IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA
ON THURSDAY THE 20TH DAY OF NOVEMBER, 2025
BEFORE HIS LORDSHIP HON. JUSTICE J.K OMOTOSHO
(JUDGE)
CHARGE NO: FHC/ABJ/CR/383/2015

BETWEEN

FEDERAL REPUBLIC OF NIGERIA - COMPLAINANT

AND

NNAMDI KANU - DEFENDANT

JUDGMENT

The Defendant was arraigned before this Court on a 7 counts charge which reads thus:

COUNT ONE

That you Nnamdi Kanu, Male, Adult, of Afaranukwu Ibeku, Umuahia North Local Government Area of Abia State sometimes in 2021, being a member and the leader of Indigenous People of Biafra, IPOB, a proscribed Oganisation, did commit an act in furtherance of an act of Terrorism against the Federal Republic of Nigeria and the People of

Nigeria by making a broadcast received and heard in Nigeria within the jurisdiction of this Honourable Court, with intent to intimidate the population and you threatened that people will die, the whole world will stand still and you thereby committed an offence punishable under Section 1(2)(b) of the Terrorism Prevention Amendment Act, 2013.

COUNT TWO

That you Nnamdi Kanu, Male, Adult, of Afaranukwu Ibeku, Umuahia North Local Government Area of Abia State sometimes in 2021 did commit an act in furtherance of an act of Terrorism against the Federal Republic of Nigeria and the People of Nigeria, made a broadcast received and heard in Nigeria within the jurisdiction of this Honourable Court, with intent to intimidate the population, you issued a deadly threat that anyone who flouted your sit-at-home order should write his/her Will as a result Banks, Schools, Markets, Shopping Malls, Fuel Stations domiciled in the Eastern States of Nigeria were not opened for businesses, citizens and vehicular movements in the Eastern States of Nigeria were grounded within the Jurisdiction of this Honourable Court and you thereby committed an offence punishable under Section 1 (2) (b) of the Terrorism Prevention Amendment Act, 2013.

COUNT THREE

That you Nnamdi Kanu, Male, Adult, of Afaranukwu Ibeku, Umuahia North Local Government Area of Abia State on diverse dates between 2018 and 2021 within the Jurisdiction of this Honourable Court, professed yourself to be a member and leader of the Indigenous People of Biafra IPOB, a proscribed organisation in Nigeria and that you thereby committed an offence contrary to and punishable under Section 16 of the Terrorism Prevention Amendment Act, 2013.

COUNT FOUR

That you Nnamdi Kanu, Male, Adult, of Afaranukwu Ibeku, Umuahia North Local Government Area of Abia State on diverse dates between 2018 and 2021 made a broadcast received and heard in Nigeria within the Jurisdiction of this Honourable Court, in furtherance of an act of terrorism against the Federal Republic of Nigeria and the people of Nigeria in which you incite members of the Public in Nigeria to hunt and kill Nigerian security personnel and that you thereby committed an offence punishable under Section 1 (2) (h) of the Terrorism Prevention Amendment Act, 2013.

COUNT FIVE

That you Nnamdi Kanu, Male, Adult, of Afaranukwu Ibeku, Umuahia North Local Government Area of Abia State on diverse dates between 2018 and 2021 made a broadcast received and heard in Nigeria within the Jurisdiction of this Honourable Court, in furtherance of an act of terrorism against the Federal Republic of Nigeria and the people of Nigeria in which you incite members of the Public in Nigeria to hunt and kill families of Nigerian security personnel and that you thereby committed an offence punishable under Section 1 (2) (h) of the Terrorism Prevention Amendment Act, 2013.

COUNT SIX

That you Nnamdi Kanu, Male, Adult, of Afaranukwu Ibeku, Umuahia North Local Government Area of Abia State on diverse dates between 2018 and 2021 made a broadcast received and heard in Nigeria within the Jurisdiction of this Honourable Court, in furtherance of an act of terrorism against the Federal Republic of Nigeria and the People of Nigeria in which you directed members of the Indigenous People of Biafra IPOB, A proscribed organization to manufacture Bombs and you thereby committed an offence punishable under section 1 (2) (f) of the Terrorism (Prevention) (Amendment) Act 2013.

COUNT SEVEN

That you Nnamdi Kanu, Male, Adult, of Afaranukwu Ibeku, Umuahia North Local Government Area of Abia State on diverse dates between the month of March and April 2015 imported into Nigeria and kept in Ubulisiuzor in Ihiala Local Government Area of Anambra State within the jurisdiction of this Honourable Court, a Radio Transmitter known as Tram 50L concealed in a container of used household items which you declared as used household items, and you thereby committed an offence contrary to section 47 (2) (a) of Criminal Code Act, Cap, C45 Laws of the Federation of Nigeria 2004.

In discharging its burden of proof, the Prosecution called five witnesses as follows:

1. Mr. AAA - PW1
2. Mr. BBB - PW2
3. Mr. CCC - PW3
4. Mr. DDD - PW4
5. Mr. EEE - PW5

The Prosecution also tendered the following which were admitted in evidence by the Court:

1. A document titled items recovered from Nnamdi Kanu of Radio Biafra at Golden Tulip Hotel located at number 42/44 Airport Road, Lagos on the 15th day of October 2015 - Exhibit PWA.
2. 2 discs titled interview with Nnamdi Kanu and a certificate of compliance filed on the 28th day of April 2025

   -Exhibit P.W.B. - P.W.B2 respectively
3. The statement of the Defendant, dated 15th day of October, 2015 - Exhibit PWC.
4. A process titled: A list of items of Nnamdi Kanu filed on the 19th day of March 2024 - Exhibit PWD.
5. Four Bags as identified by P.W.1 MR. A.A.A -

   -Exhibit E bag A - Exhibit E bag D respectively
6. The items in exhibit E bag A as identified by PW.A.A.A -

   -Exhibits E bag A1 - to E bag A13 respectively
7. Items from Exhibit E bag B - Exhibits E bag B1 - E bag B32 respectively
8. Ten items from Exhibit E Bag C-

   Exhibit E bag C1- Exhibit E bag C10 respectively
9. Contents of Exhibit E bag D -

   Exhibits E bag D1 to E bag D17 respectively

10. A letter dated 10th day of June 2021 from the Attorney General of the Federation and Minister of Justice address to the Director General Department of State Service - Exhibit PWF.

11. The statement of the Defendant Nnamdi Kanu dated 17th day of July 2021 - Exhibit PWG.

12. A device to wit: flash drive, black and red in color, and a certificate of compliance- Exhibits PWH and PWH1 respectively

13. A disc in respect to the statement of the Defendant taken on the 17th July 2021 and certificate of compliance thereto - - Exhibit PWI and PWI.1 respectively

14. Federal Republic of Nigeria Official Gazette number 99 in Volume 104 dated 20th September 2017 title Terrorism Prevention order number 2017- Exhibit PWJ

15. A document to wit: Medical reports titled Re: Late Ahmed Gulak Mill, hospital number 013-931 dated 18th July 2021- Exhibit PWK.

16. A certified true copy of the judgment in HIN/FR /2021 between Mazi Nnamdi Kanu versus Federal Republic of Nigeria and seven others delivered on the 19th day of January 2022 - Exhibit PWL.

17. A certified true copy of judgment in FHC/ UM/CS/30/2022 delivered on 26th October 2022 between Nnamdi Kanu v. Federal Republic of Nigeria and two others - Exhibit PWM

18. A certified true copy of the judgment in suit number E/2023 between Mazi Nnamdi Kanu, applying for himself and on behalf of members of the Indigenous People of Biafra, IPOB, Vs. Federal Republic of Nigeria and four others, delivered on 26th day of October 2023 - Exhibit PWN

19. A document titled Lagos State Judicial Panel of Inquiry on Restitution for Victims of SARS-related abuses and other matters- Exhibit PWO.

20. A FASTA flash drive with certificate of compliance- Exhibits PWP and PWP1 respectively

21. A disc titled Interview with Sahara Reporter with certificate of Compliance - Exhibit PWS

22. The search warrants, dated 28th of October, 2015 with search reports - Exhibit PWT

23. A disk marked radio transmitter extra with certificate of compliance - Exhibit PWU

24. The statement of Benjamin Madubugu dated the 3rd day of November 2015 - Exhibit PWV.

25. A Sandisk flash drive with its attachment and also with certificate of compliance - Exhibit PWW.

26. Online printouts of Vanguard newspapers and a certificate of compliance - Exhibit PWX

27. A container containing a transmitter- Exhibit PWY.

28. The radio transmitter contained in Exhibit PWY – Exhibit PWZ.

29. A certified copy of report on request for professional assessments of radio transmitter dated 25th of November 2015 - Exhibit PWA2.

30. The certified true copy of Vanguard newspaper on 3rd day of July 2021 from National Library - Exhibit PWB2(II).

31. The payment receipt to wit revenue collection receipts from National Library of Nigeria receipt number 19128 of 7th June 2025 - Exhibit PWC2

32. Report of assessment on the damage as a result of End SARS. - Exhibit PWD2

33. Death report and certificate of security officers.

- Exhibit PWD2A

34. Certificate of compliance - Exhibit PWD2B

PW1, Mr AAA is an officer of the Department of State Service. His schedule of duties include arrest, investigation and taking of statements of suspects.

According to him, the Defendant is the leader of the Indigenous Peoples of Biafra group. He stated that his first contact with the Defendant was on 14th October, 2015 when he was detailed by his Commander in the Lagos office to go to Essential Airport Hotel to arrest the Defendant. PW-1 stated that he went with some other officers, with one of them named Bolaji Adeyemo. On arrival at the hotel, they introduced themselves and informed the hotel workers that they were there to arrest the Defendant. PW-1 even showed the receptionist the photograph of the Defendant, but he was told that the Defendant was not in the hotel. He then asked for the guest manifest but the name of the Defendant was not on it. So PW1 reverted to his commander who then ordered that they conduct a room to room search. In the process they enlisted the cooperation of the Manager of the Hotel who availed them of the master key of the

rooms. Shortly after Bolaji called PW1 who was downstairs with his Director informing him that he had found the Defendant in room 303.

On getting to the room, PW1 stated that he met a young lady who was later identified as Miriam Ibezimako. He introduced himself to the Defendant and informed them of the purpose of their visit. Thereafter, they proceeded to arrest the Defendant, who initially resisted arrest. PW1 further stated that during the encounter, Bolaji intervened to calm the situation after the Defendant headbutted him, whereupon the Defendant eventually agreed to follow them to the station. PW1 stated that the room looked like a broadcasting studio due to broadcasting items mounted on the table, such as microphone, a tripod, an earphone, transmitters, mixers, and cords. PW1 said they located the Defendant at about 2300 hours. When they arrested him, they also arrested him with some of his baggage, which was listed in a sheet of paper which the Defendant signed. He said the items recovered were about 70 and it took some time for him to complete the inventory.

PW1 stated that on the following day at about 9am, he was instructed to take the statement of the Defendant, so he took him to the interview room and recorded the statement, which was captured on video. PW1 stated that at the time he took the statement of the

Defendant, the allegation against him was that he was the founder and leader of an organization known as the Indigenous People of Biafra (IPOB), through which he allegedly agitated for the violent secession of Nigeria's South-Eastern states, South-South states, as well as two states from the North-Central region, namely Benue and Kogi States. Also, that he founded Radio Biafra, through which he broadcasted his intentions, inciting the general public, particularly his followers and those who are sympathetic to his cause, to violence, to achieve the cessation he was agitating for. PW1 then stated that he issued the Defendant with the service statement form after administering cautionary words on the Defendant and then he proceeded to write down his statement. The Defendant signed the statement and same was countersigned by PW1.

PW1 stated that the international passports of the Defendant was recovered and brought to them the following day by the manager of the hotel who found the passports on a bedside locker. Also that the Defendant used the name of Onwanekeyi Ezebigo to book the hotel and that was the name in the guest manifest. PW1 stated that during the interview of the Defendant he admitted to the allegations against him that he is indeed the founder and leader of the Indigenous Peoples of Biafra group and that he operated Radio Biafra which is not

registered by the Nigerian Broadcasting Commission or any other government agency. In addition, the radio station broadcast information across Nigeria and the world at large.

Under cross-examination, PW1 stated that he was one of the officers who interviewed the Defendant, and that during the interview, the Defendants lawyer was not present. PW1 said he took the statement of only the Defendant and that the items recovered from the Defendant did not look offensive. Also that they did not analyze the phone of the Defendant as they thought it was immaterial at the time. He said he did not personally arrest and investigate any person who may have committed any crime on the instigation of the Defendant. Further that they did not investigate the lady arrested with the Defendant to see if she was aiding the Defendant in terrorism activities. PW1 denied knowing if the Defendant named any other person as a co-conspirator or if any other person is standing trial on a related charge. PW1 said from his knowledge the Defendant had the support of persons like Simon Ekpa in his agitation for secession. He said the Defendant incited others to destroy public properties.

PW1 stated that even though there have been killings in other states such as Kaduna and Zamfara States, as far as he could tell, those killings were not products of agitations for separation. He said he

knows that IPOB was proscribed in 2017 but he does not have other details of the matter. PW1 stated that there are people who carry out the orders of the Defendant including sit-at-home order in which people have been killed for disobeying the directive. He stated that he is not aware that a charge against the Defendant for inciting persons to kill military officers was struck out by the Court.

Under re-examination, PW1 stated that the agitation of the Defendant in this case is for the call for separation from the country for the South Eastern, South South and some North Central States.

PW2, Mr. BBB, is an officer of the Department of State Service. He stated that the Defendant is a member and leader of the proscribed terrorist group called IPOB, which means the Indigenous Peoples of Biafra. PW2 also stated that he was assigned to take the Statement of the Defendant on the 17th of July 2021 and that the purpose for the statement was for him to answer to the allegations contained in the letter sent to them by the Hon. Attorney General of the Federation. PW2 stated that the Defendant is also the founder of the Eastern Security Network, which is the armed wing of the IPOB, and that he also established and operated Radio Biafra illegally, which was not registered with the Nigerian Broadcasting Commission. That the Defendant told him all these during their interaction.

PW2 further stated that during this interview, he was with his Director and four other officers as well as the Defendant and two of his lawyers namely: Mr. Aloy Ejimakor and Habila Turshak. That the Defendant admitted that he made broadcasts inciting people to burn, kill and collect weapons from police officers wherever they see them. That the Defendant also made written statements on that same day. He said the Defendant admitted founding the Eastern Security Network and that he admitted making broadcasts where he ordered his followers to ensure that whoever flouts the sit-at-home order to be attacked and this led to the deaths of many people including destruction of properties. PW2 further stated that one of the unfortunate persons who lost their lives included Ahmed Gulak, a former Senior Special Assistant to President Goodluck Jonathan who died on 30th May, 2021. Also that the Defendant made broadcasts on 20th October, 2020 during the EndSARS protest which led to the destruction of properties including the Lagos State High Court building in Igbosere as well as part of the Murtala Mohammed Airport. Further that the Defendant asked his followers to behead any military or police officer and this led to the killing and beheading of a military couple in Orlu, Imo State. In addition, it was established that a retired judge, Hon Justice Stanley Nnaji was also killed as a result of the Defendants broadcast. PW2

stated that the aim of the Defendant was the creation of the Republic of Biafra by any means possible including war.

Under cross examination, PW2 stated that the video statement of the Defendant was a complete reflection of what transpired during the interview even though the camera was focused on only the Defendant and his lawyer. He stated that he does not know if and how long the Defendant was kept in solitary confinement prior to his statement being taken. He also said during the interview, Defendant did not tell him that he was frustrated or angry. PW2 said further that he is not aware of the contents of the charge against the Defendant to know if any person was instigated or incited by the Defendant to commit any crime. He also stated that he did not know if at the time the DSS received Exhibit PWF, the charges had already been pending against the Defendant.

PW2 further stated that even though the Governors of the South West states formed the Amotekun group to tackle insecurity in their region, he is not aware if the Attorney-General of the Federation wrote to the DSS to investigate the atrocities which led to the formation of Amotekun. He stated that he never listened to Radio Biafra but only got reports from the DSS security platform where people who are mandated to monitor same put their reports. PW2 said he was not part

of the team that arrested the Defendant and he did not investigate the Defendants assertion that he was kidnapped from Kenya as it was not part of what was minuted to him by his boss. PW2 explained that extradition is a process of bringing a person from another country to a country to start his trial. PW2 denied that an officer of the DSS kidnapped the Defendant in Kenya since they are restricted to only Nigeria. He said Nigeria is a signatory to the United Nations Charter as well as the African Charter and that many countries got their independence through agitations for self-government. He said there is no country today known as Biafra even though the Nigerian Civil War was fought on the agitations of people of the South East attempting to form their own country. He said he does not know if the Defendants home was attacked or that 28 persons were killed there.

PW2 stated that he visited some of the places that were destroyed as a result of the broadcasts of the Defendant such as a police station in Ebonyi State. Also that he is not aware of the status of Sahara Reporters and whether it is registered. He said the Defendant confirmed that he ordered sit-at-home in the East. PW2 confirmed that Gen T.Y Danjuma (Rtd) had accused the Nigerian Security forces of not being neutral. He said he is not aware that the Director General of DSS urged Nigerians to rise up and resist terrorists. He said he is aware that

the EndSARS movement was never classified as a terrorist organization. He said the Defendant was and remained a member of IPOB before and after it was proscribed by the Court.

Under re-examination, PW2 stated that Amotekun is not the same as ESN as Amotekun is recognized by law passed by the Houses of Assembly in the Southwest states while ESN is not registered nor recognized by any law so it is an illegal organization.

PW3, Mr CCC is an operative of the State Security Service and has been with the agency for about 27 years.

According to him, the Defendant is the leader and founder of the Indigenous People of Biafra, a proscribed terrorist organization, and also serves as the director and broadcaster of Radio Biafra, which was used to incite the public. He stated that his first contact with the Defendant was on the 21st of October 2021, when he was instructed to interview the Defendant and to take a statement regarding allegations about his activities in operating Radio Biafra and also the founder of IPOB. He stated that on that first day, he invited the Defendant into the DSS interview room at the National Headquarters, where he and three other officers interviewed the Defendant and also video recorded the interview which the Defendant consented to. He said the

Defendant did not reduce his statement in writing until the 23rd of October, 2021 due to complaints of him being tired and needing to rest on the 21st of October 2021. He said the written statements were then signed by the Defendant when he finished writing.

PW3 in his further testimony stated that during the interview of 21st October, 2021, the Defendant was confronted with a video recording of an interview with Sahara Reporters. In the video, the Defendant was resolute that there must be a change and the change will not come through peaceful means.

PW4, Mr. DDD is also an officer of the State Security Service and has been with the service for 25 years.

According to him, the Defendant is the founder of IPOB, a terrorist organization calling for the cessation of South-Eastern, South South states and some parts of Benue and Kogi from the Federal Republic of Nigeria. P.W. 4 stated that he got to know the Defendant in October 2015 when he was arrested by officers of the DSS. He stated that allegations against the Defendant included that he was agitating for the cessation of Biafra and using radio Biafra to incite members of IPOB against the Federal Republic of Nigeria. P.W. 4 stated further that, on the 20th of October, 2015 through an intelligence, they discovered

that the Defendant smuggled a radio transmitter without declaring same to the Nigerian Customs Service, that it was hidden from view using household equipment, and was contained in a container. P.W. 4 stated that it was kept in the custody of one Benjamin Madubugu in Anambra State. PW4 said he got to know all these when he was handed a video recording where the Defendant was seen in the company of the said Benjamin Madubugu inspecting the radio transmitter and taking ownership and declaring it as a game changer where radio Biafra will be broadcast through. Following an instruction from his superior, PW4 obtained a search warrant and on the 28th of October, 2015 proceeded to the village where Benjamin Madubugu was and retrieved the radio transmitter.

PW4 stated that when they opened the container, they found only the transmitter in it and asked Benjamin what happened to the other items and he said the Defendant came to inspect the radio transmitter with one individual named Chimeze who took the other items away, leaving only the transmitter in the container. He said Benjamin Madubugu wrote a statement on the 3rd of November, 2015 at the DSS headquarters and he confirmed the result of the search. Benjamin Madubugu when asked did not produce any custom papers. Benjamin was initially arraigned along with the Defendant until the Defendant

jumped bail and the case was severed. He said IPOB had made life difficult in the Southeast due to the sit at home order of the Defendant as well as the violence unleashed by IPOB. Further, the Eastern Security Network which is the armed wing of IPOB bears arms and engages in guerilla warfare where they attack security agencies such as the Police and the Army. They also ensure compliance with the sit-at-home order.

PW4 stated that in a particular broadcast of 30th May, 2021 the Defendant issued threats that anyone who defies his order of sit-at-home by opening their shops should be killed and the shops burned. PW4 explained that Ahmed Gulak the former Senior Special Assistant to former President Goodluck Jonathan was killed on a day declared as sit-at-home. That he tried to take another route to the Airport in Owerri when he was shot by IPOB terrorists. PW4 said he was the first person at the scene and he found the lifeless body of Gulak on the road. He said from the feedback they got from residents of the South East, the sit-at-home order had depleted the economy and activities in the South East and the people were living in apprehension for their safety.

P.W.4 also stated that he knew one Ikonso, identified as one of the dreaded commanders of the Eastern Security Network (ESN), whose real name is Kanikayo Andy. He described Ikonso as a ruthless

commander who took direct orders from the Defendant. P.W.4 further stated that Ikonso was killed on the 24th of April, 2021 after masterminding a dastardly attack in Orlu, Imo State, during which he mobilized ESN members and other adherents of IPOB to attack the Correctional Centre and facilitate the escape of numerous inmates who were in lawful custody. He also attacked the Police headquarters and a lot of police officers were killed. However, he was involved in a shootout with security operatives after a manhunt was declared on him. This shootout led to his death.

P.W.4 stated that on the following day, the 24th of April, 2021 the Defendant made a broadcast in which he declared that Ikonso would be buried specially, in the manner of the Oba of Benin meaning that he would be buried with human heads. Consequently, the Defendant ordered his men to procure human heads for the burial of Ikonso. The order was carried out by one of the junior commanders named Emeyiri Uzoma Benjamin also known as Onye Army. That when Onye Army was arrested he wrote in his statement that the Defendant ordered him to get the heads but he was only able to secure 30 human heads.

At the scene of where the transmitter was kept in the premises of the Department of State Service, PW4 continued his evidence when he stated that the container containing the transmitter was recovered

from the premises of one Benjamin Madubugu wherein the Defendant had smuggled in the Radio transmitter into the country. The container also had some household items in it which were later removed.

Upon the matter being adjourned back to the Court, PW4 confirmed that Benjamin Madubugu indeed made a statement before the DSS. That during the statement taken, he had his lawyer one Vincent Obetta present. PW4 also stated that upon retrieving the radio transmitter, they brought the Defendant and Benjamin Madubugu together and confronted the Defendant with the evidence. He stated that the Defendant accepted ownership of the container and the radio transmitter. He also exonerated Benjamin Madubugu by stating that the items were only kept in his house and that Benjamin Madubugu does not own the items. PW4 also stated that the DSS wrote to the Nigerian Broadcasting Commission to come and inspect the transmitter which they duly came and wrote a report of their findings. The conclusion from the report as read by PW4 is that the station known as Radio Biafra was not licensed by the Nigerian Broadcasting Commission neither does it have any permit to operate in Nigeria. That for an organization to bring in a radio transmitter, it must apply for permission from the regulator who in turn writes to security agencies such as the DSS and the National Security Adviser for clearance before

the regulator issues a license to import the transmitter into Nigeria. That in this case, no such license or permit was obtained by the Defendant before importing the transmitter.

PW4 referred to a newspaper story where the Defendant had ordered an attack on a prison in Owerri, Imo State. That the Defendant had ordered members of the IPOB to kill security operatives. Also that investigation revealed that the Defendant having ordered members of IPOB to bury Ikonso in a special way by using about 2000 human heads, his men were only able to get 30 human heads. Efforts were made to arrest these IPOB members in Orlu, in a village bordering Anambra valley. They met some members of IPOB with human heads hanging from a wire mesh and they also saw some of them eating human flesh which they claimed was for spiritual fortification. They also saw a well where they dump victims or beheaded bodies into. PW4 stated that he was part of the operation which comprised the DSS and the Nigerian Army. He also stated that the Defendant has never denied making those broadcasts and was even proud of making them.

PW4 also stated that records show that between 170 and 200 security agents of the Federal Government were killed by IPOB and ESN all over Nigeria. He knows some of these murdered agents which included his driver one Chinemere Ereke and their tactical leader who were killed

in Omuoma Local Government Area of Imo State. PW4 stated that the Defendant was in the habit of making inciting statements ordering his men to carry out attacks on security agents as well as political figures such as Hope Uzodinma the governor of Imo State. He stated that their mode of operation is that they move in groups in Siennas and other confiscated vehicles and from there they launch attacks on security operatives. They also set up checkpoints where they hijack other vehicles in good working condition. The group also engage in activities aimed at terrorizing their communities. That this group is so brazen that they even write to traditional rulers informing them of their intention to attack them. They attack even in broad daylight, kill people and burn down palaces and properties.

PW4 continued his evidence by stating that the IPOB group are even more brazen in their attacks on police stations like the one at Njaba Local Government Area of Imo State. That they raided the station, killed everyone there and turned it to their base. Similarly, the police station in Omuoma in Oru East Local Government Area of Imo State was sacked in the same way and that the group even attacked a Police headquarters where they carted away arms and ammunition from the armory and burnt down the place.

He stated that on the 30th of May, 2021 the Defendant had ordered a sit-at-home in the South East but the late Ahmed Gulak was unfortunately caught in the storm as he was trying to catch a flight out of Owerri that day. PW4 said he was the first to get to the scene of the attack where he found the deceased in a pool of his blood. He was informed by the Divisional Police Officer in the area that the deceased was in a taxi heading for the airport when the IPOB and ESN armed combatants identified him at one of their checkpoints and opened fire on him. The driver of the taxi identified himself as an igbo man but the deceased even though he claimed he was igbo could not speak the language and having observed a prayer mark on his forehead, his attackers shot him. The body was later removed and conveyed in a plane to Abuja on the directives of the former Secretary to the Government of the Federation, Boss Mustapha.

PW4 stated that between 2019 and 2022 he was in charge of security enforcement in Imo State and he witnessed first-hand the activities of the Defendant and his men. PW4 stated that the Defendant is the leader of the Indigenous People of Biafra (IPOB), as well as the founder and operator of Radio Biafra. He testified that the Defendant used the said radio platform to incite members of the public to hate persons of other ethnic nationalities, particularly the Hausa-Fulani.

PW4 further stated that through his broadcasts, the Defendant directed members of IPOB to attack and kill security operatives, and to destroy infrastructure and symbols associated with the Federal Government of Nigeria, as part of his agitation for the establishment of the Republic of Biafra.

Under cross examination, PW4 stated that he did not sign any of the investigation report. Also that the transmitter came into the country through the Tincan port in Lagos. He said he did not find out the date the transmitter came into the country as same was smuggled into the country and that it was not part of his schedule to find out the date. That there are no records to show it came in through Lagos save for the statement of the Defendant that it came in through Lagos port. He also stated that IPOB was formed outside Nigeria and that Radio Biafra was operated outside Nigeria but broadcast within the territory of Nigeria as it was an online platform. He further stated that the Defendant was arrested in Lagos with his broadcasting equipment. He said it is not the duty of the DSS to find out if Radio Biafra was registered in London.

PW4 stated that he and one other officer were sent to Ubuluisiuzor to recover the transmitter. That they reported to the DSS headquarters in Awka and from there they proceeded to where the container was

located using coordinates on the video showing the container. They testified that the container contained other items including two pump action guns, one of which was found in the bedroom of Benjamin Madubugu. That the said Benjamin Madubugu is facing a charge of illegal possession of weapons before Nyako J.

He also stated that even though the Defendant stated that he does not like violence and crime and that churches and other places of worship should not be attacked, his broadcasts of 20th, 21st and 25th October, 2020 clearly incited people to kill others. That the main crux of the Defendant's broadcasts is the killing of fulani herdsmen marauding the forests of the South East with AK-47 killing innocent people. He said he is not aware of any fulani herdsman being prosecuted for attacking people in the South Eastern states. PW4 admitted that Ahmed Gulak conducted the primary election that led to the emergence of the Governor of Imo State, Hope Uzodinma and that dissatisfaction over the declaration of Hope Uzodinma was still festering.

He stated further that even though Ahmed Gulak was with two other persons in the taxi and he was the only one killed, IPOB sometimes do not kill igbo persons who violate the sit-at-home order. He admitted that the Defendant said IPOB will compensate the persons whose

lorry of onions was hijacked but he does not know if the promise was fulfilled. PW4 stated that it was the police who investigated the killing of Ahmed Gulak. He said during sit-at-home everywhere including farms are usually deserted as it is dangerous for anyone to be outside.

PW4 also stated that the Nigerian Broadcasting Commission monitors the frequencies of every radio station in Nigeria and they were able to monitor the frequency of Radio Biafra. He stated that the DSS could not arrest Abubakar Shekau due to him tying an explosive device to himself at the point of arrest. He said during his time in the Southeast, he did not arrest any native doctor making charms for kidnappers. Also that the checkpoints of the Police and the Army are still functional in the Southeast today.

PW5, Mr. EEE is also an officer of the Department of State Service in the National Headquarters, Abuja.

According to him, in July, 2021 he was instructed to lead a team of officers of the Nigerian Police and the DSS, photographers and other investigators to travel around the country to obtain and collect records of activities that occurred between 2020 and 2021 relating to the EndSARS movement. He stated that the assignment included obtaining records from heads of security agencies in the states visited

particularly the states in the South and the FCT and obtaining reports of dates and death certificates of security personnel who died as well as public properties destroyed as a result of the EndSARS protests and riots. PW5 while referring to Exhibit PWD2A stated that 8 policemen were killed in Abia State, 19 in Anambra, 13 in Ebonyi, 16 in Enugu, 16 in Imo, 17 in Akwa Ibom and 16 in Cross River. There were 6 police officers killed in Lagos, 9 in Rivers bringing a total of 128 policemen killed. With respect to military officers, a total of 37 killed. The DSS had 10 casualties. A total of 164 police stations were destroyed during the protests. Then 9 INEC facilities were damaged and destroyed.

Under cross examination, PW5 stated that he only investigated the deaths of security operatives who were killed during the EndSARS protests following incitement by the Defendant who instigated protesters to kill security agents and even taught them how to manufacture molotov cocktails to use in the process. He further said it is on record that the Defendant urged protesters to destroy public buildings in places like Lagos. He said he does not know if one of the protesters, Aisha Yesufu is sympathetic to Biafra or is a member of IPOB. He said is aware that police brutality was one of the causes of the EndSARS protests and that the Defendant urged people to take up arms against the government. PW5 said there is no part of the report

stating the activities of IPOB/ESN. He also said all protocols relating to taking photographs were duly observed. He said from pages 669 of the report, there are no visible dates on the photographs. PW5 stated that there is no portion of the document signed by himself as Secretary of the Presidential ad-hoc committee that investigated the aftermath of the EndSARS protests and the Chairman of the Committee. However, he stated that he certified the document and that the document was not certified after the proceedings of 12th June, 2025.

The Defendant had filed a Notice of Preliminary Objection dated and filed 16th October, 2025 seeking the following reliefs:

1. A Declaration that the continued prosecution of the Defendant under the repealed Terrorism (Prevention) Amendment Act 2013, and upon a proscription order obtained ex parte and without fair hearing, violates Sections 1(3), 36(1)-(12), and 42 of the Constitution and Articles 7 and 26 of the African Charter, and is therefore null and void.
2. A Declaration that the Federal High Court's ex parte order proscribing IPOB, obtained without notice or hearing and while Justice Binta Nyako's subsisting ruling (that IPOB is not an

unlawful society) remained in force, is unconstitutional, unlawful, and cannot ground criminal liability.

3. An Order striking out or permanently staying Counts 1-8 (save Count 15) of the Amended Charge dated 14 January 2022 for being barred by double jeopardy, having the same factual ingredients as Counts 6-14 earlier struck out by the Federal High Court on 8 April 2022.
4. An Order declaring that the Defendants extraordinary rendition from Kenya without extradition proceedings or due process violated Section 36(1) & (9) of the Constitution, the Extradition Act (Cap E25 LFN 2004), and Articles 12 and 13 of the African Charter, thereby robbing this Honourable Court of jurisdiction.
5. An Order nullifying all proceedings conducted in breach of the Defendant's right to adequate facilities for defence, confidential communication with counsel and fair hearing—particularly the eavesdropping, seizure of legal materials, and denial of unmonitored access.

The Notice of Preliminary Objection has a 43 paragraph affidavit deposed to by Prince Emmanuel Kanu, a sibling to the Defendant. The affidavit has 10 exhibits and a written address.

In his written address, the Defendant submitted inter-alia that the Court of Appeal in CA/ABJ/CR/625/2022 had ruled in his favour on the 13th of October, 2022 holding that his extraordinary rendition had divested the trial court from continuing his trial. Thus this instant trial is unlawful and in disobedience of the orders of an appellate Court. The Defendant also relied on **OKAFOR VS AG ANAMBRA STATE (1991) 6 NWLR (PT. 200) 659 AT 682-683 PARAS E-F** to submit that any charge premised on a repealed law cannot sustain any proceeding. That the provisions under which he is charged have been repealed by the Terrorism Prevention Amendment Act, 2022 and thus has no life to sustain this proceedings. He also submitted that his extraordinary rendition as well as not affording him adequate facilities denies him of his fair hearing and thus he urged the Court to quash the instant proceedings against him. He also argued that this Court is divested of jurisdiction as the subject matter of the charge is subjudice before the Supreme Court. He thus urged the Court to uphold the preliminary objection.

In the written address filed 30th October, 2025, the Defendant substantially repeated the submissions in the Notice of Preliminary Objection regarding the repealed laws, extraordinary rendition and

denial of fair hearing. He therefore urged the Court to quash the charge against him.

The Court formulates the following issues for determination thus:

1. **WHETHER THE DEFENDANT WAS DENIED HIS RIGHT TO FAIR HEARING IN THE CIRCUMSTANCES OF THIS CASE.**
2. **WHETHER THE CLAIM OF EXTRAORDINARY RENDITION OF THE DEFENDANT FROM KENYA INVALIDATES HIS TRIAL IN THIS CASE.**
3. **WHETHER THE PROVISIONS UNDER WHICH THE DEFENDANT IS BEING TRIED ARE REPEALED LAWS AND INOPERATIVE.**
4. **WHETHER THE PROSECUTION HAVE ESTABLISHED THE CHARGE AGAINST THE DEFENDANT BEYOND REASONABLE DOUBT.**

The Defendant has challenged the jurisdiction of this Court as well as the competence/validity of his trial before this Court. He premised his objections on the legality of the extraordinary rendition from Kenya in 2021 upon which he was brought back to Nigeria to face trial. He also raised an objection to the denial of his right to fair hearing and that the charge was premised on repealed laws and thus the charge ought to be struck out against him. This Court will painstakingly consider these jurisdictional issues before going to the substantive issue if need be.

Jurisdiction in general terms refers to the extent of powers or authority exercised by a Court over a particular matter. It is seen as a threshold issue which determines how a Court should handle a matter. Where jurisdiction is lacking, any further action taken by a Court amounts to a nullity.

Kindly see per Abiru JSC in **NIMR v. AKIN-OLUGBADE &ORS (2025) LPELR-80313(SC),**

Also per Adah JSC in **HABU v. SULE & ORS (2024) LPELR-63002(SC)**

On issue one with respect to the alleged denial of the right to fair hearing of the Defendant, the tenet of fair hearing is to the effect that both sides in a dispute must be heard expressed in the Latin maxim Audi alterem partem and that a party cannot be a judge in its own case expressed as Nemo judex in causa sua. Fair hearing is enshrined in section 36 (1) of the Constitution of the Federal Republic of Nigeria 1999 as amended which provides thus:

> ***"(1) In the determination of his civil rights and obligations, including any question or determination by or against any government or authority, a person shall be entitled to a fair hearing within a reasonable time by a court or other tribunal***

established by law and constituted in such manner as to secure its independence and impartiality"

The Supreme Court in **MFA v. INONGHA (2014) 4 NWLR (Pt.1397) 343 at 375** held as follows:

"Fair hearing within the meaning of Section 36(1) of the Constitution of the Federal Republic of Nigeria, 1999 means a trial or hearing conducted according to all legal rules formulated to ensure that justice is done to the parties. It requires the observance of the twin pillars of the rules of natural justice, namely: audi alteram partem and nemo judex in causa sua" Nemo judex in causa sua simply means that no Judge should preside over a matter in which he has personal interest or involvement."

As late Niki Tobi JSC of blessed memory stated in **INEC v. MUSA (2003) LPELR-24927(SC)**

The Defendant claimed that he was denied his right to fair hearing by the Court foreclosing him in the entering of his defence. At the risk of repeating myself, I will repeat my ruling of 7th November, 2025 wherein I recounted the history of this case and proceeded to foreclose the Defendant.

This matter was filed in 2015, and due to the delay as a result of appeals and other issues, same was assigned to this court in March 2025. Prior to this, in 2017, the Defendant was alleged to have jumped bail and escaped from Nigeria and for about 4 years the Defendant was not within the territory of Nigeria which caused a stall to his trial due to his absence.

In 2021, he was brought back to Nigeria to face his trial. However, the Defendant became unruly and caused serious delay in the trial before my learned brother, Nyako J. The issue got to a head that the Defendant began asking my learned brother to recuse herself from the trial on the basis of being biased towards him. The Judge recused herself and the matter was assigned to this court in March, 2025 for trial.

Upon assumption of jurisdiction, having in mind that this matter has stayed for 10 years, and in the interest of justice, I granted accelerated hearing. As a result of the accelerated hearing, I created morning and afternoon sessions in this Court so as to accommodate this trial. The prosecution opened its case. In total, the prosecution called five witnesses and tendered several exhibits. The Court ensured that the prosecution was kept on its toes during the presentation of the prosecution's case and same was closed on the 19th June 2025. It is

worthy to observe that during the time when the prosecution was calling its witnesses, several adjournments were at the instance of the Defendant. For instance, on the 29th April 2025, the Defendant counsel sought for adjournment to cross-examine PW1. Also, on 2nd May 2025, the Defendant counsel also sought for adjournment to continue cross-examination of PW1. Likewise, on the 8th day of May 2025, the Defendant Counsel applied for adjournment. In addition, on the 14th day of May 2025, Defendant Counsel applied for an adjournment. Also, on the 21st day of May 2025, Defendant counsel also applied for an adjournment.

As part of the options after the close of the case for the prosecution, the Defence opted for the option of filing no case submission, which the Court duly heard after adoption of written addresses. Ruling was delivered on the 26th day of September, 2025, wherein the no-case submission was overruled. The issue of extraordinary rendition, validity of the charge, all were incorporated in the no case submission. After going through the no case submission, the court overruled same and the Defendant was called upon to enter his defence. In the ruling delivered on the 26th day of September, 2025 the court emphasized and laid importance to the issue of fair hearing as contained in section 36 of our Constitution. That the Defendant shall be given opportunity

to defend the charge he is facing and upon this, the Defendant was called upon to do so. The Court in that ruling also pointed out the need for evidence to be given on oath. To give evidence on oath to challenge the evidence of the Prosecution.

In that no case submission ruling, the Court mentioned the importance of the Defendant to give evidence on oath because this is a criminal matter, it is not civil, where the standard of proof is on balance of probability it is a criminal matter which the standard required under section 135 of the Evidence Act, 2011 is beyond reasonable doubt. It worthy to note that extraordinary rendition is a quasi-criminal issue in a criminal case and evidence on oath must be given and the opposing side must be given opportunity to cross-examine on that quasi-criminal issue in accordance with section 135 of Evidence Act, 2011. Also see the case of **EDEVIE VS OROHWEDOR & ORS (2022) LPELR-58931 (SC)** where the Supreme Court held that where any allegations of crime or quasi-criminal are made in any matter even in a civil matter, affidavit evidence will be insufficient and only oral evidence will be entertained due to the standard of proof being a standard required in criminal matters which is beyond reasonable doubt. The Defendant had the duty to prove the allegation of extraordinary rendition in this criminal matter beyond reasonable doubt. The Defendant has not

called anybody to testify on oath in respect of this extraordinary rendition which would enable the other side to cross examine such witness. The failure of the Defendant to give evidence on oath on extraordinary rendition has made that allegation bare and it is simply an assertion without proof.

The Court was constrained to deliver the no case submission ruling earlier as during the vacation of the Court, the Defendant had filed an application that he be moved to a private ward in the National Hospital, Abuja as the facilities of the Department of State Service were not adequate to take care of his health. The Court had to quickly rush back due to the importance of the health of the Defendant. The Court ordered the President of the Nigerian Medical Association to constitute a panel of experts to carry out tests on the Defendant to ascertain his health status and whether he is fit to stand trial.

The need to ascertain his fitness to stand trial was based on his antecedents of causing delay in his trial. The Court was suspicious whether the issue of medical report raised at that stage was pre-emptive of the ruling and laying foundation for unusual delay which has been the trend since 2015. Based on this the Court added that the medical panel ascertain whether the Defendant is fit to stand trial. It is actually a mystery to this Court that a Defendant who is standing trial

would delay his own trial while shouting that he is being denied his right to fair hearing. Usually, it is the Prosecution that delays a trial as its life is not on the line, but in this case, the reverse was the case. The order of the Court to ascertain his fitness was a strategy to nip in the bud, any attempt by him to further delay his trial.

On the 16th of October, 2025, the Court ruled on the medical report issued by the panel set up by the President of the Nigerian Medical Association and determined that the Defendant is indeed fit to stand trial after no opposition from the Defendant and the Prosecution. The Court had carefully observed the Defendant during the entire trial and the sprightly nature of the Defendant, his unruly behaviour and his agility in defending himself shows without doubt that he is indeed fit to stand trial, thus corroborating the conclusion reached in the report by the panel set up by the President of the Nigerian Medical Association. Even without the medical report, the fitness of the Defendant is clear to any reasonable person who observes him. His claims of being low on potassium or other nutrients as stated in his supporting affidavit to his application for transfer to the National Hospital are not such that renders him incapacitated from understanding the proceedings in his trial. He is healthy, fit and abreast of all the happenings in this trial and demonstrated full

understanding and fitness after taking over his defence himself from his counsel. I therefore hold without doubt that the Defendant is fit to stand his trial.

The Court then proceeded to give the Defence 6 consecutive days for it to open and close its defence. Counsel to the Defence, Chief Kanu Agabi SAN had prayed the Court to allow private consultation between the Defendant and his counsel in preparation for his defence. Despite the fact that there was no evidence before the Court of the DSS eavesdropping on the conversation of the Defendant and his Counsel, the Court graciously asked the Defendant and his counsel to use the courtroom for their pretrial meetings since they felt more comfortable in the Court. This development meant that the Court had to clear the courtroom and it meant that the Court could not conduct hearings in the morning of 22nd October, 2025 just to accommodate the Defendant and his counsel. The Court then adjourned the hearing of the suit to 23rd, 24th, 27th, 28th, 29th, and 30th October 2025 for the Defendant to open and close his defense.

On the 23rd of October, 2025, the learned silks representing the Defendant including Chief Kanu Agabi SAN, Onyechi Ikpeazu SAN and Paul Erokoro SAN announced to the Court that they wished to

withdraw their appearance as the Defendant had indicated that he wanted to defend himself. The Defendant confirmed this development and informed the Court that he wished to represent himself at the trial.

Upon exercising his right to defend himself, the Defendant came on the next adjourned date and his excuse was that he was not given his case file by his departing counsel. This was no doubt another case of delay on his part. The following day, the Defendant appeared for himself and began challenging the jurisdiction of the Court arguing that there was no charge against him and that the medical report certifying him fit was allegedly doctored. The Court patiently explained to him that some of the issues he was raising had been treated in the no case submission and some of the other issues could be raised during final written address. The Court then advised him to engage counsel who are experts in criminal litigation due to the seriousness of the charge against him. The Court also offered to secure the services of counsel from the Legal Aid Council of Nigeria or a private legal practitioner willing to take the matter pro bono which were all rejected by the Defendant. The Court continued to appeal to him and even went as far as begging him in the name of God to please engage Counsel and open his defence all of which fell on deaf ears.

At a point, the Defendant informed the Court that he wanted to call about 28 persons some of whom he claimed are foreigners as witnesses in his case and he applied for witness summons. The Court graciously approved the witness summons. However, the Defendant abandoned the said witness summons and began claiming that he had gone through his case file and he found that there was no law providing for the offences he is being charged with. That he could not defend a charge not founded on any law.

By this time, the Defendant had still not opened his defence neither was there any seriousness on his part to put in his defence. The Court in discharging its duty to do justice, calmly and patiently advised the Defendant to be cautious of the path he intended to take as it was tantamount to resting his case on that of the prosecution which means that he admits the facts and evidence against him but believes that it is insufficient to secure a conviction against him.

This Court has been extremely patient and lenient with the Defendant. He is only entitled to be given opportunity to defend himself as part of his right to fair hearing. Failure to use the opportunity granted by the Court will be entirely his fault and he cannot complain thereafter. The right of a Defendant to defend himself/herself is a fundamental right

provided under section 36 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended). Such right cannot be taken from a Defendant except where a Defendant expressly or by conduct waives same. Kindly see **SEGUN OGUNSANYA VS STATE (2011) 12 NWLR (PT. 1261) 401.**

The Defendant refused to open his defence despite the Court informing it that it was minded to extend the days if he opened his defence on that said 7th November, 2025. The Court on the 27th of October, 2025 made an order that the Defendant come on the next date to put in his defence or file his final written address or any written address filed would be deemed as his final written address in this suit. Pursuant to the order of this Court made 27th October, 2025, the Defendant filed a Motion on Notice/Comprehensive written address on non-existence of any cognizable charge and the unconstitutionality of continuing of trial filed 30th October, 2025 and same will be deemed to be his final written address. The import of titling the written address as a comprehensive written address cannot be overemphasized. The word "comprehensive" according to the online version of the Oxford Dictionary is: ***"including or dealing with all or nearly all elements or aspects of something".*** The Defendant in that Motion on Notice and Comprehensive written address prayed for reliefs including for the

Court to discharge him which is a typical prayer in a final written address in criminal matters. No doubt the Defendant clearly knew what he was doing by opting for final written address in form of Motion/Comprehensive written address in compliance with the order of the Court of 27th October, 2025. This would therefore be treated as the final written address of the Defendant in this suit. Same has been considered in this judgment.

The Defendant had also filed a Notice of Preliminary Objection filed 16th October, 2025. This too shall be considered in the interest of justice as this Court having ordered that all preliminary objections will be determined in the judgment.

Another aspect of denial of fair hearing raised by the Defendant is that he was misled into taking his plea in the charge. When the charge was to be read to him, the Court asked him if he understood English language and he responded that he did. When Count 1 was read to him, he at first stated that he did not understand. The Court ordered the Registrar of Court to re-read the count to him and he understood and took his plea. For the avoidance of doubt, I will reproduce part of the proceedings of 21st March, 2025 when his plea was taken.

"**REGISTRAR:** Nnamdi Kanu, do you understand and speak English language?

DEFENDANT: I do, yes.

REGISTRAR: Listen to the charge against you,

count one,

REGISTRAR: Defendant do you understand count 1, I read to you?

DEFENDANT: I don't.

COURT: Take it again

COUNT ONE,

REGISTRAR: Defendant do you understand count 1, I read to you?

DEFENDANT: I do yes

REGISTRAR: Are you guilty or not guilty

DEFENDANT: Not guilty.

COUNT TWO,

REGISTRAR: Defendant do you understand count 2, I read to you?

DEFENDANT: I do

REGISTRAR: Are you guilty or not guilty

DEFENDANT: Not guilty.

COUNT THREE,

REGISTRAR: Defendant do you understand count 3, I read to you?

DEFENDANT: I do

REGISTRAR: Are you guilty or not guilty

DEFENDANT: Not guilty.

COUNT FOUR,

REGISTRAR: Defendant do you understand count 4, I read to you?

DEFENDANT: I do

REGISTRAR: Are you guilty or not guilty

DEFENDANT: Not guilty.

COUNT FIVE,

REGISTRAR: Defendant do you understand count 5, I read to you?

DEFENDANT: I do

REGISTRAR: Are you guilty or not guilty

DEFENDANT: Not guilty.

COUNT EIGHT NOW COUNT SIX,

REGISTRAR: Defendant do you understand count 6, I read to you?

DEFENDANT: I do

REGISTRAR: Are you guilty or not guilty

DEFENDANT: Not guilty.

COUNT 15 NOW COUNT 7,

REGISTRAR: Defendant do you understand count 7, I read to you?

DEFENDANT: I do

REGISTRAR: Are you guilty or not guilty

DEFENDANT: Not guilty."

The Defendant clearly understands English language being an educated man. On that day, he had his counsel including Senior Advocates such as Kanu Agabi SAN representing him on that day.

The Court complied with the procedure of taking the plea of a Defendant under section 271 (2) – (3) of the Administration of Criminal Justice Act, 2015 which provides thus:

> *(2) The defendant to be tried on a charge or an information shall be:*
>
> *(a) brought before the court unfettered unless the court sees cause otherwise to order, and the charge or information shall be read over and explained to him to the satisfaction of the court by the registrar or other officer of the court; and*
>
> *(b) called upon to plead instantly unless, where the person is entitled to service of the information, he objects to the non-service and where the court finds that he has not be been duly served.*
>
> *(3) The court shall record the fact that it is satisfied that the defendant understands the charge or information read over and explained to him in the language he understands, and shall record*

the plea of the defendant to the charge or information as nearly as possible in the words used by him.

Looking at the above statutory provision and the procedure adopted by this Court, the Defendant cannot turn around to claim he was misled to take his plea after the Prosecution had closed its case. It is nothing but the usual and habitual ploy of the Defendant to cause delay and make the matter to start denovo. This Court will not allow matters to be on its cause list ad-infinitum.

On the issue of denial of adequate facilities, the Defendant claimed that he was not allowed to consult with his legal representation in confidence as the DSS officials were eavesdropping on their conversation.

The Defendant is facing a criminal trial and is entitled to the right to adequate time and facilities in preparation for his defence. He enjoys the Constitutional right to fair hearing and in consequence to that right, has the right to adequate facilities to aid his defence. Section 36 (6)(b) of the Constitution of the Federal Republic of Nigeria 1999 as amended provides:

"Every person charged with a criminal offence shall be entitled to - (b) to be given adequate time and facilities for the preparation of his defence"

Kindly see also **IGWE v. STATE (2021) LPELR-55336(SC); IDEH v. STATE (2019) LPELR-46899(SC)**

As part of the package of rights available to a person facing a criminal charge, he is entitled to all the facilities and enough time for the purpose of preparing his defence. This ties in with the right to presumption of innocence under section 36(5) of the Constitution of the Federal Republic of Nigeria 1999 as amended which stipulates that until a person is declared guilty by a Court of law, he is presumed to still be innocent.

The provision was the subject of interpretation by the Supreme Court in **OKOYE v COP (2015) LPELR - 24675 (SC)** where Aka'ahs, JSC, opined as follows:

"The moment an accused person is facing a charge, his personal liberty is at stake and before that liberty is taken away, he must be afforded every opportunity to defend himself...once he becomes aware that he has a charge hanging over his neck for an infraction of the law and makes a request either orally or in

writing for any facilities to prepare his defence, the Court must accede to his request and the prosecution has to comply..... the facilities that must be afforded the accused person are the 'resources' or 'anything' which would aid the accused person in preparing his defence to the crimes for which he is charged. These no doubt, include the statements of witnesses interviewed by the police in the course of their investigation which might have absolved the accused of any blame or which may assist the accused to subpoena such favourable witnesses that the prosecuting counsel may not want to put forward to testify."

Kindly see also **NWEKE V STATE (2017)15 NWLR (Pt.1587) 120,150.**

The Defendant did not provide any credible evidence as to this allegation of eavesdropping. The Court however in order to do justice to him and suspecting that he was looking for another way to delay his trial allowed him to consult with his lawyers on the 22nd of October, 2025 in the Court room. Thus the Court had to vacate the courtroom for him and his lawyers to use. Despite this magnanimity by the Court, the Defendant did not make use of this opportunity. On the following date, his Counsel withdrew their appearance and the Defendant decided to defend himself making the opportunity given to him to use the courtroom to be useless and of no purpose. Despite the fact that

he is not a legal practitioner, he began using some of his counsel who he had earlier disengaged to act as legal consultants to him. The Court even kindly ordered the DSS to allow these consultants have free access to him. This is in compliance with section 36 of the Constitution which provides for access to legal practitioners and most of these legal consultants were always present in Court. There is nothing to show that he was denied adequate facilities to prepare for his defence. He had enough time to prepare and had been represented by senior counsels such as Kanu Agabi SAN, Onyechi Ikpeazu SAN, Emeka Etiaba SAN, Paul Erokoro SAN, Audu Nunghe SAN among others before they were suddenly disengaged and the Defendant decided to represent himself which this Court suspected was also to cause another delay in the hearing of this matter. His allegation holds no water in the light of facts and circumstances in this case. Consequently, this issue is resolved against the Defendant.

On the issue of extraordinary rendition, there are instances where a person commits an offence against a country while residing in another country or flees the country soon after committing the said crime. In such instances, the country against which the offense is committed will request the country in which the suspect is residing to release him to it. This process is known as extradition. Extradition therefore refers

to a legal process in which a state surrenders a person accused of committing a crime to the state against which the crime was committed known as requesting nation.

The Supreme Court in **A.G OF THE FEDERATION v. ANUEBUNWA (2022) LPELR-57750(SC)** succinctly explained the concept of extradition thus:

> *"Extradition is a cooperative legal process of one state called the surrendering state or authority which surrenders an individual to another state called the requesting state for prosecution or punishment for crimes committed within the requesting country's jurisdiction. The extradition process is usually spelled out in bilateral or multilateral extradition treaties or agreements. Extradition becomes necessary when a criminal fugitive flees from one country to another to avoid facing trial or punishment. Persons who may be extradited include those who have been tried and convicted but escaped custody by fleeing the country, and those convicted in absentia- a trial in which the accused person is not physically present. Extradition is distinguished from other methods of forcibly removing undesirable persons from a country, such as exile, expulsion and deportation. Extradition procedures are usually determined by the terms of treaties between individual countries or by multilateral agreements*

between groups of countries such as the Common Wealth countries or the countries of the European Union. The receiving government then refers to its laws and its treaty-specified obligations to the requesting nation and decides whether or not to extradite the person named in the warrant. Treaties signed in recent decades tend to take a "dual criminality" approach, classifying as extraditable all crimes that are punishable in both jurisdictions. Older extradition treaties, by contrast, tend to list covered offenses"

Usually the requesting and surrendering nations have a treaty or agreement which allows for such transfer. Nigeria for instance is signatory to regional agreements like the ECOWAS Convention on Extradition and other multilateral schemes such as the London Scheme for Extradition within the Commonwealth. The London Scheme for Extradition within the Commonwealth enables Nigeria to request and surrender fugitives to member nations of the Commonwealth.

On the other hand, extraordinary rendition is an extra judicial measure to forcefully bring suspects or Defendants to the countries against whom an offence is committed. These extraordinary measures may include abduction. The Supreme Court of Nigeria alluded to this in the

case of **FEDERAL REPUBLIC OF NIGERIA VS NNAMDI KANU SC/CR/1361/2022** where the Court per Agim JSC held:

> ***"Generally, abduction or kidnap or any form of illegal removal of an accused from the territory of a state to another to face criminal trial or for any reason is prohibited by law. Extra-ordinary rendition or any other transfer without due process is unlawful. There is no doubt that the illegality in the process of bringing the respondent to Nigeria for the criminal case brought by the appellant against him in Nigeria and the attendant massive violation of his fundamental rights render his prosecution by the appellant unfair and oppressive."***

While extraordinary rendition measures may seem illegal on the face of it, the way and manner in which the attendance of a Defendant is secured does not vitiate his trial. In the United States of America, this is known as the Ker-Frisbee doctrine. This doctrine developed through case law notably the cases of **KER V. ILLINOIS 119 U.S 436 (1886) AND FRISBIE V. COLLINS, 342 U.S. 519 (1952)** where a messenger forcibly kidnapped the defendant from Peru and brought him back to the United States, even though he had been sent to Peru with a valid warrant and instructions to obtain the defendant with the cooperation of the local authorities. Addressing Ker's due process

challenge, the Supreme Court of the United States held that ***"such forcible abduction is no sufficient reason why the party should not answer when brought within the jurisdiction of the court which has the right to try him for such an offence, and presents no valid objection to his trial in such court".***

In **FRISBIE V. COLLINS, 342 U.S. 519 (1952)**, it was a case where the defendant was tried and convicted in the state of Michigan after being abducted by Michigan authorities from Chicago, Illinois. Applying its decision in Ker, the Supreme Court upheld the conviction over challenges based on due process and federal kidnapping laws. The essence of the Ker-Frisbie doctrine, is that even though the act of rendition itself is illegal, a trial Court may assert jurisdiction over the person regardless of the illegality of the abduction under internation laws.

In recent times, the Supreme Court relied on the Ker–Frisbie doctrine in **UNITED STATES V. ALVAREZ-MACHAIN, 504 U.S. 655 (1992)**. Álvarez Machaín, a Mexican citizen, was abducted and brought to the United States at the direction of the Drug Enforcement Administration. The Supreme Court of the United States held that despite his forcible abduction from Mexico by US officials, it did not affect the validity of his trial in the United States.

As held earlier, the issue of extraordinary rendition is a quasi-criminal issue which must be proved beyond reasonable doubt in accordance with section 135 of the Evidence Act, 2011. The law in Nigeria is trite that even in a civil matter, once a criminal element is introduced, it must be proved beyond reasonable doubt. For instance, where an allegation of forgery is introduced in a civil proceedings the standard of proof is proof beyond reasonable doubt.

In **MINISTER, FCT v. WANEZ CONSULTANCY SERVICES LTD & ANOR (2022) LPELR-58362(CA)** the Court of Appeal held:

> ***"Every forgery involves an alteration of documents but not every alteration of documents amounts to forgery. Forgery involves alteration with a fraudulent intent. The fact or incidence of forgery must be specifically pleaded and proved even in civil matters as in the instant case beyond reasonable doubt. See Section 135(1) Evidence Act 2011." Per OWOADE, JCA in ADINNU VS ADINNU (2013) LPELR-21251. The Appellant in this appeal had made allegations of forgery but failed to prove same. In a case of forgery, both the original document and the fake (forged one) must be produced in Court for examination. See OKPALANGWU VS FRN (2021) LPELR-52710. The Appellant failed to produce any documents in proof of their alleged forgery. Allegation of forgery***

even in a civil matter is criminal in nature and therefore, proof is beyond reasonable doubt. In Mohammed v. Wammako & Ors (2017) LPELR-42667 (SC), the Supreme Court per Kekere-Ekun, J.S.C., held at pp. 26-27 that: "...the allegation of forgery is criminal in nature. The standard of proof is beyond reasonable doubt. Evidence that would establish the allegation in this case beyond reasonable doubt would include: (a) exhibiting both the document from which the alleged forgery was made and the forged document; (b) evidence that it was the 1st respondent who forged the document(s); (c) ... See APC v. PDP & Ors. (2015) LPELR-24587 (SC); Ndoma-Egba v. A.C.B. Plc (2005) 14 NWLR (Pt. 944) 79." By Section 135(1) and (2) of the Evidence Act 2011, the law makes it mandatory that if the commission of a crime by any party to any proceeding is directly in issue, the standard of proof is that of proof beyond reasonable doubt. The burden is not placed on any other party than the person who asserts that a crime has been committed."

Kindly see also **MUNIR v. FRN (2020) LPELR-50783(CA); IJIEME v. AIGBE (2022) LPELR-58211(CA); ACB PLC v. NDOMA-EGBA (2000) LPELR-9139(CA).**

The evidence in proving an unlawful extraordinary rendition must be orally obtained which allows the adverse party to cross examine the Defendant on his oral evidence. The Defendant only swore an affidavit to that effect and affidavit evidence is best used in civil proceedings where the standard of proof is on a balance of probabilities. The affidavit filed by the Defendant is grossly insufficient to establish if indeed he was extraordinarily renditioned or if it was illegally done. The gap in evidence will therefore mean that no evidence was led regarding the extraordinary rendition.

Assuming without conceding that there was evidence regarding the extraordinary rendition, this Court will consider the effect of this extraordinary rendition on the validity of the trial of the Defendant. The Defendant in his written address has argued that the way he was brought back from Kenya was illegal and thus vitiates his trial before this Court. He relied heavily on the decision of the Court of Appeal in FRN VS KANU CA/ABJ/CR/625/2022 delivered on 13th October, 2022 on this issue which held:

> ***"The consequence of this Section, I hold that the Respondent is prohibited from being detained, tried or otherwise dealt with in Nigeria for or in respect of any offence allegedly committed by him before his extraordinary rendition to Nigeria. The lower***

Courts thus has no jurisdiction, I further hold, to try the Appellants on Counts 1, 2, 3, 4, 5, 8 and 15 which were retained by it, being charges allegedly committed by the Appellant prior to his extraordinary rendition.

In addition, by the forcible abduction and extraordinary rendition of the Appellant from Kenya to this country on the 27th day of June 2021, in violation of international and state laws, the lower Court or indeed any Court in this country is divested of jurisdiction to entertain charges against the Appellant and I so hold."

When this issue came up before the Supreme Court in **FRN VS KANU SC/CR/1361/2022** delivered on 15th December, 2023 the Apex Court per M.L Garba JSC held thus:

"I agree with the Learned Senior Counsel for the Appellant that the procedure used in bringing or producing the Respondent before the trial court for the trial of the offences in the counts of the charge in question in respect of which he was validly arraigned, did not affect or even go to the statutory jurisdiction of that court to proceed with the trial." The procedure, mode, or manner by which the Respondent was produced before the trial court is in law, extraneous to the Statutory jurisdiction vested or

conferred on the trial court to try or adjudicate over the offences in question particularly after the valid arraignment of the Respondent and his plea thereto. The procedure used in producing the Respondent to face his trial after the arraignment and plea to the offences and after jumping the bail granted to him by the trial court, cannot reasonably be said to deprive or rob that court of the requisite statutory jurisdiction to adjudicate over or try the offences in question.

In the above premises, the lower court, with the respect due to it, took its eyes off the ball when it veered off the statutory jurisdiction vested or conferred on the trial court, to subject it to procedural laws dealing with the procedure for the arrest, extradition, or rendition of run-away fugitive offenders to and from foreign countries. The provisions of the Extradition Act, Cap E25, LFRN, 2004, Articles/parts of the UDHR 1984 and pronouncements of foreign courts on them referred to and solely relied on by the lower court to hold that the procedure used or employed to produce the Respondent before the trial court to continue his trial, had robbed that court of jurisdiction to adjudicate over or try the offences in question, did not create, define or punish the said offences and neither did any of them

confer or vest the statutory judicial power and authority or jurisdiction to try or adjudicate over the offences the Respondent was charged with and validly arraigned for. Rather, they, all, merely provide or prescribe for the general procedure to be adopted in respect of their respective subject matters that do not include and have nothing to do with creating, defining or punishing offences and vesting or conferring judicial power and authority or jurisdiction on courts to adjudicate over or try such offences. Once again, these laws and/or Rules, conventions, e.t.c., do not take away, deprive, or rob the jurisdiction of the trial court to adjudicate over or try the offences the Respondent was arraigned for on the basis of the procedure used or employed to bring or produce him before that court for the continuation his trial. See Sulaiman v. [RN (supra), BPE v. Dangote Cement, Plc, (2020) 5 NWLR (pt. 1717) 322 (SC), Mawo v. sintuwa (2020) 2 NWLR (pt. 1708) 306 (SC). I must emphasize that even this court, as the Apex Court in Nigeria, cannot, by pronouncement, take away, deprive or even fetter the jurisdiction conferred or vested on a court of record by the constitution or statute, let alone pronouncements by foreign courts on some foreign international conventions, treaties, agreements, e.t.c.. even if domesticated.

In the result, the issue is resolved in favour of the Appellant to the effect that the trial court is statutorily vested or conferred with the requisite jurisdiction to adjudicate over or try the offences in the retained counts of the charge the Respondent was validly arraigned for and that the procedure used or employed to bring or produce him for the continuation of his trial, did not rob or deprive that court of the jurisdiction. It was an error in law for the lower court resort to and hold that the procedural laws on entirely different subject matter of arrest, extradition, and or rendition of run-away fugitive offenders/accused persons from foreign countries deprived or robbed the trial Court of the statutory jurisdiction to adjudicate or try the offences in question".

Agim JSC in his concurring decision held:

"The established case law through the cases is that even though a strict adherence to statutory prescriptions concerning pre-trial criminal processes and the processes for bringing the accused to court for trial is a sine qua non for a fair trial process, violations of the fundamental rights of an accused and other unlawful actions by the prosecution at the pre-trial stage give the accused a right of action for remedies for violations of his fundamental

right and other civil remedies and have no effect on the validity of the whole criminal proceedings against him and the jurisdiction of the court to entertain the proceedings and try him, provided the facts alleged against him disclose an offence created by a written law and a reasonable basis for suspecting he committed that offence. So the established case law in Nigeria is that violations of the fundamental rights of an accused and any illegality in pre-trial or extrajudicial processes in relation to an accused should not affect the jurisdiction of the court to try the ensuing criminal case and the validity of such case. That is the basis for the admission of relevant evidence obtained from illegal searches and seizures or searches and seizures that violate the accused's fundamental right to privacy. In Nigeria, there is hardly any case where the jurisdiction of a court to try a case is declared to be ousted by or the validity of the case declared vitiated by the unlawful arrest and detention of an accused at the pre-trial stage of the case or by any unlawful extrajudicial actions of the prosecution after arraignment during the pendency of criminal proceedings in court. The Court of Appeal has introduced a departure from the established case law on the point in Nigeria. What is not clear is if this departure is limited to-Cross border

cases or includes cases within Nigeria. But the erudite restatements of the House of Lords in R V Horseferry: Road Magistrates Court, ex parte Bennet(1994) 1 AC 42,: (1993) 3: WLR 90, and the South African Court of Appeal in S v Ebrahim(1991)(2) SA 553 relied on by our Court of Appeal are couched in terms that suggest that they apply to all cases. These profound judicial restatements appear to give paramount consideration to preventing executive lawlessness, protection of the fundamental rights of the accused, preservation of the rule of law, promotion of respect for the territorial sovereignty of states, enforcement of international law, adherence to the due process of criminal law, to ensuring the Prosecution does not benefit from abuse of its power and abuse of court processes. But the reality in the Nigeria peculiar situation is that no allegation of commission of a crime would be tried, if the courts decline jurisdiction to try a criminal case or invalidate it because of the violations of the fundamental rights of the accused and other unlawful actions of the prosecution that occurred in the process of investigating a criminal complaint against him or in the process of initiating the criminal case arising from such complaint or in the process of bringing him to court or in dealing with him in while he is standing

trial in court. This is because criminal law enforcement officers routinely engage in unlawful actions and brazen: violations of the fundamental rights of suspects in the investigation and prosecution of -virtually all criminal complaints coming to them. If the judicial response to these unlawful actions by flaw enforcement agents against the accused is to refuse to try the case and invalidate it, this would result in a situation where the unlawful actions give the accused, the victim of the lawlessness a right to immunity against prosecution and trial for the alleged crime. This kind of response would certainly build into a thick Cloud of pervasive impunity for crimes and destroy the society. This is obviously not in the national interest. I think that the better judicial response is to hold the lawless law enforcement officers personally liable in damages and other remedies by civil, actions and institutional administrative disciplinary measures and allow the prosecution and trial of the allegation of commission of crime to continue in accordance with the due process of law so that the objectives of law and society of effective criminal law enforcement is not defeated."

The effect of the holding of the Supreme Court is that notwithstanding the legality or otherwise of how the Defendant was brought back from

Kenya, it does not invalidate his trial. This Court will kowtow the line set by the Supreme Court. As the Apex Court of the land, its decisions are final and overrides all other courts including the Court of Appeal which the Defendant has erroneously relied heavily on. Kindly see section 235 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and **ADALMA TANKERS BUNKERING SERVICES LTD &ANOR v. CBN & ORS (2022) LPELR-57036(SC).**

The facts in this case is more distinguishable even than in Ker-Frisbie with respect to the effect on the jurisdiction of the Court to try the Defendant as held by the Supreme Court per Garba JSC. In this case, the Defendant was already arraigned before this Court and the jurisdiction of the Federal High Court had been activated as far back as 2015. Moreso, he had been compensated monetarily in a suit he filed in Kenya. Unlike in Ker-Frisbie where the Defendants were not on trial before their rendition. Despite the fact that in Ker-Frisbie they were not arraigned before the extraordinary rendition, their trials were not invalidated. The Defendant in this case, on being granted bail, was alleged to have jumped bail by leaving Nigeria and for four years, the trial was grounded until he was re-arrested in Kenya in 2021. This action of the Defendant made him a fugitive. In this case, trial had begun as the charge had been filed and read to the Defendant before the

alleged extraordinary rendition. He cannot then claim that the trial is vitiated by the extraordinary rendition. The alleged rendition of 2021 will not deactivate the jurisdiction of the Court activated since 2015. I hold that this is an exception to the effect of extraordinary rendition in international law.

Even if the extraordinary rendition was wrongful, the remedy for it is at best monetary damages in a civil proceedings. This Court is aware that a Court in Kenya had ruled on this issue and awarded monetary damages to the Defendant. The Court in Kenya had awarded monetary damages against the Kenyan Government for gross violations of the Defendants fundamental rights.

The Defendant cannot benefit from the monetary damages awarded to him and seek a further relief of his trial being vitiated particularly seeing the nature of the offences which borders on terrorism. This is similar to the enforcement of the fundamental right to personal liberty in Nigeria. A successful application for unlawful arrest entitles the Applicant to compensation or an apology but it does not extend to vitiating a criminal trial where a charge has been preferred against him. Consequently, this issue is resolved against the Defendant.

On issue three, the Defendant had challenged the charge arguing that it is based on repealed laws. The general rule regarding a charge is that it must be premised on a written law. Section 36 (12) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) provides:

> *(12) Subject as otherwise provided by this Constitution, a person shall not be convicted of a criminal offence unless that offence is defined and the penalty thereof is prescribed in a written law; and in this subsection, a written law refers to an Act of the National Assembly or a Law of a State, any subsidiary legislation or instrument under the provisions of a law.*

The above means that for a person to be tried and convicted, the offence must be in existence and provided under a law in force at the time. Kindly see **DANIEL v. FRN (2022) LPELR-57352(CA).**

The law is also settled that the trial and conviction of any person upon a repealed law is a nullity. The Court of Appeal in **IGP v. OGUNDIMU &ORS (2022) LPELR-57151(CA)** held thus:

> *"The law is settled that an accused can only be charged under the law that creates the offence. Such a law must be in force at the time it was committed. A trial conducted under a repealed law no*

matter how well the proceeding was conducted and no matter how sound the decision is, it is a nullity" (underlined emphasis mine)

A law once repealed ceases to have any life and must be treated as dead. The Supreme Court in **STATE v. EGIGIA (2024) LPELR-62009(SC)** established the principle as follows:

> ***"The law is settled that a repealed law no more has legal life, thus, it cannot be cited as if it still exists. If it must be cited at all, it must be cited as a repealed law, which has no life to influence an argument. A repealed law cannot be the basis for any comparison with existing law. It cannot be quoted side by side an existing law as learned advocate did.***

Now the Defendant argued that the Terrorism Prevention Act 2013 had been repealed by the Terrorism Prevention Act of 2022 thus the trial had become spent. This argument by the Defendant is quite interesting. It is interesting because it shows the stark misunderstanding of the law by the Defendant as well as his willful disregard of facts culminating in his trial.

Firstly, the Defendant is charged under the Terrorism Prevention (Amendment) Act 2013. The extant charge is as to offences allegedly

committed by the Defendant between 2018 and 2021. As at when the extant charge was filed, the operational Terrorism Act in Nigeria was the Terrorism Prevention (Amendment) Act 2013. That Act was duly passed by the National Assembly and signed into law by President Goodluck Jonathan. It empowered this Court to try terrorism-related offenses and also outlined what constituted acts of terrorism. Under Section 30 of the 2013 Amendment, the Act provided that:

> ***"The Federal High Court located in any part of Nigeria, regardless of where the offence is committed, shall have jurisdiction to try offences under this Act.***

And Section 1(2) of the same law defined terrorism as:

> ***"Any act deliberately done with malice aforethought which may seriously harm or damage a country or an international organization and is intended to intimidate a population, compel a government to act or abstain from acting, or destabilize a fundamental political, constitutional, economic or social structure of a country."***

The above provisions were in force two years before the Defendant's arrest in 2015, meaning this Court had requisite jurisdiction to try him

then. His initial trial, therefore, was based on an existing and valid legal foundation.

This instantly means that at the time he was charged, the Terrorism Prevention (Amendment) Act 2013 was the extant law. It would have been different if the offences were allegedly committed after the Terrorism Prevention (Amendment) Act 2022 had been enacted. The Terrorism Prevention (Amendment) Act 2022 commenced on 12th May, 2022 which is a later date compared to when the alleged offences were committed.

The Supreme Court in **FRN VS KANU (SUPRA),** the present Defendant in this case also ruled on this issue when it held thus:

> ***"Now, even a casual look at the offences stated in the counts 1, 2, 3, 4, 5 and 8 of the charge pleaded to by the Respondent before the trial court readily shows that they are offenses provided for in the 2011 Act, as amended in and by the 2013 Act under which the charge was filed or brought and the Respondent was properly and validly arraigned before the trial court. Put another way, the offences the Respondent was arraigned for before the trial court are offences known to and specifically provided for under and by the provisions of the 2011 Act as amended by the 2013 Act. The***

offences are therefore recognized and cognizable in law to be legally grounded and backed by the provisions of an extant and existing law that was/is in force at the material time/now.

On its part, count 15 of the charge is indicated to be contrary to Section 47(2)(a) of the Criminal Code Act, Cap C45, Laws of the Federation of Nigeria, 2004.

There can be no reasonable dispute that the Criminal Code Act, is an extant and existing statute or Act that was/is in force in Nigeria which this court has the duly to take judicial notice in this appeal pursuant to the provisions of Section 122(1) and (2)(a), (6) and (e) of the Evidence Act, 2011 above. In addition, the court is also entitled to take judicial notice of the codification and publication of all the Acts, or statutes and the subsidiary legislations enacted or passed by the National Assembly as contained in the Laws of the Federation of Nigeria (LFRN) published by or under the authority of the Federal Ministry of Justice, Nigeria at various times. Because we, here, are concerned with the LFRN, 2004 in which the Criminal Code Act is indicated to be, I have noted and perused the Laws/Acts codified and published in the volumes of the 2004 publication. The Criminal Code Act is published in volume 4; comprising of chapters C24 to chapter C48 and it is in chapter

C38 which is subsequently indicated as Cap 38. The Criminal Code Act is in chapter 38 of the LFRN, 2004 and is also called or shown to be Cap C38 in volume 4 of the publication. It is apparent therefore, that the Criminal Code Act is not Chapter 45 or Cap C45 in Volume 4 of the LFRN as indicated in count 15 of the charge against the Respondent. Rather, the Criminal Code Act is Chapter 38 or Cap C38 in the LFRN 2004. However, in the same LFRN, 2004, chapter 45 or Cap C45 is the Customs and Excise Management Act.

A calm reading of the details of the facts stated as constituting the offence mentioned or named therein, would clearly and undoubtedly reveal that it deals with the offence punishable: under the provisions of section 47(2)(a) of the Customs Excise and Management Act Cap C45, LFRN, 2004 which provides as follows:

47. (2) If any person-

(a) imports or causes to be imported any goods concealed in a container holding goods of different description; or..... "

he shall be sentenced to imprisonment for five years without the option of a fine.

It follows, in the above circumstances, that the mention, of the Criminal Code Act as being Chapter C45 or Cap C45 in the LFRN,

2004 is a mere mistake in place of the correct law; The Customs and Excise Management Act under which the facts alleged to constitute an offence in count 15 of the charge, is punished or punishable. The offence in count 15 is consequently, recognized, cognizable and grounded in an extant and existing law in Nigeria in which it was defined or described. It is now hornbook law that a charge preferred or filed for offence/s under a wrong law would not be rendered invalid or incompetent merely on that ground alone so long as the offence/s on the charge is/are known to, defined, and punishment provided for in an extant or existing law. See Nyame v. FRN (supra), Olatunbosun, v. State (2013) 17 NWLR (pt. 1382) 167, Ngbede v. Nig. Army (2021) 4 NWLR (pt. 1762). 1, Aviomoh v. C.O.P. (2022) 4 NWLR (pt. 1819) 89, Lawan v. FRN (2022) 7 NWLR (1829) 279, Mohammed v. State (2023) 3 NWLR (pt. 1870) 157, Mohmuda v. State (2023) 13 NWLR (pt. 1902) 587. In the result, the answer to the question (a) posed earlier is in the affirmative in both of its two (2) arms, i.e; that the Terrorism Prevention (Amendment) Act, 2013 under which the offences in counts 1, 2, 3, 4, 5 and 8 as well as the Chapter C45 or Cap C45; Customs and Excise Management Act, all contained in the LFRN, 2004, are extant and existing laws which provide for or under

which the offences in the counts of the charge retained by the trial court are punishable or punished. The offences, once more, are recognized, cognizable and ground in extant and existing laws in force in Nigeria."

Assuming without conceding that at the commencement of the Terrorism Prevention Amendment Act, 2022, the Terrorism Prevention Amendment Act 2013 was repealed and as such is liable to affect the validity of the Defendant's trial, I refer to section 98 of the Terrorism Prevention Amendment Act 2022 which provides:

98. (1) The Terrorism (Prevention) Act, No. 10, 2011 is repealed.

(2) Any regulation, order, requirement, certificate, notice, direction, decision, authorisation, consent, application, ongoing cases in the courts, request or thing made, issued, given or done under the repealed Acts shall, if in force at the commencement of this Act, continue to be in force and have effect as if made, issued, given or done under the corresponding provisions of this Act.
(3) Any proceeding, prosecution, sentence, judgment, charge or cause of action pending or existing immediately before the commencement of this Act under any of the repealed Act in respect of any right, interest, obligation or lability, may be

continued or commenced, as the case may be, and any determination of a court of law, tribunal or other authorities or person may be enforced to the same extent that such proceeding, prosecution, sentence, judgment, charge, cause of action or determination might have been continued, commenced or enforced as if this Act had not been made."

The import of this provision particularly section 98 (3) is it serves as a savings provision which ensure that the amendment of the Act does not affect the validity of trials begun under the repealed Act. This saving clause or preservation provision is aimed at ensuring that pending proceedings or orders of the Court are not washed away as a result of the commencement of the Amendment Act, 2022 but to ensure a smooth transition from the repealed Act to the Amended Act. The sum total of this is that the enactment of the Terrorism Prevention Amendment Act 2022 does not vitiate the trial of the Defendant rightly commenced under the Terrorism Prevention Amendment Act 2013. Consequently, this issue is resolved against the Defendant.

With respect to the substantive issue, I must start the resolution by outlining the effect of the action of the Defendant in failing to put in his defence despite several opportunities afforded him by this Court.

Generally, in a criminal trial, the Defendant has three options available to him upon the closure of the case of the Prosecution. He has the options of making a no case submission to argue that the Prosecution has not made out a prima facie case against him to warrant him entering his defence or that the evidence led by the Prosecution so far has been so discredited under cross examination that it would be unsafe for the Court to convict him.

Another option open to a Defendant is to put in his defence where he will be opportuned to state his side of the story as well as present exculpatory evidence in his favour. The third and final option is to rest his case on the case of the Prosecution. The Defendant in this case chose to make a no case submission and this Court overruled the no case submission on 26th September, 2025 and ordered him to put in his defence as it is his constitutional right to do so. He however refused to do so. He rather consented to the withdrawal of the Learned Senior Advocates representing him. Despite the Court imploring him to enter his defence on several occasions even begging him in the name of God. As a minister in the temple of justice passionate about justice and as an apostle of Jesus Christ, I begged the Defendant passionately and severally but the Defendant was obstinate and refused and the Court had no choice than to foreclose him. The effect of this is that the

Defendant has chosen to rest his case on the prosecution. The Defendant this morning 20th November 2025 confirmed that he has put in his Defence.

The effect of the Defendant resting his case on the prosecution is that it is a gamble and a risky option which may boomerang if the evidence adduced by the Prosecution is believed by the Court. The Supreme Court in **ADAMU v. STATE (2014) LPELR-22696(SC)** stated thus:

> ***"The law is generally settled that an accused person who at the close of prosecution's case, decided to rest his case on that of the prosecution as presented against him is only exposing himself to risk and gamble. The reason being that if the case is such that even if all the prosecution witnesses are believed, yet the offence as charged is still not proved, then the accused may get away with the risk of resting his own case on that of prosecution. By that choice, the accused would have decided not to explain any fact in rebuttal of the allegation made against him."***

The Supreme Court in **AJIBADE v. STATE (2012) LPELR-15531(SC)** also held thus:

> ***"...appellant elected not to give evidence in his defence but to rest his case on that of the prosecution. The election is within his right***

under the law, but the legal effect of the said election is to leave the Court of trial free to accept the un-contradicted evidence of the prosecution in proof of the charge, which the Court rightly, in my view did."

Kindly see also **AKINBISEHIN v. OLAJIDE (2018) LPELR-51172(CA)**

The Defendant in this case deliberately refused and failed to call any witness or present evidence through his witnesses in rebuttal of the case of the Prosecution, the implication is that he admits the case of the Prosecution and this Court is entitled to rely on the uncontroverted evidence led by the Prosecution.

With respect to count 1 of the charge, the Defendant is facing a charge of committing an act in furtherance of an act of terrorism against the Federal Republic of Nigeria by making a broadcast received and heard in Nigeria with intent to intimidate the population and threatened that people will die and the whole world will stand still thereby committing an offence punishable under section 1 (2) (b) of the Terrorism Prevention Amendment Act, 2013.

The said section 1 (2) (b) under which he is charged provides:

1. (2) A person or body corporate who knowingly in or outside Nigeria directly or indirectly willingly

(b) commits an act preparatory to or in furtherance of an act of terrorism, commits an offence under this Act and is liable on conviction to maximum of death sentence.

The ingredients of this offence as drawn from the above are:

1. The Defendant must be a person or body corporate.
2. The Defendant must have done an act preparatory to or in furtherance of an act of terrorism.
3. The Defendant must have done the act preparatory to or in furtherance of the terrorist act knowingly or willingly and same may be directly or indirectly.

Kindly see also **ADAH v. FRN (2024) LPELR-63008(CA**

Looking at the first ingredient, there is no doubt that the Defendant in this case is a person. He is known as Nnamdi Kanu, a man in his 50s who stood trial before this Court. Thus the first ingredient is resolved in favour of the Prosecution.

For the second ingredient, the Prosecution led evidence showing that the actions of the Defendant in making broadcasts threatening that people will die constitutes a terrorist act.

Terrorism or a terrorist act according to the online Oxford dictionary is: *"the unlawful use of violence and intimidation, especially against civilians, in the pursuit of political aims."*

It is also important to explain what constitutes a terrorist act. Section 1 (3) of the Terrorism Prevention Amendment Act 2013 provides thus:

> *1.(3) In this section, "act of terrorism" means an act which is deliberately done with malice, aforethought and which:*
>
> *(a)may seriously harm or damage a country or an international organization;*
>
> *(b)is intended or can reasonably be regarded as having been intended to—*
>
> *(i)unduly compel a government or international organization to perform or abstain from performing any act;*
>
> *(ii)seriously intimidate a population;*
>
> *(iii)seriously destabilize or destroy the fundamental political, constitutional, economic or social structures of a country or an international organization; or*
>
> *(iv)otherwise influence such government or international organization by intimidation or coercion; and*

(c). involves or causes, as the case may be—

(i)an attack upon a person's life which may cause serious bodily harm or death;

(ii)kidnapping of a person;

(iii) destruction to a Government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property, likely to endanger human life or result in major economic loss;

(iv)the seizure of an aircraft, ship or other means of public or goods transport and diversion or the use of such means of transportation for any of the purposes in paragraph (b)(iv) of this subsection;

(v) the manufacture, possession, acquisition, transport, supply or use of weapons, explosives or of nuclear, biological or chemical weapons, as well as research into, and development of biological and chemical weapons without lawful authority

(vi) the release of dangerous substance or causing of fire, explosions or floods, the effect of which is to endanger human life;

(vii) interference with or disruption of the supply of water, power or any other fundamental natural resource, the effect of which is to endanger human life;

(d) an act or omission in or outside Nigeria which constitutes an offence within the scope of a counter terrorism protocols and conventions duly ratified by Nigeria.

The Supreme Court per Kekere-Ekun JSC (now CJN) held in **ABDULMUMINI v. FRN (2017) LPELR-43726(SC)** thus:

"Section 15(2) of the EFCC Act provides: "(2) Any person who commits or attempts to commit a terrorist act or participates in it facilitates the commission of a terrorist act, commits an offence under this Act and is liable on conviction to imprisonment for life." Section 46 of the Act provides: "Terrorism" means - (a) Any act which is a violation of the Criminal Code or the Penal Code and which may endanger the life, physical integrity or freedom of, or cause serious injury or death to, any person, any number or group of persons or causes or may cause damage to public property, natural resources, environmental or cultural heritage and is calculated or intended to i. Intimidate, put in fear, force, coerce or induce any government body or institution, the general public

or any section thereof, to do or abstain from doing any act or to adopt or abandon a particular standpoint, or to act according to certain principles or ii. disrupt any public service, the delivery of any essential service to the public or to create a public emergency or iii. create general insurrection in a state; (b) any promotion, sponsorship of, contribution to, command, aid, incitement, encouragement, attempt, threat, conspiracy, organization or procurement of any person with the intent to commit any act referred to in paragraph (a)(i), (ii) and (iii)."

It was further held thus:

"The crucial aspect of the offence of terrorism is the creation of intense fear and anxiety, both physical and psychological in the minds of members of the public which has the effect of coercing, forcing, intimidating them to do or abstain from doing any act or to adopt or abandon a particular view, policy or position to act according to certain principles"

Kindly see also **BERENDE v. FRN (2021) LPELR-54993(SC)**

In my research, I came across a handout from the United States Institute of Peace titled: **"Teaching Guide on International Terrorism:**

Definitions, Causes, and Responses" where several definitions of terrorism were given as follows:

> *"The calculated use of violence or the threat of violence to inculcate fear; intended to coerce or to intimidate governments or societies in the pursuit of goals that are generally political, religious, or ideological.(U.S. Department of Defense).*
>
> *Terrorism constitutes the illegitimate use of force to achieve a political objective when innocent people are targeted.(Walter Laqueur).*
>
> *Terrorism is defined here as the recurrent use or threatened use of politically motivated and clandestinely organised violence, by a group whose aim is to influence a psychological target in order to make it behave in a way which the group desires.(C. J. M. Drake)*
>
> *The unlawful use of force or violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives."(Federal Bureau of Investigation).*

What therefore constitutes a terrorist act from all the definitions above is any act of violence or threat of violence intended to cause fear or put the recipient of such violence or threat in a state of fear.

Applying the above definitions to the facts of this case, the Defendant in several of this broadcasts made statements threatening harm to the Federal Government of Nigeria and the general Nigerian populace including his own people who he claims to fight for.

In an interview with Sahara TV contained in Exhibit PWW, the Defendant was interviewed by one Rudolf Okonkwo and he was introduced as the founder and Director of Radio Biafra. When the Defendant appeared on the screen, his name plate was **"Nnamdi Kanu, Director, Radio Biafra"**

While speaking on the national conference in Nigeria which was ongoing at the time, the Defendant mentioned the names of some of the representatives from the South east at the conference and he said:

> ***"If you go there and negotiate any other thing apart from Biafra, you better not come back because our people will be waiting for that very person"***

When he was asked about the consequences for these representatives including one Ike Nwachukwu, the Defendant was unequivocal when he said

> ***"things have changed and that because the only language that people in the zoo understand is the language of violence and force,***

afterall that very contraption was put together by Fredrick Lugard by force that is what many people don't understand. Lugard killed many people to put Nigeria together and the killing of people to disintegrate the zoo shouldn't come to anybody as a surprise. Our promise is very simple, if they fail to give us Biafra, Somalia will look like a paradise compared to what will happen to that zoo. It is a promise, it is a pledge and also a threat to them. they must understand it that we have had enough of this nonsense."

It is noteworthy that the Defendant in the said interview kept referring to the South Eastern part of Nigeria as Biafra land. The Defendant made some comments such as the Governors of the South Eastern states being the stooges of Hausa-Fulani godfathers. He even stated that Rochas Okorocha, former Governor of Imo State had Islamized the entire state to satisfy his Hausa-Fulani godfathers. He said nobody had asked Governor Peter Obi about Izu River and the persons dumped in the said river.

Further during the interview, the Defendant while answering a question about whether he will embrace a peaceful separation or choose a violent path stated at about the 7:32 minute mark of the

Sahara TV interview in Exhibit PWW which is a flashdrive containing all his broadcasts:

> ***"If they do not give us Biafra, there will be nothing living in that very zoo called Nigeria, nothing will survive there, I can assure you."***

He also made reference to the Nigerian civil war when he said:

> ***"1967- 1970 is not 2010- 2015, then we had scientists, but now we have people who can make things happen even better than what we had in the late 60s. so that should ring as a warning that we are not joking"***

At 8:00 minute mark, he said:

> ***"I do not believe in peaceful actualization of whatever rubbish is called. I have never seen where you will become free by peaceful means..."***

The Defendant also lent support for violent acts when he said he welcomed what a group known as Biafra Zionist group did when they unleashed violence at the Enugu State Government house. He even said he hoped more people will come out to join his group to overthrow the corrupt and inept persons in charge of administration

of government. Stating that Biafra must exist and it is their right to make sure it happens.

In the broadcast of 16th May, 2021 also contained in Exhibit PWW, the Defendant in the beginning of the broadcast stated thus:

> *"My name is Mazi Nnamdi Kanu, I am the leader of the Indigenous Peoples of Biafra (IPOB) and Director of Radio Biafra and Biafra Television....and I will remain a loyal servant of the people of Biafra"*

He further stated around the 51 minute mark:

> *"If God is on our side which I know he is, this army of Nigeria will die in Biafra land. Everybody will die and I will be the one leading it.....by Gods grace, everything called Nigeria will perish in Biafra land, the world must be prepared for what is to come*
>
> *I want to let Catherina Lang and the British Government to know that we have chosen the path of death as people are dying everyday*
>
> *We have to develop the mindset of the Afghanis who even though NATO is there will say that we are ready to die and anyone that comes to kill us will die also. Because things will start happening*

in the next 14 days.....in the next two weeks the slaughter will begin to happen... you see those CNN that have refused to come to Biafraland will come by force to see what is happening... we will make sure that every Nigerian soldier on Biafran soil will die, God is my witness. I will lead this burial myself"

Around the 55 minute mark, the Defendant stated:

"I want the United Kingdom to understand that we are ready to die than be slaves"

At about the 1 hour mark, the Defendant stated:

"Israel was named Palestine by the Romans because they were too stubborn... go and ask how they did it, they bombed them (Romans) away, not these roadside bombs, every road leading to Biafra will be mined (land mines), everything that is Nigerian, whether it is Police or Army will blown till thy kingdom come, very neat and simple"

The Defendant also stated in that same broadcast:

"We are asking for our freedom and they aren't listening, but when we will start doing what we want, the whole world will

start begging us and then I will come out from wherever I am and tell them that its too late.

throw away your phones and remain incommunicado as we are in a state of war. It will not kill you to do without your phone. All people should go into the bush and stop the advance of this army or else they will kill you"

These words spoken by the Defendant in those broadcasts were not mere words as they bear heavy traces of threats to harm people including international representatives representing their nations in Nigeria. The said broadcasts were several in number and the Defendant kept repeating his rhetoric that people will die if Biafra is not created. The Defendant's plan to commit the terrorist acts did not only manifest in his broadcasts but was shown in a meeting he had with other Igbo people in the United States.

At a World Igbo Congress meeting held at the Four Points Hotel in Los Angeles in the United States of America as contained in Exhibit PWW, the Defendant while speaking to the audience stated:

"We must not miss this golden opportunity we are bound to suffer in time to come.....you must come out to support what we are doing. We need guns and we need bullets. I know we love life

so much.....Without it, Hausa will overrun us. They have succeeded in imposing Okorocha on Imo. They are coming, Boko Haram is already in Igboland."

A female participant stood up to ask the Defendant of his objectives as well as why the need for weapons. The Defendant responded:

"We now know that the best way to defend yourself is to be armed because Boko Haram is everywhere in the Zoo called Nigeria.....so we need guns and bullets and those of you in America will give it to us...Also on the 22nd of this month something will happen called the blood moon. Most of you dont know that just before the Civil war there was a blood moon. There was blood moon in 67 and it only happens once in a while because after this year we will be free no matter what happens if we don't get Biafra everyone will have to die and we are not joking.

His intention was quite clear that he believed only in violence as the solution to the creation of Biafra as a nation. At the said World Igbo Congress most of the participants were quite alarmed at his plan and so they kept asking if he had considered the option of peaceful dialogue to which the Defendant was adamant that only violence could lead to the achievement of his aims.

These threats of violence are nothing but terrorist acts which was duly carried out by his followers as will be seen later in this judgment. The Defendant knew what he was doing while making these violent statements. He obviously had an objective which one the face of it is political i.e the secession of the states of the South East, South South and some Middle Belt states from the Federal Republic of Nigeria to form Biafra. The Defendant was also bent on achieving his objectives with the use of violence and he didn't mind if his own people died in the process.

As one of the crucial element in establishing a crime, the intention or knowledge with which a Defendant carried out the act can be expressed by him and if not so expressed can be deduced from his conduct or activities or other connected circumstances. Kindly see **BERENDE v. FRN (2019) (Supra)**

From the uncontroverted evidence led by the Prosecution particularly the broadcasts contained in Exhibit PWW, it is clear that the Defendant committed acts preparatory to and in furtherance of a terrorist act. The Defendant had the opportunity to explain but failed and deliberately refused to take such opportunity. Thus he did not place any evidence before the Court to explain the context of the said broadcasts or any reason which may be exculpatory in his favour.

Having failed and deliberately refused to enter a defence, this Court will rely on the uncontroverted evidence of the Prosecution. This Court therefore holds that the Prosecution has established count 1 of the charge beyond reasonable doubt. Consequently, the Defendant is hereby convicted of count 1.

With respect to count 2 of the charge, the Defendant was charged with making a broadcast received and heard in Nigeria with intent to intimidate the population, issued a deadly threat that anyone who flouted a sit-at-home order should write his/her will as a result Banks, Schools, Markets, Shopping Malls, Fuel Stations domiciled in the Eastern States of Nigeria were not opened for businesses, citizens and vehicular movements in the Eastern States of Nigeria were grounded. This offence is also punishable under section 1 (2) (b) of the Terrorism Prevention Amendment Act. The ingredients are similar as in count 1 except that the Prosecution must establish that the Defendant indeed issued a threat to anyone who flouted his sit-at-home order in the South Eastern States of Nigeria.

The evidence as led by the Prosecution shows that the Defendant issued a sit-at-home order wherein he threatened the residents of the South East States from going out and he further threatened that any church, market, schools , banks or shops which opened will be

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destroyed. This was the purport of his broadcast of 30th May, 2021 where he stated that he had an announcement to make regarding the shut-down of the entire South East. He stated in minutes 9:10 in the broadcast contained in Exhibit PWW thus:

> *"Tomorrow being the 31st of May, there is complete lockdown, no church, no market and nobody should be seen outside tomorrow. I do not want violence and I do not want anybody to resort to violence. I condemn it completely and totally. We do not want to spill the blood of the innocent. Therefore, I'm urging restraint across board and I am urging our people to honour the memory of people who died. There will be no school, church, market, banks and cars on the road. There will be complete shutdown. If you want to be alive, do not come out tomorrow.....what I am saying is that do not come out tomorrow if you value yourself... there will be complete shutdown of Biafra land tomorrow. Any community that allows vehicles to pass tomorrow will be in trouble anybody in any car or lorry except in Ambulance will be in trouble. I know some people are very foolish and try to open their shop around 12. If you open that very shop, we will burn you inside it. Especially Enugu, Umuahia and Abakaliki people you are very stupid and tomorrow we will show you."*

This statement at first sounded peaceful and even seemed as if he was only persuading people to honour the memory of some people. However, the Defendant in his typical aggressive way of speaking began issuing threats to those who might not want to obey his orders.

The people of the South East are Nigerians and substantially Christians who go to church and merchants that are into trading and their children who were threatened against going to church, their places of business and schools. This Court wonders if this can be said to be agitation for self-determination? Unequivocally no. The people of the South East of Nigeria, are entitled to their right to personal liberty and freedom of movement under sections 35 and 41 of the Constitution of the Federal Republic of Nigeria 1999 (as amended). The said section 35 (1) provides:

> ***1) Every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in the following cases and in accordance with a procedure permitted by law -***
>
> ***(a) in execution of the sentence or order of a court in respect of a criminal offence of which he has been found guilty;***

(b) by reason of his failure to comply with the order of a court or in order to secure the fulfilment of any obligation imposed upon him by law;

(c) for the purpose of bringing him before a court in execution of the order of a court or upon reasonable suspicion of his having committed a criminal offence, or to such extent as may be reasonably necessary to prevent his committing a criminal offence;

(d) in the case of a person who has not attained the age of eighteen years, for the purpose of his education or welfare;

(e) in the case of persons suffering from infectious or contagious disease, persons of unsound mind, persons addicted to drugs or alcohol or vagrants, for the purpose of their care or treatment or the protection of the community; or

(f) for the purpose of preventing the unlawful entry of any person into Nigeria or of effecting the expulsion, extradition or other lawful removal from Nigeria of any person or the taking of proceedings relating thereto:

Provided that a person who is charged with an offence and who has been detained in lawful custody awaiting trial shall not

continue to be kept in such detention for a period longer than the maximum period of imprisonment prescribed for the offence."

Section 41 provides:

(1) *Every citizen of Nigeria is entitled to move freely throughout Nigeria and to reside in any part thereof, and no citizen of Nigeria shall be expelled from Nigeria or refused entry thereby or exit therefrom.*

They are also entitled to their right to freedom of religion expressed under section 38 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

The rights to personal liberty, movement and religion are complimentary of each other and the Courts jealously guards these rights as they are basic rights which inures to a human person. These rights are so fundamental. Kindly see my noble Lord, Ogakwu JCA in **OKAFOR VS LAGOS STATE GOVT & ANOR (2016) LPELR-41066 (CA)**

The people of the South East cannot be ordered to sit at home by any person especially for someone who is not a legally recognized official of the Federal Government or an official of any of the states. The only person entitled to restrict movement of persons within Nigeria is the President of the Federal Republic of Nigeria under his emergency

powers under section 305 of the Constitution of the Federal Republic of Nigeria 1999 (as amended). The President can order for a curfew in areas where there is crisis or natural disaster. The Defendant is not the President of the Federal Republic of Nigeria and thus lacks any powers to so declare a sit-at-home in any part of Nigeria.

The Defendant arrogated to himself powers he lacks and with the threat of violence ordered the residents of the South Eastern states to stay at home or face the consequences of their disobedience. This is an unconstitutional act which is subversive and amounts to nothing more than a terrorist act. It is also a notorious fact that the people of the South East have been subjected to sit-at-home threats on Mondays for years now. PW4 who stated that he was stationed in the South East especially in Imo State for some years gave evidence that the Monday sit-at-home is a usual occurrence wherein the towns are deserted even the farms.

PW4 also gave evidence on the death of one Ahmed Gulak, a former aide to former President Goodluck Jonathan. That the said Ahmed Gulak had been killed by IPOB men in pursuance to the order of the Defendant. Ahmed Gulak was trying to catch a flight out of Owerri on the 30th of May, 2021 when he ran into a checkpoint by IPOB and was shot dead. PW4 stated that he was one of those who got to the scene

first. It must be noted that the 30th of May, 2021 was a Sunday not a Monday but notwithstanding, it led to the death of a person trying to move around due to the directives of the Defendant as shown in Exhibit PWK which is a medical report from the Nigeria Police Medical Services, Owerri. The report is dated 18th July, 2021 and it states:

TO WHOM IT MAY CONCERN

MEDICAL REPORT

RE: LATE AHMED GULAK 'MALE'

HOSP NO. 013/931.

"Victim allegedly shot dead by hoodlums suspected to be IPOB/ESN members on 30/05/2021 at about 07:00hrs along Airport Road, Owerri.

Picture of a lifeless man seen. Body of deceased buried.

Information: Office D2 Homicide section State CID Owerri."

The above medical report duly signed by a medical practitioner clearly states the immediate cause of the death of Ahmed Gulak and links same to the Defendant as leader of IPOB/ESN.

The actions of the Defendant cannot be excused under any circumstances. The declaration of a sit-at-home without any constitutional power especially accompanied by threats is a terrorist act. The Defendant did not present any evidence to rebut the case of the Prosecution, consequently, he admits the evidence of the

prosecution. The prosecution has successfully proved count 2 beyond reasonable doubt against the Defendant. Consequently, he is hereby convicted of count 2 of the charge.

With respect to count 3 of the charge, the Defendant is charged with professing to be a member and leader of the Indigenous People of Biafra IPOB, a proscribed organisation in Nigeria thereby committing an offence contrary to and punishable under Section 16 of the Terrorism Prevention Amendment Act, 2013.

Section 16 of the Terrorism Prevention Amendment Act provides

> ***16. (1) Any person who is a member or professes to be a member of a terrorist group commits an offence and is liable on conviction to imprisonment for a term of not less than twenty years.***

The ingredients of the offence from the above provision are:

1. The Defendant must be a person.
2. The Defendant must be a member or professes to be a member of a terrorist group.
3. The terrorist group must have been proscribed as at the time the Defendant claimed or professed membership of such group.

As earlier established, the Defendant is a human person and there is no doubt about that.

With respect to the 2nd ingredient, the Prosecution has led evidence showing that the Defendant was not just a member but he was the leader of a terrorist organization known as Indigenous Peoples of Biafra (IPOB).

Indeed, in the broadcast of 16th May, 2021 as contained in Exhibit PWW, the Defendant in the beginning of the clip stated thus:

> ***"My name is Mazi Nnamdi Kanu, I am the leader of the Indigenous Peoples of Biafra (IPOB) and Director of Radio Biafra and Biafra Television....and I will remain a loyal servant of the people of Biafra"***

He further stated around the 51 minute mark:

> ***"if God is on our side which I know he is, this army of Nigeria will die in Biafra land. Everybody will die and I will be the one leading it.....by God's grace, everything called Nigeria will perish in Biafra land, the world must be prepared for what is to come"***

In several other broadcasts, the Defendant admitted to being the leader of the Indigenous Peoples of Biafra group. There is no fact

before this Court showing that the Defendant is not a member and infact leader of the said group. The Defendant from the evidence before the Court also possessed powers to order the cordinators of IPOB.

In a broadcast dated 11th May, 2021 in Exhibit PWW, the Defendant while commenting on a meeting of Southern Governors held in Asaba, stated at around the 35 minutes mark:

> *"Concerning the lockdown announced yesterday, I urge all people of Biafra and all those in Biafra land to disobey the lockdown order given by the Zoological republic of Nigeria. The reason is because they want to use the dead of the night to move their fighters into our forests because we have defeated their foot soldiers, Miyetti Allah. We must resist this stupid lockdown and it would not hold in Biafra land.....i am calling on all the coordinators and deputy coordinators (of ESN and IPOB) not to sleep in their houses today but to look for somewhere else to stay. Because now we are in the trenches and now you will now know what is freedom fighting. It is not comfortable, it is not rosy. Do not sleep at home, do not sleep at home. Change your phone number and even the phone itself.*

> ***We will keep defending our land. There is no other way, if they kill us, we will kill them. I say it live on air so that the whole world will hear. Every army formation in the east now know that when you kill somebody you too will die. It's as simple as that.*** *(underlined emphasis mine)*

The Defendant no doubt belongs to the group and beyond professing to be a member, he is the leader of the group with the influence of commanding the coordinators of the group.

Not only IPOB, but even the Eastern Security Network (ESN) which is the armed wing of IPOB. In a broadcast on 12th December, 2020, the Defendant made an announcement inaugurating the militant group known as Eastern Security Network which is the armed wing of the Indigenous Peoples of Biafra (IPOB) group. He stated particularly thus:

> ***"we have cowards and spineless idiots as Governors. They have given over our land to the Janjaweed to occupy in perpetuity. This very generation, this very IPOB will not tolerate it. Not now not tomorrow, not ever. We will rather all perish and die than to allow our land to be taken over by the Janjaweed. This is a warning to all the governors who are conspiring due to one political consideration to give our lands to infidels and blood***

sucking demons from the Sahel. It cannot happen, not under our watch. We are being told that some of these invaders come from Senegambia, from Mali, from Niger Republic and some from Chad according to governor of Kaduna State El-rufai therefore we are setting up the Eastern Security Network to combat the excesses of these vagabonds and criminals from across the Sahel. Along the same lines as Amotekun and the ones set up by Miyetti Allah. What we are launching before the world today is the Eastern Security Network. Not a Biafran Army and we will let the world know when this army is to march. But for our present purposes, we are setting it up to defend our land, Biafra against marauders from the Sahel and a determined incursion led by terrorists, Fulani terrorists to be precise.....

In the coming days, you shall see them in their uniforms and performing the critical issue of providing security for our land ...

The Defendant who was visibly agitated continued in the broadcast by stating:

"no governor in the South East and South South have been able to form a security outfit, therefore IPOB must defend our land to the very last blood. We shall not stop, not now, not tomorrow and

not ever until our lands are rid of the vestiges of these Fulani terrorists."

In the said video broadcast, there was a side video of the men of the Eastern Security Network dressed in black with red berets, waving a black flag with the insignia of the Eastern Security Network.

There is therefore no doubt that the Prosecution has established the 2nd ingredient beyond reasonable doubt.

With respect to the 3rd ingredient, the evidence before the Court shows that IPOB is a proscribed group. I take judicial notice under section 122 of the Evidence Act of the order of my learned brother Nyako J. in **Suit No: FHC/ABJ/CS/871/2017 Between ATTORNEY GENERAL OF THE FEDERATION VS INDIGENOUS PEOPLES OF BIAFRA** dated 20th September, 2017 wherein the activities of the Indigenous Peoples of Biafra group were proscribed. The said order crystallized into Exhibit PWJ which is a Federal Republic of Nigeria Official Gazette number 99 in Volume 104 dated 20th September 2017 title: Terrorism Prevention order number 2017. The Gazette reads:

1. Notice is Hereby Given that by the Order of the Federal High Court, Abuja, in suit No. FHC/ABJ/CS/871/2017 dated 20th September, 2017 as per the schedule to this Notice, the Activities

of Indigenous People of Biafra (IPOB) are declared to be Terrorism and Illegal, in any part of Nigeria, especially in the South-East and South-South Regions of Nigeria as proscribed, pursuant to section 2 of the Terrorism (Prevention)Act, 2011 (as Amended).

2. Consequently, the General Public is hereby warned that any person or group of persons participating in any manner whatsoever in any form of activities involving or concerning the prosecution of the collective intentions or otherwise of the said groups will be violating the provisions of the Terrorism (Prevention) Act, 2011 (as Amended) and liable to prosecution.

3. This Notice shall be cited as the Terrorism (Prevention) (Proscription Order) Notice, 2017.

The import of the above is that beginning from the commencement date of 20th September, 2017, any person claiming to be a member of IPOB commits a terrorist act. The Defendant by his broadcasts of 11th May, 2021 and 12th December, 2020 professed to be a member of a proscribed group, thus he is in breach of section 16 (1) of the Terrorism Prevention Amendment Act 2013. Consequently, he is hereby convicted of count 3 of the charge.

On Counts 4 and 5 which are closely related, the Defendant is charged with inciting members of the public in Nigeria to hunt and kill Nigerian security personnel and their family members thereby committing offences punishable under Section 1 (2) (h) of the Terrorism Prevention Amendment Act, 2013.

The said section 1 (2) (h) of the Terrorism Prevention Amendment Act 2013 provides:

> (2) ***(h) A person or body corporate who knowingly in or outside Nigeria directly or indirectly willingly incites, promises or induces any other person by any means whatsoever to commit any act of terrorism or any of the offences referred to in this Act, commits an offence under this Act and is liable on conviction to maximum of death sentence."***

The ingredients of the offences which the Prosecution must establish beyond reasonable doubt are:

1. The Defendant must be a person or body corporate.
2. The Defendant must have directly or indirectly incited, promised or induced other persons by any means whatsoever to commit a terrorist act.

3. The Defendant must have directly or indirectly incited, promised or induced other persons by any means whatsoever to commit a terrorist act willingly or knowingly.

The Defendant has been established to be a human person by the Prosecution and this Court.

For the second ingredient, it is important to understand what incitement means. According to the Supreme Court in **KAZA v. STATE (2008) LPELR-1683(SC)** Niki Tobi (JSC) of blessed memory explained the meaning of incitement thus:

> ***"An encouragement here means an act of making someone to feel brave or confident enough to do something by giving active approval in support of the crime. Incitement also has the element of encouragement. By incitement, the person is provoked by a strong passion or feeling to commit an offence. The word "set" is a word of quite a number of synonyms. The two words "set on" connote the semblance of causing to attack or chase like one may say the fisherman prepared the bate to set on the fish. It also has the element of antagonism. An instigation, the act of instigating, means something happening by the action or conduct of a person,***

who is the starter. By the act of instigation, the co-accused is propelled or gingered to commit an offence."

Likewise, the online Oxford dictionary defines incitement as:

"the action of provoking unlawful behaviour or urging someone to behave unlawfully."

The Cambridge dictionary also defined incitement as:

"the act of encouraging someone to do or feel something unpleasant or violent"

Drawing from the above definitions, incitement involves provoking or instigating people to do an unlawful act and in this instant terrorist acts.

The Prosecution has led evidence showing that the Defendant made broadcasts inciting the public to take up arms against security personnel in Nigeria to kill them and their family members.

In a broadcast on 21st October, 2020 as contained in Exhibit PWW, the Defendant stated thus:

"Radio Biafra is now in the hands of the enemies of our freedom. I don't know how much they paid for it but I know that Britain spent about 4.8 billion a few days ago to suppress what is

happening. That is what they have done. I told you a while back that Britain was now in charge of what is happening in the zoo and you thought that I was joking. They have now come with their clampdown but they are not going to succeed. Radio Biafra belongs to us but why is it not playing our programme right now."

The Defendant also stated:

"I am telling you people to go into the bush and wherever you see a military convoy, you attack them, wherever you see a police convoy, attack them, they are human beings and they also bleed.....any person with a police uniform or an army uniform is an enemy of the people."

Around the 57 minutes mark, the Defendant stated:

"They came to Tinubu, is it a surprise that after the British High Commissioner came to Tinubu they opened fire on protesters in Lagos, you should not be shocked the woman is a demon, a big big demon and she too will get her comeuppance."

The Defendant was referring to Catherina Liang, the British High Commissioner at the time.

The Defendant also said:

"From what will happen in Aba between today and tomorrow will tell you how serious we are... every police officer with uniform once you come out from your house with police uniform, you are a dead man walking"

Callers were calling in from places like Aba, Lekki toll gate and other parts of Lagos, Ibadan, Abuja, Jos, Abia State even one Jacob called from Nasarawa state and the Defendant kept giving orders for these callers and other listeners to kill every policeman and soldiers. The Defendant even told the people how to build an improvised bomb. He asked them to go to filing stations to get fuel in a bottle and put a rag in it. Then they should set the rag aflame and hurl it at soldiers.

In responding to a caller from Abuja, in that same broadcast of 20th October, 2021, the Defendant while inciting his listeners to attack the relatives of security personnel stated:

"That very commander, they have given his name. Find his children. I want to get into trouble. When they take me to court, and ask why I said such a thing, I will tell them why. Find the commander, his name is Ifu Omata. Find his children. Find his children. The commanders of those on the ground, find their children. Very, very important. Find their children."

He further stated:

> *"Start attacking the Police, take their guns and use them against them. Manufacture molotov cocktail and manufacture bombs to bomb them"*

The Defendant at about the 2:44:35 mark while concurring with a caller who informed him of the intention of him and other IPOB members to burn down the Eziama Police station stated:

> *"Not only one, I want every police station in Aba to be destroyed, completely destroyed and burned down. It is an order destroy them completely. Anybody you see with a police uniform, kill the person. Nigeria wants anarchy, we will give them anarchy"*

In another broadcast, the Defendant while responding to a caller stated thus:

> *"You people must devise strategy to outwit the army... there are some guns in Edo State right now as we speak, use those guns to kill one or two or three army officers. Take their guns and begin to kill other people as well because they cannot sustain this protest for 3 weeks. There are guns in Edo state already, kill the army wherever you see them, take their guns and kill them."*

The incitement of the Defendant for the public to kill security personnel is quite clear from his broadcasts. Not only incitement to kill security officers, the Defendant even went as far as inciting the public to destroy all properties of the Federal Government during the EndSARS protest of 20th October, 2020. The Defendant in another live video dated 20th October, 2020, the Defendant while responding to calls from his foot soldiers during the EndSARS protest stated thus:

> ***"if you leave the Janjaweed and their agents the way they operate, if you leave them, believe you me you will suffer.. that very hotel must be brought down, I did not say set ablaze, it must be demolished as an example to the rest, if you have not dealt with Tinubu in Lagos, the others will not learn their lesson. Tinubu is an evil man"***

The hotel referred to here is the Oriental Hotel in Lagos which the Defendant alleged belonged to Tinubu.

While responding to a caller, the Defendant urged his listeners to ambush the security forces during the protest and cut them off. He said:

> ***"Go to the bush, you need to cut them off from the back, ambush them, take their guns from them and kill them. they are animals***

and not human beings. They may be wearing uniforms like Police or soldiers but they are animals... disarm them and kill them. if you allow them to escape, your life is over and I want Lagos airport to be on flames. Breach the perimeter fence and burn down the Lagos airport. If you have double barrel or pistol go to the Airport and burn it down. Set Murtala Mohammed airport on fire. Set it ablaze right now. You are dealing with animals. Fulani Janjaweed, they do not reason".

It is important to state that the said hotel and Murtala Mohammed Airport and other properties are in Lagos, there are not in the north where he seems to hate with a passion. Even his own fellow igbo people have properties in Lagos, will destroying the properties be said to be agitation for self-determination. These threats and destructions which followed were corroborated in Exhibit PWD2 which is a pictorial report of the assessment of damage done to the Nigerian police alone in the states of Southern Nigeria. So many of these police stations and even police officers were killed as a result of the incitement by the Defendant. Also Exhibit PWD2A which is a compilation of death reports and certificates of death of security officers. In the report, the number of police officers who were killed was given as 128, the military officers were 37, other security officers as 10, the number of police

stations attacked were 164 and INEC facilities destroyed were 9 in number. This clearly showed the extent of damage caused by the Defendant through his inciting statements.

Another caller called into the programme informing the Defendant that he was at Oshodi-Apapa expressway and that they are killing them. The Defendant annoyed by this information stated:

> ***"How many police or army did you kill, I don't want to hear that they are killing you, how many did you kill"***

The caller then responded that they have burned the Orile police station and Ilasa police station. The Defendant then told the caller not to wave the Green-White-Green flag of Nigeria but a bloodstained flag with the colours Green-White-Red.

He further responded to another caller by saying:

> ***"What I want them to do is to set ablaze the NITEL building along Marina on fire... every Federal Government property in Lagos should be burnt, that is what is going to signal to the world that people have had enough....I want every Federal Government building in Lagos to be on fire. Every federal government vehicle or anything belonging to the Federal Government burn it. Go to***

the Murtala Muhammed Airport and burn it. How many soldiers do they have. Manufacture your own weapons and ambush them"

The result of this incitement is the killing of several military officers, police officers, DSS officers. The incitement also led to the destruction of several police stations in Lagos and across the southern part of Nigeria. According to PW5, he led a team of officers to investigate the destruction and killing of security personnel that occurred during the EndSARS protest of 20th October, 2020 as contained in Exhibit PWD2 and PWD2A. The results were quite alarming. This Court is mindful not to attribute all the happenings during the EndSARS protest on the Defendant. However, there is no doubt that the incitement by the Defendant contributed largely to the killing of security operatives as well as destruction of public properties. The Defendant incited people to destroy properties such as the Ilasa Police station, other police stations and properties of the government. The evidence before this Court shows that the said properties were actually destroyed such as the Ilasa Police Station, the High Court of Lagos in Igbosere as well as BRT buses belonging to the Lagos State Government in Oyingbo. PW 2 also testified that a military couple were killed by those incited by the Defendant in Orlu Imo State. In addition, PW4 stated that his driver and one of his tactical officers were killed as a result of this incitement.

The actions of the Defendant were clear as it was aimed to cause anarchy by killing security operatives in Nigeria which would in turn lead to breakdown of law and order. The Defendant had an evil intention to wreck havoc on the people and government of Nigeria. Are all these actions consistent with agitations for self-determination? The answer to this is in the negative. His violent outbursts as well as his instigation of the public to attack and kill security officers in southern Nigeria without provocation was downright barbaric and without any conscience whatsoever. The Defendant did not feel any concern for the families of the officers who were slain. He turned himself to a tyrant who could take life anytime he pleased. Such person cannot be allowed to remain in a society of sane minds. His shocking instigation to kill other human beings was incomprehensible and this Court hereby condemns it.

But I must say that the evidence extracted is minute compared to the avalanche of evidence and broadcasts where the Defendant made extremely threatening statements and incited people to violence. The Prosecution has successfully discharged its burden of proving counts 4 and 5 beyond reasonable doubt. Consequently, the Defendant is hereby convicted of the said counts.

For count 6, the Defendant is charged with the offence of making a broadcast received and heard in Nigeria within the Jurisdiction of this Honourable Court, in furtherance of an act of terrorism against the Federal Republic of Nigeria and the People of Nigeria in which he directed members of the Indigenous People of Biafra IPOB, a proscribed organization to manufacture Bombs thereby committed an offence punishable under section 1 (2) (f) of the Terrorism (Prevention) (Amendment) Act 2013.

Section 1 (2) (f) of the Terrorism Prevention Amendment Act 2013 provides:

> **(2) A person or body corporate who knowingly in or outside Nigeria; directly or indirectly willingly**
>
> **(f) assists, facilitates, organizes or directs the activities of persons or organizations engaged in any act of terrorism.**

The ingredients of the offence are:

1. The Defendant must be a person or body corporate
2. The Defendant must have assisted, facilitated, organized or directed the activities of persons or organizations engaged in terrorist acts.

3. The Defendant must have willingly assisted, facilitated, organized or directed the activities of persons or organizations engaged in terrorist acts.

The Defendant herein has been established to be a human person.

As to the 2nd and 3rd ingredients, the Prosecution has led evidence to show that the Defendant had directed members of his terrorist organisation to build bombs and other explosives in order to attack security operatives.

Indeed, in furtherance of his terrorist acts and following the incitement of persons to kill security operatives, the Defendant also directed his members to build explosive devices particularly molotov cocktails.

At about the 1:34:36 of the broadcast of 20th October 2020 as contained in Exhibit PWW, the Defendant while responding to a caller about the EndSARS protest stated:

> ***"Now, this night, I want graduates to go to work. Graduates of chemical engineering. Those who were born as engineers. Manufacture any ordinance you can. Because they are coming to kill you anyway, regardless of what you do. Go and manufacture any ordnance. I am calling on the youths in the Middle-belt and I***

want any bridge that they can use to reinforce to be destroyed. They are going to come from the Middle-belt... this night we have engineers everywhere people who are intelligent. Go back now and give us your own version of molotov cocktail. We must destroy them before they destroy us... every youth tonight, tonight, anybody with a police uniform anywhere especially in Aba and in Lagos, once you have police uniform or army uniform that person is your enemy, attack them because if you don't they will kill you....If you are a graduate of physics or chemistry, no sleep for you tonight, go and manufacture something to destroy the police and every army position starting from tonight".

During the said broadcast, while responding to a caller named Jacob from Nasarawa state the Defendant even told the people how to build an improvised bomb. He asked them to go to filing stations to get fuel in a bottle and put a rag in it. Then they should set the rag aflame and hurl it at soldiers.

A Molotov cocktail according to Wikipedia.com accessed at 1am on 20th November, 2025 is:

"A Molotov cocktail is a hand-thrown incendiary weapon consisting of a frangible container filled with flammable

substances and equipped with a fuse. In use, the fuse attached to the container is lit and the weapon is thrown, shattering on impact.

The online Brittanica dictionary defines molotov cocktail as:

"A crude bomb, typically consisting of a bottle filled with a flammable liquid and a wick that is ignited before throwing".

Applying the above definitions, the directive of the Defendant to members of his group to build improvised bombs such as molotov cocktail is indeed a terrorist act. A molotov cocktail is capable of causing explosion and damage like any other bomb which aim is to cause destruction. This directive like other directives is a manifestation of the anarchic mindset of the Defendant which he set out to express through his Biafra Radio which he claims to be the founder and Director. The Defendant through the Radio Biafra platform carried out so much terrorist attacks which led to destruction of lives and properties in Nigeria.

The Defendant is not only a confirmed local terrorist but I hold without any hesitation that he is an international terrorist flowing from his threat to attack the British High Commission and the American Embassy as well as his incitement against the British High

Commissioner to Nigeria at the time, Catherina Liang, a known woman of peace.

In a broadcast on 21st October, 2020, the Defendant stated thus:

> *"Radio Biafra is now in the hands of the enemies of our freedom. I don't know how much they paid for it but I know that Britain spent about 4.8 billion a few days ago to suppress what is happening. That is what they have done. I told you a while back that Britain was now in charge of what is happening in the zoo and you thought that I was joking. They have now come with their clampdown but they are not going to succeed. Radio Biafra belongs to us but why is it not playing our programme right now."*

The Defendant also stated:

> *"I am telling you people to go into the bush and wherever you see a military convoy, you attack them, wherever you see a police convoy, attack them, they are human beings and they also bleed.....any person with a police uniform or an army uniform is an enemy of the people"*

Around the 57 minute mark, the Defendant directed his threat at Catherina Liang of the British High Commission, he stated:

"They came to Tinubu, is it a surprise that after the British High Commissioner came to Tinubu they opened fire on protesters in Lagos, you should not be shocked the woman is a demon, a big big demon and she too will get her comeuppance."

Around the 1:08:35 mark, the Defendant stated:

"The same thing that Britain did to Biafra is what they are doing to you now. Media blackout....do you want the world to report this issue, take over the British High Commission, that's all. Take over their Consulate in Lagos, take over the one in Abuja. Every newspaper in the world will report it in the morning. If you march on the British High Commission in the morning, front pages in the world will carry it and the world will ask why is the British High Commission in Abuja and Lagos under occupation by Nigerian youths. Then it is over. I'm giving you a master strategy of how it should be done tomorrow. In a formation of three lines and there is something I want people to do, I'm announcing it on air so you understand. People should go to every welder shop around you know those who build bullet proof doors. I don't care how much it would cost, we would pay. Everybody who is a welder who builds bullet proof. People should take those doors and put nails in front of them and stand in front of protesters so that bullet

cannot get through. Push the doors, get their weapons and deal with them.

When you are marching to the British High Commission tomorrow, form three lines they will have the army surrounding them. They will send a cable to London that the British High Commission in Lagos is under attack and they will be forced to release it. Then the whole world will know that a revolution is going on. Without that, you cannot succeed.

Even recently on 7th November, 2025 when the matter came up before this Court, this Court wondered the kind of malice and hatred which the Defendant had for Britain. I will reproduce some parts of the proceedings of that day hereunder:

"**DEFENDANT:** There are issues at play which my Lord has not been able to overcome. Which even the prosecution has not even attempted to overcome. My Lord, are you asking me to go into the dock to defend myself on a non-existent law? If you can state that for the record, my Lord, I'll be most grateful that you are going to try me or ask me to enter to my defense where no law exists. Because if that is the position, my Lord, that means that the outcome of this very trial is predetermined. A man of my

station and caliber cannot be tried without any valid law. It is impossible, my lord, and I will tell you why. This very case is bigger than this courtroom. This case of mine started in 1957 when some brave men and women in this very country dared to ask the British to leave. The funniest thing is that all of them that pioneered that very efforts, they all went to jail or were killed.

COURT: I'm learning this now. They asked the British to leave

DEFENDANT: Yes, in 1957. When Dr. Anthony Enahoro moved a motion at the house in Lagos, asking the white man to go and leave us alone. From that day, the trouble started. Even before then, the likes of Herbert McCauley was jailed, Honorable men that fought for the dignity of this very black race. Because they want me convicted and they told me so. Absolutely, my Lord. Absolutely 100%. They told me. They said I will come to court to see, to hear your case when you take your plea, when prosecution opens their case, when you start your cross-examination, when they refuse your no-case submission. I'm telling you what happened a year and a half ago when you file your no-case submission and is rejected, you will not go into trial,

we will be there during the verdict and will be there during conviction

COURT: Let me just clarify this, it's also on record. You said the British said that one year and half ago then I was not the one presiding here and I want to say this and I know my brother too that was ascertaining it would not get to that level of having anything because the way you are putting it. I want to say this. I do not have any relationship with the British. I have come here to do justice and I reiterate, can you commence your defense, so that if you commence today I can extend time for you because your time ends today

For the US embassy, it would have been attacked if not for the closure as a result of the protest. The Defendant at about the 2:24:50 mark of the 21st October, 2020 broadcast in Exhibit PWW stated thus:

"...American embassy is shut down, why won't they shut down, people are protesting"

This statement regarding the Embassy of the United States of America is quite loaded. The statement could mean several things none of which are palatable or peaceful. What exactly does the Defendant mean by the American Embassy is shut down? Was he trying to attack

the Embassy if it had not shutdown as a result of the protest or incite others to do same as he did in respect of the British Embassy? The inference to draw from that statement is that the Defendant meant to do harm to the Embassy of the United States by attacking or invading the Embassy.

Under international law, the premises of an embassy or High Commission of a foreign nation is deemed inviolable, that means that even though the land belongs to the host country, it cannot invade such premises. Article 22 of the Vienna Convention on Diplomatic Relations, 1961 provides:

> ***"1. The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission.***
>
> ***2.The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.***
>
> ***3.The premises of the mission, their furnishings and other property thereon and the means of transport of the mission shall be immune from search, requisition, attachment or execution"***

Thus from the above, it can be said that the Defendant's incitement for people to invade the British High Commission and his threat against the British High Commissioner, Catherina Liang and American Embassy is an act of international terrorism. This is the purport of section 3 of the Terrorism Prevention Amendment Act 2013 which provides:

> ***3. Any person who intentionally***
>
> ***(a) murders, kidnaps or commits other attacks on the person or liberty of an internationally protected persons.***
>
> ***(b) carries out a violent attack on the official premises, private accommodation or means of transport of an internationally protected person in a manner likely to endanger his person or liberty, or***
>
> ***(c) threatens to commit any such attack, commits an offence and is liable on conviction to life imprisonment."***

The High Commissioner is an internationally protected person being the representative of the British Government in Nigeria as well as other staff of the High Commission and the Embassy of the United States of America. Leaving the Defendant to continue his terrorist activities would have led to an international incident involving Nigeria

and other foreign nations who are good partners with Nigeria. The questions to ask again is whether bombing or attacking an Embassy or High Commission constitutes actions consistent with agitation for self-determination? Again the answer is no. All these acts goes to show the criminal tendencies of the Defendant as well as show concrete proof of his terrorist acts. Therefore, I hold without hesitation that the Prosecution has successfully established count 6 against the Defendant. Consequently, he is hereby convicted of count 6 of the charge.

With respect to count 7 of the charge, the Defendant is charged with importing into Nigeria and keeping in Ubulisiuzor in Ihiala Local Government Area of Anambra State within the jurisdiction of this Honourable Court, a Radio Transmitter known as Tram 50L concealed in a container of used household items which he declared as used household items, thereby committing an offence contrary to section 47 (2) (a) of Customs and Excise Management Act, Cap, C45 Laws of the Federation of Nigeria 2004.

The dispute as to which law provides for the offence in count 7 has been conclusively decided by the Supreme Court in **FRN VS KANU (SUPRA)** where my Lord M.L Garba JSC while reading the lead judgment held thus:

"A calm reading of the details of the facts stated as constituting the offence mentioned or named therein, would clearly and undoubtedly reveal that it deals with the offence punishable: under the provisions of section 47(2)(a) of the Customs Excise and Management Act Cap C45, LFRN, 2004 which provides as follows:

47. (2) If any person-

(a) imports or causes to be imported any goods concealed in a container holding goods of different description; or..... "

he shall be sentenced to imprisonment for five years without the option of a fine.

It follows, in the above circumstances, that the mention, of the Criminal Code Act as being Chapter C45 or Cap C45 in the LFRN, 2004 is a mere mistake in place of the correct law; The Customs and Excise Management Act under which the facts alleged to constitute an offence in count 15 of the charge, is punished or punishable. The offence in count 15 is consequently, recognized, cognizable and grounded in an extant and existing law in Nigeria in which it was defined or described."

Thus this Court will follow the decision of the Supreme Court and decide count 7 based on section 47 of the Customs and Excise Management Act.

The ingredients of the offence are these:

1. The Defendant must have imported or caused to be imported goods concealed in a container.
2. The imported concealed goods must have been of a different description.

The evidence led by the Prosecution through PW4 is that the Defendant imported into Nigeria, a Radio Transmitter known as Tram 50L conceal in a container which contained used household items which he declared as such.

PW4 stated that indeed the Department of State Service had tracked the transmitter of Radio Biafra to a compound in Ubuluisinuzor in Ihiala Local Government Area of Anambra State belonging to one Benjamin Madubugu. The officers secured a search warrant (Exhibit PWT) and proceeded to the compound where they recovered the container. Prior to going to the scene, PW4 testified that he watched a video recording of the Defendant inspecting the container and the transmitter with Benjamin Madubugu. The Court visited where the

container was kept in the custody of the DSS and same was admitted in evidence in the presence of the Defendant as Exhibit PWY and he did not object to same.

The container itself contained several household items which appear to be a cover for the transmitter concealed in it. The Prosecution had led evidence to show that the transmitter was smuggled into the country without same being declared to Customs. That the cover of the household items was used to disguise its true content. The surrounding facts also show that the purpose for which the Defendant intended to use the transmitter was to broadcast programs on Radio Biafra and this made him conceal the transmitter. There is also no evidence that Radio Biafra is registered with the Nigerian Broadcasting Commission as stated by PW4 and thus it is safe to conclude that the concealment of the transmitter is in furtherance of the illegal operation of Radio Biafra by the Defendant.

The Defendant as a consequence of resting his case on the prosecution did not call any witness to rebut the evidence of the prosecution neither did he lead any evidence to counter the evidence of the prosecution. There is no evidence before the Court stating that the transmitter was lawfully imported into Nigeria. The Defendant had the duty to present evidence and facts to rebut the allegation made

against him but he failed and deliberately refused to do same. The Court is therefore bound to believe the evidence of the Prosecution. Consequently, this Court hereby convicts the Defendant of count 7 of the charge.

I must say here that the Defendant has always claimed to be a freedom fighter and he is only seeking justice for his people. Indeed, this is known in law as the right to self-determination. The right to self-determination is a political right recognized in several international instruments. Article 1 of the International Covenant on Civil and Political Rights 1966 provides:

> ***"All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."***

The right to self-determination also entails the right of a group of people to form their political entity or their own government.

Article 20 of the African Charter on Human and Peoples Rights also provides:

> ***1. All peoples shall have the right to existence. They shall have the unquestionable and inalienable right to self-determination. They shall freely determine their political status and shall pursue their***

economic and social development according to the policy they have freely chosen.

2. Colonized or oppressed peoples shall have the right to free themselves from the bonds of domination by resorting to any means recognized by the international community.

3. All peoples shall have the right to the assistance of the States parties to the present Charter in their liberation struggle against foreign domination, be it political, economic or cultural.

Nigeria has domesticated the African Charter which is known as the African Charter on Human and Peoples Rights (Ratification and Enforcement) Act which means the provisions of the Charter are enforceable in Nigeria provided they do not conflict with the clear provisions of the Constitution of the Federal Republic of Nigeria 1999 (as amended).

Section 2 (1) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) makes it clear that Nigeria is an indissoluble state which means there is no room for division. The said section provides:

2. (1) Nigeria is one indivisible and indissoluble Sovereign State to be known by the name of the Federal Republic of Nigeria.

This means that anyone agitating for a breakup of the Federation of Nigeria is going against the Constitution. However, any person agitating for self-determination can do so through the National Assembly seeking for amendment of the Constitution regarding the indivisibility of Nigeria and to reflect the recognition of the agitating states. It is after this that the procedure can be said to be completed but not excluding referendum. Any self-determination not done in accordance with the constitution and laws of this country will be illegal.

The Defendant is not only agitating for secession of the states of the South East, South South and some Middle Belt states, he is doing so using terrorism as a weapon. Terrorism has become a monster in the world today as several groups have continued to use this weapon to form separate governments. In Nigeria, groups like Boko Haram, Lakurawa and IPOB have in recent years troubled Nigeria with terrorist activities. These terror groups by their activities have denied innocent people the enjoyment of their fundamental rights.

The actions of the Defendant and his terrorist organisation have led to the bloodshed of innocent citizens as well as security personnel who were going about their legitimate duty. His incitement through broadcasts on Radio Biafra as well as the social media platforms of the

group has led to the destruction of lives and properties as well as affect the daily lives of his people of the South East.

The Defendant did not only threaten the Government of Nigeria but his own people. This is seen in a broadcast while addressing the death of one of the Commanders of IPOB named Ikonso, the Defendant on the 25th of April, 2021 made a broadcast where he stated:

> ***"Ikonso was not killed on the battlefield but was killed in his village in the middle of the night. Not on the battlefield because on the battlefield no army or police can defeat him. Ever since ESN was launched I have not seen anybody tell me that their lives have not improved since it was launched"***

Around the 21 minutes mark the Defendant stated:

> ***"Vengeance is a monster of appetite forever bloodthirsty and never filled. Ikonso is in heaven and he is going to be revenged and by God he will be avenged. All those who had a hand in Ikonso's death are all dead people walking. All of them."***

He also stated that Ikonso will be mourned in a special way just like how the Oba of Benin is buried with human heads. That the said Ikonso is more than an Oba, thus he will be buried in a special way and his burial will be more special than the Oba of Benin. There is no doubt

that this is contained in the broadcast. This Defendant statement was corroborated by PW4 who stated that upon the arrest of one of the IPOB Commanders, known as Onye Army, he informed them that they were only to get 30 heads out of the 2000 heads that the Defendant had ordered them to get for the burial of Ikonso. This Court is aware that the said Onye Army was not called as a witness in this trial and this may affect the probative value of his evidence, however, the evidence being used as a corroboration to the statement made and admitted by the Defendant, is of good purpose. Corroboration refers to a supporting or additional piece of evidence that supports another evidence. in **OGUNBAYO v. STATE (2007) LPELR-2323(SC)** the Supreme Court held thus:

> ***"Corroboration has been held not to be a technical term of all and means no more than evidence tending to confirm, support and strengthen other evidence sought to be corroborated. See the case of D.P.P v. Kilbourne (1973) A.C. 729 @ 758 . Also settled, is that corroboration need not consist of direct evidence that the accused person committed the offence, nor need it amount to a confirmation of the whole account given by the witness, provided that it corroborates the evidence in some respects material to the charge"***

I must say here that the prosecution witnesses were consistent and calm in the giving of their evidence. Their calm demeanour despite provocative questions under cross examination shows them to be witnesses of truth. I carefully observed them and the only conclusion to reach is that they are witnesses of truth and this Court readily believes them. the Defendant on the other hand from his attitude in Court was unruly, very corky and arrogant. He even stated that no Court can convict him. This is a direct affront on the powers of the Court which this Court will not take kindly too.

It is interesting to note that the Defendant who claims to be a freedom fighter has even caused more harm to his own people who are predominantly of Christian faith. Can this be said to be agitation of self-determination? Not at all. Agitation for self-determination cannot be detrimental to people who are supposed to be beneficiaries of the said self-determination. The usual sit-at-home orders primarily affects his own people. The killings of people who disobey the order are his own people. Ordering of closure of churches and schools as well as markets also affects his own people. They are unable to trade, go to school, farm or even worship on such days. The threat of violence and death have prevented the people from going about their legitimate business. Are these acts of the Defendant consistent with agitation for self-

determination, the answer is in the negative. The Defendant was not elected by anybody and so cannot dictate for the people of the South East especially through intimidation and threat of violence. He is a terrorist and he must be treated as such.

In final analysis, the Prosecution has successfully established the 7 counts charge against the Defendant beyond reasonable doubt. Consequently, he is convicted on all counts.

SENTENCE

That the convict is hereby sentenced to life imprisonment on each of the counts 1,2,4,5 and 6.

That the convict is hereby sentenced to 20 years imprisonment without the option of fine for count 3.

That the convict is hereby sentenced to 5 years imprisonment without the option of fine in count 7.

That the sentence shall run concurrently effective from today the 20th day of November 2025.

That an order is hereby made that the convict be kept in protective custody in any custodial center in Nigeria.

That the convict must not be allowed near any digital device and if he must, he must be closely monitored by the office of the National Security Adviser.

That the transmitter and other related equipment such as the container seized from the convict are hereby forfeited to the Federal Government of Nigeria.

As regard to other Exhibits, at the Expiration of the 90 days of the Statutory time for Appeal and if there is no appeal an application may be brought for consequential order.

J.K. OMOTOSHO
Judge
20/11/2025

Appearances
Adegboyega Awomolo SAN with Suraj Sa-eda SAN, Mutalubi Ojo Adebayo SAN, S.H Barikum Esq., Abbas A. Olayiwola Esq., Akinyosoye Arosanyin Esq., and Ayodeji Afolabi Esq.- for the Prosecution

Mazi Nnamdi Kanu- The Defendant appears for himself