

IN THE SUPREME COURT OF NIGERIA
HOLDEN AT ABUJA
ON FRIDAY THE 28TH DAY OF FEBRUARY, 2025.
BEFORE THEIR LORDSHIPS

UWANI MUSA ABBA AJI
IBRAHIM MOHAMMED MUSA SAULAWA
EMMNUEL AKOMMAYE AGIM
CHIOMA EGONDU NWOSU-IHEME
JAMILU YAMMAMA TUKUR

JUSTICE SUPREME COURT
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SC/CV/1174A/2024
SC/CV/ 1174/2024
SC/CV/1175/2024
SC/CV/1176/2024
SC/CV/1177/2024
SC/CV/1174B/2024
SC/CV/1175A/2024
SC/CV/68/2025

BETWEEN:

RIVERS STATE HOUSE OF ASSEMBLY & ORS.

APPELLANTS

AND

THE GOVERNOR OF RIVERS STATE & 9 ORS.

RESPONDENTS

JUDGMENT
(DELIVERED BY CHIOMA EGONDU NWOSU-IHEME, JSC.)

My learned brother Emmanuel A. Agim, JSC afforded me the opportunity of reading before now the judgment just delivered.

The reasoning and conclusion arrived at are in accord with mine, I therefore adopt same as mine.

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I will however add my comments on the question of the alleged defection of the 2nd Appellant/Cross Respondent and his 26 colleagues raised in the Cross Appeal, NO SC/CV/1174A and SC/CV/1175B.

The 1st Respondent/Cross Appellant in his cross appeal raised the issue whether the lower Court was right in pronouncing on the defection of the 2nd Appellant/Cross Respondent and other members of the Rivers State House of Assembly, an issue not before the Court. We do not however agree that the issue of defection was not before the Court. If the issue of appropriation was before the Court, then the issue of propriety of the appropriation and the dramatis personae were before the Court. A fortiori, the alleged defection was very much in issue and we cannot close our eyes to it. It has to be determined once and for all. It is also very obvious that the issues concerning the defection, funding and the validity or otherwise of the Local Government election conducted in Rivers State on the 5/10/2024 are intertwined. This Court cannot rule on one without specifically pronouncing on the other. The lower Court held thus:

“This decision being a judgment of a Court of Coordinate jurisdiction is binding on this Court to the extent of the facts which it pronounced its decision upon which is on the validity and legality of the presentation of the Appropriation Bill by the Governor of Rivers State to Four members of the Rivers State House of Assembly and affirmed the judgment of the trial court therein which had ordered that the Governor should represent the said Appropriation Bill to the Rivers State House of Assembly led by the 2nd Respondent herein, as speaker. This judgment was pronounced on who is the Speaker of the Rivers State House of Assembly and the composition of the House of

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Assembly. It is binding on this Court until the Supreme Court takes a final decision on the matter based on the appeal already lodged before it. It is wrong to say that since the particular issue is on appeal, it cannot be obeyed, since that judgment has not been stayed."

It is therefore pertinent to consider in more details this issue of defection and to lay it to rest.

The word DEFECTION is synonymous with abandonment, desertion, apostasy, renunciation and rejection. In Politics, defection occurs when a person or group changes their membership from one Political Party to another. It has been defined by the Black's Law Dictionary as "abandonment of allegiance or duty; forsaking of a person or cause; desertion."

The New International Webster Comprehensive Dictionary defined defection to mean "abandonment of allegiance or duty; failure." Defection can be for personal gain, ideological alignment, or strategic advantage. It can occur at various levels including individual Politicians, groups or even the entire parties.

Defection may arise from dissatisfaction with Party Policies, leadership, or direction. Politicians may defect to join parties that offer better prospects for re-election, greater influence or alignment with their beliefs. While defections can lead to shifts in power and Policy, they can also engender instability within political systems, prompting challenges to party loyalty and governance.

The question arises therefore, whether the 2nd Appellant/Cross Respondent RT. Hon. Martin Amaewhule and the other 26 members of the Rivers State House of Assembly did, in fact, defected from their

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party Peoples Democratic Party (PDP) to another Political Party, the All Progressive Congress (APC)?

Defection is an active term. It manifests itself. It cannot be left to Conjecture. If a person defects from one Political Party to another, there are bound to be empirical proof of such defection. For a person or group of persons to be said to have defected, the Political party from where they defected from must, at least, be aware of such defection, and the political party where they defected to must also have evidence of their new members.

In the instant case, there is evidence on Record that the National chairman of the People's Democratic Party (PDP) wrote stating that the said 27 members of the Rivers State House of Assembly were still their members and have been paying their dues. On the other hand, the Chairman of the All Progressive Congress (APC) in Rivers State where they were alleged to have defected to also stated that the names of the 27 members were not in the APC Register of Members and that they have not paid any membership dues to the APC.

It is therefore safe to conclude that in spite of all the noise about defection, none of the 27 members of the Rivers State House of Assembly actually fulfilled the basic requirement to be said to have defected to another political party. In the eyes of the law therefore, whatever they purported to have done could be likened to mere boasting or threatening to defect. It cannot be described as defection properly so called. The law is trite that the Court will not inquire into the membership of a Political party being their internal affair. In **ENANG v. ASUQUO (2023) 11 NWLR (PT. 1896) 501** this Court held that membership of a Political party is a matter that is strictly within the domestic affairs of a Political party and the Courts have no jurisdiction to determine who the members of a Political party are. It is not

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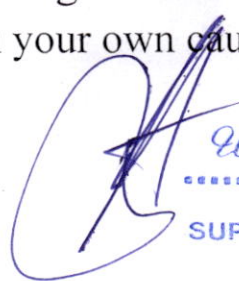
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justiciable. See also *TUMBIDO v. I.N.E.C. (2023)15 NWLR (PT.1907) 301* where this Court also held that Political parties are Supreme over their own affairs and no Court can inquire into the issue of membership or leadership of Political parties. The question of membership of a Political party is outside the purview of a Court's jurisdiction. It is a matter which only a Political Party can decide. This Court is therefore bound to accept in the absence of any contrary fact that the 2nd Appellant/Cross Respondent, RT. Hon. Martin Amaewhule and 26 other members of the Rivers State House of Assembly did not defect from the PDP to the APC.

This Court has severally ruled on the issue of defection holding that once a person or group of persons defect from their Political party to another Political party without division in their Political party, they lose their seat. In the instant case what took place cannot in law be described as defection and therefore must be distinguished from those cases earlier decided by this Court on defection. This Court therefore has no reason or justification to apply the same law in the instant case. Apples must be separated from Oranges for both are clearly not the same.

It is on Record that the said 4 members had started sitting even before the 27 members threatened to defect. The deliberate reliance or holding on to the threat by the said 27 members to continue to use only 3 members to perform the function of 32 members in RSHA is akin to making a Mockery or Caricature of a very serious business. This magnitude of unconstitutionality must be condemned. We condemn it in its entirety.

It is not for the Governor of a State or any person or group of persons to allege defection and at the same time pronounce judgment and punishment on the alleged defectors. This offends the maxim that you cannot be a Judge in your own cause.


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In line with established parliamentary practice, globally, loss of seat in a House as a result of defection is usually dealt with by the House during plenary. Usually, it is reported during the proceedings of the House. If it is established, the Presiding officer declares the Sit Vacant in accordance with the provisions of the Constitution. In the instant case, the House was disabled from sitting by the Governor for several months before the issue of defection arose. The Governor started using four of his favorite law makers as members of the RSHA and prevented the 27 other members from sitting.

So, when some months later it became convenient for them to say that the 27 members had defected, there was no Rivers State House of Assembly to present the matter concerning the issue of their defection to be dealt with as it is usually done. In any case, as at then, the Courts have declared the sitting of those 4 members as illegal, null and void. The allegation of the defection of the said 27 members had not been brought to the RSHA for deliberation and necessary action. So the Governor and members of the public are not competent to insist that the 27 members have defected. They have no such authority under the law. The only competent authority to declare the seat of a member vacant for defection, is the legislature to which he or she belongs. This is because the matter is within the Legislative competence of the legislature. Section 109(1)(g) of the 1999 Constitution is not self executing. The allegation of defection must be presented before the House in session. If the House is satisfied that a member has defected, it declares his or her seat vacant.

In the instant case, this Court has adjudged in the lead judgment that the said 27 members of the Rivers State House of Assembly did not defect and therefore their seats cannot be declared vacant. The issue of defection have been decided severally by this Court, but the situation at

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hand is novel in the sense that it is an unusual situation and this particular senerio has never been decided by this Court.

Defection must be clear, unambiguous and must ordinarily terminate. It must not be inconclusive.

Defection is a destination that must be arrived at and the defectors acknowledged by the Political party the individual or group wish to defect to. Where as in this case the said Political Party fails to acknowledge the defectors, in the eyes of the law the individual or group cannot be said to have defected. Defection must therefore go beyond waving of flags on the television and swearing to affidavit. It must come to a conclusion and not be allowed to hang or sit in limbo.

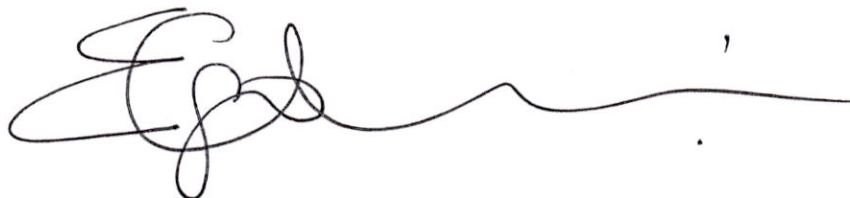
Sequel to the above, I agree with the lead judgment that Rt. Hon. Martin Amaewhule is the bonafide Speaker of the Rivers State House of Assembly and the 26 Members are members of the Rivers State House of Assembly having not defected in the eyes of the law.

On the issue of whether or not to make funds available to the Rivers State Government by the Central Bank of Nigeria and the Accountant General of the Federation in the absence of a valid appropriation law. Since this court pronounced in the lead judgment that the use of 3 members to perform the Constitutional role of 32 members is unconstitutional, in the same breath, we roundly condemn making funds available to the Rivers State Government in the absence of a valid appropriation law made by the Rivers State House of Assembly as prescribed by the Constitution.

It will be absurd to continue funding the same Government to continue this unconstitutional act in perpetuity.

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I agree that the release of funds to the Rivers State Government should stop forthwith until they purge themselves of their different shades of unconstitutionality and disobedience to judgments of Courts.



CHIOMA EGONDUNWOSU-IHEME (Ph.D)
JUSTICE, SUPREME COURT.



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APPEARANCES:

J.B. Daudu, SAN, Prof. S.T. Hon, SAN, Dr. O.J. Onoja, SAN, M.A. Ebute, SAN, Adedayo Adedeji, SAN, Pau; B. DAudu SAN with him Shallom Emmanuel Esq. Precious Andrew Esq., E.C. Onyekwere, Esq., Aishetu Isa, Esq., and Shuaibu Mohammed for the appellants.

Chief Chris Uche, SAN, Gordy Uche, SAN; Jeph C. Njikonye, SAN; Samuel Atung, SAN; and Damian Okoro, SAN; with him, Chiamaka Amagwu Esq.; Olakunle Lawal Esq.; Abdul Musa, Esq. and Mike Uche, Esq. for the 1st Respondent in SC/CV/1174, 10th Respondent in SC/CV/1175, SC/CV/1176, SC/CV/1177 and Cross Appellant in SC/CV/1174A.

Tayo Oyetibo, SAN for the 2nd-3rd Respondents in SC/1174, Cross Appellant in SC/1174B, for 2nd and 3rd Respondents in SC/CV/1175, SC1176 and SC/1177 with him Femi Falana, SAN, O.M. Atoyebi SAN; Mofesomo,; Tayo Oyetibo, SAN; with him Paul C. Inbu, Esq. and T.D. Mogbo, Esq.

J.J. Usman, SAN for the 4th Respondent in SC/CV/1174, SC/1175 and SC/1177, 1174A and SC/1175A with C.O. Ochu; J.I. Machianan and N.E. NWoba Jnr.

Chief Emeka Obegolu, SAN, for the 5th Respondent in SC/1174, SC/1175 and SC/1174, for the 4th Respondent in SC/CV/1176 for the 5th Respondent in SC/1174A and SC/1175A and Appellant in


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SC/CV/68/2015 with Grace Ehussani, Esq.; Chinomso Christian Osunmune Esq. and Kamal Olamide Olamilekan, Esq.

Prof. Ali SAN for the 1st Respondent in SC/1174, for the 1st Respondent in SC/1175, Cross Appellant in SC/CV/1175A and 7th Respondent in SC 1177 and 8th Respondent in SC1174B with him Adebayo Adelodu SAN, Paul Erokoro, SAN, K.K. Eleja SAN, Lukman Fagbemi SAN with him S.B. Sambo Esq.; Alex Akoja, Esq. and K.T. Suiyman and Kehinde O. Ijatuyi, Esq.

I.A. Adedipe, SAN, for the 9th Respondent in SC/1174, SC/1175, 8th Respondent in SC/1174 and Tuduru U. Ede SAN, Yemi Adeshina SAN; T.J. Aondo, SAN.

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