EKITI STATE

ADMINISTRATION OF CRIMINAL JUSTICE

RULES 2020

MacArthur Foundation

EKITI STATE
(ADMINISTRATION OF CRIMINAL JUSTICE)
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ISSUED BY

HON. JUSTICE AYODEJI SIMEON DARAMOLA
CHIEF JUDGE
EKITI STATE

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EKITI STATE
(ADMINISTRATION OF CRIMINAL JUSTICE)
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In exercise of the powers conferred on me by section 274 of the Constitution of the Federal Republic of Nigeria, 1999, section 354 of the Ekiti State Administration of Criminal Justice Law 2014 and all other powers enabling me in that behalf, I, Ayodeji Simeon Daramola, Honourable Chief Judge of Ekiti State, make the following Rules of Court:

[1st December 2020] Commencement

PART ONE
Purpose and Application

ORDER ONE

Purpose

The purpose of these Rules is to ensure compliance with the Ekiti State Administration of Criminal Justice Law 2014 ("the Ekiti State ACJL") that is:

(a) To ensure efficiency and speed in the management of criminal trials and dispensation of justice; and
(b) To protect the interests and fundamental human rights of the defendant, victim, witnesses and society.

ORDER TWO

1. In the application of these rules each case shall be treated on its merit in line with the provisions of the Ekiti State Administration of Criminal Justice Law 2014

2. This Rules shall apply to criminal proceedings before a court of Ekiti State. Application

ORDER THREE

Interpretation

1. For the purposes of these rules;

Interpretation

"Bail bondsperson" means a person registered as such under Section 138 of the Ekiti State ACJL.

"Benefit fraud" means any form of welfare fraud within the welfare system of government

"Court" means any High Court, Magistrate Court and Customary Court exercising criminal jurisdiction in Ekiti State.

"Detention facility" includes correctional centres, juvenile detention facilities, and any such facility maintained by any law enforcement agency.

"Legally aided" means where a person is represented by a counsel from the Legal Aid Council of Nigeria or any other pro bono service

"Police officer" includes any member of the Nigeria Police Force established by the Police Act or where the context so admits, shall include any officer of any law enforcement agency established by a law of the Ekiti State House of Assembly

"Probation sentence" means a court imposed criminal sentence that, subject to stated conditions, releases a convicted person into the community instead of sending the convict to a correctional centre

"Wasted costs" means any costs incurred by a party (which includes a legally aided party) as a result of any improper, unreasonable or negligent act or omission on the part of his counsel which, in the light of any such act or omission occurring after they were incurred, the court considers it unreasonable to expect that party to pay.

PART TWO
Arrest, Custody, Bail and Remand

ORDER FOUR

Arrest

Arrests Generally

1. Subject to the provisions of the Constitution of the Federal Republic of Nigeria 1999 or any law prescribing an offence, the following may effect the arrest of a suspect:
   (a) a Police Officer;
   (b) a Judicial Officer;
   (c) a private person provided the person arrested is immediately handed over to a law enforcement officer.

2. A person shall not be arrested save where the person is reasonably suspected to have committed an offence.

3. An arrested person shall be:
(a) informed of the offence for which he is being arrested;
(b) entitled to remain silent or avoid answering any questions until he has communicated and consulted with a legal practitioner, relative or any other person of his choice;
(c) Provided free legal representation where applicable in accordance with extant laws;
(d) Protected against torture, degrading and dehumanizing treatment.

Warrant of Arrest

4. A warrant of arrest shall contain the following information:
(a) the court that issued it;
(b) the enactment under which the warrant is issued;
(c) whether the warrant is directed to every police officer, or to a particular police officer, in which case the name of that police officer or any other authorised person;
(d) the particulars of the suspect;
(e) the reason for the warrant being issued;
(f) the offence;
(g) a direction to the police officer executing the warrant to bring the suspect before a competent court;
(h) the legal authority for entering premises for the purpose of executing the warrant;
(i) the name and title of the person issuing the warrant; and

(j) the date the warrant was issued.

5. A warrant may be executed by:
   (a) any person to whom it is directed; or
   (b) any person authorised to do so.

6. The person who executes a warrant shall:
   (a) show the suspect the warrant;
   (b) explain, in the language the suspect understands, what the warrant requires;
   (c) where the suspect is to be released on bail record:
      i. the suspect's name,
      ii. the reason for the arrest,
      iii. the suspect's release on bail, and
      iv. when and where the warrant requires the suspect to attend court.

7. The person executing a warrant shall serve the record referred to in Rule 6 paragraph (c) of this order on the suspect and the court official.

ORDER FIVE

Bail

General Entitlement to Bail

1. Subject to the provisions of the Ekiti State ACJL or any other law, every arrested suspect or detainee is entitled to bail.

Exercise of Court's Powers

2. The court may make an order to a person in charge of a correctional centre, police station or any other place of detention to produce in court a person detained in the correctional centre, police station or place.

3. The court may in the interest of justice order the release of a person in detention unconditionally or subject to such terms as the court deems fit.

Prosecutor's Representations on Bail

4. A prosecutor shall file along with the charge or information a statement indicating whether or not the defendant was granted administrative bail, and if so, the terms of such administrative bail.

5. A prosecutor who opposes the grant of bail shall specify the cogent and convincing reason(s) or exception(s) to the general right to bail on which the prosecutor relies which must be within a reasonable time considering the circumstances of the case.

Bail During Trial

6. A suspect who was granted bail during remand proceedings should not be refused bail during the trial unless, in the opinion of the court, there are reasons to justify the refusal.

Sureties and Bail Conditions

7. A defendant admitted to bail may be required to produce such surety or sureties as, in the opinion of the court, will be sufficient to ensure his appearance, and for this purpose the court shall require the execution of:
   (a) Defendant's recognizance;
   (b) surety's recognizance; and
   (c) joint bond of the defendant and surety.

8. A court may grant bail conditionally or unconditionally. Where bail is conditional, the terms shall not be excessive but may include the deposit of security in the form of:
   (a) land title document,
   (b) international passport,
   (c) cash and/or,
   (d) any other valuable documents.

Continuous Bail

9. Where a defendant is released on bail, the terms of recognizance entered into by the surety shall be of such nature as to ensure that the defendant is present in court for trial throughout the proceedings.

10. The court may, where the circumstances appear just, vary the order of release on bail of the defendant at any subsequent hearing or stage of the proceedings: Provided that the reason for the variation of the order shall be stated.

ORDER SIX

Remand

Remand

1. A suspect arrested for an offence for which a High Court has jurisdiction shall be brought before the High Court within a reasonable time.

2. In the absence of a High Court, a suspect arrested for an offence which a Magistrate Court has no jurisdiction to try, shall within a reasonable time be brought before a Magistrate Court for cognizance and remand.

3. For the purposes of this order, "reasonable time" means in the case of an arrest or detention in any place where there is a court of competent jurisdiction within a radius of forty kilometres, a period of within 24 hours and in any other case, a period of 48 hours.

Application for Remand

4. (a) An Application for remand shall be made *ex-parte* and in conformity with Form K in the Ekiti State ACJL.
(b) An application for remand shall be in writing and shall be accompanied by an affidavit stating basis for the request.
(c) Photocopies of the statements of prosecution witnesses and defendants shall also be attached as exhibits.

5. The court may when considering a remand application consider the following;
   (a) the nature and seriousness of the alleged offence;
   (b) whether there are reasonable grounds that the suspect has been involved in the commission of the alleged offence;
   (c) whether there are reasonable grounds for believing that the suspect may abscond or commit further offence where he is not committed to custody; and
   (d) any other circumstance that justifies the request for remand.

6. Where on application in writing, good cause is shown why there should be an extension of the remand period, the court may make an order for further remand of the suspect for a period not exceeding 30 days and make the proceedings returnable within the same period.

7. Where the suspect is still on remand at the expiration of the period provided in rule 6 of this order, the court may, on application of the suspect, grant bail in accordance with the provisions of sections 115 to 138 of the ACJL.

8. At the expiration of the remand order, and where the suspect is still remanded with his trial having not commenced, or charge having not been filed at the relevant court having jurisdiction, the court shall issue a hearing notice on the prosecution:

Provided that where the remand order was issued by a Magistrate, the court shall within 14 days forward the case file to the Chief Judge through the Chief Registrar.

9. The court shall issue a hearing notice on the prosecution to show cause why the suspect remanded should not be unconditionally released.

10. Where the Commissioner of Police or the Director of Public Prosecutions of the State shows good cause and makes a request to that effect, the court:

(a) may extend the remand of the suspect for a final period not exceeding 14 days for the suspect to be arraigned for trial before an appropriate court; and

(b) shall make the case returnable within the said period of 14 days from the date the hearing notice was issued.

11. For the purpose of determining whether “good cause” exists, the court shall not consider any factor occasioned by negligence or misconduct on the part of the State or Police.

12. Where good cause is not shown for the continued remand of the suspect and the suspect remains in remand custody after the expiration of the extended period under rule 10 of this order, the court shall, with or without an application to that effect, discharge the suspect and the suspect shall be immediately released from custody.

13. No further application for remand shall be entertained by any court after the proceeding in rule 10 of this Order.

14. During remand proceedings, the court may order the suspect to be brought before it.

Exercise of Powers of Remand

15. The court may order that the suspect be transferred to a hospital, asylum or any other suitable place for the purpose of giving him medical treatment, or may make any order that it considers necessary at any time during the remand period.

16. The court may exercise the powers conferred on the court under this order:
    (a) whether the suspect is present in court or not; and
    (b) on its own motion or on application, including an application by a person in charge of the correctional centre or other place of custody where the suspect is detained.

PART THREE

TRIAL

ORDER SEVEN

Disclosure

Disclosure by Prosecutor

1. The prosecutor shall disclose by serving on the court and the defendant(s) any material it intends to rely on in the course of the trial.

2. The prosecutor shall also disclose to the defendant any material in the prosecutor's possession that either supports a defence put up by the defendant or which exculpates him from liability.

Disclosure by Defendant

3. Where a defendant enters a plea of "not guilty" or the court records a plea of "not guilty" for the defendant, the defendant may elect to disclose the material he intends to use in his defence.

Defendant's Application for Prosecution to Disclose

4. The defendant may apply to the court for access to material in the prosecution's custody where there is reason to believe that the prosecutor is withholding evidence particularly one that may aid the defendant's case.

5. An application for the prosecution to disclose shall be by motion on notice served on the court and the prosecutor.

6. The application made under rule 4 shall contain:
   (a) a description of the material;
   (b) reasonable cause to show that the defendant believes that the prosecutor has the material or can obtain the material; and
   (c) explanation of the importance of such material to the trial.

Powers of Court with Regard to Disclosure

7. The court in determining the application must have recourse to:
(a) the defendant's right to fair trial;
(b) the prosecutor's right to make representation;
(c) the rights of confidentiality applicable to the material.

8 The court shall have regard to the extent to which the disclosed material is contentious before setting a date for day to day hearing.

9 The court may:
(a) determine the time limit of applications under rule 4 of this Order
(b) specify the period any material may be disclosed; or
(c) vary any direction made under this Order.

10. The court in considering the application under rule 4 of this Order may direct:

(a) that the application be heard in private; or
(b) that any person who will be directly affected if the material were disclosed should be served with the application.

Unauthorised use of Disclosed Material

11. A person may only use material disclosed by the prosecution in connection with:
(a) the case in which it was disclosed;
(b) an appeal from the case in which it was disclosed;
(c) any other lawful purpose.

12. The court may initiate contempt proceedings against any person who uses the disclosed material in breach of rule 11 of this order.

ORDER EIGHT

Arraignment

Plea to Information or charge

Plea to Information or Charge

1. The court shall inform the defendant of his rights under section 211 of the Ekiti State ACJL

2. The defendant to be tried on an information or charge shall:
(a) be brought to the court unfettered unless otherwise directed by the court.

(b) have the information or charge read over to him to the satisfaction of the court by the registrar or such other officer appointed by the court.
(c) be called to plead instantly except where the person, objects to non-service or where the court finds that he has not been duly served.

3. A defendant who pleads not guilty shall be deemed to have put himself on trial.

4. Where a defendant pleads guilty to an offence the court shall;
   (a) record his plea as accurately as possible;
   (b) invite the prosecution to state the fact of the case; and
   (c) enquire from the defendant whether his plea of guilty is to the fact as stated by the prosecution.

5. Where a defendant pleads guilty to a capital offence, a plea of not guilty shall be recorded for him.

6. Where a defendant pleads guilty to an offence not contained in the charge or information on which he was arraigned, the court shall direct the prosecution to amend the charge or information accordingly to include the admitted offence and a fresh plea of the defendant shall be taken on the amended charge.

ORDER NINE

Case Management

Case Management

1. This Rule applies to the management of the hearing of a case in the Courts, including an appeal to the High Court until the conclusion of the case.

2. The court may give any direction to actively manage a case in order to prevent unnecessary delay.

3. In order to manage a trial or an appeal, the court may require a party to identify:
   (a) witnesses to give evidence in person;
   (b) the order of witness evidence;
   (c) the need for an order compelling the attendance of witnesses;

(d) arrangements that are desirable to facilitate the giving of evidence by a witness;
(e) arrangements that are desirable to facilitate the participation of any other person, including the defendant.

4. In ensuring proper case management, the court Registrar shall where a person is entitled or required to attend a hearing, give a minimum of seven days or as is reasonably practicable to that person, and that person's custodian (if any) and where the court gives directions, promptly make a record available to the parties.

5. Upon arraignment, the trial of the defendant shall proceed from day-to-day until the conclusion of the trial and to this end:
   (a) the court shall in consultation with counsel set a timeline for the trial up to adoption of final addresses as well as earmark a period which shall not be less than 2 hours for the hearing each day.
   (b) the timeline referred to above shall as far as practicable include a schedule of names of witnesses and the day or days the presence of any particular witness may be required.
   (c) the court may apply the provisions under Order 12 on wasted costs against legal representatives where counsel without reasonable excuse fails to comply with the timeline.
   (d) the court may where a witness is absent in court on dates earmarked in the timeline, make an order to compel attendance of the witness where satisfied that this is required in the circumstances of the case.

ORDER TEN

Witnesses

Witness Summons

1. A summons requiring a witness to attend court to give evidence shall include:
   (a) the particulars of the witness;
   (b) the particulars of the defendant;
   (c) the offence;
   (d) the court, date and time at which the witness is required to appear;

(e) details of any specified document or thing and any other document or thing that the witness is required to bring to court that is in his possession or control;
(f) consequences of failing to appear in answer to the summons without any reasonable cause.

2. The court in granting a witness summons shall state that the person to whom the summons is addressed is entitled to a refund of his travel expenses where such an expense has not been paid.

Persons in Court may be required to give evidence though not summoned

3. Where a person who is a compellable witness is present in court, the court may compel that person to give evidence or produce any document in his possession as if they had been summoned to attend and give evidence.

4. The court may sanction any person who refuses to comply with the order made under Rule 3 of this Order.

ORDER ELEVEN

Costs Generally

Cost Generally

1. In addition to the specific instances outlined in the ACJL, the court may award costs in criminal proceedings in accordance with these rules for the purpose of carrying into effect the provisions of the Law.

2. The court has a direct responsibility for costs in criminal proceedings and can award costs at any stage of the proceedings with or without an application by any of the parties.

3. The court may on application vary any order made pursuant to Rule 2 of this Order.

4. The court may require the assistance of any other competent authority in determining the cost to be paid under this order.

5. The court may make any Order as to costs on the application of a party or on its own motion, in open court or in chambers except that the court shall not make such order *ex parte*.

6. Where the Court makes an order on costs, it must specify the party or person liable, the party or person to whom the payment is to be made and the amount payable.

7. The Court shall give reasons for its decision on costs.

8. Where the court makes an order for the payment of costs, the amount should be sufficiently reasonable to compensate the recipient for costs incurred. Nothing shall prevent the Court from making an order for:
   a) a proportion of that amount;
   b) a stated amount less than that amount;
   c) costs from or until a certain date only;
   d) costs relating only to particular steps taken; or
   e) costs relating only to a distinct part of the case.

9. In determining quantum of costs, the Court shall consider:
   a) the conduct of all the parties;
   b) the time spent on the case;
   c) the place where and the circumstances in which work or any part of it was done; and
   d) any direction or observations by the court that made the costs order.

10. An order for the payment of costs takes effect immediately, unless the court directs otherwise.

ORDER TWELVE

Wasted Costs

Costs Against Counsel- "Wasted Costs"

1. Where costs are incurred as a result of an improper or negligent act or omission on the part of a counsel and the court considers it unreasonable to impose liability on the party being represented by that counsel, the court may award wasted costs against counsel.

2. Wasted costs order may be made:
   (a) where counsel by his act or omission is unable to proceed with his case.
   (b) where counsel by his act or omission has caused substantial and unjustifiable delays to trial.

(c) where counsel by his act or omission causes any such other event that the court deems irrelevant and has caused substantial damage to the progress or outcome of the trial

3. The Court may order the counsel to meet the whole or any part of the wasted costs.

4. The order can be made against any person exercising a right of audience or a right to conduct litigation.

5. The court shall specify the act or omission for which such order is being made and the amount of the wasted costs ordered.

6. Before making the order, the court shall allow the counsel and any party to the proceedings to make representations. In making the order, the Court may take into account any other orders for costs and may take the wasted costs order into account when making any other order as to costs.

7. The court may postpone the making of a wasted costs order to the conclusion of the case if it appears more appropriate to do so.

8. A wasted costs order may be made regardless of the fact that the defendant is legally aided.

9. A counsel against whom a wasted costs order has been made may apply to the court that made the order to vary or set aside the order within a period of 7 days from the date of the order or as may be extended by the Court.

PART FOUR

CUSTODIAL AND NON-CUSTODIAL SENTENCING

ORDER THIRTEEN

Sentencing

Sentencing

1. Where the Court convicts the defendant, the Judge may for the purpose of determining an appropriate sentence conduct a hearing.

2. The hearing may be conducted at a subsequent date appointed by the Judge or immediately after conviction.

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ORDER FOURTEEN

Community Sentence

Community Sentence

1. A court may, with or without conditions, sentence the convict to perform specified service in his community or any other place as the court may direct.

Arrangements of Community Service Centres

2. The operations and functions of Community Service Centres shall be in accordance with the provisions of sections 347 of the Ekiti State ACJL or any other relevant law.

Offences for which Community Sentence may be Imposed

3. The court in exercising its powers shall consider whether such order is consistent with the:
   (a) decongestion of Correctional institutions;
   (b) Rehabilitation of offenders by engaging them productively;
   (c) Need to keep separate persons convicted for minor offences from persons convicted for serious offences or who are hardened criminals.

4. A community sentence order may be imposed in any of the following circumstances;
   (a) damage to property;
   (b) benefit fraud;
   (c) assault without grievous bodily harm;
   (d) where the court is of the opinion that non-custodial sentence would be more effective in the circumstance;

(e) where a person is a first-time offender and has committed a minor offence.

5. In issuing a community sentence order, the Court may impose additional measures which may include:
   (a) restricting the offender to a particular residence or place at certain times or maintaining a 'curfew';
   (b) ordering the offender to wear an electronic tag to ensure compliance with the sentence;
   (c) appointments with a designated manager;
   (d) barring the offender from going to certain places or areas including the place of abode or work of a victim;
   (e) barring the offender from taking part in certain activities, such as visiting a bar, children community centre or activities likely to threaten the safety of other people.

PART FIVE

ADMINISTRATIVE PROCEEDINGS

ORDER FIFTEEN

Register of Legal Aid Providers

Register of Legal Aid Providers

1. The Chief Registrar of the Court shall register any legal practitioner or law firm intending to provide legal aid for persons in detention or defendants.

2. The Register of Legal Aid Providers shall be maintained by the Chief Registrar and an updated copy of the register shall be made available to the Legal Aid Council of Nigeria once a year.

ORDER SIXTEEN

Register of Convicted Persons

Register of Convicted Persons

1. The Chief Registrar shall maintain a register of persons convicted by the court, which shall contain the following:
   (a) the names and personal details of the convict in conformity with the particulars included in Form 02 in the First Schedule;
   (b) the sentence imposed by the court;
   (c) in the case of a sentence of imprisonment, the correctional facility where the Convict is to be held.

2. Where a Convict appeals against the conviction of the Court, the Chief Registrar shall make a note of this on the Register indicating the Court where the appeal is lodged. Upon the conclusion of that or any other appeal proceedings, the Chief Registrar shall enter the outcome of the proceedings in the part of the Register where the conviction was registered.

3. The Chief Registrar shall where the person convicted is a corporate body forward a certified copy of the extract of the entry to the Corporate Affairs Commission.

4. The Chief Registrar shall upon a request by the Court or Prosecution in relation to the sentencing hearing of a particular Convict, provide the court with certified copies of extract of the entry in the Registry relating to that person. Copies of such

entries shall upon payment of a prescribed fee be made available to the counsel for the defence.

ORDER SEVENTEEN

Witness Expenses

Witnesses

1. The Registrar of the Court shall certify appearance of any person as a witness for each day the witness appears, indicating on an expense claim form, the sum due to them for travel cost and other expenses as prescribed under the scale of fees prescribed under Table 01 in the second schedule to these Rules.
2. The amount of expenses and compensation payable to any witness appearing for the prosecution before the Court shall be processed by the Chief Registrar of the Court or the Solicitor-General, as the case may be and shall be paid out of general revenue to the witness by the office of the Accountant-General of the State.
3. The Chief Registrar of the Court or the Solicitor-General shall process and pay to the witness directly and before the next adjourned date, the amount prescribed under the Schedule.
4. Where a person attends Court as a state witness, the witness shall be entitled to payment as prescribed under the Schedule.
5. Witness for the defence may be reimbursed for travel cost and other expenses.

Expenses Where a Witness unable to Testify

6. Where a witness has appeared in Court to testify but fails to do so on account of an application by a party for adjournment, the witness expense for such appearance shall be payable by the party applying for the adjournment on or before the next adjourned date.
7. The sum payable to such a witness shall be in accordance with the amount prescribed under the Second Schedule.

Persons Accompanying certain Witnesses

8. A person accompanying a minor, physically challenged or vulnerable witnesses, may if the court directs receive a sum equivalent to the expense of other witnesses.

ORDER EIGHTEEN

Visitation to Detention Facilities

1. The Chief Magistrate in charge of a magisterial district shall maintain a register of detention facilities in the district. Register of Detention Facilities

2. The register shall contain the location, nature of offence, inmate capacity, and such other details as may be prescribed by the Chief Judge.

3. The Visiting Magistrate shall have the powers to; Powers of Visiting Magistrate
   (a) call for and inspect the records of arrest;
   (b) direct arraignment of a suspect;
   (c) grant bail to any suspect where appropriate if the offence for which the suspect is held, is within the jurisdiction of the Magistrate.

4. A person in charge of a detention facility shall make available to the Visiting Magistrate: Duty of Person in charge of Detention Facility
   (a) the full record of arrest and record of bail;
   (b) applications and decisions on bail made within the period; and
   (c) such other information that the Visiting Magistrate may require.

5. A Visiting Magistrate shall prepare a report that conforms to Form 01 in the First Schedule to this Rules and forward that report to the Chief Judge putting also in copy: Report by Visiting Magistrate
   (a) the Chief Magistrate in charge of the district;
   (b) the Controller of the Nigerian Correctional Service in the Ekiti State; and
   (c) the person in charge of the detention facility visited.

ORDER NINETEEN

Bail Bondsperson

1. The Chief Judge may license an individual and body corporate as bondsperson under section 138 of the Ekiti State ACJL. Bail Bondsperson

2. The license shall be valid for a period of 3 years, renewable upon satisfactory performance.

3. A bail bondsperson in the case of an individual shall; Eligibility to Operate as a Bondsperson
   (a) be a citizen of the Federal Republic of Nigeria;
   (b) be at least 21 years of age;
   (c) be residing within the jurisdiction of the Court;
   (d) complete a pre – licensing course (if any);
   (e) possess sufficient resources to meet all surety obligations;
   (f) not have been convicted of a felony or crime;
   (g) authorize the completion of a criminal background check and pay any associated costs; and
   (h) such other requirements as the Chief Judge may direct.

4. A body corporate shall meet the following qualification: Eligibility of a Body Corporate
   (a) have its registered office within the jurisdiction of the court;
   (b) file with the registry of the Court Power of Attorney, designating and authorizing the named agent of such body corporate to execute bail bonds and present a copy of the said Power of Attorney certified by the registry of Court;
   (c) possess sufficient resources to meet all surety obligations;
   (d) not have been convicted of any offence;
   (e) authorize the completion of a criminal background check of the directors and shareholders and pay associated costs;
   (f) any Body Corporate authorized by law to act as a surety under Rule 1, shall be required to meet the applicable conditions prescribed by Order 19 Rule 6 (I), (II), (III), (VI), (VIII) and Rule 7 of this Rules before being acceptable as surety on a bail bond.

5. The following persons or classes of persons shall not be eligible to be licensed as bail bondspersons: Disqualification of Bondsperson
   (a) serving police personnel or any personnel of paramilitary services;
   (b) serving military personnel.

6. An applicant for registration as bondsperson shall submit the following: Registration of Bondsperson
   i. An application in the prescribed Form 03 of the First Schedule;
   ii. evidence of payment of prescribed application fee;

iii. passport photograph of the applicant;
iv. birth certificate/age declaration;
v. clearance of a criminal background check;
vi. proof of citizenship;
vii. For corporate bodies, passport photograph of each director, certificate of registration and tax clearance certificate not less than three years preceding the date of application.

7. In addition to the requirements of Order 19 Rule 6;
   (a) All applications shall be made to the Chief Judge of the High Court of the Ekiti State;
   (b) A minimum of N5, 000, 000. 00 Naira bank guarantee for individuals and N10,000,000.00 Naira bank guarantee in the case of body corporate must be produced;
   (c) Bondsperson shall have real or other property to pledge as security acceptable to the Chief Judge.

8. The duties of a bondsperson shall include:
   (a) to ensure that the defendant attends every court date;
   (b) ensure that an absconding defendant is arrested and handed over to the Police.

Duties of a Bondsperson

9. Where an absconding defendant is arrested during the weekend or it is impracticable to take the defendant to court within 12 hours, the bails bondsman shall
   (a) make all effort possible to hand the defendant over to the nearest police station;
   (b) ensure that the defendant is kept in a safe custody with consideration given to the sex, age, health and wellbeing of the defendant;
   (c) ensure that the defendant is treated humanely.

Revocation of Bondsperson License

10. Any person who engages in bail bond services without registration and licence under this Law, or otherwise violates the terms of his licence, shall be liable;
    a. to a fine of five hundred thousand Naira (N500,000.00) or imprisonment for a term not exceeding twelve months or to both fine and imprisonment; and

b. on conviction under this section, the court shall forward a report to the Chief Judge and in instances of gross violation of the terms of the licence revoke the licence.

11. A bail bondsperson shall forfeit the bail bond where the defendant absconds and cannot be brought before the court for the continuation of his trial. Consequence of Absconding Defendant

ORDER TWENTY

Probation Orders

1. The Chief Judge may license individuals as probation officers under section 341, of the Ekiti State ACJL. Probation Orders

2. The license issued under this Order is valid for two years and renewable upon satisfactory performance.

3. a probation officer shall; Eligibility to be Licensed as a Probation Officer
   (a) be a citizen of the Federal Republic of Nigeria;
   (b) be at least 21 years of age;
   (c) be residing within the jurisdiction of the court;
   (d) complete a pre-licensing course certifying him as having the perquisite skills to be a probation officer or social worker by the Nigerian Correctional Service or any other body so empowered to do so;
   (e) possess sufficient experience and skills in people management;
   (f) not have been convicted of a felony or crime;
   (g) authorize the completion of a criminal background check.

4. A person applying to be licensed as probation officer shall submit the following: Application to be Licensed as a Probation Officer
   (a) an application in the prescribed Form 04 of the First Schedule;
   (b) evidence of certification as a probation officer or social worker;
   (c) passport photograph of the applicant;
   (d) birth certificate/age declaration;
   (e) clearance of a criminal background check;
   (f) proof of citizenship; and
   (g) such other requirements as the Chief Judge may direct.

5. The Chief Registrar of the Court shall maintain a list of all licensed probation officers within the jurisdiction of the court

List of Probation Officers

6. An updated list of licensed probation officers shall be made available to:
   (a) the Nigerian Correctional Service;
   (b) the Department of Social Welfare Services and;
   (c) the Legal Aid -Council of Nigeria.

7. A person shall be disqualified or where he has previously been appointed a probation officer, have his name removed from the list of probation officers if:
   (a) there is new evidence to suggest that the person forged any of the qualifications needed to be a probation officer;
   (b) Such person after being named a probation officer is convicted of any crime;
   (c) Such person after being named a probation officer is of a conduct that would be deemed adverse to the overall objective of the reformation expected of the Convict.

Disqualification or Removal of Probation Officer

FIRST SCHEDULE

FORM 01

Order 18 Rule 5

FORM OF DETENTION CENTRE REPORT

In the ……..Magisterial District of EKITI STATE
Name of Detention Facility…….……
Type of Detention Facility …….…….
Date of Scheduled Visit ……..……..
Number of Awaiting Trial Inmates…….
Number of Inmates granted bail, yet to fulfil bail conditions……
Number of Inmates not Arraigned…….…….
Number of Inmates having charges beyond Magistrate's jurisdiction…….
Number of Inmates granted bail during visit……..
Reason for grant of bail by Magistrate……..
…….
…….
…….

Number of inmates released under the discretion of Magistrate with or without conditions…….…….…….

Reason for release of inmates under the discretion of the Magistrate with or without conditions……
……..
……..

Further comments where necessary for the improvement of detention facility…….
……..
……..
……..
……..
……..
……...

FORM 02

Order 16 Rule 1

PARTICULARS OF ENTRY IN REGISTER OF CONVICTED OFFENDERS

Name of Convict…….....

Date of Birth…….....

Last Known Address/State of Origin and LGA……....

Nature of Offence Committed…….....

Has the convict been convicted previously of any offence? (if yes, give further details of nature of offence and Nature of sentence) …....

.....

.....

.....

.....

Detention Facility…….....

Previous Detention Facility (where applicable)…….....

Nature of Sentence (Custodial/Non-Custodial)…….....

Duration of Prison Term (Months/Years, if applicable) …….....

Number of Months/Years Served …….....

Year Eligible for Parole (if applicable)…….....

What Type of Rehabilitation Programme is Convict Engaged in?.....

.....

.....

.....

.....

Estimated Date of Release (Where applicable).....

Form 03

Order 19 Rule 6

APPLICATION FOR REGISTRATION OF BONDSPERSON

Name of Applicant……....

Date of Birth/ Incorporation (in case of corporate body)…….……

RC number (corporate body only)…….....

Nationality……...

Office Address…….……

Minimum Bank Guarantee……...

Name of Bank……

Account Number……

Name of Signatories (a)…..……..……

(b)……

(c)……

For Corporate body; name of Directors

(a)…..……

(b)……

(c)……

(d)……

Form 04

Order 20 Rule 4

APPLICATION TO BE LICENSED AS A PROBATION OFFICER

Name of Applicant……

Date of Birth……

Nationality……...

Address……

Certification obtained and Institution obtained from

(a)……

(b)……

(c)……

Evidence of security and criminal background check must be attached to form*

SECOND SCHEDULE

ORDER 17

TRAVELLING EXPENSES FOR WITNESSES

Ordinary Witness

1. Road transportation (less than 50 Kilometres) N2, 000.00
2. Road transportation (above 50 kilometres) N2, 500.00
3. Road transportation *(inter-state from 100 kilometres upwards* N5, 000.00
4. Allowance for meals *(attendance at Court not exceeding 5 hours)* N500:00
5. Allowance for meals *(attendance at Court exceeding 5 hours but not up to 8 hours)* N1, 000:00
6. Accommodation and dinner per night *(Inter- state)* N12, 000.00
7. A witness may only be reimbursed for air travel if the Registrar is satisfied that the use thereof is warranted and has been pre - approved that the witness may make use of air transport.

Professional Witness

1. Road transportation (less than 50 Kilometres) = N3,000.00
2. Road transportation (above 50 kilometres) = N5,000.00
3. Road transportation *(inter-state from 100 kilometres upwards)* = N10, 000.00
4. Allowance for meals *(attendance at Court not exceeding 5 hours)* = N500:00
5. Allowance for meals (attendance at Court *exceeding 5 hours but not up to 8 hours)*

= N1, 000:00

6. Accommodation and meals per night *(Inter-state)* = N15, 000.00

7. A witness may only be reimbursed for air travel if the Registrar is satisfied that the use thereof is warranted and has been pre - approved that the witness may make use of air transport.

FORM 01

FORM TO BE USED FOR PLEA ARRAIGNMENT

IN THE HIGH COURT OF EKITI STATE
IN THE ADO EKITI JUDICIAL DIVISION
HOLDEN AT EKITI

TODAY, THIS ……..DAY OF ……20 ……

BEFORE: ……..

CHARGE NO. EK/CR/ ……../20……..

BETWEEN:

THE STATE or COMMISSIONER OF POLICE (as the case may be)
PROSECUTION

AND

1. ……
2. …… **DEFENDANTS**
3. ……

COURT: Do you understand English Language?
1ST DEFENDANT:
2ND DEFENDANT:
3RD DEFENDANT:

COUNT ONE (1)

COURT: Do you understand Count 1 just read to you?
1ST DEFENDANT:
2ND DEFENDANT:
3RD DEFENDANT:

COURT: Are you guilty or not guilty?
1st DEFENDNAT:
2ND DEFENDANT:
3RD DEFENDANT:

COUNT TWO (2)

COURT: Do you understand Count 2 just read to you?
1ST DEFENDANT:
2ND DEFENDANT:
3RD DEFENDANT:

COURT: Are you guilty or not guilty?
1ST DEFENDANT:
2ND DEFENDANT:
3RD DEFENDANT:

MADE at Ado Ekiti, Ekiti State this **1st** Day of **December 2020**.

HON. JUSTICE AYODEJI SIMEON DARAMOLA
Chief Judge,
Ekiti State

EXPLANATORY NOTE

(This Explanatory Note does not form part of this practice direction but is only intended to explain its purport)

This Rules set out to aid in the implementation of the Administration of Criminal Justice Law 2014, in line with its objectives and purpose of ensuring fair, effective and efficient dispensation of Criminal Justice.

Ekiti State of Nigeria
Official Gazette
Published by Authority

No.1 **ADO-EKITI - Thursday, 6th February, 2020** **Vol: 25**

EKITI STATE NOTICE NO. 1

The following is published in the supplement to this Gazette:

Law No 1 of 2019 entiled High Court Pratice Direction 2019.....*Pages 1-4*

By the State Governor's Command

MR AYODEJI AJAYI
Head of Service

Ado-Ekiti, 6th February, 2020

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Supplement of Ekiti State of Nigeria Official Gazette No 1 Vol 25, 6th February 2020- Part A

HIGH COURT PRACTICE DIRECTION 2019

IN THE HIGH COURT OF JUSTICE EKITI STATE OF NIGERIA

(L. .S.)

No.1 2020

Ekiti State Of Nigeria

HIS EXCELLENCY DR KAYODE FAYEMI
GOVERNOR, EKITI STATE

IN EXERCISE OF THE POWER CONFERRED UPON ME BY SECTION274 OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA1999 (AS AMENDED) AND BY VIRTUE OF ALL POWERS ENABLING ME IN THAT BEHALF;

I, HONOURABLE JUSTICE AYODEJI SIMEON DARAMOLA, *CHIEF JUDGE OF EKITI STATE, HEREBY ISSUE THAT;*

THE FOLLOWING PRACTICE DIRECTIONS SHALL APPLY IN ALL CRIMINAL TRIALS IN THE HIGH COURT OF EKITI STATE

DATE OF COMMENCEMENT: 1ST NOVEMBER, 2019

ARRANGEMENT OF SECTIONS

1. Applicability
2. Objectives and Guiding Principles
3. Duty of the Defendant
4. Conduct of the Trial

APPLICABILITY

1. This Practice Directions shall, save to the extent and as may otherwise be ordered by the Chief Judge of Ekiti State Pursuant to section 274 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) apply to all criminal trials in the Ekiti State High Court

OBJECTIVES AND GUIDING PRINCIPLES

2. The purpose of his Practice Directions is to expedite the trial of criminal cases by eliminating the delays occasioned in the proceedings by stopping the substantive proceedings and conducting a trail within trial when a Defendant raises objection to the admissibility of a confessional statement on the ground that same was not obtained voluntarily.

DUTY OF THE DEFENDANT

3(1) Where a Defendant is desirous of raising objection to the admissibility of a confessional statement in any criminal proceedings on the ground that same was not obtained voluntarily, he shall not later than 7 days after the service on him of the charge or information or at such later date as the Court may permit, cause to be filed and served on the prosecution, notice that he intends to object to the admissibility of the confessional statement in the course of the trial, on the aforesaid ground.

(2) The defendant shall in all interlocutory applications made by him in the proceedings, state whether the aforesaid requirement applies to the proceedings and if so, whether he has complied with same.

CONDUCT OF THE TRIAL

4(1) When a Defendant raises objection to the admissibility of a confessional statement on the ground that it was not voluntarily obtained, the Prosecution shall, if it is desirous of disputing same, as part of its case, proceed to call witnesses and or adduce evidence to prove that the said statement was obtained voluntarily.

(2) The Defendant shall then during his defence and as part of his defence call witness and or adduce evidence to prove that the confessional statement was not obtained voluntarily

(3) The parties shall thereafter include legal arguments with respect to the admissibility or otherwise of the confessional statement in their final addresses and the court shall in the final judgment in the matter include its ruling on the admissibility or otherwise of the said confessional statement.

These directions shall take effect from the 1st day of November, 2019.

GIVEN UNDER MY HAND AT ADO EKITI THIS 1ST DAY NOVEMBER, 2019.

HON. JUSTICE AYODEJI SIMEON DARAMOLA
CHIEF JUDGE, HIGH COURT OF EKITI STATE

SCHEDULE

HEADING
NOTICE OF OBJECTION OF CONFESSIONAL STATEMENT
TAKE NOTICE that the Defendant/Accused Person shall during the trial object to the admissibility of the confessional statement on the ground that it was not obtained voluntarily from the Defendant/Accused person.

Dated this.....day of.....20.....

SIGNED

.....
DEFENCE COUNSEL/DEFENDANT/ACCUSED PERSON



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