

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY ABUJA

HOLDEN AT WUSE ZONE 2 ABUJA

ON THE 9TH DAY OF FEBRUARY, 2017

BEFORE HIS LORDSHIP: HON. JUSTICE M.M. KOLO

HIGH COURT NO TWENTY-SIX (26)

SUIT NO. FCT/HC/CR/47/2016

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA.....PROSECUTOR

AND

FABUNMI IDOWU OLUGBENGA (A.K.A. FABUNMI IDOWU) DEFENDANT

JUDGMENT

Court: Amended charge read and explained to the defendant. The defendant was also asked whether he understood the charge and whether he is guilty or not guilty.

Defendant: I understand the amended charge against me. I am guilty of the charge against me.

Counsel for the Prosecution: In view of the plea of the defendant, we apply that the defendant be convicted accordingly. Sometimes in September 2016, the British High Commission in Abuja sent in a report to the chairman of the EFCC to bring to the attention of the commission

suspected cases of organized fraud bordering on Nigeria International Passports and United Kingdom Visa applications. Certain names were of concern to the British High Commission. These names are Fabunmi Idowu of No. 23 Erunbe Street Abeokuta Ogun State. Fabunmi Idowu Olugbenga is another name of 33C Nepa Road, Abeokuta Ogun State. Also Albert Idowu of No address and 4th name is Sheriff Olanrewaju of 3 Sodunke Close, Abeokuta.

The British High commission reported that these identities have engaged in about 100 visa applications altering the names, adding or subtracting one or two names. Also, the First Bank of Nigeria Plc account statement of the defendant has been presented in many of these applications as supporting documents to the British High commission. They also sent in supporting documents along with the petitions.

Upon investigation, the defendant was arrested by the operatives of the EFCC. He made a statement under words of caution. In his statement, he admitted to the allegations of altering of documents, procuring of many passports in his name by other persons. He also admitted to procuring his First Bank of Nigeria Plc statement of account for the purpose of being used as supporting documents to visa application.

Court: I am satisfied that the defendant has understood the facts of this case and the charge against him in all its details and its essentials and also the effects of his plea. He is hereby convicted as charged.

Counsel for the defendant: The defendant having pleaded guilty to the one count charge, we urge the court to temper justice with mercy in

sentencing the defendant. This is the first time he will be coming before this court. This is an indication that the defendant has elected not to allow the state go into the rigours of trial that may last up to two or three years or more. Having explained the implication of the charge against him which he clearly understood, the whole issue is borne out of carelessness and ignorance of the defendant. The defendant is sorry for offending the state and he is very remorseful. He has cooperated with the commission all through the point of investigation. The punishing section under which he is charged i.e. Section 364 Penal Code makes provision for terms of imprisonment or fine. This is within the discretion of the court. We urge the court to invoke the provision of Section 416 ACJA. The objective of sentence in this instance which allows a mild punishment of fine as an alternative should serve the propose of correcting the defendant rather than keeping him away from the society. The defendant is a first offender. He is a father of four, two boys and two girls. He has a father who is 84 years old and a mother who is 78 years old. Essentially he is the bread winner of the whole family. He has come to Abuja from Abeokuta, Ogun State on the instruction of the Commission over 20 times. He did not default in any of the appointments given to him. This has shown that the defendant is so sorry for offending the state and has undertaken never to be involved in any such acts. We urge the court to sentence the defendant with the mildest punishment of fine.

Counsel for the Prosecution: I have listened to the defence counsel. It is true that the defendant cooperated with the EFCC during investigation. He kept each appointments given to him. He never defaulted. He even

aided the EFCC in trying to fish out the other suspects. Unfortunately, they were not found. As stated in the Penal Code, the punishment is at the discretion of the court. I also wish to bring to the notice of the court that at the end of the investigation, the defendant applied to the EFCC opting for a plea bargain having accepted responsibility. In the light of that application, the prosecutor along with the defendant have filed a plea bargain agreement. It is dated 12/1/17. It is before the court. I also wish to state that at the time of the plea bargain we averted our minds to the provision of Section 270 4(a) of the ACJA and we leave the issue of sentence at the discretion of court.

Court: Case adjourned to 13/2/17 for sentence. The defendant should be kept at the EFCC custody and be produced on 13/2/17 for sentence.

SENTENCE

The defendant was arraigned before this court on 9/2/17 on a one count charge of forgery contrary to Section 364 of the Penal Code. He pleaded guilty to the one count charge and was convicted by this court after the prosecution was invited to state the facts of the case and after the court has satisfied itself that the defendant understood the charge against him in all its details and essentials and also the effects of his plea.

In its allocutus, the learned counsel for the convict urge the court to temper justice with mercy in sentencing the convict as this is the first time he will be coming before the court which is an indication that he has elected not to allow the state to go into the rigours of trial that will last

up to two or three years or more. He stated that the whole issue is borne out of carelessness and ignorance and the convict is sorry for offending the state and remorseful. He pointed out that the convict has cooperated with the commission all through the point of investigations and that the punishing section under which he is charged, i.e. Section 364 Penal Code makes provision for term of imprisonment or fine which is at the discretion of the court. He urge the court to invoke the provision of Section 416 ACJA and hold that the objective of sentence in this instance which allows a mild punishment of fine as an alternative should serve the purpose of correcting the convict rather than keeping him away from the society. He submits that the convict is a first offender and a father of 4. Two boys and two girls. He has a father who is 84 years old and a mother who is 78 years and he is essentially the bread winner of his family. While urging the court to sentence the convict with the mildest punishment of fine, he maintained that the convict has come to Abuja from Abeokuta, Ogun State on the instructions of the commission over 20 times and did not default in any of the appointments given to him by the Commission which has shown that he is so sorry for offending the state and has undertaken never to commit such acts again. After listening to the allocutus of the convict, the learned counsel for the prosecution, admitted that the convict cooperated with the EFCC during investigation having aided the commission in trying to fish out other suspects, who were unfortunately not found. He also brought to the attention of the court that at the end of investigations, the convict applied to the Commission opting for a plea bargain having accepted responsibility.

That in the light of that application, the prosecution along with the defence have filed a plea bargain agreement dated 12/1/17 and had at the time of the plea bargain averted their minds to the provisions of Section 270 (4) (a) of the Administration of Criminal Justice Act and leave the issue of sentencing at the discretion of the court.

I have carefully considered the plea bargain agreement and the mitigation plea of the convict vis-à-vis the appropriate Provisions of the Federal Capital Territory Courts (Sentencing Guide lines) Practice Direction, 2016 and have determined the category of the offence in accordance with the level of culpability of the convict and the severity of harm, if any, caused by the offence after considering the qualifying factors set out in sub paragraphs (2) and (3) of paragraphs 58 of the ACJA. I hasten to add that cases of organized fraud has become rampant and the bane of our society today.

In view of the prevalence of the offence therefore, I would be constrained to sentence the convict to 4 years imprisonment without an option of fine. He is accordingly sentenced to a prison term of four years without an option of fine.

Appeal 30 days.

SIGNED

HON. JUDGE
13/2/17

Appearances:

Rita Ogar (Mrs.) with D. Ademue Ete (Mrs.) for the prosecution.

A.O. Usman, Alex Akoja and Bola Okiji for the convict.