

**THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT ABUJA**  
**ON MONDAY 1<sup>ST</sup> DAY OF APRIL, 2019**  
**BEFORE HIS LORDSHIP: HON. JUSTICE V. V.M. VENDA**  
**SUIT NO: FCT/HC/CV/1705/18**

**BETWEEN:**

**JOSEPH JAMES .....APPLICANT**

**AND**

**1. INSPECTOR-GENERAL OF POLICE**  
**2. COMMISSIONER OF POLICE, F.CT.**  
**3. THE AREA COMMANDER, LIFE CAMP, F.CT** } **.....RESPONDENT**

**JUDGMENT**

In this suit No. CV/1705/2018, the Applicant brought this Application dated filed the 4<sup>th</sup> day of May, 2018 seeking the following reliefs:

- (1) The arrest and continuous detention of the Applicant by the Respondent's and its agents without any formal charge, arraignment or trial by a court of competent jurisdiction constitutes a breach of the Applicant's*

*fundamental rights as enshrined in the constitution of the Federal Republic of Nigeria.*

- (2) The illegal arrest and detention of the Applicant constitutes an infringement on his fundamental right to liberty, freedom of movement, private and family life and freedom from inhuman, barbaric and degrading treatment.*
- (3) That the Respondents release the Applicant unconditionally, or upon a liberal condition pending arraignment or a formal charge if any, before a court of competent jurisdiction.*
- (4) That the Respondents be restrained from any further detention or arrest of the Applicant against the provisions of section 35 of the constitution of the Federal Republic of Nigeria 1999.*
- (5) That the Respondents pay the sum of N10,000,000.00 (Ten Million Naira only) to the Applicant as compensation for the illegal arrest and detention, torture, inhuman and degrading treatment meted out to the Applicant, and infraction of his Fundamental Human Rights.*

In support of the application is a 14 paragraph affidavit deposited to by Jummai Joseph, the wife of the Applicant.

She deposed that the Applicant was invited to Gwarimpa Divisional Police Headquarters on the burglary that happened sometime in March, 2018 where the Applicant works as a gateman/security guard. That the Applicant did not return home that night and she went to Gwarimpa Divisional Headquarters to inquire about his whereabouts but was told Applicant was transferred to life camp Police Area Command where he is being detained. She then went to life camp police Area Command on the 18<sup>th</sup> of April, 2018 and saw Applicant who was detained without being charged to court.

That she has made several efforts to have the Applicant released on bail with reliable sureties to no avail, as respondents told her in clear terms that Applicant will neither be released on bail nor charged to court.

It is her further testimony that the Applicant is a responsible citizen who made himself available willingly with a definite address and can provide credible sureties that can take him on bail. It is in the interest of justice to grant this application as Respondents will not be prejudiced.

In his written submission, counsel to the Applicant formulated 2 issues for determination thus:

- (1) *Whether the Applicant's fundamental Rights have been and are being breach by the Respondents.*
- (2) *Whether the Applicant is entitled to an Order of this Honourable Court enforcing his fundamental rights for the breach and an order of compensation from the Respondents.*

On issue one, counsel submitted that it is clear that Respondents have intentionally deprived the Applicant of his fundamental right to freedom without regard to the rule of law. He cited section 35(1) of the constitution of the Federal Republic of Nigeria 1999 as (amended) which states thus:

*“Every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in the following cases and in accordance with the procedure permitted by law.”*

He argued further that paragraphs 7, 8 and 9 of the affidavit in support of the application shows that the Respondents have detained the Applicant since the 17<sup>th</sup> of April, 2018 without bail or formal charge before a court of competent jurisdiction thereby infringing on his right to personal liberty as guaranteed under section 35(1) of the constitution of the Federal Republic of Nigeria 1999 (as amended). He further cited the case of **ONİYORA VS. I. G.**

**P. (2007) WRN AT 53. AND THE CASE OF NEMI VS. A.G LAGOS STATE & ANOR (1996) 6 NWLR (PT 452) 42.**

On issue two, he argued that the applicant's fundamental rights have been breached and are still being breached by the Respondents and their agents which necessitated the principal claim of the Applicant in this application, which is for the enforcement of his fundamental rights as enshrined in the constitution of the Federal Republic of Nigeria 1999 (as amended). He cited the case of **FASHAWE VS. A.G. FEDERATION (2007) 8 WRN 125 AT 143 RATIO 9.**

Furthermore, he argued that the Applicant is a responsible citizen of Nigeria with a wife and a child, and has been kept in unlawful custody for over 2 weeks, thereby depriving his family of a decent means of survival.

He has also been subjected to severe and degrading treatment contrary to section 34(1) of the constitution which has prompted Applicant to demand for the sum of N10,000,000.00 as compensation for the illegal arrest, detention, torture and deprivation of his freedom of movement, personal liberty and right to earn a decent living.

He finally urged the court to grant the application in the interest of Justice.

The Respondents neither filed a counter affidavit to oppose the application nor appeared in court to defend the application despite being served.

On the 4<sup>th</sup> of March, 2019 when the case came up for hearing, there was no appearance for both sides, and the court promptly adjourned the case to 1/4/2019 for judgment.