

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. 15
CASE NUMBER : SUIT NO: CV/2123/20
DATE: : MONDAY 20TH SEPTEMBER, 2021

CAPTAIN ROLAND IYAYI APPLICANT

AND

1. INSPECTOR GENERAL OF POLICE
2. ACP. ADAMU ABDULLAHI ELLEMAN
3. CSP ABDULLAHI DEBA
4. ASP. SUNDAY IDOWU
5. NIGERIA IMMIGRATION SERVICE
6. NIGERIA CUSTOMS SERVICE
7. ALHAJI SALAMI YAHAYA

RESPONDENTS

RULING

The Applicant approached this court for the Enforcement of his Fundamental Right to wit;

1. A Declaration that the facts and circumstances of the relationship between the Applicant and the 7th Respondent and the duties and obligation arising therein is purely a civil contract inter parties devoid of any criminality as alleged by the 1st – 4th Respondents.
2. A Declaration that the arrest and detention of the Applicant between May 20th and 23rd, 2019 by the 1st – 4th Respondents at the instance of the 7th Respondent was without any justifiable basis and therefore unconstitutional being contrary to section 35 of the constitution of the Federal Republic of Nigeria 1999.

3. A Declaration that the continued harassment of the Applicant by the 1st – 4th Respondents, and the threats of further arrest and detention of the Applicant, at the instance of the 7th Respondent, without cause, is unconstitutional, unlawful and a gross abuse of the investigation and prosecutorial powers of the 1st – 4th Respondents.

4. A Declaration that the inclusion of the Applicants name by the 5th and 6th Respondents, at the 1st Respondent's behest, in the watch – list of criminal suspects for the purpose of curtailing the Applicant's ingress and egress from Nigeria, without reasonable suspicion of the Applicant having committed a criminal offence, is an infringement of the Applicant's right to freedom of movement contrary to section 41 of the

constitution of the Federal Republic of Nigeria 1999 (as amended).

5. A Declaration that the seizure of the Applicant's International Passport by the 1st – 4th Respondents, without cause, was without any justifiable basis and therefore unconstitutional being contrary to section 41 of the Constitution of the Federal Republic of Nigeria 1999.
6. An Order of Perpetual Injunction restraining the Respondents, whether by themselves or by their servants, privies, agents or any other person whatsoever from arresting, harassing, detaining, intimidating or howsoever interfering with the Fundamental Rights of the Applicant, especially but not limited to the Applicants' rights to personal liberty and freedom of movement in

respect of the memorandum of understanding dated 26th July, 2011 and the settlement Agreement between Top Brass Aviation Limited (of which the Applicant is the alter ego) and the 7th Respondent.

7. An Order directing the 1st – 4th Respondents to immediately release to the Applicant his international passport.
8. An Order directing the 1st Respondent to immediately retract the content of its letter of 23rd May, 2019 to the 6th Respondent with reference No.

CB:3000/IGP.SEC/MU/ABJ/T.B/VOL.62/233

wherein it was alleged that the Applicant was being investigated for a fraud of over N500Million.

9. An Order directing the 1st Respondent to immediately write retraction letters to all agencies and parastatals to which it had sent letters similar to its letter of 23rd May, 2019 to the 6th Respondent.
10. An Order directing the 1st, 5th and 6th Respondents to immediately remove the Applicants name, as it relates to the facts and circumstances of the instant case, from their watch list of criminal suspects and allow the Applicant ingress and egress from Nigeria.
11. General damages in the sum of N50,000,000.00 (Fifty Million Naira only) against the 1st, 4th and 7th Respondent, jointly and severally.
12. Exemplary Damages in the sum of N10,000,000.00 (Ten Million Naira) only

against the 1st, 4th and 7th Respondents jointly and severally.

13. A rendition of public apology to the Applicant by the 1st, 4th and 7th Respondents for unlawful arrest and detention of the Applicant.

The ground upon which the application is brought was equally filed and verifying statement annexed.

In support of the application is an affidavit duly deposed to by the Applicant himself.

It is the deposition of the Applicant that at all times relevant to this suit, he has been the alter ego and Managing Director/Chief Executive Officer of Top Brass Aviation Limited and that the 7th Respondent instigated, connived with and/or procured the coercive machinery of the 1st – 4th Respondents, to arrest, detain, intimidate and coerce him at the

detention facility of the 1st – 4th Respondents and threaten him with further arrest and detention in order to secure payments from him in furtherance of the memorandum of understanding and the settlement agreement, both of which were concluded between Top-Brass and the 7th Respondent.

Applicant avers that the 7th Respondent offered him a property located at No. 41 Allen Avenue, Ikeja – Lagos with a discounted amount of about 30% of whatever the market value. That this was as a result of the shame the Applicant had removed from him by sponsoring five(5) of his children through college over the last two (2) years. That this was his own way of showing gratitude and appreciation for selfless assistance rendered to him by the Applicant.

The Applicant avers that sometime in 2015, the 7th Respondent had approached the 1st Respondents (IGP) Monitoring unit purporting a Criminal conversion, illegal use of his title documents and obtaining by false pretense against Top Brass and himself. That he received a call demanding him to appear before investigating team to report to Abuja Force Headquarters, and that on his first report after interrogation he was granted bail on self-recognition. That subsequently the bail condition was revoked and reviewed. That the 4th Respondent signed a remand order that he should be detained at the Asokoro Police Station. Thus, he was illegally detained for three (3) nights. As a result of this, all his previous scheduled appointments with the Nigeria customs services were cancelled.

Applicant avers further that the 3rd Respondent put a call across to him demanding for his (BVN) detail which he said that he is more comfortable with his account number than (BVN) which he made available to his Detail of the email herein annexed and marked Exhibit “TAL 6”.

The Applicant made further averment that it was shocking and unwarranted for the Nigeria police to have caused letters to be written to the Nigeria Immigration Service and the Nigeria Customs Service alleging that he was being investigated for a fraud of over N500Million as reported by the 7th Respondent. The letter was attached herewith and marked Exhibit “TAL7”.

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

- i. Whether in the circumstances of the purely civil transaction between the Applicant and the 7th Respondent there is a reasonable ground for the 1st – 4th Respondents to suspect the Applicant of having committed a criminal offence, thus warranting the arrest and detention of the Applicant by the 1st – 4th Respondents between May 20th and 23rd, 2019, the seizure of his international passport and the inclusion of the Applicant's name in the watch list of the 1st, 5th and 6th Respondents?

On the sole issue raised, learned counsel submit that the fundamental rights of the Applicant are

guaranteed by sections 33-46 of the constitution of Federal Republic of Nigeria 1999 as amended. These rights are referred to as “fundamental” because they are the inalienable rights of the citizens of Nigeria that cannot be derogated from or denied by any person or authority, save by due process of the law. ***ODOGUN VS AG FEDERATION (1996) 6 NWLR (Pt. 456) 508 at 522, Paragraphs E- F***, and section 35 of the Constitution of the Federal Republic of Nigeria (as amended) were cited.

Learned counsel further argued that the arrest and detention of the Applicant by the 1st and 4th Respondents between 20th and 23rd May, 2019 did not arise under any of the exceptional circumstances in Section 35 of the Constitution nor did it conform to any known procedure in law. Thus, the arrest and detention of the Applicant by the 1st and

4th Respondents was completely unjustified and unreasonable. There was, and still is not, even the slightest evidence against the Applicant as regards allegations of Commission of any crime whatsoever. Indeed, it is clear that from the facts of this case, no reasonable person would come to the conclusion that the Applicant has committed a criminal offence. ***EKANEM V.A.I.G.P (2008) 5 NWLR (Pt. 1079) 97 at 111, Paras D – E, FAWEHIMMI VS.INSPECTOR GENERAL OF POLICE (2002) ALL NLR 357 at 374 Para F, EJEFOR VS. OKEKE (2007) NWLR (Pt. 665) 363 at 381, Paragraph H, JIM – JAJA VS COP 2011) 2 NWLR (Pt. 1231) 375***, were cited.

Learned counsel finally urged the court to grant the Applicant's relief as captured in the originating motion.

Upon service, the 5th Respondent filed a motion for the extension of time to file counter affidavit and preliminary objection out of time without filing a clean copy.

In its Preliminary objection, the 5th Respondent avers that the Applicant did not serve the 5th Respondent with the statutory 30 days notice of intention to commence a civil action against her. That this amount to a breach of the statutory procedure to be observed before initiating this suit against the 5th Respondent.

In line with, the 5th Respondent raised a sole issue for determination in the written address to wit; whether this Honourable Court has jurisdiction to entertain the suit of the Applicant in view of his manifest failure to comply with the statutory

condition precedent to the commencement of the suit.

On the issue raised, counsel to the 5th Respondent submit that it is trite that failure of an intending Plaintiff to observe a statutory condition precedent to the commencement of a suit renders the suit incompetent and invariably robs the court of jurisdiction. Section 109 (1) of the Immigration Act, 2015, *MADUKOLU VS NKEMDILIM (1962)1 ALL NLR 547 at 594, EGUAMWENSE VS AMAGHIZENWEN (1993) 9 NWLR (Pt. 315) page 1.*

Counsel submit further that having established that the suit is incompetent, he urge the court to strike out the suit.

5th Respondent equally filed counter affidavit to the originating motion deposed to by Okwe Earnest.

It is the deposition of the 5th Respondent that the Applicant is seeking for an Order of the court restraining the Respondent from denying, obstructing or curtailing the Applicant's right of ingress and egress from Nigeria. That the act complained of by the Applicant had already been completed by the 5th Respondent at the instance of the 1st Respondent.

That the Applicant's name having been included in the 5th Respondent's watch list is a completed action.

In line with the law, a written address was filed wherein two issue were formulated to wit;

- i. Whether the Applicant herein has placed sufficient evidence before the court to justify the

grant of the reliefs claimed in the originating motion?

- ii. Whether the affidavit of the Applicant discloses any reasonable cause of action against the 5th Respondent?

On issue one, counsel to the 5th Respondent submit that the answer to issue one raised above is firmly in the negative. That the Applicant failed to discharge the burden of proof which rest on it and therefore application must fail and should be dismissed in its entirety. ***COL. NICHOLAS AYANRU (RTD) VS MANDILAS LIMITED (2007) 10 NWLR (Pt. 1043) 462 was cited.***

On issue two, counsel submit that allegations made by the Applicant against the 5th Respondent are at best speculative as there is nothing in the

Applicant's affidavit and exhibits to convince the Court, and that courts have never and will never embark on a voyage based on mere speculation.

BENUE CEMENT COMPANY PLC. VS SKY INVESTMENT NIG. LTD (2003) FWLR (Pt. 143) page 109.

On their part, the 6th Respondent filed a preliminary objection on the following grounds:

- a. That the 6th Defendant/objector is not a juristic person and as such cannot sue or be sued.
- b. There is no pre-action notice pursuant to section 6 (2) of the Nigeria customs service Board Act Cap. N100 LFN 2004.

The 6th Respondent further filed his written address in support of the Notice of Preliminary Objection

and two issues were formulated for determination to wit;

1. Whether the 2nd Respondent is a juristic person capable of suing and be sued?
2. Whether the Claimant has served the statutory one month notice of intention to sue the Defendants as required by law?

On issue one, learned counsel to the 6th Respondent argued that it is a known principle of law that a court can only properly resolve disputes if the right parties are before it to contest the Claims as espoused in ***GREEN VS GREEN (1987) 3 NWLR (Pt. 61) Page 480 sections 1(1) 6(1) of the customs and Excise Management Act Cap 45 Laws of the Federation 2004 (CEMA), NWABUEZE VS NIPOST (2006) 8***

NWLR (Pt. 983) page 480 at page 529 paragraphs F – G were cited.

Thus learned counsel submit on issue one that the 6th Defendant is merely an administrative convenience not clothed with the legal capacity to sue and be sued and is only recognized by law without the consequential legal capacity.

On issue two, learned counsel avers that there must be service on the Board a one month notice before the commencement of the action in court by the Applicant or his authorized agent. *A.G ANAMBRA VSAG. FEDERATION (2007) ALL FWLR 1218 at 1222 was cited.*

The counsel submit that, the Applicant suit is initiated without regards to due process of the law

and he urged the court to so hold in striking out the 6th Respondent/objector name from the suit.

Equally a counter affidavit was filed wherein 6th Respondent stated that the 6th Respondent is a statutory body of the Federal Government established by the customs and Excise Management Act LFN 2004.

That the Applicant did not serve the 6th Respondent a pre-action Notice before commencing the suit.

6th Respondent avers that the 1st Respondent as an investigative authority has requested the 6th Respondent to include the Applicant's name in its watch list pending conclusion of investigation against the Applicant and therefore 6th Respondent has not infringed on any of the fundamental rights of the Applicant.

A written address was filed wherein the following issues were formulated to wit;

- i. Whether the Fundamental Human Rights of the Applicant have been infringed upon, violated, infringed or about or likely to be infringed upon by the 6th Respondent.
- ii. Whether the Applicant is entitled to the reliefs sought against the 6th Respondent.

On issue one, learned counsel argued that it is not sufficient for a citizen to complain that his /her Fundamental Right under the constitution have been infringed. Absolute duty is on the Applicant to show how the alleged rights have been encroached upon. If he/she fails to discharge the duty the courts are bound to turn their backs against him. ***TYOUGH VS A.G BENUE STATE (1982) NCLR 734; and***

ISAGBA VS ASHIEDU (1982) 3 NCLR 784 were cited.

On issue two, Learned counsel submit that the Applicant is not entitled to any of the relief claimed, having established and demonstrated that none of the Applicant's Fundamental Right has been encroached upon by the 6th Respondent, and that it is not enough for the Applicant herein to allege that he was arrested and detained, it is on the Applicant to establish that, his arrest and detention was illegal.

Learned counsel further submit that there is no record of the alleged arrest and detention herein attached to show that the Applicant was actually arrested and detained for the period of time he alleged, as he failed to exhibit any document before the court to substantiate same.

On their part, Applicant filed further affidavit in response to the counter affidavit filed by the 6th Respondent and deposed to by Amos Sanya Ali and a copy of judgment of the High Court of Lagos State in suit No.LD/9125 MFHR/2019 was annexed as Exhibit “ATLP1”

COURT:-

Procedurally speaking, application for enforcement of Fundamental Human Right is made by way of Motion on Notice stating grounds and affidavit in support which serves as evidence.

Being an Originating Motion, procedurally all Preliminary Objection are usually taken alongside the substantive motion. Having taken same together, I shall therefore, consider the Notice of Preliminary Objection raised by the 5th and 6th Respondents which

touches on the jurisdiction of this Honourable Court before delving into the substantive motion.

It is the Preliminary Objection of the 5th Respondent that this court lacks jurisdiction to entertain the matter because statutory Notice was not served on the 5th Respondent.

It is instructive to state here that jurisdiction is the authority which a court has to decide matters that are litigated before it or take cognizance of matter presented in a formal way for its decision. Such authority is controlled or circumscribed by the statute which created the court or by condition precedent created by a law which must be fulfilled before the court can entertain the suit ***LAWAN VS ZENON PETROLEUM & GAS LTD & ORS (2014) LPELR 23206 (CA)***.

The law is settled that where a statute has provided specifically for the doing of thing recourse must be first being had to such statute. Similarly where the statute which has provided a right also provides a remedy, the remedy provided by the statute must be resorted to.

A party who complains of a breach of his Fundamental Rights, must commence the form of action prescribe by the constitution specifically seeking the constitutionally provided remedy. ***ABIA STATE UNIVERSITY VS ANYAIBE (1996) 3 NWLR (Pt. 439) 646 at 660 paragraph c.***

Indeed, an action under the Fundament Right Enforcement Procedure Rules 1979 is a peculiar action. The procedure is provided by the Rules and for court to have jurisdiction, the procedure must be

strictly followed. Since the Rules have the force of law as the constitution itself, it overrides the provisions of any other enactment which seek to provide an alternative.

It is apparent that the constitution is supreme and the Fundamental Right Enforcement Procedure, being a special provision of the constitution is superior to any other legislation, if the other legislation is in conflict with it. It shall prevail and the other law shall be void up to the extent of the inconsistency. I rely on my previous case in suit No. **FCT/HC/CV/230/2014. EZRA ENWERE VS FEDERAL ROAD SAFETY CORPS & ANOR.**

Indeed, pre – action notice, do not apply to application for enforcement of Fundamental Rights, which mode of commencement is strictly governed

by the Fundamentals Rights (Enforcement Procedure) Rules, 2009. And therefore, the Applicant need not wait for a period of 30 days to commence an action in a Fundamental Rights case which ought to be treated as an emergency.

From the above, therefore, it is obvious that the application of the 5th Respondent/Applicant lacks merit, same is hereby dismissed.

On the part of the 6th Respondent, a Notice of Preliminary Objection was filed wherein learned counsel maintained that the 6th Respondent is not a Juristic person to cloth this court with jurisdiction.

Indeed, section 1(1) of the customs and excise Management Act Cap 45 Laws of the Federation 2004 provides as thus;

“There is hereby established under the control of the Federal Ministry of finance, a board to be known as the Nigeria customs service Board (in this Act referred to as the board) which shall be responsible for the administration of the customs and excise Management Act.”

Section 6(1) of the Act provides as thus; notwithstanding anything to the contrary contained in other law, No action shall be instituted against the Board in respect of any act, neglect, or omitted to be done by any officer, servant or agent of the Board in his capacity as an officer, servant or agent of the board with regards to the regulation made pursuant to section 9 (1)(b) of this act unless it is commenced within three months next after the act or negligence complained of, or in the case of a continuing

damages or injury, within three months next after the leasing thereof.”

I must observe that the 6th Defendant as captured in the suit is non-juristic person to cloth this court with jurisdiction as proper party is Nigeria custom service board as provided for in section 1(1) in the act.

Having held that the 6th Respondent/Applicant is not a juristic person, I shall do the needful by striking out the name of the 6th respondent. Same is hereby struck – out.

I shall now beam my search light on the substantive application to ascertain whether a case of breach of Fundamental Right is established.

Be it known that it is the constitutional duty of court to develop the common law, and to so do that within the matrix of the objective and normative value

suggest by the constitution and with due regard to the spirit, purport and object of the bill of rights.

It is equally the legal duty of police to protect citizen through law and structures designed to afford such protection. There is the need for the police to have regard to the constitutional provision and bindingness of Bill of Rights on the state and its structures.

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 wrongful 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 provisions of law and in line with civilised standard known to modern society.

Procedurally speaking, application for enforcement of Fundamental Human Right is made by way of motion on notice stating grounds and affidavit in support which serves as evidence.

It is the evidence of Applicant as distilled from his affidavit that he was arrested, detained by the Respondents without recourse to his Fundamental Rights as provided by law.

1st, 2nd, 3rd, 4th and 7th Respondents did not counter the affidavit of the Applicant.

It remains trite that facts deposed to in affidavit that are not challenged are deemed admitted and shall be acted upon by the court. See *MADU VS THE STATE (2011) LPELR 3973*.

Once a party has averred to facts in an affidavit, it behoves on the adverse party to contradict those

facts in a counter affidavit if they do not represent the true position. The exception to this general rule however is where averments in the affidavit in support of an application are contradicting or if taken together are not sufficient to sustain the Applicant's prayers, then a counter affidavit is most unnecessary. See ***CHIJOKE AGU VS OKPOKP (2009) LPELR 8280 (C A) See ORUNLOLA VS ADEOYE (1996) NWLR (Pt. 401)***

The question that naturally follow is, from the affidavit in support of the application in view, can it be said that the Applicant has established the case of breach of Fundamental Human Right against the Respondents?

The Applicant stated that he was arrested and detained for 3 days before he was released.

Applicant stated copiously that he was invited by the 1st Respondent Inspector General of Police monitoring unit and was detained.

The liberty to make any accusation is circumscribed both by the right to make it, the duty not to injure another by the accusation and the right of any appropriate redress in the court.

***AKILU VS FAHENMI IN (No. 2) (1989) (Pt. 102)
122***

It is true that the police have a duty to protect life and property and to detect crime. All these must be done within the confines of the law establishing the police and the constitution of Federal Republic of Nigeria 1999 as amended and under the Police Act section 4 of the police Act provides thus:

“The police shall be employed for the prevention and detention of crime, the apprehension of law and order, the protection of life and property and the due enforcement of all laws and regulations with which they are directly charged, and shall perform such military duties within or without Nigeria as may be required by them by, or under the authority of, this or any other Act.”

It truly therefore, means that when a suspect is arrested on a reasonable suspicion to have committed a crime, he shall be treated within the confines of the law.

Question... Has the Applicant in view, been treated within the provision of law?

Poser ... Has his liberty not been curtailed? For the purpose of clarity, I shall re-produce relevant portion of section 35(1), every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in the following cases and in accordance with procedure permitted by law:-

- a) “For the purpose of bringing him before a court in execution of the order of court or upon reasonable suspicion of him having committed a criminal offence, or to such extent as may be reasonably necessary to prevent his committing a criminal offence.”

Section 35(1) of the constitution of Federal Republic of Nigeria 1999 as amended specifically provides that a person who is charged with an offence and who has been detained in lawful custody awaiting

trial shall not be kept in such detention for a period longer than the maximum period of imprisonment presumed for the offence.

See 35(4) which also provides that any person who is arrested or detained in accordance with (1)(c) of this section shall be brought before a court of law within a reasonable time, and if he is not tried within a period of two months from the date of his arrest or detention in the case of a person who is in custody or entitle to bail, or three months from the date of his arrest or detention in the case of a person who has been released on bail, he shall (without prejudice to any further proceedings that may brought against him) be released either unconditionally or upon such conditions as are reasonably necessary to ensure that he appears for trial at a later date.

The expression of reasonable time under sub (4) of the constitution means one day where there is court of competent jurisdiction within a radius of 40 Kilometers, or two days or such longer period as the circumstances may be considered by the court to be reasonable.

It is certainly not merely of some importance but it is of fundamental importance that justice should not only be done, but should manifestly and undoubtedly be seen to be done.

A wrongdoer is often a man who has left something undone, not always one who has done something...

Richard Joseph Daley, an American Politician who lived between 1902–1972 once said, “Get the thing straight once and for all” the policeman isn’t there to

create disorder, the policeman is there to preserve disorder.”

Ignorance of law excuses no man, not that all men know the law, but because it is an excuse everyman will plead, and no man can tell how to refute him.

The procedure for the enforcement of Fundamental Human Right certainly is not an outlet for fraudsters to claim innocence and seek protection after committing crime. It is a procedure opened to frank and upright people whose inalienable rights would have been or about to be infringed upon by the very people who have the power to protect such rights or other persons who wield other unauthorised powers.

Applicant in the application in view, has stated in his affidavit in support that he was innocent of all allegation against him.

The 1st, 2nd, 3rd, 4th and 7th Respondent who were duly served with the process of this court have failed and or neglected to file counter affidavit to the allegation of the Applicant.

The court is left with no option to believe the affidavit of the Applicant.

On its part, 5th Respondent stated clearly that it has nothing to do with the arrest and detention of the Applicant but only acted on instruction received from the 1st Respondent.

From the affidavit evidence of the 5th Respondent, it is obvious that there is no case against the 5th Respondent.

Consequently, the case against the 5th Respondent is hereby dismissed.

1st, 2nd, 3rd, 4th and 7th Respondents who were served the said originating motion and whom in law were expected to debunk the assertions thereof by filing counter affidavit, but remained resistant and aloof, are deemed in law to have admitted all facts. In consequence of their non- filing of counter affidavit, I am left with no option than to grant the reliefs sought against them. Accordingly, the said reliefs 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 are hereby granted, as follows:-

1. A Declaration that the facts and circumstances of the relationship between the Applicant and the 7th Respondent and the duties and obligation arising therein is purely a civil contract inter parties devoid of any criminality as alleged by the 1st – 4th Respondents is **hereby granted.**

2. A Declaration that the arrest and detention of the Applicant between May 20th and 23rd, 2019 by the 1st – 4th Respondents at the instance of the 7th Respondent was without any justifiable basis and therefore unconstitutional being contrary to section 35 of the constitution of the Federal Republic of Nigeria 1999 is **hereby granted.**

3. A Declaration that the continued harassment of the Applicant by the 1st – 4th Respondents, and the threats of further arrest and detention to the Applicant, at the instance of the 7th Respondent, without cause, is unconstitutional, unlawful and a gross abuse of the investigation and prosecutorial powers of the 1st – 4th Respondents is **hereby granted.**

4. A Declaration that the inclusion of the Applicants name by the 5th and 6th Respondents, at the 1st Respondent's behest, in the watch – list of criminal suspects for the purpose of curtailing the Applicant's ingress and egress from Nigeria, without reasonable suspicion of the Applicant having committed a criminal offence, is an infringement of the Applicant's right to freedom of movement contrary to section 41 of the constitution of the Federal Republic of Nigeria 1999 (as amended) is **hereby granted**.

5. A Declaration that the seizure of the Applicant's International Passport by the 1st – 4th Respondents, without cause, was without any justifiable basis and therefore unconstitutional being contrary to section 41 of the Constitution

of the Federal Republic of Nigeria 1999 is **hereby granted.**

6. An Order of Perpetual Injunction restraining the Respondents, whether by themselves or by their servants, privies, agents or any other person whosoever from arresting, harassing, detaining, intimidating or howsoever interfering with the Fundamental Rights of the Applicant, especially but not limited to the Applicants' rights to personal liberty and freedom of movement in respect of the memorandum of understanding dated 26th July, 2011 and the settlement Agreement between Top Brass Aviation Limited (of which the Applicant is the alter ego) and the 7th Respondent is **hereby granted.**

7. An Order directing the 1st – 4th Respondents to immediately release to the Applicant his international passport is **hereby granted.**
8. An Order directing the 1st Respondent to immediately retract the content of its letter of 23rd May, 2019 to the 6th Respondent with reference No. CB:3000/ IGP.SEC/MU/ ABJ/T.B /VOL.62/233 wherein it was alleged that the Applicant was being investigated for a fraud of over N500Million is **hereby granted.**
9. An Order directing the 1st Respondent to immediately write retraction letters to all agencies and parastatals to which it had sent letters similar to its letter of 23rd May, 2019 to the 6th Respondent is **hereby granted.**

10. An Order directing the 1st, 5th and 6th Respondents to immediately remove the Applicants name, as it relates to the facts and circumstances of the instant case, from their watch list of criminal suspects and allow the Applicant ingress and egress from Nigeria is **hereby granted.**

Next are reliefs 11, 12 and 13 for special, general damages and rendition of apology. Special damages are those that arose after and as a result of the cause of action and not before it. Both special and general damages are compensatory and are meant to return the persons to the position they were prior to the alleged injury. Special damages are based on measureable Naira amounts of actual loss, and it is for this reason that they are expected to be specially pleaded and strictly proved.

In actual fact, special damages are damages that are reduced to a “sum certain”. See *NGILARI VS MOTHERCAT LTD (1999) LPELR – 1988., JULIUS BERGER NIGERIA PLC. & ANOR VS UGO (2015) LPELR (24408) (CA)*.

I have not seen any convincing particular placed by Applicant before the court to warrant granting the relief of special damages. I make no order as to special damages.

Next is general damages.

The law presumes general damages as flowing from the wrong complained of by the victim. Such damages need not be pleaded and strictly proved. General damages are compensatory damages for harm resulting from the Tort for which the party has

sued. See *UBN PLC. VS AJABULE (2011) 18 NWLR (Pt. 1278) 152 SC.*

I hereby award the sum of N200,000.00 against the said Respondents as general damages.

*Justice Y. Halilu
Hon. Judge
20th September, 2021*

APPEARANCES

R.C Aneke Esq. holding the brief of **Amos Sanya Esq.**—for the Applicant.

Respondents not in court and not represented.