

IN THE FEDERAL HIGH COURT OF NIGERIA

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT ABUJA

ON TUESDAY, THE 14TH DAY OF JUNE, 2016

BEFORE HIS LORDSHIP, HON. JUSTICE A. R. MOHAMMED

(JUDGE)

SUIT NO: FHC/ABJ/CR/254/2014

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA

.....

COMPLAINANT

AND

- 1. AMINU SADIQ OGWUCHE**
- 2. AHMAD RUFAI ABUBAKAR
(A.K.A. ABU IBRAHIM/MAITURARE**
- 3. MOHAMMED SANI ISHAQ**
- 4. YA'U SAIDU (A.K.A. KOFAR RAMA)**
- 5. ANA ISAH**
- 6. ADAMU YUSUF**



.....

ACCUSED PERSONS

RULING

This ruling is on the objection taken by the learned prosecution counsel on the manner of cross - examination being done by all learned counsel for the Defendants on PW2.



The pattern of cross - examination objected to is as to whether certain words, phrases and terms spoken in Hausa Language by the

2nd, 3rd, 4th and 6th Defendants and contained in their statements were properly interpreted by PW2 from Hausa Language to English. Reverence was made to Sections 224 (1) and (2) and 29 of the Evidence Act, 2011 by the parties.

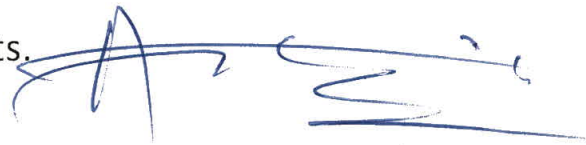


The current proceeding is trial within trial. The aim of the proceeding is to determine the voluntariness or otherwise of the statements of the 1st, 2nd, 3rd, 5th and 6th Defendants. PW2, who is an interpreter stated in his evidence thus: "that he was directed by the Chief Investigator to translate the statements of 2nd, 3rd, 4th, 5th and 6th Defendants made in Hausa Language. PW2 has not stated anywhere in his evidence that he recorded the Hausa statements of the Defendants concerned nor did he say that he was present when the Hausa version of the statements were taken in the first instance.

The original statements upon which the issue of voluntariness could be determined or absence of it are the Hausa versions. A witness, like PW2, who was not present when the Hausa versions of the statements were taken cannot be asked questions relating to proper translation of certain phrases, words or terms for the purpose of determining voluntariness or otherwise of the statement. The questions being put to PW2 concerning whether or not he has properly translated certain words, phrases or terms from Hausa Language to English have nothing to do with voluntariness or

otherwise of the said statement (which had been recorded and made even before PW2 was asked to translate same into English.

It should be noted that the question of whether or not PW2 has given a correct and proper translation of the Hausa statements would, in my view, only go to the weight to be attached to the statement but not whether it was voluntarily made or not. What I am struggling to say is that, a witness could make a confessional statement voluntarily in his native language yet a translator or interpreter may not properly translate the statement from the native language to English Language. Similarly, a statement could be made under duress or undue influence in a native language, yet the translation could be wrongly made into English. In all these situations, the wrong or improper translation of the statement has nothing to do with whether or not the statement was voluntarily made, especially, as in this case when PW2 was not the person who recorded the Hausa versions of the statements.



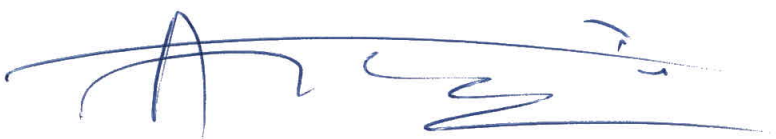
Section 224 (1) and (2) of the Evidence Act permits the Court to stop a witness from answering questions not relevant to the proceedings.

I cannot see how the determination of whether or not PW2 has translated the Hausa statements wrongly or improperly could assist

in the eventual determination of whether or not the statements sought to be tendered were voluntarily made or not.

In consequence of the above findings, I hereby disallow any question that could be put to PW2 relating to or concerning whether he has wrongly, improperly or properly translated any phrase, words or terms used in Hausa language into English for the purpose of determining voluntariness or otherwise of the statements sought to be tendered in evidence.

The defence counsel are directed to ask and/or concentrate on questions that could assist the Court in determining whether or not the statements of 2nd, 3rd, 4th, 5th and 6th Defendants were voluntarily made or not. The objection is therefore sustained.



HON. JUSTICE A. R. MOHAMMED
JUDGE
14/6/16.

APPEARANCES:-

D. E. Kaswe Esq. (PSC) with Aniekan Ekong SSC and Micheal Ubi Legal Officer for the Prosecution.

C. N. Attalor (Mrs) with N. I. Zarumi Esq., O. Omo-Egharevba (Miss), Peter Nwatu Esq., Esther Ajoge (Miss), Henry Nwakpa Esq., Kayode Olojo Esq., O. C. Ogunyemi (Miss), Chukwudi Mbamali Esq., W. A. Adeniran Esq. and Dolapo Kehinde Esq. for the 1st Defendant.

Abdul Mohammed Esq. with M. D. Acho (Miss) for the 2nd Defendant.

A. M. Yawuri Esq. with Gloria Obiawe (Miss) for the 3rd and 4th Defendants.

Abdulhamid Mohammed with O. O. Agwu (Mrs) and Barakat E. Yahaya (Miss) for the 5th Defendant.

Haroun Eze Esq. for the 6th Defendant.