

**IN THE SUPREME COURT
OF THE REPUBLIC OF VANUATU**
(Civil Jurisdiction)

**Election Petition
Case No. 25/136 SC/ELTP**

BETWEEN: Uri Warawara
Petitioner

AND: Allan Molveke Liki
First Respondent

**AND: Principal Electoral Officer and Electoral Service
Commission**
Second Respondent

Date of CONFERENCE: *7th day of March, 2025 at 9:00 AM*
Before: *Justice Oliver Saksak*
In Attendance: *Mr Lent Tevi for the Petitioner via telephone*
Mr Robin Kapapa for First Respondent
Mr Sammy Aron for Second Respondent

DECISION

1. At the first conference held this morning pursuant to Rule 2.9 of the Election Petition Rules 2003, there were 2 strike out applications for determination. The first was filed by the First Respondent. The Second was filed by the Second Respondent on 6th March 2025 at 4:30pm.
2. It appeared from what I heard from Mr Tevi that that he had not seen the second application and also the written submissions filed by the First Respondent at 8:30am today, 7 March 2025.
3. Mr Aron referred to a chain of emails dated 6/03/2025, 16:44pm in which Mr Aron drawn Mr Tevi's attention to the payment of security fees of VT 200,000 which the Petitioner had failed to pay pursuant to sections 89 and 90 of the Electoral Act No. 16 of 2023.



4. The issue of non-compliance with section 89 and 90 of the Act of was raised as the preliminary issue for determination.

5. Section 89 states:

“Petition only valid if deposit made

(1) The presentation of an election petition is not valid unless the person presenting the petition lodges with the Supreme Court a deposit of VT 200,000 as security for costs within the time period referred to in section 90 of the presentation of the petition.”

6. Section 90 of the Act states:

“Time for presentation of petitions

(1) Subject to subsection (2), an election petition must be presented within 21 days after the publication in the Gazette of the final results of the election to which the petition relates.

(2) If a petition alleges a specific payment of money or other reward after an election by or on the account of a person whose election is disputed, the petitioner may be presented within 21 days after the alleged payment.

(3) The time limit referred to in subsections (1) and (2) must not be extended.”

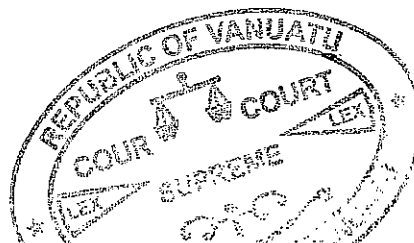
7. Mr Tevi responded to this issue with a twofold argument. First he said he was not aware of the new legislation that increased the deposit fee from 20,000 to VT 200,000 therefore the Petitioner paid only VT 20,000 on 10th February 2025 when he filed the petition. However Counsel argued that having paid the balance of VT 180,000 later after receiving information that the petitioner had complied with the law.

8. There are receipts on file confirming the payment of VT 20,000 on 10th February 2025 and receipted on 12th February 2025. For the second payment the Registrar issued a receipt dated 20th February 2025 for the VT 180,000 additional payment. That is a day late after the cut-off date being 19th February 2025

9. By section 9(3) of the Act there cannot be any extension of time.



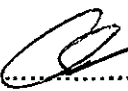
10. That is sufficient to render the petition in this case invalid. But I go further to consider the submissions by Mr Kapapa.
11. These are other hurdles the petitioner has to leap over successfully. The first is that he complains some 111 voters were allowed to vote when they should not have been allowed. The results show the petitioner secured 815 votes while the First Respondent secured 996 votes. However the petitioner has no evidence those 111 voters would have voted for him and even if they did, his votes would have gone up to only 926, a shortfall of 70 votes.
12. Secondly the alleged bribery for the giving of VT 5000 and VT 15,000 to certain persons. Bribery by virtue of section 107 (2) of the Act is a statutory offence requiring a separate prosecution to secure a conviction first before the election of the first Respondent could be declared void. He has not been prosecuted for the alleged bribery at any time prior to this petition. The cases referred to by Mr Kapapa in his written submissions lend support for this view. These are cases of Terry v Andy [2022] VUSC 211 and Ken v Shadrack [202] VUSC 217 and also Kalsakau v PEO [2013] VUSC 99 where buying of kava was in issue but was held to be insufficient to render an election invalid. There is also the case of Felix v PEO [2020] VUSC 240 which does not support the petitioner's case.
13. Accordingly for those reasons, the petition is dismissed with costs.
14. The Republic seeks costs in the sum of VT 50,000 and the First Respondent seeks also costs in the sum of VT 70,000 but increased by the Court to VT 100,000. These are allowed by the Court. The total costs allowed and payable by the Petitioner is VT 150,000.
15. These costs shall be deducted from the VT 200,000 paid by the petitioner. The balance of VT 50,000 shall be returned to the petitioner directly.



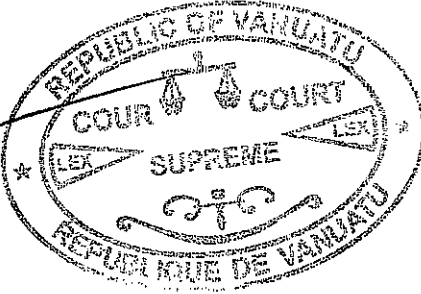
16. The costs payable to the First Respondent is to be made directly to the First Respondent. For the Second Respondent, the costs shall be paid to the Attorney General's Development and Trust Account.

DATED at Port Vila this 7th day of March, 2025.

BY THE COURT



Hon. Oliver Saksak
Judge



The seal is circular with the text "REPUBLIC OF VANUATU" at the top and "REPUBLIQUE DE VANUATU" at the bottom. In the center, it says "COUR SUPREME" and "COURT OF APPEALS". There is a scale of justice symbol in the middle.