

# JURISPRUDENCE AND PROCEDURE OF ADJOURNMENT UNDER THE ADMINISTRATION OF CRIMINAL JUSTICE ACT, 2015

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## ABSTRACT

The procedure for adjournment in criminal trials is often misunderstood to have no constitutional or statutory backing thereby implying that a Judex can use his whims to decide whether to grant or refuse an application for adjournment. To untangle this legal maze, this paper deployed the doctrinal research method to examine provisions of both the Constitution of the Federal Republic of Nigeria, 1999 as amended and the Administration of Criminal Justice Act, 2015 on the import or meaning of the right of every person who is charged with a criminal offence to be given adequate time and facilities for the preparation of his defence. Plethora of relevant judicial decisions were also considered. The paper established that adjournment during trial is both constitutional and statutory and may be granted either upon application of party or under specific provisions and circumstances itemised in the Administration of Criminal Justice Act, 2015. The paper further established that adjournment is of crucial importance in criminal adjudication although its grant or refusal is a judicial discretion that must be exercised judiciously. Hence, the paper recommended digitization of Court processes to minimize manual writing, associated time wasting and tedium that often defeat speedy dispensation of justice.

**Keywords** – adjournment, consequences, justice, opportunity, time

## 1.0 Introduction

This aim of this paper is to illuminate the law as it relates to procedure for adjournment in criminal adjudication with special focus on the Administration of Criminal Justice Act, 2015 which applies In the Courts of the Federal Capital Territory and other Federal Courts in Nigeria. The paper will also unfurl the constitutional basis for adjournment of criminal trials and the assortment of circumstances where it is specifically authorised or permitted under the Administration of Criminal Justice Act, 2015 to grant an adjournment. To fully understand the discussion in this paper which centres on how the Court is expected to balance the demands of expeditious trial and need to give every defendant adequate time and facilities for the preparation of his defence, the paper is further divided into the following segments namely:

## 2.0 Meaning and types of “adjournment”

The word or term “adjournment: is not interpreted or defined in the ACJA, 2015 nor in the Interpretation Act. However, *Black's Law Dictionary*<sup>1</sup> interprets “adjournment” as meaning two things namely- “1. a putting off of court session or other meeting or assembly until a later time. 2. The period or interval during which a session is put off”. To “adjourn” is to recess, postpone or defer and it is in this sense that adjournment is used in this paper and the focus is limited to adjournment procedure under the Administration of Criminal Justice Act,<sup>2</sup> 2015. Adjournment may be to a named date or sine die (indefinitely). Adjournment may be without cost or with cost. Adjournment may be mandatory such as where it is in the interest of justice to allow a defendant or prosecution sufficient time to prepare and present its case. Generally, adjournment is at the discretion of the trial Court. It is however a judicial discretion that must be exercised judiciously as held in *Rico Pharmaceutical Industries Ltd & Anor v ECOBANK Plc.*<sup>3</sup>

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<sup>1</sup> Garner, B.A., (Ed.) *Black's Law Dictionary*, Seventh Edition, (St. Paul, Minn, West Group) 42.

<sup>2</sup> Hereinafter abbreviated and referred to as “ACJA”.

<sup>3</sup> (2022) LPELR-58456(CA) Pp. 6 paras. C) per Nwosu-Iheme, JCA (as he then was).

### 3.0 Constitutional basis, sanction or approval of adjournment

Contrary to the layman's thinking that adjournment has no constitutional backing, the procedure of adjournment in a criminal trial is traceable to the provision of *section 36(6)(b)* of the CFRN, 1999 as amended to the effect that "Every person who is charged with a criminal offence shall be entitled to "be given adequate time and facilities for the preparation of his defence." This is an offshoot of the omnibus right to fair hearing. The moment an accused person is facing a charge, his personal liberty is at stake and before that liberty is taken away, he must be afforded every opportunity to defend himself. Once he becomes aware that he has a charge hanging over his neck for an infraction of the law and makes a request either orally or in writing for adequate time and any facilities to prepare his defence, the Court must accede to his request and the prosecution has to comply. In *Nweke v State*,<sup>4</sup> Sanusi, JSC, pointed out that the proper channel to make such request is to the Court which will in turn order the prosecution to oblige him all that he required. Once such request is made, the trial Court must see to it that the prosecution complies with its order to avail or supply the accused/appellant with all the documents which are available.

In *Okemini v COP*,<sup>5</sup> the Supreme Court, explained that the rationale for the constitutional provision for an accused to be given adequate time and facilities for the preparation of his defence is that a person accused by the state of committing an offence must not be at a disadvantage when defending himself. The state must as a matter of his entitlement to fair hearing ensure that he is given "adequate facilities" to defend himself. Furthermore, another rationale for this provision is that no matter the nature of the criminal charge, be it a simple offence, a misdemeanour or a felony, if it would lead to a conviction and a person may be deprived of his liberty, then he must be aware and not taken by surprise by any evidence intended to be used by the prosecution. Where a defendant is denied the right to adequate time and facilities to enter his defence, the trial will be a nullity. In *Ugboji v State*,<sup>6</sup> the Supreme Court, per Kekere-Ekun, JSC (as he then was) held as follows:

In addition to the right of an accused person to be informed promptly and in detail of the nature of the offence with which he is charged (Section 36(6)(a) of the 1999 Constitution), he is also entitled to be given adequate time and facilities for the preparation of his defence (Section 36(6)(b) of the Constitution). To be convicted for the offence of conspiracy without being afforded an opportunity to plead thereto and to prepare his defence, is a gross violation of the appellant's fundamental right. In my considered view, the lower Court erred in affirming the judgment of the trial Court.

Conclusively, therefore, regardless of the usual refrain that justice delayed is justice denied, the Constitution provides solid foundation for provision of "adequate time and facilities to the defendant for the preparation of his defence which may entail postponement or adjournment of criminal trials in order to serve the interest of justice. Rushed justice is no justice. Against this framework, this paper will examine how under the ACJA, 2015, there are permitted or permissible circumstances when it shall be in the interest of justice to adjourn proceedings either on application of party or by the Court *suo motu* (on its own accord).

### 4.0 General Rule on speedy trial and adjournment under the ACJA

*Section 1(1)* of the ACJA, 2015 disclosed that the purpose of the ACJA is "to ensure that the system of administration of criminal justice in Nigeria promotes efficient management of criminal justice institutions, speedy

<sup>4</sup> (2017)15 NWLR (Pt.1587) 120 at 150.

<sup>5</sup> (2024) LPELR-61811(SC) (Pp. 12-13 paras. F) Per Ogunwumiju, JSC.

<sup>6</sup> (2017) LPELR-43427(SC) (Pp. 47 paras. C).

dispensation of justice, protection of the society from crime and protection of the rights and interests of the suspect, the defendant, and the victim.” Thus, it goes further to provide clear guidelines for day-to-day trial and adjournments in *section 396* as follows:

(3) Upon arraignment the trial of the defendant shall proceed from day-to-day until the conclusion of the trial.

(4) Where day-to-day trial is impracticable after arraignment, no party shall be entitled to more than five adjournments from arraignment to final judgment: provided always that the interval between each adjournment shall not exceed 14 working days.

(5) Where it is impracticable to conclude a criminal proceeding after the parties have exhausted their five adjournments each, the interval between one adjournment to another shall not exceed seven days inclusive of weekends.

From the foregoing, it is self-evident that, where practicable, the intendment of the ACJA is to have day-to-day trials or expedited trials in criminal matters except where it is impracticable to do so.

### **5.0 Circumstances when adjournment is provided for or allowed under the ACJA, 2015**

Despite the intendment in the ACJA that there should be day-to-day trial in criminal matters, the following are the recognised circumstances and sundry reasons when adjournment may be mandatory or permitted by Court namely:

(a) Under *section 135(1)* of the ACJA, 2015, a Magistrate is conferred with the power to dispense with personal attendance of defendant on his application in certain cases in respect of any offence for which the penalty is a fine not exceeding Ten thousand Naira or imprisonment for a term not exceeding six months or both. However, under subsection (4), where the attendance of a defendant is dispensed with and previous convictions are alleged against him not admitted in writing or through his legal practitioner, the Court may adjourn the proceedings and direct the personal attendance and under subsection 5, where the attendance of a defendant has been dispensed with, and his attendance is subsequently required, the cost of any adjournment for that purpose shall be borne by the defendant.

(b) Adjournment is permitted under *section 201(4)* of the ACJA, 2015. In *subsection (1)*, it is provided that the description of property in a charge shall be in ordinary language indicating with reasonable clearness the property referred to and if the property is so described it is not necessary, except when required for the purpose of describing an offence depending on any special ownership of property or special value of property, to name the person to whom the property belongs or the value of the property. However, under subsection (3), where the owner of any property is a company, association, club or society, proof of the registration of the company, association, club or society shall not be required unless the court decides that proof shall be given, in which case, the further hearing may be adjourned for the purpose or the court may, in its discretion, amend the proceedings by substituting the name of some person or persons for the registered title.

(c) A case may be adjourned under *section 250 (1)* of ACJA, 2015, when a person attending court and who is required to give evidence, without any sufficient excuse or reason: (a) refuses to be sworn or to affirm as a witness; (b) having been sworn or having taken affirmation refuses to answer any question put to him; (c) refuses or neglects to produce any document or anything which he is required by the court to produce. This attracts grave consequences as the court may adjourn the hearing of the case and may in the meantime by warrant, commit the person to prison or other place of safe custody for a period not exceeding thirty days.

(d) Under *section 263* of the ACJA, 2015, adjournment may be occasioned to enable the Court visit locus in quo. Hence, subsection (1) provides that where it appears to the court that in the interest of

justice, the court should have a view of any place, person or thing connected with the case, the court may, where the view relates to a place, either adjourn the court to that place and there continue the proceedings or adjourn the case and proceed to view the place, person or thing concerned.

(e) *Section 278(3)* of the ACJA allows for adjournment where defendant is suspected to be of unsound mind to the effect that where the court is not satisfied that the defendant is capable of making his defence, the court shall adjourn the trial or proceeding and shall remand the person for a period not exceeding 1 month to be detained for observation in some suitable place.

(f) Under *section 307* of the ACJA, 2015, during consideration of case by court and announcement of finding, the Court may adjourn to do so. Hence, it is enacted in *subsection (1)* that when the case for both sides is closed, the court shall consider its verdict and for this purpose may retire or adjourn the trial. However, under *subsection (2)*, after the Court has made its finding, the Court shall pronounce that finding in the open court.

(g) Regarding time and protocol for remand orders, *section 296(1), (2) and (3)* of the ACJA, 2015 provides for them in the following manner:

(1) Where an order of remand of the suspect is made pursuant to *section 293* of this Act, the order shall be for a period not exceeding 14 days in the first instance, and the case shall be returnable within the same period.

(2) Where, on application in writing, good cause is shown why there should be an extension of the remand period, the court may make an order for further remand of the suspect for a period not exceeding 14 days and make the proceedings returnable within the same period.

(3) Where the suspect is still in custody on remand at the expiration of the period provided for under *subsection (1)* or *(2)* of this Section, the court may on application of the suspect grant bail in accordance with the provisions of *Sections 158 to 188* of this Act.

However, under *subsection (4)* at the expiration of the remand order made pursuant to *subsection (1)* or *(2)* of this section, and where the suspect is still remanded with his trial having not commenced, or charge having not been filed at the relevant court having jurisdiction, the court shall issue a hearing notice on:

(a) the Inspector General of Police and the Attorney-General of the Federation; or

(b) the Commissioner of Police of the state or of the Federal Capital Territory or the Attorney-General of the Federation, as the case may be,

(c) any relevant authority in whose custody the suspect is or at whose instance the suspect is remanded, and adjourn the matter within a period not exceeding fourteen days of the expiration of the period of remand order made under *subsection (1)* or *(2)* of this section, to inquire as to the position of the case and for the Inspector General of Police or the Commissioner of Police and the Attorney-General of the Federation to show cause why the suspect remanded should not be unconditionally released.

(h) When a case has been referred or stated for the Court of Appeal, adjournment of trial is feasible and recommended. *Section 305(1)(a)* of the ACJA, 2015 provides for adjournment of trial as one of the discretionary options open to the trial Court where a question as to the interpretation of the Constitution of the Federal Republic of Nigeria arises in the course of a trial and is referred to the Court of Appeal under the provisions of the Constitution. The adjournment of trial shall be indefinite until the question has been considered and decided. On the other hand, the Court may elect conclude

the trial and postpone the verdict until such time as the question has been considered and decided under *subsection (b)* thereof.

Thus, from the foregoing, adjournment of trial is permitted for a period not exceeding fourteen days under *section 296(4)(c)* of the ACJA for the relevant authorities to show cause why a suspect should not be unconditionally released.

(i) Adjournment is also provided for during sentence and sentence hearing. Thus, under *section 311(1)*, where the provisions of *section 310* of the ACJA have been complied with, the Court may pass sentence on the convict or adjourn to consider and determine the sentence and shall then announce the sentence in open court.

(j) In exercise of its power to order restitution, it is provided in *section 321* of the ACJA, 2015 that “A court after conviction may adjourn proceedings, to consider and determine sentence appropriate for each convict”.

(k) Adjournment of trial may be granted for good cause due to non-appearance of complainant. It is provided in *section 351(2)* of the ACJA that where the court receives a reasonable excuse for the non-appearance of the complainant or his representative or for other sufficient reason, it shall adjourn the hearing of the complaint to some future day on such terms as the court may deem just.

(l) Adjournment of trial may be permitted by Court following non-appearance of defendant. Ordinarily, under *section 352 (1)(a)* of the ACJA, 2015, where a case is called in which summons has been issued and the defendant does not appear, or pleads guilty under the provisions of *section 135* of the ACJA, 2015, and no sufficient excuse is offered for his absence, then the Court where it is satisfied that the summons, if any, has been duly served, may issue a warrant, called bench warrant for his arrest. However, under *section 352(1)(b)*, where not the Court is not satisfied that the summons has been duly served or where a warrant had been issued, in the first instance, for the arrest of the defendant, it shall adjourn the hearing of the case to some future day, in order that proper service may be effected or, until the defendant is arrested, as the case may be.

(m) Unsatisfactorily explained non-appearance of defendant granted bail pending trial, may under *section 352(4)* of the ACJA, 2015, warrant the Court to continue with his trial in his absence and convict him unless the Court sees reasons otherwise. However, this is subject to the proviso that proceedings in the absence of the defendant shall take place after two adjournments or as the Court may deem fit.

(n) Under the law, a Court is bound to give decision upon conclusion of hearing. This may be immediately or postponed to a future date. To this end, it is provided in *section 368* of the ACJA, 2015 that on the conclusion of the hearing, the court shall either at the same or at an adjourned sitting give its decision on the case either by dismissing or convicting the defendant and may make such other orders as may seem just.

(o) In the exercise of power of remand, a Magistrate may, for the purposes of ascertaining whether it is expedient to deal with a case summarily, either before or during the hearing of the case, adjourn the case and remand the person charged for a period not exceeding 48 hours or release him on bail. This power to adjourn during consideration of remand is provided *under section 372* of the ACJA, 2015.

(p) Under *section 373* of the ACJA, 2015, a law officer may require case to be adjourned or dealt with specially in the following manner namely:

- (1) A law officer, in a case where a charge of an indictable offence is being proceeded with summarily by a Magistrate, may, at any time before judgment, request the Magistrate to deal with the case as one for trial on information.
- (2) On receipt of the request, the Magistrate shall adjourn the

proceeding until such a time as information or charge is filed in the High court, provided that the information shall be filed within a period of thirty days of the date the order granting the request.

(3) The Magistrate shall make the case returnable for a period not exceeding thirty-two days from the date of the grant of the request.

However, under *subsection (4)*, where at the end of the period of thirty days provided in *subsection (2)* above, the information or charge against the defendant has not been filed at the High Court, the Magistrate shall proceed on the return date to try the charge summarily where he has jurisdiction, or may make an order releasing the defendant on bail pending his arraignment on the information or charge as requested by the law officer.

(q) In *section 374* of the ACJA, 2015, adjournment may be granted for law officer's decision as follows:

(1) Where a charge for an offence is being tried summarily by a Magistrate, he shall, at the request of a person in charge of the prosecution made at any time before judgment, adjourn the hearing of the charge for consultation with a law officer with a view to obtaining a request to proceed in accordance with *section 373* of the ACJA.

(2) The request of the law officer so consulted shall be filed within 14 days of the date the Magistrate grants the request of the person prosecuting, failing which the Magistrate shall proceed to try and conclude the case summarily.

It is however provided in *subsection (3)* of *section 374* that where the Magistrate grants an adjournment at a request under *subsection (1)* above, the adjournment shall not be for a period exceeding 15 days, and the Magistrate may grant the defendant bail.

(r) Finally, in the exercise of its to determine term of imprisonment, under *section 416(2)(g)* of the ACJA, 2015, it may be desirable for the Court to adjourn for sentencing in order to have time to consider any evidence adduced at the sentencing hearing in accordance with *section 311* of the ACJA, 2015.

It must be emphasised that although the above is representative of an exhaustive list of circumstances when adjournment is provided for or allowed under the ACJA, 2015. However, even where it is not provided for, the Court has discretion to grant adjournment if it is in the interest of justice to so do and consistent with the constitutional right of every person who is charged with a criminal offence to be entitled to “be given adequate time and facilities for the preparation of his defence.” This latitude or opportunity is, of course, also available to the defence.

## **6.0 Consequences for non-attendance of witness or production of document when matter is adjourned**

Although provided for under the Constitution and ACJA, adjournment of trial is not granted for fun as parties and witnesses must take attendance to Court or orders of Court seriously. This segment of the paper will therefore discuss the consequences that may flow from non-attendance of party or witness, non-production of document or compliance with order of Court when a matter has been adjourned to a named date.

(a) *Section 247* deals with consequences for non-attendance of witness on adjourned hearing. Thus, a witness who is present when the hearing or further hearing of a case is adjourned, or who has been

duly notified of the time and place to which the hearing or further hearing is so adjourned, shall attend any subsequent hearing and if he defaults, he may be dealt with in the same manner as if he had refused or neglected to attend the court in obedience to a witness summons.

(b) A case may be adjourned under *section 250 (1)(c)* of ACJA, 2015, when a person attending court and who is required to give evidence, refuses or neglects to produce any document or anything which he is required by the court to produce. This may also attract sanction as the court may adjourn the hearing of the case and may in the meantime by warrant, commit the person to prison or other place of safe custody for a period not exceeding thirty days.

(c) Adjournalment may be granted subject to witness costs. In *section 253* of the ACJA, 2015, the Court may permit, on application of a party for an adjournment of the proceedings, and in so doing, may order the party seeking the adjournment to pay to a witness present in court and whose evidence it has not been possible to take owing to the adjournment such sum in the amount payable to a witness in accordance with *section 251 and 252* of the ACJA, or such sum as the court may fix.

(d) Non-appearance of the complainant during trial may lead to dismissal of the complaint. It is provided in *section 351(1)* of the ACJA, 2015 that when the case is called, the defendant appears voluntarily in obedience to the summons or is brought before the court under a warrant, and the complainant having, to the satisfaction of the court, had due notice of the time and place of hearing, does not appear in person or in the manner authorised by a written law, the court may dismiss the complaint.

(e) Non-appearance of defendant on any adjourned date or dates may lead to disastrous consequences for him. Under *section 352 (1)(a)* of the ACJA, 2015, where a case is called in which summons has been issued and the defendant does not appear, or pleads guilty under the provisions of *section 135* of the ACJA, 2015, and no sufficient excuse is offered for his absence, then the court where it is satisfied that the summons, if any, has been duly served, may issue a warrant, called bench warrant for his arrest. Under *subsection (2)*, where the defendant is afterward, arrested on a bench warrant, he shall be brought before the Court immediately which may then commit him by warrant to prison or to such other place of safe custody as it thinks fit, and order him to be brought before the court at a certain time and place.

(f) Unsatisfactorily explained non-appearance of defendant on bail pending trial on any adjourned date of trial may also lead to disastrous consequences. It is enacted in *section 352(4)* of the ACJA, 2015 that where the Court, in exercise of its discretion, has granted bail to the defendant and the defendant, in disregard for the court orders, fails to surrender to the order of court or fails to attend Court without reasonable explanation, the Court shall continue with the trial in his absence and convict him unless the Court sees reasons otherwise, provided that proceedings in the absence of the defendant shall take place after two adjournments or as the Court may deem fit. However, under *subsection (5)*, the Court shall impose a sentence only when the defendant is arrested or surrenders to the custody of the court.

(g) A warrant may be issued for arrest of witness not attending on recognizance at the fixed or further adjourned date. Under *section 398* of the ACJA, 2015, where a person who has been summoned to attend as a witness, whether for the prosecution or for the defence, does not attend the court on the day fixed for the trial of the case or on any further adjourned date, and he offers no reasonable excuse for his absence, despite the fact that he was duly served with the notice of the trial, the court may issue a bench warrant that the person be arrested and be brought before the court, at a time to be mentioned in the warrant, in order to give evidence on behalf of the prosecution or of the defence, as the case may be.

### **7.0 How discretion may be exercised in grant or refusal of application for adjournment**

The point must firstly be made that discretion is for the trial Court to exercise. Judicial discretion is exercised judiciously. The Supreme Court in *Zakirai v Muhammad*<sup>7</sup> held that judicial discretion is described as a sacred power that inheres to a Judge, and which should be employed judicially and judiciously. In the judicious and judicial exercise of discretion, a Court must be guided by the spirit and principle of law. The exercise has to be judicious in the sense that it must be based on sound decision marked by discretion, wisdom and good sense.

Appellate Courts seldom interfere with exercise of discretion by the lower Court. An appellate Court will not interfere with an exercise of discretion by a lower Court simply because, if faced with a similar application, it would have exercised the discretion differently. The reason is because no Court can act as precedent over another Court on matters of discretion. In the case of *Banna v Telepower (Nig) Ltd*,<sup>8</sup> Niki Tobi, JSC held that

A trial Court as a Court of law and equity has the power to exercise some discretion in the judicial process. As long as the discretionary power is exercised judicially and judiciously, an appellate Court cannot interfere by show of appellate power. It is good law that an appellate Court cannot substitute its discretion in the administration of justice for that of the trial Court. And because discretionary power is exercised within the confines of the facts of the case, the trial Judge, the Judge of facts, is in the best position to exercise the discretion. Where it is clear on the record that the power was not exercised judicially and judiciously, an appellate Court may interfere.

In the light of the foregoing, under the ACJA, 2)15, the discretion to grant or refuse an application for adjournment may be adjudged judicious if it reasonably considered the number of times, period or length of time and stage allowed by law in which the application can be and that it is in the interest of justice to grant or refuse it. In *Ashiru v Ayoade*,<sup>9</sup> it was held that the grant or refusal of an adjournment is entirely within the discretion of a trial Court. However, the Court must confine itself to the reason for the particular adjournment because the reason for one adjournment may be completely different from another, thus "a Court's negative impression about a previous application for adjournment should not be allowed to becloud its dispassionate consideration of a subsequent one" In *Tsokwa & Sons Ltd v CFAO*,<sup>10</sup> where the trial Court said on record as follows –

Mr. Ejiofor is only trying to delay unreasonably the determination of this case. He knows that he has no witness to call. He is only trying to be clever and to further postpone the determination of this case which started since 1982. He cannot take this Court for a ride. The application is therefore refused.

On appeal to the Court of Appeal, Katsina-Alu, JCA (as he then was) stated as follows regarding the remarks-

These remarks, with due respect to the learned trial Judge are not borne out by the evidence. Undoubtedly the case has been on for quite some time. Be that as it may the issue for determination at that stage

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<sup>7</sup> (2017) 17 NWLR (Pt. 1594) 181 at 192.

<sup>8</sup> (2006) LPELR-1352(SC). This principle was reiterated and followed in *Peter v Peter* (2024) LPELR-62100(CA) (Pp. 16-18 paras. E).

<sup>9</sup> (2006) 6 NWLR (Pt. 976) 405.

<sup>10</sup> (1993) 4 NWLR (Pt. 291) 120.

was not the inordinate delay of hearing the case to conclusion but the reason for the application for adjournment on 8/5/90. The learned trial Judge has allowed the undue delay to affect the consideration of the application. He was in error. I think there were compelling reasons to grant the adjournment sought. Two of the witnesses were on subpoena duly signed by the learned trial Judge. The learned Judge's conclusion that defence counsel had no witnesses to call is unfair.

As a safety measure, it should also be noted that a trial Court cannot proceed to give judgment in a case without Ruling on the Application for adjournment. This principle was reiterated in the case of *Younan & Ors v Williams & Ors*.<sup>11</sup> Though a civil matter, it was held that the Court must balance the need not to delay justice with an important requisite in the administration of justice - non-denial of justice by not refusing adjournment where compensation by way of costs will be adequate and just. Applications for adjournment will be considered on their merits. The overriding consideration is the interest of justice. In such a situation, the nature of the claim should be one of the considerations. In other words, the Court has two competing interests to contend with when considering an application for adjournment, namely, the need to dispose of the case speedily and the right of the applicant to be heard on the matter. To negotiate a balance between the two competing interests, the Court must be guided by the need to do substantial justice; justice, not just for the parties but for the Court as well, and this would entail looking into the nature of the claim and whether the other party would be compensated by costs. If an application for postponement is refused the party applying must be called upon to proceed with his case. If the party is the Plaintiff and he is unable to proceed, the proper order for the Judge to make is one dismissing the suit. If, however, the party that applied for a postponement, which was refused is the Defendant, the Judgment may be entered against him on the case made by the Plaintiff. However, without Ruling on the Application for adjournment a trial Court cannot proceed to give judgment in the case. It is only after an application for an adjournment is refused that the Court may ask the Plaintiff to proceed with the case, or may enter Judgment against the Defendant.

Furthermore, it is good law that an application for adjournment can be made orally in open Court During trial. It can also be made via a letter or approved electronic means. In any of the cases, strong, valid and not frivolous reasons must be adduced. An adjournment in Court can be granted by a letter written to the Court through the Registrar of Court and such act does not constitute disrespect to the Court and should not warrant condemnation and damnation of Counsel as held in *Ibhade Nigeria Limited v Akwari*.<sup>12</sup> In *Ceekay Traders Limited v General Motors Company Limited*,<sup>13</sup> the apex approved writing of letter of adjournment contrary to the position of the trial Court. In *P. C. N. v Etim*,<sup>14</sup> the Supreme Court held that the grant or refusal of application for adjournment even where one is properly placed before a Court is entirely within the discretion of a Judge. It further held that processes that are not formally filed in Court including documents such as letter of adjournment are purely administrative and have no force of law. In *Egbewole v Adeleke*,<sup>15</sup> the Court of Appeal held that the exercise of the learned trial Judge's discretion not to grant an adjournment was not exercised judicially because it was refused on the basis that the writing of letter to the Court for an adjournment constituted disrespect to the Court, Issue One is resolved in favour of the Appellant."

## **8.0 Conclusion and Recommendations**

The paper is of the view that the adjournment procedures or mechanisms under the ACJA, 2015 are elaborate, robust and adequate. The law contains tailor-made provisions in specific circumstances to enhance and support the constitutional requirement that "every person who is charged with a criminal

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<sup>11</sup> (2008) LPELR-3573(CA) (Pp. 13-18 paras. E).

<sup>12</sup> (2015) 13 NWLR (Pt. 1477) 507.

<sup>13</sup> (1992) 1 NSCC (Pt. 1) 180.

<sup>14</sup> (2017) 13 NWLR (Pt. 1581) 1 at 41 – 42.

<sup>15</sup> (2018) LPELR-44857(CA) (Pp. 18-23 paras. E-E) per Owoade, JCA.

offence shall be entitled to “be given adequate time and facilities for the preparation of his defence.” It further donates ample discretion to the Court to do the needful in the interest of justice. However, seamless conduct of criminal trials cannot be achieved in vacuo or vacuum. In order to achieve this ageless constitutional obligation of giving parties adequate time to prepare their cases under the criminal adjudication ecosystem, it is recommended that there should be digitization of Court processes to minimize manual writing, associated time wasting and tedium. Needless to emphasise that manual recording of proceedings is both outdated and energy sapping on the part of the presiding Judicial Officer. It is further recommended that more Magistrates and Judges should appointed to the Bench to reduce the workload or number of cases on the docket of individual trial Courts. Even with digitization, there is a limit to the number of cases including applications and motions (criminal and civil) that a Court can conveniently handle in a day and within a given period. It is also recommended that there should be continuous sensitization of the members of the Bench and Bar on the general objectives of the ACJA (which among other things is to ensure that the system of administration of criminal justice in Nigeria promotes speedy dispensation of justice) and the specific provisions of the ACJA on adjournments. It is believed that clear understanding of the number of times, timelines and circumstances when application may be made will reduce the flurry of unmeritorious applications for adjournment and injudicious exercise of judicial discretion in the grant or refusal of application for adjournment.