

IN THE HIGH COURT OF ANAMBRA STATE OF NIGERIA
IN THE HIGH COURT OF AWKA JUDICIAL DIVISION
HOLDEN AT AWKA
BEFORE HIS LORDSHIP HON. JUSTICE D.A. ONYEFULU
ON MONDAY THE 29TH DAY OF OCTOBER, 2018

A/50^C/2016

BETWEEN:

THE STATE
AND
CHINEDU AGUMADU

RULING ON A NO CASE SUBMISSION

The defendant through his counsel A.I. Agbogu Esq filed a No case submission on 13/6/18 on the grounds that there was no legally admissible evidence proffered by the prosecution linking the defendant to the charge, also that the evidence led by the prosecution has been so discredited in cross examination that it is unreliable, citing the case of SUBERU v STATE (2010) 41 NSCQR 1187 among a host of cases. In adopting his address on 30/7/2018, he urged the court to uphold same and discharge and acquit the defendant.

In opposition, the learned Senior State Counsel C.J. Nwajagu Esq adopted his own address filed on 4/7/18 urging the court to refuse same.

I have read both addresses intently and I hold without a waste of time that learned defence counsel extensively dwelt in his address that the prosecution failed to prove their case. This is premature at this stage for what this court is expected at this time to do is to see if a prima facie has been made out by the prosecution. The Supreme Court in the case of **KALU v FRN** (2016) LPELR – 40108 (SC) per Ngwuta JSC states that prima facie case simply means that there are grounds of proceeding with the information and not that the guilt of the defendant has been made out.

This is the Ruling on a no case submission delivered by Hon. Justice D.A. Onyefulu on 29/10/2018


Page 1

The Constitution has given the defendant or anyone charged with a criminal offence presumption of innocence, see Section 36(5) of the Constitution of the Federal Republic of Nigeria 1999 as amended.

I have had a look at the instances provided in the address of learned defence counsel and the reply of the prosecution and I hold that the prosecution made out a prima facie case against the defendant. This court cannot at this time evaluate the evidence as learned defence counsel seeks in his address as all evidence is not before the court.

I shall therefore refuse this no case submission and order the defendant to state his own side of the story. This is the justice of this matter and in refusing this no case submission I rely on the case of **OGUNWALE v STATE** (2013) LPELR – 20281 (CA), as I do not also agree that the evidence of the prosecution witnesses have been so manifestly discredited that it is unreliable. There is prima facie evidence set out against the defendant that requires his answers.



D.A. ONYEFULU

JUDGE

29/10/2018

APPEARANCES:

C.J. NWAJAGU ESQ (Senior State Counsel) with C.J. ONYISHI ESQ (State Counsel) for the Prosecution.

A.I. AGBOGU ESQ for the Defendant.