

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT COURT NO. 4, MAITAMA ON THE**

**11<sup>TH</sup> DAY OF MAY, 2023**

**BEFORE HIS LORDSHIP: HON. JUSTICE U. P. KEKEMEKE**

**SUIT NO. FCT/HC/CV/3201/2021**

COURT CLERKS: *JOSEPH ISHAKU BALAMI & ORS.*

**BETWEEN:**

MR. PETER ANTHONY JOHNBOSCO ..... APPLICANT

AND

1. INSPECTOR-GENERAL OF POLICE 2. COMMISSIONER OF POLICE, FCT 3. DPO GALADIMAWA POLICE STATION, CSP KAURA 4. IPO HALIMA ABDULLAHI 5. EUCHARIA IFEOMA NWAFORCHA 6. MR. LUGARD	}	RESPONDENTS
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**JUDGMENT**

The Applicant’s application under the Order 2 Rules 1 & 2 of the Fundamental Rights Enforcement Procedure Rules (2009) is for the enforcement of the Applicant’s Fundamental Human Right.

The Applicant’s prays for:

- (1) A declaration that the harassment threat of further arrest, detention, unauthorized and malicious handcuffing of the Applicant by the 1<sup>st</sup> - 4<sup>th</sup> Respondents, particularly the 3<sup>rd</sup> and 4<sup>th</sup> Respondents on the instruction of the 5<sup>th</sup> and 6<sup>th</sup> Respondents bordering on the sum of ₦1.9 Million advanced by the 5<sup>th</sup> and 6<sup>th</sup> Respondent is unconstitutional, dehumanizing, illegal, null and void.
- (2) A declaration that the Applicant's inalienable right to dignity of human person, personal liberty, right to private family life and right to freedom of movement were unjustifiably abused.
- (3) An Order restraining the 1<sup>st</sup> - 4<sup>th</sup> Respondents, their agents, privies/assigns and or successors in title from further inviting, harassing, intimidating, threatening, arresting, detaining, handcuffing in any guise, searching of the Residence of the Applicant in respect of the ₦1.9 Million advanced by the 5<sup>th</sup> and 6<sup>th</sup> Respondents to the Applicant.

- (4) An Order directing the Respondents to tender an unreserved apology to the Applicant and his family.
- (5) ₦50 Million against the Respondents in favour of the Applicant.
- (6) ₦1 Million as cost of the action.
- (7) And for such Order or further Orders as the Court may deem fit to make in the circumstances.

Learned Counsel to the Applicant relied on the Statement containing the name and description of the Applicant, the reliefs sought and the grounds upon which the reliefs are sought.

The grounds for the application are succinctly:

- (1) The Applicant who is a citizen is entitled to the Fundamental Rights guaranteed under Section 34(1), 35(1), 37 and 41(1) of the 1999 Constitution as amended.
- (2) That the 1<sup>st</sup> - 4<sup>th</sup> Respondents have no constitutional mandate to handle civil cases.

(3) That by virtues of Section 34(1), 35(1), 37 and 41(1) of the 1999 Constitution, the 1<sup>st</sup> - 6<sup>th</sup> Respondents caused the infringement of the Applicant's fundamental human rights.

Learned Counsel relies on the 28-paragraph Affidavit filed in support of the application. The Applicant's deposition is that sometime early March 2021, the 5<sup>th</sup> Respondent approached him to procure visa to Germany for herself and seven others. Howbeit, one of the visa Applicants opted out and money refunded.

That 6<sup>th</sup> Respondent who is a younger and close relative of the 5<sup>th</sup> Respondent came to him with ten additional visa Applicants making a total of 16 visa Applicants from the 5<sup>th</sup> and 6<sup>th</sup> Respondents respectively.

That the 5<sup>th</sup> and 6<sup>th</sup> Respondents advanced a total sum of ₦1.9 Million only as fees and charges to process the visa for the 5<sup>th</sup> and 6<sup>th</sup> Respondents on behalf of the visa Applicants. The visa Applicants were billed to

attend a conference in Stuttgart, Germany on an initial date but later changed to another date and venue.

That due to the change in date and venue, the Applicants could not embark on the journey to Stuttgart, Germany as planned. That the 5<sup>th</sup> and 6<sup>th</sup> Respondents demanded for a refund of the ₦1.9 Million. That he informed them that the said sum was spent on procuring and processing the visa.

He implored them to give him time to make the refund but they refused. The 5<sup>th</sup> and 6<sup>th</sup> Respondents lodged a complaint against him at Galadimawa Police Station. He was arrested by the 3<sup>rd</sup> and 4<sup>th</sup> Respondents on the 10/09/2021 alleging an offence of breach of trust on the instigation of the 5<sup>th</sup> and 6<sup>th</sup> Respondents. He made a Statement.

That upon his arrest by the 4<sup>th</sup> Respondent, he was handcuffed like a common criminal. His residence was searched without a Warrant in a dehumanising way.

The search by the officers inflicted fear and anxiety and fear to his family members.

He was yet again invited by the 3<sup>rd</sup> and 4<sup>th</sup> Respondents on the 23<sup>rd</sup> and 24<sup>th</sup> of November 2021 when he did not complete the refund of the said sum. He refunded ₦550,000.00 only in two tranches through the 3<sup>rd</sup> and 4<sup>th</sup> Respondents and ₦150,000.00 through the 5<sup>th</sup> and 6<sup>th</sup> Respondents.

That 3<sup>rd</sup> and 4<sup>th</sup> Respondents turned the institution of 1<sup>st</sup> and 2<sup>nd</sup> Respondents to debt recovery place. He was intimidated, harassed and handcuffed to refund the said sum. The 4<sup>th</sup> Respondent under the instruction of 3<sup>rd</sup> Respondent caused him to be detained for 4 days for no just cause.

The 1<sup>st</sup> - 4<sup>th</sup> Respondents relied on their Counter Affidavit deposed to by Inspector Halima Abdullahi (4<sup>th</sup> Responent) of Galadimawa Police Division. She deposes essentially that on 17/09/2021, the 5<sup>th</sup> Respondent

reported a case of criminal breach of trust and cheating against the Applicant.

That Applicant held himself out as a visa procurement agent. The 5<sup>th</sup> Respondent on several dates deposited ₦1,850,000.00 to the account of the Applicant on the understanding that he will use the money to secure visa to Germany for different clients of the 5<sup>th</sup> Respondent.

The Applicant refunded clients who opted out to the tune of ₦500,000.00. That rather than use the money for the purpose it was meant, the Applicant converted the said money to his own use and did not obtain the visa as agreed and refused to pick calls put across to him by the 5<sup>th</sup> Respondent.

The Applicant was invited. He confirmed being a visa procurement agent and admitted to have collected the said sum. His house which doubles as his office was searched. There was nothing to show that he is a visa procurement agent.

That Applicant said he used the money to pay off an online loan. The Statement is Exhibit NPF 1. That a case of criminal breach of trust, cheating and fraud was made out on investigation.

The 6<sup>th</sup> Respondent did not report any matter to 3<sup>rd</sup> and 4<sup>th</sup> Respondents. That there was no change of time and venue for the conference in Stuttgart, Germany.

The 5<sup>th</sup> Respondent's allegation is that she was defrauded to the tune of ₦1,350,000.00 and further stated that the Applicant refused to pick calls. That 5<sup>th</sup> and 6<sup>th</sup> Respondents did not instigate the 3<sup>rd</sup> and 4<sup>th</sup> Respondents to arrest Applicant on 17/09/2021.

The Applicant was not arrested. He was invited to the Station and he wrote his Statement. That Applicant was not handcuffed at any time. That Applicant was not detained. That no money was refunded through 4<sup>th</sup> Respondent or 3<sup>rd</sup> Respondent or any other officer of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents.



That Applicant was not harassed, dehumanised, detained or handcuffed at Galadimawa Police Station on the 10/09/2021 or any other day for the purpose of refunding any monies owed the 5<sup>th</sup> and 6<sup>th</sup> Respondents.

The Search Warrant used in searching the house/office is NPF 2. That Applicant signed or endorsed the Search Warrant. That Applicant went back home after his Statement. That Applicant's rights were not breached.

That 1<sup>st</sup> - 4<sup>th</sup> Respondents did not abuse the Applicant's right to dignity of human person, personal liberty, private or family life, right to freedom of movement by harassing, threatening to arrest, detain and by maliciously handcuffing Applicant. That this application is brought in bad faith. That the right of Applicant was not infringed.

The 5<sup>th</sup> and 6<sup>th</sup> Respondents also rely on their Counter Affidavit of 18 paragraphs. Succinctly it states that

Applicant paraded himself as Travels and Tours Agent and entrusted himself with the task of procuring visa.

That some clients opted out when it became obvious that the Applicant and his entire arrangement was a scam when he kept changing dates and never provided consistent explanation. Relevant Whatsapp chats are Exhibit A.

The sum was for registration, schedule biometric capture, payment for visa fees to enable them secure visa to attend a conference in Stuttgart, Germany failed as Applicant did not execute any of the items agreed.

It was later discovered that the conference the Applicant parades, “Conflict and Peace Resolution” never existed and diverted the funds to pay off an online loan. That 5<sup>th</sup> Respondent’s clients who flew in from Lagos became deeply frustrated as Applicant could not arrange for data capturing.

That he lodged the complaint at Galadimawa Police Station. That apart from endless lies and excuses, Applicant became evasive. He never picked or returned calls. He failed to respond to messages and ignored chat calls.

Applicant was not handcuffed, detained on any date. That Applicant has subjected her to emotional, physical and psychological trauma.

I have read the parties' various Written Addresses and the Applicant's Response on Points of Law to the 1<sup>st</sup> - 4<sup>th</sup> and 5<sup>th</sup> and 6<sup>th</sup> Respondents' Written Addresses. The issue for determination is: **Whether the Applicant's right under Section 34, 35 (1), 37 (1) and 41 of the 1999 Constitution (as amended) is breached.**

The Applicant described himself in his Statement as a businessman. He was not specific as to which business he does. He also refer to himself in the Affidavit as a businessman, *simpliciter*.

The prayers portray the Applicant who was given money as a loan. He used the word “advanced money” by 5<sup>th</sup> and 6<sup>th</sup> Respondents. The above in my view is misleading.

Section 34 (1) of the 1999 Constitution is a right to respect for the dignity of a person. Section 35 (1) is about the right to personal liberty and that no person shall be deprived of such liberty save as provided by law.

Section 37 is about the privacy of citizens, their homes, correspondences, telephone conversations and telegraphic communications while Section 41 (1) is about the right of every citizen to move freely throughout Nigeria and to reside in any part thereof, and that no citizen of Nigeria shall be expelled from Nigeria or refused entry thereto.

The onus is on the Applicant to prove that his fundamental right in respect of the above are breached.

The gist of the application is that the Applicant received money from the 5<sup>th</sup> and 6<sup>th</sup> Respondents to document and procure Scheghen Visa to the Germany for the 5<sup>th</sup> and 6<sup>th</sup> Respondent and others. The Applicant has not by his evidence shown himself to be a licensed agent of the German Embassy. He does not seem to be an employee. He collected the sum but failed to perform.

The Applicant's excuse is that date and venue of the Conference was changed. I do not believe that cock and bull story. The Applicant was the one that generated and concocted the seminar, which turned out not to exist.

The whole transaction in my view is an illegality. It is a misrepresentation and or false representation. The Applicant does not have the capacity to issue Visas of foreign countries.

There is no evidence that the Applicant was arrested and or detained. Exhibit NPF2 is the Search Warrant issued

for the search of the Applicant's house. The Applicant signed and or endorsed same with others.

Exhibit NPF 1 is the Statement of the Applicant. In the said Statement, he agreed that the total money given to him is ₦1,850,000.00 out of which he refunded ₦550,000.00 leaving a balance of ₦1,350,000.00 contrary to Applicant's story of ₦1,900,000.00.

Exhibit NPF1 is consistent with the deposition of 1<sup>st</sup> - 4<sup>th</sup> Respondents' Affidavit. The Applicant did not prove how his dignity was lowered. The deposition that he was handcuffed without more cannot lower his dignity.

A case was reported against him. He was invited. He honoured the invitation and his house searched. I believe the evidence of 1<sup>st</sup> - 4<sup>th</sup> Respondents, which was corroborated by the 5<sup>th</sup> and 6<sup>th</sup> Respondents that the Applicant was not arrested or handcuffed. I do not believe the Affidavit evidence of the Applicant.

In totality, the Applicant has not put sufficient materials to enable the Court hold that his fundamental rights as stated above were breached by the Respondents.

The application therefore fails as it lacks merit and it is accordingly dismissed.

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**HON. JUSTICE U. P. KEKEMEKE**  
(HON. JUDGE)  
11/05/2023

Parties absent.

Dominic Anyiadam, Esq. for the Applicant.

Mercy Afolayan, Esq. holding the brief of Chinyere

Moneme, Esq. for the 1<sup>st</sup> - 4<sup>th</sup> Respondents.

S. M. Oyeghe, Esq. for the 5<sup>th</sup> and 6<sup>th</sup> Respondents.

**COURT:** Judgment delivered.

(Signed)  
**HON. JUDGE**  
11/05/2023