

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT GWAGWALADA- ABUJA**

**THIS WEDNESDAY THE 5<sup>TH</sup> DAY OF JULY, 2023**

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

**SUIT NO: FCT/HC/CR/370/23**

**BETWEEN:**

**FEDERAL REPUBLIC OF NIGERIA.....PLAINTIFF**

**AND**

**NWOZOR MARTINS..... DEFENDANT**

Court: case for arraignment.

Defendant present in court.

Appearance: Taiwo Aromolaruan for the Prosecution.

Defence: S. T. Sanini for the Defendant.

Prosecution: the business of the day is arraignment the defendant is in court and we are ready to proceed.

Court: defence counsel are you ready?

Defendant we are ready.

Prosecution: before the court is a one count charge dated the 22/5/2023 and filed on the 23/5/2023, we pray the court that the one count charge be read to the defendant to enable him take his plea.

Clerk reads the charge to the hearing of the defendant.

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 charges read and explained to you in English language?

Defendant: yes I understand the charge.

Court defendant: are you guilty or not guilty?

Defendant: I am guilty.

Prosecuting counsel:

In view of the defendant plea of guilty, we pray that the court convict/sentenceshim in accordance with the provision of the penal code law.

### CONVICTION

That one court charge dated the 22-5-2023 and filed on the 22-5-2023 for the offence of cheating by impersonation contrary to section 321 and punishableunder section 324 of the penal code law.

The defendant who pleaded guilty to the one count charge, knowing fully the consequence of its plea.

This court will accept the plea made by the said defendant, and will proceed under section 112(8) of the ACJA 2015 which provides thus:

Where upon hearing the information the alleged suspect, admits the commission of the offence contained in the charge, his admission shall be recorded as near as possible in the words used by him and if he shows no sufficient cause why he should not be convicted the court may convict him accordingly ----”

In view of the above section I shall proceed to convict the said convict for the offence of cheating by impersonation punishable under section 324 of the penal code law and triable by this court.

Court: this court will explain two options of the plea of allocutus to the convict.

1. To call witnesses of his good character.
2. Directly to plead for his (allocutus)

The convict chooses the 2<sup>nd</sup> option.

Court: proceed.

Allocutus

Convict: I am very sorry for everything I have done, I will never do it again. Am going back to my normal business, selling tyre and wheels on car stand. I will never ever go back to such act again.

I am very sorry for the inconvenience I might have caused.

Defence counsel to the convict? We urge the court to temper justice with mercy on the convict.

The convict has been very remorseful even since he was arrested and released by the EFCC and rejected his action. That since his release he has turned a new leave. The convict is a first time offender and has never been found wanting. That the convict has demonstrated his remorseful by returning part of the money he benefited.

It is our sincere plea that the court gives him the second chance, which will correct his past mistakes and the wrong he has committed.

Most importantly a second chance to demonstrate his remorsefulness to be a good ambassador. He has gone back to his trade and has shown sincere zeal and very purposeful intention that can be useful in the society.

That if the court shows him mercy he will not take it for granted, he will be very golden and gentle.

In considering the sentence urged the court to consider section 416(2)(b)(d)(c) of the ACJA (201 which dealt with the sincere reformation of the convict.

That the convict is ready to be integrated into the society to be useful, asking the court to show the convict fatherly mercy as the Lord is the father of all present before the court.

Court: PW1 is there any record of previous conviction?

Prosecution: none that we know of.

In response to the plea of allocutus made by the defence counsel, the defence has asked that the court should temper justice with mercy,

However, Hon Justice Oputa as he then was (SC) stated in the celebrated case of Godwin Josay Vs State (1985) SC 89.

He stated

Justice is a three-way traffic, it is not just justice to the victim alone, but also justice to the society at large, whose social norms and values have been desecrated and broken by the crime complained of.

He also stated in that case,

“that justice which only protect one party alone, is not even handed justice, and cannot even be said to be justice tempered with mercy.

The circumstance of this present case are such that the convict has only restituted N200,0000.00 out of N570,000.00 he benefitted from his crime.

In view of the forgoing we pray the court, that in reaching sentencing, regards should not only be had to the reformative motives behind sentence but also that the sentence to be given in this case should pose a deterrent effect and also pose a serious warning to other young Nigerians, whom might be reminded to chat the same course as the convict in this case,

We recovered a techno phone and an i-phone six from the convict. We shall apply to tender the mobile phone recovered from the convict, the mobile phone being the instrumentality of the crime we apply to have them forfeited to the FCT, this application is made based on the provision of section 333 C1 (11) of the ACJA 2015.

Court: this matter is stood down for to 12 noon for sentence.

SIGNED

JUDGE

5/7/2023

## SENTENCE

The convict Nwozor Martins was alleged sometimes between July, 2022 and April, 2023 in FCT, Abuja within the judicial division by pretending while representing himself to be one Camela Onyiye a female Nigerian citizen and a purported chief executive of Binary Trade investment uploaded and knowingly substituted her pictures with his on his Facebook social media platform and WhatsApp profile account number 0807446172 from which he benefitted an aggregate sum of #570,000.00 (Five Hundred and seventy thousand Naira) from one Bashir Bello and others which the convict received via his account number 3066680587 domicile in Access Bank Plc and thereby committed an offence punishable under section 324 of the Penal Code Law.

The convict who admitted committing the offence and plea of mitigation of punishment pleaded thus:

I am very sorry for everything i have done, i will never do it again. I am going back to my normal business of selling tyres, wheels on car stand. I will never ever go back to such an act again, i am very sorry for the inconveniences i must have caused.

The Defence counsel to the convict adding his voice to the allocutus made by the convict, urged the court to temper justice with mercy on the convict. That the convict has been very remorseful even since he was arrested and released by the EFCC and regretted his actions. He went further to state that since the convicts release from the custody of EFCC he has turn a new leaf. The convict is a first time offender and has never been found wanting. That the convict has demonstrated his remorsefulness by returning part of the money he benefitted and it is their sincere plea that the court give him a second chance, which will correct his past mistakes and the wrong he has committed. Most importantly, a second chance to demonstrate his remorsefulness to be a good ambassador. He has gone back to his trade and has shown sincere seal and very purposeful internationally that can be useful to the society. That if the court shows him mercy, he will not take for granted, he will be very golden and gentle. Further submit, the court in considering sentence urged the court to consider section 416(2) (b)(d) and (c) of the ACJA 2015 which dealt with the sincere reformation of the convict and that the convict is ready to be integrated into the society to be useful asking the court to show the convict fatherly mercy as the court is the father to all those present before the court.

In response by the prosecuting officer, one T. A Aromolaran Esq of the EFCC submitted that the defence has asked the court to temper justice with mercy however, referred to the case of Godwin Josiah V The State (1985) SC 89 where honourable Justice Oputa JSC as he then was stated thus:

“Justice is a three-way traffic, it is not just justice to the defendant, nor justice to the victim alone but also justice to the society at large whose social norms and values has been broken by the Onus crime complained of”. He also stated in that case that “justice which only protect one party alone is not even handed justice, and cannot even be said to be justice tempered with mercy.”

The prosecuting counsel further submitted that the circumstances of the present case is such that the convict have only redeemed 200,000 (Two Hundred thousand) out of 570,000 (five hundred and seventy thousand) he benefitted from his crime. In view of the foregoing, pray the court that in reaching sentencing, regard should not only be heard to the reformative motive behind the sentencing but also to the sentence to be given in this case, should pose a deterrence effect and also pose a serious warning to other young Nigerians who might be minded to chat the same cause as the convict in this case.

On the second arm of his application that she recovered a techno and Iphone 6 from the convict which was the instrument used in committing the crime applied under section 331(1) & (2) of the ACJA, that the phone should be forfeited to the Federal Government and destroyed.

This court having carefully listened to the plea of mitigation of sentence made by the defence counsel to the convict, through the prosecuting counsel is not opposing same, but still I wish to state that the rate at which the offence is being perpetrated in this country by the use of facebook and WhatsApp is too alarming as such the convict cannot go score free despite its plea.

But considering the fact that the convict is a young boy and a first time offender this court will consider the option of fine pleaded by the defence counsel as the punishment sections provided option of fine i.e. section 324 of the penal code which states thus

**“whoever cheats by personation shall be punished with imprisonment for a term which may extend to five years or with fine or with both”**

**I have carefully** listened to the allocutus made by the convict and the defence counsel to the convict and response by the prosecuting counsel, I have this to say; that the rate upon which the offence of cybercrime is being perpetrated in this country by the use of Facebook and WhatsApp is too alarming and need to be checked by the law enforcement agencies. The convict cannot be left to go without being punished for the crime he committed as such this court, have taken a stand none of the convict brought before this court will escape the punishment as to show an example to other young ones on the street and deterrence to others who think cybercrime is the cheapest way to become rich, this court will be very serious with the convict.

Accordingly, the convict is hereby sentenced to 3months imprisonment with option of fine of #200, 000 (Two hundred thousand naira) and to remit the remaining balance of 370,000 (Three hundred and seventy thousand Naira) he benefitted to be refunded to the Federal Government of Nigeria through the prosecuting agency being the office of EFCC and a receipt of the refund forwarded to this court for proper record.

As to the techno and Iphone6 used in the commission of the crime be destroyed publicly in the court premises to be supervised by the EFCC prosecutors, the Defence counsel, the police orderly attached to the court and the registrar of this court.

This is my order and my Judgment.

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

