

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

4TH DAY OF MAY, 2023

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

CHARGE NO. FCT/HC/CR/245/2017

COURT CLERKS: *JOSEPH ISHAKU BALAMI & ORS.*

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA PROSECUTION

AND

IFEYINWA CYNTHIA NNANNA DEFENDANT

RULING

The Defendant's application is for an Order granting leave to the Defendant to recall the Defence witness No. 1 (DW1) to give further evidence by tendering an audio recording between her and Mr. Chukwuma Ezeihuaku in respect of this case.

(2) And for such further Orders as this Court may deem fit to make in the circumstances.

The application is supported by a 9-paragraph Affidavit deposed to by Ifeoma Ezeh.

The main thrust of the Affidavit is paragraph 5. That DW1 wishes to tender further evidence (audio recording between the Defendant and Mr. Chukwuma Ezeihuaku who introduced the Nominal Complainant to the Defendant).

That the Prosecution/Respondent will not be prejudiced. That it is in the interest of justice to grant the application.

The Prosecution filed a Counter Affidavit dated 7/11/2022 sworn to by Ufuoma Ezire. She deposed that DW1 testified on 21/10/2019. That Cross-Examination was concluded on the 20/10/2021. That four other witnesses have testified since then. That the application is a ploy by the Defendant to delay this matter.

That Defendant has not shown why the said audio was not tendered at the initial opportunity. That there should be an end to litigation. That it is in the greater interest of justice to refuse the application.

I have read the Further and Better Affidavit and considered the Written Addresses of Counsel. The Court may at any stage of the trial, inquiry or other proceedings under the Administration of Criminal Justice Act, either of its own Motion or on application of either party to the proceedings, call a person as a witness or recall and re-examine a person already examined where his evidence appears to the Court to be essential to the just determination of the case.

What the Defendant is seeking to tender is a video recording of the conversation between the Defendant and DW6, Chukwuma Ezeihuaku who had testified in this case. He testified on the 26/01/2023. He was subpoenaed by the Defendant to testify on her behalf.

The Defendant did not ask the witness any question relating to the video recording she is seeking now to tender.

He has now been discharged. The DW6 will not have the opportunity of identifying his voice if the DW1 is recalled to tender the said video recording.

The Defendant did not show why the said recording was not tendered when DW1 or DW6 were giving evidence. The said video is not even attached to this Motion. It will be prejudicial to the Prosecution.

I shall therefore refuse to exercise my discretion in favour of the Defence. The Motion fails for lack of merit and it is dismissed.

HON. JUSTICE U. P. KEKEMEKE
(HON. JUDGE)
04/05/2023

Defendant absent.

Hussaina Gambo, Esq. for the Prosecution.

Chioma Ezechukwu, Esq. for the Defendant.

COURT: Ruling delivered.

(Signed)
HON. JUDGE
04/05/2023