

**PETITION ON THE EXTRA JUDICIAL KILLING OF OKWUCHUKWU CHRISTOPHER ONYEMELUE SUBMITTED (VIA ELECTRONIC MAIL) BY THE PUBLIC INTEREST LAWYERS LEAGUE (PILL) ON BEHALF OF ONYINYE MAUREEN ONYEMELUE AND IFEOMA EMMANUELLA ONYEMELUE TO THE ANAMBRA STATE JUDICIAL PANEL OF INQUIRY ON THE ACTIVITIES OF THE SPECIAL ANTI-ROBBERY SQUAD ( SARS), SITTING IN AWKA**

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

Public Interest Lawyers League ( PILL)

Address:

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Federal Capital Territory

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**2. NAMES OF THE VICTIM OF HUMAN RIGHTS VIOLATION ( EXTRAJUDICIAL KILLING), PETITIONERS AND THE RELATIONSHIP TO THE VICTIM:**

i) Name of the victim:

Okwuchukwu Christopher Onyemelue

Date of birth: 7 April 1991

Date of arrest: 24 June 2014

Age (At the time of arrest): 23 years

ii) Names of the Petitioners:

- a. Miss Onyinye Maureen Onyemelue ( Elder Sister)
- b. Miss Ifeoma Emmanuella Onyemelue ( Younger Sister)

Address: c/o The Attorneys

Email: c/o The Attorneys

Telephone: c/o The Attorneys

(We humbly request that the Panel protects the identities of the petitioners)

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

"a. On the morning of 24 June 2014, at about 10:35 am or thereabout, Okwuchukwu Christopher Onyemelue (hereinafter referred to as Okwuchukwu), who was in the company of her younger sister, the **SECOND PETITIONER**, Ifeoma Emmanuella Onyemelue ( hereinafter referred to as Ifeoma), was accosted by officers of SARS Awkuzu as he was driving out of his father's place of business at 1 Akunnia Njoto Street, Woliwo Layout, Onitsha, Anambra State;

b. The said officers flung the doors of the car opened, pounced on Okwuchukwu and started beating him. One of the officers held Ifeoma down, asking if she was related to Okwuchukwu. When Okwuchukwu's father heard of the commotion outside, he ran out only to find his son on the floor and under the firm grips of SARS operatives. He was threatened by a gun-toting operative who told him to leave the vicinity;

c. The said SARS operatives drove Okwuchukwu off in their vehicle, while another operative drove the parents' car ( white Toyota Matrix) that Okwuchukwu was driving at the time of his violent arrest. A few days later, his friend, Malaika and cousin, Odira Nwagbugbu, were also arrested by operatives of SARS Awkuzu and later released;

d. Ifeoma immediately ran home to inform other members of her family what had happened to Okwuchukwu, while Okwuchukwu's father travelled to SARS Awka to enquire about the offence his son committed. At SARS Awkuzu he was not allowed to see his son, Okwuchukwu. While Okwuchukwu was in detention, members of his family kept visiting SARS Awkuzu with the hope of seeing him. They were prevented by CSP James Nwafor from seeing him;

e. Sometimes in August 2014, photo of Okwuchukwu was published in a newspaper publication, under the news headline, " Boys caught stealing with guns", ostensibly on a police crime parade. Okwuchukwu was in a group photograph of other young boys, who were carrying guns like Okwuchukwu.

f. When Okwuchukwu was arrested at his father's place of business on 24 June 2014, he had no gun on him, neither did he have a weapon nor a harmful object capable of causing injuries or death. The operatives of SARS handed him a gun, paraded him like a common thief, having apparently tortured him into confessing a crime he never committed;

g. A few days later, following the newspaper publication, Okwuchukwu was again shown on national television with a gun and gunshot injury to his right leg making confession that he was caught with the gun while robbing. He was also made to confess that he was a kidnapper. Blatant lies; Okwuchukwu was a diligent young man who had no previous criminal record or brushes with the law. He was a graduate of Architecture who looked forward to practicing in a profession that was his childhood dream;

h. Okwuchukwu's parents, including his siblings, the petitioners, kept visiting SARS Awkuzu to see him. The operatives of SARS kept demanding money for his release. The family sold their landed property in Onitsha, took loans from banks, specifically, MayFresh Bank, Main Market, Onitsha, to meet the insatiable monetary demands of CSP James Nwafor, all to get Okwuchukwu out of SARS Awkuzu;

i. After several visits spanning years, CSP James Nwafor finally told Okwuchukwu's father, who is now bedridden, that he killed his son and "you can't do anything";

j. The petitioners and other members of their family stopped going to SARS in 2016 when another officer nicknamed Sharp Sharp warned them from coming to ask for Okwuchukwu "who we killed a long time ago";

k. Sadly in 2017, Okwuchukwu's father had stroke, and he too stopped going to SARS Awkuzu; and his mother suffered a stroke in 2018 and died in January 2019. On her death bed, she kept calling her only son's name, Okwuchukwu;

l. At the time of Okwuchukwu's arrest he was an OND graduate of Architecture of Federal Polytechnic, Nekede, Imo State, on the compulsory one year Industrial Training;

m. Beyond the fleeting appearance of Okwuchukwu on national television in August 2014, no member of his family has seen or heard from him since the morning of his arrest on 24 June 2014;

n. At the time of Okwuchukwu's arrest and subsequent extrajudicial killing by Retired CSP James Nwafor, he had a daughter, Chimamanda Benedicta Okwuchukwu, who was born on 25 May 2013 - eleven months and a day to his arrest. Chimamanda is seven years today;

o. Okwuchukwu was an ONLY son".

#### **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, Okwuchukwu was a mere suspect and who ought to have been availed his constitutional right to be presumed innocent.

iii. Okwuchukwu was not tried by 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 Constitution 1999 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)*.

Okwuchukwu 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 have 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, Okwuchukwu 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) AELR 6350.**

Accordingly, the manner in which Okwuchukwu 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 be prosecuted for the murder of Okwuchukwu.

#### **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 this constitution

(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 has a constitutional and a statutory duty to investigate the allegations. This has been recognised over and 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 the attention of the Judicial Panel to the fact that Nwafor, and 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 SARS Awkuzu, Anambra State. He did not only arrest Okwuchukwu, but also killed him.

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 Okwuchukwu, 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.

## **5.1 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 Okwuchukwu was denied all the above Constitutional rights, even though he was just a mere suspect.

## **5. THE SPECIFIC HUMAN RIGHTS VIOLATED BY SARS AWKUZU:**

### **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 Okwuchukwu Christopher Onyemelue 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. WITNESSES:**

a. Miss Onyinye Maureen Onyemelue

b. Miss Ifeoma Emmanuella Onyemelue

c. Pa Onyemelue

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

**8. NAMES OF POLICE OFFICERS RESPONSIBLE FOR THE EXTRA  
JUDICIAL KILLING OF OKWUCHUKWU CHRISTOPHER  
ONYEMELUE:**

a. Retired CSP James Nwafor

b. Officer Sharp Sharp (Whose real name is unknown)

Address:

c/o The Commissioner of Police,

State Police Command headquarters,

Awka, Anambra State.

**9. REMEDIES:**

a. The sum of Two Hundred and Fifty Million Naira (N250,000,000.00) being compensation for the unlawful arrest and detention and subsequent extrajudicial



and unlawful killing of Okwuchukwu Christopher Onyemelue, being an only son and father of a child, Chimamanda Benedicta Onyemelue, 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 Okwuchukwu Christopher Onyemelue;

c. The Petitioners demand the prosecution of Retired CSP James Nwafor and Police Officer Sharp Sharp whose real name is unknown.

*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, Miss Onyinye Maureen Onyemelue and Miss Ifeoma Emmanuella Onyemelue, and whose address is at 42 Tunis Street, off Bissau Street, Wuse Zone 6, Abuja; Email: interestpublic911@gmail.com; Telephone: 08162491840,

**ABDUL MAHMUD ESQ,**  
Legal Practitioner

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 30/10/2020  
 12:25pm

**IN THE FEDERAL HIGH COURT OF NIGERIA**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT ABUJA**

COMMISSIONER  
 FEDERAL HIGH COURT  
 ABUJA  
 30/10/2020



**AFFIDAVIT VERIFYING THE FACTS STATED IN THE PETITION**

1. **ASISONG BASSEY**, Nigerian, Male, Paralegal Executive, of the Public Interest Lawyers League (PILL), of 42 Tunis Street, Wuse Zone 6, Abuja, make this oath and state as follows:

1. That I am a Paralegal Executive with the Public Interest Lawyers League (PILL), an Abuja-based network of public interest lawyers representing families of victims of police brutality and the petitioners, **ONYINYE MAUREEN ONYEMELUE AND IFEOMA EMMANUELLA ONYEMELUE**, at the Anambra State Judicial Panel of Inquiry on Pro Bono;
2. That by virtue of the aforesaid position I interviewed the Second Petitioner, Ifeoma Emmanuella Onyemelue, and I am familiar with the facts stated in the Third Paragraph (Paragraph 3A - O) of the Petition. The Petition is here annexed and marked "A1".
3. That the stated facts, contained in aforesaid Paragraph Three of the Petition are facts obtained by me in the course of series of interviews with the Second Petitioner, Ifeoma Emmanuella Onyemelue, and are true and correct, to the extent of my personal knowledge;
4. That I depose to this affidavit in good faith and in accordance with the Oaths Act, 2004.

~~MA~~  
 DEPONENT

Sworn to at the Federal High Court Registry, Abuja  
 This 30<sup>th</sup> day of October 2020

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 FEDERAL HIGH COURT  
 PAID  
 30 OCT 2020

COMMISSIONER FOR OATHS  
 FEDERAL HIGH COURT  
 ABUJA  
 COMMISSIONER FOR OATHS

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