

LANRE BANJO GOVERNORSHIP CAMPAIGN

For Immediate Release

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PRESS RELEASE: Deliver Judgment on Daniel Vs. Amosun

The delay in the delivery of judgment in the Ogun State governorship case before the Federal Court of Appeal in Ibadan is no longer acceptable, and refreshes the question of whether or not our judicial officers can deliver justice meaningfully, effectively and impartially. The litigation between Senator Ibikunle Amosun, Ogun State gubernatorial candidate of the All Nigerians People's Party (ANPP) and the incumbent governor, Mr. Gbenga Daniel, has waited long enough. It is a constitutional issue that must be dispensed immediately.

It is bad enough that the tussle has been allowed to fester like an incurable wound, but it is far worse that after hearing has been concluded on the matter and a decision is made, the honourable justices sitting in the Federal Court of Appeal in Ibadan cannot do little as merely read judgment and re-open the road to justice.

My campaign hesitates to accept that speculations that the judges may have been influenced to delay justice are true. However, every day that judgment gathers dust on the table of the court fuels such insinuations and attracts disrepute to the bench. So, I ask the court to deliver its judgment right now! We the people cannot wait on a few judges forever. The judicial system must serve the people and not vice versa.

In the same vein, I call upon the Nigeria Bar Association and well-meaning citizens to prevail upon the Federal Court of Appeal in Ibadan to deliver its judgment without further delay. We all, as citizens, must be prepared to act in any corner of our nation where we see injustice.

On January 20, 2009, my wife and I were present at the Appeal Court in Ibadan to solidarize with Senator Amosun at the hearing on the case against Mr. Gbenga Daniel, whose declared victory in the massively-rigged election in Ogun State has never been accepted by my party, the National Conscience Party (NCP), nor election monitors. The brazen and repugnant theft of the people's mandate by Mr. Daniel and the People's Democratic Party (PDP) in 2007, in an effort to enforce a one-party state, must be met with resistance, and the only recourse to decent people, short of anarchy, is the court. This is why the delay is such a serious matter to the people of Ogun State, who now wake up everyday with the fear of being murdered for any opposing views of their own government. Our solidarity is not just for Mr. Amosun, but for the oppressed people of Ogun State.

Mr. Amosun had, through his counsel, raised a constitutional issue over the reported correspondence between the President of the Court of Appeal and himself, on the re-constitution of the Ogun Election Petition Tribunal. On that day in January, the Appeal Court could not, understandably, proceed because the President of the Appeal Court had not been served. Hearing was postponed till Thursday, February 5, 2009, to enable the President of the

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Court of Appeal be served. On February 5, 2009, Justice Istifanus Thomas presided over the hearing, with Justices Modupe Fasanmi and Chidi Uwa, during which a date for ruling was fixed for March 5, 2009.

On Thursday, February 12, 2009, the Court of Appeal scheduled an emergency hearing. That hearing was presided over by Justice Dattijo Muhammed, who explained that the Court had called for fresh hearing on the ground that the appearance of Justice Istifanus Thomas on the referral panel might elicit complaints from both Daniel and Amosun after judgment. Justice Thomas was a member of the Justice Kumai Akaahs-led panel of the Appeal Court that remitted the petition back to the Ogun State Election Petition Tribunal for fresh hearing in 2008. Hearing on the case was not concluded on February 5, 2009, because of the absence of Amosun's counsel, Chief Adeniyi Akintola, SAN.

Addressing the lawyers, Dattijo said, *"Let me let the cat out of the bag. We summoned the counsels to address the court because something cropped up. So, we called for rehearing, though the case was heard last week and judgment fixed for March 5. The court decided to re-hear the matter because Justice Thomas, one of the panel members that heard the appeal of Amosun against Daniel on the case that was remitted back to Ogun State election petition tribunal for retrial, was the presiding justice on the brief of argument that was argued last week Thursday, February 5, 2009. We are wondering if having served on that panel (presided over by Justice Kumai Akaahs), he can be on the panel that will give any judgment on the constitutional matter. We don't want to do anything that will turn out to be useless. But if you agree to go on with the judgment despite our observation and assure that it will not give room for complaints thereafter, we can go on with it."* The case was again postponed to Thursday, February 24, 2009.

On February 24, 2009, Justice Thomas apparently acting on moral and personal ground, decided not to continue to adjudicate on the matter, stressing that "this is the court of unity." On that day also, the Court agreed that the verdict will be delivered on March 5, 2009 as requested by both counsels to Messrs Daniel and Amosun.

At about 10.55am on Thursday, March 5, 2009, while the audience had been on seat as early as 9.00 am and litigants were eager to see the justices arrive the court, the Deputy Registrar, Mr. Saad Ahmed, in company of other staff of the appellate court, came into the court room and announced that the ruling would be put on hold. Mr. Ahmed said, *"I must have to apologise for having been keeping you waiting for quite sometime. I want to inform you that the court will not sit because one of the panel members is not around. This does not make the eminent justices to form a quorum"*. As noticed in his statement, the Registrar did not disclose the name of the Justice, but it should have been a public record.

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It is almost a whole month since the postponement that all too serves to the benefit of the embattled Mr. Daniel, and nothing has been heard from the Appeal Court about when judgment would be delivered. This is insensitive on the part of the court to the grievances of the Mr. Amosun and raises further questions.

First, the Governor housed and fed the members of the Tribunal hearing Amosun's case against him, contrary to accepted rules of morality. This brazen disregard for law and ethics prompted Mr. Amosun to protest against the hearing of his case.

Secondly, it is appropriate to ask what prevented the unknown absent Justice from calling his colleagues to inform them that he was running late, and asked for a delay instead of an outright postponement.

Thirdly, if delay is not related to graft, why has the Chairman of the panel not scheduled the hearing? It is proper to mention here that in *Buhari vs. Yar'Adua*, not all the Justices of Supreme Court were present or needed to be available, since all that needed to happen was the reading of the verdict. Why is the law different in Ogun State?

Consequently, I urge the Nigerian Bar Association, the civil society, the Ministry of Justice, the media and well-meaning Nigerians to join me in questioning why quorum needs to be formed to read a verdict in this case. If quorum was not formed on March 5, 2009, why should it take a month or more for the Appeal Court to ensure judgment is read?

We continue to hear these rumours that the unknown judge was paid to be absent from the Court so that the court could hide its real intention under the "quorum" façade. The justices must put an end to rumours that attract ill-feelings to the judicial system.

While the judges of the Appeal Court waste time in delivering judgment, the people of Ogun State are the victims. Everyday that justice is not delivered, public funds continue to be wasted in Ogun State, and political instability heightens. Many of our children go to bed without food, while a majority our old people suffer from lack. The judges must think not only about Daniel and Amosun, but about the people.

The delay tactics encouraged and fuelled by the Justices handling the Ogun State case is detrimental to the future of democracy and advantageous to Daniel. This is a constitutional issue that could be fought to the Supreme Court before the substantive case of rigging could be heard. That rigging case once heard, would have to be appealed. The legal meandering surrounding this case, therefore, must stop now. The term of the election in question is nearing an end. What manner of justice will come if it is delayed until final adjudication has no meaning? Justice should not be denied.

Lanre Banjo

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