

IN THE FEDERAL HIGH COURT OF NIGERIA  
IN THE ABAKALIKI JUDICIAL DIVISION  
HOLDEN AT ABAKALIKI  
ON THURSDAY 1<sup>ST</sup> DAY OF DECEMBER, 2016  
BEFORE HIS LORDSHIP  
HON JUSTICE M. L. ABUBAKAR  
(JUDGE)

SUIT NO. FHC/AI/61C/2014

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA :::                            :::                            COMPLAINANT

AND

1. STEPEN NWORIE  
2. ADEWUM I ALADEJARE                            }                            DEFENDANTS

APPEARANCES

Defendant Present

M. C. Onyiaji                            -                            Prosecutor  
C. E. C. Nwogbaga                            -                            Defendants

RULING ON OBJECTION

The Defendants stand charge of two (2) counts charge of conspiracy and unlawful possession of 192 Kilogramme of substance suspected to be cannabis sativa contrary to and punishable under sections 14 (a) and section 19 of the National Drug Law Enforcement Agency act cap N30 Laws of the Federation of Nigeria 2004.

JUDGE  
FEDERAL HIGH COURT  
ABAKALIKI

*M. L. Abubakar*

At the last adjourned date ie. 8/11/2016 when the prosecution called PW 2, one Musa Habu Alex an Exhibit. Keeper with the NDLEA P/Harcourt command, previously with NDLEA Ebonyi State Command, the counsel to the Defendant's raised objection on the ground that the statement of the PW 2 was not given to him as part of the proof of evidence. He added that whatever statement is made by the witness will be used by the prosecution. He cited section 36 (6b) of the constitution and the case of Okoye v. COP (2015) 17 NWLR pt 1488 page 276 at 300. He urged the court to grant his application.

In opposition, the prosecuting counsel submitted that PW 2 is only an Exhibit keeper who only keeps Exhibits, weigh them and filled and signs the necessary forms. He added that all the necessary forms, filled and signed by the PW 2 were given to the counsel to the Defendants as part of the proof of Evidence. He urged the court to allow PW 2 to give evidence.

Those are the submissions of counsels to both Defendants and the prosecution.

In my humble view, the issue for determination is whether the Defendants counsel's application has merit or not. Section 36 (6b) of the constitution provide as follows- "Every person who is charged with a

criminal offence shall be entitled to be given adequate time and facilities for the preparation of his defence”.

I have carefully considered the submissions of the counsels to both Defendants and the prosecution. It is trite that Fair hearing is the foundation of any adjudication. It is a rule that natural justice enshrined in section 36 (1) and (6b) the constitution that a Defendant is entitled to be given adequate time and facilities in preparation of his defence.

From the records of this court it is clear that the prosecution filed this matter on 3/12/2014 i.e. about 2 years ago. During the tenure of my predecessor Hon. Justice M. A. Onyetenu.

The plea of the Defendants were taken on 4<sup>th</sup> December 2014 and since that time nothing was done as the Defendant were granted bail until 17/3/2016 when the matter started de novo before me.

Having all the submissions and record in mind, am convinced that the prosecution has fully complied with the constitution by providing the necessary forms to the counsel of the Defendants in preparation of their defence. It should be noted that the PW 2 is only an Exhibit keeper who keeps the Exhibits in a particular matter and whose duty is only to come to the court and tender the said Exhibit.

I entirely agreed with the submissions of the prosecution. The said PW 2 is hereby allow to tender the Exhibits subject to Cross-Examination by the Defendant's counsel, if he so wishes. This is my decision.



**M. L. ABUBAKAR**  
**JUDGE**

**1/12/2016**

JUDGE  
FEDERAL HIGH COURT  
ABAKALIKI