

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT GUDU – ABUJA
DELIVERED ON WEDNESDAY THE 1ST DAY OF MARCH, 2023.
BEFORE HIS LORDSHIP; HON. JUSTICE MODUPE OSHO-ADEBIYI
CHARGE NO.CR /302/2022

COMMISSIONER OF POLICE -----COMPLAINANT
AND
AKPO PATRICK, MALE “36” YEARS ----- DEFENDANT

RULING

The prosecution on the 26/01/2023 sought to tender in evidence statements of the defendants dated 13/01/2022 & 17/01/2022, medical report from Karshi General Hospital dated 20/01/2022 and a gun.

Defence Counsel in his objection simply stated that “there are procedures in law for tendering of exhibits of this nature which was obtained in the course of investigation, particularly as it has to do with obtaining same in the house of the defendant. In proceeding to obtain an exhibit of this nature from the house of the defendant, the prosecutor has not shown to the court the compliance and authority in which they obtained this gun”. Defence Counsel in his objection failed to state the procedures he referred to, he failed to establish the grundnorm of his objections. Merely stating that the police failed to establish legal procedures required in tendering a gun in the course of investigation without mentioning such specific procedures cannot be said to be a valid objection. Submission that the police has not shown to the court the compliance and authority in which they obtained the gun from the defendant’s house is bereft of a basis of objection as defendant counsel failed to mention the step required for compliance and the authority needed by the police to obtain a gun from defendant’s house.

Whilst a counsel has every right to raise objections in the course of proceedings in court, an objection imposes on the objecting counsel to elucidate the rules of evidence or the procedural law which the opposing counsel has violated. It is the duty of the objecting counsel to explain the background and circumstances of his objection and back same with legal authority. A mere objection like Defence Counsel stating that there are

procedures in law for the tendering of a gun obtained in the course of investigation in the house of the defendant without stating the legal procedures and the law flaunted by prosecutor nor the legal steps which prosecutor ought to take in tendering a gun cannot be said to be a valid objection and it is my view and I so hold that Defendant Counsel objection is not valid objection before a court of law and I so hold.

Nevertheless, the principle at common law is that once evidence is relevant to the issue in contention, then it is admissible and the court should not concern itself with whether the evidence was legally or illegally obtained, in as long as it is relevant to the issue in contention. However, **Sections 14 and 15 in the Evidence Act, 2011** provides that while a piece of evidence is not rendered inadmissible by the mere reason of its being wrongfully or illegally obtained, the courts have the discretion to exclude any such piece of evidence if it is of the opinion that the undesirability of admitting it out-weights its desirability. The said section is reproduced below as follows;

Sections 14 and 15 of the Evidence Act, 2011

14. Evidence obtained-

- (a). Improperly or in contravention of a law; or*
- (b) In consequence of an impropriety or of a contravention of a law. shall be admissible unless the court is of the opinion that the desirability of admitting the evidence is out-weighed by the undesirability of admitting evidence that has been obtained in the manner in which the evidence was obtained.*

15. For the purposes of section 14, the matters that the court shall take into account include -

- (a) the probative value of the evidence;*
- (b) the importance of the evidence in the proceeding;*
- (c) the nature of the relevant offence, cause of action or defence and the nature of the subject-matter of the proceeding;*
- (d) the gravity of the impropriety or contravention;*
- (e) whether the impropriety or contravention was deliberate*

or

reckless;

(f) whether any other proceeding (whether or not in a court) has been or is likely to be taken in relation to the impropriety or contravention; and
(g) the difficulty, if any, of obtaining the evidence without impropriety or contravention of law

PW1 had given evidence that the locally made pistol sought to be tendered by the PW1 was said to have been recovered from the defendant's house during investigation and the said weapon is listed in the proof of evidence before this court.

Consequently, the objections of the defence Counsel are hereby overruled, and the locally made pistol is hereby admitted in evidence. The following documents are hereby admitted in evidence as follows;

- i. Statement of Patrick Akpo dated 13/01/2022 as Exhibit
- ii. Statement of Patrick Akpo dated 17/01/2022 as Exhibit
- iii. Medical report dated 20/01/2022 from Karshi General Hospital as Exhibit
- iv. A locally made pistol as Exhibit

Parties: Defendant absent (not produced from custody)

Appearances: Fidelis Ogbobe appearing for the Prosecution. O. C. Ali appearing for the defendant.

HON. JUSTICE M. OSHO-ADEBIYI
JUDGE
1ST MARCH, 2023