

IN THE CHIEF MAGISTRATE COURT I GUIWA SOKOTO  
IN THE GUIWA MAGISTERIAL DISTRICT

HOLDEN AT GUIWA

ON THE 30<sup>TH</sup> DAY OF JANUARY, 2023

BEFORE HIS WORSHIP:

**SHUAIBU AHMAD ESQ. – CHIEF MAGISTRATE I**

CASE NO: CMC/GUI/8<sup>C</sup>/2022

BETWEEN:

COMMISISONER OF POLICE-----COMPLAINANT

AND

1. BILYAMINU ALIYU

2. AMINU HUKUNCHI-----DEFENDANTS

M.B. Abdallah Esq. for the defendants.


Prosecution absent.

M.B. Abdallah Esq: The defendants are present in court speaks Hausa language.

Court: Mukhtar Bala Bodinga affirm to interpret the court proceedings from English to Hausa and vice versa.

M.B. Abdallah Esq: The defendants are standing trial for the alleged offences of *Criminal Conspiracy and Inciting Public Disturbance* contrary to S. 60(2) and 78 of the SSPC 2019. The case was slated to today for hearing. Unfortunately, the prosecutor or the prosecution Insp. Khalid Musa is conspicuously absent. We want to know from the court whether he has forwarded any reasons for his absence.

Registrar: The prosecution did not send any correspondence or any reason to the court to explain why he is absent. And he is duly aware of today's date.

  
CERTIFIED TRUE COPY  
MUKHTAR BALA BODINGA  
SNR. REGISTRAR  
DATE 27-01-23

M.B. Abdallah Esq: On the 29/12/2022 last year this case was adjourn to today 30/1/2023 for hearing due to the absence of the prosecution without any reason. Today also the prosecution are absent without any reason.

In the circumstances, we wish to apply to this court to strike out this case and discharged the defendants as provided under the S. 350(1) of the ACJL of Sokoto State 2019 which deals with situations of none appearance of the complainant during trial.

Since the arraignment of the defendants in May 2022 last year. There was never a time the defendants failed to come to the court for their trial. But on the contrary the prosecution are always absent. And where they are present they are always not serious in prosecuting this case. So we urged the court to strike out this case and discharged the defendants in the interest of justice and in accordance with the law.

Court:

RULING:-

On the F.I.R CMC/GUI/8<sup>C</sup>/2022. The two defendants were arraigned before this court on the 16/5/2022 with the alleged offence of *Criminal Conspiracy and Inciting Public Disturbance* contrary to S. 60(2) and 78 of the SSPC 2019.

On the 20/10/2022 this case started denovo due to the transfer and change of the former Chief Magistrate Fatima Hassan. And when the F.I.R was re-read and re-explained to each of the defendant. Each of the defendants denied the contents of the F.I.R as untrue.

The prosecution then told and informed this court that the investigations into the case has been completed and they are ready for the hearing of the case. The case was adjourned to 3/11/2022 for hearing.

On the 3/11/2022 the case came up for hearing. The defendants were present and the prosecution were also present. The prosecution applied for the case to be adjourn to another date because they were not able to serve their witnesses in this case. Without any objection from the Defence Counsel the matter was adjourn to 10/11/2022 for hearing.

On the 28/11/2022 the case came up for hearing. The defendants were present in the court. But due to the absence of the prosecution, the case was adjourn to 8/12/2022 for hearing.

On the 8/12/2022, the prosecution were also not in court for the hearing of this case. So the case was adjourn to 29/12/2022 for hearing.

On the 29/12/2022 the defendants were present in court. But due to the absence of the prosecution the case could not go on. Learned Counsel to the defendants Mr. M.B. Abdallah Esq. applied for the case to be struck out under S. 350(1) of ACJL of Sokoto State 2019 due to the absence of the prosecution.

But this court refuse the application and adjourn this case to today 30/1/2023 for hearing at the instance of the prosecution.

Today 30/1/2023, the defendants and their counsel are present in court. But the prosecution is absent, he is absent without any genuine reason. Due to the absence of the prosecution, Learned Counsel to the defendants applied that this case be struck out.

From the conducts of the prosecution in this case, it seems to be very clear to this court that the prosecutions have no any evidence against the defendants and/or are no longer interested in seriously prosecuting this case.


By virtue of S. 350(1) of the ACJL of Sokoto State 2019. In the absence of the complainant (the Police in this case). This case can be struck out.

It is also trite law that a defendant is presume innocent until the contrary is proved. See S. 36(5) of Constitution of the Federal Republic of Nigeria 1999 as amended.

It is also trite law that justice delayed is justice denied. And swift justice is the sweetest. (Francis Bacon L.C).

In the light of the above, it would be unjust to further adjourn this case at the instance of the prosecution. when they have been given several adjournments to call their witnesses but could not call any.

In the interest of justice and in accordance with the law, I hereby grant the application of the Learned Counsel to defendants to strike out this case for lack of evidence and lack of diligent prosecution.

  
CERTIFIED TRUE COPY  
MUKHTAR BALABODINGA  
SNR. REGISTRAR  
DATE 20/01/23

Accordingly case No CMC/GUI/8<sup>c</sup>/2022  
COMMISSIONER OF POLICE VS BILYAMINU  
ALIYU & 1 OR is hereby struck out. And the  
defendants are hereby discharged.

DEFENDANTS DISCHARGED.

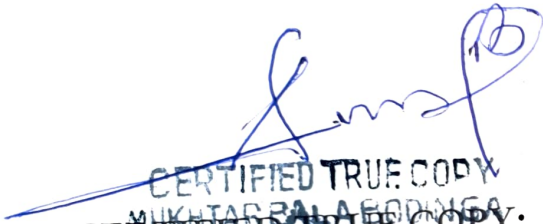
RIGHT OF APPEAL

There is right of Appeal to High Court of Justice Sokoto within  
30 days from today.



Signed

SHUAIBU AHMAD ESQ.  
CHIEF MAGISTRATE I  
30/01/2023



CERTIFIED TRUE COPY  
MUKHTAR BALA BODINGA  
CERTIFIED TRUE COPY:  
SNR REGISTRAR  
DATE 22-02-23

MUKHTAR BALA BODINGA  
SENIOR REGISTRAR,  
CHIEF MAGISTRATE COURT I,  
GUIWA SOKOTO,  
SOKOTO STATE.