

IN THE COURT OF APPEAL
IN OVERRI JUDICIAL DIVISION
HOLDEN AT OVERRI

PROCEEDING ON THIS THURSDAY 2ND DAY JULY, 2026
BEFORE THEIR LORDSHIPS:

HON. JUSTICE P.A. MAHMOUD
HON. JUSTICE NTONG F. NTONG
HON. JUSTICE A.M ANKA

PRESIDING JUSTICE, COURT OF APPEAL
JUSTICE, COURT OF APPEAL
JUSTICE, COURT OF APPEAL

APPEAL NO: CA/OW/104/2026

BETWEEN

LABOUR PARTY & 14 ORS

= APPELLANTS

VS

**ABIA STATE INDEPENDENT ELECTORAL
COMMISSION & 4 ORS**

= RESPONDENTS

5th, 10th, & 15th Appellants Presents in Court.

A. OTEH, with him are **I. GARBA** and **E. EME** for the Appellants.

E.V. ISIOFIA, for the 1st Appellants/Applicant.

J.C. IRODI – IROEGBU for the 1st Respondent.

B.I. AMADI for the 2nd Respondent.

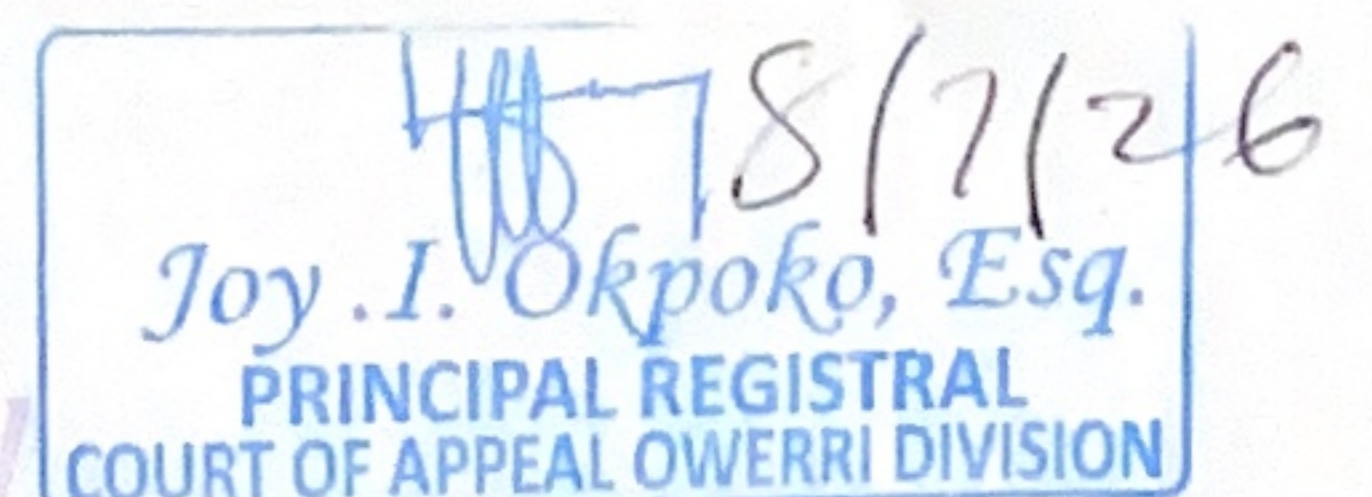
E. OKOROJI, with him is **OGUAMA** for the party seeking to be joined.

4th & 5th Respondents absent and unrepresented but 4th Respondent was served with Hearing Notice.

5th Respondent was in Court.

ISIOFIA: Now appears for the 1st Appellant.

OTEH: In the circumstances, I withdraw the counter affidavit filed on 29/06/2026 to the application.



A 1,000 for the C.T.C

ISIOFIA: No objection

COURT: The said counter affidavit having been withdrawn is hereby struck out.

ISIOFIA: I move our motion filed on 24/04/2026 in terms of the motion paper.

IRODI-IROEGBU: No objection

AMADI: No objection.

OTEH: I oppose the application on points of law but I now leave it to the discretion of the court.

COURT: We have observed that the Records in this appeal was transmitted to this court on 15/04/2026. While the judgment of the lower court was delivered on 18/03/2026. Parties are to address the court on whether this appeal is competent to be determined by this courts in view of the fact that this appeal is an Election Matters which by law has to be determined within 60 (Sixty) Days.

ISIOFIA: By section 285(12) of the 1999 Constitution, 1st – 5th alteration, an appeal in an Election Matter as to be determined within sixty days of the dates of filing of our appeal. The record was transmitted to this court on 15/04/2026 more than sixty days. Anything out of this period amounts to an academic exercise. I urge the court to strike out the appeal.

IRODI-IROEGBU: I align myself with the submissions of my learned friend and urge the court to dismiss the appeal.

AMADI: I adopt the submissions of my learned friend. In addition, I refer to the case of ANPP V GONI (2012)7 NWLR, Pt.1298,147 where the Supreme Court held that the time line set out in Section 285 of the Constitution is like a rock of Gibraltar and cannot be moved.

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OTEH: I concede that our Notice of appeal was filed on 18/03/208 while our Record was transmitted 15/04/2026. I rely on Section 285(12) and the case of KUSAMOTU V APC (2019)7 NWLR, (Pt. 670), 61 and I submit that we are still within the 60 days.

COURT: We have considered the application of the 1st Appellants seeking to withdraw this appeal or in the alternative to strike out its name. The application is supported by a six-paragraph affidavit and accompanied by a written address. The crux of the application is that as at the time the lower court delivered its ruling on the 18th March, 2026 it was outside the 180 days prescribed by the 1999 Constitution in Section 285(10) to deliver its judgment.

More than that section 285(12) of the 1999 Constitution prescribes 60 days from the date of filing of this appeal to the date of delivery of our judgment. The 2nd – 15th Appellants. Counsel, admitted that this Notice of Appeal was filed on the 18/03/2026. The Record of Appeal was transmitted to this court on the 15/04/2026. Which ever of the two date is used for compilation the Appellants are well over the sixty days by today when the application was argued. It is right that Election Matters are *sui genres*. As counsel drew out attention to the case of ANPP V GONI (Supra) dates in Election Matters are immutable and sacrosanct. Like the wisdom expressed in the judgments it is like the Rock of Gibraltar and cannot be moved.

This is not a case in which we should adjourn to give any consideration as the law on this is very clear.

It is however a very sad commentary on this level of our legal practice for a Counsel to waste ample judicial time is an effort akin

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to turning water into blood. It is really unfortunate that Counsel wanted court to satisfy the interest of their clients rather than act as the officers of the law which they are in all circumstances.

In summary this application succeeds for the records given in this bench ruling. Consequently, this appeal which is hereby withdrawn by the 1st Appellant is accordingly dismissed pursuant to Order 11 (6) of our rules of court, 2021. We award N100,000.00 costs against Mrs. A. Oteh, lead counsel to the 2nd – 15th Appellant to be paid personally and to the Appellant before she is allowed audience in this court in future.

Signed:

HON. JUSTICE P.A. MAHMOUD
PRECEDING JUSTICE, COURT OF APPEAL
02/07/2026

Signed:

HON. JUSTICE NTONG F. NTONG
JUSTICE, COURT OF APPEAL
02/07/2026

Signed:

HON. JUSTICE A.M ANKA
JUSTICE, COURT OF APPEAL
02/07/2026

Joy .I. Okpoko, Esq.
PRINCIPAL REGISTRAL
COURT OF APPEAL OVERRI DIVISION

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