

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY ABUJA
IN THE GWAGWALADA DIVISION
HOLDEN AT COURT 12, JABI
BEFORE HIS LORDSHIP HON. JUSTICE A. S. ADEPOJU
ON THE 12TH DAY OF OCTOBER, 2024**

SUIT NO: CV/940/2019

BETWEEN:

1. ADEJOH JIBRIN YUSUF
2. DEBORAH IBRAHIM EDEH } ----- **CLAIMANTS**

AND

1. DIRECTORATE OF ROAD TRAFFIC SERVICES
2. DIRECTORATE OF RAOD TRAFIC SERVICES
(NYANYA AREA/UNIT COMMAND) } ----- **DEFENDANTS**

S. E. UKEH for the Claimants.

Defendants not in Court and not Represented.

JUDGEMENT

The Claimants in an amended writ of summons dated 14th of May, 2019 and filed on the same day seeking the following:

1. An Order declaring that the continuous withholding of the car plate number, original of the car particulars of the 2nd Claimant as well as the unlawful withholding of the 1st Claimant driver license by the Defendant is illegal.

2. An order of court mandating the Defendants to release forthwith the 2nd Claimant's plate number IDA 301 AA, car particulars (original) and driver's license.
3. An order of Court directing the Defendants to pay the sum of **N20,000,000 (Twenty Million Naira)** only as general damages.
4. An order of Court mandating the Defendants to pay **N3, 000, 000.00 (Three Million Naira)** only, as exemplary damages for the unlawful illegal act of the Defendants on the Claimants.
5. N1,000,000 (One Million Naira) as cost of action.

An eye-bird view of the Claimants' case according to the 1st Claimant was that he drove his wife's car on the 4th of July 2018 to drop his children at school about 7:45am and was intercepted by officers of the 2nd Defendant by name **M. I. Bayei**. He stated that he was stopped at a close range without regard for likeliness of accident which may have result from sudden stop from short distance. The officer demanded for his car particulars alongside his driver's license. He obliged and the officer discovered that the car particulars have expired sometime in the month of April 2018.

Consequent upon the discovery, the officer removed his plate number. He was asked to drop his children and move the car to their office at Nyanya. He took his Children to school on okada. When he came back, he explained to the officers that he had no knowledge that the car particulars had expired. The car was released to him and the officer of the 1st Defendant insisted that he renew the car particulars before the release of his driver's

license, plate number and car particulars. The 1st Claimant asserted that he cannot use the car as a result of the seizure of his driver's license and car plate number.

The 2nd Claimant also complained that she cannot use the car as result of the removal of the plate number and cannot renew the car particulars because of the withholding of the documents by the 1st Defendant. The 1st Claimant claimed that there was an emergency that needed his attention at his place of work on the 9th of July 2018, and he decided to drive the car without plate number but was intercepted by men and officers of the Federal Road Safety Corps, who locked up his car till the following day and was compelled to pay certain amount for defaulting. He wrote a letter of complaint dated 4th of July 2018 to the 2nd Defendant Nyanya office. The letter was admitted alongside the vehicle particulars as Exhibit A1-A5 and B1 and B2 respectively. The Claimant stated that the action of withholding his driver's license, car plate number and particulars is an infringement of their Constitutional rights to freedom of movement hence the filing of the instant action.

In opposition to the claim of the Claimants, the Defendants filed a statement of defence dated 6th March 2020 wherein they denied that the purported **M. I. Bayei** is not an officer, staff, agent or proxy of the 1st and 2nd defendants. That arresting of defaulting vehicle does not start by 7:45am as alleged at Nyanya FCT Abuja before bridge as claimed by the Claimant, that it is only traffic control that is being carried out during peak hours (6:30am to 11am)

as such it is impossible for an authorized officer of the 1st and 2nd Defendant to flag down the Claimant's vehicle or any other vehicle within this period.

The Defendants further stated that it is not within the Defendant's mode of operation to seize defaulting driver's license, retain vehicle particulars, remove plate numbers and confiscate vehicles at the same time during operations. That only defaulting vehicles which has expired or invalid particulars defect or not roadworthy are usually placed with off the road sheet, a document which will specify the certain offence the vehicle is being arrested for by the issuing officer and the vehicle taken to the nearest command, and never will the vehicle particulars, driver's license, plate number and vehicle be seized at once from a driver or owner of a vehicle.

The Defendant denied that the Claimant's vehicle was parked or taken to the 2nd Defendant's premises or anywhere known to the Defendants. The 1st Defendant admitted the receipt of the 1st Claimant's letter and stated that all the allegations contained therein were accordingly investigated, and same was proved not to emanate from and or associated with any of the officers of both Defendants. The 2nd Defendant stated that the 1st Claimant's letter was not served on the Command but became aware from the 1st Defendant. The Defendants denied having in their custody the Claimant's vehicle particulars, plate number, driver's license or any other belongings. That the purported vehicle is not in the records of the Defendant.

After exchange of pleadings, the matter went into trial on the 10/3/2020 with the 1st Claimant **Adejoh Jibrin Yusuf** adopting his witness statement on oath which is in pari-material with the facts contained in the statement of Claim. Ditto for the Defendants, whose witness **Johnson Adelebu**, the Area Commander of Directorate of Road Traffic Services (VIO), Nyanya Area Command adopted his witness statement on oath on the 9th June, 2022.

Under cross-examination the Claimant testified that he has been practicing for ten (10) years. That the documents, Exhibits A1-A5, the vehicle particulars are in the name of the 2nd Claimant. He maintained that it was the officer of the 2nd Defendant that flagged him down, and the name on his tag is **M. I. Bayei**. He also maintained that he was not aware that the vehicle particulars had expired because it does not belong to him. He said two of his children were inside the car; the Defendants released the vehicle to him to drop the Children at school.

Similarly, the Defendant's witness also testified under cross-examination that he has been with the Defendant since 19/10/1990 but has retired. That he did not have a record of the officer the Claimant claimed collected his particulars, but confirmed that on the day of the incident his officers were on the road. That they only take attendance of the officers in the morning, they sign and are deployed. The list of staff posted to him, there is no officer bearing **M. I. Bayei**. He does not have the details of bio data of officers working with him before the Court. His office is in receipt of the letter of complaint written by the Claimant and their lawyer replied the letter but not

in court with him, equally the report of investigation was also not in Court. He confirmed being to the office of the Claimant with their Director of Operations and their lawyer. He denied that nobody came to the office of the Claimant with the plate number. He admitted that there were other law enforcement agencies on the road on that day apart from their agency. Finally he stated that there is no working document spelling out the operation of their agency before the court. And on this note the defendant closed its case.

Parties were ordered to file and exchange their final written address. It is on record that only the Claimant filed a final written address dated 19/2/2024. In the address, the Claimant's Counsel formulated a sole issue for determination to wit:

“Whether from the evidence adduced in this case, the Claimant have not established their case against the Defendants on the preponderance of evidence to be entitled to the reliefs sought before the Court.”

The Learned Counsel for the Claimant submitted that throughout the trial, the Defendants were unable to discredit the evidence of the Claimants, not even under cross-examination of PW1 or by their own evidence. That the testimony of the Claimant was not challenged nor controverted by the Defendants and posited that unchallenged evidence should be accepted and relied upon by the Court. He relied on the case of **ADEBOWALE V OLUWADAMILOLA (2017) LPELR 42696 CA, SSS V EL'RUFAl (2018) LPELR**

45050 CA, GALADIMAWA V KUKU (2018) LPELR 43886 CA, AONDO V BENUE LINKS NIG LTD (2019) LPELR 46876.

The Claimant also submitted that once the onus placed on a party is discharged by the party, it crystallizes to the other party to prove otherwise. Counsel referred to the case of **AROBELL NIG LTD & ORS V FIDELITY BANK (2018) IpeLr 45338 CA**. Counsel further submitted that the Defendants' witness (DW1) under cross-examination admitted responding to the letters Exhibits B1 and B2 written by the Claimant that this fact was not pleaded in their statement of defence, nor tendered them in evidence. On the effect of non-reply to the Solicitor's letters, Claimant argued that they are deemed to have admitted same and required no further proof. He urged the Court to enter judgement for the Claimants.

It is an elementary principle of law in civil proceedings that he who asserts must prove. And judgement is given against a person on whom lies the burden of proof, but fails to adduce evidence in discharge or proof of his assertions. See **OBE V MTN (2020) LPELR 57730 SC** the Supreme Court held:

"In a civil case the claim presented by the plaintiff is won and lost first on the pleadings and secondly on the evidence led in support of the averments in the statement of claim. Conversely the defence of the defendant is premised on facts averred in his statement of defence and the evidence adduced in support thereof. See APENA V ADERU & ANOR (2014) LPELR 23305 (SC). That is to say that civil case are decided upon what is put as an

issue by the parties on which issues are decided on balance of preponderance of evidence. OMOTOSHO V BANK OF THE NORTH LTD & ANOR (2006) LPELR 7580 CA, EKWEOZOR & ORS V REGISTERED TRUSTEES OF THE SAROUR (2020) LPELR 49568 (SC)”

The Case of the Claimant was that upon being flagged down by men of the Defendants, it was discovered that his vehicle particulars had expired, his vehicle was taken to the Defendants’ office, the vehicle particulars taken from him and his plate number removed. The vehicle was released to him without the plate number thus causing inconveniences to him. He gave the name of the officer that flagged him down as **M. I. Bayei** the Defendant in the cross-examination of the Claimant were unable to controvert the fact that it was the officer of the Defendants that removed the plate number of the Claimant. The testimony of the Defendant’s witness (DW1) was bare denial. He failed to produce the roaster of the officers on duty, though he admitted that his men were on the road. He admitted that he had their details but did not present it to the court.

I agree with the submission of the Learned Counsel for the Claimant that the Defendants did not effectively challenge the testimony of the Claimant either by way of cross-examination or in their evidence in chief. Furthermore, I accede to the position of the Claimant that the letter of complaint the receipt of which was acknowledged by the defendant was not replied to by the Defendants. It is therefore safe to conclude that the Defendants have no defence to the Claim of the Claimants. The withholding

and removal of the plate number of the Claimants is unlawful, illegal, reckless, irrational and overzealous act on the part of the officer of the Defendants. The Defendants at this age and time ought to have devised a better means of intercepting and dealing with traffic offenders in accordance with the international best practices. The Defendants are hereby ordered to release forthwith the 2nd Claimant's plate number IDA 301 AA, the car particulars (original) and the 1st Claimant's Driver's license.

Claimant claims the sum of **N20,000,000 (Twenty Million Naira)** as general damages and **N3,000,000 (Three Million Naira)** as exemplary damages for the unlawful, illegal acts of the Defendants. In the award of general damages to the Claimant, I have taken into consideration the attendant inconveniences and embarrassment that may have resulted from the removal of the plate number of the Claimant's vehicle by the Defendants and in the circumstance, I hereby award the sum of **N2,000,000 (Two Million Naira)** as general damages. And for the recklessness and irrational act of the Defendants, I also award the sum of **N2,000,000 (Two Million Naira)** as exemplary damages against the Defendants.

SIGN

HON. JUDGE
12/10/2024