

**PETITION ON THE EXTRA JUDICIAL KILLING OF CHIJOKE JOHN ILOANYA SUBMITTED BY THE PUBLIC INTEREST LAWYERS LEAGUE (PILL) ON BEHALF OF MR EMMANUEL ILOANYA, MRS HOPE ILOANYA AND MISS ADA ILOANYA TO THE ANAMBRA STATE JUDICIAL PANEL OF INQUIRY ON THE ACTIVITIES OF THE SPECIAL ANTI-ROBBERY SQUAD ( SARS) AWKA**

**1. NAME OF THE ATTORNEYS FILING THE PETITION:**

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**2. NAMES OF THE VICTIM OF HUMAN RIGHTS VIOLATION**

**(EXTRA JUDICIAL KILLING), PETITIONERS AND THE RELATIONSHIP:**

i) Name of the victim:

Chijioke John Iloanya

Date of birth: 13 July 1992

Age (At the time of arrest): 20 years

ii) Names of the Petitioners:

a. Mr Emmanuel Iloanya ( Father )

b. Mrs Hope Iloanya ( Mother)

c. Miss Ada Iloanya ( Sister)

Address: c/o The Attorneys

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### **3. STATEMENT OF FACTS:**

"a. On 29 November 2012, Chijioke John Iloanya (hereinafter referred to as Chijoke) and some of his friends went to Ajali in Anambra State, to attend a child's dedication ceremony;

b. While Chijioke was at the venue at Ajali, Anambra State, officers from Ajali Police Station raided the venue of the child dedication and arrested some persons, including Chijioke, for breach of public peace;

c. Upon the arrest of Chijioke, he was detained at Ajali Police Station, Ajali.

d. The **SECOND PETITIONER** ( hereinafter referred to as the mother) went to the said Ajali Police Station the next morning 30 November 2012 and she was refused access to Chijioke by the Duty Police Officer who said she was a woman who had no right of access to the detainee.

Fortunately, she spoke with the landlady of the property in which Chijioke was arrested and the woman whose child's dedication Chijioke attended, who were both detained behind the counter.

**They confirmed that Chijioke and his three friends were in the cell;**

e. Having been refused bail the previous day, the mother returned with her elder brother to apply for the bail of Chijioke. While making enquiries on bail, Chijioke and his friends were taken out of the cell and driven out of Ajali Police Station. The mother was told that they were being taken to SARS Awkuzu;

f. The *FIRST AND SECOND PETITIONERS* (hereinafter referred to as the parents) returned same day 30 November 2012 to SARS Awkuzu, Anambra State. However, at the station, they were told that there was no person named Chijioke in their record or custody;

g. The parents left *SARS AWKUZU* and went in search of Chijioke at the Ajali Police Station, but were referred back to SARS Awkuzu by the Duty Officer at the said Police Station. The parents returned to SARS Awkuzu on same 30 November 2012 and were not allowed into the SARS facility;

h. The parents returned to SARS Awkuzu on 1 December 2012 and were again told by the officers that Chijioke was not in their custody. However, while standing and making enquiries of the whereabouts of Chijioke, they saw him being paraded in handcuffs. The parents spoke with him briefly and asked why

he was arrested, detained and handcuffed. Chijioke told his parents that he had no idea of why he was arrested and detained;

i. The Commanding Officer at the time Chijioke was taken to SARS Awkuzu was **CSP JAMES NWAFOR** (hereinafter referred to as Nwafor);

j. Having seen and spoken with Chijioke at the custody of SARS Awkuzu, The parents went back to the Station and met with Nwafor, then Commanding Officer, and asked what offence Chijioke had committed, so they could effect his bail;

k. At first, Nwafor denied ever arresting, detaining, seeing, having known or knowing any person called Chijioke; but he later admitted, having been informed by the parents that they spoke with Chijioke while he was being paraded outside the Station, that Chijioke was in his custody at SARS Awkuzu;

l. The following day 30 November 2012, the parents went to the house of Nwafor at Awkuzu and pleaded for the release of Chijioke on bail or be charged to Court. Nwafor walked them out of his house;

m. On 1 December 2012, the parents returned to SARS Awkuzu and met Nwafor and there he told them:

"I have killed your son and there is nothing you can do about it. Now, leave this place".

n. Following his arrest and detention at SARS Awkuzu, Chijioke was neither prosecuted nor convicted for robbery, armed robbery or any offence whatsoever known to the criminal laws of Anambra State, or Nigeria at large;

o. Following years of entreaties of the parents to Nwafor, which fell on deaf ears, the **THIRD PETITIONER** ( hereinafter referred to as the sister) launched a national and global online campaigns for the release of Chijioke. The sister had interviews with national and global broadcasting corporations drawing attention to the arrest and detention without trial of Chijioke. The copies of the publications of the interviews are annexed herein;

p. The **PETITIONERS** retained the services of the Public Interest Lawyers League (PILL) and instructed that a formal legal action be initiated against Nwafor and the Nigeria Police Force. Attorneys of the Public Interest Lawyers League wrote formal petitions to the Inspector General of Police and the National Human Rights Commission. The National Human Rights Commission acknowledged the petition; but the Inspector General of Police till date has willfully and or neglected to respond to the petition written on behalf of the **FIRST PETITIONER**. The petitions written to the Inspector General of Police and the National Human Rights Commission are annexed herein;

q. Following sustained national and global campaign embarked upon the sister, and calls by Nigerians on the social media application, twitter, on Nwafor to

clear himself of the allegation of extra judicial killing of Chijioke, he tweeted as follows on 11 July 2020:

*“ The name of the deceased suspects are Chijioke Iloanya and Ebuke Okeke. The filling station they robbed is Cabard Filling Station Ufuma. Date of the incident is 30/11/2012 at about 1230 hours. Case was investigated by Inspector Hycienth Nwankwo under the supervision of DSP Abataenum Joe now Rtd. I GOT THIS INFORMATION FROM SARS AWKUZU. THANKS A LOT FOR YOUR CONCERN.”* (Photocopy of the tweets is attached herein);

r. Chijioke has not been seen or heard from since 30 November 2012".

#### **4. LEGAL ISSUES ARISING FROM THE STATEMENT OF FACTS:**

Considering the above distressing facts, we respectfully draw the attention of the Judicial Panel of Inquiry to the following legal issues that form the bedrock of this petition, to wit:

##### **4.1 ISSUE 1: THE FUNDAMENTAL RIGHT OF PRESUMPTION OF INNOCENCE ACCRUED OF EVERY SUSPECT UPON ARREST IN NIGERIA**

i. The doctrine of the presumption of innocence is one of the Constitutional safeguards afforded to a suspect upon arrest in Nigeria, and is provided for in Section 36(5) of the Constitution of the Federal Republic of Nigeria 1999, which places a very heavy burden on the prosecution not only to prove the guilt of the accused but to prove it beyond reasonable doubt. It follows, therefore,

that a person accused of a crime is presumed innocent until the contrary is proven in a Court of law of competent jurisdiction. This has been the time hallowed principle of law given judicial recognition in a plethora of cases, including the case of *CHINEDU EZE v. THE STATE (2015) AELR 6294*.

Further, by our criminal justice system, a suspect is always presumed innocent until proven guilty. This principle of presumption of innocence has a constitutional blessing by virtue of Section 36(5) of the 1999 Constitution (as amended) which provides thus:

"Every person charged with a criminal offence shall be presumed to be innocent until he is proved guilty."

ii. Consequently, Chijioke was a mere suspect and who ought to have been availed his constitutional right to be presumed innocent.

iii. Chijioke was not tried before any known Court of law in Nigeria. The facts supplied in this petition show that he was summarily executed contrary to established statutory provisions of the law as provided in section 36(5) of the 1999 Constitution as enunciated by the Court in *ODOGWU V. THE STATE (2013) 14 NWLR (PT. 1373) 74 AT 127 (SC)*.

iv. Suspicion, no matter how strong, or even evidence of opportunity to commit the offence charged, cannot replace the legal proof of guilt. This is the position of the Court as decided in *ONAH V. STATE (1985) 3 NWLR (PT.12)*.

Chijioke was killed on grounds of mere suspicion, which was never laid before the Court of law.

#### **4.2 ISSUE: FUNDAMENTAL RIGHT TO LIFE**

i. The Constitutional provision as regards right to life is Section 33(1)-2(a), (b) to (c) of the Constitution of the Federal Republic of Nigeria, 1999 as amended and it reads as follows:

"33 (1) Every person has a right to life, and no one shall be deprived intentionally of his life, save in execution of the sentence of a Court in respect of a Criminal offence of which he has been found guilty in Nigeria.

(2) A person shall not be regarded as having been deprived of his life in contravention of this section, if he dies as a result of the use, to such extent and in such circumstances as are permitted by law of such force as is reasonably necessary:-

(a) for the defence of any person from unlawful violence or for the defence of property;

(b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; or

(c) for the purpose of suppressing a riot, insurrection or mutiny."

ii. Flowing from the facts supplied in this petition, Chijioke was denied his fundamental right to life when he was summarily executed, in contravention of

a written law - section 33(1) the 1999 Constitution: *ZAMAN V. STATE (2015)*  
*AE LR 6350.*

Accordingly, the manner in which Chijoke was killed by Nwafor was unlawful.

iii. The right to life has also found expressions in all the major human rights instruments, including the Universal Declaration of Human Rights (UDHR), The International Covenant on Civil and Political Rights (ICPR), the European and American Conventions and the African Charter on Human and People's Rights, which Nigeria is a signatory to. Specifically, Article 4 of the African Charter on Human and Peoples Rights states stipulates:

***“Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right”.***

v. The life of every human being is sacred and the integrity of every individual should be protected. Under no circumstances should an individual be arbitrarily deprived of his life. Further, extrajudicial killing of a suspect is unlawful and should not be condoned no matter the circumstance, or the individual involved.

Individuals who commit such atrocities should be brought to face the wrath of the law. This is why the petitioners are praying that Retired CSP James Nwafor, Inspector Hycienth Nwankwo and Retired DSP Joe Abataenum be prosecuted for the murder of Chijioke.

### **4.3 ISSUE 3: POWER AND DUTY OF THE NIGERIA POLICE VIS-A-VIS SPECIAL ANTI ROBBERY SQUAD**

i. The statutory provision governing the power of the Nigeria police is Section 214 of the 1999 Constitution of the Federal, Republic of Nigeria (as amended) and it reads:

(1) There shall be a police force for Nigeria, which shall be known as the Nigeria Police Force, and subject to the provisions of this section no other Police Force shall be established for the Federation or any part thereof;

**(2) Subject to the provisions of the Constitution 1999**

(a) The Nigeria Police Force shall be organised and administered in accordance with such provisions as may be prescribed by an act of the National Assembly.

(b) The members of the Nigeria Police shall have such powers and duties as may be conferred upon them by law;

(c) The National Assembly may make provision for branches of the Nigeria Police Force forming part of the Armed Forces of the Federation or for the protection of harbours, waterways, railways and air fields.

ii. The Constitutional and statutory duty of the Nigeria Police to investigate criminal allegations made against a citizen. Section 4 of the Police Act, Cap 359, Laws of the Federation 1990 states the duties of the Police to include, amongst others to wit:

- the prevention and detection of crime;
- the apprehension of offenders;
- the preservation of law and order;
- the protection of life and property; and
- the due enforcement of all laws and regulations with which they are charged.

iii. The duty of the Police which calls for consideration here is the duty to detect crime which involves investigation of allegations of commission of crime. The criminal investigative powers of the Police came under scrutiny in *FAWEHINMI V. I.G.P. & 2 ORS (2002) 7 NWLR (PT. 767) PAGE 606 AT 670-671 (F-A)* where the Supreme Court summed up the investigative powers of the Police as follows:

"The appellant is no doubt right in his argument that by virtue of the fact that section 214 (1) of the 1999 Constitution recognizes one Police Force for Nigeria and the said police are given a duty under section 4 of the Police Act (now in Cap. 359, Laws of the Federation of Nigeria, 1990) to prevent and detect crime, apprehend offenders, preserve law and order, protect life and property and enforce all laws and regulations with which they are directly charged, and that it is an important statutory duty which they owe to the generality of Nigerians and all other persons lawfully living within Nigeria. It follows that in their duty to detect crime, allegations of the crime committed by any person should normally be investigated by the Police."

iv. It is also the position of the law that once a criminal allegation is made against a citizen, the Police have a constitutional and a statutory duty to investigate the allegations. This has been recognised over and over again in our Courts in a plethora of cases, including the case of *AGBI VS OGBEH (2005) 8 NWLR (PT.926) 40*, *CHRISTLIEB PLC VS MAJEKODUNMI (2008) 16 NWLR (PT.1113) 324* and *ONAH VS OKENWA (2010) 7 NWLR (PT.1194) 512*.

v. May we respectfully draw your attention to the fact that Nwafor, or his colleagues, did not comply with this laid down statutory creed that guides the modus operandi of his job - at the time he was Commanding Officer of Awkuzu SARS, Anambra State. He did not only arrest Chijioke, but also killed or ordered the killing of the suspect (sic).

vi. The Nigeria Police Act prescribes that, in exercise of his powers, every police officer shall be personally liable for any misuse of his powers, or any act done in excess of his authority. The Act also provides that “every police officer is required to use his best endeavour to uphold the good name of the force, and to further good relations with the public.

vii. Consequently, the Act prescribes that a police officer shall “be determined and incorruptible in the exercise of his police duties” and shall “have a strict regard to the correctness of his general behaviour. Furthermore, the Act requires Nigeria police officers to develop the following attributes:

(a) Efficiency and thoroughness through meticulous attention to details in the performance of his duties;

(b) Courtesy, forbearance and helpfulness in his dealings with members of the public;

(c) Tact, patience and tolerance, and the control of his temper in trying situations;

(d) Integrity in refusing to allow religious, racial, political or personal feelings or other considerations to influence him in the exercise of his duties;

(e) Impartiality, the avoidance of feelings of vindictiveness towards offenders;

(f) Strict truthfulness in his handling of investigations and in the giving of evidence.

viii. Sadly, from the facts supplied in this petition, Nwafor's conduct at the time, with respect to the unlawful killing of Chijioke, is not in accord with the aforesaid Nigeria Police Act. From the facts supplied in this petition, Nwafor's conduct has further bastardised the image of the Nigeria police in the eyes of the Nigerian and global Community, as several human rights, notably Amnesty International, have consistently highlighted, and brings to it only shame and disrepute.

#### **4.4 GROSS DEPRIVATION OF THE CONSTITUTIONAL RIGHTS ACCRUED TO A SUSPECT IN NIGERIA**

i. In chapter 4 of the 1999 Constitutions, and under the criminal procedure statutes, the following fundamental rights of a suspect are guaranteed to wit:

- a. Right to life, human dignity (freedom from inhuman and degrading treatment, torture) personal liberty, and privacy;
- b. Right to be presumed innocent until proven guilty;
- c. Right to remain silent during criminal investigation and trial processes;
- d. Right to notice of charges within a reasonable period;
- e. Right to be arraigned before a court or tribunal, and to a judicial proceeding in language(s) understood by the suspect (including interpretation of proceeding in language understood by suspect);
- f. Right to be arraigned before a court within a reasonable time;
- g. Right to be represented by a counsel of one's own choice provided one is able to pay for the services (and to state legal aid for indigent persons in cases of capital offences)
- h. Right to bail.

Consequent upon the facts supplied in this petition, it can be seen that Chijioke was denied all the above Constitutional rights, even though he was just a mere suspect.

## **5. THE SPECIFIC HUMAN RIGHTS VIOLATED:**

### **a. The Right to Life**

(Protected under Section 33 (1) of the Constitution of the Federal Republic of Nigeria 1999 ( with alterations) and Article 4, African Charter on Human And Peoples Rights, Laws of the Federation of Nigeria, 2004);

### **b. The Right to Presumption of Innocence**

(Protected by Section 36(5) of the Constitution 1999 and Article 7(1) of the African Charter on Human and Peoples Rights, Laws of the Federation of Nigeria, 2004);

c. Cumulatively, the following rights of Chijioke John Iloanya protected under Section 35 of the Constitution of the Federal Republic of Nigeria 1999 were also violated:

a. Right to dignity of human person, including freedom from inhuman and degrading treatment, torture - Section 34;

b. Right to remain silent during criminal investigation and trial processes- Section 35(2);

c. Right to notice of charges within a reasonable period - Section 35(3);

d. Right to be arraigned before a court or tribunal, and to a judicial proceeding in language(s) understood by the suspect (including interpretation of proceeding in language understood by suspect)- Section 35 (3) & 4);

- e. Right to be arraigned before a court within a reasonable time- Section 35(4)
- f. Right to be represented by a counsel of one's own choice provided one is able to pay for the services (and to state legal aid for indigent persons in cases of capital offences) - Section 35(2)
- g. Right to bail - Section 35(4)

## **6. EVIDENCE:**

- a. Photocopies of tweets of Retired CSP James Nwafor dated 11 July 2020 which were tweeted from his twitter handle @CSPJamesNwafor;
- b. Two petitions dated 21 August 2020 written by the Public Interest Lawyers League (PILL) on Belarus of the **FIRST PETITIONER**, Mr Emmanuel Iloanya to the Inspector General of Police and the Executive Secretary, National Human Rights Commission respectively;
- c. Acknowledgment letter of the Executive Secretary of the National Human Rights Commission dated 10 September 2020;
- d. Photocopies of interviews granted by the **THIRD PETITIONER** to local and international media.

## **7. WITNESSES:**

- a. Mr Emmanuel Iloanya
- b. Mrs Hope Iloanya
- c. Miss Ada Iloanya

Address, email and telephone number: c/o The Attorneys

## **8. NAMES OF POLICE OFFICERS RESPONSIBLE FOR THE EXTRA JUDICIAL KILLING OF CHIJOIKE JOHN ILOANYA:**

- a. Retired CSP James Oshim Nwafor
- b. Inspector Hycienth Nwankwo
- c. Retired DSP Joe Abataenum

Address:

c/o The Commissioner of Police,  
State Police Command headquarters,  
Awka, Anambra State.

## **9. REMEDIES:**

- a. The sum of One Hundred Million Naira (N100,000,000.00) being compensation for the unlawful arrest and detention and subsequent extrajudicial and unlawful killing of Chijioke John Iloanya, pursuant to Section 36 (5) of the Constitution of the Federal Republic of Nigeria 1999;
- b. A written public apology from the Nigeria Police Force for the unlawful arrest and detention and subsequent extrajudicial and unlawful killing of Chijioke John Iloanya;
- c. The Petitioners demand the prosecution of Retired CSP James Oshim Nwafor, Inspector Hycienth Nwankwo and Retired DSP Joe Abataenum for the extrajudicial and unlawful killing of Chijioke John Iloanya.

*Dated this 28th day of October, 2020.*

This Petition was filed by **ABDUL MAHMUD ESQ**, of the Public Interest Lawyers League (PILL), Attorney to the Petitioners, Mr Emmanuel Iloanya, Mrs Hope Iloanya and Miss Ada Iloanya, and whose address is at 42 Tunis Street, off Bissau Street, Wuse Zone 6, Abuja; Email: interestpublic911@gmail.com; Telephone: 08162491840,

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