

HIERACHY OF COURTS

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The hierarchy of courts is the arrangement of courts in the method through which appeal flows. If the judgment at the lower court is not satisfying, an appeal can be made to the higher court in order to get redress and justice. I would highlight the courts starting from the lowest.

Magistrate Or District Courts

This is just a single court, it transforms to a magistrate court in the hearing of a criminal case while in the hearing of a civil case it becomes a district court. These are courts that are regarded as courts of inferior jurisdiction. There are two adduced reasons for this. Firstly, it is not listed among the courts in S.6(5)(a) of the [1999 Constitution](#). And section S.6(3) provides that the courts that are mentioned in the previous section are courts of superior record. By implication, courts that are not mentioned are courts of inferior record. The second reason for this is that they cannot punish contempt ex facie curria.

The decisions of magistrate courts are bound by decisions of the higher courts but their own decisions do not bind any court. Also, they are not bound any of their previous decisions.

The High Court/Sharia/Customary Court Of Appeal

Directly above the district/magistrate court, you would find the [High Courts](#), Customary Court of Appeal and Sharia Court of Appeal. Pursuant to S.6(5) of the [1999 Constitution](#), we have federal high court, state high court and the high court of the federal capital territory. Of these three, the state high court has the widest jurisdiction. It should be noted that customary and sharia courts of appeal are not bound by judicial precedent. This is because they are not of common law origin. Also, they hear appeals on cases from the area courts. While the high court hears from the magistrate court.

These courts are referred to as courts of co-ordinate jurisdiction therefore, they are not bound by previous decisions of another high court. At best, the decision of another high court is persuasive on another high court. However, it is not expected for a high court to depart from another high court's decision except in good cause.

A state high court, unlike the federal high court, has wider jurisdiction. In the provision of S.251 of [the constitution](#), you would be able to see the limited jurisdiction placed on the Federal High Court. Thus, if a state high court makes a decision on a matter of federal application, it binds all magistrate courts in the country. If it makes a decision on matters of state application, it only binds courts of inferior jurisdiction in the state.

COURT OF APPEAL

Directly above the high court is the court of appeal. There is only one court of appeal in Nigeria but it has different divisions over the country. Thus, decisions by the court of appeal in Ilorin division is treated as its own decision in the court of appeal Lagos state. The question then is how does the court of appeal deal with judicial precedent?

It is trite that the court of appeal is bound by decisions of the supreme court. However, in dealing with decisions of a court of appeal in another division, the court of appeal is bound to an extent. In civil cases, it is bound by the decision of another court of appeal except in the situations provided for in the case of *Young vs Bristol Aeroplane Co*:

• If the decision is given *per incuriam*

• If there are two or more conflicting decisions of different courts of appeals, it can follow either of them or choose to follow none of them.

• When a decision of a court of appeal is in contrast with a decision of the Supreme court.

However, in criminal matters, a court of appeal is not bound to follow the decisions of other courts of appeals. This is because of the very nature of criminal law in which each case should be treated on its merit. Strictly following a previous decision could lead to irreparable damage. This may be due to the fact that it is better for the court to set free 10 guilty persons than to convict a single innocent person.

THE SUPREME COURT

This is the highest court in the land and its decisions on any matter is final. Its decisions are binding on all courts throughout the country.

The supreme court is not bound by any previous decision of any court anywhere. However, it follows its previous decisions in order to maintain certainty and uniformity in the administration of justice. The supreme court may, however, choose to depart from its previous decisions in the following situation:

• If the previous decision is given *per incuriam*

• If following the previous decision would lead to substantial injustice.

• When a legislation nullifies the decision made in the previous judgement. see *Bucknor Maclean vs Inlaks Nig Ltd* [1980] where the court departed from its decision in two previous cases: *Shell BP vs Jammal Engineering Ltd* and

Owumi vs Paterson Zochonis and co Ltd due to the fact that adherence to these precedents could lead to substantial injustice.

â€¢ If it is faced with two previous conflicting decisions of its own, it can choose to follow anyone.

In the case of *Odi vs Osafire* the court reasoned that the law was made for man and not man for the law. Also, man isn't infallible and so are his thoughts. Therefore Â if it is pointed out that there has been a substantial error in a previous decision, the court should have the jurisdiction to correct that decision.