

THE VALEDICTORY SPEECH
OF
HON. JUSTICE JOHN AFOLABI FABIYI, CFR
AT THE VALEDICTORY SESSION
HELD ON WEDNESDAY 25TH NOVEMBER, 2015
SUPREME COURT COMPLEX, ABUJA.

PROTOCOLS:

My Lords, distinguished ladies and gentlemen, it has been said of old that:-

**To every thing there is a season and a time
to every purpose under the heaven.
A time to be born, and a time to die.
A time to plant and a time to pluck.
A time to keep silence and a time to speak.
A time to toil and a time to rest.**

For avoidance of any shred of doubt, it is apt to quote here-below the provision of section 291 (1) of the Constitution of the Federal Republic of Nigeria, 1999, as amended, as follows:-

“291 (1) A judicial officer appointed to the
Supreme Court or the Court of Appeal may
retire when he attains the age of Sixty-five
years and he shall cease to hold office when
he attains the age of Seventy years.”

The mandatory retirement age of 70 years as dictated by our grundnorm is at one with the normal Biblical age for a man. Any addition is a bonus by the grace of the Almighty God. From the early hours of today, I clocked 70 years and

ceased to be a Judicial Officer with immediate effect. I give utmost thanks and adoration to my Maker for making it possible. It goes without gain-saying it that this is the last time for me to sit on this bench in this hallowed Chambers to address you sequel to the leave granted to me by the **Hon. Chief Justice of Nigeria.**

I was born towards the end of the World War 11 in 1945 to the family of **Chief Eleti Shem Fabiyi** of Okela Clan in Odo-Adde, Ekinrin-Adde, Ijumu Local Government Area of Kogi State. My mother's names are **Mama Elizabeth Nufin Fabiyi.** Both of them are no more on this side of the divide. May their souls rest in peace, Amen.

My father was a man of few words who always insisted on telling the truth at all times. He was highly respected for same. My mother was very frank. She always maintained that 'a man does not die on the spot where he says the truth' and also 'that the truth cannot die.' It is clear to me that I inherit the traits from my parents.

I started my primary education at Baptist Primary School, Ekinrin-Adde in 1951. After school hours, my brothers and myself had a duty to join our father in the fann after school hours. During holidays, we worked on his cocoa plantation at Odo-Adde. I obtained the First School Leaving Certificate in 1957. The class of 1957 was the first set of pupils that completed primary education in the school. Of the twenty-three pupils who graduated from the school in 1957, I wish to mention the names of **ACP Joshua Jaiye (Rtd), Chief Ademola Olumoko (Emiloju Clinic), Late Stephen Bayode Ojukannaye, Late Chief James Fabiyi and Geologist Ezekiel Ekundayo Fabiyi,** among others.

In January 1958, Geologist Fabiyi and myself proceeded to Baptist High School, Igede- Ekiti. We are highly indebted to the then Headmaster of Baptist Primary School, Ekinrin-Adde - **Mr. V. O. Oloruntola** from Ilupeju-Ekiti for paving the way for us to successfully write the entrance examination to the college.

Baptist High School, Igede- Ekiti was a typically religious Baptist institution, established through the assistance of the South American Baptist Convention. The

Motto of the school is – ‘**Pro Christo et Humanitate**’ which means ‘**For Christ and Humanity.**’ We learnt the art of holy love and forgiveness. We were drilled to imbibe real ethical values. **Rev. J. S. McGee**, a strict disciplinarian and devout Christian from the United States of America, was the first principal of the college. The discipline instilled in me in the High School has greatly influenced my life. Some of my mates thereat are **Deacon Gabriel Oba Ekiran and Dr. Wilson Sunday Hambolu**; among others.

I applied for and subsequently secured admission in 1963 into three colleges for my Higher School Certificate (HSC) course. They were Christ School, Ado-Ekiti, Olivet Baptist High School, Oyo and Government Secondary School, Okene now Abdul Azeez Atta Memorial College (AAAMCO) Okene. The urge to return to my cradle for my HSC course made Government Secondary School, Okene the obvious choice. In this college, I met with **Chief Ayo Jonathan, Malomo Owonuwa, Samuel Arotile, Professor Buba Bajoga, Professor Oluwole Oyebanji, Professor Jimmy Olufeagba, Stephen Abodunde, Sule Iyaji and Major. General Ahmed Daku (Rtd), former Military Administrator of Kano State**, among others.

Upon my completion of the Higher School Certificate Education, I was 'posted' to Government Secondary School, Funtua as a teacher in January, 1966 under a special policy of the then Northern Region. My 9 (Nine) months stint as a young HSC teacher produced what is now known, among my friends, as the Funtua experience. At Funtua, my students used to call me '**Teacher Afolabi.**' At the school, I taught English Language and English Literature to the best of my ability and served as a source of inspiration to the young students. Among the brilliant students in the school was **Alhaji Aminu Bello Masari**, the former Speaker of the House of Representatives and now, Executive Governor of Katsina State. He too, now serves as a source of inspiration to others with vigour; as well. I still remember the names of other students like **Salisu and Bello.**

In the part of the country where I come from (Okunland), reading law as a course was disdained and abhorred as lawyers were considered liars and cultists. I was among the first set of people from the area that broke the myth and shed light on the path of the generation behind us along that line. I had encounter with a guidance counsellor from the Ahmadu Bello University in 1965. He came to speak to students of Government Secondary School, Okene on courses and relevant subjects. His views, merged with some experiences of my mother, sharpened my instinct and invigorated my desire to read law. **Chief Ayo Jonathan** also from Okunland also ventured to read law. The prestigious Ahmadu Bello University (ABU) Zaria, provided the enabling environment. I was admitted into the University in October, 1966. I graduated from ABU, Zaria in May, 1969 along with **Chief Ayo Jonathan**, late **Alhaji Akanbi Oniyangi**, former Minister of Defence, **Dr. Moses Oyebanji**, fanner Attorney-General of Kwara State and **Chief Mathew Adepoju** from

Ibadan, Oyo State, among others. Our class was made up of only sixteen (16) students.

I proceeded to the Law School in October, 1969. I was called to Bar on 26th June, 1970 in the company of the **Hon. Justice Niki Tobi, JSC (Rtd), Hon. Justice F. F. Tabai, JSC (Rtd), Late Hon. Justice Muri Okunola, JCA, Hon. Justice V.A.O. Omage, JCA (Rtd), Hon. Justice Ade-Alabi, Retired Chief Judge Lagos State, Chief Ayo Jonathan, Mr. Solomon Asemota, SAN and Chief Mathew Adepoju;** among others.

From August, 1970, I was a junior in the Chambers of E. Noel Grey & Co., a Firm of Solicitors established in Kano in 1949. I moved there after a brief stay in the chambers of **Hon. Justice Mustafa Adebayo Akanbi, CFR**, former President, Court of Appeal and former Chairman, Independent Corrupt Practices Commission (ICPC). It was one of the wigs of **Alhaji Abdullahi Ibrahim, SAN, CON**, a respected elder from Kogi State that I used as a young practicing lawyer before I acquired my own due to the situation of things in the country as at that point in time. As a young barrister, I appeared regularly before **Hon. Justice Wheeler** in Kano High Court. He was a polite judge who was always ready to put young lawyers on course without inhibition. I admired his style and tend to follow same with due admiration.

I spent five (5) years and three (3) months in the chambers of E. Noel Grey & Co. Taking the advantage of the gracious and wise counsel of the late **Hon. Justice Saidu Kawu, CON** the then Chief Judge of Kwara State, I joined the Magisterial Bench of Kwara State in December, 1975 as a Magistrate Grade 1 in Ilorin. Early in 1976, I was posted to New Bussa as the pioneer resident

Magistrate. As a Chief Magistrate, I was transferred to Okene where. I took over from late **Chief Paul Orifunmishe** in May, 1979. It was very hectic for me to control the state of security leading to the 1979 general election in the town.

I rose to become the Chief Registrar of Kwara State High Court in August, 1981. My achievement as Chief Registrar, gave me real satisfaction. I assisted the Hon. Chief Judge to organize the All Nigeria Judges Conference in Ilorin in 1982. Among those who secured Magisterial appointment under my watch as Chief Registrar were - **Hon. Justice Ayinla Bamgbola**, former Chief Judge of Kwara State, **Hon. Justice Suleman D. Kawu**, current Chief Judge of Kwara State, **Hon. Justice R. O. Olorunfemi**, Hon. Justice **Ajayi**; among others. **Hon. Justice Muda Oniyangi, JCA** was a very responsible Higher Registrar under my watch. I served as Chief Registrar under **Hon. Justice Timothy A. Oyeyipo OFR**, former Chief Judge of Kwara State before he got my appointment through as a Judge of the High Court in October, 1984. I continue to appreciate and cherish the kind gesture in no small measure.

On my appointment as a Judge, I served in Ilorin and later moved to Omuaran. Upon the creation of Kogi State in 1991, I moved to the new State. I served under **Hon. Justice Umaru Eri, OFR, CON**, the Pioneer Chief Judge of Kogi State. Other foundation Judges of the State were **Hon. Justice Ochimana**, the late **Hon. Justice Idowu Leslie**, **Hon. Justice S. K. Otta**, former President, Customary Court of Appeal Kogi State, **Hon. Justice Nasiru Ajanah, CON** current Chief Judge of Kogi State and **Hon. Justice Tom Yakubu, JCA**.

In September/October 1994, I was selected to perform the Holy Pilgrimage in Israel. On my way back on 2nd October, 1994, my vehicle was involved in a near ghastly accident. By a narrow margin, the Omnipotent spared my life. Glory be to

His name. Amen.

On 22nd November, 1998, I was elevated to the Court of Appeal along with twenty-three other Justices. The process leading to the venture was made by **Hon. Justice Mustafa Adebayo Akanbi, PCA (Rtd) CFR**. It was a rare occurrence in the annals of appointments. The Omnipotent employed him as a source of blessing unto us. I continue to appreciate his Lordship for his magnanimity. In February, 1999, **Hon. Justice Umaru F. Abdullahi, PCA (Rtd) CON**, took over and acted in a fair and pragmatic fashion.

While at the Court of Appeal, I served in Enugu Division for about 6 (Six) years before I was moved to Port Harcourt Division in 2004. In December, 2005 I touched Kaduna Division briefly for two weeks as I was posted to Ibadan Division in January, 2006. Thereat, I was made the Presiding Justice.

In January, 2001, while I was in Enugu Division of the Court of Appeal, my official residence got burnt in the night. Fortunately, I was out of the town with members of my family at the material time. What a marvellous intervention by the Almighty? To him be the glory and adoration. Amen.

I was appointed as a Justice of the Supreme Court of Nigeria along with **Hon. Justice Olufunlola Adekeye, JSC (Rtd) CON, CFR** on 4th March, 2009. **Hon. Justice Idris Legbo Kutigi, CJN (Rtd) GCON** was in charge at the material time. I appreciate his Lordship for his sense of purpose and fair play as he could hardly pick me out from a crowd; as at that point in time.

I have found my experience in this court very rewarding and challenging. The Supreme Court is a great Institution of repute. It is the constitutional duty of this court to protect the rights of the people. It is saddled with the uncommon

responsibility to uphold democratic norms and the rule of law in this Country. The court is vested with unprecedented powers' and jurisdiction. It enjoys far-reaching influence in constitutional history and progress of the Country. Come rain or sun shine, Military or Civilian Regime, this Court has carried out its functions in a courageous fashion without fear or favour, affection or ill-will. This Court has protected the interest of the people and safeguarded the independence of the judiciary. The court, as the guardian of the salient provisions of the Constitution, has never failed in upholding fair hearing and the rule of law principles as engrained in our grundnorm. Through landmark decisions and liberal jurisprudence, this court has considerably strengthened our democratic and pluralistic foundations and commitment to the rule of law. This Court has contributed, in no small measure, to the strengthening of the Country's national unity and fostered a distinct sense of constitutional patriotism. I dare say it that other institutions must learn to follow the direction for the good of all. To be a part of this court is, indeed, a great fortune of my life.

I feel very optimistic about the future of this great institution which no mundane person can run aground. I am leaving behind eminent *Jurists* with immense versatility and supreme skill, who supplement their decisions with the promptings of a sensitive and understanding hearts, Justices with a sleepless sense of justice and habitual glowing vision of righteousness; Supreme Court Justices who are the most over-worked on our planet. They are great legal minds who decide cases not according to their own private impulses but in accordance with the laws and constitutional provisions by reading them in the light of their ethical significance. I am sure that they will remain resolute and fearless protectors of the citizens' rights. I can only say that I am extremely fortunate to have discharged my

functions in this court amongst these wonderful men and women of great repute and standing by any standard.

My Lord CJN, I have a word for the lawyers. The values of Justice, truth and fairness are fundamental to any legal system. They are imminent within the law itself, its fabric and its practice. The faithfulness of the legal profession and the courts to the vindication of these values is the basis of the trust in, and loyalty to the law, the courts and the administration of justice which all in our society should have. Lawyers who are part of this system must be prepared to stand up for individuals, institutions and against unfairness, oppression, tyranny or injustice, even at the risk of incurring the resentment and anger of others. A lawyer should always imbibe the sense of fairness and politeness at all times. Lawyers should always stand for the good of the common and even the uncommon man. *If lawyers do not, courts cannot; if courts cannot, no one will; if no one will or can, unfairness and injustice lie where they fall without remedy.* This encapsulates the essence of our relationship; the bar and the bench.

I wish to emphasize it here that, there is no much that can be achieved without the existence of adequate cordiality between the bar and the bench. Cordiality here refers to an atmosphere of sincerity, mutual respect, understanding, co-operation and accommodation amongst lawyers and judges. The whole essence is to foster an efficient and effective administration of Justice. The absence of such atmosphere is a ready recipe for disenchantment with the whole gamut of the judicial system. And what follows directly from this is for us to witness a tragic spectacle of a full-scale suspicion and loss of confidence in our judicial system. And when man's confidence in the judicial system of a nation is shaken, it is the most fatal and dangerous obstruction to the attainment of justice. Cordiality

between the bar and the bench is, therefore, *sine qua non* to an effective and efficient administration of justice.

My Lords, I am also going to take advantage of this audience to make one plea for a constitutional amendment. It is in relation to the jurisdiction of the Supreme Court. The court, under section 233 (1) of the 1999 Constitution, as amended, has jurisdiction, to the exclusion of any other court of law in Nigeria, to hear and determine appeals from the Court of Appeal. Section 233(2) specifies cases when an appeal should lie from decisions of the Court of Appeal to the Supreme Court as of right. Additionally, this court exercise original jurisdiction in any dispute between the Federation and a State or between States if and in so far as that dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends. Furthermore, the Supreme Court also has such original jurisdiction as may be conferred upon it by any Act of the National Assembly, with a *proviso* that no original jurisdiction shall be conferred upon the Supreme Court with respect to any criminal matter.

The Supreme Court exercising jurisdiction over this wide range of subjects means a very significant workload on a court comprised of seventeen Justices. It is in the light of the foregoing that I make the proposal that it is time to do away with the right of appeal to the Supreme Court from interlocutory decisions. Such appeals should, terminate at the Court of Appeal. The Constitution should, in my opinion, be amended to make changes in the interest of reducing the workload of the court and in the interest of saving legal expenses to litigants as the present system exposes litigants to an unnecessary extra level of appeal. The direct concomitant of the change is the possibility of expeditious determination of cases that come before this Court.

And now, on a lighter mood, let me express the vital point that to be called out three times to be decorated with National Honours is not a common feat. At different times, I was called out three times to be decorated as an **Officer of the Order of the Federal Republic (OFR), Commander of the Order of the Niger (CON) and Commander of the Federal Republic (CFR).** I appreciate the roles of all those who made the feat possible. May God continue to abide with them and their respective families. Amen.

I was appointed as a member of the Federal Delegation of the Nigerian Christian Pilgrims Commission in 2013 and 2014. In November, 2013 and October, 2014 we visited the Holy places in Israel and Italy to oversee the affairs /welfare of Pilgrims. In November, 2013 we worshiped at the Basilica in Rome at a Mass presided over by Pope Benedict XVI. In March, 2014, I was one of the Delegates that graced the anniversary of the 150th year Ordination of Bishop Ajayi Crowder at the Canterbury, London. They were good experiences which sharpened my religious belief. I appreciate all those who facilitated the religious functions. To God be the glory. Amen.

I now wish to specially thank the Honourable Chief Justice of Nigeria, **Hon. Justice Mahmud Mohamed, GCON** for so many reasons which time and space will not permit me to adumbrate here. Suffice it to say, however, that some of the hallmarks of true and efficient/effective leadership are genuine caring for those being led, integrity, wisdom and decisiveness. **Hon. Justice Mahmud Mohammed, GCON**, is an embodiment of all of them and more. I specially appreciate Your Lordship from my heart.

From the day I came to this court, I have enjoyed, in a phenomenal manner, the support and kindness of all my learned brother Justices which never

diminished. I know that without the demonstration of such love, support and charity, my work in this court would have been made difficult. I doubt if I would have been able to go this far. I can confidently say that as a Justice of this court, I have been surrounded by the best possible support network. My Noble Lords, I remain eternally grateful and indebted to you all.

I take this opportunity to thank the Chief Registrar of the court and his predecessor in office for the regard and attention extended to me. And by extension, I thank all heads of departments for their efforts. I appreciate the Medical Officers at the Clinic for their care at salient hours. I thank all members of staff in my chambers for official duties well performed.

I have a good number of members of my family in attendance. My wife Christy, who has stayed with me for close to Forty-four (44) years is here. My children and grand-children are here also. I thank and cherish you all.

To all Hon. Justices and Judges, serving and retired who are here, I thank you all. I appreciate all Men of God here present for coming to grace the occasion. I thank all Senior Counsel! Counsel here present for being in attendance at a time like this to demonstrate love and regards. I also wish to express my deep appreciation to all those who have spoken. I thank you very much for your kind words and remarks. I am sure that they emanate from contrite hearts of gold. I also thank every one who has come to grace the occasion without any exception.

It can be seen that it is by the amazing grace of God that I am what I am. It is not my own making. The career of Forty-five (45) years and five (5) months has come to an end. I shall now read and then prayerfully sing - **AMAZING GRACE**

(BH 188).

1. Amazing grace! How sweet the sound, that saved a wretch like me, I
once was lost but now I am found, was blind but now I see.
2. 'Twas grace that taught my heart to fear, and grace my fears relieved.
How precious did that grace appear, The hour I first believed.
3. Thro many dangers toils and snares, I have already come. 'Tis grace
hath brought me safe thus far, and grace will lead me home.
4. When we've been there ten thousand years, bright shining as the sun,
we've no less days to sing God's praise. Than when we first begun.
Amen.

Thanks for your kind attention.

HON. JUSTICE JOHN AFOLABI FABIYI, CFR

25th November, 2015