

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

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

**THIS WEDNESDAY THE 8<sup>TH</sup> DAY OF NOVEMBER, 2023**

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

**SUIT NO: FCT/HC/CR/723/2023**

**BETWEEN:**

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

**AND**

**KINGSLEY CHUKWUEMEKA..... DEFENDANT**

COURT: case for arraignment

Offence: personation under section 320 of the penal law.

Defendant: present court

Appearance: ChukwuemekaNjoku for the prosecution.

Defence counsel:

Prosecution: before the court is a one count charge dated the 12/10/2023 a filed on the 19/110/2023. Within permission of the court we ask that the one count be read to the defendant to enable him take it's plea. The defendant speaks English Language.

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

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

Court defendant: do you understood the said charge?

Defendant yes I do

Court: defendant are you guilty or not guilty?

Defendant I am guilty.

Prosecution:

In view of the plea of the defendant we will be asking the court to convict him accordingly.

Also we have a plea bargain agreement before the court dated the 12/10/2023, and filed on the 19/10/2023 the plea bargain agreement was duly signed by the defendant and it's counsel, himself as the investigating officer. Urge the court to rely on the terms of the agreement in sentencing the defendant.

### CONVICTION

I am satisfied that the Defendant before the court understood the content of the one count charge and admitted same knowing fully well the Consequence of his admission, this court will accept the guilty plea of guilty entered by the defendant and accordingly convict the defendant for the offence of fraudulently obtaining the sum of (Fifty US Dollars punishable under section 322 of the penal code law triable by this court.

Court: the court gave the defendant convict the option to either plea for allocutus (mercy or call evidence of this good character. The convict decides to plead allocutus.

Allocutus:

I am sorry for what I did it is my friends that involve me to crypto investment, I don't know that it is not legalize in Nigeria I am sorry for that. I plea for mercy and for now I am learning my tailoringwork.

Defence counsel: in addition to the plea of allocutus made by the convict, the defendant not just by his words but even his conduct, will the government he has saved time, of both the investigating authority and lawful court. We continue to invoke the mercy of this court seeing that the defendant is first time offender has made conscious effort to retribute what he benefited which is the \$ 50 and his phones were also confiscated by the investigating authority in other words gave full cooperation.

In the court wisdom while the court contemplates on the decision to take, the only plea from the court is wisdom to graciously consider a non-custodial sentence for the defendant who has also stated making arrangement to re-integrate to the normal society. I was privileged to have taken this case pro-pono when the mother who buys and sell in the village reached out to me.

Pray to the court to give the defendant an opportunity to contribute meaningfully to the growth of the society while we draw the court attention to section 416 (2) of the ACJA 2015. As well as the provision of section 270(2) of the ACJA 2015. Of the court in it's mercy will also consider section 322 of the penal code which allows the court the wisdom to consider a fine where the court deems fit.

Finally, the convict has been in custody and has corporate fully and pray the court wisdom to decide to give him an opportunity to contribute to the society.

Court: prosecution is there any previous record of conviction of the defendant to your knowledge.

Prosecution: none to my knowledge.

Sentence reserved to 1:30 pm

SIGNED

JUDGE

8/11/2023

#### SENTENCE

The defendant one Kingsley Chukwuemeka was arraigned before this court on one count charge filed dated the 17-10-2023

The defendant was alleged sometime, in 2022 in Abuja within the jurisdiction of this Honourable court did cheat by operating a WhatsApp group account named James Bank Trade with Telephone Number0816797599 purporting to specialise in crpto investment and fraudulently obtained the sum of \$ 50 (fifty US Dollars) from one Evans of south Africa and thereby committed an offence punishable under section 322 of the penal code.

In addition to the plea of allocutus made by the convict, the defence counsel pleaded to the court to show mercy on the convict. That the convict having pleaded guilty had saved the precious time of the court and both the investigating authorities and that the offender is a first time offender and has made conscious effort to retribute what he benefited which is \$ 50 (Fifty US Dollars) and his phone were confiscated. That in the court wisdom pleaded with the court to consider given the convict a non-custodial sentence as the defendant has stated making arrangement to reintegrate to the normal society. Therefore [pray the court to give the convict an opportunity to contribute meaningfully to the growth of the society while ordering the court attention to section 416(2) of

the administration of criminal Justice Act 2015 as well as the provisions of section 220(2)(11) of the same ACJA 2015.

That the court in its mercy should also consider section 322 of the penal code which allows the court the wisdom to consider a fine where the court deem fit.

On the side of the prosecution counsel, he stated that, there have filed a plea bargain agreement before the court and the said which was, signed by the defendant, his counsel and the investigating officer and urge the court to rely on the terms of the plea bargain agreement in sentencing the defendant.

I have carefully listened to the plea of allocutus made by the defendant/convict himself and that of the counsel. I equally peruse the plea bargain agreement filed by the prosecuting counsel; and the application of the defence counsel where he urge this court to have a look at section 416(k) paragraph 16 of the ACJA, 2015 the section provides thus:

“sentencing to a term of imprisonment shall apply only to those offence who should be isolated from society and with whom other forms of punishment have failed or is likely to fail.

On this I wish to state that the primary purpose of non-custodial alternative to imprisonment is to enable penal sanction to be individual to the need of the offender, thereby making the sanctions more effective. In the instant case, parties have agreed and filed a plea bargain agreement, where of the prosecuting counsel pray the court to use the plea bargain agreement in sentencing the convict. Therefore, hold that the application made by the defence counsel for the court to use alternative non-custodial cannot be attended as parties are bound by their agreement.

I have considered the plea of allocutus made on behalf of the defendant by his defence counsel, I equally take the cognizance of the fact that the defendant by looking at him look so remorse and disappointed for his action and more importantly that he has since forfeited the sum of \$50 (Fifty US Dollars) to the Federal Government and his phones used to the commission of the crime forfeited.

I do also understand the arrangement made by the defendant and the officers of the EFCC and the investigating officers. Be that as it may, the court however shall punish the defendant according to section 322 of the penal code law.

Nevertheless, having considered the plea of allocutus made and the defendant being a first time offender, I believed he has regretted his action with the hope that he will never go back to it in his life time.

In conclusion, haven said all above, I hereby sentence the defendant to a term of one-year imprisonment with an option of fine or N200,000.00 in lieu of imprisonment.

The items recovered from the defendant is hereby confiscated and the phones used in committing the crime are to be auction by the EFCC and the proceed paid to the EFCC Federal Government of Nigeria recovering account domiciled with the CBN.

The sum of \$50 (Fifty US Dollars) recovered from the defendant during the course of investigation is hereby ordered to be forfeited to the FGN and the sum paid top the EFCC recovery account with the CBNM

The convict along with his parents or guardian to depose to an affidavit of undertaking to be of good behaviour for a period of one year.

.....

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