

**SPEECH BY THE HONOURABLE, THE CHIEF JUSTICE OF NIGERIA,
HON. JUSTICE MAHMUD MOHAMMED, GCON, ON THE OCCASION
OF THE VALEDICTORY SITTING FOR HONOURABLE JUSTICE
FABIYI, JSC, CFR, AT THE CEREMONIAL COURT ROOM, SUPREt4E
COURT OF NIGERIA, ON 25 NOVEMBER 2015**

PROTOCOL LIST

- My Lords, Justices of the Supreme Court here present,
- My Lords, The President of the Court of Appeal and Justices of the Court of Appeal here present,
- My Lords Chief Judges of the Federal and State High Courts here present,
- My Lords, Heads of other Superior Courts of Record,
- Hon. Judges of various Jurisdictions here present,
- Members of the National Judicial Council, the Federal Judicial Service Commission and the National Judicial Institute here present,
- Members of the Legal Practitioners Privileges Committee here present,
- The Solicitor-General of the Federation and Permanent Secretary, Federal Ministry of Justice,
- Traditional Rulers and Chiefs here present,
- Senior Advocates of Nigeria here present,
- Members of the Body of Benchers here present,
- Learned Members of the Bar,
- Members of the Press
- Distinguished Ladies and Gentlemen

It is indeed with great pleasure and honour that I offer a few remarks on this occasion. When I told people I was going to make a retirement speech today they got quite excited, until I explained that it wasn't me who was retiring. Indeed, we are gathered today at this Special Court Session to congratulate our Brother Justice, Hon. Justice John Afolabi Fabiyi, JSC, CON, CFR, on the completion of four decades of dedicated, selfless service to this Nation and to wish him a well deserved retirement from the Supreme Court of Nigeria.

Having known his Lordship and worked closely with him for many years, I have come to the conclusion that it is not humanly possible to undertake a comprehensive biography of this wonderful jurist in a short speech. I leave such exposition of His Lordship's life and career to his Publishers and I am sure that a number have beaten down his chamber door in furtherance of this. I shall however attempt to highlight some of the more defining moments of Hon. Justice Fabiyi's illustrious career and to perhaps shine a brighter spotlight upon one of the quietest, yet most resourceful jurists in recent times.

Hon. Justice John Afolabi Fabiyi was born on 25 November 1945 in Kogi State, North-Central Nigeria. Following his Primary and Secondary education, his Lordship obtained his bachelor's degree in law from the prestigious Ahmadu Bello University, Zaria in 1969. Following this, his Lordship attended the Nigerian Law School and was called to the Bar in 1970.

He began his career at Noel Gery & Co, a law firm in Kano State, where his Lordship cut his teeth as a pupil and junior practitioner, garnering the experience that would later stand him in good stead. He began public service in 1975 when he joined the Kwara State Judiciary as a Magistrate, and became a Chief Registrar, later rising to the position of High Court.

Judge in the same state.

His Lordship's national service was further broadened when he was seconded to Anambra State in 1994, serving as the Chairman of the Election Petition Tribunal for four years. In 1998, he was elevated to the Court of Appeal and in 2006, his Lordship became the Presiding Justice of the Court of Appeal, Ibadan Division. He served in this capacity for three years before he was further elevated to the bench of the Supreme Court of Nigeria in 2009 as one of its Justices.

In the same year, he was awarded a National honour, **Commander of the Order of the Niger (CON)**, by Dr. Goodluck Ebele Jonathan; erstwhile President of the Federal Republic of Nigeria. The same President later awarded Hon. Justice Fabiyi with the national honour of **Commander of the Federal Republic (CFR)** in 2014.

His Lordship has been gifted with consistency in the high quality and clarity of his Judgments. Like an artist wielding a paintbrush, he gave colour and beauty to his Judgments with his expressions and mastery of the English language. A confident orator, his lordship is equally known as a bold and God fearing Jurist, not afraid to do Justice irrespective of direction of the political wind, no matter the public or private reaction thereto. Indeed, it is easy to forget that among numerous high profile cases, his Lordship recently presided over a Panel of the Supreme Court that affirmed Ayodele Fayose as the Governor of Ekiti State in the June 21, 2014 governorship election.

Regardless of the nature of the case, his Lordship should be applauded for deciding upon controversial cases without becoming the controversy itself. This is because of the thoroughness of his Rulings, the clarity of thought in his dicta and his primary consideration for doing Justice in all cases. A prime example of this was his Lordship's dictum in the case of **THE HON.**

ATTORNEY-GENERAL OF LAGOS STATE VS. THE HON. ATTORNEY-GENERAL OF THE FEDERATION AND 35 OTHERS (2014), where he noted the need for jurisdiction to be a primary consideration for the Supreme Court in determining any dispute between the State Government and an Agency of the Federal Government. In that case Hon. Justice Fabiyi noted that ***“If a court has no jurisdiction to hear and determine a case, the proceedings remain a nullity ab initio no matter how well conducted and decided... It is now beyond dispute that the Federation of Nigeria is distinct and separate from the Federal Government of Nigeria which often, is a product of election. On the other bend, the Federation of Nigeria remains intact for all times; all things being equal. The two are not synonymous at all. To invoke the jurisdiction of this court under (the above stated) section 232(1) of the Constitution/ there must be a dispute between the Federation and/or more States as component parts of the Federation or between States inter se. Since the Federal Government of Nigeria is not expressly mentioned in the said section/ it is excluded by implication”***.

Hon. Justice John Afolabi Fabiyi is well travelled, well read and urbane. In addition I must say that, having spent a year residing with his lordship while we were colleagues in Enugu, I found his lordship to be a wonderful conversationalist, a morally upright and incorruptible Judge and a very decent man. A dedicated family man, I would like to take this opportunity to commend his wife and children for their patience with their Husband and Father, as he often burnt the midnight oil in furtherance of doing Justice. I leave them with the consolation of knowing that all those years and all those late nights were necessary in order to save lives, save jobs, rescue the broken, unchain the wrongfully detained and to do justice to all, safe in the strength of the judicial ethos that where there is a right, there surely is a remedy in the Courts.

His Lordship is a standard bearer, a model of rectitude, a pillar of juridical intellect and a lesson to younger Judges in the comportment and dignity needed to be renowned as a Judge in Nigeria. Indeed the Nation, the Judiciary and the people of Kogi State can reflect with pride that Hon. Justice John Fabiyi, JSC, is one of them.

May I, on behalf of the entire Nigerian Judiciary, particularly the Justices of the Supreme Court, convey to the family of this eminent jurist our deep appreciation and gratitude for the meritorious service Hon. Justice Fabiyi has rendered to the Nation and his immense contribution to the Nigerian Judiciary. I know that those hours spent away from you on national assignment may have seemed tough, but doubtless have been sweetened by the knowledge that his lordship has made his mark on the sands of time. I also wish to thank other members of the Family, encouraging them to follow the path of distinction that their forbear has created. Hon. Justice Fabiyi, JSC has done his best and his work is reposed for the future to ruminate upon and learn from for posterity.

Ladies and Gentlemen, we must also appreciate the people of Kogi State for lending the nation one of its stars. Indeed his lordship is a shining example of the confluence that marks the State. He represents the confluence of the modern, refined Jurist and the bearer of time-honoured traditions of respect, courtesy and dignity in service; attributes that I am sure were moulded by his culture and community.

It was Comedian Gene Perrett who said that ***“Retirement is wonderful. It's doing nothing without worrying about getting caught at it”***. There is a truism to this statement. A man who is retired from his labours with highest honours and applause is a fulfilled man. I make bold to say that having served your Nation admirably for four decades, it is time indeed that your lordship takes a much deserved break. The Nation's Judiciary owes you a sincere debt of appreciation and rest assured, the numerous

jurists and lawyers that have benefitted from your mentorship, your dicta and your aphorisms will support me in saying that the Nation's Judiciary will continue to stand with you in recognition of the immeasurable contribution that you have made to our Jurisprudence. We will not be far from you and we are confident that when we knock on your door, you will answer.

My Lord Hon. Justice Fabiyi, on behalf of the Nigerian Judiciary, well wishers, and distinguished ladies and gentlemen, I once again extend our profound gratitude to your Lordship for your immeasurable and invaluable contribution to the Judiciary, Government and People of Nigeria. I pray that the Almighty Allah shall continue to be with you and grant you strength for the rest of your days. I leave you with a few words from a popular Irish Prayer, which states that:

May you always have work for your hands to do

May your pockets always hold a coin or two

May the sun shine bright upon your window pane

May a rainbow follow each rain

And may the hand of a friend always be near you

May I ask that we all be upstanding in rendition of the song “**For he is a Jolly good Fellow**” followed by applause in recognition of our Learned Brother and Justice of the Supreme Court, Hon. Justice John Afolabi Fabiyi, **JSC, CFR.**

Thank you and May God bless all of us.

Mahmud Mohammed, GCON

Chief Justice of Nigeria