

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**

**IN THE ABUJA JUDICIAL DIVISION**

**HOLDEN AT ABUJA**

**DELIVERED THE 8<sup>TH</sup> DAY OF MAY, 2020**

**BEFORE HIS LORDSHIP: HON. JUSTICE ASMAU AKANBI- YUSUF**

**SUIT NO. CV/2735/18**

**BETWEEN**

**MR. EPHRAIM ILOKA**

**.....**

**APPLICANT**

**AND**

- 1. THE NIGERIAN POLICE FORCE**
- 2. THE INSPECTOR-GENERAL OF POLICE**
- 3. THE ASSISTANT INSPECTOR GENERAL  
OF POLICE (A.I.G) ZONE 7, ABUJA**
- 4. INSP. DUGBO MAGISTRATE (A.I.G ZONE 7, ABUJA)**
- 5. MR. INNOCENT UGWU**

**RESPONDENTS**

**JUDGMENT**

This is an Originating Motion on Notice brought pursuant to Order II Rules 1-5 of the Fundamental Rights (Enforcement Procedure Rules 2009) and Section 34(1), 35 (1) (c), (4), (5) (a) & 46(1) of the Constitution of the Federal Republic 1999 (as amended) and under Articles 2, 3, 4, 5 and 6 of the African Charter on Human

and People's Rights. The Application is dated and filed 12<sup>th</sup> September, 2018.

The Reliefs sought in the Statement accompanying the application are as follows:

**1. AN ORDER** of this Honourable Court for the Enforcement of Fundamental Right of the Applicant under Sections 34(1), 35(1)(c), (4), (5)(a), (6) and 46(1) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), Articles 2, 3, 4, 5 and 6 of the African Charter on Human and People's Right.(Ratification and enforcement)Act and in terms of the specific reliefs sought in the Statement and the accompanying Affidavit in support of the Application.

**2. A DECLARATION** that the 3<sup>rd</sup> and 4<sup>th</sup> Respondent's arrest of the Applicant at the instigation of the of the 5<sup>th</sup> Respondent is unlawful and amounts to a violation of the Applicant's fundamental right to dignity of human person as guaranteed in section 34(1)(a) of the Constitution of the Federal Republic of Nigeria, 1999(as amended) and a violation of the Applicant's Fundamental Rights to the respect of the dignity inherent in a human being as

enshrined in Articles 2&5 of the African Charter on Human and people's Right (Ratification and Enforcement) Act.

3. **A DECLARATION** that the 3<sup>rd</sup> and 4<sup>th</sup> Respondent's arrest is unlawful and amounts to a violation of the Applicant's Fundamental right to personal liberty of the Applicant by the Respondent as guaranteed by section 35(1)(c), (4), (5)(a) & (6) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and chapter 6 of the African Charter on Human and People's Right (Ratification and Enforcement) Act.

4. **A DECLARATION** that the 3<sup>rd</sup> and 4<sup>th</sup> Respondent's detention of the Applicant is unlawful and amounts to an infringement of the Fundamental Right to personal liberty of the Applicant by the Respondent as guaranteed by section 35(1) (c), (4), (5) (a) & (6) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and Chapter 6 of the African Charter on Human and People's Right (Ratification and Enforcement) Act.

5. **A DECLARATION** that the 3<sup>rd</sup> and 4<sup>th</sup> Respondent's detention of the Applicant is unlawful and amounts to a violation of his dignity of Human Person as guaranteed by section 34(1) of the

Constitution of the Federal Republic of Nigeria 1999 (as amended) and Chapter 4 & 5 of the African Charter on Human and People's Right (Ratification and Enforcement) Act.

6. **A DECLARATION** that the arrest and detention of the Applicant is unlawful and amounts to discrimination against the Applicant and the violation of the Applicant's Fundamental Right to freedom from discrimination as enshrined in Section 42(1)(a) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and Chapter 2 of the African Charter on Human and People's Right (Ratification and Enforcement) Act.

7. Payment of 5,000,000.00 (Five Million Naira) as compensation by the Respondents jointly and severally for the unlawful arrest of the Applicant.

8. Payment of 5,000,000.00 (Five Million Naira) as Compensation by the Respondents jointly and severally for the violation of the Applicant's fundamental right to dignity of human person.

9. Payment of 5,000,000.00 (Five Million Naira) as compensation by the respondents jointly and severally for the violation of the Applicant's fundamental right to personal liberty.

10. Payment of 5,000,000.00 (Five Million Naira) as compensation by the respondents jointly and severally for breach of the Applicant's fundamental right to freedom from discrimination.

11. A public apology published in two national dailies by the Respondents jointly and severally for the violation of the Fundamental Rights of the Applicant.

The Grounds upon which the application is brought are as follows:

1. The Applicant is the owner of Twinare PROJECTS LTD with its office at Suite C47, 2<sup>nd</sup> Floor, Efab Mall, Area 11, Garki, Abuja.
2. The 1<sup>st</sup> Respondent is in charge of all the police officers in Nigeria.
3. The 2<sup>nd</sup> Respondent is the Chief Law Enforcement Officer in Nigeria and boss of the 3<sup>rd</sup> and 4<sup>th</sup> Respondents.
4. The 3<sup>rd</sup> Respondent is in charge of A.I.G Zone 7, Police Headquarters, Abuja.

5. The 4<sup>th</sup> Respondent is the Police Officer that arrested and detained the Applicant on the 16<sup>th</sup> day of July, 2018 on the false allegation of the 5<sup>th</sup> Respondent.
6. The Applicant was not a party to Case No. CR/957/17.
7. Judgment having been delivered in the matter that puts a seal on the matter the 5<sup>th</sup> Respondent lacks the power to reopen the same matter which judgment has been delivered which there was no appeal against it.
8. The treatment given the Applicant was cruel, inhumane, torturing and unlawful.
9. There was no basis for the arrest of the Applicant on that false petition
10. Before the Applicant was arrested by the Police, the Applicant was not invited or even given the dignity of having a copy of the petition to respond to.
11. All the Respondents lack the Jurisdiction to sit on appeal over a case that was concluded and judgment delivered.

12. The 5<sup>th</sup> Respondent cannot in law apply for the execution of the said judgment and in another breath petition for the arrest of the Applicant who was not a party to the said judgment.

13. All matters and issues pertaining to the case of **COMMISSIONER OF POLICE V CHIOMA ILOKA**, Case No: CR/957/17 has become Res Judicata by virtue of the judgment of the Upper Area Court, Gudu, Abuja.

The Applicant filed a 69 paragraphed affidavit the 12/9/18 as well as further and better affidavit the 12/11/18 in response to the 1<sup>st</sup> and 2<sup>nd</sup> respondents counter affidavit and a further and better affidavit the 18/2/19 in response to the 5<sup>th</sup> respondent counter affidavit dated. A written address was addressed settled by S.O Abang Esq, Counsel to the Applicant, wherein two issues were distilled for determination:-

*Whether the Fundamental Rights of the Applicant were violated by the Respondents*

*Whether the Respondents having violated the Applicant's Fundamental Rights are liable to pay compensation*

The 1<sup>st</sup> and 2<sup>nd</sup> Respondents upon being served with the Applicant's motion, in opposition filed an eight Paragraphed Counter Affidavit the 6<sup>th</sup> November, 2018 and in compliance with the Fundamental Rules, a written address was filed wherein two issues were raised:-

*Whether the applicant is entitled to the reliefs sought having regards to the materials and evidence already placed before this Honourable Court giving the circumstances of same*

*Whether on the materials before the court, the Applicant has been able to prove that his Fundamental Human Right(s) was violated or likely to be violated by the 1<sup>st</sup> and 2<sup>nd</sup> Respondents or any of their men/agents to entitle them to the reliefs sought*

The 5<sup>th</sup> Respondent filed a 42 paragraphed counter affidavit the 8/2/19 and in line with the rules, a written address was filed wherein a sole issue was formulated.

*Whether the Applicant's Fundamental Human Right has been breached by the 5<sup>th</sup> Respondent*

The 3<sup>rd</sup> & 4<sup>th</sup> Respondents did not respond to the Application. The 1<sup>st</sup> & 2<sup>nd</sup> Respondents filed a Notice of Preliminary Objection dated the 6/11/18. The Grounds upon which the objection was brought are:-

- a. That there is no cause of action against the 1<sup>st</sup> and 2<sup>nd</sup> Respondents.
- b. That the Application of the Applicants is frivolous, vexatious and scandalous

The reliefs sought in the Preliminary Objection are:-

1. AN ORDER of this Honourable Court striking out the name of the 1<sup>st</sup> and 2<sup>nd</sup> Respondent in this suit, for lack of reasonable cause of action against.
2. AN ORDER of this Honourable Court dismissing this suit for being incompetent
3. AND FOR SUCH FURTHER ORDER(S) as this Honourable Court may deem fit in this circumstance.

The Application is supported by a 5 Paragraphed affidavit deposed to by Isaiah Igwanigie, a {Litigation Secretary in the Law Office of Messrs O. M Atoyebi & Partners} Counsel to the 1<sup>st</sup> & 2<sup>nd</sup>

Respondents. Attached to the application is a written address dated 6<sup>th</sup> November, 2018. The Applicant in opposition filed a 32 paragraphed Counter Affidavit the 12<sup>th</sup> November, 2018 and attached 3 exhibits marked A, B & C. A written address was filed in support. The 1<sup>st</sup> and 2<sup>nd</sup> respondents' filed their reply on points of law and a written address the 4/12/18.

At the hearing, Counsel adopted their various applications.

In the instant case, Learned counsel to the Applicant/Respondent urged me to discountenance the affidavit in support of the preliminary objection as *PARAS 3 A – O* are submissions, legal argument and conclusions as the averments contained therein violates *SECTION 115(2) EVIDENCE ACT, 2011*. It is trite that an affidavit is statement of facts which the maker or deponent swears to be true to the best of his knowledge, information or belief.

See *ISHAYA BAMAIYI v. THE STATE & ORS (2001) LPELR-731(SC)* where the Supreme Court said “...in any affidavit used in the Court, the law requires, as provided in *SECTIONS 86 AND 87 OF THE EVIDENCE ACT* that it shall contain only a statement of facts and

*circumstances derived from the personal knowledge of the deponent or from information which he believes to be true, and shall not contain extraneous matter by way of objection, or prayer, or legal argument or conclusion.*

*The problem is sometimes how to discern any particular extraneous matter. The test for doing this, in my view, is to examine each of the paragraphs deposed to in the affidavit to ascertain whether it is fit only as a submission which counsel ought to urge upon the Court. If it is, then it is likely to be either an objection or legal argument which ought to be pressed in oral argument; or it may be conclusion upon an issue which ought to be left to the discretion of the Court either to make a finding or to reach a decision upon through its process of reasoning. But if it is in the form of evidence which a witness may be entitled to place before the Court in his testimony on oath and is*

*legally receivable to prove or disprove some fact in dispute, then it qualifies as a statement of facts and circumstances which may be deposed to in an affidavit. It therefore means that prayers, objections and legal arguments are matters that may be pressed by counsel in Court and are not fit for a witness either in oral testimony or in affidavit evidence; while conclusions should not be drawn by witnesses but left for the Court to reach.”*

**SECTION 115(2) EVIDENCE ACT PROVIDES:-**

*An affidavit shall not contain extraneous matter, by way of objection, prayer or legal argument or conclusion.*

Thus the content of an affidavit whether it is of the deponent's own knowledge or from information which he believes to be true, must not contain extraneous matter, objection, prayer, legal argument or conclusion.

An affidavit is a statement of fact which the maker or deponent swears to be true to the best of his knowledge, information or belief. It must

contain only those facts of which the maker or deponent has personal knowledge or which are based on information which he believes to be true. In the latter case he must also state the grounds of his belief and state the name and full particulars of his informant. No legal arguments, conclusions or other extraneous matters must be included. ***JOSIEN HOLDINGS LIMITED & ORS v. LORNAMEAD LIMITED & ANOR (1995) LPELR-1634(SC)*** I have carefully gone through the affidavit in support of the preliminary objections and in applying the law, it is can be gleaned from the affidavit that the deponent stated his source of information, also the name and full particulars of his informant are stated therein. The averments contained therein are statement of facts, and not conclusions or legal matters. I therefore hold that the depositions contained in the affidavit are competent as none of the paragraphs offends the provisions of ***SECTION 115 EVIDENCE ACT.***

I now proceed to deal with the preliminary objection.

It is the law that the essence of a preliminary objection against a suit or application or an appeal is, if successful, is to terminate the

hearing of the matter under consideration in limine either partially or in toto. Accordingly, where competence of the matter is challenged, it is always better to determine same first before embarking to consider the said matter; where the said matter is found to be incompetent that puts an end to it. ***CENTRAL BANK OF NIGERIA v. LT. COL. ISAAC I. OKPANACHI & ORS (2018) LPELR-46730(CA)***

Learned Counsel to the 1<sup>st</sup> and 2<sup>nd</sup> Applicant/Respondents formulated a single issue in the application, that is;

*Whether having regard to the Originating Application in this case, the Applicant has a reasonable cause of action against the 1<sup>st</sup> Respondent to warrant being made a party in this suit.*

It is the evidence of the 1<sup>st</sup> and 2<sup>nd</sup> Applicants/Respondents in the affidavit in support and reply on points of law, that the Applicant has not shown any cause of action against them; that the Statement of facts or affidavit in support of the application did not in any way refer to where the 1<sup>st</sup> and 2<sup>nd</sup> Respondents played a role or even directed any of its Officer/Agent to carry out the alleged act. Learned Counsel submits that the 1<sup>st</sup> and 2<sup>nd</sup> Respondents cannot be made a party to the suit based on

speculations; that the Applicant failed show the court where/when the 1<sup>st</sup> and 2<sup>nd</sup> Respondents authorized any of its officers to act on his behalf. He relied on *NJOKU V JONATHAN & ORS (2015) LPELR 24496 (CA) PP 45-47*

Furthermore the 1<sup>st</sup> and 2<sup>nd</sup> Respondents stated that the Applicant has not shown that there is a cause of action against them; that there is no tangible proof or evidence to show that the Applicant has a reasonable cause of action. He argued that the averments contained in the affidavit in support of the originating motion and the exhibits attached thereto did not in any way link the 1<sup>st</sup> and 2<sup>nd</sup> Respondents to the allegations; that the Applicant failed to establish a case against the 1<sup>st</sup> and 2<sup>nd</sup> Respondents. He continued further that based on the Applicant's failure to disclose the wrong the 1<sup>st</sup> and 2<sup>nd</sup> respondents carried out against him; that the applicant is not entitled to any of the declarative reliefs sought. Learned Counsel referred the court to *SECTION 131(1), 132 EVIDENCE ACT; THE FEDERAL POLYTECHNIC NEKEDE OWERRI & ANOR V MR LOUIS O. NWAUZOR (2014) LPELR 24289 (CA) P.19, PARAS C-G* and several other authorities. Learned counsel to the Applicant urged the court to

strike out the names of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents from the suit as well as dismiss the Applicant's claims with cost.

Learned counsel to the Respondent/Applicant's on the other hand submits that the Applicant having shown a cause of action against the 1<sup>st</sup> and 2<sup>nd</sup> Respondents, they ought to be made parties to the suit; that the 1<sup>st</sup> and 2<sup>nd</sup> Respondents are to be given opportunity to state their own side of the case, in order for the decision of the court to be binding on them. It was further stated that the Applicant has shown that his right was breached as a result of the actions or inactions of all the Respondents. Learned counsel to the Applicant submits that the 1<sup>st</sup> and 2<sup>nd</sup> Respondents are necessary parties in the suit; that they are jointly and severally liable for the violation of the applicant's fundamental right by the 3<sup>rd</sup> and 4<sup>th</sup> Respondents. It is the submission of the Applicant's counsel that the 1<sup>st</sup> and 2<sup>nd</sup> Respondents/Applicants did not deny being superiors to the 3<sup>rd</sup> and 4<sup>th</sup> Respondents who acted as their juniors in arresting and detaining the Applicant unlawfully. Counsel referred the court to *CHIEF DR O. FAJEMIROKUN V COMMERCIAL BANK NIG. LTD & ANOR (2009) LPELR – 1231 (SC)* and several other

authorities and urged the court to dismiss the preliminary objection filed by the 1<sup>st</sup> and 2<sup>nd</sup> Respondents.

### **RESOLUTION OF THE PRELIMINARY OBJECTION**

I shall adopt the issue formulated by the 1<sup>st</sup> and 2<sup>nd</sup> Respondents, that is:

*Whether having regard to the Originating Application in this case, the Applicant has a reasonable cause of action against the 1<sup>st</sup> Respondent to warrant being made a party in this suit*

It is settled principle of law that an applicant who seeks for the enforcement of his fundamental rights against certain persons has the burden to establish that he has a cause of action against the persons. The Supreme Court in the case of **RINCO CONSTRUCTION CO. LTD. V. VEEPEE INDUSTRIES LTD. & ANOR(2005) LPELR-2949(SC)** relying on the authority of Ibrahim v. Osim (1988) 3 NWLR (Pt. 82) p. 257 at p. 267 defined the cause of action as follows:- *"A cause of action is the entire set of circumstances giving rise to an enforceable claim, it is in effect the fact or combination of facts, which give rise to a right to sue and it consists of two elements:*

*'(a) The wrongful act of the defendant which gives the plaintiff his cause "of complaint and the consequent damage."*

The law is trite that whenever the issue of reasonable cause of action is raised, it is the statement of claim or, as in this case the averments in the affidavit in support of an Originating Motion that ought to be considered. So long as the statement of claim or the affidavit in support of the Originating Motion discloses some cause of action, or raises some questions which can be decided by a Judge, there is reasonable cause of action. The mere fact that the case is weak, and not likely to succeed, is no ground for striking it out or dismissing it. See ***BARBUS & COMPANY NIGERIA LIMITED & ANOR v. MRS. GLADYS OYIBOKA OKAFOR-UDEJI (2018) LPELR-44501(SC)***

In resolving this issue, it is necessary to state the Respondents in this suit; the 1<sup>st</sup> and 2<sup>nd</sup> Respondents are The Nigeria Police Force and The Inspector General of Police respectively, while the 3<sup>rd</sup> and 4<sup>th</sup> Respondents are The Assistant Inspector of Police Zone 7, Abuja and Insp Dugbo Magistrate (A. I. G) Zone 7, Abuja. The 5<sup>th</sup> Respondent is a private citizen.

*SECTION 3 OF THE POLICE ACT* provides that: there shall be established for Nigeria a Police Force to be known as the Nigeria Police Force;

Section 6 states: the Force shall be under the Command of the Inspector General and Contingents of the Force stationed in a State shall, subject to the authority of the Inspector- General, be under the Command of the Commissioner of that State.

Section 8(2) states: an Assistant Inspector General shall act for the Inspector General in the absence of both the Inspector General and the Deputy Inspector General and when so acting, the provisions of paragraphs (a) and (b) of Subsection (2) of Section of this Act shall, with all necessary modifications, apply to him.

From the above sections of the Police Act, it is clear that an Assistant Inspector General of Police being an officer under the command of Inspector General of Police has the power to act on behalf of the Inspector General in the case the Inspector General of Police is not available. The 1<sup>st</sup> and 2<sup>nd</sup> Respondents in the affidavit in support of the preliminary objection did not deny the fact that the 3<sup>rd</sup> and 4<sup>th</sup> Respondents are officers of the Nigerian

Police. The contention of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents is that they had no dealings or transactions with the Applicant; that the Applicant has placed nothing before the court to show how the 1<sup>st</sup> and 2<sup>nd</sup> Respondents as an institution got involved in the alleged act; thus cannot be held liable for the actions of the other Respondents. The Respondent/Applicant on the other hand averred in his counter affidavit that his counsel wrote a letter to the A. I. G Zone 7, Police Headquarters, Abuja requesting for the copy of the petition written by the 5<sup>th</sup> Respondent against him. The said letter marked exhibit A was acknowledged and has the stamp of the 3<sup>rd</sup> Respondent, AIG Zone 7, who did not in any way challenge the exhibit or facts contained in the counter affidavit.

***SECTION 131(1) EVIDENCE ACT PROVIDES:***

*Whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts shall prove that those facts exist.*

It is trite that the burden of proof lies on the party who would fail if no evidence is given on either side. ***SEE 132 EVIDENCE ACT.***

Furthermore the Applicants/Respondents argued that the assertions of the applicant are speculative and that courts are not allowed to act on speculations. It is trite, that a trial Court is precluded and should not decide a case on mere assumption, conjecture or speculation. Indeed, Courts of law are Courts of both facts and laws. Hence, they decide issues placed before them on facts as pleaded and established by evidence adduced before them; predicated on applicable laws. They are enjoined to avoid speculation of whatever colouration. See ***LAWSON NNAMDI CHUKWU & ANOR v. HON. LOLO STELLA C. CHUKWU & ORS (2018) LPELR-45482(CA)***.

In the instant case, the facts stated in the counter affidavit; See Paragraphs 16,17,18,19,20,21,22,23,24,25,26,27,28,29,30 and 31; these are not assumptions or speculations, they are facts within the knowledge of the applicant and the assertions were further buttressed with Exhibit A written to AIG Zone 7 by the Applicant's counsel. The 1<sup>st</sup> and 2<sup>nd</sup> respondents did not in any way deny the exhibit A which clearly has on it the official stamp of the AIG Zone 7.

It is also not in doubt that the 3<sup>rd</sup> and 4<sup>th</sup> Respondents are officers of the institution; this was not denied by any of them. The position of the law is that where evidence given by a party is unchallenged or uncontroverted a Court of law must accept it and act on it unless it is palpably incredible. *SEE IYERE V BENDEL FEED AND FLOUR MILL LTD 2008) LPELR-1578(SC)*. The 3<sup>rd</sup> and 4<sup>th</sup> Respondents who were the principal actors did not file a counter affidavit to rebut the depositions contained in the affidavit in support of the Originating Process. It is also clear from the processes before the court that the 3<sup>rd</sup> and 4<sup>th</sup> Respondents were not sued in their personal capacity, the Nigeria Police Force being a responsible and law – abiding Federal Government Agency and headed by the Inspector General of Police had the power to mandate the 3<sup>rd</sup> and 4<sup>th</sup> Respondents to respond to the allegations made against them, by so doing proper evidence would have been placed before the court. The court at this stage will refrain from deciding whether or not the 1<sup>st</sup> to 4<sup>th</sup> Respondents are liable to the Applicant, not until the evidence put forward by the Applicant is evaluated before a just decision can be arrived at. In the absence of any contrary evidence, that the 3<sup>rd</sup> and 4<sup>th</sup>

Respondents are not men of the Nigeria Police Force, I hold that the 1<sup>st</sup> and 2<sup>nd</sup> Respondents are necessary parties to this suit. I find no merit and substance in the preliminary objection of the 1<sup>st</sup> and 2<sup>nd</sup> Applicants/Respondents and same is hereby dismissed.

Now to the main application, a brief fact of the case is that a petition was written against the Applicant to the police by the 5<sup>th</sup> Respondent, which led to the arrest of the Applicant by the 4<sup>th</sup> Respondent in front of the Upper Area Court, Gudu, Abuja on the 16<sup>th</sup> day of July, 2018 and was subsequently detained at the AIG Zone 7, Police Headquarters, Abuja; it is the evidence of the Applicant, that his counsel sought to know the reason for his arrest from the 4<sup>th</sup> Respondent, and his response was that a petition was written against the Applicant by the 5<sup>th</sup> Respondent. The applicant continued further that despite the plea of his counsel to the 4<sup>th</sup> Respondent to allow him come to their office on Friday, the 4<sup>th</sup> Respondent refused and insisted on his arrest, thus the Applicant was taken to the AIG Zone 7, Police Headquarters, Abuja. The Applicant continued further that he was told at the AIG Zone 7, Abuja that the 5<sup>th</sup> Respondent petitioned him after a judgment had been given in the matter of Cop v Chioma Iloka in

Case CR/957/17, that the 5<sup>th</sup> Respondent later discovered that Chioma Iloka, the Applicant's former wife, stole the sum of #9,800,000 (Nine Million Eight Hundred Thousand Naira) and lodged the stolen money in the Applicant's bank account. The Applicant stated further that he made a statement at the AIG Zone 7; that whilst still in detention of the police, his counsel wrote a letter to the AIG Zone 7, Police Headquarters, Abuja, requesting for a copy of the petition written by the 5<sup>th</sup> Respondent against him. The said letter was attached to the affidavit in support of this application and marked as exhibit G. It is the evidence of the Applicant that after his counsel S. O Abang Esq. read the petition of the 5<sup>th</sup> Respondent to him; he promised the police to make available his bank statement of account. The Applicant continued further that before he was released on the 16<sup>th</sup> of July, 2018 he was taken to an office at the AIG Zone 7 Police Headquarters, Abuja where the 4<sup>th</sup> and 5<sup>th</sup> Respondents were present; that the 5<sup>th</sup> Respondent stated his own case, whilst he also narrated his own side; the Applicant stated further that he informed the police he divorced his wife Chioma Iloka since December 2015 and that he was not aware of what transpired between his former wife and

the 5<sup>th</sup> Respondent. The Applicant continued that he was released at about 6pm the 16<sup>th</sup> day of July, 2018; that on the 30<sup>th</sup> day of July, 2018 he had to present his Skye Bank statement of account with account number 1040070117 for the period of 1<sup>st</sup> June, 2014 to 25<sup>th</sup> July 2018 to the 4<sup>th</sup> Applicant ; the Applicant stated further that on the 9<sup>th</sup> day of August, 2018, he was given a certified true copy of the Judgment delivered by the Upper Area Court, Gudu, Abuja delivered the 30<sup>th</sup> June, 2017 in the case of Cop v Chioma Iloka Case No CR/957/17 and a certified true copy of the Application for Judgment Enforcement written by the 5<sup>th</sup> Respondent. It is the evidence of the Applicant that on the 28<sup>th</sup> August, 2018, his counsel submitted a complaint to the 3<sup>rd</sup> Respondent against the 5<sup>th</sup> Respondent for giving false information which led to his arrest and detention the 16<sup>th</sup> July 2018. The Applicant stated that despite the request by his counsel to the Police to be given the said petition, the 3<sup>rd</sup> Respondent has refused to give him the copy of the petition written against him by the 5<sup>th</sup> Respondent.

It was further stated by learned counsel to the Applicant that the arrest and detention of the Applicant on the 16<sup>th</sup> July, 2018 from

12.37am till 6pm of same day was illegal and unlawful; that the arrest was not for the purpose of bringing the Applicant before a court in execution of an Order of a court. Learned counsel to the Applicant argued, that the arrest and detention of the Applicant amounts to discrimination against him as the Respondents were not empowered by law to arrest him since he was not a party to the Judgment delivered by the Upper Area Court, Gudu, Abuja on the 30/6/17; that the 5<sup>th</sup> Respondent was wrong to have instigated the arrest and detention of the applicant over a false claim, more so after the Judgment delivered by the Upper Area Court. It was further submitted that the arrest and detention of the Applicant being irregular, malicious, arbitrary, it is a violation of the Applicant's fundamental right. Learned counsel argued that based on the breach of the Applicant's fundamental rights by the Respondents, the Applicant is entitled to compensation. He therefore urged the court to grant all the reliefs sought by the Applicant. Counsel relied on several authorities.

It is the arguments of learned counsel to the 1st and 2nd Respondents that the reliefs of the Applicant are declaratory and as such it is at the discretion of the court. He stated that the

Applicant has failed to prove that the 1<sup>st</sup> and 2<sup>nd</sup> Respondents authorized any of their men to carry out the alleged act; that the exhibits attached has no link to the 1<sup>st</sup> and 2<sup>nd</sup> Respondents; that the applicant has failed to prove the alleged violation of his fundamental rights. It is the argument of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents that the facts placed before the court by the Applicant cannot be resolved by affidavit evidence, as the process is employed to harass, irritate and annoy the 1<sup>st</sup> and 2<sup>nd</sup> Respondents. It is also further argued that the Applicant has not shown sufficient proof that his right was breached by the 1<sup>st</sup> and 2<sup>nd</sup> Respondents; that the applicant has failed to state the particulars of the officers nor proof that the officers said to have carried out the act, are officers of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents; that the case of the Applicant is speculative, lack substance and credible evidence. Learned counsel referred the court to several authorities and urged the court to dismiss the case of the Applicant.

Learned counsel to the 5<sup>th</sup> Respondent on the other hand, submits that the 5<sup>th</sup> Respondent has not in any way breached the fundamental human right of the Applicant; that if the fundamental

right of the Applicant was in any way breached by the police, the 5th Respondent cannot be held liable for same; that he petitioned the police based on the admission of the Applicant's wife (Chioma Iloka) that she gave the money she stole from the 5th respondent to the Applicant. It was further stated that his petition to the police has not in any way violated the fundamental right of the Applicant. It was the submission of counsel to the 5th Respondent that the applicant was not detained up to 24 hours; that the Applicant was questioned, his statement was taken and thereafter released on bail same day. He stated further that the Applicant was not detained, intimidated or harassed, thus his fundamental rights were not breached, and urged the court to dismiss the Application.

I have carefully considered the evidence before me as well as the attached documents, it is the law that he who alleges must prove. The Applicant has a duty to establish that his fundamental right has been breached by placing credible and cogent evidence before the court. It is the law that the burden of proof lies on an applicant who has alleged breach of his fundamental right and same can be proved or established by cogent and credible

evidence. See: Sections 131 - 133 of the Evidence Act which states the fundamentals of such proof:

*"131. (1) whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts must prove that those facts exist.*

*(2) When a person is bound to prove the existence of any fact it is said that the burden of proof lies on that person.*

*132. The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side.*

*133.(1) In civil cases the burden of first proving the existence of a fact lies on the party against whom the judgment of the Court would be given if no evidence were produced on either side, regard being had to any presumption that may arise on the pleadings." See FAJEMIROKUN v. COMMERCIAL BANK (NIG) LTD & ANOR (2009) LPELR-1231(SC)*

The Applicant has asked the court to declare that his arrest and detention by the 3<sup>rd</sup> and 4<sup>th</sup> Respondents based on the instigation of the 5<sup>th</sup> Respondent amounts to the violation of his fundamental

right to dignity, personal liberty, right to freedom, unlawful and discrimination. It is deposed in the affidavit in support that the Applicant was arrested at 12.37pm and detained till 6pm or thereabout. The 3<sup>rd</sup> and 4<sup>th</sup> Respondents who were/are the major actors in this suit failed and or neglected to file a counter affidavit.

It is trite that unchallenged evidence is deemed admitted. See **ISAAC OMOREGBE v. DANIEL PENDOR LAWANI (1980) LPELR-2655(SC)**

*“where evidence given by a party to any proceedings was not challenged by the opposite party who had the opportunity to do so, it is always open to the court seised of the proceedings to act on the unchallenged evidence before it”*

Thus I hold that the arrest and detention of the Applicant from 12.37pm till 6pm the 16<sup>th</sup> July, 2018 by the 3<sup>rd</sup> and 4<sup>th</sup> Respondents was illegal, unlawful and amounts to the breach of the Applicant’s fundamental right.

The 1<sup>st</sup> and 2<sup>nd</sup> Respondents jointly filed a counter affidavit denying the allegations of the Applicant. The 1<sup>st</sup> Respondent is the Nigeria Police Force whilst the 2<sup>nd</sup> Respondent is the

Inspector General of Police. See Section 214 of the 1999 Constitution (as amended) provides as follows:

*214. (1) there shall be a police force for Nigeria, which shall be known as the Nigeria Police Force, and subject to the provisions of this section no other Police force shall be established for the Federation or any part thereof.*

*(2) Subject to the provisions of the Constitution:-*

*(a) The Nigeria Police Force shall be organized and administered in accordance with such provisions as may be prescribed by an act of the National Assembly;*

*(b) The members of the Nigeria Police Force shall have such powers and duties as may be conferred upon them by law;*

*(c) The National Assembly may make provisions for branches of the Nigeria Police Force forming part of the Armed Forces of the Federation or for the protection of harbours, Waterways, Railways and Airfields.*

Section 3 of the Police Act provides that: there shall be established for Nigeria a Police Force to be known as the Nigeria Police Force;

Section 6 states: the Force shall be under the Command of the Inspector General and Contingents of the Force stationed in a State shall, subject to the authority of the Inspector- General, be under the Command of the Commissioner of that State. Section 8(2) states: an Assistant Inspector General shall act for the Inspector General in the absence of both the Inspector General and the Deputy Inspector General and when so acting, the provisions of paragraphs (a) and (b) of subsection (2) of section of this Act shall, with all necessary modifications, apply to him.

The Applicant deposed in the affidavit in support of the originating process and further & better affidavit, that he was arrested the 16<sup>th</sup> of July, 2018 at the premises of the Upper Area Court at about 12.37pm by the 4<sup>th</sup> Respondent who is an officer of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents and subsequently taken to the AIG Zone 7 Police Headquarters, Abuja the 3<sup>rd</sup> Respondent. The Applicant has attached to the Affidavit in support Exhibits G & K. The

Exhibit G is the letter written to the AIG Zone 7 Police Headquarters, Wuse Zone 3, Abuja requesting for the certified true copy of the petition which led to the arrest of the Applicant, it is dated the 16<sup>th</sup> July, 2018; Exhibit K is the complaint letter written against the 5<sup>th</sup> Respondent to the AIG Zone 7 Police Headquarters, Wuse Zone 3, Abuja and dated the 27<sup>th</sup> August 2018. A careful look at the two exhibits shows that the documents were duly received and acknowledged at the office of the AIG Zone 7 Headquarters. The Applicant stated that he was not given a copy of the said petition written by the 5<sup>th</sup> Respondent. The 1<sup>st</sup> and 2<sup>nd</sup> Respondents argued that they cannot be held liable as they never sent any of its officers/agents to arrest the Applicant and that they didn't receive any petition from the 5<sup>th</sup> Respondent. The 1<sup>st</sup> and 2<sup>nd</sup> Respondents however failed to rebut the documentary evidence received by the officers and or men of the Nigeria Police Force. See Exhibits G & K attached to the affidavit in support. They also failed to investigate the allegations made by the Applicant against their officers even in the face of Exhibits G & K; they cannot now turn around to state that they were not aware of the activities of their officers carried out the 16<sup>th</sup> July, 2018. The

allegation of the Applicant was confirmed by the 5th Respondent in his counter affidavit. The 5<sup>th</sup> Respondent averred that the Applicant was arrested on the 16<sup>th</sup> of July, 2018 by the 4th Respondent and taken to the AIG Zone 7, Headquarters Abuja.

The 5<sup>th</sup> Respondent in his counter affidavit stated thus;

Para 37: that I lodged a petition with the police through my Legal Practitioner against Chioma Iloka and Ephraim Iloka;

Para 38: that I know that the police took 16<sup>th</sup> day of July 2018 the 3<sup>rd</sup> and 4<sup>th</sup> Respondents arrest the Applicant to answer to the petition against him;

Para 39: that the Applicant was arrested because could not be found in his last known address.

Para 40: that the Applicant made his statement and was released on bail that same 16<sup>th</sup> of July, 2018.

The assertions of the 5th Respondent have further buttressed the allegations made by the Applicant against the Respondents.

*See section 133(1) Evidence Act. In civil cases, the burden of first proving existence or non existence of a fact lies on the party*

*against whom the judgment of the court would be given if no evidence were produced on either side, regard being had to any presumption that may arise on the pleadings. (2) if the party referred to in subsection (1) of this section adduces evidence which ought reasonably to satisfy the court on the party against whom judgment would be given if no more evidence were adduced, and so on successively, until all the issues in the pleadings have been dealt with.*

*Section 136(1) evidence act provides: the burden of proof as to any particular fact lies on that person who wishes the court to believe in its existence unless it is provided by any law that the proof of that fact shall lie on any particular person, but the burden may in the course of a case be shifted from one side to the other.*

*(2) In considering the amount of evidence necessary to shift the burden of proof regard shall be had by the court to the opportunity of knowledge with respect to the fact to be proved which may be possessed by the parties respectively.*

Also in distinguishing the instant case from the facts of **FAJEMIROKUN V CB (CL) (NIG) LTD &ANOR (2002) 10 NWLR (PT. 744) 95 @**

**110**, relied on by the Respondents, *the contention of the Appellant in that case is that he was invited by the Police at FIIB, Alagbon, Lagos, at the instance of the respondents; that he was arrested and detained on 20th of July, 1995 and that he missed a business dinner, that he was unaware of any transaction between his company that is Broad Based Mortgage Finance company Ltd. of which he was chairman and 1st respondent, that the 2nd respondent led Policemen to his office on 20th July, 1995, and that he was detained for four hours at the FIIB, Alagbon, Ikoyi, Lagos and that the entry in the Police record showed that he was arrested for theft. The respondents' version is that the appellant was chairman of Broad Based Mortgage Finance Limited, that the said company was indebted to the respondents for the sum of N2 Million that the said company issued series of cheques to pay up the debt but the cheques were returned unpaid. That the 1st respondent appointed the 2nd respondent as agent to recover the said debt, that the 2nd respondent legally lodged a complaint with the FIIB, Alagbon, Ikoyi, Lagos, for the issuance of dud cheques. That it was the Police who invited the applicant/appellant for interrogation and that the appellant admitted knowledge of the*

*debt to the Police. That up to date the debt had not yet been liquidated. The respondents did not report a case of theft to the Police. The court was of the opinion that it is not the duty of the police to tender the extract of the record book where the appellant saw the complaint of theft written against his name. That it is the duty of the appellant to tender such extract in evidence. It was stated that the respondents were able to present their facts before the court. That is, it was a case of issuance of dud cheques against the appellant and he had to be invited for interrogation. The court held that the burden did not shift from the appellant to the respondent, except the appellant led evidence to satisfy the trial Court that those sets of facts sought to be proved were actually proved.* However in the instant case the Applicant attached exhibits G & K to the affidavit in support of the originating process and the 1<sup>st</sup> and 2<sup>nd</sup> Respondents who are the principal officers of the 3<sup>rd</sup> and 4<sup>th</sup> Respondents are aware of these documents, they however failed and or neglected to investigate the activities of their men/officers. This denial by the 1<sup>st</sup> and 2<sup>nd</sup> Respondents that they do not know the Applicant or had any dealings nor receive any petition from the 5<sup>th</sup> Respondent

against the Applicant is unsustainable; the burden to proof placed on the Applicant shifted on the 1<sup>st</sup> and 2<sup>nd</sup> Respondents the moment they failed to rebut or give explanations to exhibit G & K attached to the Applicant's processes. These documents were addressed to the AIG Zone 7 in his official capacity and it is crystal clear on the face of the exhibits that the documents were received and acknowledged at the said office. The allegation that the Applicant was arrested and taken to the office of the AIG was also corroborated by the 5<sup>th</sup> Respondent. In the absence of any other evidence refuting the allegation, I hold that the arrest and detention of the applicant by the 1<sup>st</sup> to 4<sup>th</sup> Respondents from 12.37pm to 6pm or thereabout the 16<sup>th</sup> day of July, 2018 amounts to breach of the Applicant's Fundamental right.

The 5<sup>th</sup> Respondent has stated that he merely wrote a petition against the applicant and thus not liable to the actions carried out by the 3<sup>rd</sup> and 4<sup>th</sup> respondents. Can this assertion be true? Certainly not! It is the evidence of the Applicant that he was arrested and detained based on the petition written by the 5<sup>th</sup> Respondent. That on the 16<sup>th</sup> July 2018, immediately he stepped out of the premises of the Upper Area Court he was arrested in

the presence of his counsel by the 4<sup>th</sup> respondent who identified himself as a police officer. It is also the evidence of the Applicant that his counsel asked for the copy of the petition from the 4<sup>th</sup> Respondent but was told the petition was at the office of the AIG Zone 7 Police Headquarters that he would be given the petition. The Applicant further stated that he made a statement at the AIG's office and while still in detention, his counsel wrote exhibit G requesting for a copy of the petition written by the 5<sup>th</sup> Respondent against the Applicant. The said petition was not given to the Applicant. That he was released at about 6pm on same day with a condition that he provides his bank statement of account. The Applicant said he provided his bank statement of account for the period of 1<sup>st</sup> June 2014 to 25<sup>th</sup> July 2018 to the police on the 30<sup>th</sup> July, 2018. The 5<sup>th</sup> Respondent has also not denied writing a petition against the Applicant to the police. It is the evidence of the 5<sup>th</sup> Respondent that one Chioma Iloka his sales girl is the wife of the Applicant ; that the Chioma worked for him till April 2017 before he discovered that she was falsifying the company's account; that the sales girl confessed to the police that she falsified the account; that she admitted giving the money to her

husband, the Applicant; that during the time the Chioma Iloka was with him as a sales girl, the Applicant was in possession of her ATM card with which he withdrew money from the account. It is also the evidence of the 5<sup>th</sup> Respondent in his counter affidavit that the Applicant's wife stated that the bungalow at Dutse Alhaji Zone 7 was built with the money she took from his shop; that the Applicant's wife was charged to court and the police recovered the sum of three hundred thousand naira and a Mercedes car from her. He continued further that the items recovered during police investigation were given back to him by a Court Order; that sometimes in March 2018 when he made a fresh discovery of about Nine Million, Eight Hundred Thousand Naira, he lodged another petition with the police through his lawyer against the Chioma Iloka and Ephraim Iloka, the applicant in this case, and it was based on his subsequent petition, that the Applicant was arrested the 16<sup>th</sup> April, 2018 by the police. The 5<sup>th</sup> Respondent however failed to attach a copy of the said petition or any document to support his assertions. Learned counsel argued that the 5<sup>th</sup> Respondent's petition to the police was as a result of the fresh falsification discovered by the 5<sup>th</sup> Respondent in his record.

In deciding whether the 5<sup>th</sup> respondent is liable or not, I refer to **OGBONNA v. EGBULEFU & ORS (2018) LPELR-43810(CA)** where the Court of Appeal relied on the case of **OZIDE & ORS. VS. EWUJIE & ORS (2015) LPELR 24482 (CA)**, this Court said: *“The law is trite, that where a party lodges false and/or malicious complaint(s) with the Police against another, and causes the Police to use their coercive powers, wrongly, at the pleasure of the party who lodges the complaint(s), he must, together with the Police bear responsibility for the unlawful acts/omission of the Police done to the victim of the false/Malicious complaints/report. The emphasis in the above case ( Ozide vs. Ewuzie (Supra) was in lodging False and/or Malicious Complaint(s) against an Applicant seeking the application or taking action to enforce his fundamental rights. Thus, where the complaint is founded on bona fide complaint of commission of crime assault, threat to life, fraud, obtaining by false pretences, malicious damage, stealing and such other criminal complaints, whereof the complainant was a victim or was genuinely apprehensive of threat to his safety or right or safety of his property, he is excused by law, to complain and/or approach the Police or any law enforcement agency with complaint. Even*

*where the Police or the said agency mishandles the report, and violate the rights of a citizen, in the course of investigation of or action on the complaint, that is the business/responsibility of the Police or law enforcement agency.”*

In the instant case, from the counter affidavit of the 5<sup>th</sup> Respondent I am yet to see any reason or discover why the 5<sup>th</sup> Respondent lodged a petition against the applicant, if there was any in the first place. There is/was no direct link between the 5<sup>th</sup> Respondent and the Applicant. There was no basis for the Respondent to have lodged a complaint against the Applicant. This can be gleaned from the depositions of the 5<sup>th</sup> Respondent. The wife of the Applicant was his sales girl not the Applicant; also going by the affidavit in support of the Applicant's application as well as the further & better affidavit and the documents attached thereto. {See exhibit A attached to the further & better affidavit}, there was no mention of the Applicant in the Exhibit A or the proceedings conducted at the Upper Area Court. {See exhibit I attached to the affidavit in support}; the fresh discovery by the Respondent in Paragraph 36 of his counter affidavit ordinarily should have been reported at the Office of the Commissioner of

Police who were seised of the earlier fact, since there was already an established foundation as per the case at the office of the Commissioner of Police, the 5<sup>th</sup> respondent had no reason to lodge a report or petition report at the AIG Zone 7 office. It is glaring that he did so to intimidate and or harass the Applicant, all because he had the audacity to challenge the Judgment obtained at the Upper Area Court. The report to the police was an afterthought! It is my view that the 5<sup>th</sup> Respondent acted in bad faith and therefore cannot escape liability having instigated the unlawful and unjust arrest of the Applicant by the 3<sup>rd</sup> and 4<sup>th</sup> Respondent which is a breach of the Applicant's Fundamental Right and I so hold. The matter between the 5<sup>th</sup> Respondent and the Applicant's wife had already been determined at the Upper Area Court; {see exhibit I attached to the Applicant's application}; the Applicant being dissatisfied with the Judgment of the Upper Area Court filed Motion No: M/07/18 in Case No. CR/957/17 at the Area Court the 9<sup>th</sup> February, 2018 against the Commissioner of Police and The Enforcement Unit of Sharia Court of Appeal (see exhibit D), and same was responded to by the Commissioner of Police, (See exhibit D1). The depositions of the 5<sup>th</sup>

Respondent's counter affidavit are mere conjectures or speculations. The 5<sup>th</sup> Respondent cannot turn around to state that the where about of the Applicant was unknown. See Paras 33 of the 5<sup>th</sup> Respondent counter affidavit. The most honourable thing for the 5<sup>th</sup> Respondent was to have brought his new found allegation/fact to the attention of the office of the Commissioner of Police who is abreast of the matter.

It is trite law that in the Enforcement of Fundamental Rights, when there is evidence of arrest and detention which were done or instigated by the Respondent, it is for the Respondent to show that the arrest and detention were lawful. ***SALAMI v. OLAOYE & ANOR (2018) LPELR-47256(CA)***. The 5<sup>th</sup> Respondent in the present case has failed to show that the arrest and detention of the applicant was lawful. The 5<sup>th</sup> Respondent further argued that the Applicant was not detained up to 24hours. That after he was questioned and his statement taken, he was thereafter released on bail the same day; thus the Applicant's fundamental right was not violated. See ***SAMSON IDJIGHERE & ANOR v. MR. BILLY AGBINONE & ORS (2019) LPELR-46428(CA)*** where the Court of Appeal stated that, "*where a person's liberty is compromised by another even for an hour, violence has*

*been done to the rights of that person. There is only one rider provided in S. 35 (1)(b) to the absolute rights of freedom of movement and personal liberty enshrined in S. 35 (1) of the Constitution . The circumstances of that rider is absent in the situation at hand.”*

In the instant case, the rider is also not present. It is not in evidence that the Applicant failed to comply with an Order of a Court or didn't comply with any obligation imposed on him by the law. On the whole, I find and hold that the Applicant was arrested and detained by the 1<sup>st</sup> to 5<sup>th</sup> Respondents on the 16<sup>th</sup> July, 2018 from 12.37pm to 6pm or thereabout, which constitute a breach of the Applicant's fundamental right to dignity of human person and personal liberty as enshrined in the constitution.

On the issue of compensation, the Applicant seeks monetary compensation and a public apology jointly and severally from the Respondents for his unlawful arrest and detention, for the violation of his fundamental right to personal liberty, dignity and freedom. It is the law that any person who is unlawfully arrested or detained shall be entitled to compensation and public apology

from the appropriate authority or person. See section 35(6) *CFRN & OKONKWO v. OGBOGU & ANOR (1996) LPELR-2486(SC)*

*“any trespass to the person, however slight, gives a right of action to recover at any rate nominal damages. Even where there has been no physical injury, substantial damage may be awarded for the injury to the man's dignity or for discomfort or inconvenience. Where liberty has been interfered with, damages are given to vindicate the plaintiff's rights even though he has not suffered any pecuniary damage. It is also not necessary for the plaintiff to give evidence of damage to establish his cause of action or to claim any specific amount of damage.”*

In the instant case, the Applicant's movement was restricted for about 6 hours or so, which entitles him for the lost hours. Any violation of a citizen's guaranteed fundamental right, however, short or long the period may be, must attract penalty sounding in substantial damages. See *REV. POLYCARP MATHEW ODIONG v. ASSISTANT INSPECTOR GENERAL OF POLICE, ZONE 6, CALABAR (2013) LPELR-20698(CA)* Consequently, I hereby jointly and severally award

against the 1<sup>st</sup> to 5<sup>th</sup> Respondents the sum of #500,000.00(Five Hundred and Thousand Naira) only as compensation for the unjust and unlawful wrong done to the Applicant.

ASMAU AKANBI – YUSUF

HON. JUDGE

APPEARANCES:

Parties are absent

S. O Abang Esq. for the Applicant

H. O Afon Esq. for the 1<sup>st</sup> & 2<sup>nd</sup> Respondent

G. C Ugunweze Chidubem Esq. for the 5<sup>th</sup> Respondent.