

IN THE HIGH COURT OF LAGOS STATE
IN THE IKEJA JUDICIAL DIVISION
HOLDEN AT IKEJA
BEFORE HON. JUSTICE A. M. NICOL CLAY (MRS.) JUDGE
SITTING AT COURT 3, CRIMINAL DIVISION, IKEJA, LAGOS
TODAY, WEDNESDAY, THE 11TH DAY OF MARCH, 2026.

SUIT NO.: LD/25306C/25

BETWEEN:

THE STATE OF LAGOS
AND

}

PROSECUTION/RESPONDENT

BADEJO TAIWO

}

DEFENDANT/APPLICANT

Defendant Present

Appearances-

Emeke Ananyi for the Defendant

T. O. Daud with Z. O. Abdul-Azeez for the Prosecution.

Judgment Delivered In Open Court

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JUDGMENT

By a Charge dated 20th December, 2024, **BADEJO TAIWO (M)** is charged as follows:

STATEMENT OF OFFENCE - COUNT ONE

Murder, Contrary to Section 223 of the Criminal Law, Ch. C17, Vol 3, Laws of Lagos State, 2015.

PARTICULARS OF OFFENCE

BADEJO TAIWO (M) on or about the 16th day of May, 2024, at Oko-Oba Area of Lagos State in the Ikeja Judicial Division did stab one Monday Talabi 'M' in his neck with a broken bottle thereby killing him

The Defendant was arraigned before this honourable Court on the 12th day of March, 2025, the matter proceeded to trial on the 21st of May, 2025. The Prosecution called 3 (Three) Witnesses, Asp. Kenneth Mbaneto (PW1), Talabi Oluwaseun (PW2) and Adams Tayo (PW3). The Defendant opened his case on the 27th day of October, 2025, he testified for himself and called one other Witness, one Sunday Taiwo (DW1).

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Fashola Taiwo.
COMMISSIONER FOR OATHS
HIGH COURT IKEJA

[Signature]

COURT OF LAGOS STATE
HIGH COURT
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26-3-2026
Sign: _____ Date: _____
CASH OFFICE, IKEJA

Trial commenced on the 21st day of May, 2025, PW1- Keneth Mbaneto, he testified as follows that he is a Police officer attached to the Abattoir Police station Agege Lagos State. He stated that he was the IPO that investigated the murder case that happened on the 16th of May 2024, the matter was reported to the station on the 17th of May by one Talabi Oluwaseun Samson, he wrote his statement voluntarily, that the DPO and DCO of the station interviewed the complainant. He stated that he booked at the station with one other Police officer to General Hospital where the corpse was lying down, he took photographs of the deceased with his phone, Tecno and later printed out the photograph.

It is his evidence that he visited the scene of the crime at Iyalokun, Oko Oba, Agege Lagos. That on the 16th May 2024, the deceased met the Defendant on the same street, demanded his N2,500 he owned him, the Defendant said he does not have the money to give him, both of them engaged themselves fighting, people around the place separated them. He stated that he recorded one of the witness, one Mrs Adams Tayo living in the area, that when the deceased tried to explain to the people what happened after they separated them, the Defendant took a broken bottle and stabbed the deceased when he was explaining to the people what happened, the Defendant came behind the deceased and stabbed him on the neck. That the brother of the deceased was called immediately, he took the deceased to Dome Hospital nearby where the deceased was treated, the wound was still bleeding, that the Doctor called the complainant to take the deceased to General Hospital Agege, the injury was much and the deceased died on the way going to the General Hospital.

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He testified that he took the deceased to General Hospital Yaba mortuary and deposited him there, that he called back to search for the Defendant but he did not see him in his house. That the complainant informed the OPC in the area. He recorded the statement of the Defendant when he was arrested, that he was taken to the complainant's house and the Defendant was brought to the station. He stated that the Defendant and all the people that brought him were interviewed, that he was there when the statement of the Defendant was taken. That the Defendant admitted that he was owing the deceased money and that they fought, that he asked the Defendant to take him to where he threw the bottle and he told him that he has thrown it away.

He testified that the case was transferred to State CID Pantl on the 18th of May 2024 Under cross examination, he confirmed that the first time he met the Defendant was on the 16th May 2024 and he was not there when the incident happened. That he did not see the Defendant with a broken bottle. He confirmed that he was there when the statement of the Defendant was taken and that he stated that he was acting in self-defence with the broken bottle. That the deceased was first taken to Okooba before General Hospital and he was informed that the deceased tried to explain. That there was no video recording or lawyer when his statement was taken.

The PW2- TALABI OLUWASEUN SAMSON

He testified that he is a business person and that he knows the Defendant very well. He stated that around 10 pm he got a call from his sister living around Okooba Road that there was a fight between his brother and the Defendant, that he drove down immediately to the scene and he asked his brother to explain to him what happened that the deceased told him that the Defendant was owing him N2500 for a period of time, that he told him that he met him in front of the hotel, confronted him and they were separated during the fight, that the deceased was narrating what happened, the Defendant came and stabbed him on the neck.

That he was taken to a chemist and was given a drug to stop the bleeding, that when he got there and asked him if he was feeling better, he told him no and they took him to the hospital, Doma hospital around 11pm, they were able to stop the bleeding and he was given injection. That the wound was stitched and he was told to come back in the morning because it was late, that not less than 20 minutes after he left they called him at the hospital to come back, that he came back and saw his brother on the floor as if they set fire on him.

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He stated that he was told to take him to General Hospital for proper treatment; they got to the General Hospital, few nurses attended to him and 15 minutes later he was not talking and moving and he was told that the deceased had given up the ghost. It is his evidence that he called an ambulance at Ile Epo and asked them to confirm if he was dead they told him yes. That in the morning he went to Okooba where OPC have their meeting and he explained to them what happened, they started looking for the Defendant, that they got information that he is in the house, they met him in the house and he reported the case at the Abattoir Police Station, That the DPO gave him officers to follow him to the scene of the crime.

Under cross examination, he confirmed that he met the Defendant for the first time at the pharmacy that he did not witness anybody stabbing the Deceased, he confirmed that he was called by Mrs Oluwatayo Adams, that he met the deceased with bandage that the Defendant was also present at the pharmacy. He also confirmed that the deceased informed him about the debt, that he was not in serious state or coma and that at that point nobody knew the deceased was going to die.

The PW3- ADAMS TAYO

She testified that she knows the Defendant, that around past 10 on the 16th of May 2024, that she was sitting at her shop at 24, Oyatokun Street, Okooba Agege, that she heard "give me my money" that they were shouting, she stated that it was dark, past 10 that she could not see the people fighting, that her brother Monday works in her shop and she called him that "Monday are you the one fighting" and he said that the boy owes him N2500 and that he has been calling him. She stated that somebody opposite her shop called Monday and he went to the person to explain what happened. That she saw the Defendant coming out of the Hotel Darville and that before they could say anything he stabbed Monday on the neck with a bottle, that Monday fell down and she held the Defendant that he will take the deceased to the hospital. That he took him to a pharmacy and that she called her brother and he came like 30 minutes, he took him to the hospital,

that about an hour later he got a call from his brother that Monday's condition was critical, that they should take him to General Hospital and that Monday died. She testified that she made a report the following morning at the Abattoir Police station. That they collected the Defendant's phone at the pharmacy that he did not have any money, they were able to get the Defendant not knowing that Monday was dead.

Under cross examination she stated that she was at her shop looking at them, she stated that she does not know the Defendant. She confirmed that the deceased was with his friend at the time of the stabbing.

The DW1- SUNDAY TAIWO

He testifies that he lives at Ajigbotinu Street Agege, that on the 16th of May 2024, he went to see his girlfriend at Oyatika street, that whenever he goes to see her they usually stay in front of a hotel at Oyetika street, this very night, they heard people fighting, they came out of the hotel and she said this is Taiye that he tried to settle the fight, that one person brought out a dagger knife he wanted to stab the Defendant and he ran that he stabbed him in the head and he fell down, stood up and pursued the deceased. That in the night they saw blood in his neck, that the deceased was led to a pharmacy, that there was blood on the Defendant's hands. He stated that the following morning his wife told him that they have arrested the Defendant and he has not heard from him again. It is his evidence that the deceased stabbed the Defendant with a dagger knife.

Under cross examination, he stated that he does not talk to the Defendant before the incident, he stated that it was late in the night and the place was dark, that they moved closer as where the prosecutor is to the box, that he wanted to settle it but he did not settle it, that his wife said he should not, that if he steps further he will fall into the canal, the victim stabbed Taye with Dagger knife, he was stabbed on his hand, he fell near the canal, he did not fall inside the canal, blood started gushing out, he heard the victim died two months after, he was not at the Police station, he went to his house.

No re-examination

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The DW2 stated his name as Badejo Taiwo and testified as follows that he was at Oyetika, OKOOBA Agege a shoe maker, that he heard the evidence of the IPO, on his birthday 16th May 2024 his friends said he should buy drinks for them, some asked for money, Monday was passing and said he should buy something for him, he said it was evening, there was no light, he came back to meet him, how far, he told him he doesn't have money, the next day he will buy something for him. He said it was not possible he must do something for him today, he can't go, he became angry, he said he saw him buying for people in the morning celebrating, he told him to go and come back next day, he pushed him he fell down, he stood up immediately that he promised him, he told him to come back he said no, since he was not coming back he should do whatever he wants to do, he saw him hiding something under his shirt, he removed something under his shirt, he saw it, it was a knife for what? Is it what he promised him? that the deceased started to pursue him on the street he stabbed him, he received it with his arm, he did not allow him to stab, there is a lot of drink, he felt like a bottle, he pushed him, he did not

stab him. That immediately he said o ti se mi lese, his hands were bleeding, he was taken to pharmacy, he asked him, he said he is fine, the PW3 came to where he, was been treated that Monday is her brother.

That one of his brothers came to the pharmacy to pick, he was telling Monday that he is a very stubborn boy, no payment was made at the pharmacy, he dropped his phone for the treatment. That the phone was collected at the station 2024, a big canal one will injure himself if he fell into the canal

That the deceased left his front, its the knife he went to pick, if he had seen him earlier, he would have run away, he was his friend, he sees no reason to kill him, that he went home after he left the pharmacy, his brother went to pick him, he went to his own house, he was preparing to go and treat the injury to his arm, they came in the morning that Monday is dead, no medical report, since police picked him, he has been in custody since that day, he is defending himself.

During Cross Examination he testified that he was arrested and taken to Abattoir Police Station from Panti, he did not write his statement they did, not allow him to write a Statement they were beating him mercilessly, they asked him what happened after telling him they said it was a lie, he signed.

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The Defendants Signature was tendered and admitted in evidence as Exhibit TSL3

He testified further that when the victim left up to two minutes he said he has to give him the money, he was upset, he would have left the location, it was there he came to meet him, he knew he was going that he was not coming back to him, when he saw him coming with the knife, he was thinking in his mind what he was trying to do, he did not stab him, he told them at the Police Station, that immediately he stabbed him, he fell, he did not stab him, he pushed him, he did not know if the bottles cut his neck, that he took the victim to pharmacy the cut was small compared to the one on his hand at the moment, he wanted to make him fine, they did not go to the hospital, they came to his house in the morning and arrested him.

It is his testimony that he said he was not begging him for money, he told them at the Police Station, he did not owe him.

There was no re-examination.

The matter proceeded to Final Written Address stage, the Defendant's Final Written Address is dated the 1st day of December, 2025, Learned Counsel gave an introduction, brief Statement of facts and raised a sole issues for determination as follows:

"Whether the Prosecution proved the offence of Murder beyond reasonable doubt against the Defendant who was acted in self-defense."

In his argument Learned Counsel submitted that it is trite law that before a court can reach a verdict of guilty and conviction therein, the Prosecution must prove all the ingredients of the offence for which the accused person is charged with. That Section 135(1) of the Evidence Act, 2011 places this statutory burden of proof in Criminal trial on the Prosecution alone, such that the accused person is not under any legal obligation to prove his innocence especially where the Prosecution has failed to prove its case. That unlike in civil matter, the standard of proof in criminal matter is on the threshold of proof beyond reasonable doubt, he referred to the case of FATAI BLOGUN V. THE STATE (2024) LPELR- 62548 (CA) 1 AT 23.

He submitted further that it is on the above pedestal that the Defendant presents this extant issue, for a consideration of whether the Prosecution satisfied the evidential requirements for the offence of Murder. The Defendant's submission is that the evidence of the Prosecution falls short of the law, as such, the Defendant is urging the Court to discharge and acquit him, as all evidence points to his innocence.

Learned Counsel submitted that the offence of Murder is a capital offence that carries a capital punishment of death sentence. To secure a conviction the Prosecution must prove the tripartite ingredients of murder conjunctively, such that where one element is unproved, the court must as a matter of legal compulsion, discharge and acquit the Defendant. He referred to the case of AIKHADUEKI V. STATE (2014) 15 NWLR (PT. 1431) 530 AT 556. He submitted further that where the case of the Prosecution is replete with doubt in a capital offence, the court is admonished to desist from convicting the accused in such circumstance.

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Learned Counsel submitted that through the combined reading and examination of Sections similar to Sections 222 and 223 of the Criminal Law, that the Supreme Court in AFOLABI V. STATE (2016) 11 NWLR (PT. 1524) 497 AT 525 listed the three essential ingredients of the offence of murder which must be proved by the Prosecution beyond reasonable doubt, that:

- a. The deceased had died;
- b. The death of the deceased was caused by the accused;
- c. The act or omission of the accused was intentional with knowledge;

He submitted that in the above three ingredients that the Prosecution must concurrently prove beyond reasonable doubt before a conviction can inure. That in carrying out a determination of whether the Prosecution satisfied the responsibility of proving the three ingredients beyond reasonable doubt, he referred to the case of ABDU V. THE STATE (2017) 7 NWLR (PT. 1564) 171 AT 186. That any doubt in the case of the Prosecution must, as legal compulsion, be resolved in favour of the accused person.

Learned Counsel submitted in plethora of decisions of Appellate Courts, that it has been held that proof beyond reasonable doubt relates to proof that is both compelling and conclusive with a degree of compulsion consistent with a high degree of probability as against doubt. He referred to the case of NWATURUOCHA V. STATE (2011) 6 NWLR

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(PT. 1242) 170; KOLADE V. STATE (2017) 8 NWLR (PT. 1566) 60, OSENI V. STATE (2012) 5 NWLR (PT. 1293) 351. That this principle is the foundation upon which the of the of the offence of Murder is for the Defendant hereby invite the Court to reach the right conclusion that the Prosecution did not prove the three concurrent ingredients beyond reasonable doubt. That for ease, the Defendant will demonstrate this point in succeeding paragraphs.

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He submitted that the first ingredient of the offence of Murder is for the Prosecution to prove beyond reasonable doubt that the deceased, whom the accused is alleged to have caused killed, is dead. That the Defendant herein concedes this first ingredient. That the ingredient that is required to prove the offence of murder is proof that the act of the Accused person caused the death of the deceased, in this case, Monday Talabi. That similarly to the first ingredient, the Defendant concedes to the second ingredient. That with these concessions, the only ingredient left, is proof beyond reasonable doubt that "the act or omission of the of the accused was intentional with knowledge that death or grievous bodily harm was its probable consequences.

That it is fundamental principle of law that before a person facing trial can be convicted of any criminal offence, the Prosecution must establish/prove beyond reasonable doubt that the crime alleged to have been committed, consists of both mental and physical elements he referred to the case of NJOKU V. STATE (2013) 2 NWLR (PT. 1339) 548 SC, PP. 571. AKINFE V STATE (1988) 3 NWLR (PT. 85) 729, MOHAMMED V. THE STATE (1991) 5 NWLR (PT. 192) 438, ABEKE V. THE STATE (2007) 9 NWLR (PT. 1040) 411 AT 429.

He submitted that it is important to note that the mens rea of an offence, can only be ascertained from the third ingredient of the offence of murder as contained in Section 222 of the Criminal Law of Lagos State.

That the third ingredient that must be satisfied by the Prosecution is that it must show that the act or omission of the accused was intentional with knowledge that death or grievous bodily harm was its probable consequences. That this third ingredient collapsed in the face of the evidence adduced by the Defendant in his defence.

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He submitted that the evidence of the Prosecution did not show or portray the intentional or unlawful killing of Monday Talabi. That the PW1 and PW2 are worthless as they confirmed under Cross Examination before this Court on 21st May, 2025 that they were not present at the time of the alleged incident. That with respect to PW3, she testified that it was dark and that she was in her shop. That she never gave any evidence of mens rea or on the intentional killings. The only solid evidence before this court are the evidence of DW1 and DW2 who are eyewitness, unlike the Prosecution witness. That Critical to this, is the uncontroverted evidence of the Defendant at the proceedings of 27th October, 2025, wherein the Defendant unequivocally testified concerning the deceased. That the Defendant from the get-go testified before this court that the said date of the death of the deceased, was the Defendant's birthday and that he was celebrating it, and could not have killed anybody on his day of celebration of life, talk less of his friend, Monday Talabi,

that the only offence of the Defendant is that he promised to buy something for the deceased as part of his celebration or give him money, just like the way he had bought drinks for people around the same day. That they have used the word, offence in quote, because it is never an offence to promise someone to do something, such that even if the promise was not kept, such cannot amount to an offence, or as a reason for the deceased to stab the Defendant with a knife/dagger. That the failure to keep up to an oral promise cannot be provocation for stabbing the Defendant by the deceased.

He submitted further that as earlier submitted, there was no legal obligation that the Defendant must buy drinks or give money to the deceased, who is his friend, as part of his birthday celebration but nevertheless, the Defendant undertook to do so and told the deceased to come back the next day, that the Deceased aggressive, chased and stabbed the Defendant, leading to the Defendant exercising a statutory and constitutional right of self-defence, which is a complete defence in succeeding paragraph.

In his argument that the Defendant acted in self-defence, Learned Counsel submitted that the case of the Defendant herein is that he exercised right of self defence against the accused person who had already stabbed him with a knife at the base of a canal, such that he had no option than to safeguard himself from the deceased by pushing him with a piece of broken bottle. That the right of self defence is a constitutional right which provides that a person is entitled at law to use such reasonable force to defend himself from unlawful violence. Specially, section 33(2) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) as follows:

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A person shall not be regarded as having been deprived of his life in contravention of this section, if he dies as a result of the use, to such extent and in such circumstances as permitted by law, of such force as is reasonably necessary,-

- a) For the defence of any person from unlawful violence or for the defence of property.

That the above constitutional [provision is further adopted in Section 193(2) of the Criminal Law of Lagos State 2011 as amended which provides thus

When a person is unlawfully assaulted and has not provoked the assault, the nature of the assault is such as to cause reasonable apprehension of death or grievous harm, it is unlawful for him to use such force as is reasonably necessary to defend himself from death or grievous harm even though such force may cause death or grievous harm. He referred to case of OGBU V. STAE (2017) 8 NWLR (PT. 1567) 236 AT 257-258.

He submitted further that the effect of a successful defence of the self defence, is a discharge and acquittal, and not a reduced sentence. That the is because, the right is fully exculpatory and not mitigatory,

He submitted that in the case of ITAV. STATE (2022) 14 NWLR (PT. 1849) 1 AT 11 that the supreme Court laid out the factors that a court should consider in deciding whether self defence avails an accused person or not are as follows

- a) There was an act of grave and sudden provocation or that he was assaulted by another,
- b) He has not provoked the person assaulting him,
- c) There was the loss of both actual and reasonable self-control
- d) The retaliation must also be proportionate or the nature of the assault may be one that causes reasonable apprehension of death or grievous harm,
- e) He used reasonable force to defend himself
- f) He never intended to kill that person or inflict grievous bodily harm,
- g) There would have been no way of escape for the appellant in the circumstance, and so on and forth as the case may be.

He submitted that in the instant case, the Defendant has satisfied all the factors for consideration that truly he was exercising a constitutional right of self defence and same shall be demonstrated anon.

On the ingredient that there was an act of grave and sudden provocation or that he was assaulted by another, he submitted that the Defendant gave uncontroverted evidence that the deceased stabbed him with a knife/dagger unprovoked. Specially at the proceedings of 27th October, that the Defendant testified that the deceased pursued him in the Street and eventually stabbed him close to the canal, such that he had no other option than to push the deceased with the piece of bottle he picked on the floor when he fell close to the canal. That this piece of evidence was not controverted by the Prosecution during Cross Examination, as such, it is deemed admitted.

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That the DW1 who was an eye witness, corroborated the Defendant testimonies that the deceased stabbed the Defendant unprovoked, and the Prosecution did not controvert this piece of evidence during Examination. That in essence, the Defendant has proved by dint of the combined evidence of DW1 and DW2 that he was unlawfully assaulted by the deceased because he was unable to give him money in furtherance of the Defendant's birthday celebration, he urged the Court to so hold.

On the ingredient that the Defendant did not provoke the person assaulting him, Learned Counsel submitted that the Defendant testified that he did not provoke the assault but rather the deceased became angry because of the Defendant's lack of money to give him. That in other words, the Defendant promised to gift deceased money for his birthday celebration, and for this reason, told the deceased to come back the next day but the deceased refused.

On the ingredient that there was the loss of both actual and reasonable self-control, he submitted that under Cross Examination, the Defendant testified that when the deceased stabbed him close to the canal, he lost control. That this loss of self control led him falling and bleeding. Specifically, the Defendant testified that immediately he stabbed him, he fell, he did not stab him.

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On the ingredient retaliation must also be proportionate or the nature of the assault may be one that causes reasonable apprehension of death or grievous harm, he submitted that the Defendant was unequivocal that he never stabbed deceased with the piece of broken bottle but only used the piece to push the deceased away from him to enable him escape.

Learned Counsel submitted further that when compared with the deceased who was wielding a knife and had already used the same knife to stab the Defendant, with the Defendant who after being stabbed held on to a piece of broken bottle, not a full bottle, to push the deceased, it becomes undisputable that the knife was far more dangerous than a piece of bottle which the Defendant used. In the circumstance, the retaliation with a piece of bottle as against the deceased who was holding a knife, is proportionate and lesser compared to the knife which is considered to be a dangerous weapon at law. That the evidence of the Defendant is sufficient for this Court to hold that he used lesser force as compared to the Defendant who used a greater force/violence with a knife.

On the ingredient that the Defendant used reasonable force to defend himself, he submitted that the Defendant's use of a piece of broken bottle was reasonable in the face of the deceased who had stabbed him with a knife and still holding the same knife when the Defendant fell close to the canal.

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On the ingredient that the Defendant never intended to kill the deceased person or inflict grievous bodily harm, he submitted that the Defendant testified that the deceased is his friend and that he has no reason to kill him, as such there is absence of mens rea or the intention to cause grievous bodily harm. That poignantly, the Defendant testified that the unfortunate day 16th May, 2025, was his birthday and that he was celebrating with friends and others alike.

On the ingredient there was no way of escape for the Defendant. He submitted that from the testimonies of the DW1 and DW2 the Defendant had no means of escape, and despite this lack of means of escape, the deceased still proceeded to stab Defendant with a knife.

Learned Counsel submitted that the constitutional nature of self-defence is such that even where a Defendant fails to raise it, the court is under obligation to consider the defence suo motu, having regards to the provisions of Section 33(2) of the Constitution. That the burden is on the Prosecution to establish that the Defendant is guilty and not entitled to self-defence. He referred the court to the case of AMINU V. STATE (2019) 7 NWLR (PT. 1672) 481 AT 492.

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He submitted that it is essential to reiterate that the Prosecution did not prove the essential ingredients of murder, or any other offence. That the case of the Prosecution in the circumstance is incredible and is plagued with reasonable doubt that negates a conviction, he referred to the case of ONUOHA V STATE (1989) 2 NWLR (PT. 101) 23 AT 35, SUBERU V. STATE (20100 LPELR 3120 SC 1 AT 18.

In conclusion, he submitted that the Prosecution's case is a fragile lattice of hearsay, conjecture, and material inconsistencies that cannot, in law or logic, sustain a conviction

for murder. That none of PW1-PW3 witnessed the incident, PW3 admitted that she was in her shop and the place was dark. That the entire testimonies of the Prosecution supply no mens rea, no intention to kill, and no refutation of the unshaken, direct eyewitness accounts of DW1 and DW2. That the fact that the Defendant subsequently took the deceased to the Pharmacy and deposited his phone as monetary collateral for treatment shows that the Defendant acted purely in good faith and in self defence. That by Section 33(2) of the Constitution and 193(2) of the Criminal Law of Lagos State, the Defendant's conduct is fully exonerated and exculpated in self defence.

He urged the Court to uphold the presumption of innocence, find that the Prosecution has not proved intention beyond reasonable doubt and enter a verdict of discharge and acquittal of the Defendant.

The Prosecution's Final Written Address is dated 15th day of December, 2025, Learned Counsel gave an Introduction, Summary of Facts, referred to the evidence of PW1 and PW2, illustrated the evidence before the court and raised a sole issue for determination as follows:

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"Whether from the totality of the evidence before the Court the Prosecution has established a case of Murder of one Monday Talabi against the Defendant beyond reasonable doubt".

In her argument Learned Counsel submitted that the Defendant is charged for the offence of Murder contrary to Section 223 of the Criminal Law, Ch. C17, vol. 3, Laws of Lagos State, 2015. It is an offence punishable with death upon conviction. As such the degree of evidence expected of the Prosecution is one that proved the guilt of the Defendant beyond reasonable doubt as provided for by Section 135(1) of the Evidence Act, 2011. It is submitted with respect that 'proof beyond reasonable doubt' as a cardinal principle of criminal liability is not and should not be taken for proof beyond every shadow of doubt.

That it has been held that the expression "proof beyond reasonable doubt" is a concept founded on reason, rational and critical examination of a state of affairs and law rather than in fancied, whimsical or capricious and speculative doubt. She referred to case of OJURI ANJOLA V. THE STATE (2012) LPELR- 19699 (CA), IGOBELE V. THE STATE (2006) 6 NWLR (PT. 975) 100, SEGUN AKINLOLU V. THE STATE (2015) LPELR025986 SC, DIMLONG V. DIMLONG (1998) 2 NWLR (PT. 538 381, 178, STATE V GWANGWAN (2015) LPELR 24837 SC

She submitted that under Section 222 of the Criminal Law of Lagos State, 2015, a person who unlawfully kills another –

- a. With intention to kill that person or some other person
- b. With intention to do grievous harm to the person killed or some other person and by subsection (2) a person is deemed to have intended to kill or to cause grievous harm when death or grievous harm is –
 - a. the desired consequence of his act or omission; or

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- b. Not the desired outcome of his act or omission but in bringing about his desired outcome, he foresees the result as the probable and likely consequence of his act or omission.

She referred to the case of ADEKUNLE V. STATE (2006) 14 NWLR PT 1000 717, 72, 548, HARUNA V. AG, FEDERATION, NWACHUKWU V. STATE 2002 12 NWLR PT. 782) 543, MADU V. STATE 2012 15 NWLR PT. 1324 405, 443

She argued that in a case of Murder the onus is on the Prosecution to prove beyond reasonable doubt the following essential ingredients as held PER JIMI OLUKAYODE BADA in the case of PETER NIELSEN V. THE STATE OF LAGOS (2024) LPELR – 62573 (CA)

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1. That the deceased died
2. That the act of the Defendant caused the death of the deceased
3. That the Defendants act was done with intent of causing death or bodily harm to the person of the deceased. She referred to the case of SUNDAY NJOKU V. THE STATE 2013 LPELR 19890 SC.

Learned counsel submitted further that there is no doubt that the deceased one (Monday Talabi) died, as it was witnessed by PW2 and PW3 before he could be admitted at the Orile-Agege General Hospital and was confirmed dead by the Doctors therein. That further PW1-ASP. Kenneth Mbaneto visited the Hospital saw and took photographs of his corpse before depositing his body at General Hospital, Yaba. That it is conclusive that the act of stabbing the deceased with a broken bottle on his neck, made him to fall, started bleeding and not taking him immediately to the Hospital for proper treatment led to the death of the deceased, that the act was obviously done with the intention of causing grievous bodily harm to the deceased which the Defendant successfully achieved and ended up killing him.

She referred to the case of AFOLABI V. STATE (2012) LPELR 14844 CA. That once the probability of death is high from the act of an accused person, the irrefutable presumption is that he intended to cause death or injury sufficient to terminate the life of the victim”.

That “it is also presumption of law that a person intends the natural consequence of his act”, she referred to the case of GARBA V STATE (2000) 4 SC PART 11, PAGE 157’2 163, OSENI V THE STATE 2012 LPELR 7833 SC.

She submitted that again in the case of AMOBI V STATE (2022) CA PG 9 PARA. D held that “the intention to kill or cause grievous bodily harm can be inferred from the nature of the weapon used by the accused”

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She submitted that in the instance case, the Defendant used a broken bottle to stab the deceased on his neck. That a broken bottle is of edges that are extremely sharp, often compared to a surgeon’s scalpel. Unlike material with a regular crystalline structure, bottle is a glass, an amorphous solid with a random jumble of molecules and no natural

planes of weakness. That it is an object capable of cutting hard materials not to mention human flesh, which is soft and delicate, especially the human neck which contains a high concentration of vital structure, including major blood vessels.

She submitted further that again the PW3 who was an eye witness on the said day reflected under oath her experience, that she was looking that the peoples fighting from her shop and could hear them fighting but until the deceased was coming towards her shop, she realized he was the one and called him to know what caused their fight, that it was the deceased was explaining to her that the Defendant suddenly came and stabbed the deceased on his neck.

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Learned Counsel submitted that PW2 unequivocally revealed under the heat of Cross Examination that the deceased was not dead when he was called that there was a fight between him and the Defendant. That he met the deceased still talking and he explained to him that the Defendant was owing him, so he confronted him for his money and that was when fight ensued. That it was the Defendant that stabbed him on his neck.

She submitted that in criminal trials, the law is that the guilt of an accused person for the commission of the offence charged can be established by any or all of the following

- a) The confessional statement of the accused
- b) Circumstantial evidence
- c) Evidence of an eye witness

She referred to the case of SAADU DERIBA (DRIVER) V. THE STATE 2016 LPELR 403345 CA, GODWIN IGABELE V. THE STATE 2006 6 NWLR PT. 975 103, LORI V. THE STATE (1980) 8-11 SC 81.

She submitted that in the instant case, there are eye witness accounts proving the charge against the Defendant and tilting to the fact that the Defendant and no other person caused the death of the deceased, even though, the Defendant now claims that he retaliated as a result of the act of the deceased knowing that he is now dead and can no longer appear in court. That without conceding to the current version of the Defendant's account of the incident of 16th May, 2024, the Defendant had the opportunity to leave the scene, especially when people had separated the fight and the deceased had already been called by PW3. That the Defendant rather chose to cause grievous harm to the deceased which led to his death.

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Learned Counsel submitted further that the PW1's evidence before this Court apart from the fact that the Defendant admitted in evidence that it was after his act that the deceased screamed and blood started rushing, the investigating Police Officer confirmed that in his presence, that of the DPO and DCO the Defendant confessed that the fight between himself and the deceased was because the deceased insisted that he pays the N2500 he was owing him and he did not have the money to pay him. That he picked a broken bottle, stabbed the deceased on his neck and threw the bottle away. That PW1 further stated that he visited the scene of the crime, met the people who witnessed the incident, including the OPC who apprehended the Defendant before he was formally arrested and

confirmed that the Defendant suddenly came and stabbed the deceased after they had been separated from fighting.

She submitted that evidence of PW1 in this instant case remains vital as it is the narration of what he discovered and experienced in the course of the investigation *ABDULLAHI ADAMU V. THE STATE* 2020 LPELR 51121 CA @ PP.48-49 *PARAS B-A. PRIVY COUNCIL IN THE CASE OF SUBRAMANIAM V. PUBLIC PROSECUTOR* (1956) 1 WLR 956, which remains the law and applicable in our courts she referred to the case *OLAYINKA AYENI V. THE PEOPLE OF LAGOS* (2016) LPELR 41440 CA

She submitted that the outcome of investigation by police officer on what he discovered concerning the commission of crime is not hearsay evidence and therefore admissible in law. She referred to the case of *OBOT V STATE* 2014 LPELR 23130.

She submitted further that with respect that by the evidence available before this Court the Defendant and nobody else killed the deceased and urged the court to so hold.

Learned Counsel argued that the Defendant in all is relying on self defence to justify stabbing the deceased on his neck and consequently causing his death. The Prosecution urged the court to so hold that self defence will not avail the Defendant in this case relying on the case of *ADAMU MALLAM SALE V. THE STATE* (2022) LPELR-57190 CA. He held that for self Defence to avail the Appellant, he must be able to show that in the circumstance of the facts, killing the deceased was the only avail an accused when from the facts it is clear that one person must die.

She submitted that even if the afterthought story of the Defendant is to be believed his evidence on record is that he saw the deceased coming with a knife, even though, he could have ran away from the deceased, he waited for him. That the deceased stabbed his hand and he fell, hence he picked a bottle, the Defendant did not stab the deceased on his leg, thigh or foot, if indeed he fell to the ground but was standing tall and stabbed the deceased on his neck (a killer part of the body)

She urged the court to discountenance the Defendant's false cry of self- defence. He submitted that the Defendant and no other person intentionally caused the death of the deceased, she urged the court to convict and sentence the Defendant, discountenance the arguments of Defence Counsel and hold that the Prosecution has by evidence established the ingredients of Murder and proved beyond reasonable doubt that it was the Defendant that intentionally caused the death of the deceased.

The Defendant in response to the Prosecutions Final Written Address filed a Written Reply dated the 16th day of December, 2025. Wherein the Learned Counsel gave an introduction, listed the admissions by the Prosecution and submitted that at paragraph 2.0-2.6, the Prosecution sought to give evidence through the gamut of Prosecution's final Written Address. That the facts/evidence which the Prosecution purported to summarise, are not traceable to testimonies of any of its witnesses. This was why the Prosecution could not point to any day of the proceedings or exact transcript of the proceedings of this

court where the facts it alluded to are contained. That as such he urged the court to discountenance same in entirety, as Counsel and Parties are prohibited from using the forum of written Address as an avenue to give evidence. He referred to the case of IGWE V. STATE (2024) 18 NWLR PT. 1971 487 AT 518.

He submitted further that at paragraph 5.6, the Prosecution argued that the Deceased told PW2 at the Hospital that the Defendant was owing him, and that he was stabbed by the neck. Aside from the point that the testimonies of PW2 concerning what the deceased allegedly told him amounts to hearsay, and inadmissible, they are equally inadmissible and not within the exception of dying declaration under Section 40(1) of the Evidence Act, 2011, because PW2 admitted that the deceased was not apprehensive of death when he allegedly spoke with him. That specifically PW2 testified thus "I was told to go home and come back early in the morning, my brother informed me of the debt, "yes he was not in a serious state of coma when he was telling me about the debt, at that point in time, Monday Talabi never know he was going to die."

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Learned Counsel to the Defendant submitted further that at paragraph 5.8, the Prosecution gave a blanket denial of the Defendant's self-defence, but failed to controvert this defence under Cross-Examination during trial. Whilst this Court should condemn the Prosecution's approach of using Written Address as avenue to give evidence or controvert evidence, he submitted that the Prosecution's submission that the Defendant had the opportunity to leave the scene is not backed by evidence. That this is because DW2's testimonies annihilates the falsity of the above Statement of the Prosecution. That the DW2 at the proceedings of 27th October, 2025 testified on his dilemma and lack of escape route.

He submitted that paragraph 5.9, the Prosecution argued that PW1 testified that the Defendant confessed in his presence and that he wrote the confession. That this argument has no substance as the law prohibits oral account of what is contained in a document. He referred to Section 125 of the Evidence Act, 2011.

He submitted that whilst PW1 testified that he wrote a confessional Statement, that this confessional Statement was not tendered by him. When the Prosecution belatedly attempted to render this alleged confessional Statement purportedly recorded by PW1, same was rejected in evidence, and the Prosecution withdrew same. He referred to the proceedings of 27th October, 2025 wherein the Prosecution withdrew the document, that the Prosecution is prohibited at law from giving oral evidence of the content of an alleged Confessional Statement that is not before this Court. He referred to the case of SQIMNGA (NIG.) LTD. V. S.A.P (NIG) LTD. 2025 2 NWLR PT. 1977 423 AT 444-445.

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In conclusion he submitted that the Prosecution has neither shaken nor displaced the clear, consistent and controverted narrative before this court that the deceased was the aggressor, that the deceased, without provocation, first stabbed the Defendant with a knife beside a dangerous canal that the Defendant had no reasonable avenue of escape, that whatever injury the deceased later sustained was a direct consequence of the

Defendant's frantic effort to preserve his own life; and that the Defendant's subsequent conduct in rushing the deceased for treatment and remaining within the same community is wholly inconsistent with any murderous intent.

That in a capital charge where the law demands proof beyond reasonable doubt, these unresolved doubts, inconsistencies and evidential gaps in the Prosecution's case must inure to the benefit of the Defendant, the Prosecution cannot remedy its manifest failure of proof by recourse to "Counsel's evidence" in final address, nor can this Court speculate against the Accused in the face of credible corroborated and unchallenged evidence of self-defence. He urged the court in fidelity to the Law, the facts and the sacred presumption of innocence, to resolve all doubt in favour of the Defendant and enter a verdict of discharge and acquittal.

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I have carefully considered the evidence and exhibits tendered in this case, also carefully considered the submissions of both Learned Counsel and the authorities cited, after a careful consideration of the above I have this to say,

The Defendant herein stands charged with the Offence of Murder of one Monday Talabi contrary to Section 223 of the Criminal Law Chp C17 Vol 3 Lagos State of Lagos State 2015.

Definition of Murder is stated in Section 222 of the Criminal Law of Lagos State 2015 as follows

- 1 Subject to the provisions of this Law, a person who unlawfully kills another-
 - a. With intention to kill that person or some other person; or
 - b. With intention to do grievous harm to the person killed or to some other person;

Commits a felony called murder.

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2. For the purpose of this section, a person is deemed to have intended to kill or to cause grievous harm when death or grievous harm is-
 - a. the desired consequence of his act or omission; or
 - b. not the desired outcome of his act or omission but in bringing about his desired outcome, he foresees death or grievous harm as the probable and likely consequence of his act or omission.

The sole issue for determination is whether the Prosecution was able to prove the charge of Murder against the Defendant beyond reasonable doubt.

In DAVID OBUE V. THE STATE (2005) 1 SC PT 1, 98 AT 110 PER OGUNTADE JSC stated as follows:

That it is correct and immutable principle of law that the Prosecution must establish the guilt of an Accused person beyond reasonable doubt in a Criminal case. The trial Court must in fulfillment of this duty consider the totality of the evidence before the court i.e aspects which is favourable and those which are not favourable. It is after such duty that the court can come to a conclusion as to whether or not the case was established beyond reasonable doubt. See also

MOSHEED V. THE STATE (2004) 42 WRN 155 AT 160.

The Defendant is standing trial for the Murder of one Monday Talabi, that he stabbed him in his neckline with a broken bottle, thereby killing him. In the case of AKPAN V. THE STATE (1994) 9 NWLR PT. 368 347 AT 349.

It has been held that in a case of Murder the burden is on the Prosecution prove the following beyond reasonable doubt:

1. That the deceased died;
2. That the death of the deceased resulted from the act of the Defendant;
3. That the act of the Defendant was intentional with the knowledge that death or grievous bodily harm was its probable consequences.

See IGAEFO V. THE STATE (1999) 14 NWLR PT. 637.

OMINI V STATE (1999) 9 SC 1.

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These ingredients must co-exist, if any of them is missing then the offence of Murder can't be said to have been proved. The Prosecution can't obtain a conviction of Murder against the Defendant, the Court must exonerate him and acquit him of the offence of Murder.

The Prosecution always has the heavy task of proving its case or the aforementioned ingredients beyond reasonable doubt. That is the standard of proof short of which the Prosecution shall fail. The Court shall now proceed to analyse the ingredients vis a vis the evidence before the Court being guided by the following principles, firstly that the burden of proof on the Prosecution is beyond reasonable doubt. see

Section 135 of the Evidence Act 2011 and the case of ADEKUNLE V THE STATE (2006) 14 NWLR (PT. 1000) 717.

All the ingredients must co-exist.

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1. That the deceased died

The evidence of PW1 Asp. Kenneth Mbaneto that he went with one other officer to Orile General Hospital, where the Corpse of the deceased was lying down and took photographs. the evidence of PW2, the Deceased's brother who gave evidence to the fact that he took the deceased to Doma Hospital but was advised to take him to the General Hospital for proper treatment, that with the help of his Sister's with her

husband, few nurses attended to him, that 15 minutes later, he was not moving, not talking, the nurse said he has given up.

2. The second ingredient that the death of the deceased resulted from the act of the Defendant. The evidence before this Court is glaring, the PW3 Adams Tayo who stated that she knows the Defendant, that she saw the Defendant coming out of Hotel Darville that he stabbed Monday on the neck with a bottle, that the deceased Monday, fell down, she held the Defendant that he will take him to the hospital, that he took him to a Pharmacy.

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I have also considered the evidence of the Defendant DW2 Badejo Taiwo, that his Birthday 16/5/2024, his friends said he should buy drinks for them, some asked for money, that Monday was passing and said he should buy something for him, he told him he does not have money, that the next day he will buy that it was not possible, he must do something for him today, he can't go, that he became angry, he told him to come back, that he said no, he pushed him and he fell down, that he immediately stood up that since he was not coming back he should do whatever he wants to do that he saw him hiding something under his shirt, he removed it, he saw it it was a knife, for what? That is it what he promised him, that the deceased started to pursue him in the Street, that he stabbed him, he received it with his arm, that he did not allow him to stab, he pushed him, he did not stab him, that immediately he said o ti se mi lese, his hands were bleeding he was taken to the Pharmacy.

I have considered his evidence under Cross Examination, the Defendant stated that he did not stab the deceased, he pushed him, he did not know if the bottle can cut his neck, he took him to the Pharmacy, that the cut was small compared to one on his own hand, he wanted to make him fine. It was clear that the death of the deceased was as a result of the cut on the deceased's neck.

The Court finds as overwhelming and proved that the act of the Defendant caused the death of the deceased, the sharp object which cut the deceased .

3. On issue three that the last ingredient whether the act or omission of the Defendant which caused the death of the deceased was intentional with the knowledge that death or grievous bodily harm was its probable consequence.

For this ingredient to be proved, there must be a meeting of the Mens Rea and Actus Reus. See ABEKE V STATE (2000) 9 NWLR PT. 1040, 411 SC. Mens Rea means a guilty mind and Actus Reus means a guilty act, put in another language, the guilty mind instigates the guilty act or flows from the guilty act"

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The question begging to be asked is whether the Defendant intended to kill the deceased or knew that grievous bodily harm was a probable consequence of his act?

The Defence of the Defendant is self Defence.

I have considered the submissions of Learned Counsel to the Defendant that the evidence of the Prosecution did not show or portray the intentional or unlawful killing of Monday Talabi, that PW1 and 2 were not present at the time of the alleged incident, that PW3's evidence it was dark the only solid evidence before the Court is that of the DW1 and DW2, that the Deceased was aggressive when the Defendant told him to come the next day, chased and stabbed the Defendant.

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I have considered his submissions that the Defendant exercising a statutory and Constitutional right of Self Defence, that it is a complete defence. I have considered the submissions of the Prosecution that there is no doubt that the deceased was killed by the Defendant, as it was witnessed by the PW2 and PW3 before the deceased could be admitted at the Orile General Hospital and was confirmed dead. From the evidence before the Court the submissions of Prosecution Counsel are hereby discountenanced.

The PW2 and PW3 did not witness the fight, PW2 did not witness anybody stabbing the Defendant, also evidence of PW3, who sat in her shop, that it was dark and past 10pm, she could not see, could not see people fighting.

Self Defence in an appropriate case is a complete answer to a charge of Murder or Manslaughter, however, for an accused to avail himself of this Defence, he must show that his life was so much endangered by the act of the deceased. That the only option open to him to save his own life, was to kill the deceased, he must show that he did not want to fight and that he was at all material times prepared to withdraw. See

FAMAKINWA V STATE (2016) 11 NWLR PT. 1524 538 AT 545,

IDAGU V. STATE (2018) LPELR 44343 SC.

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To the effect that the Accused must be free from fault in bringing the encounter, there must be present and impending peril to the life or great bodily harm either real or so apparent to create a honest belief of an existing necessity, there must be no safe or reasonable mode of escape by retreat, and there must have been a necessity for taking life. See OWHORUKE V. COP (2015) LPELR 24820 SC.

In this instant case the 2 questions the Court must ask is whether

1. On the evidence before the Court, was the Defence of Self Defence necessary?
2. Was the injury inflicted proportionate to the threat offered or was its excessive?

In this instant case it is clear from the Defendants account that he could not retreat , it is his evidence that the Defendant promised to give the deceased something , told him to come back the following day but the Defendant was pursued and was eventually close to the canal, he had no option but to push the deceased with a piece of bottle he picked from the floor.

I have considered the evidence of DW1 that the deceased stabbed the Defendant first with a knife, he fell near the canal, he did not fall inside the canal, that he did not stab him, he does not know if the bottle cut his neck, he took the deceased to the Pharmacy, the cut was small compared to his hand.

It is his evidence that he never intended to kill the deceased, his friend. From the evidence before the Court, the Defence of Self Defence was necessary, the evidence of the Defendant was to the effect that the canal was big and one would wound, if he falls into the canal, he had no means of escaping, he Defended himself.

The injury inflicted was it proportionate inflicted was it proportionate to the threat or was it excessive, I have also considered the evidence of the Defendant and the submissions of Learned Counsel to the Defendant that it becomes undisputable that the Knife was more dangerous than a piece of bottle which the Defendant used that retaliation is proportionate.

I hereby make a finding of self Defence in the manner defined by law for the simple reason that the Defendant did not have the opportunity to flee, the evidence before the Court is that the deceased came with a lethal weapon, a knife, none of the Prosecution witnesses were present, the only eye witness of the fight are DW1 and DW2, their testimony was uncontradicted.

The Defence of Self Defence is a complete charge to Murder or Manslaughter where the Accused Person acted spontaneously to an unprovoked attack. See CHUKWU V. STATE (199 1 NWLR (PT. 217) 255.

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The Defendant has demonstrated by his action that his action that he did not want to fight he had no intention of killing the deceased, his friend, he never intended to cause grievous bodily harm on the deceased by his act or to cause death. , he has demonstrated that he was prepared to temporize and disengage and perhaps to make physical withdrawal and that is necessary as a feature of the justification of Self Defence.

The Prosecution has failed to prove beyond reasonable doubt that the Defendant intended to kill the Deceased or cause him grievous bodily harm. The Defendant is hereby discharged and acquitted of the offence of murder.

Dated the 11th day of March, 2026.

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[Signature]

COURT OF LAGOS

HIGH



STATE

A.M NICOL CLAY (MRS.)
JUDGE
11 /03/26.

CASH OFFICE, IKEJA

Fashola Fairat
COMMISSIONER FOR OATHS
HIGH COURT IKEJA

[Signature]