

IN THE FEDERAL HIGH COURT OF NIGERIA

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT ABUJA

ON MONDAY, THE 22ND DAY OF FEBRUARY, 2016

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

(JUDGE)

SUIT NO. FHC/ABJ/CR/128/2013

BETWEEN:-

FEDERAL REPUBLIC OF NIGERIA

COMPLAINANT

AND

1. ABDULLAHI MUSTAPHA BERENDE

2. SAHEED OLUREMI ADEWUMI

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..... DEFENDANTS

RULING

This ruling is on the objections of learned Defendants' counsel on the admissibility of a bundle of documents in evidence. The grounds of the objections are that as the documents are computer generated, they have not complied with Section 84 of the Evidence Act. That the Certificate of Regularity has also not complied with Section 84(2) and (4) of the Evidence Act. Other grounds of the objections are that

the documents were not produced and certified in accordance with Section 104 of the Evidence Act as the name of the person who certified the document was not given. It was also argued that the documents were not certified. The Court was referred to the case of **KUBOR VS. DICKSON (2013) 4 NWLR PART 1345** to the effect that where a certificate does not comply with Section 84 of the Evidence Act, the Certificate should be discarded. That Exhibit K is not part of the Proof of Evidence.



In the prosecution counsel reply, it was submitted that the Certificate of Compliance is in accordance with Section 84 of the Evidence Act and that the same actually complied with Section 84 as required by law by mentioning the documents. The Court was referred to all the paragraphs of the Certificate where the documents were mentioned. On the contention that exhibit K was not part of the proof of evidence, it was contended by Prosecution that, even if, exhibit K is not part of the proof of evidence, it can still be admitted under Section 7 of the Evidence Act.

It seems to me that the crux of the objection of the defence is mainly that the documents sought to be tendered have not complied with Section 84 (2) and (4) of the Evidence Act. In the case of **KUBOR VS. DICKSON** supra, the Supreme Court has held in **pages 577 – 579 paragraphs E – F** that:-

“A party that seeks to tender in evidence a computer generated document needs to do more than just tendering same from the bar. Evidence in relation to the use of the computer must be called to establish the conditions set out under Section 84 (2) of the Evidence Act, 2011”.

In the instant case, the prosecution has called PW6, an expert who testified on how the information generated from the various handsets were processed and removed out. It would have been quite different if PW6 did not give evidence in that regard or the prosecution simply attempted to tender the documents from the bar. I am therefore of the view that the documents sought to be tendered have satisfied the conditions placed in Section 84 (2) of the Evidence Act, 2011.

A handwritten signature in blue ink, consisting of a series of loops and a long horizontal stroke at the end.

On the argument that the documents sought to be tendered have not been certified as the name of the officer/person who certified the documents has not been provided in all the documents, let me state unequivocally that since the documents carry the stamp of the DSS, the signature of a person and dates, then the documents have substantially complied with the requirement of certification. In law, there is the presumption of regularity in favour of the said document in question. See Section 168 (1) of the Evidence Act, 2011.

On the argument that exhibit K was not part of the proof of evidence, I agree with the prosecution that once the said document is relevant, then it is admissible. See Section 7 of the Evidence Act, 2011. In this case, it has not been shown that exhibit K is not relevant to the facts of this case. In fact, the exhibit, in my view, is very relevant, the same is therefore admissible under and by virtue of Section 7 of the Evidence Act.

On the whole, the objections of the defence to the admissibility of the documents sought to be tendered is overruled.

The said documents are admitted in evidence and marked as exhibit 1.



HON. JUSTICE A. R. MOHAMMED
JUDGE
22/2/16.

APPEARANCES:-

Chioma Onuegbu (Mrs.) (ADPPF) with C. Obasi (Miss) (SSC) and M. Ubi Esq. Legal Officer for the Prosecution.

M. I. Hanafi Esq. with D. T. Nwachukwu Esq. for the 1st Defendant.

On the argument that exhibit K was not part of the proof of evidence, I agree with the prosecution that once the said document is relevant, then it is admissible. See Section 7 of the Evidence Act, 2011. In this case, it has not been shown that exhibit K is not relevant to the facts of this case. In fact, the exhibit, in my view, is very relevant, the same is therefore admissible under and by virtue of Section 7 of the Evidence Act.

On the whole, the objections of the defence to the admissibility of the documents sought to be tendered is overruled.

The said documents are admitted in evidence and marked as exhibit I.

**HON. JUSTICE A. R. MOHAMMED
JUDGE
22/2/16.**

APPEARANCES:-

Chioma Onuegbu (Mrs.) (ADPPF) with C. Obasi (Miss) (SSC) and M. Ubi Esq. Legal Officer for the Prosecution.

M. I. Hanafi Esq. with D. T. Nwachukwu Esq. for the 1st Defendant.

J. D. Musa Esq. with C. J. Onuegbu (Miss) for the 2nd Defendant.