

Judge queries law on annulling presidential elections

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KAMPALA. With exactly a week to the general election, a Court of Appeal judge has queried what he called a 'broader' test for the Supreme Court to annul any contested presidential election.

Justice Remmy Kasule wondered why the Parliamentary Elections Act allows court to annul a parliamentary election on a lower test of 'balance of

probabilities' yet the test of annulling a presidential election has to be to the 'satisfaction' of the court, meaning the standard of proof is higher.

Alluding to the 2001 and 2006 presidential elections case, Justice Kasule quoted retired Chief Justice Benjamin Odoki and some other justices who held that the then aggrieved candidate, Dr Kizza Besigye, had not proved his case to the satisfaction of the court.

The verdict of the Supreme Court

meant that although the court found some electoral malpractices, the same could not substantially affect the final result warranting overturning Mr Museveni's victory.

The request

"In my considered view, a uniform standard of proof, whereby court is satisfied of the ground(s) to set aside an election petition, should be prescribed by Parliament for all elections whether presidential, parliamentary

or local governments. This will facilitate the courts to apply the same parameters of standard of proof..." said Justice Kasule while presenting a paper to senior justices of Supreme Court and Court of Appeal at training in readiness for the election petitions.

Constitutional lawyer Peter Walubiri asked former Chief Justice Odoki to explain why he flouted the procedure of having two summary judgment forms on which justices who

wanted Mr Museveni's victory annulled and those who were in his approval sign on it but instead had one summary judgment form.

Justice Odoki conceded that he used one summary judgment form instead of two.

"When we were writing a summary judgment, I had the majority and minority justices sign on one form. The gymnastics at that time required us to sign on one form..." said Justice Odoki.