

IN THE HIGH COURT OF JUSTICE OF THE F.C.T.

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT ZUBA, ABUJA

ON FRIDAY THE 22ND DAY OF MAY, 2024

BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA
JUDGE

SUIT NO.: FCT/HC/GWD/CR/24/2024

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA ---- COMPLAINANT

AND

JOSEPH CHIKONE AKOBO "M" ----- DEFENDANT

BENCH JUDGMENT

Today the 22nd day of May, 2024 this young Nigerian, Joseph Chikone Akobo, male aged 25 years has just been arraigned before this Court. The charge were read to him and he pleaded Guilty to all the charge (4 counts in all).

The crime is on allegation of cheating and impersonation in that he claimed in count 1 – 3 to be an American citizen woman answering different names as contained in the 1st – 3rd counts. He did that with the intension to defraud and make financial gain from the victim(s). In the 4th count he pretended to be an American male and had assured his name as contained in the said 4th count charge. But luck

ran out of him and he was tracked and nabbed by the operatives of the Economical and Financial Crimes Commission (EFCC). He was arrested and Admin Bail granted and had appeared today in this Court where he had pleaded Guilty as already recorded.

It is the law that once a Defendant has taken a plea of Guilty that there is no need for the Court to go into trial of the case. That what the Court does in that regard is to immediately convict the person and henceforth the person will no longer be addressed as a Defendant but will be known forever as a Convict as far as the case is concerned.

Today the said young man, Joseph Chikone Akobo, male aged 25 years, having pleaded Guilty to the 4 count charge upon arraignment a few moments ago is hereby convicted of the offence as charged.

ALLOCUTUS

DEFENDANT COUNSEL:

I want to make Allocutus for the Defendant. Considering the revelation of the Prosecution Counsel, I understand fully that the situation looks bad. However, considering the fact, we are aware that the Convict is a second time offender, as soon as his mum heard of his re-arrest she gave up the ghost. I will not doubt that for sure the Convict has learnt his lessons.

The Convict has been shortlisted now for the next NYSC. He had started over again and now he regrets his action deeply especially with the loss of his mother.

Based on that I humbly apply to Court to tamper justice with mercy as the Convict is remorseful and is willing to turn a new leaf if the Court will not condemn him but give him a second chance to be good for himself and to the community at large.

That custodial sentencing sometime bring Convicts together with serious hardened criminals and make them worse than they were before going to Prison.

We rely on S. 310 & 311 ACJA 2015 and inherent powers of the Court, I ask Court to tamper justice with mercy. Whatever the Court's decision is, it is at the discretion of the Court. I urge Court to please use the Court discretion in that regard so that we can see if he will keep to his promise and be a better person.

PROSECUTION COUNSEL:

We wish to bring to the notice of the Court that the Convict is a second time offender. The Convict was charged before the High Court in Port Harcourt but was arrested by the Zonal Command at Uyo, Akwa Ibom State. He was charged under the S. 95 of the Penal Code for similar Internet Fraud case. He was sentenced to 6 months imprisonment with option of fine – ₦300, 000.00 (Three Hundred Thousand Naira). We have applied for CTC of the Court Judgment in that case.

I refer Court to the evidence attached – Statement of the Convict. In his own Statement the Convict wrote after words of caution were administered to him, he wrote:

“I wish to state that prior to my recent arrest I was charged to Court by EFCC Uyo Zonal Command in 2022 where a Court in Port Harcourt convicted and sentenced me to 6

months imprisonment with option of ₦300, 000.00 (Three Hundred Thousand Naira) fine for the offence of Internet Fraud Offence. I cannot remember the name of the Court.”

This further corroborate with our Relief for sentencing the Defendant in this Suit. It is trite to us as Prosecution to bring this to the notice of the Court.

We urge Court to take this into account in sentencing the Convict in this case.

We also wish to tell Court that in cause of investigation an Infinix Hot 6 Red Phone, iPhone 15 and Apple Macbook Rose Gold Laptop were recovered from the Convict.

In view of S. 331 ACJA 2015 we apply that same be forfeited to Federal Government of Nigeria for being the gadget of crime. We urge Court to grant same.

SENTENCING

Once a person is convicted for a crime the next thing open to the Court is the sentencing which can be in form of custodial or non-custodial form. All depends on the circumstance of the case/crime.

In this case this Court had a few moments ago convicted Joseph Chikone Akobo for the offence as spelt out in the 4 count charge all of which he had pleaded Guilty.

His Counsel had done the Allocutus. But the Prosecution Counsel had in a well presented submission pointedly stated that the Convict is a 2nd time offender in that the Zonal Command of EFCC at Uyo in Akwa Ibom State had arrested him and he was charged to a Court in Port Harcourt, River

State and was convicted and duly sentenced to 6 months imprisonment or payment of fine of ₦300, 000.00 (*Three Hundred Thousand Naira*). This is as contained in the document attached in support of prove of the case i.e. the Statement made by the Convict himself at the EFCC in his own handwriting, witnessed by his lawyer – Godstime Joseph Ako on the 12th of March, 2024. That fact is contained in line 13 – 16 of the said Statement by the Convict. The Prosecution Counsel had submitted that Court should put that fact into consideration in sentencing the Convict who she said is a 2nd time offender.

In the Allocutus the Defendant Counsel had pleaded with Court to temper justice with mercy and consider non-custodial sentencing. That the Convict had gone to complete his education and that he is shortlisted to do his NYSC with the next batch of students. The Defendant Counsel did not tell Court what the Convict studied, his school or even evidence of the claim that he has been shortlisted for NYSC.

He had equally told Court that the mother of the Convict died when she heard that the Convict had committed another crime. The Counsel did not tell Court the name of the woman, date and place of death. To that, the Court believes it is only words spoken to sweeten the submission in the Allocutus and sude the Court into emotions. But most unfortunately, Court of justice is not Court of emotions. It is a Court of facts; facts which must be substantiated with credible evidence and not hearsay. No Court thrives in Hearsay.

He had urged Court to consider the non-custodial because allowing the Convict to get in contact with the so called “serious hardened criminals” will have an adverse effect on the Convict and the public at large. And that Court should consider non-custodial sentence so he can see if the Convict had changed as he promised.

One wonders whether it is the Court that will watch and see if the Convict had changed as he promised his Counsel or whether it is the Counsel who I believe, going by his name, is not even from the same geographical location with the Convict; if that is anything to go by.

Well, it is a well established fact that once a person had been arraigned, convicted and sentenced and the person have served terms whether by payment of fine or custodial sentence that such person, upon conviction on the same type of crime another time, has made and created an impression in the mind of the Court, the Prosecuting Agency and the public at large. Such a person is supposed to watched closely by the security operatives and the public at large.

The Convict in this case, Joseph Chikonwe Akobo falls into that category of persons having been convicted now the second time on the same crime. He must be watched. He should not be given another chance to wallow around and look for other persons to devour by his evil intension.

Leaving him to move around the society will be aiding and betting him to soil other innocent citizens and cause other heinous mayhem in the society. That is why this Court feels

and it is the very humble but strong view of this Court that non-custodial sentencing is out of the question in this case. The appropriate thing is and should be to incarcerate the Convict in the Correctional Facility where he will undergo some lesson. This Court believes that by doing so he will be corrected as Correctional Facility is not a place of punishment only but a place of correction.

Based on all the above this Court therefore hereby sentences the Convict, Joseph Chikone Akobo to 3 years imprisonment without option of fine for each of the offence he is charged with in this case - 4 count charge. The sentence is not to run concurrent. The Convict shall serve the sentence at Suleja Correctional Facility.

As to the application by the Prosecution Counsel, the Convict is also to forfeit all the crime gadgets recovered from him by the Economic and Financial Crimes Commission to the Federal Government of Nigeria.

This is the Bench Judgment of this Court.

**Delivered today the ___ day of _____ 2024 by
me.**

K.N. OGBONNAYA
HON. JUDGE