

**TRAINING PROGRAM FOR  
JUDICIAL OFFICERS OF  
ZIMBABWE. JAN 2020**

**BY HON. JUSTICE LAWRENCE  
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# **MANAGING TRIALS IN ACCs: Case Management Rules**

- **CORRUPTION IS ESSENTIALLY A WHITE COLLAR CRIME. IT IS SOPHISTICATED, SYNDICATED, ORGANISED AND EXCEPT FOR PETTY BRIBERY IS USUALLY AIDED BY TECHNOLOGY.**
- **GRAND CORRUPTION IS PART OF CYBER CRIME**

# TENSION

- **CORRUPTION CASES GENERATE INTENSE PUBLIC INTEREST. IN THE COURT OF PUBLIC OPINION THE VERDICT IS OUT BEFORE PLEA.**
- **TRIALS IN CORRUPTION CASES ARE TENSION PACKED COUPLED WITH HOSITILITY , COLLUSION AND THE PUBLIC INTEREST. This is true of politicians, big public servants etc**

# **NATURE OF CORRUPTION**

- **CORRUPTION CASES ARE COMPLEX**
- **AN INTRICATE WEAVE OF ACCOUNTING AND DIGITAL FORENSICS**
- **INVOLVE LOTS OF DOCUMENTS**
- **CHARGES ARE BLOATED**
- **HAVE NUMEROUS OFFENDERS.**
- **LONG PROTRACTED TRIALS**
- **REQUIRE EXPERT EVIDENCE**

# LINGERING MIST

- **CHALLENGE OF CORRUPTION IS CORUPTION**
- **IT IS ALWAYS LINGERING LIKE A MIST OVER THE ENTIRE PROCESS FROM INVESTIGATION, ARREST, PROSECUTION TO ADJUDICATION.**
- **WITNESSES AND ASSESSORS ARE NOT SPARED THE MIST.**

# **OFFENCE OF CALCULATIONS**

- **IT IS ORGANISED AND SYNDICATED WITH MATHEMATICAL CALCULATIONS TO COMPROMISE AGENCIES CHARGED WITH LAW ENFORCEMENT.**
- **VITAL EXHIBITS ARE REMOVED, SCANTY EVIDENCE IS ASSEMBLED, VITAL WITNESSES ARE BOUGHT OFF AND STRANGE DECISIONS ARE RENDERED.**

# MANAGING TRIALS

- **BECAUSE THEY ARE SYNDICATES, TRIALS INVOLVE A CHAIN OF PEOPLE WHICH LEADS TO BLOTTED CHARGE SHEETS. This makes the cases heavy, long, protracted and complicated.**
- **WITNESSES ARE SOURCED FROM JUNIORS, WORK COLLEAGUES AND EXPERTS. This calls for trial case management skills.**

# **MANAGING TRIALS**

- **OFTEN TIMES ACCs HAVE TO SIT LONG HOURS AS JUDGES PATIENTLY UNCOVER MULTIPLE LAYERS OF CONCEALMENT OF EVIDENCE BY SOPHISTICATED OFFENDERS.**
- **CRIMINAL SUSPECTS IN CASES OF FRAUD COVER THEIR TRACKS.**



# **CASE MANAGEMENT RULES**

- **TO AVOID THE CHAOS WHERE THE PROSECUTION AND THE DEFENCE LITERALLY FIGHT IN COURT, THERE IS NEED TO HAVE RULES OF THE GAME TO GUIDE TRIALS.**
- **THE GAME HAS TO BE PLAYED UNDER RULES KNOWN TO ALL TO AVOID UNNECESSARY INTERVENTIONS BY THE TRIAL JUDGE.**

# **CASE MANAGEMENT RULES**

- **PURPOSE: Orderly, expeditious, efficient and cost effective manner of handling cases before the court.**
- **Each party to the case is obligated to play by the rules.**
- **This enables the court to focus on the triable issues instead of making ruling after ruling over constant objections.**

# **CASE MANAGEMENT RULES**

- **DISCLOSURE.** The hearing must be fair. This means that the accused must not only be heard but he/she is entitled to know the charges and evidence that will be adduced during the trial so that a defence or admission is prepared.
- **Material statements, documents, exhibits or information to be relied during the trial should be availed to the accused.**

# **CASE MANAGEMENT RULES**

- **IF A DOCUMENT WAS NOT AVAILABLE AT THE BEGINNING IT CAN BE DISCLOSED ALONG THE WAY BUT THE ACCUSED MAY SEEK AN ADJOURNMENT TO SCRUTINISE IT.**
- **THE LIST OF DISCLURE SHALL BE FILED IN COURT.**
- **DISCLOSURE IS NOT ABSOLUTE:** It may be curtailed because of state security, protection of witnesses, to protect informers or that it is not necessary.

# **CASE MANAGEMENT RULES**

- **TIME STANDARDS: CASES SHOULD NOT BE ALLOWED TO STAY IN COURT PENDING TRIAL FOR EVER. INVESTIGATIONS MUST END IN A STIPULATED TIME AND THE TRIAL COMMENCES.**
- **SIMILARLY THE COURT SHOULD STRIVE TO COMPLETE THE TRIAL BY ENSURING THAT IT SITS REGULARLY TO DISPOSE OF THE CASE.**

# **CASE MANAGEMENT RULES**

- **SURETIES: IN ECONOMIC CRIMES SUCH AS CORRUPTION, SURETIES MUST HAVE CAPACITY TO MEET THE BOND IN CASE THE ACCUSED JUMPS BAIL.**
- **THEY SHOULD BE SUBSTANTIAL IN STATUS COMENSURATE WITH THE ACCUSED. The practice at ACD is that their profiles are submitted with the application for bail to enable the prosecution verify any doubts.**

# **CASE MANAGEMENT RULES**

- **PLEA BARGAIN: UGANDA HAS A PLEA BARGAIN PROCESS WHERE THE OFFENDER RETURNS OR SURRENDERS PROCEEDS OF THE CRIME IN EXCHANGE FOR A LESSER SENTENCE OR FINE.**
- **HOWEVER, A PLEA BARGAIN MEANS THE OFFENDER PLEADS GUILTY. IN THAT CASE WHAT EVER THE SENTENCE, HE/SHE IS BARRED FROM WORKING IN PUBLIC SERVIEC FOR 10 YEARS.**

# **CASE MANAGEMENT RULES**

- **OBJECTIONS AND INTERLOCUTORY APPLICATIONS: -**
- **THESE MUST BE RAISED AS FAR AS PRACTICABLE AT THE BEGINNING OF THE TRIAL. Eg Challenge to charge sheets, nature of exhibits, documents from the complainant etc**



# **CASE MANAGEMENT RULES**

- **ADJOURNMENTS:**
- **THE BIGGEST DISEASE SUFFERED BY CASES BEFORE COURTS IS ADJOURNMENTS.**
- **CORRUPTION CASES USUALLY INVOLVE MANY OFFENDERS WHO HIRE SEVERAL LAWYERS. SOME LAWYERS ACCEPT INSTRUCTIONS AND WANT THE COURT TO FIT IN THEIR DIARY. This is unacceptable. Court should have firm hearing dates.**

# **CASE MANAGEMENT RULES**

- **IN CASE ONE LAWYER WONT BE PRESENT THEN ANOTHER LAWYER SHOULD BE BRIEFED TO PROCEED AND NOT TO SEEK AN ADJOURNMENT.**
- **IN CASE COURT WONT SIT FOR SOME REASON IT SHOULD INFORM THE PARTIES IN ADVANCE**

# **CASE MANAGEMENT RULES**

- **DELIVERY OF JUDGMENTS:**
- **ONCE THE TRIAL IS OVER AND FINAL ADDRESSES HAVE BEEN GIVEN, IT IS IMPORTANT FOR COURT TO SET A FIRM DATE FOR JUDGMENT.**
- **PROCRASTINATION IN CORRUPTION CASES SENDS A BAD MESSAGE.**
- **IN UGANDA TIME OF DELIVERY IS 60 DAYS.**

# **CONCLUSION**

- **RULES ARE THE MEANS BY WHICH THE COURTS DELIVER SUBSTANTIVE JUSTICE.**
- **WITHOUT RULES THE TRIAL WOULD BE CHAOTIC AND WASTIFUL IN TIME AND RESOURCES.**
- **RULES ENSURE TRANSPARENCY AND FAIR TRIAL.**

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