

IN THE HIGH COURT OF JUSTICE OF THE F.C.T.

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT KUBWA, ABUJA

ON FRIDAY, THE 12TH DAY OF MARCH, 2021

BEFORE HIS LORDSHIP: HON. JUSTICE K. N.OGBONNAYA

JUDGE

SUIT NO.: FCT/HC/CR/49/20

BETWEEN:

INSPECTOR GENERAL OF POLICE

----- } **COMPLAINANT**

AND

1. CHIEF CHIKWENDU UDENSI
2. FELIX AKHIBUE
3. JOHN OKORO
4. IYAMAH EDWARD
5. HRH, EZE DR. SAMUEL C. EZEKWO

} ----- **DEFENDANTS**

**COURT BENCH RULING ON NOTICE OF
DISCONTINUANCE/DISMISSAL**

This Suit was instituted by the Inspector General of Police against the five (5) Defendants – Chief Chikwendu Udensi, Felix Akhibue, John J. Okoro ‘m’ Iyamah Edward and HRH Eze Dr. Samuel C. Ezekwo on an eight (8) Count Charge dated 3rd August, 2020 and filed on the 4th August, 2020. The eight (8) Count Charge was later

amended by the Prosecution on a two (2) Count Charge to wit:

- 1. That you Chief Chikwendu Udensi, Felix Akhibue, John J. Okoro 'm' Iyamah Edward and HRH Eze Dr. Samuel C. Ezekwo sometime in September, 2010 in Abuja within the jurisdiction of this honorable Court did conspire with yourselves to commit an offence be Diverting the sum of Two Billion Five Hundred Million Naira (₦2, 500,000,000.00) only to your own personal use the fund meant for America Hospital Limited and thereby committed an offence contrary to Section 97 of the Penal Code Act.**
- 2. That you Chief Chikwendu Udensi, Felix Akhibue, John J. Okoro 'm' Iyamah Edward and HRH Eze Dr. Samuel C. Ezekwo sometime in September, 2010 in Abuja within the jurisdiction of this honorable Court did divert the sum of Two Billion Five Hundred Million Naira (₦2, 500,000,000.00) only, the fund approved by the President Federal Republic of Nigeria for America Hospital Limited, by paying Impecca Nigeria Limited and Chuks & Co. the said sum for the purpose of diverting it in breach of the trust repose in you and thereby committed an offence punishable under Section 312 of the Penal Code Act.**

This Court received the Notice to Discontinue this matter dated and filed on the 11th of March, 2021.

It is the law that the party who brought the matter before the Court has a right to apply to discontinue same with or without reason. That is the right which the discretionary power of the Court cannot take from the party concerned – the Claimant or Applicant.

Again the Attorney General of the Federation has power under the Constitution to discontinue any criminal case pending before any Court in any State in Nigeria.

In this case, the said Attorney General of the Federation had filed this application not to withdraw but to discontinue the case against the Defendants:

1. CHIEF CHIKWENDU UDENSI
2. FELIX AKHIBUE
3. JOHN OKORO
4. IYAMAH EDWARD
5. HRH, EZE DR. SAMUEL C. EZEKWO

The Court had earlier granted bail to all the Respondents on ground of personal recognition.

The Court is glad to receive the letter of Discontinuance. This Court based on the said application to discontinue the Suit as filed by the Attorney General of the Federation, the Chief Law Officer of the Federation, grants the application and dismisses the case. This Court hereby **DISMISS** this case **PERPETUALLY**.

The Court will here and now return the case file to the Attorney General of the Federation if they so wish. Based on this Ruling, this Suit FCT/HC/CR/49/20 is hereby CLOSED.

Case perpetually DISMISSED today the 12th day of March, 2021.

This is the Bench Ruling/Judgment of this Court.

Delivered today the ___ day of _____ 2021 by me.

**K.N. OGBONNAYA
HON. JUDGE**