

IN THE FEDERAL HIGH COURT
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

CHARGE NO: **FHC/201/C/2026**

BETWEEN

THE STATE.....COMPLAINANT

AND

MUSA EMEKA AYO.....DEFENDANT

NO-CASE SUBMISSION

1.0. INTRODUCTION

1.1. Your Lordship, at the close of the Prosecution’s case, we respectfully submit that the Prosecution has failed to establish a prima facie case against the Defendant to warrant calling upon him to enter his defence. The Defence brings this no-case submission pursuant to *Section 302 of the Administration of Criminal Justice Act* and relies on the legal arguments put forth below in firm support of our application.

2.0. STATEMENT OF FACTS

2.1. The Defendant, Dr. Musa Emeka Ayo is a billionaire resident and philanthropist in the Republic of Magaria and founder of the “WAZOBIA Foundation for Magarian Relief.” In 2024, the Foundation received an award for building 50 solar-powered health clinics in remote areas of Magaria.

2.2. In February 2025, a joint operation between the Magarian Financial Intelligence Unit (MFIU) and the Magarian Military Intelligence Bureau (MMIB) flagged a series of “suspicious” movements:

2.2.1. Two and a half billion Magarian Pounds was over a span of 18 months deposited into the Foundation’s account via 500 different Point-of-Sale (POS) agents, with no single deposit exceeding M4.9 Million.

- 2.2.2. 2,000,000 United States Dollars was allegedly transferred to the Foundation from a “Global Peace Charity” based in a jurisdiction recently blacklisted by the Financial Action Task Force.
- 2.2.3. Intelligence suggests that 30% of the medical supplies purchased by the Foundation were found in the hands of a several insurgent groups including the proscribed “Ax Liberation Movement (ALM)”.
- 2.3. The Defendant was subsequently arrested on the basis of the aforementioned allegations during a board meeting and charged with the offence of money laundering under Section 18 of the *Money Laundering Act* and terrorism financing (providing material support to a terrorist organization) under Section 13 of the *Terrorism Prevention and Prohibition Act*.
- 2.4. During the course of trial, the Defendant consistently maintained his innocence, explaining that the Foundation vehicles conveying the medical supplies to legitimate sources were hijacked at various points by bandits and insurgents.
- 2.5. Dr. Musa further clarified that the POS deposits were legitimate “Zakat” (charitable) donations from thousands of anonymous rural donors who do not have traditional bank accounts.
- 2.6. The Prosecution has closed its case and the Defendant now brings this no-case submission before your Lordship.

3.0. OFFENCES ALLEGED

- 3.1. Money Laundering under Section 18 of the Money Laundering Act, for “structuring” transactions to avoid detection.
- 3.2. Terrorism Financing under Section 13 of the Terrorism Prevention and Prohibition Act, for providing material support to a terrorist organization.

4.0. ISSUES FOR DETERMINATION

- 4.1. The Defendant hereby formulates the following sole issue for determination by your Lordship:
 - 4.1.1. Whether having regard to the provisions of Section 36(5) of the Constitution of the Federal Republic of Magaria 1999 (as amended), the reverse burden of proof created by Section 74 of the Proceeds of Crime (Recovery And Management) Act is not a fundamental violation of the Defendant’s right to be presumed innocent until proven guilty?

5.0. LEGAL ARGUMENTS

5.1. **WHETHER HAVING REGARD TO THE PROVISIONS OF SECTION 36(5) OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF MAGARIA 1999 (AS AMENDED), THE REVERSE BURDEN OF PROOF CREATED BY SECTION 74 OF THE PROCEEDS OF CRIME (RECOVERY AND MANAGEMENT) ACT IS NOT A FUNDAMENTAL VIOLATION OF THE DEFENDANT’S RIGHT TO BE PRESUMED INNOCENT UNTIL PROVEN GUILTY 2022?**

5.1.1. On this issue, it is the Defendant’s humble yet unequivocal submission that the provisions of *Section 74 of the Proceeds of Crime (Recovery and Management) Act* offend the letter and spirit of the constitutional presumption of innocence afforded a Defendant by virtue of *Section 36(5) of the Magarian Constitution* in criminal proceedings.

5.1.2. Your Lordship, pursuant to Section 36(5) of the Constitution, “***every person who is charged with a criminal offence shall be presumed to be innocent until he is proved guilty.***”¹ This provision encapsulates, constitutionally, the sacred principle on which Magarian criminal jurisprudence is built: that it is the State, not the Defendant, who bears the burden of establishing its case beyond reasonable doubt.

5.1.3. The rationale behind this constitutional provision finds root in the legal aphorism “he who asserts must prove” (*affirmanti non neganti incumbit probatio*). In other words, where the State alleges the commission of an offence by an individual, the State bears the burden of establishing that individual’s guilt to the satisfaction of the Court.²

5.1.4. The Courts of Magaria have consistently recognized the sacredness of this trite principle of law. In **Omokaro v. State**,³ the Court emphatically noted thus:

“Where the commission of crime by a party is in issue in any proceedings, it must be proved beyond reasonable doubt. In discharging the burden, all the essential ingredients of the crime alleged must be proved beyond reasonable doubt. The burden never shifts....” (Underlining ours, for emphasis).

¹ Constitution of the Federal Republic of Magaria 1999 as amended, s 36(5)

² Evidence Act 2011, s 131

³ Omokaro v. State (2026) 2 NWLR (Pt. 2027) 125

- 5.1.5. The cases of *Olarewaju v. State*,⁴ *Sanusi v. State*,⁵ and *Bello v. F. R. N*⁶ further echo similar judicial stances. Without mincing words, it is clear that the entire burden of proof of guilt of the defendant lies on the Prosecution and where he fails to do so, the Defendant cannot be held to have caused it, neither would the judge be seen as impartial in handing down an acquittal.
- 5.1.6. Against this constitutional backdrop, the Defendant thus submits vehemently that the provisions of Section 74 of the Proceeds of Crime (Recovery and Management Act) constitute a blatant breach of the Defendant's right to be presumed innocent and a violation of the letter and spirit of Section 36(5) of the Magarian Constitution. The reverse burden of proof placed by section 74 of the Act already presumes the Defendant guilty and as such, requires him to prove his innocence, even in the face of an undetermined accusation.
- 5.1.7. For purposes of clarity, Section 74 provides thus: “***Subject to the provisions of the Act, the defendant in any proceedings under this Act bears the burden of proving that he is the legitimate owner of the assets suspected to be proceeds of crime or derived from unlawful activity or that the assets are of legitimate origin and not proceeds of unlawful activity.***”⁷
- 5.1.8. The import of this provision is that where a Defendant is in the possession of assets “suspected” to be proceeds of crime or derived from unlawful activity, he possesses the *burden* of proving that he is the legitimate owner of the assets or that the assets are of legitimate origin and not proceeds of unlawful activity. In other words, a prima facie burden of guilt is placed on the Defendant until he is able to establish his innocence.
- 5.1.9. Your Lordship, this provision not only offends the very foundations on which criminal jurisprudence has been built since the old days of the English common law but strips an accused person of his constitutional right to the presumption of his innocence. By holding the accused person out as guilty on mere suspicion of criminal conduct, the accused is left to vehemently defend his innocence: an unheard-of scenario.

⁴ *Olarewaju v. State* (2024) 1 NWLR (Pt. 1950) 493

⁵ *Sanusi v. State* (2023) 10 NWLR (Pt. 1892) 253

⁶ *Bello v. F. R. N* (2025) 13 NWLR (Pt. 2001) 145

⁷ Proceeds of Crime (Recovery and Management) Act 2022, s 74

- 5.1.10. While the Prosecution may point to cases such as *Daudu v. F.R.N*⁸ where the Supreme Court held a somewhat similar provision of the repealed Money Laundering (Prohibition) Act as being constitutional and coming within the proviso to Section 36(5), the Defence asserts that the facts of that case and the case *sub judice* are distinguishable and that the provisions of Section 74 in the present case fail to come within the proviso to Section 36(5).
- 5.1.11. In *Daudu*, the Defendant was an ex Local Government Chairman accused of money laundering under the provisions of the repealed Money Laundering (Prohibition) Act. Section 19(3) of the Repealed Act specifically provided that “*in any trial for an offence under this Act, the fact that an accused person is in possession of pecuniary resources or property for which he cannot satisfactorily account and which is disproportionate to his known sources of income, or that he had at or about the time of the alleged offence obtained an accretion to his pecuniary resources or property for which he cannot satisfactorily account, may be proved and may be taken into consideration by the Federal High Court as corroborating the testimony of any witness in such trial.*”⁹
- 5.1.12. The ratio underpinning the Supreme Court’s ruling was that while the presumption of innocence afforded by Section 36(5) of the Constitution was “*a hallowed principle lying at the heart of criminal law*” the evidential burden of proof could still shift to the accused¹⁰. Thus, as was noted by Peter Odili, JSC:

“*Of a fact is that the onus or burden of such proof in a criminal trial such as this is on the prosecution to establish the ingredients of the offence beyond reasonable doubt and when the prosecution has done that and in so doing so once the prosecution having placed sufficient evidence on the guilt of the appellant either by direct or circumstantial or presumptive evidence beyond reasonable doubt required by law. At that stage, the onus is on the accused*

⁸ *Daudu v. F.R.N* (2018) 10 NWLR (Pt. 1626) 169

⁹ Money Laundering (Prohibition) Act, s 19(3)

¹⁰ *Daudu v. F.R.N* (2018) 10 NWLR (Pt. 1626) 169, p. 193, para. B

appellant to attack or rebut the evidence so presented by the prosecution by evidence contrary to what the prosecution has laid out.”

- 5.1.13. In other words, the Supreme Court explained that where the Prosecution has sufficiently established the accused’s guilt beyond reasonable doubt, then, and only then, could the onus shift to the accused to prove his own innocence. It must be crucially noted that the reason why Section 19(3) of the repealed Act was able to pass judicial scrutiny by the Supreme Court was that the provision did not impose a burden of guilt on the defendant but merely stated that the inability of the Defendant to prove the legitimacy of his income “may be taken into consideration by the Federal High Court as corroborating the testimony of any witness in such trial.” (Underlined for emphasis).
- 5.1.14. This provision is in contradistinction to Section 74 of the Proceeds of Crime (Recovery and Management Act), which states, unequivocally, that “*the defendant in any proceedings under this Act **bears the burden of proving** that he is the legitimate owner of the assets suspected to be proceeds of crime.*” Nothing in this Section purports to place the initial burden of proof on the Prosecution and then shift the evidential burden of disproving an established fact to the Defendant after it has been established beyond reasonable doubt. Essentially, the Act places, from the get-go, the burden of disproving a crucial element of a criminal offence on the Defendants.
- 5.1.15. As this provision comes in direct conflict with the Defendant’s constitutionally protected presumption of innocence, it is submitted, with the greatest respect, that same constitutes an egregious violation of Section 36(5) of the Nigerian Constitution and must thus be declared null, void, and patently unconstitutional.
- 5.1.16. It is so submitted.

6.0. CONCLUSION

- 6.1. It is based on the arguments canvassed above that the Defendant prays this Honourable Court to rule in favour of the no-case submission put forth by the Defendant and discountenance the evidence tendered by the Prosecution as insufficient in establishing a prima facie case against the Defendant.

7.0. INDEX OF AUTHORITIES

7.1. Cases Cited

- 7.1.1. Bello v Federal Republic of Nigeria (2025) 13 NWLR (Pt 2001) 145
- 7.1.2. Daudu v Federal Republic of Nigeria (2018) 10 NWLR (Pt 1626) 169
- 7.1.3. Omokaro v The State (2026) 2 NWLR (Pt 2027) 125
- 7.1.4. Olarewaju v The State (2024) 1 NWLR (Pt 1950) 493
- 7.1.5. Sanusi v The State (2023) 10 NWLR (Pt 1892) 253

7.2. Statutes Cited

- 7.2.1. Constitution of the Federal Republic of Magaria 1999 (as amended)
- 7.2.2. Evidence Act
- 7.2.3. Proceeds of Crime (Recovery and Management) Act

Dated this 23rd Day of March 2026.



A handwritten signature in dark ink, appearing to read 'E. K. Andem'.

E. K. ANDEM, ESQ.
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DEFENDANT'S COUNSEL
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FOR SERVICE ON
The Prosecution Counsel