

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT GARKI, ABUJA - FCT**

**CLERK: CHARITY ONUZULIKE
COURT NO. 10**

**SUIT NO: FCT/HC/CV/2237/23
DATE: 10/2/2023**

BETWEEN:

**THE INCORPORATED TRUSTEES OF
PATRIOTIC YOUTH ORGANIZATION OF
NIGERIA.....CLAIMANTS**

AND:

- | | | |
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| <ol style="list-style-type: none">1. ERIC OCHEME ODOH2. ECONOMIC AND FINANCIAL CRIMES
COMMISSION (EFCC)3. THE NIGERIA POLICE FORCE4. THE INSPECTOR GENERAL OF POLICE | } | DEFENDANTS |
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RULING

(DELIVERED BY HON. JUSTICE SULEIMAN B. BELGORE)

Upon commencement of the Originating Summons, the Claimant/Applicant also brought the present Motion on Notice filed on 7th February, 2023 praying this Court as follows:

1. ***“An Interim Order of the Honourable Court mandating the 2nd to 4th Defendants to commence immediate investigation, arrest and prosecution of the 1st Defendant Mr. Eric Ocheme Odoh over issues to the allegations of money laundering, economic crimes, multiple money transfer and running of multiple accounts***

pending the hearing and determination of the substantive Originating Summons.

2. And for such further or other Orders as this Honourable Court may deem fit to make in the circumstances.”

In support of the application is 18 paragraph affidavit, which was deposed to on 7th day of February, 2023 by David Daudu Audu, a Litigation Officer in the law firm of Lawstrides Associates, Counsel to the Applicant as well as a written address.

In opposition, the 1st Defendant filed his Counter affidavit which was sworn to by Salihu Abdulkarim Omeiza, and a written address; and urged the Court to dismiss the prayers of the Claimant/Applicant and in its stead affirm that he has constitutional rights to personal liberty and to make an order protecting same.

The case of the Claimant/Applicant is as enumerated at paragraphs 10 to 14 of the Affidavit in support of the Motion; and which is summarily that it carried out an investigation which revealed “heart-breaking financial crimes going on the Central Bank of Nigeria including “money laundering, sale of the new currency, running of multiple accounts, illegal transfer of cash”. According to the Applicant, the 1st Defendant is “at the centre-stage of this economic fraud”. Based on this, the Applicant is seeking for an order of the Court for the 2nd to 4th Defendant to investigate, arrest and prosecute the 1st Defendant.

In his counter affidavit, the 1st Defendant had contended that the Applicant had no legal interest sought to be protected by the injunctive relief and has not shown any one. The 1st Defendant further averred that the aim or objective of the Claimant does not relate to “exposing official corruption”.

It was contended that the Governor of the Central Bank of Nigeria or its office is distinctly occupied by a human person appointed by the President of the Federal Republic of Nigeria and is separate and has not connection whatsoever with the 1st Defendant and manages, performs and carries out its functions regarding any monetary policy through the Governor of the Central Bank of Nigeria upon approval of the President of the Federal Republic of Nigeria and internal oversight of the Board of the Central Bank of Nigeria and its general management are carried out in the overall interest of the economic and financial stability of the Federal Republic of Nigeria in line with the regulatory statutory framework and international best practices; and the Apex Bank has never been found in the discharge of its function.

On the above premise, the 1st Defendant averred that he is not in any way responsible for the running, management or overseeing of the affairs of the Central Bank of Nigeria or its monetary policies and is not aware of any infraction relating thereto and there is no evidence that the Central Bank of Nigeria or its Governor has been involved nor accused of any “economic fraud”.

Going further the 1st Defendant contended that the allegations are nebulous and imprecise; without any specific particulars and details of the alleged crimes. He noted that the Court does not speculate nor has the mandate to aid the Claimant by fishing for evidence against the 1st Defendant.

It was also averred that the Reliefs sought by the Applicant at this interlocutory stage is the same as the substantive Relief in the Originating Summons and cannot be granted at the interlocutory stage.

Finally, the 1st Defendant contended this Motion is being employed by the Claimant as an instrument to enable the 2nd to 4th Defendants to violate the rights of the 1st Defendant and trample upon his

alienable rights. He urged the Court that being an innocent citizen of Nigeria, he has the right to personal liberty, freedom of movement etc and this Court has the duty to protect the constitutional rights of the 1st Defendant.

The 2nd to 4th Defendants/Respondents did not respond to the Application even though ample opportunity was accorded to them by this Court. Having been afforded the opportunity of being heard, the requirement of fair hearing has been duly met by this Court.

I have carefully perused this Motion, the supporting affidavit, the counter affidavit of the 1st Defendant and the respective written addresses of the parties. As rightly argued by the 1st Defendant, the Court has a duty to refrain from making any pronouncement or deciding issues touching on the substantive suit at this interlocutory stage. Therefore, this Court will painstakingly confine itself only to issue raised in this interlocutory motion without pre-determining any substantive issue before the Court. See the cases of **KONDUGA L.G.C. VS. NURTW & ORS. (2013) LPELR 23355 (CA)**, **DEHINSILU VS. MONDEC PHARMACY LTD (2002) LPELR – 3547 (CA)**, **NYA VS. EDEM (2005) ALL FWLR (PART 242) 576** and **ADAMU VS. SUEMO (2007) LPELR – 4468**.

In this regard, this Court will treat the narrow issue raised herein with circumspect to avoid running contrary of the settled principle of the law as enunciated above. Now, an application for injunction calls for the exercise of the discretionary powers of the Court. Discretion of the Court is not exercised in vacuo. It must be dependent on proven or established facts brought before the Court to enable the Court weigh the legal rights and obligations of the parties and make a decision one way or the other. See the case of **OLATUBOSUN VS. TEXACO NIGERIA PLC & ANOR (2012) 5 SC (PART 1) 88**, **DANGOTE VS. CIVIL SERVICE COMMISSION PLATEAU (2001) SCM 59** AND **NATIONAL BANK OF NIGERIA LIMITED VS. GUTHRIE (NIG) LTD & ANOR (1993) 4 SCNJ 1**.

The totality of the averments of the Applicant as set out in the affidavit of one David Daudu Audu appears grossly economical with material facts and grounds. The Applicant apart from not disclosing any legal interest which ought to be protected by this Court through this interlocutory order, also did not pointedly show the infractions allegedly committed by the 1st Defendant to sway this Court into making the order sought.

This Court needs to see and consider material facts before it can arrive at a conclusion regarding the alleged infraction by the 1st Defendant to warrant mandating the 2nd to 4th Defendant to investigate, arrest and prosecute him, as sought by the Claimant.

In the absence of any material evidence of commission of the alleged offences, it is not the intendment of the law that the judicial process of the Court will be used to stamp a seal of approval for the 2nd to 4th Defendants to invade the rights of the Claimant. For any action to be lawfully taken against the 1st Defendant, it must be founded on the law and based on proven facts. In the case of **A-G BENDEL & 2 ORS VS. AIDEYAN (1989) 4 NWLR (PART 118) 646, 671-672 H-A** the Supreme Court per Nnaemeka-Agu, JSC held that:

“Our founding fathers and our powers-that-be have opted for the rule of law in preference for the rule of force and absolute totalitarianism. Under the system, we have elected that the otherwise omnipotent power of the government must be exercised under the authority of law. Any act of governance which is not covered under the umbrella of an enabling law is a nullity.....”

Therefore it is not opened to the Claimant or any other person or authority to whimsically invoke the judicial powers of the Court

without any evidence of the facts. The process of the Court cannot be deployed for such action. The 1st Defendant has explained himself regarding the allegations of the Claimant. He is entitled to the benefit of doubt and cannot be adjudged guilty or as having any question to answer. In our adversarial system of law, it is the State or the party that alleges that must prove. No burden of establishing his innocence is placed on the 1st Defendant.

It is also important to emphasise that the allegation of crime must be proved beyond reasonable doubt and by evidence tested openly in Court. The nature of evidence needed to establish allegation of commission of any offence cannot be adduced in an affidavit, as in this case. The Claimant by the affidavit has not made out any credible material evidence vide its affidavit to warrant this Court to grant this Application.

In arriving at the inevitable conclusion that this application is devoid of merit, it is pertinent to note that the 1st Defendant has stated at paragraphs 15, 16 and 17 of the Counter affidavit thus:

“15. That this Application is highly prejudicial, mala fide and merely intended to aid the 2nd, 3rd and 4th Defendants or other security agencies to use it as a smokescreen to achieve the unlawful purpose of trampling upon the constitutional rights of the 1st Defendant to personal liberty, freedom of movement etc.

16. That if this Court grants this Application and the rights of the 1st Defendant are violated and trampled upon by the 2nd, 3rd and 4th Defendants or other security agencies, the 1st Defendant cannot be adequately assuaged or compensated in monetary terms.

17. That this Application is a clear indication of the ongoing plot by the 2nd, 3rd and 4th Defendants to take steps

to arrest, detain and trample upon the constitutional rights of the 1st Defendant, while hiding under the cover of unsubstantiated allegations of commission of crime.”

It is indeed unacceptable for the Claimant to bring this application with the abusive aim of using the process of this Court to validate the arrest and prosecution of the 1st Defendant by the 2nd to 4th Defendants. That intention alone marks out this application as being brought in bad faith and an abuse of the process of the Court.

Conversely, the 1st Defendant has and is entitled to constitutional rights to personal liberty and freedom of movement as enshrined in **Section 35 and 41 of the 1999 Constitution**. No doubt, it is the duty of the Court to protect and safeguard the constitutional rights of the citizen from abuse or likelihood of abuse. Having clearly shown that the underlying intention of the Claimant and the 2nd to 4th Defendants, is to use the process of this Court to achieve the unlawful purpose of investigating, arresting and prosecuting the 1st Defendant over unsubstantiated allegations, this Court will resist such machination.

Being the last hope of the common man, it will be expedient to safeguard and protect the 1st Defendant's rights to personal liberty and freedom of movement in view of the aforementioned machination of the Claimant and the 2nd to 4th Defendants.

Affirming the entitlement of the 1st Defendant to and protecting his constitutional rights to personal liberty and freedom of movement, indeed is consequential upon the refusal of the prayers of the Claimant herein.

Importantly, this Honourable Court can grant any consequential reliefs even if the party in whose favour it will be made, has not specifically asked for same in order to give effect to its decision. In

the case of **AMAECHEI VS. INEC & ORS. (2008) LPELR – 446** where Musdapher, JSC held that:

“It is trite law that even where a person has not specifically asked for a relief from a Court, the Court has the power to grant such relief as a consequential relief. A consequential order must be one made giving effect to the judgment it follows.”

Also, in **PEOPLES DEMOCRATIC PARTY VS. INEC & ORS. (2015) LPELR – 25669** the Court of Appeal held that:

“There is no doubt that one of the inherent powers of the Court is to make consequential orders in the interest of justice even though the order was not specifically asked for by the party to the case.”

In the circumstances, I find and hold this Application lacks in merit and is accordingly dismissed. In consequence, this Court hold that the 1st Defendant has and is entitled to the protection of his constitutional rights to personal liberty and freedom of movement, having made out a case such entitlement.

IT IS THEREFORE DECLARED that the 1st Defendant has the constitutional rights to personal liberty and freedom of movement and cannot be investigated, arrested and/or prosecuted by the 2nd, 3rd and 4th Defendants or any other security agencies over or in connection with any allegation of money laundering, economic crimes, multiple money transfer and running of multiple accounts or any other allegations connected thereto, except upon the order of a superior Court, pending the hearing and determination of the substantive Suit.

The 2nd, 3rd and 4th Defendants or any other security agencies are HEREBY RESTRAINED from inviting, investigating, arresting and/or prosecuting the 1st Defendant (Mr. Eric Ocheme Odoh) over or in connection with allegation of money laundering, economic crimes, multiple money transfer and running of multiple accounts or any other allegations connected thereto, except upon the order of a Superior Court, pending the hearing and determination of the substantive Suit.

That is the Ruling of this Court.

Signed
S. B. Belgore
(Judge) 10/2/23