

REVIEW OF THE RECENT SUPREME COURT DECISIONS ON ADMISSIBILITY OF CONFESSIONAL STATEMENTS¹

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ABSTRACT

This paper x-rayed recent Supreme Court decisions on interpretation of the Administration of Criminal Justice Act, 2015 which has similar provisions in Administration of Criminal Justice Law of Lagos State, 2011 with regard to recording of the confessional statement of a person accused of committing an offence. The Supreme Court has through the instrumentality of the mischief rule principle, made the criteria set out for the recording of statements compulsory and not discretionary unlike the mere cautionary and unenforceable Judges' Rule applicable in England. It is the finding of this paper that the decisions of the Supreme Court in FRN v. Nnajofofor² as well as that of Charles v. State of Lagos³, have given life to sections 15(4) and 17(2) of the Administration of Criminal Justice Act, 2015 (as well as section 9(3) of the Administration of Criminal Justice Law of Lagos State, 2011). Accused Persons are no longer at the mercy of investigative agencies, as the Supreme Court has outlined guidelines that would guide the court in the consideration of confessional statement which includes corroboration no matter how slight. This paper recommends the mischief style of interpretation to draftsmen in understanding the object of any enactment that share similar background. The doctrinal method of research was employed in this paper.

KEYWORDS: Confessional Statement, Supreme Court, admissibility, Mischief Rule, Judges' Rule.

1.0 INTRODUCTION

A confessional statement is one in which the accused person or defendant admits to the commission of the offence for which he was charged.⁴ A confessional statement of an accused person obtained

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¹ *Charles v. State of Lagos* (2023) 13 NWLR (Pt. 1901) 213; *Federal Republic of Nigeria v. Nnajofofor* [2024] 10 NWLR (Pt. 1947) 443; *Federal Republic of Nigeria v. Akaeze* [2024] 12 NWLR (pt. 1951) 1

² *supra*

³ *supra*

⁴ *State v. Jimoh* [2022] 7 NWLR (Pt 1828) 101; *Sola v State* [2005] 11 NWLR (Pt. 937) 460

extra-judicially⁵ is tenable and admissible against the person making the statement,⁶ and deemed to be relevant⁷ in so far as it is not excluded by the proceedings and also not excluded by the court pursuant to the relevant provision of the Evidence Act, 2011.⁸ In this circumstance, the court must be satisfied that it is unequivocal, and must be clear, direct, precise and positive, relating to the defendant's own acts, knowledge or intention, stating or suggesting the inference that he actually committed the crime for which he is charged.⁹

A confessional statement is the best evidence in the Nigerian criminal jurisprudence,¹⁰ being a statement of admission of guilt by the person who is being accused of the offence and the court must admit it in trial. Once it is admitted, the prosecution need not prove the guilt of the accused.¹¹

THE JUDGES' RULE

When a person accused of a crime contests the voluntariness of the statement in which he confesses or purports to confess to the commission of the offence he is charged with, the procedure is to conduct a *voire dire* procedure, otherwise called trial-within-trial, to determine the veracity of the contest as to the confession's voluntariness.¹²

⁵ An extrajudicial statement is admissible evidence. The effect being that the court can legally rely on it. See *State v. Jimoh, supra*. Where an objection is raised to its admissibility, it is within the competence of the Court to act on it to determine the evidential value to be placed on it in determining the guilt of the maker. See *Itu v. State* [2016] 5 NWLR (Pt 1506) 443. In *Balogun v. F. R.N.* [2021] 11 NWLR (Pt 1787) 353, the appellant was charged for unlawful possession of *cannabis sativa* at the lower court. He made an extrajudicial confessional statement at investigation stage and during trial, pleaded guilty and was convicted on the basis of his plea. On appeal to the Court of Appeal and subsequently Supreme Court, the appellant, for the first time, contended that the confessional statement was recorded in breach of Administration of Criminal Justice Act, 2015. In dismissing the appeal, the Court held at page 377 of the Report, relying on *Akpa v. State* [2008] 14 NWLR (Pt. 1106) 72, that "the best form of evidence was his plea of guilt, which had more credence than his confessional statement or any eyewitness testimony."

⁶ See Section 28 of Evidence, Act, 2011. See also, *Adamu v. State* [2017] 16NWLR (Pt 1592) 353; *C.O.P. v. Ude* [2013] 12 NWLR (Pt 1260) 189

⁷ See *Ojegede v. State* [1988] 1 NWLR (Pt. 1260) 189; *Ogugu v. State* [1990] 2 NWLR (Pt. 134) 539. An exception, however, is when an accused person is confronted with the confessional statement of another co-defendant that he was a party to the commission of a crime, but fails to deny the allegation either before the trial or thereafter. In such case, it is deemed at law that the non-denial is an adoption by conduct, the contents of the confessional statement of the co-defendant. See also *Solola v. State* [2005] 11 NWLR (Pt. 937) 460; *Durugo v. State* [1992] 3 NWLR (Pt. 255) 525; *Ikemson v. State* [1989]1 NWLR (Pt. 110) 455; *Emeka v. State* [2001] 14 NWLR (Pt. 734) 666

⁸ See generally, section 29 of the Evidence Act, 2011; *State v. Buhari* [2019] 10 NWLR (Pt 1981) 583

⁹ *Ofordike v. State* [2019] 5 NWLR (Pt 1666) 395

¹⁰ *Aliyu v. State* (2019) 11 NWLR (PT 1682) 108

¹¹ *Solola v State* (2005) 11 NWLR (Pt 937) 460

¹² *FRN v. Borisade* (2005) 5 NWLR (pt 1451) 155; *Mustapha v. FRN* (2020) 14 NWLR (pt 1743) 26

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The rule in this circumstance, though not a procedural requirement of law, is for the Police officer before whom the statement of confession is made, is to take him to a superior officer so as to offer the defendant charged with the offence, an opportunity to admit or deny the confession. This rule, also referred to as the Judges Rules, has been an administrative practice guide for officers while taking statements of accused persons making confessional admission to the commission of the crime for which they are charged with.¹³ In *Richard Igago v. The State*¹⁴ the appellant was charged with the murder of the deceased whom he hit with a shovel after – and while – a third party was trying to distill and settle issues that led to the rift. The deceased became unconscious as a result of the appellant’s action and died three days later at Central Hospital, Benin. The appellant reported himself to the Police and made confessional statements. On appeal, the appellant’s counsel contended that the confessional statements were made in violation of the Judges Rule. The Supreme Court, relying on *Ironsi v. The State*¹⁵ as well as *Obasi v. The State*¹⁶, however, held that the confessional statements were direct, positive, duly made and satisfactorily proved to warrant any corroborative evidence¹⁷.

The reason behind the procedure for trial-within-trial may be as a result of objection raised by the defense as to the manner the said confession was obtained, to wit, if the said statement was obtained by oppression of the maker thereof, or made in consequence of anything said or done, which is likely to render unreliable the said statement of confession.¹⁸

However, flowing from the above, the said confessional statement does not necessarily need to be taken to the superior police officer in order that the accused may admit or deny the making of the confession, rather, non-compliance will serve as a red flag to the judicial officer who may now be compelled by that circumstance to apply considerable caution in the handling of the confessional statement of the accused person.¹⁹

¹³ *John v. State* (2022) 2 NWLR (pt 1815) 461

¹⁴ (1999) 14 NWLR (pt637) 1

¹⁵ (1969) 1NMLR 203 at 204

¹⁶ (1965) NMLR 119 at 123

¹⁷ *Igago v. The State* (1999) 14 NWLR (pt 637) 1 at 17

¹⁸ *Samaila v. State* (2024) 2NWLR (pt 1923) 465

¹⁹ See *Queen v. Sapele* (1957) 2 FSC 24. A confessional statement made in breach of the Judges Rule have no force of law as the decision to admit in evidence such a statement, whether documentary or oral, is at the discretion of the judge. See *R. v. Ugwuogo* (1943) 9 WACA 73; *Onungwa v. State* (1976) 2 SC 169; *Okeke v. State* (2000) 10 NWLR (Pt 675) 423

2.0 THE ADMINISTRATION OF CRIMINAL JUSTICE ACT, 2015 AND THE NEW RULE

In *Owhoruke v. C.O.P.*²⁰, the appellant was charged with the murder of the deceased, after unleashing a fatal stab with the deceased's own broken bottle of drink. He thereafter made confessional statements to the Police. Although his appeal was dismissed, the Supreme Court, per Olabode Rhodes-Vivour, JSC, made the following prophetic *obiter dictum*:

The appellant did not have the services of a legal practitioner when he wrote exhibits e, a day after the incident. It must be noted than (sic: that) most crimes are committed by people with little or no education, consequently they are easily led by the investigating Police Officer to write incriminating statements which legal minds find almost impossible to unravel and resolve. Confessional statements are most times beaten out of suspects, and the Courts usually admit such statements as counsel and accused are unable to prove that the statements was (sic: were) not made voluntarily. A fair trial presupposes that Police investigation of crime for which the accused person stands trial was transparent. In that regard it is time for safeguards to be put in place to guarantee transparency. It is seriously recommended that confessional statements that confessional statements should only be taken from suspect if, and only if his counsel is present, or in the presence of a legal practitioner. Where this is not done such a confessional statement should be rejected by the court.²¹ (Italics supplied)

The above dictum delivered in June, 2015, would later substantially form a part of the new Administration of Criminal Justice Act of that same year. The appeal was filed some three years before the enactment of the Act, and the appellant's trial was years before the enactment of the Act, thereby making the obiter, a prophetic one.

The intendment of the new legislation was to usher in a breath of fresh air in criminal justice and administration. According to the legislation:

The purpose of the Act (sic: is) to ensure that the system of administration of criminal justice in Nigeria promotes efficient management of criminal justice institutions, speedy dispensation of justice, protection of the society from crime and protection of the rights and interests of the suspect or defendant, and the victim²² (Emphasis supplied).

²⁰ (2015) 15 NWLR (Pt. 1483) 557

²¹ *Supra*, at 576

²² Section 1 (1) of the Administration of Criminal Justice Act, 2015. See also *Akazeze Charles v. The Federal Republic of Nigeria* (2018) 13 NWLR (Pt. 1635) 50

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This is not the forum to critique or do an overview of the new legislation²³ for this has been handled elsewhere.²⁴ Suffice it to state that unlike its twin immediate ancestors,²⁵ this Act²⁶ seeks to guarantee the rights and interests of suspects and “a deliberate shift from punishment as the main goal of the criminal justice to restorative justice which pays attention to the needs of the society, the victims, vulnerable persons and human dignity.”²⁷

It is probable in view of the above that sections 15 and 17 of the Act under review was promulgated. These provisions which of immediate concern to the recording of confessional statements made extrajudicially, are reproduced hereunder for ease of appreciation.

Section 15 (4) states:

Where a suspect is arrested with or without a warrant volunteers to make a confessional statement, the Police Officer shall ensure that the making and taking of the statement shall be in writing and may be recorded electronically on retrievable video compact disc or such other audiovisual means.

Section 17 (1) provides that “Where a suspect is arrested on allegation of having committed an offence, his statement shall be taken, if he so wishes to make a statement.” In furtherance of this, section 17 (2) further states the following:

Such a statement may be taken in the presence of a legal practitioner of his choice, or where he has no legal practitioner of his choice, in the presence of an officer of the Legal Aid Council or an official of a Civil Society Organisation or a Justice of the Peace or any other person of his choice. Provided that the Legal Practitioner or any other person mentioned in this subsection shall not interfere while the suspect is making his statement, except for the purpose of discharging his role as a legal practitioner.

The above provisions of law, therefore, may be exploited by a defense counsel where there is non-compliance, by raising an objection to the admissibility of the confessional statement only at the

²³ The Administration of Criminal Justice Act, 2015 is a concatenated overhaul of the Criminal Procedure Act, Cap C41, Laws of the Federation of Nigeria, 2010 and Criminal Procedure Act, Cap C39, Laws of the Federation of Nigeria, 2010

²⁴ Ngozi J. Udombana, “Administration of Criminal Justice Act of Nigeria 2015: A Critique of Selected Legislative Expressions,” *IALS Student Law Review*, Vol. 7, Issue 2 (Autumn, 2020) pp 51-65

²⁵ Criminal Procedure Act, *supra* and the Criminal Procedure Code, *supra*

²⁶ Administration of Criminal Justice Act, *supra*

²⁷ Yemi Akinseye-George, “An Overview of the Changes and Application of the Administration of Criminal Justice Act 2015” in Adedeji Adekunle et al (eds), *Issues in Criminal Justice Administration in Nigeria*, NIALS 2016 pp1-2

point of the prosecution tendering same²⁸ whether during the prosecution's case or during defense, that is, at the point of cross-examination of the accused person witnessing for himself, so that an already admitted confessional statement, tendered without an objection, cannot thereafter be resiled from for non-conformity with the above reproduced provisions of the Administration of Criminal Justice Act.²⁹

Having looked at the provisions of the Administration of Criminal Justice Act, 2015, that is sections 15 (4) and 17 (2) thereof which relate to the recording of an accused person's confessional statement made extrajudicially, we shall now turn our attention to the attitude of the apex court of the land, the Supreme Court, in giving effect to those sections³⁰, via an examination of two recent cases emanating therefrom.

3.0 CHARLES V. THE STATE OF LAGOS³¹

In the Supreme Court case of *Charles v. The State of Lagos*,³² the appellant was a sales boy at Globus-Supermarket located at Ago Palace Way, Isolo, Lagos on 9th of September, 2011 when the said Sales Manager of the Supermarket was robbed of the sum of ₦5,100,000.00 (Five Million One Hundred Thousand Naira) only, being proceeds of that day's sales. It was alleged by the respondent that the appellant was overhead by one Okafor Steve, his colleague, making a phone discussion about the robbery. Upon learning of the said phone conversation, the General Manager of the Supermarket reported him and the alleged phone discussion with his co-defendant to the Police. The victim of the robbery, the Sales Manager, was knocked unconscious and therefore could not get a glimpse of who the robber was. The only evidence that linked the appellant to the robbery was his extrajudicial confessional statement made at the Police Station in which his phone call to his co-defendant suggested conspiracy.

²⁸See the Supreme Court cases of *Alo v. State* (2015) 9 NWLR (pt 1464) 238 at 285; *Akpa v. State* (2008) 14 NWLR (pt 1106) 72; *Nsofor v. State* (2004) 18 NWLR (pt 905) 292

²⁹ *FRN v. Mamu* (2020) 15 NWLR (Pt 1747) 303

³⁰ Justice O. W. Holmes, known for the Realist Theory of Law posits that law should be defined as a prediction of how the courts behave. See Oliver Wendell Holmes, Jr., "The Pathway of the Law," *10 Harvard Law Review* 457 (1897). This is also in line with the opinion of the Supreme Court in *Citec Intl Estates Ltd v. Intl Inc and Associates* (2018) 3 NWLR (Pt. 1606) 332 that its the interpretational function of the Court to construe statutory provisions to bring out and promote its purpose.

³¹ (2023) 13 NWLR (Pt. 1901) 213

³² *supra*

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The appellant was arraigned before a Lagos State High Court for conspiracy to commit armed robbery and armed robbery. His counsel challenged Exhibit 4, his confessional statement, when it was sought to be tendered for having been made involuntarily. The trial court proceeded to convict the appellant notwithstanding his objection to the voluntariness of the confessional statement and anchored the said conviction on that statement. A further appeal to the Court of Appeal saw his conviction upheld. This prompted the current appeal to the Supreme Court under review.

The appellant contended before the learned Justices of the Supreme Court that the Courts below failed to consider section 9 (3) of the Administration of Criminal Justice Law of Lagos State, 2011³³ and discharge and acquit the appellant accordingly. The said section of Administration of Criminal Justice Law states:

Where any person who is arrested with or without a warrant volunteers to make a confessional statement, the Police Officer shall ensure that the making and taking of such statement is recorded on video and copies of it may be produced in the trail provided that in the absence of video facility, the said statement shall be in writing in the presence of a legal practitioner of his choice

In allowing the appeal, the Supreme Court held that section 9 (3) of the Administration of Criminal Justice Law of Lagos State, 2011

...is a mandatory procedural law against infractions on the constitutional right of a defendant to personal liberty as enriched in section 35 (2) of the Constitution of the Federal Republic of Nigeria, 1999 (as altered). Any purported confessional statement recorded in breach of the said provision is of no effect. It is impotent and worthless³⁴

Although it is trite law, and the Court admitted it, that the general principle of interpretation is that the use of the word “may”, as deployed in section 9 (3) of the Administration of Criminal Justice Law of Lagos State, 2011, connotes permissive, the Courts “would interpret the word “may” as mandatory whenever it is used to impose a duty on a public functionary for the benefit of the private citizen.”³⁵

³³ Which is materially similar in content with sections 15 (4) and 17 (2) of the Administration of Criminal Justice Act, 2015

³⁴ *Charles v. The State of Lagos, supra* at 241

³⁵ *Supra*, at 243. See also *Orakul Resources Ltd. v. N.C.C.* (2022) 6 NWLR (Pt 1827) 539 at 590 where the Court held *inter alia*, while interpreting the word “may” used in sections 86 (1) and 87 (1) of the Nigerian Communications Act,

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The Supreme Court noted with grave concern, the failure of the prosecution to elicit the testimony of Okafor Steve, who overheard the appellant's alleged discussions on phone regarding the robbery. There was nothing else, besides the appellant's confessional statement, that led the Courts below to make a wrong concurrent finding of fact that the appellant was guilty and further held, emphatically that,

A court of law will not anchor its decision solely on the confessional statement of an accused to convict him. The Court's failure to look out for other material facts which corroborate the confessional statement in convicting him remains fatal... Nothing, outside the confessional statement of the appellant and his co-accused linked the appellant with the two offences he was concurrently found guilty of by the two courts below.³⁶

Finally, the Supreme Court set out the six tests that will guide a Court in determining the weight to be attached to retracted confessional statement as follows:

- a) there is nothing outside that confessional statement to show that it is true;
- b) It is corroborated;
- c) The facts stated in it are true as far as it can be tested;
- d) The accused person had the opportunity of committing the offence;
- e) The accused person's confession is possible; and
- f) The confession is consistent with the other facts ascertained and proved at the trial.³⁷

In *State v. Fafuru*³⁸, cited with approval by the Supreme Court in the instant case, emphasized that "confession should be corroborated by and consistent with other circumstantial evidences ascertained and proved at trial."³⁹

4.0 FEDERAL REPUBLIC OF NIGERIA V. NNAJIOFOR⁴⁰

In *Federal Republic of Nigeria v. Nwakuche Jerry Nnaji*⁴¹ the Respondent and two others were arraigned before the Federal High Court judge on two count charge of failure to declare the sum of

2003, that "in the construction of the provisions of a statute, all the provisions dealing with the subject matter and the overall context, intendment or purport of the statute are to be considered holistically and not in isolation in order to identify the intendment of the legislature."

³⁶ *Supra*, at 235 to 237

³⁷ *Supra* at 244

³⁸ (2023) 1 NWLR (Pt. 1866) 475 at 505 to 506

³⁹ See also *Olarenwaju v. State* (2022) 18 NWLR (Pt. 1861) 113

⁴⁰ (2024) 10 NWLR (Pt. 1947) 443

⁴¹ *supra*

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\$102,885 (One Hundred and Two Thousand, Eight Hundred and Eighty-Five Dollars) only to the officers and men of Nigerian custom as required under section 2(3) of the Money Laundering (Prohibition) Act, 2011⁴² and for also aiding one Mr. Konja, declared to be at large, to commit the said offence stated hereinbefore, and thereby committed an offence.⁴³ At the trial, the Respondent objected the tendering of his confessional statement which led to a trial within trial, wherein the trial judge overruled the Respondent's objection and admitted the extra-judicial statement in evidence. Dissatisfied with the ruling of the trial court, the Respondent appealed to the Court of Appeal which allowed the appeal, remitted it back to the Chief Judge of the Federal High Court to re-assign to a different trial Court. Dissatisfied, the appellant appealed to the Supreme Court.

In arguing his appeal, appellant's counsel contended vigorously that the court below failed to apply the literal rule in interpretation and application of sections 15(4) and 17(2) of the Administration of Criminal Justice Act which used the word "may". He relied heavily on *Amaechi v. INEC*⁴⁴ to further contend that the word "may" is permissive and not mandatory and should be applied accordingly.

The crux of the matter before the Supreme Court is one of interpretation⁴⁵ of the word "may." The words "may" and "shall" have been subject of conflicting decisions. However, the appropriate application, has long been settled in *Sheffield Corporation v. Luxford*⁴⁶ that:

*...in many statutes, the word "may" means "must" ...May is a permissive or enabling expression: but there are cases in which, for various reasons, as soon as the person who is within the statute is entrusted with the power it becomes his duty to exercise*⁴⁷

⁴² As amended by Act No. 1 of 2012

⁴³ Contrary to section 18 and punishable under section 2(5) of the Money Laundering Act, 2011 (as amended by Act No. 12 of 2012)

⁴⁴ (2008) 5 NWLR (Pt. 1080) 227. Compare with the case of *C.A.C. v. R.T.C.C.C.* (2009) 11 NWLR (Pt. 1151) 40 which rightly held that the word "may" as used in section 678 (1) of the old Companies and Allied Matters Act, 1990 is construed as "shall" which is mandatory when there is need to perform a public duty.

⁴⁵ "The term interpretation denotes the ascertainment of a text's meaning; determination of how a text most fittingly applies to particular facts. Interpretation, as applied to written law, is the art or process of discovering and expounding the intended signification of the language used that, meaning which the authors of the law designed it to convey to others." *FRN v. Nnaji* for, *supra* at p. 468

⁴⁶ (1929) 2 KB 180

⁴⁷ See also *Julius v. Bishop of Oxford* 5 App. Cases, 214, 222,229, 235, 241

It was on the basis of the foregoing that the Supreme Court in the instant case under review to held that sections 15 (4) and 17(2) of the Administration of Criminal Justice Act are mandatory and as such unanimously dismissed the Appellant's appeal. Saulawa, JSC, further held, *inter alia*, that:

The provisions of sections 15(4) and 17(2) of ACJA, 2015 (supra) have strictly provided for a particular procedure of recording the statement of the defendant. Thus, there is no gainsaying the fact, that failure to perform the act in accordance with the dictates of those provisions of the law would be deemed to be a flagrant non-compliance with the law. In such a situation, the court would be entitled to invoke its interpretative jurisdiction to hold, that non-compliance with the law is against the recalcitrant party.⁴⁸

5.0 CONCLUSION

It is opined by this writer that the decisions of the Supreme Court in *FRN v. Nnaji*⁴⁹ as well as that of *Charles v. State of Lagos*⁵⁰, have given life to sections 15(4) and 17(2) of the Administration of Criminal Justice Act, 2015 (as well as section 9(3) of the Administration of Criminal Justice Law of Lagos State, 2011), which if left as it is, would leave persons accused of committing crimes, at the discretionary mercy of investigative agencies such as the Police, Customs, anti-corruption agencies and others in the recording of extra-judicial statements of the accused, and would proceed to pursue the conviction of the defendant without conducting thorough and conclusive investigations. Good enough, from our review of the cases, the Supreme Court has outlined guidelines that would guide the court in the consideration of confessional statement which includes corroboration no matter how slight⁵¹.

These cases too, thus established that the Judges Rule applicable in England, which was merely a persuasive guide to investigating officers, is now obliterated and now gone oblivion. In her stead now is the compulsory and mandatory provisions of the relevant sections of the Administration of Criminal Justice Act, 2015.

⁴⁸ *FRN v. Nnaji*; *supra*, at 471

⁴⁹ *supra*

⁵⁰ *supra*

⁵¹ See also *Ali v. State* (2019) 14 NWLR (Pt. 1692) 314; *Nwaebonyi v. State* (1994) 5 NWLR (Pt. 343) 138

It would be pertinent to note that the Supreme Court exercised its interpretative function by applying the mischief rule. Thus, these cases, particularly *FRN v. Nnajifor*⁵² is a classical authority for mischief rule of construction of statutes. Also known as the purposive approach to interpretation, mischief rule draws to a large extent on the contextual approach.⁵³ According to the Court in *Agbaje v. Fashola*,⁵⁴ that Court held as follows:

*Under the mischief rule, the Court in arriving at a reasonable construction of a statutory provision, is entitled to consider other provisions of the statute, the history of how the law stood, when it was passed, the mischief for which the old law did not provide, and the remedy provided by the new law in order to cure the mischief*⁵⁵

The draftsmen cleverly inserted the object of the Administration of Criminal Justice Act, 2015 in its opening section 1 (1) (earlier reproduced in this article) to give a clear reason or motive behind the enactment. This, it is submitted, instilled a ghostly influence on the judges who heard and determined the appeals in the two cases so reviewed. It is therefore recommended by this writer that draftsmen should study and copy this style in projecting the object of any enactment that share similar background, and that is, of trying to redeem a bad or obsolete process or protect the rights of the private citizens against persons performing public function.

⁵² *supra*

⁵³ *Adewumi v. A.-G., Ondo State* (1996) 8 NWLR (Pt. 464) 73

⁵⁴ (2008) 6 NWLR (Pt. 1082) 90

⁵⁵ See also the popular case of *Ugwu v. Ararume* (2007) 12 NWLR (Pt. 1048) 365; *Onyeanusu v. Misc. Offences Tribunal* (2002) 12 NWLR (Pt. 781) 227