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IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
[CONSTITUTIONAL JURISDICTION]

REPUBLIC OF ZAMBIA HIGH COURT OF ZAMBIA 31 AUG 2026 PRINCIPAL REGISTRY P.O. BOX 50067, LUSAKA

2026/HP/EP/.....031

IN THE MATTER OF:	***An Election Petition of ELIAS DAKA***
IN THE MATTER OF:	***Article 73[1] of the Constitution of the Republic of Zambia***
IN THE MATTER OF:	***Section 97[2) section 99, Section 100(2) a, of the Electoral Process Act, Act No. 35 of 2016***
IN THE MATTER OF:	***Msanzala Constituency Election held on 13th August, 2026***
IN THE MATTER OF:	***Rule 9 of the High Court (Election Petition) Rules SI 31 of 2026***

BETWEEN:

ELIAS DAKA	**PETITIONER**
AND	
AMON MUMBA	**1ST RESPONDENT**
ELECTORAL COMMISSION OF ZAMBIA	**2ND RESPONDENT**

ELECTION PETITION

The Petition of Elias Daka of Plot, Petauke, in the Eastern Province of the Republic of Zambia **SHOWETH** that:

[1.] Your Petitioner Elias Daka is a person who was a candidate in the Msanzala Parliamentary elections held on 13th August, 2026 standing under the ticket of the United Party for National Development **(UPND).**

[2.] Your Petitioner states that the elections referred to in Paragraph 1, were apart from him contested by the 1st Respondent, Amon Mumba who was an independent Candidate, Banda Nelson of NRPUP, Tembo Rasford of Resolute Part (RP) and Mwale Mailos of Socialist Party (SP).

[3.] Your Petitioner will state that the Returning Officer declared the results of the parliamentary polls on **17th August 2026** at Nyamphande Boarding School in Petauke as follows:

Name of Candidate		**Number of Votes**
Mumba Amon	-	7,038
Banda Nelson	-	2,803
Daka Elias	-	1,416
Tembo Rasford	-	549
Mwale Mailos	-	171

[4.] Your Petitioner states that contrary to the declaration by the Returning Officer that the 1st Respondent was duly elected, the 1st Respondent was not validly elected for reasons below:

[a] Your Petitioner states that there were rampant and widespread irregularities and clear mathematical discrepancies recorded on the Gen20 forms as itemized below;

(i) At Muzenje Polling station in Singozi ward, the sum of the individual candidate votes equals 438, but the Presiding officer recorded an erroneous and inflated total of

(ii) At Kathangwira Polling station in Nyakawise Ward, the number of the valid votes and rejected votes is fundamentally inconsistent with the total number of votes as recorded in the ballot paper account.

(iii) At Nyamphande 02 Polling station, in Nyakawise Ward, the disaggregated candidate votes combined with the rejected ballots did not add up to the total recorded figure of 359 cast votes.

(iv) At Nyampande 04 Polling station in Nyakawise ward, the total valid votes recorded for all candidates contain mathematical inaccuracies that fail to reconcile with the total votes cast recorded on the Gen 20 Form.

(v) At Matongo 01 Polling station in Nyakawise ward, the figures recorded for the valid votes and rejected votes do not mathematically reconcile with the declared total of 272 votes

(b) Your Petitioner further states that the 2nd Respondent failed to comply with procedure to the detriment of the Petitioner as follows;

(i) At Matonga 01 Polling station in Nyakawise ward, the GEN 20 forms exhibits a direct contradiction where the numbers written in figures for the candidates differ from the number written in words making the document ambiguous and further not making it clear which of the two numbers were used to tally the final results.

(ii) At Malenga Polling station, the Presiding officer unlawfully consolidated the results for the Presidential, national assembly, and Council Chairperson Elections onto a single GEN 20 form

(iii) A signed GEN 20 form submitted to the totaling centre lacks the names of the presiding officer, the polling station name, and the constituency name

(c) Your Petitioner further states that there was unlawful movement of ballot papers as well as breach of established chain of custody as itemized below;

(i) Your petitioner will show video evidence of unauthorized movement of ballot papers into and out of the totaling centre premises during the collation process

(d) Your Petitioner further states that there were rampant corrupt and illegal practices and misconduct committed by the 1st Respondent and his Agents with the knowledge and consent of the 1st Respondent in connection with the election whereby the majority of the voters were prevented from electing a candidate of their choice.

(i) The 1st Respondent and his campaign agents engaged in further acts of Bribery and corruption by giving money to the voters including on the actual voting day. The Petitioner will state that the money given to the voters by the 1st Respondent and his Agents was inducement, gratification and reward for the said voters to vote for him.

(ii) Your Petitioner says that the Respondent engaged in further acts of bribery by giving agents K2,700 and further promising them K4,000 when he wins elections if they could fraudulently apportion higher votes to the 1st Respondent and swap them with those of the Petitioner so as to tilt the outcome in favour of the 1st Respondent.

(5) Your Petitioner will further state that the 1st Respondent and his agents were further engaged in corrupt activities by distributing Chitenge material (not marked campaign Chitenge) to women and Headman through all the wards and Polling stations as a reward or inducement to vote for him.

(6) Your Petitioner will further more state that at several polling stations among them RAY Polling station, in Chingolo Ward, the officers of the 2nd Respondent did not count the ballot papers but just started apportioning and recording favourable votes to the 1st Respondent after conniving with presiding officers and bribing the by giving K4, 000.00 each and promising them jobs as well as bribing the polling agents.

[5.] Your Petitioner states that as a consequence of the illegal activities committed by the 1st Respondent and his agents, the majority of the voters in the affected areas and polling stations were prevented from electing the candidate of their choice.

[6.] Your Petitioner contends that the 1st Respondent as a result of the above was not validly elected in terms of the Constitution of Zambia and the Electoral Act.

YOUR PETITIONER therefore prays that the Court grant him the following remedies:

(1) A declaration that Election of the 1st Respondent as a Member of Parliament for Msanzala Constituency is null and void.

(2) A declaration that the illegal practices committed by the 1st Respondent and his agents affected the election result that the same ought to be null and void.

(3) An Order setting aside the election of the 1st Respondent as Member of Parliament for Msanzala Constituency and directing that fresh elections for member of parliament be held within 90 days as by law provided.

[3] An Order that the costs occasioned by the Petitioner be borne by the Respondents

(5) Your Petitioner will further state that the 1st Respondent and his agents were further engaged in corrupt activities by distributing Chitenge material (not marked campaign Chitenge) to women and Headman through all the wards and Polling stations as a reward or inducement to vote for him.

(6) Your Petitioner will further more state that at several polling stations among them RAY Polling station, in Chingolo Ward, the officers of the 2nd Respondent did not count the ballot papers but just started apportioning and recording favourable votes to the 1st Respondent after conniving with presiding officers and bribing the by giving K4, 000.00 each and promising them jobs as well as bribing the polling agents.

[5.] Your Petitioner states that as a consequence of the illegal activities committed by the 1st Respondent and his agents, the majority of the voters in the affected areas and polling stations were prevented from electing the candidate of their choice.

[6.] Your Petitioner contends that the 1st Respondent as a result of the above was not validly elected in terms of the Constitution of Zambia and the Electoral Act.

YOUR PETITIONER therefore prays that the Court grant him the following remedies:

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[3] An Order that the costs occasioned by the Petitioner be borne by the Respondents

Dated at Lusaka this _____ day of _____ 2026

_____

PETITIONER

ADDRESS FOR SERVICE

Messrs Friday Besa & Associates

Plot No.1146/15 Lagos Road

P.O Box 37383

IN THE HIGH COURT FOR ZAMBIA 2026/HP/EP/031

AT THE PRINCIPAL REGISTRY

HOLDEN AT LUSAKA

[CONSTITUTIONAL JURISDICTION]

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

IN THE MATTER OF: *An Election Petition of ELIAS DAKA*

IN THE MATTER OF: *Article 73[1] of the Constitution of the Republic of Zambia*

IN THE MATTER OF: *Section 97[2) section 99, Section 100 (2) a, of the Electoral Process Act, Act No. 35 of 2016*

IN THE MATTER OF: *Msanzala Constituency Election held on 13th August, 2026*

IN THE MATTER OF: *Rule 9 of the High Court (Election Petition) Rules SI 31 of 2026*

BETWEEN:

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AND

AMON MUMBA **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

PETITIONER'S LIST OF AUTHORITIES

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1. **ANDERSON MAZOKA and others Vs LEVY PATRICK MWANAWASA and Another (2005 ZR 138)** where the Supreme Court held as follows:-

   ".....for any petitioner to succeed, the petitioner must adduce evidence establishing the issues raised to A FAIRLY HIGH DEGREE of convincing clarity in that the proven defects and the electoral flaws were such that the majority of 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 no longer can reasonably be said to represent the true and free choice and will of

the majority of voters".

2. **Section 97** of the Electoral Process Act No. 35 of 2016. The relevant portions of Section 97 provides as follows:-

(i) **An Election of a candidate as a Member of Parliament, Mayor, and Councilor shall not be questioned except by an election petition presented under this part.**

(ii) **The election of a candidate as a member of Parliament, Mayor, Councilor, Chairperson or Councilor shall be void if, on the trial of an election petition, it is proved to the satisfaction of the High Court or a tribunal, as the case maybe, 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 candidates 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.**

3. **LEONARD BANDA V. DORA SILIYA-SCZ/8/127/2012**, Appeal No. 95 of 2012, the Supreme Court, citing section 93 (2) (a) of the Electoral Act No. 12 of 2006, which is now Section 97 (2)(a) of the Electoral Process Act No. 35 of 2016 stated the following:-

"Under paragraph (a); it does not matter who the wrong doer is, the election will be nullified if there is wrong doing of the type and scale which satisfies the court that the electorate were or

could have been prevented from electing the candidate whom they preferred. The essential element which must be proved under paragraph (a) is that the majority of voters in a constituency were or may have been prevented from electing the candidate in that constituency whom they preferred".

Dated this day of 2026

Per: Friday Besa and Associates,
Plot No. 1146/15 Lagos Road,
Rhodespark,
Box 37383,
Email: fbesa2000@gmail.com
Lusaka.
Advocates for the Petitioner

To the 1st Respondent,
Amon Mumba,
Msanzala,
Petauke.

To the 2nd Respondent and its advocates,
Electoral Commission of Zambia,
Elections House,
Lusaka.

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PETITIONER'S SKELETON ARGUMENTS

If it may please this Honourable Court, these are the Petitioner's skeleton arguments pursuant to Rule 9(3)(c) of the High Court (Election Petitions) rules 2026 SI No. 31 of 2026.

My Lord/Lady, it is a requirement of the law of evidence that for an election petition to succeed, the Petitioner has to prove his case or her case on a

standard of proof which is higher than ordinary civil cases but slightly lower than that required in criminal cases.

This was restated in the case of **ANDERSON MAZOKA and others Vs LEVY PATRICK MWANAWASA and Another (2005 ZR 138)** where the Supreme Court held as follows:-

> ***".....for any petitioner to succeed, the petitioner must adduce evidence establishing the issues raised to A FAIRLY HIGH DEGREE of convincing clarity in that the proven defects and the electoral flaws were such that the majority of 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 no longer can reasonably be said to represent the true and free choice and will of***
>
> ***the majority of voters".***

It is our firm submission that the Petitioner placed before this Honourable Court will prove the allegations of **WIDESPREAD** electoral malpractices, corrupt and illegal practices by the Respondents and his agents **AND SUPPORTERS,** all of which are contrary to the Electoral Process Act No. 35 of 2016 and the Electoral Code of Conduct 2016.

My lord, the Petitioner's case is anchored on the provisions of **Section 97** of the Electoral Process Act No. 35 of 2016. The relevant portions of Section 97 provides as follows:-

(i) An Election of a candidate as a Member of Parliament, Mayor, and Councilor shall not be questioned except by an election petition presented under this part.

(ii) The election of a candidate as a member of Parliament, Mayor, Councilor, Chairperson or Councilor shall be void if, on the trial of an election petition, it is proved to the satisfaction of the High Court or a tribunal, as the case maybe, 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 candidates 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.

My lord, the evidence of the Petitioner and his witnesses will establish widespread electoral malpractices and illegalities.

My Lord/My Lady, as argued earlier, this petition is anchored on section 97 of the Electoral Process Act No. 35 of 2016. Section 97 herein is identical to Section 93 of the Electoral Act No. 12 of 2006 which was been repealed and replaced by the Electoral Process Act No. 35 of 2016. In the case of **LEONARD BANDA V. DORA SILIYA-SCZ/8/127/2012**, Appeal No. 95 of 2012, the Supreme Court, citing section 93 (2) (a) of the Electoral Act No. 12 of 2006, which is now Section 97 (2)(a) of the Electoral Process Act No. 35 of 2016 stated the following:-

> ***"Under paragraph (a); it does not matter who the wrong doer is, the election will be nullified if there is wrong doing of the type and scale which satisfies the court that the electorate were or could have been prevented from electing the candidate whom they preferred. The essential element which must be proved under paragraph (a) is that the majority of voters in a constituency were or may have been prevented from electing the candidate in that constituency whom they preferred".***

With this Supreme Court authority; **it is clear that it does not matter who the wrong doer is**. Section 97 (2)(ii) provides that, the corrupt practice, illegal practice or other misconduct must be committed.....

"with the knowledge and consent of a candidate or of that candidates election agents or polling agents".

We thus submit that this petition has demonstrated that the election of the 1st Respondent was fraudulent and thus the same ought to be nullified.

We also pray that the Respondents be condemned in costs.

We beg to submit.

Dated this day of 2026

Per: Friday Besa and Associates,
Plot No. 1146/15 Lagos Road,
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Box 37383,
Email: fbesa2000@gmail.com
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