

**IN THE FEDERAL HIGH COURT OF NIGERIA**  
**IN THE ABUJA JUDICIAL DIVISION**

**HOLDEN AT ABUJA**

**ON FRIDAY, THE 2<sup>ND</sup> DAY OF DECEMBER, 2016**

**BEFORE HIS LORDSHIP, THE HON. JUSTICE G.O. KOLAWOLE**  
**JUDGE**

**SUIT NO. FHC/ABJ/CS/281/2016**

IN THE MATTER OF AN APPLICATION BY SHEIKH IBRAHEEM ZAKZAKY FOR THE ENFORCEMENT OF HIS FUNDAMENTAL RIGHTS TO LIFE, PERSONAL LIBERTY, DIGNITY OF THE HUMAN PERSON, RIGHT TO PRIVATE AND FAMILY LIFE AND PRIVATE PROPERTY.

IN THE MATTER OF AN APPLICATION BROUGHT PURSUANT TO SECTIONS 33, 34, 35, 36, 37, 40, 41 AND 46(1) & (2) OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA, 1999 (AS AMENDED) AND ARTICLES 4, 5, 6, 11 AND 12(1) OF THE AFRICAN CHARTER ON HUMAN AND PEOPLES RIGHTS (RATIFICATION AND ENFORCEMENT) ACT LFN 2010 AND ORDER 11, ORDER XI AND XII OF THE FUNDAMENTAL RIGHTS (ENFORCEMENT PROCEDURE) RULES, 2009.

**BETWEEN:**

SHEIKH IBRAHEEM EL ZAKZAKY ..... APPLICANT

**AND**

1. STATE SECURITY SERVICE
  2. NIGERIA POLICE FORCE
  3. ATTORNEY GENERAL OF THE FEDERATION
- } RESPONDENTS

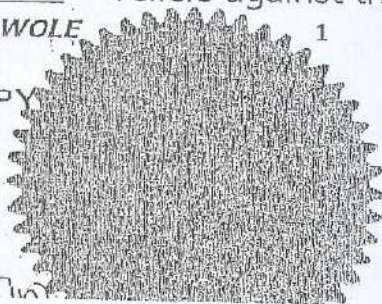
**ENROLLMENT OF JUDGMENT ORDER**

UPON THIS SUIT instituted by way of Originating Motion on Notice dated 21/4/16 wherein the Applicant seeks the following reliefs against the Respondents:

JUSTICE G.O. KOLAWOLE  
(RESIDING JUDGE)

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ABUJA  
CASHIER'S OFFICE

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Date: 18/11/16

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1. **A DECLARATION** that the detention of the Applicant at Abuja by the Respondents since the 14<sup>th</sup> day of December 2015 is illegal and unconstitutional as it violates his fundamental rights to personal liberty, dignity of person and fair hearing as enshrined in Sections 34, 35 and 36 of the **Constitution of the Federal Republic of Nigeria, 1999 (as amended)** and Articles 5, 6 and 7 of the **African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act (CAP A10) Laws of the Federation of Nigeria, 2004.**
  
2. **A DECLARATION** that the detention of the Applicant at Abuja by the Respondents without access to his medical doctors since December 14, 2015 till date is illegal and unconstitutional as it violates his fundamental rights to health and association as enshrined in Article 16 of the **African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act (CAP A10) Laws of the Federation of Nigeria, 2004.**
  
3. **A DECLARATION** that the detention of the Applicant at Abuja by the Respondents without access to his family friends since the 14<sup>th</sup> day of December

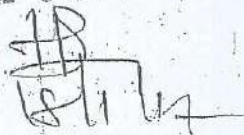
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2015 till date is illegal and unconstitutional as it violates his fundamental rights to freedom of association as enshrined in Section 40 of the **Constitution of the Federal Republic of Nigeria, 1999 (as amended)** and Article 11 of the **African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act (CAP A10) Laws of the Federation of Nigeria, 2004.**

4. **A DECLARATION** that the detention of the Applicant at Abuja since the 14<sup>th</sup> day of December, 2015 by the Respondents without access to his family members and friends is illegal and unconstitutional as it has violated his fundamental rights to freedom of movement guaranteed by Section 41 of the Constitution and Article 12 of the **African Charter on Human and Peoples' Rights.**
5. **AN ORDER** of this Honourable Court directing the immediate and unconditional release of the Applicant from the custody of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents.
6. **AN ORDER** of this Honourable Court restraining the Respondents from further violating the Applicant's fundamental rights in any manner whatsoever and howsoever without lawful justification.

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7. ~~AN ORDER~~ of this Honourable Court compelling the Respondents jointly and severally to pay to the Applicant the sum of N2,000,000,000.00 (Two Billion Naira) as general and aggravated damages for the illegal violation of his fundamental rights to life, dignity of his person, fair hearing, health, freedom of movement and freedom of association.

**PARTIES** are absent.

FEMI FALANA, ESQ. SAN with him are FESTUS OKOYE, ESQ.; M. INUWA, ESQ.; H. MAGASHI, ESQ.; AMAH KALU, ESQ.; M.K. ABDULLAHI, ESQ.; S. OGALA, ESQ. and A. MARSHALL, ESQ. for the **APPLICANT**.

T.A. GAZALI, ESQ. with him are ENOCH SIMON, ESQ.; I. EKWRE-BELLIO, MRS.; MS. O.A. OLORUNTOGBE; MRS. N.G. EMENIKE and MS. JANTUWA SAWA for the **RESPONDENTS**.

**AND THE COURT** having delivered its Judgment.

**IT IS HEREBY ORDERED AS FOLLOWS:**

1. That Judgment is entered in favour of the Applicant and his wife in respect to reliefs 1, 2, 3 and 4 in the "Originating Motion on Notice" dated 21/4/2016.

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2. That in relation to relief 5, which automatically follow the success of reliefs 1, 2, 3 and 4, the 1<sup>st</sup> Respondent actively working in conjunction with the 3<sup>rd</sup> Respondent in its capacity as the Legal Representative of the Federal Government of Nigeria and being the Chief Law Officer of the Federation (see Section 150(1) of the **Constitution of the Federal Republic of Nigeria, 1999 As Amended**) shall within 45 days of this Judgment, make proper and decent arrangement of a residential abode for the Applicant and his family in Kaduna State or anywhere of their choice within the Northern Region, where the Applicant and his wife with their children can relocate when released, upon the expiration of 45 days from today.
3. That the Applicant and his wife shall be released within 45 days from today from the 1<sup>st</sup> Respondent's custody, and shall be handed over to the 2<sup>nd</sup> Respondent who shall in turn, take the Applicant and his wife to the accommodation which the 3<sup>rd</sup> Respondent is directed to provide pending when the Applicant is able to sort himself out with the case I was told, that he has filed in the High Court of Kaduna State against the Nigerian Army, whose soldiers allegedly destroyed his residence in the manner after the version

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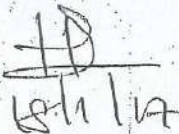
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of what happened some 39 years ago, against the family of the Late Mr. Fela Anikulapo-Kuti in Lagos State.

4. That failure (whether by deliberate action or inadvertence) of the 1<sup>st</sup> and 3<sup>rd</sup> Respondents to effect the release of the Applicant herein and his wife from the 1<sup>st</sup> Respondent's custody or any illegal custody whatsoever, upon the expiration of the 45<sup>th</sup> day from today, such failure shall not only *constitute a deliberate acts of disobedience of these orders*, but it will *crystallize into fresh cause of action of infraction* of the Applicant's rights and of his wife to *personal liberty guaranteed* by the **CFRN, 1999 As Amended**.
5. That in terms of relief 6, the Court cannot grant a *blanket and prospective order of injunction* in favour of the Applicant for the future and the said relief is only granted to the extent that the Respondents shall not take steps that will amount to a violation of the Applicant's right as *guaranteed* by the **Constitution** except in accordance with the *recognized constitutional exceptions as prescribed*.
6. That in relation to relief 7, it is the Court's decision, based on the direction already given to the 1<sup>st</sup> and 3<sup>rd</sup>

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Respondents who shall cause the Applicant to be released unconditionally within 45 days from today, in order to make arrangement for the Applicant to have a place where he can live with his family within Kaduna State or any State in the Northern Region within the said period of 45 days, it is my view that an award of Twenty-five Million Naira (N25,000,000.00) should be adequate to *assuage* the deprivations which the Applicant and his wife have been put to by the *acts* of the 1<sup>st</sup> and 3<sup>rd</sup> Respondents who have held them contrary to the provision of the **Constitution** and the **African Charter on Peoples and Human Rights**.

7. That by this award, there is no case made against the 2<sup>nd</sup> Respondent and it is not concerned or affected by the reliefs granted in favour of the Applicant and his wife, including the award of "*general*" damages.
8. That in fixing this amount as "*general damages*", I take into consideration, the current rate of exchange of our local currency, the Naira against the internationally convertible currencies, e.g. the U.S. Dollars


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9. That further to relief 5 which I have granted in the manner as modified for the release of the Applicant and his wife from the 1<sup>st</sup> Respondent's custody within a period of 45 days from today, the 1<sup>st</sup> and 3<sup>rd</sup> Respondents, shall in execution of the said order, release the Applicant and his wife to the 2<sup>nd</sup> Respondent's Inspector General of Police.
10. That the Inspector General of Police or any of its subordinate officers not below the rank of Assistant Inspector General (AIG) when he received the Applicant and his wife as ordered herein, shall take immediate step within 24 hours of receiving the Applicant and his wife, from the 1<sup>st</sup> and 3<sup>rd</sup> Respondents, and convey the Applicant and his wife under security escort to their place of abode as would have been provided by the 1<sup>st</sup> Respondent working in conjunction with the 3<sup>rd</sup> Respondent.
11. That the 2<sup>nd</sup> Respondent shall then provide the Applicant and his wife, adequate Police protection which shall operate 24/7 until the alleged threats which were not proved by any *admissible evidence*, but left in the *realm of speculation*, are *removed or significantly diminished*.

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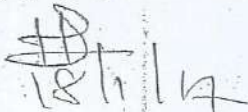
  
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12. That the protection which the 2<sup>nd</sup> Respondent shall accord to the Applicant and his wife, shall not be used under any guise by the 2<sup>nd</sup> Respondent, to place or confine the Applicant and his wife under any form of restriction which would invariably translate to the 2<sup>nd</sup> Respondent substituting its own "*safe custody*" with the 1<sup>st</sup> Respondent's "*protective custody*".
13. That the essence of the order which I have made, is to enable the Applicant and his wife to be able to live their normal lives whilst being *under constant protective watch* by the 2<sup>nd</sup> Respondent's officers in their new place of abode as it is the primary responsibility of the 2<sup>nd</sup> Respondent as a body created pursuant to Section 214(1) of the **CFRN, 1999 As Amended** to *protect lives and properties of every Nigerian and even non Nigerian within our country's boundaries.*
14. That this shall be the Judgment of this Court and the Judgment shall apply *mutatis mutandis* to the suit in FHC/ABJ/CS/282/2016: MALLAMA ZEENAH IBRAHEEM v. S.S.S. & 2 ORS. the facts of which are similar.
15. That the award of N25 million which I have awarded in favour of the Applicant,

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shall avail and apply to the Applicant's wife who instituted the said suit.


16. That the Applicant in the said suit, who is the wife of the Applicant in the instant suit, is granted the same reliefs as the Applicant was granted in the instant suit including the *award of general damages* which is fixed for her at N25 million as was awarded in favour of the Applicant in this suit.
17. That both the Applicant and his wife in the said sister suit, have "*cumulative general damages*" which I have fixed at N50 million.
18. That this shall be the Judgment of this Court which was reserved on 5/10/16 after the arguments of both Counsel were heard till 25/11/16, but which I deferred till today in the expectation that the suits may be *amicably settled*.
19. That the Applicant's suit and the wife's sister suit succeed on the basis of the reliefs which the Court has granted.

  
**ISSUED AT ABUJA** under the Seal of the Court and the Hand of the Presiding Judge, this 2<sup>nd</sup> day of December, 2016.

  
**LINDA S. KALU**  
**REGISTRAR**

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