

Counsel's Copy

**IN THE HIGH COURT OF ENUGU STATE
IN THE ENUGU JUDICIAL DIVISION
HOLDEN AT ENUGU**

MOTION NO: E/702M/2011
CHARGE NO: MEN/637c/2011

BETWEEN:

OSMOND UGWU

- **APPLICANT**

AND

COMMISSIONER OF POLICE

- **RESPONDENT**

MOTION ON NOTICE

BROUGHT PURSANT TO SECTION 73 OF THE CRIMINAL PROCEDURE LAW, CAP 31, LAWS OF ENUGU STATE 2004; SECTIONS 35(4) AND 36(5) OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (CFRN), 1999 (AS AMENDED); AND THE INHERENT JURISDICTION OF THIS HONOURABLE COURT.

TAKE NOTICE that this Honorable Court shall be moved on _____ day of _____ 2011 at the hour of 9'0 Clock in the forenoon or so soon thereafter as counsel may be heard on behalf of the applicant for the following reliefs:

1. **AN ORDER** admitting the applicant to bail pending the time the respondent may charge him for any offence before a court of competent jurisdiction.
2. **AND** for such further or other orders as this honorable court shall deem fit to make in the circumstances.

AND TAKE FURTHER NOTICE that the grounds of this application is as follows:

- a. That the applicant is presumed innocent until proved guilty in a law court.
- b. That the applicant committed no offence.
- c. That the charge against the applicant is trumped-up charge meant to keep him out of circulation for no just cause.

Dated this 3rd day of November, 2011.

[Handwritten signature]

PP: EDWIN ANIKWEM,ESQ
CHIANUBA EZEANI,ESQ
DR. GODSTIME OKAFOR
GABRIEL NWOKEIWU,ESQ
BENEDICT EZEAGU,ESQ

C/O

APPLICANT'S COUNSEL
DR G. O. OKAFOR & CO.
(GLOBAL CHAMBERS)
127 UPPER CHIME AVENUE
(AKALAKA HOUSE,3RD FLOOR)
NEW HAVEN, ENUGU.

For Service On The Respondent

The Commissioner of Police
O/C Legal,
Legal Department,
State C.I.D,
Enugu State Police Headquarters,
Enugu.



[Handwritten notes and signatures on the right side of the page, including names like 'M... 100', 'fig - 100', 'Oth - 200', 'Add - 200', 'Annis - 20', 'Sen - 20', 'Hm - 100', and a signature 'A948' at the bottom.]

[Handwritten notes on the bottom left side, including 'Platacra', '2567420', and '3/11/2011' with a horizontal line above the date.]

**IN THE HIGH COURT OF ENUGU STATE
IN THE ENUGU JUDICIAL DIVISION
HOLDEN AT ENUGU**

E/702nd/2011
MOTION NO:.....
CHARGE NO: MEN/637c/2011

BETWEEN:

OSMOND UGWU	-	APPLICANT
AND		
COMMISSIONER OF POLICE	-	RESPONDENT

AFFIDAVIT IN SUPPORT OF THE MOTION FOR BAIL

I **Bernard Ugwuokolo**, male, Adult, Nigerian Citizen, Public Servant of Onungene Village, Ibeagwa Nike, Enugu East L.G.A., Enugu State do hereby make oaths and state as follows:

1. That the applicant is my uterine younger brother by virtue of which I am familiar with the facts of this case.
2. That I have the consent and authority of the applicant who is currently being remanded in the Enugu prison and unable to swear to this affidavit personally to depose to this affidavit.
3. That the applicant was arraigned on 26th of October, 2011 before a Chief Magistrate Court in Enugu on a two count charge of conspiracy to murder and attempted murder, and no plea was taken. The Certified True Copy of record of proceeding and the charge sheet are hereby attached and marked **Exhibits A** and **B** respectively.
4. That the applicant at about 11.00am on the 30th day of October, 2011 at the Enugu Prison where he is at present being remanded told me and I verily believe as follows:
 - a) That on the 24th of October, 2011 at about 5pm he and his co-workers in Enugu State Civil Service, who have adopted a prayer approach in the pursuit of their welfare, particularly the implementation of the N18,000 minimum wage gathered as usual to pray at the Enugu State Nigeria Labour Congress (NLC) secretariat at No 1 Works Road, GRA, Enugu.

- b) That as he was on his knees seriously engrossed in prayers while the prayer and singing session was going on, a combined team of over 100 armed policemen, soldiers and thugs besieged the workers assembly and began to manhandling the workers and to shoot indiscriminately in their effort to disrupt the workers prayer session and to arrest him because he is a prominent leader of the workers.
- c) That at a point when many workers had been beaten up and injured over 50 policemen turned and descended heavily on him.
- d) That while some of these overzealous security agents and thugs held him on his hands and legs, others were beating him and twisting his neck to strangle him.
- e) That he was stripped naked and dragged on the road by the so-called security agents to a far distance where they parked their vehicles before he was lifted up and thrown into one of their waiting pick-up vans like a log of wood and driven to the Enugu State Police Headquarters.
- f) That on getting to the Police Headquarters, he was taken to the Office of A.C., State C.I.D., who directed that he should be charged for treasonable felony 'for inciting workers against the State Government and attempted murder'.
- g) That he was taken to D9 at the State C.I.D. where the charges as earlier formulated by the A.C., State C.I.D. was written down and read out to him.
- h) That while he was at the D9, one policeman on plain cloth came to him and while looking straight into his eyes asked him whether he was the Osmond Ugwu from Abakpa and when he (applicant) answered in the affirmative, the policeman told him to thank his God that he (the policeman) was not among the team that effected his (Applicant) arrest as he (the policeman) would have finished him (applicant) up with his gun so that the state will have peace.
- i) That after that he was taken from D9 to one of the cells at the same State C.I.D., Enugu where he was detained till 26th October, 2011.

when he was taken to an Enugu Chief Magistrate Court presided over by Phil C. Nwankwo, Esq. at about 8:15am.

j) That he did not at any time have any altercation or quarrel with any policeman not to talk of hitting one Sgt. Emebong Ndon as he had nothing to do with the said Sgt. Emebong Ndon.

K) That he does not know the said Sgt. Emebong Ndon and has never come in contact with such name since he was born.

- 5 That if the applicant is granted bail he will neither interfere with any investigation the police may wish to conduct further in the matter nor tamper or disturb the proposed witnesses the police may wish to call in proof of any criminal allegation the police has against him.
- 6 That there is a reasonable surety who is willing and ready to take the applicant on bail and to ensure that he attends court any time the need arises.
- 7 That prior to this charge the applicant has neither been charged to court for any criminal offence nor convicted of any criminal offence.
- 8 That the applicant is the leader of the Workers' Forum, a forum where all the civil servants in Enugu State meet and deliberate on the affairs concerning them and chart the way forward.
- 9 That I know as a fact that the applicant is a responsible family man who believes in peace, order and meticulous propagation of the welfare of the generality of the workers and the entire populace of Enugu State.
- 10 That I know as a fact that his meticulous, orderly and peaceful articulation of the welfare of workers led to the re-enstatement by this administration of more than five thousand (5,000) civil servants disengaged by the immediate past administration of Enugu State from 1999-2007.
- 11 That I know as a fact that the applicant is a responsible family man with wife and children who are still minors at an impressionable age who require the presence of their father for guidance and protection.

12 That I also know that the applicant is the breadwinner of his immediate family.

13 That the respondent will not be prejudiced in any way if this application is granted.

14 That I **Bernard Ugwuokolo** do hereby solemnly and conscientiously depose to this affidavit in good faith believing same to the best of my knowledge and the information available to me and in accordance with the Oaths Act.


Deponent

Sworn to at the High Court Registry, Enugu
This 3rd day Nov 2011.

BEFORE ME


COMMISSIONER FOR OATHS



**IN THE HIGH COURTH OF ENUGU STATE
IN THE ENUGU JUDICIAL DIVISION
HOLDEN AT ENUGU**

MOTION NO:.....
CHARGE NO: MEN/637c/2011

Ef 702 M / 2011

BETWEEN:

OSMOND UGWU

- **APPLICANT**

AND

COMMISSIONER OF POLICE

- **RESPONDENT**

AFFIDAVIT OF URGENCY

I **Bernard Ugwuokolo**, male, Nigerian Citizen, Public Servant of Onungene Village, Ibeagwa Nike, Enugu East L.G.A. of Enugu State do hereby make oath and state as follows:

1. That the applicant is my younger brother by virtue of which I am familiar with the facts of this application.
2. That I have the authority and consent of the applicant who is in prison custody and unable to depose to this affidavit personally to depose to this affidavit.
3. That the applicant was arraigned in a Chief Magistrate Court on a two court charge of conspiracy to murder and attempted murder but his plea was not taken.
4. That the Chief Magistrate who remanded him in the prison advised him to apply to the High Court for his bail.
5. That I verily believe that if this application is not urgently and expeditiously determined that the applicant with the wounds inflicted on him by the security agents would rot away in detention at the deriment of his wife and little children.
6. That it will be in the interest of justice to grant this application.

7. That I depose to this affidavit in good faith conscientiously believing same to be true to the best of my knowledge and information available to me and in accordance with the Oaths Act.


DEPONENT

Sworn to at the High Court Registry Enugu
This 3rd day Nov of 2011.

BEFORE ME


COMMISSIONER FOR OATH



IN THE HIGH COURT OF ENUGU STATE
IN THE ENUGU JUDICIAL DIVISION
HOLDEN AT ENUGU

MOTION NO:.....
CHARGE NO: MEN/637c/2011

E/702m/2011

BETWEEN:

OSMOND UGWU

--

APPLICANT

AND

COMMISSIONER OF POLICE

--

RESPONDENT

WRITTEN ADDRESS IN SUPPORT OF APPLICATION FOR BAIL

INTRODUCTION:

The Applicant herein was arrested on 24th of October, 2011 and was on 26th of October, 2011 arraigned before a Chief Magistrate Court in Enugu on two count charge of conspiracy to murder and attempted murder. His plea was not taken and as such he was remanded in prison custody. However, the presiding Chief Magistrate advised him to apply to the High Court for bail hence this application for bail.

This application is brought pursuant to Section 73 of the Criminal Procedure Law, Cap 31, Laws of Enugu State 2004; Sections 35(4) and 36(5) of the Constitution of the Federal Republic of Nigeria (CFRN), 1999 (as amended); and the inherent jurisdiction of this Honourable Court.

This application prays the Court for the following:

1. **AN ORDER** admitting the applicant to bail pending the time the respondent may charge him for any offence before a court of competent jurisdiction.
2. **AND** for such further order or other orders as this honorable court shall deem fit to make in the circumstances.

The application is accompanied by 14 paragraphs Affidavit in Support of the Motion and an Affidavit of Urgency of 7 paragraphs both deposed to by Mr. Bernard Ugwuokolo and we rely on all the paragraphs of the two Affidavit.

THE MAIN ISSUE FOR DETERMINATION

Whether the applicant has placed sufficient material before this Honourable Court warranting the exercise of the discretion of the Court in his favour?

ARGUMENT

Your Lordship, it is trite law that the granting of an application for bail is subject to some conditions statutorily provided for in our laws and in judicial authorities, they are as follows:

- A That by reason of the granting of bail the proper investigation of the offence would not be prejudiced; and
- B That no serious risk of the accused escaping from justice would be occasioned; and
- C That no ground exist for believing that the Accused if released, would commit an offence.

Sir, the import of this is that the court has been vested with discretion in granting or refusal of bail, which discretion must be exercised judicially and judiciously based on the fact before the court. Also in our law, 'if it appears to court that there are no reasonable ground for believing that a person accused has committed the offence, but there are sufficient grounds for further inquiry, such person may, pending such inquiry, be released on bail'.

It has been held several times by the Court that an exercise of discretion will not be disturbed by an appellate court because another court would have exercised differently.

We therefore submit that based on the averments contained in paragraphs of the Applicant's affidavit, sufficient and cogent facts have been adduced to satisfy the requirements of the law for the granting of bail. Thus, the applicant has placed sufficient material before this court necessitating the exercise of the discretion in his favour.

Your Lordship, the essence of bail is not to set the accused person free, but to release him from the custody of the law and to entrust him to the custody of a surety who is bound to produce him to appear at his trial at a specific time and place. It is to restore the freedom of an individual who has been accused of committing an offence(s) for which he stands answerable before a competent court of law. See the cases of **Emmanuel Nwude Vs. Federal Government of Nigeria** (2004) Vol. 41 WRN page 124 at 12w8 ratio 1 and **Mr. Joel Omadara Vs. The State** (2003) 3 WLRNC Part 11 Page 98 at 101 ratio 4.

We submit further that in our Criminal Law and Procedure an accused person is not in jurisprudence a person presumed guilty but is given the benefit of being innocent until contrary is proved, irrespective of the nature or gravity of the offence with which he is charged. See Section 36(5) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

Denial of bail cannot be used to punish an accused for the crime with which he is yet to be charged and/or yet to be tried. See the cases of **Alhaji Felix Ikhazuagbe Vs. Commissioner of Police** (2004) VOL. 49 WLRN Page 112 at 118-199 ratio 1 and **Vincent Ogueri Vs. The State** (2000) Vol. 2 CLRN Page 14 at 17 Ratio 6.

Moreover, in an application for bail, the other paramount factors for consideration are:

- i. The likelihood of the Applicant being available to stand his trial;
- ii. The seriousness of the charge preferred against the applicant; &
- iii. The strength of the evidence. See **CHINEMELU Vs. COP (1998) 1 ACLR 501 AT 514 PARAS. 25-35**; and **OGBHEMHE Vs. COP (2002) FWLR (103) 355 AT 364 PARAS. A-C**.

On these conditions above, we submit that even though there is an allegation of attempted murder of one Sgt. Emebong Ndon, no formal charge as required by law has been preferred against the Accused and no proof of evidence has been preferred as required by law. And in this type of situation, the further detention of the Applicant is unreasonable and unjustified.

The presumption of innocence enures in favour of the Applicant as he is constitutionally entitled to his liberty as of right unless there is special

circumstance warranting his continued detention. But no such circumstance exists in this case. Thus, to allow the Applicant to continue being in remand in perpetuity would unreasonably deprive him his right to personal liberty and unwittingly sow the seed of improper use, or abuse of power by police or the executive to the chagrin of an innocent citizen whose guilt in relation to the allegation to the attempted murder of one Sgt. Emebong Ndon is yet to be proved. The courts have been enjoined to condemn in its entirety, such a posture. See-**CHINEMELU Vs. COP (SUPRA) AT 514-515;ENWERE Vs. COP (1993) 6 NWLR (PT 299) 333 AT 342 PARAS. D-E.**

We submit further that in a situation where the Prosecution merely parades to court the word "attempted murder" without tying it with the offence, a court of law is bound to grant bail. See-**UKATU Vs. COP (2001) FWLR (PT 66) 755 AT 763-764 PARAS. G.B.S.**

Even in more serious offences or in allegation of Murder which is a more serious offence, the Court is not precluded from granting bail but rather has discretion to grant bail after considering certain factors/conditions. The court held that there is need to adopt a liberal approach or attitude to bail. See the case of **Engineer Success A. Obioma and 5 Others Vs. Federal Republic of Nigeria (2005) 13 WRN 131 at 146 ratio 18.**

Also the Court of Appeal in **Bolakale Vs. State(2006) All FWLR(Pt 312),2168@p 2177,paras A-B,per Muntaka-Coomassie,JCA** stated thus:

"I must state emphatically,with tremendous respect that bail under our law is a right of an accused person,except where the alleged offence is a capital offence,the accused person is not usually denied bail,except where special circumstances genuinely exist"

The Appellate Court went further in paragraph C-D of the case above to state that even where the offence is a serious one that the court still has discretion to exercise in favour of the accused if the condition stated above are met.

We consequently submit that though the Applicant is charged with attempted murder which is punishable with life imprisonment, there are no special circumstance as to warrant his being denied bail. More so, there is no material before this Honourable Court showing that the Applicant is facing any charge before a court of competent jurisdiction. And it has been held in a plethora of decided cases that the failure to prepare proof of evidence and failure to file

information constitute a special or exceptional circumstance which a court should consider in the grant of a bail application.

Thus, in *Anakwe Vs. COP* (1996) 3 NWLR (PT 436) 320 AT 332 PARAS E-G. TOBI JCA held as follows:

"It is not, in my humble view, the function of the prosecutor is not to rush a charge to a Magistrate's Court, a court which has not jurisdiction to try murder cases, and play for time, while investigation is in progress. I have said it before and I will say it again that the uniquely police phraseology of a 'holding charge' is not known to our criminal law and jurisprudence. It is either a charge or not. There is nothing like a "holding charge". If the prosecution is not ready, it should do the proper thing and the laws of the land provide for the proper thing.

The six letter word of 'murder' comes with it so much fear as the law prescribes the death penalty. But like every other offence in our criminal system, there is nothing magical in the word per se. But there is so much to fear in the offence of it because of the death penalty. Therefore where the prosecution merely parades to the court the word "murder" without tying it with the offence, a court of law is bound to grant bail. And the only way to intimidate the court not to grant bail is to prefer an information and proof of evidence to show that there is prima facie evidence of commission of the offence".

Also in *OGUERI Vs. STATE* (2000) 2 CLRN 14 AT 24 PARAGRAPH A-B. On grant of bail- *PATS-ACHOL ONU*, JCA stated as follows:

"it must not be easily forgotten that in a country that prides itself with democratic tenets, liberty and law are twin concepts and are therefore in-separable. It is said that bail for anyone accused of murder is impossible. We must avoid being intellectually captured by the shrine of formalism. We should not therefore follow false gods who are satisfied with primitive oblations, rites and ceremonies. It is our duty as guardians of justice to rise when occasions call for it and allow the goddess of justice to rule our heads and actions. In that case the authority of the law would have been preserved and law will be used as instrument of abiding justice."

While OGEBE, JCA is his own contribution at page 26, paras. A-B stated as follows:

"In a country such as ours where there is so much inter-ethnic animosity and hatred, the court ought to be cautious in remanding accused persons in custody unless there is some substantial evidence in support of allegations of crime against them because it is so easy for an enemy to make a false allegation of murder or robbery against a citizen to keep him out of circulation".

Furthermore in CHINEMELU Vs. COP (1995) 4 NWLR (PT 390) 467 AT 490 Ejiwunmi, JCA had this to say:

"The prosecution, the respondent in this appeal has all the entire machinery of Government, which includes the Police authorities, a whole battery of lawyers in the Ministry of Justice behind it.

The appellant or indeed any accused person is not so supported in his quest to show that he did not commit the offence for which he is charged. It is therefore only proper that once a person accused of an offence has raised the validity of his charge and requests for bail, the prosecution is obliged within a reasonable time to justify the accusation by preferring an information with the proof of evidence in support thereof for the consideration of the Court.

In the instant case, the appellant was charged with an offence of murder which was allegedly committed on the 11th of November, 1994. Since then, nothing had been done by the prosecution to take such steps as I have outlined above. It is not sufficient for the learned DDPP to oppose the grant of bail to the appellant without more. Indeed there is also no evidence to counter the affidavit evidence of the appellant's wife, as to whether the appellant would be available to stand trial should he be granted bail. It seems to me that upon the position reached in this matter the respondent has failed to show why the appellant should not be granted bail in all the circumstances".

Sir, it is submitted that the Applicant has placed sufficient materials before the Honourable Court to entitle the Court's discretion to be exercised in his favour. The law presumes in favour of the liberty of the Applicant and his innocence until found guilty. We refer to the Applicant's affidavit and submit that the

applicant has met each and every requirement to be entitled to bail in this case. The Applicant has not only placed some materials before this Court but has shown by his Supporting Affidavit and Affidavit of Urgency, exceptional circumstances for the granting of this application. And we urge Your Lordship to so hold and admit the Applicant to bail as was done by the Court of Appeal in **ANI VS. STATE (2001) FWLR (PT. 81) 1715**.

The general rule is that a person who has not been tried and convicted by a competent court for an offence known to law is entitled to be admitted to bail as a matter of course, unless some circumstances militate against his admission to bail. However, no such circumstances has been shown by the prosecution in this case. See **ANI VS. STATE (SUPRA) AT 1723 PARAS. G-H**.

It is only the living that can praise God. So it is only the living that can be tried, convicted and punished for an offence no matter how heinous the offence may be. The depositions in paragraphs of the affidavit in support of motion for bail present sufficient reason why bail should be granted him to also enable him to take care of the wounds inflicted on him by the security agents, to take care of his little children and wife and to prepare for his case, if there is any. See **JIMOH Vs. COP (2005) ALL FWLR (PT 243) 648 AT 664 PARAS. B-C.; ANI Vs. STATE (SUPRA) AT 1727 PARAS. E-F**.

It is trite law, and I submit that facts deposed to in an affidavit which are not contradicted or challenged by a counter affidavit are deemed to have been admitted as true and proved. See **ENWERE Vs. COP (2005) AT 341 PARAS. C-D (RATIO 5); CHINEMELU VS. COP (SUPRA) RATIO 4**.

Your Lordship, the terrible effects of pre-trial incarceration is against the spirit of law as contained in Sections 36(5) and 35(4) of the CFRN, 1999 (as amended); and in the case of **Johnson Vs. Lufadeju (2002) 8 NWLR (PT. 768) 192** at 219 where the court stated thus:

"The imprisonment of an accused prior to a determination of guilt is a rather (sodd)... as it cost the tax payers tremendous sums of money, it deprives the affected individual of his most precious freedom and liberty; it deprives his ability to support himself and his family; it restricts his ability to participate in his own defense, it subjects him to the dehumanization of prison, it separate him from his family and without trial it casts over him aura of criminality and guilty".

The Applicant has been in detention/remand since October 24, 2011 contrary to the said spirit of the law. See also the case of **Vincent Ogueri Vs. The State (supra)** ratio 4 and 6.

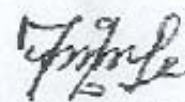
Section 35 sub-section 4 of the Constitution of the Federal Republic of Nigeria, 1999 is mandatory, that anybody arrested or detained shall be brought before a court of competent jurisdiction within a reasonable time and if he is not tried shall without prejudice to any further proceedings that may be brought against him be release either unconditionally or upon such conditions as are reasonably necessary to ensure that he appears for trial at a later date. We therefore urge Your Lordship to uphold this Constitutional provision and admit the Applicant to bail.

CONCLUSION

In considering the strength of the material before this honourable Court of justice and the facts presented by the Applicant before this Court, and his unambiguous undertaking through the Affidavit in support that he would be in court to stand trial and abide by terms and conditions in respect of the bail when granted, we urge Your Lordship to exercise this discretion judiciously and judicially by admitting the Applicant/Accused person to bail in the interest of justice.

We are most grateful Your Lordship!

Dated this 3rd day of November, 2011.



PP: EDWIN ANIKWM, ESQ
CHIANUBA EZEANI ESQ
DR. GODSTIME OKAFOR
GABRIELNWOKEIWU, ESQ
BENEDICT EZEAGU, ESQ

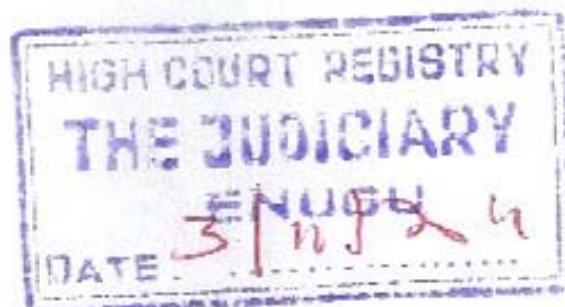
C/O

APPLICANT'S COUNSEL
DR G. O. OKAFOR & CO.
(GLOBAL CHAMBERS)
127 UPPER CHIME AVENUE
(AKALAKA HOUSE, 3RD FLOOR)
NEW HAVEN, ENUGU.

For Service On The Respondent

The Commissioner of Police

O/C Legal,
Legal Department,
State C.I.D,
Enugu State Police Headquarters,
Enugu.



LIST OF AUTHORITIES

1. CHINEMELU VS. COP (1998) 1 ACLR 501.
2. OGBHEMEHE VS. COP (2002) FWLR (103) 355.
3. ENWERE VS. COP (1993) 6 NWLR (PT 299) 333.
4. UKATU VS. COP (2001) FWLR (PT 66) 755.
5. UGWUDA VS. COP (2005) 1 CNQLR 107.
6. ANI VS. STATE (2001) FWLR (PT 81) 1715.
7. JIMOH VS. COP (2005) ALL FWLR (PT 243) 648.
8. ABACHA VS. STATE (2002) FWLR (PT 118) 1224.
9. OGUERI VS STATE (2000) 2 CLRN page 14.
10. ANAKWE VS STATE (1996) 3 NWLR (PT 436) 320

EXHIBIT 'A'

IN THE MAGISTRATE'S COURT OF ENUGU STATE OF NIGERIA
IN THE ENUGU MAGISTERIAL DISTRICT
HOLDEN AT ENUGU
BEFORE HIS WORSHIP PHIL. C. NWANKWO, ESQ CHIEF MAG. GD I
ON WEDNESDAY THE 26TH DAY OF OCTOBER, 2011

MEN/637c/2011

COMMISSION OF POLICE

VS

OSMOND UGWU AND ANOR

Accused persons are present. Complainant present.

Felix C. Okafor Esq appears for prosecution.

Accused persons have no legal representation.

Charge is read out in English Language to each of the accused persons which each duly understood to the satisfaction of the Honourable Court but no plea taken.

The prosecuting police officer is hereby ordered to transmit to the office of the Attorney General of the State the following items:

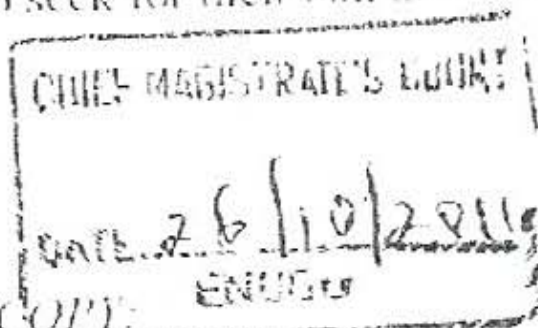
- (a) Exhibits recovered in respect of this charge
- (b) A copy of this proceedings.

The following persons are to appear at the High Court to testify in this case whenever and wherever the police shall inform them and they are bound over in the sum of N100,000.00:

- 1) CSP Ewali Bassey, 2nd in command Operation and Training, Enugu State Police Command
- 2) Supt. Opara Sylvanus, State C.I.D
- 3) Sgt. Emebong Ndon, State Intelligence Bureau, Enugu
- 4) Inspt. Oliver Okpe, State C.I.D, Enugu
- 5) Sgt. Felix Osayamen, State C.I.D, Enugu.

At this juncture G.O. Nwokeiwu announces appearance for the accused persons.

The accused persons are hereby ordered to be remanded in prison custody until the views of the Attorney General are known. They are however, remanded that they have the constitutional right to seek for their bail at the High Court.



SGD
Phil C. Nwankwo, Esq.
Chief Mag. Gd. I
26/10/2011

CERTIFIED TRUE COPY
Justin Nwamere
ASSISTANT CHIEF REGISTRAR

Confirmation for ASO
police No. 2526478

EXHIBIT 'B'

IN THE MAGISTRATES COURT OF ENUGU STATE OF NIGERIA
IN THE ENUGU MAGISTERIAL DISTRICT
HOLDEN AT ENUGU

CHARGE NO: M20/637C
C/2011

COMMISSIONER OF POLICE

VS.

1. OSMOND UGWU 'M'

41 YRS

2. ELOBUIKE RAPHAEL 'M'

30 YRS

That you, Osmond Ugwu 'm', Elobuike Raphael 'm' and others now at large, on the 24th day of October, 2011, at GRA Enugu beside Civil Defence Headquarters in Enugu North magisterial district did conspire amongst yourselves to commit felony to wit; murder and thereby committed an offence punishable under section 494 of the criminal code cap. 30 vol. II laws of Enugu state of Nigeria 2004.

COUNT II: That you, Osmond Ugwu 'm', Elobuike Raphael 'm' and others now at large, on the 24th day of October, 2011, at GRA Enugu beside Civil Defence Headquarters in Enugu North magisterial district did unlawfully attempt to kill one Sgt. Emebong Ndon attached to State Intelligent Bureau by hitting him with a hard object on the head and thereby committed an offence punishable under section 27(a) of the criminal code cap. 30 vol. II laws of Enugu state of Nigeria 2004.


POLICE OFFICER

Date of Arraignment:- 25 - 10 - 2011

Plea:- NO Plea taken

Court:- 4 Enugu North

Court Order:-

Magistrate:- Phil. C. Nwankebu Esq. Chief Mag. G.D. 1

Bail:-

Sentence:-

Prosecutor:- Inspector Felix Okator

Exhibits:-

Date of Adjournment:-

CIVIL MAGISTRATE'S COURT
DATE 2-6/10/2011
ENUGU

IN THE HIGH COURT OF ENUGU STATE OF NIGERIA
IN THE ENUGU JUDICIAL DIVISION
HOLDEN AT ENUGU

MOTION NO. E/⁷⁰²~~703~~M/11

BETWEEN:
~~ELOBUIKE RAPHEAL~~ ^{Osmond Ugwu} APPLICANT
AND
COMMISSIONER OF POLICE RESPONDENT

COUNTER AFFIDAVIT

I, Anthony Nnamani, Civil Servant, Nigerian of Ministry of Justice Enugu do make oath and state as follows:

1. I am a Litigation Officer in the department of Public Prosecution, Enugu.
2. I am not only familiar with the facts of this case but have the consent of the Respondent to depose to this counter Affidavit.
3. Anayo N. Edeh, counsel for the respondent informed me and I believed him that:
 - (a) Paragraphs 4, 5, 6, 8, 9, 10, 12 and 13 of the Affidavit of Bernard Ugwuokolo support of this motion are false.
 - (b) On 24 October 2011, the Applicant was in company of some other unknown men at GRA Enugu.
 - (c) Sgt. Emembring Ndon and some other police men were on their duties at GRA Enugu.
 - (d) When the Applicant and some other men were conducting themselves in a manner likely to breach the peace, Sgt. Ndon and team went in to pray them to maintain the peace. In the process, the Applicant picked a large object and threw that it at his head thereby giving him a serious wound. The Applicant equally tore the shirt of Ewah Bassey
 - (e) The Applicant and one Osmond Ugwu have been inciting the people against the Enugu State Government. In one of the bulletin they wrote, they referred to the Hon. Attorney

OFFICIAL

General and commissioner for justice as "Commissioner for injustice"

(f) The Applicant is not a labor leader nor among the Executives of recognized labour union.

(g) ~~The Applicant and~~ ^{and Appeal No Justice} Osmond Ugwu are charged for Attempted murder and Assault in E/162c/2011 The State V. Osmond Ugwu & Anor.

(h) The Applicant is likely going to run away if granted bail.

4. I make this declaration in good faith.



DEPONENT

Sworn to at High Court Registry Enugu this
^{9th} day of Dec 2011.

BEFORE ME



COMMISSIONER FOR OATHS

**IN THE HIGH COURT OF ENUGU STATE OF NIGERIA
IN THE ENUGU JUDICIAL DIVISION
HOLDEN AT ENUGU**

MOTION NO E/702m/11

BETWEEN

OSMOND UGWU

APPLICANT

AND

COMMISSIONER OF POLICE

RESPONDENT

RESPONDENT'S WRITTEN ADDRESS

We are opposing this Application for bail brought by the Applicant. In doing that we have filled a four paragraph counter Affidavit with this written Address.

My lord, the factors that guides the court in considering an application for bail has have been listed in a number of cases to include: The nature of the charge, the character of the evidence, the availability of the Applicant to stand his trial, the punishment on conviction etc. See Bomaly V. case (2001) 8NWLR (pt 715) 270.

My lord, though the Applicant is charged with a non-capital offence, the court can still refuse him bail. See State V. Felix (1979) LRN 308. Besides, the Applicant is charged with a serious offence. attempted murder. The information and proof of evidence disclose a prima facie case against him. As a result of this, he is likely going to run away if bail is granted. Above all the Applicant has been seriously inciting workers against the Enugu State Government over the National minimum wage. Again the punishment for this offence at conviction is life imprisonment. This will make him to be tempted to run away if bail is granted to him.

Above all, in an application for bail, the onus is on the applicant to place sufficient materials before the court in his affidavit. It is only when he does that the burden shifts to the respondent to show cause why bail should not be granted. See State v. Akaa (2002) NWLR (pt.774) 152. We submit that

the applicant has not placed only material in his affidavit warranting the exercise of the courts discretion in his favour.

On the authorities relied upon by the Applicant in his written address, we pray the court to distinguish them from the instant one as they are cited out of context; and the principles and ratio in those case are not the same with the instant one.

It is in consonance with the above that we pray the court to discountenance the submissions of the applicant, deny him bail, dismiss this his application and order for accelerated hearing of the case. May it please the court.



Anayo N. Edeh

Senior Legal Officer

Ministry of Justice,

Enugu.

For Service On

The Applicant

c/o His Counsel

Edwin Anikwem

127 Upper Chime Avenue

Neww Haven

Enugu.



**IN THE HIGH COURT OF ENUGU STATE
IN THE ENUGU JUDICIAL DIVISION
HOLDEN AT ENUGU**

**MOTION NO: E/702M/2011
CHARGE NO: MEN/637c/2011**

BETWEEN:

**OSMOND UGWU
AND**

COMMISSIONER OF POLICE

APPLICANT

RESPONDENT

FURTHER AFFIDAVIT IN SUPPORT OF THE MOTION FOR BAIL

I, **Benard Ugwuokolo**, male, adult, Nigerian Citizen, Public Servant of Onungene Village Ibagwa Nike , Enugu East L.G.A., Enugu State do hereby make oaths and state as follows:-

- (1) That the applicant is my uterine younger brother by virtue of which I am familiar with the facts of this case.
- (2) That I have the consent and authority of the applicant, who is currently being remanded in the Enugu prison custody and unable to depose to this affidavit personally.
- (3) That the applicant was brought to the Enugu State High Court on the 9th of December, 2011 when his bail application was fixed to come up for hearing, but the matter did not go on.
- 4) That on the 9th of December, 2011, at the Enugu State High Court, Mr. Edwin Anikwem, who is the lead counsel to the applicant's legal team, showed him the copy of a sworn Counter Affidavit deposed to by one Anthony Nnamani of Enugu State Ministry of Justice.
- 5) That after going through the said counter affidavit, the applicant informed me and I verily believe as follows:

- A) That the depositions in paragraphs 2,3 and 4 of the counter affidavit of the said Anthony Nnamani are false as they are based on fabrications, lies and unfounded hearsay.
- B) That contrary to his claim in paragraph 2 of the counter affidavit, the said Anthony Nnamani is not familiar with the facts of this case but rather based his depositions on lies and fabrications.
- C) That the respondent failed to give any reason for his objection to the facts deposed to by the applicant in his affidavit in support of his application for bail as per paragraphs 4,5,6,8,9,10,12 and 13, and as such has admitted that the issues raised in the paragraphs of the affidavit are true and correct.
- D) That paragraph 3b of the so-called counter affidavit is baseless as the applicant was never at any time 'in company of some unknown men at GRA Enugu' on 24th October, 2011.
- E) That paragraph 3c of the counter affidavit is also false and baseless as the applicant does not know any person called Sgt. Emebong Ndon' and never met the so-called 'Sgt. Emebong Ndon and some other police men who were on their duties at GRA Enugu'.
- F) That paragraph 3d of the counter affidavit is false in its entirety as the applicant has never at any anytime, day or anyplace conducted himself individually or with any person in a manner likely to breach the peace. The applicant does not know and has not met any such names/persons as Sgt. Ndon or Ewah Bassey. And he neither picked a large object and threw at any person's head nor tore the shirt of any 'Ewah Bassey' or anyone else.
- G) That paragraph 3e of the counter affidavit is also false as the applicant did not incite any person against the Enugu State Government and there is no document before the court to support such baseless allegation.

- H) That paragraph 3f of the counter affidavit is false. On the contrary, the applicant is a known labour leader in Enugu and was also unanimously elected the Chairman of the Enugu State Workers Forum on the 15th of August, 2011 by the Enugu State workers.
- I) That paragraph 3g of the counter affidavit is also baseless and that the so-called charge being referred to is a trump-up charge calculated to whip-up sentiment and to deceive/distract the court from the real fact of the matter.
- J) That the applicant as a responsible family man with wife and children who require his presence for guidance and protection and as the breadwinner of the family has no reason to run away and will not run away if granted bail.
- K) That the applicant has made an undertaking in paragraph 5 of the affidavit in support of his bail application neither to interfere with any investigation the police may wish to conduct in the matter nor to tamper or disturb the proposed witnesses the police may wish to call in proof of any criminal allegation the police has against him.
- 6) That the respondent's declaration in paragraph 4 of counter affidavit is done in bad faith as the content of the counter affidavit is based on falsehood, fabrications and baseless hearsay.
- 7) That I, **Bernard Ugwuokolo** do hereby solemnly and conscientiously depose to this further affidavit in good faith believing same to be true and to the best of my knowledge and the information available to me and in accordance with the Oaths Act.

Sworn at the High Court Registry Enugu this
15th day of December, 2011.

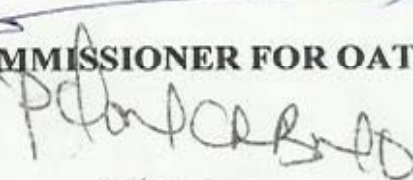

DEPONENT

BEFORE ME

COMMISSIONER FOR OATHS



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 15/12/2011

**IN THE HIGH COURT OF ENUGU STATE
IN THE ENUGU JUDICIAL DIVISION
HOLDEN AT ENUGU**

**MOTION NO:
E/702M/2011
CHARGE NO:
MEN/637c/2011**

BETWEEN:

**OSMOND UGWU
APPLICANT**

AND

**COMMISSIONER OF POLICE
RESPONDENT**

WRITTEN ADDRESS IN SUPPORT OF FURTHER AFFIDAVIT

Your Lordship, it is submitted that the respondent's counter affidavit is legally worthless in that it constitutes hearsay and offends the provisions of the Evidence Act and should be discountenanced. Furthermore, the essence of bail is for the accused to attend his trial.

Sir, in paragraph 3b of the counter affidavit, the respondent failed to give any reason for his objection to the facts deposed to by the applicant in his affidavit in support of his application for bail as per paragraphs 4,5,6,8,9,10,12 and 13, and as such has admitted that the issues raised in the paragraphs of the affidavit are true and correct.

The paragraph 3c of the so-called counter affidavit is baseless as the respondent did not specify what time and place in G.R.A Enugu he purportedly saw the 'applicant in company of some other unknown men' and what they were doing when he saw them on 24th October, 2011. It is not enough just to say that "the applicant was in company of some other unknown men at G.R.A Enugu without mentioning the particular venue, time and what they were doing.

More so, the respondent claimed that 'Sgt. Emembring Ndon and some other police men were on their duties at GRA Enugu' without stating the specific venue/address, date, time and what their duties were. And for the avoidance of doubt, "Sgt. Emembring Ndon" is not mentioned in the counter affidavit as either the accused, complainant or witness. Thus, it is clear that this has nothing to do with this case and as such should be treated as no issue.

Also paragraph 3d of the counter affidavit is false in its entirety as the paragraph did not mention the venue and time the applicant and some other men were purported to be conducting themselves in a manner likely to breach the peace or the particular activity of the applicant that suggested or constituted breach of peace. The applicant has stated clearly that he did not at any day, time and place conduct himself individually or with any person in a manner likely to breach the peace. He has also stated that he did not at any day or time pick and throw any object (small or large) at 'Sgt Ndon' or anyone else or given any wound (minor or serious) to any 'Sgt Ndon' or anyone else.

Sir, the applicant has debunked the allegation that "The applicant equally tore the shirt of Ewah Bassey" or anyone else as calculated falsehood since he does not know and has never met any person by name 'Ewah Bassey'. The paragraph 3e of the counter affidavit is also baseless as there is no document presented to this honourable court to buttress such false allegation.

Your Lordship, the applicant is a well known and experienced labour leader, human rights activist and stickler for peace who believes in using the instrument of dialogue, constructive argument, proper enlightenment, prayers and other civil approaches in pursuit of the welfare of workers. And apart from being faithful to the cause of workers, he is a member and leader of many human rights organizations in Nigeria. He is currently the Enugu State Chairman of the Civil Liberties Organization which is the foremost human rights organization in Nigeria and also an active leader of the Justice and Peace Commission of Catholic Diocese of Enugu - positions attainable by men of honour and integrity.

Being a man with a track record of honour and integrity the applicant will certainly not run away if granted bail. The applicant as a responsible family man with wife and children who require his presence for guidance and protection and as the breadwinner of the family has no reason to run away and will not run away if granted bail.

Moreover, the applicant has made an undertaking in paragraph 5 of the affidavit in support of his bail application that he will neither interfere with any investigation the police may wish to conduct in the matter nor tamper or disturb the proposed witnesses the police may wish to call in proof of any criminal allegation the police has against him.

Finally Sir, the respondent's declaration in paragraph 4 of the counter affidavit is done in bad faith as the content of the counter affidavit is based on falsehood, fabrications and baseless hearsay aimed at keeping the applicant in prison custody for his pacific struggle in defence of the Enugu State workers' welfare as well as cause him bodily harm and psychological trauma by denying him access to his wife and 3 children and the deep affection they need from him especially during this Yuletide.

In that wise my Lord, the applicant having deposed that he will not run away if granted bail, we urge your lordship to grant this bail application in the interest of justice and good conscience.

Dated this 15th day of December, 2011.



Anikwem
PP: Edwin Anikwem, Esq
Chianuba Ezeani, Esq
Dr Godstime Okafor, Esq
Gabriel Nwokeiwu, Esq
Benedict Ezeagu, Esq
Applicant's Counsel
c/o Dr G.O Okafor & Co.
Global Law Chambers,
127 Upper Chime Avenue,
New Heaven, Enugu.

For service on the Respondent:

- 1) Commissioner of Police
c/o
O/C Legal, Enugu State Police Command Hqrts
Enugu.
- (2) The Director of Public Prosecution (DPP)
Ministry of Justice, Enugu.

- A) That the depositions in paragraphs 2,3 and 4 of the counter affidavit of the said Anthony Nnamani are false as they are based on fabrications, lies and unfounded hearsay.
- B) That contrary to his claim in paragraph 2 of the counter affidavit, the said Anthony Nnamani is not familiar with the facts of this case but rather based his depositions on lies and fabrications.
- C) That the respondent failed to give any reason for his objection to the facts deposed to by the applicant in his affidavit in support of his application for bail as per paragraphs 4,5,6,8,9,10,12 and 13, and as such has admitted that the issues raised in the paragraphs of the affidavit are true and correct.
- D) That paragraph 3b of the so-called counter affidavit is baseless as the applicant was never at any time 'in company of some unknown men at GRA Enugu' on 24th October, 2011.
- E) That paragraph 3c of the counter affidavit is also false and baseless as the applicant does not know any person called Sgt. Emebong Ndon' and never met the so-called 'Sgt. Emebong Ndon and some other police men who were on their duties at GRA Enugu'.
- F) That paragraph 3d of the counter affidavit is false in its entirety as the applicant has never at any anytime, day or anyplace conducted himself individually or with any person in a manner likely to breach the peace. The applicant does not know and has not met any such names/persons as Sgt. Ndon or Ewah Bassey. And he neither picked a large object and threw at any person's head nor tore the shirt of any 'Ewah Bassey' or anyone else.
- G) That paragraph 3e of the counter affidavit is also false as the applicant did not incite any person against the Enugu State Government and there is no document before the court to support such baseless allegation.
- H) That paragraph 3f of the counter affidavit is false. On the contrary, the applicant is a known labour activist in Enugu and a leading member of the Enugu State Workers Forum.

- I) That paragraph 3g of the counter affidavit is also baseless and that the so-called charge being referred to is a trump-up charge calculated to whip-up sentiment and to deceive/distract the court from the real fact of the matter.
- J) That the applicant as a responsible family man with wife and children who require his presence for guidance and protection and as the breadwinner of the family has no reason to run away and will not run away if granted bail.
- K) That the applicant has made an undertaking in paragraph 5 of the affidavit in support of his bail application neither to interfere with any investigation the police may wish to conduct in the matter nor to tamper or disturb the proposed witnesses the police may wish to call in proof of any criminal allegation the police has against him.
- 4) That the respondent's declaration in paragraph 4 of counter affidavit is done in bad faith as the content of the counter affidavit is based on falsehood, fabrications and baseless hearsay.
- 5) That I, **Obieze Joseph** do hereby solemnly and conscientiously depose to this further affidavit in good faith believing same to be true and to the best of my knowledge and the information available to me and in accordance with the Oaths Act.

Sworn at the High Court Registry Enugu this
15th day of December, 2011.


DEPONENT

BEFORE ME

COMMISSIONER FOR OATHS

HIGH COURT REGISTRY
THE JUDICIARY
ENUGU
DATE 15/12/2011

fly-into
Oath
15/12/2011
Obieze Joseph
15/12/2011

**IN THE HIGH COURT OF ENUGU STATE
IN THE ENUGU JUDICIAL DIVISION
HOLDEN AT ENUGU**

**MOTION NO:
E/703M/2011
CHARGE NO:
MEN/637c/2011**

BETWEEN:

**ELOBUIKE RAPHEAL
APPLICANT**

AND

**COMMISSIONER OF POLICE
RESPONDENT**

WRITTEN ADDRESS IN SUPPORT OF FURTHER AFFIDAVIT

Your Lordship, it is submitted that the respondent's counter affidavit is legally worthless in that it constitutes hearsay and offends the provisions of the Evidence Act and should be discountenanced. Furthermore, the essence of bail is for the accused to attend his trial.

Sir, in paragraph 3b of the counter affidavit, the respondent failed to give any reason for his objection to the facts deposed to by the applicant in his affidavit in support of his application for bail as per paragraphs 4,5,6,8,9,10,12 and 13, and as such has admitted that the issues raised in the paragraphs of the affidavit are true and correct.

The paragraph 3c of the so-called counter affidavit is baseless as the respondent did not specify what time and place in G.R.A Enugu he purportedly saw the 'applicant in company of some other unknown men' and what they were doing when he saw them on 24th October, 2011. It is not enough just to say that "the applicant was in company of some other unknown men at G.R.A Enugu without mentioning the particular venue, time and what they were doing.9

More so, the respondent claimed that 'Sgt. Emembring Ndon and some other police men were on their duties at GRA Enugu' without stating the

specific venue/address, date, time and what their duties were. And for the avoidance of doubt, "Sgt. Emembring Ndon" is not mentioned in the counter affidavit as either the accused, complainant or witness. Thus, it is clear that this has nothing to do with this case and as such should be treated as no issue.

Also paragraph 3d of the counter affidavit is false in its entirety as the paragraph did not mention the venue and time the applicant and some other men were purported to be conducting themselves in a manner likely to breach the peace or the particular activity of the applicant that suggested or constituted breach of peace. The applicant has stated clearly that he did not at any day, time and place conduct himself individually or with any person in a manner likely to breach the peace. He has also stated that he did not at any day or time pick and throw any object (small or large) at 'Sgt Ndon' or anyone else or given any wound (minor or serious) to any 'Sgt Ndon' or anyone else.

Sir, the applicant has debunked the allegation that "The applicant equally tore the shirt of Ewah Bassey" or anyone else as calculated falsehood since he does not know and has never met any person by name 'Ewah Bassey'. The paragraph 3e of the counter affidavit is also baseless as there is no document presented to this honourable court to buttress such false allegation.

Your Lordship, the applicant is a well known and experienced labour activist, human rights activist and stickler for peace who believes in using the instrument of dialogue, constructive argument, proper enlightenment, prayers and other civil approaches in pursuit of the welfare of workers. And apart from being faithful to the cause of workers, he is a member and leader of many human rights organizations in Nigeria. He is a member of the Enugu State Branch of the Civil Liberties Organization (foremost human rights organization in Nigeria) and also an active member of the Justice and Peace Commission of Catholic Diocese of Enugu – organisation made up of people of honour and integrity.

Being a man with a track record of honour and integrity the applicant will certainly not run away if granted bail. The applicant as a responsible family man with wife and children who require his presence for guidance and protection and as the breadwinner of the family has no reason to run away and will not run away if granted bail.

Moreover, the applicant has made an undertaking in paragraph 5 of the affidavit in support of his bail application that he will neither interfere with any investigation the police may wish to conduct in the matter nor tamper or disturb the proposed witnesses the police may wish to call in proof of any criminal allegation the police has against him.

Finally Sir, the respondent's declaration in paragraph 4 of the counter affidavit is done in bad faith as the content of the counter affidavit is based on falsehood, fabrications and baseless hearsay aimed at keeping the applicant in prison custody for his pacific struggle in defence of the Enugu State workers' welfare as well as cause him bodily harm and psychological trauma by denying him access to his wife and 3 children and the deep affection they need from him especially during this Yuletide.

In that wise my Lord, the applicant having deposed that he will not run away if granted bail, we urge your lordship to grant this bail application in the interest of justice and good conscience.

Dated this 15th day of December, 2011.



Amekwa
PP: Edwin Anikwem, Esq
Chianuba Ezeani, Esq
Dr Godstime Okafor, Esq
Gabriel Nwokeiwu, Esq
Benedict Ezeagu, Esq
Applicant's Counsel
c/o Dr G.O Okafor & Co.
Global Chambers,
127 Upper Chime Avenue,
New Heaven, Enugu.

For service on:

- 1) Commissioner of Police
c/o
O/C Legal, Enugu State Police Command Hqrts
Enugu.

- (2) The Director of Public Prosecution (DPP)
Ministry of Justice, Enugu.

IN THE HIGH COURT OF ENUGU STATE OF NIGERIA
IN THE ENUGU JUDICIAL DIVISION
HOLDEN AT ENUGU

MOTION NO E/703M/11

BETWEEN

RAPHAEL ELOBUIKE

APPLICANT

AND


COMMISSIONER OF POLICE

RESPONDENT

Further Counter Affidavit

I, Felicia Eneze, Civil Servant, Nigerian of Ministry of Justice Enugu do make oath and state as follows:

1. I am a litigation officer in the Department of Public Prosecution Enugu.
2. I am not only familiar with the facts of this case but have the consent of the respondent to depose to this further counter affidavit.
3. Anayo N. Edeh, counsel for the respondent informed me and I believed him that:
 - a) Paragraphs 3, 5, and 6 of the further, further affidavit of Obieze Joseph in support of this application are false.
 - b) The applicant has been working under an illegal body called workers forum; and using it to incite workers of Enugu State against the Enugu State Government. Some of their publications are attached and marked as Exhibits 1, 2, 3 and 4.
 - c) There was even a time the applicant used the said forum and declared two days work free day for workers to fight the Government over the National minimum wage.
 - d) Even in detention, the applicant is still using the same workers forum to incite the workers against the Government of Enugu State.
 - e) The case against the applicant and Osmond Ugwu is fixed for 24/1/12 for plea.
4. I make this declaration in good faith


Deponent

Sworn to at the High Court Registry
Enugu this 20th day of December, 2011

BEFORE ME


COMMISSIONER FOR OATHS



OFFICIAL

LATEST ENUGU STATE WORKERS FORUM

BULETIN NO.4

TH NOVEMBER, 2011

DESPITE THE FINAL BETRAYAL OF CHUKWUMA IGBOKWE, EKERE, NZE AND UCHE EKWE ON THE MINIMUM WAGE CHART FOR ENUGU STATE WORKERS, PLEASE STILL TRUST IN GOD AND KEEP ON PRAYING TO HIM FOR IT IS NEVER TOO LATE FOR HIM, AND WITH HIM EVERYTHING IS POSSIBLE.

Yes, man can conspire, plan and even execute, but God can scatter, set aside and even redesign entirely afresh. This is certainly the case in the affairs of Enugu State Workers and their journey of prosperity.

The struggle for minimum wage is a journey of faith because it is like a Passover journey. One thing very certain is that God keeps on to be with the people He has chosen to redeem and even fight against those who fight them and bless those who bless them. That is why He went to the extent of dividing the red sea and swallow pharaoh and his men who constituted obstacle against the Israelite in their journey for freedom. Enugu State Governor, his aids and the so called leaders in Enugu should reflect and change by giving Enugu State workers what is due to them, after paying themselves what is due to them and still do not pay us what is due to us and keep Osmond in prison, though we don't have power of our own, God shall surely fight for us.

Hence, Enugu State government is conspiring with Chukwuma Igbokwe, Ekere and Nze have finally adopted salary of N153,000 for a Director on 16/9 as a final minimum wage and Relativity. With that, we can imagine what they have for those of us below level 16 steps 9. We should not be surprised because Igbokwe, Ekere and Nze had admitted before the Bishops that they are pursuing X3 chart because they are sure that government has no money to pay what Osmond is demanding for workers.

But what is the basis of adopting N 53,000 chart? Generally, Relativity based on real chart of N7,500, 12.5%, 15% and 53.4% is the common criterion of arriving at the minimum wage chart. That was what was used in Benue, Ogun, Taraba etc. that have less IGR and federal allocation than Enugu and they are paying N228,000, N271,000 and N205,000 for the same Directors on level 16/9 whom Nze and Co. bargained for N153,000

From the real Relativity chart alone without minimum wage worked out by out by workers forum, the same Director on 16/9 is on N196,000. That was among the reason they arrested Osmond in prison, to enable them conclude their plan. Most of unfortunate thing is that they argued with National Labour Leaders before government that the money being proposed to be added to the amount used to pay X3 chart would make up the real chart. What a deceit!

What is to done: Despite all these, workers should look unto the Lord; while Igbokwe, Ekere and Nze should be seen and treated as saboteurs both in prayer and action. They used percentage of evil chart instead of Relativity. But all the same, we shall continue to pray to God. We shall thank Him while we continue to demand for what is ours. We shall continue to hope in Him. He can change the heart of Governor or remove him and bring to us somebody with a more disposition. That is our prayers and as we make it our prayers with faith, it shall come to pass in Jesus Name, Amen. Therefore, all workers should continue to praise Him and request for His further intervention.

Even if they go ahead to implement it, don't loose hope in God. Pray at home and in the offices. We thank Enugu State workers for the resilience and the commitment and Osmond for his sacrifices and honesty in the struggle. Let's not abandon him in prison for without him and your support, we are finished.

IN GOD WE TRUST
ALUTA CONTINUA

Signed:

Enugu State Workers Forum

ENUGU STATE WORKERS FORUM

BULETIN NO.6

18TH NOVEMBER, 2011

Fellow Workers,

PLEASE GO TO COURT TO SHOW SOLIDARITY TO OSMOND AS HE APPEARS IN COURT THIS MORNING FOR BAIL.

One good turn, they say, deserves another and to whom much is given, much is expected. No doubt, ~~Comrade~~ Osmond Ugwu has demonstrated true labour spirit and Christian love for the great workers and indeed, the entire humanity because he committed himself to truth, honesty and real freedom for the sake of workers and humanity in Enugu State.

We wish to use this medium to correct a typographical mistake made in No.4 of the last bulletin (bulletin No.5 of 17th November, 2011) which read "that any real minimum wage chart must be our relativity of N196,000 for Director..." The correct thing is that "any real minimum wage chart must be based on relativity of N196,000 for Dirrectors without minimum wage. It was based on that that other states like Benue arrived at their own amount.

Governor Chime used Commissioner of police and Anthony Ani, his Commissioner for justice (now commi. oner for injustice) to put Osmond in prison after torturing and stripping him naked.

Today, Osmond and Elobuike will appear in Enugu High Court over an allegation of attempted murder of over 100 heavily armed police men, who arrested them while kneeling down and praying.

All we can do to show our love is for all workers and lovers of justice to be in the state High Court (opposite WAEC) Independence Layout Enugu. The presence of workers and lovers of justice will be a clear evidence to the Judge that Osmond and Elobuike are just prisoners of conscience and based on that, they will be granted bail.

Any worker who stays in office shall see him/herself as being part of the conspiracy to imprison them and will face God's punishment with Sullivan. The earlier you be in court, the better.

Time for court is 8.30am.

IN GOD WE TRUST
ALUTA CONTINUA

Signed:
Enugu State Workers Forum



ENUGU STATE WORKERS FORUM

Bulletin No. 2

Wednesday December 7, 2011

For Workers,

PLEASE GO TO THE HOUSE OF ASSEMBLY TO DEFEND WORKERS POSITION ON CONTRIBUTORY PENSION DURING THE PUBLIC HEARING THIS MORNING.

According to our Igbo proverbial Bird (Aleke Nti Oba), it says that since his enemy (the shooter) has decided to shoot without resting, himself has decided to be flying without perching. This simply explains the practical interpretation of the popular slogan in labour/social struggle existence, "the Aluta Continua"

For us the workers of Enugu State, since it is what will cause us pains and lead to our untimely death is what our Governor and Co have decided to be doing, we ourselves cannot submit our life to be destroyed in order for them to live and enjoy our wealth.

Indeed, two major factors that determine how long and well one lives on earth is one's income during his/her active years and during retired life. Thus, for us the Public Servants who devote all our lives in serving our state, what determines our own is how much we receive as salary and how much we receive on retirement which are Gratuity and Pension. Ultimately, they determine our existence because our feeding, house rent, drugs school fees of our children, transport fare e.t.c. depend on our salary, our gratuity and pension, without them we could die prematurely.

Therefore, we must do everything humanly possible to resist or fight against anything or anybody that fights against our salary and retirement benefits. That is why we are fighting and continue to fight for our proper minimum wage which is our salary. On that, our demand has been justified by what is being paid in Ogun, Benue and Taraba and we must continue to fight for what is our proper minimum wage, no matter the intimidation.

In this way, we have to fight against the contributory pension. It is a great evil not minding any way somebody may manipulate the truth. It has no 1% benefit to any worker and is 100% unjust and evil. Not only that it forces workers to use their own salary to pay themselves their own gratuity and pension, it reduces our salary while working. The worst thing is that somebody's pension can start while the person is still alive.

Just look at the condition of the retired colleagues who are being paid pension in every 3months. Consider when the whole thing stops. That's what this pension bill will bring if passed into law. Like we asked earlier, if it is good at all, why did the military and the police who have practiced it and had the practical experience protest against it to the extent that the military have been removed from it and the police were eventually succeed. Federal workers are crying but no help for now.

The bill came up first in 2008 but due to serious resistance put up by Osmond Ugwu, other concerned workers, the house members then rejected the bill because they considered it with humane spirit and upon superiority of truth and reason over monetary inducement and sentiment. Today, those House members are in good book of workers. The pension managers who are businessmen in conspiracy with Ifeon Nwobodo, Chukwuma Igbokwe and Ikechukwu Ekere want to use the opportunity of minimum wage distraction and prolonged detention of Osmond to smuggle back the bill. No matter what, we must resist it.

What we have to do is to be at the House of Assembly by 9am this morning to shout No on any person who favours the bill and cheer up whoever opposes the bill. Visit and call the honourable members with contacts and phone numbers below:

S/N	NAME	PRINCIPAL OFFICER	CONSTITUENCY	OFFICE ROOM NUMBER	PHONE NUMBER
1	Hon. Chukwu Abel Udenji	Former speaker	Aninri	212	08033144773
2	Hon. Ude-Okoye Sunday K.	Leader	Awgu North	121	
3	Hon. Uduji Nelson I.	Chairman Chieftaincy Culture and Torsion	Awgu South	013	
4	Hon. Ubosi Edward Uchenna	Chair capital Territory Development	Enugu East Urban	02	08033422113
5	Hon. Chief Joseph Agbo U.	Civil Service, Pension and Labour Matters	Enugu East I	216	08035526659
6	Hon. Oji Chime A.	Deputy Speaker	Enugu North	125	08033385508
7	Hon. Ogbe Paul	Chair youth, sports and security matters	Enugu South Urban	107 ^B	08039368300
8	Hon. Theresa Egbo	Chief whip	Enugu South II	116	07035526073
9	Hon. Ezeilo Cecilia	Deputy chief whip	Ezeagu	107 ^A	08030997912
10	Hon. (Barr.) Odo Eugene O.	Speaker	Igbo-Etiti East	112	08033239766
11	Hon. Nwoke Okechukwu	Public Accounts and Anti corruption	Igbo-Etiti West	110	JS
12	Hon. (Nze) Onyeze Michael	Education	Igbo-Eze North I	119	08064914979
13	Hon. Ogbidi Adole Anthony	Rural Development	Igbo-Eze North II	012	08068102178
14	Hon. Sir. Uwueze Elochukwu M.	Commerce and Industry	Igbo-Eze South	218	08033428050
15	Hon. Dr. Ogbuabor Daniel C.E.	Chair Health	Isiuzu	101	08038774436
16	Hon. Anichukwu John Nwankwo	Chair L.G.A.	Nkanu East	103	08033183246
17	Hon. Iloabuchi Anigau	Chair Transport	Nkanu West	221	08035403523
18	Hon. Lydia M. Omeje-Ogbu	Chair Poverty Red, MDGs & NGOs	Nsukka West	014	
19	Hon. Nwamba Christian	Agric and Natural Resources	Nsukka East	219	08037112175
20	Hon. Uzoagbado D.O.		Oji- River	09	08037443712
21	Hon. Ezeugwu Ikechukwu	Chair Water Resources	Udenu	225	
22	Hon. Nwagu Johnbull	Chair Fin. and appropriation	Udi North	214	07030534819
	Hon. Chika Felicia Ene	Chair Women Affairs	Udi South	109	08038804815
	Hon. John Kelvin Ukuta	Deputy Leader	Uzo-Uwani	124	08036750325

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ALUTA CONTINUA

Go To House of

ENUGU STATE WORKERS FORUM

Bulletin No. 4

19th December, 2011

Fellow Workers,

DECLARATION OF 5 DAYS PRAYER AND FASTING FOR THE FREEDOM OF OSMOND AND ELOBUIKE AND FOR GENERAL CONDITION OF ENUGU STATE WORKERS

As it is well known to every worker and indeed every other person within and outside Enugu State that all is not well in the state. The state is a society under a siege or under the conquer of a terrible demon. In fact, to say the least Enugu state is under the conquer of demon of poverty and that is why the struggle for the payment of the minimum wage with correct chart is being confronted with all the forces of intimidation within the reach of the governor and his chief of staff. It is in the process of confronting the occupied demon of poverty that stand on our way to prosperity and freedom based on our mandate to him that Osmond was arrested, tortured, stripped naked and was dumped in prison with one of us Elobuike since 24th October, 2011.

The governor and his Attorney - General, Anthony Ani have concluded that they will stay in prison to celebrate Christmas and New year. The governor and his men including people who collect our money every month as check-off dues in the name of labour leaders, conspired to seize our September salary and our minimum wage.

This decision of keeping our brothers in prison and seizing our salary are just the decision of "Man". We know that man's decision is nothing and God's own decision is final and best. The problem with the leaders of today, especially in Enugu State is that they don't know that God exists. To them, we wish to remind the statements of the psalmist in Psalm 49:20 which says that "a man who is in honour and does not understand, is like a beast that perish. He who has ear, let him hear.

WHAT WE SHOULD DO.

In a situation like this, where cruelty, intimidation, deprivation, hypocrisy, selfishness etc become the character of the leaders, and the people who elected them are expecting good life, protection of their rights, freedom, welfare, happiness etc; but instead, hunger, fear, sorrow, misery etc, courtesy of the actions and neglect of the leaders, God says, **don't worry**. What the people need to do is to hope and trust in God with consistent prayers. For us the Enugu State Workers who have so long been subjected to all sorts of dehumanizing treatments, denials, and deceitful promises by this government, God is asking us not to worry but hope and trust him. Even in the present circumstance where the governor takes 100% of his security votes amounting to hundreds of millions of naira every month unaccounted for, collects all his Estacodes, his over heads and his salary. Just imagine! Also included are his transport, feeding, clothing and every other expenses of immediate family and distance relations etc. The chief of staff, Ifeoma Nwobodo, SSG - Amechi Okolo, Head of Service - Dennis Eze etc go home with over N600,000 (six hundred thousand naira) every month outside their over heads, furniture and wardrobe allowances, N150,000 (one hundred and fifty thousand naira) weekly EXCO sitting allowance. Not only that they take all these and more, they share all the Internally Generated Revenue (IGRs) of the state among themselves and by giving them out to their family members, relations and friends as consultants and contractors who managed to remit just a very little percent of what they collect to government coffers.

When it comes to the welfare of workers, it becomes a different ball game. That workers don't have conveniences in the offices, have their promotion delayed for years without financial benefit contrary to the Civil Service Rules, are subjected to overtime without allowance, promotion examination without training, forced to perform their work without tools, etc are already being taken for granted and are now being accommodated as a norm. But the one very impossible to negate or wish away is the poverty factor arising from lack of money, which is the purchasing power. This has a direct nexus/bearing to our nature as human beings who respond to the biological, psychological and sociological demands of life without which we either die, develop permanent illnesses of mental or physical nature like mental illness, strokes etc.

The least of all, though very serious but have been taken for granted is that our children can't go to school, are denied essential needs of life for their development and consequently compelled to become vulnerable to thuggery, prostitution, child labour, all sorts of criminalities and other preventable social vices. The worst of all is that we the parents of public servant category have lost control over our children because we cannot provide for them as we lack the money to meet their effective demands. How can we, when the take home pay of a Director of last step is not up to N100,000 while the officer immediately above the director, a Perm Sec in the same service under the same state goes home with over N400,000 with all the claims of the governor of paying N18,500 minimum wage to us.

The question we all workers in the state including the hirelings in the state organs of NLC & TUC should ask is why the N18,500 minimum wage of Governor translates into something not up to N100,000 for a director of last step whereas in Ogun state, a minimum wage of N18,250 translates into N271,000 for the same step, and in Benue without any kobo addition to the N18,000 minimum wage translates into N228,000 for the same Director. What a paradox. There is no doubt that this administration portends danger as it represents poverty. It is also very selfish and oppressive. When you compare the income of those of them from Perm Secs upwards and those of us from Directors down with the actual Revenue for the state, it is clear that an irreconcilable and unacceptable class society and its associated contradiction is being established by Governor Sullivan. It is the rejection of this on behalf of workers that led to the present travail of Osmond.

AS HE AND ELOBUIKE APPEAR IN COURT TOMMORROW, TUESDAY 20TH DECEMBER, LET EVERY WORKER SEEK THE FACE OF GOD DURING MIDNIGHT PRAYERS FOR THEIR FREEDOM AND PHYSICALLY BE IN COURT TO SHOW YOUR SUPPORT AND SOLIDARITY FOR THEM.

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