

IN THE HIGH COURT OF JUSTICE
IN THE BENIN JUDICIAL DIVISION

HOLDEN AT BENIN CITY

BEFORE HIS LORDSHIP, HON. JUSTICE P.A. AKHIHIRO,

ON FRIDAY THE

26TH DAY OF APRIL, 2024.

SUIT NO. B/241^M/2022

**IN THE MATTER OF AN APPLICATION
BY PRINCE AKHERE MOMODU FOR
THE ENFORCEMENT OF HIS FUNDAMENTAL
HUMAN RIGHTS**

BETWEEN:

PRINCE AKHERE MOMODU -----APPLICANT

AND

**1. COMMISSIONER OF POLICE EDO STATE
2. REX MAKANJU(SP) CRACK
 INVESTIGATION TEAM EDO STATE
3. STANLEY OKHUEKHIE** } -----**RESPONDENTS**

JUDGMENT

This is a Judgment in respect of an application for the enforcement of Fundamental Rights brought pursuant to *Sections 35 and 41 of the Constitution of the Federal Republic of Nigeria 1999 (as Amended) and Order 11 Rule 1, 2 & 3 of the Fundamental Right Enforcement Procedure Rules (2009)* and under the Inherent Jurisdiction of this Honourable Court seeking the following reliefs:

- A. Declaration that the arrest and detention of the Applicant by the 1st – 3rd Respondents between 22/11/22 to 30/11/2022 is unlawful, unconstitutional and a flagrant violation of the Applicant’s fundamental Right to personal liberty and freedom of movement;**
- B. Declaration that the threat to further arrest the Applicant by the 1st – 3rd Respondents is unconstitutional and a threat to his fundamental right to freedom of movement and personal liberty as guaranteed under section 35 & 41 of the 1999 constitution of the Federal Republic of Nigeria as amended;**
- C. Injunction Restraining Respondents from further arrest of the Applicant;**

- D. An Order directing the Respondents to tender Apology for the unlawful arrest and violation of Applicant's fundamental right between 22/11/2022 – 30/11/2022;***
- E. An Award of Twenty five Million Naira (N25, 000,000.00) against the Respondents as damages for unlawful violation of the Applicant's fundamental Rights between 22/11/2022; and***
- F. The sum of One Million Naira (N1, 000,000.00) for this action.***

The application is supported by an affidavit of 17 paragraphs and the written address of the learned counsel for the Applicant.

From the contents of the supporting affidavit, the Applicant's complaint is that on the 10th of November, 2022, the 2nd and 3rd Respondents invited him to their office at the State Police Headquarters, Benin City.

When the Applicant got to their office, the Respondents confronted him with some allegations concerning an auction sale which he conducted as a registered auctioneer at Auchi on the 1st of September, 2022. In order to clear himself, the Applicant allegedly presented all the necessary documents authorizing the sales of the items.

Subsequently, the Applicant was allegedly arrested on the 10/11/2022, his statement was obtained under caution and he was granted bail.

Again, on the 22nd of November, 2022, the Applicant was allegedly re-arrested by the 2nd and 3rd Respondents in respect of the same auction sales. He was allegedly detained in the police cell, handcuffed, given a severe beating by the 2nd and 3rd Respondents and stripped naked till the 30th of November, 2022.

The Applicant alleged that despite the production of the relevant documents relating to the auction sales, the Respondents detained him in their cell without water and food and denied him access to his family.

He alleged that despite the intervention of his lawyer, he was still kept in the Respondent's cell with some hardened criminals. He said that he was detained, dehumanized and tortured in the cell from 22/11/2022 to 30/11/2022 for no just cause and no charge was preferred against him in any court.

According to him, when they eventually released him on bail, they warned him to produce the vehicle in question on or before the 15th of December, 2022 otherwise he would spend the rest of his life in their cell.

He maintained that unless this Honourable Court intervenes, his fundamental rights to liberty and freedom of movement will be continuously violated by the Respondents and he pleaded with the Court to grant the application in the interest of justice.

In opposition to this Application, the Respondents filed a joint Counter-Affidavit of 20 paragraphs and a written address of their counsel.

In their Counter-Affidavit, the Respondents alleged that the Applicant was invited to their office based on a Petition written against him and some other people. According to them, when the Applicant reported at their office, they confronted him with the contents of the petition, obtained his statement under caution and released him on bail. They denied all the allegations of violations of the fundamental rights of the Applicant.

The Respondents alleged that they have concluded their investigations on the petition against the Applicant and they have decided to charge him to court for certain offences. They maintain that they are law enforcement agents who are carrying out their statutory duties.

Upon the receipt of the Respondents' Counter-Affidavit and written address of his counsel, the Applicant filed a further affidavit in support of the motion and a further written address of his counsel in support of the application. In his further affidavit, the Applicant denied some salient parts of the Respondents' Counter-Affidavit and reiterated that he was unlawfully detained and dehumanized by the Respondents while he was detained in their custody.

In their written addresses filed along with their affidavit and counter-affidavit, the learned counsel for the parties articulated their legal arguments in support of their respective positions.

Upon a careful examination of the affidavits and the counter-affidavit of the parties, I observed that there were glaring conflicts in the affidavits of the Applicant and the Respondents on some crucial aspects of the case relating to the alleged violation of the Applicant's fundamental rights.

Thus, in view of the irreconcilable conflicts in their affidavits, I ordered that the parties should lead oral evidence so that with the benefit of *viva voce* evidence which would be subjected to cross examination, the issue of credibility can be safely determined.

Sequel to my aforesaid order, the matter was adjourned to enable the Applicant and the Respondents to lead oral evidence from the witness box on the allegations contained in their various affidavits and I ordered that fresh Hearing Notices should be issued and served on the Counsel for the Respondents.

The Hearing Notices were served but on the date for hearing, the Respondents did not show up so the Applicant entered the witness box and adopted his supporting Affidavit as his oral evidence in chief and tendered some documents listed in paragraph 4 of his supporting affidavit which were admitted in evidence as follows:

- (i) Application for Court Order to dispose of Found/Unclaimed properties was admitted as Exhibit A;
- (ii) Publication Notice was admitted as Exhibit B;
- (iii) List of Exhibits Due for Auction was admitted as Exhibit C;
- (iv) Letter dated 25/7/22 headed "Forwarding of unclaimed/found exhibits" was admitted as Exhibit D; and
- (v) Letter dated 19/8/22 headed "AUCTION SALES" was admitted as Exhibit E;

The Applicant testified that as a result of the auction sale he was arrested on 10/11/22, released that same day and re-arrested on 22/11/22 and detained for nine days and released on 30/11/22. He said that they did not inform him of the offence which he allegedly committed but was only told to go and bring a vehicle which was among the one's which he auctioned.

He alleged that on 3/3/23 he deposed to a further affidavit as a reply to the Respondent's Counter-affidavit which he adopted as his further evidence. He concluded his evidence in chief and the matter was adjourned for cross-examination by the Respondents.

Fresh Hearing Notices were issued and served on the Respondents to enable them come to Court to cross-examine the Applicant but they failed to come to Court so the Respondents were foreclosed from cross-examining the Applicant and the matter was adjourned for final addresses.

On the date fixed for the Final Written Address, only the Applicant's counsel was present in Court to adopt his final address and the matter was adjourned for Judgment.

Thus, in these proceedings, the Respondents refused to give oral evidence to enable the Court to assess the credibility of the facts contained in their counter-affidavit. Furthermore, apart from the written address which the Respondents' counsel filed along with their counter-affidavit, they did not file any other written address after the Applicant had given his oral evidence.

In the light of the above, I am constrained to determine this application by juxtaposing the oral evidence of the Applicant with the Affidavit evidence of the Respondents.

In his initial written address filed along with the application, the learned counsel for the Applicant, *J.S. Ohiafi Esq.* formulated three issues for determination as follows:

- i) ***Whether the 1st – 3rd Respondents acted rightly, when they arrested the Applicant and detained him between 22/11/2022 – 30/11/2022 without charging him to Court;***
- ii) ***Whether the arrest and detention of the Applicant for over 9 days without charging to Court for any offence was lawful; and***
- iii) ***Whether the Applicant is entitled to injunction, compensation and damages in this case.***

Arguing Issues I & 2 together, the learned counsel referred to paragraphs 6, 11 and 12 of the supporting affidavit to show how the Applicant was allegedly detained between the 22nd of November, 2022 to 30th of November, 2022 without any charge against him.

He referred to *section 35(1) of the Constitution of the Federal Republic of Nigeria 1999* as amended which provides as follows:

“Every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in the following cases and in accordance with a procedure permitted by law — 35 (1) (c) for the purpose of bringing him before a court in execution of the order of a court or upon reasonable suspicion of his having committed a criminal offence or to such extent as may be reasonably necessary to prevent his committing a criminal offence:”

He also referred to *section 35 (3) and (4)* which further provide as follows:

35 (3) “Any person who is arrested or detained shall be informed in writing within twenty-four hours (and in the language that he understands,) of the facts and grounds for his arrest or detention”.

Section 35 (4) provides:

“Any person who is arrested or detained in accordance with subsection (a) (c) of this section shall be brought before a court of law within a reasonable time, and if he is not released or not tried within...”

He posited that *Section 35 (5)* defined a reasonable time to be a period of one day or two days as the case may be depending on the distance between the place of arrest and detention and a court of competent jurisdiction.

He submitted that from the above provisions of the Constitution and the affidavit evidence before the Court, the Applicant has established the following:

- i.) That he was arrested on the 22nd of November, 2022 and detained till 30th of November, 2022. That going by the provisions of *section 35 (5) of the Constitution* the Applicant ought to have been charged to court within 24 hours which the Respondents failed to do in violation of the provisions of *section 35 (5) of the Constitution*;
- ii.) Having arrested and detained the Applicant outside the period stipulated by the Constitution, the acts of the Respondents are unconstitutional, null and void relying on the following cases:- *EDA V COMMISSIONER OF POLICE BENDEL STATE. (1982) 3 N.C.L.R. 219. FALODE V ATTORNEY GENERAL LAGOS STATE (1981) 2 N.C.L.R. 771 LEDUM MATTEE V ATTORNEY GENERAL OF FEDERATION & 3ORS (2003) -- CHR 463.*

He submitted that no person is above the law and cited the case of **MILITARY GOVERNMENT OF LAGOS STATE Vs CHIEF EMEKA OJUKWU (2000) NWLR (PT 50) 779 AT 1783 R3**

He urged the Court to resolve issues 1 and 2 in favour of the Applicant.

On Issue No 3, learned counsel submitted that the Applicant is entitled to the reliefs of injunction, compensation and damages sought.

On injunction, he referred the Honourable Court to paragraphs 2, 3, 4, 6, 7 and 12 of the supporting affidavit which he said established a clear threat to further arrest and detain the Applicant over the same set of facts as contained in Exhibit A-E. He submitted that where an Applicant is apprehensive that his fundamental rights may be violated, he may approach any High Court in the State to enforce and protect his rights.

He referred to the provisions of **See section 46 (1) and (2) of the Constitution of the Federal Republic of Nigeria 1999 as amended** and submitted that this Honourable Court has the power to issue an order of injunction restraining the Respondents from further violating the rights of the Applicant to personal liberty and freedom of movement by way of further arrest.

On compensation and damages counsel submitted that the Applicant has proved that his detention is unconstitutional, illegal null and void and referred to **section 35 (6) of the Constitution**. He posited that the fact that the arrest and detention of the Applicant is unlawful entitles him to compensation, damages and an apology and he relied on the case of **LEDUM MITTE V ATTORNEY GENERAL FEDERATION SUPRA** and **OKONKWO V OGBOGU (1996) 37 NWLR p. 580**.

He therefore urged the Court to resolve issue No. 3 in favour of the Applicant.

The learned counsel for the Respondents, **P.O. Ugwumba Esq.**, filed a written address along with his counter-affidavit where he formulated five issues for determination as follows:

- (i) **Whether the 1st, 2nd and 3rd Respondents are liable in law to receive and investigate petition against the Applicant?**
- (ii) **Whether the court can restrain the police represented by the 1st, 2nd and 3rd Respondents from performing their statutory duties?**
- (iii) **Whether the constitutional Rights of the Applicant relating to his Fundamental rights are absolute?**
- (iv) **Whether the offences of conspiracy and stealing are criminal offences of which the 1st, 2nd and 3rd Respondents have the duty to prevent?**
- (v) **Whether by the facts and circumstances of this case, the Applicant is entitled to the reliefs brought against the Respondents.**

Arguing Issues 1 and 3 together, the learned counsel submitted that the police represented by the 1st, 2nd and 3rd Respondents are a body recognized under the Constitution of the Federal Republic of Nigeria as amended. Furthermore, he submitted that by virtue of **Section 24 (1) (a) of the Police Act**, policemen are empowered to arrest without warrant any person reasonably suspected to have committed an offence. Furthermore, that after arrest, **Section 4 of the Police Act** gives them the power to investigate crimes and he relied on the case of **FAWEHIMI VS IGP (2000) 7 NWLR PT.665 @ 503**.

He submitted that the offences of conspiracy and stealing are punishable under the Criminal Code. He maintained that the fact that the name of the Applicant was mentioned in a

Petition whereby he was invited to the police station cannot amount to the violation of his fundamental rights.

Submitting further on the 3rd Issue, counsel maintained that the constitutional rights of the Applicant relating to his fundamental rights are not absolute and he cited **Section 35 (1) (c) of the 1999 Constitution of the Federal Republic of Nigeria as amended** and the case of **EKWENUGO VS. FRN (2001) 6 NWLR.PT. 708 @177**. He said that there are allegations of commission of crime against the Applicant which led to his arrest for the purpose of conducting investigation into the allegation. He said that he was invited to the police station where he made his statement and was later released on bail. He said that this cannot amount to an infringement on the constitutional rights of the Applicant.

He urged the Court to resolve issues 1 and 3 against the Applicant.

On Issue 2, learned counsel submitted that the Court cannot be used as a refuge for those undeserving of its protection and to grant a fiat to restrict criminal investigation and prosecution by a law officer. See **A.G. ANAMBRA STATE VS. CHIEF CHRIS UBA & ORS (2005) 33 WRN 191 @196**.

Furthermore, he submitted that no court of law is capable of making an order to turn a citizen into an outlaw and he cited the case of **CHIEF GABRIEL NZEWI VS. C.O.P AWKA (2001) 2HRLRA @ 157**. He said that the Applicant was alleged to have conspired with others to steal one Tipper Truck and the Respondents who are saddled with the responsibility of investigating allegations of crime quickly intervened to investigate the allegation.

He maintained that no man should be allowed to benefit from his own wrong and any wrongful act must be redressed and he cited the case of **A/E.E.G.S. VS EKE SPIFF (2009)2 M.J.S.C. PT 11@71**.

He posited that the Applicant does not deserve the protection of this Honourable Court because the mere inference of arrest is not enough to succeed in an action for unlawful arrest. He said that the Applicant must show that the arrest was done without due process of law and he cited the case of **EZEADUKWA VS MADUNKA (1997) 8 NWLR PT. 518 @ 643**.

He further submitted that the Applicant alleging breach of his rights must place sufficient evidence and materials facts before the court to show that his arrest and investigation without more was unlawful and unjustified in law. See **EZEADUKWA VS. MADUKA (SUPRA)**.

Counsel submitted that he who comes to equity must come with clean hands. He posited that the Applicant's hands are soiled by his alleged conspiracy with others to steal property. He therefore urged the Court to resolve the 2nd Issue against the Applicant.

On the 4th Issue, counsel submitted that every citizen has a right to make a complaint to the police and other law enforcement agencies and he cited **section 115 of the Administration of Criminal Justice Law of Edo State, 2016**.

On Issue No 5, he submitted that the fundamental rights of the Applicant has not been breached in anyway whatsoever by the Respondents to entitle him to the reliefs claimed against them. He submitted that the onus lies on an Applicant who alleged that he was unlawfully arrested to show that the Respondents set the law in motion against him unlawfully. He said that in the instant case, the Applicant did not adduce sufficient evidence to establishing these vital facts so his action must fail. See the case **ONOGORUWA VS. IGP. (1999) 5 WWLR (PT. 195) 593, EZEADUKWA VS.MADUKA (1997) 8 NWLR PT. 518, FAJEMIROKUN V. C.B(CI)NIG. LTD (SUPRA)**.

In conclusion, he urged the Court to dismiss the application.

Upon the receipt of the Counter-Affidavits and written address of the Respondents, the Applicant filed a Further-Affidavit and Address in support of the application. In his Further Address, the learned counsel for the Applicant reiterated that the arrest and detention of the Applicant was procedurally wrong, unlawful and unconstitutional contrary to the provisions of *S. 34(1), S. 35(1) (c), S.35(4), 5.35(5) (a) and S. 41 Constitution of Federal Republic of Nigeria 1999 (as amended)*.

He posited that the condition placed on the surety to the effect that a sworn affidavit to produce the vehicle that was sold during the auction sale before the Applicant can be released on bail is unconstitutional. He emphasised that the Applicant who was known to the Police as an auctioneer and was supplied with all the necessary materials to do the auction sales was later detained for an unknown offence.

I have carefully examined all the processes filed in this application together with the submissions of the learned counsel for the parties. The issues formulated by all the counsel are quite germane to the just determination of this application. However, I will condense the issues into a sole issue for determination as follows:

Whether the Applicant is entitled to the Reliefs claimed in this Application for the alleged breach of his fundamental rights.

Fundamental rights are enshrined in *Sections 33-46 in Chapter IV of the 1999 Nigerian Constitution, as amended. Section 46 of the Constitution, as amended*, empowers every citizen whose fundamental right has been or is being, breached, to approach the Court to seek redress, see *Sea Trucks (Nig.) Ltd. v. Anigboro (2001) 2 NWLR (Pt. 695) 159; Fajemirokun v. C. B. Nig. Ltd. (2009) 5 NWLR (Pt. 1135) 588; W.A.E.C. v. Adeyanju (2008) 9 NWLR (Pt. 1092) 270; Tukur v. Government of Gongola State (1989) 4 NWLR (Pt. 117) 517; Jack v. UNAM (2004) 5 NWLR (Pt. 865) 278; Gafar v. Government of Kwara State (2007) 4 NWLR (Pt. 1024) 375.*

The burden of proof of the breach of fundamental right of a citizen resides in an applicant see *Fajemirokun v. C. B. Nig. Ltd. (2009) 5 NWLR (Pt. 1135) 588*; and *Jim-jaja v. C.O.P., Rivers (2013) 6 NWLR (Pt. 1350) 225*. The standard of proof is on the balance of probability or preponderance of evidence; see *Arowolo v. Olowokere (2012) All FWLR (Pt. 606) 398*.

Essentially the Applicant's complaint is that on the 10th of November, 2022, the 2nd and 3rd Respondents arrested him based on some allegations concerning an auction sale which he conducted as a registered auctioneer at Auchu on the 1st of September, 2022. In order to clear himself, the Applicant allegedly presented all the necessary documents authorizing the sales of the items. He alleged that despite the production of the relevant documents relating to the auction sales, the Respondents detained him in their cell without water and food and denied him access to his family. He alleged that he was physically assaulted by the Respondents and dehumanized during the arrest and detention.

In civil proceedings like this, the standard of proof is on the balance of probability or preponderance of evidence; see *Arowolo v. Olowokere (2012) All FWLR (Pt. 606) 398*.

From the exchange of affidavits, it was clear that there were conflicts in the affidavit evidence of the parties hence the order requesting the parties to give oral evidence to enable me determine the credibility of the conflicting evidence of the parties.

Unfortunately, only the Applicant complied with the order of this Court to give oral evidence from the witness box. In his oral evidence the Applicant adopted the contents of his Affidavits and tendered some documents to show how the Respondents allegedly detained him and violated his fundamental rights. The Respondents were given ample opportunity to cross

examine the Applicant on the weighty allegations against them but they failed/refused to cross examine the Applicant to discredit him. Thus, the evidence in chief of the Applicant was not challenged by cross examination.

Failure to cross examine has legal implications, the position was settled by the Supreme Court in the case of *GAJI V. PAYE (2003) LPELR-1300(SC)* where *EDOZIE, J.S.C* held thus: ***"The effect of failure to cross examine a witness upon a particular matter is a tacit acceptance of the truth of the evidence of the witness."***

See also the case of *IGHALO V. THE STATE (2016) LPELR-40840 (SC)*.

Thus where a witness is not cross-examined on material facts, the Court is left with no option but to accept the testimony in the evidence in chief wholly as true. Where evidence is unchallenged and uncontroverted, it is deemed admitted and the Court is bound to act on it, except where the evidence is clearly unreliable. See *OFORLETE VS. STATE (2000) 12 NWLR (PT. 681) 415 at 436; AGONIFE VS. AIWEREOBA (1988) 1 NWLR (PT. 70) 325, (1988) 2 SC NJ 146; BABALOLA & ORS VS. STATE (1989) LPELR - 698 (SC) PP. 21 - 22, PARAS. E – A; YUSUF & ANOR VS. STATE (2019) LPELR - 46945 (SC) PP. 16 - 17, PARAS. E – A; and AKPAN VS. UDO (2021) LPELR - 52825 (CA) P. 8, PARAS. C – D.*

In the case of *OFFORLETTE V. STATE* (supra), *Achike, JSC* exposted on the fatal effect of failure to cross-examine when he stated inter-alia thus: ***"After all, the noble art of cross-examination constitutes a lethal weapon in the hands of the adversary to enable him effect the demolition of the case of the opposing party. It is therefore good practice for counsel not only to put across his client's case through cross-examination, he should, as a matter of the utmost necessity, use the same opportunity to negative the credit of that witness whose evidence is under fire. Plainly, it is unsatisfactory if not suicidal bad practice for counsel to neglect to cross-examine a witness after his evidence-in-chief in order to contradict him or impeach his credit."***

From the foregoing exposition, it is apparent that in the instant case, the failure of the Respondent's counsel to cross-examine the Applicant is quite fatal to their defence. The effect of their failure is that they are deemed to have accepted the truth of the Applicant's account and the Court is left with no option but to accept the testimony in the evidence in chief wholly as true and to act on it.

Thus upon the unchallenged evidence of the Applicant, it has been established that the arrest and detention of the Applicant by the 1st – 3rd Respondents between the 22nd of November 2022 to the 30th of November 2022 was unlawful and a violation of the Applicant's fundamental Rights to personal liberty and freedom of movement.

It is trite law that once an infringement of fundamental right is proved or established the award of compensation in form of monetary damages, whether claimed or not, follows. Where a specific amount is claimed, it is for the Court to consider the claim and in its opinion, the amount that would be justified to compensate the victim of the breach. In this respect, the common law principles on the award of damages do not apply to matters brought under the enforcement of the Fundamental Human Rights procedure.

The procedure for the enforcement of the Fundamental Human Right was specifically promulgated to protect the fundamental rights of individuals from abuse and violation by authorities and persons. When a breach of the right is proved, the victim is entitled to compensation even if no specific amount is claimed. See the case of *HERITAGE BANK v. S & S WIRELESS LTD & ORS (2018) LPELR-46571(CA)*.

Furthermore, there is nothing like categorisation and particularisation of damages in an action for the enforcement of fundamental rights.

Under **Section 46 of the Constitution**, Fundamental right matters are placed on a higher pedestal than ordinary civil matters in which a claim for damages resulting from a proven injury has to be made specifically and proved. Once the Applicant has proved the violation of his fundamental right by the Respondents, damages in form of compensation and even apology should follow. See **Jim-Jaja v. C.O.P. Rivers State (2013) 6 NWLR (pt.1350) 225 at 254.**

On the assessment of damages, I will take into consideration, all the surrounding circumstances of this case. The Applicant is entitled to some reasonable compensation to assuage all his suffering.

On the grant of an injunction, it is settled law that where a party has established a legal right, the Court would grant an injunction to protect the actual, threatened or likely infringement or violation of that right by the other party - **Biyo Vs Aku (1996) 1 NWLR (Pt. 422) 1, Rector, Kwara Polytechnic Vs Adefila (2007) 15 NWLR (Pt. 1056) 42; Oluwole Vs Abubakare (2004) 10 NWLR (Pt. 882) 549, Briggs Vs The Chief Lands Officer of Rivers State of Nigeria (2005) 12 NWLR (Pt. 938) 59, Chukwuma Vs Ifeloye (2008) 18 NWLR (Pt. 1118) 204; BIRMA & ORS V. DAMCIDA & ANOR (2016) LPELR-41610(CA) (Pp. 74 paras. A).**

Thus upon establishing an infringement of his fundamental rights, the Applicant is entitled to an injunction to prevent any further infringement of his rights.

In the event, the sole issue for determination is resolved in favour of the Applicant and he is granted the following reliefs:

- (i) **Declaration that the arrest and detention of the Applicant by the 1st – 3rd Respondents between 22/11/22 to 30/11/2022 is unlawful, unconstitutional and a flagrant violation of the Applicant’s fundamental Right to personal liberty and freedom of movement;**
- (ii) **Declaration that the threat to further arrest the Applicant by the 1st – 3rd Respondents is unconstitutional and a threat to his fundamental right to freedom of movement and personal liberty as guaranteed under section 35 & 41 of the 1999 constitution of the Federal Republic of Nigeria as amended;**
- (iii) **Injunction Restraining the Respondents from further arrest of the Applicant;**
- (iv) **An Order directing the Respondents to tender an Apology for the unlawful arrest and violation of the Applicant’s fundamental rights between 22/11/2022 – 30/11/2022;and**
- (v) **An Award of the sum of Three Million Naira (N3, 000,000.00) against the Respondents as damages for unlawful violation of the Applicant’s fundamental Rights between 22/11/2022.**

The sum of N200, 000.00 (Two Hundred Thousand Naira) is awarded as costs in favour of the Applicant.

Hon. Justice P.A. Akhiero
JUDGE
26/04/2024

COUNSEL:

1. J.S. Ohiafi Esq.....Applicant
2. P.O. Ogwumba Esq..... Respondents