THE TRIAL OF THE CHIEF JUSTICE OF NIGERIA: WHY THE NIGERIAN SUPREME COURT MUST OVERRULE ITS DECISIONS IN SARAKI VS. F.R.N. & METUH V. F.R.N.

BY: JOHNMARY C. JIDEOBI, ESQ.*

PREFATORY REMARKS

The fight against corruption, regardless of whatever form it is being fought currently, has been one of the cardinal projects which the President Muhammadu Buhari-led Federal Government of Nigerian has so much prioritized since assuming office in the year 2015. This fight has been taken frontally to the doorstep of the Nigerian Judiciary. On or around the 8th day of October, 2016, the nation woke up to the shocking news of the houses of some senior Federal Judges/Justices being invaded by the agents of the Nigerian State who later arrested them, interrogated them and subsequently put some on trial. In the said exercise, two Supreme Court Justices were victims. While the twin trials of the Honourable Justice Ngwuta (of the Supreme Court) were halted by the Courts (both the Federal High Court and the Code of Conduct Tribunal) before whom he was arraigned, the Honourable Justice Okoro (of the Supreme Court) later returned to his duty post as there was no criminal charge later preferred against him. One of the fallouts of the events of 8th October, 2016, significant to the soul of our present engagement, is the decision of the Nigerian Court of Appeal in *Nganjiwa vs. F.R.N*[1] which eventuated from the strident resistance mounted by the Honourable Justice Nganjiwa of the Federal High Court to stop the attempt of the Federal Government of Nigeria to put him on criminal trial before the Lagos State High Court.

FACTUAL BACKGROUND:

So many articles have been written on the ongoing trial of the Chief Justice of Nigeria, the Honourable Justice Walter Samuel Nkanu Onnoghen. So many comments have been shared and so many opinions expressed thereon. To this extent therefore, this reflection does not aim at reinventing the wheel neither is it an attempt to expand the factual strand which is well too known

* [08131131942/joannesmaria2009@yahoo.com].
[1]*(2018) 4 N.W.L.R. (Pt. 1609) 301*

to the long-observing public. We intend to rather highlight those portions of the facts that will best assist the resolution of the salient issues which this academic inquiry has taken upon itself to resolve. On Friday the 29th of March, 2019 while overruling the no-case-submission of the CJN, the Code of Conduct Tribunal (CCT) Chairman made this statement whose systemic analysis forms the springboard of our present undertaking:

> "The defence team ought to perform its duty as a Minister in the Temple of Justice but it seems they are hell bent on preventing the defendant from facing his punishment."

SCOPE OF THE ENQUIRY:

In delineating the contours of this enquiry, it is important to stress that the most proximate impulsion warranting this exercise are the broader considerations of (on the one hand) presenting a template for a criminal justice administration system that will command the confidence of both the accused, the prosecutor and the entire society and (on the other hand) to save the judiciary from itself by emphasizing the imperatives of the review of the decisions of the Nigerian Supreme Court in the cases of *Saraki v. F.R.N*. & *Metuh v. F.R.N.* with a view to ending the cancerous jurisprudence they have unfortunately enthroned that is now, evidently, occluding our criminal justice system and asphyxiating their victims (our current Chief Justice of Nigeria inclusive). The present enterprise therefore is principally to interrogate the impugned pronouncement of the Honourable Tribunal Chairman on the 29th day of March, 2019 while overruling the no-case submission of the Honourable the CJN. In doing this, we take shelter under the authority of *Abioye v. Yakubu*[2] where the Supreme Court concededly affirmed the right and liberty of academic writers to interrogate the decisions of Courts. Most recently, in *Emeka v. Okoroafor*[3], the same Supreme Court (speaking through Nweze, J.S.C.) re-affirmed this interrogative right conceded to writers in these comforting words:

> Scholars, undoubtedly, relishing their liberty under the well-cherished canon of academic freedom, have the right to interrogate any judicial pronouncement. Interestingly, this Court

[2] (1991) 5 NWLR (Pt. 190) 130
[3] [2017] 11 N.W.L.R. (Pt. 1577) S.C. 410

has responded, constructively, to such criticisms of its judgments in law journals. For example, in Abioye v Yakubu (1991) 5 NWLR (Pt.) 130, this Court acknowledged that:

"[a]academic writers in various Law Journals have criticized the approach of the Courts in the interpretations of statutes]

In the same tone and tenor, the Supreme Court (speaking through Nnamani, J.S.C.) yet again, most eloquently concluded in *Okoduwa v. The State*[4] that:

"It is settled that it is not contempt of court to criticize the conduct of a Judge or the conduct of a court even if such criticism is strongly worded provided that the criticism is fair, temperate and made in good faith."

THE CRUX OF THE MATTER:

In *Nganjiwa vs. F.R.N*.[5], the Court of Appeal (Lagos Division) was confronted with these twin issues (arising from Charge No. LD/4769C/2017), nay:

a. Whether the lower court can validly exercise criminal jurisdiction over a sitting judicial officer (the Appellant) whilst still occupying such office without first satisfying the condition precedent of subjecting such judicial officer to the disciplinary jurisdiction of the National Judicial Council as provided for in the Constitution of the Federal Republic of Nigeria, 1999 (as amended)

b. Whether in view of the constitutionally guaranteed doctrine of independence of the judiciary, the lower court is right in reaching the conclusion that the executive arm of government (acting through the EFCC or any other authority) can directly prosecute a sitting judicial officer without first following due process as provided for in the constitution by first referring the matter by way of petition to the National Judicial Council.

[4] [1988] 1 N.S.C.C. vol. 19, page 718
[5] supra

After an exhaustive review of the marathon submissions vigorously canvassed by the parties to the Appeal, the Court of Appeal (speaking through Nimpar, J.C.A.) while allowing *Nganjiwa's* appeal, endorsed his contentions and made these far-reaching pronouncements which for their beneficent bearing on the present discuss we are compelled to quote in extensor:

> The role of the NJC is synonymous to being the glory or cover for judicial officers. How then does one intend to attack its members without first going through it? A standard procedure has been set for the discipline of judicial officers which should be strictly complied with, else, the gates will be open for all sorts of intimidation and threats against judicial officers who refuse to bow to the whims and caprices of those who believe they have authority to also deal with judicial officer. There has to be checks and balances in the conduct of statutory duties bestowed by law on any agency. This is to check abuse and respect provisions of the Constitution. Perhaps, that is why the drafters of the Constitution deemed it fit to include Paragraph 21(b) Part 1 of the Third Schedule to the 1999 Constitution (as amended). See the case of ELELU-HABEEB & ANOR V AG FEDERATION & ORS (2012) 13 NWLR (PT 1318) 423…Although the above authority deals with the removal of a judicial officer, the principles raised are also applicable to the discipline of a serving judicial officer. That is not to say that the Appellant or judicial officials are precluded from prosecution for offences committed. No! The point I am trying to make is that the Respondent must first report any infractions to the NJC to carry out its Constitutional and disciplinary control over the Appellant, to establish a case before criminal proceedings. The Constitution is the grundnorm and supersedes any Act of the National Assembly, see ADISA V OYINWOLA (2000) LPELR - 186 (SC). The EFCC Act being a creation of the National Assembly is subject to the dictates of the Constitution. Surely, where there is controversy as to which provision is to be complied with, recourse must first be had to the Constitution, see Section 1 (3) of the 1999 Constitution. The EFCC, Department of State Security (DSS) or any other enforcement agency have powers over all persons but when a constitutional provision has set out what is to be done before the exercise of such powers, it must be complied with or else, the procedure would be flawed. The powers of NJC are a condition precedent to the exercise of any other power over judicial officers who breach the code of

> conduct. These law enforcement agencies are not above the law and therefore must also comply with specific provisions of the law (Constitution). The aim is not to shield any judicial officer but to ensure that there is a ground to proceed against such person before their prosecution. This is also to ensure that there is no abuse by these agencies."

CODE OF CONDUCT TRIBUNAL (CCT) AGREES WITH NGANJIWA'S DECISION:

It is on record that the Code of Conduct Tribunal (CCT) was faced with the same Preliminary Objection (as was the Lagos High Court from where *Nganjiwa's case* originated) in charge Number CCT/ABJ/01/17 wherein the Federal Government of Nigeria alleged violations of Code of Conduct against Justice Ngwuta of the Supreme Court. While upholding the preliminary objection of the Jurist, the CCT placed reliance on the authority of *Nganjiwa* and came to the following decisions:

> "What this means is that any allegation of official misconduct will first have to be referred to the National Judicial Council to the exclusion of any other body, court or Tribunal"

The tribunal dismissed FG's position that the Supreme Court had yet to uphold the appellate court decision in Justice *Nganjiwa's case* which Ngwuta relied upon. The CCT held that the Court of Appeal verdict in the case against Justice Nganjiwa would remain extant till it is vacated. In its own words, the Tribunal held that:

> "Judicial precedent is binding for as long as it is subsisting and until such precedent is overturned by a higher court"[6]

THE CCT DEFERS RULING ON ONNOGHEN'S PRELIMINARY OBJECTION:

Curiously, on the 11th day of March, 2019, the CCT made a Ruling deferring indefinitely to render a decision on the Preliminary Objection of the CJN challenging the Tribunal's jurisdiction to entertain the charge against the CJN (anchored on Nganjiwa's authority). The CCT rather preferred to try the charge first. This is putting the cart before the horse and here is why. The question of jurisdiction must be disposed of, once it is raised, for a finding in favour of the arguments on the absence of

[6] The above factual position was reported by the Vanguard of 15thMay, 2018 on https://www.vanguardngr.com/2018/05/alleged-falsification-of-assets-cct-strikes-out-chargesagainst-justice-ngwuta/.

jurisdiction would foreclose the need to attend to other issues. It has been held that the primary purpose of preliminary objection is to terminate the hearing of a matter *in limine*.[7] Concerning the necessity of disposing of any preliminary objection challenging the Court's jurisdiction without much ado, the Supreme Court in *APC & ORS V. IN RE: CPC & ORS*[8] passionately excavated the jurisprudence undergirding this position of the law in this lucid language:

> ''Anything "Preliminary", denotes anything coming and usually leading up to the main part of that thing or something else. Thus, a Preliminary Objection in a case/suit before a court of law or tribunal is that objection which if upheld would render further proceedings before that court or tribunal impossible or unnecessary. An example which readily comes to mind is an objection to the court's or tribunal's jurisdiction to entertain a matter placed or raised before it by any of the parties. It is the duty of the court to consider that objection and give a ruling on it without much ado. The importance of such an approach has been re-stated severally by this court." (Emphasis supplied).

Indeed, in *Efet v. INEC*,[9] the Supreme Court (through Muhammad, J.S.C.) insistently made the point that:

> "The aim/essence of a Preliminary Objection is to terminate at infancy, or as it were, to nip in the bud, without dissipating unnecessary energies in considering an unworthy or fruitless matter in a court's proceedings. It, in other words, forecloses hearing of the matter in order to save time."

So, the question would be, why has the CCT refused to deliver a Ruling on a Preliminary Objection challenging its adjudicatory authority even in the face of avalanche of Supreme Court decisions dictating the contrary? In *Oni vs. Cadbury Nigeria PLC*,[10] the Supreme Court (per Nweze, J.S.C.) re-iterated the settled law to the effect that "it is always in the interest of justice where necessary, to raise jurisdictional issues so as to save time and costs and to avoid a trial which may ultimately

[7] *Sani v. Okene (2008) 5 SCNJ 246*
[8] (2014) LPELR-24036(SC)
[9] (2011) 1 SCNJ, 179 at page 194
[10] [2016] LPELR-26061 (SC)

amount to a nullity." More percipiently, the Supreme Court (through Tobi, J.S.C.) held in *Sani v. Okene L.G Traditional Council & Anor*[11] that, "In a case where the competence of the action is in issue, the court not only has the authority but also the duty to determine the action *in limine*, as in this appeal, where lack of competence is established. This is because the competence of an action robs on the jurisdiction of the court to hear it within the classification of the elements that make jurisdiction as expounded in Madukolu v. Nkemdilim (1962) 2 SCNLR 341".

THE CCT'S UNFORTUNATE STATEMENT:

The accusation levied by the Tribunal Chairman against the Defence Team of the CJN of "preventing the defendant from facing his punishment", could not have emanated from the head and mouth of a supposed 'impartial' arbiter. Certainly that language does not belong to any uncommitted mind. It betrays the sad reality that the Tribunal's Chairman has long adjudged the CJN guilty as charged and was only waiting for the CJN's defence team to complete a 'mere formality' of presenting his defence. In this manifest statement of bias, can one therefore, in all fairness to the CJN, say that unadulterated justice will flow from Justice Umar's Tribunal to our CJN? The unfortunate statement, with all respect, amounts to an improper conduct on the part of Justice Danaladi Umar. He betrayed lack of sobriety! In *Bakare v. Apena*,[12] Justice Obaseki, J.S.C. taught us that "a trial Judge ought to know that he is on trial for any improper conduct during the trial of a case before him and immediately thereafter." Also from the Court of Appeal Bench, Justice Fabiyi has equally counseled that "Sobriety should be the first watch-word for anyone who, per chance, finds himself in the exalted position of a Judge. A judicial officer should not be talkative or loquacious… Above all, a judge should not be biased under any guise." See Eriobunah v. Obiorah.[13] Adjudging the CJN blameworthy and deserving of 'punishment' without hearing any defence he may have to the charges brought against him elevates bias to a scandalous, if not, malevolent level which the CCT Chairman should have been wary of!

THE NEMESIS OF SARAKI V. F.R.N:

[11] (2008) LPELR-3003(SC)
[12] (1986) 4 NWLR (pt. 33) 1
[13] (1999) 8 NWLR (pt. 616) C.A. 622 at 646

In *Saraki vs. F.R.N.*,[14] the Supreme Court (per Onnoghen, C.JN.), contrary to the compellingly overwhelming argument of Saraki to the effect that the CCT is a mere Administrative Tribunal that can only award administrative punishment, held that thus:

> From the totality of the provisions it is my view that it is clear that the intention of the legislature is to make the proceedings of the tribunal criminal proceeding to be regulated by criminal procedure…It must be observed that the nature of the punishment to be imposed by the tribunal is not exhaustive at the moment because paragraph 8(1) of the 5th schedule to the 1999 Constitution, as amended and section 23(1) of the Code of Conduct Bureau and Tribunal Act contain a provision to the effect that the National Assembly may prescribe "such other punishment" other than the current ones to be imposed by the tribunal. This clearly shows a possibility of the National Assembly imposing sanctions of fines and or imprisonment for offences under the Act or paragraph 18 of the 5th schedule to the said 1999 Constitution, as amended, if so desired.

The current CJN went on in the leading judgment to declare that the suit filed at the Federal High Court by the Senate President, Saraki, seeking to halt his trial at the CCT was "an attempt at intimidating the Code of Conduct Tribunal, which is very unfortunate." It is instructive that at the commencement of the trial of the CJN at the CCT, plethora of suits have been filed both at the Federal High Court and the National Industrial Court and some, interim orders have been made to halt his trial by the CCT.

THE NEMESIS IN METUH V. F.R.N.:

Section 306 of the Administration of Criminal Justice Act (ACJA) 2015[15] provides:

> "An application for stay of proceedings in respect of a criminal matter before the court shall not be entertained."

[14] [2016] NWLR (Pt. 1500)
[15] ...

In *Metuh v. FRN*,[16] when this statutory provision fell for interpretation before the Apex Court, the Supreme Court (in the leading Judgment, of Ogunbiyi, JSC) thundered at pg. 177 that,

> "Contrary to the submission advanced by the applicant's counsel, the consequential effect is that, the Supreme Court, like the two lower courts, also lacks the powers to stay proceedings under section 22 Supreme Court Act or under its inherent powers…The appellant/applicant's motion for stay of proceedings is violently in conflict with the provisions of section 36 (4) CFRN 1999 (as amended), section 306 ACJA, 2015 and section 40 of the EFCC (Establishment) Act, 2004 as well as the plethora of case law authorities cited. The application is hereby refused and dismissed."

Plethora of authorities abound showing irresistibly that in some circumstances the constitutional right guaranteed an accused person would be truncated or totally eroded if stay of proceedings is not ordered by the Court which might result in irreversible consequences. Such identified circumstances have been the resting ground for all courts granting application for stay of proceedings especially in circumstances where the jurisdiction of the court is being challenged by the accused person. Interestingly all those existing authorities approving of stay of proceedings prior to the enactment of Section 306 of the Administration of Criminal Justice Act, 2015 (ACJA) have always relied heavily on the discretionary powers of the courts derivable from the Constitution itself.

For clarity purposes, Section 6(6) (a) of the amended 1999 Constitution of the Federal Republic of Nigeria,[17] hereinafter referred to as the Nigerian Constitution, reads:

> The judicial powers vested in accordance with the foregoing provisions of this section -
> (a) shall extend, notwithstanding anything to the contrary in this constitution, to all inherent powers and sanctions of a court of law. (Emphasis supplied).

In affirming that the powers of the court to grant stay of proceedings are discretionary in nature, preserved and derivable from Section 6(6) of the Nigerian Constitution itself, the Supreme Court in

[16] [2017] 11 NWLR (part 1575) 157
[17] ...

Akilu v. Fawehinmi[18] (Per KARIBI-WHYTE, J.S.C.), affirmed unequivocally that, "a stay of proceedings falls within the inherent jurisdiction of the courts, and is determined generally by the exercise of discretion". Most eloquently, the Court boldly declared that "more recently in Okafor v. Nnaife (1987) 4 N.W.L.R. (Pt.64) 129 where some of the earlier cases were reviewed, it was restated that this court and all other courts have an unimpeded discretion to grant or refuse a stay of proceedings or of execution in proceedings before them." (Emphasis supplied).

*In *United Spinners Nigeria ltd. v. Chartered Bank ltd*,[19] the court declared without equivocation that:

> "the court below has the inherent power to stay proceedings pending appeal in order that the *res* may be preserved. The power, which is indeed discretionary, must be exercised judicially and also judiciously - See Shodeinde v. The Trustees of Ahmadiyya Movement-in-Islam (1980) 1-2 SC 163 and Kigo (Nig.) Ltd v. Holman Bros (Nig.) Ltd. (1980) 5-7 SC 60".

Inherent powers of the Court of law are powers which enable it, effectively and effectually, to exercise the jurisdiction conferred upon it.[20] Writing on the inherent powers of the Court, Lord Morris, *in Connelly v. DPP*[21] said:

> "There can be no doubt that a Court which is endowed with a particular jurisdiction has powers which are necessary to enable it to act effectively within its jurisdiction. A Court must enjoy such powers in order to enforce its rules of practice and to suppress any abuse of its process and defeat any attempted thwarting of its process."

Uwais, J.S.C. (later CJN) thundered in *Akilu v. Fawehinmi*[22] that:

> "It is not in dispute that courts have inherent power to stay proceedings pending appeal in order that the *res* may be preserved. Though the power is indeed discretionary, it must be exercised judicially as well as judiciously See Shodeinde & Ors. v. The Trustees of

[18] (No.2) (1989) 2 NWLR (Pt.102) 122
[19] (2001) LPELR-3410(SC)
[20] Prince Yahaya Adigun & Ors. v. A-G Oyo State (1987) 4 SC 272 at 277
[21] (1964) AC P 1301
[22] supra

> Ahmadiyya Movement-in-Islam, (1980) 1-2 S.C. 163 and Kigo (Nig.) Ltd. v. Holman Bros. (Nig.) Ltd., (1980) 5-7 S.C. 60.

It is shocking that the panel of the Supreme Court that affirmed the constitutionality of Section 306 of ACJA made no attempt to overrule all other earlier decisions of the Supreme Court approving of stay of proceedings as being a constitutional power of the court. How could an Act of the National Assembly curtail, alter, abridge and/or put a damper on a power donated to the courts by the Constitution itself, how, and how? Alas, today our CJN is a victim of *Metuh's* decision! Most interesting is the fact that the decision of the Supreme Court in *Akilu v. Fawehinmi*[23] on the inherent nature of the powers of the Court to grant stay of proceedings was arrived at after interpreting Section 6(6)(a) of the Nigerian Constitution by a FULL seven-man panel of the Supreme Court. That a five-man panel of the Supreme Court in *Metuh's case* could conveniently overturn a position of the law approved by a full seven-man panel of that court must be rankling the exegetes of constitutional jurisprudence!

DEPARTING FROM SARAKI AND METUH'S JURISPRUDENCE:

The rational for the Supreme Court being empowered under some restricted circumstances to depart from its earlier decision(s) was graphically captured by Oputa, JSC, in the case of *Adegoke Motors Ltd. v. Dr. Adesanya & Anor*,[24] inter alia, thus:

> "We are final not because we are infallible; rather we are infallible because we are final. Justices of this court are human beings, capable of erring. It will certainly be shortsighted arrogance not to accept this obvious truth. It is also true that this court can do inestimable good through its wise decisions. Similarly, the court can do incalculable harm through its mistakes. When therefore it appears to learned counsel that any decision of this court has been given per *in curiam*, such counsel should have the boldness and courage to ask that such decision shall be over-ruled. This court has the power to over-rule itself (and has done

[23] supra
[24] (1989) 5 S.C. 113; (1989) 3 NWLR (Pt. 109) 250 at 274; (1989) 5 SCNJ 80

> so in the past) for it gladly accepts that it is far better to admit an error than to persevere in error."

CONCLUSION:

One of the demonstrable circumstances that supports the call for the vacation of the reasoning planted in *Metuh's case* presented itself in the trial of the CJN himself who on 25th January, 2019 saw the extreme urgency to apply to the Court of Appeal (Abuja Division) for stay of proceedings at the CCT through his then Counsel Chiel Wole Olanipekun, SAN, who pleaded with the Court of Appeal in the following moving speech:

> "We are urging my lords to protect the 'Res' of this matter which is not only about the office and position of the CJN, but also about the judiciary and the constitution. The Res in this matter is serious and very unique. "There is a threat to the institution of the judiciary and the ruling of the tribunal further compounded the already existing conundrum…The sanity and sanctity of the legal profession and the judicial process is at stake. We want to plead your lordships to accede to our request and order stay of proceedings at the Code of Conduct Tribunal and also order accelerated hearing of the appeal…I dare submit that there cannot be two kings in the palace. The Court of Appeal has been seized of the matter and yet that tribunal wants to proceed on Monday. The urgency of this situation deserves an intervention of your lordships,"

In acceding to the prayer for stay of proceedings, the Court of Appeal (Per Aboki, J. C.A) ordered as follows:

> "Ruling on this appeal is, hereby, adjourned till January 30. Meanwhile, the tribunal should suspend the proceeding before it, pending the ruling,"

No doubt, the pleas of Chief Wole Olanipekun, on behalf of the CJN is in the warm and cherished company of the case *Akilu v. Fawehinmi (No.2)*[25] where the Supreme Court pointed out that "collateral circumstance which may unless the proceedings is stayed result in the destruction of

[25] supra

the res and consequently rendering a successful appeal nugatory has always been regarded as such "special" or "exceptional" circumstance''.

In signing off this reflection, we have made the point that the decision of the Supreme Court to the effect that the CCT has criminal jurisdiction -which we contend to be erroneous- has become one of the injuries which the CJN, who himself delivered the leading judgment in that case and even condemned the Appellant therein of attempting to intimidate the CCT, is limping with. We have equally contended forcefully that stay of proceedings is constitutionally, an indispensable tool of justice delivery, whether civil or criminal.[26] The two cases must now be vacated by the Supreme Court at its earliest opportunity. We are not oblivious of the fact that a reversal of the earlier decision of the Supreme Court can give rise to instability of the rules of judicial precedent, particularly those governing *stare decisis*,[27] thus, Supreme Court will hold itself bound by its previous decisions.[28]While bearing the foregoing well-known principle in our mind, we are bound to emphasis the settled position of the law which is that, where it is satisfied that any of its previous decisions is erroneous or was reached *per incuriam* and will perpetuate the error by following such decision, it will overrule it or depart from it.[29] As earlier noted, this power of the Supreme Court is predicated on the fact that it is better to admit an error than to persevere in error.[30] The applicability of Section 306 of the ACJA by the CCT is not only unconstitutional but has also brought home to our CJN firsthand what manner of injustice, if not sheer cruelty, the decision of the Supreme Court in *Metuh's case* could have wrecked on a hapless defendant standing trial especially before a manifestly biased arbiter.[31]

Further, for making the prejudicial statement on the 29th day of March while dismissing the CJN's no-case submission, the Tribunal Chairman overlooked the caution handed down by the Supreme Court when it stated that:

[26] Akilu v. Fawehinmi (No.2) (1989) 2 NWLR (Pt.102) 122 at p. 188.
[27] Johnson v. Lawanson (1971) 1 All NLR 56
[28] Odi v. Osafile (1985) 1 NWLR (Pt. 1) 17
[29] Adesokan v. Adetunji 1994) 5 NWLR (Pt. 346) 540
[30] Adegoke Motors Ltd. v. Adesanya (1989) 3 NWLR (Pt. 109) 250
[31] F.R.N. v. Akabueze [2010] 17 NWLR (Pt. 1223) S.C. 525

> "…It is now firmly settled that the rule of *audi alteram partem* postulates that the court or other tribunal, must hear both sides at every material stage of the proceedings before handing down a decision at that stage. It is a rule of fairness and a court or tribunal, cannot be fair unless it considers both sides. It can therefore not be over-emphasized and this also is settled that the very essence of fair hearing… is a hearing which is fair to both parties to the suit, be they plaintiffs or defendants or prosecution or defence."

Indeed it was no fair-hearing when the Tribunal Chairman accused the Defence Team of preventing the defendant from facing his 'punishment' at a time the CJN was yet to open whatever defence he may have to the charge upon which he is being tried. We consider it a grave judicial misadventure for the CCT to withhold Ruling on a Preliminary Objection challenging its jurisdiction.[32] Today it is the turn of the CJN himself. Let us not forget that yesterday, it was Saraki and Metuh. More importantly, nobody knows whose turn it could be tomorrow. Indeed all of men of good conscience have an ever-abiding responsibility to speak out against injustice regardless of who the victim is.

What crystallizes from our discussion so far is that a biased Judge is a corrupt judge. To find otherwise would certainly be eyewash; and this realization brings us to the problems a corrupt judge poses to a nation's judiciary and the society at large. It was aptly captured by Justice Saulawa, J.C.A. in *Daniel v. F.R.N.*[33] in this beautiful language. Hear him;

> "The problem of a corrupt judicial officer is equally antithetical and rather devastating to the well cherished rule of law. Undoubtedly, the conscience of a corrupt judicial officer is warped. His judicial oath means nothing at all, thus he hardly realizes that he is a dangerous obstacle to administration of justice. Perhaps, until nemesis catches up with him, he remains a perpetual obstacle in the way of justice. Otherwise, he is impervious to appreciate, let alone uphold, justice according to the rule of law."

We find here a convenient place to call it a day.

[32] Oni vs. Cadbury Nigeria PLC (supra)
[33] (2012) 4 NWLR (Pt 1289) 40