

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

**IN THE ABUJA JUDICIAL DIVISION**

**HOLDEN AT MAITAMA**

**BEFORE HIS LORDSHIP : HON. JUSTICE Y. HALILU**  
**COURT CLERKS : JANET O. ODAH & ORS**  
**COURT NUMBER : HIGH COURT NO. 14**  
**CASE NUMBER : SUIT NO: CV/7963/2023**  
**DATE: : THURSDAY 11<sup>TH</sup> JULY, 2024**

**BETWEEN:**

**PROF. SALIHU ISREAL LAWAL ..... APPLICANT**

**AND**

**1. THE ECONOMIC AND FINANCIAL CRIMES COMMISSION (EFCC)**  
**2. TAHIR MOHAMMED**

**RESPONDENTS**

# **RULING**

In the matter of an Application by Professor Salihu Isreal Lawal for the enforcement of his fundamental right to personal liberty, dignity of human person, fair hearing and life.

The Applicant is praying the Court for the following:-

1. A Declaration that the detention of the Applicant by the Respondents over a purely civil contractual relationship between the Applicant and Prince Isioma Aziken, which detention spanned between the 23<sup>rd</sup> of January, 2023 to the 25<sup>th</sup> of January, 2023, is a breach of the Applicant's Fundamental Right to personal liberty, dignity of Human person, fair hearing and life contrary to Sections 33, 34, 35 and 36 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and Article 2, 3, 4, 5, 6 and 7 of the African Charter on Human and People Rights (Ratification and Enforcement) Act Cap. 10 Laws of the Federation of Nigeria (LFN), 1990.
2. A Declaration that the continued invitation and threat of further arrest of the Applicant by the Respondent under the pretext that "the commission is investigating a case in which

they need to seek clarification from him has become imperative”, is illegal and not within the ambit of the Respondents to criminalize a rather civil contract and therefore amounts to a further threat to the Applicant’s right to liberty, dignity of human person and life contrary to Section 34, 35 and 36 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and Articles 4, 5 and 6 of the African Charter on Human and Peoples Rights (Ratification and Enforcement) Act Cap. 10 Laws of the Federation of Nigeria (LFN) 1990.

3. An Order restraining the 2<sup>nd</sup> Respondent from further threat of arrest of the Applicant and unwarranted threat to the Applicant’s family.
4. An Order of Injunction Restraining the Respondents from any further threat of arrest of the Applicant in relation to any civil transaction with Prince Isiomas Aziken and matter associated with that civil transaction.
5. An Order directing the Respondents to issue public apology to the Applicant, published in two National Daily Newspapers.

6. Compensation and or damages of N10,000,000.00 (Ten Million Naira) only against the Respondents for the violation of the Applicant's Fundamental Rights.

The grounds upon which this application are brought are as follows:-

1. The Applicant is a businessman and responsible family man, who resides with his family at Karu, Abuja.
2. The 2<sup>nd</sup> Respondent is a close neighbor of the Applicant at Karu, Abuja.
3. The Applicant is suffering from tuberculosis, high blood pressure and high sugar level, and has been managing the situation prior to the invitation by the Respondents.
4. The Applicant is a citizen of Nigeria and entitled to the protection of his rights as enshrined in Chapter IV of the Constitution of the Federal Republic of Nigeria 1999 (as amended) which includes personal liberty, dignity of human person and life.
5. The Applicant, who was then healthy, met with one Prince Isioma Aziken at an Agricultural summit in Abuja, which they both introduced themselves.

6. That the Applicant introduced Prince Isioma Aziken to a professional who had the means of helping him monetize a Bank Guarantee (BG).
7. Prince Isioma Aziken could not meet up with the criteria for the monetization of the Bank guarantees, and instead opted to petition the Applicant.
8. That the Applicant who honoured the invitation of the Respondents was detained until his health situation deteriorated for more than 2 days before he was released on bail, after a medical examination at the 1<sup>st</sup> Respondent's clinic.
9. That the Applicant has been battling with his health condition since his release, despite being diagnosed of a communicable disease tuberculosis.
10. Section 46(2) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) gives the Courts the power to enforce the Applicant's Fundamental Rights *quia timet* against the Respondents.

In support of the application is a 41 paragraph affidavit deposed to by Prof. Salihu Isreal Lawal, the Applicant in this suit. It is the

deposition of the Applicant, that sometime in January, 2023, while managing his ailing health condition, the 2<sup>nd</sup> Respondent brought a letter addressed to him by the 1<sup>st</sup> Respondent Bank and Fraud Unit dated the 10<sup>th</sup> of January, 2023, titled invitation activities letter of invitation. Attached and marked as Exhibit "SIL 1" is a copy of the Investigation Activities Letter of Invitation dated the 10<sup>th</sup> of January, 2023.

That he then obliged the invitation, on the 19<sup>th</sup> of January, 2023, at about 10:00am, which was the date and time stated in the letter of invitation, and upon reaching there, he was asked by one of the operatives of the 1<sup>st</sup> Respondent at the Bank and Fraud Unit at No. 5 Fomella Crescent Wuse 2, Abuja, (The unit in charge of the invitation), to go and get a lawyer, which situation then heightened his suspicion, as they were not really ready to illicit any explanations from him as stated in their letter and equally did not disclose the purpose of the invitation for his understanding.

That on the 23<sup>rd</sup> of January 2023, Applicant reported to the Respondent's Wuse 2, Office with a lawyer as requested, and he was then asked questions regarding one Prince Isioma Aziken, who he had met sometime in year 2000 at the Agricultural

summit organized at the international conference center, Abuja then.

That he was never showed a copy of any petition against him from Prince Aziken, rather he was asked random questions regarding his relationship with Prince Isioma Aziken, and that he then explained to them how he got to know him, as Prince Isioma Aziken had requested for his assistance to introduce him to any broker who could help him monetize International Bank Guarantee for a fee for which they will agree upon.

That he then linked Prince Isioma Aziken to one Olanrewaju Sesan, the Managing Director of **Pegasus Crystal Sceptre Limited**, and they both had an agreement for the fees chargeable for a successful pre-monetization procedure which was reduced into writing by Prince Isioma Aziken. Attached and marked as Exhibit "SIL 2" is a screenshot of the Agreement between Prince Isioma Aziken and Olanrewaju .O. Sesan.

That Applicant had equally facilitated the process of the monetization of the International Bank Guaranty (IBG) at the request of Prince Isioma Aziken and a pro forma Invoice had been sent and addressed to Prince Isioma Aziken's company **ROCKWORKS AGROTEC LTD** since the 17<sup>th</sup> of November,

2020. Attached and marked as Exhibit "SIL 3" A-C are copies of the PROFORMA INVOICE and PRINT OUT of the Advance Bank Guarantee instruction.

That he was always travelling between Abuja and Lagos to meet with Olanrewaju Sesan at the instance of Prince Aziken, who usually fund the trips and accommodation to and fro Lagos, and that Prince Isioma Aziken's Company liability in the pro forma invoice was \$1,500,000.00 (USD) as management, consultancy and facilitation charges for issuing of BG amounting to \$25,000,000.00 at 6%, stated in the pro forma invoice to Yield4management F.Z.C.

That Prince Isioma Aziken, made a U-turn upon being given a copy of the pro forma invoice and rather sought for a local bank guaranty in the sum of N30,000,000,000.00 (Thirty Billion Naira Only) in favor of his company Rockworks Agrotec Limited, that was where the both agreed that upon confirmation of the genuineness and the ability of Pegasus Crystal Scepter Limited to facilitate the monetization, the fees will be as stated in Exhibit "SI 2", the handwritten Agreement.

That Pegasus Crystal Sceptre Limited then approached her bankers and they were willing, ready and able to issue a Bank



Guarantee of N30,000,000,000.00 (Thirty Billion Naira Only) in favor of Rockworks Agrotec Limited (Isioma Aziken's Company), and in furtherance of that, Unity Bank Plc. issued to Rockworks Agrotec Limited a letter of Readiness, Willingness and Ability to issue Bank Guarantee on behalf of Pegasus Crystal Scepter Limited, on the 19<sup>th</sup> of October 2020 and this fact was communicated to Prince Isioma Aziken through his company, Rockworks Agrotec Limited. Attached and marked as Exhibit "SIL 4" is the UNITY BANK LETTER to ROCKWORKS AGROTEC LIMITED dated the 19<sup>th</sup> of October 2020.

That the processing of the monetization of the bank guarantee was already in progress as Prince Isioma Aziken understandably did not have money to pay Olanrewaju of Pegasus Crystal Scepter Limited the amount agreed, having confirmed the Letter from Unity Bank in line with the hand written letter and the conditions for the issuance of the bank guarantee forwarded to Prince Isioma Aziken's Company, and that it was then apparent to Prince Aziken that he will not be able to meet up with the pre-draw down or pre-monetization of the Bank Guarantees both local and international which is not the fault of Olanweranju or his humble self who introduced them to each other.

That he explained this much to the hearing of the team of the 1<sup>st</sup> Respondent, who was asking him questions and seeking for clarifications regarding his involvement in the transaction. That he facilitated the meeting between Olanrewaju and Prince Aziken and had to fly to Lagos and back at the instance of the Letter just to ensure that the process was going on and the only thing he got was cost of flight tickets and accommodation from Prince Aziken.

That the team rather opted to detain him and forced him to write a statement dictated by them despite the insistence of his lawyer, then present, that it was not a proper thing for them to dictate the statement to him and to detain him despite his client's invitation being a fact finding one as stated in the letter.

That the 1<sup>st</sup> Respondent's officers then excused his lawyer outside and then went ahead and told him to write whatever they requested him to write as they were not obliged to allow him to freely write what he wanted, the way he know it, and that they threatened to lock him up at their underground cell if he did not comply as they had their way, and despite his "co-operation" with their dictates, he was locked up from that day until the 25<sup>th</sup> of

January 2023, despite the advice of their clinic, when he complained of his deteriorating health.

That they believed that he was trying to feign ill health in order for him to be released, as they took him before their clinic, it was confirmed that his blood pressure had gone up as well as my sugar level, and the doctors then advised them to release him on the 24<sup>th</sup> of January 2023. That the operatives equally refused to heed the advice of their clinic and only released him on the 25<sup>th</sup> of January 2023, to a surety who his lawyer had brought for that purpose on that date.

That by the time he was eventually released, his health situation had gone so bad to the extent that he was totally denied access to his drugs and then medical appointments as well, and that the further invitation by the Respondents came by the time when he was on observation at the National Tuberculosis And Leprosy Control Centre which then warranted his Solicitors to write to the Respondent and intimating her of his health situation.

That the Re: Professor Salihu Isreal Lawal Investigation Activities (Letter of Invitation) dated the 3<sup>rd</sup> of May, 2023 to the 1<sup>st</sup> Respondent Zonal Commander was served on the 1<sup>st</sup> Respondent as her received stamp indicates. Attached and marked as Exhibit

"SIL 5" is LIFEMATE ATTORNEY'S Letter dated the 3<sup>rd</sup> of May, 2023 addressed to the ZONAL COMMANDER through the HEAD BANK AND FRAUD SECTION.

That he has been placed on control drugs and observation since then, as he barely go out due to the communicable nature of the disease. Attached as Exhibit "SIL 6" is a copy of the chat of the National Tuberculosis and Leprosy Control program Administration of Drugs (one time per month).

That he was issued a patient identity (Hand) card and as a result of his diagnosis with the deadly tuberculosis and since then he has been on routine drugs coupled with strict instruction regarding his movement. Attached and marked as Exhibit "SIL 7 A-C" are copies of the Patient Identity Card, Prescription and Picture of his medication. The Respondents were communicated the situation, that he has been in exclusivity, coupled with the high blood pressure and high sugar level of his blood that he has been battling ever since he was released by the Respondents from their facility.

That rather, the 2<sup>nd</sup> Respondent who is not even part of the team has been persistently harassing his family and himself and seeking for ways to arrest him despite his health predicament,

and that the 2<sup>nd</sup> Respondent, had made all attempt during the time he was detained by the 1<sup>st</sup> Respondent to get his wife involved in order to get monetary benefits for himself.

That on the 24<sup>th</sup> of January 2023 while he was still in detention, the 2<sup>nd</sup> Respondent came to the house around 11:00 pm and tried to meet with the Applicant's wife, and that after he refused, the 2<sup>nd</sup> Respondent threatened to arrest him the next day, which was the day he was released on bail by the 2<sup>nd</sup> Respondent.

That he quickly got confirmation from the Applicant's wife before he was refused entry into the Applicant's house at that unholy hour.

That since then, the 2<sup>nd</sup> Respondent has made it his hobby to always stop over the Applicant's wife shop to request for the Applicant to allow him intervene and possibly get him off the issue at a cost, and that the situation has made him further doubt the intentions of the Respondents as it is obvious that they are bent on extorting monies from him and failing which may be greeted with their fierce anger or wrath.

That his family and he have been apparently living in fear, despite his health conditions and his inability to handle his personal affairs. That the Respondents will not stop their actions except

there are restrained by this Honorable Court, and that he has been deprived and further threatened of his liberty as the transaction is purely contractual and civil between him and Prince Isioma Aziken who he only introduced to the person they had transaction with. That it will be in the interest of justice to grant my application.

In line with law and procedure, written address was filed wherein sole issue was formulated for determination to-wit;

***"Whether the Applicant is entitled to the relief sought considering the facts and circumstances of this case?"***

It is the submission of learned counsel, that any restraint, no matter how short, is a denial of an individual's liberty or freedom of movement and sometimes, depending on the circumstances, like in this case, give rise to the violation of inhuman and degrading treatment of the victim. So the restraint, particularly the fact that he was eventually granted bail on self-recognition after being denied his liberty, phone seized after seven hours amounts to the deprivation of his liberty.

The case of ***OKAFOR VS. LAGOS STATE GOVT. (2007)4 NWLR (Pt. 1556) Page 484 at 433 – 435, Paragraphs H – B*** was cited.

The law is trite that mere allegation of crime or wrong doing against “suspect”, irrespective of its seriousness cannot operate to curtail the Fundamental Rights of the suspect nor can it operate to justify the Fundamental Rights of the suspect. A person who infringes or breaches the constitutional rights of another has the onus to justify such breaches. The case of ***DURUAKU VS. NWOKE (2015)15 NWLR (Pt. 1483) 417 (CA)*** was cited.

Learned counsel further submits, that the coercion of the Applicant into making an involuntary statement, is illegal, null and void and of no effect as whatsoever the Applicant was made to write was in violation of Section 6, 7 and 8 of the Administration of Criminal Justice Act and Section 36(6) of the Constitution of the Federal Republic of Nigeria 1999 (as amended).

Counsel also submits, that in the event of this Court granting the Applicant’s reliefs regarding the breach of his Fundamental Rights, based on the facts of this case, it will necessary follow

that the Order for injunction is granted to prevent a re-occurrence based on the facts of this Case.

***ADEKUNJO VS. HUSSAIN (2021) 11 NWLR (Pt. 1788)*** was cited.

Learned counsel submits, that where there is an infringement of the right of a party either in tort, contract, or as in this case, breach of the Applicant's Fundamental Rights in the facts clearly deposed to in the Applicant's affidavit, the aggrieved or injured party is entitled to general damages.

***ELIZABETH MONDAY SAMBO & ORS VS. SOLOMON ETIM OKON & ORS (2012) LPELR – 20294 (CA)*** was cited.

Learned counsel further submits, that by virtue of Section 35(6) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) an Applicant or complaint is entitled to compensation and apology where no specific amount is claimed where the Applicant is able to prove unlawful arrest and detention.

***ATTA VS. IGP & ORS (2015) LPELR – 24656 (CA)*** was cited.

Learned counsel also submits, that the Court have applied it plethora of authorities that award of damages must flow naturally once the Court finds that the Fundamental Right of an individual



has been breached without justification. The compensation is automatic, and ought to be granted, even when the aggrieved party does not pray for compensation.

***DASUKI VS. DIRECTOR GENERAL STATE SECURITY SERVICES (2019) LPELR – 48113 (CA)*** was cited.

Learned counsel concludes by urging this Honourable Court to answer the only issue raised in the affirmative and grant the reliefs sought by the Applicant.

On their part, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents filed 19 paragraph affidavit deposed to by Ibrahim Zakari, Detective/Investigator with the 1st Respondent in this suit.

It is their deposition, that the Abuja Zonal Office of the 1<sup>st</sup> Respondent's received a petition alleging that Mr. Uwakala Nnamdi, Hon. Dr. Aliyu Mahammud Waziri and Prof. Lawal Salihu and Chief Uzo for Fraud and obtaining money by false pretence the sum of N30,000,000.00 (Thirty Million Naira) of Prince Isioma Aziken who represents Rockworks Agrotec Ltd, Ramofaz Agricultural Ltd, Godone Chi Ltd, Ukanu Nigeria Ltd and Jays Mart Nigeria Ltd was awarded fraudulent contracts from Mr. Uwakala Nnamdi, Hon. Dr. Aliyu Mahammud Waziri and Prof. Lawal Salihu and Chief Uzo for the supply of 500 units of Tractors (Massey

Ferguson) at the sum of N7,000,000,00.00 (Seven Billion Naira). They however claimed it was approved by Mr. President Muhammadu Buhari, GCFR. A copy of the alleged petition is attached and marked as Exhibit "EFCC 1".

That upon receipt of the said petition, the Petitioner was invited wherein he came and adopted his petition.

That the letter of investigation activities was sent to Zenith Bank in respect of the Applicant's Account and they received his statement of account which clearly shows the money that was transferred to the Applicant's Account in respect to the alleged transaction. A copy of the Applicant's Account are attached and marked as Exhibit "EFCC 2".

That BVN search was carried out and the Account number of the Applicant featured prominently and the said amount received reflected on the Applicant's Account.

That the petition alleged that Mr. Uwakala Nnamdi, Hon. Dr. Aliyu Mahammud Waziri and Prof. Lawal Salihu and Chief Uzo claimed to represent the Federal Government of Nigeria through National Agricultural Mechanized cooperative society (NAMCS). They Use that cover to award fraudulent contracts among which is the supply of 500 units of Tractors (Massey Ferguson) at the sum of

N7,000,000,000.00 (Seven Billion Naira) They however claimed it was approved by Mr. President Muhammad Buhari, GCFR. Award Letters and other documents attached as Exhibit "EFCC 3".

That among the N30,000,000.00 (Thirty Million Naira) among other monies under false pretence involves that Mr. Uwala Nnamdi 08036246122 who claimed to be a member of the board demanded and collected N20,000,000.00 (Twenty Million Naira) on behalf of the board.

That Hon. (Dr.) Aliyu Muhammad Waziri who claimed to be the president demanded and collected the sum of Three Million Naira N3, 000,000.00. That Professor Lawan Salihu who claimed to be a Director of Central Bank of Nigeria and a Board member demanded and collected the sum of N3,000,000.00 (Three Million Naira) to process the Bank Guarantee from Central Bank of Nigeria.

That Chief Uzo who claimed to be the vice President demanded and collected the sum of N4,000,000.00 (Four Million Naira).

That the Applicant's deposition in paragraphs 5 and 6 is not true the true position is that the 2<sup>nd</sup> Respondent who is in Bank Fraud section only served the invitation Letter to the Applicant based on directive from the 1<sup>st</sup> Respondent not on any personal matter.

That the deposition in paragraph 7 is not true as the Applicant never reported to the office of the 1<sup>st</sup> Respondent on the 19<sup>th</sup> January, 2023 as it was stated on the Invitation Letter from the 1<sup>st</sup> Respondent and also the 1<sup>st</sup> Respondent never asked the Applicant to go get a lawyer. A copy of the Invitation Letter is attached and marked as Exhibit "EFCC 4".

That the Applicant's deposition in paragraph 8 is not true as the 1<sup>st</sup> Respondent never requested that the Applicant must come with his lawyer when honouring the invitation.

That the Applicant's deposition in paragraphs 9 and 10 is not true as the Applicant honoured the invitation around 11am on 23<sup>rd</sup> January, 2023 of which he was shown the petition against him and was asked to write statement under words of caution of which he denied writing any statement until about 12.30pm that was when he started writing his statements. A copy of the Applicants Statements is attached and marked as Exhibit "EFCC 5".

That the Applicant's deposition in paragraphs 10,11,12,13,14,15, 16,17,18 19,and 20 is not within the knowledge of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents to admit or deny, the Applicant is called to the strictest prove of same, and that the Applicant's depositions in

paragraph 21, 22, and 23 are not true. The true position is that when the Applicant honoured the invitation, he was treated professionally by their staff and the 1<sup>st</sup> Respondent never forced the Applicant to write statement or to dictate what he will write in his statement. The Applicant wrote his statement under words of caution and was granted bail on that same day he reported. A copy of the Bail granted to the Applicant is attached and marked as Exhibit "EFCC 6".

That the deposition of paragraph 24, 25, and 26 is not true as the Applicant was granted bail on 23<sup>rd</sup> January, 2023 the same day he reported he didn't perfect his bail till 25<sup>th</sup> January 2023. A copy of the bail Application is here by marked as Exhibit "EFCC 7", that the Applicant's deposition in paragraph 27, 28, 29, and 30 is not within the knowledge of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents to admit or deny, the Applicant is call to the strictest prove of same.

That the Applicant's deposition in paragraph 31, 32, 33, and 34, is not within the knowledge of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents to admit or deny, the Applicant is call to the strictest prove of same, and that the Applicant's deposition in paragraph 35, 36 and 37 are false and a distortion of fact. The true position is that we are only investigating financial crimes allegations against the

Applicant and we never impress on the applicant to extort monies from the Applicant.

That the contrary to 38 and 39 the Applicant's application should be refused with cost against him for trying to stop a lawful agency from performing its lawful mandate, and that it is neither in the interest of justice nor public policy to grant the Applicant's application. That their deposition is brought in good faith and in the interest of justice believing its content to be true in accordance with the Oaths Act, 2024, and that the Applicant application is frivolous

That investigation shows that the Applicant played a leading role in the alleged obtaining money by false pretence as the true position is that there are other petitions against the Applicant on the same allegations; a copy of the petitions against the Applicant by other parties is hereby marked as Exhibit "EFCC 8".

In line with procedure, 1<sup>st</sup> and 2<sup>nd</sup> Respondents filed written address in support of their Counter Affidavit in opposition to the Applicants application wherein two (2) issues were formulated for determination to-wit;

***1. Whether the 1<sup>st</sup> and 2<sup>nd</sup> Respondents have powers to investigate the Applicant upon a petition and***

***reasonable suspicious that the Applicant has committed or is about to commit an offence.***

***2. Whether the Applicants have made out a case to be entitled to the reliefs sought.***

**On issue one,** it is the submission of learned counsel, that by the combined effect of Sections 6, 7, 8(5), 12(1), 13(1), 41 and 46 of Economic and Financial Crimes Commission (Establishment) Act, 2004, the Respondents are amply empowered to investigate all cases of Economic and Financial Crimes reported to it for possible Prosecution where a prima facie case is established. Counsel submits that the 1<sup>st</sup> Respondent enjoy the same powers with the Nigerian Police Force when it comes to investigation and prosecution of offenders. Counsel refers to Sections 4 and 23 of Police Act.

**On issue two,** learned counsel submits, that the Applicant is seeking for declaratory reliefs thereby asking for equitable reliefs from this Honourable Court. Where a party's claim is for an equitable relief, he must show that he deserves the equitable relief because of the equitable maxim "He who comes to equity must come with clean hands". The Applicant claims that he was detained unlawfully and his fundamental rights was infringed

upon by the Respondents when by the Applicant deposition in paragraph 21 of the Applicant's application shows he was offered bail same day he reported on the 23<sup>rd</sup> January, 2023, and released on the 25<sup>th</sup> January, 2023 which is within the 48hours as contemplated by Section 35(5)(b) of the 1999 Constitution. The Apex Court stated in the case of where the Court stated;

Learned counsel submits, that the Applicant has failed to disclose any infringement committed or about to be committed by the Respondents which she has come to this Court for redress. It is a settled principle of law that an Applicant who sets out to enforce his Fundamental Human Right has a duty to put before the Court all material evidence to enable the Court to determine the issues. The Applicant's application is bereft of any material facts to show this Honourable Court that the 1<sup>st</sup> and 2<sup>nd</sup> Respondents have infringed upon her rights. The 1<sup>st</sup> and 2<sup>nd</sup> Respondents have deposed that in the exercise of their statutory functions and acting on Exhibit "EFCC 1" they proceeded to conduct investigation. This act by the 1<sup>st</sup> and 2<sup>nd</sup> Respondents does not amount to any infringement on the rights of the Applicant. Failure of the Applicant to put forward any material fact before this Honourable Court remains fatal to the entire application and counsel urge this Honourable Court to so hold.



**On issue three,** learned counsel further submits, that the Applicant was granted bail by the 1<sup>st</sup> Respondent through the 2<sup>nd</sup> Respondent. Section 36(4)(b) Constitution Federal Republic of Nigeria, 1999 (as amended) provides that a person arrested may be released either unconditionally or upon such conditions as are reasonably necessary to ensure that he appears for trial at a later date. By serving the bail conditions on the Applicant, the 1<sup>st</sup> Respondent complied with constitutional provisions.

Learned counsel further contends, that once the police have offered bail to a person, any further stay in custody by that person until he satisfies the condition of bail cannot be properly regarded as unlawful detention under the Constitution. Counsel refer this Honourable Court to ***AUGUSTINE EDA VS. C.O.P BENDAL STATE (1982)3 NIGERIA CONSTITUTIONAL LAW REPORT (Pt. 219) at 228 Paragraphs 1 – 3*** was cited.

Learned counsel also submits, that the constitutional duty of the Police ends when they offer bail to a person held in custody in connection with the allegation of criminal offence and it is not part of the duty of Police to provide the suspect with a surety to enable him realize or effect the bail granted him. In ***ECONOMICA AND FINANCIAL CRIMES COMMISSION***

**(EFCC) & 3 ORS VS. MR. DUBEM CHUKWURAH (CA/A/715/2016) unreported – Decided on 20<sup>th</sup> March, 2018)** the Court of Appeal adopted the decision in **AUGUSTINE EDA VS. COP BENDAL STATE (Supra)** and held that learned counsel for the Appellants was right in relation to issue three (3) that the Appellants could not have been held to violate the Respondent's right to liberty when the Respondent was in fact granted administrative bail but failed to meet the bail conditions.

Learned counsel argued, that with greatest respect to answer the second issue for consideration in the negative and to hold that the Applicant has not made out a case before this Honourable Court to be entitled to the relief sought.

Learned counsel concludes by urging the Court to hold that the act of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents in carrying out their statutory responsibilities of investigation were not in violation of the Fundamental Human Rights of the Applicant. Counsel also urge the Court to hold that the Applicant application is unmeritorious and to dismiss same.

On their part, Applicant filed 21 paragraph further affidavit deposed to by the Applicant himself. It is the deposition of the Applicant, that all most of the facts deposed to by the Ibrahim

Zakari are not from his sight or hearing as he never saw him during his interrogation and detention being part of the team that investigated him, and that paragraph 6 and 7 of the Counter-Affidavit are not true.

That paragraph 8(a), (b) and (c) are true only to the extent that apart from the Petition i.e EFCC 1 that made an allegation against him, no other document there showed that he was the one personally issuing receipts to Prince Aziken or any of his companies as he is not a member, or trustee of National Agricultural Mechanized Co-operative Society (NAMCS).

That contrary to paragraph 8(c)(d)(h), he never represented himself to be a Central Bank of Nigeria staff or Board member of his organization to Prince Aziken, and that Exhibit "EFCC 3" did not show any transfer of N3,000,000.00 (Three Million Naira) from Prince Aziken to him or Livestock Plant Hub.

That the 2<sup>nd</sup> Respondent is not a process server of the 1<sup>st</sup> Respondent who have staff within its organization to serve such letters, and that contrary to paragraph 11 and 12 of the Counter-Affidavit, his statement attached as Exhibit "EFCC 5", they dictated to him that he should write that:

***"I am writing this statement in the presence of my Lawyer Barr. Jenifa Okoye of J.O. Okoye Legal Consults."***

That paragraph 13 of the counter-affidavit is only true to the extent that he arrived the 1<sup>st</sup> Respondent office at 10:00am with his Lawyer as requested by them on the previous date he came and they never showed him any petition to understand the content of what they were talking about, as they rather started asking him questions and then brought a statement sheet, and when he was about writing, he was told by one of the Detectives to hold on, that they will tell him what to write after the oral random interview.

That his lawyer resisted them dictating the statement to him and that was why it took a long time for him to write what they dictated, after sending his lawyer away, and that Exhibit "EFCC 6" were the criteria for the bail handed to him which he had people that were willing to fulfill the terms, which the Respondents refused and they granted him bail on the 25<sup>th</sup> of January, 2023 as can be seen in Exhibits "EFCC 7" and "EFCC 8", respectively attached by the Respondents.

That all the documents attached as Exhibit "EFCC 3" has nothing to do with him and even the cheques attached were undated and a fabrication of the Respondents to suit their story, and that contrary to paragraph 15 of the counter-affidavit, due to the fact that they needed him to write what they dictated to him, they were not open to grant him bail as his lawyer had sureties available to bail him on the date he was detained. That paragraph 18 is not true and a figment of the Deponent imagination as contrary to Exhibit "EFCC 8", he equally petitioned the Petitioner, when the 1<sup>st</sup> Respondent during investigation realized that the content of Exhibit "EFCC 8" was not true.

That on the 23<sup>rd</sup> of November, 2022, he was advised by the 1<sup>st</sup> Respondent to petition Chief Remi Suleiman for Criminal Breach of Trust, cheating and fraudulent conversion. Attached as Exhibit "SIL8 F" is a copy of the Petition against Chief Remi Sueliman for criminal breach of trust, cheating and fraudulent conversion dated the 23<sup>rd</sup> November, 2022 and EFCC receipt of Petition dated 24<sup>th</sup> November, 2022, and that attached as Exhibit "SIL8 G" is his certificate of compliance with Section 84 of the Evidence Act, 2011.

That the Petition and facts stated by Ibrahim Zakari have nothing to do with his involvement in this matter, rather, the true story is what he have stated earlier.

In support of the affidavit is a reply address. It is the submission of learned counsel, that the entire facts deposed by Ibrahim Zakari, there is nowhere he stated that he was personally involved in the interrogation of the Applicant on the stated dates nor did he ever meet with the Applicant in person prior to the institution of this Application, at best, the deposition as in paragraphs 1, 2, 3, 5 and 6 are vague and not in consonance with Section 115 of the Evidence Act, 2011, as Mariya Ujudud Shariff is only the lawyer holding this matter and not one of those in the investigative team that interrogated the Applicant personally.

Counsel submits, that paragraph 11, 12, 13, 15 and 16 are all hearsay in line with Section 126 of the Evidence Act, 2011, as the deponent was not the one the Applicant personally reported to, even if he was to be a member of the investigative team.

It is the submission of learned counsel, that Exhibit "EFCC 7" shows that the approval of the Applicant's bail was done on 25<sup>th</sup>

the January, 2023 in line with the Applicant's depositions and not on the 23<sup>rd</sup> as alleged in paragraph 16 of the counter-affidavit.

The law is settled that depositions which are at variance with the documentary evidence attached thereto is proof that the evidence is contradictory. The case of ***DURUAKU VS. NWOKE (2015)15 NWLR (Pt. 1483) (Page 417) Paragraphs C – F*** where it was held that an affidavit is self-contradictory when it contains contradictory averments or an exhibit attached thereto is inconsistent with the averments in the body of the affidavit such as affidavit should be discountenanced.

Learned counsel argued, that the Respondents have not denied the civil contractual matter there are delving into their counter-affidavit and written address, rather than argue and base their argument that the grant of the application will be stopping them from carrying out their constitutional and legal responsibility, without addressing the fact that they do not have the powers to delve into civil contractual obligations and enforcement thereof.

Learned counsel further submits, that the Respondent are investigating a matter either within their powers or not, as it is settled law that even a dead person's fundamental right can be held to have been infringed upon, leading to his or her death. In

***NIGERIA CUSTOM SERVICE BOARD & ORS VS. MR. OLAYINKA SUNDAY (2022) LPELR – 56417 (CA)*** was cited.

It is the submission of learned counsel, that carrying out statutory responsibilities is not a defence to an infringement of the fundamental rights of a perceived suspect as the law presumes such a person as innocent until proven guilty. Section 36(5) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended). In line with Order II Rules 1 of the Fundamental Rights Enforcement Procedure Rules 2009, the Applicant has narrated the circumstances leading to the actual facts of the breach of his Fundamental rights which the Respondent merely denied without more.

Learned counsel also submits, that against the contention of the Respondents in arguing issue 3 that bail can only be deemed to have been granted, when and only when the Respondents approve the conditions of the bail and not otherwise, as therefore the authorities of ***AUGUSTINE EDA VS. COP BENDEL STATE (1982) 3 Nigerian Constitutional Law Reports (Pt. 219) at 228 (Paragraphs 1 – 3)*** and all other authorities are clearly not within the purview of this case as Exhibit “EFCC 7” shows the date the bail conditions were approved in this case.



Learned counsel concludes by urging the Court to grant the reliefs sought by the Applicant and against the Respondent.

On their part, 1<sup>st</sup> and 2<sup>nd</sup> Respondents filed 17 paragraph further affidavit in reply to the Applicant's further affidavit dated 14<sup>th</sup> March, 2024.

It is the deposition of learned counsel, that contrary to the averment in paragraph 3 and 4 of the Applicants further affidavit, Ibrahim Zakari is part of the investigation team and he played different roles during the course of investigation and the Applicant cannot claim he isn't part of the investigation team. The Applicant has not placed anything before this Honourable Court to prove his claim.

That contrary to the averment in paragraph 10 of the Applicant's further affidavit, it is against the standard operational procedure of the 1<sup>st</sup> Respondent to dictate, intimidate or harass suspect under investigation and at no point in time where words dictated to the Applicant to write any sentence. He wrote everything on his own volition and free will as stated on the face of the statement sheet. Counsel put the Applicant to the strictest of prove to this averment. The Applicant has not placed anything before this Honourable Court to prove his claim.

That contrary to the averment in paragraph 18 of the Applicants further affidavit, the 1<sup>st</sup> Respondent categorically denies ever advising the Applicants to file petition at the 1<sup>st</sup> Respondent's office. He did it on his own volition or advice from his lawyers.

That it is neither in the interest of justice nor public policy to grant the Applicant's application, and that counsel's deposition is brought in good faith and in the interest of justice believing its content to be true in accordance with the Oaths Act, 2024. That the Applicant application is frivolous.

In line with law and procedure, written address was filed wherein sole issue was formulated for determination to-wit;

***"Whether the 1<sup>st</sup> and 2<sup>nd</sup> Respondents have powers to investigate the Applicant upon a petition and reasonable suspicious that the Applicant has committed or is about to commit an offence."***

It is the submission of learned counsel, that by the combined effect of Sections 6, 7, 8(5), 12(1), 13(1), 41 and 46 of Economic and Financial Crimes Commission (Establishment) Act, 2004, the Respondents are amply empowered to investigate all cases of Economic and Financial Crimes reported to it for possible prosecution where a prima facie case is established. Counsel

submits, that the 1<sup>st</sup> Respondent enjoy the same powers with the Nigerian Police Force when it comes to investigation and prosecution of offenders. Counsel refers this Honourable Court to Sections 4 and 23 of Police Act.

Learned counsel further submits, that investigation of the Applicant by the Respondent is within its statutory duties and this Honourable Court should not with respect restrain the Respondents from performing their statutory duties. It would amount to meddling and interfering with the role or duties of law enforcement agency by the judiciary, with respect will not be in the interest of justice, democracy and separation of powers as envisaged under the Constitution of the Federal Republic of Nigeria, 1999 (as amended). Counsel also refer this Honourable Court to Attorney General of ***ANAMBRA VS. CHRIS UBA (2000)15 NWLR (Pt. 947) 67 – 68*** where the Court of Appeal held inter alia of particular importance is the injunctive relief sought by the Plaintiff. In effect for a person therefore to go to Court to be shielded against criminal investigation and prosecution is an interference of powers given by the Constitution to law officers in the control of criminal investigation. The Plaintiff cannot expect a judicial fiat preventing a law officer in the exercise of its constitutional powers.

Learned counsel concludes by urging this Honourable Court with respect to hold that the act of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents in carrying out their statutory responsibilities of investigation were not in violation of the Fundamental Human Rights of the Applicant. Consequently, counsel urge this Honourable Court to hold that the Applicant application is unmeritorious and to dismiss same.

**COURT:-**

I have read carefully the affidavit in support of the application of the Applicant for the Enforcement of his Fundamental Right, under the Fundamental Human Rights Enforcement Rules 2009, as amended.

I have equally read carefully the counter affidavit filed by the Respondent (EFCC) Economic and Financial Crimes Commission in opposition to the application for the enforcement of Fundamental Rights, and the further the affidavit filed by the Applicant in line with the Rules of Enforcement of Fundamental Rights.

The issue; **whether in the circumstance of this application, Applicant's right to personal liberty, right to human**

**dignity, right to fair hearing and right to life as enshrined and guaranteed by the Constitution of Federal Republic of Nigeria 1999 are not violated,** has been formulated for determination.

Fundamental Rights have been said to be primordial.. some say it is natural or God given Rights.. Text book writers like the renowned Professor Ben Nwabueze (S.A.N) have opined that these rights are already possessed and enjoyed by individuals and that the "Bills of Rights" as we know them today *"created no right de novo but declared and preserved already existing rights, which they extended against the legislature"*.

It is instructive to note, that magna carta 1215 otherwise called "Great charter" came to being as a result of the conflict between the king and the barons, and petition of rights 1628 which is said to embody sir Edward Coke's concept of "due process of law" was also a product of similar conflicts and dissensions between the king and parliament.. nor was the Bill of Rights 1689 handed down on a "platter of Gold".. that bill drawn by a young barrister John Somers in the form of declaration of right, and assented to by king Williams secured inter alia for the English People, freedom of religion, and for judges, their independence.

England has no written constitution with or without entrenched human Rights provisions however, the three bills of rights alluded to earlier, formed the bedrock of the freedom and democratic values with which that country has to this day been associated.

On the part of French People, the French revolutionaries had to attack the Bastille, the Prison house in Paris, to proclaim the declaration of rights of man and citizen in 1789.. the object of the revolution was to secure equality of rights to the citizen.. two years after, American people took the glorious path of effecting certain amendments.. they incorporated into their constitution, a Bills of rights which is said to be fashioned after the English Bills of Rights..

It is noteworthy that even before the amendment of their constitution, the Americans had to fight a war of independence in 1776 and had proclaimed thus:-

***"We hold these truths as self-evident, that all men are created equal, that they are endowed by their creator with certain inalienable rights that among these are life, liberty and pursuit of happiness."***

It can therefore be gleaned from history that the pursuit of freedom equality, justice and happiness is not peculiar to any

race or group. It is indeed a universal phenomenon, hence man has striven hard to attain this goal.

The universal declaration of human rights which was adopted by the United Nation General Assembly on the 10<sup>th</sup> December, 1948, three years after the end of the 2<sup>nd</sup> world war, was mainly geared towards ensuring a free world for all, regardless of status.

Nigeria did not have to fight war to gain independence from the British... it was proclaimed that our independence was given to us on a "platter of gold."

What the minority groups demanded was the right to self – determination which they believed could offer them an escape route from the "tyranny" of the majority ethnic groups in the regions.

The commission that investigated their fears went out of its way to recommend the entrenchment of Fundamental Human Rights in the Constitution as a palliative, as a safeguard and as a check against alleged "oppressive conduct" by majority ethnic groups.

We have had our Fundamental Human Rights carefully captured and entrenched under chapter IV of the 1999 constitution of the Federal Republic of Nigeria as amended.. as sacrosanct as those

rights contained in Chapter IV of the Constitution of Federal Republic of Nigeria are, once there is any good reason for any of the rights to be curtailed, they shall so be and remain in abeyance in accordance with the law and constitution.

Fundamental Human Right Enforcement Rules is not an outlet for the dubious and criminal elements who always run to court to seek protection on the slightest belief that they are being invited by law enforcement agencies..

The essence of this legal window is to ensure that every action by government or her agencies is done according to law.

The law on the determinant factor of action to be brought under Fundamental Human Rights (Enforcement Procedure) 2009 is well settled. Only actions founded on breach of any of the Fundamental Human Rights guaranteed under Chapter IV of 1999 Constitution as amended of Federal Republic of Nigeria can be enforced under the rules.

It is also a condition precedent to the exercise of the court's jurisdiction that the enforcement of Fundamental Human Right or the securing of the enforcement thereof should be the main claim and not an ancillary claim. ***WAEC VS AKINKUMI (2008) 4 SC.***



It is the law that matters filed under the Fundamental Human Right Enforcement Rules are fought and won on affidavit evidence.

I shall highlight on paragraphs of affidavits in support and against the application for Enforcement of Fundamental Human Rights filed by the Applicant, for better and proper understanding of the kernel of Applicant's grievances.

It is the affidavit evidence of the Applicant, that he was never showed a copy of any petition against him from Prince Aziken, rather he was asked random questions regarding his relationship with Prince Isioma Aziken, and that he then explained to them how he got to know him, as Prince Isioma Aziken had requested for his assistance to introduce him to any broker who could help him monetize International Bank Guarantee for a fee for which they will agree upon. He then linked Prince Isioma Aziken to one Olanrewaju Sesan, the Managing Director of Pegasus Crystal Sceptre Limited, and they both had an agreement for the fees chargeable for a successful pre-monetization procedure which was reduced into writing by Prince Isioma Aziken.

Applicant averred that he had equally facilitated the process of the monetization of the International Bank Guaranty (IBG) at the

request of Prince Isioma Aziken and a pro forma Invoice had been sent and addressed to Prince Isioma Aziken's company ROCKWORKS AGROTEC LTD since the 17<sup>th</sup> of November, 2020.

Applicant informed this court that he was always travelling between Abuja and Lagos to meet with Olanrewaju Sesan at the instance of Prince Aziken, who usually fund the trips and accommodation to and fro Lagos, and that Prince Isioma Aziken's Company liability in the pro forma invoice was \$1,500,000.00 (USD) as management, consultancy and facilitation charges for issuing of BG amounting to \$25,000,000.00 at 6%, stated in the pro forma invoice to Yield4management F.Z.C.

Eventually, Prince Isioma Aziken, made a U-turn upon being given a copy of the pro forma invoice and rather sought for a local bank guaranty in the sum of N30,000,000,000.00 (Thirty Billion Naira Only) in favor of his company Rockworks Agrotec Limited, that was where the both agreed that upon confirmation of the genuineness and the ability of Pegasus Crystal Scepter Limited to facilitate the monetization.

Pegasus Crystal Sceptre Limited then approached her bankers and they were willing, ready and able to issue a Bank Guarantee of N30,000,000,000.00 (Thirty Billion Naira Only) in favuor of

Rockworks Agrotec Limited (Isioma Aziken's Company), and in furtherance of that, Unity Bank Plc. issued to Rockworks Agrotec Limited a letter of Readiness, Willingness and Ability to issue Bank Guarantee on behalf of Pegasus Crystal Scepter Limited, on the 19<sup>th</sup> of October 2020 and this fact was communicated to Prince Isioma Aziken through his company, Rockworks Agrotec Limited. Processing of the monetization of the bank guarantee was already in progress as Prince Isioma Aziken understandably did not have money to pay Olanrewaju of Pegasus Crystal Scepter Limited the amount agreed, having confirmed the Letter from Unity Bank in line with the hand written letter and the conditions for the issuance of the bank guarantee forwarded to Prince Isioma Aziken's Company, and that it was then apparent to Prince Aziken that he will not be able to meet up with the pre-draw down or pre-monetization of the Bank Guarantees both local and international which is not the fault of Olanweranju or his humble self who introduced them to each other.

Applicant insists, that he explained this much to the hearing of the team of the 1<sup>st</sup> Respondent, who was asking him questions and seeking for clarifications regarding his involvement in the transaction. However, the team rather opted to detain him and forced him to write a statement dictated by them despite the

insistence of his lawyer, then present, that it was not a proper thing for them to dictate the statement to him and to detain him despite his client's invitation being a fact finding one as stated in the letter.

The 1<sup>st</sup> Respondent's officers then excused his lawyer outside and then went ahead and told him to write whatever they requested him to write as they were not obliged to allow him to freely write what he wanted, the way he know it, and that they threatened to lock him up at their underground cell if he did not comply as they had their way, and despite his "co-operation" with their dictates, he was locked up from that day until the 25<sup>th</sup> of January 2023, despite the advice of their clinic, when he complained of his deteriorating health.

2<sup>nd</sup> and 3<sup>rd</sup> Respondents however contend, that the Abuja Zonal Office of the 1<sup>st</sup> Respondent's received a petition alleging that Mr. Uwakala Nnamdi, Hon. Dr. Aliyu Mahammud Waziri and Prof. Lawal Salihu and Chief Uzo for Fraud and obtaining money by false pretence the sum of N30,000,000.00 (Thirty Million Naira) of Prince Isioma Aziken who represents Rockworks Agrotec Ltd., Ramofaz Agricultural Ltd., Godone Chi Ltd., Ukanu Nigeria Ltd. and Jays Mart Nigeria Ltd. was awarded fraudulent contracts from

Mr. Uwakala Nnamdi, Hon. Dr. Aliyu Mahammud Waziri and Prof. Lawal Salihu and Chief Uzo for the supply of 500 units of Tractors (Massey Ferguson) at the sum of N7,000,000,00.00 (Seven Billion Naira). They however claimed it was approved by Mr. President Muhammadu Buhari, GCFR. That upon receipt of the said petition, the Petitioner was invited wherein he came and adopted his petition.

That the letter of investigation activities was sent to Zenith Bank in respect of the Applicant's Account and they received his statement of account which clearly shows the money that was transferred to the Applicant's Account in respect to the alleged transaction. BVN search was carried out and the Account number of the Applicant featured prominently and the said amount received reflected on the Applicant's Account.

That the petition alleged that Mr. Uwakala Nnamdi, Hon. Dr. Aliyu Mahammud Waziri and Prof. Lawal Salihu and Chief Uzo claimed to represent the Federal Government of Nigeria through National Agricultural Mechanized Cooperative Society (NAMCS). They Use that cover to award fraudulent contracts among which is the supply of 500 units of Tractors (Massey Ferguson) at the sum of

N7,000,000,000 (Seven Billion Naira) They however claimed it was approved by Mr. President Muhammad Buhari, GCFR.

That the 2<sup>nd</sup> Respondent who is in Bank Fraud section only served the invitation Letter to the Applicant based on directive from the 1<sup>st</sup> Respondent not on any personal matter.

That the Applicant never reported to the office of the 1<sup>st</sup> Respondent on the 19<sup>th</sup> January, 2023 as it was stated on the Invitation Letter from the 1<sup>st</sup> Respondent and also the 1<sup>st</sup> Respondent never asked the Applicant to go get a lawyer. Furthermore, Applicant honoured the invitation around 11am on 23<sup>rd</sup> January, 2023 of which he was shown the petition against him and was asked to write statement under words of caution of which he denied writing any statement until about 12.30pm that was when he started writing his statements.

From the affidavits of the Applicant, on the one hand, and that of the Respondent, on the other hand, the issue seem to have been narrowed to whether the alleged detention of the Applicant amounts to infringement of his Fundamental Human Rights.

It is now firmly settled per-adventure that documentary evidence is the best evidence. It is the best proof of the contents of such document, and no oral evidence will be allowed to discredit or

contradict the contents thereof, except where fraud is pleaded. See the cases of ***AG BENDEL STATE VS. UBA LTD (1986) 4 NWLR (Pt. 337) 547 at 563;***

***TEJU INVESTMENT AND PROPERTY CO. LTD VS. SUBAIR (2016) CA.***

Permit me to observe that detention, no matter how short, can amount to breach of Fundamental Human Right. But that can only be so if the detention is adjudged wrongfully or unlawful in the first place. That is if there is no legal foundation to base the arrest and or detention of the Applicant.

Where there is basis, the detention must be done in compliance with the provision of law and in line with civilized standard known to modern society.

Certainly speaking, the Applicant has not led evidence before this court to prove that he was illegally detained.

Respondents have led evidence before this court to prove that Applicant was granted bail on 23<sup>rd</sup> January, 2023 the same day he reported, but he didn't perfect his bail till 25<sup>th</sup> January 2023.

I must observe that whether administrative or court bail, both are contractual in nature. The effect of granting bail is not to set the

accused/suspect free for all times in the criminal process but to release him or her from the custody of law and to entrust him to appear at his trial or investigation at a specific time and place.

Indeed Fundamental Human Right Enforcement procedure is not a procedure opened to all manners of perceived infraction.

It is instructive to state here, that the Economic and Financial Crimes Commission (EFCC) is established under part 1 of the EFCC Act 2004, with its functions clearly stated therein.

Section 1 (2) c of the Act refers the Economic Financial Crime Commission (EFCC) to as the designated Financial Intelligence Unit (FIU) in Nigeria, charged with the responsibility of co-ordinating the various institutions involved in the fight against money laundering and enforcement of all laws dealing with Economic and Financial Crimes in Nigeria.

The functions of the Economic and Financial Crime Commission (EFCC) is provided for specifically under section 6 (a-g) of the EFCC Act, as follows:-

1. Investigation of all financial crimes including advance fee fraud, money laundering, counterfeiting, illegal charge transfer, futures market fraud, fraudulent endorsement of



negotiable instruments, computer credit card fraud, contract scan etc.

2. The adoption of measures to identify, trace, freeze, confiscate proceeds derived from terrorists activities, economic and financial crimes related offences or the properties the value of which corresponds to such proceeds;
3. The adoption of measures to eradicate the commission of economic and financial crimes, amongst other functions numerously itemised under the aforementioned section of the Act.

Enforcement of Fundamental Human Right matters is usually begun vide motion on notice with affidavit and written address.

Needless to mention that it is fought and won on the paragraphs of affidavit and written address.

For all intents and purposes, Respondents are a reputable commission with mandate to ensure Nigeria becomes, corrupt free and the mandate to bring to book those adjudged corrupt and also repatriate in liaison with other sister agencies abroad, monies stashed offshore believed to have been gotten corruptly.

It is indeed our collective responsibilities to ensure all hands are on deck for all agencies of government to work well and achieve the desired results.

However, that cannot be done in utter disregard for the constitutionally provided rights, which are well guaranteed.

The Nigerian constitution is founded on the Rule of law the primary meaning of which is that everything must be done according to law.

It means also that government should be conducted within the framework of recognized rules and principles which restrict discretionary power which Coke colourfully spoke of as "golden and straight met-want of law as opposed to the uncertain and crooked cord of discretion."

The law should be even handed between the government and citizens. OBASEKI (JSC) as he then was, re-echoed the essence of the Rule of law in the case of ***GOVERNMENT OF LAGOS STATE VS OJOKWU (1986) ALL NLR 233.***

Indeed, the Rule of law knows no fear, it is never cowed down; it can only be silenced. But once it is not silenced by the only arm that can silence it, it must be accepted in full confidence to be

able to justify its existence. See ***GARBA VS. FEDERAL CIVIL SERVICE COMMISSION & ANOR (1988) NWLR (Pt. 71) 449.***

MOH'D BELLO (then CJN) at the 6<sup>th</sup> International Appellate Judges Conference in Abuja in 1992, said:-

***"Judges should excel by doing the essence of justice which is to give a person what is lawfully due to him, to compel him to do what the law obliges him to do and restrain him from doing what the law enjoins him not to do".***

Human Rights are moral Principles or norms that describe certain standards of human behaviour, and are regularly protected as legal rights in Municipal and International Law. They are commonly understood as inalienable Fundamental Rights.. These Rights are based on the belief that everyone is equal and should have the same right and opportunities. Embedded in these rights are the abilities to understand another persons feelings, experience and the rule of law.

These rights, it could be safely said, impose an obligation on all persons as human beings to respect the human rights of others..

However, these rights can be taken away as a result of due process based on certain circumstances.

While I am in sympathy with the position of the Applicant, my sentiments will not go far to give him judgment by granting the reliefs sought by the Applicant. After all, it is good law that sentiments have no place in the judicial process, particularly when the sentiments are against the law.

The principal reliefs sought for by Applicant is declaratory in nature, which legally speaking shall always succeed on the strength of the averment contained in the affidavit in support of the application for enforcement of Applicant's Fundamental Human Rights.

Clearly, Applicant has been economical with the truth.

Having juxtaposed the contending affidavits, I am favourably inclined not to grant the reliefs sought by Applicant against the Respondents.

Application clearly, has fallen short of the necessary ingredients to sustain infringement of Applicant's human right.

I make bold to say that there is no known constitutional right of Applicant that has been breached, as claimed, with relation to the reliefs that have been refused.

There is on the whole, no merit in the application of Applicant. It is wholly refused and dismissed.

**Justice Y.**  
**Halilu**  
**Hon. Judge**  
**11<sup>th</sup> July, 2024**

### **APPEARANCES**

E.P. Offiong, Esq. – for Applicant.

Gabriela I. Ushie, Esq. – for the 1<sup>st</sup> and 2<sup>nd</sup> Respondents.

