

THE REPORT OF THE NIGERIAN BAR ASSOCIATION BRANCH ELECTIONS APPEAL  
COMMITTEE  
(NORTH)

TO THE NBA PRESIDENT

8TH JUNE, 2024

NBA ELECTION APPEAL COMMITTEE

1.0 OPENING:

The committee on the 8th day of June, 2024 had its meeting via Whatsapp conference. The meeting commenced by 9.02 am.

Members of the committee are:

1. Abdul A. Ibrahim SAN -Chairman
2. Murtala A.Kankia (Life Bencher) -Alt Chairman
3. Sule Shuaibu SAN-----Member
4. Oluronke Adeyemi Esq-Secretary
5. Haruna Yelma Esq --Member
6. Adamu L. Dambatta Esq--Member
7. Member Adiguve Esq--Member
8. Rabiat A. Musa Esq ---Member
9. Yakubu Moses Ede Esq --Member
10. Muhammad Umaru Esq ---Member

2.0 MODALITIES

All members confirmed they had received copies of the two Petitions slated for consideration for over a week. Members also acknowledged that they had read the Responses of the Chairman of the Electoral Committee of NBA Garki and the Respondents to the petition as well as the Reply of the Petitioners to the Responses.

3.0 OPENING REMARK

The Chairman welcomed everyone to the meeting. He said since members had seen the working documents, they should discuss and air their opinions on the petitions listed for deliberation.

ASABE WAZIRI VS VICTOR GIWA

4.0 INTRODUCTION

4.1 On the 23rd of May, 2024, at about 18:00 hrs a bundle of documents was forwarded to the office of the Committee Chairman. The aforesaid document was received by office of the President Nigerian Bar Association on the 20th May 2024 and on the top right margin of the document, the President referred the document to this Committee (Election Appeal Committee) by the ascription "please deal" and thereafter affixed his signature. The aforesaid letter from one Asabe Waziri was titled "alleged documented misconduct of Victor Giwa candidacy raises ethical concerns" and addressed to Chairman Nigerian Bar

Association Garki Branch and also copied to the President Nigerian Bar Association, NBA House, Central Business District, Abuja. Attached to the letter were the following documents:

1. Court of Appeal interim Order in suit number CA/ABJ/CV/2446/22. Dated 4th April, 2022.
2. A letter from the office of the Chief Registrar High Court of FCT, dated 21st March, 2022.
3. A search report on Abel Properties Management Ltd dated 6th September, 2023.
4. Judgement in Suit No: FCT/HC/CV/206/2022, between Sessy Osakwe v. Asebe Waziri delivered on 29th June, 2022 by Justice M.S Idris.
5. Another Judgement delivered by Honourable Justice Y. Haliru of court 14 in suit no: CV/2705/22 delivered on 13th March, 2024.
6. Certificate of Judgment in suit Number: FCT/HC/CV/ 2705/22.
7. Another Originating Motion for Enforcement of Fundamental Human Right in Suit No: FHC/ABJ/ CS/761/2021. Filed 24th January, 2022.
8. Writ of Summons in Suit No: CV/ 3261/2022 Adeyinka Barewa v. Asabe Waziri and Abel Furniture Nig Ltd.
9. Court Order in Suit No: CV/ 3261/2022 Adeyinka Barewa v. Asabe Waziri and Abel Furniture Nig Ltd.
10. Letter dated 25th February, 2022, from ILS Attorney to Victor Giwa and Associate.
11. Letter dated 22nd February, 2022, from the office of DIG of Police Force.
12. Letter from Oli & Partners addressed to Victor Giwa.
13. Copies of online Newspaper publication titled "alleged 130 Million Naira fraud.
14. Affidavit of completion of investigation deposed to by one Mike Akawu in charge No: CR/ 222/23 containing 9 counts charge against three persons, Sessy Osakwe 1st Defendant, Victor Giwa 2nd Defendant and Edith Eshenwomuse 3rd Defendant. Signed by MB. Abubakar Director of Public Prosecution and one Kahinde Fagbemi.

4.2 Upon receipt of these bundle of Documents on the 24th May, 2024, the documents were scanned and forwarded to the Secretary of the Appeal Committee on the 26th May, 2024, who forwarded the scanned documents to the Chairman Electoral committee NBA Garki and Chairman Nigerian Bar Association Garki Branch and Victor Giwa Esq who was the Respondent in the petition.

On the 28th May, 2024, the Electoral Committee responded via a letter signed by the Secretary and the Chairman Electoral committee wherein they said as follows:

“ By the time the petition was submitted on the 20th May 2024, the Branch Electoral Committee had already issued elections guidelines, screened and cleared all candidates for the election and had also lifted ban on campaigns. For ease of reference, on the 4th May 2024, the Committee released result of its screening in which it cleared all candidates for the election in which Victor Giwa was among. On 6th May 2024, it lifted ban on campaigns for all the candidates in the elections. The evidence of (a) Election Guidelines, (b) Result of Screening and (3) Lift of Ban on Campaigns are all enclosed in this letter for ease of reference.

The Committee was about responding to Asabe Waziri of these developments when it was informed by the Branch Chairman, Obioma Ezenwobodo on the 24th of May, 2024 that the petitions written to it for action was being acted upon by NBA Election Appeal Committee (North) despite same having not been first acted upon by the Branch Electoral Committee which has original jurisdiction to first consider same.

The Committee wishes to reiterate that being a creation of the law by virtue of section 9(2) of the Nigerian Bar Association Uniform Bye-Laws for Branches, NBA Constitution 2021 (as amended), it is saddled with the responsibilities of conducting Branch Elections in NBA Garki Branch in accordance with the provisions of sections 14, 15, 16 and 17 of the Nigerian Bar Association Uniform Bye-Laws for Branches, NBA Constitution 2021 (as amended).

That by virtue of the extant provisions and guidelines for elections issued therein, petitions against any of the candidates shall first be submitted to the Branch Electoral Committee before or during clearance of candidates. Any petition submitted after clearance cannot be acted upon as the Electoral Committee would have become functus officio. This procedure is generally applicable even at NBA National Elections as elections are time bound.

The Branch Electoral Committee wishes to reiterate also that the Asabe Waziri’s petition was specifically addressed to it as the body that has original jurisdiction to first consider the petition before appeal could be made to the NBA Election Appeal Committee (North). Therefore, the Branch Electoral Committee was surprised at the consideration of the petition by the NBA Election Appeal Committee (North) which did not emanate from it.”

#### 4.3 RESPONSE TO ASABE WAZIRI

4.4 The Electoral Committee also forwarded to the Secretary of the Committee a letter dated the 28th May, 2024, titled “RE: Documented misconduct of Victor Giwa candidacy raises ethical concerns” addressed to the Petitioner, Asabe Waziri, wherein the Electoral Committee stated that it had already concluded screening of candidates and had already qualified Barr. Victor Giwa to contest for the Chairmanship of the Branch. That the Committee is Functus Officio to consider the petition and had already lifted the ban on campaigns.

#### 4.5 RESPONSE OF VICTOR GIWA ESQ

In his response dated 29th May, 2024, the aforesaid Victor Giwa said that he was never confronted with any complaint during his screening exercise. That the matter was subjudice

as it was already before the Court of Appeal in Appeal Number CA/ABJ/CV 246/22. According to him, he was not a party in the suit and was also never a Counsel in the matter.

#### 4.6 REPLY BY THE PETITIONER

4.7 Upon receipt of the above documents from the Electoral Committee and Victor Giwa, it was forwarded to the Complainant who responded via a letter dated 30th May, 2024 by sending same together with the copy of Judgment delivered 21st May, 2024 by the Court of Appeal in CA/ABJ/CV 246/22, a Notification of filed notice of Appeal 22nd May, 2024 and a Notice of Appeal signed by Victor Giwa, a Motion on Notice for stay of execution dated 22nd May, 2024, Further and Better affidavit deposed to at FCT High Court Registry on the 2nd of May, 2024 and Charge dated the 16th January, 2023, Notification of commencement of campaign for the Eligible candidate 6th May, 2024, Final Result of screening of Eligible Candidate 2024 and Notice of Screening.

#### 4.8 ISSUES FOR CONSIDERATION

4.9 The first issue thrown up before this Committee was whether the Committee could consider the Petition, same having not been first heard on merit and determined by the branch Electoral Committee.

4.10. It was resolved that this Committee has not usurped the functions of the Electoral Committee Garki Branch, as provided under Section 9 (2) of the Uniform Bye Law of Branches. This is especially considering the letter dated 28th May 2024 by the Electoral Committee to the Petitioner wherein she was informed that her petition could not be considered as it was out of time. This amounts to a decision and the Appeal Committee is bound to review the decision.

4.11 It was also resolved that the responsibilities of the Branch Electoral Committees are quite distinct from that of the Electoral Appeal Committees. It must be noted from onset that the letter of Asabe Waziri, which was copied to the President Nigerian Bar Association, was forwarded to our Committee with the caption "please deal". This Committee only drew the attention of the Branch Electoral Committee to the pending complaint by a member of the public while seeking to know what actions it had taken so far in respect of the correspondence. Unfortunately, the branch Electoral Committee resorted to accusing this body of trying to usurp its duties. For the avoidance of doubt, the letter of Mrs. Asabe Waziri sought to draw the attention of the Nigerian Bar Association, according to her, to "alleged Documented misconduct of Victor Giwa candidacy (which) raises ethical concerns".

#### 4.12 FINDINGS

This body has carefully considered the various positions and documents attached by various parties.

4.13. This Committee finds that the Branch Electoral Committee did not request for comment from Victor Giwa on the grounds that the Committee had become *Functus Officio*. Electoral Committee Garki Branch owes a duty to draw the attention of Victor Giwa to the petition against him and to ask for his comment. We do not agree with the Electoral Committee that they are *functus officio* because the election had not taken place.

The Electoral Committee ought to consider the petition on its merit without fear or favour. This Electoral Appeal Committee will therefore consider the petition on its merit.

4.14 A close look at the documents attached and the responses will reveal that there are a lot of controversies on whether the attachment and execution of Judgment in suit Number: FCT/HC/CV/2435/21 was carried out by the Enforcement division of the Federal Capital Territory High Court. The letter dated 21st March, 2022 from the Office of the Chief Registrar cannot be ignored. And also the 9 Counts charge filed by the Director Public Prosecution of Federation and pending before Hon. Justice S. Bature can also not be ignored.

4.15 The Committee finds that there is a Judgment in suit Number: FCT/ HC/ CV/ 2435/22 and an execution of judgement was carried out removing the Complainant from the premises by persons other than the Officers of the Court.

That the Court of Appeal made an order for maintenance of status quo ante belum on the 4th of April, 2022. That the said Appeal CA/ABJ/CV/246/22 was successful and judgement was delivered 20th May, 2024, by Hon. Justice HAMMA AKAWU BARKA in favour of the Complainant.

4.16. That there is a pending 9 Count Criminal Charge against Victor Giwa and 2 Ors which is slated to be heard on 3rd July, 2024 and that there is a case against Victor Giwa still pending before the Legal Practitioners Disciplinary Committee.

#### 4.17 DECISION

This committee is not in the position to decide on whether the criminal case filed against the Respondent has substance or whether the aforesaid Victor Giwa is guilty of professional misconduct. Far from it, Victor Giwa enjoys and will continue to enjoy presumption of innocence. More so, he has not been convicted of any offence by any Court of law or the Legal Practitioners Disciplinary Committee.

Be that as it may, part of the objectives of Nigerian Bar Association are as follows:

“Maintenance and defence of the integrity and independence of the Bar and the Judiciary in Nigeria and maintenance of the highest standards of professional conduct, etiquette and discipline”

4.18. With the avalanche of documents attached to the petition written to the Electoral Committee and failure on the part of Victor Giwa to bring any documents to contradict the position (except a bare denial) we the Electoral Appeal Committee are of the firm view that there are a lot of unresolved issues surrounding his candidacy and aspiration to lead the Bar. While not adjudging the Respondent guilty of any issue, it is in the interest of the Bar, which he seeks to lead, for him to resolve the controversies and pending suits and disciplinary issues involving him first.

It impugns on the integrity of the Bar for its leader to be going before courts and Committees, standing in the dock and struggling to save his neck in criminal litigation as this will definitely affect his concentration on running a responsible Bar.

The Committee hereby direct the removal of the name of Victor Giwa from the list of candidates on the ground that he has unresolved issues before the Legal Practitioners

Disciplinary Committee and the Court. This decision is given in the interest of the Bar which every lawyer owes a duty to protect its integrity. The committee cannot ignore the content of the letter from the office of the Chief Registrar restating that it did not authorise the execution carried out contrary to the order of the Court of Appeal, the 9 Count Charge and series of cases. Accordingly, the Electoral Committee of NBA Garki Branch is directed not to feature the name of Victor Giwa on its list as a candidate in the forthcoming branch election until the issues against him are resolved and evidence thereof furnished.

#### 5.0 PETITION OF AG SAMUEL V. VICTOR GIWA AND OGECHI DURUAKU

5.1. This Committee received a petition from AG Samuel Esq dated 28th May, 2028. The fulcrum of the petition was that the Respondents, who had been cleared by the Branch Electoral Committee to contest as candidates in the forthcoming election were not qualified as they did not attend the required number of five branch meetings within the previous twelve months as stipulated in Article 12(1) (b) of the Uniform Bye Laws guiding the election.

5.2. Copies of the Petition was forwarded to the Respondents and the Chairman of the Electoral Committee for their response.

#### 5.3. RESPONSE BY VICTOR GIWA

In his response dated 31st May, 2024 he asserted as follows:

“The branch has since March 2023 organised eight meetings . . . And I have attended over five (5) meetings. The meetings were: 31st March, 2023, 19th May, 2023, 27th October, 2023, February 2024 and March, 2024. I rely on certified copies of the branch attendance’s register.

#### 5.4. RESPONSE BY OGECHI DURUAKU

This Respondent also sent in her reply to the petition wherein she stated as follows:

1. That the branch held 8 meetings from 2023 -2024. Out of the ( 8) eight meetings I attended (5) meetings which made me eligible to contest in the upcoming election.
2. That I attended meetings in the following months which were contrary to what the Petitioner stated. Please find below the months which I attended meetings:
  - i. February,2023
  - ii. March, 2023
  - iii. June,2023.
  - iv. October 2023.
  - v. February, 2024
  - vi. March, 2024.

#### 5.5. RESPONSE BY THE ELECTORAL COMMITTEE

The response of the Committee was dated 31st May 2024 wherein it was stated as follows:

“We also wish to state that from the records of Branch Meetings Attendance Register available to us, both Mr. Victor Giwa and OgechiDuruaku met all the requirements, including

five (5) attendance at Branch meetings from the months of March 2023 to March 2024. Also, they both attended the February 2023 meeting of the Branch which the Petitioner alluded to. The official records of the Branch Attendance Register are hereby attached for reference.

5.6. ISSUE FOR DETERMINATION Since the sole issue for determination in the Appeal was whether the Respondents attended the required number of meetings, the Electoral Committee Chairman and the Chairman of NBA Garki Branch were invited to a physical meeting with this Committee held at 9am on 8th June, 2024 which they attended.

The Electoral Committee Chairman was invited to present the physical copies of the Register of the attendance of meetings that were used in the determination of the qualification of the Respondents. . The Appeal committee nominated those who were physically on ground in the person of Lawal Adamu and Abdul Ibrahim SAN to interface with them and the virtual hearing was adjourned for one hour to enable the physical verification of the qualification process.

#### 5.7 : FINDINGS

It was found as a fact that the process of collation done by the electoral committee was done from March 2023 to March 2024 which was a period of 13 months. This process of computation was contrary to Article 14 (1)(b) of the Uniform By-Laws which stipulates a minimum of 5 months attendance of meetings of the branch within the 12 months prior to the nomination of the election. The verification revealed as a fact that the two candidates had only four attendances from March 2023 to February 2024. It was also found as a fact and the electoral committee admitted that they extended the period of computation to March 2024 to enable the two candidates pass. The electoral committee chairman and the branch chairman could not provide any resolution of the Association permitting them to extend the period of qualification to enable candidates meet the minimum requirement.

#### 5.8 DECISION:

It was unanimously agreed by the members of this Committee that the two candidates are not qualified to vie for election in strict compliance with the provisions of Article 14 (1) (b) of the Uniform By-laws for branches Third Schedule part 1 of the Constitution of the Nigerian Bar Association and were therefore disqualified.

Dated this 8th day of June, 2024.

SIGNED

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Abdul Atadoga Ibrahim SAN  
Chairman

SIGNED

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Oluronke Adeyemi  
Secretary

