

IN THE SUPREME COURT OF NIGERIA
HOLDEN AT ABUJA
ON THURSDAY, THE 26TH DAY OF OCTOBER, 2023
BEFORE THEIR LORDSHIPS: -

JOHN INYANG OKORO
UWANI MUSA ABBA AJI
MOHAMMED LAWAL GARBA
IBRAHIM MOHAMMED MUSA SAULAWA
ADAMU JAURO
TIJJANI ABUBAKAR
EMMANUEL AKOMAYE AGIM

JUSTICE, SUPREME COURT
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SC/CV/937/2023

BETWEEN: -

1. MR PETER GREGORY OBI === APPELLANTS
2. LABOUR PARTY

AND

1. INDEPENDENT NATIONAL ELECTORAL
 COMMISSION === RESPONDENTS
2. SENATOR BOLA AHMED TINUBU
3. SENATOR SHETTIMA KASHIM
4. ALL PROGRESSIVES CONGRESS

JUDGMENT

(DELIVERED BY ADAMU JAURO, JSC)

I had the advantage of reading a draft copy of the judgment just delivered by my learned brother, John Inyang Okoro, JSC. I

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REGISTRAR
SUPREME COURT OF NIGERIA

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John Inyang Okoro
6/12/2023

entirely agree with the reasoning and conclusion contained therein, that the appeal is devoid of merit and ought to be dismissed. I also agree that issues 1, 2, 3, 5, 6 and 7 formulated in this appeal have been resolved in appeal No. **SC/CV/935/2023 between: ABUBAKAR ATIKU & ANOR V. INDEPENDENT NATIONAL ELECTORAL COMMISSION (INEC) & 2 ORS**, earlier delivered this morning. The issues shall abide the outcome of the said appeal. For the sake of emphasis, I wish to add this short contribution.

This appeal is against the judgment of the Court of Appeal delivered on 6th September, 2023 which dismissed the Appellants' Petition and affirmed the 1st Respondent's declaration of the 2nd Respondent as the winner of the Presidential election conducted on 25th February, 2023 and the duly elected President of the Federal Republic of Nigeria. The election was contested by 18 candidates sponsored by their respective political parties. As per the results declared by INEC, the 2nd Respondent sponsored by the 4th Respondent won the election by polling 8,794,726 votes; Peoples Democratic Party (PDP) and its candidate, Alhaji Atiku Abubakar came second with 6,984,520 votes; while the Appellants finished third with 6,101,533 votes. The Appellants were displeased by the outcome of the election, hence they filed a Petition challenging same before the lower court.

After hearing the witnesses called by parties to the Petition and considering the addresses of their respective counsel, the lower court dismissed the Petition. The Appellants were miffed with the judgment of the lower court and they therefore instituted the instant appeal via a Notice of Appeal predicated on 51 grounds.

One of the complaints of the Appellants in this appeal, is against the decision of the lower court to the effect that the 2nd Respondent was qualified to contest the election. Their complaint against the qualification of the 2nd Respondent in the Petition had two limbs. Firstly, it was contended that the 2nd Respondent was not qualified to contest, having been "fined" the sum of \$460,000 for an offence involving dishonesty, that is trafficking in narcotics. Secondly, they argued that 3rd Respondent was caught by double/multiple nomination contrary to Section 35 of the Electoral Act, 2022, which soiled the joint ticket on which the 2nd and 3rd Respondents contested the election.

On the issue of the alleged fine of \$460,000.00 supposedly imposed on the Appellant by a court in the United States of America, the Appellants relied on Section 137(1)(d) of the Constitution of the Federal Republic of Nigeria, 1999 (as altered) which provides thus:

"(1) A person shall not be qualified for election to the office of President if –

(d) he is under a sentence of death imposed by any competent court of law or tribunal in Nigeria or a sentence of imprisonment or fine for any offence involving dishonesty or fraud (by whatever name called) or for any other offence, imposed on him by any court or tribunal or substituted by a competent authority for any other sentence imposed on him by such a court or tribunal."

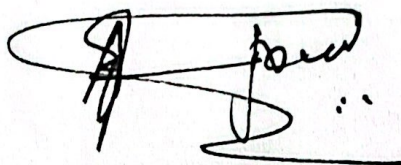
There is no gainsaying that the above provision will only serve to disqualify a person on whom a sentence of fine was imposed after conviction resulting from a criminal trial. The Appellants themselves agree that the case referred to by them only involved a civil forfeiture, without an arraignment or trial. Furthermore, the Appellants have not been able to show that the forfeiture or "fine" as they put it, was a criminal sentence.

From the foregoing, it is clear to all that the disqualifying provision of Section 137(1)(d) of the Constitution cannot apply to disqualify the 2nd Respondent.

On the alleged double nomination of the 3rd Respondent, all I have to say is that the issue has been fully, effectively and finally resolved and laid to rest in the decision of this court now

reported as **PDP V. INEC & ORS (2023) LPELR – 60457 (SC)**. It is not open to this court to reconsider same.

Consequent upon the foregoing and the reasons contained in the lead judgment, which I am fully in agreement with and adopt as mine, the appeal is hereby dismissed by me. I affirm the judgment of the lower court and abide by all consequential orders made in the lead judgment.



ADAMU JAURO
JUSTICE, SUPREME COURT

APPEARANCES:

DR LIVY UZOUKWU, SAN; CHIEF AWA KALU, SAN; MR ALEX EJESIEME, SAN, for the Appellants; with them, CHIKE OBI, ESQ.

MR A.B. MAHMOUD, SAN; MRS MIANNAYA ESSIEN, SAN; SIR STEPHEN ADEHI, SAN, for the 1st Respondent; with them, MUSA A. ATTAH, ESQ and CHUKWUDI ENEBELI, ESQ.

CHIEF WOLE OLANIPEKUN, SAN; YUSUF ALI, SAN; EMMANUEL UKALA, SAN; PROF. TAIWO OSIPITAN, SAN, for the 2nd and 3rd Respondents; with them, AKINTOLA MAKINDE, ESQ.

CHIEF AKIN OLUJIMI, SAN; CHIEF CHARLES UWENSUYI-EDOSOMWAN, SAN; CHIEF ADENIYI AKINTOLA, SAN; CHIEF

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AFOLABI FASHANU, for the 4th Respondent; with them,
OLUMIDE OLUJINMI, ESQ.

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Laenal Muhammad Garba
6/12/2023