

IN THE HIGH COURT OF JUSTICE  
OYO STATE OF NIGERIA  
IN THE IBADAN JUDICIAL DIVISION  
HOLDEN AT IBADAN

BEFORE HONOURABLE JUSTICE, F. I. OYELARAN - JUDGE  
DELIVERED THIS MONDAY, THE 2<sup>ND</sup> DAY OF DECEMBER, 2013

Court No. 7  
Suit No. I/2<sup>EFCC</sup>/2010

BETWEEN:

Federal Republic of Nigeria .....Complainant/Respondent

AND

Amosun Olayemi Oluwaseun .....Defendant/ Applicant

Appearance

Accused present.

M. O. Akinkoye for the Prosecution.

S. C. Uzorewulu for the accused person with J. Z. Joseph [Miss]

RULING

The Defendant, Amosun Olayemi Oluwaseun was charged on an information filed in this Honourable Court on 7<sup>th</sup> September 2010 on an 8 count charge as shown on the information paper as follows:-

STATEMENT OF OFFENCE - 1<sup>ST</sup> COUNT

Attempt to obtain money by false pretence, contrary to sections 8c and 1[3] of the Advance Free Fraud and Other Fraud Related Offences Act, No. 14 of 2006.

PARTICULARS OF OFFENCE

Amosun Olayemi Oluwaseun on or about the 14<sup>th</sup> of June 2010, at Ibadan, within the Ibadan Judicial Division, with intent to defraud did attempt to obtain the sum of ₦50,000:00 [Fifty Thousand Naira] from one Alhaji Shettima Tahiru under the false pretence that the money represented payment for an EFCC [Economic and Financial Crimes Commission] Clearance Certificate you procured for him, which pretence you knew to be false.



STATEMENT OF OFFENCE - 2<sup>ND</sup> COUNT

Obtaining money by false pretence contrary to section 1[3] of the Advance Free Fraud and Other Fraud Related Offences Act, No. 14 of 2006.

PARTICULARS OF OFFENCE

Amosun Olayemi Oluwaseun on or about the 2<sup>nd</sup> of September 2009, at Ibadan, within the Ibadan Judicial Division, with intent to defraud did obtain the sum of ₦60,000:00 [Sixty Thousand Naira] from one Dr. Grace I. Masha through your Intercontinental Bank Account Number 0086001000022076 under the false pretence that the money represented payment for an EFCC [Economic and Financial Crimes Commission] Clearance Certificate you procured for her, which pretence you knew to be false.

STATEMENT OF OFFENCE - 3<sup>RD</sup> COUNT

Obtaining money by false pretence contrary to section 1[3] of the Advance Free Fraud and Other Fraud Related Offences Act, No. 14 of 2006.

PARTICULARS OF OFFENCE

Amosun Olayemi Oluwaseun on or about the 22<sup>nd</sup> of October 2009, at Ibadan, within the Ibadan Judicial Division, with intent to defraud did obtain the sum of ₦30,000:00 [Thirty Thousand Naira] from one Dr. Grace I. Masha through your Intercontinental Bank Account Number 0086001000022076 under the false pretence that the money represented payment for an EFCC [Economic and Financial Crimes Commission] Clearance Certificate you procured for her, which pretence you knew to be false.

STATEMENT OF OFFENCE - 4<sup>TH</sup> COUNT

Obtaining money by false pretence contrary to section 1[3] of the Advance Free Fraud and Other Fraud Related Offences Act, No. 14 of 2006.

PARTICULARS OF OFFENCE

Amosun Olayemi Oluwaseun on or about the 24<sup>th</sup> of November 2009, at Ibadan, within the Ibadan Judicial Division, with intent to defraud did obtain the sum of ₦100,000:00 [One Hundred Thousand Naira] from one Dr. Grace I. Masha through your Intercontinental Bank Account Number 0086001000022076 under the false pretence that the money represented payment for an EFCC [Economic and



Financial Crimes Commission] Clearance Certificate you procured for her, which pretence you knew to be false.

STATEMENT OF OFFENCE - 5<sup>TH</sup> COUNT

Obtaining money by false pretence, contrary to section 1[3] of the Advance Free Fraud and Other Fraud Related Offences Act, No. 14 of 2006.

PARTICULARS OF OFFENCE

Amosun Olayemi Oluwaseun on or about the 4<sup>th</sup> of December 2009, at Ibadan, within the Ibadan Judicial Division, with intent to defraud did obtain the sum of ₦50,000:00 [Fifty Thousand Naira] from one Dr. Grace I. Masha through your Intercontinental Bank Account Number 0086001000022076 under the false pretence that the money represented payment for an EFCC [Economic and Financial Crimes Commission] Clearance Certificate you procured for her, which pretence you knew to be false.

STATEMENT OF OFFENCE - 6<sup>TH</sup> COUNT

Obtaining money by false pretence, contrary to section 1[3] of the Advance Free Fraud and Other Fraud Related Offences Act, No. 14 of 2006.

PARTICULARS OF OFFENCE

Amosun Olayemi Oluwaseun on or about the 14<sup>th</sup> of December 2009, at Ibadan, within the Ibadan Judicial Division, with intent to defraud did obtain the sum of ₦80,000:00 [Eighty Thousand Naira] from one Dr. Grace I. Masha through your First Bank Account Number 6133010018151 under the false pretence that the money represented payment for an EFCC [Economic and Financial Crimes Commission] Clearance Certificate you procured for her, which pretence you knew to be false.

STATEMENT OF OFFENCE - 7<sup>TH</sup> COUNT

Obtaining money by false pretence, contrary to section 1[3] of the Advance Free Fraud and Other Fraud Related Offences Act, No. 14 of 2006.

PARTICULARS OF OFFENCE

Amosun Olayemi Oluwaseun on or about the 29<sup>th</sup> of January 2010, at Ibadan, within the Ibadan Judicial Division, with intent to defraud did obtain the sum of ₦30,000:00 [Thirty Thousand Naira] from one



Dr. Grace I. Masha through your GTBank Account Number 4034532491590 under the false pretence that the money represented payment for an EFCC [Economic and Financial Crimes Commission] Clearance Certificate you procured for her, which pretence you knew to be false.

STATEMENT OF OFFENCE - 8<sup>TH</sup> COUNT

Obtaining money by false pretence, contrary to section 1[3] of the Advance Free Fraud and Other Fraud Related Offences Act, No. 14 of 2006.

PARTICULARS OF OFFENCE

Amosun Olayemi Oluwaseun on or about the 14<sup>th</sup> of December 2009, at Ibadan, within the Ibadan Judicial Division, with intent to defraud did obtain the sum of ₦50,000:00 [Fifty Thousand Naira] from one Dr. Grace I. Masha through your Intercontinental Bank Account Number 0086001000022076 under the false pretence that the money represented payment for an EFCC [Economic and Financial Crimes Commission] Clearance Certificate you procured for her, which pretence you knew to be false.

The accused person pleaded not guilty to the 8 - count charge when the trial commenced on the 3<sup>rd</sup> of March 2011 with the prosecution calling two witnesses to prove its case.

The brief fact of the case are as follows:-

An Officer of the EFCC informed the Court that on 15<sup>th</sup> June 2010, he was told of a report received in his department at the Information and Integrity Unit of the Commission that a group of people representing to be staff of the commission called on Alhaji Tahir Sheetima who is a staff of the Local Government and Chieftaincy Unit in Borno State. The said Alhaji was asked to come and settle with some money to avoid reporting to the Police.



The 1<sup>st</sup> Prosecution Witness, Richard Ogberagba was then asked to write to the Bank PHB in Ibadan. The Defendant was arrested on 16<sup>th</sup> June 2010 while attempting to withdraw money from an account at the Ibadan Regional Office of the Bank. The Bank Official arrested the Defendant and he was handed over to the Police.

The Prosecution closed his case after the testimony of the two witnesses called in support of the case on the 11<sup>th</sup> of March 2013. The Defence Counsel then informed the Court that he intends to raise a no case submission as the prosecution has not adduced enough evidence in proving the case against the accused beyond reasonable doubt.

The two Counsel were then ordered to exchange written submission of the no-case submission. The Defendant's Counsel filed his written address on the no case submission. On 7<sup>th</sup> May 2013, it was dated 3<sup>rd</sup> May 2013.

The Prosecuting Counsel, M. O. Akinkoye filed his written submission on 19<sup>th</sup> September 2013 and it was dated the same date. Counsel urged the Court to overrule the no case submission of the defence Counsel and urged the Accused person to enter his Defence.

Learned Defence Counsel, Bala Yakubu adopted his written submission and referred to the testimony of the two witnesses called by the prosecution and the exhibits tendered.



Learned Counsel referred to the testimony of the 1<sup>st</sup> Prosecution witness, Mr. Richard Ogberagba, who stated on oath that the Defendant was transferred to Abuja from their custody in Lagos where his statement was obtained under caution.

The witness stated how a member of the team took the statement of the Defendant but was not called to give evidence. This witness said a member of the team took statement while the other statement made on 18<sup>th</sup> June 2010 was admitted as an Exhibit after being objected to by the defence. It was named Exhibit P1. The sum of ₦70,000:00 [Seventy Thousand Naira] was paid into the account with Bank PHB in Ibadan and it was discovered that it was paid in by the second witness. Dr. Grace I. Masha. The witness also tendered Exhibits P2, P3 and P4.

He stated how the accused person had used the account of 2<sup>nd</sup> Prosecution witness to withdraw various sum of money. He said five of the account opened by the syndicate were owned by the accused person.

The witness also stated in his evidence in chief that the accused person alone collected the sum of ₦420,000:00 [Four Hundred and Twenty Thousand Naira]. Exhibit P5 is a letter written to the head of the information Unit. The witness said he was able to identify a



link between the PW2, one Mr. Yusuf who called himself the head of the Unit and one Akindele Festus Adenuga, now at large.

The witness said he was able to get a link between PW2, the accused person from the called detail record. During cross examination, the witness testified on Oath that no statement was obtained from Alhaji Shettima Tahir, who is a staff of the Ministry of Local Government from Bornu State.

The Defence Counsel in his further submission referred to the statements of the Defendants and the various exhibits. The witness also stated how PW2, Dr. Grace Masha told him that it was one Yusuf who called her to inform her that a petition against her is being investigated.

Under cross examination, the PW1 testified that even after the arrest of the Defendant, the people who claimed to be staff of the Commission were still calling him to pay.

The Counsel referred to the testimony of PW2, Dr. Grace I. Marsha, who is the victim who told the Court that one Yusuf Osagie called her and what she should do to get the EFCC Clearance. The witness stated how he paid a sum of ₦420,000:00 [Four Hundred and Twenty Thousand Naira] into the account of the Defendant. She listed the Banks as First Bank, GTBank, Intercontinental Bank and



Bank PHB. She testified further that she also paid monies into the accounts of Chidi Collins, Chukwu Okoye Basil and others.

Under cross examination, she said she was all the true dealing with Yusuf Osagie and that they all told her that they are staff of EFCC including the accused person and Yusuf.

On the argument on the no case submission, Counsel referred to sections 286 – 287 of the Criminal Procedure Law Cap 39, Laws of Oyo State, 2000. The Principles under which a no case submission can subsist are as follows:-

- a) *When there has been no evidence to prove an essential element of the offence.*
- b) *When the evidence so adduced by the prosecution has been so discredited as a result to examination that no reasonable Court tribunal can convict on it.*

Learned Counsel referred to the testimony of the first prosecution witness that it was one Yusuf who claims to be a staff of the EFCC that made financial demands from Alhaji Tahir Shettima.

Counsel said that the prosecution has failed to establish a link between the Defendant and the persons attempting to defraud Alhaji Tahir Shettima and that failure of the prosecution to call him to testify is fatal to its case.

He concluded that the ingredients of attempts to defraud has not been proved. Counsel referred to the testimony of PW2, who said that she was dealing with one Yusuf Osagie and not the



Defendant. She also said it was her daughter that made the payment on her behalf.

Counsel submitted that the prosecution has failed to connect the Defendant with the alleged act of Yusuf Osagie and since Alh. Tahir Shettima was not called as a witness, then the prosecution's case must fail.

He urged Court to discharge and acquit the accused person based on the above. The prosecuting Counsel filed his reply to the accused person's no case submission.

Counsel submitted in his written address which he adopted before this Court that what the prosecution needs to prove is whether there is a prima facie case made against the accused by which he will be called upon for his defence. Counsel cited R. Vs. Coker 20 NLR 62 and some other judicial authorities in support.

Learned prosecuting Counsel referred to the ingredient of the offence of Attempt to defraud. PW2 in her testimony stated on oath that she was all along communicating with Yusuf Osagie and that the said Yusuf Osagie nominated the Bank account of the accused person with Intercontinental, GTBank, Bank PHB and First Bank to remit money to settle the team. She did so by paying a total of ₦420,000:00 [Four Hundred and Twenty Thousand Naira].



Mr. Akinkoye also referred to the statements made by the Defendant even though he denied knowing Alh. Tahir Shettima and PW2, Dr. Grace Masha. Counsel submitted that it was clear that the accused person and one Akindele Adenuga were acting in concert. He referred to calls between PW2 and one Yusuf Osagie who would demand for money to be paid into several accounts nominated by him including the account of the accused person.

Counsel referred to Exhibit PII which showed that money was actually paid into the account of the accused person by PW2 through her daughter.

He submitted that if it can be shown that the accused was acting jointly with others, any evidence admissible against one is admissible against all of them. Counsel referred to section 11[1] of the Evidence Act and the cases cited in support found in the address and urged the Court to hold that the prosecution has been able to prove the ingredients of an attempt to defraud.

On Counts 2 - 8 on the information papers, Counsel referred to the case of Onwudiwe Vs. FRN [2006] 10 NWLR [Pt.205] 567 at 592 and that the ingredients of obtaining by false pretences have been proved.

Counsel said that it is enough if the acts of the accused person falling under the ambits of sections 7 and 8 of the Criminal Code in



which he was acting in concert with other persons at large. He said the false representation which was known to be false.

Counsel submitted that from the totality of the evidence of PW1 and PW2 and the Exhibits PI - PII that the prosecution have been able to prove a prima facie case against the accused person which requires his explanation in the representation of the PW2 and the Alh. Tahir Shettima and how his account was used as one out of the eight other accounts used to demand for money from PW2.

From the evidence adduced by the prosecution and the Exhibits PI - PII tendered it is very clear that there is a prima facie case against the accused person as to how he got involved in the use of his account with Intercontinental Bank, PHB and First Bank. He will also explain what the lodgments were meant for.

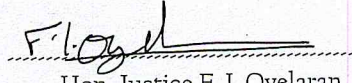
It is trite that the prosecution must prove the case of the accused person beyond reasonable doubt, but at the stage of a no case submission what the prosecution needs to prove is that there is a prima facie case against the accused person which will entitle the accused person to open his defence.

In the light of the foregoing the no case submission raised by the accused person is hereby overruled as the prosecution has a prima facie case against him.



The no case objection is hereby overruled as it lacks merit. The accused person is hereby called upon to open his Defence on the Charges on Information.

This is the ruling of this Honourable Court.

  
Hon. Justice F. I. Oyelaran  
**JUDGE**  
02/12/2013