

**IN THE CONSTITUTIONAL COURT OF ZAMBIA
HOLDEN AT LUSAKA
(Constitutional Jurisdiction)**

2016/CC/0028

IN THE MATTER OF:

**ORDER IV RULE 2(2) OF THE
CONSTITUTIONAL COURT RULES, 2016
OF THE LAWS OF ZAMBIA**

AND IN THE MATTER OF:

**AN APPLICATION FOR SUMMARY
INTERPRETATION OF ARTICLE 79 OF
THE CONSTITUTION OF ZAMBIA ACT,
CHAPTER 1 VOLUME 1 OF THE LAWS OF
ZAMBIA**

AND IN THE MATTER OF:

**THE DECISION OF THE PRESIDENT OF
THE REPUBLIC OF ZAMBIA CONTAINED
IN THE STATUTORY INSTRUMENT NO.
35 OF 2016**

AND IN THE MATTER OF:

**THE HOLDING OF A NATIONAL
REFERENDUM IN THE REPUBLIC OF
ZAMBIA IN 2016**

AND IN THE MATTER OF:

**PART III OF THE CONSTITUTION OF
ZAMBIA ACT, CHAPTER 1 VOLUME 1 OF
THE LAWS OF ZAMBIA**

AND IN THE MATTER OF:

**ALLEGED CONTRAVENTION OF ARTICLE
79(3) OF THE CONSTITUTION OF
ZAMBIA ACT, CHAPTER 1 VOLUME 1 OF
THE LAWS OF ZAMBIA**

AND IN THE MATTER OF:

**THE DECISION OF THE ELECTORAL
COMMISSION OF ZAMBIA (ECZ) TO
PROCEED WITH HOLDING OF THE 2016
NATIONAL REFERENDUM**

AND IN THE MATTER OF:

**THE REFERENDUM ACT CHAPTER 14 OF
THE LAWS OF ZAMBIA AND THE
REFERENDUM REGULATIONS MADE
THERE TO AND ALL ENABLING
LEGISLATION AS MAY BE CITED**

BETWEEN:

**FRESHER SIWALE (MALE)
AND
THE ATTORNEY-GENERAL
ELECTORAL COMMISSION OF ZAMBIA**

APPLICANT

**1ST RESPONDENT
2ND RESPONDENT**

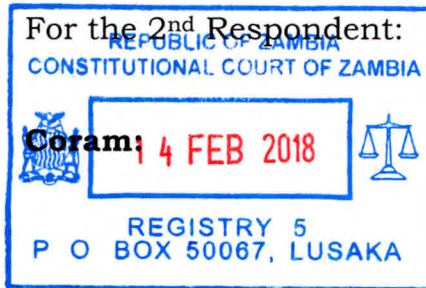


For the Applicant:

Mr. W. Muhanga and Mr. A. Kasolo of Messrs
AKM Legal Practitioners

For the 1st Respondent:

Major M.F. Chidakwa of Attorney General's
Chambers



Mr. E.M. Kamwi In-House Counsel of Electoral
Commission of Zambia

**Chibomba, PC, Sitali, Mulenga, Mulembe and
Mulonda JJC**

**on 17th January, 2017 and on 14th February,
2018**

JUDGMENT

Mulonda, JC, delivered the Judgment of the Court

Cases referred to:

1. **Godfrey Miyanda v Attorney-General (2009) Z.R. 76**
2. **Jennifer Nawa v Standard Chartered Bank PLC (2011) 1 Z.R. 1**
3. **Amber Louise Guest Milan Trbonic v Beatrice Mulako & Attorney-General 2010/HP/0344**
4. **Attorney-General and Movement for Multi-Party Democracy v Lewanika and Others SCZ Judgment No. 2 of 1994**
5. **Anderson Mazoka v Levy Mwanawasa (2005) Z.R. 138**
6. **Matilda Mutale v Emmanuel Munaile SCZ Judgment No. 1 of 2007**
7. **Godfrey Miyanda v Attorney-General 2016/CC/0006 Constitutional Court of Zambia**
8. **Milford Maambo, Ziwa Malilo Ziwa and Chanda Chabala v The People Selected Judgment No. 31 of 2017**
9. **Rabiu Ravia v S [1981] 2 N.C.L.R. 293**
10. **Ifezue v Mbagdugha and Another [1985] L.R.C (Const) 1141.**
11. **Crispus Karanja Njogu v attorney-General (Criminal Application 39 of 2000)**
12. **David Tinyefuza v The Attorney-General of Uganda, Constitutional Petition No. 1 of 1997**
13. **Julius Ishengoma, Francis Ndyanabo v Attorney-General (2001) 2 EA 485**
14. **Zambia Democratic Congress v Attorney-General SCZ Judgment No. 37 of 1999**

