

IN THE HIGH COURT OF JUSTICE OF SOKOTO STATE
IN THE SOKOTO JUDICIAL DIVISION
HOLDEN AT SOKOTO
ON THE 9TH DAY OF FEBRUARY, 2023
BEFORE HIS LORDSHIP:

HON. JUSTICE MOHAMMED MOHAMMED (JUDGE)

SUIT NO. SS/145^C/2021

RECORD OF PROCEEDINGS

BETWEEN:

THE STATE-----COMPLAINANT

AND

1. UMMARU UMMARU

2. BELLO UMMARU----- DEFENDANTS

3. ABUBAKAR BASHIR UMMARU

Appearances:

Court to Registrar: Why is it that the defendants have not been produced and the prosecuting counsel is also not in court?

Registrar: The processes filed by the prosecution and the hearing notices have not been served to parties.

Court: In the circumstances, this matter is hereby adjourned to 1/3/2022 for further mention. Fresh hearing notice be served on all the parties.

Signed

**Hon. Justice Mohammed Mohammed
(Judge)**

9/2/2022

Court resumed today 1/3/2022

Appearances:

M.B. Abubakar Esq. for prosecution.

Kamal O. Fagbemi Esq. for the 1st defendant.

M.L. Maidoki Esq. holding the brief of Steve Emelieze Esq. for the 2nd and 3rd defendants.

M.B. Abubakar PSC: The defendants are before the court and speak Hausa language.

Court to Registrar: Affirm yourself to interpret the proceedings of this court from English language to Hausa and vice versa.

M.B. Abubakar Esq: The defendants were arraigned before this court for the offences of ***Criminal Conspiracy and Culpable Homicide*** punishable under Sections 60 and 191 of the Sokoto State Penal Code Law 2019. The case is for mention. Their plea has not been taken and we apply for the plea of the defendants to be taken.

K.O. Fagbemi Esq: We are ready.

M.L. Maidoki Esq: We are ready.

Court to Registrar: Read and explain the charges against the defendants.

Count 1

Court: Did you hear the charge that was read over and explained to you?

1st Defendant: Yes I heard.

2nd Defendant: Yes I heard.

3rd Defendant: Yes I heard.

Court: Did you understand the particulars of the charge?

1st Defendant: Yes I understand.

2nd Defendant: Yes I understand.

3rd Defendant: Yes I understand.

Court: Are you guilty or not guilty?

1st Defendant: I am not guilty.

2nd Defendant: I am not guilty.

3rd Defendant: I am not guilty.

Count 2

Court: Did you hear the charge that was read over and explained to you?

1st Defendant: Yes I heard.

2nd Defendant: Yes I heard.

3rd Defendant: Yes I heard.

Court: Did you understand the particulars of the charge?

1st Defendant: Yes I understand.

2nd Defendant: Yes I understand.

3rd Defendant: Yes I understand.

Court: Are you guilty or not guilty?

1st Defendant: I am not guilty.

2nd Defendant: I am not guilty.

3rd Defendant: I am not guilty.

M.B. Abubakar PSC: The defendants having pleaded not guilty to the two (2) counts charges, we apply for another date to call our witness. We intend to call 3 witnesses to prove our case against the defendants. We have agreed to the 7/3/2022 for hearing.

Court: This case is hereby adjourned to 7/3/2022 for hearing. Defendants be further remanded.

Signed

**Hon. Justice Mohammed Mohammed
(Judge)**

1/03/2022

Court resumed today 7/3/2022

Appearances:

Kamal O. Fagbemi Esq. for the 1st defendant.

M.L. Maidoki Esq. for the 2nd defendant.

Steve Emelieze Esq. for the 3rd defendant. The prosecuting counsel is not in court. The matter was adjourned to today for hearing.

Registrar: No any correspondence from the prosecuting counsel.

Steve Emelieze Esq: In the circumstances, we apply that the matter be adjourned to 29/3/2022 for hearing. We also apply that witness summons be issued against the witnesses and hearing notice to the prosecuting counsel.

Court: This matter is hereby adjourned to the 29/3/2022 for hearing. Witness summons be issued to the prosecution witnesses as appeared on the list of witnesses attached to the proofs of evidence. Fresh hearing notice be served on the prosecuting counsel. Defendants be further remanded.

Signed

**Hon. Justice Mohammed Mohammed
(Judge)
7/3/2022**

Court resumed today 29/3/2022

Appearances:

M.B. Abubakar Esq. PSC for the state.

Kamal O. Fagbemi Esq. for the 1st defendant.

M.L. Maidoki Esq. for the 2nd and 3rd defendants.

M.B. Abubakar Esq: The defendants are before the court and speak Hausa language. The case has been adjourned to today for commencement of hearing. The prosecution regret to inform this court this case cannot go on because the prosecution witnesses are not in court. In the circumstances we apply for

another date to enable us serve our witnesses with fresh witness summons.

M.L. Maidoki Esq: No objection.

Kamal O. Fagbemi Esq: No objection. We have agreed to the 16/5/2022 for hearing.

Court: This matter is hereby adjourned to the 16/5/2022 for hearing. Defendants be further remanded.

Signed

**Hon. Justice Mohammed Mohammed
(Judge)
29/3/2022**

Court resumed today 16/5/2022

Appearances:

P.A. Chadi Esq. holding the brief of M.B. Abubakar Esq. for the state.

Kamal O. Fagbemi Esq. for the 1st defendant.

M.L. Maidoki Esq. for the 2nd and 3rd defendants.

P.A. Chadi Esq: The defendants not in court because of the state of affairs in Sokoto metropolis leading to a declaration of curfew by the State Governor. The case is for commencement of hearing, but we cannot go on and in the circumstances we apply for an adjournment and we have agreed to the 15/6/2022 for hearing. We apply that witness summons be issued to the witnesses.

Court: This matter is hereby adjourned to the 15/6/2020 for hearing. Witness summons be issued to the witnesses. Defendants be further remanded.

Signed

**Hon. Justice Mohammed Mohammed
(Judge)
16/5/2022**

Court resumed today 15/6/2022

Appearances:

M.B. Abubakar Esq. for the state.

Kamal O. Fagbemi Esq. for the 1st defendant.

M.L. Maidoki Esq. for the 2nd and 3rd defendant.

M.B. Abubakar Esq: The defendants are before the court and speak Hausa language.

Court to Registrar: Affirm yourself and interpret the proceedings of court from English to Hausa and vice versa.

M.B. Abubakar Esq: The case is for hearing and we are ready. We have 2 witnesses before the court.

Kamal O. Fagbemi Esq: We are ready.

M.L. Maidoki Esq: We are ready.

Court: Proceed.

M.B. Abubakar Esq: Our PW1 is one Muhammadu Magaji and will testify in Hausa.

PW1 (after affirmation): My name is Muhammadu Magaji Barade Abdu Kibiyari, Yabo. I live at Kibiyari Village of Yabo Local Government, Sokoto State. I am a farmer and a livestock rearer. I am the Magajin Garin Kibiyari and have roles such as collection of tax. Sometimes on the 15/12/2020 the deceased one Abdu son to the 1st defendant came to me and informed me that he want me to intervene and reconcile him with his father and brothers. Abu also requested that his uncle be also invited to attend the reconciliation. When we all convened I asked the 1st defendant whether he knows why I called them? He said he don't know and I told him that Bawa requested me to plead with him to live together with his children peacefully. He said no body can reconcile him with

the decease because the deceased is a wizard. He also said Tunba disliked Abu and deceased also disliked her. Tunba is married to Abu's father. He also said whoever died in my house, Abu is responsible because he is a wizard. Upon hearing this I withdrew from the reconciliation and asked them to go back to Alhaji Bawa who sent them to me. From there I took my kettle to fetch some water, but I heard an out cry saying "*they done kill him*" which was the voice of Alhaji Gidado uncle to the deceased and I then came back. I met Abu with injuries on his head screaming. Then Abu's uncle Alhaji Gidado reported the matter to Barade who reported the matter to police. They took Abu to Yabo Police Station but I did not follow them to the police station. That is all what I know.

M.B. Abubakar Esq: That is all for this witness.

Court: Cross examination

Kamal O. Fagbemi Esq: As Magaji of your village, your duty is not only collection of taxes, but includes security and welfare of your people?

PW1: Yes.

Kamal O. Fagbemi Esq: Most of what you said was what you were told?

PW1: I did not witness the beating as it was Gidado who told me what happened.

Kamal O. Fagbemi Esq: At the time you came back, you met Abu screaming?

PW1: Yes but because he was injured on the head, I concluded he is dead.

Kamal O. Fagbemi Esq: Have you ever seen a dead body screaming?

PW1: No I have never seen that before.

Kamal O. Fagbemi Esq: When the matter came before you, did you reported this matter to police?

PW1: No I did not.

M.L. Maidoki Esq: What did the deceased complaint to you?

PW1: That he want to be reconciled with his father because they are not in good terms, but I don't know the nature of the problem between the deceased and his father. I however asked the deceased about the problem and he said his father hate him and the father confirmed to me and said the deceased is not obedient to him, but he did not disclose the nature of the disobedience. I am not however aware of any misunderstanding between the deceased and the 2nd and 3rd defendants because they are his junior brothers. The 1st defendant has ever informed me that he had previously requested the deceased to pack his belongings from the house and move to where he gave him and I also related this to the deceased and the deceased said he was not going anywhere, I however don't know who between Abu and the 1st defendant who attacked first during the incident. Everything happened there and at the time of the incident both the deceased and the 2nd and 3rd defendants were armed with axe. It is a notorious fact in our village that the deceased and his father are not in good terms and the 1st defendant even before the last incident.

M.L. Maidoki: That is all.

Court: Re-examination.

M.B. Abubakar Esq: No re-examination.

Court: The witness is discharged.

M.B. Abubakar Esq: Our PW2 is Mohammed Gidado and will testify in Hausa language.

Court: Call the witness into the witness box.

PW2 (after affirmation): My name is Muhammadu Gidado. I live at Yabo at Kibiyari Village, Sokoto State. I am a farmer. I know the defendants because we live at the same village. On 12/12/2020 one Abu now deceased met me at home and told me he had misunderstanding with his father and that me being his uncle, should come to Magaji's Palace for reconciliation. We all met at Magaji's Palace and Magaji said to the 3rd defendant that why are the accusing the deceased of insulting your father when you are consanguine brother, but the 2nd and 3rd defendants did not responded. He then said to the 1st defendant to reconcile with his children but the 1st defendant said he will not reconcile with Abu since he is a wizard as he was the one who killed their elder brother Magaji then said to me that the matter is beyond his power they should go back to who sent them. I pleaded with the 1st defendant to reconcile with the deceased but he refused. While Magaji went to fetch water, 2nd and 3rd defendants who were armed with a cutlass and axe and the deceased was also armed with his axe. The 2nd and 3rd defendants then attacked the deceased inflicting machet cuts and then started crying and moved into the town and informed people of what happened and people convene to the scene. Police were then informed who came and took the corpse to Yabo Police Station. I was also there. Because it was in the night, we slept there and the following morning the corpse was released to us for burial. We then come home after the funeral prayers.

Court: Cross examination

Kamal O. Fagbemi Esq: The deceased is your nephew?

PW2: Yes and his death occurred in my presence and they fought in my presence. I don't know whether the deceased is bold or

not. I also don't know whether he easily get angry. Before December, 2020 I don't know whether they have been having misunderstanding. 1st defendant is the father of the deceased. I have never seen the 1st defendant abusing the deceased. The deceased actually met me and requested me to settle him with his father. I have not also witness when the deceased was exchanging words with the 1st defendant. I witness when the 1st defendant accused the deceased of being a wizard and I have not heard anything as a response by the deceased. I went to Yabo Police Station and I made a statement.

Kamal O. Fagbemi Esq: That is all for this witness.

M.L. Maidoki Esq: The deceased informed you that he has issues with his father?

PW2: Yes but I did not investigate the issue, but the deceased only requested me to go Magaji's palace and settle them. At Magaji's place both myself and Magaji did not investigate the matter. The deceased only requested me to appeal to his father so that they can reconcile, but I did not ask him about the problem, but I never thought the incident will turn into what happened. The deceased did not informed me that he has any problem with 2nd and 3rd defendants and I don't know why the 2nd and 3rd defendants were invited. The incident that led to the death of the deceased Abu was the fight between him and the 2nd and 3rd defendants. The 1st defendant did not attack the deceased. It was as a result of the misunderstanding between the deceased and his father that led to the fight between the deceased and the 2nd and 3rd defendants but I did not heard any exchange of words between the deceased and the 1st defendant before the fight between the deceased and the 2nd and 3rd defendants, I however heard when the 1st defendant called the deceased a

wizard. But if my own father accused me of being a wizard, I will no doubt respond and because no any reasonable person that will keep quite after he is being accused of being a wizard. It is also painful for a son to be disobedient to his father.

M.L. Maidoki Esq: That is for this witness.

Court: Re-examination.

M.B. Abubakar Esq: No any re-examination and we have agreed to the 30/6/2022.

Court: This matter is hereby adjourned to 30/6/2022 for continuation of hearing. Defendants be further remanded.

Signed
Hon. Justice Mohammed Mohammed
(Judge)
15/6/2022

Court resumed today 30/6/2022

Appearances:

M.B. Abubakar PSC for the state.

Kamal O. Fagbemi Esq. for the 1st defendant.

M.L. Maidoki Esq. for the 2nd and 3rd defendants.

M.B. Abubakar PSC: The defendants are before the court and they speak and understand Hausa language. The matter has been adjourned to today for continuation of hearing. Our last witness who suppose to be Inspector Danjuma Giwa, is unavoidably absent because he has travelled outside jurisdiction for another official engagement. He has given us assurance that he will put his appearance on the next adjourned date. In the circumstances, we apply for an adjournment and we have agreed 19/7/2022 for continuation of hearing.

Court: This matter is hereby adjourned to 19/7/2022 for continuation of hearing. Defendants be further remanded.

Signed
Hon. Justice Mohammed Mohammed
(Judge)
30/6/2022

Court resumed today 5/10/2022

Appearances:

M.B. Abubakar Esq. for the prosecution.

Kamal O. Fagbemi Esq. for the 1st defendant.

M.L. Maidoki Esq. for the 2nd and 3rd defendants.

M.B. Abubakar Esq: The defendants are before the court and speak Hausa language.

Court to Registrar: Affirm yourself and interpret the proceedings of this court from English to Hausa and vice versa.

M.B. Abubakar Esq: The case is for continuation of hearing and we have one witness in person of Inspector Danjuma Giwa and we are ready.

Kamal O. Fagbemi Esq: We are ready.

M.L. Maidoki Esq: We are ready.

Court: Proceed.

M.B. Abubakar Esq: We apply to call the witness into the witness box.

Court: Application granted.

PW3 (after affirmation): My name is Inspector Danjuma Giwa. I am a Police Officer attached to CID as an IPO. I am AP No. 187700. I have been an IPO for about 14 years and some of my duties includes, recording of statements of witnesses, complainants and suspects and also perform all the duties of a Nigeria Police. I know the defendants. I came to know them

on the 13/12/2020 when I was on duty at CID Office Sokoto, when the 3 defendants were transferred from Yabo Divisional Police Headquarters in connection with a case of *Criminal Conspiracy and Culpable Homicide* involving the death of one Abubakar Ummaru. I was among the team that was assigned to investigate the case. The team comprises of SP Ibrahim Kamba, Insp. Musa Abdullahi Tyson, and myself. I was assigned to record statements from the defendants and so I invited the 3 defendants to our Investigation Office where we record statements from witnesses, complainants and suspects. It is also a place where visitors are to visit suspects and a busy place. I sat down with the 3 defendants and was communicating with them in Hausa language. I asked the defendants whether they know the allegation against them and the 1st defendant Ummaru Ummaru said is in connection with the death of his son. It was from there that I also came to know that the 2nd and 3rd defendants are also children of the 1st defendant because the 2nd and 3rd defendants said it was in connection with the death of their own brother. I was with my statement form and so I wrote the words of caution in Hausa language for the 1st defendant and read the words of cautions to him and explained to him. He then appeared to understand same and asked him to sign the words of caution if he intends to volunteer a statement. He signed the words of caution in Arabic and I also countersigned the words of caution as the recorder of that statement. He volunteered his statement in Hausa language and I recorded the statement in Hausa language. I then read over the statement to him and he accepted the statement is the statement he made and signed by his signature in Arabic. I wrote my name as the recorder of the statement. I adopted the same procedure in recording the

statements of the 2nd and 3rd defendants. After recording the statements of the 2nd and 3rd defendants, I took the 2nd and 3rd defendants to my superior in person of SP Ibrahim Musa Kamba. He asked me to read the statements one after the other to the hearing of the 2nd and 3rd defendants which I did. After reading the statements over, he asked the 2nd and 3rd defendants whether they were the makers of those statements and they all answered him yes. He then collected the statements and endorsed them in their presence. The 2nd defendant signed his statement by way of writing in Arabic while the 3rd defendant signed his statement by way of thumbprint. I then wrote my name as the recorder of those statements. I translated all the statements of the defendants from Hausa to English language. I also signed the words of caution of the translated versions of the defendants' statements and also wrote my name as the translator. I was also appointed to visit the scene of the crime at Kibiyari Village in Yabo Local Government of Sokoto State. While at the scene which is the farmland of the 1st defendant, we were able to recover a cutlass, an axe, a handle of the axe and 2 stones. We also recorded statements from the witnesses at Kibiyari Village. We returned and register those exhibits with the Exhibit Keeper of State CID Sokoto. That is all I can remember.

M.B. Abubakar Esq: If you see the statements you recorded from the defendants, can you identify them?

PW3: Yes I can identify the statements through my hand writing my signature at the words of caution, my name that was written at the statements, the names of the defendants and the date recorded the statement 13/12/2020.

M.B. Abubakar Esq: Have a look at these documents and tell the court if they are the statements.

PW3: Yes these are the statements I recorded from the defendants both Hausa and English translated versions.

M.B. Abubakar Esq: The witness having identified the statements, we seek to tender them in evidence.

Kamal O. Fagbemi Esq: I have no objection but I reserve my argument until at the address stage.

M.L. Maidoki Esq: We are objecting to the admissibility of the statements but reserve my argument until at the address stage.

Court: The witness having identified the statements he recorded from the defendants, same are hereby admitted in evidence on grounds of relevancy and marked as **Exhibits A, A1, B, B1, C and C1** for the Hausa and English translated versions of the 1st, 2nd and 3rd defendants respectively.

M.B. Abubakar Esq: That is all for this witness.

Court: Cross examination.

Kamal O. Fagbemi Esq: Do you know the 1st defendant in this case?

PW3: Yes I know on the 13/12/2020 when he was transferred from Yabo Police Station.

Kamal O. Fagbemi Esq: From your investigation and recording of Statements, the 1st defendant was not involved in the killing and hitting of the deceased?

PW3: From my investigation, the 1st defendant is connected to the crime because the 1st defendant was at the scene which the commission of the offence was taking place.

Kamal O. Fagbemi Esq: You took and interpreted the statements of the defendants?

PW3: I recorded and translated the statement of the defendants and to the best of my knowledge, I informed the court how I recorded the statements.

Kamal O. Fagbemi Esq: was the statements recorded in the presence of their legal practitioner?

PW3: No and I don't know whether there was any member of the civil society present.

Kamal O. Fagbemi Esq: That is all for this witness

M.L. Maidoki Esq: You were not present at the scene when the incident happened?

PW3: Yes and therefore I am not an eye witness in this case.

M.L. Maidoki Esq: You said you recovered stones, and other items, when did you recover those items?

PW3: I recovered those items at the time I visited the scene of crime but I cannot remember when I visited the scene.

M.L. Maidoki Esq: You visited the scene not on the date the incident happened?

PW3: Yes and we recovered the items at the scene when we visited the scene with the 1st defendant but, we did not go to the scene with the 2nd and 3rd defendants.

M.L. Maidoki Esq: Your superior officer only endorse the Hausa version of the 2nd and 3rd defendants.

PW3: Yes because the statements recorded in the Hausa Language which is the language of the defendants.

M.L. Maidoki Esq: That is all for this witness

Court: Re – examination.

M.B. Abubakar Esq: No any re – examinations.

Court: The witness is hereby discharged.

M.B. Abubakar Esq: That is all for today and we apply for another date to call an additional witness. We have agreed to the 15th of November, 2022 for continuation of hearing.

Court: This case is hereby adjourned to 15/11/2022 for continuation of hearing. Defendants be further remanded

Signed

**Hon. Justice Mohammed Mohammed
(Judge)
5/10/2022**

Court resumed today 13/12/2022

Appearances:

P.A. Chadi Esq. holding the brief of M.B. Abubakar Esq. for the prosecution.

Kamal O. Fagbemi Esq. for the 1st defendant.

M.L. Maidoki Esq. for the 2nd and 3rd defendants.

P.A. Chadi Esq: The defendants are before the court and the matter has been adjourned to today for continuation of hearing. However, the matter cannot go on as the counsel handling the case is indisposed and we have agreed to the 13/2/2023.

Court: This matter is hereby adjourned to 13/2/2023 for continuation of hearing. Defendants be further remanded.

Signed

**Hon. Justice Mohammed Mohammed
(Judge)
13/12/2022**

Court resumed today 13/2/2023

Appearances:

Registrar: Both prosecuting counsel and the defence counsel are absent however, the defence counsel Mr. Fagbemi called me from Abuja and suggested 20/3/2023.

Court: This matter is hereby adjourned to 20/3/2023 for continuation of hearing. Defendants be further remanded. Fresh hearing notices be served on both the prosecuting and defence counsel.

Signed

**Hon. Justice Mohammed Mohammed
(Judge)**

13/2/2023

Court resumed today 4/12/2023

Appearances:

M.B. Abubakar Esq. for the prosecution.

Kamal O. Fagbemi Esq. for the 1st defendant.

M.L. Maidoki Esq. for the 2nd and 3rd defendants.

M.B. Abubakar Esq: The matter is continuation of hearing. The defendants are in court and speak Hausa language.

Court to Registrar: Affirm yourself and interpret the proceedings of this court from English to Hausa and vice versa.

M.B. Abubakar PSC: We have called 3 witnesses and we intend to call our last witness PW4 in person of the Exhibit Keeper CID Office Sokoto, but unfortunately is not before the court. We have however agreed that the matter be adjourned to tomorrow to enable us call the witness.

Kamal O. Fagbemi Esq: That is the position.

Court: This matter is hereby adjourned to 5/12/2023 for continuation of hearing. Defendants be further remanded.

Signed
Hon. Justice Mohammed Mohammed
(Judge)
4/12/2023

Court resumed today 5/12/2023

Appearances:

M.B. Abubakar PSC for the prosecution.

Kamal O. Fagbemi Esq. for the 1st defendant with M.A. Lukman Esq.

M.L. Maidoki Esq. for the 2nd and 3rd defendants.

M.B. Abubakar PSC: The matter is for continuation of hearing. The defendants speak Hausa language.

Court to Registrar: Affirm yourself and interpret the proceedings of this court from English to Hausa and vice versa.

M.B. Abubakar PSC: Our PW4 is the Exhibit Keeper of State CID Sokoto in person of ASP Ahmad Abubakar.

PW4 (after affirmation): My name is ASP Ahmad Abubakar. I live at Sahara Area Sokoto and a Police Officer with CID Office Sokoto as Exhibit Keeper in this case. I am AP No. 180197. One of my duties are accepting and registering of items in connection with criminal cases and tendering same before the court if need arises. I know the defendants on the 13/12/2020 when I was in the office at CID Office Sokoto where one Insp. Danjuma Giwa brought the defendants along with the following items for registration which include 2 stones, 1 axe, 1 cutlass and 1 axe handle for registration in connection with a case of ***Criminal Conspiracy and Homicide*** against the defendant. I accepted and register them as follows: 2 stones were marked as **Exh. 125/A&A1/2020**; 1 axe as **Exh. 125/B/2020**, 1 Cutlass as **Exh. 125/C/2020**, while the axe handle as **Exh. 125/D/2020**. Since then I kept them in my official custody till today when I was called to come and

tender same before the court and they are with me before this court.

M.B. Abubakar PSC: The witness having produce the exhibits before this court, we humbly apply to tender them in evidence.

Kamal O. Fagbemi Esq: We have no objection.

M.L. Maidoki Esq: We are objecting to the admissibility of the exhibits sought to be tendered, however I have decided to withdraw my objection.

Court: The witness having produced the 2 stones, 1 axe, 1 cutlass and 1 axe handle before this court which have been in his official custody, and the prosecution has applied for same to be admitted in evidence, same are hereby admitted in evidence and marked as **Exhibits D, D1** for the 2 stones, **E and E1** for the 1 axe and 1 axe handle and **F** for the 1 cutlass respectively on ground of relevancy.

M.B. Abubakar PSC: Do you have anything to say?

PW4: That is all.

Kamal O. Fagbemi Esq: What is your name?

PW4: ASP Ahmed Abubakar is my name and I am not Muhammadu Gidado nor Muhammadu Magaji. My name is not on the list of witnesses attached to the charge sheet shown to me. Umaru Umaru is the 1st defendant and I know him on the date when he was brought to my office. I don't know whether the 1st defendant is the father of Abubakar Umaru (the deceased). The case file shown to me relates to the case of *conspiracy and homicide* against the 3 defendants. The role each of the defendants played in the case is best known by the investigating officers. As a father I cannot kill any of my children but I don't know if the 1st defendant can kill his own

child. I did not play any role in the recording of the statements of the defendants.

M.L. Maidoki Esq: Who owns the exhibits you tendered between the 3 defendants.

PW4: I don't know and I don't know whether the exhibits do not belong to any of them. I was not at the crime scene.

M.L. Maidoki Esq: That is all.

Court: Re-examination.

M.B. Abubakar Esq: No any re-examination.

Court: The witness is hereby discharged.

M.B. Abubakar PSC: That is the case of the prosecution and we hereby close our case.

Kamal O. Fagbemi Esq: We intend to call only one (1) witness the 1st defendant.

Court: Proceed.

DW1 (after affirmation): My name is Umaru Umaru. Presently I live at Correctional Centre Sokoto, but I was initially living at our village Kibiyare. I know the reason why I was brought before the court. The reason why I was taken to prison was because of my son Abu and it was due to a fight between my son (Abu) daughter and the 2 children of my late son Abu. It started when the children of Abu were laughing at my daughter when they went to fetch water when one of the deceased children hit my daughter on the head. When I was told about the incident, I reconciled and settled them. It is not true that I conspired with the 2 other defendants and killed Abubakar Umaru. I saw the exhibits tendered through PW5, but it is not that we used them in killing Abubakar Umaru. I

will not be happy for my son to die during my lifetime. I was in the prison custody when my son Abubakar Umaru died.

Kamal O. Fagbemi Esq: That is all for this witness.

Court: Cross examination

M.B. Abubakar PSC: You are a Muslim by faith and an elderly person?

DW1: Yes and I am married to 2 wives and both of them are at our village and I have 17 children but some of them are dead. 7 died and 10 alive. Abubakar Umaru is my eldest but he is now dead. I don't know the time he died and I am not liein. The reason why I was taken to prison was because of a fight in which my deceased son made allegation against me before our Village Head Magaji Daudu of Kibiyare. It is not MAgaji Daudu that sent me to prison but the complaint of my son before Magaji that took me to prison but I was taken to CID Office before prison to court.

M.L. Maidoki Esq: The deceased Abubakar Umar was alleged to have been killed by the other 2 defendants?

DW1: It is not true. I have not been in a fight with my son.

M.L. Maidoki Esq: That is all.

Court: Re-examination.

Kamal O. Fagbemi Esq: No any re-examination and that is the defence of the 1st defence.

M.L. Maidoki Esq: We humbly apply for a date to open our defence. We intend to call 2 witnesses the 2nd and 3rd defendants and we have agreed to the 2/1/2024.

Court: This matter is hereby adjourned to 2/1/2024 for continuation of defence. Defendants be further remanded.

Signed
Hon. Justice Mohammed Mohammed
(Judge)
5/12/2022

Court resumed today 11/1/2024

Appearances:

Abbas Samaila Esq. for the prosecution.

Kamal O. Fagbemi Esq. for the 1st defendant.

Abbas Samaila Esq: The defendants are in court and speak Hausa language. M.L. Maidoki Esq. who is the counsel to the 2nd and 3rd defendants is not in court and the case has been adjourned to today for the defence of 2nd and 3rd defendants. Since the counsel is not in court and he is the one that suppose to be on stage, we apply that the matter be adjourned to the 17/1/2024 at the instance of the counsel to the 2nd and 3rd defendants.

A.M. Lukman Esq: That is the position.

Court: This matter is hereby adjourned to 17/1/2024 for defence of the 2nd and 3rd defendants. Defendants be further remanded. Fresh hearing notice be served on the counsel to the 2nd and 3rd defendants.

Signed
Hon. Justice Mohammed Mohammed
(Judge)
11/1/2024

Court resumed today 17/1/2024

Appearances:

M.B. Abubakar Esq. for the prosecution.

Kamal O. Fagbemi Esq. with A.M. Lukman Esq. for the 1st defendant.

M.L. Maidoki Esq. for the 2nd and 3rd defendants.

M.B. Abubakar Esq: The defendants are before this court and speak Hausa language.

Court to Registrar: Affirm yourself and interpret the proceedings of this court from English to Hausa and vice versa.

M.B. Abubakar Esq: The case is for continuation of defence.

Kamal O. Fagbemi Esq: We are ready.

M.L. Maidoki Esq: We are ready.

Court: Proceed.

M.L. Maidoki Esq: We have 2 witnesses to call who happened to be the defendants themselves i.e. 2nd and 3rd defendants. In view of that, we apply that 2nd defendant be moved to witness box.

Court: Application granted and the 2nd defendant be affirmed as DW2.

DW2 (after affirmation): My name is Bello Umaru. I live at Kibiyere. I know why I am here and because I am being suspected of committing *culpable homicide* about 3 years now. I can remember our elder brother made a complaint against our father Umaru 1st defendant because our father separated a fight between our sister and children of our elder brother. As a result of the fight, our father approaches our village and requested him to inform our elder brother to relocate to another house which he gave him. Our elder brother then informed the Village Head that he is not relocating to any house. Then our Village Head shouted at him and despite that our elder brother called our father a pigeon. He then attempted to hit our father with an axe but I used my hands to protect our father and in the process, our elder brother stuck me with the axe on my head. I then collected the axe on my head. I then collected the axe from my said elder brother and retaliated. We then all fell down on the ground as a result of which we were taken to hospital. We were later taken to CID. I can remember when PW1 gave evidence before this

court and what the witness said is not the truth. The axe and cutlass which PW1 said were used, are owned by him.

M.L. Maidoki Esq: That is all for this witness.

Court: Cross examination.

M.B. Abubakar Esq: Do you know late Abubakar Umaru?

DW2: Yes I know him but I don't know where he is because I have been in detention for about 3 years now. I can remember our last meeting with him was when he lodged a complaint against our father about 3 years ago. I fight ensued between the children of our elder brother and our sister and I came to know because our elder brother lodged a complaint before our Village Head and when the Village Head inform our elder brother to relocate to another house for peace to reign, he refused and called our father a pigeon and attempted to cut our father and I protected our father as a result he cut me on the head and I retaliated and we all fell down and both of us were taken to hospital, but I don't know what happened to him later. I forgot whether I made a statement at CID because I was sick at that time. I can't remember making a statement at CID because I was sick as I have said. It is not true that our elder brother died because of my retaliation as it was only God who knows.

M.B. Abubakar Esq: That is all for this witness.

Kamal O. Fagbemi Esq: No any cross-examination.

Court: Re-examination.

M.L. Maidoki Esq: No any re-examination.

Court: The witness is hereby discharged.

DW3 (after affirmation): My name is Abubakar Bashir Ummaru. I live at Kibiyare. I know why I am in court because it was alleged

that I am involved in a homicide case. I am now in prison for about 3 years. What I know our elder brother lodge a complaint against our father before our Village Head in respect of fight of children of our elder brother and our junior sister despite our father separated the fight. Our elder brother also lodged a complaint against us and the Village Head informed our father that our elder brother is the complainant against us because of the fight. Our elder brother turned and called our father pigeon but our father informed the Village Head to leave our elder brother who is like a bastard. From there, our elder brother attempted to hit our father with an axe but the 2nd defendant protected our father as a result of which he was injured on the head. From there they engaged in to a fight and dispossessed the axe and retaliated. From there we ran away. We were later called back and taken to CID Office from where we were sent to prison. That is all.

M.L. Maidoki Esq: Do you know one Muhammadu Magaji who testified before this court?

DW3: Yes I know him because there was a time I propose his daughter for marriage but refused to approve it and the evidence he gave against me s not true because we are not in good terms. Similarly the axe and cutlass as well as the stones he said that they belong to me, is not true because they are his properties.

M.L. Maidoki Esq: That is all for this witness.

Court: Cross-examination

M.B. Abubakar Esq: You said Abubakar Ummaru is your elder brother?

DW3: Yes we are the same father with him. There was a time his children fought with our younger sister. It was because he wanted to cut our father, that 2nd defendant gave protection to

our father and was cut on the head and the 2nd defendant retaliated with the same axe. I did not beat our elder brother with the axe handle or throw stones on him. I don't know what happened to our elder brother after the 2nd defendant retaliated because I ran away because the remaining people there ran away. We were later taken to CID because we were alleged to have participated in the fight. The fight I was not involved in. I made a statement and signed same because I was beaten. I signed the statement because of the hardship. It is not true that I said it was because of the beating we meted on our elder brother that caused his death.

M.B. Abubakar Esq: That is all.

Kamal O. Fagbemi Esq: No any cross-examination.

Court: Re-examination.

M.L. Maidoki Esq: No any re-examination and that is the defence of 2nd and 3rd defendants.

Court: The witness is hereby discharged and the matter is hereby adjourned to 14/2/2024 for adoption of written address. Defendants be further remanded.

Signed

**Hon. Justice Mohammed Mohammed
(Judge)**

17/1/2024

Court resumed today 11/3/2024

Appearances:

Registrar: Both the prosecution and the defence counsel are not in court even though the defendants are in court.

Court: This matter is hereby adjourned to 20/3/2024 for adoption. Fresh hearing notices be served on both the prosecution and the defence counsel. Defendants be further remanded.

Signed
Hon. Justice Mohammed Mohammed
(Judge)
11/3/2024

Court resumed today 20/3/2024

Appearances:

M.B. Abubakar Esq. for the prosecution.

Kamal O. Fagbemi Esq. with A.M. Lukman Esq. for the 1st defendant and holding the brief of M.L. Maidoki Esq. for the 2nd and 3rd defendants.

M.B. Abubakar Esq: The defendants are in court and the matter has been adjourned to today for adoption of written address.

Kamal O. Fagbemi Esq: The 1st defendant's written address was filed on the 19/1/2024 and we adopt the same as our legal submission and urge the court to discharge and acquit the 1st defendant. The final written address of the 2nd and 3rd defendants was filed on the 13/2/2024 and we adopt same as our legal argument and urge the court to discharge and acquit the defendants. We were just served with the prosecution's reply this morning and with leave of court wish to respond orally.

Court: Leave granted.

Kamal O. Fagbemi Esq: Contrary to the submission of the prosecution in paragraph 4.4 of their adopted written address, we submit a jurat need to be appealed show that the statement was read to the defendants.

**- Yusuf V. Hassan & 3 or (2022) LPELR 57104 at P 21-24
Para C.**

M.B. Abubakar Esq: The prosecution reply was filed on 19/3/2024 and we adopt same as our legal argument in this case and urge

this court to discountenanced with submission of the defence counsel in its entirety and uphold the prosecution's submitting and convict the defendants as charged.

Court: This matter is hereby adjourned for judgment. Fresh hearing notices will be sent to both counsel immediately the judgment is ready.

Signed
Hon. Justice Mohammed Mohammed
(Judge)
20/3/2024

CERTIFY TRUE COPY:

FATIMA SAIDU MUH'D
Ag. DIRECTOR LITIGATION,
HIGH COURT OF JUSTICE,
SOKOTO.