

Court Observation Form

Court Observer: Genevieve Chukuma Date & Time of Monitoring Exercise: 18/05/2018
 Case Title: COP v Confess Nwachuku Case No.:

Courtroom Information

State: Asuja Judicial Division/District: mpape Courtroom No.: 1
 Name of Judge: Muhamad Name & Agency of Prosecutor: police
 Defence Counsel: Echejile

When did the court sit? 9 am For how long did you witness court proceedings? 30 mins

Case Information (Tick correct answers: Y=Yes; N=No)	
1.	a. Cause list sighted? <input checked="" type="checkbox"/> Y <input type="checkbox"/> N b. Case on cause list? <input checked="" type="checkbox"/> Y <input type="checkbox"/> N c. Scheduled start time: <input type="checkbox"/> Y <input checked="" type="checkbox"/> N c. Was it easy to identify the case? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N d. Was it easy identify/locate the courtroom? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N
2.	What type of hearing was it? * Briefly mention the subject matter of the case and what stage of hearing it is at
3.	Were you allowed to get or peruse a copy of the court record? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N Was bail granted? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N When (date), and what were the conditions of bail (use back of page if necessary)
4.	On the back of the page, please provide a very brief comment on the case history, including law under which the case is tried, previous adjournment and the next adjourned date (4-5 Lines)
Court Website and IT (tick or underline the correct response)	
5.	a. Does the court have a website? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N b. Does the website feature a webpage for the courtroom/judge you are monitoring? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N
6.	Did you find a web-copy of the cause list with the case listed? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N
7.	a. Is the website current? Current Quite Current Out of Date Very Obsolete b. Regularity of updates Regular Quite Regular Irregular Very Irregular c. Accuracy of information Accurate A bit accurate Inaccurate Misleading
8.	d. Did you find information about your case on the court website? How useful did you find the website? Was the site easy to read and navigate? Does the site have a search function?
9.	If the court lacks a website, are there plans to have one? At what stage of development is it?
10.	Does the court have an e-filing and e-messaging system? How is it being deployed in this case/in anti-corruption cases generally? (Please keep your response to 3 lines on the back of the page).
The Hearing (Pls tick or provide the correct answer)	
11.	a. The court sat <input checked="" type="checkbox"/> Y <input type="checkbox"/> N b. The case you are monitoring proceeded on schedule <input checked="" type="checkbox"/> Y <input type="checkbox"/> N c. Complainant was in court <input checked="" type="checkbox"/> Y <input type="checkbox"/> N d. Prosecution was in court <input checked="" type="checkbox"/> Y <input type="checkbox"/> N e. The defendant was in court <input checked="" type="checkbox"/> Y <input type="checkbox"/> N f. Defence Counsel in Court <input checked="" type="checkbox"/> Y <input type="checkbox"/> N g. If hearing was delayed, at whose instance was the delay? h. What reasons were given for the delay? f. What consequential orders followed?
12.	a. Defendant was in custody <input type="checkbox"/> Y <input checked="" type="checkbox"/> N b. Subsisting order to produce defendant complied with <input type="checkbox"/> Y <input type="checkbox"/> N

c. What reasons were given for non-compliance?

13. a. Witnesses were in Court? Y N b. If not, what reasons were given?
 c. What consequential directive if any, did the court give? (you may make additional brief comments on back page)

14. Case Prioritization: Did the matter proceed as set (mention, motion, hearing, ruling, address, or judgment)?
 How many hours or days were allocated to the matter? *No time allocated*
 How many interlocutory applications were taken? For what?
 If the case was adjourned, at whose instance and for what reasons?
 What was the length of adjournment? If it was a long adjournment, what reasons were given?
 Overall, how frequent are adjournments in the case?
 What indicated that the court was giving the case expedited hearing?

General Courtroom Conduct and Efficiency		Poor	Acceptable	Good	Excellent
Courtroom was orderly	1		<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4
The Judge was courteous and respectful	1		<input type="checkbox"/> 2	<input checked="" type="checkbox"/> 3	<input type="checkbox"/> 4
The Judge was in control* of the proceedings	1		<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4
Judge was ready/prepared** for court	1		<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4
The Prosecution was ready/prepared*** for court	1		<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4
The defence was ready/prepared**** for court	1		<input type="checkbox"/> 2	<input checked="" type="checkbox"/> 3	<input type="checkbox"/> 4
Cases were handled in a timely manner	1		<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4
The Judge was impartial	1		<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4
Individuals were treated equally by Court staff	1	<input checked="" type="checkbox"/>	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4
Transparency and Accountability		Poor	Acceptable	Good	Excellent
Judge was demonstrably neutral	1		<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4
Parties were given equal opportunities to present their cases	1		<input type="checkbox"/> 2	<input checked="" type="checkbox"/> 3	<input type="checkbox"/> 4
Judge made effort to understand the concerns of the parties	1		<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4
Prosecution held accountable***** for actions that delayed proceedings	1		<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4
Defence held accountable for actions that delayed proceedings	1		<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4
The interest of the public was adequately represented	1		<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4
Communicating Courtroom Proceedings		Poor	Acceptable	Good	Excellent
Court announced every stage of proceedings	1	<input checked="" type="checkbox"/>	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4
Court explained every stage of proceedings	1	<input checked="" type="checkbox"/>	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4
Defendant understood procedures and rulings	1	<input type="checkbox"/>	<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4

You may if necessary provide brief comments of the hearing: *The matter was*
later adjourned as the group had
the defence counsel is off.

Documenting the Observer's experience

I gained better understanding of the court's role in anti-corruption cases:

Very Much Quite So Not sure Not at all
Court process was fair: Very fair Quite Fair Not sure Unfair

Courts reaction to observer's presence: Receptive Cooperative Hostile indifferent

Did your confidence in the court ability to dispense justice increase because you witnessed proceedings? Very Much Quite So Not sure Not at all

What did you find most interesting about your experience? *the process*
to start go because the judge
could if released.

Notes on certain terms

* A judge is in control when he maintains general courtroom decorum, holds counsel to the highest levels of compliance with the rules, grants adjournments only for valid reasons and not more times than is permitted by the rules.

**You can tell that a judge is unprepared if for instance s/he comes to court without having read the case file and relevant law, or easily grants adjournments for flimsy reasons.

*** A prosecutor betrays his or her unpreparedness when he/she betrays a firm grasp of the case/facts and applicable law, a charge or information sheet is found to be defective or the prosecution fails to ensure that processes have been properly filed, court directives have been complied with and that prosecution witnesses are in court if the case was set down for the prosecution's case.

**** Indications that the defence attorney is unprepared could include gimmicks that are intended to prevent the court from proceeding with the hearing as scheduled, unscheduled interlocutory applications, failure to produce defence witnesses, etc.

***** A judge holds legal counsels accountable when s/he does not accommodate flimsy excuses for adjournments, ensures that timelines are kept and a tight lead is kept on adjournments by upholding the provisions of ACJA and practice directions relating to court room delays and adjournments. His or her ability to enforce the rules show that s/he retains control of the proceedings and would were necessary, remonstrate parties and counsel for holding up proceedings. The judge may also issue consequential orders, order costs where justified, and ensure that his/her orders are complied with.

Court Observation Form

Court Observer: Ezenwa Chikuma Date & Time of Monitoring Exercise: 18/08/2018
 Case Title: FRN v Uman & 3or Case No.: ER/256/18

Courtroom Information

State: Abia Judicial Division/District: Maxfama Courtroom No.: 18
 Name of Judge: FA Ojo Name & Agency of Prosecutor: EFCC
 Defence Counsel:
 When did the court sit? 9:30am For how long did you witness court proceedings? 60 minutes

Case Information (Tick correct answers: Y=Yes; N=No)	
1.	a. Cause list sighted? <u>Y</u> N b. Case on cause list? <u>Y</u> N c. Scheduled start time: <u>Y</u> N c. Was it easy to identify the case? <u>Y</u> N d. Was it easy identify/locate the courtroom? <u>Y</u> N
2.	What type of hearing was it? * Briefly mention the subject matter of the case and what stage of hearing it is at
3.	Were you allowed to get or peruse a copy of the court record? <u>Y</u> N Was bail granted? <u>Y</u> N When (date), and what were the conditions of bail (use back of page if necessary)
4.	On the back of the page, please provide a very brief comment on the case history, including law under which the case is tried, previous adjournment and the next adjourned date (4-5 Lines)
Court Website and IT (tick or underline the correct response)	
5.	a. Does the court have a website? <u>Y</u> N b. Does the website feature a webpage for the courtroom/judge you are monitoring? <u>Y</u> N
6.	Did you find a web-copy of the cause list with the case listed? <u>Y</u> N
7.	a. Is the website current? Current Quite Current Out of Date Very Obsolete b. Regularity of updates Regular Quite Regular Irregular Very Irregular c. Accuracy of information Accurate A bit accurate Inaccurate Misleading
	d. Did you find information about your case on the court website?
8.	How useful did you find the website? Was the site easy to read and navigate? Does the site have a search function?
9.	If the court lacks a website, are there plans to have one? At what stage of development is it?
10.	Does the court have an e-filing and e-messaging system? How is it being deployed in this case/in anti-corruption cases generally? (Please keep your response to 3 lines on the back of the page).
The Hearing: (Pls tick or provide the correct answer)	
11.	a. The court sat <u>Y</u> N b. The case you are monitoring proceeded on schedule <u>Y</u> N c. Complainant was in court <u>Y</u> N d. Prosecution was in court <u>Y</u> N e. The defendant was in court <u>Y</u> N f. Defence Counsel in Court <u>Y</u> N g. If hearing was delayed, at whose instance was the delay? h. What reasons were given for the delay? f. What consequential orders followed?
12.	a. Defendant was in custody <u>Y</u> N b. Subsisting order to produce defendant complied with <u>Y</u> N

c. What reasons were given for non-compliance?

13. a. Witnesses were in Court? Y N b. If not, what reasons were given?
 c. What consequential directive if any, did the court give? (you may make additional brief comments on back page)

14. Case Prioritization: Did the matter proceed as set (mention, motion, hearing, ruling, address, or judgment)?
 How many hours or days were allocated to the matter?
 How many interlocutory applications were taken? For what?
 If the case was adjourned, at whose instance and for what reasons?
 What was the length of adjournment? If it was a long adjournment, what reasons were given?
 Overall, how frequent are adjournments in the case?
 What indicated that the court was giving the case expedited hearing?

	Poor	Acceptable	Good	Excellent
General Courtroom Conduct and Efficiency				
Courtroom was orderly	1	2 ✓	3	4
The Judge was courteous and respectful	1	2	3 ✓	4
The Judge was in control* of the proceedings	1	2 ✓	3	4
Judge was ready/prepared** for court	1	2	3	4
The Prosecution was ready/prepared*** for court	1	2 ✓	3	4
The defence was ready/prepared**** for court	1	2	3 ✓	4
Cases were handled in a timely manner	1	2	3	4
The judge was impartial	1	2 ✓	3	4
Individuals were treated equally by Court staff	1 ✓	2	3	4
Transparency and Accountability				
Judge was demonstrably neutral	1	2 ✓	3	4
Parties were given equal opportunities to present their cases	1	2	3 ✓	4
Judge made effort to understand the concerns of the parties	1	2 ✓	3	4
Prosecution held accountable***** for actions that delayed proceedings	1	2 ✓	3	4
Defence held accountable for actions that delayed proceedings	1	2 ✓	3	4
The interest of the public was adequately represented	1	2 ✓	3	4
Communicating Courtroom Proceedings				
Court announced every stage of proceedings	1 ✓	2	3	4
Court explained every stage of proceedings	1 ✓	2	3	4
Defendant understood procedures and rulings	1	2 ✓	3	4

You may if necessary provide brief comments of the hearing: *the defence caused was not all that expensive in the handling of the matter, a lot of court help when left.*

Documenting the Observer's experience

I gained better understanding of the court's role in anti-corruption cases:

Very Much Quite So Not sure Not at all
Court process was fair: Very fair Quite Fair Not sure Unfair

Courts reaction to observer's presence: Receptive Cooperative ~~Hostile~~ indifferent

Did your confidence in the court ability to dispense justice increase because you witnessed proceedings? Very Much Quite So Not sure Not at all

What did you find most interesting about your experience? *the defence counsel was not all that experienced. But the judge granted him some coverage*

Notes on certain terms

* A judge is in control when he maintains general courtroom decorum, holds counsel to the highest levels of compliance with the rules, grants adjournments only for valid reasons and not more times than is permitted by the rules.

**You can tell that a judge is unprepared if for instance s/he comes to court without having read the case file and relevant law, or easily grants adjournments for flimsy reasons.

*** A prosecutor betrays his or her unpreparedness when he/she betrays a firm grasp of the case/facts and applicable law, a charge or information sheet is found to be defective or the prosecution fails to ensure that processes have been properly filed, court directives have been complied with and that prosecution witnesses are in court if the case was set down for the prosecution's case.

**** Indications that the defence attorney is unprepared could include gimmicks that are intended to prevent the court from proceeding with the hearing as scheduled, unscheduled interlocutory applications, failure to produce defence witnesses, etc.

***** A judge holds legal counsels accountable when s/he does not accommodate flimsy excuses for adjournments, ensures that timelines are kept and a tight lead is kept on adjournments by upholding the provisions of ACJA and practice directions relating to court room delays and adjournments. His or her ability to enforce the rules show that s/he retains control of the proceedings and would were necessary, remonstrate parties and counsel for holding up proceedings. The judge may also issue consequential orders, order costs where justified, and ensure that his/her orders are complied with.

Court Observation Form

Court Observer: Agren wa chukwina Date & Time of Monitoring Exercise: 14/05/2018
 Case Title: John v George & 2 ors Case No.: CR/32/11

Courtroom Information

State: Abuja Judicial Division/District: naifama Courtroom No.: 13
 Name of Judge: G.A. Gbo Name & Agency of Prosecutor: ZFEE
 Defence Counsel: [Redacted]
 When did the court sit? 9:am For how long did you witness court proceedings? 30 mins

Case Information (Tick correct answers: Y=Yes; N=No)

- a. Cause list sighted? Y N b. Case on cause list? Y N c. Scheduled start time: Y N
 c. Was it easy to identify the case? Y N d. Was it easy identify/locate the courtroom? Y N
- What type of hearing was it? on remission cases
 * Briefly mention the subject matter of the case and what stage of hearing it is at
- Were you allowed to get or peruse a copy of the court record? Y N
- Was bail granted? Y N When (date), and what were the conditions of bail (use back of page if necessary)
- On the back of the page, please provide a very brief comment on the case history, including law under which the case is tried, previous adjournment and the next adjourned date (4-5 Lines)

Court Website and IT (tick or underline the correct response)

- a. Does the court have a website? Y N b. Does the website feature a webpage for the courtroom/judge you are monitoring? Y N
- Did you find a web-copy of the cause list with the case listed? Y N
- a. Is the website current? Current Quite Current Out of Date Very Obsolete
 b. Regularity of updates Regular Quite Regular Irregular Very Irregular
 c. Accuracy of information Accurate A bit accurate Inaccurate Misleading
- d. Did you find information about your case on the court website? NO
- How useful did you find the website? Was the site easy to read and navigate?
 Does the site have a search function?
- If the court lacks a website, are there plans to have one? At what stage of development is it?
- Does the court have an e-filing and e-messaging system? How is it being deployed in this case/in anti-corruption cases generally? (Please keep your response to 3 lines on the back of the page).

The Hearing (Pls tick or provide the correct answer)

- a. The court sat Y N b. The case you are monitoring proceeded on schedule Y N
 c. Complainant was in court Y N d. Prosecution was in court Y N
 e. The defendant was in court Y N f. Defence Counsel in Court Y N
 g. If hearing was delayed, at whose instance was the delay?
 h. What reasons were given for the delay?
 f. What consequential orders followed?
- a. Defendant was in custody Y N
 b. Subsisting order to produce defendant complied with Y N

13. c. What reasons were given for non-compliance?

13. a. Witnesses were in Court? Y N b. If not, what reasons were given?
 c. What consequential directive if any, did the court give? (you may make additional brief comments on back page)

14. Case Prioritization: Did the matter proceed as set (mention, motion, hearing, ruling, address, or judgment)?
 How many hours or days were allocated to the matter?
 How many interlocutory applications were taken? For what?
 If the case was adjourned, at whose instance and for what reasons?
 What was the length of adjournment? If it was a long adjournment, what reasons were given?
 Overall, how frequent are adjournments in the case?
 What indicated that the court was giving the case expedited hearing?

	Poor	Acceptable	Good	Excellent
15. General Courtroom Conduct and Efficiency				
Courtroom was orderly	1	2	3 ✓	4
The Judge was courteous and respectful	1	2	3 ✓	4
The Judge was in control* of the proceedings	1	2	3 ✓	4
Judge was ready/prepared** for court	1	2	3 ✓	4
The Prosecution was ready/prepared*** for court	1	2	3 ✓	4
The defence was ready/prepared**** for court	1	2	3 ✓	4
Cases were handled in a timely manner	1	2	3 ✓	4
The judge was impartial	1	2	3 ✓	4
Individuals were treated equally by Court staff	1	2 ✓	3	4
Transparency and Accountability				
Judge was demonstrably neutral	1	2	3 ✓	4
Parties were given equal opportunities to present their cases	1	2	3 ✓	4
Judge made effort to understand the concerns of the parties	1	2	3 ✓	4
Prosecution held accountable***** for actions that delayed proceedings	1	2 ✓	3	4
Defence held accountable for actions that delayed proceedings	1	2 ✓	3	4
The interest of the public was adequately represented	1	2	3	4
Communicating Courtroom Proceedings				
Court announced every stage of proceedings	1	2	3 ✓	4
Court explained every stage of proceedings	1	2 ✓	3	4
Defendant understood procedures and rulings	1	2 ✓	3	4

You may if necessary provide brief comments of the hearing: *The matter was done in a courteous manner. every party was properly granted responses*

I gained better understanding of the court's role in anti-corruption cases:

Very Much Quite So Not sure Not at all
Court process was fair: Very fair Quite Fair Not sure Unfair

Courts reaction to observer's presence: Receptive Cooperative Hostile indifferent

Did your confidence in the court ability to dispense justice increase because you witnessed proceedings? Very Much Quite So Not sure Not at all

What did you find most interesting about your experience? *There has been much delay on the matter, of the which the court affect that the matter be fast tracked.*

Notes on certain terms

- * A judge is in control when he maintains general courtroom decorum, holds counsel to the highest levels of compliance with the rules, grants adjournments only for valid reasons and not more times than is permitted by the rules.
- ** You can tell that a judge is unprepared if for instance s/he comes to court without having read the case file and relevant law, or easily grants adjournments for flimsy reasons.
- *** A prosecutor betrays his or her unpreparedness when he/she betrays a firm grasp of the case/facts and applicable law, a charge or information sheet is found to be defective or the prosecution fails to ensure that processes have been properly filed, court directives have been complied with and that prosecution witnesses are in court if the case was set down for the prosecution's case.
- **** Indications that the defence attorney is unprepared could include gimmicks that are intended to prevent the court from proceeding with the hearing as scheduled, unscheduled interlocutory applications, failure to produce defence witnesses, etc.
- ***** A judge holds legal counsels accountable when s/he does not accommodate flimsy excuses for adjournments, ensures that timelines are kept and a tight lead is kept on adjournments by upholding the provisions of ACJA and practice directions relating to court room delays and adjournments. His or her ability to enforce the rules show that s/he retains control of the proceedings and would were necessary, remonstrate parties and counsel for holding up proceedings. The judge may also issue consequential orders, order costs where justified, and ensure that his/her orders are complied with.

Court Observation Form

Court Observer: Eyemosa Chikunna Date & Time of Monitoring Exercise: 12/05/2012
 Case Title: FRA v Suswan & 2005 Case No: FHC/ABJ/CR/48/12

Courtroom Information

State: Abuja Judicial Division/District: Abuja Courtroom No.: 5
 Name of Judge: Jupia Polanco Name & Agency of Prosecutor: A/C Aulu (EPCC)
 Defence Counsel: Ugozo, Ochoji, Innocent
 When did the court sit? 13/03/12 For how long did you witness court proceedings? 1 hour

Case Information (Tick correct answers: Y=Yes; N=No)

- a. Cause list sighted? Y N b. Case on cause list? Y N c. Scheduled start time: Y N
 c. Was it easy to identify the case? Y N d. Was it easy identify/locate the courtroom? Y N
- What type of hearing was it? continuation of hearing
 * Briefly mention the subject matter of the case and what stage of hearing it is at
- Were you allowed to get or peruse a copy of the court record? Y N
 Was bail granted? Y N When (date), and what were the conditions of bail (use back of page if necessary)
- On the back of the page, please provide a very brief comment on the case history, including law under which the case is tried, previous adjournment and the next adjourned date (4-5 Lines)

Court Website and IT (tick or underline the correct response)

- a. Does the court have a website? Y N b. Does the website feature a webpage for the courtroom/judge you are monitoring? Y N
- Did you find a web-copy of the cause list with the case listed? Y N
- a. Is the website current? Current Quite Current Out of Date ✓ Very Obsolete
 b. Regularity of updates Regular Quite Regular Irregular Very Irregular
 c. Accuracy of information Accurate A bit accurate Inaccurate Misleading
- d. Did you find information about your case on the court website?
- How useful did you find the website? Was the site easy to read and navigate?
 Does the site have a search function? The website has a search function
- If the court lacks a website, are there plans to have one? At what stage of development is it?
- Does the court have an e-filing and e-messaging system? How is it being deployed in this case/in anti-corruption cases generally? (Please keep your response to 3 lines on the back of the page).

The Hearing (Pls tick or provide the correct answer)

- a. The court sat Y N b. The case you are monitoring proceeded on schedule Y N
 c. Complainant was in court Y N d. Prosecution was in court Y N
 e. The defendant was in court Y N f. Defence Counsel in Court Y N
 g. If hearing was delayed, at whose instance was the delay?
 h. What reasons were given for the delay?
 f. What consequential orders followed?
- a. Defendant was in custody Y N
 b. Subsisting order to produce defendant complied with Y N

c. What reasons were given for non-compliance?

13. a. Witnesses were in Court? Y N b. If not, what reasons were given?
c. What consequential directive if any, did the court give? (you may make additional brief comments on back page)

14. Case Prioritization: Did the matter proceed as set (mention, motion, hearing, ruling, address, or judgment)?
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Overall, how frequent are adjournments in the case?
What indicated that the court was giving the case expedited hearing?

15. General Courtroom Conduct and Efficiency		Poor	Acceptable	Good	Excellent
Courtroom was orderly	1	2	3	4	
The Judge was courteous and respectful	1	2	3	4	
The Judge was in control* of the proceedings	1	2	3	4	
Judge was ready/prepared** for court	1	2	3	4	
The Prosecution was ready/prepared*** for court	1	2	3	4	
The defence was ready/prepared**** for court	1	2	3	4	
Cases were handled in a timely manner	1	2	3	4	
The Judge was impartial	1	2	3	4	
Individuals were treated equally by Court staff	1	2	3	4	
Transparency and Accountability		Poor	Acceptable	Good	Excellent
Judge was demonstrably neutral	1	2	3	4	
Parties were given equal opportunities to present their cases	1	2	3	4	
Judge made effort to understand the concerns of the parties	1	2	3	4	
Prosecution held accountable***** for actions that delayed proceedings	1	2	3	4	
Defence held accountable for actions that delayed proceedings	1	2	3	4	
The interest of the public was adequately represented	1	2	3	4	
Communicating Courtroom Proceedings		Poor	Acceptable	Good	Excellent
Court announced every stage of proceedings	1	2	3	4	
Court explained every stage of proceedings	1	2	3	4	
Defendant understood procedures and rulings	1	2	3	4	

You may if necessary provide brief comments of the hearing: *the matter was*
cafer adjourned on health grounds of
also the prosecuting counsel advised that
the last grant to the defence
person should be reviewed.

I gained better understanding of the court's role in anti-corruption cases:

Very Much Quite So Not sure Not at all
Court process was fair: Very fair Quite Fair Not sure Unfair

Courts reaction to observer's presence: Receptive Cooperative Hostile Indifferent

Did your confidence in the court ability to dispense justice increase because you witnessed proceedings? Very Much Quite So Not sure Not at all

What did you find most interesting about your experience? *there was a heated argument by both counsel but in a professional manner.*

Notes on certain terms

* A judge is in control when he maintains general courtroom decorum, holds counsel to the highest levels of compliance with the rules, grants adjournments only for valid reasons and not more times than is permitted by the rules.

** You can tell that a judge is unprepared if for instance s/he comes to court without having read the case file and relevant law, or easily grants adjournments for flimsy reasons.

*** A prosecutor betrays his or her unpreparedness when he/she betrays a firm grasp of the case/facts and applicable law, a charge or information sheet is found to be defective or the prosecution fails to ensure that processes have been properly filed, court directives have been complied with and that prosecution witnesses are in court if the case was set down for the prosecution's case.

**** Indications that the defence attorney is unprepared could include gimmicks that are intended to prevent the court from proceeding with the hearing as scheduled, unscheduled interlocutory applications, failure to produce defence witnesses, etc.

***** A judge holds legal counsels accountable when s/he does not accommodate flimsy excuses for adjournments, ensures that timelines are kept and a tight lead is kept on adjournments by upholding the provisions of ACJA and practice directions relating to court room delays and adjournments. His or her ability to enforce the rules show that s/he retains control of the proceedings and would were necessary, remonstrate parties and counsel for holding up proceedings. The judge may also issue consequential orders, order costs where justified, and ensure that his/her orders are complied with.

c. What reasons were given for non-compliance?

13. a. Witnesses were in Court? Y N b. If not, what reasons were given?
 c. What consequential directive if any, did the court give? (you may make additional brief comments on back page)

14. Case Prioritization: Did the matter proceed as set (mention, motion, hearing, ruling, address, or judgment)?
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 Overall, how frequent are adjournments in the case?
 What indicated that the court was giving the case expedited hearing?

	Poor	Acceptable	Good	Excellent
15. General Courtroom Conduct and Efficiency				
Courtroom was orderly	1	2	3 ✓	4
The Judge was courteous and respectful	1	2	3 ✓	4
The Judge was in control* of the proceedings	1	2	3 ✓	4
Judge was ready/prepared** for court	1	2	3 ✓	4
The Prosecution was ready/prepared*** for court	1	2 ✓	3	4
The defence was ready/prepared**** for court	1	2 ✓	3	4
Cases were handled in a timely manner	1	2	3 ✓	4
The judge was impartial	1	2	3 ✓	4
Individuals were treated equally by Court staff	1	2 ✓	3	4
Transparency and Accountability				
Judge was demonstrably neutral	1	2	3 ✓	4
Parties were given equal opportunities to present their cases	1	2	3 ✓	4
Judge made effort to understand the concerns of the parties	1	2	3 ✓	4
Prosecution held accountable***** for actions that delayed proceedings	1	2 ✓	3	4
Defence held accountable for actions that delayed proceedings	1	2 ✓	3	4
The interest of the public was adequately represented	1	2 ✓	3	4
Communicating Courtroom Proceedings				
Court announced every stage of proceedings	1	2 ✓	3	4
Court explained every stage of proceedings	1	2 ✓	3	4
Defendant understood procedures and rulings	1	2 ✓	3	4

You may if necessary provide brief comments of the hearing: *the matter was for continuation of hearing, the prosecution counsel, lead his witness in his sense against the defendant.*

Documenting the Observer's experience

I gained better understanding of the court's role in anti-corruption cases:

Very Much Quite So Not sure Not at all
Court process was fair: Very fair Quite Fair Not sure Unfair

Courts reaction to observer's presence: Receptive Cooperative Hostile indifferent

Did your confidence in the court ability to dispense justice increase because you witnessed proceedings? Very Much Quite So Not sure Not at all

What did you find most interesting about your experience? *the prosecution was a quick ~~to~~ in control of the matter*

Notes on certain terms

* A judge is in control when he maintains general courtroom decorum, holds counsel to the highest levels of compliance with the rules, grants adjournments only for valid reasons and not more times than is permitted by the rules.

**You can tell that a judge is unprepared if for instance s/he comes to court without having read the case file and relevant law, or easily grants adjournments for flimsy reasons.

*** A prosecutor betrays his or her unpreparedness when he/she betrays a firm grasp of the case/facts and applicable law, a charge or information sheet is found to be defective or the prosecution fails to ensure that processes have been properly filed, court directives have been complied with and that prosecution witnesses are in court if the case was set down for the prosecution's case.

**** Indications that the defence attorney is unprepared could include gimmicks that are intended to prevent the court from proceeding with the hearing as scheduled, unscheduled interlocutory applications, failure to produce defence witnesses, etc.

***** A judge holds legal counsels accountable when s/he does not accommodate flimsy excuses for adjournments, ensures that timelines are kept and a tight lead is kept on adjournments by upholding the provisions of ACJA and practice directions relating to court room delays and adjournments. His or her ability to enforce the rules show that s/he retains control of the proceedings and would were necessary, remonstrate parties and counsel for holding up proceedings. The judge may also issue consequential orders, order costs where justified, and ensure that his/her orders are complied with.

Court Observation Form

Court Observer: Chakuma Date & Time of Monitoring Exercise: 8/05/2018
 Case Title: JRA v JKedukaw & Anor Case No.: CR/12/16

Courtroom Information

State: Abuja Judicial Division/District: Naitama Courtroom No.: 13
 Name of Judge: FIA Ojo Name & Agency of Prosecutor: EFCC

Defence Counsel

When did the court sit? 9:am For how long did you witness court proceedings?

Case Information (Tick correct answers: Y= Yes; N = No)	
1.	a. Cause list sighted? <input checked="" type="checkbox"/> Y <input type="checkbox"/> N b. Case on cause list? <input checked="" type="checkbox"/> Y <input type="checkbox"/> N c. Scheduled start time: <input checked="" type="checkbox"/> Y <input type="checkbox"/> N c. Was it easy to identify the case? <input checked="" type="checkbox"/> Y <input type="checkbox"/> N d. Was it easy identify/locate the courtroom? <input checked="" type="checkbox"/> Y <input type="checkbox"/> N
2.	What type of hearing was it? <u>on Comption Cases</u> * Briefly mention the subject matter of the case and what stage of hearing it is at
3.	Were you allowed to get or peruse a copy of the court record? Y N <input checked="" type="checkbox"/> Was bail granted? <input checked="" type="checkbox"/> Y <input type="checkbox"/> N When (date), and what were the conditions of bail (use back of page if necessary)
4.	On the back of the page, please provide a very brief comment on the case history, including law under which the case is tried, previous adjournment and the next adjourned date (4-5 Lines)
Court Website and IT (tick or underline the correct response)	
5.	a. Does the court have a website? <input checked="" type="checkbox"/> Y <input type="checkbox"/> N b. Does the website feature a webpage for the courtroom/judge you are monitoring? Y N <input checked="" type="checkbox"/>
6.	Did you find a web-copy of the cause list with the case listed? Y N <input checked="" type="checkbox"/>
7.	a. Is the website current? Current Quite Current Out of Date <input checked="" type="checkbox"/> Very Obsolete b. Regularity of updates Regular Quite Regular Irregular <input checked="" type="checkbox"/> Very Irregular c. Accuracy of information Accurate A bit accurate <input checked="" type="checkbox"/> Inaccurate Misleading
8.	d. Did you find information about your case on the court website? <u>no</u> How useful did you find the website? Was the site easy to read and navigate? Does the site have a search function?
9.	If the court lacks a website, are there plans to have one? At what stage of development is it?
10.	Does the court have an e-filing and e-messaging system? How is it being deployed in this case/in anti-corruption cases generally? (Please keep your response to 3 lines on the back of the page).
The Hearing (Pls tick or provide the correct answer)	
11.	a. The court sat <input checked="" type="checkbox"/> Y <input type="checkbox"/> N b. The case you are monitoring proceeded on schedule <input checked="" type="checkbox"/> Y <input type="checkbox"/> N c. Complainant was in court <input checked="" type="checkbox"/> Y <input type="checkbox"/> N d. Prosecution was in court <input checked="" type="checkbox"/> Y <input type="checkbox"/> N e. The defendant was in court <input checked="" type="checkbox"/> Y <input type="checkbox"/> N f. Defence Counsel in Court <input checked="" type="checkbox"/> Y <input type="checkbox"/> N g. If hearing was delayed, at whose instance was the delay? h. What reasons were given for the delay? f. What consequential orders followed?
12.	a. Defendant was in custody Y N <input checked="" type="checkbox"/> b. Subsisting order to produce defendant complied with Y N

c. What reasons were given for non-compliance?

13. a. Witnesses were in Court? Y N b. If not, what reasons were given?
 c. What consequential directive if any, did the court give? (you may make additional brief comments on back page)

14. Case Prioritization: Did the matter proceed as set (mention, motion, hearing, ruling, address, or judgment)?
 How many hours or days were allocated to the matter? *also by adjourn*
 How many interlocutory applications were taken? For what?
 If the case was adjourned, at whose instance and for what reasons?
 What was the length of adjournment? If it was a long adjournment, what reasons were given?
 Overall, how frequent are adjournments in the case?
 What indicated that the court was giving the case expedited hearing?

15. General Courtroom Conduct and Efficiency		Poor	Acceptable	Good	Excellent
Courtroom was orderly	1		2	3 ✓	4
The Judge was courteous and respectful	1		2	3 ✓	4
The Judge was in control* of the proceedings	1		2	3 ✓	4
Judge was ready/prepared** for court	1		2 ✓	3	4
The Prosecution was ready/prepared*** for court	1		2 ✓	3	4
The defence was ready/prepared**** for court	1		2	3 ✓	4
Cases were handled in a timely manner	1		2 ✓	3	4
The judge was impartial	1		2	3 ✓	4
Individuals were treated equally by Court staff	1		2 ✓	3	4
Transparency and Accountability		Poor	Acceptable	Good	Excellent
Judge was demonstrably neutral	1		2	3 ✓	4
Parties were given equal opportunities to present their cases	1		2	3 ✓	4
Judge made effort to understand the concerns of the parties	1		2 ✓	3	4
Prosecution held accountable***** for actions that delayed proceedings	1		2	3 ✓	4
Defence held accountable for actions that delayed proceedings	1 ✓		2	3	4
The interest of the public was adequately represented	1		2 ✓	3	4
Communicating Courtroom Proceedings		Poor	Acceptable	Good	Excellent
Court announced every stage of proceedings	1		2	3	4
Court explained every stage of proceedings	1		2 ✓	3	4
Defendant understood procedures and rulings	1		2 ✓	3	4

You may if necessary provide brief comments of the hearing: *the proceeding went as normal, the prosecution counsel lead to witness in evidence properly*

Documenting the Observer's experience

I gained better understanding of the court's role in anti-corruption cases:

Very Much Quite So ✓ Not sure Not at all
Court process was fair: Very fair Quite Fair ✓ Not sure Unfair

Courts reaction to observer's presence: Receptive Cooperative Hostile indifferent ✓

Did your confidence in the court ability to dispense justice increase because you witnessed proceedings? Very Much Quite So ✓ Not sure Not at all

What did you find most interesting about your experience? *the matter is not very fast packed, just taking the normal process*

Notes on certain terms

* A judge is in control when he maintains general courtroom decorum, holds counsel to the highest levels of compliance with the rules, grants adjournments only for valid reasons and not more times than is permitted by the rules.

**You can tell that a judge is unprepared if for instance s/he comes to court without having read the case file and relevant law, or easily grants adjournments for flimsy reasons.

*** A prosecutor betrays his or her unpreparedness when he/she betrays a firm grasp of the case/facts and applicable law, a charge or information sheet is found to be defective or the prosecution fails to ensure that processes have been properly filed, court directives have been complied with and that prosecution witnesses are in court if the case was set down for the prosecution's case.

**** Indications that the defence attorney is unprepared could include gimmicks that are intended to prevent the court from proceeding with the hearing as scheduled, unscheduled interlocutory applications, failure to produce defence witnesses, etc.

***** A judge holds legal counsels accountable when s/he does not accommodate flimsy excuses for adjournments, ensures that timelines are kept and a tight lead is kept on adjournments by upholding the provisions of ACJA and practice directions relating to court room delays and adjournments. His or her ability to enforce the rules show that s/he retains control of the proceedings and would were necessary, remonstrate parties and counsel for holding up proceedings. The judge may also issue consequential orders, order costs where justified, and ensure that his/her orders are complied with.

Court Observation Form

Court Observer: Chukwura Date & Time of Monitoring Exercise: 8/09/2018
 Case Title: FRN v Mr Akem Aba Case No.: CR/10/16

Courtroom Information

State: Abuja Judicial Division/District: Maitama Courtroom No.: 13
 Name of Judge: P.A Ofo Name & Agency of Prosecutor: ICPE
 Defence Counsel:
 When did the court sit? 9:00am For how long did you witness court proceedings? 60 minutes

Case Information (Tick correct answers: Y=Yes; N=No)

- a. Cause list sighted? Y N b. Case on cause list? Y N c. Scheduled start time: Y N
 c. Was it easy to identify the case? Y N d. Was it easy identify/locate the courtroom? Y N
- What type of hearing was it? on corruption related matter.
 * Briefly mention the subject matter of the case and what stage of hearing it is at
- Were you allowed to get or peruse a copy of the court record? Y N
 Was bail granted? Y N When (date), and what were the conditions of bail (use back of page if necessary)
- On the back of the page, please provide a very brief comment on the case history, including law under which the case is tried, previous adjournment and the next adjourned date (4-5 Lines)

Court Website and IT (tick or underline the correct response)

- a. Does the court have a website? Y N b. Does the website feature a webpage for the courtroom/judge you are monitoring? Y N
- Did you find a web-copy of the cause list with the case listed? Y N
- a. Is the website current? Current Quite Current Out of Date Very Obsolete
 b. Regularity of updates Regular Quite Regular Irregular Very Irregular
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 d. Did you find information about your case on the court website?
- How useful did you find the website? Was the site easy to read and navigate?
 Does the site have a search function?
- If the court lacks a website, are there plans to have one? At what stage of development is it?
- Does the court have an e-filing and e-messaging system? How is it being deployed in this case/in anti-corruption cases generally? (Please keep your response to 3 lines on the back of the page).

The Hearing (Pls tick or provide the correct answer)

- a. The court sat Y N b. The case you are monitoring proceeded on schedule Y N
 c. Complainant was in court Y N d. Prosecution was in court Y N
 e. The defendant was in court Y N f. Defence Counsel in Court Y N
 g. If hearing was delayed, at whose instance was the delay?
 h. What reasons were given for the delay?
 f. What consequential orders followed?
- a. Defendant was in custody Y N
 b. Subsisting order to produce defendant complied with Y N

c. What reasons were given for non-compliance?

13. a. Witnesses were in Court? Y N b. If not, what reasons were given?
 c. What consequential directive if any, did the court give? (you may make additional brief comments on back page)

14. Case Prioritization: Did the matter proceed as set (mention, motion, hearing, ruling, address, or judgment)?
 How many hours or days were allocated to the matter? *no time allocated*
 How many interlocutory applications were taken? For what?
 If the case was adjourned, at whose instance and for what reasons?
 What was the length of adjournment? If it was a long adjournment, what reasons were given?
 Overall, how frequent are adjournments in the case?
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Courtroom was orderly	1	2	3	4	
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The Judge was in control* of the proceedings	1	2	3	4	
Judge was ready/prepared** for court	1	2	3	4	
The Prosecution was ready/prepared*** for court	1	2	3	4	
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Cases were handled in a timely manner	1	2	3	4	
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Individuals were treated equally by Court staff	1	2	3	4	
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Judge made effort to understand the concerns of the parties	1	2	3	4	
Prosecution held accountable***** for actions that delayed proceedings	1	2	3	4	
Defence held accountable for actions that delayed proceedings	1	2	3	4	
The interest of the public was adequately represented	1	2	3	4	
Communicating Courtroom Proceedings		Poor	Acceptable	Good	Excellent
Court announced every stage of proceedings	1	2	3	4	
Court explained every stage of proceedings	1	2	3	4	
Defendant understood procedures and rulings	1	2	3	4	

You may if necessary provide brief comments of the hearing: *The matter went as normal. The prosecution counsel lead the first 2 in evidence against the adult person.*

I gained better understanding of the court's role in anti-corruption cases:

Very Much Quite So Not sure Not at all
Court process was fair: Very fair Quite Fair Not sure Unfair

Courts reaction to observer's presence: Receptive Cooperative Hostile Indifferent

Did your confidence in the court ability to dispense justice increase because you witnessed proceedings? Very Much Quite So Not sure Not at all

What did you find most interesting about your experience? *the prosecution*
Counsel ~~lead~~ was control of the matter.

Notes on certain terms

* A judge is in control when he maintains general courtroom decorum, holds counsel to the highest levels of compliance with the rules, grants adjournments only for valid reasons and not more times than is permitted by the rules.

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

BEFORE HIS LORDSHIP: THE HON. JUSTICE PETER O. AFFEN

THURSDAY, MARCH 2, 2017

CHARGE NO. FCT/HC/CR/87/2014

BETWEEN:

COMMISSIONER OF POLICE

...

PROSECUTION

AND

1. SHEDRACH CLEMENT SALISU

2. WISDOM SUNDAY

3. AUWAL MOHAMMED

...

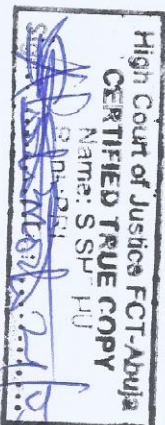
DEFENDANTS

J U D G M E N T

THE DEFENDANTS herein, *Shedrach Clement Salisu, Wisdom Sunday* and *Auwal Mohammed* were arraigned on a two (2) count charge of armed robbery punishable under *s. 1 (2) (a) of the Robbery and Firearms (Special Provisions) Act, Cap. R11, Laws of the Federation of Nigeria, 2004*. The specifics of the charge are as follows:

COUNT 1:

That you Shedrach Clement Salisu 'Male' 30 years of Gwagwalada behind Hajj Camp, Abuja, Auwal Mohammed 'Male' 32 years and Wisdom Sunday 'Male' 35 years and others now at large on or about the 6th day of September, 2013, Behind Hajj Camp Gwagwalada within the Abuja Judicial Division, while armed with a prohibited firearm, you robbed Bamigbade Yemisi Family of household items valued at about Three Hundred and Fifty Thousand Naira (₦350,000.00). You thereby committed an offence punishable under section 1 (2) (a) of Robbery



and Firearms (Special Provisions) Act, Laws of the Federation of Nigeria, 2004.

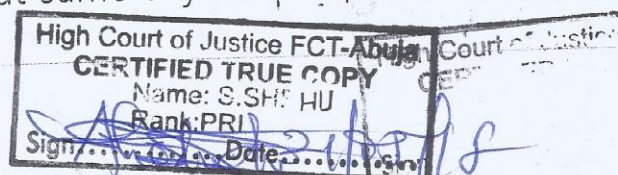
COUNT 2:

That you Shedrach Clement Salisu 'Male' 30 years of Gwagwalada behind Hajj Camp, Abuja, Auwal Mohammed 'Male' 32 years and Wisdom Sunday 'Male' 35 years and others at large on or about the 6th day of September, 2013, Behind Hajj Camp Gwagwalada within the Abuja Judicial Division, while armed with a prohibited firearm, you robbed Bamigbade Yemisi Family of a cash sum of Ten Thousand Naira (N10,000.00). You thereby committed an offence punishable under section 1 (2) (a) of Robbery and Firearms (Special Provisions) Act, Laws of the Federation of Nigeria, 2004.

The Defendants pleaded 'Not Guilty', thereby setting the stage for the prosecution to prove their guilt. In a frantic bid to discharge this non-shifting burden, the Prosecution called five (5) witnesses and tendered Exhs. P1 - P 5^{A-E}. The complainant and victim of the alleged armed robbery, Mrs Yemisi Bamigbade testified as PW1; one Victor Olabisi [who is a member of the vigilante group at Hajj Camp, Gwagawalada] testified as PW2; whilst the Sgt. Musa Emmanuel, Insp. Iliya Ezekiel and Cpl. Celestine Nyigba [who are police officers] testified as PW3, PW4 and PW5 respectively. Each of the Defendants testified for himself in defence of the charge and did not field any other witness. Exh. P1 is the 1st Defendant's extrajudicial statement dated 9/9/13; Exh. P2 is the 3rd Defendant's extrajudicial statement dated 13/9/13; Exh. P3 is the 2nd Defendant's extra-judicial statement dated 13/9/13; Exh. P4 is a pump action gun; Exhs. P5^{A-E} are other items said to have been recovered from the crime scene and produced from the custody of the exhibit keeper; whilst Exh. D6 is the 1st Defendant's extrajudicial statement 6/9/13, which was recorded by PC Elijah Abur.



Testifying as PW1, the complainant, Mrs Yemisi Bamigbade stated that she is a civil servant at Local Education Authority, Gwagwalada Area Council, FCT, Abuja and lives at Hajj Camp, Gwagwalada; and that the 1st and 2nd Defendants as well as Victor Olabisi [PW2] who is a member of the Vigilante Group at Hajj Camp in Gwagwalada, Abuja are well known to her. She stated that at about 12:10 a.m. in the early 6/9/13, she saw a flashlight beaming at her security house and thought it was the vigilante men on patrol, but she heard a knock on her window about five minutes later, and when she asked who it was, the shocking response was: 'We are armed robbers'!; that they opened the sliding window, put a gun through the window and pointed the flashlight on the gun so that she could see clearly what they were holding and ordered her to open the door, whereupon she ran into her children's room and asked them to inform the vigilante men that armed robbers were in their house, after which she opened the door to her sitting room and four (4) robbers then came in, took her laptop, plasma TV, her husband's telephone and the sum of ₦10,000 and left the house; that she then heard the voices of vigilante men shouting, "pursue them"; that soldiers at the nearby checkpoint joined the members of the vigilante group; and in the morning, the soldiers and Victor Olabisi [PW2] who is a member of the vigilante group brought Shedrach [1st Defendant] to her house as one of the suspects and left for the police station with him; that about an hour later, she was invited to the police station where she made a statement; that the matter was transferred two days later to the Police Headquarters and she accompanied the police at Gwagwalada Area Command to the Police Headquarters, and the matter was transferred that same day to the Special Anti-Robbery Squad (SARS)

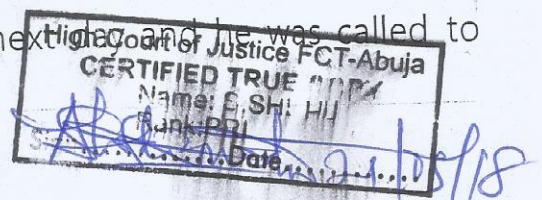


where she made another statement; that officers of SARS came to her house two days later at about 2.00 a.m. with the 1st Defendant who told her they were looking for Wilson [2nd Defendant] as one of the suspects and that her laptop was with Wilson; and she called the vigilante men that night to inform them that Wilson was being looked for.

Under cross examination by G. E. Adole, Esq. for the Defendants, the PW1 stated that the incident occurred on 6/9/13; that she did not recognise any of the Defendants that day; and that four (4) robbers raided her house but she could not recognise any of them as they were pointing flashlight on her.

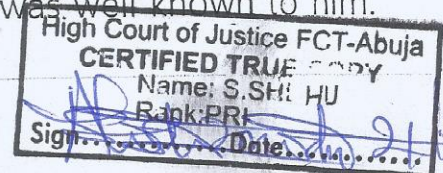
The PW2, Victor Olabisi stated that he lives behind Hajj Camp in Gwagwalada where he is also a member of the Vigilante Group; that the complainant, Mrs Yemisi Bamigbade [PW1] as well as the 1st and 2nd Defendants are well known to him; that himself and four of his vigilante colleagues [Wale, Dele Michael, Solomon Faleke and Ola Oladimeji] were on duty at Hajj Camp and resumed work at about 10.00 p.m. on 5/9/13; that one of his colleagues [Wale] told him at about 11.55 p.m. that he saw/heard a group of boys discussing in Hausa language that they were going to rob in a place where a new car had just been bought, whereupon he and two of his colleagues traced the boys to Wale's house but did not find them; that they searched an uncompleted building in the vicinity where they found a boy who works as a labourer at Hajj Camp but whose name he could not readily recall; that the boy showed him the road Shadrach and other boys took, and that as he and his colleagues were on the way to Shadrach's house, he received a call

from one Kehinde [who lives with Mrs Bamigbade] informing him in a hushed tone that armed robbers were operating in their house; that on getting to Mrs Bamigbade's house, he saw Shadrach and four 'guys' outside whilst some others were inside the house; that he asked his colleagues to exercise caution as Shadrach was wielding a gun; that he saw two 'guys' come out of Mrs Bamigbade's house: one had a Plasma TV on his head whilst the other was holding a laptop computer; that he did not recognise the others but he knew Shadrach very well; that they then made some noise and Shadrach threw away the gun and the person with the Plasma TV equally dropped it and ran away; that he and his colleagues pursued after them and took the road leading to Shadrach's house where they met Shadrach's brother at home and enquired after Shadrach but was told he went out with some 'guys'; that two of his colleagues (i.e. Ola and Suleiman) hung around Shadrach's house, whilst two others and himself decided to return to Mrs Bamigbade's house; that on their way to her house, they found the gun in the nearby bush, which they handed over to the soldiers from the nearby check-point who joined them at that point and accompanied them to Shadrach's house but he was still not at home; that the soldiers then left whilst he and his colleagues hung around until about 5.00 a.m. when Shadrach returned home and they arrested him and called the soldiers who came and took all of them to the Gwagwalada Area Command, where he made a statement. He stated further that the IPO informed him two days later that the matter was being transferred to SARS, whereupon himself, his colleague (Ola) and Mrs Bamigbade went to SARS where he made another statement; that officials from SARS came to Gwagwalada with Shadrach the next day and he was called to



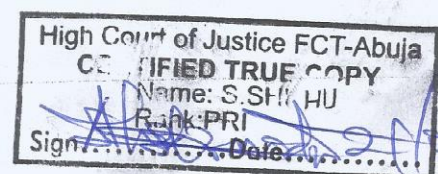
come to Mrs Bamigbade's house where he was told they were looking for 'Omoba' [i.e. the 2nd Defendant] who used to visit Mrs Bamigbade's house and who was said to have taken part in the robbery; that they saw Omoba the next day and called him but he ran into a nearby bush where they caught him and took him to the Gwagwalada Area Command.

Under cross examination by G. E. Adole, Esq. of counsel for the Defendants, the PW2 maintained that the incident happened on 5/9/13 but he reported to the police the following morning [i.e. 6/9/13]. He conceded that he wrote his first statement on 6/9/13 at Gwagwalada Area Command by himself; and insisted that he knew Shadrach very well and recognised him at the scene of the robbery, and that Shadrach equally knew him as a vigilante member; that Shadrach was wearing a particular black and white polo shirt he used to wear with a black jacket on top that very day; that immediately Shadrach made noise with the gun, he [PW2] looked and confirmed that was Shadrach. The PW2 maintained that their vigilante group has no special name and that he had his ID card with him; that the distance between where he and his colleagues were hiding in the bush and where Shadrach [1st Defendant] stood was approximately eight (8) metres; that Shadrach was wielding a 'cock and shoot' pump action gun; that he made a second statement three (3) days after his first statement; and that he saw Shadrach with one Ibo boy who is not among the Defendants standing before this court. He insisted that he only recognised Shadrach and rejected the suggestion that he has identified or pointed at Shadrach as one of the armed robbers merely because Shadrach was well known to him.

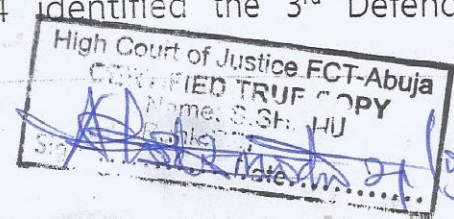


Sgt. Musa Emmanuel [PW3] stated that he is a Sergeant and an investigator at Divisional Crime Bureau (DCB), Divisional Police Headquarters, Gwagwalada; that he knew the Defendants as well as Mrs Yemisi Bamigbade (PW1) and Victor Olabisi (PW2); that he was on duty at DCB, Gwagwalada when some army officers brought two suspects, namely: Shadrach Clement and Salisu Mohammed along with a Beretta gun, spear/arrow, Nokia handset and battery for phone; and that they also came along with Olabisi [PW2] who is a vigilante member. He further stated that he visited the scene of crime at Hajj Camp and that statements were taken from Olabisi [PW2] and the two suspects under caution; that he recorded the 2nd Defendant's statement whilst that of the 1st Defendant was recorded by Constable Elijah Abur; that the complainant [PW1] visited the station the following day and her statement was equally taken; that the complainant and the suspects were interviewed by the DCO and DPO, and upon discovering that the case was beyond the jurisdiction of the Divisional Police Headquarters, the matter was transferred to SARS for further investigation and the suspects and exhibits were handed over to SARS.

Under cross examination by G. E. Adole, Esq. of counsel for the Defendants, the PW3 agreed that he made a statement on 5/9/13 which he wrote by himself and that he witnessed the alleged robbery. But upon re-examination by P. A. Ogele, Esq. of counsel for the Prosecution, the PW3 stated that what he meant was that he visited the scene of the robbery, and not that he witnessed the robbery.



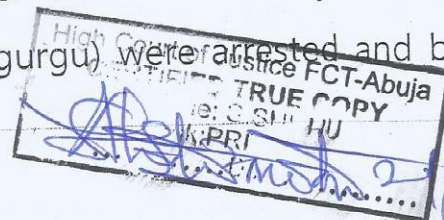
The PW4, Insp. Iliya Ezekiel stated that he is an Inspector of Police with the Special Anti-Robbery Squad (SARS) at FCT Police Command; that Cpl. Celestine Nyigba and himself are in the same investigation team at SARS; that a case of criminal conspiracy and armed robbery was transferred from Gwagwalada to CID, FCT Police Command on 7/9/13 and minuted to SARS for investigation; that the team headed by Supol Gerald Okere was detailed to carry out the investigation and Cpl. Celestine Nyigba was appointed as the IPO; that the suspects were transferred along with the case file, one single barrel gun and other exhibits; that he recorded the statement of the 1st Defendant after he was cautioned and the 1st Defendant understood the cautionary words and signed the statement; that after recording the statement, he took the 1st Defendant to his superior officer, Gerald Okere who read the statement to 1st Defendant's hearing before he signed it and the superior officer countersigned. The PW4 identified the 1st Defendant's extrajudicial statement dated 9/9/13 which was admitted in evidence and marked Exh. P1 after conducting a trial-within-trial to ascertain the voluntariness *vel non* of the said statement. The PW4 further testified that he was instructed by the IPO, Cpl. Celestine Nyigba on 13/9/13 to record the statement of Auwal Mohammed [3rd Defendant] who was duly cautioned; that the cautionary words were read over to him in Hausa Language and he understood it and signed before the statement was recorded at the general office; that the 3rd Defendant freely gave his statement which was recorded and he read over the statement to the 3rd Defendant who clearly understood it and signed, before he countersigned the statement as the recorder and handed it over to the IPO, Cpl. Celestine Nyigba. The PW4 identified the 3rd Defendant's



extrajudicial statement dated 13/9/13 and the same was admitted in evidence without objection as Exh. P2.

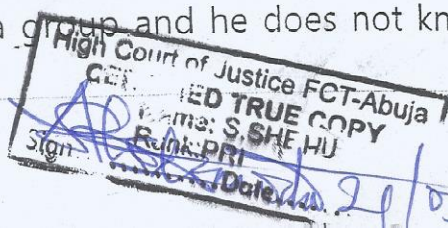
Under cross examination by G. E. Adole, Esq. of counsel for the Defendants, the PW4 maintained that he signed Exhs. P1 and P2 as the recorder. He pointed out his signature and the counter signature of Supol Gerald Okere in Exhs. P1 and P2, and stated that he was a member of the investigation team. The PW4 rejected the suggestion that he did nothing else apart from taking the statements of the 1st and 3rd Defendants, insisting that he was actively involved in the arrest of Auwal Mohammed [3rd Defendant].

The PW5, Cpl. Celestine Nyigba, a police officer attached to State CID at SARS, stated that he knew Insp. Iliya Ezekiel [PW4], Yemisi Bamigbade [PW1], Victor Olabisi [PW2] as well as the Defendants; that a case of criminal conspiracy and armed robbery was transferred from Gwagwalada to SARS on 9/9/13 along with the 1st Defendant and two others, namely: Haruna and Okechukwu; that the case was reported by Mrs Yemisi Bamigbade [PW1] of Hajj Camp, Gwagwalada; that one automatic pump action gun was transferred along with the case file and the suspects, one black and yellow t-shirt, one white and cream long-sleeved jacket, a stick and arrow; that the case was registered and referred to them for investigation; that a member of his team, Insp. Iliya Ezekiel [PW4] recorded the statement of the 1st Defendant who exonerated Haruna and Okechukwu; that they extended their investigation to Gwagwalada where Wisdom Sunday and Auwal Mohammed (also known as Lola Dangurgu) were arrested and brought



to their office as members of Shadrach's gang which comprises six members but the other three members are still at large; that Insp. Iliya also recorded the statement of Auwal Mohammed [3rd Defendant] whilst Wisdom Sunday [2nd Defendant] wrote his own statement; and that they visited the scene of crime at Hajj Camp, Gwagwalada where the exhibits mentioned earlier were found. The extrajudicial statement of Wisdom Sunday [2nd Defendant] dated 13/9/13 was admitted in evidence without objection as Exh. P3. The PW5 stated that the items transferred to them along with the case file were registered with the Exhibit Keeper at SARS office. The pump action gun was admitted in evidence as Exh. P4; whilst the residue of the items were collectively marked as Exhs. P5A-E. His further testimony was that Mrs Bamigbade [PW1] and other eyewitnesses, Victor [PW2] and Danjuma who accompanied her made statements; that the t-shirt and long-sleeved shirt were identified as belonging to Shadrach [1st Defendant]; that Wisdom Sunday [2nd Defendant] was the complainant's internal security who knew that she had bought a new car, whilst Auwal [3rd Defendant] bought the stolen items.

Under cross examination by G. E. Adole, Esq. of counsel for the Defendants, the PW5 insisted that the 1st Defendant exonerated Okechukwu and Haruna in his extrajudicial statement [Exh. P1]; that he has been a police officer for over 15 years and had previously investigated criminal allegations of this nature; that he does not know Sgt. Musa Emmanuel and could not also tell if he came across anyone called PC Elijah Abur in the course of investigation since the police officers from Gwagwalada came in a group and he does not know each



of them personally. He however conceded that PC Elijah Abur recorded the 1st Defendant's statement at Gwagwalada, but stated that he [PC Elijah Abur] was not the one who handed over the case file to him. He equally conceded that the recovered items were not found on the Defendants; but rejected the suggestion that the Defendants were tortured before they made their statements.

The Prosecution closed its case with the testimony of PW5, and the defence opened with the 1st Defendant, Shadrach Clement Salisu testifying as DW1. He stated that he is 32 years old and a bricklayer; that he was arrested on 6/9/13 by OPC Vigilante, taken to a house behind Hajj Camp, Gwagwalada and handed over to soldiers who tortured him before he was handed over to officers of the Divisional Police Headquarters in Gwagwalada where he made a statement on 6/9/13 [Exh. D6] which was recorded by PC Elijah Abur and he signed it. The 1st Defendant [DW1] further testified that he was taken to SARS on 9/9/13 where Cpl Celestine Nyigba [PW5] and one Biggy tortured him after the complainant had left; that they used iron, stick and cable wire to beat him to the point that he was injured on his knee and back; that he did not know why he was being tortured but at last they brought a statement which he signed because they threatened to kill him if he refused to do so; that he signed two statements at SARS: one at the counter and the other at the 'torturing room'; that he met Wisdom [2nd Defendant] for the first time in the cell at SARS but knew Auwal Mohammed [3rd Defendant] previously as the one who converted him to Islam; and that he and Haruna were in his room at Hajj Camp in

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Gwagwalada when he was arrested at 5.30 a.m. on 6/9/13. He denied knowing anything about the armed robbery allegation levelled against him, and stated that he met Victor Olabisi [PW2] whom he had known as a vigilante member when he [PW2] came to make statement at SARS; and that both Haruna and himself were arrested by the vigilante and handed over to the soldiers.

Under cross examination by P. A. Ogele, Esq. of counsel for the Prosecution, the 1st Defendant conceded that his house from where he was arrested and the place he was first taken to by the vigilante men after his arrest are both situate behind Hajj Camp, Gwagwalada; and that he is well known in the vicinity. He denied knowing Isa Dare, but conceded that he knew Lola Gurgu [i.e. 3rd Defendant] and one Dauda Danjuma who is a labourer; and maintained that he would be surprised to hear that Danjuma informed the police that he [1st Defendant] did not sleep at home that very night but came home early in the morning. He denied having any t-shirt, or being alone when he was arrested, or having any slippers, insisting that he only had palm sandals, and that his shoe size is 43 whilst his shirt size is 'small'. The 1st Defendant insisted that the one leg of slippers, t-shirt and long-sleeved shirt do not belong to him; and that he would be surprised that residents of his neighbourhood have identified him as the owner of the t-shirt and long-sleeved shirt. He rejected the suggestion that he threatened people with pump action gun, or that he threw away any gun when members of the vigilante group were pursuing them, insisting that he does not know anything about the gun or the alleged robbery. He maintained that he will be surprised that the other Defendants and himself were

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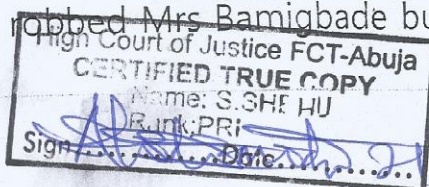
arrested by the same officers, insisting that the others met him in the cell and all of them were tortured. The 1st Defendant rejected the suggestion that it was because of his involvement in, and confession to, the armed robbery that he was being charged whilst those arrested along with him were left off the hook. He denied selling any item to Auwal [3rd Defendant] and maintained that he was in his house on the day of the alleged incident; that he did not tell the police anything but was tortured to sign the statement; that he did not know Celestine [PW4] and Ezekiel [PW3] prior to his arrest; and that he hails from Kujama in Chukun LGA of Kaduna State. The 1st Defendant denied having worked for Mrs Yemisi Bamigbade [PW1] but conceded knowing Engr. Victor Dogsun and Isah and that he would not be surprised that their names are mentioned in his statement because Victor is his brother whilst Isah is his friend and he mentioned them. He acknowledged his signature in Exh. P1 but denied that he was taken before any senior police officer after making his statement at Command. The 1st Defendant rejected the suggestion that he and Isah belong to the same armed robbery gang or that he is well known to Victor Olabisi [PW2] and *vice versa*; and stated that the team of policemen that arrested him which comprises of about five persons were present when his statement was taken at the counter in SARS office, but he did not sign the statement immediately. He maintained that he and Dauda Danjuma were in his room at the time of his arrest but Dauda was not arrested along with him; and rejected the suggestion that he alone was arrested because of his involvement in the armed robbery, insisting that he was not aware of any such robbery. The 1st Defendant equally rejected the

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suggestion that he made his statement voluntarily, insisting that he was tortured and told to sign.

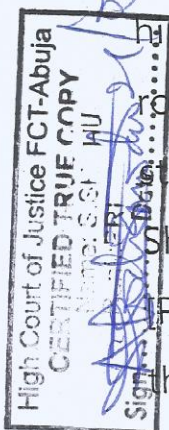
Testifying as DW2, the 2nd Defendant Wisdom Sunday stated that he works as a labourer and that he was arrested on 13/9/13 at Hajj Camp, Gwagwalada whilst on his way to a site near CKC where he gets his daily bread by members of the Vigilante Group who informed him that he was being arrested in connection with a robbery incident that occurred close to the place he was working, and he was taken by the vigilante to the scene of the alleged robbery and eventually to SARS; that he denied being involved in any robbery and Celestine Nyigba [PW5] tortured him to confess to a crime he did not commit; that the torturing caused problem in his ear as puss was coming out of his ear such that he could not hear for about three months. He denied having met or known the other Defendants charged along with him prior to his arrest and detention at SARS and insisted that Celestine Nyigba [PW5] tortured him whilst he was in custody.

Cross-examined by P. A. Ogele, Esq. of counsel for the Prosecution, the 2nd Defendant maintained that he does not know Yemisi Bamigbade [PW1]; and that he was at his residence on the night of 12/9/13; that he neither lives in the neighbourhood of Hajj Camp, Gwagwalada nor does he work for Yemisi Bamigbade [PW1]; that his master is a man and he had never worked in Bamigbade's house. He maintained that he neither knew nor had any relationship with Shadrach [1st Defendant] and would be surprised that Shadrach mentioned his name as one of those who went with him to rob; that he was seriously tortured at the counter in SARS office to confess that he robbed Mrs Bamigbade but he refused to



do so; and that he would be surprised to hear that he was given ₦10,000 out of the proceeds of the robbery, insisting that nobody gave him any money. He stated that his residence is fairly distant from the scene of the alleged robbery; that he did not make any confession in his statement as he refused to confess to a crime he did not commit and dared the police to proceed to kill him if they so wished. The 2nd Defendant maintained that he is a labourer and denied being present at Mrs. Yemisi Bamigbade's house, or being involved in any robbery, or knowing *Victor Olabisi* [PW2], or ever being an OPC man or member of Vigilante Group. He stated that he hails from Kwara State and is of Yoruba origin, but insisted that Shadrach [1st Defendant] must be referring to a different Yoruba man other than himself.

The 3rd Defendant, Auwal Mohammed testified as DW3. His evidence was interpreted from Hausa to English and *vice versa* by Sadiq Ibrahim, a Senior Executive Officer (Special Duties) in the High Court of FCT. The 3rd Defendant stated that he is a businessman at *Pantaker* market in Gwagwalada where he sells electrical materials; that he was arrested on 13/9/13 in his residence at Sabongari, Gwagwalada by the police from SARS who broke in at about 3:00 a.m.; that they showed Shadrach to him and informed him that Shadrach and his gang committed armed robbery at Hajj Camp and that Shadrach sold a stolen laptop to him. He stated that he vehemently disagreed with them as he had not seen Shadrach for more than three (3) years, at which point *Celestine Nyigba* [PW5] slapped him and said he would be taken to a place he will speak the truth if he does not confess; that he was taken to SARS and brought out to their general office at about 10.00 p.m. the next day for the

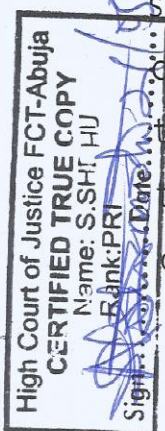


purpose of taking his statement; that one Iliya cautioned him to tell the truth but after taking his statement, Iliya informed *Celestine Nyigba* that he [3rd Defendant] did not accept that Shadrach sold laptop to him, whereupon Celestine Nyigba started torturing him by beating and hitting him with stick, and demanded that he must tell the truth; that he maintained his stance that there was nothing connecting him and Shadrach but Celestine continued to torture him to the extent that he could not even stand; that at that point, they [i.e. the police] brought a paper and asked him to sign, which he did, and he was taken back to the cell; that on 19/9/13, he was brought out together with Wisdom [2nd Defendant] and taken to Wisdom's residence, but nothing was found there; and that he pleaded with the police to visit his own residence too in order to ascertain if there was any stolen items there, but they refused to go to his residence but took them back to SARS saying he would tell them the truth whenever he was ready. The 3rd Defendant stated that he knew Shadrach some three (3) years and a few months prior to his arrest on 13/9/13 through his brother, Isiaku who brought Shadrach because he wished to convert to Islam; and that he had never met Wisdom [2nd Defendant] prior to his arrest on 13/9/13.

Under cross examination by P. A. Ogele, Esq. of counsel for the Prosecution, the 3rd Defendant maintained that he does not live behind Hajj Camp, Gwagwalada or in the same neighbourhood with Shadrach; but conceded that Lola and Gurgu are his nicknames, and that he hails from Katsina State and was previously a builder before he went into sale of electronics. He insisted that there has been no exchange of items or any other transaction between him and Shadrach since they met; and

rejected the suggestion that he was chased out of *Pantaker* market in Gwagwalada for purchasing or selling stolen items. The 3rd Defendant maintained that he would be surprised to hear that Shadrach claimed to have sold stolen items to him; but conceded that Salisu Ali is the chairman at *Pantaker* market in Gwagwalada, whilst Suleiman, Chinaka, Baluru, Jimoh and Aliyu are his business associates in the market. He reiterated that the police broke into his house at about 3.00 p.m. on 13/9/13 and showed Shadrach to him, and rejected the suggestion that he received any laptop from Shadrach, insisting that there was no transaction between him and Shadrach; and that *Celestine Nyigba* [PW5] tortured him to the extent that he was bleeding.

The conclusion of the 3rd Defendant's testimony signalled the closure of plenary trial, and the parties filed and exchanged written final addresses as ordered by the Court, which addresses were adopted in open court by learned counsel on both sides of the divide on 15/12/16. The Defendants' final address is dated 16/11/16 whilst the Prosecution's final address is dated 9/12/16. Save for slight variations in phraseology, the sole issue distilled for determination in the final addresses filed by the defence and the prosecution is whether the prosecution has discharged the burden of establishing the Defendants' guilt on the criminal threshold of proof beyond reasonable doubt in the peculiar facts and circumstances of the case at hand.



Now, our adversary criminal justice system is accusatorial in nature and substance, and every person charged with a criminal offence is presumed innocent until proved guilty. See *s. 36(5) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended)*. A necessary corollary of the presumption of innocence is that the burden is always

on the prosecution to establish the guilt of the accused person beyond reasonable doubt. Quite unlike civil proceedings, this burden on the prosecution is static in a manner akin to the fabled constancy of the 'Northern Star' and never shifts to the accused. It is if, and only if, the prosecution succeeds in proving the commission of a crime beyond reasonable doubt that the burden shifts to the accused to establish that reasonable doubt exists. See *ss. 135 and 137 of the Evidence Act 2011*. The prosecution has the onus of proving all the material ingredients of the offence(s) charged beyond reasonable doubt. See *STATE v SADU [2001] 33 WRN 21 at 40*. Where the prosecution fails to discharge this burden, the charge is not made out and the court is bound in duty to record a verdict of discharge and acquittal. See *MAJEKODUNMI v THE NIGERIAN ARMY [2002] 31 WRN 138 at 147*. Also, if on the totality of the evidence adduced, the court were left in a state of uncertainty or doubt, the prosecution would have failed to discharge the onus of proof cast upon it by law and the accused would be entitled to an acquittal. See *UKPE v STATE [2001] 18 WRN 84 at 105*. However, in the words of the venerable Lord Denning in the case of *MILLER v MINISTER OF PENSIONS (1947) 2 ALL E.R. 372*: "Proof beyond reasonable doubt does not mean proof beyond the shadow of a doubt. The law would fail to protect the community if it admitted fanciful possibilities to deflect the course of justice. If the evidence is so strong against a man as to leave only a remote possibility in his favour which can be dismissed with the sentence 'of course it is possible, but not in the least probable', the case is [established] beyond reasonable doubt, but nothing short of that will suffice". See also *AKALEZI v THE STATE [1993] 2 NWLR (PT. 273) 1* and *EBEINWE v STATE [2011] 1*

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MJSC 27. The three modes of evidential proof in a criminal trial such as the present are: (a) direct evidence of witnesses; (b) circumstantial evidence; and (c) the confessional statement voluntarily made by a

criminal defendant. See *OKUDO v THE STATE* [2011] 3 NWLR (PT. 1234) 209 at 236, *ADIO v THE STATE* (1986) 5 S.C. 194 at 219-220, *EMEKA v THE STATE* [2002] 14 NWLR (PT. 734) 666 and *OLABODE ABIRIFON v THE STATE* [2013] 13 NWLR (PT.1372) 587 at 596. Against the backdrop of the foregoing, the straightforward issue arising for determination is whether the prosecution has adduced sufficient, cogent, credible and compelling evidence to establish the charge against the accused persons beyond reasonable doubt; and it is on this basis that we shall proceed presently to evaluate the evidence adduced.

The charge against the Defendants [as set out hereinbefore] is that the Defendants and others now at large, while armed with a prohibited firearm, robbed the Yemisi Bamigbade Family of ₦10,000.00 in cash and household items valued at about ₦350,000.00 on or about 6th September 2013, which is an offence punishable under *s. 1(2)(a)* of the *Robbery and Firearms (Special Provisions) Act, Cap. R11, Laws of the Federation of Nigeria, 2004*. The charge is one of armed robbery, and in order to secure conviction, the prosecution is obligated to demonstrate that:

- (i) there was a robbery or series of robberies;
- (ii) the defendant(s) participated in the robbery or series of robberies; and
- (iii) the defendant(s) was armed with an offensive weapon or in the company of those so armed.

See *OLAYINKA v STATE* [2007] 9 NWLR (PT. 1040) 561, *NWACHUKWU v STATE* [1985] 3 NWLR (PT. 11) 218, *SUBERU v STATE* [2010] 8 NWLR (PT. 1197) 586, *BOZIN v THE STATE* [1985] 2 NWLR (PT. 8) 465, *ANI v THE STATE* [2003] 11 NWLR (PT. 830) 145; *ATTAH v THE STATE* [2010] 10 NWLR (PT.1201) 190 at 244,

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OLAYINKA v THE STATE [2007] 9 NWLR (PT.1040) 561 and OGUDU v STATE [2012] ALL FWLR (PT. 629) 1011.

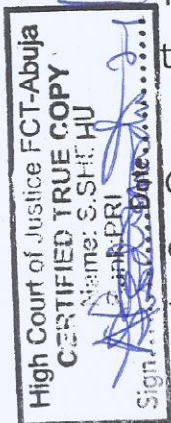
The three modes of evidential proof by which the prosecution may establish the guilt of a criminal defendant are set out hereinbefore. Whereas the 1st Defendant's extrajudicial statement dated 9/9/13 [Exh. P1] is confessional in nature, the extrajudicial statements of the 2nd and 3rd Defendants dated 13/9/13 [i.e. Exhs. P3 and P2 respectively] are not confessional statements. At the hearing, objection was taken to the admissibility of the 1st Defendant's extrajudicial statement [Exh. P1] on the ground that it was not voluntarily made and a trial-within-trial was conducted. The objection was overruled when the 1st Defendant's stance shifted from 'not making the statement voluntarily' to 'not making any statement at all'. It would seem therefore that the Prosecution is relying on both direct evidence of an eyewitness and the confessional statement of the 1st Defendant in seeking to establish the Defendants' guilt.

Judging by the evidence adduced before me (as reproduced *in extenso* above), there is little or no doubt that there was an armed robbery incident at the residence of Mrs Yemisi Bamigbade [PW1] situate behind Hajj Camp, Gwagwalada on 6/9/13. Both the victim of the robbery, Mrs Bamigbade [PW1] and Victor Olabisi [PW2] who is a member of Vigilante Group at Hajj Camp, Gwagwalada gave direct and positive evidence of the robbery incident. The PW1 testified that at about 12:10 a.m. on 6/9/13, she saw a flashlight beaming at her security house and thought it was the vigilante men on patrol, but when she heard a knock on her window few minutes later and asked who it was, the shocking response was: 'We are armed robbers!'; and that they opened her sliding window, put a gun through the window and pointed the flashlight on the gun to ensure that she saw clearly that they were holding a gun

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before ordering her to open the door, whereupon she ran into her children's room and asked them to inform the vigilante of the presence of armed robbers in their house; that when she opened the door to her sitting room, four (4) robbers came into the house, took away her laptop, plasma TV, her husband's telephone and the sum of ₦10,000. Not dissimilarly, the PW2 testified that he and other members of the vigilante group were on duty at Hajj Camp, Gwagwalada when one of his colleagues informed him at about 11:55 p.m. on 5/9/13 that he saw/heard a group of boys discussing in Hausa language that they were planning to rob a house where a new car had just been bought, whereupon he and two of his colleagues traced the boys to Wale's house and searched an uncompleted building in the vicinity without luck, and in the process he received a call from one Kehinde [who lives with Mrs Bamigbade] informing him in a hushed tone that armed robbers were operating in their house; that on getting there, he saw Shadrach and four 'guys' outside whilst some others were inside the house; that the 1st Defendant [whom he recognised quite well] was 'wielding a gun and he asked his colleagues to exercise caution; that he saw two 'guys' come out of the house: one had a Plasma TV on his head whilst the other was holding a laptop; and that they made some noise and Shadrach threw away the gun and the person with the Plasma TV equally dropped it and ran whilst he and his colleagues pursued after them.

G. A. Adole, Esq. of counsel for the Defendants has argued that the evidence presented by the Prosecution is riddled with contradictions in that whilst the PW1 gave evidence that the alleged robbery took place on 6/9/13 at about 12:10 a.m., the PW2 stated that the incident occurred on 5/9/13. It however does not seem to me that there is anything in the evidence adduced that vindicates the above contention

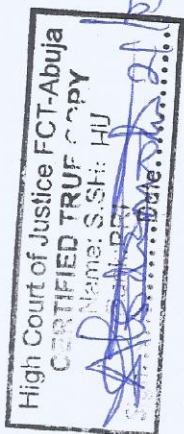


nor is there any such contradiction as has been alleged. The records in the case file before me reveal that the PW2 did not say the robbery incident took place on 5/9/13. No. Rather what he said is that he and his colleagues resumed duty at Hajj Camp at about 10.00 p.m. on 5/9/13 and one of his colleagues [Wale] informed him at about 11:55 p.m. that he saw/heard a group of boys discussing in Hausa that they were going to rob in a place where a new car had just been bought, whereupon he and two of his colleagues traced the boys to an uncompleted building to no avail; and that in the process he received a call from one Kehinde informing him of the presence of armed robbers at Mrs Bamigbade's house. It is not difficult in the least to appreciate from the testimony of PW2 that although he and his vigilante colleagues started tracing the boys from about 11:55 p.m. on 5/9/13 [which is barely five minutes to midnight], it was already the next day [i.e. 6/9/13] by the time the PW2 received the telephone call from Kehinde and eventually got to Mrs Bamigbade's residence. There is therefore no contradiction whatsoever in the testimonies of both PW1 and PW2 on the date of the robbery, and I entertain no reluctance whatsoever in finding and holding that there was a robbery incident at Mrs Bamigbade's residence on 6/9/13 as alleged by the Prosecution.

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Now, the second and third constituent elements the prosecution is required to establish in a charge of armed robbery [such as the present] are whether the defendant(s) participated in the robbery and were armed with an offensive weapon or in the company of those so armed. The PW1 testified that robbers invaded her house with the aid of a gun at about 12:10 a.m. on 6/9/13 and made away with ₦10,000 cash, TV set, laptop and other valuables. But she stated emphatically that she did not recognise any of the robbers because they were pointing flashlight at her. Her evidence is therefore not helpful at all in determining

whether the Defendants or any of them participated in the armed robbery subject matter of the criminal charge before me. However, the evidence of the PW2 is that upon receiving a call from one Kehinde who informed him in a hushed tone that armed robbers were operating at Mrs Bamigbade's residence, he and his vigilante colleagues hurried there and that he saw and recognised Shadrach [1st Defendant] standing outside in the company of four others whilst others were operating inside the house; that Shadrach who is well known to him was wielding a gun and he asked his colleagues to exercise caution as they hid themselves in a nearby bush; that he saw two 'guys' come out of Mrs Bamigbade's house: one had a Plasma TV on his head whilst the other was holding a laptop computer; that he did not recognise the others but he knew Shadrach very well; that they then made some noise and Shadrach threw away the gun and the person with the Plasma TV equally dropped it and ran away; that he and his colleagues pursued after them and took the road leading to Shadrach's house where they met Shadrach's brother at home and enquired after Shadrach but was told he went out with some 'guys'; that two of his colleagues (i.e. Ola and Suleiman) hung around Shadrach's house, whilst two others and himself returned to Mrs Bamigbade's house; that on their way, they found the gun in the nearby bush, which they handed over to soldiers from the nearby check-point who also accompanied them to Shadrach's house but he was still not at home; that the soldiers left whilst he and his colleagues hung around until about 5.00 a.m. when Shadrach returned home and they arrested him and called the soldiers who came and took all of them to the Gwagwalada Area Command, where he made a statement. It is noteworthy that the above positive and direct evidence adduced by the PW2 was neither shaken nor discredited under cross examination by G. A. Adole, Esq. of counsel for the Defendants. If anything, the PW2 insisted under cross examination that he knew



Shadrach very well and recognised him at the scene of the robbery, and that Shadrach equally knew him as a vigilante member. The PW2 proceeded to describe the particular black and white polo shirt and jacket Shadrach was said to have worn on that day, and that Shadrach was wielding a 'cock and shoot' pump action gun and the distance between where he was hiding in the nearby bush and where the Shadrach [1st Defendant] stood was approximately eight (8) metres. The PW2 insisted that it was only Shadrach he recognised but not the others, and rejected the suggestion that he has identified or pointed at Shadrach as one of the robbers merely because he knew him.

G. A. Adole, Esq. of counsel has contended that a critical and thorough perusal of the statements made on 7/9/13 and 10/9/13 by the PW2 [who claimed to have written the statements himself] would reveal some inherent contradictions when placed side by side with his testimonial evidence, and that the contradictions should be resolved in favour of the Defendants. He urged the court to examine the statements made by the PW2, specifically that of 7/9/13 which shows that 'the PW2 lied glaringly in order to nail the 1st Defendant whom he claimed to have known before the alleged incident merely because he feels the 1st Defendant is so popular to his own thinking and dislike'. Unfortunately however, since the extrajudicial statements said to have been made by the PW2 on 7/9/13 and 10/9/13 [which are allegedly inconsistent with his testimonial evidence] were not tendered in evidence as exhibits, there is nothing for this court to examine 'critically and thoroughly' as urged upon me by learned counsel for the Defendants.

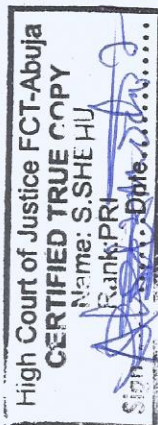
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But aside from the testimonial evidence of PW2, it would seem that the 1st Defendant's extrajudicial statement dated 9/9/13 [Exh. P1] equally points compellingly to his active involvement or participation in the

armed robbery incident of 6/9/13. For purposes of clarity, I will permit myself to reproduce Exh. P1 *in extenso* as follows:

"I hail from Kaduna State, Chukun Local Government, Kujama Kataf by tribe, from family of Bature 'M' in Kataf village. I came to Abuja in the year 2008, through Engr Victor Dogsun 'M' who specialise on (sic) building and he leave (sic) behind Hajj camp in Gwagwalada - FCT Abuja, presentelly (sic) is in Kaduna State at Barnarwa but I done know were is leaving (sic). I start (sic) to steal 2010 on my own. We are six gang in numbers, namely me Shadrach Clement, Isa 'M' who leave in Kasuwa Dare in G/Lada, and one Yoruba man who was once a vigilantee in the area we use to rob, he is our gang leader, but I don't know his name. He knows the others three gang and the names, we have rob (sic) three houses behind Hajj Camp in G/Lada, any time we go operation I will carry gun and Yoruba man will carry one. The last operation we did on 5/9/2013 at Hajj Camp, we escaped what (sic) the vigilante men see me with gun and in the morning they went and arrested me. We are armed robbers, the following properties we have dispose them to one Lola 'M' or Gurgu 'M' at Kasuwa Dare in G/Lada as follows:- Three plasma television, each one is ₦20,000, pressing iron at ₦2000, two stabilizer ₦3000, Nokia handset, techno handset ₦4000, two iron 4500, two pumping machine ₦20,500, one mattress ₦4000. Those property we rob them at Mama Yanbiyu, Roger 'M' and Sam 'M' houses. The yellow T-shirt recovered in robbery incident belong to me, the sliper belong to Haruna 'M'. Okechukwu and Haruna they are not armed robbers; they are my friend.

Also the single barrel that was recovered in the bush by vigilantee, I was the one that throw it in the bush while Yoruba man carried his own and run, the two single barrel was brought by Yoruba man 'M' for operation, also the last operation that I was been arrested I carry one laptop and sold to Lola or Gurgu at ₦20,000. I know Lola house."



Exh. P1 is obviously a confessional statement, which is a handy tool in the arsenal of the prosecution to prove the offence charged. By *s. 29(1) of the Evidence Act, 2011*, a confession voluntarily made is a relevant fact against the person confessing. See *IKEMSON v STATE [1989] 3 NWLR (PT 110) 455 at 476* and *IHUEBEKA v STATE [2000] 13 WRN 150 at 176*. A free and voluntary confession of guilt made by an accused person, if direct and positive, is sufficient to warrant his conviction without any corroborative evidence insofar as the court is satisfied as to the truth of the confession. See *YESUFU v STATE (1976) 6 SC 167 at 163*, *IDOWU v STATE (2000) 7 SC (PT 11) 50 at 62* and *NSOFOR v STATE [2004] 18 NWLR (PT 905) 292*.

As stated hereinbefore, the 1st Defendant had in the course of trial objected to the admissibility of Exh. P1 and a trial-within-trial was conducted to determine its voluntariness *vel non*. However, the 1st Defendant's objection was overruled when he made a volte-face and denied making any statement at all, thereby raising the issue of *non est factum* which does not affect the admissibility of the statement. See *AIGUOREGHIAN v THE STATE [2004] 3 NWLR (PT. 860) 367 at 402* and *MADOJEMU v THE STATE [2001] 25 WRN 1 at 12 - 13, 23 and*

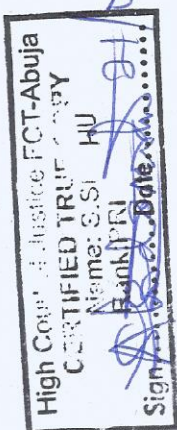
25. It is instructive that the 1st Defendant has reiterated the retraction of Exh. P1 in his testimonial evidence before me. His insistence that he did not make any statement at all amounts to retracting or resiling from the statement which the prosecution witnesses [notably PW4 and PW5] maintain he volunteered without threat, intimidation or inducement of any kind. The law is settled beyond peradventure that the retraction of or resiling from a confessional statement or the denial by an accused person that he did not make the statement does not *ipso facto* render the statement inadmissible in evidence. See *ALARAPE v STATE [2001] 14 WRN 1 at 20*, *KAREEM v FRN [2001] 49 WRN 97 at 111*, *OBISI v*

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CHIEF OF NAVAL STAFF [2002] 19 WRN 26 at 38 - 39 and EGBOGHONOME v THE STATE [1993] 7 NWLR (PT 306) 383 at 341.

The mere fact that a confessional statement is retracted by an accused person does not preclude the court from acting on the basis of the retracted statement. See *IKEMSON v THE STATE supra at 455 at 468-469; NWACHUKWU v THE STATE (2007) 12 SCM 447 at 455 and SHANDE v STATE (2005) 22 NSCQR (PT. 2) 756.* The court can convict on the basis of a retracted confessional statement. See *MANU GALADIMA v THE STATE (2013) 14 MRSCJ at 81 & 82.* It is for the trial court to take the retraction into consideration in determining the forensic utility of, or weight to be attached to, the confessional statement. The test to be applied in this regard as laid down in the case of *R v SYKES (1913) 8 Cr. App. R. 233* which was approved by the West African Court of Appeal in *KANU v THE KING (1952/55) 14 WACA 30* and followed in a long line of cases, is that a trial judge confronted with a retracted confessional statement should ask himself the following pertinent queries:

- (i) Is there anything outside the confession to show that it is true?
- (ii) Is it corroborated?
- (iii) Are the relevant statements made in it of facts, true as far as they can be tested?
- (iv) Was the prisoner one who had the opportunity of committing the crime?
- (v) Is his confession possible? and
- (vi) Is it consistent with other facts which have been ascertained and proved?



If the confessional statement passes the above tests satisfactorily, a conviction founded on it would invariably be upheld unless other grounds of objection exist. But if the confessional statement fails these tests, no conviction can properly be founded on it. See *SHAZALI v STATE supra, IKPO v STATE (2016) LPELR-40114 (SC), ACHABUA v STATE (1976) NSCC 74* and *GABRIEL v STATE [2010] 6 NWLR (PT. 1190) 280 at 290H.*

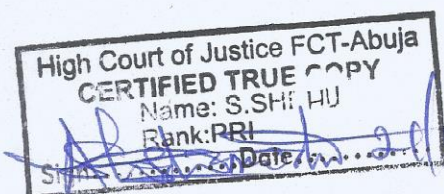
In the case at hand, notwithstanding the 1st Defendant's retraction of Exh. P1 and his insistence that 'he did not tell the police anything', it is difficult in the extreme to accept that he did not make Exh. P1. There are several questions tugging vigorously at the back of my mind. For instance, how did the police come to have comprehensive details of the 1st Defendant's bio-data and background information such as his family name, village, tribe, local government of origin, when and through whom he came to Abuja, where he lives, etc. if he did not tell them anything? How could the police have known about Engr. Victor Dogson and Isa as his brother and friend respectively if the 1st Defendant did not make any statement to the Police as he would like this court to believe when neither Engr. Dogson nor Isa was arrested or invited by the police at all material times? These are questions begging for answers from the 1st Defendant. At any event, it would seem that the 1st Defendant conceded under cross examination by P. A. Ogele, Esq. of counsel for the Prosecution that he made the confessional statement in Exh. P1. I find the following exchange under cross examination on 26/10/16 quite instructive:

"Q: Do you know Engr. Victor Dogson?

A: Yes, I do.

Q: Do you also know one Isa?

A: Yes.



Q: Will you be surprised that Victor Dogson and Isa are mentioned in your statement?

A: I will not be surprised.

Q: You are not surprised because Victor is your brother and Isa is your friend, and you mentioned them in your statement?

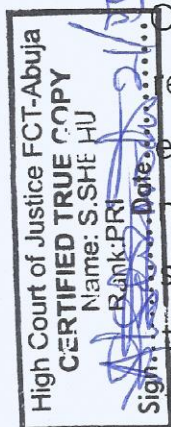
A: Yes."

The foregoing shows clearly that the 1st Defendant's disavowal of Exh. P1 on the ground that 'he did not tell the police anything' is hollow and a mere defiant gesture in the face of an inevitable outcome. His testimony under cross examination [as stated above] constitutes extraneous material that points to the truth of the confessional statement, even as the evidence of PW2 [who positively identified the 1st Defendant as the person he saw wielding a gun and standing outside Mrs Bamigbade's residence whilst others were operating inside] constitutes sufficient corroboration of the confessional statement in Exh. P1. Also, the confessional statement is not inconsistent with the fact that there was a robbery incident at Mrs Bamigbade's residence situate behind Hajj Camp, Gwagwalada on 6/9/13 as demonstrated by the testimonial evidence of PW1, PW2 and PW3 [Sgt. Musa Emmanuel who first received the 1st Defendant, the pump action gun [Exh. P4] and other recovered items at DCB, Gwagwalada on 6/9/13 before the case was subsequently transferred to SARS]. Again, there is nothing to suggest that the 1st Defendant did not have the opportunity to commit the crime as he did not raise any *alibi* alleging that he was not in Abuja when the robbery took place. I am therefore satisfied that the 1st Defendant's confession is quite possible and that he had the opportunity to commit the offence with which he is charged. I will

accordingly accord full weight and credence to the confessional statement in Exh. P1 as a relevant fact in relation to the 1st Defendant.

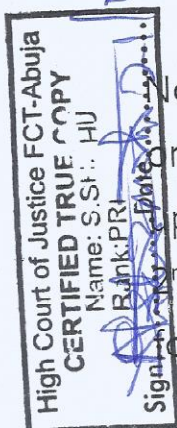
But as it relates to the 2nd and 3rd Defendants, it does not seem to me that the Prosecution adduced any direct or positive evidence pointing to their involvement or participation in the robbery incident of 6/9/13. Whilst the PW1 did not recognise any of the robbers, the PW2 equally recognised only the 1st Defendant but not the others. The extrajudicial statements of the 2nd and 3rd Defendants dated 13/9/13 [i.e. Exhs. P2 and P3] are also not confessional in nature. It was the 1st Defendant who stated in his extrajudicial statement dated 9/9/13 [Exh. P1] that a certain Yoruba man who was once a vigilante member in the area was the leader of his armed robbery gang; and that he sold the stolen laptop to the 3rd Defendant [also known as Lola Gurgu] for ₦20,000. The rather frenzied attempt by the learned prosecuting counsel to extract positive admissions from the 2nd and 3rd Defendants during cross examination was unsuccessful. The 2nd Defendant stood his ground that even though he hails from Kwara State and is a person of Yoruba origin, he is not an OPC member but a labourer and that Shadrach [1st Defendant] must be referring to a different Yoruba man, but not him. The 3rd Defendant equally stood his ground that although Lola and Gurgu are his nicknames and had met Shadrach [1st Defendant] previously when he sought to convert to Islam, they have not seen each other for more than three (3) years and there has been no exchange of items or any other transaction whatsoever between them since they met. Even the 1st Defendant denied having met the 2nd Defendant previously or selling any stolen items to the 3rd Defendant in his testimonial evidence.

It would seem therefore that aside from the 1st Defendant's extrajudicial statement, there is no other evidence pointing to the involvement of the



2nd and 3rd Defendants in the robbery incident of 6/9/13; and as the police did not recover any stolen items from them, there is also no circumstantial evidence linking them one way or another to the robbery. It is settled that a confessional statement of an accused person is potent only against him [See *s. 29(1) of the Evidence Act, 2011*] and cannot be used as evidence against his co-accused without any corroboration. See *STATE v ONYEUKWU [2004] 14 NWLR (PT. 893) 340*. This being so, to the extent that the 1st Defendant's extrajudicial statement in Exhibit P1 seeks to incriminate the 2nd and 3rd Defendants without any corroborative evidence, it goes to no issue and cannot be relied upon; and I cannot but find and hold that the Prosecution has failed to establish the offence of armed robbery against the 2nd and 3rd Defendants.

It is forcefully contended on behalf of the Prosecution that although, there is no express count of receiving stolen property against the 3rd Defendant, this court can go ahead to convict him for receiving stolen property, and that the 2nd Defendant can equally be convicted for criminal conspiracy and armed robbery based on the facts disclosed in the evidence of the Prosecution witnesses, citing *ss. 223 and 230 of the Administration of Criminal Justice Act (ACJA) 2015*.



Now, Part 23 of the ACJA 2015 regulates 'conviction when charged with one of several offences or of another offence. Sections 223 and 230, upon which the Prosecution has relied in urging the court to convict the 2nd and 3rd Defendants for offences not specifically charged, provide as follows:

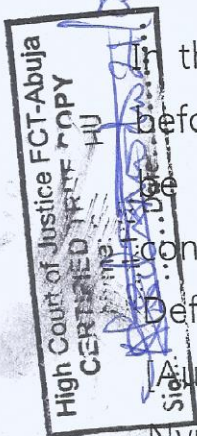
"223. Where a defendant is charged with one offence and it appears in evidence that he committed a similar offence with which he might have been charged under the provisions of this Act, he

may be convicted of the offence which he is shown to have committed although he was not charged with it."

"230. Where in the charge for burglary, housebreaking or related offence, the facts proved in evidence justify a conviction for some other offences and not the offence with which the defendant is charged, he may be convicted of the other offence and be punished as if he had been convicted on a charge or an information charging him with the offence."

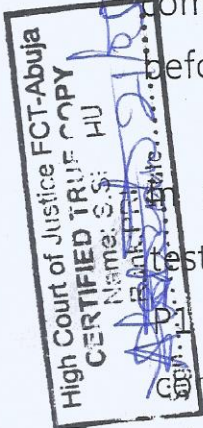
The above provisions are not necessarily an innovation in Nigerian criminal jurisprudence. Our courts have always been empowered to convict in appropriate cases for an offence(s) other than that with which a criminal defendant is specifically charged where the facts proved in evidence support a conviction for such other offence(s). In **BABALOLA v STATE [1989] NWLR (PT.115) 26**, the Supreme Court [per *Nnaemeka Agu, JSC*] held that "*where in the trial for offences mentioned in Chapter 37 of the Criminal Code, the facts proved in evidence support a conviction for an offence other than that with which the accused is charged, he may be found guilty of that other offence and punished accordingly*".

In the case at hand, it does not seem to me that the evidence adduced before me vindicates the contention that the 2nd and 3rd Defendants can be convicted for the offences of receiving stolen property and conspiracy to commit armed robbery. Aside from Exh. P1 wherein the 1st Defendant stated that he sold a stolen laptop to the 3rd Defendant [Aliwal Mohammed] for ₦20,000 and the testimony of PW5 [Celestine Nyigba] that the 1st Defendant led them to the residence of the 3rd Defendant and pointed at the 3rd Defendant as the person to whom he sold the laptop, there is no other independent piece of evidence showing that the 3rd Defendant received any laptop from the 1st



Defendant as alleged or at all. More crucially, no laptop was recovered when the 1st Defendant led the police to the 3rd Defendant's residence. There is therefore no evidential basis for urging me to convict the 3rd Defendant for receiving stolen property.

Also, none of the Prosecution witnesses positively identified the 2nd Defendant as one of the robbers who robbed Mrs Bamigbade [PW1] of money and other valuables on 6/9/13, and the 2nd Defendant did not make any confessional statement. Crucially, in his testimonial evidence which was not shaken or discredited under cross examination, the 2nd Defendant denied being present at Mrs. Yemisi Bamigbade's house, or participating in any robbery, or knowing *Victor Olabisi* [PW2], or ever being an OPC man or member of Vigilante Group; and insisted that even though he hails from Kwara State and is Yoruba by tribe, Shadrach [1st Defendant] must be referring to a different Yoruba man other than himself. Quite clearly therefore, the evidence adduced by the Prosecution does not disclose any agreement or meeting of minds between the 2nd Defendant and any other person(s) in furtherance of an unlawful enterprise or purpose, and a conviction for conspiracy to commit armed robbery cannot be sustained on the evidence adduced before me.



In the ultimate analysis, it seems to me that on the basis of the testimonial evidence of the PW2 [which is direct and positive] and Exh. [being the 1st Defendant's extrajudicial statement which is confessional in nature], the Prosecution has established the guilt of the 1st Defendant [Shadrach Clement Salisu] beyond reasonable doubt and I hereby find him guilty of the offence of armed robbery as charged. I equally find and hold that the Prosecution did not succeed in demonstrating the guilt of the 2nd Defendant [Wisdom Sunday] and the

3rd Defendant [Auwal Mohammed], and the duo are accordingly discharged and acquitted.

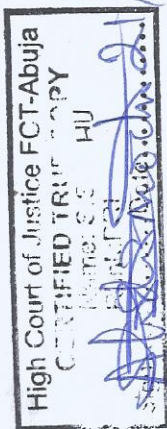


PETER O. AFFEN

Honourable Judge

ALLOCUTUS:

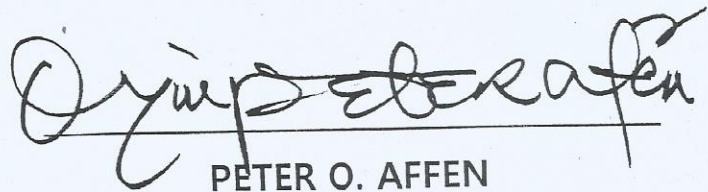
G. E. Adole: My Lord, we hereby enter a plea of allocutus on behalf of the 1st Defendant, Shadrach Clement Salisu, who has just been convicted, considering his position in life and age. All through his trial, I had to pick up the case and defend him *pro bono* because none of his relatives came to his rescue or aid. There is no record of any previous conviction and being a first-time offender, we urge the court to temper justice with mercy. May it please my Lord.



COURT: I have listened carefully and attentively to the plea of *allocutus* passionately delivered by G. E. Adole, Esq. of counsel on behalf of the 1st Defendant, Shadrach Clement Salisu who has just been found guilty and convicted of the offence of armed robbery. By *s. 1(2)(a)* of the **Robbery & Firearms (Special Provisions) Act** (hereinafter "the Act"), conviction for armed robbery attracts the ultimate penalty, which is death. The Act leaves no room whatsoever for

discretion on the part of the judex. As it were, my hands are effectively tied by the mandatory provisions of *s.1(2)(a)* of the Act under which the 1st Defendant is charged and eventually convicted, and all this court is obligated to do in the circumstance is merely to pronounce the prescribed punishment. Nothing more, nothing less, nothing else!

This being so, the sentence of this court is that: **You, Shadrach Clement Salisu be hanged by the neck until you be dead, and may God have mercy on your soul.**



PETER O. AFFEN

Honourable Judge

Counsel:

P. A. Ogele, Esq. for the Prosecution.

G. E. Adole, Esq. for the Defendants.

High Court of Justice FCT-Abuja
CERTIFIED TRUE COPY
Name: S.S.H. HJ
Rank: PRI
Date: 21/5/18
Signature: [Handwritten Signature]