

JOHNSON AJE v. THE STATE (2019) LPELR-46828(CA)

FACTS:

The appellant Johnson Aje on or about the 6th day of September, 2014 at River Road Orhovie in the Isiokolo Judicial Division had unlawful carnal knowledge in an uncompleted building with the victim Osaruese Eguakun (f) aged 4 years who after the act reported to her father and the accused was arrested and charged. At the conclusion of trial, the appellant was convicted and sentenced. Dissatisfied the Appellant sought to overturn the decision.

ISSUE: What the prosecution must prove in order to sustain a conviction for the offence of defilement

JUDGEMENT:

The court cited the case of **Boniface Adonike v. The State (2015) 7 NWLR (Pt. 1458) 237 at 284 - 285** in arriving that the provisions of Section 218 creates the offence of defilement of a girl under the age of 11 years.

The court further ruled that for the prosecution to succeed it must prove the offence beyond reasonable doubt and ruled that the offence of defilement is the same as the offence of rape except that for defilement it is immaterial whether the act was done with or without the consent of the child as a child is not capable of consenting to sex.