

**IN THE FEDERAL HIGH COURT OF NIGERIA  
IN THE ENUGU JUDICIAL DIVISION  
HOLDEN AT ENUGU  
ON TUESDAY THE 25<sup>TH</sup> DAY OF MAY, 2016  
BEFORE THE HON. JUSTICE M.N. YUNUSA  
JUDGE**

**CHARGE NO: FHC/EN/CR/3/2013**

**BETWEEN:**

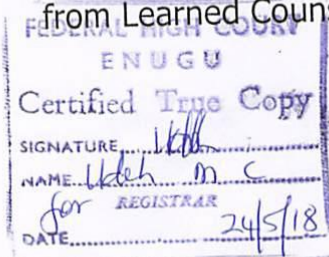
**THE FEDERAL REPUBLIC OF NIGERIA - COMPLAINANT  
AND  
EUGENE OKPALA - ACCUSED**

**JUDGMENT**

The Accused was arraigned before the Court on a 7 count charge on 25<sup>th</sup> March, 2016. The charge was read and Explained to the Accused person in English Language.

The Accused person indicated that he understood the charge and pleaded guilty.

Learned Counsel for the prosecution applied to review the facts of the case and tendered 13 documents which were admitted in evidence and marked as exhibit without any objection from Learned Counsel for the Accused person.



1302-2455-9786

In a summary trial, once the Accused has pleaded guilty the court has a duty to convict him but in the instant case, after the plea of guilty the prosecution also proved its case by placing the materials mentioned above.

In the light of the above I am satisfied that the prosecution has proved its case beyond reasonable doubt and in this regard, the Accused is hereby found guilty and accordingly convicted.

Any Allocutus isiwu: We have a passionate application to make we, apply to the court to tamper justice with mercy. The convict is a first time offender. He has never been charged, tried or convicted by any competent court in Nigeria or elsewhere. He is a 71 years old man who is a positive cancer patient. The situation of the cancer is in the advance stage and the convict is the one taking care of his only son who is also a stroke patient. The wife is also late. As the only person taking care of the son and critically sick, if he is sent to prison, the father may die.

He also have a medical report which shows that the convict is under going camotherapy treatment.

The convict has been in detention for over three years. We wish to bring it to the notice of the court that the convict when granted Bail spent over one year before perfecting the Bail.



The situation was so complicated that it led to the death of the wife.

In the circumstance, we urge the court to invoke the provisions of law in section 416(d) & (e) of the Administration of Criminal Justice Act 2015 I urge the court to consider that he has been in custody for 3 years. Criminal justice all over the world provides consideration and not punishment. The Convict has shown remorse and has since repented, he is one of the pastors in the Redeem Church of God. The stigma attached to a convict follows him to the grave. We urge the court to temper justice with mercy considering the 3 years he has spent in prison or in the alternative grant him suspended sentence.

Court: Any previous conviction.

Mbachie: There was no previous conviction.

SENTENCE:



The Court has taken into consideration the plea for mitigation of sentence at the allocuts stage of the proceeding.

I have also considered the issue raised by Learned Counsel. The offences with which the convict was charged and convicted



are provided under section 1 (3) of the Advance fee fraud and other fraud related. Offender Act 2005 which provides for maximum sentence of 20 years and minimum sentence of 7 years without the option of fine.

I am aware of the provisions of section 1 (2)(C) of the miscellaneous offences Act Cap M17 LFN 2004, which also provides for 21 years imprisonment without an option of fine.

However, in the light of the provisions of section 416 (2) d & (e) of the ACJA 2015.

I hereby make the following orders

- (1) The convict is hereby sentenced to 7 years imprisonment on each of the 7 counts. The sentence shall however, run concurrently and the period spent in detention before and after the grant of application for Bail should be taken into consideration.
- (2) The Application for the restitution to the victim of false Pretence is hereby granted.



*[Signature]*  
**M.N. YUNUSA**  
JUDGE  
25/05/2016