

## **THE PROBLEM OF LEGAL TECHNICALITIES AND THE DEMAND FOR JUSTICE; LAYMAN'S PERCEPTION OF TECHNICALLY DECIDED CASES**

**By**

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### **ABSTRACT**

This write-up will examine thoroughly the concept of technicality, the problems associated with it and the way forward in trying to solve the problems. It will also examine the concept of demand of justice. This paper will further explain the concept of technicality in a wider context taking a careful consideration of the attitude of the court towards technicality. It was discovered that courts try to avoid technicality in the interest of justice. It will juxtapose the Nigerian legal system taking a range between the substantive and procedural law or adjectival law; it was discovered that substantive law cannot be enforced without procedural law and usually litigants rely on procedural law to raise the issue of technicality. It looked at the administration of justice and the forms of justice; it was discovered that justice is divided into formal and substantive. Formal justice is applying laws strictly while substantive is applying laws at the interest of justice. It went further to discuss treatment of irregularities in the process of litigation together with forms of technicality where it was discovered that technicality is divided into mere and substantial technicality and that courts usually overlook the mere technicality and stand on substantial technicality. Consequently, we will look at layman perception and a legally informed individual perception of cases/matters decided on the concept of technicality; it was discovered that layman and some legally informed individuals look at technicality as a way to shun justice. This article recommends that courts should insist that litigants adhere to procedural law (rules of court) strictly unless a law says otherwise. Subsequently, this article recommends that courts should ensure that mere errors/mistakes by litigants are overlooked when it is in the interest of justice to do so or to order that those abnormalities be rectified to ensure that the process of administration of justice is perceived to be fair and equitable.

**KEYWORDS;** Technicality, justice, substantive law, adjectival law, litigation, layman, court legal system.

## I. INTRODUCTION;

The word legal technicality is generally taken in its ordinary parlance as to decide a case strictly on the basis of rules without looking at the merits of the case. It involves adherence to established rules at the prejudice of the merit of the case. It involves depending on a counsel's mistake at his prejudice in a legal subject matter. In the words of Niki Tobi JSC (as then he was) notes<sup>1</sup> that;

"The respondent referred to the departure in their brief as merely technicality. What is technicality? In *Adeniji v. The State* (1992) 4 NWLR (Pt. 234) 248, I said on page 265: 'I realise that courts of law seem to be using the word technicality out of tune or out of turn, visa-vis the larger concept of justice. In most cases, it has become a vogue that once a court is inclined to doing substantial justice by deflecting from the rules, it quickly draws a distinction between justice and technicality so much so that it has become not only a cliché but an enigma in our jurisprudence. In most cases when the courts invoke the substantial justice principle, they have at the back of their minds the desire to put to naught technicalities which the adverse party relies upon to drum down on otherwise meritorious case. We seem to be overstressing, the technicality concept. We should try 'to narrow down the' already onerous and amorphous concept in our judicial process. A technicality in a matter could arise if a party is relying on abstract or inordinate legalism to becloud or drown the merits of a case. A technicality arises if a party quickly takes in immediately available opportunity, however infinitesimal it may be to work against the merits of the opponent's case. In other words, he holds and relies tenaciously on the rules of court with little or no regard to the justice of the matter. As far as he is concerned the rules must be followed to the last sentences, the last words and the last letters without much ado, and with little or no regard to the injustice that will be caused the opponent.' Can respondents say with

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<sup>1</sup> . *MOJEED SUARA YUSUF V. MADAM IDIATU ADEGOKE & ANOR Yusuf v. Adegoke* (2007) 11 N.W.L.R. (Pt. 1045) 332 at 368369, paras. D-B (SC)

all seriousness and sincerity that ignoring the pleadings and making a different case at the hearing is a mere technicality? I think not." Per Tobi J.S.C.

While the writer of the article is not opining that justice should be sacrificed to technicality but he insists that laws should be complied with by litigants seeking something before the court. This paper insists that only when rule of court are complied with that justice will be seen done.

This article contains 8 subsections, the first subsection introduces and expound the concept of legal technicality it explains to the reader what the term technicality entails. The second subsection explains the concept of legal technicality broadly looking at what the attitude of the courts are towards legal technicality.

The third subsection takes a careful look at the Nigerian legal system taking into consideration substantive and procedural law. The fourth subsection takes a look at the process of the administration of justice, via the two mechanisms of justice; substantive and formal justice. The fifth subsection takes a careful look at the treatment of irregularities in the process of litigation and the difference between a mere and substantial technicality. The sixth subsection looks at the problems of technicality and layman and legally informed individual perception of technically decided cases. The last subsection of the article summarizes the article and make some recommendations.

## **II. UNDERSTANDING THE CONCEPT OF LEGAL TECHNICALITY (ATTITUDE OF COURT TOWARDS TECHNICALITY);**

As afore defined the concept of technicality is the concept of deciding cases on rules without considering or taking a look at the facts/merits of the case. Usually, legal practitioners play a game of sense in trying to use technicality to their advantage by using the mistake of the other counsel at his/her prejudice. The counsel who succeeds in obtaining a victory on the principles of technicality will leave the court with a shield of victory obtained on mere technicality. Whilst the other counsel leaves the court saddened that the court decided the matter at the prejudice of justice without having a look at the merit of the matter but sometimes he gets to understand that the other counsel has outsmarted him and he understands that the judge has no any other option than to decide the case the way its decided.

Usually, the concept of technicality arises from the departure of a party from the established rules of the court these are rules that govern a court in administration of justice.<sup>2</sup> The whole purpose of law and rules of court is to ensure that the affairs of the Court during the administration of justice are carried out in an orderly fashion with a reasonable degree of certainty that prescribed acts have been duly complied with by the parties in the interest of justice.<sup>3</sup>

Thus, where the law prescribes a way of carrying out an act, such is the only way to be followed. When a date is specified for the doing of an act, that date becomes sacrosanct.

This is because the rules of Courts and practice direction are made to be obeyed and no favour should be shown for not obeying same.<sup>4</sup> However, it has also been judicially noted that strict and unreasonable adherence to technicality in the administration of justice shuts out justice.<sup>5</sup>

It's a settled law that everyone has a right to enforce his rights or to institute an action before any court of law (based on having regards to the issue of jurisdiction) but this right should come through the right way that is by adhering to the established rules of court in any court the individual decides to institute his action.

Failure to adhere to these rules will be of great effect to the party subject to rules outlined in the rules of court for the breach. It's settled that the substantive aspect of the law cannot be enforced except through the adjectival aspect of the law.

What are the attitudes of the court of law towards technicality? The courts are now more focused on doing substantial justice rather than sacrificing justice on the altar of technicality. Courts are now willing to ignore mere errors and do justice as long as that error will not cause prejudice to the other party It was given judicial echo in the case of *ANPP v. R.E.C., Akwa*

*Ibom State*<sup>6</sup> where the court reiterated that;

"The heydays of technicalities are gone forever. The court is now more interested in doing substantial justice than relying on technicalities

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<sup>2</sup> . Oxford Dictionary

<sup>3</sup> . F.S.B.Int. Bank Ltd Vs. Imano (Nig.) Ltd (2000) 11 NWLR (Pt.679) 620 at 634

<sup>4</sup> . Williams v Hope Rising Funds Society (1982), 2 Sc 145 quoted with approval in Jimoh O. Ojugbele v Mr. Musefiu O.

Lamiidi (1999) LPELR-CCN/1/99, Ratio 2.

<sup>5</sup> . Akeredolu v Abraham & Ors (2018) LPELR- 44067 (SC).

<sup>6</sup> . ANPP v. R.E.C., Akwa Ibom State (2008) 8 NWLR (Pt.1090) 453 at 548-549, paras. H-C (CA)

which can only lead to injustice. The judicial process malfunctions and is discredited when it is bogged down by technicality and is manipulated to go from technicality to technicality and thrives on technicality. That is why at all times the tendency towards technicality should be eschewed and the determination to do substantial justice should remain the preferred option and hallmark of the judicial system. In this case, the resultant effect of the notices of preliminary objections, if followed to their logical conclusions, will abort or conclude consideration of the appeals which would amount to a technical justice or a knockout, rather than the modern trend in the courts of ensuring that substantial justice is done to all comers to the courts.

[State v. Gwonto (1983) 1 SCLR 142; University of Lagos v. Aigoro (1985) 1 NWLR (Pt. 1) 143; Maersk Line v. Addide Investment Ltd. (2002) 11 NWLR (Pt. 778) 317." Per Awala JCA.

### **III. NIGERIAN LEGAL SYSTEM (SUBSTANTIVE LAW AND PROCEDURAL OR ADJECTIVAL LAW);**

Substantive law means the rules of law themselves. In other words, it means the body of legal rules. It is the law that prohibits the doing or not the doing of certain things by citizens. It defines a code of conduct and prescribes a penalty for the violation of that code. The citizens have no choice but to obey the law as it is. A breach or violation of substantive law may result in punishment which may be in the form of a fine, term of imprisonment, compensation and so on.

Substantive law embraces subjects such as the Law of Contract, Torts, Criminal law and Constitutional law which are concerned with Statement of rights, duties and liabilities of individuals. For example, Law of Contract consists of a body of rules which will determine whether a contract exists in law; what the terms of the contract are and whether the terms have been performed or discharged or whether there is a breach and the remedies available to the injured party if any. In Criminal law, too, the Criminal Code (of the Southern States of Nigeria) and the Penal Code (applicable to the Northern States of Nigeria) define the different offences and the punishment that follows if one is found guilty of the offence. For example, S.419 of the Criminal Code defines the offence of obtaining goods by false pretences and prescribes

punishment of terms of imprisonment for anyone found guilty of the offence. Section 373 deals with homicide etc.

Procedural or adjectival law on the other hand deals with methods of proceedings to enforce a certain right or duty and how the litigation or prosecution is conducted. In other words, it is the procedural rules by which the law (that is the Substantive law) is enforced in the courts. The rule of procedural law therefore specifies the way in which an action is to be initiated in court; the mode of proof; the manner of prosecution of evidence; the method of giving evidence at trial; the examination of witnesses; the manner of giving judgement and the enforcement of the judgement of the court.

The procedural rules are to be found mainly in the various Rules of Court for Civil Offences, the Administration of Criminal Justice Act, or the Administration of Criminal Justice Law for criminal trials in both Southern and Northern States respectively, the Evidence Act, and the Sheriff and Civil Processes Act.

Usually, technicality arises from a departure from the procedural law which makes lawyers defend on that mistake (departure) to raise issues (usually requesting for the court to strike out the case or give judgment in their favour) sometimes lawyers rely on substantial law to raise the issue of technicality by strict reading for example when a statute says '*whoever*' a lawyer might argue that the word doesn't accommodate more than one person *inter alia*.

#### **IV. ADMINISTRATION OF JUSTICE (FORMAL AND SUBSTANTIVE JUSTICE);**

In ordinary parlance, law and justice are synonyms. However, justice is the correct application of a law, as opposed to arbitrariness. Law seeks justice. Law is therefore not an end in itself, but a means to achieving justice.

Notwithstanding the simplicity of the above statement, it would be misleading to assume that the concept of justice means the same thing to everybody at all times. Obviously, the word would mean different things to the employer and the employee; to the university authority and the students' union leaders; to the rich and the poor; to the plaintiff and defendant. This is because many factors contribute to the moulding of one's conception of justice such as - home background, educational qualification, religious belief, enlightened self-interests, personal idiosyncrasies, socio-political affiliation, etc. The problem is further complicated by the fact that the society cannot devise rules of law that will fully satisfy the often competing and conflicting demands of everyone at all times.

Somebody or some group must 'win' and another must 'lose'. The question is the margin of the victory or defeat of the different interest groups. Hence, the society must, through the instrumentality of the law, make a choice as to which of the conflicting interests must prevail and how to balance the conflicting and competing interests. In doing so, certain interests which may be equally meritorious but regarded as less deserving of priority at a particular time may be sacrificed for some other interests.

Sometimes law and justice are used interchangeably. For example, the Ministry for administration of law is referred as '*Ministry of Justice*'. Many people get confused as they mostly conceived justice as law and vice versa. However, it is important to know that the two concepts are not the same. Law deals with the conduct of people in the society, which gives them rights and duties while justice deals with the end(s) of law. When a judge applies the law the way it is, justice is said to be served. It will be difficult to give a definite answer on what justice is. Even though the word justice is used almost by everybody globally there is no single convincing definition of the term justice. It will be wiser to define justice on the functions and what justice tends to achieve. Some scholars opined that justice should guarantee equilibrium between overlapping and conflicting interests, with a view to assuming the order essential to the maintenance of progress of human society. Justice is also described as what constitutes the idea of what is good, as no man can claim to be good and honest unless he respects justice willingly. Therefore, we can understand that justice cannot be administered without law and without law there is no justice.

There are various theories of justice but only two of them will be considered here;

#### A. Formal Justice

This theory postulates that the court must apply the law strictly without any regard to any extra-legal considerations. In other words, the judge is bound to give effect to the law as it is and has no discretionary power to mitigate its harshness. Justice is said to be done when a case is decided strictly according to law. Perhaps, a classical example of the application of formal justice could be seen in the case of *Awolowo v. Federal Minister of Internal Affairs*.<sup>7</sup> In that case, a popular political leader from the old Western Region was charged with the offence of treasonable felony punishable by either death or life imprisonment. The learned trial judge was reported to have said, "My hands are tied" meaning that whatever his sympathies for the accused might be, he was nevertheless constrained by law to convict him. Many reasons have

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<sup>7</sup> (1962) L.L.R. 177

been adduced to justify this mechanical approach in the exercise of judicial power. Formal justice, it is said, ensures the clarity and certainty of the law. According to Lord Eldon;<sup>8</sup> "It is better that law should be certain than that every judge should speculate upon the improvement in it."

The theory has also been justified on the ground that it makes for impartiality and independence in adjudication since a judge is denied the opportunity of showing partiality to either of the parties.

#### B. Substantive Justice

This theory requires that where the strict application of the law may produce manifest absurdity or injustice, the judge may consider some extra judicial factors in interpreting the law in order to arrive at a just decision. This is the attitude that led to the development of the doctrine of equity.

The practice of liberally interpreting the provisions of the law by a judge to advance substantive justice is now commonly known as judicial activism.

Substantive justice is the most commonly used concepts in court today as the courts are now more focused on doing justice than punishing parties for mere errors.

### **V. TREATMENT OF IRREGULARITIES IN THE PROCESS OF LITIGATION/ADMINISTRATION OF JUSTICE (UNDERSTANDING THE DIFFERENCE OF MERE TECHNICALITY AND SUBSTANTIAL TECHNICALITY);**

It is clear presently that Courts should not decide cases or resolve matters on mere legal technicalities.<sup>9</sup> An example is when a party inadvertently approaches a Court for the redress by a wrong way. An individual whose rights have been infringed must be free to seek justice for such wrongs in the Court of law.

It will amount to mere technicality to base a defence to such action on the fact that the action was instituted by wrong way.<sup>10</sup> Also, a contention that a particular document was not tendered

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<sup>8</sup> *Sheddon v. Goodich* (1803) 32 E.R. 441 at p. 447:

<sup>9</sup> *Egolum v Obasanjo* (1999) 7NWLR (Pt. 511) 255, 413

<sup>10</sup> See *General Sani Abacha & Ors v Chief Gani Fawahinmi* (2000) 6 NWLR (Pt. 660) 228.



at particular stage of a trial will go to no issue, at best, it will be considered as a mere technicality which cannot influence the outcome of the procedure.<sup>11</sup>

An irregularity is substantial when it touches on the legality of the entire proceedings or process and in such situation, the technical failure is not a mere technicality but an irregularity that is transcendent to the *rem* of validity. A substantial irregularity is the one which causes a proceeding to have a smell of miscarriage of justice, and to allow that kind of trial which is hostile to the law to stand is in itself, denial of fair hearing.<sup>12</sup> A breach of a constitutional provision is more than a mere technicality, it is fundamental. The breach vitiates the entire proceedings before the Court.<sup>12</sup> Commenting on this position of law, the Supreme Court rules that:

To suggest that because the hearing was in open Court, the delivery of judgment inside chambers is a technicality as no miscarriage of justice has been occasioned thereby, is to beg the issue. The delivery of judgment is, in my respectful view, part of the hearing of a cause or matter. A breach of a mandatory constitutional provision is more than a mere technicality; it is fundamental. And it is no argument that there has been no miscarriage of justice.<sup>13</sup>

Again, no matter the degree of grievous harm done to the victim of a crime, it will be a complete aberration, to suggest that failure of taking the plea of the defendant as established by the law is a mere technicality because no miscarriage of justice was occasioned thereby to the defendant. Such an argument or contention will, with the greatest respect and humility, amounts to begging the issue.<sup>14</sup> So also, a litigant must adhere to his or her pleadings, strictly; making a different case at the hearing will not be permitted, and such inconsistency cannot be claimed as a mere technicality.<sup>15</sup> It is the law that parties must be consistent in presenting their cases to the Court. This means that the pleadings and the oral evidence should say the same thing because this goes to the root of the case and the rule of pleadings.

It is trite law that parties are bound by their pleadings not to tell stories while giving oral evidence in contradiction from their pleadings. ‘The case of a party is first made in the

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<sup>11</sup> *Madumere v Ole Okafor & Ors.* Unreported Supreme Court of Nigeria Judgement delivered on the Tuesday, April 2, 1996. <sup>12</sup> *Ojasanmi v FGN*: (2018) LPELR-44331(CA)

<sup>12</sup> *Alhaii Nuhu v Alhaji Ogele* (2003) 18 NWLR (Pt. 852) 251

<sup>13</sup> *Ifezue v Mbadugha* (1984) 1 SCNLR 427; (1984) All NLR 256.

<sup>14</sup> See *Ogbonna Okeke v The State* (2018) LPELR-45053 (CA).

<sup>15</sup> *Kode v Yussuf* (2001) 4 NWLR (Pt. 703) 392

pleadings and because the pleadings have no mouth and not the intelligence to talk, the human being who is possessed of the two, narrates the content of the pleadings to the Court'.<sup>16</sup> In effect, a party cannot move out of his pleadings and give evidence of facts not duly pleaded therein, such departure is not in the eye of law a mere technicality but a substantial irregularity that goes to the root of the departing party's case since same has the potential to overreach and do injustice to the other party.<sup>18</sup>

It is an irredeemable irregularity for judicial officer(s) who did not sit through a trial to deliver judgment in the case. The main function of the trial Court is to see and observe the witnesses.

'He watches their demeanour, candour or partisanship, their integrity, manner etc. He can therefore decide on their credibility and this affects a substantial part of his findings of fact'.<sup>17</sup>

The opportunity of a Court or Tribunal to observe the demeanour of a witness is an indispensable aspect of procedural jurisprudence, which is rooted in fair hearing.<sup>18</sup> Consequently, the Supreme Court in *Adeleke v Oyetola*<sup>19</sup> held that the decision of the Electoral Tribunal was a nullity because Justice Obiora who read and pronounced the majority judgment at the Tribunal was evidently absent from the proceedings, at least, one of the days of the trial and the failure of the absent panellist to be present on that day meant that the tribunal lacked the authorities to have given any judgment in the entirety of the matter.

The Supreme Court's majority decision in *Adeleke v. Oyetola* follows the West African Court of Appeal authority in the case of *Nana Tawiah v. Kwesi Ewudzi*,<sup>20</sup> where it was discovered that at least two of the Tribunal members who gave judgment were not present throughout the proceedings, and did not hear all the evidence.

## **VI. PROBLEMS/MERITS OF LEGAL TECHNICALITIES (LAYMANS AND LEGALLY INFORMED INDIVIDUAL PERCEPTION OF TECHNICALLY DECIDED CASES);**

Having taken a bold look into what legal technicality is its concept and all other terms, let's delve into both the problems and merits of legal technicalities. This problems and merits are discussed with intent of gaining a deeper insight into the concept of technicality:

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<sup>16</sup> *Mojeed Suara Yusuf v Madam Idiatu Adegoke & Ors*, Supreme Court of Nigeria Judgment delivered on Friday, the 20th day of April 2007 S.C. 15/2002 <sup>18</sup> *Kode v Yussuf* (Spra).

<sup>17</sup> *Okereke v The State* (2016) 1 SCM 99 at p. 113

<sup>18</sup> *Woluchem v Gudi* (2004) 3 WRN, 20

<sup>19</sup> SC/553/2019

<sup>20</sup> 3 WACA 52

### Problems of Legal Technicalities:

- A. Perception of Unfairness: Laypeople often perceive legal technicalities as loopholes that allow guilty individuals to escape punishment. For example, if a criminal case is dismissed due to a technicality, such as a procedural error or statute of limitations, it may undermine public confidence in the legal system.
- B. Complexity and Confusion: Legal technicalities can make the legal process complex and confusing for non-lawyers. The intricate rules and procedures may seem arbitrary and difficult to understand, leading to frustration and distrust in the system.
- C. Exploitation by Legal Experts: Some lawyers may exploit legal technicalities to gain an advantage for their clients. This can lead to accusations of manipulation or unfair tactics, especially if the technicality results in an outcome that appears unjust or contrary to the spirit of the law.
- D. Delay and Procedural Battles: Legal technicalities can prolong legal proceedings by leading to procedural battles between opposing parties. This can result in delays in justice and increased costs for all involved.

### Merits of Legal Technicalities:

- A. Preserving Rights and Due Process: Legal technicalities play a crucial role in protecting individuals' rights and ensuring due process. For example, technicalities related to search and seizure laws prevent unlawful intrusion by law enforcement and safeguard privacy rights.
- B. Ensuring Accuracy and Precision: The meticulous application of legal technicalities helps ensure that legal decisions are based on accurate interpretations of the law. This promotes consistency, predictability, and reliability in the legal system.
- C. Balancing Power Dynamics: Legal technicalities can serve as checks and balances against government overreach and abuse of power. By holding authorities accountable to legal standards and procedures, technicalities prevent arbitrary or unjust actions.
- D. Promoting Legal Innovation and Evolution: Legal technicalities often emerge from complex legal debates and interpretations. These discussions contribute to the evolution of the law, fostering innovation and adaptation to changing societal norms and values.

In conclusion, while legal technicalities can pose challenges and lead to perceptions of unfairness, they are essential for upholding the principles of justice, protecting individual rights, and ensuring the integrity of the legal system. It is crucial to strike a balance between

respecting technical legalities and addressing concerns about fairness and accessibility in the legal process.

The perception of technically decided cases can vary greatly between laypeople and legally minded individuals each looks at the concept of technicality from his/her own understanding lets enunciate each view separately;

#### Layperson's Perception:

A. Frustration and Distrust: Laypeople may feel frustrated and distrustful when a case is decided on technical grounds rather than the merits of the situation. They might see it as a way for individuals to "get off on a technicality" and evade justice, which can erode confidence in the legal system.

B. Simplistic Understanding: Laypeople might have a simplistic understanding of legal technicalities, viewing them as arbitrary rules or loopholes that lawyers exploit to win cases. They may not grasp the nuances or complexities involved in legal reasoning and precedent.

C. Emotional Response: Laypeople's reactions to technically decided cases can be heavily influenced by emotions, particularly if they perceive the outcome as unjust or contrary to their sense of morality. This emotional response may lead to criticisms of the legal system and calls for reform.

#### Legally Minded Perception:

A. Adherence to Legal Principles: Legally minded individuals, such as lawyers, judges, and legal scholars, recognize the importance of legal technicalities in upholding fundamental legal principles and ensuring procedural fairness. They understand that technicalities serve to safeguard rights and promote the rule of law.

B. Respect for Precedent: Those with legal expertise appreciate the role of precedent and legal precedent in shaping the outcome of cases. They understand that decisions based on technicalities are often rooted in established legal principles and precedents, rather than arbitrary or capricious reasoning.

C. Complexity and Nuance: Legally minded individuals are more likely to appreciate the complexity and nuance involved in legal reasoning and decision-making. They understand that legal technicalities arise from intricate legal debates and interpretations, and they recognize the importance of precision and accuracy in legal analysis.

D. Balancing Competing Interests: Legal professionals understand the need to balance competing interests and values in legal disputes. They recognize that technically decided cases often involve weighing the interests of different parties, interpreting statutes and regulations, and applying legal standards in a principled manner.

Overall, while laypeople may perceive technically decided cases through a lens of frustration and distrust, legally minded individuals appreciate the role of legal technicalities in upholding the rule of law and ensuring procedural fairness. Their understanding is shaped by a deeper appreciation of legal principles, precedent, and the complexities of legal reasoning.

## VII. CONCLUSION & RECOMMENDATION;

This article reiterated that the courts of law should be obeyed and must be obeyed in all circumstances. It has taken a bold look at how the courts of law look at the concept of technicality when raised and the steps the courts of law take to resolve the issue when raised. Therefore one can solidly infer and understand the impact of technicality on the rule of law and its ramifications. It is trite that a court will not tolerate disobedience to law in order to ensure that justice is done taking a look at the saying ‘justice must not only be done but seen as done. Therefore a party seeking something before the court must base it on the established laws based on the established rules of court he chooses to take his action to. While taking a look at the concept that courts are now more interested in doing substantial justice than relying on mere technicalities. It advocates/shows that courts should not punish litigants on their mere mistakes at the expense of justice, for example a party omitted certain sentence in his brief or forgot to indicate the suit number in his processes it is in the interest of justice that courts should overlook that to ensure that justice is done.

The laws are made to be obeyed and the law as a tool of justice whoever wishes to benefit from the law must be ready to obey the law looking at the saying ‘*ignorantia legis neminem*’ meaning ignorance to the law is not an excuse and when a litigant made a mistake at the court it’s at his own expense that is why litigants are advised to consult lawyers or legal experts before instituting any action before a court of law. This is what lawyers are trained to do: to follow the law to the letter.

The courts however can waive a technicality with the express consent of the opposing party, in other ways the opposing party objected to same the court should order that the abnormalities be corrected immediately. Whenever a court waives a technicality in the interest of justice they should provide a vivid explanation on why that is done to the satisfaction of the litigants in order to ensure that justice is been seen done by all parties.

It is humbly submitted that if these suggestions are followed, the problems associated with where to place legal technicalities: mere or substantial, and the public complainants associated with courts using legal technicality to defeat justice will be reduced drastically. This will also encourage filing of quality processes before the court upon which quality and sound judicial justice will be produced by the court. It will make the outcome of judicial actions predictable, ascertainable and satisfying.

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**\*ABOUT THE AUTHOR;**

Shuaibu Bashir Mukaddam was admitted to study international and common law at Maryam Abacha American University Of Niger in the year 2023 before his admission he has a firsthand experience of law having almost a 7 years interning experience at the law firm of his dad BM Mukaddam Law Firms.

Shuaibu after showcasing an excellent skill in litigation within the school moot competitions has lead the team of Maryam Abacha in 3 different interschool moot competitions and debate which they were all victorious the schools he participated against include Abu Zaria And Pen Resource University. He has lead the team of Maryam Abacha in the recent Ace International Moot Competition and he's currently working together with Maryam Abacha team that'll participate in the Most Prominent Moot in the history of the world Jessup which will take place in the United States.

During his early days at 2001 he was appointed as the program manager of Maryam Abacha Students Representative Council by the honourable chief justice of Maryam Abacha. Shuaibu was appointed among the members governing council of legal minds by the founder. Recently he signed a contract with hiLAWrious Organization As Thier legal Research Officer also he has signed a contract with Iko Africa As One of their writers. Shuaibu was also appointed as a Judge in African Law Students Association India Chapter. He's the current executive President African Law Students Association Nigerian Chapter he was also decorated with the title GCOA (grand commander of order African law student association Nigerian chapter).

Shuaibu was a prominent legal writer in Africa with more than 10 articles published to his name his writings can be found on barristerng.com, opinionnigeria.com, loyalnigerianlawyer.com, sabilaw.org, and on one of the most prominent sites in Africa ikoafrika.com. He finished 2nd on the list of the award of legal authors of the year organized by international forum of legal ideas also he has the most read article in the history of law students across all faculties in Nigeria with 2500 readers on his article on conviction on the opinion Nigeria site. He's the first student who's studying outside Nigeria that his writeup was published on Malabor bar magazine 2023/24.

Shuaibu has won many awards included but not limited to the award of legal advocate of the year 2023 by legal minds and most brilliant member 2023 by legal minds and leadership award of 2023 by international forum of legal ideas. He has participated in countless webinars where he was a guest of honour he has impacted alot with his resourceful and insightful knowledge.

He was given a bona fide membership of African Young Leaders Foundation due to his commitment to excellence and dedication.

Shuaibu is currently in 200l and he's a law tutor where he mentors law student. He's a member of sages of international law Africa SILA, West African Law Students Association WALSA And international law students association ILSA.

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