

**THE REPUBLIC OF KENYA**

**IN THE SUPREME COURT OF KENYA AT NAIROBI**

**PETITION NO.....OR 2017**

**BETWEEN**

**RAILA AMOLO ODINGA.....1<sup>ST</sup> PETITIONER**

**STEPHEN KALONZO MUSYOKA.....2<sup>ND</sup> PETITIONER**

**AND**

**INDEPENDENT ELECTORAL AND**

**BOUNDARIES COMMISSION.....1<sup>ST</sup> RESPONDENT**

**UHURU MUIGAI KENYATTA.....2<sup>ND</sup> RESPONDENT**

**WILLIAM SAMOEI RUTO.....3<sup>RD</sup> RESPONDENT**

**AFFIDAVIT IN SUPPORT OF THE PETITION**

I **MOSES WAMURU** of **P.O Box 418 RUNYENJES**, in the Republic of Kenya do hereby make oath and state as follows:

1. **THAT** I was engaged as the Presidential Chief Agent and County Coordinator for Embu County on behalf of the NASA Presidential Candidate.
2. **THAT** my role as the County Coordinator involved mobilizing, training, deployment and supervision of the NASA presidential candidate agents in Embu County. I also

responsible to determine areas where NASA agents had challenges or were unresponsive and secure replacement of such agents.

3. **THAT** as the County Chief Agent, my role also included to: act as the Chief Agent for the NASA Presidential Candidate concerning the electoral processes in Embu County; liaise with the IEBC County Election Officials, Liaising with Returning Officers; attend attending at the Constituency Tallying Centers; attend at the County Tallying Center; and supervise and receive reports from all the NASA Presidential Candidate Agents in the County.
4. **THAT** on the 8<sup>th</sup> August 2017 at about 8 am, I received a call from the NASA agent in Gichera Primary School polling station, Kagaari South Ward in Runyenjes Constituency indicating that he was locked out from the polling station from 6am. I drove there at 9am and found voting proceeding in the absence of the NASA presidential candidate agent who was denied entry. After argument with the Presiding Officer in charge of the Station, the NASA agent was allowed in at around 10am but were later chased out of the hall during before the close of polling and during the entire counting process.
5. **THAT** at about 11 am, I arrived at Thigingi Primary School in Kagaari North Ward, Runyenjes Constituency where I found all the NASA Presidential Candidate Agents locked out of polling station. My effort to persuade the Presiding Officer to allow the NASA Agent to get into the polling station could not succeed. At one point, the Presiding Officer threatened me under the watch of police constable Kariuki. At that point, the voters waiting on the queue protested and demanded that NASA agent to be admitted into the polling station. The Presiding Officer, gave in to the voters protests and allowed the NASA agent into the hall at about 12.30 am. However, during counting they expelled the NASA agent out of the counting hall.
6. **THAT** at Karago Primary School in Kieni North Constituency, voting had not started by noon. The reason given by the Presiding Officer was that the wrong simcard was given to

them. At around 2.00pm a new Sim Card was given to them. Many voters had lost interest and returned home.

7. **THAT** voting started normally at Kathugu Primary School in Kagaari South up to around mid day when the Presiding Officer decided to stop using the KEIMS gadget and resort to manual identification without any explanation to the agents present at the polling station. When I demanded to know why they were voting manually, the Presiding Officer became hostile and chased me away from the polling station. In the same school, the NASA agent witnessed voters issued with two presidential ballot papers.
8. **THAT** at Karurumo Polytechnic, Kieni South, the NASA agent noted and raised complaint on voters being given between 2 and 3 presidential ballot papers. At one time, the NASA agent confronted the voter and clerk and it witnessed that the voter had 8 ballot papers. However, the excess ballot papers were taken and the voter allowed to proceed and vote. The act was repeated severally and anytime the agent complained the excess votes were taken and affected voter allowed to vote. Later in the evening, the NASA agent was kicked out of the hall by the police under the instructions of the Presiding Officer and was thus absent during the counting and declaration of results at the polling station.
9. **THAT** New Kieni Polling Station in Kieni South, the NASA agent was kept out of the Polling Station throughout the day. At around 3 and 4pm I tried to intervene and the Presiding Officer in company of Jubilee Chief Agent and other Jubilee supporters threatened me if I dared enter in that hall or send any NASA agent in the hall. All this was under the watch of the police officer who was assigned to provide security at the Station. The lady openly told me that she was acting under the instructions of the County Commissioner, Ms Esther Maina. We therefore did not have any agent at Kieni Polling Station in Kieni South.
10. **THAT** in Ngurueru Primary in Runyenjes Constituency, Kagaari North Ward, the Presidential ballots got finished at about 4pm. The Presiding Officer instructed the clerks

to only give the votes for governor Senate and other lower seats and ignore the presidential ballots since they were finished. When our agents complained, he was threatened to be chased out and was told that the ballots were enough. My effort to make a follow up with the Presiding Officer were in vain because he refused to talk to me when I asked. Instead he referred me to higher authority which he did not specify.

11. **THAT** at about 8pm in the evening, I received a call from one of the NASA agents at Kiangongi Primary School in Kieni North, Runyenjes Constituency. The agent by the name, Eliud Gitau complained to me that he had been refused entry into the County Hall and that everyone had been chased from the school compound and was suspicious that all was not well. I drove to the place at about 8.30 and entered in the compound on foot accompanied by my driver and security in a dark compound and scary. I noticed some dim light in one of the classrooms and approached it from the dark unknowingly. When I peeped through the wire-mesh window I noted that the person I suspected to be the Presidign Officer, was plucking papers and giving others who seemed to had been marking. The place was quiet thus there was no counting in progress. At this point, the police woman who was manning the station noticed me and requested me to go round. When I went round, she requested me to go round. When I indicated that I am a NASA agent, she became very hostile. At that point another policeman emerged and demanded that I leave the place immediately. The police officer stated that “if I am a man enough I may get in and see what they were doing”.

12. **THAT** tallying Center at Runyenjes was at Kieni Girls Secondary School. I attended tallying center at 9am on 9<sup>th</sup> August 2017. All NASA Agents had been denied entry completely. I pleaded with the Returning Officer who was adamant and asked that we leave. They also denied our request to pin the result on the wall. Tallying was only a secret to the IEBC Officials, Jubilee Supporters and Officers from the County Commissioners Officer. To date we do not know the result of the election in Runyenjes Constituency.

13. **THAT** on 9<sup>th</sup> August 2017, at about 3pm, I arrived at Siakago Girls Secondary School which was the Tallying Center for Mbeere North Constituency. When I arrived, tallying had just ended in the absence of the NASA tallying agents who were allowed entry in the hall. Immediately on arrival, Form 34B was released to the Officers working in the County Commissioner's office who was there in person and left with copies of the Forms. I pleaded with the lady in charge who was the Returning Officer to give me a copy of the Form as the County Chief agent for NASA but the lady insisted that she had to wait for a report from the County Commissioner first. During all that time, between 3pm and 11pm the lady seemed to have been communicating with some higher authorities where she could only be held responding as "yes sir", "yes sir" and each time passing instructions to clerks in the computers at the tallying center. At 11 pm she generated a copy of the result and offered to give me a copy on condition that I signed the form. Upon declining to sign, she instructed that I be expelled from the room. To get information, I accepted to sign in order to secure a copy of the result.
  
14. **THAT** in Mbeere South Tallying Center at Nyangwa Secondary School and the situation was not different from Mbeere North. Our Chief Agent responsible for the Constituency, Mr. Donald Muchembi was in charge and registered several complaints including harassment by Jubilee and Provincial Administration officers. In the tallying center the County Commissioner was acting as the Jubilee Chief Agent.
  
15. **THAT** at Mbeere North Tallying Center, she arrived at the Tallying Center where she parked outside and sent someone to the Tallying Center who collected copies of the results. Upon receiving the results, she drove off and the Returning Officer informed the persons present at the hall that she would wait for County Commissioner to return before concluding the tallying process. When the NASA agent went to enquire about the results he was kept to wait the whole day only to be given the result 12 hours later and without the total tallying for the NASA presidential candidate.
  
16. **THAT** in many polling stations including Gichera Primary, Runyejes Central, Gnurueri, the indelible ink was not used and voters confessed to have voted more than once. In

many polling stations agents within the polling stations were seated too far from the desk where identification of voters was conducted and were not in a position to ascertain whether identification had happened. IEBC Presiding Officers and Clerks were assisting those who were unable to vote without the presence of agents. During Counting, many agents were kept out of counting when they noticed and complained that Presiding Officers were counting rejected ballots in favour of Jubilee Presidential Candidate without any explanation.

17. **THAT** in Manyatta Constituency, I received reports that NASA agents were compromised by the County Commissioner and the Head of Police.

18. **THAT** the conduct of the IEBC officials and officers from county commissioner was repeated in all areas in Embu County. NASA agents were harassed and completely denied opportunity undertake their roles to monitor the process or were harassed and forced to sign the statutory forms. The process of election lacked transparency. IEBC officials did not act independently and were overwhelmingly influenced by the provincial administration. Presiding Officers complied with the orders of the County Commissioner or her officials.

19. **THAT** all that is deposed herein is true to the best of my knowledge, information and belief sources and grounds whereof are disclosed.

**SWORN** at **NAIROBI** by the said )

**MOSES WAMURU** ) .....

) **DEPONENT**

This day of 2017 )

**Before Me** )

)

)

)

**COMMISSIONER FOR OATHS**