EVIDENCE OF BLOOD RELATION OF VICTIM AND OR DECEASED PERSON- LAW AND PRACTICE

Prof Obiaraeri, N. O.

Abstract

This paper examined the question whether blood relationship between the victim of the offence and the prosecution witness in the trial of the offender makes the witness either incompetent or a tainted witness. This is to clear the misunderstanding on the twin issues whether a relation of the victim is a tainted witness and or whether is it safe to convict on the uncorroborated evidence of a tainted witness. Using the doctrinal research method, the paper analysed statutory provisions on competence of witnesses and judicial decisions touching on different circumstances where conjugal or filial relatives or relations of the victim testified against a defendant and the attitudes of the Court towards such testimonies. The paper found that competence of witnesses is fixed by statute and that the Courts have consistently held that it is not in every case that blood relationship between the victim and the prosecution witness that it would be concluded that the witness is a tainted witness whose evidence is unreliable unless corroborated. The paper further found that from the body of judicial decisions, a tainted witness is not even an incompetent witness. The only thing is that the evidence of a tainted witness will at best be examined with a tooth comb. Thus, it was recommended that instead of defence arguing that testimonies of prosecution witnesses should be treated with caution or rejected because they are related to the deceased, they should concentrate on discrediting the evidence of the witness during cross-examination.

1.0 Introduction

The aim of this paper is to examine and make manifest the law and practice relating to the admissibility and probative value accorded evidence of assortment of blood relations of a deceased or victim against a defendant. In addition, the paper discusses the acceptable ways in which a defendant may be able to establish that the evidence of a blood relation of the victim or deceased should not be relied upon to secure his conviction. To this end, the paper is divided into the following segments namely: General principles of the law on competence; Evidence of blood relation and the question of being "a tainted witness"; Judicial decisions on evidence of blood relations; How the defendant may discharge the onus or burden of proof; Summary of law and practice; and Conclusion and recommendations.

2.0 General principles of the law on competence

Simply stated, under the law, every person is competent to testify. The question of competence of witnesses is clearly settled as *section 175(I)* of the Evidence Act, 2011 as amended provides that

> All persons shall be competent to testify, unless the court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions, by reason of tender years, extreme old age, disease, whether of body or mind, or any other cause of the same kind.

According to the *Black's Law Dictionary,* competence is "basic or minimal ability to do something especially to testify"[1]. The Supreme Court, per Onu, JSC, held in *Dagayya v State* [2] that it is axiomatic

[1] BA Garner, Black's Law Dictionary, Sevent Edition (St Paul Minn, West Group, 1999) 278.
[2] (2006) LPELR-912(SC) (Pp. 40 paras. B).

that a person who cannot appreciate the nature of telling the truth is not a competent witness. Any witness whether an adult or child who has no regard for truth should not be believed. In *Dame v Usman & Ors*[3], the Court of Appeal, per Hussaini, JCA, held among other things that competence of a witness to testify is not about his educational standing or about the language or languages he can speak or about his inability to read and write in any particular language. By the provision of *section 175(1)* of the Evidence Act, all person are competent witnesses unless on account of disqualifying factors, by reason of tender age, examine old age, disease whether of body or mind. Such is not the case here. In any case, a witness is not disqualified by reason of his witness' Statement on Oath not being made in the language of the Court[4]. In *Aboaba v Ogundipe*[5], it was reiterated by Nimpar, JCA, that the substantive law that governs evidence and competence of witnesses is the Evidence Act, 2011 and particularly *section 175(1)* which provides that all persons shall be competent to testify, unless the Court considers that they are prevented from understanding the questions put to them, or from giving rational answers to these questions, by reasons of tender years, extreme old age, disease, whether of body or mind or any cause of the same kind. Thus, subject to qualifications in the above section, all persons are competent to testify.

3.0 Evidence of blood relation and the question of being "a tainted witness"

In the immediate past segment, it was established that everyone is a competent witness. This segment of the paper will examine the probative value to be attached to the evidence of a blood relation who has testified against a defendant and whether such a person should be treated as a tainted witness. On whether blood relationship between the victim of the offence and the prosecution witness in the trial of the offender makes the witness an incompetent or tainted witness, plethora of decisions of the Courts such as *Egwumi v State*[6] have held that it is not in every case that blood relationship between the victim or the injured person and the witness for the prosecution that it would be concluded that the witness is a tainted witness whose evidence is unreliable unless corroborated. In *Abayomi Olalekan v State*[7], it was held that the accepted definition of a tainted witness is a person who is either an accomplice or who, on the facts, may be regarded as having some personal purpose to serve. It was further accentuated that that the fact of blood relationship between the victim of the offence and the prosecution witness in the trial of the offender does not necessarily make the witness a tainted witness. Thus, who a tainted witness is remains a question of fact.

Furthermore, in *Segun v State,*[8] it was held by the Supreme Court, per Peter-Odili, JSC, that the fact that a witness for the prosecution has relationship with the deceased or the victim of the crime charged does make his evidence inadmissible in law. In *Abdullahi v State,*[9] it was held that it is neither a rule of law or of practice that the evidence of relatives of a victim are inadmissible, and neither are they tainted witnesses who have their purpose to serve. What is important is their credibility[10]. Finally, on whether it is safe to convict on the uncorroborated evidence of a tainted witness, it is the law that a tainted witness may be an accomplice, but he is a witness who obviously has some purpose of his own to serve by giving evidence. A judge should scrupulously examine such evidence and be slow in

[3](2015) LPELR-40361(CA) (Pp. 35 paras. C.

[4]For further reading on competence and compellability, see NO Obiaraeri, Contemporary Law of Evidence in Nigeria (Crayford Kent, United Kingdom, Whitmont Press Ltd, 2012) 490-510.

[5](2017) LPELR-42922(CA) (Pp. 25-26 paras. F).

[6](2013) LPELR-20091(SC) (Pp. 36-37, paras. F-C).

[7](2001) NSCQLR Vol. 8 207. See also Ben v State (2006) NSCQLR Vol. 27 233.

[8](2021) LPELR-56603(SC) (Pp. 22 paras. B). See the case of *Nwaogu v The State* (1992) 7 NWLR (Pt. 254) 421 at 439.

[9](2021) LPELR-55700(CA) (Pp. 60-61 paras. D), per Abiru, JCA.

[10]Cases cited in support include *Peter v State* (1994) 5 NWLR (Pt. 342) 45, *Nkebisi v State* (2010) 5 NWLR (Pt. 1188) 471, *Ali v State* (2015) 10 NWLR (Pt. 1446) 1, *Ude v State* (2016) 14 NWLR (Pt. 1531) 122, *Uzim v State* (2019) 14 NWLR (Pt 1693) 419, *Wowem v State* (2021) 9 NWLR (Pt 1781) 295.

[11]This was the kernel of the decision in *Ishola v State* (1978) 11 NSCC 499; *Ogunlana v State* (1995) 5 NWLR (Pt. 395) 26; *Azeez Okoro v State* (1998) 14 NWLR (Pt. 584) 181 and *Orisakwe v State* (2004) 12 NWLR (Pt. 887) 258.

4.0 Judicial decisions on evidence of blood relations

A number of judicial decisions will be examined subsequently to demonstrate the attitude of the Courts towards the testimony of blood relations of the victim whether by blood (filial) or marriage (conjugal) such as wife of the victim of the crime, mother of the deceased, children and workers of the deceased, brother to the victim, and brother-in-law to the victim.

(a) Wife of the victim of the crime

In *Eneji v State*,[12] PW2 who testified against the appellant was the wife of the deceased. On PW2, the Appellant argued that her evidence ought not to be relied upon because she is the wife of PW1, the victim of the crime. It was held that the argument was of no legal force as the position of the law on the evidence of relatives of victim of an offence is that a trial Judge ought to receive such evidence with caution. If after cautioning/warning himself in respect of the evidence, the Judge is of the opinion that the witness is telling the truth, there is no reason not to rely on such evidence. In fact, such evidence requires no corroboration as it is not in the class of evidence which, in law, requires corroboration. A witness who is a relative of the victim of a crime is not *ipso facto* a tainted witness or a person having some purpose of his own to serve. In considering whether to admit and rely on the evidence of a relative of a victim, the circumstances and the evidence before the Court have to be considered. In the instant case, PW2 only gave direct evidence as to what she saw. She was not shown to be trying to serve a purpose of her own. The two lower Courts took cognizance of the fact that the PW2 was the wife of PW1, but nevertheless found her evidence reliable. The Court saw no reason to disturb the concurrent decisions of both the High Court and Court of Appeal to rely on the evidence of PW2.

Furthermore, in *Ledee Iwante Deeya* v *The State*,[13] the Appellant was charged with the offence of murder, contrary to *section 319(1)* of the Criminal Code of Rivers State (Cap. 37) of 1999. At the trial, the Respondent called five witnesses while the Appellant testified alone as DW1 in the case wherein he raised issue of 'alibi'. At the conclusion of trial, he was found guilty, convicted and sentenced to death by hanging. Dissatisfied, the Appellant filed an appeal at the Court of Appeal. One of the issues formulated for determination was the question whether the Learned Trial Judge was right in relying on the evidence of PW1, PW2 and PW5 who are wives and brother of the deceased as well as Exhibits N-N5 tendered by the PW3 to ground the conviction of the Appellant in spite of the inconsistencies in their testimonies and the interest of PW1 and PW2 in the outcome of the trial. In the final analysis, the appeal was dismissed and the judgment of the trial High Court was affirmed. The Court of Appeal, per Abdullahi, JCA, held as follows-

> The curious position taken by the counsel for the Appellant on the trial Court's reliance on evidence of PW1 and PW2 to ground conviction of the Appellant, being wives of the deceased who have personal interest to serve is of no moment. The fact that PW1, PW2 and PW5 were wives and son of the deceased cannot be basis for contending that they are tainted witnesses. This I found and hold that the onus was on the Appellant in defence to show that they had an interest to serve by the evidence they gave beyond speaking the truth in efforts to ensure that justice was done. See the cases of *Ojo v Gharoro* (2006) 10 NWLR (Pt. 987) 173 and *Asuquo v The State* (2016) 14 NWLR (Pt. 1532) 307. This has not been

[12] (2024) LPELR-62647(SC) (Pp. 24-25 paras. A). In *Olalekan v State* (2001) LPELR-2561(SC) (Pp. 52, paras. D – E), it was held that it is neither a rule of law or practice that the evidence of relations of victims of a crime need corroboration. They are neither "tainted" witnesses nor witnesses who have their own purpose to serve. The cases of *R v Omisade* (1964) NMLR 67), Segun v State (2021) LPELR - 56603 (SC), *Kiwo v State* (2020) 7 NWLR (Pt. 1722) 164 and *Onafowokan v State* (1986) 2 NWLR (Pt. 23) 496 were cited in support.

[13] (2022) LPELR-59088(CA).

> shown by the Appellant throughout the gamut of the proceeding before the Court below/record of appeal transmitted to this Court. In the case of *John Idiagu v The State* (Supra) cited and relied upon by the Appellant, the Supreme Court said: "A tainted witness is a person who is either an accomplice or who by the evidence he gives may and could be regarded as having some personal purpose to serve. Evidence of such a witness should be treated with considerable caution and examined with a tooth comb.

(b) Mother of the deceased

In *Okereke v State*,[14] PW2 was the mother of the deceased. She testified against the defendant who was convicted for murder by the High Court. On appeal to the Court of Appeal, defendant/appellant objected to his conviction based on the testimony of PW2 on the ground that she was a tainted witness. The Court of Appeal conceded that PW2 is the mother of the deceased Blessing but posed the question whether, without more, this made her a tainted witness? In answering this question in the negative, the Court of Appeal relied on the decision of the apex Court in the case of *Egwumi v State*[15] and held that the fact of blood relationship between the victim of the offence and the prosecution witness in the trial of the offender does not necessarily make the witness a tainted witness. Assuming without conceding that PW2 was a tainted witness, that does not make her an incompetent witness. The only thing is that her evidence at best requires corroboration[16].

(c) Children and workers of the deceased

In *Egwumi v State*, [17] the appeal to the Supreme Court was against the judgment of the Court of Appeal which affirmed the conviction and sentence passed on the appellant by the High Court. The appellant and others were charged on four counts head of charge contrary to various Sections of the Penal Code. The facts of the case were that on the 29th day of November 1998, a mob armed with dangerous weapons to wit: cutlasses, knives, guns set out for the house of Alhaji Umoru Bamayi (deceased). The mob was made up of several persons and the appellant was one of them. The mob came from Itoduma village. Alhaji Umoru Bamayi lived in Okumayi. Both villages are in Kogi State. Seeing the mob approaching PW1 and PW2, children/close relations of Alhaji Umoru Bamayi ran into the bush beside their fathers' house where from their vantage positions, they saw events unfold. PW3 lived in the compound beside Alhaji Umoru Bamayi's house corroborated the testimony of PW1 and PW2 as he also saw the attack. On arrival the mob beat up Alhaji Umoru Bamayi so bad. He was shot, his hands were tied, then he was bundled off to a nearby river. His wife who pleaded with the mob to spare her husband's life suffered a similar experience. She was badly beaten. At the river the mob submerged his body and drowned him, he was brought up. The appellant cut off his head and made away with it in full view. The learned trial High Court judge found the accused/appellant guilty and he was convicted and sentenced to death by hanging. On an appeal to the Court of Appeal Abuja Division, the conviction and sentence of the appellant was affirmed. The appellant further dissatisfied, appealed to the Supreme Court. In the apex Court, one of the issues formulated for determination was the question whether PW1, PW2, PW3 and PW6 were not tainted witnesses with their own interest to serve. PW1 and PW2 are children/close relations of the deceased. PW3 and PW5 worked on the deceased's farm. PW2 is a tractor driver, he also works on the farm for the appellant. The Supreme Court dismissed the appeal for lacking in merit. The decision, conviction and sentence of the Court of Appeal and the High Court was upheld. PW1, PW2, PW3 and PW6 were held to be

[14](2022) LPELR-58462(CA) (Pp. 6-7 paras. D).
[15] (2013) 13 NWLR (Pt. 1372) 525. See also *Ochani v State* (2017) 18 NWLR (Pt. 1596) 1.
[16]The cases of O*motola & Ors v State* (2009) 7 NWLR (Pt. 1139) 148 and *Ndukwe v State* (2009) NWLR (Pt. 1139) 43 were cited in support per Mahmoud, JCA.
[17](2013) LPELR-20091(SC).

eyewitnesses to the part played by the appellant in the death of the deceased on the 29th of November 1998. PW1, PW2, PW3 and PW6 are not tainted witnesses as it was not shown that their testimony which they gave, they had some purpose of their own to serve. The fact that PW1 and PW2 were related to the deceased does not mean that they were not competent to testify for the prosecution. It was not shown that they were biased. Their evidence together with the evidence of PW3 and PW6 were those of truthful eyewitnesses. There was thus no miscarriage of justice. A claim that evidence of PW1, PW2, PW3 and PW5 was untruthful can only be sustained after cross-examination. After cross-examination their testimony was unshaken. They had no interest whatsoever to serve. They told the truth as regards what they saw on 29/11/98. They are not tainted witnesses.

Explaining why the evidence of a witness who has a blood relationship with a victim (in this case children of the deceased) may not mandatorily be treated with caution as originating from a tainted witness, the Supreme Court, per Oguntade, JSC in *Omotola Ors v The State* [18] held as follows:

> It was undisputed that PWs 7, 10 and 11 are the children of the deceased. But did that fact alone make them tainted witnesses? I do not think so. Every citizen has the duty to come forward and offer assistance in the diligent detection and prosecution of crime. Their blood relationship with the victim of crime may constitute an additional incentive to come forward to testify in a Court case. But that in my view, cannot be regarded as a basis to describe their evidence as untrue, biased or tainted. I am unable to accept the submission that the evidence of PWs 7, 10 and 11 was lacking in the requisite quality and objectivity just for the reason that they were the children of the deceased. It would have served the interests of the appellants better if counsel concentrated in showing that they did not observe what they claimed to have witnessed or that their evidence in some way was incredible. Asking that their evidence be rejected as tainted witnesses just because they were the children of the deceased is in my view unhelpful.

The above decision was also followed in *Idagu v State* [19]. In that case, PW1, Godwin Oga, and PW2, Janet Ogbeche, the daughter of the first deceased, were eye-witnesses for the prosecution. The only point of divergence between their evidence and appellant's testimony was that they testified that he brought out the cutlass, which he hid within himself, and started to cut the first deceased; his wife and the second deceased. The Learned trial Judge believed the two Witnesses, and sentenced the appellant to death. Dissatisfied, the appellant appealed to the Court of Appeal which dismissed his appeal and affirmed the decision of the trial Court. Further aggrieved, the appellant appealed to the Supreme Court. The Supreme Court dismissed the appeal and held among other things that there is also nothing in the said testimony from which it can be deduced that PW1 and PW2, who were related to the deceased persons, had their own personal purpose to serve as prosecution witnesses against him.

(d) Brother to the victim

In *Uzim v The State* [20], The appellant insisted that PW4 was a tainted witness because he "cannot be expected to testify against his blood brother". The Supreme Court restated that the accepted definition

[18] (2009) LPELR-2663(SC) (Pp 41 - 42).

[19] (2018) LPELR-44343(SC) (Pp. 44-47 paras. E).

[20] (2019) LPELR-48983(SC).

of a tainted witness is a person, who is either an accomplice or who by the evidence he gives may and could be regarded as having some personal purpose to serve. So his evidence should be treated with considerable caution "and examined with a tooth comb" citing in support the cases of *Adetola v State*[21] and *Egwumi v State* (supra) the apex Court held further that it is well settled that the fact that there is a blood relationship between a victim and the Prosecution witness is not sufficient in itself to make him a tainted witness, whose evidence is unreliable, unless corroborated. In *Omotola v State*,[22] the Supreme Court, per Ogbuagu, JSC. Observed as follows:

> A case is not lost on the ground that those, who are witnesses, are members of the same family or community. What is important is their credibility and that they are not tainted witnesses. This is because the Prosecution should not be encouraged to call hired witnesses especially in murder cases of capital offences. Justices it is said will be defeated if the Prosecution of any Accused Person can only commence when and only when witnesses are neither related to the Accused nor are members of the same family - - The evidence of a relation can be accepted, if cogent enough to rule out the possibility of deliberate falsehood and bias -- - -There is no law which prohibits blood relations from testifying for the Prosecution where such a relation is the victims of the crime committed. So, the blood relationship of a witness with the victim of a crime cannot be regarded as a basis to describe his evidence as untrue, biased or tainted. It is a different matter if the witness did not see what he claimed to have witnessed or his evidence is incredible. But the mere fact that he is related to the victim of the crime is not sufficient in itself to describe the witness as a tainted witness or tar him with the same brush and ask that his evidence be rejected.

(e) Brother-in-law to the victim

In *Agabtse v State*,[23] the appeal before the Court of Appeal bordered on conviction of the appellant for the offence of culpable Homicide punishable with death. One of the prosecution witnesses, PW5, was a brother-in-law to the deceased. From both his extra judicial statement, Exhibit E, and his evidence at the trial, PW5 was an eye witness to the stabbing of the deceased by the Appellant. The learned trial Judge relied on the evidence of PW5. The Appellant argued that the trial Court ought to have acted with caution in relying on the evidence of PW5 because he was a brother-in-law to the deceased. He also argued that Exhibit E showed pre-existing malice against the Appellant and there were material contradictions between his evidence at the trial and Exhibit E. The Court of Appeal, per Otisi, JCA, was not persuaded by this argument and held that the mere fact that the deceased was a brother-in-law to PW5 does not immediately make his evidence suspect and one to be acted on with caution. The accepted definition of a tainted witness is a person, who is either an accomplice or who, by the evidence he gives, may and could be regarded as having some personal purpose to serve. Evidence of such a witness should be treated with considerable caution "and examined with a tooth comb"[24]. The fact that there is a blood relationship between a victim and a prosecution witness is not sufficient in itself to make the witness a tainted witness, whose evidence is unreliable, unless corroborated.[25] Therefore, the evidence of PW5 did not need to be treated with caution on account of his relationship with the deceased, who was in brother-in-law. Moreover, aside from his eye witness account of the

[21](1992) 4 NWLR (Pt. 235) 267.
[22](2009) 7 NWLR (1139) 148.
[23](2020) LPELR-50356(CA).
Omotola & Ors v The State (2009) LPELR-2663(SC); *Adetola v The State* [1992] 4 NWLR (Pt. 235) 267; and *Ishola v The State* (1978) LPELR-8043(SC) cited in support.
[25]This principle was enunciated in *Ben v The State* (2006) LPELR-770(SC); *Egwumi v The State* (2013) LPELR-20091(SC)); and *Idagu v State* (2018) LPELR-44343(SC).

murder of the deceased, his evidence did not differ largely from the testimonies of the other prosecution witnesses. PW5 was not a tainted witness. In any event, a tainted witness is a competent witness. The only snag is that the Court should be wary about readily extending or ascribing credibility to his evidence.[26]

5.0 How the defendant may discharge the onus or burden of proof

It remains to be stated succinctly that the onus or burden cast on a defendant to discredit the evidence of a blood relation of a victim is not lightly rebutted. There is no law that prohibits blood relations of the deceased from testifying for the prosecution at the trial of the person accused of murdering the deceased as held in *Idagu v State*.[27] Defendant cannot just insist that the testimony of the witness or witnesses should be treated with caution or rejected because they are related to the deceased.

To discharge this burden, the defendant will not only lead evidence that the witness is related to the victim or deceased person but must lead cogent and credible evidence that the witness had their own personal purpose to serve as prosecution witnesses against him. It is also not enough to allege that the witness was untruthful because of blood relationship with the victim. He must discredit the evidence of the witness during cross-examination. The Court must be satisfied by evidence that the witness is unworthy to be accorded any credibility. In *Adepoju Ayanwale & Ors. v. Babalola Atanda & Anor,* [28] the Supreme Court observed that: "No witness is entitled to the honour of credibility when he has two material inconsistent evidence given on oath by him on record. Such a witness does not deserve to be described as truthful.". A claim that evidence of a witness was untruthful can only be sustained after cross-examination. If after cross-examination the testimony remains unshaken, the trial Court must act on it.

6.0 Summary of law and practice

From the vigourous analysis of relevant statutory provisions and judicial decisions undertaken in the preceding segments of this paper, the following inexhaustive principles, law and practice on evidence of blood relation can be aggregated namely-

(a) By the provision of *section 175(1)* of the Evidence Act, 2011 as amended, all persons are competent witnesses unless on account of disqualifying factors, by reason of tender age, examine old age, disease whether of body or mind.

(b) There is no law that prohibits blood relations of the deceased from testifying for the prosecution at the trial of the person accused of murdering the deceased as held in *Adelumola v State*[29] *and Oguonzee v State*.[30]

(c) The argument that the testimonies of prosecution witnesses should be treated with caution or rejected because they are related to the deceased amounts to "much ado about nothing" as held in *Idagu v State* (supra). Even so, the fact that there is a blood relationship between a victim and the Prosecution witness is not sufficient in itself to make the witness a tainted witness, whose evidence is unreliable, unless corroborated as held in *Egwumi v State* (supra) and *Omotola v State* (supra).

(d) The question of who a tainted witness is remains a question of fact, and the trial Court is the most suited to decide whether or not their testimony is reliable; the appellate Court is not equipped to do so as held in *Egwumi v State* (supra). It is trite that the issue of credibility of witnesses is the pre-eminent duty of a trial Court, and there is a presumption that its findings are right and correct until the contrary is shown. Thus, the appellate Court is usually very slow in interfering with such primary findings. In I*dagu v State (supra)*, the Supreme Court reiterated that when evaluation of evidence involves credibility of witnesses, an appellate Court is hamstrung because it is the trial Court that saw them,

[26] *Ochani v The State* (2017) LPELR-42352(SC) cited in support.
[27] (2018) LPELR-44343(SC) (Pp. 44-47 paras. E).
[28] (1998) 1 NWLR (Pt. 68) 22.
[29] (1988) LPELR-119(SC) (Pp. 13 paras. D).
[30] (1998) LPELR-2357(SC) (Pp. 33-36 paras. G).

heard them and watched their demeanour that is in the position to believe or disbelieve witnesses, and this can never be captured by an appellate Court that only has "cold printed record to contend with"[31] It is only when a question of evaluation of evidence does not involve the credibility of witnesses but is against non-evaluation or improper evaluation of the evidence that an appellate Court is in as good a position as the trial Court to do its own evaluation as held in *Fatai v. State.*[32]

(e) To discredit the evidence of a witness who is related to the deceased person, the defendant must lead cogent evidence that the witness had their own personal purpose to serve as prosecution Witnesses against him.

7.0 Conclusion and recommendations

This paper has illuminated and streamlined the law, principles and practice relating to evidence of a blood relation. It is believed that the Court, Counsel for both prosecution and defendant will find the expositions very helpful. It is recommended that instead of arguing about blood relationship, Counsel for defendant should concentrated in showing that they did not observe what they claimed to have witnessed or that their evidence in some way was incredible. Great and precious time of the Court should no longer be wasted by legal practitioners in arguing or responding to the question whether blood relationship between the victim of the offence and the prosecution witness in the trial of the offender makes the witness either incompetent or a tainted witness. Where this is the case, it is recommended that the Court should treat such argument or proposition as spent and or academic for it is as well not the duty of the Court to expend precious judicial time in determining academic or hypothetical issues.[33]

[31]See also *Sogunro & Ors v Yeku & Ors* (2017) LPELR-41905(SC).

[32](2013) 10 NWLR (Pt. 1361) 1.

[33]Per Kekere-Ekun, JCA (as he then was) in *Charles & Anor v Governor of Ondo State & Ors* (2012) LPELR-9332(CA) (Pp. 30 paras. A).