

AN EXAMINATION OF THE CASE THEORY AND TRIAL PLAN IN CRIMINAL CASES

By

Cordelia Uwuma Eke*

Abstract

This article examines the conceptual framework and practical application of case theory and trial planning, arguing for their indispensable role in effective criminal advocacy. Despite being frequently relegated to the academic sphere by practitioners, case theory is demonstrably central to translating legal principles into persuasive courtroom narratives. Through doctrinal analysis, this paper posits that a coherent case theory provides the intellectual architecture necessary for organizing evidence, formulating focused examinations, and aligning trial strategy with desired legal outcomes. The analysis demonstrates that without such a structured approach, counsel risks presenting a fragmented case and losing control of the narrative. Ultimately, the article contends that the success of criminal litigation is largely determined during the preparatory stage, requiring a deliberate integration of sound legal theory with strategic trial planning to enhance both ethical representation and professional efficiency.

Keywords: *Case Theory, Trial Planning, Criminal Litigation, Legal Strategy*

1. Introduction

The concept of theory is often treated with scepticism in practical legal training and courtroom practice. Many practitioners tend to regard theory as an academic exercise confined to the classroom rather than an essential component of legal practice. This perception,

however, is fundamentally misplaced. Legal practice is, in essence, the practical application of theoretical reasoning to factual situations. Without theory, the lawyer lacks the intellectual framework necessary to analyse facts, develop arguments, and persuasively present a client's case before the court.

It is important to recall that every legal practitioner was first trained through theoretical instruction in the university and subsequently at the Law School before being called to the Bar. The foundational doctrines, principles, and analytical methods acquired during legal education form the bedrock upon which effective legal practice is built. Consequently, a proper appreciation of theory enhances the lawyer's ability to engage meaningfully with the practical aspects of litigation. As Edmund Burke aptly observed, "to vilify theory is to vilify reason."¹ This observation underscores the centrality of reasoned thinking in legal advocacy.

In the context of litigation, theory essentially refers to the reasoning that explains the facts of a case and guides the strategy through which those facts are presented in court. Without a coherent theory, a lawyer is merely reacting to events rather than strategically advancing a persuasive narrative. A case theory provides the story of the case—an explanation of what happened, why it happened, and why the court should adopt the lawyer's interpretation of the facts and the law.

For a lawyer to effectively represent a client, it is necessary to first understand the facts presented by the client and then reason from

*LLB (RSU), B.L (Lagos), LLM Public International Law (Kent), FICMC, FCDSIR, ACI Arb (UK), MSN email: cueeke@yahoo.com Phone: +2348033127580

¹ Edmund Burke, 'Speech on the Reform of the Representation of the Commons in Parliament' (WordPress.com 1782)

<<https://matiane.wordpress.com/2018/01/13/edmund-burke-speech-on-the-reform-of-the-representation-of-the-commons-in-parliament/>> accessed 17 March 2026

those facts to construct a persuasive narrative for the court. This reasoning process forms the basis of the lawyer's case theory. Where counsel lacks a clear understanding of the theory underpinning the case, it becomes difficult to determine the direction of the trial or the outcome that counsel seeks to achieve.

Consider, for example, a situation where a client reports that while on his way to work, some men dressed in military uniform recklessly drove into his lane and collided with his vehicle. When the client confronted them about their conduct, he was assaulted. From these facts, a lawyer may reasonably develop a theory that an injustice has been perpetrated against the client and that the conduct of the individuals involved was unlawful and unjustified. This theory would then guide the manner in which the case is presented during trial.

The absence of a clear case theory and trial plan often leads to disorganized advocacy. Counsel may ask unnecessary or even harmful questions during examination and cross-examination, thereby weakening the client's case. Effective litigation therefore requires deliberate preparation anchored on a well-defined theory of the case. In reality, cases are often won or lost long before the parties enter the courtroom. A lawyer who has carefully prepared, developed a coherent case theory, and structured a clear trial plan will almost always enjoy a significant advantage over one who approaches trial without adequate preparation.

1.1 What is a Case Theory?

A case theory, often referred to as the theory of the case, is the central narrative or explanation of facts and law that a party presents to the court in order to persuade the court to decide the case in its favour. It represents the structured interpretation of the facts of the case, supported by relevant legal principles and evidence, through which counsel explains what happened, why it happened, and why the law supports the position of the party advancing the theory.

In criminal litigation, a case theory serves as the framework that guides the presentation of evidence, the examination and cross-examination of witnesses, and the overall strategy adopted during trial. The prosecution develops a theory intended to establish the guilt of the accused person, while the defence advances a competing narrative designed to challenge the prosecution's evidence or raise reasonable doubt. In essence, a case theory integrates facts, evidence, and law into a coherent and persuasive story presented before the court.

The importance of a case theory is closely connected to the burden of proof in criminal trials. Under Nigerian law, the prosecution bears the burden of proving the guilt of the accused person beyond reasonable doubt.² Consequently, the prosecution's case theory must demonstrate how the available evidence establishes all the essential elements of the offence charged.

The courts have also emphasized that a conviction can only be sustained where the evidence presented supports the narrative of guilt beyond reasonable doubt. In **Afolalu v State**, the Supreme Court held that proof beyond reasonable doubt requires credible and cogent evidence that clearly establishes the guilt of the accused person.³ This principle underscores the need for a coherent case theory that aligns with the evidence presented during trial.

Thus, a case theory may be understood as the logical and persuasive story of the case, built upon facts, evidence, and law, through which counsel seeks to convince the court of the correctness of the party's position.

A case theory, often described as the theory of the case, represents the central theme around which a party's entire litigation strategy revolves. It is essentially the story that a party seeks to present and

² Evidence Act 2011(as amended 2023) s135(1)

³ *Afolalu v State* (2010) 16 NWLR (Pt 1220) 584 (SC)

persuade the court to accept as the true account of the events in dispute. In criminal proceedings, the case theory forms the conceptual framework through which counsel organizes facts, applies relevant legal principles, and constructs arguments intended to convince the court to decide the case in favour of the party advancing the theory.

In practical terms, a case theory may be understood as the narrative that explains what happened, why it happened, and why the law supports the position of the party presenting it. It is not merely a collection of facts but a carefully structured explanation that connects facts with applicable legal principles. Thus, the theory of a case serves as the lens through which the court is invited to view the evidence presented during trial.

A case theory is therefore an integral component of trial planning. In criminal proceedings, the theory of the case is usually formulated in response to the charges or allegations preferred against the defendant. The prosecution develops a theory aimed at establishing the guilt of the accused person, while the defence constructs a competing narrative designed to rebut or weaken the prosecution's allegations. This process reflects the adversarial nature of criminal litigation in Nigeria, where parties present competing interpretations of facts for the court to evaluate.⁴

In essence, a case theory consists of a summation of the salient facts of the case, intertwined with relevant legal provisions and principles, and presented in a persuasive manner to the court. Through this process, counsel seeks to demonstrate that the interpretation advanced is the most credible explanation of the events in question. The ultimate objective is to persuade the court

⁴ The adversarial character of Nigerian criminal proceedings is reflected in the procedural framework established under the Administration of Criminal Justice Act 2015

that the theory presented accurately reflects what transpired and therefore justifies a decision in favour of the client.

Consequently, it may be said that a sound case theory rests on three fundamental components: the relevant facts, the applicable law, and the reasoning that connects the two. These elements together create the persuasive structure upon which the case is built. Where any of these components is weak or absent, the case theory may fail to withstand judicial scrutiny.

Haydock and Sonsteng describe an effective case theory as one that is understandable, persuasive, comprehensive and compelling, and capable of motivating the judge or jury to decide the case favourably.⁵ Although Nigeria does not operate a jury system in criminal trials in the same manner as some common law jurisdictions, the underlying principle remains relevant: the theory must be sufficiently clear and convincing to persuade the judge or magistrate who serves as the trier of fact.

An important characteristic of a case theory is plausibility. Counsel must ensure that the theory advanced is credible and consistent with both the evidence and ordinary human experience. A theory that is improbable or unsupported by evidence is unlikely to persuade the court. This is particularly important in criminal trials where the prosecution bears the burden of proving the guilt of the accused person beyond reasonable doubt.⁶ Consequently, the prosecution's theory must be supported by credible and admissible evidence capable of meeting this standard of proof.

The courts have consistently emphasized that criminal liability must be established through reliable evidence that supports the narrative presented by the prosecution.

⁵ Roger S Haydock and John Sonsteng, 'Trial: Theories, Tactics and Techniques' (2nd edn, West Publishing 1991)

⁶ Evidence Act 2011 (as amended 2023) s 135(1)

In *Oreoluwa Onakoya v. F.R.N*, the Supreme Court affirmed that proof beyond reasonable doubt does not require proving a case beyond all shadow of doubt. The court clarified that if evidence is strong enough to leave only a remote possibility of innocence, the case is proven⁷. It must be sufficiently cogent to leave no reasonable doubt in the mind of the court. This principle underscores the importance of constructing a case theory that aligns with the evidence presented during trial.

Similarly, contradictions or inconsistencies that undermine the narrative advanced by a party may weaken the credibility of the case theory. In ***Mamman Bubare v. The State*** the Supreme Court reaffirmed that material contradictions in prosecution evidence create doubt, such doubt must be resolved in favor of the accused, leading to a discharge.⁸ Contradictions must be “material” and affect the core of the charge to be fatal to the prosecution's case. This demonstrates the need for counsel to carefully examine the evidence before advancing a theory of the case.

The concept of case theory is not entirely novel to criminal practice in Nigeria, even though it may not always be expressly described in those terms by practitioners. In reality, many prosecuting and defence counsel formulate case theories during the preparatory stages of litigation, sometimes without consciously recognizing that they are doing so.

On the part of the defence, the case theory may sometimes be revealed in preliminary applications filed before trial. For example, when defence counsel files a motion for bail supported by an affidavit, the facts deposed to in the affidavit may provide insight into the defence's interpretation of the events leading to the charge. Such preliminary filings may indicate the defence's intended narrative, such as mistaken identity, lack of intent, or unlawful arrest.

⁷ *Oreoluwa Onakoya v. F.R.N.* (2002) 11 NWLR (Pt. 779) 595

⁸ *Mamman Bubare v. The State* (2018) LPER 43896

Ultimately, the nature of a case theory lies in its function as the guiding narrative of litigation. It provides direction for the conduct of the case, influences the selection of witnesses, shapes the questions asked during examination and cross-examination, and informs the final address delivered before the court. Without a coherent theory, the presentation of a case becomes fragmented and ineffective. Conversely, a well-developed case theory ensures that every stage of the trial contributes to advancing a consistent and persuasive narrative before the court.

1.2 Elements of a Good Case Theory

An effective case theory must possess certain identifiable characteristics that make it persuasive and capable of guiding the litigation process from the commencement of the trial to the final address. In criminal litigation, the strength of a party's case theory often determines the coherence of the evidence presented and the overall persuasiveness of the advocacy before the court. A well-developed case theory therefore performs the dual function of providing direction for counsel and assisting the court in understanding the narrative of the case.

1.2.1 Clarity and Simplicity

One of the fundamental elements of a good case theory is clarity and simplicity. The theory must present the facts of the case in a straightforward and comprehensible manner. A complicated or confusing theory may weaken the credibility of a party's case and make it difficult for the court to follow the narrative being advanced. Courts have repeatedly emphasised the importance of clear and coherent presentation of evidence in criminal trials. **In Akinkunmi v. State** The Supreme Court of Nigeria reaffirmed that the burden of proof lies squarely on the prosecution to present compelling evidence that leaves no reasonable uncertainty in the mind of the court.⁹ A case theory that lacks clarity may undermine the ability of counsel to present such cogent evidence.

⁹ **Akinkunmi v. State (2023) 7 WRN 1 (SC)**

1.2.2 Consistency

Another essential element of a good case theory is consistency with the evidence. A case theory must emerge from the facts disclosed by the available evidence rather than being artificially imposed upon them. Evidence that contradicts the theory of a case can significantly weaken the credibility of the party advancing it. The Supreme Court has consistently held that material contradictions in evidence may create doubt regarding the prosecution's case. In **Onubogu v State**, the Court held that where contradictions in the evidence of the prosecution are substantial and relate to material issues, such contradictions may render the prosecution's case unreliable.¹⁰ Consequently, counsel must ensure that the theory of the case is fully supported by the evidence intended to be presented during trial.

1.2.3 Legal Validity

A further element of a good case theory is legal validity. The narrative constructed by counsel must be grounded in the applicable law. Criminal liability must be established within the framework of statutory provisions and judicial authorities governing the offence charged. For example, under Nigerian law the prosecution bears the burden of proving the guilt of the accused person beyond reasonable doubt. A prosecution theory must therefore demonstrate how the evidence satisfies the legal elements of the offence charged and meets the required standard of proof. Failure to align the case theory with the relevant legal provisions may result in the collapse of the case at trial.

Additionally, a good case theory must be plausible and credible. The theory should present a version of events that accords with common sense and human experience. Courts are more likely to accept a narrative that appears logical and consistent.

¹⁰ *Onubogu v State* (1974) 9 SC 1 (SC)

1.3 Significance of a Case Theory

The formulation of a case theory plays a crucial role in the effective conduct of criminal trials. A case theory provides the intellectual and strategic foundation upon which the entire litigation process is built. It enables counsel to organize facts, identify relevant legal issues, and present evidence in a coherent manner that supports the desired outcome of the case. Without a well-developed theory of the case, legal advocacy may become disjointed, unfocused, and incapable of persuading the court.

One of the primary significances of a case theory lies in its ability to provide direction and coherence in the presentation of evidence. Criminal trials often involve multiple witnesses, documentary evidence, and competing interpretations of facts. A clear case theory ensures that each piece of evidence presented by counsel contributes meaningfully to the narrative being advanced. In the absence of such direction, evidence may appear fragmented and fail to establish the elements required to prove the offence charged. The Supreme Court has consistently emphasised that criminal liability must be established through credible and cogent evidence. In **Afolalu v State**, the Court held that proof beyond reasonable doubt requires evidence that is compelling enough to leave no reasonable doubt in the mind of the court.¹¹ A coherent case theory assists counsel in ensuring that the evidence presented meets this standard.

Another important significance of a case theory is that it guides trial preparation and strategy. Effective advocacy begins long before the parties appear in court. Counsel must examine the available evidence, determine the strengths and weaknesses of the case, and anticipate the likely arguments of the opposing party. A clearly defined case theory allows counsel to determine which witnesses should be called, which documents should be tendered, and what lines of questioning should be pursued during examination-in-chief

¹¹ Afolalu v State (2010) 16 NWLR (Pt 1220) 584 (SC)

and cross-examination. The Nigerian courts have recognised the importance of proper preparation and credible evidence in criminal proceedings. In **Igabele v State**, the Supreme Court reiterated that the prosecution must prove all the essential elements of the offence charged before a conviction can be sustained.¹² Developing a case theory helps ensure that the evidence presented addresses each of these elements.

Furthermore, a case theory assists counsel in maintaining consistency throughout the trial. A coherent narrative prevents counsel from introducing evidence or arguments that contradict the central theme of the case. Consistency is particularly important in criminal trials where contradictions in the evidence may weaken the credibility of the case presented. The Supreme Court in **Onubogu v State** held that material contradictions in the evidence of the prosecution which create doubt in the mind of the court must be resolved in favour of the accused person.¹³ By structuring the presentation of evidence around a clear case theory, counsel reduces the likelihood of such contradictions undermining the case.

The significance of a case theory is also evident in its ability to assist the court in understanding the issues in dispute. Courts are often required to evaluate complex factual situations and conflicting testimony from witnesses. A clearly articulated theory of the case helps the court appreciate the relevance of each piece of evidence and understand how the facts relate to the legal issues involved. In criminal trials, the court must determine whether the prosecution has discharged the burden of proof required by law. Under section 135 of the Evidence Act 2011, the burden lies on the prosecution to prove the guilt of the accused person beyond reasonable doubt.¹⁴ A well-

¹² *Igabele v State* (2006) 6 NWLR (Pt 975) 100 (SC)

¹³ *Onubogu v State* (n10)

¹⁴ Evidence Act 2011 (as amended 2023) s 135(1)

structured case theory assists the court in evaluating whether the evidence presented satisfies this statutory requirement.

In addition, the development of a case theory enhances persuasive advocacy. Advocacy in criminal litigation involves more than the mere presentation of evidence; it also requires the ability to persuade the court to adopt a particular interpretation of the facts. A compelling case theory enables counsel to present a logical and convincing narrative that explains why the court should accept the version of events advanced by the party. The Supreme Court has emphasised that the guilt of an accused person must be established through credible evidence and sound reasoning. In **Bakare v State**, the Court reaffirmed that the prosecution must establish the guilt of the accused through evidence that leaves no reasonable doubt.¹⁵ A well-developed case theory strengthens the persuasive force of such evidence.

Moreover, the significance of a case theory lies in its ability to prevent unnecessary or harmful questioning during trial. Where counsel lacks a clear understanding of the theory of the case, questioning during examination-in-chief or cross-examination may become unfocused or inconsistent with the narrative being advanced. This may inadvertently weaken the client's case or introduce evidence favourable to the opposing party. A clearly articulated case theory provides a framework that guides counsel in determining which questions are necessary and which should be avoided.

Finally, the significance of a case theory is closely connected to effective case management and judicial efficiency. Criminal trials can be lengthy and complex, particularly where multiple witnesses and extensive documentary evidence are involved. A clearly defined theory helps streamline the presentation of evidence by focusing only on facts and issues that are relevant to the narrative being

¹⁵ *Bakare v State* (1987) 1 NWLR (Pt 52) 579 (SC)

advanced. This not only strengthens the party's case but also assists the court in efficiently determining the issues before it.

In summary, the significance of a case theory in criminal litigation cannot be overstated. It provides the conceptual framework that guides the preparation and presentation of the case, ensures coherence and consistency in the evidence presented, and enhances the persuasive force of advocacy before the court. By integrating facts, law, and reasoning into a single narrative, a well-developed case theory greatly improves the prospects of success in criminal trials.

1.4 Benefits of Having a Case Theory

- It gives counsel an opportunity to present his story of the case before fielding witnesses
- It gives counsel clarity of thought and focus in addressing issues
- It helps the court have a bird's eye view of the case of the party and helps the court guide counsel accordingly
- It also prepares parties as to the nature of the trial. Whether it would be a lengthy or brief one
- It puts all on notice as to the relevant services that would be employed in determining the case and helps them prepare accordingly.
- It provides the basis for formulation of a strategy for the case.

Commencing a criminal trial or defence without a theory is equivalent to a person getting into his car and driving on the road without a determined destination. He or she will definitely arrive nowhere or at a wrong location.

1.5 Presentation of the Case Theory

A case theory should be related to key words and phrases which can be resonated throughout the case. Counsel should introduce his theory from the very first witness and unravel same through his exhibits, applications, objections, summation and his Final address.

Everything he does should go to establish his theory. A case theory simple and uncomplicated. It should be factual, not confusing or utopian. Take an assertive and affirmative position in presenting your case theory.

Note however that a theory may be modified as trial progresses due to unforeseen developments, or in order to take advantage of opportunities in the case. It is thus advisable to prepare an alternative theory at the planning stage. This could happen if you suddenly find out another key information that could upturn your first theory or make it unbelievable, or if you find out your witness did not actually tell you the whole truth. It is therefore advisable not to found a case theory on legal technicality as it may not be very appealing as a story. A human angle is usually more relatable and preferable.¹⁶ The Counsel should understand the judge and possible biases, including his style of trying cases. Thus the Counsel should tailor and present his theory in a language, style and manner likely to appeal to the judge as the Case theory is usually encapsulated in the Opening Statement of the case of a party upon commencement of the trial.

1.5.1 The Opening Statement

The Opening Statement is the vehicle through which the Case theory is conveyed. It is however, rarely paid much heed in Nigerian criminal jurisprudence, although duly recognized by the Administration of Criminal Justice Act 2015, and in some legislation before its time.

It is more common practice in climes like the United States of America and the United Kingdom and States where the jury system is obtainable, and is often used to impress the jury and raise their

¹⁶ Roger S Haydock and John Sonsteng, 'Trial: Theories, Tactics and Techniques' (2nd edn, West Publishing, 1991) 72

interest or curiosity in a case by presenting a simplified version of the case, to win them over to the party's point of view.¹⁷

Sue Titus Reid¹⁸ summarized an opening statement as follows:

The opening statement should be brief but long enough to present an adequate statement of the facts the prosecution expects to prove. It should be interesting but not overly dramatic. The prosecutor must be certain not to overstep his or her boundaries and raise the ire of the judge, the defense and the jury. Inflammatory or prejudicial statements are not permitted."

The ACJA made provisions for an Opening Statement to be made at the commencement of a criminal case, although not expressly called by that name. Section 300 of the Act stipulates:¹⁹

- After a plea of not guilty has been taken or no plea has been made, the prosecutor may open the case against the defendant stating shortly by what evidence he expects to prove the guilt of the defendant.

(2)- The prosecutor shall then examine the witnesses for the prosecution who may be cross-examined by the defendant or his legal practitioner and there after re-examined by the prosecutor where necessary.

After the case of the prosecution is concluded, the defendant or the legal practitioner representing him,

¹⁷ Sue T Reid, 'Criminal Justice' (Fourth Edition, Brown & Benchmark publishers) 264

¹⁸ *ibid*

¹⁹ Administration of Criminal Justice Act 2015, s300(1)

*if any, is entitled to address the court to present his case and to adduce evidence where so required.*²⁰

It can thus be deduced from this, that the Opening Statement should:

- a) Contain the case theory
- b) be presented in open court
- c) be brief and succinct
- d) be presented immediately after the Defendant takes his plea
- e) be presented before evidence is led in the case

It is noteworthy that some States of the Federation have taken a step further to issue Practice Directions on Criminal trials, wherein the Opening Statement is clearly recognized. For example, the **Rivers State Criminal Trials Practice Direction No.1 of 2023** stipulates in its Section **3(A)(ii)** for an Information or Charge filed by the prosecution should be accompanied, among other items, by an opening statement containing issues for trial. It also provides in Section 3(B)(i) for the Defendant, upon being served with the Information or Charge, to file an Opening Statement containing issues for Defence.

2. Trial Plan

2.1 What is a Trial Plan?

A trial plan is the methodology by which a party in a trial seeks to present his/her case in order to achieve a desired result of either conviction or acquittal from the court. A trial plan is like a map, giving pointers as to the route to a particular destination. This is a crucial part of preparation for trial by a counsel, without which it would be akin to embarking on a journey with no idea how to get to one's desired destination. It is not for public presentation, but for the personal use of the Counsel.

²⁰ *ibid* s301

It is important to ensure that the trial plan does not only exist in the realms of thought, but is written down somewhere (possibly a notebook) for reference as the case goes on. A plan can be subject to change when new situations arise during trial that may warrant such change. Generally speaking, a trial plan should consist of the following:

1. The case theory.
2. Facts in support of the case theory.
3. The nature of and list of evidence in support of the facts.
4. The applicable laws in the case and authorities in support of your case theory, facts and evidence.
5. The nature of evidence required to support your case and how to secure those evidence in court. This includes;
 - a) Number of witnesses and when they should testify.
 - b) Documents required and if so, whether they need certification or authentication prior trial.
 - c) The extent of the testimony of each witness and what is hoped to be achieved by it.
 - d) The witnesses through whom documentary or other evidence would be tendered.
 - e) If there are experts, then plan on how to secure his/her attendance in court.
6. The necessity and otherwise of making interlocutory applications, the nature of applications to be made and what part of the proceeding to so do.
7. A list of trial aids that would be required

2.2 Commencement of Case Planning: Timing and Importance in Criminal Litigation

Planning a case should commence as early as possible. The process of planning the case is as important as the presentation of the case itself.²¹ Thus, planning can commence from the point of receipt of

²¹ Roger S Haydock and John Sonsteng, 'Trial: Theories, Tactics and Techniques' (2nd edn, West Publishing, 1991) 66

the charge or information which is the subject of the case. Both parties are expected to closely examine the charge(s) which are the focal point of the case and make decisions for or against.

2.3 Benefits of Planning

1. It helps speed up the trial of the case, Counsel having already sifted through the evidence and identified what is important and otherwise.
2. It helps Counsel anticipate problems that may occur and prepare to counter them.
3. It gives the Counsel a bird's eye view of what the proceedings in the case should be like
4. Minimizes surprises in the case
5. Builds confidence in the Counsel, reducing anxiety.

3. Trial Strategy

3.1 What is a Trial Strategy?

A trial strategy or case strategy, is the overall plan designed by a party to win the case in court²² It is usually developed based on facts, law and evidence in the case. It is akin to the tactics sought to be employed by a party in his or her case. It is also described as a grand plan consisting of mini-plans that requires the deployment of techniques and experience of a trial lawyer in application of the materials available. Indeed, the trial strategy of a Counsel can make the difference between a conviction and an acquittal in a criminal case.

3.2 How to Develop a Trial Strategy

In order to develop a good trial strategy, Counsel should consider the following:

²² *ibid* 78

a) Know Your Judge

It is important to conduct a research on the presiding judicial officer and have an idea of his psychology. Salient questions to ask are:

- what was his disposition to criminal cases before ascending the bench?
- Has the judge had any social experiences that may impact on your case?
- The temperament of the judicial officer would also indicate whether the court would favour an elaborate presentation of evidence, fine grammar and literary ingenuity or he would want a very crisp, straight to the point presentation. Is the officer emotional or otherwise?
- Does the judge appreciate oral or prefers written addresses?¹

b) Decide the Image to Present before the Court

Counsel has to determine what kind of impression he wants to create in the mind of the court. Does he want to make the proceedings dramatic, sober, or reflective? This would determine his attitude in court. Whether or not he would be the agreeable or aggressive one? The strategy here would be executed throughout his case and would manifest in the manner he examines and also cross-examines witnesses.

4. Conclusion

In criminal litigation, a well-formulated case theory is the backbone of effective advocacy. It transforms a collection of facts into a coherent, persuasive narrative supported by law and evidence, guiding counsel at every stage of trial—from witness selection to examination and final address. The success of both prosecution and defence often depends more on careful preparation and the clarity of the case theory than on courtroom eloquence alone. By integrating

¹ Cordelia U Eke, *Criminal Justice in Nigeria, A Practical Guide* (1st edn, Port Harcourt, Pearl Publishers International Ltd 2022)118 - 120

factual analysis, legal principles, and strategic planning, counsel can present a compelling story that enables the court to understand the issues and reach a just conclusion. Ultimately, a clearly defined case theory not only strengthens the party's position but also promotes judicial efficiency and the fair administration of justice in Nigerian criminal proceedings

It is also important to bear in mind that a criminal trial requires dedication, commitment and attention to detail. This is particularly for the prosecution on whom the burden of proof lies. However, an indolent defense counsel who does not know how to take advantage of loopholes in a prosecution's case may risk having his or her client convicted, when that could have been avoided. As they say, any person who fails to plan, has already planned to fail.