

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

**IN THE ABUJA JUDICIAL DIVISION**

**HOLDEN AT KUBWA, ABUJA**

**ON FRIDAY, THE 8<sup>TH</sup> DAY OF JANUARY, 2021**

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

**JUDGE**

**SUIT NO.: FCT/HC/CV/1021/20**

**BETWEEN:**

**LIMAN DALO**

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**APPLICANT**

**AND**

1. THE NIGERIAN POLICE FORCE
2. THE INSPECTOR GENERAL OF POLICE ----- RESPONDENTS
3. THE COMMISSIONER OF POLICE F.C.T COMMAND

**JUDGMENT**

ON THE 6/2/2020 Liman Dalo instituted this action against NPF, IGP, COP and FCT Command claiming the following:

- 1.A Declaration of the Honorable Court that the Arrest and detention of Applicant since September, 2018 without charging the Applicant to Court is in violation of the Applicant's Right to the personal liberty of his

person guaranteed and protected by SECTION 35 OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA, 1999 (AS AMENDED).

2. AN order of the Honorable Court awarding the Applicant the sum of N100,000,000.00 ( One Hundred Million Naira) only against the Respondents jointly and severally as General, Punitive, aggravated and Exemplary damages for the violation of the Constitutionally Guaranteed and Protected Rights of the Applicant herein claimed.
3. A mandatory order of the Honorable Court directing the Respondents to unconditionally release the applicant from custody of Special Anti-Robbery Squad (SARS) unit of the F.C.T Command, Abuja.
4. And for such further or other Orders as the Honorable Court may deem necessary to make in the circumstances.

The application is predicated on the singular ground that the said arrest and detention at the SARS unit of the FCT since September, 2018 without charging him to Court is in violation of his right as guaranteed and protected under CFRN by virtue of S.35 CFRN 1999- it is supported by Affidavit of 8 paragraphs.

In the Final Address the Applicant raised two issues for determination which are:

1. “Whether the detention since September, 2018 is not a violation of his right to personal liberty as provided for by S.35 & 42 of CFRN”.

Answer the question in the affirmative. The Applicant submitted that the action of the Respondent is a violation of his Rights as provided under the extant provision of the CFRN. That the detention does not fall within the exception of the S.35 (1) a-f of CFRN 1999. They urged the Court to so hold.

They referred to S.35 (4) 1999 CFRN as well as S.6 of the African Charter on Human and Peoples Rights. That the vigilante group at Tudun Ukwu in Karu LGA of Nasarawa State arrested him in September, 2018 and handed him over to Officers of the Respondents who detained him since then without granting him administrative bail in violation of his extent Rights to personal liberty and freedom of movement.

On issue No.2

“Whether Applicant is entitled to the reliefs sought in this application”.

He submitted that he is entitled to the reliefs sought in that the Respondent violated his right as already stated. That by virtue of S.46 (1) & (2) 1999 CFRN he is entitled to compensatory damages. He referred to S.46 (1) & (2) as well as S. 35(6) CFRN. He relied on the decision in the case of:

NEMI Vs A-G LAGOS STATE & 1 OR (1996) 6 NWLR (PT.452) 42 @ 55

ODUGU Vs A-G NASARAWA & ORS (1996) 6 NWLR  
(PT.456) 508@552

They urged Court to invoke the provision of the Constitution and grant the relief as sought. That by doctrine of ibi jus ibi remedium the applicant is entitle to relief in form of damages and does not have to prove any loss. That general damages flow from direct probable consequences. That he is entitled to general damages. They referred to the case of:

TAO JOESPHIN Vs ABUBAKAR (2001) 48 WRN 97.

That the damages is to compensate for the harm he had suffered in the hand of the Respondent because of the long detention since 2018, September. He also referred to:

TAO & SONS IND. LTD Vs GOV. OYO STATE (2011) 17  
WRN 161 RAT.3

That he is equally entitled to aggravated and exemplary damages. Which will assuage the wounded feelings of aggravated party. He referred the Court to the case of:

ILOUNO Vs CHIEKWE (1991) 2 NWLR (PT.173) 316

That the complaint is about the oppressive arbitrary and unconstitutional action of the Respondents who are agents of the Government. That the aggravated damage sought will act as a deterrence of the Respondents behaviour. He urged the Court to grant the prayers as sought. The Respondents were served with the Originating Processes on 26/2/2020. They were served Hearing Notices on 26/2/2020, 19/3/2020, 30/6/2020, 13/10/2020 and 8/12/20. They did not enter

appearance in pen and paper. They did not file any process in challenge of the Suit.

On the 10/12/2020 the Applicant Council moved the application and adopted their process. The Court reserved the matter for Judgment to be delivered on the 17/12/2020. The Court ensured that Respondents were served Hearing Notices. Hence this Judgment being delivered today. The Court did not sit on 17/12/2020.

It is the law facts unchallenged are deemed admitted. Notwithstanding that the Defendant did not file any processes the Court will still look deeply into the facts presented by Applicant before it can come with its decision. The Constitution provides that once a person is arrested and detained such person is entitled to be charged to Court within maximum 48 hours. That means that any detention that is above 48 hours can be termed illegal and is in violation of the extant provision of the CAP 4 1999 CFRN. See S. 35(5)(b) 1999 CFRN 4<sup>th</sup> amendment. The same Constitution provides that detention can extend to maximum of 3 months and not more in this case the Applicant alleged that he has been detained since September, 2018 after his arrest. That he was handed over to the 3<sup>rd</sup> Respondent after his arrest. That the 3<sup>rd</sup> Respondent had detained him in the FCT SARS detention facility since then. He had not been charged to any Court. Bail has equally not been granted to him that his father was initially allowed to visit him but for long no one had had access to him till date.

Also that the SARS Officials have been extorting money from his dad with fake promises to release him on bail. All but to no avail. That his dad had given over N1

Million to the Officers of the 3<sup>rd</sup> Respondent all to no avail.

In this case it is very clear that the Applicant has been detained for a period longer than the 48 hours Rule and even the extended period of 3 months yet he has not been charged to any Court as provided for in the Constitution. That is a violation of his right. There is no evidence that he has been charged to Court or that administrative bail has been granted to him two years is too long a time for investigation of any kind in this case. The Respondent having not charged him to Court is a gross violation of the applicant's Constitutional right to personal liberty and freedom of movement.

Again the Constitution provides that any one detained should be allowed to have access to the Counsel of his choice. In this case has averred that the Respondent have denied him access to anyone. This is as stated in the Affidavit. The Respondents have not rebutted, controverted or challenged these facts. They were served with the Original Processes and were also served with Hearing notices but they refused, neglected and did not come to Court or file any process or have any legal representation in Court to challenge these facts. This Court believes the Applicant that actually his right to personal liberty and freedom of movement.

He is entitled to the declaratory reliefs in that regard. So this Court holds.

It is the provision of the 1999 CFRN that anyone who has alleged and who had established that any of the right have been violated is entitled to compensation to be paid by the persons who have violated the said rights. S. 35(6) and 46 of the CFRN. In this case the Application through the fact in the 8 paragraph Affidavit in support of his application which the Respondent have not challenge, has established that his rights have been grossly violated by the extra long detention without trial or been charged to Court since his arrest in September, 2018.

That being the case, he is entitled to compensation monetarily to be paid by the Respondent for the violation of the said right.

Having established that the extant right has been violated this Court therefore holds that the Applicant is entitled to payment of monetary compensation because of the violation of those right.

This Court therefore Order as follows:

That the said arrest of the Applicant since September 2018 without charging him to Court is

a violation of this applicant's right to personal liberty and freedom of movement.

The Court Orders the Respondents to immediately release the Applicant without any further delay.

The Court also hereby Orders the Respondents to pay to the Applicant as compensation the sum of N200,000.00 (Two Hundred Thousand Naira) for the gross violation of the extant Rights.

This is the Judgment of the Court delivered today .....day of .....2021 by me.

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**K.N.OGBONNAYA**

**HON.JUDGE**