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NEWS

Federal High Court rules on appointment of Kano judges to commissions of inquiry

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On 4 July 2024 the Federal High Court in Kano held that the appointment of two serving High Court judges as chairmen of commissions of inquiry by the Kano State Governor was unconstitutional.

On 4 July 2024 the Federal High Court sitting in Kano, presided over by Hon. Justice S. A. Amobeda, gave judgment in favour of our client, Dr. Abdullahi Umar Ganduje, former Governor of Kano State, in a suit on the appointment of judges to commissions of inquiry. Sunusi Musa, SAN, led the firm's team as counsel for the plaintiff.

The case

The plaintiff challenged the appointment, by the Governor of Kano State, of two serving judges of the Kano State High Court as chairmen of commissions of inquiry. He argued that the appointments were unconstitutional and breached the separation of powers.

The defendants were the National Judicial Council, the Revenue Mobilisation Allocation and Fiscal Commission, the Attorney General of Kano State, Hon. Justice Faruk Lawan Adamu and Hon. Justice Zuwaira Yusuf.

The judgment

The court held that:

- the appointment of the two judges as chairmen of the commissions was unconstitutional;

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- serving judicial officers should not perform executive functions, in order to preserve the independence of the judiciary and the separation of powers;
- the two judges were to resign as chairmen of the commissions within 48 hours, failing which their salaries, allowances and benefits as judicial officers would cease, and they were to stop performing executive functions assigned by the Governor; and
- the establishment of the commissions to investigate the plaintiff without regard to earlier court decisions on the same subject was contrary to due process.

Why it matters

The judgment addresses the limits of a state executive's power to deploy serving judicial officers and the role of the National Judicial Council in matters affecting judicial officers. It is relevant to any government considering the use of serving judges on executive bodies.

This note reports the judgment as delivered on 4 July 2024 and is not legal advice.

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