

- (a) *whether the person was registered to vote, or claims to have been a candidate, at the election; and*
- (b) *the grounds on which the election is disputed; and*
- (c) *the facts on which the petition is based ; and (d)*
- (d) *an application for an order about service of the petition."*

(2) *The Petition must have with it:*

- (a) *A sworn statement by the Petitioner in support of the Petition, setting out details of the evidence the Petitioner relies on; and*
- (b) *Any other sworn statements that support the Petition (Rule 2.3(a) (b) of the Election Petition Rules).*

(3) *A sworn statement must be in Form 2."*

- The Court heard counsel for the Petitioner.
- The Court read the Petition filed 27 February 2009 and the short sworn statement filed by the Petitioner on 23 March 2009. The Petitioner deposes that she will rely on the evidence of others to support the Petitioner. There is no other sworn statement filed in support of the Petition.

In the present case, the Petition was filed on 27 February 2009. It sets out that the Petitioner was a candidate at the by-election of 5 February 2009; the grounds on which the election is disputed are on basis of bribery and treating, contrary to Sections 45 and 46 of the Representation of the People's Act [CAP.146]; the detailed facts on which the petition is based; there is no application for an order about the service of the Petition.

The Petition was filed within 21 days after the gazetting of the election results.

The requirements of Rule 2.3(1)(a) (b) (c) of the Election Petition Rules are met. The requirement of 2.3(1)(d) is not met, although, the Petitioner serve the Petition on all parties (as they were present during the First Hearing).

The Petitioner filed a sworn statement in support of the Petition on 23 March 2009. There was no other sworn statement filed in support of the Petition.



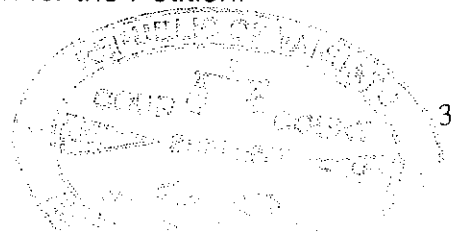
The First Hearing was held on 6 April 2009 at 2.00PM o'clock in open Court. The Court informs counsel for the Petitioner that the Petitioner must satisfy the Court that there is a foundation for the Petition. Counsel for the Petitioner refers the Court to the Petition and the sworn statement of the Petitioner filed in support.

The Court pointed to Counsel for the Petitioner that the Court must be satisfied at the first hearing that there is a foundation to the Petition. The Court then queried about whether there were other sworn statements filed because the allegations in the Petition were of serious nature and there is no single piece of evidence filed. Needless to say that the short sworn statement of the Petitioner (6 paragraphs) is to the effect that she will rely on the sworn statement of others. Counsel confirmed that there were no other sworn statements filed.

At that stage, counsel for the Petitioner applied for the Hearing to be adjourned as the Petitioner was still in the process of filing other sworn statements.

It is to be observed that an election petition must be filed within 21 days after the gazetting of the election results pursuant to Section 57 of the Representation of the People's Act [CAP.146]. The Petitioner complies with the requirement of this Section by filing a Petition on 27 February 2009 which petition sets out matter contained in Rule 2.3(a) (b) (c) but not (d). The Petitioner did not comply with Rule 2.3(a) (b) of the Election Petition Rules. The Petition sets out specific allegations of bribery and treating. At the First hearing, the only sworn statement filed was that of the Petitioner filed 23 March 2009. The Petition was filed on 27 February 2009. When The Petition was filed, it did not have with it a sworn statement by the Petitioner in support of it, setting out details of the evidence the Petitioner relies on. The Petitioner's statement did not set out details of the evidence the Petitioner relies on. Further, there was no other sworn statements filed in support of the Petition. The application for adjournment is refused.

Counsel for the Petitioner is reminded about the requirements of Rules 2.3(2)(a)(b) and 2.5(3) of the Election Petition Rules. The Petitioner must satisfy the Court of the existence of a foundation for the Petition.



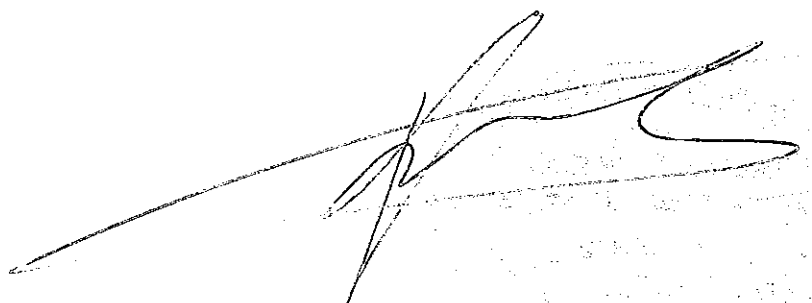
In the present case, the Petition filed on 27 February 2009 is incomplete and as such it is incompetent. There is no prima evidence to satisfy the Court of the existence of a foundation for the Petition within the requirement of the Election Petition Rules of 2003.

ORDER

1. The Election Petition filed 27 February 2007 is incompetent.
2. It has a no foundation.
3. It is, therefore, struck out.
4. The deposit of VT20,000 lodged by the Petitioner with the Supreme Court shall be returned to the Petitioner in accordance with Section 56(2) of the Representation of the People's Act [CAP.146].

DATED at Port-Vila this 6th day of April 2009

BY THE COURT

A handwritten signature in black ink, appearing to be 'Vincent Lunabek', written over a faint, dotted grid background.

**Vincent LUNABEK
Chief Justice**