

UNIVERSITY OF ILORIN

V.

RASHEEDAT ADESINA

SUPREME COURT OF NIGERIA

SC. 166/2009

WALTER SAMUEL NKANU ONNOGHEN, J.S.C. (*Presided*)
SULEIMAN GALADIMA, J.S.C.
BODE RHODES-VIVOUR, J.S.C.
KUMA1 BAYANG AKA' AHS, J.S.C. (*Read the Leading Judgment*)
JOHN INYANG OKORO, J.S.C.

FRIDAY, 6th JUNE 2014

ACTION - Justiciability of action - Refusal to re tease results of an examination - Whether justiciable.

APPEAL - Ground of appeal - Where relates to issue of jurisdiction – Whether requires leave of court.

APPEAL - Notice of appeal - Where appellant filed two notices of appeal within time - Whether leave of court required to file second notice.

COURT - Jurisdiction of court - Issue of - Where raised on appeal - Whether requires leave of court.

EDUCATION - Award of certificates and degrees - Power of University to determine candidates qualified therefor – Exercise of - Whether court will usurp - When court will interfere therewith.

EDUCATION - Award of decrees - Requirements therefor - Power of University to lay down - Exclusive nature of.

EDUCATION - Examination - Student who sits an examination or completes a course of study - Right of to know result thereof.

EDUCATION - Examination in University - Result of - Refusal of University to release to student who sat for examination - Dispute arising therefrom - Nature of - Whether domestic matter of University and outside jurisdiction of court.

EDUCATION - University administration - Internal or domestic affairs of a University - Exclusive right of University authorities to handle - When courts will have jurisdiction to interfere therewith.

JURISDICTION - Jurisdiction of court - Issue of - Where raised on appeal - Whether requires leave of court.

PRACTICE AND PROCEDURE - Appeal - Notice of appeal - Where appellant filed two notices of appeal within time - Whether leave of court required to file second notice.

PRACTICE AND PROCEDURE - Ground of appeal - Where relates to issue of jurisdiction - Whether requires leave of court.

PRACTICE AND PROCEDURE - Jurisdiction of court - Issue of - Where raised on appeal - Whether requires leave of court.

UNIVERSITY - Award of certificates and degrees - Power of University to determine candidates qualified therefor - Exercise of - Whether court will usurp - When court will interfere therewith.

UNIVERSITY - Award of degrees - Requirements therefor - Power of University to lay down - Exclusive nature of.

UNIVERSITY - Examination - Student who sits an examination or completes a course of study in a University - Right of to know result thereof.

UNIVERSITY - Examination in University - Result of - Refusal of University to release to student who sat for examination - Dispute arising therefrom - Nature of - Whether domestic matter of University and outside jurisdiction of court.

UNIVERSITY - University administration - Internal or domestic affairs of a University - Exclusive right of University authorities to handle - When courts will have jurisdiction to interfere therewith.

Issue:

Whether having regard to the facts and circumstances of the instant case, the Court of Appeal was wrong in holding that the trial court had jurisdiction to hear and determine the case.

Facts:

In June 1998, there was a demonstration by the students of the University of Ilorin in the main campus of the University. Subsequently, the Senate of the University set up a committee to investigate the matter and submit a report and recommendations for its consideration. In the report submitted by the committee, the respondent and other students were indicted and were referred to the students' disciplinary committee (SDC).

Although the respondent together with the other students were formally invited to appear before the students' disciplinary committee, she failed to do so and instead instituted an action against the University claiming certain reliefs together with an injunction restraining the appellant from commencing disciplinary proceedings against her. And the trial court granted an interim injunction against the appellant.

The appellant was aggrieved and it appealed against the order of injunction. During the pendency of the appeal, the President of the Federal Republic of Nigeria who is the Visitor to the University intervened, and that led to the setting up of a panel called resolution committee on politically victimized and rusticated students."

Following the resolutions made by the committee, the respondent who had been rusticated following her suspension from the University was recalled after she had written to the University authorities and apologized over the role she played in the demonstration. The respondent also paid a fine of N 1,000 for the damages caused during the demonstration. Despite her recall, her results were never released. So she could not graduate from the University.

Consequently, the respondent returned to court. The respondent sought, amongst other several reliefs, the release of her academic records and the degree she was entitled to on the basis of her completed course of study.

During the trial, the respondent testified as PW1 and tendered some documents. Five witnesses also testified for the appellant. And the reason the

appellant's witnesses gave for the non-release of the respondent's examination results was that she failed a core course.

During address, the appellant challenged the jurisdiction of the court which was resolved in favour of the respondent. The trial court in its consideration of the case on the merit, found in favour of the respondent.

The appellant's appeal to the Court of Appeal was dismissed. The appellant sought and was granted leave to appeal to the Supreme Court on 19th May 2008. The appellant subsequently filed a notice of appeal on 27th May 2008. Afterwards, the appellant filed another notice of appeal on 5th June 2008. The respondent objected to the latter notice of appeal on the ground that the appellant did not seek and obtain leave to file the additional grounds of appeal.

Held {*Unanimously dismissing the appeal*):

1. *On Exclusive power of a University to lay down requirements for the award of its degrees -*

A University has the sole power and responsibility to lay down requirements which must be satisfied before any student who is considered in the opinion of the Senate of the University to be worthy in learning and character to an award of its degree. In this case, such power is vested in the appellant under section 3(l) (e) of the University of Ilorin Act. (P. 175, paras. E – F)

2. *On Whether courts have jurisdiction over domestic matters of a University -*

The courts have no jurisdiction to interfere in the internal or domestic matters of a University. Such matters are within the exclusive province of the Senate of the University and the Visitor of the University. But where it becomes clear that in resolving domestic disputes, the university is found to have breached the civil rights and obligations of a student thereby raising issues of public import, the courts would have jurisdiction. [Akintemi v. Onwumechili (1985) 1 NWLR (Pt. 1) 68 referred to.] (P. 177, paras. A-C)

3. *On Whether courts have power over award of certificates and degrees by a University –*

The courts cannot and will not usurp the functions of the Senate, the Council and the Visitor of a University in the selection of their fit and proper candidates for passing and for the award of certificates, degrees and diplomas. However, there are exceptions to the general rule that the consideration for an award of degrees and certificates are in the domestic domain or jurisdiction of Universities. As it happened in the instant case, where the student has exhausted all avenues and entreaties and the University is adamant, as in neither releasing the result nor giving good, substantial and verifiable reasons for withholding the result, even after intervention by the Visitor of the University, the student is entitled to approach the court for redress. In such circumstance, the court should not shy away from ensuring that the University authority abides by the law setting up the institution. Award of degrees and certificates should be done in accordance with the law setting up the University and international best practice. It should not be at the whims and caprices of the personnel saddled with this responsibility. In the instant case, the respondent sued the appellant to challenge the refusal of the appellant to release her results. The trial court therefore had jurisdiction to entertain the matter. [*Akintemi v. Onwumehili* (1985) 1 NWLR (Pt. 1) 68; *University of Calabar v. Esiaga* (1997) 4 NWLR (Pt. 502) 719 referred to.] (P. 178, paras. A-E)

4. *On Right of student who sits for an examination or completes a course of study to know result thereof –*

It is the practice the world over that where a student sits for an examination or completes a course; he or she is entitled to know the outcome of that examination. In the instant case, the respondent was entitled to know the outcome of her examinations and it was wrong for the appellant to refuse to release the respondent's result on the flimsy excuse that she failed a core course and so the appellant had no obligation to release a non-existent result. (Pp. 175-176, paras. H-A)

5. *On Whether courts have jurisdiction over dispute arising from a University's refusal to release its student's examination results –*
There is a vast difference between release of results of a student and the award of degree to a student. Domestic disputes of a University are those disputes which are solely of interest to members of the University, but the release of student's results is a matter of some interest to the public and is not strictly a domestic dispute. After all the University has exclusive right to decide who it confers its degrees on. No one can question it. A student who takes part in an examination is entitled to see his result. Refusal to release result is not strictly a domestic issue. Refusal to release result with no reason for the refusal raises an issue of breach of civil rights and obligations, denial of fair hearing which are all justiciable. Such a refusal is no longer within the confines of domestic affairs of the University. The courts have jurisdiction to examine such matters. On the other hand, the refusal to award degree cannot be questioned by the courts. That is within the exclusive province of the University. There was no reason why the appellant in the instant case, refused to release the respondent's result. Therefore, the respondent's action is justiciable and the trial court has jurisdiction to hear and determine the respondent's case. (P. 177, paras. C-G)

6. *On Whether leave of court required for a second notice of appeal filed within time –*
Where two notices of appeal are filed within time by an appellant, he does not need any leave of court before he can file the second notice of appeal. (P. 169, para. E)

7. *On Whether issue of jurisdiction can be raised without leave of court -*
Where a ground of appeal relates to the issue of jurisdiction, it can be raised without first obtaining the leave of court. (P. 169, para. E)

Nigerian Cases Referred to in the Judgment:

- Akintemi v. Onwumechili* (1985) 1 NWLR (Pt. 1) 68
Madukolu v. Nkemdilim (1962) 2 SCNLR 341

Magit v. University of Agric Makurdi (2005) 19 NWLR (Pt. 959) 211

University of Calabar v. Esiaga (1997) 4 N W LR (Pt. 502) 719

Nigerian Statute Referred to in the Judgment:

University of Ilorin Act, Cap. U7, Laws of the Federation of Nigeria, 2004, S. 7(2) (c)

Appeal:

This was an appeal against the judgment of the Court of Appeal which dismissed the appellant's appeal against the decision of the Federal High Court in favour of the respondent. The Supreme Court, in a unanimous decision, dismissed the appeal.

Editor's Note:

The decision of the Court of Appeal herein affirmed by the Supreme Court is reported in **(2010) 9 NWLR (Pt. 1199) 331**.

History of Case:

Supreme Court

Names of Justices that sat on the appeal: Walter Samuel Nkanu Onnoghen, J.S.C. (*Presided*); Suleiman Galadima, J.S.C; Bode Rhodes-Vivour, J.S.C; Kumai Bayang Aka'ahs, J.S.C. (*Read the Leading Judgment*); John Inyang Okoro, J.S.C.

Appeal No: SC. 166/2009

Date of Judgment: Friday, 6th June 2014

Names of Counsel: Yusuf Ali, SAN (*with him*, S.A. Oke, Esq., Alex Akoja, Esq., N.N. Adegboye, Esq., K.T. Sulyman [Miss], P.I. Ikpegbu [Mrs.], Mohammed Shehu, Esq., Y.R. Waziri, Esq., Nkechi Aniegbonam [Miss], H.Y. Sheikh, [Miss], Mansurat Ibrahim, Esq. - *for the Appellant*

A. Olumide Fusika, Esq., (*with him*, A.A. Adewumi) - *for the Respondent*

Court of Appeal:

Division of the Court of Appeal from which the appeal was brought: Court of Appeal, Ilorin

Names of Justices that sat on the appeal: Helen Moronkeji Ogunwumiju, J.C.A. (*Presided*); Jummai Hannatu Sankey, J.C.A; Ignatius Igwe Agube, J.C.A. (*Read the Leading Judgment*)

Appeal No.: CA/IL/54/2006

Date of Judgment: Thursday, 13th March 2008

Names of Counsel: Chief Olatunji Arosanyin (*with him*, Salamat Araga, [Miss] and Esther Oguntowole [Miss] – *for the Appellant*

A. Olumide Fusika (*with him*, O.C. Olagunju) – *for the Respondent*

High Court:

Name of the High Court: Federal High Court, Ilorin

Name of the Judge: Nnamani, J.

Suit No.: FHC/IL/CS/17/2004

Date of Judgment: Wednesday, 2nd June 2006

Names of Counsel: A. Olumide Fusika, Esq. – *for the Plaintiff*

Chief Olatunji Arosanyin (*with him*, Biodun Bankole, Esq. and Salamat Araga [Miss] – *for the Defendant*

Counsel:

Yusuf Ali, SAN (*with him*, S.A. Oke, Esq., Alex Akoja, Esq., N.N. Adegboye, Esq., K.T. Sulyman [Miss], P.I. Ikpegbu [Mrs.], Mohammed Shehu, Esq., Y.R. Waziri, Esq., Nkechi Aniegbonam [Miss], H.Y. Sheikh, [Miss], Mansurat Ibrahim, Esq. – *for the Appellant*
A. Olumide Fusika, Esq., (*with him*, A.A. Adewumi) – *for the Respondent*

AKA’AHS, J.S.C. (Delivering the Leading Judgment): In June 1998, there was a demonstration by the students of the University of Ilorin which took place in the senior staff quarters located in the main campus of the University. Subsequent to the incident, the Senate of the University set up a committee to investigate the matter and submit a report and recommendations for consideration by it. In the report submitted by the committee, the respondent and other students were indicted and were referred to the Students Disciplinary Committee (SDC). Although the respondent together with the other students were formally invited to appear before the Students’ Disciplinary Committee she failed to do so and instead instituted an action against the University claiming certain reliefs together with injunction restraining the defendant from commencing disciplinary proceedings against her. The court granted an interim injunction. The reliefs which the plaintiff sought are:

- a) A DECLARATION that the defendant is statutorily obliged to grant degrees to persons who have pursued a course of study approved by it and satisfied such other requirements as it may lay down.
- b) A DECLARATION that it is illegal for the defendant, either directly or surreptitiously, to require any person to satisfy any requirement as to religious or political persuasion to be entitled to become or continue to be a student and the holder of any degree of the defendant -University.
- c) A DECLARATION that the plaintiff, having pursued and completed a course of study for the award of a B.Sc. Degree in Chemistry, and also satisfied all other requirements prescribed by the defendant and made known by it to the plaintiff, is entitled to be awarded the same.
- d) A DECLARATION that the defendant is not entitled to keep the plaintiff incommunicado as to the reason for the withholding of her academic records and degree.
- e) A DECLARATION that the withholding of the plaintiff's academic records since 2001 when she completed the course of study prescribed by the defendant for the award of a B.Sc. Degree in Chemistry without official explanation is capricious, vindictive, oppressive, illegal, unlawful, and constitutes a gross abuse of the defendant's statutory powers and public duties invested on/in it in the University of Ilorin Act, Cap. 455 of the Laws of the Federation of Nigeria 1990.
- f) A DECLARATION that the withholding of the plaintiff's academic records since 2001 when she completed the course of study prescribed by the defendant for the award of a B.Sc. Degree in Chemistry without official explanation is punitive and in breach of the defendant's right (sic) to a hearing before condemnation and punishment.
- g) AN ORDLR of specific performance of the agreement brokered at the instance of the defendant's visitor, the President Commander in Chief of the Armed Forces of the Federal Republic of Nigeria, whereby the parties agreed that the plaintiff shall apologize for his (sic) student union activities and pay a restitution in the sum of N 1,000.00 to the defendant and the defendant in consideration

thereof shall restore to the plaintiff all the rights reserved for her as a member of the defendant – University under the University of Ilorin Act, Cap. 455 of the Laws of the Federation of Nigeria 1990 which agreement was subsequently notified by the parties to and judicially noticed by the Court on the 29th day of October 2001 in suit No. FHC/IL/MI7/98.

- h) AN ORDER of mandamus compelling the defendant to remove forthwith all the administrative (or like) impediments to and to take all the administrative (or like) steps required for the release of the plaintiff's academic records including the degree to which her completed course of study with the defendant entitles her, and for the release of all said academic record and degree forthwith.
- i) DAMAGES on a footing of exemplary damages in the sum of N20, 000,000.00.

The defendant was aggrieved and appealed against the order of injunction. During the pendency of the appeal, the President who is the visitor to the University intervened which led to the setting up of the panel called "Resolution Committee on Politically Victimized and Rusticated Student." Following the resolutions made by the committee, the plaintiff who had been rusticated following her suspension from the University was recalled after she had written to the University authorities and apologized over the role she played in the demonstration in addition to paying a fine of N 1, 000.00 for the damages caused during the demonstration. Despite her recall her results were never released, hence she has not been able to graduate since 2001. This left the plaintiff with no option but return to court. During the trial the plaintiff testified as PW1 and tendered some documents. Five witnesses also testified for the defendant. During address the defendant challenged the jurisdiction of the court which was resolved in favour of the plaintiff. The trial court in its consideration of the case on the merit found in favour of the plaintiff. The defendant failed in its appeal to the Court of Appeal, Ilorin and sought leave to appeal to this court in a motion dated 23th day of April 2008. The appellant subsequently filed the notice of appeal on 27/5/2008 pursuant to leave granted on 19/5/2008. (See pages 417-420 of the records). On 5/6/2008, the appellant filed another notice of appeal (See page 428 of the records). The

respondent objected to the latter notice of appeal filed on 5/6/2008 on the ground that no leave was obtained to file the additional grounds of appeal. The appellant filed a reply brief in response to the preliminary objection. The two notices of appeal were filed within time and so the appellant did not need any leave of court before he could file the second notice of appeal on 5/6/2008. The ground of appeal relates to issue of jurisdiction which can be raised without first obtaining the leave of court. The preliminary objection lacks merit and it is accordingly overruled.

The appellant submitted three issues for determination. The issues are as follows:

1. Whether having regard to the facts and circumstance of this case, the court below was wrong in holding that the trial court had jurisdiction to hear and determine the case. (Ground 1 of original notice and additional ground of appeal).
2. Whether the appellant resiled from the agreement reached with its visitor when there was no evidence that the respondent was prevented from continuing her studentship. (Ground 2 of original notice of appeal)
3. Whether the court below was not wrong in holding that bias can be reasonably inferred from the intransigence of the appellant. (Ground 3 of original notice of appeal), Learned counsel for the respondent distilled two issues for determination from the two notices of appeal filed on 27/5/2008 and 5/6/2008 respectively as follows:
 1. Whether the lower court misdirected itself on the facts in affirming the trial court's findings of fact
 - a) That respondent's recourse to this court action was because the appellant had frustrated all efforts by her to obtain redress internally;
 - b) That the appellant's conduct towards the respondent amounted to an attempt to resile from an agreement brokered between the parties by the appellant's visitor; and
 - c) That the appellant's conduct towards the respondent had been influenced by the bias of its then Vice Chancellor against the respondent (Grounds 1, 2 and 3 of the notice of appeal dated 26th May, but filed on

27/5/2008 - (pp. 417 - 420 of the record of appeal)

2. Whether or not the lower court was right in its affirmation of the trial court's assumption and exercise of jurisdiction in the suit.

This is the linchpin issue No. 1 of this appeal. Learned counsel for the appellant stated that three conditions as laid down in the *locus classicus* of *Madukolu v. Nkemdilim* (1962) 2 SCNLR 341 must co-exist for a court to exercise jurisdiction in a matter and where any of the conditions is lacking, the court would be without jurisdiction to entertain the matter and anything done in the circumstance would be of no effect. He argued that a cursory reading of the endorsement of the claims on the writ of summons and statement of claim before the trial court will reveal beyond any doubt that the grouse of the plaintiff (now respondent) is failure of the appellant to release her non-existent result. In other words, what the respondent sought from the trial court was an award of a degree of the appellant. He submitted that the award of a university degree is a domestic matter which the courts are prevented from dabbling into as such matters are not justiciable in any court of law as the senate of a university being the supreme and ultimate academic authority is the only body with the exclusive power to determine who is fit and proper to be awarded a degree. He contended that the senate did not just arrogate to itself the exclusive power to determine to whom an award of degree should be made as the power is derived from the University of Ilorin Act Cap. U7, Laws of the Federation of Nigeria, 2004.

Learned counsel for the respondent while agreeing that it is the plaintiffs claim which determines whether or not the court has jurisdiction in the case debunked the argument that what the respondent sought from the trial court was an award of a degree of the appellant. He referred to the first six claims in the suit which are declarations seeking to test the propriety of the defendant's performance of its functions and the legality of its conducts towards the plaintiff and referred to section 2 of the University of Ilorin Act which subjects the University to the jurisdiction of the court. The seventh claim is for an order of specific performance while the eight reliefs is for an order of mandamus to compel the defendant to discharge its statutory responsibility to the plaintiff while the last two reliefs are claims for damages.

In the court below, the appellant raised the same issue of jurisdiction that is being canvassed here. In

dealing with the issue, the lower court per Agube, J.C.A. after referring to the dictum of *Pats. Acholonu in Magit v. University of Agric Makurdi* (2005) 19 NWLR (Pt. 959) 211 held as follows at P. 381 of the records:

“Going by the this authority, it is clear that here, as in this case, the plaintiff seeks to be awarded the Degree for which she has completed her course of study since the year 2001, and even where she has fulfilled all other conditions as spelt out by the defendant’s visitor the President of the Federal Republic of Nigeria’s brokered agreement, appellant without any explanation or hearing has refused to release her results or award her the said degree, the lower court was seized with jurisdiction to question the act of the University.”

Thus what the lower court decided was the release of the results and not the award of the Degree to the respondent where this court in applying section 7(2) (c) of the University of Ilorin Act, Cap. U7, Laws of the Federation of Nigeria 2004, held in *Magit v. University of Agric, Makurdi supra* at page

“That in so far as the award of degree or certificate to a student is concerned, the discretion to award or refuse to award, the courts has no jurisdiction in the matter. The courts have no business to flirt into the arena of a university. Any attempt by any court, including this court, to dabble or encroach into the purely administrative and domestic affairs of a university including that of the first respondent that may lead to undue interference, nay, the , weakening inadvertently so to speak of the powers and authority of the 1st respondent will not be justiciable or justified.”

Learned counsel for the appellant hinges the appellant’s inability to meet the respondent’s request of releasing her result to the fact that after the respondent had been pardoned and re-absorbed as a student, she had outstanding courses which she missed during the suspension and as a result it was practically impossible to release a non-existent result. The lower court had taken up this issue when it said at page 382 of the record:

“I have also looked at exhibits H and HI as against the answers to the interrogatories filed by the learned counsel to the defendant/appellant and the evidence of DW1 – DW5 which confirm the assertion and

findings of the learned trial Judge at pages 150 - 151, that the appellant and witnesses are insincere, vague, evasive, confusing and contradicting in their statements regarding the real offence or reason why the respondent's result is not released till date. I agree with my Lord Nnamani, J. and I could not have put it better that the appellant ought to be direct, frontal and positive in letting the plaintiff know the case against her (why her result is being withheld), rather than toy with her constitutional right to be informed of the offence or transgression against the law of the defendant after she had apologized and paid the restitution as directed by the visitor of the University who is superior to the Vice - Chancellor and Council of Senate, See section 13 of the University of Ilorin Act."

The stance taken by the appellants as far back as 11/6/2011 in refusing to release the result of the respondent was because there was a pending appeal. This was what the Vice – Chancellor stated in his letter Ref. No. VCO/131.S.I dated 11th June, 2001 which was tendered as exhibit B. In the said exhibit B he wrote:

*“UNIVERSITY OF ILORIN, ILORIN,
NIGERIA OFFICE OF THE VICE-
CHANCELLOR*

Vice Chancellor P. M. 1515
Professor Shuaibu Oba Abdulraheem Cables
& Telegrams:Unilorin
B. A. Grad O. ED (ABU) Telex 33144
Unilorin NG

M.A. (Sheffield), Ph. D (Kent) Telephone:
221911 Fax: 222561

11th June,
2001

Ref. No. VCO/131.S.I

The Chairman
Resolution Committee On
Politically Victimized And
Rusticated Students & Staff

Dear Sir,

SUBMISSION TO THE RESOLUTION
COMMITTEE ON POLITICALLY
VICTIMISED AND RUSTICATED
STUDENTS AND STAFF

*RE: LETTER OF APPEAL BY AKINOLA
SFF/'IIFN OLANREWAJU*

The above named Mr. Akinola Stephen Olanrewaju, Matric No. 93/043061 of the Department of Statistics of this University, was one of the students actively involved in the violent demonstration by students on the Main Campus and at the senior staff quarters in early June, 1998. The demonstration led to the molestation of innocent members of staff and destruction of their properties.

As a consequence of this episode, Senate set up a Committee headed by Professor M. A. Akanji to investigate the matter and submit a report and recommendation to Senate for consideration. The report indicted Mr. S. O. Akinola amongst others. He was therefore referred to the Students Disciplinary Committee (SDC) together with some other students. He was formally invited to appear before the SDC on Monday, 2nd November 1998 to defend himself in respect of some allegations of acts of misconduct (See exhibit I hereto) Mr. S. O. Akinola did not respond in writing to the allegations nor did he appear before the SDC as directed. Instead, he instituted a civil litigation in court in conjunction with other students Miss Adesina Rashidat and Mr. Olalekan Odewo, challenging the competence of the University to discipline them over what they called criminal offences.

The Federal High Court, Ilorin, ruled in their favour that they should not be brought before the SDC as prayed (See exhibit 2 hereto). The University obeyed the court's ruling and did not compel them to appear before the SDC. The University however, believing that it is wrong to strip it of its authority to call to order an erring student, filed an appeal at the Court of Appeal, Ilorin and the appeal is yet to be determined by the court.

Meanwhile, some other students who were similarly invited before the SDC at the same time appeared and their cases were fairly and justly decided. Amongst those who appeared and were consequently expelled from the University are Femi Adetola, the then President of the Student Union and Wasiu Raji Both later showed remorse, appealed to council for pardon and they were pardoned. They have now graduated from the University.

Meanwhile Mr. Akinola has applied for the release of his final examination results to enable him proceed on NYSC programme This could not be entertained as Senate cannot consider his result until the appeal pending against his case is decided one way or the other by the Court of Appeal, Ilorin.

AT PRESENT, MR. AKINOLA IS NEITHER RUSTICATED NOR EXPELLED. HE, MERELY HAS NOT YET MET THE CONDITIONS FOR THE AWARD OF A DEGREE OF THE UNIVERSITY OF ILORIN

With best regards.

Yours Faithfully,

Signed: Professor S.O. Abdul Raheem

Vice-Chancellor”.

The appellant in the last paragraph of ‘exhibit B’ stated that the respondent has not yet met the conditions for the award of a degree of the University of Ilorin and tendered exhibits H, HI and H2. In answer to the interrogatories served on the appellant dated 20th April, 2005 on how many courses are still outstanding against the plaintiff, and what the course titles are, the reply was “NONE” (See page 169 of the records). The Head of Department however remarked that the total credits offered was 151 and the credits passed was 131 and the plaintiff failed course ICH 209 which is a core course hence she could not graduate (See page 177 of the records). In a memo sent on 3/5/2000 by Dr. G.O. Adediran HOD Chemistry to Dr. Ogunniyi who took course ICH 209, he wanted Dr. Ogunniyi to confirm whether Miss Rashidat Adesina (Mat. No. 95/043589) attended lectures prior to the examination in ICH 209; ICH 424, ICH 446 and whether she did the required practical and continuous assignments to which Dr. Ogunniyi replied:

“Miss Adesina attended about 17% of lectures for ICH 209. However, she submitted her continuous assignments. I am unable to give any specific information about her attendance at ICH 424 lectures but I did observe her presence most of the time the lectures were held.”

The reason that led to the non release of her results is attributed to her failing a core course ICII 209.

The appellant has the sole power and responsibility to lay down requirements which must be satisfied before any student who is considered in the opinion of the senate to be worthy in learning and character to an award of its degree. To this end it is provided in section 3(1) (e) of the University of Ilorin Act -

“3(1) for the carrying out of its objects in section 1 of this Act, the University shall have power –

(e) To hold examinations and grant degrees to persons who have pursued a course of study approved by the University and have satisfied such other requirement as the University may lay down”.

The issue at stake is the release of the results and not the award of the degree. The respondent was

entitled to know the outcome of her examinations. It is the practice the world over that where a student sits for an examination or completes a course he or she is entitled to know the outcome of that examination. It therefore beats my imagination why the appellant refused to release the respondent's result on the flimsy excuse that she failed a core course and so the appellant had no obligation to release a non-existent result. It was an unnecessary show of power for the University to turn a deaf ear to the respondent's entreaties to release the results.

The answer to the interrogatories shows that course ICH 209 was taken in the 1996/97 academic year and this was before the demonstration in 1998. Was she notified that her score of 36 was a pass or a fail? If she was not notified about her performance in the course, the appellant cannot turn round to blame her for not remedying the deficiency. I regret to say that the way and manner the appellant handled the issue leaves much to be desired. The resolution of issue 1 is that the court below was not wrong in holding that the trial court had jurisdiction to hear and determine the case.

On issues 2 and 3, there is no doubt that the respondent was allowed to return to the University as a student but the treatment meted out to the respondent after her return has left no one in doubt that the appellant was not happy that the respondent instituted an action in court and from the tone of "exhibit B", the fate that has befallen the respondent is a fall out from the action. I therefore find that the appeal lacks merit and it is accordingly dismissed. I make no order on costs.

ONNOGHEN, J.S.C.: I have had the benefit of reading in draft the lead judgment of my learned brother, Aka'ahs, JSC just delivered.

I agree with his reasoning and conclusion that the appeal has no merit and should be dismissed.

Appeal dismissed.

GALADIMA, J.S.C.: I have the privilege in reading in draft, the lead judgment of my brother, Aka'ahs, JSC, just delivered. I agree with his reasoning and conclusion resulting in dismissal of the appeal. I am unable to improve on them. I adopt same as mine. I too, dismiss the appeal. I abide by the consequential orders made in the lead judgment including costs.

RHODES-VIVOUR, J.S.C.: I have had the advantage of reading in draft the leading judgment of my learned brother, Aka'ahs, JSC. I agree that this appeal should be dismissed. In view of the importance of jurisdiction I add a few words of my own.

The respondent, a student in the appellant was indicted for taking part in a student demonstration in 1998. She was pardoned after she wrote an apology and paid a fine imposed by the University. Yet the appellant refused to release her results and no reason was given for the refusal. The courts have no jurisdiction to interfere in the internal or domestic matters of a University. Such matters are within the exclusive province of the Senate of the University and the visitor. But where it becomes clear that in resolving domestic disputes the University is found to have breached the civil rights and obligations of the respondent thereby raising issues of public import, the courts would have jurisdiction. See *Akintemi & ors. v. Onwumechili & ors.* (1985) 1 NSCC Vol. 16 p. 45; reported as *Akintemi v. Onwumechili* (1985) 1 NWLR (Pt. 1) 68.

There is a vast difference between release of results and award of degree. Domestic disputes are those disputes which are solely of interest to members of the University, but the release of results is a matter of some interest to the public and is not strictly a domestic dispute. After all the University has exclusive right to decide who it confers its degrees on. No one can question that. A student who takes part in an examination is entitled to see his results. Refusal to release results is not strictly a domestic issue. Refusal to release result with no reason for the refusal raises issues of breach of civil rights and obligation, denial of fair hearing which are all justiciable. Such a refusal is no longer within the confines of domestic affairs of the University. The courts have jurisdiction to examine such matters. On the other hand the refusal to award degree cannot be questioned by the courts. That is within the exclusive province of the University. There is no reason why the appellant refused to release the respondent results, and also refused to honour the pardon given the respondent. The respondent's action is justiciable and the Federal High Court has jurisdiction to hear and determine the case.

For this and the much fuller reasoning in the leading judgment the appeal lacks merit and it is dismissed.

OKORO, J.S.C.: I have had a preview of the judgment of my learned brother, Aka'ahs, JSC just delivered with which I agree with both the reasons adduced and the conclusion that this appeal lacks merit and ought to be dismissed. My learned brother has set out the facts and issues in this appeal in his lead judgment. I shall abide by the facts and issues as stated therein. I however propose to make a few comments as touch on the jurisdiction of the court to entertain this matter.

I am aware that the courts cannot and will not usurp the functions of the senate, the council and the visitor of the university in the selection of their fit and proper candidates for passing and for the award of certificates, degrees and diplomas. See *Akintemi v. Onwumechili* (1985) 1 NWLR (Pt. 1) 68; *University of Calabar v. Esiaga* (1997) 4 NWLR (Pt. 502) 719. However, although the general rule is that consideration for an award of degrees and certificates are in the domestic domain or jurisdiction of the universities, there are however, exceptions. As it has happened in the instant appeal, where the student has exhausted all avenues and entreaties, and the university is adamant, as in neither releasing the result nor giving good, substantial and verifiable reasons for withholding the result, even after intervention by the visitor of the university, the student is entitled to approach the court for redress. In such circumstance, the court should not shy away from ensuring that the university authority abides by the law setting up the Institution. Award of degrees and certificates should be done in accordance with the law setting up the university and abide by international best practice. It should not be on the whims and caprices of the personnel saddled with this responsibility. It is on this note that I agree with the court below that the Federal High Court had jurisdiction to entertain this matter.

It is also my view that from the facts and evidence led at the trial; the appellant completely resiled from the agreement reached with its visitor as the appellant was unable to rebut the evidence adduced by the respondent on the issue.

It is my view also that bias can reasonably be inferred from the conduct and intransigence of the appellant in relation to its relationship with the respondent.

Based on the above facts and the fuller ones contained in the lead judgment, I agree that this appeal lacks merit and is hereby dismissed by me. I also make no order as to costs.

Appeal dismissed