

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY,
IN THE ABUJA JUDICIAL DIVISION,
HOLDEN AT COURT NO. 17 BWARI, ABUJA.
BEFORE HIS LORDSHIP: HON. JUSTICE O. A. MUSA.**

SUIT NO. FCT/HC/BW/CV/23/2017

BETWEEN:

BENEDICT PETERS..... APPLICANT

AND

1. ECONOMIC AND FINANCE CRIMES COMMISSION
2. ATTORNEY GENERAL OF THE FEDERATION RESPONDENTS

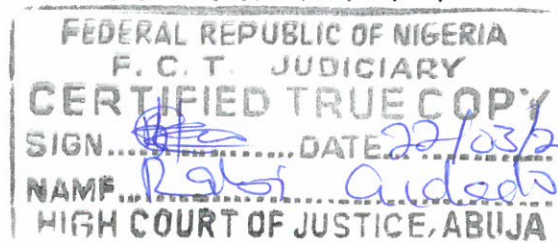
JUDGMENT

DELIVERED ON 22ND MARCH, 2018

By means of an Originating Motion filed in this Court of the 27th Of December, 2017, the Applicant hereof, pursuant to Order II of the Fundamental Rights (Enforcement Procedure) Rules, 2009, applied for the enforcement of his Fundamental Rights sought the following relief in the manner framed by the Applicant.

1. A Declaration that the very act of declaring the Applicant a WANTED PERSON on the official website of the 1st Respondent without any prior order or leave of a Court of competent jurisdiction to that effect is unlawful, illegal, wrongful, ultra vires, unconstitutional and constitutes a flagrant violation of the Fundamental rights of the Applicant to personal liberty, private and family life, freedom of movement and Right to not to be subjected to inhuman treatment and degrading treatment as guaranteed under Section 34, 37, 41 and 46 of the constitution of the Federal Republic of Nigeria, 1999 (As amended) and Articles 2, 3(1) & (2), 4, 5, 6, 7, and

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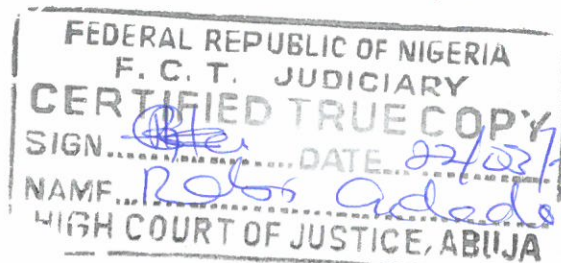


12(1) of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act 2004.

2. A Declaration that the said act of declaring the Applicant a WANTED PERSON on official website of the 1st Respondent without any prior order of leave of a Court of competent jurisdiction to that effect is liable to being removed and brought into this Court for the purpose of its being quashed as provided for under Order X of the Fundamental Rights (Enforcement Procedure) Rules, 2009.
3. AN ORDER quashing forthwith the declaration of the Applicant as a WANTED PERSON on the official website of the 1st Respondent.
4. AN ORDER directing the Respondents to jointly and severally tender a formal written apology to the Applicant, Mr Benedict Peters, for the flagrant violation of the Applicant's Fundamental rights of the Applicant.
5. A PERPETUAL INJUNCTION restraining the Respondents whether by themselves, jointly/ severally, their officers, operatives, agents, servants, privies or otherwise howsoever called from further infringing on or violating the constitutionally guaranteed rights of the Applicant with respect to the subject matter of this suit.

The grounds upon which the reliefs are sought are in like manner, set out hereunder:

1. The Applicant has never been charged with, nor tried for any criminal offence in any Court of law, nor has he ever jumped bail for any offence howsoever in Nigeria and cannot be declared wanted by administrative fiat, without any prior order or leave of Court.
2. The 1st Respondent, on or about January, 2017, had voluntarily and removed and deleted the name of the Applicant from the list of wanted persons on its official website, but surprisingly, on the 31st day of March, 2017, the

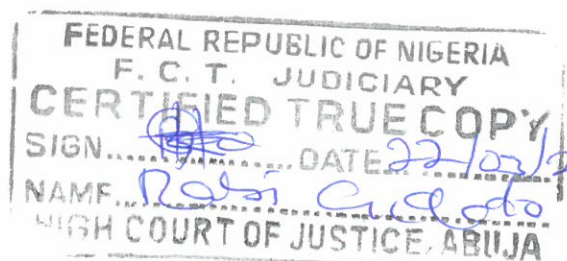


1st Respondent again whimsically and capriciously re-placed and reinserted the Applicant's name as a WANTED PERSON on its official website, still without any prior order or leave of Court.

3. The 2nd Respondent failed in his duty to prevent the abuse of legal process as enshrined in the Constitution of the Federal Republic of Nigeria, 1999 (as amended).
4. The very act of declaring the Applicant a WANTED PERSON on the official website of the 1st Respondent in the absence of a charge and a valid order of Court is illegal, unlawful, wrongful, arbitrary, ultra vires, unconstitutional and constitutes a gross infringement of the Applicant's Fundamental Rights.
5. The Applicant is entitled to injunctive reliefs to restrain the Respondents jointly/severally, whether by themselves, their officers, agents, servants, privies, operatives or otherwise howsoever called from continuing in the unlawful acts of violation of the Applicant's constitutionally protected rights.
6. The Applicant is entitled to a formal written apology from the Respondents. The affidavit of the Applicant in support of this Fundamental Right Application is of 51 paragraphs with 9 documents Exhibits which span 33 pages.

The 1st Respondent - Economic and Financial Crimes Commission (EFCC) - filed a counter Affidavit of 13 paragraphs and an Exhibit. For the 2nd Respondent, the Attorney General of the Federal an Affidavit of 5 paragraphs, and a notice of preliminary objection challenging the jurisdiction of this Honourable to entertain the suit.

By the rules of Court, the Applicant also filed further and better affidavit of 13 paragraphs in reply to the 1st Respondent counter Affidavit and 10 paragraphs further and better Affidavit in reply to the 2nd Respondent counter Affidavit. These represent the processes filed by the parties. The Court shall first deal with the preliminary objection and if it succeeds, that will be the end of the



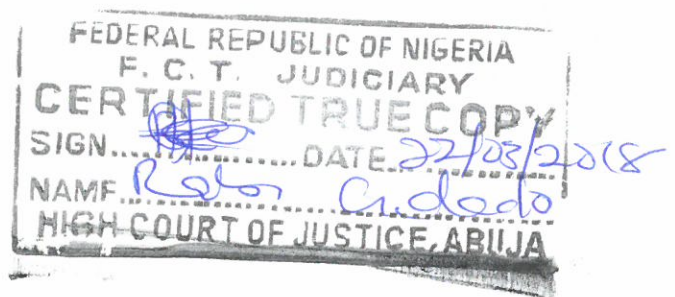
case but if otherwise, I shall proceed to determine the application on its merit

The 2nd Respondent by a Notice of preliminary objection brought pursuant to order VIII Rule 2 and order IX Rule I (ii) of the Fundamental Rights (Enforcement Procedure) Rules 2009 and Section 251 of the 1999 Constitution (as Amended) contended that the Court lacked the jurisdiction to entertain the Application on the grounds that the acts complained about by the Applicant were executive or administrative decisions/actions of the 1st Respondent. That the 1st Respondent is an agency of the Federal Government, and as a result this action can only be adjudicated by the Federal High Court vide Section 251(1) (p)(q) and (r) of the 1999 constitution. The preliminary objection is accompanied by a written address. The 2nd Respondent raised a sole issue for determination to wit.

“Whether the Applicant’s suit as presently constituted is competent in view of the provisions of Section 251 (1) of the 1999 constitution (as amended) as to enable this Honourable Court assume jurisdiction over it.”

He cited several case law authorities in support of his argument with particular emphasis on the case of **CBN v Okojie** [2015] LPELR 24740 [SC] He concluded by answering the question in the negative and urged me to hold that acts the Applicant has complained of were executive or administrative decisions/actions of the 1st Respondent as an agency of the Federal Government, and as a result this action can only be adjudicated by the Federal High Court vide Section 251(1) (p)(q) and (r) of the 1999 constitution.

Counsel to the Applicant formulated a sole issue for determination which is:



“Whether the FCT High Court has concurrent jurisdiction with the Federal High Court in matters of the Enforcement of Fundamental Rights irrespective of the status of the Respondents.”

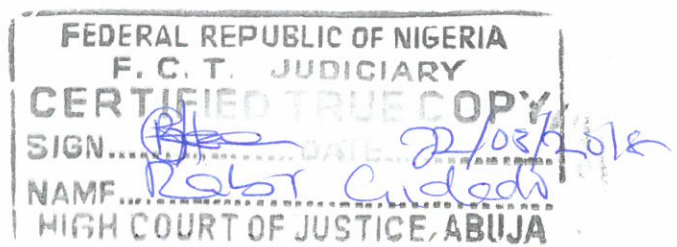
In arguing this issue, learned senior counsel drew my attention to the authorities in the decisions of the apex Court in the cases of **Grace Jack V University Of Agric, Makurdi** [2004] 1 SC [PT.11] 100 and **WEMA Securities and Finance Plc v NAIC** [2015] LPELR-SC 177.

He submitted that it is a misconception to conceptualise the Applicant's case as one coming within the exclusive jurisdiction conferred on the Federal High Court in Section 251 (1) of the constitution. Instead, he urged the court to hold that the claim is governed solely by Section 46 of the constitution, which confers concurrent jurisdiction on both the Federal and state High Courts in cases of Fundamental Human rights. He therefore answered the question in the affirmative, and urged the court to overrule the preliminary objection

Taking the forgoing into account, I am of the view that the single question for determination is:

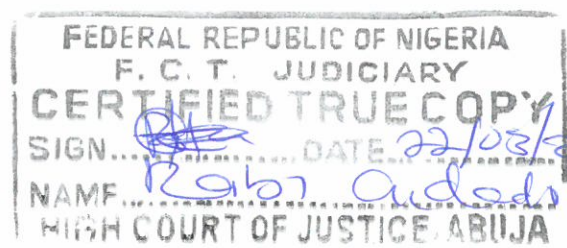
“Whether the FCT High Court has jurisdiction over and in respect of the claims of the Applicant in this case”

To begin, the admonition of the Supreme Court to lower Courts in their consideration of previous decisions of superior Courts as constituting binding precedent must be closely kept in view. Times without number, the Supreme Court has admonished that each case is only an authority for what it decides, and nothing more. In the recent case of **Uwua Udo V. State** (2015) SC, Kudirat Kekere-Ekun, JSC, re-emphasized this when she declared that:-



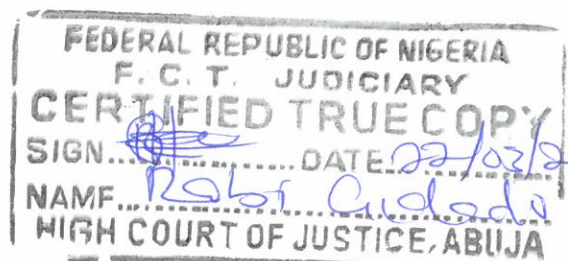
"It is important to bear in mind that the decision of a Court must always be considered in the light of its own peculiar facts or circumstances. No case is identical to another, though they may be similar. See also, Skye Bank Plc. & Anor. Vs Chief Moses Bolanle Akinpeju (2010) 9 NWLR (Pt. 1198) 179; Okafor Vs Nnaife (1987) 4 NWLR (Pt 64) 129."

I have carefully reviewed the decisions of the superior Courts in all the cases cited by learned counsel in their respective written submissions, respecting the threshold issue of jurisdiction as raised by the Hon AGF. In my view, it does not seem to me as contentious and complex as learned counsel appear to have argued. I think that the learned Attorney-General of the Federation is simply making the issue look complicated when truly it is not. The Applicant came to this Court under the Fundamental Human Rights (Enforcement Procedure) Rules, praying the Court for reliefs that are strictly confined within the ambit of Chapter 4 of the 1999 Constitution as amended. His claim, among others, as concisely stated above is that the 1st Respondent has wrongfully declared him wanted in its on-line media; an act that he thinks is in violation of Sections 34, 35, 37, 41 and 46 of the 1999 Constitution as amended. It is true that the topic on the proper jurisdiction of the Federal High Court and State High Courts as may be distilled from the provisions of Section 251 (1) of the Constitution has been a raging one in many respects, but on the specific question of enforcement of *Fundamental Human Rights*, which is by means of a special procedure, aimed at attaining a special objective as specified in the constitution, I do not think that the Supreme Court has deviated from, changed or varied its position ever since **Grace Jack V University Of Agriculture, Makurdi (Supra)**. In that case, which was a rights enforcement action brought against the university seeking, among others, a declaration that the Applicant's right to fair hearing was violated, the apex Court specifically placed



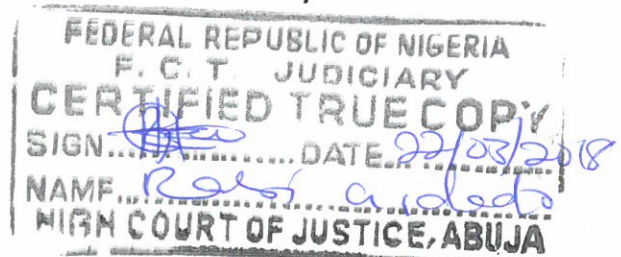
Section 46 of the Constitution, which creates jurisdiction in Fundamental rights cases side by side with Section 251(1) that confers exclusive jurisdiction on the FHC in specific subject matters. And in its wisdom restored the decision of the High Court of Benue Stated and overruled the Court of Appeal below, when it held that in Fundamental Human Rights cases, both the Federal High Court and the High Court of a state have concurrent jurisdiction, despite that the Respondent, the University of Agriculture, is an agency of the Federal Government. In the lead decision of the apex Court, Katsina-Alu, JSC (as he then was) had this to say:

"In the resolution of this issue, I would like to point out that Section 42(1) of the Constitution of the Federal Republic of Nigeria which I have reproduced above has provided the Court for the enforcement of the Fundamental rights as enshrined in Chapter IV. A person whose Fundamental right is breached, being breached or about to be breached may therefore apply to a High Court in that state for redress. Order 1 rule 2 of the Fundamental Rights (Enforcement Procedure) Rules, 1979 which came into force 1 January, 1980 defines 'Court' as meaning "The Federal High Court or the High Court of a State." What this means is this, both the Federal High Court and the High Court of a State have concurrent jurisdiction. An application may therefore be made either to the Judicial Division of the Federal High Court in the State or the High Court of the State in which the breach occurred, is occurring or about to occur."



As stated earlier, the apex Court has not changed its position on the matter. The case of **CBN V Okojie** [2015] LPELR-24740 SC (supra) from which counsel to the learned Attorney-General copiously quoted from at pages 19-20 of his written submission in order to justify his unmerited and overzealous quest for the exclusion of this Court from assuming jurisdiction over the 2nd defendant in this matter did not, whether expressly or by implication overrule **Grace Jack V. University Of Agriculture Makurdi**. Moreover, the apex Court's position in that case was re-affirmed in its 2015 judgment in **WEMA Securities and Finance Plc v NAIC** [2015] LPELR-SC 177. Indeed, as rightly pointed out by Chief Mike Ozekhome, SAN, of learned counsel to the Applicant, in his written submission, **CBN v. Okojie** [supra], which the learned Attorney-General relied on in requesting the court to hold that the subject matter of this action is a challenge to an executive or administrative action or decision of the Respondent, addressed a completely different issue and a different subject matter, including the form or method of commencement of action, as such it is inapplicable to the case in hand. In that case, Rhodes-Vivour, JSC (in his lead judgment) was considering if a seeming Tort liability [malicious prosecution] that arose from the exercise of police powers of arrest and prosecution was triable by a state high Court against the police. This was the basis of the Court's decision in that case. Moreover, the learned jurist made no pronouncement overruling **GRACE-JACK** and did not even place it in focus throughout the length and breadth of the judgment, yet in this preliminary objection, the Respondent's counsel has heavily relied on it.

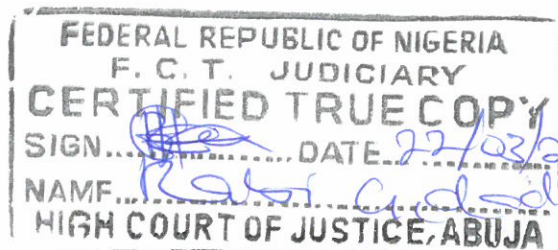
Indeed, the learned jurist of the apex Court did not need to even allude to **GRACE JACK**, since he rightly sensed that what the lower Court was called upon to decide was a tort liability action commenced by writ of summons, unlike **GRACE JACK**, which was commenced under the Rights Enforcement Rules, just like the present case. These are two distinct and mutually exclusive



mechanisms, designed to achieve different outcomes. Finally, it need be noted that while **CBN V OKOJIE** was decided on Friday, the 5th day of June, 2015, **WEMA Securities and Finance PLC V NAIC**, was decided on Friday, the 3rd day of July, 2015, a period of one month later in time. And it is the jurisprudence of the Supreme Court that where a lower Court is faced with two decisions of the Supreme Court that appear to be in conflict the later in time is to be considered as constituting a binding precedent. See, **OSAKWE V FCE ASABA [2010] 10 NWLR [PT.1202] 1**. Guided by the above principle, I hold that the even if the decision in the two cases under review were in conflict, the decision in **WEMA Securities and Finance Plc v NAIC** [supra], being later in time represents the law on the issue at hand. And for the avoidance of doubt, the apex Court, per C. C. Nweze, JSC stated in that case that;

“Now, from a conspectus of recent decisions, it would be correct to assert that this Court has now taken the position that in considering the issue of the jurisdiction of the Federal High Court under Section 251 (1) [supra], both the status of the parties (that is whether it is the Federal Government or any of its agencies) and the subject matter of the claim (that is, whether it relates to any of the enumerated items in the said Section) have to be looked at.”

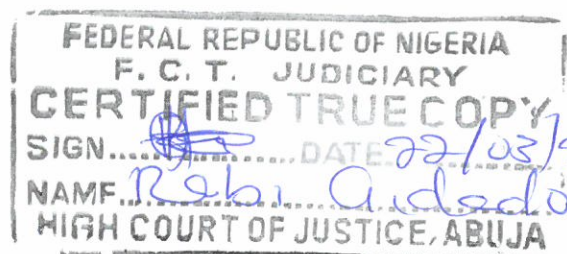
The apex Court, having earlier held in **GRACE JACK** that on the subject matter of enforcement of Fundamental Human Rights, both the Federal High Court and the High Court of a state have concurrent jurisdiction, I further hold that the argument of learned counsel to the Attorney-General is not sustainable. I feel fortified in my reasoning when I take into account the Supreme Court **Roe**



Limited V. University Of Nigeria, LER (2018) S.C.42/2007
wherein the apex Court put the position succinctly thus:

"The law is very well settled beyond any argument that the jurisdiction of a Court is determined by the nature of the claim before it. See Tukur vs Govt of Gongola State (1989) 4 NWLR (Pt. 17) 517. The Federal High Court is a special Court with exclusive jurisdiction limited to those items specified under Section 251 of the 1999 Constitution of the Federal Republic of Nigeria and any other jurisdiction as may be conferred upon it by an Act of the National Assembly. A Court must not while interpreting the provisions of Section 251 of the Constitution, and any other statutes whose wordings are very clear and unambiguous import into them something which is not contained in them. Section 251, has clearly made provisions for action against Federal Government or any of its agencies in any other Court in the Proviso after subparagraph) which reads thus:- " Provided that nothing in the provisions of paragraphs (p)(q) and (r) of this Subsection shall prevent a person from seeking redress against the Federal Government or any of its agencies in an action for damages injunction or specific performance where the action is based on any enactment, law or equity."

Taking all the forgoing into account, I finally hold that the preliminary objection to jurisdiction lacks merit and the preliminary objection is hereby overruled.

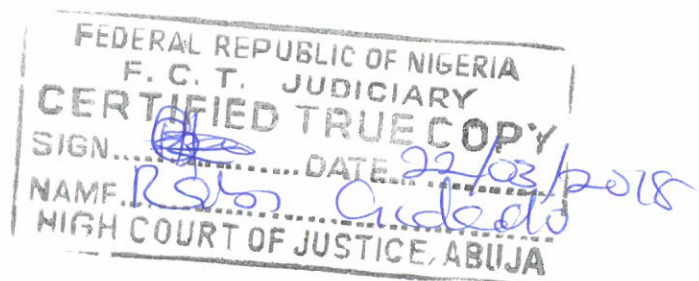


Let me now turn to the merit of the substantive application, The facts of the Applicant's claim, concisely are that, One, Benedict Peters, a shareholder and chairman Board of Directors of Aiteo Energy Resources Ltd was requested by the 1st Respondent to appear before it on footing that the commission was investigating a case (undisclosed) in which the Applicant was required to appear before it. The letter in this regard is Exhibit A.

At the material time, the Applicant was not in Nigeria as he was receiving treatment in France. This fact was communicated to the 1st Respondent by Exhibit B. the 1st Respondent on the basis of Exhibit B re-scheduled the interview for the 2nd June, 2016 (Exhibit C). By Exhibit D, the Applicant through his solicitors communicated to the 1st Respondent circumstances which made it impracticable for the Applicant to be available for the rescheduled interview. Before the 2nd of June, 2016 re-scheduled for the interview, armed men/officers of the 1st Respondent invaded the premises of AITEO Energy Resources Ltd and in the process arrested Mr Ewarieze Useh and Mr Tunde Akinpelu, Managing Director and an Executive Director of AITEO Energy Resources respectively without any warrant of arrest or explanation as to the reasons why the duo was being arrested and whisked away.

In the course of this exercise, the two arrested executives of the company discovered that they were being held as a decoy to arrest the Applicant. Further on 1st June 2016, at about 2pm, other armed officers of the 1st Respondent invaded the residential home of the Applicant at No 8A Agodogba street, Parkview Estate, Ikoyi, Lagos, arrested one of the Applicant's driver- Ayo Ogunlana detained him and later released after about 4 hours.

The Applicant was informed of the facts enumerated above on the 2nd June, 2016 and he expressed apprehension on the basis that actions of the 1st Respondent was premature based on the agreed date. The Applicant became suspicious of the motive of the

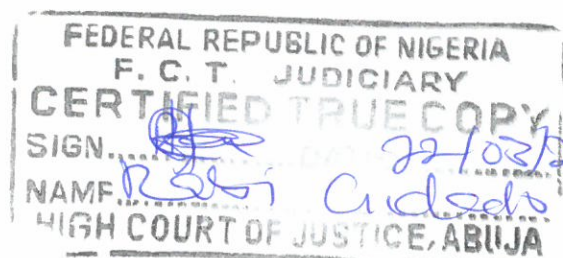


interview and feared for his life. That these acts of invasion were repeated on 20th July, 2016 and 4th August, 2016 respectively. It was alleged that the 1st Respondent also arrested one Oladele Awonuga a legal practitioner when it was obvious he could not rightly explain the whereabouts of the Applicant. He was later released after several hours.

On the 15th day of August, 2016, the Applicant was declared wanted by the 1st Respondent without an order of Court and in the absence of a valid charge in a Court of law. The said declaration was published in the punch newspaper as well as Sahara reporters and specifically on the official website of the 1st Respondent: www.efccnigeria.org/wanted with the photograph of the Applicant displaced. (Collectively referred to as Exhibit E).

On the basis of the above facts, the Applicant on the 17th August, 2016 wrote a letter to the 1st Respondent – Exhibit F wherein he expressed surprise at his being declared wanted despite several communications from his lawyers. The Applicant nevertheless expressed his willingness to assist the 1st Respondent in its investigation on any matter as the exigencies of his health permits Exhibit G is one of those letters written by the Applicant's solicitor suggesting 7th day November for the Applicant to appear before the 1st Respondent. Because of the circumstances of the Applicant's health, he personally wrote Exhibit H to the 1st Respondent and gave detailed explanation on the issues the 1st Respondent was investigating which relates to USD 115m (N23 Billion) alleged bribe to officials of the Independent National Electoral Commission by a former Minister of Petroleum Resources- Diezani Allison Madueke during the 2015 general election.

By Exhibit E, it is clear that the Applicant was required to offer explanations on his alleged offer of \$60million of the \$115million. In the said Exhibit H, the Applicant pleaded with the 1st Respondent



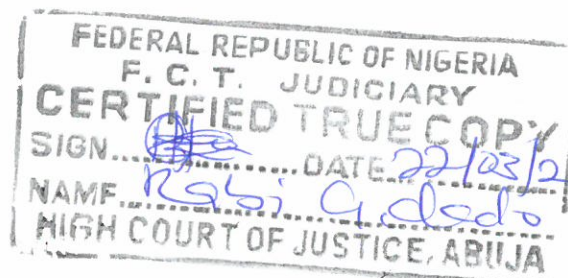
of the need to review and revisit the circumstances of being declared a wanted person.

Following the said request, the 1st Respondent removed the Applicant's name from the list of wanted persons on their official website; www.efccnigeria.com/wanted. On 31st march 2017, the 1st Respondent again reposted the Applicant's name on its official website without a prior order of a Court of competent jurisdiction.

On the 9th of January 2017, the Applicant personally wrote to the 1st Respondent (Exhibit I) requesting for a review of declaring him wanted. The 1st Respondent has not replied as at the date of filling the suit. The reposting of the Applicant's name on the official website of the 1st Respondent was without order of Court, or a charge before any Court of competent jurisdiction. The Applicant lenders has besieged the 1st Respondent to confirm whether the Applicants name has being removed from the wanted list before they can deal with him commercial wise. All these were acts alleged by the Applicant.

To the 1st Respondent, paragraphs 11, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 43, 44, 47, 48, 49, 50 and 51 of the Applicants Affidavit were false and misleading. That the 1st Defendant is a statutory body with the responsibility amongst others of investigation and prosecution of economic and financial crimes.

That in 2016 it commenced investigation which revealed that Mrs Diezani Allison Madueke, Bernard Otti, AITEO Energy Ltd, Northern Belt oil and Gas Company Ltd and others were involved in conspiracy, stealing, money laundering and other sundry offenses to the tune of over \$300,000,000 (Three Hundred Million US Dollars). The Applicant is the chairman of AITEO Energy Ltd and Northern Belt Oil and Gas Company Ltd. To carry out a holistic investigation and get Applicant's response to the findings, the 1st



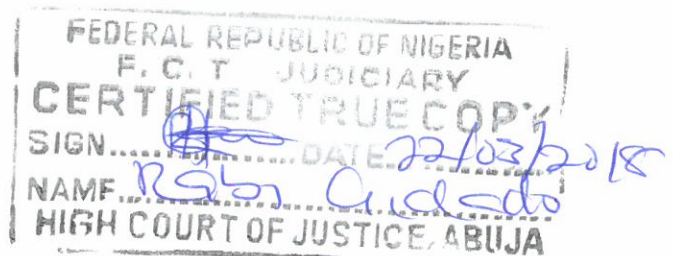
Respondent wrote a letter inviting the Applicant to assist in investigation.

That the Applicant wrote several letters to the commission pleading to come at various dates which he never honoured till the time of filing the suit. The 1st Respondent approached a magistrate Court in Lagos state which only issued a warrant of arrest against the Applicant (Exhibit EFCC 1). Pursuant to the warrant of arrest, the commission issued a publication declaring the Applicant wanted.

That the Applicant's ill health if any can be managed by hospitals in Nigeria. That contrary to paragraphs 38, 43, 45, 47 and 50 of the Applicant's affidavit, the commission did not arbitrarily declare the Applicant a wanted person but on the basis of Exhibit EFCC 1. Contrary to paragraphs 48, 49 and 50 of the Applicant's Affidavit, the commission carries out of its statutory functions in line with the establishment Act.

For the 2nd Respondent – Attorney General of the Federation, it also contends specifically that the 2nd Respondent neither invaded nor authorized any person to invade the business premises of any company or residence of the Applicant, neither did the 2nd Respondent arrest, harass, manhandle or detain any one at either the business or residential premises of the Applicant or Deponent at any time whatsoever as wrongly and falsely claimed in paragraphs 16 - 37 of the supporting affidavit, That the Deponent is unknown to the 2nd Respondent.

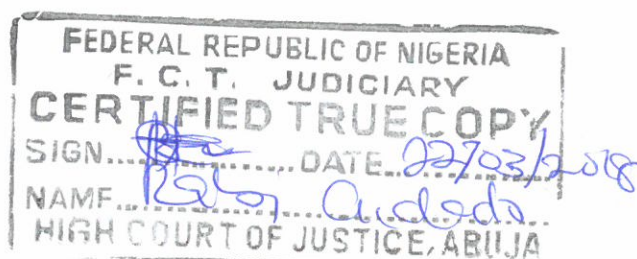
The 2nd Respondent did not declare the Applicant wanted, however, he is aware that the wilful refusal of the Applicant to honour the 1st Respondent's invitation under the guise of a nebulous medical condition necessitated the need for the 1st Respondent to invoke its extant powers of Crime prevention, detection, investigation and arrest to declare the Applicant a wanted person. The 2nd Respondent did not take any step or authorize any action culminating in the alleged violation of the Applicant's rights.



The above represents a concise summary of the facts of the respective parties as may be gathered from the affidavits placed before the court. I have examined the claims of the Applicant closely, paying attention to the reliefs, the affidavit and the Exhibits attached. I have equally scrutinized the affidavits filed by the Respondents. Learned counsel's written submission, which were adopted as their respective oral arguments are well noted and will be referred to as the need shall arise. Suffice it to say that in my view, there is only one issue for determination and that is to say, whether the 1st Respondent was right to have declared the Applicant as a wanted person under circumstances revealed in the respective affidavit of parties.

Concisely, on this issue, the Applicant's case is that the 1st Respondent acted unlawfully by declaring him wanted on its official website, without an order of Court first had and obtained. It is not a part of the Applicant's case that the Respondent has no power to arrest him under the law. Rather, his grudge is that due process was not observed by the 1st Respondent before declaring him a wanted person. The 1st Respondent's defence is that it acted based on a warrant of arrest issued by a magistrate Court, Exhibited as Exhibit EFCC1 to the 1st Respondent's Counter-Affidavit (filed on the 24th of January, 2018 and deposed to by Samson Ologe, a staff of the 1st Respondent). That being the case, it is important to scrutinize the contents of the document constituting the warrant to see if it can avail the Respondents.

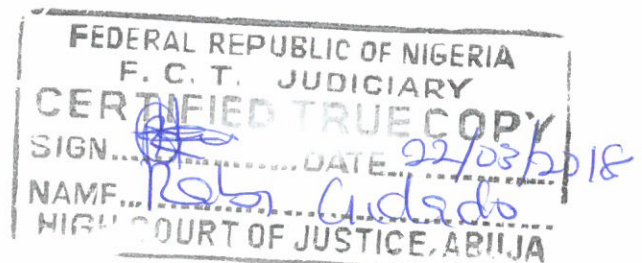
The said Exhibit [EFCC1] is dated the 5th of August, 2016, suggesting that it was made or signed by the issuing magistrate on that date. But, curiously, the 1st Respondent has endorsed the Exhibit as having been received on the 4th of August, 2016 at 10.32am. Could this have been a mistake? If it was I expected the 1st Respondent to have filed a further and better counter-affidavit in order to fully explain why there exist this sort of anomaly.



Indeed, the writing is even in two places: one is inside a rubber stamp where a date, "4-08-2016" is clearly written. The second is written beside the rubber stamp, with the signature of the recipient appended on top of the date, while the time it was received "10.30am" is written underneath the signature. In the absence of any explanation, I am left with no option but to conclude that the 1st Respondent has presented to this Court an absurd and unimaginable case of receiving a signed document a day before it was actually signed by the person who purported to have signed it. Am afraid, such a thing is not possible in our physical world. Perhaps, it is possible in the spirit world. This renders the circumstances surrounding the procurement of this document doubtful.

Quite apart from the foregoing, there is nowhere in the purported warrant [Exhibit EFCC1] that the Magistrate authorised the 1st Respondent to declare the Applicant wanted. The warrant simply authorised the Complainant to bring the Defendant before the Court to answer the complaint made against him. Of course, it goes without saying that in order to bring him before the Court, he could be lawfully arrested on grounds already permitted in the statute books. I have taken note of the 1st Respondent's second line of defence, which is that the Applicant was evading arrest or hiding from the long arm of the law. But neither the said warrant nor any of those statute books, including the Police Act and the Administration of Criminal Justice Act provide that the 1st Respondent can declare any person who is suspected to have committed an offence, but is evading a warrant of arrest as a wanted person, without an order of Court first had and obtained.

In so far as a warrant of arrest cannot be executed through indirect or substituted means, but to be executed on the party named in it directly when it is shown to be constraining his liberty, a warrant may, therefore, be analogous to an originating process of Court in civil litigation that requires personal service first. Where

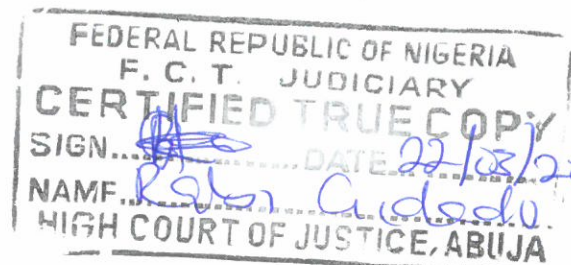


personal service fails, the warrant executing officer like the Bailiff of Court cannot suo motu adopt a substituted method of execution without recourse to the Court that issued it. In my view declaring a person wanted is a substituted means of notifying him of the existence of a warrant issued against him.

It is important to know that where a person declared wanted is seen anywhere, the public is to assume that such a person is not just a wanted criminal but a fugitive from the law and therefore a danger to public security. Once that happens the freedom of movement of the person is severely constrained. In my view, there cannot be a valid constraint on liberty in this way without the consent of the Courts. The serious implication of such presumptions makes any deviation from the above process a breach of due process as well as a breach of the right to personal liberty, a constraint on his right to move about freely and a denigration of his dignity.

It is for the forgoing reasons that I am of the view that the Applicant's claims in this Court in this case are well founded. Without necessarily setting aside the warrant of arrest, I hereby grant the following reliefs.

1. It is hereby declared that the 1st Respondent has the power to declare any person wanted within the ambit of the laws of the Federal Republic of Nigeria and upon complying with the conditions precedent to the said declaration.
2. It is hereby declared that the act of declaring the Applicant a WANTED PERSON on the official website of the 1st Respondent without any prior order or leave of a Court of competent jurisdiction, first had and obtained to that effect is unconstitutional and constitutes a violation of the Fundamental rights of the Applicant to personal liberty and freedom of movement as guaranteed under Section 34 and 41 of the constitution of the Federal Republic of Nigeria, 1999 (As amended); and same is hereby set aside.



3. That relief 2, 3 and 4 are already subsumed in the declaration above while relief 5 has become superfluous having set aside the said publication.
4. An order is hereby made directing the 1st Respondent to remove from its website the purported declaration made against the applicant forthwith.

I make no order as to cost. This shall be the judgement of this Court.

APPEARANCE

Chief Mike Ozekhome, SAN with:

1. **Chief Andrew Oru Esq.**
2. **Ozonma N. C Nobis-Elendu Esq.**
3. **Emeka Ozoani Esq.**
4. **J. I. Nwatu Esq.**
5. **Onyedika Offor Esq.**
6. **Jostine Owegbemi Esq.**
7. **Oluchi Uche Miss**
8. **Adebimpe Haastrup Miss**
9. **G. O. Ikeh Esq.**
10. **Ifenyiwa Okerehe Miss** all for the Applicant.

G. K. Latona Esq. with **Elizabeth Alibi Esq., Rahemat Usman Esq.** for the 1st Respondent

Micheal C. Agbo Esq. State counsel for the 2nd Respondent


Sign
Hon. Judge
22/03/2018

