

**IN THE FEDERAL HIGH COURT OF NIGERIA**  
**IN THE ENUGU JUDICIAL DIVISION**  
**HOLDEN AT ENUGU**  
**ON THURSDAY THE 1<sup>ST</sup> DAY OF FEBRUARY, 2018**  
**BEFORE HIS LORDSHIP**  
**HONOURABLE JUSTICE D.V. AGISHI**  
**JUDGE**

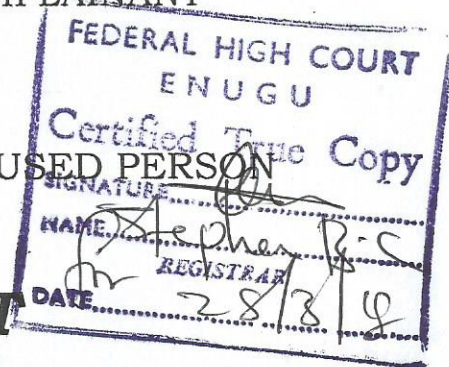
**SUIT NO: FHC/EN/CR/41/2013**

**BETWEEN:**

THE FEDERAL REPUBLIC OF NIGERIA.....COMPLAINANT

AND

IKWUAKAM ANTHONY EMEKA.....ACCUSED PERSON



**J U D G M E N T**

The Accused was arraigned before this Honourable Court on Eight (8) Counts amended charge bothering on attempt to obtain \$50 under false pretence, and possession of document containing false pretence.

When the charge was read to the accused person, he pleaded not guilty to all the Counts.

All together the prosecution called 4 witnesses to prove its case and tendered several documentally exhibits. In the course of trial the accused person was absent in Court on several occasions. A bench



1502-1591-9294



warrant was first issued on the accused and summons to the surety to show cause, the Court further granted the prosecuting Counsels' application for trial in absentia in line with **SECTION 352(4) OF ADMINISTRATION OF CRIMINAL JUSTICE ACT, 2015.**

The accused on the 7<sup>th</sup> March, 2013 at Access Bank Plc Kenyetta Branch Enugu attempted to receive the sum of \$50 through western union transfer. The accused misrepresented himself to be one Mary Holmes with a Female photograph. Though cautioned by the bank not to use a female identity card but when he insisted, he was arrested by the Bank Security Officials and handed over to Economic and Financial Crimes Commission.

The prosecution formulated a lone issue for determination:

***"Whether the prosecution has proved her case against the accused person beyond reasonable doubt."***

As earlier stated by the prosecution in her final written address, the accused person suddenly stopped appearing in Court to stand trial. He was absent in Court on 28/10/2016, 28/11/2016 and 29/3/2017. A Bench Warrant was issued against him but to no avail. The prosecution then applied for trial in

FEDERAL HIGH COURT  
ENUGU  
Certified True Copy  
SIGNATURE: [Signature]  
NAME: Stephen P. I.  
DATE: 28/10/18



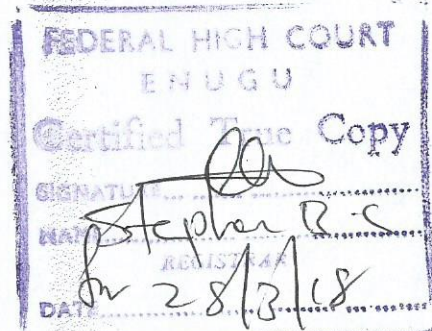
absentia in line with **SECTION 352(4) OF ADMINISTRATION OF CRIMINAL JUSTICE ACT 2015** and same was granted. It provides:

***“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 the accused person was given ample opportunity to defend himself in this case but for reasons best known to him, he decided to abscond from trial.

I have looked at all the submission of the prosecution on the lone issue raised. It is not in doubt that the prosecution has discharged the mandatory requirement placed on it by our acquisitorial legal system, which places a duty on the prosecution to prove the guilt of an accused person beyond all reasonable doubt.

See **ODUNEYE VS. STATE (2001) LPELR - 2245 (SC) (2001)2 NWLR (Pt. 697) 311.**





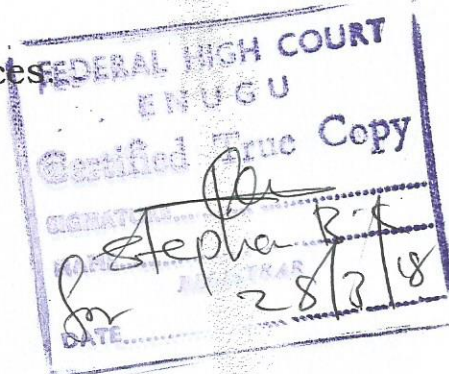
In the present case, the accused has been charged for attempt to obtain money under false pretence and being in possession of document containing false pretences pursuant to SECTION 8(b) AND 6 respectively of the advance Fee Fraud and other Fraud Related Offences Act, 2006.

The prosecution has been able to establish the guilt of the accused person by:

The testimony of eye witnesses. The prosecution has been able to prove all the Counts in the charge which bother on attempt to obtain money under false pretence, and being in possession of document containing false pretences. All the documents mentioned above are already in evidence. All the evidential ingredients of the charge to ground the conviction of the accused have been proved beyond reasonable doubt. The case of AMADI VS. FRN (2008) LPELR 441 (SC) is apposite here.

Furthermore, all the witnesses who testified for the prosecution corroborated their testimony regarding the offence of attempt to obtain money by false pretences and being in possession of documents containing false pretences.

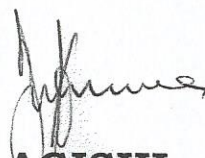
It has been proved that:

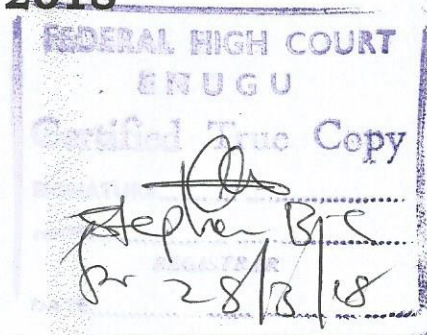


1. There was a pretence.
2. That the pretence emanated from the accused.
3. That it was false.
4. That the accused knew of the falsity or does not believe in its truth.
5. That there was intention to defraud.
6. That the accused induced the owner to part with it.

The prosecution is able to prove that the Accused had taken all the necessary steps for the commission of the offence, short of the last ingredient, which is inducing the owner, Mr. Mark Elias to part with the money. As I said before the prosecution has successfully proved all the ingredients making up the offences of attempt to obtain money by false pretences.

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.

  
**D.V. AGISHI**  
**JUDGE**  
**1/2/2018**





**Parties Absent**

**Appearance**

I.I Mbachie for the prosecution.

