

**SPEECH BY THE HONOURABLE JUSTICE WALTER S. N. ONNOGHEN, CON, CFR, FCIArbs, FNIALS, FNJI, ACTING CHIEF JUSTICE OF NIGERIA ON THE OCCASION OF THE SPECIAL COURT SESSION IN HONOUR OF THE LATE HONOURABLE JUSTICE NIKI TOBI JSC (RTD); CON CFR HELD AT THE MAIN COURT, SUPREME COURT OF NIGERIA ON 28TH NOVEMBER, 2016 AT 9:00 A.M.**

**PROTOCOL**

Ecclesiastes 3: 1-2 state “There is a time for everything and a season for every activity under heaven: a time to be born, and time to die ....”

We are gathered here today to pay our last respects and bid final farewell to our learned brother, Honourable Justice Niki Tobi JSC (RTD), CON CFR; a.k.a. **“TOBI THE LAW”**

In accordance with the above scripture, Hon. Justice Niki Tobi was born on 14th July, 1940, and died on 19th June, 2016.

In between, His Lordship had seasons characterized by impressive and enviable activities.

Due to time constraint on this occasion, it is not possible to chronicle the details of His Lordship's active life.

I shall therefore attempt to reflect on the life and times of this Lordship, especially, the defining moments of his professional career as an academic and a jurist per excellence.

**BIRTH AND EARLY LIFE,**

As stated earlier, Hon. Justice Niki Tobi was born on the 14th July, 1940 into the family of Tobi Arapene and Orugbedebo of the village of Esanma, Bomadi local government area, in what is now Delta State.

He started school in 1946 at the Community School Esanma and in 1950, proceeded to the Native Authority School, Akugbene. At this time, His Lordship had developed a passion for teaching which naturally caused him

to enrol at the Teacher's Training College, Bomadi in 1956, where he eventually obtained the Teachers' Grade III Certificate.

Thus, began his Lordship's Teaching career which saw him at various times as a teacher, headmaster, and Tutor in Esanma, Bomadi, Toru- Ibeni, Okpokunou, Oboro, and Warri.

In line with God's time and season in the life of His Lordship, his quest for further education took him to the University of Lagos where he obtained the Bachelor of Laws degree in 1969. He was called to bar as Barrister and Solicitor of the Supreme Court of Nigeria in 1970. In 1971, he obtained a Master of Laws degree from the same University.

In 1983, he proceeded to the University of Nigeria, Nsukka where he obtained his Ph.D., graduating as the best student of the Postgraduate Programme of the University. He became a Professor of Law in 1984.

### **CAREER - ACADEMIA, JUDICIARY**

His Lordship, Hon. Justice Niki Tobi, JSC (RTD), CON, CFR, started his legal career as a private legal practitioner for a brief period before joining the Public Service as a State Counsel responsible for vetting of Federal Executive Council Memoranda and Agreements in Commercial and Industrial Projects involving the Federal Government. In 1975, he became the Research Assistant to the then Federal Attorney General and Commissioner of Justice, Late Dr. Nabo Graham Douglas.

Later in the same year, he went back to his first career love, teaching, when he joined the University of Maiduguri as a pioneer staff of the department of law under the faculty of social sciences. He started as lecturer Grade 1 and became pioneer head of department, and later dean of the faculty of law of the University. He also became the Deputy Vice Chancellor (Academic), and at various times, Acting Vice Chancellor of the University.

His Lordship served in various committees of the University and the faculty including, but not limited to member, University of Maiduguri Governing Council.

At faculty level, he was Chief Consultant, University of Maiduguri

Consultancy Service, General Editor, University of Maiduguri Law Journal. His Lordship served as visiting Professor, Adjunct Professor and External examiner to several Universities.

One of the lasting legacies of his sojourn in the Academia is the imposing faculty of law building in the University of Maiduguri.

The Hon. Justice Niki Tobi was invited to the Bench as Judge of the High Court of Rivers State Judiciary in 1985. After five years in that capacity, he was elevated to the Court of Appeal where he served for twelve years. He was presiding Justice in Enugu and Benin Divisions of the Court of Appeal.

In 2002, the Hon. Justice Niki Tobi, again reached the pinnacle of his career at the Bench when he was elevated to the Supreme Court Bench as Justice of the Supreme Court of Nigeria. His exploits in the judiciary extended beyond the shores of Nigeria as he was appointed a Judge of the Supreme Court of the Gambia.

In his years in Public Service, His Lordship served as a member of several committees and panels on national assignment. He was Chairman of the debate co-ordinating committee that mid-wifed the 1999 Constitution of the Federal Republic of Nigeria, Chairman, judicial committee of inquiry into the Jos crisis in 2003. He also served as Chairman of political reform conference in 2005.

For his meritorious service to the nation, the legal profession and humanity Hon. Justice Niki Tobi received national and international recognition. He was conferred with Commander of the Order of the Niger (CON), Commander of the Federal Republic (CFR), LLD (Honoris Causa). His Lordship received the United Nations (UNIFEM) award in recognition of his leading contribution through judicial activism in the abrogation of unjust traditional practices against women.

His Lordship was a life member of the Body of Benchers. He was a Fellow of the Chartered Institute of Arbitrators of Nigeria, as well as the Nigerian Institute of Advanced Legal Studies.

### **JURISPRUDENCE:**

The Hon. Justice Niki Tobi's passion for teaching naturally made him an accomplished author with over 26 books to his credit.

His literary works, such as the Nigerian Judge (1992), Sources of Nigerian Law (1996), the Judiciary in Democracy (1996) are examples of his immense contributions to legal jurisprudence. His Lordship also published and delivered papers in journals, at seminars, workshops in and outside Nigeria.

## **THE JURIST ON THE BENCH**

The Hon. Justice Niki Tobi will be remembered as an erudite jurist of our time. He delivered some landmark judgments which have propounded new legal principles. His Lordship is renowned for his brilliance and clarity in the delivery of his judgments, leaving no one in doubt about his convictions on any case.

Time will not permit me to delve into some of his landmark judgments. However, I must cite this example. In the chieftaincy case of **Adesanoye v. Adewole (2006) 14 NWLR (Pt. 1000) at Pages 276- 277, Paras. G-C**, His Lordship stated on locus standi in Chieftaincy matters;

**“Although the Chieftaincy institution has been commercialized in recent times resulting in infiltrations by stranger elements, the institution remains and maintains a class of its own traceable and, as a matter of genealogy, traced to a royal home or royalty. The word “royalty” conveys a King or a Queen. As it does not convey its other meaning of payment made to the writer of a book, it is not an open room but a closed one for only those who have the royal blood and who can show that they have the right to contest the stool. And they know themselves and they also know when a chieftaincy house is entitled to present a candidate on the death of the incumbent. Let us be patient and take our turn. Royalty is a most revered and orderly institution. We can only**

**change the guards at the appointed time. We cannot change the guards when it is convenient to us.**

**For the avoidance of doubt, I should not be interpreted to say that the respondent is a stranger element in this matter, in the sense that he is not a prince and he calls himself one. No. That is not the point I am making. After all, the 1st appellant admitted the averment of the respondent that he is a prince. A prince certainly is not a stranger, like me, in a chieftaincy. My problem here is that the 1958 Declaration disqualified him from contesting the chieftaincy, he, being a grandson.”**

On commendation of the learned trial Judge, in the same case, His Lordship stated;

**“The decision of the High Court, Ondo dismissing the case of the respondent, is hereby upheld. The cross- appeal fails and it is dismissed. I must commend the learned trial Judge Obaremo, J., for a very beautiful judgment.”**

Some of the notable cases in which His Lordship wrote the leading judgment include the following:

Mojekwu v. Mojekwu (1997) 7 NWLR (Pt. 512) Page 283, where the Court pronounced as unconstitutional any form of discrimination on grounds of sex.

Newswatch Communications Ltd v. Atta (2006) 12 NWLR (Pt. 993) 144 on the Principle of fair hearing and arrest of judgment.

Perhaps, a most charitable description of the Hon. Justice Niki Tobi's style of writing is one I found in an article published in the Guardian Newspaper of 28<sup>th</sup> June 2016, shortly after his demise, titled “Late Justice Niki Tobi through the cases”.

The author wrote:

**“Justice Niki Tobi also penned his Judgments, introducing the discourse in an engaging manner not commonly seen around these parts, and some what reminiscent of Denning's lyrical opening in Miller v. Jackson (1977), QB 966. The judgments (of Justice Tobi) always went in logical sequence from the opening to conclusion, so that the mind of the reader could follow the progress of the argument with ease. These facts, often as intertwined and engaging as the dispute before the Court, were expressively told, engaging the reader's rapt attention as he went along with it in simple, lucid analysis of the minutest details.”**

### **FAMILY LIFE.**

The Hon. Justice Niki Tobi is survived by his wife Mrs Gbegbeto Tobi, children, one of whom is Hon. Justice Ebiwei Tobi, grand children, brothers and sister who would miss him so much.

He was a devout Christian who served his God well and a well loved community leader.

Distinguished Ladies and Gentlemen, it is the desire of all mankind that a man, after working all his life, should retire to some years of rest with family, friends, and community before he is called to eternal rest by his creator. Unfortunately, His Lordship took ill shortly after his retirement from the Supreme Court Bench. However, as stated in the opening scripture, our times, seasons, and activities here on earth are ordained by God Himself. We therefore cannot question God.

Let us be consoled by the fact that today, we all can say about His Lordship, as was said of David of old in the Bible, **"after he had served his own generation by the will of God, fell asleep, and was laid unto his fathers .." Acts 13:36.**

The Hon. Justice Niki Tobi (JSC) Rtd; CFR by the will of God served his generation very well and has entered into the rest of his creator.

On behalf of the Judiciary and the people of our nation, I sincerely thank members of His Lordship's family most of whom are here today and have been on this remarkable journey with him. You must be very proud of his achievements.

The nation is grateful for his contributions to the development of law on our shores and beyond throughout his illustrious career.

May God Almighty comfort, protect and bless us a", and may his soul rest in perfect peace. Amen and Amen.

Thank you all.

Walter S.N. Onnoghen, CON, CFR, FCIArbs,  
FNIALS, FNJI  
Acting Chief Justice of Nigeria.