

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT COURT NO.4, MAITAMA-ABUJA ON THE 28TH DAY OF
FEBRUARY, 2022
BEFORE HIS LORDSHIP: HON. JUSTICE. U.P KEKEMEKE
SUIT NO. FCT/HC/CV/2852/21

COURTCLERKS: JOSEPH ISHAKU BALAMI & ORS.

BETWEEN:

ABDULQAWIYYU JIBRIL.....APPLICANT

AND

1. THE NIGERIA POLICE FORCE

2. INSPECTOR-GENERAL OF POLICE

3. COMMISSIONER OF POLICE FCT, ABUJA.....RESPONDENTS



RULING

The Applicant's Originating Motion is dated 22nd October, 2021 and filed on the 28/10/21.

It is brought pursuant to Section 34(1) and 37 of the Constitution of the Federal Republic of Nigeria 1999 as amended and Articles 4, 5 and 6 of the African Charter on Human & Peoples Rights (Ratification & Enforcement) Act, Laws of the Federation 2010, etc.

It prays the Court for the following reliefs.

1. A declaration that the arrest, detention and continued detention of the Applicant in the cell of the Respondents at their detention facilities situate at FCT Command Premises Guzape Abuja or at any other detention facility

since February 2021 till date without bail or arraignment is unlawful, unconstitutional and a gross violation of the Applicant's fundamental right guaranteed under Sections 34 and 35 of the Constitution of the Federal Republic of Nigeria 1999 as amended.

2. An Order of Court directing the Respondents to release the Applicant who has been in their custody since February 2021 or directing the Respondents to produce the Applicant in Court for the purpose of arraignment.
3. An Order of Court restraining the Respondents jointly and or severally by themselves or by their agents, privies, servants or howsoever called from further detaining the Applicant.
4. ₦20 Million against the Respondent in favour of the Applicant for violating the Applicant's fundamental right to his personal liberty and fair hearing.

In support of the application is a statement containing the name of the Applicant, the reliefs sought and the grounds upon which the reliefs are sought.

Learned Counsel further rely on the Affidavit of JibrilAbdulkadir sworn to on the 28th day of October 2021.

The deponent who is the father deposes that he is into the business of rental services and the Applicant used to work with him.

That due to low patronage at this period, the Applicant decided to travel to Abuja in 2020 to scout for job.

That the Applicant stayed with one Sulaiman, a mechanic who lives in Kubwa.

That sometimes in February 2021, the operatives of the Respondents raided the house where the Applicant stays and arrested Sulaiman and the Applicant.

The Applicant was taken to the Respondent's detention facility at FCT Command Premises Abuja.

That Applicant's Counsel was denied access to the Applicant on the ground that his (IPO) was not around.

That several attempts were made to see the Applicant but the Operatives of the Respondents refused to allow access to his lawyers and relatives.

That his parents have suffered so much psychological agony and stress as a result of the Applicant's incarceration.

That unless the applicant is granted bail or released, the Applicant will continue in detention without trial.

That it is in the interest of justice to grant this application.

The Respondents were served with the Originating Processes on the 17th and 23rd of December 2021 respectively. They were further served with hearing notices on the 7th of December 2021.

A further hearing notice was served on the 18th of February 2022 for the hearing.

The Respondents failed, refused and or neglected to file a response despite the avalanche of hearing notices.

Learned Counsel to the Applicant's argument is that the fundamental right of the Applicant to human dignity & liberty have been breached contrary to Sections 34 and 35 of the 1999 Constitution.

Section 34(1) of the 1999 Constitution states:

“Every individual is entitled to respect for the dignity of his person and accordingly-

- a. No person shall be subjected to torture or inhumane or degrading treatment.*
- b. No person shall be held in slavery or servitude and*
- c. No person shall be required to perform forced or compulsory labour.”*

Section 35(1) of the 1999 Constitution states:

“Every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in the following cases and in accordance with a procedure permitted by law.

- a. In execution of a sentence or Order of a Court in respect of a criminal offence of which he has been found guilty.*
- b. By reason of his failure to comply with the Order of a Court or in order to secure the fulfillment of any obligation imposed upon him by law.*
- c. For the purpose of bringing him before a Court in execution of the Order of Court or upon reasonable suspicion of his having committed a criminal offence or to such extent as may be reasonably necessary to prevent his committing a criminal offence, etc.”*

The Applicant's Affidavit evidence is that he was arrested by the Respondents and dumped in the cell of the Respondents since 2021.

That his Counsel and relation have no access to him.

That he was not granted bail or arraigned in a Court of law. Unfortunately, the Respondents refused to avail the Court their own side of the story.

Our Constitution, the 1999 Constitution is still in operation. The Applicant was arrested sometime in February 2021 about a year ago. He has not been charged to Court.

Under our law, every person shall be entitled to his personal liberty and no person shall be deprived of same except as permitted by law.

If he is reasonably suspected to have committed an offence, he should not be dumped in detention but charged to Court within 24 hours in this instance.

There is nothing dignifying in keeping a citizen in detention for about a year without charging him to Court.

The Respondents have failed to put any contrary materials to dissuade the Court from granting the Orders sought. In the circumstance, the application succeeds.

It is hereby ordered as follows:

1. The detention of the Applicant in the cell of the Respondents since February 2021 till date is unlawful, unconstitutional and a gross violation of the Applicant's fundamental rights.

2. The Applicant is hereby ordered to be released from the Respondents' detention facility forthwith.
3. The Respondents are further ordered to pay the Applicant ₦5 Million as compensation for the breach of Applicant's fundamental right.
4. The Respondents are hereby restrained from further detaining the Applicant in respect of this matter except as permitted by law.

.....

HON. JUSTICE U.P. KEKEMEKE

(HON. JUDGE)

28/02/2022

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT COURT NO.4, MAITAMA-ABUJA ON THE 28TH DAY OF
FEBRUARY, 2022
BEFORE HIS LORDSHIP: HON. JUSTICE. U.P KEKEMEKE
SUIT NO. FCT/HC/CV/2852/21

COURTCLERKS: JOSEPH ISHAKU BALAMI & ORS.

BETWEEN:

ABDULQAWIYYU JIBRIL.....APPLICANT

AND

- 1. THE NIGERIA POLICE FORCE
 - 2. INSPECTOR-GENERAL OF POLICE
 - 3. COMMISSIONER OF POLICE FCT, ABUJA
- }RESPONDENTS

Parties absent.

I.Igho..... for the Applicant.

Respondent is not represented.

Signed.

Hon. Judge.

28/02/22