

COURT OF APPEAL
LAGOS DIVISION
14TH JULY, 2004. CA/L/79/2003
CORAM:- J. O. OGEBE, S. GALADIMA,
M. D. MUHAMMAD, JJCA

MR. DANIEL ORHIUNU APPELLANT
AND
FEDERAL REPUBLIC OF NIGERIA RESPONDENT

STATUTES - Interpretation - Jurisdiction - Extradition matters - Clear words of a statute - Must be given their ordinary and plain meaning - Conferring jurisdiction on the Federal High Court (H1)

STATUTES - Clarity - Constitution 1999, s. 251(1)(i) - Omission of the word “of” - Did not make that section ambiguous - Or a failed constitutional provision (H2)

CONSTITUTIONAL LAW - Hierarchy of laws - Grundnorm - Interpretation of the Constitution - Liberalism - Extradition matters - Jurisdiction therein - Should be as under the Constitution - That now modifies the Extradition law (H3)

COURTS - Jurisdiction - Removal of - Constitution - Extradition matters - Where the Constitution confers jurisdiction - It cannot be lightly divested (H4)

STATUTES - Interpretation - Extradition Act s. 21(1) - Fugitive criminal - Definition of - Being precise and unambiguous - Court will not import words - That will violate intent and meaning (H5)

FACTS

Before the Federal High Court, Lagos, the A-G Federation on 29-7-2002 AD, prayed the court to deal with the request of United States of America against the appellant for the offence of health care fraud, aiding

and abetting. He was sentenced by Judge Edward C. Prado on 11-10-2001 AD, in absentia at the United States District Court, for the Western District of Texas to 87 months, 3 years supervised release, \$1,061,110.00 in restitution and a special assessment of \$300. When the matter came up first before Shuaibu J. of the Federal High Court, appellant raised a preliminary objection challenging the jurisdiction / competence of that court to entertain the proceedings, and sought a consequential order dismissing the request for his extradition to the USA.

In the Judge's considered ruling, he held that the Federal High Court has exclusive jurisdiction in extradition matters. He also ruled, dismissing the appellant's contention that he does not fall within the contemplation of the Extradition Act Cap. 125 Laws of the Federation of Nigeria, 1990, not being a fugitive criminal as envisaged by the provisions of that Act. Being dissatisfied, appellant filed two appeals before the Court of Appeal, which were upon appellant's application consolidated by the court's order.

ISSUES FOR DETERMINATION

"2.1. Whether the Federal High Court is conferred with jurisdiction to entertain extradition matters under section 251(1)(i) of the Constitution of the Federal Republic of Nigeria, 1999?"

2.2 Whether the appellant can be said to be a fugitive Criminal within the definition of section 21 of the Extradition Act Cap. 125 Laws of the Federation of Nigeria, 1990?"

HELD (Unanimously dismissing the appeal per **GALADIMA JCA**)
STATUTES - Interpretation - Jurisdiction - Extradition matters

1. In the 1999 Constitution the jurisdiction of the Federal High Court is contained in section 251 (1) (i) and (3) of the said Constitution. Where the words used in a statute are direct and straight forward and unambiguous, the construction of those words must be based on the ordinary and plain meaning of the words.

I am of the firm view that the Federal High Court has jurisdiction under the said section 251 (1) (i) and (3) of the Constitution of the Federal Republic of Nigeria 1999 which state as follows:

“251(1)(i) Notwithstanding anything to the contrary contained in this Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly the Federal High Court shall have and exercise jurisdiction to the exclusion of any other court in civil causes and matters -

(i) citizenship, naturalization and aliens, deportation of persons who are not citizens of Nigeria, extradition, immigration into and emigration from Nigeria, passports and visas;

(3) The Federal High Court shall also have and exercise jurisdiction and powers in respect of criminal causes and matters in respect of which jurisdiction is conferred by sub-section (1) of this section.”

(p. 2688 A)

STATUTES - Clarity - Constitution 1999, s. 251(1)(i)

2. The provisions of section 251 (1) (i) are clear and unambiguous. The subject-matter in respect of which the Federal High Court shall have jurisdiction includes extradition. The section as it is without the addition of the word “of is very clear, intelligible and unambiguous so as to convey the intention of the law makers in conferring jurisdiction on the Federal High Court in respect of extradition matters. This sub-section (i) of section 251 is not the only subsection that is not introduced with the words like “relating to”, “connected with” “arising from”. The other sub-sections with no such introductory words but which are still clear and unambiguous are section 251 (1) (j), (k), (l), (m), (n) and (o). Therefore, the argument of the appellant that the omission of such introductory words is a mistake made by the legislature is not tenable. The wordings of section 251 (1) (i) of the Constitution is so clear as to reveal the intention of the law makers in conferring jurisdiction on extradition matters to the Federal High Court. This cannot therefore be regarded as a “failed” constitutional provision. (p. 2689 A)

CONSTITUTIONAL LAW - Hierarchy of laws - Grundnorm

3. In interpreting the provisions of the Constitution a broad and liberal approach should prevail. Undue regard must not be paid to mere technical

rules; otherwise the objects of the provisions as well as the intention of the framers of the Constitution would be frustrated.

Having expressed this opinion I would go further to strengthen my position with the relevant provisions of the Extradition Act visa-vis the Constitution as a grundnorm. This is necessary in view of the contention expressed by the appellant's counsel that it is the Magistrate Court that has been vested with the jurisdiction to entertain extradition matters. It is pertinent therefore, to carefully note section 6 (1) and (2) of the said Extradition Act. It provides thus:

(1) *"A request for the surrender of a fugitive criminal of any country shall be made in writing to the Attorney-General by a diplomatic representative or consular Officer of that country and shall be accompanied by a duly authenticated warrant of arrest or certificate of conviction issued in that country.*

(2) *Where such a request is made to him, the Attorney-General may by an order under his hand signify to a magistrate that such a request has been made and require the magistrate to deal with the case in accordance with the provisions of this Act, but shall not make such an order if he decided on the basis of information then available to him that the surrender of the an fugitive criminal is precluded by any of the provisions of subsection (1) to (7) of section 3 of this Act,"*

In Attorney-General Abia State v. Attorney-General Federation (2002) 6 NWLR (Pt. 763) p. 264, the Supreme Court of Nigeria, referring to Section 1 (1) and 1 (2) of the 1999 Constitution has emphasized and reiterated the hierarchy of our laws thus:

"The Constitution is what is called the ground norm and the fundamental law of the land. All other legislations in the land take their hierarchy from the provisions of the Constitution. By the provisions of the Constitution the laws made by the National Assembly comes next to the Constitution; followed by those made by the House of Assembly of a State. By virtue of section 1 (1) of the Constitution the provisions of the Constitution take precedence over any law enacted by the National Assembly even though the National Assembly has the power to amend the Constitution itself."

On the strength of the provisions of section 4 (2) and 315(1) and (3) above, it is not in doubt that the Extradition Act Cap. 125 of the Laws of the Federation 1990, being an existing law, deemed to have been made by the National Assembly shall continue to rate next to the Constitution in terms of precedence. Thus the argument of the learned Counsel for the appellant that there is need for the legislature to cure what he called “*a deficiency*” is a clear misconception of the legal position of this issue. See the case of Federal Civil Service Commission v. Laoye (1989) 2 NWLR (Pt. 106) 652 at 676; where the Supreme Court held that the Civil Service Rules though made long before the 1979 Constitution but must to that extent be subservient to the 1979 Constitution. I must say that the learned Senior Advocate, with due respect did not give due attention to section 315 of the 1999 Constitution which is in *pari materia* with section 274 of the 1979 Constitution which talks about “*existing law*”.

Therefore the provision of the Extradition Law has on coming into force of the 1999 constitution started to have effect with such “modification” as may be necessary to bring them into conformity with the provisions of section 251 of the 1999 Constitution. (pp. 2689 F/ 2691 F)

Jurisdiction - Removal of

4. It is trite law that where the constitution, as in this case has given a jurisdiction, it cannot be lightly divested. Where it is intended to be divested of the jurisdiction that has been assigned to it by the Constitution, it must be done by clear express and unambiguous words and by a competent amendment of the Constitution, not by any other method.

Consequently, the provisions of section 251 of 1999 Constitution having been solemnly ordained by “*the people of the Federal Republic of Nigeria*”, not by the National Assembly, wherein it expressly conferred exclusive jurisdiction on the Federal High Court on matters of extradition, in the exercise of their sovereign powers, cannot therefore be limited otherwise than by the same Constitution. (p. 2692 B)

Extradition Act s. 21(1) - Fugitive criminal - Definition of

5. In the Black’s law dictionary, the word “*fugitive*” is defined to mean

one who flees, used in criminal law with the implication of a flight; evasion or escape from arrest, prosecution or imprisonment. But section 21 (1) of the Extradition Act defines “*Fugitive Criminal*” or, ‘Fugitive to mean:

“(a) any person accused of an extradition offence committed within the jurisdiction of a country other than Nigeria;
or

(b) any person, who, having been convicted of an extradition offence in a country other than Nigeria, is unlawfully at large before the expiration of a sentence imposed on him for that offence, being in either case a person who is or is suspected of being in Nigeria.”

The simple rule of interpretation of statute is that statute should be construed according to the intention of the lawmakers. If words of the Statute are in themselves precise and unambiguous, then those words must be given their natural and ordinary meaning.

I am of the firm view that the words of section 21(1) of the Extradition Act admit no ambiguity and does not make sentence as a condition precedent for the application of extradition cases. In *Egbe v. Alhaji* (1990) 1 NWLR (Pt. 128) P. 546, the Supreme Court held that it is the function of the Court or Judge when interpreting statutory provisions not to import words which do violence to the intent and meaning of the statutory provision. Similarly, it is wrong to read into an enactment an exception which it has not expressed and which will have the effect of depriving the person to be protected of that protection.

It is not in doubt, as was admitted in the appellant’s brief, that the appellant was charged, tried and convicted by a competent court in the United States of America but fled that country before the expiration of the sentenced imposed on him. (p. 2693 D)

REPRESENTATION

B. A. M. Fashanu, SAN, (with him, S. O. Modile, Miss.) for the Appellant
Obi Agusiobo, Esq. (Senior Legal Officer, Federal Ministry of Justice) for the Respondent

CASES REFERRED TO

African Newspaper of Nigeria Ltd. v. The Federal Republic of Nigeria (1985) 2 NWLR (Pt. 6) p. 137

Nwonu v. Administrator-General Bendel State (1991) 2 NWLR (Pt. 173) 342

Egbe v. Alhaji (1990) 1 NWLR (Pt. 128) P. 546

Nigerian Shippers Council v. United World Limited Inc. (2001) 7 NWLR (Pt. 713) p. 576 at 584

Nafiu Rabiu v. The State (1981) 2 NCLR 293 at 326

Miscellaneous Offences Tribunal v. Okoroafor (2001) 18 NWLR (Pt. 745) 18 NWLR (Pt. 745) 295 at p. 335

Bronik Motors and Anor v. Wema Bank Limited (1985) 6 NCLR P. 1

A- G Ondo State v. Attorney-General of the Federation (1983) 2 SCNLR 269 at 277

Okumagba v. Egbe. (1965) 1 All NR 62

IBWA v. Imano (1988) 3 NWLR (Pt.85) 633 (1988) 2 NSCC (Pt. 11) 245 at 268

STATUTES REFERRED TO

Extradition Act Cap. 125 LFN 1990. ss. 3-9, 21(1)

Constitution of Federal Republic of Nigeria 1999 ss. 251(1) (i) - (o) & 3, 1(1) & (2), 4(2), 315(1) & (3)

LEAD JUDGMENT BY GALADIMA JCA

This is a consolidated appeal against the interlocutory decisions of the Federal High Court, Lagos, delivered by Shuaibu, J. on the 25/11/2002 and 197 2/2003 refusing to strike out the substantive application of the respondent for the extradition of the appellant to the United States of America.

On 29/7/2002, the Honourable Attorney-General of the Federation, in his application, asked the Federal High Court to deal with the request of the United States of America for the offence of health care fraud, aiding and abetting by the appellant. He was sentenced by Judge Edward C. Prado on 11/10/2001 in absentia at the United States District Court, for the

Western District of Texas to 87 months, 3 years supervised released, \$1,061,110.55 in restitution and a special assessment of \$300.

When the matter came up for the first time before Shuaibu, J. on 28/10/ 2002 the appellant through his counsel raised a preliminary
B objection challenging the jurisdiction and competence of the Federal High Court to entertain the proceedings and a consequential order dismissing the request for his extradition to the United States of America.

In his considered ruling 25/11/2002, the learned trial judge held that
C the Federal High Court has exclusive jurisdiction in extradition matters and consequently dismissed the appellant's preliminary objection. Similarly on 19/2/2003 he also ruled in the appellant's second objection, dismissing his contention that he does not fall within the contemplation of Extradition Act Cap. 125 Laws of the Federation of Nigeria (1990) herein after referred
D to as "the Extradiction Act" not being a fugitive criminal as envisaged by the combined effect of sections 3-9 and section 21(1) of the Extradiction Act.

Pursuant to the appellant's application, this Court by its order, dated
E 10/7/2003, consolidated the appeal vide Notice of Appeal filed on 25/3/ 2003 containing three grounds against the decision of 25/ 11/2002 and the appeal vide notice of appeal filed on 4/3/2003 containing grounds against the decision of 19/2/ 2003

F The issues proffered by the appellant for determination from the grounds of appeal, is consolidated, read as follows:

*"4.1. Whether having regard to the wordings of section 251 (1) (i) of the Constitution of the Federal Republic of Nigeria 1999, the Federal High Court can be said to be conferred with jurisdiction or exclusive
G jurisdiction in and respect of extradition of Nigerians from Nigeria to foreign countries?"*

*4.2. Whether the appellant can be said to be a fugitive Criminal within the meaning set out in the Extradition Act Cap. 15, Laws of the
H Federation of Nigeria, 1990 as to make him eligible for extradition from Nigeria to the United States of America?"*

The two issues identified in the respondent's brief for our determination which are similar to those of the appellants, are as follows:

“2.1. Whether the Federal High Court is conferred with jurisdiction to entertain extradition matters under section 251 (1) (i) of the Constitution of the Federal Republic of Nigeria, 1999?”

2.2 Whether the appellant can be said to be a fugitive Criminal within the definition of section 21 of the Extradition Act Cap. 125 Laws of the Federation of Nigeria, 1990?”

I have carefully considered the issues set out for our determination by the respective parties. The issues set out by the respondent’s appeal to me is quite apt and direct to the grounds in the consolidated appeal. It is on these two issues the merit of this appeal will be considered.

When this appeal came before us for argument on 18/5/2004 Mr. Fashanu, learned Senior Advocate for the appellant adopted the appellant’s brief of argument.

On the first issue learned counsel for the appellant submitted that having regard to the grounds of appeal the first issue for determination ought to be answered in the negative. The reason was that the provisions of section 251 (1) (i) of the 1999 Constitution purporting to give exclusive jurisdiction to the Federal High Court is at best, unclear and a failed provisions in as much as it purports to invest that court with jurisdiction to hear suits concerning the extradition of a Nigerian to foreign functions. It is argued that it is not the function of the court to fill in explanatory words in the gap obviously existing in the provision so as to give it meaning, that function being that of legislature. Reliance was placed on the cases of A-G Ondo State v. Attorney-General of the Federation (1983) 2 SCNLR 269 at 277; Okumagba v. Egbe. (1965) 1 All NR 62; IBWA v. Imano (1988) 3 NWLR (Pt.85) 633 (1988) 2 NSCC (Pt. 11) 245 at 268.

Learned counsel for the respondent Mr. Agusiobo, has submitted on the first issue, that the Federal High Court has jurisdiction under section 251 (1) (i) (3) of the Constitution of the Federal Republic of Nigeria 1999 to entertain extradition matters. The basis for this submission is that the wordings of the said sections of the Constitution are clear and unambiguous. Reliance was placed on the cases of Nigerian Shippers Council v. United World Limited Inc. (2001) 7 NWLR (Pt. 713) P.576 at 584. Nafiu Rabi v. The State (1981) 2 NCLR 293 at 326. Miscellaneous Offences

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Tribunal v. Okoroafor (2001) 18 NWLR (Pt. 745) 18 NWLR (Pt. 745) 295
at p. 335 and Bronik Motors and Anor v. Wema Bank Limited (1985) 6
NCLR P.1.

**In the 1999 Constitution the jurisdiction of the Federal High
Court is contained in section 251 (1) (i) and (3) of the said Constitu-
tion. Where the words used in a statute are direct and straight
forward and unambiguous, the construction of those words must be
based on the ordinary and plain meaning of the words: see African
Newspaper of Nigeria Ltd. v. The Federal Republic of Nigeria (1985) 2
NWLR (Pt. 6) p. 137.**

**I am of the firm view that the Federal High Court has
jurisdiction under the said section 251 (1) (i) and (3) of the Consti-
tution of the Federal Republic of Nigeria 1999 which state as follows:**
***“251(1)(i) Notwithstanding anything to the contrary contained
in this Constitution and in addition to such other jurisdiction as may be
conferred upon it by an Act of the National Assembly the Federal High
Court shall have and exercise jurisdiction to the exclusion of any other
court in civil causes and matters -***

***(i) citizenship, naturalization and aliens, deportation of persons
who are not citizens of Nigeria, extradition, immigration into and
emigration from Nigeria, passports and visas;***
***(3) The Federal High Court shall also have and exercise juris-
diction and powers in respect of criminal causes and matters in respect
of which jurisdiction is conferred by sub-section (1) of this section.”***

It was contended by the learned counsel for the appellant that unless
and until the National Assembly makes rules enabling the Federal High
Court to exercise jurisdiction, extradition matters remains outside the
jurisdiction of the Federal High Court. It was submitted that it was the
introduction of the word “of into the section in the ruling that enabled the
lower court to find section 251 (1) (i) of the Constitution intelligible in the
first place, otherwise it would have no meaning so as to make the learned
trial Judge come to the conclusion that the provisions conferred exclusive
jurisdiction on the Federal High Court on extradition matters.

With due respect I do not agree with the view expressed above by

the learned counsel for the appellant. I am of the opinion that **the provisions** of section 251 (1) (i) are clear and unambiguous. The subject-matter in respect of which the Federal High Court shall have jurisdiction includes extradition. The section as it is without the addition of the word “of is very clear, intelligible and unambiguous so as to convey the intention of the law makers in conferring p jurisdiction on the Federal High Court in respect of extradition matters. This sub-section (i) of section 251 is not the only subsection that is not introduced with the words like “relating to”, “connected with” “arising from”. The other sub-sections with no such introduc- C tory words but which are still clear and unambiguous are section 251 (1) (j), (k), (l), (m), (n) and (o). Therefore, the argument of the appellant that the omission of such introductory words is a mistake made by the legislature is not tenable. The wordings of section 251 D (1) (i) of the Constitution is so clear as to reveal the intention of the law makers in conferring jurisdiction on extradition matters to the Federal High Court. This cannot therefore be regarded as a “failed” constitutional provision. In *Miscellaneous Offences Tribunal v. Okoroafor* E (supra) the Supreme Court stated that:

“It is generally acknowledged that the court faced with the interpretation of a statute has a duty to first discover the intention of the lawmakers. This has to be discovered from the words used in their ordinary and natural sense - when there is no ambiguity about their meaning.” F

In interpreting the provisions of the Constitution a broad and liberal approach should prevail. Undue regard must not be paid to mere technical rules; otherwise the objects of the provisions as well as the intention of the framers of the Constitution would be G frustrated. See the following cases: *Nigerian Shippers Council v. United World Limited Inc* (supra); *Rabiu v. State* (1981) 2 NCLR (supra); *Bronik Motors and Anor. v. Wema Bank* (supra).

Having expressed this opinion I would go further to strengthen H my position with the relevant provisions of the Extradition Act vis-a-vis the Constitution as a grundnorm. This is necessary in view of the contention expressed by the appellant’s counsel that it is the

Magistrate Court that has been vested with the jurisdiction to entertain extradition matters. It is pertinent therefore, to carefully note section 6 (1) and (2) of the said Extradition Act. It provides thus:

(1) *“A request for the surrender of a fugitive criminal of any country shall be made in writing to the Attorney-General by a diplomatic representative or consular Officer of that country and shall be accompanied by a duly authenticated warrant of arrest or certificate of conviction issued in that country.*

(2) *Where such a request is made to him, the Attorney-General may by an order under his hand signify to a magistrate that such a request has been made and require the magistrate to deal with the case in accordance with the provisions of this Act, but shall not make such an order if he decided on the basis of information then available to him that the surrender of the an fugitive criminal is precluded by any of the provisions of subsection (1) to (7) of section 3 of this Act,”*

In Attorney-General Abia State v. Attorney-General Federation (2002) 6 NWLR (Pt. 763) p. 264, the Supreme Court of Nigeria, referring to Section 1 (1) and 1 (2) of the 1999 Constitution has emphasized and reiterated the hierarchy of our laws thus:

“The Constitution is what is called the ground norm and the fundamental law of the land. All other legislations in the land take their hierarchy from the provisions of the Constitution. By the provisions of the Constitution the laws made by the National Assembly comes next to the Constitution; followed by those made by the House of Assembly of a State. By virtue of section 1 (1) of the Constitution the provisions of the Constitution take precedence over any law enacted by the National Assembly even though the National Assembly has the power to amend the Constitution itself.”

Careful examination of the Extradition Act Cap. 125 will help ascertain its hierarchical provisions as enunciated by the Supreme Court in the A-G Abia State’s case (supra). Section 4(2) of the 1999 Constitution provided that:-

“The National Assembly shall have power to make laws for the peace order and good government of the Federation or any part thereof

with respect to any matter included in the Exclusive Legislative List set out in part 1 of the second Schedule to this Constitution.”

However, item 27 of the said part 1 of the second schedule listed “Extradition” as a subject which National Assembly could legislate upon. That being the case, the Extradition Act which came into operation on 31/1/1967 is protected by section 315 (1) which provides that:

“Subject to the provisions of this Constitution; an existing law shall have effect with such modifications as may be necessary to bring it into conformity with the provisions of this Constitution and shall be deemed to be:-

(a) An Act of the National Assembly to the extent that it is a law with respect to any matter on which the National Assembly is empowered by this Constitution to make laws.”

Sub-section 3 of this section of the Constitution went a bit further to add that:

“Nothing in this Constitution shall be construed as affecting the power of a court of law or any tribunal established by law to declare invalid any provision of an existing law on the ground of inconsistency with the provisions of any other law, that is to say:-

- (a) any other existing law*
- (b) a law of a House of Assembly;*
- (c) an Act of the National Assembly; or*
- (d) any provision of this Constitution.”*

On the strength of the provisions of section 4 (2) and 315(1) and (3) above, it is not in doubt that the Extradition Act Cap. 125 of the Laws of the Federation 1990, being an existing law, deemed to have been made by the National Assembly shall continue to rate next to the Constitution in terms of precedence. Thus the argument of the learned Counsel for the appellant that there is need for the legislature to cure what he called “a deficiency” is a clear misconception of the legal position of this issue. See the case of Federal Civil Service Commission v. Laoye (1989) 2 NWLR (Pt. 106) 652 at 676; where the Supreme Court held that the Civil Service Rules though made long before the 1979 Constitution but must to that extent be

subservient to the 1979 Constitution. I must say that the learned Senior Advocate, with due respect did not give due attention to section 315 of the 1999 Constitution which is in pari materia with section 274 of the 1979 Constitution which talks about “existing law”.

Therefore the provision of the Extradition Law has on coming into force of the 1999 constitution started to have effect with such “modification” as may be necessary to bring them into conformity with the provisions of section 251 of the 1999 Constitution. It is trite law that where the constitution, as in this case has given a jurisdiction, it cannot be lightly divested. Where it is intended to be divested of the jurisdiction that has been assigned to it by the Constitution, it must be done by clear express and unambiguous words and by a competent amendment of the Constitution, not by any other method. See *Nwonu v. Administrator-General Bendel State* (1991) 2 NWLR (Pt. 173) 342.

Consequently, the provisions of section 251 of 1999 Constitution having been solemnly ordained by “*the people of the Federal Republic of Nigeria*”, not by the National Assembly, wherein it expressly conferred exclusive jurisdiction on the Federal High Court on matters of extradition, in the exercise of their sovereign powers, cannot therefore be limited otherwise than by the same Constitution.

The Second issue formulated by the parties for the determination of the appeal is whether the appellant can be said to be a fugitive criminal within the definition of section 21 of the Extradition Act -Cap. 125, Laws of the Federation of Nigeria, 1990. Learned senior counsel has submitted on behalf of the appellant that the Extradition Act Cap 125, Laws of the Federation of Nigeria, 1990 does not apply to the appellant not being a fugitive criminal who was convicted and sentenced before being at large as envisaged by section 21(1) of the Act.

The learned counsel for the respondent on the other hand, has argued that by virtue of section 21 (1) (b) of the Extradition Act, that Act applies to a fugitive criminal.

It will be recalled that upon the appellant changing his counsel, he applied by motion on notice to dismiss the suit on the ground that the provisions of the Extradition Act do not apply to the appellant. Hence, the ruling of the lower court refusing the application is the subject of the second consolidated appeal.

If I understand the learned senior counsel for the appellant very well, his contention is that the provisions of Section 21(1) of the Extradition Act has defined a fugitive criminal to mean a person who having been convicted but became unlawfully at large. That the accused person though convicted but became unlawfully at large before being sentenced is not a criminal fugitive as provided by the enabling Act and where enabling statute has provided an interpretation, court is duty bound to abide by that interpretation and no more.

In the Black's law dictionary, the word "fugitive" is defined to mean one who flees, used in criminal law with the implication of a flight; evasion or escape from arrest, prosecution or imprisonment. But section 21 (1) of the Ex tradition Act defines "Fugitive Criminal" or, 'Fugitive to mean:

"(a) any person accused of an extradition offence committed within the jurisdiction of a country other than Nigeria;

or

(b) any person, who, having been convicted of an extradition offence in a country other than Nigeria, is unlawfully at large before the expiration of a sentence imposed on him for that offence, being in either case a person who is or is suspected of being in Nigeria."

The simple rule of interpretation of statute is that statute should be construed according to the intention of the lawmakers. If words of the Statute are in themselves precise and unambiguous, then those words must be given their natural and ordinary meaning.

I am of the firm view that the words of section 21 (1) of the Extradition Act admit no ambiguity and does not make sentence as a condition precedent for the application of extradition cases. In *Egbe v. Alhaji* (1990) 1 NWLR (Pt. 128) P. 546, the Supreme Court held that it is the function of the Court or Judge when interpreting

statutory provisions not to import words which do violence to the intent and meaning of the statutory provision. Similarly, it is wrong to read into an enactment an exception which it has not expressed and which will have the effect of depriving the person to be protected of that protection.

It is not in doubt, as was admitted in the appellant's brief, that the appellant was charged, tried and convicted by a competent court in the United States of America but fled that country before the expiration of the sentenced imposed on him.

In the final analysis having resolved the two issues in favour of the respondents, I find that this consolidated appeal lacks merit, I dismiss it. The case is hereby remitted to the lower court to conclude expeditiously the extradition proceedings initiated before it for the extradition of the appellant to the United States of America.

OGEBEJCA

I had a preview of the judgment of my learned brother Galadima JCA just delivered and I agree entirely with his reasoning and conclusion and I adopt it as mine.

MUHAMMADJCA

I had a preview of the judgment just delivered by my learned brother Galadima JCA with whose reasonings and conclusions I entirely agree. The appeal raises an issue pertaining to construction of statute. This is a trite area of the law and his lordship has correctly stated the principle involved. Words that are clear and unambiguous must fetch their ordinary and plain meaning where the meaning of the statutory provision constitute a given controversy. The result of such an exercise in the instant case shows clearly that the appeal is bereft of merit and I equally so find and dismiss it.

I abide by all the consequential orders reflected in the lead judgment too.

Appeal dismissed.