

**IN THE FEDERAL HIGH COURT OF NIGERIA**  
**IN THE ABAKALIKI JUDICIAL DIVISION**  
**HOLDEN AT ABAKALIKI**

**ON TUESDAY THE 7TH DAY OF MARCH, 2017**  
**BEFORE HIS LORDSHIP**  
**HONOURABLE JUSTICE M. L. ABUBAKAR**  
**JUDGE**

**SUIT NO. FHC/AI/5C//2009**

**BETWEEN:**

**FEDERAL REPUBLIC OF NIGERIA**

**COMPLAINANT**

**AND**

**EZEADI NNAMDI**  
**KELVIN NZEALIGO**  
**OKOYE JOSEPH UDOGARANAYA**

**DEFENDANTS**

**Defendants present**

FVC Nwancho (Mrs.)

Principal State Counsel, Ebonyi State

Ministry of Justice

Prosecution

D.E. Amago

Defendant

**RULING ON ADMISSIBILITY**

The Defendants stand charge of an offence of conveying Adulterated petroleum products (AGO) valued at Three Million, Six Hundred and Thirty Thousand Naira (₦3,630,000.00) to consumers contrary to section 18 (a) (i) and (ii) of the Miscellaneous Offences Act . In the course of the trial, the prosecutor sought to tender in evidence some statements of the Defendants through the PW1, one Monday John Udofia, a staff of the Nigerian Security and Civil Defence but the Defendants Counsel objected as follows :-

1. **Tendering of statement of the 1<sup>st</sup> Defendant.**

The Defendant's counsel objected on the ground that even though the PW1 recorded the said statement, there is nowhere his name is recorded. The law requires that the names and signature of the recorder must be on the statement.

He added that if this court is minded in admitting the said statement, weight should not be attached to it. He further argued that there is no proof that the 1<sup>st</sup> Defendant is the maker of the said statement. He urged the court to reject the said statement in evidence.

In reaction, the prosecutor submitted that relevancy is the soul of admissibility. The document is relevant to this matter and urged the court to admit it in evidence.

2. **Tendering of statement of the 2<sup>nd</sup> Defendant.**

The Defendant Counsel objected on the ground that there is no name and signature of the recorder and the Defendant did not sign it. He urged the court to reject it in evidence.

In reaction, the prosecutor submitted that it is the relevancy of a document and not weight to be attached to it that is paramount.

He urged the court to admit it in evidence.

3. **Tendering of statement of the 3<sup>rd</sup> Defendant.**

The objection here is that the statement sought to be tendered is different from the one in the proof of evidence.

Secondly, the statement was recorded in English and translated to Ibo language, but the witness stated that it was recorded in English language. The name of the interpreter is not written on the statement as required by the law. He urged the court to reject it in evidence.

In reaction, the prosecutor submitted that the statement was written in English and translated into Ibo language. It was signed by the Investigating Police Officer and the Defendant. He urged the court to admit it in evidence.

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Those are the submission of counsels to the Defendants and the prosecutor. The issue for determination is whether the said statements are admissible in law or not.

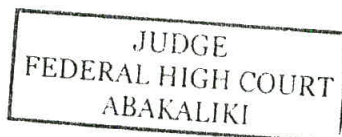
There is plethora of Supreme Court authority which states that there is a difference between the admissibility of document and the probative value to be attached to it.

Admissibility is based on relevance, while probative value depends not only on relevance but also on proof. Evidence is said to have probative value if it tends to prove an issue. See the case of NYESOM VS PETERSIDE (2016) ALL F.W.L.R Pt 842 1573 – 1769 AND BUHARI VS INEC (2008) ALL F.W.L.R (pt 437) at 42. And BELGORE VS AHMED (2013) ALL F.W.L.R (pt 705) 246.

Based on the above authorities, I hold that the said statement of the Defendants are relevant to the fact in issue but the probative value to be attached to them at the end of the trial is another matter or issue altogether. Consequently, the statements are admitted in evidence as follows:-

1. Statement of the 1<sup>st</sup> Defendant is admitted as **EXHIBIT 1**
2. Statement of the 2<sup>nd</sup> Defendant as **EXHIBIT 2**
3. Statement of the 3<sup>rd</sup> Defendant as **EXHIBIT 3**

The prosecution to supply the Defendant counsel with the 3<sup>rd</sup> Defendant's statement if he has not done so. This is my decision.



**M.L. ABUBAKAR**  
**JUDGE**  
**7/3/2017**