

**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 07TH DAY OF OCTOBER, 2019**

SUIT NO: AK/110C/2014

**BETWEEN:**

<b>THE STATE</b>	...	<b>COMPLAINANT</b>
<b>AND</b>		
<b>SUNDAY DADA ADEBAYO</b>	...	<b>DEFENDANT</b>

**JUDGMENT**

The complainant in this case, filed the information against the defendant, on 20/10/2014. Originally, there were two defendants listed in the information. However, on 09/06/2015, the court, under the hand of Hon. Justice T. O. Osoba, struck out the name of the erstwhile 1<sup>st</sup> defendant (Oguntuase David Akintayo) (M), due to his death. This explains why there is only one defendant in this judgment. On 20/02/2019, the defendant was arraigned before this court on the original charge. The prosecution filed amended information, on 05/07/2019. The defendant was re-arraigned on the amended charge on 15/07/2019. He pleaded not guilty to the 1st, 2nd, 3rd and 4th counts.

The case of the prosecution against the defendant was rendered through the evidence of one witness (PW 1). The witness gave his name as Ephraim C. Otti. He is a public servant, an investigator who works with Independent Corrupt Practices and Other Related Offences Commission (I. C. P. C.), Abuja. His evidence is that his office received a petition

(exhibit P1) from a group called Integrity Group, which led to the investigation of the complaints in the petition. The investigation resulted in the implication of the defendant and the original (but deceased Dr. David Akintayo Oguntuase) 1st defendant in this suit in the crimes charged in this suit. Investigators found that a payment voucher in the sum of N1 million was prepared in the name of the defendant, which narrated that the sum was meant to be paid to Time and Space Consult for a 2008 feasibility study for capital projects rendered to the Federal Medical Centre in Owo (FMC.). The payment voucher is dated 30/12/2008 (exhibit P2). A memorandum was attached to the payment voucher, authored by the defendant to the Medical Director, FMC., dated 24/12/2008, which requested for advance payment for the sum of N1 million to Time and Space Consult for feasibility studies done at the FMC. Investigators also found a cash book entry attached to the payment voucher, which showed that as at 17/12/2008, the sum of N1 million was entered as having been paid to the defendant for feasibility studies done by Time and Space Consult. The consultant, Time and Space Consult denied executing any job for Federal Medical Centre, Owo for feasibility studies and for which it should be entitled to the sum of N1 million naira. The firm also denied knowledge of its demand for payment for the sum involved.

Two payment vouchers (exhibits P3 and P4) prepared in the name of Time and Space Consult, for actual works done and requested for by the firm were tendered in evidence. One of the documents is in the sum of N15.6 million (for consultancy services rendered to FMC for 2008 capital projects). The other is in the sum of N5 million (as balance for the consultancy project for 2008).

It is remarkable that the defendant was at the times of the preparation and presentation of the memorandum requesting payment of the sum of N1 million to Time and Space Consult, the Chief Accountant of the Federal Medical Centre, Owo. The then, Medical Director of the facility, who is now deceased, approved the request presented to him by the defendant. The defendant rendered a statement to investigators on his involvement in the transaction (exhibits P5 and P5A). Late Dr. Oguntuase made a statement to the investigators (exhibit P6). A representative of Time and Space Consult (Architect Olabintan) made a statement to the investigators (exhibit P7). Architect Olabintan earlier testified in this suit, while it was being tried by Osoba, J. (as he then was). The record of proceedings of his testimony before the court was tendered in evidence (exhibit P9). Due to the medical challenges being faced by Architect Olabimtan, he could not attend court to testify as a witness and exhibit P8 was tendered as excuse for his inability.

PW 1 and his team members formed the opinion that there were loud irregularities in the sequence, timing and content of the documents prepared for the sum of N1 million, which amounted to crimes committed. PW 1 also believed that the defendant gave false information to his team of investigators.

The witness tendered the following exhibits:

- a. Exhibit P1 – Letter addressed to the Chairman I. C. P. C., dated 04/01/2011, by the Integrity Group.
- b. Exhibit P2 – Federal Medical Centre, Owo Payment Voucher, with serial no. 42/08 in the name of Mr. S. D. Adebayo, dated 30/12/2008, along with two attachments.

- c. Exhibit P3 – Federal Medical Centre, Owo Payment Voucher, with serial no. 01/09, dated 29/01/2009, in the name of Time and Space Consult, along with attachments.
- d. Exhibit P4 – Federal Medical Centre, Owo Payment Voucher, with serial no. 08/09, dated 01/04/09, in the name of Time and Space Consult, along with attachments.
- e. Exhibit P5 – P5A, respectively, Statement of Adebayo Sunday D., dated 07/02/2011, made to I. C. P. C. and the Confession Form dated 07/02/2011.
- f. Exhibit P6 – Statement made to I. C. P. C. by Oguntuase David Akintayo on 20/03/2011.
- g. Exhibit P7 – Statement made by Architect Olusegun D. Olabintan, dated 09/03/2011, made to I. C. P. C.
- h. Exhibit P8 – Letter from FMC dated 01/11/2018, signed by Dr. Adeleke, O.
- i. Exhibit P9 – Record of Proceedings in Charge No. AK/110C/2014, covering 08/11/2014 and 07/07/2015.

In consequence of the conclusion of the investigators, the following four counts were filed in the charge against the defendant:

“STATEMENT OF OFFENCE: COUNT ONE

Doing an act in furtherance of the commission of an offence contrary to Section 26(1) (b) of the Corrupt Practices and Other Related Offences Act, 2000 and punishable under Section 19 of the same Act.

PARTICULARS OF OFFENCES

Sunday Dada Adebayo (m) on or about the 24<sup>th</sup> day of December, 2008 or thereabout, whilst being the Chief Accountant of the Federal Medical Centre, Owo, Ondo State in furtherance of the commission of the offence of the use of position to confer a corrupt advantage upon self, applied to the Medical Director, Oguntuase David Akintayo (m) for his approval for the provision and payment of the sum of One Million Naira only (N1,000,000.00) from the coffers of the Centre for use purportedly as advance payment to a consultant, Time and Space [Messrs Time & Space Consult] for its provision of feasibility studies services with respect to the execution of year 2008 Capital Projects at the Federal Medical Centre, Owo, Ondo State when no such service had being undertaken by the consultant, Time and Space [Messrs Time and Space] for the Federal Medical Centre, Owo, Ondo State.

#### STATEMENT OF OFFENCE: COUNT TWO

The use of position to confer Corrupt Advantage upon self contrary to and punishable under Section 19 of the Corrupt Practices Act, 2000.

#### PARTICULARS OF OFFENCE

Sunday Dada Adebayo (m), on or about the month of 24<sup>th</sup> December, 2008 or thereabout, whilst being a Public Officer used his position as the Chief Accountant, Federal Medical Centre [FMC], Owo, Ondo State to confer a corrupt advantage upon himself when he received and kept for himself the sum of One Million Naira only (N1,000,000.00) received by him from the Centre's coffers as advance

payment meant for a consultant, Time and Space [Messrs Time & Space Consult] for a non-existent feasibility studies services it purportedly provided the Federal Medical Centre [FMC], Owo in the course of the execution of its year 2008 Capital Projects.

#### STATEMENT OF OFFENCE: COUNT THREE

The making of statement which is untrue in any material particular contrary to 25 (1) (a) and punishable under Section 25 (1) (b) of The Corrupt Practices And Other Related Offences Act, 2000.

#### PARTICULARS OF OFFENCES

Sunday Dada Adebayo (m) on or about the 24<sup>th</sup> day of December, 2008 at Owo, being the Chief Accountant of the Federal Medical Centre, Owo, Ondo State made a statement which is untrue in any material particular contained in the Memorandum entitled 'Release of N1,000,000.00 to the Consultant' addressed to the Medical Director, applying for approval for the provision of funds from the coffers of the centre in the sum of One Million Naira only (N1,000,000.00) being the amount purportedly needed for use in effecting the advance payment meant for a consultant, Time and Space [Messrs Time & Space Consult] for none-existent feasibility studies services it purportedly provided the Federal Medical Centre [FMC], Owo, in the course of the execution of its year 2008 Capital Projects.

STATEMENT OF OFFENCE: COUNT FOUR

The making of statement which is false contrary to 25 (1) (a) and punishable under Section 25 (1) (b) of The Corrupt Practices And Other Related Offences Act, 2000.

PARTICULARS OF OFFENCE

Sunday Dada Adebayo (m) on or about the 7<sup>th</sup> day of February, 2011, or thereabout, at Owo, made a statement to Mr. Shehu Mohammed, Tanko Samaila Abdullahi, and Ephraim Otti, all investigating officers with the Independent Corrupt Practices And Other Related Offences Commission, [ICPC], Abuja, which was false when he asserted that the sum of One Million Naira only (N1,000,000.00) was paid to a consultant Time and Space [Messrs Time & Space Consult] for the feasibility studies services it rendered the Federal Medical Centre [FMC], Owo in the course of the execution of its year 2008 Capital Projects, which said fact he knew to be false as no such service had been undertaken nor any such payment been paid over to Messrs Time and Space Consult.” (Bold font for emphasis)

PW 1 was cross-examined.

The defendant was the sole witness for his defence. He was DW 1. The defence opened on 17/06/2019. He testified that he retired from the Federal Medical Centre, Owo as the Director of Finance. When he was shown the second page of exhibit P2, which contained the memorandum demanding payment to Time and Space Consult (which is one of the basis of the charge before the court), he admitted that he wrote and signed the document. He explained that on 24/12/2008, the then Acting Medical

Director, late Dr. O. A. Oguntuase, gave him verbal directive to release the sum of N1 million to the consultant, Messrs. Time and Space Consult, for a feasibility study assignment. He claimed to have put the directive as a written memorandum, which he sent to the named Medical Director, for his approval. The Medical Director gave his approval to the memorandum for payment of the sum requested. In the words of the defendant:

"I sent the memorandum to my Deputy, Mr. S. O. Ogunleye for documentation. Mr. Ogunleye minuted the approved memorandum to Principal Executive Officer (Accounts) to raise voucher for advance payment, based on financial regulation.

...

Based on the situation and guidelines, the voucher in exhibit P2 was raised and my name inserted as payee."

The defendant explained the types of advances, which exist according to guidelines in the Financial Regulations. He testified that it is the Medical Director who is to initiate payment of advances. The Medical Director is also to appoint a suitable Accountant in FMC to disburse and ensure repayment of advances. The defendant denied collecting any cheque, when his attention was directed to the last page of exhibit P2. He informed the court that posting of cheques into cash book does not amount to payment (until the Bank actually pays) but just intended to be a paper trail of events or activities. The defendant denied knowledge of all that are recorded in cashbooks because there are other officials whose duty it is to post such information into cash books.

The defendant admitted knowledge of Time and Space Consult as one of the contractors to Federal Medical Centre, Owo. The defendant explained that the normal procedure is that the Medical Director is in charge of contract and a contractor would send its letter to the Medical Director. He denied taking or receiving any cash or cheque in the sum of N1 million from FMC. He admitted that he made a statement to officers of I. C. P. C, when confronted with that fact. He denied the suggestion that he lied to officers of I. C. P. C. in any or all his statements to them.

At the end of leading evidence, learned counsel for the parties filed and adopted their respective written addresses.

The defendant's final written address was filed on 25/06/2019. It has to be remarked that the process was filed before the prosecution filed the amended charge. The defence counsel did not find any need to adjust any part of the process filed and same was adopted by N. A. Ayoola Esq., who signed it, on behalf of the defendant.

In the view of learned counsel, the sole issue for determination of this case is whether the prosecution proved essential ingredients of offences alleged against the defendant and/or whether there are no doubts in the case of the prosecution, which should be resolved in favour of the defendant.

In respect of charges predicated on sections 19, 25(1)(a) & (b), and 26(1)(b) of the statute allegedly offended by the defendant, learned counsel submitted that the prosecution failed to adduce any evidence in proof of all ingredients of the said offence, which created doubt in the case of the prosecution.

Learned counsel conceded that the defendant was a public officer at the time the alleged offences were allegedly committed, as the Chief Accountant of the Federal Medical Centre, Owo. He, however, noted that there is no evidence to prove that the defendant received the alleged sum of N1 million. He insisted that there was no payment. In all of these, it is the view of learned counsel that doubt was created in the case of the prosecution, which should be resolved in favour of the defendant. In the view of learned counsel, the statement of the defendant to the investigators does not amount to a confession and that the case of the prosecution is predicated on suspicion, which cannot ground conviction.

In respect of the offence charged under section 25(1)(a) & (b) of the relevant statute, reference was made to exhibit P5, which is the defendant's statement to the investigators. In the view of learned counsel, the prosecution did not lead evidence on the particular part of exhibit P5, which is false and asked whether it is the entire statement which is false.

On the offence charged under section 26(1)(b) of the statute, learned counsel noted that the accused person raised a memorandum dated 24/12/2008, but that the prosecution had the duty to prove that at the time the defendant wrote the memorandum he had the intention to commit a criminal offence under the Act. It was submitted that the section cited does not create a strict liability offence. It was also submitted that the raising of a memorandum on its own does not constitute an offence until the purpose for its being raised is carried out. The court was reminded that the defendant did not collect the sum involved, which fact was not proved beyond reasonable doubt.

The defence counsel urged the court to discharge and acquit the defendant, in respect of all four counts in the charge, as the prosecution failed to prove essential ingredients of the offence or where there is doubt in the case of the prosecution, the doubt is to be resolved in favour of the defendant.

The final written address for the prosecution was filed on 05/07/2019. G. P. West Esq. signed and adopted it. In the view of learned counsel, the sole issue for determination is whether the prosecution proved its case beyond reasonable doubt.

Learned counsel opened his argument with the second count and made reference to the evidence of PW 1 and the defendant, as well as sections 2 and 19 of the Act. Learned counsel explained that the prosecution proved that the defendant requested for approval for payment of the sum of N1 million to Time and Space Consult for a contract which was not in existence or anticipated, without the sum, which was approved, processed and paid to the defendant, being paid over to the named contractor or refunded to the coffers of the Federal Medical Centre, Owo but appropriated and kept by the defendant. The defendant, according to learned counsel, was shown to have received the sum of N1 million rather than Messrs Time and Space Consult.

In the view of learned counsel, the acts of the defendant in putting up a request which is unfounded constitute conferment of corrupt advantage upon himself discernible by his fraudulent conduct in putting up the unlawful request contained in the internal memorandum, contrary to section 19 of the Act. The unchallenged evidence adduced by the prosecution, in the view of learned counsel, qualifies to be accepted by

the court and acted upon, with a verdict of guilt entered against the defendant. The court was also implored to make an order under section 47 of the Act directing the defendant to retribute and forfeit the sum of N1 million being property, subject matter of the offence committed by the defendant.

With respect to the first count, reference was made to section 26(1)(b) of the Act. Learned counsel then submitted that the prosecution has proved that with the writing of the memorandum in exhibit P2, for a non-existent contract, coupled with other evidence found by investigators, the defendant has been shown to have knowingly put up the memorandum in furtherance of his quest to commit the offence of the use and abuse of his position to confer undue corrupt advantage upon himself, to facilitate the release of the sum requested, which is contrary to the section cited.

With respect to the third and fourth counts, learned counsel referred to sections 25(1)(a) & (b) of the Act and explained that the defendant, a public officer, presented his request in the memorandum in exhibit P2, to another public officer (late Dr. David Akintayo Oguntuase, then Medical Director of Federal Medical Centre, Owo) for his concurrence and granting prerequisite approval to facilitate the processing and payment of the above mentioned funds, in respect of a non-existent contract. Learned counsel noted that the funds were processed and payment effected to the defendant from the coffers of the Centre, which were never paid over to Time and Space Consult nor refunded to the Centre, but appropriated and kept by the defendant.

Replying to issues raised and argued by the defence counsel, prosecuting counsel submitted that reliance on the defences of "error" and

"compliance with superior orders" do not amount to exculpatory defence in the light of the defendant's inculpatory evidence in the defendant's statement in exhibit P5.

On defence counsel's reference to section 16 of the Act in his argument, learned prosecuting counsel explained that section 19 was intended by the prosecution and a typographical error of that nature could not be fatal to its case. (Court - The section was corrected in the amended charge).

It is the view of learned counsel that exhibit P5, made voluntarily by the defendant, contains admission which satisfy provisions of section 28 of the Evidence Act, 2011 and the defendant is bound by his admission of guilt.

On attempt to rely on the defence of obedience to superior orders, reference was made to decisions in *Nwaoga v. State* [1972] 1 All NLR (Pt. 1) 149 and *Nigerian Airforce v. Kamaldeen* [2007] 7 NWLR (Pt. 1037) 164 to submit that obedience to unlawful or illegal orders will not absolve a defendant in a case of this nature.

In the view of learned counsel, the defendant's evidence lacked credibility and was contradictory.

It was submitted that the prosecution proved its case beyond reasonable doubt. The court was requested to find the defendant guilty, as charged, and convict him accordingly.

The defendant filed a reply written address on 15/07/2019. N. A. Ayoola Esq. signed it. Learned counsel submitted that the extra-judicial

statements of persons who did not testify at the trial is not admissible in evidence, except permitted by the law. In the view of learned counsel, it would amount to miscarriage of justice for the court to rely on statements of persons who the defendant did not have opportunity to cross-examine.

It is also the view of learned counsel that evidence presented by the prosecution (cash book) referred to a cheque, while PW 1 speculatively reverted to cash payment, in a contradictory manner.

Having concluded a revision of the charge, evidence led at the trial and summary of arguments presented by learned counsel, it is settled that in a criminal trial, it is the duty of the prosecution to prove its case beyond reasonable doubt, and a general burden to rebut the presumption of innocence constitutionally guaranteed to the citizen. The burden on the prosecution is only discharged when the essential ingredients of the offence charged have been established and the accused person is unable to bring himself within the defences or exceptions allowed under the law generally or the statute creating the offence. See *Oteki v. Attorney-General of Bendel State* [1986] 2 NWLR (Pt. 24) 648. The determinant index in arriving at that standard of proof expected is the quality and not the quantity of evidence adduced by the parties with the main pointer being the discretion of the prosecution. In assessing the quality of evidence, what would be at play are the admissibility, credibility, positivity and the value of the evidence. It follows therefore that proof beyond reasonable doubt is not predicated on the number of witnesses called by the prosecution. See *Musa v. State* [2017] 5 NWLR (Pt. 1557) 43 at 57-58.

The guilt of a defendant 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.

In this case, the prosecution called one witness, who is one of the officers of the Independent Corrupt Practices and Other Related Offences Commission (I. C. P. C.) who investigated the allegations against the defendant. In the case of *Bakare v. FRN* (2016) LPELR-41361(CA), the court took the view that the evidence of an investigator is not hearsay evidence. The court stated as follows:

"As for the evidence of PW2, it cannot by any stretch of imagination be described as hearsay. PW2 was one of those who carried out an investigation of the matter now on appeal and he gave evidence of what he discovered in the course of his investigation. What amounts to hearsay is settled. See *Subramanian v. Public Prosecution* (1956) 7 WLR p.965 at 969; *Arogundade v. The State* (2009) 1 - 2 SC 6. See also Section 37 of the Evidence Act. The evidence of PW2 was not something said to him that he wanted to pass on as the truth of that thing said to him. His evidence as earlier mentioned, was what he himself discovered in the course of his investigation."

A court is perfectly entitled to convict on the evidence of one witness if his evidence is credible, admissible and it is believed and accepted by the

trial court. See *Idiok v. State* [2006] 12 NWLR (Pt. 993) 1 at 29. A person who investigated a case is not an ordinary witness. Where his evidence contradicts that from other witnesses for the prosecution, such contradiction is material. See *Nwalu v. State* [2018] 14 NWLR (Pt. 1638) 158 at 172. The duty of the court is, therefore, to examine the evidence presented by the prosecution to enable the court arrive at a decision whether the prosecutorial standard of proof required has been met and whether the guilt of the defendant has been established given the defence offered by the defendant, who testified for himself.

In resolving the issues in this suit, it is the choice of this court that this part of the judgment should first deal with the second count in the charge. In the second count, the defendant is accused of offending section 19 (not 16) of the Corrupt Practices and other Related Offences Act, 2000 (hereafter called "the Act") when he used his position to confer corrupt advantage upon himself. The defendant, allegedly, did that on or about the 24th day of December, 2008, whilst being a public officer who used his position as the Chief Accountant, Federal Medical Centre (FMC.), Owo, Ondo State to confer corrupt advantage upon himself **when he received and kept for himself** the sum of One Million Naira only (N1, 000, 000.00) from the coffers of the Federal Medical Centre as advance payment meant for a consultant, Messrs Time & Space Consult for a non-existent feasibility studies services it purportedly provided the Federal Medical Centre [FMC], Owo in the course of the execution of its year 2008 Capital Projects.

Section 19 of the Act provides that any public officer who uses his office or position to gratify or confer any corrupt or unfair advantage upon himself or any relation or associate of the public officer or any other

public officer shall be guilty of an offence and shall on conviction be liable to imprisonment for five (5) years without option of fine. The offences created by section 19 of the Corrupt Practices and Other Related offences Act, 2000 are not a strict liability offence and as such for the prosecution to succeed in proving the guilt of the defendant, it must prove both *actus reus* and *mens rea*. See *Abah v. FRN* (2017) LPELR-43373(CA).

In order for the prosecution to succeed in a charge of conferring corrupt advantage upon oneself, under section 19 of the Act, the ingredients to prove are as follows:

1. That the defendant is a public officer
2. That he used his position to:
  - a. gratify himself,
  - b. confer any corrupt advantage upon himself or
  - c. confer any unfair advantage upon himself.

See *FRN v. Usman* (2018) LPELR-43894 (CA).

In this case, there is no doubt and there is evidence before the court that the defendant is a 'person' within the law and that he served as the Chief Accountant of the Federal Medical Centre in Owo, at all times material to this case. The evidence of PW 1 proved the status of the defendant for the purpose of the allegation against him. PW 1 testified as follows:

"The defendant was the Chief Accountant of FMC at the time he wrote the memorandum in exhibit P2."

The signature of the defendant on the memorandum attached to exhibit P2 also confirms the fact the defendant was the Chief Accountant of the Federal Medical Centre, Owo. This court holds that the defendant was a public officer at the time he is alleged to have committed the offence charged in the second count of the charge against him.

PW 1 also tendered exhibit P1 as evidence of the complaint/petition received by the Independent Corrupt Practices and Related Offences Commission (I. C. P. C.) against the defendant, which he investigated (along with other members of his team) leading to the filing of the charge against the defendant. In his evidence-in-chief, PW 1 testified about a payment of the sum of N1 million to the defendant, as follows:

"We also found a cash book entry attached to the payment voucher, which showed that as at 17/12/2008, the sum of N1 million was entered as having been paid to the defendant for feasibility studies done by Time and Space Consult."

The page of the cashbook entry attached to the payment voucher (exhibit P2) actually confirms the evidence of PW 1 to the effect that records of the Federal Medical Centre, Owo shows that the defendant was paid the sum of N1 million on 17/12/2008, but in the form of a cheque with serial number 057.

In all of these, the prosecution failed to prove that the defendant received or came into possession of the sum of N1 million in respect of which the allegation against him was generated. Under cross-examination, the evidence of PW 1 fell short of proof of the fact that the defendant gratified himself or conferred corrupt advantage upon himself or unfair

advantage upon himself in respect of the particular sum of N1 million alleged against him. In the absence of proof of this important component of the allegation in the second count of the charge, this court is unable to make a finding that the defendant is guilty of the charge. A finding of guilt cannot be predicated on surmise as suggested by PW 1 when he testified, under cross-examination, as follows:

"I agree that FMC operates through Bank transfers or cheques. I agree that reference was made to a cheque in exhibit P2 – with no. 057. We could not find a cheque stub for cheque 057 anywhere despite the fact that we recovered some cheques from FMC. The defendant, the Chief Accountant, could not help us. We found out that FMC uses Skye Bank account for capital projects. We went to FMC to trace how the money was picked but we could not find where the money was picked from Skye Bank. Exhibit P2 is blank on the bank from where the money was picked. We also noticed that FMC is a hospital, where people pay in cash. **The only possibility is the taking of cash directly from FMC by the defendant**, which resulted in the need to make up papers to make up the short fall, which led to inconsistency in the documentation in exhibit P2. The defendant did not deny the fact that he collected the sum of N1 million. We could not trace the cheque purportedly relied on for alleged payment of the sum of N1 million in any bank used by FMC.

The office of the defendant is the Accounts Department. I know cash is paid into FMC. The defendant did not sign exhibit P2 but he told us that he did not sign in error. The

memorandum attached to the payment voucher (exhibit P2) stated that the sum is meant to be advance payment. I did not state that the account of the defendant was credited. I said the defendant admitted receiving the money. It is not clear from exhibit P2 where the defendant took the sum of N1 million naira." (Bold font for emphasis)

It is the view of this court that there is no evidence before the court that the defendant was paid in cash, especially going by the fact that the payment voucher (exhibit P2), which the prosecution sought to rely upon did not state that the defendant was paid in cash. It is also the view of this court that the defendant did not admit, in any part of exhibit P5 (his statement to the investigators) that he received payment in the sum of N1 million. Relevant part of the defendant's statement to the investigators tendered as exhibit P5-P5A read as follows:

"On the One million Naira paid to the Consultant. **The Medical Director Dr CA Omotola** directed me to put up a memo to him for his approval for Time and Space for the feasibility study he did for the Centre. I am directed verbally by the Medical Director. Even when you advice them, they refused to take advice and that affects my relationship with the Medical Director most of the time, I know the procedure is wrong. I omitted to sign the payment voucher. It is not a good procedure not to sign payment voucher. No evidence of receiving money from me by Time and Space. Though his approval limit was N750, 000, he knows it and once he approved I cannot change it." (Bold font for emphasis)

There is no way the above quoted statement can be stretched to accommodate a finding that it is confessional on the issue of receipt of the sum of N1 million by the defendant, regarding the second count in the charge. This court holds that the second count of the charge is not proved beyond reasonable doubt by the prosecution.

With respect to the first count in the charge against the defendant, the defendant is accused of offending the provisions of section 26(1)(b) of the Corrupt Practices and Other Related Offences Act, 2000 by an act punishable under Section 19 of the same Act. The allegation is that the defendant - Sunday Dada Adebayo (m) - on or about the 24<sup>th</sup> day of December, 2008 or thereabout, whilst being the Chief Accountant of the Federal Medical Centre, Owo, Ondo State, **in furtherance of the commission of the offence of the use of position to confer a corrupt advantage upon himself**, applied to the Medical Director, Oguntuase David Akintayo (m) for his approval for the provision and payment of the sum of N1 million from the coffers of the FMC for use purportedly as advance payment to a consultant, Messrs Time & Space Consult, for its provision of feasibility studies services with respect to the execution of year 2008 Capital Projects at the Federal Medical Centre, Owo, Ondo State (FMC) when no such service had being undertaken by the consultant for the Federal Medical Centre, Owo, Ondo State.

Section 26(1)(b) of the Corrupt Practices and Other Related Offences Act, 2000 (the Act) provides that any person who does any act **preparatory to or in furtherance of the commission of any offence under the Act** commits an offence under the Act and shall be guilty of an offence and on conviction, be liable to the punishment provided for such offence. It should be noted that the section 26(1)(b) of the Act under

which the first count is brought has two arms. The first arm is the provision regarding acts done in preparation for the commission of an offence under the Act. That is not what the defendant was charged for in this case. The second arm of the provision concerns acts done in furtherance of the commission of any offence under the Act, which is the allegation against the defendant. The implication of the dichotomy identified above is that, by the tenure of the specific allegation against the defendant in the first count of the charge, there must have been an offence already committed under the Act by the defendant, upon which subsequent criminal acts alleged in the first charge would be grafted, which are acts done in furtherance of the offence already committed.

The evidence presented to justify the case of the prosecution, with respect to the first count, is that on 17/12/2019, there is a record of that date in the cashbook of the Federal Medical Centre, Owo, that the defendant was paid the sum of N1 million, in cheque. The defendant worked in that establishment at all times material to this case, as the Chief Accountant, which made the defendant a public officer, within the meaning provided by the Act. Having held that there is no proof of the receipt of the sum of N1 million by the defendant either in cheque or in cash, it is the view of this court that the preparation of the voucher (exhibit P2) is not an act done in furtherance of the commission of an offence under the Act. The evidence of PW 1 in regard of the first count does not justify the finding that the prosecution proved the first count in the charge beyond reasonable doubt. This court holds that the prosecution failed to prove the first count in the charge beyond reasonable doubt.

In the third count, the defendant is alleged to have contravened the provisions of section 25(1)(a) of the Act, which is punishable under

section 25(1)(b) of the Act. The complaint is that the defendant made a statement which is untrue, in any material particular, in that on or about the 24<sup>th</sup> day of December, 2008 at Owo, being the Chief Accountant of the Federal Medical Centre, Owo, Ondo State, the defendant made a statement, contained in the Memorandum entitled 'Release of N1, 000, 000.00 to the Consultant' addressed to the Medical Director, applying for approval for the provision of funds from the coffers of the FMC in the sum of N1 million, being the amount purportedly needed for use in effecting the advance payment meant for a consultant, Messrs Time & Space Consult, for a non-existent feasibility studies services it purportedly provided the FMC, Owo, in the course of the execution of its year 2008 Capital Projects.

Section 25(1)(a) of the Act provides that any person who makes or causes any other person to make to an officer of the Commission or to any other Public Officer, in the course of the exercise by such Public Officer of the duties of his office, any statement which to the knowledge of the person making the statement, or causing the statement to be made is false, or intended to mislead or is untrue in any material particular shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand naira or to imprisonment for a term not exceeding two (2) years or to both such fine and imprisonment.

The ingredients of the offence provided under section 25(1)(a) of the Act are as follows:

- a. That the defendant is a 'person' within the meaning of the word under the Act.
- b. That the defendant made or caused another person to make a statement.

c. That the statement was made to a public officer in the course of the exercise of duties of such public officer.

d. That the person making the statement or causing the statement to be made knew that the statement made is:

(i) false, or

(ii) is intended to mislead, or

(iii) is untrue in any material particular.

Under the Act:

1. "Person" includes a natural person, a juristic person, or any body of persons corporate;

2. "Public Officer" means a person employed or engaged in any capacity in the public service of the Federation, State or Local Government, public corporations or private company wholly or jointly floated by any government or its agency including the subsidiary of any such company whether located within or outside Nigeria and includes judicial officers serving in Magistrate, Area or Customary courts or Tribunals.

The evidence led in support of the third count of the charge against the defendant is contained in the memorandum attached to exhibit P2. The memorandum, which constitutes the *actus reus* of the offence is dated 24/12/2008. It is addressed to the Medical Director of the Federal Medical Centre, Owo. S. D. Adebayo (Chief Accountant) of the Federal Medical Centre, Owo, who is the defendant in this case, signed the memorandum.

In the document, the defendant wrote as follows:

"To: Medical Director

From: Chief Accountant

Date: 24th December, 2008

RELEASE OF N1, 000, 000 TO THE CONSULTANT

The sum of N1, 000, 000 is due to the Consultant, Time and Space, as advance payment for the job done on the feasibility studies of the 2008 Capital Projects in the Centre.

The sum of N1, 000, 000 is hereby forwarded for your approval please.

Signed

S. D. Adebayo

Chief Accountant"

PW 1 testified that the investigation of exhibit P2 and the memorandum quoted above showed that there was no contract executed for feasibility studies by the firm named Time and Space Consult. That there was no sum due from FMC, in the sum of N1 million, to the firm. PW 1 testified as follows:

"We developed our investigation strategy - how to go about investigation. We later proceeded to FMC, in Owo in 2011. We demanded for documents which will aid our investigation like vouchers, cheque stubs, cash books, correspondences etc. We analysed the documents provided. In the course of our analysis, we found that a payment

voucher in the sum of N1 million was prepared in favour of the defendant. The narration was to the effect that it was payment to Time and Space Consult for a 2008 feasibility study for capital project. The payment voucher is dated 30/12/2008. A memorandum was attached to the payment voucher, authored by the defendant to the Medical Director, FMC, dated 24/12/2008, which requested for advance payment for the sum of N1 million to Time and Space Consult for feasibility studies done at the FMC.

...

In summary, our investigation revealed that there was no job like feasibility studies that took place in FMC. Time and Space Consult was a known consultant handling consultancy services for FMC in respect of 2008 capital projects. While still handling that project and before he was paid in 2009, the defendant in 2008, used his name to take N1 million from the coffers of FMC without giving any account.

Though the defendant claimed, in his defence that he was directed by Dr. Omotola (the then Medical Director of FMC) to put up a memorandum for his approval (attached to exhibit P2), the memorandum did not state that the defendant was "directed" to do so or as "discussed", as the case maybe. It was Dr. David Akintayo Oguntuase (Acting Medical Director) who did not direct the defendant to put up the memorandum. Our investigation also revealed that the sum of N1 million had actually been paid out and entered into the cash book as such before the memorandum was prepared. Both the memorandum and the payment voucher were after thought to make up for money already expended."

In his evidence-in-chief, PW 1 also testified as follows:

"The defendant was the Chief Accountant of FMC at the time he wrote the memorandum in exhibit P2. David Akintayo Oguntuase was the Acting Medical Director of FMC at the time and the one who approved payment of the sum of N1 million, which the defendant requested."

The defendant made a statement to the investigators, which he confirmed at the trial of this suit, when he was confronted with the document, admitted in evidence as exhibit P5-P5A. Under cross-examination, the defendant testified as follows:

"Exhibit P5 is shown to me. It is my statement I made to I. C. P. C. My attention is drawn to page 2 thereof, which I now read."

In exhibit P5, the defendant referred to the memorandum and stated as follows:

"On the One million Naira paid to the Consultant. **The Medical Director Dr CA Omotola** directed me to put up a memo to him for his approval for Time and Space for the feasibility study he did for the Centre. I am directed verbally by the Medical Director. Even when you advice them, they refused to take advice and that affects my relationship with the Medical Director most of the time, I know the procedure is wrong. I omitted to sign the payment voucher. It is not a

good procedure not to sign payment voucher. No evidence of receiving money from me by Time and Space. Though his approval limit was N750, 000, he knows it and once he approved I cannot change it." (Bold font for emphasis)

Under cross-examination regarding the memorandum in issue, the defendant testified as follows:

"I put up exhibit P2 based on oral directive of the then Medical Director, after I had a discussion with him. That was when I was given the oral directive. I agreed with the directive which led to exhibit P2 being prepared. The Medical Director approved the memorandum I prepared. It was sent to me to take further action. I passed it to my subordinate officers to take further actions.

...

**I agree that the only projects awarded to Messrs Time and Space for FMC are those in exhibit P3 and P4. I agree that Dr. Omotola was Medical Director of FMC before Dr. Oguntuase, to whom I presented the memorandum in exhibit P2. Dr. Omotola had retired over four months before the memorandum in exhibit P2 was raised.**" (Bold fonts for emphasis)

From the evidence before the court, it is the finding of the court that the defendant is a 'person' within the contemplation of the Act under which the charge against him was brought. This court also holds (and the defendant has not denied) that the defendant is the author of the statement(s) recorded in the memorandum which is attached to and forms

the basis of exhibit P2, contents of which are quoted above. This court holds that the statement of the defendant in the memorandum was meant for the attention and action of a public officer, who, in this case, is the Medical Director of the Federal Medical Centre, Owo (then, in the person of late Dr. David Akintayo Oguntuase) in the course of his performance of the duties of his office. This court holds that the Medical Director actually acted on the memorandum in issue on the same date it was presented to him (24/12/2008) when he approved payment of the sum of N1 million to Time and Space Consult for feasibility studies purportedly carried out on capital projects for the Federal Medical Centre, Owo for 2008.

Since the court has no direct means of locating the *mens rea* of the defendant, at the time the memorandum in exhibit P2 was written, in respect of the commission of the offence, the court has to rely on circumstantial evidence to make a finding on that aspect of the offence charged in the third count. In the circumstances of this suit, this court holds that the defendant was not telling the truth when he claimed, in exhibit P5, that it was Dr. Omotola (a past Medical Director of Federal Medical Centre, Owo) who verbally directed him to put up the memorandum because the person so named, by the admission of the defendant, under cross-examination, had retired from the service of the Federal Medical Centre, Owo four months before the memorandum was generated by the defendant and passed to the then Medical Director, late Dr. David Akintayo Oguntuase, for his approval. Under cross-examination, the defendant fatally contradicted his earlier or previous statement in exhibit P5 on who actually allegedly gave oral instruction for the generation of the memorandum, when he testified that it was Dr. David Akintayo Oguntuase who gave the verbal directive. The evidence

of the defendant cannot be and it is not believed on the issue by this court. In any event, the defendant is only expected to obey lawful instructions and not orders which are clearly based on fraud or non-existent facts.

In addition to the above, when there is a verbal instruction, in government or public service, it is customary or a matter of practice that an officer who is a recipient of a verbal instruction will confirm such oral instruction in his own memorandum, in writing, by which he seeks requisite approval. See section 167 of the Evidence Act, 2011. The memorandum in issue in this case lacks such content showing prior verbal instruction and the defendant cannot infuse what is not written in the memorandum of 24/12/2008 into the memorandum, by his oral testimony. It is settled by case law that where a document is clear and unambiguous, parole evidence cannot be led to contradict it. In other words, oral evidence cannot be used to state or alter the contents of a document. See: A.G. Bendel State v. UBA Ltd. (1986) NWLR (Pt. 37) 547. This court holds that the memorandum of 24/12/2008, authored by the defendant, is the product of the defendant's sole initiative and is entirely the action of the defendant.

This court also holds that the defendant, going by his statement in exhibit P5 and his evidence under cross-examination, knew or ought to have known, as the Chief Accountant of the Federal Medical Centre, Owo at all times material to this suit, that there was no contract known as feasibility studies for projects carried out by Time and Space Consult for which the defendant unilaterally sought approval from the Medical Director for payment of the sum of N1 million to Time and Space Consult. It is indeed worthy of note, that Time and Space Consult did not

make a prior demand for the sum of N1 million from the Federal Medical Centre, Owo (FMC) at any time. It was the defendant who knowingly, inordinately, curiously, fraudulently and unjustifiably demanded for the sum of N1 million from the Federal Medical Centre, Owo, purportedly, for the benefit of Time and Space Consult who did not claim such a sum, having not done a job of the nature to be entitled to payment under that heading. It was the defendant's unilateral action. The defendant made a false claim for the simulated benefit of Time and Space Consult, to a public officer. The defendant set out to or intended to mislead and indeed misled the public officer (the Medical Director of FMC, Owo) to approve an unjustified and unfounded payment in the name of an undeserving entity when the defendant knew that there was no basis for such a request. The facts and claim presented to the named public officer in the memorandum authored by the defendant were untrue in every material particular and the defendant knew that fact.

The prosecution was able to prove at the trial that there was no feasibility study carried out by Time and Space Consult for FMC, Owo at any time. Unlike the examples of previous payments made to the same firm and for which the firm demanded, as shown in exhibits P3 and P4, Time and Space Consult did not demand for the payment of the sum of N1 million to her. The defendant was therefore, knowingly, intent on making a false statement to the Medical Director of FMC, Owo. The defendant's knowledge of the falsity of his statement in his memorandum is further confirmed by the fact that all through the trial of this case, the defendant did not assert that there was a contract for feasibility studies awarded to or performed by Time and Space Consult. The defendant did not offer any explanation for his conduct in putting up a false memorandum, except to say, falsely, that a Medical Director, who was no longer in the

service of the Federal Medical Centre, Owo, verbally asked him to put up the fraudulent and false memorandum, which, again, is a false claim.

Section 57 of the Act provides that notwithstanding any written law to the contrary, in any proceedings against any person for an offence under the Act -

(a) any statement made by any person to an officer of the commission or any other person in the course of an investigation under the Act, or any law prohibiting fraud, bribery or corruption; and

(b) any document, or copy of any document or photographic or electronic evidence or thing seized from any person or however obtained by an officer of the commission or any other person in exercise of his powers under or by virtue of this Act or any other relevant law; shall be admissible in evidence in any proceedings under the Act before any court, where the person who gave the thing, made the statement, document, or the copy of such document is dead, or cannot be traced or found, or has become incapable of giving evidence, or whose attendance cannot be procured without an amount of delay or expense which appears to the court unreasonable.

(c) Without prejudice to the foregoing provisions or the provision of any other rule of law or evidence all photographic or electronic evidence, however obtained, shall be admissible in evidence.

In the circumstance, apart from the oral narration of findings from investigation rendered by PW 1, there is evidence before the court that in exhibit P9, Architect Olusegun Dele Olabintan, who is the owner and face of Time and Space Consult (and whose inability to attend court to testify in the court is excused by exhibit P8, due to unremitting health

challenges) earlier testified before this court in this case (coram: Osoba, J.) as follows:

"My firm did not execute a Feasibility study for FMC"

See sections 39 and 147 of the Evidence Act, 2011.

The same Architect Olabintan confirmed the fact that his firm did not have anything to do with an alleged feasibility study in his statement to I. C. P. C. in exhibit P7 when he said:

"I will like to state here that my Firm Time and Space Consult did not carry out any feasibility study work for FMC neither was any request from us for any payment of N1, 000, 000 for feasibility work"

The Medical Director of FMC (late Dr. David Akintayo Oguntuase), who approved the defendant's memorandum in exhibit P2, who obviously cannot attend court, stated in his statement to the I. C. P. C. in exhibit P6, concerning the non-existent feasibility study, as follows:

"On the issue of One million Naira (N1000, 000) applied for on behalf of Time and Space for feasibility studies by the Accountant, it was an issue hotly debated earlier but we resolved to pay it. Unfortunately, the payment was applied for by the accountant rather than by Time and Space and I inadvertently approved it."

In addition to the above, the defendant admitted in exhibit P5 that he omitted to sign exhibit P2 (Payment Voucher) where he was supposed to append his signature and apologized for not signing the document in those portions where his signature was to appear. The payment voucher (exhibit P2) was prepared at the direction of the defendant (as he admitted at the trial) by the defendant's subordinate officer, after the defendant's memorandum was approved by the Medical Director for the payment of the sum of N1 million. The defendant admitted that fact under cross-examination. The defendant, despite the fact that the exhibit P2 was made in his name as beneficiary of the sum approved, failed to append his signature to the document. This court deduced from that abstinence and holds that the defendant deliberately abstained from signing exhibit P2 because the defendant knew that the memorandum, which formed the basis of the Payment Voucher prepared in his name was based on false facts and premises and intended to mislead. The defendant chickened out of his fraudulent scheme at the point of appending his signature to the payment voucher (exhibit P2), which was already written in his name, at his own direction.

It is the view and holding of this court that prosecution succeeded in proving all the essential ingredients of the offence in the third count in the charge beyond reasonable doubt. The defendant did not offer any reasonable or believable defence to the allegation in the third count in the charge. This court does not believe the evidence of the defendant regarding superior instruction because of apparent contradictions in the evidence led in defence of the charge. This court hereby finds the defendant guilty of the offence in the third count of the charge.

Regarding the fourth count in the charge against the defendant, the defendant is accused of contravening the provisions of section 25(1)(a) of the Act by making a statement, which is false, an offence, which is punishable under section 25(1)(b) of the Act. The complaint is that on or about the 7<sup>th</sup> day of February, 2011, or thereabout, at Owo, the defendant made a statement to Mr. Shehu Mohammed, Tanko Samaila Abdullahi, and Ephraim Otti (PW 1), all investigating officers with the Independent Corrupt Practices And Other Related Offences Commission, Abuja (I. C. P. C.), which was false when he asserted that the sum of One Million Naira only N1 million was paid to a consultant, Messrs. Time & Space Consult, for the feasibility studies services it rendered to the FMC, Owo in the course of the execution of its year 2008 Capital Projects, which said fact he knew to be false as no such service had been undertaken nor any such payment been paid over to Messrs. Time and Space Consult.

Section 25(1)(b) of the Act provides that any person who makes or causes any other person to make to an officer of the Commission or to any other Public Officer, in the course of the exercise by such Public Officer of the duties of his office, any statement which to the knowledge of the person making the statement, or causing the statement to be made is false, or intended to mislead or is untrue in any material particular; shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand naira or to imprisonment for a term not exceeding two (2) years or to both such fine and imprisonment.

The ingredients of the offence alleged against the defendant are:

- a. That the defendant is a person within the meaning given by the Act.

- b. That the defendant made a statement to an officer of the I. C. P. C. in the course of such officer's performance of his official duties.
- c. That such statement made by the defendant is false and the defendant knew that the statement:
- (i) is false, or
  - (ii) intended to mislead, or
  - (iii) is untrue in any material particular.

The statement of the defendant, which is the basis of the fourth count in the charge, is exhibit P5 and it is dated 07/02/2011. It is the extra-judicial statement, which the defendant made to officials of the I. C. P. C., including PW 1, who tendered the statement in evidence. The evidence against the defendant is that the defendant falsely stated to the officers that the sum of N1 million (One million naira) was paid to a consultant Messrs. Time & Space Consult for the feasibility studies services rendered to the Federal Medical Centre, Owo. The alleged false statement made on 07/02/2011, is as follows:

"On the One million Naira paid to the Consultant. The Medical Director Dr CA Omotola directed me to put up a memo to him for his approval for Time and Space for the feasibility study he did for the Centre. I am directed verbally by the Medical Director. Even when you advice them, they refused to take advice and that affects my relationship with the Medical Director most of the time, I know the procedure is wrong. I omitted to sign the payment voucher. It is not a good procedure not to sign payment voucher. **No evidence of receiving money from me by Time and Space.** Though

his approval limit was N750, 000, he knows it and once he approved I cannot change it." (Bold font for emphasis)

It is the view and holding of this court that the defendant did not state or imply, in the statement quoted above, that the sum of N1 million naira was paid to Time and Space Consult for feasibility study carried out for the Federal Medical Centre, Owo. It is the view and holding of this court that while it is a fact that the defendant made the statement quoted above to officials of the I. C. P. C. (which included PW 1), who were investigating a report of crime committed, against the defendant, as contained in exhibit P1 and thus, were in the course of performing the duties of their respective offices, the fact that the defendant asserted in his statement that he did not have any evidence of payment or receipt of payment made to Time and Space Consult, is confirmation of the fact that the defendant was not confirming payment. The court holds that the defendant did not clearly or positively assert, in exhibit P5, that Messrs. Time and Space Consult was paid the sum of N1 million by the Federal Medical Centre, Owo or by himself, in his statement to officials of I. C. P. C. (which included PW 1) dated 07/02/2011, as alleged in the fourth count in the charge. It is the view of this court that the ingredients of the offence charged in the fourth count of the charge was not proved beyond reasonable doubt by the prosecution. The defendant is hereby found not guilty of the fourth count in the charge in this case.

In the case of *Auwalu v. FRN* (2017) LPELR-43824(SC), the court stated that one of the principal aims of Corrupt Practices and Other Related Offences Act 2000 was to check official corruption and abuse of office by political and public office holders. Under the said Act, the Independent Corrupt Practices and Other Related Offences Commission

was established and its function clearly set out in Section 6. That is exactly the purpose of the prosecution of this case, which was partly proved at the trial.

While there may have been good reasons to be suspicious of the inexplicable conduct of the defendant in respect of actions he was involved in, the prosecution had the duty to prove each count of the offence charged before the court may proceed to convict the defendant. It is proof based on admissible evidence that may lead to conviction.

In sum:

- a. This court finds the defendant not guilty of the offence charged in the **first count** of the charge. The defendant is therefore discharged and acquitted on the first count.
- b. This court finds the defendant not guilty of the offence charged in the **second count** of the charge. The defendant is therefore discharged and acquitted on the second count.
- c. This court finds the defendant not guilty of the offence charged in the **fourth count** of the charge. The defendant is therefore discharged and acquitted on the fourth count.
- d. This court finds the defendant guilty of the **third count** of the charge. The defendant is therefore convicted in respect of the third count in the charge, accordingly.

The court will therefore listen to evidence or argument of learned counsel for the purpose of mitigation of sentence or punishment.

Bodeadebehingbe J.

O. A. ADEGBEHINGBE, J.

J U D G E

Date: 07/10/2019

### ALLOCUTUS

Ayoola Esq. :- The principles to guide the court are stated in section 384 of the Administration of Criminal Justice Law, 2015 (ACJL). The court has discretionary power in sentencing. The court is not bound to award the maximum punishment. Under the provisions, the court can consider option of fine. The convict is a first offender. On account of this case, the convict was suspended. He is over 60 years old. He is retired. He is remorseful. We urge the court to temper justice with mercy.

Ikupolati Esq. :- We do not oppose the plea of the defence counsel.

### SENTENCE

Having given consideration to the plea of leniency offered by the defence counsel, which is not opposed by the prosecuting counsel, coupled with consideration of the principles set out in s. 384 of the Administration of Criminal Justice Law, 2015, it is the view of this court that the defendant must be punished as prescribed by Law to ensure that the type of conduct alleged against him will be reduced in the society.

Thus, going by the provision of s. 25(1)(b) of the Corrupt Practices and Other Related Offences Act, 2000 under which the defendant is charged, the defendant is hereby sentenced to one year imprisonment or shall pay the sum of N100, 000.00 (One hundred thousand naira) in lieu of imprisonment for the 3rd count in the charge.

Odeledegbelingbe J.

O. A. ADEGBEHINGBE, J.

J U D G E

Date:- 07/10/2019

#### ATTENDANCE

1. O. A. Ikupolati Esq. (Asst. Chief State Counsel, Federal Ministry of Justice, Abuja) for the prosecution.
2. N. A. Ayoola Esq. for the defendant.