

9.27 On numerous calls from cadres about the 2nd Respondent, he admitted not having provided evidence in the form of call records for these numerous calls and that nobody stopped him from bringing the records.

9.28 When asked to read the first sentence on "General Challenges" in the diary from Mweemba Winstar, who was the presiding officer at Lusitu Agriculture Hall one, he admitted that in the

book, the presiding officer did not say that the interference was from the 2nd Respondent. He agreed that the role at the Totalling Centre is to receive results from polling stations and total them and that the material used to transmit results is a GEN 20a Form. He agreed that all he did was receive the GEN 20a Forms and total them and that none of the 1st Respondent's officials at the polling stations raised any concerns with the GEN 20a Forms.

9.29 As regards the box containing election materials found outside the Totalling Centre, which he was questioned about, he agreed that the box contained election materials and they asked him what the box containing election materials was doing outside. That he couldn't manage to explain what it was doing there because he was shut up. He agreed that the incident did not affect the results or the GEN 20a Forms. He admitted that there were Police officers stationed at the Totalling Centre and that he was aware that the 1st Respondent received more police officers because he made the request. That however, he felt unprotected after the incident but that no one stopped him from asking for more.

9.30 He agreed that the objections were dealt with by the 1st Respondent. He also agreed that the 1st Respondent said the objections did not warrant a recount. When asked to read paragraphs 6 and 9 of the affidavit in opposition by the 1st Respondent, he agreed that there's nowhere where the document says that the GEN 20a Forms were signed with fear.

9.31 When cross-examined by Mr. Mubita, for the Petitioner, he testified that there was intimidation at the Totalling Centre and that he did not personally attend to the appeals. That some polling stations experienced challenges with lighting. Further, that some polling stations experienced violence. That in relation to the diaries, they speak to the incidences at the Reformed Church of Zambia, Sikongo, Lusitu and Lusumpuko.

9.32 This witness was not re-examined.

10.0 THE 2ND RESPONDENT'S CASE

10.1 **James Kampata Mwanja**, the 2nd Respondent herein was the only witness.

10.2 He testified that on 18th April, 2026, whilst on his way to Ng'ombe Ilede, he found the road blocked, with stones, at

Kayuni Village. He was asked to come out of the vehicle by a UPND cadre named Chamba Chamunyama. He did not realize that there were more than 200 people as some were hiding in the bush. He came out of the vehicle and was welcomed by stones and he heard people speaking in Tonga that this is the person we have been instructed to kill by Nevers Muchindu. Within a few minutes, his face was covered in blood and someone poured beer in his eyes while others were hitting him with metal bars. In the process, ZMW30,000 was stolen from his pocket. He realised that other people in his entourage including, Crispin, Siyamatika and Jethro Mandeva were badly beaten and he could hear people speak in Tonga saying, bring the fire, we burn his vehicle. By then, bricks had been thrown on the windscreen of his white land cruiser.

10.3 As people kept approaching, he took out his gun and, out of self-defence, fired a warning shot in the air but people kept approaching. Therefore, he fired a second warning shot and as he was giving the last warning shot, he realised, that the driver had u-turned the vehicle and managed to apprehend one of the attackers, Chamba Chamunyama and put him in the vehicle. They rushed to the Police where they were issued with

a medical report and the accused was put in the cells. As they left the accused in the cells, they went to the hospital where they were examined.

10.4 On Monday, the 20th of April, 2026, he took back the medical report to the Police Station and he was asked to leave it with the police for further investigations. To support his evidence, he referred me to pictures of himself covered in blood at pages 6 and 7 of his bundle of documents and pictures of his motor vehicle with the screen broken at pages 8 and 9 of the same bundle. That to date, the Police are still investigating the matter.

10.5 He testified that on 20th May, 2026, he exercised his right to stand as Member of Parliament and chose a borehole as his symbol. After that, the campaign period was opened and he was informed that Mr. Singuwa had lodged a complaint against him with the Conflict Management Committee.

10.6 On 26th May, 2026, he attended a meeting that was called to discuss the use of UPND materials and the symbol. He denied using the UPND materials and symbol and stated that he was using his own symbol and had his own campaign material which he referred me to. He also denied using the UPND brand

with the photo of the Republican President, Mr. Hakainde Hichilema, on the vehicle. That as a peacemaker, he signed an agreement which appears at page 1 of his bundle of documents. Further, that his campaign materials appear at pages 4 and 5 of his bundle of documents.

10.7 It was his evidence that he continued with his campaign and on 14th July, 2026, he sat in an unregistered motor vehicle looking at how people were responding to his campaign materials, specifically, a banner he had put up at Shoprite, Chirundu. That he saw 2 motor vehicles, a white Hilux and a grey Range Rover with registration No. NOV 7 with a man who went close to the banner and pulled it down. That this vehicle was outside the courtroom at the time of his testimony and was one of the vehicles the Petitioner used during the campaigns.

10.8 He testified that he filmed the episode using his Google Pixel 10 Pro phone and saw Mandeva running towards the banner but he was manhandled and beaten and put in a Hilux where they stepped on him. Mandeva was in the company of Chileleko and upon realising that Mandeva had been beaten badly, he went to the Police to get a medical report. As he was

trying to get a medical report, the UPND cadres followed him to the Police with loud music and in fear of cadres, the Officer-in-Charge got Mandeva and locked him up in the cells and told him that it was for his own safety and he would be released the following day.

10.9 He referred me to three videos regarding the incident at Shoprite which were played in Court showing a motor vehicle Ford Ranger, grey in colour with cadres who pulled down the 2nd Respondent's banner. The video that was played first was the third one in the flash disc. The first video in the flash showed the banner being dragged and Jethro Mandeva, in a black coat together with Chileleko, trying to get back the banner. He explained that this is not the only incidence as there was another banner that he had put up on the road going to Boom Ground which the UPND cadres removed after removing the banner at Shoprite. That the cadres removed this second banner while standing on top of a Police Land Cruiser vehicle written CDF Chirundu Police. To this end, the second video in the flash was played showing people dressed in what looks like police uniforms standing on top of a Police CDF Land Cruiser, removing the 2nd Respondent's banner.

10.10 He testified that the people removing the banner are UPND cadres with the blessing of the Police. That these banners cost about ZMW18,000 each. When he saw that the atmosphere was tense, he went to Lusaka to re-strategise.

10.11 After going back to Chirundu, he recalled an incidence which happened around the 10th and 11th of August, 2026 as he was coming from Musaya Ward where he had been campaigning. As he approached Oasis, he saw a black vehicle which was clearing the road on behalf of a convoy of vehicles. As he was about to leave the road, he received a first gunshot and told the driver that they needed to run for their lives. They increased the speed and received a second gunshot. They rushed to the Police and reported the incidence. When he went to the place where he was staying, he received phone calls, whose records he did not bring to Court, of people telling him to be careful and that he maybe be killed. He was advised not to go in the field and that day, he couldn't sleep at the lodge. Him and his team parked their vehicles and went and spent a night in the bush and that was the closure of his campaign.

10.12 He denied the assertion that his followers blocked anyone from taking campaign materials. He admitted going to Sikongo

polling station. However, that what had happened was that one of his agents was not given a notebook and therefore, he went there and approached the 1st Respondent who allowed him into the polling station and he realized that one of the councillors had provided an alternative notebook. That he spent less than 4 minutes there and went to the lodge where he was staying.

10.13 He further denied giving anybody ZMW500 on the queue. He testified that he had accredited agents at the Totalling Centre representing him and that one Ian Ngonia was given the mandate to verify results coming from each polling station using the GEN 20 Forms. That they had come up with a system called CC2 which Mr. Ngonia was coordinating and his duty was to ensure that the GEN 20 Forms are signed by all participating agents. That the reason was to ensure that they did not miss any polling station and that no figures were exaggerated.

10.14 Upon getting to the Totalling Centre, he realized that the Civic Centre had a mark which was about 200 meters away from the building where the 1st Respondent stated that only people who were accredited could go through that barricade. That as the results were coming, a memorandum came from the 1st

Respondent, indicating that they should pause the counting. All the stakeholders were called and notice availed to them. During the same break, he saw a carton box within the premises of the Totalling Centre and it was open and written, "ECZ". He was inquisitive and wanted to know what it contained. That because he could not touch the box, he requested the Returning Officer, Mr. Martin Mweemba to explain what the box contained and Mr. Mweemba apologized saying there was a mistake and that they were GEN15 Forms and that he would take them to the strong room. He admitted that they were in the wrong place.

10.15 It was his evidence that every candidate was given a number of accredited agents who would have access to the Civic Centre and that he had about four accredited agents and other stakeholders also had their agents. That Mr. Mweemba had been politely called in the presence of the Police and he wanted him to respond in the presence of the Police. That after the suspension of counting was lifted, they were given GEN 20 Forms signed by all political party agents which he referred to at pages 17 to 65 of his bundle of documents. That the GEN 20 is an important Form in an election and he therefore,

advised his agents to ensure that they had copies of signed GEN 20 Forms. That these were used in the compilation of the total votes. After putting all figures together, the 1st Respondent came up with a declaration at page 65 of his bundle of documents and with the findings, the 1st Respondent declared him as the duly elected Member of Parliament. After that, the Police advised him to leave the place and they escorted him out.

10.16 A few days later, post-election, he received information, through a phone call from one of his agents, that Mr. Nevers Muchindu was trying to see what can be done regarding the declaration. He rushed to Chirundu and went to the Civic Centre and found Mr. Phiri, one of the security personnel for Nevers Muchindu, in the company of certain council workers, opening the strong room where the election materials were kept. He took a video using the same phone which he had custody of and had never shared with anyone. The video was played in Court. He notified the 1st Respondent through his lawyer of what had happened but received no feedback.

10.17 This incidence was played from the last 2 videos in the flash disc.

10.18 When cross-examined by Mr. Mubita, he denied vying for adoption under the UPND. He stated that Ing'ombe Ilede is his second home and therefore, he didn't need a Police permit to go there. He testified that he reported the assault to the Police and it was confirmed by the Officer-in-Charge who testified. He admitted not bringing the medical report to Court.

10.19 He admitted that the mediation resolution was after a complaint was made by the UPND.

10.20 He testified that it wasn't his supporters who charged at the UPND cadres at Shoprite but that the UPND cadres got material belonging to him and that through Mandeva, they reported the matter to the Police.

10.21 He admitted that there is nowhere in the videos played in Court showing Jethro Mandeva being beaten but that there is a medical report. He denied that Jethro Mandeva was arrested for assault from the incidents. He admitted that Police officers are law enforcement officers but that at times, they can be against the law.

10.22 He testified that a person cannot put up a banner anywhere but that in his situation, the Council guided them to pay ZMW300 despite not issuing a receipt. He denied that his

cadres were at the Totalling Centre and that no one was chanting and threatening to beat the Returning Officer.

10.23 This witness was not re-examined.

11.0 THE PETITIONER'S FINAL SUBMISSIONS

11.1 On the 6th of October, 2026, the Petitioner filed final submissions. Counsel began by outlining the Petition and the Petitioner's version of the evidence presented before Court.

11.2 It was submitted that **Article 73 of the Constitution of Zambia**, as read together with **Sections 96 to 99** of the **Electoral Process Act, No. 35 of 2016,** provide the basis to challenge the outcome of an election. Counsel went on to rely on the cases of **Anderson Kambela Mazoka and 2 Others v. Levy Patrick Mwanawasa and 2 Others**[1] and **Lewanika and Others v. Frederick Jacob Titus Chiluba**[2] on the standard of proof in an election petition.

11.3 As regards the specific violations, counsel submitted on violence, intimidation and threats of violence. Mr. Mubita stated that **Sections 83(1)(a)** and **(d) and 83(2)** provide the basis for a challenge to an election on the basis of violence, intimidation and threats. That the violent attacks during the

elections were systematic and targeted to disadvantage the Petitioner and spread to the polling stations and Totalling Centre. That from the video evidence adduced by the 2nd Respondent regarding the violence at Shoprite, there's no evidence that shows Jethro Mandeva being beaten but there's evidence of Jethro Mandeva and other supporters of the 2nd Respondent, charging towards a motor vehicle. That the other video shows the police removing a poster and that cannot be attributed to the Petitioner. Most of the submissions on this issue were a recount of the Petitioner's version of the testimony of the Petitioner's witnesses.

11.4 Counscl submitted that the 2nd Respondent caused disruptions to the counting of votes at Lusumpuko polling station and the diary in relation to the same shows that between 22:50 and 00:41 hours, the counting of National Assembly votes was disrupted by supporters of candidates. Further, that the video attached to the affidavit verifying Petition, shows that the 2nd Respondent commanded a large crowd of supporters who stood at the Totalling Centre.

11.5 As regards bribery, again, the Petitioner recounted his version of the testimony of the witnesses in the submissions. Counsel

submitted that **Sections 81(1)(a),** makes provision for this. That the video, **"NM5"** to the affidavit, shows people lining up to receive money and some complained in a local language that the same people who received money the previous day were still being given money.

11.6 As regards failure to recount the votes, counsel relied on **Sections 69 and 70 of the Electoral Process Act** which affords a candidate an opportunity to raise an objection to the counting or sorting of votes. That in this case, the objections were raised in the prescribed form prior to announcement of the results at the polling station but these objections were not determined on their merits due to the factors relating to the environment at the various polling stations and Totalling Centre. That the appeals to the objections, were addressed to the Returning Officer, who did not attend to them but delegated to his assistant Returning Officer. Further, the polling stations at Chisamu, Siyabulembo New Apostolic Church, Kayuni and Nzimbe had challenges with lighting and that the Returning Officer outlined how some of the polling stations had challenges with lighting and how the lighting was not sufficient.

11.7 As regards misleading of voters and plagiarism, counsel relied on **Regulation 15(c)** and **(f) of the Electoral Code of Conduct**. He submitted that the Court record would show that the 2nd Respondent testified that one of his campaign vehicles was branded with the face of the President and the Vice President which in itself was misleading. That further, the video exhibit **"NM5"** to the affidavit verifying facts shows a misleading branding. Counsel submitted that having outlined the various violations, the question to be considered is whether the said violations affected the outcome of the elections and whether there was substantial conformity with the provisions of the law.

11.8 That the violations highlighted are not superficial but are deep rooted and deliberately planned to disadvantage the Petitioner. That these cannot be glossed over as to do so would be injustice. Further, the question is whether the alleged malpractices affected the outcome of the elections. That several provisions were not complied with, which negates the legitimacy of the election and hence sufficient evidence was presented to void the declaration of the 2nd Respondent as winner. That the elections lack substantial conformity with the

law and are enough to prove that the majority of voters were prevented from electing the candidate of their choice.

12.0 THE 1ST RESPONDENT'S FINAL SUBMISSIONS

12.1 On the 16th of October, 2026, Mr. Mubiana filed final submissions on behalf of the 1st Respondent.

12.2 He submitted that the election was conducted substantially in accordance with the Electoral Process Act and the declared results reflect the choice of the electorate of Chirundu Constituency. That the burden of proof rests on the Petitioner to establish to a fairly high degree of convincing clarity as held in **Anderson Kambela Mazoka and Others v. Levy Patrick Mwanawasa and Others**[1] and **Akashambatwa Mbikusita Lewanika v. Frederick Chiluba.**[2] Further, that the Court must be satisfied that the illegality or misconduct affected the majority of voters or the result. To this end, he referred me to **Mazoka v. Mwanawasa**[1] cited above.

12.3 That in the present case, the evidence shows that the incidences were reported to the police, recorded in the occurrence books and presiding officers' diaries and responded to. That voting, counting and totalling were completed and the results were declared. That the Petitioner's

submissions do not quantify how many voters were affected by any incident or how many incidents altered the results of the elections, thus failing the requirement set out in **Section 97(2) of the Electoral Process Act, 2016**. Further, that no witness testified that he or she was misled into voting for the 2nd Respondent.

12.4 With regard to the recount, he submitted that **Section 70 of the Electoral Process Act** allows an agent to object to an alleged inaccuracy in the count. That the presiding officer determines the objection and decides whether to order a recount and an appeal lies to the returning officer. That the decision to order a recount is a discretionary one not a pre-requisite to all complaints in election petitions and vote processes. The 1st Respondent acknowledged that some stations had lighting difficulties but that supplementary lighting was made available. Further, that counting at those stations was completed and no evidence was led of a miscount or of any discrepancy in the figures. He submitted that the evidence has not sufficiently established a basis for a recount or to render the election null or invalid. That the 2nd Respondent discharged its statutory mandate that the election

was substantially in conformity with the electoral process laws, being free and fair in nature. He submitted that the 1st Respondent prays that the Petition be dismissed.

13.0 THE 2ND RESPONDENT'S FINAL SUBMISSIONS

13.1 In the final submissions of 20th October, 2026, Mr. Simutenda began by giving the 2nd Respondent's version of the evidence presented before Court.

13.2 He submitted that the Petitioner had failed to establish the issues raised to a fairly high degree of convincing clarity. To this end, he referred me to the case of **Abiud Kawangu v. Elijah Muchima.**[3] Counsel cited **Section 97 of the Electoral Process Act, No. 35 of 2016** and highlighted that it has been interpreted by the Court in a number of decisions namely-

1. **Nkandu Luo and the Electoral Commission of Zambia v. Doreen Sefuke Mwamba and Attorney-General;**[4]
2. **Austin Liato v. Sitwala Sitwala;**[5] and
3. **Brelsford James Gondwe v. Catherine Namugala.**[6]

13.3 That in all these cases, the Petitioner must prove an electoral malpractice or misconduct alleged and secondly, that the electoral malpractice or misconduct was so widespread that it swayed or may have swayed the majority of the electorate from electing the candidate of their choice.

13.4 Mr. Simutenda submitted that the Petitioner failed to prove the allegations warranting nullification of the election. Counsel relied on **Section 97, sub-section 2(a), (b) and (c) of the Electoral Process Act** and stated that the Petitioner has to prove, to the satisfaction of the Court, that the candidate personally committed a corrupt practice or illegal practice or other misconduct or that it was committed by another person with the candidate's knowledge, consent or approval or that candidate's election or polling agent. That all the witnesses for the Petitioner, referred to only 3 incidences of violence which were perpetrated by the Petitioner and his supporters. That contrary to the unreliable and substantiated and speculative evidence of the Petitioner's witnesses, the 2nd Respondent gave cogent, coherent, reliable and convincing evidence before Court through documentary and video to disprove the Petitioner's evidence. Counsel submitted that the Petitioner claimed that the 1st Respondent contravened **Section 82 Subsection (1)(e)** of the **Electoral Process Act** but that however, he had not proved that the majority of voters in the constituency were or may have been prevented from electing a candidate of their choice and that the 2nd Respondent was using the UPND Party to campaign.

13.5 On the fact that the Petitioner has to show that the misconduct or illegal practice was so widespread, counsel referred me to the following cases:

1. **Mubika Mubika v. Poniso Njeulu;**[7]
2. **Mubita Mwangala v. Inonge Mutukwa Wina;**[8]
3. **Josephat Mlewa v. Eric Wightman;**[9] and
4. **Nkandu Luo and the Electoral Commission of Zambia v. Doreen Sefuke Mwamba and the Attorney-General.** [4]

13.6 Counsel further submitted that all of the Petitioner's witnesses were partisan witnesses with an interest to save and cannot be relied on.

14.0 THE PETITIONER'S FINAL SUBMISSIONS IN REPLY

14.1 On the 28th of October, 2026, Mr. Mubita filed final submissions in reply to the Respondents' submissions.

14.2 He began by highlighting what he termed as factual inaccuracies submitted in the 2nd Respondent's version of the evidence. He referred me to **Sections 97** and **2 of the Electoral Process Act, 2016** on nullification of an election and the definition of the word "candidate", respectively. He contended that evidence can be presented in different forms and oral testimony is one of the most general and common forms of evidence.

14.3 Further, that an election is conducted in a phased approach starting with the opening of campaigns, nominations, election day, counting and announcement of the same. That in the present case, there is evidence that on the eve of voting, the 2nd Respondent sought to take over the security of the ballot papers and stopped the vehicle assigned for dispatch of a presiding officer. Further, that the 2nd Respondent disrupted the tally of votes at the Totalling Centre. He submitted that it is not in dispute that the authority provided for under **Section 69 and 70 of the Electoral Process Act** on recounting of votes is discretionary. That however, despite the Petitioner's presenting sufficient evidence to warrant a recount, the presiding officers did not order a recount of the votes. That one of the reasons was due to violence experienced in some of the polling stations which was directly attributed to the 2nd Respondent. That this violence prevented the 1st Respondent from performing the statutory obligations.

14.4 He submitted that there was evidence that the 2nd Respondent misled voters that he is a member or sympathiser of the UPND.

14.5 Further, that at trial, the Petitioner advanced evidence to link the illegalities complained of to the Respondents. He referred

to the incidents at Shoprite and that independent evidence was advanced at Shoprite, among others.

14.6 That besides a credible testimony, there's independent evidence from medical reports, pictures, occurrence books, videos and election diaries. In addition, that the independent evidence includes the testimony of witnesses of Goodson Halwiindi, Philip Lubinda, Mox Mudimina, Benson Bweenje and Martin Lloyd Mweemba.

15.0 CONSIDERATIONS, FINDINGS AND CONCLUSION

15.1 I have considered the pleadings exchanged by the parties, the evidence adduced, the parties' submissions and authorities cited.

15.2 The law that guides this Court when considering whether to nullify an election of a Member of Parliament is **Section 97** of the **Electoral Process Act, No. 35 of 2016**. This Section guides that-

> **"97 (1) An election of a candidate as a Member of Parliament, mayor, council chairperson or councilor shall not be questioned except by an election petition presented under this Part.**
>
> **(2) The election of a candidate as a Member of Parliament, mayor, council chairperson or councilor**

shall be void if, on the trial of an election petition, it is proved to the satisfaction of the High Court or a tribunal, as the case may be, that-

(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; or

(c) the candidate was at the time of the election a person not qualified or a person disqualified for election.

(3) Despite the provisions of subsection (2), where, upon the trial of an election petition, the High Court or a tribunal finds that a corrupt practice or illegal

practice has been committed by, or with the knowledge and consent or approval of, any agent of the candidate whose election is the subject of such election petition, and the High Court or a tribunal further finds that such candidate has proved that-

(a) a corrupt practice or illegal practice was not committed by the candidate personally or by that candidate's election agent, or with the knowledge and consent or approval of such candidate or that candidate's election agent;

(b) such candidate and that candidate's election agent took all reasonable means to prevent the commission of a corrupt practice or illegal practice at the election; and

(c) in all other respects the election was free from any corrupt practice or illegal practice on the part of the candidate or that candidate's election agent; the High Court or a tribunal shall not, by reason only of such corrupt practice or illegal practice, declare that election of the candidate void.

(4) An election shall not be declared void by reason of any act or omission by an election officer in breach of that officer's official duty in connection with an election if it appears to the High Court or a tribunal that the election was so conducted as to be substantially in accordance with the provisions of this Act, and that such act or omission did not affect the result of that election."

15.3 From the above, the **Section** guides that for an election in the case before me to be nullified, it should be proved that a corrupt practice, illegal practice or other misconduct was committed in connection with the election by the candidate or with the knowledge and consent or approval of the candidate or of that candidate's election agent or polling agent, and that the majority of voters in the Constituency, District or Ward were or may have been prevented from electing the candidate whom they preferred. It follows that it is not enough to prove the corrupt or illegal practice or other misconduct but that it was by the candidate or with the knowledge and consent or approval of a candidate or of that candidate's election agent or polling agent and that as a result of such misconduct, the majority of voters in the Constituency were or may have been prevented from electing a candidate whom they preferred.

15.4 In terms of who an election agent or polling agent is, **Section 2 of the Electoral Process Act** defines them as follows:

> **"election agent means a person appointed as an agent of a candidate for the purpose of an election and who is specified in the candidate's nomination paper;**
>
> **Polling agent means an agent appointed by a candidate in respect of a polling station."**

15.5 Other key issues to determine at this stage are the burden and standard of proof. In terms of the burden of proof, it should be noted that, like in all civil matters, the burden of proof of a fact lies on the person alleging it. In election petitions, the Constitutional Court in **Abiud Kawangu v. Elijah Muchima,**[3] held that the burden of proof is on a petitioner to prove the allegations made in the petition against a respondent.

15.6 The standard of proof has equally been discussed in a number of cases. These are **Mabenga v. Wina,**[10] **Mazoka v. Mwanawasa**[1] and **Kafuka Kafuka v. Mundia Ndalamei,**[11] among others. In all these cases, the Courts have consistently held that the standard of proof in election petitions is higher than a 'balance of probabilities' applied in civil cases but lower than 'beyond reasonable doubt' applied in criminal cases. That the allegations made in the petition must be proved to a fairly high degree of convincing clarity.

15.7 Having set out the law and tests required to be applied to the allegations in the case before me, I shall proceed to deal with the allegations raised by the Petitioner.

15.7.1 VIOLENCE AT SHOPRITE IN CHIRUNDU ON 14TH JULY, 2026

1. The first allegation raised by the Petitioner was that while travelling from Kanyanga Ward to the UPND command centre for Chirundu Constituency, the Petitioner was attacked by known agents of the 2nd Respondent and that Jethro Mandeva, a known agent of the 2nd Respondent was apprehended and taken to Chirundu Police Station.

2. The 2nd Respondent denied this allegation. He stated that the aggressors were the Petitioner and his agents who removed his banner from Shoprite Chirundu. That in trying to get the banner back, Jethro Mandeva was beaten and he went to the Police station. That UPND cadres followed him at the Police Station where the police locked him up for his own safety saying they would release him the following day.

3. A review of exhibit **"P1"**, being the Occurrence Book (OB) for Chirundu Police station shows that the first report made to the police over this incident was at 19:20 hours by Coster Chilikwazi, under Entry No. 7702 on 14th July, 2026. The report was that UPND members removed a banner placed at Shoprite Mall belonging to James Mwanja. That the banner

was removed by Mick Kambole and the members were using a Toyota Hilux, Registration Number NOV 7. The second report is at Entry No. 7704 at 19:25 hours by Kenny Kasamu who reported that Coster Chilikwazi stoned his motor vehicle Registration No. NOV 7 at Shoprite Mall. The third report was by Peter Bbakasa under Entry No.7706 at 19:50 hours who reported that cadres had assaulted him at Shoprite Chirundu but he did not name whose cadres these were for.

4. On the 15th of July, 2026, at 08:00 hours, under Entry No. 7718, Popix Siambulo reported having been assaulted by unknown people at Shoprite on 14th July, 2026. A ZP Form 32 was issued. At 11:02 hours on 15th July, 2026, under Entry No. 7729, Jethro Mandeva reported that he was assaulted around 18 hours on 14th July, 2026 at Chirundu Mall. A ZP Form 32 was issued. On 15th July, 2026, under Entry No. 7731, Chileleko Siambulo reported being assaulted by unknown people at Shoprite Chirundu on 14th July, 2026 around 18 hours. A ZP Form 32 was issued.

5. From the above entries, it is clear that both the Petitioner and the 2nd Respondent made reports at Chirundu Police Station. Further, a review of the suspects handed over after the shift

of 14th July, 2026 shows that Coster Chilikwazi, Chileleko Siabulo and Jethro Mandeva were kept in police cells. The suspect for the removal of the banner was not kept in police cells. The three appear to have been released on the 15th of July, 2026 as they do not appear on the list of suspects that were handed over to the next shift officer at 17:23 hours on the 15th of July, 2026. The entries in the OB also show that both parties reported each other to the police station.

6. To break this impasse, the videos produced in the 2nd Respondent's bundle of documents and played in Court during his testimony are helpful. They show a ford ranger motor vehicle, grey in colour, pass by a banner with the picture and name of the 2nd Respondent. The people in the motor vehicle pull out the banner while others, on the ground, including Jethro Mandeva, begin to run after it. The 2nd Respondent testified that these were the Petitioner's supporters and this evidence was not challenged or disputed. In fact, the evidence of the Petitioner, throughout the proceedings confirmed that a grey motor vehicle, described by some witnesses as a Toyota Hilux, although all witnesses consistently stated that it was grey with a Registration

Number, NOV 7, was one of the vehicles he used in his campaign. Clearly, the violence at Shoprite, as seen from the videos, was perpetrated or triggered by the Petitioner's supporters when they removed the 2nd Respondent's banner. According to the Petitioner, he was in the said vehicle when this happened. Therefore, I find that the allegation that the 2nd Respondent was responsible for the violence unfounded. The opposite is true that this violence was perpetrated and triggered by the Petitioner's supporters. The law is settled that a person cannot benefit from his own wrongdoing. In saying this, I rely on the case of **Direct Shopping Guide Zambia Ltd v. Zambian Inside Ltd**[12] where the Supreme Court held that-

> **"In short, the law cannot allow the appellant to benefit from this own wrong doing."**

7. Therefore, after perpetrating and triggering this violence, the Petitioner cannot be seen to benefit from it. I accordingly find that this allegation has not been proved to the required standard. Even if it was proved, there is no evidence that as a result of the violence, the majority of the voters were prevented from voting for a candidate whom they preferred.

15.7.2 VIOLENCE ON CLEMENT BOOMBE ON 17TH JULY, 2026 AT ZAMBEEF

1. The Petitioner also contended that on 18th July, 2026, although the Petition put the date as 17th July, 2026, Clement Boombe was attacked and in the process Given Moonga was injured. He exhibited photos of damage to the bus used and that the matter was reported to the police under OB No. 7850/26. Boston Syakanoko also testified about this incident. He did not report the incident to the police. Clement Boombe stated that the Police arrived and he later went to the police where he gave a statement.

2. However, in the OB, under Entry Number 7850, the report shows that it occurred on the 19th of July, 2026. In addition, the reporter is recorded as Sai Boombe aged 45 and not Clement Boombe aged 43. Further, the reporter did not say that he was attacked by the 2nd respondent's agents or supporters. He simply said that well known people damaged his bus. He did not say that he was assaulted contrary to what Clement Boombe said in his evidence that he was assaulted. The complaint recorded in the occurrence book is damage to the bus.

3. Considering the above, I am of the view that the disparities make me doubt whether the person who reported to the Police was actually Clement Boombe. Even if the report was by him, he did not report any assault at the police contrary to his evidence that he was assaulted. Further, there is no evidence that his attackers were election agents or polling agents of the 2nd Respondent; a crucial requirement under **Section 97 (2) (a)(ii) of the Electoral Process Act**. Under this section, there ought to be evidence to prove that the violence was by the 2nd Respondent or his election or polling agent as defined above. In saying the above, I am fortified by the decision of the Constitutional Court in **Austin C. Milambo v. Machila Jamba,**[13] where the Court held that-

> **"...We agree with the trial Judge that where wrong doing not associated with the candidate or their election or polling agents is proved, the law as it stands now, does not recognize such wrongs as grounds for nullifying an election..."**

4. I must add that considering that Clement Boombe and Boston Syakanoko are both members of the UPND, there is need for other independent evidence or something more to support their evidence. I say this on the authority of **Steven Masumba v. Elliot Kamondo**[14] where the Constitutional

Court held that witnesses from a litigant's own political party are partisan witnesses who should be treated with caution and whose evidence requires corroboration in order to eliminate the danger of exaggeration and falsehood. No evidence of something more has been presented to corroborate the evidence of the partisan witnesses. The occurrence book contradicts the oral evidence as stated above. Further, there is no evidence that the attackers were election or polling agents of the 2nd Respondent. I, therefore, find no evidence pointing to the involvement of the 2nd Respondent or his election or polling agents in this regard. This allegation fails as a result.

5. Even if it was proved, there is no evidence that as a result of the violence on Clement Boombe, the majority of the voters in the Constituency were prevented from voting for a candidate whom they preferred.

15.7.3 VIOLENCE AGAINST THE PRESIDING OFFICER FOR NZIMBE POLLING STATION

1. The next allegation I shall deal with was neither pleaded nor stated in the facts in support of the Petition. However, the issues arose in the evidence and there was no objection. I

shall, therefore, deal with it. The Petitioner's witnesses testified that on the 12th of August, 2026, supporters of the 2nd Respondent stopped the vehicle carrying a presiding officer for Nzimbe polling station. The evidence on this issue was from Mr. Bweenje, Mr. Mudimina and Mr. Mweemba. Mr. Mudimina and Mr. Mweemba testified that the ones who stopped the vehicle were cadres and supporters. Mr. Bweenje stated that they were agents but did not specify what agents these were. I have stated above that the Constitutional Court has guided that a candidate's election cannot be nullified on the basis of actions of his supporters. The law is clear that the misconduct or illegal activity has to be by the 2nd Respondent or other person with the 2nd Respondent's consent or an election agent or polling agent. There is no evidence to prove that the people who stopped the vehicle were either election agents named on the nomination paper or polling agents. Therefore, this allegation has not been proved to the required standard of a high degree of convincing clarity.

2. In any case, in cross examination, the witnesses testified that no corruption, illegal practices or other misconduct

were reported after that and that the election proceeded. In addition, there is evidence that despite the disruption, the presiding officer proceeded to Nzimbe polling station and performed his functions. Therefore, the vote was not affected. Further, there is no evidence that the majority of the voters were prevented from voting for a candidate whom they preferred as a result of the disruption.

15.7.4 VIOLENCE ON 18TH APRIL, 2026, AT KAYUNI VILLAGE AND ON 10TH AUGUST, 2026 ALONG T2 ROAD

1. The Petitioner alleged that on 18th April, 2026, the 2nd Respondent fired gunshots at him and his supporters. This fact as contained in the Petition is supported by the evidence of Tedius Siamapabi. However, Tedius Siamapabi admitted not having experienced the incident and that he was only told about it. Further, he is a partisan witness having been a member of the Petitioner's campaign team. There is no other evidence of something more to corroborate his testimony.

2. The Respondent, on the other hand stated that he fired the gunshots in self defence after being ambushed by the Petitioner's supporters and that the matter was reported to

the police. The assertion that the 2nd Respondent reported the matter to the police is not indicated in the OB produced before Court for Chirundu Police Station. The OB produced only accounts for events from about 10th July, 2026 to about 25th August, 2026. It does not go to details prior to 10th July, 2026. However, Mr. Mudimina, the Officer-in-Charge at Chirundu Police Station, corroborated the evidence of the 2nd Respondent when he testified that he was informed that the 2nd Respondent fired gunshots when he found the road blocked.

3. Further, in cross examination, he confirmed having received a report from his officers who informed him that the gun shots were fired in self defence. From the above, I believe the evidence of the 2nd Respondent in this regard. More so that Mr. Siamapabi is a partisan witness and did not personally witness the event. I wish to add that I do not find it usual or conventional that the Petitioner, who claims to have been attacked, did not report such a serious incidence to the police. This unconventional behaviour supports the 2nd Respondent's version that the Petitioner was the aggressor.

4. I find that the gun shots fired on 18th April, 2026, were in self defence after the Petitioner's supporters ambushed the 2nd Respondent and his supporters.

5. As regards the incident of 10th August, 2026, the Petitioner alleged that the 2nd Respondent fired 3 gunshots at his convoy on T2 Road while on their way from Lusitu Ward. Modern Sikayamba testified about the shooting, although he said this occurred on the 11th of August, 2026. In his evidence, Mr. Sikayamba stated that he did not report this incidence to the Police. The 2nd Respondent denied this. He stated that it was the Petitioner and his agents who fired gun shots at him on a date between the 10th and 11th of August, 2026 around Oasis area and that he reported this matter to the Police.

6. From the above, the Petitioner and 2nd Respondent's evidence is competing. However, I must state that I find it odd that the Petitioner relies on this incidence that gun shots were fired at him and his entourage but did not report the matter to the Police. On the other hand, the 2nd Respondent stated that the matter was reported to the Police and the evidence of Mox Mudimina was also that the

2nd Respondent reported that people had shot at him and his team. The above evidence by the 2nd Respondent is supported by Entry Number 8428 in the occurrence book which shows a report that unknown people did fire three gun shots near Oasis area on 10th August, 2026 around 18:58 hours in Chirundu District.

7. I wish to point out that I found the evidence of Mr. Mox Mudimina partial. I say so considering the manner in which he gave his testimony. He was subpoenaed to give evidence regarding violence on specific days and *"any other incidences of violence if any"*. However, in his evidence, he was inclined to point out incidences of violence where the 2nd respondent or his supporters were alleged to be the perpetrators. It was only in cross-examination by counsel for the 2nd Respondent when it came to light that there were other reports of violence against the Petitioner and his supporters.

8. It should be noted that the Petitioner bears the burden of proof to a high degree of convincing clarity. Considering the evidence above where the version by the 2nd Respondent is supported by some independent evidence while the

Petitioner's is not, this Court finds no basis for finding in favour of the Petitioner. In my view, if indeed the 2nd Respondent fired gun shots at the petitioner's supporters and sped off, the Petitioner would have reported the matter to the Police. On the other hand, the behavior of the 2nd Respondent to report the incidence to the Police shows what every person would ordinarily do. If the 2nd Respondent had simply fired the gun shots and sped off, it is unlikely he would have reported the matter to the police. I, therefore, find that the allegation has not been proved.

9. The Petitioner has failed to prove the allegation that the 2nd Respondent shot at him and his supporters on the 18th of April, 2026 and 10th of August, 2026.

10. I dismiss the allegations accordingly.

15.7.4 VIOLENCE AT SIKONGO POLLING STATION ON VOTING DAY

1. The Petitioner alleged that on voting day, the 2nd Respondent stormed Sikongo polling station and forced his way into the polling station and voting was suspended as a result. The 2nd Respondent on the other hand admitted going to Sikongo polling station as he had been informed

that his agent had not been given a note book. That he was allowed into the polling station by the 1st Respondent where he found that the issue had been resolved. That he spent less than 4 minutes there.

2. The evidence on this issue was from Michael Mafuta who testified that the 2nd Respondent arrived and started greeting people. After speaking to the 1st Respondent's officials, he was allowed into the polling station. That people started asking questions and the 2nd Respondent and his supporters left the polling station. When leaving, he gave someone ZMW500 on the queue and people started fighting for the money. That voting stopped for about two hours.

3. Michael Mafuta admitted being a member of the UPND hence a partisan witness. His evidence requires corroboration as discussed earlier.

4. Mr. Mweemba testified that he received a call from the presiding officer at Sikongo polling station that there was violence. That he informed Mr. Bweenje who informed Mr. Mudimina as they were together. Mr. Bweenje, however, did not say that he was with Mudimina at the time. Further, he stated that the information he received from Mr. Mweemba

was that there were campaigns at Sikongo. He said he communicated with Mr. Mudimina who, in less than an hour, informed him that the situation was calm. I must state here that none of these three witnesses were present at Sikongo.

5. The diary from Sikongo was admitted into evidence. However, no witness spoke to the contents. It records that voting was suspended between 12:36 to 13:52 hours because of violence. That this was after a candidate was accused of flashing a symbol during visitation and voters reacted violently to that. That calm was restored and voting continued. Although the recorder of this diary was not called to testify, the report does not state who caused the violence. Further, it says that calm was restored and voting continued. At the end, the agents who were present at the polling station signed the document, including the ones for the Petitioner.

6. On the totality of the above evidence, it is clear that the 2nd Respondent went to Sikongo polling station on voting day. However, there is no independent evidence to support the assertion that the 2nd Respondent was campaigning. I say

so because Michael Mafuta is a partisan witness and Mr. Mweemba, and Mr. Bweenje where not present at the polling station. In addition, the presiding officer, who is said to have informed Mr. Mweemba, was not called as a witness. In the diary said to have been authored by the presiding officer at Sikongo, the identity of the candidate accused of flashing a symbol, is not given.

7. However, on whether there was violence, I believe the evidence in that Mr. Bweenje would not have been informed had the situation been calm the whole time the 2nd Respondent was present. I, therefore, find that there was violence at Sikongo. That notwithstanding, calm was restored within an hour as stated by Mr. Bweenje and voting continued. There is no evidence to prove that the violence was so widespread that it prevented the majority of voters from electing a candidate whom they preferred as per **Section 97 of the Electoral Process Act, No. 35 of 2016**. In the case of **Bowman Lusambo v. Bernard Kanengo and ECZ**,[15] the Constitutional Court held that the Petitioner had proved that there was widespread violence and that the acts of violence adversely affected the

voters and consequently the results of the elections. In this case, the Petitioner has not shown that the incident of violence was so widespread and that it adversely affected the voters and prevented them from voting for the candidate whom they preferred. The evidence on record is that voting continued.

15.7.5 VIOLENCE AT KAYUNI POLLING STATION

1. Tedius Siamapabi testified that there was violence and intimidation instigated by the 2nd Respondent. That on voting day, confusion erupted at the polling station when people who turned out to be the 2nd Respondent's agents arrived at the polling station and were allowed in by the presiding officer. The Police arrived and order was restored. Seeing that Tedius is a partisan witness, his evidence requires corroboration. Mr. Mweemba also testified that there was violence at Kayuni. However, his evidence was only to the effect that he received a report of violence and he informed Mr. Bweenje who informed Mr. Mudimina. Nothing more. He did not state where the report was received from. Further, neither Mr. Bweenje nor Mr. Mudimina testified that Police Officers were sent to Kayuni

on voting day and that calm was only restored after their intervention. Considering the standard of proof in election petitions, I am constrained to find that there was violence at Kayuni on poll day. There is no evidence from the presiding officer, for example, to confirm that there was violence at Kayuni and that voting was disrupted.

2. In any case, if indeed there was violence, voting continued and there is no evidence that the voting was affected in any way or that the majority of the voters were prevented from electing a candidate of their choice as a result of the violence.

15.7.6 VIOLENCE AT MANDENGA POLLING STATION

1. This issue was not pleaded. However, Charity Muchimba, a UPND member and supporter testified that there was violence and intimidation at Mandenga polling station. There is no independent evidence to support hers. No evidence from the presiding officer or any other independent person, for example to testify that there was violence. Since Charity Muchimba is a witness with an interest, there is need for independent evidence to support

her evidence. I, therefore, find that this allegation has not been proved.

15.7.7 ALLEGATIONS OF THE 2ND RESPONDENT'S AGENTS BRANDISHING GUNS AND MACHETES

The Petitioner alleged that some of the 2nd Respondent's agents went around the polling stations brandishing guns and machetes targeting his agents in the District. It is settled law that he who alleges must prove. In this case, the Petitioner has not brought any evidence to support this allegation. None of the witnesses called said anything about this allegation. I, accordingly, dismiss it.

15.7.8 CAMPAIGNING USING UPND SONGS, SYMBOLS, BRANDED MATERIAL AND THE NAME OF THE PRESIDENT

1. The Petitioner contended that the 2nd Respondent held himself out as having the blessings of the Republican President, Mr. Hakainde Hichilema, and that he was using the UPND songs, symbols and campaign materials. The 2nd Respondent denied this contention and stated that he had his own campaign materials and branding.

2. A review of the evidence of Mr. Singuwa shows that indeed he wrote to the 1st Respondent's Conflict Management Committee and a mediation conducted. I note that Mr. Singuwa is a supporter of the UPND. Therefore, there is need to treat his evidence with caution. However, Phillip Lubinda, the Secretary of the Conflict Management Committee corroborated this evidence. Further, the settlement agreement of 1st June, 2026, exhibited by both the Petitioner and 2nd Respondent shows that the following is what was agreed:

> **"1. Independent party through James K. Mwanja to desist from using the colour red;** and
>
> **2. Five days to rebrand the vehicles from today."**

3. The said agreement shows that the 2nd Respondent agreed to stop using the colour 'red' and to rebrand his vehicles. From the above, it is clear that the 2nd Respondent agreed to rebrand and stop using the colour 'red'. It shows that the 2nd Respondent used the UPND branding.

4. The Petitioner alleges that despite the above agreement, the 2nd Respondent continued with the breach. However, there is no evidence to support the contention that the 2nd Respondent continued to use the Petitioner's branding and

campaign materials. In the affidavit verifying petition, the Petitioner relied on exhibit **"NM5"** being a flash disc containing a video. This exhibit has five videos. However, none of the witnesses of the Petitioner spoke to the contents of these videos for the Court's consideration. The foundation of the videos in terms of who took them, where, how and when they were taken is lacking. Namwene Munahambala testified that she downloaded them from Facebook. She did not give evidence of who put them on Facebook and what was used to make or download them, to satisfy the requirement of laying a proper foundation, among other issues. In the videos, people are heard speaking in local languages and no witness interpreted or translated what was being said to the Court.

5. However, even if I was to ignore the rules on evidence, the videos are left to the Court to interpret what was being said and whether indeed the places where they were taken are indeed the Totalling Centre, among others, as alleged. It should be noted that the Court cannot ascribe an interpretation of the videos as that is not its role. Neither can counsel for the Petitioner, as he attempted to do in the

final submissions. This would amount to giving evidence from the Bar. The evidence ought to have come from the witnesses who ought to have spoken to the videos after laying a proper foundation.

6. The above notwithstanding, I noted from one of the videos that there is a vehicle with the 2nd Respondent's face branded in UPND colours. However, there is no evidence of when this was taken to warrant making a finding that he continued using UPND colours after the mediation. It is also not clear how many people were being addressed when the branded vehicle was being used to establish how widespread it was.

7. Mr. Singuwa testified that he called Mr. Lubinda to make other follow up complaints. Mr. Lubinda stated that he received phone calls from Mr. Singuwa. However, this evidence was challenged in cross examination. There is no evidence of phone calls or anything in writing to this effect. There is no evidence of the date of the phones calls to show when this happened. I say so considering the fact that the 2nd Respondent has adduced evidence in the form of pictures of his branding and campaign material at pages 4

and 5 of his bundle of documents. Although these pictures do not show the date, it is clear that as at the 14th of July, 2026, the date when the 2nd Respondent's banner was removed at Shoprite, his branding was consistent with the pictures at pages 4 and 5 aforesaid. I make this finding considering the fact that the banner was clearly branded differently from the UPND colours and matched the branding at pages 4 and 5 of the 2nd Respondent's bundle of documents.

8. Therefore, I find that before the mediation settlement agreement, the 2nd Respondent was using the UPND colour 'red' and branding. However, I find that there is no evidence to show that after the mediation settlement agreement of 1st June, 2026, the 2nd Respondent continued using the UPND colours.

9. Further, no independent witness was called to testify that as a result of the initial use of the colour 'red' and UPND branding, they were misled and did not know who had been adopted under the UPND ticket. The evidence is that the 2nd Respondent used a hand pump as a symbol while the Petitioner used a hand. If there was any confusion, it was

to the advantage of the Petitioner who used the symbol he claims was abused by the 2nd Respondent. I, therefore, find that the allegation has not been proved to the required standard. I further find that even if it was proved, there is no evidence to show that it was so widespread such that the majority of voters were prevented from voting for a candidate of their choice.

15.7.9 DISTRIBUTION OF MONEY TO VOTERS ON 12TH, 13TH AND 14TH AUGUST, 2026

1. The Petitioner alleged that the 2nd Respondent and his agents distributed money to voters on the 12th to 14th of August 2026.

2. The allegation on distribution of money to voters on 12th August, 2026 as alleged in the Petition has not been substantiated. There is no evidence to support it. None of the witnesses spoke about it.

3. As regards the allegation of bribery on the 13th of August, 2026, Namwene Munahambala, a member of the UPND testified that she heard a Police officer ask for money from an agent of the 2nd Respondent. The agent was described as having "big muscles" but his name was not given. There is

no independent evidence to support Namwene's evidence considering that she is a partisan witness. Further, it should be noted that there were three candidates standing for the position of Member of Parliament. Therefore, there is need to clearly state whose agent the said person was representing to warrant making a finding in favour of the Petitioner. As the evidence stands, this is not certain.

4. Michael Mafuta also testified that after the 2nd Respondent left Sikongo polling station, he gave someone on the queue a ZMW500. However, there is no independent evidence to support this assertion more so that Michael Mafuta admitted being a member of the UPND in cross examination. The allegation, therefore, has not been proved. In any case, even if the allegation was true, only one person is said to have been given the ZMW500. Therefore, the majority of voters cannot be said to have been prevented from voting for a candidate of their choice.

5. The Petitioner relied on videos exhibited as **"NM5"** in the affidavit verifying petition and discussed above. The videos do not show the 2nd Respondent distributing money to voters on a queue.

6. As regards the allegation of 14th August, 2026, Namwene admitted that the people who were being given money were the 2nd Respondent's polling agents who had worked from the 13th of August, 2026 without being paid.

7. In discussing Namwene's admission, I am persuaded by the holding in **Borough of Bradford case, Storey v. Forster**[16] where it was held that-

> **"...Those refreshments were given to nobody else, and care was taken to give them to no persons except those who were actually engaged in labour. I am of opinion that that does not fall within 17 & 18 Vict, c 102, s. 4. That which is provided against is, that a candidate shall not 'corruptly' give any meat or drink in order to be elected; and I think that to put a proper construction upon the Act, the meaning which I have indicated must be given to the word 'corruptly,' viz., a thing done with an evil mind. There must be some evil motive in it, and it must be done 'in order to be elected.' But those are known how all these men would vote. They were there because they were voters who had declared their intention to support the Respondent. It is therefore idle to suppose that the meat and drink were given to induce them to vote. I think therefore that there is an absence of anything to satisfy me that it was done' corruptly,' and in my judgment the doing of what was done, believing it to have been a bona fide and honestly done, does not come within the meaning of 17 & 18..."** [Underlining for emphasis only]

8. Applying the above principles, it is not in contention that the 2nd Respondent was paying his agents and it is also not far-fetched to conclude that it was already known in what direction they would vote and therefore, paying them would not amount to inducing them to vote for him. Abel Muletwa, on the other hand, testified that the person distributing money was the Petitioner. Although this appeared to have been a mistake, the evidence was not corrected.

9. From the above, I find no other supporting evidence to warrant making a finding in favour of the Petitioner, more so in these circumstances where his witnesses are partisan and no independent evidence supporting the allegation has been presented. In any case, the bribery allegations of the 13th and 14th of August, 2026 if founded, related to two people only, the person on the queue and the one with muscles. The allegation of the 14th of August, 2026, was after elections and found to have been payments to the 2nd Respondent's polling agents. Therefore, it could not have affected the vote.

10. The allegations have, therefore, not been proved to the required standard. I do not hesitate to dismiss them.

15.7.10 BLOCKING OF THE PETITIONER'S MONITORS AT POLLING STATIONS AND AT THE TOTALLING CENTRE

1. The Petitioner alleged that his agents and monitors were blocked from entering a number of polling stations and the Totalling Centre by the 1st Respondent. However, there has been no evidence to support these assertions. I reiterate that evidence of partisan witnesses requires corroboration because of the danger of exaggeration, among others. In this case, Namwene Munahambala, Kenny Kasamu and Charity Muchimba testified that they were blocked. There has been no independent evidence to support the assertions that the Petitioner's agents or monitors were blocked from entering any polling station or the Totalling Centre in the case of Namwene Munahamba. In addition, there has been no evidence to show that the majority of the voters were prevented from voting for a candidate whom they preferred. Further, there has been no evidence to show that as a result of this, the election was not conducted in substantial conformity with law.

15.7.11 FAILURE TO DEAL WITH THE OBJECTIONS RAISED BY THE PETITIONER'S AGENTS/MONITORS

1. Before I deal with the evidence on this issue, I wish to point out that the evidence of the two witnesses called by the 1st Respondent, being Benson Bweenje, the District Electoral Officer for Chirundu and Martin Lloyd Mweemba, the Returning Officer, was contradictory. Despite testifying at the instance of the 1st Respondent, Mr. Mweemba's evidence was contrary to the pleadings of the 1st Respondent. Further, he was visibly emotional in the manner he presented his evidence. Unlike Mr. Bweenje who gave his evidence in a neutral manner, Mr. Mweemba seemed to cooperate well with counsel for the Petitioner but was argumentative and uncooperative towards counsel for the 2nd Respondent. In addition, disagreed with the pleadings filed by the 1st Respondent, the institution he was representing. Further, he made it a point to emphasise, and this Court found it curious, that whenever he was about to say something that would favour the 2nd Respondent such as when making the declaration, he prefixed his testimony with words such as; 'out of fear', 'fear did not leave me', 'to

just get it done with'. This made this Court question the neutrality and credibility of his evidence.

2. Having stated the above, the Petitioner alleged that his agents at 10 polling stations raised objections which the 1st respondent refused to deal with. The 1st Respondent alleged that the objections were dealt with and rejected. The 2nd Respondent alleged that the objections were a fabrication and that he was seeing them for the first time. I find the following facts odd:

    1. **it is odd that despite the 10 objections raised, the Petitioner's agents did not present a single GEN 20a Form to support their assertions;**
    2. **the Returning Officer appeared biased in favour of the Petitioner and that there was not enough lighting which is contrary to the pleadings by the 1st Respondent, the institution he represents;**
    3. **it is odd that after the declaration of the winner, the Petitioner's security personnel was seen with officials from the Chirundu Town Council, opening the strong room where election materials were kept and a video played in Court to this effect. After this incidence, the Petitioner, and after having access to the election materials, sought a recount of the ballots;**
    4. **it is odd that none of the diaries brought to Court, have a record of anything about the challenges which were recorded in the objections such as lighting;** and

5. **it is odd that Abel Muletwa testified that after his objection was rejected, he appealed through his candidate, the Petitioner, who wrote to the District Electoral Officer. However, the appeals on record show that he appealed personally. In addition, the signature on the objection and alleged appeal is different from the one on his witness statement.**

3. In my view, the above facts raise doubts as to the authenticity of the objections and the appeals. Apart from the above, the objections were dealt with by the 1st Respondent. Mr. Mweemba testified that he could not deal with the objections. However, this does not mean that the GEN 20a Forms were not correctly recorded. The agents failed to show the basis of the objections through production of any GEN 20a Forms. Further, there is evidence that the Petitioner through his security personnel and officials from the Chirundu Town Council accessed the election materials after the election. This brings into question the credibility of the election materials, post the election. It would appear that the objections were an afterthought.

4. I must state that the above notwithstanding, the Petitioner did not produce any GEN 20a Forms to support the

assertion that there could have been a miscalculation of votes.

5. I must add that upon examining the diaries, none of the presiding officers stated that lighting or anything presented in the objections was a challenge during or affected the counting. In any case, Mr. Bweenje testified that the lighting was ok and that the instances of bad lighting did not affect the vote counting. Further, Mr. Mweemba, testified that the presiding officer from Lusitu Agriculture polling station reported that there was violence. However, when challenged in cross examination on whether the diary from Lusitu Agriculture polling station recorded that the violence was from the 2nd Respondent, he was clearly defensive in favour of the Petitioner. Meanwhile, the challenges recorded in the diary do not state that they are as a result of the 2nd Respondent. This further goes to show how far Mr. Mweemba was willing to go to help the Petitioner in the prosecution of his case. I observe that in the diary for Lusumpuko – 03, the writing is consistent throughout the diary. However, on one point, the writer appears to suddenly squeeze the following in:

"Between this time and an unknown time later supporters of candidates disturbed the polling station."

6. In any case, the above quoted words do not mention which candidates the supporters were for. The diary for Reformed Church of Zambia – 01 recorded that cadres of the 2nd Respondent attempted to close the polling station. However, no witness testified to these contents. Further, there is no evidence that these cadres were election or polling agents. The same applies to the contents of the diary for Nkandabbwe polling station.

7. I wish to point out that the Petitioner and 2nd Respondent presented different GEN 20b Forms being the "Declaration of the Results of the Poll-Member of Parliament". The GEN 20b Form exhibited by the Petitioner is signed as **"pp"** while the one presented by the 2nd Respondent is signed by the Returning Officer. Mr. Mweemba testified that after the results were totalled, he asked the Assistant Returning Officer IT and Technical, to print the declaration which he signed and gave the representatives of the three candidates a form each to sign and exchange. That the representative of the Petitioner refused to sign while four representatives of the 2nd Respondent signed. He could not find the

representative of the third candidate. That that is the reason the GEN 20b Form was only signed by the 2nd Respondent's representatives.

8. The above entails that the GEN 20b Form presented by the 2nd Respondent is the actual declaration made.

9. In making the above finding, I note that the GEN 20b Form presented by the 2nd Respondent is consistent with the evidence of the witnesses and the parties' pleadings, including the Petitioner's, to the effect that the declaration was made on the 15th of August, 2026. I say so as it is dated 15th August, 2026.

10. On the other hand, the GEN 20b Form produced by the Petitioner is dated 16th August, 2026. A day after the declaration was made. It is signed as **"pp"** and no evidence was brought to identify who signed it and why it is dated a day after the declaration was made. Further, it gives the Petitioner more votes than was declared on the 15th of August, 2026. The declaration of 15th August, 2026, shows that he polled 11,598 while the declaration presented by the Petitioner dated 16th August, 2026, shows that he polled 11,698. His votes went up by 100 without any explanation.

This further puts into question the credibility of the one dated 16th August, 2026. More so that the Petitioner, through his representative, had access to the election materials after the declaration and in the absence of the 2nd Respondent.

11. Counsel for the Petitioner argued that this Court ought to have allowed the recount. However, like I stated in my Ruling on the application for a recount, the Petitioner has not presented a single Gen 20a Form to show that there was a numerical or other mistake during the counting of votes. On the other hand, the 2nd Respondent has exhibited Gen 20 Forms showing the results announced at 51 polling stations. This, on its own, shows that the Petitioner has failed to provide sufficient reasons why the recount ought to be granted. In saying the above, I am persuaded by the guidance by the learned authors of **Halsbury's Laws of England on Elections and Referendums, 4th Edition, Volume 15(3) (2007 (Reissue) at paragraph 855** who guide that-

> **"...The usual practice is for an application for a recount to be made by summons to a judge on the rota for the trial of parliamentary election petitions before the trial on an**

affidavit showing the grounds on which the application is based. A recount is not granted as of right, but on evidence of good grounds for believing that there has been a mistake on the part of the returning officer" [underlining for emphasis only]

12. The learned authors of Halsbury's are clear in their guidance that an order for a recount of the votes can only be granted on the ground that a mistake has been made by the returning officer. There is no evidence that there were material differences in the votes or that there was a miscalculation or mistake to warrant a recount. A recount cannot be ordered simply because it has been requested. There ought to be a basis for exercising the discretion. In the present circumstances, no such case was made.

15.7.12 ALLEGED UNAUTHORISED NUMBER OF POLLING AGENTS

1. I note that Charity Muchimba alleged that at Mandenga polling station stream two, the 2nd Respondent had 4 polling agents who were issued with identification cards inside the polling station while Gregory Maseka alleged that at Lusitu Agriculture Hall polling station Number 2, the 2nd Respondent had 5 agents but only two were accredited and had identification cards whilst the others did not and were

still allowed into the polling station. This fact was not pleaded but was not objected to when disclosed in evidence.

2. **Section 35 of the Electoral Process Act** guides that-

> **"35.(1) A candidate may appoint-**
>
> **(a) two polling agents for each polling station;** and
>
> **(b) two election agents for each venue where counting of the votes will take place.**
>
> **(2) An election or polling agent-**
>
> **(a) shall be a Zambian citizen or resident permit holder;** and
>
> **(b) shall not be a candidate in an election.**
>
> **(3) The appointment and revocation of appointment of a person as an election or polling agent shall be effected in the prescribed manner."**

3. The evidence on this issue is from partisan witnesses. There is no independent evidence presented to support it. Further, no evidence has been presented on any advantage that accrued to the 2nd Respondent as a result. There is also no evidence that as a result of the number of agents, the election was not held in substantial conformity with the law or that the majority of the voters were prevented from electing a candidate whom they preferred. I dismiss the allegation as a result.

4. In making the above finding, I am persuaded by the writings by the learned authors of **Halsbury's Laws of England, 5th Edition, Volume 38A, Paragraph 667,** who state as follows on the above subject:

> **"No election is to be declared invalid by reason of any act or omission by the Returning Officer or any other person in breach of his official duty in connection with the election or otherwise of the appropriate election rules if it appears to the tribunal having cognizance of the question that the election was so conducted substantially in accordance with the law as to election, and that the act or omission did not affect its result. The function of the Court in exercising this jurisdiction is not assisted by consideration of the standard of proof but, having regard to the consequences of declaring an election void, there must be preponderance of evidence supporting any conclusion that the result was affected."**

5. In addition, and considering the law applicable in Zambia, **Section 97(4) of the Electoral Process Act**, referred to above provides that-

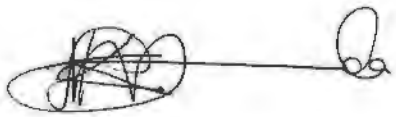
> **"An election shall not be declared void by reason of any act or omission by an election officer in breach of that officer's official duty in connection with an election if it appears to the High Court or a tribunal that the election was so conducted as to be substantially in accordance with the provisions of this Act, and that such act or omission did not affect the result of that election."**

6. On the totality of the issues before me, I find that the Petitioner has failed to prove the allegations in this Petition against the Respondents to the required standard of a high degree of convincing clarity. I further find that even if the allegations were proved, there is no evidence that they were so widespread and that the majority of the voters were prevented from electing a candidate of their choice. I, accordingly dismiss the Petition.

15.8 In accordance with the provisions of **Section 108 of the Electoral Process Act**, I **HOLD** that the 2nd Respondent, **JAMES K. MWANJA**, was duly elected as Member of Parliament for Chirundu Constituency.

15.9 Due to the fact that this is a constitutional matter and of public interest, I order that each party bears their own costs.

Delivered at Mazabuka this 25th day of November, 2026.



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K. E. Mwenda-Zimba

HIGH COURT JUDGE