

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT GWAGWALADA- ABUJA

THIS FRIDAY THE 24TH DAY OF JUNE, 2022

BEFORE HIS LORDSHIP: HON. JUSTICE ALIYU YUNUSA SHAFI

SUIT NO: FCT/HC/GWD/CR/04/22

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA.....PLAINTIFF

AND

BABATUNDE SAMUEL (A. K. A. ANDYGONG)
DEFENDANT

Defendant present in court

Court: case for arraignment

Offence. Contrary to section 327 & 322 of the penal court law respectively.

Appearance: Khalid Sanusi for the prosecution. It seems there is no legal representation of the defendant.

E. G. Enalegwu for the defendant who is in court

Complainant counsel: the case is for arraignment before is a charge dated 14/6/2022 file on the same day. We apply that the charge be read to the defendant for the purpose of taken his plea.

Court: defendant counsel we are ready

Court: clerk read the charge to the hearing of the defendant.

Court: the charge was read and explain to the defendant. The defendant called upon to reply to the said charge of cheating punishable under section 322 of the penal code.

Court: defendant do you understand the charge as read and explain to you in English Language?

Defendant yes I understand the charge.

Court: defendant is the charge or the offence true or false?

Defendant: the offence is true.

Counsel in view of the defendant plead guilty urge the court to convince the defendant accordingly in accordance to the provision of section 112(8) of the ACJA 2015.

CONVICTION

The defendant one Babatunde Samuel (A.K.A Andy Wong) was charge before this court for the offence of cheating punishable under section 322 of the penal code law.

In summary the defendant the defendant was alleged sometimes in 2021 at Abuja FCT, through his face book account, cheats and pretending to be a Chinese Oil & Gas engineer who based on telly in that regard trick his victim by name Karen with intent to obtain the sum of \$10,000.00 (Ten Thousand Dollar).

The defendant upon arraignment and after read the charge to him pleaded guilty for the charge and the complainant counsel applied to the court to convict the defendant accordingly the offence of cheating punishable under section 322 of the penal code law.

The defendant having admitted knowing fully the consequences of its admission shall convict the defendant for the said offence of cheating punishable under section 322 of the penal codetriable by this court.

ALLOCUTUS

Court: to the defendant counsel you have two option on the plea of allocutusof the defence

1. The evidence of his good Character. On this we have to adjourn the matter to another date to allow the convict call evidence of his good character.
2. Plea of allocutus directly.

counsel to the defendant. We shall take the seemed option to plea directly.

Court: proceed.

In view of the defendant plea, the defendant himself will plead to the allocutus,

CONVICT:

I regret doing internal fraud, I am sorry, I will never do it again and promise to go back to School.

Counsel in view of the convict plea, that he has been totally remorseful, he is a first time offender, and that by the plea of guilt he has saved the time of the court. The convict is the first son of the age mother who just completed his secondary school/education. The age mother who is currently sick and hospitalised asked me to plead for the court to have a short life again.

AMISCUS:

One SlyvesterOgbelo who was present in court act as Amiscus, and join his voice to the voice of the convict, I plead to the court to exercise the power to sentence to consider inview of the age of the convict to consider an option of none custodian sentence. The defendant has learned his lesson especially where his mother is aged and very sick in the hospital.This court has the power as well as the jurisdiction to sweepthe court for one week. This court should temper justice with mercy and grant the convict a none custodian sentence.

Court: to the prosecutor.

Is there any record of previous conviction by the defendant to your knowledge?

Prosecution: None to my knowledge. We have recover the laptop and the handset which are incriminating and currently in our possession in addition we have an application to make.

Court: proceed

We shall apply that the items, the laptop and the phone be forfeited to the Federal government.

SENTENCE:

I have carefully listened to the plea of allocutus made by the convict himself especially where he stated that he regrets doing internal fraud and that he is sorry and will never do such a thing again.

In addition to the plea of allocutus made by the convict plea. To the court to temper justice with mercy the convict is a first time offender and has an aged mother who is currently very sick.

Further to this plea one SylvesterOgbelo acted as amiscus plead to the court to exercise the power when sentencing the convict to consider option of none custodian sentence and that the defendant/convict have learned his lesson plead to the court to temper justice with mercy.

This court haven carefully listened to the plea of allocutus made by the convict and that of the two counsel who stood by the side of the convict.

I shall consider the plea made by the convict as the said convict has completelyshown a sign of remorsefulness, and considering the age of the convict being a young person, sentencing the defendant the offender to terms of imprisonment will not be the best option but at the same time the act of the convict left much to be denied as a young boy whom our society is looking on to. The punishment which this court will impose will deter others who indulge in internal fraud.

It should be noted that Nigeria have become cyber-creators spending significant amount and of time on line. The usage of online software and services with internet access to scam or exploit Victims has become the other of the day with our young children nowadays. This must stop.

This kind of offence are being treated seriously, this is to prevent re-occurring. This court has taken a step backward to look at the case of the convict, sentencing the convict to terms of imprisonment at his age will rather compound his problem and lose of his education pursuit, as the

punishment is for a term which may extends to three years or with fine or with both.

Since the offence committed by the convict is yet to be perfected but only trick the victim with intend to obtain. The word intention suffices to give the convict a none custodian sentence.

Inconsidering the sentence, I will also have a look at the sentencing guidelines which I have done to arrive at the punishment of none custodian. In Tanko V the State (2009) 4 NWLR (PT. 1131) 430, where the court as follows:

“where the sentenced prescribed upon conviction in a criminal charge is a term of years of imprisonment, then some extenuation factions such as the age of the convict, whether he is a first time offender can be taken into consideration in passing the sentence on the convict.

In view of the forgoing and what I have stated in this judgement I shall order the convict to be under the strict supervision of the EFCC custody for counselling for the period of 2 months. And out of the period to clean the surrounding of the EFCC for the period of two weeks from the 8 am -10 am. In addition, the convict to enter a bond of two years to be of good behaviour.

On the application made by the prosecution that the items i.e. laptop and the phone be confiscated to the FGN the application is hereby granted with an order that the said computer after forfeiture to the FGN be burnt completely.

This is my Judgement.

Counsel: I thank the court for the display of great wisdom we have learned under the wisdom of the court.

SIGNED

21/6/2022

