

Juritrust Administration of Criminal Justice Academy Moot Competition, 2025

ACJAMC 105

IN THE MAGISTRATE COURT OF LABULE

IN THE LABULE MAGISTERIAL DIVISION

HOLDEN AT LABULE

Charge No:

BETWEEN

Commissioner of Police Complainant /Respondent

AND

1.Susan Adebayo

2. John Emeka

3. Joy Sani

4. Obinna Paul..... Defendants/Applicants

NO CASE SUBMISSION

**BROUGHT PURSUANT TO SECTIONS 302 AND 303 OF THE ADMINISTRATION OF
CRIMINAL JUSTICE ACT, 2015 AND UNDER THE INHERENT JURISDICTION OF
THE COURT.**

1.0: INTRODUCTION

1.1. The Defendants/Applicants were charged with the offences of conspiracy to commit fraud, fraud, and impersonation.

1.2. In the course of the trial, the Prosecution tendered and relied on a confessional statement of the 1st and 3rd Defendants/Applicants, which was gotten under psychological and physical duress and accordingly challenged by the Defendants/Applicants. The court reserved its ruling on the admissibility of the involuntarily obtained confessional statement till judgement.

1.3. The Prosecution also tendered chat records of the 1st Defendants/Applicant and the inventory of account details of the 4th Defendants/Applicant, which were admitted by the court

1.4. In all, the prosecution could not make out a case against the Applicants.

2.0: ISSUES FOR DETERMINATION

2.1. Defendants/Applicants have distilled out the following issues for determination;

1. Whether or not the Prosecution has made a prima facie case against the Defendants/Applicants for the Defendants/Applicants to enter their defence.
2. Whether or not Obinna can be validly convicted relying on the confessional statement of Susan and Joy.

3.0: LEGAL ARGUMENT

3.1.0. Issue One

Whether or not the Prosecution has made a prima facie case against the Defendants/Applicants for the Defendants/Applicants to enter their defence.

3.1.1. To the above issue, we respectfully submit in the negative, which is to the effect that the Prosecution has not made a prima facie case against the Defendants/Applicants.

3.1.2. Our submission is premised on two standpoints, to wit;

1. That the confessional statement relied upon by the Prosecution is inadmissible.
2. That the Prosecution's evidence is manifestly unreliable that no reasonable court can safely convict on it.
3. That the essential elements of the offences charged have not been proved beyond reasonable doubt.

On the Inadmissibility of the Confessional Statement

3.1.3. The Prosecution relied on the confessional statement made by Susan and Joy in establishing their case. While we recognize the potency of a confessional statement as the best evidence in our criminal procedure ¹ we contend the admissibility of the confessional statement in this current case.

3.1.4. The time-honoured principle of our law is that for a confessional statement to be admissible, it must have been made voluntarily.

3.1.5. By **Section 29(2)(a) &(b) of the Evidence Act**² a confessional statement **SHALL NOT** be allowed by the court to be given in evidence if such confession was or may have been obtained by oppression of the person who made it or in consequence of anything said or done which was likely, in the circumstances existing at the time to render unreliable any confession which might be made by him in such consequence except the prosecution proves beyond reasonable doubt that the confession was not obtained in a manner contrary to the provisions of the section.

3.1.6. Sub-section 5 went further to define “oppression” to include torture, inhuman, or degrading treatment, and the use or threat of violence, whether or not amounting to torture.

3.1.7. According to the court in **Okonkwo v. State**³, a confessional statement becomes involuntary if the statement could not normally have been made but for the “inducement, threat, or promise”

¹ Solola v. State (2005) ALL FWLR (Pt. 269) 1751 at 1782

² 2011 (as amended 2023)

³ (1998) 8 NWLR (Pt 561) 210 CA

emanating from the person in authority. In other words, a confessional statement is involuntary if it is made in response to some allurement or pressure by the police or any person in authority.

3.1.8. The ingredients of an involuntary confessional statement were enumerated by the court in the case of **Borishade v. FRN⁴**, as follows;

- a. The statement must be made by an accused person.
- b. The statement appears to the court to have been caused by inducement, threat, or promise, in respect of the charge.
- c. The inducement, threat, or promise was from a person in authority.
- d. The inducement, threat, or promise was sufficient in the opinion of the court to give the accused grounds which would appear reasonable that by making the statement he would gain any advantage or avoid any evil of a temporal nature.

3.1.9. In this instant case, the confessional statement relied upon by the Prosecution was involuntarily made as it was gotten by means of inducement, threat, and promise.

3.1.10. Fact reveals that Susan, John, and Joy were held for 48 continuous hours in a small, unventilated maintenance closet used as a makeshift store-room. They were denied water, prevented from contacting their families or a lawyer, and were subjected to relentless “on-the-spot interrogation”. They were repeatedly threatened and told that “unless they cooperated,” they would be permanently disqualified from all professional practice and would face the maximum possible sentence.

3.1.11. Additionally, Ms. Susan was made to believe her young child would be taken into state custody if she refused to name the person who hired them.

3.1.12. It was under this severe psychological and physical duress that the confessional statement tendered by the Prosecution in this case was obtained.

3.1.13. And as such, the confessional statement was involuntarily made and hence inadmissible.

On the Effect of a Confessional Statement made Involuntarily

⁴ (2012) 18 NWLR (Pt 1332) 347

3.1.14. The law is clear that where a confessional statement was made involuntarily, such a statement becomes inadmissible unless and until the Prosecution leads evidence to establish that it was voluntarily made. We respectfully refer the court to the decision in **George v. State**⁵ where the Court of Appeal held to the effect that where a confessional statement was not voluntarily made by the accused person, such a confessional statement is not admissible in evidence, and where wrongly admitted, it ought to be expunged from the evidence before the court.

That the Prosecution's evidence is manifestly unreliable that no reasonable court can safely convict on it

3.1.15. With the confessional statement inadmissible, the question as to the effect of the chat records and the inventory of account details found on Obinna arises.

3.1.16. Accordingly, we humbly contend that they are such that a reasonable court cannot safely convict relying on them, placing reliance on the authority of **Agbo v. State**⁶.

3.1.17. Susan's WhatsApp chat detailing a 500,000-naira payment did not reveal who made the transaction and the purpose of the transaction, which could have been for any other purpose, and neither was it established that Obinna received or made the said transaction for any purpose whatsoever.

3.1.18. With respect to the inventory of account details, we contend that such a list does not ipso facto translate into the Defendants/Applicants committing the offences charged. In that, Obinna being an "Education Consultant" could validly and customarily have such list.

3.1.19. There was therefore no direct evidence beyond allegation upon which the court can act as mere possession of names and accounts does not establish conspiracy or fraud. The Court of Appeal unequivocally held in **Osho v. State**⁷ that allegation or suspicion no matter how strong cannot ground a conviction and so a court of law is expected to convict an accused person only

⁵ (2009) 1 NWLR (t1122) 325 CA

⁶ (2013) 11 NWLR (Pt. 1365) 377

⁷ (2012) 8 NWLR (Pt 1302) 243

when it is satisfied that the evidence adduced by the Prosecution has proved the offence beyond reasonable doubt as required by law.

3.1.20. Also, the WhatsApp chat was not accompanied by a certificate of compliance as required under Section 84 of the Evidence Act, and neither was it disclosed that oral evidence was led to establish compliance with the said section.

That the Essential Element of Offences Charged have not been Proved Beyond Reasonable Doubt

3.1.21. The law is clear that where there is no evidence to prove an essential element in the alleged offence, a no-case submission will be upheld, *vide* **Oday v. State**⁸, **Saraki v. F.R.N**⁹, **Ekwunugo v. F.R.N**.¹⁰ etc.

Element of Conspiracy was not Established

3.1.22. Pursuant to the decision in **Osho v. State**¹¹, for the offence of criminal conspiracy to be established, as required by law, the Prosecution must adduce evidence to establish that:

- a. two or more persons have entered into an agreement to do or commit an illegal act; or
- b. two or more persons have agreed to cause to be done, an illegal act; or
- c. two or more persons have agreed freely to do or cause to be done an act which is not illegal but by illegal means.

3.1.23. The court further held that it is the agreement itself and nothing more that constitutes the offence of conspiracy. This implies that there must be a meeting of the minds to do an unlawful act.

⁸ (2019) 2 NWLR (Pt. 1655) 97 SC

⁹ (2018) 16 NWLR (Pt. 1646) 405 SC

¹⁰ (2008) 15 NWLR (Pt. 1111) 630 SC

¹¹ (2012) 8 NWLR (Pt 1302) 243

3.1.24. In this instant case, the unlawful acts alleged are fraud and impersonation. However, the Prosecution did not present any admissible legal evidence that establishes the meeting of the minds of the Defendants/Applicants to commit such offences.

Elements of Fraud was not Established

3.1.25. Fraud, as held in the case of **ACN v. INEC**¹², is a willful act on the part of anyone, whereby another person is sought to be deprived of, by illegal or inequitable means, what he is entitled to.

3.1.26. To establish fraud, the following elements must be present;

- a. False representation of fact.
- b. Knowledge of falsity.
- c. Intention to defraud.
- d. Reliance by the victim leading to detriment.

3.1.27. In the case at hand, none of the above ingredients were established.

Elements of Impersonation were not Established

3.1.28. In **Emeka v. I.G.P**¹³ the Supreme Court laid down the ingredients of the offence of impersonation, to wit;

- a. that the accused falsely personated another;
- b. that the accused made an admission, while in the character and name of that other person;

3.1.29. In this instant case, there was no proof that Susan Adebayo, John Emeka, and Joy Sani wrote the exams under false identity and neither was the allegation substantiated by admissible evidence.

3.1.30. Relying on the above legal argument, we therefore respectfully contend that the Prosecution has not made a prima facie case against the Defendants/Applicants as the confessional statement relied upon by the Prosecution is inadmissible, the Prosecution's evidence is manifestly

¹² (2013) (Pt. 1370) 161

¹³ (2021) 10 NWLR (Pt. 1785) 489

unreliable that no reasonable court can safely convict on it, and the essential element of offences charged have not been proved beyond reasonable doubt.

3.2.0: Issue Two

Whether or not Obinna can be validly convicted relying on the confessional statement of Susan and Joy.

3.2.1. To the above issue, we humbly submit in the negative that Obinna cannot be convicted on the strength of Susan and Joy's confessional statement.

3.2.2. Assuming but not conceding that the involuntarily obtained confessional statement was to be admissible, we humbly but firmly contend that such a confessional statement cannot be relied upon to convict Obinna.

3.2.2. The law is unequivocal, which is to the effect that where a Defendant, in a joint trial, has made a confessional statement in the presence of a co-defendant, the court shall not take such confession into consideration against the silent defendant, unless he adopts it by word or conduct, *vide Section 29(4) of the Evidence Act*¹⁴, *Owolabi v. State*¹⁵, *Umar v. State*¹⁶, and *C.O.P v. Alozie (2017)*¹⁷.

3.2.3. In this instant case, Obinna was never present when Susan and Joy involuntarily made the confessional statement relied upon by the Prosecution. And neither did he adopt the said involuntarily made confessional statement either by conduct or word.

¹⁴ 2011 (as amended 2023)

¹⁵ (2019) 2 NWLR (Pt.1657) 525 at 534-535 SC

¹⁶ (2018) 7 NWLR (Pt.1617) 72 at 87 SC

¹⁷ ALL FWLR (Pt.902) 808 at 828 SC

3.2.4. While we recognize the decision in **Adeleke v. State**¹⁸ where the court held that the general rule that a confession of a defendant not being binding on a co-defendant should give way where there exists “a strong connection from other independent evidence” we contend that this exception is not applicable in this instant case.

3.2.5. We therefore pray the Honourable court to resolve this issue in favour of the Defendants/Applicants.

4.0: Conclusion

4.1. In view of the legal submission made above, we respectfully urge this court to dismiss this charge with the cost of 2,000,000 naira and find the no case submission in favour of the Defendants/Applicants.

Dated this 19th Day of December, 2025.



Counsel for the Defendants/Applicants.

For Service On:

Counsel to the Prosecution.

¹⁸ (2014) ALL FWLR (Pt.722) 1652 at 1674 SC

List of Authorities

Judicial Authority

1. Solola v. State (2005) ALL FWLR (Pt. 269) 1751 at 1782
2. Okonkwo v. State (1998) 8 NWLR (Pt 561) 210 CA
3. Borishade v. FRN (2012) 18 NWLR (Pt 1332) 347
4. George v. State (2009) 1 NWLR (Pt. 1122) 325 CA
5. Agbo v. State (2013) 11 NWLR (Pt. 1365) 377
6. Osho v. State (2012) 8 NWLR (Pt 1302) 243
7. Oday v. State (2019) 2 NWLR (Pt. 1655) 97 SC
8. Saraki v. F.R.N (2018) 16 NWLR (Pt. 1646) 405 SC
9. Ekwunugo v. F.R.N. (2008) 15 NWLR (Pt. 1111) 630 SC
10. ACN v. INEC (2013) NWLR (Pt. 1370) 161
11. Emeka v. I.G.P (2021) 10 NWLR (Pt. 1785) 489
12. Owolabi v. State (2019) 2 NWLR (Pt.1657) 525 at 534-535 SC
13. Umar v. State (2018) 7 NWLR (Pt.1617) 72 at 87 SC
14. C.O.P v. Alozie (2017) ALL FWLR (Pt.902) 808 at 828 SC
15. Adeleke v. State (2014) ALL FWLR (Pt.722) 1652 at 1674 SC

Statutory Authority

1. Section 29(2)(a) &(b) of the Evidence Act
2. Section 29(5) of the Evidence Act
3. Section 84 of the Evidence Act