

IN THE HIGH COURT OF ENUGU STATE OF NIGERIA
IN THE HIGH COURT OF AGRANI JUDICIAL DIVISION 5
HOLDEN AT AGRANI
BEFORE HIS LORDSHIP, HON. JUSTICE N. B. NKEOH
ON WEDNESDAY THE 28TH DAY OF NOVEMBER, 2007

SUIT NO. HAWI/BC/2007

BETWEEN:

THE STATE

V.

RAYMOND A. NNAJI & 2 ORS.

Accused persons absent except the 3rd accused person. J.O.N. Ikeyi for the prosecution. Applies to tender the Ag's fiat enabling him to prosecute the charge.

J.C. Okenwa for the 3rd accused person.

✓ J.O.N. Ikeyi apologises for his inability to tender the said fiat and he says it is missing from the file. Asks for an adjournment to enable him tender it.

J.C. Okenwa asks for bail to be granted to the 3rd accused person.

COURT: Bail is hereby granted to the 3rd accused person in the sum of ₦80,000:00 with one surety in the like sum. Surety to be resident within jurisdiction, to produce his current tax clearance certificate, 2 recent passport photograph of self and 20 sheets of paper for the preparation of the bail bond.

J.O.N. Ikeyi applies for Bench Warrant to issue against the 1st accused person as he has been served with the information.

In respect of the 2nd accused asks for hearing notice to issue to be served on him personally.

COURT: Case is adjourned to 20/12/2007 for plea. Bench Warrant to issue against the 1st accused person. Hearing notice to issue for personal service on the 2nd accused person.

SGD.

JUDGE

28/11/2007

RESUMED ON TUESDAY THE 18TH DAY OF DECEMBER, 2007
BEFORE HIS LORDSHIP, HON. JUSTICE N.D. NERON

SUIT NO. HA06/80/2007

BETWEEN:

THE STATE

V.

RAYMOND A. NNAJI & 2 ONS.

Accused persons absent.

J.O.N. Ikeyi for the prosecution. Applies to tender the A.G's fiat enabling him to prosecute the charge. ✓

COURT: Fiat admitted and marked Exhibit A.

C. Oguejiofor now appears for the applicant. After looking at the fiat points out that the said fiat is dated 10/12/07 but J.O.N. Ikeyi had already appeared on 20/11/2007 for the prosecution. Wonders on what authority he appeared on 28/11/2007 if the fiat is just being tendered today.

Mr. Ikeyi says counsel for the applicant is merely making observations and he has nothing to say unless the said counsel raises an objection.

Mr. Oguejiofor urges the court to set aside the order for Bench Warrant to issue against the 1st accused made on 28/11/2007 because that application was predicated on serious misrepresentation of facts that Mr. J.O.N. Ikeyi had no locus standi to have appeared before the court on 28/11/2007. Prays the court to take judicial notice of the fact that J.O.N. Ikeyi is not the A.G. of Enugu State nor a law Officer in the chambers of the A.G. Says he may only appear in a criminal matter of this nature with the A.G's fiat. Says every application made by Mr. Ikeyi before today and proceedings in which he participated before today are irremediable and should be set aside.

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Mr. Ikeyi says as a private legal practitioner the A.G. of the State or of the Federation can instruct him to represent the State or any other party involved in a criminal matter. Says he need not be a staff of A.G. before he can carry out the instructions of his client. Says that instruction by the A.G. to represent the State and perform the functions of his office in respect of the case must not be in writing. Says the court cannot question counsel, authority to appear when counsel is already appearing. Refers to *Adekenye v. Federal Republic of Nigeria* (2005) All Federal L.R. (Part 202) Refers also to *Federal Republic of Nigeria v. Adewumi* (2007) All Federal W.L.R. (Part 368) 978 (S.C.). Only the A.G. can question the authority of counsel to prosecute. Urges the court to dismiss the objection.

C. Oguejiogor urges the court to discountinue these authorities as they do not apply to the instant case. Says the law is trite that one cannot lead oral evidence or extraneous evidence in a matter to overreach that which is already reduced into unity. Refers to Exhibit A which he says speaks to itself. Says the authorities cited are distinguishable from the instant case is that in those cases Counsel did not later tender a fiat after having appeared in the case earlier claiming to be authorised.

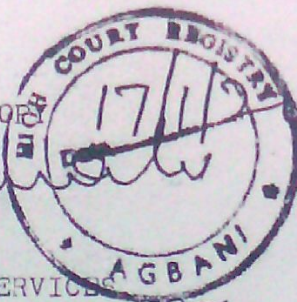
COURT: Case is adjourned to 14/2/2008 for ruling. Counsel to provide the authorities cited.

SGD.
JUDGE
18/12/2007

CERTIFIED TRUE COPY

M. E. AMALU

DIRECTOR COURT SERVICES



R C R NO 1546970
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Preparative and Certifying 3 folios at #50:7
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