

IN THE COURT OF APPEAL
KADUNA JUDICIAL DIVISION
HOLDEN AT KADUNA
ON WEDNESDAY THE 26TH DAY OF FEBRUARY, 2020
BEFORE THEIR LORDSHIPS

O.O. DANIEL- KALIO
O.A. ADEFOPE-OKOJIE
JAMES GAMBO ABUNDAGA

JUSTICE, COURT OF APPEAL
JUSTICE, COURT OF APPEAL
JUSTICE, COURT OF APPEAL

CA/K/560/CM/2019

BETWEEN

IBRAHIM SHEKARAU

.....

APPELLANT

AND

FEDERAL REPUBLIC OF NIGERIA

.....

RESPONDENT

RULING

(DELIVERED BY OBIETONBARA DANIEL-KALIO, JCA)

On 20/1/2020 the appellant/applicant filed a motion on notice that sought the following:

- i. An order extending time within which the defendant/applicant may seek leave***

to appeal against the ruling/order of the Federal High Court, Kano Judicial Division delivered on the 23rd day of September, 2019 in Charge No. FHC/KN/CR/56/2018: FRN V. IBRAHIM SHEKARAU & 2 ORS.

ii. An order granting leave to the applicant to appeal against the ruling of the Federal High Court, Kano Judicial Division delivered on the 23rd day of September, 2019 in Charge No. FHC/KN/CR/56/2018: FRN V. IBRAHIM SHEKARAU & 2 ORS.

iii. An order extending the time within which the defendant / applicant may appeal against the ruling/order of the Federal High Court, Kano Judicial Division delivered on the 23rd day of September, 2019 in Charge No. FHC/KN/CR/56/2018: FRN V. IBRAHIM SHEKARAU & 2 ORS.

- iv. An order departing from the Rules of the Hon. Court by deeming the record of appeal already compiled and transmitted to this Hon. Court as properly compiled, transmitted and served on the Respondent, appropriate fees having been paid.*
- v. An Oder departing from the Rules of this Hon. Court by deeming the Notice of Appeal filed on 07/10/2019 contained in the record of appeal aforesaid and the appellant's written address separately filed on 24/10/2019 as properly filed and served on the Respondent, appropriate filing fees having been paid.*

In moving the motion on notice, J. S. Okutepa, SAN withdrew the address attached to the motion on notice and restricted himself to urging the court in respect of reliefs 3 and 4 since J.A. Ojugbane, Esq. for the respondent indicted that he had no objection to reliefs 1, 2, and 3 in the motion on notice. With regard to reliefs 4 and 5, the learned SAN submitted that this

Court can depart from its Rules and deem the record of appeal and the Notice of Appeal as properly filed and served. He cited the provision of Order 21 rule 2 of the Rules of the Court of Appeal, 2016 and relied on **ERISI V. IDIOMATIC (1987) 4 NWLR Part 66 p.503; SOUTH ATLANTIC PETROLEUM LTD V. HON. MINISTER OF PETROLEUM RESOURCES (2018) 6 NWLR Part 1616 p. 391; TSOKWA OIL MARKETING LTD V. BANK OF THE NORTH (2000) 11 NWLR Part 777p. 163; AND NABORE PROPERTIES LTD V. PEACE-COVER (NIG) LTD & ORS (2014) LPELR-22585 (CA) p.45-46**. He prayed the Court to grant prayers 4 and 5 in the motion on notice, also considering that the appeal is a fast track one.

In opposing the motion on notice, J.A. Ojugbane, Esq. relied on the respondent's counter-affidavit filed on 3/2/2020 and further relied on Section 242 (1) of the 1999 Constitution of the Federal Republic of Nigeria, as amended. Learned Counsel contended that this Court cannot deem the Notice of Appeal as properly filed and served. He cited **GARUBA & ORS V. OMOKHODION & ORS (2011) LPELR-1309 (SC); Military ADMINISTRATOR BENUE STATE V. ULEGEDE (2001) FWLR Part 78 p. 1268**.

As earlier indicated, the respondent's learned Counsel indicated that he was not opposing reliefs 1, 2 and 3. That being the case, those reliefs are granted. With the granting of those reliefs, an objection to reliefs 4 and 5 becomes unnecessary. Ordinarily, where the trinity prayers are granted, the applicant proceeds to file his Notice of Appeal at the trial court, within the time ordered by the Court of Appeal and same is transmitted to the Court of Appeal in the Record of Appeal. In this case, it is evident that the appellant transmitted the record of appeal and also filed a Notice of Appeal before he realized that he had not sought the trinity prayers first. He had indeed even filed his brief of Argument. The purpose of prayers 4 and 5 is to regularize the Record of Appeal, the Notice of Appeal and the Appellant's Brief of Argument. The applicant has urged us to depart from the Court of Appeal Rules in order to regularize the appeal. It is proper to do so in this case. This is more so when it is noted that the matter at the trial court is about money laundering. The Court of Appeal (Fast-Track) Practice Directions, 2014 has Money Laundering listed as a fast-track appeal. The fundamental objective of the Fast-Track Practice Directions as stated in Section 3 of the Practice Directions is to enable the Court of Appeal deal with fast-track appeals quickly and efficiently. The Court of

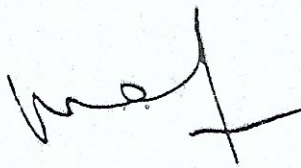
Appeal is enjoined in subsection (b) (iv) of Section 3 of the said Practice Directions to give effect to the stated objective of the Fast-Track Directions when exercising a discretion. I think this is a case where it is eminently necessary in consonance with the Fast-Track Directions to exercise the court's discretion in favor of granting prayers 4 and 5. Accordingly, all the prayers sought in the motion on notice are hereby granted. To be specific-

- 1. Time is extended within which the applicant may seek leave to appeal against the ruling/order of the Federal High Court, Kano Judicial Division delivered on the 23rd day of September, 2019 in charge No. FHC/KN/CR/56/2018: FRN V. IBRAHIM SHEKARAU & 2ORS;***
- 2. Leave is granted to the applicant to appeal against the said ruling/order of the said Court on the said day in the said charge number.***
- 3. Extension of time is granted to the applicant within which to appeal against***

the said ruling/ order of the said Court on the said day in the said charge number.

- 4. The record of appeal transmitted to this Court on 16/10/19 is deemed compiled, transmitted and filed today.*
- 5. The Notice of Appeal filed on 7/10/2019 is deemed filed and served today.*
- 6. The appellant's written address filed on 24/10/2019 is deemed filed and served today.*

This Ruling applies mutatis onutandis to Appeal No. CA/K/558/CM/2019 and Appeal No. CA/559/CM/2010.



OBIETONBARA O. DANIEL-KALIO
JUSTICE, COURT OF APPEAL

COUNSEL

D. S. ABDULRAHAMAN ESQ

APPELLANT

NASIRU SALE ESQ

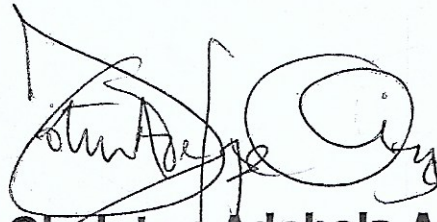
RESPONDENT

CA/K/560/CM/2019

RULING

(DELIVERED BY OLUDOTUN A. ADEFOPE-OKOJIE, JCA)

I have had a preview of the Ruling of my learned brother **Obietonbara Daniel-Kalio JCA**. I am in agreement with the decision and also grant the prayer sought by the Applicant as set out by my learned brother.

A handwritten signature in black ink, appearing to read 'Oludotun Adebo', written over a circular stamp or seal.

**Oludotun Adebola Adefope-Okojie
Justice, Court of Appeal.**

APPEAL NO: CA/K./560/CM/2019

RULING

I have read the draft of the ruling delivered by my learned brother, Obietonbara Daniel – Kalio, JCA.

I agree with the reasoning and conclusion reached in the ruling. The application is hereby granted. This ruling applies to appeal Numbers:

CA/K558/CM/2019 and CA/K/559/CM/2010



**JAMES GAMBO ABUNDAGA,
JCA**