

IN THE FEDERAL HIGH COURT OF NIGERIA  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT ABUJA  
ON TUESDAY THE 1<sup>ST</sup> DAY OF MARCH, 2019,  
BEFORE HIS LORDSHIP, THE HON. JUSTICE A. I. CHIKERE  
JUDGE

SUIT NO: FHC/ABJ/CS/85/2018

BETWEEN:

1. MR. SISIKU AYUK TABE
2. MR. WILFRED TASSANG
3. DR. NFOR NGALA NFOR
4. PROFESSOR AUGUSTINE AWASUM
5. DR. CORNELIUS KWANGA
6. DR. HENRY KIMENG
7. ELIAS EYAMBE ESQ
8. NALOVA BIH ESQ.
9. DR. OJONG OKONGO
10. DR. FIDELIS NDE CHE
11. SHUFAI BLAISE BERINYU
12. (MRS) NALOWA ESQ

APPLICANTS



AND

1. NATIONAL SECURITY ADVISER
2. ATTORNEY GENERAL OF THE FEDERATION

RESPONDENTS

## JUDGMENT

Learned Counsel to the Applicant commenced this action by way of Originating Motion on Notice dated 25/01/2018 but filed on 26/01/2018 praying the court for the following relief;

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Priscilla N. A  
PGOU Odeh

1. A DECLARATION that the arrest of the Applicants in Abuja on January 7, 2018 at Nera Hotel, Abuja by the armed of the Respondents without a warrant of arrest is illegal and unconstitutional as it violates the Applicants' fundamental rights to dignity of the person and personal liberty enshrined in Section 34 and 35 of the Constitution of the Federal Republic of Nigeria, 1999 (As Amended) and Article 5 and 6 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act (CAP A10) Laws of the Federation of Nigeria, 2004.
2. A DECLARATION that the detention of the Applicants since January 7, 2018 till date by the Respondents in an underground detention center at the Defence Intelligence Agency Headquarters at Abuja is illegal and unconstitutional as it violates the Applicants' fundamental rights to dignity of the person and personal liberty enshrined in Section 34 and 35 of the Constitution of the Federal Republic of Nigeria, 1999 (As Amended) and Article 5 and 6 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act (CAP A10) Laws of the Federation of Nigeria, 2004.
3. A DECLARATION that the detention of the Applicants since January 7, 2018 till date by the Respondents without access to their lawyers and family members is illegal and unconstitutional as it violates the Applicants' fundamental rights to fair hearing enshrined in Section 36 of the Constitution of the Federal Republic of Nigeria, 1999 (As Amended) and Article 7 of the

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African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act (CAP A10) Laws of the Federation of Nigeria, 2004.

4. A DECLARATION that the arrest of the Applicant on January 7, 2018 at Nera Hotel, Abuja by the armed agents of the Respondents is illegal and unconstitutional as it violates their fundamental rights to freedom of assembly and association section 39 and 40 of the Constitution of the Federal Republic of Nigeria, 1999 (As Amended) and Article 10 and 11 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act (CAP A10) Laws of the Federation of Nigeria, 2004.
5. AN ORDER of this Honourable Court directing the immediate and unconditional release of the Applicants from the illegal custody of the Respondents forthwith.
6. AN ORDER of this Honourable Court compelling the Respondents to pay each of the Applicants the sum of N200,000,000 (Two hundred million naira) as general and aggravated damages for the illegal violation of their fundamental rights to life, dignity of person, fair hearing, health, freedom of movement and freedom of association.
7. AN ORDER OF PERPETUAL INJUNCTION restraining the Respondents from further violating the Applicants' fundamental rights in any manner whatsoever and howsoever without lawful justification.

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Accompanying the Originating Motion is a Statement, 11 paragraphs Affidavit deposed to by one Paul Ochayi with Exhibit and a Written Address.

Upon service, learned counsel to the Respondents filed a Notice of Preliminary Objection challenging the jurisdiction of this court to entertain this suit on the following grounds:

- a. That the Applicant's suit disclose no cause of action against the Respondents.
- b. That the Applicants' suit is wrongly commenced by way of fundamental right enforcement.
- c. That the subject matter of this suit is not within Chapter IV of the Constitution.
- d. That there is no competent affidavit in support of the Applicant's suit.
- e. That this court lacks the jurisdiction to hear and determine the Applicants suit.

Accompanying the Notice of Preliminary Objection is a 5 paragraphs affidavit deposed to by one Friday Atu and a Written Address.

Responding to the Notice of Preliminary Objection learned counsel to the Applicants filed a 11 paragraphs Counter Affidavit deposed to by one Barrister Fru John Nsoh and a 20 paragraphs Counter Affidavit deposed to by Femi Falana SAN with exhibits and a Written Address.

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## ISSUES FOR DETERMINATION

- a. Whether this court is vested with the jurisdiction to entertain this suit?
- b. Whether the Applicants have made a case to be entitled to the reliefs sought?

## ISSUE A

### Whether this court is vested with the jurisdiction to entertain this suit?

Learned counsel to the Respondents contends that this Applicants have not disclose any cause of action against the Respondents or any agency of the Federal Government of Nigeria. That there is nothing on record to support the case of the Applicants against the Respondents.

Learned counsel contends that the Applicants and their Counsel are operating under the misconception that the Respondents sued are vicariously liable for the alleged acts of the unknown armed security men. He cites *Adekoya v. Federal Housing Authority* (2008) 11 NWLR (Pt. 1099) 539 at 551, *SPDC (Nig.) Ltd vs. X.M. FED LTD* (2006) N16 NWLR (Pt. 1004) 189 @ 200 amongst other cases.

He contends that there is nothing on record that shows that the Respondent authorized the alleged and detention of the Applicants or directed any armed security agent. He cites *Assistant Inspector General of Police v. Ezeanya* (2016) ALL FWLR (Pt. 830) 1349 @ 1373.

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Learned counsel submits that the entire affidavit of the Applicants is laced with alleged conduct of some unknown, unidentified, nameless and faceless agency of the Respondent. That not even one of the alleged agency of the Respondents was identified. That the Applicants have failed woefully to establish a nexus between this case and the Respondents and he cites APC v. PDP (2015) ALL FWLR (Pt. 791) 1493 and Ransome-Kuti and Ors vs Attorney General of the Federation (1985) 16 NSCC Pt. 2, 879.

He submits that where the Applicants are sure that it was the Defence Intelligence Agency that detained them, they ought to sue that Security Agency before the 2<sup>nd</sup> Respondent can be made a nominal party. That the Applicants have not disclose any cause of action against the Respondents, as such the court should strike out the suit. He cites Ojukwu v. Yar'adua (2009) 12 NWLR (Pt. 1154) 50 P. 132

That the affidavit in supports of the Originating Motion did not state where the Applicants were detained neither was the source of the information of Applicants arrest and detention stated.

Learned counsel submits that representative action or class action cannot be commenced by way of enforcements of fundamental human right. That by Section 46(!) of the Constitution of the Federal Republic of Nigeria, 1999 (As Amended) the action must be a personal action. He cites Registered Trustees of FTCN vs. Ikwechegh (2000) 13 NWLR (Pt.683) 1@8. That the preamble of the Fundamental

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Rights (Enforcement Procedure) Rules, 2009 allowing for third party enforce the right of others is unconstitutional, null and void being conflicts with the express provisions of the Constitution.

Learned counsel argued that it is the Applicants by themselves in law saddled with the responsibility of deposing to the affidavit in support of the initiating process or originating process. That if for any reason the Applicant cannot deposed to the Affidavit as a result of incarceration, the subsequent deponent must state why the Applicant could not depose to the affidavit. That it was not done in the present suit. He refers Order II Rule 4 of the Fundamental Right (Enforcement Procedure) Rules 2009 and *Setraco (Nig) Ltd v. Kpaji* (2017) 5 NWLR Pg. 280 AT 302.

He concluded by urging the court to dismiss the suit.

Responding, learned counsel to the Applicants contends the Preliminary Objection takes no account of the validity of the claims of the claimant or plaintiff because it deals with the competence of the suit. That the court should discountenance any argument made on the substance of the case.

Learned counsel contends that the argument that the Applicants have not disclosed any cause of action is misconceived as only in matters commenced by way of writ of summons can defence raise the objection of the matter not disclosing reasonable cause of action. That a fundamental right suit is an action for the interpretation of certain provision of the Constitution. That cause of action

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automatically inures in favour of the Applicant. More so, that it is only the case of the plaintiff that the court will examine to determine whether there is a cause of action or not. He cites Mobil Producing Unlimited v. LASEPA (2002) LPELR 1887.

He contends that the denial of arrest, detentions and deporting of the Applicants by Respondents doesn't not divest the court of its jurisdiction. That the argument of the Respondents on the ground that the Attorney General of the Federation should not be made party is wrong because the complaint in the instant suit is against the Executive Arm of Federal Government of Nigeria and as such the AGF is the proper party to be sued. He referred the court to AG Kano v. AGF (2007) LPELR 618 Page 628, Section 5(1), 147, 148 and 150 of the Constitution of the Federal Republic of Nigeria, 1999 (As Amended) amongst other authorities.

Learned counsel argued that the Fundamental Right (Enforcement Procedure) Rules 2009 shares the same pedestal with the Constitution and overrides the provisions of other statute. That the court has departed from the narrow view that it's the actual person whose right has been infringed or likely to be infringed that can institute an action in court for the enforcement of his fundamental right. He cites Nig Stored Products Research Institute and Ors v. Mathias Ugwu and 11 Ors (2013) 15 WRN 49, Nwankwo v. Ononeze- Madu (2009) 1 NWLR (Pt. 1123) 671 at 715 amongst other cases.

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Learned counsel contends that the fundamental rights of the Applicants cannot be ordinarily taken away without an affront to justice. He cites Uzoukwu and Ors vs. Ezeonu II and Ors (1991) 6 NWLR (Pt. 200) 708 at 761 amongst other cases

He concluded by urging the court to grant the reliefs sought in the Originating Motion.

A cause of action has been defined in the case of **Egbe Vs Adefarasin (1987) 1 NWLR (47) 1 @ 20** where Oputa, JSC (As he then was) explained what amounts to a cause of action thus:

"Now let us look at the meaning of cause of action. It is admittedly an expression that defies precise definition. But it can safely be defined as the fact or facts which establish or give rise to a right of action - it is the factual situation that gives rise to judicial relief. A cause of action is to be distinguished from a right of action. A right of action is the right to enforce presently a cause of action. In other words, a cause of action is the operative fact or facts (the factual situation), which give rise to a right of action, which in itself a remedial right."

In order for the court to determine whether a party has a cause of action it must examine the originating process. In the present case, the Originating Motion and the accompanying processes will be examined. See the case of **EFCC & ORS V. ODIGIE (2012) LPELR-15324** where the court held:

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"A cause of action and when it commences is determined only on a perusal of the plaintiff's action or claim".

It must be stated that in determining whether there is a cause of action or reasonable cause of action it is dependent on whether the case has the chance of succeeding or there is a possible right accruing to a party. See the case of **Rinco Const. Co. v. Veepee Ind. Ltd. (2005) 9 NWLR (Pt.929)85**

"Reasonable cause of action means a cause of action with some chances of success. For a statement of claim to disclose a reasonable cause of action, it must set out the legal rights of the plaintiff and the obligations of the defendant. It must then go on to set out the facts constituting infraction of the plaintiff's legal right or failure of the defendant to fulfill his obligation in such a way that if there is no proper defence, the plaintiff will succeed in the relief or remedy he seeks. The word "reasonable" means fair, proper, just, moderate, suitable under the circumstances."

I have carefully examined the Originating process and the accompanying documents in the present case. The gamut of the Applicants case is that the Respondents unlawfully arrested and detained them on the 7/01/2018 thereby violating their rights to dignity of person, personal liberty, fair hearing, freedom of assembly and association.

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As rightly pointed out by the learned counsel to the Applicants, the issue on fundamental right is a very important issue which deals existence of mankind. See the case of **Nig. Stored Prod. Rescar. Inst. v. Ugwu (2013) 15 WRN 49 AT 74** where the court held:

"The fundamental rights inhere in man because they are part and parcel of mankind. They are the forefront among the rights that enure to human beings. They are the *fons et origo* of human rights

I am also in agreement with the learned senior counsel to the Applicants that when determining a reasonable cause of action, the position taken or the defence put up by the defendant or respondent is irrelevant. See the case of **Mobile Producing Unlimited vs. LASEPA (2002) LPELR 1887 (SC)** where the court held:

"...it is now trite that in confirming whether there is reasonable cause of action in a suit, it is only the writ and statement of claim that are considered by our jurisprudence. Once these documents disclose triable issues capable of leading to the grant of reliefs, then the court holds that a reasonable cause of action exists. At this stage, the court does not look at the defence of the defendants; that's a matter of joinder of issues to be trashed out at trial nor does it pay attention to the weakness in the case presented by the plaintiff; which is a matter to be trashed out at the trial of the case"

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The submission of the learned counsel to the Respondents that the Applicants have failed to identify the nameless and faceless officers is a matter of evidence and so inconsequential because the reasonable cause of action is not dependent of the defence but on the claims of the Applicant. More so, it will seem to the court that by following the line of argument of the learned counsel to the Respondents will mean that that the court will determine the merit of the case at this interlocutory stage.

The courts have been admonished not to delve into the merit of the case at an interlocutory stage. The submission of the learned counsel that the Applicant did not mention who Agency that participate or mention anyone that participated in the alleged wrong is misconceived. See the case of **NDALILE & Ors. v. NUPE & Ors. (2010) LPELR-4585**, the court held:

**"It is also trite that a Court shall not, at interlocutory stage, delve into the merit of the substantive matter**

It must also be borne in mind that by the nature of preliminary objection, the issue must be on grounds of law and not issues that touches on the merit of the case. See the case of **A.-G. Federation v. ANPP (2003) 18 NWLR (Pt. 851) 182 at p. 207**, the court held:

**"Preliminary objection, by its very nature, deals strictly with law and there is no need for a supporting affidavit. In a preliminary objection, the applicant deal with law and the ground is that the court process has not complied with the**

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enabling law or rules of court and therefore should be struck out..."

In the circumstances, the originating motion and accompanying process have disclose a reasonable cause of action. Whether the Applicants succeed at the trial is a different thing.

Learned counsel to the Respondent maintained the argument the present action should have done personally and not by way of representative action or class action. He sought from the court to declare the provision of the Fundamental Right (Enforcement Procedure) Rules, 2009 as inconsistent with the Constitution.

The present action is not a representative action but a class. There is nothing in our legal jurisprudence that says that there cannot be more than one plaintiff in a fundamental human right action where they share a common wrong.

Again, from the arguments of the learned counsel to the Respondents is the fact that all the cases cited in support of his argument predate coming into force the Fundamental Rights (Enforcement Procedure) Rules, 2009. It was this line of arguments advance by the learned counsel to the Respondents that lead to the coming into force the current Fundamental Rights (Enforcement Procedure) Rules, 2009 which among things remove the issue of locus standi, technical hiccups such as the present one advanced by the learned counsel to the Respondents which was obtainable in Fundamental Rights (Enforcement Procedure) Rules, 1979.

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By the current rules, any person can come to court on behalf of another person to challenge an alleged fundamental human right abuse or as a class if the need arises. This is clearly seen in the Preamble of the said **Fundamental Rights (Enforcement Procedure) Rules, 2009**. Which provides:

"3 The overriding objectives of these Rules are as follows:

(e) The Court shall encourage and welcome public interest litigations in the human rights field and no human rights case may be dismissed or struck out for want of *locus standi*. In particular, human rights activists, advocates, or groups as well as any non-governmental organisations, may institute human rights application on behalf of any potential applicant. In human rights litigation, the applicant may include any of the following:

(i) Anyone acting in his own interest;

(ii) Anyone acting on behalf of another person;

(iii) Anyone acting as a member of, or in the interest of a group or class of persons;

(iv) Anyone acting in the public interest, and

(v) Association acting in the interest of its members or other individuals or groups

This provision of the Fundamental Rights (Enforcement Procedure) Rules, 2009 has been confirmed by the courts over time. See ODUBU

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**V. STEPHEN & ORS (2012) LPELR-19792(CA) and SAMBO & ORS v. OKON & ORS (2013) LPELR-20394(CA)**

Therefore, the provisions of the Fundamental Rights (Enforcement Procedure) Rules, 2009 is not inconsistent with the Constitution of the Federal Republic of Nigeria, 1999 (As Amended). I so hold.

On the issue of whether the Affidavit in support of the Originating Summons is defective. The provisions of **Order II Rule 4 of the Fundamental Rights (Enforcement Procedure) Rules, 2009** reads:

"The affidavit shall be made by the Applicant, but where the applicant is in custody or if for any reason is unable to swear to an affidavit, the affidavit shall be made by a person who has personal knowledge of the facts or by a person who has been informed of the facts by the Applicant, stating that the Applicant is unable to depose personally to the affidavit."

This provision of the Fundamental Rights (Enforcement Procedure) Rules, 2009 clearly gives a person who is abreast with the facts of the case the right to depose to an affidavit stating other than the Applicant who may not be able to depose to the facts personally.

I am in agreement with the learned counsel to the Respondents that the deponent one Paul Ochayi failed to state why the Applicants are unable to depose personally to the affidavit. However, should the court term this as an issue that affects the jurisdiction of the court to

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entertain the suit? The answer is definitely in the Negative. See the case of **EFCC and Ors v. Chukwurah (2018) LPELR-43972** where the court held:

"Similarly, the combined reading and application of the Provision of Order 2 Rule 4 and Order 9 Rule 1 of the Fundamental Rights (Enforcement Procedure) Rules 2009 renders the failure of the deponent to state that the Applicant is unable to personally depose to the affidavit a mere irregularity which does not render the deponent's affidavit incompetent"

Requiring the deponent to state categorically, that the Applicants are unable to depose to the affidavit is taking technicality too far. This court and many other courts have been eschewed against this line of argument. In other words, learned counsel to the Respondent wants this court to strike out or dismiss this suit at this stage of the proceedings simply because the deponent failed to state in the affidavit that the Applicants are unable to depose to the affidavit. With due respect to the learned counsel to the Respondents this is technicality taken to the extreme. See the case of **ANPP v. R.E.C., Akwa Ibom State (2008) 8 NWLR (Pt.1090) 453 at 548-549** where the court held:

"The hey days of technicalities are gone forever. The court is now more interested in doing substantial justice than relying on technicalities which can only lead to injustice. The judicial process malfunctions

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and is discredited when it is bogged down by technicality and is manipulated to go from technicality to technicality and thrives on technicality. That is why at all times the tendency towards technicality should be eschewed and the determination to do substantial justice should remain the preferred option and hallmark of the judicial system."

In the circumstances, this court has jurisdiction to entertain this suit and the Preliminary Objection is dismissed for lacking in merit.

#### **ISSUE B**

**Whether the Applicants have made a case to be entitled to the reliefs sought?**

Learned counsel contends that the detention of the Applicants since 7<sup>th</sup> January, 2018 till days which is over 15 days without being charged to court for any known offence is a violation of the Applicants fundamental rights. That it is the duty of the court to safeguard the rights and liberties that are guaranteed by the constitution. He cites *Nawa v. Att. Ge. Cross River State* (2008) ALL FWLR (Pt. 401) Page 807

He contends that fundamental rights are rights that are inherent in man by virtue of being a human and cannot be taken away from any person without an affront to justice. He cites Chief (Mrs) Olufunmilayo Ransome-Kuti and Ors v. AGF (1985) 2 NWLR (Pt 6) page 210.

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Learned counsel submits that the Respondents acted beyond their powers by locking the Applicants and portraying them as criminals which exposed them to untold embarrassment. That the Applicants were dehumanized and subjected to psychological and mental torture without charging them to court. He cites *Chinemelu vs. C.O.P* (1995) 4 NWLR (Pt. 390) Pg. 467 and *Expu v. AGF* (1998) 1 HRLRA (P.421)

He submits further that the refusal of the Respondents to allow the Applicants access to their lawyers, doctors and family members is illegal and unconstitutional. He cites *Chief Gani Fawehinmi v. General Sani Abacha* (1996) 5 NWLR (Pt. 447) 198 at 202

Learned counsel contends that the Applicants are entitled to freedom of assembly and association. That the Applicants are entitled to meet at Nera Hotel, Abuja without hindrance. He cites Section 39 and 40 of the Constitution of the Federal Republic of Nigeria, 1999 (As Amended) and Article 10 and 11 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act (CAP A10) Laws of the Federation of Nigeria, 2004.

Learned counsel concluded by urging the court to award general and aggravated damages to the Applicant. He cites *Jim Jaja v. C.O.P Rivers State* (2015) 1 N.H.R.L.R. P.256 amongst other cases

Learned counsel to the Respondents did not file a Counter Affidavit to the Originating Motion on Notice but relied solely on the Notice of Preliminary Objection.

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It is the law that where a party files an Notice of Preliminary Objection only and the said objection fails, he will be taken to have conceded to the facts therein in the Originating process. See the case of **Omnia (Nig) Ltd v. Dyktrade Ltd (2007) 15 NWLR (Pt.1058) 576 at 628** where the court held:

**"Once a defendant has decided to challenge an action by way of preliminary objection before filing his defence, he is taken as having conceded all questions of facts as contained..."**

Again, a party who was afforded a right of fair hearing on an issue cannot be heard complaining about the outcome thereafter. See the case of **ATAMAH & ANOR V. EBOSELE & ORS (2008) LPELR-3815** where the court held:

**In its nature, a party who has or had every opportunity to present his case before the court and who fails to do so, cannot be heard to complain..."**

The paragraphs of the affidavit in support of Originating Motion on Notice having not been controverted by the Respondents shall be deemed as true. See the case of **Digal vs. Nanchang (2005) ALL FWLR (Pt.240) 41 at 46**, where the court held:

**"Averments in an affidavit which have not been challenged or controverted in a Counter Affidavit is deemed to be admitted as true"**

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This court is bound to take the averments/ paragraphs in the affidavit in support of the Originating Motion on Notice as true.

The fundamental right of any individuals is at the core of every man's existence. See the case of **Nig. Stored Prod. Resear. Inst. V. Ugwu (2013)15 WRN 1 AT 74**

"The fundamental rights inhered in man because they are part and parcel of mankind. They are the forefront among the rights that inure to human beings. They are the *fons et origo* of human rights.

The provisions of the **African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act (CAP A10) Laws of the Federation of Nigeria, 2004** as I have held earlier are enforceable.

Article 5 provides:

Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.

Article 6 provides:

Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his Freedom except for reasons and conditions previously laid

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down by law. In particular, no one may be arbitrarily arrested or detained.

Article 7 provides:

Every individual shall have the right to have his cause heard.

Article 10 provides:

1. Every individual shall have the right to free association provided that he abides by the law.

2. Subject to the obligation of solidarity provided for in Article 29 no one may be compelled to join an association.

Article 11 provides

Every individual shall have the right to assemble freely with others. The exercise of this right shall be subject only to necessary restriction provided for by law in particular those enacted in the interest of national security, the safety, health, ethnics and rights and freedoms of others.

These rights provided for have been violated by the uncontroverted evidence of the Applicants. See case of *Okoebor v. Police Council* (2003) 12 NWLR (Pt.834)444.

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In the case of *Director of State Security, Kwara State v. Nuhu* (2014) 14 WRN 1 AT 139-140 the court held:

"Except where special damages are claimed, damages claimed in an application for enforcement of fundamental rights are in the nature of general damages. The mere violation of respondent's right to personal liberty, as in this case, by the fact that he was detained by the appellant for 17 days as against the 1 day within which he must be taken to court, entitles him to damages"

In the circumstances the court holds as follows:

1. That the arrest of the Applicants in Abuja on January 7, 2018 at Nera Hotel, Abuja by the armed agents of the Respondents without a warrant of arrest is illegal and unconstitutional as it violates the Applicants' fundamental rights to dignity of the person and personal liberty enshrined in Section 34 and 35 of the Constitution of the Federal Republic of Nigeria, 1999 (As Amended) and Article 5 and 6 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act (CAP A10) Laws of the Federation of Nigeria, 2004.
2. That the detention of the Applicants since January 7, 2018 by the Respondents in an underground detention center at the Defence Intelligence Agency Headquarters at Abuja is illegal and unconstitutional as it violates the Applicants' fundamental rights to dignity of the person and personal liberty enshrined in

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Section 34 and 35 of the Constitution of the Federal Republic of Nigeria, 1999 (As Amended) and Article 5 and 6 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act (CAP A10) Laws of the Federation of Nigeria, 2004.

3. That the detention of the Applicants since January 7, 2018 by the Respondents without access to their lawyers and family members is illegal and unconstitutional as it violates the Applicants' fundamental rights to fair hearing enshrined in Section 36 of the Constitution of the Federal Republic of Nigeria, 1999 (As Amended) and Article 7 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act (CAP A10) Laws of the Federation of Nigeria, 2004.
4. That the arrest of the Applicant on January 7, 2018 at Nera Hotel, Abuja by the armed agents of the Respondents is illegal and unconstitutional as it violates their fundamental rights to freedom of assembly and association as enshrined in section 39 and 40 of the Constitution of the Federal Republic of Nigeria, 1999 (As Amended) and Article 10 and 11 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act (CAP A10) Laws of the Federation of Nigeria, 2004.

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5. AN ORDER of this Honourable Court compelling the Respondents to pay each of the Applicants the sum of N5,000,000 (five million naira) as general and aggravated damages for the illegal violation of their fundamental rights to life, dignity of person, fair hearing, health, freedom of movement and freedom of association.

6. AN ORDER OF PERPETUAL INJUNCTION restraining the Respondents from further violating the Applicants' fundamental rights in any manner whatsoever and howsoever without lawful justification.

*A. I. Chikere*

HON. JUSTICE A. I. CHIKERE  
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COUNSELS REPRESENTATION

FEMI FALANA SAN, FUNMI FALANA ESQ, MARSHAL ABUBAKAR ESQ  
ABDUL OROH ESQ. SAMUEL OGALA ESQ, DEJI MORAKINYO ESQ, FEMI  
ADEDEJI ESQ, AYOMPE UNIGIFOH ESQ, VERONIQUE FEM, WASHIMA  
IARINDER ESQ AND AKPOMIEMIE AKPOMIEMIE for the APPLICANTS

SULIEMAN JUDBRIL ESQ, E.O. OMONUWA ESQ, ADEDAYO OGUNDELE  
ESQ, T.D. AGBE ESQ, DANIEL D. ENIKANOLAYE ESQ AND ABDULKADIR  
ALIYU ESQ for the RESPONDENTS

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FEDERAL HIGH COURT

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