

**IN THE FEDERAL HIGH COURT OF NIGERIA**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT ABUJA**  
**ON FRIDAY THE 9<sup>TH</sup> DAY OF AUGUST, 2019**  
**BEFORE HIS LORDSHIP HONOURABLE JUSTICE N. E. MAHA**  
**JUDGE**

**CHARGE NO: FHC/ABJ/CR/147/2019**

**BETWEEN**

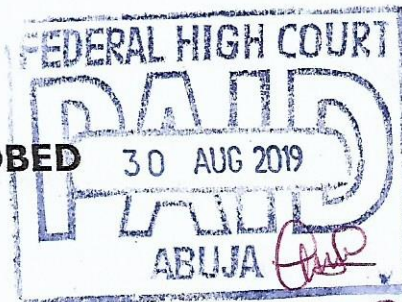
**FEDERAL REPUBLIC OF NIGERIA**

**COMPLAINANT**

**AND**

**OMONIGHO EFE OBED**

**DEFENDANT**



**JUDGMENT**

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At this Court—the Federal Republic of Nigeria, by an amended charge sheet dated the 24<sup>th</sup> day of July, 2019, filed by the Economic and Financial Crimes Commission (to be known as “Complainant” in this Judgment) instituted criminal proceedings against Mr. Omonigho Efe Obed (to be known as “Defendant” in this Judgment). The amended charge sheet of one count, filed against the Defendant was couched in these words -

That you, **OMONIGHO EFE OBED** sometime in September, 2018 at Owerri, within the Jurisdiction of this Honourable Court, fraudulently impersonated one Diego Lucas, and obtained the sum of \$300 (Three Hundred Dollars) from Ruth Hendrickson and thereby committed an offence

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contrary to Section 22(2) (b) (ii) of the **Cyber Crimes (Prohibition, Prevention, etc) Act, 2015** and Punishable under Section 22(2) (b) (iv) of the same Act.

Defendant here, upon understanding the amended charge of one count read and dutifully explained to him in English Language by the Registrar of this Honourable Court on the 25<sup>th</sup> day of July, 2019, pleaded guilty to it.

Afterwards, Maryam Aminu Ahmed Esq. informed the Court that they have two plea bargain agreements, all dated the 15<sup>th</sup> day of July, 2019 and 6<sup>th</sup> day of August, 2019 respectively. Learned Complainant's Counsel applied to withdraw the initial plea bargain agreement dated the 15<sup>th</sup> day of July, 2019 and substitute it with the plea bargain agreement of 6<sup>th</sup> day of August, 2019 and learned counsel to the Defendant, Richard Aneke Esq. made no objection to that application. It is to be noted that the plea bargain agreement of 15<sup>th</sup> July, 2019 was struck out.

Proceeding under Section 274 (1) (b) of the Administration of Criminal Justice Act, 2015, this Court then reviewed the facts of the case –

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## **THE SUBMISSION OF THE COMPLAINANT'S COUNSEL**

Learned Complainant's Counsel Maryam Aminu Ahmed Esq. submitted that on the 23<sup>rd</sup> day of May, 2019, the Defendant here, Mr. Omonigho Efe Obed was arrested at Owerri by operatives of Economic and Financial Crimes Commission. So investigation revealed that the Defendant impersonated one Diego Lucas and obtained the sum of \$300 Dollars from Ruth Hendrickson, a citizen of United States. During investigation, one Infinix phone and HP Laptop was recovered, relating to the act of Defendant.

## **THE SUBMISSION OF THE DEFENDANT'S COUNSEL**

Learned Counsel for Defendant, Richard Aneke Esq. made no objection to the facts as stated. More, no objection made to recovered items, tendered during summary trial.

Now, this Court was informed of a plea bargain agreement of dated the 6<sup>th</sup> day of August 2019, adopted by parties here together with the contents in it and found entered as the Judgment of the Court.

Learned Defendant's Counsel agreed with the submissions of Maryam Aminu Ahmed Esq. and indeed confirmed the Defendant's agreement to the contents in there, adopted same

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on behalf of the Defendant and urged the Court to accept same and enter it as the Judgement of the Court.

Proceeding on the fact that this Judgment emanated from a plea bargain agreement, it is necessary to reproduce that agreement here, subject to Court's scrutiny and discretion.

I have turned to that plea bargain agreement of 6<sup>th</sup> day of August, 2019, the Defendant—Mr. Omonigho Efe Obed falsely represented himself as Diego Lucas through a domain name (www.facebook.com) and subsequently fraudulently induced one Ruth Hendrickson to deliver the sum of \$300 (Three Hundred Dollars) by Western Union money transfer.

It is to be noted that the Defendant have voluntarily admitted the offence, he is remorseful and willing to pay the appropriate fine and forfeit the entire seized items used in the illegal act to the Federal Government of Nigeria right away.

As for the plea bargain of 6<sup>th</sup> day of August, 2019, it is the Court's opinion that its content has been read and explained in English Language to the Defendant and he has been informed and reminded, that –

- a. That he has the right to remain silent.
- b. Of the consequences of not remaining silent

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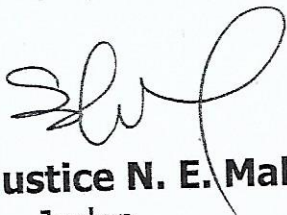
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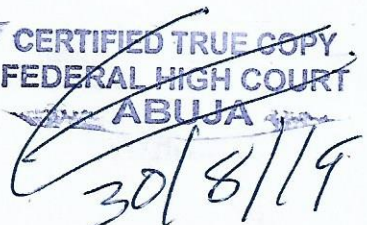
c. That he is not obliged to make any confession that could be used in evidence against him.

I have noted that the Defendant must forfeit the recovered items— "Infinix Phone" and "HP Laptop" to the Federal Government of Nigeria right away.

Now, this Honourable Court is satisfied that the Defendant intended to admit commission of the offence by the plea of guilt made in open Court, together with the plea bargain agreement dated 6<sup>th</sup> August 2019, made voluntarily and without undue influence.

Proceeding on the authority of *Duke Orji v. FRN* (2019) LPELR, (SC 148/2013); I find the Defendant—**Omonigho Efe Obed** guilty of the offence as charged, as constituted under section 22 (2) (b) (ii) of the Cyber Crimes (Prohibition, Prevention, etc) Act 2015 and thus convicted.

  
**Hon. Justice N. E. Maha**  
Judge  
9/8/2019

  
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## ALLOCUTUS

By the allocutus entered by Learned Defendant's Counsel, Richard Aneke Esq., submitting that the Defendant is a first time offender and has not wasted the time of the Court. He stated more that the Convict is ashamed of his act and promised to put up a good behaviour from now on. He referred the Court to fact that the Convict's pre-arraignment plea bargain, which shows remorse and restitution to the victim. He pointed out that the Defendant is a young man, with a promising future and urged the Court to hand down reformatory sentence under the Administration of Criminal Justice Act.

**Court:** Any record of previous conviction, Prosecution Counsel?

**Maryam Aminu Ahmed Esq.:** None to my knowledge, my Lord.

## SENTENCE

**Court:** With regards to Section 270(11) of the Administration of Criminal Justice Act, 2015, this Court, having a while ago convicted the Defendant as charged, is under a duty to consider the sentence as agreed upon by the parties to be satisfied of the following:

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- a. That such sentence as agreed is an appropriate sentence and thus impose same.
- b. If the Court believes that a lesser sentence should be imposed than the agreed sentence, impose a lesser sentence.
- c. If the Court is of the view that the offence requires a heavier sentence than the sentence agreed upon, then inform the Defendant of such heavier sentence he considers to be appropriate.

To undertake this duty, resort must be had to the statutory Act under which the Defendant is convicted. Having considered all the factors under the ACJA, 2015, I have no difficulty in coming to the inevitable conclusion that the sentence as agreed upon in the plea bargain is an appropriate, together with the addition of more orders in this Judgment. Consequently, found acceptable by the Defendant.

So, Mr. Omonigho Efe Obed, you have been found guilty by this Court and convicted of the offence as constituted under Section 22(2) (b) (iv) of the Cyber Crimes (Prohibition prevention etc) Act 2015, I have considered the plea bargain agreement, especially the fact that you promised a voluntary cessation of offence and must depose to Affidavit of good behaviour together with remorse shown and evidenced by plea bargain agreement.

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Having regards to the relevant factors under the ACJA 2015, the plea bargain— I impose on you **Omonigho Efe Obed** a **6-month** prison term with option of a fine of N300,000 (prison term starts to run from the date of Judgment, while fine is to be paid into any Federal Government of Nigeria's designated Treasury Single Account).

I make a compensation order, that the sum of £300 (Three Hundred Dollars) be paid to Ruth Hendrickson by the Economic and Financial Crimes Commission to the American Embassy, within 180 days from the date of this Judgment.

Upon failure to pay Ruth Hendrickson within 6 months of the date of this Judgment; that money ultimately forfeited to the Federal Government and paid into any Federal Government of Nigeria's designated Treasury account by the Economic and Financial Crimes Commission, within 30 days of the expiration of the time allowed for restitution.

Defendant must depose to an affidavit of good behaviour before release.

Evidence of payment of fine together with affidavit of good behaviour must be duly filed in this Court's Registry before release of the Convict.

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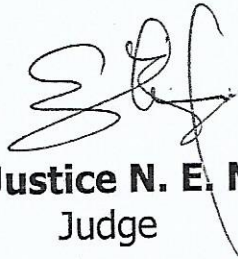
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It is ordered that the Infinix Phone and HP Laptop recovered from Convict shall be forfeited to the Federal Government and sum obtained from sales of recovered items paid into any Federal Government T.S.A account.

This is the Judgement of the Court delivered this 9<sup>th</sup> day of August, 2019.



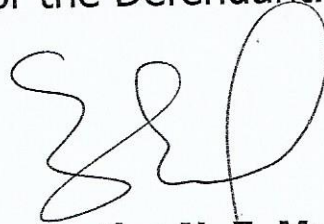
**Hon. Justice N. E. Maha**  
Judge

Defendant in Court. (Speaks and understands English Language).

**Appearances:**

**Maryam Aminu Ahmed Esq.** for the Prosecution.

**Richard Aneke Esq.** for the Defendant.



**Hon. Justice N. E. Maha**  
Judge  
9/8/2019

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