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**NOTICE TO PARTIES OF THE COURT'S
MEMORANDUM OF REASONS FOR DECISION**

APPLICATION NO COA2026APP00095

BETWEEN	PAUL BUCHANAN	APPLICANT
AND	THE CONSTITUTED AUTHORITY	RESPONDENT

TAKE NOTICE that this matter was heard by the Hon Miss Justice P Williams JA, the Hon Mrs Justice Dunbar Green JA, and the Hon Mr Justice Brown JA on 30 July 2026, with Hugh Wildman instructed by Hugh Wildman & Co for the applicant, and Ms Lisa White and Duncan Roye instructed by the Director of State Proceedings for the respondent.

TAKE FURTHER NOTICE that the court's memorandum of reasons, as delivered orally in open court on 31 July 2026 by the Hon Miss Justice P Williams JA, is as follows:

[1] This is an application for leave to appeal the decision of Wint Blair J ('the learned judge'), made on 8 December 2025 in judgment with neutral citation [2025] JMSC Civ 147, refusing the applicant leave to apply for judicial review of the decision of the respondent, the Constituted Authority ('the Authority'), made on 30 September 2025.

[2] Following that refusal, the applicant applied to Carr J for permission to appeal, but the application was unsuccessful. He now seeks permission to appeal from this Court.

[3] In determining whether permission to appeal ought to be granted, we are guided by rule 1.8(7) of the Court of Appeal Rules, 2002 ('CAR'), which provides, "the general rule is that permission will only be given if the court or the court below considers that an appeal will have a real chance of success".

[4] The central issue arising on this application is whether the learned judge erred in refusing leave to apply for judicial review, namely, whether the applicant had an arguable ground for judicial review with a realistic prospect of success (see **Sharma v Browne-Antoine and others** [2007] 1 WLR 780, **National Bank of Anguilla (Private Banking and Trust) Ltd (in Administration) and another v Chief Minister of Anguilla and Others** [2025] UKPC 14 and **Lynden Simpson and Jamaica Civil Service Association v Permanent Secretary, Ministry of Transport and Mining, Hugh M Salmon, Mary Cresser and Loraine Robinson (all members of the Committee of Enquiry)** [2025] JMCA Civ 17).

[5] It is appropriate to present a brief background to the facts. As no objection was taken to the facts recited in the judgment of the learned judge, this court will adopt those facts. Following the general elections conducted on 3 September 2025, the Returning Officer for the Constituency of West Central St Andrew declared Dr Andrew Holness duly elected as the Member of Parliament. On 16 September 2025, Mr Buchanan submitted a request to the Authority, supported by affidavits, alleging serious irregularities and electoral malpractice on polling day. He contended that those matters substantially compromised the fairness and integrity of the election. Pursuant to section 52A (3) of the Representation of the People Act ('ROPA'), he requested that the Authority apply to the Election Court to void the taking of the poll in the constituency. By decision dated 30 September 2025, the Authority declined the request. The Authority concluded that the alleged irregularities neither satisfied the statutory threshold contained in section 37(e) of the Election Petitions Act ('EPA') nor met the test articulated in **Warren Blake v Andrew Holness**, (unreported), Supreme Court, Jamaica, Suit No M001/1998, judgment delivered on 28 May 1998.

[6] On 8 October 2025, the applicant filed his notice of application for leave to apply for judicial review seeking several declarations and an order of certiorari to quash the decision of the Authority not to refer the application to the Election Court and an order of mandamus compelling it to do so.

[7] From the submissions to her, the learned judge concluded that the applicant's main contention was that the Authority's duty was to refer a matter to the Election Court once a candidate requests such and the conditions in 52A (3) of ROPA are satisfied. According to the applicant, the Authority has no discretion in the matter and must refer the application to the Election Court, which will then determine whether the circumstances alleged by the candidate amount to a breach of the ROPA warranting the voiding of the poll (see para. 79 of the judgment). As such, the learned judge identified as the narrow point, argued by the applicant, that the Authority fell into error by assessing the evidence furnished to it on the basis that it has no discretion once a request is made to it by a candidate.

[8] In her discussion of the relevant statutory framework, namely the EPA and ROPA, the learned judge found that it is the duty of the authority to examine whether the affidavit evidence discloses circumstances that would constitute grounds specified in section 37(e) of the EPA as would enable it to make an application under that section to the Election Court to have the taking of the poll declared void. She found that the Authority must provide a reasoned opinion assessing whether the statutory criteria have been satisfied. She further found that, since the law requires the Authority to make a determination of whether a candidate's allegations fall within the grounds set out in section 37 of the EPA, which is a function only it can perform, then it carries out its mandate under the law when it does so.

[9] The alternative grounds raised by Mr Wildman were that the Authority exercised its discretion wrongly by failing to take relevant considerations into account, particularly in light of the abundance of evidence of irregularities that were identified. The learned judge found that the Authority's decision was centred on an analysis of the affidavits and that it had adopted and applied the test set out in **Warren Blake v Andrew Holness**. In doing so, the Authority had undertaken a detailed analysis of the evidence, assessed the sufficiency of each affidavit and identified in its reasons where salient details had been omitted. On its objective assessment, the Authority was satisfied that the circumstances placed before it lacked specificity and failed to reach the evidential

threshold to demonstrate that the election was so badly conducted that there was a substantial distortion or subversion of the electoral process.

[10] The learned judge also considered the submissions of Mr Wildman that **Warren Blake v Holness** established that any one of the grounds identified could constitute a voiding of the result; and that there was no requirement for an accumulation of irregularities, and that there was such abundant evidence of irregularities supplied to the Authority that their decision was Wednesbury unreasonable. The learned judge noted Ms White's response that the Authority's decision was neither irrational nor unreasonable, and that in its reasons it provided extensive details on how it arrived at its conclusion. Ms White submitted that the Authority had scrutinised the affidavit evidence presented to it and identified the evidential gaps. She further submitted that the information provided by the candidate does not bind the Authority, nor is it bound by the legislation to refer the matter to the Election Court, irrespective of its opinion of the material.

[11] Ultimately, the learned judge concluded that the abundance of evidence was not synonymous with the quality of the evidence. She noted that the applicant's contention was in effect that the Authority ought to have adopted a quantitative approach to its assessment. In contrast, the Authority undertook a qualitative assessment to determine whether the statutory requirements for making an application to the Election Court had been satisfied. She noted that Mr Wildman had cited no authority in support of the proposition that the Authority was required to adopt a purely quantitative approach.

[12] The learned judge went on to consider whether there were any alternative remedies available to the applicant. She noted that no reasons were advanced in support of the applicant's submission that there were no alternative remedies and that judicial review was therefore the appropriate remedy.

[13] The learned judge also observed that section 52A (6) of the ROPA provides that a request made by a candidate to the Authority in relation to the voiding of a poll is without prejudice to any right enjoyed by that candidate under section 3(b) of the EPA.

Accordingly, the learned judge found that a candidate does not lose or waive the right to petition the Supreme Court by lodging a request with the Authority.

[14] She questioned whether the candidate, having lodged his application 13 days after the poll, could realistically have put the Authority in a position to comply with the statutory timeline for making an application to the Election Court within 28 days. The learned judge observed that the application has to be considered in context, namely, the rigid timetable set out in the electoral law. She noted that, pursuant to section 52A of ROPA, read together with sections 37 and 38 of the EPA, it has a mandatory time frame within which it must make an application to the Election Court, whether on its own motion or on behalf of a candidate. As such, the learned judge identified the applicant's unexplained delay in approaching the Authority as a relevant consideration. She observed that the court could not extend the time limits prescribed by Parliament in the legislation governing elections. The learned judge further noted that the period within which the Authority could have applied to the Election Court had expired and that any such application would therefore be statute-barred.

[15] The learned judge ultimately found that, in those circumstances, an order compelling the Authority to make an application to the Election Court would be futile. Additionally, she emphasised that there is a need for finality in electoral matters, which serves to protect the legitimacy, integrity, and certainty of the resolution of electoral disputes. Thus, the time frame set down by the law is a knock-out blow to the success of this application.

[16] In the proposed appeal, the applicant would be relying on eight grounds of appeal. They are reproduced below.

“ i. The Learned Trial Judge erred in law in failing to appreciate that the Applicant could not be deemed to be out of time in raising a challenge to the decision of the Respondent, when the Applicant complied with the statutory framework by

making his application within the stipulated timeframe of 14 days, to have the respondent refer the challenge to the conduct of the election in West Central St. Andrew to the Election Court for that court to determine whether the several and egregious breaches of the Representation of the Peoples [sic] Act constitute sufficient bases to void the said election in West Central St. Andrew.

ii. The Learned Trial Judge erred in law in failing to appreciate that within days of the decision of the Respondent not to refer the Applicant's request to the Election Court for that court to consider voiding the election in West Central St. Andrew, was well within the time for the Applicant to file his application for leave for judicial review to challenge the said election.

iii. The Learned Trial Judge erred in law in failing to appreciate that once it is established that the Respondent committed jurisdictional error when they failed to refer the Applicant's request to have the matter referred to the Election Court for that court to determine whether the election in West Central St. Andrew should be voided, time would run against the Applicant as the concept of nullity means that the Respondent never made a decision in law.

iv. The Learned Trial Judge erred in law in failing to appreciate that once the judicial review court concludes that the election should be voided by virtue of the various and egregious breaches committed on behalf of Dr. Holness, the Election Court would be empowered to have the election voided even if the statutory life of the Constituted Authority had ended.

v. The Learned Trial Judge erred in law in failing to appreciate that once there is compliance by the Applicant with the statutory framework by applying within the appropriate time to have the election result referred to the Constituted Authority, time could not run against a nullity, therefore, once it is established that the Respondent's decision not to refer the Applicant's request to the Election Court to have the election in West Central St. Andrew voided by virtue of the various and [sic] the egregious breaches committed on behalf of Dr. Holness, the concept of nullity would regard the Respondent as failing to make a decision according to law and can be compelled to do so.

vi. The Learned Trial Judge erred in failing to appreciate that given the various and egregious breaches committed on behalf of Dr. Holness in the conduct of the election in West Central St. Andrew, there was compelling evidence of breaches of the Representation of the Peoples [sic] Act, which warrant the Respondent to refer the Applicant's request to the Election Court, for that court to consider voiding the election, and by failing to refer the said request to the Election Court, the Respondent acted unreasonably in the Wednesbury sense, and as such, abused its discretion rendering its decision liable to be quashed by way of certiorari.

vii. The Learned trial judge erred in law when she concluded, given the time frame set down by the law, there is a knock-out blow to the Applicant's success for leave to apply for judicial review.

viii. The Learned Trial Judge erred in law in failing to appreciate that given the low bar that is required to satisfy the test for leave to apply for judicial review, the compelling evidence provided by the Applicant of breaches of the Representation of the Peoples [sic] Act, by persons acting on behalf of Dr. Holness, more than satisfy the test for leave and in the circumstances, the Applicant should have been granted leave to apply for judicial review to quash the decision of the Respondent not to refer the Applicant's application to void the election in West Central St. Andrew to the Election Court."

[17] Having regard to the grounds of appeal and the submissions of the parties, we are satisfied that the main contention is that the Authority was a mere conduit for the application and, in reviewing the affidavits, rendered a decision that was a nullity and, in any event, unreasonable.

[18] The learned judge did, in fact, consider the evidence contained in the affidavits in determining whether the Authority had acted within its remit. On that basis, she did not fall into error. As the learned judge correctly recognised, the Authority was entitled to consider the affidavit evidence furnished by the applicant so that it "may determine whether an application" could properly be made on his behalf pursuant to section 52A (3) of ROPA. The Authority's decision demonstrates that it carefully examined the affidavit evidence, identified the deficiencies therein, and explained the reasons for its decision not to make an application on the applicant's behalf. It came to a decision it was entitled to. As such, it was not unreasonable.

[19] The learned judge correctly opined that the election legislation makes it abundantly clear that the Authority cannot be a mere conduit; and in effecting its 'gate keeper' function, it has a discretion, whether on its own motion or on application by an aggrieved candidate, to place the matter before the Election Court. Accordingly, the learned judge correctly found that the Authority did not commit a jurisdictional error in deciding not to

make an application before the Election Court, and this decision did not amount to a nullity as argued by the applicant.

[20] The applicable timelines were those prescribed by the relevant legislation for the bringing of an application by the Authority pursuant to section 52A of ROPA, or by any person pursuant to section 3 of the EPA. There is no dispute that the application was filed within the 14-day prescribed period. The Authority, however, had 28 days from the taking of the poll within which to make an application. Its decision was handed down on 30 September 2025, which was 27 days after the taking of the poll. The learned judge was correct in observing that the timeline disclosed that, for the first 13 days, there was no application for leave, no petition filed in the Supreme Court and no request to the Authority.

[21] Further, the learned judge properly considered whether a candidate who lodged his application 13 days after the poll could realistically have put the Authority in a position to meet the statutory timeline for applying to the Election Court. For a candidate who understood the remit of the Authority, that was an entirely reasonable question. Since the legislation confers the right to apply to the Election Court on the Authority alone, and not on a candidate, any delay by the candidate reduces the time available to the Authority to apply. So, effectively, any tardiness on the candidate's part leaves less time for the Authority to perform its function.

[22] The alternative option of an election petition was available to the applicant before he decided to approach the Authority; he had the option to petition the Supreme Court after receiving the Authority's ruling on September 30, 2025, but did neither. The decision to proceed in the chosen manner under section 37 meant that the timelines became even more crucial. Section 52A (6) of ROPA expressly preserves the right of a candidate to bring an election petition under section 3(b) of the EPA. This section ensures that the Authority's refusal does not operate as a bar, waiver, or limitation on the candidate's statutory right to petition the Election Court of the Authority's decision.

[23] In any event, the learned judge was correct in stating that the Election Court itself was subject to extremely short timelines. The Election Court shall deliver its decision within 48 hours after the completion of arguments; further, it shall, within 6 months from the date of the taking of the poll, determine all matters brought before the court relating to the poll (pursuant to section 36(3) and (4) of the EPA).

[24] We have found, for the reasons discussed above, that this appeal will not have a real chance of success. We therefore have concluded that leave to appeal the learned judge's decision to refuse leave for judicial review should not be granted.

[25] On the issue of costs Mr Wildman has indicated that he would leave the matter to the discretion of the court. Ms White has requested time to make submissions on behalf of the respondent. We therefore direct that the parties have a period of 14 days from today's date to file and serve their respective written submissions regarding the costs of the application.

Accordingly, we make the following orders:

1. Leave to appeal the decision of Wint Blair J, made on 8 December 2025, is refused.
2. The parties shall, within 14 days of today's date, file and serve written submissions in relation to the costs of the application.