

IN THE SUPREME COURT OF NIGERIA
HOLDEN AT ABUJA

ON FRIDAY THE 10TH DAY OF APRIL, 2026

BEFORE THEIR LORDSHIPS

MUHAMMED LAWAL GARBA
EMMANUEL AKOMAYE AGIM
CHIDIEBERE NWAOMA UWA
HARUNA SIMON TSAMMANI
STEPHEN JONAH ADAH

JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT
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APPEAL NO: SC/CR/309/2020

BETWEEN:

HUSSAINI BUKKA

APPELLANT

AND

THE STATE

RESPONDENT

JUDGMENT

[DELIVERED BY STEPHEN JONAH ADAH, JSC]

This appeal is against the judgment of the Court of Appeal, Kaduna Judicial Division delivered on 15th April, 2020, in **Appeal No. CA/K/93C/2019**, wherein the lower court affirmed the decision of the Jigawa State High Court delivered on 28th September, 2017, in **Suit No. JDUA/40C/2015**. In that judgment, the trial court found the appellant guilty of the offences charged, convicted him and sentenced him to death by hanging.

Dissatisfied with the decision of the court below, the appellant has further appealed to this Court.

The record reveals that by a charge dated 26th November, 2015, the appellant, as the first accused person, together with two others, was arraigned before the trial High Court sitting at Hadejia on a two-count charge of conspiracy and murder punishable under Sections 97 and 221 of the Penal Code, Cap. P3, Laws of Jigawa State, 2012.

Upon arraignment, the charges were read and explained to the accused persons, whereupon the appellant and his co-accused persons entered pleas of not guilty.

At the trial, the prosecution called seven witnesses and tendered several exhibits in proof of its case. The accused persons, including the appellant, testified in their respective defences.

In a considered judgment, the learned trial Judge discharged and acquitted the 2nd and 3rd accused persons on both counts of the charge but found the appellant guilty of the offences and accordingly convicted and sentenced him to death by hanging.

On appeal to the lower court, the lower court quashed the conviction on conspiracy but affirmed his conviction and sentence for culpable homicide.

Still dissatisfied with the judgment of the court below, the appellant further appealed to this Court vide a Notice of Appeal dated 4th May, 2020, which contains six grounds of appeal. The appellant urges this Court to set aside the judgment of the lower court in **Appeal No. CA/K/93C/2019** and, in its stead, enter a verdict discharging and acquitting him.

In compliance with the rules governing criminal appeals before this Court, the parties, through their respective counsel, filed and exchanged briefs of argument.

Learned counsel for the appellant, Mas'ud Mobolaji Alabelewe, Esq., in the Appellant's Brief of Argument filed on 7th January 2021, but deemed properly filed and served on 15th July, 2023, distilled a sole issue for the determination of this appeal, which reads:

“Whether, having regard to the totality of the evidence on record, the Court of Appeal was right in affirming the decision of the trial court that the

offence of culpable homicide was proved against the appellant beyond reasonable doubt.”

On his part, learned counsel for the respondent, Terna J. Yaji, Esq., in the Respondent’s Brief of Argument filed on 14th October, 2022, adopted the sole issue formulated by the appellant for the determination of this appeal.

This appeal shall therefore, be determined on the sole issue so formulated and adopted by the parties.

Sole Issue for Determination:

Learned counsel for the appellant submitted that the sole question arising for determination in this appeal revolves around whether the prosecution successfully discharged the burden of proof placed upon it by law. In support of this submission, counsel relied on the principle articulated in whom the burden of proof lies? He cited the cases of **Woolmington v. DPP (1935) A.C 462 at 25; Tunde Adava & Or. v. The State (2006) 9 NWLR Pt. 984 page 152 at page 167 Paras. F - H; page 171 Paras. B - C and Okokon Omonga v. The State (2006) 14 NWLR Pt. 1000 page 532 at page 551 paras D -H; 553 Paras D - F; 555 Paras C - D and 561 Paras. B- E.**

Counsel contended that the learned trial Judge erred in holding that the prosecution proved its case beyond reasonable doubt, and that the court below compounded the error by affirming that decision. According to counsel, the appellant ought to have been discharged and acquitted in view of the apparent doubts and deficiencies in the evidence led by the prosecution, particularly regarding proof of the cause of death of the deceased.

In that regard, counsel referred the Court to the testimonies of PW1, PW2 and PW3, submitting that while PW3 merely confirmed the death of Saleh Galadima, he did not conduct any examination to ascertain the cause of death. It was argued that mere confirmation of death, without establishing the cause thereof or linking it to the alleged act of the appellant, is insufficient to ground a conviction. Reliance was placed on the case of **Ali Zaman v. The State (2015) LPELR-24595 (CA)**. Counsel therefore urged the Court to hold that the testimony of PW3 failed to establish the guilt of the appellant.

Counsel further referred to the testimonies of PW4 (Shehu Muhammed), PW5 (Abubakar Mohammed) and PW6, contending that the evidence of PW3 and PW6 is riddled with

material contradictions, thereby rendering the evidence unreliable. In support of this submission, counsel cited the cases of **Uchechi Orisa v. The State (2018) LPELR - 43896 (SC)**; **Mallam Zakari Ahmed v. The State (1999) 7 NWLR Pt. 612 page 641 at 672 Paras. D - E** and **State v. Musa Danjuma (1997) 5 NWLR Pt. 506 page 515 at 527**.

Learned counsel further submitted that where an interpreter is involved in the recording of an accused person's statement, strict compliance with the procedural safeguards governing such recording becomes imperative before the statement can be admitted in evidence. In support of this contention, counsel relied on the decisions in **Gidado Adamu v. The State (2019) 8 NWLR (Pt.1675) 478** and **Monday Nwaeze v. The State (1996) 2 NWLR (P428)1**.

Counsel argued that in circumstances where an interpreter is used in taking down the statement of an accused person, both the person who recorded the statement and the interpreter who translated it must be called as witnesses. In addition, the person who recorded the statement is required to explain the procedure adopted in recording it, while the interpreter must testify that he faithfully interpreted the statement made by the accused person.

It was the submission of learned counsel that the statement attributed to the appellant amounts to hearsay and is therefore inadmissible, in view of the failure of the prosecution to call as witnesses both the person who recorded the statement and the interpreter, notwithstanding that they were available.

Counsel further contended that it is the duty of a trial Judge to properly evaluate the evidence placed before the court and assign to it its appropriate probative value. In support of this submission, reliance was placed on **T.A. Dairo v. Federal Republic of Nigeria & 4 Ors (2012) 16 NWLR Pt. 1325 page 129 at 197 Paras. D - H** and **John Elusa Ehikwe v. The State (2018) LPELR - 44753 (CA)**.

Finally, learned counsel maintained that the trial court failed to properly evaluate the totality of the evidence before it, particularly the consistent denial by the appellant of any involvement in the commission of the offence for which he was charged.

In response to the sole issue, learned counsel for the respondent contended that, upon a proper evaluation of the totality of the evidence on record, the trial court was right in convicting the appellant and the court below equally justified

in affirming the conviction, the offence of culpable homicide having been proved beyond reasonable doubt.

Counsel submitted that the testimony of PW1, being that of an eyewitness, was direct, positive and unequivocal. He maintained that the evidence established that the appellant, in concert with others, attacked the deceased with sticks, bows and arrows, and that death was the natural and probable consequence of such an attack, which consequence the appellant must be deemed to have intended. Reliance was placed on **Akpan v. The State (1994) 9 NWLR (Pt. 368) 347;** and **Galadima v. State (2017) LPELR-43469 (SC).**

Learned counsel further submitted that the testimonies of PW1 and PW6, both eyewitnesses, were direct, independent and mutually corroborative in all material particulars, and consistent with settled authorities on corroborative evidence. He relied on **State v. Yahaya (2019) 13 NWLR (Pt. 1690) 401** and **Mohammed v. Kano (2018) LPELR- 43913 (SC).**

Counsel argued that the concurrent findings of fact by the two lower courts ought not to be disturbed by this Court, as they have not been shown to be perverse or reached in breach of any principle of law or procedure. In support, he cited **Tobi v. State (2019) 9 NWLR (Pt 1673) 78** and **Ofordike v.State**

(2019) LPELR - 46411(SC) and urged the Court to uphold the said findings and dismiss the appeal.

On the alleged contradictions in the prosecution's case, counsel submitted that not every inconsistency is fatal, unless it is of such magnitude as to discredit the substance of the evidence. He referred the Court to **Adoba v. State (2018) LPELR-44065 (SC)** and **Afolalu v. State (2010) All FWLR (Pt538) 812**, contending that the evidence adduced clearly established that the appellant, in company of others, attacked the deceased with sticks, bows and arrows.

He therefore, urged the Court to resolve the issue against the appellant and dismiss the appeal.

On the issue of the admissibility of Exhibit E, learned counsel for the respondent submitted that the document was admitted in evidence without objection. He contended that having failed to object to its admissibility at the trial, the appellant cannot subsequently be heard to challenge its admission on appeal. In support, counsel relied on **Tope v. State (2019) LPELR-47837(SC)**.

Counsel further argued that even assuming, without conceding, that Exhibit E was wrongly admitted, the appellant bears the burden of demonstrating that the admission of the

said document occasioned a miscarriage of justice. He submitted that a judgment will not be set aside on account of wrongful admission of evidence unless it is shown that the decision reached is prejudicial or inconsistent with the substantial justice of the case. Reliance was placed on **Kraus Thompson Org. Ltd v. Unical (2004) LPELR - 1715 (SC) p. 19, Paras. A - A; COTECNA Int'l Ltd v. Churchgate Nig. Ltd & Anor. (2010) LPELR - 897 (SC) p. 61, paras. F - G.**

On whether the respondent proved its case beyond reasonable doubt pursuant to Sections 131(1) and (2) and 135(1) of the Evidence Act, 2011, learned counsel submitted that the respondent duly discharged the burden of proof required by law to sustain the conviction of the appellant. He added that the conviction was rightly affirmed by the lower court and that there is no evidence to suggest that the concurrent findings of the two lower courts are perverse or unsupported by the evidence on record.

In support of this submission, counsel referred the Court to **Sowemimo v. State (2012) 2 NWLR (Pt.1284) 372; Balogun v. State (2018) NWLR (Pt. 1636) 323 and Sani v. State (2018) 8 NWLR (Pt. 1622) 415.** He therefore urged this Court to uphold the concurrent decisions of the lower courts

as being sound and unimpeachable, and to resolve the sole issue against the appellant.

It is a firmly established principle of criminal jurisprudence that the burden of proving the guilt of an accused person rests squarely on the prosecution and does not shift, except in limited circumstances recognised by law. This burden is anchored on the constitutional presumption of innocence which enures in favour of the accused throughout the trial and persists until rebutted by credible and compelling evidence. Consequently, irrespective of the gravity of the allegation, an accused person is deemed innocent until his guilt is established beyond reasonable doubt. This standard of proof, as codified under Section 135 of the Evidence Act, 2011, is not merely statutory but is elevated to a fundamental right under Section 36(5) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended). Accordingly, in the evaluation of the evidence on record and the concurrent findings of the lower courts, where the prosecution fails to discharge this onerous burden, the accused is entitled, as of right, to an acquittal.

The gravamen of the appellant's complaint is that the extra-judicial statement attributed to him ought not to have been

accorded evidential value on the footing that it was allegedly procured at the police station and, therefore, incapable of constituting a valid confessional statement but, at best, hearsay.

The law, however, admits of no ambiguity on this point. An extra-judicial statement voluntarily made by an accused person, which is direct, positive and unequivocal as to his participation in the commission of the offence charged, constitutes a confessional statement and is admissible in evidence against him. The mere fact that such a statement was recorded by the Police or obtained in the course of investigation does not, without more, denude it of its probative value nor transmogrify it into hearsay.

This position has been firmly settled by this Court in **Abubakar v. State (2018) LPELR-45299 (SC)**, where it was reiterated that once a confessional statement is shown to have been made voluntarily and is consistent with other proved facts, it is sufficient, without more, to ground a conviction.

Accordingly, where an accused person's extra-judicial statement satisfies the legal requirements of voluntariness, directness and unequivocal admission of guilt, the Court is

entitled to rely on it as credible evidence of confession, notwithstanding that it was obtained during police investigation. His lordship explained thus:

“In criminal litigation, once it is shown that the contents of a document was read and interpreted to the accused and he understood same, such document is admissible, especially where the accused is represented by a counsel who raises no objection to the admission of such document. Exhibit A in the instant case was admitted in evidence without objection by learned counsel for the appellant, it is therefore, relevant to this case and therefore, admissible in evidence.”

From the record before this court, the proceeding of the trial court reads at pages 27 to 28 of the record of appeal, as follows:

PW7 contd.:

I was not the one who recorded the statement of the 1st accused (Bukka). The statement of the 1st accused was recorded by Corporal Ahmed Gambo, who is currently posted to Kaduna.

I can recognize the handwriting of Cpl. Ahmed Gambo, being my working colleague for about seven years.

The statement shown to me in court by the prosecution counsel is the statement of the 1st accused recorded by Cpl. Ahmed Gambo.

Mr. Jamilu:

We are applying to tender in evidence the statement made and recorded from the 1st accused.

Mrs. Louisa:

We have no objection to the admission of the statement made by the 1st accused.

Court: There being no objection from the defence, the statement made by the 1st accused (Bukka Muhammed) and recorded in English Language on 16 December, 2013, is hereby admitted in evidence and marked Exhibit E.

Signed.

Hon. Judge (04/05/2017).

Statement of 1st accused was read and interpreted in open court by PW7.

This record clearly shows that the appellant's counsel was in court and he expressly stated that he had no opposition or objection to the admission of the statement of the appellant. The court then, admitted it as Exhibit 'E' that amounts to confession and the conviction and sentence of the appellant was not tied to Exhibit 'E'.

The contention that such a statement is hearsay is therefore, misconceived and untenable in law.

In a charge of murder, the prosecution bears the burden of establishing beyond reasonable doubt not only the death of the deceased, but also that the death resulted from the act of

the accused and that such act was accompanied by the requisite intent. Where, however, the totality of credible evidence on record discloses that the accused, in concert with others, participated in a violent attack on the deceased using lethal weapons such as sticks, bows and arrows, the law is entitled to infer both causation and intent from the natural and probable consequences of such acts. In that regard, the presumption that a person intends the natural consequences of his actions operates with full force, particularly where the weapons employed are inherently capable of causing death or grievous bodily harm.

Accordingly, alleged contradictions, inconsistencies or lapses in the testimony of witnesses will not avail an accused person unless they are material and substantial enough to create a reasonable doubt as to the essential ingredients of the offence. Minor discrepancies, or perceived evidential gaps such as the absence of recovery of the weapon or the hearsay nature of some testimonies, do not vitiate a conviction where there exists direct, cogent and credible evidence fixing the accused at the scene and linking him with the fatal act.

There are eye witnesses to the atrocious act of the appellant in the attack and the killing of the deceased.

Our law is settled and clear that it is not in all cases where there are discrepancies or contradictions in the prosecution's case that an accused person will be entitled to an acquittal. It is only when discrepancies or contradictions are on a material point or points in the prosecution's case which create some doubt that the accused person is entitled to benefit therefrom. Minor contradictions in the evidence of prosecution witnesses cannot be fatal to the case of the prosecution. See **Michael Oloye v. The State (2018) LPELR – 44775 (SC)**.


Furthermore, where the trial court and the intermediate appellate court have made concurrent findings of fact grounded in proper evaluation of evidence, an appellate court will not interfere with such findings unless they are shown to be perverse or to have occasioned a miscarriage of justice.

In the instant case, the evidence that the appellant participated in the attack on the deceased with lethal weapons irresistibly supports the inference that the death of the deceased was the natural consequence of that act, and the conviction was therefore, rightly affirmed. The sole issue is therefore, resolved in favour of the respondent.

From the foregoing therefore, the judgment of the lower court delivered on the 15th day of April, 2020, in **Appeal No:**

CA/K/93^C/2019, is hereby affirmed. Appeal is accordingly dismissed.

Appeal Dismissed.


STEPHEN JONAH ADAH
JUSTICE, SUPREME COURT



APPEARANCES:

Hayatudeen Suleiman, Esq., with A.B. Abduwahab, Esq., **for the Appellant.**

Terna J. Yaji, Esq., **for the Respondent.**

