

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT GUDU – ABUJA  
DELIVERED ON TUESDAY THE 13<sup>TH</sup> DAY OF JUNE, 2023.  
BEFORE HIS LORDSHIP; HON. JUSTICE MODUPE OSHO-ADEBIYI

SUIT NO. PET/141/2022

BETWEEN

JUWAREJU ONOZARE OKAISABOR ----- PETITIONER

AND

OMOKHOA OHIORHENUAH OKAISABOR ----- RESPONDENT

RULING

Learned counsel to the Petitioner in tendering a bunch of documents including a DVD and flash drive drew an objection from the Respondent Counsel. The objection is two faced; The first is that the DVD and flash drive was not served on the Respondent which the court has ruled that the DVD and flash drive be served on the Respondent counsel. The second leg of the objection is on the bunch of documents sought to be tendered by the Petitioner. Respondent counsel objecting to the admissibility submitted that the certificate of compliance attached did not meet the provisions as provided in **Section 84 of the Evidence Act**. That the documents and pictures sought to be tendered was produced from phones and **Section 84 of the Act** states that the document must be generated from a computer that serves that purpose which must have been used regularly over that period in the ordinary course of activities. That the phone is not a computer and it must be a computer for that purpose. That the petitioner's phone is not strictly for that purpose. That the Petitioner did not sign the certificate of compliance. Counsel referred the court to **Kubor & Anor V. Dickson & Ors (2012) LPELR-15364(CA)**. That there is no where it was stated in her evidence that the petitioner transferred these facts by way of document to a third party. Counsel also relied on **BRILA ENERGY LTD V. FRN (2018) LPELR-43926 (CA)**.

Petitioner's counsel in reply submitted that **Section 258 of the Evidence Act, 2011** which is the definition section defines computer as including a phone. That the only requirement as to who signed the certificate of compliance is as provided in **Section 84 (4)(b) of the Evidence Act, 2011**. That the affidavit of compliance has stated his relationship with the operator of the device. That the law contemplates a situation where other users can sign and attest to such affidavit. Hence the petitioner need not personally sign the

certificate and urged the court to discountenance arguments of the defence counsel. That the computers can work in combination or succession, citing **Section 84 (3) (a) (b) & (c) of the Evidence Act, 2011**.

First and foremost, as rightly submitted by counsel to the Petitioner, **Section 258 of the Evidence Act, 2011** which is the interpretation section provides thus;

*"computer" means any device for storing and processing information, and any reference to information being derived from other information is a reference to its being derived from it by calculation, comparison or any other process*

Therefore, flowing from the above the submission of the Respondent counsel that a phone is not a computer is misconceived.

It is not in contention that the documents sought to be tendered are computer generated evidence. The crux of the objection of the evidence is mainly that the documents sought to be tendered have not complied with the provisions of Section 84 (2) & (4) of the Evidence Act, 2011 and that the witness (Petitioner) did not sign the certificate of compliance. The idea behind the production of a certificate authenticating a computer generated document is to ensure the integrity of the source and authenticity of the document so that the court can rely on it per KEKERE-EKN JSC in **DICKSON VS SYLVA (2016) LPELR-41257 (SC)**. Section 84 of the Evidence Act provides extensively what a person seeking to tender a document generated by computer must satisfied. In the case of Kubor V. Dickson (Supra) the Supreme Court held that;

*"A party that seeks to tender in evidence a computer generated document needs to do more than just tendering same from the bar. Evidence in relation to the use of the computer must be called to establish the conditions set out under section 84(2) of the Evidence Act, 2011"*.

By **Section 84(2) of the Evidence Act, 2011**, there are four conditions which are required to be satisfied in relation to the document and computer in question -

1. That the statement sought to be tendered was produced by the computer during a period when it was in regular use;
2. That during the period of regular use, information of the kind contained in the document or statement was supplied to the computer;
3. That the computer was operating properly during that period of regular use; and
4. That the information contained in the statement was supplied to the computer in the ordinary course of its normal use.

The provision of **Section 84(4) of the Evidence Act, 2011** is to establish that the computer that produced the document is reliable.

I have gone through all the certificate of compliance attached to each set of documents sought to be tendered. The maker of the certificate stated that they were sent to his phone by the Petitioner through her phone and he in turn sent it to his email, then printed it out with his laptop and a printer. The model of the laptop and printer stated also. The maker of the certificate has also stated of the computer's reliability and functionality. Thereby complying with the provision of the law. There is nothing in the Evidence Act 2011 that requires the person who signed the certificate of compliance to be present in court. All that the law requires is that the certificate should identify the device used, the condition of the device and the name and signature of the person responsible for the operation of the device.

Consequently, Objection is hereby overruled. The following documents are hereby admitted in evidence and marked as attached.

**PARTIES:** Absent

**APPEARANCES:** C. B. Onuorah appearing with Francisca Igboanugo and Abdullahi Kudu for the Petitioner. Clifford Omozeghian appearing with Divine Tobechukwu Nwoye for the Respondent.

**HON. JUSTICE M. OSHO-ADEBIYI  
JUDGE**

**13<sup>TH</sup>JUNE, 2023**