

23rd November, 2023

The Chairman,
 National Judicial Council,
 Supreme Court of Nigeria Complex,
 Three Arms Zone,
 FCT, Abuja.



My Lord,

JUDICIAL RECKLESSNESS AND GROSS ABUSE OF THE REVISED JUDICIAL CODE OF CONDUCT FOR JUDICIAL OFFICERS OF THE FEDERAL REPUBLIC OF NIGERIA 2016 BY HONOURABLE MOORE ASEIMO ABRAHAM ADUMEIN, BITRUS GYARAZAMA SANGA AND LATEEF ADEBAYO GANIYU, JJCA

The above-named coalition are non-profit organizations driving transparency and accountability in the justice sector. The Open Justice Alliance is a collaborative and strategic effort aimed at fostering a justice system that is open, fair, and accountable to Nigerians.

Like millions of Nigerians, we are greatly concerned about the judgment of the Court of Appeal in Appeal Number: **CA/KN/EP/GOV/KAN/34/2023**: between **YUSUF ABBA KABIR v. ALL PROGRESSIVES CONGRESS & ORS** delivered on the 17th day of November, 2023 by their Lordships: **HONOURABLE MOORE ASEIMO ABRAHAM ADUMEIN, BITRUS GYARAZAMA SANGA AND LATEEF ADEBAYO GANIYU, JJCA**. The portion of their Lordships' lead judgment which portends great danger for the political stability of Kano State unless your Lordship steps in and immediately cause an investigation into the surrounding circumstances is contained at page 67 of the judgment and reads as follows:

"I will conclude by stating that the live issues in this appeal are hereby resolved in favour of the 1st Respondent and against the Appellant.

In the circumstances, I resolve all the issues in favour of the Appellant and against the 1st Respondent.

Therefore, I find no merit in this appeal which is liable to be and is hereby dismissed.

The judgment of the tribunal in Petition No.: **EPT/KN/GOV/01/2023** between: **ALL PROGRESSIVES CONGRESS (APC) v. NATIONAL ELECTORAL COMMISSION & 2 ORS** delivered on the 20th day of September, 2023 is hereby set aside.

The sum of ₦1,000,000.00 (one million naira only) is hereby awarded as costs in favour of the Appellant and against the 1st Respondent."

My Lord, if there is ever a term like “judicial summersault” in the dictionary of the Nigerian Judiciary, then the above holding of the learned Justices of the Court of Appeal, with respect, aptly exemplifies the same. Your Lordship would note from the quoted judgment of the learned Justices that whereas the first sentence has purported to resolve the live issues in the appeal in favour of the 1st Respondent and against the Appellant, the second sentence strangely purports to “...resolve all the issues in favour of the Appellant and against the 1st Respondent.”

As if the above inconsistency was not enough, your Lordship would note further from the third sentence of the quoted judgment that whereas the learned Justices had purportedly found no merit in the appeal brought by the Appellant and had therefore, dismissed same which in effect means that the judgment of the Election Petition Tribunal was upheld, the same Justices in the fourth and fifth sentences of the quoted paragraph of their judgment have strangely set aside “the judgment of the tribunal in Petition No.: **EPT/KN/GOV/01/2023 between: ALL PROGRESSIVES CONGRESS (APC) v. NATIONAL ELECTORAL COMMISSION & 2 ORS** delivered on the 20th day of September, 2023...” and even awarded “the sum of ₦1,000,000.00 (one million naira only)...as costs in favour of the Appellant and against the 1st Respondent.”

Respectfully sir, the questions that beg for answers are:

- a. Against and/or in favour of which of the parties did the learned Justices of the Court of Appeal resolved the issues adopted for the resolution of the appeal?
- b. If the learned Justices have dismissed the appeal for lacking in merit as purported by them in the third sentence, why did they at the same time set aside the judgment of the Tribunal and even awarded cost in favour of the Appellant and against the 1st Respondent?
- c. If the Appellant’s election was nullified *inter alia* for non-qualification, why did the learned Justices fail to “...declare the person with the second highest number of valid votes cast at the election who satisfies the requirements of the Constitution and this Act as duly elected” and therefore direct the Independent National Electoral Commission to withdraw the Certificate of Return issued to the Appellant and to issue a new Certificate of Return to the candidate of the 1st Respondent in line with Section 136(2) of the Electoral Act, 2022?

The contentious judgment of the learned Justices of the Court of Appeal, with respect, has sparked grave tension in Kano State such that but for the timely intervention of the security agencies, the situation would have degenerated into a breakdown of law and order. In this regard, [thisdaylive.com](https://www.thisdaylive.com)¹ has reported on 23rd November, 2023 that:

“News of the contentious document sparked tension in the city, with the security forces moving in quickly to disperse youths,

¹ <https://www.thisdaylive.com/index.php/2023/11/23/mere-errors-blight-appeal-court-judgment-in-kano-create-crisis-of-judicial-confidence>

who wanted to stage a protest against the appeal court judgement.

New Nigeria Peoples Party (NNPP), Yusuf's party, which also contested the rulings of the Kano Election Petition Tribunal and the Court of Appeal, urged the National Judicial Council (NJC) to review the verdicts. It alleged that the appeal court judgement was doctored in favour of the All Progressives Congress (APC).

...

Many supporters of the Appellant and some lawyers alleged that the judgment was in favour of Yusuf before it was manipulated to favour the APC candidate. They alleged that what the justices read in court was different from what was contained in the CTC, and insisted that the CTC, being a written document, was the original judgment."

We submit that the conduct of the learned Justices has not only put a strain in the already wane confidence that the masses have in the Judiciary but has brought disrepute and opprobrium to the Nigeria Judiciary and therefore, constitute a gross violation of the Revised Judicial Code of Conduct for Judicial Officers of the Federal Republic of Nigeria 2016.

It is trite law that a violation of any of the Rules contained in the Code of Conduct shall constitute judicial misconduct and or, misbehavior and shall attract disciplinary action.² The preamble to the Code reads as follows:

- An independent, strong, respected and respectable judiciary is indispensable for the impartial administration of Justice in a democratic State.
- It is the duty of every Judicial Officer to actively participate in establishing, maintaining, enforcing, and himself observing a high standard of conduct that will ensure and preserve transparently, the integrity and respect for the independence of the Judiciary.

For the avoidance of doubt my Lord, rule 2 of the Code has clarified that "the Preamble to this code shall be construed as an integral part of the Code and its provisions shall be as enforceable as the provision of the specific rules in the Code."

Your Lordship, a certain level of due diligence is expected from judges and much more is expected from Justices of the Court Appeal. The conduct of the aforementioned Justices has fallen below the required threshold.

In the light of the foregoing therefore, we humbly urge your Lordship to cause an immediate investigation into the circumstances surrounding the judgment of the learned

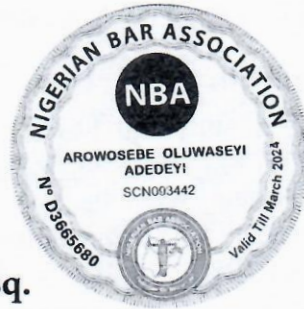
² See paragraph 2 on Application of the Code

Justices concerned and to discipline the Justices in accordance with law if found culpable. The statements made by Honourable BITRUS GYARAZAMA SANGA AND LATEEF ADEBAYO GANIYU, JJCA in their contributory judgments accepting the reasoning of the lead judgement and consequential orders thereof, which they had not read makes an immediate investigation by your Lordship necessary. We strongly believe that the subsequent explanation by the Chief Registrar of the Court to wit: that the inconsistencies observed in the judgment was a mere clerical error, is an afterthought and an attempt to mislead the public.

We are grateful for your Lordship's time even as we look forward to your Lordship's prompt action in this regard.

Yours faithfully,

✓ Oluwaseyi Arowosebe, Esq.



For: Nelson Olanipekun, Esq.
On behalf of the coalition.