

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**

**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT GWAGWALADA- ABUJA**

**THIS TUESDAY THE 7<sup>TH</sup> DAY OF DECEMBER, 2024**

**BEFORE HIS LORDSHIP: HON. JUSTICE ALIYU YUNUSA SHAFI**

**SUIT NO: FCT/HC/CR/484/2024**

**BETWEEN:**

**FEDERAL REPUBLIC OF NIGERIA.....COMPLAINANT**

**AND**

**OTU EMMANUEL (AKA DAVID CARUSO).....DEFENDANT**

The matter is for arraignment.

Defendant is present in court, charged of the offence contrary to Section 321 punishable under Section 322 of the penal code respectively.

Appearance, Gabrielle I. UshieEsq holding the brief of Eunice You Dalyop speaks English language.

E. M. Ibrahim for the defendant.

**Prosecution:** The matter is for arraignment with the (2) count charge dated the 3/06/2024 and filed on the 05/06/2024 apply that the said charge be read to the defendant to enable him take his plea.

**Court:** The two count charges read and explained to the defendant. The defendant called upon to reply to the count charge.

**1<sup>st</sup> Count**

Do you understand the aforementioned count charge as read and explained to you in English language?

**Defendant:** Yes I do

Court: Are you guilty or not guilty.

Defendant: I am guilty my Lord

## **2<sup>nd</sup> Count**

Do you understand the charge read and explained to you in English language?

**Defendant:** Yes I do

**Court:** Are you guilty or not guilty

**Defendant:** I am guilty my Lord

**Prosecution:** Given the defendant plea to guilty urge the court to convict the defendant and sentenced him accordingly.

## **CONVICTION**

I am satisfied with the defendant having adopted the two count charges bordering on the offence of Cheating by personation contrary to Section 321 of the penal code and admitted same knowing fully the consequences its comes with. This court will adopt the plea of guilty by the defendant in the two count charge and will proceed to convict the defendant for the offence punishable under Section 322 of the penal code is the count charge. Said offence triablyby this court.

**Court:** Defendant you have two options;

1. Plea for an allocutus
2. Calling witnesses to your good character

Convict: I pray for the allocutus

Allocutus: I am very sorry I don't know that they will give me so many so many troubles, pray this court to temper justice with mercy. That he is a changed person and promised never to go back to the crime again and promise to go back to my carpentry work to assist my sick mummy that nobody introduced him into the cybercrime but learn it through online. A secondary school graduate since the year 2018.

**Defence:** Pleading to the court to give the convict a light sentence. The convict has learned hisconduct and havepromised to learn his carpentry work and with this he will be useful to himself and to the society.

**Prosecution:** in the cause of investigation we recover the instrument of criminality I Phone 11 Promax and apply that the said instrument be forfeited to the Federal Government through the office of the E.F.C.C.

That the convict has made the restitution of \$246,000.00 out of the \$900,000.00 benefited.

Q. Where is the remaining balance of \$654,000.00?

**Court:** I employ the office of the E.F.C.C to remand the Defendant/Convict at EFCC custody till next week this is to enable the E.F.C.C prepare to present the receipt of the purchase of I Phone 11 Pro Max to this court before proceeding to sentence.

SIGNED

JUDGE

7/11/2024

The case is for the sentence,

Defendant present in court.

Appearance; G. I Oshie holding brief of Eunice VouDalyop for the prosecution

It appears like the defendant/convict is absent in court.

**Court:** I order the prosecution to produce the receipt of purchase of the handset.

Prosecution: We could not get the receipt of the purchase of the handset.

**Prosecution:** In light of the circumstances, we urge the court to proceed with the sentence

**Court:** sentence for 11: am.

SIGNED

JUDGE

7/11/2024

## SENTENCE

On the 06/11/2024 the defendant Otu Emmanuelaka David Caruso was convicted for the offence of Cheating by personation, two count charge.

The Defendant/Convict in his plea of allocutus pleaded to the court that he is sorry and he did not know that these will give him so many trouble and prayed the court to temper justice with mercy that he is a changed person now and promised never to go back to the crime again and promised to go back to his carpentry work so as to enable him assist his sick mother.

Furthermore, that he was not influenced into cybercrime but learned it through an online platform that he is a secondary school graduate since 2018.

The defence counsel one E. M. Ibrahim added his voice to the plea of allocutus made by the convict and in addition pleaded to the court to temper justice with mercy that the convict is a first time offender who promised to go back to his carpentry work to be more useful to himself and to the society.

The prosecuting counsel one Gabrielle I Ushie from E.F.C.C informed the court that in the cause of investigation recovered an I Phone 11 promax and applied that the said instrument be forfeited to the Federal government of Nigeria through the office of E.F.C.C. also stated that the convict has made restitution of the sum of \$246,000.00 out of the \$900,000.00 benefited.

I have carefully listened to the allocutus made by the said convict in addition to the one made by the defence counsel. I wish to state that, the conduct of the convict left much to be desired as the law is not a respecter of anybody.

In considering the sentence I have also considered the age of the defendant who is a graduate of secondary school and indulged in the cybercrime by fraudulently using the online platform to defraud innocent victims of their hard earned monies not minding the consequences of his action. It is a lesson learned and as he stated that he will go back to his carpentry work, I hope so.

In view of the foregoing, the convict is hereby sentenced to 6 months for each count and in addition to pay a fine of N100, 000.00 each for each count.

Secondly, the I Phone 11 promax received from the convict, I order same to be forfeited to the Federal Government of Nigeria same be sold and the money realized to be paid to the office of the Federal Government through the

consolidated account and the restituted amount of \$246,000.00 also be paid to the account of the Federal Government through the office of the E.F.C.C and the receipt of these payment be forwarded to this court for record purpose.

This is my judgment.

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**Hon. Justice A.Y. Shafa**