

**JUDGEMENT WRITING: STYLES AND TECHNIQUES
(CUSTOMARY COURT OF APPEAL PERSPECTIVE)**

BY

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COURSE FOR NEWLY APPOINTED JUDGES AND KADIS.**

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PROTOCOLS.

My Lord, the Administrator, permit me to particularly commend your Lordship for the good job you are doing at repositioning the National Judicial Institute being the apex continuing education body for the judiciary. I wish to also place on record my appreciation to the Education Committee of the Board of Governors of the Institute for deeming me fit and proper to present this paper on the Customary Court of Appeal perspective of Judgment Writing.

It is opportune for me at this juncture, to congratulate most heartily, the newly appointed Kadis and Judges on your Lordships appointment as Judges and Kadis. While I join the National Judicial Institute to welcome you on board as Judicial Officers of Superior Courts of Record, I wish you God's unfailing help, guidance and protection.

From the theme of this Induction Course, ***Inculcating Judicial Excellence in Newly Appointed Judicial Officers***, it appears to me that the NJI intends to prepare the newly appointed Judges in such a way that they will hit the ground running. I hope at the end of this presentation, I may have contributed my quota in your preparation.

INTRODUCTION

No doubt the most important of the Judge's function is judgment writing. This is not to say the act of listening to witnesses, evaluating evidences, observing the demeanor of the witnesses, assessing the facts *vis-a-vis* the law is any less important. I said it is most important because after all said and done, the judicial excellence of a judicial officer is determined more often than not by the quality of judgment he delivers.

I consider it appropriate to define the key word herein before we delve into the topic of discussion proper. The key word here is Judgment.

Blacks Law Dictionary has defined judgment to be *"a court's final determination of the rights and obligations of the parties in a case. The term judgment includes an equitable decree and any order from which an appeal lies."*¹

Asides from these academic definition given above, the Courts have in a plethora of cases given judicial interpretation to the term. In **OREDYOIN v. AROWOLE**², Oputa JSC defined a Judgment thus:

"A judgment is an official and authentic decision of a Court upon the respective rights and claims of the parties to an action or suit therein litigated and submitted to the determination of the Court. It is the decision of the Court resolving the disputes between parties and determining their rights and obligations. It is a conclusion of law upon facts as found or admitted by the parties. It is a conclusion given by court upon matters submitted to it. It is the application of the law to the pleadings and the facts as they appear from the evidence in the case and as they are found by the Court or Jury or as admitted by the parties or as deemed to exist upon default".

¹Blacks Law Dictionary, 9th Edn.

² (1987) 3 NWLR (Pt. 114) 172 @ 211

Owing to the above definition therefore, we can safely conclude at this point that the end point of every judicial proceeding before every court is Judgment. In other words, judgment is not delivered till the hearing is complete by listening to submissions of counsel and perusal of records and a definite view is reached by the Court. A judgment therefore is a formal expression of adjudication and it should be one which ought not to be left open what is exactly adjudicated upon.³

Judgments could be original or appellate. A Judgment is original when it is a product of the court of first instance. Where on the other hand, it is the product of an appellate court, then it is said to be an appellate judgment i.e the product of a court sitting in exercise of its appellate jurisdiction.

Suffice to say judgment could be interlocutory or final. Whichever it is however, it puts paid to the issues raised and canvassed. Generally speaking therefore, a judgment is a **formal**, authoritative, informed opinion having the force of law; the decision of an arbiter within a given jurisdiction. Being formal, it is required to be documented. That is where judgment writing comes into focus.

JUDGMENT WRITING; STYLES AND TECHNIQUES:

Judgment Writing has been described as an art by some and even as an art and science by others. It is an art because it is not a mean task: it requires skill and it can have beauty like the work of Art⁴. In writing or preparing a judgment, the Judge caters for a diverse audience: the winning litigant; the losing litigant; the litigants' lawyers, family and friends. His wider readership may extend to many classes of others- lawyers, law students, fellow judges, politicians, pressure groups, the media and government.

Though there is no prescribed way of writing a judgment, whatever techniques are being used to compel the attention of the reader to the force of the

³ Karkara's Art of Writing Judgments, 2nd Edn

⁴ The Art of Judgment Writing: The Trial Court Experience by Hon. Justice Obisike Oji, High Court of Justice, Abia State, NJI Law Journal (2011) Vol. 5

argument, they have to be applicable in practice to the particular situation in that case. In **UNIVERSITY OF CALABAR v. ISIAGA**⁵, Niki Tobi, JSC puts it this way:

“I do not think there is a mathematically accepted way writing a judgment of a court. Although our adjectival laws sets out a general format of a Judgment, it is merely a guide to the writing of a Judgment which a Judge is free to restructure in the right of a peculiar case before him”.

However attractive the composition of a judgment, the argument must be of practical effect as well as sound conclusion. As a piece of prose, it may read beautifully, but a judicial opinion must be both workable as well as intelligible and intellectually satisfying⁶.

THE CUSTOMARY COURT OF APPEAL PERSPECTIVE

I have been asked to state the Customary Court of Appeal Perspective of Judgment Writing and I intend to restrict myself to doing just that. It is important to stress at this point however that though an appellate court Judge, I am going to speak to this topic from the two points of an appellate judgment and original judgment.

JUDGMENT AS A COURT OF FIRST INSTANCE

The Customary Court of Appeal is primarily an appellate court. However by the provisions of the Customary Court of Appeal of the Federal Capital Territory Abuja (Jurisdiction on Chieftaincy Matters) Act, 2011, the Customary Court of Appeal of the FCT now has and exercise original jurisdiction in Chieftaincy matters in the Federal Capital territory. Suffice to state that this original jurisdiction was conferred on the Court by the National Assembly deriving its powers from the provisions of section 267 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

The import of the above therefore is that FCT Customary Court of Appeal now sits as a Court of first instance and delivers judgments in that capacity. I sincerely

⁵ (1997) 4 NWLR (Pt. 502) 719 @ 728

⁶ How Judges Decide Cases: Reading, Writing and Analysing Judgments; Andrew Goodman

hope that soon, the Customary and Sharia Courts of Appeal of other jurisdiction will enjoy similar expansions in their jurisdiction.

JUDGMENT AS AN APPELLATE COURT

The Customary Court of Appeal being an intermediate appellate Court hearing appeals from the grass-root courts by their nature, are not bound by English complex terminologies. Instead, we are enjoined to avoid as much as possible technicalities and rather do substantial justice to litigants on the bases of the practice, tradition and the customs of the people⁷.

Now you may want to ask what is the difference between an appellate and an original judgment. I make bold to say that there are no fundamental differences except that while the judgment as Court of first instance is a product of evaluation of evidence and demeanor of witnesses, the appellate judgment is actually an evaluation of the original judgment and application of relevant laws by the lower Customary Courts.

As earlier stated there are no hard and fast rules guiding judgment writing. However, there are certain characteristics that define a judgment. In the case of **OSAFIL & ANOR. v. ODI & ANOR.**⁸, the Supreme Court had highlighted these characteristics thus:

“A judgment in a civil case is made up more or less of five distinct parts. These are the introduction of the issue in controversy between the parties, the cases of either side to the litigation as revealed on the pleadings, the evidence called by either side in support of its case, the resolution of the issues of fact and of law put forward by each party, and the court’s conclusions based on the resolution of the issues and the claims before the Court.”

Whether a court delivers an original or appellate judgment therefore, the characteristics of a valid judgment still applies. See **OSAFIL & ANOR. v. ODI &**

⁷ Principles of Judgment Writing in the Customary Courts of Appeal; Hon. Justice S.H. Makeri; NJI 2013

⁸ (1990) 5 SCNJ 118 @ 127

ANOR.⁹. The cardinal focus should be at doing substantial justice to parties as there are no mechanical means of writing a judgment. See **IZE-IYAMU v. ALONGE**¹⁰ where the Court of Appeal, Per Mscelia J.C.A held thus:

“It is of importance to note that writing a judgment is a matter of style by any particular judge. But the most important thing is the result i.e. arriving at the correct decision and thereby doing justice to both parties to the case.”

The Customary Court of Appeal being a Court of specialized jurisdiction, it has two distinctive features:

1. Doing of Substantial Justice to parties; and
2. Avoidance and/or limitation of the use of technicalities.

In writing judgment therefore, Judges of the Customary Court of Appeal are expected to in addition to all the rules of Judgment Writing, put into consideration the above distinctive features which is the hallmark of the Court.

CONCLUSION

A good judgment is one that anyone reading or hearing it being delivered will be able to follow the reasoning of the Judge in the matter. It is such that the conclusions flow from the premise and the party who wins will be able to see what he did right and the party who loses will be able to see where the Judge said he went wrong. He may not agree with the Judge but like the proverbial flea removed from the dog, he will be able to see the flea and not think he was being pinched.¹¹

In writing Judgments at the FCT Customary Court of Appeal, the Judges’ principal objective is to make an effective, practical and workable decision. The concern is in resolving conflict by determining the events of conflicting cases. To achieve

⁹ Supra.

¹⁰ (2007) 6 NWLR (Pt. 1029) pg 108

¹¹ Hon. Justice Obisike Oji (supra)

this feat, the Judge must along the characteristics earlier enumerated, must be a master of the language of the Court, the English Language. The mastery and command of the English Language is nonnegotiable, no matter the style or method adopted.

The Judge must also engage in the act of Judgment writing as much as possible. This will not only help keep the Judge up to date with his quarterly returns to the National Judicial Council, it is equally important because, Judgment Writing being an art, can only get better with constant engagement.

On this note, I wish to once again congratulate our newly appointed learned brothers. I wish you all successful vocation on the bench.

Thank you for your kind attention.

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