

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA AT KAMPALA**  
**CIVIL DIVISION**

**ELECTION PETITION APPEAL NO. 17 OF 2025**

**IN THE MATTER OF THE PARLIAMENTARY ELECTIONS ACT CAP 177,  
THE PARLIAMENTARY ELECTIONS (INTERIM PROVISIONS) (APPEAL  
TO THE HIGH COURT FROM COMMISSION) RULES, S.I. 141-1,  
THE ELECTORAL COMMISSION ACT CAP 176**

**AND**

**IN THE MATTER OF AN ELECTION APPEAL FROM THE DECISION OF  
THE FIRST RESPONDENT DATED 18<sup>TH</sup> OF DECEMBER 2025.**

**KISEMBO JAMES:..... PETITIONER**

**=VERSUS=**

- 1. ELECTORAL COMMISSION**
- 2. FRED BYAMUKAMA:..... RESPONDENTS**

**BEFORE: HON. JUSTICE BONNY ISAAC TEKO**

**RULING**

This petition is brought under Section 15 Parliamentary Elections Act, rules 2 & 5 of the Parliamentary Elections (Interim Provisions) (Appeal to The High Court from Commission) Rules and Section 45 of the Electoral Commission Act for:

- a) An order setting aside the ruling of the 1<sup>st</sup> Respondent denominating the



Petitioner as a candidate for Member of Parliament for Bugangaizi West Constituency in Kakumiro District.

b) An order to the 1<sup>st</sup> Respondent instructing it to reinstate the Petitioner as a candidate for the post of Member of Parliament for Bugangaizi West Constituency in Kakumiro District.

c) An order directing the 1<sup>st</sup> Respondent to cancel the registration of the 2<sup>nd</sup> Respondent as an unopposed candidate for Member of Parliament for Bugangaizi West Constituency in Kakumiro District.

d) A permanent injunction restraining the 1<sup>st</sup> Respondent from conducting any elections for Member of Parliament for Bugangaizi West Constituency in Kakumiro District until this Court has heard and determined this Petition.

e) An award of costs of this Petition to the Petitioner.

### **Representation**

**Kugonza Enoch and Gilda Katutu** represented the 1<sup>st</sup> Respondent, **Renato Kania** represented the 2<sup>nd</sup> Respondent, **Samuel Kakande** together with **Ssekandi Gonzanga Kironde** represented the Petitioner. Anthony Bazira held a watching brief for the NRM Party.

### **Background**

The Petitioner and the 2<sup>nd</sup> Respondent were both nominated for the position of Directly Elected Member of Parliament for Bugangaizi West Constituency in Kakumiro District. The Petitioner was nominated as an Independent Candidate.

The 2<sup>nd</sup> Respondent filed a complaint with the Electoral Commission against the Petitioner that he failed to obtain signatures of 10 registered voters who are registered voters in the constituency.

After hearing the 2<sup>nd</sup> Respondent's complaint, the 1<sup>st</sup> Respondent in its decision dated 18<sup>th</sup> December, 2025, invalidated, annulled and quashed the Petitioner's nomination for non-compliance with Sections 28 and 30 of the Parliamentary Elections Act, Cap. 177.



The Petitioner being aggrieved by the 1<sup>st</sup> Respondent's decision, filed this appeal against the decision to the High Court under the **Parliamentary Elections (Appeals to the High Court from Commission) Rules S.I 141-1** on 24<sup>th</sup> December, 2025 on the grounds laid down in the Petition.

This appeal is supported by the four (4) affidavits namely: the affidavits of the Petitioner, Kyaligonza John Baptist, Kabayaga Gorret, Sali Francis and that of the Petitioner's Official agent Matovu Nicholus.

The Respondents opposed this appeal and also deposed various affidavits in opposition. In rejoinder, the Petitioner also filed his response to the said averments and further elaborated on why the First Respondent's decision dated the 18<sup>th</sup> day of December, 2025 and notified to him on the 23<sup>rd</sup> day of December, 2025 ought to be overturned by this Honorable Court which is embedded with appellate powers.

Grounds/Issues of the petition were that:

- i. *The First Respondent erred in law and fact when it entertained the Second Respondent's complaint which alleged that the Petitioner had fraudulently obtained names of the supporters and their signatures on Electoral Commission Form NP.*
- ii. *The First Respondent erred in law and fact when it entertained the Second Respondent's Petition which alleged that the Petitioner's Electoral Commission Form NP was a forgery.*
- iii. *The First Respondent erred in law and fact when it held that Ntorene Nicholas and Katurebe Nassan did not sign on the Petitioner's nomination form.*
- iv. *The First Respondent erred in law and fact when it relied on Ntorene Nicholas's statutory declaration in support of the complaint which was drawn contrary to the law.*
- v. *The First Respondent erred in law and fact when it held that the Petitioner had in his own admission admitted that the attendant signatures were collected by his official agent on his behalf.*



## Preliminary Objection

The 1<sup>st</sup> Respondent raised a preliminary objection in a point of law to the effect that the Petition offends Rule 5(1) of the **Parliamentary Elections (Appeals to the High Court from Commission) Rules S.I. 141-1** as it was filed on 24<sup>th</sup> December, 2025, 6(six) days after the 1<sup>st</sup> Respondent's decision on 18<sup>th</sup> December, 2025.

My Lord, we contend that this renders the petition incompetent, time barred and incurably defective.

The 1<sup>st</sup> Respondent submitted that Rule 5(1) of the **Parliamentary Elections (Appeals to the High Court from Commission) Rules S.I 141-1**, which is couched in mandatory terms provides as follows:

**Rule 5. (1) provides that:**

*....a petition shall be made by the Petitioner, leaving it in person, by or through his or her advocate, if any, at the office of the Registrar within five days after the decision of the commission complained of in the petition.*

The 1<sup>st</sup> Respondent submitted that in the Court of **Appeal Election Petition Appeal No. 97 of 2016: Kubeketerya James versus Waira Kyewalabye & Electoral Commission**, the Court of Appeal citing with approval Court of Appeal Election Petition Application No. 8 of 2012: **Kasibante Moses versus Katongole Singh Marwaha**, had this to say about relevance/importance of procedural timelines in Election Petition matters:

*"It is now settled as the law that it is the duty of the intending Appellant to actively take the necessary steps to prosecute his/her intended Appeal. It is not the duty of the Court or any other person to carry out his duty for the intending appellant. Once Judgment is delivered, the intending appellant has to take all the necessary steps to ensure the appeal is being in time.*

In the case of an election petition appeal, the intending appellant has a higher duty to expeditiously pursue every step in the appeal so that the appeal is disposed of quickly.



The Learned Justices of Appeal then held that:

**We agree with the position of the law as set out above.**

**Election petitions have to be handled expeditiously. The rules and timelines set for filing proceedings are couched in mandatory terms. They must be strictly interpreted and adhered to.** Justices of Appeal then struck out the Notice of Appeal.

The 1<sup>st</sup> Respondent submitted that the Court of Appeal's commentary underscored the pertinence of compliance with timelines in Election Petitions and the dire consequences of non-compliance with timelines.

In the instant Election Petition, the Appeal was filed 1(one) day out of time, and it is incompetent and should be struck out.

In response to the Preliminary objection the Petitioner submitted that they only 'got to know' about the decision on the 23<sup>rd</sup> day of December 2025 and immediately filed his petition one day after the notification of the 1<sup>st</sup> Respondent's decision.

#### **Determination of the Preliminary Objection**

I shall have to deal with the Preliminary Objection right away since determining it is critical in conferring jurisdiction on this court to entertain or reject the petition.

Election petitions proceed upon a unique legal terrain with very strict and unforgiving prescriptions. Elections by their very nature are based on a pre-determined schedule of compact timelines within which the mandate of the leaders to be elected must be ascertained, delivered and conferred.

Substantive Election laws and their handmaidens the procedural frameworks are cast in stone. Rarely are the prescriptions flexible and for good reasons.

*See Electoral Commission and Anor Vs Hon. Lanyero Molly (22 of 2022; 33 of 2022; 44 of 2022; Consolidated Election Petition) [2022] UGCA 336*



Election matters are so important to the entrenchment of democracy. They are the centerpieces that drive and deliver certainty and finality to the aspirational desires of the electorates.

Leaders elected must be known promptly so as to provide assurance of the political and democratic existence of the state and its constituent elements at all levels of the political architecture. Elections are the mechanisms and yardsticks for acquisition, delivery and assumption of mandate of the people.

Electoral jurisprudence is awash with examples of how timelines have been treated in the galore of precedents available for the judicial officer to pick from.

The 1<sup>st</sup> Respondent cited the Court of **Appeal Election Petition Appeal No. 97 of 2016: Kubeketerya James versus Waira Kyewalabye & Electoral Commission**, where the Court of Appeal underscored the relevance and importance of procedural timelines in Election Petition matters: the court observed that:

*“It is now settled as the law that it is the duty of the intending Appellant to actively take the necessary steps to prosecute his/her intended Appeal. It is not the duty of the Court or any other person to carry out his duty for the intending appellant. Once Judgment is delivered, the intending appellant has to take all the necessary steps to ensure the appeal is filed in time.”*

The rules and timelines for filing proceedings are couched in mandatory terms, they have to be strictly interpreted and adhered to. **See Ikiror Kevin Vs Oriot Ismael, Court of Appeal, EPA No. 105 of 2016.**

I am persuaded by the above authorities where the courts have come out to uphold the unforgiving timelines in electoral cases that are etched in the laws in mandatory terms.

The duty to actively peruse the decision of the commission lay squarely with the parties to the complaint. After the hearing of the complaint, the parties are **duty bound** to keep a daily watch at the doorsteps of the Electoral Commission to ensure that as soon as the decision was delivered; they are able to take appropriate actions depending on the outcome.



Elections come every once in a while. The timelines for taking actions are unforgiving and strict.

A reasonable level of anxiety is expected of parties to an election complaint. The duty must be religious and unceasing given that there is no second chance on its timing.

The petitioner and his counsel were duty bound to take prompt and timely action to secure their right of appeal instantly after getting to know of the decision on the 23<sup>rd</sup> of December 2025. They should have marshaled all their resources and filed the petition on that day given that the timelines are strict.

In this era where the court has extra hours provided by the Electronic Court Case Management System (ECCMIS), it is not asking too much of a Petitioner to have his or her counsel draft the petition and file it within the extended hours in ECCMIS which allows a person up to 11:59 PM to file his or her petition.

I therefore find that the one-day delay is inexcusable as the law prescribes a mandatory timeline to comply with.

I shall not delve into the merits of the petition as this decision has the effect of locking the petition out. Compliance with the strict timelines confers jurisdiction on this court as non-compliance with the same denies it jurisdiction to entertain the petition.

**Accordingly**, the petition is **DISMISSED** for being filed outside the prescribed timelines.

The parties to bear their own **costs**.

Delivered via ECCMIS this 8<sup>th</sup> January 2026.

SIGNED .....

BONNY ISAAC TEKO

JUDGE.