

IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE LAGOS JUDICIAL DIVISION
HOLDEN AT LAGOS

IN THE MATTER OF AN APPLICATION BY FEMI FALANA (SAN) FOR THE PRESERVATION OF SECTIONS 215 (3), 217 (2) (A), (B), (C), 218 (1), (3) & (4) AND ENFORCEMENT OF HIS RIGHT TO FREEDOM OF MOVEMENT AND LIBERTY PURSUANT TO SECTIONS 33, 41 AND 35 RESPECTIVELY OF THE 1999 CONSTITUTION, AS AMENDED AND ARTICLES 4, 6, 11 AND 12 OF THE AFRICAN CHARTER ON HUMAN AND PEOPLES RIGHT (RATIFICATION AND ENFORCEMENT) CAP A10 LFN, 2004.

SUIT NO: FHC/L/CS/193 9/19

BETWEEN

FEMI FALANA (SAN)

) APPLICANT

AND

1. THE NIGERIAN ARMY
2. CHIEF OF ARMY STAFF
3. ATTORNEY GENERAL OF THE FEDERATION

} RESPONDENTS

ORIGINATING-MOTION-ON-NOTICE
BROUGHT PURSUANT TO:

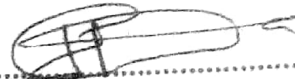
ORDER II RULES 1,2,3,4 & 5 OF THE FUNDAMENTAL RIGHTS (ENFORCEMENT PROCEDURE) RULES, 2009 SECTIONS 6 (6) (B), 33, 35 AND 41 OF THE 1999 CONSTITUTION AS AMENDED AND UNDER THE INHERENT JURISDICTION OF THE HONOURABLE COURT

TAKE NOTICE that this Honourable Court shall be moved on the Day of 2019 at the hour of 9 '0 clock in the forenoon or so soon thereafter as counsel may be heard on behalf of the Applicant for the orders in terms of the reliefs sought in the Statement accompanying the affidavit in support of the application.

AND TAKE FURTHER NOTICE that on the hearing of this application, the Applicant will use the affidavit and the exhibits therein referred to.

Dated this 25th day of OCTOBER 2019

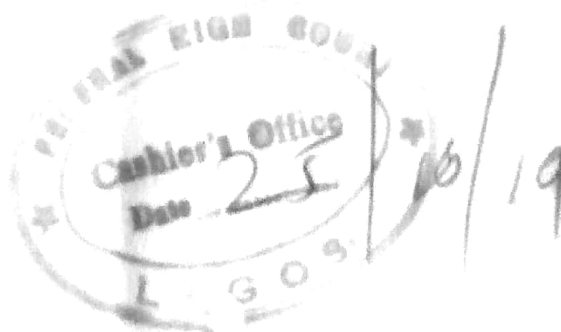
THE ORIGINATING-MOTION-ON-NOTICE IS TO BE SERVED OUTSIDE LAGOS STATE AND IN THE FEDERAL CAPITAL TERRITORY, ABUJA



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FOR SERVICE ON:

1. THE 1ST RESPONDENT,
ARMY HEADQUARTERS,
GARKI, ABUJA.
2. THE 2ND RESPONDENT,
ARMY HEADQUARTERS,
GARKI, ABUJA.
3. THE 3RD RESPONDENT,
THE ATTORNEY GENERAL OF THE FEDERATION,
THE ATTORNEY GENERAL'S CHAMBERS,
FEDERAL MINISTRY OF JUSTICE,
MAITAMA DISTRICT,
ABUJA.



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IN THE LAGOS JUDICIAL DIVISION
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IN THE MATTER OF AN APPLICATION BY FEMI FALANA (SAN) FOR THE PRESERVATION OF SECTIONS 215 (3), 217 (2) (A), (B), (C), 218 (1), (3) & (4) AND ENFORCEMENT OF HIS RIGHT TO FREEDOM OF MOVEMENT AND LIBERTY PURSUANT TO SECTIONS 33, 41 AND 35 RESPECTIVELY OF THE 1999 CONSTITUTION, AS AMENDED AND ARTICLES 4, 6, 11 AND 12 OF THE AFRICAN CHARTER ON HUMAN AND PEOPLES RIGHT (RATIFICATION AND ENFORCEMENT) CAP A10 LFN, 2004.

SUIT NO: FHC/L/CS/1929/19

BETWEEN

FEMI FALANA (SAN)

) APPLICANT

AND

1. THE NIGERIAN ARMY
2. CHIEF OF ARMY STAFF
3. ATTORNEY GENERAL OF THE FEDERATION

RESPONDENTS

STATEMENT

1. NAME AND DESCRIPTION OF THE APPLICANT

The Applicant is FEMI FALANA SAN, a Legal Practitioner and a Senior Advocate of Nigeria, resident in Nigeria.

2. RELIEFS SOUGHT BY THE APPLICANT

A. **AN ORDER of INTERIM INJUNCTION** restraining the Respondents whether by themselves, their agents, privies and servants from embarking on the planned nationwide operation scheduled for November 1, 2019 to December 23rd 2019 tagged Operation Positive Identification (OPI) by which Nigerian citizens would be required to move about with legitimate means of Identification such as National Identification Card, voters Registration Card, Drivers' License and International passports pending the hearing and determination of the substantive suit.

B. **AND ANY OTHER OR FURTHER ORDERS** the Honourable Court may deem fit to make in the circumstance (s)

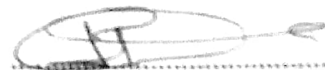
3. GROUND FOR SEEKING RELIEFS.

- A. By virtue of **Section 215 (3) of the Constitution, 1999 as amended**, the Nigeria Police Force has been conferred with the exclusive power to maintain law and order and secure public safety and public order in the country.
- B. **Section 217 (1) of the Constitution** empowers the president of the Federal Republic of Nigeria to deploy the armed forces for the suppression of insurrection and acting in aid of civil authorities to restore law and order, but the power cannot be exercised until there is an insurrection or civil disturbance which cannot be contained by the Nigeria police.
- C. There is no insurrection in every part of the country which the Nigeria police cannot contain to warrant the deployment of armed troops all over the country from **1st November, 2019 to December 23rd, 2019**.
- D. Neither the Constitution nor the Armed Forces Act Cap A20 LFN, 2004 has empowered the Nigeria Army to arrest any citizen who is not subject to service law.
- E. The 1st Respondent under the leadership of the 2nd Respondent is not empowered to take over police duties and the President and Commander in Chief of the Armed Forces lacks the power to deploy members of the armed forces in the maintenance of internal security in any part of the country by virtue of **Section 217 (a) (b) and (c) of the 1999 Constitution**, as amended.
- F. The planned **nationwide operation** by the 1st Respondent scheduled for **November 1, 2019 to December 23rd 2019** tagged **Operation Positive Identification (OPI)** by which the Applicant and other Nigerian citizens would be ***required to move about with legitimate means of Identification such as National Identification Card, voters Registration Card, Drivers' License and International passports*** is unconstitutional, illegal, null and void as it violates the rights of the Applicant and other Nigerian citizens to freedom of movement as encapsulated in **Section 41 of the Constitution of the Federal Republic of Nigeria, 1999 as Amended** and **Article 12** respectively of the African Charter on Human and Peoples Rights (Ratification and Enforcement) Act, (Cap A10) Laws of the Federation of Nigeria, 2004.
- G. The planned **nationwide operation** by the 1st Respondent scheduled for **November 1, 2019 to December 23rd 2019** tagged **Operation Positive Identification (OPI)** by which the Applicant and other Nigerian citizens would be ***required to move about with legitimate means of Identification such as ational Identification Card, voters Registration Card, Drivers' License and International passports*** is

encapsulated in Section 35 respectively of the Constitution of the Federal Republic of Nigeria, 1999 as Amended and Article 6 of the African Charter on Human and Peoples Rights (Ratification and Enforcement) Act, (Cap A10) Laws of the Federation of Nigeria, 2004.

- H. Unless the Respondents are restrained by an order of interim injunction pending the hearing and determination of the substantive suit, irreparable damage may occur.

Dated this 25th day of OCTOBER, 2019



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