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LAGOS STATE MAGISTRATES COURTS LAW CHAPTER M1

SUPPORTED BY



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COURT OF APPEAL PRACTICE DIRECTION, 2013

Commencement (1st Day of May, 2013)

In Exercise of the Power Conferred upon me by Section 248 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and by virtue of all powers enabling me in that behalf, I, ZAINAB A. BULKACHUWA (OFR) Acting President, Court of Appeal, hereby issue the following Practice Direction for the Court of Appeal.

Applicability

1. This Practice Direction shall, save to the extent and as may otherwise be ordered by the president, Court of Appeal, pursuant to Section 248 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), apply to:
 - (i) All Criminal Appeals relating to the offence of Terrorism, Rape, Kidnapping, Corruption, Money Laundering and Human Trafficking.
 - (ii) Interlocutory appeals challenging the ruling of the court below on an interlocutory application.

Objective and Guiding Principle

- (2).—(a) The purpose of this Practice Direction is to establish, a specialized system, of case management in the Court of Appeal, that will provide for the fair and impartial administration of criminal and civil appeals arising out of cases listed in 3(a) (i) and (ii) below, and the rules made under this Practice Direction shall be construed and applied to eliminate unnecessary delay in the transmission and conduct of appeals and reduce the expense and time spent on appeals by all parties before the court;
 - (b) This Practice Direction shall enable the Presiding Justice of the Divisions of the Court to fast track the hearing and determination of appeals in respect of cases which fall under the offences of Terrorism, Rape, Kidnapping, Corruption, Money Laundering and Human Trafficking.
 - (c) The rules made under this Practice Direction shall apply *mutatis mutandis* to all criminal cases, which fall under the category of offences listed above as well as interlocutory appeals.
 - (i) Create a system for fast tracking the hearing and determination of interlocutory applications and appeals from

the decision of the court below on interlocutory applications and preliminary objections, and for offences of Terrorism, Rape, Kidnapping, Corruption, Money Laundering and Human Trafficking;

- (ii) Ensure that in the determination of appeals, the court will only determine applications which cannot be taken with the substantive appeals, or are based on clear issues of fact and not recondite points of law;
- (iii) Ensure that the attitude of each panel of the Court should be to take all steps, in the determination of appeals, to reduce the delay occasioned by interlocutory appeals as much as is reasonably possible. This shall be in furtherance of the need to minimize the delay occasioned at the lower courts by ensuring expeditious dispatch of interlocutory appeals;
- (iv) Reduce the time spent on hearing and determination of interlocutory applications both at the trial court and on appeal and minimize the avenues for parties to make use of interlocutory applications as a means of frustrating the expeditious conduct of cases both at trial courts and on appeal;
- (v) Ensure that conduct of appeals are not stalled by unpreparedness of the court or the parties and that the Appeals are timeously conducted and adjourned hearing dates respected;
- (vi) Minimize undue adjournments and delays occasioned by counsel or the court;
- (vii) Reduce the delay in the delivery of the Court's Rulings and Judgments in the category of cases listed above;
- (viii) Ensure that where possible, trials are not delayed by the hearing and determination of interlocutory appeal.

Listing of Causes

- 3.(a) The Presiding Justice of each division, in conjunction with the Deputy Chief Registrar of the division, shall ensure that their various Registries give priority to the listing, consideration and determination of all applications and substantive appeals related to the items listed in (i) below and in respect of the Rulings and Judgments of the court below related thereto.
- (i) All Criminal Appeals originating from or involving the EFCC, ICPC or any other statutorily recognized prosecutorial agency or person, or where the offence relates to Terrorism, Rape, Kidnapping, Corruption, Money Laundering and Human Trafficking.
 - (ii) Interlocutory appeals challenging the ruling of the court below on an interlocutory application heard in that court.
- (b) Where a cause list is to be prepared in accordance with Order 3 Rule 11 of the Court of Appeal Rules 2011, the registry shall ensure that priority is given to all cases listed in 3(a) (i) and (ii) above;
- (c) The Presiding Justice, in furtherance of the overall objectives of this Practice Direction, may designate certain times or days as reserved in the cause list for hearing and determination of matters listed above;
- (d) Causes listed must be heard on the day and time for which they are listed and the court shall not entertain more than two applications for adjourned per party;

Provided however that an application for adjournment shall not be considered on a day fixed for the hearing of the appeal.

Grounds of Appeal

- 4.—(a) The court and the parties must prevent unwarranted and unnecessary delays to the determination of appeals and accordingly, no party shall be allowed more than two amendments of the Notice of Appeal during the pendency of the appeal.

Provided that the court may allow a party to amend its ground of appeal where issues arise or are subsequently found to necessitate such amendment;

- (b) Where a party seeks to change their counsel during the pendency of an appeal, not more than one adjournment shall be granted to him to so do;
- (c) Where the court is of the opinion that the ground(s) of appeal as contained in the Notice of Appeal filed from the court below lacks merit, the court shall, as a matter of course, invite parties within 15 days of the transmission of the Record of Appeal to address it as to why such appeal should not be struck out. Where no cogent reason is disclosed to the court, such matter shall be struck out.

Notice

- 5.—(a) No party may serve an application or a Notice of preliminary Objection on an adverse party on the date scheduled for hearing. Such application must be served not later than 2(two) days prior to the date scheduled for hearing:
- (b) Upon service of any application on the respondent, he may within 3(three) days file notice of intention not to contest the application and upon such notice the application may be heard by the Justice in

chambers without oral argument.

- (c) In furtherance of the need to ensure speedy dispensation of Justice, Electronic mail and other electronic means may be employed by the Court in order to inform counsel of urgent court and case event. Hence, the parties are expected to furnish the court registrar with phone numbers and email addresses of themselves or their counsel;

Provided that these notices should be given at least forty eight (48) hours before the scheduled court date.

Compilation and Transmission of Record

- 6.—(a) In any appeal in respect of cases listed in 3(a) (i) above, the Registrar of the court below shall, not later than thirty days after the filing of a notice of appeal compile and transmit the record of appeal to the Court;
- (b) In any appeal contained in 3(a)(ii) above, the Registrar of the court below shall, no later than seven days after the filing of a notice appeal, with the assistance of the Appellant, compile and transmit the record of appeal to the Court.
- (c) In pursuit of 6(a) above, the registrar shall, within 15 (fifteen) days summon the parties before him to:
- (a) Settle the documents to be included in the record of appeal; and
- (b) Fix the amount to be deposited by the appellant to cover the estimated cost of making up and forwarding the record of appeal.
- (d) In pursuit of 6 (b) above, the registrar shall, within 7 (seven) days summon the parties before him to:
- (a) Settle the documents to be included in the record of appeal; and
- (b) Fix the amount to be deposited by the appellant to cover the estimated cost of making up and forwarding the record of appeal.
- (e) In pursuit of 6(a) above, where at the expiration of 30 (thirty) days after the filing of the notice of appeal the registrar has failed and or neglected to compile and transmit the record of appeal to this Court in accordance with the preceding provision of this Practice Direction, it shall become mandatory for the Appellant to compile the record consisting of all documents and exhibits necessary for his appeal and transmit same to this Court within 15 days after the registrar's failure or neglect;
- (f) Such records compiled by the appellant, pursuant to 6(e), shall be served on the respondent or respondents within 15(fifteen) days;
- (g) Where the respondent considers that there are additional records which may be necessary in disposing of the appeal, he shall be at liberty to, within 7 (seven) days of the service on him of the record, in accordance with 6(f) compile and transmit to the Court such record to be known as the additional record of appeal;
- (h) In pursuit of 6(b) above, where at the expiration of 7 (seven) days after the filing of the notice of appeal the registrar has failed and or neglected to compile and transmit the records of appeal in accordance with the preceding provisions of this Practice Direction, it shall become mandatory for the appellant to compile the records of all documents and exhibits necessary for his appeal and transmit same to the Court within 7 (seven) days after the registrar's failure or neglect;
- (i) Such records as compiled by the appellant, pursuant to 6(e) above shall be served on the respondent or respondents within 7 (seven) days;
- (j) Where the respondent considers that there are additional records which may be necessary in disposing of the appeal, he shall be at liberty to, within 5 (five) days of the service on him of the records, in accordance with 6(f) above compile and transmit to the Court such records to be known as the additional records of appeal;
- (k) Every record or additional Record of Appeal compiled by a party to an appeal must be certified by the registrar of the lower court.
- Provided that it shall not be necessary for copies of individual documents to be separately certified but the registrar of the court below shall correct each copy of the record transmitted in accordance with this Practice Directions;
- (l) If the registrar has failed to compile and transmit the records under 6(a) above and the appellant has also failed to compile and transmit the Records in accordance with paragraph 6(e) above, the respondent may by notice of motion move the court to dismiss the appeal.

Amendment of Notice of Appeal or Respondent's Notice

- 7.—(a) A notice of appeal or respondents notice may be amended by or with the leave of the Court at any time. Provided that in any application or appeal in respect of cases listed in 3(a)(i) and (ii) above, such application for amendment shall not taken on the day scheduled for hearing of the appeal, without the leave of court;

- (b) A court shall not be minded to allow an amendment or grant leave to amend in accordance with 7(a) above unless such amendment will disclose facts or grounds of appeal, which were not known to the parties as at the time of filing the Notice of Appeal in the court below or is in the interest of justice. Provided, that in the case of matters falling under 3(a)(ii) the court shall not permit more than 2(two) amendments per party.

Service of Record of Appeal to the Supreme Court

- 8.—(a) In any application or hearing in respect of cases listed in 3(a)(i) and (ii) above, where there is a further appeal to the Supreme Court, the registrar shall within 15 days after the compilation of the Record of Appeal serve upon every appellant who was duly given a notice of appeal and paid the fees fixed by the registrar to cover the cost of record of appeal, a copy of the record;
- (b) The registrar shall thereafter cause to be served upon every respondent in the appeal who has filed an address for service, a notice that the record has been compiled. It shall be the duty of each respondent to pay for and collect a copy of the record;
- (c)—(1) Within seven(7) days after a record has been served upon an appellant, the registrar shall certify under hand that he served the record of appeal upon every such appellant. The certification of service shall be as in form 14 of the Court of Appeal Rules, 2011
- (2) In addition to the requirements of the Supreme Court Rules, the Registrar shall as soon as the record and notice of compilation of the record of Appeal to the Supreme Court have been served on the appellant and the respondent, as the case may be, transmit to the Supreme Court:
- (a) a certificate that a copy of the Record of Appeal to the Supreme Court has been served on the appellant(s); and
- (b) a certificate that notice of compilation of the Record of Appeal to the Supreme Court has been given to the respondent. (form 14B of the Court of Appeal Rules. 2011)

Briefs of Argument

- 9.—(a) In all appeals coming from any court or tribunal from which an appeal lies to the Court, in respect of cases listed in 3(a)(i) and (ii) above, the appellant shall within 14 days of the receipt of the Record of Appeal from the court below file in the Court a written brief, being a succinct statement of his argument in the appeal.
- (b) In response to (a) above, the respondent shall also within 10 days of the service of the brief for the appellant on him file the respondent's brief which shall be duly endorsed with an address or addresses for service.
- (c) The respondent's brief shall, in accordance with established rules of court, answer all material points raised therein which the respondent wishes to concede as well as reasons why the appeal ought to be dismissed. It must also *mutatis mutandis* conform to Order 18 Rule 3 (1),(2),(3),(4) and (5) of Court of Appeal Rules, 2011.
- (d) The appellant may also, if necessary, within five days of the service on him of the respondent's brief, file and serve or cause to be served on the respondent a reply brief which shall deal with all new points arising from the respondent's brief.
- (e) No party shall be allowed more than two amendments of the Briefs during the pendency of an appeal.
- (f)(i) Where an appellant fails to file his brief within the time provided for in 9(a) above, or within the time as extended by the court, the respondent may apply to the court for the appeal to be dismissed for want of prosecution.
- (ii) If the respondent fails to file his brief, he shall not be heard in oral argument as provided in 9(c) above.
- (iii) Where an appellant fails to file a reply brief within the time specified in 9(d) above, he shall be deemed to have conceded all the new points or issues arising from the respondent's brief.
- (g) Where an appellant fails to file his brief within the time provided for 9(a) above, or within the time as extended by the court, the court may *suo motu* dismiss the appeal for want of prosecution.

Determination of Appeals and Stay of Execution

- 10.—(a) In the determination of appeals arising from interlocutory decisions of the court below in respect of any of the matters listed in 3 above, the court shall give priority to those matters and where possible hear such matters on a day basis until final determination.
- (b) Without prejudice to any of the foregoing the court shall refuse to hear appeals arising from interlocutory decisions of the court below where the matter deals with any of the issues listed in 3 above and the court is of the opinion that the grounds raised in the appeal are such that the court can conveniently be determined by way of an appeal arising from the final judgment of the court below. Provided that where the grounds of the appeal deal with issues of pure law

court may exercise discretion and determine it expeditiously.

- (c) In the case of any such interlocutory appeals stated in "b" above this Court shall order the court below to accelerate hearing in the substantive matter.

MADE at Abuja this 1st day of May, 2013.

Signed

HON. JUSTICE ZAINAB A. BULKACHUWA, OFR

Hon. Acting President, Court of Appeal

Served by TREE&Trees JusticeMedia (Nigeria's justice sector social enterprise)

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