

IN THE HIGH COURT OF JUSTICE  
EDO STATE OF NIGERIA  
IN THE BENIN JUDICIAL DIVISION  
HOLDEN AT BENIN CITY  
BEFORE HIS LORDSHIP THE HONOURABLE JUSTICE EFE IKPONMWONBA – JUDGE  
ON THE 1<sup>ST</sup> DAY OF DECEMBER, 2022

BETWEEN:

SUIT NO. B/CD/EFCC/1/22

The Federal republic of Nigeria

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Complainant

Vs.

Prince Emmanuel Dennis (a.k.a Brad Pitt)

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Defendant

**RULING**

On 4-8-22, Pw2 in the main trial was giving evidence and sought tender the Defendant's statement. Learned Counsel to the Defendant objected to the admission of the statement on the ground of involuntariness.

In view of the objection, the court directed that a trial within trial be conducted. In proof of its case the prosecution called one witness.

Pw1 is Hassan Abdullahi Magaji, an EFCC operative. His testimony is that after the arrest of the Defendant, he was brought to the Advance Fee Fraud Section of the Commission, a general section consisting of three teams and nine operatives. He described the office as spacious and fully air-conditioned. He said after discovering fraudulent documents from the Defendant's mobile device, it was shown to him and he confirmed it and was asked if he could reduce it to writing which he did. He then administered words of caution which he read over to the



defendant. He said he asked the defendant if he would make the statement in the presence of a lawyer or a family member but he declined because he did not want anybody to know about the matter.

After taking the statement, he read it over to him and both the defendant and his team member, one Tijani signed. He was later granted bail but could not perfect it and was detained. PW1 insisted that the statement was made voluntarily as the Defendant was not beaten, coerced, forced or induced to make the statement.

Under cross examination, he said he was not aware of any other statement before he obtained the statement. He denied that the Defendant wrote the cautionary words himself. He insisted that the Defendant did not want to make the statement in the presence of anyone because he did not want his mother to be aware about the case but said it was not stated in his statement. He denied dictating answers to the Defendant insisting that the statement was voluntarily made by the Defendant. He insisted that the statement was taken the same day the Defendant was arrested and not three days after and agreed that the statement was not recorded electronically.

For the defence, the defendant testified for himself. He denied making the statement. His testimony is that on that fateful day when he was brought to the EFCC, Benin office, he was beaten mercilessly outside the office and electrocuted with wires before the PW1 took him to an office. He described the place as a dark



office where he was beaten by PW1. After the torture he was told that that he is being cautioned and would write the statement in the absence of his lawyer. He said he pleaded with PW1 to talk to his mother on phone and also to allow him see her but this was declined. He was told that he will never be released or released to anyone if he does not write the statement according to the way they want it written. Then he was given a biro to write but could hardly write due to a plastic surgery he did some time ago at the Military hospital which he explained to PW1. He was further threatened by hitting his hands with a ruler and was forced to write his details and all that PW1 dictated to him. He was then taken back to the cell but was brought back the following day to continue his statement which went on for three days. He said he was beaten while writing the statement and forced to sign.

Under cross examination, he maintained that he did not make the statement as it was being dictated to him. He insisted he had wounds after the torture but had no receipts to show. He stressed that the office has a pharmacist who used spirit and cotton wool on his hands. He further insisted that the office had a camera on that day. He agreed that he had seen the PW1 before in an event but denied that the statement was recorded freely as he was forced to sign it.

At the close of evidence, parties were directed to address the court. Counsel for the Defendant J.O Odii submitted that the Prosecution has failed to prove its case in the trial within trial beyond reasonable doubt. He further submitted that the



evidence led by the prosecution is contradictory and referred to the following cases **Daino V. FRN (2012) NWLR (Pt 1325) Pg. 129 at 138, State V. Oladotun (2011) Vol. 199 LRCN Pg. 6510, Charles V, FGN (2018) 13 NWLR (Pt 1635) Pg 50 at 54.** He urged court to reject the statement.

For the Prosecution F. O. Dibanj in response submitted that the Prosecution has proved its case beyond reasonable doubt and urged court to admit the statement in evidence.

The law at this stage requires Prosecution to prove the voluntariness of the statement for it to be admitted as exhibit.

In proof of the Prosecution's case, a witness was called who testified as to the recording of the Defendant's statement. He explained how the statement was obtained and the environment that existed and the fact that the Defendant was given the opportunity to write himself with or without the presence of a lawyer or a family member.

The Defendant on his part narrated how his statement was obtained but denied making the statement.

It is a settled law that when a confession is challenged on the ground that the Defendant never made the statement at all, as in this case, the issue is a matter to be decided when all facts are before the Court at the end of the case and should be admitted in evidence as Exhibit



A trial within trial is to determine the voluntariness or otherwise of a statement and not to decide whether or not the Defendant made the statement at all. This position of the law has been given credence to by **Section 27 & 28 of the Evidence Act.**

The evidence of the Defendant basically is that the contents of the statement are not his. That is, it was dictated to him to write. I find that this does not Ipso facto make the statement inadmissible. Since the Defendant did not say he made the statement under duress, the statement will be admitted as Exhibit. The weight to be attached to it will be determined at the end trial.

The objection is therefore overruled.

Statement is admitted and make Exhibit.



EFE IKPONMWONBA  
JUDGE