



**FEDERAL HIGH COURT OF NIGERIA**

*Hon. Justice A. F. Adetokunbo Ademola*

11<sup>TH</sup> October, 2016;  
Date.....

**The Hon. The Chief Justice of Nigeria  
Hon. Justice Mahmud Mohammed OFR, FNIALS, CON, CFR  
Chief Justice's Chambers  
Supreme Court Complex  
Three Arms Zone  
Central District  
Abuja**

**Through:**

The Hon. Chief Judge  
Chief Judge's Chambers  
Federal High Court of Nigeria  
Shehu Shagari Way  
Central Business District  
F.C.T, Abuja

Sir,

**REPORT ON THE UNLAWFUL INVASION OF THE RESIDENCE OF HON. JUSTICE  
ADENIYI FRANCIS ADEMOLA ON THE 7<sup>TH</sup> OCTOBER, 2016 AND MY ABDUCTION**

On the 07/10/2016 I was in my House at **No. 30 Ogbemudia Crescent, Apo Legislative Quarters, Abuja.**

On or about **12:00a.m** at Midnight of the said day Friday, I was awoken by Loud sound of **banging, breaking and hitting** on my front door. This gave me a lot of fear as I thought whoever was **banging and hitting** at my door were **armed robbers or thieves** especially because this was at an ungodly hour of the night.

Therefore I remained in my room upstairs and carefully listened to all the noise that came from down stairs. At this point these

persons had already started breaking into my House through the front door.

After some minutes, I heard the door fall to the ground and about **15 minutes also** some persons began to hit my Living Room door. This movement continued for about at least an hour, then I heard foot step on my staircase and these unknown persons finally reached my bedroom door.

They asked me to open the door and I responded, asking them "who are you"? they answered, we are **Officers of the Department of Security Services (DSS)** and we are herewith a Search Warrant to search your House. I told them to allow me to call my Counsel. At this point, they had already began kicking at my door and after about three kicks I got up and opened my Bedroom door and let them in.

To my surprise, I saw at about **45 Masked Officers of the Department of Security Services (DSS), all heavily armed pointing their guns at me.** They flashed a document purported to be a Search Warrant and Ordered me to sign on a document claiming that they had already conducted a search down stairs. They also added that I was totally under their control today as I have always made Order against them **(the DSS).**

I complied and upon getting downstairs I notice that they had already scattered everything in the room on that floor. In the middle of the search, my Counsel came and they continued with the search.

After the search they informed me that before they got to my bedroom, they found some money in one of the Guest Rooms downstairs. I moved back to my Living Room space, while they

● were searching, where I sat down waiting for them to finish. When they finished, they came back to me with their guns still pointing at me, instructed me to take them back to my bedroom. Upon arrival in the said room, they began their search again thoroughly in and out of my personal belongings i.e; Bags, Boxes and collected personal family documents and draft Judgments.

All this activity lasted for about (6) **six hours** and when they finally finished with their guns still pointed at me, they handed a document to me purported to be an Inventory of the items found upon their search and threatened me to sign it as being true. They threatened me if I did not sign it they would not leave me alone and whatever they did to me at that point would be recorded that I will not be alive to tell the story of what transpired between me and them that night.

For fear and interest of my life, and unknown persons with mask on their faces, I collected the written items and signed the document.

Upon signing the document they told me that I am under Arrest and Ordered me with guns still pointed at me to move outside, as I was going they told me they were taking me to their Office, **Department of Security Services (DSS) Office without showing me any Warrant of Arrest.**

I obeyed them and at about **(6) Six O'clock** in the morning, I was whisked away from my residence to the **Department of Security Services (DSS) Office without any Warrant of Arrest or reason for my arrest.**

From the time of my arrival at the **Department of Security Services (DSS) office**, at about **(6:45am) on 08/10/2016**, I was not told what my crime was for over **24 hours** till the evening of 09/10/2016.

**A Department of Security Services (DSS)** finally informed me that the search of my residence and my arrest were based on these three allegations to wit;

- i) **Petition of Hon. Jenkins Duvie dated 4<sup>th</sup> of April, 2016 to National Judicial Council**
- ii) **Granting Bail to Col. Sambo Dasuki and the unconditional release of Nnamdi Kanu**
- iii) **Using my Office to secure my Wife's Appointment as the Head of Civil Service Lagos State through Senator Bola Tinubu**

After stating the grounds for the invasion as stated above they requested for explanation of the money found in my apartment, as well as two Licensed Firearms also found in my apartment.

All the allegations that bother on Judicial decisions were supported with Certified True Copy of Proceedings showing that those applications were not oppose by Counsel representing the **Department of Security Services (DSS) or Federal Government of Nigeria.**

On the Money recovered in my absence they were unable to tell me the exact amount recovered.

And I also explained that the appointment of my Wife as **Head of Civil Service** was based on merit and Seniority.

It is pertinent to add that I was allowed to go home after **48 hours** and with the directive to be reporting at the office of the **Department of Security Services (DSS) daily.**

When I returned back to my residence, my apartment was in shambles and totally inhabitable. The front door was totally dug out of the wall including the door frame. The door leading into the hallway - a heavy security metal door was badly broken and damaged beyond repair.

The sofas in the Living Room were turned upside down and torn, and the door of my Bedroom broken.

For this reason, I was not able to stay in my residence that night. So I moved down to stay in a Hotel as the house is no longer secure and habitable.

I have been at the Hotel from the night of Sunday 9<sup>th</sup> October, 2016 till date.

Contrary, to the **Media/Report** being circulated I have never confessed to any Crime or implicated anybody including Judges in my statement obtained from me by the **Department of Security Services (DSS).**

What is more intriguing in this whole episode, is that I see it as a vendetta/revenge from the Hon. Attorney General of the Federation, **Abubakar Mallami (SAN)** whilst I was in Kano between 2004 – 2008 as a Federal High Court Judge was involved in a Professional Misconduct necessitating his arrest and detention by my Order. However, with the intervention of Nigerian Bar Association (NBA), Kano Branch the allegation of misconduct was later withdrawn by me.

Consequently, the National Judicial Council (NJC) referred **Abubakar Mallami (SAN)** to the NBA Disciplinary Committee for disciplinary action. It was as a result of this he was denied the Rank of SAN by the Legal Practitioners Privileges Committee for the period of four years until when he produced a fake Letter of apology, purportedly addressed to me. It was then he was conferred with the Rank. Since the above incident **Abubakar Mallami (SAN)** has threatened to revenge and swore to do anything to bring me down.

My Lord, with this infringement of my fundamental right I seek for the leave to commence an action against the Department of Security Service to enforce my right that was breached.

I thank your Lordship for the good Leadership. May God Almighty bless your Lordship.

I herewith attach proceedings of the above mentioned cases as well as photographs of the destruction and damage done to my residence for ease of reference.



**HON. JUSTICE A.F.A ADEMOLA**

**IN THE FEDERAL HIGH COURT OF NIGERIA**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT ABUJA**  
**ON TUESDAY THE 1ST DAY OF SEPTEMBER, 2015**  
**BEFORE HIS LORDSHIP, HON. JUSTICE A.F.A ADEMOLA**  
**JUDGE**

**SUIT NO: FHC/ABJ/CR/319/15**

**BETWEEN:**

**FEDERAL REPUBLIC OF NIGERIA =====COMPLAINANT**

**AND**

**COL.MUHAMMED SAMBO DASUKI (RTD) ===== DEFENDANT**

**COURT REGISTRAR:** Accused Person present, Complainant unrepresented my lord.

**APPEARANCES:**

Prosecution led by M.S. Diri (DPPF) with T.E. Eeje, ACSC, O.J. Okpa, ACSC, S.M. Labaran, (SSC), D.E. Kaswe, (SSC), K.A. Fagbemi, (SSC), O.A. Adhekpukoli, (SSC), A.A. Kaltungo, (SC), C.D. Ogbonnaya, SC, J.A. Olofindare, (SC). S.O.Daji, (SC), P.O. Igoche for the Prosecution.

Defence led by J. B. Dauda, (SAN) and A. Raji, (SAN) , Chief Wale Taiwo, with Lauretu Ogwuche(Miss). Adeola Adedipe, Esq, S.O. Sanni(Miss), A.A. Usman Esq, O.C. Ogunyemi for the Defendant.

**PROSECUTING COUNSEL:** With greatest respect to your lordship this case is fixed for today for mention and your lordship we are prepared to proceed. The prosecution framed a one count charge of being in possession of Fire Arms without license contrary to Section 27 subsection 1(a) of the Fire Arms Act cap F28, 2004 against the

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Registrar

Defendant. The charge sheet which was dated and of course signed by me on the 21st day, of August 2015 was filed in this court on the 24th of August, 2015. The charge sheet is accompanied by the following documents your lordship:

Case summary, Proof of evidence, List of witnesses and List of Exhibits Affidavit of completion of investigation, and Copies of statements of both the Defendant and witnesses. The charge sheet with all its attachment was served on the Defendants on Friday, 28th of August 2015. I urge this Honourable Court to deem the charge sheet together with all its attachments properly filed and read the charge to the Defendant for the purpose of taking his plea.

**DEFENDANT COUNSEL:** I just want to draw the attention of the court that learned silk having mentioned that the case is for mention from what he has said before the court now it goes beyond mention. We have an application before the court on behalf of the Accused Person.

**COURT:** Prosecution's documents are deemed properly filed before the court.

(Court Registrar reads out the one count charge dated 21<sup>st</sup> August, 2015 to the Accused Person for his plea)

**COUNT ONE:**

**ACCUSED PERSON:** I am not guilty.

**DEFENDANT COUNSEL:** With respect my lord, may I crave your lordship's indulgence for the Accused Person to sit down.

**COURT:** Yes Mr. Diri, his application for the Accused Person to sit down.

**PROSECUTING COUNSEL:** No objection.



**COURT:** You may sit down.

**DEFENDANT COUNSEL:** The plea has been taken and the Defendant has pleaded not guilty to the charge. We have before your lordship an application filed on the 28th of August, 2015.

**COURT:** Mr. Diri you have the wrong seal on your charge sheet according to the directive of the NBA, you are supposed to affix red not green.

**PROSECUTING COUNSEL:** It is a mistake on our part we will do the needful my lord.

**DEFENDANT COUNSEL:** We have an application for Bail dated 27<sup>th</sup> August, 2015, before your lordship praying for an Order of this Honourable Court admitting the Accused Person to bail brought pursuant to Section 158(1), (2) and (3), 32(3), 165,167 and 168(b) of the Administration of Criminal Justice Act, 2015; most importantly it is brought pursuant to Section 35, 36 (5) and 36(6) (b) of the Constitution of Nigeria 1999. The grounds supporting the application have been set out on the face of the application. The summons is supported by affidavit of Peter Nwatu of 11 paragraphs deposed to on the 28th of August, 2015. We rely on all the paragraphs of the affidavit. There is also attached to the application a written address, in it contains all our legal submissions in support of the application for bail.

By way of emphasis that my lord, have the undoubted discretion to admit the Defendant to bail. The offence is aailable offence and we have demonstrated that his freedom during the trial is closely linked with his ability to defend himself. The charge though looking very slippery; his being on bail cannot interfere with the trial as the learned DPP already

said the investigation has been completed during his introductory. Having said that; his passport is in the custody of the State and he has enjoyed his liberty and in view of the responsible positions he has held in this country to exercise your discretion in his favor. We urge your lordship to grant the Accused Person bail in self-cognizance.

**PROSECUTING COUNSEL:** With greatest respect to this Honourable Court. The offence for which the Defendant is arraigned before this court is a bailable offence. On this note your lordship; we intend to leave it to the discretion of this Honourable Court, your lordship thank you sir.

**COURT:** The defence has urged the court to admit the Defendant to bail on self-recognition, what do you have to say about that?

**PROSECUTING COUNSEL:** I have already said I leave the issue of bail to the discretion of this Honourable Court.

**COURT:** Why I asked that is that in some other jurisdictions Defendant counsel and the Prosecution agree on that and give it to the Court, because you are the one representing the Federal Republic of Nigeria.

**PROSECUTING COUNSEL:** I am not objecting to the Defendant's application my lord.

**COURT:** Ruling delivered and attached to court's file.

**DEFENDANT COUNSEL:** We are most grateful for the admission to Bail. We put heads together subject to this Honourable Court's convenience and we are proposing the 26th and 27th of October, 2015 for hearing. So that we can continue on a day to day basis so that we can complete this matter.

**COURT:** Is that okay DPP since you have completed investigation?

**IN THE FEDERAL HIGH COURT OF NIGERIA**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT ABUJA**  
**ON WEDNESDAY THE 17TH DAY OF DECEMBER, 2015**  
**BEFORE HIS LORDSHIP, HONOURABLE JUSTICE A.F.A ADEMOLA**  
**JUDGE**

**SUIT NO: FHC/ABJ/CS/873/15**

**BETWEEN:**

**STATE SECURITY SERVICE (SSS) ::::::::::::::::::::::::::::::: RESPONDENT**

**AND**

**NNAMDI KANU ::: APPLICANT**

**PARTIES: absent**

**APPEARANCES:**

V. E. Obetta with O. Kingdom and J. Mary for Applicant.

M. U. Idakwo, Chukwu Kazi and Sylvester Obi for Respondent.


V. E. Obetta: We wish to disassociate ourselves from the petition dated 13/12/15 and also inform the Court we have written a request.

Idakwo M. U.: Our application to withdraw the charge was granted. There is no charge in Court against Respondent/Applicant, Nnamdi Kanu.

V. E. Obetta – That is true my Lord, as the Court has discharged.

Court: Ruling delivered granting Respondent/Applicant's Reliefs.

- (i) Order of 10/19/2015 is hereby aside.
- (ii) Applicant is hereby released unconditionally.

  
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Ben Molokwu

## RULING

The Applicant by a Notice of Motion dated 25/11/15 and filed 26/11/15 sought the following reliefs from this Court, to wit:

1. An Order of Court setting aside the order made by this Court ex-parte on the 10/11/15 in Suit No. FHC/ABJ/CS/873/2015 STATE SECURITY SERVICE (SSS) VS. NNAMDI KANU granting the State Security Service (SSS) leave to detain the applicant in its custody for a period of ninety (90) days in the first instance pending conclusion of on-going investigation of terrorism and terrorism financing.
2. An Order of Court striking out suit No. FHC/ABJ/CS/873/2015 – State Security Services (SSS) vs. Nnamdi Kanu pending the final outcome of the criminal charge/FR brought by the Applicant/Respondent before the Chief Magistrate Court, Wuse Zone 2 Abuja presided over by His Worship A. U. Shaibu in Suit No. ABJ/CMS/CR/21/2015 – STATE SECURITY SERVICE V. NNNAMDI KANU.
3. An Order of Court admitting the Applicant to bail and directing the Respondent to comply with the orders of the chief Magistrate Court, Wuse Zone 2, Abuja admitting the Applicant to bail in suit No. ABJ/CMC/CR/21/2015 – STATE SECURITY SERVICE V. NNAMDI KANU.

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AND for such further or other Orders as the Honourable Court may deem fit to make in the circumstances of this case.

The Applicant outlined seven grounds as bases for the Application and supported same with four paragraphed affidavits and a written address as his arguments. The Application also had nine exhibits annexed to it. The Respondent in opposing the Application filed a Counter Affidavit of six paragraphs and one exhibit DSS 1 as well as a written address as its arguments in consonance with the Rules of this Court.

The second relief of the Applicant was based on the premise that there was an abuse of Court process. It is a trite principle of law that there cannot be an abuse except the proceedings is wanting in bona fides or used mala fides against the opposite party see *Amaefule v. The State* 1988 2 NWLR PT 75 at 177.

In the subject of application the charges at the Magistrate Court are not similar processes as in this Court that is being used against the same party in respect of the exercise of the same right and subject matter. The operational laws are different as

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well as subject matters of suspected crime. Thus Relief two is hereby dismissed.

The live issue left in the Application for determination remains:

“whether the Applicant has established a sufficient case to ground his claim to set aside the Order of this Court of 10<sup>th</sup> November, 2015 and consequently admit the Applicant to bail.”

It is common ground amongst the parties that the Applicant was arrested on the 14<sup>th</sup> of October, 2015 at Lagos and arraigned some days later at the Chief Magistrate Court in Abuja for criminal conspiracy, managing and belonging to an unlawful society and criminal intimidation contrary to sections 97, 97b and 397 of the Penal Code. The parties also agreed that bail was granted the applicant for whose release was contingent on non-verification of the title documents of the Surety at the Abuja Geographic Information Systems (AGIS - a body that superintends all title allocations in Abuja). The applicant provided the requirements and was none the less kept in custody for the simple reason that; “the Complainant has not received a response to their enquiry.” This was October 28, 2015.

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Ben Molo Kuru  
Registrar

It is with the above facts in mind that the Respondent sought and was granted by this Court the ex-parte order dated 10<sup>th</sup> November, 2015 to detain the Applicant for 90 days.

It is also against this background that Counsel to the Applicant has filed and argued this motion to set aside this Court's Order of 10<sup>th</sup> November, 2015 and admit the Applicant to bail.

I must mention herein that the TPAS 2013 pursuant to which the Order of 10<sup>th</sup> November was granted remained extant and I see no reason to tamper with the said Section 27; see the case of Aminu Sadiq Ogwuche v. S.S.S. & Anor. Suit No. FHC/ABJ/CS/745/14, I need not say more.

It is pertinent to note that the second limb of the above Order was quite explicit.

"That any person/parties that may be affected by this Order are at liberty to apply to the Court within the said period if they so wish in respect of the subject matter of the application." This window provided by this Order the applicant Counsel is harnessing.

There is no singular doubt that the subject matter in issue throws up the competing need of the Courts, balancing the state's role in the

prevention of the commission of crime as grave as terrorism as well as the age long Fundamental and inalienable Rights of Citizens as enshrined in chapter 4 of the 1999 Constitution as amended.

From the averments in the parties depositions, Applicant has been in the Respondents custody for over two months. Furthermore, Respondents allege on Oath in the earlier Exparte application –

- (a) The Respondent has through overt acts indicated his intention to take up arms against Nigeria see paragraph 40, Affidavit dated 26/10/15.
- (b) The Applicants have orchestrated violence breakdown of law and order in the South-East and South-South Geographical Zones of the Country – see paragraph 4 (viii) of Counter Affidavit dated 03/12/15.

It is obvious the Respondent does not lack basic materials, if it is so persuaded or convinced as alleged, to file charges against the Applicant in this Court; but rather chose to detain the Applicant in the first instance for 90 days.

This was further confirmed when Counsel to the Respondent, when confronted over the delay in filing charges, hinged the delay on lack of directive from the office of the DPP.

It is trite law that a citizen's freedom or liberty is not absolute as his right of liberty may be impaired temporarily. See Hassan v. EFCC



2014 1 NWLR part 1389 page 607 at 630. However, Section 158 of the ACJA provides "when a person who is suspected to have committed an offence or is accused of an offence is arrested or detained or appears or is brought before a Court, he shall, subject to the provisions of this part, be entitled to bail.

Besides, Section 35 (4)(a) of the 1999 Constitution as amended provides "Any person who is arrested or detained in accordance with sub section (1) (cc) of this Section shall be brought before a Court of law within a reasonable time and if he is not tried within a period of:

(a) Two months from the date of his arrest or detention in the case of a person who is in custody or is not entitled to bail or .... He shall without prejudice to any further proceedings that may be brought against him be released either unconditionally or upon such conditions as are reasonably necessary to ensure that he appears for trial at a later date.

There is no doubt that constitutional provisions remain supreme and every citizen's rights strictly protected and jealously guarded by the Courts see also Hassan v. EFCC (supra).

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Registrar

For the period spanning over two months Applicant remained in Respondent's custody. The Applicant is yet to be charged formally of all the terrorism suspicion before a Court of competent jurisdiction.

From the forgoing therefore, this Court holds that

(a) The Respondents are not ready to grant Applicant bail as per the Order of the Chief Magistrate Court.

(b) Respondents lack enough material to prosecute the Applicant or

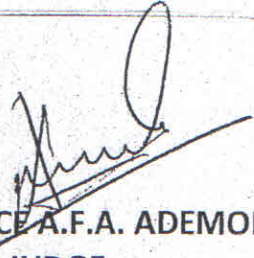
(c) The Respondents are yet to make up its mind on the Applicant. Therefore, whilst the Respondent is pondering on its next step and following the case of Akila v. Director-General SSS, 2014 2 NWLR part 1392 page 443 at 468 this Court holds that the Applicants detention for more than two months in Respondents custody without filing charges before a Court of competent jurisdiction on suspected crime is contrary to Section 34 of the 1999 Constitution. On the whole the application succeeds. By the community reading of Sections 158, 164, 165 of the ACJA which has made granting of bail more liberal, I do hereby make the following Orders:

(1) This Court's Order of 10/11/2015 is hereby set aside;


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(2) The Applicant is hereby released unconditionally pursuant to Section 35 (4) of the 1999 Constitution and in view of the Respondents admission that there is no pending charge against the Applicant.



HON. JUSTICE A.F.A. ADEMOLA  
JUDGE  
17/12/2015

  
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**IN THE FEDERAL HIGH COURT OF NIGERIA**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT ABUJA**  
**ON TUESDAY THE 3<sup>RD</sup> DAY OF NOVEMBER, 2015**  
**BEFORE HIS LORDSHIP, HONOURABLE JUSTICE A.F.A ADEMOLA**  
**JUDGE**

SUIT NO: FHC/ABJ/CR/319/15

**BETWEEN:**

FEDERAL REPUBLIC OF NIGERIA ::::: COMPLAINANT/RESPONDENT

AND

MOHAMMED SAMBO DASUKI ::::::::::: DEFENDANT/APPLICANT

**RULING**

This is a Motion on Notice dated 23/10/2015, and filed on the 26/10/15 by Defendant/Applicant solicitors led company by J. B. Daudu SAN and Ahmed Raji (SAN) praying this Court for the following Orders.

1. **AN ORDER** of Court for an interim release of the Applicant's International Passport in order to enable him travel abroad for a three week medical appointment, over a deteriorating medical condition.
2. **AN ORDER** directing the Registrar of this Honourable Court to immediately release the Applicant's International Passport to him or his Solicitors on record, in terms of Relief One above.

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3. **AND** for such Orders or further Orders which this Honourable Court may deem fit to make in the circumstance.

It is based on the following 5 grounds:

1. The Applicant suffers from an acute colorectal cancer lesion at the lower abdominal region, and he has medically managed it for a long period of time.
2. Owing to the arrest and seizure of the Applicant's International Passport on 16<sup>th</sup> July, 2015 by the Complainant (acting through the Department of State Security Service), the Applicant was unable to travel abroad to keep up with his medical appointment due on 21<sup>st</sup> July, 2015.
3. For failure to keep up with the said appointment, the Applicant's health is now fast deteriorating, thereby causing complications which require urgent medical attention.
4. This noble Court has powers to grant the reliefs sought herein, particularly because on 1<sup>st</sup> September, 2015, the Applicant was admitted to bail on self-recognisance, and he will at every material time be present in Court to stand trial for the Charges.
5. It is in the interest of justice to grant this Application, so that the Applicant can be fit to stand trial in this case.

The application is supported by an affidavit of 9 paragraphs Exhibit DS 1 and a written address dated 23/10/15 and affidavit of urgency; upon service FGN, Complainant/Respondent filed a counter affidavit of 5 paragraphs with Exhibit MSD 1 and a written address dated 27/6/2015 and served on the Defendant/Applicant on 30/10/15.

Yesterday, on Monday 2/11/15, Defendant/Applicant's Counsel filed a further and better affidavit in reply also served on Complainant/Respondent's Counsel.

The Court in the light of paragraphs 6 and 7 of A. A. Usman's affidavit of urgency filed on 26/10/15 which was not controverted by the Complainant/Respondent in Loveme Odubo counter affidavit of 27/10/15 gave the application priority and heard it yesterday.

The Defendant/Applicant's Counsel formulated a sole issue for determination as contained in their written address to wit. "In consideration of EXHIBIT DS1 and the ailing medical condition of the Defendant, whether this Honourable Court ought to grant the Reliefs sought in this application." In response, Complainant/Respondent's Counsel in their written address also formulate an issue for determination to wit:- "whether in consideration of the nature of the offence charged and given the circumstances of this case, the Prosecution is entitled to the application sought." After perusing the Court processes of Counsels and reviewing their oral arguments this application before the Court is simply for an Order releasing Defendant's passport to him so that he can travel to see to his health matters.

The issue is therefore whether this Court can order the release of his passport? If so, then why not? This court hereby formulates the issue for determination as follows:

"whether in the circumstances of the case, this Court could order the release to the Defendant/Applicant his International Passport."

Defendant/Applicant's Counsel submitted that having regard to EXHIBIT DS 1 and affidavit in support, the circumstances of Defendant/Applicant's ill-health are compelling enough to command an urgent intervention of this Court in order to avert a further exposure of the Applicant's Health to Hazardous conditions, which may lead to death. He cited IBORI V. FRN (Supra). He submitted there must be a fair trial necessitating Defendant being fit to stand trial for the offences charged. In the circumstances there is need for the Defendant to travel abroad urgently for medical treatment to enable him be fit enough for trial. He referred the cases of (i) Olatunji v. FRN (Supra) (ii) Bulama v. FRN (Supra) and Section 173 (2) of the A.C.J.A. 2015:

The Defendant was granted bail on 1/9/15 by this Court and always appeared at every adjourned date of these criminal proceedings.

M. S. Diri, DPPF, opposed this application relying on their five (5) paragraph counter affidavit with Exhibit MSD 1 and written address. He relied on paragraphs 4A – H of the affidavit predicating his objection on 4 grounds:

1. The ailment disclosed can be treated in Nigeria referring to Exh. MSD 1.
2. Defendant is also being investigated in respect of other money laundering offences by the DSS – see para. 4 (i) of the counter affidavit.
3. Defendant was ordered to deposit his International passport and if released to him there will no longer be conditions attached to his bail whatsoever.
4. Period of time Defendant will be away is three weeks which will delay the trial of this case.

Finally, DPPF argued the facts of IBORI V. FRN (Supra) cited by the Learned Silk are distinguishable.

In his reply to the DPP's grounds of objection asking the Court to refuse the application, J. B. Daudu SAN submitted the retention of



Defendant's International Passport is punitive and urged the Court to exercise its discretion in favour of Defendant/Applicant.

I have perused Defendant/Applicant Counsel's processes as well as exhibit DS 1, a letter of 1/7/15 signed by his Doctor, Dr. Maroof Harghandiwal, private general practitioner of 10 Harley Street, London W1G addressed to him. It speaks for itself and uncontradicted by the Prosecution in their counter affidavit and exhibit(s) before the Court.

The Complainant/Respondent's Exh. MSD 1 dated 26/10/15 signed by Dr. JAF Momoh CMD was made in the course of this criminal proceedings. It is addressed to the Solicitor-General of the Federation for the attention of DPPF, no doubt a reply to his letter of 26/10/15 and titled "Re-request for confirmation on whether ailment of colorectal cancer lesion can be treated in Nigeria". Again its contents are tautological and positive making no reference to the Defendant/Applicant whatsoever. EXHIBIT MSD 1 is irrelevant and of no probative value to this application.

More importantly every citizen of Nigeria has a right to medical facilities of his or her own choice in Nigeria or Overseas. The ill health of

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Ben Molokwu


an accused person is a sufficient reason or circumstance upon which the Court can exercise its discretion in his favour for bail. See *Abacha v. The State* (2002) 5 NWLR pt. 761 @ 638.

I regard Exh. MSD 1 titled "Request for confirmation on whether ailment of colorectal cancer lesion can be treated in Nigeria" as a general notice to the public at large in Nigeria that ailment of colorectal cancer lesion can be treated in Nigeria and no more.

On the second ground that the Defendant is being investigated for other money laundering offences DSS is neither here or there.

Presently this Court is only aware of the amended charge dated 26/10/2015 against Defendant for four (4) money laundering offences upon which the Prosecution has completed investigation vide Musa Duniyo's affidavit of 14/10/2015.

On their third ground of objection that if Defendant is given his International Passport, conditions will no longer attached to his bail.

  
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Defendant was granted bail on self-recognition and no conditions. The arguments of DPPF on this ground are misconceived and untenable in law.

Finally he contended the period of three weeks sought by Defendant/Applicant on his behalf will delay the trial. This Court reiterates this criminal charge was mentioned on 1/9/15 for the first time and hearing fixed for 26<sup>th</sup> and 27 October, 2015, upon the application of Prosecution. When the day for trial came up i.e. 26/10/2015, almost 8 weeks thereafter, the prosecution moved two applications i.e. (i) motions to amend the charge and (ii) witness protection.


Consequently, new trial dates have to be fixed by the Court in the circumstances. In criminal trials an accused person is presumed innocent until prove guilty under section 36(5) of the constitution of the FRN 1999 as amended and entitled to a fair Hearing at his trial within reasonable time. See IBORI V. FRN (Supra) which is on all fours with the present case and binding on this Court under the principle of stare decisis.

From the foregoing paragraphs of this ruling, the Prosecutor's grounds of objections fail and their arguments dismissed in it's entirety. Accordingly the Defendant/Applicant's application dated 23/10/2015 succeeds with the following orders:

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Registrar

1. THAT AN ORDER is hereby made for an interim release of the Applicant's International Passport, in order to enable him travel abroad for a three week medical appointment, over a deteriorating medical condition.
2. THAT AN ORDER is made directing the Deputy Chief Registrar of this Honourable Court to immediately release the Applicant's International Passport to him or his Solicitors on record.
3. THAT UPON arrival from his travel abroad for a medical appointment, the Applicant is ordered to surrender his International Passport to the Deputy Chief Registrar (Litigation) within 72 hours.
4. That the bail granted to the Defendant in self-recognizance on the 1<sup>st</sup> of September, 2015 is hereby varied to include provision of one Surety to be approved by the Court.
5. THAT the Surety of the Defendant/Applicant to give his/her consent and file a written undertaking to guarantee his return to Nigeria, the Surety agrees to take the place of the Defendant and to be Detained in prison until the Defendant/Applicant submits himself for trial or be arrested by Law Enforcement Agents or Agencies as the case may be.
6. THAT alternatively, any of the two Learned Silks for the Defendant/Applicant to give a written undertaking to produce him in Court at the next trial date.
7. THAT TRIAL date is fixed for the 26<sup>th</sup> and 27<sup>th</sup> of November, 2015.

  
**HON. JUSTICE A.F.A. ADEMOLA**  
**JUDGE**  
**3/11/2015**

  
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ABUJA

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Ben Molokwu  
Registrar

**IN THE FEDERAL HIGH COURT OF NIGERIA**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT ABUJA**  
**ON TUESDAY THE 1<sup>ST</sup> DAY OF SEPTEMBER, 2015**  
**BEFORE HIS LORDSHIP HON. JUSTICE A.F.A ADEMOLA**  
**JUDGE**

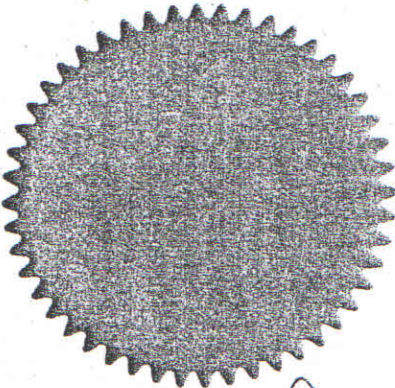
**SUIT NO. FHC/ABJ/CR/319/2015**

**BETWEEN:**

FEDERAL REPUBLIC OF NIGERIA=====COMPLAINANT/RESPONDENT

**AND**

**COL. MOHAMMED SAMBO DASUKI (RTD)===DEFENDANT/APPLICANT**



HON. JUSTICE A.F.A ADEMOLA

**ORDER**

**UPON** this Summons for Bail dated 27<sup>th</sup> of August, 2015 and filed on the 28<sup>th</sup> of August, 2015 praying this Honourable Court for the grant of the following Orders:

- i. **AN ORDER** Honourable Court admitting the Applicant to Bail pending the hearing and determination of the Charge preferred against him.
- ii. **AND** for such further Order(s) as this Honourable Court may deem fit to make in the circumstances of this case.

**AND UPON** reading the affidavit in support of the Summons sworn to by **Peter Nwatu**, male, of No. 10 Santana Close, Off Faundriana Close, Off Malakal Arine, Off Oda

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12/09/2016

Ben MoloKuru


Crescent, Off Dar-E's-salam Street Wuse II Abuja and filed in the court Registry.

**AND AFTER** hearing **J.B. Daudu (SAN)** with **Ahmed Raji (SAN)**, **Adeola Adedipe Esq, Lauretu Ogwuche (Miss)** for the Defendant/Applicant move in terms of the motion paper and **M.S. Diri Esq. (D.P.P.F)** with **P.O. Igoche Esq, O.J. Ekpa Esq, S.M. Labaran Esq,** for the Complainant/Respondent not opposing the application.

**IT IS HEREBY ORDERED AS FOLLOWS**

1. **THAT Bail** is granted to the Defendant in self recognizance.
2. **THE Defendant** is ordered to surrender his International Passports to the Deputy Chief Registrar (Litigation) Federal High Court, Abuja.
3. **THE** Department of State Security Services are Ordered to submit the Defendant's International Passports to the Deputy Chief Registrar (Litigation) Federal High Court, Abuja.
4. **THE TRIAL** is fixed for the 26<sup>th</sup> and 27<sup>th</sup> day October, 2015.

  
HON. JUSTICE A.F.A ADEMOLA


  
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Registrar.

  
HON. JUSTICE A.F.A ADEMOLA

**ISSUED IN ABUJA** Under the Seal of  
the Court and the Hand of the Presiding  
Judge, this 1<sup>st</sup> day of September, 2015.

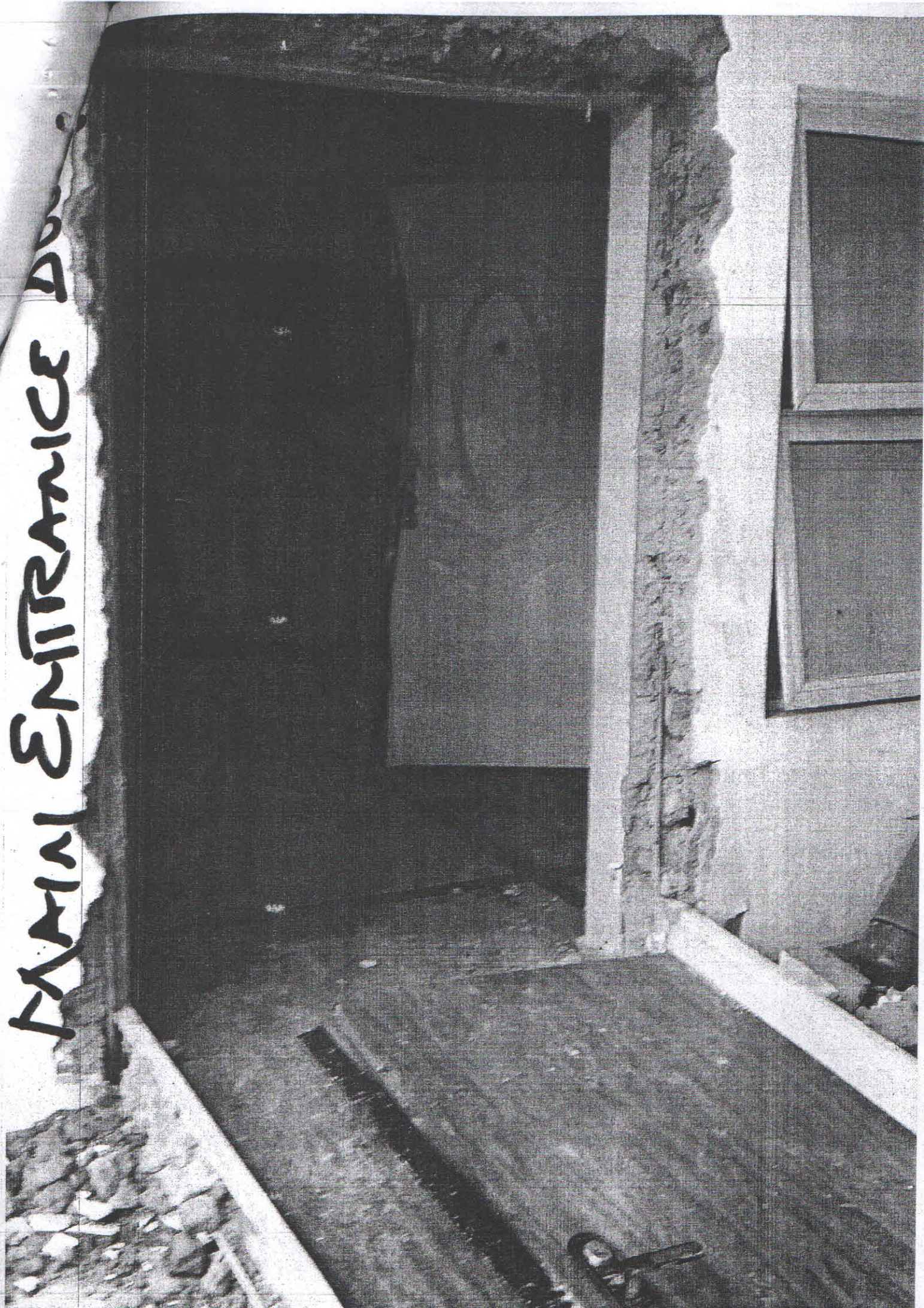
  
**IKPATT SAMUEL**  
**(REGISTRAR)**

  
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Registrar  
12/09/2016 -3-

Ben Molo Kura

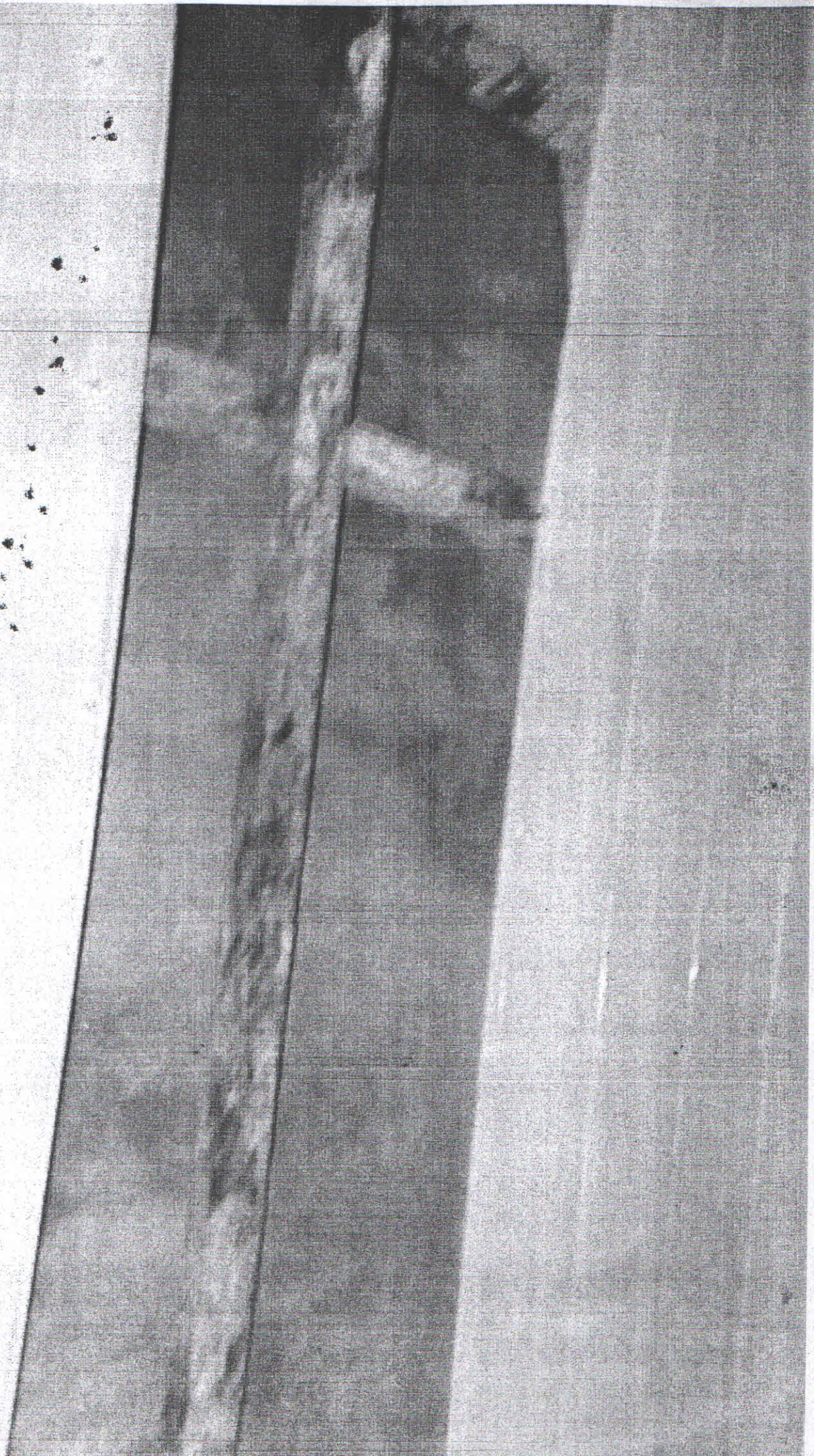
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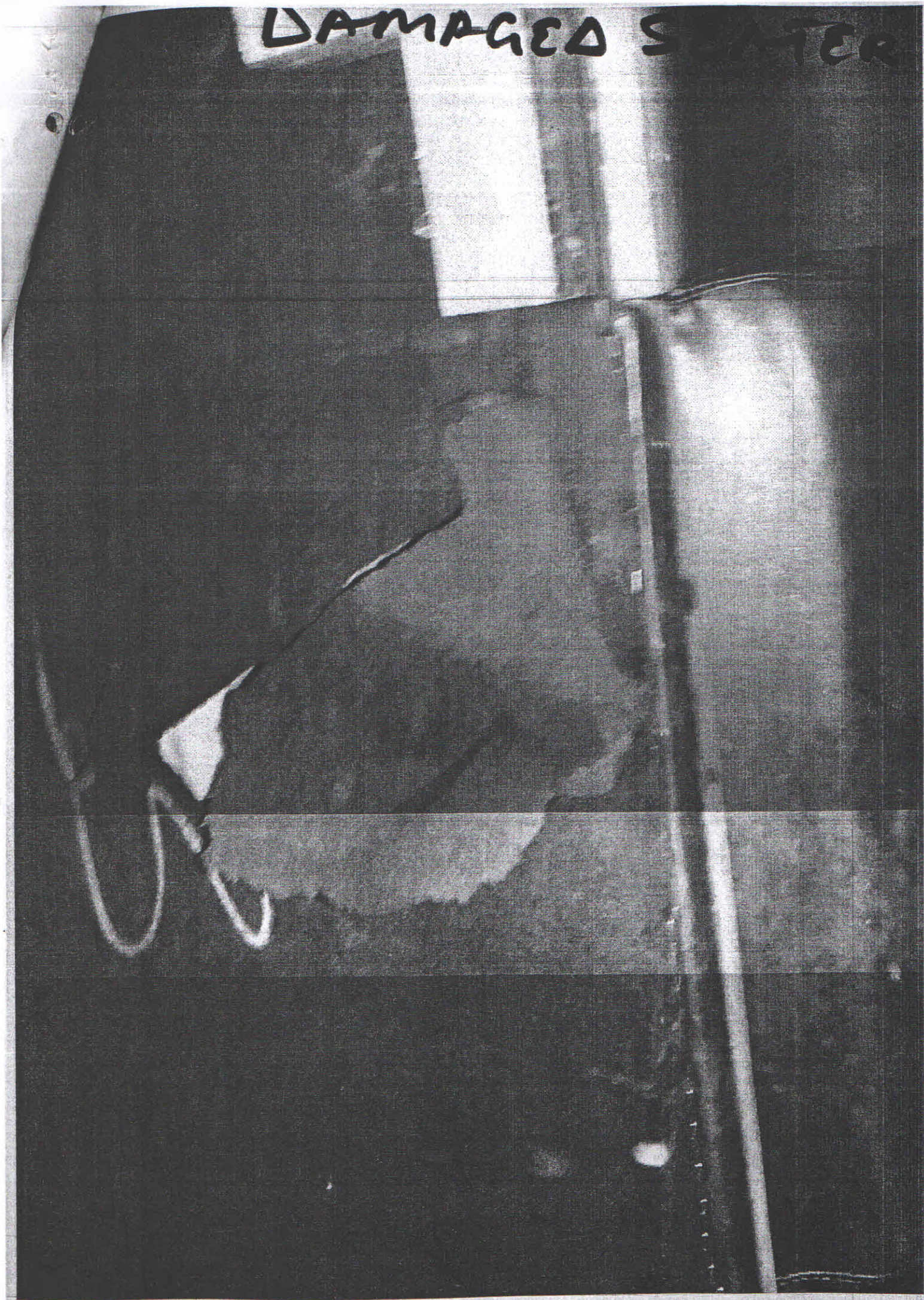


DAMAGED TOILET

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