

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE NYANYA JUDICIAL DIVISION
HOLDEN AT NYANYA ON THE 5TH DAY OF OCTOBER, 2020
BEFORE HIS LORDSHIP: HON. JUSTICE U.P. KEKEMEKE
SUIT NO: FCT/HC/CR/362/17

COURT CLERK: JOSEPH BALAMI ISHAKU

BETWEEN:

COMMISSIONER OF POLICE . . . COMPLAINANT

AND

1. EJEH JAMES

2. ABRAHAM SIMON } **DEFENDANTS**

RULING

On the 8/11/18, when the PW4 was giving evidence, the Prosecution sought to tender the statement of Defendants.

The 1st and 2nd Defendants' Counsel objected to the admissibility of the statements.

They said the defendants were forced to sign the statements.

The Court therefore proceeded to a trial within trial to determine the admissibility of the statements.

The Prosecution called three witnesses in proof of the voluntariness of the said statements.

I have read the evidence of the Prosecution in the trial within trial and the 1st and 2nd Defendants' evidence.

I have also considered the Written Addresses of Counsel.

The 1st and 2nd Defendants were Police Officers.

The evidence of PW1 in the trial within trial is that the statements were made voluntarily under a word of caution in the presence of one of 2nd Defendant's brother who was his course mate.

That his name is Timothy Ojebe with some media men who got wind of the case.

He led them to the recovery of the 2 AK47 Rifles.

The 1st Defendant surfaced at the Force Headquarters to meet one of his brothers who is a Senior Police Officer (AIG).

He directed him to report at the SARS Office. He reported and his statement was obtained under word of caution voluntarily.

The PW2 described the general atmosphere in the office where the statements were taken. That there was no promise, or duress.

That the statements were read over to them in the presence of many officers. They agreed and signed.

The evidence of the 1st Defendant basically is that he was tortured.

That he had injuries. He started bleeding. His hands were tied. He was forced to sign the statement.

The 2nd Defendant said his hands and legs were handcuffed. He fainted before he was untied. He was not taken before anybody. He was forced to write what he wrote.

I believe the evidence of the Prosecution in the trial within trial.

The evidence of the Defendants is an afterthought.

The Defendants were Policemen when their statements were taken. It is their colleagues that took their statements.

There is evidence that the 2nd Defendant's brother was around when his statement was taken. It was the 1st Defendant's brother who was an AIG that directed the 1st Defendant to report himself to the SARS.

In the circumstance, I do not believe that the 1st and 2nd Defendants were tortured and forced to make the statements sought to be tendered. I find that they were not tortured or threatened.

The word used in Section 17(2) of ACJA 2015 is 'may'.

It is therefore not compulsory that the Defendants Legal Practitioner must be present.

In totality, I hold that the statements of the 1st and 2nd Defendants were made voluntarily and I so hold.

The statements of the 1st and 2nd Defendants are admitted and marked Exhibits 1 and 1₁.

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HON. JUSTICE U.P. KEKEMEKE

(HON. JUDGE)

5/10/20