

IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE LAGOS JUDICIAL DIVISION
HOLDEN AT LAGOS
ON WEDNESDAY THE 28TH DAY OF JUNE, 2024
BEFORE THE HONOURABLE JUSTICE D. I. DIPEOLU
JUDGE

SUIT NO: FHC/L/CS/262/2024

BETWEEN:
MARGARET DUMBIRI EMEFIELE ----- APPLICANT

AND:

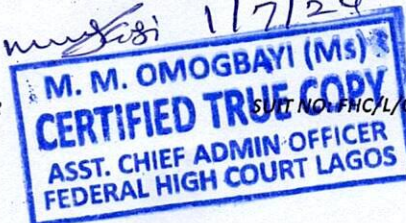
- 1. EXECUTIVE CHAIRMAN, ECONOMIC AND FINANCIAL CRIMES COMMISSION**
- 2. ECONOMIC AND FINANCIAL CRIMES COMMISSION**

RESPONDENTS

JUDGMENT

On the 14th of February, 2024, the Applicant filed an Originating Motion dated the 12th of February, 2024, praying this court for the following:

- 1) **A DECLARATION** that the Applicant is entitled to the protection of her fundamental rights to life, personal liberty, right to dignity of her person, freedom of movement and right to security as guaranteed under Sections 33, 34, 35 and 41 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) and Articles 4, 5, 6 and 12 of the African Charter on Human and



Peoples' Rights (Ratification and Enforcement) Act (CAP A9) VOL.1 Laws of the Federation of Nigeria, 2011.

- 2) **A DECLARATION** that the publication of the Applicant's name and photograph on the website of the 2nd Respondent as having being declared "**WANTED**" without any formal invitation extended to her and without any valid Charge and or Court Order to that effect, amounts to a violation of the Applicant's fundamental rights to the dignity of her person, right to personal liberty, freedom of movement and right to security as guaranteed under Sections 34, 35 and 41 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) and Articles 5, 6 and 12 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act (CAP A9) VOL.1 Laws of the Federation of Nigeria, 2011.
- 3) **A DECLARATION** that the publication of the Applicant's name and photograph on the website of the 2nd Respondent as having being declared "**WANTED**" without any formal invitation extended to her and without any valid Charge and or Court Order to that effect, and which resulted to various negative comments of threat on the Applicant amounts to a likely breach of her right to life as guaranteed under Section 33 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) and Article 4 of the African Charter on Human



and Peoples' Rights (Ratification and Enforcement) Act (CAP A9) VOL.1 Laws of the Federation of Nigeria, 2011.

- 4) **A DECLARATION** that the publication of the Applicant's name and photograph on the website of the 2nd Respondent as having being declared "**WANTED**" without any court order to that effect, is unlawful, illegal and liable to be set-aside.
- 5) **AN ORDER** setting aside the publication of the Applicant's name and photographs on the website of the 2nd Respondent as one of the persons wanted by the Respondents.
- 6) **AN ORDER** directing the Respondent to immediately withdraw the publication of the Applicant's name and photographs from the list of persons wanted by the Respondents on its website.
- 7) **AN ORDER** directing the Respondent to issue a public apology to the Applicant vide two National Television Stations and three National Dailies to wit: **THIS DAY NEWSPAPER, THE PUNCH NEWSPAPER AND THE NATION NEWSPAPER.**
- 8) Damages AGAINST THE Respondents, jointly and severally, in the sum of Two Hundred and Fifty Million Naira (₦250,000,000.00) in favour of the Applicant for the violation of the Applicant's fundamental rights.



- 9) **AND FOR SUCH FURTHER OR OTHER ORDERS** as this Honourable Court may deem fit to make in the circumstances.

Filed in support of the application are the following;

- a) Statement made pursuant to Order 11 Rule 3 of the Fundamental Right (Enforcement Procedure) Rules, 2009.
- b) Affidavit in support of the Originating Motion.
- c) Exhibits.
- d) Written Address.
- e) Further Affidavit and Reply on Points of Law dated the 12th of April 2024.

A summary of the Applicant's case before this court is that she is a law abiding citizen of Nigeria who has never been invited by the respondents in connection with any allegation. That there is no criminal charge filed against her that is pending before any competent court of law in Nigeria. That her attention was drawn to certain publication of the Respondents on its website wherein she and other three persons were declared wanted. That as at 17.06pm on the 11th February 2024, the X handle (formerly twitter) which has over 2.1million followers, the said publication has been viewed by over 98,800 persons and reposted 455 times. That the publication generated a lot of concerns and have caused several persons to call her and reach out to her. That the publication of the 2nd Respondent's website declaring her wanted without any invitation charge or court order gave the impression that she was evading earlier invitation from the law. That the said

publication by the 2nd Respondent was published on several online newspapers platform and have generated negative comments against her person, portraying her as a person evading justice. That since the publication of the 2nd Respondent which was read globally, she and her children have been depressed and can no longer move freely as they now fear for their lives and the security of their home. That since the publication, she feels unsafe to move around and attend to her regular activities, to avoid members of the public from obstructing her and embarrassing her in the guise of complying with the publication made by the respondent to apprehend her and hand her over to them. That the conduct of the respondent amounts to a gross violation of her fundamental rights.

The Applicants counsel raised two (2) issues for determination in the written address filed along with the originating motion, the issues raised are;

- 1) Whether the publication of the Applicant as WANTED on the website of the 2nd Respondent without a valid order of court is not unlawful and liable to be set-aside.
- 2) Whether having regards to the facts and circumstances of this case, the Respondents breached the fundamental rights of the Applicant.

On issue 1, the Applicant counsel submitted that by virtue of the provision in Section 113 of the Administration of criminal justice Act 2015, only a court can compel the appearance of a suspect. The Act does not in any way empower the respondents to declare

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[Signature]
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M. M. OMOGBAN
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ASST. CHIEF ADMIN OFFICER
FEDERAL HIGH COURT LAGOS

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a person wanted without a warrant for that persons arrest issued by a court of competent jurisdiction. The respondent though could declare wanted persons who fail to honour its invitation for investigation, it could only do so if it obtains a court order for that purpose. From the affidavit evidence the applicant was never invited by the respondent for any purpose, she was not placing any criminal charge before any court of law and there was no court order declaring the applicant wanted. Where a stature provides a mode of doing a thing, no other mode will be accepted. Counsel to the Applicant cited the case of **STATE SECURITY SERVICES & ORS VS ADAMU (2020) LPELR – 50365 (CA) P.9, PARAS A-D.**

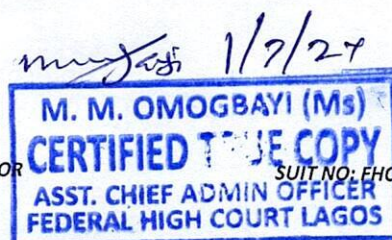
On issue 2, it is argued by the Applicant's counsel that the Applicants Fundamental Right to life is likely to be breached. Dignity of her human person violated, her right to personal liberty and freedom of movement is likely to be breached. The action of the Respondents not inviting the applicant and proceeding to declare the applicant wanted to the entire world and which create the impression that the applicant is running or avoiding the respondents is unfair treatment on the dignity of her person and breach of the personal liberty of the applicant. Since the publication, the Applicant has felt unsafe to move out and attend to her regular activities, to avoid members of the public from obstructing her and embarrassing her in the guise of complying with the publication made by the respondent. The unlawful declaration of the applicant as wanted contrary to law is the foundation upon which the applicant's security of life becomes

threatened. Counsel cited variously the provisions of Sections 33, 34(1), 35(1) and 41 of chapter iv of the constitution and Article 4, Article 5, Article 6 and Article 12 of the African charter on Human and Peoples Right (Ratification and Enforcement) ACT (Cap. A9) Vol.1 LFN 2004.

The Applicants counsel further submitted that once the court comes to the conclusion that the fundamental right of a citizen in an application for the enforcement of fundamental right has been infringed, there ought to be an order for damages against the respondent in favour of the applicant and relied on the cases of **FORTIS MICROFINANCE BANK VS. AMAEFULA & ORS (2021) LPELR-52780 (CA); OKONKWO VS. OGBOGU (1996) 5 NWLR (PT. 449) 420 AT 435 and UGWU & ORS VS. NB PLC (2020) LFPLR-50858 (CA)**. The applicant urged this court to grant the reliefs sought in the interest of justice.

In opposition, the Respondents filed a Counter-Affidavit dated the 2nd of April, 2024, exhibit and a Written Address.

A summary of the Respondent's case is that they were investigating a case of monumental economic fraud, to official corruption and money laundering involving the Governor of the Central Bank of Nigeria (CBN), Mr. Godwin Emefiele and some entities. The investigation has thus far revealed the applicant's involvement in this case; she aided in laundering funds believed to have been derived through the unlawful activities of the CBN Governor.



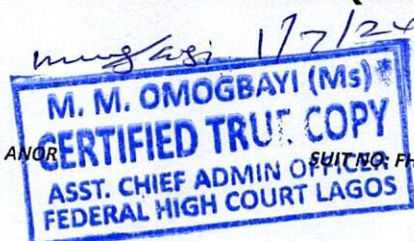
The Respondents attempted several times to contact the applicant to come and explain her involvement in the alleged fraud perpetrated by the Governor of CBN. The Respondents visited all the Applicant's known address to extend the invitation letters to her, but to no avail. The last known address of the Applicant "House No. 3^b, Iru Close, Ikoyi, Lagos State" was also visited to no avail. That all known and traced phone numbers of the Applicant were inaccessible to the Respondents. That other persons involved in the alleged fraud who were accessible were arrested with a lawful court order and volunteered statements to the Respondents, which further incriminated the Applicant. That it is only the Applicant that can proffer explanation of how she is in possession of properties that are not commensurate with her source of livelihood. The Respondents procured an order from the Court to arrest and detain the Applicant pending the conclusion of the investigation. It was pursuant to the Court Order commanding the Respondent's officers and Police Officers to bring the Applicant to court to answer the complaints against her and other cronies that led to the publication declaring them wanted on the Respondent's website. That it is of utmost public interest and concern that the Applicant come forth and explain her involvement in the monumental economic fraud carried out by the Governor of CBN while he was in the public service and that the justice of this case demands that this application be refused in its entirety as the grant of this application will prejudice the Respondents.

M. M. Omogbayeri 1/7/24
M. M. OMOGBAYI (Ms)
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ASST. CHIEF ADMIN OFFICER
FEDERAL HIGH COURT LAGOS

The Respondent raised a sole issue for determination in their written address, the summary of which is;

Whether, in accordance with the provisions of Section 113 of the Administration of Criminal Justice Act, 2015, and the order of the Honourable Court dated 8th February, 2024 commanding the Respondents to bring Margaret Dumbiri Emeziele before the court forthwith to answer to the said complaint and be further dealt with in accordance with the law, the respondents erred in law when they declared the Applicant wanted on their website.

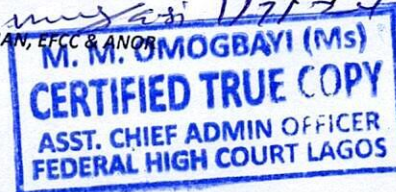
As argument of the sole issue, the Respondents counsel submitted that the Respondents were commanded by a Court of competent jurisdiction to bring the Applicant before the Court; it is in compliance with the said lawful order that the Respondents declared the applicant wanted. A Court can compel the appearance of any person against whom a complaint has been laid through a summons or warrant. In the instant case, a warrant dated 8th February 2024 was procured from the court to ensure the applicant's production in court to answer the complaint of monumental economic fraud against her and her cronies. Section 114 OF ACJA 2015 confers discretionary power on a magistrate or judge to issue a summons against a defendant or warrant for his arrest. Respondents counsel referred to the case of **SHANKAR VS. STATE OR KARNATAKA (2004) CRLJ 3214** and **OBIJIAKU VS. OBIJIAKU & ORS (2017) LPFLR-43455 (CA)**.



The Respondents counsel submitted further that the right to personal liberty is not absolute according to the provisions of Section 35(1) (a), (b) and (c) of the Constitution of the Federal Republic of Nigeria 1999. The Respondent as an agency of the Federal Government of Nigeria, duly established by the EFCC Act of 2004 and vested with the powers to investigate and prosecute all crimes connected with or related to economic and financial crimes, was merely complying with a lawful Court Order to bring the applicant before the court and nothing more. Respondent's counsel cited the case of **AQUA VS. ARCHIBONG (2012) LPFLR 9293 (CA)**. The Respondents urge this Court to dismiss the originating summons in the interest of justice.

In Reply on Points of Law, the Applicant's counsel submitted that by the provision of Section 113 of Administration of Criminal Justice Act, the provision does not depict the fact that a suspect can be declared wanted by either the Court or the investigating agencies. As a prerequisite to obtaining an arrest warrant, the police or the law enforcement agency must have taken all reasonable steps to ensure that invitation is served on the suspect for his appearance for the purpose of investigation and the suspect must have continued to ignore the invitation or he must have eluded the invitation, counsel referred this Court to Section 37 of Administration of Criminal Justice Act. It is also the law that even where the police or EFCC obtains a warrant for the arrest of a suspect, that warrant does not give the police or EFCC the right to declare such suspect wanted. The extent of the use of arrest warrant is contained in section 36(2) OF Administration of

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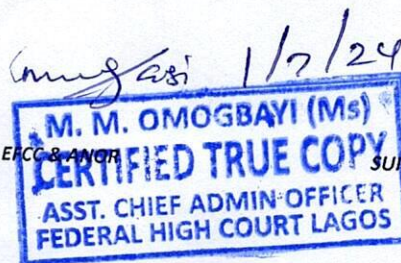
Criminal Justice Act which is in *pari material* with the provisions of section 22(2) or the administration of criminal justice law of Lagos state. By the provisions of Sections 41 and 42 of the Administration of Criminal Justice Act, it is clear that it is not in the place of the Respondents to declare the Applicant wanted even when there is a belief by the Respondents that Applicant is concealing herself or has absconded from jurisdiction. The procedure is for the Respondents to go back to Court who issued the arrest warrant or any other Court with or without evidence for the court to invoke the provisions of Section 41 of the Act, it is not the Respondents to make a publication in writing requiring information in respect of the suspect. The law is clear that the express mention of a thing is the exclusion of others. Counsel relied on the case of **COLE TONYE PATRICK VS. INEC & ORS (2024) LPFLR-61643 (SC)**.

All of the above are submissions of counsel.

The only issue to resolve from all the submissions of counsel above is;

Whether the applicant is entitled to the reliefs sought via her originating motion.

A concise case of the applicant is that she was never invited by any of the respondents, she was not charged before any court and there is no order of court directing the respondent to declare her as wanted on the 2nd respondent's website.



The Respondents expressed their frustration as per paragraphs 5, 6, 7 and 8 of the Counter-Affidavit in securing the presence of the Applicant to answer to the allegations against her and this was the basis upon which they secured the warrant of arrest dated 8th of February 2024.

It is the Administration of Criminal Justice Act, 2015 that empowers the Respondents to approach a Court of law for an arrest warrant to detain anyone alleged to have committed a crime pending the conclusion of investigation. The Respondents acted in accordance with the provisions of Sections 35 and 36(1) & (2) of the Administration of Criminal Justice Act when it applied to the Magistrate Court in Lagos to seek for the arrest of the Applicant pending investigation of the crime the Respondents alleged that she has committed. Also, by the combined provision of Section 3 of Administration of Criminal Justice Act, 2015 and the EFCC ACT 2004, the Respondents are empowered to arrest any person suspected to have committed a crime. See the case of **IGP & ANOR VS. UBAH & ORS (2014) LPELR-23968.**

Having established that the Respondents complied with the law in obtaining a warrant to arrest and detain the Applicant, can same be said about the online publications declaring the Applicant wanted on the 2nd Respondent's website as exhibited in Exhibits M1 and M2 attached to the affidavit in support of the Applicants Originating Motion, the answer is no.

Section 41 of Administration of Criminal Justice Act is very explicit and unambiguous. It provides as follows: *mugosi 1/7/24*

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Where a court has a reason to believe, whether after evidence or not, that a suspect, against whom a warrant of arrest has been issued by itself or by any court or justice of peace, has absconded or is concealing himself so that the warrant cannot be executed, the court may publish a public summons in writing, requiring that person to appear at a specific place and a specific time not less than 30 days from the date of publishing the public summons.

Where the ordinary, plain meaning of words used in a statute are very clear and unambiguous, effect must be given to those words, without resorting to any intrinsic or external aid. See the holding of Per Edozie JSC in the case of **OKOTIE-EBOH VS. MANAGER (2004) 18NWLR (PT.905) Pg. 242 at 186-187, Para H-B.**

Flowing from the provision of Section 41 above, it is only the Court and not the Respondents or any other agency that has the power to issue publish summons in writing where a person who is alleged to have committed a crime absconded or concealed him or herself so that a warrant can be executed against him or her.

The Respondents act of declaring the Applicant wanted on their website is a flagrant disobedience of the clear provisions of the administration of the criminal justice Act having subjected themselves to the jurisdiction of court by applying for a warrant

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to arrest and detain the Applicant. The Respondent's line of argument that it resorted to declaring the Applicant wanted because the Applicant was evading arrest or refusing invitation is unfounded in law. The Respondents appears to be usurping the powers of the court to publish a public summons further to the provisions of section 41 of the ACJL.

There is nothing in Section 41 of the Administration of Criminal Justice Act, 2015 that made mention of declaring someone wanted. The provision only talks about a public summons, which shall be published in a newspaper that enjoys wide circulation or circulated in any other medium as may be appropriate requiring the person to appear at a specific place and time.

The respondents having subjected themselves to the court by applying for and obtaining a Warrant to Arrest and Detain the Applicant, the respondents ought to resort back to court where it obtained the arrest warrant to intimate or pray the court to exercise its powers under section 41 of Administration of Criminal Justice Act, 2015 having approached the court in the first place to obtain a warrant to arrest and detain the applicant who is evading arrest despite their efforts.

I am not unaware of the Court of Appeal in **BARO. V. C.O.P. DELTA STATE (2019) LPELR 48611 - CA** where the Court stated as follows:

"I know of no law or statute which prohibits the Respondent from publishing a statement such as exhibit TP1 requiring the public to furnish information about the location or

whereabouts of a person suspected of having committed a crime so that the suspect could be heard on the accusation levelled against him by some other person or persons.”

In the case of BARO V. COP above, the court observed that

“there is no evidence in this case that any court had issued a Warrant of Arrest against the appellant and the issue or question of issuing and/or publishing a public summons does not arise. Sections 41 and 42 of the Administration of Criminal Justice Act, 2015 are inapplicable to the facts and circumstances of this case especially as exhibit TP1 is not a public summons.”

In the present case, sections 41 and 42 of the ACJA, 2015 are relevant and ought to be complied with by the Respondents having earlier applied for and obtained a warrant to arrest and detain the Applicant from court.

The Applicant deposed in paragraphs 4(l) (m) and (n) that since the publication was made, she feels unsafe, her life is under threat, she can no longer move freely and since she has been embarrassed by the said publication.

I noticed that the Applicant is praying this court for damages against the Respondents jointly and severally in the sum of Two Hundred and Fifty Million Naira (₦250,000,000.00) for the violation of her Fundamental Rights. For an Applicant to succeed in an award for damages, it goes beyond mere deposing in an affidavit that his/her rights have been infringed upon, there is a

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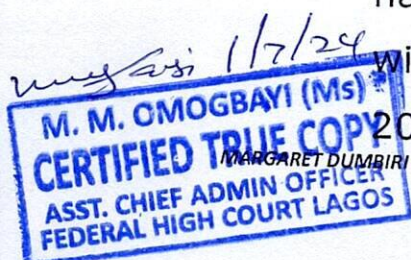
duty on an Applicant to specifically prove by placing evidence before the court that he or she has suffered damages.

The Applicant exhibited Exhibits M3 and M4. A perusal of the comments in those exhibits particularly the comment made by one Balogun Joseph stating that there should be a bounty on the Applicant and others with a good amount and describing himself as a bounty hunter is enough to make the applicant jittery and fearful of her life. Such statement can lead to emotional trauma which is a direct and probable consequence of the respondent's action by publishing the applicant as wanted in their website.

Therefore, it is for the reasons above, I grant in favour of the Applicant as follows;

1) That the Applicant is entitled to the protection of her fundamental rights to life, personal liberty, right to dignity of her person, freedom of movement and right to security as guaranteed under Sections 33, 34, 35 and 41 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) and Articles 4, 5, 6 and 12 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act (CAP A9) VOL.1 Laws of the Federation of Nigeria, 2011.

2) That the publication of the Applicant's name and photograph on the website of the 2nd Respondent as having being declared "**WANTED**" without complying with the provisions of Sections 41 and 42 of the ACJA, 2015 and without any valid Charge and or Court Order to

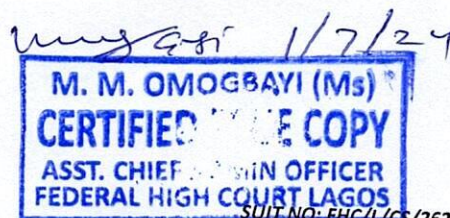


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that effect, amounts to a violation of the Applicant's fundamental rights to the dignity of her person, right to personal liberty, freedom of movement and right to security as guaranteed under Sections 34, 35 and 41 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) and Articles 5, 6 and 12 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act (CAP A9) VOL.1 Laws of the Federation of Nigeria, 2011.

- 3) Reliefs 3, 4 and 5 are subsumed in Reliefs 2.
- 4) The Respondent is directed to immediately withdraw the publication of the Applicant's name and photographs from the list of persons wanted by the Respondents on its website.
- 5) The Respondents is directed to issue a public apology to the Applicant on its website where the name and photograph of the applicant was published among list of persons wanted.
- 6) The sum of ₦3,000,000.00 (Five Million Naira) only is awarded against the Respondents jointly and severally in favour of the Applicant for the violation of her Fundamental Rights.



This is the judgment of the court.


HON. JUSTICE D. I. DIPEOLU
JUDGE
28/6/2024

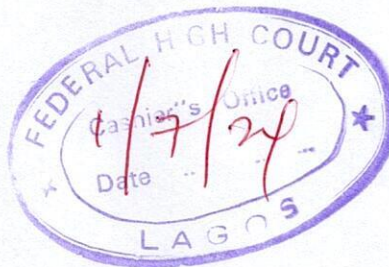
Appearance

A. LABI-LAWAL ESQ with H.B ADELABI ESQ and N. MBONU ESQ for the Applicant.

B. BUHARI ESQ with H. U KOFARNAIRSA ESQ for the Respondents.

Cashier

Pls: collect the sum of
#540,000 For etc
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