

**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. 13**

**CASE NUMBER : CHARGE NO: CR/299/2018**

**DATE: : THURSDAY 25<sup>TH</sup> SEPT., 2025**

**BETWEEN**

**COMMISSIONER OF POLICE ..... COMPLAINANT**

**AND**

- 1. MATHIAS YARO**
- 2. VICTOR TUKURA**
- 3. STANLEY OLISAH**

**DEFENDANTS**

## **RULING**

The Defendant was arraigned on the 16<sup>th</sup> day of January, 2020. He pleaded not guilty to the six (6) count charge.

### **COUNT ONE**

That you (1). Mathias Yaro 'm' 45yrs, (2). Victor Tukura "m" 35yrs and (3). Stanley Olisah 'm' 22yrs all of Rubochi Village FCT Abuja, that on the 24<sup>th</sup> day of November, 2017 at about 23:15hrs, within the Abuja Judicial Division, did conspired to wit; commit an offence of Criminal Conspiracy in that on the said date, you conspired and robbed one Attah Omede Moses of Rubochi Government Secondary School, of his LG Plasma TV and his wife handset and used a cutlass on him, you thereby committed an offence of Criminal Conspiracy punishable under section 2(1) of the Robbery and Firearms Act LFN 2004.

### **COUNT TWO**

That you (1). Mathias Yaro 'm' 45yrs, (2). Victor Tukura 'm' 35yrs and (3). Stanley Olisah 'm' 22yrs all of Rubochi Village FCT- Abuja, that on the 24<sup>th</sup> day of November, 2017 at about 23:15hrs, within the Abuja Judicial Division, did Criminal Conspiracy, in that on the said date, you conspired and robbed one Ashimu

Mohammed a staff of Government Secondary School Rubochi of his Tecno handset and equally tied his hands to his back turned him upside down with a gun pointing on him. You thereby committed an offence of Criminal Conspiracy punishable under section 2(1) of the Robbery and Firearms Act LFN 2004.

### **COUNT THREE**

That you (1). Mathias Yaro 'm' 45yrs, (2). Victor Tukura 'm' 35yrs and (3). Stanley Olisah 'm' 22yrs all of Rubochi Village FCT Abuja, that on or the 24<sup>th</sup> day of November, 2017 at about 23:15hrs, within the Abuja Judicial Division, did conspired to wit; commit an offence of Criminal Conspiracy in that on the said date, you conspired and robbed one Mrs. Oluwatoyin D. Isaac 'f' a staff of Rubochi Government Secondary School, of her LG Plasma TV, the cash sum of **Five Thousand Naira (N5,000.00)**, two of her husband phones and also two of her own phones and her children phones and all items were collected on gun point. You thereby committed an offence of Criminal Conspiracy punishable under section 2(1) of the Robbery and Firearms Act LFN 2004.

### **COUNT FOUR**

That you (1). Mathias Yaro 'm' 45yrs, (2). Victor Tukura 'm' 35yrs and (3). Stanley Olisah 'm' 22yrs all of Rubochi village FCT Abuja,

that on the 24<sup>th</sup> day of November, 2017 at about 23:15hrs, within the Abuja Judicial Division, did conspired to wit; commit an offence of Armed Robbery, in that on the said date, you break into the staff Quarters Rubochi Government Secondary School and Robbed one Attah Omede Moses of his house properties and his phones on gun point and equally used a machete on his head. You thereby committed an offence of Armed Robbery punishable under section 1(1)(2)(b) of Robbery and Firearms Act LFN 2004.

### **COUNT FIVE**

That you (1). Mathias Yaro 'm' 45yrs, (2). Victor Tukura 'm' 35yrs and (3). Stanley Olisah 'm' 22yrs all of Rubochi Village FCT Abuja, that on or about the 24<sup>th</sup> day of November, 2017 at about 23:15hrs, within the Abuja Judicial Division, did conspired to wit; commit an offence of Armed Robbery, in that on the said date, you break into the staff quarters of Rubochi Government Secondary School and Robbed one Mr. Ashimu Mohammed of his house properties at gun point.. You thereby committed an offence of Armed Robbery punishable under section 1(1)(2)(b) of the Robbery and Firearms Act LFN 2004.

### **COUNT SIX**

That you (1). Mathias Yaro 'm' 45yrs, (2). Victor Tukura m' 35yrs

and (3). Stanley Olisah 'm' 22yrs all of Rubochi Village FCT Abuja, that on or about the 24<sup>th</sup> day of November, 2017 at about 23:15hrs, within the Abuja Judicial Division, did conspired to wit; commit an offence of Armed Robbery, in that on the said date, you break into the staff quarters of Rubochi Government Secondary School and Robbed one Mrs. Oluwatoyin D. Isaac of her house properties. You thereby committed an offence of Criminal Conspiracy punishable under section 1(1)(2)(b) of the Robbery and Firearms Act LFN 2004.

Defendants were arraigned on the 16<sup>th</sup> January, 2020.

They pleaded not guilty to all the count and case was adjourned to the 10<sup>th</sup> February, 2020 for commencement of trial.

Trial eventually commenced on the 3<sup>rd</sup> November, 2020.

Prosecution witness No. 1 (Henry Onikhaure) gave evidence wherein he introduced himself as an Assistant Superintendent of Police (ASP) attached to D5, CID, FCT Command.

It further the evidence of PW1 that he met the Defendants when a case of criminal conspiracy and armed robbery was reported by Staff of Rubochi Government Secondary School, Rubochi that three armed men attacked them with dangerous weapons i.e

cutlasses, sticks who eventually carted away with personal effects.

Case was transferred from Rubochi Division to the Command i.e FCT and he was assigned to investigate the matter. The accused persons eventually gave their statements after the transfer file was registered.

He recorded the statement of the 1<sup>st</sup> Defendant... his colleague (Inspector Jonah Offor) recorded the statement of the 2<sup>nd</sup> Defendant while the 3<sup>rd</sup> Defendant wrote his statement. Defendants' statements were taken before a superior officer who endorsed their statements accordingly.

He further gave evidence that search warrant was executed and a Dane gun was recovered from the house of the 1<sup>st</sup> Defendant. They could not recover any gun allegedly used by the accused persons. They also could not recover the Plasma TV from where it was kept as same had been taken away. The 1<sup>st</sup> Defendant told him that he appeared in Court four times because of robbery.

PW1 was cross – examined and discharged. Prosecution then closed its case to pave the way for Defence.

Defence counsel, Ibe, Esq. opted to file a Defence of No Case to

Answer which was adopted on the 14<sup>th</sup> July, 2025 ushering in the instant ruling.

Defendants filed their written address wherein sole issue was formulated for determination to-wit;

**Whether having regards to the relevant provisions of the law, the Prosecution has succeeded in disclosing a prima facie case sufficient enough to prove the charge against the Defendants.**

It is the submission of learned counsel, that it is imperative at this point to state that there are certain ingredients upon which the Prosecution must prove beyond reasonable doubt. These ingredients as enunciated in plethora of cases include the fact that; there was a robbery or series of robberies and the robberies were armed robberies.

Learned counsel submits, that it is therefore the position of the Defendants that the Prosecution failed to establish any of the requirements of the law in establishing that there was a robbery and that the Defendants were caught in the commission of the said robbery.

Learned counsel also submits, that the Defendants further posit

that following the depositions of the Prosecution witness PW1 did not establish that there were identification parades conducted in order to establish the identification of the accused person in accordance with the provisions of the law.

Learned counsel contend, that the importance of correctly identifying the perpetrators of a crime in a criminal trial cannot be overemphasized. This is because not only, but in the case of a capital offence, his life is at stake. This has been the position of the Courts as held in ***THE STATE VS. AIBANGBEE (1988) 3 NWLR (Pt. 84) 548 @ 590 Paragraphs D-E***, where His Lordship Nnaemeka Agu, JSC opined thus;

Learned counsel further contend, that the importance of correctly identifying the perpetrator of a crime in a criminal trial cannot be over emphasized. This is because not only his liberty, but in the case of a capital offence, his life, is at stake. In ***The STATE VS AIBANGBEE (1988) 3 NWLR (Pt. 84) 548 @ 590 Paragraphs D-E***, His Lordship Nnaemeka-Agu, JSC opined thus:

***".....identification is a whole series of facts and circumstances for which a witness or witnesses associate a Defendant with the commission of the***

***offence charged. It may consist of or include evidence in form of finger prints, handwriting, palm prints, voice, identification parade, photographs or the recollection of the features of the culprit by witnesses who saw him in the act of commission which is called in question or a combination of two or more of these. Where evidence of the recollection of the witness of the features of the culprit is relied upon, it must be very cautiously regarded by the courts for fear of mistaken identification. But fear of mistaken identification could be removed by evidence such as that the identifying witness gave full and correct description of the accused person to the police at the earliest opportunity after the commission of the offence"*** (Underlining mine for emphasis). The case ***of ARCHIBONG VS. THE STATE (12006) 14 NWLR (Pt. 1000) 349;***

***EYISI VS. THE STATE (2000) 15 NWLR (Pt. 691) 555"***.

Per K.M.O.KEKERE-EKUN,J. S.C were cited.

Learned counsel further submits, that the Defendants posit that the failure of the Prosecution to call further witnesses, especially

the purported victims of the alleged offence of armed robbery cast serious doubt on the allegations of the Prosecution. The cases of ***THEOPHILUS VS. STATE (1996) 1 NWLR (Pt. 423) 138 at 141;***

***CHUKWU VS. STATE (1996) 7 NWLR (Pt. 463) 686 at 689*** were cited.

Learned counsel submits, that the law is well established that a submission that there is no case to answer may properly be made and upheld:

- a. When there has been no evidence to prove an essential element of the alleged offence; and
- b. When the evidence adduced by the prosecution has been so discredited as a result of cross examination or is manifestly unreliable that no reasonable tribunal could safely convict on it. **Section 303(3) of the Administration of Criminal Justice Act, 2015; and *EKPO VS. THE STATE (2001) 7 NWLR (Pt. 712) 292.***

Learned counsel also submits, that in considering a no case submission, the credibility of witnesses and the weight to be attached to their testimonies do not arise. In ***FIDELIS***

***UBANATU VS C.O.P. (2000) 2 NWLR (Pt. 643) 115***, it was held that prima facie case means that there is a ground for proceeding. In other words, that something has been produced to make it worthwhile to continue with the proceedings. It is not the same as proof which comes later when the court has to find whether the accused person is guilty or not guilty.

Learned counsel submits, that at the stage of no case submission, what is critical is not whether the evidence in support of the charges is sufficient to justify conviction of the Defendant but whether prosecution has made out a prima facie case requiring the Defendant to make some explanations. Also, the question whether or not the court believes the evidence adduced, or the credibility of witnesses, or weight to attach to the evidence does not also arise. The case of ***F.R.N VS. KENNY MARTINS & ORS. (2012) 14 NWLR (Pt. 1320) 287***.

In conclusion, learned counsel submits, that in relying on the above stated cases, learned counsel urge this Court to grant the application of the Defendants and uphold the Defence of No Case to Answer and discharge the Defendants accordingly.

## **COURT:-**

I have considered the defence of **NO CASE TO ANSWER** made by learned counsel for the Accused persons and the response filed and adopted by the Prosecution.

I have abbraised myself with the facts and evidence adduced by the Prosecution. I will be very brief at this point in arriving at my decision on whether or not the Prosecution has made out a case against the Defendants to warrant any defence or discharge at this point in time.

**NO CASE TO ANSWER** or submission is one of the defences opened to an Accused Person standing criminal trial in court.

The purport of a **NO CASE TO ANSWER** or no case submission is that the court is not called upon at that stage to express any opinion on the evidence before it.

The court is only called upon to take note and rule accordingly that there is before the court no legally admissible evidence linking the Accused person with the commission of the offence.

But if there is legally admissible evidence, however slight, the matter should proceed as there is something to look at.. **AGBO AND ORS. VS. STATE (2013) LPELR – 20388 (SC).**

Put in another way, no case submission means that there is no evidence on which the court or Tribunal could reasonably base a conviction even if the evidence was believed by the court or Tribunal.

It is the duty of the Prosecution, always, to establish the guilt of a named accused person in view of the presumption of innocence enjoyed pursuant to section 36(5) of 1999 Constitution of FRN.

I therefore overrule the submission of learned senior counsel for the Defendants in the Defence of No Case and I shall give exhaustive reason in my final judgment.

I rely on the following cases:-

***BELLO VS. STATE (1966) 1 ALL N.L.R 223 at Page 227;***

***ATANO VS. A.G BENDEL STATE (1988) 2 NWLR (Pt. 75) 201 at 231 – 232.***

***Justice Y. Halilu***

***Hon. Judge***

***25<sup>th</sup> September, 2025***

**APPEARANCES**

**O.C.A IBE, Esq.** – for the Defendants

Prosecution not in court and no reason explaining his absence.