

IN THE FEDERAL HIGH COURT OF NIGERIA  
IN THE SOKOTO JUDICIAL DIVISION  
HOLDEN AT SOKOTO  
ON THURSDAY THE 30<sup>TH</sup> DAY OF JUNE, 2022  
BEFORE HIS LORDSHIP  
HON. JUSTICE J.K. OMOTOSHO  
JUDGE

CHARGE NO.FHC/ S/11C/2022

BETWEEN

THE FEDERAL REPUBLIC OF NIGERIA --- COMPLAINANT

AND

UMMARU YABO ----- DEFENDANTS

(TRADING UNDER THE NAME

AND STYLE OF DARAJA 2 MOTORS)

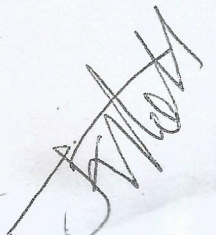
JUDGMENT

By a one count Amended Charge, the Defendant was arraigned before this Court on a charge of contravening sections 3, 5 (1) (2) (3) (4) and (5) of the Money Laundering (Prohibition) Act, 2011 (as amended) in 2012 by failing to submit a declaration of activities to wit: requirements of Customer identification and the submission of returns on transaction to the Special Control Unit against Money Laundering thereby committing an offence punishable under section 5 (6) (a) of the Money Laundering (Prohibition) Act, 2011 (as amended) in 2012.

In discharging its burden of proving the charge beyond reasonable doubt, the Prosecution called the one witness:

Ahmadu Bello

PW1



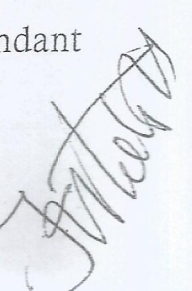
The following exhibits were admitted in evidence:

1. A copy of a letter dated 6/12/2016 addressed to Daraja Motors  
- Exhibit A
2. A copy of a letter titled "Re: inspection visit to your organization dated  
15/11/2017 - Exhibit B
3. Two receipt booklets of Daraja Motors Enterprises  
- Exhibit C – C1
4. Minutes of meeting on examination of Daraja Motors, Kano Road,  
Sokoto - Exhibit D
5. Statement of the 1<sup>st</sup> Defendant dated 16/12/2021  
- Exhibit E

PW1, Ahmadu Bello is an investigator with the Economic and Financial Crimes Commission in charge of non-compliance of non financial institutions.

According to him, sometime in 2016, a team of officers visited the premises of the Defendant where the Defendant was identified as non-financial institution being a car dealer. PW1 said the Defendant was served with a letter to show its identity as non financial institution and the notification was duly acknowledged.

Sometime in 2021, PW1 stated that a team of compliance and enforcement officers went to the premises of the Defendant to examine their records of transactions which has to do with the duplicate receipts issued to their customers after transactions. The receipt booklet was recovered and analysed and evidence of transactions in excess of reportable threshold to the EFCC were identified and at the end of the exercise, examination report was written and submitted. PW1 said they then sent a letter of invitation to the Defendant



to report at their office in Sokoto. On the 16<sup>th</sup> of December, 2021, the Defendant reported with his counsel and his statement was taken under caution.

Under cross examination, PW1 stated that Exhibit A is addressed to Daraja Motors while Exhibits B, D are not addressed to Daraja Motors. That Exhibit C is Daraja Motors Enterprises, Exhibit C1 is Daraja Motors Enterprises. He stated that the documents were recovered from the Defendant and that three instances of non-compliance were identified in Daraja Motors (Exhibit C1).

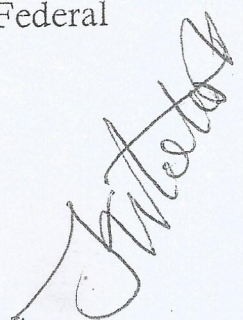
The Defence adopted the evidence of the Prosecution.

Counsel to the Defence, in his written address dated 30<sup>th</sup> April, 2022 but filed 10<sup>th</sup> May, 2022 formulated three issues for determination thus:

1. Whether Ummaru Yabo is a non-financial institution.
2. What is the requirement of section 5 of the Money Laundering (Prohibition) Act 2011 i.e what is the offence/what act must be done by the Defendant that was not done?
3. Whether the Defendant could be convicted upon the evidence of the Prosecution.

Learned Counsel argued that the Defendant, Umaru Yabo is not a financial institution as the Blacks Law Dictionary defines it to be a business, organization or entity which manages money or capital. That an individual cannot be said to be a financial institution.

On issue two, learned Counsel submitted that the Defendant does not need to report to EFCC for any activity as the ministry he is to visit is the Federal



Ministry of Commerce and Industry. Thus the charge preferred against the Defendant is unknown to law.

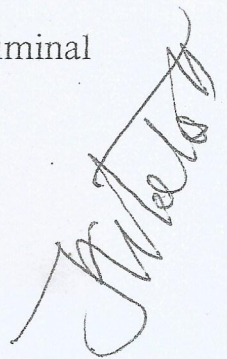
On issue three, learned Counsel submitted that in spite of the guilty plea of the Defendant that the Prosecution failed to establish the ingredients of the offence against the Defendant as no official of the Federal Ministry of Commerce testified against him and he has nothing to do with the EFCC. Counsel therefore urged the Court to discharge and acquit the Defendant.

The Court formulates one issue for determination thus:

**WHETHER IN THE CIRCUMSTANCES THE PROSECUTION HAS PROVED THE ONE COUNT CHARGE AGAINST THE DEFENDANT BEYOND REASONABLE DOUBT**

It is trite law that the burden of proof in criminal cases is settled and it rests on the Prosecution from start to finish in a criminal trial. It does not shift and the standard is proof beyond reasonable doubt. Kindly see **AKINLOLU V. STATE (2015)LPELR – 25986 (SC) Pages 19-21 Paras E-C; OSETOLA & ANOR. V. THE STATE (2012) LPELR – 9348 (SC) Pages 39-40 Paras E-A; OLADIMEJI KAYODE V. FEDERAL REPUBLIC OF NIGERIA (2014)LPELR – 24418 (CA) Pages 23-24 Paras F-G.**

It is not enough that because a Defendant has unequivocally pleaded guilty to the charge the Prosecution is then absolved of the duty placed on it by the law to prove the case beyond reasonable doubt. The Prosecution is still required to state the facts against the Defendant and the Court must be satisfied that the Defendant intends to admit all the facts alleged by the Prosecution against him before he can be convicted. See Section 274(1) Administration of Criminal



Justice Act, 2015. Kindly see JOSEPH DANIEL Vs. FEDERAL REPUBLIC OF NIGERIA (2015)LPELR – 24733 (SC). Page 22, Paras A-D.

In MABA VS THE STATE (2020) LPELR-52017 (SC), the apex Court held thus:

*“The burden placed on the prosecution in a criminal charge is a heavy one. It must establish the guilt of the accused beyond reasonable doubt. See ...Section 135 of the Evidence Act, 2011. It was held in Nwaturuocha v. State (2011) 6 NWLR (Pt.1242) 170 at 193 D-E, (2011) LPELR-SC 197/2010 that: Proof beyond reasonable doubt does not mean proof beyond all doubt or all shadow of doubt. It simply means establishing the guilt of the accused person with compelling and conclusive evidence, a degree of compulsion which is consistent with a high degree of probability. at 186 E-G (supra): It is not proof beyond all iota of doubt. One thing certain is that where all the essential ingredients of the offence charged have been proved or established by the prosecution...the charge is proved beyond reasonable doubt. Proof beyond reasonable doubt should not be stretched beyond reasonable limit.”*

The Defendant is charged under Section 5 of the Money Laundering (Prohibition) Act, 2011 (as amended) 2012 which provides:

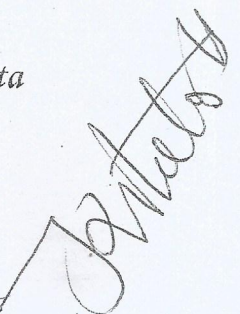
*5—(1) A designated non-financial business and profession whose business involves cash transaction shall—*

*(a) in the case of—*

*(i) a new business, before commencement of the business ; and*

*(ii) an existing business, within 3 months from the commencement of this Act, submit to the Ministry, a declaration of its activities ;*

*(b) Prior to any transaction involving a sum exceeding US\$1,000 or its equivalent, identify the customer by requiring him to fill a standard data*



*form and present his international passport, driving license, national identity card or such other document bearing his photograph as may be prescribed by the Ministry; and*

*(c) Record all transaction under this section in chronological order, indicating each customer's surname, forenames and address in a registered number and forwarded to the Ministry.*

*(2) The Ministry shall forward the information received pursuant subsection (1) of this section to the Commission within 7 days of its receipts.*

*(3) A register kept under subsection (1) shall be preserved for at least 5 years after the last transaction recorded in the register.*

*(4) The Minister may make regulations for guiding the operations of Designated Non-Financial Institutions under this Section.*

*(5) Notwithstanding the provisions of subsection (2) of this Section, the Commission shall have powers to demand and receive reports from Designated Non-Financial Institutions.*

*(6) A designated non-financial business that fails to comply with the requirements of customer identification and the submission of returns on such transaction as specified in this Act within 7 days from the date of such transaction commits an offence and is liable to-*

*(a) a fine of N250,000 for each day during which the offence continues ; and*

*(b) suspension, revocation or withdrawal of license by the appropriate licensing authority as the circumstances may demand.*

The purport of these provisions is to mandate financial and non designated financial institutions to keep records of customers and the transactions made.

The ingredients of the offence are:

1. The Defendant must be a designated non-financial institution.
2. The business of the Defendant must involve cash.

*Idris S-A*

3. The Defendant must have failed to register his business with the Ministry of Trade and Investment.
4. The Defendant must have been involved in transactions exceeding \$1000 or its equivalent without customer identification.
5. The Defendant must have failed to record transactions and the details of customers in accordance with the law.

The evidence led by the Prosecution on the first ingredient is that the Defendant is a designated non-financial institution. Section 25 of the Money Laundering (Prohibition) Act 2011 (as amended) 2012 the Act defines Designated Non-Financial Institution to mean:

*“Dealers in jewellery, cars and luxury goods chartered accounts, audits firms, tax consultants, clearing and settlement companies, legal practitioners, hotels, casinos, supermarkets and other business as the Federal Ministry of Industry, Trade and Investment or appropriate regulatory authorities may from time to time designate”*

The Defendant has been shown to be a dealer in cars trading under the name and style of Daraja 2 motors. The argument by Defence Counsel that the Defendant is a natural person and not an artificial person to be caught under this definition holds no water in the light of section 25 of the Act. The interpretation section purposely covered natural persons as if it were not so, it would have defined Designated Non-Financial Institution to be a firm dealing in jewellery, cars etc. The literal rule which is a canon of interpretation in Nigeria is to the effect that laws should be given their ordinary meaning as much as possible. In **OUR LINE LTD V. S.C.C (NIG ) LTD (2009) LPELR 2833 SC**, the Supreme court stated that:

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*"The literal rule is that in construing a written instruments, the grammatical and ordinary sense of the words should be adhered to unless that would lead to some absurdity or some inconsistency with the rest of the instrument."*

Kindly see also GANA VS. SDP & ORS (2019) LPELR-47153 (SC); ABEGUNDE VS. ONDO STATE HOUSE OF ASSEMBLY & ORS (2015) 8 NWLR (PT. 1461) 314; PDP VS. INEC & ORS (2014) 9 SC 141.

There is no ambiguity in the meaning of designated non-financial institution consequently, the first element of the offence is resolved in favour of the Prosecution.

On the second to fifth elements of the offence, the evidence of PW1 showed that the Defendant is a car dealer and the statement of the Defendant admitted in evidence without objection shows that the business of the Defendant involved receiving money in cash. The Defendant in the statement thus:

*"We accept cash deposit payments and transfer. I am not aware that I have to report to SCUML when I receive 5 Million Naira and above from individuals and 10 million and above from corporate entities. I am not aware of the fact that I will on monthly basis I am supposed to report to the Special Control Unit Against Money Laundering"*

In the statement, the Defendant stated that he did not register with the SCUML because he was sick and he also went ahead to mention the other transactions in Millions of Naira carried out by the business in selling cars to individuals.

The statement of the Defendant clearly established that transactions had been carried out by cash without going through a financial institution. The cash transactions were also carried out without taking down the details of the

*M. A. O.*



customers or informing the Commission of transactions above \$1000 or its equivalent.

The law is well established, that in criminal trial, proof of commission of a crime by an accused person can be established in any of the following ways or methods, namely:-

1. Through the testimony of an eyewitness or witnesses who witnessed the act of the commission of the offence, by the accused person; or
2. By confessional statement made voluntarily by the person accused of the commission of the offence, or
3. By circumstantial evidence.

Kindly see OMOREGIE V. THE STATE: LOR(2/6/2017); BELLO OKASHETU V THE STATE (2016) LPELR -40611 (SC), STEPHEN V THE STATE (2013) 8 NWLR (PT.1355) 153, OGUONZEE V THE STATE (1998) 5 NWLR (PT.551) 521, AKWUOBI V THE STATE (2017) 2 NWLR (PT.1556) 421.

A confessional statement has been held to the best evidence against an accused person as it is essentially the Defendant implicating himself.

Section 28 of the Evidence Act, 2011 defines a confession as "*an admission made at any time by a person charged with a crime, stating or suggesting the inference that he committed the crime*".

Section 29 (1) and (2) of the Act provides inter-alia that a confession is relevant and admissible in evidence so long as it is voluntarily made and not as a result of threat or inducement. Where a Court is satisfied that a confession was freely and voluntarily made and that it is direct, positive

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and unequivocal as to the Defendant's participation in the crime alleged, it may rely solely on the confession to ground a conviction. Kindly see **ADEYEMI VS STATE (2014) 13 NWLR (PT 1423) 132; OMOJU VS FEDERAL REPUBLIC OF NIGERIA (2008) 2 SCN 164 AT 177.**

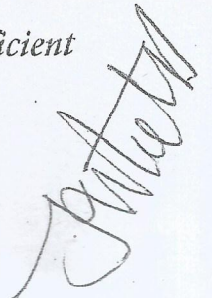
In relying on a confessional statement, it must pass these further tests viz:

- (i) Whether there is anything outside the confessional statement to show that it is true.
- (ii) Whether the facts stated in the confessional statement is consistent with other facts which have been ascertained and proved.
- (iii) Whether it is corroborated.
- (iv) Whether the Defendant had the opportunity of committing the offence?
- (v) Whether the confession is possible?
- (vi) Whether the facts stated therein are true as far as can be tested?

**GOLDEN BIEBE V. THE STATE (2007)1 ALL FWLR (part 362)83 at 114- 113. OLAYINKA V. STATE (2007)85 SCM (part 2)347**

In **NWEZE V. THE STATE: LOR(5/5/2017)** the Supreme Court of Nigeria held:

*"Suffice it, however, to observe that the logic of the reasoning in all cases this point is that a free and voluntary confession of guilt, whether judicial or extrajudicial, if it direct and positive and properly established, is sufficient*



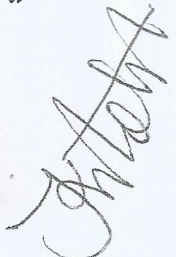
*proof of guilt. In effect, it is enough to sustain a conviction so long as the Court is satisfied with the truth thereof (that is, the truth of the confession), Adebayo v. The State (2014) LPELR-22988 (SC) 40-41; Akpan v. State (2001) 11 SCM 66; [2001] 15 NWLR (Pt. 737) 745; (2001) 7 SC (Pt. 1) 124; Nwachukwu v. State (2002) 12 SCM 143"*

The Defendant also mentioned in his statement that the business was not registered with the Special Control Unit Against Money Laundering. The statement of the Defendant establishes his liability to the charge as he did not comply with the Money Laundering (Prohibition) Act regarding a cash business such as his own. PW1 in his evidence in chief also said that inspection visit was made to the premises of the Defendant to verify if it was registered but it was not. They also notified the Defendant of this fact and were lenient with him for about 5 years since 2017 when they paid him the first visit. The evidence of PW1 was not challenged by the Defence and same is deemed admitted against the Defendant.

The statement of the Defendant that he did not know that he ought to register the business holds no weight. Firstly, ignorance of the law is not an excuse under our criminal laws. This principle of law is expressed in the latin maxim *ignorantia legis non excusat* which has been codified in section 22 of the Criminal Code. The principle is to the effect that ignorance of a law will not be a good defence except knowledge is a crucial element of such offence.

The Supreme Court in **THE STATE v. SQUADRON LEADER S.I OLATUNJI (2003) LPELR- 3227 (SC)** held:

*"It is an established principle of criminal law that, an honest and reasonable belief in the existence of circumstances, which if true, would make the act for which the accused is charged an innocent act, has always been held to be a*



*good defense. This is because of the state of his or her mind at the time of the commission or omission of the act which must not be only honest but must also be reasonable in the circumstances."*

In OSAREMWINDOW AIGUOKHIAN V. THE STATE (2004) LPELR-269 (SC). Pats-Acholonu JSC (as he then was) held thus:

*"It is the law that where an accused acted under an honest and reasonable belief in a given state of situation which if true would have justified the act, he may set up such a credible defense..."*

Secondly, the PW1 and his team paid the business a visit and explained their mission to the Defendant yet, he failed to carry out the directive of registering the business. I find it unconscionable that a person who was warned severally and given ample opportunity to correct his wrong would turn around to say he did not know. The Defendant was only being mischievous and this Court will not be deceived by such.

The argument that the Prosecution failed to show that the Defendant did not register with the Ministry of Trade and Investment will not fly as the Act also vests powers to demand and investigate on the Economic and Financial Crimes Commission. Section 5 (5) of the Money Laundering (Prohibition) Act 2011 (as amended) 2012 provides:

*"Notwithstanding the provisions of subsection (2) of this section, the Commission shall have powers to demand and receive reports directly from Designated Non-Financial Institutions."*

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SENIOR REGISTRAR  
FEDERAL HIGH COURT  
DATE 13-02-23

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The import of this section is to vest the Commission with the powers of the Ministry to demand and receive reports. In addition, the Commission is the body vested with the Prosecutorial powers to try offending parties.

Confessional statements can be relied on solely by a court to convict a Defendant if the confessions are direct and positive. In the case of **ADOGA v. FRN (2019) LPELR-46931(CA)** it was clearly stated as follows;

*“Where a Court is satisfied that a confessional statement was made voluntarily and it is clear, positive and unequivocal as to the accused person’s participation in a crime, it is sufficient without more to ground a conviction. It is trite that, an accused person can be convicted on his confessional statement if properly proved and circumstances make it probable. In criminal procedure, such confessional statement, like admission in civil procedure, is the best and strongest evidence of guilt on the part of an accused person. Indeed stronger than the evidence of eye witness.”*

Kindly see also **ADEBAYO OJO VS THE STATE (2018) LPELR 44699 (SC); RABI ISMAIL VS THE STATE (2011) LPELR-9350 (SC)**

In final analysis, the statement of the Defendant together with the evidence of PW1 has established the offence against the Defendant beyond reasonable doubt. Consequently, the Defendant is hereby convicted as charged.

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FEDERAL HIGH COURT KOTI  
DATE 1-3-2022 *me*

  
J.K. OMOTOSHO  
Judge  
30/6/2022

Appearances:

S.H. Sa’ad Esq

Nosakhare Uwadiae

For the Prosecution

For the Defendants