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

2026/HP/EP/023

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
08 SEP 2026
PRINCIPAL REGISTRY 3
P.O. BOX 50067, LUSAKA.

IN THE MATTER OF: ARTICLE 1(2), (3), 73 (1)(a) AND 45(2)(a)(b) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 OF THE LAWS OF ZAMBIA

AND

IN THE MATTER OF: SECTIONS 97(2) OF THE ELECTORAL PROCESS ACT, NO. 35 OF 2016

IN THE MATTER OF: SECTIONS 70, 81, 87,94, 96, 97(1), 2(b), 98(c), 99(a)(b), 100(2)(a), OF THE ELECTORAL PROCESS ACT NO.36 OF 2016.

IN THE MATTER OF: RULE 9 OF THE HIGH COURT (ELECTION PETITION) RULES, 2026

IN THE MATTER OF: LUMEZI SOUTH CONSTITUENCY ELECTIONS HELD ON 13TH AUGUST, 2026

BETWEEN

LUFEYO NGOMA **PETITIONER**

AND

OLIVER MWALE **1ST RESPONDENT**

THE ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

LIST OF AUTHORITIES AND SKELETON ARGUMENTS

LIST OF AUTHORITIES

STATUTES

1. Electoral Process Act No.35 of 2016

CASES

1. Kufuka v Ndalemei (Appeal 15 of 2016) [2018] ZMCC 4 (29 January 2018);
2. Michael Mabenga v Sikota Wina and others (SCZ 15 of 2003) [2003] ZMSC 75;
3. Nkandu Luo and Another v Doreen Sefuka Mwamba (CCZ Selected Judgment No. 51 of 2018);
4. Mwalimu Simfukwe v Evaristo David Kasunga No.50 of 2013 (unreported);
5. Mutelo K v Kang'ombe & Another (2022) ZMCC;
6. Mazoka and Ors v Mwanawasa and Ors (SCZ EP 1 of 2002) 2005 ZMSC 25 (16 February 2005); and

7. Akashambatwa Mbikusita Lewanika, Hicuunga Evaristo Kambaila, Dean Namulya Mungomba, Sebastian Saizi Zulu, Jennifer Mwaba V Frederick Jacob Titus Chiluba (S.C.Z. JUDGMENT NO. 14 OF 1998).

1. INTRODUCTION

1.1. **MAY IT PLEASE THIS HONOURABLE COURT**, these are the 2nd Respondent's skeleton arguments to support its Affidavit in Opposition of the Election Petition of Lumezi South Constituency.

2. STANDARD OF PROOF

2.1. My Lord/Lady, the Constitutional Court in the case of **Kufuka v Ndalemei (Appeal 15 of 2016) [2018] ZMCC 4 (29 January 2018)** espoused that before arriving at a decision to nullify an election, the trial Court must bear in mind the standard of proof required in election petitions. The case of **Michael Mabenga v Sikota Wina and others (SCZ 15 of 2003) [2003] ZMSC 75** stated that:

> "Proof of an election petition, although a civil matter is higher than balance of probability, but less than beyond all reasonable doubt."

2.2. The Constitutional Court in the case of **Nkandu Luo and Another v Doreen Sefuka Mwamba (CCZ Selected Judgment No. 51 of 2018)** held:

> "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... in addition to proving the electoral malpractice or misconduct alleged, the Petitioner has a 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 electorates from electing the candidate of their choice."

2.3. This decision was further fortified by the Supreme Court in their decision of **Mwalimu Simfukwe v Evaristo David Kasunga No.50 of 2013 (unreported)** in which it was said that:

"...the burden of proof was on the Respondent, who was the Petitioner in the Court below. He was required to prove all the allegations in the Petition, to a standard higher than on a balance of probabilities:"

2.4. My Lord/Lady, in view of the foregoing authorities, we respectfully submit that the Petitioner has not discharged the burden of proof imposed upon a petitioner in an election petition. The evidence adduced before this Honourable Court does not sufficiently establish, to the requisite standard of proof.

3. WHAT NEEDS TO BE PROVED

3.1. **Section 97(2)** of **the Electoral Process Act** States that:

"The election of a candidate as a Member of Parliament, mayor, council chairperson or councillor shall be void if, on the trial of an election petition,

it is proved to the satisfaction of the High Court or a tribunal, as the case may be, that—

(a) a corrupt practice, illegal practice or other misconduct has been committed in connection with the election—

(a) by a candidate; or

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

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

3.2. The allegation raised by the petitioner do not, in itself, satisfy the requirements of section 97(2)(b) of the Act. The provision does not contemplate that an election is rendered void merely upon proof of non-compliance; rather, the Petitioner must establish that the non-compliance was such that the election was not conducted in accordance with the principles laid down in the relevant provisions of the Act and that such non-compliance affected the result of the election.

3.3. My Lord/Lady the Petitioner makes the general assertion that there were "wide spread mathematical disparities and non-compliance with the law" throughout the five wards, while merely identifying certain polling stations and referring to GEN 20's allegedly exhibiting such disparities. The Petitioner does not, however, state the total number of votes allegedly affected by the discrepancies, the precise difference between the figures recorded and the figures which he contends ought to have been recorded, or how those alleged discrepancies would affect the final constituency tally.

3.4. My lord/Lady **Section 36(1)** of **The Electoral Process Act** read together with paragraph **5(1) and (2)** of the Schedule to the said Act entails that, agents have a statutory duty to witness the count and announcement and countersign the results. In **Mutelo K v Kang'ombe & Another (2022) ZMCC**, the Court recognised an agent's GEN 20 signature as signifying "agreement with the results attained at that polling station." A signed GEN 20 is therefore strong evidence of the result witnessed and agreed to by the agent.

3.5. We further submit that the evidence does not demonstrates a pattern of electoral malpractice and misconduct which was sufficiently widespread and material to have affected the free exercise of the electorate's choice. In particular, the evidence does not establish that the malpractice complained of was of such a nature and extent that it swayed, or may have swayed, the majority of the electorate from electing the Petitioner.

3.6. In the Supreme Court case of **Mazoka and Ors v Mwanawasa and Ors (SCZ EP 1 of 2002) 2005 ZMSC 25 (16 February 2005)** stated:

> "It follows that for the Petitioner to succeed in the present petition, it is not enough to say that the Respondents have completely failed to provide a defence or to call witnesses, but that the evidence adduced establishes the issues raised to a fairly high degree of convincing clarity in that the proven defects and from the electoral flaws were such that the majority of voters were prevented from electing the candidate whom they preferred..."

3.7. The Petitioner cannot simply point to alleged isolated irregularities and invite the Court to speculate that they affected the result. There must be evidence demonstrating the material effect of those irregularities upon the result. In the absence of such evidence, the allegation remains one of irregularity without proof of consequence.

3.8. My lord/lady it is respectfully submitted that, in determining whether the relief sought by the Petitioner can properly be granted, the Court must distinguish between the mere existence of isolated electoral irregularities and irregularities which are shown, by credible evidence, to have materially affected the outcome of the election. The law does not require an election to be entirely free from error or administrative shortcomings; rather, the critical question is whether the defects complained of were of such a nature and magnitude as to have affected the result or the ability of the majority of voters to freely elect the candidate of their choice. It is against this

established principle that the allegations advanced by the Petitioner must be examined.

3.9. As in the case of **Akashambatwa Mbikusita Lewanika, Hicuunga Evaristo Kambaila, Dean Namulya Mungomba, Sebastian Saizi Zulu, Jennifer Mwaba V Frederick Jacob Titus Chiluba (S.C.Z. JUDGMENT NO. 14 OF 1998)**, the Supreme Court provided that:

> "The bottom line, however, was whether, given the national character of the exercise where all the voters in the country formed a single electoral college, it can be said that the proven defects were such that the majority of the voters were prevented from electing the candidate whom they preferred; or that the election was so flawed that the defects seriously affected the result which could no longer reasonably be said to represent the true free choice and free will of the majority of the voters."

3.10. Furthermore, in the Supreme Court case of **Mazoka and Ors v Mwanawasa and Ors (SCZ EP 1 of 2002) 2005 ZMSC 25 (16 February 2005),** the Court stated:

> "The few partially proved allegations are not indicative that the majority of the voters were prevented from electing the candidate whom they preferred; or that the election was so flawed that the dereliction of duty seriously affected the result which could no longer reasonably be said to reflect the true free choice and free will of the majority of the voters."

3.11. The foregoing authorities establish that it is not sufficient for a petitioner merely to establish the existence of irregularities, breaches, derelictions of duty or other electoral wrongs. The petitioner must go further and demonstrate that the defects complained of had a material effect on the election. In particular, the petitioner must establish that the proven defects were such as to prevent the majority of voters from electing the candidate whom they preferred, or that the election was so seriously flawed that the defects affected the result to such an extent that it could no longer reasonably be regarded as reflecting the true free choice and free will of the majority of the voters.

3.12. In the present case, however, the Petitioner has failed to establish any such material effect. Even assuming, without conceding, that the alleged irregularities or breaches occurred, the Petitioner has not demonstrated how those alleged acts prevented the majority of voters from electing their preferred candidate, nor has the Petitioner demonstrated that the alleged defects seriously affected the result of the election. The allegations therefore remain allegations of irregularity without the necessary evidential link between the alleged wrongdoing and the outcome of the election. Consequently, the Petitioner has failed to satisfy the threshold established in Lewanika v Chiluba, as applied in Mazoka v Mwanawasa.

4. SECTION 87(1) OF THE ELECTORAL PROCESS ACT

4.1. My Lord/Lady, **Section 87** of **the Electoral Process Act** states:

"A person shall not—

(a) forge, counterfeit or fraudulently deface or fraudulently destroy any ballot paper or the official mark on any ballot paper;

(b) without authority supply any ballot paper to any person;

(c) without authority put into any ballot box any ballot paper which that person is not authorised by law to put in;

(d) sell or offer to sell any ballot paper or voter's card to any person or purchase or offer to purchase any ballot paper or voter's card from any person;

(e) not being a person entitled under this Act to be in possession of a ballot paper or voter's card, have any such ballot paper or voter's card in that person's possession;

(f)without authority destroy, take, open or otherwise interfere with any ballot box or packet of ballot papers in use or intended to be used for the purpose of an election;

(g) without authority print or make any ballot paper or what purports to be or is capable of being used as a ballot paper or any identity document at an election;

(h) manufacture, construct, have in that person's possession, supply, or use for the purpose of an election, or cause to be manufactured constructed, supplied or used for the purposes of any election any appliance, device or mechanism by which a ballot paper may be extracted or manipulated after having been deposited in a ballot box in the course of polling at any polling station; or

(i)at an election obstruct a voter either at the polling station or on that voter's way thereto or therefrom."

4.2. Furthermore, **Section 94** of **the Electoral Process Act** provides that:

"(1) A person shall not-

(a) Wilfully delay or obstruct an officer in the carrying out of that officer's duties and powers under this Act; or

(b) Assault an officer in the lawful exercise of that officers duties and power under this Act.

(2) A person who contravenes a provision of subsection (1), commits an offence and is liable, upon conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding six months, or to both."

4.3. Accordingly, the mere allegation that conduct prohibited by section 87 occurred does not, in itself, establish that the Commission failed to comply with the Act or that such failure affected the result. Section 87 concerns specific electoral offences which the Petitioner has not particularly established. The Petitioner has described third parties allegedly interfering with election officers rather than ECZ committing the alleged misconduct. The Petitioner must therefore identify a specific act or omission by ECZ and establish the necessary connection between that conduct and the statutory grounds for invalidating the election.

5. RELIANCE ON SECTIONS OF THE ELECTORAL PROCESS ACT THAT DO NOT APPLY

5.1. My Lord/Lady, the Petitioner cited a number of Sections of the Electoral Process Act to place reliance on in invoking the jurisdiction of the Court. However, these Sections are not relevant as they do not speak to the issues that are alleged by the Petitioner in their Petition.

5.2. **Section 70** of **the Electoral Process Act** states:

> "(1) An election or polling agent may object to an alleged inaccuracy in the counting of the votes or the announcement of a result under section seventy-one.
>
> (2) An objection under subsection (l) shall be made to a presiding officer, in the prescribed form, at any stage before the presiding officer has announced the result.
>
> (3) A presiding officer shall determine the objection and decide whether to order a recount.
>
> (4) A presiding officer shall notify the objector and any other party involved in the objection, of the decision made under subsection (3).
>
> (5) If a presiding officer orders a recount, the presiding officer shall announce the result afresh.
>
> (6) An appeal against the decision of a presiding officer may be made to the returning officer in the prescribed form.
>
> (7) A presiding officer shall keep a written record, in the prescribed form, of each objection under subsection (l) and each decision under this section."

5.3. We submit that the Petitioner's reliance on Section 70 is fundamentally misplaced and unsustainable. Neither the Petition nor the Affidavit Verifying Facts discloses any

evidence that an objection was ever lodged with the Presiding Officer at any stage before the declaration of results.

5.4. Crucially, no prescribed objection form or written record appears anywhere in the Petitioner's Bundle of Documents. Having failed to invoke or satisfy the mandatory statutory procedure under Section 70, the Petitioner cannot now rely on this provision to challenge the outcome after the fact.

5.5. Furthermore, the petition was further brought pursuant to **Section 81** of **the Electoral Process Act** among other provisions which provides that:

> "A person shall not, either directly or indirectly, by oneself or with any other person corruptly—
>
> (a) give, lend, procure, offer, promise or agree to give, lend, procure or offer, any money to a voter or to any other person on behalf of a voter or for the benefit of a voter in order to induce that voter to vote or refrain from voting or corruptly do any such act as aforesaid on account of such voter having voted or refrained from voting at any election;
>
> (b) give, lend or procure, offer, promise or agree to give, lend, procure, offer or promise, any money to a voter or for the benefit of a voter or to any other person or on behalf of that person on behalf of any voter or to or for any other person for acting or joining in any procession or demonstration before, during or after any election;
>
> (c) make any gift, loan, offer, promise, procurement or agreement to or for the benefit of any person in order to induce the person to procure or to

endeavour to procure the return of any candidate at any election or the vote of any voter at any election;

(d) upon or in consequence of any gift, loan, offer, promise, procurement or agreement, procure or engage, promise or endeavour to procure, the return of any candidate at any election or the vote of any voter at any election;

(e) advance or pay or cause to be advanced or paid any money to or for the use of any other person with the intent that such money or any part thereof shall be expended in bribery at any election, or knowingly pay or cause to be paid any money to any person in discharge or repayment of any money wholly or partially expended in bribery at any election;

(f)before or during any election, receive or contract for any money or loan for oneself or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting at any election;

(g) after any election, receive any money on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting at any election; or

(h) convey or transfer or be concerned with the conveyance or transfer of any property, or pay or be concerned with the payment of any money, to any person for the purpose of enabling that person to be registered as a voter, thereby to influence that person's vote at any future election, or pay to or be concerned with the payment of any money on account of any voter for the purpose of inducing that person to vote or refrain from voting.

(2) A person who contravenes any provision of subsection (1) commits an offence.

(3) Nothing in this Act shall be construed as applying to any money paid or agreed to be paid for, or on account of, any expenditure bona fide and lawfully incurred in respect of the conduct or management of an election."

5.6. My Lord/Lady, allegations of corrupt practices are criminal in nature and demand cogent proof. A party alleging bribery must specifically plead the material facts stating with precision who committed the act, to whom the money was paid, and the circumstances under which it occurred. A critical examination of the Petition and the Affidavit verifying facts reveals no such particulars or evidence, respectively. The Petitioner has provided no facts, no specific allegations, and not a single exhibit demonstrating any contravention of **Section 81** of **the Electoral Process Act**.

6. CONCLUSION

6.1. My Lord/Lady, in conclusion, it is respectfully submitted that the Petitioner has failed to discharge the burden of proof required in an election petition. The allegations advanced against the 2nd Respondent remain largely unsubstantiated and have not been supported by cogent evidence demonstrating that any corrupt practice, illegal practice, misconduct or non-compliance with the Electoral Process Act was committed by the 2nd Respondent or with its knowledge, consent or approval.

6.2. Further, even assuming, without conceding, that certain irregularities occurred during the electoral process, the Petitioner has failed to establish the essential nexus between the alleged irregularities and the outcome of the election. In particular, there has been no sufficient demonstration that the alleged defects were so widespread or substantial as to prevent the majority of voters from electing the candidate of their

choice, or that the election was conducted in such a manner that its result could no longer reasonably be regarded as reflecting the free choice and will of the electorate.

6.3. The Petitioner has also failed to demonstrate compliance with the applicable statutory procedures, including the procedure contemplated under section 70 of the Electoral Process Act for challenging alleged inaccuracies in the counting or announcement of results. Likewise, the allegations founded upon sections 81, 87 and 94 of the Act have not been established by the requisite evidence or sufficiently connected to any conduct attributable to the 2nd Respondent.

6.4. We therefore respectfully submit that the Petition is devoid of sufficient evidential and legal basis to warrant the nullification of the election of the 1st Respondent. The 2nd Respondent accordingly prays that this Honourable Court dismisses the Petition in its entirety, with costs to the 2nd Respondent, and grant such further or other relief as this Honourable Court may deem just and appropriate.

WE SUBMIT

Dated the ..... day of 2026

Per: .....
Messrs. Jaques and Partners Legal Practitioners
Ground Floor, MAMCo House
316 Independence Avenue
P.O. Box C. A. 48 Castle
LUSAKA
Advocates for the 2nd Respondent

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

2026/HP/EP023

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
17 SEP 2026
PRINCIPAL REGISTRY 7
P.O. BOX 50067, LUSAKA.

IN THE MATTER OF: ARTICLE 1(2)(3), 73(1)(a) AND 45 (2)(a)(b) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 OF THE LAWS OF ZAMBIA

AND

IN THE MATTER OF: SECTION 97(2) OF THE ELECTORAL PROCESS ACT, NO. 35 OF 2016

AND

IN THE MATTER OF: SECTION 70, 81, 87, 94, 96, 97(1)(2)(b), 98(c), 99(a)(b), 10(2)(a), OF THE ELECTORAL PROCESS ACT NO. 36 OF 2016

AND

IN THE MATTER OF: RULE 9 OF THE HIGH COURT (ELECTION PETITION) RULES, 2026

AND

IN THE MATTER OF: LUMEZI SOUTH CONSTITUENCY ELECTIONS HELD ON 13TH AUGUST, 2026

BETWEEN:

LUFEYO NGOMA — PETITIONER

AND

OLIVER MWALE — 1ST RESPONDENT

THE ELECTORAL COMMISSION OF ZAMBIA — 2ND RESPONDENT

AFFIDAVIT IN OPPOSITION TO THE PETITIONER'S AFFIDAVIT VERIFYING FACTS

I, Oliver Mwale a Zambian National and Resident of Chipokosa Farm, chief Chikomeni in the Lumezi District of the Eastern Province of the Republic of Zambia do hereby **MAE OATH** and **SAY** as follows;

1. That my particulars are as above stated.

2. That I am the 1st Respondent herein by virtue whereof competent to depose to this my affidavit with facts within my personal knowledge.

3. That contents of paragraph 1, 2, 11, are within the Petitioner's peculiar knowledge and the Petitioner will be put to strict proof while contents of paragraph 3 to 8 are undisputed.

4. That I dispute contents of paragraph 9 and 10 of the Petitioner's affidavit and I will aver that the declared results were accurate and reflect the votes cast and counted at Parliamentary level in the Lumezi South Constituency Election, as there were no irregularities whatsoever in the counting and recording of votes in all polling stations.

5. There was no report at either Zambia Police or Electoral Commission of Zambia of the Petitioner's agents ever being prevented from participating in and or observing the counting of ballot papers at a number of polling stations with the constituency.

6. That I dispute contents of paragraph 12, 13, 14, 15, 16, 18, 19 of the Petitioner Affidavit and I will aver as follows;

7. The allegations that the Petitioner's polling agents were required to sign the GEN 20a forms before completion of counting of ballot papers and before counting even commenced and that his polling agents were thereafter removed from the polling stations thereby prevented from observing and verifying of ballot papers and results, are unfounded because all political parties' agents where trained and sensitized accordingly and they understood the procedure very well. None of the agents were told to sign the Gen 20a forms before completion of counting of ballot papers and no agent belonging to the Petitioner's party was ever removed from polling stations at the 1st Respondent's instance or instruction.

8. The allegations that the Petitioner's polling agents were required to sign the GEN 20a forms before completion of counting of ballot papers and before counting even commenced and that his polling agents were thereafter removed from the polling stations thereby prevented from observing and verifying of ballot papers and results, are unfounded because all political parties' agents where trained and sensitized accordingly and they understood the procedure very well. None of the agents were told to sign the Gen 20a forms before completion of counting of ballot papers and no agent belonging to the Petitioner's party was ever removed from polling stations at the 1st Respondent's instance or instruction.

9. There were no acts of intimidation, force and or, deception thereby affecting the Petitioner's agents from verifying the accuracy of results at Chasela, Katondolo Community School polling stations or any other polling station within the constituency. All polling stations where manned by tight security from Zambia Police Station and so such occurrences could not be done by anyone especially members of the opposition political parties.

10. The Petitioner alleges that there was no police officers in Lukusuzi Ward and that security was provided by village scouts which were later chased by persons he believes where NRPUP cadres, this is unfounded because it's the 1st Respondents knowledge that all polling stations in Lumezi had police officers as the case was throughout the country. And that he is not aware of any such occurrence.

11. The 1st Respondent is not aware of the Presiding Officer, Maxiwell Mwanza and theother presiding officer of Yakobe Polling Stations who are said to be chased and keys grabbed from them violently together with the Petitioner's polling agents by himself or his agents because there was no police complaint filed against himself or his agents by the Petitioner at the time where he had the capacity to do so.

12. The 1st Respondent dispute contents of paragraph 20 of the Petitioner's affidavit and will aver that The 1st Respondent is not aware of any incident at Diwa Polling Station in Diwa Ward, where persons who the Petitioner believes to be NRPUP cadres entered the Polling Station during the counting of votes and forcibly removed the Petitioner's polling agents who were prevented from counting votes. Diwa Polling Station equally had strong presence of the police as can be seen from the Petitioner's video evidence marked 'LN3' in the Petitioner's affidavit, it's not possible that that, occurrence could have taken place in full view of police. The allegations are not correct.

13. From the video evidence produced in exhibit 'LN3' does not depict the Petitioner's agents being attacked and removed from the polling station and neither did individuals in the said video clad in NRPUP regalia nor chanting NRPUP slogans or displaying their symbols and or singing NRPUP songs to signify their affiliation.

14. The 1st Respondent disputes contents of paragraph 21 of the Petitioner's affidavit as the same is within the Petitioner's perculiar knowledge and save to mention that none of the 1st Respondent's agents or the 1st Respondent himself has ever been reported to the police or arrested for assault. The said allegations are an afterthought.

15. That contents of paragraph 15, 22, 23 and 24 are disputed and the 1st Respondent will aver that there was no spread of mathematical disparities and non compliance with the law during the verification, tallying and declaration phases in all the 5 wards of Lumezi South Constituency. All the processes where done within the law.

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

2026/HP/EP023

REPUBLIC OF ZAMBIA HIGH COURT OF ZAMBIA 07 SEP 2026 PRINCIPAL REGISTRY P.O. BOX 50067 LUSAKA

IN THE MATTER OF: ARTICLE 1(2)(3), 73(1)(a) AND 45 (2)(a)(b) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 OF THE LAWS OF ZAMBIA

AND

IN THE MATTER OF: SECTION 97(2) OF THE ELECTORAL PROCESS ACT, NO. 35 OF 2016

AND

IN THE MATTER OF: SECTION 70, 81, 87, 94, 96, 97(1)(2)(b), 98(c), 99(a)(b), 10(2)(a), OF THE ELECTORAL PROCESS ACT NO. 36 OF 2016

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BETWEEN:

LUFEYO NGOMA — PETITIONER

AND

OLIVER MWALE — 1ST RESPONDENT

THE ELECTORAL COMMISSION OF ZAMBIA — 2ND RESPONDENT

CERTIFICATE OF EXHIBITS

These are the exhibits referred to in the affidavit of one **Oliver Mwale** herein produced and marked **'OM1' and 'OM2'** respectively.

Dated this ....7.... **day of** ....Sept.... **2026**

.....

COMMISSIONER FOR OATHS

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
07 SEP 2026
COMMISSIONER FOR OATHS
P.O. BOX 50067, LUSAKA

16. The 1st Respondent disputes contents of paragraph 26 and 28 of the Petitioner's affidavit and will aver that the Petitioner need to understand that a difference of 1,378 votes cannot be described as arithmetic margin between myself and the Petitioner, the said margin is big and is a clear indication that the Petitioner was not the choice of the electorates and that a recount of ballot papers cast in the Parliamentary Election for Lumezi South Constituency is not necessary as that will only affect the development of the constituency.

17. The 1st Respondent disputes contents of paragraph 29, 30, 31 and 32 of the Petitioner's affidavit and will aver that a recount would prejudice the 1st Respondent because of various complaints of ballot boxes and Electoral Commission of Zambia (ECZ) gadgets being stolen as the case was with Mandevu Constituency. The 1st Respondent does not believe that ballot papers would be in the same capacity as before herein produced and marked **'OM1 and OM2'** are copies of statements by the 2nd Respondent which signifies that ballot papers cannot be as intact as they were.

18. Independent verification was already done in the face of all party agents who appended their signatures afterwards without any duress and there was no complaint reported at that particular time.

19. Refusal by this Honourable Court to order for a recount will not prejudice the Petitioner in anyway as there is no evidence of his agents prevented from observing and participating in the counting process at the instance of myself or my agents or party supporters whatsoever.

20. That in return I beseech this Honorable Court to dismiss the Petitioner's petition with costs for warrant of merits.

21. That I depose to this affidavit believing its facts to be true and correct to the best of my ability.

SWORN by the said;)
OLIVER MWALE)
at Lusaka this ..... day)
day of ..... 2026)

.....
Deponent

BEFORE ME: .....
COMMISSIONER FOR OATHS

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
07 SEP 2026
COMMISSIONER FOR OATHS
P.O. BOX 50067, LUSAKA



IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
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(Civil jurisdiction)

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IN THE MATTER OF: **ARTICLE 1(2), (3), 73 (1)(a) AND 45(2)(a)(b) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 OF THE LAWS OF ZAMBIA**

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BETWEEN

LUFEYO NGOMA **PETITIONER**

AND

OLIVER MWALE **1ST RESPONDENT**

THE ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

2nd RESPONDENT'S AFFIDAVIT IN OPPOSITION

I, **GEORGE MULENGA**, a Zambian national of Lumezi Trading Centre, Chief Zumwanda's Chiefdom, of the Lumezi District in the Eastern Province of the Republic of Zambia do hereby make **OATH** and **SAY** as follows:

1. That my full name, nationality, and residential address are as set out above.

2. That I am the Returning Officer designated by the 2nd Respondent, the Electoral Commission of Zambia, for Lumezi South Constituency during the Parliamentary Election held on 13th August 2026, and by virtue of my role in the conduct, supervision and tallying of the election and the matters within my knowledge arising therefrom, I am competent and duly authorised to depose to this Affidavit.

3. That I depose to this Affidavit in opposition to the Affidavit Verifying Facts sworn by the Petitioner and, in particular, in response to the allegations concerning the conduct of the election, the counting and tallying of votes, the participation of polling agents, alleged incidents of violence and disruption, and the alleged discrepancies appearing on the GEN20A forms from various Polling Stations.

4. That the election was conducted by the 2nd Respondent through its designated election officials, with the results from the respective Polling Stations being recorded on the prescribed GEN20A forms and subsequently received and tallied for purposes of declaring the constituency results.

5. That I am aware that the Petitioner alleges that his polling agents were prevented from participating in or observing the counting of votes at a number of Polling Stations and that incidents of violence or disruption occurred during the electoral process.

6. That in this regard, I received a telephone call from a Presiding Officer at Yakobe Polling Station informing me that the counting of votes had been halted following an incident involving unknown and unidentifiable individuals who were alleged to have been attempting to disrupt the peaceful counting and tallying of votes.

7. That I was informed that the Presiding Officer and other election officials had secured themselves inside the building while awaiting police assistance, following which I communicated the matter to the relevant authorities and assistance was provided at the Polling Station.

8. That owing to a shortage of police officers in the area, the 2nd Respondent requested the Department of National Parks and Wildlife to provide additional officers to assist in securing the Polling Stations during the electoral process.

9. That the said request was made as part of the security arrangements for the Polling Stations and was intended to provide additional assistance where required. I further state that the occurrence of a security incident at a Polling Station was not, in itself, an indication that the

counting records generated at that Polling Station were not completed or recorded, and the relevant electoral records continued to be maintained by the election officials.

10. That following the completion of polling and counting at the respective Polling Stations, the results were recorded on GEN20A forms by the Presiding Officers and election officials. The GEN20A forms were available to the polling agents present at the respective Polling Stations, and the forms identified by the Petitioner in his Affidavit Verifying Facts show, in the instances herein referred to, that the Petitioner's polling agents signed the relevant forms.

11. That no complaint, objection or appeal was received by me in respect of the particular discrepancies now identified by the Petitioner at the time the results were being recorded and tallied at the respective Polling Stations.

12. That at Nakasanga Polling Station in Chibande Ward, the total number of votes was recorded as 444 in words and 446 in figures, representing a difference of 2 votes. The said entries appear on the GEN20A form for the Polling Station exhibited and marked "LN 2" in the Affidavit Verifying the Facts.

13. That further to paragraph 12 above no complaint or objection was made to me in respect of the said discrepancy at the time of the tallying of the results.

14. That at Chauluma Polling Station in Diwa Ward, the total number of votes was recorded as 300 in words and 291 in figures. The entry for Banda Gibson, the RP candidate, was recorded as 60 in figures whereas the corresponding entry in words was 69. The difference between the two totals corresponds with the difference between those entries.

15. That the Petitioner's polling agent witnessed the completion of the GEN20A form and signed the same, and no complaint or objection was made to me in relation to the said entries.

16. That at Kazonde School Polling Station in Diwa Ward, the total number of votes cast recorded on the GEN20A form did not include the 23 votes recorded as invalid votes. The Petitioner's polling agent signed the GEN20A form for the said Polling Station, and no complaint or

objection was made to me concerning the recording of the invalid votes or the manner in which the total votes were reflected on the form.

17. That at Champoyo Polling Station in Diwa Ward, the total number of votes was recorded as 531 in both figures and words, whilst the total number of votes recorded as having been cast was 548, representing a difference of 17 votes. No complaint, objection or appeal was received by the 2nd Respondent in respect of the tallying or recording of votes at the said Polling Station.

18. That at the 1st Stream of Chikomeni Polling Station in Diwa Ward, the total number of votes was recorded as 369 in both figures and words, whilst the total number of votes recorded as having been cast was 370, representing a difference of 1 vote. The Petitioner's polling agent signed the GEN20A form and no complaint, objection or appeal was received by the 2nd Respondent concerning the tallying or recording of votes at that Polling Station.

19. That at the 2nd Stream of Chikomeni Polling Station in Diwa Ward, the total number of votes recorded in figures, including the invalid votes, was 357, whilst the total number recorded in words, also including the invalid votes, was 277, and the total number of votes recorded as having been cast was 366. The Petitioner's polling agent signed the GEN20A form for the said Polling Station, and no complaint, objection or appeal was received by the 2nd Respondent concerning the said entries or the tallying of votes at the Polling Station.

20. That the matters set out in paragraphs 6 to 11 above constitute the particular discrepancies in the GEN20A forms identified by the Petitioner in relation to Nakasanga, Chauluma, Kazonde School, Champoyo and the 1st and 2nd Streams of Chikomeni Polling Stations.

21. That the respective GEN20A forms constitute the records upon which the entries complained of by the Petitioner appear, and that, in the instances identified above, the Petitioner's polling agents signed the relevant forms without a contemporaneous complaint, objection or appeal being made to the 2nd Respondent concerning those entries.

agents signed the relevant forms without a contemporaneous complaint, objection or appeal being made to the 2nd Respondent concerning those entries.

22. That after the results from the respective Polling Stations had been recorded, the results were transmitted through the electoral process for tallying at constituency level.

23. That in my capacity as Returning Officer, I received and tallied the results from the Polling Stations and thereafter declared the results for Lumezi South Constituency. The results declared were: Mwale Oliver – 6,324 votes; Ngoma Lufeyo – 4,946 votes; Banda Goodson – 1,672 votes; Kwanza G. Pilla – 1,448 votes; Kamanga K. Francis – 1,422 votes; Chitibulo Zelph – 246 votes; and Chibesa Paul – 169 votes.

24. That I depose to the contents of this my Affidavit verily believing the same to be true and correct to the best of my knowledge and information.

SWORN by the said **GEORGE MULENGA**)
At Lumezi on the 8TH)
Day of SEPTEMBER 2026)

_____
DEPONENT

BEFORE ME: _____
COMMISSIONER FOR OATHS

COMMISSIONER FOR OATHS
08 SEP 2026
DISTRICT COMMISSIONER
P. O. BOX 530079, LUMEZI



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

2026/HP /EP/023

IN THE MATTER OF: **ARTICLE 1(2), (3), 73 (1)(a) AND 45(2)(a)(b) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 OF THE LAWS OF ZAMBIA**

AND

IN THE MATTER OF: **SECTIONS 97(2) OF THE ELECTORAL PROCESS ACT, NO. 35 OF 2016**

IN THE MATTER OF: **SECTIONS 70, 81, 87,94, 96, 97(1), 2(b), 98(c), 99(a)(b), 100(2)(a), OF THE ELECTORAL PROCESS ACT NO.36 OF 2016.**

IN THE MATTER OF: **RULE 9 OF THE HIGH COURT (ELECTION PETITION) RULES, 2016**

IN THE MATTER OF: **LUMEZI SOUTH CONSTITUENCY ELECTIONS HELD ON 13TH AUGUST, 2016**

BETWEEN

LUFEYO NGOMA **PETITIONER**

AND

OLIVER MWALE **1ST RESPONDENT**

THE ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

2nd RESPONDENT'S AFFIDAVIT IN OPPOSITION

I, **GEORGE MULENGA**, a Zambian national of Lumezi Trading Centre, Chief Zumwanda's Chiefdom, of the Lumezi District in the Eastern Province of the Republic of Zambia do hereby make **OATH** and **SAY** as follows:

1. That my full name, nationality, and residential address are as set out above.

2. That I am the Returning Officer designated by the 2nd Respondent, the Electoral Commission of Zambia, for Lumezi South Constituency during the Parliamentary Election held on 13th August 2026, and by virtue of my role in the conduct, supervision and tallying of the election and the matters within my knowledge arising therefrom, I am competent and duly authorised to depose to this Affidavit.

3. That I depose to this Affidavit in opposition to the Affidavit Verifying Facts sworn by the Petitioner and, in particular, in response to the allegations concerning the conduct of the election, the counting and tallying of votes, the participation of polling agents, alleged incidents of violence and disruption, and the alleged discrepancies appearing on the GEN20A forms from various Polling Stations.

4. That the election was conducted by the 2nd Respondent through its designated election officials, with the results from the respective Polling Stations being recorded on the prescribed GEN20A forms and subsequently received and tallied for purposes of declaring the constituency results.

5. That I am aware that the Petitioner alleges that his polling agents were prevented from participating in or observing the counting of votes at a number of Polling Stations and that incidents of violence or disruption occurred during the electoral process.

6. That in this regard, I received a telephone call from a Presiding Officer at Yakobe Polling Station informing me that the counting of votes had been halted following an incident involving unknown and unidentifiable individuals who were alleged to have been attempting to disrupt the peaceful counting and tallying of votes.

7. That I was informed that the Presiding Officer and other election officials had secured themselves inside the building while awaiting police assistance, following which I communicated the matter to the relevant authorities and assistance was provided at the Polling Station.

8. That owing to a shortage of police officers in the area, the 2nd Respondent requested the Department of National Parks and Wildlife to provide additional officers to assist in securing the Polling Stations during the electoral process.

9. That the said request was made as part of the security arrangements for the Polling Stations and was intended to provide additional assistance where required. I further state that the occurrence of a security incident at a Polling Station was not, in itself, an indication that the

counting records generated at that Polling Station were not completed or recorded, and the relevant electoral records continued to be maintained by the election officials.

10. That following the completion of polling and counting at the respective Polling Stations, the results were recorded on GEN20A forms by the Presiding Officers and election officials. The GEN20A forms were available to the polling agents present at the respective Polling Stations, and the forms identified by the Petitioner in his Affidavit Verifying Facts show, in the instances herein referred to, that the Petitioner's polling agents signed the relevant forms.

11. That no complaint, objection or appeal was received by me in respect of the particular discrepancies now identified by the Petitioner at the time the results were being recorded and tallied at the respective Polling Stations.

12. That at Nakasanga Polling Station in Chibande Ward, the total number of votes was recorded as 444 in words and 446 in figures, representing a difference of 2 votes. The said entries appear on the GEN20A form for the Polling Station exhibited and marked "LN 2" in the Affidavit Verifying the Facts.

13. That further to paragraph 12 above no complaint or objection was made to me in respect of the said discrepancy at the time of the tallying of the results.

14. That at Chauluma Polling Station in Diwa Ward, the total number of votes was recorded as 300 in words and 291 in figures. The entry for Banda Gibson, the RP candidate, was recorded as 60 in figures whereas the corresponding entry in words was 69. The difference between the two totals corresponds with the difference between those entries.

15. That the Petitioner's polling agent witnessed the completion of the GEN20A form and signed the same, and no complaint or objection was made to me in relation to the said entries.

16. That at Kazonde School Polling Station in Diwa Ward, the total number of votes cast recorded on the GEN20A form did not include the 23 votes recorded as invalid votes. The Petitioner's polling agent signed the GEN20A form for the said Polling Station, and no complaint or

objection was made to me concerning the recording of the invalid votes or the manner in which the total votes were reflected on the form.

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19. That at the 2nd Stream of Chikomeni Polling Station in Diwa Ward, the total number of votes recorded in figures, including the invalid votes, was 357, whilst the total number recorded in words, also including the invalid votes, was 277, and the total number of votes recorded as having been cast was 366. The Petitioner's polling agent signed the GEN20A form for the said Polling Station, and no complaint, objection or appeal was received by the 2nd Respondent concerning the said entries or the tallying of votes at the Polling Station.

20. That the matters set out in paragraphs 6 to 11 above constitute the particular discrepancies in the GEN20A forms identified by the Petitioner in relation to Nakasanga, Chauluma, Kazonde School, Champoyo and the 1st and 2nd Streams of Chikomeni Polling Stations.

21. That the respective GEN20A forms constitute the records upon which the entries complained of by the Petitioner appear, and that, in the instances identified above, the Petitioner's polling agents signed the relevant forms without a contemporaneous complaint, objection or appeal being made to the 2nd Respondent concerning those entries.

agents signed the relevant forms without a contemporaneous complaint, objection or appeal being made to the 2nd Respondent concerning those entries.

22. That after the results from the respective Polling Stations had been recorded, the results were transmitted through the electoral process for tallying at constituency level.

23. That in my capacity as Returning Officer, I received and tallied the results from the Polling Stations and thereafter declared the results for Lumezi South Constituency. The results declared were: Mwale Oliver – 6,324 votes; Ngoma Lufeyo – 4,946 votes; Banda Goodson – 1,672 votes; Kwanza G. Pilla – 1,448 votes; Kamanga K. Francis – 1,422 votes; Chitibulo Zelph – 246 votes; and Chibesa Paul – 169 votes.

24. That I depose to the contents of this my Affidavit verily believing the same to be true and correct to the best of my knowledge and information.

SWORN by the said **GEORGE MULENGA**)
At Lumezi on the 8TH)
Day of SEPTEMBER 2026)

mgs
_____
DEPONENT

BEFORE ME: _____
COMMISSIONER FOR OATHS

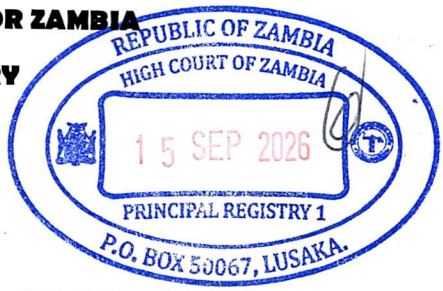
COMMISSIONER FOR OATHS
08 SEP 2025
DISTRICT COMMISSIONER
P. O. BOX 530079, LUSAKA

IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/023**

AT PRINCIPAL REGISTRY

HOLDEN AT LUSAKA

(Civil Jurisdiction)



IN THE MATTER OF: **ARTICLE 1(2),(3), 73 (1)(a) AND 45(2)(a)(b) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 THE LAWS OF ZAMBIA**

AND

IN THE MATTER OF: **SECTIONS 97 (2) OF THE ELECTORAL PROCESS ACT, NO. 35 OF 2016.**

IN THE MATTER OF: **SECTIONS 70, 81, 87, 94, 96, 97(1),2(a)(b) 98(c), 99(a)(b), 100 (2) (a), OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016**

IN THE MATTER OF: **RULE 9 OF THE HIGH COURT (ELECTION PETITION) RULES, 2026**

IN THE MATTER OF: **LUMEZI SOUTH CONSTITUENCY ELECTIONS HELD ON 13TH AUGUST, 2026.**

BETWEEN:

LUFEYO NGOMA **PETITIONER**

AND

OLIVER MWALE **1ST RESPONDENT**

THE ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

AFFIDAVIT IN REPLY TO 1st AND 2ND RESPONDENTS' ANSWERS

I, **LUFEYO NGOMA**, of House No. 5, Kasote Compound, in the Lumezi District of the Eastern Province of the Republic of Zambia, **DO MAKE OATH** and **SAY** as follows:

1. That my full names, nationality and residential address are as stated above.

2. That I am the Petitioner herein and, as such, competent and duly authorised to depose to this Affidavit in support of the Petition and in reply to the Affidavits in Opposition filed by the Respondents.
3. That save where otherwise stated, the facts deposed to herein are within my personal knowledge and are true and correct, and where I depose to matters based on information received, I verily believe the same to be true.

REPLY TO THE 1ST RESPONDENT'S ANSWER

4. That I have read the Affidavit in Opposition to the Affidavit Verifying Facts sworn by the 1st Respondent herein and dated **7th September 2026**, and I wish to respond to the matters raised therein as follows.
5. That the contents of paragraphs 1, 2 and 3 of the 1st Respondent's Answer are not in issue.
6. That in response to the contents of paragraph 4 of the 1st Respondent's Answer, the Petitioner denies that the 1st Respondent was duly and validly elected as Member of Parliament for Lumezi South Constituency.
7. That the Petitioner reasonably believes and shall prove that the election was fundamentally compromised by widespread corruption, illegal practices, electoral malpractices, intimidation and violence occurring across all the Five (5) wards of Lumezi South Constituency.
8. That the Petitioner further reasonably believes that the declaration of the 1st Respondent as duly elected Member of Parliament for Lumezi Constituency was invalid as the declared results do not accurately reflect the votes cast and counted in the Parliamentary Election for Lumezi South Constituency, owing to serious irregularities in the counting and recording of votes at various polling stations thus in non-compliance with provisions of the Constitution and the Electoral Process Act (EPA) No. 35 of 2016 and the procedures under the said act.

9. That the Petitioner accordingly reiterates and shall rely upon the averments contained in paragraph 4(i), (ii), (iii), (iv), (v), (vi), (vii) , (ix), (x), (xi), (xii), (xiii), (xiv), (xv) and (xvi) of his Election Petition filed on 28th august 2026.

10. That the Petitioner additionally believes and shall prove that the election and subsequent declaration of the 1st Respondent as Member of Parliament for Lumezi South Constituency was neither free nor fair, having been marred by widespread irregularities, misconduct and breaches of electoral law.

11. That the said irregularities and illegal practices were of such a scale, nature and prevalence as to materially and adversely affect the integrity and outcome of the election and to prevent, or potentially prevent, voters from freely and fairly choosing a candidate of their choice.

12. That in further response to the contents of paragraph 4 of the 1st Respondent's Answer, the Petitioner reasonably believes that the 1st Respondent knew and/or ought reasonably to have known of the acts of corruption, bribery, intimidation, violence and other electoral malpractices perpetrated by his supporters, election agents and polling agents throughout the Five (5) wards of Lumezi South Constituency.

13. That the Petitioner shall prove that the persons alleged to have engaged in the aforesaid conduct were closely associated with and regularly in the company of the 1st Respondent throughout the campaign and voting periods.

14. That the Petitioner made several reports and complaints concerning the said conduct to agents of the 2nd Respondent and to the Police on various occasions.

15. That the Petitioner shall accordingly prove at trial that the 1st Respondent had actual and/or constructive knowledge of, and in certain instances authorised, consented to, acquiesced in and/or participated in, the activities of his supporters, election agents and polling agents which resulted in widespread corruption, bribery,

intimidation, violence and other electoral malpractices throughout Lumezi Constituency.

16. That the Petitioner shall prove that 1st Respondent was involved in a number of electoral malpractices including but not limited to the distribution of K50.00 and meat to voters
17. That the above was undertaken at the instance, with the knowledge and/or with the consent of the 1st Respondent and his close supporter such Archbishop of Lusaka, Dr Alick Banda from his farm situated in Lumezi.
18. That the said Archbishop Dr. Alick Banda was seen at different meetings at his farm which was attended by the 1st Respondent distributing K50, K100 and sausages to voters during the campaign period and polling day.
19. That the monies used in the distribution of the said K50.00 payments originated from, and/or were supplied by, the 1st Respondent, and that numerous witnesses personally witnessed and/or received money directly from the 1st Respondent for the purpose of inducing voters to vote for him during the campaign period and on polling day.
20. That the Petitioner accordingly maintains and reiterates all the reliefs sought in the Election Petition dated 28th August 2026.

REPLY TO THE 2ND RESPONDENT'S ANSWER

21. That the contents of paragraphs 1 and 2 of the 2nd Respondent's Answer are not in issue, save that the Petitioner shall aver that the 1st Respondent was wrongfully and/or unlawfully declared the winner of the Lumezi South Constituency parliamentary election, the said election having been materially compromised by widespread corruption, violence, intimidation and other illegal electoral practices.
22. The Petitioner shall further aver and prove that the aforesaid misconduct was sufficiently substantial, widespread and pervasive as to materially affect the

outcome of the election and to prevent, or potentially prevent, a majority of the electorate from freely exercising their right to elect the candidate of their choice.

23. That there was wide spread of mathematical disparities and non-compliance with the law during the verification, tallying and declaration phases in all the 5 wards of Lumezi South Constituency.

24. That the cumulative effect of the aforesaid acts and omissions was such as to materially compromise the electoral process and the reliability of the result declared in favour of the 1st Respondent.

25. The Petitioner accordingly maintains and reiterates all the reliefs sought in the Election Petition dated 28th August 2026.

26. That the cumulative effect of the aforesaid acts of corruption, bribery, voter inducement, intimidation, violence and other electoral malpractices materially compromised the integrity of the electoral process and the validity of the result declared in favour of the 1st Respondent.

29. That I therefore respectfully pray that this Honourable Court be pleased to **nullify the Parliamentary Election for Lumezi South held on 13th August 2026**, and grant such further or other relief as this Honourable Court may deem just and appropriate.

30. That I depose to this Affidavit in good faith and verily believing the facts hereinbefore deposed to be true and correct to the best of my knowledge, information and belief.

SWORN by said)
LUFEYO NGOMA)
At Lusaka this day of 2026)

DEPONENT

BEFORE ME:

ZULU PETER
LLB, ADCZ, ASCZ
15 SEP 2026
LEGAL PRACTITIONER
COMMISSIONER FOR OATHS

COMMISSIONER FOR OATHS

IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/023**

AT PRINCIPAL REGISTRY

HOLDEN AT LUSAKA

(Civil Jurisdiction)



IN THE MATTER OF: **ARTICLE 1(2),(3), 73 (1)(a) AND 45(2)(a)(b) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 THE LAWS OF ZAMBIA**

AND

IN THE MATTER OF: **SECTIONS 97 (2) OF THE ELECTORAL PROCESS ACT, NO. 35 OF 2016.**

IN THE MATTER OF: **SECTIONS 70, 81, 87, 94, 96, 97(1),2(a)(b) 98(c), 99(a)(b), 100 (2) (a), OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016**

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IN THE MATTER OF: **LUMEZI SOUTH CONSTITUENCY ELECTIONS HELD ON 13TH AUGUST, 2026.**

BETWEEN:

LUFEYO NGOMA **PETITIONER**

AND

OLIVER MWALE **1ST RESPONDENT**

THE ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

AFFIDAVIT IN SUPPORT OF SUMMONS FOR AN ORDER DIRECTING A RECOUNT OF THE VOTES CAST AND THE ELECTION RESULTS DECLARED IN RESPECT OF THE LUMEZI SOUTH PARLIAMENTARY ELECTION HELD ON 13TH SEPTEMBER 2026

I, **LUFEYO NGOMA**, of House No. 5, Kasote Compound, in the Lumezi District of the Eastern Province of the Republic of Zambia, DO MAKE OATH and SAY as follows:

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

2. That I am a Zambian national.

3. That I am the Petitioner herein and, by virtue of that position, I am competent to depose to this Affidavit from facts and matters within my personal knowledge, save where otherwise stated.

4. That I was a candidate in the Parliamentary Election for **Lumezi South Constituency** held on 13th August 2026, under the sponsorship of the United Party for National Development (UPND).

5. That the candidates who participated in the said election were as follows:

a. **MWALE OLIVER** –	NRPUP
b. **NGOMA LUFEYO** –	UPND
c. **BANDA GOODSON** –	RP
d. **MWANZA G. PILILA** –	SP
e. **KAMANGA K. FRANCIS** –	IND
f. **CHITSULO ZELIPA** –	CF
g. **CHIBESA PAUL** –	UPPZ

6. That the said election was conducted by the 2nd Respondent, the Electoral Commission of Zambia, which is established under the Constitution of Zambia.

7. That on 15th August 2026, the Returning Officer, **George Mulenga**, declared the results for Lumezi South Constituency as follows:

a. **MWALE OLIVER (NRPUP)** –	6,324 votes
b. **NGOMA LUFEYO (UPND)** –	4,946 votes
c. **BANDA GOODSON (RP)** –	1,672 votes
d. **MWANZA G. PILILA (SP)** –	1,448 votes
e. **KAMANGA K. FRANCIS (IND)** –	1,422 votes
f. **CHITSULO ZELIPA (CF)** –	246 votes
g. **CHIBESA PAUL (UPPZ)** –	169 votes

8. That there is now produced and shown to me marked **"LN1"**, a true copy of the relevant declaration form.

9. That I verily believe that the declared results do not accurately reflect the votes cast and counted in the Parliamentary Election for Lumezi South Constituency, owing to serious irregularities in the counting and recording of votes at various polling stations.

10. That, in particular, I and my polling agents were prevented from participating in and/or observing the counting of ballot papers at a number of polling stations within Lumezi South Constituency.

11. That in **Chibande Ward**, which comprises five polling stations, irregularities occurred in the counting and recording of votes, particularly at **Mkasanga Polling Station**, where I verily believe that the results were altered in favour of the 1st Respondent. There is now produced and shown to me, marked **"LN2"**, a true copy of the relevant **GEN 20a** from Mkasanga Polling Station.

12. That at various polling stations, my polling agents were required to sign the GEN 20a forms before the counting of ballot papers had been completed and, in some instances, before the counting had commenced.

13. That my polling agents were thereafter removed from the polling stations and were thereby prevented from participating in and/or observing the counting and verification of ballot papers and results.
14. That the circumstances in paragraph 14 above occurred through acts of intimidation, force and/or deception, and materially affected the ability of my agents to verify the accuracy of the results recorded on the relevant GEN 20a forms.

15. That similar incident occurred at **Chasela** and **Katondolo Community School** polling stations.

16. That in **Lukusuzi Ward**, there was no presence of police officers to maintain order, resulting in village scouts being used to provide security at the polling stations.

17. That the said village scouts were subsequently chased away by persons whom I believe to have been supporters or cadres of the NRPUP.

18. That at **Lukusuzi Polling Station**, the Presiding Officer, **Maxiwell Mwanza**, together with my polling agents, was chased away at the time when the ballots were being counted.

19. That a similar incident occurred at **Yakobe Polling Station**, where the presiding officer was harassed, attacked and chased from the Polling station. The cadres even grabbed Keys for the polling station from him which resulted in counting of ballots being deferred to the following day at 10:00hrs.

20. That at **Diwa Polling Station** in Diwa Ward, persons whom I believe to have been NRPUP cadres entered the polling station during the counting of votes and

forcibly removed my polling agents, thereby preventing them from observing and participating in the counting process.

21. That some of my polling agents who resisted being removed from the polling station were assaulted, and medical reports were subsequently obtained in respect of the injuries sustained. There is now produced and shown to me, marked **"LN3"**, a true copy of the medical report relating to one of my Election agents who was allegedly assaulted at Diwa Polling Station.

22. That the incidents described above were not isolated occurrences but, to the best of my knowledge and belief, similar incidents occurred at other polling stations within Lumezi South Constituency.

23. That the effect of the aforesaid incidents was to prevent me and my polling agents from properly participating in and/or observing the counting, verification and recording of votes cast at various polling stations.

24. That there was wide spread of mathematical disparities and non-compliance with the law during the verification, tallying and declaration phases in all the 5 wards of Lumezi South Constituency.

25. That the said mathematical disparities and non-compliance with the law were more pronounced in the following Chikomeni polling station stream 1 and 2 in Kamimba ward, Kaonde polling station in Kachama ward, Champoyo and Chauluma polling stations in Diwa ward. There is now produced and shown to me exhibits marked **"LN 4 (a – e)"** true copies of GEN 20s for Chauluma, Champoyo, Kaonde, Chikomeni 1 and 2 polling stations.

26. That the arithmetic margin between me and the 1st Respondent is remarkably slim.

27. That I verily believe that the circumstances surrounding the counting and recording of votes raise serious and legitimate concerns as to the accuracy and integrity of the declared results.

28. That in the circumstances, I respectfully believe that a **recount of the votes cast in the Parliamentary Election for Lumezi South Constituency** is necessary to establish the true and accurate number of votes cast for each candidate.

29. That a recount will provide an objective means of verifying the results declared by the 2nd Respondent and will enable this Honourable Court to determine whether the declared result accurately reflects the votes actually cast and counted.

30. That I verily believe that a recount will not occasion any prejudice to the Respondents, as it will merely provide an independent verification of the votes cast and the results declared.

31. That, on the other hand, failure to order a recount would occasion substantial prejudice to me, particularly in view of the circumstances under which my polling agents were prevented from observing and participating in the counting process.

32. That I therefore respectfully beseech this Honourable Court to order a **recount of all vote cast in the Parliamentary Election for Lumezi South Constituency held on 13th August 2026**, together with such further or other relief as this Honourable Court may deem just and appropriate.

33. That I verily believe that the facts deposed herein are true and correct to the best of knowledge and belief

SWORN by said)
LUFEYO NGOMA)
At Lusaka this day of 2026)

DEPONENT

BEFORE ME:

COMMISSIONER FOR OATHS

ZULU ESTHER
LI B, ADMITTED ASCZ
LEGAL PRACTITIONER
COMMISSIONER FOR OATHS

IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/023**

AT PRINCIPAL REGISTRY

HOLDEN AT LUSAKA

(Civil Jurisdiction)

IN THE MATTER OF: **ARTICLE 1(2),(3), 73 (1)(a) AND 45(2)(a)(b) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 THE LAWS OF ZAMBIA**

AND

IN THE MATTER OF: **SECTIONS 97 (2) OF THE ELECTORAL PROCESS ACT, NO. 35 OF 2016.**

IN THE MATTER OF: **SECTIONS 70, 81, 87, 94, 96, 97(1),2(a)(b) 98(c), 99(a)(b), 100 (2) (a), OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016**

IN THE MATTER OF: **RULE 9 OF THE HIGH COURT (ELECTION PETITION) RULES, 2026**

IN THE MATTER OF: **LUMEZI SOUTH CONSTITUENCY ELECTIONS HELD ON 13TH AUGUST, 2026.**

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

BETWEEN:

LUFEYO NGOMA **PETITIONER**

AND

OLIVER MWALE **1ST RESPONDENT**

THE ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

CERTIFICATE OF EXHIBITS

These are the true and correct copies of the exhibits referred to in the Affidavit of one **LUFEYO NGOMA** now produced and shown to me marked **"LN1 to LN4 a- e".**

Dated this _____ day of _____, 2026.

BEFORE ME: _____

COMMISSIONER FOR OATHS

MULU PETER
AHCZ, ASCZ
15 SEP 2026
LEGAL PRACTITIONER
COMMISSIONER FOR OATHS

IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/023**

AT PRINCIPAL REGISTRY

HOLDEN AT LUSAKA

(Civil Jurisdiction)

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

IN THE MATTER OF: **ARTICLE 1(2),(3), 73 (1)(a) AND 45(2)(a)(b) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 THE LAWS OF ZAMBIA**

AND

IN THE MATTER OF: **SECTIONS 97 (2) OF THE ELECTORAL PROCESS ACT, NO. 35 OF 2016.**

IN THE MATTER OF: **SECTIONS 70, 81, 87, 94, 96, 97(1),2(b) 98(c), 99(a)(b), 100 (2) (a), OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016.**

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IN THE MATTER OF: **LUMEZI SOUTH CONSTITUENCY ELECTIONS HELD ON 13TH AUGUST, 2026.**

BETWEEN:

LUFEYO NGOMA **PETITIONER**

AND

OLIVER MWALE **1ST RESPONDENT**

THE ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

AFFIDAVIT VERIFYING FACTS

I, **LUFEYO NGOMA**, of House No. 5, Kasote Compound, in the Lumezi District of the Eastern Province of the Republic of Zambia, DO MAKE OATH and SAY as follows:

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

2. That I am a Zambian national.

3. That I am the Petitioner herein and, by virtue of that position, I am competent to depose to this Affidavit from facts and matters within my personal knowledge, save where otherwise stated.

4. That I was a candidate in the Parliamentary Election for **Lumezi South Constituency** held on 13th August 2026, under the sponsorship of the United Party for National Development (UPND).

5. That the candidates who participated in the said election were as follows:

a. **MWALE OLIVER** –	NRPUP
b. **NGOMA LUFEYO** –	UPND
c. **BANDA GOODSON** –	RP
d. **MWANZAG.PILILA** –	SP
e. **KAMANGA K. FRANCIS** –	IND
f. **CHITSULO ZELIPA** –	CF
g. **CHIBESA PAUL** –	UPPZ

6. That the said election was conducted by the 2nd Respondent, the Electoral Commission of Zambia, which is established under the Constitution of Zambia.

7. That on 15th August 2026, the Returning Officer, **George Mulenga**, declared the results for Lumezi South Constituency as follows:

a. **MWALE OLIVER (NRPUP)** –	6,324 votes
b. **NGOMA LUFEYO (UPND)** –	4,946 votes
c. **BANDA GOODSON (RP)** –	1,672 votes
d. **MWANZA G. PILILA (SP)** –	1,448 votes
e. **KAMANGA K. FRANCIS (IND)** –	1,422 votes
f. **CHITSULO ZELIPA (CF)** –	246 votes
g. **CHIBESA PAUL (UPPZ)** –	169 votes

8. That there is now produced and shown to me marked **"LN1"**, a true copy of the relevant declaration form.

9. That I verily believe that the declared results do not accurately reflect the votes cast and counted in the Parliamentary Election for Lumezi South Constituency, owing to serious irregularities in the counting and recording of votes at various polling stations.

10. That, in particular, I and my polling agents were prevented from participating in and/or observing the counting of ballot papers at a number of polling stations within Lumezi South Constituency.

11. That in **Chibande Ward**, which comprises five polling stations, irregularities occurred in the counting and recording of votes, particularly at **Mkasanga Polling Station**, where I verily believe that the results were altered in favour of the 1st Respondent. There is now produced and shown to me, marked **"LN2"**, a true copy of the relevant **GEN 20a** from Mkasanga Polling Station.

12. That at various polling stations, my polling agents were required to sign the GEN 20a forms before the counting of ballot papers had been completed and, in some instances, before the counting had commenced.

13. That my polling agents were thereafter removed from the polling stations and were thereby prevented from participating in and/or observing the counting and verification of ballot papers and results.
14. That the circumstances in paragraph 14 above occurred through acts of intimidation, force and/or deception, and materially affected the ability of my agents to verify the accuracy of the results recorded on the relevant GEN 20a forms.

15. That similar incident occurred at **Chasela** and **Katondolo Community School** polling stations.

16. That in **Lukusuzi Ward**, there was no presence of police officers to maintain order, resulting in village scouts being used to provide security at the polling stations.

17. That the said village scouts were subsequently chased away by persons whom I believe to have been supporters or cadres of the NRPUP.

18. That at **Lukusuzi Polling Station**, the Presiding Officer, **Maxiwell Mwanza**, together with my polling agents, was chased away at the time when the ballots were being counted.

19. That a similar incident occurred at **Yakobe Polling Station**, where the presiding officer was harassed, attacked and chased from the Polling station. The cadres even grabbed Keys for the polling station from him which resulted in counting of ballots being deferred to the following day at 10:00hrs.

20. That at **Diwa Polling Station** in Diwa Ward, persons whom I believe to have been NRPUP cadres entered the polling station during the counting of votes and forcibly removed my polling agents, thereby preventing them from observing and participating in the counting process. There is now produced and shown to me, marked **"LN3"**, a true copy of a video recording depicting persons believed to be NRPUP cadres chasing and attacking my polling agents.

21. That some of my polling agents who resisted being removed from the polling station were assaulted, and medical reports were subsequently obtained in respect of the injuries sustained. There is now produced and shown to me, marked **"LN4"**, a true copy of the medical report relating to one of my Election agents who was allegedly assaulted at Diwa Polling Station.

22. That the incidents described above were not isolated occurrences but, to the best of my knowledge and belief, similar incidents occurred at other polling stations within Lumezi South Constituency.

23. That the effect of the aforesaid incidents was to prevent me and my polling agents from properly participating in and/or observing the counting, verification and recording of votes cast at various polling stations.

24. That there was wide spread of mathematical disparities and non-compliance with the law during the verification, tallying and declaration phases in all the 5 wards of Lumezi South Constituency.

25. That the said mathematical disparities and non-compliance with the law were more pronounced in the following Chikomeni polling station stream 1 and 2 in Kamimba ward, Kaonde polling station in Kachama ward, Champoyo and Chauluma polling stations in Diwa ward. There is now produced and shown to me exhibits marked **"LN 5 (a – e)"** true copies of GEN 20s for Chauluma, Champoyo, Kaonde, Chikomeni 1 and 2 polling stations.

26. That the arithmetic margin between me and the 1st Respondent is remarkably slim.

27. That I verily believe that the circumstances surrounding the counting and recording of votes raise serious and legitimate concerns as to the accuracy and integrity of the declared results.

28. That in the circumstances, I respectfully believe that a **recount of the votes cast in the Parliamentary Election for Lumezi South Constituency** is necessary to establish the true and accurate number of votes cast for each candidate.

29. That a recount will provide an objective means of verifying the results declared by the 2nd Respondent and will enable this Honourable Court to determine whether the declared result accurately reflects the votes actually cast and counted.

30. That I verily believe that a recount will not occasion any prejudice to the Respondents, as it will merely provide an independent verification of the votes cast and the results declared.

31. That, on the other hand, failure to order a recount would occasion substantial prejudice to me, particularly in view of the circumstances under which my polling agents were prevented from observing and participating in the counting process.

32. That I therefore respectfully beseech this Honourable Court to order a **recount of all vote cast in the Parliamentary Election for Lumezi South Constituency held on 13th August 2026**, together with such further or other relief as this Honourable Court may deem just and appropriate.

33. That I verily believe that the facts deposed herein are true and correct to the best of knowledge and belief

SWORN by said)
LUFEYO NGOMA)
At Lusaka this day of 2026)

DEPONENT

BEFORE ME:

COMMISSIONER FOR OATHS

ZULU PETER
LLB, AHCZ, ASCZ
LEGAL PRACTITIONER
COMMISSIONER FOR OATHS

IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/----**

AT PRINCIPAL REGISTRY

HOLDEN AT LUSAKA

(Civil Jurisdiction)

IN THE MATTER OF:	**ARTICLE 1(2),(3), 73 (1)(a) AND 45(2)(a)(b) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 THE LAWS OF ZAMBIA**
AND	
IN THE MATTER OF:	**SECTIONS 97 (2) OF THE ELECTORAL PROCESS ACT, NO. 35 OF 2016.**
IN THE MATTER OF:	**SECTIONS 70, 81, 87, 94, 96, 97(1),2(b) 98(c), 99(a)(b), 100 (2) (a), OF THE ELECTORAL PROCESS ACT NO. 36 OF 2016.**
IN THE MATTER OF:	**RULE 9 OF THE HIGH COURT (ELECTION PETITION) RULES, 2026**
IN THE MATTER OF:	**LUMEZI SOUTH CONSTITUENCY ELECTIONS HELD ON 13TH AUGUST, 2026.**

BETWEEN:

LUFEYO NGOMA **PETITIONER**

AND

OLIVER MWALE **1ST RESPONDENT**

THE ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

CERTIFICATE OF EXHIBITS

These are the true and correct copies of the exhibits referred to in the Affidavit of one **LUFEYO NGOMA** now produced and shown to me marked **"LN1 to LN5 a- e".**

Dated this _____ day of _____, 2026.

BEFORE ME: _____

COMMISSIONER FOR OATHS



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

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
07 SEP 2026
PRINCIPAL REGISTRY 7
P.O. BOX 50067, LUSAKA.

2026/HP/EP023

IN THE MATTER OF: ARTICLE 1(2)(3), 73(1)(a) AND 45 (2)(a)(b) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 OF THE LAWS OF ZAMBIA

AND

IN THE MATTER OF: SECTION 97(2) OF THE ELECTORAL PROCESS ACT, NO. 35 OF 2016

AND

IN THE MATTER OF: SECTION 70, 81, 87, 94, 96, 97(1)(2)(b), 98(c), 99(a)(b), 10(2)(a), OF THE ELECTORAL PROCESS ACT NO. 36 OF 2016

AND

IN THE MATTER OF: RULE 9 OF THE HIGH COURT (ELECTION PETITION) RULES, 2026

AND

IN THE MATTER OF: LUMEZI SOUTH CONSTITUENCY ELECTIONS HELD ON 13TH AUGUST, 2026

BETWEEN:

LUFEYO NGOMA — PETITIONER

AND

OLIVER MWALE — 1ST RESPONDENT

THE ELECTORAL COMMISSION OF ZAMBIA — 2ND RESPONDENT

THE 1ST RESPONDENT'S ANSWER TO THE ELECTION PETITION

THE 1ST RESPONDENT'S ANSWER TO THE ELECTION PETITION SHOWS THAT;

1. The 1st Respondent is a Zambian citizen and an elected Member of Parliament for Lumezi South Constituency and resident of Chipokosa Farm, Chief Chikomeni in Lumezi, Eastern Province of the Republic of Zambia.

2. On the 15th August 2026 the 1st Respondent was declared dully elected MP for Lumezi South by the Electoral Commission of Zambia (ECZ) returning Officer Mr. George Mulunga following the August 13th 2026 elections.

3. There were 7 parliamentary candidates in the said elections including the Petitioner who came out second and earlier contested on the United Party for National Development (UPND) where he obtained 4,946 votes against

the 1st Respondent who obtained 6,324 votes under the National Reconciliation Party for Unity and Prosperity (NRPUP).

4. The 1st Respondent will aver that the 2nd Respondent's declaration of the 1st Respondent as duly elected Member of Parliament for Lumezi Constituency was very valid as the same reflected the total vote cast and counted in the Parliamentary Election for Lumezi South Constituency in accordance with the Constitution of the Republic of Zambia, the and the Electoral Process Act (EPA) No. 35 of 2016 and procedures under the said Act.

FAILURE TO COMPLY WITH THE CONSTITUTION AND THE ELECTORAL PROCESS ACT (EPA)

i. The Petitioner's allegations that him and his polling agents were prevented from participating in and or observing the counting of ballot papers at a number of polling stations within the constituency by NRPUP cadres acting under my authority, is not true because all political parties' agents where present throughout the process and non was prevented from this exercise. The Petitioner stood on the Ruling Party and his alleges could not be orchestrated by myself who stood on the Opposition Party.

ii. There was no alteration of results by the 1st Respondent or anyone and there was never any complaint of irregularities earlier by any political party in Chibande Ward as alleged by the Petitioner.

iii. The allegations that the Petitioner's polling agents were required to sign the GEN 20a forms before completion of counting of ballot papers and before counting even commenced and that his polling agents were thereafter removed from the polling stations thereby prevented from observing and verifying of ballot papers and results, are unfounded because all political parties' agents where trained and sensitized accordingly and they understood the procedure very well. None of the agents were told to sign the Gen 20a forms before completion of counting of ballot papers and no agent belonging to the Petitioner's party was ever removed from polling stations at the 1st Respondent's instance or instruction.

iv. There were no acts of intimidation, force and or, deception thereby affecting the Petitioner's agents from verifying the accuracy of results at Chasela, Katondolo Community School polling stations or any other polling station within the constituency. All polling stations where manned by tight security from Zambia Police Station and so such

occurrences could not be done by anyone especially members of the opposition political parties.

v. The Petitioner alleges that there were no police officers in Lukusuzi Ward and that security was provided by village scouts which were later chased by persons he believes where NRPUP cadres, this is unfounded because it's the 1st Respondents knowledge that all polling stations in Lumezi had police officers as the case was throughout the country. And that he is not aware of any such occurrence.

vi. The 1st Respondent is not aware of the Presiding Officer, Maxiwell Mwanza and the other presiding officer of Yakobe Polling Stations who are said to be chased and keys grabbed from them violently together with the Petitioner's polling agents by himself or his agents because there was no police complaint filed against himself or his agents by the Petitioner at the time where he had the capacity to do so.

vii. The 1st Respondent is not aware of any incident at Diwa Polling Station in Diwa Ward, where persons who the Petitioner believes to be NRPUP cadres entered the Polling Station during the counting of votes and forcibly removed the Petitioner's polling agents who were prevented from counting votes. Diwa Polling Station equally had strong presence of the police, it's not possible that that, occurrence could have taken place in full view of supporters and agents from the ruling party. The allegations are not correct.

viii. The Petitioner claims that some of his agents who resisted being removed from the polling station where assaulted yet none of the 1st Respondent's agents or the 1st Respondent himself has ever been reported to the police for assault. The said allegations are an afterthought.

ix. The 1st Respondent will aver that there was no spread of mathematical disparities and noncompliance with the law during the verification, tallying and declaration phases in all the 5 wards of Lumezi South Constituency. All the processes where done within the law.

x. The Petitioner need to understand that a difference of 1,378 votes cannot be described as arithmetic margin between myself and the Petitioner, the said margin is big and is a clear indication that the Petitioner was not the choice of the electorates and that a recount of ballot papers cast in the Parliamentary Election for Lumezi South

Constituency is not necessary as that will only affect the development of the constituency.

5. AND THE 1ST RESPONDENT PRAYS;

i. That the Petitioner's petition be dismissed with costs.

ii. This Honorable Court upholds the 2nd Respondent's declaration that the 1st Respondent was duly elected Member of Parliament for Lumezi Constituency.

iii. Any other reliefs the court may deem fit.

Dated this ..... day of 2026

.....
OLIVER MWALE
1ST RESPONDENT

To: The Petitioner,
Lufeyo Ngoma,
House No. 5
Kasote Compound,
Lumezi

To: The 2nd Respondent,
Electoral Commision of Zambia,
Elections House,
Haile Selassie Avenue,
Longacres,
P.O Box 50274,
Lusaka.

Drawn by; .....
Oliver Mwale
Chipokosa Farm,
Chief Chikomeni
C/O Lumamba Primary School
P.O Box 53029
Lumezi
1st RESPONDENT

IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/023**

AT PRINCIPAL REGISTRY

HOLDEN AT LUSAKA

(Civil Jurisdiction)



IN THE MATTER OF: **ARTICLE 1(2),(3), 73 (1)(a) AND 45(2)(a)(b) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 THE LAWS OF ZAMBIA**

AND

IN THE MATTER OF: **SECTIONS 97 (2) OF THE ELECTORAL PROCESS ACT, NO. 35 OF 2016.**

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IN THE MATTER OF: **RULE 9 OF THE HIGH COURT (ELECTION PETITION) RULES, 2026**

IN THE MATTER OF: **LUMEZI SOUTH CONSTITUENCY ELECTIONS HELD ON 13TH AUGUST, 2026.**

BETWEEN:

LUFEYO NGOMA **PETITIONER**

AND

OLIVER MWALE **1ST RESPONDENT**

THE ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

REPLY TO 1st AND 2ND RESPONDENTS' ANSWERS

The Petitioner, in reply to the Answers filed by the 1st and 2nd Respondents, states as follows:

REPLY TO THE 1ST RESPONDENT'S ANSWER

1. The contents of **paragraphs 1, 2 and 3** of the 1st Respondent's Answer are not in issue.

2. In response to the contents of **paragraph 4** of the 1st Respondent's Answer, the Petitioner denies that the 1st Respondent was duly and validly elected as Member of Parliament for Lumezi South Constituency. The Petitioner shall aver and prove that the election was fundamentally compromised by widespread corruption, illegal practices, electoral malpractices, intimidation and violence occurring across all the Five (5) wards of Lumezi South Constituency. The Petitioner will further contend that the declaration of the 1st Respondent as duly elected Member of Parliament for Lumezi Constituency was invalid as the declared results do not accurately reflect the votes cast and counted in the Parliamentary Election for Lumezi South Constituency, owing to serious irregularities in the counting and recording of votes at various polling stations thus in non-compliance with provisions of the Constitution and the Electoral Process Act (EPA) No. 35 of 2016 and the procedures under the said act. The Petitioner accordingly reiterates and shall rely upon the averments contained in **paragraph 4(i), (ii), (iii), (iv), (v), (vi), (vii) , (ix), (x), (xi), (xii), (xiii), (xiv), (xv) and (xvi)** of the Election Petition.

3. Further, the Petitioner shall aver and prove that the election and subsequent declaration of the 1st Respondent as Member of Parliament for **Lumezi South Constituency** was neither free nor fair, having been marred by widespread irregularities, misconduct and breaches of electoral law. The said irregularities and illegal practices were of such a scale, nature and prevalence as to materially and adversely affect the integrity and outcome of the election and to prevent, or potentially prevent, voters from freely and fairly choosing a candidate of their choice.

4. In further response to the contents of **paragraph 4** of the 1st Respondent's Answer, the Petitioner shall aver and prove that the 1st Respondent knew and/or ought reasonably to have known of the acts of corruption, bribery, intimidation, violence

and other electoral malpractices perpetrated by his supporters, election agents and polling agents throughout the Five (5) wards of Lumezi South Constituency.

5. The Petitioner shall further aver and prove that the persons alleged to have engaged in the aforesaid conduct were closely associated with and regularly in the company of the 1st Respondent throughout the campaign and voting periods. The Petitioner made several reports and complaints concerning the said conduct to agents of the 2nd Respondent and to the Police on various occasions.
6. The Petitioner shall accordingly aver and prove at trial that the 1st Respondent had actual and/or constructive knowledge of, and in certain instances authorised, consented to, acquiesced in and/or participated in, the activities of his supporters, election agents and polling agents which resulted in widespread corruption, bribery, intimidation, violence and other electoral malpractices throughout Lumezi Constituency.
7. In response to the contents of **paragraph 4** of the 1st Respondent's Answer, the Petitioner shall aver and prove that the distribution of **K50.00** and meat to voters was undertaken at the instance, with the knowledge and/or with the consent of the 1st Respondent and his supporter Archbishop of Lusaka, Dr Alick Banda from his farm situated in Lumezi.
8. The Petitioner shall further aver and prove that the monies used in the distribution of the said K50.00 payments originated from, and/or were supplied by, the 1st Respondent, and that numerous witnesses personally witnessed and/or received money directly from the 1st Respondent for the purpose of inducing voters to vote for him during the campaign period and on polling day.
9. The Petitioner shall further aver and prove that the 1st Respondent's agents and supporters were themselves seen receiving K50.00 notes from the 1st Respondent

and subsequently distributing the same to voters during the campaign period and on polling day for the purpose of influencing the electoral choices of the said voters.

10. **SAVE** as is herein expressly admitted, the Petitioner denies each and every allegation, assertion and averment contained in the 1st Respondent's Answer and puts the 1st Respondent to strict proof thereof.
11. The Petitioner accordingly maintains and reiterates all the reliefs sought in the **Election Petition dated 28th August 2026**.

REPLY TO THE 2ND RESPONDENT'S ANSWER

14. The contents of **paragraphs 1 and 2** of the 2nd Respondent's Answer are not in issue, save that the Petitioner shall aver that the 1st Respondent was **wrongfully and/or unlawfully declared the winner** of the Lumezi South Constituency parliamentary election, the said election having been materially compromised by widespread corruption, violence, intimidation and other illegal electoral practices.
15. The Petitioner shall further aver and prove that the aforesaid misconduct was sufficiently substantial, widespread and pervasive as to materially affect the outcome of the election and to prevent, or potentially prevent, a majority of the electorate from freely exercising their right to elect the candidate of their choice. The Petitioner shall further aver and prove that the cumulative effect of the aforesaid acts and omissions was such as to materially compromise the electoral process and the reliability of the result declared in favour of the 1st Respondent.
21. **SAVE** as is herein expressly admitted, the Petitioner denies each and every allegation, assertion and averment contained in the 2nd Respondent's Answer and puts the 2nd Respondent to strict proof thereof.
22. The Petitioner accordingly maintains and reiterates all the reliefs sought in the **Election Petition dated 28th August 2026**

Dated at Lusaka this.....day of 2026

SIGNED BY _____

LUFEYO NGOMA

(Petitioner)

Reply filed by Counsel of: _____

Messrs. Chiwala Boniface, Legal Practitioners
F32a/G/2/R, Zambezi Road, Foxdale
info@chiwalabonifacelegal.com
LUSAKA
ADVOCATES FOR THE PETITIONER

TO: **Messrs Nkonde & Kapingula and Associates**
Plot No. 53, Katima Mulilo Road
Olympia Park
LUSAKA
ADVOCATES FOR THE 1ST RESPONDENT

TO: **Messrs. Jaques and Partners Legal Practitioners**
Ground Floor, MAMCo House
316 Independence Avenue
P. O. Box C. A. 48 Castle
LUSAKA
ADVOCATES FOR THE 2ND RESPONDENT

IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/023**

AT PRINCIPAL REGISTRY

HOLDEN AT LUSAKA

(Civil Jurisdiction)



IN THE MATTER OF: **ARTICLE 1(2),(3), 73 (1)(a) AND 45(2)(a)(b) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 THE LAWS OF ZAMBIA**

AND

IN THE MATTER OF: **SECTIONS 97 (2) OF THE ELECTORAL PROCESS ACT, NO. 35 OF 2016.**

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IN THE MATTER OF: **RULE 9 OF THE HIGH COURT (ELECTION PETITION) RULES, 2026**

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BETWEEN:

LUFEYO NGOMA **PETITIONER**

AND

OLIVER MWALE **1ST RESPONDENT**

THE ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

PETITIONER' SKELETON ARGUMENTS IN REPLY

A. LIST OF AUTHORITIES:

1. **THE CONSTITUTION OF ZAMBIA (AMENDMENT) ACT, NO. 2 OF 2016 CHAPTER 1 OF THE LAWS OF ZAMBIA.**
2. **THE ELECTORAL PROCESS ACT NO. 35 OF 2016.**
3. **THE ELECTORAL (CODE OF CONDUCT) REGULATIONS 2016.**

B. CASES REFERRED TO:

1. **SIKOTA WINA, MAFO WALLACE MAFIYO, GEORGE SAMULELA AND MICHAEL MABENGA- SCZ NO. 15 OF 2003**
2. **MATILDA MACARIAS MUTALE VS SEBIO MUKUKA AND ELECTORAL COMMISSION OF ZAMBIA SCZ APPEAL NO. 45/2003**
3. **MICHAEL MABENGA VS. SIKOTA WINA AND OTHERS (2003) Z.R. 110**
4. **JONATHAN KAPAIPI VS- NEWTON SAMAKAYI CCZ APPEAL NO. 13/2017**
5. **SIMASIKU NAMAKANDO VS ELLEN IMBWAE APPEAL NO. 108/2007**

1.0 INTRODUCTION

1.1 IF IT MAY PLEASE THIS HONOURABLE COURT, hereunder are the Petitioner's List of Authorities and Skeleton in support of the Election Petition for Lumezi South Constituency. We wish to state from the outset that it is an established and profound principle in law that he who alleges must prove and the standard of proof in this instance is higher than the balance of probabilities.

2.0 BRIEF FACTS

2.1 The Petitioner was a United Party for National Development (UPND) candidate duly nominated in the Lumezi South Constituency Parliamentary Election held on 13th August, 2026 wherein the Returning Officer declared the 1st Respondent as duly elected Member of Parliament for Lumezi South Constituency.

2.1 However, the Petitioner filed his Petition to challenge the validity of the 1st Respondent's election and declaration by the 2nd Respondent's agent as the duly elected Member of Parliament for Lumezi South Constituency on the grounds of serious irregularities and breach of the electoral law. The Petitioner also is asking this Honourable Court's indulgence to exercise its discretionary powers to order a recount of the election results obtained in this constituency.

3.1 ARGUMENTS ON GROUND ONE AND TWO.

3.1 MY LORD, Regarding the Petitioner's Petition, the legal basis for seeking the reliefs enunciated in the Petition are as follows:

3.2 **MY LORD,** it is clear from the Affidavit evidence that sufficient evidence was adduced by the Petitioner herein in his Affidavit to the effect that during the campaigns and on voting day, the 1st Respondent was involved in corrupt practice, illegal practice or other misconduct and breaches of the electoral law in **Lumezi South** Constituency that as a result thereof the majority of voters in a constituency were prevented from electing the candidate whom they preferred. The Petitioner verily believes that the evidence adduced in the Affidavit exceeds the standard that is required by the law to overturn the election results. We are fortified a plethora of authorities below:

3.3 **Section 97 (2) of the Electoral Process Act No. 35 of 2016** provides that;

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

(a) a corrupt practice, illegal practice or other misconduct has been committed in connection with the election—

(i) by a candidate; or

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

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

3.4 In addition, in the case of; **Sikota Wina, Mafo Wallace Mafiyo, George Samulela and Michael Mabenga- SCZ No. 15 of 2003;** the Supreme Court for Zambia held that:

"The standard of proof in an election petition is higher that the balance of probabilities but less than beyond all reasonable doubt and is based on evidence before court. There was misconduct found on the part of the Appellant during the elections and the election of the Appellant as Member of Parliament for Mulobezi constituency was null and void in terms of section 18 (2) (a) of the Electoral Act, cap. 13. The activities of the appellant were so improper that they eroded the electoral process and induced the electorate to vote for a candidate not of their choice."

3.5 In the same vein, **Regulation 2 of the Electoral Code of Conduct, 2016** provides that:

"A person shall during an election campaign or election, promote conditions conducive to the conduct of free and fair elections and be bound by this code."

3.6 Further relying on the case of **Matilda Macarias Mutale Vs Sebio Mukuka and Electoral Commission of Zambia SCZ Appeal No. 45/2003** wherein the Supreme Court held that:

"The Respondent who was actively involved in the distribution of maize and fertilizer to the electorate and further used his position to his advantage was acting against the law. The Court found that the distribution of fertilizer and maize was a government programme but that the timing was bad"

3.7 Furthermore, in the case of **Michael Mabenga Vs. Sikota Wina and Others (2003) Z.R. 110**, the Court held that:

"Satisfactory proof of any one corrupt or illegal or misconduct in an election petition is sufficient to nullify any election."

3.8 **MY LORD,** we submit that in the case herein, the affidavit evidence points to acts of corruption, illegal practice and misconduct which require an order for a recount. Therefore, if this Honourable Court will prove the same to the aforestated standard of proof, the Court will be justified to declare the election of the 1st Respondent void for his failure or neglect as a candidate to comply with the constitutional duty, electoral laws and regulations to promote free and fair elections. We humbly draw the attention of this Honourable Court to **Article 54 of The Constitution of Zambia as Amended by Act No. 2 of 2016** provided that:

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

3.9 **MY LORD, taking into consideration the strength of the evidence adduced in the Affidavit** and the strength of the law, it is our humble submission that this Honourable Court will be on Terra firma and justified if it declared the 1st Respondent as not having been duly elected as Member of Parliament for Lumezi South Constituency. To buttress the foregoing submission, the Petitioner will rely on the principles of law as elaborated in the case of; **Jonathan Kapaipi Vs- Newton Samakayi Ccz Appeal No. 13/2017**, wherein the Court went at lengthy to adumbrate the threshold required to be met by the Petitioner in order for the Court to nullify a Parliamentary Election thus:

"...the provision for declaring an election of a member of parliament void is only where whatever activities is complained of, it is proved satisfactorily that as a result of that wrongful conduct, the majority of the 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 misconduct was widespread in the constituency to the level where registered voters in great 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."

3.10 **MY LORD,** in view of the foregoing, we submit that it is clear that all the allegations complained of benefited the 1st Respondent to the detriment of the Petitioner herein. We therefore request this Court to nullify the 1st Respondent's election as Member of Parliament for Lumezi South Constituency.

3.11 **MY LORD,** it is also clear from the Affidavit evidence that the 1st Respondent or his polling agent/ cadres with his consent and knowledge, based his Campaigns on violence, intimidations and harassment against the Petitioner and his polling agents who belonged to a Party that according to the 1st Respondent was tribally misaligned to the interest of region and that the said party despised the people of the said Constituency and Eastern Province region as a whole. Therefore, our humble submission is that the said sentiments grossly fell within the prohibited practice. Therefore, we humbly draw the attention of this Court to the case of: **Simasiku Namakando Vs Ellen Imbwae Appeal No. 108/2007** wherein the Court cited the case of **Alex Cadman Luhila Vs Batuke Imenda** where Judge Munthali said:

"Those who think they can find their way to parliament on the platform of lies and calumnies intended to deform the characters of opponents, those who think they can find their way to parliament on the platform of illegal practices of various shades, those who think they can find their way to parliament on the platform of bribery and corruption the message is this; the Courts will not hesitate to show them the door and eject them from parliament." (Underlining for our emphasis)

4.0 CONCLUSION

4.1 **MY LORD,** it is our submission that the allegation of electoral offence committed by the 1st Respondent had serious effect on the majority of the voters in the Lumezi South Constituency. The Affidavit evidence laid before this Honourable Court is to the effect that reports of corrupt practice, illegal practice or other misconduct that were committed in connection with the election were severe, massive and widespread. Discrepancies between physical tallies at specific polling stations and the final constituency announcement constitute solid legal ground to order for a recount of the votes cast in Lumezi South Constituency parliamentary elections.

MY LORD, on the strength of the submission herein, and the authorities cited, it is our humble submission and prayer that this Honourable Court must order a recount of the votes cast and/or further hold, in the alternative, that the declaration of 1st Respondent as a validly elected Member of Parliament for Lumezi South Constituency be overturned and that the said election be nullified in the interest of justice and promotion of free and fair electoral system in Zambia.

WE ARE MOST OBLIGED

Dated at Lusaka the _____ day of _____, 2026.

Reply filed by Counsel of: _____

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