

IN THE SUPREME COURT OF NIGERIA

HOLDEN AT ABUJA

ON THURSDAY, THE 26TH DAY OF OCTOBER, 2023

BEFORE THEIR LORDSHIPS

JOHN INYANG OKORO
UWANI MUSA ABB AII
MOHAMMED LAWAL GARBA
I.M.M. SAULAWA
ADAMU JAURO
TIJJANI ABUBAKAR
EMMANUEL AKOMAYE AGIM

JUSTICE, SUPREME COURT
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JUSTICE, SUPREME COURT

SC/CV/937/2023

BETWEEN

1. PETER GREGORY OBI
2. LABOUR PARTY

APPELLANTS

AND

1. INDEPENDENT NATIONAL ELECTORAL COMMISSION (INEC)
2. SENATOR BOLA AHMED TINUBU
3. SENATOR SHETTIMA KASHIM
4. APC

RESPONDENTS

I.M.M. SAULAWA, JSC

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Lainab Muhammad Garba Esq
REGISTRAR
SUPREME COURT OF NIGERIA
[Signature]
6/12/2023

JUDGMENT

(DELIVERED BY I.M.M. SAULAWA, JSC)

It's trite, that on October 23, when the instant appeal came up for hearing, the Learned Senior Counsel were accorded the opportunity of addressing the Court and adopting the submissions contained in the respective briefs of argument thereof, thereby warranting the Court to reserve judgment to today.

Most particularly, the Appellants' brief of Argument, settled by Dr. Livy Uzoukwu, SAN on 02/10/2023 spans a total of 40 pages. At pages 2-4 of that brief, a total of seven issues have been canvassed for determination:

- 1. Whether upon a community reading of the Appellants' Petition and the applicable law, the learned Justice of the Court of Appeal were right in striking out/expunging some paragraphs of the Petition and the documentary evidence tendered by the Appellants for being vague, generic, imprecise, nebulous and inadmissible. [Grounds 1, 2, 3, 4, 5, 16, 17 and 50 of the Notice of Appeal].***

2. Whether upon a careful consideration of the Appellants' Petition, the Respondents' respective Replies of the Petition and the Appellants' Replies to the Replies of the Respondents, the learned Justices of the Court of Appeal were right when they struck out some paragraphs of the Appellants' Replies to the Replies of the Respondents to the Petition [Grounds 6 and 20 of the Notice of Appeal].

3. Whether having regard to the relevant provisions of the Electoral Act, 2022 as well as the 1st Schedule thereto, the Federal High Court (Civil Procedure) Rules 2019, Evidence Act, 2011 and current judicial pronouncements on the point, the learned Justices of the Court of Appeal, were correct in sustaining the objectives of the Respondents to the evidence of PW3, PW4, PW5, PW6, PW7, PW8, PW9, PW10, PW11 and PW13 and consequently striking out the evidence of the aforesaid witnesses and all the documents tendered and

admitted in evidence through them for failure of the Appellants to file the written statements on oath of the witnesses along with the Petition. [Grounds 10, 11, 12, 13, 14 and 15 of the Notice of Appeal].

4. Whether having regard to the provisions of Section 13©, 137(1)(d) and 142(1) and (2) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) [herein after 1999 Constitution], Section 31 and 35 of the Electoral Act, 2022 and the evidence before the Court, the learned Justices of the Court of Appeal were right when they held that the 2nd and 3^d Respondents were qualified to contest the Presidential Election of 25th February, 2023. [Grounds 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, and 44 of the Notice of Appeal].

5. Whether having regard to the evidence adduced by the parties, the Learned Justices of the Court of Appeal were right when they held that the Appellants were not able to establish

that there was substantial non-compliance with the provisions of the Electoral Act, 2022, which substantially affected the overall result of the election. [Grounds 7, 8, 9, 18, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 and 31 of the Notice of Appeal]

6. Whether having regard to the explicit provisions of Section 134(2) (b) of the 1999 Constitution and the evidence adduced at the trial, the learned Justices of the Court of Appeal were right in coming to the determination that the 2nd Respondent was duly elected as the President of the Federal Republic of Nigeria. [Grounds 45, 46, 47, 48 and 49 of the Notice of Appeal].

7. Whether from the totality of the pleadings and evidence adduced, the Court below was right when it dismissed the Appellants' case [Ground 51 of the Notice of Appeal]

Now, its' important to bear in mind, that the sister appeal **(SC/CV/935.2023: ABUBAKAR ATIKU & PDP VS. INEC & 2 ORS.** has just a moment ago been dismissed for lack of merits. Incidentally, the issues 1, 2, 3, 5, 6 and 7 in the instant Appeal are on all fours with the issues 1, 2, 3, 5, 6, and 7 which have been resolved against the Appellants in the said sister Appeal. The six issues inquestion have become rather academic, thus, ought to abide the outcome of the decision in the sister said Appeal. See **ODEDO VS. INEC (2008) LPELR – 2204 (SC)**, wherein this Court aptly held:

A suit is academic where it is merely theoretical, makes empty sound, and of no practical value to the plaintiff even if judgment is given in his favour.

An academic issue or question is one which does not require answer or adjudication by a Court of law because it is not necessary to the case on hand. An academic issue or question could be a hypothetical or moot question. An academic issue or question does not relate to the live issue in the litigation because it is as it will not enure an if right or benefit on the successful party.

per NIKI TOBI, JSC @ 35 paragraphs D-H. Plateau State vs. AG. FEDERATION (2006) 3 NWLR (pt. 976) 346; OGBONNA VS. PRESIDENT FRN (1997) 5 NWLR (pt. 504) 281; HON. EKI:BEDE UCHENNA VS. PDP & ORS: SC/CV/148/2023; judgment delivered on 03/3/2023 (unreported).

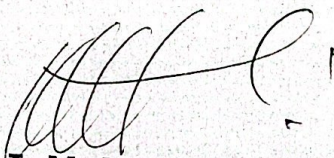
What's more, with regards to the issue No. 4 (which has neither been canvassed nor resolved in the said sister Appeal), there is no controversy that the earlier Appeal No. **SC/CV/501/2023: PDP VS. ONEC & 3 ORS** has settled the issue of the 3rd Respondents' nomination in the judgment of this court delivered on 26/05/2023. Thus, it unnecessary and sheer abuse of judicial process to relitigate the issue once again in this court. Undoubtedly, the Appellants are undoubtedly bound by the decision of this court in the said Appeal **NO. SC/CV/501/2023**. There should be an end to litigation! See **SARAKI VS. KOTOYE (1992) 9 NWLR (pt. 264) 155; CBN VS. AHMED (2001) 11 NWLR (pt. 724) 369@ 409; OSUN STATE INEC VS. NATIONAL CONSCIENCE PARTY (2013) LPELR – 20134 (SC) @ 15 paragraphs C-F.**

In the circumstances, I am in full concurrence with the reasoning and, conclusion reached in the lead judgment just

delivered by my learned brother Okoro, JSC, to the effect that the instant appeal ought to abide the judgment in the sister appeal NO. SC/CV/935/2023: **ATIKU ABUBAKAR & PDP VS. INEC & 2 ORS** delivered a moment ago.

Appeal Dismissed.

No order as to costs.


HON. JUSTICE I. M. M. SAULAWA, JSC

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Lainal Muhammad Garba Esq.
REGISTRAR
SUPREME COURT OF NIGERIA

APPEARANCES

Dr. Livy Uzochukwu, SAN, with Awa Kalu, SAN, Alex Ejiesime, SAN, Peter Afuba, SAN, and Chike Obi Esq. for the Appellants.

A.B. Mahmoud, SAN with Miannaya Essien, SAN, Sir Stephen Adehi SAN, Musa A. Attah, Esq. and Chukwudi Enebeli Esq., for the 1st Respondent.

Chief Wole Olanipekun, SAN, with Yusuf Ali, SAN, Emmanuel Ukala, SAN, Prof. Taiwo Osipitan, SAN and Akintola Makinde Esq. for the 2nd and 3rd Respondents.

Chief Akin Olujinmi, SAN, with Charles Uwensuji - Edosomwon, SAN, Chief Adeniyi Akintola, SAN, Chief Afolabi Fashanu, SAN and Olumide Olujinmi Esq. for 4th Respondent.

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