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

2026/HN/EP/008

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
25 NOV 2026
CIVIL REGISTRY
NDOLA HIGH COURT
P.O. BOX 71001

IN THE MATTER OF:	**PART IX (SECTIONS 96, 97 AND 98) AND PART VIII (SECTIONS 83, 87 AND 89) OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016**
IN THE MATTER OF:	**PART III, RULE 9 OF THE HIGH COURT (ELECTION PETITION) RULES, 2026, STATUTORY INSTRUMENT NO. 31 OF 2026**
IN THE MATTER OF:	**ARTICLE 73 OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 OF THE LAWS OF ZAMBIA, AS AMENDED**
IN THE MATTER OF:	**THE PARLIAMENTARY ELECTION FOR THE NDOLA CENTRAL CONSTITUENCY OF THE NDOLA DISTRICT HELD ON THE 18TH DAY OF AUGUST 2026**

BETWEEN:

FRANK MUSEBA TAYALI	**PETITIONER**
AND	
EMMANUEL MULENGA	**1st RESPONDENT**
ELECTORAL COMMISSION OF ZAMBIA	**2nd RESPONDENT**

BEFORE THE HON. LADY JUSTICE M. CHANDA-MATE ON THE *25TH* DAY OF *NOVEMBER*, 2026

For the Petitioner:	Mr. C. Mugubbwi, Mrs. N. N. Zimba and Mr. S. Mutembo of Messrs. Mugubbwi and Associates

For the 1st Respondent:	Mr. F. Tembo and Mr. G. Kalandanya of Messrs. GM Legal Practitioners with Mr. J. Hara and Mr. M. Kaipambe of Messrs. Hara and Company
For the 2nd Respondent:	Mr. G. Haakainsi and Ms. S. Milupi of Messrs. LM Chambers

JUDGMENT

LEGISLATION REFERRED TO

1. CONSTITUTION OF ZAMBIA, CHAPTER 1 OF THE LAWS OF ZAMBIA, AS AMENDED
2. ELECTORAL PROCESS ACT NO. 35 OF 2016, AS AMENDED, INCLUDING THE ELECTORAL CODE OF CONDUCT IN THE FIRST SCHEDULE
3. ELECTORAL PROCESS (GENERAL) REGULATIONS, 2016, STATUTORY INSTRUMENT NO. 63 OF 2016
4. HIGH COURT ACT, CHAPTER 27 OF THE LAWS OF ZAMBIA
5. HIGH COURT (ELECTION PETITION) RULES, STATUTORY INSTRUMENT NO. 31 OF 2026

CASES REFERRED TO

1. BOWMAN LUSAMBO V. BERNARD KANENGO AND ELECTORAL COMMISSION OF ZAMBIA (2021/CCZ/A0019).
2. NKANDU LUO AND ELECTORAL COMMISSION OF ZAMBIA V. DOREEN SEFUKE MWAMBA AND ATTORNEY-GENERAL, CCZ SELECTED JUDGMENT NO. 51 OF 2018.
3. STEVEN MASUMBA V. ELLIOT KAMONDO (2017) 3 Z.R. 130.
4. MWIYA MUTAPWE V. SHOMENO DOMINIC, CCZ APPEAL NO. 19 OF 2017.
5. AKASHAMBATWA MBIKUSITA LEWANIKA AND OTHERS V. FREDERICK JACOB TITUS CHILUBA (1998) Z.R. 79 (SC).
6. RICHWELL SIAMUNENE V. SIALUBALO GIFT (2017) 3 Z.R. 335.
7. MUBIKA MUBIKA V. PONISO NJEULU, SCZ APPEAL NO. 114 OF 2007.
8. MUBITA MWANGALA V. INONGE MUTUKWA WINA, SCZ APPEAL NO. 80 OF 2007.

9. ABIUD KAWANGU V. ELIJAH MUCHIMA, CCZ APPEAL NO. 8 OF 2017.
10. MARGARET MWANAKATWE V. CHARLOTTE SCOTT AND ATTORNEY-GENERAL, CCZ APPEAL NO. 14 OF 2016.
11. MBOLOLWA SUBULWA V. KALIYE MANDANDI, CCZ APPEAL NO. 18 OF 2016.
12. ENOCK MASEKA KALEKA V. CARLOS JOSE ANTONIO AND ELECTORAL COMMISSION OF ZAMBIA (2011/HP/EP/017).
13. VINCENT ISAIAH MWALE V. EUSTARCKIO KAZONGA AND ELECTORAL COMMISSION OF ZAMBIA (2011/HP/EP/53).
14. MICHAEL MABENGA V. SIKOTA WINA AND OTHERS (2003) Z.R. 110.
15. ANDERSON KAMBELA MAZOKA AND OTHERS V. LEVY PATRICK MWANAWASA AND OTHERS (2005) Z.R. 138 (SC).
16. KUFUKA KAFUKA V. MUNDIA NDALAMEI, CCZ APPEAL NO. 15 OF 2016.
17. MUVUMA KAMBANJA SITUNA V. THE PEOPLE (1982) Z.R. 115 (SC).
18. YAMIKANI PHIRI V. JONATHAN DAKA AND ELECTORAL COMMISSION OF ZAMBIA (2021/HP/EP/034).
19. ENOCK KAYWALA MUNDIA V. WAMUNYIMA IMANGA AND ELECTORAL COMMISSION OF ZAMBIA (2021/HP/EP/032).
20. SIBONGILE MWAMBA V. KELVIN M. SAMPA AND ELECTORAL COMMISSION OF ZAMBIA, CCZ APPEAL NO. 2 OF 2017.

OTHER WORKS REFERRED TO

1. HALSBURY'S LAWS OF ENGLAND, 5TH EDITION, VOLUME 38A, ELECTIONS AND REFERENDUMS, PART 3 (LONDON: LEXISNEXIS, 2013), PARAGRAPH 667

1.0 INTRODUCTION

1.1 This petition challenges the parliamentary election held in Ndola Central Constituency on 13th August 2026. The Petitioner, Frank Museba Tayali, contested the seat on the

United Party for National Development (UPND) ticket. The 1st Respondent, Emmanuel Mulenga, stood for the Resolute Party (RP) and was declared duly elected with 11,659 votes. The Petitioner polled 10,840 votes, Joseph Chilinda of the NRPUP polled 5,469 votes, and Charles Ngeesa of the Reasoning Assurance Party (RAP) polled 89 votes. The margin between the Petitioner and the 1st Respondent was therefore 819 votes.

1.2 Dissatisfied with that result, the Petitioner filed this petition on 28th August 2026, seeking, among other reliefs, a declaration that the 1st Respondent's election was null and void.

2.0 The Petition and affidavit verifying facts

2.1 The Petition alleged that the 1st Respondent, personally and through his election agents and cadres, committed illegal practices, misconduct, and undue influence contrary to section 83 of the Electoral Process Act No. 35 of 2016. The Petitioner claimed that the 1st Respondent's supporters engaged in violence, intimidation, and canvassing within polling station precincts on election day, which disrupted the voting process and prevented voters from freely exercising their right to vote.

2.2 The pleaded incidents concerned Chibolele Combined School, Nkwazi Primary School and other polling stations in Mapalo and Nkwazi wards. They included stone throwing, disruption of counting and interference with polling agents. Against the Electoral Commission of Zambia, the 2nd Respondent, the

Petitioner alleged personation and denial of access to GEN 20 forms. He sought the following reliefs:

2.2.1 The 1st Respondent was not duly elected or returned;

2.2.2 The election of the 1st Respondent be declared null and void;

2.2.3 The 1st Respondent's seat be vacated;

2.2.4 A recount of votes and a declaration that the Petitioner was duly elected;

2.2.5 The 1st and 2nd Respondents did commit multiple and widespread electoral offences and/or breaches; and

2.2.6 An order that the Respondents bear the costs of the Petition

2.3 The affidavit verifying the facts was sworn by the Petitioner, Frank Museba Tayali, who adopted the contents of the Petition, which I shall not repeat in detail. He produced the notice of nominated candidates and the declaration of results, marked "FMT1" and "FMT2", respectively. In support of the alleged electoral malpractices, he exhibited video footage and an extract from the Zambia Police Service occurrence book, collectively marked "FMT3", together with medical and police reports relating to the alleged assaults upon his supporters, marked "FMT4", "FMT5" and "FMT6". He averred that the violence was perpetrated by the 1st Respondent's election agents and cadres with his knowledge and consent, creating a tense atmosphere unconducive to the free conduct of elections.

2.4 He further stated that the 2nd Respondent suspended the counting of votes at polling stations and at Kansenshi Secondary School, the constituency totalling centre, and exhibited the suspension letter marked "FMT7". The Petitioner maintained that the scale of the violence during the campaign period, on polling day and during the counting of votes prevented the majority of voters from electing their preferred candidate, particularly himself.

3.0 The Petitioner's skeleton arguments

3.1 In his skeleton arguments, the Petitioner addressed the competence and merits of the Petition under sections 96 to 99 of the Electoral Process Act No. 35 of 2016 and rule 9 of the High Court (Election Petition) Rules, 2026. He relied in particular on section 97(2), read with sections 83(1) and 89(1), as the basis for the reliefs sought.

3.2 The Petitioner relied on **Bowman Lusambo v. Bernard Kanengo and Electoral Commission of Zambia**[1], **Nkandu Luo and Electoral Commission of Zambia v. Doreen Sefuke Mwamba and Attorney-General**[2], **Steven Masumba v. Elliot Kamondo**[3], **Mwiya Mutapwe v. Shomeno Dominic**[4], **Akashambatwa Mbikusita Lewanika and Others v. Frederick Jacob Titus Chiluba**[5] and **Richwell Siamunene v. Sialubalo Gift**[6]. He submitted that the threshold under section 97(2) had been met and emphasised the margin of 819

votes between him and the Respondent was minimal. He contended that the 1st Respondent and his agents and cadres, including Mr. Christopher Kang'ombe, committed illegal practices and misconduct with the 1st Respondent's knowledge and consent. He accordingly urged the Court to allow the Petition.

4.0 THE 1ST RESPONDENT'S ANSWER AND AFFIDAVIT IN OPPOSITION

4.1 The 1st Respondent filed his Answer to the Petition on 11th September 2026 in which he denied all allegations of electoral malpractice, illegal practices, intimidation, violence, manipulation and non-compliance. He maintained that he was duly elected with the highest number of valid votes and that the Petitioner bore the burden of proving the allegations and establishing the statutory requirements for avoiding an election.

4.2 The 1st Respondent further denied unduly influencing voters, acting violently or disorderly, or canvassing at Provost Polling Station. He denied visiting Chibolele Combined School with hooligans, stating that he went only to vote, spent less than twenty minutes, and was accompanied by three persons in a peaceful visit. The 1st Respondent denied the presence of Zambia Army officers and any violence before polls closed. He denied that his agent at Nkwazi Primary School acted violently,

stating that only one agent was deployed and the station was manned by police. He denied that any agents fled polling stations in Mapalo or Nkwazi, averring that all agents, including the Petitioner's, signed the GEN 20 forms.

4.3 Regarding suspension of results, the 1st Respondent stated that it was a nationwide administrative measure that was imposed after voting, counting and recording on GEN 20 forms. He denied that the Returning Officer was removed or that ballots were left unattended, stating that the centre was sealed and secured by the Army and Police. He denied deploying agents to canvass near polling stations and denied preventing the Petitioner or his agents from monitoring the process. He denied the Sheila Dare violence allegations, averring that it was the Petitioner's supporters who attacked his command centre, and that he lodged a complaint with the 2nd Respondent which convened a stakeholders' meeting and resolved the matter. He contended that the absence of a polling agent's signature on a results form did not by itself invalidate the results.

4.4 The 1st Respondent contended that the election was conducted substantially in accordance with the law and that the Petitioner bore the burden of proving misconduct and the requisite statutory nexus to him or his authorised agents. He relied on the statutory protection where an election is

conducted substantially in accordance with the law and any impugned act did not affect the result. He prayed that the Petition be dismissed with costs and that his election be declared valid and lawful.

4.5 The 1st Respondent's affidavit in opposition substantially repeated his Answer. He maintained that it was the Petitioner's supporters who attacked his command centre in Yengwe Ward on 30th June 2026 and disputed the attribution of the injuries recorded in exhibits "FMT4" to "FMT6" to his supporters. He produced video footage of the incident and complaint letters to the 2nd Respondent, marked "EM2".

4.6 He stated that he was present at a stakeholder meeting when the Petitioner's agent, Mr. Munsaka, requested GEN 20 forms and copies were availed by the 2nd Respondent. He denied that the alleged incidents prevented the electorate from freely choosing their preferred candidate.

5.0 THE 1ST RESPONDENT'S SKELETON ARGUMENTS

5.1 The 1st Respondent maintained that he was lawfully and validly elected. It was submitted that where misconduct was alleged against persons other than the 1st Respondent personally, the Petitioner had to establish not only that the alleged acts occurred but also the factual and legal basis upon which those acts were attributable to the 1st Respondent.

5.2 It was added that as required by law the burden lay upon the Petitioner to prove the allegations, the effect of the proved conduct upon the election and its result. The 1st Respondent denied that any person appearing in the video relied upon by the Petitioner was acting upon his instructions or authority merely because that person may have supported his candidature.

5.3 As to the GEN 20 forms, the 1st Respondent submitted that their custody and distribution were matters for the 2nd Respondent and its presiding officers, over whom he exercised no control. He relied on section 97(2) of the Electoral Process Act and on **Steven Masumba v. Elliot Kamondo**[3], **Nkandu Luo and Another v. Mwamba and Another**[2] and **Mwiya Mutapwe v. Shomeno Dominic**[4] to distinguish proof of an alleged irregularity from proof of a statutory ground for nullifying an election.

5.4 On the relief of a recount, the 1st Respondent submitted that such relief ought not to be granted merely to permit a party to search for evidence capable of supporting allegations already pleaded, and that a recount should not be ordered in the absence of a sufficient evidential basis identifying the relevant discrepancies or polling stations. The submissions also addressed the Court on the standard of proof in election petitions, which was higher than that required in an ordinary

civil action but lower than the standard of beyond reasonable doubt, and that the evidence adduced had to prove the issues raised to a fairly high degree of convincing clarity.

5.5 The 1st Respondent maintained that the election was conducted substantially in accordance with the applicable constitutional and electoral framework and that the votes credited to him were validly cast and counted. He prayed that the Petition be dismissed and that he be awarded his costs.

6.0 THE 2ND RESPONDENT'S ANSWER AND AFFIDAVIT IN OPPOSITION

6.1 The 2nd Respondent filed its Answer on 9th September 2026 where it stated that it was responsible for conducting elections in accordance with the Electoral Process Act and the Constitution. It stated that the incidents at Chibolele Combined School and Nkwazi Primary School were not reported or brought to its attention and denied witnessing the violence, stating that the polling stations were properly manned by Zambia Police. It stated that the Returning Officer, Mr. Fredrick Musonda, was never removed from the totalling centre and that ballot boxes were never left unattended. It stated that the contents of the allegations relating to the Sheila Dare incident were within the Petitioner's knowledge as they were not reported to the 2nd Respondent.

6.2 The 2nd Respondent denied the assertions relating to illegal practices in respect of the poll, stating that it did not receive any report of violence. It denied the assertions of non-compliance with the Electoral Process Act and the Electoral Code of Conduct, stating that it conducted the elections in accordance with the laid down procedure. The 2nd Respondent denied the disenfranchisement of Mr. Mataa Edgar and averred that all registered voters were allowed to vote upon presenting their National Registration Card and Voters Card.

6.3 The 2nd Respondent denied that the Petitioner's polling agents were denied access to GEN 20 forms at Riverside 3, Lutembwe, ZICT Luangwa 1, Chibolele 3, Kansenshi New Apostolic Church and Lutembwe 1, averring that all polling agents were given access without limitation. It denied that there was material and deliberate breach of the electoral code and averred that the elections were properly conducted in accordance with the law and established regulations.

6.4 The 2nd Respondent's affidavit in opposition, sworn by Fredrick Musonda, the Returning Officer for Ndola Constituency, deposed that the purported electoral malpractices were not brought to the 2nd Respondent's attention and that, as far as he was aware, the elections were conducted free and fair.

6.5 He stated that voters voted freely and that the results were properly transmitted to the totalling centre where they were

verified before announcement. He deposed that the purported suspension was not due to violent incidences at his totalling centre but was an administrative directive from the Commission due to violence in other parts of the country away from Ndola Central. He added that it was for a short period, and that it did not affect the outcome as people had already voted. He produced the GEN 20 form and the record of proceedings showing the results obtained by each candidate marked "**FM1**".

7.0 THE 2ND RESPONDENT'S SKELETON ARGUMENTS

7.1 The 2nd Respondent submitted that the 1st Respondent was lawfully declared as the winner after all the formalities were duly completed and complied with prior to the announcement of the winner. The elections were conducted in accordance with the Constitution, the Electoral Process Act and all applicable regulations.

7.2 The 2nd Respondent submitted that only voters registered and appearing on the polling register were allowed to vote and that there was no personation of voters as alleged. The polling staff checked all the details before a person cast their vote, including the names on the register, the voter's card and the National Registration Card. The results were collected properly and no error occurred as alleged. It was added that all candidates were given an opportunity to campaign freely in

accordance with the 2nd Respondent's timetable, and the 2nd Respondent did not receive any report of violence during the campaign period.

7.3 The 2nd Respondent relied on **Enock Maseka Kaleka v. Carlos Jose Antonio and Electoral Commission of Zambia**[12] and **Vincent Isaiah Mwale v. Eustarckio Kazonga and Electoral Commission of Zambia**[13]. It maintained that the allegations had not been proved and urged the Court to dismiss the Petition.

8.0 THE PETITIONER'S REPLY AND AFFIDAVIT IN SUPPORT

8.1 The Petitioner avowed that at no point did he or his election agents attack the 1st Respondent's command centre or his campaign team. He maintained that the violence on 30th June 2026 was instigated by the 1st Respondent's cadres. With respect to the contention that the Petitioner's polling agents refused to sign results forms, the Petitioner stated that his polling agents were denied access to GEN 20 forms and that at no point did they decline to sign results forms.

8.2 The Petitioner stated that the 1st Respondent personally, or through his election agents, Mr. Christopher Kang'ombe Jr., as well as his supporters and cadres, committed electoral malpractices of violence and intimidation prior to and during the polling period. He averred that the election was not

conducted in a free and fair manner as the 1st Respondent, personally or through his agents with his active knowledge and consent, canvassed for votes and induced voters on 13th August 2026. The Petitioner maintained that the atmosphere in Ndola Central Constituency was not conducive for free and fair elections and that one of the reasons for the nationwide suspension of results was the electoral malpractice and violence caused by the 1st Respondent.

9.0 THE PETITIONER'S CASE

9.1 The Petitioner, **Frank Museba Tayali**, appeared as **PW1**. The witness statement filed into Court restated the contents of the Petition and the affidavit verifying facts. He further stated that he was dissatisfied with the result of the election because of the many electoral breaches committed by the 1st and 2nd Respondents, and averred that there were serious electoral malpractice, misconduct, and illegal practices in Mapalo and Nkwazi wards.

9.2 It was the testimony of PW1 that he was informed by Maron Chibuye that the 1st Respondent's agents stormed Nkwazi Primary School Polling Station and disrupted voting with violence, and by Sandra Bwale that in Mapalo and Nkwazi wards the 1st Respondent's agents caused confusion which led polling agents to abandon polling points and leave ballot papers unattended.

9.3 PW1 recounted that as a result of the disruption, Zambia Army soldiers were deployed to Chibolele Combined School Polling Station, which had nine polling districts, and fired warning shots to disperse the 1st Respondent's violent cadres, which further scared away voters. He stated that upon noticing the violence and confusion, he sent a WhatsApp message to the Chairperson of the 2nd Respondent, which resulted in the suspension of the announcement of results. PW1 stated that the Returning Officer, Mr. Fredrick Musonda, was removed from the totalling centre by the 2nd Respondent, leaving ballot boxes unattended, and that ballot papers from Mapalo and Nkwazi were waylaid and tampered with by the 1st Respondent's cadres, a fact he became aware of through Carol Namushi.

9.4 PW1 stated that he was informed by Maron Chibuye that on 13th August 2026 at about 11:00 hours, the 1st Respondent chanted "*Tuleya na Mulenga*" within ten metres of Nkwazi Primary School Polling Station while voters were in the queues. PW1 recounted that on 30th June 2026, a date specifically allocated to him by the 2nd Respondent for campaign activities in Yengwe Ward, his agents, while lawfully erecting campaign posters near Executive Lodge premises at the Sheila Dare and Chiwangala Road junction, were violently attacked, assaulted, and injured with stones and other dangerous weapons by the 1st Respondent's election agent, Christopher Kang'ombe Jr,

and his entourage. He testified that he saw the 1st Respondent's cadres throw stones and damage his Toyota Land Cruiser, registration number BLC 8727, on the left door window, and that his polling agents were denied access to Chibolele Combined School Polling Station.

9.5 PW1 recounted that due to the violence at Sheila Dare, Chiwangala Road junction and at Chibolele Combined School polling station, he personally engaged security personnel who carried out searches and found unruly persons believed to have been engaged by the 1st Respondent in possession of offensive weapons such as tasers, machetes, and knives. He stated that he was informed by Chanda Prisca that Christopher Kang'ombe Jr, in the company of more than fifteen disorderly and violent male cadres, entered the precincts of Mutobolyo 3 polling station where voters were queued and acted in an extremely disorderly and violent manner, causing many voters to disperse.

9.6 He stated that he was informed by Cecilia Mwaluka that at Depot 1 polling district in Mapalo Ward, Christopher Kang'ombe Jr stormed the polling station and behaved in a disorderly and violent manner, leading to an altercation with the 2nd Respondent's officials which caused voters to leave for fear of violence. PW1 recounted that he was informed by Beatrice Mwale that on 13th August 2026 around 16:30 hours,

the 1st Respondent, in the company of a horde of cadres in a blue Toyota Hiace, registration number BLA 3364, entered the precincts of Chibolele Combined School polling station, and that the cadres disembarked and acted in an extremely disorderly and violent manner while chanting that the 1st Respondent had already won, leading to the majority of voters shunning away from voting.

9.7 It was the testimony of PW1 that there was non-compliance on the part of the 2nd Respondent in that the Electoral Commission of Zambia was guilty of personation. He stated that he was informed by Mr. Mataa Edgar that on 13th August 2026 around 11:30 hours at Provost Polling Station, he presented himself to vote but was informed by the Presiding Officer that a vote had already been cast in his name, and that an investigation revealed that the remaining slip where a voter's card number is recorded showed that no such voter's card number had been recorded, by reason of which Mr. Mataa was disenfranchised.

9.8 PW1 stated that on 14th August 2026 around 03:00 hours in Nkwazi Ward at Riverside 3 polling district, the presiding officer acting on behalf of the 2nd Respondent denied his polling agents access to the GEN 20 forms, a fact he learnt through Bridget Mwape. He stated that he became aware through Edgar Masasa that the presiding officer denied his

polling agents GEN 20 forms at ZICT Luangwa 1 Polling Station, through Jester Musalabanya that his agents were denied access at Chibolele 3, through Chimbala Albert that they were denied access at Kansenshi Ward New Apostolic Church polling station, and through Barbra Mulenga that they were denied access at Lutembwe 1 in Mapalo Ward.

9.9 PW1 stated that the 2nd Respondent failed and neglected to avail his polling agents with GEN 20 forms and denied them access in order to verify the figures after the 1st Respondent's agents, by means of violence and threats, forced his polling agents to abandon the polling room, leaving behind unsecured ballot boxes. He accordingly sought the reliefs in his petition and that the Ndola Central Constituency seat be declared vacant.

9.10 PW1 sought to rely on video evidence stored on his iPhone 16 and sought to introduce an affidavit in support of an inter-party summons for a recount of votes filed on 23rd September 2026. The Court allowed him to rely on any evidence pertaining to a recount, but the application for a recount was denied.

9.11 In cross-examination, PW1 conceded that much of the information in his statement was based on what he had been informed by two individuals, Marron Chibuye and Sandra

Bwalya, rather than on his own personal observation. He maintained that he had personally seen the 1st Respondent in the company of Mr. Christopher Kang'ombe. He admitted that he had not responded to complaints written by the 1st Respondent to the 2nd Respondent regarding alleged campaign disruptions.

9.12 When questioned on voter turnout, PW1 conceded that in Nkwazi Ward, where he alleged violence, the turnout was higher than in areas such as Kansenshi and Northrise, where he claimed there had been peace. He agreed that in Nkwazi Community Centre the turnout was approximately fifty per cent (50%), while in Nkwazi Primary School it was seventy-four point six per cent (74.6%), and that in Kansenshi Combined School the turnout was forty-four point eight per cent (44.8%). He maintained that the violence had affected the election.

9.13 PW1 was cross-examined on the video recording of the incident at the 1st Respondent's campaign command post on Sheila Dare Road. He admitted that he had appeared on Radio Icengelo and spoken about keeping an eye on a house in Northrise where thugs were allegedly being kept. He initially claimed that he did not know the exact location of the house, but later conceded that it was on Sheila Dare. He stated that his remarks were figurative and denied involvement in any confrontation.

9.14 PW1 was cross-examined regarding a WhatsApp message he sent to the 1st Respondent on 13th August 2026 in which he stated that he would sort him out once and for all and told him to get ready, set and go. He explained that the message was a pursuit of justice and denied that it was a threat. He admitted that he had not pleaded the fact that he had been attacked and escaped by a whisker in his petition or witness statement.

9.15 Regarding the gunshots fired on the night of 13th August 2026, PW1 maintained that the Zambia Army fired warning shots to disperse unruly youths and that this disrupted the counting of votes. The witness conceded that he was outside the polling station and did not personally witness the counting stop, relying on information from his agents and from Carol Namushi, a presiding officer, who stated that counting had continued after the soldiers restored calm.

9.16 PW1 maintained that his polling agents were denied access to GEN 20 forms at several polling stations, including Riverside 3, Luntembwe, ZICT Luangwa 1 and Chibolele. He admitted that he had not listed all seventy-four (74) polling stations and that he had not lodged any official complaint with the 2nd Respondent regarding the alleged violence. He maintained that his Facebook post appearing to concede defeat was misconstrued and that he had used the word "appear" to indicate a provisional conclusion. PW1 confirmed that he was

the incumbent Member of Parliament and had access to the Electoral Commission Chairperson, whom he contacted via WhatsApp on the morning of 14th August 2026. He maintained that he had raised an alarm about the deteriorating security situation which prompted the deployment of soldiers.

9.17 When questioned on the final declaration of results and the record of proceedings, PW1 maintained that no one from the UPND had signed the declaration of results and that Teddy Monde, who signed as representing the UPND, was not his election agent. He admitted that he had not raised this issue in his Petition and that the evidence he had brought related to events after the elections.

9.18 In re-examination, PW1 maintained that neither he nor any of his agents had signed the declaration of results and reiterated the incidence of stones being thrown at Chibolele polling station.

9.19 **PW2**, **Edgar Masasa**, testified that he was a polling agent for the UPND at ZICT Luangwa. It was his testimony that on 14th August 2026, after the completion of the counting of the ballot papers and the announcing of results, he requested a copy of the GEN 20 forms in order to verify the results on the forms against what was being declared. He stated that he was denied access to the forms by the presiding officer acting on behalf of the 2nd Respondent.

9.20 In cross-examination, he confirmed that upon the close of polls the ballot boxes were displayed before all polling agents, and that the presiding officer conducted the count in the presence of all stakeholders, each ballot paper was shown to those present, and he kept an independent record. PW2 confirmed that he signed the GEN 20 form after the count but maintained that he was denied a copy of the form. He conceded that he had not raised any query with the presiding officer regarding the count and had not stated in his witness statement that he was dissatisfied with the tallying. He also conceded that he had not mentioned being denied the opportunity to take a photograph of the form.

9.21 **PW3**, **Bridget Mwape**, testified that she was a polling agent for the UPND at Riverside 3 of Nkwazi Primary Polling Station. Her evidence was more or less a repetition of that of PW2.

9.22 In cross-examination, PW3 confirmed that she kept an independent record and signed the GEN 20 form, and conceded that she had not raised any concern with the figures. When referred to the GEN 20 form for Riverside 3 in the 1st Respondent's bundle, PW3 confirmed that her signature appeared on it. She maintained that she was denied a copy of the form and that all the agents at Riverside 3 were not given the forms. In re-examination, she clarified that she was rushed to sign before seeing the results.

9.23 **PW4**, **Chanda Prisca Musonda**, testified that she was a polling agent for the UPND at Mutobolyo 3 polling station in Mapalo Ward. She stated that while in the queue to vote, she noticed that the Electoral Commission of Zambia had not provided a police officer to help keep the peace. She stated that she saw Mr. Christopher Kang'ombe Jr., who came driving a white Toyota Land Cruiser Double Cab, registration number BAT 4338 ZM, the 1st Respondent's election agent, in the company of more than fifteen other disorderly and violent male cadres of the 1st Respondent. PW4 added that they entered the precincts of Mutobolyo 3 polling station in Mapalo Ward where voters were queued up for voting, and caused the election agents to act in a disorderly and violent manner, causing voters to disperse and be prevented from casting votes for their preferred candidate, the Petitioner inclusive.

9.24 In cross-examination, PW4 confirmed that she was a UPND supporter and maintained that she saw Mr. Christopher Kang'ombe and more than fifteen disorderly and violent male cadres enter the polling station. She conceded that she had not described what these people actually did and admitted that she had no photographs, videos or names of the voters who allegedly left. She stated that she did not know how many people returned. She also stated that the events in her witness statement related to the 2nd Respondent because the Electoral

Commission of Zambia had failed to provide an officer to stand by the door.

9.25 **PW5**, **Cecilia Mwaluka**, testified that she was a polling agent for the UPND at Depot polling station in Mapalo Ward. She stated that while in the voting queue on 13th August 2026 around 06:30 hours, Mr. Christopher Kangombe Jr., the 1st Respondent's election agent, in the company of other cadres, stormed Depot 1 polling station and behaved in an extremely disorderly and violent manner, leading to an altercation with Electoral Commission of Zambia officials which caused some of the voters then present to leave for fear of violence erupting at the polling district.

9.26 In cross-examination, PW5 confirmed that she was a UPND supporter and maintained that Mr. Christopher Kang'ombe came to the polling station and had a verbal altercation with Electoral Commission of Zambia officials. She stated that young men were throwing stones from behind the voting place and conceded that the violence she referred to was an anticipation of violence rather than actual violence. She maintained that people left because of the confusion, though she could not say how many.

9.27 **PW6**, **Beatrice Mwale**, testified that she was a voter at Council Depot polling station. She testified that on 13th August 2026, she was at Chibolele polling station around 16:30 hours when

she saw the 1st Respondent in the company of a horde of his cadres in a blue Toyota Hiace, registration number BLA 3364. PW6 added that the vehicle was being driven by Mr. Christopher Kang'ombe Jr., and that when they disembarked from the motor vehicle, they acted in an extremely disorderly and violent manner whilst chanting that the 1st Respondent had already won the poll. It was her testimony that the said behaviour led to the majority of voters shunning away from voting, including from voting for the Petitioner.

9.28 In cross-examination, PW6 confirmed that she was a UPND sympathiser and maintained that she saw the 1st Respondent and Mr. Christopher Kang'ombe at Chibolele around 16:30 hours and that they had come in a blue Toyota Hiace. She maintained that she saw a horde of cadres, which she clarified meant more than ten cadres, and that they were chanting that the 1st Respondent had already won. She conceded that she had not mentioned in her witness statement that the cadres were shouting that it was "on the bag, big Mule." She admitted that she did not know whether people returned to vote.

9.29 **PW7**, **Agiyut Chimaninine**, stated that on 30th June 2026, in Yengwe Ward, he was violently attacked, assaulted and injured with stones and other dangerous weapons while he was lawfully erecting campaign posters near Executive Lodge premises on Sheila Dare Road. PW7 testified that he was

attacked by the 1st Respondent's election agent, Christopher Kang'ombe Jr., and his entourage of cadres who were present in the area in violation of the Electoral Commission of Zambia calendar.

9.30 In cross-examination, PW7 confirmed that Sheila Dare Road was in Yengwe Ward and that the RP command centre was at the end of the road. He maintained that he did not know that the command centre was there before he went to erect posters and denied that his party took the fight to the command centre. PW7 maintained that he was attacked and sustained an injury to the back of his head, and that he went to Kansenshi Police Station and Central Hospital. When it was put to him that there was no medical report from the hospital before the Court, he stated that he did not know why.

9.31 **PW8**, **Jester Musalabanya**, testified that she was a polling agent for the UPND at Chibolele Combined School. Her testimony was a repetition of that of PW2 and PW3.

9.32 In cross-examination, she stated that there was no violence at the polling station but that there was confusion during the counting because the young men counting were too fast and that one ballot paper supposed to go to the Petitioner was initially counted for the 1st Respondent but was corrected. She stated that she did not know whether she signed the GEN 20 form because they were not given the forms.

9.33 **PW9**, **Patra Mulenga**, testified that she was a polling agent for the UPND at Bread of Life polling station in Lutembwe Ward, Mapalo.

9.34 In cross-examination, PW9 confirmed that she was inside the polling station and stated that the people she claimed were RP supporters were not wearing party regalia but that she knew them from what they were saying. She maintained that the RP supporters chased the UPND supporters and that the elderly began to leave. She stated that she did not see the 1st Respondent telling the cadres to behave in the way they did. PW9 confirmed that she was part of the counting and wrote down some results but not all because the presiding officer was too fast. She stated that she did not sign the GEN 20 form because they were not given the forms.

9.35 **PW10**, **Albert Chimbale**, testified that he was a polling agent for the UPND at New Apostolic Church in Kansenshi. He told the Court that when they finished counting the ballot papers around 02:00 to 03:00 hours on 14th August 2026, they requested the presiding officer for GEN 20 forms but he denied them access.

9.36 In cross-examination, the witness stated that he was supposed to keep a separate tabulation of the results but that the presiding officer did not give him the GEN 20 form. PW10

stated that he did not see the form and that no one from his party signed it. He asserted that the results announced at his polling station were different from those he had privately tabulated, but when asked what numbers he had tabulated, he stated that he did not write them down and could not remember.

9.37 **PW11**, **Eliya Machiko**, a campaign volunteer for the UPND, recalled being injured on 30th June 2026 during the campaign period along the Sheila Dare and Chiwamangala Road junction near Executive Lodge. She told the Court that she saw a white Toyota Land Cruiser Double Cab, registration number BAT 4338 ZM, being driven by Mr. Christopher Kang'ombe, who was with a number of unruly youths, including one known as Booster.

9.38 PW11 testified that she also saw a white Toyota Hiace Minibus, registration number BAR 7728 ZM, loaded with about twenty unruly youths. She stated that they were ordered by Mr. Kang'ombe to stop what they were doing, and that when they tried to justify their presence and work in the area, the youths started beating them with stones and wooden planks, as a consequence of which she sustained body cuts and bruises.

9.39 In cross-examination, PW11 confirmed that the injury occurred approximately a month and a half before the elections and that she was injured on the side of her right eye.

She stated that she reported the matter to a male police officer. When referred to the medical form, she maintained that the officer who attended to her was a man, not a woman as recorded. She explained that she fainted after being injured and was taken to the hospital and later went to the police. She stated that she did not report the incident to the 2nd Respondent.

9.40 **PW12**, **Susan Mukuka**, testified that she was a voter at Chibolele Combined School. She told the Court that whilst on the line, there was confusion and commotion which was caused by the 1st Respondent's agents and cadres in his presence. She stated that his cadres or youths were showing the "*pa chola*" symbol, while some were throwing stones from outside the gate. She stated that a huge number of people, including herself, scampered for safety and went home without voting.

9.41 In cross-examination, PW12 confirmed that she was not a UPND supporter and had gone to vote. She stated that she saw the 1st Respondent wearing a blue golf t-shirt and cream white trousers and confirmed that there was commotion at the polling station and that stones were thrown from outside the gate. PW12 stated that the confusion started after the 1st Respondent left and that his people began making noise and throwing stones, but conceded that she did not see the person

throwing the stones. She stated that she did not report the matter to the police and that the confusion was not caused by the 2nd Respondent.

9.42 **PW13**, **Joshua Mofya**, a campaign volunteer for the UPND testified that he was attacked on 30th June 2026 at Sheila Dare. His testimony was more or less a repetition of that of PW11.

9.43 In cross-examination, he stated that he went to Ndola Teaching Hospital after the attack and was attended to and issued with a medical report. When referred to the Petitioner's bundle, he was unable to locate the medical report from the hospital and could only find the police report. He confirmed that he did not report the incident to the 2nd Respondent. He also confirmed seeing a woman wearing UPND regalia holding a bamboo stick in the video of the incident.

9.44 **PW14**, **Damon Sichimata**, testified that he went to Nkwazi Primary School to vote. He stated that he found commotion caused by the 1st Respondent's cadres who were chanting "*Big Emma, tuleya na Mulenga and pa chola fye*". He added that they later started throwing stones, causing people to scamper for safety. He also left for the sake of his safety, and that was why he did not vote.

9.45 In cross-examination, PW14 confirmed that he was not a UPND supporter but had a preferred candidate who won the election. He stated that he saw young men throwing stones over the wall fence and left the queue after about three or four minutes. He confirmed that he did not report the matter to the police or to the 2nd Respondent and that officers of the 2nd Respondent were not involved in the throwing of stones.

9.46 **PW15**, **Lewis Chama**, testified that he went to Nkwazi Primary School to vote and found commotion inside. His testimony was more or less a repetition of that of PW14.

9.47 In cross-examination, PW15 confirmed that he was not a UPND supporter and that his preferred candidate won. He stated that he saw young men throwing stones from outside the wall fence and left the polling station. He confirmed that he did not see the people throwing stones and did not report the matter to the police or to the 2nd Respondent.

9.48 **PW16**, **Geoffrey Chewe**, testified that he witnessed the events at Nkwazi Primary School. His testimony was more or less the same as that of PW14 and PW15.

9.49 In cross-examination, PW16 confirmed that he was not a cadre of the Petitioner but had been called by the Petitioner to testify. He stated that the people shouting "*Big Mule*" and "*Ni pa chola fye*" were cadres of the 1st Respondent. He confirmed that he

left the queue after stones were thrown. He stated that the people throwing stones were encouraging voters to vote for the 1st Respondent and agreed that it did not make sense for them to throw stones at the voters they were encouraging.

9.50 **PW17**, **Edgar Muhau Mataa**, testified that on 13th August 2026, he went to vote at Provost Polling Station but that the presiding officer told him that he could not vote because he had allegedly already voted. PW17 stated that the 2nd Respondent was thus guilty of the illegal practice of personation, and that he went to report the matter at Kansenshi Police Station.

9.51 He stated that a thorough investigation revealed that the remaining slip where his voter's card number was to be recorded as proof of having personally appeared to cast a vote did not disclose this information, and that his voter's card number had not been recorded. He stated that by reason of the foregoing he was nearly disenfranchised and prevented from casting his vote, but the District Electoral Officer, the Town Clerk, made arrangements for him to cast his vote at around 18:45 hours.

9.52 In cross-examination, PW17 confirmed that he was nearly disenfranchised but eventually voted in the evening. He stated that he reported the matter to the presiding officer, who told him that he had already voted, and that he did not fill out a

complaint form. PW17 confirmed that his grievance was directed towards the 2nd Respondent. He stated that he reported the matter to the police and that the issue was resolved. He confirmed that he and one other person at the same polling station experienced a similar challenge and that both were allowed to vote.

9.53 **PW18**, **Carol Namushi**, a presiding officer at Ntumbachushi Polling District, testified that she closed the polling district at 18:00 hours on 13th August 2026 and started preparing to count votes. PW18 stated that there was quite some noise which they could hear, and stones were being pelted at the roof of the classroom where they were operating from, with loud chants of "*Big Mule*" and "*Pa Chola fye-Big Mule na wina*", which appeared to have continued during the count for councillor and even the mayoral count.

9.54 PW18 stated that when they started counting the parliamentary votes, there was a sudden rush of people into the classroom where they were operating from which made it impossible to continue totalling the ballots. She stated that she could not protect the ballot papers and that some ballot papers were found on the floor and she had fear of some serious mis-posting of ballots. PW18 stated that it took some warning shots being fired by the Zambia Army around 21:00 hours to disperse the unruly youths, and that with the arrival

of the soldiers they continued counting with relative calm and managed to finish the parliamentary vote amidst threats of "*ngatawine Big Mule tamwafume*".

9.55 In cross-examination, PW18 stated that she was scared of mis-posting ballot papers because people rushed into the classroom where she was counting after hearing gunshots. She confirmed that the police were present but did not arrest anyone and that she continued counting after the soldiers arrived and restored relative calm. She confirmed that she did not report the matter to the police or to the 2nd Respondent in writing.

9.56 **PW19**, **Sandra Bwale**, a polling staff at Ntumbachushi 3, testified about the events at her polling station. Her testimony was more or less a repetition of that of PW18.

9.57 In cross-examination, PW19 confirmed that she was inside the polling district when the Zambia Army officers came and that she and her colleagues locked themselves in a classroom for security reasons. PW19 confirmed that people used force to enter the classroom upon hearing gunshots and that the police officers present did not arrest anyone. The witness confirmed that she did not register any complaint with the 2nd Respondent or the police and did not inform the other candidates about the violence. PW19 confirmed that there was confusion during the counting and that there were mis-

postings of ballot papers. The witness confirmed that the number of registered voters at her polling district was 928, which matched the number of ballot papers received.

9.58 **PW20**, **Fortune Mofya**, testified that he was a polling agent for the UPND at Luangwa 1 in Nkwazi Ward. He told the Court that after they finished counting the ballot papers on 14th August 2026, he and his colleague Edgar Masasa asked for the GEN 20 forms, but the presiding officer acting on behalf of the 2nd Respondent refused to give them.

9.59 In cross-examination, PW20 confirmed that he and Edgar Masasa had equal responsibilities and maintained that they requested a GEN 20 form and were denied. When referred to the GEN 20 form for Luangwa Ward, he confirmed that Edgar Masasa's name and signature appeared on it. The witness confirmed that he left the polling station for twenty to thirty minutes to go to the toilet while counting was ongoing and returned and continued with the counting. PW20 stated that he did not sign the GEN 20 form but that Edgar Masasa signed on behalf of the UPND. PW20 conceded that he had not stated in his witness statement that the results announced by the presiding officer differed from those on the GEN 20 form. This marked the close of the Petitioner's case.

10.0 THE 1ST RESPONDENT'S CASE

10.1 **RW1** was **Precious Mwaba**, a polling agent for the Resolute Party at ICT College, Luangwa 1. She testified that the polling agents were given the GEN 20 forms and were allowed to verify the figures, and that when they asked for copies to carry, the 2nd Respondent informed them that there were not enough copies but that they were permitted to take photographs of the forms.

10.2 In cross-examination, RW1 confirmed that she was a polling agent for the Resolute Party and that her duty was to represent the 1st Respondent's interests. She stated that she was allowed to use her phones to take pictures after the voting. RW1 conceded that she had not brought any other evidence to verify her allegation that they were permitted to capture the forms. She also confirmed that no UPND agent signed the GEN 20 form for Luangwa 2. RW1 confirmed that she was trained and was supposed to receive a carbon copy of the GEN 20 form, and agreed that the failure to provide a hard copy infringed the rights of the polling agents.

10.3 **RW2**, **Chola Katilungu**, testified that he was a polling agent for the Resolute Party at Ndola Trust Provost 1. He stated that throughout the voting process he witnessed no violence, threats, or intimidation, as voters cast their ballots freely and peacefully. He stated that he did not step out of the school hall

to canvass for votes at any point as alleged by the Petitioner. RW2 testified that he was given the opportunity to review the recorded figures on the GEN 20 form. He stated that he found the figures to be correct, signed the form along with all other polling agents, including the Petitioner's agent, and that upon appending their signatures the presiding officer went on to announce the results recorded on the GEN 20 form to the public.

10.4 In cross-examination, RW2 stated that he was not aware of any complaint by a person named Edgar Mataa regarding someone having voted on his name. He confirmed that he signed the GEN 20 form at the conclusion of the tallying and stated that he had no evidence before the Court to show that the UPND agents signed the GEN 20 forms. He confirmed that he was inside the school hall and could not see what was happening outside, and that he did not see the 1st Respondent displaying party regalia or canvassing for votes. RW2 confirmed that he did not see Christopher Kang'ombe or Chanda Mulenga at Provost Polling Station and did not see any irregularity in the way the 2nd Respondent conducted the elections at his polling station.

10.5 **RW3**, **Richmond Mwape**, testified that he was an election agent for the Resolute Party at Kansenshi. RW3 stated that at the Kansenshi Totalling Centre on the morning of 14th August

2026 he was among the stakeholders present when Zambia Army soldiers arrived in anticipation of possible violence or disorder, and that fortunately the centre was completely peaceful. He stated that in the afternoon of 14th August 2026 the Returning Officer briefed all stakeholders that counting and totalling of votes had been suspended, and engaged them regarding the safeguarding of ballot boxes during the suspension, and that all stakeholders, including himself, agreed that they would rely on the GEN 20 forms.

10.6 RW3 stated that the results on the record of proceedings were compared with the GEN 20 forms from the different polling stations and that the returning officer announced the results after compiling them. He stated that all the stakeholders were present, including the Petitioner and the 1st Respondent, and that the process of verification took three days. He stated that having moved through multiple polling stations in Ndola Central Constituency, he observed that the election was free and fair and that no violence or intimidation was seen throughout the entire process.

10.7 In cross-examination, RW3 confirmed that he had known the 1st Respondent since 2016 and wished for him to be elected. He maintained that the elections were free and fair. He confirmed that all polling agents were given GEN 20 forms and that those who were not given were allowed to capture them.

RW3 confirmed that according to the Electoral Commission of Zambia calendar, the UPND was supposed to be in Yengwe Ward on 30th June 2026 while the Resolute Party was supposed to be in Nkwazi Ward. RW3 confirmed that the Sheila Dare incident occurred at the 1st Respondent's command centre and that the gate to the command centre was closed. He stated that he saw people saying "stop throwing stones", that the voice appeared to be coming from the command centre, and that he saw stones inside the command centre and heard the sound of stones at the gate.

10.8 RW3 confirmed that he saw people moving from the command centre towards people wearing UPND regalia and that he saw someone closing the gate. He stated that the 1st Respondent's cadres opened the gate to go and rescue their colleague whom UPND campaign supporters were attacking. When shown the images of UPND members stored on the flash disk and listed at page 29 of the Petitioner's bundle, he confirmed that he had seen injured persons. He maintained that the elections were free and fair despite the violence. In re-examination, RW3 clarified that most people received the GEN 20 forms and that those who did not get them were the ones who did not know.

10.9 **RW4**, **Elijah Zimba**, a polling agent for the Resolute Party at Mutobolyo Stream 3 in Mapalo Ward, testified that throughout the voting process he witnessed no violence, threats, or

intimidation, and voters cast their ballots freely and peacefully. RW4 stated that he did not hear of any reports of threats of violence or intimidation by any supporters of the candidates, and that from the opening of the polls until closure he witnessed no disturbances by any persons or supporters of any political party. RW4 stated that after the counting was concluded, he reviewed the recorded figures on the GEN 20 form, found them correct, and his colleague Joseph Mwanza signed the form along with all other polling agents, including the Petitioner's agent.

10.10 In cross-examination, RW4 conceded that he had not brought Mr. Mwanza before Court to verify that he was a polling agent. He stated that there was no violence during voting but that he had seen a video clip during the campaign period in which UPND supporters stoned the Resolute Party command centre. RW4 confirmed that he saw Resolute Party personnel coming out of the gate and going towards the UPND team. He confirmed that Christopher Kang'ombe came to Mutobolyo 3 polling station and entered the polling station where he was stationed, and that he did not see him behaving in a violent or unruly manner or causing voters to shun away from voting.

10.11 **RW5**, **Moses Musonda**, a polling agent for the Resolute Party at Chibolele 5 stated that he witnessed and captured a video of the incidence of violence at Sheila Dare Road on 30th June

2026 using his phone. He added that Christopher Kang'ombe, called the police, who later arrived and calmed the situation. Thereafter, the police officers took them from the command centre and he was interrogated at the police station, where his phone was confiscated for four days. He identified his signature on the GEN 20 form and stated that he was allowed to capture the form at the end of the process.

10.12 In cross-examination, RW5 confirmed that he was inside the command centre when the violence began and that he started filming at Sheila Dare. He stated that the people who attacked the command centre had pangas, machetes and tasers. RW5 confirmed that the Petitioner was not present when he was recording the video and stated that he accompanied Christopher Kang'ombe to the police to report the violence. RW5 confirmed that he did not have any police report or medical report to show that a person named Spencer was assaulted. He confirmed that the video he took showed the Resolute Party personnel coming out of the gate and going towards the UPND team and that he saw a person wearing a white shirt with the words "Vote Emmanuel Mulenga" printed on the back. He confirmed that he did not hear any gunshots at Chibolele Combined School and did not see any stones being thrown to chase away voters.

10.13 **RW6**, **Larry Mofya Munshya**, was a polling agent for the Resolute Party at Chibolele Combined School, Stream 3. RW6 stated that on 13th August 2026, between 16:00 and 17:00 hours the 1st Respondent arrived to cast his vote in the company of three journalists. He was quickly ushered to the front of the line, where he voted and left in less than twenty minutes, and that his brief visit was captured by various news tabloids including Radio Icengelo. RW6 stated that at about 17:30 hours the Petitioner also arrived but was not allowed by the police and the presiding officer to enter and stay as he was not a registered voter there, and he left soon thereafter. He stated that the Petitioner's agents were given the GEN 20 forms and that Idah Kambuma, an agent for the UPND, signed the form, and that he also signed the form.

10.14 In cross-examination, RW6 confirmed that he knew Idah Kambuma when they were together at the polling station. He confirmed that he was stationed inside the polling station from 03:45 hours on 13th August 2026 to 03:45 hours on 14th August 2026 and stated that he did not hear of any confusion at the polling station. RW6 insisted that the 1st Respondent came to the polling station for the sole purpose of casting his vote and was accompanied by three journalists, and that he saw the Petitioner arrive at the door at approximately 17:30 hours and that the police told him to stop.

10.15 In re-examination, RW6 explained that the 1st Respondent spent close to twenty minutes at the polling station because he had come with three journalists and had to seek permission from the presiding officer for them to take pictures of him while he was voting.

10.16 **RW7**, **Ireen Nkata**, a polling agent for the Resolute Party at Bread of Life Lutembwe, Stream 1 testified that she did not witness any violence, threats or intimidation by any candidates or their supporters during the election process. RW7 stated that she signed the GEN 20 form and captured it using her mobile phone and that Derma Mwansa, a UPND agent, also signed the form.

10.17 In cross-examination, RW7 confirmed that the document at page 14 of the 1st Respondent's bundle was her document and that the parties appearing on it were UPND, RP and NRUP. RW7 stated that Derma Mwansa signed the document but that her signature was not appearing on the copy before the Court. She confirmed that there was a discrepancy between the document at page 14 of the 1st Respondent's bundle and the document in the affidavit in support of the summons for a recount, in that the former had signatures while the latter did not.

10.18 **RW8**, **Dorothy Mbulo**, testified that she was a polling agent for the Resolute Party at Bread of Life Stream 2. Her testimony was more or less the same as that of RW7.

10.19 In cross-examination, RW8 confirmed that they had been told they could photograph the GEN 20 forms because there were insufficient copies for everyone to receive one. RW8 confirmed that there was a discrepancy between the document at page 15 of the 1st Respondent's bundle and the document in the affidavit in support of the summons for a recount, in that the former had a section where all the agents signed while the latter did not.

10.20 **RW9** was **Samson Banda**, a polling agent for an independent candidate, Wilson Kango, in Nkwazi Ward. He testified that he did not witness any violence or intimidation and that everyone voted freely. He further stated that, when the polling station was declared closed at 18:00 hours, those still in the queue were permitted to vote under police supervision. RW9 insisted that he did not witness or receive a report that any person was denied an opportunity to vote. He stated that after closure, soldiers from the Zambia Army arrived to maintain order and counting commenced between 19:00 and 20:00 hours, and that at around midnight the polling agents signed the GEN 20 form.

10.21 In cross-examination, RW9 confirmed that there was police presence at the various polling streams in Nkwazi Ward to maintain peace and order and that the Zambia Army commanders were also sent to ensure there was peace. He confirmed that he did not see Christopher Kang'ombe when he allegedly came to cast his vote at Nkwazi Primary School and did not see the violence that occurred because he was inside the polling station.

10.22 **RW10**, **Benson Kamfwa**, testified that he was a polling agent for the Resolute Party at Chibolele Combined School, Stream 3. He stated that he signed the GEN 20 form and that the UPND polling agents were the first to sign. His testimony was similar to that of RW9 and he added that he did not witness any violence, threats or intimidation by any of the candidates or their supporters.

10.23 In cross-examination, RW10 confirmed that there were nine polling streams at Chibolele Combined School and that each polling stream had a Zambia Police Officer, and that the police presence was sufficient to maintain order and peace. RW10 stated that he never saw any officer from the Zambia Army at the polling station and never heard of any army officers being present. He stated that he did not recall what happened on 30th June 2026 at Sheila Dare and confirmed that he was at

Chibolele Combined School when the 1st Respondent came to cast his vote but did not see him.

10.24 RW10 stated that he did not witness any violence because he was confined in a classroom and confirmed that he saw the Petitioner at Chibolele Combined School between 18:45 hours and 19:00 hours. He stated that he had not produced any video evidence or photograph to verify his allegation that the Petitioner came to the polling station.

10.25 **RW11** was **Tryson Mighty Nkowani**, a polling agent for the Resolute Party at Riverside Stream 3 polling station in Nkwazi. His testimony was more or less a repetition of that of RW10.

10.26 In cross-examination, RW11 confirmed that he had known the 1st Respondent only from the campaign period and that he was not a member of the Resolute Party but attended meetings where campaign strategies were discussed. RW11 confirmed that he was not able to read. He stated that the branch chairman who chaired the meetings he attended was Evertone Chilongo. RW11 confirmed that the campaign chairperson or election agent for the 1st Respondent was Christopher Kang'ombe. He confirmed that he was inside the polling station and never saw Christopher Kang'ombe when he arrived at Nkwazi Primary School. RW11 confirmed that he did not see any journalists or the 1st Respondent at Nkwazi Primary School.

10.27 In re-examination, he clarified that, according to the register he was ticking, not everyone voted.

10.28 **RW12, Francis Mwape**, a polling agent for the Resolute Party at Ntumbachushi Stream 3, Chibolele Ward, stated that he witnessed no violence, threats, or intimidation, and no one was denied an opportunity to vote. At close of polls, voters still on the queue voted under police supervision. RW12 stated that around 18:30 hours the Petitioner visited the polling stream and confirmed from all agents and stakeholders that the processes were going well. He added that he reviewed the GEN 20 form, found the figures correct, and signed along with all other agents including Mr. Vincent, the Petitioner's agent.

10.29 In cross-examination, RW12 confirmed that he had known the 1st Respondent only recently and did not participate in the campaign. He stated that he did not know what happened at Sheila Dare Road on 30th June 2026 and confirmed that he was a polling agent at Chibolele Combined School and did not see the 1st Respondent when he came to cast his vote. RW12 told the Court that he did not know Christopher Kang'ombe and did not hear any warning shots. RW12 confirmed that he was inside the polling station and did not know what was happening outside. He confirmed that he was not given a carbon copy of the GEN 20 form because the papers were not

enough and that no Zambia Army soldiers came to the polling stream.

10.30 **RW13**, **Joseph Chanda**, an area councillor for Nkwazi Ward on the Resolute Party ticket, stated that on 13th August 2026 at about 15:00 hours he met the 1st Respondent at the polling station, who was with a Radio Icengelo media team, and reported that the polls were being conducted freely and fairly without interference, violence, or intimidation. RW13 stated that there were seventeen polling stations in Nkwazi Ward and described their locations, and stated that it was practically impossible for all the polling agents to have fled their polling districts and locked themselves in one classroom as the polling stations were in different positions.

10.31 In cross-examination, RW13 confirmed that he saw the 1st Respondent at the polling station around 15:00 hours and that he was accompanied by one person from Radio Icengelo. RW13 confirmed that he was permitted to stay at the polling station and that he was present during the counting and totalling of votes but watched through the window from outside. He confirmed that during the campaign period one male and one female were stabbed with a knife and a bottle in Nkwazi Ward and that the assailants were apprehended and discovered to be UPND members. He confirmed that Nkwazi Primary School was not the polling station where the 1st Respondent voted.

10.32 **RW14**, **Roy Mawila**, testified that he was part of the 1st Respondent's security team. He further narrated that he accompanied the 1st Respondent on polling day and identified himself and the 1st Respondent in photograph EM1F, taken at Chibolele. He said they were escorting the 1st Respondent to vote, and that there were fewer than fifteen people present and no confusion.

10.33 RW14 insisted that throughout his movements on the polling day he witnessed no violence, no intimidation, and no disorder in any of the wards or polling stations he visited.

10.34 In cross-examination, RW14 confirmed that his role as part of the security team entailed moving with the 1st Respondent for his protection. He confirmed that he was moving across wards on behalf of the Resolute Party on polling day but was unable to locate his name in the oath of affirmation documents before Court. RW14 confirmed that the photograph at EM1F showed only four people and that the 1st Respondent did not need assistance with casting his vote. He stated that he had no evidence of any pictorial image showing him distributing lunch to polling agents.

10.35 **RW15**, **Laban Chibuye**, a field election agent appointed by the Resolute Party testified that he was monitoring all polling stations in Mapalo Ward and that the environment was

peaceful and voters were casting their ballots freely. RW15 stated that throughout the day he observed voters casting their ballots freely and in an orderly manner, and that no violence, intimidation, threats, disturbances, or canvassing occurred at any of the polling stations he visited. He stated that all nineteen polling stations in Mapalo Ward were generally peaceful. He stated that he was alone in Chipulukusu Ward and that he did not come into contact with Marron Chibuye, who was alleged to have been canvassing for votes and whom he did not know.

10.36 In cross-examination, RW15 stated that he went to Chibolele Combined School at about 08:30 hours and later at 20:30 hours and confirmed that there was police presence at Chibolele. He stated that he was not aware of any warning shots fired by Zambia Army soldiers and did not hear any such sound. RW15 confirmed that he did not see the Petitioner when he came to Chibolele Combined School and could not have witnessed any violence that occurred between 09:00 and 19:00 hours because he was not there. RW15 confirmed that he had not brought any document in the form of an oath of affirmation or an accreditation card to show that he was allowed to move around the polling stations.

10.37 The 1st Respondent then made an application for the Court to visit the command centre at Sheila Dare Road, citing Order 3

Rule 2 and Section 13 of the High Court Act, Chapter 27 of the Laws of Zambia. The Court granted the application.

10.38 **RW16**, **Gershom Chinyanta**, testified that he saw a Toyota VX vehicle arrive and park inside the polling station and that the Petitioner exited the vehicle, accompanied by several people whom he understood to be his aides. RW16 stated that as they proceeded towards the area where people were casting their ballots, some voters in the queue began calling for the vehicle to be removed from the polling station grounds, and that some people expressed concern that the vehicle might be carrying pre-marked ballot papers. RW16 stated that the arrival of the vehicle and the Petitioner caused confusion and disruption among some voters, and that the Petitioner exchanged words with some people in the queue and told polling agents that the polling station must be closed at 18:00 hours.

10.39 In cross-examination, RW16 insisted that the Petitioner went to Chibolele Combined School in a Toyota VX accompanied by several people whom he understood to be his aides and that their presence caused commotion. He conceded that, other than his allegation, he had not brought any evidence in the form of a pictorial image or video footage using his Samsung A16 to prove that the Petitioner was at Chibolele as he alleged. RW16 also conceded that he had not brought any evidence to prove his allegation that the Petitioner could have been

carrying pre-marked ballot papers, stating that he heard people say so but did not see the Petitioner carrying them. RW16 further conceded that he had not brought any video footage to verify his allegation that when the Petitioner arrived, he caused confusion and disruption among voters.

10.40 **Emmanuel Mulenga**, being the 1st Respondent, testified as **RW17**. The Court also conducted site visits to Chibolele Combined School, Nkwazi Primary School and the Sheila Dare command centre.

10.41 RW17, testified that he was the Member of Parliament for Ndola Central and that the GEN 20 forms he filed in his bundle of documents tallied with those filed by the Petitioner, save that some of his were captured using a phone while the Petitioner's were carbon copies. He stated that the Petitioner filed sixty-nine GEN 20 forms out of a total of seventy-four polling districts and that he focused on producing the forms for the polling stations where the Petitioner alleged his agents were denied access.

10.42 RW17 stated that when the GEN 20 forms in the Petitioner's affidavit were combined with those in his own bundle, seventy-three out of seventy-four forms were before the Court, with the only missing one being for Kasenji Correctional Service. He stated that the Petitioner's own GEN 20 forms contained the names and signatures of the very witnesses who testified that

they were denied access, including Edgar Masasa (PW2) and Fortune Mofya (PW20) at Luangwa Ward. RW17 stated that he compared the GEN 20 forms with the record of proceedings at the totalling centre and found that they tallied. He stated that the Petitioner's witness, Albert Chimbala (PW10), had signed the GEN 20 form at New Apostolic Ward despite testifying that he was denied access.

10.43 RW17 stated that the Petitioner wrote a letter of complaint to the Provincial Electoral Officer on 19th August 2026 after he had lost the election, which demonstrated that the allegations were an afterthought. He denied authorising anyone to canvass for votes on the day of the election and stated that if such had occurred the Petitioner would have produced evidence. He stated that his desire was to win the election and that a candidate only wins when people cast their votes, so it made no sense for his supporters to throw stones at voters to turn them away.

10.44 During the site visit at Chibolele Combined School, RW17 stated that he voted at Chibolele 3 and that the photograph at EM2F showed where the police officer was standing. He stated that if he had been with fifteen individuals they would have been captured in the photograph. RW17 stated that the Petitioner's witnesses claimed that stones were thrown from outside the gate into the school, but that if it were true the

windows of the classrooms would have been broken, yet the windows were intact. RW17 testified that it was impossible for all the polling agents to have fled their polling stations and locked themselves in one classroom as the polling stations were in different positions.

10.45 He disputed the Petitioner's allegation that people had to bypass a police station to run to the classroom for safety. RW17 stated that the gate was closed after polling ended and was manned by police officers and that the Petitioner was not allowed to enter when he came at 20:30 hours. He stated that he inquired from the police whether they had received any report of violence and was told there was none.

10.46 During the site visit at Nkwazi Primary School, RW17 stated that it was very difficult for someone to throw a stone from the football pitch, which was over 150 metres away. He stated that there were ten polling districts at Nkwazi Primary School, each with a police officer, and more than five police officers at the main gate, making it impossible for violence to occur without arrests being made. RW17 stated that he inquired from Nkwazi Police Station whether there was any report of violence and was told there was nothing. He stated that the presence of stones on the rooftops was normal and that if stones had been thrown from outside the back windows of the classrooms would have been shattered, but they were not. RW17 testified

that it was impossible for him to cause confusion at Nkwazi Primary School and then go to Mapalo, which was more than two and a half kilometres away, to cause confusion there as well.

10.47 During the site visit at the Sheila Dare command centre, RW17 stated that the command centre was the house with the green roof and that the Petitioner's supporters had parked their truck in the middle of the road, blocking access to the command centre. He stated that he was at the command centre when the violence occurred and that his supporters went to plead with the Petitioner's supporters not to come to the command centre, but they were instead attacked with stones. RW17 stated that he sent someone to call everyone inside and to report the matter to the police and that he watched the events from the upper room of the command centre. He added that after he wrote to the 2nd Respondent, the Conflict Management Committee summoned both parties and advised them never to go near the opponent's command centre and the Petitioner's representatives were given a last warning.

10.48 In cross-examination, RW17 confirmed that he sent a message to the Petitioner apologising if he had wronged him during the campaigns and stated that he wished to work with the Petitioner. He confirmed that on 30th June 2026, the UPND campaign team was permitted to campaign in Yengwe Ward,

within which Sheila Dare Road is situated. RW17 denied that he or his supporters went out to attack the UPND campaign team. His evidence was that a few supporters went outside the command centre to rescue Spencer, who was said to be under attack, and that he instructed them to return inside. He explained that his voice could not be heard in the video on account of the noise.

10.49 RW17 confirmed that he reported the matter to the 2nd Respondent on 2nd July 2026, but that the letter did not have an acknowledgement of receipt from the 2nd Respondent, only a stamp from Ndola City Council. He confirmed that the letter alleged that the Petitioner's campaign team was carrying dangerous weapons including screwdrivers, bats, machetes and electric tasers, but that there was no evidence of any person who was injured.

10.50 RW17 confirmed that the distance between where the Petitioner's truck was parked and the command centre was between 100 and 150 metres and stated that the stones used by the Petitioner's supporters were coming from the truck. He confirmed that the Petitioner had a command centre in Yengwe Ward along Chinika Road. He added that the person in the video was carrying a paper and not a machete or a stick. RW17 confirmed that he was not at Chibolele Combined School after 18:00 hours and did not know what happened there. The

witness confirmed that he was at the totalling centre and that the Petitioner was also there, but that he did not have video footage or a photograph of the Petitioner being at the totalling centre.

10.51 RW17 told the Court that the Petitioner posted on Facebook that his bid to extend his tenure as Member of Parliament had not been successful, but that the words "I accept defeat" did not appear in the post. He confirmed that the letter from the 2nd Respondent suspending the counting and announcement of results stated that the suspension was due to violence. RW17 confirmed that his letter to the Electoral Commission of Zambia chairperson appearing on pages 95 and 96 of his bundle of documents was not signed by him and was not acknowledged, and that the Petitioner was not copied in the said letter.

10.52 RW17 confirmed that the Petitioner was denied access to Chibolele Combined School by the police. He confirmed that he was aware that warning shots were fired at Chibolele Combined School, but that he became aware about them by reading the Petitioner's witness statement.

11.0 THE 2ND RESPONDENT'S CASE

11.1 The 2nd Respondent called its sole witness, **Fredrick Musonda**, who testified as **RW18**. He was the Returning Officer for Ndola

Central Constituency in the election held on 13th August 2026. His evidence was that the election was conducted peacefully, with all polling stations manned by Zambia Police personnel, and that he received no reports of violence on polling day. He stated that voters freely voted for their preferred candidates and that the results were properly transmitted to the totalling centre, where they were verified before announcement. He explained that the temporary suspension of counting followed an administrative directive from the Electoral Commission of Zambia arising from violence in other parts of the country and did not affect the outcome, as voting had already taken place. He denied having been removed from the totalling centre or that any ballot boxes were left unattended.

11.2 RW18 further stated that he did not receive any report of personation and that only registered voters who presented their voter's cards and National Registration Cards were permitted to vote. He maintained that all polling agents were given access to GEN 20 forms and that the election was conducted in accordance with the Electoral Process Act, the Electoral Code of Conduct, the applicable regulations and prescribed procedures. He accordingly disputed the Petitioner's entitlement to the reliefs sought.

11.3 In cross-examination, RW18 confirmed that the 2nd Respondent suspended the counting and announcement of

results. He stated that the suspension was not due to violence but that he received a directive from the District Electoral Officer to suspend the counting and receiving of results. He confirmed that the 2nd Respondent had received reports of violence in some districts. The witness confirmed that he received a letter from the Petitioner dated 14th August 2026 in which the Petitioner advised the Chairperson of the 2nd Respondent about attacks that had happened in Nkwazi and Mapalo Wards by thugs sponsored by a named candidate from the Resolute Party, but stated that he never received such a report.

11.4 RW18 confirmed that the suspension of counting and announcement of results happened around 12:00 hours on 14th August 2026 and that after the suspension he remained at the totalling centre along with other stakeholders. The witness confirmed that the 1st Respondent was present at the totalling centre and that the law requires that once ballot papers are counted, information is placed on GEN 20 forms and copies should be given to stakeholders. The witness stated that Mr. Munsaka, the Petitioner's election agent, did not tell him that he did not have copies of the GEN 20 forms, and that Mr. Munsaka applied through the District Electoral Officer for copies and was directed to collect them at the Civic Centre after the results were announced.

11.5 The witness stated that he distributed GEN 20 forms to the Presiding Officers and that no Presiding Officer communicated to him that they were capturing GEN 20 forms using phones. He stated that the GEN 20 forms he gave to Mr. Munsaka were photocopies coming from the original GEN 20 forms. RW18 confirmed that the total number of ballot papers each polling station received was not equal to the total number of registered voters because a ballot paper booklet could not be prepared with less than fifty ballot papers.

11.6 In cross-examination, RW18 confirmed that Carol Namushi (PW18), the Presiding Officer at Ntumbachushi 3, never reported any missing or stolen ballot papers to him. He confirmed that he never received any report of people storming Ntumbachushi 3 and causing ballot papers to scatter on the ground. The witness confirmed that the reason for the suspension of counting and announcement of results was violence targeted at polling staff and the theft of marked ballot papers, but stated that he never received any report of violence targeting poll staff or theft of marked ballot papers in Ndola Central.

11.7 RW18 confirmed that the Petitioner's letter to the 2nd Respondent chairperson was not signed and was not acknowledged and stated that the Petitioner should have escalated any issue to him as Returning Officer, who would

have escalated it to the District Electoral Officer, who would have escalated it to the 2nd Respondent. He stated that before the actual announcement of results the record of proceedings were released in intervals and that he released a minimum of four provisional records of proceedings, and that the Petitioner and all his agents were present at the totalling centre each time and never objected to any of the entries.

11.8 RW18 confirmed that he saw the Petitioner at the totalling centre on 15th August 2026 and that the Petitioner was there when the results were announced. He stated that the different signatures in the declaration of results form did not invalidate the declaration because his signature as Returning Officer was there and the information was the same. He confirmed that if a GEN 20 form is entered at a polling district after counting and the agent is not given a copy it does not affect the genuineness of the results.

11.9 RW18 confirmed that he did not receive any report from any Presiding Officer that a GEN 20 form was different from what was stuck on the wall. He confirmed that Mr. Munsaka wrote to the District Electoral Officer requesting photocopies of GEN 20 forms because the polling agents were not issued with GEN 20 forms at the polling stations and that this was after the election, in September, 2026. RW18 confirmed that there was only one report in Ndola Central of a person finding that

somebody had voted on their behalf and that the matter was reported to the District Electoral Officer and the person eventually voted.

11.10 He confirmed that the 1st Respondent wrote a letter of complaint to the District Electoral Officer prior to the elections. He stated that Carol Namushi (PW18) never contacted him regarding the purported violence at Chibolele. He confirmed that the record of proceedings at page 44 of the 1st Respondent's bundle was signed by him and by Diamond TV. The 2nd Respondent closed its case.

12.0 SUBMISSIONS

12.1 At the close of the trial, learned Counsel filed their final written submissions, for which I am grateful. I have considered them and the authorities cited. Rather than repeat the submissions, I will address the material arguments in determining the issues below.

13.0 ANALYSIS AND DECISION

13.1 I have considered the pleadings, the oral and documentary evidence, the video and audio footage, the observations made during the site visits, and the parties' submissions. The questions are whether the alleged misconduct has been proved and attributed as required by law, whether it had the effect on voters required by section 97(2)(a), and whether any non-

compliance by the 2nd Respondent affected the election result under section 97(2)(b) of the Electoral Process Act.

13.2 Section 97(2) of the Electoral Process Act provides three grounds upon which an election may be declared void:

13.2.1 Corrupt practice, illegal practice or other misconduct connected with the election;

13.2.2 Non-compliance with the Electoral Process Act relating to the conduct of the election; or

13.2.3 Non-qualification or disqualification of the elected candidate.

13.3 The Petition concerns the first two grounds. The Petitioner alleges violence, intimidation and interference with the electoral process by the 1st Respondent and persons associated with him, as well as non-compliance by the 2nd Respondent. No question of the 1st Respondent's qualification or disqualification arises for determination.

13.4 The allegations of illegal practices, misconduct and undue influence fall to be considered under section 97(2)(a), which provides:

"97. (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

(iii) the majority of voters in a constituency, district or ward were or may have been prevented from electing the candidate in the constituency, district or ward whom they preferred;"

13.5 Two requirements must be satisfied. The Petitioner must first prove the alleged misconduct and the connection to the candidate, or to the candidate's election or polling agent, prescribed by the subsection. He must then prove that, as a consequence, the majority of voters in the constituency were or may have been prevented from electing their preferred candidate.

13.6 In **Steven Masumba v. Elliot Kamondo**[3], the Constitutional Court explained that proof of a corrupt or illegal act or other

misconduct does not, by itself, justify nullification. The further statutory requirement concerning the effect on the majority of voters must also be established. The Court stated:

> **"The requirement in the current law for nullifying an election of a member of parliament is that a Petitioner must not only prove that the respondent has committed a corrupt or illegal act or other misconduct or that the illegal act or misconduct complained of was committed by the respondent's election agent or polling agent or with the respondent's knowledge, consent or approval but that he/she must also prove that as a consequence of the corrupt or illegal act or misconduct committed, the majority of the voters in the constituency were or may have been prevented from electing a candidate whom they preferred."**

13.7 That distinction is important in a petition alleging violence or intimidation. Proof that a confrontation occurred, proof of responsibility for it and proof of its effect on the electorate are separate questions. Evidence sufficient to establish one does not necessarily establish the others.

13.8 The significance of the scale of the misconduct was explained by the Supreme Court in **Mubika Mubika v. Poniso Njeulu**[7]. The Court required proof that the prohibited conduct was sufficiently widespread to prevent, or potentially prevent, the

majority of voters from choosing their preferred candidate. Although that case concerned the earlier electoral legislation, the Constitutional Court has applied the same principle when interpreting section 97(2)(a). The Supreme Court stated:

> **"The provision for declaring an election of a Member of Parliament void is only where, whatever activity is complained of, it is proved satisfactorily that as a result of that wrongful conduct, the majority of voters in a constituency were, or might have been prevented from electing a candidate of their choice, it is clear that when facts alleging misconduct are proved and fall into the prohibited category of conduct, it must be shown that the prohibited conduct was widespread in the constituency to the level where registered voters in greater numbers were influenced so as to change their selection of a candidate for that particular election in that constituency; only then can it be said that a greater number of registered voters were prevented or might have been prevented from electing their preferred candidate."**

13.9 Similarly, in **Mubita Mwangala v. Inonge Mutukwa Wina**[8], the Supreme Court emphasised the need to establish the effect of the prohibited conduct on the majority of voters. An allegation cannot therefore succeed merely because an incident is serious or objectionable; the statutory connection

between that conduct and the electorate's freedom of choice must be proved. The Court went on to affirm that:

> **"In order to declare an election void by reason of corrupt practice or illegal practice or any other misconduct, it must be shown that the majority of voters in a constituency were or may have been prevented from electing the candidate in that constituency whom they preferred..."**

13.10 In **Nkandu Luo and Electoral Commission of Zambia v. Doreen Sefuke Mwamba and Attorney-General**[2], at pages J50–J51, the Constitutional Court explained that the first requirement may be satisfied by misconduct committed personally by the candidate or through duly appointed election or polling agents, or by misconduct committed with the knowledge and consent or approval specified in section 97(2)(a)(ii). The Court stated:

> **"In order for a Petitioner to successfully have an election annulled pursuant to section 97(2)(a) there is a threshold to surmount. The first requirement is for the Petitioner to prove to the satisfaction of the Court, that the person whose election is challenged personally or through his duly appointed election or polling agents, committed a corrupt practice or illegal practice or other misconduct in connection with the election, or that such malpractice**

was committed with the knowledge and consent or approval of the candidate or his or her election or polling agent..."

13.11 The Court further required cogent evidence that the misconduct was sufficiently widespread to sway, or potentially sway, the majority of the electorate from choosing their preferred candidate. That requirement is additional to proof of the misconduct itself. The Court further stated:

"In addition to proving the electoral malpractice or misconduct alleged, the Petitioner has the further task of adducing cogent evidence 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."

13.12 Party membership or political sympathy alone does not establish that a person is a candidate's election or polling agent. Equally, the absence of a formal appointment does not end the inquiry where the allegation is that misconduct by another person occurred with the requisite knowledge and consent or approval. The necessary connection must be established by evidence, rather than presumed from political association: **Nkandu Luo and Another v. Mwamba and Another**[2] and **Richwell Siamunene v. Sialubalo Gift**[6].

13.13 In **Abiud Kawangu v. Elijah Muchima**[9], the Constitutional Court likewise applied both requirements: proof of the misconduct attributable in law to the candidate, and proof that it prevented or may have prevented the majority of voters from electing their preferred candidate.

13.14 The Constitutional Court adopted the same approach in **Margaret Mwanakatwe v. Charlotte Scott and Attorney-General**[10]. Its reasoning confirms that the Court must assess both the reach and the effect of the prohibited conduct. A general assertion that an election was affected cannot replace evidence establishing the statutory requirements.

13.15 The burden of proving those requirements rests on the Petitioner. In **Akashambatwa Mbikusita Lewanika and Others v. Frederick Jacob Titus Chiluba**[5], the Supreme Court held that allegations in an election petition must be established to a fairly high degree of convincing clarity. The standard is higher than proof on a balance of probabilities in an ordinary civil action. The Supreme Court stated:

> **"As part of the preliminary remarks which we make in this matter, we wish to assert that it cannot be seriously disputed that parliamentary election petitions have generally long been required to be proved to a standard higher than on a mere balance of probability. It follows therefore, that in this case where the petition has been**

brought under constitutional provisions and would impact upon the governance of the nation..., no less a standard of proof is required. It follows also that the issues raised are required to be established to a fairly high degree of convincing clarity."

13.16 That standard serves the constitutional purpose identified by the Constitutional Court in **Mbololwa Subulwa v. Kaliye Mandandi**[11]: the protection of free, fair and lawful elections in which voters can choose their preferred candidate. The Court must therefore examine the evidence carefully before setting aside the declared result. The Court stated:

"The spirit of section 97 (2) (a) is to ensure that elections are held in a free, fair and legal manner. This is in order to uphold as well as advance constitutional democratic tenets that provide and enable voters to elect a candidate of their own choice."

13.17 The elevated standard of proof is also recognised in **Michael Mabenga v. Sikota Wina and Others**[14], **Anderson Kambela Mazoka and Others v. Levy Patrick Mwanawasa and Others**[15] and **Kufuka Kafuka v. Mundia Ndalamei**[16]. It is higher than the ordinary civil standard but lower than proof beyond reasonable doubt. I rely on those authorities for the standard of proof; the substantive grounds for avoiding this

election remain those prescribed by section 97 of the Electoral Process Act.

13.18 I will apply these principles first to the allegations of violence, intimidation and undue influence, and then to the complaints concerning the conduct of the election by the 2nd Respondent.

Illegal practices, misconduct and undue influence

13.19 The allegations of violence concerned several polling stations and the campaign incident at Sheila Dare Road. PW4 testified that Christopher Kang'ombe Jr. and more than fifteen cadres entered Mutobolyo 3 polling station and caused voters to disperse. PW5 described an altercation between Mr. Kang'ombe and electoral officials at Depot 1, which she said caused voters to leave in anticipation of violence.

13.20 PW6 testified that the 1st Respondent arrived at Chibolele in a blue Toyota Hiace with cadres who chanted that he had already won, causing voters to leave. PW14, PW15 and PW16 described chanting and stone throwing at Nkwazi Primary School and said that they left without voting.

13.21 PW18 and PW19 described a disturbance during the count at Ntumbachushi 3, including people entering the classroom after warning shots were fired by the Zambia Army. Counting continued after the soldiers restored relative calm. Separately,

PW1 alleged that his campaign team was attacked while putting up posters near the Sheila Dare and Chiwangala Road junction on 30th June 2026 and that his vehicle was stoned.

13.22 The 1st Respondent, RW17, denied that his supporters initiated the Sheila Dare confrontation. He maintained that the Petitioner's supporters approached his command centre and threw stones from a truck parked in the road. His explanation was that a few supporters went outside to rescue Spencer and that he directed them to return inside. RW3 and RW5 supported aspects of that account, although their evidence about the movement of supporters outside the premises required consideration alongside the video footage.

13.23 I distinguish PW1's personal observations from matters reported to him by others. His account of incidents at Nkwazi and in Mapalo was, in material respects, based on information from Maron Chibuye and Sandra Bwale. Under the principle in **Muvuma Kambanja Situna v. The People**[17], an out-of-court account cannot, in the absence of an applicable exception, establish the truth of its contents merely because a witness repeats it. Where the persons concerned gave evidence themselves, however, their direct testimony must be assessed on its own merits. I have adopted that approach here.

13.24 From the record, I note that where the witnesses spoke from personal observation, their accounts were inconsistent and

uncorroborated. PW4 conceded that she never described what the alleged cadres actually did and had no photographs, videos or names of any voters who left. PW5 conceded that her complaint was of anticipated rather than actual violence while PW6 could not say whether voters returned and was contradicted by the photographic evidence.

13.25 PW12 gave two conflicting versions of whether the commotion occurred in the presence of the 1st Respondent. PW18 and PW19 made no report of the alleged attack to the 2nd Respondent or the police, and no arrests were made. PW4, PW5, PW6, PW9, PW10, PW18 and PW19 were partisan witnesses aligned to the Petitioner. Their evidence required caution and corroboration, as explained in **Steven Masumba v. Elliot Kamondo**[3], but satisfactory independent corroboration was not forthcoming. Furthermore, the witnesses who alleged that they saw the 1st Respondent wearing a blue jacket were discredited when the photographic evidence did not support their accounts. As stated in **Yamikani Phiri v. Jonathan Daka and Electoral Commission of Zambia**[18], the evidence of partisan witnesses motivated by a desire to secure victory against their opponents must be evaluated cautiously. Having considered their testimony in that light, I find that the material inconsistencies, lack of independent corroboration and conflict with the

photographic evidence render it unreliable as proof of the alleged misconduct and its attribution to the 1st Respondent.

13.26 That conclusion is reinforced by the gaps in the evidence concerning the physical layout of Chibolele Combined School and Nkwazi Primary School, which I observed during the site visits. At Nkwazi, the allegation that stones were thrown from outside the premises, across the playing field, was unsupported by reliable identification of the perpetrators or evidence connecting them to the 1st Respondent. The assertion that agents from different polling districts abandoned their stations and sought refuge in one classroom similarly lacked particulars identifying the agents, their stations and their movements. Although the intact classroom windows observed during the visits do not conclusively establish their condition on polling day, the physical observations, considered alongside the inconsistencies and lack of satisfactory corroboration, leave the allegation of coordinated violence unproved.

13.27 As regards the incident at Sheila Dare Road on 30th June 2026, I have considered the testimony of PW1, RW3, RW5 and RW17, the video footage marked EM2, and the observations made during the Court's site visit. RW17's evidence was that a few supporters went out to rescue Spencer, who was said to be under attack, and that he directed them to return inside. Although RW3 described the movement of the 1st Respondent's

supporters through the gate as an attack, and RW5 accepted that the footage showed some of them moving towards UPND supporters, their movement alone does not establish that they initiated an assault. I have also borne in mind that no police or medical report was produced to corroborate an assault upon Spencer. That evidential omission, however, does not establish the Petitioner's allegation that those who left the premises did so for the purpose of attacking his supporters.

13.28 The evidence must be assessed in its entirety. RW3 testified that he saw stones inside the command centre and heard stones striking its gate, while RW5 maintained that the command centre was attacked. The footage depicts only part of the confrontation, and the site visit afforded the Court an opportunity to appreciate the position of the command centre and the approach along Sheila Dare Road. I also take into account the Petitioner's admission that he knew of the premises referred to in his radio interview and that his supporters were campaigning in Yengwe Ward on the material day. Their entitlement to campaign in that ward did not, of itself, establish a right to engage in violence near an opponent's command centre. Having weighed the competing accounts, I prefer the evidence of RW17, supported in material respects by the observations of RW3 and the testimony of RW5, that the confrontation was precipitated by the Petitioner's supporters approaching the command centre and

throwing stones. I therefore find that the allegation that the 1st Respondent's supporters initiated an attack on the Petitioner's campaign team has not been proved to the required standard.

13.29 It follows that the evidence does not establish that the 1st Respondent personally committed the alleged attack or that it was committed with the knowledge and consent or approval required by section 97(2)(a). Political association alone is insufficient, as explained in **Nkandu Luo and Another v. Doreen Sefuke Mwamba and Another**[2]. More fundamentally, no cogent evidence establishes that the confrontation of 30th June 2026, several weeks before polling day, prevented or may have prevented the majority of voters in Ndola Central Constituency from electing their preferred candidate on 13th August 2026. I accordingly reject the Sheila Dare allegation of violence as a basis for nullifying the election.

13.30 Turning to the effect on the electorate, the Petitioner has not established that the alleged violence was sufficiently widespread to prevent, or potentially prevent, the majority of voters from choosing their preferred candidate. The voter register and record of proceedings disclose 6,854 votes out of 12,146 registered voters in Nkwazi Ward, a turnout of 56.43%, and 8,359 votes out of 15,303 registered voters in Mapalo Ward, a turnout of 54.62%. The corresponding figures were 47.70% in Kansenshi, 51.13% in Kanini and 52.32% in

Yengwe. PW1 also acknowledged turnout of approximately 74.6% at Nkwazi Primary School, compared with 44.8% at Kansenshi Combined School. Those figures do not substantiate the broad claim by the Petitioner of majority disenfranchisement in Mapalo and Nkwazi.

13.31 Although PW12 stated that she personally left without voting, the evidence did not reliably establish how many other electors were unable to vote, how many subsequently returned, or the wider effect of the alleged conduct on voters' freedom of choice. I have considered the margin of 819 votes. That margin is relevant context, but does not itself establish the extent or effect of the alleged interference required by section 97(2)(a).

13.32 The deficiency is therefore one of proof of the scale and electoral effect of the alleged conduct. The principles in **Mubita Mwangala v. Inonge Mutukwa Wina**[8] and **Mubika Mubika v. Poniso Njeulu**[7] have not been satisfied. The High Court's reasoning in **Enock Kaywala Mundia v. Wamunyima Imanga and Electoral Commission of Zambia**[19] is also instructive: without reliable evidence of the reach of the misconduct, its effect on the majority cannot simply be assumed. I apply that reasoning as persuasive authority, rather than as imposing an inflexible requirement for an exact headcount in every case.

13.33 The Petitioner's reliance on **Bowman Lusambo v. Bernard Kanengo and Electoral Commission of Zambia**[1] does not

overcome that evidential deficiency. There, credible evidence connected the candidate to the violence, and the Constitutional Court upheld the finding that the misconduct satisfied section 97(2)(a). The decision illustrates that knowledge and consent or approval may be established from the proved circumstances; it does not dispense with proof. In the present case, neither the necessary attribution nor the statutory effect on the majority has been established to the required standard. The allegations of violence accordingly do not justify nullification.

Non-compliance with the Electoral Process Act

13.34 I turn to the complaints against the 2nd Respondent: denial of access to GEN 20 forms, the alleged personation of Edgar Mataa, and the suspension of counting and announcement of results.

13.35 The Petitioner alleged that his agents were denied access to, or copies of, GEN 20 forms at Riverside 3, ZICT Luangwa 1, Mutobolyo 3, Depot 1, Chibolele 3, Lutembwe 1, Bread of Life and Kansenshi New Apostolic Church. He contended that this prevented verification of the announced figures. He also alleged that Mr. Mataa was initially refused a ballot because a vote had already been cast in his name, and that the Returning Officer was removed from the totalling centre, leaving ballot boxes unsecured.

13.36 RW18, the Returning Officer, testified that GEN 20 forms were distributed to presiding officers before polling and denied that agents were prevented from inspecting the results. He acknowledged the later request by Mr. Munsaka for photocopies because some agents had not received copies at the polling stations, and stated that copies were supplied through the District Electoral Officer. RW1 and RW12 also acknowledged shortages of hard copies. Those concessions require the complaint about the provision of copies to be distinguished from the allegation that the count itself was inaccurate.

13.37 RW18 explained that the suspension took effect at about 12:00 hours on 14th August 2026 under a nationwide administrative directive. According to him, counting and recording on the GEN 20 forms had been completed, and the totalling centre was sealed and secured by the Zambia Army and Zambia Police. He denied receiving reports of missing or stolen ballot papers in Ndola Central. He also confirmed that the complaint concerning Mr. Mataa was referred to the District Electoral Officer and that Mr. Mataa eventually voted at about 18:45 hours.

13.38 Section 97(2)(b), read with section 97(4), requires proof of non-compliance with the Electoral Process Act relating to the conduct of the election, that the election was not conducted in

accordance with the relevant statutory principles, and that the non-compliance affected the result. Proof of an administrative lapse alone does not satisfy that test.

13.39 Section 97(4) expressly provides:

> **"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."**

13.40 Paragraph 5(2) of the Electoral Code of Conduct, in the First Schedule to the Electoral Process Act, further provides:

> **"An election agent or polling agent shall counter sign the election results duly announced or declared by a Presiding Officer or Returning Officer, as the case may be, except that failure to countersign the election results by such election agent or polling agent shall not render the results invalid."**

13.41 The absence of an agent's countersignature therefore does not, by itself, invalidate the result. This does not relieve election officers of their duties concerning access to and distribution of results forms. It requires the Court to examine whether the

particular omission affected the result. The emphasis on substantial compliance and electoral effect also appears in Halsbury's Laws of England, 5th edition, volume 38A, paragraph 667, as cited in **Phiri v. Daka and Another**[18], at paragraph 12.11. The passage reads:

> **"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."**

13.42 In **Margaret Mwanakatwe v. Charlotte Scott and Attorney-General**[10], at pages J43–J44, the Constitutional Court explained that non-compliance under section 97(2)(b) must be attributable to the Electoral Commission of Zambia in its conduct of the election and must have affected the result. The Court read that requirement together with the protection in section 97(4) for an election conducted substantially in

accordance with the Act where the official omission did not affect its result. The Court stated:

> **"... In order for the non-compliance with the law to result in the invalidation of an election under section 97 (2)(b), it must be established that the non-compliance affected the result of the election and must be attributable to the ECZ as the conductor of elections. This is evident from the fact that section 97(2)(b) is made subject to section 97(4) of the Act."**

13.43 The Constitutional Court's decision in **Sibongile Mwamba v. Kelvin M. Sampa and Electoral Commission of Zambia**[20] likewise emphasises the need to establish substantial non-compliance and its effect on the election result. The question is therefore whether the proved defects compromised the result, rather than whether every administrative step was performed without error.

13.44 In applying the foregoing principles to the complaint concerning GEN 20 forms, I draw a distinction between an agent's opportunity to witness the count, inspect or sign the results, and the separate question whether that agent was furnished with a personal copy of the completed form. PW2, Edgar Masasa, admitted that he witnessed the counting at ZICT Luangwa 1, kept an independent record and signed the GEN 20 form without identifying a discrepancy at the time.

PW3, Bridget Mwape, similarly acknowledged that she kept her own record and that her signature appeared on the Riverside 3 GEN 20 form. She nevertheless maintained that she was denied a copy and, in re-examination, said that she had been hurried when signing. I have considered that qualification. A signature does not necessarily prove receipt of a copy or a full opportunity to verify every entry, but it is material evidence of an agent's participation in the process.

13.45 The contemporaneous forms relied upon also bear names or signatures of the Petitioner's agents at some other disputed polling districts, including Chibolele 3 and New Apostolic Church. I do not treat a disputed signature as conclusive without considering the surrounding testimony. The Petitioner himself produced sixty-nine GEN 20 forms for the recount application, and the parties' documents together accounted for seventy-three of the seventy-four polling districts. RW18 acknowledged that some agents had not received copies at the stations and that photocopies were later supplied. The evidence therefore leaves room for delayed or incomplete distribution. What has not been established is that this resulted in incorrect recorded votes or affected the result. PW10 alleged a difference between the announced figures and his private tally but could neither produce nor recall the figures. Paragraph 5(2) of the Code and the reasoning in **Phiri v. Daka and Another**[18], at paragraphs 12.12–12.16, support

the conclusion that a defect in countersigning, without proof of an effect on the result, does not justify nullification.

13.46 I also attach weight to RW18's evidence that the provisional record of proceedings was released in stages at the totalling centre in the presence of the Petitioner and other stakeholders, without a recorded objection to any particular entry at that stage. The absence of an immediate objection is not a waiver of a subsequently proved irregularity. However, viewed alongside the signed results forms, the copies subsequently obtained and the lack of a demonstrated numerical discrepancy between the polling-district results and the final record, it further weakens the contention that the alleged difficulty in obtaining GEN 20 copies compromised the integrity of the declared result.

13.47 As to Mr. Edgar Mataa, PW17 confirmed that he was initially refused a ballot but was subsequently allowed to vote at about 18:45 hours following verification by the District Electoral Officer. That evidence establishes an initial difficulty which was resolved. It does not establish, to the required standard, that another person actually cast a ballot in his name or that he was ultimately deprived of his vote. Nor was there evidence that the incident affected the declared result. The allegation therefore affords no basis for avoiding the election under section 97(2)(b).

13.48 The nationwide suspension on 14th August 2026 must be distinguished from the disturbance described by PW18 and PW19 during the count at Ntumbachushi 3 on the preceding evening. Their account of matters they personally observed is direct evidence, rather than hearsay merely because PW1 also recounted it. PW18's account was internally inconsistent. I have also considered the differences in PW18's and PW19's accounts about the entry into the classroom and the gunshots, as well as their failure to report the alleged ballot interference to the Returning Officer or the police. Those deficiencies undermine the reliability of their accounts. PW18 accepted that counting continued after the soldiers restored relative calm. Neither witness identified a proved change to the parliamentary tally. Against that evidence, RW18 maintained that the totalling centre remained secured during the later suspension. The disturbance and suspension do not, without further evidence, establish that ballots were tampered with or that the declared figures were altered.

13.49 Taken together, the evidence does not establish a specific discrepancy between the votes recorded at polling districts and the declared total, or another proved effect on the result attributable to the alleged non-compliance. Applying section 97(2)(b), read with section 97(4), and **Mwanakatwe v. Scott and Another**[10], I find that the statutory threshold has not been met.

13.50 The Petition therefore fails on both grounds. Taken as a whole, the partisan and inconsistent evidence relied upon to establish widespread violence was uncorroborated and unconvincing. PW1's repetition of matters reported to him did not cure the deficiencies in the direct testimony. The Petitioner has not proved, to a fairly high degree of convincing clarity, misconduct attributable as required by section 97(2)(a) which prevented or may have prevented the majority of voters from electing their preferred candidate. Although the evidence disclosed difficulties in obtaining copies of some GEN 20 forms and accounts of disturbances requiring careful consideration, it did not establish non-compliance affecting the result under section 97(2)(b). The burden remained on the Petitioner throughout; the dismissal follows from his failure to discharge it.

13.51 For completeness, I also address the Petitioner's prayer for a recount of votes. No evidence was led to establish any error in the counting or recording of votes warranting such an order. The prayer is therefore unsupported by evidence and is accordingly dismissed.

14.0 CONCLUSION

14.1 For these reasons, the allegations do not satisfy the requirements for avoiding the election under section 97(2)(a) or section 97(2)(b) of the Electoral Process Act.

14.2 The Petition is dismissed, and the Returning Officer's declaration is upheld.

14.3 I declare that the 1st Respondent, Emmanuel Mulenga, was duly elected as Member of Parliament for Ndola Central Constituency.

14.4 Due to the nature of the case, I order that each party shall bear their own costs. This is because I am of the considered view that there is an important public interest in clarifying the legitimacy of an election. It would be contrary to public interest to deter such scrutiny because of the consequence of the condemnation of the unsuccessful party to costs.

14.5 Leave to appeal is granted.

Dated at Ndola this *25th* day of *November*, 2026

M. Chanda-Mate
Judge

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
FAMILY & CHILDREN'S COURT DIVISION
20 NOV 2026
JUDGE M. CHANDA - MATE
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