

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA**

BEFORE HIS LORDSHIP: HON. JUSTICE MUHAMMAD S. IDRIS

COURT: 28

DATE: 20TH MARCH, 2023

FCT/HC/CV/22/2021

BETWEEN

MR. SAMUEL NWADIGO -----

APPLICANT

AND

- | | | |
|--|---|--------------------|
| 1. THE CHAIRMAN,ECONOMIC
AND FINANCIAL CRIMES COMMISSION (EFCC) | } | RESPONDENTS |
| 2. THE ZONAL COMMANDER, ABUJA ZONAL COMMAND
ECONOMIC AND FINANCIAL CRIMES COMMISSION
(EFCC) | | |

JUDGMENT

This Judgment is predicated upon an application for enforcement of the Fundamental Right of the Applicant dated 21st November 2022 and filed on the same date, brought pursuant to Order 2, Rules 1, 2 and 3 of the Fundamental Rights (Enforcement Procedure) Rules 2009, Sections 34, 35 and 46 of the Constitution of the Federal Republic of Nigeria 1999 (As amended). The Applicant is praying this Court for the following reliefs:-

1. An Order of this Honourable Court declaring the conduct of the Respondents to wit: the invasion and arrest of the Applicant at his

residence, situate at Plot 1225, Yahaya Ahmed Street, Apo Resettlement, Apo, Abuja, in a commando fashion in the company of a full Hilux truck of armed Mobile Policemen, suggestive of the fact that the Applicant was a violent and or habitual offender, as a violation of the right of the Applicant's right to the dignity of his person.

2. An Order of this Honourable Court, declaring the conduct of the Respondents to wit: detaining the Applicant for six days without bringing the Applicant before a Court of competent jurisdiction or releasing the Applicant on bail, even when the Applicant promptly produced a reasonable surety to facilitate his bail, as illegal, unlawful and a gross violation of the Applicant's fundamental right to liberty of his person.
3. An Order of this Honourable Court, restraining the Respondents, their agents, privies and or assigns from further investigation and or prosecution of the Applicant in respect of the allegations against the Applicant, particularly when the same allegations had already been investigated and investigations concluded by the Nigeria Police Force.
4. An Order of this Honourable Court, restraining the Respondents, either by themselves, their privies, agents and or assigns from infringing, violating and or interfering with the Applicant's fundamental right to liberty in any form or manner pending the determination of this application.
5. An Order of this Honourable Court, directing the Respondent to tender an unreserved apology to the Applicant, to be published in two national daily newspapers, for the gross violation of the Applicant's fundamental right to the liberty of his person to wit: detaining the Applicant for six days without bringing the Applicant before a Court of competent

jurisdiction or releasing the Applicant on bail, even where the Applicant promptly produced a reasonable surety to facilitate his bail.

6. An Order of this Honourable Court, awarding the sum of N50,000,000.00 (Fifty Million Naira only) as compensation in favour of the Applicant by the reason of the conduct of the Respondents to wit: detaining the Applicant for six days without bringing the Applicant before a Court of competent jurisdiction or releasing the Applicant on bail, even when the Applicant promptly produced a reasonable surety to facilitate his bail.
7. And for such Orders or other Orders that this Honourable Court may deem fit to make in the circumstances of this case.

The Applicant also filed a statement in support and grounds upon which the reliefs are sought together with a supporting affidavit. The affidavit contained 6 annexures, marked Exhibits A-F. Learned Counsel for the Applicant also filed a written address which he adopted as his oral argument in support of his Application. In his written submission, Learned Counsel formulated a sole issue for determination to wit:

“Whether from the averments contained in the affidavit in support of this application, the Applicant is entitled to the reliefs sought in this Application”

Learned Counsel to the Applicant argued that fundamental rights are enshrined in the Constitution of the Federal Republic of Nigeria 1999 (as amended) which is the ground norm of our laws in this Country. Counsel stated that the right to liberty is one of the most sacrosanct and fiercely protected rights known to man because it is the touchstone of man’s ability to be human. Counsel cited sections 35(1) and 35 (c) of the Constitution to this effect.

Counsel to the Applicant further argued that though the Respondents have a right in bringing the Applicant for questioning, the Respondents do not have a constitutional authority to keep the Applicant beyond the time specified by the Constitution on whatever ground even if the Applicant fails to comply with the bail conditions imposed by the Respondents. Counsel cited the case of ***EFCC V MEMEM UBOH (2022) LPELR 57968 (CA)***.

Counsel to the Applicant finally commended this Court to the provisions of Section 46 of the Constitution, submitting that the Applicant, by the averments in the affidavit in support of this application, has shown that he is eminently qualified for the grant of the prayers contained in this Application in their entirety and urged this Honourable Court to so hold and grant the prayers of the Applicant in their entirety.

Upon service of the Motion on Notice, the 1st Respondent filed a Counter affidavit on the 3rd of February 2023 before this Court. The 11 paragraph counter-affidavit is deposed to by one Shephard Nanaowiekumo, a staff of the Economic and Financial Crimes Commission. Attached to the Counter-affidavit are annexures marked EFCC 1.

Counsel to the 1st Respondent also filed a written address wherein he formulated 4 issues for determination to wit:-

1. Whether the Applicant had made out a case sufficient enough to persuade this Honourable Court to grant the reliefs sought in this Application.
2. Whether this Honourable Court can make an order to restrain the 1st Respondent from the performance of its statutory obligations.

3. Whether from the facts of the Applicant's case, this Honourable Court can award the sum of N50, 000,000 (Fifty Million Naira only) against the 1st Respondent and make a public apology to the Applicant.
4. Whether the 2nd Respondent is a juristic person for the action to be maintained against him.

Arguing on issue 1, Counsel to the 1st Respondent stated that the right of an Applicant to seek redress by the provision of Section 46(1) of the Constitution of Nigeria 1999 (as amended) is not solely a ground for reliefs, that an Applicant is expected to plead and prove factual acts suggestive of a violation or likely violation of his right to succeed in the application as against imagined facts. Counsel submitted further that the Constitution contemplates and puts the onus on the Applicant to show to the Court the specific rights which he claims the Respondent has breached and he must show that the Respondent acted beyond its powers of arrest and detention. Counsel referred this Court to the case of **OKURUKAT V NICODEMUS (2001) 4 NWLR (PT. 654) PAGE 663.**

Counsel to the 1st Respondent argued that in the instant case, the arrest and detention of the Applicant is ancillary to the duties and responsibilities of the 1st Respondent, especially where the 1st Respondent reasonably suspects that the Applicant has committed an offence. Counsel stated that the basis of the Commission's suspicions, being Exhibit EFCC 1 is a petition forwarded to the Commission by one Lawal Abudulrahim, wherein it was alleged that the Applicant obtained goods with intents to avoid payment, the Applicant issued a dud cheque which was returned unpaid upon presentation for lack of funds in his account. Counsel submitted that the investigation of the above petition resulted to the arrest and detention of the applicant and within the purview of the 1st Respondent to investigate.

Counsel to the 1st Respondent further contends that the Applicant was accorded an opportunity to be taken on bail but that the sureties presented by the Applicant could not meet up the desired requirements. And as such, the detainment of the Applicant beyond a day was only as a result of the failure of the Applicant to meet the bail conditions.

Counsel to the 1st Respondent submitted on issue 1 that there is nothing civil in the matter reported to the 1st Respondent by the victim in this case and as such the arrest and detention of the applicant which was done in the course of investigation into the matter is lawful and should not be a basis for the liability of the 1st Respondent in this case.

On issue 2, Counsel to the 1st Respondent submitted that the relief of the Applicant to restrain the 1st Respondent from performing its lawful duties is outside the ambit of the jurisdiction of this Honourable Court. Counsel referred this Court to the case of **AG ANAMBRA STATE V CHIEF CHRIS UBA (2005) 33 WRN 191** and the case of **NZEWI & ORS v COMMISSIONER OF POLICE (2002) 2 HRLR 156** urging this Court to refuse the claim for injunction against the 1st Respondent as a grant of same would amount to the Court lending itself as a shield against the investigation and prosecution of the Applicant who is reasonably suspected to have committed an offence.

On issue 3, Counsel to the 1st Respondent submits citing the cases of **FIRST BANK & ORS V A.G FEDERATION & ORS (2018) LPELR – 46084 (SC)**, **ELIOCHIN NIG LTD & ORS V VICTOR NGOZI MBADIWE (1986) 1 NWLR (PT. 14) P.47**, **AIGUOREHIAN & ANOR V STATE (2004) LPELR – 270 (SC)** to the effect that the failure of the Applicant to give facts to buttress his allegations of wrongful arrest and detention by the 1st Respondent is not worthy of this Court's consideration and as such this Court should

discountenance the applicant's claims and rule in favour of the 1st Respondent.

On issue 4, Counsel to the 1st Respondent submits that this action cannot lie against the 2nd Respondent as he is not a juristic person. Counsel referred this Court to the case of **NKPORNWI V EJIRE (2009) 9 NWLR (PT. 1145) 131 at 176.**

In conclusion, Counsel to the 1st Respondent submitted that the grant of this Application for the mere asking will emasculate the 1st Respondent from the performance of its statutory functions as this Court would have set a precedence which may in turn cause people to seek self-help to address such criminal matters. Counsel urged this Court to dismiss the application with substantial cost awarded to the 1st Respondent for lacking in merit and mala fide.

In further response to the 1st Respondent's Counter-affidavit, the Applicant filed a further and better affidavit dated 13th February 2023. The affidavit is deposed to by the Applicant and Counsel to the Applicant similarly filed a reply on points of law to the 1st Respondent's Counter-affidavit. Counsel to the Applicant opted to reply to all issues raised by the 1st Respondent and formulated an extra issue to wit:-

"Whether the Respondents are properly before this Honourable Court, having filed their counter-affidavit out of time going by the provisions of Order 2 Rule 6 of the Fundamental Rights (Civil Procedure) Rules 2009."

Counsel to the Applicant arguing per contra submitted by the provisions of Section 35 (4) (a) (b), 35 (5) of the Constitution of Nigeria 1999 (as amended), that the Applicant was detained for a period of six days, an averment that has not been denied by the Respondents and there is

nothing in the Constitution, which is the ground norm of our country to suggest that a person can be detained beyond the constitutionally prescribed time limit just because such a person failed to provide sureties to the satisfaction of the detaining authority. Counsel submitted that the Applicant needs not be put to task to prove the unlawful detention by the Respondents as it is trite law that facts admitted need no proof and urged this Honourable Court to so hold.

Counsel to the Applicant arguing further submitted that the injunctive relief sought against the Respondents is not to stop the Respondents from exercising their statutory functions of investigating criminal offences but considering the fact that the Nigeria Police Force have investigated the issue and that same was admitted by the Respondents. Counsel also submitted that it is already cast in stone that once an applicant proves that his right to personal liberty has been violated, he is automatically entitled to compensation as well as an unreserved apology as specified in Section 35(6) of the Constitution of Nigeria 1999 (as amended). Counsel also submitted that the 2nd Respondent is an employee of the 1st Respondent and acts on the orders of the 1st Respondent. Counsel however stated that assuming but not conceding that the 2nd Respondent is not a juristic person, striking out the name of the 2nd Respondent from this application does not affect the substance of the application and the Court can still go ahead and hear and determine the application and urged this Honourable Court to so hold.

On the extra issue formulated by the Applicant, Counsel argued that by the provisions of Order 2 Rule 6 of the Fundamental Rights (Enforcement Procedure) Rules 2009, the respondents are not properly before this Honourable Court. Counsel submitted that the Respondents did not file their response within the time prescribed by the Rules, that the 1st

Respondent was served with the application on the 22nd day of November 2022 and the 2nd Respondent was served with the application on the 21st day of November 2022. Counsel stated that the Respondents never filed their responses till the 3rd of February 2023 and the processes are incompetent before this Court and same ought to be struck out. Counsel commended this Court to the case of **DANGOTE INDUSTRIES LTD AND ANOR v OCEAN BEAN GOLF AND LEISURE RESORTS LTD AND ORS (2021) LPELR 53464 (CA)** urging this Court to resolve all the issues for determination against the Respondents and grant the Applicant's prayers as prayed.

Fundamental rights have been defined as basic moral guarantees that people in all countries and cultures allegedly have simply because they are people. It is a right which stands above the ordinary laws of the land and which are in fact antecedent to the political society itself. It is a primary condition to civilized existence. Fundamental rights also are rights derived from natural or fundamental law, they are of high priority and compliance with them is mandatory rather than discretionary. See **MARDANI (NIG) LTD v GALADIMA & Ors (2015) LPELR – 25762 (CA). RANSOME – KUTI v A.G FEDERATION (1985) 2 NWLR (Part 6) 211 at 230.**

Therefore, the Courts do not shirk their responsibilities in ensuring that the human rights of the citizens are not compromised and on no account should such right be swept under the carpet or capriciously tampered with by any person, government or any government agency under any guise without lawful justification. The Supreme Court in espousing the ideals and quite essence of fundamental rights in **RANSOME – KUTI & ORS v ATTORNEY GENERAL OF THE FEDERATION (supra)** per His Lordship Eso JSC, succinctly stated thus:

“What is the nature of a fundamental right? It is a right which stands above the ordinary laws of the land and which in fact is antecedent to the political society itself. It is a primary condition to a civilized existence....”

It goes without saying that the observance of human rights is a tribute to the Rule of Law. In the case of **JOSEPH ODOGU V AG FEDERATION (1996) NWLR (PART 456 AT PAGE 508**, a fundamental right was defined as a right guaranteed in the Nigeria Constitution and is a right which every person is entitled, when he is not subject to the disabilities enumerated in the Constitution to enjoy, by virtue of being a human being. Articles 5 and 6 of the African Charter on Human and People’s Rights (Ratification Enforcement) Act Cap 10 LFN, 1990, also guarantees the right to every individual to the dignity of his person and to liberty and security of his person. The United Nations Universal Declaration on Human Rights 1948 also has similar provisions.

After a careful review of the Rules regulating the fundamental rights of an individual, it is necessary to examine the acts complained of against the Respondents in conjunction with statutory enactments to determine whether these provisions have been violated or complied with in accordance with the Rule of Law.

Now, the Applicant averred that his ordeal in the hands of the Respondents started on the 22nd of September 2022 when he received a letter from the Respondents inviting him to the office of the Respondents for an interview and or interrogation. According to the Applicant, the said invitation letter did not state whether he had committed or being suspected to have committed any offence whatsoever. That further to the invitation, a reply was written to the 1st Respondent on his behalf by the International Human

Rights Protection Initiative, intimating the Respondents about his inability to honour the invitation on the date endorsed by the Respondents.

The Applicant narrates that before his application with Motion No: CV/3362/2022 could be heard by the Court, the agents of the Respondents stormed his residence situate at Plot 1225 Ahmed Yahaya Street, Apo Resettlement, Apo Abuja on the 21st day of October 2022 in a commando fashion, with a Hilux truck filled with armed policemen to arrest him in a manner that was suggestive of the fact that he was a violent and or habitual offender. The Applicant states that he was taken to the Zonal office of the Respondents where he was shown a copy of the petition written against him by one Lawal Abdulraheem. The Applicant states that upon perusal of the said petition, that the allegations contained therein had already been investigated by the IG Monitoring Unit of the Nigeria Police Force.

The Applicant stated that he was detained in the custody of the Respondent from Friday 21st of October till Wednesday 26th October, 2022 after he got a lawyer who submitted a copy of her Call to Bar Certificate to the Respondents. The Applicant states that the above was done after refusal by the Respondents to accept the surety that came to perfect his bail at the time of his arrest on the grounds that certain conditions were not met.

The Applicant finally averred that he finally had reason to believe that the Respondents grossly violated his fundamental right to the dignity of his person as well as the liberty of his person hence this application, urging the Court in the interest of justice to grant this Application.

The 1st Respondent narrated per contra that the involvement of the Respondent in this matter is pursuant to a petition it received from one Lawal Abudulrahim dated 16th day of April 2019 alleging issuance of a dud

cheque, the Respondent narrates that they have statutory powers and mandate to investigate and prosecute all financial crimes reported to it including the subject matter before this Court. The 1st Respondent stated that contrary to the Applicant's assertion, the Respondent officers did not storm the premises of the applicant as alleged but went to his premises with only two plain cloth officers of the respondent and that the arrest of the Applicant was necessary after the Applicant failed severally to report to the 1st Respondent office and had constantly avoided arrest by the respondent officers.

According to the 1st Respondent, the bail conditions set and the requirements that the Applicant reports to the Respondents office regularly was to prevent the applicant from escaping the course of justice since he is considered a flight risk, the Respondent contends that the detention of the Applicant was further elongated due to the failure of the Applicant to meet his bail conditions.

On the propriety or otherwise of the Respondent's counter-affidavit filed out of time before this Court, the Applicant has canvassed arguments urging this Court to set aside the Respondent's processes for being incompetent before this Court. It is important that this Court considers this issue before going ahead to analyzing the issues in contention before this Court.

The natural principle of audi alteram partem is so weighty a principle that a Court cannot close its eyes to it, especially in this case where the 1st Respondent have put forward a counter-affidavit and written address before this Court for consideration. Speaking on the natural justice principle above, His Lordship Rhodes Vivour JSC held in **MILITARY GOV OF LAGOS STATE & ORS V ADEYIGA & ORS (2012) LPELR-7836 (SC)** that:-

“Audi Alteram Partem means please hear the other side. A Judge should allow both parties to be heard and should listen to the point of view or case of each side before giving a decision. This is what fair hearing entails..”

Underscoring this imperative of hearing both sides to a dispute, the Supreme Court, per Belgore, JSC (as he then was) stated thus in ***THE COUNCIL OF FEDERAL POLYTECHNIC, MUBI V YUSUF & ANOR (1998) LPELR-3168(SC):-***

“In all the trials whether judicial or administrative, the person against whom a complaint is laid must be heard in compliance with the principle of audi alteram partem. This is the crux of S.33 of the Constitution of Federal Republic of Nigeria, 1979 and always reflected in statutes where persons could be put on trial or investigated with possible consequence of reprimand and or punishment. For every accusation, there must be a right to be heard.”

Indeed, it is trite law that Courts of today are connected with deciding matters on the merit, allowing each party ample opportunity to ventilate his/her case provided that there will not prejudice the other party. See ***AMAKO V THE STATE (1995) LPELR-451(SC) PER ADIO, JSC AT PAGE 13, PARAS, C-D AND AJUWA & ANOR v SPDC NIG. LTD (2011) LPELR-8243(SC) Per Fabiyi, JSC at Page 40, Paras, D-G.***

It is therefore based on the above wise exhortation of the Supreme Court that I resolve in the affirmative the contention on the propriety or otherwise of the Respondent’s counter-affidavit filed out of time before this Court. The Court in deciding this case on its merit will as always consider the interest of justice and what will ensure the just determination of this case.

Therefore the Respondent's counter-affidavit filed out of time before this Court, is deemed properly filed and admitted before this Court.

Moving on, in view of the settled position of the law as it relates to the facts and substance of this case, the submissions of Counsel on both ends, the issues formulated by the parties can be accommodated under the sole issue formulated by the Court thus:-

"Whether the Applicant is entitled to the reliefs sought in his Application before this Court".

The above issue is not raised as an alternative to the issues raised by parties, but the issues canvassed by parties can and shall be cumulatively considered under the above issue. See **SANUSI V AMOYEGUN (1992) 4 NWLR (Pt. 237) 527.**

The issue thus raised has in the Court's considered opinion brought out with sufficient clarity and focus, the pith of the contest which has been brought to Court for adjudication by parties on both sides of the aisle.

It is pertinent to state that the Applicant in a Fundamental Right Enforcement has the initial onus to show that he was arrested and detained by the Respondents beyond the time frame stated by the Law. It is only when the Applicant has discharged this duty as required by law to show he was detained, that the Respondent will then show the justification not only for the arrest but for keeping him more than the 24hours or 48 hours as the case may be. See **EFCC V OYUBU & ORS (2019) LPELR – 47555 (CA), OHANEDUM & ANOR V C.O.P (IMO STATE) & ORS. (2015) LPELR – 2431 (CA).**

There is a clear averment in the Applicant's supporting affidavit stating that he was detained for more than 48hrs upon being arrested by personnel of the Respondent beyond the timeframe prescribed by the law.

It is important to state at this juncture that the 1st Respondent by virtue of the E.F.C.C Act 2004, the Commission is assigned the responsibility of investigating all economic and financial crimes in Nigeria. See **OZAH v E.F.C.C & ORS. (2017) LPELR – 43386 (CA)**.

It is a body statutorily created, with precisely streamlined powers vide Sections 6 and 7 of the EFCC Act, 2004. Under the Act, the 1st Respondent clearly has powers to arrest, investigate and prosecute offenders of economic and financial crimes and other related offences. However, in discharging this statutory mandate, the Respondents and indeed all other law enforcement agencies must necessarily act only on genuine complaints alleging the commission of an offence, and generally conduct the operations within the confines of the law by scrupulously observing detention timelines prescribed by law as well as other procedural safeguards required of them in order to maintain the delicate balance between law enforcement on the one hand, and according due regard and recognition to human rights on the other hand. See **ODOGU v A.G. (Supra)**.

In this instance, the Respondents acted upon a petition against the Applicant by a Complainant. In my opinion, the essence of the complaint or Petition is to enable the Respondents or law enforcement agency to evaluate same and exercise their power(s) on what further actions to take dependent on the strength and credibility of the complaint. See **OLATINWO v STATE (2013) 8 NWLR (Pt. 1355) 126**. It is only logical that the processing of the Petition would necessarily require the basic step(s) of investigation which is the examination of the facts of the situation. The

action of the Respondents in arresting and detaining the Applicant however necessary to the discharge of their duties must at all times conform with the provisions of our Laws.

In this case, the unchallenged evidence is that the Applicant was detained beyond the stipulated timeframe provided by Law and the defence by the Respondent that same was as a result of the Applicant failing to comply with the terms of his bail is not substantial enough to ground a viable window to detain a citizen beyond the stipulated time allowed in Law. The Law in any case gives room for a person to be detained beyond the stipulated time allowed by Law, but an Order of Court must be obtained to that effect at all material times. It is an obnoxious practice and procedure for the Respondents or any Law Enforcement Agency to continue in this rather unfortunate practice, the rule of Law must at all material times be adhered to in all circumstances.

By virtue of the provisions of Section 35(1) and 36 (6) of the 1999 Constitution (as amended), every citizen of Nigeria is entitled to his personal liberty and no person shall be deprived of his liberty except as stipulated by the Constitution or statute. See **ADAMS v A.G FEDERAL (2006) Vol. 4 INRN**. It also goes to say that every citizen of Nigeria has the right to go about his or her own business unmolested or unhindered by anyone except in a justifiable circumstance, such as when he is found to have violated the Law of the land. It is in this respect that it's said that human right is not absolute in some given circumstances. For the Applicant to claim his fundamental rights under Section 35(1) of the 1999 Constitution (as amended) was breached, he must demonstrate that his personal liberty was curtailed by the Respondent and that the curtailment is not in furtherance to Section 35(1) (a) (f) of the Constitution.

The onus of proving enforcement of Fundamental Human Right is on the Applicant and this onus does not shift until he has proved same on a preponderance of evidence and balance of probability that the proof shifts to the Respondent and continues to shift till it stops on the party who fails to discharge the burden. See **MESSRS LEWIS & PEAT (NRI) LTD v A.E. AKHIMEN (1976) 1 ALL NLR (Pt.1) PG.460.**

It is therefore on the strength of the above that I state with particular reference to the Applicant's application and the Counter-affidavit of the 1st Respondent that the Applicant has made out a case of a breach of his fundamental right due to some actions and inactions of the Respondents in certain fundamental regards. Every Citizen has a right to personal liberty as earlier mentioned, and where such must be restrained, it ought to be done in accordance with the provisions of the Law.

On the relief for perpetual injunction, Section 6 and 7 of the EFCC Establishment Act 2004 empowers the EFCC to investigate cases of this nature and the EFCC's investigation must at all times be done in accordance to laid down procedures. The Court in **IGP & ANOR V UBAH & ORS (2014) LPELR-23968(CA) PER IYIZOBA, J.C.A IN (Pp. 27-28, paras. D-C)** held thus:-

"The order of perpetual injunction restraining the appellants is unconstitutional because it is an interference with the powers given by the Constitution to the appellants to investigate and prosecute crimes...."

In view of the above, I agree that the Applicant's application succeeds but however, the Application succeeds in part.

The Applicant's reliefs 1, 2, & 4 succeeds, reliefs 3 and 5 fails and same is accordingly dismissed.

On the Applicant's relief 6, it is the position of the Law that exemplary damages are awarded where the conducts of the Respondent is oppressive, arbitrary and unconstitutional. See **ELIOCHIN NIG. LTD & ORS v MBADIWE (1986) 1 NWLR (PT.14) 47. See also WILLIAMS v DAILY TIMES OF (NIG) LTD (1990) LPELR-3487 (SC).**

In this instance, I have not found any arbitrariness, or oppressiveness in the arrest made by the Respondents. They acted upon a petition alleging commission of a crime. That to me is very proper and certainly constitutional. They only fell into a grave error when they detained the Applicant beyond the constitutionally prescribed period and in flagrant disobedience of the Constitution of Nigeria 1999 (as amended).

It is for that reason that I award the sum of N2, 000,000 (Two Million Naira) only as damages in favour of the Applicant and against the 1st Respondent. We should remember that damages are awarded as a result of what the Law presumes to be the direct or probable consequence of the act complained of but the quantification thereof is at the discretion of the Court at all material times.

Further on the discretion of this Court to give further Order(s) in given circumstances, this Court further directs that the 1st Respondent discharges its constitutional duties but same must at all material times be in accordance with the Law without any infringement on the Fundamental Human Right of the Applicant.

**HON. JUSTICE M.S IDRIS
(PRESIDING JUDGE)**

Appearance

O. Asekome:-We are grateful for the judgment

Haliru:- We are grateful