

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT APO, ABUJA**  
**ON TUESDAY, THE 17<sup>TH</sup> DAY OF SEPTEMBER 2024**  
**BEFORE HIS LORDSHIP: HON JUSTICE ABUBAKAR HUSSAINI MUSA**  
**JUDGE**

**SUIT NO: FCT/HC/CV/2976/2023**  
**MOTION NO: FCT/HC/M/7197/2024**

**IN THE MATTER OF THE ENFORCEMENT OF THE FUNDAMENTAL RIGHTS OF THE APPLICANT**  
**IN THE MATTER OF:**

**EMEKA ANANWULI**

**APPLICANT**

**AND**

- 1. THE NIGERIA POLICE FORCE**
- 2. INSPECTOR GENERAL OF POLICE**
- 3. DEPUTY INSPECTOR-GENERAL OF POLICE, FORCE CID**
- 4. TITUS SAMUEL**
- 5. ADAMU ISHAKU**
- 6. IFEOMA OKONKWO**
- 7. ARINZE OKONKWO**
- 8. IFEANYI OKONKWO**
- 9. OBIAGELI OKONKWO**
- 10. OBIANUJU OKONKWO**

**RESPONDENTS**

**RULING ON THE 1<sup>ST</sup> – 5<sup>TH</sup> RESPONDENTS' NOTICE OF PRELIMINARY OBJECTION**

This Ruling is on the Notice of Preliminary Objection which the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> Respondents filed challenging the application of the Applicant for the enforcement of his fundamental rights.

On the 6<sup>th</sup> of April, 2023, the Applicant *vide* an originating Motion on Notice dated the same day commenced this suit for the enforcement of his fundamental rights against all the Respondents. In the originating application for the enforcement of his fundamental rights, the Applicant seeks the following reliefs from this Honourable Court:-

- 1. A Declaration that the continued harassment, molestation, intimidation and incarceration of the Applicant at the Force CID detention cell, Abuja, under the directive or instruction of the 3<sup>rd</sup> – 5<sup>th</sup> Respondents, from the 28<sup>th</sup> of March, 2023 till date in flagrant neglect of his fundamental rights is unconstitutional, illegal and constitutes a violation of the Applicant's fundamental right to personal liberty, and freedom of movement as respectively guaranteed by sections 35 and 41 of the 1999 Constitution and Articles 6, 7, 9, 11 and 12 of the African Charter on Human and People's Rights (Ratification and Enforcement) Act, and same has resulted in personal injury to the Applicant.*
- 2. A Declaration that the Applicant is entitled to adequate compensation and apology from the Respondents as provided for under section 35(6) of the Constitution of the Federal Republic of Nigeria, 1999, the Respondents having failed, neglected and or refused to charge him to*

*Court of competent jurisdiction if there is any offence or release him on bail, but have continuously kept him incarcerated till date.*

3. *An Order directing the respondents jointly and/or severally to pay the sum of ₦20,000,000.00 (Twenty Million Naira) as compensation for the illegal and unlawful detention of the Applicant by the Respondents from the 28<sup>th</sup> of March, 2023 till date, without charging him to Court or releasing him on bail.*
4. *An Injunction restraining the Respondents from further arresting or re-arresting the Applicant in relation to the burial of Dr Okonkwo Ikenna, the Applicant's cousin.*

The grounds upon which the application was brought revolve around a family dispute between the Applicant and the 6<sup>th</sup> to the 10<sup>th</sup> Respondents regarding how the 6<sup>th</sup> – 10<sup>th</sup> Respondents allegedly maltreated one late Dr Okonkwo Ikenna even at the point of death, to the point of preventing the wife and children of the deceased Dr Okonkwo Ikenna from attending the burial of the late Dr Okonkwo Ikenna and depriving them of accessing the family house where Dr Okonkwo Ikenna was buried.

On the 29<sup>th</sup> of April, 2024, the 1<sup>st</sup> – 5<sup>th</sup> Respondents filed this Notice of Preliminary Objection dated the same day wherein they seek the following reliefs:-

1. *An Order of this Honourable Court striking out this application for being incompetent and no cause of action against the 1<sup>st</sup> – 5<sup>th</sup> Respondents.*
2. *An Order of this Honourable Court striking out or setting aside the proceedings for want of jurisdiction.*
3. *And for such further order or orders as this Honourable Court may deem fit to make in the circumstance.*

The Notice of Preliminary Objection was found on eleven grounds. I shall proceed to reproduce the grounds:-

- i. *That the application does not comply with the Fundamental Rights (Enforcement Procedure) Rules 2009;*
- ii. *That the application is brought under a wrong originating process;*
- iii. *That the suit being incompetent robs this Honourable Court of the requisite jurisdiction to entertain this suit and as such cannot make a binding order where it lacks jurisdiction to do so;*
- iv. *That this application is not properly commenced and this deprives this Honourable Court the jurisdictional competence to adjudicate over the suit;*
- v. *That the Honourable Court lacks the jurisdiction to entertain this suit as it is an abuse of Court process;*

- vi. *That there is no mode of commencement of action known as notice of application for order enforcing the fundamental right;*
- vii. *That non-disclosure of cause of action against the 1<sup>st</sup> – 5<sup>th</sup> Respondents;*
- viii. *That the entire suit is frivolous, speculative and amounts to gross abuse of Court process;*
- ix. *That the Applicant's affidavit is vague and have not disclosed any cause of action against the 1<sup>st</sup> – 5<sup>th</sup> Respondents to warrant the invocation of the judicial power of the Court to adjudicate on this matter;*
- x. *That the Applicant in this case was only invited by the Police; and*
- xi. *That the application is glaringly defective and flawed.*

A 16-paragraph Affidavit deposed to by one Muhammed Idris, a litigation clerk in the Legal/Prosecution Section of the Force Criminal Investigation Department (FCID) and a Written Address accompanied the Notice of Preliminary Objection.

The Notice of Preliminary Objection with its accompaniments were served on the Applicant through his Counsel on the 30<sup>th</sup> of April, 2024 and on the 6<sup>th</sup> – 10<sup>th</sup> Respondents through their Counsel on the 2<sup>nd</sup> of May, 2024. On the 8<sup>th</sup> of July, 2024, the Applicant filed his Counter-Affidavit in opposition to the Notice

of Preliminary Objection. The Counter-Affidavit was accompanied with a Written Address. On the 9<sup>th</sup> of July, 2024, the parties adopted their processes in support of and in opposition to the Notice of Preliminary Objection.

For the 1<sup>st</sup> – 5<sup>th</sup> Respondents, the deponent rehashed the grounds which I have already reproduced above as the facts in support of its Notice of Preliminary Objection. In the Written Address in support of the Notice of Preliminary Objection, however, learned Counsel for the 1<sup>st</sup> – 5<sup>th</sup> Respondents formulated two issues for determination. These are: “(1) *Whether that application under fundamental rights enforcement procedure can be commenced by notice of application in view of Order II Rule 2 of the Fundamental Rights (Enforcement Procedure) Rules 2009 and Order II Rule 1 of the FCT High Court (Civil Procedure) Rules; and (2) Whether this Honourable Court can entertain this suit where it lacks requisite jurisdiction to make a binding order.*”

In his submissions on the first issue he formulated, learned Counsel referred to Order II Rule 2 of the Fundamental Rights (Enforcement Procedure) Rules, 2009 and Order III Rule 2 of the Rules of this Court. He insisted that the originating process the Applicant adopted was not known to law. He cited a number of cases such as ***C. C. (Oil & Gas) Co. SAL v. Masiri (2011) NWLR (Pt. 1234) 283 at 301*** and ***SPDC v Agbara (2019) 6 NWLR (Pt. 1668) 310 at***

**326, para H**, and submitted that the failure of the Applicant to comply with the rule regarding the mode of commencement was a fundamental defect that went to the root of the case. He concluded on the issue that the originating process being incompetent, the suit itself could not be valid as it was void *ab initio*.

In his submissions on the second issue, learned Counsel for the 1<sup>st</sup> – 5<sup>th</sup> Respondent contended that the Court could not validly exercise jurisdiction over the suit of the Applicant as there was a case of joinder of a non-juristic person. He argued that the 1<sup>st</sup> – 5<sup>th</sup> Respondents were non-juristic persons and therefore no action could lie against them. He cited a number of cases such as ***Ifejijna v. Ifejijna (1999) 1 NWLR (Pt. 587) 492; Kabo Air Ltd v. Oladipo (1999) 10 NWLR (Pt. 632) 717; Niwocha v. MTN (Nigeria) Communication Ltd (2008) 11 NWLR (Pt. 1099) 439*** among other cases in urging this Court to resolve the second issue in favor of the 1<sup>st</sup> – 5<sup>th</sup> Respondents.

In response, the Applicant in his Counter-Affidavit, the deponent, one ChinweokwuChukwuka, a litigation secretary in the law office of A. N. Zephaniah & Associates averred that contrary to the depositions of the 1<sup>st</sup> – 5<sup>th</sup> Respondents in their affidavit in support of the Notice of Preliminary Objection, the Applicant was arrested in Port Harcourt and brought to Abuja

three days after his arrest where he was kept for another twenty days before he was granted bail. She added that the application for the enforcement of the fundamental rights of the Applicant, apart from complying with Appendix B Form 1 of the Fundamental Rights (Enforcement Procedure) Rules, 2009, was necessitated by the determination of the 1<sup>st</sup> – 5<sup>th</sup> Respondents to detain the Applicant *ad infinitum*.

In the Written Address in support of the Counter-Affidavit, learned Counsel for the Applicant formulated two issues. These are: “(1) *Whether the Applicant/Respondent has made a case of infringement of his fundamental rights against the 1<sup>st</sup> to the 5<sup>th</sup> Respondents/Applicants; and (2) Whether the determination of the Respondents/Applicants application on the face of their preliminary objection will not amount to a premature determination of the Applicant/Respondent’s application.*”

On the first issue, learned Counsel premised his submission on the provisions of section 35(1) and 44(1) of the Constitution of the Federal Republic of Nigeria, 1999 as well as the provisions of Articles 4, 5, 6 and 7 (i) (b) of the African Charter on Human and People’s Rights (Ratification and Enforcement) Act, CAP A9, Laws of the Federation of Nigeria 2004. She submitted that the Applicant has shown a *prima facie* case of infringement of his right to personal liberty and right to freedom of movement. He added that

the Applicant complied with the provisions of the Fundamental Rights (Enforcement Procedure) Rules, 2009 as shown in Form 1 Appendix B. He cited the case of ***Adojutelegan v. APC & Ors (202) LPELR-53393 (CA)*** and ***Bello v. AG Oyo State (1980) 5 NWLR 828*** among other cases in urging the Court to hold that the Applicant has established a *prima facie* case against the 1<sup>st</sup> – 5<sup>th</sup> Respondents, moreso as the 1<sup>st</sup> – 5<sup>th</sup> Respondents have failed to comply with the dictum of Justice Adah (JCA, as he then was, now JSC) in ***Ukiri v. EFCC (2018) LPELR-43992*** that an arrest served the purpose of bringing a suspect before the Court or to secure the administration of the law.

On the second issue, learned Counsel cited the case of ***Atidade v. Ojo & Ors (2022) LPELR-58245 (CA)*** in urging the Court to hold that determining the Notice Preliminary Objection would necessarily involve the determination of the substantive questions in the main suit. He urged the Court to discountenance the Notice of Preliminary Objection and proceed with the main suit.

After due consideration of the arguments of the parties herein, the following sole issue lends itself for determination, to wit: ***“Whether the suit of the Claimant as presently constituted is not competent?”***

Because the grounds raised by the 1<sup>st</sup> – 5<sup>th</sup> Respondents in their Notice of Preliminary Objection border on jurisdiction, I shall begin the resolution of this sole issue by considering the components of jurisdiction. In the *locus classicus* of ***Madukolu v. Nkemdilim (1962) 2 SCNLR 341*** the Federal Supreme Court per VaheBairamian FJ expounded on this threshold subject as follows:-

***"...I shall make some observations on jurisdiction and the competence of a court. Put briefly, a court is competent when***

***(1) it is properly constituted as regards numbers and qualifications of the members of the bench, and no member is disqualified for one reason or another; and***

***(2) the subject matter of the case is within its jurisdiction, and there is no feature in the case which prevents the court from exercising its jurisdiction: and***

***(3) the case comes before the court initiated by due process of law, and upon fulfilment of any condition precedent to the exercise of jurisdiction.***

***Any defect in competence is fatal, for the proceedings are a nullity however well conducted and decided: the defect is extrinsic to the adjudication."***

In determining the jurisdiction of the Court, the Court considers the Claims of the Claimant in deciding whether the Court is vested with the jurisdiction to hear and determine the claims of the Claimant. This is because the statute that establishes the Court also delineates its subject matter jurisdiction. In the case of ***Skypower Exp. Airways Ltd. v. U.B.A. Plc (2022) 6 NWLR (Pt. 1826) 203 S.C. at 242 paras B-G***, the Court made the following profound pronouncement on what the Court must examine in order to determine whether it has jurisdiction to adjudicate over a suit before it. In this case, the Court held *inter alia* that

***"It is the claimant's case that vests jurisdiction on the court. A valid writ of summons is sine qua non to the assumption of the requisite jurisdiction by a court to entertain or adjudicate over a matter commenced by that process. The court will not look at a defendant's processes to determine whether it has jurisdiction. The onus is on the claimant to ensure that his action at the trial court was originated by due process of law. That duty has never been that of the defendant."***

According to the 1<sup>st</sup> – 5<sup>th</sup> Respondents, the Applicant failed to comply with the requirement as to form of the originating process. They also contend that the suit of the Applicant fails to disclose a reasonable cause of action against the 1<sup>st</sup> – 5<sup>th</sup> Respondents. They further contended that there was a misjoinder of non-juristic persons – in apparent reference to the 1<sup>st</sup> – 3<sup>rd</sup> Respondents. These complaints fall within the contemplation of the second and third limbs of the requirements of jurisdiction as stated in the case of *Madukolu v. Nkemdilim (1962) supra*. These are: **(2) the subject matter of the case is within its jurisdiction, and there is no feature in the case which prevents the court from exercising its jurisdiction: and (3) the case comes before the court initiated by due process of law, and upon fulfilment of any condition precedent to the exercise of jurisdiction.**

As to form, the Fundamental Rights (Enforcement Procedure) Rules, 2009 is the principal rules of procedure regulating the initiation and hearing of applications for the enforcement of fundamental rights in Nigeria. Every other rules of procedure, in so far as applications for the enforcement of the fundamental rights are concerned, are auxiliary to the Fundamental Rights (Enforcement Procedure) Rules, 2009. Recourse is only had to other rules of procedure where provisions in respect of certain circumstances are not provided for in the Fundamental Rights (Enforcement Procedure) Rules,

2009. Order XV Rule 4 provides that ***“Where in the course of any Human Rights proceedings, any situation arises for which there is or appears to be no adequate provision in these Rules, the Civil Procedure Rules of the Court for the time being in force shall apply.”***

Order II Rules 2, 3 and 4 stipulates the form which an application for the enforcement of fundamental rights may take. The Rules provide thus:

***“2. An application for the enforcement of the Fundamental Right may be made by any originating process accepted by the Court which shall, subject to the provisions of these Rules, lie without leave of Court.***

***3. An application shall be supported by a Statement setting out the name and description of the applicant, the relief sought, the grounds upon which the reliefs are sought, and supported by an affidavit setting out the facts upon which the application is made.***

***4. The affidavit shall be made by the Applicant, but where the applicant is in custody or if for any reason is unable to swear to an affidavit, the affidavit shall be made by a person who has personal knowledge of the facts or by a person who has been***

***informed of the facts by the Applicant, stating that the Applicant is unable to depose personally to the affidavit.”***

Though Order II Rule 2 merely states that the application shall be in an originating process accepted by the Court, it however provides what the accompanying processes shall be. First, the originating process adopted by the Applicant must be accompanied by a statement which shall contain a description of the applicant, the reliefs sought and the grounds upon which the reliefs are sought. In addition to the statement, the application must be accompanied by an affidavit setting out the facts upon which the application is based. Though Order II does not stipulate that a written address must accompany the originating process, Order XII Rule 1 of the Fundamental Rights (Enforcement Procedure) Rules, 2009 which states that “***Hearing of the application shall be on the parties’ written addresses***” presupposes that the written address must be filed alongside the originating processes since the applications for the enforcement of fundamental rights are determined on the basis of affidavit evidence which must, necessarily, be accompanied by written addresses.

Though Order II Rule 2 of the Fundamental Rights (Enforcement Procedure) Rules, 2009 stipulates that the originating process to be used must be one acceptable to the Court, Order II Rule 1 actually provides *inter alia* that “*Form*

*No. 1 in the Appendix may be used as appropriate*". A careful examination of Form No. 1 in the appendix would show that it is headed "**NOTICE OF APPLICATION FOR ORDER ENFORCING A FUNDAMENTAL RIGHT (ORDER 2 RULE 1)**". I have also studied the originating process of the Applicant *vis-à-vis* the provisions of Order II Rules 2, 3, and 4 of the Fundamental Rights (Enforcement Procedure) Rules, 2009 and found that the originating process and the accompanying originating processes are in compliance with the provisions of Order II Rules 2, 3 and 4 of the Fundamental Rights (Enforcement Procedure) Rules, 2009. There is the notice of the application for order enforcing a fundamental right. There is also the statement made pursuant to Order II Rules 3 and 4 of the relevant rules. There is an affidavit in support of the application which was deposed to by the wife of the deceased Dr Okonkwo Ikenna, Mrs Chigoziem Okonkwo. Finally, there is an accompanying written address embodying the legal arguments of Counsel in support of the Applicant's application for the enforcement of his fundamental rights. There is no doubt in my mind that the originating process of the Applicant is competent. I so hold.

On the issue of whether the suit of the Applicant discloses a reasonable cause of action against the 1<sup>st</sup> – 5<sup>th</sup> Respondents, I must have recourse to the

provisions of Order II Rule 1 of the Fundamental Rights (Enforcement Procedure) Rules, 2009. The Rule provides that

***“1. Any person who alleges that any of the Fundamental Rights provided for in the Constitution or African Charter on Human and Peoples’ Rights (Ratification and Enforcement) Act and to which he is entitled, has been, is being, or is likely to be infringed, may apply to the Court in the State where the infringement occurs or is likely to occur, for redress:***

***Provided that where the infringement occurs in a State which has no Division of the Federal High Court, the Division of the Federal High Court administratively responsible for the State shall have jurisdiction. Form No. 1 in the Appendix may be used as appropriate.”***

This provision is an iteration of the provisions of section 46 (1) of the Constitution of the Federal Republic of Nigeria, 1999. The said subsection provides thus:

***“Any person who alleges that any of the provisions of this Chapter has been, is being or likely to be contravened in any***

***State in relation to him may apply to a High Court in that State for redress.”***

What then is a cause of action, or a reasonable cause of action? The Courts have provided an answer. In ***Fidelity Bank Plc v. Marcity Chemical Industries Ltd. & 2 Others (2022) 7 NWLR (Pt. 1829) 351 S.C. at 371-372, paras G-A***, the Supreme Court explained that ***“The phrase “reasonable cause of action” means a cause of action with some chance of success when only the allegations in the statement of claim are considered. If when those allegations are examined, it is found that the cause of action is bound to fail, then the suit ought to be struck out.”*** Earlier at page 372, paras. B-C of the Law Report, the Law Lords of the Supreme Court enunciated that ***“The proposition that a plaintiff has no reasonable cause of action can only be made upon an examination by the court of the facts pleaded in the statement of claim.”***

Similarly, in ***Obasanjo v. WuroBogga (Nig.) Ltd. (2023) 2 NWLR (Pt. 1868) 253 S.C. at 266, paras C-E***, the apex Court illuminated the concept of cause of action when it held that

***“A cause of action arises as soon as the combination of facts giving the right to complain happens. In other words,***

***a cause of action is said to have accrued when the entire factual situations which give a person the right to a judicial relief are present or have happened. That is, when all that is necessary to make the matter in litigation an enforceable right or an actionable wrong have occurred. It is the accrual of the cause of action that confers on the appellant the right to institute an action to enforce the cause of action or right to a judicial relief.”***

The Court was more elaborate in ***Ode v. Uzor (2023) 13 NWLR (Pt. 1900) 1 S.C. at 28, paras. B-G*** when it explained the notion of cause of action thus:

***“A cause of action accrues when the cause of action becomes complete so that an aggrieved party can begin and maintain an action. A cause of action consists of every fact which would be necessary for a claimant to prove, if traversed, in order to support his right to judgment. It is the bundle or aggregate of facts which the law recognizes as giving the claimant a substantive right to make a claim for the relief or remedy being sought. It is every fact which is material to be proved to entitle the claimant to succeed or all those things necessary to give a right to relief in law or equity. A cause of action cannot arise until all that needs to take place to complete the complaint has happened and the aggrieved***

***person is aware that his right has been infringed upon. There may be more than one good and effective cause of action arising out of the same transaction and the cause of action accrues on the happening of the latest of such facts.”***

With particular focus on applications for the enforcement of fundamental rights, Order II Rule 1 of the Fundamental Rights (Enforcement Procedure) Rules, 2009 and section 46(1) of the Constitution of the Federal Republic of Nigeria 1999 are united that a cause of action in respect of application for the enforcement of the fundamental rights arises where the applicant believes that ***“any of the Fundamental Rights provided for in the Constitution or African Charter on Human and Peoples’ Rights (Ratification and Enforcement) Act and to which he is entitled, has been, is being, or is likely to be infringed”***.

I have studied the affidavit in support of the application for the enforcement of the fundamental rights of the Applicant and I have no doubt that the averments therein have made out a cause of action against the 1<sup>st</sup> – 5<sup>th</sup> Respondents. It is for the 1<sup>st</sup> – 5<sup>th</sup> Respondents to traverse the averments therein.

On the contention that the originating application of the Applicant is blighted for joinder of non-juristic person, the law is long settled that misjoinder of a party or joinder of a non-juristic person cannot defeat the suit if there are competent defendants against whom the Claimant can proceed. See Order 13 Rule 18(1) of the High Court of the Federal Capital Territory, Abuja (Civil Procedure) Rules, 2018 wherein it is stated that **“No proceedings shall be defeated by reason of misjoinder or nonjoinder of parties, and the court may deal with the matter in controversy so far as regards the rights and interest of the parties actually before him.”** In *O. U. Davidson Group Cons. (Nig.) Ltd v. Bees Elec. Co. Ltd (2001) 9 NWLR (Pt. 719) 507 CA at 516, para B*, the Court held that **“Where there is a misjoinder of parties to an action, the Court will not strike out the suit on ground of misjoinder of parties. The proper order the Court will make in such circumstances is to strike out the names of the misjoined parties.”** See also *General Electric Co. v. Akande (2010) 18 NWLR (Pt. 1225) 596 SC at 616 at F-G*, *Lagos State Bulk Purchase Corporation v. Purification Techniques (Nig.) Ltd (2013) 7 NWLR (Pt. 1352) 82 SC at 113-114, paras G-B*, *P.D.P. v. Edede (2022) 11 NWLR (Pt. 1840) 55, CA at 97, paras C-F*.

Notably, the 1<sup>st</sup> – 5<sup>th</sup> Respondents did not indicate in their Notice of Preliminary Objection which of the Defendants is a non-juristic person. For

the sake of clarity, not only for the purpose of this Ruling, but also for the purpose of posterity, the statuses of the 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> Respondents have to be established. Who, then, is a juristic person? A juristic person is a legal fiction that the law creates in order to vest legal personality on an association of natural persons so as to make such artificial persons distinct from their human directing minds. See ***NBCI v. Int. Gas (Nig.) Ltd. (1999) 8 NWLR (Pt. 613) 119 C.A. at 129, paras C-D***. Juristic persons are created by the law. Such law may be a statute or the Constitution. See ***Okoye v. Okonkwo (2005) 5 NWLR (Pt. 1451) 127 at 151-152, paras G-H; CBCL (Nig.) Ltd v. Okoli (2009) 5 NWLR (Pt. 1135) 446 at 460, paras F-G, 462, paras C-D; Anozia v. A.-G., Lagos State (2010) 15 NWLR (Pt. 1216) 207 AT 239, para B***.

In the case before me, there is no question that the 1<sup>st</sup> Defendant is a creation of the statute as well as the Constitution, having being created by virtue of section 214(1) of the Constitution of the Federal Republic of Nigeria, 1999 and section 3 of the Police Act, 2020. Similarly, the 2<sup>nd</sup> Defendant is a creation of the law, having being formed into existence by virtue of section 215(1) (a) of the Constitution of the Federal Republic of Nigeria, 1999 and section 7 of the Police Act, 2020.

Now, section 214(2) of the Constitution provides that “**Subject to the provisions of this Constitution – (a) the Nigeria Police Force shall be organized and administered in accordance with such provisions as may be prescribed by an Act of the National Assembly.**” The Police Act, 2020 which is the principal legislation which governs all matters relating to the Nigerian Police Force is an Act of the National Assembly. Section 11(1) of the Police Act, 2020 provides for the office of the 3<sup>rd</sup> Respondent. It is stated therein thus: “**The Police Service Commission, on the recommendation of the Inspector-General of Police shall appoint for the Police Force such numbers of Deputy Inspectors-General of Police and such numbers of Assistant Inspectors-General of Police as are required for the efficient performance of the functions of the Police Force.**” What this means, therefore, is that the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents are juristic persons capable of suing and being sued. Of course, the 4<sup>th</sup> and 5<sup>th</sup> Respondents are natural persons whose legal capacity is not in doubt.

I will be extremely charitable therefore if I describe the Notice of Preliminary Objection which the 1<sup>st</sup> – 5<sup>th</sup> Respondents have filed as a mere and provocative fishing expedition whose objective is to truncate the determination of the substantive suit on the merits. In conclusion, therefore, this Preliminary Objection fails and is accordingly overruled. The Notice of

Preliminary Objection of the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> Respondents with Motion Number M/7197/2024 dated and filed on the 29<sup>th</sup> of April, 2024 is hereby dismissed.

This is the Ruling of this Honourable Court delivered today, the 17<sup>th</sup> day of September, 2024.

**HON. JUSTICE A. H. MUSA**  
**JUDGE**  
**17/09/2024**