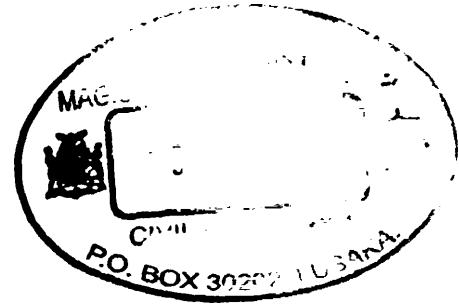


2021/P/LGEP/010

**IN THE LOCAL GOVERNMENT
ELECTION PETITION TRIBUNAL
HOLDEN AT LUSAKA
(Constitutional Jurisdiction)**



**IN THE MATTER OF: THE LOCAL GOVERNMENT PETITION RELATING TO
NGWERERE WARD 22 ELECTIONS HELD ON 12TH
AUGUST, 2021**

AND

**IN THE MATTER OF: ARTICLE 159 OF THE CONSTITUTION OF ZAMBIA THE
CONSTITUTION OF ZAMBIA ACT.**

AND

**IN THE MATTER OF: SECTION 81,82,83,84,86,87,89,91,92,94,96,97,98,99,100 AND
110 OF THE ELCECTORAL ACT NO: 35 OF 2016.**

AND

IN THE MATTER OF: THE ELECTORAL PROCESS ACT NO: 35 OF 2016.

BETWEEN:

BOYD KHONDOWE

- PETITIONER

AND

ADRIAN BANDA

1ST RESPONDENT

ELECTORAL COMMISSION OF ZAMBIA

2ND RESPONDENT

RULING

Delivered by I.T.Wishimanga

We have heard the objection by counsel for the 1st respondent and the response from counsel for the petitioner.

The issue at hand is that the said videos are hearsay as it does not state whether the 1st respondent or which ever person was recording them as they do not have the date or time stamp.

He further said the understanding of hearsay is that the statement is only admissible for purposes of proving that the words of the document exist and not proof that the statement or contents are true.

This statement is agreeable to what counsel Numbwa has stated.

Moreover in the electronic communication and transactions Act # 4 of 2021 section 9 states that in any legal proceedings the rules of evidence shall not be applied as to deny the admissibility of a data message in evidence.

(b) If it is the best evidence that the person adducing it could reasonably be expected to obtain on the grounds that it is not in its original format provided the substance is the same.

The law is clear on production of data message evidence, the court has to attach weight to it.

The witness on the stand is merely testifying to the contents that they existed and not to the proof that the contents are actually true and counsel will have chance to cross examine the witness, therefore the objection is overruled exhibits BK3 and BK4 are admitted into evidence.

~ 3 ~



I.T. Wishimanga

Chairperson



K.N. Mundia

Member



S. Miti

Member