

Chidi Anselm Odinkalu, Ph.D.

09 October, 2019

The National Judicial Council
Supreme Court Complex
Three Arms Zone
Abuja

COMPLAINT AGAINST HON. JUSTICE A. U. KINGSLEY CHUKWU IN CONNECTION WITH VIOLATIONS OF THE RULES 1.1; 1:3; 3.3, AND RULE 12.1 OF THE CODE OF JUDICIAL CONDUCT IN RELATION TO SUIT NO: PHC/3193/2018, *[SIR (DR.) PETER ODILI VS. CHIDI ODINKALU & AYISHA OSORI, HIGH COURT OF RIVERS STATE, NO. 20, PORT HARCOURT.*

1. I write to most respectfully introduce this complaint against Hon. Justice Kingsley Chuku, of the High Court of Rivers State in connection with her conduct in Suit No. PHC/3193/2018, *Sir (Dr) Peter Odili vs. Chidi Odinkalu & Ayisha Osori*. The facts in support of this complaint are within my personal knowledge as party in the proceedings or disclosed to me by my solicitors, Opi, Opia & Associates, whom I verily believe.
2. This complaint alleges that in the conduct of the proceedings in the above-named case, Hon. Justice Kingsley Chuku has:
 - Compromised every appearance of judicial propriety in violation of Rule 1:1 of the Judicial Code of Conduct;
 - Failed to conduct herself in a manner that promotes public confidence in the integrity and impartiality of her judicial office, contrary to Rule 1:3 of the Judicial Code of Conduct;
 - Failed to accord the defendants a full right to be heard according to law, in violation of Rule 3:3 of the Judicial Code of Conduct; and
 - Having created by these facts reasons for which her impartiality in the proceedings may genuinely and reasonably be questioned, has refused to

disqualify herself from the proceedings and rather has proceeded to run the case with a sense of both arbitrariness and impunity, contrary to Rule 12:1 of the Judicial Code of Conduct.

3. By reason of the above, Hon. Justice Kingsley Chuku has displayed a personal interest and bias in the proceedings entirely incompatible with the status of a disinterested umpire, making it impossible for the defendants in these proceedings to hope for a fair hearing. The facts in support of this complaint are provided below.
4. I do not make this complaint lightly. I am admitted to practice as a legal practitioner in Nigeria, enrolled since November 3, 1988. I received my Ph.D. in Law from the London School of Economics and Political and have taught law in and outside Nigeria, including at the University of Ibadan and at the Harvard Law School in the United States of America.

FACTS IN SUPPORT OF THE COMPLAINT

5. The subject matter of these proceedings is a book titled ***“Too Good to Die – Third Term And The Myth of The Indispensable Man in Africa”*** which was written by the defendants and published in 2018.
6. The Claimant brought an action for defamation. The Claimant also filed applications for interim and interlocutory injunctions restraining the Defendants from further publication of the book.
7. In the Supporting Affidavit, the only ground for the application for both the interim injunction and interlocutory injunction was that the Defendants attended a **Dialogue Session** organized by the **Abuja Global Shapers** in Abuja on **14/11/2018** *after being served with the Originating Process in this matter.* The Claimant alleged that at the Dialogue Session the subject book was discussed concerning his person, further deepening his claim of defamation.
8. The fact, which is also contained in the records of the Honourable Court is that the Defendants were actually served with the Originating Process by substituted service on **29/11/2018**, whereas the Abuja Dialogue Session was held on

14/11/2018, a period of 15 days before the service of the Process on the Defendants.

9. Surprisingly the Honourable Court granted the interim injunction, notwithstanding the fact that the Defendants were in fact served with the Originating Process on **29/11/2018**, a period of 15 days after the alleged Abuja Dialogue Session.
10. The subject book is of 298 pages and contains several issues on African politics, international relations, as well as copious treatment of Nigerian history, politics, governance and constitutional development. At the event, there was no discussion whatsoever on or about the Claimant.
11. The Defendants are not members of the Abuja Global Shapers and therefore were not involved in the organization of the Dialogue Session. They were only invited as guests by the organizers of the event.
12. On **04/02/2019**, after the court delivered its ruling striking out the Defendants' Motion for Preliminary Objection, the court urged parties to continue with other pending applications before it.
13. On that same date the Defendants' lead Counsel, **I.C Opi Esq.** applied for an adjournment on the hearing of the Interlocutory application by the Claimant [following the interim injunction granted in the Claimant's favour by the Honourable Court]. Counsel's application for adjournment was on health ground, stating that he was under medication.
14. Claimant's Counsel opposed the application for adjournment and the court declined the grant of the application. The Defendants' Counsel, who was medically unfit, was therefore forced to proceed with the matter.
15. During the hearing of the said Interlocutory application for injunction by the Claimant [following the grant of Claimant's interim injunction] the learned Counsel for the Claimant was given ample time and opportunity by the court to

conclude his submissions. On the other hand, the Defendants' Counsel while still on his feet making submissions was interrupted by the Court thus:-

Court: "Counsel, when did you say you will file your Statement of Defence?"

Counsel: "In Seven days' time, my Lord."

Court: "This court will adjourn to the 27th day of February, 2019 for ruling on the interlocutory Injunction."

The Honourable Court therefore ended Defendants' Counsel submissions abruptly and adjourned the matter.

16. Before counsel was unceremoniously shut out by the court, Counsel was at the verge of raising a point of law, such as the relevance of the plea or defence of justification in the substantive matter in relation to the interlocutory application for injunction. The plea of justification is contained in **paragraph 4(m) of the Defendants Further And Better Affidavit in Opposition to the Interlocutory application for injunction**, thus:-

paragraph 4(m) "That the Defendants' major defence is justification."

17. It is trite law that the Defence of justification whether contained in the Statement of Defence or on Oath [where the Statement of Defence has not been filed] is very crucial to the Defendants' case in the interlocutory application. See **Gatley on Libel and Slander, 8th Edition, 1987, page 641.**
18. Therefore, by cutting short counsel's submission on the interlocutory application, the Honourable Court is in denial of fair hearing to the Defendants. The presence of paragraph 4(m) on the defence of justification in the Defendants' Further And Better Affidavit dated and filed on **08/01/2019**, which was **NEVER** referred to by counsel in his submissions on that day is clear proof

that counsel was indeed shut out and denied fair hearing by the Honourable Court.

19. **Order 31 Rule 4 of the High Court (Civil Procedure) Rules, 2010**, allows both Counsel not more than 20 minutes each to further adumbrate on issues after adopting their Written Addresses, which the Defence Counsel was doing before he was shut out by the Court.
20. The Defendants' Counsel while addressing the court was still within the stipulated time allowed by the Rules of Court before he was shut out.
21. On all days in the proceedings, the Plaintiff, a former Governor of Rivers State was personally present in court with a retinue of political associates, many of them serving members of the Cabinet of the Government of Rivers State, whereupon the Hon. Justice Kingsley Chuku showered him with deference which was not shown to any other litigants before her, including special greetings, acknowledgement and a special seat in court.
22. By reason of above premises, the Defendants filed a motion before the Honourable Court urging the court to recuse herself from the proceedings and refer the case file back to the Honourable the Chief Judge for transfer to another judge.
23. Expectedly, the court struck out the application urging it to recuse from the proceedings. The Court on same date gave its ruling on the interlocutory application and granted the Claimant's application, notwithstanding the denial of fair hearing to the Defendants during proceedings.
24. In granting the interlocutory application, the Honourable court abandoned the ground for the grant of the interim injunction being that the Defendants attended a Dialogue Session in Abuja after they were served with the Originating Process. The court rather relied on other facts contained in the Claimant's Further Affidavit as to the purchase of the book online (while proceedings were pending), **for which no legal submissions whatsoever was made by counsel**

to the Claimant. This decision by the court represents a clear acknowledgement by the court of the fact that as contained in its own record, the Defendants were indeed served with the Originating Process after the Abuja Dialogue Session and not before, contrary to the position contained in the interim order of injunction.

25. On **27/06/2019**, a date fixed by the court of its own motion, counsel for the Defendants sent a letter of adjournment to the Court, wherein he explained that he had two different matters at the Federal High Court, Lagos, which were adjourned as far back as **April 2019**. Counsel also stated the names, titles and Suit numbers of the cases at the Federal High Court, Lagos, urging the court for a short adjournment as the date of **27th July, 2019** was a date recently imposed on the Defendants by the Court.
26. At the court, the male Registrar refused to accept the letter for adjournment on the ground that he was **“under instruction not to accept any letter from counsel to the Defendants.”**
27. On the said 27/06/2019, the court saw a copy of the same letter served on learned Senior Counsel for the Claimant. The Court awarded **₦50,000 (Fifty Thousand Naira)** cost against the Defendants and went ahead with the proceedings for the day in the absence of the Defendants and their counsel.
28. On **17/07/2019** Counsel for the Defendants informed the court that the clerk rejected a letter he sent to the court, stating he was under instructions not to receive letters from the Defendants’ counsel. He further reminded the court of what had transpired in the proceedings against the interest of his clients. Counsel for the Defendants on same 17/07/2019 informed the court of his decision to withdraw from further proceedings in the matter as he felt quite incompetent to continue in the proceedings before his Lordship.
29. The Honourable Court duly inquired from the clerk of court the veracity of the allegation by counsel that the clerk of court rejected the letter he sent to the court. And the court in fact confirmed that counsel’s letter was indeed rejected by the clerk. However, the court denied that it directed the clerk of court against

accepting the letter from counsel to the Defendants. Accordingly, the court excused counsel for the Defendants from the proceedings as requested and adjourned the matter for continuation.

30. Since then the matter has reportedly been going on without the Defendants or their Counsel.

DISPOSITION

31. It is our contention and belief that these facts establish the allegations of multiple violations against Hon. Justice Kingsley Chuku for which appropriate sanctions should be applied in accordance with Rule 1:2 of the Code of Judicial Conduct.

32. In support of this complaint, I have attached the Affidavit in Verification of Proceedings, sworn to by my counsel, Idaye Opi Esq., dated 7 October, and marked "Annexure B" hereto.

Yours faithfully

Chidi Anselm Odinkalu, Ph.D. (London-LSE)

PETITIONER