

**THE EASTERN CARIBBEAN SUPREME COURT
COMMONWEALTH OF DOMINICA**

**IN THE HIGH COURT OF JUSTICE
(Civil Division)**

CLAIM NO. DOMHCV 2024/0181

BETWEEN:

- [1] TAHIRA BLANCHARD**
- [2] DIANE VICTOR**
- [3] MICHAEL ASTAPHAN**
- [4] NICHOLAS GEORGE**

Claimants

and

- [1] PRESIDENT OF THE COMMONWEALTH
OF DOMINICA, SYLVANIE BURTON**
- [2] CHIEF ELECTIONS OFFICER IAN ANTHONY**
- [3] THE ATTORNEY GENERAL OF THE COMMONWEALTH OF
DOMINICA**
- [4] DUNCAN STOWE, CHAIRMAN OF THE ELECTORAL
COMMISSION**
- [5] HILARY SHILLINGFORD, MEMBER OF THE ELECTORAL
COMMISSION**
- [6] WAYNE JAMES, MEMBER OF THE ELECTORAL COMMISSION**
- [7] LENNOX LAWRENCE, MEMBER OF THE ELECTORAL
COMMISSION**
- [8] ALICK LAWRENCE, MEMBER OF THE ELECTORAL
COMMISSION**
- [9] DOMINICA BROADCASTING CORPORATION**

Defendants

Appearances:

Ms. Zahidha James, Counsel for the Claimant

Ms. Sasha Sukhram and Mrs. Tameka Burton led by SC Rishi Daas Counsel for the 1st and 3rd Defendants

Ms. Heather Felix-Evans, Counsel for the 2nd, 4th, 5th, 6th, 7th and 8th Defendants

Ms. Francine Baron, Counsel for the 9th Defendant

2025: 12th May
30th June, 1st July
15th July
6th November

DECISION

[1] **JAWARA-ALAMI J.:** By an originating motion brought by a re-amended Fixed Date Claim Form dated 30th October 2024 and 3rd January 2025 the Claimants apply to the Court for a number of declarations to wit :

(1) A declaration that:

a. Section 13(4)(a)(ii) of the Registration of the Electors Act 2025 No 1 of 2025 of the Laws of Dominica ("the New 2025 Act") and;

b. Regulations 51 (1) Form 31 of the New 2025 Act

are ultra vires and/or are in contravention of Section 33 (2)) (a) of the Constitution of Dominica.

(2) Declarations that the following sections of the New 2025 Act are unconstitutional and/or are in contravention of Section 33 of the Constitution of Dominica:

a. Section 13(4)(a)(ii) and

b. Regulations 51 (1) Form 31 of the new 2025 Act.

- (3) A declaration that any prescription passed by parliament which allows for registration and election of representatives by citizens who are neither resident nor domiciled in Dominica must be unconstitutional.
- (4) Declarations that the general elections of December 6th 2019 and December 6th 2022 were unconstitutional.
- (5) A declaration that the state radio Dominica Broadcasting Corporation (“DBS”), discriminated against Dominica’s opposition political parties leading up to and during the 2019 and 2022 general elections therefore rendering the results of those elections unconstitutional.
- (6) A declaration that DBS impugned the integrity of the 2019 and the 2022 elections by refusing to allow the opposition political parties equal and comparable access to the radio station vis-à-vis the ruling party and by failing to broadcast events of the political parties contesting the general elections with similar frequency or manner and by refusing outright to broadcast the events of the opposition political parties.
- (7) A declaration that the register of electors used during the 2019 and 2022 elections were not compiled pursuant to the Laws of the Commonwealth of Dominica rendering the election results of both elections unconstitutional.
- (8) A declaration that the Objections to the inclusion of ineligible voters on the register of electors before and after the 2019 general elections in Dominica have never been heard or determined in accordance with the Laws of Dominica therefore rendering the register of electors used in the 2019 and 2022 elections unconstitutional.
- (9) A declaration that the Electoral Commission has failed to compile and maintain a reasonably accurate and credible register of voters before and

after the 2019 and 2022 elections therefore rendering both of those elections and any future elections under those same conditions unconstitutional.

(10) A declaration that the Revised List was not used on voting day during the 2019 general elections and therefore those elections were not held in accordance with the provisions of the Laws of Dominica.

(11) A declaration that the Dominica Labour Party engaged in widespread bribery and treating during both the 2019 and 2022 elections by transporting their supporters and only their supporters into the Island of Dominica for the purpose of voting in the general elections and therefore the election result was tainted and unconstitutional.

(12) An order granting an injunction restraining the Defendants whether by themselves or through their servants or agents from holding general elections in the Commonwealth of Dominica on any date unless (i) the procedure for holding general elections outlined in the House of Assembly (Elections) Act and any other relevant election laws of Dominica have been complied with, (ii) the voters list has been verified and the names of ineligible voters removed (iii) all objections filed on or before 19th of November 2019 to present and/or or within the time limit for so filing (whichever is later) are dealt with in accordance with the law and, (iv) voter ID cards have been issued only to eligible voters.

(13) An order compelling the Defendants and/or the electoral commission to immediately update the register of electors by embarking on a voter verification exercise and removing the names of deceased and ineligible voters.

- (14) An order that all political parties have equal access to DBS for the purpose of allowing Dominica's political parties or political persons to campaign on equal terms at all times and a declaration that any failure to do so will render future general elections unconstitutional.
- (15) A declaration that the register of electors do not conform to section 33(2)(b) of the Dominica Constitution.
- (16) A declaration that the Voters List/register of electors as supplied to the public and candidates for the General elections of December 6, 2019 and December 6th 2022 violated the Claimants'/Dominicans' right to vote as enshrined at section 33(2)(b) of the Dominica Constitution.
- (17) A declaration that the List of Voters/register of electors for both the 2019 and 2022 general elections having through no fault of their own, not been reviewed by the Opposition and/or Independent Candidates, and the register of electors remains defective in that the preparation of the list failed to comply with sections 7, 11(3), 13, 14 and 15 of the Registration of Electors Act;
- (18) A declaration that the register of electors fail to comply with the mandatory statutory requirements and as such is illegal and can be relied upon.

[2] The 1st – 3rd Defendants filed an amended Notice of Application to strike out the Re-amended Fixed Date Claim Form claim which was duly filed. On the said 12th June 2025.

[3] The 2nd and 4th – 8th Defendants filed an amended notice of application to strike out on 23rd June 2025 and the 9th Defendant filed a Re-amended Notice of Application to strike out on the 18th of June, 2025.

THE FACTS

- [4] The Claimant asserts that its claim is brought pursuant to the Constitution of the Commonwealth of Dominica grounded on the principle of fundamental rights to free and fair elections enshrined in the Constitution of the Commonwealth of Dominica . The claimants complain that in the last two general elections their constitutional rights to fair elections in Dominica were infringed and without the declarations and other relief sought in this application, their fundamental rights to fair elections will be infringed again in future general elections.
- [5] It is asserted that the last two elections saw fundamental breaches that go to the heart of free and fair elections and state that there has been a recognised outcry both nationally and internationally for electoral reforms in Dominica and a general acknowledgement that elections have not been conducted in a fair manner.
- [6] In addition, the claimant maintains that, despite numerous promises, reports, recommendations, and investigations over the past ten or more years, no meaningful election reforms have been implemented, nor have there been any investigations into the alleged irregularities or taints, either prior to the 2022 elections or thereafter.

On the Elections Legislation of 2025

As regards to the challenge on the Elections laws of 2025, it is the Claimant's position that the courts have a duty to ensure the implementation of the constitution and statutes that exists for the purpose of preserving the constitutional right of fair elections and believe that only Domiciled Citizens Should Vote in the Elections. That Section 12 (4) (a) (ii) in the New 2025 Act makes provisions for citizens of Dominica who are non-resident to be registered to vote, which will be contrary to section 33 (2) (a) of the Constitution of Dominica and unconstitutional,

On the electors list

- [7] The Claimants contend that the register of electors contains names of thousands of deceased electors and electors who have resided overseas for more than five years which makes the election process unfair and vulnerable to fraudulent manipulation by double voting and impersonation. That all the names objected to in various constituencies were included in the List of Electors used by polling clerks on polling day, and all of the persons objected to prior to November 2019 were allowed to vote when they presented themselves at the polling stations on election day.
- [8] The Claimant goes on to state that despite the publication of the electoral office of the final lists for the December 5th 2019 general elections, the polling clerks and Chief Elections Officer failed to use the revised annual list as the register of electors which rendered the elections null and void.
- [9] The claimants insist that the 2019 elections were unconstitutional for failure to use the revised list and claim that the purported register of electors used by the presiding officer and poll clerks on polling day was different from the register of electors printed by the electoral office on the 19th of November 2019 and handed to various UWP candidates in their respective constituencies.
- [10] In addition, the claimant contend that the refusal of the Chief Elections officer and electoral staff to disclose the names of newly registered persons to members of the public made it impossible for members of the public to file objections to the newly registered persons within five days after the writ was issued. That the policy of the electoral office is unlawful and renders the purported supplementary list untested, unsafe, null and void.
- [11] Alleging that corrupt practices took place, the claimant states that the Dominica Labour Party ("DLP) spent hundreds of thousands of dollars on providing transportation for electors who reside overseas to travel to Dominica with the aim of

corruptly influencing them to vote for Dominica Labour Party candidates. That on the 4th and 5th of December 2019 the Dominica Labour Party caused several boats to transport thousands of electors into the Commonwealth of Dominica for the purpose of voting and the act of importing voters was also extensive in the 2022 elections on the part of the Dominica Labour Party.

- [12] It is further alleged that the Dominica Broadcasting Corporation (DBS radio) Misused State Radio and discriminated against the United Workers Party and other political parties in Dominica by not permitting them to have access during the period of time leading up to the general election; provided live coverage of the addresses, speeches and statements of the leader of the Dominica Labour Party (DLP) Roosevelt Skerit and other DLP candidates at the at numerous 2019 DLP election campaign events whilst all of the requests made by UWP for media coverage were denied by the DBS radio station.

The Defendant's Strike out Application

- [13] The 1st and 3rd Defendants filed an Amended Notice of Application to strike out the Re-amended Fixed Date Claim Form dated 12th June 2025. The 2nd and 4th – 8th Defendants filed an amended notice of application to strike out dated 23rd June 2025..The 9th Defendant filed a Re-amended Notice of Application to strike out on the 18th of June, 2025.

On Impugning Elections Outside of an Election Petition

- [14] The Defendant's contend that the Claimants claim express challenges to the outcome of the past 2019 and 2022 general elections in Dominica and it is well settled that there is no jurisdiction of the Courts to so impugn an election or the results of an election outside of the specific legislative machinery for doing so, that

is, by way of an election petition pursuant to section 40 of the Constitution of Dominica and Part VI of the House of Assembly (Elections) Act.

- [15] The defendants also submit that the inevitable and deleterious effect of these claims will be to invite judicial review of the legality and legitimacy of long past electoral processes which consideration and /or ultimate findings would, in contravention of the Constitution and other laws of Dominica, inevitably destabilise and delegitimise democratic election, governance and decision-making outside of the time frame and modality of an election petition.
- [16] Additionally, the defendants submit that the jurisdiction to impugn elections is not derived from common law or civil jurisdiction of the High Court, It is one that is conferred by section 40 of the Constitution of Dominica, and the provisions of the House of Assembly (Elections) Act enacted pursuant to section 40 of the Constitution. That any assumption that the court has an inherent jurisdiction, which overrides or leapfrogs the Constitution and the House of Assembly (Elections) Act will constitute a judicial overreach and transparent violation of the Constitution and Act;¹
- [17] Further submitting, the Defendants state that in the Commonwealth of Dominica, a challenge to the validity of an election can only be made under section 40(1)(a) of the Constitution, in accordance with the statutory rules made by Parliament for such challenges. In addition, the application, as a whole, in so far as it seeks to put into question the validity of the election, cannot be entertained by the court pre-emptively upon this application for constitutional relief and is therefore an abuse of process to invoke the constitutional jurisdiction of the court to ventilate matters that can only properly be the subject of an election petition.

On Abuse of Process

¹: Petrie v. Attorney General (1961) 14 WIR 292 at 304F
Ram v. Attorney General [2019] CCJ 10 (AJ) at [38]..

- [18] The Defendants emphasise that the allegations which ground the Claimants' claim is a rehash of claims advanced without success in ten election petitions, namely; DOM HCV 2019/0307A-307 wherein Glasgow J struck out all ten election petitions filed in relation to the 2019 elections. The defendant's argue that this is now an abuse of the Court's proceedings to challenge the 2019 elections when the Court had already adjudicated on that very matter.

Impugning Future Elections

- [19] The defendants maintain that the Claimant's allegations that the right to fair elections will be infringed in future elections is premature and relies on the case of **Loftus Durand** and **Ali v David**² which confirmed that the purported challenge was premature, and invoked the principle stated in **Nareyan Khare v Election Commission of India, AIR 1957 SC 694** and **Ponnuswami v Retuning Officer (1952) SCR 218**, holding that any challenge to the validity of an election ought to be brought after the election has been declared, and not before.
- [20] In that regard, the defendants are of the view that reliefs 1, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17 of the Re-amended Fixed Date Claim Form ought to be struck out as they repeat historical and future election grievances.

Challenges to 2025 Registration of the Electors Act, No. 1 of 2025

- [21] The defendants submit that the Claimants challenges to the earlier-held electoral process of the 2019 and 2022 elections but now also seek to challenge various provisions of the subsequently enacted 2025 Registration of Electors Act which did not and could not affect same. Stating that at the time of the 2019 and 2022 general elections, the provisions of the 2025 Registration of Electors Act were not in effect and consequently, there can be no grounds for mixing these grounds of claim.

² [2020] CCJ 10 (AJ), DOMHCVP2019/006

Claimant's Submissions

- [22] In response to the Section 40 and election petition arguments of the defendants, the Claimants submit that any finding that elections matters and/or challenges can only be brought by way of an election petition at the High Court has been decisively overruled by the Caribbean Court of Justice. Maintaining that the Claim is not a “pre-emptive challenge” to an election result as suggested in the various strike out applications.
- [23] The Claimants submits that no election occurred within 21 days of the date the claim was filed so any argument that an election petition is available as an alternative avenue is entirely unreasonable, disingenuous and false and assert that they are entitled to bring the claim on the grounds that the matters raised concern violations of the Constitution past and present and the High Court has the jurisdiction to hear such claims.

On (“DBS”): Res Judicata and Jurisdiction

- [24] The claimant places extensive reliance on the case **of Loftus Durand et al v The President of the Commonwealth of Dominica et l al** and claims that the Court of Appeal held on p. 3 that:
- “Allowing the appeal to the extent that the application for leave to apply for judicial review in relation to the claim made against the Dominica Broadcasting Corporation, be remitted to the court below for the hearing of the application for leave on its merits”.**
- [25] The Claimants further submit that the Court of Appeal clearly found that there were valid reasons to bring an action against DBS as there is a recognition in common law that the state radio must not discriminate upon political grounds. Emphasising also that there is an existing decision that reiterates that this court can hear

allegations regarding the offence of misuse of DBS in the 2019 elections and that the case law highlights the integrity of elections is determined not just on the events on the election day but from the period of registering voters after the elections to when they come round again citing the case of Raila Amolo Odinga and others v Dr. Ekuru Aukot and Ors Presidential Petition No. 1 of 2017 paragraph 21 (“Raila”) paragraph 255-256.

- [26] Upholding its position, the Claimant states that the Court of Appeal found grounds for investigating claims against DBS and in spite of this, DBS continued committing elections offence.

THE ISSUES

- [27] The issues falling for determination are as follows:
- (1) Whether the claimant’s challenge to the conduct of the 2022 elections is properly before the Court, having regard to the statutory provisions governing election petitions
 - (2) Whether the reliefs dealing with the provisions of the 2025 Election Act, being unconstitutional should also be struck out.

Resolution of Issue No 1.-The Law, Analysis and discussions

- [28] The Claimants’ substantive claim was filled by way of Originating Motion pursuant to **Part 56 of the Eastern Caribbean Civil Procedure Rules 2023 (“CPR”)** for various forms of relief under the Constitution of the Commonwealth of Dominica (“the Constitution”). The Claimants argue that the jurisdiction for their claim rests broadly on sections 16 and 103 of the Constitution, as well as on established case law.
- [29] It is important to observe at the outset that election petition proceedings, although civil in nature, are sui generis. They are governed by a distinct procedural framework

designed to ensure swift dispensation of justice. In this regard, the Election Act and Regulations operate in tandem with the provisions of the Constitution.

- [30] The special nature of election petitions has been emphasised by the Supreme Court of Nigeria in **Buhari Vs Yusuf**³ where the court held;

"An election petition is a proceeding which is sui generis, as it is of its own kind, possessing an individualistic character, unique or like only to itself. It is distinct from ordinary civil proceedings. It is not particularly related to ordinary rights and obligations of the parties concerned. The slightest non-compliance with a procedural step which otherwise could either be cured or waived in ordinary civil proceedings could result in a fatal consequence to the petition.

- [31] Against that backdrop **Section 65** of the **House of Assembly (Elections) Act**, now re-enacted as **Section 69** in the new Act⁴, provides that;

"a petition alleging an undue return or undue election of a member of the House of Assembly hereinafter referred to as an election petition may be presented to the High Court by any one or more of the following persons: (a) some person who voted or had a right to vote at the election to which the petition relates;(b) some person claiming to have had a right to be returned at the election; (c) some person alleging himself to have been a candidate at the selection".

- [32] **Section 66** of the Act further outlines the procedure for trial of election petitions and confers finality upon the judge's determination, it provides that;

"Every election petition shall be tried before the High Court in the same manner as a suit commenced by a writ of summons. At the conclusion of the trial, the Judge shall determine whether the member of the House of Assembly whose return or election is complained of or any and what other person was duly returned or elected, or whether the election was void, and shall certify the determination to the President and, upon the certificate being given, the determination shall be final; and the return shall be confirmed or altered, or a writ for a new election shall be issued, as the case may require, in accordance with the determination".

- [33] In addition, it is instructive at this stage to consider the appellate authority on the scope of the High Court's jurisdiction in election matters. This issue was clearly

³ (2003) 14 NWLR(841) 446

⁴ The House of Assembly (Elections) Act No2 of 2025

articulated in **Loftus Durand v President Of The Commonwealth Of Dominica, Charles A. Savarin Et Al**, an authority also cited by the Applicant/Defendants⁵.

The court of appeal determined the question Whether the high court has jurisdiction to hear election matters prior to elections taking place in the absence of a duly filed election petition and the Court held that:

“Section 40 of the Constitution confers exclusive and exclusionary jurisdiction on the High Court to hear election matters. Therefore, questions which fall within the election jurisdiction of the High Court cannot be determined within the ordinary jurisdiction of the High Court in civil matters but must instead follow the mandatory and specific procedures outlined in section 40 of the Constitution. These mandatory procedures include the stipulation that an election petition must be filed in order to commence proceedings under that section.

The court further held that : **The ordinary and grammatical meaning of Section 40(1)(a) of the Constitution, read in conjunction with section 65 of the House of Assembly (Elections) Act, indicates that the court’s election jurisdiction encompasses questions which relate to the process of the election, or the returns in each electorate, and the existence of any element of unlawfulness therein.ng voters has been treated by the courts as both bribery and treating and/or a corrupt practice..... Reading section 40(1)(a) of the Constitution together with section 65 of the House of Assembly (Elections) Act, it is apparent that a question of whether a person has been validly elected as a representative, is a question or complaint of an undue return or undue election of a member to the House of Assembly under section 65.**

Citing **Payne v Adams** the High Court of New Zealand explained that a 16 [2009] NZHC 508. 208 20 the court observed that a complaint of an undue election or unlawful return relates to **“... the processes of the election or returns in each electorate and the existence of any element of unlawfulness which relates to those processes.”** It also appears **from the ordinary and grammatical meaning of both sections that the court’s jurisdiction in this regard equally embraces a challenge to the election of a singular candidate and the validity of an entire election return.**

Lastly, the court underscored, the procedure for invoking the court’s jurisdiction in election matters is mandatory and peremptory. As Rawlins CJ explained in **Ezechiel Joseph v Alvina Reynolds**¹⁷ stated: **“In keeping with the strict approach, our courts have generally insisted that the**

⁵ DOMHCVAP2019/0006

provisions in elections legislation must be strictly complied with ... Our election courts have consistently stated that they have little or no discretion to waive non-compliance with the applicable statutory requirements. Accordingly, the consistent result is that failure to comply is fatal to the petition rendering it a nullity, unless the court finds that the failure goes to form. The jurisprudence in our courts states that time and other electoral proceedings statutory requirements are conditions precedent to instituting a proper electoral challenge, which are mandatory and peremptory.”¹⁸ [31] The procedure for the filing of an election petition includes that under sections 66 to 68 of the House of Assembly (Election) Act, which provide that a petition ought to be filed no later than 21 or 28 days after the conduct of an election or the payment monies as a form of corrupt practice, respectively. Accordingly, and in keeping with the reasoning of Rawlins CJ in *Ezechiel Joseph*, an election petition, and therefore a complaint of an undue election or election return or question as to the validity of an election, is itself only valid and properly before the court if filed within 21 or 28 days as the case may be”

[34] The reasoning of the court in **Loftus Durand** is instructive and establishes the principle that the jurisdiction of the High Court in election matters is not inherent but arises solely from statute and the Constitution and It may only be invoked by way of an election petition duly filed in accordance with the mandatory procedural and temporal requirements prescribed by the **House of Assembly (Elections) Act**. Any attempt therefore to mount an electoral challenge outside that framework, whether styled as a civil claim or a constitutional motion, is therefore impermissible and falls outside the Court’s competence. The Court’s role in such matters is confined to ensuring strict compliance with the statutory scheme which governs the validity of elections and election returns.

[35] Further guidance on the scope and procedural limits of the Court’s election jurisdiction is found in the **Roosevelt Skerrit et al v Antoine Defoe**, where the Court of Appeal reaffirmed that allegations of corrupt practices such as treating, are matters that go directly to the question of an undue return or undue election, and thus fall squarely within the exclusive election jurisdiction of the High Court under section 40(1) of the Constitution. The Court found that:

“ there is no conflict between section 40 (1) of the Constitution which provides for the exclusive jurisdiction of the High Court to determine the validity of elections and the composition of the House, and the provisions of the Elections Act of Dominica which give jurisdiction to a Magistrate to hear and decide a charge of treating against a sitting member of the House. The appeal is therefore dismissed, and the orders of the majority in the Court of Appeal are affirmed except those in relation to costs, in respect of which, the parties entered into a pre-trial agreement which was notified by them to the Court”.

[36] The Court noted that if the High Court were to find that a corrupt practice had been committed by an elected member and so report, that member would become incapable of retaining his or her seat. Importantly, the Court reiterated that the mode and manner of the exercise of the High Court’s jurisdiction under **section 40(1)** are expressly provided for in the Constitution and the **House of Assembly (Elections) Act**. Questions concerning the validity of the election of a member must therefore be brought by way of an election petition complaining of an undue return or undue election, and such petition must be filed within twenty-one days of the member’s election. Authorities such as *Quinn-Leandro v Jonas*, *Maginley v Fernandez*, *Spencer v St Clair Simon*, *Dabdoub v Vaz and Others*, *Nedd v Simon*, and *Radix v Gairy* mentioned in that judgement, all affirm this position. The Court further observed that where the challenge does not relate to the validity of an election but to the *continuing qualification* of a sitting member, the appropriate procedure is not an election petition but an application by fixed date claim form. This was the finding in *The Attorney General of St. Christopher and Nevis v Dr. Denzil Douglas*.⁶

[37] In the cases of *Gladys Petrie and others v The Attorney-General and others* (1968) 14 WIR 292. *William Bruce Williams v Emanuel Henry Giraudy and Eudes Bourne*; (1975) 22 WIR 532. *Russell (Randolph) et al v Attorney-General of St. Vincent and the Grenadines* (1995) 50 WIR 127. *Eugene Hamilton v Cedric Liburd and Others*. Saint Christopher and Nevis 3 April 2006 as well as in

⁶ [2020] 96 WIR 3

the decision of the Caribbean Court of Justice in the Roosevelt Skerrit case, it would appear that the courts have consistently held that;

“Many of these cases simply emphasise that the exclusive and exclusionary jurisdiction of the High Court to determine the validity of elections by way of election petitions was essentially parliamentary jurisdiction which had been assigned to the judiciary by the Constitution and by legislation; it is a special jurisdiction distinct and different from the ordinary civil or even constitutional jurisdiction”:.

[38] The special jurisdiction feature of the High Court in election matters was further expounded In the case of **Ezechiel Joseph v Alvina Reynolds** where the court held that the **“special jurisdiction features mandatory rules designed to ensure, inter alia, that disputed election proceedings were brought to completion expeditiously so that the legitimacy of a government should not long remain in question, Lastly, the procedure for invoking the court’s jurisdiction is mandatory:**

[39] As Rawlins CJ observed in **Ezechiel Joseph v Alvina Reynold**, that;

“In keeping with the strict approach, our courts have generally insisted that the provisions in elections legislation must be strictly complied with ... Our election courts have consistently stated that they have little or no discretion to waive non-compliance with the applicable statutory requirements. Accordingly, the consistent result is that failure to comply is fatal to the petition rendering it a nullity, unless the court finds that the failure goes to form. The jurisprudence in our courts states that time and other electoral proceedings statutory requirements are conditions precedent to instituting a proper electoral challenge, which are mandatory and peremptory.”

[40] The Claimant’s point on this issue is that every single one of the cases, including Loftus Durand cited by the defendants were explicitly referred to and outright rejected by the CCJ when the same arguments on Section 40 an election petition limitations were made in the case **Roosevelt Skerrit et al v Antoine Defoe et al** ⁷.

⁷ **[2021] CCJ 4 (AJ) DM**

The Claimants, in my view have misinterpreted this authority, in that a clear distinction can be drawn between the foregoing case and this case instant.

- [41] The procedure for the filing of an election petition as set out in sections **66 to 68 of the House of Assembly (Election) Act**, requires that a petition be filed no later than 21 or 28 days after the conduct of an election or the payment monies as a form of corrupt practice, respectively. Accordingly, and consistent with the reasoning of Rawlins CJ in **Ezechiel Joseph**, an election petition and by extension, any complaint alleging an undue election, an undue return, or questioning the validity of an election is only valid and properly before the Court if it is filed within the prescribed statutory period of twenty-one or twenty-eight days, as the case may be.
- [42] In stating the foregoing, it must be emphasised at this stage that the cardinal principle of statutory interpretation applies. It is trite that where the words of a statute are clear and unambiguous, they must be given their plain and ordinary meaning unless this would lead to absurdity and effect must be given to the provision in question without any recourse to any other consideration. The words of a statute are to be interpreted as bearing their natural and ordinary meaning. See **Attorney-General v. Milne**⁸.
- [43] Where the language of an Act of parliament is plain and clear, there is no room for applying any of the principles of interpretation which, incidentally, are merely presumptions that are applied in cases of ambiguity in a statute. See **Croxford v. Universal Insurance Co.**⁹. Although there are quite a few rules of construction that courts of law have resorted to in their interpretation of statutes, the paramount and golden rule remains that every statute is to be expounded according to its manifest and expressed intention. See **Attorney-General for Canada v. Hallet and Carey LD.**

⁸ (1914) A.C. 765

⁹ (1936) 2 K.B. 253 at 281

[44] It is apparent therefore that where a statutory provision is clear, it cannot be constructed and stretched beyond its context. In **Assam Railway and Trading Co. v. Internal Revenue Commissioners**, Lord Simonds, commenting on this proposition of law at page 191 of the report expounded his views on the matter as follows: -

"It appears to me to be a naked usurpation of the legislative function under the thin disguise of interpretation. And it is the less justifiable when it is guesswork with what material the legislature would, if it had discovered the gap, have filled it in. If a gap is disclosed, the remedy lies in an amending Act."

[45] Having said this, applying the principle in **Eugene Hamilton v Cedric Liburd et al**,¹⁰, unreported to the present proceedings, it is clear that the claimants cannot circumvent the statutory election petition process by invoking the court's ordinary constitutional jurisdiction under Section 103 of the Constitution, as questions which fall within the election jurisdiction **"cannot be determined by the ordinary jurisdiction of the High Court in civil matters"**. Hence, the matters raised by the claimant, concerning alleged undue elections, undue returns, and the validity of the 2019 and 2022 general elections, squarely fall within the exclusive election jurisdiction under section 40. As such, the Court's ordinary constitutional jurisdiction is expressly excluded, and any attempt to pursue the claim outside the framework of a duly filed election petition is procedurally incompetent and non-justiciable.

[46] Accordingly, this Court finds that the present proceedings are improperly before it. The challenge mounted by the claimant, being in essence an attack on the conduct and validity of the 2019 and 2022 general elections, could only have been brought by way of an election petition filed within the statutory time prescribed under **The House of Assembly (Elections) Act**. No such petition having been filed, the Court's election jurisdiction has not been properly invoked. It therefore follows that

¹⁰ 14 Saint Christopher and Nevis Civil Appeal Nos. 11, 11A, 12, 12A, 13 and 13A of 2005 (delivered 22nd March 2006)

the Court lacks jurisdiction to entertain the claim, and it must be dismissed on that basis.

[47] Additionally, the question arises as to what the claimants aim to achieve by bringing this claim six and four years after the elections in question. The statutory prescription requiring election petitions to be filed within twenty-one or twenty-eight days is designed **to** protect the continuity of government and preserve the stability of the State. Allowing claims to be brought long after the prescribed period would not only undermine these objectives but would also constitute an abuse of the Court's process, as it seeks to reopen matters that have long been settled and finalised. The law accordingly treats strict compliance with time limits as a condition precedent to the proper invocation of the Court's jurisdiction, and any attempt to bypass this requirement cannot be permitted. To permit these reliefs to proceed in these circumstances would undermine the clear intention of the Legislature and the jurisprudence of the appellate courts. The Court is therefore compelled to intervene and to restrict the claim to those matters properly justiciable under Part 56 of the Civil Procedure Rules

[48] The Resultant effect of this is to turn to the Court's case management powers `which includes the power to strike out claims or particular issues within a claim with a view to saving both court and party resources in furtherance of the overriding objective of the CPR. **Part 26.3** ¹¹empowers the Court to strike out a statement of case in specified circumstances. It provides that, in addition to any other power under the Rules, the Court may strike out a statement of case or part thereof if it appears that

- a) **there has been a failure to comply with a rule, practice direction, order or direction given by the court in the proceedings;**
- b) **the statement of case or the part to be struck out does not disclose any reasonable ground for bringing or defending a claim;**

¹¹ Eastern Caribbean Supreme Court Civil Procedure Rules (*Revised Edition*) 2023

- c) **the statement of case or the part to be struck out is an abuse of the process of the court or is likely to obstruct the just disposal of the proceedings; or**
- d) **the statement of case or the part to be struck out is prolix or does not comply with the requirements of Part 8 or 10.**

[49] Applying these principles to the present case, it is evident that the claim, in so far as it seeks to impugn the validity of the 2019 and 2022 general elections, falls squarely within the parameters of **Part 26.3(1)(b)** and **(c)** of the CPR. The claim discloses no reasonable ground for bringing or maintaining such a challenge before this Court, given that the exclusive procedure for questioning an election is by way of an election petition filed within the strict statutory time limits prescribed by the **House of Assembly (Elections) Act**. Moreover, the repeated filing of claims raising substantially identical issues with the last ten petitions namely **Claims No. DOMHCV 2019/0307A- Claim No. DOMHCV 2019/0307J** struck out by Galsgow J. These claims having been adjudicated and dismissed constitutes a clear abuse of the process of the Court and such conduct undermines the finality of judicial decisions, burdens the Court's resources, and runs contrary to the overriding objective of the CPR to deal with cases justly, expeditiously, and proportionately.

[50] Consequently, the reliefs sought in respect of the 2019 and 2022 elections are hereby dismissed, and the claimants are precluded from instituting any further claims before this Court in relation to the said elections. I make this order because, the claimants have previously brought similar claims without success and there must be an end to litigation

Resolution of Issue No.2- Whether the Reliefs Dealing with the Provisions of the 2025 Election Act, being Unconstitutional Should also be Struck Out.

[51] Notwithstanding the Court's finding on the issue of jurisdiction with respect to the election challenge, Reliefs 1 to 3 of the claim seek declarations that certain

provisions of the **Registration of Electors Act, the House of Assembly (Elections) (Amendment) Act, 2025**, and the accompanying Regulations contravene the Constitution. These aspects of the claim, I find, fall properly within the Court's constitutional jurisdiction under **Section 103 of the Constitution**. Accordingly, the claimants may proceed before this Court in respect of those specific reliefs only

ORDERS

[52] For the reasons stated above, the court makes the following orders:

1. Reliefs 4 to 18 of the claimants' claim are hereby dismissed.
2. Reliefs 1 to 3 of the claimant's claim are permitted to proceed to hearing before this court pursuant to Part 56 of the Civil Procedure Rules.
3. There shall be no order as to costs.

Zainab Jawara-Alami
High Court Judge

BY THE COURT

REGISTRAR