

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT HIGH COURT 29 GUDU - ABUJA**  
**ON WEDNESDAY THE 10<sup>TH</sup> DAY OF JUNE, 2020.**  
**BEFORE HIS LORDSHIP; HON. JUSTICE MODUPE R. OSHO -ADEBIYI**

**SUIT NO. CV/525/2018**

**IN THE MATTER OF FUNDAMENTAL RIGHTS RULES 2009**

**BETWEEN**

**BARRISTER CHEKWUBE OSITA EBUBEALOR -----APPLICANT**

**AND**

- 1. MINISTER OF INTERIOR**
- 2. MINISTRY OF INTERIOR**
- 3. NIGERIA IMMIGRATION SERVICE**
- 4. COMPTROLLER GENERAL OF IMMIGRATIO -----RESPONDENTS**
- 5. ACG, PASSPORT, N.M. ZITAS (Struck Out)**
- 6. SUPRITENDENT OF IMMIG. PASSPORT, S.D. MOHAMMED**
- 7. CHIEF IMMIG. ASSISTANT PASSPORT, H. B USMAN**

**JUDGMENT**

This is an application for the Enforcement of Fundamental Rights of the Applicant brought pursuant to the provisions of Order 1, Rules 2, 3, 4 and 5; Order II, XI and XII of the Fundamental Rights (Enforcement Procedure) Rules 2009; Sections 34, 35, 36, 37, 38, 40, 41 and 46 (1)(2) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and Articles IV, V, VI, XI and XII of the African Charter on Human and Peoples Rights (Ratification and Enforcement) Act 2010. In the application, the Applicant seeks the following reliefs;

- I. A DECLARATION** that the arrest and detention of the Applicant on the orders of the 5<sup>th</sup> Respondent, in the 3<sup>rd</sup> Respondents cell, on the instigation of the 6<sup>th</sup> and 7<sup>th</sup> Respondents, from 5:00pm of 21<sup>st</sup> June, 2018 to 5:00pm of 28<sup>th</sup> June, 2018 is unlawful, unconstitutional, arbitrary,

oppressive, malicious, capricious, and gross violation of the Applicant's right to his personal liberty, human dignity and freedom of movement and therefore contrary to **Section 34, 35 and 41(1) of the Constitution of the Federal republic of Nigeria, 1999 (as amended) and Articles 4, 5, 6, and 12(1)** of the African Charter on Human and People's Right (Ratification and Enforcement) **Act Cap A9, the Laws of the Federation of Nigeria, 2004.**

**II. A DECLARATION** that the arrest and detention of the Applicant by the order of the 5<sup>th</sup> Respondent in the 3<sup>rd</sup> Respondent's Cell upon the instigation of the 6<sup>th</sup> and 7<sup>th</sup> Respondents from 5:00pm of 21<sup>st</sup> June, 2018 - 5:00pm of 28<sup>th</sup> June, 2018 without informing him and his client, a minor, of the offence(s) they committed or charged to court is unlawful, unconstitutional, malicious, arbitrary and constitutes a gross violation of the Applicant's rights to fair hearing and therefore contrary to **Section 36(5) and (6) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and Articles 2 of the Federal Charter on Human and People's Right (Ratification and Enforcement) Act Cap A9 LFN, 2004.**

**III. A DECLARATION** that the arrest, detention and humiliation of the Applicant by the 3<sup>rd</sup>-7<sup>th</sup> Respondents, who under the direct control and supervisions of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents from 5:00pm of 21st June, 2018 - 5:00pm of 28<sup>th</sup> June, 2018 without access to his family members and friends since in the detention center of the 5<sup>th</sup> Respondent's cell with other detainee both sane and insane deported from other countries and awaiting deportees in order to cajole or deter him from further coming to do his job as a lawyer whether on pro bono or

for a fee at the 3<sup>rd</sup> Respondent's passport office upon the instigation of the 5<sup>th</sup> - 7<sup>th</sup> Respondents is unlawful, unconstitutional, malicious, arbitrary and constitute a gross violation of the Applicant's right to human dignity, personal liberty, freedom of thought, freedom of association, freedom of movement and therefore contrary to **Section 34, 35, 38, 40 and 41 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and article 2, 4, 6, 10, 11 and 12(1) of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Laws of the Federation of Nigeria, 2010.**

**IV. AN ORDER** of injunction restraining the Respondents jointly and severally, whether by themselves or officers, servants, agents, privies or howsoever described NOT to re-arrest, detain and harass or invite in order to further arrest or detain Applicant forthwith, harassing, or preventing, obstructing/interfering with the Applicant's discharge of his lawful and professional legal services or assistant whether on pro bono or for a fee as a lawyer or in any other manner infringing on the Applicant's fundamental rights to dignity of human person, personal liberty, freedom of movement as guaranteed by **Section 34, 35(1), 38, 40 and 41(1) of the Constitution of the Federal republic of Nigeria 1999 (as amended) and Articles 2, 4, 5, 6, 10, 11 and 12(1) of the African Charter on Human and Peoples Rights (Ratification and Enforcement) Act, Laws of the Federation of Nigeria, 2010.**

**V. AN ORDER** directing the Respondent's, jointly and severally to pay to the Applicant, damages in the sum of

**N100,000,000.00 (One Hundred Million Naira) only** as the footing of exemplary, punitive and/ or and aggravated damages for his oppressive and unconstitutional arrest and detention from 5:00pm of 21<sup>st</sup> June, 2018 - 5:00pm of 28<sup>th</sup> June, 2018 in the detention center of the 3<sup>rd</sup> Respondent as well as unlawful interference with his right to dignity of human person, personal liberty, restriction of freedom of movement and capricious interference with his right to freedom of thought.

**VI.** Aggravated, exemplary and punitive damages in the sum of **N100,000,000.00 (One Hundred Million Naira) only**, payable by the Respondents, for the physical, mental, emotional and psychological trauma and torture the Applicant suffered as a result of the unlawful arrest and detention by the 3<sup>rd</sup> to 7<sup>th</sup> Respondent's express instruction.

**VII.** The sum of **N100,000,000.00 (One Hundred Million Naira) only**, as aggravated, exemplary and punitive damages, payable by the 3<sup>rd</sup> to the 7<sup>th</sup> Respondents jointly and severally, and also the 1<sup>st</sup> and 2<sup>nd</sup> Respondents vicariously, for the wrongful, unlawful, illegal, cruel, oppressive, callous, outrageous, pervasive, barbaric, dastardly and unconstitutional infringement of the Applicant's right to his dignity of human person, freedom of movement and the resultant physical tortures, and the emotional and psychological trauma he suffered thereby.

**VIII.** Aggravated, exemplary and punitive damages as in the sum of **N100,000,000.00 (One Hundred Million Naira) only**, payable by the 3<sup>rd</sup> to 7<sup>th</sup> Respondents jointly and severally, and then the 1<sup>st</sup> & 2<sup>nd</sup> Respondents, vicariously, for the wrongful, unlawful, illegal, cruel,

wicked, unconscionable, sadistic, and unconstitutional contravention of the Applicant's right to his personal liberty and the consequent mental, emotional and psychological torture trauma he suffered thereof.

- IX.** Aggravated, exemplary and punitive damages in the sum of **N100,000,000.00 (One Hundred Million Naira) only**, payable by the Respondents vicariously, jointly and severally, for the unjustified, inexcusable and malicious breach of the Applicant's right to freedom of movement and the attendant mental, emotional and psychological pain he suffered thereby.
- X.** An order of perpetual injunction restraining the Respondents, especially the 3<sup>rd</sup> to 7<sup>th</sup> Respondent, whether by themselves, or any person acting on their instruction, staff or for them or on their behalf, or in concert with them, whosoever and however from violating or further violating any of the Applicant's fundamental rights.
- XI. AN ORDER** directing the Respondents to publish apologies to the Applicant in at least two (2) National Daily Newspapers for the gross breach of the Applicant's fundamental rights, in accordance with Section (6) **of the Constitution of the Federal Republic of Nigeria 1999 (as amended)**.
- XII.** Cost of Litigation.
- XIII.** And for such further or other orders as this Honourable Court may deem just and expedient to make in the circumstances of this case.

**GROUND UPON WHICH RELIEFS ARE SOUGHT ARE AS FOLLOWS;**

- i. That the detention of the Applicant in the 3<sup>rd</sup> Respondent's cell at Abuja by the 3<sup>rd</sup> to 7<sup>th</sup> Respondents

from 5:00pm of 21<sup>st</sup> June, 2018 - 5:00pm of 28<sup>th</sup> June, 2018 is illegal and unconstitutional as it violates his fundamental rights to personal liberty as enshrined in **Section 35 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and Article 6 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act (CAP A10) Laws of the Federation of Nigeria, 2004.**

- ii. That the detention of the Applicant in the 3<sup>rd</sup> Respondent's cell at Abuja by the 3<sup>rd</sup> to 7<sup>th</sup> Respondents from 5:00pm of 21<sup>st</sup> June, 2018 - 5:00pm of 28<sup>th</sup> June, 2018, without charging him to a court of law is illegal and unconstitutional as it violates his fundamental right to fair hearing as enshrined in **Section 36 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and Article 6 and 7 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act (CAP A10) Laws of the Federation of Nigeria, 2004.**
- iii. That the detention of the Applicant in the 3<sup>rd</sup> Respondents cell at Abuja by the 3<sup>rd</sup> to 7<sup>th</sup> Respondents from 5:00pm of 21<sup>st</sup> June, 2018 - 5:00pm of 28<sup>th</sup> June, 2018, is illegal and unconstitutional as it violates his fundamental rights to health and association as enshrined in **Article 16 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act (CAP A10) Laws of the Federation of Nigeria, 2004.**
- iv. That the detention of the Applicant in the 3<sup>rd</sup> Respondent's cell at Abuja by the 3<sup>rd</sup> to 7<sup>th</sup> Respondents without access to his family members and friends from 5:00pm of 21<sup>st</sup> June, 2018 - 5:00pm of 28<sup>th</sup> June, 2018, is

illegal and unconstitutional as it violates his fundamental rights to freedom of association as enshrined in **Section 40 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and Article 11 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act (CAP A10) Laws of the Federation of Nigeria, 2004.**

- v. That the detention of the Applicant in the 3<sup>rd</sup> Respondents' cell at Abuja from 5:00pm of 21<sup>st</sup> June, 2018 - 5:00pm of 2018 by the 3<sup>rd</sup> to 7<sup>th</sup> Respondents without access to his family members and friends is illegal and unconstitutional as it has violated his fundamental rights to freedom of movement guaranteed by **Section 41 of the 1999 Constitution and Article 12 of the African Charter on Human and Peoples' Rights.**
- vi. That the Applicant is entitled to general and aggravated damages of **N500,000,000.00 (Five Hundred Million Naira)** payable by the Respondents as a result of the aforesaid violations of his fundamental rights to personal liberty, dignity of his person, fair hearing, health, freedom of association and freedom of movement.

The motion is accompanied by a 38-paragraph affidavit deposed to by the Applicant and a 12 paragraph amended further affidavit in support with Exhibits attached, a written address and a certificate of compliance in line with Section 84 of the Evidence Act.

The summary of the facts of this application is that the Applicant with one Miss Chisom Rosemary Ezugwu (a minor) went to the Office of the 3<sup>rd</sup> Respondent to process her International Passport, which was one of the requirements

needed by the minor for an international scholarship interview. That the Applicant and the minor were detained in the 3<sup>rd</sup> Respondent's detention centre for eight (8) days from 21<sup>st</sup> to 28<sup>th</sup> June, 2018. That Applicant applied for bail on self-recognition and ill health but the officers did not honour his request. That Applicant's Counsel had to apply for bail on his behalf. That investigation was carried out by the officers of the 3<sup>rd</sup> Respondent at the Anti-Human Trafficking Department at the detention center on the 22<sup>nd</sup> of June 2018. That they were released without any form of indictments whatsoever and no reason was adduced for their unlawful detention. That he lost a lifetime business deal in huge sums running into millions through a client's retainer-ship being revoked on 27/6/2018 via a "letter of termination". That he was disenfranchised from voting in the Nigerian Bar Association (NBA) 2018 National Officers Election due to the fact that he was in detention center of the 3<sup>rd</sup> Respondent within that period. That due to the length of detention, food items in his house got spoilt. Learned Applicant in the written address submitted that from the facts the Applicant deposed to in the Affidavit in support of this Application and the Exhibits attached thereto, that the Applicant has proved to satisfaction of this Honourable court the violation of his fundamental rights as to be entitled to the grant of the reliefs he claims in his statement in support of the Application. That the detention of the Applicant in the 3<sup>rd</sup> Respondent's cell at Abuja by the 3<sup>rd</sup> to 7<sup>th</sup> Respondents from 5.00pm of 21<sup>st</sup> June, 2018 to 5.00pm of 28<sup>th</sup> June, 2018 violated his fundamental rights to personal liberty, dignity of person and fair hearing as enshrined in Sections 34, 35 and 36 of the Constitution of the Federal Republic of Nigeria, 1999



(as amended) and Articles 5, 6 and 7 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, (CAP A10) Laws of the Federation of Nigeria, 2004.

That the detention of the Applicant in the 3rd Respondent's cell in Abuja by the 3<sup>rd</sup> to 7<sup>th</sup> Respondents without access to his medical doctors from 5.00pm of 21<sup>st</sup> June, 2018 to 5.00pm of 28<sup>th</sup> June, 2018 violated his fundamental rights to health as enshrined in Articles 16 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, (CAP A10) Laws of the Federation of Nigeria, 2004. That the detention of the Applicant in the 3rd Respondent's cell at Abuja by the 3<sup>rd</sup> to 7<sup>th</sup> Respondents without access to his family members and friends from 5.00pm of 21<sup>st</sup> June, 2018 to 5.00pm of 28<sup>th</sup> June, 2018 violated his fundamental rights to freedom of association and movement as enshrined in section 40 and 41 (1) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and Articles 11 and 12 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, (CAP A10) Laws of the Federation of Nigeria, 2004.

That from the above, the Applicant is entitled to general and aggravated damages of 500,000.000.00 (five Hundred Million Naira) payable by the Respondents as a result of the aforesaid violations of his fundamental rights to personal liberty, dignity of his person, fair hearing, health, freedom of association and freedom of movements.

In totality of the above issues raised, Applicant urged this Court to grant all the reliefs sought in this application among others in order to support and protect the Applicant's fundamental rights that were breached, to compensate him for the serious mischief and irreparable damages he suffered thereby and then to deter the

Respondents, especially the 3<sup>rd</sup> to 7<sup>th</sup> Respondents, from committing such further or other acts against the Applicant that gave rise to this case, except with due process of law especially with the claims as shown in the exhibits. Counsel relied on amongst others, the following authorities:-

1. **ERONINI V ERONINI (2013) 14 NWLR (pt. 1373) 32**
2. **OLISA AGBAKOBA V THE DIRECTOR, S.S.S & THE A.G.F (1998) 6 NWLR (PT. 351) 475.**
3. **OJUKWU V MILITARY GOVERNOR, LAGOS STATE (1986) 3 NWLR (PT. 26) 39, (1986) 2 S.C. 271.**
4. **FEDERAL MINISTER OF INTERIOR V SHUGABA ABDULRAHAMAN DARMAN (1982) 3 NCLR 915.**
5. **ADIGUN V AG. OYO STATE (1987) 1 NWLR(PT. 53) 678**
6. **AREC LTD V AMAYE (1986) 3 NWLR(PT. 31) 653**
7. **ONAGORUWA V I.G.P (1991) 5 NWLR (PT. 193) 593**
8. **ESE-IGBE V AGHOLO (1993) 9 NWLR (PT. 316) 128**
9. **COMMISSIONER FOR WORKS, BENUE STATE V DEVCOM DEVELOPMENT**
10. **CHRISTIAN OKOLIE AND ANOTHER VS. THE COMMISSIONER OF POLICE, F.C.T. POLICE COMMAND**
11. **UBANI V. DIRECTOR, SSS (1999) 11 NWLR (PT 625) PAGE 129 PARTICULARLY AT PAGE 149 PARAS A-B**

In opposition, the 1<sup>st</sup> and 2<sup>nd</sup> Respondents filed a counter-affidavit of 16 paragraphs deposed to by Doris Akinola (Mrs.) a litigation Officer in the Legal Unit of the Ministry of Interior and a written address. The 1<sup>st</sup> and 2<sup>nd</sup> Respondents averred that the 3<sup>rd</sup> to 7<sup>th</sup> Respondents are not employees of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents. That the 3<sup>rd</sup> to 7<sup>th</sup> Respondents possess separate legal personalities to sue and be sued in their corporate names. That the 1<sup>st</sup> and 2<sup>nd</sup> Respondents have not in any way, violated the Fundamental

Rights of the Applicant. That the 1<sup>st</sup> and 2<sup>nd</sup> Respondents are not responsible for the arrest and detention or molestation of the Applicant in this suit. That they are not the employer of the 3<sup>rd</sup> to 7<sup>th</sup> Respondents and therefore, they cannot be held accountable or vicariously liable for the acts of the 3<sup>rd</sup> to 7<sup>th</sup> Respondents. That the 1<sup>st</sup> and 2<sup>nd</sup> Respondents are not in any way connected to this case either directly or indirectly hence no reasonable cause of action is disclosed against them and it will be unfair to hold the 1<sup>st</sup> and 2<sup>nd</sup> Respondents responsible for the administrative actions of the 3<sup>rd</sup> to 7<sup>th</sup> Respondents. In the written address filed, three (3) issues were raised for determination to wit:

1. Whether this suit as presently constituted disclosed any reasonable cause of action against the 1<sup>st</sup> and 2<sup>nd</sup> Respondents/Applicants.
2. Whether the 1<sup>st</sup> and 2<sup>nd</sup> Respondents/Applicants are necessary parties in this suit.
3. The 2<sup>nd</sup> Respondent as presently sued is not a juristic person known to law.

Learned counsel submitted that no complaint or direct relief has been made or sought against the 1<sup>st</sup> and 2<sup>nd</sup> Respondents, therefore their name should be struck out of this suit for misjoinder and urged the court to hold that the Applicant's case did not disclose any reasonable cause of action against the 1<sup>st</sup> and 2<sup>nd</sup> Respondents. Counsel also submitted that the 1<sup>st</sup> and 2<sup>nd</sup> Respondents are not necessary parties in this suit as the Applicant through his originating process failed to show the wrong done to him by the 1<sup>st</sup> and 2<sup>nd</sup> Respondents and also failed to show that the 3<sup>rd</sup> to 7<sup>th</sup> Respondents are employees or servants of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents to be vicariously liable for their

action. Counsel further submitted that the 2<sup>nd</sup> Respondent (The Ministry of Interior) is not a competent party in this application and its name ought to be struck out as it is not a party legally known in law as it is neither a natural person nor a juristic person. Learned counsel submitted that the defect of suing a non-existing personality cannot be corrected by an amendment with a juristic person, that the only viable remedy in law is to strike out the name of the non-existing party. Counsel urged the Court to grant their prayers and strike out the names of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents. Counsel cited these authorities amongst others;

1. **Akindele v. Abiodun (2009) 11 NWLR (pt. 1152) 356 @ 361 Ratio 4.**
2. **Amope v. Gambari (2013) LPELR-22096 (CA)**
3. **Mudun & Ors v. Adanchi & Ors (2013) LPELR-20774 (CA).**
4. **P & C.H.S.C. LTD v. MIGFO (NIG) LTD (2009) 1 NWLR (pt. 1153) 520.**
5. **Section 3 (2) of the Immigration Act 2015.**
6. **UBA V. BTL IND. LTD (2004) 18 NWLR (Pt. 904) at pg. 221 para F**
7. **The Administrators/Executors of the Estate of General Sani Abacha (Deceased) v. Samuel David Eke Spiff & Ors (2009) 7 NWLR (Pt. 1139) p. 97 SC. P. 323**
8. **Dr. Esenowo v. Dr. I Ukong & Anor (1999) 6 NWLR (Pt. 608) P. 617**
9. **Mr. Sunday Ekanem Usuah v. G.O.C. Nigeria Ltd & Ors (2012) LPELR-7913 (CA)**

In response to the counter affidavit of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents, the Applicant filed a 12 paragraph amended further affidavit dated 5/9/19 and a reply on point of law. Counsel raised a sole issue for determination couched;

“whether the 1<sup>st</sup> and 2<sup>nd</sup> Respondents are necessary parties as joined as co-respondents in this suit”.

Learned counsel submitted that a necessary party to a suit is a party whose presence and participation in the proceeding is necessary or essential for the effective and complete determination of the claim before the Court. Counsel also submitted that the 1<sup>st</sup> and 2<sup>nd</sup> Respondents are the policy makers of the 3<sup>rd</sup> - 7<sup>th</sup> Respondents and that the relationship that exists between the 1<sup>st</sup> and 2<sup>nd</sup> Respondents herein is like that of a principal and agent. Counsel submitted that the arbitrary and flagrant act of the Respondents having been proved, entitles the Applicant to all the reliefs sought herein. Applicant urged the Court to find that this application has merit and in finding as such, make the declarations and orders sought herein. In support of these contentions Counsel cited the following authorities amongst others;

- 1. In-Re Mogaji (1986) 1 NWLR (pt. 19) 579**
- 2. Green v. Green (2001) 45 WRN 90**
- 3. Section 36 of the 1999 Constitution**
- 4. Ogundoyin Adeyemi (2001) 13 NWLR (pt 30) 403 at 423**
- 5. A-G (FED) V. A-G Abia State & ors (2001) 40 WRN 1 at 52**
- 6. Nwankwo v. Ecumenical Dev. Co (2002) 1 NWLR part 749 pg 513**
- 7. Essang v. Aureol plast ltd (2002) pt 795 pg 155 at 167**
- 8. Section 112 and 113 of the Immigration Act 2015.**

The 3<sup>rd</sup> and 4<sup>th</sup> Respondents filed a counter affidavit in response to the Originating motion and a motion for leave to file out of time, which they abandoned. Applicant's counsel therefore applied that the said motion for leave for extension of time to file their counter affidavit and the counter affidavit having

been abandoned be struck out for want of diligent prosecution, which said application was granted.

The 3<sup>rd</sup> to 7<sup>th</sup> Respondents did not file any counter affidavit in response to the Applicants' originating motion.

The Court suomoto, requested Counsels to address the Court on the issue of jurisdiction; particularly as regards Section 251 (1) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) vesting exclusive jurisdiction on the Federal High Court in 18 major categories.

Learned Applicant in his address submitted that the matter before the Court is strictly for the Enforcement of Fundamental Human Right sequel to Section 46(1) and (2) of the 1999 Constitution (as amended). Applicant submitted that fundamental human right matter is "sui generis" and has its own rules for enforcement. That Section 251 of the 1999 Constitution refers to administration, management and executive act of a Federal Government agency and not as to the personal liberty and infringement of the fundamental rights of an individual, which is the express provision of Chapter IV of the 1999 Constitution of the Federal Republic of Nigeria. Learned Applicant submitted that both the Federal High Court and the High Court of a State have concurrent Jurisdiction to hear and determine matters of Fundamental Human Right. Counsel cited the case of **JACK VS. UNIVERSITY OF AGRICULTURE, MAKURDI** (2004) 5 NWLR (pt.865) P.208.

Learned Counsel to the 3rd to 7th Respondents submitted that Section 251(1) of the Constitution specifically confers jurisdiction on the Federal High Court. Counsel submitted that Applicant in this suit is complaining about an administrative act of the Federal Government Agency (issuance of passport),

which he purports infringed on his Fundamental Human Right. Counsel referred to Order 2(1) of the Fundamental Right Enforcement Procedure Rules (2009). Counsel further submitted that Section 251, 272 and 46 of the Constitution of the Federal Republic of Nigeria (1999) as amended, deals with the substantive jurisdiction of the Courts in general. Counsel distinguished between substantive jurisdiction and procedural jurisdiction. That by virtue of Section 109 of the Immigration Act, no civil action can be commenced against the Immigration Service before the expiration of 30 days prior to commencement of the action. Learned Counsel to the 1st and 2nd Respondents aligned with the submissions of Counsel to the 3rd to 7th Respondents.

I have listened to parties' oral submissions and the issue of procedural jurisdiction raised by the Counsel to the 3rd to 7th Respondents is the crux of his Preliminary Objection and I have dealt with same in the body of this judgment. The issue for determination is **"whether this Court has jurisdiction to proceed with this matter in view of Section 251 of the Constitution of the Federal Republic of Nigeria 1999 (as amended)"**.

Section 251 of the 1999 Constitution of the Federal Republic of Nigeria as amended states:

Section 251(1) of the 1999 Constitution

*"Notwithstanding anything to the contained in this Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, the Federal High Court shall have and exercise jurisdiction to the exclusion of any other Court in civil causes and matters;*

Section 251(i)

*"Citizenship, naturalization and aliens deportation of persons who are not citizens of Nigeria, extradition immigration into and emigration from Nigeria, passports and visas."*

The original jurisdiction for the hearing of any fundamental rights cases resides in a High Court of the State where it occurred. In ADETONA VS. IGELE GENERAL ENTERPRISES LTD. (2011) 7 NWLR (PT.1247) 535 Mohammed JSC held

*"Although unlike the 1979 Constitution, Section 318 (1) of the present Constitution (1999 Constitution) does not define "High Court", there is no doubt that the term carries the same meaning as given by Section 277(1) of the 1979 Constitution to mean "Federal High Court or State High Court". Therefore, it is my understanding that where a person's fundamental right is breached, being breached or about to be breached, that person may apply under Section 46(1) to the judicial division of the Federal High Court in the State or the High Court of the State or that of the Federal Capital Territory in which the breach occurred or is occurring or about to occur. This is irrespective of whether the right involved comes within the legislative competence of the Federation or the State or the FCT. It has to be noted that the exercise of this jurisdiction by the Federal High Court is where the fundamental right threatened or breached falls within the enumerated matters on which that Court has jurisdiction. Thus fundamental rights arising from matters outside its jurisdiction cannot be enforced by the Federal High Court. Equally, a High Court of a state shall lack jurisdiction to entertain matters which falls within the exclusive jurisdiction*



*of the Federal High Court as provided by Section 251 of the Constitution"*

From the above decision, the Federal High Court has jurisdiction to hear and determine cases on enforcement of Fundamental Right where such cases/matter falls specifically under the eighteen major items listed under Section 251 of the 1999 Constitution. Consequently, in order to determine whether the Federal High Court or State High Court has jurisdiction in a matter of this nature, attention should be focused on the subject matter of the suit. If the subject matter of the suit falls into any of the 18 major items enumerated in Section 251, then the State High Court lacks jurisdiction to hear the matter. See OLADIPO VS. NIG. CUSTOMS SERVICE BOARD (2009) 12 NWLR PT. 1156 PG.563 @ 585 Para B-F. The eighteen major items major items under Section 251 (1) are Revenue, Taxation, Customs & Excise, Banking, Companies and Allied Matters, Copyright and Patent, Admiralty, Diplomatic, Consular, Citizenship, Bankruptcy, Aviation, Arms, Drugs and Poison, Mines and Minerals, Weights and Measures, Administration and Management of Federal Government and its agencies.

Applicant in this suit had gone to the office of the Nigerian Immigration with a minor to procure a passport for the minor. Despite providing the required list of documents for processing of the issuance of passport to the said minor (Miss Chisom Rosemary Ezegwu) Applicant was arrested, detained, harassed and humiliated by the 3rd to 7th Respondents without charging Applicant to Court. Applicant was detained inside 3rd Respondent's facility for 8 days without bail, without access to his solicitor and family neither was Applicant charged to Court. The question that arises at this junction is **"what gave rise to this suit?"** In my view, it is not the procurement of

passport but the infringement of applicant's fundamental rights by the 3rd to 7th Respondents. That Applicant was arrested, detained for eight (8) days without being charged to Court; without bail and without access to legal representation is a violation of the Fundamental Human Right of the Applicant. This is a personal claim, which does not fall under the enumerated jurisdiction of the Federal High Court as envisaged in Section 251 and I am of the view and I so hold that this Court has jurisdiction to entertain this matter.

Learned Counsel to the 3rd to 7<sup>th</sup> Respondent filed a notice of Preliminary Objection M/7096/2019 dated 13th June, 2019 brought pursuant to Section 109 (1) of the Immigration Act, 2015 praying that the Court lacks jurisdiction to entertain this suit citing Section 109 (1) of the Immigration Act. The said Section 109 (1) Immigration Act States that:

*"No civil action shall be commenced against the service, or its authorized officers before the expiration of 30 days after a written notice of intention to commence the suit shall have been served on the service by the intending plaintiff or his agent"*

Learned Counsel to the 3rd and 4th Respondents submitted that the above condition precedent was not fulfilled by the Applicant as Applicant failed to observe the condition precedent to instituting this suit. Learned Counsel to the Applicant filed a 17-paragraph counter affidavit and a written address wherein Counsel submitted that where the commencement of a suit is dependent on the satisfaction of a statutory condition, such condition must be compulsorily observed. That failure to observe such statutory condition precedent renders the suit incompetent, which invariably robs the Court of

jurisdiction. The Applicant's Counsel in response, submitted that the 3<sup>rd</sup> and 4<sup>th</sup> Respondents objection as to the fulfillment of a condition precedent is premised on technicality which does not exist and not applicable to the matters that are sui generis such as this case which is for the enforcement of fundamental rights and urged the Court to hold that this Court has jurisdiction to entertain the matter.

I have read the submissions of both Learned Counsel and the issue for determination is:-

**"Whether this Hon. Court has jurisdiction to entertain this suit in view of Applicant's failure to comply with Section 109 of the Immigration Act, condition precedent to the commencement of this suit".**

Applicant in this suit filed for the enforcement of his fundamental human right as guaranteed under the 1999 Constitution of the Federal Republic of Nigeria (as amended). The body of fundamental rights enforcement in Nigeria is guaranteed by the 1999 Constitution. Chapter IV of the 1999 Constitution of the Federal Republic of Nigeria spells out and guarantees the Fundamental Human right of every citizen of Nigeria. Our fundamental rights are not ordinary rights, rather, they are derived from the Constitution hence the infringement of fundamental rights are taken seriously by the Courts in order to ascertain its justification. See *EL-RUFAI VS. SENATE OF THE NATIONAL ASSEMBLY* (2016) 1NWLR (Pt.1494) 506 where it was HELD that by virtue of Order 1 Rule 1(1) of the Fundamental Rights (Enforcement Procedure) Rules 1979 (now 2009 Rules) "fundamental right" means *"any of the fundamental rights provided for in Chapter IV of the Constitution and includes any of the rights stipulated in the African Charter on Human and Peoples Rights (Ratification and Enforcement) Act 1983"*.

Owing to its peculiarity, the Fundamental Rights Enforcement Procedure Rules 2009 deriving its force from a Constitutional right, stands above the ordinary laws of the land. See *BADEJO VS. MINISTER OF EDUCATION* (1996) 8 NWLR (Pt.464) 15.

It is pertinent to state that the fundamental rights rules are on the same pedestal with the provisions of the Constitution itself and therefore have equal force with the provisions of the Constitution. It suffices to state that any conflict between the Fundamental Right Enforcement Procedure Rules and other laws or enactment (as in this case Section 109 of the Immigration Act 2015) renders that law, that is, the Immigration Act null and void to the extent of its inconsistency. To this extent, the fundamental rights rules overrides the requirement for pre action notices as enacted in some statutes creating some public corporations and other enactment.

In *FEDERAL REPUBLIC OF NIGERIA VS. IFEGWU* (2003) 15 (NWLR) (pt.842) pg.113 SC @ pg.185, the Court held that the time within which to seek remedy in fundamental rights matter is not subject to the time limit prescribed by the Public Officers Act. The Fundamental Rights Enforcement Rules does not prescribe a time frame nor pre-action notices before filing for the enforcement of a citizen's Fundamental Human Right, hence it is not subject to a condition precedent as stipulated in Section 109 of the Immigration Act before seeking enforcement of same.

The Fundamental Rights Enforcement Rule embraces the enforcement of fundamental rights as embodied in Chapter IV of the Constitution of the Federal Republic of Nigeria 1999 (as amended). The 2009 Fundamental Rights Enforcement Procedure Rules 2009 prioritizes human rights enforcement as stipulated in the Constitution, hence, the Fundamental Rights Enforcement

Procedure Rules 2009 were made pursuant to Section 46 (3) of the 1999 Constitution and are therefore deemed to be at par with the provisions of Chapter IV of the Constitution; the Fundamental Rights Enforcement Procedure Rules possess the same supremacy as the provisions of the Constitution and are clearly superior to any other law in the hierarchy of laws in Nigeria. Consequently, in the event of any inconsistency between the Fundamental Right Enforcement Procedure Rules and any other law, the Fundamental Rights Enforcement Procedure Rules will prevail to the extent of such inconsistency. See OGUGU VS. STATE (1994) 9 NWLR (pt.366) 1, where the Supreme Court held that the provisions of the African Charter on Human and Peoples Rights is enforceable in the same manner as those of Chapter IV of the 1999 Constitution by an application made under Section 42 of the 1979 Constitution.

Consequently, the provisions of the Immigration Act as postulated by Learned Counsel to the 3rd to 7th Respondents cannot "cage" the Applicant from filing for the enforcement of his fundamental human rights; in essence, no law of the land can "gag" the Applicant from enforcing his fundamental human rights as such provisions of such law as in this case, Section 109(1) of the Immigration Act, is inconsistent with the provisions for the enforcement of the fundamental human right of the Applicant and I SO HOLD.

Having struck out the 3rd to 7th Respondents' notice of Preliminary Objection, the substantive Application is unchallenged by the 3rd to 7th Respondents. Order VIII of the Fundamental Rights Enforcement Procedure Rules, 2009 states that:

**Subsection (2)** *The Respondent's Notice of Preliminary Objection must be filed along with the counter affidavit to the main application.*

**Subsection (3)** *Where the Respondent elects not to file a counter affidavit to the main application, the Court shall presume that the Respondent has accepted the facts as presented by the Applicant.*

Contrary to the above position of Order VIII of the Fundamental Rights Enforcement Procedure Rules, 2009, Counsel to the 3<sup>rd</sup> to 7<sup>th</sup> Respondents was reminded by this Court on the 20/05/2020 that his counter-affidavit to the main suit has been struck out, he failed to re-file and the only valid process in the Court's file was the preliminary objection he filed against the institution of this suit, to which he replied "*that is the position*". Legally translated, it is safe for this Court to adopt the facts as presented by the Applicant as the true state of affairs with regards to the 3<sup>rd</sup> to 7<sup>th</sup> Respondents and I so hold.

Learned Counsel to the 1st and 2nd Respondents in opposition to the substantive application, filed a 16-paragraph counter affidavit dated 3rd September 2019 deposed to by Doris Akinola, a litigation officer in the legal unit of the Ministry of Interior. A recap of the objection of the 1st and 2nd Respondents is that this suit as presently constituted discloses no reasonable cause of action against the 1st and 2nd Respondents, hence both 1st and 2nd Respondents are not necessary parties to this suit, moreover, 2nd Respondent (i.e. the Ministry of Interior) is not a juristic person known to law. The grounds relied upon for this objection as frontloaded in the affidavit in support are as follows:-

That the role of the 1st and 2nd Respondents over the 3rd to 7th Respondents is limited to policy formulation and

implementation and does not extend to the issuance of passport to bonafide Nigerians which is the statutory functions of the 3rd to 7th Respondents. That the 3rd to 7th Respondents are not employees of the 1st and 2nd Respondents and that the 3rd to 7th Respondents possess separate legal personalities to sue and be sued in their names. That the 1st and 2nd Respondents have not in anyway violated the fundamental rights of the Applicant neither are they responsible for the arrest, detention or molestation of the Applicant, moreover, the 1st & 2nd Respondents are not the employers of the 3rd to 7th Respondents and therefore cannot and should not be held accountable or liable for the acts of the 3rd to 7th Respondents. That the 1st and 2nd Respondents are not in anyway connected to this case either directly or indirectly hence no reasonable cause of action is disclosed against them and it will be unfair to hold the 1st and 2nd Respondents responsible for the administrative actions of the 3rd to 7th Respondents.

In reply, the Applicants filed a 12 paragraph amended further affidavit dated the 5th of September 2019 and a recap of the reply is as follows:- that the separate legal personalities of the 1st and 2nd Respondents are not in contention in this suit. In paragraph 6 of Applicant's reply affidavit, Applicant stated that **"perhaps, they (1st and 2nd Respondents) were joined in this suit as co-party/Respondents due to its employment and power to fire the employees of the 3rd Respondents, supervising, policy formulation and Regulations powers and duties it has over the 3rd to 7th Respondents as affirmed by the 1st and 2nd Respondents' litigation officer."** That the actions of the 5th to 7th Respondents by violating his Fundamental rights were carried out by the 3rd to 7th Respondents during official hours in their official offices and capacities. That the 5th to 7th Respondents who violated the

rights of the Applicant are employees of the 3rd Respondents who are under the control and supervision of the 1st and 2nd Respondents and the said action was carried out by the 5th to 7th Respondents during working hours in their official capacity and official offices. That the 1st and 2nd Respondents are necessary parties for the just determination of this suit.

Having read all processes, it is necessary to reiterate that the 3rd to 7th Respondents apart from the Preliminary objection (now struck out) filed in opposition to this suit, did not file any counter affidavit or reply to the substantive suit. 1st and 2nd Respondents on the other hand filed a reply to the substantive suit. The issue for determination in my view is:-

1. "Whether 1st and 2nd Respondents are necessary Parties to this suit"
2. "Whether Applicant has proved to the satisfaction of this Court that he is entitled to the grant of the prayers in his application"

On the 1st issue for determination, Applicant in paragraph 8 stated:-

Paragraph 8 *"that as a supervising minister and ministry, policy making, implementation and regulation of about six (6) other agencies of the Federal Government and in particular over the 3rd -7th Respondents in this matter, the 1st and 2nd Respondents are necessary parties to this suit until the matter is been dispensed with by this Honourable Court."*

I do agree with Learned Applicant that the ministry of interior acts as a supervisory ministry as regards policy making, implementation and regulation of six (6) other agencies of the Federal Government. These agencies are not only six (6) but seven (7) in total and they are:-



Nigeria Police Force  
Nigeria Prison Service  
Nigeria Immigration Service  
Nigeria Fire Service  
Nigeria Security and Civil Defence Corps  
The Nigeria Police Academy, Kano  
The Civil Defence Immigration, Prisons, Fire Service Board  
(CDFIPB).

The supervisory functions/mandate of the Ministry of Interior includes but is not limited to Consular & Immigration Services, Establishment and Maintenance of Federal Marriage Registry in Nigeria, Security of Lives and Properties (Police Force), Recruitment of officers and men of the prison Service, Immigration Service, fire Service and the Nigeria Security and Civil Defence Corps. In essence, the responsibility of the Ministry of Interior under the supervision of the minister of interior includes "presiding over the civil defence, immigration, oversight and coordinate the activities of other relevant security/safety organs to ensure that they are in harmony and supportive of the ministry overall mandate".

The question that comes to mind at this point is "can Ministry or Minister of Interior be held responsible for any civil or vicarious act or infringement of fundamental human right perpetuated by all the agencies it is supervising? If the answer is in the affirmative, it simply means that the ministry would be held responsible for all breach of fundamental human right perpetuated by the Nigerian Police, Nigeria Prison Service, the Nigeria Immigration Service, the Federal Fire Service and the Nigeria Security and Civil Defence Corps. Fortunately, this is not and cannot be the position of the law as each and every agency listed above although under the

supervision of the ministry of interior, are separate legal entities which can be sued on its own. The essence of the supervisory role of the ministry is simply to provide checks and balances in the implementation of policies of these agencies. Once an agency of government is a legal entity, it assumes the functions of an individual and it can sue and be sued in its own name; it can enter into contracts and even own properties. It is worthy to also note that nowhere in the Applicants reply affidavit did it controvert the fact that all the agencies under the Ministry of Interior are legal entities in their respective legal stand.

The main ground Applicant relied on in joining 1st and 2nd Respondent is as stated in Paragraphs 6 of Applicants amended further affidavit in response to 1st and 2nd Respondents counter affidavit which states:-

*"..... Perhaps, they (1st and 2nd Respondents) were joined in this suit as co-party/Respondents due to its employment and power to fire the employees of the 3rd Respondents, supervising, policy formulation and Regulations powers and duties it has over the 3rd to 7th Respondents as affirmed by the 1st and 2nd Respondents' litigation officer".*

From this response of Applicant, it is obvious Applicant is certainly not sure of his reasons for joining the 1st and 2nd Respondents to this suit hence the use of the word *"...perhaps they were joined..."*

Applicant himself acknowledged in the said paragraph 6 that the 1st and 2nd Respondents merely had supervisory, policy formulation and regulatory powers over the 3rd to 7th Respondents and this does not in my view, make the 1st and 2nd Respondents responsible for the acts of the 3rd to 7th Respondents in allegedly infringing the fundamental human

rights of the Applicant. It is trite that only necessary parties to a suit should be joined and it goes without saying that any party that may be affected by the Order of the Court in a suit ought to be joined. In O. K. CONTRACT POINT VS. PROGRESS BANK (1999) 5 NWLR (PT.604) PG. 631 CA @ Pg 634 Para A-B, Nsofo JCA held that

*“Necessary parties” are those who are not only interested in the subject matter but who in their absence, the proceedings could not be fairly dealt with.”*

It goes without saying that it is improper to join as co-defendant persons against whom the Applicant has no cause of action. See AJAYI VS. JOLAYEMI (2001) 10 NWLR (PT.722) PG 516 SC @PG 537-538 PARA. H-P Ogwuegbu JSC.

This suit borders on the infringement of the fundamental human right of the Applicant by the 3rd to 7th Respondents. From the legal analysis I have postulated above, the substantive suit can be efficiently settled without joining the 1st and 2nd Respondents as 3rd to 7th Respondents possess separate legal entities individually and most importantly no reasonable cause of action has been made out against the 1st and 2nd Respondent. In determining whether a reasonable cause of action has been disclosed against the 1st and 2nd Respondents, I have confined myself to the Applicant's amended originating motion for the enforcement of his fundamental human right, his statement in support and affidavit setting out the facts upon which the application is made and not a single cause of action, not even a minute or weak cause of action is disclosed against the 1st and 2nd Respondents. In all, Applicant has failed to prove that the 1st and 2nd Respondents are necessary parties whose presence are essential in the determination of this suit.

Applicant has also shown to this Court that he is not certain, neither is he sure of his reasons for joining the 1st and 2nd Respondents to this suit as established in paragraph 6 of his affidavit in response to the 1st and 2nd Respondents counter affidavit. Applicant has failed to disclose a cause of action against the 1st and 2nd Respondents without so much as a weak or remote cause of action established against the 1st and 2nd Respondents.

On the issue of juristic personality of the Ministry of Interior (the 2<sup>nd</sup> Respondent), the Ministry of Interior is under the control of the Federal Government of Nigeria and the functions of the Ministry are aimed at effecting policies of the Federal Government. It is a Ministry created by the Federal Government for administrative purposes; hence, it has a disclosed principal, which is the Federal Government of Nigeria. It is trite that an agent of a disclosed principal is not responsible for actions taken by the agent rather, any action taken by an agent binds the principal as in this case any action taken by the Ministry of Interior binds the Federal Government. The Ministry of Interior is simply a conduit pipe through which the Federal Government operates. It is not a juristic personality hence it cannot sue and be sued. Any action against the Ministry of Interior is an action against the Federal Government of Nigeria. See *AGBONMAGBE BANK LTD. VS. G. B. OLLIVANT LTD* (1961) 1 ALL NLR 116; *COMMISSIONER OF LANDS MID-WESTERN STATE VS. EDO-OSAGIE & ORS* (1973) LPELR-293 (SC) where *COKER JSC HELD @ Pp. 15-16 para G-D*, that an agency of the Federal Government is not a juristic person who can be sued. The position of the Court is that an action cannot be maintained against a non-juristic person. See *AKPAN & ORS VS. UMOREN & ORS* (2012) LPELR-7909 (CA) where *GARBA JCA HELD in pp.16-17 paras G-D* that in a situation where a non juristic

person is made a party to a suit, the proper order the Court should make is to strike out the name.

It is therefore logical to HOLD that 2<sup>nd</sup> Respondent is not a juristic personality capable of being sued, 1st and 2nd Respondents are not necessary parties to this suit, neither has any cause of action been made out against them and I SO HOLD. Consequently, 1st and 2nd Respondents are hereby struck out from this suit.

Having struck out the 1st and 2nd Respondents, the application of the Applicant via his originating motion dated 10th May 2019 is unchallenged and uncontroverted by the 3rd to 7th Respondents. This Court on the application of the Applicant on The 12th of September 2019 struck out the name of the 5th Respondent on the grounds that the Court bailiff was unable to serve the 5th Respondent with the Court process as he had retired from service of the Nigerian Immigration.

Applicant in his substantive application stated that he was detained in the 3rd Respondents' cell in Abuja by the 3rd to 7th Respondents from 5pm of 21st June 2018 to 5pm 28th June 2018, simply because he had gone to the 3rd Respondent's office with a minor to procure a passport for the said minor (Miss Chisom Rosemary Ezeugwu) not minding that the document required, which includes the letter of consent and permanent voter's card of the minor's father were all presented to the 3rd Respondent. That the Respondent insisted on the consent of the mother of the minor, whom Applicant explained was dead and buried in the village without a death certificate and this fact was also corroborated by the minor's father. That despite all explanations as to why the minor should be issued with an international passport, having fulfilled all requirements as requested on the official website of the 3<sup>rd</sup> Respondent, the 5th

Respondent ordered that both the minor and the Applicant be detained in 3rd Respondent's detention centre from the 21st of June to 28th of June 2018 while investigation were carried out by the officers of the 3rd Respondents, the Anti Human Trafficking Department.

That the Respondent refused to grant Applicant bail despite application for bail (attached as Exhibit D and E). Applicant, as a result of being detained by the Respondents for 8 days without bail, lost a lot of weight, his health deteriorated and failed to represent his client in Court on 25th of June 2018 and 28th of June 2018 as he was still in detention and also cost him to lose a lot of business opportunities. That Applicant as a result of being detained was disenfranchised from voting in the Nigerian Bar Association 2018 National Officers Election and painfully lost a lifetime of business deal in "huge sum of millions" as a result of a client revoking his retainership with Applicant as evidenced in the letter of termination by the client marked as Exhibit K.

Respondents did not challenge nor controvert Applicant's originating motion. In essence, Respondents detained Applicant for about 8 days without justification, failed to charge Applicant to Court and Respondents have failed to prove that Applicant committed any offence known to law to warrant his detention. That Applicant was exposed to all sorts of sickness, mosquitoes and un-fumigated detention center without electricity for 8 days is uncontroverted by the Respondents. That Applicant suffered depression, humiliation and was a subject of mockery by officers of the 3rd Respondents is uncontroverted. That Applicant suffered psychological trauma for no just cause is uncontroverted by the Respondent. In all, evidence of the Applicant was not only unchallenged but also uncontroverted and I hereby hold that the detention of the

Applicant for 8 days without charging him to Court, without granting bail, without granting him access to his medical doctors throughout the duration of his detention and without granting him access to his family members and friends is unconstitutional and a gross violation of Applicants right to fair hearing, freedom of association, freedom of movement, personal liberty and his right to health and association as enshrined in Chapter IV of the Constitution of the Federal Republic of Nigeria 1999 as amended. Consequently, it is hereby ordered as follows:-

1. I hereby declare that the arrest and detention of the Applicant in the 3rd Respondent's cell, on the instigation of the 6<sup>th</sup> and 7<sup>th</sup> Respondents, from 5:00pm of 21st June, 2018, to 5:00pm of 28th June, 2018, is unlawful, unconstitutional, arbitrary, oppressive, malicious, capricious, and a gross violation of the Applicant's right to his personal liberty, human dignity and freedom of movement and therefore contrary to Sections 34, 35 and 41 (1) of the Constitution of the Federal Republic of Nigeria, 1999 (as Amended) and Articles 4, 5, 6, and 12(1) of the African Charter on Human and People's Right (Ratification and Enforcement) Act Cap A9, the Laws of the Federation of Nigeria, 2004.
2. I hereby declare that the arrest and detention of the Applicant in the 3<sup>rd</sup> Respondent's cell upon the instigation of the 6<sup>th</sup> and 7<sup>th</sup> Respondents from 5:00pm of 21st June, 2018 – 5:00pm of 28th June, 2018 without informing him of the offence(s) he committed or charge him to Court is unlawful, unconstitutional, malicious, arbitrary and constitutes a gross violation of the Applicant's rights to fair hearing and therefore contrary to Section 36(5) and (6) of the Constitution of the Federal Republic of Nigeria, 1999 (as Amended) and Articles 2 of the African Charter on Human

and People's Right (Ratification and Enforcement) Act Cap A9 LFN, 2004.

3. I hereby declare that the arrest, detention and humiliation of the Applicant by the 3<sup>rd</sup>- 7<sup>th</sup> Respondents, from 5:00pm of 21st June, 2018 to 5:00pm of 28th June, 2018 without access to his family members and friends since in the detention center of the 3<sup>rd</sup> Respondent is unlawful, unconstitutional, malicious, arbitrary and constitutes a gross violation of the Applicant's rights to human dignity, personal liberty, freedom of thought, freedom of association, freedom of movement and therefore contrary to sections 34, 35, 38, 40 and 41 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and Article 2, 4, 6, 10, 11 and 12(1) of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Laws of the Federation of Nigeria, 2010.
4. An order of injunction is hereby granted restraining the Respondents jointly and severally, whether by themselves or officers, servants, agents, privies or howsoever described from re-arresting, detaining or harassing or inviting in order to further arrest or detain the Applicant forthwith, harassing, or preventing, obstructing/interfering with the applicant's discharge of his lawful and professional legal services or assistant whether on pro bono or for a fee as a lawyer or in any other manner infringing on the applicant's fundamental rights to dignity of human person, personal liberty, freedom of movement as guaranteed by Sections 34, 35(1), 38, 40 and 41(1) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and Article 2, 4, 5 6, 10, 11 and 12(1) of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Laws of the Federation of Nigeria, 2010 or further violating any of the Applicant's fundamental rights..



5. I hereby order the Respondents, to jointly pay to the Applicant, damages in the sum of N50,000,000.00 (Fifty Million Naira) only, as exemplary, punitive and/or and aggravated damages for Applicant's oppressive and unconstitutional arrest and detention from 5:00pm of 21st June, 2018 to 5:00pm of 28th June, 2018 in the detention center of the 3rd Respondent as well as the unlawful interference with his right to dignity of human person, personal liberty, restriction of freedom of movement and capricious interference with his right to freedom of thought as well as for the physical, mental, emotional and psychological trauma and torture the Applicant suffered as a result of the unlawful arrest and detention by the 3th to 7th Respondent's express instruction.
6. I hereby Order that the Respondents publish apologies to the Applicant in at least two (2) National Daily Newspapers for the gross breach of the Applicant's fundamental rights, in accordance with Section (6) of the Constitution of the Federal Republic of Nigeria 1999 (as amended).
7. Parties are to bear their cost of litigation.

**Parties:** Accused is present.

**Appearances:** C. U. O. Ebubealor in person as Applicant.  
Respondents not represented.

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

**JUDGE**

**11<sup>TH</sup> JUNE 2020**

