

Factual Background

On 11 April 2015, gubernatorial elections were held in Gombe State. The 4th Respondent, the Independent National Electoral Commission (“INEC”) having conducted the election, declared a landslide victory in favour of the Appellant. Consequently, the Appellant and 2nd Respondent were returned as the duly elected Governor and Deputy Governor respectively. Dissatisfied with the return, the 1st Respondent filed a Petition, challenging the result at the Gombe Governorship Election Tribunal.

The Appellant filed an application to strike out the Petition on the ground that the 1st Respondent’s counsel, Sam Kargbo Esq. who signed the Petition, is not permitted to practice law in Nigeria as his name does not appear on the Roll of Legal Practitioners and consequently, the court processes signed by Sam Kargbo were invalid. In reaction to the application, the 1st Respondent filed a counter affidavit, averring that Sam Kargbo is the same as Samuel Peter Kargbo, whose name appears on Roll of Legal Practitioners.

The Tribunal did not agree that both names are representative of the same person and ruled that “Sam Kargbo” cannot validly sign the Petition as the name is not recorded on the Roll of Legal Practitioners. The foregoing notwithstanding, the Tribunal held that the Petition remained competent for the fact that it also had the signature of the 1st Respondent (the Petitioner).

Subsequently, the Appellant and the 3rd Respondent filed similar applications urging the Tribunal to dismiss the Petition *in limine* on the ground that “Sam Kargbo,” who represented the Petitioner at the pre-hearing session was not a name on the Roll of Legal Practitioners and that in consequence, the proceedings at the pre-hearing session should be expunged and concurrently, the petition dismissed pursuant to paragraph 18(1) of the 1st Schedule to the Electoral Act for failure of the Petitioner to participate in the pre-hearing session. The Tribunal allowed both applications and dismissed the Petition.

Dissatisfied with this ruling, the 1st Respondent appealed the decision of the Tribunal. At the Court of Appeal, their lordships set aside the consolidated ruling of the Tribunal and remitted the Petition to the Tribunal for hearing. In resolving the issue, the Court of Appeal, Per Ogakwu JCA held instructively as follows: “*It seems to me that the issue of whether somebody who has announced appearance in court as a legal practitioner is indeed a legal practitioner, is whether in fact the person is a legal practitioner and not as simplistic as whether the name announced is as it appears on the Roll.*”

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In the same vein, his lordship, Ogunwumiju, JCA also held inter alia: *“Precedents are followed on the basis of facts and the law they interpreted. It is a restrictive and punitive interpretation of Section 2 of the Legal Practitioners Act to hold that the only person whose appearance can be countenanced by the court must be the same person who signed the processes and whose names appeared on the Roll as Samuel Peter Kargbo and that the contemplation of the Legal Practitioners Act is that counsel must only file processes and announce appearance only as exactly as their names appear on the Roll leaving no room for abbreviation of such same.”*

Dissatisfied by the Court of Appeal decision, the Appellant appealed to the Supreme Court.

Legal Practitioner preparing and signing court processes

The central issue in the appeal before the Supreme Court was whether a court process is invalidated if the legal practitioner prepared and signed it using an abbreviated version of his name, as opposed to using an alias other than his name as it appears on the Roll of Legal Practitioners.

The Appellant argued that to use “an alias” would invalidate the court process on the grounds that it constitutes a breach of Sections 2(1), 8(1) and 24 of the Legal Practitioners Act Cap. L11, LFN 2004 (“LPA”). The Appellant placed great reliance on the Supreme Court decision in **Nweke v Okafor** [2007] 10 NWLR (Pt. 1043) 521. The Appellant further contended that the LPA does not sustain the use an alias by a Legal Practitioner other than the name on the Roll except where there is reasonable cause to do so. The Appellant finally submitted that even if “Sam Kargbo” is a known lawyer, processes signed and proceedings conducted by him in that name would be invalid if “Sam Kargbo” is not a name on the Roll.

In response, the 1st Respondent urged the court to take judicial notice of the fact that it is common practice for legal practitioners to announce their appearance in court in their abbreviated names or use their initials. Further submission was made to the effect that: (x) a person called to the Bar, enrolled at the Supreme Court and having paid his practicing fees inures unhindered audience before all courts in Nigeria; (y) there were certain instances when it would be permissible for a person to practice in a name other than his name as it appears on the Roll; and (z) the 1st Respondent did not breach any of the provisions of the LPA by abbreviating his name (as Sam Kargbo is not an alias but an abbreviation of Samuel Peter Kargbo).

The Supreme Court agreed with the submissions of the 1st Respondent and held that the language in the LPA does not exclude legal practitioners from using an abbreviated version of their name. The apex Court, citing the dictionary definitions of “alias” and “abbreviation”, further held that the abbreviation of a name is not the same as an alias.

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Relying on the decision in **Ibrahim v Barde** [1996] 9 NWLR (Pt.474) 513 SC, the Court affirmed that the golden rule of interpretation of statutes is that where the words used in a statute are clear and unambiguous, they must be given their natural and ordinary meaning.

According to their lordships, the focus and intendment of Sections 2(1) and 24 of the LPA is to prevent any person not called to the Nigerian Bar from practicing law in any court in Nigeria. Relying on Section 7(1) LPA, the apex Court held that once a person enrolls at the Supreme Court as a legal practitioner and the person proceeds to use an abbreviated form of his name to sign processes and conduct proceedings, it would be stretching the literal interpretation of Section 2(1) LPA too far to hold that processes signed in the abbreviated name and proceedings conducted with such abbreviated name are invalid. In sum, the Supreme Court reiterated that only a person whose name is on the roll is entitled to practice as a barrister and solicitor before the courts in Nigeria.

The Supreme Court further distinguished the case of **Nweke v Okafor** [2007] 10 NWLR (Pt. 1043) 521, highlighting that the issue in question in that case as essentially relating to the validity of the legal process signed in the name of a firm; that a law firm is not a legal practitioner and therefore cannot practice as such by filing processes in Nigerian Courts. The Supreme Court further held that the Appellant failed to prove that the person who signed the processes and conducted proceedings as Sam Kargbo is not a legal practitioner, or that he is not the same person as Samuel Peter Kargbo that appears on the Roll. In light of the foregoing, the Supreme Court resolved the issue against the Appellant.

Conclusion

This decision of the Court of Appeal, as affirmed by the Supreme Court of Nigeria is of paramount importance; it is a welcome contribution in clarifying the position of the law with regard to whether lawyers are bound to use their names, as exactly stated in the Roll of Legal Practitioners, in the course of legal practice. Had the decision of the tribunal been upheld, it would have meant that: (x) all processes signed by legal practitioners, using the abbreviation of their names as stated on Roll would be incompetent as well as proceedings where a legal practitioner announces appearance in a court of law using abbreviation of their names as stated on the Roll; and (y) processes signed or proceedings where married women (who are legal practitioners and called to the Nigerian Bar using their maiden names) who have changed their names and adopted their marital names would be declared incompetent or set aside.

Borrowing the words of his lordship, Ogakwu JCA, while delivering his judgment at the Court of Appeal and cited in Hon. Justice Kekere-Ekun's judgment in the instant case:

"... May the day never come when a legal practitioner would be denied audience in court or the proceedings he conducted in court be set aside and expunged, not because he is not a legal practitioner but because he did not announce appearance in exactly the names in which he enrolled...verily may that day never come."

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