

IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA
ON FRIDAY THE 6TH DAY OF MARCH, 2026
BEFORE HIS LORDSHIP, THE HON. JUSTICE EMEKA NWITE
JUDGE

SUIT NO. FHC/ABJ/CS/1114/2025

BETWEEN:

MR. EDWARD UCHEKWO :::::::::::::::::::: APPLICANT

AND

1. NIGERIA POLICE FORCE

2. POLICE SERVICE COMMISSION :::::::::::::::::::: RESPONDENTS

JUDGMENT

This is a judgment on an Originating Motion dated 5th May, 2025 but filed on the 5th June, 2025, praying the court for the following:

1. A DECLARATION that the Applicant's brother (Mr. Andrew Ochekwo) had fundamental human rights that were violated by the Respondents and their officers.
2. A DECLARATION that the killing and death of the Applicant's brother (Mr. Andrew Ochekwo) while in the detention and custody of the 1st Respondent is illegal, unlawful, unconstitutional, and a gross violation of sections 33(1) of the 1999 Constitution of the Federal Republic of Nigeria.
3. A DECLARATION that the prolonged detention, unscheduled transfer from one place to another, demanding and obtaining monies of the Applicant's brother (Mr. Andrew Ochekwo) without access to his lawyers and family members was a torture, intimidation, harassment, inhuman and

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- degrading treatment and as such illegal, unlawful, unconstitutional, and a gross violation of sections 34(1)(a) of the 1999 Constitution of the Federal Republic of Nigeria and section 2(b)(vi) of the Anti-Torture Act.
4. A DECLARATION that the continued detention of the corpse of the Applicant's brother (Mr. Andrew Ochekwo) and refusal to release the corpse to the Applicant is a torture, intimidation, harassment, inhuman and degrading treatment against the Applicant and as such illegal, unlawful, unconstitutional, and a gross violation of sections 34(1)(a) of the 1999 Constitution of the Federal Republic of Nigeria and section 2(b)(vi), and (vii) of the Anti-Torture Act.
 5. A DECLARATION that the corpse of the Applicant's brother (Mr. Andrew Ochekwo) in the custody of the 1st Respondent deserves a befitting burial.
 6. A DECLARATION that the arrest and detention of the Applicant's brother (Mr. Andrew Ochekwo) without being brought before any court of law (an order of a court) from 7th May 2024 till he died in the custody of 1st Respondent is illegal, unlawful, unconstitutional, and a gross violation of section 35(4) and (5) of the 1999 Constitution of the Federal Republic of Nigeria.
 7. A DECLARATION that the media publicity by the officers of the 1st and 2nd Respondents and their officers concluding and inferring guilt of the Applicant's brother (Mr. Andrew Ochekwo) without being tried and found guilty of any crime by a court is illegal, unlawful, unconstitutional, and a gross violation of section 36 (1) and (5) of the 1999 Constitution of the Federal Republic of Nigeria.

8. A DECLARATION that the seizure of the mobile phones, and laptops as well as accessing the messages, emails, bank statements and bank account applications (apps) of the Applicant's brother (Mr. Andrew Ochekwo) by the officers of the 1st and 2nd Respondents without an order of a court is illegal, unlawful, unconstitutional, and a gross violation of section 37 of the 1999 Constitution of the Federal Republic of Nigeria.
9. An ORDER for the immediate release of the corpse of the Applicant's brother (Mr. Andrew Ochekwo) to the Applicant or his appointee at Umuahia, Abia State. And, the 1st Respondent to file an affidavit of compliance in this court, and serve a copy of the Applicant's Counsel afterwards.
10. An ORDER for the immediate release of the Applicant's brother's (Mr. Andrew Ochekwo) Nigerian Passport, British Passport, Cheque Books, a car (black Mercedes Benz Class E belonging to Mrs. Raymond Mercy Chikwere with registration number KUJ495DC), 3 Apple iPhones, 3 Apple iMac computers, and other properties seized by the 1st Respondent. And, the 1st Respondent to file an affidavit of compliance in this court, and serve a copy of the Applicant's Counsel afterwards.
11. An ORDER for the Respondents to individually write public apology letters in favour of the Applicant acknowledging the innocence of Applicant's brother (Mr. Andrew Ochekwo) and accepting responsibility for his death while in custody and to publish the apologies in four (4) newspapers with national spread (including Punch Newspaper and ThisDay Newspaper) within 24 hours of the judgment of this court. And, the Respondents to file an affidavit of compliance in this court, and serve a copy of the Applicant's Counsel afterwards.

12. An ORDER for the Respondents to individually write public apology letters in favour of the Applicant acknowledging the innocence of Applicant's brother (Mr. Andrew Ochekwo) and accepting responsibility for his death while in custody and to publish the apologies in three (3) bloggers that each have more than 10 million followers on YouTube, Instagram, Facebook, Twitter (x) and Tiktok within 24 hours of the judgment of this court. And, the Respondents to file an affidavit of compliance in this court, and serve a copy of the Applicant's Counsel afterwards, attaching copies of the publications.
13. AN ORDER of perpetual injunction restraining the 1st and 2nd Respondents and their officers, whether by themselves, agents, servants, privies through any person or persons (including the law enforcement agencies and agents) from arresting, detaining, harassing, and/or threatening the Applicant for maintaining this suit and seeking justice.
14. An ORDER for payment of compensatory damages of One Hundred and Seventy-Five Billion Naira (N175, 000, 000, 000.00) to the Applicant by the 1st and 2nd Respondents (jointly or severally) for the killing and death of the Applicant's brother (Mr. Andrew Ochekwo) while in the detention and custody of the 1st Respondent.
15. An ORDER for payment of compensatory damages of Six Hundred and Twenty Million Naira (N620, 000, 000.00) to the Applicant by the 1st and 2nd Respondents (jointly or severally) for the violation of the Applicant's brother's (Mr. Andrew Ochekwo) Right to dignity of human persons.
16. An ORDER for payment of compensatory damages of Two Hundred and Sixty-One Million Naira (N261, 000, 000.00) to the Applicant by the 1st

- and 2nd Respondents (jointly or severally) for the violation of the Applicant's brother's (Mr. Andrew Ochekwo) Right to Personal Liberty.
17. An ORDER for payment of compensatory damages of Five Hundred and Seventy-Three Million Naira (N573, 000, 000.00) to the Applicant by the 1st and 2nd Respondents (jointly or severally) for the violation of the Applicant's brother's (Mr. Andrew Ochekwo) Right to Fair Hearing.
18. An ORDER for payment of compensatory damages of Three Hundred and Forty-Four Million Naira (N344, 000, 000.00) to the Applicant by the 1st and 2nd Respondents (jointly or severally) for the violation of the Applicant's brother's (Mr. Andrew Ochekwo) Right to Private and Family Life.
19. An ORDER for payment of nominal damages of Twenty-Two Million Naira (N22, 000,000.00) to the Applicant by the 1st and 2nd Respondents (jointly or severally) for the community of the various human rights of the Applicant's brother's (Mr. Andrew Ochekwo) violated by the 1st and 2nd Respondents.
20. An ORDER for payment of exemplary (punitive) damages of One Hundred and Forty-Two Million Naira (N142, 000, 000.00) to the Applicant by the 1st and 2nd Respondents (jointly or severally) to deter the 1st and 2nd Respondents, as well as other law enforcement agencies in Nigeria.
21. AN ORDER for payment of the sum of Twenty-Five Million Naira (N25,000,000.00) to the Applicant by the 1st and 2nd Respondents (jointly or severally), being the legal fee (research, drafting, instituting and prosecuting) this action at the High Court.

22. AN ORDER for the payment of the sum of Thirty-Three Million Naira (N33,000,000.00) to the Applicant by the 1st and 2nd Respondents (jointly or severally) for transportation, mortuary, funeral and burial rites of the Applicant's brother (Mr. Andrew Ochekwo).
23. An ORDER for payment of general damages of Fifty-Six Million Naira (N56, 000, 000.00) to the Applicant by the 1st and 2nd Respondents (jointly or severally).
24. An interest of 40% of the total judgment sum per annum until the entire judgment sum is paid in full to the Applicant.
25. An ORDER for appropriate disciplinary measures to be taken by the 2nd Respondents against all officers involved in the violation of the fundamental human rights of the Applicant's brother's (Mr. Andrew Ochekwo). And, the Chairman of the 2nd Respondent to file an affidavit of compliance in this court and serve a copy of the Counsel to the Applicant.
26. AND for such FURTHER ORDERS, the Honorable Court may deem fit to make in the circumstances of this matter.

The application is supported by a Statement, a 32 paragraphs Affidavit deposed to by the Applicant himself and 48 paragraphs Affidavit of Mrs Raymond Mercy Chikwere with four exhibits and five exhibits respectively marked as Exhibits A1 to A9. There is a Written Address. Upon receipt of the 2nd Respondent's counter affidavit, the Applicant on 8th December, 2025 filed a 3 paragraphs Further Affidavit deposed to by one Mr. Julien Lolomari with a Reply on Points of Law.

Upon service of the Originating Motion of the Applicant, the 2nd Respondent on 19th September, 2025 filed 5 paragraphs Counter Affidavits deposed to by one Eyerengba Emmanuel with no exhibit. There is a Written Address.

The 1st Respondent did not enter appearance or file any court process in response to the Applicant's application despite service of the application.

The matter came up for hearing before this Honourable Court on the 12th December, 2025 wherein parties adopted their court processes.

I have carefully and painstakingly gone through the court process in this suit, the case of the Applicant is that his brother Mr. Andrew Ochekwo was a dual citizen of Nigeria and the United Kingdom and an experienced gas engineer who had operated his own company, Gasteam Limited, in England for over two decades before retiring to Abia State, Nigeria. On the night of 7th May, 2024, armed officers from the Nigeria Police Force besieged Mr. Ochekwo's residence in Abia State and arrested him in the presence of his cousin, Mrs. Raymond Mercy Chikwere, and her husband. Following a thorough search of the premises that yielded nothing incriminating, the officers seized several personal items, including his Nigerian and British passports, cheque books, three Apple iPhones, three Apple iMac computers, and a black Mercedes Benz Class E belonging to Mrs. Chikwere. Mr. Ochekwo was subsequently detained at the State Police Command in Umuahia for approximately 14 days without being granted bail or brought before a court of law, during which time he was kept in handcuffs and denied access to his lawyers and family members. While in detention, officers reportedly extorted over N600,000 from him under threat.

The situation escalated when officers began an unscheduled transfer of Mr. Ochekwo toward Abuja, moving him through various locations including Aba, Uyo, and Benue State. During this journey, Mr. Ochekwo made desperate calls to his family, pleading for more money to be paid to bank accounts provided by the officers to "spare his life" and cover the officers' hotel expenses. Out of fear for his safety, Mrs. Chikwere paid N1,500,000 in three tranches into a provided bank account belonging to a third party named Ugochukwu Oguobi. The last contact the family had with Mr. Ochekwo was on 26th May, 2024, while he was in Benue State. On 31st May, 2024, the police announced that Mr. Ochekwo had been killed by gunshots while in their custody, a fact later confirmed by an official police Instagram post on 10th June, 2024.

Mr. Ochekwo died as an innocent man without any criminal charges ever being filed against him. To date, the police have refused to release his corpse to the family for burial and have not returned the seized passports, car, or electronic devices.

The case of the 2nd Respondent is that the depositions made by the Applicant are false, concocted, and contrived specifically to mislead the court regarding the Commission's role. Central to its defense is the argument that the Police Service Commission is a separate and distinct entity from the Nigeria Police Force. While the Commission admits that the Nigeria Police Force is headed by the Inspector General of Police, who possesses the constitutional power for operational control and command, it points out that the Inspector General of Police was not joined as a party to this suit. The Commission clarifies that its own statutory mandate is strictly limited to the appointment, promotion,

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discipline, and dismissal of officers, rather than operational matters such as giving commands for the use of ammunition or directing field activities. Furthermore, the Commission emphasizes its role as an oversight body and maintains that it cannot be held responsible for the individual infractions of officers belonging to the Nigeria Police Force. It specifies that it does not employ "officers" in the operational sense, but rather "staff" who function as civil servants. Because it lacks operational command and does not take instructions from the Nigeria Police Force, the Commission argues it has no power to direct the arrest or detention of any person and does not maintain any detention centers where the deceased could have been held. Consequently, the 2nd Respondent maintains that nothing links it to the actions or omissions of the police officers involved in this case and that no cause of action has been established against it.

In his written address, the learned Counsel for the Applicant formulated six issues for the determination to wit:

- 1. Whether there is a violation of "the right of life" of Late Mr. Andrew Ochekwo, Contrary to Section 33 of the Constitution, And Applicant Has The Standi To Maintain This Action.*
- 2. Whether The Criminally Involved in the Act of Unlawful Killing of the Deceased (Late Mr. Andrew Ochekwo) Deprives The Applicant of the Right of Enforce Fundamental Human Rights of the Deceased.*
- 3. Whether There is a violation of the Right of Dignity of Human Person" of Late Mr. Andrew Ochekwo, Contrary To Section 34 of the Constitution.*

4. *Whether There is a Violation of "The Right to Personal Liberty" of Late Mr. Andrew Ochekwo, Contrary to Section 35 of the Constitution.*
5. *Whether there is a Violation of "The Right To Fair Hearing" of Late Mr. Andrew Ochekwo, Contrary to Section 36 of the Constitution.*
6. *Whether the Applicant is entitled to the "Damages (Compensatory Damages, Nominal Damages, Exemplary Damages, General Damages and Special Damages) claimed.*

Arguing the first issue, counsel submitted that fundamental right can be enforced by the family members and dependents of a deceased person. That the constitutional right to life of a dead person can be enforced by his dependants. He cites **Bello v. Attorney General of Oyo State (1986) 5 NWLR (Pt. NWLR (Pt. 45) Page 828, Order 1 Rule 2 of the FREP Rules, 2009, Nigeria Security & Civil Defence Corps, Benue State Command & Ors v. AGER Gbertsue Samuel (2022) LPELR-56933 (CA)** amongst other cases. Counsel submitted that apart from the eye-witness account, the 1st Respondent accepted and acknowledged arresting and detaining Mr. Andrew Ochekwo and also the death of Mr. Andrew Ochekwo due to gunshot wounds while in the custody of the 1st Respondent. That exhibit A5 shows picture that Mr. Andrew Ochekwo was handcuffed.

Counsel further argued that the Applicant has the locus standi to initiate the present action and that the deceased has a right to life that must be protected by all, including the 1st Respondent. That the 1st Respondent arrested and detained the deceased for weeks without arraignment and later reported the

death of the deceased by gunshots while still in custody of the 1st Respondent without any justification. The 1st and 2nd Respondents are liable for the deprivation of the life of the deceased.

Arguing issue two, counsel submitted that the possibility of prosecution of crime (even murder) does not warrant the denial of the right of life of a person like the deceased Mr. Andrew Ochekwo who was in the custody of the 1st Respondent. He cites **Nigeria Police Force & Ors v. Mrs Sherifat Azeez Omotosho & Ors (2018) LPELR-45778 (CA)** and **Mrs. Precious Omonyahuy & Ors v. The Inspector General of Police & Ors (2015) LPELR -25581 (CA)**.

Arguing issue three, counsel submitted that the deceased was arrested and detained since 7th May, 2024 without bail and arraignment. He was denied access to his lawyer, limited access to his phone and transported from one State to another, and the demand for bribes as well as tortured and subjected to degrading treatment. He cites **Section 34 of the 1999 Constitution , Chief Omu Uzoukwu & Ors v. Igwe Chukwudebelu Ezike Ezeonu II, Igwe of Atani (1991) 6 NWLR (Pt. 200) Page 778**.

On issue four, counsel submitted that without any petition or complaint to the 1st Respondent, the deceased was arrested but was not brought before a court of law until his death while in custody of the 1st Respondent for 19 days. He cites **Military Government of Lagos State v. Ojukwu (1986) 18 NWLR (Pt. 18) 621, Okonkwo v. Ogbodu (1996) 5 NWLR (Pt. 449) Page 420**

at 435, **Comptroller of Nigeria Prisons v. Adekanye (1999) 10 NWLR (Pt. 623) Page 400** amongst other cases.

Arguing the fifth issue, counsel submitted the Applicant's brother right to fair hearing was violated on several fronts by the Respondent when he was arrested and detained without court order. That the Respondents concluded that the deceased was guilty without charging and arraigning before a court in violation of Section 36 of the 1999 Constitution (As Amended)

On the last issue, counsel submitted that a remedy must be given to a person whose rights has been violated. That in view of the circumstances of this case, the Applicant's brother is entitled to the damages sought. He cites **Okonkwo v. Ogbodu (1996) 5 NWLR (Pt. 449) Page 420 at 435, Shugaba Darman v. Minister of Internal Affairs & Ors (1981) 2 NCLR 459, Union Bank Plc v. Ajabule (2012) 29 NSCQR 1448,**

Counsel concluded by urging the court to grant all the reliefs sought.

In the Written Address of the 2nd Respondent, counsel formulated four issues for determination, to wit:

- 1. Whether there is any cause of action established against the 2nd Respondent.*
- 2. Whether the 2nd Respondent can be held vicariously liable for the actions and/or omissions of police officers of the 1st Respondent.*
- 3. Whether this suit was properly commenced without Pre-action Notice served on the 2nd Respondent.*

4. *Whether by the enabling statutes creating and conferring statutory powers on the Inspector General of Police, the Inspector General of Police ought to have been joined in this suit being the sole authority and not the 2nd Respondent in charge of all operational commands of officers of the 1st Respondent.*

Arguing issue one, counsel submitted that there is no cause of action established by the Applicant against the 2nd Respondent as it appeared in the averment of the Applicant's affidavit. He cites **Guinness (Nig) Plc v. S.K. Ajayi (Nig) Ltd (2012) 18 NWLR (Pt. 172) P. 192** and **Egbe v. Adefarasin (1987) 1 NWLR (Pt. 47) Page 1**

On issue two, counsel submitted that the power of control of the 1st Respondent and all its men constitutionally and statutorily reside with the IGP who is not a party in this and ought to have been joined. That the relationship between the 1st Respondent and the Police Service Commission is not that of master and servant, therefore the principles of vicarious liability for the action of a police officer in Nigeria is not applicable. He cites **IGP & Ors v. Umolo & Anor (2022) LPELR-57715 (CA)**, **Nuhu v. Saleh & Ors (2017) 12 CAN (Pt. 165) CA**, **Young v. Edward Box & Co Ltd (1951) TLR 789, 793** and other cases.

Arguing issue three, counsel submitted that the Applicant is premature having failed to serve the 2nd Respondent with a pre-action notice in line with the provisions of Section 20(3) &(4) of the Police Service Commission (Establishment) Act, 2001. He cites **Ambode v. Agbaje (2016) All FWLR**

(Pt. 814) 120 at 143, Fayemi v. Local Government Service Commission & Another (2005) Pt. 921 6 NWLR 280

On the last issue, counsel submitted that the Inspector General of Police is the head of the Nigeria Police Force and ought to be joined in this suit. He cites **Section 215(2) of the 1999 Constitution of the Federal Republic of Nigeria (As Amended), Section 7 of the Nigeria Police Act, 2020, Nwanna v. A.G. Federation & Anor (2010) LPELR-9047 (CA) and Nuhu v. Saleh & Ors (2017) 12 CAN (Pt. 1) 185 at 197**

Counsel concluded by urging this court to dismiss this suit as it lacks basis with a cost of N5,000,000.00 (Five Million Naira)

Replying on Points of law, counsel submitted that by the provision of Section 6(1) of the Police Service Commission (Establishment, etc.) Act, 2001, the 2nd Respondent has the power to discipline police officers except the Inspector General of Police. He cites **CBN V. Ochife (2025) 12 NWLR (Pt. 2000) 1**

Counsel further argued that the need for the service of pre-action notice is not a requirement in an action for the enforcement of fundamental human right. He cites **Mr. Polycap Obasi & Ors v. Mujeeb Fadeyi (2020) LPELR-51758 (CA)**

On the issue of joining the Inspector General of Police, the counsel to the Applicant submitted that the Inspector General of Police, need not be made a party to the present suit in respect of the actions and inactions.

Counsel argued lastly that, the counter affidavit and written address of the 2nd Respondent was filed out of time which the FREP Rules provide for 5 days. That 2nd Respondent was served in the first week of July, 2025, and at the first hearing day, (17th July, 2025), the court noted that all parties had been served and set down the case for hearing on 8th October, 2025. However, it was on the 19th September, 2025 that the 2nd Respondent filed its Counter Affidavit and Written Address without leave for extension of time. He cites **Brig Gen. Mohammed Buba Marwa & Ors v. Admiral Murtala Nyako & Ors (2012) LPELR-7837 (SC)**

On the whole, counsel urges the court to discountenance the counter affidavit and written address of the 2nd Respondent and grant the application for the Applicant.

RESOLUTION OF THE ARGUMENTS OF PARTIES

In Nigeria, the fundamental rights of a citizen though acquired naturally are constitutionally guaranteed in Chapter IV of the Constitution of Federal Republic Nigeria, 1999 (As Amended). See **FAJEMIROKUN V. COMMERCIAL BANK (CREDIT LYONNAIS) (2009) 5 NWLR (PT. 1135) 588**. Actions for the enforcement of the fundamental human rights of a Citizen are maintainable against the state and its apparatus as well as private persons. See the case of **ONWO V. OKO (1996) 6 NWLR (PT. 486) 584**. Section 46(1) of the Constitution as well as Order 2 Rule 1 of the fundamental Rights (Enforcement Procedure) Rules, 2009, empowered any citizen who alleges that any of the

provisions of Chapter IV of the Constitution has been, is being or likely to be contravened to approach the Court for remedy.

It was based on the above Section and Order that the Applicant brought the instant application, complaining that the Respondents infringed on the fundamental human rights of the deceased Mr. Andrew Ochekwo who died in the custody of the 1st Respondent.

The law is trite that the fundamental rights are those rights that inhered in man because they are part and parcel of mankind. They are the forefront among the rights that inure to human beings. Fundamental rights are basic moral that guarantees people in all countries and cultures allegedly have simply because they are people. A fundamental right is a right which stands above the ordinary laws of the land and which are in fact antecedent to the political society itself and it is a primary condition to civilized existence. **See NIGERIA STORED PRODUCTION RESEARCH INSTITUTE V. UGWU (2013)15 WRN 1 AT 74.**

It is not in dispute that no court has the power to stop the statutory powers of any government agency or department or authority and the instant case the 1st Respondent's powers which includes investigation, arrest, detention and prosecution where there is reasonable suspicion of commission of a crime or ample evidence of commission of an offence by a suspect. See **Hassan v. EFCC (2014) 1 NWLR (Pt. 1389) P. 31**, the court held:

"No court has the power to stop the investigative powers of the Police to investigate crimes where there is reasonable suspicion of

commission of a crime or ample evidence of commission of an offence by a suspect"

See also the case of **FIRST BANK OF NIGERIA PLC & ORS. v. AG FEDERATION & ORS.(2013) LPELR-20152** where the court held:

"It then becomes the duty of the 3rd - 5th Respondents to investigate and determine whether there is any suspicion of commission of any crime to warrant the arrest and detention of the Appellants.

However, these powers given to the 1st Respondent does not extend to violating the fundamental rights of any citizen of this country no matter the crime the person might have allegedly committed because as noted the fundamental rights of any one are those rights that inhered in man because they are part and parcel of mankind. They are the forefront among the rights that inure to human beings. They are the *fons et origo* of human rights. Where the court has by the evidence(s) before it finds that those rights have been, is being or likely to be violated, it has the inherent powers and by the constitutional provisions to safeguard those rights. See the case of **NAWA V. ATT., GEN. CROSS RIVERS STATE (2008) ALL FWLR (PT. 401) 807 AT 840, PARAS. E – F**, where the court held:

"It is the duty of the court to safeguard the rights and liberties of the individual and to protect him from any abuse or misuse of power"

It is therefore imperative that for the court to come to an Applicant's aid sufficient and credible facts as well as materials must be placed before the court. Invariably, where the Applicant fails to supply the court with the requisite

materials the court will readily refuse the application. See **OKON v. ETIM (2021) LPELR-56077 (CA)** where the court held:

"For an application alleging infringement of the applicant's fundamental rights to succeed, he must place before the Court all vital evidence regarding the infringement or breach of such rights. It is only thereafter that the burden shifts to the respondent. Where that has not been done or scanty evidence was put in by the applicant, the trial court can strike out such application for being devoid of merits."

The Applicant, Mr. Edward Uchekwo, seeks the enforcement of the fundamental rights of his late brother, Mr. Andrew Ochekwo, who died while in the custody of the 1st Respondent, the Nigeria Police Force. The facts placed before the Court, and which are largely uncontroverted by the 1st Respondent who failed to file any counter-affidavit, reveal a disturbing narrative. The Applicant's brother, a dual citizen of Nigeria and the United Kingdom, was arrested on the night of 7th May 2024 at his residence in Abia State by armed police officers. No warrant of arrest was shown. No incriminating item was recovered from the search of his home. Nonetheless, he was detained, handcuffed, moved across several States, denied access to his lawyers and family, extorted repeatedly, and ultimately died from gunshot wounds while still in police custody, without ever being charged to court.

The first issue that naturally arises is whether the Applicant has the locus standi to maintain this action. The law is settled beyond peradventure that the enforcement of fundamental rights does not abate upon death where the complaint relates to the violation of constitutionally guaranteed rights,

particularly the right to life. The Dependants and family members of a deceased person are entitled to approach the Court to ventilate such grievances. I am persuaded by the judgment of OYEWOLE, J (as he then was) in the case of **SHOBAYO V C. O. P, LAGOS STATE in Suit No. ID/ 760M/2008** delivered on the 15th January, 2010 wherein he held thus:

"Insisting that only the citizen subject of an infringement can approach the court when such right is violated would create an absurdity. This would imply the non – realization of a fundamental right expressly created by the Constitution. This is more so in relation to the right to life when already contravened, for in this case, the citizen victim of the deprivation would have been dead. Restricting redress for the violation of fundamental right to life is antithetical to the letters of the constitution and to avoid this anomaly, the next of kin of such deceased citizen must be permitted to enforce the right so allegedly deprived."

By virtue of Order 1 Rule 2 of the Fundamental Rights (Enforcement Procedure) Rules, 2009, the Applicant clearly has the standing to institute this action. I therefore find that the Applicant is properly before the Court. I so hold.

On the substantive complaint regarding the right to life, Section 33(1) of the Constitution guarantees that every person has a right to life and that no one shall be intentionally deprived of his life except in execution of the sentence of a court. The affidavit evidence before the Court shows that the deceased was in the exclusive custody and control of the 1st Respondent from the time of his arrest until the announcement of his death. Once a person dies in custody, the burden shifts to the detaining authority to explain the circumstances of the

death. This is because the State owes a heightened duty of care to persons in its custody.

In the present case, the 1st Respondent filed no counter-affidavit to rebut the grave allegations made by the Applicant. The only information available is an admission by the police, through public communication, that the deceased died of gunshot wounds while still in custody. There is no evidence of an attempt to escape, no evidence of lawful use of force, and no evidence of compliance with the constitutional safeguards governing arrest and detention. In law, facts not controverted are deemed admitted. See the case of **AONDOAKAA V. OBOT & ANOR (2021) LPELR-56605 (SC)** where the Supreme Court held:

"The appellants submitted that the affidavit evidence relied upon by the respondent in the lower Court was not sufficient to entitle him to the reliefs granted in his favour and that the Court ought not to have granted the declaratory reliefs sought without hearing oral evidence and being satisfied by such evidence. The submission is grossly misconceived having regard to the Fundamental Rights Procedure which is a special procedure different from that of ordinary civil proceedings. It will be recalled that the appellants, despite being duly served with the Court processes by the Court below, refused or neglected to appear before it. The appellants filed no counter-affidavit to challenge or controvert or contradict the averments in the respondent's affidavit and statement in support of the application filed. The affidavit evidence before the Court below was unchallenged, uncontroverted and contradicted. It is settled law that where the supporting affidavit to an application is not

countered it must be deemed to be true and correct...Furthermore, an affidavit in support of motion constitutes evidence which the trial Court is perfectly entitled to rely upon. Affidavit evidence is quite different from averments in pleadings, which have to be supported by oral evidence... The affidavit evidence before the Court below being unchallenged, uncontroverted and uncontradicted must be accepted by the Court."

I therefore have no difficulty in holding that the death of Mr. Andrew Ochekwo while in the custody of the 1st Respondent constitutes a gross violation of his right to life under Section 33(1) of the Constitution. I so hold.

On the right to dignity of the human person, Section 34(1)(a) of the Constitution prohibits torture, inhuman, or degrading treatment. The affidavit evidence paints a clear picture of prolonged handcuffing, denial of access to counsel and family, extortion under threat, and forced movement across States without lawful justification. These acts fall squarely within the definition of torture and degrading treatment as contemplated by both the Constitution and the Anti-Torture Act. The treatment meted out to the deceased was not only unlawful but barbaric and wholly inconsistent with a civilized system of law enforcement. The law is also settled that every individual is entitled to respect for the dignity of his person, and no person shall be subjected to torture or to inhuman or degrading treatment. See **Section 34(1) of the Constitution of the Federal Republic of Nigeria, 1999 (As Amended)**. The court in the case of **EZEIGBO V. ASCO INV. LTD. 2022) 8 NWLR (PT. 1832) 367** while interpreting this fundamental provision had this say:

"By virtue of section 34(1) of the Constitution of the Federal Republic of Nigeria, 1999 (as altered), every individual is entitled to respect for the dignity of his person, and accordingly no person shall be subject to torture or to inhuman or degrading treatment. In essence, no other person or persons or authority in Nigeria shall subject a person or persons to any form of torture; physical, psychological, mental, etc., inhuman or other degrading treatment, but shall accord due respect for the dignity of the person or persons."

I therefore find that the right to dignity of the deceased was egregiously violated by the 1st Respondent. I so hold.

On the right to personal liberty, Section 35(4) and (5) of the Constitution require that any person arrested must be brought before a court of law within a reasonable time. The deceased was arrested on 7th May 2024 and was never arraigned before any court until his death. No court order authorizing his detention was produced. Detention without arraignment for several weeks is unconstitutional, regardless of the nature of the allegation. I accordingly find that the continued detention of the deceased by the 1st Respondent was unlawful and in violation of his right to personal liberty.

On the right to fair hearing, Section 36 of the Constitution protects not only the right to be heard by a court but also the presumption of innocence. The public portrayal of the deceased as guilty, coupled with his detention without charge and denial of access to legal representation, amounts to a violation of his right

to fair hearing. The Constitution does not permit the police to assume the role of investigator, prosecutor, and judge. See the case of **BAMISILE v. NJC & ORS (2012) LPELR-8381(CA)** where the court held:

"What is meant by fair hearing? It has, been held that fair hearing within the meaning of Section 33(1) of the 1979 Constitution (which is in pari materia with Section 36(1) of the 1999 Constitution) means a trial conducted according to all legal rules formulated to ensure that justice is done to the parties. It has been held to encompass not only the compliance with the rules' of natural justice but also audi alteram partem. It also entails doing all things, whether in civil or criminal trials that would make an impartial observer believe that the trial has been balanced and fair on both sides ... Fair hearing has been defined as the right of a party to correct or contradict the evidence against him or in his favour. A denial of fair hearing is a denial of the opportunity to present a litigant's case."

I find that the conduct of the 1st Respondent violated the deceased's right to fair hearing. I so hold.

On the right to private and family life, Section 37 of the Constitution was breached by the seizure of the deceased's phones, laptops, passports, and personal data without any court order. Such intrusion into personal communication and data without judicial authorization is unconstitutional and unlawful. I so hold.

I now turn to the liability of the 2nd Respondent, the Police Service Commission. The Commission has argued that it has no operational control over the Nigeria Police Force and cannot be held vicariously liable for the acts of police officers. While it is correct that the operational command of the police resides with the Inspector-General of Police, the Police Service Commission is a constitutional body established under Section 153 of the Constitution, with powers of discipline over police officers other than the Inspector-General of police.

In fundamental rights litigation, the Court is not limited to operational actors alone. Where a constitutional body is charged with oversight, discipline, and accountability, it cannot completely insulate itself from proceedings seeking systemic redress, especially where disciplinary and remedial orders are sought. However, the affidavit evidence before this Court does not establish that the 2nd Respondent directly participated in the arrest, detention, torture, or killing of the deceased. Its liability in this case is therefore not operational but institutional.

Accordingly, while the 2nd Respondent cannot be held jointly liable in damages for the acts of the police officers, it is properly joined for the purpose of ensuring accountability and disciplinary oversight. The argument on pre-action notice is of no moment, as actions for enforcement of fundamental rights are exempt from pre-action notice requirements, a position firmly settled by the Court. See the case of **OLATUNJI V. HAMMED (2010) ALL FWLR (PT. 540) 1365 AT 1374** where the court held:

"Finally, actions brought under Chapter IV (Section 33-46) of the Constitution are always to be handled with dispatch. Consequently,

an applicant who complains that any of his right under the said provisions are likely to be violated is not required to comply with pre-action"

See also the case of **UMUAHIA CAPITAL DEVELOPMENT AUTHORITY V. IGNATIUS & ORS (2015) LPELR-24910 (CA)** where the court held:

Thus, where the alleged breach of fundamental right by the Applicant forms the main plank or truck of the reliefs sought in the application the procedure provided in section 46 of the Constitution will apply. The Applicant in that wise will have to comply with the provisions of the Rules made by the Chief Justice of Nigeria as contained in the Fundamental Rights (Enforcement Procedure) Rules. The method and manner of enforcement of Fundamental Rights protected under Chapter IV of the 1999 Constitution of Nigeria as amended cannot be curtailed or encumbered by any law prescribing the formal giving of a pre-action notice before a government parastatal, authority or organization can be sued"

On the issue of damages, the law is settled that where fundamental rights are breached, damages must follow. The death of a person in custody is one of the gravest violations known to law. However, damages must remain compensatory and deterrent, not speculative or oppressive. While the Court condemns the conduct of the 1st Respondent in the strongest terms, the astronomical figures claimed by the Applicant cannot all be justified on established principles of assessment. See **OKIBE V. N.D.L.E.A. (2024) 5 NWLR (Pt. 1931) 291** where the court held:

"It is not necessary for a person that has suffered the breach of his fundamental rights to plead or claim a specific amount before he can be awarded damages. Once the victim is able to satisfactorily prove that there has been an unlawful arrest or detention, then the court is duty bound to use its discretion to award damages against the violating authority or person. In this case, it did not lie in the mouth of the respondent to contend that such damages, by whatever name called, must be pleaded and proved. What is required of the victim is to prove and establish that his rights were violated or infringed upon by the person or authority sued"

In the circumstances of this case, I find the Applicant entitled to substantial damages against the 1st Respondent only to reflect the gravity of the violations and to serve as a deterrent to law enforcement agencies. This court therefore holds as follows:

1. A DECLARATION is hereby made that the killing and death of the Applicant's brother (Mr. Andrew Ochekwo) while in the detention and custody of the 1st Respondent is illegal, unlawful, unconstitutional, and a gross violation of sections 33(1) of the 1999 Constitution of the Federal Republic of Nigeria.
2. A DECLARATION is hereby made that the prolonged detention, unscheduled transfer from one place to another, demanding and obtaining monies of the Applicant's brother (Mr. Andrew Ochekwo) without access to his lawyers and family members was a torture, intimidation, harassment, inhuman and degrading treatment and as such illegal, unlawful, unconstitutional, and a gross violation of sections

34(1)(a) of the 1999 Constitution of the Federal Republic of Nigeria and section 2(b)(vi) of the Anti-Torture Act.

3. A DECLARATION is hereby made that the continued detention of the corpse of the Applicant's brother (Mr. Andrew Ochekwo) and refusal to release the corpse to the Applicant is a torture, intimidation, harassment, inhuman and degrading treatment against the Applicant and as such illegal, unlawful, unconstitutional, and a gross violation of sections 34(1)(a) of the 1999 Constitution of the Federal Republic of Nigeria and section 2(b)(vi), and (vii) of the Anti-Torture Act.
4. A DECLARATION is hereby made that the arrest and detention of the Applicant's brother (Mr. Andrew Ochekwo) without being brought before any court of law (an order of a court) from 7th May 2024 till he died in the custody of 1st Respondent is illegal, unlawful, unconstitutional, and a gross violation of section 35(4) and (5) of the 1999 Constitution of the Federal Republic of Nigeria.
5. A DECLARATION is hereby made that the seizure of the mobile phones, and laptops as well as accessing the messages, emails, bank statements and bank account applications (apps) of the Applicant's brother (Mr. Andrew Ochekwo) by the officers of the 1st Respondent without an order of a court is illegal, unlawful, unconstitutional, and a gross violation of section 37 of the 1999 Constitution of the Federal Republic of Nigeria.
6. An ORDER is hereby made for the immediate release of the corpse of the Applicant's brother (Mr. Andrew Ochekwo) to the Applicant or his appointee at Umuahia, Abia State. And, the 1st Respondent to file an affidavit of compliance in this court.

7. An ORDER is hereby made for the immediate release of the Applicant's brother's (Mr. Andrew Ochekwo) Nigerian Passport, British Passport, Cheque Books, a car (black Mercedes Benz Class E belonging to Mrs. Raymond Mercy Chikwere with registration number KUJ495DC), 3 Apple iPhones, 3 Apple iMac computers, and other properties seized by the 1st Respondent. And, the 1st Respondent to file an affidavit of compliance in this court.
8. An ORDER is hereby made for the 1st Respondent to individually write public apology letters in favour of the Applicant for the violation of the Applicant's brother (Mr. Andrew Ochekwo) fundamental human right in two national dailies.
9. An ORDER for payment of compensatory damages of One Hundred Million Naira (N100, 000, 000.00) to the Applicant by the 1st Respondent for the death of the Applicant's brother (Mr. Andrew Ochekwo) while in the custody of the 1st Respondent.
10. An interest of 10% of the total judgment sum per annum until the entire judgment sum is paid in full to the Applicant.

This is the Judgment of the court.



HON. JUSTICE EMEKA NWITE
JUDGE
6/03/2026

COUNSEL REPRESENTATION

**CHIEF KODI ONUOHA ESQ, DR. WISEMAN UBOCHIOMA ESQ,
CHIJIKE ONYENEK ESQ, ONYEKACHI UMAH ESQ, FAVOUR IBEH ESQ
AND KENECHUKWU AGWU ESQ FOR THE APPLICANT**

CERTIFIED TRUE COPY
FEDERAL HIGH COURT
ABUJA

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BABATUNDE DAD ESQ, AISHA HASSAN ABDULLKADIR AND OKORO
NNACHI IBIAM ESQ FOR THE 2ND RESPONDENT

NO REPRESENTATION FOR THE 1ST RESPONDENT

IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA
ON THURSDAY THE 17TH DAY OF JULY, 2025
BEFORE HIS LORDSHIP, THE HON. JUSTICE EMEKA NWITE
JUDGE
SUIT NO. FHC/ABJ/CS/1114/2025

BETWEEN:

MR. EDWARD UCHEKWO ::::::::::::::::::::::::::::::::::: APPLICANT

AND

1. NIGERIA POLICE FORCE

2. POLICE SERVICE COMMISSION ::::::::::::::::::::::::::: RESPONDENTS

Case called

Parties: Absent.

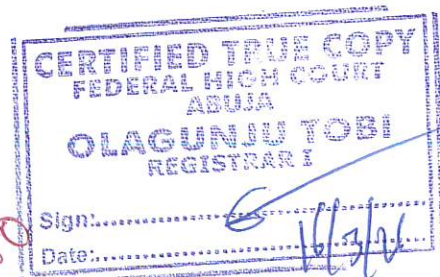
Appearance: Iheanyichukwu Adiele, Esq. for the Applicant.

No representation for the Respondents.

Court: This matter is slated today for Mention. The Applicant's Counsel informed the Court that the Respondents has been duly served and



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having the moved the matter that he apply for adjournment for the hearing of the case.

Application granted, case adjourned to 8/10/2025 for hearing. Hearing Notice to be served on the Respondents.

SIGNED
HON. JUSTICE EMEKA NWITE
JUDGE
17/7/2025



IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA
ON MONDAY THE 1ST DAY OF DECEMBER, 2025
BEFORE HIS LORDSHIP, THE HON. JUSTICE EMEKA NWITE
JUDGE
SUIT NO. FHC/ABJ/CS/1114/2025

BETWEEN:

MR. EDWARD UCHEKWO ::::::::::::::::::::::::::::::::::: APPLICANT

AND

NIGERIA POLICE FORCE & ANOR ::::::::::::::: RESPONDENTS

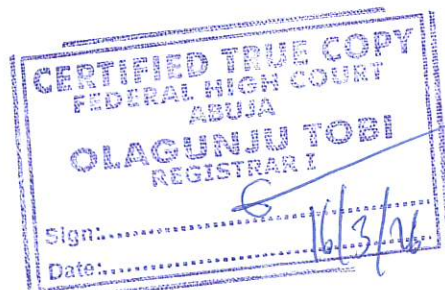
Case called

Parties: Absent.

Appearance: Onyekachukwu Umah, Esq. with Iheanyichukwu Adiele, Esq. for the Applicant.

No representation for the Respondents.

Court: This matter is slated today for hearing although they were served with hearing notice for today's date but they are not in Court.



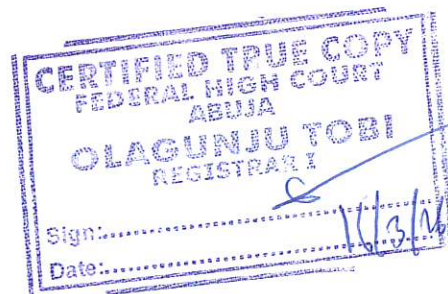
However, the 2nd Respondent filed a Counter-Affidavit which the Applicant said that he was not served with.

In view of the forgoing, this matter has to be adjourned to enable the applicant react to the Counter-Affidavit.

Case adjourned to 12/12/2025 for hearing.

Hearing Notice to be served on the Respondents.

SIGNED
HON. JUSTICE EMEKA NWITE
JUDGE
1/12/2025



**IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA
ON FRIDAY THE 12TH DAY OF DECEMBER, 2025
BEFORE HIS LORDSHIP, THE HON. JUSTICE EMEKA NWITE
JUDGE
SUIT NO. FHC/ABJ/CS/1114/2025**

BETWEEN:

MR. EDWARD UCHEKWO ::::::::::::::::::::::::::::::::::: APPLICANT

AND

NIGERIA POLICE FORCE & ANOR ::::::::::::::: RESPONDENTS

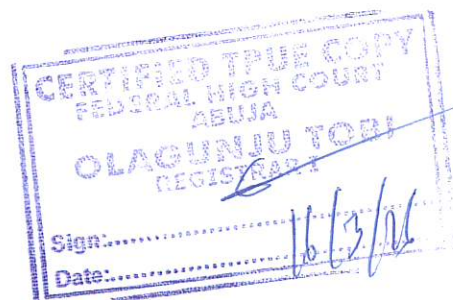
Case called

Parties: Absent.

Appearance: Onyekachukwu Umah, Esq. for the Applicant.
No representation for the Respondents.

Court: This matter is slated today for hearing.
The Respondents were duly served for today's date but none of them is in Court hence the Applicant is hereby ordered to move their application while the Processes filed by the 2nd

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respondent will deem as properly filed and adopted.

The Applicant's counsel informed the Court that they have application for enforcement of Fundamental Right via "Originating Motion" dated on 25/5/2025 and filed on 5/6/2025. The application is supported by 32 paragraphs affidavit with 9 annexures marked as **Exhibit A1 – A9**.

There is a written address. We adopt same.

There is an affidavit deposed by Mrs. Raymond Mercy Chikere of 48 paragraphs affidavit with Eight (8) Exhibits marked as **Exhibit A1 – A8**.

We adopt same.

In response to the 2nd Respondent Counter-Affidavit, we filed a Further-Affidavit of 3

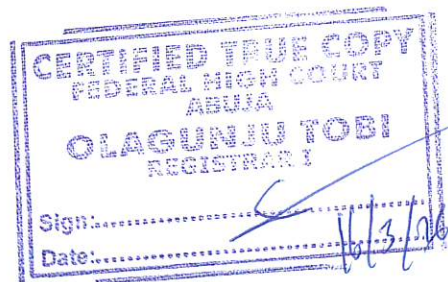


paragraphs with a Reply on point of Law dated 4/12/2025 and filed on 8/12/2025.

We urge the Court to discountenance the argument of the 2nd Respondent and enter judgment in favour of the Applicant.

Case adjourned to 5/3/2026 for Judgment.

SIGNED
HON. JUSTICE EMEKA NWITE
JUDGE
12/12/2025



IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA
ON FRIDAY THE 6TH DAY OF MARCH, 2026
BEFORE HIS LORDSHIP, THE HON. JUSTICE EMEKA NWITE
JUDGE
SUIT NO. FHC/ABJ/CS/1114/2025

BETWEEN:

MR. EDWARD UCHEKWO ::::::::::::::::::::::::::::::: APPLICANT

AND

NIGERIA POLICE FORCE & ANOR ::::::::::::::: RESPONDENTS

Case called

Parties: Absent.

Appearance: Onyekachukwu Umah, Esq. with A.M. Yahaya,
Esq. for the Applicant.

No representation for the Respondents.

Court: This matter is slated today for Judgment and is
delivered in open Court.

SIGNED
HON. JUSTICE EMEKA NWITE
JUDGE
6/3/2026

