

**IN THE HIGH COURT OF JUSTICE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT JABI, ABUJA
BEFORE HIS LORDSHIP: HON. JUSTICE D. Z. SENCHI
HON. JUDGE HIGH COURT NO. 13
COURT CLERKS: T. P. SALLAH & ORS
DATE: 22/06/2020**

FCT/HC/CR/229/19

BETWEEN:-

COMMISSIONER OF POLICE-----

COMPLAINANT

AND

**1.AMINU MUSA
2.BILYAMINU ABDUL**

DEFENDANTS

RULING/JUDGMENT

1st and 2nd Defendants in Court.

B.O AkinseyeGeorge:-For the Defendants.

Akinseye- George: - The case is for hearing. The prosecution is absent. And since this case has been on going the prosecutor has consistently been absent in Court and the only date and day the prosecution was present was the day the Defendants were arraigned. Even though this is a pro bono case, I have been serving the prosecution with hearing notices to ginger him and to be present in Court. On 17th June, 2020 the prosecution was served with a hearing notice against today's date and yet the prosecution is not in Court. In the circumstance I refer the Court to order 1 of the Practice Direction of this Court. Further by section 351 Administration of Criminal Justice Act 2015 vests this Court the powers to discharge the Defendants.

Court:- The case is slated today for hearing. The Defendants are in Court with their Counsel. The learned prosecuting Counsel is absent. No reason is given for his absence. It would be recalled that the 1st and 2nd Defendants were arraigned before this Court on 18th

June, 2019 on the allegations of armed robbery. And since the prosecuting Counsel appeared on 18th June, 2019, he has never shown up again in Court in respect of this matter. The case was adjourned to 14th October, 2019, 22nd January, 2020, 18th March, 2020 and today the 22nd June, 2020 but the prosecution failed, refused or neglected to appear in Court despite service of hearing notices on him. The prosecution has never also deem it necessary to communicate to this Court the reasons for his absent. From all intents and purposes the prosecution are no longer interested in prosecuting this case. The Defendants have been in custody with the correctional Services since the 16th June, 2019. And it appears the interest of the prosecution is only to secure a remand against the Defendants and then disappears. In the circumstances, I agree with the learned Counsel for the Defendants that fair hearing is not only to the complainant or the state alone but it is triparte i.e the complainant, society and the Defendant. In this case several opportunities have been accorded the prosecution to assemble his witnesses but he failed or refused to do so.

In fact the prosecuting Counsel has stopped coming to Court in respect of this case.

In the circumstance and in line with the provision of section 351 of the Administration of Criminal Justice Act, 2015 based on the aforementioned facts on record, I have no option than to discharge the Defendants. This becomes more so in view of the fact that on the 22nd January, 2020 I made it crystal clear that if the prosecution failed or refused to be in Court to prosecute this case, appropriate action would be taken. Hence therefore, the 1st and 2nd Defendants are accordingly discharged.

HON. JUSTICE D. Z. SENCHI
(PRESIDING JUDGE)
22/06/2020