

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

Election Petition
Case No. 22/10 SC/ELTP

BETWEEN: Nos Terry
Petitioner

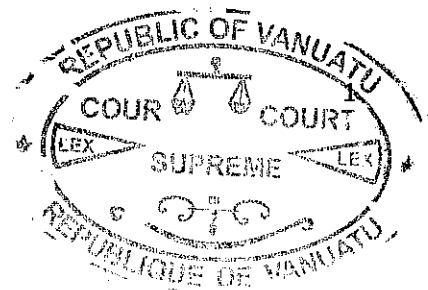
AND: Job Andy
First Respondent

AND: Electoral Service Commission
Second Respondent

Date of First Hearing: 2 December 2022
Before: Justice V.M. Trief
In Attendance: Petitioner – Mr R. Tevi
First Respondent – Ms J. Kaukare
Second Respondent – Ms J.E. Toa


MINUTE & ORDERS

1. Ms Toa stated that the Second Respondent would abide the Order of the Court.
2. Having considered the Election Petition filed on 11 November 2022 and having heard counsel Mr Tevi and Ms Kaukare, I put the following to Mr Tevi:
 - a. The only ground of the Petition is bribery;
 - b. The effect of the 2012 amendments to the Act, as set out in the judgment in *Kalsakau v Principal Electoral Officer* [2013] VUSC 99 including at [82], was to remove bribery as a ground for electoral petitions;
 - c. Bribery is a criminal offence therefore must be pursued via the criminal justice process; and
 - d. I was therefore leaning toward the view that I could not be satisfied that there is a foundation for the petition.



3. I then adjourned the matter to 2.15pm this afternoon so that Mr Tevi could consider the matters put to him and to take instructions.
4. When we resumed the hearing at 3pm, Mr Tevi stated that he had considered the amendments, the *Kalsakau* judgment and obtained instructions. He was instructed that in light of the *Kalsakau* judgment, it is conceded that bribery, the only ground in the Petition, must be pursued via the criminal justice process therefore his instructions were to withdraw the petition.
5. In the circumstances, I am not satisfied that there is a foundation for the petition and must strike out the petition: rule 2.6(3) of the *Election Petitions Rules*.
6. The petition is **struck out**.

DATED at Port Vila this 2nd day of December 2022
BY THE COURT


Justice V.M. Trief

