

IN THE HIGH COURT OF FEDERAL CAPITAL TERRITORY  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT VACATION COURT 2, NYANYA, ABUJA

SUIT NO. FCT/HC/CR/435/19

**BEFORE HIS LORDSHIP:**

**HON. JUSTICE MUAWIYAH BABA IDRIS**

**BETWEEN**

**FEDERAL REPUBLIC OF NIGERIA**

**COMPLAINANT**

**AND**

**OLUMIDE AGBI**

**DEFENDANT**

29/07/2019

Defendant in court. He understands English language

**RULING ON SENTENCE**

The convict, pursuant to plea bargain agreement made on 24/6/19 the plea of guilty to the one count charge, was convicted on 22/7/19.

The prosecution counsel urged the court to sentence the convict in accordance with the plea bargain agreement.

In line with the plea bargain agreement an order of forfeiture of the proceeds of crime, to wit: Mac book Air laptop.

The forfeited item shall be sold and proceeds of same shall be paid to the victim as restitution.

The counsel pleaded guilty to one count charge punishable under S.322 penal code. S.322 provides:

“Whoever cheats shall be punished with imprisonment for a term which may extend to three years or with fine or with both.”

In the case of ZACHEOUS VS. PEOPLES OF LAGOS STATE (2015) LPELR-24531 (CA) it was held that in sentencing a convict "the Judge is bound to consider factors, such as the seriousness or other wise of the offence; the prevalence of the offence, whether the convict is a first time offender; and prevailing attitude of the populace to the offence."

Learned counsel for the convict urge the court to tamper justice with mercy.

I have read the plea bargain agreement . parties agreed on ridiculous terms of one month imprisonment. Let me say that it is not incumbent on the court to adopt the agreement in toto.

Court have a duty to enforce the provisions of the Act under which an accused is charged.

It is not in doubt that cyber crimes dent the image and affect the integrity of our dear country and I must say that the appropriate law/act to charge the convict is the cyber crimes (protection and prohibition ) Act that has laudable provisions aimed at redeeming the image and integrity of this nation. It has harsh and appropriate punishment that can deter young persons from engaging in cybercrimes. **My Lord Hon. Justice Hannatu Jummai Sankey JCA** made a striking comment in the case of JUBRIL VS. F.R.N (2018) LPELR-43993 (CA).

"It must be disheartening to all right thinking Nigerian that the rampant, atrocious and egocentric crime has unleashed dire consequences on the integrity and image of the country. This has both short and long term effects on the society and the nation as a whole. Therefore although the punishment prescribed by law..... may be appear harsh and draconian, it is hoped that it will deter like-minded persons from embarking on such criminal ventures."

Cybercrimes are flourishing amongst our youth to the extent that even secondary school students engage in it. As a result of Cybercrimes many have become hypertensive or mentally unstable with no resources to attend to their health.

It is most appropriate that our prosecution agencies arraign accused persons under the provisions of the right law, before the court that has jurisdictional competence to try the case. I say no more.

S.270 (II) (C) ACJA 2015 gives the court the power to imposed a heavier punishment other that the one agreed by the parties and I intend to go by that provision. It is my humbly view that by charging the convict under the penal code law, the convict had reaped the benefit of the bargain.

Consequently, the convict is hereby sentenced to a terms of 3 years imprisonment on the one count charge.



HON. JUSTICE MUAWIYAH BABA IDRIS

Presiding Judge

29/7/19

Appearances:

S. N Robert Esq. for the prosecution

Adaji Abel Esq. for the defendant.