

REPUBLIC OF KENYA  
IN THE SUPREME COURT OF KENYA AT NAIROBI  
PRESIDENTIAL ELECTION PETITION NO. OF 2022

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

MARTHA WANGARI KARUA .....2<sup>ND</sup> PETITIONER

-VERSUS-

INDEPENDENT ELECTORAL

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

WANYONYI WAFULA CHEBUKATI .. 2<sup>ND</sup> RESPONDENT

BOYA MOLU .....3<sup>RD</sup> RESPONDENT

PROF. ABDI YAKUB GULIYE .....4<sup>TH</sup> RESPONDENT

JULIANA WHONGE CHERERA .....5<sup>TH</sup> RESPONDENT

JUSTUS NYANGAYA .....6<sup>TH</sup> RESPONDENT

FRANCIS WANDERI .....7<sup>TH</sup> RESPONDENT

IRENE MASSIT .....8<sup>TH</sup> RESPONDENT

WILLIAM SAMOEI RUTO.....9<sup>TH</sup> RESPONDENT

AFFIDAVIT OF JOHN MARK GITHONGO IN SUPPORT OF THE PETITION

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**REPUBLIC OF KENYA**  
**IN THE SUPREME COURT OF KENYA AT NAIROBI**  
**PRESIDENTIAL ELECTION PETITION NO..... OF 2022**

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VERSUS

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WILLIAM SAMOEI RUTO.....9<sup>TH</sup> RESPONDENT

-10

**AFFIDAVIT IN SUPPORT OF THE PETITION**

I **JOHN MARK GITHONGO**, a resident of Nairobi and of Identity Card No. **7112561** and of Post Office Box Number **23111 - 00604** Nairobi in the Republic of Kenya, do solemnly make oath and state as follows: -

-20

1. **THAT** I am male adult of sound mind familiar with the matters arising herein and competent to swear this affidavit.
2. **THAT** I swear this affidavit in support of the Presidential Petition herein dated 21<sup>st</sup> August 2022.
3. **THAT** I am a Governance expert and the CEO at INUKA KENYA NI SISI which is a Non-Governmental Organisation that specializes in championing good governance in Kenya.
4. **THAT** during the just concluded 2022 general elections, INUKA KENYA NI SISI was part of several observer groups that sent representatives round the country to observe the general conduct of the elections.

5. **THAT** sometime on or about the 18<sup>th</sup> August 2022, a young man was introduced to me by a colleague at Batian Hotel Suites located at Argwings Kodhek Road within Nairobi and said that he had a matter of national importance he wished to discuss with me.
6. **THAT** the young man was visibly tense and frightened.
7. **THAT** when asked, the young man gave me his name, his profession, place of business and residence, information which he willingly provided. I am not be able to disclose the said personal information in order to protect the safety and security of the young man. However, I am ready and willing to give this information in full to the Court *in camera*.
8. **THAT** upon inviting the young man to state the purpose of his visit, he revealed to me utterly shocking details of how he together with others, were involved in a large scale, well-orchestrated fraudulent scheme that enabled them to interfere with and compromise the IEBC electoral data transmission system and manipulate the presidential election results same in favour of the 9<sup>th</sup> Respondent to secure a fraudulent win. - 10
9. **THAT** the young man revealed to me in great detail how the fraudulent scheme was implemented as follows;
  - a. That he was a part of a team of 56 people (“the team”), who had been recruited to conduct a grand scheme to manipulate results in favor of the 9<sup>th</sup> Respondent, to ensure a fraudulent win by all means possible.
  - b. The 56 man team had 10 supervisors. He was one of the supervisors while the other 46 people were accessing, entering and manipulating the entries.
  - c. Their task was to receive the form 34A’s from the KIEMS Kits which were sent to their server/platform which he called “Uchaguzi Tallying” having the pseudonym “Uchaguzi 2022”. After receiving the said data, they would edit the said form 34A’s according to the instructions given to them by their leaders thereafter upload the said edited form 34A’s to the IEBC portal. - 20
  - d. That the said Form 34A’s would be received in JPEG (Picture) format, edited and then uploaded in PDF format into the IEBC Portal.
  - e. Among the said other supervisors of this criminal enterprise were DAVIS CHIRCHIR, DENNIS ITUMBI, KIBYEGON, MORRIS MUTEGI, BABY SERGE and JACKSON KANDI. - 30



- f. That the team was indoctrinated on the phrase “freedom is coming” and that they needed to be freed from dynasties; who in this case included the Petitioner.
  - g. He further informed me that they had access to the back end of the IEBC server through an arrangement between the 1<sup>st</sup> and 2<sup>nd</sup> Respondents, officials of the 1<sup>st</sup> Respondent’s ICT department together with Smartmatic, the company that won the tender to provide election technology in the just concluded general election. The interface dubbed “Uchaguzi 2022” was created to receive data directly from the KIEMS Kits before the same could thereafter be sent to the IEBC server.
10. **THAT** the young man explained to me how the system worked. He stated as follows;
- a. That the form 34A’s from the different KIEMS Kits would be transmitted to the ‘Uchaguzi 2022’ server where they would have access to the said forms. They would in turn edit the said forms, to conform to the numbers as instructed by their superiors. -10
  - b. After the fraudulent alterations, the form 34As containing false, exaggerated or suppressed votes would then be uploaded back to the IEBC server.
  - c. That the editing instructions were as follows;
    - i. That the goal was to ensure that votes were increased in favor of the 9<sup>th</sup> Respondent in his strongholds and to shore up his numbers in areas where there was a low voter turnout.
    - ii. Secondly, in the 9<sup>th</sup> Respondent’s strongholds, where the 1<sup>st</sup> Petitioner got a considerable number of votes, they would take away votes from the 1<sup>st</sup> Petitioner and add it to the 9<sup>th</sup> Respondent without necessarily touching the total number of valid votes cast, which would remain the same. -20
    - iii. Thirdly, he explained that in the 1<sup>st</sup> Petitioner’s strongholds, the presidential votes would be systematically reduced in very small numbers in various polling stations from the 1<sup>st</sup> Petitioner’s numbers and added to the 9<sup>th</sup> Respondent. This explained the discrepancy between the other elective positions total valid votes cast and those of presidential votes, where the 1<sup>st</sup> Petitioner’s votes in his strongholds seemed lower than the total number of valid votes cast for other elective positions.
11. **THAT** I asked the young man to give this evidence before court but he was hesitant to do so. He argued that this would put his life and that of his family members in grave danger. -30





12. **THAT** it is then that we managed to convince him to record this evidence in camera. We further assured him that we would cover his face and disguise his voice to conceal his identity and thus ensure his and his family's safety and security. He accepted this request. We thus recorded this evidence. I hereby support my averments herein by producing the relevant parts of a video recording of my meeting with the young man; his face has been concealed and voice distorted to ensure his safety and security is protected. (*Annexed herein and marked "JMG-1" is a flash disk with the said the recording*).
13. **THAT** further, I herein below produce a transcription of the relevant parts of the said meeting as captured in the video recording above which was made in my presence and I confirm it is an accurate transcription.

JOHN: Can you tell us what we are looking at? - 16

WITNESS: This is a form 34 A from Baringo County, Tiaty Constituency. So in this particular form you can see that votes for candidate Raila Odinga and William Samoei Ruto, then you come down here, you can see that the presiding officer comments, we had one rejected ballot paper with serial number P R eleven zero eight two (11082) then this figure has been changed to five (short pause) three five (35) and then also in the stamp you can see that there are two stamps over here. Yes.

JOHN: And, uhm, the reason it has two stamps is because one of those stamps is yours?

WITNESS: Yes.

JOHN: Which means it is a fake stamp? - 20

WITNESS: Yes.

JOHN: So, this is a fake form 34A?

WITNESS: Exactly.

JOHN: And this form is currently on the public portal?

WITNESS: Yes.

JOHN: And these are the ones that have been uploaded?


WITNESS: Yes

JOHN: In the public portal?

WITNESS: Yes.

JOHN: Thank You. - 30

JOHN: Uhm, you were part of a team of 56 people?



WITNESS: Yes.

JOHN: You said they were based at Karen.

WITNESS: Yes.

JOHN: Led by, uhm ole Itumbi?

WITNESS: Dennis Itumbi.

JOHN: Dennis Itumbi.

JOHN: Uhm, what was the mission of this, uhm, team of, you are all computer specialists?

WITNESS: Ten of us.

JOHN: Ten of you are computer specialists?

WITNESS: Yes.

JOHN: What was your mission?

WITNESS: Mission was to get William Samoei Ruto to power.

WITNESS: And, aah, to defeat, aah, the dynasties because, aah, for a long time on what Dennis Itumbi was telling us that we needed freedom to liberate ourselves from the dynasties so that freedom is coming.

JOHN: How did you go about doing that?

JOHN: Here we can see on the screen, the IEBC...

WITNESS: accreditation management systems (AMS) uhm...

JOHN: So you were able to enter the IEBC system or how did it work?

WITNESS: Yeah, we had the credentials in some instances and in other instances we hacked into the system itself.

JOHN: You hacked into the IEBC system?

WITNESS: Yes.

JOHN: So, uhm, the results that we were as Kenyans watching on the portal...

WITNESS: Yes

JOHN: Came from you or from the IEBC, from the KIEMS kits of the IEBC?

WITNESS: The results came from us. Then we posted to the public portal of IEBC.

JOHN: So, when the KIEMS kits results were transmitted...

WITNESS: Yes



JOHN: Ostensibly to the IEBC, they were coming to you first?

WITNESS: Yes.

JOHN: And then what would you do to those results?

WITNESS: We would manipulate and then we send whatever we wanted to send to the public portal so that people would actually download and add the results for themselves.

JOHN: So, all the, these form 34s that are on the public portal of the IEBC...

WITNESS: Yes

JOHN: are manufactured by you and your team?

WITNESS: Yes.

- 10

JOHN: Where are the real ones, because the KIEMS kits sent some real results?

WITNESS: The real results are on the server.

JOHN: And you were able, did your actions as a team change the outcome of the election?

WITNESS: Yes it did.

JOHN: How?

WITNESS: Uhm, William Samoei Ruto was declared the winner, with majority of governors.

JOHN: So you also manipulated the results of the gubernatorial?

WITNESS: Yes. In some key counties that were of interest to us.

JOHN: Do you still have access to the IEBC system today?

WITNESS: Yes.

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JOHN: So that group of 56 people is still working in Karen?

WITNESS: No. Right now we are out but we can still access the system remotely.

JOHN: So you still have your credentials to access the entire IEBC system?

WITNESS: Yes just like the way I have just logged into accreditation management system.

JOHN: If you wanted to, can you change results right now?

WITNESS: Yeah, right now I can change, but I fear my other team members. Someone might be seeing that something is happening.

JOHN: So, Kenyans never saw the real results of the election, they saw the results of the elections that your team produced?

WITNESS: Exactly.

WITNESS: And that's why even tallies were different on our TV media stations they had different tallies.

WITNESS: So once you get once we post the results on the public portal we already knew that whatever would be added would give William Samoei Ruto the win.

JOHN: So the form 34As that everyone has been downloading...

WITNESS: Yes

JOHN: and using for tallies...

WITNESS: Yes

JOHN: Are fake really?

WITNESS: Yes.

JOHN: Because all the results were coming to your system?

WITNESS: Yes.

JOHN: You were manipulating the form 34A's?

WITNESS: Yes.

JOHN: And then putting them on the public portal?

WITNESS: yeah and then you push the changes on the public portal.

JOHN: So it was a system for rigging an election?

WITNESS: Yes.

JOHN: Okay.

*(Annexed herein and marked "JMG-2" is a certificate of transcription)*

14. **THAT** from the foregoing, the young man confirmed to me that their fraudulent activities significantly and materially altered the outcome of the presidential results in favour of the 9<sup>th</sup> Respondent.
15. **THAT** from the information provided by the young man, it clearly emerges that the results in the IEBC Portal are not those that were originally transmitted by the KIEMS Kits, but rather were fraudulently exaggerated, suppressed and substituted results. Further, the young man confirmed that his team had the credentials to access the IEBC Portal and in other instances hacked into the system. He further confirmed that he still has access to the IEBC Portal to date



verifiable, secure, accountable and transparent as provided for in Article 86 (a) of the Constitution of Kenya 2010, and as required by other mandatory requirements of the Constitution.

23. THAT what is deponed to herein is true to my own knowledge save as to matters deponed to and information and belief and grounds whereof are hereinabove stated and set out.

SWORN BY THE SAID )

JOHN MARK GITHONGO )

At NAIROBI this 21<sup>st</sup> day of August 2022)

*John Mark Githongo*

Deponent

BEFORE ME )



COMMISSIONER FOR OATHS )

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- 20

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William Samoei Ruto

Office of the Deputy President

Harambee Avenue

P.O Box 74434 - 00200

**NAIROBI.**

- 6



This is the Exhibit No. JM 111  
referred to in the Affidavit of John Mark  
Githongo Dated 21/8/2022  
Sign [Signature]

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**IRENE MASSIT.....8<sup>TH</sup> RESPONDENT**  
**WILLIAM SAMOEI RUTO.....9<sup>TH</sup> RESPONDENT**

**CERTIFICATE UNDER SECTION 106 (4) (B) OF THE EVIDENCE ACT (CAP 80) OF THE**  
**LAWS OF KENYA)**

I, **JOHN MARK GITHONGO** a resident of Nairobi and of Identity Card No. **7112561** and of Post Office Box Number **23111-00604** Nairobi in the Republic of Kenya do hereby certify in accordance with section 65 (8) and Section 106 (4) (B) of the evidence Act (Cap 80 of the laws of Kenya), as follows:

1. That I make this Certificate in respect of the transcription produced under paragraph 14 of the Affidavit sworn by myself dated 21<sup>st</sup> August in support of the Petition.
2. The transcription is a true reflection of the video meeting between myself and the witness.
3. All the electronic gadgets were in good working condition, operated, and performed the actions described above seamlessly and without any technical difficulties.
4. I issue this certificate in compliance with section 65 of the Evidence Act (Cap 80 of the laws of Kenya), and I wish that the said Flash Disk and Digital Logs be admitted as evidence in the proceedings.

**(B)**



CERTIFIED at Nairobi this 21st day of August 2022 by:



**JOHN MARK GITHONGO**

**DRAWN & FILED BY:**

**Paul Mwangi & Company**

Advocates,

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- 20

**The Chairperson**

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- 30

William Samoei Ruto

Office of the Deputy President

Harambee Avenue

P.O Box 74434 - 00200

**NAIROBI.**

Lodged in the Registry at Nairobi on the .....day of.....2022

.....

Registrar

This XML file does not appear to have any style information associated with it. The document tree is shown below:

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This is the Exhibit No. JMG 3  
 referred to in the Affidavit of John Mark  
Githongo Dated 21/18/2022  
 Sign [Signature]

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- 10

- 20

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 Bureti.jpg  
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 (001120) 9/8/2022 12:06:54 PM - wehebukati@iebc.or.ke (197.156.129.137)> RETR F34A-191-  
 Bureti.jpg

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16°C 9/8/2022 12:07:13 PM wehebukati@iebc.or.ke  
 Masifi - cloudy  
 23°15  
 17/08/2022

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Bureti.jpg
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Bureti.jpg
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Bureti.jpg
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Bureti.jpg
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Bureti.jpg
(001127) 9/8/2022 12:24:18 PM - wehebukati@iebc.or.ke (197.156.129.137)> STOR F34A-191-
Bureti.jpg
(001126) 9/8/2022 12:24:41 PM - wehebukati@iebc.or.ke (197.156.129.137)> DELE F34A-191-
Bureti.jpg
(001130) 9/8/2022 12:25:40 PM - wehebukati@iebc.or.ke (197.156.129.137)> STOR F34A-191-
Bureti.pdf
(026419) 13/8/2022 12:57:44 PM - wehebukati@iebc.or.ke (52.85.61.121)> RETR F34A-191-
Bureti.jpg
  
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* <Error>
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</Error>
(004192) 9/8/2022 17:12:22 PM - (not logged in) (52.85.61.121)> 331 Password required
jjwii@jebc.or.ke
(004192) 9/8/2022 17:12:22 PM - jjwii@jebc.or.ke (52.85.61.121)> 230 Logged on
(004192) 9/8/2022 17:12:22 PM - jjwii@jebc.or.ke (52.85.61.121)> CWD /
(004192) 9/8/2022 17:12:22 PM - jjwii@jebc.or.ke (52.85.61.121)> 250 CWD successful. ?
current directory.
(004192) 9/8/2022 17:12:23 PM - jjwii@jebc.or.ke (52.85.61.121)> DELE F34A-1
LAIKIPIAWEST.jpg
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(004184) 9/8/2022 17:12:51 PM - jjwii@jebc.or.ke (52.85.61.121)> disconnected.
(004192) 9/8/2022 17:12:54 PM - jjwii@jebc.or.ke (52.85.61.121)> RNFR F34A-031-1
LAIKIPIAWEST.jpg
(004192) 9/8/2022 17:12:54 PM - jjwii@jebc.or.ke (52.85.61.121)> 350 File exists, ready
destination name.
(004192) 9/8/2022 17:12:54 PM - jjwii@jebc.or.ke (52.85.61.121)> RNTO F34A-1
LAIKIPIAWEST.jpg
(004192) 9/8/2022 17:12:54 PM - jjwii@jebc.or.ke (52.85.61.121)> 250 file renamed successf
(004192) 9/8/2022 17:14:55 PM - jjwii@jebc.or.ke (52.85.61.121)> 421 Connection timed out.
(004192) 9/8/2022 17:14:55 PM - jjwii@jebc.or.ke (52.85.61.121)> disconnected.
(019028) 9/8/2022 13:13:38 PM - (not logged in) (105.165.157.174)> USER jjwii@jebc.or.ke
  
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This is the Exhibit No. 19  
referred to in the Affidavit of Anthony  
Dated 21/8/2022  
Sign [Signature]

**REPUBLIC OF KENYA**  
**IN THE SUPREME COURT OF KENYA AT NAIROBI**  
**PRESIDENTIAL ELECTION PETITION NO..... OF 2022**

**RAILA AMOLLO ODINGA .....1<sup>ST</sup> PETITIONER**  
**MARTHA WANGARI KARUA.....2<sup>ND</sup> PETITIONER**

**VERSUS**

**INDEPENDENT ELECTORAL AND**  
**BOUNDARIES COMMISSION.....1<sup>ST</sup> RESPONDENT**  
**WANYONYI WAFULA CHEBUKATI.....2<sup>ND</sup> RESPONDENT**  
**BOYA MOLU.....3<sup>RD</sup> RESPONDENT**  
**PROF. ABDI YAKUB GULIYE.....4<sup>TH</sup> RESPONDENT**  
**JULIANA WHONGE CHERERA.....5<sup>TH</sup> RESPONDENT**  
**JUSTUS NYANGAYA.....6<sup>TH</sup> RESPONDENT**  
**FRANCIS WANDERI.....7<sup>TH</sup> RESPONDENT**  
**IRENE MASSIT.....8<sup>TH</sup> RESPONDENT**  
**WILLIAM SAMOEI RUTO.....9<sup>TH</sup> RESPONDENT**

**CERTIFICATE UNDER SECTION 65 (8) OF THE EVIDENCE ACT (CAP 80) OF THE LAW**  
**OF KENYA)**

I, **JOHN MARK GITHONGO** a resident of Nairobi and of Identity Card No. **7112561** and of Post Office Box Number **23111-00604** Nairobi in the Republic of Kenya do hereby certify in accordance with section 65 (8) and Section 106 (4) (B) of the evidence Act (Cap 80 of the laws of Kenya), as follows:

1. That I make this certificate in respect to the video evidence produced in a flash drive marked as annexure "JMG-1" and the digital logs produced as annexure "JMG-3" on the Affidavit sworn by myself dated 21<sup>st</sup> August 2022 in support of the Petition.
2. That the video was recorded through a camera whose details are as follows;  
Camera Name: **JVC Camcorder**  
Camera make and model: **JVC GYHM600E**  
Camera Serial Number: **167MO343**
3. That the recorded video was then trimmed, the voice disguised, and the face blurred on a professional videographer's computer which details she can produce to court in camera owing to the sensitivity of the matter touching on her safety and security.

**(19)**

4. That I then copied the trimmed video into a flash drive whose details are as follows:

Serial Number: **BP22020015734**

5. That the logs were sent to me on my computer whose details are as follows:

Computer name: **MacBook Air**

Computer number: **C02QN24FG940**

6. I thereafter printed the logs using a printer whose details are as follows:

Printer name: **LaserJet P1006**

Printer serial number: **VNC4J65892**

Printer product number: **P1006**

7. All those electronic gadgets were in good working condition, operated, and performed the actions described above seamlessly and without any technical difficulties. -6

8. I issue this certificate in compliance with section 65 of the Evidence Act (Cap 80) of the laws of Kenya), and I wish that the said video recording and digital logs be admitted as evidence in these proceedings.

CERTIFIED at NAIROBI this 21<sup>st</sup> day of August 2022 by:



**JOHN MARK GITHONGO**

**DRAWN & FILED BY:**

**Paul Mwangi & Company**

Advocates,

Vision Plaza,

3 Rd Floor, Room 16,

Mombasa Road,

P.O Box 55903-00200,

**NAIROBI.**

Email: [pmlawchambers12@gmail.com](mailto:pmlawchambers12@gmail.com)

[paulmwangi12@gmail.com](mailto:paulmwangi12@gmail.com)

[ochiengogingaadvocates@gmail.com](mailto:ochiengogingaadvocates@gmail.com)



**The Chairperson**

The Independent Electoral and Boundaries Commission  
Anniversary Towers  
University Way  
6<sup>th</sup> Floor  
P.O Box 45371-00100

**NAIROBI**

Tel: +254(0)2769000  
Email: info@iebc.or.ke

**The Independent Electoral and Boundaries Commission**

Anniversary Towers  
University Way  
6<sup>th</sup> Floor  
P.O Box 45371-00100

**NAIROBI**

Tel: +254(0)2769000  
Email: info@iebc.or.ke

William Samoei Ruto  
Office of the Deputy President  
Harambee Avenue  
P.O Box 74434 - 00200

**NAIROBI.**

Lodged in the Registry at Nairobi on the .....day of.....2022

.....

Registrar



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