

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

SUIT NO: FHC/ABJ/06/15

BETWEEN:

SOCIETY FOR ADVANCEMENT &  
PROTECTION OF PUBLIC RIGHTS

} PLAINTIFF

AND

1. INDEPENDENT NATIONAL ELECTORAL COMMISSION

2. THE ATTORNEY GENERAL OF THE FEDERATION

} DEFENDANTS

2<sup>ND</sup> DEFENDANT'S COUNTER AFFIDAVIT AGAINST THE ORIGINATING SUMMONS

I, Lawrence Illop, Male, Christian, Adult, Nigerian Civil Servant of the Civil Litigation Department, 5<sup>th</sup> floor, Federal Ministry of Justice, Abuja, do hereby make oath and state as follows that:

1. I am the litigation Officer in the Civil Litigation Department of the Federal Ministry of Justice and by virtue of my position; I am conversant with the facts of this case.

2. I have the consent and authority of the Honourable Attorney-General of the Federation (2<sup>nd</sup> Defendant / Applicant) to depose to this Affidavit.

3. That the facts deposed to herein are within my personal knowledge except as otherwise stated.

4. That N. S. Odusola, counsel handling this matter informed me in our office on the 10<sup>th</sup> day of February, 2015 around 11am during the normal working hours of the following facts and I verily believe him as follows that:

a) That the present suit is important in determining the success or otherwise of the forthcoming elections.

b) That by the Constitution of the Federal Republic of Nigeria, the only condition for eligibility to vote is if one has attained the age of 18 years.

c) That the 1<sup>st</sup> Defendant has agreed and admitted the non-distribution of Permanent Voters' Card all over the country which could lead to disenfranchisement of eligible voters.

d) That if the election is conducted majorly with the use of Permanent Voters' Card, the constitutional right of many eligible voters would be taken away from them.

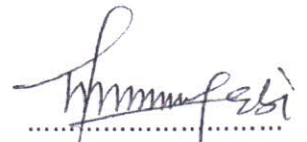
e) That INEC as a result of non-effective distribution of Voters' Card has extended time for collection of Voters' Card till 8<sup>th</sup> March, 2015.

f) That the 2<sup>nd</sup> Defendant is only interested in the success of the election which is likely to be unsuccessful if rigid use of the Permanent Voters' Card is carried out.

g) That the 2<sup>nd</sup> Defendant is only interested in the constitutional right of eligible voters not being deprived from them.

h) That I know as a fact that it will be in the interest of free, fair, peaceful and credible elections if all willing and eligible Nigerians are given opportunity to exercise their constitutional right to vote at the 2015 elections.

5. That I depose to this Affidavit solemnly and conscientiously believing same to be true, correct and in accordance with the Oaths Act, 2004.

  
.....  
Deponent

SWORN TO AT THE FEDERAL HIGH COURT REGISTRY, ABUJA

This 23<sup>rd</sup> day of FEBRUARY, 2015.

~~BEFORE ME  
COMMISSIONER FOR OATHS  
FEDERAL HIGH COURT  
ABUJA  
COMMISSIONER FOR OATHS~~

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} **DEFENDANTS**

**WRITTEN ADDRESS IN SUPPORT OF COUNTER AFFIDAVIT**

1.00 This Application is in support of the 5 paragraph Counter – Affidavit deposed to by the litigation clerk in the office of the 2<sup>nd</sup> Defendant. The Application urges your Lordship to answer the questions posed by the Plaintiff in favour of the 2<sup>nd</sup> Defendant.

1.03 My Lord, we most humbly place reliance on all the averments in the Counter-Affidavit and this written address in urging this Honourable court to grant this Application.

**2.00 ISSUES FOR DETERMINATION**

**Whether this is a proper application to be granted by this Honourable Court?**

**3.00 ARGUMENT ON THE ISSUE**

3.01 My Lord, on this sole issue we submit that the court has inherent jurisdiction to determine the real question in controversy between the parties as long as the Application is made bona fide.

3.02 We submit that INEC has no power whatsoever to deprive anybody from voting in so far as such person is over 18 years of age and is eligible to vote. The law is that anybody is eligible to vote so long as he or she is 18 years and above and any clog or inhibition seeking to deprive him of this right is null and void.

3.03 We submit that INEC has a duty to obey the law has been laid to rest in the case of A-G PLATEAU STATE (2012 10 NWLR (PT. 1309) 419 @ 489 PARA C.

3.03 We submit that an innovation purportedly devised by INEC to regulate the elections must not be done in a way to deprive eligible voters from exercising their franchise within the provisions of the law. The use of the Temporary Voters' Card (TVC) or Permanent Voters' Card (PVC) for purposes of the election must be done within the provisions of the law by allowing

eligible voters to vote. See sections 77 and 117 of the 1999 Constitution of the Federal Republic Nigeria.

3.04 We submit that the use of Card Readers and / or any other machine at the general elections must encourage eligible voters to vote without being deprived in any way.

#### 4.00 CONCLUSION

4.01 We urge this Honourable Court to hold in favour of the 2<sup>nd</sup> Defendant prayers.

4.02 We are very much obliged My Lord.

Dated this 23<sup>rd</sup> day of Feb., 2015.



TAIWO ABIDOGUN, ESQ.

✓ N.S. ODUSOLA, ESQ.

2<sup>nd</sup> Defendant's Counsel

Civil Litigation Department,

Federal Ministry of Justice

Shehu Shagari Way, Abuja.

#### FOR SERVICE ON:

1. PLAINTIFF'S COUNSEL

EZE ANUMNU, ESQ.

(PLAINTIFF'S/APPLICANT'S COUNSEL)

JOINT HEIRS CHAMBERS

2, MAMBOLO STREET, WUSE ZONE 2, ABUJA

2. INDEPENDENT NATIONAL ELECTORAL COMMISSION,

ZAMBEZI STREET WUSE 2, ABUJA.