



IN THE COURT OF APPEAL OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

APPEAL NO: CA/ABJ/CV/66/2026

SUIT NO: FCT/IIC/CV/3139/2024

BETWEEN

SENATOR TOKUNBO AFIYUKOMI -----

APPELLANT

AND

1. PRINCE SAMSON A. ATAIYERO

2. THE DEPUTY SHERIFF, FCT HIGH COURT ----- RESPONDENTS

MOTION ON NOTICE

BROUGHT PURSUANT TO SECTION 6 (6) AND SECTION 36 (12) OF THE
CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA AND
UNDER THE INHERENT JURISDICTION OF THIS HONOURABLE
COURT

TAKE NOTICE that this Honourable Court shall be moved on the _____ day of _____, 2022 at the hours of 9'0' clock in the forenoon or so soon thereafter as counsel on behalf of the Appellant/Applicant's may be heard praying the Court for the following reliefs:

1. An order extending the time within which the Appellant/Applicant can file their brief of argument in respect of the appeal CA/ABJ/CV/66/2026 filed ON THE 9TH OF MARCH, 2026
2. An order deeming the said Appellant Brief of Argument filed and served.
3. And for such orders and further orders as this Honourable Court may deem fit to make in the circumstance of this case.



Dated this 18th day of June 2026



Dr. Dayo G. Ashonibare, Esq.
R.E. Ashonbare, Esq.,
Simiat Suleiman, Esq.,
S.F. Wofuru, Esq.,
A.B. Etamesor Esq.,
✓ J.O Ibrahim Esq. (Signed)
(APPELLANT's COUNSEL)
Levite Solicitors & Arbitrators,
Block 15D, Salis Court,
Efere Ileogun Street,
(Around Jabi Airport Junction)
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08033661414, 08100485744

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FOR SERVICE ON

1st Respondent

Plot 19 Cadastral Zone 16

Idu Junction Layout, Idu District FCT-ABUJA

2ND Respondent

The Deputy Sheriff

FCT HIGH COURT

Maitama, FCT-ABUJA

**IN THE COURT OF APPEAL OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA**

APPEAL NO: CA/ABJ/CV/66/2026

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APPELLANT

AND

1. PRINCE SAMSON A. ATAIYERO

2. THE DEPUTY SHERIFF, FCT HIGH COURT ----- RESPONDENTS

AFFIDAVIT IN SUPPORT OF MOTION

I, Ikechukwu Comfort, female, Adult, Nigerian of Block 15D , Salis Court, Gwarinpa, FCTT doth make oath and state as follows:

1. That I am the litigation secretary in the law firm Levite Solicitors and Arbitrators of the above mentioned address by virtue of which I am very conversant with the facts of this case.
2. That I have the authority and consent of both my employer and the applicant to depose to this affidavit which I now do.
3. That on the 25th day of May, 2026, at the hour of 2:00 clock p.m. while in the course of my duty, Jibril Ibrahim, Esq., counsel to the applicant, informed me of the following facts which I very much believe to be the truth

(a) That the applicant is out of time to file his Brief of Argument.

- (b) That the Counsel in Chamber who was assigned the preparation of the application for the extension of time took ill and inadvertently failed to inform the Principal Counsel.
- (c) The Principal Counsel prepared and filed the Appellant Brief on the pretext that it was accompanied with this application
- (d) That the inadvertence was occasioned by the counsel to the applicant.
- (e) That the delay in filing the Said appellant brief was not deliberate but as a result of the aforementioned reasons.
- (f) That it is necessary to bring this application for extension of time for applicant to file its Appellant Brief of Argument.
4. That it would be in the interest of justice and fair hearing to grant this application
5. That I know that this Court has the discretionary powers to grant this application and it will be in the interest of justice to grant same.
6. That I make this oath in good faith believing same to be true and correct to the best of my knowledge and in accordance with the Oath Act in force.

Balsie

DEPONENT

Sworn to at the Registry of the Court of Appeal, Abuja
this day of June, 2026

BEFORE ME
Felix
COMMISSIONER FOR OATHS



IN THE COURT OF APPEAL OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
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BETWEEN

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AND

1. PRINCE SAMSON A. ATAIYERO

2. THE DEPUTY SHERIFF, FCT HIGH COURT ----- RESPONDENTS

WRITTEN ADDRESS IN SUPPORT
OF MOTION ON NOTICE FOR EXTENSION OF TIME

INTRODUCTION

1. 1:0 This is the written address of the applicant in support of their prayers in their humble application before this Honorable Court for extension of time within which to file its appellant brief of argument. The application is praying for an order of this Court granting an extension of time to the applicant to file its appellant brief of argument and an order deeming the same properly filed and served and for such further and other order(s) as this Honourable Court may deem fit to make in the circumstances of this application.. We rely on all the paragraphs of the affidavit in urging this Honourable Court to grant this application as prayed.

2. 2:0 BRIEF FACTS OF THE APPLICATION



3. 2:01: The brief facts of this application are as disclosed in the affidavit in support of this application.

4. 3:00: ISSUE FOR DETERMINATION

5. 3:01 *The lone issue arising from the affidavit evidence is whether in view of the affidavit evidence before the Court, this application is meritorious.*

6. 4:00: SUBMISSIONS/ARGUMENTS ON THE ISSUE

7. 4:01: My lord, it is trite law that a party who wishes to file any process in Court out of time is expected to first obtain the leave of Court before doing so and my lord is empowered by law to grant same in the interest of justice.

8. 4:02: we submit that the applicant has through its affidavit in support of the application shown that the failure to file and serve his processes within time is not a deliberate act.

9. 4:03: My lord, the applicant has disclosed in paragraph 3(a-g) that the delay in filing his process before this honourable Court is not deliberate but due to the inadvertence of their counsel. And it has been held in a plethora of cases that the sin or inadvertence of the counsel must not be visited on the litigant.

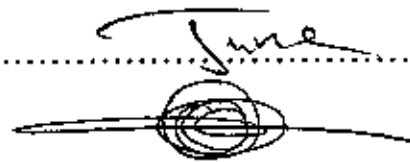
10. 4:04: It is our further submission that this noble Court has the discretionary power to grant this application. What an applicant seeking extension of time to take any procedural steps is required by law to do is to satisfy the Court by affidavit evidence with good and satisfactory reason for failing to file his processes timeously. We refer my lord to the case of **Akinpelu V Adegboro (2008) 10 NWLR (pt1096) pg. 531.**

11. 4:05: we submit that the applicant has demonstrated this requirement of law by affidavit evidence in support of this application before the Court

12. 5:00 CONCLUSION

13. 5:00: By the authority cited above and the affidavit evidence placed before this honourable Court we urge this honourable Court to hold that this application has merit and should be granted in the interest of justice.

Dated this : 1st day of June 2026



Dr. Dayo G. Ashonibare, Esq.
R.E. Ashonbare, Esq.,
Simiat Suleiman, Esq.,
S.F. Wofuru, Esq.,
A.B. Etamesor Esq.,
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