

IN THE HIGH COURT OF JUSTICE FEDERAL CAPITAL TERRITORY  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT JABI –ABUJA

HIS LORDSHIP: HON.JUSTICE M.S. IDRIS

COURT NUMBER: 28

DATE: 9<sup>TH</sup> MAY, 2023

FCT/HC/CV/136/2021

BETWEEN:

JAMILA SIDI SIRAJO TAFIDA-----

APPLICANT

AND

1. MOHAMMED TAFIDA
2. DR. DALHATU SARKI TAFIDA
3. THE INSPECTOR GENERAL OF POLICE
4. THE COMMISSIONER OF POLICE, FCT COMMAND
5. THE CHIEF REGISTRAR (SHARIA COURT OF APPEAL, FCT)
6. HON.ADO MUKTAR AHMED (FOR UPPER AREA COURT  
JUDGE GARKI SITTING AT KADO FCT, ABUJA
7. HON. YUSUF BABBA (CURRENT UPPER AREA COURT  
JUDGE GARKI SITTING AT KADO FCT ABUJA)
8. THE REGISTERED TRUSTEES OF GAMES VILLAGE  
RESIDENTS ASSOCIATION

RESPONDENTS

JUDGEMENT

The Applicant filed this application for an order enforcing a fundamental right in accordance with order 2 rule 1 of the fundamental rights Enforcement Procedure Rules 2009 pursuant to section 33,34(1)(a),36,37,41,43 and 46(1) and (2) of the Constitution

of the Federal Republic of Nigeria 1999 (as amended) and article 12 and 14 of African Charter on Human and peoples Right article 12 of Universal Declaration of Human Right Law. The Applicant seek for the following reliefs/declaration:-

1. A declaration that the invitation of the application by the 6<sup>th</sup> Respondent to his former court on a matter he already delivered judgement on 25<sup>th</sup> October,2021 and which is already on appeal at the Sharia Court of Appeal is unlawful and unconstitutional and is therefore a violation of the Fundamental Rights of the Applicant.
2. A declaration that the 6<sup>th</sup> Respondents has no legal power or authority to force the applicant to forcefully handover her three under age children to the 1<sup>st</sup> Respondent who want to take them at all cost to Pakistan as this violate the Applicant's fundamental rights to personal liberty and also the Fundamental Rights of the said underage children.
3. A declaration that the enforcement unit of the 5<sup>th</sup> Respondent has no right to enforce the judgment delivered on 25<sup>th</sup> October,2021 by the 6<sup>th</sup> Respondent which is contrary to justice and rule of law which has already been appealed against by the Applicant without recourse to rule of law. Thereby making it an abuse of Court process.
4. An order restraining the Respondents their agents, servants, officers howsoever described from further harassing or threatening to arrest and detain the Applicant if she refuses to handover her three underage children to the 1<sup>st</sup> Respondent for onward taking them to Pakistan for economic gain. Which is against the rule of law and valences the Fundament Rights of the Applicant and her children.
5. An order compelling the 1<sup>st</sup>, 2<sup>nd</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondent to pay the sum of ~~₦~~50,000,000.00 (Fifty Million Naira only) to the Applicant as

damages for unlawful invitation of the Applicant by the 6th Respondent with backing of the 3<sup>rd</sup> and 4<sup>th</sup> Respondents to handover her underage children to the 1<sup>st</sup> Respondent without any just cause.

6. And any other order (s) as this Honourable Court may deem fit to make in the Circumstances of this case.

In support of the application is an affidavit of 10 paragraphs deposited to by one Muhammed JamiuRukayyaOzarie a litigation secretary in the Chambers of A.MWakiliKulluHayyun& co. particularly paragraphs 5-8. The affidavit contained 2 annexures marked exhibit 1 and 2. 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 by the provision of section 33,34,35,36,37,40 41,43 and 46 of the constitution of the Federal Republic of Nigeria and article 12 and 14 African Charter and Human People Right the Respondents have the unfettered, unlimited and express powers to deprive the Applicant her fundamental human right without a just cause or as ordered by the Court of law”*

It is Counsel submission that the unlawful use of the 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> Respondents against the applicant over compliant that are unfounded is a breach of the applicants fundamental rights contrary to section 33,34, 35, 37, 41, 43 and 46 of 1999 constitution of Nigeria (as amended).

A close perusal of paragraphs 1 to 10 of the affidavit in support of the Applicant's application will clearly show that the Applicant rights have been breached and same have

contravened the provision of section 46 sub 1 of the 1999 constitution thus:-

*"Any person who alleges that any of the provision of this chapter has been, is being or likely to be contravened in any state in relation to him may apply to a high courts in that state for redress,"*

In the light of the above provisions of our constitution the Applicant submit that having view paragraph 1 to 10, of the affidavit deposed, on behalf of the Applicant and exhibit 1,2 &3 attached with the Applicant affidavit, the Applicant is entitled to relief sought in all the paragraphs as contained in her application. On this reliance is placed on the recent supreme Court in the case of ***OKAFOR VS ABUMOFUANI (2016) 12 NWLR PAGE 117 AT P. 121 RATIO 1*** on liability for false report to police leading to arrest and detention Court to so hold.

*"Where a report is made against a person specially mentioned as a suspect or accused person and the report is later found to be false, malicious, ill motivated and unfounded, the person so reported, arrested and detained is entitled to damages to be paid to him by the person who made the false report since he is the person who set the law in motion against the victim falsely."*

The 1<sup>st</sup> to 5<sup>th</sup> Respondents entering into the house of the Applicant in Games village Abuja and placed surveillance, raided after, traumatized the members of the families of the Applicant in the day times and around 11 O'clock in the mid night over untrue complaint made by the 1<sup>st</sup> Respondent is a breach of applicant fundamental rights as provided in article 12 of universal declaration which Nigeria ratified as a member state thus:-

No one shall be subjected to arbitrary interference with his privacy, family home or correspondence, nor to attacks upon his honor and

reputation. Everyone has the right to the protection of the law against such interference or attacks.

It is in the light of the above provision of Article 12 of universal declaration of Human rights Nigeria, rectified the arbitrary interference with the home, privacy, families and reputation of the Applicant by the 1 to 5 Respondents is an unfounded and unlawful, act which should be wrongly condemned by the laws of the land.

Counsel submit on behalf of the Applicant that the use of 1<sup>st</sup> to 5<sup>th</sup> Respondents to forcefully take away from the Applicant her three innocent young children. Is unlawful and unconstitutional as same did not fall within the ambit of the power and function of police as provided under section 4 of police Act. Counsel submits that where a person made a false petition or complaint to any constituted authority like police,, E.F.C.C, and that same complaint turns out to be frivolous, malicious, or an attempt to dent the reputation of the applicant, as in this case, the Applicant is entitled to damages against the 1 and 2 Respondents as in this case to the sum of ~~N~~50,000,000.00 Fifty Million Naira only as contained in the reliefs sought by the Applicant in her application for the enforcement of fundamental right before this Court.

1<sup>st</sup> Respondent counter affidavit to the 10(ten) paragraph affidavit in support of the applicant's fundamental rights application deposed to by Applicant one Mohammed

That he is the 1<sup>st</sup> Respondent in this suit.

That he have seen and read the Fundamental Rights Application, ten paragraph affidavit in support of the Fundamental Right Application, the documents attached as **EXHIBITS 1, EXHIBIT 2, EXHIBIT 3**, a written address filed in support of the Fundamental Rights Application filed at the Registry of this Honourable Court by the Applicant herein. That the deposition in paragraph 1,2,3,4 of the affidavit of one **Muhammed**

**JamiluRukayyaOzavize**, deposed to in support of the Applicant's Fundamental Human Rights Application are facts within the knowledge of the deponent.

That the depositions in Paragraph 5(a)(b),5(c),5(f) in the affidavit in support of the Applicant's Fundamental Human Right Application are true.

That the depositions in Paragraph 5(d),5(e),5(g),5(h)5(i)5(j),5(k) 6,7,8,9 and 10 in the affidavit in support of the applicant's Fundamental Rights Application are entirely falsehood.

That in response to the deposition in paragraph 5d of the applicant's Fundamental Rights Application. He is entitled to custody of the three biological children of the wedlock because he is on an official assignment in Islamabad, Pakistan where the three biological children of the dissolved Islamic union and myself would enjoy all diplomatic privileges.

That in response to the deposition in Paragraph 5(e) of the Applicant's Fundamental Rights Application, the Applicant herein filed her Notice of Appeal on the 27<sup>th</sup> Day of October 2021 but filed her Motion on Notice seeking for a stay of Execution on the 8<sup>th</sup> Day of November 2021 at the Registry of the Upper Area Court Garki, Holden at Kado.

That in further response to the deposition in Paragraph 5e, the Applicant herein did not immediately file an application seeking for a stay of execution of the judgment delivered by an Upper Area Court on the 25<sup>th</sup> Day of October 2021.

That in response to the deposition at Paragraph 5(g) in the affidavit in support of the Applicant's Fundamental Rights, neither him nor the 2<sup>nd</sup> Respondent's officers of the 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> Respondents made for the residence of the Applicant to threaten her.

That in further response to the deposition in Paragraph 5(g) ,he did not conspire with anybody or group of people to threaten the Applicant herein verbally or through the instrumentality of weapon.

That in response to the deposition in paragraph 5(h) of the Applicant Fundamental Rights Application, neither he nor the 2<sup>nd</sup> Respondent on the 11<sup>th</sup> day of November 2021 or on any other dates, caused the damage of doors and windows in the apartment where the Applicant resides.

That in response to the deposition in paragraph 5(j) in the affidavit in support of the Applicant's Fundamental Rights, security personnel and passer-by, neighbours, at Games Village Estate had no cause to intervene or come to the aid of the Applicant herein.

That in Response to the deposition in paragraph 5(k) in the affidavit in support of the Applicant's Fundamental Rights he is not in the knowledge that hearing notice was issued and served on the Applicant herein for the purpose of appearing before the Upper Area Court on the 16<sup>th</sup> Day of November 2021 at 2pm.

That in response to the deposition in paragraph 6 in the affidavit in support of the Applicant's Fundamental Rights, I complied strictly with official procedure for the enforcement of judgment by applying officially to the Chief Registrar of the Sharia Court of Appeal, Abuja Division through the Director of Litigation, Sharia Court of Appeal, Abuja. A copy of the said application is herewith attached and marked **EXHIBIT "A"**

That in further response to the deposition in paragraph 6, as at the 28<sup>th</sup> day of October 2021 when an application was officially made for the enforcement of the judgment delivered on the 25<sup>th</sup> Day of October, 2021

The Applicant herein had not filed an application for a stay of execution of the said judgment.

That in response to the deposition in Paragraph 7 in the affidavit in support of the Applicant's Fundamental Rights Application, he did not put up a forceful approach towards taking away my three biological children of the dissolved Islamic union from the Applicant.

That in response to the deposition in paragraph 8 in the affidavit in support of the Applicant's Fundamental Right Application, granting this Fundamental Right Application will prejudice me as I am innocent of all allegations contained in the said application.

That in response to the deposition in paragraph 9 in the affidavit in support of the Applicant's Fundamental Rights, the interest of Justice will not be served if this application is granted.

That it will be in the in interest of Justice to dismiss this suit.

on the other hand the 2<sup>nd</sup> Respondent filed thus counter affidavit to the applicant's application filed on 18<sup>th</sup> November, 2021 deposed to by oneChinenyeNweke, an Associate at Y.C. Maikyau& Co., Counsel to the 2<sup>nd</sup> Respondent.

That he has read the Applicant's application and Affidavit filed in support of same on 18<sup>th</sup> November 2021, deposed to by one Muhammed JamiluRukayyaOzavizeon behalf of the Applicant's and understood the content thereof.

That he confirms that the Applicant was married to his son, Muhammad Tafidaand that they got divorced sometimes in 2020

That he is the lawful and beneficial owner of Flat 2, Block C14, 18 Street of 17<sup>th</sup> Street, Games Village Estate, FCT Abuja ("the property")

That he has not relinquished title over the property to anybody including the Applicant, the 1<sup>st</sup> Respondent, or any other person.

That he allowed the Applicant and 1<sup>st</sup> Respondent to occupy the property rent-free on compassionate grounds to give up years.

That the need arose for him to use the property and he duly notified the Applicant, but she blatantly refused to give up possession.

That the Applicant is neither a tenant nor lessee on the property but an illegal occupant trespassing on same thus she is constituting trespass and nuisance on the property, and she lacks the legal basis to



commence this action or any other action with respect to the property.

That he is neither a party to, nor interested in the Matrimonial Causes actions between the Applicant and the 1<sup>st</sup> Respondent, being that both are adults who can make their individual decisions.

That he is neither responsible nor aware of any threats to the life and liberty of the Applicant.

That he neither sent hoodlums or officers to break his own property nor to forcefully take the Applicants kind-his own grand kinds.

## **2<sup>ND</sup>RESPONDENT WRITTEN ADDRESS IN SUPPORT OF COUNTER AFFIDAVIT**

The Applicant in this suit at Paragraph 2 page 12 of her Fundamental Rights Application formulated a lone issue for determination thus:-

*“Whether by the provision of sections 33, 34, 35, 37, 40, 41, 42, 43 and 46 of the Constitution of the Federal of Nigeria, 1999 (As Amended) and Articles 12 and 14 of the African Charter on Human and People’s Rights, the Respondents have the unfettered, unlimited and express powers to deprive the Applicant her Fundamental Human Rights without a just cause or as ordered by a Court of Law”*)

Having read and considered the Applicant’s Fundamental Rights Application, the ten paragraph affidavit in support and the written address, the 1<sup>st</sup> Respondent, submit respectfully that the Applicant’s suit herein is highly misconceived.

## **ISSUES FOR DETERMINATION**

The 2<sup>nd</sup> Respondent in this suit submit respectfully that having regard to the Fundamental Rights filed by the Applicant herein, two issues are considered apt and germane for determination thus:

- (1) Whether the Applicant's suit as presently constituted discloses any justiciable cause of action known to law?
- (2) Whether the Applicant herein is entitled to damages having regard to the fact that there is no reasonable and justifiable cause of action?

## ISSUES ONE

Whether the Applicant's suit as presently constituted discloses any justiciable cause of action known to law?

The Applicant in this suit, filed a Fundamental Rights Application. A ten paragraph affidavit was deposed to by one Muhammad Jamiu Rukayya Ozavize in support of the said Fundamental Rights Application.

The applicant in this suit alleged wrongly that the provision of section 33, 34(i) (A), 35(l) 36, 37, 41, 43 and 46 (1) & (2) of the Constitution of the Federal Republic of Nigeria, 1999 (As Amended) are being infringed upon.

*"The Applicant in this suit, however, did not, in the least, demonstrate or link the deposition in the ten paragraph affidavit in support of the Fundamental Rights Application to any of the afore stated provisions relations to Fundamental Rights as enshrined in the 1999 Constitution of the Federal Republic of Nigeria, (As Amended). This no doubt, confirmed unequivocally that there is no reasonable cause of action in the suit filed by the Applicant. See **AARTI STEEL (NIGERIA) LTD V OTAPO (2019) 4WRN 78 AT 84** where it was held as follow on whether a cause of action must arise for a litigant to initiate any legitimate proceeding "it is settled litigant can initiate any legitimate proceeding. A suit is aimed at vindicating some legal right or claim and such legal right can only arise when certain material facts arise. It is only when facts establishing a civil right*

*or obligation and facts establishing infraction or trespass on that right and obligation exist side by side that a cause of action is said to accure...” see also **AARTI STEEL (NIGERIA) LIMITED V OTAPO**(supra) where it was further held on whether a plea that a claim discloses no cause of action has direct effect on the jurisdiction of Court- “ It is not in doubt, that a plea that a claim does not disclose a reasonable cause of action entails the competence and therefore, the jurisdiction of the court to hear and determine same. This is so because, where there is no reasonable cause of action, the court would be acting in vein if it proceeds to entertain such a suit... in such a situation, the action would not be justiciable. The consequence is that, it would be struck out for non-disclosure of reasonable cause of action since it has a direct effect on the jurisdiction of the Court to hear and determine the matter...” See also **OKAFOR V LAGOS STATE GOVERNMENT (2017) 4NWRL (PT.1556) PG. 404 AT 413**where it was held as follows on how Court determines question of breach of Fundamental Rights “The question of infringement of fundamental right is largely a question of facts and does not so much depend on the dexterous submission of counsel on the law. So it is the fact as described by the affidavit evidence that is usually examined, analyzed and evaluated to see if the fundamental rights have been eviscerated as claimed or otherwise dealt with in a manner that is contrary to the constitutional and other provisions on the fundamental rights of an individual” The Court proceeded further in *Okafor V Lagos State Government* thus; on cause of action justifiable under the Fundamental Rights of action to be justified under the Fundamental Right (Enforcement Procedure) Rules, the cause of action must come within the ambit of the enforcement of any Fundamental Right contained”We submit respectfully that the fundamental Right suit filed by the Applicant herein did not disclose any conceivable and reasonable cause of action.”*

In the light of the fore going, this Honourable Court is urged to resolve issues One in favour of the 1<sup>st</sup> Respondent.

## ISSUES TWO

Whether the Applicant herein is entitled to damages having regard to the fact that there is no reasonable and justiciable cause of action?

It could be gleaned from the deposition in the Affidavit in support of the Applicant's Fundamental Human Rights that there is no justiciable and reasonable cause of action in this suit. The applicant in this suit failed woefully to prove or establish any act of arbitrariness, malice against the 1<sup>st</sup> Respondent or any of the Respondents in this suit.

It is trite law that damages will only be awarded in a Fundamental Human Right matter where there is a reasonable cause of action contemplated or envisaged within the realm of CHAPTER IV OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED). In the instant suit, the Applicant could not in the least, situate her complaint or grievance within the provision of **CHAPTER IV OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED)** or establish that she has suffered any form of damage.

Counsel submit respectfully that in so far as the Applicant has not shown or established that she suffered damages; damages cannot be awarded in her favour. *See EBUN ADEGBORUWA V ATTORNEY – GENERAL OF THE FEDERATION (1998) IFHCLR 171, INYANG V EDUOK (1999) 2FHCLR6.*

In the light of the fore going, this Honourable Court is urged to resolve issue two in favour of the 2<sup>nd</sup> Respondent.

While on behalf of the 3<sup>rd</sup> and 4<sup>th</sup> Respondent AtinkoJulina N. filed a 9 paragraph counter affidavit in support opposing the application filed by the Applicant same is deposit by AtinkoJulina N. particularly paragraph 3 to 5 provides :-

1. That the police officer by name ASP Audusaidu who was directly involved in this case is critically ill admitted in traditional Hospital at Keffi Nasarawa State
2. That the traditional Hospital does not give medical certificate.

3. That I was informed by ASP AuduSaidu a police officer attached to Sharia Court of Appeal Gudu on 17<sup>th</sup> day of February,2023 at about 3:00pm with the following facts which I believe to be true as follows:-
- a. That most of the paragraph deposed to by the Applicant in this application are false and misleading and thereby denied all the averments.
  - b. That paragraph 5 (A-E) are not within the knowledge of the 3<sup>rd</sup> and 4<sup>th</sup> Respondents and the Applicant is put to strictest proof of same.
  - c. That paragraph 5 (f), (g), (h),(i) and (j) are false calculated and concocted stories only existed in the imagination of the Applicant and the Applicant is put to strictest proof of same
  - d. That paragraph k,6 and 7 are not within the knowledge of 3<sup>rd</sup> and 4<sup>th</sup> Respondents.

Attached is a written address dated 13<sup>th</sup> February,2013 wherein the 3<sup>rd</sup> and 4<sup>th</sup> Respondents raised a sole issue for determination to wit:-

*"That the 3<sup>rd</sup> and 4<sup>th</sup> Respondents filed 9 paragraph counter affidavit to debunk the affidavit in support of the application of the Applicant"*

## ISSUES FOR DETERMINATION

*"Whether the 3<sup>rd</sup> and 4<sup>th</sup> Respondent breached the fundamental rights of the Applicant as contained in Chapter IV of the 1999 Constitution as amended, Article 12 & 14 of African Charter on Human and Peoples Rights and Article 12 of Universal declaration of Human Right law."*

It is trite, that fundamental rights denotes any of the right provided for in Chapter IV of the Constitution and includes any the rights stipulated in the African Charter on Human and PeoplesRights.

It is submitted that before any of the right contained in Chapter IV of the [1999](#) Constitution and the Provisions of the African Charter on Human and Peoples Rights can be enforced, the Applicant must establish a right of action and a cause of action against the 3<sup>rd</sup> and 4<sup>th</sup> Respondent, through cogent, convincing and credible evidence. In ***ADEKINLE V.A.G OF OGUN STATE*** ([2014](#)) [LPELR-22569](#) (CA).

*" The decision of the learned judge as set out above cannot be faulted. Indeed, the Appellant has the burden to prove by cogent, convincing and credible evidence, the facts as alleged by him, as constituting the breach or infringement of the fundamental right to freedom from inhuman and degrading treatment or tenure as guaranteed him by section 34 (1) (c) of the [1999](#) Constitution of the Federal Republic of Nigeria. General and wide allegations of such breach or infringement will not suffice".*

The above authority is applicable to the instant case.

The Applicant has not shown by way of prove any cogent, convincing and credible evidence that her fundamental rights has been breached by the 3<sup>rd</sup> and 4<sup>th</sup> Respondents. .

The Applicant claimed that the 3<sup>rd</sup> and 4<sup>th</sup> Respondent including 2<sup>nd</sup> Respondent and thugs went to her house and but failed to prove same.

Based on the argument herein canvassed and supported by authorities, Counsel urge this Honourable Court to dismiss this application with substantial cost against the Appellant as it is baseless, unmeritorious, frivolous, vexious and that the 3<sup>rd</sup> and 4<sup>th</sup> Respondent did not in any way infringe and there is no likelihood of them breaching the Applicants fundamental rights and award a cost

N20,000,000.00 (Twenty Million Naira) only against the Applicant in favour of 3<sup>rd</sup> and 4<sup>th</sup> Respondents.

Having reproduced the position of Counsels for the Counsels against the Applicant's application. I have equally take into consideration the affidavit of the Applicant in this judgment and the counter affidavit filed by the respective counsels to the Respondent except the 8<sup>th</sup> Respondent who filed a letter that in all circumstances can not be considered by this Court as counter affidavit in opposition to the Applicants application for the enforcement of fundamental Rights. A special procedure has been established by law as prescribed by the fundamental Right (Enforcement Procedure Rules 1999). The application is heard on the affidavit in support of the application and the affidavit must contain sufficient fact which a party to the application purposes to use at the hearing. The affidavit constitutes the evidence see *JACKVS UNIVERSITY (2004) 1 SCNJ 344*. In other words this procedure of commencing an action is sue generis essentially the finding of the Court basically is always based on affidavit evidence. In this respect I have critically looked at the affidavit in support and more particularly the entire paragraph contains in the said affidavit. I found nothing to support the application reliefs more particularly on the issues raised by the Applicant which if considered by the Court would warrant granting all the reliefs sought. Lack of material affidavit evidence made me not to grant this application so also from the entire processes in my view such violation if at all it exist it can not be said to have fell within the established rules of Fundamental Rule. it becomes imperative on the part of this Court not to labour this Court with the evaluation of the affidavit evidence filed by the Applicant so also the counter affidavit filed by the respective Respondent in this action. This is because the entire suit does not fall within the contemplation of the Fundamental

Rule Enforcement Procedure Rules. The next question to be resolved is whether the Applicants claim comes within the type that is enforceable as an infraction of fundamental Rule. The position of the law is that for a claim to qualify as falling under fundamental Rule it must be clear that the principal reliefs sought is for the enforcement or for securing a fundamental right not from the nature of the claim, to redress a grievance that is ancillary to the principal relief which is not ipso facto a claim for the enforcement of fundamental Right.

Thus where the alleged breach of a fundamental right is ancillary or incidental to the substantive claim of the ordinary civil or common law nature it will be incompetent to constitute the claim as one for the enforcement of a fundamental right see *FRN VS IFEANYI ( 2003) 15 NWLR(PT 842) 113-180 TUKAR VS GOVT OF TARABA STATE 91997) 6 NWLR (PT510) 549 AND TRUKI NIG LTD VS AMYBERO(2001) 2 NWLR (PT 696)159 ABDULLAHI VS AKOR (2006) SCNJ 59.*

Looking at the facts of the case as discussed by the respective Counsel in this affidavit and counter affidavit respectively any reasonable person will be perceived and be satisfied that none of the acts complaint of fall within the acts in the constitution. It follows therefore that for an applicant to successfully institute an action under the fundamental Rule (enforcement procedure rule) the claim must fall within section 33 -44 of the 1999 constitution being the section under chapter iv of the said constitution. See *WAEC VS ADEYAU 92008) 4 SCNJ 194 -195.* Consequently, from the above judicial authorities I can safely conclude that the entire application does not fall within the requirement of the law consequently the entire application is hereby dismissed. Parties should bear their respective costs.



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HON. JUSTICE M.S IDRIS  
(Presiding Judge)

Appearance

Olusola Egbeyinka:- For the Respondent

I.A Chidi:- For the 2<sup>nd</sup> Respondent