

IN THE HIGH COURT OF JUSTICE OF KADUNA STATE
IN THE KADUNA JUDICIAL DIVISION
HOLDEN AT COURT 12 KADUNA
DELIVERED THIS 12th DAY OF JUNE, 2018

BEFORE THE HONOURABLE JUSTICE D.H. KHOBO—JUDGE

KDH/KAD/EFCC/13/17

BETWEEN

FEDERAL REPUBLIC OF NIGERIA COMPLAINANT

AND

ISAH HARUNAACCUSED

Accused in Court

E.K. Garba Esq. for Prosecution

AdeyinkaOpalake Esq. Principal Legal Aid Officer for Defendant

RULING

The defendant in this case namely Isah Haruna was arraigned before this court on the 9th day of January, 2018 by the Economic and Financial Crimes Commission (EFCC) on a four count charge dated 21/12/17 namely:

1. Obtaining money under false pretence contrary to Section 1(1)(a) of the Advance Fee Fraud and Other Related Offences Act, 2006 and punishable under Section 1(3) of the same Act.
2. Forgery contrary to Section 344 of the Penal Code Law of Kaduna State, 2017 and punishable under Section 345 of the same law.

3. Used of forged documents contrary to Section 347 of the Penal Code Law of Kaduna State, 2017 and punishable under Section 345 of the same law and,
4. Being in possession of forged documents contrary to Section 349 of the penal code law of Kaduna State and punishable under the same section.

The defendant on the date of his arraignment i.e. 9th January, 2018, this court read and explained each of the four count charge to the defendant who having understood each of the said four count charge as duly read and explained by the court pleaded not guilty to each of the four count charge. Thereafter the case was adjourned for the prosecution to proof the four count charge as alleged against the defendant to the 20/3/2018.

The case came up today being the 12th day of June, 2018 for hearing, wherein the learned counsel for the defendant informed the court that he has had construction with the defendant regards his earlier plea of not guilty to the four count charge as earlier made by the defendant, and from his said discussion with the defendant that the defendant is now willing to change his earlier plea of not guilty to a plea of guilty. The counsel further informed the court that the defendant under his leadership have effectively discussed with the prosecution in a plea bargain, pursuant to Section 282(7)(a) of the Kaduna State Administrative of Criminal Justice Law, 2017 i.e. before the conclusion of the plea bargain the defendant has been informed,

- a. The he has a right to remain silent.
- b. Of the consequence of remaining silent, and
- c. That he is not obliged to make any confession or admission that could be used as evidence against him.

The defendant's counsel also informed the court that a plea bargain agreement dated the 8th day of June, 2018 but filed on the 11th June, 2018 has been served on the prosecution.

The learned counsel to the prosecution Mr. E.K. Garba Esq. has acknowledged being served with a copy of the plea bargain agreement dated 8th June, 2018 but filed on the 11/6/18 and the fact that the prosecution has consented to the terms of the plea bargain, and conceded to the plea bargain procedure being adopted in this case by the court. And pursuant to the above, the learned counsel for the prosecution went further to apply that the four count charges against the defendant dated 21st December, 2017 be re-read to the defendant by the court and his plea bargain re-taken in respect of the four count charge again.

This court in a considered ruling granted the defendant's counsel application to adopt a plea bargain procedure in this matter and thus went ahead as applied for by the prosecution counsel to re-read and re-explain each of the four count charge filed against the defendant as outlined above wherein the defendant this time around, differ having understood each of the count charge as explained to him by the court pleaded guilty to the four count charge as outlined above.

The learned counsel for the prosecution Mr. E.K. Garba Esq. gave a brief review of the facts of this case as follows:

1. Obtaining money under false pretence
2. Forgery
3. Use as forged, documents and,
4. Being in possession of forged documents.

That the above was reported to the EFCC through intelligence report and same was referred to his team of operatives for discrete investigation.

That the intelligence report indicates that the defendant had fraudulently obtained various sums of money from unsuspecting members of the general public within Kaduna Metropolis under the pretext of facilitating their engagement as truck drivers by a company based in Lagos.

That the prosecution have thus filed a four count charge against the defendant who has now pleaded guilty to the charge.

He further tendered the following documents from the bar with the consent of the counsel to the defendant. The documents include:

1. The Hausa Version of the defendant's statement dated 9/11/17 with the English translated version of same.

The additional statement of the defendant also in Hausa version and the English translated version of same dated 21/11/17

2. A set of "forged documents that the defendant was selling to unsuspecting members of the public, titled "Alhaji Nura Special Company Ltd" Eleven in Nos.
3. The sum of ₦64,500 which the defendant refunded to the EFCC as restitution to the victims.

The above listed documents as tendered from the bar by the prosecution were admitted as Exhibits 1^{A-D}, 2¹⁻¹¹ and 3 respectively.

The prosecution's learned counsel has finally urged the court to convict the defendant as per the terms of the plea bargain dated 8/6/18.

The learned counsel for the prosecution has further apply that the monetary Exhibits (Exhibit 3) in the sum of ₦64,500 be forfeited to the consolidated revenue account of the federal government as there are no victims that have come out to lay claim to the said money.

The defendant's counsel Mr. Adeyinka Esq. has adopted their plea bargain agreement dated 8/6/18 and filed on 11/6/18 and has urged the court use their paragraph 3 of the plea bargain agreement to convict and sentence the

defendant whom he argued has made restitution in this case.

It is now not in doubt that the defendant in line with the plea bargain agreement dated the 8th day of June, 2018 but filed on 11th June, 2018 pursuant to Section 282 of the Administration of Justice, Law of Kaduna State, 2017 particularly paragraph 1 thereto, have clearly now pleaded guilty to the offence with which he is charged. The defendant by paragraph 2 of the plea bargain agreement has paid the sum of ₦64,500 back to the victims as restitution, this is admitted as Exhibits 3.

It is my considered view here that the plea bargain procedure by the defendant and his counsel before this court is a clear sign of remorsefulness on the part of the defendant for the commission of the offences charged against him. Furthermore, the payment of the sum of ₦64,500 by the defendant back to the victims as restitution which sum was admitted as Exhibit 3 before this court is a further sign of repentance by the defendant.

Both the learned prosecution counsel and the defendant's counsel have urged this court to use the terms of the plea bargain agreement dated 8/6/18 but filed 11/6/18 to convict and sentence the defendant in this case for the offences charged.

Accordingly, pursuant to the said plea bargain dated the 8/6/18 but filed on 11/8/18 and which plea bargain agreement is duly signed by the parties thereto, and also pursuant to the clear and unambiguous plea of guilty as made by the defendant to the four count charge of

1. Obtaining money under false pretense contrary to Section 1(1)(a) of the Advance Free Fraud and other

Related Offences Act, 2006 and punishable under Section 1(3) of the same Act.

2. Forgery contrary to Section 344 of the Penal Code Law of Kaduna State, 2017 and punishable under Section 345 of the same law.
3. Used of forged documents contrary to Section 347 of the Penal Code Law of Kaduna State, 2017 and punishable under Section 345 of the same law and,
4. Being in possession of forged documents contrary to Section 349 of the penal code law of Kaduna State 2017.

The defendant here namely Isah Haruna is hereby convicted of the said four count charge contrary to Sections 1(3) of the Advance Fee Fraud and Other Related Offences Act, 2006, and Sections 433, 345 and 349 of the Kaduna State Penal Code Law, 2017.

Signed 12/6/18
Judge.

SENTENCE

The essence of sentencing in criminal justice is to serve as a corrective measure to the offender and also a deterrent to people of like minds. In the instant case as stated above pursuant to the plea bargain agreement, particularly paragraph 3 of thereto, the parties proposed a term of one year imprisonment upon conviction of the defendant by the court commencing from the date of his remand in custody without an option of fine.

On the strength of the above terms in paragraph 3 of the plea bargain agreement, the convict here namely, Isah Haruna is hereby sentenced to a term of one year imprisonment without an option of fine commencing from the date of his remand in custody.

Furthermore, the convict shall upon his release form custody, undertake to the Economic and Financial Crimes Commission to be of good behavior and never to be involved in any form of Economic Crime within or outside the shores of Nigeria.

Finally the monetary exhibit in the sum of ₦64,500 i.e. Exhibit 3 which was paid by the convict as restitution to the victims be and is hereby forfeited to the consolidated revenue account of the federal government of Nigeria since there are no victims that have come to lay claim to the said money.

**Signed 12/6/18
Judge.**

Garba: We are grateful for the Judgement

Opalake: We equally thank the court for the Judgement.

**Signed 12/6/18
Judge.**