

**COURT OF APPEAL
PRACTICE DIRECTION
2013**



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COURT OF APPEAL PRACTICE DIRECTION, 2013



ARRANGEMENT OF SECTIONS

SECTION :

1. Applicability.
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COURT OF APPEAL PRACTICE DIRECTION, 2013

[1st Day of May, 2013]

Commence-
ment.

In Exercise of the Powers Conferred upon me by Section 248 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and by virtue of all powers enabling me in that behalf, I, ZAINAB A. BULKACHUWA (OFR) Acting President, Court of Appeal, hereby issue the following Practice Direction for the Court of Appeal.

1. This Practice Direction shall, save to the extent and as may otherwise be ordered by the President, Court of Appeal, pursuant to Section 248 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), apply to :

Applicability.

(i) All Criminal Appeals relating to the offence of Terrorism, Rape, Kidnapping, Corruption, Money Laundering and Human Trafficking.

(ii) Interlocutory appeals challenging the ruling of the court below on an interlocutory application.

2.—(a) The purpose of this Practice Direction is to establish, a specialized system of case management in the Court of Appeal, that will provide for the fair and impartial administration of criminal and civil appeals arising out of cases listed in 3(a) (i) and (ii) below, and the rules made under this Practice Direction shall be construed and applied to eliminate unnecessary delay in the transmission and conduct of appeals and reduce the expense and time spent on appeals by all parties before the court ;

Objective
and
Guiding
Principle.

(b) This Practice Direction shall enable the Presiding Justices of the Divisions of the Court to fast track the hearing and determination of appeals in respect of cases which fall under the offences of Terrorism, Rape, Kidnapping, Corruption, Money Laundering and Human Trafficking.

(c) The rules made under this Practice Direction shall apply *mutatis mutandis* to all criminal cases, which fall under the category of offences listed above as well as interlocutory appeals.

(i) Create a system for fast tracking the hearing and determination of interlocutory applications and appeals from the decision of the court below on interlocutory applications and preliminary objections, and for offences of Terrorism, Rape, Kidnapping, Corruption, Money Laundering and Human Trafficking ;

(ii) Ensure that in the determination of appeals, the court will only determine applications which cannot be taken with the substantive appeals, or are based on clear issues of fact and not recondite points of law ;

(iii) Ensure that the attitude of each panel of the Court should be to take all steps, in the determination of appeals, to reduce the delay occasioned by interlocutory appeals as much as is reasonably possible. This shall be in furtherance of the need to minimize the delay occasioned at the lower courts by ensuring expeditious dispatch of interlocutory appeals ;

(iv) Reduce the time spent on hearing and determination of interlocutory applications both at the trial court and on appeal and minimize the avenues for parties to make use of interlocutory applications as a means of frustrating the expeditious conduct of cases both at trial courts and on appeal ;

(v) Ensure that the conduct of appeals are not stalled by unpreparedness of the court or the parties and that the Appeals are timeously conducted and adjourned hearing dates respected ;

(vi) Minimize undue adjournments and delays occasioned by counsel or the court ;

(vii) Reduce the delay in the delivery of the Court's Rulings and Judgments in the category of cases listed above ;

(viii) Ensure that where possible, trials are not delayed by the hearing and determination of interlocutory appeals.

Listing of
Causes.

3. (a) The Presiding Justice of each division, in conjunction with the Deputy Chief Registrar of the division, shall ensure that their various Registries give priority to the listing, consideration and determination of all applications and substantive appeals related to the items listed in (i) below and in respect of the Rulings and Judgments of the court below related thereto.

(i) All Criminal Appeals originating from or involving the EFCC, ICPC or any other statutorily recognized prosecutorial agency or person, or where the offence relates to Terrorism, Rape, Kidnapping, Corruption, Money Laundering and Human Trafficking.

(ii) Interlocutory appeals challenging the ruling of the court below on an interlocutory application heard in that court.

(b) Where a cause list is to be prepared in accordance with Order 3 Rule 11 of the Court of Appeal Rules 2011, the registry shall ensure that priority is given to all cases listed in 3(a) (i) and (ii) above ;

(c) The Presiding Justice, in furtherance of the overall objectives of this Practice Direction, may designate certain times or days as reserved in the cause list for hearing and determination of matters listed above ;

(d) Causes listed must be heard on the day and time for which they are listed and the court shall not entertain more than two applications for adjournment per party ;

Provided however that an application for adjournment shall not be considered on a day fixed for the hearing of the appeal.

4.—(a) The court and the parties must prevent unwarranted and unnecessary delays to the determination of appeals and accordingly, no party shall be allowed more than two amendments of the Notice of Appeal during the pendency of the appeal.

Grounds of
Appeal.

PROVIDED that the court may allow a party to amend its ground of appeal where issues arise or are subsequently found to necessitate such amendment ;

(b) Where a party seeks to change their counsel during the pendency of an appeal, not more than one adjournment shall be granted to him to so do ;

(c) Where the court is of the opinion that the ground(s) of appeal as contained in the Notice of Appeal filed from the court below lacks merit, the court shall, as a matter of course, invite parties within 15 days of the transmission of the Record of Appeal to address it as to why such appeal should not be struck out. Where no cogent reason is disclosed to the court, such matter shall be struck out.

5.—(a) No party may serve an application or a Notice of preliminary Objection on an adverse party on the date scheduled for hearing. Such application must be served not later than 2 (two) days prior to the date scheduled for hearing ;

Notice.

(b) Upon service of any application on the respondent, he may within 3 (three) days file notice of intention not to contest the application and upon such notice the application may be heard by the Justices in chambers without oral argument.

(c) In furtherance of the need to ensure speedy dispensation of Justice, Electronic mail and other electronic means may be employed by the Court in order to inform counsel of urgent court and case event. Hence, the parties are expected to furnish the court registrar with phone numbers and email addresses of themselves or their counsel ;

PROVIDED that these notices should be given at least forty eight (48) hours before the scheduled court date.

6.—(a) In any appeal in respect of cases listed in 3 (a) (i) above, the Registrar of the court below shall, not later than thirty days after the filing of a notice of appeal compile and transmit the record of appeal to the Court ;

Compilation
and
Transmission
of Record.

(b) In any appeals contained in 3(a)(ii) above, the Registrar of the court below shall, no later than seven days after the filing of a notice of appeal, with the assistance of the Appellant, compile and transmit the record of appeal to the Court ;

(c) In pursuit of 6(a) above, the registrar shall, within 15 (fifteen) days summon the parties before him to :

(a) Settle the documents to be included in the record of appeal ; and

(b) Fix the amount to be deposited by the appellant to cover the estimated cost of making up and forwarding the record of appeal.

(d) In pursuit of 6(b) above, the registrar shall, within 7 (seven) days summon the parties before him to :

(a) Settle the documents to be included in the record of appeal ; and

(b) Fix the amount to be deposited by the appellant to cover the estimated cost of making up and forwarding the record of appeal.

(e) In pursuit of 6(a) above, where at the expiration of 30 (thirty) days after the filing of the notice of appeal the registrar has failed and or neglected to compile and transmit the record of appeal to this Court in accordance with the preceding provision of this Practice Direction, it shall become mandatory for the Appellant to compile the record consisting of all documents and exhibits necessary for his appeal and transmit same to this Court within 15 days after the registrar's failure or neglect ;

(f) Such records compiled by the appellant, pursuant to 6(e), shall be served on the respondent or respondents within 15 (Fifteen) days ;

(g) Where the respondent considers that there are additional records which may be necessary in disposing of the appeal, he shall be at liberty to, within 7 (seven) days of the service on him of the record, in accordance with 6(f) compile and transmit to the Court such record to be known as the additional record of appeal ;

(h) In pursuit of 6(b) above, where at the expiration of 7 (seven) days after the filing of the notice of appeal the registrar has failed and or neglected to compile and transmit the records of appeal in accordance with the preceding provisions of this Practice Direction, it shall become mandatory for the appellant to compile the records of all documents and exhibits necessary for his appeal and transmit same to the Court within 7 (seven) days after the registrar's failure or neglect ;

(i) Such records as compiled by the appellant, pursuant to 6(e) above shall be served on the respondent or respondents within 7 (seven) days ;

(j) Where the respondent considers that there are additional records which may be necessary in disposing of the appeal, he shall be at liberty to, within 5 (five) days of the service on him of the records, in accordance with 6(f) above compile and transmit to the Court such records to be known as the additional records of appeal ;

(k) Every record or additional Record of Appeal compiled by a party to an appeal must be certified by the registrar of the lower court. Provided that it shall not be necessary for copies of individual documents to be separately certified but the registrar of the court below shall certify as correct each copy of the record transmitted in accordance with this Practice Directions ;

(l) If the registrar has failed to compile and transmit the records under 6(a) above and the appellant has also failed to compile and transmit the Records in accordance with paragraph 6(e) above, the respondent may by notice of motion move the court to dismiss the appeal.

7.—(a) A notice of appeal or respondent's notice may be amended by or with the leave of the Court at any time, provided that in any application or appeal in respect of cases listed in 3(a)(i) and (ii) above, such application for amendment shall not be taken on the day scheduled for hearing of the appeal, without the leave of court ;

Amendment
of Notice of
Appeal or
Respondent's
Notice.

(b) A court shall not be minded to allow an amendment or grant leave to amend in accordance with 7(a) above unless such amendment will disclose facts or grounds of appeal, which were not known to the parties as at the time of filing the Notice of Appeal in the court below or is in the interest of justice. PROVIDED, that in the case of matters falling under 3(a) (ii) the court shall not permit more than (two) amendments per party.

8.—(a) In any application or hearing in respect of cases listed in 3(a)(i) and (ii) above, where there is a further appeal to the Supreme Court, the registrar shall within 15 days after the compilation of the Record of Appeal serve upon every appellant who was duly given a notice of appeal and paid the fees fixed by the registrar to cover the cost of record of appeal, a copy of the record ;

Service of
Record of
Appeal to
the Supreme
Court.

(b) The registrar shall thereafter cause to be served upon every respondent in the appeal who has filed an address for service a notice that the record has been compiled. It shall be the duty of each respondent to pay for and collect a copy of the record ;

(c)—(1) Within seven days after a record has been served upon an appellant, the registrar shall certify under hand that he served the record of appeal upon every such appellant. The certification of service shall be as in Form 14 of the Court of Appeal Rules, 2011.

(2) In addition of the requirements of the Supreme Court Rules, the Registrar shall as soon as the record and notice of compilation of the record of Appeal to the Supreme Court have been served on the appellant and the respondent, as the case may be, transmit to the Supreme Court :

(a) a certificate that a copy of the Record of Appeal to the Supreme Court has been served on the appellant(s) ; and

(b) a certificate that notice of compilation of the Record of Appeal to the Supreme Court has been given to the respondent. (Form 14B of the Court of Appeal Rules, 2011).

Briefs of
Argument.

9.—(a) In all appeals coming from any court or tribunal from which an appeal lies to the Court, in respect of cases listed in 3(a)(i) and (ii) above, the appellant shall within 14 days of the receipt of the Record of Appeal from the court below file in the Court a written brief, being a succinct statement of his argument in the appeal.

(b) In response to (a) above, the respondent shall also within 10 days of the service of the brief for the appellant on him file the respondent's brief which shall be duly endorsed with an address or addresses for service.

(c) The respondent's brief shall, in accordance with established rules of court, answer all materials points raised therein which the respondent wishes to concede as well as reasons why the appeal ought to be dismissed. It must also *mutatis mutandis* conform to Order 18 Rule 3 (1), (2), (3), (4) and (5) of Court of Appeal Rules, 2011.

(d) The appellant may also, if necessary, within five days of the service on him of the respondent's brief, file and serve or cause to be served on the respondent a reply brief which shall deal with all new points arising from the respondent's brief.

(e) No party shall be allowed more than two amendments of the Briefs during the pendency of an appeal.

(f)(i) Where an appellant fails to file his brief within the time provided for in 9(a) above, or within the time as extended by the court, the respondent may apply to the court for the appeal to be dismissed for want of prosecution.

(ii) If the respondent fails to file his brief, he shall not be heard in oral argument as provided in 9(c) above.

(iii) Where an appellant fails to file a reply brief within the time specified in 9(d) above, he shall be deemed to have conceded all the new points or issues arising from the respondent's brief.

(g) Where an appellant fails to file his brief within the time provided for 9(a) above, or within the time as extended by the court, the court may *suo motu* dismiss the appeal for want of prosecution.

Determination
of Appeals
and Stay of
Execution.

10.—(a) In the determination of appeals arising from interlocutory decisions of the court below in respect of any of the matters listed in 3 above, the court shall give priority to those matters and where possible hear such matters on a day to day basis until final determination.

(b) Without prejudice to any of the foregoing the court shall refuse to hear appeals arising from interlocutory decisions of the court below where the matter deals with any of the issues listed in 3 above and the court is of the opinion that the grounds raised in the appeal are such that the court can conveniently be determined by way of an appeal arising from the final judgment of the court below. Provided that where the grounds of the appeal deal with issues of pure law the court may exercise discretion and determine it expeditiously.

(c) In the case of any such interlocutory appeals stated in "b" above, this Court shall order the court below to accelerate hearing in the substantive matter.

MADE at Abuja this 1st day of May, 2013.

Signed

HON. JUSTICE ZAINAB A. BULKACHUWA, OFR
Hon. Acting President, Court of Appeal



Federal Republic of Nigeria

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<i>S. I. No.</i>	<i>Short Title</i>	<i>Page</i>
8	Supreme Court (Criminal Appeals) Practice Directions, 2013	B 69-B 75

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CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA, 1999
(AS AMENDED)

SUPREME COURT RULES, 1999 (AS AMENDED)

SUPREME COURT (CRIMINAL APPEALS) PRACTICE DIRECTIONS, 2013



ARRANGEMENT OF RULES

Rules :

1. Objective and Guiding Principle.
2. Applicability.
3. Service of Notices.
4. Compilation and Transmission of Records.
5. Amendment of Notice of Appeal.
6. Briefs of Argument.
7. Determination of appeals and stay of Execution.
8. Appeal Certification Committee.
9. Citation.

S. I. 00 of 2013.

CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA, 1999
(AS AMENDED)

SUPREME COURT RULES, 1999 (AS AMENDED)

SUPREME COURT (CRIMINAL APPEALS)
PRACTICE DIRECTIONS, 2013

In exercise of the powers conferred on me by section 236 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) ; Order 10 Rule 2 of the Supreme Court Rules, 1999 (as amended) and by virtue of all other powers enabling me in that behalf, I, **ALOMA MARIAM MUKHTAR, GCON, CHIEF JUSTICE OF NIGERIA**, issue the following Practice Directions of the Supreme Court of Nigeria—

[15th Day of July, 2013]

Commence-
ment.

1.—(1) The purpose of these Practice Directions are to—

Objective
and Guiding
Principle.

(a) establish a specialized system of case management in the Supreme Court of Nigeria, that will provide for the fair, impartial and expeditious administration of Criminal appeals arising out of cases listed in Rule 2 of these Practice Directions ;

(b) create a system for fast tracking the hearing and determination of interlocutory applications and appeals from the decision of the Court of Appeal on interlocutory applications and preliminary objections, and cases pertaining to offences of Terrorism, Rape, Kidnapping, Corruption, Money Laundering and Human Trafficking ;

(c) ensure that in the determination of appeals, the Court will only determine applications which cannot be taken with the substantive appeals ;

(d) ensure that the attitude of each Panel of the Court should be to take all steps, in the determination of appeals, to reduce the delay occasioned by interlocutory appeals as much as is reasonably possible in furtherance of the need to minimize the delay occasioned at the lower Courts by ensuring expeditious disposal of interlocutory appeals ;

(e) reduce the time spent on hearing and determination of interlocutory applications both at the trial Court on appeal and in the process minimize the avenues for parties to make use of interlocutory applications as a means to frustrate or delay the expeditious conduct of cases at the Courts below ;

(f) ensure that the conduct of appeals are not stalled by the unpreparedness of the Court or the parties and that the Appeals are timeously conducted ;

(g) minimize undue adjournments and delays occasioned by counsel ;

(h) reduce the delay in the preparation and delivery of the Court's Rulings and Judgments in the category of cases listed in Rule 2 of these Practice Directions ; and

(i) ensure that where possible, trials are not delayed by the hearing and determination of interlocutory appeals.

(2) The Rules made under these Practice Directions shall be construed and applied to eliminate unnecessary delay in the transmission and conduct of appeals, and reduce the expense and time spent on appeals by all parties involved in the Court justice system.

(3) These Practice Directions shall enable the Chief Justice of Nigeria to fast track the hearing and determination of appeals in respect of cases which fall under the offences of Terrorism, Rape, Kidnapping, Corruption, Money Laundering and Human Trafficking.

Applicability.

2.—(1) These Practice Directions shall, save to the extent and as may otherwise be ordered by the Chief Justice of Nigeria, apply to—

(a) all Criminal Appeals, particularly those relating to the offences of Terrorism, Rape, Kidnapping, Corruption, Money Laundering and Human Trafficking ;

(b) Interlocutory Applications ; and

(c) appeals challenging the ruling of the Court of Appeal on an interlocutory application heard in that Court in relation to the cases listed in Rule 2 (1) (a) of this Rule.

(2) The Rules made under these Practice Directions shall apply *mutatis mutandis* to all criminal cases, which fall under the category of offences listed in Rule 2 (1) (a) of this Rule as well as all interlocutory appeals and applications in respect of the listed offences.

(3) An appeal shall not be heard in respect of any matter falling under Rule 2 (1) of this Rule, unless—

(a) the appeal involves the interpretation of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) ; and

(i) affects the offences of Terrorism, Rape, Kidnapping, Corruption, Money Laundering, Human Trafficking and Interlocutory Applications ; and

(ii) challenges the ruling of the Court of Appeal on an interlocutory application heard in that Court, or pertains to any right which is recognized by the Constitution, in respect of the offences earlier mentioned in Rule 2 (1) of this Rule ; or

(b) the Appeal discloses a matter of National Security or Public Policy.

Service of
Notices.

3.—(1) A party shall not serve a notice of an application on another party on the date scheduled for the hearing of the Appeal.

(2) A Notice of Preliminary Objection in accordance with the Supreme Court of Nigeria Rules, must be served not later than seven days prior to the date scheduled for the hearing of the appeal.

(3) To ensure speedy dispensation of justice, electronic mail, e-mail and other electronic means may be employed by the Court in order to inform counsel of urgent Court and case events; provided that such notification shall be given at least forty-eight hours before the scheduled Court date.

(4) In line with the provisions of Rule 3 (3) of this Rule, parties are expected to furnish the Court Registrar with functional telephone numbers and e-mail addresses of themselves and their counsel.

4.—(1) In any appeal in respect of all criminal appeals, particularly those relating to the offences of Terrorism, Rape, Kidnapping, Corruption, Money Laundering and Human Trafficking, the Registrar of the Court of Appeal shall, not later than fifteen days after the filing of a Notice of Appeal, compile and transmit the Record of Appeal to the Court.

Compilation
and
Transmission
of Records.

(2) In any appeal in respect of matters listed in Rule 4 (1) of this Rule, the Registrar of the Court of Appeal shall not later than fifteen days after filing of a Notice of Appeal, with the assistance of the Appellant, compile and transmit the Record of Appeal to the Court.

(3) Pursuant to Rule 4 (2) of this Rule, the Registrar shall, within seven days summon the parties before him to—

- (a) settle the documents to be included in the Record of Appeal ; and
- (b) fix the amount to be deposited by the Appellant to cover the estimated cost of compiling and forwarding the Record of Appeal to the Court.

(4) Where at the expiration of fifteen days after the filing of the Notice of Appeal the Registrar has failed or neglected to compile and transmit the Record of Appeal in accordance with the provisions of this Rule, it shall become mandatory for the appellant to compile the record of all documents and exhibits necessary for his appeal and transmit same to the Court within fifteen days after the registrar's failure or neglect.

(5) The records compiled by the Appellant, pursuant to Rule 4 (4) of this Rule, shall be served on the Respondent or Respondents within fifteen days.

(6) Where the Respondent considers that there are additional records which may be necessary in disposing of the appeal, he shall be at liberty to, within five days of the service on him of the record, in accordance with Rule 4 (5) of this Rule, compile and transmit to the Court such record to be known as the additional Record of Appeal.

5.—(1) A Notice of Appeal may be amended by or with the leave of the Court at any time before judgement, provided that in any application or appeal in respect of—

Amendment
of Notice of
Appeal.

- (a) all criminal appeals, particularly those relating to the offences of Terrorism, Rape, Kidnapping, Corruption, Money Laundering and Human Trafficking ; and

(b) Interlocutory applications and appeals challenging the ruling of the Court below on an interlocutory application heard in the Court of Appeal, such application for amendment shall not be taken on the day scheduled for the hearing of the appeal, without the leave of the Court.

(2) The Court shall not permit more than two amendments per party in the case of matters falling under interlocutory applications and appeals challenging the ruling of the Court of Appeal on an interlocutory application heard in the Court of Appeal.

Briefs of
Argument.

6.—(1) The Appellant shall within ten days of the receipt of the Record of Appeal from the Court of Appeal file in the Supreme Court, a written brief of argument, being a succinct statement of his argument in the appeal.

(2) The Respondent shall within seven days of the service on him of the brief of argument for the Appellant, file the Respondent's brief of argument which shall be duly endorsed with an address or addresses for service which must include electronic mail, e-mail addresses and functional telephone numbers.

(3) The Respondent's brief of argument shall, in accordance with established rules of Court, answer all material points of substance contained in the Appellant's brief of argument and contain all points raised therein which the Respondent wishes to concede as well as reasons why the appeal ought to be dismissed.

(4) The Appellant may file a Reply brief of argument not later than three days after service on him with the Respondent's brief of argument.

Determination
of appeals
and stay of
execution.

7.—(1) In the determination of appeals arising from interlocutory decisions of the Court of Appeal in all criminal appeals relating to the offences of Terrorism, Rape, Kidnapping, Corruption, Money Laundering and Human Trafficking, the Court shall give priority to those matters and where possible, hear such matters on a day to day basis until final determination.

(2) Without prejudice to any of the foregoing, the Court may refuse to hear appeals arising from interlocutory decision of the Court of Appeal where the matter deals with any Criminal Appeals relating to the offences of Terrorism, Rape, Kidnapping, Corruption, Money Laundering and Human Trafficking, and the Court is of the opinion that the ground(s) raised in the appeal are such that the Court can conveniently determine by way of an appeal arising from the judgment of the Court of Appeal on the substantive matter.

Appeal
Certification
Committee.

8.—(1) The Chief Justice of Nigeria shall, in furtherance of the objectives of these Practice Directions, constitute a Committee of Justices of the Supreme Court, which shall be tasked with the certification of all appeals coming for hearing under these Practice Directions which shall be known as the Appeal Certification Committee.

(2) An Appeal shall not be listed by the Registry unless same has been certified by the Committee.

9. These Practice Directions may be cited as the Supreme Court (Criminal Appeals) Practice Directions, 2013. Citation.

MADE at Abuja this 15th day of July, 2013.

ALOMA MARIAM MUKHTAR, GCON
Chief Justice of Nigeria

EXPLANATORY NOTE

(This Memorandum does not form part of the above Practice Directions but is intended to explain its purport)

The purpose of this Rule is to establish a specialized system of case management in the Supreme Court of Nigeria, that will provide for the fair, impartial and expeditious administration of Criminal appeals arising out of all Criminal Appeals relating to the offences of Terrorism, Rape, Kidnapping, Corruption, Money Laundering and Human Trafficking as listed in Rule 2 of these Practice Directions.