

**PRACTICE DIRECTION
NO.1 OF 2023**

ISSUED BY

**THE CHIEF JUDGE OF AKWA IBOM STATE
HON. JUSTICE EKAETE F. FABIAN-OBOT**

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OF AKWA IBOM STATE,
HON. JUSTICE EKAETE F. FABIAN-OBOT**

In service of the powers conferred on me by Section 274 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and Section 488 of the Akwa Ibom State Administration of Criminal Justice Law 2022 and all other powers enabling me in that behalf I, Ekaete Francesca Fabian-Obot, Hon. Chief Judge of Akwa Ibom State make the following Practice Direction:

ORDER ONE

1. The purpose of this Practice Direction is to carry into effect and ensure compliance with the overriding objective of the Akwa Ibom State Administration of Criminal Justice Law 2022 as expressed in Section 1(1) of that law particularly in:
 - (a) Ensuring efficiency and speed in the case management of criminal trials and dispensation of justice.
 - (b) Protecting the interests and fundamental human rights of the defendant victim, witness and society particularly the right to fair hearing and
 - (c) Ensuring active participation of all parties to focus on matters that are genuinely in issue for trial thereby reducing delays and expense at trials.

2. This Practice Direction shall apply to all Criminal trials in the Magistrates Courts, High Courts and other courts that try criminal cases in Akwa Ibom State.

ORDER TWO
COMMENCEMENT OF PROCEEDINGS

1. Save as otherwise provided, cases shall commence in:
 - a. High Court by charge or information;
 - b. Magistrates court by charge or complaint or first information report; and
2. The Chief Judge or his nominee or most senior judge present shall assign cases for trial within 5 working days of filing the charge.
3. The court to which a case is assigned shall serve notices of trial within Ten (10) working days of the assignment on:
 - a. the prosecuting authority;
 - b. on the defendant personally, if on bail;
 - c. through the legal representatives by leave of court;
 - d. where the defendant is in custody, a production warrant and the notice of trial shall be served through the officer in charge of the place of detention; not more than three (3) days from the date of issuance.
4. In all courts, except the court directs otherwise, a charge sheet shall be served on the defendant within Seven (7) days of filing.

ORDER THREE

ARRAIGNMENT AND PRE-TRIAL CASE MANAGEMENT HEARING

1. There shall be a Case Management Hearing immediately after arraignment where all the following preliminary issues shall be dealt with:
 - a. Objections on grounds of jurisdiction;
 - b. Admissibility of evidence including statements of the defendant(s);
 - c. Relevant number of witnesses to be called by the parties;
 - d. The non contentious evidence to be agreed and admitted;
 - e. Time estimate and schedule of witnesses for the trials; and
 - f. Any other questions of law relating to the case.
2. The court shall issue a trial notice for an Arraignment and Case Management Hearing to the parties not later than Ten (10) workings days from the date of the case being assigned to the court.
3. Where a defendant appears in court.
 - a. unless the court directs otherwise, irrespective of any issues, including but not limited to jurisdiction, bail or plea bargain, the defendant shall be called upon to enter the dock and the charges read explained in the language he understands to the satisfaction of the court and enter a plea;
 - b. the court shall not entertain or hear any objection, comment or application from a defendant or his legal representative unless or until after he has entered a plea to the charge or charges before the court;
 - c. where a defendant is present in court and refuses to enter the dock to take a plea, a 'not guilty' plea shall be entered for him;

- d. where the court entertains any objections, ruling shall be reserved till final judgement;
4. No application including matters of jurisdiction which should have been raised at the Arraignment and Case Management Hearing shall be entertained during the substantive hearing of the trial but may be raised at the final address stage.
5. The court shall consider all issues raised at the Arraignment and Case Management Hearing and resolve matters raised in the interests of justice within Five (5) workings days of the Arraignment and Case Management Hearing.
6. Documents or ‘evidence agreed’ by consent of both prosecution and defence at the Arraignment and Case Management Hearing or at any subsequent Case Management Hearing shall form part of the proceedings and record of the court without recourse to further conditions of admissibility at trial.
7. The Presiding Judge that conducts a Case Management Hearing shall endorse the agreed evidence and the court shall serve copies on the prosecution and defence.
8. At the end of every Cases Management Hearing, the court shall make such orders and/or give such directions on issues in paragraph 1 of this Order or as it deems necessary to give effect to the Overriding Objective of the Law.
9. Where a trial is commenced:
 - a. by a charge, the trial shall commence within Thirty (30) days of preferring a charge or the return of the Case Management Forms;

- b. by First Information Reports, the trial shall commence Thirty (30) days after the charge has been preferred.
10. A trial shall be concluded within a reasonable time and completed not later than 180 days from the date of commencement.

ORDER FOUR

ARRAIGNMENT AND DEFENDANT'S PLEA

1. Where the defendant enters a plea of 'guilty', the court shall proceed to convict him immediately and sentence the defendant.
2. Where the defendant enters a plea of 'guilty' to a capital offence, a plea of 'not guilty' shall be recorded for him and the procedures in paragraph 3 of this Order shall then be applicable.
3. Where the defendant enters a plea of 'not guilty';
 - a. The parties shall complete the prescribed Case Management Forms and identify the relevant disputed issues based on evidence for or against the defendant, and
 - b. Only the witnesses listed on the case management form and proof of evidence shall be called in evidence, but where during the course of the trial, it becomes evident that the testimony of an identified and available witness is required in the interests of justice or the evidence such a witness could give may materially affect the outcome of the case in relation to genuinely disputed relevant issues, the court may grant a period not exceeding Five (5) working days or as may be convenient to the court within which to hear the testimony of such witness.

4. The parties' obligations to prepare for trial include:
 - a. Completion of the Case Management Forms where applicable,
 - b. Timely arrival of the parties and witnesses at court,
 - c. Completion by the prosecution of the investigation before arraignment,
 - d. The prosecutor and the investigating officer giving the court signed undertakings to confirm that witnesses and exhibits are available and will be produced as and when required, and
 - e. Arrangement for the efficient presentation of all material evidence.

5. At trial the court shall:
 - a. Establish, with the active assistance of the parties, what disputed issues they intend to explore.
 - b. Require the parties to provide a timed schedule of calling of: live witnesses, details of any admissions, written evidence and other material to be adduced.
 - c. Ensure that the evidence, questions, and submissions are strictly limited to the relevant disputed issues.

ORDER FIVE

DISCLOSURE PROTOCOLS

This Order shall apply to summary trials to the extent that a defendant is given adequate time and facility for the preparation of his defence;

1. In the high court, both the prosecution and defence shall disclose to each other and the court, relevant material and/or information within their

knowledge or in their possession or accessible to them, pertaining to the case that will assist the court:

- a. To identify the issues to be decided upon in the course of the trial, and/or
 - b. To narrow down the issues that are in dispute, and/or
 - c. To ensure a speedy and fair hearing for the defendant, victim, witnesses and other parties.
2. The court shall encourage the prosecution and defence to agree on non-contentious evidence.
 3. The prosecution shall serve on the defendant all the materials, information or proof of evidence that it intends to rely on to prove the charge against the defendant not later than Five (5) working days before the date of arraignment.
 4. After the service on defendant of the material that the prosecution intends to rely on, the defendant shall indicate on the Case Management Form what aspects of the prosecution case he agrees or disagrees with and may elect to disclose the defence he intends to raise at trial;
 5. Where a defendant notifies the prosecution of the aspects that he disagrees with in the prosecution's case and discloses the defence he intends to raise, as in the preceding paragraph (4), the prosecution in light of such disclosure shall further review all the material in their possession and shall make timely disclosure to the defendant of the existence of material known to the prosecution that tends to negate the guilt of the defendant, mitigate the degree of the offence charged or reduce the punishment.
 6. At the conclusion of a Case Management Hearing the court shall give trial-readiness directions.

ORDER SIX

REMAND HEARING PROTOCOL

1. The Chief Judge shall from time to time designate Magistrates to entertain, hear and grant meritorious remand applications in accordance with the Law.
2. Designated magistrates shall communicate or otherwise report the full details of any remand order or extension that they grant or approve to the Chief Judge or his nominee within 24 hours of granting, approving or extending such orders.

ORDER SEVEN

TRIAL

1. The court shall schedule the time and date of the hearings on such days and times with the aim of concluding the trial within 180 days after the arraignment.
2. The hearing of cases shall be on a day-to-day basis as far as the schedule of the court may permit.
3. The court and parties shall prevent unnecessary delays as far as practicable and accordingly, not more than five adjournments may be allowed from arraignment to final judgment.
4. Where a counsel who was present in court and agreed on the next adjournment date fails to attend the hearing without good reason or sufficient notice, costs may be awarded against him.
5. Where the defendant is in custody, the court registrar responsible shall liaise with the detaining authority to produce the defendant in court at every hearing that his attendance is required.

6. Counsel that has conduct of a case shall ensure that they are present in court and ready to proceed with their case or trial at all times. Where this is impracticable by reason of ill health or any other unavoidable reason, counsel shall:
 - a. Immediately notify the court before the hearing of the case, of their circumstances of unavailability or absence, and/or
 - b. Ensure that another counsel of requisite professional experience and knowledge of the issues before the court as is required to diligently prosecute or defend the case, is present in court and ready to proceed with the case or trial in his absence.
7. Where a counsel put himself forward as holding the brief of another counsel, he shall be deemed to be seized of the facts of the case and ready to proceed with the court business of the day.
8. Where a counsel holding brief for another counsel is unable to proceed with the business of the day, due to his unpreparedness, costs may be awarded against him personally.
9. The defence and prosecution witnesses may at trial, without giving oral evidence, adopt their written statements and be cross examined on it in the following conditions:
 - a. The written statements have been agreed at the case management hearing, and
 - b. Where any other additional oral evidence would be a repetition of the written statement and add nothing new of evidential value.

ORDER EIGHT
OPENING ADDRESS

1. After a plea of not guilty has been taken or been entered for the defendant and at the conclusion of the Case Management Hearing, the prosecutor may open the case against the defendant stating in brief, by what evidence he expects to prove the guilt of the defendant.
2. The prosecutor shall then examine the witnesses for the prosecution who may be cross-examined by the defendant or his legal representative and thereafter re-examined by the prosecutor, where necessary.

ORDER NINE
TRIAL IN ABSENCE

1. Where a defendant who has been granted bail, or having due notice of his trial date, fails without reasonable explanation to attend or refuses to attend court for his trial, and a summons and/or warrant as the case may be, has been issued to compel his attendance without success, the trial shall continue in his absence.
2. Neither the seriousness of the offence charged nor the severity of the punishment if convicted shall be a bar to proceeding with the trial in the defendant's absence.

ORDER TEN
TRANSFER OF CASES

1. A petition or an application for the transfer of a case shall not act as stay of proceedings unless there is a specific direction or order for the transfer of the case.

ORDER ELEVEN

STAY OF PROCEEDINGS

1. An application for a stay of proceedings in respect of a criminal case before the court shall not be entertained.

ORDER TWELVE

NOTICES

1. In furtherance of the objectives of the Akwa Ibom State Administration of Criminal Justice Law 2022, to ensure speedy and fair dispensation of justice, electronic mail and other electronic means may be employed to give notice in order to inform counsel or unrepresented parties, of unforeseen developments in a case. Provided such a notice is given at least Forty-Eight (48) hours before the scheduled court hearing.
2. Counsel and unrepresented parties will be expected to furnish the Court Registrar with primary and secondary phone numbers and email addresses.

ORDER THIRTEEN

DECLOGGING PANEL

1. The Chief Judge may set up a panel of judges which may include magistrates to review and reduce the backlog of cases on the docket of courts. The panel may work by itself or in conjunction with the Administration of Criminal Justice Monitoring Committee (ACJMC).

2. The panel set up under the preceding paragraph shall make recommendations to the Chief Judge and take such measures subject to the approval of the Chief Judge to expedite trials, clear the backlogs on the docket and decongest the courts' caseloads.

ORDER FOURTEEN

PROCEEDINGS: ATTITUDE OF COUNSEL AND THE COURT

1. Judges and Magistrates shall have a firm control of the daily business of the court. They shall ensure that counsel conducts the business of the court with professional decorum and avoid any act, which is either an abuse of the justice system or is aimed at causing delay or truncating the course of justice.
2. Costs awarded against counsel or any party under any Order in this Practice Direction shall be treated as a fine.
3. Counsel who may wish to make a petition against a Judge or Magistrate must first inform the Chief Judge in writing, of the allegation against the Judge or Magistrate concerned.
4. In investigating a petition made against a Judge or Magistrate, the Chief Judge shall ensure that petitions do not become a *de facto* stay of proceedings.
5. Judges and Magistrates shall take concrete and identifiable steps towards improving the efficiency of the Registrars and Bailiffs whose activities shall be reviewed periodically.
6. Judges and Magistrates must investigate and report to the Chief Judge all allegations of unethical practices by Court Staff.

Interpretation

In this Practice Direction, unless the context otherwise requires:

“*ACJMC*” means the Administration of Criminal Justice Monitoring Committee;

“*Law or The Law*” means the Administration of Criminal Justice Law, Vol.34, Laws of Akwa Ibom State of Nigeria 2022;

“*Agreed evidence*” means evidence agreed and admitted by consent of parties;

“*Case Management Form*” means the form to be completed at case management hearing;

“*Chief Judge*” means the Chief Judge of Akwa Ibom State;

“*Chief Registrar*” means the Chief Registrar of the High Court of Akwa Ibom State or his nominee performing the functions of the Chief Registrar or of his office;

“*Counsel*” means a Law Officer, a State Counsel or a Legal Practitioner entitled to practice before a Court;

“*Court*” includes – High Court and the Magistrates Court of Akwa Ibom State.

“*Declogging Panel*” means a panel of Judges or Magistrates as the case may be, set up and empowered by the Chief Judge specially to deal with the backlog of cases on the docket of courts;

“*Defendant*” means any person against whom a complaint, charge or information is made and has been brought before a court on a charge or otherwise;

“*Designated Magistrate*” means a Magistrate empowered by the Chief Judge to hear remand applications or other matters;

“*Direction*” means order or instruction of the court to do or obtain from doing something;

“*Investigating Officer*” includes a Police Officer and other persons charged with the responsibility of investigating complaints, allegations or any suspicion of wrongdoing;

“*Judge*” includes Judge of the High Court of Akwa Ibom State;

“*Law Officer*” means the Attorney-General of the State and includes the Director of Public Prosecutions and such other qualified officers, by whatever names designated, to whom any of the powers of a law officer are delegated to by law and a private legal practitioner authorized by the Attorney-General of the State to appear for and on behalf of the Attorney-General of the State;

“*Magistrate*” means a Magistrate appointed in accordance with the Magistrate Courts Law Vol.4 cap. Laws of Akwa Ibom State of Nigeria 2000;

“*Magistrates’ Court*” means Magistrates’ Court established under the Magistrates Court’s Law of Akwa Ibom Vol.4, Cap 82 Laws of Akwa Ibom State of Nigeria 2000;

“*Notice*” includes – hearing or trial notices, written and electronic communication.

“*Officer in charge*” include, the officer in charge of Correctional Centre or a place of detention or police station or the officer in charge of a unit in any other law enforcement agency or other officer who acts in the absence of the officer in charge;

“*Prosecutor*” includes Police Prosecutors who are Legal Practitioners prosecuting in the Magistrate’s Court.

“*Summary Trial*” means any trial by a Magistrate or a trial by a High Court commenced without filing a charge or an information; and or as defined by the Law.

Commencement

The Orders contained herein shall take effect from the 20th day of February, 2023.

SIGNED
JUSTICE EKAETE F. FABIAN-OBOT
CHIEF JUDGE
AKWA IBOM STATE