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

2026/HP/EP/040

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

IN THE MATTER OF: THE PARLIAMENTARY ELECTION RELATING TO CHONGWE EAST CONSTITUENCY HELD ON 13TH AUGUST, 2026
AND
IN THE MATTER OF: THE CONSTITUTION OF ZAMBIA, THE CONSTITUTION OF ZAMBIA ACT, CHAPTER 1, VOLUME 1, OF THE LAWS OF ZAMBIA
AND
IN THE MATTER OF: ARTICLES 1, 2, 5, 8, 9, 45, 46, 47, 48, 49, 50, 54, 70, 71, 72, AND 73 OF THE CONSTITUTION OF ZAMBIA, CONSTITUTION OF ZAMBIA ACT, CHAPTER 1, VOLUME 1, OF THE LAWS OF ZAMBIA
AND
IN THE MATTER OF: SECTIONS 29, 37, 38, 51, 52, 55, 58, 59, 60, 66, 68, 69, 70, 71, 72, 75, 76, 77, 81, 82, 83, 86, 87 AND 89 OF THE ELECTORAL PROCESS (ELECTORAL CODE OF CONDUCT) ACT NO. 35 OF 2016 OF THE LAWS OF ZAMBIA
AND
IN THE MATTER OF: SECTION 96, 97, 98, 99, 100, 106, 107, AND 108 OF THE ELECTORAL PROCESS (ELECTORAL CODE OF CONDUCT) ACT NO. 35 OF 2016 OF THE LAWS OF ZAMBIA.
AND
AND IN THE MATTER OF: THE ELECTORAL CODE OF CONDUCT 2016

BETWEEN

GEOFFREY CHUMBWE — PETITIONER

AND

ANITA KAMANGA — 1ST RESPONDENT

ELECTORAL COMMISSION OF ZAMBIA — 2ND RESPONDENT

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**SKELETON ARGUMENTS IN SUPPORT OF PETITION**
**Pursuant to Rule (9)(3)(b) of the High Court (Election Petition) Rules, 2026 Statutory Instrument 31 of 2026**

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**IF IT MAY PLEASE THIS HONOURABLE COURT** The Petitioners shall rely upon the following authorities, copies of unreported decisions and excerpts from other works in support of their Petition and arguments:

1. **LIST OF AUTHORITIES;**

## 1.1. LEGISLATION

1. Constitution of Zambia (Amendment) Act No. 2 of 2016 as Amended by Act No. 13 of 2025.
2. The Electoral Process Act No. 35 of 2016 as Amended by Act No.12 of 2026
3. The Interpretation and General Provisions Act Chapter 2 of the Laws of Zambia
4. The Electoral (Code of Conduct) Regulations 2011 Statutory Instrument No. 52 of 2011
5. The High Court (Election Petition) Rules 2026 of the Laws of Zambia

## 1.2. CASES

1. Anderson Kambela Mazoka & Others v Levy Patrick Mwanawasa & Others, Presidential Election Petition Nos. SCZ/01/02/03/2002;
2. Bowman Lusambo Vs Bernard Kanengo & The Electoral Commission of Zambia 2021-CCZ-A0019 – Jul 2022
3. Luo v Mwamba and Another Selected Judgment No. 51 of 2018
4. Masumba v Kamondo (2017) 3 Z.R. 130
5. Mutapwe v Shomeno Appeal No. 19 of 2017

**MAY IT PLEASE THIS HONOURABLE COURT**, we, on behalf of the Petitioner, respectfully tender these Skeleton Arguments in support of the Petition and Affidavit filed herein. For ease of reference, all underlining appearing in these Arguments has been employed solely to emphasize words or phrases considered to be of particular significance.

## 1.0 BACKGROUND

**1.1 IF IT MAY PLEASE THIS HONOURABLE COURT** at the heart of the matter is the validity of the election and declaration of the 1st Respondent as duly elected Member of Parliament for chongwe east Constituency. The 1st Respondent shall demonstrate, by reference to the facts and the applicable law, that the Petitioner's case is with sufficient foundation and that the reliefs sought ought to be granted.

## 2.0 ARGUMENTS TO SUPPORT THE PRAYER THAT THE ELECTION OF THE 1st RESPONDENT SHOULD BE NULLIFIED

**2.1** My Lord/My Lady, the evidence demonstrates that at the Chongwe East polling was reopened on two occasions after the prescribed closing time; voting continued whilst counting was already underway; persons were permitted to vote without proper verification against the voters' register; voters were induced and/or paid to vote for the UPND candidates and required to provide proof of how they had voted; and material discrepancies subsequently emerged between polling-station GEN 20 Forms and the results aggregated and declared by the ECZ.

**2.2** Article 45(1) of the Constitution provides that the electoral system shall ensure, inter alia, that citizens are free from interference in the exercise of their political rights[1].The evidence shows that students were encouraged and/or procured to vote for the UPND candidates, were required to provide photographic or other proof of how they had voted, and were promised and/or paid approximately K200.00 and K500.00 for voting in the manner directed. A vote purchased is not a vote freely exercised. A citizen who must prove how she voted in order to receive money is not exercising her political right free from interference. The conduct therefore violated Article 45(1)[2].

**2.3** Article 45(2) further provides that the electoral process and system of administering elections shall ensure that elections are free and fair, free from violence, intimidation and corruption, and characterized by independence, accountability, efficiency and transparency, together with a simple and practical system of voting and tabulation of votes. The conduct at UNZA offended each of these safeguards. Polling was reopened after 18:00 hours whilst counting was underway; persons were permitted to vote without proper verification; and voting and counting proceeded contemporaneously. The process was therefore neither free nor fair;

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[1] Constitution of Zambia (Amendment No. 2 of 2016]
[2] Ibid

neither transparent nor orderly; and the system of voting and tabulation was plainly compromised. The constitutional command is mandatory. Where the process prescribed by the Constitution ceases to protect the free choice of the voter, the resulting declaration cannot be allowed to stand.

**2.4** My Lord/Lady, section 4(1) of the Electoral Commission of Zambia Act No. 25 of 2016 provides that:

> *"Subject to the Constitution, the Commission shall direct, supervise and control elections in a fair and impartial manner. "Section 4(2) further requires the Commission to ensure that elections are free and fair, promote conditions conducive to free and fair elections and promote the democratic electoral process.*[3]

2.5 My Lord/Lady, the ECZ officials permitted polling to be reopened after the announced closing time of 18:00 hours, interrupted counting, permitted further voting, and thereafter allowed the process to continue into the early hours of 14th August 2026. That conduct was the very antithesis of directing, supervising and controlling an election in a fair and impartial manner. The statutory duty was not merely to administer an election; it was to administer a **fair and impartial election**. The ECZ failed that duty.

2.6 My Lord/Lady, further to the foregoing, section 83 of the Electoral Process Act prohibits the use, directly or indirectly, of force, violence, restraint, threats or other means calculated to induce or compel a registered voter to support a candidate. The evidence demonstrates an organized effort to procure students to vote for the UPND candidates, coupled with the requirement that they provide proof of their votes in order to obtain payment. Such conduct interfered with the free exercise of the franchise and constituted an improper influence upon voters.

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[3] Electoral Process Act No 35 of 2016

2.7 The provisions of the Electoral Process Act requiring the secrecy of voting prohibit persons attending at a polling station from communicating information concerning how a person voted except as authorised by law.

2.8 My Lord/Lady, section 92 of the Electoral Process Act addresses offences by election officers who fail to perform the functions imposed upon them by the Act. The ECZ officials permitted voting to resume after closure, whilst counting was underway, and permitted persons to vote without proper verification against the voters' register. The electoral officers thereby failed to maintain the orderly and lawful conduct of the poll entrusted to them. The Petitioner does not invite this Honourable Court to nullify the election merely because irregularities occurred. She invites the Court to do so because the irregularities went directly to the **casting, counting, verification and aggregation of votes**.

2.9 The evidence establishes that voting continued after the announced close of polling, counting was interrupted and conducted alongside further voting, persons were permitted to vote without proper verification, voters were allegedly procured through monetary inducements, and the secrecy of their ballots was compromised. Further, the subsequent comparison of the ECZ results with the GEN 20 Forms retained by the Petitioner and her monitors disclosed material and unexplained discrepancies, operating to the advantage of the 1st Respondent and to the prejudice of the Petitioner.

## 3.0 THE COURT MUST ANNUL THE ELECTIONS-CONDUCT OF THE 1ST RESPONDENT

3.1 **My Lord/Lady,** in terms of our electoral law as applied and established in the Zambian jurisdiction, the threshold for nullifying an election of a Member of Parliament where corrupt practice, illegal practice or other misconduct is alleged in an election petition, is governed by the provisions in section 97(2) of the Electoral Process Act[4], which is couched in the following manner:

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[4] The Electoral Process Act No.35 of 2016, section 97(2)

*"(2) The election of a candidate as 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 of and consent or approval of a candidate or of that candidate's election agent or polling agent; and the majority of voters in the constituency, district or ward were or may have been prevented from electing the candidate in that constituency, district or ward whom they preferred.[5]"*

3.2 My Lord/Lady, section 97(4) of the Electoral Process Act No.35 of 2016 further provides that

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

3.3 **My Lord/My Lady,** the Constitutional court had occasion of interpreting the above provision in the case of **Masumba v Kamondo[6]**, stated that:

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

3.4 **Further, in the case of Luo v Mwamba and Another[7] the constitutional court went on to hold that:**

*"Section 97(2) of the (Electoral Process) Act is central to the judicial resolution of electoral disputes...In order to successfully have an election annulled, 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 agent, committed a corrupt practice or illegal practice or other misconduct in connection with the election; or that such*

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[5] Ibid

[6] Masumba v Kamondo (2017) 3 Z.R. 130

[7] Luo v Mwamba and Another Selected Judgment No. 51 of 2018

*malpractice was committed with the knowledge and consent or approval of the candidate or his or her election or polling agent... In addition, the petitioner has the further task of adducing cogent evidence that the electoral malpractice or misconduct was so widespread that it swayed or may have swayed the majority of the electorate from electing the candidate of their choice.*

3.5 **My Lord/Lady,** section 97(2) of the Electoral Process Act No. 35 of 2016 provides the governing threshold. It requires the Petitioner to establish, first, that a corrupt practice, illegal practice or other misconduct was committed in connection with the election by the candidate, or with his knowledge, consent or approval; and, secondly, that "the majority of voters in the constituency ... were or may have been prevented from electing the candidate ... whom they preferred."

3.6 My Lord/Lady, the question therefore becomes whether that conduct was attributable to the 1st Respondent within the contemplation of section 97(2). The Petitioner shall contend that the evidence, taken as a whole, demonstrates that the activities were not isolated acts of individual voters, but an organized scheme undertaken by persons associated with the UPND and acting in furtherance of the 1st Respondent's candidature.

3.7 My Lord/Lady, the second limb of section 97(2) is equally material. In Masumba v Kamondo (2017) 3 Z.R. 130, the Constitutional Court made clear that proof of malpractice alone is insufficient; the Petitioner must further demonstrate that, as a consequence of the malpractice, the majority of voters "were or may have been prevented from electing a candidate whom they preferred."

3.8 My Lord/Lady, the prejudice is rendered more concrete by the subsequent discovery of material discrepancies between the results announced and/or aggregated by the ECZ and the figures recorded on the GEN 20 Forms retained by the Petitioner and her monitors. Those discrepancies operated to the advantage of the 1st Respondent and to the detriment of the Petitioner. The declared margin between the parties was 944 votes, being 17,201 votes for the 1st Respondent against 16,257 votes for the Petitioner. The

integrity of that margin cannot be presumed where the very process by which votes were cast, counted and aggregated is impugned.

3.9 My Lord/Lady, the decision in Luo v Mwamba and Another, Selected Judgment No. 51 of 2018, reinforces the point. The Court held that section 97(2) requires the Petitioner to prove the malpractice and, in addition, adduce "cogent evidence that the electoral malpractice or misconduct was so widespread that it swayed or may have swayed the majority of the electorate from electing the candidate of their choice."

3.10 My Lord/Lady, the Petitioner does not rely upon a solitary irregular ballot or an isolated administrative error. The evidence concerns repeated reopening of polling, successive groups of voters being admitted after closure, voting occurring alongside counting, failure to verify voters, an organized system of monetary inducement and the compulsory production of proof of voting. These matters occurred within the same polling environment and formed part of one continuing process which directly affected the votes upon which the final result was founded.

3.11 My Lord/Lady, the significance of the malpractice is further demonstrated by the fact that the Petitioner was unable to ascertain, with certainty, the number of additional persons permitted to vote, the basis upon which they were admitted to the poll, and the manner in which those additional ballots were subsequently incorporated into the count. The uncertainty is not collateral; it goes directly to the reliability of the declared result.

3.12 My Lord/Lady, further, section 97(4) cannot avail the Respondents. That provision preserves an election only where, notwithstanding an election officer's breach of official duty, the election was "substantially in accordance with the provisions of this Act" and the breach "did not affect the result." On the evidence before the Court, neither condition is met. The reopening of polling, simultaneous voting and counting, failure of verification,

alleged inducement of voters and subsequent discrepancies in the declared figures go beyond a mere technical breach and directly concern the result itself.

3.13 My Lord/Lady, the thrust of the case, therefore, is not one in which the Court is being invited to overturn the will of the electorate because of some trifling departure from procedure. It is the converse. The Petitioner asks the Court to intervene because the evidence demonstrates that the very process by which the electorate expressed its will was materially compromised.

3.14 The Petitioner has therefore demonstrated the statutory ingredients contemplated by section 97(2): corrupt and illegal practices and other misconduct connected with the election, attributable to the 1st Respondent and/or persons acting with his knowledge, consent or approval, and conduct which prevented or may have prevented voters from electing the candidate whom they preferred. The election of the 1st Respondent as Member of Parliament for the Chongwe East Parliamentary Constituency ought accordingly to be declared void and set aside.

## 4.0 WHAT THEN IS THE STANDARD OF PROOF?

4.1 My Lord/Lady, it is also settled that the applicable standard of proof in an election petition is higher than that required in an ordinary civil action but lower than the standard of beyond reasonable doubt required in criminal matters. Furthermore, the evidence adduced in support of the allegations made must prove issues raised to a fairly high degree of convincing clarity. This position of the law was restated by the constitutional Court in the case of **Mutapwe v Shomeno**[8] where it was held that:

> *"The petitioner in an election, just as in any other civil matter, bears the burden to prove the electoral offence complained of. However, the standard of proof in an election petition is higher than that required in*

[8] Mutapwe v Shomeno, Appeal No. 19 of 2017

*an ordinary civil action. The evidence adduced in support of the allegations made in an election petition must prove the issues raised to a fairly high degree of convincing clarity."*

4.2 My Lord/Lady, the Petitioner respectfully submits that he has met the requisite standard of proof, as the allegations contained in the Petition demonstrates cogent evidence demonstrating that the 1st Respondent personally committed, authorised, consented to or had knowledge of any corrupt practice, illegal practice or other misconduct.

**5.0 CONCLUSION**

5.1 My Lord/Lady, in conclusion an election is the lawful translation of the people's choice into a result. Where votes are bought, voting continues after closure, the secrecy of the ballot is compromised, and the count itself becomes entangled with further voting, the Court cannot be asked to sanctify the resulting declaration merely because a Returning Officer has announced it.

5.2 The Petitioner has therefore demonstrated the statutory ingredients contemplated by section 97(2): corrupt and illegal practices and other misconduct connected with the election, attributable to the 1st Respondent and/or persons acting with his knowledge, consent or approval, and conduct which prevented or may have prevented voters from electing the candidate whom they preferred. The election of the 1st Respondent as Member of Parliament for the Chongwe East Parliamentary Constituency ought accordingly to be declared void and set aside.

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

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**To:** The Respondent & their solicitors

The Electoral commission of Zambia