



NIGERIAN BAR ASSOCIATION

NATIONAL SECRETARIAT: NBA House, Plot 1101 Muhammed Buhari Way, Cadastral Zone A00, Central Business District, Abuja - Nigeria. Tel: +234810 402 5812
www.nigerianbar.org.ng

21 January 2019

DISCONTINUE ONNOGHEN CJN'S CCT TRIAL FORTHWITH! FOLLOW DUE PROCESS AND UPHOLD THE RULE OF LAW

1. Ahead of the scheduled resumption of proceedings at the Code of Conduct Tribunal ("CCT") tomorrow, 22 January 2019, the Nigerian Bar Association again calls on the Executive Branch of the Federal Government of Nigeria ("FGN") to discontinue forthwith the prosecution of the Chief Justice of Nigeria ("CJN"), Honorable Mr. Justice Walter S N Onnoghen, GCON before the CCT. Having become obvious that the immediate goal of the Executive is to remove the CJN from office, we urge the Government to follow due process in attaining that goal.

2. Due process is not followed when the Executive Branch of the FGN files an Interlocutory Motion before the Code of Conduct Tribunal for the removal of the CJN. Such an application disparages, and assaults due process as enshrined in Section 292(1)(a)(i) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) ("the Constitution"). The said Section is very explicit on the due process for the CJN's removal when it stipulates as follows:

S.292(1)(a)(i) "A judicial officer shall not be removed from his office or appointment before his age of retirement except in the following circumstances . . . in the case of . . . Chief Justice of Nigeria . . . by the President acting on an address supported by two-thirds majority of the Senate."

3. The Constitution leaves no room howsoever for the removal of the CJN from office, whether on a temporary or permanent basis, other than through the process afore-quoted. Being a country governed by laws, the FGN owes us a duty to comply strictly with these provisions of the Constitution for the removal of the CJN. We therefore urge the Executive Branch of the Federal Government to please retrace its

NATIONAL OFFICERS:

Paul Usoro, SAN President;

Jonathan Gunu Taidi, General Secretary; Imo Stanley Chidozie, 1st Vice President; Dr. Dada Foluke Olayemi, 2nd Vice President; Igba Theophilus, 3rd Vice President; Banke Victoria Olagbegi-Oloba, Treasurer; Anosike Elias Emeka, Financial Secretary; Eze Nnamdi Innocent, Legal Adviser; Edun Olukunle, Publicity Secretary; Usman Joshua Enemali, Welfare Secretary; Ewenode William Onoriode, 1st Assistant Secretary; Obasi Chinyere Gladys, 2nd Assistant Secretary; Pepple Iniobong Irene, Assistant Financial Secretary; Lawal Akorede Habeeb, Assistant Publicity Secretary

steps and discontinue the entire proceedings before the CCT forthwith and follow the constitutional procedure afore-stipulated.

4. With respect to the trial of the CJN before the CCT on the assets' declaration Charge, the NBA stands by its Statement of 12 January 2019. Established judicial precedents, dictate that the allegations must be referred to and handled by the National Judicial Council ("NJC") and it is only after the NJC's pronouncement thereon against the CJN can the FGN prosecuting agencies proceed against him before any Tribunal or Court of Law. For as long as the CJN remains a judicial officer, that process avails him and is mandatory of compliance by the FGN.

5. Should the Federal Government however succeed in removing Honorable Mr. Justice Walter S N Onnoghen, GCON as the CJN pursuant to the provisions of Section 292(1)(a)(i) of the Constitution, there would be no need or requirement for the FGN to fulfill the NJC pre-condition ahead of his possible prosecution. With such a constitutional removal from office, Onnoghen CJN would cease to be a judicial officer and the allegations against him would not need to be determined by the NJC ahead of any possible prosecution.

6. The choice is therefore that of FGN to make – either to pursue the removal of the CJN pursuant to Section 292(1)(a)(i) of the Constitution or report the alleged assets declaration infraction to the NJC for its consideration as a pre-condition for the possible prosecution of the CJN. Whichever route the FGN chooses, the CCT proceedings must abate and be discontinued. It constitutes an assault on due process and undermines the Rule of Law. The sponsored media trial of the CJN must also cease. Amongst others, it criminally destroys the justice sector, subverts due process and completely erodes the Rule of Law. This desecration of the justice sector must stop now, please.

Paul Usoro, SAN
President