

VALEDICTORY SPEECH DELIVERED BY HON. JUSTICE ANDREW ALABA OMOLAYE-AJILEYE, PhD, ON HIS RETIREMENT FROM THE JUDICIAL SERVICE OF THE KOGI STATE OF NIGERIA, WEDNESDAY, 15TH FEBRUARY 2023.

Protocols

Introduction

This is the very day that the Lord has made. It is indeed the Lord's Day. We are glad in it with an overflowing joy. To God alone be the glory, honour, adoration, and praises forever and ever. Amen.

A lot of reactions from groups, well-meaning individuals, well-wishers (known and unknown), friends, and colleagues, greeted the announcement of my retirement from judicial service. The quantum of these reactions has been an expression of shock, bewilderment, and stupefaction. In some cases, it has been one of consternation, and a kind of bolt from the blues:

“You look too young for your age.” “Wow! I can't believe your Lordship is 65 years already” “You don't look 65 at all.” “So soon? How times flies.” “I did not know your retirement is coming this soon”

Such were the reactions. I must remark here that these reactions have been expressed genuinely and unalloyed. It is as if I should remain a judge forever! I also appreciate all the sentiments expressed in various remarks, posts and speeches of the desire of many people to see me at a higher pedestal of my calling. One of the truths I cling to in life is the sovereignty of God over the affairs of men. His ways are higher and, therefore, quite different from our ways.

His timing doesn't line up with our timing. What this translates to is the assurance that God is at work every moment! It is often said, and I believe it, that life is not about duration but donations. It is about impacts: the impacts you can make to improve the lives of those around you and their betterment. It is about legacies: legacies you can leave behind in your profession, community, family, and anywhere you find yourself in life. It centres around the valid question, what will be said of you after each of your trips or your journey in life? I have also come to realize that the best place to be at any particular time is the place where God has placed you, and not where you want to be or where people want you to be. It is also better to be seen doing the work God has committed into one's hand and to do it faithfully. In all these, a man or woman finds contentment with fulfilment, which the Scripture says, is great gain!

Life itself is a journey, from the cradle to the grave. And, in the wide span of life's journey, there are many trips. Each trip has its own beginning and its own end. I have undertaken many trips in life. Today marks the end of one of such trips. Here is a poem I composed to mark it:

AFTER THE DUSK THE MOON SHINES

The dawn emerges,

The day brightens,

The sun blisters,

After the dusk,

The moon shines.

Life revolves in a set of circles.

Behind the stage, time flies past,

As the clock ticks away,
Suddenly, one day dawns;
That you are aged.
And it is time for you to move on!
Alaba
Sunday, 29/1/2023

Time has arrived for me to move on after the end of a trip. While moving on, I am placing before you a complete account of the past three decades (1992-2023). I joined the service of the Kogi State Judiciary in April 1992 as a Magistrate, eight months after the creation of Kogi State. In that capacity, I served as President of the Upper Area Court in Lokoja, Okene and Isanlu. I was appointed a Judge of the High Court of Kogi State in 2005. The bulk of my years as a Judge of the High Court was spent in Kotonkarfe: 15 long years in that ancient town. Of course, my most “cherishable” memories were the years I spent in Kotonkarfe.

While demitting my office as a judicial officer, my sole request today is that I be gazed with the periscope of my commitment to our constitutional values. Let me be assessed with the strictest standards of honesty and integrity. Let me be judged by the eyes of those who appeared before me to demand justice. If I pass these standards, then give me a space in your memories, that once upon a time, a Judge passed through this clime and left his marks behind.

The Committee of Friends lined up a very elaborate program for my valedictory. It commenced with a Public Lecture sponsored by the Rule of Law Development Foundation, coordinated by Mr J. B. Daudu, SAN and past President, Nigerian Bar Association. It was held in Abuja on Friday 10th February 2023. Yesterday, 14th February, 2023, there was a visit to orphanage homes. We visited Rehoboth Children's Homes, Lokoja and Margaret Orphanage Home, Lokoja. In the evening, there was an Evening of Hymns organised jointly by the Christ the Redeemer's Friends International (CRFI) and the Class of 1975 of St Barnabas Secondary School, Kabba. Today, 15th February 2023, my birthday, at midnight, I will officially and constitutionally cease to be a judicial officer. I can no longer sit to adjudicate over cases as a Judge of the High Court. This ceremony officially marks the end of the voyage. On Friday, 17th February, 2023, a book, *In the Interest of Justice: Excellence in Judgment Writing* would be launched at Yar'Adua Centre, Abuja. The grand Finale of the program is scheduled to hold on Sunday, 19th February 2023 at the City of Grace Mega Parish, RCCG, Lokoja. I sincerely appreciate all the members of the Committee of Friends for such a well-decorated program. My words of thanks go to the Rule of Law Development Foundation (RODLF). I am also highly indebted to Christ the Redeemer's Friends International and members of the Class of 1975 of St Barnabas Secondary School, Kabba, for their admirable roles in this program.

By far, the most emotive aspect of the events was the visit to the two orphanage homes. The visit revealed to me how privileged I have been to have had the fortune of being raised by a father and a mother. It also reminded me of the fact

that out there, are some children who, for no fault on their part, are fatherless and motherless. In most cases, they were abandoned by their parents at birth. The message then registered in me that perhaps this Valedictory program is holding because my parents didn't abandon me at birth and I had the privilege of being raised and trained by them. The idea here is that those of us who are privileged in any way should always remember that there is the other side to a coin.

Short Family Story

I was indeed privileged to have been born into Chief Onare Yesufu Omolaye-Ajileye family of the extended Agbalogbo Aofin/Abudo Royal Family of Ekinrin-Adde in Ijumu Local Government Area of Kogi State. I am a direct descendant of the great Alaa (Olu) Odundun, Ahodedero (my great-great-grandfather). He reigned over Adde land for 15 years. Alaa (Olu) Odundun was the one who led the first movement of the Addes from their original homes to Ekinrin and settled at Akodi. My great-grandfather, Chief Ologonmo Fasegun was Odundun's first male child (Dawudu). He begot Ajileye, Ayedogbon, Ibileye, Ogunleye, Ogundana, and Obatolu. Chief Bello Elekula Ajileye, my grandfather, was also the first male child of Chief Ologonmo Fasegun. He begot my father. The mother of my father was Werejomo, from Alefere in Otun-Adde'

I was born into a unique polygamous family. My father had three wives: Mama Ale, the most senior, my mother, Arinola, popularly called Iyale, and Mama Ige, the junior wife. The uniqueness of the home derives from the love that permeated it. We were brought up in a way that it was difficult for an outsider

to know the mother of a child. My father, who retired as a road overseer, was a great disciplinarian. Through the home training he gave us, jointly with our mothers, and the way he brought us up, he instilled the basic values of life in us: courage, honesty kindness, patience, integrity, respect, humility, love, sacrifice, hard work, and independence, amongst others. All these helped immeasurably, to make me what I am today. Let me just tell you briefly how the values of patience and love were built in me. As young boys, my sibling from another mother, Engineer Adebayo Ajileye, now of the Federal College of Education, Okene, and I were made to eat from the same plate. One had to wait for the other to eat together, however long the other might stay away from home to play.

The genealogy of my mother is traced to Ejuku in Yagba East Local Government Area of Kogi State. On the maternal side, she came from Okela Quarters of Odo-Adde, the home of marbles. Her mother was Fasero, the senior sister to the late Chief Eleti Fabiyi, the father of Hon. Justice John Afolabi Fabiyi, CFR, JSC, (Rtd). Their father was Onietan the son of Olojo Ereniba, who also begot, Bamisaye, Hambolu and others. By this relationship, my mother was a first cousin to the revered jurist, Justice Fabiyi, CFR, JSC (Rtd). My mother was the meekest human being I have ever known. If there is any trace of meekness, humility, and gentleness in me, they can be easily linked with her.

St. Barnabas' Secondary School, Kabba, that I attended became the arena where all the attributes I mentioned earlier found fertile grounds to blossom and be cemented. It's another great privilege for me to have attended that great school.

Upon the completion of legal education and national service as a vetting officer at the Special Investigation Bureau of the Nigerian Military Police, Arakan Barracks, Apapa-Lagos between 1984-1985, where I served along with other corps members: Hussein Baba Yusuf (now, Hon. Justice H. B. Yusuf, the Chief Judge of the FCT High Court; Roli Daibo, now Hon. Justice Roli Harriman, Delta State High Court; Hon. Justice Suleiman Haddi of the Jigawa State High Court; Adejoke Adegoroye, now Mrs Adejoke Konu; Ngozi Okeke, now Mrs. Ngozi Nduka; Mrs. Alice Mbadiwe, and Hon. Olanrewaju Kashim), I joined the prestigious chambers of Ayo Jonathan & Co, where I cut my legal teeth as a legal practitioner. The distinguished legal Practitioner brought me up in the best tradition of the legal profession. I am grateful to him. When I left his Chambers, I worked in partnership with Femi Oloruntoba, a forthright and astute prosecutor.

It's a great privilege to have had the rare opportunity of serving as a judicial officer in this country. As I reflect on my time as a judge, I cannot help but think of the opportunity that the Hon. Justice Umaru Eri, CON gave me when he appointed me, first as a Magistrate, and later as a Judge of the High Court. I will always be grateful for his trust and confidence in me, and I want to express my heartfelt appreciation for the incredible opportunities that he provided me in serving in other capacities such as a Member Editorial Board, Law Report of Northern Nigeria. I remain eternally grateful to him for his kindness to me and his belief in me. I will carry the lessons he taught me with me always, and I hope to be able to pay them forward in the future.

Six of us started this journey on the High Court Bench together. One of us, the late Hon. Justice Zaccheaus Owonibi, the most senior amongst us, is no more. I remember him today. May his soul continue to rest in perfect peace. As I bow out of the Judiciary today, I am leaving behind the remaining four of us, Hon. Justice Esther Haruna, Hon. Justice Nicodemus Awulu, Hon. Justice Angelina O. Salihu and, Hon. Justice Mohammed Etsu Umar. They are all great legal minds. I hope they will keep the flag flying.

The Judiciary of Kogi State

The Judiciary of Kogi State has come of age. It has passed through a process of transformation and metamorphosis. I pay great tributes to the past Chief Judges from the pioneer Chief Judge, the indefatigable Justice Eri, who laid a solid foundation for the takeoff of the institution, through the gentle and unassuming Justice S. K. Otta, who was Acting Chief Judge, to the amiable and outstanding Justice Nasir Ajanah, whose sudden death in 2020 remains a great personal loss to me. He brought dignity and respectability to the office of a Chief Judge. I also acknowledge other former Chief Judges: Justice Henry. A. Olusiye, Justice Sunday Otu, and Justice Richard. O. Olorunfemi. They did excellently well within their capacities and capabilities. The Kogi State Judiciary will never forget them.

Now, coming to my friend and brother, the current Chief Judge of Kogi State, Hon. Justice Josiah J Majebi, what can I say? First and foremost, it is with immense pleasure that I stand before you today, humbled and grateful for the remarkable program that you have staged in my honor. I cannot express

enough how much I appreciate the thoughtfulness and effort that had gone into organizing this unique and wonderful event.

Hon Justice Majebi is a leader in the real sense of the word and concept. He came in as a Chief Judge and demystified leadership and all its masquerading. He runs an open-door administration, and within a short while has become unbeatable in his achievements. My Lord, I pray for long life for you to take the Judiciary of Kogi State to a higher height. I have no doubt in your capacity to do this, given the commitment and sincerity of purpose of members of the Council of Judges that surround you. Under your leadership, Kogi State Judiciary has become a model and the envy of other Judiciaries. My Lord, I wish you the best in your endeavours.

I appreciate the other Heads of Court, the Grand Kadi, Hon. Jus. Abdulkareem Ayikoye Aruwa, who is an administrator per excellence. I also acknowledge the young and dynamic President of the Customary Court of Appeal, Hon. Justice S. M.K Usman. These two Heads of Courts have been wonderful. Your efforts in the advancement of the cause of justice cannot go unnoticed, and your commitment in this regard will be remembered for many years to come. Thank you for your service and for helping to make our courts a better place.

My deep appreciation also goes to His Excellency Governor of Kogi State, Alhaji, Yahaya Bello for being friendly to the Judiciary of Kogi State and his contributions to the administration of justice in Kogi State. This is particularly seen in his dynamism in creating an enabling environment for the

dispensation of justice. I also acknowledge the Deputy Governor, Dr. Edward Onoja, the Speaker of the House of Assembly, Matthew Kolawole, the Secretary to Kogi State Government, Dr. Folashade Arike Ayoade, the Head of Service, Mrs Hannah Odiyo, all Honourable Commissioners, particularly my own brother, Mr Victor, Ade Omofaye and other government officials.

To my brother -and Kadis, it is with great pleasure that I offer my appreciation and gratitude to you. Each one of you has shown a unique love to me. Together, we have utilized our skills and expertise that have contributed to the success of the Judiciary of Kogi State. The dedication to justice and fairness that each of you has shown has been invaluable. Your wisdom and experience have been a guiding light in times of difficulty, and it is an honor and a privilege to have worked alongside with you. You have each made tremendous contributions to the pursuit of justice, and I thank you for your hard work and dedication. Without you, it would have been impossible to carry out my duties with such efficiency.

In the course of my journey in life, I met many people whom God made our paths to cross in schools, the church, and our profession. God made them touch my life in many ways, as mentors and friends. They are too numerous to mention. God knows them all and will surely reward them.

The Bar and the Bench

The Judiciary is undoubtedly a part of the most reputable, responsible, and noble institutions. It has a constitutional responsibility of upholding all tenets

of the rule of law, upliftment of the poor, dignity to deprived and equal status to every citizen. These are constitutional morals, which are essential to impart justice. They also remain the basic or minimum standards that make a society civilized. It is said that it was the Judiciary that civilized Europe. In the words of Justice Faisal Arab, “take away justice and you take away civilized behaviour from the society”. In order to achieve these noble objectives, the Judiciary must be strengthened.

Our constitution provides a sound and sure foundation for us to have an independent Judiciary. But then, first and foremost, the judges need to free themselves from every form of influence, except law. The personal impediment that a judge constitutes to himself in hindering his independence far outweighs any imaginable institutional or external barrier or inhibition. Indisputably, Judges constitute the first pillar of the edifice of the justice delivery system. They must, first and foremost, liberate themselves from self-imposed shackles and fetters that inhibit independence. They can do this if they exhibit, at all times, requisite judicial character. The qualities of courage, firmness, integrity, uprightness, patience, open-mindedness, understanding of the law, compassion, humility, and courtesy should be inseparable from the personality of a judge who desires to be independent.

The second pillar of justice is the Bar. These are the lawyers. Administration of justice is a joint venture in which the lawyers and judges are active participants. It is for this reason that lawyers are as well called “officers of the court.” The Bench and Bar are so closely attached to and interdependent on each other,

that one cannot survive without the entity of the other. The strength of the Bench is the ultimate success of the Bar and vice versa. Similarly, the denigration of one will surely cause the downfall of the other. The Bench and Bar have been described by a former Chief Justice of India as ‘two sides of the same coin and even if one gets defaced, the coin goes out of circulation’ (Verma, 2000). It indicates that, like the two sides of the coin, the proper utility of the Bench and Bar depends upon co-existence, cooperation, and usefulness to each other. The Bench and Bar are equal partners as two wheels of a chariot. In order to provide smooth running, both wheels must run in coordination. Lawyers can protect and strengthen the independence of the judiciary by being vigilant and prepared to resist any external pressure, forces, and interference in the judiciary. The Bar also has a duty to put the judges on their toes, by constantly watching, with a high sense of responsibility, the performance and conduct of all judicial officers. I throw this challenge to the Bar today!

Judicial Appointment in Nigeria

The process of appointment of judicial officers in Nigeria requires some attention here because it is of paramount importance to the administration of justice. I will be unfair to my conscience and the legal profession in Nigeria if I fail to share my knowledge and experience on this aspect. If the truth is to be told, we must admit that there is something faulty at the moment in the process of appointment to the Nigerian Bench.

Without any form of equivocation, I say here that I have seen four evils associated with the process. The first evil that I see is that in most cases, there is no transparency in the process. The process is shrouded in secrecy and clandestineness. Another evil is that recommendations of Honourable Judges and Honourable Justices don't count. The act of calling for recommendations looks to me like a ritual, exercised merely to fulfill all righteousness. Those who would be appointed would still be appointed with or without recommendations. The number of recommendations a candidate receives guarantees nothing for him. The third evil I have seen is that the person a candidate knows matters a lot. And that person must carry a lot of "weight." The fourth evil is that the place where you come from also counts. In Nigerian parlance, it is called the federal character or quota system. There is nothing evil on the face of the principle of federal character. What is evil in it is the way the principle is applied by the functionaries of government. This underscores the point that it is the human being that makes or mars an institution. The direct effect of these four evils is that merit, in most cases, is either relegated to the background or does not count at all in the process of appointment of judicial officers. In fact, I have found that there are no known rods or parameters for measuring merit. That is why merit becomes an eccentric word that is often abused. And, the abuse is such that you find that every exercise of appointment of judicial officers is always said to have based on merit! It is important that the Nigerian Judiciary gets it right with the process of appointment of judicial officers because if it does, it will surely be well with her.

A comparative analysis of what the situation was in the past and what it is today is expedient here. We have seen the immense glory of the Nigerian Judiciary in the past when the institution was a great pride to ordinary citizens. Judgments of courts were predictable and adorned with philosophical pontifications. Judgments of Nigerian courts were quoted as authorities in other African countries with piquancy. The Nigerian Judiciary, at the apogee of its glory, withstood the tyranny of the military, armed with guns but, regrettably, today has fallen flat before the majestic politicians, armed with Dollars and Naira. It was a healthy judicial system in the days of yore, with a reputation for integrity and competence. This was mainly attributable to a fair system of appointment of judges in the superior judiciary wherein appointments were generally made on merit alone. The puzzling question here is, at what point did we get it wrong?

The iconic Chief Afe Babalola, SAN gave an insight into the situation with the past in an online version of Vanguard newspaper of June 3, 2021 had this to say:

In the sixties when I began the practice of Law, appointment to the Bench **was strictly on merit**. At that time, appointments were by invitation, after, at least, 10 years in practice. Sitting Judges were always quick to identify legal practitioners who possessed sterling qualities, suitable for appointment to the Bench. Aside from sound knowledge of the law, integrity, and

honour marked out and propelled many Judges appointed in those days to the Bench. However, this was made possible by the 1963 Constitution which was in force at the time... Though this procedure seems simple, it was yet effective and notorious for producing the most qualified and best-suited judges on the Bench. This system effectively obviated a recourse to political affiliation, nepotism or favouritism in the appointment of judges which, no doubt, has characterised the appointment mechanism today. Undoubtedly, the provision of the 1999 Constitution as to the appointment of Judges and Justices deeply encourages the politicisation of this hallowed position.¹

My prayer is that a day will come in Nigeria when the process of appointment will accord respect to merit and be made transparent to the whole world to see.

The Judiciary in the Electronic Age: My Message to the Nigerian Judiciary

We live in a changing world. One basic fact we must acknowledge is that Judges now operate and deliver justice in a world undergoing immense technological advancement and change. This poses serious challenges to judges and lawyers. We've got to change with time lest we be left behind or be blown off by the wind

¹ Retrieved on 2/1/2023 from: <https://www.vanguardngr.com/2021/06/appointment-promotion-and-remuneration-of-judges-in-nigeria-the-need-for-a-change/>

of change. It has become an undeniable and unalterable fact that Information Technology now affects every facet of human endeavour. In many ways, the computer has revolutionised the world and defined how we live, how we work, and how we think. It has launched the world on an information superhighway. ^[6] If the way people work, live, and think is changing, this would no doubt affect the administration of justice. This is because the court system is part of the changing world. The Judiciary is not an island on its own and cannot afford to be one. It is directly affected by what goes on around it. As the former Chief Justice of Nigeria, Hon. Justice Dahiru Musdapher, GCON, succinctly put it, “[t]he Judiciary cannot operate with old models when everything around it, like the economy, or education has radically transformed in the light of current technological realities.”^[7] Therefore, whether we like it or not, the Judiciary is part of the changing world. The Judiciary ought to take advantage of the new technological advancement to enhance the delivery of its adjudicatory and judicial functions and services. Accordingly, it is the duty of any judicial system to prepare and meet these challenges. In other words, it is the duty of the Judiciary to take advantage of the new opportunities offered by information technology in providing a professionally excellent judicial service to society. In fact, the Judiciary must embrace technology.

I acknowledge here that the Judiciary is a very conservative institution. I also acknowledge that change is always challenging, and to many of us, somewhat unnerving. It is important, nevertheless that, judicial officers join the current train of change with enthusiasm. So, my strong recommendation to judicial officers in this electronic age is to have a strong determination and readiness to change from the old order of doing things. It must be a kind of paradigmatic

shift. And, the minimum requirement here for judicial officers is to be computer literate. I do not think that the current age or system should tolerate or accommodate dispensers of justice, who are lacking in rudimentary knowledge of computer. I also do not think that anyone who is not amenable to change should have any place as a judicial officer in this 21st Century Nigeria. It will amount to a great disservice and calamity to the administration of justice for any Judicial officer of this age to continue to function without knowledge of how to operate and apply computer skills. The vitality of basic knowledge of the use of computers in the administration of justice can be explained in various ways. Such knowledge can be used to find, develop, analyse, and present information, model situations, and solve problems. It enables rapid access to ideas and experiences from a wide range of people and materials. It allows for collaboration and the exchange of information and ideas on a wide scale. Above all, it acts as a powerful force for increased capability and supports the initiative and independent learning.

In this electronic age, judicial officers are bound to be confronted, in the course of their duties, with issues relating to the application of law and technology. Courts will be called upon to try offences such as computer forgery, computer fraud, identity theft, child pornography, cyber stalking, cybersquatting, cyberterrorism, racist and xenophobic offences contained in the bill. ^[23] You will now see that courts will no longer be dealing with common offences such as theft, criminal intimidation or criminal breach of trust but more technical ones that may arise from the application of ICT. So, I say again, Judiciary, should embrace technology.

Finally, I would like to extend my heartfelt thanks to the organizers of this program. Your meticulous planning and attention to detail have undoubtedly made this event an overwhelming success. Your hard work, creativity, and dedication to making this day special for me will forever be etched in my memory.

I would also like to extend my sincere appreciation to all the speakers who have taken time out of their busy schedules to grace this occasion. Your words of encouragement and support have inspired me to keep striving for excellence. I am truly honoured to have such amazing individuals in my life who are always ready to offer their guidance and support.

To my family and friends who have traveled from near and far to attend this program, I am eternally grateful. Your unwavering love, support, and encouragement have been the driving force behind my success. Without your constant belief in me, I would not be standing here today.

I would also like to extend my gratitude to all the guests who have taken time out of their busy schedules to attend this program. Your presence here today has made this event even more special, and I am honored by your participation.

I hereby appreciate all those who had worked with me as registrars, clerks, bailiffs, drivers, and orderlies in my career. I cannot thank you enough.

Lastly, I would like to express my heartfelt appreciation to my darling wife and to everyone who has contributed to making this day a success. Your kind words, thoughtful gestures, and unwavering support have touched my heart, and I will forever be grateful for your presence in my life.

My darling wife, you have always been there for me through thick and thin. Your unrivalled commitment to my welfare and understanding in bearing with my schedule which may sometimes be awkward are well appreciated. If indeed I look younger than my age, as they say, your touch must have contributed to it. Again, I say thank you. Specifically, I thank you for joining me in raising godly children, I thank my Children Mayowa, Damilola, Jumoke and Alfred. Mayowa and Fred are here. Damilola and Jumoke are not here by reason of distance. You are well blessed.

THANK YOU ALL FOR LISTENING AND FOR COMING