

# An Analysis of the Significance of Circumstantial Evidence in Criminal Trials in Nigeria

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## Abstract

*Circumstantial Evidence has been aptly explained to mean a number of circumstances, which are connected to create an unbroken chain of events which are used to establish the liability or otherwise in civil cases and the guilt or innocence in criminal cases. This paper seeks to coin and understand of the root of judicial evidence and its classification with specific reference being made to Direct and Circumstantial evidence thereafter drawing a distinction between them. This paper further makes an analysis on the extent of effectiveness or applicability of this concept when it comes down to exclusively securing conviction. It would look then at the stance taken by Nigerian courts and similar commonwealth countries to the use of Circumstantial evidence in criminal cases specifically murder cases. Lastly, after the determination of this fact, it will then be analyzed whether Circumstantial Evidence has indeed influenced Nigerian Criminal Justice System in a positive rather than negative way.*

**Keywords:** Evidence, Circumstantial Evidence, Evidence Act, Conviction, Trials

## 1. Introduction

The administration of justice in Nigeria's criminal justice system relies heavily on the presentation of evidence to prove the guilt or innocence of an accused person. While direct evidence, such as eyewitness testimony, is often considered the gold standard of proof, circumstantial evidence plays a crucial role in many criminal trials. Circumstantial evidence, which involves indirect evidence that implies the existence of a fact, is often the only available means of proving a crime, particularly in cases where there are no eyewitnesses or direct evidence. However, it has been a subject of jurisprudential debate over the years as to the applicability of Circumstantial Evidence particularly in Criminal proceedings. Furthermore, the significance of Circumstantial Evidence in the dispensation of justice has been questioned. This paper seeks to critically discuss these aforementioned assertions, However, before commencing on this academic voyage, it would be essential to define certain relevant terms and concepts, as far back as an understanding of the concept or Judicial Evidence;

## 2. Conceptual Clarification

**2.1. Judicial Evidence:** This is the means by which the facts are proved, but excluding inferences and arguments. It is common knowledge that a fact can only be proved by the oral testimony of persons who perceived the fact, or by the production of documents, or by the inspection of things or places – all of these comes within the meaning of judicial evidence.

**2.2. Classifications of Judicial Evidence:** There is no one way of classifying evidence. Judicial evidence may be classified into various types on different bases, especially depending on their nature. Different writers have classified Evidence in different ways. To point out a classic illustration, Cross and Williams classified Evidence into:

- Direct and Circumstantial
- Primary and Secondary
- Insufficient, Prima Facie and Conclusive.<sup>1</sup> However, the major focus of this essay will be classification of evidence as contained under the Evidence Act (Amendment)

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Act, 2023. These classifications include Oral Evidence as contained under Section 125 of the Evidence Act<sup>2</sup>, Real Evidence as contained under Section 127 of the Evidence Act<sup>3</sup>, Documentary Evidence as contained under Part V of the Evidence Act<sup>4</sup>, Hearsay Evidence as contained under Section 37 – 38 of the Evidence Act<sup>5</sup>, Electronic Evidence as contained under Section 84 of the Evidence Act. It should be noted that our discussion will be focused on the latter recognized classifications, which are usually at least in substance in contraction with one another. These are categorized into Direct and Circumstantial Evidence, both of which would be succinctly discussed as follows;

### 3. Direct Evidence

Also referred to as Positive Evidence, Direct evidence serves to provide proof about some facts in question without requiring the courts to make assumptions or to draw inferences. It is evidence that clearly speaks for itself and directly leads to a definite conclusion through deductive reasoning. This is said to be applicable in two ways; either the direct evidence as testimony made by a witness in the law court and as statement of witness based on perception of the fact in issue or relevant facts.<sup>6</sup> Your evidence is direct if it is based on your personal knowledge or observation and if true to believed, proves a fact out of inference or presumptions. It a testimony of;

*“What you hear with your ears, what you see with your eyes, what you smell with your nose, what you touch with your hand or body, what you taste with your mouth or tongue”*

### 4. Circumstantial Evidence

Also known as Indirect evidence or Oblique evidence because it is based on inference rather than personal knowledge or observation. This kind of evidence is only made applicable when there is the absence of direct evidence. This assertion has been subject of judicial decision of the Supreme Court in the case of Udo-debia & others v. The State<sup>7</sup>In the case of Itodo v State<sup>8</sup>, Ariwoola, J.S.C explained that

*“.....Circumstantial evidence means that there are a number of circumstances which make a complete unbroken chain of evidence that if established to the satisfaction of the court, may be acted upon to ground a conviction of the accused. However, for circumstantial evidence to ground conviction, it must lead to only one conclusion; the guilt of the accused person. Otherwise where there are other possibilities that others, other than the accused, also had the opportunity of committing the offence with which the accused was charged, such accused cannot be convicted of the offense, and if so convicted will be entitled, on appeal, to acquittal.”*

At this juncture, it would be appropriate to note that though this essay focuses the application of circumstantial evidence in relation to the weight it carries in criminal trials, it would be important that its applicability is not exclusive or exhaustive to criminal trials alone and is applicable to civil cases as well to establish or refute liability. It is usually the most common form of evidence, for example in product liability cases and road traffic accidents.<sup>9</sup> An

example of circumstantial evidence in a civil matter can occur in an allegation of adultery it may be difficult to obtain a direct evidence, but there is a possibility of getting circumstantial evidence which may include:

*“Proof of existence of familiarity, Opportunity, Birth Registration of a child of a woman other than that of the woman’s husband, Birth of a child after a long absence of the woman’s husband, Visit to brothel, Infection with a venereal disease, Confirmation by Blood test etc.”<sup>11</sup>*

### 5. Direct Evidence in Contrast to Circumstantial Evidence

A popular misconception is that circumstantial evidence is less valid or less important than direct evidence.<sup>12</sup> This is only partly true: direct evidence is generally considered more powerful, but successful criminal prosecutions often rely largely on circumstantial evidence, and civil charges are frequently based on circumstantial or indirect evidence. In practice, circumstantial evidence often has an advantage over direct evidence in that it is more difficult to suppress or fabricate.<sup>13</sup> Many successful criminal prosecutions rely largely or entirely on circumstantial evidence. Finger prints evidence, video tapes, sound recordings, photographs and many other examples of physical evidence that support the drawing of an inference, i.e. circumstantial evidence are considered very strong possible evidence.<sup>10</sup> Testimony given in the course of a trial can be direct or circumstantial. If the witness claims he saw the crime take place, this is considered direct evidence. However, if a witness testifies that he saw the defendant enter the victim’s house, and shortly after, heard a voice screaming for help from the house and saw the defendant leave the house with a blood stained knife, gives circumstantial evidence.

In a legal sense, circumstantial evidence is not regarded as inferior to direct evidence.<sup>11</sup> In many instances, reliance may be had on it more safely than on direct evidence, especially since proof by circumstantial evidence usually requires the use of a large number of witnesses, each testifying to some part and thus creating a link. This is further established in the U.S. Supreme Court has stated in Holland v United States<sup>16</sup> that

*“circumstantial evidence is intrinsically no different from testimonial direct evidence”*

Thus, the distinction between direct and circumstantial evidence has little practical effect in the presentation or admissibility of evidence in trials.

The distinction between direct and circumstantial evidence is important because, with the obvious exceptions (the immature, incompetent, or ), nearly all criminals are careful to not generate direct evidence, and try to avoid demonstrating criminal intent. Therefore, to prove the mens rea levels of "purposely" or "knowingly," the prosecution must usually resort to circumstantial evidence.<sup>12</sup>

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**5.1. Criminal Trials:** These are legal proceedings in which an individual is accused of committing a crime and is tried by a judge or jury to determine guilt or innocence. These trials are a fundamental part of the criminal justice system, ensuring that the accused have their rights protected while the prosecution attempts to prove their case beyond a reasonable doubt. [Fiveable “Criminal trials” <https://library.fiveable.me/key-terms/criminal-law/criminal-trials> accessed 11 February, 2025 ]

## 6. Conditions Necessary for Circumstantial Evidence to Sustain Conviction

As settled by the Court in the case of *Ogogovie v The State* per John Inyang Okoro J.S.C<sup>14</sup>

*“.....That the circumstances should point unequivocally, positively, unmistakably and irresistibly to the fact that the offence was committed and that the accused committed the offence.” See also the case of *Abioke v. The State*<sup>15</sup>*

The standard of proof required is very high; the evidence required must be reliable and credible and must be consistent with no other rational hypothesis except the guilt of the accused. It must also be so clear that no other co-existing circumstances which may arise would weaken the inference.<sup>16</sup> The law is trite, that circumstantial evidence is the best evidence, once it meets the requirements of the law to qualify as such, namely:

**6.1. Cogent and Compelling:** For better understanding of this requirement, it would be necessary bring an understanding of the words; cogent means something that convinces one about the truth of something, which means it must lead to one rational answer which is that it was the accused committed the offence<sup>17</sup>

**6.2. Unequivocal:** This simply implies that the evidence in question must not be ambiguous, and must leave no doubt. In a situation where a circumstantial evidence is capable of multiple interpretations, the accused in question cannot be convicted of the offence and if he is is entitled to be acquitted on appeal.<sup>18</sup>

**6.3. Irresistible:** This requirement focuses on the strength presented by adducing of the circumstantial evidence in question, this implies that the evidence should be able to draw a link between the accused person and the commission of the crime without leaving reasonable doubt.

These requirements are strict in order to avoid a wrong conviction that cannot be reversed. It is an over flogged maxim in law it is better to let ten guilty men go scot free than to convict an innocent man. Since the accused is presumed innocent, circumstantial evidence, in order to furnish a basis for conviction requires a high degree of probability that is so sufficiently high that a prudent man, considering all the facts and realizing that the life or liberty of the accused depends upon the decision, feels justified in holding that the accused committed the crime.<sup>19</sup>

## 7. Stance of Nigerian Courts to the Applicability of Circumstantial Evidence in Criminal Trials

Historically, judicial support for the application of circumstantial evidence for conviction in criminal trials is ample. The first reported case on the issue in Nigeria is *R. v. Sala Sati*<sup>20</sup>. In that case, the difficulty was that there was no direct evidence of anybody having seen the dead body of the person alleged to have been murdered. The court held that in such cases, the circumstantial evidence leading to the conclusion that the alleged deceased is dead has to be examined with great care. Indeed, admission of circumstantial evidence in situations where the body or a vital part thereof is not found raises the peculiar problem of *corpus delicti*. It was once thought that no conviction for murder can be founded where the body of the alleged dead person or a vital part thereof cannot be found. Thus, Lord Hale was able to say many years ago that

*“I would never convict any person of murder or manslaughter, unless the fact were proved to be done or at least the body found dead”<sup>21</sup>.*

However, this view can no longer be read as requiring production of the corpse, or a vital part thereof as a condition precedent to a conviction.<sup>22</sup> A long line of cases has put paid to this view, not only in Nigeria as we have seen, but elsewhere in the Common Law jurisdictions where the view originated. In *Mical Onufrejczk v. R*<sup>23</sup>, the English Court of Appeal emphatically said:

*“On a charge of murder the fact of death is provable by circumstantial evidence, notwithstanding that neither the body nor any trace of the body has been found, that the prisoner has made no confession of any participation in the crime....”*

## 8. Import of Circumstantial Evidence to Criminal Trials in Nigeria

Firstly, to properly understand the significance of the application of circumstantial evidence to criminal trials in Nigeria, A question begs to be asked, which is In a situation where there is absence of direct evidence, are courts of justice expected to discharge and acquit these men due to the singular fact that they were able to shield themselves from detection when committing the Act in question? The answer to this question is in the negative, it is for this reason that the courts insist that for circumstantial evidence to form the basis for a conviction, such evidence must be cogent, compelling and irresistibly point to the accused as the perpetrator of the crime. An illustration of this position is illustrated in the case of *Oguntola v The State*<sup>24</sup> It can be further concluded that under Nigerian law that in any criminal case, including a charge of murder may be proved by circumstantial evidence.<sup>25</sup> Where the evidence is not direct but on the entire circumstances of the case, it could be established that the accused is the only one that could be responsible for the death of the victim, the court can rightly convict.<sup>26</sup>

Another relevant significance of circumstantial evidence in criminal trials in Nigeria, is based majorly in its usefulness in

proving the two (2) elements in a criminal trial namely “Actus Reus” and “Mens Rea” which refer to the Physical Act committed in an act and the Mental Intention behind the commission of the act respectively. Though the former can be amply proved through the adducing of direct evidence or through the inferences from circumstantial evidence. However, the latter is in most cases provable through the inferences circumstantial evidence. To pose a classic example, A finds out his wife B is having an affair with C. A few days later B is found dead in C’s bedroom. A’s fingerprints are found on a book in C’s bedroom. The court may infer that A was in the bedroom and thereafter committed the act of murder. The finger prints and the knowledge of Adultery are circumstantial evidence of A’s link to the crime of murdering B. It would further prove that the motive/intent behind A’s act being the Jealousy and feelings of betrayal. Therefore, to prove the Mens Rea levels of "purposely" or "knowingly," the prosecution must usually resort to circumstantial evidence.

The significance of circumstantial evidence cannot be looked down upon in the sense that where direct testimony of an eye witness is not available, it is permissible for the court to infer from the proven facts, the existence of other facts that may be logically inferred. Thus it is worthy of note that before circumstantial evidence can be relied upon and used by the court, provided it meets the requirements highlighted above.

## 9. Conclusion

In the foregoing analysis, the major focus was on the applicability of Circumstantial evidence in Criminal trials, this debate being justified due to the nature of Circumstantial evidence itself being evidences leading to inferences with the aim of proving certain facts

in issue during trials, the worry being raised over the conviction of a criminal offence basing on inferences surrounding the matter at hand without any real/direct evidence. However, this discussion adequately discussed the instances or better still requirements to be met for reliance on circumstantial evidence namely; the fact that it must be cogent, unequivocal and reliable. It was also connoted that the presence of Circumstantial evidence in Nigerian Jurisprudence despite the lack of the actual provisions in the relevant law has yielded significant benefits in the conducting and concluding of a criminal trial where there is lack/absence of direct evidence. This discussion leads to the conclusion that the coherent presentation of circumstantial evidence is a necessary skill that legal professionals must utilize effectively in order to successfully convince the court of their argument. If circumstantial evidence is presented incoherent, the prosecutor may fail in convincing the court of the facts of the case.

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