Adopted on the 8/07/2025 after regulation and Correction to read F.R.N

IN THE HIGH COURT OF THE FEDE RAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

CHARGE NO:

BETWEEN: **FCT/ABJ/CR/542/22**

ATTORNEY GENERAL OF THE FEDERATION] COMPLAINANT

VS.

HIGH COURT OF FCT ABUJA
REGISTRAR
HASSAN A. SADIQ
Sign..... Date... 2/7/25

1.EMMAUEL OBASI
] DEFENDANTS

JENNIFER INEMESIT OBOKO

WRITTEN ADDRESS OF THE COMPLAINANT IN THE TRIAL WITHIN TRIAL

I.0. INTRODUCTION:

1.1 The defendants are standing trial on 2 Count Charge for an offence committed and punishable under the sections 1 and 14, of Violence Against Persons (Prohibition) Act 2015 (hereinafter referred to as the Act). The said sections prohibits sexual knowledge of a person without consent {rape) against the first defendant and causing emotional and psychological abuse on a person against the 2nd defendant.

1.2 The defendants were arraigned on the charge dated and filed on the 4th of October, 2022 and they took a plea of "Not Guilty" on their respective count.

1.3 However, when the prosecution opened its case and sought to tender the confessional statements of the defendants the defence counsel objected to the admissibility of the statement on the ground that the said statements were not voluntarily made by the defendants. The case thereupon proceeded to trial within trial. The Prosecution in proof

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of its case called 2(two) witnesses namely; Juventus Yutno Pw1, and Mr. Izuchuhukwu Ilikanu (Pw2). The defence on the other hand called the defendants as their independent witnesses. The parties thereafter, were ordered to file their written address by the Honourable Court.

2.0 ISSUE FOR DETERMINATION:

2.1. We respectfully submit, my Lord, that the prosecution has formulated only one issue for determination in this case viz:

(i) Whether the Confessional Statement sought to be tendered in evidence was voluntarily made by the defendants.

3.0. ARGUMENT ON ISSUE FOR DETERMINATION

3.1 it is our humble submission that the answer to the above statement is in the affirmative. It is apt, that the onus of proving that the statement made by the defendants who denies the voluntariness of their extra-judicial statements made to the complainant when it is being sought to be tendered lies with the prosecution as in the instant case. This burden we oblige to discharge satisfactorily.

ON THE STATEMENT OF THE 1ST DEFENDANT

3.2. My Lord, ***Section 29 (2) (a) and (b) of the Evidence Act 2011 as amended*** provides for the factors that could vitiate a confessional statement and none of these factors exist in the present case. This fact was buttressed by the credible evidence of the prosecution witnesses in the trial within trial. Pw1 made it clear, unambiguous and direct that he was the officer that was with the defendant throughout the time the first defendant made his statement. This assertion was never contradicted by the defence. Interestingly Pw1 gave a vivid testimony how the defendant statement was taken without intimidation, threat, oppression, promise or any factor that may render the confessional statement of the defendant inadmissible in evidence.

3.3 The extract of Pw1 examination in Chief under Oath before this honourable court is hereby reproduced, whereby he unequivocally stated that the defendant wrote his statement voluntarily to wit:

Prosecution Counsel:

Please state the circumstances that brought you and the defendant together.

Pw1: I was asked to interview the 1st defendant and record his statement. I took him to the general investigation office after interviewing him, I administered a cautionary word on him.

Prosecution Counsel: Apart from the cautionary word did you say any other thing.

Pw1: No, I only read it afterward he signed his statement.

3.4 . My Lord Pw1 went further to state that he did not infringe on any of the provisions of section 29 (a) and (b) of the Evidence Act 2011 as amended. that it is not part of the Agency's policy or character. However, My lord, the 1st defendant under the fire of cross examination admitted that all the paragraphs of the statement were things personal to his knowledge. he admitted being in sexual relationship with one April and Dw2 the mother of April is aware of it , he equally acknowledged seeing the chain of the 2nd defendant on the neck of one chibuike 2nd defendant's lover . The totality of the 1st defendant's testimony in court was he was not coerced, beating up in any manner or put in a position his statement being involuntary contrary to his testimony of being forced and beaten to make his statement.

3.4 The Prosecution equally submit that Pw1 in his testimony before the court stated that he was with the 1st defendants throughout the time he made his statement and the defendant signed same which he counter signed. It was also his testimony that the 1st defendant wrote his statement which he did so voluntarily, without being threatened, oppressed or induced into writing his statement over a promise. This piece of evidence was elicited from Pw1 in his cross examination and was never contradicted in any way by the defence.

3.6. We respectfully submit that the statement of Dw1 the Prosecution sought to tender before this honourable court for its admissibility is one. It is the statement the defendant made before Pw1 (Mr Juventus Yutnoe) and no other. The said statement the defendant identified, before the court and acknowledged that he wrote and endorsed same by himself and no other.

ON THE STATEMENT OF 2ND DEFENDANT.

3.7 My lord on the statement of 2nd defendant the Prosecution is seeking to tender before this court is the statement made on the 7th of January, 2021 when the Prosecution in the course of their investigation realized that 2nd defendant now Dw2 formerly a complainant has a prima facie case in infringing the provisions Violence against Persons Prohibition Act 2015.

3.8 Dw2 in her testimony before the court demonstrated a pattern of a pathological liar. first she claimed that she was beaten and coerced making a statement, secondly she claimed she had no knowledge of the statement prosecution sought to tender as it is not her statement., then finally she testified that the prosecution gave her documents to sign in several places in court when she came for a trial of this case as her statement which she knows nothing about. My lord the totality of Dw2 testimony in court is that she denied making the statement the prosecution is urging the court to admit.

3.9 The position of the law is that when a party denies making extra judicial statement as in the present case , the court is bound to admit it and places

a value/weight on the said statement, in doing so the court will assess the credibility of the defendant and other witnesses, taking into cognizance the inconsistences in the testimonies as to its genuineness and credibility see the case of Auwalu Vs. kano State (2024)SC, LPELR-63004.}

4.0 It is a cardinal principle of law that confessional statement if voluntary are deemed to be relevant facts against the person who made them only, the law went further to buttress this fact by judicial decisions and in section 29(5) of Evidence Act, that no answer to a question and no statement is admissible unless it is shown by the prosecution not to have been obtained in an oppressive manner and to have been voluntary in the sense that it has not been obtained by threats or inducements. It is our contention that this legal mandate has been adhered to by the prosecution in obtaining the statement of the defendants and the statement denied by Dw2 does not come into the contemplation on discourse. See Olalekan vs. State (2002)7 NWLR(PT91) 1605.

4.1 The Prosecution respectfully urge my lord to note that the said statement of 2nd defendant sought to be tendered is a detailed transaction or occurrence that only the 2nd defendant had personal knowledge of, the statement is in line with provisions of section 4 of the evidence Act 2011, on relevancy and facts in issue. The said statement was not even so confessional as the defendant denied knowledge of any sexual relationship between her children and other persons in the apartment. we urge my lord to admit the said statement in evidence as it is not within the contemplation of statements that will go through the process of Trial Within Trial to ensure their admissibility in evidence. The credible evidence by two prosecution witnesses taken corroborated the fact that the statements were taken free from any factors that could render the statement inadmissible this was emphasized by Pw2 who testified that he was in the room where the statement of 2nd defendant was taken more so where there is no fact or material evidence that she was beaten or influenced before making her statement. it is the position of the prosecution as demonstrated by the

witnesses that the defendant voluntarily gave her statement even though she denied knowledge of.

ON ISSUES RAISED BY THE DEFENCE;

5.0 It is our submission that the essence of the Trial Within Trial is for the court to x-ray the entire process in obtaining the statement of the defendant by the complainant, to know whether the statement sought to be tendered by the Prosecution was voluntary or otherwise . The testimony of Pw1 in the trial within trial is direct, clear and unambiguous as to the taking of the defendant's statement by the complainant. We respectfully submit that the decisions of other judicial authorities quoted by the defense counsel in support of his position on the issues he raised for determination as to the recording of PW 1 Statement in digital form is noted, however the absence of same should not negate the true intention of the maker which was to admit his commission of an offence at that moment without compulsion. Secondly, the Administration of Criminal Justice Act 2015 did not provide that the 2nd defendant statement should be admitted when as in the present case denied making the statement sought to be tendered by the prosecution.

5.1 it is our case that the procedure of trial within trial being an enquiry into an admission to determine whether or not it was voluntarily made before it is accepted in evidence we therefore submit that the defendants voluntarily gave their statements to the complainant this fact was clearly stated by the prosecution witnesses. It is also our contention that the prosecution went further to administer the word of caution to the defendants which they signed before they wrote their statement

5.0 It is our argument that all the evidence of the defense was challenged, hence the judicial citations on this subject is misguided and quoted out of context. We therefore, urge the honorable court to believe, the direct, clear,

unambiguous and unchallenged testimony of the prosecution and admit the statements of the defendants in evidence.

6.0 We respectfully submit.

DATED THIS DAY ---2nd--- DAY OF ....July.....2025

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