

30th May 2013

The Chairman,  
National Judicial Council,  
Supreme Court of Nigeria Complex  
Three Arms Zone, Abuja.

Your Lordship;

Petition to the National Judicial Council to investigate Allegations made by Justice Okechukwu Okeke (rtd.) that Supreme Court Justice, Hon. Justice Clara Ogunbiyi, extrajudicially attempted to influence the outcome of a Case pending before him

We send warm greetings.

During the valedictory court session in honour of Justice Okechukwu Okeke (rtd.) on 27 May 2013, the honourable Judge reportedly alleged that extrajudicial attempts were made to influence how he determined certain proceedings that were pending before him whilst in office. Those attempts, he insinuated, emanated from a serving Supreme Court Justice, Hon. Justice Clara Ogunbiyi.

These allegations were published by several news sources, online, print and electronic mediums including Thisday newspaper, Punch newspaper, Daily Trust, The Nation, as well as Sahara Reporters, just to name a few. The allegations have therefore been widely broadcast to national and international audiences. To the best of our knowledge, the allegations have not been denied.

According to published media reports, Justice O. Okeke, (rtd.) attributed his recent censure by the National Judicial Council to petitions that followed his refusal to vacate an order over which some representation had been made to him allegedly by the daughter of Hon. Justice Clara Ogunbiyi who was purported to have acted on the authority of her mother. The representations were to the effect that the Judge should vacate the Order he had made in a case brought by Assets Management Company of Nigeria (AMCON). This is how Daily Trust newspaper reported the story in its online edition:

According to him, [i.e. Hon. Justice O. Okeke] on February 28, 2013, AMCON applied for an order, granting leave to an applicant to apply for the issuance of a writ of execution (possession) by the registrar of the court in respect of all Federal Government property listed as No. 1-No.27 in schedule VI of the official gazette No. 94 volume 98 (Exhibit MSU), being part of property forfeited to the applicant by the respondent via the order of Justice Daniel Abutu.

He said, "On March 1, 2013, the application was argued. I was satisfied that a case had been made out for the exercise of the court's discretion in favour of the applicant. The said application was granted as prayed. And on March 6th 2013, I received a call from the chief judge of the Federal High Court that Justice Clara Ogunbiyi of the Supreme Court was furious with me for granting leave to AMCON which led to the ejection of her daughter and

son in-law from No. 5A George Street, Ikoyi Lagos. I explained the position to him. In his characteristic policy of non-interference with his judges in the discharge of their duties, he advised me to hear any application for discharge of the order of March 1, 2013 whenever filed”.

Okeke alleged that on March 8, 2013, one Funke Ogunbiyi, who claimed to be daughter of the Supreme Court judge came to his chambers telling him to vacate the orders at her mother's directive.

“I advised her that since they have filed the motion on notice for the setting aside of the order of March 1, 2013, that their counsel should meet the registrar of the court for a date for their motion. I therefore dismissed the application to set aside the order made on March 1, 2013, and advised the interveners/applicants to take their case to the Court of Appeal. Hell was then let loose on me. The intervener/applicant and their counsel wrote a petition against me which they backdated to March 18, 2013, to the National Judicial Council”, he said.

These allegations by Hon. Justice O. Okeke (rtd.) were made in the presence of the Chief Judge of the Federal High Court, Hon. Justice Auta, who was also mentioned in the reported sequence of events involving the named Supreme Court Justice.

These allegations raise very troubling concerns for the independence and integrity of the administration of justice in Nigeria and need to be thoroughly, promptly and credibly investigated. Please recall that not too long ago, a sitting President of the Court of Appeal made somewhat similar allegations against an incumbent Chief Justice of Nigeria and the events which followed thereafter brought considerable embarrassment and ridicule to the Nigerian Judiciary from which it is yet to recover. We acknowledge your efforts as Chief Justice of Nigeria to reform the administration of justice landscape, hold Judges accountable for their conduct and rebuild public confidence in the judiciary and salute this commitment; we bring this petition also because of our civic responsibility to help you succeed in the daunting task of transforming public perceptions of the Judiciary by strengthening the independence and integrity of justice delivery in Nigeria.

We urge the National Judicial Council to investigate whether the allegations made by Hon. Justice Okechukwu Okeke (rtd.) are founded and true or not and whether there has been conduct that violates the Code of Conduct for Judicial Officers (“CCJO”). Rule 1 and 1.1 of the CCJO provides as follows:

“A Judicial Officer should avoid impropriety and the appearance of impropriety in all his activities

A Judicial Officer should respect and comply with the laws of the land and should conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the Judiciary”

While we hold the honourable Justice of the Supreme Court who has been named in these allegations in high esteem, we think it is absolutely necessary in this circumstance that the allegations be properly investigated and that she be given an opportunity to refute or state her position in relation to the claims made.

In addition to the question whether the Hon. Justice of the Supreme Court indeed sent her daughter to Hon. Justice Okeke to discuss a matter pending in his court, it would also be necessary to investigate whether indeed she initiated telephone conversation with the Hon. Chief Judge of the Federal High Court to express “fury” over the ruling of Hon. Justice Okeke in a pending proceeding, and whether this prompted the aforesaid Chief Judge to

put a call through to Justice Okeke to convey Justice Ogunbiyi's alleged remonstrations against the Order to the Judge.

AJ is a justice advocacy group working to defend rights of equal and non-discriminatory access to courts of law, expand access of marginalized people to equal and impartial justice, attack corruption in justice administration, support legal struggles for human dignity and disseminate legal resources that help achieve these purposes. Operating under three mutually reinforcing programmes, all of AJ's works seek to address critical problems in justice administration and human rights, serve important public needs and target significant achievement in democratic reform.

We thank Your Lordship very much for your consideration and look forward to your response.

Joseph Otteh  
Director