

SUIT NO.FHC/AWK/49C/13

FEDERAL REPUBLIC OF NIGERIA :::: **PLAINTIFF**

MICHAEL EMEKA EKWUNIFE :::: **DEFENDANT**

However on 21/4/17, the Counsel to the Defendant filed this application seeking for an adjournment of this matter to 3/7/2017 or any other date as they have filed an appeal at the Court of Appeal to allow the said

court deliver judgement in the appeal against the Ruling of this court on the Defendant/Applicants' No case submission.

In support is a 10 paragraphs Affidavit deposed to by the Defendant/Applicant himself and there is a written address where a sole issue for determination was raised, to wit: whether the Applicant has placed sufficient materials before this court to warrant the court granting the application as prayed. The Counsel cited the case of

AGU vs COP (2017) 2 NWLR (pt. 1549),

ODOGWU vs ODOGWU (1990) 4 NWLR pt 143) 224 to buttress his arguments. He urged the court to grant the application.

In reaction, the Prosecution cited section 306 of the Administration Criminal Justice Act 2015 which prohibits this type of application and section 40 of the EFCC Act which deals with interlocutory applications during appeals. He also cited the case of **ADEYINKA AJIBOYE vs FRN**, Suit No: CA/1L/C21/2012 and the **CASE OF ALAMIE SEGHA vs FRN** (2016) 16 NWLR to buttress his arguments. The Prosecution further submitted that paragraphs 4 – 8 of the Applicant/Defendant's Affidavit contravened section 115 of the Evidence Act as they contained legal arguments and conclusions.

JUDGE
FEDERAL HIGH COURT
KIRILLOV

He urged the court to strike them out and refuse the application. These are the submissions of Counsels to the both parties.

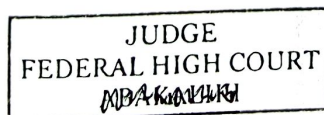
The issue for determination is whether this application has merit or not.

I have carefully considered the application and all the submissions of Counsels and found that paragraphs 4 to 8 of the Applicant's Affidavit do not contain conclusions and legal arguments. They are in order.

However, section 306 of the Administration of Criminal Justice Act 2015 provides as follows- **"An Application for stay of proceedings in respect of a criminal matter before the court shall not be entertained"**.

Based on the above, I have to agree with the submissions of the Prosecution as the intention of this application is to stay further proceedings pending the outcome of the Judgement of the Court of Appeal on interlocutory application i.e. No case submission.

In view of that, this application is hereby refused as it is one of the delay techniques employed by counsels which the courts frowns at. This is my decision.



M. L. ABUBAKAR
JUDGE
22/5/17