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IN THE COURT OF APPEAL  
HOLDEN AT LAGOS

CA NO:

SUIT NO: FHC/L/CS/937/17

BETWEEN

SOLOMON OKEDARA

APPELLANT

AND

ATTORNEY GENERAL OF THE FEDERATION

RESPONDENT

NOTICE OF APPEAL

TAKE NOTICE that the Appellant being dissatisfied with the decision contained in the judgment of Honourable Justice I.N. Buba of the Federal High Court of Nigeria sitting in the Lagos Judicial Division delivered on 7<sup>th</sup> December, 2017 doth hereby appeal to the Court of Appeal upon the grounds stated in paragraph 3 and will at the hearing of the appeal seek the reliefs set out in paragraph 4.

AND the Appellant further states that the names and the addresses of persons directly affected by this appeal are those contained in paragraph 5.

2. PART OF THE DECISION OF THE COURT BELOW COMPLAINED OF:

The whole decision contained in the judgment dated 7<sup>th</sup> December, 2017

3. GROUND OF APPEAL

GROUND 1

The learned trial judge erred in law when he held that the offence as contained in Section 24 (1) of the Cybercrime Act is quite clear and defined.

Particulars of Error

- (a) The finding of the learned trial judge that the offence as contained in Section 24 (1) of the Cybercrime Act, 2015 is "quite clear and defined" was rather speculative as the subsection is clearly not explicit.

- (b) A look at Section 24 (1) (a) of the Cybercrime Act, 2015 using phrases like “grossly offensive” or “menacing character” without defining what would constitute “grossly offensive” or “menacing character” shows that the offences contained in the subsection are neither clear nor defined.
- (c) The interpretation or Definition Section of the Cybercrime Act, 2015 which should have helped in the definition of the subsection fails to define the words or phrases used in the subsection, which fact was brought to the attention of the learned trial judge who apparently discountenanced same.

## **GROUND 2**

The learned trial judge erred in law when he held that cybercrime is incapable of direct definition and dwelt on same to determine the appellant’s case.

### **Particulars of Error**

- (a) The issue for determination as to “definition” submitted before the court by the appellant was not the issue of definition of the generic word “Cybercrime” but was the issue of failure of Section 24 (1) of the Cybercrime Act, 2015 to define an offence in that subsection as required by Section 36 (12) of the 1999 Constitution.
- (b) The learned trial judge subsumed the enquiry as to whether section 24 (1) of the Cybercrime Act, 2015 is “defined” in an unsolicited attempt to define the word “cybercrime”.

## **GROUND 3**

The learned trial judge erred in law when he held that Section 24 (1) of the Cybercrime Act does not in any way conflict with Section 36 (12) of the 1999 Constitution of the Federal Republic of Nigeria.

### **Particulars of Error**

- (a) Section 24 (1) of the Cybercrime Act, 2015 does not define any offence within the context of “definition” as required by Section 36 (12) of the 1999 Constitution.

- (b) The learned trial judge ignored the appellant's analysis of the import of the word "define" as used in Section 36 (12) of the 1999 Constitution with the aid of the Black's Law Dictionary (Eight Edition) which import Section 24 (1) of the Cybercrime Act, 2015 does not comply with.

#### **GROUND 4**

The learned trial judge erred in law when he did not make a finding on the appellant's issue raised as to vagueness, ambiguity and over-breadth of Section 24 (1) of the Cybercrime Act but rather on issues not submitted to him for determination.

#### **Particulars of Error**

- a) It is trite that a trial court is bound to pronounce and rule on all issues placed before it but the learned trial judge failed to rule on issue raised by the appellant that Section 24 (1) of the Cybercrime Act, 2015 is vague, ambiguous and overbroad.
- b) It is trite that the principle of legality bothers on an offence being precise as being able to guide the citizens as to what conducts constitute offences and which ones do not. It is also by this principle that any criminal provision that is vague, ambiguous or overbroad shall be null and void.
- c) It is trite law that a court of law is bound to restrict itself to only the issues submitted to it for determination.
- d) It is trite law that a court of law ought not to make out a case for a party.
- e) The sole issue determined by the court below in dismissing the appellant's case was not based on issues submitted before the court by any parties therein.

#### **GROUND 5**

The learned trial judge erred in law when he held that section 24 (1) of the Cybercrime Act, 2015 is in the best interest of the generality of the public.

### Particulars of Error

- (a) The burden of proving that Section 24 (1) of the Cybercrime Act is in the best interest of generality of the public is on the respondent which burden was not discharged.
- (b) There is no clear argument advanced before the trial court by the respondent to establish that Section 24 (1) of the Cybercrime Act, 2015 seeks to protect public interest.
- (c) The learned trial judge did not specify how Section 24 (1) of the Cybercrime Act, 2015 is in the interest of generality of the public other than mere re-stating Section 45 (1) (a) of the 1999 Constitution which only listed some public objectives.
- (d) None of the parties raised issue of public interest as a sword or shield before the trial court.

### GROUND 6

The learned trial judge erred in law when he failed to rule on the issue as to whether provisions of Section 24 (1) of the Cybercrime Act are within the permissible restrictions stipulated in Section 45 of the 1999 Constitution or whether Section 45 of the 1999 Constitution can save Section 24 (1) of the Cybercrime Act, 2015.

### Particulars of Error

- (a) It is trite that a trial court is bound to pronounce and rule on all issues placed before it but the learned trial judge failed to rule on issue raised by the appellant on whether Section 24 (1) of the Cybercrime Act is a law necessary and reasonably justifiable in a democratic society as contained in Section 45 of the 1999 Constitution.
- (b) That the appellant argued extensively in his Originating Summons and Reply on Point of Law that Section 24 (1) of the Cybercrime Act is not a law necessary and reasonably justifiable in a democratic society as contained in Section 45 of the 1999 Constitution.
- (c) The respondent in his third issue contained in his written address in opposition to the Applicant's Originating Summons argued that based on Section 45 of

the 1999 Constitution, section 24 (1) of the Cybercrime Act, 2015 is a law that is reasonably justifiable in a democratic society.

**4. RELIEFS SOUGHT AT THE COURT OF APPEAL**

That the judgment of the Federal High Court sitting in Lagos (Coram: I.N. Buba) delivered on 7<sup>th</sup> December, 2017 be set aside.

That the reliefs claimed in the Appellant's Originating Summons be granted as prayed.

**5. PERSONS DIRECTLY AFFECTED BY THIS APPEAL**

**NAME**

**ADDRESS**

**SOLOMON OKEDARA**

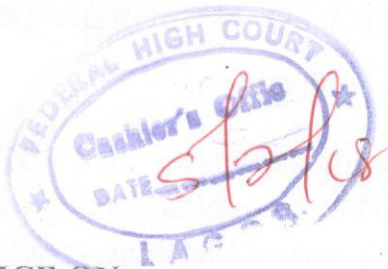
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**RESPONDENT**

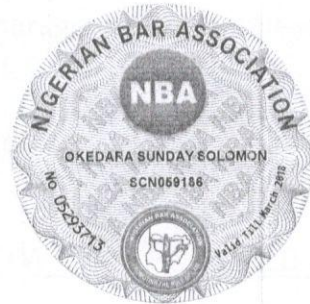
Federal Ministry of Justice  
Lagos Liaison Office  
Marina  
Lagos.

Dated this 5th day of February 2018



**FOR SERVICE ON:**  
**THE RESPONDENT,**  
Federal Ministry of Justice  
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