

**IN THE ELECTORAL COURT OF ZIMBABWE
HELD AT HARARE**

Case No. EC 14 /13

In the matter between:-

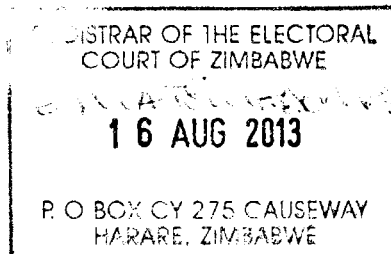
JAMESON ZVIDZAI TIMBA

Petitioner

And

JAISON PASSADE

Respondent



**ELECTION PETITION in respect of MOUNT PLEASANT CONSTITUENCY
in terms of SECTION 167 of the ELECTORAL ACT [Chapter 2:13]**

Filed by

ATHERSTONE & COOK,

Petitioner's Legal Practitioners

Harare [C. Mhike/ak]

**IN THE ELECTORAL COURT OF ZIMBABWE
HELD AT HARARE**

Case No. EC 74 /13

In the matter between:-

JAMESON ZVIDZAI TIMBA

Petitioner

And

JAISON PASSADE

Respondent

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DATED AT HARARE THIS 16 DAY OF AUGUST 2013

ATHERSTONE & COOK

Petitioner's Legal Practitioners

7th Fl, Mercury House, George Silundika Ave

HARARE (C.Mhike/ak)

To: **THE REGISTRAR**
Electoral Court
HARARE

And to: **JAISON PASSADE**
Respondent
1 Carr Close Mount Pleasant

Mahachi Quantum House
1 Nelson Mandela Ave
HARARE - for information

IN THE ELECTORAL COURT OF ZIMBABWE
HELD AT HARARE

Case No. EC /13

In the matter between:-

JAMESON ZVIDZAI TIMBA

Petitioner

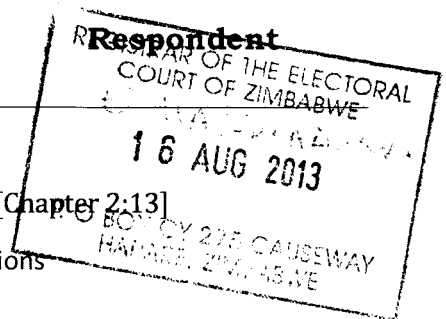
And

JAISON PASSADE

ELECTION PETITION

IN TERMS OF SECTION 167 OF THE ELECTORAL ACT [Chapter 2:13]

As Read With the Electoral Rules and Regulations

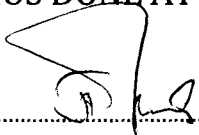


TAKE NOTICE THAT Petitioner intends to make, and hereby presents, an Election Petition to the Electoral Court, sitting at Harare, challenging the result of the National Assembly Election for the MOUNT PLEASANT CONSTITUENCY, held as part of the 2013 General Election. This Petition is presented in terms of Section 167 of the Electoral Act [Chapter 2:13], for an Order in the terms set out the Draft Order annexed. The accompanying Affidavit/s and documents, together with evidence to be adduced at the trial hereof, will be used in support of this Petition.

If you intend to oppose this Petition, you will have to file a Notice of Opposition in Form 29A, together with one or more opposing affidavits with the Registrar of the Electoral Court at Harare within 10 days after the date on which this notice was served at your place of residence/ place of business. You will also have to serve a copy of this Notice of Opposition and Affidavit/s on the Petitioner at the address of service specified in this Petition.

If you do not file an Opposing Affidavit within the period specified above, this Petition will be set down for hearing in the Electoral Court at Harare without further notice to you and will be dealt with as an unopposed Petition.

THUS DONE AT HARARE THIS ^{11th}..... DAY OF AUGUST 2013


.....
JAMESON ZVIDZAI TIMBA, Petitioner


.....
ATHERSTONE & COOK

Petitioner's Legal Practitioners
7th Fl, Mercury House, George Silundika Ave
HARARE (C.Mhike/ak)

To: **THE REGISTRAR**
Electoral Court
HARARE

And to: **JAISON PASSADE**
Respondent
1 Carr Close, Mount Pleasant

And to: **ZIMBABWE ELECTORAL COMMISSION (ZEC)**
Mahachi Quantum House
1 Nelson Mandela Ave
HARARE (for information)

HELD AT HARARE

In the matter between:-

JAMESON ZVIDZAI TIMBA

Petitioner

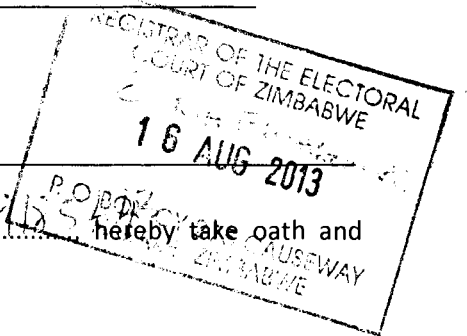
And

JAISON PASSADE

Respondent

PETITIONER'S FOUNDING AFFIDAVIT

I, **JAMESON ZVIDZAI TIMBA**, National Registration Number 63 2945 hereby take oath and swear that:



INTRODUCTION

1. I am the Petitioner herein and all the facts I depose to are true and correct to the best of my knowledge and belief, as will be substantiated by my evidence and that of witnesses to be called at the trial in this Petition.
2. These facts will also be substantiated by supporting affidavit/s and documents attached hereto concerning the various grounds on which this petition is founded.
3. I am a political scientist and businessman, residing at 6 Down Road, Avondale, Harare and currently Minister of State in the Prime Minister's Office, Charter House, Samora Machel Avenue, Harare. My address for service for the purposes of this Petition is that of Atherstone and Cook, my legal practitioners of record, detailed on page 1.
4. I was a Candidate for the National Assembly in the Harmonised Elections in July 2013 for Mount Pleasant Constituency, sponsored by Movement for Democratic Change - T, the political party led by the Right Honourable Morgan Tsvangirai [MDC-T]. Accordingly I am entitled by Section

167 of the Electoral Act Chapter 2:13 [“the Act”] to complain of any undue return or election or both, by reason of “electoral malpractice, irregularity or any other cause whatsoever”.

5. Respondent is JAISON PASSADE of 1 Carr Close a businessman who was a candidate in the Election for the National Assembly for Mount Pleasant Constituency [the Mount Pleasant election], sponsored by Zimbabwe African Nationalist Union – Patriotic Front [ZANU-PF], and was declared winner of the Mount Pleasant election as detailed below; but only after an electoral process which I believe was invalidated by electoral irregularities, malpractices and grave violations of the Constitution and electoral law.
6. I have not joined Zimbabwe Electoral Commission [ZEC] nor other public officers in this petition as the Electoral Law prescribes whom the Respondent shall be [section 166]; but a copy of the petition will be served on ZEC; particularly as this Court may find it just and reasonable to relieve parties to this action of costs under section 171(7) of the Act.
7. Three candidates were duly nominated for Mount Pleasant Constituency, and voting for the seat took place in July, with special voting on 14 and 15 July [illegally extended into 16 July] and ordinary voting on 31 July 2013.
8. My Chief Election agent in the 2013 election was Warship Dumbo, who will briefly outline some of his evidence in an affidavit annexed.
9. Mount Pleasant Constituency as delimited covers 2 wards in Harare, Wards 7 and 17, which are both predominantly low density residential suburbs.
10. In 2008 I was duly elected Member of Parliament in the House of Assembly for exactly the same constituency, winning with **3 875** valid votes against **1 738** for ZANU(PF) out of a total of **7 191**.
11. The Constituency Centre for Mount Pleasant for the 2013 Harmonised Elections was established at Mount Pleasant High School, along with a Collation Centre for Ward 17. The Collation Centre for Ward 7 was established at Alexander Park School.
12. On 2 August 2013 at Mount Pleasant Constituency Centre the Constituency Elections Officer collated returns from the 2 Wards and declared Respondent to be the winner and duly elected as the Member of Parliament in the National Assembly for Mount Pleasant Constituency, duly elected, on the basis of the following figures:

<u>Name of Candidate & Party</u>	<u>Alleged number of Votes cast for Candidate</u>
Jaison Passade ZANU-Pf	10 333
Jameson Zvidzai Timba MDC-T	6 893
Peter ... Mukuchadamano MDC	. 796

13. Later at the National Command Centre the Chairperson of ZEC declared Respondent the winner, and duly elected as the Member of Parliament in the National Assembly for Mount Pleasant Constituency, on the basis of the following significantly different figures:

<u>Name of Candidate & Party</u>	<u>Alleged number of Votes cast for Candidate</u>
Jaison Passade ZANU-Pf	7 945
Jameson Zvidzai Timba MDC-T	3 817
Peter ... Mukuchadamano MDC	. 403

14. My agents had duly received copies of the returns issued at Ward and Constituency Centres but I cannot attach copies as a briefcase disappeared with a laptop and all those returns. I attach instead as **Annexure A** the photograph I promptly then took of the Constituency return.
15. Both Ward returns had already been removed from their respective Ward Collation Centres.
16. Respondent's agents received the same returns so I believe that he has them. ZEC also has copies which I have applied to inspect and copy with other sealed electoral materials under section 70(4) of the Act, under Case No EC 26/2013. Accordingly I will file copies of these returns as soon as these become available.
17. I bring this petition in terms of Section 167 of the Act, complaining of undue returns and of an undue election of the Respondent, on grounds of electoral malpractices, irregularities and other causes, including grave breaches of the Constitution and of Electoral Law by ZEC amongst others; including grave breaches of fundamental rights of myself and other voters residing in Mount Pleasant Constituency.

18. I also believe the new Constitution gives me and every other citizen residing in Mount Pleasant an inalienable and fundamental right inter alia to free and fair elections; and that restrictions on this right carried over from the old dispensation are now unconstitutional and void.
19. While I believe in this case I can show malpractices etc on so grand a scale that the election must be set aside, any law suggesting a petitioner must always show what the result would have been otherwise must surely violate these fundamental rights and be invalid.
20. To draw a parallel, in soccer a penalty is granted for a foul [unless the team fouled has scored despite it], without the referee insisting the fouled team first prove they would have scored otherwise. The referee's duty is to ensure a fair contest; and the Court's role in election cases must be the same.

SUMMARY OF GROUNDS

21. Although ZEC agreed on court record that next Monday 19 August will be the last day for filing this petition, I have now been warned today might be the last day on which I can file it, and ask the Court to condone any consequent departure from Rules.
22. I ask the Court to note that at the time of filing, I have not yet been provided with all material and information that the law entitles me to access, despite requests; including not yet being provided with the voters roll in searchable, analysable verifiable electronic form as required by law and the electoral records; so I can only outline the main facts I will rely on at trial for the relief sought, in support of these grounds.
23. **Irregularities** which violated the Constitution or Electoral Law or both:

23.1 Concerning Special and Ordinary voting

- 23.1.1 repeated, continuous and illegal refusals and failure to provide me or MDC-T with voters rolls in electronic format; including failure until today to provide either Ward roll used in the Mount Pleasant election in that required format;
- 23.1.2 the refusals being so persistent and inexcusable that they showed *mala fides* or some other agenda;.

23.1.3 ZEC failing to supervise and control preparation of all rolls and ensure it kept its own copies of the integrated national rolls and of all other voters rolls used in the 2013 elections'

23.1.4 Additions to and deletions from the rolls not shown on the face of each roll;

23.1.5 ZEC failing to ensure every eligible citizen was able to register to vote;

23.1.6 ZEC failing to ensure every registered voter had the proper opportunity to vote, including those officials qualified and authorised to cast special votes who were deprived of that through ZEC's inefficiency on 14 and 15 July and then not able to vote on ordinary polling day;

23.1.7 ZEC failing to act on complaints about the rolls before the poll

23.2 Concerning Special voting:

23.2.1 unlawful involvement by Zimbabwe Republic Police with ZEC approval in printing ballots and controlling special voting,

23.2.2 the collection at Mount Pleasant Hall on 16 July 2008 of more than 1 780 SV2 forms authorising persons to cast special votes by Zimbabwe Republic Police, and then retention of the same by the police [with such forms later being accepted as sufficient authority to vote on 31 July 2013]

23.2.3 ZEC failing to let us or others inspect a register of all those authorised to cast special votes, or of all those **who cast** special votes on 14, 15, and 16 July, or of those **who did not cast** special votes;

23.2.4 ZEC failing to count 1 273 special votes cast for the Mount Pleasant election separately from all ordinary votes cast on 31 July 2013, then failing to show these votes separately per candidate as prescribed; resulting in undue returns for both its Wards;

23.2.5 failure by ZEC to account for 3 350 special vote envelopes with ballot papers inside which were not claimed during special voting at Mount Pleasant Hall

23.2.6 ZEC failing to count postal votes cast for the Mount Pleasant election separately from all ordinary votes cast on 31 July 2013, and then show these votes separately per candidate as prescribed; also resulting in undue returns for both its Wards;

23.3 Concerning Ordinary voting

23.3.1 ZEC failing to take every precaution needed to prevent double or multiple voting, including

18.3.1.1 ensuring the voters rolls were complete and accurate for 31 July 2013 to avoid the need to use registration slips or other off-roll voting; and/or

18.3.1.2 ensuring a voters ward was shown on registration slips; and/or

18.3.1.3 ensuring ink used on 31 July 2013 was durable enough to prevent it being washed off; and/ or

18.3.1.4 failing to use machines able to detect traces of that ink in accordance with its past practice and proper election management methods.

18.3.1.5 ensuring no person who had cast a special vote could not vote on 31 July 2013.

23.3.2 ZEC turning a significant number of registered voters away without voting, due to:

23.3.2.1 ZEC failing to conduct voter inspection and polling in the efficient and transparent way required to avoid that;

23.3.2.2 Unlawful alterations to the voters rolls, including covert manipulation by unauthorised persons.

23.3.3 ZEC letting persons vote in Mount Pleasant with inadequate evidence they had duly registered to vote there before voters rolls closed on 10th July 2013;

23.3.4 Inadequate precautions and public information to prevent use of fraudulent registration slips and other documents used in off-roll voting.

24. Electoral malpractices [committed with the knowledge of Respondent or his agents, or without that knowledge]:

24.1 Information and evidence available indicates some personation by persons unknown [who will be specified after access to all information requested] in breach of section 137 of the Act – predominantly but not solely by applying for a ballot paper after having already voted in the same election; this being a corrupt practice and hence an electoral malpractice as defined in section 4.

24.2 Information and evidence available indicates bribery by persons unknown of persons unknown [the latter of whom who can be specified after access to all information requested] in breach of section 136 of the Act- principally but not solely by paying money to one or more persons for purpose of enabling him or her to be registered as a voter in Mount Pleasant Constituency, to thereby influence his or her vote in the election later, this too being a corrupt practice and thus an electoral malpractice as defined in section 4.

24.3 Information and evidence available indicates persons unknown incurred undue election expenses in violation of the restrictions placed upon these in the Act, for the purpose of promoting or procuring the election of the Respondent, in breach of section 139 or 140 of the Act or both – principally but not solely to **bus** people to vote in the Mount Pleasant Constituency; this being an illegal practice and thus an electoral malpractice as defined in section 4.

24.4 Information and evidence available indicates persons unknown may have voted and /or induced or procured others to vote in the election while knowing he or she or that person was prohibited by law from voting in breach of section 148 of the Act – principally but not solely by voting or inducing or procuring others to vote in Mount Pleasant Constituency during ordinary polling on 31 July 2013 after they had voted in special voting on 14, 15 and 16 July 2013 and were thus prohibited from voting during ordinary voting; this too being an illegal practice and hence an electoral malpractice as defined in section 4.

25. Other causes

These will principally be based on ZEC's general failure to discharge its constitutional obligations properly; including its duty to ensure all eligible citizens were registered to vote, then to ensure

that all duly registered voters wanting to vote were able to vote, while people not eligible to vote in the Mount Pleasant election were not allowed to vote in it.

Introduction

26. In 2008 I was duly elected Member of Parliament in the House of Assembly for Mount Pleasant, winning with **3 875** valid votes against **1 738** for ZANU(PF) out of **7 191** votes.
27. This June I was nominated for the same constituency with exactly the same boundaries for the National Assembly.
28. Special voting for the election was held at Mount Pleasant Hall and 208 other special polling stations around Zimbabwe on 14 to 16 July 2013; I stationed agents to watch that at Mount Pleasant Hall; but had no idea where-else across the country people might be voting for Mount Pleasant, because ZEC did not make this information available. – despite repeated requests.
29. Ordinary voting was held on 31 July 2013 in 18 polling stations within the constituency boundaries. I stationed polling agents at each station, but in some [especially the Gunhill tent] the situation was so chaotic and the venue so crowded and ill-lit that it was impossible for the single agent allowed inside to monitor what was happening.

Voters rolls – a smoking gun

30. The registration of voters is at the very core of our electoral system, and the Constitution and Electoral law have numerous provisions to try to ensure this is transparent, accurate, and verifiable.
31. These laws were routinely and I believe wilfully broken, to such an extent that the first time my party was able to get sight of what were allegedly the voters rolls being used across the nation was at about 5pm on polling day when 2 truckloads of printed rolls were delivered to it.
32. I will lead evidence at trial of repeated failures to provide the rolls in the format required by us and the law. I do not believe the excuses proffered– that **over months** there was no time to provide electronic copies, and/or the system was not working - as copies were then PRINTED,

and doing that required a working system and more time and money than making electronic copies.

33. I see the persistent false excuses and concealment of the voters rolls as a smoking gun; and trust this Court will realise all public officers involved are showing equal contempt for our law and for everybody else's intelligence.

34. The only possible reason for such repeated refusal and "failures" was a determination to hide what had been covertly done to the voters rolls for both wards in Mount Pleasant; a manipulation which resulted in countless people who had been registered to vote there being turned away and unable to vote on voters day.

35. The full number and details of all those turned away should be shown in the records I have applied to inspect.

31. I began specially preparing for this election before it was called. In early May 2013, I applied for electronic copies of the voters rolls for Wards 7 and 17 in searchable and analysable electronic form, as the Act entitles me to do. On 15 May 2013 in breach of the Act the Registrar-General of Voters provided a hard copy only, claiming he could not provide an electronic copy.

32. I arranged for that to be laboriously checked and categorised manually while continuing my efforts to buy the electronic rolls which the law entitled me to.

33. All rolls are kept in electronic form and can be copied for a few dollars in a few minutes in a format which is searchable and analysable yet safe from tampering. The law requires this; and I can think of no legitimate practical reason not to comply.

34. I had also asked for electronic copies of the 2008 election rolls for the same wards, and a list of all voters subsequently removed.

35. I was told none of these existed.

36. In June the Registrar-General's Office at last sold me electronic copies of the 2 rolls; but I found large alphabetical chunks inexplicably missing from both, so neither could be properly used.

37. Meantime an election had been called, with its polling day set for 31 July 2013.

38. Our manual checks kept slowly revealing major anomalies.

39. Immediately our manual audit was complete, I wrote to ZEC on irregularities found: see **Annexures B1-B8**

40. It was clear both rolls for my constituency were being stripped systematically and summarily of civilian voters [without due notice to those affected] and were simultaneously being flooded with persons linked to the armed forces, whose commanders have been openly hostile to MDC-T; and that there was good cause to believe these new voters were not normally resident in the Constituency.

41. However with elections suddenly called, I could not object to voters before the poll: see section 28(5) of the Act. I could do nothing unless ZEC acted on my data

42. ZEC only responded on one issue, referring me to the objection process under section 28 which I knew I was already blocked from using: see **Annexure B9**

43. After all voters rolls should have closed for the 2013 elections on the 12th day after nomination date in line with section 26A [ie after 10 July 2013], I and others in MDC-T made persistent efforts to obtain proper electronic rolls; but we all failed.

44. The Act specifies now in section 3(e): “all voting methods **must** be simple, accurate, **verifiable, secure and transparent**” (*emphasis added*).

45. Getting verifiable electronic rolls is critical to complying with this new law, and to the lawfulness and credibility of every election.

46. No election can be held now without electronic rolls; and with the ease and economy of copying them, there can be no valid excuse for not promptly providing electronic copies when asked.

47. It is obvious that if anyone can print a roll, he can make an electronic copy.

48. Thus providing a roll in printed form when it has been requested in electronic form is not only illegal; it is clearly inexcusable – hence my calling it a “smoking gun”.

49. The speed and economy of electronic copying can be quickly demonstrated in trial if disputed. Constantly failing to provide electronic copies inevitably bred genuine fears over what was being done to the rolls.

50. On Saturday 27 July 2013 I was allowed to buy another **printed** copy for each ward for my constituency centre, so staff could respond to constituents' queries.

51. I had again requested electronic rolls rather than printed rolls; and section 21(3) stipulates that I must be given the rolls in the form I ask:

“(3) The Commission shall within a reasonable period of time provide any person who requests it, and who pays the prescribed fee, with a copy of any voters roll, either in printed or in electronic form as the person may request.”

52. Section 21 imposes these further duties on ZEC when an election is called:

“(4) Within a reasonable period of time after the calling of an election, the Commission shall provide, on payment of the prescribed fee, to every political party that intends to contest the election, and to any observer who requests it, one copy of every voters roll to be used in the election, either in printed or in electronic form as the party or observer may request.

(5) Fees prescribed for the purposes of subsection (3) or (4) shall not exceed the reasonable cost of providing the voters roll concerned.

(6) Within a reasonable period of the time after nomination day in an election, the Commission shall provide -

(a) free of charge, to every nominated candidate, one copy in electronic form of the constituency voters roll to be used in the election for which the candidate has been nominated; and

(b) at the request of any nominated candidate, and on payment of the prescribed fee, one copy in printed form of the constituency voters roll to be used in the election for which the candidate has been nominated.

(7) Where a voters roll is provided in electronic form in terms of subsection (3), (4) or (6), its format shall be such as allows its contents to be searched and analysed:

Provided that—

(i) the roll may be formatted so as to prevent its being altered or otherwise tampered with;

(ii) the Commission may impose reasonable conditions on the provision of the roll to prevent it from being used for commercial or other purposes unconnected with an election.

53. ZEC complied only with s. 21(6), which involved the most time and expense for it, and was of the least use to me since it was not searchable, analysable or verifiable.

54. The 2 latest rolls bought on 27 July listed 31 567 voters [an increase of 1721 over the rolls bought in May 2013, and 9 329 more than 2008], but were undated, and could not be scrutinised from printed form before polling day.
55. Again electronic copies could have been provided more cheaply, faster and with less effort.
56. As my concerns raised with ZEC included other constituencies and undue transfers into my constituency of people living outside it, the rolls supplied on 27 July were also of limited use to me while we still could not get the rolls for other constituencies.
57. In the afternoon of polling day, after a High Court order, single copies of nearly 2000 ward voters rolls were given to MDC-T, in printed hard copy form only: non-searchable, non-analysable, non-shareable, yet needed on that very day for multiple simultaneous elections around the whole country.
58. 2 of them were purportedly the rolls actually being used that day for the 2 wards in my constituency. By law I should have been given my own copies in a searchable analysable format earlier, but I had still not been given them.
59. Explanations given for the format used and lateness are clearly not credible; and it was impossible for me to verify whether the rolls given to MDC-T that afternoon for my constituency matched the rolls already being used at all its polling stations.
60. All voting records needed to confirm they were are now in Respondent's custody in terms of section 70 of the Act, and must be inspected urgently. This can only be done with this Honourable Court's authority.
61. I am naturally suspicious about the voters rolls used, due to the repeated refusals over a long period to provide them in the form needed, which the law entitled us to.
62. Certainly if they had printed them earlier, we should have been given them earlier; and if they were only printed that day, they could have given electronic copies
63. I had found more than 9 000 names using a security forces address in my manual inspection of the printed rolls of 9 May 2013. Later analysis by others of rolls dated later in May showed

- (a) 3 201 registered as normally living at KG 6 army headquarters [not a major barrack; only 550 people were registered residents there in 2008. Most workers at KG6 live in Barracks in Dzivarasekwa and get bussed from there daily]; and
- (b) 2 780 registered as residing at Tomlinson Depot – compared to 940 in 2008; and
- (c) 1 912 registered as residing at Morris Depot, a short-stay Police training depot – against 254 in 2008; and
- (d) 340 registered at Presidential Guard Barracks - less than a dozen in 2008; and
- (e) 832 with Harare Central Prison as their address, compared to 508 in 2008.

64. I believe other analysis has found

- (a) with no change in electoral boundaries or major residential development in Mt Pleasant, its number of registered voters mushroomed from 22 238 recorded by the Delimitation Commission in 2008 to 30 100 **before** the 2013 election - despite deleting [with no explanation or trace] 4 638 voters; and
- (b) of the 12 223 newly enrolled Mt Pleasant voters, 67,8% are residing in a police camp or military cantonment; and
- (c) the number of registered voters now exceeds the adult population of Mt Pleasant constituency indicated by its last census in 2012.

65. This is an extraordinary situation in any essentially stable suburban community.

66. I know my constituency is predominately a stable civilian area, not a military one.

67. Before the poll I had received warnings that some persons in the security forces planned to remove me from Parliament because of my roll in regional relations for the Prime Minister's Office, and these figures confirmed those reports.

68. I will ask the trial court to hold inspections in loco and receive other evidence to confirm the 2 ward rolls were "stuffed" with non-residents.

UNCONSTITUTIONAL REDRAWING OF MOUNT PLEASANT BOUNDARIES

69. The new Constitution stipulated the first elections under it must be held using the same Ward and Constituency boundaries as were used in 2008.

70. The middle to upper-class suburb of Mount Pleasant Heights lay within Ward 17 in Mount Pleasant Constituency in 2008 and all its residents should have stayed in it in 2013.
71. My scrutiny of the rolls from May revealed the Registrar-General had transferred residents of the Heights from the Ward 17 roll for Mount Pleasant to Mazowe South; an unconstitutional [and unannounced] redrawing of electoral boundaries.
72. I complained about that too; but suspect nothing was done to reverse it.
73. My agents at the 2 polling stations in the Heights saw many residents turned away because they were not on the Ward 17 roll, whereas they should have been.
74. In addition to this apparent exclusion of an area which lay within my constituency from its rolls, I found an area lying outside my constituency had been included in it: Kaduku Farm [alias Teviotdale Farm], which is outside the Harare urban area, and my constituency yet people recorded as resident there had been transferred onto my rolls, then voted in Mount Pleasant polling stations in the 31 July poll.
75. I had complained of this too to ZEC; but suspect nothing was done to reverse that.

WRONG PROCEDURE PLUS FORMS CONSTITUTING UNDUE RETURNS

76. The prescribed form for a Ward Collation Return is attached as **Annexure C**. This is prescribed as Form V23A in the First Schedule of the Electoral Regulations, SI 21 of 2005 as amended by SI 87 of 2013. It was prescribed specifically for these elections.
77. This is materially different from the returns actually issued in each Ward. I attach sample copies of the forms actually used from another constituency as **Annexures D 1 & 2**. Similar returns were given to my agents on 1 August after all counting and collation but were lost with a laptop. I have been trying to replace them [including by going to places where they should be publicly displayed] in vain.
78. I have lodged samples from another constituency, because ZEC ordered all ward collation officers to use the same altered form.
79. ZEC's departure from its prescribed form materially affects its substance, as it conceals from candidates and the public the result of special and postal voting; hiding that in with ordinary votes in breach of sections 65(4)(b), 78, 81F(14), and 81G of the Act, as well as violating section 10 (1) of the Electoral Regulations, above.

80. The laws cited above should have been strictly followed - particularly with the chaos, controversy and concerns over special votes in this 2013 election.
81. The laws were also made immediately before or simultaneously with the calling of this 2013 election; and once an election is called, **no** electoral law can be altered for the purposes of that election: section 157(5) of the Constitution.
82. I and all others are entitled by such laws to know exactly how many special votes were cast for each candidate in each ward. This can only be known now by opening the voting records, separating out all the ballot papers marked SV and counting, as **by law each ward collation officer should have done during the election**. I hope to be able to do provide that information soon.
83. The numbers involved will be significant too:
- (a) My agent at Mount Pleasant High Polling Station in Ward 17 reported that 79 of the 952 votes counted there were special votes cast earlier.
 - (b) My agent at Alexandra Park A Polling Station in Ward 7 reported that 1 194 of the 2 138 votes counted there were special votes cast earlier; and
 - (c) in contrast to other stations, except those where hundreds of police also voted on 31 July, I lost heavily at Alexandra Park, receiving only 16% of the votes counted there.

RIGHT AND NEED TO KNOW WHO CAST ALL THE SPECIAL VOTES, AND RIGHT TO ELIMINATE ANY REPEAT VOTING BY SUCH SPECIAL VOTERS

84. There are legal and factual complaints about the special voting, eg
- (a) Police printed ballots for special voters, then illegally controlled who was allowed to cast a vote in special voting at Mt Pleasant Hall over the period 14 to 16 July, in breach of the Act;
 - (b) only 960 of those we know were authorised to cast special votes there did so; while 3 345 of those told by ZEC to vote there ultimately were unable to vote;
 - (c) when the special voting station closed at 0633 hours on 16 July over 600 were still in the queue; 3 350 special voting envelopes had not been used; and more than 1 780 special voters surrendered their authority to vote;

- (d) if their applications to use special votes were justified, they would not have been in the right place to vote on 31 July, despite a later Constitutional Court Order allowing them to do so; and thus lost their votes through ZEC inefficiency
 - (e) 598 of the 1 350 special votes cast at Mount Pleasant Hall were illegally cast on 16 July 2013 inside a statutory 16 day prohibition period before ordinary voting, and these illegal votes cannot be separated from the rest.
 - (f) 6 busloads of people in new police uniforms arrived at midnight 15/16 July, after the queue deadline of 7pm on 15 July, yet were allowed to join and jump the queue and vote, and these illegal votes cannot be separated from the rest;
 - (g) 1 350 brown envelopes were deposited in the special ballot box; yet the district special voting officer had only 960 SV2 forms; thus 390 people voted at Mount Pleasant in special voting without producing the prior authorisation needed from Respondent, and these illegal votes cannot be separated from the rest.
85. Respondent did not let any member of the public see any numbered applications for special votes or his list of those whom he authorised to cast special vote, in breach of specific provisions in the Act and its general principles requiring transparency.
 86. After the chaos in special voting at Mt Pleasant Hall and elsewhere, ZEC issued a public statement on 17 July 2013 saying all those authorised to cast special votes who had not done so would be allowed to vote on 31 July 2013.
 87. It pledged to have available for public inspection at Respondent's office a list of all those who cast special votes and a list of all those who did not.
 88. Such lists were vital to avoid the risk of some voting again, as the pink ink put on their fingers in special voting mid-month would have been worn or washed off before 31 July 2013.
 89. However those lists were never made available.
 90. I will not delay my petition to gather affidavits but have many witnesses who can testify at trial.
 91. Records of **who** voted by special vote in each ward in my constituency should still be in the sealed boxes and packets, which I hope to soon inspect.
 92. Furthermore, 1 780 unused authorities for special votes [SV2s] were surrendered and counted at Mt Pleasant Hall on 16 July 2013 and then hundreds more added before these were taken away to

Harare Central Police Station by the Officer Commanding Harare Province, Zimbabwe Republic Police; who also ordered that all other unused SV2 forms be surrendered to him.

93. During ordinary voting on 31 July 2013, numerous unknown people were allowed to vote in polling stations in my constituency without being on its rolls, merely on the basis of producing an SV2 form.
94. The sealed electoral records which I hope to urgently inspect should have records also listing who all those people were.
95. Busloads of police recruits were bought to vote in the ill-lit Gunhill tent; many slept there overnight – neither busing nor sleeping there would have been needed if they in fact lived nearby.
96. Their conduct was also not that of innocent voters.
97. Using Zupco buses to transport voters is a clear violation of the laws.

ZEC NOT KEEPING NOR CONTROLLING THE VOTERS ROLLS

98. I have yet to see the voters rolls actually used and other records to establish the impact of this further wrongful 're-delimitation' on the Mt Pleasant election. I have asked for an Order that the Chief Elections Officer provide me with the electronic copy of the voters rolls used in Ward 7 and Ward 17 of Mount Pleasant Constituency in searchable and analysable form, as required by section 21 and section 3(e) of the Act, as he has failed to provide either to date.
99. Section 20 of the Electoral Law requires ZEC to keep at least one copy of every voters roll in both printed and electronic form at its head office and at all its offices within the Constituency or with its Constituency registrar.
100. ZEC has indicated to others that it does not have or control the rolls - only the Registrar-General has, and he has failed and refused to provide electronic copies, for clearly specious reasons, for too long.
101. This is a fundamental violation of the Constitution, which renders the entire election invalid.

DIFFERING OFFICIAL RESULTS

102. Mount Pleasant constituency has 2 Wards, 7 and 17. On 31 July 2013, it had 14 polling stations plus a Ward Collation Centre in Ward 17; and 11 polling stations plus a Ward Collation Centre in Ward 7. I had election agents in each.

103. **Annexure A** is my photograph of the return displayed at its Constituency Centre showing **18 022** valid votes in all, with **6 893** valid votes cast for me.

104. Attached as **Annexure E** are copies of the Herald and ZBC figures. These are very different but the official figures announced by ZEC at the National Command Centre on Friday 2 August 2012: only **12 165** valid votes in all, only **3 817** for me.

105. My percentages of national and provincial votes and in my constituency have been reduced without explanation; in the constituency down from **38,25% to 31,38%.**

106. This does not only affect me and my petition, but also all candidates on party lists I am associated with, whose success is tied by law to votes for the National Assembly. Each return now must be totally accurate.

Off-roll voting

107. In addition to a disproportionate number of forces suddenly appearing on the rolls, we saw many others who came in uniform but did NOT appear on the roll, yet were allowed to vote with a registration slip [not detailing any ward] or an SV2 Form or a piece of paper purportedly from Constituency Command, or just because the presiding officer or police made a phone call and then said they could vote.

Double voting on 31 July 2013

108. Hundreds of police were allowed to vote at Belgravia polling station after coming with pink fingers and then cleaning them, claiming they were pink only from polishing their shoes. There were many witnesses to this.

CONCLUDING REMARKS

109. I am entitled to further information which is still withheld from me and to a trial in open court, both of which will show further cause for the Order sought. The grant of that Order give me and all voters in Mount Pleasant what we are entitled to - a free and fair election.

110. I file this petition to have the election for the National Assembly held in Mount Pleasant in July 2013 set aside because the poll was irregular and the result was stolen.

111. I file this petition as the theft was not the run of the mill electoral pick-pocketing we saw throughout Zimbabwe in July 2013, but an electoral robbery of a scale yet to be seen in the history of this country.

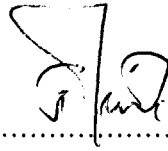
112. I filed this application because I still believe in the rule of Law.
113. I filed this application because I believe in the equality of all men before God and the law.
114. I filed this application because I believe the weak and powerless and the strong and powerful should all be treated equally before the law and God.
115. I also filed this application because I believe in justice and democracy.
116. I filed this application because I believe an injustice was done to me and most importantly to the bona fide residents of Mount Pleasant, who in my view were denied an opportunity to elect a representative of their choice as a result of the premeditated connivance and machinations of “powerful” enemies of democracy and fair play.
117. In the event that for one reason or another, both I and the bona fide residents of Mount Pleasant are denied the justice I believe we deserve, I am content to have filed this application for the record and for posterity. I am content to have filed this application to illustrate for future generations in particular, and for students of law, history and political science in general how what in my view ***Democracy should not be and how not to conduct a lawful ,transparent, credible, free, fair and legitimate election.***
118. Finally, I filed this application as I have a strong conviction that whilst democracy and justice may be temporarily delayed or blocked, these can never be denied forever.
119. In this regard, the people of Mount Pleasant Constituency in particular, and Zimbabweans in general will one day, and soon, be able to live without fear, freely elect their leaders and enjoy genuine democracy, freedom, justice and prosperity in keeping with the true ideals of our liberation struggle and not any distorted version of that. ONE MAN - or WOMAN – ONE VOTE is my goal.
120. On the basis of the contents hereof, and evidence to be led at trial, I pray for the grant of an order setting aside the declaration of Respondent as duly elected member of the House of Assembly and a declaration of the seat to be vacant to pave way for the holding of a valid and credible election.
121. **WHEREFORE**, I pray for an Order in terms of the Draft.
122. Accordingly I pray for the urgent issue of an order in terms of the Draft attached as **Annexure F**.

23

16th

THUS SWORN AT HARARE this

day of August 2013.



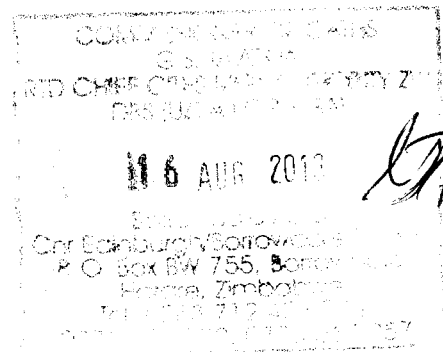
.....

JAMESON ZVIDZAI TIMBA

Before Me.

GILBERT SIMON TAVONA

Gavina
.....
COMMISSIONER OF OATHS



Annexure

FORM V.23B

COLLATION AT NATIONAL ASSEMBLY CONSTITUENCY CENTRE
OF WARD RETURNS FOR NATIONAL ASSEMBLY CONSTITUENCY ELECTIONS IN THAT CONSTITUENCY
Section 37(C)(b)(ii) of the Electoral Act [Chapter 2:13]

Name of constituency	Ward 17, Constituency 17
Name of Province	Province of Northern Cape

Collation of ward returns in respect of National Assembly constituency election

Ward No.	Name of candidate	Name of candidate	Name of candidate	Name of candidate	Name of candidate
	1.	2.	3.	4.	5.
1.	MURRAY MABO PATRICK VICTOR MABO	PASSPORE KAREEM MABO	TIMBA JAMES 2006/2 (MABO)		
2.	17	414	2 556	3 270	
3.	1	382	1 797	3 603	
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Total votes received	796	10 333	6 893		

			Total Votes	11,358	21.30%
Pelandaba-Mpopoma	Dube Duduzile	MDC	964	9.58%	
Pelandaba-Mpopoma	Katso James	FZC	142	1.41%	
Pelandaba-Mpopoma	Khumalo Samuel Sandla	INDEPENDENT	327	3.25%	
Pelandaba-Mpopoma	Mabhikwa Vusumusi J.	INDEPENDENT	39	0.39%	
Pelandaba-Mpopoma	Mkandla Strike	ZAPU	140	1.39%	
Pelandaba-Mpopoma	Mtsetwa Happiness	ZANU-NDONGA	74	0.74%	
Pelandaba-Mpopoma	Ndlovu Tamsanqa Jelous	INDEPENDENT	45	0.45%	
Pelandaba-Mpopoma	Nyathi Bekithemba	MDC-T	6,024	59.87%	
Pelandaba-Mpopoma	Sakala Chad	ZAPU	134	1.33%	
Pelandaba-Mpopoma	Tshuma Joseph	ZANU (PF)	2,122	21.09%	
Pelandaba-Mpopoma	Zhou Thamsanqa	A.K.E	50	0.50%	
		Total Votes	10,061		

Pumula	Gwaenda Emanuel	FZC	40	0.36%	
Pumula	Mhlanga Albert	MDC-T	6,100	55.38%	
Pumula	Mpofu Zakhele Ndebele	AKE	82	0.74%	
Pumula	Ncube Godfrey Malaba	ZANU (PF)	2,877	26.12%	
Pumula	Ncube Losiya	MDC	1,514	13.75%	
Pumula	Ngozi Samuel	ZAPU	285	2.59%	
Pumula	Peresu Zachaeus	INDEPENDENT	60	0.54%	
Pumula	Tshabangu Sambulelwe	PDU	56	0.51%	
		Total Votes	11,014		

HARARE					
Constituency	Candidate's Name	Party	Votes	%Vote	
St.Marys	Chapo Violah	UMD	78	0.58%	
St.Marys	Dzvingwe John F.	MDC	685	5.08%	
St.Marys	Jonas Innocent	MKD	66	0.49%	
St.Marys	Maswata Tendekayi	ZANU-PF	5,524	40.93%	
St.Marys	Nhodo Odreck	ZAPU	50	0.37%	
St.Marys	Tarusenga Unganai D.	MDC-T	7,092	52.55%	
		Total Votes	13,495		

Chitungwiza North	Chigonero Angella	MDC	829	5.33%	
Chitungwiza North	Magengezha John C	MKD	83	0.53%	
Chitungwiza North	Mhandu Robson	ZANU-PF	6,507	41.81%	
Chitungwiza North	Sithole Godfrey K	MDC-T	8,071	51.85%	
Chitungwiza North	Utamire Terence	UMD	75	0.48%	
		Total Votes	15,565		

Chitungwiza South	Chigumba Christopher C	ZANU-PF	8,126	46.85%	
Chitungwiza South	Makururu Canisio	MDC-T	7,888	45.48%	
Chitungwiza South	Mashinya Mabie	MDC	927	5.35%	
Chitungwiza South	Shoko Misheck	INDEPENDENT	309	1.78%	
Chitungwiza South	Tarasana Allen	UMD	93	0.54%	
		Total Votes	17,343		

Zengeza East	Kahanana Robert	ZANU-PF	6,391	41.85%	
Zengeza East	Kwajiya Douglas	UMD	83	0.54%	

Highfield East	Chifamba Caleb Tendayi	ZAPU		0.58%	
Highfield East	Dimbo Danie	UMD	19	0.15%	
Highfield East	Mashonganyika Ida	ZANU-PF	3,627	27.83%	
Highfield East	Murai Erick	MDC-T	8,494	65.17%	
Highfield East	Ndhlela Onias	MDC	747	5.73%	
Highfield East	Samanga Godfrey T	FZC	34	0.26%	
Highfield East	Saruwaka Kudzai Weston	M.K.D	37	0.28%	
		Total Votes	13,034		

Highfield West	Dhliwayo Glen	INDEPENDENT	67	0.65%	
Highfield West	Juta Emmanuel	ZANU-PF	2,639	25.44%	
Highfield West	Manyengawana Moses	MDC-T	6,825	65.78%	
Highfield West	Putire Sekayi	ZANU NDONGA	31	0.30%	
Highfield West	Zengeni Miriam	MDC	813	7.84%	
		Total Votes	10,375		

Kambuzuma	Kiss Albert	ZAPU	154	1.19%	
Kambuzuma	Madzimure Willias	MDC-T	7,944	61.21%	
Kambuzuma	Mavhunga Toko	MDC	635	4.89%	
Kambuzuma	Mushai Hetrage	INDEPENDENT	81	0.62%	
Kambuzuma	Nheta Tongai P	ZANU-PF	4,165	32.09%	
		Total Votes	12,979		

Kuwadzana	Chihwayi Kurauone	MDC	960	6.87%	
Kuwadzana	Matibenga Lucia G	MDC-T	8,564	61.31%	
Kuwadzana	Nhambu Betty	ZANU-PF	4,345	31.10%	
Kuwadzana	Svinurai Peter	UMD	100	0.72%	
		Total Votes	13,969		

Kuwadzana East	Chamisa Nelson	MDC-T	7,967	71.81%	
Kuwadzana East	Gumbo Fortune Tinofirei	ZANU-PF	2,465	22.22%	
Kuwadzana East	Mafigu Enock	M.K.D	37	0.33%	
Kuwadzana East	Tachuana Evelyn Senzeni	MDC	625	5.63%	
		Total Votes	11,094		

Mabvuku-Tafara	Maridadi James	MDC-T	7,917	51.05%	
Mabvuku-Tafara	Masimirembwa Godwills	ZANU-PF	6,319	40.75%	
Mabvuku-Tafara	Mtombeni Aaron	MDC	1,141	7.36%	
Mabvuku-Tafara	Nyakutombwa Prisca	UMD	68	0.44%	
Mabvuku-Tafara	Tagarira Theresa	M.K.D	63	0.41%	
		Total Votes	15,508		

Mbare	Charlie Jabulani	MDC	1,041	3.88%	
Mbare	Knight Ramsiey Eric	MDC-T	10,932	40.79%	
Mbare	Max Norest	UMD	66	0.25%	
Mbare	Savanhu Tendai	ZANU-PF	14,764	55.08%	
		Total Votes	26,803		

Mount Pleasant	Mukuchamano Peter V.	MDC	403	3.31%	
Mount Pleasant	Passade Jaison	ZANU-PF	7,945	65.31%	
Mount Pleasant	Timba Jameson Zvidzai	MDC-T	3,817	31.38%	
		Total Votes	12,165		

Headlands	Goneso Canaan	MDC	750	4.	
Headlands	Mutasa Didymus Noel E	ZANU	75	67.	
Headlands	Tekeshe David	MDC-T	10	27.	

Makoni Central	Chinamasa Patrick A	ZANU (PF)	7,654	50	
Makoni Central	Makoni Herbert Stanley S.	MKD	3,411	22	
Makoni Central	Mukuwapasi Clever	MDC	555	3	
Makoni Central	Sagandira Patrick	MDC-T	3,646	23	
		Total Votes	15,266		

Makoni North	Mangoma Elton Steers	MDC-T	5,236	35	
Makoni North	Muchenje Francis	ZANU (PF)	9,412	64.	
		Total Votes	14,648		

Makoni South	Chimene Mandi	ZANU (PF)	10,268	61.	
Makoni South	Muchauraya Pishai	MDC-T	5,092	30.	
Makoni South	Mundirwira Davis	MDC	631	3.	
Makoni South	Mupimbira Misheck	FREEZIM-CONGRESS			
		0.78%			
Makoni South	Nyarota Geoffrey	INDEPENDENT	550	3.	
		Total Votes	16,671		

Makoni West	Chinyadza Webber	MDC-T	4,187	32.	
Makoni West	Chipanga Kudzanai	ZANU (PF)	7,983	62.	
Makoni West	Hunidzarira Josephat H S.	MKD	56	0.	
Makoni West	Masenda Didymus	MDC	639	4.	
		Total Votes	12,865		

Mutare North	Kaitano Daniel	MDC	860	3.	
Mutare North	Madiro Michael	INDEPENDENT	5,998	24.	
Mutare North	Mukwishi Irimai	MDC-T	17,867	72.	
Mutare North	Pemhenayi Batsirayi J K	ZANU (PF)		0.	
		Total Votes	24,725		

Mutare West	Mudiwa Shuah	MDC-T	7,483	31.	
Mutare West	Mushohwe Christopher C	ZANU (PF)	16,087	68.	
		Total Votes	23,570		

Mutare South	Chikwinya Nyasha E. A. G.	ZANU (PF)	13,218	64.	
Mutare South	Gwazaza Oliver	MDC	802	3.	
Mutare South	Saunyama Robert	MDC-T	4,725	22.	
Mutare South	Zimunya Ngaite Jeffries	INDEPENDENT	1,821	8.	
		Total Votes	20,566		

Dangamvura Chikanga	Duru Reketai Micah	ZANU (PF)	9,336	36.	
Dangamvura Chikanga	Vachiri Didmas	INDEPENDENT	70	0.	
Dangamvura Chikanga	Maundike Kuziwa	INDEPENDENT	94	0.	
Dangamvura Chikanga	Mawire Fugamai	MKD	86	0.	
Dangamvura Chikanga	Msonza Jonas	MDC	468	1.	
Dangamvura Chikanga	Mutsekwa Giles Tariyafero	MDC-T	3,851	15.	
Dangamvura Chikanga	Tsunga Arnold	MDC-T	11,757	45.	
		Total Votes	25,662		

HERALD - 3 August 2013

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Tuesday 06 August 2013

| Headlines: Namibia, Mauritius congratulate President Mugabe Respect Zim's choice: Mbeki Congratulatory messages pour in for President Mugabe, Zanu PF 'EU, US condemnation of polls not surprising' ZEC rubbishes rigging claims

2013 Election Results

Tuesday, 30 July 2013 12:43

Zimbabwe 2013 Harmonised Election Results

Presidential

Candidate	Party	Votes	Spoilt	% Votes
Robert Mugabe	ZANU-PF	2 110 434		61.09
Morgan Tsvangirai	MDC-T	1 172 349		33.94
Welschman Ncube	MDC	92 637		2.68
Dumiso Dabengwa	ZAPU	25 416		0.74
Kisnot Mukwazhi	ZDP	9 931		0.29

House of Assembly

Constituency	Candidate's Name	Political Party	Votes
Mount Pleasant	Mukuchamano Peter V.	MDC	403
Mount Pleasant	Passade Jaison	ZANU-PF	7,945
Mount Pleasant	Timba Jameson Zvidzai	MDC-T	3,817
		Total Valid Votes	12,165

ELECTORAL REGULATIONS, 2005

Form V.23A

ELECTORAL ACT [CHAPTER 2:13]
(Section 65)

COLLATION OF POLLING STATION RETURNS AT WARD COLLATION CENTRE

Section 37C(4) (a) of the Electoral Act [Chapter 2:13]

Name of ward	
Ward number	
Name of constituency	
Name of Province	

Total votes received by candidates in Local Authority election

Name of polling station	Name of candidate	Name of candidate	Name of candidate	Name of candidate	Name of candidate	Name of candidate	Name of candidate	Votes re-jected
	1.	2.	3.	4.	5.	6.	7.	.
1.								
2								
3								
4								
5								
6								
7								
Add special and postal votes								
Special votes for ward								
Postal votes for ward received								
Total votes received								

ELECTORAL REGULATIONS, 2005

Total votes received by candidates in Presidential election

	Name of candidate	Name of candidate	Name of candidate	Name of candidate	Name of candidate	Votes rejected
	1.	2.	3.	4.	5.	
Name of polling station						
1.						
2.						
3.						
4.						
5.						
Add special and postal votes						
Special votes for ward						
Postal votes for ward received						
Total votes received						

Total votes received by candidates in National Assembly election

	Name of candidate	Name of candidate	Name of candidate	Name of candidate	Name of candidate	Votes rejected
	1.	2.	3.	4.	5.	
Name of polling station						
1.						
2.						
3.						
4.						
5.						
Add special and postal votes						
Special votes for ward						
Postal votes for ward received						
Total votes received						

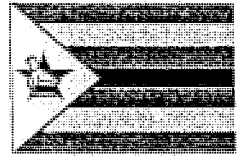
Declaration by Ward Elections Officer

Annexure D to be filed



Annexure

REPUBLIC OF ZIMBABWE



The Prime Minister

28 June 2013

The Chairperson

Zimbabwe Electoral Commission

ATT: Justice Rita Makarau

RE: CORRECTION OF VOTER'S ROLL: Ward 7

I write to you as a registered voter in Mount Pleasant, sitting MP up to midnight of June 29, 2013 and a duly nominated candidate for the Mount Pleasant Constituency for the 2013 elections. I write to advise you of an anomaly with respect to the registration of voters in Ward 7 of Mount Pleasant Constituency.

The Constituency Registrar of Voters has registered 3201 voters under the Army Headquarters KG6 as a voting address. Firstly, KG6 is not a residential area but the Head Office of our National Army. The staff quarters at the Army HQ for maintenance and security people cannot by any stretch of imagination accommodate 3201 persons including their families.

I am reliably informed that the workforce of the Head Quarters of the Army who ordinarily have duties at the offices reside at the army barracks in Dzivarasekwa and are ferried by buses on a daily basis, a fact known by ordinary people.

I attach for you a list of the registered persons extracted from the Ward 7 Roll in order for you to verify and where appropriate intervene and correct this anomaly.

A credible election is only possible if, among other things, we have a credible Voter's Roll. The attached record is based on the Ward 7 Roll as at 9 May, 2013. I will be purchasing the roll again after July 9 2013 to check whether this anomaly has been corrected and the said persons have been registered in the wards they reside.

I look forward to hearing from you soon.

Your faithfully,

Hon. Jameson. Z Timba (MP)

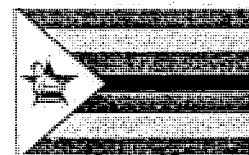
Minister of State in the Office of the Prime Minister

CC. Mr. S.V Hwacha- Dube, Manikai and Hwacha



REPUBLIC OF ZIMBABWE

Annexure



The Prime Minister

28 June 2013

The Chairperson
Zimbabwe Electoral Commission

ATT: Justice Rita Makarau

RE: CORRECTION OF VOTER'S ROLL: Ward 7

I write to you as a registered voter, sitting MP up to midnight of June 29, 2013 and a duly nominated MP candidate for the Mount Pleasant Constituency for the 2013 elections.

I write to advise you that the Constituency Registrar for Mount Pleasant has registered 300 people in Ward 7 under the voting address Morris Depot Training Centre.

Please be advised that Morris Depot Training Centre is not a voting address but a training college where police recruits attend courses for a duration of between 3-6 months. The said persons therefore do not ordinarily reside in Ward 7 but are recruited from various wards countrywide and deployed immediately after the pass-out parade and within 6 months.

I attach for you a list of the registered persons extracted from the Ward 7 Roll as at 9 May 2013 for your verification and where appropriate intervention and correction.

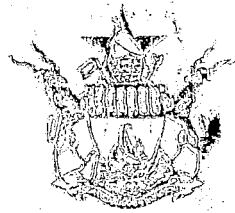
A credible election is only possible if, among other things, we have a credible Voter's Roll. The attached record is based on the Ward 7 Roll as at 9 May, 2013. I will be purchasing the roll again after July 9 2013 to check whether this anomaly has been corrected and the said persons have been registered in the wards they reside.

I look forward to hearing from you soon.

Your Faithfully,

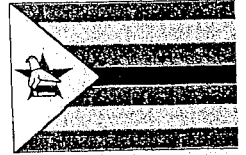
Hon. Jameson. Z Timba (MP)
Minister of State
Office of the Prime Minister

CC. Mr. S.V Hwacha- Dube, Manikai and Hwacha



REPUBLIC OF ZIMBABWE

Annexure



The Prime Minister

28 June 2013

The Chairperson

Zimbabwe Electoral Commission

ATT: Justice Rita Makarau

RE: CORRECTION OF VOTER'S ROLL: WARD 17

I write to you as a registered voter, sitting MP up to midnight of June 29, 2013 and a duly nominated candidate for the Mount Pleasant Constituency.

I write to advise you that the Mount Pleasant Constituency Registrar of Voters has registered persons on the Ward 17 Roll of Mount Pleasant under the voting address Teviotdale Plot alternatively referred to as Kaduku Farm or Teviotdale Trust.

The said address falls outside the boundaries of Harare. In fact, the said address falls within the boundaries of Mazowe District, and in particular, Mazowe East Constituency.

I will be forwarding you the list of persons registered unlawfully in due course and request your intervention to correct the same.

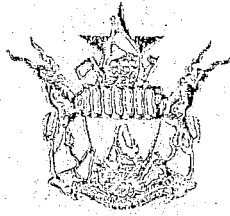
A credible election is only possible if, among other things, we have a credible Voter's Roll. The attached record is based on the Ward 17 Roll as at 9 May, 2013. I will be purchasing the roll again after July 9 2013 to check whether this anomaly has been corrected and the said persons have been registered in the wards they reside.

I look forward to hearing from you with regards to this.

Yours Faithfully,

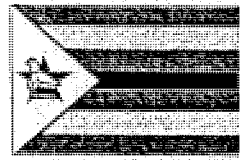
Hon. Jameson Z. Timba
Minister of State
Office of the Prime Minister

CC. Mr S.V. Hwacha- Dube Manikai & Hwacha



REPUBLIC OF ZIMBABWE

Annexure



The Prime Minister

1 July 2013

The Chairperson
Zimbabwe Electoral Commission

ATT: Justice Rita Makarau

RE: MOUNT PLEASANT WARD 17: Teviotdale/ Kaduku Farm

Further to my letter dated: 28 June 2013, please find attached the list of 135 people unlawfully registered under the above farm/ plot which falls under the Mazowe District, in particular, Mazowe East Constituency.

I also attach for your reference a letter from the City of Harare confirming my assertion.

Yours Faithfully,

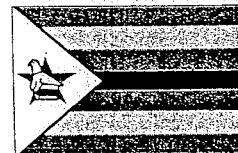
Hon. Jameson Z. Timba
Minister of State
Office of the Prime Minister

CC. Mr S.V. Hwacha- Dube Manikai & Hwacha



REPUBLIC OF ZIMBABWE

Annexure



The Prime Minister

3 July 2013

The Chairperson
Zimbabwe Electoral Commission

ATT: Justice Rita Makarau

RE: Correction of Voter's Roll: Bannockburn Compound; Ward 17

Please find attached a schedule of people registered on the Mount Pleasant Constituency Voter's Roll who do not reside on the stated address.

Annexure A (with 85 people) shows the people who do not reside at the said addresses but registered on the said addresses. Annexure B (with 22 people) shows the actual residents of the compound and their physical and registered voting address.

Madam Chairperson, Bannockburn Compound is a temporary shelter in the constituency which has an average of 2 rooms per household. For instance, room 4, which is the residence of James Chigwata ID No. 63-1053223 Q 45, has been added an additional 27 people who do not reside there.

May you kindly facilitate the correction of the roll by the removal of the persons in Annexure A from Ward 17 and their registration in the ward they reside.

I look forward to hearing from you soon.

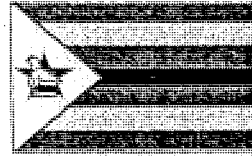
Yours Faithfully,

Hon. Jameson Z. Timba
Minister of State
Office of the Prime Minister

CC. Mr S.V. Hwacha- Dube Manikai & Hwacha



Annexure



REPUBLIC OF ZIMBABWE

The Prime Minister

28 June 2013

The Chairperson

Zimbabwe Electoral Commission

ATT: Justice Rita Makarau

RE: CORRECTION OF VOTER'S ROLL: Ward 7

I write to you as a registered voter in Mount Pleasant, sitting MP up to midnight of June 29, 2013 and a duly nominated candidate for the Mount Pleasant Constituency for the 2013 elections. I write to advise you of an anomaly with respect to the registration of voters in Ward 7 of Mount Pleasant Constituency.

The Constituency Registrar of Voters has registered 238 voters under the Presidential Guard Battalion, Harare as a voting address.

To the best of my knowledge the Presidential Guard Battalion is housed at the Dzivarasekwa State Barracks and therefore outside the boundaries of Ward 7. By way of example I refer you to two names on this list who show the actual physical address of the Presidential Battalion i.e. Mungofa Bothwell Takura ID No 05-097712 Q 07 and Muchararadza Obert ID No. 44-071162 L 44.

I attach for you a list of the registered persons extracted from the Ward 7 Roll in order for you to verify and where appropriate intervene and correct this anomaly.

A credible election is only possible if, among other things, we have a credible Voter's Roll. The attached record is based on the Ward 7 Roll as at 9 May, 2013. I will be purchasing the roll again after July 9 2013 to check whether this anomaly has been corrected and the said persons have been registered in the wards they reside.

I look forward to hearing from you soon.

Your Faithfully,

Hon. Jameson. Z Timba (MP)

Minister of State

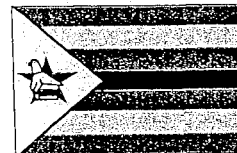
Office of the Prime Ministe

CC. Mr. S.V Hwacha- Dube, Manikai and Hwacha



REPUBLIC OF ZIMBABWE

Annexure



The Prime Minister

28 June 2013

The Chairperson
Zimbabwe Electoral Commission

ATT: Justice Rita Makarau

RE: CORRECTION OF VOTER'S ROLL: WARD 7

I write to you as a registered voter, sitting MP up to midnight of June 29, 2013 and a duly nominated candidate for the Mount Pleasant Constituency for the 2013 elections.

I write to advise you that the Constituency Registrar for Mount Pleasant has registered 60 persons under the voting address Harare Prisons. The said persons, although they might work for Prison Services, do not reside at the Harare Prisons Compound in Ward 7. May you kindly verify and where appropriate intervene to correct this anomaly.

I attach for you a list of the said persons extracted from the Ward 7 Roll as at 9 May 2013.

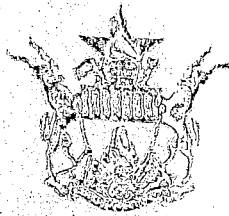
A credible election is only possible if, among other things, we have a credible Voter's Roll. The attached record is based on the Ward 7 Roll as at 9 May, 2013. I will be purchasing the roll again after July 9 2013 to check whether this anomaly has been corrected and the said persons have been registered in the wards they reside.

I look forward to hearing from you soon.

Your Faithfully,

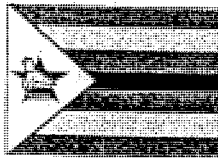
Hon. Jameson. Z Timba (MP)
Minister of State
Office of the Prime Minister

CC. Mr. S.V Hwacha- Dube, Manikai and Hwacha



Annexure

REPUBLIC OF ZIMBABWE



The Prime Minister

19 July 2013

The Chairperson
The Chief Elections Officer
Zimbabwe Electoral Commission

Att: Mrs Justice Rita Makarau, JA
Mr Sekeramayi

RE: PROVISION OF SPECIAL VOTERS ROLL

ZEC invited us to see its national counting and distribution of special vote envelopes today.

However we still lack basic facts that ZEC has repeatedly refused to reveal. In particular, at every level, at polling stations, your offices and in court it has refused to reveal to us how many voters got ZEC approval for special votes and to let us to examine any applications or any list of its approvals.

This persistent refusal to give any figures or let us see any lists has been as inexplicable as it is unlawful.

As a candidate I know voters registered on my rolls may have been authorised to vote anywhere in Zimbabwe. As a voter, I am also entitled to ensure my votes at national, constituency and ward level are not wrongly diluted by any other person double voting in any election. Without the lists I cannot do this. Hence our repeated requests for access.

Please now provide your full lists of approved special voters, in electronic format, which is searchable and analysable. I will pay their reasonable cost if required.

We know you have this in this electronic format as printed copies were used at District Polling Stations during the special voting.

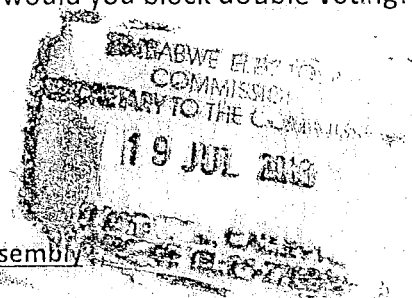
Also if you had no electronic lists, how in practical terms would you block double voting?

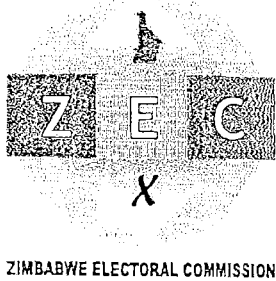
Yours faithfully,

Hon. Jameson Timba

MDC-1 Mt Pleasant Constituency Candidate for National Assembly

CC: S.V Hwacha (Dube, Manikai & Hwacha)





ZIMBABWE ELECTORAL COMMISSION

Chairperson's Office

Ref: 1/14/13/1

Zimbabwe Electoral Commission
1 Nelson Mandela Avenue
Corner Kaguvi & Jason Moyo Avenue
Private Bag 7782
Causeway
Harare
Telephone: +263 (04)759130, 774095
752950, 756252, 774215
752749, 752937, 755721
Fascimile: +263 (04)770660/781903

5 July 2013

The Minister of State
Office of the Prime Minister
Charter House Building
Harare

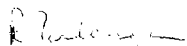
Att: Hon J. Z. Timba.

RE: REQUEST FOR CORRECTION OF VOTERS ROLL: BANNOCK BURN COMPOUND:
WARD 17.

Your letter of 3 July 2013 in connection with the above is hereby acknowledged and the contents thereof noted.

We note from your said letter that you are formally objecting to the registration of certain persons as voters in Wards 7 and 17 of Mount Pleasant Constituency.

Kindly note that the procedure for the objection to the retention of any name on the voters roll is provided for in terms of Section 28 of the Electoral Act [Chapter 2:13] to which I refer you. You may wish to formally file your objection with the constituency registrar as laid out in the law.


Mrs Justice Rita Makarau J.A.

CHAIRPERSON ZIMBABWE ELECTORAL COMMISSION.

Commissioners: Chairperson: Mrs Justice R. Makarau, Deputy Chairperson: Mrs J.L. Kazembe, Mr D.J. Chigaru, Prof. G. Feltoe, Mr T.P. Gambe, Dr P. Makoni, Mrs S. Ndlovu, Mrs B.F. Nhandara, Mr M. Nyathi

IN THE ELECTORAL COURT OF ZIMBABWE
HELD AT HARARE

Case No. EC /13

In the matter between:-

JAMESON ZVIDZAI TIMBA

Petitioner

And

JAISON PASSADE

Respondent

DRAFT ORDER

Harare.....Day of20

Before Mr/Mrs Justice

.....for the Petitioner

.....For the Respondent

WHEREUPON after reading documents filed of record and hearing counsel:

1. It is declared that Respondent was not duly elected as a Member of the National Assembly for Mount Pleasant Constituency in the Harmonised Elections of 2013;
2. The Parliamentary seat for that constituency be and is hereby declared to be vacant;
3. This determination shall be certified to the Speaker of the National Assembly in accordance with section 170(3)(c) of the Electoral Act Chapter 2:13.
4. The costs of this Petition be borne by the Respondent; alternatively as may be found just and reasonable in accordance with section 170(7) of the Electoral Act Chapter 2:13 .

BY THE COURT

.....
JUDGE / REGISTRAR