

IN THE HIGH COURT OF LAGOS STATE
IN THE IKEJA JUDICIAL DIVISION
HOLDEN AT COURT NO. 11, SPECIAL OFFENCES COURT 1
BEFORE THE HON. JUSTICE M. A. DADA (MRS.)
TODAY MONDAY THE 1ST DAY OF JULY, 2019.

SUIT NO: ID/8272C/18

BETWEEN:

| | | |
|------------------------------|-----|-------------|
| FEDERAL REPUBLIC OF NIGERIA | ... | COMPLAINANT |
| AND | | |
| ILAMEBE BONAVENTURE | | |
| (A.K.A. ILAMEBE JUDE MONDAY) | ... | DEFENDANT |

JUDGMENT

The Defendant was arraigned on a 4 Counts Information dated 15th November, 2018 on allegations of forgery of document contrary to **Sections 361 (1) and 363 (3) (F) of the Criminal Law of Lagos State, No.11, 2011** and using False Document contrary to **Section 364 (1)** of the same Law.

The Defendant pleaded Not Guilty to all the 4 Counts and the Prosecution called only 1 witness namely Callistus Egwuonwu, an Investigation Officer with the EFFC. His evidence inter alia is that on 17th May, 2017, the Commission received a Petition from GT Bank alleging a fraudulent on-line transaction from a customer's Account called Ilamebe Jude Monday and it was suspicious that the said customer was part of the crime. The Commission invited the representative of the Bank and he came and adopted the Petition with supporting documents. He said the Commission conducted a Preliminary Investigation which reveal that there was a payment of ₦16,088,500:00 transfer through the Bank's platform in the Diaspora by which the customer requested that his BVN be updated with an additional name, "Monday" and the Bank requested for a valid Court Affidavit authorising such an update. That after the discussion, a "Court Affidavit" authorising the update was submitted to the Bank purportedly emanating from the State High Court, Auchi, Edo State. The witness said it was discovered that the customer brother, Bonaventure, the Defendant in the dock, was the one who procured the Court Affidavit. That the Bank requested for the brother to come but he refused to come, and after the Affidavit was submitted, the said fraudulent transfers were made. Then the Defendant, brother to the Bank's customer was arrested in Auchi and admitted to Bail in the Commission's office in Edo State but asked to report in the Lagos Zonal office and when he made his statement, he admitted he made 2 Court Affidavits which he scanned to his brother who now transmitted them to the Bank but couldn't recall the cybercafé he used or where he sent them to his brother. The Court in Auchi denied the authenticity of the 2 Affidavits claiming same to have been forged. The Court forwarded the Certified



True copies of what they have in their records and investigation revealed a variation from the ones submitted by the Defendant which were not signed whereas the one in the Court's records were signed and the ones transmitted to the Bank have a different signature too.

The Petition dated 17/5/18, the Edo State Judiciary Letter dated 2/10/18 to the EFCC, the Defendant's 4 statements dated 27/7/18, 30/07/18, 7/8/18 and 17/10/18 are **P1-P6 respectively**. An unsigned Affidavit as to addition of name dated 17/11/17 was rejected as inadmissible.

Under cross-examination, PW1 admitted that no fund was traced to the Defendant's Account. A letter from Edo State Judiciary to the EFCC dated 8/11/18 in **Exhibit P.7**. The said letter admits that the Affidavits dated 10/11/2017 and 17/11/17 emanated from it.

The Defendant had in his statement in Exhibit P.4 admitted that his brother told him to help him out with a sworn Affidavit which he, the Defendant did not sign, but scanned and sent same to his brother to enable him sign same and forward it to the Bank. The Defendant thereafter released the originals in his possession to the Commission. The fact and evidence before the Court indeed corroborate the statement of the Defendant that he never signed any of the 2 Affidavits. The attachments to **Exhibits P. 2** are the said Affidavits which were not signed by the "Deponent". In other words, there is no "Deponent" to either of the 2 Affidavits. They therefore do not qualify for affidavits on which any reasonable institution could act, much less a Bank of Guarantee Trust Bank (GTB) standard could release ₦16,088,500:00. It is interesting that the Bank in its Petition in **Exhibit P1** stated thus "Our suspicion is based on the following"

1. The customer's refusal to update his account, an action which would have prevented the "fraudulent" update of January 2018.
2. The similarities in details supplied in the update form of January, 2018 by the impostor when compared with the details provided by the account holder in November, 2018.
3. The transfers to BDC dealers are with customer's transaction pattern and this prevented the Bank from probing further.

Not only did the Defendant never signed the 2 Affidavits upon which the fraudulent transfer was made, the Bank had also confirmed that the update was fraudulent.

These glaring facts should have been enough to direct the search beams on the Bank officials who updated the Account "fraudulently" and who eventually procured the transfer to a BDC knowing of course the pattern adopted by the customer in times past. The Affidavits are invalid.

It is a wonder that EFCC could shy away from these findings and arrest, detain and prosecute an innocent man in the person of the Defendant when what

happened should never have happened in the Bank. This very wrong step alone would have afforded the perpetrators of this crime to escape the long arm of justice and is most condemnable and hereby denounced.

It is therefore not a wonder that the Prosecutor could not contest the No case submission of the Defendant dated 3rd June, 2019.

The No Case Submission succeeds and the Defendant is hereby as adjudged in the foregoing, discharged as no prima facie case has been made out against the Defendant.

This is the Judgment of the Court



HON. JUSTICE M.A. DADA (MRS)
JUDGE
(01/07/19)

Defendants Present.

N. M. Anana for the Prosecution

Kolapo Gbadamoshi with O. O. Balogun for the Defendant.