

**THE FEDERAL HIGH COURT OF NIGERIA
IN THE ENUGU JUDICIAL DIVISION
HOLDEN AT ENUGU
ON WEDNESDAY THE 1ST DAY OF NOVEMBER, 2017
BEFORE THE HONOURABLE JUSTICE D.V. AGISHI
JUDGE**

CHARGE NO: FHC/EN/CR/54/2009

BETWEEN:

**FEDERAL REPUBLIC OF NIGERIA:..... COMPLAINANT
AND
HERBERT CHUKWU:..... ACCUSED**

JUDGEMENT

The accused person was arraigned before this Honourable court on a 28 count amended charge. Counts 1-7 of the amended charge borders on attempts to obtain various sums of dollars from USA under the false pretences that the accused person is a victim of a fire disaster who was in serious need of financial aid. Count 8-11 borders on being in possession of documents containing false pretence, counts 12-15 borders on the offence of impersonation, counts 16-28 borders on the offence of forgery and uttering.

When the charge was read to the accused person, he understood and pleaded not guilty.

In order to prove its case the prosecution called 4 witnesses some of whom the accused person impersonated in attempting to obtain various sums of dollars from the USA.

After the prosecution closed its case the accused person stopped appearing in court and this matter suffered several adjournment at the instance of the defence. The prosecution applied for a bench warrant for the arrest of the accused person but to no



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avail. At the end the prosecution pursuant to section 352(4) of the Administration of criminal Justice Act 2015, the trial proceeded in the absence of the accused person. Section 352(4) of the Administration of criminal Justice Act 2015 provides thus:

"Where the court, in exercise of its discretion has granted bail to the defendant and the defendant, in disregard for the court orders, fails to surrender to the order of court or fails to attend court without reasonable explanation, the court shall continue with the trial in his absence and convict him unless the court sees reasons otherwise, provided that proceedings in the absence of the defendant shall take place after two adjournments or as the court may deem fit".

It is on record that on the 26/11/2015, 8/03/2016, 28/4/2016, 30/5/2016, 27/6/2016, 26/10/2016 and since the beginning of this year till date, the accused was absent from court based on various reasons given by his counsel. Yes even defence counsel could not account for the whereabouts of his client but kept telling the court that the accused travelled to Maiduguri.

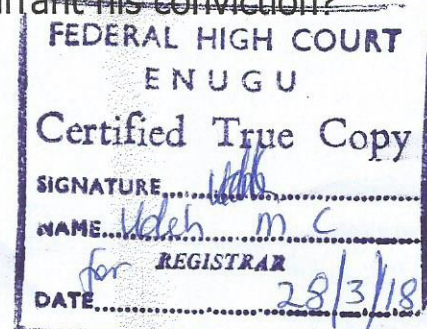
The accused person was no doubt given multiple opportunities to defend himself but he failed to do so.

The prosecution has raised the following issue for determination – by this Honorable court thus:

Whether the prosecution has proved beyond reasonable doubt the essential elements of attempt to obtain money by false pretence against the accused person to warrant his conviction?

Whether the prosecution has proved beyond reasonable doubt the essential elements of being in possession of document containing false pretences against the accused person to warrant his conviction?

Whether the prosecution has proved beyond reasonable doubt the essential elements of impersonation against the accused person to warrant his conviction?



Whether the prosecution has proved beyond reasonable doubt the essential elements of forgery and uttering against the accused person to warrant his conviction? Having looked at all the submissions made by the prosecution counsel Mr. Innocent Mbachie against each of the issues raised by him, I have no doubt that the prosecution has proved its case beyond all reasonable doubt as required by law.

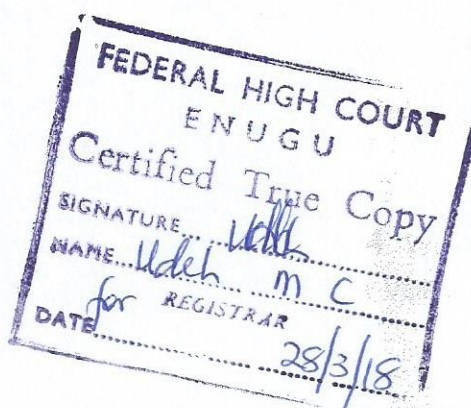
The prosecution has been able to prove offence in courts 1-7 which borders on attempt to obtain money by false pretences. All the evidential ingredients of the charge to ground the guilt of the defendant have been proved beyond reasonable doubt. The case of Amadi v FRN (2008) LPELR 441(Sc) is apposite here.

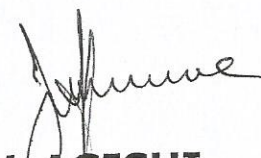
Furthermore the witnesses that testified for the prosecution all corroborated in their testimony regarding the issue of attempt to obtain money by false pretence against the accused person, as well as impersonation, forgery and uttering.

I have also looked at the exhibit tendered by the prosecution and all are relevant to the facts of the case and the issues sought to be proved here. Also Evidence has been led by the prosecution to show that accused forged emails impersonating himself to be PW1 & PW2.

On the whole it is my opinion that the prosecution has proved its case beyond reasonable doubt against the accused person. Accused is hereby convicted as charged.

I.I. MBACHIE
For the prosecution




D.V. AGISHI
JUDGE
1/11/17

