

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT MAITAMA AS (VACATION COURT) ABUJA**

**CLERK:** CHARITY ONUZULIKE  
**COURT NO.** 10

**SUIT NO:** FCT/HC/CV/2494/2022

**BETWEEN:**

**OKORONDU NWACHUKWU..... APPLICANT**

**AND**

1. JULIUS ABURE (NATIONAL CHAIRMAN, LABOUR PARTY)
2. LABOUR PARTY
3. INSPECTOR GENERAL OF POLICE
4. CSP USMAN MOHAMMED
5. NIGERIA POLICE FORCE.....RESPONDENTS

**JUDGMENT**

**(DELIVERED BY JUSTICE S. B. BELGORE)**

In this Originating Motion dated and filed 27<sup>th</sup> day of July, 2022 brought pursuant to and under Order 2 of the Fundamental Rights (Enforcement Procedure) Rules 2009, Sections 34, 35, 36 and 46 of the 1999 Constitution as amended prayed the Court for the following reliefs:

- (1) **A DECLARATION** that the invitation and intimidation of the Applicant by the 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> Respondents on the instigation of the 1<sup>st</sup> Respondent and 2<sup>nd</sup> Respondents over a matter that is pending before the Federal High Court of Nigeria in **Suit No. FHC/ABJ/CS/1128/2022** is in breach of the Applicant's fundamental rights to personal liberty, dignity of his persons and fair hearing guaranteed by Sections 34, 35 and 36 of the Constitution of Federal Republic of Nigeria 1999 (as amended).

- (2) **A DECLARATION** that the invitation of the Applicant by the 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> Respondent on the instigation of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents over a matter that is pending before a Court of competent jurisdiction for adjudication amounts to abuse of due process of law and flagrant disregard for the rule of law.
- (3) **A DECLARATION** that the 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> Respondents lack the statutory power to resolve issues bothering on nomination and withdrawal of candidate under the Electoral Act 2022.
- (4) **AN ORDER OF PERPETUAL INJUNCTION** restraining the Respondents from inviting, intimidating, arresting and detaining the applicant over his assertion that he did not withdraw as the candidate duly nominated by the 2<sup>nd</sup> Respondent to contest the Imo North Senatorial Zone in the forthcoming 2023 general election.
- (5) **AN ORDER OF PERPETUAL INJUNCTION** restraining the Respondents from inviting, arresting and emasculating the Applicant over issues bothering on his candidacy in the forthcoming 2023 general election.
- (6) The sum of **N10,000,000 (Ten Million Naira)** as exemplary damages against the 1<sup>st</sup> Respondent for using the 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> Respondents to harass and intimidate the Applicant over a matter that is pending before the Federal High Court of Nigeria.
- (7) The sum of **N10,000,000 (Ten Million Naira)** as general damages against the 1<sup>st</sup> Respondent for using the 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> Respondents to harass and intimidate the Applicant over a matter that is pending before the Federal High Court of Nigeria.
- (8) The sum of **N1,000,000 (One Million Naira)** as the cost of this suit.
- (9) Interest rate of **25%** per annum on the judgment sum until it is finally liquidated by the Judgment debtor.

It is supported with an affidavit of 10 paragraphs, statement of facts containing 9 grounds upon which the reliefs are sought. Also attached are Exhibits A – E and a written address.

The Applicant's learned Counsel while moving this Originating Motion relied on all the processes filed and adopted his written address as his oral argument in support.

He said there is no counter-affidavit from the Respondents meaning that all the facts deposed to by the Applicant himself are correct and true.

It is trite law and elementary too that an affidavit that is not challenged can be relied on by Court as true and correct.

The pith and substance of this case can be garnered from the supporting affidavit thus; the applicant was nominated and sponsored by the 2<sup>nd</sup> Respondent as the candidate to contest Imo North Senatorial Zone as clearly shown in Exhibit B. The 2<sup>nd</sup> Respondent in clear violation of the Electoral Act and without consulting the Applicant wrote a letter to INEC that is Exhibit C informing INEC that the Applicant has withdrawn his candidacy. The Applicant denied withdrawing candidacy vide Exhibit D and filed a lawsuit challenging the letter of withdrawal Exhibit E. See paragraphs 1 – 9 of the supporting affidavit.

**Exhibit A:** Is a report of the primary election conducted in Imo North Senatorial Zone on the 9<sup>th</sup> June, 2022 which was monitored by INEC.

**Exhibit B:** Is a copy of INEC form for submission of name duly signed by the 1<sup>st</sup> Respondent and the Secretary of the 2<sup>nd</sup> Respondent.

**Exhibit C:** Is a letter written to INEC by 1<sup>st</sup> Respondent on the letter head paper of 2<sup>nd</sup> Respondent headed: Notice of withdrawal and date for primaries.

**Exhibit D:** Is a letter addressed to the Chairman INEC written by the Applicant's Counsel and dated 13<sup>th</sup> July, 2022.

**Exhibit E:** Is a copy of the Originating Summons in **SUIT NO: FHC/ABJ/CS/1128/2022** between the Applicant and 1<sup>st</sup> and 2<sup>nd</sup> Respondents.

The Applicant's learned Counsel, formulated two (2) issues for determination to wit:

### **ISSUE ONE**

**“WHETHER THE APPLICANT HAS COMMITTED ANY OFFENCE KNOWN TO LAW BY STATING THAT HE DID NOT WITHDRAW HIS CANDIDACY IN THE 2023 FORTHCOMING GENERAL ELECTION AND THAT ANY LETTER OF WITHDRAWAL SUBMITTED TO INEC BY THE 2<sup>ND</sup> RESPONDENT IS FORGED?**

### **ISSUE TWO**

**“WHETHER THE INVITATION OF THE APPLICANT BY THE 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> RESPONDENTS ON THE INSTIGATION OF THE 1<sup>st</sup> AND 2<sup>nd</sup> RESPONDENTS OVER ISSUES WHICH ARE SUBJECT TO ADJUDICATION IN SUIT NO FHC/ABJ/CS/1128/2022 AT FEDERAL HIGH COURT OF NIGERIA AMOUNTS TO BREACH OF FUNDAMENTAL RIGHTS OF THE APPLICANT?**

I agree in toto with him that those two (2) issues are the germane issues for determination in this instant case. The two issues were conveniently argued together by the applicant counsel.

The long and short of the instant case is whether the statement of the Applicant that he did not withdraw his candidacy amount to crime to warrant Police investigation. If it does not, whether invitation of the Applicant by the Police in the guise of investigating a political party internal affairs without any colouration of any criminality which is

already before a competent Court amounts to breach of fundamental right of the applicant?

The learned Counsel argued that **Section 4 of Police Act** clearly stated the functions and powers of 3<sup>rd</sup> – 5<sup>th</sup> Respondents. He therefore submitted that 3<sup>rd</sup> – 5<sup>th</sup> Respondents lack power to resolve civil dispute arising from the provision of the **Electoral Act 2022** as in the instant case. He said our Courts is plethora of cases have decided the unprofessional attitude of the Police in meddling into civil matters.

For all the above submissions, he cited *inter alia* the cases of **ANOGWIE VS. ODOM (2016) LPELR – 40214 (CA); OGAN VS. COP RIVERS STATE (2018) LPELR – 44293 (CA); KURE VS. COP (2020) LPELR – 49378 (SC); IBIYEYE VS. GOLD (2012) ALL FWLR (PT. 659) 1074 and MACLAREN VS. JENNIN (2003) FWLR (PT. 154) 528.**

The principle of fair hearing connotes that no citizen of the Federal Republic of Nigeria shall be harassed by 3<sup>rd</sup> Respondent on contractual dispute without any element of criminality. This is guaranteed by the provision of **Section 36(8)** of the Constitution as amended.

3.8 – The Applicant’s application is predicated on Section 46 (1) of the Constitution as reproduced above. The Applicant in the instant case has challenged the letter written by the 2<sup>nd</sup> Respondent to INEC alleging that the Applicant has withdrawn as a candidate in the next year general election in **SUIT NO. FHC/ABJ/CS/1128/2022** at the Federal High Court of Nigeria. The 1<sup>st</sup> and 2<sup>nd</sup> Respondent rather than respond to issues raised by the Applicant in his lawsuit resorted to using the 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> Respondents to emasculate, harass and coerce the Applicant into abandoning his case.

3.10 – The Police alleged that they are investigating the complaint of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents on the positioning of the Applicant that he has not withdrawn his candidacy at the next general election. The gravamen of the Applicant’s case in **SUIT NO. FHC/ABJ/CS/1128/2022** is the legality of the 2<sup>nd</sup> Defendant’s claim that the Applicant has withdrawn his candidacy and this is what the 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> Respondents claim that they are investigating, thereby usurping the

powers of our Courts and infringing on the Applicant's Fundamental Right to fair hearing.

There is no doubt that the steps taken so far by the Respondents violate the right of the applicant more so that the case is *ultra vires* the powers of the 3<sup>rd</sup> – 5<sup>th</sup> Respondents dancing to the sound of drum beaten by the 1<sup>st</sup> Respondent and as such entitled the applicant to exemplary damages and I so hold.

In the case of **UKPAI VS. OMOREGIE & ORS. (2019) LPELR – 47206 (CA)** where the Appellate Court described exemplary damages as an intermix of general and punitive damages.

The Supreme Court in the case of **ELIOCHIN (NIG.) LTD & ORS. VS. MBADIWE (1986) LPELR – 1119 (SC)** held as follows:

***“The primary object of an award of damages is to compensate the plaintiff for the harm done to him or a possible secondary object is to punish the defendant for his conduct in inflicting that harm. Such a secondary object can be achieved by awarding, in addition to the normal compensatory damages, damages which go by various names to wit; exemplary damages, punitive damages, vindictive damages, even retributory damages can come into play whenever the defendant's conduct is sufficiently outrageous to merit punishment as where it discloses malice, fraud, cruelty, insolence, flagrant disregard of the law and the like. See KABO AIR LTD VS. MOHAMMED (2014) LPELR – 23614 (CAS); CBN & ORS. VS. OKOJIE (2015) LPELR – 24740 (SC).*”**

The Appellate Court in the case of **ANOGWIE (Supra)** held admirably as follows:

***“We have stated, several times, that a party that employs the Police or any enforcement agency, to violate the fundamental rights of a citizen, should be ready to face the consequences, either alone or with the mis-guided Agency.”***

In the case of **OGBONNA VS. OGBONNA (2014) LPELR – 22308 (CA)**, it was held thus;

***“.....The Police have no business helping parties to settle or recover debts. We also deprecated the resort by aggrieved creditors, to the police to arrest their debtors using one guise of criminal wrong doing or another.”***

In **AGBAKOBA VS. SSS (1994) 6 NWLR (PT. 665) 363**, it was held thus;

***“May be I should also add that the public officer of a law enforcement agency that allows himself to be used by any member of the public, to commit illegality that results in damages and liability to the Agency of government, should be made to pay such costs or damages, personally either in part or in whole, if this can serve to warn such officer to act within the rules and scope of his office. The Police is particular, should consider this, to stem the tide of unlawful arrest and detentions, which have resulted in huge financial losses to the Force and the Nation.”***

I have found in this case that the acts of the Respondents amounted to violation of fundamental right of the applicant and on the strength of the cases cited above, I award the sum of N1 million to the applicant as

general damages against the 1<sup>st</sup> and 2<sup>nd</sup> Respondents and another sum of N1 million against the 3<sup>rd</sup> – 5<sup>th</sup> respondents as exemplary damages for allowing themselves to be used by the 1<sup>st</sup> and 2<sup>nd</sup> Respondents on a matter already before the competent court which has to do with internal affairs of a Political Parties.

This is the judgment of the Court.

Signed  
**Suleiman Belgore**  
(Judge) 6/9/22