

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE BWARI JUDICIAL DIVISION
HOLDEN AT KUBWA – ABUJA
ON THE 10TH DAY OF JANUARY, 2022
BEFORE HIS LORDSHIP: HON. JUSTICE BELLO KAWU

SUIT NO: FCT/HC/BW/CV/310/2021

BETWEEN:

PATRIOTIC YOUTH ORGANIZATION OF NIGERIA ----- CLAIMANT

AND

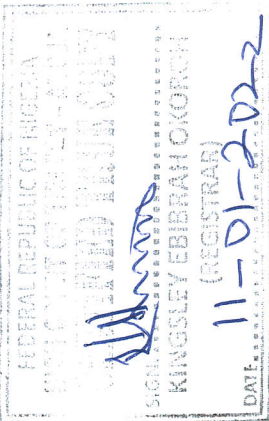
- 1. ECONOMIC AND FINANCIAL CRIMES COMMISSION--DEFENDANTS**
- 2. DR. YUSUF HAMISU ABUBAKAR**

RULING

By way of originating summons the Claimant has applied before this Court praying for the determination of the following questions:

1. Whether having regard to the mandatory statutory provisions of sections 6,7(1) and (2)(a), 17,18, 24 and 6 of the Economic and Financial Crimes (Establishment, etc.) Act, 2004 and section 15 of the Money Laundering (Prohibition) Act, 2011, the 2nd Defendant did not engage in fraudulent financial and economic undertakings amounting to over \$50 Million United States Dollars while holding public offices as the Executive Secretary of the Petroleum Technology Development Fund (PTDF) and as a Commissioner in Kaduna State and used the proceeds of his corrupt act, to acquire various properties in different part of Nigeria, luxurious cars and therefore liable to be arrested, investigated, prosecuted by the 1st Defendant.
2. Whether having regard to the mandatory statutory provisions of Sections 6,7(1) and (2)(a), 17,18,24 and 6 of the Economic and Financial Crimes (Establishment, etc) Act, 2004 and Section 15of the Money Laundering (Prohibition) Act, 2011 and the White paper or Reports of the Administrative Commission of Inquiry by the Federal

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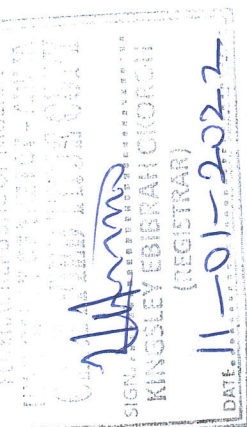


Government of Nigeria, the 1st Defendant and/or the Kaduna State Government, which investigated and indicted the 2nd Defendant of allegations bothering on over \$50 million United States Dollars fraud, illicit acquisition of properties, contract inflation and racketeering, embezzlement and mismanagement of public funds, and money laundering, it will not be in the interest of justice for the 1st Defendant to carry out and enforce the findings of the various Reports incriminating the 2nd Defendant.

3. Whether having regard to the mandatory statutory provisions of Sections 6,7(1) and (2)(a), 17,18,24 and 6 of the Economic and Financial Crimes (Establishment, etc) Act 2004 and Section 15 of the Money Laundering (Prohibition), Act, 2011 and in view of the overwhelming and compelling evidence as contained in the White paper or Reports of the Administrative Commission of Inquiry by the Federal Government of Nigeria, the 1st Defendant and/or the Kaduna State Government, which investigated and indicted the 2nd Defendant of allegation bothering on over \$50 million United States Dollars fraud, illicit acquisition of properties, contract inflation and racketeering, embezzlement and mismanagement of public funds and money laundering, the 2nd Defendant is not a person of questionable character and integrity and therefore does not have the standing to hold any public office in Nigeria.
4. If questions 1- 3 above are resolved against the Defendants, whether this Honourable Court does not have the power and duty to direct and compel the 1st Defendant and other relevant security agencies to commence the process of barring the 2nd Defendant from holding any public office in Nigeria and direct the forfeiture of all his assets and properties to the Federal Government of Nigeria forthwith for being proceeds of corruption.

WHEREOF the claimant seeks for the following reliefs:

- a) **A DECLARATION** that the 2nd Defendant engaged in fraudulent financial



and economic undertakings amounting to over **\$50 Million United States Dollars** while holding Public offices as the Executive Secretary of the Petroleum Technology Development Fund (PTDF) and as a Commissioner in Kaduna State and used the proceeds of his corrupt act to acquire various properties in different parts of Nigeria, luxurious car and therefore liable to be arrested, investigated, prosecuted by the 1st Defendant.

b) **A DECLARATION** that based on the while paper or Reports of the Administrative, Commission, of .Inquiry by , the Federal Government of Nigeria, the 1st defendant/or the Kaduna State Government which investigated and indicted the 2^{na} Defendant of allegations bothering on over **\$50 Million United States Dollars** fraud, illicit acquisition of properties contract inflation and racketeering, embezzlement and mismanagement of public funds, and money laundering, it will be in the interest of justice for the 1st Defendant to carry out and enforce the findings of the various Reports incriminating the 2nd Defendant with immediate effect.

c) **A DECLARATION** that based on the overwhelming and compelling evidence as contained in the White Paper or Reports of the Administrative Commission of Inquiry by the Federal Government of Nigeria, the 1st Defendant and/or the Kaduna State Government, which investigated and indicted the 2nd Defendant of allegations bothering on over **\$50 Million United States Dollars** fraud, illicit acquisition of properties, contract inflation and racketeering, embezzlement and mismanagement of Public funds and money laundering, the 2nd Defendant is a person of questionable character and integrity and therefore does not have the standing to hold any public office in Nigeria.

d) **A DECLARATION** that the 2nd Defendant having engaged in economic and Financial Crimes, money laundering, abuse of office and public trust, contract racketeering, illicit acquisition of assets and properties using public funds and proceeds of corruption, all his assets and properties

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MINISTRY OF JUSTICE
KADUNA STATE
KINGSLEY EBIBRAM OKORODIA
(REGISTRAR)
11-01-2022

acquired using the proceeds of crime are liable to be forfeited to the Federal Government of Nigeria forthwith for being proceeds of corruption.

- e) **AN ORDER** directing and compelling the 1st Defendant and all other relevant security agencies to forthwith give effect to, carry out and implement the findings of the various White Papers and/or investigation Reports which indicted the 1st Defendant for various Economic and Financial Crimes and abuse of office and public trust while holding public offices.
- f) **AN ORDER** directing and compelling the 1st Defendant and all other relevant security agencies to forthwith trace all the assets and properties of the 2nd Defendant and commence the process of forfeiting same to the Federal Government of Nigeria forthwith.
- g) **AN ORDER** barring the 2nd Defendant from holding any public office in Nigeria.
- h) **AN FOR SUCH OTHER OR OTHER ORDERS** as this Honourable Court may make in the circumstances.

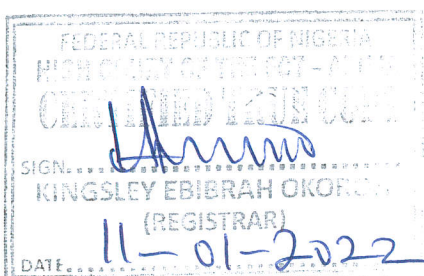
The originating summons is supported by a 21 paragraphs affidavit and a written address. In his written address he formulated a sole issue for determination:

"Whether having regard to the materials and evidence before this Honourable court it is in the interest of justice to grant the reliefs sought by the Claimant"

In response, the 1st Defendant (EFCC) filed an 8 paragraphs Counter Affidavit in opposition to the Originating Summons. They also filed a Written Address and cited the case of:

"FAWHINMI Vs I.G.P & ANOR 2002, LPELR- 1258(SC), Sections 6 & 7, 8(5) and 14(2) of EFCC (Establishment) Act 2004.

They formulated a sole issue for determination:



"Whether the defendant has discretion in carrying its primary functions of investigation, arrest and prosecution?"

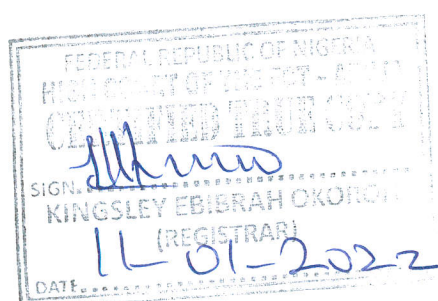
The 1st Defendant also filed another counter affidavit in opposition to the 2nd Defendant's counter claim and consequential reliefs sought for. The counter affidavit is of nine paragraphs. The 2nd Defendant filed a Fifty (50) paragraphs counter affidavit in opposition to the originating summons. He also filed a counter claim and consequential reliefs as follows:

- i. **A DECLARATION** that the claims of the Claimant against the 2nd Defendant are deliberate falsehood, inciting, lacking in evidence and therefore baseless and frivolous in its entirety.
- ii. **A DECLARATION** that the 2nd Defendant DID NOT engage in any fraudulent financial and economic undertakings amounting to over **\$50 Million United States Dollars or any other amount whatsoever** while holding public offices as the Executive Secretary of the Petroleum Technology Development Fund (PTDF) and as a Commissioner in Kaduna State nor used the proceeds of any corrupt act to acquire any asset or property whatsoever.
- iii. **A DECLARATION** that the purported White Paper or Reports of the Administrative Panel of Inquiry by the Federal Government of Nigeria dated **5th September, 2006** and the Report of the 1st Defendant titled **"The Administrative Panel of Inquiry on EFCC Investigation Report dated 24th August, 2006 of Alleged Conspiracy, Fraudulent Conversion of Funds, Corrupt Practices and Money Laundering by Some Public Officers and Other Persons"** which recommendation is contained in the Federal Government Gazette dated **6th September, 2006**, upon which the 1st Defendant purportedly investigated, indicted and recommended the prosecution of the 2nd Defendant of allegations bothering on over **\$50 Million United States Dollars** fraud, illicit



acquisition of properties, contract inflation and racketeering, embezzlement and mismanagement of public funds, and money laundering, having breached the 2nd Defendant's right to fair hearing is therefore invalid, illegal, null, void and of no effect whatsoever.

- iv. **A DECLARATION** that the 1st Defendant, not being a Court of competent jurisdiction, lacked the powers to indict the 2nd Defendant of commission of any offence or crime based on the White Paper or Reports of the Administrative Panel of Inquiry by the Federal Government of Nigeria, and as such the said Report titled "**The Administrative Panel of Inquiry on EFCC Investigation Report dated 24th August, 2006 of Alleged Conspiracy, Fraudulent Conversion of Funds, Corrupt Practices and Money Laundering by Some Public Officers and Other Persons**" which recommendation is contained in the Federal Government Gazette dated 6th **September, 2006** is not a prima facie evidence of commission of any crime, fraud or offence and therefore does not make the 2nd Defendant to be a person of questionable character and integrity nor render him incapable of holding any public office in Nigeria.
- v. **A DECLARATION** that the 2nd Defendant, while holding public offices as the Executive Secretary of the Petroleum Technology Development Fund (PTDF) and as a Commissioner in Kaduna State, DID NOT engage in any economic and financial crimes, money laundering, abuse of office and public trust, contract racketeering, illicit acquisition of assets and properties using public funds etc and therefore all his assets and properties having NOT been acquired using the proceeds of any crime are NOT liable to be forfeited to the Federal Government of Nigeria.
- vi. **A DECLARATION** that the media trial of the 2nd Defendant by the 1st Defendant or its agents based on the purported White Paper or Reports of the Administrative Panel of Inquiry by the Federal Government of Nigeria dated 5th **September, 2006** and the Report of the 1st Defendant titled "**The Administrative Panel of Inquiry on EFCC Investigation Report dated 24th August, 2006 of Alleged Conspiracy, Fraudulent Conversion of Funds, Corrupt Practices and Money Laundering by Some Public Officers and Other Persons**" which recommendation is contained in the Federal Government Gazette dated 6th **September, 2006** in connection with the discharge of his public duties as Executive Secretary of the Petroleum Technology Development Fund (PTDF) and as a Commissioner

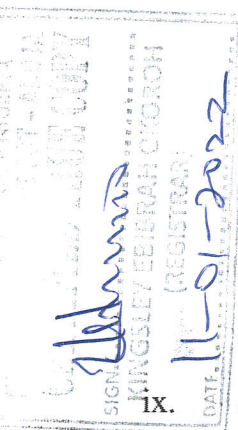


in Kaduna State, is scandalous, overreaching, malicious, mala fide and highly prejudicial and therefore constitutes an interference with the administration of justice, unconstitutional and breaches the 2nd Defendant's right to fair hearing.

vii. **A DECLARATION** that the White Paper or Reports of the Administrative Panel of Inquiry by the Federal Government of Nigeria dated 5th September, 2006 and the Report of the 1st Defendant titled "The Administrative Panel of Inquiry on EFCC Investigation Report dated 24th August, 2006 of Alleged Conspiracy, Fraudulent Conversion of Funds, Corrupt Practices and Money Laundering by Some Public Officers and Other Persons" which recommendation is contained in the Federal Government Gazette dated 6th September, 2006 which purportedly indicted the 2nd Defendant in connection with the discharge of his public duties as Executive Secretary of the Petroleum Technology Development Fund (PTDF) and as a Commissioner in Kaduna without compliance with the rules of natural justice CANNOT be a lawful basis for the investigation, indictment or prosecution of the 2nd Defendant for any offence, fraud or criminal contained therein.

viii. **AN ORDER OF COURT** setting aside, nullifying and/or invalidating "die White Paper or Reports of the Administrative Panel of Inquiry by the Federal Government of Nigeria dated 5th September, 2006 and the Report of the 1st Defendant titled "The Administrative Panel of Inquiry on EFCC Investigation Report dated 24th August, 2006 of Alleged Conspiracy, Fraudulent Conversion of Funds, Corrupt Practices and Money Laundering by Some Public Officers and Other Persons" which recommendation is contained in the Federal Government Gazette dated 6th September, 2006, relied upon by the 1st Defendant or any other security agency for the indictment, investigation or prosecution of the 2nd Defendant, for being illegal, unlawful, unconstitutional, prejudicial, null, void and of no effect whatsoever.

AN ORDER OF COURT restraining the 1st Defendant and any other security agencies, by themselves, officers, agents, staff or those deriving power or authority from them, from giving any or further effect to, carrying out, enforcing and/or implementing the findings of the White Paper or Reports of the Administrative Panel of Inquiry by the Federal Government of Nigeria dated 5th September, 2006 and the Report of the 1st Defendant titled "The Administrative Panel of Inquiry on EFCC Investigation Report dated 24th August, 2006 of Alleged Conspiracy, Fraudulent Conversion of Funds, Corrupt Practices and Money Laundering by Some Public Officers and Other Persons" which recommendation is contained in the Federal Government Gazette dated 6th September, 2006 which purportedly indicted the 2nd Defendant of any offence, fraud or crime or in any other manner whatsoever violating or breaching the rights of the 2nd Defendant or subjecting him to any penal disability, sanction, inhibition, investigation and/or prosecution in



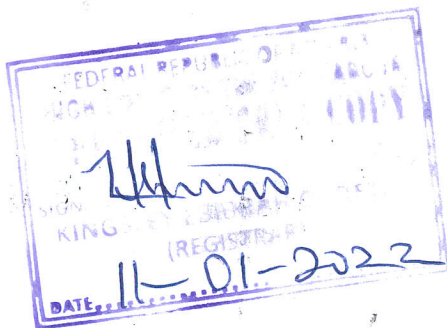
furtherance of the said White Paper of Report.

- x. AND FOR SUCH OR FURTHER ORDERS as this Honourable Court may deem fit to make in the circumstances.

After going through the originating summons together with the counter affidavits filed by both the 1st and 2nd Defendants as well as the counter claim and consequential reliefs sought by the 2nd Defendant against the 1st Defendant and response of the 1st defendant by way of counter affidavit, I have found that the crux of this matter is as a result of the White paper Reports of the Administrative Commission of Inquiry by the Federal Government of Nigeria in which the Claimant sought for the following declarations (supra).

The Claimant is putting heavy reliance on the White Paper. However, this White Paper has been set aside by a Judgment dated 28th day of November, 2006 in suit No. M/490/2006, between: **OTUNBA OYEWOLE FASHAWE Vs ATTORNEY GENERAL OF THE FEDERATION & 3 OTHERS** by the High Court sitting in Lagos. The judgment has been exhibited and no challenge to the judgment and no appeal on it. I therefore see no reason why this Court can rely on the White Paper that has been set aside by High Court. Hence, this application is hereby refused.

As to the counter claims and consequential reliefs, all the reliefs are hereby granted.



HON. JUSTICE BELLO KAWU
(Presiding Judge)
10/01/2022

APEARANCE(S):

- 1. PETER O. ABANG, Esq for the Claimant**
- 2. ONJEFU OBE, Eqs for the 1st Respondent**
- 3. 2nd Respondent absent**

