

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT GWAGWALADA- ABUJA

THIS MONDAY THE 18TH DAY OF SEPTEMBER, 2023

BEFORE HIS LORDSHIP: HON. JUSTICE ALIYU YUNUSA SHAFIA

SUIT NO: FCT/HC/CR/621/2023

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA..... COMPLAINANT

AND

SAMUEL ACHEN (AKA HANNAH KICHEA)DEFENDENT

Court: case for arraignment

Offence of fraudulently obtaining the sum of \$ 265, 00 through gift card from one Tyler the defendant committed under section 324 and punishable under such section.

Defendant: present in court.

Appearance: F. I. Hemma Sani EFCC for prosecution

Defendant M.K. Nwogo holding the brief of Nnamdi Akuneto for the defence.

Prosecution: before the court is a one count charge dated the 7-9-2023 and filed on the 11/5/2023 the defendant understands and speaks English language. We apply that the charge be read to the defendant for him to take it's plea.

Court: defence counsel do you have any objection?

Defence counsel: no objection.

Court/clerk read 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 charge.

Court: defendant do you understand the charge.

Defendant yes

Court: defendant are you guilty or not guilty?

Defendant I am guilty

Prosecution we humbly apply that the defendant be convicted in line with the plea bargain agreement dated and filed on the 18/9/2023

Court: defence counsel do you have any objection to the application made by the prosecuting counsel

Defence counsel: no objection.

CONVICTION

I am satisfied that the defendant haven understood the one count charge read and explained to him in English Language. Understood same and pleaded guilty, to the charge knowing fully the consequences of his plea. this court will accept the defendant's plea of guilt and will proceed to sentence the defendant for the offence of cheating by personation the offence punishable under section 324 of the penal code law. I will equally accept the application made by the prosecution on the application of plea bargain agreement.

ALOCUTUS:

It was from the place of frustration and as at the time I was in school and my dad had a lot by his place battling a lot for the children and wanted to try to ask for more and it was not easy due to the predicament of the family that is why i fell into the temptation. I now regret my action and plead to the court to temper justice with mercy. That with the lessons I have learnt I have thought on how to go about with my life.

Defence: in addition, pray the court to exercise lenience in sentencing the convict who is a first time offender and has also restituted the full amount he has benefited. He is currently a final year student in Federal Poly Minna studying Maths and a very good Mathematician. He will be more productive to the society. He did not want to waste the time of the court by dragging the case that is why he admitted and the convict has undertaken to take a new leave. we urge the court to grant a lesser sentence provided in section 220 (11) (b) of the ACJA 2015.

COURT: case stood down for 2 pm for sentence.

SIGNED

SENTENCE

The convict before this court was convicted for the offence of fraudulently obtaining the sum of \$265.00(Two Hundred and sixty-five dollars) through gift card from one Tyler, the offence punishable under section 324 of the penal code law.

The facts of the case that lead to the conviction of the convict is as follows:

“that in the year 2023, in Abuja within the jurisdiction of the High court of FCT did cheat by personation when he pretended to be one Hannah Kitchea an American citizen and in that assumed character fraudulently obtained the sum of \$265.00(Two Hundred and sixty five dollars) through gift card from one Tyler”

The defendant was convicted and in it’s plea of allocutus pleaded as follows:

“it was from the place of frustration and as the time I was in school and my dad had a lot by his place battling a lot for the children and wanted to ask for more and was not easy due to the predicament of the family, that is why I fell into the temptation I now regret my action and plead to the court to temper justice with mercy. That with the lesson I have learned I have thought on how to get about with my life.

In addition, the learned counsel to the defendant on M.K. Nwogo prayed the court to exercise leniency in sentencing the convict who is a first time offender and he has restituted the full amount he has benefited. That the convict is currently a final year student in Federal Poly Minna studying Maths and a very good Mathematician. He will be productive to the society. That the convict did not waste the time of this court by dragging the case, and that the convict has undertaken to take a new leaf and urged this court to grant a lesser sentence provided under section 270(1)(b)of the ACJA 2015.

I have carefully listened to the allocutus made by the convict and the reasons given for him committing the offence, I hold this reason are not enough for the convict who is a young promising Mathematician to have indulged in the said Act. There are other ways if he wants to keep moving his life better than cybercrime.

Though the convict has shown remorse and as he stated promised not to indulge in such a crime again. The convict has tried to destroy his life and his profession, career or field of study, notwithstanding hope the lesson learned will change the convict completely.

I wish to remind the convict and for him to take note that cyber criminals are like terrorists or mental thieves in that their activities impose disproportionate costs on the society and individuals I pray and hope he will turn a new leaf as he said.

In view of the foregoing I shall consider and accept the plea bargain agreement entered between the prosecuting counsel of the EFCC and the convict, but to say that the court should act on section 270(11(B) of the ACJA, 2015 I say it has been overtaken by events, Hence I shall 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 N300,000.00.
2. The iphone XR iphone X and HP laptop which was used as instrument of his criminal exploit is hereby forfeited to the FGN.
3. The forfeited iphone, XR, iphone X and HP laptop should be sold by the EFCC and proceed realised from the sale paid to the proceed of crime account of FGN.
4. The convict is to depose to an affidavit of undertaking to be of good behaviour for one year.

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Hon. Justice A. Y. Shafa