

IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

SUIT NO: FHC/ABJ/CS/2530 /2026

IN THE MATTER OF AN APPLICATION BY DANIEL K. KIP FOR THE ENFORCEMENT AND SECURING OF THE FUNDAMENTAL RIGHTS TO LIFE, DIGNITY OF THE HUMAN PERSON, PERSONAL LIBERTY, HEALTH, EQUALITY AND HUMANE TREATMENT GUARANTEED UNDER SECTIONS 33, 34, 35, 37, 42 AND 46 OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA 1999 (AS AMENDED); ARTICLES 2, 4, 5 AND 16 OF THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS (RATIFICATION AND ENFORCEMENT) ACT; ARTICLES 3, 7, 8, AND 25(1) OF THE UNITED NATIONS DECLARATION OF HUMAN AND PEOPLES RIGHTS, UNDER THE FUNDAMENTAL RIGHTS (ENFORCEMENT PROCEDURE) RULES 2009;

AND

IN THE MATTER OF SECTIONS 12, 15, 16, 21, AND 28 OF THE NATIONAL MENTAL HEALTH ACT 2021, AND SECTION 1(1) OF THE DISCRIMINATION AGAINST PERSONS WITH DISABILITIES (PROHIBITION) ACT, 2018;

AND

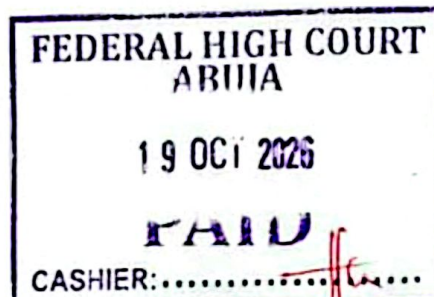
IN THE MATTER OF THE CONSTITUTIONAL VALIDITY OF SECTION 327 OF THE CRIMINAL CODE ACT AND SECTION 231 OF THE PENAL CODE, INsofar AS THEY CRIMINALISE AND PUNISH A PERSON WHO SURVIVES AN ATTEMPT TO TAKE HIS OR HER OWN LIFE.

BETWEEN:

DANIEL K. KIP
(SUING IN THE PUBLIC INTEREST)

AND

1. FEDERAL REPUBLIC OF NIGERIA
2. ATTORNEY-GENERAL OF THE FEDERATION
3. THE NATIONAL ASSEMBLY



APPLICANT

201527222065

RESPONDENTS

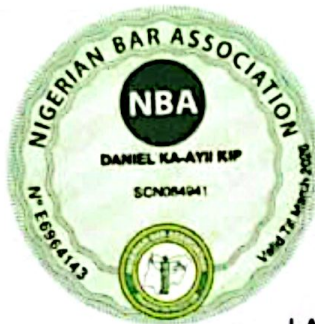
ORIGINATING MOTION

BROUGHT PURSUANT TO SECTIONS 1(1), 1(3), 6(6)(B), 33, 34, 35, 37 AND 46(1)-(3) OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA 1999 (AS AMENDED); ARTICLES 1, 2, 4, 5 AND 16 OF THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS (RATIFICATION AND ENFORCEMENT) ACT CAP 19, LAWS OF THE FEDERATION OF NIGERIA, 2004.; ARTICLES 3, 7, 8, AND 25(1) OF THE UNITED NATIONS DECLARATION OF HUMAN AND PEOPLES RIGHTS. SECTIONS 12, 15, 16, 21, AND 28 OF THE NATIONAL MENTAL HEALTH ACT 2021; SECTION 1(1) OF THE DISCRIMINATION AGAINST PERSONS WITH DISABILITIES (PROHIBITION) ACT, 2018; THE PREAMBLE AND ORDERS I, II AND XI OF THE FUNDAMENTAL RIGHTS (ENFORCEMENT PROCEDURE) RULES 2009; AND UNDER THE INHERENT JURISDICTION OF THIS HONOURABLE COURT.

TAKE NOTICE this Honourable Court will be moved on _____, the _____ day of _____, 2026 at the hour of 9 O'clock in the forenoon or so soon thereafter as the Applicant or Counsel on behalf of the Applicant may be heard praying this Honourable Court for the enforcement of the fundamental rights to life, dignity of human person, health, equality and freedom from discrimination in terms of the reliefs sought in the Statement accompanying the application, on behalf of and in the interest of the people of & in Nigeria.

AND TAKE NOTICE that on the hearing of this application the Applicant will use the affidavit attached herein.

DATED THIS 19th DAY OF OCTOBER, 2026.




DANIEL K. KIP, ESQ. (signed)
IRIKEFE RUPERT, ESQ.
OTACHE BAKO, ESQ.
O. G. FRIDAY, ESQ. (MRS)
P. I. CHIE-AMADI, ESQ. (MISS)
TIM LEBURA KIP & CO.
MAESTRO LAW (TLK)
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FOR SERVICE ON:

1. APPLICANT

- **C/O HIS SOLICITORS**
TIM LEBURA KIP & CO.
MAESTRO LAW (TLK)
APPLICANT'S SOLICITORS
LAW HUB, PLOT 952, ROYAL COURT
OPPOSITE SKY BLUE HOMES
JAHI, FCT-ABUJA.

2. 1ST, 2ND & 3RD RESPONDENTS

- **C/O THE ATTORNEY-GENERAL OF THE**
FEDERATION & MINISTER OF JUSTICE
FEDERAL MINISTRY OF JUSTICE
PLOT 71B, SHEHU SHAGARI WAY
MAITAMA, ABUJA

IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
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SUIT NO: FHC/ABJ/

/2026

BETWEEN:

DANIEL K. KIP
(SUING IN THE PUBLIC INTEREST)

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APPLICANT

AND

- 1. FEDERAL REPUBLIC OF NIGERIA**
- 2. ATTORNEY-GENERAL OF THE FEDERATION**
- 3. THE NATIONAL ASSEMBLY**

}

RESPONDENTS

**STATEMENT MADE PURSUANT TO ORDER II RULE 3 OF THE FUNDAMENTAL RIGHTS
(ENFORCEMENT PROCEDURE) RULES, 2009**

1. NAME AND DESCRIPTION OF THE APPLICANT

The name of the Applicant is Daniel K. Kip, a Lawyer and a Public Interest & Rights Activist. He is a Past Assistant General Secretary of the Nigerian Bar Association, a member of the Citizens Liberties Committee of the Nigerian Bar Association, a member of the NBA Section on Public Interest and Development Law (SPIDEL), and member of the Legal Advocacy Response To Drugs Initiative(LARDI). He is a Christian, Nigerian, Adult, of Plot 952, Royal Court, opposite Sky Blue Homes, Jahi, FCT-Abuja.

2. RELIEFS SOUGHT BY APPLICANT

- a) **A DECLARATION** that Section 327 of the Criminal Code Act, insofar as it criminalises and subjects a person who survives an attempt to take his or her own life to prosecution and imprisonment merely by reason of that attempted self-harm, is inconsistent with the rights to dignity of the human person, humane treatment, personal liberty, health and freedom from discrimination guaranteed by Sections 34, 35 and 42 of the 1999 Constitution of the Federal Republic of Nigeria(as amended), Articles 3, 4, 5, 6 and 16 of the African Charter on Human and Peoples' Rights, and Articles 7 and 25 of the United Nations Declaration of Human and Peoples Rights and is thus unconstitutional, unlawful and void to the extent of its inconsistency pursuant to section 1(3) of the Constitution.
- b) **A DECLARATION** that Section 231 of the Penal Code, insofar as it criminalises attempted suicide and exposes a survivor of an attempt at self-harm to imprisonment, fine or criminal punishment rather than a health-centred intervention, is inconsistent with sections 34, 35 and 42 of the 1999 Constitution of the Federal Republic of Nigeria(as amended), Articles 3, 4, 5, 6 and 16 of the African Charter on Human and Peoples' Rights, Articles 7 and 25 of the United Nations Declaration of Human and Peoples Rights and Nigeria's statutory mental-health regime and thus unconstitutional and void to the extent of its inconsistency.
- c) **A DECLARATION** that criminally arresting, detaining, prosecuting, convicting or imprisoning a person solely because such person survived an attempt to take his or her own life, particularly where

such conduct arose from severe emotional distress, mental illness, psychosocial disability or impaired mental functioning, constitutes or is capable of constituting degrading and inhuman treatment contrary to section 34(1)(a) of the 1999 Constitution of the Federal Republic of Nigeria(as amended) and Article 5 of the African Charter.

- d) **A DECLARATION** that the Nigerian State's constitutional obligation to protect life under section 33 of the Constitution and Article 4 of the African Charter is a protective and life-preserving obligation and does not constitutionally justify subjecting a survivor of a suicidal crisis to punitive criminal proceedings where appropriate therapeutic, medical, psychological and psychosocial interventions are reasonably available.
- e) **A DECLARATION** that the right to the best attainable state of physical and mental health is guaranteed under Article 16 of the African Charter and 25 of the United Nations Declaration of Human and Peoples Rights requires, in the case of a person experiencing suicidal ideation or surviving an attempted suicide, an appropriate health, safeguarding and rehabilitative response rather than an indiscriminate criminal sanction.
- f) **A DECLARATION** that Sections 12, 15 and 16 of the National Mental Health Act 2021 have established a contemporary rights-based regime under which persons experiencing mental-health conditions are entitled to dignity, accessible mental-health services, counselling, rehabilitation, aftercare, reasonable assistance and treatment in the least restrictive environment and manner, and that the punitive application of Sections 327 and 231 aforesaid is incompatible with the purpose, policy and rights-protective architecture of the extant mental health policy and legislative regime in Nigeria.
- g) **A DECLARATION** that criminally arresting, detaining, prosecuting, convicting or imprisoning a person solely because such person survived an attempt to take his or her own life, particularly as such conduct arises from severe emotional distress, mental illness, psychosocial disability or impaired mental functioning, violates Section 1(1) of the Discrimination Against Persons with Disabilities Act, 2018.
- h) **A DECLARATION** that the indiscriminate prosecution of a person for attempted suicide without first determining whether, at the material time, such person's mental condition substantially impaired his or her ability to understand, rationally evaluate or control his or her conduct is inconsistent with the fundamental principles of criminal responsibility recognised under section 28 of the Criminal Code and section 51 of the Penal Code.
- i) **A DECLARATION** that the Respondents cannot, consistently with the Constitution, UN Declaration and African Charter, transform an acute human vulnerability or health emergency into a basis for stigma, prosecution and incarceration where the predominant legitimate governmental objective is the preservation of the same person's life.
- j) **A DECLARATION** that the continued enforcement of the impugned provisions against persons experiencing mental-health conditions or acute suicidal crisis constitutes an arbitrary and disproportionate interference with their dignity, liberty and access to healthcare and therefore fails constitutional scrutiny and legitimacy.

- k) **AN ORDER** pursuant to Section 1(3) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) striking down and/or rendering unenforceable Section 327 of the Criminal Code Act and Section 231 of the Penal Code to the extent that they criminalise the survivor of an attempted suicide, and are inconsistent with the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and mental health/disability regime in Nigeria.
- l) **AN ORDER OF PERPETUAL INJUNCTION** restraining the 1st and 2nd Respondents, their officers, servants, agents, prosecuting authorities and persons acting under their authority from initiating, maintaining or continuing any prosecution under the impugned federal provisions, being Section 327 of the Criminal Code Act and Section 231 of the Penal Code.
- m) **AN ORDER** directing that, following an attempted suicide or credible suicidal crisis, the primary governmental response shall, subject to lawful measures necessary for the immediate protection of the affected person or other persons, be referral for appropriate medical, psychiatric, psychological or psychosocial assessment, protection, counselling, treatment and rehabilitation consistent with the National Mental Health Act 2021.
- n) **A CONSEQUENTIAL ORDER** directing the Respondents to give administrative and prosecutorial effect to the judgment of this Honourable Court, pending formal legislative harmonisation of the Criminal Code, Penal Code and National Mental Health Act.
- o) **AND FOR SUCH FURTHER OR OTHER ORDERS** as this Honourable Court may deem appropriate for securing and advancing the fundamental rights in issue.

3. GROUND UPON WHICH THE RELIEFS ARE SOUGHT

- 3.1 By Section 1(1) of the 1999 Constitution of the Federal Republic of Nigeria (as amended), the Constitution is supreme and binding upon all authorities and persons throughout Nigeria.
- 3.2 By Section 1(3) of said Constitution, any law inconsistent with the Constitution is void to the extent of the inconsistency.
- 3.3 The Courts possess both the power and constitutional duty to examine legislations against the Constitution and invalidate any legislation which fails that test.
- 3.4 The right to dignity is not forfeited by psychological crisis. Section 34(1)(a) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) prohibits torture and inhuman or degrading treatment. A person who survives self-harm is a living human person whose dignity remains constitutionally inviolable. To stigmatise that survivor as a criminal and expose him or her to arrest, detention, trial and imprisonment merely because the attempt failed, can aggravate the very despair, humiliation, isolation or psychological condition which generated the crisis.
- 3.5 The Constitution protects life; it does not require punishment for surviving. The Applicant does not contend that the Constitution creates a fundamental right to commit suicide. The question before the Court is materially different. It is whether a State legitimately seeking to preserve life may punish a person precisely because the State succeeded, or circumstances permitted the person, to remain alive after a suicidal crisis. Decriminalisation is not legalisation, endorsement or encouragement of suicide. It is the substitution of a health-centred and protective response for a penal response.

- 3.6 Article 16 of the African Charter on Human and Peoples' Rights guarantees every individual the right to enjoy the best attainable state of physical and mental health. The African Charter forms part of Nigerian law and its provisions are enforceable in Nigerian courts. Article 25 of the United Nations Declaration of Human and Peoples Rights, guarantees everyone the right to a standard of living adequate for the health and well-being, including medical care.
- 3.7 The National Mental Health Act 2021 establishes a rights-centred and treatment-centred mental-health framework. Among other things, the Act recognizes equal fundamental rights for persons requiring mental-health services; protection from cruel, inhuman or degrading treatment; humane and dignified treatment; accessible mental-health care; counselling; rehabilitation and aftercare; treatment in the least restrictive environment and manner; supported decision-making and protection where mental capacity is impaired. The continuation of a nineteenth/twentieth-century penal response to suicidal crisis beside this modern statutory framework creates a profound normative contradiction.
- 3.8 Section 28 of the Criminal Code expressly recognises that a person is not criminally responsible where mental disease or natural mental infirmity deprives the person of the capacity to understand his conduct, control his actions or know that he ought not to do the act. Section 51 of the Penal Code equally recognises absence of criminal responsibility where unsoundness of mind renders a person incapable of knowing the nature or wrongfulness of the act.
- 3.9 In the judgment delivered on 9th January 2025, in Kenya National Commission on Human Rights & 2 Ors v Attorney-General; Director of Public Prosecutions & 3 Ors (Interested Parties); Law Society of Kenya (Amicus Curiae) Constitutional Petition No. E045 of 2022, [2025] KEHC 6 (KL R), the High Court of Kenya considered materially similar colonial penal legislation criminalising attempted suicide. The Court held the provision unconstitutional. The decision, although persuasive rather than binding, is of exceptional comparative value because it concerns substantially the same colonial legal architecture and an African constitutional rights system.
- 3.10 The Preamble to the Fundamental Rights (Enforcement Procedure) Rules 2009 expressly commands courts to welcome public-interest human-rights litigation and permits persons acting in the public interest to litigate. The Applicant accordingly possesses standing to maintain this proceeding.

DATED THIS 19th DAY OF OCTOBER, 2026.



DANIEL K. KIP, ESQ. (signed)
IRIKEFE RUPERT, ESQ.
OTACHE BAKO, ESQ.
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