

**IN THE HIGH COURT OF JUSTICE**  
**ONDO STATE OF NIGERIA**  
**IN THE AKURE JUDICIAL DIVISION**  
**HOLDEN AT AKURE**  
**BEFORE HIS LORDSHIP: O. A. ADEGBEHINGBE, J.**  
**THIS 11th DAY OF APRIL, 2019**

CHARGE NO. AK/22C/2019

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA ... COMPLAINANT

AND

OLAMILEKAN EMMANUEL OSHO  
(a. k. a. Dustin Coco, Wesley) ... DEFENDANT

**JUDGMENT**

On 20/02/2018, the complainant filed a charge containing 18 counts against the defendant. The defendant was arraigned before this court on the 18-count charge, on the 08/04/2019. On 09/04/2019, the prosecutor - Dr. B. Ubi - applied to court that the original charge should be substituted with a fresh charge containing 5 counts, owing to a development in the matter. Thus, on 08/04/2019, the prosecution filed the fresh charge. The defence counsel - O. Olofinbinu Esq. - did not oppose the fresh charge. The defendant was consequently arraigned before the court. To each count in the new charge, the defendant pleaded guilty, at his arraignment, on 09/04/2019. The charge filed on 08/04/2019, to which the defendant pleaded, are as follows:

**"STATEMENT OF OFFENCE: COUNT ONE**

Obtaining money by false pretence contrary to section 419 of the Criminal Code, Cap. C37 Laws of Ondo State of Nigeria, 2006.

PARTICULARS OF OFFENCE

That you, Olamilekan Emmanuel Osho (a. k. a. Dustin Wesley Coco) on or about the 3rd of April, 2017, at Owo within the Akure Judicial Division of this honourable court with intent to defraud, obtained the sum of One Hundred and Forty Two Thousand Naira (N142, 000.00) only from one Rachel Evans (an American Citizen) by falsely pretending to be an American Marine Soldier on mission to Nigeria, who lost his electronic gadgets during an attack on their camp, which representations you knew to be false and thereby committed an offence.

STATEMENT OF OFFENCE: COUNT TWO

Obtaining money under false pretence contrary to section 419 of the Criminal Code, Cap. C37 Laws of Ondo State of Nigeria, 2006.

PARTICULARS OF OFFENCE

That you, Olamilekan Emmanuel Osho (a. k. a. Dustin Wesley Coco) on or about the 2nd of May, 2017, at Owo within the Akure Judicial Division of this honourable court with intent to defraud, obtained the sum of Thirty One Thousand Nine Hundred and Eighty Seven Naira (N31, 987.00) only from one Rachel Evans (an American Citizen) by falsely pretending to be an American Marine Soldier on mission to Nigeria, who lost his electronic gadgets during an attack on their camp, which representations you knew to be false and thereby committed an offence.

STATEMENT OF OFFENCE: COUNT THREE

Obtaining money under false pretence contrary to section 519 of the Criminal Code, Cap. C37 Laws of Ondo State of Nigeria, 2006.

PARTICULARS OF OFFENCE:

That you, Olamilekan Emmanuel Osho (a. k. a. Dustin Wesley Coco) on or about the 22nd of May, 2017, at Owo within the Akure Judicial Division of this honourable court with intent to defraud, obtained the sum of Two Hundred and Thirteen Thousand Naira (N213, 000.00) only from one Alisha Brice (an American Citizen) by falsely pretending to be an American Marine Soldier on mission to Nigeria, who lost his electronic gadgets during an attack on their camp, which representations you knew to be false and thereby committed an offence.

STATEMENT OF OFFENCE: COUNT FOUR

Obtaining money under false pretence contrary to section 419 of the Criminal Code, Cap. C37 Laws of Ondo State of Nigeria, 2006.

PARTICULARS OF OFFENCE

That you, Olamilekan Emmanuel Osho (a. k. a. Dustin Wesley Coco) on or about the 28th of November, 2018 at Owo within the Akure Judicial Division of this honourable court with intent to defraud, obtained the sum of One Hundred and Thirty Nine Thousand Four Hundred and Twenty Nine Naira, Eighty Kobo (N139, 429.80) only being the naira equivalent of \$800 United States of America Dollars from one Sabrina Robinson (an American Citizen) by falsely pretending to be an American Marine Soldier on

mission to Nigeria, who lost his electronic gadgets during an attack on their camp, which representations you knew to be false and thereby committed an offence.

STATEMENT OF OFFENCE: COUNT FIVE

Obtaining money under false pretence contrary to section 419 of the Criminal Code, Cap. C37 Laws of Ondo State of Nigeria, 2006.

PARTICULARS OF OFFENCE

That you, Olamilekan Emmanuel Osho (a. k. a. Dustin Wesley Coco) on or about the 13th of December, 2018 at Owo within the Akure Judicial Division of this honourable court with intent to defraud, obtained the sum of One Hundred and Two Thousand Naira) only being equivalent of \$350 United States of America Dollars from one Nakitha Miller (an American Citizen) by falsely pretending to be an American Marine Soldier on mission to Nigeria, who lost his electronic gadgets during and attack on their camp, which representations you knew to be false and thereby committed an offence."

As already noted above, the defendant pleaded guilty to all the five counts of the charge, on 09/04/2019. Dr. Ubi, the prosecutor, narrated the facts of the case. He informed the court that this case is an offshoot of two sister cases, which operatives of the Economic and Financial Crimes Commission (Ibadan Zone) are investigating, involving a syndicate of internet fraudsters, who use the cyberspace, their electronic systems (laptops, smartphones), e-mail addresses, internet providers, to defraud unsuspecting victims, both local and international. The defendant is one of these individuals arrested in the course of the said investigation.

In the course of investigations, the defendant wrote extra-judicial statements on different dates - 23/01/2019, 24/01/2019, 29/01/2019, 30/01/2019, 01/02/2019, 02/02/2019, 04/02/2019 and 05/04/2019. The defendant's statements were admitted, without objection, as exhibits P1, P2, P3, P4, P5, P6, P7 and P8, respectively.

When investigators discovered that the statements admitted as exhibits P1-P8 were confessional in nature, the defendant was taken before a superior officer/operative of the Economic and Financial Commission (Ronke Ogunmefun) for attestation, by the investigator (Idris Sarumi). The Confessional statement of an Accused Person Made to EFCC Attestation Form, dated 08/02/2019, signed by the defendant and Ronke Ogunmefun was tendered in evidence, without objection, as exhibit P9.

In the course of investigation, the defendant provided his e-mail address and password, with which the Head of ICT Department of the Ibadan Zone of EFCC (Olatunde Ogunniyi), in the presence of the defendant and his investigating officer, opened the defendant's e-mail box and printed several documents, which the defendant endorsed. Mr. Olatunde Ogunniyi also issued a Certificate. The Certificate of Identification issued by Ogunniyi Olatunde A., on 12/02/2019, was tendered as exhibit P10. Print out from computer endorsed on 02/02/2019 by the defendant, which are of ten pages, were admitted as exhibits P11-P20. Printouts from computer, which were endorsed by the defendant on 04/02/2019, were admitted in evidence as exhibits P21-P35.

In the course of investigation, a black mobile phone, Model T349, I-phone X model (Red colour), a black wallet and the defendant's international passport were recovered from the defendant. Registration of

exhibits form of EFCC signed by Alabi Hakeen, on 06/03/2019, was tendered in evidence as exhibit P36.

Letter from EFCC, dated 15/01/2019, addressed to First Bank of Nigeria Limited, where the defendant kept an account was tendered as exhibit P37 and the bank's reply (with statement of account no. 3099468306 and account mandate card of the defendant attached) was tendered as exhibit P38.

Upon discovering evidence amassed against him, the defendant offered himself for plea bargain of charge and sentence. He also presented his desire to repay his victims. The defendant, therefore, made a payment of the sum of N450, 000.00 (Four hundred and fifty thousand naira) to EFCC. The defendant raised a draft drawn on GT Bank in the sum of N402, 000.00 (Four hundred and two thousand naira). He undertook to repay the balance of the sum of N1 million, to EFCC when he serves his term and his account is unfrozen. Exhibit keeper's form, in respect of the repayment, signed by Alabi Hakeem, on 05/04/2019, was tendered in evidence as exhibit P39. The draft of N402, 000.00, dated 08/04/2019, was shown to the court, by the prosecutor. He urged the court to find the defendant guilty.

O. Olofinbinu Esq, counsel for the defendant, submitted that since the defendant pleaded guilty to all the five counts, the defence is not opposed to the defendant being convicted. The defence counsel agreed with the facts narrated by the prosecutor.

Before the court will proceed to do its duty with respect to the suit before it, it is considered apt that two comments should be made regarding the

case before the court. The first is that contrary to the assertion in the charge, the Criminal Code of Ondo State is located in Cap 37 of the Laws of Ondo State and not Cap. C37 of the Laws of Ondo State. In actual fact, there is no Cap C37 in the Laws of Ondo State. Secondly, Owo is not within Akure Judicial Division. Owo is in Owo Judicial Division of this court. However, this being a court designated by the Chief Judge of Ondo State to specifically hear and determine matters brought by the Economic and Financial Crimes Commission, it is enabled to hear and determine matters emanating from any Judicial Division of Ondo State.

Section 419 of the Criminal Code of Ondo State, under which the five counts of the charge were brought against the defendant, provides that any person who by any false pretence, and with intent to defraud, obtains from any other person anything capable of being stolen; or induces any other person to deliver to any person anything capable of being stolen, is guilty of a felony, and is liable to imprisonment for three years. If the thing stolen is of the value of one thousand *naira* or upwards, he is liable to imprisonment for seven years. It is immaterial that the thing is obtained or its delivery is induced through the medium of a contract induced by the false pretence. The offender cannot be arrested without warrant unless found committing the offence.

The defendant pleaded guilty to each of the five counts brought under section 419 of the Criminal Code. The law is settled that the guilt of an accused person may be proved by:

- a. Confessional statement; or
- b. Circumstantial evidence; or
- c. Evidence of eye-witnesses.

See *Emeka v. The State* [2001] 14 NWLR (Pt. 734) 666 at 683.

Section 251 of the Administration of Criminal Justice Law of Ondo State, 2015 provides as follows:

"251. If the defendant pleads guilty to any offence with which he is charged the court shall record his plea as nearly as possible in the words used by him and if satisfied that he intended to admit the truth of all the essentials of the offence of which he has pleaded guilty the court shall convict him of that offence and pass sentence upon or make an order against him unless there shall appear sufficient cause to the contrary."

Section 28 of the Evidence Act, 2011, provides as follows:

"28. A confession is an admission made at any time by a person charged with a crime, stating or suggesting the inference that he committed the crime."

In the case of *Kpoobari v. State* (2016) LPELR-40010(SC), the court took the view that where there is an admission of guilt by the defendant, the question of establishing the legal burden of proof no longer arises as the burden has been discharged by defendant's admission of guilt. In the same case, his lordship Peter-Odili J. S. C., in his contributed judgment stated that:

On the impact of a plea of guilty, this Court had in *Omoju v. Federal Republic of Nigeria* (2008) 7 NWLR (Pt. 1085) 38 restated what follows a plea of guilty by an accused thus:



"By entering a guilty plea, hearing is foreclosed as the next and last procedural step of the trial judge is to convict and pass appropriate sentence"

In the case of *Omoju v. Fed. Republic of Nig.*(2008) 2-3 S.C. (Pt. 1) 1 at 19, the court stated that:

The law is elementary that if an accused person pleads guilty, the burden of proof placed on the prosecution becomes light, like a feather of an ostrich. It no longer remains the superlative and compelling burden of proof beyond reasonable doubt. After all, the guilty plea has considerably shortened the distance and brought in some proximity the offence and the *mens rea* or *actus reus* of the accused as the case may be. That makes it easier to locate causation of *causa sine qua non*.

Apart from the fact that the defendant specifically pleaded to each of the five counts in the charge, in the presence of his counsel, who is not objecting to the conviction of the defendant, the prosecution proceeded to tender confessional statements of the defendant made to investigators of the crime alleged against the defendant. Where documentary evidence is tendered from the Bar, following the confession of the accused person to committing the offence charged, the court would be in a good place in convicting such an accused person, based on his confession which is not withdrawn and the documents so tendered in evidence. See *Abdullahi v. F. R. N.* [2016] 10 NWLR (Pt. 1521) 475 at 491.

In the case of Nkie v. FRN (2014) LPELR-22877(SC), the court stated that it is very clear that a guilty plea by an accused person to a non capital charge shortens the proceedings in that trial as the court is empowered to proceed summarily to deal with the matter by convicting and sentencing the accused accordingly; it converts an otherwise full trial to a summary one. Where an accused person not only pleaded guilty to the charge but made confessional statement which is admitted in evidence without objection, as in the instant case, the burden of proof legally imposed on the prosecution to prove the charge beyond reasonable doubt is made very light indeed.

In exhibit P1, the defendant insisted that he would not write any statement without his lawyer. When the defendant made his statement in exhibit P2, his lawyer (Mrs. Okunade Oyindamola) was present. The defendant narrated how he induced his victims whose names he gave as Alisha Brice and Rachel Evans and how he has been using his First Bank Account to perpetrate the fraudulent acts. In exhibit P3, the defendant refused to make a statement in the absence of his lawyer. In exhibit P4, in the presence of the defendant's lawyer, the defendant described how he used his First Bank Account with no. 3099468306 to perpetrate the fraudulent acts, alleged against him. His victims were named as Rachel Evans and Alisha Brice. In exhibit P7, the defendant named Nakitha Miller and Sabrina Robinson as his victims. The defendant also narrated the relationship between his e-mail account, the fraudulent scheme or love scam, which he was running with his bank account. Going by the contents of statement of account and the mandate card attached to exhibit P28, this court confirmed that the defendant owns the bank account the two documents relate to, in First Bank Nigeria Limited. This court also confirmed that exhibits P11 to P36 show the use of the e-mail address of

the defendant to perpetrate the love scam. There is a trail of sequential request and demand for loans, which were made available by each of the persons named in the charge in the sums charged, which the defendant did not intend to repay. The defendant also kept up an appearance of being Dustin Wesley Coco, an American citizen, while the defendant is a Nigeria. He is also lived a lie that he is an American Marine, who was stuck in Nigeria after an attack which is not a true story, but fabricated to scam the persons named in the charge for the sums charged.

The defendant intended to and actually committed the acts alleged against him in the charge and went about achieving his unlawful purpose, with consistent tact and guile. The defendant:

- a. On 03/04/2017, with intent to defraud, fraudulently and with false pretence, obtained the sum of N142, 000.00 from Rachel Evans.
- b. On 02/05/2017, with intent to defraud, fraudulently and with false pretence, obtained the sum of N31, 987.00 from Rachel Evans.
- c. On 22/05/2017, with intent to defraud, fraudulently and with false intent, obtained the sum of N213, 000.00 from Alisha Brice.
- d. On 28/11/2018, with intent to defraud, fraudulently and with false intent, obtained the sum of N139, 000.00 from Sabrina Robinson.
- e. On 13/12/2018, with intent to defraud, fraudulently and with false intent, obtained the sum of N102, 000.00 from Nakitha Miller.

The defendant carried out all the acts listed above, while falsely pretending to be another person, named Dusting Wesley Coco, an American Marine, stranded in Nigeria. Property fraudulently obtained is money, which is capable of being stolen. The named victims of the defendant could not have known that they were dealing with a person

with false personality because of the precarious scenario painted by defendant and their defendant-induced false belief that they had found love, which was in fact a scam perpetrated by the defendant. This court is convinced beyond reasonable doubt that the defendant intended to confess to each of the counts in the charge and was fully aware of the implication of his confession, which was lawfully rendered to the prosecution before trial and also the plea of guilty at the defendant's arraignment. The evidence presented to this court by the prosecution, which were accepted by the defence counsel, on behalf of the defendant, also persuaded this court, beyond reasonable doubt, to hold the defendant liable for his criminal conducts. This court hereby finds the defendant guilty of and convicts the defendant on each of the five counts in the charge, under section 419 of the Criminal Code by which he is charged and as charged.

The clerk of court shall now proceed to ask the accused or his counsel if they have anything to say in mitigation of the impending sentence of the defendant.

Olofinbinu Esq.:- We pray the court to temper justice with mercy. We also urge court to mitigate the consequence of the charge against the defendant. The defendant is in his early 20s. He is a young boy. He is a first offender. He is remorseful. He knows the consequences of what he has done. We urge the court to show mercy on the defendant, who is now a convict.

Galandanci Esq.:- We have no record of previous conviction. The convict has done restitution. We urge the court to order that the Economic and Financial Crimes Commission should be ordered to pay over what the defendant repays to his victims.

COURT - SENTENCE

The court notes the passionate plea of the defence counsel for leniency and has been persuaded by the plea. The court also notes that parties filed a Plea Bargain Agreement on 08/04/2019, but, which cannot be enforced or applied because of lack of input by the Attorney-General of Ondo State, as prescribed by section 247 of the Administration of Criminal Justice Law, 2015. However, this court takes note of the suggestions in the said plea bargain agreement, which cannot be treated as such, but still part of the records of the court.

This court notes that the defendant is a first offender and should be given opportunity to improve himself, hereafter. This court notes the relative young age of the defendant and the fact that he admitted to his crimes early and in court by pleading guilty. Upon all said above, the law has to take its course in this matter. The defendant is hereby sentenced to imprisonment for six months from the date of this judgment, for each of the five counts in the charge. The sentences are to run concurrently.

The Economic and Financial Crimes Commission is hereby ordered to pay over all sums repaid by the defendant/convict in this case, to each of the four victims named in the charge in proportions relative to their individual loss to the defendant/convict.

Bodegbehingbe J.

O. A. ADEGBEHINGBE, J.

J U D G E

Date: 11/04/2019