

**IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE AWKA JUDICIAL DIVISION
HOLDEN AT AWKA
ON THURSDAY THE 28TH DAY OF JUNE 2018
BEFORE THE HON. JUSTICE I.B. GAFAI
JUDGE**

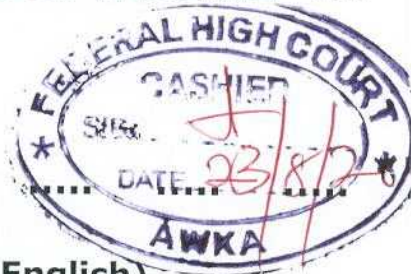
SUIT NO: FHC/AWK/08C/17

BETWEEN

THE FEDERAL REPUBLIC OF NIGERIA COMPLAINANT

AND

PATRICK NWADIOLU



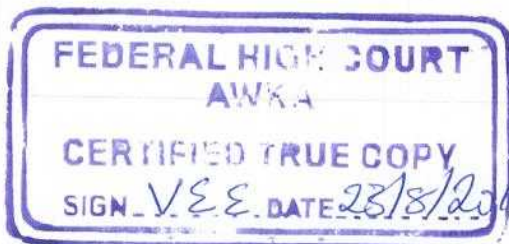
DEFENDANT

Accused In Court (speaks English)
Patrick G. Eshua for the Prosecution.
Chief C.L. Ndukaihe for the Accused.

JUDGEMENT

The Accused herein namely Patrick Nwadiolu was arraigned on the 21st of February 2017 on a one count charge thus:

"That you PATRICK UWADIOLU, male, Adult, 30 years on or about the 7th day of February, 2017 at No. 12 Austine Chuks GRA, Akpaka, Onitsha North L.G.A, Anambra State within the jurisdiction of this Honourable Court without lawful authority knowingly possessed 4.1grammes of Cocaine, a narcotic drug and thereby committed an offence contrary to and punishable



under section 19 of the National Drug Law Enforcement Agency Act Cap N30 Laws of the Federation of Nigeria, 2004".

The charge was read and explained to the Accused in English language which he understood to the satisfaction of the Court. He pleaded not guilty to the charge.

Later on the 4th of October 2017, the Prosecution opened its case with the testimony of PW1 Ade Benjamin Shaba the Exhibit Officer of the Complainant at its Anambra State command. Through his evidence:

- i. Packing of substance Form;
- ii. Certificate of Test Analysis Form;
- iii. Transparent evidence pouch

were tendered and admitted in evidence without objection and were marked as exhibits "1", "1A" and "2" respectively. He was also cross examined.

PW2 is Nathaniel Audu also of the Complainant's office at Onitsha. Through his evidence in chief a Statement said to have been made by the Accused was tendered in evidence but owing to an objection to its admissibility by the learned counsel for the Accused, the Court ordered for a trial within trial. In the TWT the PW2 testified as PWA and was also cross examined. In the course



of further hearing on the TWT yesterday 27th of June 2018 however, the Accused expressed the desire to alter his plea.

The charge was thus read over to him again in the same manner as done on his previous plea. He pleaded guilty to the charge. In reviewing the facts of his case, the learned prosecuting counsel Patrick G. Ashua further tendered a Drug Analysis Report which was admitted as exhibit "3". The Statement earlier tendered by the Accused was admitted as exhibit "4".

The Prosecution closed its case, urging the Court to convict the Accused as charged.

I have very carefully examined and considered the charge. I have not found anything legally objectionable to it. I have further considered the plea of the Accused on it. I am satisfied that his plea is a direct, positive and fully intended admission of the offence charged. I have also carefully examined and considered the various evidences represented by exhibits "1", "1A", "2" and "3". I find the evidences in them fully consistent with the charge in the same way I find the plea of the Accused consistent with the charge and the evidences adduced on it. I also find exhibit "4" fully consistent with both the charge and exhibit "2" and the charge. In the end, I am satisfied that the Prosecution has proved the charge against the Accused beyond reasonable doubt in the manner provided under



section 135 of the Evidence Act 2011. Consequently, the Accused is hereby convicted as charged.

(Signed)
I.B. GAFAI
JUDGE
28/06/18

Court: Any Record of previous conviction?

Prosecution: None.

Court: Any pleas for mercy?

Chief Ndukaihe: He did not waste the time of the Court. He is remorseful. He is a first offender. He lost his father who will be buried on 7/7/18. His wife had accident. I urge the Court to carefully consider the evidence in exhibit "4". I urge the Court to reduce term and grant him option of fine. He has promised never to be engaged in the same crime. That is all.

Prosecution: His wife is a different person from him. He is not remorseful. His undertaking counts nothing. It is all sentiments.

Court: Adjourned to tomorrow for sentence.



(Signed)
I.B. GAFAI
JUDGE
28/06/18

**IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE AWKA JUDICIAL DIVISION
HOLDEN AT AWKA
ON FRIDAY THE 29TH DAY OF JUNE 2018
BEFORE THE HON. JUSTICE I.B. GAFAI
JUDGE**

SUIT NO: FHC/AWK/08C/17

BETWEEN

THE FEDERAL REPUBLIC OF NIGERIA COMPLAINANT

AND

PATRICK NWADIOLU DEFENDANT

Convict In Court.

P.G. Eshua for the Prosecution.

M.N. Solomon for the Convict.

SENTENCE

Upon conviction yesterday the 28th of June 2018, the Court sought to know from the Prosecution whether the Accused had any records of previous conviction. The Prosecution replied in the negative. Thereafter, learned counsel to the convict Chief C.L. Ndukaihe implored the Court to show leniency on the convict in view of the fact that he is a first time offender, remorseful, had no previous record of conviction or history of criminality and had just



lost his father who is scheduled to be buried on the 7th of July 2018. He also informed the Court that the convict's wife has had a vehicle accident and thus needed the presence of the convict. In his reaction, learned counsel for the Prosecution Patrick G. Eshua urged the Court to discountenance the grounds of the allocutus; arguing that the convict is not remorseful, that it was the convict that was convicted not his wife and that the undertaking of his learned counsel that he would not commit any similar or other offence should not count as anything.

I have carefully considered each of the grounds of the allocutus as well as the Prosecution's reaction to same. I have considered the entire trial and the impressions that the Court formed thereby. I have considered more particularly the fact that the convict is a first time offender with no records of criminality or previous conviction. I have further considered the facts revealed in exhibit "4" which is the confessional Statement of the convict. I note the facts therein that the convict has been engaged in the offence for almost one year before he was arrested on the 7th of February 2017. I note also the quantity of the cocaine recovered from his pocket upon his arrest being 4.1.grammes. I have also further considered the destructive effect of the offence both on our gullible youths and on the image of the country in the comite of



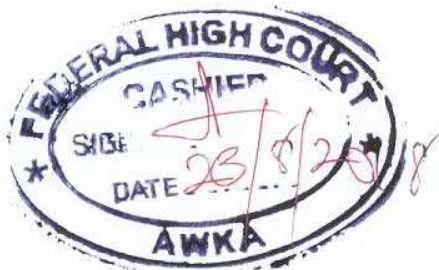
nations. I have also considered the provisions of the Act under which he was prosecuted and convicted which in my view do not tie the hands of the Court in awarding a lesser sentence than that prescribed therein.

After weighing all these considerations, I have formed the view that the Court should temper justice with mercy on the convict only in the hope that he may thereby turn a new leaf. This is however not without a strong warning on the convict that this shall be the first and the last time he will benefit from this gesture from this Court. Consequently, I sentence you Patrick Nwadiolo to a term of 3 years imprisonment with effect from the date of arraignment in this case. Exhibit "2" be destroyed by the Prosecution in accordance with the NDLEA Act after 90 days from today.

(Signed)
I.B. GAFAI
JUDGE
29/06/18



Vincent Gyong Ish
Stolcut



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