

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

**BEFORE HIS LORDSHIP: HON. JUSTICE. H. MU’AZU  
CHARGE NO: FCT/HC/CR/577/2023  
DELIVERED ON THE 27/11/2025**

**BETWEEN:**

**FEDERAL REPUBLIC OF NIGERIA.....COMPLAINANT/RESPONDENT**

**AND**

**GODWIN IFEANYI EMEFIELE.....DEFENDANT/APPLICANT**

**RULING**

At the last sitting Oyedepo SAN, Counsel for the prosecution, orally, made a Case for this Court to issue Subpoena filed to compel the appearance of Tommy Odama John and Efeanyi Omeke. Learned SAN referred this Court to the Provision of the section 241 (1) of the ACJA and the case of Metuh V. FRN (2016) 3 NWLR PT 205 pg. 64 at 73 in support of his argument that the Court is under obligation to issue a subpoena duly filed by the Complainant. Learned Counsel submitted that the word “May” in the Provision of S.241 (1) has the effect of “Shall” as held by the Supreme Court in Metuh’s case cited above. Learned Counsel further

argued that, it is imperative for the Court to avail parties the opportunity to bring in every evidence that support their case.

On the part of the Defence, Learned Lead Counsel Matthew Burkaa SAN in opposition to the prosecution's position, urged the Court to consider three things inhibiting the grant of the Complainants request for the issuance of the Subpoena.

The first is the fact that this Court and all parties are bound by the decision of this Court in its Ruling of 20/03/2025. Learned Senior Counsel contented that, the witnesses cannot be compelled to testify while the decision subsist.

Secondly, the decision of this Court in respect of the two individual on the subpoena is presently a subject of an Appeal before the Court of Appeal. Here, Learned Counsel contented that the subpoena is an abuse of Court process in relation to the Appeal pending before the Court of Appeal.

Thirdly, Counsel argued that the subpoena is incompetent as it was filed by Economic and Financial Crimes Commission (EFCC) while the Complainant is the Attorney General of the Federation.

Learned Counsel urged the Court to refuse the issuance of the subpoena.

I have considered the argument canvassed by parties on the issue of the subpoena I am yet to issue, filed by the Complainant.

I have seen and read the subpoena, it was clear to me that the 2 witnesses sought to be compelled to come before the Court, were the same I have ruled against calling by the prosecution in my Ruling of 20/03/2025. And for which the prosecution has obtained leave to Appeal to the Court to Appeal. I did not sign/issue the subpoena because the appearance of the two individuals has become a matter already decided before this Court and for which an Appeal is pending before the Court of Appeal.

After listening to both Counsel, I do not see the need to change my view here. We all should await the decision of the Court of Appeal on the issue of the two individuals. The prayer of the prosecution is refused.

The Prosecution sought to call its 11<sup>th</sup> witness ALVAN GURUMNAAN at the last date, but the Defence objected on

the ground that this Court having struck out the proof of evidence containing the names of 3 witnesses including Mr. Gurumnaan. He cannot be called as a witness.

Oyedepo SAN, argued that the witness was not barred from testifying. That he is an investigator. Counsel urged the Court to hold that the Ruling of this Court did not barred the witness.

I have considered the argument of parties. The Defence sought for and obtained the following order as relief one of the 1<sup>st</sup> Application. The Order of this Court reads.

“An Order is hereby granted striking out from the change, the prosecution additional proof of evidence/list of witness filed on the 15/10/2024 which contain the extra judicial statement of Tommy Odera John and Ifeanyi Omeka made to the Economic and Financial Crimes Commission EFCC on the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> of August, 2024 in respect of this change which was filed since 14/08/2023”

It is clear to me that the names of Alvan Gurumnaan was not mentioned in the order. However, I agreed with the Defence

here that the Order granted, struck out the additional proof of evidence and list of witnesses of which Mr. Gurumnaan is one of the witnesses. Accordingly, the witness cannot testify in the absence of a substantive proof of evidence before the Court. The objection is sustained.

I so Rule.

**SIGNED:  
HON.JUDGE  
27/11/2025.**

**Appearance:**

*A.S. Wara, Esq, for the Prosecution.*

*Matthew Burkaa, SAN,with Magaji Mato Ibrahim, SAN,T. A. Labi – Lawal, SAN, N. O. Nwachukwu, Esq, F. B. Mnyim, Esq, Samuel Shagba, Esq, Eusebuis Abyanwu, Esq, DR. S. M. Oyeghe, Esq, I. B. Ahmad, Esq, K. Usman, Esq, Grace Iwu, Esq,R. Y. Moses, Esq, Emmanuel Agwungwu, Esq, and Hadiza Aliyu, Esq, for the Defendant.*