

# **HOW TO TENDER AND PLAY VIDEO EVIDENCE IN COURT**

## **PAPER PRESENTED BY**

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### **INTRODUCTION:**

From my experience in Court, I have discovered that many lawyers are not conversant with the procedure for tendering and playing video evidence in Court.

Some lawyers comply with the provisions of *Section 84 of the Evidence Act, 2024* and succeed in tendering the video clip stored in a Video CD, a Flash Drive or any other portable storage device. But I observe that after tendering the video clip in the storage device, some simply stop there and assume that the Judge will play it while writing the judgment. That is clearly an error.

The authorities are settled that a Judge is an adjudicator and not an investigator. It is not permissible for a judge to privately watch the video clip and make his findings without the benefit of examination in open Court. This would amount to cloistered justice which is not the duty of the Court. See *ACN V LAMIDO & ORS [2012] LPELR - SC 25/2012* where *Fabiyi JSC* expounded thus:

*"It is not the duty of a Court or Tribunal to embark upon cloistered justice by making enquiry into the case outside the open Court not even by examination of documents which were in evidence but not examined in the open Court. A judge is an adjudicator; not an investigator. See Duriminiya V Commissioner of Police (1964) NWLR 70; Queen V Wilcox (1961) 1 SCNLR 296; (1961) ALL NLR 633; Dennis Iviengbor V. Henry Osato Bazuaye (1999) 6 SCNJ 235 at 234; Onibudo V. Akibu (1982) 7 SC 60."*

The proper procedure is that after tendering the video clip, the counsel should seek the leave of the court to play the video clip in open court.

Failure to play the video clip in the open court amounts to dumping that piece of evidence in court. The court cannot make use of any piece of evidence that is dumped on it.

Document dumping in legal proceedings refers to the practice of submitting documents to a court without properly linking them to specific issues, testimony, or claims. This practice undermines judicial efficiency and can have severe legal and strategic consequences.

### *PROHIBITION AGAINST DOCUMENT DUMPING:*

Courts reject submitting mass documents without explanation or connection to the case.

The burden rests on counsel to contextualize and provide a nexus between documents and the claims or defences. See: *Buhari v. INEC, 2008; Makinde v. Adekola, 2022*

Admissibility is distinct from dumping: even admissible documents lose probative value if not tied to live issues.

Documents must generally be explained and supported by witness testimony to be probative. Documents submitted without witness verification or without allowing examination or cross-examination renders them useless.

Document dumping constitutes a serious procedural and evidential error. Consequences include rejection of documents; complete loss of probative value; and inefficiency in judicial proceedings.

Presenting and playing video evidence in court requires careful compliance with evidentiary rules to ensure admissibility and proper handling. Here's a structured guide based on Nigerian law (Evidence Act 2011) and general courtroom practice:

### STEPS TO TENDER AND PLAY VIDEO EVIDENCE IN COURT:

#### 1. Determine Admissibility

- Relevance: The video must relate directly to the facts in issue.

- **Authenticity:** You must prove the video is genuine and has not been tampered with.
- **Compliance with Evidence Act:** *Section 84 of the Evidence Act 2011* governs electronic evidence, including video clips. It requires certification of the device and process used to produce the video.

## 2. Foundation and Authentication

- Call a witness familiar with the video (e.g., the person who recorded it or an expert who retrieved it).
- The witness testifies about:
  - How the video was created.
  - The device used.
  - Chain of custody (how it was stored and transferred).
- A certificate of authenticity under *Section 84(4)* must be tendered, stating:
  - The device was working properly.
  - The video was produced in the ordinary course of business or activity.
  - The process has not altered the content.

## 3. Tendering the Video

- The lawyer asks the court's permission to tender the video through the witness.
- The opposing counsel may object (e.g., on grounds of relevance, authenticity, or improper certification).
- If admitted, the court marks the video as an exhibit.

## 4. Playing the Video in Court

- Arrange the necessary equipment (projector, screen, laptop, speakers).
- Ensure the video is played directly from the certified source (e.g., flash drive, CD, or hard drive referenced in the certificate).
- Where oral evidence is permissible in proceedings without depositions, the witness may narrate or explain what is happening in the video while it plays.
- Where depositions are used, the deposition should be comprehensive enough to cover the activities taking place in the video clip. For example, in the deposition the witness should properly identify himself in the video clip by proper description such as his attire. He should also identify other relevant persons in the clip by describing them. Where they are engaged in conversation, there should be an accurate transcript of the recorded conversation.
- The judge and opposing counsel must be able to view and hear it clearly everything clearly to align with the transcribe version in the deposition of the witness.

## 5. Cross-Examination and Weight

- Opposing counsel may challenge:
  - The accuracy of the recording.
  - Possible editing or manipulation.
  - The credibility of the witness.
- The court decides the weight to attach to the video after considering all testimony.

### Key Case Example

- *Kubor v. Dickson* (2013) 4 NWLR (Pt. 1345) 534: The Supreme Court emphasized strict compliance with *Section 84* for electronic

evidence. Failure to produce the required certificate renders such evidence inadmissible.

### PRACTICAL TIPS:

- Always prepare the Section 84 certificate before trial.
- Test the playback equipment in advance to avoid technical issues.
- Have a backup copy of the video in case of device failure.
- Anticipate objections and be ready to defend authenticity.

### How to transcribe evidence from video clip

Transcribing evidence from a video clip for court is a delicate process because the transcript becomes part of the official record. Here's a structured guide:

### WHY TRANSCRIBE VIDEO EVIDENCE:

- Provides a written record that can be referenced during hearings.
- Ensures clarity and accessibility (especially for judges, lawyers, or parties who may not be able to watch the video in detail).
- Helps in cross-examination and preparation of legal arguments.
- Supports individuals who are deaf or hard of hearing.
- Makes the evidence searchable and quotable in submissions.

### STEPS TO TRANSCRIBE VIDEO EVIDENCE:

#### 1. Prepare the Video

- Ensure the video is authentic and admissible (properly certified under Section 84 of the Evidence Act in Nigeria).
- Use the original, unaltered copy for transcription.

#### 2. Choose a Transcription Method

- Manual transcription: A trained transcriber listens and types word-for-word.
- AI-assisted transcription: Software generates a draft, then a human reviews for accuracy.
- Professional services: Specialized legal transcription companies provide certified transcripts.

### 3. Follow Legal Formatting Standards

- Include timestamps (e.g., [00:02:15]) for each speaker change or significant event.
- Identify speakers clearly (e.g., “Witness,” “Defendant,” “Police Officer”).
- Note non-verbal cues if relevant (e.g., “[points to object]” or “[silence]”).
- Maintain verbatim accuracy—do not paraphrase or summarize.

### 4. Certification

- The transcript should be signed or certified by the transcriber, affirming it is a true and accurate representation of the video.
- Attach the transcript as an exhibit alongside the video evidence.

### 5. Court Use

- Lawyers can quote directly from the transcript during arguments.
- Judges may rely on the transcript for written judgments.
- The transcript complements the video, but the video itself remains the primary evidence.

#### PRACTICAL TIPS:

- Always cross-check the transcript against the video before submission.

- Keep both digital and printed copies ready for court.
- Anticipate objections—be prepared to defend the accuracy of the transcript.
- If the video contains multiple languages, provide a certified translation where necessary.

Transcribing evidence from a video clip for court is essentially about turning what is seen and heard into a reliable written record. Here's how it's usually done:

 STEP-BY-STEP PROCESS:

1. Secure the Original Video

- Work only from the authentic, certified copy of the video (not an edited or compressed version).
- Confirm admissibility under the Evidence Act (in Nigeria, Section 84 governs electronic evidence).

2. Play and Record

- Use transcription software or manual playback.
- Slow down or replay sections to capture every word and relevant action.

3. Verbatim Transcription

- Write down exactly what is said—no paraphrasing.
- Include timestamps (e.g., [00:01:23]) for accuracy.
- Identify speakers (e.g., “Police Officer,” “Defendant,” “Unknown Male Voice”).
- Note non-verbal cues if relevant (e.g., “[points to bag]” or “[gunshot heard]”).

4. Formatting

- Keep the transcript clear and structured: EXAMPLE:

[00:00:05] Officer: Stop right there!

[00:00:07] Defendant: I didn't do anything.

[00:00:10] [Camera pans to car]

- Use brackets for actions or sounds, italics for emphasis if needed.

## 5. Certification

- The transcriber signs a statement confirming the transcript is a true and accurate representation of the video.
- This certification is attached when tendering the transcript in court.

## 6. Court Presentation

- The transcript is submitted alongside the video.
- Lawyers may quote directly from the transcript during arguments.
- Judges often rely on transcripts for written judgments, but the video remains the primary evidence.

### PRACTICAL NOTES:

- If the video contains multiple languages, provide a certified translation.
- Always check the transcript against the video before submission.
- Keep both digital and printed copies ready for court.
- Anticipate objections—be prepared to defend the accuracy of the transcript.

## CONCLUSION:

Essentially, playing a video clip in court refers to the formal presentation of recorded video evidence during a legal proceeding, to enable the Court, parties and counsel to observe events or information that supports a party's case.

In legal proceedings, video evidence is often used to provide a more accurate or vivid account of events than a verbal description alone. When a lawyer, prosecutor, or a party to the case introduces a video clip, it is shown aloud or on a screen in the courtroom so that all parties, including the judge and jury, can observe it directly. This method helps to demonstrate factual events such as traffic accidents, crimes, or other incidents in question; support witness testimony by corroborating statements made in court; highlight exhibits or recordings relevant to the matter, including surveillance footage, body-camera recordings, or security clips.

The use of video in court is governed by rules of evidence. Such considerations include:

**Authentication** – The party presenting the video must prove that the clip is genuine and has not been altered.

**Relevance** – The content must directly relate to the issues in the case.

**Fairness** – Both sides must have the opportunity to view and challenge the video to prevent unfair prejudice.

**Technical Setup** – Courts often use a screen, projector, or monitor so the video can be clearly seen by everyone involved, and the court reporter may transcribe or note its showing.

If a party decides to submit a video clip to adduce evidence in support of his case, the video clip will be officially entered into evidence. During trial, the judge may authorize it to be played, allowing the parties to see the event in real time or a slowed-down version to understand the sequence of actions. The video is often accompanied by testimony from individuals who can confirm its accuracy and context.

In essence, playing a video clip in court is a controlled and formal method of introducing visual media as evidence to assist the fact-finding process and ensure an accurate understanding of events relevant to the case.

Legal practitioners and all those involved in the process of adjudication should familiarise themselves with the relevant laws and regulations guiding the field.

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