

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT GWAGWALADA- ABUJA

THIS FRIDAY THE 5TH DAY OF MAY, 2023

BEFORE HIS LORDSHIP: HON. JUSTICE ALIYU YUNUSA SHAFI

SUIT NO: FCT/HC/GWD/CR/50/2022

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA..... COMPLAINANT

AND

VICTOR ADEMOLA.....DEFENDANT

COURT: case for arraignment offence. Cheating section 321 of the penal Code punishable under section 324 of the penal code laws

The defendant is present in court.

Appearance: C. ObasiOko for the prosecution, EFCC

Defence counsel: Samuel Akuh for the Defendant who is in court

Prosecution: the matter today is slated for arraignment of the defendant who is in court and ready to proceed.

In view of this pray the charge be read to the defendant

Court: Defence counsel do you have any objection.

Defence counsel: we have no objection as we are ready.

Court: the charge sheet is read and explain to the defendant and the defendant is called upon to respond to the said charge.

Court: Defendant do you understand the charge read explain to you in English language?

Defendant: yes, I understand

Court: Defendant are you guilty or not guilty.

Defendant: I am guilty.

Prosecution: In view of the defendant's pleading guilty we apply that the defendant be convicted and sentence accordingly

CONVICTION

I am satisfied that the defendant having understood the content of the charge read and explained to him in English language he admitted same, knowing the consequence of his admission I shall accept the defendant's admission and duly convict the defendant for the offence of cheating and personation punishable under section 324 of the penal code law triable by this court.

Court: you have two options, for plea of allocutus or to adjourn so that you provide evidence of your good character.

Convict: I shall take the first option to make an allocutus.

PLEA OF ALLOCUTUS

That I just want to plea that I am sorry and have changed to a better behaviour I urge the court to temper justice with mercy. I am a graduate of IBB university in English education in the year 2021.

Defence counsel: the young man standing before the court is now a convict before the court is young man who regrets the consequence of his actions that over the period of his arrest, investigation and arraignment before the court he has come to the realization that there is no excuse whatsoever for anyone indulging in crime under the guise of the law of Federal Republic of Nigeria, that there are consequences for the commission of a crime under the law of our nation.

And for this the convict has shown remorse i.e. of cause generally repented of the crime he committed against the federal government. That by way of his expression of his remorse and genuine repentance before the court he has restituted the proceeds of crime which is the sum of \$450 to the prosecution.

That the convict before the court is a first time offender and has not been involved in any crime or been convicted for any other crime or whatever coloration in our beloved country the Federal Republic of Nigeria.

While the convict was in custody of the prosecution he never stressed them in investigation was fully cooperative in their investigation granted administrative bail he never jumped bail.

All this the convict is before the court to answer to the crime.

In view of this the young man as he has expressed before the court he is a graduate or in a reputable university in Nigeria. He has turn the new leaf what better ways for a convict showing remorse.

In view of this, urge the court to assume its fatherly role to look down on the convict with an eye of mercy knowing fully well that he has a lot to achieve for himself going forward not undermining the fact which has lead us to this Hon court.

That the law of the federal republic of Nigeria has come down on him for the commission of the crime pray the court to while sentencing the convict before the court to temper justice with mercy having shown the court that going forward he will be of good behaviour we pray the court to act accordingly.

Court: Is there any previous record of conviction of the convict known to you?

Prosecution: There is no record or previous conviction of the convict known to me.

That upon arrest the convict they recovered a mobile phone iPhone 13 pro which was proven to be an instrument of criminality.

In view of this apply that the mobile phone be forfeited its proceeds paid to the public access of the Federal Government of Nigeria. That it is true that the money being the proceeds of the crime has been refunded

Court: This case is stepped down to 1:00pm for judgement.

SENTENCE /JUDGEMENT

The convict was alleged sometimes in 2023 at Abuja within the jurisdiction of this honourable court of cheating by personation when he created a TIK TOK application with the profile name Ethan John, a united state citizen and benefitted a total sum of \$450 (four hundred and fifty united states dollars) a representation we know to be false he thereby committed an offence contrary to section 321 of the penal code act, laws of the federation (Abuja) 1999 and punishable under section 32 of the same act.

The defendant having been arraigned today being 3-5-2023 and admitted the commission of the offence and convicted in its plea of allocutus for mercy states thus.

That he is sorry and have changed to a better behaviour and asked the court to temper justice with mercy. That he is a graduate of IBB university in English Education in the year 2021.

In addition to the plea of allocutus the defence counsel one Samuel Akuh added that the convict is a young man standing before the court, is a new convict before the court & is a young man who regrets the consequences of his actions. And that over the period of his arrest and investigation and arraignment before the court he has gotten the realization of the fact that there is no excuse whatsoever for anyone for indulging in crime under the guise of the law of Federal Republic of Nigeria, that there are consequences for the commission of a crime under the law of our nation. And for this the convict having shown remorse and of course having repented of the crime he had committed, against the federal government of Nigeria.

That there is consequences for the commission of a crime under the law of the nation. And for this the convict having shown remorse and of course having repented of the crime he had committed, against the Federal Republic of Nigeria That by way of his expression of his remorseful and genuine repentance before the court he has restituted the proceed of the crime which is the sum of \$450 U.S. dollars to the prosecution.

That the convict before the court is a first time offender and has not been involved in any crime or been convicted for any other crime or whatever coloration in our beloved country the Federal Republic of Nigeria

While the convict was in custody of the prosecution he never stressed them in investigation was fully cooperative in their investigation granted administrative bail he never jumped bail.

In view of this the young man as he has expressed before the court he is a graduate or in a reputable university in Nigeria. He has turn the new leaf what better ways for a convict showing remorse.

In view of this, we urge the court to assume it's fatherly role to look down on the convict with an eye of mercy knowing fully well that he has a lot to achieve for himself going forward not undermining the fact which has lead us to this Hon court.

Further that the law of the federal republic of Nigeria has come down on him for the commission of the crime, we pray the court to while sentencing the convict before the court temper justice with mercy having shown the court that going forward he will be of good behaviour

In response by the prosecuting counsel he states that the convict has never been convicted as there are no previous records of conviction.

Secondly that upon arrest the convict they recovered a mobile phone iPhone 13 pro which was proven to be an instrument of criminality.

In view of this we apply that the mobile phone be forfeited its proceeds paid to the public access of the Federal Government of Nigeria. That it is true that the money being the proceeds of the crime has been refunded.

I have carefully listened to the allocutus made by the convict, and that of his counsel I can see that from the beginning of his plea he had shown a sign of remorsefulness and regret to have committed the crime not enough asked the court to temper justice with mercy are all indications that the convict has indeed turned a new leaf.

But yet still the rate at which the offence is perpetuated in this country by the use of Facebook and WhatsApp is too alarming as such the convict cannot go scot free despite his plea.

The cyber criminals always opt for easy ways to make money they target rich people or rich organizations and financial firms where a huge amount of money blows daily and lack sensitive information catching such criminals have become a daily reoccurrence in our country especially students and alike. The only way such a crime can be prevented I suggest the following which will minimize the rate of crime

- I. Protected computer system
- II. Use strong passwords
- III. Avoid public Wi-Fi
- IV. Don't trust unsophisticated emails and text messages
- V. Restrict physical access to sensitive information
- VI. Be careful with all devices.

Having said so we have to know the causes includes urbanization, unemployment and weak implementation of cyber-crime laws. I can say that cyber-crime is a dangerous offence to someone's privacy, or any material. And also we can avoid cyber-crime by following some basic logical things and using our common sense. Above all cyber-crime is violation not only of the law but of human rights too.

In view of the forgoing facts and the plea made by the convict being a first time offender are one of the reasons that tis court will temper justice with mercy and also a job seeker so after been to turn a new leaf.

Having said so I shall sentence the convict by giving him a non-custodies sentence and a fine of ₦50,000.00 only. The non-custodial sentence is for him to clean the surrounding of the sharia court premises for three days commencing from 4th June 2023 to 6th June 2023 under the supervision of the officer of the correctional service centre in Gwagwalada commencing from 10-12noon for the three days.

As per the application made by the prosecuting counsel for the forfeiture of the phone used for the commission of the crime.

The law is that, processes of sale of property are to be forfeited to the government after six months' section 332(2).

In view of the forgoing I shall order that the phone be destroyed and evidence of the destruction be brought before this court this will reduce the rate if crime instead of having it sold in forfeiture to the Federal Government of Nigeria

This is my judgement.

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HON JUSTICE A. Y. SHAFI

