IVORY TOWER TO HALLOWED HALLS OF JUSTICE:

FROM

Reflections and Essays

in Honour of

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Adewale Olawoyin, SAN
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HON. JUSTICE (PROF.)

MOJEED ADEKUNLE OWOADE, JCA

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APPEAL NO: CA/B/102c/2009
SUIT NO: HIK /1c/2004

Rasheed Aminu ....Appellant

And

The State......................................Respondent

CORAM

Hon. Justice Mojeed Adekunle Owoade, JCA (Presiding and Delivered Lead Judgment)
Hon. Justice Mohammed A. Danjuma, JCA
Hon. Justice James Shehu Abiriyi, JCA

CASE REVIEW

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1.0 Introduction

The decision of the Court of Appeal, Akure Judicial Division, Ondo State in *Rasheed Aminu v The State* adds another case to the increasing number of criminal cases on murder and the distinguishing factors in the defences of provocation and self-defence under the Nigerian law.

In this case, Rasheed Aminu was charged at the trial court with the murder of SadiqJimoh, by hitting him on the head with an axe contrary to Section 316 (2) of the Criminal Code, Cap 30, Vol 11 Laws of Ondo state of Nigeria, 1978.

Aside from the charge of murder, the issue of the effects of a confessional statement in the law of evidence and the defences of self and provocation arose at the trial Court and at the Court of Appeal. Specifically, the central question was whether the defences of self and provocation availed Rasheed Aminu. The trial court relied on the confessional statement of the accused and after considering the defences of self and provocation, could not find any of the defences in favour of the defendant. The learned trial judge found the Defendant guilty as charged for the offence of murder and sentenced him to the mandatory punishment of death.

The Defendant, Rasheed Aminu appealed to the Court of Appeal, Akure Judicial Division and as Appellant in the suitAppeal No: CA/B/102c/2009, Suit No: HIK /1c/2004Honourable Justice MojeedAdekunleOwoade, Justice of the Court of Appeal was the Presiding Justice and sitting with him were Honourable Justice Mohammed A. Danjuma, Justice of the Court of Appeal and Honourable Justice James ShehuAbiriyi, Justice of the Court of Appeal. The Appeal was heard in the Court of Appeal, Akure judicial division holden at Akure and judgement was given on the 14th day of November, 2014.

2.0 Fact of the Case

The deceased SadiqJimoh was hired by the daughter of FausatuKolade who was PW1 at the trial court as a labourer in the farm which was leased from PW2. When PW1 heard that the farm house in her daughter's farm land had collapsed, she went in search of the deceased but could not find him in his house. In further search, PW1 went to the farm of her daughter and saw the Appellant who was a stranger to her but did not see the deceased and the Appellant denied knowledge of the deceased. Later in the day, after fruitless effort to find the deceased whether in his house or on the farm where he was alleged to be working, the Appellant was seen bleeding with

severe machete cuts on his body and a report was made to PW1 and PW2. PW2 in fact took the Appellant to his house and gave him food. The corpse of the deceased was later found after searches on the farm. The Appellant was arrested and he made two (2) statements.

In the first statement marked Exhibit A, he denied killing the deceased. Later he made a confessional statement to another set of police men marked Exhibit C that he killed the deceased. At the trial, the Appellant retracted his confessional statement but the defence rested their case on it. In the confessional statement, the Appellant gave a graphic account of what happened at the farm. He stated that he had just been released from prison and had only #200 on him to take him back home. Without knowing the place where he was dropped by the vehicle that picked him, trekking for many kilometres for a whole day without getting to his destination, weak, tired and hungry, he got to a farm house which was deserted and noticed that corn was being boiled on fire. He claimed that he sat down to eat some of the corn and the deceased walked in and attacked him with machete cuts on his head and other parts of his body. He stated that he reached out for an axe in the hut and used it to cut the deceased who went out of the hut and died.

There were four witnesses for the prosecution and they all testified that the Appellant had machete cuts on his body. One of the police officers who investigated the case also gave evidence that there was evidence of struggle between the deceased and the Appellant as the wooden bed in the farm house was stained with blood. The Appellant did not call any witness but testified in his own defence. As a result of the axe which the Appellant used to cut the deceased, he died in the process. The Appellant was charged with the murder of SadiqJimoh by hitting him on the head with an axe, therefore causing his death, contrary to

Section 316 (2) of the Criminal Code, Cap 30, volume 11, Laws of Ondo State of Nigeria, 1979.

2.1 The Decision at the trial

The Appellant, Rasheed Aminu, was convicted at the trial court, the High Court of Justice, Ondo State, sitting at IkareAkoko on the 14th day of May 2008 by Honourable Justice P.I Odunwo. The learned trial Judge relied on the confessional statement of the Appellant which was marked Exhibit C and other circumstantial evidence, as proof of the killing of the deceased by the Appellant and the judge also considered the defences of provocation and self-defence. The trial judge found the Appellant guilty of the offence of murder as charged and sentenced him to death. The Appellant gave notice of Appeal on 30th of June 2008, but by leave of the Court of Appeal before which the appeal was heard, he filed an amended notice of appeal with five (5) grounds of appeal on 31 March 2014. The Respondent filed brief of argument on the 2nd day of April 2014. The Counsel for the Appellant highlighted two (2) issues for determination in the appeal. They are:

1. Whether on the evidence which the trial court accepted, the defence of self-defence and defence of provocation were available to the Appellant.
2. Whether the findings of the trial court were not perverse.

The learned counsel for the Respondent adopted the two issues highlighted by the Appellant.

2.2 The Decision on Appeal

The Appeal was heard by three (3) Justices of the Court of Appeal, Akure Judicial division holden at Akure. Honourable Justice MojeedAdekunleOwolabi was the Presiding Judge. The Justices considered the two issues highlighted by the learned counsel to the Appellant and adopted by the learned Counsel to the Respondent.

2.3 ISSUE 1

Whether on the evidence which the trial court accepted, the defence of self-defence and provocation were available to the Appellant.

The Justices of the Court of Appeal noted that the concern of the Appellant is for them to reconsider the availability of the self-defence and defence of provocation to his case. On whether the defence of self-defence availed the Appellant in the case, the Justices unanimously agreed with the trial judge that the defence of self-defence could not avail the Appellant. Before coming to that decision, the Justices considered the requirements for self-defence in sections 286 and 287 of the Criminal Code, Laws of Ondo State as to whether it availed the Appellant or not.

On Page 14 of the judgement of the Appeal Court, the Presiding Judge, Owoade JCA stated that "for the defence of self-defence to avail an accused person, he or she must show that his life was so much endangered by the act of the deceased; that the only option that was open to him to save his life was to kill the deceased. Owoade JCA further went on to state that the defence of self-defence will only fail, if the prosecution shows beyond reasonable doubt that what the accused did was not done by way of self-defence'. The case *of Apuga v State*[1]was cited.

Owoade JCA cited the submission of the learned counsel for the Respondent, who said that the Appellant said "*he managed to get the axe there and used it to hit him*". The learned jurist therefore concluded that "this shows that there was ample opportunity for him to escape when he went to pick the axe, but he did not, he picked the

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[1] (2006) 16 NWLR (PT 1002) 227.

axe and came back to hit it on the deceased". The issue of the appellant not retreating or trying to retreat was emphasized by the Owoade JCA, on page 15 of the judgment of the Court of Appeal. The Jurist dwelt on the common law retreat concept in self-defence and the attitude of the Nigerian courts. He cited the decision of the Supreme Court in *The State v FatayiBaiyewunmi*[2]where the court said

> "...it is not the law that a person threatened or attacked must take to his heels and run away; but that he must demonstrate by his actions that he did not want to fight".

His Lordship also cited the case of *Sunday Bandan v The State*[3] and quoted Iguh JSC (as he then was) and also the case of *Odu v The State*[4].

Owoade JCA therefore concluded that there was nowhere in the Appellant's confessional statement, that is Exhibit C, that he was willing to disengage himself in the fight before he hit the deceased with the axe. This, Owoade JCA, linked to a factor, which should be considered to determine whether the Appellants conduct is reasonable or not. On page 16 of the judgment, the Presiding Judge cited the case of *R v McInnes*[5]and concluded that the defence of self could not truly avail the Appellant.

It is important to note that the other two Justices of the Court of Appeal, namely Hon. Justice Mohammed A. Danjuma JCA and Hon Justice James ShehuAbiriyi JCA, although concurred with the reasoning of Owoade JCA, that the appeal be allowed and conviction for murder set aside and in its place be made/entered a conviction and sentence of 10years imprisonment for manslaughter, unlike the

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[2](1980) 1 NCR 183
[3](1994) 1 NWLR (Pt 320) 250 @ 263.
[4](2001) 10 NWLR (Pt 722) 668.
[5](1971) 3 AER 295

Presiding Justice, they did not dwell on the issue of self-defence at all. On the other hand, the two Justices dwelt on the defence of provocation and agreed with Owoade JCA that the defence of provocation availed the Appellant. In particular, Mohammed Danjuma JCA, on page 1, paragraphs 2 and 3 of hiscontribution, referred to the defence of provocation only. In the same vein, James Abiriyi JCA in paragraph 2 of his contribution in the judgment stated "*I agree entirely with him that the defence of provocation is available to the Appellant*". Although the learned Justice concurred to the judgement of Owoade JCA, nowhere in the judgment was there reference to the issue of self-defence.

Still on the first issue for determination was the issue of whether the defence of provocation availed the Appellant. All the three Justices agreed that the defence of provocation availed the Appellant. They all did not agree with the trial judge who held that the defence of provocation did not avail the Appellant in all the circumstances of the case. The learned counsel for both the Appellant and Respondent agreed as to the requirements for the defence of provocation although for different reasons. Only three requirements of the defence of provocation were distilled by the court to establish the defence. Firstly, that the provocation must be grave and sudden; secondly, that the accused must have actually and reasonably lost self-control and thirdly that retaliation must be proportionate to the provocation.

It is important for the clarity of the law to point out that the learned counsel for the Appellant relied on a wrong provision of the law for the support of the defence of provocation. The counsel for the Appellant in the case under review cited Section 284 of the Criminal Code of the Laws of Ondo State. It is submitted, that Section 284 of the Criminal Code, Laws of Ondo State refers to provocation in the case of an

assault, while the defence of provocation for an offence of homicide is provided for in Section 318 of the same law.

Section 284 of the law states:

> *"A person is not criminally responsible for an assault committed upon a person who gives him provocation for the assault, if he is in fact deprived by the provocation of the power of self-control, and acts upon it on the sudden and before there is time for his passion to cool:*
>
> *Provided that the force used is not disproportionate to the*
> *provocation, and is not intended, and is not such as is likely, to cause death or grievous harm.*
>
> *Whether any particular act or insult is such as to be likely to deprive an ordinary person of the power of self-control and to induce him to assault the person by whom the act or insult is done or offered, and whether, in any particular case, the person provoked was actually deprived by the provocation of the power of self-control, and whether any force used is or is not disproportionate to the provocation, are questions of fact".*

On the other hand, Section 318 of the law states

> *"When a person who unlawfully kills another in circumstances which, but for the provisions of this section, would constitute murder, does the act which causes death in the heat of passion caused by grave and sudden provocation, and before there is time for his passion to cool he is guilty of manslaughter only."*

To buttress the submission above, reference is made to the decisions of the Court in the case of *Mati Musa v The State*[6] and in the case of *Anuonye v The State*[7].

In the case of *Rasheed Aminu v The State* which is being reviewed, this was a case of homicide and the proper section of the law which the learned counsel for the Appellant should have referred to is Section 318 of the Criminal Code and not Section 284 which he relied on. Owoade JCA agreed with the learned Counsel for the Appellant that the act of provocation offered by the deceased on the Appellant was grave, considering the content of the Appellant's confessional statement- Exhibit C. This is in line with a Court of Appeal decision in the case of *Egbe versus The State*[8] where the court distinguished between Acts that are grave and those that which will amount to mere annoyance. Owoade JCA went further to state that a reasonable man in the situation of the Appellant, a hungry corn thief, would lose self-control and in fact must have lost self-control, if hit and attacked on the head and other parts of his body with a cutlass. The reasoning of Owoade JCA is supported by the Supreme Court decision in *Dajo v The State*[9] and the Court of Appeal decision in *Uthman v The State*[10].

He also agreed with the learned counsel for the Appellant that the use of an axe was not disproportionate to a sudden attack on the head and other parts of the body with cutlass. This is in line with the decision of the Supreme Court in *Eze v The State*[11] .

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[6] (2014) LPELR 24026 (CA).
[7] (2020) LPELR 49846 (CA).
[8] (2020) LPELR-50488 (CA)
[9] (2019) 2 NWLR (Pt 1656) 281 SC
[10] (2020) LPELR-50213(CA).
[11] (2018)16 NWLR (Pt 1644) 1 (SC)

While rejecting the reasons that the trial judge gave for rejecting the Appellant's plea for provocation, Owoade JCA in his judgment stated that "this was based on one or perhaps two related invalid assumptions". One of the reasons given by the trial judge was that, though the deceased attacked the accused person, it was really the deceased who was provoked, because the accused was the one who intruded into the farm house of the deceased and started eating his corn which was being cooked on fire. The trial judge then went on to say that this was why the deceased was provoked and attacked the accused with a machete and in turn, the accused saw an axe and hit the deceased on the head. The trial judge then went on to say that 'if the accused person's act provoked the deceased, leading to an attack by the deceased on the accused person, the accused person cannot complain of being provoked by the deceased'.

Justice Owoade while disagreeing with the trial judge stated 'contrary to such a view, the fact of the case can be likened to a typical situation where evidence which was adduced in support of an unsuccessful plea of self-defence may be relied on in whole or in part as affording a defence of provocation. The learned Justice then cited the case of *Bullard v R*[12]and the case of *R v Purrit*[13]. He stated that a person may rely on 'self-induced provocation where his own conduct causes a reaction in another which in turn causes him to lose his own self-control'. The decision of the Supreme Court of Canada in *Michael John Cairney v Her Majestythe Queen*, cited as *R v Cairney*[14] buttresses the above statement of Owoade JCA. The Canadian Supreme Court held that "There is no absolute rule that a person who instigates a confrontation cannot rely on the defence of provocation"

The Justice Owoade on page 18 of the Judgment held that the trial judge was wrong to have foreclosed the possibility of a defence of

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[12](1957) AC 635.
[13](1961) 2 AER 463.
[14] (2013) SCC55, (2013) 3 SCR 420

provocation merely because the Appellant was the one who first provoked the deceased by eating from his pot of corn. He further held that the defence of provocation is available to the Appellant in the case.

Issue 1 in the Appeal, was therefore resolved in favour of the Appellant. The other Justices were in total agreement with the Presiding Justice on the issue of the defence of provocation.

On issue 2, Owoade JCA posits that, the submission by both Counsels to the case was a repetition of that in issue 1. He therefore adopted the decision in Issue 1, that the defence of self-defence would not avail the Appellant, but the defence of provocation would avail him. Issue 2 was therefore resolved in favour of the Appellant. The effect is that the two issues raised before the Appeal Court were resolved in favour of the Appellant. The Appeal was therefore meritorious and allowed.

The effect of the successful plea of the defence of provocation is to reduce the offence of murder to a lesser offence of manslaughter as already laid down by the Supreme Court in *Simeon v The State*[15] and *Musa v The State*[16] .

The conviction and sentence of the Appellant for the offence of murder on 14 May 2008 by Hon Justice P.I Odunwo in Suit No: HIK/1C/2004 was set aside and the Court of Appeal convicted the Appellant for the offence of manslaughter and sentenced him to ten (10) years imprisonment.

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[15] (2018) 13 NWLR (pt. 1635) 128 SC
[16] (2019) 4 NWLR (pt. 1661) 335 SC

3.0 Significance and Analysis of the Appeal

3.1 Significance of the Appeal

Some aspects of this Court of Appeal decision are worthy of note.

The Appeal in *Rasheed Aminu v The State* is significant in many aspects. A few are discussed below.

The first significance of the Appeal in *Rasheed Aminu v The State*, is that the case brought out the protracting nature of criminal law cases between trial and Appeal and how the Appeal Courts can mitigate the effect it has on the Appellant whose Appeal is found meritorious, allowed and set aside. In this case, the Appellant was convicted by the trial court since 14 May 2008, sentenced to death and was in prison custody. He filed an Appeal on 31 March 2014 and Judgement was given by the Court of Appeal on 14/5/2008, setting aside the judgement of the trial court and a sentence of death sentence, and convicting him for manslaughter and a sentence to a term of imprisonment for ten (10) years. The mitigating effect for the Appellant was that the Appeal Court ordered that "the period the Appellant had spent in prison custody since 14/5/2008 shall be taken into consideration for the 10years sentence of imprisonment now imposed on the Appellant". The implication is that the Appellant would only spend about four years in prison.

The second significance is that the case gave an opportunity to the Appeal Court to address the issue of rehabilitation in the Nigerian prisons which according to international standard is the aim of the punishment of imprisonment.

In the case under review, Honourable Justice Mohammed Danjuma JCA, reiterated this when he said "I think this is a situation to call on the prison authorities to truly rehabilitate prisoners by training and empowering them, such that they do not come out as extremely poor rats with no means of even transportation nor feeding."

Rehabilitation of offenders as advised by Danjuma JCA in the judgment, is one of the most recently formulated theory of punishment others being deterrence, retribution, restoration and incapacitation. Rehabilitation emphasises treatment and training of offenders by providing counselling vocational and in some cases professional programs, to prepare them for integration back into the society as law abiding and productive citizen. This is advocated under the United Nation Standard Minimum Rules for the Treatment of Prisoners. It was adopted by the United Nations in Geneva in 1955 and approved by the Economic and Social council in 1957 and 1977. The right to rehabilitation was emphasised by the United States District Court, for the District of New Hampshire in the case of *LaamanvHelgemoe*[17].

4.0 Analysis of the Appeal

Confessional Statement of the Appellant at the Trial Court

As discussed earlier, the Court of Appeal in its judgment did not dwell so much on the confessional statement of the Appellant. At the trial, the Appellant retracted the confessional statement, but the records of the court show that the trial judge relied on it in convicting the Appellant. It is interesting to note that the Counsel for the Appellant relied on it at the Court of Appeal and Counsel for the Respondent based its defence on it at the trial court.

Under the law, the defendant who retracts his or her confession, is expected to explain to the court as a matter of duty any reason for inconsistency if any and has to lead evidence to establish that the confessional statement is not correct. The explanation has to come from the defendant without the prompting of the prosecution. This was

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[17] 437 F. Supp.269 1977 Appeal Docketed 77-1459 (1st Cir. October 25 1977)

established in *Issa Bio v The State*[18]andDavid *Phillip v The State*[19]. In the latter case, the Supreme Court held that an accused can be convicted on his retracted confessional statement if the court is satisfied that he made the statement and there are circumstances that give credibility to the confession. In the case under review, it is believed that the Appellant had no reasonable explanation to offer for retracting the confessional statement.

The learned Justice in the judgement brought out, the importance of confessional statements and how sacrosanct it is on Page 14 of the judgment. The emphasis of Owoade JCA is supported by several decisions of the Supreme Court as seen in *John v The State*[20]where confession it is said to be the best evidence and in *Oseni v The State*[21], that the confessional statement of an accused is a short cut to determining the guilt of the accused.

It is apparent that Sections 28 -[illegible] of the Evidence Act 2011 in Nigeria on the law relating to confessions has been extensively addressed by the Supreme Court.

4.1 Self DefenceUnder Criminal Law

On the issue relating to self defence and whether it availed the Appellant or not, the Counsel to the Appellant cited and extensively discussed copious cases to support the requirements of self-defence. However, of all the five requirements argued by the learned Counsel to the Appellant, the Presiding Justice, Owoade JCA, majorly focused only on one which is found on page 6 of the judgment. That the "appellant must show that he retreated and did not want to fight". On page 14, the learned Justice, in the last paragraph, agreed with the

[18] (2020) 1-2 SC (pt. 11) 76 77.
[19] (2019) 4 SC (pt. IV) 142.
[20] (2019) 3 SC (pt. 111) 19.
[21] (2012) 5 NWLR (pt. 1293) 351.

trial judge that the defence of self would not avail the Appellant and the reason given is that even the Appellant Counsel conceded to the fact that 'there is no evidence of retreat from the fight by the Appellant'. His Lordship also alluded to the submission of Counsel to Respondent that the Appellant stated that "he managed to get the axe there and use it to hit him". His Lordship went further on to state that 'this shows that there was ample opportunity for him to escape when he went to pick the axe but he did not...' and cited *The State v FalayiBaiyewunmi* and *Sunday Bandan v The State*. On the other hand, the argument of the Counsel to the Appellant is that 'the issue of disengagement depends on the peculiar circumstance of each case'.

On the issue of self defence raised by the Appellant in this Appeal, the reviewer supports the reasoning of the counsel to the Appellant and is not in total agreement with Owoade JCA. This is based on the fact that, sometimes, it may be possible to run away from the attack but at the other times, it may be impossible to physically withdraw'. Furthermore, in sections 286 and 287 of the Criminal Code of Ondo State, the law provides for self defence. The sections do not define self defence, however Professor OluyemisiBamgbose and Honorable Justice Sonia Akinbiyi in their book, *Criminal Law in Nigeria*, states that self defence can be said to be a justifiable defence against attack to the body of one self or that of another person. The sections above provide for two types of assaults that can be defended against by the Appellant. These are unprovoked assault and provoked assault respectively.

Unprovoked assault in section 286 arises if a person is assaulted by someone without the person first provoking the assault. The law provides that such a person can defend self with force so far the force does not cause death or grievous harm. The second part of the

provision went on to provide that if the attack is such that only force that causes grievous harm or death is the only effective way, then if death results, a person defending self is not guilty.

On the other hand, in section 287 of the criminal code, the law provides for provoked assault. This deals with a situation when it is the defendant who first provoked the assault and then the deceased assault the defendant with violence and the defendant has reasonable apprehension of death or grievous harm and it is necessary to prevent self from death or grievous harm to use force in self-defence, the defendant will not be liable for using force although such attack by the defendant caused death or grievous harm. This section does not apply if the defendant who first provoked intended to kill or cause grievous harm. The section will only apply if the defendant who first provoked decline further conflict or retreat as far as possible. *Laoye v State*[22]

It is argued that in the case under review, the emphasis by the Counsel to the Respondent and Owoade JCA, on the fact that the Appellant said "he managed to get the axe there and use it to hit him from the head" and according to them, this shows that when the Appellant went to pick the axe, he had ample opportunity to escape, but instead, when he picked the axe, he came back to hit the deceased cannot be supported. This emphasis and the impression by the Court that the Appellant went about looking for an axe in a farm hut he was unfamiliar with, in my view is taking the statement and especially the word "managed" made by the Appellant too far and probably being misrepresented. This is more so, when on page 9 of the judgment, it was stated that there were some 'undisputed facts' about the Appellant, one of which was that he only had 'elementary education'. Taking into consideration this fact of his level of education, the statement that he 'managed to get the axe' should not be extended to

[22] (1985) 10 SC 177 at 230.

mean going about looking for an axe, which is being interpreted as being an opportunity to have retreated or to have escaped from the deceased. This issue should have been considered in the light that as soon as the deceased came into the farm house, the first thing he did was to attack the Appellant, who was eating his corn, with a cutlass on his head and body. If the court had taken in consideration, the undisputed fact that the Appellant had trekked a distance of about 5 kilometers for a day without food as stated on page 9 of the judgment, the question then is, how far could the appellant retreat or escape, in his hungry state, with the injury he has suffered and an attacker with a cutlass. It is submitted that a reasonable man in the station of the Appellant, the situation he found himself after release from prison and what transpired in the farm hut, would defend his life.

However, on a happy note, Owoade JCA, while disagreeing with the trial judge on the issue of whether the Appellant can be availed of the defence of provocation stated that, the evidence adduced in support of the unsuccessful plea of self-defence is relied on in whole or part as affording a defence of provocation, afforded the Appellant escape from the hangman noose. In particular, the evidence adduced in support of the unsuccessful plea of self-defence which the learned counsel to the Respondent laid claim on, and both the trial judge and Owoade JCA agreed to, was the fact that the Appellant did not retreat before he inflicted injury on the deceased. It is interesting to note that it was this same fact that justified the requirement of the defence of provocation that the act of the Appellant must be done in the heat of passion and there must be no time for passion to cool. This fact was well stated by the learned counsel to the Appellant on pages 10 and 11 of the Judgment and Mohammed Ambi-UsiDanjuma JCA also referred to this fact that there was no time for passion to cool on the part of the Appellant. The twist in the application of the two defencesshows how

interesting the law can be adopted in resolving issues before the court of law.

4.2 Test of a reasonable Man in the law of Provocation

The adoption of the test of a reasonable man in the situation of the Appellant, by His Lordship in describing how a hungry corn thief would lose his self-control after being hit on the head and body with a cutlass and adapting it as basis for stating that the defence of provocation will avail the Appellant, shows the ingenuity employed by His Lordship in the adaptation and interpretation of the provision of the law.

5.0 Conclusion

Rasheed Aminu v The State is a landmark case presided over by Honourable Justice M. A. Owoade and two other distinguished Lordships. The decision made in the case will have long lasting impact on the law, future cases and the correctional services in Nigeria.