

ACCENTUATING THE PARADIGM SHIFT IN THE LEGAL
PROCEDURE FOR CHANGE OF NAME(S) OR CORRECTION OF
DISCREPANCIES IN NAME(S) IN NIGERIA

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*The authors declare
that no funding was
received for this work.*



Received: 01-November-2025

Accepted: 26-November-2025

Published: 13-December-2025

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This article is published by **MSI Publishers** in **MSI Journal of Arts, Law and Justice (MSIJALJ)**
ISSN 3049-0839 (Online)

The journal is managed and published
by MSI Publishers

Volume: 2, Issue: 12 (December-2025)

ABSTRACT: In Nigeria, the usual practice for change of names or reconciling discrepancies in document is for the affected person to either depose to an affidavit in Court or take out newspaper publication signaling change of name. These procedures were taken to be legally effective until recent judicial decisions to the contrary. In order to illuminate this paradigm shift, and for proper guidance of members of the public, this paper analysed judicial decisions on the issue. It established that the only legally binding format for name change or clarification of discrepancies in certificates is through a duly gazetted deed poll. The paper also found out that once this procedure is adopted, the legal efficacy kicks in and the Courts will seldom question the validity of the contents of the deed poll. To avoid deed poll being subjected to abuse and eventually used as instrument of perpetrating fraud and misrepresentation by a person bearing multiple names, it was recommended that publication in a newspaper that circulates nationwide should be a condition precedent attached to change of name contained in the deed poll before it is gazetted.

Keywords: *advert, affidavit, deed, discrepancies, poll.*

1.0 Introduction

This aim of this paper is to signpost the paradigm shift recorded through judicial decisions on the proper procedure for effecting name change or rectification of discrepancies in documents. This is important because most members of the public who may have reason to for change of name or names are not aware of this legal development and the dire consequences that attach to failure to adopt the legally sanctioned procedure. To this end, the paper will be divided into the following segments namely: Meaning and implication of deed poll; the old but improper order for change of name in Nigeria; Proper procedure for change of name, correction of name and alteration of name in Nigeria; Judicial validation of the proper procedure for name change; Implications or fallouts from judicial decisions on the proper procedure to be adopted in effecting a name change; Conclusion and recommendations.

2.0 Meaning and implication of deed poll

A deed is “any legal instrument in writing which passes, affirms or confirms an interest, right or property and is signed, attested, sealed and delivered”. Put simply, it is “a special type of promise or commitment to do something and a substantial requirement of a deed is that it is intended by the executing party to be the most serious indication to the entire community that he or she really means to do what he is doing.” It is in this regard that a deed is distinguished from a mere promise or agreement. Where a person, on his own volition, takes a particular cause of action, and decides to evidence same vide his promise as contained in the wording of the deed. A deed poll binds only the maker and it is merely an expression of intention and not a promise. Vide a deed poll, a person can express his or her intention to renounce his or her name and take a new name. Thereafter, he cannot be seen to blow hot and cold at the same by claiming he can competently use the two names. A deed poll does not merely contain an expression of intention; it purports an intention that is legally binding on the maker. Conclusively, “A Deed Poll is a Deed of Change of Name. A Deed Poll is a legal document made and executed/signed by only one person in the presence of at least two witnesses and the two witnesses must also sign it. A Deed Poll will be prepared by a lawyer in accordance with the provisions of the law.

Once the deed poll is signed by the person who wants to use it, it becomes binding on the person and shows an intention to change, correct or alter names and use a new name for all purposes. In *Schep & Ors v Asifo-Egbe & Ors*ⁱ it was held that “a deed made in the United Kingdom does not become ineffective in Nigeria merely because it was made outside Nigeria and in the United Kingdom. I must say a deed poll, as the one in the instant case, signed by the maker and even in the presence of a witness, undoubtedly carries sufficient legal authority for it to be recognized by any Court of law in this country”.

3.0 The old but improper order for change of name in Nigeria

In Nigeria, it is compulsory under the law that births and death be registered.ⁱⁱ Upon due registration of birth, a “Certificate of Registration of Birth” is officially issuedⁱⁱⁱ and no alteration shall be made on the Register of births.^{iv} Hence, every person shall bear the name he or she was given or registered at birth. However, for assortment of reasons, a person may have cause to change their true and original name. For instance, a woman may want to change her maiden name after marriage or add her new marital name to her maiden name. A person may embrace a new religion and desire to bear names reflective of his new faith.

However, it was the common or predominant practice for persons who desire change of name for whatever reason or reasons to simply depose to an affidavit of change of name and thereafter take out newspaper publication notifying the whole world of the change of name and the new name he or she wants to adopt going forward. It was considered official and legally efficacious. However, as will be seen in the next segment of this paper, deposing to an affidavit and or taking newspapers publications for official change of name has been held to be invalid procedures with dire consequences.

4.0 Proper procedure for change of name, correction of name and alteration of name in Nigeria

To effectively have a change of name, a person must sign a Deed Poll. Thereafter, the person desiring the change of name will cause the Department of Publication, Nigerian Civil Registry of the National Population Commission to fulfil other formalities so that the change of name contained in the Deed Poll will be published

in the official gazette and for record purposes. A Gazette is an official publication of the Federal or State Government in which official information such as notices and other legal matters are reported. In *Obong & Ors v Government of Akwa Ibom State & Anor*,^v it was held by Otisi, JCA, that

A 'Gazette' was described in *Our Line Ltd v SCC Nigeria Ltd* (2009) 17 NWLR (Pt. 1170) 382, (2009) LPELR-2833 (SC) as: "A Gazette therefore serves as official communication of the Government of Nigeria or of any other State thereof or of any Local Government. As documentary evidence, the contents of a Gazette, as stated in the law, is prima facie proof of any fact of a public nature, which the Gazette is intended to notify.

Once the change of name is published in the Gazette, it gives credibility and acceptance of the change of name and serve as a notice to the whole world. It is only a deed poll and not by mere deposition that change of a name on an official certificate can be effected since the procedure necessarily affects the official record and archives of the nation. The case of *Umar & Anor v Sokoto & Ors*^{vi} is very instructive in this regard.

5.0 Judicial validation of the proper procedure for name change

A number of decided cases will be discussed herein to showcase judicial attitude towards the proper legal procedure for name change. In some of the cases, the Courts refused to accord recognition to the purported name change because it was improperly done while in some other cases, the Courts upheld the name change because the proper procedure was followed. The decision of the Supreme Court in *PDP & Ors v Degi-Eremienyo & Ors*^{vii} provided the actual procedure for change of name and correction of name on certificates. In that case, "the 2nd respondent won the nomination to contest the governorship election in Bayelsa State on the platform of the APC. He in turn, nominated the 1st respondent as his running mate. Both 1st and 2nd respondents were All Progressives Congress (APC) candidates for the

offices of governor and deputy-governor of Bayelsa State. The APC submitted the names, personal information and particulars of the 1st and 2nd respondents to the Independent National Electoral Commission, and the same, contained in INEC Form CF001, for each of the 1st and 2nd respondents. The 1st respondents Form CF001 duly sworn to by him was published. Pursuant to Section 31(5) of the Electoral Act, the appellants approached the Federal High Court, claiming that the information contained therein were false. They sought the Federal High Court to invoke Section 31(6) of the Electoral Act to disqualify the 1st respondent, and consequentially the 2nd respondent, from contesting the election. They predicated their action on the fact that the 1st respondent presented false information in his Form CF001 to the INEC and that the 1st respondent had given false information, by the fact of his multiplicity of names to INEC.

The trial Federal High Court, agreed with the appellants and invoked section 31(6) of the Electoral Act to disqualify the 1st respondent, and consequentially the 2nd respondent, from contesting the governorship election in Bayelsa State. The APC on one hand and the 1st and 2nd respondents, on the other hand, filed separate notices of appeal to the Court of Appeal. The Court allowed the appeal. Among other things, it held that the allegation that the 1st respondent presented false information to INEC (4th respondent) in his Form CF001, duly vouched and verified on oath, is essentially an allegation of crime (of perjury) which requires proof beyond reasonable doubt" and it was not proved beyond reasonable doubt." Dissatisfied, appellants appealed to the Supreme Court. The Supreme Court considered the appeal on its merits. The Supreme Court allowed the appeal, set aside the decision of the Court of Appeal, and reinstated the judgment of the trial Court.

The Supreme Court held that "it is only the authorities that issued the First School Leaving Certificate issued in 1976, and the West African Examination Council that issued GCE certificate in 1984 that can effectively change the names appearing thereon, and that no affidavit of correction or regularization can effectively change the names thereon. The trial Court also correctly stated the procedure for regularization and correction. Its statement at pages 575 and 576 that affidavit of

change, correction and confirmation of name has to be by deed poll and not mere deposition".

Furthermore, the apex Court agreed with the finding of the trial Court that "in the statutory declaration of age deposed to by one Henry Vanman, an uncle of the 1st respondent, it was claimed therein that the name of 1st respondent; as at 31 July 1990 was Biobarakuma Degi. However, in the purported affidavit of regularisation of name deposed by the 1st respondent on 18 September 2018, before a faceless notary public, the 1st respondent averred that "my name at birth is Biobarakuma Wangagha Degi". His uncle in 1990 gave his name as Biobarakuma Degi in the statutory declaration of age. The 1st respondent also claimed in the said affidavit of regularisation of name that "while registering for my West African School Certificate Examinations the alphabet 'A' was inadvertently added to my surname to read thus: Biobarakuma Wanagagha Adegi and same was captured in the certificate I obtained therefrom". He lied on this. The WAEC General Certificate of Education at page 61, bears Adegi Biobakuma and not Biobarakuma Wanagagha Adegi. The 1st respondent did not explain why in 1990, inspite of the alleged error in 1984, Rivers State University of Science and Technology still inscribed the name: "Degi, Biobarakuma" on the Certificate at page 62 and not Biobarakuma Wanagagha Degi, his name at birth or Biobarakuma Degi appearing on his 1990 statutory declaration of age. It is clearly fraudulent for one person to allegedly bear several names that he uses variously, chameleonically to suit the changing environment." Emphatically, the Supreme Court held that the Court of Appeal "erred when it held that the affidavit of correction and confirmation of name sworn to by the 1st respondent on 9 August 2018 and the Chronicle Newspaper advertorial placed by the 1st respondent himself explained the discrepancies in all the information, certificates and documents. For instance, neither the said affidavit nor the advertorial explained the name Biobarakuma Degi on the statutory declaration of age. While Adegi on the WAEC/GCE certificate was said to be an error committed at the time of registering for examination leading to the issuance of the certificate; no word was uttered on the name Biobarakuma, instead of Biobarakuma, also appearing, on the same certificate. The First School Leaving Certificate issued in 1976 at page 129, has the surname

Degi and the first name Biobaragha which is not a synonym of Biobakuma nor Wanagagha or Wangagha.”

On the contrary, in *Umar & Anor v Sokoto & Ors*,^{viii} it was held that there was evidence that the 1st and 2nd Respondents had taken out Deed Polls and got them gazetted to explain the variations in their names. In *Umar & Anor v Sokoto & Ors*,^{ix} the 1st and 2nd Respondents had paraded array of schools they attended and certificates obtained, even far beyond the minimum, which is *at least* school certificate or its equivalent. There is no serious challenge of the claims of the 1st and 2nd Respondents, except on the issue of differentials in the names of the 1st and 2nd Respondents in their claimed certificates, which they tried to explain in their Deed Polls (Exhibits AB91(4) and AB91(9)). The Court held that “though the circumstances in which the names of the 1st and 2nd Respondents in their certificates, are imbued in controversy and apparent scandal and so reprehensible, the documents remain theirs and valid documents. They are only pointing at the quality of some of the persons that largely emerge as our contemporary political leaders! There is therefore no credible evidence, in my view, to fault their claims of ownership of their said certificates, the variations in their names, notwithstanding, and I think their Deed Polls, tried to explain the said variations.”

6.0 Implications of or fallouts from judicial decisions on the proper procedure to be adopted in effecting a name change

From current judicial decisions on the proper procedure to be adopted in effecting a name change, the following principles fall to be clearly noted namely:

- a) Only the authority that issued a certificate can effectively change the name or names on it. No affidavit of correction or regularization can effectively change the name or names thereon. Any attempt to change name or regularization by affidavit of correction and confirmation of name is legally futile.
- b) To effectively have a change of name, a person must sign a Deed Poll that is duly published in the official gazette and for record purposes.

- c) Once the change of name is published in the Gazette, it gives credibility and acceptance of the change of name and serve as a notice to the whole world.

7.0 Conclusion and recommendations

This paper has illuminated the proper and legally acceptable procedure for change of name, correction of name or names and or re-arrangement of name or names in Nigeria. The Courts have adjudged clearly that the erstwhile procedure of deposing to an affidavit and or taking out newspapers publications to effect change of name does not meet the legal threshold. It is recommended that anyone who has had reason previously to adopt this legally repudiated procedure is now on notice to take the correct legal steps or be prepared to live with its dire consequences. Going forward, Nigerians are expected to comply with the now streamlined procedure for name change irrespective of the circumstances that may have warranted it. In *PDP v Degi-Eremenyo* (supra) it was acknowledged that "it is clearly fraudulent for one person to allegedly bear several names that he uses variously chameleonicly to suit changing environment". No one should be allowed to bear multiple and or inconsistent names as this can be misleading or be used as a veil for criminality. To prevent this, it is further recommended that it should be a condition precedent attached to change of name contained in the deed poll that, prior to being gazetted, it must be published in a newspaper that circulates nationwide. This is because a change of name affects national records.

REFERENCES

ⁱ (2016) LPELR-41628(CA).

ⁱⁱ *Section 1* of the Births, Deaths, Etc. (Compulsory Registration) Act, 1992 enacts that "Notwithstanding the provisions of any enactment relating to the registration of births and deaths, the registration of births and deaths shall as from the commencement of this Act, be compulsory in all cases and shall be effected as provided under the provisions of this Act."

ⁱⁱⁱ *Section of 17* of the Births, Deaths, Etc. (Compulsory Registration) Act, 1992.

^{iv} *Section 40(1)* of the Births, Deaths, Etc. (Compulsory Registration) Act, 1992. It should be noted that *section 40(2) and (3)* deal with the limited circumstances when clerical errors may be corrected on the Birth Register.

^v (2014) LPELR-24259(CA) (Pp. 37 paras. C).

^{vi} (2023) LPELR-61356(CA) (Pp. 105-107 paras. D).

^{vii} (2020) LPELR-49734(SC).

^{viii} (2023) LPELR-61356(CA) (Pp. 105-107 paras. D)

^{ix} (2023) LPELR-61356(CA) (Pp. 105-107 paras. D).