

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE GWAGWALADA JUDICIAL DIVISION

HOLDEN AT GWAGWALADA- ABUJA

THIS THURSDAY THE 7TH DAY OF DECEMBER, 2022

BEFORE HIS LORDSHIP: HON. JUSTICE ALIYU YUNUSA SHAFI

SUIT NO: FCT/HC/GWD/CR/22/2022

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA..... COMPLAINANT

AND

SUNDAY OLUCHUKWU MBA (VEGAS SAM)DEFENDANT

Court: case for arraignment

Offence section 321 of the Penal Code.

Defendant present in court.

Appearance: Sabina M. Dabok for the prosecution

Defence counsel: A. J. Oluwaji with Abiodun Oladeke for the Defendant.

Prosecution we have before the court a one count charge predicated on plea bargain agreement entered. The charge dated on the 7-10-2022. Filed on the 13/10/2022, We pray the charge be read to the defendant to enable him take his plea.

Court: defendant; do you have any objection

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

Court: the charge is read and explain to the defendant.

The defendant called upon to reply to the said charge.

Court: do you understand the said charge.

Defendant: yes, I do

Court: defendant are you guilty or not guilty.

Defendant I am guilty.

Prosecution: the defendant having pleaded to one count charge urge the court to convict the defendant accordingly.

CONVICTION

I am satisfied that the defendant having understand the charge read and explain to him in English language, and admitted same knowing the consequence of his admission. This court accepts the defendant's admission and convict him for his offence of cheating by personation contrary to section 321 and punishable under section 324 triable by this court.

Prosecution: we also have a plea bargain agreement dated the 6-12-2022 and file on the 7-12-2022. The plea bargain agreement was dully executed by the defendant, prosecutor and the investigating officer and we adopted the terms of plea bargain agreement and urge the court to sentence the defendant accordingto the terms.

Defence counsel: we will be making a plea on behalf of the defendant who had pleaded guilty. We will draw the court attention to the fact that the defendant in allocutus is a first time offender and that the defendant has not been caughtwanting in his dealing.

The defendant before the court is a businessman and selling gas until he was influence by his friends. The defendant is the bread winner of his family, the mother is late and his father is of age, he has younger once.

That I want to plea to the court to give the defendant an option of fine despite the plea bargain of the sentence of one year. That the defendant has not even benefitted from the dealings and have been remorseful.

That we urge the court to temper justice with mercy.

Prosecution: though there was an agreement executed, I know the court has a discretionary power and also know that the law provides an option of fine have left it to the discretion of the court.

SENTENCE

The defendant now a convict was alleged sometimes in May, 2022 at Abuja within the jurisdiction of this Hon. Court, with intent to defraud over the intendent, pretending to be a member of the salvation United States of America Central Territory New York City and lives in khostAfghanistan order to gain advantage to himself and committed an offence punishable under section 321 of the Penal Code. The defendant who pleaded guilty on the one count charge and was there and then convicted for the offence of cheating by personation.

Before the sentencing the prosecution who informed the court that they file before the court a plea bargain agreement dated the 6-12-2022 and file before this court on the 7-12-2022 wherein both the defendant, the prosecution and the investigating officer signed same, and therefore urge this court to sentence the defendant/convict base on the plea bargain agreement.

The defence counsel to the convict, in a plea of allocutus, pleaded on behalf of the convict who had pleaded guilty and draw the Attention of the court to the fact that the defendant/convict is a first time offender and have not been caught wanting in the said dealing.

Further submitted that, the defendant/convict is a businessman selling gas until he was influenced by his friends. That the defendant/convict is the bread winner of his family with an aged Father who has no Mother and have younger once to cater for and pray the court for an option of fine despite the agreement of plea bargain that the defendant/convict has not even benefitted from the dealings and have been remorseful.

The prosecution in response to plea of allocutus made by the the defence counsel to the convict submitted this, he knows a fact that this court has discretion and power and also knows that the law provides an option of fine and therefore leave it to the discretion of this court.

This court having listened to the plea of allocutus made by the defence to the convict and the reasons given to enable this court give an option of fine, to the convict instead of applying the strict rule of agreement on plea bargain and the response from the prosecution I shall adopt the plea made by the defence to the

convict to give the convict an option of fine, as sending the convict to prison will make him to be hardened hence this court will consider the option of fine applied for by the defence counsel.

Not only, the convict is a first time offender which give this court the reasons of given him an option of fine. This court having consider the FCT, Court Sentencing Guidelines Practices Direction 2016, paragraph 5 and 40 (b) (iv) I shall give the convict an option of fine.

In view of the forgoing, the convict is hereby sentence to one-year imprisonment or fine of N300,000.00. this is to show as an example and deterrence to others younger once who think that it is easy to get away with such an act.

This is my judgement.

SIGNED

JUDGED

7/12/2022

Fine paid No: Z12544043 on 7/12/2022