

IN THE HIGH COURT OF JUSTICE OF THE F.C.T.
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT KUBWA, ABUJA
ON TUESDAY, THE 20TH DAY OF JANUARY, 2021
BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA
JUDGE

SUIT NO.: FCT/HC/CR/141/16

BETWEEN:

COMMISSIONER OF POLICE

----- } **COMPLAINANT**

AND

JUSTINE KAYODE

----- } **DEFENDANT**

BENCH RULING

The Court is glad that the Rev. Behora according to the Prosecution had presented the sum of One Hundred Thousand Naira (₦100, 000.00) as promised. The Court expresses its gladness and urge the Prosecution Counsel to extend the Court's gratitude.

The Court had also recorded the statement of the Defendant Counsel that the matter was reassigned to another lawyer for the Prosecution since Oghele Esq. had gone on transfer to Anambra. That was done since December 2020.

There is every evidence that the Prosecution have not been diligent in prosecuting this case as the Court had severally noted.

This matter had lingered because of the Prosecution. They had on several occasions failed to live up to her expectation as regards following up on pending cases. This Court had often stated that.

Today the new Counsel for the government is not in Court as usual and had never sought to know about the case. They were duly notified about today's date since 13th October, 2020 when this matter came up. This matter was reserved for three (3) consecutive days. Oghele Esq. was in Court then. The Court granted Bail to Defendant who had been in Prison custody since 2015. The Court gave the long adjournment from October 2020 to January 18th, 2021. The Prosecution Counsel were later served Hearing Notice. They refused to be in Court.

Today for the umpteenth time, the Defendant Counsel had sought that the matter be struck out. The Court had on all previous occasions "condoned" the excuses of the Prosecution Counsel – their lack of diligent prosecution. Today the Court is pushed to the wall and can no longer condone them.

The application to strike out the case is apt. it is the law and also trite that where it is evidently clear that a party particularly Plaintiff or Prosecution as in this case fails to duly and diligently prosecute a case, the Court can in the interest of justice consider an application to strike out the case or can suo motu do so.

Today the Defendant Counsel has applied. The Court have many reasons as already stated to listen.

The application is long overdue. This Court has no reason not to grant same.

The Court therefore grant same and Order that the case:

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be struck out for obvious and glaring lack of diligent prosecution on the part of the Prosecution. If the Prosecution are still interested they can apply for the matter to be reopened or relisted.

The said case is hereby STRUCK OUT today the ____ day of _____ 2021 by me.

This is the Ruling of this Court.

K.N. OGBONNAYA
HON. JUDGE