

**IN THE SUPERIOR COURT OF JUDICATURE, IN THE HIGH COURT OF
JUSTICE SITTING AT TAMALE ON MONDAY THE 24TH DAY OF NOVEMBER, 2025
BEFORE HIS LORDSHIP JUSTICE EMMANUEL BART-PLANGE BREW**

SUIT NO: NR/TL/HC/E13/22/25

**IN THE MATTER OF ARTICLE 99 OF THE CONSTITUTION OF THE REPUBLIC OF
GHANA, 1992**

AND

**IN THE MATTER OF SECTION 16 OF THE REPRESENTATION OF THE PEOPLE
ACT, 1992 (PNDCL 284) AS AMENDED**

AND

**IN THE MATTER OF THE PARLIAMENTARY ELECTION FOR THE KPANDAI
CONSTITUENCY HELD ON THE 7TH OF DECEMBER, 2024
AND**

**IN THE MATTER OF A PETITION BY DANIEL NSALA WAKPAL CHALLENGING
THE DECLARATION BY THE ELECTORAL COMMISSION OF MATHEW NYINDAM
AS MEMBER OF PARLIAMENT ELECT FOR THE KPANDAI CONSTITUENCY
PURSUANT TO THE PARLIAMENTARY ELECTIONS HELD ON THE 7TH OF
DECEMBER, 2024.**

BETWEEN

**DANIEL NSALA WAKPAL
DIGITAL ADDRESS
NA-0810-7639
KATIEJELI**

PETITIONER

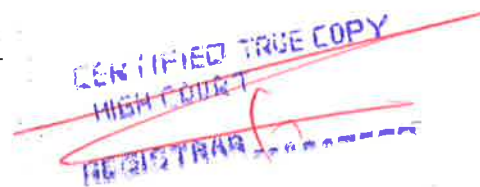
VRS

**MATHEW NYINDAM
DIGITAL ADDRESS
NA-3980-5395
KUMDI**

1ST RESPONDENT

**ELECTORAL COMMISSION OF GHANA
THE HEADQUARTERS
ACCRA. Fourth Road, Tesa**

2ND RESPONDENT



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JUDGMENT

CLOSING ADDRESS OF THE PETITIONER

A. INTRODUCTION

1. Respectfully, my Lord, this is the closing address filed for and on behalf of the Petitioner in support of the Petitioner's case that the Petitioner's action should be upheld and all the reliefs endorsed on the Petition granted.

B. STATEMENT OF MATERIAL FACTS

Respectfully my Lords, the facts of this case are as follows:

2. The Petitioner was the candidate of the National Democratic Congress (NDC) in the 2024 Parliamentary Election held in the Kpandai Constituency on 7th December, 2024.
3. The 1st Respondent was a candidate of the New Patriotic Party (NPP) in the Parliamentary election held in the Kpandai Constituency on 7th December, 2024, and was declared the Member of Parliament elect by the 2nd Respondent.
4. The 2nd Respondent is the Electoral Commission of the Republic of Ghana with the duty and mandate to conduct of elections, enforce and administer all laws and regulations relative to the conduct of elections and referendums.
5. On the 7th day of December, 2024, the Electoral Commission of Ghana, the 2nd Respondent herein, conducted Parliamentary elections in the Kpandai Constituency of the Northern Region of Ghana.
6. At the end of the election, the 2nd Respondent declared the 1st Respondent, Mathew Nyindam (candidate of the New Patriotic Party), as the winner of the election and, by extension, the Member of Parliament elect for the Kpandai Constituency.

NATURE OF THE PETITIONER'S CLAIM

7. The Petitioner claims that the Parliamentary Election held in the Kpandai Constituency on 7th December 2024 was invalid for the following reasons:

- a. That there are irregularities and inconsistencies contained in FORM 8A (Regulation 32 (7) and 39(2) Statement of Polls for the Office of Member of Parliament (Pink Sheet) for **Forty-one (41)** polling stations out of a total of **One hundred and fifty-two (152)** polling stations in the Kpandai Constituency.
- b. That the parliamentary election held in the Kpandai Constituency on 7th December 2024 was not conducted in compliance with Regulations 39 of the Public Elections Regulations, 2020 (C.I. 127) and the principles laid down by Regulations 39 and that the said non-compliance affected the results of the elections.
- c. That the declaration and publication of the Parliamentary election results held in the Kpandai Constituency on 7th December 2024 was not made in compliance with Regulations 43 of the Public Elections Regulations, 2020 (C.I. 127) and the principles laid down by Regulations 43 and that the said non-compliance affected the entire results of the parliamentary elections in the Kpandai Constituency.

8. PARTICULARS OF IRREGULARITIES AND NON-COMPLIANCE

NO.	POLLING STATION CODE	NAME OF POLLING STATION	NATURE OF IRREGULARITIES
1.	M0105035B	D/A PRIM. SCH. WEST BANK KUMBI	1. The total number of voters on the polling station register as recorded on the pink sheet was 1422, is more than the total number of ballots issued to the polling station (435).
2.	M010403	D/A PRIM. SCH. OYOMBO	1. The total number of ballots issued to voters on the polling station register as recorded on the pink sheet (524), is less than the total number of persons verified by BVD with serial number VVD09946 (525) and manually (0).
3.	M011202	L/A PRIM. KATIEJELI	1. The total number of Ballots issued to this polling station was not recorded on the pink sheet. 2. The total of persons verified by BVDs with serial numbers VVD07183 and VVD41801 (531) and manually (1) are more than the number of ballots issued to voters on the polling station register (523). 3. The total number of votes in the ballot box

			(532), is more than the total number of ballots issued to voters on the polling station register (523).
4.	M011402	KPALUNG PRIM. SCH.	1. The total number of ballots issued to voters on the polling station register (325), is more than the total number of voters on the polling station register (316)
5.	M011205	D/A PRIM. SCH. DODOAI	1. The total number of votes in the ballot box is not recorded on the pink sheet.
6.	M011101	D/A PRIM. SCH. LAMBADO	1. The total number of persons verified by BVD (280) and manually (0) are less than the total number of ballots issued to voters on the polling station register (283). 2. The total number of votes in the ballot box was not stated on the pink sheet.
7.	M011004	D/A PRIM. SCH. BISANDO	1. The total number of persons verified by BVDs with serial numbers 17ff959722bd and 17ff959722bd (473) and manually (not stated on the pink sheet) are less than the total votes in the ballot box (475).
8.	M0110001	L/A PRIM. SCH. WIAE	1. The total number of persons verified by BVDs with serial numbers 13824 and 32967 (620) and manually (0) are more than the number of ballots issued to voters on the polling station register (499).
9.	M010701	L/A PRIM. SCH. CHEKOLI	1. The total number of persons verified by BVDs with serial numbers VVD32535 and VVD17919 (537) and manually (14) are less than the total votes in the ballot box (554). 2. The total number of rejected ballots was not recorded on the pink sheet.
10.	M010605	JHS BANKAMBA	1. The total number of persons verified by BVD with serial number 71986 (394) and manually (not recorded on the pink sheet) are less than number of ballots issued to voters on the polling station register (475).
11.	M010601	L/A PRIM. SCH. BANKAMBA	1. The total number of persons verified with BVDs with serial numbers 15999 and 24093 (515) is inaccurate because one person voted on the proxy list, which is verified manually. Therefore, the total number of persons

			verified with BVDs with serial numbers 15999 and 24093 should be 514.
12.	M010502B	D/A JHS KUMDI	1. The number of voters on the polling station register (524) is more than the total number of ballots issued to this polling station (523).
13.	M010401	D/A PRIM. SCH. KUJA	1. The total number of persons verified by BVDs with serial numbers 21863 and 56998 (389) and manually (0) are more than the total number of ballots issued to voters on the polling station register (388).
14.	M011302	BUYA HEALTH CENTRE	1. The total number of persons verified with BVDs with serial numbers VVD233372 and VVD39621(523) and manually (0) are more than the total number of votes in the ballot box (522).
15.	M010302	L/A PRIM. BALAI	1. The total number of persons verified with BVDs with serial numbers VVD17595 and VVD46830 (505) and manually (0) are more than the total number of votes in the ballot box (502).
16.	M010301	JHS BALAI	1. The total number of valid votes and the total votes in the ballot box was not recorded on the pink sheet. 2. The total number of persons verified with BVDs with serial numbers VVD28990 and VVD35913 (392) and manually (0) are more than total number of ballots issued to voters on the polling station register (389).
17.	M010204A	ST. KIZITO'S R/C PRIM. SCH. KPANDAI	1. The total number of valid votes and the total votes in the ballot box was not recorded on the pink sheet. 2. The total number of persons verified with BVDs with serial numbers VVD19026 and VVD61592 (442) and manually (0) are less than the total number of ballots issued to voters on the polling station register (444).
18.	M012204	PRESBY PRIM. SCH. KANCHINKE	1. The total number of valid votes and the total votes in the ballot box was not recorded on the pink sheet
19.	M012005	CENTRAL MOSQUE	1. The total number of valid votes and the total votes in the ballot box was not recorded on

		KITARE	the pink sheet. 2. The total number of persons verified with BVDs with serial numbers VVD71079 and VVD47918 (476) and manually (0) are more than the total number of ballots issued to voters on the polling station register (475). 3. Presiding officer did not sign the pink sheet
20.	M011005	D/A PRIM. SCH. JAGBUNGBUN	1. The total number of persons verified with BVDs with serial numbers VVD56831 and VVD29985 (308) and manually (0) are more than the total number of ballots issued to voters on the polling station register (307).
21.	M0110061	R/C CHURCH WIAE	1. The total number of persons verified with BVD and manually are not equal to the total number of ballots issued to voters on the polling station register.
22.	M012004	D/A PRIM. SCH. THOMASKOPE	1. The total number of valid votes and the total votes in the ballot box was not recorded on the pink sheet.
23.	M011603	AGBAKURA PRIM. SCH.	1. The total number of unused ballots stated on the pink sheet (0) is inaccurate. 2. The total number of ballots issued to this polling station (35) is not equal to the number of ballots issued to voters on the polling station register (22) + the number of ballots issued to voters on the proxy voters list (0) + the total number of spoilt ballots (0) + the total number of unused ballots (0).
24.	M011206	E/P PRIM. SCH. TIKARINI	1. The total number of unused ballot as stated on the pink sheet (50) is inaccurate, because the total number of ballots issued to this polling station (450) – (minus)(the number of ballots issued to voters on the polling station register(404) + the number of ballots issued to voters on the Proxy Voters List(0) + the total number of spoilt ballot (2)) is equal to

			the total number of unused ballot(50).
25.	M012103	D/A PRIM. SCH. NASSANDIN	1. The total number of persons verified with BVD with serial number VVD13372 (473) and manually (2) are more than the number of ballots issued to voters on the polling station register.
26.	M010503A	D/A PRIM. SCH. WEST BANK KUMDI	1. Part A and B were not recorded on the polling station before the start of polls.
27.	M012302	D/A JHS LOLOTO	1. The total number of ballots issued at this polling station (525) is more than the sum of the number of ballots issued to voters on the polling station register (442), the number of ballots issued to voters on the Proxy Voters List (0), the total number of spoilt ballots (1) and the total number of unused ballots.
28.	M010903	D/A PRIM. SAMBUTI	1. The total valid votes as recorded on the pink sheet (576) does not correspond with the addition of the votes of the candidates.
29.	M012104	L/A PRIM. SCH. BOLLA	1. The total number of ballots issued to voters on the polling station register + The total number of ballots issued to voters on the Proxy Voters List + the total number of spoilt ballots + the total number of unused ballots was not stated on the pink sheet.
30.	M010801A	L/A PRIM. SCH. KOJOBONI	1. Part B of the pink sheet was not recorded. 2. The total number of persons verified with BVDs with serial numbers VVD56875 and VVD5734 (477) and manually (0) are less than the total number of ballots issued to voters on the polling station register (479). 3. NDC agent did not sign the pink sheet citing over voting

31.	M010202	NAWURI COMMUNITY 2	1. The total valid votes cast and the total votes in the ballot box were not stated on the pink sheet. 2. The agent of the N.P.P did not sign the pink sheet because he was not satisfied with a rejected ballot.
32.	M011104	D/A PRIMARY SCHOOL DALARDO	1. Serial numbers of ballot booklets not recorded.
33.	M011404	MARKET SQUARE KIBOANI	1. The range of serial numbers of ballot papers issued to the polling station was not recorded on the pink sheet.
34.	M011403	D/A PRIM. SCH. DOBUNG	1. The range of serial numbers of ballot papers issued to the polling station was not recorded on the pink sheet.
35.	M011103	TEMP BOOTH JARADO	1. The range of serial numbers of ballot booklets were not recorded on the pink sheet.
36.	M010206	DON THEOBOLD PRIM. SCH. MBOWURA	1. The total number of persons verified by BVDs with serial numbers VVD34393 and VVD22999 was recorded as zero(0) on the pink sheet.
37.	M010101	MFU KPANDAI SOUTH	1. The total number of persons verified by BVDs with serial numbers VVD41769 and VVD47501 was recorded as zero (0) on the pink sheet. 2. The total number of persons verified by BVDs with serial numbers VVD41769 and VVD47501(0) is less than the number of ballots issued to voters on the polling station register (505).
38.	M012305	PENTECOST CHURCH LOLOTO	1. The total number of persons verified by BVDs with serial numbers VVD62271 and VVD40668 was recorded as zero (0) on the pink sheet. 2. Sum of the number of ballots issued to voters

			on the polling station register (387), number of ballots issued to voters on the Proxy Voters List (0), total number of spoilt ballots (0) and the total number of unused ballots (98) are more than the total number of ballots issued to this polling station (470).
39.	M012304	D/A PRIM. SCH. EWANDO	1. The total number of persons verified by BVDs with serial numbers 44842 and 20476 was not recorded on the pink sheet.
40.	M012303A	PRESBY PRIM. SCH. DOGOAI	1. The total number of persons verified by BVDs with serial numbers VVD38350 and VVD31238 was not recorded on the pink sheet.
41.	M010704	MARKET SQUARE KONJADO	1. The total number of votes in the ballot number (392) is less than the total number of persons verified by BVDs with serial numbers VVD63164 and VVD73575 (393) and manually (0).

9. That after the Parliamentary results of the polling stations in the Kpandai Constituency were given to the Constituency Returning Officer, a disruption of the constituency collation exercise ensued due to a scuffle between the supporters of the two leading political parties, which prompted the returning officer to suspend the parliamentary constituency collation exercise.

10. That the Petitioner later learnt that the constituency collation exercise for the parliamentary elections in the Kpandai was conducted without recourse to him nor his agents at an unknown location and the results of the parliamentary elections in Kpandai were declared in non-compliance and violation of Regulations 43 of the Public Elections Regulations, 2020 (C.I. 127).

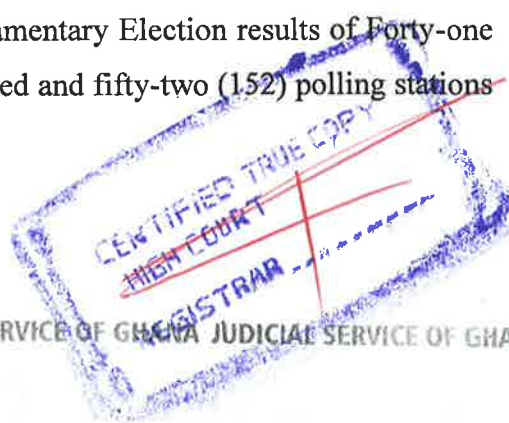
C. SUMMARY OF PROCEEDINGS

Respectfully my Lords, the summary of proceedings is as follows:

11. My Lord, the Petitioner filed an Election Petition against the 1st Respondent and 2nd Respondent, the District Office of the 2nd Respondent and the Clerk of the Parliament of Ghana on the 25th of January, 2025.
12. The Petitioner sought leave of this Honourable Court to pay security for cost by an Application filed on the 27th of January, 2025, and paid same also on the 27th of January, 2025.
13. The 1st Respondent entered Conditional Appearance on the 10th of February, 2025.
14. The 1st Respondent, at the back of entering Conditional Appearance, filed a Motion on Notice to set aside service of the Petition and Dismiss Petition for Abuse of Court Process on the 19th of February, 2025.
15. The Petitioner filed a Motion on Notice to set down the matter for trial on the 24th of February, 2025,
16. The Petitioner then filed an Affidavit in Opposition to the 1st Respondent's Motion on Notice to set aside service of the Petition and Dismiss Petition for Abuse of Court Process on the 27th of February, 2025.
17. The 1st Respondent followed up by filing a Supplementary Affidavit in support of his Motion on Notice to set aside service of the Petition and Dismiss Petition for Abuse of Court Process on 14th of March, 2025.
18. The High Court (Commercial Division) on the 26th of March, 2025, dismissed the 1st Respondent's Motion on Notice to set aside service of the Petition and Dismiss Petition for Abuse of Court Process, and delivered its ruling on the 11th of April, 2025.

19. Aggrieved and dissatisfied by the ruling this Honourable Court, the 1st Respondent filed a Notice of Appeal on the 27th of March, 2025.
20. The 1st Respondent subsequently, filed a Motion on Notice for Stay of Proceedings pending determination of Interlocutory Appeal on the 8th of April, 2025, when he had still not filed an Answer to the Election Petition.
21. The 1st Respondent then filed a Motion on Notice for leave to file Answer to the Petition on the 10th of April, 2025, which motion was not opposed.
22. The 1st Respondent thus filed his Answer to the Petition pursuant to leave granted by Court dated 17th April, 2025, on the same day.
23. The 2nd Respondent also filed a Motion on Notice for Extension of time to file Answer out of time on the 24th of April, 2025, which motion was not opposed.
24. The 2nd Respondent moved its Motion on Notice for Extension of time to file Answer out of time and same was granted as prayed on the 30th of April, 2025.
25. The Petitioner filed an Affidavit in Opposition to the 1st Respondent's Motion on Notice for Stay of Proceedings pending determination of Interlocutory Appeal on the 30th of April, 2025.
26. The Petitioner filed a Reply to the 1st Respondent's Answer to the Petition on the 30th of April, 2025.
27. This Honourable Court ordered parties to file their respective memorandum of issues, Pre-trial Checklist and Witness Statements within fourteen days.

28. The 2nd Respondent filed its Answer to Petition on the 7th of May, 2025, pursuant to leave of Court dated 30th April, 2025.
29. The Petitioner filed a Motion on Notice for an order for Misjoinder of the 3rd and 4th Respondents on the 15th of May, 2025, that was unopposed and same was granted as prayed.
30. The Petitioner filed a Reply to the 2nd Respondent's Answer to the Petition on the 15th of May, 2025.
31. The 1st and 2nd Respondents filed their memorandum of issues on the 14th of May, 2025, whilst the Petitioner filed his on the 15th of May, 2025
32. The 1st Respondent filed his Pre-trial Checklist and Witness Statement for his Witness, Nasiru Iddrisu on the 14th of May, 2025.
33. My lord the Petitioner filed Pre-trial Checklist and Witness Statements for himself (Daniel Nsala Wakpal) and his Witness, Charles Seidu Kipo on the 15th of May, 2025.
34. The 2nd Respondent filed his Pre-trial Checklist and Witness Statement for its Witness, Charles Okyere on the 16th of May, 2025.
35. My lord the issues filed by the Petitioner are as follows:
- Whether or not the irregularities and inconsistencies contained in FORM 8A (Regulation 32 (7) and 39(2) Statement of Polls for the Office of Member of Parliament (Pink Sheet) for Forty-one (41) polling stations out of a total of One hundred and fifty-two (152) polling stations in the Kpandai Constituency have so extensively prevailed and have reasonably affected the results of the elections held in the in the Kpandai Constituency on 7th December, 2024.
 - Whether or not the non- compliance with Regulations 39 of the Public Elections Regulations, 2020 (C.I. 127) affected the Parliamentary Election results of Forty-one (41) polling stations out of a total of One hundred and fifty-two (152) polling stations



in the Kpandai Constituency held in the in the Kpandai Constituency on 7th December, 2024.

- c. Whether or not the non- compliance with Regulations 43 of the Public Elections Regulations, 2020 (C.I. 127) rendered the entire results of the Parliamentary Elections in the Kpandai Constituency void.

36. My lord the issues filed by the 1st Respondent are as follows:

- a. Whether or not there were widespread malpractices and irregularities or statutory breaches which materially and substantially affected the outcome of the 2024 Parliamentary Elections for the Kpandai Constituency.
- b. Whether or not the results of the Kpandai Parliamentary elections of December 7 2024 were collated from 7th December 2024 up to a point before accredited party agents and Media but only had to be relocated to be completed at the Regional Office of the 2nd Respondent due to security threat.
- c. Whether or not the assigned electoral official of the 2nd Defendant gave notice to accredited party Agents and the Media that it was relocating the collation centre to its Regional Office due to security threat.
- d. Whether or not the Petitioner and his Party's Accredited Agents neglected their duty when they refused to follow the 2nd Respondent's officials to the new collation centre.
- e. Whether or not in the absence of the Petitioner and his agents some Regional Executives of the National Democratic Congress were present and witnessed the collation of the results of the Kpandai Parliamentary elections at the Regional Office of the 2nd Respondent.

37. My lord the issues filed by the 2nd Respondent are as follows:

- a. Whether or not the 2nd Respondent conducted the Parliamentary elections for the Kpandai constituency in full compliance with the provisions of the Public Elections Regulations, 2020 (C.I. 127 as amended).
- b. Whether or not the minor inconsistencies and irregularities found on some of the Statement of Polls of the Office of Member of Parliament (Pink sheets) significantly and ultimately impacted the final results of the elections conducted by the 2nd Respondent.
- c. Whether or not the Petitioner rallied his supports to cause acts of vandalism and violence at the collation centre when it became apparent that he had lost the elections

LEGAL ARGUMENTS IN RESOLUTION OF ISSUES

38. My Lord, it is trite learning that a party who alleges a fact bears the onus of proving that fact. That, the party in discharging this burden of proof bears the burden of persuasion and the burden of producing evidence.
39. **The Evidence Act NRCD 323** sets out the provisions relating to the burden of proof and uses the terms the burden of persuasion and the burden of producing evidence. Proof in civil trials is provided under sections 10, 11, 12, and 14 of the Evidence Act NRCD 323. The law is that the Petitioner has the burden of persuasion in order to succeed on each of the claims and reliefs he is seeking from this Honourable Court.
40. That burden of persuasion is defined in **Section 10(1) of the Evidence Act**¹ as follows:
 “10(1) For the purposes of this Act, the burden of persuasion means the obligation of a party to establish a requisite degree of belief concerning a fact in the mind of the tribunal of fact or the Court.”
41. The burden of producing evidence is also defined in **Section 11(1) of the Evidence Act**² in the following terms: “11(1) For the purposes of this Act, the burden of producing evidence means the obligation of a party to introduce sufficient evidence to avoid a ruling on the issue

¹ Supra

² Evidence Act, 1975 [NRCD 323]

against that party.’ Section 10(2) then sets out the standard by which the Petitioner can persuade this Honourable Court. It says the burden of persuasion requires a party to raise a reasonable doubt concerning the existence or non-existence of a fact by a preponderance of the probabilities.

42. It is also provided in **Section 11(4) of the Evidence Act³** as follows: “In other circumstances the burden of producing evidence requires a party to produce sufficient evidence which on the totality of the evidence, leads a reasonable mind to conclude that the existence of the fact was more probable than its non-existence.

43. Proof by a preponderance of probabilities has been defined in **Section 12(2) of NRCD 323** as: ‘12(2) “**Preponderance of the probabilities**” means that degree of certainty of belief in the mind of the tribunal of fact or the court by which it is convinced that the existence of a fact is more probable than its non-existence’”

44. The Supreme Court in the case of **Madam Linda Sagoe and others v. Social Security and National Insurance Trust (SSNIT)⁴** held that “proof by a preponderance of probabilities” within the context of the burden of proof simply means weightier or superior evidence.

45. In the case of **Okudzeto Ablakwa (No.2) v. Attorney-General and Another⁵**, the Supreme Court held on the burden of proof that: “...if a person goes to court to make an allegation, the onus is on him to lead evidence to prove that allegation unless the allegation is admitted. If he fails to do that, the ruling is against him. Stated more explicitly, a party cannot win a case in Court if the case is based on an allegation which he fails to prove or establish. This rule is further buttressed by Section 17(b) which emphasizes on the party on whom lies the duty to start leading evidence.”

46. My Lord, this is a petition in which the Petitioner hinged his complaints on three main reasons as follows:

³ Supra

⁴ [2012] 2SCGLR 1093

⁵ [2012] 2SCGLR 845@867

- a. That there are irregularities and inconsistencies contained in FORM 8A (Regulation 32(7) & 39(2) (hereinafter referred to as pink sheet) for 41 polling stations out of a total of 152 Polling Stations in the Kpandai Constituency.
- b. That the Parliamentary Election held in the Kpandai Constituency on 7th December 2024 was not conducted in compliance with Regulation 39 of the Public Elections Regulations 2020 (CI 127) and that the said non-compliance affected the results of the elections.
- c. That the declaration and publication of the Parliamentary Election Results held in the Kpandai Constituency on 7th December 2025 was not made in compliance with Regulation 43 of the Public Elections Regulations 2020(CI 127) and the principles laid down by the said Regulation 43 and such non-compliance affected the entire results of the Parliamentary Election in the Kpandai Constituency.

47. My Lord, I shall first address this Honourable Court on the Petitioner's first claim of irregularities and inconsistencies contained in FORM 8A Regulation 32 (7) and 39(2) Statement of Polls for the Office of Member of Parliament.

48. My Lord, it is the Petitioner's plaint that the Kpandai Parliamentary Election held in 41 polling stations were fraught with fundamental infractions that sin against Regulation 32(7) and 39(2) as well as the principles of ballot accounting.

49. My Lord, in respect of the impugned 41 polling stations results, the substratum of the 1st and 2nd Respondent's pleadings and evidence is that indeed there were irregularities but those irregularities in the 41 polling stations were mere and do not substantially and materially affect the outcome and validity of the final outcome of the election.

50. My Lord, both the 1st and 2nd Respondents pleaded virtually the same defence to the effect that the irregularities were mere discrepancies, arithmetic errors in summation of figures,

erroneous recording of figures, immaterial omissions, insignificant transpositional errors and mere accidental swapping of figures.

51. My Lord, despite the defence by both 1st and 2nd Respondents that the irregularities were mere errors, the 2nd Respondent admitted under cross-examination that in a Parliamentary Election, just a difference of one vote could see a candidate declared as winner of the election. Under cross-examination, the following ensued between Counsel for Petitioner and Witness for the 2nd Respondent:

Q: You will agree with me that the Parliamentary Election system is a first past the post meaning every single vote counts.

A: My Lord, Yes.

Q: And that a person who is a candidate in a Parliamentary Election can be declared winner on account of clerical error as happened in the famous case Isaac Amo in the election in Ayawasi East Constituency. Are you aware?

A: My Lord I am not aware.

52. My Lord, one notable irregularity for which the Petitioner is in court is the disparity in the figures on the pink sheets given to the Petitioner by the 2nd Respondent and that of the 2nd Respondent.

53. My Lord, the 2nd Respondent was ordered by this Honourable Court to produce the 41 original copy of the pink sheets yet the 2nd Respondent was only able to provide 36 original copies. The question is, where are the remaining 6 copies of the pink sheets?

Indeed, the 6 unaccounted original copies means that the 2nd Respondent has something to hide from this Honourable Court.

54. My Lord, instead of answering to our claim of disparities between the 2nd Respondent's and the Petitioner's pink sheets, the 2nd Respondent rather sought to justify the disparities in the figures by imputing crime to the Petitioner to the effect that the Petitioner could mistakenly or intentionally manipulate the figures on his carbon copy so as to make it appear as though

the figures on the carbon copy are different from the original pink sheets from the 2nd Respondent.

55. My Lord, clearly the 2nd Respondent who is charged by law to conduct Parliamentary Elections in accordance with Regulation 32 (7) and 39(2) for 41 polling stations could not explain away the reasons for the disparities in its own figures on the carbon copy and that of the original copy.

56. The following ensued between Counsel for Petitioner and Witness of the 2nd Respondent:

Q: I am putting it to you that per the copy of form 8A for D/A Primary School West Bank cannot be different from what you gave the Petitioner

A: My Lord I disagree with Counsel in the event that the original copy here marked as EC 2 which is ink can differ from the copy of the Petitioner which is carbon copy if the Petitioner or his team who worked for him in collation or in putting together the petition mistakenly or intentionally place a sheet of paper on the carbon copy given to him which is very sensitive.

57. My Lord, clearly the Respondent has no clue as to how come the content of their pink sheets are different from pink sheets given to the Petitioner by the 2nd Respondent.

58. My Lord, the 2nd Respondent admitted under cross-examination that the Petitioner's copy of 41 pink sheets were given to him by the 2nd Respondent. The 2nd Respondent cannot now turn against its own document to say that it was doctored. The following ensued between the Petitioner's Counsel and 2nd Respondent as follows:

Q: Where did the Petitioner obtain exhibit A (referring to Pink sheets from DA Primary School West Bank) from or whose document is Exhibit A?

A: My Lord it is supposed to have gotten from the polling station, the source of the election after it has been duly signed by his agents and it is supposed to be the ECs document.

59. My Lord, another disparity which the 2nd Respondent failed to explain was its own Exhibit EC 3(DA Primary School Oyombo) where the number of ballots issued out to voters (524) was less than those who were verified (525).

60. In one vein the witness for 2nd Respondent agrees that there is an irregularity on Exhibit EC3. In another vein he disagrees with the Petitioner that there is irregularity on Exhibit EC3. The following ensued between Counsel for Petitioner and Witness for the 2nd Respondent:

Q: so you would agree with me that the total number of ballots issued to voters at DA Primary School Oyombo on the polling station register as recorded on exhibit EC3 is less than the total number of persons verified by the BVD.

A: My Lord I agree but it is normal phenomenon in our body politics...

61. Again, the witness for EC admitted in his evidence in chief that there is discrepancy between the total number of persons verified and the total number of ballots issued yet, under cross-examination, he denied that there was any such discrepancy at Katiejeli LA Primary (Exhibit EC 4).

62. My Lord, clearly if you have a witness for 2nd Respondent who cannot take paper ballot accounting, he is bound to contradict himself.

63. My Lord, the Respondents admitted almost all the irregularities on the 41 pink sheets yet the only reason the witness for 2nd Respondent repeatedly gave under cross-examination was that those errors were not irregularity.

64. My Lord another notable irregularity that violated Regulation 32 (7) and 39(2) is in respect of Kpalung polling station where on the face of the pink sheet A1 should have been equal to C1 plus C2 plus C3 plus C4. However on the face of the pink sheet, $C1(325) + C2(0) + C3(0) + C4(64)$ did not equate A1. Certainly this is an irregularity that inured to the benefit of the 1st Respondent in an election hinged on first pass the post. The following ensued between Counsel for Petitioner and Witness for the 1st Respondent:

Q: So what is the irregularity at Kpalung polling stations?

A: On the face of the pink sheet A1 was 325, C4 is 64, C1 is 325. On the face of the pink sheet they have told us that C1 plus C2 plus C3 plus C4 should be equal to A1. But on the face of the pink sheet C1 is 325, C2 is zero, C3 is also zero and C4 is 64. If you add them you will get 389 which is far and above the A1.

65. My Lord, again on the pink sheet of Kpalung Polling Station (Exhibit D), our case was that total valid votes, total rejected votes, total votes in the ballot box were not written or recorded on the pink sheet.

66. My Lord, Counsel for the 1st Respondent sought to unsuccessfully impeach the evidence of the Petitioner by saying that the total number of votes in the ballot box was recorded on the pink sheet of the 2nd Respondent. The following ensued between Counsel for Petitioner and Witness for the 1st Respondent:

Q: But the duplicates of the EC as the 1st Respondent, total has been added is that not so?

A: My Lord it is not correct because if he says the duplicates of EC, EC is supposed to be holding the original whilst the Petitioner and the 1st Respondent hold the the duplicates. So if we the Petitioners are holding the duplicates and some figures on it are missing which is no fault of the Petitioner then the credibility of this particular pink sheet is in doubt.

67. My Lord, I shall now address this Honourable Court on the third claim of the Petitioner to the effect that the declaration and publication of the Parliamentary Election Results held in the Kpandai Constituency on 7th December 2024 was not made in compliance with Regulation 43 of the Public Elections Regulations, 2020 CI 127 and the principles laid down by Regulation 43 and that the said non-compliance affected the entire results of the Parliamentary Elections in the Kpandai Constituency.

68. My Lord, it is the case of the Petitioner that Regulation 43 of CI 127 is couched in mandatory terms. Indeed, and in fact Regulation 43 uses the mandatory word "shall" to impose strict obligations on the Returning officer.

69. My Lord Regulation 43 of CI 47 is reproduced here as follows:

" 43(1) Subject to Regulation 42, immediately after the results of the poll for all polling stations in the Constituency of the returning officer have been given to the returning officer the returning officer **shall**, in the presence of the candidates or the representatives of the candidate or not more than two counting agents appointed by each candidate,

- a. assemble the results from the polling stations without recounting the ballots in the ballot boxes except where there is a challenge by a candidate or a counting agents in respect of a specific ballot box.
- b. fill the Parliamentary Election Results Summary Sheet as set out in Form 1D
- c. give public notice of the total number of votes cast for each candidate
- d. publicly declare as elected in a Parliamentary Election the candidate who has the highest votes
- e. request the candidates or the representative or counting agents of the candidates to, together with the returning officer, sign the Parliamentary Election Results Collation Form as set out in Form 1C and the Parliamentary Results Summary Sheet as set out in Form 1D and post a copy at the Constituency Collation Centre.
- f. give each candidate or the representative or counting agents of a candidate a completed and signed copy the Parliamentary Election Results Collation Form and the Parliamentary Election Results Summary Sheet
- g. endorse on the writ specified in Form 1B the name of the person elected and
- h. forward to the Commission the endorsed writ and a note of the total number of votes cast for each candidate.

70. My Lord, the mandatory word "shall" features in every nook and cranny of the aforesaid provision and per Section 42 of the Interpretation Act, 2009 (Act 792), the word "shall" shall be construed as imperative and mandatory. This, the word "shall" imposes an obligation on the duty bearer to perform whatever duty he or she or it has been assigned to perform.

71. My Lord interpreting Regulation 43 purposively will reveal that the whole provision uses the word shall and as such the legislative intent is to command the Returning Officer to always ensure that in the spirit of Transparency and Accountability the agents or the parties themselves must be present to undertake the activities outlined in Regulation 43. This provision is intended to give the parties the opportunity to challenge the process and register their protest for them to be **heard and their grievances addressed before declaration of the results.**
72. My Lord, it is the case of the Petitioner that the Petitioner's **natural right to be heard** was violated in many instances during the conduct of the 7th December 2025 Parliamentary Elections for Kpandai Constituency.
73. My Lord, **the first violation of the Petitioner's natural justice right is the failure on the part of the Returning Officer for Kpandai Constituency to notify the Petitioner or his collation agents of the relocation of the Collation Centre.** Notice to a party about an event that will fundamentally affect his right is paramount in law.
74. My Lord, Regulation 39(5) establishes collation centre under the law. That particular Regulation 39(5) is the only provision that mentions Collation Centre where the summation of all Polling Station results is done. On the basis of the establishment of collation centre in Regulation 39 (5), Regulation 43 outlines in detail and in mandatory terms the activities that ought to take place at the collation centre before, during and after collation and declaration.
75. My Lord the legal relevance of Collation Centre in the Electoral process was emphasized by the 2nd Respondent's Witness under cross-examination by Counsel for the Petitioner as follows: pg 93
- Q: Regulation 39(5) of CI 127 provides for a Parliamentary Constituency Collation Centre
- A: True my Lord
- Q: Can you tell this court the purpose of the Constituency Collation Centre
- A: it is for collation of results from individual polling stations and further declaration of results.

76. My Lord, it is our case that violence erupted during the collation of the Parliamentary results for Kpandai Constituency at a time when 126 of the polling station results had been collated. When calm was restored to the Collation Centre, one would have expected that collation would continue at the legally designated centre but that was never the case. The Returning officer of the Constituency acting on behalf of the 2nd Respondent surreptitiously relocated the Collation Centre to an unknown location without communicating the change of collation centre to the Petitioner thereby depriving him of his right to be put on notice before relocation.

77. My Lord, it is the case of the 2nd Respondent that it communicated the relocation of the Collation Centre to the Petitioner and or his agents which the Petitioner denied. The onus therefore is on the Petitioner to adduce enough evidence to avoid a ruling against him on this issue.

78. My Lord, the Petitioner's assertion that he was never notified of the relocation and the 2nd Respondent assertion that Petitioner was informed was tested when the 2nd Respondent's Witness came under cross-examination by Counsel for Petitioner as follows: on page 101

Q: Can you tell this Court how you communicated the purported re-location and redesignation of the Kpandai collation and declaration centre to the Petitioner or his agents.

A: My Lord, at the point the EC has lost enough of its properties and lives were at stake and so in the open at the collation centre in the presence of two out of three of the contesting candidates ie the Petitioner, 1st Respondent and all other major stakeholders it the media, CODEO, Christian Council the Catholic Bishops Representatives and the security announced that based on security advice I have been directed by my head Office through my Regional Director to move the declaration of the results to the EC Regional Office in Tamale.

Q: Have you provided this court with any evidence of any communication to either the Petitioner or his accredited agent announcing the purported re-location and redesignation of the Kpandai Collation and declaration centre to Tamale.

A: My Lord, no but in the heat of the situation I found myself where properties have been lost and lives were at stake I could not have recorded myself announcing to the people present and have that video to provide to the court.

Q: So you will agree with me that there is no evidence on record before this court that shows that the Petitioner or his accredited agents or counting agents had any knowledge of the purported re-location and redesignation of the Kpandai Constituency Collation Center and declaration centre to Tamale

A: I disagree and rely heavily on my witness statement.

Q: Have you provided any evidence in your witness statement of any official communication to either the Petitioner or his accredited agent or counting agents informing him of the purported relocation and redesignation of the Kpandai Constituency collation and declaration centre to Tamale

A: Yes my Lord, it was an open announcement which I stated in my witness statement.

79. My Lord, what the witness sought to do was to justify the illegal relocation to say that under the violent circumstances, the 2nd Respondent exercised its discretion to relocate the collation center.
80. My Lord, we are not oblivious of the position of the Supreme Court when it comes to the independence of the 2nd Respondent and the power to exercise discretion under certain circumstances.
81. My Lord, Indeed in the case of Abu Ramadan and Anor. V Electoral Commission (Suit No. JI/14/16 dated the 5th of May 2016, the constitutional provision of insulation of the commission from any control was reinforced. Gbadegbe JSC in the Ramadan case proceeded to emphasize that when it had to do with the exercise of discretion of the Commission, then it was not proper for the court to substitute its own discretion for the Commission.

82. My Lord, however our case is that Regulation 43 is couched in mandatory terms and borders on the right of the candidates or their agents to be present and to voice any concern they have about the results and to be heard on their concern.
83. My Lord, we submit that the relocation of the Collation Centre without communicating same to the Petitioner or his agents and its effect of denial of the Petitioner's right to be present during the collation of the remaining polling stations(which Collation did not happen anyway) cannot be an exercise of discretion of by the Returning officer and the 2nd Respondent but a mandatory obligation imposed on them by law to collate results in the presence of the candidates or their agents if they avail themselves.
84. Thus, where the 2nd Respondent's actions disclosed any vitiating circumstances such as illegality, irregularity, unfairness or failure to satisfy an essential prerequisite to the making of a decision that may justify the intervention of the court to declare the results as null and void within the contemplation of Section 20 (b) of the Representation of People Law PNDCL law 284.
85. My Lord, clearly there was no evidence provided by the witness beyond his pleadings to show that it announced to the Petitioner or his agents of the relocation of the Kpandai Constituency Collation Center to Tamale.
86. Section 10 of the Evidence Act 1975 NRC 323 makes provision for the standard of proof in civil cases and discharging the burden requires that a party goes beyond merely repeating his averments in his pleadings on oath and produce evidence of other facts from which the court can ascertain that what he claims is true.
87. In the case of Eric Asante vs The Republic (2017) 109 GMJ 1, Dotse JSC (as he then was) at page 8 stated " it must be noted that where a party in a trial refers to matters that are capable of independent proof in a positive manner the party does not establish the truth of those matters by stating them in the witness box and failing to proffer the other evidence which in the circumstance of the case should be available. Where the circumstance of the case is such that there can be no corroborative evidence, that will be a different matter".

88. My Lord, the election for Kpandai Constituency was heavily covered by the media and the 1st and 2nd Respondents relied heavily on the footages and pictures by the media to canvas their case in court. The media extensively covered every bit of event that happened at the Collation Centre. It therefore beggars belief that the media singled out the announcement of the relocation of the collation centre and decided not to cover it. Certainly, there was no announcement of the relocation of the Collation and declaration Centre and which is why the 2nd Respondent was unable to provide such evidence in court.

89. My Lord, the circumstance of this case is not such that the 2nd Respondent could not provide any corroborative evidence before this court. The media presence during the collation exercise was heavy and there was no way the purported announcement of the relocation of the Collation Centre would have escaped the cameras of the media.

90. My Lord, the following ensued between Counsel for Petitioner and the witness for the 2nd Respondent after 2nd Respondent's own video footages Exhibit EC 43 and EC 44 were played to his hearing and viewing on page 101:

Q: Did you see the Petitioner engage in any act of vandalism or destruction of properties.

A: My Lord, no, this is when I made the announcement to the candidates and stakeholders around that for the Petitioner not agreeing to the fact that I announced the results we are moving to the Regional EC office in Tamale.

91. My Lord, clearly the above exchanges speak clearly and unequivocally to the fact that the witness for the 2nd Respondent is not being truthful to the court especially so when the video he referred to was played in open court to the full glare of My Lord and the parties and nowhere in the video was the witness seen announcing the relocation of the Collation and declaration centre to Tamale.

92. My Lord, section 80(2)(f) of the Evidence Act NRCD 323 says the court may consider the character of the witness as to traits of honesty or truthfulness or their opposite to establish credibility. Clearly the 2nd Respondent's peddling of untruth under oath smacks of dishonesty and such witness should be considered by this Honourable Court as lacking credibility to testify before it.

93. Again my Lord the 2nd Respondent has demonstrated under cross-examination that no communication was made to the Petitioner or his agents in respect of relocation and redesignation of the Collation and declaration Centre. The following ensued between Counsel for Petitioner and Witness for the 2nd Respondent: pg 108 and 109

Q: By the provisions of the rules governing the election you require the candidates to register with the EC the names of their accredited agents for the polling station and collation Center is that not correct?

A: That is correct

Q: Indeed you require written communication from the candidates

A: That is correct

Q: You have the phone numbers of the accredited agents of each candidate

A: My Lord that is incorrect

Q: So as the District Election Officer how do you purport to communicate with either the candidate or his accredited agent?

A: My Lord for the candidates I have their number but for the agents I do not have their numbers. I communicate with them through my Presiding officer and for collation agents we meet at the Collation Centre and all communications are done at the collation centre.

Q: Per your own testimony you have indicated that you have the phone number of the candidates, have you provided any evidence that at the time you took the decision to relocate the collation centre from Kpandai to Tamale you made efforts to reach the Petitioner by the known phone number available to you.

A: My Lord Yes in that the Petitioner himself and his collation agents were present at the Collation Centre when I made the announcement publicly and there are videos, as tendered, that the Petitioner himself been present at the centre

94. My Lord clearly the 2nd Respondent's Witness admitted having the Petitioner's phone number but failed to call the Petitioner on phone or inform his agents of the relocation of the Collation Centre yet he still peddled untruth that his announcement was in the videos tendered in court.
95. My Lord, there is a principle of law established in the case of *HT v Price Commission* (1976) 1CR 170 which is within the contemplation of Section 20 (b) of the Representation of the People Law PNDCL law 184. In *HT v Price Commission* (1976) 1CR 170, Lord Denning at 185-186 stated that: " it has been said, I know that a public body which is entrusted by Parliament with the exercise of powers for the public good cannot fetter itself in the exercise of them. It cannot be estopped from doing its public duty. But that is subject to the qualification that it must not misuse its powers; and it is a misuse of power for it to act unfairly or unjustly towards a private citizen where there is no overriding public interest to warrant it".
96. My Lord, the known principle of law within the contemplation of Section 20 (b) of the Representation of the People Law PNDCL law 284 is Audi alteram Partem rule which has been given legislative blessing in Article 23 of the 1992 Constitution and which mandates administrative bodies and administrative officials to act fairly and reasonably and comply with requirements imposed on them by law.
97. My Lord, the Supreme Court touched on what it meant by an opportunity to be heard in the case of *Awuni v The West African Examination Council* (2003-2004) SCGLR 471 where the court speaking through Sophia Akuffo JSC noted as follows: " I will not venture to give a comprehensive definition of what is fair and reasonable, since these qualities are dictated by the circumstances in which the administrative function is performed. At the very least, however, it includes probity, transparency, objectivity, opportunity to be heard, legal competence and absence of bias, Caprice or ill-will".

98. My Lord, relocation of Collation and Declaration Centre with the knowledge of the 1st Respondent and without informing the Petitioner or his collation agents about the new location and asking the Petitioner to go and do his own collation or to go to court thereby denying the Petitioner the right to challenge the results before declaration clearly constitutes gross bias, misuse and abuse of power as well as being unfair to the Petitioner within the terms of Article 23. Clearly, such conduct on the part of the 2nd Respondent is fundamental breach that renders the Parliamentary Election Results for Kpandai null and void within the terms of Section 20 (b) of the Representation of the People Law PNDCL law 284.

99. My Lord, In *Awuni v West African Examination Council* (2003-2004) 1SCGLR 471, the question was did WAEC Act fairly when it cancelled the results of the candidates who were waiting for their results without first notifying them of the case against them to enable them protest or fight off the allegation? The court held such act as having violated the Audi alteram Partem.

100. My Lord, in the same vein, the 2nd Respondent cannot unilaterally relocate a collation centre (already designated and gazatted by law and known to all candidates before the election) to a different place which was not gazzeted and known to the law and the parties.

My Lord, it is our case before you that the 2nd Respondent breached the Petitioner's natural right to be notified of the purported re-location and redesignation of the Collation Centre has been breached within the terms of Section 20 (b) of the Representation of the People Law PNDCL law 284

101. My Lord, further to the above, there is no law that gives power to the 2nd Respondent to relocate and redesignate collation and declaration center in the event of violence occurring at the Collation Centre. However, Regulation 36 of CI 127 as amended provides for what should be done in the event of disruption or violence occurring at the polling station. Regulation 36 (1) provides that where the proceedings at a polling station are interrupted or obstructed by riot or open violence, storm, flood or other natural catastrophe or the breakdown of an equipment, the Presiding officer shall In consultation with the returning officer and subject to the approval of the Commission, adjourn the proceedings at the Polling Station to the following day. Regulation

36(2) of CI 127 says if the returning officer is satisfied that as a result of an occurrence under su regulation (1). It is or will be impossible or impracticable for proceedings which have been Adjourned to be continued on the day to which the poll has been adjourned, the Returning Officer shall, with the approval of the Commission, further adjourn the proceedings for not more than seven days.

102. My Lord, indeed the witness for the 2nd Respondent admitted under cross-examination that there is no law that gives him power to relocate and redesignate collation and declaration centre thereby effectively admitting under oath that he breached the CI 127. The following ensued between Counsel for Petitioner and Witness for the 2nd Respondent: pg 99 and 100

Q: To your knowledge are you aware of any provisions in the CI 127 that authorize any officer from the EC to relocate or redesignate a Constituency Collation Centre when there is an outbreak of violence or disturbances.

A: My Lord, no but when expert security advice is given in my case NIB officer of the Kpandai District, the police Commander of Kpandai District and the commander who led the military on duty in the Kpandai District is given for a possible escalation of violence and reporting same to the Head Office of the EC through the Regional Director I had no option than to go by the directives of my superior.

Q: Can you point to any law to your knowledge that authorized the EC District Office or an EC officer in a Constituency to relocate or redesignate a Constituency Collation Centre which has already been announced to all participating candidates in an election.

A: I know of a provision where I cannot specifically point to where there is a misunderstanding at the polling station the Presiding officer moves all Electoral materials ...

103. My Lord, under the violence circumstances of the collation exercise at Kpandai Constituency collation Center, the reasonable thing to do which will accord with the mandatory terms of the law is for the Returning officer to apply Regulation 36 of CI 127 and adjourn the collation exercise to the next day and not to surreptitiously redesignate and relocate the collation

centre to an unknown place when no law provides for relocation and redesignation of the Collation Centre. The following ensued between Counsel for Petitioner and Witness for the 2nd Respondent:

103. My Lord the Supreme Court in the case of Eshun Vrs Electoral Commission and Attorney General following the precedence in Agyei-Twum v Attorney General and Akwetey (2005-2006) SCGLR 227 and APPIAH-Ofori Vrs Attorney General (2010) SCGLR 480 read words into Regulation 43 of CI 94 to the effect that the provisions of Regulation 42 relating to collation of Parliamentary results should apply **mutatis mutandis** to the Collation of the presidential election results since the CI 94 failed to make provisions for collation of presidential election results.

104. My Lord, by parity of reasoning, since CI 127 fails to provide for what should happen in the event of violence or riot at the collation centre, Regulation 36(1) of CI 127 should have kicked in when the violence erupted at Kpandai Constituency collation Center on 27th December 2025. The following ensued between Counsel for Petitioner and Witness for the 2nd Respondent:

Q: I am putting it to you that the closest provisions that you should have relied on as the DEO when there was violence at the Constituency Collation Centre was Regulation 36 of CI 127.

A: I disagree

Q: I am also putting it to you that your inability to cite even one legal provision in support of your relocation of Kpandai collation and declaration centre from the known Kpandai District Assembly premises to an unknown place here in Tamale was without any legal basis.

A: That was incorrect.

104. My Lord, most egregious the legal sin of the District Election Officer of the 2nd Respondent who also doubled as the witness for the 2nd Respondent was his lack of

knowledge of what the law says about disruption or riot at the polling station. The following ensued between Counsel for Petitioner and Witness for the 2nd Respondent: pg

Q: Now what does the CI 127 say should happen when there are disturbances at a Polling Station?

A: My Lord the Security Agencies are supposed to do that

Q: Can you give a summary of Regulation 36 of CI 127

A: My Lord this talks about Polling Station disruptions or disturbances and per my records no such incidents occurred at the polling station.

Q: I am putting it to you that Regulation 36 outlines the procedure that must be adopted when there is an interruption or obstruction at the polling station

A: My Lord, Yes on record but no obstruction occurred at my polling station.

Q: Would you agree with me that Regulation 36 provides that where there is riot or open violence at the polling station the activities or proceedings at the polling station are adjourned to the next day.

A: Yes my Lord but I recorded none at my polling stations.

100. My Lord, clearly you do not expect such a Returning officer to comply with CI 127 when he himself does not know what the law requires him to do in the event of violence, yet he stated in paragraph 6 of his own witness statement that the 2nd Respondent complied fully with the law.

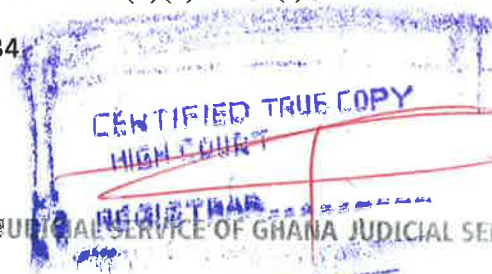
101. My Lord, the second breach of Petitioner's natural justice right is the failure of the Returning officer to make available Form 1C and Form 1D to the Petitioner or his agents to enable them affirm or protest the results of the Parliamentary Election. The

Petitioner was denied copies of Form 1C and Form 1D which violated his right under Regulations 43(1)(c) and (d) and which violation is fundamental.

102. My Lord, neither the Petitioner nor his collation agents were given the Parliamentary Election Results Collation Sheets (Form 1C) and the Parliamentary Results Summary Sheets (Form 1D) before, during or after the purported collation to enable him register his protest against the results of the election. My Lord, per Section 37(1) of the Evidence Act NRCD 323, official duties and records are presumed to be regularly performed. However this is only a presumption which is rebuttable.
103. My Lord, Section 20 of the same NRCD 323 imposes on the party against whom the presumption operates the burden of producing and the burden of persuasion as to the non-existence of the presumed fact. In *GHPHA v Nova Complex Ltd* (2007-2008) SCGLR 806(in holding 1) it was stated that whenever the maxim is applied the person against whom it is invoked is at liberty to lead evidence to refute the presumption.
104. My Lord, it is our case that the law mandates the Returning officer under Regulation 43 (1)(e) to, in the presence of the candidates or their agents, request the candidates or their representatives or counting agents to, together with the returning officer, sign the Parliamentary Election Results Collation Form as set out in form 1C and the Parliamentary Election Results Summary Sheet as set out in Form 1D.
105. My Lord, neither the Petitioner nor his collation agents had the benefit of signing or protesting the outcome of the results on the Form 1C and 1D because those forms were never made available to them. How was the Petitioner or his agents going to perform the aforesaid mandatory duty if they were not even informed of the venue for the exercise of this important natural right of the Petitioner?
106. My Lord, again the Parliamentary Election Results Summary sheet contains a portion titled "Declaration" where the agents of the candidates were required to confirm the true and accurate account of the ballots in the Constituency and then append their respective signatures to signify confirmation or otherwise of the results. The same declaration portion of

Form JD provides for reason to be given by an agent of a candidate who refuses to sign or confirm the accuracy of the ballots.

107. My Lord, the million-dollar question is how would the collation agent of the Petitioner be able to protest the accuracy of the account of the ballots in the Constituency which would enable him to give reasons for his refusal to sign and for him to be heard by the Returning officer when in fact the purported re-located declaration Centre was not known to the Petitioner or his agents?
108. My Lords, the Electoral laws of this country have undergone several amendment and several reforms thus revolutionizing same. It is therefore important to outline the historical underpinnings of election collation in this country.
109. My Lord, hitherto, the Electoral Commission did not allow candidates or their agents to spend their signatures on the Constituency Collation sheet and also be given a copy of same. The Electoral Commission simply did not intend to keep process of results Collation transparent to candidates and their agents. Meanwhile agents signing the summary sheet and collation sheet is so critical for transparency within the terms of Article of the 1992 Constitution to the extent that it became the subject of litigation in the case of Eshun v The Electoral Commission supra.
110. My Lord in the Eshun case Regulation 42 of CI 94 provided for the steps to be complied with for the purpose of collation of Parliamentary results which will depict, inter alia the signatures of counting agents. However there was no such corresponding steps in respect of Regulation 43 of CI 94 relating to Presidential results and no space was provided for signatures of agents and returning officers. In the spirit of transparency the Supreme Court held in the Eshun case that from the provisions of Article 48(2) and (3) of the 1992 Constitution read together with Regulation 42 and 43 of CI 94, the legislative intent or aim is to ensure transparency in the Electoral process.
111. My Lord, similarly, in the spirit of transparency this Honourable Court must also follow the precedence to the effect that from the provisions Article 48(2) and (3) of the 1992 Constitution read together with Regulation 43 (1)(b), (e) and (f) which is Parliamentary Results Summary Sheet as well as Regulation 43 (1)(e) and (f) which is Parliamentary



Results Collation Sheets, the legislative intent is to ensure transparency in the Electoral process.

112. My Lord it is therefore the Petitioner's humble submission that since the breach of Regulation 43 is a cardinal complaint of the Petitioner, such breach by extension amounts to the breach of transparency goals embedded in Article 48 (2) and (3) of the 1992 constitution, which breach is fundamental.
113. My Lord, it is not for nothing that it was recommended by the Electoral Reform Committee that post 2012 election that the Constituency Collation sheet and the summary sheet be endorsed by agents of the candidates and copies given to them.
114. My Lord, the use of the word "shall" in Regulation 43 (1)e and f is a command to the Returning officer to allow the agents of the Petitioner or the Petitioner himself to have access to the Form 1C and 1D to enable him protest the results and have the issues resolved before any declaration of results insofar as the Petitioner or his agents made themselves available to police the collation process.
115. My Lords, Section 20 (b) of the Representation of the People Law, 1992 PNDCL 284 provides that if there has been breach of the Act, or the Regulation (in this case Regulation 127 as amended), and it appears that the principles laid down by law (including Audi alteram Partem principle of law) have not been complied with and it affects the results of the election, same shall be ground for the declaration of the results as void by this Honourable High Court.
116. My Lord, clearly the principle of law that a party must always be heard on an issue has been violated by the 2nd Respondent herein by its failure to furnish the Petitioner or his agents with Form 1C and Form 1D within the terms of Regulation 43 (1) e and f to enable them sign or protest the results of the election before declaration and same amounted to fundamental breach which affected the result of the Kpandai Parliamentary Election within the terms of Section 20 (1)(b) of PNDCL 284.
117. My Lord, apart from the failure of the 2nd Respondent to notify the Petitioner of the relocation and redesignation of the Collation Centre and declaration centre, it has always



been the case of the Petitioner that after collation of 126 polling stations results, there was no collation of the remaining polling station results after calm was restored at the Kpandai Constituency collation Center. This means that if there was no summation of the remaining 26 polling station results, how was the total votes for each candidate arrived at before the purported declaration.

118. My Lord, nowhere in the evidence-in-chief of the 2nd Respondent did the 2nd Respondent talk about collation of the remaining 26 polling station results before the purported declaration.

119. My Lord, one may argue that once the 1st Respondent exhibited the Parliamentary Election Results Summary Sheet, prima facie, collation was done for all... polling station in Kpandai Constituency.

120. My Lord, any such assertion will be untenable because although official records are presumed to be regularly made, this presumption is effectively rebutted in the instant case because Form 1D was not exhibited by the 2nd Respondent who is the custodian and the official source of Form 1D (the Parliamentary Election Results Summary Sheet).

121. My Lord, it is also our case that the Petitioner was never given the Parliamentary Election Results Collation Sheets Form 1D when in fact Regulation 43 mandates or commands the Returning officer to furnish the Petitioner or his agents with Form 1C to enable the Petitioner to protest the results and for him to be heard.

122. My Lord, if collation of the remaining 26 Polling Station results was not continued how was the Petitioner's agents going to be present to challenge or call for re-counting of a specific ballot box at the collation centre within the terms of Regulation 43(1)(a)? Clearly the Petitioner's right to be heard in respect of the remaining Polling Stations was lost.

123. My Lord indeed and in fact the witness for 2nd Respondent admitted under cross-examination that a candidate can challenge the results as of right at the Collation Centre. The following ensued between Counsel for Petitioner and Witness for the 2nd Respondent:

Q: So I am putting it to you that Regulation 43 (1)(a) is clear that a candidate in the election has the right to challenge the results in respect of a specific ballot box which ballot box represents a specific Poling Station.

A: Yes

124. Again, if the collation of the remaining 26 Polling Station results was not continued how was the Petitioner or his agents going to be present as the Returning officer filled the Parliamentary Election Results Summary Sheet within the terms of Regulation 43 (1)(b)?
125. Further, if collation of the remaining 26 Polling Station results was not continued, how was the Petitioner or his agents going to be present to affirm or protest the content of the Parliamentary Election Results Collation Form and the Parliamentary Election Results Summary Sheet and to be given copies of same within the terms of Regulation 53(1)(e)?
126. My Lord, if collation of the remaining 26 Polling Station results was not continued how was the Petitioner or his agents going to be present for the public notice to be given and for the declaration to be done within the terms of Regulation 43 (1)(c) and (d)?
127. My Lord, witness for the 2nd Respondent sought to water down the statutory relevance of the presence of the Petitioner or his agents at the Collation Centre by saying that the EC can continue it's work whether or not the candidate or his agents is present.
128. Indeed he disagreed with Counsel for the Petitioner that the Returning officer shall perform the functions under Regulations 43(1) (a) to (h) in the presence of the candidates or their agents. The following ensued: pg 94 and 95

Q: I want you to look at Regulation 43 (1). Will you agree with me that per the said Regulation "immediately after the result of the poll for all the polling stations in the Constituency of the Returning Officer have been given to the Returning Officer, the Returning Officer SHALL in the presence of the candidates or their representative or not more than two counting agents appointed by each candidate" perform the functions outlined from A-H?

A: My Lord I disagree because Regulation 43 cannot be read in isolation because not always that candidates represent themselves or send agents to represent them the reason Regulation 48 sub regulation 2 is provided.

Q: I am putting it to you that under Regulation 43(1) the activities outlined from A-H in the words of the law shall be done in the presence of the candidates or the candidate's representative.

A: My Lord I disagree

129. My Lord, later under cross examination, the witness contradicted himself and said the EC can continue with its work where a candidate chooses not to represent himself or send agents to represent him. This confirms our assertion that insofar as the candidate chooses to represent himself or present an agent to represent him, it becomes mandatory for the Returning Officer to ensure that that candidate or his agent is present for the the functions in Regulation 43 (1) A-H to be performed. Failure to do so will amount to egregious breach of the Regulation 43 (1).

130. My Lord, even after affirming the position of the law to the effect that once a candidate or his agent presents himself, the Returning Officer SHALL mandatorily perform the functions under Regulations 43 (1), the witness went ahead to deny his own answer when his own answer was put to him for clarity. The following ensued between Counsel for Petitioner and Witness for the 2nd Respondent: pg 9

Q: From your own answer, there must be clear evidence that the said candidate has elected to waive his or her right to either self-representation or representation by accredited agent.

A: That is false

131. My Lord, clearly a witness who denies what the law clearly says and says otherwise is only being disingenuous, evasive or untruthful to the court.

132. My Lord, in *Frabina Ltd Vrs Shell Ghana Ltd* (2011) 33 GMJ 1SC at pages 27-28, the court per Brobbey JSC stated that in evaluating evidence in judicial proceedings, the credibility of oral evidence is normally tested through cross-examination.

133. My Lord, the contradictory and dishonest answers given by the witness for the 2nd Respondent under cross-examination has dented his credibility and this court cannot safely believe his story.

134. My Lord, the credibility of the 2nd Respondent's witness was battered under cross-examination by Counsel for Petitioner in respect of his evidence-in-chief to the effect that the Petitioner led his supporters to disrupt the collation process upon realizing that he was losing the election. The following ensued between Counsel for Petitioner and the witness for the 2nd Respondent:

Q: According to Paragraph 8 of your Witness Statement, the Petitioner and his supporters realizing from their own tallies that the Petitioner has lost disrupted the collation process through acts of vandalism and you have attached and marked as Exhibit 1 series the pictures and videos of vandalism perpetrated by the Petitioner and his supporters. Now this first video, can you point out the Petitioner in the Video?

A: My Lord the Petitioner is not in it but his supporters were there.

Q: Can you tell this court what in your opinion qualifies a person to be the supporter of the Petitioner?

A: My Lord I have been in the Constituency since 2019 and undertaken series of acts, i.e. Registration, exhibition on the elections including party Constituency executive elections and some of the guys in the video here are people in all these activities come in supporting the Petitioner

Q: Can you from your expert opinion of identifying party supporters tell the name and party card numbers of any of these gentlemen i.e. the first video which makes him a member of the Petitioner's party or qualifies him as a supporter of the Petitioner.

A: My Lord, I am unable to tell their names and party card numbers but these people in other videos were carried to collation centre in the Petitioner's branded pick-ups and his branded T-Shirts the pick-ups were about three.

Q: Again can you from the 2nd video in Exhibit EC 1 series point out the Petitioner leading his supporters in acts of vandalism.

A: My Lord from the video I cannot pick out the Petitioner but the Mahindra pick up which carried the people as it was branded with his pictures.

Q: Is it your testimony with respect to the 3rd Video Exhibit EC 1 in this court you can see the Petitioner leading the supporters to commit acts of vandalism at the Collation Centre.

A: My Lord in the 3rd Video I cannot see the Petitioner but can see his supporters and Mahindra pick up

Q: So is it the Mahindra pick up you can see?

A: I have answered

Next video player

Q: In this 4th video can you see Petitioner leading his supporters to commit acts of vandalism?

A: My Lord I cannot see the Petitioner but can see his second pickup branded with his Excellency the President and himself and then his supporters in it and this was the beginning of when they caused vandalism.

Q: Do you see anyone in the said video committing any acts of vandalism?

A: My Lord, No but this was when they were coming in

Q: Now look at this video, do you see the Petitioner carrying out any act of vandalism

A: My Lord I cannot see it clearly

Q: Per the 6th video in the EC 1 series do you see the Petitioner committing any act of vandalism

A: My Lord no, but this is the starting of the process

Q: in this 7th video of EC 1 series do you see the Petitioner engaged in any act of vandalism

A: No my Lord

Q: In this 8th Video do you see the Petitioner engaged in violence there

A: No my Lord but after the acts

Q: In this 9th video of EC 1 series do you see the Petitioner engaged in any act of vandalism

A: My Lord no, but this video here is an attempt where a supposed family pictures of mine was send to the blogger after the video and he published and invited people against me and my family members and threatened that if my wife sees this video, she should advise me to come back to Kpandai to declare the Petitioner or else when I don't come back from work, she cannot blame them.

135. My Lord, the 2nd Respondent's witness was categorical in paragraphs 8 and 57 of his evidence-in-chief that the Petitioner and his supporters vandalized the collation centre upon realizing they were losing the election, yet when put on the spot under cross-examination, he

indicated to this Honourable Court that nowhere in the exhibits (videos) he attached was the Petitioner seen leading his supporters to vandalize the collation centre, neither was the Petitioner seen disrupting the process.

136. My Lord, it is our submission from the excerpts of the cross examination that the 2nd Respondent's Witness failed to impress the court in the box. The falsity in his pleadings and witness statement to the effect that the Petitioner led party supporters to vandalize Collation Centre was exposed under cross examination. At a point the witness sounded so incoherent. He wanted an escape route from the witness box when he came under heavy bombardment from Counsel for Petitioner.

137. My Lord, we respect invite you to consider the conduct of the witness within the terms of Section 80(1) of the Evidence Act NRCD 323 and to hold that his evidence in-chief is inconsistent with his evidence under cross-examination.

138. My Lord, certainly the witness for the 2nd Respondent was not, and is not a credible witness whose story should be believed. The Petitioner therefore invites this Honourable Court to believe the story of the Petitioner as more probable than that that of the Respondents.

CONCLUSION

139. My Lord, it is trite that where a step taken by a party to a proceeding is fundamentally defective, such a defect or error is beyond the curative and redemption powers of the court. See Republic v High Court, Kumasi: Ex parte Atumfuwa (2000) SCGLR

140. My Lord, the position of the law has been that certain breaches of Legislative or Constitutional instruments are not fatal to warrant sanctions while certain other breaches are so fundamental to render a conduct or omission null and void.

141. My Lord, the Supreme Court has indeed classified breaches of a subordinate legislation such as CI into two distinct categories whereby default in one category is considered fundamental and default in the other category is considered not fundamental.

142. My Lord, in FRIMPONG and Another v Nyarko (1998-99) SCGLR 734, the distinction was made by Acquah JSC as he then was on pages 749 and 750 as follows: "the ...rules...can be broken down into two sets...The decided cases show that the default and breach of the rule in the first set are fundamental... However default under the second set of rules are not so fundamental..."
143. My Lord, non-compliance with CI 127 which also goes to the breach of the Constitution or an Act of Parliament or rules of natural justice or breaches which otherwise go to jurisdiction are so fundamental to make an election conducted under same null and void.
144. My Lord, the need for public bodies to observe the principles of natural justice in taking decisions that affects people's right especially constitutional rights cannot be overemphasized.
145. My Lord, essentially, natural justice requires that a person receives a fair and unbiased hearing before a decision is made that will negatively affect them.
146. My Lord, the three main requirements of Natural Justice that must be met in every case are adequate notices, fair hearing and not being biased. The notice requirement means that the people affected by the decision must be told about the important issues and be given enough information to be able to participate meaningful.
147. My Lord the no bias requirement means that people affected are given a reasonable opportunity to present their point of view and to respond to facts presented by others
148. My Lord, it is our humble submission that the breaches of CI 127 that the Petitioner alleges in the instant Petition also go to the breach of the 1992 Constitution of Ghana and the natural justice rule of Audi alteram Partem and therefore so fundamental that it renders the Parliamentary election results of the Kpandai Constituency null and void within the terms of Section 20 (b) of the Representation of the People Law PNDCL law 284. See the cases of Harker v Bell's Asbestos and Engineering Ltd(1967)2QB 729 at Pg 735 and The Republic vrs High Court; Exparte Allgate Co. LTD(Amalgamated Bank Ltd (Interested Party) (2007-2008) SCGLR 1041

SUPPLEMENTARY ADDRESS OF THE PETITIONER

Respectfully, on the 19th day of November, 2025, the Petitioner through counsel filed his written submission. And deem it necessary, with leave of the court to file a supplementary address. We shall set out few issues as filed by the parties and discuss same in this submission. We shall proceed to discuss the issues.

WHETHER OR NOT THE PETITIONER RALLIED HIS SUPPORTERS TO CAUSE ACTS OF VANDALISM WHEN IT BECAME APPARENT THAT HE HAD LOST THE ELECTIONS

1. My Lord, it is the 1st and 2nd Respondent who in their respective answer to the Petition and evidence as per their respective witness statements that raised/asserted the affirmative, therefore the burden of proof rest on them. In the case of **JOHN MAHAMA v. ELECTORAL COMMISSION & NANA ADDO DANKWA AKUFO-ADDO [2021] 171 G.M.J 73 at pages 504 – 512**, the SC held in holding 18 as follows:

“(18) On who lies the burden of persuasion where an issue is asserted and substantially affirmed in the pleadings – per Yeboah, CJ

“As was accentuated by this court per Benin, JSC in the case of Sarpong (decd) (substituted by) Koduah v Jantuah [2017-20] 1 SCGLR 736 at page 747, the principle of law is that the burden of persuasion rest with the person who substantially asserts the affirmative of the issue on the pleadings.”

2. The 1st Respondent at paragraph 10 stated as follows:

“10. My Lord, violence broke out at the collation centre at the time collation had been done for 126 polling stations. At that point the security came in and took control of the situation and when the collation had been completed and the results were to be declared the Petitioner and his supporters being aware from their own collation that Petitioner has lost the elections disrupted the process following which the District Electoral Officer publicly announced that the declaration would be done at the Regional Office of the Electoral Commission.”

3. So, now, the 2nd Respondent in his evidence as contained in the witness statement at paragraphs 8, 9 and 57 revealed that when collation was finalized and results were about to

be declared, the Petitioner and his supporters disrupted the process through acts of vandalism.

“8. I say that when the collation was finalized and the results were ready for declaration, the Petitioner and his supporters, aware from their own tallies that the Petitioner had lost, disrupted the process through acts of vandalism. Attached and marked as Exhibit EC1 are pictures and video footage of the acts of vandalism committed by the Petitioner and his supporters.

9. That following the events deposed in paragraph 8 herein, the District Electoral Officer, acting on the Regional Director’s instructions, publicly announced that the declaration would take place at the Electoral Commission’s Regional Office which was more secure than the original collation centre.

57. I say that when the petitioner and his NDC supporters realized they were going to lose the election, they resorted to vandalizing the materials of electoral officials and creating significant disruption at the collation centre, which was reported by various news and media outlets. Attached and marked as Exhibit EC43 are video evidence of news reports on this event.”

4. The 2nd Respondent categorically emphasized that exhibit EC1 are pictures and video footages of the acts of vandalism committed by the Petitioner and his supporters.
5. My Lord, the 2nd Respondent also relied on another video i.e exhibit EC43 and EC44.
6. Your Lordship, during cross-examination of the 2nd Respondent he emphatically admitted that the Petitioner did not commit any act of vandalism or destroyed any property belonging to the EC or any other entity.
7. At pages 95-97 this is what transpired between counsel for the Petitioner and the 2nd Respondent:

“Q: And you can testify to the fact that the agent of the Petitioner were present at the start of the collation exercise?

A: That is correct

Q: At what time did violence erupt at the said collation centre?

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A: It was around 2:30pm on the 8th of December, 2024.

Counsel for Petitioner pray for Exhibit "EC1" to be played for the whole court to see. EC1 series played on desktop.

Q: According to paragraph 8 of your witness statement, the petitioner and his supporters answer from their own tallies the Petitioner has lost disrupted the collation process through acts of vandalism attached and marked no Exhibit 1 series one the pictures and video of vandalism perpetrated by the petitioner and his supporters. Now this first video, can you point out the Petitioner in the video?

A: My Lord the Petitioner is not in it but his supporters are there. pg 95

Q: Again can you from the 2nd video in Exhibit EC1 series point out the Petitioner leading his supporters in acts of vandalism?

A: My Lord from the video I can't pick out the Petitioner but the Mahindra Pick-up which carried the people as it was branded with his pictures. pg 96

Q: Per the 6th video in the EC1 series do you see the Petitioner committing any act of vandalism in it?

A: My Lord no, but this is the sad end of the process.

Q: In this 7th video of EC1 series do you see the Petitioner engaged in any act of vandalism?

A: No, my Lord." pg 97

8. Your Lordship, at page 104, this is what transpired:

“Q: Per paragraph 23 of your witness statement you accused the Petitioner of destroying the manual verification forms for Lambado Primary School and Bisando Primary School through act of vandalism, it that correct?

A: My Lord that is correct and I make reference to exhibit EC1.

Q: As you sit in the witness box, and having watched all the videos that have been played have you been able to point or identify the Petitioner committing any act of vandalism?

A: My Lord yes but there are other videos we have not watch where the Petitioner can be found." pg 104

9. At page 114 of the Record of Proceedings in cross-examination by counsel for the Petitioner, this happened:

"Counsel wants EC43 and EC44 to be played in court".

Q: From EC44 you can see the then candidates, Petitioner and 1st Respondent?

A: My Lord, that is true, I saw them."

Q: Did you see the Petitioner engaged in any act of vandalism or destroying properties?

A: My Lord no, this is when I made the announcement to the candidates and stakeholders that for the Petitioner not agreeing to the fact that I announced the results we are moving to the Regional Electoral Commission Office in Tamale.

10. The evidence of the Petitioner in this regard is set out hereunder as follows: (paragraphs 79, 80, 81, 82, 85, 86 and 88 of his witness statements)

"79. Shortly after the parliamentary results of the various polling stations in the Kpandai Constituency were given to the constituency Returning Officer for the collation of the results, a disruption of the Kpandai Constituency collation exercise ensued.

80. Whilst the collation exercise was going on so some people entered the collation centre, started making noise and destroying things.

81. By the time these hooligans came we had collated One-hundred and one (101) out of the One-hundred and fifty-two (152) polling stations in the Presidential and then Ninety-seven (97) out of One-hundred and fifty-two (152) polling stations in the Parliamentary results because some challenges were raised against some pink sheets that had come in.

82. There appeared to be scuffle between some persons believed to be the supporters of the two leading political parties contesting the 2024 general elections.

85. All efforts to get involved with the collation exercise proved futile because the Electoral Commission's Director with the assistance of the Police commander insisted that we should not be part of it and kept us out.

86. That was when we called the Petitioner to come in and ascertain why his agents could not take part of the collation exercise.

88. The District Electoral Commission Director of Kpandai said that due to the scuffle between the party supporters and the accompanying disruption, his team was going to act on instructions from above to complete the collation exercise separately without the parties and that we could also do our collation on our own.”

11. Further from the evidence and more particularly the video footages, there is no evidence adduced by the 1st and 2nd Respondent that the Petitioner indeed committed any act of vandalism or he destroyed any property of the Electoral Commission.
12. It must be emphasized that the alleged supporters of the Petitioner or the NDC supporters are not parties before this court. Respectfully, this court would be in breach of the rules of natural justice to make orders or findings against persons who are not before the court, particularly criminal allegations which requires proof beyond reasonable doubt. The Petitioner did not commit any act of vandalism nor did he rally any body and or NDC supporters.
13. There was chaos and destruction of election materials but same cannot be laid at the door steps of the Petitioner. We urge the court to make findings in favour of the Petitioner as against the Respondents on this issue.

ISSUE 3 AND 4

14. With your kind permission, we shall discuss issue 3 and 4 together. These were raised by the 1st Respondent. The issue are set out as follows:

“c. Whether or not the assigned electoral official of the 2nd Defendant gave notice to accredited party Agents and the Media that it was relocating the collation centre to its Regional Office due to security threat.

d. Whether or not the Petitioner and his Party’s Accredited Agents neglected their duty when they refused to follow the 2nd Respondent’s officials to the new collation centre.”

15. In discussing these issues, it ought to be noted that the Petitioner throughout his evidence denied the existence of any notice to the effect that the EC to the knowledge of the public is

relocating from Kpandai to Tamale. Therefore, the party/parties asserting the affirm ought to proof same. See the case of **JOHN MAHAMA v. ELECTORAL COMMISSION & NANA ADDO DANKWA AKUFO-ADDU** [2021] 171 G.M.J 73 at pages 504 – 512, the SC held in holding 18 as follows:

“(18) On who lies the burden of persuasion where an issue is asserted and substantially affirmed in the pleadings – per Yeboah, CJ

“As was accentuated by this court per Benin, JSC in the case of Sarpong (decd) (substituted by) Koduah v Jantuah [2017-20] 1 SCGLR 736 at page 747, the principle of law is that the burden of persuasion rest with the person who substantially asserts the affirmative of the issue on the pleadings.”

16. We would therefore refer to the relevance paragraphs and or evidence on record from the 1st and 2nd Respondents before we make reference to the evidence proffered by the Petitioner.
17. Paragraphs 8, 9, 57, and 59 of the 2nd Respondent evidence as per the witness statement is relevant in this regard and same set out hereunder as follows:

“8. I say that when the collation was finalized and the results were ready for declaration, the Petitioner and his supporters, aware from their own tallies that the Petitioner had lost, disrupted the process through acts of vandalism. Attached and marked as Exhibit EC1 are pictures and video footage of the acts of vandalism committed by the Petitioner and his supporters.

9. That following the events deposed in paragraph 8 herein, the District Electoral Officer, acting on the Regional Director’s instructions, publicly announced that the declaration would take place at the Electoral Commission’s Regional Office which was more secure than the original collation centre.

57. I say that when the petitioner and his NDC supporters realized they were going to lose the election, they resorted to vandalizing the materials of electoral officials and creating significant disruption at the collation centre, which was reported by various news and media outlets. Attached and marked as Exhibit EC43 are video evidence of news reports on this event.

59. I say that the Petitioner was fully aware of the change in venue for the declaration of results but for reasons only known to himself, he refused to go the Electoral Commission Regional Office.”

18. My Lord, it must be pointed out that the 2nd Respondent, the Constitutional and Statutory body which is funded with public funds is the entity charged with the conduct and supervisions of elections including the 2024 elections held in Kpandai Constituency.
19. The 2nd Respondent maintained emphatically that collation was finalized and results were ready for declaration at the Kpandai Constituency Collation Centre when the District Electoral Officer publicly announced that the declaration would take place at Tamale Regional Electoral Commission Office.
20. The District Electoral Officer is Mr. Charles Okyere whilst the Returning Officer is Mr. Wepare Salweh.
21. My Lord, the evidence of the 1st Respondent is found at paragraphs 10 and 54. According to the 1st Respondent, the announcement was made by the District Electoral Officer i.e Mr. Charles Okyere after collation had finished and the results were to be declared, respectfully see paragraph 10 of his witness statement. At paragraph 57, he said it was the Returning Officer Mr. Waperi Selweh who duly informed the candidates, their agents, media and gathering that for security reasons collation was to be continued at the Regional Office of the Electoral Commission, Tamale.
22. Therefore, the evidence of the 1st Respondent in one breath is that collation was completed and the results were to be declared when Mr. Charles Okyere the District Electoral Officer made the announcement to move to Tamale to declare the results. In other breath he said the announcement to move to Tamale, Electoral Commission Regional Office was made by Mr, Waperi Selweh the Returning Officer for collation to be continued. Obviously the two stories cannot both be true. Thus paragraphs 10 and 57 as follows:

“10. My Lord, violence broke out at the collation centre at the time collation had been done for 126 polling stations. At that point the security came in and took control of the situation and when the collation had been completed and the results were to be declared the Petitioner and his supporters being aware from their own collation that Petitioner has lost the elections disrupted the process following which the District Electoral Officer publicly announced that the declaration would be done at the Regional Office of the Electoral Commission.

57. Paragraph 11 of the petition is denied in toto and I say that the Returning Officer duly informed the candidates, their agents, media and the gathering that for security reasons

collation was to be continued at the Regional Office of the Electoral Commission, Tamale.”

23. Having set out the evidence of the Respondents, the evidence of the Petitioner is found at paragraphs 81, 90, 91, 92, 93 and 94 as follows:

“81. By the time these hooligans came we had collated One-hundred and one (101) out of the One-hundred and fifty-two (152) polling stations in the Presidential and then Ninety-seven (97) out of One-hundred and fifty-two (152) polling stations in the Parliamentary results because some challenges were raised against some pink sheets that had come in.

90. The District Electoral Commission Director of Kpandai was seen with some Police security escorts took the ballot boxes and drove from Kpandai out of town towards Bimbilla road to an unknown location.

91. We later learnt that the Constituency collation exercise for the parliamentary elections in the Kpandai Constituency had been conducted at unknown location without recourse to the Petitioner or me.

92. Later on we saw vidoes of them declaring results of what purported to be the Kpandai Constituency results.

93. However, rather curiously, the 1st Respondent who was the beneficiary of the elections conducted by the Electoral Commission was present at the declaration of the results of the Parliamentary Election.

94. Under the circumstance neither the Petitioner nor I, were not given the opportunity to be present for the collation exercise at that unknown location.”

24. Your Lordship, according to the 2nd respondent, the alleged announcement or notice is contained in Exhibit EC43. In cross-examination by counsel for the Petitioner, at page 114, this happened:

“Counsel wants EC43 and EC44 to be played in court”.

Q: From EC44 you can see the then candidates, Petitioner and 1st Respondent?

A: My Lord, that is true, I saw them.

Q: Did you see the Petitioner engaged in any act of vandalism or destroying properties?

A: My Lord no, this is when I made the announcement to the candidates and stakeholders that for the Petitioner not agreeing to the fact that I announced the results we are moving to the Regional Electoral Commission Office in Tamale.

25. Your Lordship, throughout the period that EC44 was played in open court, there was no such evidence made by either Mr. Charles Okyere, the District Electoral Officer or the Returning Officer Mr. Waperi Selwah. The law is that no court is allowed to speculate.

26. Can this court find evidence from Exhibit EC44 that an announcement was made regarding moving the constituency collation centre from Kpandai to Tamale? The law settled as stated in *AKKUFO ADDO V CATHELINE* (1992) 1GLR 377 at 400

“No court is permitted by the rules of evidence to speculate the existence of state of fact or facts in favour of a party who has the burden to prove same. If a court is tempted to undertake such a benevolent venture on behalf of a party who has the burden of proof, then it must ponder and reflect”.

27. Section 3(2) of NRCD 322, imposes on the court the duty of determining the primary facts. Section 3(2) states:

“The court shall determine the existence or non-existence of preliminary fact.” And the case of *Quaye v Mariama* (1961) 1GLR 93 at 95, the Supreme Court per Van Lare JSC stated thus “It is a trial judge’s duty to make up his mind one way or the other on the primary facts and when he has made up his mind he should state his findings and proceed to apply the law.”

28. Consequently, we urge the court to accordingly find in favour of the Petitioner against the Respondents on these issues. Your Lordship, there exist no such evidence in exhibit EC44, Consequently, the Petitioner and his agents cannot be said to have failed/neglected their duty to follow the Respondents to Tamale. At least any such notice ought to provide time for the exercise to be carried out.

29. Your Lordship, the 2nd Respondent made it very clear that the announcement to relocate from Kpandai Constituency collation Centre to Tamale Regional Office of the Electoral Commission is contained in Exhibit EC44.

30. Respectfully, from exhibit EC 44 the 2nd Respondent was not even seen neither did he make any announcement. Consequently in the absence of any evidence that the 2nd Respondent in the video publicly announced that the declaration would take place at the Electoral

Commission's Regional Office, Tamale, the court should accordingly make a finding against the 1st and 2nd Respondents there was no announcement as such.

31. In such circumstances, the relocation of the Kpandai Constituency Collation Centre from Kpandai to Tamale, the EC Regional's Office was illegal, arbitrary to fair play and in negation of basic canons of natural justice principles same is thereby rendered null and void. The declaration which was carried out in Tamale by the 2nd Respondent is therefore null and void.

CONCLUSION

32. The irregularities, illegalities and breaches of natural justice principles which were occasioned in the election at issue at the Kpandai Constituency Collation Centre did fundamentally affect the results of the election. As a result same ought to be set aside.
33. The exclusion of the Petitioner and or his collation agents in the collation exercise in breach of the alteram partem as well as the failure of the 2nd Respondent to dutifully comply with the procedures for collating Parliamentary Election Results as provided for under C.I. 127 and the training manual of the election officials 2024 could have been remedied by an order to re-collate with the involvement of the agents of the parties. However, evidence before this court revealed substantial destruction of ballot boxes, BVD machines and other electoral materials rendering the situation irreversibly compromised. A re-run could be the only safest solution.
34. **IN RE PRESIDENTIAL ELECTION PETITION; AKUFO-ADDO, BAWUMIA & OBETSEBI-LAMPTEY (No 4) v. MAHAMA, ELECTORAL COMMISSION & NATIONAL DEMOCRATIC CONGRESS (No 4) [2013] SCGLR at page 144, the SC states:**

“We wish to conclude with the words of Kennedy J in the Islington West Division case; Medhurst v Laugh and Casquet (1901) 17 TLR. 210 (at page 230):

‘An election ought not to be held void by reason of transgressions of the law committed without any corrupt motive by the returning officer or his subordinate in the conduct of the election where the court is satisfied that the election was notwithstanding those transgressions, an election really and in substance conducted under the existing election law, and that the result of the election, that is, the success of the one candidate over the other was not and could not have been affected by those transgressions. **If on the other hand the transgressions of**

law by the officials being admitted, the court sees that the effect of the transgressions was such that the election was not really conducted under the existing election laws, or it is open to reasonable doubt whether the candidate who has been returned has really been elected by the majority of persons voting in accordance with the laws in force relating to elections, the court is then bound to declare the election void. It appears to us that this is the view of the law which had generally been recognized and acted upon by the tribunals which have dealt with election matters.” Emphasis supplied.

35. The Returning Officer of the Kpandai Constituency has the authority to declare results of the Parliamentary Election Results of 7th December 2024, but this authority to declare is conditioned upon the completion of all required procedures including full collation of the results of all polling stations in the constituency.

36. In the circumstances of this case, the evidence of the Petitioner and the 1st Respondent convinced me that collation was incomplete when the Returning Officer declared the results. At paragraphs 88, 89 and 90 of the Petitioner evidence in chief he asserted:

“88. The District Electoral Commission Director of Kpandai said that due to the scuffle between the party supporters and the accompanying disruption, his team was going to act on instructions from above to complete the collation exercise separately without the parties and that we could also do our collation on our own.

89. When I protested I was told that I could go to court to contest his decision afterwards.

90. The District Electoral Commission Director of Kpandai was seen with some Police security escorts took the ballot boxes and drove from Kpandai out of town towards Bimbilla road to an unknown location.”

37. The 1st Respondent at the paragraph 57 he said “57. Paragraph 11 of the petition is denied in toto and I say that the Returning Officer duly informed the candidates, their agents, media and the gathering that for security reasons collation was to be continued at the Regional Office of the Electoral Commission, Tamale.”

During cross-examination of the 1st Respondent by counsel for the Petitioner, at page 87 of the Record of Proceedings this is what transpired. “ “

Q: You agree with me that collation must be done first before declaration?

A: Yes

Q: Can you confirm that at paragraph 57 of your witness statement is as follows "the Petition is denied and I say that the Returning Officer duly informed the candidates, their agents, media and the gathering that for security reasons collation was to be continued at the Regional Office of the Electoral Commission, Tamale.

A: Yes my Lord."

By Court: The 2nd Respondent stated that when collation was finalized and results were ready to be declared, that is when the process was disrupted. See paragraph 8&9.

I therefore make a finding that the 2nd Respondent did not complete collation of the results of all the polling stations at the Kpandai Constituency Collation Centre when it relocated or moved to Tamale.

At pages 11 and 12 of Exhibit EC45 the procedure for collation of Parliamentary Election Results at the Constituency Collation Centre is set out therein.

The procedures for collating Presidential Election Results at the Constituency Collation Centre is the same as the procedure for collating Parliamentary Results at the Constituency Collation Centre. In other words, the Returning Officer shall repeat or apply the same procedures used for collating the results of the Presidential Election, to collate the Parliamentary Election Results. For the Parliamentary Election Results, the forms to be used are:

- a) Parliamentary Election Polling Station Results Form (FORM EIGHT A)
- b) Parliamentary Election Results Collation Form (FORM ONE C)
- c) Parliamentary Election Results Summary Sheet (FORM ONE D).

Consequently, the procedures which the Returning Officer was required to follow in the collating of the Parliamentary Election of the Kpandai Constituency, at the Kpandai Constituency Collation Centre is set out hereunder to include:

"

- (a) Fill the Parliamentary Election Results Collation Form (FORM ONE C) using the Parliamentary Election Polling station Results Form (Form EIGHT A) figures. Where an error is detected on the Form EIGHT A, the Presiding Officer shall effect changes on the

- original result sheet and sign against it. Party/Candidate Agents present may also countersign.
- (b) Ensure that the results from all the Polling Stations in the Constituency are received before adding them up. The rejected ballots should be added up as well.
 - (c) Allow a candidate or his/her Collation Agent a reasonable opportunity to ascertain and satisfy himself/herself as to the fairness of any procedure or decision pertaining to the collation exercise.
 - (d) Fill the Parliamentary Election Results Summary Sheet (FORM ONE D). Where an error is detected on the Constituency Result Summary Sheet, the Returning Officer shall correct the mistake of the original Summary Sheet in the presence of the Candidate Agents and sign against it and also ask the Candidate Agents to countersign. Where a Candidate Agents refuses to countersign, the refusal will not invalidate the said correction.
 - (e) Compare the manually collated elections results with the electronically collated results compiled by the Collation Officers to ensure that both figures tally. Where there is discrepancy, steps must be taken to unravel the course and resolve same.
 - (f) Sign the completed Parliamentary Election Results Collation Form (FORM ONE C) and request each candidate or the Collation Agent of the candidate present also to sign.
 - (g) Sign the completed Parliamentary Election Results Summary Sheet (FORM ONE D) and request each Candidate/Candidate Agent present also to sign. A Candidate/Candidate Agent who refuses to sign the Parliamentary Election Result Summary Sheet shall give reason(s) for the refusal.
 - (h) Give each Candidate/Candidate Agent a copy of the Parliamentary Election Results Collation Form (FORM ONE C).
 - (i) Give each Candidate/Candidate Agent of the candidate a copy of the Parliamentary Election Results Summary Sheet (FORM ONE D).
 - (j) Publicly announce both the Presidential and Parliamentary Election Results.”
38. It must further be noted that the Returning Officer is required to separately record the results of the Special Voting ballots on the Parliamentary Election Results Collation Form, Form One C. The results of the Special Voting is then added to the results from all the polling stations before declaring.
39. Furthermore, at point 2.17 where re-collation is requested for by a Candidate/Collation Agent, the Returning Officer shall double check the collated results. The manually and electronically collated election results should tally. If the two do not agree, re-collation

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should continue. In effect, there is no limit as to the number of times re-collation could be done.

40. Simple errors in additions which could be corrected via re-collation and more fundamental issues such as the right to challenge results and request re-collation are recognized legal rights which the Petitioner was denied in virtue of the exclusion of his agents in the collation processes. Without doubt this has caused unimaginable injury or prejudice. For instance, the 2nd Respondent at paragraphs 26 and 53 of his witness statement stated clearly that the presiding officers intended to write 394 ballots issued instead of 475 and also erroneously recorded 470 instead of 485.
41. Since there is no evidence before this court that the alleged errors admitted by the 2nd Respondent as per paragraphs 26 and 53 were corrected before the results were declared. This and other such irregularities inured to the benefit of the 1st Respondent and into the injury or prejudice to the Petitioner.
42. With no evidence that collation was complete in the form of the required FORM ONE C as required by Regulation 43 (1) (e) and (f). However, FORM ONE D was part of the evidence of the 1st and 2nd Respondents.

The Parliamentary Election Results Collation Form, thus FORM ONE C captures results of all polling stations where the poll took place. It is completed by the Returning Officer at the Constituency Collation Centre.

This provides space for the signatures of the collation agents of Parliamentary Candidates and the Returning Officer at the Constituency Collation Centre. See page 16 of Exhibit EC45.

Clearly collation must therefore be based on all the polling stations results in the constituency which is to be done by the Returning Officer. Therefore, no declaration of a winner can be done without prior collation and summation of the results from all the polling stations and the filling of the Constituency Election Results Collation Form (FORM 1C) otherwise known as the Constituency Collation Sheet, which has been defined in Regulation 50 of C.I. 127 to mean **“the sheet that contains the Parliamentary Results of All Polling Stations within the Constituency.”**

43. The Petitioner, who is Ghanaian and who by the provisions of article 21(3) of the Constitution, 1992 has the right to contest a Parliamentary Election and who, indeed contested the Parliamentary Election of the Kpandai Constituency being aggrieved by the way the 2nd Respondent, charged with the constitutional and statutory mandate to conduct

free, fair and credible elections in the Kpandai Constituency did not perform its functions in accordance with due process which gave undue advantage to the 1st Respondent.

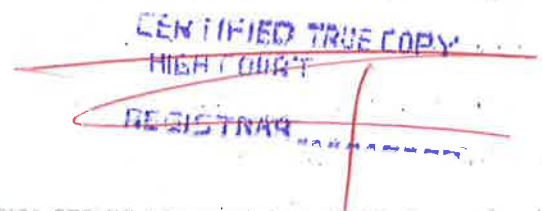
44. The Electoral Commission as a constitutional and statutory body performs administrative functions and under article 46 of the Constitution, 1992 in the performance of its functions was not subject to the control of any person or authority except the Constitution, 1992 and any other law not inconsistent with the Constitution, article 295(8) of the Constitution, 1992 provided that no provision of the Constitution or any law should preclude a court from exercising jurisdiction to ascertain whether the constitutional body had performed its functions in accordance with the Constitution or the law. Furthermore, article 23 of the Constitution, 1992 provided that in relation to the fundamental human rights and freedoms, administrative bodies and officials should act fairly and reasonably and comply with the law and therefore grant persons aggrieved by the acts and decisions of such bodies the right to such redress before a court. In the instant case, the petitioner's case inter alia was that as a citizen of Ghana, a voter who voted during the 7th December, 2024 election and a parliamentary candidate for the Kpandai Constituency he and or his agents were entitled to continue participation in the collation process at the Kpandai Constituency Collation Centre or office after the violence erupted but were excluded by the Electoral Commission, the 2nd Respondent. The exclusion of the petitioner's collation agents at the constituency collation centre after the violence therefore constitutes in breach of the audi alteram partem rule of natural justice.
45. Again article 23 of the Constitution, 1992 (an article that falls under chapter five of the Constitution, a chapter that deals with the fundamental human rights and freedoms) provides that:
- "23. Administrative bodies and administrative officials shall act fairly and reasonably and comply with the requirements imposed on them by law and persons aggrieved by the exercise of such acts and decisions shall have the right to seek redress before a court or other tribunal."
46. Article 295(8) of the Constitution, 1992 says:
- "(8) No provision of this Constitution or of any other law to the effect that a person or authority shall not be subject to the direction or control of any other person or authority in the performance of any functions under this Constitution or that law shall preclude a court from exercising jurisdiction in relation to any question whether that person or authority has performed those functions in accordance with this Constitution or the law."**
47. Respectfully, it must be noted that the suspension of the collation exercise as a results of the violence and the subsequent resumption of same that is the collation exercise as well as re-locating from Kpandai to Tamale are administrative decisions, the application of natural justice principle ought to have been adhered to by the Electoral Commission, the 2nd Respondent. In other words, the administrative actions or decisions taken by the 2nd Respondent in the conduct of the 2024 Parliamentary Election in Kpandai, does not repel the application of natural justice principle (audi alteram partem rule) as well as the duty to act fairly, reasonably and comply with the requirements imposed by law.
48. In the case of **THE REPUBLIC v HIGH COURT (COMMERCIAL DIVISION, ACCRA) EX-PARTE: ELECTORAL COMMISSION (APPLICANT) PAPA KWASI NDUOM (INTERESTED PARTY) [2017]111 GMJ 210**. The Supreme Court upheld the decision of the High Court presided over by his Lordship Justice Eric Kyei Baffour against

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the Electoral Commission for breach of natural justice principle in terms of Regulation 9(2) of C.I. 94, that is the Public Election Regulations 2016.

The facts of the case are set out at page 211 of the report as follows:

“The Applicant is the Electoral Commission of Ghana constitutionally mandated to organize presidential and parliamentary elections including receiving nominations of candidates. The Interested Party is the Presidential Candidate for the Progressive Peoples Party (PPP) for the 2016 elections. The Applicant opened nominations and announced to the various political parties when all nomination papers would be received by returning officers for both the presidential and parliamentary candidates throughout Ghana. The dates were confirmed in a Press Release issued by the Chairperson of the Applicant. Meanwhile, the Public Elections Regulations, 2016 C.I 94, regulation 9(1)-(3) imposed a duty on the Applicant, to ensure that Returning Officers having received the forms and found any anomalies to give the candidates opportunity to either amend or alter the anomaly within the stipulated nomination period as stated in regulation 9(2) of C.I 94. In the case of the Interested Party, his nomination form was sent by the Chairman of the PPP to the Chairperson of the Applicant and was told that he would hear from the Applicant Commission. The Applicant thereafter announced that certain presidential candidates including the Interested Party herein had been disqualified for several reasons and that the Interested Party breached their own regulations 9(2) –(4). The applicant failed to give him and other disqualified candidates the opportunity to amend or alter whatever was found not to be proper with their forms; a conduct the Interested Party considered to be a breach of the rules of natural justice. The Interested Party applied to the High Court for judicial review by way of Certiorari and Prohibition and the High Court granted the said application in part, namely, breach of the rules of natural justice, audi alteram partem, and then gave an order to quash the decision whiles making a further order directed against the Applicant and its Chairperson to afford opportunity to the Interested Party to make the necessary alteration or amendments to its nomination paper for it to receive same and then proceed to determine whether the Interested Party had met all the criteria laid down by the laws of the Republic. Being dissatisfied with the ruling of the High



Court, the Applicant has applied to this court for an order of certiorari to quash the said ruling.

The Supreme Court at holding (A) at page 214 stated inter alia:

Since the complaint of the Interested Party was that the Applicant failed to give him a hearing before being disqualified, the most appropriate consequential order in the circumstances is to order the Applicant to give the Interested Party a hearing.”

49. Respectfully from the above decision which demonstrates that the Electoral Commission, the 2nd Respondent is amenable to have its actions set aside and or nullified on grounds on breach of natural justice principles it follows Consequently that, the conduct of the 2nd Respondent in denying the Petitioner and or his collation agents their right to continue to participate in the collation exercise at the Kpandai Constituency Collation Centre the parliamentary election ought to be set aside as null and void and any subsequent step.
50. The Supreme Court of Ghana guides us that, in any litigation, the court and the parties are subject to the Constitution. In the case of **DR. KWAME AMOAKO TUFFUOR & OTHERS V. ELECTORAL COMMISSION & ATTORNEY-GENERAL [2017]108 G.M.J 88**, the Supreme Court at pages 100 & 101 stated as follows:

“The Electoral Commission is enjoined inter alia by article 51 to make by constitutional instrument “Regulations for the effective performance of” its duty. In Kwase Nyame – Tease Eshun v. The Electoral Commission and Attorney General, Suit No. J1/24/2016, SC., dated 27/10/2016; this court held that the Electoral Commission in the exercise of its functions under article 45 (c) and 51 has a duty to conduct free, fair, transparent and legally credible elections.”

At page 101 the court stated:

“Certainly, the unjustifiable erosion of any constitutional provision in the exercise of its functions cannot be countenanced.”

51. In **TEMA DEVELOPMENT CORPORATION & MUSAH v ATTA BAFFUOR [2005-2006] SCGLR 121**, the Plaintiff sued the TDC & the 2nd Defendant in the High Court Tema for inter alia declaration that he was the legitimate sitting tenant of the disputed premises and for ejection of the 2nd Defendant. The Defendant lost and upon an Appeal to the Court of Appeal, the decision of the High Court was affirmed and the Defendants upon further Appeal to the Supreme Court, the Supreme Court dismissed the appeal and held that the Court of Appeal had rightly affirmed the decision of the High Court.

At pages 122-123 at holding (2) the Supreme Court stated:

“(2) The grounds upon which an administrative action would be subject to judicial review were illegality, irrationality and procedural impropriety. By “illegality” was meant the decision-maker must understand correctly the law regulating his decision-making power. “Irrationality” could be succinctly referred to as *Wednesbury* unreasonableness – applicable to a decision which was so outrageous in its defiance of logic or of accepted moral standards that no sensible person, applying his mind to the question to be decided, could have arrived at it. By “procedural impropriety” was meant not only failure to observe basic rules of natural justice or failure to act with procedural fairness towards the person who would be affected by the decision but also failure by an administrative tribunal to observe procedural rules expressly laid down in legislation by which its jurisdiction was conferred, even where such failure did not involve any denial of natural justice. *Associated Provincial Picture Houses Ltd v Wednesbury Corporation* [1948] 1 KB 223 and *Council of Civil Service Unions v Minister for the Civil Service* (supra) (per Lord Diplock at 949 and 950-951) cited.”

52. The Petitioner satisfied the requirement of illegality, irrationality and procedural impropriety as per holding 2 of the above statement of the law.
53. Accordingly, the 2nd Respondent breached the mandatory requirement under article 23 of the Constitution, 1992 to act fairly, and reasonably and in compliance with the requirements imposed by law, in relation to the petitioner who contested the parliamentary elections in the Kpandai Constituency by its failure to dutifully comply with the procedures for collating Parliamentary Election Results which substantially prejudiced the Petitioner in his bid to be elected and rather gave undue advantage to the 1st Respondent.
54. It is clear to me in consequence of the analysis of the facts, evidence and law contained in the preceding paragraphs so far, it is apparently clear and well established that the audi alteram partem rule was absolutely breached. And

The analysis also demonstrate that the election was not really conducted under the existing election laws. The 1st Respondent from the above analysis together with the analysis contained in the main submission demonstrates that the 1st Respondent was not elected by the majority of lawful votes cast at the election people who voted in accordance with election laws.

ISSUES OF VANDALISM

WHETHER OR NOT THE PETITIONER RALLIED HIS SUPPORTERS TO CAUSE ACTS OF VANDALISM WHEN IT BECAME APPARENT THAT HE HAD LOST THE ELECTIONS

1. In resolving this issue, the pleadings of the Petitioner as well as the Respondents pleadings together with their respective evidence led at the trial would be considered. The pleadings of the Petitioner are reproduced hereunder as follows:

Paragraphs 10 and 11 of the Petitioner pleadings are:

“10. That after the Parliamentary Results of the polling stations in the Kpandai Constituency were given to the constituency returning officer, a disruption of the constituency collation exercise ensued due to a scuffle between the supporters of the two leading political parties, which prompted the returning officer to suspend the Parliamentary Constituency Collation exercise.

11. That the Petitioner later learnt that the constituency collation exercise for the parliamentary elections in the Kpandai was conducted without recourse to him nor his agents at an unknown location and the results of the parliamentary elections in Kpandai were declared in non-compliance and violation of Regulations 43 of the Public Elections Regulations, 2020 (C.I. 127).”

2. The 1st and 2nd Respondents did not deny the above pleadings simpliciter, but went on to allege additional facts at paragraphs 6, 52 and 54 of the 1st Respondent answer whilst the 2nd Respondent at paragraphs 6, 7, 62 and 63 of its answer.
3. Paragraphs 6, 52 and 54 of the 1st Respondent pleadings or answer are as follows:

“6. 1st Respondent says that violence broke out at the collation centre at the time collation had been done for 126 polling stations. At that point the security came in and took control of the situation and when the collation had

been completed and the results were to be declared the Petitioner and his supporters being aware from their own collation that Petitioner has lost the elections disrupted the process following which the District Electoral Officer (DEO) acting on the orders of the Regional Director of the Electoral Commission publicly announced that the declaration would be done at the Regional Office of the Electoral Commission.

52. Paragraph 10 of the Petition is denied and 1st Respondent says that it was the petitioner who came with his supports to vandalize the collation centre for which reason petitioner cannot benefit from his own wrong.

54. Paragraph 11 of the petition is denied in toto and 1st Respondent says that the Returning officer duly informed the candidates, their agents, media and the gathering that for security reasons collation was to be continued at the Regional office of the Electoral Commission, Tamale."

4. The 2nd Respondent at Paragraphs 6, 7, 62 and 63 of its answers to the petition are as follows:

"6. the 2nd Respondent says that after collating results from 126 polling stations, violence erupted at the collation centre, prompting security forces to intervene and restore order."

7. When collation was finalized and the results were ready for declaration, the petitioner and his supporters, aware from their own tallies that the petitioner had lost disrupted the process, leading to the District Electoral Officer, acting on the Regional Director's instructions, to announce publicly that the declaration would take place at the Electoral Commission's Regional Office which was more secured than the original collation centre."

"62. Paragraph 10 of the petition is denied, and 2nd Respondent says that when the petitioner and his NDC supporters realized they were going to lose

the election, they resorted to vandalizing the materials of the electoral officials and creating significant disruption at the collation centre....”

63. Paragraph 11 of the petition is denied and 2nd Respondent say that upon advise of the National Intelligence Bureau and the District Police Commander, the District Electoral Officer, acting on the Regional Director instructions, announced publicly that the declaration would take place at the Electoral Commission Regional Office.”

5. Having set out the pleadings, the law is that the burden of persuasion rest with the person who substantially asserts the affirmative of the issue on the pleadings. In the case of **JOHN MAHAMA v. ELECTORAL COMMISSION & NANA ADDO DANKWA AKUFO-ADDU** [2021] 171 G.M.J 73 at pages 504 – 512, the SC held in holding 18 as follows:

“(18) On who lies the burden of persuasion where an issue is asserted and substantially affirmed in the pleadings – per Yeboah, CJ

“As was accentuated by this court per Benin, JSC in the case of Sarpong (decd) (substituted by) Koduah v Jantuah [2017-20] 1 SCGLR 736 at page 747, the principle of law is that the burden of persuasion rest with the person who substantially asserts the affirmative of the issue on the pleadings.”

6. I would now resort to the evidence of the Respondents before the Petitioner.

The 1st Respondent at paragraph 10, 56 and 57 of his witness statement stated as follows:

“10. My Lord, violence broke out at the collation centre at the time collation had been done for 126 polling stations. At that point the security came in and took control of the situation and when the collation had been completed and the results were to be declared the Petitioner and his supporters being aware from their own collation that Petitioner has lost the elections disrupted the process following which the District Electoral Officer publicly announced that the declaration would be done at the Regional Office of the Electoral Commission.

56. I denied paragraph 10 of the petition and say that it was the petitioner who came with his supporters to vandalized the collation centre for which reason petitioner cannot benefit from his own wrong. Attached hereto and marked Exhibit 37 is a video pen drive containing videos and pictures of the declaration of results, (VD 1), scenes created at the collation centre by the petitioner and his supporters.

57. Paragraph 11 of the petition is denied in toto and I say that the Returning Officer duly informed the candidates, their agents, media and the gathering that for security reasons collation was to be continued at the Regional Office of the Electoral Commission, Tamale."

7. The material evidence of the 2nd Respondent as contained in the witness statement at paragraphs 7, 8, 9, 45 and 57 revealed that when collation was finalized and results were about to be declared, the Petitioner and his supporters disrupted the process through acts of vandalism. The said paragraphs are as follows:

"7. That after collating results from 126 polling stations, the exercise was progressing as intended and in accordance with the Regulations, until violence erupted at the collation centre, prompting security forces to intervene and restore order.

"8. I say that when the collation was finalized and the results were ready for declaration, the Petitioner and his supporters, aware from their own tallies that the Petitioner had lost, disrupted the process through acts of vandalism. Attached and marked as Exhibit EC1 are pictures and video footage of the acts of vandalism committed by the Petitioner and his supporters.

9. That following the events deposed in paragraph 8 herein, the District Electoral Officer, acting on the Regional Director's instructions, publicly announced that the declaration would take place at the Electoral Commission's Regional Office which was more secure than the original collation centre.

45. That the manual verification forms for those two persons were destroyed during the acts of vandalization caused by the petitioner and his supporters.

That the total number of votes in the ballot box (479) is equal to the total number of ballots issued (C1+C2) which was 479. Attached and marked as Exhibit EC31 is the statement of poll for the Office of the Member of Parliament (Pink Sheet) for L/A Prim. Sch. Kojo Boni (M010801A).

57. I say that when the petitioner and his NDC supporters realized they were going to lose the election, they resorted to vandalizing the materials of electoral officials and creating significant disruption at the collation centre, which was reported by various news and media outlets. Attached and marked as Exhibit EC43 are video evidence of news reports on this event."

8. The 2nd Respondent categorically emphasized that exhibit EC1 are pictures and video footages of the acts of vandalism committed by the Petitioner and his supporters and also relied on Exhibit EC43 and 44 which are video footages. However, during cross-examination of the 2nd Respondent he emphatically admitted that the Petitioner did not commit any act of vandalism or destroyed any property belonging to the EC or any other entity.
9. The evidence of the Petitioner in this regard is set out hereunder as follows: (paragraphs 79, 80, 81, 82, 85, 86 and 88 of his witness statements)

"79. Shortly after the parliamentary results of the various polling stations in the Kpandai Constituency were given to the constituency Returning Officer for the collation of the results, a disruption of the Kpandai Constituency collation exercise ensued.

80. Whilst the collation exercise was going on so some people entered the collation centre, started making noise and destroying things.

81. By the time these hooligans came we had collated One-hundred and one (101) out of the One-hundred and fifty-two (152) polling stations in the Presidential and then Ninety-seven (97) out of One-hundred and fifty-two (152) polling stations in the Parliamentary results because some challenges were raised against some pink sheets that had come in.

82. There appeared to be scuffle between some persons believed to be the supporters of the two leading political parties contesting the 2024 general elections.

85. All efforts to get involved with the collation exercise proved futile because the Electoral Commission's Director with the assistance of the Police commander insisted that we should not be part of it and kept us out.

86. That was when we called the Petitioner to come in and ascertain why his agents could not take part of the collation exercise.

88. The District Electoral Commission Director of Kpandai said that due to the scuffle between the party supporters and the accompanying disruption, his team was going to act on instructions from above to complete the collation exercise separately without the parties and that we could also do our collation on our own."

10. In evaluating the evidence before this court it is necessary to set out the evidence elicited from the 2nd Respondent, the entity constitutionally mandated to conduct and supervise public elections. This is what transpired between counsel for the Petitioner and the 2nd Respondent on the 13th October, 2025

“Q: And you can testify to the fact that the agent of the Petitioner were presents at the start of the collation exercise?

A: That is correct

Q: At what time did violence erupt at the said collation centre?

A: It was around 2:30pm on the 8th of December, 2024.

Counsel for Petitioner pray for Exhibit “EC1” to be played for the whole court to see. EC1 series played on desktop.

Q: According to paragraph 8 of your witness statement, the petitioner and his supporters answer from their own tallies the Petitioner has lost disrupted the collation process through acts of vandalism attached and marked no Exhibit 1 series one the pictures and video of vandalism perpetrated by the

petitioner and his supporters. Now this first video, can you point out the Petitioner in the video?

A: My Lord the Petitioner is not in it but his supporters are there.

Q: Again can you from the 2nd video in Exhibit EC1 series point out the Petitioner leading his supporters in acts of vandalism?

A: My Lord from the video I can't pick out the Petitioner but the Mahindra Pick-up which carried the people as it was branded with his pictures.

Q: Per the 6th video in the EC1 series do you see the Petitioner committing any act of vandalism in it?

A: My Lord no, but this is the sad end of the process.

Q: In this 7th video of EC1 series do you see the Petitioner engaged in any act of vandalism?

A: No, my Lord."

11. Further cross-examination on the same 13th October 2025 at page 104 of the records, this is what transpired:

"Q: Per paragraph 23 of your witness statement you accused the Petitioner of destroying the manual verification forms for Lambado Primary School and Bisando Primary School through act of vandalism, is that correct?

A: My Lord that is correct and I make reference to exhibit EC1.

Q: As you sit in the witness box, and having watched all the videos that have been played have you been able to point or identify the Petitioner committing any act of vandalism?

A: My Lord yes but there are other videos we have not watch where the Petitioner can be found."

12. On 14th december 2025 at page 114 of the Record of Proceedings in cross-examination by counsel for the Petitioner, this happened:

“Counsel wants EC43 and EC44 to be played in court”.

Q: From EC44 you can see the then candidates, Petitioner and 1st Respondent?

A: My Lord, that is true, I saw them.”

Q: Did you see the Petitioner engaged in any act of vandalism or destroying properties?

A: My Lord no, this is when I made the announcement to the candidates and stakeholders that for the Petitioner not agreeing to the fact that I announced the results we are moving to the Regional Electoral Commission Office in Tamale.”

13. The witness when he was subjected to further cross-examination on the 14th October 2025 and this is what transpired:

“Counsel wants “EC43” and “EC44” to be played in court.

From EC44 you can see the then candidates Petitioner and 1st Respondent

A: My Lord that is true, I saw them.

Q: Did you see the Petitioner engaged in any act of vandalism or destroying properties?

A: My Lord no, this is when I made the announcement to the candidates and stakeholders around that for the petitioner not agreeing to the fact that I announced the results we are moving to the Regional EC office in Tamale.”

14. Counsel for the 1st Respondent subjected the petitioner’s witness to test regarding Exhibit 37 as per paragraph 57 of the 1st Respondent witness statement which states that it was the petitioner with his supporters who came to vandalized the collation centre. This is what transpired in the cross-examination of the petitioner’s witness at page 40 of the record on the 17th day of July 2025.



“Q: I want you to watch the first video in the pen drive disclosed by the 1st Respondent and marked as exhibit 37. The Person speaking in the video, do you know him?

A: I know him

Q: Can you confirm that he was the Returning Officer of Kpandai Constituency on 7th December, 2024?

A: Yes my Lord, but the room in which he is declaring it, it looks like somebody's hall with a green background. But the collation centre itself had a white background like we have in the court room here. The people inside were mainly NPP, there were not NDC members.

Q: You see this video is part of the happenings on the collation day at Kpandai at the collation centre?

A: Yes my Lord

Q: Watch the 3rd video some of the protestors even climbing up on the top floor of the collation centre throwing materials left and right, is that not so?

A: Yes my Lord. I can see that in the video

Q: Now watch the two candidates, the Petitioner and the 1st Respondent in a hot heated argument in the collation centre, is that not so?

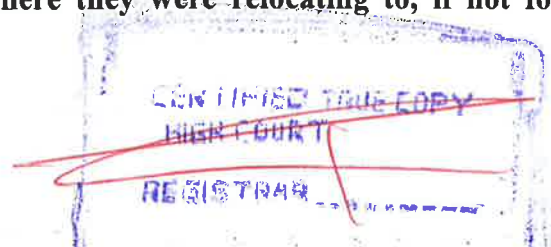
A: Yes my Lord, I have seen the video

Q: So largely you will agree with me that violence broke at the originally designated collation centre?

A: Yes my Lord there was violence

Q: So I put it to you that it was due to the violence that the EC for the safety of lives and even the ballot papers had to relocate the collation centre?

A: My Lord if they had to relocate, we are partners in the elections so they could have at least informed us where they were relocating to, if not for



anything at all we the party agents should have been informed or the party leadership should have been informed.”

15. Further cross-examination of the petitioner on the same 17th July 2025 at page 41 is as follows:

“Q: Can you confirm the number of polling station results that had been collated at the original collation centre before the violence broke out?”

A: My Lord it is difficult to give the number of the polling stations because at a point when the EC decided not to involve us in the collation with all efforts at persuading them to allow us to be part of it they still refused so we do not know where they reach and this was not fair.

Q: I put it to you that the NDC was involved in the collation right from the beginning and about 126 polling stations had been collated and when the NDC saw that it has lost the election it caused its supporters to surround the collation centre and destroyed whatever they come across?

A: My Lord this a wrong assertion because if we had 151 polling to declare and he said we had 126 which I think it is not even true, we has a lot of polling stations still to come. So how can somebody concluded that he had won and we have lost. So the assertion is wrong.”

16. The evidence of the 1st Respondent regarding his assertion at paragraph 10 and 57 during cross-examination by counsel for the Petitioner, he maintained that the assertions contained in the said paragraphs are true. This obviously cannot be true, both assertions cannot be true as same is contradictory.

17. Thus, the evidence of the 1st Respondent in one breath is that violence broke out at the collation centre and collation had been done for 126 polling stations and when the collation had been completed and the results were to be declared the Petitioner and his supporters being aware from their own collation that Petitioner has lost the elections disrupted the process following which the District Electoral Officer publicly announced that the declaration would be done at the Regional Office of the Electoral Commission. And in another breath, that the Returning Officer duly informed the candidates, their agents, media and the gathering that for security reasons collation was to be continued at the Regional Office of the Electoral Commission, Tamale. Mr.

Charles Okyere is the DEO whilst Mr. Wepari Salweh is the Returning Officer of the Kpandai Constituency.

18. From the evidence, the court is convinced and preferred the evidence of the petitioner's witness. Consequently, 99 polling stations results had been collated and not 126. Furthermore and more particularly from the videos footages, there was no evidence that the Petitioner indeed committed any act of vandalism or destroyed any property of the Electoral Commission. There was chaos and destruction of election materials in the collation room and collation centre at Kpandai but same cannot be laid at the door steps of the Petitioner.
19. It must be emphasized that the alleged supporters of the Petitioner or the NDC supporters are not parties before this court. This court would be in breach of the rules of natural justice and in excess of its jurisdiction to make orders or findings against nameless persons who are not before the court, particularly criminal allegations which requires proof beyond reasonable doubt. The Petitioner did not commit any act of vandalism nor did he rally any body and or NDC supporters to cause acts of vandalism. This is illustrated in the case of:

THE REPUBLIC V. HIGH COURT, TEMA EX-PARTE YAW GODWIN & ANOR [2023] 184 VOLUME 2 G.M.J 720 at pages 724-725, the SC held:

“(a) obviously, the Applicants herein were not given any opportunity to be heard in the determination of Suit No. E6/199/2022 which was pending before the High Court, Tema. There are quite a number of decent judicial decisions which establish the fact that failure to afford the opportunity to a party to be heard before a determination is made against him in a judicial contest and others where a decision is made affecting the rights or properties of a party, would entitle the said proceedings to be quashed for breach of the principles of natural justice.

At page 729 this was stated:

“It is to be remembered that it is a fundamental principle of our law that no one is to be found guilty or made liable by an order of any tribunal unless he has been given fair notice of the proceedings so as to enable him to appear and defend them. The law has always been

very careful so see that the defendant is fully apprised of the proceedings before it makes any orders against him."

In re Ashalley Botwe Lands, Adjetey Agbosu & Others v Kotey & Others [2003-2004] Vol. 1. 420, the supreme Court speaking with unanimity per Wood JSC, (as she then was) in her characteristic fashion, elevated this principle of "audi alteram partem" to a higher level when she stated at page 454 as follows:-

"Plainly, I see an order directed at the beneficiaries who were never parties to this action, persons who have acquired lands from the defendants, but who were, however, not heard in these proceedings, contrary to the fundamental and plain rule of natural justice, the audi alteram partem rule. To order an annulment or cancellation of their documents, without any notice to them and without having given them a hearing is in my view, erroneous as the intention clearly is to dispossess them of their "properties". I do not think we should, in the interest of justice, allow the order to stand."

20. The next issues to be dealt with are issues 3 and 4.

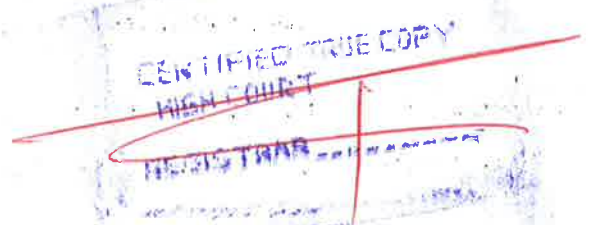
ISSUE 3 AND 4

21. These were raised by the 1st Respondent which are as follows:

"c. Whether or not the assigned electoral official of the 2nd Defendant gave notice to accredited party Agents and the Media that it was relocating the collation centre to its Regional Office due to security threat.

d. Whether or not the Petitioner and his Party's Accredited Agents neglected their duty when they refused to follow the 2nd Respondent's officials to the new collation centre."

22. The 2nd Respondent, the Constitutional and Statutory body is the entity charged with the conduct and supervisions of elections including the 2024 elections held in Kpandai Constituency.



23. The 2nd Respondent maintained emphatically that collation was finalized and results were ready for declaration at the Kpandai Constituency Collation Centre when the District Electoral Officer publicly announced that the declaration would take place at Tamale Regional Electoral Commission Office.
24. The District Electoral Officer is Mr. Charles Okyere whilst the Returning Officer is Mr. Wepari Salweh.
25. According to the 2nd respondent, the alleged announcement or information is contained in Exhibit EC44 on the 13th and 14 October 2025 respectively. The evidence elicited from the 2nd Respondent during cross-examination by counsel for the Petitioner, at page 114 of the Record of Proceedings is significant. This is what transpired at page 108 of the record before 114 in court:

“Q: Are you also aware that it was the 1st Respondent in his evidence in the court make it clear it was not you but the Returning Officer who made the announcement that they were moving from Kpandai to Tamale for the collation.

A: I am not aware

Q: So your assertion that you made the announcement is false?

A: My Lord that is not correct

“Counsel wants EC43 and EC44 to be played in court”.

Q: From EC44 you can see the then candidates, Petitioner and 1st Respondent?

A: My Lord, that is true, I saw them.”

Q: Did you see the Petitioner engaged in any act of vandalism or destroying properties?

A: My Lord no, this is when I made the announcement to the candidates and stakeholders that for the Petitioner not agreeing to the fact that I announced the results we are moving to the Regional Electoral Commission Office in Tamale.

Q: Can you tell this court how you communicated the purported relocation and re-designation of the Kpandai collation and declaration centre to the petitioner or his agents?

A: My Lord at the point the EC has lost enough of its properties and life were at stake and so in the open at the collation centre in the presence of two out of three of the contesting candidate i.e. the petitioner, the 1st Respondent and all other major stakeholders i.e. the media, CoDEO, Christian Council, the Catholic Bishops Representative and the security announced that base on security advice I have been directed by my Head Office through my Regional Director to move the declaration of the results to the EC Regional Office in Tamale.

Q: Have provided this court with any evidence of any communication to either the petitioner or his accredited agent announcing the purported relocation and re-designation of the Kpandai collation and declaration centre to Tamale?

A: My Lord no but in the heat of the situation I found myself where properties have been lost and lives were at stake I could not have recorded myself announcing to the people present and have that video to provide to the court.

Q: So you will agree with me that there is no evidence on record before this court that shows that the petitioner or his accredited agent or counting agent had any knowledge of the purported relocation and re-designation of the Kpandai constituency collation and declaration centre to Tamale?

A: I disagree and rely heavily on my witness statement

Q: Have you provided any evidence in your witness statement of any official communication to either the petitioner or his accredited agent or counting agent informing him of the purported relocation and re-designation of the Kpandia constituency collation and declaration centre to Tamale?

A: Yes my Lord it was an open announcement which I stated in my witness statement."

26. The witness when he was subjected to further cross-examination it turned out that he could not be seen nor heard making such announcement in the open at the collation centre in the presence of the media, the candidates or their agents etc to move the declaration of the results to the Electoral Commission Regional Office in Tamale. This is what transpired on the 14th October 2025;

"Counsel wants "EC43" and "EC44" to be played in court.

From EC44 you can see the then candidates Petitioner and 1st Respondent

A: My Lord that is true, I saw them.

Q: Did you see the Petitioner engaged in any act of vandalism or destroying properties?

A: My Lord no, this is when I made the announcement to the candidates and stakeholders around that for the petitioner not agreeing to the fact that I announced the results we are moving to the Regional EC office in Tamale.

Q: In this last video, the people that you saw were you there?

A: My Lord I was there under security protection.

Q: Are you one of them?

A: I cannot be found here but covered by the security who covered me from the raging outburst.

Q: From the video that we have played we can hear the voices of the two candidates but we cannot see you or hear your voice?

A: Because I was not part of their argument.

Q: From all the videos we have played in this court show us where you were seen and also talking to the very people that you allegedly spoke to

A: I could not have recorded myself in the midst of the argument”

27. Throughout the period that EC44 was played in open court, there was no such evidence made by either Mr. Charles Okyere, the District Electoral Officer or the Returning Officer Mr. Weperi Salwah.

28. From the evidence on record, it was the 1st Respondent who at paragraphs 10 and 57 of his witness statement said that the DEO was the person who made the allege announcement that declaration was to be done at Tamale, EC Regional Office and subsequently alleged that it was the Returning Officer who made the announcement in the presents of the candidates and their agents, the media and other stakeholders that collation of the results was to be continued at the EC Regional Office in Tamale.

29. On the 29th day of July 2025 during cross-examination of the 1st Respondent his evidence elicited is as follows:

“Q: I am suggesting to you that when calm was restored and with the presence of the security agencies collation and subsequent declaration could have been carried out at the constituency collation centre and not they running away?

A: My Lord, first of all we never run away. The EC officially announced to us as to the relocation then he stated clearly that due to the insecurity nature of the place he was relocating for declaration and that any party that has interest should follow for same, and we actually followed to the Regional Collation Centre at Tamale.

Q: I am suggesting to you that there was no such announcement at all?

A: There was

Q: Can you confirm that at paragraph 57 of your witness statement it reads as follows “...” the petition is denied and I say that the Returning Officer duly informed the candidate, their agents, media and the gathering that for

security reasons collation was to be continued at the regional office of the EC Tamale?

A: Yes my Lord.

Petitioner's Counsel: My Lord we want to play the video (exhibit 37) exhibited by the 1st Respondent to the court.

By Court: Video played to court

Q: Mr. Nasiru from your own video you did not set eyes on Mr. Salam the Regional Secretary of NDC as well as the so-called "Prof"

A: No please from the video but they were actually present there

Q: I am suggesting to you that they were never there you do not even know them in person?

A: My Lord they were actually there

Q: From your video the 1st Respondent, your good self, the NPP constituency chairman, Figo and Sizoo you saw all these people from the video that you exhibit to this court, is that not true?

A: That is true my Lord

Q: You will also agree that the Returning Officer, the EC Director and Deputy Director and Deputy Returning Officer of EC were also in the video with you people

A: Yes in the video my Lord."

30. Even though the DEO in the person of Charles OKyere and the Returning Officer in the person of Mr. Wepari Salweh are officials of the 2nd Respondent, it has never been part of the case in this court that the allege announcement to move from Kpandai to Tamale was made by two officials. The evidence of the 1st Respondent in this regard is unconvincing and rejected by the court.

31. The evidence of the petitioner at paragraphs 83 to 94 of his witness statement, the petitioner and his collation agents were excluded from further participation in the collation exercise at the Kpandai Constituency Collation Centre when collation resumed and that the petitioner and his collation agents were not given opportunity to be present for the collation exercise at the unknown location.
32. The evidence of the petitioner as per paragraphs 90-94 of the witness statement reveal that the 2nd Respondent through its District Electoral Director of Kpandai was seen with some Police escort took ballot boxes and drove from Kpandai out of town towards Bimbilla road to unknown location and it was later they learn that the constituency collation exercise for the Parliamentary Election in the Kpandai Constituency had been conducted at unknown location without recourse to the petitioner and his collation agents. And that the 1st Respondent who was beneficiary of the election conducted by the 2nd Respondent was present at the unknown location where the election were declared.
33. The Petitioner maintains that he as well as his collation agents were not given the opportunity to be present for the collation exercise at the unknown location.
34. On the 20th day of June 2025 during cross-examination of the Petitioner's witness by counsel for 1st Respondent at page 20 of the record. This is what transpired:
- “Q: Take a look at the document (exhibit 1) attached to our witness statement on the face of that document you will see the result assigned by the EC to the candidates who contested the election**
- A: That is my first time seeing it**
- Q: That also means that you did not also see the gazette results by the EC**
- A: I have not seen that my Lord**
- Q: Then you will agree with me that you are in court disputing an election results that you do not even know about?**
- A: My Lord election is a process not an event. We have not got the benefit of hearing the result at the collation centre and until today that I am seeing the declaration results, our party was never served a declaration results. It was never officially given to us. I have never seen it**

Q: So that means that the petitioner is not in court challenging the results as declared by the EC because he was not formally served with the results

A: We are in court challenging the irregularities that arose and marred the integrity of the elections and gave advantage to the 1st Respondent

Q: Mention one advantage that was given to the 1st Respondent

A: The fact that they did not complete collation and came out with figures we cannot confirm.”

35. It is important to state that counsel for the 1st Respondent extensively cross-examined the petitioner’s witness. At page 40-41 and page 75 of the record this is what transpired on the 17th and 23rd July 2025;

“Q: So I put it to you that it was due to the violence that the EC for the safety of lives and even the ballot papers had to relocate the collation centre?

A: My Lord if they had to relocate, we are partners in the elections so they could have at least informed us where they were relocating to, if not for anything at all we the party agents should have been informed or the party leadership should have been informed.

Q: I put it to you that the EC publicly announced the relocation of the collation centre to its regional office and some NDC regional executives were present when they resumed the collation?

A: My Lord I do not agree to that assertion because the regional officers were not there for him to have said it was announced publicly, and if our regional executives were told, which I know it is not so, were they the right people for them to have told them because we were supposed to be at the collation centre and how our regional executives never told us at the constituency. So my Lord we were aware of it?

Q: Can you confirm the number of polling station results that had been collated at the original collation centre before the violence broke out?

A: My Lord it is difficult to give the number of the polling stations because at a point when the EC decided not to involve us in the collation with all efforts at persuading them to allow us to be part of it they still refused so we do not know where they reach and this was not fair.

Q: I put it to you that the NDC was involved in the collation right from the beginning and about 126 polling stations had been collated and when the NDC saw that it has lost the election it caused its supporters to surround the collation centre and destroyed whatever they come across?

A: My Lord this a wrong assertion because if we had 151 polling to declare and he said we had 126 which I think it is not even true, we has a lot of polling stations still to come. So how can somebody concluded that he had won and we have lost. So the assertion is wrong.

Q: You will agree with me that collation is basically adding together the votes that have already been declared at the polling station?

A: My Lord that where the pink sheets speak to us. So it is not only about adding but it is also about ironing out ballot accounting.

Q: I put it to you that when they announced the relocation of the collation centre Petitioner and his agents including your very self-decided not to bother because from your own analysis Petitioner has already lost miserably?

A: That is not true because there was no such announcement or any document to the effect that the collation centre was going to be changed. Rather when we were refused to join in the collation the District EC sarcastically if we did not understand why they were doing it minus us we can go to court.

Q: Do you have any evidence before this court besides the mere verbal allegation that the District EC officer told you that if you do not understand you could go to court?

A: There is no evidence to that but he mentioned it to the extent the EC also has not got any evidence that with the 1st Respondent that the collation centre was going to be change.

Q: Is it the case that the Petitioner and all his agents including you were not at the collation centre when violence broke out and the ballot boxes has to be taken away, is that the case?

A: I was at the collation centre and that is why I can confidently tell you that there was no such announcement for a change of location.

Q: But can you confirm to the court if you saw the ballot boxes being taken away in the outbreak of the violence?

A: My Lord I saw the EC officers with the police officers without any explanation to us taken the ballot boxes away to an unknown destination.

Q: So I put it to you that the Petitioner, the NDC as a whole in Kpandai in the Northern Region and if there were any national officers in the ground were not interested in the relocation because they wanted to vandalize and destroy all the ballots, so that is why they did not bother the relocation?

A: My Lord that is not true because if we were told where they were going with the ballot boxes we would have followed up to ensure that the right was done. But these were policemen with guns caning and wiping anybody in sight.”

36. From the above discourse and having observed the demeanor of the witness I am of the view that he is a truthful witness who was physically present at the Kpandai Constituency Collation Centre and saw what had happened. He also participated in the collation process as an agent of the petitioner thereby rendering his accounts of the events more credible. The significance of the evidence of the petitioner's witness, who was collation agent at the Constituency Collation Centre cannot be underestimated in the case at hand, he was physical on ground and in position to testify as to what transpired at the Constituency Collation Centre, Kpandai. The court is convinced with the oral evidence of the petitioner's witness. Unlike the 1st

Respondent's witness who was not one of the collation agents at the Kpandai Constituency Collation centre and was not entirely at the said collation centre. He was only called to the constituency collation centre from time to time.

37. After having carefully evaluated the evidence on record, there was no announcement or notice publicly made by the 2nd Respondent in the presence of the candidates and or their agents, and more specifically the petitioner and or his collation agents, the media and other stakeholders. The exclusion of the petitioner and his collation agents rendered the figures assigned to the petitioner and the 1st Respondent by the 2nd Respondent as per **Parliamentary Election Results Summary Sheet, FORM ONE D** not only dubious but also null and void. This is particularly so, as **Parliamentary Election Results Collation Form, FORM ONE C** which ought to capture results of all polling stations where polls took place including special ballot results is conspicuously unavailable. This Form One C is filled by the Returning Officer before Form One D, which however was tendered by both 1st and 2nd Respondents.
38. In such circumstances, the relocation of the Kpandai Constituency Collation Centre from Kpandai to Tamale, the EC Regional's Office was in violation of **Article 23 of the 1992 Constitution**, illegal, arbitrary to fair play and in negation of basic canons of natural justice principles same is thereby rendered null and void. The conduct of the 2nd Respondent violated the audi alteram partem rule of the petitioner, thereby rendering the subsequent collation exercise carried out at the constituency collation centre at Kpandai after the brief suspension of the collation exercise as well as the relocation from Kpandai to Tamale and all subsequent steps thereto null and void. It also breaches Article 23 of the 1992 Constitution and principles laid down in cases such as **ABOAGYE v GHANA COMMERCIAL BANK (2001-2002) SCGLR 797**, where the Supreme Court unanimously at page 799 holding 1 stated:

"...Administrative bodies and officials were also required under Article 23 of the Constitution to act fairly, Acting fairly implied natural justice which has been elevated to constitutional rights and were binding on all adjudicating and administrative bodies as well as courts and tribunals."

39. Again, the Supreme Court in numerous cases held that a breach of natural justice principle renders such processes a nullity. In the case of **THE REPUBLIC V. HIGH COURT, TEMA EX-PARTE YAW GODWIN & ANOR [2023] 184 VOLUME 2 G.M.J** at pages 724-725, the SC held:

“There are quite a number of decent judicial decisions which establish the fact that failure to afford the opportunity to a party to be heard before a determination is made against him in a judicial contest and others where a decision is made affecting the rights or properties of a party, would entitle the said proceedings to be quashed for breach of the principles of natural justice.”

“Speaking of the historical antecedents of the principle of audi alteram partem, reference has to be made to the learned authors of Judicial Review of Administrative Action, De Smith, Woolf, and Jowell, fifth edition, writing on this subject of natural justice. The authors stated as page 376 states as follows:

“Historically, the principle of natural justice appropriated most of procedural fairness, and, as we shall see, eventually unnecessarily confined itself to situations where a body was acting “judicially” and where “rights” rather than “privileges” were in issue.

Although often retained as a general concept, the term natural justice had since been largely replaced and extended by the more general duty to act “fairly”. More recently, Lord Diplock adopted the term “procedural propriety” to describe one of the three “grounds of judicial review. See Council of Civil Service Unions v Minister for the Civil Service [1985] AC 374, 410.

“Such a term extends the exclusively common law ambit of natural justice and fair hearings to situations where procedures are also provided by statute.”

40. In **In Re KUMI (Ded); Kumi v Nartey (2007-2008) SCGLR 623**, it was held that the effect of failure to comply with the rules of natural justice is to render the ensuing proceedings a nullity. See also **The Republic vrs High Court, Accra (Criminal Law Division 5) Benjamin Akuffo Darko, Attorney-General & Inspector General of Police (2024) JELR 111565 (SC); with Suit no. J5/18/2024** and delivered on 5th March 2024.

41. The next issues for resolution are issues:

“Whether or not the non- compliance with Regulations 43 of the Public Elections Regulations, 2020 (C.I. 127) rendered the entire results of the Parliamentary Elections in the Kpandai Constituency void.

Whether or not there were widespread malpractices and irregularities or statutory breaches which materially and substantially affected the outcome of the 2024 Parliamentary Elections for the Kpandai Constituency.

Whether or not the 2nd Respondent conducted the Parliamentary elections for the Kpandai constituency in full compliance with the provisions of the Public Elections Regulations, 2020 (C.I. 127 as amended)”.

42. In resolving these issues, which are pivotal in the circumstances of this petition, **Regulation 43 of C.I 127** as well as the detailed procedures contained in Exhibit EC45 as well as other relevant constitutional provisions and laws shall be considered along the evidence on record.

43. From the records, the Petitioner maintains that collation was not done as required by law whilst the 1st and 2nd Respondents insist that collation procedures were fully complied with.

44. **Regulation 43 of C.I 127** is reproduced here as follows:

" 43(1) Subject to Regulation 42, immediately after the results of the poll for all polling stations in the Constituency of the returning officer have been given to the returning officer the returning officer **shall**, in the presence of the candidates or the representatives of the candidate or not more than two counting agents appointed by each candidate,

a. assemble the results from the polling stations without recounting the ballots in the ballot boxes except where there is a challenge by a candidate or a counting agents in respect of a specific ballot box.

b. fill the Parliamentary Election Results Summary Sheet as set out in Form 1D

c. give public notice of the total number of votes cast for each candidate

- d. publicly declare as elected in a Parliamentary Election the candidate who has the highest votes
 - e. request the candidates or the representative or counting agents of the candidates to, together with the returning officer, sign the Parliamentary Election Results Collation Form as set out in Form 1C and the Parliamentary Results Summary Sheet as set out in Form 1D and post a copy at the Constituency Collation Centre.
 - f. give each candidate or the representative or counting agents of a candidate a completed and signed copy the Parliamentary Election Results Collation Form and the Parliamentary Election Results Summary Sheet
 - g. endorse on the writ specified in Form 1B the name of the person elected and
 - h. forward to the Commission the endorsed writ and a note of the total number of votes cast for each candidate.”
45. After having set out regulation 43 of C.I 127, the training manual for election officials 2024, which was tendered at the bar through 2nd Respondent by counsel for the petitioner and same was admitted and marked as exhibit EC45 provide detail procedures for collating both Presidential and Parliamentary Election Results. Indeed, according to the 2nd Respondent this manual was given to both petitioner and the 1st Respondent prior to the 2024 elections. And that prior to the conduct of the 7th December 2024 parliamentary elections the EC held meeting with the political parties and other stakeholders on the conduct of the elections at DIPAC meetings.
46. The procedures for collating Presidential Election Results at the Constituency Collation Centre is the same as the procedure for collating Parliamentary Results at the Constituency Collation Centre. In other words, the Returning Officer shall repeat or apply the same procedures used for collating the results of the Presidential Election, to collate the Parliamentary Election Results. For the Parliamentary Election Results, the forms to be used are:
- a) Parliamentary Election Polling Station Results Form (FORM EIGHT A)

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- b) Parliamentary Election Results Collation Form (FORM ONE C)
- c) Parliamentary Election Results Summary Sheet (FORM ONE D).

Consequently, the procedures which the Returning Officer was required to follow in the collating of the Parliamentary Election Results of the Kpandai Constituency, at the Kpandai Constituency Collation Centre is set out hereunder to include:

“

- (a) Fill the Parliamentary Election Results Collation Form (FORM ONE C) using the Parliamentary Election Polling station Results Form (Form EIGHT A) figures. Where an error is detected on the Form EIGHT A, the Presiding Officer shall effect changes on the original result sheet and sign against it. Party/Candidate Agents present may also countersign.
- (b) Ensure that the results from all the Polling Stations in the Constituency are received before adding them up. The rejected ballots should be added up as well.
- (c) Allow a candidate or his/her Collation Agent a reasonable opportunity to ascertain and satisfy himself/herself as to the fairness of any procedure or decision pertaining to the collation exercise.
- (d) Fill the Parliamentary Election Results Summary Sheet (FORM ONE D). Where an error is detected on the Constituency Result Summary Sheet, the Returning Officer shall correct the mistake of the original Summary Sheet in the presence of the Candidate Agents and sign against it and also ask the Candidate Agents to countersign. Where a Candidate Agents refuses to countersign, the refusal will not invalidate the said correction.
- (e) Compare the manually collated elections results with the electronically collated results compiled by the Collation Officers to ensure that both figures tally. Where there is discrepancy, steps must be taken to unravel the course and resolve same.
- (f) Sign the completed Parliamentary Election Results Collation Form (FORM ONE C) and request each candidate or the Collation Agent of the candidate present also to sign.
- (g) Sign the completed Parliamentary Election Results Summary Sheet (FORM ONE D) and request each Candidate/Candidate Agent present also to sign. A Candidate/Candidate Agent who refuses to sign the Parliamentary Election Result Summary Sheet shall give reason(s) for the refusal.
- (h) Give each Candidate/Candidate Agent a copy of the Parliamentary Election Results Collation Form (FORM ONE C).
- (i) Give each Candidate/Candidate Agent of the candidate a copy of the Parliamentary Election Results Summary Sheet (FORM ONE D).

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Signature: [Red ink signature]

(j) Publicly announce both the Presidential and Parliamentary Election Results.”

47. It must further be noted that the Returning Officer is required to separately record the results of the Special Voting ballots on the Parliamentary Election Results Collation Form, Form One C. The results of the Special Voting is then added to the results from all the polling stations before declaring.
48. Furthermore, at point 2.17 where re-collation is requested for by a Candidate/Collation Agent, the Returning Officer shall double check the collated results. The manually and electronically collated election results should tally. If the two do not agree, re-collation should continue. In effect, there is no limit as to the number of times re-collation could be done.
49. So now, the returning officer in the person of Mr. Wepari Salweh after having received the results of the poll for all polling stations in the constituency shall in the presence of the candidates or the representatives of the candidates or not more than two counting agents appointed by each candidates proceed further with the collation procedures as outline under Regulation 43 (1) (a-h) and in conformity with the detailed procedure as specified under pages 11 and 12 of exhibit EC45.
50. In resolving the issues above it is imperative to refer to the evidence of the parties to ascertain whether indeed there was non-compliance. There is evidence on record that collation at the Kpandai Constituency centre started with collation agents for both the Petitioner and 1st Respondent present and participated in the collation exercise.
51. Furthermore, collation at the said centre was going on smoothly as admitted by all parties in this proceeding until violence erupted and this resulted in temporary suspension of the collation at Kpandai Constituency Collation Centre.
52. The evidence before this court further indicate that calm was restored at the Constituency Collation Centre and collation resumed.
53. However, upon resumption of the collation, the petitioner per paragraphs 83, 86, 87, 88, 89, 91, 92, 93, and 95 of his witness statement reveal that the petitioner and or his collation agents were denied opportunity to continue with the subsequent collation processes, relocation of the collation centre and declaration of the results. The paragraphs are set out hereunder:

“83. The melee prompted a temporary suspension of the collation results of the just ended elections.

86. That was when we called the Petitioner to come in and ascertain why his agents could not take part of the collation exercise.

87. The Petitioner’s enquiries also resulted in temporary suspension in the collation exercise.

88. The District Electoral Commission Director of Kpandai said that due to the scuffle between the party supporters and the accompanying disruption, his team was going to act on instructions from above to complete the collation exercise separately without the parties and that we could also do our collation on our own.

89. When I protested I was told that I could go to court to contest his decision afterwards.

91. We later learnt that the Constituency collation exercise for the parliamentary elections in the Kpandai Constituency had been conducted at unknown location without recourse to the Petitioner or me.

92. Later on we saw vidoes of them declaring results of what purported to be the Kpandai Constituency results.

93. However, rather curiously, the 1st Respondent who was the beneficiary of the elections conducted by the Electoral Commission was present at the declaration of the results of the Parliamentary Election.

95. The results of the parliamentary elections in Kpandai were declared in non-compliance and violation of Regulations 43 of the Public Elections Regulations, 2020 (C.I. 127).”

54. The 2nd Respondent emphatically stated that as the entity charged with the conduct of the elections it complied fully with all relevant provisions as per paragraphs 6, 58 and 60 of the witness statement set out hereunder as follows:

“6. I say that on the 7th of December 2024, the 2nd Respondent complied fully with all relevant provisions of the Public Elections Regulations, 2020 (C.I. 127 as amended) in the conduct of the Parliamentary Election.

58. I say that upon the advice of the National Intelligence Bureau and the District Police Commander, announced publicly that the declaration would take place at the Electoral Commission’s Regional Office. The 1st Respondent and his team followed the 2nd Respondent officials as the military and police managed to provide safe passage out of the chaos caused by the Petitioner’s supporters.

60. I say that some Regional Executives of the Petitioner’s Political Party the (NDC) were present at the relocation collation centre. Attached and marked as Exhibit EC44 is video footage of the Regional Collation exercise showing the Regional Executives of the Petitioner’s Party who were present and represented the Petitioner at the collation at the Regional Office of the Electoral Commission.”

55. The relevant evidence of the 1st Respondent in this regard is found at paragraphs 9 and 59 of his evidence in which he asserted that the 2nd Respondent complied with Regulation 39 and 43 of C.I 127. The paragraphs are as follows:

“9. I further say that Regulations 39 and 43 of the Public Elections Regulations, 2020 (C.I. 127 as amended) were fully complied with.

59. I say that some Regional Executives of the Petitioner’s Political Party the (NDC) were present at the relocated collation centre including the Regional Secretary (Salam) and the party agent at the Regional Collation Centre popularly called “Prof”. ”

56. As per exhibit EC45, the Returning Officer ought to have allowed the collation agents of the petitioner in line with paragraph C of EC45 to wit:

“(c)Allow a candidate or his/her Collation Agent a reasonable opportunity to ascertain and satisfy himself/herself as to the fairness of any procedure or decision pertaining to the collation exercise.”

57. The exclusion of the petitioner's collation agents after calm was restored fundamentally contravened Regulation 43 (1) of C.I 127. The occurrence/eruption of violence at the collation centre notwithstanding, once collation resumed, the EC ought not to have denied the petitioner's agents opportunity to continue in the collation process.
58. This transpired during cross-examination of the 2nd Respondent by counsel for the petitioner regarding the presence and role/importance of agents at the collation centre. On 29th day of July 2025 and 13th October 2025 (page 88 and 106 of the record).

“Q: Before the violence broke on the date in question, Mr. Charles Kipo who gave evidence in this court, Nana Yaw, your good self, the Returning Officer, Osman Yussif and other persons were in constituency collation room collating results.

A: That is true

Q: You agree with me that the presence of respective party representative in the constituency collation room of EC office has a purpose.

A: I agree

Q: Can you genuinely tell the court some reasons why the party assigned representative to constituency collation room of Kpandai during the collation of the Parliamentary Election Result?

A: I can my Lord. One per the C.I. 127 Regulation 21 sub Regulation 3 they are there for the purposes of observing and to certify the collation processes as been done in accordance with the laws and regulations governing the elections.

Q: But would you agree with me that a candidate in a parliamentary election can be the beneficiary of a clerical error that ascribes to him votes that he has not earned?

A: My Lord I do not especially when there are check procedures at the polling stations by way of the agents signing and further at the collation

centre where the collation agents have the liberty to raise such issues before final collation.”

59. Simple errors in additions which could be corrected via re-collation and more fundamental issues such as the right to challenge results and request re-collation are recognized legal rights which the Petitioner was denied in virtue of the exclusion of his agents in the collation processes. Without doubt this has caused the petitioner unimaginable injury and prejudice. For instance, the 2nd Respondent at paragraphs 26 and 53 of his witness statement stated clearly that the presiding officers intended to write 394 ballots issued instead of 475 and also erroneously recorded 470 instead of 485.
60. The Petitioner and or his collation agents also lost rights to challenge specific ballot box/boxes. This is more compelling in the circumstances of this petition particularly when the evidence of the petitioner at paragraph 90 made it clear that the 2nd Respondent per its District Director of Kpandai was seen with some Police security escorts took the ballot boxes and drove from Kpandai out of town towards Bimbilla road to an unknown location. This court already made findings that the evidence of the petitioner's witness is credible.
61. The evidence of the 2nd Respondent as per paragraphs 26 and 53 are set out hereunder as follows:
- “53. That initially the value for total ballots issued to the polling station was erroneously recorded as 470 by the presiding officer which led to a discrepancy. However, during collation, the issue was recognized and quickly rectified to four hundred and eighty-five (485) with the participation of the petitioner's polling agent. It is also pertinent to note that all polling agents including Petitioner's, duly signed the pink sheet for this polling station. Attached and marked as Exhibit EC39 is the statement of Poll for the Office of the Member of Parliament (Pink sheet) for pentecost Church Loloto (M012305.”**
62. There is no evidence before this court that the alleged errors admitted by the 2nd Respondent as per paragraphs 26 and 53 were corrected before the results were declared.

63. Again the Returning Officer ought to have filled the **Parliamentary Election Results Collation Form with each polling station data for all the 152 except one polling stations** as per the requirement of EC45 (a) to wit:
- (a) **Fill the Parliamentary Election Results Collation Form (FORM ONE C) using the Parliamentary Election Polling station Results Form (Form EIGHT A) figures. Where an error is detected on the Form EIGHT A, the Presiding Officer shall effect changes on the original result sheet and sign against it. Party/Candidate Agents present may also countersign."**
64. It needs to be emphasized that the **Parliamentary Election Results Collation Form, FORM ONE C** captures results of all polling stations where the poll took place and in the circumstance of this matter 152 polling stations results except one. It is completed by the Returning Officer at the Constituency Collation Centre. It must further be noted that the Returning Officer is required to separately record the results of the Special Voting ballots on the **Parliamentary Election Results Collation Form, Form One C**. The results of the Special Voting is then added to the results from all the polling stations before declaring.
65. Furthermore, **Parliamentary Election Results Collation Form, FORM ONE C** must be filled by the Returning Officer before he fills the **Parliamentary Election Results summary sheet (Form One D)**. Again, it is the duty of the Returning Officer to fill these forms. After these forms are filled that same are subsequently made available to the candidates or their agents to sign. Whether the candidates/their agents sign or refuse to sign, it would not invalidate same. However, irrespective of whether they sign or not, they are entitled to copies as of right, which was not complied with as well.
66. With no evidence that collation was complete in the form of the required **Parliamentary Election Results Collation Form, FORM ONE C** as required by Regulation 43 of C.I 127. However, **Parliamentary Election Results Summary Sheet (Form One D)** was part of the evidence of the 1st and 2nd Respondents.
67. Collation must therefore be based on all the polling stations results in the constituency which is to be done by the Returning Officer. Therefore, no declaration of a winner can be done without prior collation and summation of the results from all the polling stations and the filling of the **Parliamentary Election Results Collation Form, Form One C** otherwise known as the **Constituency Collation Sheet**, which has been defined in **Regulation 50 of C.I. 127** to mean "the sheet that contains the **Parliamentary Results of All Polling Stations within the Constituency.**"

68. Thus, the petitioner having established non-compliance, the Respondents and more specifically the 2nd Respondent whose case is built on having fully complied with **Regulation 43 of C.I 127** as per paragraph 6 of the witness statement, and given the sphere of its independence in the performance/conduct of its functions, duties, control and possession of **Parliamentary Election Results Collation Form (Form One C)** in the conduct and supervision of the elections, ought to have made same part of its evidence before the court. In the circumstances it would be right to hold against the 2nd Respondent in non-compliance with **Regulation 43 of C.I 127**.

69. Furthermore, this Court is unable to see how in a serious matter of this nature when non-compliance with **Regulation 43 of C.I 127** is in issue, no efforts was made by the 2nd Respondent to indicate the status, if any, about the **Parliamentary Election Results Collation Form, FORM ONE C** which must be filled with the results of all the polling stations in the Kpandai Constituency where polls took place, in this case 152 except one Polling Stations, **total votes cast, total valid votes, rejected votes** etc. pursuant to which a summary came about in **Parliamentary Election Results Summary Sheet Form One D**. Without Form One C, the figures assigned/contained in Form One D cannot be verified in any manner, more particularly when petitioner's collation agents were denied opportunity to participate in the collation processes after calm was restored, relocating from Kpandai Constituency Collation Centre to the Regional Office of the Electoral Commission in Tamale where collation and declaration of the Parliamentary Election Results for the Kpandai Constituency was done without the involvement and participation of the Petitioner and or his collation agents. 2nd Respondent evidence on the 13th day of October 2025 is relevant as reproduced below:

“Q: But would you agree with me that a candidate in a parliamentary election can be the beneficiary of a clerical error that ascribes to him votes that he has not earned?”

A: My Lord I do not especially when there are check procedures at the polling stations by way of the agents signing and further at the collation centre where the collation agents have the liberty to raise such issues before final collation.”

70. The Petitioner, who is Ghanaian and who by the provisions of **Article 21(3) of the Constitution, 1992** has the right to contest a Parliamentary Election and who, indeed contested the Parliamentary Election of the Kpandai Constituency being aggrieved by the way the 2nd Respondent, charged with the constitutional and statutory mandate to

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conduct free, fair and credible elections in the Kpandai Constituency did not perform its functions in accordance with due process which gave undue advantage to the 1st Respondent.

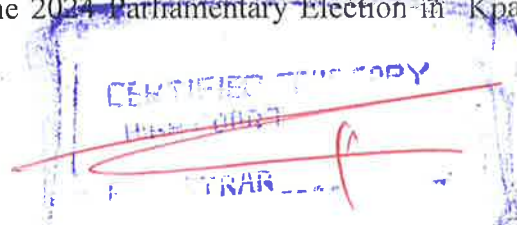
71. The Electoral Commission as a constitutional and statutory body performs administrative functions and under **Article 46 of the Constitution, 1992** in the performance of its functions was not subject to the control of any person or authority except the Constitution, 1992 and any other law not inconsistent with the Constitution, **Article 295(8) of the Constitution, 1992** provided that no provision of the Constitution or any law should preclude a court from exercising jurisdiction to ascertain whether the constitutional body had performed its functions in accordance with the Constitution or the law. Furthermore, **Article 23 of the Constitution, 1992** provided that in relation to the fundamental human rights and freedoms, administrative bodies and officials should act fairly and reasonably and comply with the law and therefore granted persons aggrieved by the acts and decisions of such bodies the right to such redress before a court. In the instant case, the petitioner's case inter alia was that as a citizen of Ghana, a voter who voted during the 7th December, 2024 election and a parliamentary candidate for the Kpandai Constituency he and or his agents were entitled to continue participation in the collation process at the Kpandai Constituency Collation Centre or office after the violence erupted but were excluded by the Electoral Commission, the 2nd Respondent. The exclusion of the petitioner's collation agents at the constituency collation centre after the violence constitutes breach of the audi alteram partem rule of natural justice.
72. Again, **Article 23 of the Constitution, 1992** (an article that falls under chapter five of the Constitution, a chapter that deals with the fundamental human rights and freedoms) provides that:

"23. Administrative bodies and administrative officials shall act fairly and reasonably and comply with the requirements imposed on them by law and persons aggrieved by the exercise of such acts and decisions shall have the right to seek redress before a court or other tribunal."

73. **Article 295(8) of the Constitution, 1992** says:

"(8) No provision of this Constitution or of any other law to the effect that a person or authority shall not be subject to the direction or control of any other person or authority in the performance of any functions under this Constitution or that law shall preclude a court from exercising jurisdiction in relation to any question whether that person or authority has performed those functions in accordance with this Constitution or the law."

74. It must be noted that the suspension of the collation exercise as a result of the violence and the subsequent resumption of same that is the collation exercise as well as re-locating from Kpandai to Tamale are administrative decisions, the application of natural justice principle ought to have been adhered to by the Electoral Commission, the 2nd Respondent. In other words, the administrative actions or decisions taken by the 2nd Respondent in the conduct of the 2024 Parliamentary Election in Kpandai,



does not repel the application of natural justice principle (audi alteram partem rule) as well as the duty to act fairly, reasonably and comply with the requirements imposed by law.

75. The evidence of the petitioner as per paragraphs 84, 85, 90 and 94 makes **Regulation 48 of C.I 127** inapplicable in as much as the petitioner and or his agents did not refuse to avail themselves when collation resumed after the violence. If the petitioner and or his collation agents at the Kpandai Constituency Collation Centre had refused/fail to avail themselves then Regulation 48 would have been applicable. **Regulation 48 of C.I. 127** states:

“48. (1) In these Regulations where an expression is used that requires, authorities, or implies that an act or thing is to be done in the presence of the candidates or the agents or counting agents of the candidates, those expressions shall be construed as a reference to the presence of the candidate or the polling agents or counting agents of the candidate authorized to attend and have attended at the time and place where the act or thing is being done.

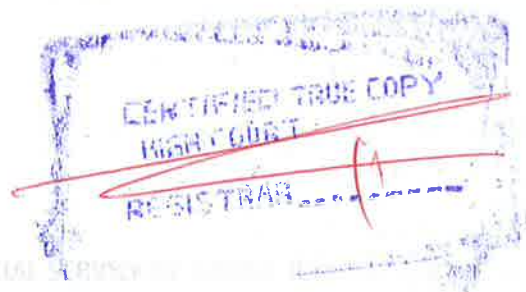
(2) The non-attendance of the candidate or the polling agent or counting agent of the candidate at the time and place shall not invalidate the act or thing done.”

76. The said paragraphs are set out here as follows:

“84. After the brief suspension, when the Electoral Commission Officers were going to resume the collation exercise they did not involve us again. They just went on with their collation and when I enquired from them why they had not invited us, they said that we had allowed the people to come into the collation centre and so they were not going to allow us to take part in the collation.

85. All efforts to get involved with the collation exercise proved futile because the Electoral Commission’s Director with the assistance of the Police commander insisted that we should not be part of it and kept us out.

90. The District Electoral Commission Director of Kpandai was seen with some Police security escorts took the ballot boxes and drove from Kpandai out of town towards Bimbilla road to an unknown location.



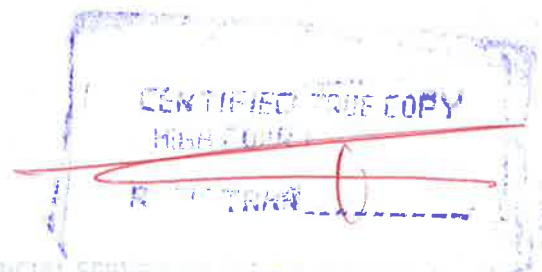
94. Under the circumstance neither the Petitioner nor I, were not given the opportunity to be present for the collation exercise at that unknown location.”

77. The Petitioner and his collation agents were denied opportunity to participate further in the collation process and not that they did not avail themselves as to warrant the invocation of Regulation 48 of C.I 127.

78. In **TEMA DEVELOPMENT CORPORATION & MUSAH v ATTA BAFFUOR [2005-2006] SCGLR 121**, the Plaintiff sued the TDC & the 2nd Defendant in the High Court Tema for inter alia declaration that he was the legitimate sitting tenant of the disputed premises and for ejectment of the 2nd Defendant. The Defendant lost and upon an Appeal to the Court of Appeal, the decision of the High Court was affirmed and the Defendants upon further Appeal to the Supreme Court, the Supreme Court dismissed the appeal and held that the Court of Appeal had rightly affirmed the decision of the High Court.

At pages 122-123 at holding (2) the Supreme Court stated:

“(2)The grounds upon which an administrative action would be subject to judicial review were illegality, irrationality and procedural impropriety. By “illegality” was meant the decision-maker must understand correctly the law regulating his decision-making power. “Irrationality” could be succinctly referred to as Wednesbury unreasonableness – applicable to a decision which was so outrageous in its defiance of logic or of accepted moral standards that no sensible person, applying his mind to the question to be decided, could have arrived at it. By “procedural impropriety” was meant not only failure to observe basic rules of natural justice or failure to act with procedural fairness towards the person who would be affected by the decision but also failure by an administrative tribunal to observe procedural rules expressly laid down in legislation by which its jurisdiction was conferred, even where such failure did not involve any denial of natural justice. *Associated Provincial Picture Houses Ltd v Wednesbury Corporation [1948] 1 KB 223* and *Council of Civil Service Unions v Minister for the Civil Service (supra)* (per Lord Diplock at 949 and 950-951) cited.”



79. The Petitioner satisfied the requirement of illegality, irrationality and procedural impropriety as per holding 2 of the above statement of the law.
80. In the case of **THE REPUBLIC v HIGH COURT (COMMERCIAL DIVISION, ACCRA) EX-PARTE: ELECTORAL COMMISSION (APPLICANT) PAPA KWASI NDUOM (INTERESTED PARTY)[2017]111 GMJ 210**. The Supreme Court upheld the decision of the High Court presided over by his Lordship Justice Eric Kyei Baffour against the Electoral Commission for breach of natural justice principle in terms of **Regulation 9(2) of C.I. 94**, that is the Public Election Regulations 2016.

The facts of the case are set out at page 211 of the report as follows:

“The Applicant is the Electoral Commission of Ghana constitutionally mandated to organize presidential and parliamentary elections including receiving nominations of candidates. The Interested Party is the Presidential Candidate for the Progressive Peoples Party (PPP) for the 2016 elections. The Applicant opened nominations and announced to the various political parties when all nomination papers would be received by returning officers for both the presidential and parliamentary candidates throughout Ghana. The dates were confirmed in a Press Release issued by the Chairperson of the Applicant. Meanwhile, the Public Elections Regulations, 2016 C.I 94, regulation 9(1)-(3) imposed a duty on the Applicant, to ensure that Returning Officers having received the forms and found any anomalies to give the candidates opportunity to either amend or alter the anomaly within the stipulated nomination period as stated in regulation 9(2) of C.I 94. In the case of the Interested Party, his nomination form was sent by the Chairman of the PPP to the Chairperson of the Applicant and was told that he would hear from the Applicant Commission. The Applicant thereafter announced that certain presidential candidates including the Interested Party herein had been disqualified for several reasons and that the Interested Party breached their own regulations 9(2) –(4). The applicant failed to give him and other disqualified candidates the opportunity to amend or alter whatever was found not to be proper with their forms; a conduct the Interested Party considered to be a breach of the rules of natural justice. The Interested Party applied to the High Court for judicial review by way of Certiorari and

Prohibition and the High Court granted the said application in part, namely, breach of the rules of natural justice, audi alteram partem, and then gave an order to quashed the decision whiles making a further order directed against the Applicant and its Chairperson to afford opportunity to the Interested Party to make the necessary alteration or amendments to its nomination paper for it to receive same and then proceed to determine whether the Interested Party had met all the criterial laid down by the laws of the Republic. Being dissatisfied with the ruling of the High Court, the Applicant has applied to this court for an order or certiorari to quash the said ruling.

The Supreme Court at holding (A) at page 214 stated inter alia:

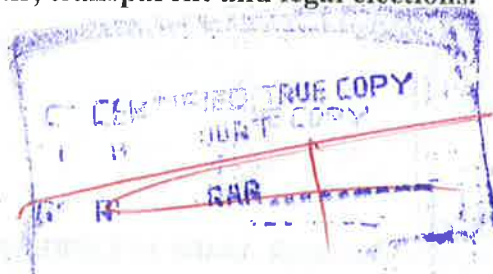
Since the complaint of the Interested Party was that the Applicant failed to give him a hearing before being disqualified, the most appropriate consequential order in the circumstances is to order the Applicant to give the Interested Party a hearing.”

81. The above decision demonstrate that the Electoral Commission, the 2nd Respondent is amenable to have its actions set aside and or nullified on grounds of breach of natural justice principles. Consequently, the conduct of the 2nd Respondent in denying the Petitioner and or his collation agents to continue to participate in the collation exercise at the Kpandai Constituency Collation Centre ought to be set aside as null and void and same is hereby set aside as null and void and all subsequent steps.
82. In a more recent Parliamentary Election related case of **Republic vrs High Court (General Jurisdiction 13), Accra; Ex-parte National Democratic Congress and 6 Others & the Electoral Commission of Ghana & 7 Others** (Interested Parties/Applicants) (2024) JELR 112830 (SC) with suit No. J5/17/2025 delivered on 27th December, 2024, the point was poignantly made by the Supreme Court to the effect that “our courts and courts globally, especially throughout the common law world, have consistently held the Audi Alteram Partem rule to be fundamental and sacrosanct rule.”
83. In **Republic vrs High Court (General Jurisdiction 13), Accra; Ex-parte National Democratic Congress and 6 Others & the Electoral Commission of Ghana & 7 Others**, (supra), the Supreme Court echoed the following words: “Where as in this case, the facts show that the interested party was deliberately excluded from proceedings by a judge who had full knowledge of his interest that would

amount to a violation of the right to be heard then the decision may be quashed on that ground.”

84. The Supreme Court touched on what it meant by an opportunity to be heard in the case of **Awuni v The West African Examination Council (2003-2004) SCGLR 471** where the court speaking through Sophia Akuffo JSC (as she then was) noted as follows: **“I will not venture to give a comprehensive definition of what is fair and reasonable, since this qualities are dictated by the circumstances in which the administrative function is performed. At the very least, however, it includes probity, transparency, objectivity, opportunity to be heard, legal competence and absence of bias, Caprice or ill-will.”**
85. Accordingly, the petitioner’s rights to stand for elections and be elected to Parliament in the conduct of the elections, which included collation processes had been denied by the act of the Electoral Commission, the 2nd Respondent in not acting fairly and reasonably and also in not complying with the law. The 2nd Respondent breached the mandatory requirement under **Article 23 of the Constitution, 1992** to act fairly and reasonably and in compliance with the requirements imposed by law. **Regulation 43 of C.I. 127** mandatorily required the returning officer to assemble *all* the results from *all* the polling stations and give public notice of the *correct total* number of votes cast for each candidate. Since there was no discretion in the performance of that function imposed by law, it was only when those conditions had been correctly complied with that the returning officer could publicly declare the candidate to whom the most votes had been given, to be elected. Where the Electoral Commission failed to comply with or committed any omission in respect of the provisions of **Regulation 43 of CI 127**, it would amount to non-compliance with the law. It has already been held that the Electoral Commission failed to comply with the provisions of **Regulation 43 of C.I 127**. Accordingly, the 2nd Respondent breached the mandatory requirement under **Article 23 of the Constitution, 1992** to act fairly and reasonably and in compliance with the requirements imposed by law, in relation to the petitioner who contested the parliamentary elections in the Kpandai Constituency.
86. In any litigation, the court and the parties are subject to the Constitution. In the case of **DR. KWAME AMOAKO TUFFUOR & OTHERS V. ELECTORAL COMMISSION & ATTORNEY-GENERAL [2017]108 G.M.J 88**, the Supreme Court at pages 100 & 101 stated as follows:

“The Electoral Commission is enjoined inter alia by article 51 to make by constitutional instrument “Regulations for the effective performance of” its duty. In Kwase Nyame – Tease Eshun v. The Electoral Commission and Attorney General, Suit No. J1/24/2016, SC., dated 27/10/2016; this court held that the Electoral Commission in the exercise of its functions under article 45 (c) and 51 has duty to conduct free, fair, transparent and legal elections.”



At page 101 the court stated:

“Certainly, the unjustifiable erosion of any constitutional provision in the exercise of its functions cannot be countenanced.

87. The irregularities, illegalities, breaches of natural justice principles and Constitutional Provisions which were occasioned in the election at issue at the Kpandai Constituency Collation Centre, re-location of the Kpandai Constituency Collation Centre from Kpandai to the Regional Office of the Electoral Commission in Tamale where collation and declaration allegedly took place did fundamentally affect the results of the election. These illegalities, violations of Constitutional Provisions, violations of C.I 127, breaches of natural justice principles which were occasioned in the election at issue at the Constituency Collation Centre, Kpandai and subsequent relocation to Tamale was such that collation and declaration of the Parliamentary Elections Results was not really conducted in accordance with law and due process requirement. This affected the results and/or open same to reasonable doubt whether the 1st Respondent Mr. MATHEW NYINDAM was really elected by majority of persons voting in accordance with the laws. The election of the 1st Respondent is hereby declared void. The court places reliance on Section 20(b) of **Representation of the People Law, 1992 P.N.D.C.L., 284** and the Supreme Court decision in the case of **IN RE PRESIDENTIAL ELECTION PETITION; AKUFO-ADDO, BAWUMIA & OBETSEBI-LAMPTEY (No 4) v. MAHAMA, ELECTORAL COMMISSION & NATIONAL DEMOCRATIC CONGRESS (No 4) [2013] SCGLR at page 144.**

88. Section 20 of Representation of the People Law, 1992 P.N.D.C.L., 284, states:

“20.(1)(b) that there has been non-compliance with a provision of this Act or of the Regulations and that it appears that the election was not conducted in accordance with the principles laid down by law and that the non-compliance affected the result of the election.”

89. **IN RE PRESIDENTIAL ELECTION PETITION; AKUFO-ADDO, BAWUMIA & OBETSEBI-LAMPTEY (No 4) v. MAHAMA, ELECTORAL COMMISSION & NATIONAL DEMOCRATIC CONGRESS (No 4) [2013] SCGLR at page 144,** the Supreme Court stated:

“We wish to conclude with the words of Kennedy J in the Islington West Division case; Medhurst v Laugh and Casquet (1901) 17 TLR. 210 (at page 230):



‘An election ought not to be held void by reason of transgressions of the law committed without any corrupt motive by the returning officer or his subordinate in the conduct of the election where the court is satisfied that the election was notwithstanding those transgressions, an election really and in substance conducted under the existing election law, and that the result of the election, that is, the success of the one candidate over the other was not and could not have been affected by those transgressions. **If on the other hand the transgressions of law by the officials being admitted, the court sees that the effect of the transgressions was such that the election was not really conducted under the existing election laws, or it is open to reasonable doubt whether the candidate who has been returned has really been elected by the majority of persons voting in accordance with the laws in force relating to elections, the court is then bound to declare the election void. It appears to us that this is the view of the law which had generally been recognized and acted upon by the tribunals which have dealt with election matters.**”

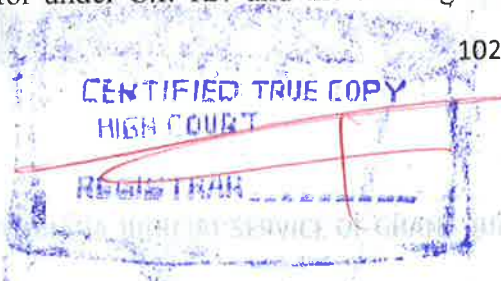
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“The Electoral Commission is enjoined inter alia by article 51 to make by constitutional instrument “Regulations for the effective performance of” its duty. In Kwase Nyame – Tease Eshun v. The Electoral Commission and Attorney General, Suit No. J1/24/2016, SC., dated 27/10/2016; this court held that the Electoral Commission in the exercise of its functions under article 45 (c) and 51 has duty to conduct free, fair, transparent and legal elections.”

At page 101 the court stated:

“Certainly, the unjustifiable erosion of any constitutional provision in the exercise of its functions cannot be countenanced.”

91. The exclusion of the Petitioner and or his collation agents in the collation exercise in breach of the alteram partem as well as the failure of the 2nd Respondent to dutifully comply with the procedures for collating Parliamentary Election Results as provided for under C.I. 127 and the training manual of the election officials 2024 could have



been remedied by an order to re-collate with the involvement of the agents of the parties. However, evidence before this court revealed substantial destruction of ballot boxes, BVD machines, Manual Verification Forms and other electoral materials as well as the conspicuous absence of a crucial document to wit **"Parliamentary Election Results Collation Form, Form One C** otherwise known as the **Constituency Collation Sheet**, which has been defined in **Regulation 50 of C.I. 127** to mean **"the sheet that contains the Parliamentary Results of All Polling Stations within the Constituency"** rendering the situation irreversibly compromised.

92. The reliefs that the High Court is statutorily required to declare or not to declare in an election petition after hearing is specifically provided for under **Section 19 of Representation of the People Law, 1992 P.N.D.C.L., 284**, which states that:

"After the hearing of an election petition the High court may make any of the following orders:

- (a) declare that the election to which the petition relates is void,
- (b) declare that a candidate other than the member whose election is questioned was duly elected, or
- (c) dismiss the petition and declare that the member whose election is questioned was duly elected."

93. The reliefs sought by the Petitioner would be analyzed and or considered in line with Statutory Provisions. The reliefs are reproduced hereunder as follows:

- "
- a. A declaration that the Parliamentary Election held in the Kpandai Constituency on 7th December 2024 was void by virtue of the irregularities and inconsistencies contained in FORM 8A (REGULATION 32(7) and 39(2) Statement of Polls for the Office of Member of Parliament (Pink Sheet) for Forty-one (41) polling stations out of a total One Hundred and Fifty-Two (152) Polling stations in the Kpandai Constituency.
 - b. A declaration that the irregularities and inconsistencies contained in FORM 8A (REGULATION 32(7) and 39(2) Statement of Polls for the Office of Member of Parliament (Pink Sheet) for Forty-one (41) polling stations out of a total One Hundred and Fifty-Two (152) Polling stations in the Kpandai Constituency have so extensively prevailed and reasonably affected the result of the election held in the Kpandai Constituency on 7th December, 2024.

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- c. A declaration that the non-compliance with Regulation 39 of the Public Elections Regulations 2020 (C.I 127) affected the parliamentary election results of Forty-One (41) Polling stations out of the one hundred and fifty-two (152) polling stations in the Kpandai Constituency held in the Kpandai Constituency on 7th December 2024.
- d. A declaration that the non-compliance with Regulation 43 of the Public Elections Regulations 2020 (C.I 127) affected the entire results of the parliamentary election held in the Kpandai Constituency on 7th December, 2024, thereby rendering the said results as void.
- e. An order setting aside the declaration of the parliamentary election results affecting the forty-one (41) polling stations out of a total of one hundred and fifty-two (152) polling stations in the Kpandai Constituency by the 2nd and 3rd Respondents given on the 9th of December 2024.
- f. An order directed at the 2nd and 3rd Respondents to conduct a re-run of the parliamentary elections in the affected Forty-one (41) polling stations out of a total of one hundred and fifty-two (152) polling stations in the Kpandai Constituency on a date determined by the court.

OR

In the alternative, an order directed at the 2nd and 3rd Respondents to re-collate the results in the affected forty-one (41) polling stations on a date determined by the Court.

- g. An order of interlocutory injunction directed at the 4th Respondent restraining the 4th Respondent from swearing in the 1st Respondent as Member of Parliament of the Kpandai Constituency on the 5th January 2025.
- h. An order setting aside the parliamentary results of the Kpandai Constituency for non-compliance with Regulation 43 of the Public Elections Regulation 2020 (C.I 127).
- i. An order directed at the 2nd and 3rd Respondents to conduct a re-run of the parliamentary elections in the Kpandai Constituency on account of the non-compliance with Regulation 43 of the Public Elections Regulations, 2020 (C.I 127) which rendered the entire results of the parliamentary elections in the Kpandai Constituency void.

OR

In the Alternative an order directed at the 2nd and 3rd Respondents to re-collate the results of the Kpandai Constituency in compliance with 43 of the Public Elections Regulations, 2020 (C.I 127).

- j. An order of interlocutory injunction restraining and preventing the 1st Respondent holding himself out as Member of Parliament elect for the Kpandai Constituency until the final determination of this suit.
- k. An order of interlocutory injunction restraining and preventing the 1st Respondent having access to the Chamber of Parliament until the final determination of this suit.
- l. An order of perpetual injunction restraining the 1st Respondent from holding himself out as member of parliament for the Kpandai constituency.
- m. An order of perpetual injunction restraining and preventing the 1st Respondent having access to the Chamber of Parliament Member of Parliament elect for the Kpandai constituency.
- n. Any other orders (s) that this Honourable Court may deem fit to make.

94. It must be noted that the word “may” as contained in **Section 19 of Representation of the People Law, 1992 P.N.D.C.L., 284** grants the court an option to declare the election to which it relates void, declare that a candidate other than the member whose election is questioned was duly elected or dismiss the petition and declare that the member whose election is questioned was duly elected. That is the court can grant only one of the reliefs as provided for under Section 19 of Representation of the People Law, 1992 P.N.D.C.L., 284

95. The verb ‘May’ as used in **Section 56(1) (c) of the Local Government Act, 1993 (Act 462)**, came up for interpretation by the apex court in **Kwabena Obeng & Anor v KMA & Anor [2017] 115 GMJ, SC**. The said section provides:

“(1) Subject to this Act a person.....

(c) who is aggrieved by any decision, action or policy relating to an approved development plan or the enforcement of it, may within six months after the date of the approval of the plans or of the revocation or variation of a permit or of the taking of the decision or action complained of, lodge a claim for redress or compensation with the District Planning Authority.”

The Supreme Court per Dotse JSC in the interpretation of “May”, held:

“We accordingly agree with the contention of learned counsel for the Defendants that all that the word ‘may’ used in **section 56(1) (c) of Act 462** means is that a person who is aggrieved by the acts or omission of the District Assembly ‘may’ seek

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compensation if he desires so to do but if he decides to claim compensation then it must be within six months.... The “**may**” therefore is referrable to the decision to pursue the payment of compensation if at all.”

96. A similar scenario requiring the interpretation of the word ‘may’ arose in relation to **Article 33(1) of the 1992 Constitution** in the case of **Edusei (No. 2) v Attorney-General (No.2) [1998-99] SCGLR 753**, at 788-789. Article 33(1) provides:

“(1) Where a person alleges that a provision of this Constitution on the fundamental human rights and freedoms has been, or is being or is likely to be contravened in relation to him, then, without prejudice to any other action that is lawfully available, that person may apply to the High Court for redress.”

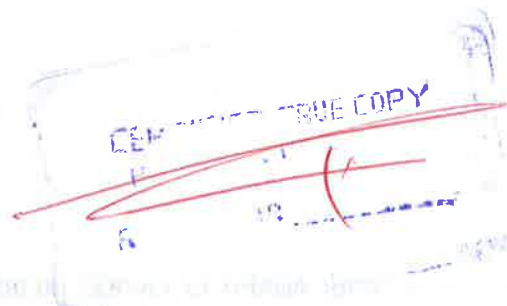
The Supreme Court per Acquah JSC (as he then was) held:

“In respect of the second expression, the “**may**” gives the victim of human rights violation the option of going to court to seek redress, the victim is under no compulsion to go to court for redress if he does not wish to go.”

It is clear from the foregoing that the word “**may**” as used in **Section 2 (1) of P.N.D.C.L. 114** does not relate to the applicant’s option to issue a writ of summons or file an application. It relates to the option of the family member who has an accrued right to sue, to decide whether to sue or not. The reason being that the law cannot compel a citizen to sue if he opts not to.

97. From the above statement of the law and applying same to the circumstances of this petition, taking into account the Statutory Provisions covering reliefs which may be granted by the High Court in an Election Petition under **Section 19 of Representation of the People Law, 1992 P.N.D.C.L., 284** and the reliefs sought by the petitioner and in virtue of peculiar circumstances of this petition I grant the following reliefs: (a) The court declare that the election to which the petition relates is void, that is the Parliamentary Election held in the Kpandai Constituency on 7th December 2024.

The Court by consequential order, orders a re-run of the KPANDAI parliamentary



WRITTEN ADDRESS FOR THE 1ST RESPONDENT

BACKGROUND

My Lord Atuguba JSC (as he then was) at page 35 of the Judgment of the Supreme Court in the case of *Nana Akufo Addo and others v John Dramani Mahama and others* WRIT No. J1/6/2013 quoted with approval the case of *Azam v Secretary of State for the Home Department* (1974) AC 18 at 75 HL dictum of Lord Salmon (dissenting) where it was said that “the right to vote is so fundamental that if a person entitled to vote in the House of Lords managed to enter the chamber without a pass as required his vote should not be invalidated.”

The Petitioner pursuant to leave granted by this Court filed his petition on 25/01/2025 before this Court after allegedly discontinuing the previous petition filed on 23rd December, seeking the following reliefs:

- o. A declaration that the Parliamentary Election held in the Kpandai Constituency on 7th December 2024 was void by virtue of the irregularities and inconsistencies contained in FORM 8A (REGULATION 32(7) and 39(2) Statement of Polls for the Office of Member of Parliament (Pink Sheet) for Forty-one (41) polling stations out of a total One Hundred and Fifty-Two (152) Polling stations in the Kpandai Constituency.
- p. A declaration that the irregularities and inconsistencies contained in FORM 8A (REGULATION 32(7) and 39(2) Statement of Polls for the Office of Member of Parliament (Pink Sheet) for Forty-one (41) polling stations out of a total One Hundred and Fifty-Two (152) Polling stations in the Kpandai Constituency have so extensively prevailed and reasonably affected the result of the election held in the Kpandai Constituency on 7th December, 2024.
- q. A declaration that the non-compliance with Regulation 39 of the Public Elections Regulations 2020 (C.I 127) affected the parliamentary election results of Forty-One (41) Polling stations out of the one hundred and fifty-two (152) polling stations in the Kpandai Constituency held in the Kpandai Constituency on 7th December 2024.
- r. A declaration that the non-compliance with Regulation 43 of the Public Elections Regulations 2020 (C.I 127) affected the entire results of the parliamentary election held in the Kpandai Constituency on 7th December, 2024, thereby rendering the said results as void.
- s. An order setting aside the declaration of the parliamentary election results affecting the forty-one (41) polling stations out of a total of one hundred and fifty-two (152) polling stations in the Kpandai Constituency by the 2nd and 3rd Respondents given on the 9th of December 2024.
- t. An order directed at the 2nd and 3rd Respondents to conduct a re-run of the parliamentary elections in the affected Forty-one (41) polling stations out of a total of one hundred and

fifty-two (152) polling stations in the Kpandai Constituency on a date determined by the court.

OR

In the alternative, an order directed at the 2nd and 3rd Respondents to re-collate the results in the affected forty-one (41) polling stations on a date determined by the Court.

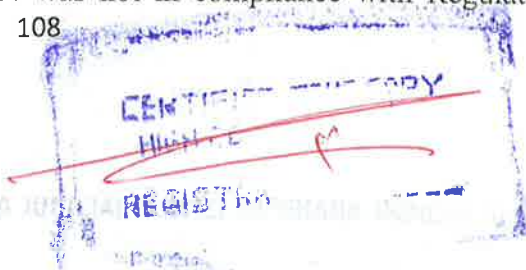
- u. An order of interlocutory injunction directed at the 4th Respondent restraining the 4th Respondent from swearing in the 1st Respondent as Member of Parliament of the Kpandai Constituency on the 5th January 2025.
- v. An order setting aside the parliamentary results of the Kpandai Constituency for non-compliance with Regulation 43 of the Public Elections Regulation 2020 (C.I 127).
- w. An order directed at the 2nd and 3rd Respondents to conduct a re-run of the parliamentary elections in the Kpandai Constituency on account of the non-compliance with Regulation 43 of the Public Elections Regulations, 2020 (C.I 127) which rendered the entire results of the parliamentary elections in the Kpandai Constituency void.

OR

In the Alternative an order directed at the 2nd and 3rd Respondents to re-collate the results of the Kpandai Constituency in compliance with 43 of the Public Elections Regulations, 2020 (C.I 127).

- x. An order of interlocutory injunction restraining and preventing the 1st Respondent holding himself out as Member of Parliament elect for the Kpandai Constituency until the final determination of this suit.
- y. An order of interlocutory injunction restraining and preventing the 1st Respondent having access to the Chamber of Parliament until the final determination of this suit.
- z. An order of perpetual injunction restraining the 1st Respondent from holding himself out as member of parliament for the Kpandai constituency.
- aa. An order of perpetual injunction restraining and preventing the 1st Respondent having access to the Chamber of Parliament Member of Parliament elect for the Kpandai constituency.
- bb. Any other orders (s) that this Honourable Court may deem fit to make.

The Petitioner enumerated the following as the nature of his claim: a. that there are irregularities and inconsistencies contained in FORM 8A(Regulations 32(7) and Regulations 39(2) statement of Polls for the Office of Member of Parliament (Pink sheet) for forty-one (41) polling stations out of a total of one hundred and fifty-two (152) polling stations in the Kpandai Constituency. b That the parliamentary elections of the Kpandai Constituency of 7th December 2024 was not conducted in compliance with Regulations 39 of the Public Elections Regulations 2020 (C.I 127) and c. that the declaration and publication of the parliamentary election results held in the Kpandai Constituency on 7th December 2024 was not in compliance with Regulations 43 of



Public Elections Regulations, 2020 (C.I 127) and that the non-compliance affected the entire results of the parliamentary elections in the Kpandai Constituency.

The 1st Respondent denied all the material allegations by the Petitioner and state that Regulations 39 and 43 of the Public Elections Regulations, 2020 (C.I 127 as amended) were fully complied with. Regards the collation and declaration of the results of the Parliamentary elections of Kpandai for the 7th December 2025 the 1st Respondent states that violence broke out at the originally designated collation centre necessitating the relocation of the collation centre for safety and security reasons after the Electoral Commission official in-charge of the Elections had announced the relocation. The 1st Respondent says that assuming without admitting that there are irregularities on the Forms 8As of some 41 Polling Stations the said irregularities are not substantial and did not materially affect the outcome of the Parliamentary Election Results of the Kpandai Constituency of 7th December 2024.

1st Respondent says that except two Form 8As out of the 41 Polling stations that the Petitioner is complaining of, the Form 8As of the remaining 39 polling stations were duly signed by the agents of the Petitioner thus attesting to the validity of the results declared at the polling stations. 1st Respondent says that even the refusal of the agents of the Petitioner to sign the other two Form 8As did not affect the validity of the results of those two polling stations. 1st Respondent states that there is absolutely no irregularity where more voters were verified than voted at the polling station since a voter could be verified but decided not to vote in the parliamentary but rather voted in the presidential which is within the right of that voter. Such cannot be deemed to be over voting in that polling station.

In summary 1st Respondent asserts that the Parliamentary Elections of 7th December, 2024 of the Kpandai Constituency was regularly and lawfully conducted and there were no statutory infractions. That the Petitioner lost the elections genuinely and his petition before the court was unmeritorious for which reason same ought to be dismissed with punitive cost.

ISSUES SET DOWN FOR TRIAL

All the issues proposed by the Petitioner and the 1st and 2nd Respondents were set down for trial as follows:

Issues raised by the Petitioner

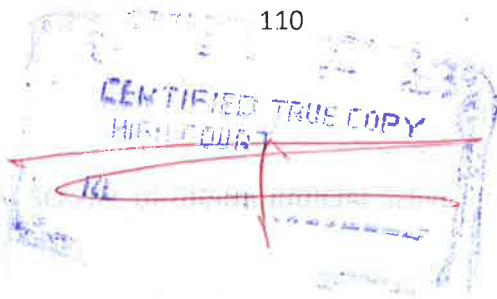
1. Whether or not the irregularities and inconsistencies contained in FORM 8A(Regulation 32 (7) and 39(2) Statement of polls for the office of Member of Parliament (Pink sheet) for Forty-one (41) polling stations out of a total of one hundred and fifty-two (152) polling stations in the Kpandai Constituency have so extensively prevailed and have reasonably affected the result of the election held in the Kpandai Constituency on 7th December, 2024.
2. Whether or not the non-compliance with Regulation 39 of the Public Elections Regulations, 2020 (C.I 127) affected the parliamentary election results of Forty-one (41) polling stations out of a total of one hundred and fifty-two (152) polling stations in the Kpandai Constituency held in the Kpandai Constituency on 7th December, 2024.
3. Whether or not the non-compliance with Regulation 43 of the Public Elections Regulations 2020 (C.I 127 rendered the entire results of the parliamentary elections in the Kpandai Constituency void.

Issues raised by the 1st Respondent

1. Whether or not there were widespread malpractices and irregularities or statutory breaches which materially and substantially affected the outcome of the 2024 Parliamentary Election Results for the Kpandai Constituency.
2. Whether or not the results of the Kpandai Parliamentary Elections of the December 7, 2024 were collated from 7th December 2024 up to a point before accredited Party Agents and the media but only had to be relocated to be completed at the Regional Office of the 2nd Respondent due to security threat.
3. Whether or not the assigned electoral official of the 2ND Defendant gave Notice to accredited Party Agents and the Media that it was relocating the collation centre to its Regional Office due to security threat.
4. Whether or not the Petitioner and his Party's Accredited Agents neglected their duty when they refused to follow the 2nd Respondent's officials to the new collation centre.
5. Whether or not in the absence of Petitioner and his agents some Regional Executives of the National Democratic Congress were present and witness the collation of the results of the Kpandai Parliamentary Elections at the Regional Office of the 2nd Respondent.

ISSUES RAISED BY THE 2ND RESPONDENT

1. Whether or not the 2nd Respondent conducted the Parliamentary election for the Kpandai Constituency in full compliance with the provisions of the Elections Regulations, 2020 C.I 127 as amended.
2. Whether or not the minor inconsistencies and irregularities found on some of the Statement of polls for the office of the Member of Parliament (Pink Sheet) significantly and ultimately impacted the final results of the election conducted by the 2nd Respondent.



3. Whether or not the Petitioner rallied his supporters to cause acts of vandalism and violence at the collation centre when it became apparent that he had lost the election.

LEGAL PRINCIPLES

STADARD AND BURDEN OF PROOF

My Lord an election petition is a species of civil action and the general principle is that the burden of proof in respect of civil matters is on the plaintiff thus, the Plaintiff and for this matter the Petitioner ought to produce sufficient evidence before this Honourable Court to prove to the satisfaction of the court that he is entitled to the reliefs he seeks on the preponderance of probabilities.

Section 11 (1) of the Evidence Act, 1975 (N.R.C.D 323) provides that "For the purpose of this Act, the burden of producing evidence means the obligation of a party to introduce sufficient evidence to avoid a ruling on the issue against that party."

Section 11 (4) of N.R.C.D. 323 on the other hand provides that "In other circumstances the burden of producing evidence requires a party to produce sufficient evidence so that on all the evidence a reasonable mind could conclude that the existence of the fact was more probable than its non-existence".

Section 11 (4) of N.R.C.D. 323 further [provides that "Except as otherwise provided by law, the burden of persuasion requires preponderance of probabilities"

Preponderance of the probabilities is defined by section 12(2) of N.R.C.D. 323 to mean "that degree of certainty of belief in the mind of the tribunal of fact or the court by which it is convinced that the existence of a fact is more probable than its non-existence."

In respect of the allocation of the burden of persuasion, Section 14 of N.R.D.C 323 states that "Except as otherwise provided by law, unless and until it is shifted a party has the burden of persuasion as to each fact the existence or non-existence of which is essential to the claim or defence he is asserting."

My Lord in the Supreme Court case of **Ababio v Akwasi III [1994-75] GBR 774** further cited in the case of **Citizen Kofi Entertainment Concept Ltd v Guinness Ghana Breweries Ltd. (2012) GMJ 167**, Aikins JSC (as he then was) in delivering the judgment of the court stated at page 777 thus "The general principle of law is that it is the duty of a plaintiff to prove his

case, i.e. he must prove what he alleges. In other words, it is the party who raises in his pleadings an issue essential to the success of his case who assumes the burden of proving it. The burden only shifts to the defence to lead sufficient evidence to tip the scale in his favour when on a particular issues, the plaintiff leads some evidence to prove his claim, if not he loses on that particular issue.”

In the case of MAJOLAGBE v LARBI (1959) GLR 190 and ZABRAMA v SEGBRDZI (1991) 2 GLR 221, both Courts clearly indicated that where a party makes an averment, particularly an averment on a substantial fact which is denied by his or her opponent the party has a legal obligation to prove the fact alleged.

In explaining what is meant by “proof” in law Kpegah JA (as he then was) stated in ZABRAMA v SEGBEDZI (supra) at page 246 of the Report as follows;

“I will therefore venture to state the position to be, a person who makes an averment or assertion which is denied by his opponent has the burden to establish that his averment or assertion is true. And he does not discharge this burden unless he leads admissible and credible evidence from which the fact or facts he asserts can properly and safely be inferred. The nature of each averment or assertion determines the degree and nature of that burden.”

In a unanimous decision of the Supreme Court in the case of John Dramani Mahama v Electoral Commission & Nana Addo Dankwa Akufo-Addo (Writ No. J1/05/2021), judgment delivered on 4th March 2022 the Supreme Court summarised the law on standard of proof, burden of proof and persuasion as follows on pages 15,16 & 17 of the judgement as follows:

STANDARD OF PROOF, BURDEN OF PROOF AND PERSUASION

A Petition of this nature is a form of civil litigation and all civil cases; the standard of proof is one on the balance of probabilities or preponderance of the probabilities. The proof prescribed in civil trials is provided under section 10, 11 and 12 of the Evidence Act, 1975 [NRCD 323]. These sections on the burden of proof, burden of persuasion and burden of producing evidence, which apply equally to election petitions, provides thus: 10. (1) For the purposes of this Act, the burden of persuasion means the obligation of a party to establish a requisite degree of belief concerning a fact in the mind of a tribunal of fact or the court (2) The burden of persuasion may

require a party(a) to raise a reasonable doubt concerning the existence or non-existence of a fact by a preponderance of the probabilities or by proof beyond a reasonable doubt.

11. (1) For the purpose of this Act, the burden of producing evidence means the obligation of a party to introduce sufficient evidence to avoid a ruling on the issue against that party 12. (1) Except as otherwise provided by law, burden of persuasion requires proof by a preponderance of the probabilities...

(2) 'Preponderance of the probabilities' means that degree of certainty or belief in the mind of the tribunal of fact or the Court by which it is convinced that the existence of a fact is more probable than its non-existence".

As was held by this Court per Adinyira JSC in Ackah v Pergah Transport Ltd [2010] SCGLR 728 at p. 736: "it is a basic principle of the law on evidence that a party who bears the burden of proof is to produce the required evidence of the fact in issue that has the quality of credibility short of which his claim may fail..."

See also Aryee v Shell Ghana Ltd & Fraga Oil Ltd (2017-2020) SCGLR 721@733, where this court speaking through Benin JSC, had this to say; "It must be pointed out that in every civil trial all what the law required is proof by preponderance of probabilities: See section 12 of the Evidence Act, 1975 (NRCD 323). The amount of evidence required to sustain the standard of proof would depend on the nature of the issue to be resolved. The Law does not require that the court cannot rely on the evidence of a single witness in proof of the point in issue. The credibility of the witness and his knowledge of the subject-matter as determinant factors: See Armah v. Hydrafoam Estates (Gh)Ltd (2013-2014) 2 SCGLR 1551. Indeed, even the failure by a party himself to give evidence cannot be used against him by court in assessing his case: this court's decision in Re Ashalley Botwe Lands: Adjetey Agbosu v Kotei (2003-2004) SCGLR 420 per Georgina Wood JSC (as she then was) @ page 448: and Armah v Hydrafoam Estates Gh Ltd. Referred to (Supra). In the last case cited, the plaintiff did not testify in the suit and this Court considered the process valid so long as the evidence relied yet he was credible and sufficient to discharge evidential burden he assumed."

Cases on election petitions in Africa and other common law jurisdiction give credence to the notion that such cases where a petitioner seeks to annul an election or a declaration pertaining to an election, he bears the legal burden of proof throughout. 1. ABU-BAKR V YAR' ADUA [2009] ALL FWLR (Pt 457) 1 SC 2. ODINGA v UHURU KENYATTA [2013] PETITION (NO. 5 3. OPITZ v WRZESNEWSKJI [2012]SCC554. BESIGYE v MUSEVENI YOWERI KAGUTA & ELECTORAL COMMISSION OF UGANDA [2001] UGSC.

In the Uganda case of Besigye v Museveni & Electoral Commission of Uganda (supra), the Uganda Supreme Court held:

“The burden of proof in election petitions as in other civil cases is settled. It lies on the petitioner to proof his case to the satisfaction of the court.” In the Yar'Adua case the Supreme Court of Nigeria held: **“that the burden is not on the petitioner to prove, not only non-compliance with the electoral law, but also that the non-compliance affected the results of the election...”** This Court adopted the same principle in the first Presidential Election Petition, titled Akufo Addo, Bawumia&Obetsebi Lamptey v. Mahama&Electoral Commission (No.4)(2013) SCGLR (Special Edition) 73”.

My Lord I shall now proceed to address the issues. I seek leave to address issues 1& 2 of the Petitioner and issue 1 of the 1st Respondent and issues 1&2 of the 2nd Respondent's issues which we consider as the germane issues before this Court. We shall address them together same virtually being the same or since a resolution of one will lead to the resolution of the others. These issues are:

1. Whether or not the irregularities and inconsistencies contained in FORM 8A(Regulation 32 (7) and 39(2) Statement of polls for the office of Member of Parliament (Pink sheet) for Forty-one (41) polling stations out of a total of one hundred and fifty-two (152) polling stations in the Kpandai Constituency have so extensively prevailed and have reasonably affected the result of the election held in the Kpandai Constituency on 7th December, 2024.
2. Whether or not the non-compliance with Regulation 39 of the Public Elections Regulations, 2020 (C.I 127) affected the parliamentary election results of Forty-one (41) polling stations out of a total of one hundred and fifty-two (152) polling stations in the Kpandai Constituency held in the Kpandai Constituency on 7th December, 2024.

Issues raised by the 1st Respondent

1. Whether or not there were widespread malpractices and irregularities or statutory breaches which materially and substantially affected the outcome of the 2024 Parliamentary Election Results for the Kpandai Constituency.

ISSUES RAISED BY THE 2ND RESPONDENT

1. Whether or not the 2nd Respondent conducted the Parliamentary election for the Kpandai Constituency in full compliance with the provisions of the Elections Regulations, 2020 C.I 127 as amended.
2. Whether or not the minor inconsistencies and irregularities found on some of the Statement of polls for the office of the Member of Parliament (Pink Sheet) significantly and ultimately impacted the final results of the election conducted by the 2nd Respondent.

My Lord the Petitioner in his petition indicated the nature of petitioner's claim what we respectfully believe should have been his grounds of the petition in paragraphs 8a, b, and c which said paragraphs were reproduced verbatim in paragraphs 12, 13 and 14 of the evidence in-chief of PW1 who testified for the Petitioner at the trial as follows:

12. There were inconsistencies contained in FORM 8As that relate to Regulation 32(7) and Regulation 39(2) being the statement of Polls for the Office of Member of Parliament (Pink sheet) for forty-one (41) polling stations out of a total of one hundred and fifty-two (152) polling stations in the Kpandai Constituency.

13. The parliamentary election held in the Kpandai Constituency of 7th December 2024 was not conducted in compliance with Regulations 39 of the Public Elections Regulations 2020 (C.I 127) and the principles laid down by Regulations 39 and that the said non-compliance affected the results of the elections.

14. And the declaration and publication of the parliamentary election results held in the Kpandai Constituency on 7th December 2024 was not in compliance with Regulations 43 of Public Elections Regulations, 2020 (C.I 127) and the principles laid down by Regulations 43 and that the said non-compliance affected the entire results of the parliamentary elections in the Kpandai Constituency.

My Lord, as part of its mandate the Electoral Commission had **PUBLIC ELECTIONS REGULATIONS, 2020 C.I. 127 as amended** (Hereinafter referred to as C.I 127) passed to govern the conduct of the 2024 General Elections.

My Lord I shall reproduce the relevant provisions of C.I 127 that Petitioner claims were not complied with by the 2nd Respondent and demonstrate under same how this allegation of the Petitioner is unfounded and unmeritorious.

Regulation 32 of C.I 127 Identification and verification of voters

Regulation 32(7) of C.I 127 states:

At the end of the voting and before counting of the ballots, the number of persons manually verified shall be entered in the second box in C6 on the Statement of Poll for the Office of Member of Parliament as set out in Form Eight A of the Schedule and the Statement of Poll for the Office of President as set out in Form Eight B of the Schedule.

Regulation 39 of C.I 127 Result of elections

39(1) The presiding officer shall immediately after the close of the poll, in the presence of the candidates or the representatives of the candidates and counting agents

- (a) open each ballot box and take out all the ballot papers in the box;
- (b) sort out the ballot papers into valid ballot papers and rejected ballot papers in accordance with regulation 40;
- (c) proceed to count the ballot papers at the polling station;
- (d) record the total number of votes cast in favour of each candidate; and
- (e) record the total number of rejected ballots.

(2) The presiding officer, the candidates, or their representatives and the counting agents shall then sign a declaration as set out in Form Eight A and Form Eight B of the Schedule stating (a) the name of the polling station; (b) the total number of persons entitled to vote at that polling station; (c) the number of votes cast in favour of each candidate; and (d) the total number of rejected ballots.

(3) The presiding officer shall (a) then announce the results of the voting at that polling station before communicating the results to the returning officer; (b) give each candidate, or the representative of each candidate or the counting agent a copy of the declaration of results; and (c) post the results at the polling station.

(4) A candidate or a representative of a candidate or a counting **agent may, if present** when the counting of the ballots is completed, request the presiding officer to (a) re-count the ballots; and (b) again re-count the ballots for a second time.

(5) The presiding officer may refuse to comply with the request to re-count the ballots for a second time if, in the opinion of the presiding officer the request is unreasonable and shall report the matter to the returning officer; who shall re-count the ballots for that polling station only at the constituency collation centre.

(6) The presiding officer shall, as soon as practicable after the announcement of the results of the voting at the polling station in the presence of any of the candidates, the representatives of the candidates and the counting agents, make up into separate packets sealed with the seal of the presiding officer and the seals of the counting agents who wish to affix their seals (a) each ballot box used at the station, in order to prevent the introduction of additional ballot papers; (b) the unused and spoilt ballot papers placed together; and (c) the marked copies of the register and the counterfoils of the used ballot papers.

(7) The presiding officer shall deliver the packets and the ballot boxes specified under sub regulation (6) to the returning officer with a statement indicating (a) the number of ballot papers entrusted to the presiding officer; and (b) an account of unused and spoilt ballot papers.

My Lord regulation 43 of C.I 127 provides as follows:

Declaration and publication of parliamentary election results

43. (1) Subject to regulation 42, immediately after the results of the poll for all the polling stations in the constituency of the returning officer have been given to the returning officer the returning officer shall, in the presence of the candidates or the representatives of the candidate or not more than two counting agents appointed by each candidate,

(a) assemble the results from the polling stations without re-counting the ballots in the ballot boxes, except where there is a challenge by a candidate or a counting agent in respect of a specific ballot box;

(b) fill the Parliamentary Election Results Summary Sheet as set out in Form One D of the Schedule;

(c) give public notice of the total number of votes cast for each candidate;

(d) publicly declare as elected in a parliamentary election the candidate who had the highest votes;

(e) request the candidates, or the representatives or counting agents of the candidates to, together with the returning officer, sign the Parliamentary Elections Results Collation Form as set out in Form One C of the Schedule and the Parliamentary Election Results Summary Sheet as set out in Form One D of the Schedule and post a copy at the constituency collation centre;

(f) give each candidate, or the representative or counting agent of a candidate a completed and signed copy of the Parliamentary Elections Results Collation Form as set out in Form One C of the Schedule and the Parliamentary Election Results Summary Sheet as set out in Form One D of the Schedule; (g) endorse on the writ specified in Form One B of the Schedule the name of the person elected; and

(h) forward to the Commission, the endorsed writ and a note of the total number of votes cast for each candidate.

(2) The Commission shall, on receipt of an endorsed writ, (a) publish in the Gazette a notice stating the name of the person elected and the total number of votes cast for each candidate; and

(b) inform the Clerk to Parliament soon after that, of the name of the candidate elected.

My Lord Suffice to say that Regulations 32(7), 39 and 43 of C.I 127 deal with after voting situations which are largely administrative procedures which assuming there is a failure to perform such administrative duties cannot and does not override the constitutional right exercised by the voters in queuing for long hours or the whole day in some instances to exercise that right.

My Lord Petitioner in his entire petition keeps on talking about ballot accounting. He never complained that voting did not take place at any of the 152 Polling Stations on the Election day. PW1 who testified for the Petitioner confirms this at page 18 of the record of proceedings:

Q. In your entire petition including your witness statement you have never stated even in a single instance that a voter queued to vote on the election day and was prevented from casting his/her vote?

A. Yes.

My Lord the statement *"You and I were not there"* gained popularity following proceedings before the Supreme Court of Ghana in the 2012 Presidential Election Petition. In fact PW1 at cross examination confirmed that he was indeed not present at even a single polling station on election day. He equally admitted that because the candidates cannot be present at all the polling stations on election day that is why each and every candidate appoints agents to represent them at the polling station. The following ensued at cross examination of PW1 by counsel for the 1st Respondent at page 18 of the record of proceedings:

Q. You will agree with me that you were not personally present in all the 41 polling stations in issue?

A. That is so.

Q. Because the candidates could not have been at all polling stations at the same time that is why polling agents were trained by the EC and the political parties, is that correct?

A. That is correct.

Q. The Petitioner had agents in some instances two agents at all the 41 polling stations on the polling day, is that correct?

A. Yes.

Q. You will agree with me that the agents were trained on how to raise concerns or objection on the declared results of a polling station?

A. Yes My Lord they were trained.

Q. Tell the court how many objections or reports the petitioner had from his agents in the 41 polling station and which has been field before this court?

A. I cannot expressly state.

My Lord with the greatest of respect, the Polling Station Agents are key witnesses and have first-hand information on the true happenings at the polling stations on election day and are in a better

position to give account than PW1 who was sitting in the collation centre. Surprisingly Petitioner never bothered to call any of his polling agents at the 41 polling stations in issue especially the Petitioner's agents who raised objection to the three polling stations namely LA Primary School Kojo Boni, L/A PRIMARY SCHOOL WIAE, and D/A PRIM SCHOOL DODOAI.

My Lord, if the Petitioner's Agents raised three objections out of the 152 polling stations which they even failed to cite any reason for the objection, how could Petitioner then come to court hoping for re-run in the 41 so-called affected polling stations or re-collation of the results of those affected polling stations on the lack of ballot accounting when no certified accountant was engaged by the Court or stakeholders in the election to audit the administrative works involved on the filling of the Form 8As? Moreover, Petitioner and his agents had the opportunity to raise objections at the polling stations and even at the collation centre but they ignored such opportunities.

My Lord the irregularities the Petitioner heaps so much hope in and decided to commence his petition in court seeking to overturn the sovereign will of the people of Kpandai Constituency are so trivial that this Court ought to reject same outright on the basic principle that the court does not concern itself with trivialities rendered in Latin *de minimis non curat lex*.555555

How on earth would a Presiding officer's failure to indicate the serial numbers of the ballot booklets, the total votes cast, the number of voters verified manually or biometrically on the Form 8A, and the number of rejected ballots for example be considered as irregularities capable of annulling the constitutional right of the voters of the Kpandai Constituency?

My Lord the Petitioner actually with the greatest of respect came to court to engage in deep sea fishing. We say so because even the polling stations that Petitioner does not have any challenge with (152-41=111) the petitioner never demonstrated to the court the number of votes he pulled in the 111 polling stations that he has no complaint of.

My Lord it is uncontroverted that the agents of the Petitioner in some instances two agents **SIGNED ALL EXCEPT TWO of the pink sheets of the 41 polling stations** that are in issue before this Court. The Petitioner's Agents who "saw it all" and are in a better position to tell the happenings at the polling stations on the election day certified the results as validly conducted and declared at the Polling Stations.

We are therefore of the considered opinion that the mere administrative errors or irregularities on the face of the Pink sheets such as failure to state the total number of votes cast, the serial numbers of ballots which are trans positional or mere arithmetic errors did not materially or substantially affect the outcome of the 7th December Parliamentary Election results of Kpandai.

My Lord, we say so because there are other means of independently verifying on the face of the pink sheets whether the individual votes pulled by the various candidates in the election was capable of making the candidate the winner at the polling station or not.

For example if the Presiding officer fails to record the total number of votes cast at the polling station, it is the matter of summing up the individual votes recorded by each candidate at the polls and the total would be known. In fact PW1 admits this position revealed from his answer to a question on his allegation that total votes in ballot box for Dodoai Polling station was not recorded at cross examination at page 36 of the record of proceedings as follows:

Q. For someone to be declared a winner at the polling station we look at whether he pulled the majority votes as recorded, is that not so?

A. Yes.

Suffice to say that largely it turned out at cross examination that the errors the Petitioner complained of do not exist after all on the faces of the pink sheets for the 41 polling stations from the originals of the pink sheets that the 2nd Respondent brought to court and even from the copies of the Pink sheets that 1st Respondent tendered into Court. Taking Dodoai for example Petitioner's claim that total valid votes in ballot box was not indicated same turned out to be untrue. All the Petitioner could say after this exposure was that the copies of the Pink Sheets given to Petitioner by the 2nd Respondent were not the same the 2nd Respondent brought to Court.

The following ensued at cross examination of pw1 at page 35 of the record of proceedings:

Q. I want you to take a look at the original pink sheet of Dodoai. You will agree with me that the totals of votes are indicated, is that correct?

A. Yes my Lord.

Q. Take a look at the 1st Respondent's copy of Dodoai Marked EC6. The totals of the votes are equally indicated there, is that correct?

A. Yes My Lord.

Q. You will therefore agree with me that your claims that the total votes for Dodoai were not recorded is not true from what you saw on the original pink sheet and the copies from both EC and the 1st Respondent?

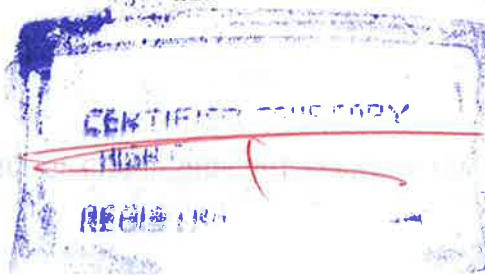
A. My Lord it is true that it was recorded based on what I saw on the pink sheets that were given to us by the 2nd respondent. What he showed me was not what we were privy to. In addition that is why I said it was difficult for me to say yes or no. My Lord from the face of the pink sheet what the 2nd Respondent gave us, the total valid votes is 413 quite different from what he has shown me.

My Lord from the above pieces of evidence, PW1 admits that what he said about Dodoai was not true but is quick to put the blame on the 2nd Respondent alleging that different pink sheets were given to the Petitioner. My Lord interestingly the 1st Respondent's copies are exactly as that of the 2nd Respondent.

We submit that Petitioner's copies of the 41 Pink sheets in issue differ from that of the 2nd Respondent and the 1st Respondent's copies because the Petitioner decided to submit scanned copies of the Form 8As on A4 sheets which reduces the size and visibility of the contents thereby not passing as "copies" of the Form 8As that the EC provided to the agents of the Political Parties at the Polling Centre.

My Lord 2nd Respondent possesses the official copies of the Form 8As and between the copies of the 2nd Respondent and the Petitioner the 2nd Respondent's copies are more official. The fact that the 1st Respondent's copies are the same as that of the 2nd Respondent's copies clearly proves that Petitioner brought in copies in a different format just to serve his egoism.

My Lord, it is absolutely ridiculous and absurd, that the fact that it was captured on the Form 8A which discloses that more voters were verified at a particular polling station than voted for example 425 verified and 421 voted means that there is over voting or a malpractice that gives an



on due advantage to the 1st Respondent when the obvious meaning of such is that not all the voters who were verified voted in the election.

My Lord the Supreme Court of Ghana made definite pronouncement on some irregularities concerning the administrative functions of election officials to the effect that such failure to perform or such irregularities even where the terms sound mandatory do not invalidate election results:

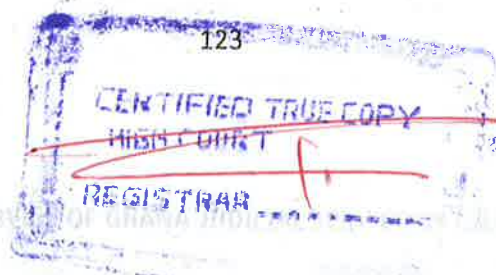
My Lord the issue of lack of signature of agents or Presiding or Returning Officers on an election results document which is one key administrative function or duty of the 2nd Respondent couched in mandatory terms came up in the case of **Nana Addo Dankwa Akufo Addo Others Vrs John Dramani Mahama Others (J1 6 of 2013) [2013] GHASC 5 (29 August 2013)** often referred to as the 2012 Presidential petition. *Atuguba JSC had this to say*

'It is globally established that where a constitutional infraction causes no injustice by way of injurious prejudice to a person, such infraction should not have an invalidating effect. the underlying purpose of the signatures of the presiding officers and polling agents on the pink sheets is to provide evidence that the results to which they were relate were those generated at the relevant polling station in compliance with the constitutional and statutory requirements, otherwise each signature in itself has no magic about it.'

Adinyira (Mrs) JSC as she then was at page 145 of the same judgment had this to say:

'Both the polling agent and presiding officer have the obligation of certifying the regularity of the poll in accordance with the laws and regulations. that's why the agent must pay attention to the sorting and counting of the ballots. Compliance failure do not automatically void an election; unless explicit statutory language specifies the election is voided because of the failure. There is no law to that effect i.e. CI, Constitution or Act.'

From the foregoing I would in the absence of explicit statutory language that specifies the election is voided because of the failure of the signature of a presiding officer; conclude that the votes on the unsigned sheets are valid. Failure by Presiding Officers to sign declaration forms did not affect the results of the elections at the respective polling stations. The presiding officers who did not sign the declaration forms are liable to be sanctioned.'



Respectfully, My Lord we rely on the above authoritative pronouncement by Adinyira (Mrs. JSC as she then was and state that all the errors the petitioner is in court complaining of, which do not even exist in most cases on the face of the Pink sheets of the 41 polling stations in issue namely non-recording of the totals of the votes on the pink sheet, non- recording of serial numbers of booklets, among others assuming without admitting that such errors existed on the faces of the Pink sheets of the 41 polling stations, statute or the constitution does not provide expressly that the results in such situation should be voided or annulled.

What statute or the C.I 127 provides was filing challenges or objections which could lead to scrutiny of the affected pink sheets by all stakeholders from which a decision could then be taking by the Electoral Commission but the Petition did not utilise this opportunity.

My Lord I now seek leave to address the issue of non-collation of the Parliamentary Election results in issue.

Respectfully, we concede that C.I 127 made provisions for the assembling or collation of parliamentary election results in the presence of candidates or their duly accredited agents (see Regulation 43(1) as stated supra. Must candidates or their agents be there before collation can be done? And if collation and declaration of the results is done in the absence of the candidates and their agents, does not void or nullifies the election results? The answer is obviously no!

The 1st Respondent was present at the declaration so counsel submit that the election is not null and void.

My Lord it is unfortunate that learned counsel for Petitioner focused so much on Regulation 43 of C.I 43 in falsely and forcefully claiming that collation and declaration of election results cannot be done in the absence of candidates and their agents and that once such occurs the results must be annulled. This with the greatest of respect to counsel for Petition is untenable and is never the position of the law. Counsel is inviting the court to side with him to denigrate his learned friend so he has become one of the respondents presumably.

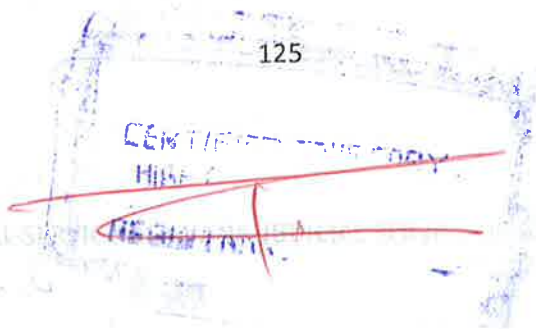
My Lord it is a cardinal principle of interpretation that an instrument or statute must be read as a whole. In *GHANA TEXTILE PRINTING CO LTD v ANKUJEAH AND OTHERS* [1999-2000] 2 GLR 473, held Per Justice Woode. & Twumasi:

"What then is the proper construction to be placed on the law in question i.e. par.34 (2) of the Labour Amendment Decree 1969 NRCD.342? It is trite learning that to obtain the true meaning of any enactment, or indeed any document, it must be read as a whole. The principle or rule of statutory interpretation insists that statutes must be looked at as a whole. This is the holistic approach. It requires that every paragraph or sub-paragraph of a statute is to be construed with reference to the other parts or paragraphs of the statute in order to make a consistent and homogenous enactment of the whole statute. This option requires that individual words or phrases or sentences, which may occur in the statute, must not be construed in isolation.

My Lord the framers of C.I 127 in Regulation 48 anticipated the situation in which a Returning Officer was confronted with violence or hostile party agents, candidate or party supporters or a real threat to his life or the situation in which a candidate or his agents create an atmosphere which makes collation impossible in their presence or where after the Returning Officer has relocated the Collation centre to the knowledge of all the agents and candidates some candidates and their agents decided not to take part in the collation as was the exact situation in the instant case where there is video evidence of Petitioner's supporters being bused to the collation centre and causing havoc thereby disrupting collation. See Exhibit 37 the pen drive containing the videos of happenings at the collation centre tendered by the 1st Respondent. The 2nd Respondent tendered in the same videos among others.

Regulation 48 of C.I 127 states: Absence of candidate or agent

48. (1) In these Regulations where an expression is used that requires, authorises, or implies that an act or thing is to be done in the presence of the candidates or the polling agents or counting agents of the candidate, those expressions shall be construed as a reference to the presence of the candidates or the polling agents or counting agents of the candidate



authorised to attend and have attended at the time and place where the act or thing is being done.

(2) The non-attendance of the candidate or the polling agent or counting agent of the candidate at the time and place shall not invalidate the act or thing done(Emphasis mine).

My Lord it is not denied that Petitioner and his agents were at the collation centre and violence broke out at the collation centre.

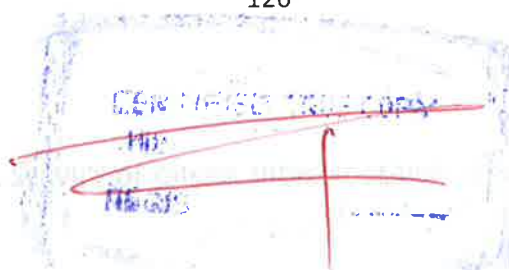
PW1 in paragraphs 79, 80,81, 82, and 83 of his evidence in-chief testified to the violence and disruption of the collation process. PW1 further in paragraphs 84, to 86 of his evidence in-chief claimed that after the resumption of the collation after the violence the 2nd Respondent did not involve the agents again: This is what he states in paragraphs 84 & 88 of his evidence in-chief:

84. After the brief suspension, when the Electoral Commission Officers were going too resume the collation exercise they did not involve us again. They just went on with their collation and when I enquired from them why they have not invited us, they said that we had allowed the people to come into the collation centre and so they were not going to allow us take part in the collation.

88. The District Electoral Commission Director of Kpandai said due to the scuffle between the party supporters and the accompanying disruption, his team was going to act on instructions from above to complete the collation exercise separately without the parties and that we could also do our own collation.

My Lord PW1 in paragraphs 90 and 91 of his evidence in-chief contradicts himself when he stated as follows:

90. The District Electoral Commission Director of Kpandai was seen with some police security escorts took the ballot boxes and drove from Kpandai out of town towards Bimbilla road to an unknown location.



91. We later learnt that the constituency collation exercise for the parliamentary elections in the Kpandai Constituency had been conducted at unknown location without recourse to the petitioner or me.

My Lord since it is not denied that there was violence disrupting the collation, if the 2nd Respondent decided to carry out the collation without the presence of the candidates and their agents whether at the originally designated collation centre or a new collation centre, that is squarely catered for by Regulation 48 of C.I 127 and does not constitute any malpractice whatsoever or howsoever having the potential of nullifying the votes of the electorates.

My Lord PW1 at cross examination by counsel for 1st Respondent further confirms the fact that collation had begun at the designated centre, was disrupted by violence and that the Returning Officer indeed declared the results after collation was completed allegedly in their absence. At page 40 of the record of proceedings the following ensued:

Q. I want you to watch the first video in the pen drive disclosed by the 1st Respondent and marked as exhibit 37. The person speaking in the video, do you know him?

A. I know him.

Q. Can you confirm that he was the Returning officer of the Kpandai Constituency on 7th December, 2024?

A. Yes my Lord, but the room in which he is declaring it, it looks like somebody's hall with a green background. But the collation centre itself had a white background like we have in the court room here. The people inside were mainly NNP, there were not NDC members.

Q. You see this video is part of the happenings on the collation day at Kpandai at the collation centre?

A. Yes My Lord

Q. Watch the 3rd video some of the protestors are even climbing up on the top floor of the collation centre throwing materials left and right, is that not so?

A. Yes my Lord. I can see that in the video.

Q. So largely you will agree with me that violence broke at the originally designated collation centre?

A. Yes my Lord there was violence.(Emphasis mine).

My Lord from the above revelation it is undeniable that violence broke out at the initially designated collation centre making it necessary for the 2nd Respondent to either do the collation without the presence of Candidates or their agents or to relocate the collation as it was unsafe to continue with collation at the same centre.

The evidence on the record also shows that the Petitioner's agent at the said collation centre PW1 was aware of the relocation and indeed said he saw the ballot boxes being taken away despite claiming that no announcement was made before the relocation. The following ensued at cross examination of PW1 at page 75 of the record of proceedings:

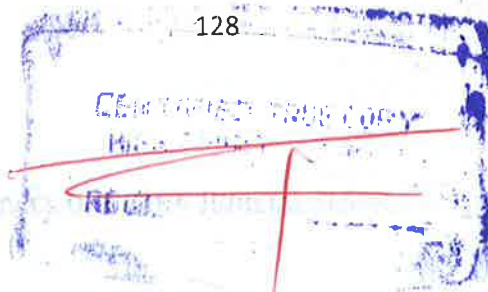
Q. Is it the case that the petitioner and all his agents including you were not at the collation centre when the violence broke out and the ballot boxes has to be taken away, is that the case?

A. I was at the collation centre and that is why I can confidently tell you that there was no such announcement for a change of location.

Q. But can you confirm to the court if you saw the ballot boxes being taken away in the outbreak of the violence?

A. My Lord I saw the EC officers with the police officers without any explanation to us taken the ballot boxes away to an unknown destination.

My Lord the law is trite that one cannot benefit from his own wrong. There is ample evidence per the record that Petitioner's supporters in NDC Party branded pick-up and T-shirts and other paraphernalia invaded the collation centre and vandalised electoral materials and put the lives of the Electoral Officers and others in danger. Petitioner cannot therefore benefit from his own wrongs by having the results of the 41 polling stations annulled on the basis that collation had not been completed or was not done at the designated centre when it was due to the violence perpetuated by the Petitioner's supporters that caused the collation to be halted and the relocation.



My Lord the Petitioner admits that there was collation and declaration which is in accordance with Regulation 43 of C.I 47 just that Petitioner says that the collation was done at an undisclosed centre and in the absence of the Petitioner and his agents.

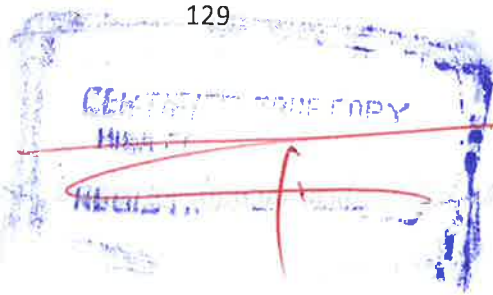
Respectfully, PW1 admitted at cross examination that he saw the 2nd Respondent's officers and police officers carry the ballot boxes away. Any meticulous Agent or Candidate who has been trained to monitor the ballot box during the voting and after voting up to the point of declaration and even thereafter would have followed up to ascertain where the ballot boxes were being taken to. But because the Petitioner and his agents and supporters knew that Petitioner had woefully lost the elections to the 1st Respondent they decided to truncate the collation process, destroy electoral materials so as to make it impossible for the 2nd Respondent to do its constitutional duty at the designated collation centre and declare the winner of the polls.

My Lord it is the duty of the Returning Officer to assemble the results of the polling stations (see Regulation 3(i) and 43 (1a) of C.I 127) a fact PW1 admits at cross examination that collation began at the designated centre, and continued at a supposed undisclosed centre and that the results were declared at that undisclosed centre by the Returning Officer Mr. Wepari Salweh.

My Lord we submit that the relocation of the collation in the absence of Petitioner and his agents who chose not to pursue the ballot boxes as same were seen carried away, and the declaration in a new centre which was necessitated by the violence perpetuated by Petitioner and his supporters evident by the video evidence presented before the court is given statutory blessing by Regulation 48 of C.I 127. It is therefore untenable to argue that because the Petitioner and his agents were absent when the collation was completed and the results declared there was a breach of Regulation 43 of C.I 127 for which reason the results should be annulled.

In fact 1st Respondent in paragraph 56 of his Answer to the Petition pleaded to the effect that Petitioner's Regional Party Executives were at the Regional Office of the Electoral Commission where the collation was completed and the declaration of the results done. The said paragraph states as follows:

56. 1st Respondent says that some Regional Executives of the Petitioner's Political Party the (NDC) were present at the relocated collation centre. Leave of the court would be



sought to tender in evidence a video footage of the Regional Collation exercise showing the Regional Executives of the Petitioner's Party who were present and represented the Petitioner at the collation at the Regional Office of the Electoral Commission.

My Lord Petitioner was supposed to deny this averment categorically. Fall short of a denial this was what Petitioner stated in his reply to this material averment of 1st Respondent in his Answer. The Petitioner in paragraph 75 of his Reply had this to say in answer:

75. The Petitioner acknowledges that representatives of the Petitioner's political party may have been present at the relocated collation centre. However, the Petitioner maintains that their presence does not equate to full participation or consent to the process, especially when the relocation itself was abrupt, not transparently communicated, and conducted under questionable circumstances.

Respectfully, the above statement is an admission that in deed Petitioner's Regional Executives were present at the relocated collation centre where the results were finally collated and declared. In fact by Regulation 48 of C.I 127, the 2nd Respondent was not even mandated to ensure that candidates or their agents were present before it could perform its constitutional duty.

My Lord, it is also undeniable that the 1st Respondent was publicly declared as the winner as the person with the highest votes in the 2024 Parliamentary Election of the Kpandai Constituency in accordance with Regulations 3(1J) and 41(3d). **Per the declared and gazetted results 1st Respondent polled 27,947 votes as against Petitioner who polled 24213 thus with a votes difference of 3,734.**

My Lord it is our humble submission that Petitioner failed to demonstrate how the absence of his agents affected the collated results of the parliamentary elections of the Kpandai constituency as Petitioner failed to even exhibit any collated results on his own from the copies of the Pink Sheets that were given to his agents. PW1 admitted at cross examination that all the Pink sheets of the elections were given to the Petitioner's agents.

My Lord the statute did not also expressly provide that the election results should be voided when collation which is merely a summation of the certified results of the various

polling stations is done in the absence of a particular candidate or his agents who decided to absent themselves from the collation or create an insecure environment for the collation to be done in their presence.

My Lord, we therefore submit that the alleged absence or non-participation of Petitioner and his agents and the lack of the signature of the Petitioner or his agents on the collated forms of the Kpandai Parliamentary election results did not invalidate the results as declared, published and gazetted.

In fact PW1 at cross examination revealed that the total of the votes involved in the 41 polling stations in issue is a little over 500 votes. This was what he said at cross examination at page 19 of the record of proceedings by counsel for the 1st Respondent:

Q. Tell the court what is the total number of votes that is in contention before this court?

A. My Lord the total number of votes is around a little bit over 500.

My Lord even if the Court were to donate i.e add the little above 500 votes to the votes of the Petitioner (24213) as gazetted by the 2nd Respondent the Petitioner would still trail behind the 1st Respondent because of the vote difference of 3,734. This being the case the Petitioner's call for annulment or re-run in the 41 polling stations is an exercise in futility and unwarranted.

We therefore pray that issues 1,2 of the Petitioner, and issue 1 of the Petitioner and issues 1 and 2 of the 1st Respondent be resolved that the results of the 2024 Parliamentary Elections of Kpandai Constituency were duly assembled, collated and declared publicly by the 2nd Respondent in accordance with the relevant statute and there were no statutory infractions and the claim of the Petitioner that there was no collation or collation was not done in accordance with law is dismissed.

My Lord before I conclude my submission permit me to touch on the situation painted by the petitioner as over voting when Petitioner says that more voters were verified than the total number of votes cast at the polling station. This explanation of over voting by Petitioner is weird and an attempt to create a new meaning for over voting which rather explains the situation of skirt and blouse voting in our political parlance.

My Lord in the case of Nana Addo Dankwa Akufo Addo Others Vrs John Dramani Mahama supra Her Ladyship R. C. OWUSU (MS) JSC (as she then was) had this to say about over voting:

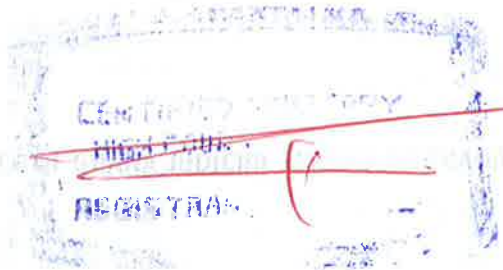
OVER VOTING What is over voting? The 2nd petitioner told the court of two instances of over-voting being 1. Where the number of people registered to vote at a particular polling station is less than the number of ballots found in the ballots box at the end of polls. 2. Where the ballots found in the ballots box at the end of polls is more than the number of votes actually issued to the votes who turned up to vote. In evidence of the 2nd Respondent, he confirmed the first definition given by the 2nd petitioner. To a question from the Bench, Dr. Afari Gyan's answer is: "Oh yes my Lords the classical definition of over-vote is where the ballot cast exceed the number of persons eligible to vote at the polling station or if you like the number of persons on the polling stations register that is the classical definition of over-voting. -----" He did not dismiss the second instance of over voting given by the 2nd petitioner even though he said he has problem with it. Nothing is said on what constitutes over-voting in C. I. 75, so I will go by both definitions.

His Lordship Dotse JSC in the same 2012 Presidential Election Petition had this to say about over voting:

I will define over voting to mean an instance where total votes cast as found in the ballot box exceeds the total number of ballots issued out to voters at that particular polling station.

When the ballots issued out cannot be reconciled with the ballots found in the box using all available means of verification on the pink sheet, then the conclusion is reached as an over- vote.

My Lord Petitioner claims that on the faces of the Form 8As of LA Primary School Kojo Boni Exhibit DD, D/A PRIM SCH WEST BANK KUMDI EXHIBIT A, there was over-voting at those polling stations. We find this assertion untenable. Going by the definition giving to over-voting the entries on the face of the Form 8As of LA Primary School Kojo Boni D/A PRIM SCH WEST BANK KUMDI EXH A tendered and marked as EXHIBIT DD and A respectively do not



support over-voting in that the total number of ballots issued for Exhibit DD was 479 which tallies with the total number of votes cast, 479. Interestingly whilst the reason for objection was captured on Exhibit DD as “over voting” petitioner’s witness at paragraph 60 of his evidence in-chief complained that the range of ballots was not recorded, total number of voters on the polling register were not recorded, and that voters on proxy list, absentee list and transfer list were all not recorded. These are trivialities and yet Petitioner wants results of this polling station annulled. For Exhibit A the total number of ballots issued for Exhibit A was 371 which tallies with the total number of votes cast, 371.

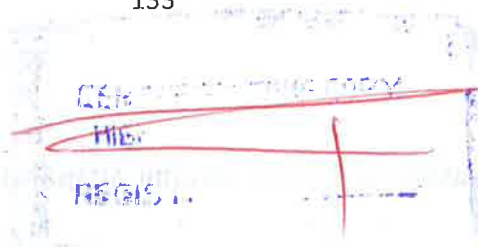
Respectfully, My Lord, even if the results of **polling stations LA Primary School Kojo Boni Exhibit DD and that of Exhibit A D/A PRIM SCH WEST BANK KUMDI** were to be **annulled or even padded to the Petitioner the Petitioner will still lose the elections.**

On the issue of whether or not there were widespread irregularities and malpractices that characterised the 2024 Parliamentary elections of Kpandai and if same materially and substantially affected the outcome of the elections we are of the humble view that besides the mere allegation, the petitioner did not lead any evidence to prove this wild allegation particularly following the expunging of the evidence of the Petitioner’s Attorney, there is no single piece of evidence on the record offered by the Petitioner in proof of this baseless allegation.

Conclusion

My Lord Atugba JSC at page 35 of the Judgment of the Supreme Court in the case of *Nana Akuffo Addo and others v John Dramani Mahama and others*⁶

.. quoted with approval the case of *Azam v Secretary of State for the Home Department* (1974) AC 18 at 75 HL Lord Salmon (dissenting) said that the right to vote is so fundamental



that if a person entitled to vote in the House of Lords managed to enter the chamber without a pass as required his vote should not be invalidated.

Since there is ample evidence that voting took place in all the 152 polling stations without any violence, and that the agents of the Petitioner except in the case of two out of the 152 polling stations certified the results of the elections at all the polling stations, the mere allegation of non-participation in the collation of those certified results of the polling stations cannot be sufficient ground to disturb the mandate of the majority of the electorate of the Kpandai Constituency who queued in the scorching sun to express their constitutional mandate. From the totality of the evidence adduced at the trial the petition fails woefully and same should be dismissed with cost of GHS 100,000.00.

SUPPLEMENTARY WRITTEN ADDRESS OF THE 1ST RESPONDENT

My Lord, this Court ordered the Parties to file their written Addresses if any in 14 days at the close of trial on the 31st of October 2025. The 2nd Respondent was the first to file its written address on 13th November 2025. The 1st Respondent was the next to file his written address and that was done on the 14th of November, 2025 the date the order lapsed for filing of written addresses. Surprisingly, Petitioner who is in Court seeking to reverse the sovereign will of the voters of the Kpandai Constituency disobeyed the clear order of the Court and failed to file his written address within the period stipulated for filing written addresses. The Petitioner filed two written addresses both out of time on 19th of November 2025 and without leave of the Court. What is more worrying is that the 2nd written address is captioned a supplementary address meanwhile it addresses substantive issues set down for trial which the 1st address of the Petitioner should ordinarily have addressed.

[1]. My Lord, we are compelled by circumstances to raise issues on the conduct of the Petitioner by this supplementary address. We are of the considered opinion that the Petitioner ought to have come for leave of the court to file his written address out of time particularly what it described as supplementary address. The said supplementary address was equally not signed by the lawyer for the Petitioner but rather an unknown third party on the face of the said process. We submit that since the person who signed the said supplementary address did not identify himself to enable the Court assess his competence to file such a document for and on

behalf of the lawyer of the Petitioner, we urge Your Lordship to completely disregard the said supplementary address since the person who purportedly filed same for and on behalf of the lawyer of the Petitioner is not disclosed on the face of the process as a competent person to file a legal document.

[2]. That said My Lord permit me to respond to the issues the said supplementary address raised *ex abundanti cautela* should My Lord wish to make reference to the contents thereof either than disregarding same.

[3]. My Lord, we find the submission on the issue **“WHETHER OR NOT THE PETITIONER RALLIED HIS SUPPORTERS TO CAUSE ACTS OF VANDALISM WHEN IT BECAME APPARENT THAT HE HAD LOST THE ELECTIONS”** in the supplementary written address to be untenable and illogical.

[4]. My Lord, it is not denied that violence disrupted the conduct of the collation at the initially designed collation centre. This fact was admitted categorically by PW1 at cross examination who was one of the agents of the Petitioner at the collation centre.

The purported supplementary written address seem to suggest that because the 2nd Defendant did not lead evidence on the direct involvement of the Petitioner in the violence it follows that Petitioner was not responsible for the mayhem that happened at the collation centre amply supported by video evidence.

[5]. Respectfully My Lord, Petitioner in the supplementary address rather restated evidence led by the 2nd Respondent at cross examination to the effect that there was violence at the collation centre and that though petitioner was not personally seen involving in the violence acts personally but his supporters found in Petitioner's Party T-shirts and Party's Pick Up were the ones who perpetuated the violence.

[6]. My Lord, I reproduced aspects of the evidence elicited from 2nd Respondent's witness as captured in the supplementary address of the Petitioner as follows:

Q. According to paragraph 8 of your witness statement, the petitioner and his supporters answer from their own tallies the petitioner has lost disputed the collation process through acts of vandalism attached and marked no. Exhibit EC1 series are pictures and videos of vandalism perpetrated by the petitioner and his supporters. Now this first video, can you point out the Petitioner in the video?

A. My Lord the Petitioner is not in it but his supporters are there.pg95.

Q. Again can you from the 2nd video in Exhibit EC1 series point out the Petitioner leading his supporters in acts of vandalism?

A. My Lord from the video I can't pick out the Petitioner but the Mahindra pick-up which carried the people as it was branded with his pictures. pg96

Q. Per the 6th video in EC1 series do you see the Petitioner committing any act of vandalism in it?

A. My Lord no, but this is the sad end of the process.

Q. In this 7th video of EC1 series do you see the Petitioner engaged in any act of vandalism?

A. No, My Lord. pg 97

[7]. My Lord, from the above pieces of evidence Petitioner did not deny that his branded Campaign Pick-up loaded his supporters to the collation centre. He again did not deny that it was those people loaded in his branded pick-up that caused the violence.

[8]. My Lord, the Supreme Court in **FORI v. AYIREBI AND OTHERS** [1966] GLR 627-649 had this to say in holding 6 regards failure to deny material evidence at cross examination:

(6) When a party had made an averment and that averment was not denied, no issue was joined and no evidence need be led on that averment. Similarly, when a party had given evidence of a material fact and was not cross-examined upon, he need not call further evidence of that fact.

It is therefore ridiculous on the part of Petitioner to argue that his supporters or the NDC's supporters who caused the violence are not parties in this matter and since he was not personally seen in the video involving in the violence, the acts of vandalism cannot be attributed to the Petitioner.

[9]. My Lord, since the Petitioner does not deny that there was violence at the collation centre in the first place and secondly does not deny that NDC supporters or his supporters were loaded in branded pick-up to the collation centre and perpetuated violence the Petitioner on whose behalf and for whose benefit the supporters were massed there to cause the violence, Petitioner is answerable for the violence by his supporters.

[10]. My Lord, in any case once there is admission of violence by the Petitioner we submit that it suffices to justify the relocation of the collation centre by the 2nd Respondent. The violence

needs not be perpetuated by Petitioner and his supporters before the 2nd Respondent could relocate the collation centre.

RESPONSE TO SUBMISSIONS ON ISSUES 3 AND 4

[11]. My Lord, we find these issues not germane for the resolution of the real controversy between the Parties before this Court. However, we wish to respond to the erroneous impressions the Petitioner seems to press on this Court in his submissions on these two issues and in his conclusion.

[12]. My Lord, besides Regulations 32(7) and 39(2) and 43 of C.I 127 the Petitioner did not allude to any other electoral law that was transgressed by the 2nd Respondent in the conduct of the 7th December Parliamentary Election of the Kpandai Constituency.

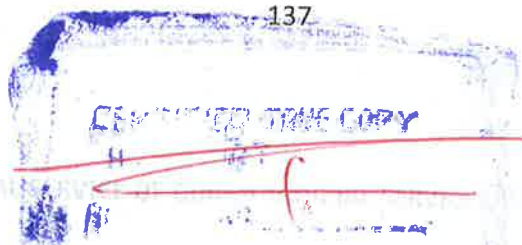
[13]. My Lord, we urge you to take judicial notice of the fact that the same elections in which the President was elected with no challenge is the same election that produced the 1st Respondent as member of Parliament which Petitioner is surprisingly challenging the validity which then imply that the Presidential election results of the Kpandai Constituency has validity issues.

[14]. My Lord, the Petitioner does not deny the fact that the elections were conducted in all the 151 polling stations of the Kpandai Constituency. The Petitioner does not equally deny that all his agents were given copies of the Pink Sheets showing the election results as declared at the polling Stations where elections are won a fact PW1 admitted at cross examination.

[15]. What the Petitioner complains of is the fact that he and his agents were not informed of the relocation of the collation centre for which reason they were not part of the collation process.

[16]. My Lord, the law is that where a specific legislation makes provision for a particular issue regards has to be made to that particular legislation instead of looking elsewhere in a general legislation. This is often expressed in Latin "*generalia specialibus non derogant*." My Lord In Re-Parliamentary Election for Wulensi Constituency 2003 JELR 68330 the Supreme Court of Ghana gave the meaning of this maxim as follows:

"Where there is a general enactment in statute which if taken in its most comprehensive sense , would over-ride a particular enactment in the same statute, the particular enactment must be



operative, and the general enactment must be taken to affect only the other parts of the statute to which it may properly apply. (See Halsbury's Laws of England: 4th Edition Vol.44 para 875 at page 534).

[17]. My Lord, we submit that the particular law or specific law that governs the disputed elections is C.I 127 as amended but not any other law. When one reads the provisions of C.I 127 nowhere is it provided that the failure to involve candidates or their agents in collation voids the election results.

[18]. My Lord, if Regulations 43 and 48 of C.I 127 are read together which is the proper mode of interpreting a statute one would come to the only conclusion that the non-involvement of Candidates and their agents in collation does not void election results especially so when there is admitted evidence that collation was disputed by violence and the safety of electoral officers and materials were in danger.

[19]. It is therefore untenable to talk of statutory breaches when Regulation 48 of C.I 127 as amended validates collation in the absence of Candidates and their agents. We therefore see the call on this Court by the Petitioner to declare the elections void as one in bad faith.

[20]. My Lord, PW1 at cross examination admitted that Petitioner and his agents received all the pink sheets for all the 151 Polling stations. The following ensued at his cross examination at pages 21 and 74 of the record of proceedings.

At page 21

Q. Now the pink sheets of all the polling stations of the Kpandai constituency you obtained copies through your agents is that correct?

A. Yes My Lord.

At page 74

Q. The Petitioner at the time of filing the petition has copies of all the 152 pink sheets, is that correct?

A. They were not 152 but 151.

Q. So nothing was left out?

A. Yes

[21]. My Lord, from these pieces of evidence, the Petitioner's call for re-run of the elections is in bad faith. His failure to submit his own collated results of at least the Pink sheets with no issues to the Court clearly shows that Petitioner lost the elections and decided to master courage and come to court to ask for re-run on the issue of some of the ballot boxes being destroyed by his own supporters.

[22]. My Lord, the Petitioner does not know that the results of all the polling stations had been stated on the Form 8As copies of all of which are in the possession of Petitioner and the Respondents and since no agent of the Petitioner or the petitioner himself did not ask for recounting at any polling station the destruction of some of the ballot boxes does not affect the fact that from all the Pink sheets of the 152 Polling Stations of the Kpandai Constituency, the **1st Respondent** won the 7th December, Parliamentary Elections of the Kpandai Constituency and was validly declared as such by the 2nd Respondent.

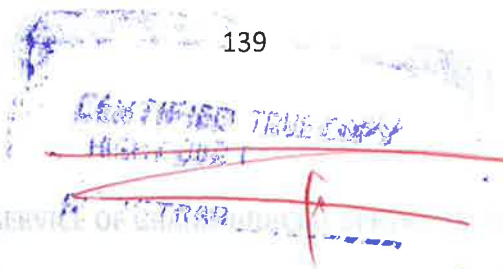
[23]. We submit that the allegation of statutory and constitutional breaches are mere façades as Regulation 48 of C.I 127 cures any invalidation based on the absence of Petitioner and his agents in the collation.

Conclusion

[24]. My Lord, counsel for Petitioner failed to apply Regulation 48 or deliberately chose to ignore Regulation 48 of C.I 127 otherwise counsel or petitioner would not raise the alleged breach of the rule of natural justice in Petitioner's supplementary address or the breach of statute and make a wild call for quashing of the sovereign will of the people of Kpandai. We urge Your Lordship to refuse the absurd invitation by the Petitioner to disturb the sovereign will of the people of Kpandai who voted peacefully on 7th December 2024 overwhelmingly for the 1st Respondent as their Representative to Parliament.

Upon perusing the argument of counsel for 1st Respondent, it is not a fallacy that an incident of violent nature marred the beauty of the electoral matchup between 1st Respondent and petitioner.

This court saw the videos played and did observed some of the youths in petitioner's party tee-shirt but they were not in the majority and we have settled the spillover of petitioner not being directly involved in the act of violence.



We have also settled the elections materials, BVD machines, ballots boxes with content totally destroyed alongside plastic or other chairs and so on, said that the collation was continued without petitioner or his agents at a location unknown to one party and in the absence of material electoral specimens to compel for consistency and regulatory with the figures inscribes on the pink sheet, the key ingredient.

The question is how did they collate?

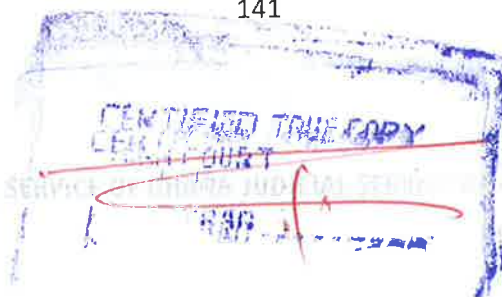
Finally denying the petitioner his copies of Form 1C and D until they saw it in court is a fair and transparent methodology prescribe in the training manual and C1 127 according to counsel for 1st respondent? Then the training manual and C1 127 should have been put aside and the collation would be settled by brown or manpower, is that the position of counsel. This court is of the view that collating and cross checking before declaration of the winner are in tandem as in boxing arm of the winner is raised.

If the collation was not complete then what was declared is a unilateral result because counsel surmises that the presence of the loser protestor challenger is of no consequence because he can go to court and that is where he came.

I find that such a statement from the EC official and others amounts to taking an entrenched position of damn the consequences.

WRITTEN ADDRESS IN SUPPORT OF THE 2ND RESPONDENT'S CASE

1. The 2nd Respondent conducted the 2024 Presidential and Parliamentary Election on 7th December 2024. At the close of polls, the 1st Respondent was declared as the duly elected Member of Parliament for the Kpandai Constituency in the Northern Region. Dissatisfied with the declaration, the Petitioner mounted the instant action at the Tamale High Court challenging same.
2. The 2nd Respondent submits that the Petitioner has not been able to prove its case that the 1st Respondent was invalidly elected as the Member of Parliament for the Kpandai Constituency.
3. The Petition, the Answers filed together with all the exhibits including the original Pink Sheets of the disputed polling stations were brought to the court and copies made thereof. So in this address I am not going to bore the Honourable Court by repeating them here.
4. My Lord, a Petition of this nature is a form of civil litigation and like all civil cases; the standard of proof is one on the balance of probabilities or preponderance of the probabilities. The proof prescribed in civil trials is provided under sections 10, 11 and 12 of the Evidence Act, 1975 [NRCD 323]. These sections on the burden of proof, burden of persuasion and burden of producing evidence, which apply equally to election petitions, provide thus:
"10. (1) For the purposes of this Act, the burden of persuasion means the obligation of a party to establish a requisite degree of belief concerning a fact in the mind of the tribunal of fact or the Court
(2) The burden of persuasion may require a party (a) to raise a reasonable doubt concerning the existence or nonexistence of a fact, or (b) to establish the existence or nonexistence of a fact by a preponderance of the probabilities or by proof beyond a reasonable doubt.
11. (1) For the purposes of this Act, the burden of producing evidence means the obligation of a party to introduce sufficient evidence to avoid a ruling on the issue against that party...."



12. (1) Except as otherwise provided by law, the burden of persuasion requires proof by a preponderance of the probabilities...

(2) 'Preponderance of the probabilities' means that degree of certainty of belief in the mind of the tribunal of fact or the Court, which it is convinced that the existence of a fact is more probable than its non-existence".

The question worth asking is on whom does the burden of persuasion rest? This is based on Section 14 of the Act which provides that:

"14. ALLOCATION OF BURDEN OF PERSUASION

Except as provided by law,

unless it is shifted a party has the burden of persuasion as to each fact the existence or non-existence of which is essential to the claim or defense that party is asserting. '

The allocation of the burden of producing evidence on the other hand is governed by Section 17 which is in these terms:

"17. ALLOCATION OF BURDEN OF PRODUCING EVIDENCE

Except as otherwise provided by law,

(a) the burden of producing evidence of a particular fact is on the party against whom a finding on that fact would be required in the absence of further proof;

(b) the burden of producing evidence of a particular fact is initially on the party with the burden of persuasion as to that fact. "

5. Again, it was held by the Supreme Court per Adinyira, JSC in *Ackah v Pergah Transport Ltd* [2010] SCGLR 728 at p. 736 that:

"It is a basic principle of the law on evidence that a party who bears the burden of proof is to produce the required evidence of the facts in issue that has the quality of credibility short of which his claim may fail..."

6. It is also worthy stating my Lord that, case law on election petitions in Africa and other common law jurisdictions give credence to the notion that in such cases where a Petitioner seeks to annul an election or a declaration pertaining to an election, he bears the legal burden of proof throughout.
7. In the Nigerian Supreme Court case of Abu-Bakr v Yar' Adua [2009] All FWLR (Pt 457) 1 SC; it was held that:
"the burden is on the petitioner to prove, not only non-compliance with the electoral law, but also that the non-compliance affected the results of the election..." .
8. My Lord, the above authorities clearly put the burden on the Petitioner to establish or prove its case. It is essentially the case of the 2nd Respondent that the Petitioner through his witness had failed to show that there was anything wrong with the results which should lead to the annulment of the election and subsequent re-run of same.
9. My Lords, the evidence adduced before this Honourable Court clearly shows that the polling agents of the Petitioner, who were duly accredited by the Electoral Commission, signed the pink sheets which is the official results declaration forms at the close of polls in all the polling stations in issue. By appending their signatures without any recorded protest or objection, the agents affirmed the accuracy of the results as recorded and declared by the presiding officers.
10. At page 54 of the proceedings of the 18th day of July 2025 the Petitioner's evidence on the issue of the number of unsigned Pink Sheet was as follows:
Q: Are you aware that on the pink sheet, there is a place that if you do not sign on the day that you have a protest you state your protest on the pink sheet and reason why you do not sign.
A: Yes, my Lord
Q: Look at your evidence in chief with the attachment your pink sheet and tell of all the pink sheets you brought how many of them have a protest?
A: My Lord there is LA Primary School, Kojo Boni Exhibit DD
Q: Your exhibit DD has a protest
A: Yes my lord

Q: Look at Exhibit EE, there is another protest there, not so?

A: Yes

Q: Do you have any more protest in your evidence in chief

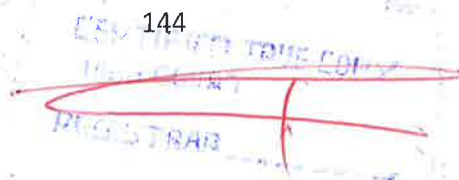
A: No my Lord

Q: I am putting it to you that on the day all your agents who acted for and on behalf of the petitioner except these two you have isolated accepted the results at each of the polling stations in his own witness statement

A: They accepted does not mean there were no irregularities even

I 1. My Lord, It is trite law that polling agents act on behalf of the candidates they represent, and their signatures on the pink sheets constitute prima facie evidence that the results reflect the will of the electorate at those polling stations. In the absence of credible evidence of irregularities, over-voting, or non-compliance with the provisions of the Public Elections Regulations, 2020 (C.I. 127), the Petitioner cannot be heard to challenge the validity of the election results merely on speculation or bare allegations.

12. Clearly the underlying purpose of the signatures of the polling agents on the pink sheets is to provide evidence that the results to which they relate were those generated at the relevant polling station in compliance with the constitutional and other statutory requirements, otherwise each "signature in itself has no magic about it."
13. We submit that the explanation being canvassed by the Petitioner through his witness that, though his agents signed on the pink sheets evidencing acceptance and approval of the election results declared at the polling station, they do not accept it and that there are mistakes and discrepancies cannot be accepted. If they that strange argument is accepted in a court of law, then the whole essence of the statutory provision making room for the appointment of polling agents to represent parliamentary candidates in election would be made useless.



14. This is more so when none of the polling agents were called to testify on oath as to why they signed the pink sheets signifying the acceptance of the results and yet the Petitioner has turned round to reject the very act of his agents.

15. My Lord, we cannot overlook the fundamental point regarding the acceptance by the witness that the polling agents of the Petitioner were adequately trained to perform the role of polling agents. The following ensued during cross-examination by counsel for 2nd Respondent.

Q. Did he give them training with regards to the pink sheets you have brought to court?

A: He gave them training

16. The Petitioner was convinced about the capabilities of his polling agents and that is why he assigned them to the polling stations to protect his interest due to their admission of having given them training. They signed the pink sheets willingly without any duress because they were satisfied with the results. It is therefore improper and too late in the day for them to complain about the same results they have appended their signature. Needless to say, the polling agents are not complaining, however it is their principal who is complaining, forgetting that he is bound by the conduct of his agents.

17. My Lord, apart from the training which the Petitioner gave to his polling agents, He was duly represented in all the 41 polling stations. The following transpired during cross-examination by the 2nd Respondent Counsel.

Q: Are you aware that the same polling agent at these 41 polling stations acted for both the parliamentary and the presidential?

A: It was not entirely so. Not all of them acted for both parliamentary and presidential.

Q: As you sit here of the 41 polling stations that you have brought to court will you be able to tell the court those who were agents for the parliamentary were separate from presidential?

A: My Lord we have two agents each in every polling station, one for presidential and one for parliamentary

18. The answers above lend credence to the fact that the Petitioner was not shortchanged in any way at the constituency as he had a fair representation at all the polling stations and the results declared were the true reflection of the wishes of the constituents.

19. To further whittle down and deflate the argument of the Petitioner to have the election for the Kpandai Constituency nullified and re-run, the response given by the witness in the box during cross examination by the 2nd Respondent counsel is instructive.

Q: I am putting that as you sit here you do not have any personal knowledge of what took place at the 41 polling stations on the Election Day?

A: I have because the pink sheet will give me that knowledge

Q: So we should rely on the pink sheet to support your evidence, is that correct?

A: Yes my Lord it is the pink sheets that we brought to court.

20. My Lord, the Petitioner through his witness is telling this court to rely on his pink sheets he brought to court as the justification to annul the votes cast in the Parliamentary election. As per his own showing, his agents signed all the pink sheets and did not raise any protest save for two of the polling stations. It stands therefore to reason that the polling agents have accepted the results of the polling stations since the agents signed on the pink sheet. The Petitioner must not be allowed to approbate and reprobate at the same time, which is a cardinal sin in law.

21. My Lord, to put the icing on the cake on the regulatory compliance on the 2nd Respondent, the provision below from the Public Elections Regulations 2020 (CI 127) is relevant for the court's attention Declaration and publication of parliamentary election results

43. (1) Subject to regulation 42, immediately after the results of the poll for all the polling stations in the constituency of the returning officer have been given to the returning officer the returning officer shall, in the presence of the candidates or the representatives of the candidate or not more than two counting agents appointed by each candidate,

44. assemble the results from the polling stations without recounting the ballots in the ballot boxes, except where there is a challenge by a candidate or a counting agent in respect of a specific ballot box;

45. fill the Parliamentary Election Results Summary Sheet as set out in Form One D of the Schedule;

46. give public notice of the total number of votes cast for each candidate;

47. publicly declare as elected in a parliamentary election the candidate who had the highest votes;

48. request the candidates, or the representatives or counting agents of the candidates to, together with the returning officer, sign the Parliamentary Elections Results Collation Form as set out in Form One C of the Schedule and the Parliamentary Election Results Summary Sheet as set out in Form One D of the Schedule and post a copy at the constituency collation centre;

49. give each candidate, or the representative or counting agent of a candidate a completed and signed copy of the Parliamentary Elections Results Collation Form as set out in Form

One C of the Schedule and the Parliamentary Election Results Summary Sheet as set out in Form One D of the Schedule;

22. My Lord, the above requirement as stipulated in Cl 127 was complied with by the 2nd Respondent as the Petitioner has not stated anywhere throughout the case before the court of any non-compliance on the part of the 2nd Respondent. All the necessary "righteousness" were fulfilled.

23. Again, my Lord, the authorities are legion on the need for the court to be liberal when it is confronted with a petition to annul votes in an election. In the case of *Woodward v Sarsons* (1875) 32 L.T(N.s.) 867 at pp.870871 had this to say in its judgment:

"... we are of opinion that the true statement is, that an election is to be declared void by the common law applicable to Parliamentary elections, if it was so conducted that the tribunal, which is asked to avoid it, is satisfied, as a matter of fact, either that there was no real electing at all, or that the election was not really conducted under the subsisting election law: But if the tribunal should only be satisfied that certain of such mishaps had occurred, but should not be satisfied either that a majority had been, or that there was reason to believe that a majority might have been prevented from electing the candidate they preferred, then we think that the existence of such mishaps would not entitle the tribunal to declare the election void by the common law of Parliament."

24. Again, in the Canadian case of *Opitz v. Wrzensnewskyj* [2012] SCC 552012-10- in which the court said as follows:
- "The practical realities of election administration are such that imperfections in the conduct of elections are inevitable ... A federal election is only possible with the work of thousands of Canadians who are hired across the country for a period of a few days or, in many cases, a single 14-hour day. These workers perform many detailed tasks under difficult conditions. They are required to apply multiple rules in a setting that is unfamiliar. Because elections are not everyday occurrences, it is difficult to see how workers could get practical on-the-job experience... The current system of electoral administration in Canada is not designed to achieve perfection, but to come as close to the ideal of enfranchising all entitled voters as possible. Since the system and the Act are not designed for certainty alone, courts cannot demand perfect certainty. Rather, courts must be concerned with the integrity of the electoral system. This overarching concern informs our interpretation of the phrase "irregularities ...that affected the result. " (Rothsterin and Moldaver Jul)."
25. My Lord, beyond the individual's right to vote there is the general interest of the constituency and indeed of the entire country in protecting the franchise as pronounced in the case of *Luguterah v Interim Electoral Commissioner* [1971] 1 GLR 109.
26. In *Danso-Acheampong v Attorney-General & Abodakpi* [2009] SCGLR 353 the Supreme Court in upholding the validity of s. 10 of the Representation of the People Act, 1992 (PNDCL 284) and rules 41 (1) (e) and (3) of the Supreme Court rules 1996 (C 116) suspending the effect of a disqualification pending the determination of an appeal from a conviction said ably speaking through Dr. Date-Bah JSC at 360 that:
- "what is at stake is not just the member of Parliament's private interest. There is the public interest which requires that the constituents' choice should not be defeated by the error of a lower court".
27. Accordingly, we respectfully submit that the Petitioner has failed to discharge the burden of proof required to invalidate the lawful declaration made by the 2nd Respondent's Returning Officer in favour of the 1st Respondent.

28. We therefore pray this Honourable Court to dismiss the Petition as unproven and lacking in merit.

ERRORS ON EC PINK SHEETS

Issue of over voting not deciphered figures entered not questions. Some calculation in itemised trenched bars show a little more or less e.g. St. Kizitos R,C Primary School, Kpandai- $CHC2+C3+C4=602$ as against 600 in A1 trench bar.

D/A Primary School, West Bank-Kumdi-Range of booklets deepened with ink and not legible contestants' polling figures correct.

Again it is the last Petition where petitioner says their Pink sheet shows 1,422 for B1 but on EC's Pink sheet, it is 422

Kpalung Primary School, B2 & B3 not legible on EC, total are clear

D/A JHS Kundi, trench bar A1 cancellations, C4 cancellations? Otherwise candidate figures correctly tallied.

(11) St Kizitos R/C Primary School, A1 trench bar C1 and C5 give confliction legibility issues 612 correct. E/P Primary School, Tikarimi- A1 not equal to C5 450/456, otherwise candidates polling no's clear;

Don Theobold Primary School, Mbowura cancellations too many otherwise figures for candidates okay MFI Kpanda South A1 not equal to C5- gap of 180 (A1 trench bar 685, C5- 505).

D/A Primary School, Dodoai-cancellations to many on the evidence and actions of DEO and R/O they created the room for suspicion by relocation the incomplete collation to outside the boxing ring and declared the results in the midst of the violent scene which they escaped with 1st Respondent and declared the parliamentary election results in an alien setting unless the Tamale Regional office can confirm knowledge of the room it was declared in is their room/offices.

Finally, the EC could have brought all the pink sheets if it was clear of any gullies but the petitioner also did not bring all so presumed there is no problem except the 97 pink sheets they claimed was faulty.

A mind boggling question is why the 2nd Respondent left the designated collation center with an announcement which is not evident on the video but 1st Respondent alone knew where the further collation and declaration was to be done.

Tikarimi E/8 Primary School.

Agents refuses to sign because NDC says A1 $\neq$ C5, NPP also A1 $\neq$ C5 central mosque Kitare condidates total NR; Pentecost church Loloto, Ewandololoto D/A Primary School; Presby Primary Schol, Kanchinke D/A Primary School Lambado; L/A Primary School, Wiae.

At Kpalung Primary School, No. 8624 on the EC's Pink sheet C1 is equal to 261 whereby on the Petitioner's pink sheet it is 325. At Pentecost Church Loloto the EC's Pink Sheet No. A1 is equal to 485, while on the petitioner's copy it is 470, clearly a confusion of figures.

Election voting records are not like accounting errors which can be swept under the carpet as bad debts and depreciating assets to zero and the EC knows very well under the CI 127 the relevant provisions which classify errors of recording mistakenly and which do not lead to any controversy but where the errors are made by trained personnel from the EC with a huge budget it leaves much to be desired as to what goes on in the minds of the officers recording the data when this is a crucial national and constitutional mandate they have been entrusted with to ensure that the election of the people's choices for president and parliament is conducted with a sentient spirit or mind set in transparency, fair and free from any inconsistency.

We can again compare these irregularities, inconsistencies and anomalies to medical errors which cause death of patients and in this case protracted litigation which per the rules

ought to have ended in about 42 days but the learned friends fought even more than the candidates themselves orally and by motions and this court had a hectic time of reducing the high temperatures of the lawyers but there is no gain saying the fact that irregularities glossed over are not a good reflection of the fool proof system we want to set in motion.

The Supreme Court precedents laid down are clear and fortunately provide the principles and steps in deciding election petitions such that we give the constituency the justice that is according to law and the provisions stipulated in CI 127 and a few of them are stated below for our benefit and academic discourse.

Fundamentally the chief issue of this election petition is whether or not there was some irregularities and inconsistencies which had the effect of nullifying the results and from the 41 pink sheets tendered in court by both parties, clearly yes there are some inconsistencies and irregularities which may render the results suspect and we do not know what it is like with the other pink sheets which were not part of the whole pack.

The petitioner in his witness statement alluded to the fact that when 97 polling stations had been collated is when the violence started in contrast to the 1st and 2nd respondents and then the petitioner's witness Charles KIPO alleges THAT some of the pink sheets given to them were different from what they saw in court and could not be a true representation of the figures they collated.

On the other side of the respondents they alleged that the petitioner may have used paper in between which caused a shift of the figures as well as the scanning method used by the petitioner to make copies for their side so that explains the differences.

This court saw the copies supplied by the EC and they are also tainted with interpolations, deepening of ink in the recordings and then also cancellations here and there which is a sad

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experience for the work of the well-resourced commission to be subjected to so much scrutiny and suspicious eyebrows and since they concern figures have the tendency to tilt the score in favor of one party against the other.

I make special reference to the particular pink sheet with 1,422 but in the related slots or columns does not sync with the figure inputs and since a thousand affects a particular candidate's tally it raises eyebrows about which figures was used in the collation and in whose favor. Clearly the margin by which the 1st respondent is said to have won being over 3,000 ordinarily should not have raised any issues about his victory but if 1,000 is mistakenly picked up in the tally or collation contrary to the total ballots then it raises the specter of something fishy and what about the other 111 pink sheets and their contents we are not privy to and this both counsel for the 1st and 2nd respondents in their closing arguments postulated were mere trivialities which do not touch on the main results so they ought to be swept under the carpet is unfortunate.

Figures are the *raison de etre* of the elections or voting process and as the respondents' witness admitted under cross examination even one vote makes a difference, should we brush aside something in excess of a thousand the petitioner alleges and say even if they add to the petitioner's result it won't change the result, I beg to differ.

If it has to do with writing the figures in the English language and slips occur here and there, that's easily reconcilable but in this era of calculators and arithmetic symbols widespread on mobile phones it is dangerous to misuse written recording to perpetuate mistakes and wash it away under trivialities.

The addresses filed by the counsel for the respondents are erudite and glorious but they invite this court to white wash the unkempt written figures in some of the pink sheets which have become the regular parody of every election petition since our experiment with universal adult suffrage began in this country in the democratic dispensation.

We have gone past free SHS and it seems we are not getting better in our handwriting particularly for the kinds of personnel the EC engages for the election exercise and clearly some of the figures do not add up in the following pink sheets especially when we know the noisome pestilence of the average Ghanaian mouth which the Japanese have labelled us as MIGA which is translated to mean we talk too much but do very little in sense. It is our penchant and reputation for over confidence which betrays our true intent and disastrous writing habits which punish us in our zealous propensity to write but rather miswrite and even stating figures is the worst of the exercise and beats one's imagination.

It is a fact of judicial notoriety that the scientific arithmetic is a precision aid to engineering , accounting and every field of study including law and one plus one is two except the religionists who maintain that one plus one is one for their spiritual scale and where we have two candidates with final figures of 27,000 plus and 24,000 plus something ordinarily the former is bigger than the latter but when the documentary answer sheet giving rise to the final figures contains irregularities and inconsistencies, how do we settle the final result that it is the correct rendition of events which took place on the 7th December, 2024.

Let's put aside the videos and the destruction of the ballot materials and BVD machines and the relocation of the collation center to Tamale without notice to the petitioner and the pink sheets summarizes every numerical infraction which goes to the roots of the results and for the numerous authorities cited by both counsel for the respondents in a Siamese fashion as well as the petitioner's counsel, the fact remains that the pink sheet recordings raise substantial questions as to what has happened since our last two or three elections in which petitions were filed in court and the electoral officers cannot write legibly, is a terrible indictment on the EC's conduct of elections in this country.

If the 1st respondent won convincingly the pink sheets must authoritatively speak to that fact but when the violent disruption started the respondents' own versions of the aftermath point to incomplete collation and announcement to relocate and then in another vein relocation to a different venue said to be the Tamale regional office where the collation continued without the petitioner but with some alleged NDC executives the declaration was done or made, and the question is which room number of the regional office was it held and only with the 1st respondent and two persons present.

Before I conclude the destroyed materials and equipment which would provide the evidence no longer existed so how could the 2nd respondent compare and check the collated results to determine authoritatively that the 1st respondent indeed won hands down. In the light of section 19 of PNDC Law 284, only one relief is available in my view and that is to rerun the election in Kpandai constituency from the bottom of my heart.

It is in the light of the various written addresses of the respective counsel for the parties that I hereby order a rerun of the KPANDAI parliamentary election to satisfy the constitutional requirements of free and fair and transparent election result.

(SIGNED)

MMANUEL BART-PLANGE BREW

(HIGH COURT JUDGE)

COUNSEL

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