

**IN THE NIGERIAN BAR ASSOCIATION
NATIONAL ELECTIONS APPEAL TRIBUNAL
(NBA-NEAC)**

PETITION/APPEAL NO: NBA-NEAC/01/22

**MR. FINIAN EZE NDUKWU
(PETITIONER/APPELLANT)**

AND

**THE ELECTORAL COMMITTEE
OF THE NIGERIAN BAR ASSOCIATION
(RESPONDENT)**

DECISION

**IN THE NIGERIAN BAR ASSOCIATION NATIONAL
ELECTIONS APPEAL COMMITTEE (NBA-NEAC)**

PETITION/APPEAL NO: NBA-NEAC/01/22

MR. FINIAN EZE NDUKWU ::::::::::: **PETITIONER/APPELLANT**
AND
ELECTORAL COMMITTEE OF
THE NBA (ECNBA) ::::::::::: **RESPONDENT**

DECISION

1.0 INTRODUCTION

1.1 The Appellant, an aspirant to the office of 2nd Vice President of the Nigerian Bar Association (NBA/Association) in the 2022 National Elections of the Association was disqualified by the Electoral Committee of the Nigerian Bar Association (ECNBA) for failure to fill pages 4, 5, and 6 of the Nomination Form, and that his Nominator and Seconder did not fill pages 10 – 12 and 16 – 18.

His disqualification was conveyed to him by the ECNBA’s letter dated 20th May, 2022. The letter of disqualification was attached to the Appellant’s Notice of Appeal.

The Appellant brought his Appeal by letter dated 21/5/2022 contending as follows:

1. The he completed the **upper-part of page 4** of his Nomination Form and did not fill the remaining parts of pages 4, 5, and 6 because those parts are meant to be filled by candidates for the positions of President, 1st Vice President and General Secretary, only.

2. That in respect of pages 10- 12 of his Nomination Form, his Nominator did not fill them because:

".....it was not clear as it is strictly stated for it to be filled by the Nominator of candidate for the position of President, 1st Vice President, and Secretary General only including Nominator of candidates for the position of Treasurer only."

3. That pages 16 – 18 were not filled by his Secunder because, just like his other contentions:

"...it was not clear that his Secunder should fill same as it was stated to be candidates for the position of President, 1st Vice President and General Secretary only,"

1.2 The Appellant referred to PART IX of the NBA Constitution as amended, and contended further that a candidate for the election of National officer and election of NBA Representatives at the General Council of the Bar cannot be disqualified on grounds of failure to fill pages 3, 5, 6, 10, 12, 16, and 18 of his/her Nomination Form.

He further contended that the ECNBA should have invited him, given him time and notice by email, or by invitation or by phone/WhatsApp call, which means of communication are at their disposal, to come and regularize his Nomination Form, and that failure to do so constitutes denial of fair hearing, to him by ECNBA.

The Appellant exhibited those pages 4, 5, 6, 10 – 12, 16 – 18 of the Nomination Forms. They speak for themselves.

1.3 This Committee sent the Appellant's appeal to ECNBA for its Response, and the Response of the ECNBA was received *vide* its letter dated 25th May, 2022.

In its Response to the four grounds of appeal, the ECNBA submitted *inter alia* as follows:

"That the petitioner was required to answer question (vii) to demonstrate his eligibility to contest for the office of the 2nd Vice President under section 9(3)(c) of the Constitution. Specifically, to qualify he was required to answer question (vii) in the affirmative and state the period within which he was a member of the National Executive Council for not less than two (2) years at the time of nomination."

See paragraph 1 of page 2 of the ECNBA's Response dated 25th May, 2022. See generally pages 2, 3, and 4 of the ECNBA's Response.

1.4 The Appellant, upon being served the Response of the ECNBA, sent in his Reply thereto dated 29th May, 2022. The Appellant did not deny the availability of the form as stated by the ECNBA in its Response, but contended that he ***"submitted and frontloaded all mandatory accompanying documents to his nomination form....."***

He then listed those documents.

See page 2 lines 1 – 22 of the Petitioner's Reply to ECNBA's Response. See also pages 2 and 3 of his reply for his response in respect of his Nominator and Seconder's

omissions in filling their relevant parts of the nomination form.

The Appellant's Appeal is premised on grounds determinable without recourse to oral evidence, hence the decision of this Committee to determine same based on the documents availed by the Parties, and the Constitution of the Nigerian Bar Association, etc.

2.0 ISSUES FOR DETERMINATION

This Committee determined the Appellant's appeal on a sole issue, which is:

"Whether upon consideration of the omissions in the Appellant's Nomination Form constituting the basis for the rejection thereof and his disqualification thereby, the Appellant's appeal is not devoid of merit and liable to being dismissed."

3.0 RESOLUTION OF THE ISSUE

3.1 This Committee has painstakingly considered the grounds of appeal of the Appellant at page 2 lines 6 – 17 of his Appeal, and his prayer thereunder. We have similarly, considered the ECNBA's Response and the Appellant's Reply to the ECNBA's Response. In the same manner we have examined the Nomination Forms attached by the Appellant to his Appeal. It is our finding that the appeal of the Appellant lacks merit, liable to be dismissed, and is hereby dismissed.

The Decision of this Committee in dismissing the Appeal is based on the fundamental nature of the omissions by the Appellant himself, his Nominator and Secunder in filling very relevant and material parts of the Appellant's Nomination Form to contest for the office of the 2nd Vice President of the Nigeria Bar Association, in the 2022 General Elections.

3.2 The Appellant admitted not filling pages 4, 5, 6, 10 – 12, 16 – 18 of his Nomination Form. He also exhibited those pages and they are truly uncompleted by the Appellant, his Nominator and Secunder as required. It is our findings from the evidence before us that the Appellant did not take reasonable care and caution in completing his Nomination Form for the office of the 2nd Vice President of the Nigerian Bar Association *Abundanciacauteilla non nocet*, caution and in fact extreme caution does no harm.

To be specific, the Nomination Form are meant to clear specific qualifying/disqualifying features in regard to each candidate.

Page 4 of the Nomination Form is meant to determine the Appellant's citizenship, holding of previous elective National office or otherwise, his membership of NEC of NBA.

Page 5 is expected to determine the membership or otherwise of a political party, and bankruptcy status of the Appellant.

Page 6 assists the ECNBA in the determination of the mental fitness, conviction status, professional decorum status, sponsorship by Government or its Agencies or otherwise, of the Appellant.

See also pages 10 – 12 and 16 – 18 of the ECNBA forms for the eligibility or otherwise of the Nominator and the Seconder of the Appellant.

ECNBA articulated the Nomination Forms in a manner that would enable the ECNBA determine whether or not the Appellant has fulfilled the fundamental requirements for qualification to hold a National office of the NBA under **Section 9(3)(c)(i) of the NBA Constitution 2021**, which provides as follows:

9 (3) Qualification to hold a National Office

A member of the Association shall be qualified to hold a National Office if he/she;

(c) has at any time prior to his/her nomination been a member of the National Executive Council or the Executive Committee of a Branch or Section or Forum as indicated hereunder,

i. for contestant for the offices of President, Vice Presidents and General Secretary – he/sheshall have been a member of the National Executive Council.

Similarly, **PART VIII** to the **SECOND SCHEDULE, Constitution of NBA** provides as follows:

"Subject to the provisions of this constitution, a member shall not be eligible for election as a National Officer or Representative to the General Council of the Bar if he/she;

(a) Is not a Nigerian Citizen;

(b) Is a member of a political party in Nigeria;

- (c) Has been adjudged bankrupt or has made a compromise or arrangement with his creditors;***
- (d) Is adjudged mentally unfit to take up the position by a competent medical authority;***
- (e) Has been convicted of a crime by a Court of competent jurisdiction or has been found guilty of misconduct or professional impropriety by the Legal Practitioner Disciplinary Committee.”***

The above provisions are very clear and should be given their ordinary meanings.

It is therefore, our finding that the failures or omissions by the Appellant, his Nominator and Secunder in filling in those fundamental pages, portions, spaces, columns etc in the Appellant’s Nomination Form are not mere irregularities but failure to fulfil or supply to the ECNBA, facts/answers that would have aided ECNBA to determine his eligibility or otherwise for the position of office of the 2nd Vice President of NBA, in the 2022 General Elections.

We are in full agreement with the submissions by the ECNBA at page 2 lines 13, 21, and 24 of its Reply to the Appellant’s Appeal, that having failed to proffer answers to questions vii, viii, x, xi, xii, xiii, xiv, xv, xvi, xvii, and xviii of his Nomination Norm, which would have demonstrated his eligibility under the provisions of Part VIII(c), (d), (e) of the Second Schedule and Section 4(a), (b), (c), of the Constitution, the ECNBA was right to have rejected the nomination of the Appellant, and in consequence of that rejection, disqualify the Appellant pursuant to **part I, paragraph 6,**

Second Schedule to the Constitution of the NBA2015, as amended in 2021.

The Appellant's contention that he should have been notified of the errors, and that by not notifying him, his right to fair hearing is breached, is of no moment.

The ECNBA is not clothed with such vires and more so, the Appellant was given the same opportunity as other aspirants to fill the Nomination Form properly, before submitting them. In ***Ayoade vs State (2020) 9 NWLR (pt 1730) 577 ratio 3 at pages 583 – 584***, the Supreme Court held that:

"A party cannot and should not complain of breach of his right to fair hearing where he refused to avail himself as in the instant case, of the opportunity provided under the law to present his case. Darma Vs Eco Bank Plc. (2017) 9 NWLR (pt 1571) referred to....."

See also **C.M & E.S Ltd. (2020) 1 NWLR (pt 1704) 70 ratio 8 at page 78.**

It is upon the foregoing that this Committee resolves the sole issue against the Appellant and accordingly, his Appeal is hereby dismissed for lacking merit.

DATED THIS 3RD DAY OF JUNE 2022

SIGNED

OLUFUNMILAYO ROBERTS, C.Arb, F.IoD



AUGUSTINE AJINEH, ESQ.,

(CHAIRMAN)

(SECRETARY)

