Editorial Comments

The Hierarchy Must Hold: Nigeria's Court and the Cost of judicial Indiscipline

The Court of Appeal of Nigeria, Abuja Judicial Division on 28th July, 2026, said no to what the court saw as judicial rascality of the highest order. The Court delivered one of the sharpest rebukes a superior court of record has ever directed at a trial judge in recent time. In a unanimous decision where Justice Abba Mohammed delivered the lead judgment, the appellate court set aside, in its entirety, the decision of Justice Peter Lifu of the Federal High Court of Nigeria where the court ordered the Independent National Electoral Commission (INEC) to de-register the African Democratic Congress (ADC) and four other political parties, namely Action Alliance, Action Peoples Party, Accord Party and Zenith Labour Party dully registered by INEC. The Court of Appeal held that the suit, filed by the National Forum of Former Legislators, is grossly incompetent to start with because the body lacked the legal capacity, or the much needed *locus standi*, to institute the action.

Aside the incompetence of the National Forum of Former Legislators to institute the action in the first place, the appellate court also opined that Justice Lifu had delivered his judgment on 15th June, 2026 in open defiance to a subsisting stay of proceedings hitherto ordered by the same Court of Appeal on the 22nd day of May 2026. Despite knowing this, Justice Lifu proceeded to give judgment in what amounts to a flagrant and an open disrespect to the authority of the Court of Appeal. The unassuming judicial conduct of Justice Lifu according to the Court of Appeal amounted to "judicial impertinence" and "judicial rascality,"

What transpired above summarily described above is not an isolated aberration. It form parts of disturbing trends where lower courts, particularly in politically sensitive and pre-election cases, have delivered rulings that superior courts have subsequently had to unwind, often in unusually strong terms. The Supreme Court's restoration of Plateau State Governor Caleb Mutfwang in January 2024, after the Court of Appeal had nullified his election on grounds the Apex Court found to be a clear abuse of court process, is one of the disturbing patterns. Another one is the reinstatement of Kano State Governor Abba Kabir Yusuf by the Apex court, after the Election Petition Tribunal and Court of Appeal had on technically motivated grounds deducted over 165,000 votes from his tally in what appears an unjust and unfair manner.
What transpired in the older cases of *Amaechi v INEC* and the impeachment dispute in *Ladoja v INEC* both stand as precedents where the Apex Curt had to correct lower court decisions that failed to uphold constitutional and sound democratic principles that had endure for a long while. What distinguishes and made the ADC case notorious is not the outcome, since appellate court's correction of erroneous judgments is the ordinary and healthy operation of Nigeria's hierarchy of courts. It was the explicit finding that a trial judge knowingly and deliberately proceeding in violation of a standing order restraining him from doing so is too loud to be swept under the carpet, else, the whole judicial concept of '*stare decisis*' will become moot.

Why This Matters Goes Beyond One Judgment

The doctrine of judicial hierarchy exists so that the legal system speaks with one voice and authority. Orders of court are not made cosmetically for fun. A stay of

proceedings issued by the Court of Appeal is not advisory statement or gala night speech. It is a loud judicial command that binds the trial court until the appellate process or proceeding lifts it or resolves the underlying appeal. Where a judge disagrees with a stay made by the appellate court, the proper course is to say so in a considered ruling and allow the appellate process to correct it, not to proceed as though the order does not exist. When a trial court sidesteps that structure, particularly in a matter capable of removing five registered political parties from the ballot on the eve of the 2027 general election, the consequence extends well beyond the immediate litigants or Nigeria jurisdictional territory. Many courts outside jurisdiction that do trans judicially dialogue with Nigeria courts are most likely to be confused too.
Section 40 of the Constitution of Nigeria 1999 guarantees freedom of association, which the courts have long read to include the right to form and belong to political parties. To therefore de-register a party for the ordinary democratic misfortune of losing an election, on the strength of a suit brought by an entity without the legal standing, and in breach of an extant stay order issued by the Court of Appeal, is not a minor procedural slip. It is a matter that goes to the legitimacy of the whole of the electoral process and constitutionalism in Nigeria, in fact the court of the Federal High Court Judge in question is not a mere procedural slip, but a constitutional disrespect to make it plain that must be checked

The disciplinary mechanism for addressing this already exists in the Constitution. Section 158 of the Constitution and the National Judicial Council (NJC) framework empower the NJC to investigate and sanction judicial officers for misconduct in discharge of his judicial duties. As several lawyers and social commentators have rightly noted in the aftermath of this judgment, a judge cannot be disciplined merely for reaching an erroneous legal conclusion; God forbids a day a judge will know all the law as erroneous judgments are what the appellate process exists to correct. But knowingly and willfully disobeying the order of a superior court is a different class of wrong altogether. It is a misconduct, not merely error or slip, and it falls squarely within the NJC's disciplinary remit, The test going forward should not be whether the underlying judgment was eventually corrected on appeal. It should be whether the NJC opens an inquiry whenever an appellate court makes an express finding, on the record, that a judge acted in defiance of a subsisting order that is capable of making mess of the known judicial process and Nigeria sacred constitutional practices.

What is Next ?
The editorial suggest four measures that would meaningfully reduce the recurrence of episodes like this one. First, the NJC should treat an appellate finding of disobedience to a stay order as a near-automatic trigger for disciplinary inquiry, rather than leaving the decision to petition entirely to aggrieved parties or one that the petitioner would be given mountains to climb in proof. Second, the judiciary should adopt expedited hearing timelines specifically for pre-election and party registration disputes, since much of the disorder in this case flowed from ordinary litigation timelines colliding with the compressed calendar of an election cycle. Third, the Chief Justice of Nigeria should consider issuing a practice direction clarifying, in unambiguous terms, that proceeding to judgment during a subsisting stay is professional misconduct warranting referral, closing off any argument that the point was merely one of legal interpretation. Finally, strict locus standi screening and substituting stay of proceeding order verification mechanism at filling stage should be considered and dully enforced. This will not only save judicial time, judicial confusion will also be eradicated.

Note that none of this is a call to diminish judicial independence. The recommendations are offered to strengthened it. An independent judiciary is not a collection of judges each pursuing an individual view of justice; it is a coherent system in which the decisions of superior courts bind those below them precisely so that litigants, political parties and the public can rely on a predictable and orderly process.

As 2027 General Election draws closer, the courts will inevitably be asked to adjudicate further disputes over party registration, primaries, candidacy and a lot more, howsoever, the credibility of those future rulings depend substantially on whether the judiciary is seen to police its own hierarchy now, transparently and without delay, rather than waiting for the next appellate condemnation to do the work that internal disciplinary architecture should have done before hand. Note that if the judiciary fails, commentators on the pages of newspapers and on numerous social media platforms will assume jurisdiction and with their louder voices, the judiciary may not be properly heard thereafter.

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