

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT MAITAMA**

**BEFORE HIS LORDSHIP: HON. JUSTICE H. Mu'azu**

**SUIT NO: FCT/HC/CV/8032/2023**

**DATE: 17/02/2025**

**BETWEEN:**

**CHULA AU-ARU AMEEDEN NKANI.....APPLICANT**

**AND**

- |  |   |                         |
|--|---|-------------------------|
| <ol style="list-style-type: none"><li><b>1. DR. ABDULLATEEF BELLO (DIRECTOR FCT DIRECTORATE OF ROAD TRAFFIC SERVICES)</b></li><li><b>2. THE FCT DIRECTORATE OF ROAD TRAFFIC SERVICES (Also known as; FCT VIO)</b></li><li><b>3. MR. A.M. SHEHU</b></li></ol> | } | <b>.....RESPONDENTS</b> |
|--|---|-------------------------|

***Appearance:***

*Fidel Basse, Esq, with Toyin Abutu, Esq, for the Applicant.*

*M.O. Abdulahi, Esq, (SSC)for FCT.*

**JUDGMENT**

This suit is premised on an Originating Motion brought pursuant to Order 1 Rules 2, 3, 4 and 5 of the Fundamental Rights (Enforcement Procedure) Rules 2009 and sections 34(1)(A), 43, 44(1) and 46(1)&(2) of the Constitution of the Federal Republic of Nigeria 1999 (as amended), Articles 4, 5 and 14 of the African Charter on human and Peoples Rights ( Ratification and Enforcement) Act LFN 2010 and order II, Order XI and XII of the Fundamental Rights (Enforcement Procedure) Rules, 2009 dated the 17th day of October, 2023. The Applicant who wants the court to enforce his fundamental rights prays for the following reliefs:

- a. *A Declaration that the forceful and brutal removal of the Applicant from his vehicle, a Toyota Sienna with Registration Number: ABJ944GU by the Respondents is unconstitutional and a violation of the Applicant's right to respect for the dignity of his human person enshrined under the provisions of section 34(1)(a) of the Constitution of Nigeria, 1999 (as amended) and Articles 4 & 5 of the African Charter on Human and Peoples Rights (Ratification and Enforcement) Act LFN 2010.*
- b. *A Declaration that the continuous detention of the Applicant's vehicle Toyota Sienna with Registration number ABJ 933 GU without due process of law is unconstitutional, null and void and a violation of the Applicant's Right to fair hearing and right to own moveable property as enshrined under the provisions of sections 36(1), 43 & 44(1) of the Constitution of Nigeria 1999 (as amended), and Article 7 of the African Charter on Human and People's Rights.*
- c. *An Order of this Honourable Court directing the Respondents to immediately release the vehicle of the Applicant, a Toyota Sienna with registration number ABJ 944 GU to the Applicant unconditionally with immediate effect.*
- d. *An Order of perpetual injunction restraining the Respondents whether by themselves, their agents, privies/or servants from interfering with the Rights of the Applicant and all other citizens of Nigeria residing in the FCT to human dignity, fair hearing and right to own moveable property enshrined under sections 34, 36(1), 43 & 44(1) of the Constitution of Nigeria 1999 (as amended) and Articles 4, 5, 7 & 14 of the African Charter on Human and Peoples Rights ( Ratification and Enforcement) Act LFN, 2010.*

- e. *An Order of this Honourable Court mandating the Respondents to pay to the Applicant the sum of **N50 million (Fifty Million Naira)** as general damages for the violation of his Right to Respect for the dignity of his person, fair hearing and right to own moveable property.*
- f. *An Order of this Honourable Court mandating the Respondents to pay to the Applicant the sum of N50 million as punitive, compensatory and exemplary damages for unlawful violations of his Right to Respect for the dignity of his person, fair hearing and right to own moveable property.*
- g. *An order of this Honourable Court mandating the Respondents to pay to the Applicant the sum of N3 million as cost of litigation in this instant suit.*
- h. *And any other order(s) as the Honourable Court may deem fit to make in the circumstance of the case.*

In accordance with the Rules, the Applicant filed a statement stating the name and description of the Applicant, reliefs and the grounds upon which the reliefs are sought. Also filed is an affidavit of Twenty - three (23) paragraphs deposed to by the Applicant himself on the 20<sup>th</sup> October, 2023 to which were attached two (2) exhibits marked as Exhibits A and B thus: Exhibit A are copies of the Applicant's vehicle registration documents with Registration number ABJ 944 GU while Exhibit B is the note given to the Applicant referred to as "**referral**". Also filed are the grounds upon which this application is brought, to wit:

- 1. The Respondents on the 26<sup>th</sup> of August 2023 forcefully removed the Applicant from his vehicle whilst he was driving along the APO Axis of the Federal Capital Territory.**
- 2. The 3<sup>rd</sup> Respondent led members of the 2<sup>nd</sup> Respondent to brutally harass the Applicant, forcefully pulled him out of the vehicle and**

***drove off with the vehicle without offering any explanation to the Applicant.***

- 3. That at the point of the forceful takeover of the Applicant's vehicle by the Respondents, the Respondents offered no explanation to the Applicant on the reason of such forceful takeover.***
- 4. That the Applicant has not been given any opportunity to defend himself of any allegation against him neither has any reason been properly furnished to him as the reason for the forceful takeover of his vehicle.***
- 5. That the action of the Respondent is a violation of the Applicant's right to respect for his dignity of the human person, fair hearing and right to own moveable property guaranteed under the Constitution of the Federal Republic of Nigeria.***
- 6. The Applicant is entitled to general, exemplary and punitive damages on account of the said violations.***

Meanwhile, the Respondents after being served with the Originating process, the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> respondents entered a conditional appearance dated the 20<sup>th</sup> September, 2024 and filed on the 23<sup>rd</sup> September, 2024. The Respondents by a motion on notice dated the 20<sup>th</sup> September, 2024 and filed on the 23<sup>rd</sup> September, 2024 applied for an order of this Honourable Court to extend the time within which they may file counter - affidavit and written address in this suit and an order deeming the already filed and served counter affidavit and written address as properly filed and served. This application having been granted, the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents filed their counter affidavit in opposition to the Applicant's application for fundamental Right Enforcement dated the 28<sup>th</sup> day of October and filed on the same date with one exhibit attached thereto as Exhibit DRTS1. The Applicant filed a twenty - three (23) paragraph further affidavit in support of the Originating motion upon receipt of the counter affidavit of the 1<sup>st</sup>,

2<sup>nd</sup> and 3<sup>rd</sup> Respondents to which were attached three (3) exhibits, marked as Exhibits C1 to C3 dated the 28<sup>th</sup> day of November, 2024 and filed on the same date as well as a written address titled "*Applicant's Reply on points of law*" dated the 19<sup>th</sup> day of November, 2024.

The above stated processes are the processes filed before this Honourable Court.

In brief, the facts of this case as contained in the sworn affidavit of the Applicant, he averred that, on the 26<sup>th</sup> day of August, 2023, while on his way to APO Mechanic village to buy motor spare parts and while driving on low speed he was accosted by some men dressed without the uniform of any recognized law enforcement agency in Nigeria who attacked his vehicle, a Toyota Sienna, with registration number ABJ 944 GU holding the steering of the vehicle from the wound down glass on the driver's side and forcefully pulled him out of the vehicle and drove away the said vehicle with all his personal effects and belongings in the vehicle. The Applicant averred that when he inquired from the passersby along the road he was told that the leader of the team was the 3<sup>rd</sup> Respondent who is a team leader under the 1<sup>st</sup> and 2<sup>nd</sup> Respondents and was present at the location of the incident. He further averred that he was also told that the men that attacked him were men of the 1<sup>st</sup> & 2<sup>nd</sup> Respondents taskforce and that they must have taken his vehicle to the Wuye office of the 1<sup>st</sup> and 2<sup>nd</sup> Respondent. According to the Applicant he went to Wuye office of the 1<sup>st</sup> & 2<sup>nd</sup> Respondents on the 28<sup>th</sup> day of August 2023 where he saw the 3<sup>rd</sup> Respondent standing outside and when he inquired of the offence he has committed he reacted by saying "nobody can kill me". He however instructed some men to give him a small note which they claimed was a referral and he has attached same as Exhibit B. He also averred that the note was to be taken to Lugbe division of the 1<sup>st</sup> Respondent for some lessons while all efforts to retrieve the key to his vehicle failed. The Applicant equally averred that he was not based in Abuja and as such he was just entering Abuja then when the incident happened

and as such he had so many of his personal items in it which have been adequately itemized in detail in paragraph 12 of the Applicant's supporting affidavit. These items include four (4) cheque books, one HP Core i5 laptop, one Samsung Galaxy S21 Ultra 5G phone, 12 cartons of his books, 2 cartons of DVD cassettes, membership certificate and identity card of Chula World thinkers Limited with Association of Motor Dealers of Nigeria, one luggage box containing his cloths, an International Passport and above all, the sum of **Two-million-naira (N2, 000,000.00)** cash respectively. The averments also include the refusal of the Respondents to allow him take stalk of the items in his vehicle or access to them and that since his vehicle was taken over by the Respondents, he has never been informed of the offence he committed or taken to any court for the commission of any offence. As a result of the foregoing events the Applicant averred that he has suffered immeasurable hardship, unable to return back to his home in Rivers State as he could not get access to his cheque books and has been squatting as he can no longer afford to pay for cheap Hotels notwithstanding that they are in unhealthiest conditions the Applicant therefore urged this Honourable Court to grant his application in the interest of justice and fairness being confident that he is entitled to own property as a citizen of Nigeria.

On the other hand, the Respondent's counter affidavit of 18 paragraphs sworn to by one ATTAH SUNDAY THANKGOD, a staff of Road Traffic Services FCT, Abuja shows that he is the litigation assistant of the 1st Respondent by which he is conversant with the facts of the case. He deposed to the fact that the 1<sup>st</sup> Respondent is the Director of the 2<sup>nd</sup> Respondent which is a department under the Transportation Secretariat of the Federal Capital Territory empowered with duties to ensure that traffic rules are complied with, control of vehicle registration, documentation and licensing and also to ensure road worthy vehicles and competent drivers ply the roads, and highways within the FCT in accordance with subsisting traffic regulations. He also averred that the 3<sup>rd</sup> Respondent is the Head of the FCT Ministerial Joint Task Force comprising of multiple enforcement agencies including Nigeria Police Force, Nigeria Security and Civil Defence

Corp, Department of State Security Services, Nigeria Correctional Services constituted by the Minister of the FCT and responsible for curbing the menace of security threats and challenges through enforcement of traffic regulations in the FCT. The deponent further averred that on the 26th August, 2023 the Applicant was accosted by the Ministerial Task Force along Area I corridor leading towards Apo round about while driving his vehicle, a Toyota Sienna with registration number ABJ 944 GU for parking his vehicle illegally on the expressway obstructing other road users, causing traffic and overloading the vehicle with passengers. He equally averred that the officers identified themselves to the driver and ordered him to dislodge his passengers while being notified of the offences he committed which included using private vehicle for commercial purposes. The driver was said to have reluctantly driven his vehicle to Wuye office of the 2<sup>nd</sup> Respondent in company of a team of Police and Traffic officer and it was accordingly impounded. It is further averred that the Applicant's vehicle was issued a contravention notice dated the 26th of August, 2023. Containing the violations by the Applicant and this was attached as exhibit DRTS 1. The Respondents equally averred that the Applicant was informed by the 3<sup>rd</sup> Respondent in his office at Wuye office of the 2<sup>nd</sup> Respondent that his vehicle contravened traffic regulations in the FCT and he must comply with the laid down procedures before he could retrieve back his vehicle while being advised to remove any of his valuables from the vehicle. It was equally averred that the Applicant was referred for a Mandatory correctional Training course of traffic violation at the FCT Model Drivers Institute, Lugbe FCT before he will either be fined or prosecuted before a competent court for the violations he committed, which the Applicant refused to comply with till the Respondents were served with process of this Honourable Court. The Respondents averred that the 1st and 3rd Respondents were never at the scene where the vehicle was impounded. It is also the Respondents contention that the said vehicle was impounded and is being kept for safety security reasons and traffic violations which the Applicant is yet to comply with the condition precedent before its

release including prosecution. The Respondents averment clearly deny any knowledge of the items inside the Applicant's vehicle and also deny responsibility for same. The Respondents finally urged this Honourable Court to dismiss this application for being Unmeritorious, frivolous and only aimed at circumventing due legal process and gold - digging.

In a further affidavit to the counter affidavit the Applicant filed an affidavit of twenty- three (23) paragraphs with exhibits C1 to C2 attached thereto and a written address referred to as the Applicant's reply on points of law. The Applicant further denied all the averments of the Respondents and stated that he has a valid Driver's License, a copy of which he has attached as exhibit C1. He also referred to Exhibit DRST 1 attached to the counter affidavit as an afterthought as it was never issued to him. He also deposed to the fact that he has a certificate of Road Worthiness issued to him by the Vehicle Inspector Office of Nasarawa State which is also attached as exhibit C2. The Applicant equally attached as exhibit C3 a copy of the 2<sup>nd</sup> Respondent's webpage and stated further that the arbitrary seizure of his vehicle by the Respondents is a violation of his right to own moveable property and fair hearing.

At the hearing of this application on the 2<sup>nd</sup> day December, 2024 FEMI ADEDEJI Esq for the Applicant and AMADE MARY IYOMA Esq for the Respondents adopted their processes, adumbrated on same and urged the court to grant the reliefs in favour of the parties that they represent. The court thereafter adjourned for judgment.

In urging the court to grant the Originating Motion, the learned counsel for the Applicant, Femi Adedeji Esq in his written address dated the 17th October, 2023 and filed on the 20th October, 2023 formulated and argued three (3) issues for determination to wit: -

- 1. Whether the forceful takeover and continuous possession of Applicant's vehicle by the Respondents herein is not a gross***

***violation of the Right to respect of the dignity of the Human person, Right to fair hearing and Right to own moveable property guaranteed under sections 34, 36 and 44 of the Constitution of the Federal Republic of Nigeria and Articles 4, 5 and 14 of the African Charter on Human and Peoples Right.***

***2. Whether the Applicant is not entitled to the payment of damages from the Respondents for the violation of his fundamental Human Rights.***

***3. Whether this Honorable Court can award exemplary and punitive and compensatory damages in the circumstances of this case.***

He submitted that it is an established principle of law that Law Enforcement Agents ought to respect the rights of the citizens to respect for the dignity of the human person whenever they are carrying out their operation or duties. He referred to the case of **NSCDC & ORS V. OLOBA (2023) LPELR - 60883 (CA) pages 23 - 24** where it was held that: -

***"It must however be clearly stated that the power of any agency to arrest including but not limited to the Nigerian Police Force, EFCC and the NSCDC is subject to the fundamental rights enshrined and guaranteed by the 1999 constitution of the Federal Republic of Nigeria (as amended)".***

He submitted further that the act of the Respondents in forcefully and brutally removing the Applicant from his vehicle without any reason or official communication and his vehicle driven away in the most unfortunate and degrading manner does not reflect any due process of law and is a violation of the Applicant's right to respect for the dignity of his person. He also submitted that the act of the Respondents in not informing the Applicant of the offence he has committed or given the opportunity before any court, tribunal or panel to present a defence to whatever offence he has been accused of is a violation of

the clear provisions of sections 36(1) & 36(6)(9) of the Constitution of the Federal Republic of Nigeria 1999 (as amended). He referred to the case of **SARAKI V. FRN (2018) 16 NWLR (pt. 1646) pg 467 paragraphs B - D**. He equally referred to section 44(1) of the Constitution of Nigeria and Article 17 of United Nations Declaration of Human Rights and Article 14 of the African Charter of Human and People's rights which guarantee that the Applicant has a right to own property.

The learned counsel referred to the case of **LASTMA & ORS V. ESEZOBO (2015) LPELR - 25003 (CA)** where it was held that:

***".....To this extent, the learned trial judge was right when she held that the Appellants act of detention of the Applicant's vehicle and issuance of notification of fine constitutes a violation of the Respondents right to fair hearing and right to moveable property in the absence of any law backing their action".***

He therefore submitted that a referral letter or notice by the Respondents cannot constitute lawful justification for the detention of the vehicle of the Applicant.

On the issue of payment of damages, the learned counsel referred to the case of **OKONKWO V. OGBOWU (1996) 5 NWLR (pt. 499) pg 420**, where the Supreme Court held thus: -

***"Any trespass to the person however slight gives right of action to recover damages. Even where there has been no physical injury, substantial damages may be awarded for injury to the man's dignity or discomfort or inconvenience".***

The learned counsel to the Applicant also referred to the case of **TIM JAJA V. COP RIVERS STATE (2015) 1 N. H. R. L. R. PG 256 AT PG 273, ABIOLA V. ABACHA (SUPRA), FUGU V. PRESIDENT (2009 - 2010) CHR PG 1 AT PGS 20 - 21** respectively where it was held to the effect that: Once it is established

that an Applicant seeking redress for the infringement of fundamental right is in addition to a declaration of injunction also entitled to the award of damages. He further submitted that an infringement of fundamental rights of a Nigerian citizen must attract compensatory damages and, in some cases, exemplary damages and therefore urged this Honourable Court to award the reliefs and damages against the Respondents for violation of the Applicant's right to dignity of his person, right to fair hearing and right to own moveable property.

In the further affidavit of the Applicant the learned counsel to the Applicant referred to the case of **NDAKENE V. ADAMU & ORS (2023) LPELR - 59972 (SC)** where it was held that: -

***"It is now fairly settled that it is the cause of action as endorsed on the writ of summons that determines the proper parties before the court".***

He therefore urged this Honourable Court to hold the three (3) Respondents as the parties responsible for violating the Applicant's rights directly and that they are proper before the court.

As for the fact that the 2<sup>nd</sup> Respondent is not a juristic person as contended by the Respondents the learned counsel argued that it is a juristic person and referred to the case of **ACCESS BANK V. AGEGE LOCAL GOV'T & ANOTHER (2016) LPELR - 40491 (CA)** where the court of Appeal held that: -

***"Where a body or office is created by statute, the right to sue or be sued can be inferred notwithstanding the absence of an express provision in this regard".***

He equally referred to the case of **CHAIRMAN, EFCC & ANOR V. LITTLE CHILD & ANOR (2015) LPELR - 25199 (CA)**.

The learned counsel also refers to Order XIII of the Fundamental Rights Enforcement Procedure Rules 2009 to the effect that a fundamental Rights

application is ***suigeneris*** and this court has the vires to hear anybody or person whom the court deems as a proper party to be heard. He therefore submitted that both the 1<sup>st</sup> and 2<sup>nd</sup> Respondents are juristic persons.

This notwithstanding, the learned counsel conceded to the fact that where this Hon. Court finds any of the parties to be non - juristic persons to have been made as parties to this application, their names can be struck out while the case will be maintained against the juristic persons. He referred to the case of **PFIZER INCORPORATED V. MOHAMMED (2013) 16 NWLR (pt. 1379) pg 155 at pg 181** where it was held that: -

***"A suit in the name of a juristic person and non- juristic person may be bad but it need not fail, for the name of the non - juristic person wrongly joined could be struck out retaining the juristic person and surrounding the suit. What this postulate is that since the 1<sup>st</sup> Appellant is a juristic person, the joinder of the non- juristic person as a 2<sup>nd</sup> defendant will not void the action. All that is needed is for the name of the non - juristic person to be struck out".***

The learned counsel to the Applicants finally referred to section 44(1&2) of the 1999 constitution (as amended) and submitted that the Respondents have no authority to turn themselves into a judicial panel or court to pass judgment on the Applicant or any citizen of the Federal Republic of Nigeria without recourse to fair hearing. He concluded by saying that there is no evidence that they have filed any criminal or civil matter in respect of the allegations against the Applicant let alone having been convicted for any offence or any civil cause to warrant the Respondents to have seized his vehicle.

The learned counsel to the Respondents AMADE MARY IYOMA Esq on the other hand formulated two issues for determination to wit:

***(a) Whether there are proper parties before this Honourable court as to confer jurisdiction, the 2nd Respondent not being a juristic person.***

***(b) Whether in the circumstances of this case the Applicant has proved its case to entitle him to the reliefs on the face of his motion paper before this Honourable court?***

The learned counsel to the Respondents submitted that "FCT Directorate of Road Traffic Services FCT" is not a proper party before this court as it does not possess legal personality demanded by law, and therefore lacks legal personality to be sued and to sue. He referred to the case of **ABGONMAGBE BANK LTD V. GENERAL MANAGER, G. B. OLLIVANT LTD & ORS (1961) 1 ALL NLR PG 116** where it was thus: -

***"General Manager, G. B. Ollivant Ltd is not descriptive of a juristic person and naming a non- juristic person as a defendant is not a misnomer and cannot be amended to substitute a juristic person "***

The learned counsel urged this Honourable court to strike out this suit on the grounds that the 2<sup>nd</sup> Respondent is not a juristic person, and since one or more of the parties in this case is lacking the capacity to sue and be sued, the court does not have jurisdiction as presently constituted.

He further submitted that the actions of the Joint Taskforce Team impounding the Applicant's vehicle for traffic violations and handing same over to the 2<sup>nd</sup> Respondent is in order to be subjected to due process for traffic contraventions including illegal parking, overloading, use of private car for commercial purpose and driving a vehicle without a valid driver's license which is within the limits of their duties under the Road Traffic Act Cap 548 Laws of the Federal Capital Territory volume 41 Road Traffic Regulations and the FCT Road Transport Regulations 2023.

According to the learned counsel to the Respondents, the impoundment of the Applicant's vehicle is in accordance with the provisions of Regulation 172(1)(i)(dd)(kk) and (cc) of the FCT Road Transport Regulations 2023 and is

therefore not a violation of the Applicant's Rights guaranteed under the Constitution of the Federal Republic of Nigeria (as amended) which is subject to S. 44(2)(b) of the 1999 Constitution of Nigeria (as amended).

The learned counsel to the Respondents equally referred to Regulations 182 of the FCT Road Transport Regulations 2023 on the powers of the Police officer or Road Traffic officers to impound a vehicle which provides as follows: -

***"Where it is provided in any of these Regulations for the imposition of fine, the vehicle which is subject of the offence shall be impounded by either a Police officer or a Road Traffic officer and may not be released until such fine is paid".***

As regards the Applicant's application for payment of damages as punitive, compensatory and exemplary damages for unlawful violations of his Rights to respect for the dignity of his person fair hearing and Right to own moveable property the learned counsel submitted that these reliefs cannot be granted by this Hon. Court, same having failed the standard required by law.

I have gone through the processes before me and carefully too. I note the issues for determination by the parties before the Court. The issue from my well - considered view is whether the Applicant is entitled to the reliefs being sought. The Applicant has brought this application under the fundamental rights Enforcement Procedure rules which has been held in a plethora of cases to be ***suigeneris*** and any claim touching on violation of rights to personal liberty are usually made pursuant to it. The rules are specifically enacted to govern or regulate actions for enforcement or the protection of the rights guaranteed by the Constitution. The remedy available by this procedure is to enforce the constitutional rights available to citizens which is alleged to have been contravened by another or others. The position of the law is that, despite the fact that the Applicant herein has his constitutional rights protected, he has the burden to prove his case after all, he who asserts must prove in line with

sections 131, 132 and 133 of the Evidence Act, 2011 (as amended). It should hastily be observed here that while the law guarantees the constitutional rights of the citizens, these rights to personal liberty are not absolute. On this note, let me refer to the case of **NDLEA & ORS V. BWALA (2022) LPELR - 56566 - CA** where it was reiterated that fundamental rights guaranteed by the Constitution is not absolute.

It will be in the interest of Justice to first of all deal with the issue of jurisdiction raised by the Respondents after issues have been joined in the suit. The Respondent counsel contended that the 1st and 2<sup>nd</sup> Respondents are non - juristic persons and this has affected the entire suit which ought to be struck out. In arguing one of the issues formulated for the determination before this Hon. Court the learned counsel to the Respondents submitted that "*FCT DIRECTORATE OF ROAD TRAFFIC SERVICES FCT*" is not a proper party before the court as it does not possess legal personality for not being a creation of any statute as demanded by the law and therefore lacks legal personality to sue and be sued. He referred to the case of **AGBOMAGBE BANK LTD. V. GENERAL MANAGER, GB OLLIVANT. Supra**

The learned counsel submitted that since one or more of the parties in this case is lacking the capacity to sue and be sued the court does not have jurisdiction as presently constituted.

However, by virtue of the statute creating/establishing the service, that is, section 2 of the Federal Capital Territory Directorate of Road Traffic and Motor Vehicle Administration Service, 2023, it is a corporate body with a perpetual succession and a common seal which may sue and be sued in its corporate name. This being the position of the law I have no hesitation in overruling his submission as far as the 2<sup>nd</sup> Respondent is concerned in this case. The 2<sup>nd</sup> Respondent is a juristic person and is a proper party before this Honourable Court.

As for the 1<sup>st</sup> Respondent, *Dr. ABDULLAHI BELLO, (DIRECTOR, FCT DIRECTORATE OF ROAD TRAFFIC SERVICES)* I am of the humble view that he cannot be said to have been properly sued before this court. The name of the 1<sup>st</sup> Respondent is hereby struck out from this suit.

The next question is, what becomes of the status of the case before this Honourable Court after having struck out the name of the 1<sup>st</sup> Respondent. The question has been perfectly answered in the case of **PFIZER INCORPORATED V. MOHAMMED (2013) 16 NWLR (pt. 1379) pg 155 at pg 181** where it was held thus: -

***"A suit in the name of a juristic person and non - juristic person may be bad but it need not fail, for the name of the non - juristic person wrongly joined could be struck out retaining the juristic person and surrounding the suit. What this postulate is that since the 1<sup>st</sup> Appellant is a juristic person, the joinder of non - juristic person as a 2<sup>nd</sup> defendant will not void the action. All that is needed is for the name of the non - juristic person to be struck out "***

In the same vein as held above, this Hon. Court is of the humble view that striking out the name of the 1<sup>st</sup> Respondent in this suit does not void the entire case which is hereby retained. The application to strike out the entire suit is accordingly refused.

The 3<sup>rd</sup> defendant is an officer and an agent of the 2<sup>nd</sup> Respondent who did not act in his personal capacity but as an agent of the 2<sup>nd</sup> Respondent. The law is trite that where the principal is disclosed except the agent acted outside his power and this must be evidenced from the facts proved before the court, the principal can be sued rather than the agent or sued together as in the present suit. This Honourable Court therefore hold that proper parties are before this court and there is a cause of action against the Respondents.

Furthermore, by virtue of section 19 of the law that established the 2<sup>nd</sup> Respondent: -

***"Every member of the Board, agents or Employees of the Service shall be indemnified from the Fund of the service against any liability incurred in defending any proceeding brought against the persons under the clause, in the person's capacity as member of the Board or employee of the Service".***

The 3<sup>rd</sup> Respondent, being an agent of the 2<sup>nd</sup> Respondent is proper before this court. In fact, this position has been confirmed by paragraph 6 of their counter affidavit that the 3<sup>rd</sup> Respondent is the Head of the FCT Ministerial Task Force comprising of multiple Enforcement Agencies. He is therefore an agent of the 2<sup>nd</sup> Respondent.

It is also clear from the content of the counter affidavit and the submissions of the learned counsel to the Respondents that there is no evidence of the Applicant having been tried by any court of law. It is equally not the duty of the Respondents to have impounded the vehicle of the Applicant without an order of a court of law ordering same pending when he will pay any fine which can only be made after conviction. The Respondents admitted that he was never taken to any court of law. This being the case, there is a violation of section 17(5) of the law that establishes the 2<sup>nd</sup> Respondent which states as follows: -

***"Any person found guilty for an offence listed in the second schedule shall where he fails to pay the fine have his vehicle impounded which shall be released immediately on payment of the fine thereof".***

The implication of the above provision of the law is to the effect that the vehicle of the Applicant could have been impounded by the Respondents only after having been convicted and fined by a court of law and unable to pay fine. Unfortunately, the Respondents admitted in their own counter affidavit that the

Applicant was never arraigned before any court of law let alone having been fined through the due process of the law.

Furthermore, contrary to the content of paragraph 10(e) of the counter affidavit and exhibit DRTS 1, attached by the Respondents as contravention notice dated the 26th August 2023, the content of "Referral note" attached as exhibit B to paragraph 8 of the Applicants affidavit in support does not contain any offence said to have been contravened by the Applicant.

Upon the foregoing analysis this Hon. Court is of the humble view that the said exhibit DRTS 1 is an afterthought designed by the Respondents after they were served with the processes of this court otherwise, there is nothing to prove that the Applicant was ever served with any notice of contravention apart from exhibit B, the Referral note.

It is equally important to restate the provision of section 34(1) of the 1999 constitution of the Federal Republic of Nigeria which provides that: "No person shall be subjected to inhuman or degrading treatment".

There is no doubt that the act of the Respondents in the way and manner the Applicant was forcefully and brutally removed from his vehicle Toyota Sienna with registration No. ABJ 944 GU by the Respondents is unconstitutional and a violation of the Applicants right to respect for the dignity of his human person enshrined under the provision of section 34(1) of the 1999 constitution of Nigeria (as amended) and Articles 4, 5 & 7 of the African Charter on human and Peoples Rights ( Ratification and Enforcement) Act LFN 2010.

The Applicant here, on the whole, based on the processes filed before this court which include the Originating Motion, affidavit in support, further affidavit and the various exhibits attached to this application has established his case.

Finally, on the issue of damages, it has been held in the case of **RANSOM KUTI & ORS V. ATTORNEY- GENERAL OF THE FEDERATION (1985) 6 S.C pg**

**245"that any person whose fundamental rights is violated is entitled to damages".**

Consequently, judgment is hereby entered in favour of the Applicant.

I therefore grant the Applicant the following reliefs/orders prayed for by him: -

1. A DECLARATION that the act of the Respondents forcefully and brutally removing the Applicant from his vehicle, Toyota Sienna with Registration number ABJ 944 GU without adequate information on the offences he was alleged to have committed and without being arraigned before any court of law, Let alone being convicted is wrongful, illegal and unauthorized and that same amount to a gross violation of the Applicant's fundamental human rights to human dignity, fair hearing and right to own moveable property as guaranteed by the 1999 constitution of Nigeria (as amended).
2. A DECLARATION that the continuous detention of the Applicant's vehicle Toyota Sienna with Registration number ABJ 944 GU by the Respondents without due process of the law is unconstitutional, null and void and a violation of the Applicant's rights to fair hearing and right to own moveable property as enshrined in sections 36(1), 43 and 44(1) of the 1999 constitution (as amended) and Article 7 of the African Charter and Peoples Rights.
3. The Respondents are hereby ordered to immediately release the vehicle of the Applicant, a Toyota Sienna with Registration number ABJ 944 GU and its contents to the Applicant unconditionally.
4. The Respondents are hereby restrained from unlawfully interfering with the Rights of the Applicant.
5. The Respondents shall jointly and severally pay a sum of **Five Million Naira (N5, 000,000. 00)** to the Applicant as general damages for the

unlawful, flagrant and unwarranted violation of his fundamental rights and right to own moveable property.

Parties shall bear their respective cost

Signed  
Hon. Judge  
17/02/2025