

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT GWAGWALADA- ABUJA

THIS MONDAY THE 30TH DAY OF NOVEMBER, 2023

BEFORE HIS LORDSHIP: HON. JUSTICE ALIYU YUNUSA SHAFIA

SUIT NO: FCT/HC/CR/047/2023

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA..... COMPLAINANT

AND

AVAGAH DANIEL OLOHIGBE.....DEFENDENT

Court: matter for arraignment.

Defence present in court.

Offence: section 321 of the penal court law.

Appearance: Maryam Aminu Ahmed for prosecution EFCC.

Defendant: Benjamin I. Ogah for the defendant who is in court.

Prosecution: the matter is slated for arraignment.

A charge dated the 20/11/2023 has been served on the defendant. Apply that the charge be read to the defendant for him to take his plea.

Court: the one count charge is read and explained to the defendant, the defendant is called upon to reply to the said one count charge.

Court: defendant do you understand the charge.

Defendant: yes I did

Court: defendant; are you guilty or not guilty?

Defendant I am guilty

Prosecution: I apply to the court to convict him accordingly.

CONVICTION

I have carefully listened to the plea of guilty by the defendant and knowing fully well the consequence of it's commission. I shall accept the plea of guilt made by the defendant as an admission and convict the defendant for the offence punishable under section 324 of the penal code law punishable by this court.

Court: Defendant/convict plea of allocutus

ALLOCUTUS: I am very sorry for the crime I have committed, I have realised my mistake and have known that crime is not good, and not a thing I should involve myself. And feel sorry knowing the pain I have caused the person I collected the money from. I am asking for mercy and should be giving a second chance I promised not to go back to the same crime again.

Defence addition:

Sincerely appeal to the conscious of the court to temper justice with mercy. The convict is a first time offender, and he has learned his lesson. The aged mother is really in pain crying for the bad name the convict has tainted the family name. Urge the court to temper justice with mercy and give the convict an option of finereferred to section 270 (11) (b) of the ACJA 2015.

That the defendant is a young man with a bright future and urge the court that we should not dim the bright future of the convict.

Court: this matter is adjourned to 30/11/2023 for sentence by 2: pm.

Prosecution: we intend to file a plea bargain by tomorrow before sentence.

SIGNED

JUDGE

29/11/2023

RESUMED

01/12/2023

Prosecution: the convict has applied through the commission for a plea agreement.

The plea bargain dated the 17/11/2023 all parties have signed, we urge the court to sentence the convict according to the plea bargain agreement.

SIGNED

JUDGE

1/12/2023

SENTENCE

The defendant was convicted of the offence of cheating by impersonation contrary to section 321 and punishable under section 324 of the penal code.

The convict sometimes in October, 2023 in Abuja, within the Jurisdiction of this honourable court with intent to defraud, falsely represented himself as Amy Ray and sent electronic messages to Juan Garza a resident of United States of America. And obtained the sum of \$1,380 (One Thousand, Three Hundred and Eighty Dollar) from him. The defendant upon having the charge read to him and having understood the charge pleaded guilty to same, the defendant was subsequently convicted after pleading guilty to the charge.

The convict in his allocutus told the court that he is very sorry for the crime committed and further stated that he has realised his mistake while also realised that crime is not good. The convict further pleaded with the court that is he is given a second chance; he will never go back into crime.

The defence counsel pleaded with the court to temper justice with mercy as the convict is a first time offender who has learnt his lesson.

The prosecution counsel then informed the court that the parties entered into a plea bargain agreement and urged the court to enter the agreement as judgement of this honourable court.

I have taken a look at the plea bargain agreement entered into by parties, at this juncture there is the need to educate, guide and tutor members of the society especially the youths on the advantages and disadvantages of the internet, most especially the effects of venturing into cybercrime. The young ones need to be specifically aware that they will be punished whenever they are caught involving themselves in cybercrime.

In view of the foregoing, I shall accept the plea bargain agreement and I hereby sentence the convict based on the plea bargain agreement filed and adopted before the court as follows:

- 1. The convict is hereby sentenced to one-year imprisonment or a fine of N200,000.00.**
- 2. The I phone II and I phone XR recovered from the defendant are hereby forfeited to the Federal Government of Nigeria.**
- 3. The sum of \$ 450 (Four Hundred and Fifty Dollars) recovered from the convict is to be forfeited to the Federal Government of Nigeria through the proceeds of crime account of the Federation.**

4. **The convict is to depose to an affidavit of understanding to be of good behaviour for six (6) months.**

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Hon. Justice A. Y. Shafa