

**JUDGMENT WRITING: PRACTICE AND STRUCTURE**

***A PAPER PRESENTED***

***By***

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**AT THE INDUCTION COURSE FOR NEWLY APPOINTED  
JUDGES OF THE LOWER COURTS (BATCH 'A') HELD ON  
THE 19TH – 23RD MAY, 2025**

***VENUE:* ANDREWS OTUTU OBASEKI AUDITORIUM  
NATIONAL JUDICIAL INSTITUTE (NJI)  
ABUJA**

## PROTOCOLS:

I feel so honoured to be invited to present this paper to this revered audience at this Induction Course for Newly Appointed Judges of the Lower Courts. On this note, I must thank the indefatigable Administrator of this great institution Hon. Justice Salisu Garba Abdulahi for considering me fit to make this presentation. I wish to appreciate the Board of Governors of the National Judicial Institute (NJI) under the distinguish chairmanship of the Honourable Chief Justice of Nigeria, the Hon. Justice Kudirat M. O. Kekere-Ekun (GCON). I am very delighted and humbled by the nomination. I also want to thank the Director of Studies, National Judicial Institute (NJI), the Correspondence Desk Officers, Participants and other Resource Persons with whom I am going to share my thoughts at this session.

I must commend the choice of the topic: ***“Judgment Writing: Practice and Structure”***, which is very apt in view of the fact that this is one of the most important duties of Judges of the lower court and tallies with the theme of this Induction Course **“Enhancing Judicial Efficiency and Quality of Decision Making.”**

## INTRODUCTION:

This Workshop being organized for newly appointed Judicial Officers of the lower courts, who are vested with the responsibilities of determining the affairs of their fellow citizens in the course of exercising their judicial powers, are bound to take decisions and make orders which will affect all the parties who appear before them in their various courts. It follows therefore that such powers must be carried out both judicially and judiciously and in the overall interest of justice, equity and good conscience.

This paper will explore the guiding principles to a successful judgment writing, set out the inherent qualities to be applied in dispensing justice effectively as well as considerations that are relevant to judgment writing. It will also highlight the possible problems faced and proffer solutions.

## JUDGMENT WRITING:

Judgment writing is the cornerstone of decision making, a meticulous craft where facts, evidence and reasoning converge to deliver justice. It is a critical function of the Judiciary.

In Nigeria, a country of over 200 million people with a legal system blending British Common Law, Indigenous Customary Law and Islamic Sharia Principles. Judgment writing is both an art and a science. It combines legal knowledge, clarity of thought and effective communication.

Judging entails professional writing and demands literary skills. If a Judge wants to write clearly and cogently, with words parading before the reader in logical order, the judge must first think clearly and cogently, with thoughts laid out in neat rows. To do this is to demonstrate respect for the elements of reflective thinking and the rules of deductive and inductive logic.

As a Judge, you are a professional writer and must have literary skills. Your job description includes writing and professional writing at that. To become a good judicial officer, you must read broadly. Read drama, fiction, non-fiction and poetry. Read law, read journals and books not just cases. A judicial decision must not only be correct but also fair, reasonable and readily understandable. What the court says and how it says it, is as important as what the court decides.

#### **OBJECTIVES OF JUDGMENT WRITING:**

1. It disciplines Judges in their decision making process. Writing helps to ensure that judges properly reason through the issues put before them.
2. It facilitates the system of precedent. Judgments memorialize judicial decisions so they can function as authoritative statements of law governing the resolution of future cases. Judgments announce the law to judges, academics, other lawyers and the interested public in order that they may be properly guided.
3. It legitimizes judging. Judgment provides the parties and the public with assurance that a given decision is not arbitrary but rather is the product of

the reasoned application of appropriate legal standards.

4. Judicial writing disciplines judicial thinking. The judge can occasionally find that a result or line of reasoning that seemed appropriate at one point in the decision making process may no longer seem so attractive when the judge attempts to put it on paper. Perhaps the authority the judge thought justified a result turned out to justify another instead. And perhaps writing will reveal gaps in what appeared to be an unbroken chain of logic. So of course, you can change your mind after you start to write. Sometimes, you may decide in advance where you want to go but in the process of writing discover that you cannot go there. That is to tell you that judicial writing is thinking at its hardest. It is tough but somebody has to do it and that somebody is you. You are the Judge!

#### **PRACTICE OF JUDGMENT WRITING.**

Judgment writing imposes intellectual discipline on the judge requiring the judge to clarify his reasoning and assess the sufficiency of precedential support for it. So before you start writing, study the case until you thoroughly understand it. You must study indepth every case that comes before you. Follow each case file assigned to you from the moment it is assigned; familiarize yourself with the facts, the procedural history, the issues and the applicable law.

Your preparation for judgment begins the moment you commence the hearing of the matter. You should be able to keep the hearing and other proceedings focused on the necessary issues and relevant evidence. You can only do this if you have a sound overview of the case, including the nature of the dispute and the issues. With your prior case file review, you will arm yourself to intervene to curtail abrasive, aggressive, digressive and excessive lawyering, for example, in cross-examination. Do not cede control to advocates – stay in charge throughout.

Take charge of your Court, not with aggressive authoritarianism but armed with

the rule of law which depends on the respect for law, which in turn entails respect for the Judge.

In the course of reviewing the case file you might have questions, you might observe gaps or contradictions in either party's narrative or position. List out all unanswered questions and seek answers to these questions during the hearing. It helps to determine the issues in dispute clearly.

To prepare for the Judgment, you need to study the case file and the record. Scrutinize the evidence, exhibits, witness statements and other documents. You also need to conduct your own research. Check out the parties' authorities. Read them in full. Seek the rationale of the authorities. Understand their underlying policies. Do not rely on the parties' interpretation of the authorities. Read what the Justices in the cited cases actually said. Discern the ratio Decidendi of the parties' precedents. Compare the facts and issues in cited authorities with those in the case you are dealing with.

You should marshal the material facts, identify the issues and the applicable rules of law and determine the reliefs. Reach your decision albeit tentatively before beginning to write. This will enable you to think through what you want to say and how you want to say it. Setting down the reasons in writing then constitutes the process of justifying your decision. This depth and breadth of preparation will facilitate your actual writing task.

### **STRUCTURAL PRINCIPLES:**

There is no hard and fast rule as to the style a Judge should adopt in writing his judgment. However, structure is essential as it contributes to effectiveness and reliability of the judgment. A clear structure in judgment makes it easier to present information logically. It ensures that all critical elements are addressed as well as helps convey the reasoning behind the judgment. There are a number of ways to structure a judgment. However, the structure of a judgment simply put must have a **beginning, middle** and **conclusion**. The Supreme Court in the

case of *ASHUE & ORS. V. ASHUE* (2023) LPELR 59744 (SC) stated clearly the components of a good judgment as follows:

“irrespective of the style adopted, however the following essential components are expected to be situated somewhere –

- (1) Introduction of issues between the parties.
- (2) Cases of either side to the litigation going by the pleadings/processes.
- (3) Evidence adduced by either side.
- (4) Resolution of the issues of facts and law.
- (5) The court’s decision and reasons for arriving at the decision.

Let me break down the structure into civil and criminal jurisdiction.

The structure in a civil case should have –

i. **Beginning:** This will consist -

- (a) Name of the court, the judicial division or district, names with the designation of the magistrate/judge and date of judgment.
- (b) Suit number;
- (c) Names of the parties;
- (d) Appearance;
- (e) Caption.

ii. **Middle:** This section will consist –

- (a) Introduction which will include the claims/relief, statement of defence and a counter claim where the opposing party decides to file a defence or counterclaim. It will also include the plea of the defendant or counter defendant.
- (b) Facts;
- (c) Issues;
- (d) Applicable law;
- (e) Reasoning.

iii. **Conclusion:** This section will comprise the following –

- (a) The final decision/order;
- (b) Signature of the Magistrate/Judge, name and designation and date.

### **STRUCTURE IN A CRIMINAL CASE:**

The structure is similar but with slight variation.

- **Beginning:** This section will consist –
  - (a) Name of the Court, the judicial division/district, names with designation of the Magistrate/Judge and date of Judgment;
  - (b) Charge Number;
  - (c) Names of Parties;
  - (d) Appearance;
  - (e) Caption.
- **Middle:** This section will consist of –
  - (a) The introduction which will include the nature of the offence in the charge sheet and the plea of the defendant;
  - (b) Facts;
  - (c) Issues which will include whether the prosecution has proved his case against the defendant beyond reasonable doubt;
  - (d) Applicable law;
  - (e) Reasoning.
- **Conclusion:** This section will comprise the following –
  - (a) The verdict;
  - (b) Allocutus: where the court finds the defendant guilty;
  - (c) Sentencing; if the defendant is guilty;
  - (d) Signature of the Magistrate/Judge, designation and date.

**THE BEGINNING:** The name of the Court, judicial division/district and name of the presiding Magistrate will enable the reader identify the court where the judgment emanated from. It will be known when the judgment was delivered. The suit number identifies the particular suit.

In criminal cases, we have the charge number which serves the same purpose as the suit number in a civil case. The names of the parties are the names indicated on the records as the person suing and the person being sued. The names should be clearly written in full to avoid any misrepresentation or misinterpretation or denial. Where there are so many claimants or defendants, their full names should be written one after the other. Appearance of counsel follows where parties are represented. Though some courts may choose to write the names of legal representation at the end of the judgment. It does not affect the structure if so written.

**THE MIDDLE:** The introduction sets the stage. It starts with the nature of the dispute. When the case is a civil matter, the claim will be stated and the counterclaim (if any) followed by the plea or how the matter came to court for instance, whether by way of motion. If it is a criminal matter, the offence in the charge sheet will be stated followed by the plea. The facts of the case will deal with the detailed account of the recurrent facts and circumstances leading to the dispute at hand. It will consist of the evidence of witnesses, exhibits relied on, etc. The disposition of each factual issue may require a discussion of and findings of credibility of witnesses and/or influence to be drawn from non-contentious facts and documents.

- **Issues:** Set out the material issues and main ingredients on each side. Ensure that you have summarized the principle submission of all the parties to demonstrate you understand and take into account all the issues raised. In criminal cases, the burden of proof is on the prosecution except in exceptional cases. As a judge, set out the ingredients of the offence and raise issues for determination. Then apply the law to the facts. Legal principles will be applied to resolve issues raised. This is where research and application of relevant case laws and principles that will support the decision comes in. As a judge, you will apply the law in line with the



relevant evidence, documents in support of the case, witness statements and physical evidence before the court.

- Reasoning: This is where the judge states the reasons for his final decision after applying the law to the argument from all sides and for and against. It is settled that “A trial Judge has the primary duty to receive admissible evidence, assess the same, give it probative value and make specific findings of fact thereon. He must not impair the evidence either with his personal knowledge of matters not placed and canvassed before him, or inadequate evaluation and should endeavor to avoid vitiating the case presented by the parties through his wrongly stated or applied principle of law. He must carefully examine the evidence and clearly understand and appreciate the issues he has to resolve in the case. His duty is to reach a decision only upon the basis of what is in issue and what has been demonstrated upon by evidence by the parties and is supported by law”. Per Uwaifo JSC in **Adeleke & Ors. V. Iyanda & Ors. (2001) 13 NWLR (pt. 729) 1 @ 20.**

It behoves on the judge to give his reasoning after evaluating the evidence as failure to do so can be a ground for allowing an appeal against that decision. See the case of **Olofin & Anor. V. Rasaki & Ors. (2014) LPELR – 41205 (CA).**

“The law is settled that a trial judge is required to evaluate and make specific findings of fact on salient and relevant issues including documentary evidence adduced before him during trial before coming to any conclusion”.

“Failure to do so would not only vitiate the conclusion but will give the appellate court power to interfere and evaluate such evidence and make proper findings as long as the finding of facts do not depend on the credibility of witnesses”. Per Iyizoba, JCA (pp 14 – 15, paragraph D – A).

**CONCLUSION:** This contains the verdict/holding of the Court. It must state the final order of the court. It will comprise the decision in favour or against the party.

In a civil matter, the judge will pronounce if a party is liable or not. It will further state the award if a party is successful. In criminal cases, the court gives his verdict on whether the defendant is guilty or not guilty. Where the defendant is not guilty, the judge will acquit and discharge the defendant. Where the defendant is pronounced guilty, he is given an opportunity to address the court which is the Allocutus. After the Allocutus, the defendant is sentenced. Finally, after the order, the judge must sign his signature, name, designation and date.

Thus the end of the judgment. However, the judge should take out time to reread the judgment, check spellings and punctuations. Where there is any error, make corrections. Check if all issues have been addressed, factual findings made and explanations given as to how the decision was arrived at.

To further elaborate below are the key structured principles:

- i. **Logical progression:** The judgment must follow a logical order.
- ii. **Proper Heading and Subheading:** Essential to organize.
- iii. **Numbered Paragraphs:** This facilitates easy referencing.
- iv. **Neutral and Judicial Tone:** The tone of the judgment must be impartial, devoid of emotional and/or inflammatory language. The language used must maintain judicial decorum.
- v. **Fact-law Separation:** The judgment must clearly distinguish between factual findings and legal analysis. Factual issues should be decided based on evidence, while legal conclusions should be based on applicable statutes, precedents and principles.
- vi. **Issue-based Approach:** Addressing each issue raised by the parties separately and systematically is the hallmark of good judgment writing. This approach ensures that all relevant questions are answered and reduces the risk of oversight. Each issue should be stated clearly, discussed thoroughly and concluded decisively.
- vii. **Use of Authority:** Proper citation of state regulations and case law

reinforces the credibility of the judgment and supports the reasoning process. Authorities should be integrated into the analysis to demonstrate how the law applies to the facts of the case.

- viii. **Use of Clear and Simple Language:** Use clear and concise words. Do not use offensive words.
- ix. **Conclusion and Disposition:** The judgment must conclude with a clear statement of the outcome including Orders made, relief granted or denied and any ancillary directions, (example, cost or enforcement). It should be precise and unambiguous.

These structured principles serve as the scaffolding upon which judicial reasoning is built. Adherence to these principles reflects professionalism, enhances transparency and upholds the integrity of the judiciary.

#### **IMPORTANCE OF A GOOD JUDGMENT:**

The importance of a good judgment cannot be over emphasized. It will not be out of place to make a distinction between a valid judgment and a good judgment. A judgment is valid once it is handed down by a competent court after due process when there is nothing extrinsic to nullify same. Such judgment is valid until it is set aside by a superior court. Whereas a good judgment includes a proper evaluation of the evidence before the court which will produce the finding of the court, the submission of counsel, the application of the law, the decision of the court and the reasons for the decision. These are the characteristic of a good judgment. Per Tobi JCA (pages 11 – 14, paragraph A – A) where he stated “I make bold to say however that a judgment which does not contain the characteristic of a good judgment is not necessarily an invalid judgment as the validity of a judgment is different from how good the judgment is. The point I am laboring to make is that while all good judgments are valid judgments, not all valid judgments are good judgments. As mentioned above, the validity of a judgment is a function of pronouncement in such a way that

leaves no one in doubt as the decision of the court on the issues before it.” See **Abel V. FRN (2021) LPELR – 54600 (CA)**.

In Nigeria, judgment writing mirrors the Nation’s Legal pluralism. The British colonial era introduced the Common Law where judicial precedent guides rulings. Customary Law rooted in the traditions of ethnic groups like the Yoruba, Igbo and Hausa govern local matters such as land tenure and marriage often in oral form before being documented. Sharia law, prevalent in Northern States like Borno, applies Islamic principles to family and inheritance disputes. This diversity requires the Judgment writer to adapt-balancing formal legal reasoning with cultural norms. The stakes are high. For example, a High Court Judgment in Abuja might settle a multi-million Naira contract dispute influencing business practice nationwide: A Customary Court Ruling in Owerri might resolve a decade old family land feud preserving community peace. A Sharia Court decision in Sokoto might allocate inheritance ensuring equity under Islamic Law. Thus contributing to the continued peace in the society and the nation at large. Therefore, a good judgment makes for clarity, transparency, accountability and future reference.

### **CHALLENGES IN PRACTICE:**

Judgment writing faces significant obstacles.

- (1) Time pressure is a major hurdle. Our courts grapple with overcrowded dockets – hundreds of cases monthly. A judge might have hours to rule on a complex land dispute, risking rushed errors. To mitigate this requires efficient preparation.
- (2) Bias poses another challenge. Ethnic or religious affiliation can sway decisions unconsciously unless trained to prioritize evidence. To avoid this pitfall, abide by the Judicial oath of office and code of conduct which mandates impartiality.
- (3) Complexity arises in cases blending legal systems; Language barriers

could pose a problem until properly interpreted or transcribed. Example, a Hausa speaking litigant's testimony might lose meaning in English language, especially in rural courts where interpreters are scarce and illiteracy adds to the difficulty.

### **Solutions to these challenges –**

Constant Training and Retraining in workshops organized by the National Judicial Institute and others in evidence analysis and bias avoidance and even judgment writing like in this instance should be an ongoing and regular exercise. Technology like digital recording saves time and effort and would go a long way if incorporated into every court room in the Country. Overcoming these challenges ensures judgments remain fair, accurate and respected.

### **ATTRIBUTES OF A GOOD JUDGE:**

The judgment is the Judge! No matter the grade of the judge. Your judgment is you. There's a viral joke/post on whatsapp that says "The parties know the truth. It is the judge that is on trial." Therefore, there are certain attributes and qualities a judge must imbibe as an astute Jurist. You must dispense justice without fear or favour, adhering to the judicial oath of office you swore to uphold. You must carry out your duties in such a way that will not leave any negative impressions that would discourage litigants and the society at large. These attributes include but not limited to the following:

- **Independence:** Perform your duties in a manner that exudes independence. As a judge, you must be free from all forms of interference whether internally or externally. The slightest interference will have a tremendous influence on the perceived but core of the decision.
- **Impartiality:** In exercising and performing your judicial functions, you must have the judicial oath you took always at the back of your mind. Doing justice to all manner of people without fear or favour. Avoid any conduct that will suggest otherwise. Do not descend into the arena, no matter the

urge. Allow parties conduct their case the way they deem fit before the court.

- **Integrity:** Adhere to ethical principles. Your integrity is crucial. Hence the need to ensure your conduct in and out of the court does not undermine public trust. If the character of the judge is in question, the integrity becomes distorted. The integrity of the court is an indispensable condition in dispensing justice.
- **Propriety:** You must conduct proceedings in a conventional way to retain public trust. Like earlier said, do not resort to authoritarianism. Rather, fair hearing should be the guide. Do not bully, talk down or insult lawyers. Avoid the use of vernacular, the language of the court is English. Do not use crude and derogatory remarks on litigants or lawyers. Avoid getting emotional, easily offended or irritated. Always be composed and be in control of your court.
- **Ensuring Equality of Treatment:** Everyone deserved to be treated equally by the court irrespective of their race, gender or status in the society. Everyone must be given an opportunity to be heard, audi alteram partem, presupposes all parties must be given equal opportunity to state their case and opportunity to defend.
- **Competence and Diligence:** The world is now a global village and new trends keep coming up daily. A good judge must keep abreast with the current position of the law. The wheel of justice is ever evolving and as a judge do not be left out. When lawyers are aware that you know your onions and is up to date with the latest supreme court decision on applicable laws, they give due respect and avoid trying to use “sharp practice” before the court. This will boost the confidence in the court and the judicial system. As a judge, you have to be astute, hardworking and intelligent. You should be able to hold your own at any given time and

competently write your judgment at the close of the case of the parties before you.

### **CONCLUSION:**

Great judgments have shaped societal norms, protected human rights and ensured the fair application of norms. It has contributed to the evolution of jurisprudence and enhanced transparency and accountability in the judicial process. Therefore, adopt the style that best suit you. However, cultivate a style that commands attention. The litigants should be able to understand you. Be impartial, clear, avoid unnecessary verbosity, be consistent, coherent and precise. These simple, yet thoroughly lighted path I believe will guide the judgment to be one you can all be proud of in our noble profession.

Once again, I would like to say thank you to the Chairman of the session and distinguish members of the High Table and most especially our noble participants for your attention.

Thank you.