

IN THE HIGH COURT OF LAGOS STATE
IN THE IKEJA JUDICIAL DIVISION
HOLDEN AT IKEJA
CRIMINAL DIVISION
BEFORE HON. JUSTICE O.H. OSHODI
JUDGE
TODAY MONDAY THE 24th DAY OF APRIL 2017

SUIT NO: ID/3423C/2016

BETWEEN

FEDERAL REPUBLIC OF NIGERIA

....PROSECUTION

AND

1. SAMUEL ABIODUN OLUWAGBEMI
2. OLADOKUN SEUN

....DEFENDANT
....DEFENDANT

1st & 2nd Defendants present.

M. D. Aliyu esq for the Prosecution.

Olumide Mustapha esq with Miss. Efezino Etoroma for the 1st Defendant.

Oyelola Damilola esq for the 2nd Defendant.

JUDGMENT

Before the Court are 2 (two) Defendants. By the amended Information dated 24TH February 2017 the 1st and 2nd Defendants are charged as follows:

In count 1, the 1st Defendant is charged for impersonation contrary to section 378 (1) of the Criminal Law.

In count 2, the 1st and 2nd Defendants are charged for conspiracy contrary to section 516 of the Criminal Code, CAP C.17 Vol 2 Laws of Lagos State of Nigeria.

In count 3, the 1st and 2nd Defendants are charged for forgery contrary to section 467 of the Criminal Code, CAP C.17 Vol 2 Laws of Lagos State of Nigeria.

Initially, when the 1st and 2nd Defendants took their plea on 2nd November 2016, they all pleaded not guilty to the 4 (four) counts as framed in the Information dated 9th September 2016.

Trial of the charge commenced on 6th December 2016 with the 1st Prosecution witness, Oruzia Perelasu, giving evidence. This witness was cross-examined by learned counsels representing the 1st and 2nd Defendants.

However, the 1st and 2nd Defendants entered a plea bargain agreement with the Prosecution, and after confirmation by learned counsels representing the Defendants, the amended charge was read out to the 1st and 2nd Defendants.

The 1st Defendant pleaded guilty to all the counts and the 2nd Defendant pleaded guilty to counts 2 and 3 of the amended Information. Thereafter, learned counsel representing the Prosecution, M. D. Aliyu esq gave a review of the case as follows:

By the information dated 9th September 2016 the 1st and 2nd Defendants were arraigned on a 4 (four) counts charge on 2nd November. Trial commenced on 6th December 2016. The Prosecution called on P1. Upon his testimony, P1 tendered 6 (six) exhibits in proof of the case to the effect that the investigation of this case started following a report by email to the Economic and Financial Crimes Commission (EFCC) from a concerned citizen. The email is dated 17th May 2016 alleging that the 1st and 2nd Defendants are involved in the printing of fake I. D Cards. The same I. D. Cards were used to pick money from Western Union Money Transfer, in particular in collusion with staff of First Bank, Ogba Branch, Lagos.

The petition was processed and the 1st Defendant was arrested in the First Bank Branch at Ogba on 23rd May 2016. The 1st Defendant was taken to EFCC, Lagos Office, where he made 2 (two) statements. From the 1st Defendant's statement, the EFCC got information of the 2nd Defendant and the latter was arrested on 24th May 2016. The 2nd Defendant made 4 (four) statements at EFCC. The statements of 1st and 2nd Defendants have been admitted by the Court.

Other activities carried out by EFCC includes letter of authentication of permanent voters card to Independent National Electoral Commission (INEC) to authenticate the permanent voters card found on the 2nd Defendant. INEC responded indicating that the voters' card is a forged one. The letter is admitted as exhibit before the Court. There was also the recovery of a Western Union Money transfer form from the 1st Defendant bearing the name of Raliat Edeki which is also before the Court. The email and certificate were tendered from the bar, without objection from learned counsels representing the 1st and 2nd Defendants.

The foregoing is the review of the facts.

Learned counsel representing the 1st Defendant, Olumide Mustapha esq, concurred with the review and agreed that the terms of the plea agreement are not binding on the court.

Learned counsel representing the 2nd Defendant, O. Olumade esq, concurred with the review and stated that process of plea bargain was initiated by the 2nd Defendant while in custody, but due to administrative bottleneck, could not be completed. Learned counsel stated that the 2nd Defendant's plea is not an after- thought.

By the Plea Bargain Agreement dated 17th March 2017, the 1st and 2nd Defendants agree as follows with the Prosecution:

1. Before the conclusion of this agreement:
 - (a) The 1st and 2nd Defendants were informed of their right to remain silent.
 - (b) The consequences of not remaining silent, and that;

- (c) They are not obliged to make any confession or admission that could be used in evidence against them.
2. The Prosecutor had duly consulted with the investigating officer in charge of this case, and had due regard to the nature and circumstances of this case in relation to the 1st and 2nd Defendants and the interest of the larger community.
3. The 1st and 2nd Defendants hereby undertake to be of good behaviour.
4. Upon conviction, the sentencing shall be at the discretion of Honourable Court. However, Prosecution hereby recommends {6} six months jail term, effective from the date of first arraignment.

The Court notes that by the provision of section 378 (1) of the Criminal Law, the punishment is for 3 (three) years imprisonment. The Court notes that by the provision of section 516 of the Criminal Code, CAP C1, the punishment is to the maximum of 7 (seven) years imprisonment. The Court notes that by the provision of section 467 of the Criminal Code, CAP C17 the punishment is for 3 (three) years imprisonment.

I am satisfied that the 1st and 2nd Defendants understands the charges they pleaded guilty to. I therefore accept their pleas of guilt.

In their respective allocutus, learned counsel for the 1st Defendant, highlighted as follows:

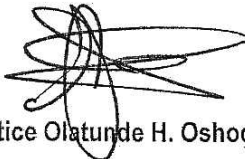
That the 1st Defendant has always stayed within the conditions given by the Prosecution. The 1st Defendant has not committed any prior offence on record. The 1st Defendant was in custody from the date of his arrest until granted administrative bail, and later, bail by the Court. The 1st Defendant has spent substantial time in custody. The 1st Defendant's father died while he was on remand. The 1st Defendant is remorseful and will be of good behaviour. Learned counsel then urged the Court to temper justice with mercy when considering sentencing.

For the 2nd Defendant, learned counsel representing him informed that the 2nd Defendant had actually spent more than 2 months in detention before the perfection of the bail. The Court is urged to consider these facts. Learned counsel stated that the 2nd Defendant lost his father at an earlier age in life and he is the breadwinner for the family. Learned counsel then pleaded on compassionate grounds and urged the Court to exercise its discretion. Learned counsel urged that the 2nd Defendant be given a second chance.

The Court will accept the plea bargain agreement entered into by the 1st and 2nd Defendants. It is believed that the 1st and 2nd Defendants have shown remorse. Having pleaded guilty to the counts, sentencing is the next process.

Accordingly, the 1st and 2nd Defendants are hereby sentenced to 6 (six) months imprisonment commencing from today.

This is the judgment of the Court.



Hon. Justice Olatunde H. Oshodi

Judge