

IN THE COURT OF APPEAL OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA
ON WEDNESDAY THE 3RD DAY OF JUNE, 2026
BEFORE THEIR LORDSHIPS

<u>UCHECHUKWU ONYEMENAM</u>	<u>JUSTICE, COURT OF APPEAL</u>
<u>MOHAMMED MUSTAPHA</u>	<u>JUSTICE, COURT OF APPEAL</u>
<u>OKON EFRETI ABANG</u>	<u>JUSTICE, COURT OF APPEAL</u>
<u>APPEAL NO. CA/IB/86/2026</u>	

BETWEEN:

**PEOPLES DEMOCRATIC PARTY (PDP) – APPELLANT/
RESPONDENT**

AND:

- | | | |
|--|--|------------------------------------|
| 1 INDEPENDENT NATIONAL ELECTORAL COMMISSION (INEC) | | RESPONDENTS/
APPLICANTS |
| 2. ALHAJI MOHAMMED ABDULRAHMAN (ACTING NATIONAL CHAIRMAN, PEOPLES DEMOCRATIC PARTY) | | |
| 3. SENATOR SAMUEL NNAEMEKA ANYANWU (NATIONAL SECRETARY, PEOPLES DEMOCRATIC PARTY) | | |
| 4. SENATOR MAO OHUABUNWA (CHAIRMAN, BOARD OF TRUSTEES, PDP) | | |
| 5. HON. AUSTINE NWACHUK WU (PDP Chairman, Imo State Chapter) | | |
| 6. HON. AMAH ABRAHAM NNANNA (PDP Chairman, Abia State Chapter) | | RESPONDENTS |
| 7. TURNAH ALABH GEORGE (PDP Secretary, South-South Geo-Political Zone) | | |

RULING DELIVERED BY UCHECHUKWU ONYEMENAM, JCA

The 2nd - 4th Respondents/Applicants initiated this motion on 20th May, 2026; pursuant to **ORDER 6 RULE 1 OF THE COURT OF**



APPEAL RULES, 2021; and under the Inherent jurisdiction of the Court, praying for the following orders:-

- 1. AN ORDER striking out or dismissing this appeal.**
- 2. SUCH FURTHER or other orders as the Court may deem fit.**

The application is predicated on eight (8) grounds as follows;

- 1. This instant appeal centres on the purported National Convention organized for the election of the National Officers of the Appellant which held on the 15th and 16th days of November, 2025 in Ibadan, Oyo State.**
- 2. By its Judgment delivered on 9th March, 2026 in Appeal No. CA/ABJ/1695/2025, this Honourable Court in a sister or similar case nullified the said National Convention.**
- 3. Similarly, in Appeal No. SC/CV/164/2026, the Supreme Court, the apex and final Court in Nigeria in its majority decision delivered on 30th April, 2026 affirmed the Judgment of this Honourable Court and specifically held as follows:
"The appellant abused the process of the court to conduct the party Convention. The Party Convention**



of the appellant conducted on 15" and 16" November, 2025, in defiance of the subsisting order of the Federal High Court in its Judgment delivered on the 14" day of November, 2025 in Suit No. FHC/ABJ/CS/2299/2025, is null, void and of no effect consequence (sic), it is accordingly nullified."

- 4. In the light of the Judgment of the Court of Appeal in Appeal No. CA/ABJ/1695/2025 and the majority Judgment of the Supreme Court in Appeal No. SC/CV/164/2026, which are appeals in which the Appellant herein and most of the other parties herein were parties, this appeal has become otiose and the continued prosecution of same constitutes an abuse of court process.**
- 5. By those decisions of the Court of Appeal and the Supreme Court, this appeal has become academic and has no utilitarian value.**
- 6. That the Supreme Court of Nigeria having nullified the Ibadan Convention held on the 15th and 16th day of November, 2025, the validity of the Convention matter has been laid to rest eternally and by the principle of stare decisis encapsulated in Section**



287(1) of the 1999 Constitution (as amended) all Courts, persons and authorities including this Honourable Court are all enjoined to be bound by the decision of the Supreme Court and to give effect to it. The decision of the Supreme Court in SC/CV/164/2026 delivered on the 30th day of April, 2026 nullifying the holding of the Ibadan Convention held on the 15th and 16th day of November, 2025 is final and cannot under any guise be relitigated on.

7. Learned Senior Counsel to the Appellant, i.e. Musibau Adetunbi, SAN lacks competence to act for or represent the Appellant having previously represented the Claimant in Suit No. 1/1336/2025 - FOLAHAN MALOMO ADELABI V. PDP & ORS., against the instant Appellant, a case which has given rise to Appeal No. CA/IB/90/2026- HON. NWACHUKWU & ORS. V. FOLAHAN MALOMO ADELABI & ORS. and Appeal No. CA/ABJ/PRE/ROA/CV/524/26 - ALH. ABDULRAHMAN V. ADELABI, both pending before this Honourable Court on the same issue of the validity or otherwise of the purported National Convention of the



Appellant held on the 15th and 16th day of November, 2025.

8. By representing a party against the instant Appellant, the said Musibau Adetunbi, SAN cannot turn around to represent the Appellant on the same issue of the validity or otherwise of the purported National Convention of the Appellant as such conduct amounts to contravention of professional ethics/Rules of Professional Conduct.

In support of the Application is a 6 - paragraph Affidavit deposed to by one **Rotimi Adebisi Daniel**, Nigerian, litigation secretary at S. I. Ameh (SAN) & Co. Law Firm, of No. 12 Dennis Osadebey Crescent, Zone A, Apo Legislative Quarters, Apo, Abuja, and filed on 20th May, 2026. Attached to the affidavit are two Annexures marked as Exhibits 1 & 2, and a written address dated 18th May, 2026 and filed on 20th May, 2026 in support.

In reaction the Appellant/Respondent filed an 8 paragraph counter affidavit deposed to by one **Afolagbade Peace**, Litigation Officer in the Law Firm of Musibau Adetunbi, SAN & Co, the Law Firm on 21st May, 2026; Attached to the counter-affidavit is an Annexure



marked as Exhibit PDP1, and a written address in opposition to the Applicant's motion.

Consequence upon the above mentioned processes, the motion was heard on 22nd May, 2025. Emmanuel C. Ukala, SAN, appeared with K.C.O Njemanze, SAN for the 2nd - 4th Respondents/Applicants; Adedayo Adedeji, SAN, appeared with Shuaib Mohammed Esq., for the Respondent/Appellant.

Arguing in support of the application, the Applicant's Counsel Emmanuel C. Ukala, SAN, in their written address relied entirely on the affidavit and annexed exhibits in urging the Court to grant the application.

The learned counsel for the 2nd - 4th Respondents/Applicants submitted 2 issues for consideration to wit;

- 1. Whether this appeal is not otiose and has become academic in view of the decisions of the Court of Appeal in Appeal No. CA/ABJ/1695/2025 and the majority Judgment of the Supreme Court in Appeal No. SC/CV/164/2026 and whether the continued prosecution of same does not constitute an abuse of Court process?**



2. Whether Counsel to the Appellant, Mr. Musibau Adetunbi, SAN is not barred from acting for or representing the Appellant in this case having acted against the Appellant in respect of the same subject matter involving the validity or otherwise of the purported National Convention held on the 15th and 16" days of November, 2025 in Ibadan, Oyo State..

The learned silk submitted that the appeal centers on the invalidation of the PDP's National Convention held on November 15th - 16th, 2025; and cited the decision of this Court in Appeal No. CA/ABJ/1695/2025; which nullified the National Convention and that of the Supreme Court in Appeal No. SC/CV/164/2026 which held it to be an abuse of the process of the court and nullified it; thus, rendering the current appeal otiose and constitutes an abuse of court process.;

He submitted that pursuing the appeal would serve no purpose as it seeks to relitigate issues already definitively determined by higher courts. He relied on ***OPEKUMA V. SADIO (2003) NWLR (PT. 814) 475.***

The learned Senior Counsel also asserted that the Appellant's counsel, Mr. Musibau Adetunbi SAN, is barred from representing



the Appellant due to a conflict of interest arising from his previous representation of Folahan Malomo Adelabi against the PDP in Suit No. I/1336/2025. He emphasized that representing opposing parties in related matters is ethically impermissible under Rule 17 of the Rules of Professional Conduct for Legal Practitioners. He cited ***BALOGUN V. AKANJI (1992) 2 NWLR (PT. 225) 591; STORM DRILLING COMPANY V. ATLANTIC RICHFIELD CORPORATION, 4 FPD 2D 641.***

He urged the court to grant the application and dismiss the appeal. In response, **Mr. Musibau Adetunbi, SAN** for the Appellant /Respondent; argued that the Respondents' application offends Order 10 of the Court of Appeal Rules, 2021, as motions seeking to terminate an appeal must be preliminary objections rather than motions on notice and urged the court to dismiss the application in limine.

The learned counsel further contended that there are live issue still requiring determination by this Court, namely the trial court's authority in declaring the Caretaker Committee as the legitimate body running the affairs of the PDP, an issue that was not expressly part of the earlier decisions. He argued that this issue is separate

and requires appellate review. He relied on ***ELIKE V. NWANKWOALA (1984) N.S.C.C. 903.***

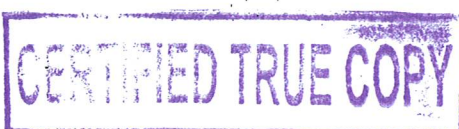
The learned Senior Counsel concluded that the filing of the current application serves only to frustrate the hearing of the appeal and that the Respondents do not possess the legal standing to contest Mr. Adetunbi's representation of the Appellant and emphasized that only the Appellant or Mr. Adelabi could challenge Adetunbi's representation and urged the Court to disregard the Respondents' contention as meddlesome.

He urged to dismiss the application for lack of merit and to recognize that live issues remain for determination and determine the appeal on the merit.

RESOLUTION

The Appellant/Respondent has challenged this application on the grounds that it offends Order 10 of the Court of Appeal Rules, 2021; arguing that motions seeking to terminate an appeal must be preliminary objections rather than motions on notice.

I have carefully considered the Motion on Notice filed on 20th May, 2026, the supporting affidavit and annexures, the counter-affidavit of the Appellant/Respondent and address in opposition, together with



the oral submissions of learned Senior Counsel on both sides. The issues arising for determination, in my view, are:

- 1. Whether the 2nd – 4th Respondents/Applicants can competently seek to terminate this appeal by Motion on Notice as against a Preliminary Objection under the Court of Appeal Rules, 2021.**
- 2. Whether the 2nd – 4th Respondents/Applicants possess the vires to challenge the continued appearance of Musibau Adetunbi, SAN, for the Appellant.**
- 3. Whether there remains any live issue in this appeal in view of the decisions of this Court in Appeal No. CA/ABJ/1695/2025 and of the Supreme Court in Appeal No. SC/CV/164/2026 on the Ibadan Convention of 15th–16th November 2025;**

I shall treat these issues sequentially.

The Appellant/Respondent's contention is that the application is incompetent because, by virtue of Order 10 of the Court of Appeal Rules, 2021, a party who seeks to terminate an appeal must proceed strictly by "preliminary objection", not by motion on notice.

Order 10 Rule 1 of the Court of Appeal Rules, 2021 indeed provides for a "preliminary objection to the hearing of the appeal" and regulates its filing. A preliminary objection and a motion seeking



dismissal are closely related but conceptually distinct procedural tools. A preliminary objection is, strictly, a threshold challenge to the competence of the appeal or the court's jurisdiction to entertain it at all, usually on the face of the initiating processes (e.g. defective notice of appeal, absence of a right of appeal, res judicata, abuse of process). See: ***OHUABUNWA V. NBAGWU (2026) 6 NWLR (PT. 2040) 465 (SC); YEGEDE V. OTHMAN (2025) 18 NWLR (PT. 2017) 369 (SC); G.T.B. PLC V. INNOSON (NIG.) LTD. (2025) 15 NWLR (PT. 2008) 349 (SC); AMEH V. THE PEOPLE OF LAGOS STATE (2025) 12 NWLR (PT. 2000) 559 (SC)***. It is generally taken without the need for extensive evidential inquiry, and the Court of Appeal Rules 2021 (Order 10) specifically regulates its form and timing because such objections ought to be disposed of in limine before the court embarks on the merits.

A motion seeking to dismiss or strike out may, on the other hand, either operate as a preliminary objection in substance (where it attacks the competence or utility of the appeal) or serve as an interlocutory application built on evidential facts, for example where subsequent events or external judgments are relied upon to show that an appeal has become academic, or where additional reliefs (such as disqualifying counsel or staying further steps) are sought. In practice, it is now firmly settled that courts look at the substance



of a process rather than its label. A process which, in effect, attacks the competence or survival of an appeal may be treated as a preliminary objection even if styled a motion. See: ***A.P.M. V. I.N.E.C. (2023) 9 NWLR (PT. 1890) 419 AT 454–455 (SC); C.G.C. (NIG.) LTD V. ISA (2023) 9 NWLR (PT. 1888) 129 AT 154–155 (SC); BELGORE V. F.R.N. (2021) 3 NWLR (PT. 1764) 503 AT 534–535 (SC).***

The Supreme Court has consistently deprecated technical objections based purely on nomenclature where the intention and effect of a process are clear. See: ***VEEPEE IND. LTD V. O.F. (NIG.) LTD (2023) 9 NWLR (PT. 1889) 279 AT 315–316 (SC); NDUKWE V. AYU (2023) 5 NWLR (PT. 1877) 309 AT 340–341 (SC).***

In the instant case, Grounds 1–6 of the motion and prayer (1) clearly seek the striking out or dismissal of the appeal on the basis that it has been overtaken by prior appellate decisions and has become academic and abusive. This is, in substance, a preliminary objection to the hearing of the appeal. The mere fact that the Applicants titled their process “Motion on Notice” does not rob this Court of jurisdiction to consider it for what it truly is.

The Appellant/Respondent’s objection that the application is incompetent simply because it is not headed “preliminary objection” is, with respect, technical and unmeritorious. It is overruled. I shall



therefore treat the motion, to the extent of Grounds 1–6, as a preliminary objection to the continuation of this appeal and determine it on the merits.

On whether the Respondents/Applicants can challenge the learned counsel's appearance; The Applicants insist that Musibau Adetunbi, SAN, having previously acted for Mr. Folahan Malomo Adelabi against the PDP (the Appellant herein) in Suit No. I/1336/2025; on issues tied to the Ibadan Convention, is ethically barred by Rule 17 of the Rules of Professional Conduct from now appearing for the PDP (the Appellant herein) in this appeal. They consequently invite this Court to hold that his representation is incompetent. The Appellant/Respondent in opposition answers that any alleged conflict of interest is a matter between learned senior counsel and his client(s) and, where appropriate, the disciplinary bodies under the Legal Practitioners Act; that only the PDP itself or Mr. Adelabi can rightfully complain; and that the 2nd–4th Respondents are meddlesome interlopers lacking locus to challenge the party's free choice of counsel.

While Rule 17 of the Rules of Professional Conduct enjoins legal practitioners not to represent conflicting interests without informed consent, it is equally settled that not every alleged ethical infraction affords a basis for an opposing party to seek the disqualification of



counsel or the nullification of proceedings. Questions of professional misconduct, save where they directly affect the right of audience in court (as in ***OKAFOR V. NWEKE (2007) 10 NWLR (PT. 1043) 521 (SC)***), are primarily for the Nigerian Bar Association and the Legal Practitioners Disciplinary Committee. See: ***OMOKUWAJO V. F.R.N. (2013) 9 NWLR (PT. 1359) 300 AT 332–333 (SC)***; ***GAZAMA V. F.R.N. (2018) 11 NWLR (PT. 1631) 373 AT 407–408 (CA)***; ***INCORP. TRUSTEES, N.B.A. V. NNAJI (2024) 3 NWLR (PT. 1924) 145 LEGAL PRACTITIONERS DISCIPLINARY COMMITTEE OF THE BODY OF BENCHERS.***

More critically, locus to complain of conflict of interest normally lies in the current or former client whose confidential information or loyalty is allegedly compromised, not in an adversary who has not demonstrated any concrete prejudice to his own fair-hearing rights. See: ***GUARANTY TRUST BANK PLC V. INNOSON NIG. LTD (2017) 16 NWLR (PT. 1591) 181 AT 222–223 (SC)***; ***FANYAM V. GOVERNOR OF BENUE STATE (2022) 11 NWLR (PT. 1840) 33 AT 65–66 (CA).***

In the present case, neither the PDP (the Appellant) nor Mr. Adelabi has complained to this Court about any conflict in Mr. Adetunbi's representation. On the contrary, the PDP has actively briefed and is represented by him. The 2nd–4th Respondents have not shown that



any confidential information is being misused to their detriment or that their own right to fair hearing under Section 36 of the Constitution has been, or will be, impaired by his continued appearance. Their attempt to disqualify opposing counsel on purely ethical grounds, without demonstrated personal prejudice, is therefore meddlesome and outside their legitimate remit. Any complaint about a possible breach of Rule 17 RPC may be directed to the appropriate disciplinary bodies; it is not a ground, in the circumstances of this appeal, for this Court to interfere with the Appellant's choice of counsel.

Accordingly, that limb of the motion, which seeks to impugn the competence of Mr. Musibau Adetunbi, SAN, to represent the Appellant, is incompetent and is hereby refused.

On whether there is a live issue or the appeal is now academic and/or abusive.

A live issue in a legal case relates to an active, unresolved dispute between the parties which the court has authority to decide. An active dispute results in a judicial decision that alters the rights, obligations or remedies of the parties involved; as against an academic, hypothetical, moot, or already resolved dispute which adds no legal value to any of the parties. Therefore, the decision of a Judge in a



live issue will create a tangible, practical consequence. The courts will generally dismiss a moot dispute because it has no utilitarian value. The core of Grounds 1–6 of the motion is that this appeal, which admittedly centers on the purported National Convention of the Appellant held on 15th–16th November 2025 at Ibadan, has been wholly overtaken by:

- (a) The judgment of this Court in Appeal No. CA/ABJ/1695/2025 delivered on 9th March 2026, nullifying that very Convention; and
- (b) The majority decision of the Supreme Court in Appeal No. SC/CV/164/2026 delivered on 30th April 2026, which affirmed the judgment of this Court and expressly condemned and nullified the said Convention.

The apex Court, as reproduced in Ground 3 of the motion, held inter alia that:

“The appellant abused the process of the court to conduct the party Convention. The Party Convention of the appellant conducted on 15th and 16th November, 2025, in defiance of the subsisting order of the Federal High Court in its Judgment delivered on the 14th day of November, 2025 in Suit No. FHC/ABJ/CS/2299/2025, is null, void and



of no effect or consequence; it is accordingly nullified.”

By virtue of Section 287(1) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), the decisions of the Supreme Court are binding on all courts of law, authorities and persons in Nigeria. Once the Supreme Court has made a final pronouncement that the Ibadan Convention of 15th – 16th November 2025; is null, void and of no effect, that question is forever settled and cannot be reopened under any guise except in the Court of heaven See: **WAZIRI V. P.D.P. (2023) 7 NWLR (PT. 1882) 57 AT 98–99 (SC); NGERE V. OKURUKET XIV (2023) 14 NWLR (PT. 1904) 361 AT 392–393 (SC).**

It is equally trite that courts do not embark upon the determination of academic or hypothetical questions. **HAMMANJULDE V. MUBARAK (2023) 9 NWLR (PT. 1889) 211 (SC); SOUTH ATLANTIC PET. LTD V. MIN, PET. RESOURCES (2023) 7 NWLR (PT. 1882) 135 (SC); ANI V. EFFIOK (2023) 8 NWLR (PT. 1887) 463 (SC); KOKO V. KOKO (2023) 13 NWLR (PT. 1901) 249 (SC).** Where subsequent events or binding prior judgments have stripped an appeal of any live controversy or practical utility, the court will decline jurisdiction to waste scarce judicial time on a sterile exercise. See: **USENI V. ATTA (2023) 8 NWLR (PT. 1887)**



519 AT 550–551 (SC); A.P.C. V. ENWEREM (2022) 15 NWLR (PT. 1853) 389 AT 421–422 (SC); VF WORLDWIDE HOLDINGS LTD V. DANA SERVICES LTD (2023) 15 NWLR (PT. 1908) 573 AT 607–608 (SC).

Consideration of issues in a suit will amount to nothing more than an academic exercise where whatever decision that is arrived at will not confer any benefit on the successful party. See: **SHIDDI V. JIMKUTA (2023) 17 NWLR (PT. 1913) 303 (SC); SAMUEL V. A.P.C. (2023) 10 NWLR (PT. 1892) 195 (SC); ANI V. OTU (2023) 8 NWLR (PT. 1886) 301 (SC); UCHENNA V. P.D.P. (2023) 9 NWLR (PT. 1888) 165 (SC).**

The Applicants contend that, since the present appeal is grounded on, and directed at, the Ibadan Convention whose validity has now been struck down by both this Court and the Supreme Court, there is nothing left for this Court to decide that can confer a tangible benefit on any party. To continue with the appeal, they argue, would amount to re-litigating an issue conclusively determined by a superior court and would constitute an abuse of court process. The Appellant/Respondent argues in opposition that there remains a distinct, live question: namely, whether the trial court was right in declaring a particular Caretaker Committee as the legitimate body running the affairs of the PDP. It is contended that this narrow issue

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was not expressly canvassed or resolved in CA/ABJ/1695/2025 and SC/CV/164/2026, and therefore still requires appellate interrogation. In the instant case, no doubt, there is a seeming live issue where it is held that the trial court went outside the reliefs sought to recognize and uphold a factional caretaker committee; however, from the totality of the record and the uncontroverted grounds of the motion, it is evident that the foundation and substance of this appeal is the challenge to actions and structures that were themselves rooted in, or derived from, the Ibadan Convention of 15th–16th November 2025. The declaratory and injunctive reliefs being pursued on appeal all pivot around the legitimacy of that Convention and the leadership organs purportedly thrown up by, or validated through, it. Therefore, once the Convention itself has been pronounced null, void and of no effect by the Supreme Court, any superstructure erected upon it is necessarily without legal foundation. Issues such as which organ or committee legitimately emerged from, or drew its authority from, that void Convention cannot, in law, give rise to a live controversy requiring further adjudication. As the Supreme Court stated in ***VEEPEE IND. LTD V. O.F. (NIG.) LTD (2023) 9 NWLR (PT. 1889) 279 AT 315–316 (SC)***, courts do not act in vacuo or on a foundation that has been legally erased. Accordingly, the alleged live



issue is merely superficial, cosmetic as its determination will not avail tangible benefit, relief, nor enforceable right to the Appellant.

In effect, to entertain this appeal further would either:

(a) Lead this Court into revisiting, directly or by indirection, the validity and legal consequences of the Ibadan Convention already settled by CA/ABJ/1695/2025 and SC/CV/164/2026; or

(b) Require this Court to pronounce on derivative issues which, shorn of the now-void Convention, have no real or workable legal substratum and cannot alter the legal position now fixed by the Supreme Court.

Either course would amount to engaging in an academic exercise, which the law frowns upon. See: ***USENI V. ATTA (SUPRA); A.P.C. V. ENWEREM (SUPRA); BOT V. JOS ELECTRICITY DISTRIBUTION PLC (2021) 15 NWLR (PT. 1798) 53 AT 90–91 (SC).***

I am therefore satisfied that, in light of the binding decisions in CA/ABJ/1695/2025 and SC/CV/164/2026, this appeal no longer presents any live issue capable of affecting the rights and obligations of the parties in a practical way. Its continued prosecution would serve no utilitarian purpose and would, on the authorities, constitute an abuse of court process.



Assuming without conceding, that this Court were to accept the Appellant's contention that the only cognisable relief before the trial court, properly construed, was in the nature of an application for an order of mandamus or declaratory relief directed solely at the validity or otherwise of the National Convention of 15th–16th November 2025; and that the lower court exceeded its remit by proceeding further to pronounce upon, and to install, a particular Caretaker Committee as the organ entitled to run the affairs of the party, it would follow that the trial court had strayed beyond the scope of the issues submitted to it for adjudication and thereby acted ultra petita. On that hypothesis, this Court would be driven to the conclusion that the offending portions of the judgment, and indeed the judgment as a whole in so far as the excess permeates the decision, are a nullity and liable to be set aside ex debito justitiae, with an order of retrial in principle being the orthodox corrective. See: **NGERE V. OKURUKET XIV (SUPRA); VEEPEE IND. LTD V. O.F. (NIG.) LTD (Supra)**. However, such a retrial would, in the present circumstances, be entirely bereft of utilitarian value. The only justiciable question which could legitimately return to the trial court on a remit, namely, the validity of the Ibadan Convention of 15th–16th November 2025; has already been conclusively and finally determined by the Supreme Court in SC/CV/164/2026; which nullified that Convention and pronounced it void and of no effect. By virtue of



Section 287(1) of the 1999 Constitution (as amended), that determination binds all courts and parties. A direction to the trial court to “retry” an issue that has been settled at the apex level would, in effect, invite it either to echo what has already been said or to purport to sit in judgment over the Supreme Court both of which the law forbids. Appellate and trial courts do not conduct moot exercises or order retrials in *terrorem* where no live controversy remains to be resolved. See: ***Useni v. Atta (Supra); VF Worldwide Holdings Ltd v. Dana Services Ltd (Supra)***. Even on the Appellant’s most favourable construction of the proceedings below, therefore, the only logical consequence of setting aside the trial court’s judgment would be to remit for a hearing on a question now foreclosed by the Supreme Court, which this Court cannot countenance. This reinforces the conclusion that the appeal, in its present posture, is academic and that any putative correction of the trial court’s excesses would not translate into any practical, justiciable benefit for the parties.

Accordingly, the objection, to the extent that it prays the Court to strike out or dismiss this appeal as having become academic and otiose, is well-founded and must be upheld. The proper order, given the stage of the proceedings and the nature of the complaint, is one of dismissal rather than striking out. See: ***Ndukwe v. Ayu (2023)***



5 NWLR (Pt. 1877) 309 at 340–341 (SC); VF Worldwide Holdings Ltd v. Dana Services Ltd (supra).

In conclusion, the procedural objection that the application is incompetent because it was brought by motion on notice rather than a document titled “preliminary objection” is overruled. The Court has properly treated the motion, in substance, as a preliminary objection under Order 10 of the Court of Appeal Rules, 2021. On the merits, I hold that, by reason of the binding decisions of this Court in Appeal No. CA/ABJ/1695/2025; and of the Supreme Court in Appeal No. SC/CV/164/2026; which nullified the Ibadan Convention of 15th–16th November 2025; and settled the core issues underlying this appeal, there is no longer any live controversy between the parties. The appeal has become purely academic and its further prosecution would amount to an abuse of court process.

The limb of the motion which seeks to challenge the propriety of the appearance of Musibau Adetunbi, SAN, for the Appellant is incompetent at the instance of the 2nd–4th Respondents/Applicants and is refused.

Accordingly, the preliminary objection grounded on Grounds 1–6 of the motion is upheld. The appeal, Appeal No. CA/IB/86/2026, having become academic and otiose in the circumstances, is hereby dismissed.



I make no order as to cost.



**UCHECHUKWU ONYEMENAM
JUSTICE, COURT OF APPEAL**

APPEARANCES:

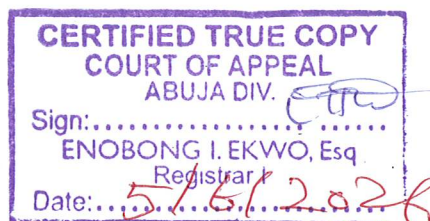
MUSIBAU ADETUNBI, SAN for Appellant with
F.A. LADAPO ESQ; A.Z. ABDULSALAM ESQ; H.A. ADELEKE ESQ S.S.
JIPAN; P.J. JONAH ESQ

O.A. ADEYEMI for 1st Respondent

EMMANUEL C. UKALA, SAN K.C.O NJEMANZE, SAN for 2nd – 4th
Respondents with DIKE UDENNA ESQ; D.M. IDOKO ESQ; V.I.
UCHENDU ESQ.

ADEDAYO ADEDEJI, SAN for 5th – 7th Respondents with
SHUAIB MUHAMMED ESQ; C.E. ONWERE ESQ; ABDULRASHEED
SHOMOPE ESQ.

J.A. MUMINI, SAN; B.R. GOLD SAN; for Objecter with
B.F. FOLORUNSHO ESQ; M.T. ABU ESQ; L.O. ABDULRAZAQ ESQ.

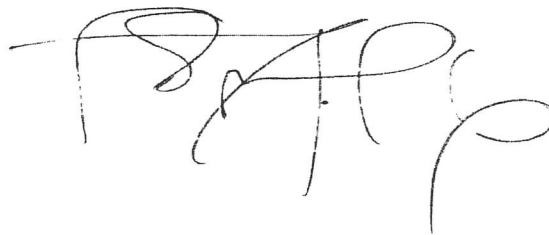


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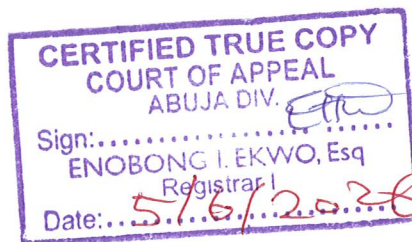
MOHAMMED MUSTAPHA

I have had the privilege of reading in advance the Ruling just delivered by my learned brother, **UCHECHUKWU ONYEMENAM, PJCA.**

I am in total agreement with the reasoning and conclusion reached, and abide by the consequential orders.



**MOHAMMED MUSTAPHA
PRESIDING JUSTICE, COURT OF APPEAL**



CA/IB/86/2026

OKON EFRETI ABANG, JCA

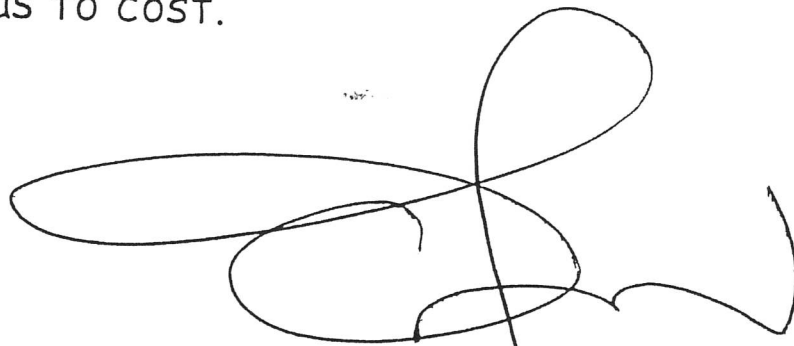
I had the privilege of reading in advance the draft of the Ruling of my learned brother UCHECHUKWU ONYEMENAM, PJCA which was made available to me before now.

I am in agreement with the reasoning and conclusions therein and I adopt same as mine.

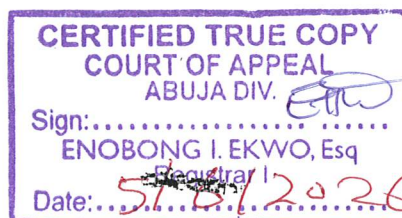
I agree with His Lordship that 2nd - 4th Respondents' application filed on 20/5/2026 deserves to succeed and it is accordingly granted as prayed.

The Appellant's appeal is hereby dismissed.

No Order as to cost.



OKON EFRETI ABANG
JUSTICE, COURT OF APPEAL



COURT OF APPEAL - 031800300100



Payment Receipt

Generated on 05/06/2026

Remita Retrieval Reference (RRR)

2214-7344-5823

PAYER INFORMATION

NAME PDP
EMAIL appealcourtev@gmail.com
PHONE NUMBER 2348036820728

PAYMENT DETAILS

PAYMENT DATE	PAYMENT REF	SERVICE DESCRIPTION	AMOUNT (NGN)	CHARGE (NGN)	VAT on Charges (NGN)	TOTAL (NGN)
05/06/2026	221473445823	CTC	1,000.00	150.00	11.25	1,161.25
		TOTAL PAID	1,000.00	150.00	11.25	1,161.25
		TOTAL AMOUNT				1,161.25
		BALANCE DUE				0.00

BILLER-REQUIRED INFORMATION

ITEM DESCRIPTION
Gifmis Code - (If Unknown Contact Mda) 1000274712
Description CTC OF RULING CA/IB/86/2026
Gifmis Code (If Unknown Contact Mda) 1000274712

PAYMENT CHANNEL INFORMATION

PAYMENT CHANNEL MASKED CARD PAN AUTHORIZATION REF. CARD SCHEME
CARD PAYMENT 19008472503 - 10000426060508304116177451 5699