

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE NYANYA JUDICIAL DIVISION
HOLDEN AT NYANYA ON THE 4TH DAY OF FEBRUARY, 2019.

BEFORE HIS LORDSHIP: HON. JUSTICE U.P. KEKEMEKE

SUIT NO: FCT/HC/CR/277/15

COURT CLERKS: JOSEPH BALAMI ISHAKU & ORS.

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA..... ..COMPLAINANT

AND

1. EMMANUEL IORHUME

2. SHOLA A. WILLIAMS

}

.....DEFENDANTS

JUDGMENT

The Prosecution filed a four count Charge against the Defendants on the 3rd of August 2015 as follows:

COUNT ONE:

That you Emmanuel Iorhume 'M' 48 years, of Kaitla, Gwagwalada Area , Kuje Road, FCT- Abuja, within the jurisdiction of this Court on or before 21st of July, 2015 fraudulently collected the sum of Ten Thousand Naira (N10,000) only from Mr. Orahi Felix Teryila, a security guard of Cat Security Abuja as form/processing fee with the pretence to secure employment with Nigeria

Security & Civil Defence Corps. You hereby committed an offence of cheating by personation contrary to Section 320 of the Penal Code Laws and punishable under Section 322 of the Penal Code Law of Northern Nigeria.

COUNT TWO:

That you Emmanuel Iorhume 'M' 48 years of Kuje Road, FCT, Abuja within the jurisdiction of this Court on or before the 27th day of July 2015, demanded the sum of N300,000:00 only as payment for the offer of job into NSCDC from Mr. Orahi Felix Teryila, a Security Guard of Cat Security Abuja...*..and hereby committed an offence of cheating by Personation contrary to Section 320 of the Penal Code Laws and punishable under Section 322 of the Penal Code Law of Northern Nigeria.

COUNT 3

That you Shola A. Williams 'M' 40 years of Airport Road, FCT Abuja within the jurisdiction of the Court on or before 23rd of July 2015 introduced yourself to Mr. Orahi Felix Teryila and claimed to be a Personal Assistant of the New Commandant General of Nigeria Security and Civil Defence Corps at Royal Fall Garden, Wuse Zone 5 Abuja where Three Hundred Thousand Naira was agreed to confirm Emmanuel Iorhume's (Principal suspect) proposal for the employment into Nigerian Security and Civil Defence Corps and thereby committed an offence of personation contrary to Section 321 and punishable under Section 324 of the Penal Code Law, Laws of Northern Nigeria 1963.

COUNT 4:

That you Emmanuel Iorhume 'M' 48 years of Katla, Gwagwalada Area, FCT., Abuja and Shola A. Williams 'M' 40 years of Airport Road, Abuja within the jurisdiction of this Court on or about the 27th day of July 2015 did criminally conspire together with intent to dupe one Orahi Felix Teryila of money up to the tune of One Hundred and Fifty Thousand Naira (N150,000:00)

only under the pretence of securing him appointment with the Nigeria Security & Civil Defence Corps ... and thereby committed an offence of Criminal Conspiracy contrary to Section 96 of the Penal Code Law and punishable under Section 97 of the Penal Code Law of Northern Nigeria.

The Charge was read to the Defendants on the 11/11/15 and they both pleaded Not Guilty. The Prosecution called four witnesses in proof of its case. The Prosecution's first witness is Orahi Felix Teryila. He stated that he lives at Tasha 2. Opposite Redeemed Christian Church of God, Gwagwa Abuja. That he is a Security Guard with Desert Cat Security Ltd. That he has been working there since 2011. That he knows the Defendant.

On 21/07/15 at about 4 p.m. He received a call from his mother that one Igba Katsina wanted to speak to him. He told her to put him on the phone. He said the 1st Defendant asked him to give him somebody whom he will offer a Civil Defence job.

He asked to get the contact of the 1st Defendant He gave the telephone number of the 1st Defendant to his mother who in turn sent it to his phone by way of a text message. He thereafter called the 1st Defendant to confirm the information given by Igba Katsina. He confirmed it and asked him to come to Sauka. He asked of his credentials, two passport photographs and the sum of N10,000. He met him at Sauka under the bridge.

He asked him and he explained that there is a new Commandant in Civil Defence and that they are doing replacement and not recruitment. That he will undergo training one month and four days. He showed him the fence of the Civil Defence Academy stating that he would undergo training there. He also asked what the N10,000 is for and he answered that it was for forms. He gave him N10,000, two passport photographs, photocopy of his NCE Certificate, Secondary and Primary School. He also gave him his CV and State of Origin document and left.

The following day 22/07/15 at about 10:50 a.m, he received a call from 2nd Defendant who asked if he was Orah Felix and he said yes. He said he was the PA to the New Commandant of Civil Defence and that he was with his CV. That the CV has been verified and that he was going to put his name on the replacement list immediately and that he would have to pay N300,000 which is the fee that will give him the job. He asked him to come to the Civil Defence headquarters on Thursday by 4 p.m. He got there but he said he had already closed for the day and that he was following Oga to somewhere. He asked him to meet him at the back of Ibro Hotel, Wuse Zone 5, Opposite Civil Defence 2nd Gate which said he did. He asked for the N300,000 which he did he did not have. He promised him to give him the money on 27/07/15 and he agreed. The 1st Defendant called to find out what he discussed with 2nd Defendant and he explained what transpired. He also told him of his promise to give the money on Monday 27/07/15.

The 1st Defendant told him he was doing his Masters at Unijos and that he would not be around.

On 26/07/15, the 1st Defendant called him asking that he should give him the money to transmit to his Oga (2nd Defendant).

On 27/07/15 being Monday around 8.a.m, he went to the Civil Defence Headquarters at intelligence Unit and told them that he had encountered 419 people spotting the name of Civil Defence. They asked how to get them and he told them. He told them he had already negotiated to give them N150,000 as part payment. He put a call through to 1st Defendant that he has N150,000 as part payment. He asked him to come to the Shopping complex at Area 1, Garki. The Intelligence Unit of the Civil Defence gave him a brown envelop with pieces of paper inside. Some of the Civil Defence Officers were also there. The 1st Defendant took him to a Shop and asked for the money. He brought out the envelop and gave him. The Civil Defence Officers arrested and took him to the

office. They asked him how they can arrest 2nd Defendant. He told them they were all at Orange Garden. They moved to Orange Garden where he was also arrested.

Under Cross-examination by the Defendant's Counsel, he answered that the Defendants did not give him any form or anything relating to the Civil Defence Corps. That nothing was shown to him to indicate he is a PA to the Commandant General.

To another question, he answered that he gave them N10,000. that he also gave them an envelop in form of money. He agreed that there is no evidence of the payment of N10,000. He was present when the Defendants were arrested. That 1st Defendant was with a bag but he was not present when they were searched.

To another question, he said he is not aware that Civil Defence carry out replacement exercise. That apart from him, there were other witnesses to the

conversation. That there was one Mathew Asonbo who he collected the N10,000 from. That he did not frame the Defendants.

The 2nd Prosecution Witness is Monday Bitrus. He stated that he lives in Kubwa. He described himself as a public servant working with NSCDC for about 12 years. His duties are surveillance, monitoring and investigation of cases. He knows the Defendants.

On the 27/07/15 at about 9.15 a.m, one Mr. Felix Orahi came to the Directorate of Intelligence and Investigation, National Headquarters to lodge a Complaint that one Mr. Emmanuel (1st Defendant) promised to give him a Civil Defence Job on payment of N300,000. That Complainant negotiated the part payment to N150,000 and after securing the job, the balance of N150,000 shall be paid. He was detailed to effect the arrest. They agreed to present the N150,000 in a brown envelope . They also told the Complainant to call the 1st Defendant so as to meet at an agreed place. The Complainant did and he

agreed to meet with the 1st Defendant at Area 1 Garki Shopping Complex. The suspect left before them while they were communicating with him. They followed him closely.

On reaching the Area 1 Shopping complex, the Complainant called the 1st Defendant. He was told to enter the Complex. As soon as he was giving him the envelope containing the money, the 1st Defendant was arrested. They drove the Complainant and the 1st Defendant to the Office at Wuse Zone 5.

In the course of investigation, 1st Defendant said he was sent by his boss the 2nd Defendant who said as soon as he collects the money, he should bring the money and he would be given his commission. They told 1st Defendant to call the 2nd Defendant.

He said he was in Orange Garden Area 11. He took the Complainant and the 1st Defendant to Area 11. The 2nd Defendant was arrested in front of the Orange Garden. He took them to the office and handed them

over to the Investigating Officers. The brown envelop content is paper cut in the size of money to the tune of N150,000.

Under Cross-examination, the witness states that he did not do any other thing apart from effecting the arrest of the Defendants. He did not obtain any warrant of arrest. He did not see them with any Civil Defence Uniform. That they were arrested on the basis of information given to them.

The 3rd Prosecution Witness is Kasumu Yusuf. He is of the NSCDC attached to the intelligence Department. His duties include making arrests and investigation. He know the Defendants.

On 27/07/15, one Felix Orahi came to the Directorate National Headquarters to lodge a complaint that one Emmanuel 1st Defendant promised to give him a Civil Defence Job. He agreed to pay the sum of N300,000. The Complainant PW1 agreed to give him a part payment of N150,000. His Head of Department

Surveillance & Monitoring ordered him to follow a Team of Intelligence Officers to effect his arrest. They proceeded to Area 1 Shopping Complex. The 1st Defendant called 2nd Defendant. They had earlier cut pieces of paper purporting to be the N150,000 which the complainant should give to the 1st Defendant. As he was handing over the Brown envelop containing the purported N150,000, he was arrested and taken to their office. In the course of investigation, he said he was sent by his boss, the 2nd Defendant. They told him to call him for a meeting. He told him to meet him at Orange Garden Area 10. They proceeded to the said Orange Garden and met him in front of the Garden. He was arrested and handed over to the Investigation Department.

Under Cross-examination by the Defendants' Counsel, he answered that he is a Senior Inspector. That he has 10 years experience. That he went with 2nd Prosecution Witness and three other persons. To a question, he answered that the offence for which they were arrested is job racketeering. They were arrest with

N150,000 fake money. That after the arrest, he would not know what happened.

The 4th Prosecution Witness is Odo David Elechukwu. He stated that he has a BSc in Geology. He works in the NSCDC National Headquarters Wuse Zone 5. He is of the Intelligence and Investigation Unit. He knows the Defendants. On 27/07/15, one Felix Orahi Complainant reported that the two Defendants wanted to dupe him on the pretence that they will give him a job. He concluded the statement given by PW1. That PW1 suspected that the Defendants were not genuine and so decided to report at the Civil Defence Headquarters. He was directed to investigate the case. That he obtained statements from the Defendants. A report was compiled and sent to the Management for Prosecution.

The N150 pieces cut in the size of currency note in a brown envelop is Exhibit A. That when 2nd Defendant was arrested his bag contains the CV of one Chris O. Nwarinokpor and photocopies of credentials of

Richard Bede Ezenwa. They suspected they are people he was planning to dupe. The statements of 1st and 2nd Defendants are Exhibits B and C. The statement the 1st Defendant made earlier in a piece of paper is admitted and marked Exhibit D.

Under Cross-examination by Defendants' Counsel he answered that he was part of the team that conducted a search on the 2nd Defendant. That there was nothing on the 2nd Defendant to show that he is a staff of Civil Defence. He came to collect money when he was arrested. The complainant and 1st Defendant informed them that 2nd Defendant was part of the employment scam. That exhibit A is not money. To another question, he answered that he is not aware of a replacement exercise. That they did not carry out any search in 2nd Defendant's house. The above is the case of the Prosecution.

The Defence opened and called one witness. He is Shola A. Williams. He lives at No. 40 Airport Road, Lugbe. He is 37 years old. He is a Property Agent. He

said he is facing a two count Charge. That he is not guilty. That he did not introduce himself as a PA to the Commandant-General of the Civil Defence. That he never collected money from Felix Orahi (PW!). That he did not discuss any money issue with him. He knows Emmanuel (1st Defendant) as a Property Agent at Area 11. That he had an issue for which he gave him a brief. That it is a landed property brief. The said land is situate at Mabushi. That as he took him to the property and were returning, he discussed with him about his younger brother PW1.

He asked if he could assist PW1 in the Civil Defence Corps. He said, he had an idea and advised him. He asked that PW1 should call him on phone. He called him on 23/08/15. He told PW1 he was an agent known to 1st Defendant his brother. When he met him along the road after the bridge at Zone 5, he told him his problem. He told him Civil Defence Headquarters was not far. That he should go there to get a form. That he should thereafter make a copy available to facilitate the appointment. That the facilitation is not on terms

but an assistance. He did not discuss money with him. The 1st Defendant discussed personally with him that if he could get the job done, he would collect N300,000 from Complainant. That 1st Defendant told him he wanted to collect money but he told him he was not party to it. He did not tell 1st Defendant to collect money on his behalf. He does not know of any N10,000 between 1st Defendant and PW1. That he has not seen 1st Defendant for the past one year. He does not have his contacts any more. He has not introduced himself as PA to the new Commandant.

Under Cross-examination, he answered. That he has not facilitated jobs for people in the Civil Defence. He wants to facilitate job for PW1 because he has an idea. He advised PW1 to pick a form. To another question, he answered that he is not aware that PW1 paid N10,000 to 1st Defendant for that same form. That he never discussed the issue of money with him. To another question, he answered that he picked a call from 1st Defendant on the day he was arrested. He told him to give him the brief of the landed property.

He had the brief in his pocket. No envelop was given to him. The above is the case of the Defence.

The Defendants' Counsel filed his Final Written Address dated 3/04/18. He adopted same as his oral evidence. He raised an issue for determination which is Whether from the available evidence on record the Prosecution has been able to prove his case beyond reasonable doubt as contained in Counts 3 and 4.

The Defence Counsel who has been appearing for all the Defendants filed a final Written Address on behalf of the 2nd Defendant only. He submits that from the available evidence, the Prosecution has not proven its case beyond reasonable doubt against he 2nd Defendant. That the evidence of the Prosecution is manifestly unreliable as the Prosecution has failed to prove the essential elements of the offence.

On Count 1, from the entire evidence of PW1 on record, there is no evidence that 2nd Defendant cheated the PW1. The 2nd Defendant did not collect any money from PW1. The 2nd Defendant was not

aware of the N10,000 collected by PW1. That the burden of proof must be discharged beyond reasonable doubt. That the only evidence that looks like money is Exhibit 'A' being a brown envelop. That 2nd Defendant has not cheated PW1 to the tune of N150,000 as alleged in Count 3 or duped him in any way to make him liable for the offence alleged in Count 3 and 4. That the ingredient of personation by cheating has not been proved.

The Defendants' Counsel further filed and moved an application dated 7/05/18 seeking the Court for an Order to strike out the Charge No. CR/277/15 for being incompetent and because the Court lacks jurisdiction. I thought Learned counsel should have raised the issues contained thereon in his Final Written Address. Nonetheless, I shall consider same. He further prays the Court to strike out the evidence of PW2, PW3, PW4 and Exhibits A, B, C and D. The grounds are that the Charge is incompetent. That it did not satisfy the provisions of Section 379 and 380 of the ACJA 2015.

That Prosecution did not comply with the mandatory provisions of Section 17(2) of ACJA.

In his Written Address in support of the Motion which Counsel adopted as his oral argument, he canvassed that the Charge and the accompanying documents do not include the summary of statement of witnesses who testified in this matter. That Section 379 and Section 380 of ACJA were breached. The consequence of not complying is a striking out of the evidence of the Prosecution Witnesses. The Defendants were not given the opportunity of Legal Practitioner when their statements were taken. That the provisions of Section 17(2) of ACJA for the admissibility of statements of the Defendant is mandatory. Exhibits B, C, D are inadmissible in evidence. The Prosecution also adopted its Final Written Address filed on 11/04/18. The Prosecution raised the same issue posited by the Defendants' Counsel for determination.

Learned Prosecuting Counsel submits that based on the evidence the Prosecution has proved beyond reasonable doubt that the Defendants committed the offence for which they are charged. That arguments of the defence holds no water and cannot exonerate them of the offence of cheating, cheating by personation etc. Learned Counsel canvasses that the ingredients of the offence of cheating have been sufficiently proven against the Defendants. That the Defendants in this case deceived the PW1 under the pretence of helping him to secure a job with NSCDC. That the evidence of the Prosecution is corroborated by Exhibit B. That the main element of cheating being fraudulent intention and deceit has been proved. That the Prosecution has proved its case beyond reasonable doubt. The prosecuting Counsel also adopted her Written Address in opposition to the Motion. She canvassed that Section 220 of ACJA is clear on what can render a Charge liable to be struck out. That the Charge has not breached any rule of duplicity of offence misjoinder neither has it occasioned a miscarriage of justice. That the initiation

of the Charge, under Section 195 and 196 of ACJA is proper.

Learned Counsel further submits that the application is an abuse of Court process.

I have also read the Defendants' reply on point of law dated on 7/05/18 but filed on 21/05/18. I have read the evidence of Parties and the affidavit evidence of the Defendants 'Motion seeking an Order to strike out the Charge for lack of jurisdiction amongst others. I have also considered the Written Addresses of Counsel as summarised. Learned Counsel to the Defendants' argument is premised on the breach of Section 379(1) and Section 380 of the Administration of Criminal Justice Act.

“An information shall be filed in the Registry of the High Court before which the Prosecution seeks to prosecute the offence and shall include:

a. The proof of evidence, consisting of

1. The list of witnesses.

2.The list of exhibits tendered.

3. ***Summary of statements of the witnesses.***
4. ***Copies of statement of the Defendant.***
5. ***Any other document report, or material that the Prosecution intend to use in support of its case at the trial.***
6. ***Particulars of bail or any recognizance, bond or cash deposits if Defendant is on bail.***
7. ***Particulars of place of custody where the Defendant is in custody.***
8. ***Particulars of any plea bargain arranged with the Defendant.***
9. ***Particulars of any previous interlocutory proceedings including remand proceedings in respect of the Charge and***
10. ***A copy of the form for information on legal representation as provided under Section 376 (9) of this Act.”***

Section 380 of ACJA states:

“The provisions relating to Charges in this Act shall apply to the counts of an information.”

The Charge before this Court was filed on 3/07/15. It was brought pursuant to Section 185(b) of the Criminal Procedure Code shortly before the ACJA was signed into an Act by the President of the Federal Republic of Nigeria 23rd May, 2015.

The Administration of Criminal Justice Act 2015 has made it liberal for Prosecution agencies to initiate criminal proceedings in our Courts.

By Section 109 of the Act:

“Criminal proceedings may in accordance with the provisions of this Act be instituted.

(a) In a Magistrate Court by a Clerk or a Complainant whether or not on oath or upon receiving First Information Report.

(b) In High Court by information of the Attorney General of the Federation subject to Section 104 of this Act.

(c) By information or Charge filed in the Court after the Defendant has been summarily committed

for perjury by a Court under the provisions of this Act.

(d) By information or Charge filed in the court by any other prosecuting authority or

(e) By information or Charge filed by a private Prosecution subject to the provisions of this Act.”

An information shall be in the Form set out in Form No. 11 in the First Schedule to this Act with such modification or may be necessary to adapt it to the circumstances of each case.

Form of information:

“Form No. 11, Section 377.

In the High Court of

In the Judicial Division of

The Federal Republic of Nigeria

Vs.

CD.

The ... day of 200 at the Sessions holding at

On theday of20.....
the court is informed by the Attorney General of the Federation on behalf of the Federal Republic that CD is Charged with the following offence or offences.

Statement of offence/offencesetc.

I have perused the Charge before me. I have earlier said it was brought pursuant to the Criminal Procedure Code at a time when the Administration of Criminal Procedure Code was not yet operational. The Administration of Criminal Justice Act in fact has not abrogated the Criminal Procedure Code. The Charge before me is short of being an information. It is a Charge as enjoined by Section 109 of the Administration of Criminal Justice Act. Even assuming it qualifies as an information attached to it are:

1. Proof of evidence and the names of five witnesses with a brief of evidence of what they intend to tell the Court. It also contains the names and address of witnesses and the list of Exhibits. The statements of the Defendants made at the NSCDC are also attached.

Section 378 (1) (a) – (f) of the Administration of Criminal Justice Act stipulates what an information shall contain. In my view the Charge before me contains all the contents required under Section 378(1) of the Administration of Criminal Justice Act 2015.

I have also gone through the Criminal Procedure Code. The Prosecution in my view has satisfied all the requirements of a valid Charge and I so hold.

The Defendants' Counsel failed to raise the issue until now. The Defendants are not prejudiced. They know the Charge against them and accordingly pleaded to it.

The Defendants or Counsel did not apply for further particulars. The objection in my view at this time is ill conceived and aimed at scuttling the justice of this case. It lacks merit and it is accordingly dismissed.

The four count Charge against the Defendants are:

1. Cheating contrary to Section 320 of the Penal Code Counts I & II.
2. Cheating by personation Section 321 of Penal Code Count 3.
3. Criminal Conspiracy Contrary to Section 96 of the Penal Code.

Section 320 of the Penal Code states:

“Whoever by deceiving any person

(a) Fraudulently or dishonestly induces the person so deceived to deliver any property to any person or to consent that any person shall retain any property.

(b) Intentionally induces the person so deceived to do or omit to do anything which he would not do or omit to do if he were not so deceived and which act or omission causes or is likely to cause damage or harm to that person in body, mind reputation or property is said to cheat.”

Section 321 of the Penal Code states:

“A person is said to cheat by personation if he cheats by pretending to be some other person or by knowingly substituting one person for another or representing that he or any other person is a person other than he or such other person really is.”

In proof of the four counts Charge the Prosecution called four witnesses whose evidence is already reproduced.

The ingredients of the offence of cheating under the Penal Code Law are:

1. Fraudulent or dishonest inducement.
2. Delivery of a property or consent that a person shall retain a property.
3. The intention to induce or
4. That the inducement is such that is likely to cause damage, or harm to that person in body, mind, reputation or property.

The ingredients of the offence of cheating by personation shall aside the above include

5. if the person cheats by pretending to be some other person or by substituting one person for another.

The ingredients of the offence of conspiracy under the Penal Code as contained in the 4th count are:

- a. An agreement between two or more persons to do or cause to be done some illegal act or some act which is not illegal by illegal means
- b. Where the agreement is other than an agreement to commit an offence that some acts beside the agreement was done by one or more of the parties in furtherance of the agreement.
- c. Specifically that each of the Defendants individually participated in the conspiracy.

See **ABACHA VS. FRN (2006) 4 NWLR (PT 970) 239.**

AITUMA VS. STATE (2006) 10 NWLR (PT. 989) 452.

There is no doubt that standard of proof in a criminal trial such as this is proof beyond reasonable doubt.

See **AKINYEMI VS. STATE (1997) 1 NWLR (PT.479) 1.**

Proof beyond reasonable doubt does not mean proof beyond shadow of doubt. Thus, if the evidence adduced by the Prosecution is so strong against a Defendant as to leave only a remote possibility in his favour which can be dismissed with the sentence **“of course it is possible but not in the least probable the case is proved beyond reasonable doubt but nothing short of that will suffice.”**

See **AGBO VS. STATE 2006) 6 NWLR (PT.977) 545 SC**

UWUAGBOE VS. STATE (2007) 6 NWLR (PT.1031) 606.

The suit of a Defendant can be proved by:

- a. The confessional statement of the Defendant.
- b. Circumstantial evidence
- c. The evidence of eye witnesses.

See ***IGABELE VS. STATE (2006)6 NWLR (PT.975) 100 SC.***

The PW1 in this case is an eye witness and in fact the victim of the alleged crime.

In his evidence, he chronicled how he was called on phone at work. He spoke to the 1st Defendant. He asked him to come to Sauka with his credentials, two passport photographs and the sum of N10,000. He met him as agreed. He said there was a new Commandant at NSCDC and that they are doing replacement. That he would undergo training one month and four days. He gave him N10,000, two passport size photographs, copy of NCE Certificate, Secondary and Primary School Certificates. He also gave his CV and state of Origin documents.

He also received a call from 2nd Defendant the following day who said he was P.A to the New Commandant of the NSCDC and that he was with his CV. He assured him he was going to put his name on the replacement list immediately. That he would have to pay N300,000, etc.

I have read Exhibits B and C. Exhibits B and D show and confirm that the PW1 parted with N10,000. It is the Confessional Statement of 1st Defendant. The evidence is that Exhibit A was also collected by the 2nd Defendant as the N150,000.00 being part payment of the N300,000.00 meant for the job.

I have earlier said conspiracy is an agreement between two or more persons to do or cause to be done some illegal act or some act which is not illegal by illegal means.

From the evidence and Exhibit B which is a Confessional Statement. The 1st and 2nd Defendants agreed to do or cause to be done some illegal act viz collecting money from PW1 to secure him employment in NSCDC which power they lack. The evidence is that the 1st Defendant transmitted the CV of the PW1 to the 2nd Defendant which was confirmed by 2nd Defendant himself when he put a call to the PW1. The 1st Defendant in his statement Exhibit B said the money collected including the N10,000 was what 2nd Defendant instructed him to do. That 2nd Defendant was his Master (Oga). It is my view and I so hold that the offence of conspiracy has been proved against the 1st and 2nd Defendants beyond reasonable doubt and I so hold.

On Counts I and II, it is clear from the evidence and Exhibits B and D that the PW1 who was deceived delivered to the Defendants N10,000.

The PW1 was deceived by the 1st Defendant. The Defendants are not staffs of NSCDC neither do they have capacity to employ PW1 but deceived him to deliver the sum of money (N10,000) to him.

From the evidence before me, the money received by 1st Defendant was received for and on behalf of the 2nd Defendant. In my view Counts I & II are also proved beyond reasonable doubt and I so hold.

The 3rd Count is cheating by personation. The evidence is that the 2nd Defendant pretended to the PW1 as the Personal Assistant to the New Commandant of the NSCDC. No such documents i.e ID were recovered from him. The Exhibit B does not also contain such evidence. The evidence of PW1 to the effect that the 2nd Defendant presented himself to him as the PA to the Commandant General of NSCDC was not corroborated. The PW2, PW3 and PW4 are all Officers whose evidence is essentially hearsay. In

the circumstance, it is my view and I so hold that Count 3 was not proved beyond reasonable doubt. The 2nd Defendant is therefore discharged and acquitted on Count 3. The defence put forward by the Defendant is a farce. I do not believe same as it is an afterthought.

For the totality of reasons given, the 1st Defendant is convicted on Counts 1, 2 and 4 while the 2nd Defendant is convicted on Count Four.

SENTENCING PROCEEDINGS

Defendants' Counsel: I am not calling any evidence in mitigation of sentence.

Prosecution: I have nothing to urge the Court.

SENTENCE:

In the absence of any evidence and any plea of allocutus, I shall go ahead to sentence the Defendants:

1ST DEFENDANT.

On Count 1, the 1st Defendant is sentenced to 6 months imprisonment or N50,000.

On Count 2, 6 months imprisonment or N50,000.

Count 4, 6 months imprisonment or N50,000.

2ND DEFENDANT

On Count Four, the 2nd Defendant is sentence to 6 months imprisonment or N50,000.

Sentences to run concurrently while fines are accumulative.

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HON. JUSTICE U.P. KEKEMEKE

(HON. JUDGE)

4/02/19.