

IN THE HIGH COURT OF JUSTICE OF THE F.C.T.
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT KUBWA, ABUJA
ON THURSDAY, THE 11TH DAY OF NOVEMBER, 2017
BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA
JUDGE
SUIT NO.: FCT/HC/CR/161/2016

BETWEEN:

THE FEDERAL REPUBLIC OF NIGERIA **COMPLAINANT**
AND
NKECHI CAROLINE AMADI (ALIAS ONYEMACHI UCHECHI) **DEFENDANT**

JUDGMENT

The Defendant – Nkechi Caroline Amadi (alias Onyemaechi Uchechi) having pleaded guilty to the three-Count Charge of:-

1. Cheating contrary to section 322 of the Penal Code Act Cap 532, Abuja 1999.

In that between November and December 2013 at Abuja within the jurisdiction of this Court dishonestly inserted the names of Charlotte Uchechi Amadi, Ikechukwu Steven Anderson Amadi into the integrated payroll and personnel information system of the Federal Government of Nigeria as Federal civil servants and thereby deceived the Federal Government of Nigeria into paying the sum of **₦350,442.93K** as salary to the aforementioned persons.

2. Between January – December 2014 deceived the Federal Government of Nigeria into paying the sum of **₦10,044,962.77K** as salary to the aforementioned persons.

3. Between January – December, 2015 deceived the Federal Government of Nigeria into paying the sum of **N5, 911,300.00** to the afore-mentioned persons as salary.

It is the law that where a Defendant pleads guilty to an offence or offences which in this case borders on cheating contrary to section 322 of the Penal Code Act, the Court, after ensuring that the Defendant understands the charges and having taken her plea without duress or intimidation, will go ahead to convict the Defendant.

The Defendant has pleaded guilty to the three Counts. Her plea was not induced or under duress or intimidation or any other inducement from either her Counsel or any other person. She did not need an interpreter. She understood perfectly the content of the charges. She was asked whether she understood each of the charges and she said she did.

Based on the above, she is hereby **CONVICTED for the offence of cheating contrary to section 322 of the Penal Code Act.** Her sentence will be decided later.

This is the Judgment of this Court delivered today **14/12/17** by me.

HON. JUSTICE K. N. OGBONNAYA
JUDGE, FCT HIGH COURT
14/11/17

APPEARANCE

FOR THE PROSECUTION:

OLA OJI ESQ.

FOR THE DEFENDANT:

CHIEF EMMANUEL NWODO

IN THE HIGH COURT OF JUSTICE OF THE F.C.T.
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT KUBWA, ABUJA
ON THURSDAY, THE 11TH DAY OF JANUARY, 2018
BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA
JUDGE
SUIT NO.: FCT/HC/CR/161/2016

BETWEEN:

THE FEDERAL REPUBLIC OF NIGERIA	COMPLAINANT
AND	
NKECHI CAROLINE AMADI (ALIAS ONYEMACHI UCHECHI)	DEFENDANT

SENTENCE

On the **14/11/17** Nkechi Caroline Amadi pleaded guilty to all the three-Count Charge of cheating read to her upon her arraignment. This Court convicted her accordingly on all the three Counts.

The parties explored and entered into Plea Bargaining Agreement which has recently become part of our jurisprudence since 2015 when the Administration of Criminal Justice Act came into being.

The parties reduced the terms of the Plea Bargaining Agreement into writing. They signed same, filed it in Court and presented it to this Court. This Court acknowledged the receipt of the said Plea Bargaining Agreement and took judicial notice of it.

It is important to note that Plea Bargaining Agreement does not stand as sentence. It does not equally mean that a convict cannot be sentenced. That means that it does not take the place of sentence.

Plea Bargaining only refers to a situation where a Defendant had pleaded guilty to a Charge or a less charge in exchange for a lighter sentence. It does not mean no sentence at all. Even if a Defendant had restituted or repaid full or any amount involved in the course of the plea bargaining, it does not mean that she cannot be sentenced. It only means that she will, having pleaded guilty to the charges, serve reduced prison terms depending on the terms, extent and condition in the Plea Bargaining Agreement.

In this case, the convict had repaid more than 2/3 of the amount of money involved in this suit through the Plea Bargaining Agreement she entered into with the nominal Complainant. She had equally issued some post-dated cheques yet to be cashed.

But it is important to note that Plea Bargaining and repayment of moneys involved in a crime does not exonerate a convict or stand as prison term. Plea bargaining does not take the place of prison term. That is not the intendment of the draftsmen of the Administration of Criminal Justice Act 2015 such that once a convict has repaid or restored all the money in issue, he should not be sentenced.

It is important to note that the very essence of imposing prison terms is for deterrence.

By the provision of section 7 of the Federal Capital Territory High Court Sentencing Guidelines Practice Directions 2016,

“A consideration for the reduction of a sentence upon a guilty plea SHALL not exceed a reduction by one-third (1/3) of the applicable punishment prescribed by law.”

Again, under the same Sentencing Guidelines Practice Direction 2016 Act,

“Where the convict is a Public officer the Judge shall order the Court Registrar to forward a copy of the Judgment to the appropriate Administrative Disciplinary Agencies and Code of Conduct Bureau.”

Going by sections 9(3) and (4) of the Sentencing Guidelines 2016, such Judgment can also be forwarded to Corporate Affairs Commission or any professional regulatory agency in which the convict belongs.

Again, any time spent by the convict in prison custody awaiting or undergoing trial shall be considered and computed in sentencing the convict in line with the provision of section 416(2) of the Administration of Criminal Justice Act 2015.

The Court is equally bound to give reason for any sentence imposed.

In this particular case, the Court had listened to the *allocutus* and recorded the respective parties’ submissions in that regard.

The Defence Counsel had stated that a convict is a first offender, a grandmother, wife, and that she has some health challenges though he did not present documents to that effect.

The Prosecution Counsel has on their part urged the Court to impose custodian sentence no matter how small. She had to equally informed the Court that she was hearing for the first time the fact that the convict is a mum, grandmum, wife to a sick husband and also suffered from hypertension.

In paragraph 6 of the Plea Bargaining Agreement the parties agreed that

“Sentencing in this matter shall be left to the discretion of the Honourable Court regard been had to the seriousness of the offence, punishment prescribed for the offence in the Act and the forfeiture by the CONVICT” –
(emphasis mine).

There is no doubt that the offence of cheating is serious. There is equally no doubt that the amount involved is relatively enormous. The essence of

sentencing is to deter the convict and others from such act in future. It is equally corrective. The fact that the convict has repaid almost 2/3 of the amount involved does not make the offence committed any less a crime.

As the parties have agreed in paragraph 6 of the Agreement of Plea Bargaining and as the Prosecution Counsel had pointed out, it will be better for both our society at large and posterity to give custodian sentence in this case.

If custodian sentence is not given, the implication is that anyone can decide to go the way this convict had gone, commit atrocities, cheating and once charged to Court, will rush, pay back whatever he has gotten from the cheating and go home scot-free smiling.

Not granting a custodian sentence because of the plea bargaining will be setting a very bad precedence in our jurisprudence. It will make our society to be seen as lawless. It is better to give the custodian sentence and it is based on the above that I hereby sentence you NKECHI CAROLINE AMADI to fifteen (15) months imprisonment for the offence of cheating.

This Court also orders that the office where the convict works should be notified about this and a certified true copy of the Judgment and this sentencing should equally be forwarded to them, to the Code of Conduct Bureau and to any professional body where the convict is a member.

The period she had spent in custody after her conviction should be considered and computed as part of the fifteen (15) months.

This is the sentence of this Court made today **11/01/18** by me.

HON. JUSTICE K. N. OGBONNAYA
JUDGE, FCT HIGH COURT
11/01/18

APPEARANCE

FOR THE PROSECUTION:

OLA OJI ESQ.

FOR THE DEFENDANT:

CHIEF EMMANUEL NWODO