

ated 2/10/2018 going to the house of Okey Onyejiaka to discuss the issue with him. The defendant in his evidence-in-chief stated that there is no lie in the Information he gave to FCC. If that is the case then why contest the obligation in Exhibit P3? Since the release of Okey Onyejiaka by EFCC was to the Defendant, he remained in his custody and has the responsibility to always ensure his production whenever the need arose or arises. The Defendant until then remains bound on his recognizance until discharged.

I do not therefore see how the Defendant can wriggle out of his obligation in Exhibit P3 with which he bound himself to the EFCC to ensure the presence of Okey Onyejiaka or forfeit his Bail Bond of ₦50M as agreed therein having failed to produce Okey since September 2018 till date.

This 2nd Count is therefore established against the Defendant for the fact that his inability to produce Okey Onyejiaka who he did not know directly on the basis of which the latter was released has turned out to be a lie. The Punishment for Making False Statement to Public Officer under Section 96 of the Criminal Law of Lagos State 2011 is 1 year Imprisonment.

Allocutus?

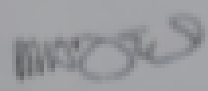
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I have listened to the allocutus and I am satisfied that there is no ground to further reduce the prison term enjoined by the relevant law the Defendant having almost completed same because of his inability to perfect the bail granted to him.

The Defendant is hereby sentenced to one (1) year imprisonment which shall commence from the date of his remand by this court, to wit 4th March 2019.

The Bail Bond in Exhibit P3 executed by the Defendant is also hereby forfeited to the Complainant.

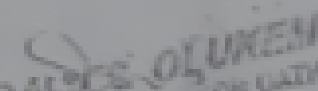
This is the Judgment of the Court.

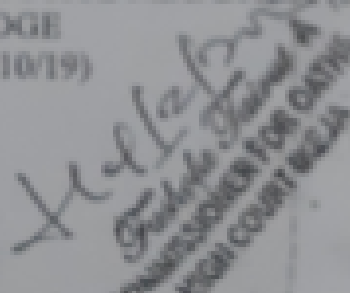

HON. JUSTICE M.A. DADA (MRS)
JUDGE
(02/10/19)

Defendants Present.

C. R. Edozie with F. Ofoma for the Prosecution

A. Labi-Lawal with C. M. Ede for the Defendant.


DANCE OLUKEM
CLERK OF COURTS
HIGH COURT LAGOS


COMMISSIONER FOR COURTS
HIGH COURT LAGOS

I consequently do not find myself agreeing with the Prosecution that any conspiracy between the Defendant and Nnamdi has been established or proved beyond reasonable doubt.

The Defendant is therefore discharged and acquitted of this Count and I so hold.

With regard to the 2nd Count, Making False Statement to Public Officer contrary to Section 96 (a) of the Criminal Law of Lagos State, 2011,

A Surety, in the context of Bail, is a person who guarantees by means of a recognizance the appearance in court or at a Police Station, anyone admitted to bail. The Surety binds himself usually by deed to satisfy the obligation of another person if the latter fails to do so. A Surety must be financially capable to bear the obligation potentially imposed by the recognizance.

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The Bail Bond entered into by the Defendant on behalf of the Okey is Exhibit P3 dated 1st August 2018 where the Defendant bound himself to forfeit N50M if the Prime Party failed to appear to the EFCC Lagos on the 3rd of July 2018 at 1000 hours and every other subsequent date as he may be required by the Commission till the case against him is finally disposed of, then this recognizance shall thereby be discharged.

For the Defendant to be discharged of this obligation, he must be able to show to the Court why his recognizance should not be forfeited by placing satisfactory evidence before the Court that he is not to be blamed for the disappearance of the main suspect, namely Okey Onyejiaka. The Law gives the Surety the opportunity to either defend the non-appearance of the Defendant or to subsequently produce him. The Defendant in his evidence stated that he received a call from the EFCC Office on 25th September 2018 that Okey Onyejiaka had stopped reporting to their office against the Bail Bond signed by the Defendant on his behalf in Exhibit P3. The Defendant further testified that when he was eventually able to speak with the said Okey, he informed him he had absconded to South Africa because of the facts of this case against him by the Prosecution.

From the following it is clear that it was barely a month after the Defendant took Okey Onyejiaka out on Bail that he stopped reporting to EFCC. It is also clear that the Defendant did not know the exact amount involved in the allegation against Okey Onyejiaka when he first purported to stand surety for him but after being appraised of the huge sum involved, he sought for time to meet with Okey before coming back to apply for his bail and sign Exhibit P3. He therefore went into it with his eyes wide open without any compulsion by anyone but himself for whatever reason. He admitted in his evidence in chief that nobody compelled him to sign, that the EFCC official explained the circumstances to him and even admitted in his Statement to EFCC in Exhibit P3

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Onyejiaka is un-contradicted and urged the court to act on it. The further submissions and authorities relied upon by learned counsel are contained in the Address.

The Prosecution's Final Address by Franklin Ofoma is dated 1st July, 2019. He submitted a sole issue for determination whether the Prosecution has proved the essential elements of the offences as charged. He concluded that the sum total of the testimonies of the Prosecution witness coupled with the exhibits tendered and admitted shows in clear terms that the Prosecution has established all the ingredients of the offences alleged against the Defendant beyond reasonable doubt which does not mean proof beyond every shadow of doubt. That is was held that once proof drowns the presumption of innocence of the Accused, the court is entitled to convict him although there could exist shadows of doubt. The rest of counsel's submissions and the cases relied upon are in the body of the Address.

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There is no Reply on Points of Law.

The 1st Count against the Defendant is Conspiracy to pervert the course of Justice with one Nnamdi still at large which indeed is provided for under Section 97 (1) Of the Criminal Law of Lagos State, 2011 while subsection (3) provides for the attempt to pervert the course of Justice. However this does not vitiate the proceedings as the Defendant understood the facts of the offence to which he pleaded. The question therefore is whether the Prosecution proved this allegation beyond reasonable doubt.

The only evidence before the Court on this Count is actually from the Defendant who testified that Nnamdi who he is alleged to have conspired with to pervert the course of Justice, was the one he knew and who solicited his help for the bail of the fleeing Okey Onyejiaka. As a matter of fact, PW1 stated that when the Defendant first showed up to apply for the bail of the Defendant and she asked him if he knew how much was involved in the case, and he said N3M but PW1 told him it was N680M, he first hesitated and asked for time to reconsider. That he went to discuss with Okey and later came back to say he was now ready to stand surety for him. From the foregoing, it could be assumed that the Defendant did not initially have the full facts of the case against Okey until he arrived at the EFCC Office and met with PW1. This evidence therefore knocks the bottom out of the allegation of any conspiracy between the Defendant and the said Nnamdi as there was no meeting of the mind between them. All that it would appear that Nnamdi did was merely to solicit the help of the Defendant to stand surety for Okey Onyejiaka. At that stage the issue whether there was going to be a perversion of the cause of Justice could not have arisen more so as the Prosecution admitted that Okey reported to the Commission about 2 or 3 times after the Defendant took him out on bail before eventually absconding.

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Mr Okey were threatening my life. My statement is Exhibit P2. Nnamdi is a very close friend to me. I do not know Mr Okey directly. In my statement I said, "I know Mr Okey through his driver Nnamdi who asked me to help his boss as Surety in a case with EFCC. I went to meet him in his house at 31A Kola Amodu Close, Magodo where he explained to me that it was a dollar deal which he is expected to pay balance of N3M to the complainant and that he will reconcile the account with him immediately he perfect (sic) his bail condition. That is how I followed him ...and assisted him in the bail process...I did not request for any money from him but just advised him that he must always make himself available at the EFCC office whenever he is needed..."I was not given a dime because of the relationship with Nnamdi. The Bail Bond in Exhibit P3 says the surety is bound to forfeit N50M if the Principal Party failed to appear at EFCC Lagos on 3/08/2018. He reported on that particular day 3/08/18. Yes I submitted my employment letter and other documents. The forfeiting of N50M was only on the condition that if he did not report on 3/08/18 and he reported. I don't know the exact date that he jumped bail until when I was called in September that he had not been reporting recently. I am not aware that it is because of my standing surety for him and my inability to produce him that the case against him has not been heard and the complainants restituted. EFCC has not informed me. I've not been able to speak at all with Mr Okey this year. It is not true that I conspired with him to pervert the cause of justice and of making false statement to a Public Officer. I could not produce him because EFCC compromised the whole issue.

There was no re-examination and this ended the trial. **CERTIFIED TRUE COPY**

The Defendant's Final Address by his counsel A. Labi-Lawal Esq. is dated 21/06/19. He raised a sole issue for determination, namely; whether the Prosecution has proved its case beyond reasonable doubt to secure the conviction of the Defendant.

He submitted that the correct provision for Count 1 is sub-section (1) and not sub-section (3) of Section 97 of the Criminal Law of Lagos State under which it was charged which deals with Attempt rather than Conspiracy to pervert the Cause of Justice as charged. He submitted that since there is no Count bordering on attempt to pervert the cause of Justice and there are no particulars of the same offence, it is safe to conclude that the Sub-section intended by the Prosecution is (1) and not (3).

He argued that the Prosecution did not provide any evidence of conspiracy between the Defendant and anyone to do any act or to pervert the cause of Justice. He contended that the evidence adduced by the Prosecution in respect of the 2 Counts has been so discredited as a result of cross examination and making it so unreliable for the court to convict on it. He submitted that the Defendant's evidence that he did not conspire with anybody and had the intention to keep his promise to produce the main suspect Okey

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Country. I tried his line 5 days after I was released and it was now on and he told me he was in South Africa that he had to abscond because of all the people that had transactions with him and were already in EFCC detention. I told him I was also detained. I advised him to come and report to EFCC so that I can be released from this problem. I kept reporting at EFCC as advised until February 20, 2019 when I was asked to report in the evening because there was a change of guard. I obeyed and got there at 6pm from Ayobo where I was told that the officers had gone that I should report at 7am the next morning 21/02/19. I reported and again I was detained. I was not released. It is not correct that I conspired with Nnamdi or anybody to frustrate Justice.

Under cross-examination, he testified further thus:-

I am a civil servant with Lagos State Government. I am a Principal Education Officer in charge of Schools Services. There are Public and Private schools we liaise with to look at their infrastructures and other matters. Yes I was given an offer letter. My schedule does not include standing surety for anybody. Mr Boniface Okey Onyejiaka is a Bureau de change Operator living at 21B Kola Amedu, Oguda, Lagos. I have known him for 5-6 years. I knew him through his brother who was a Tenant in our house then. We were just family friends. I am just seeing this Petition in Exhibit P1 against Mr Okey for the first time. When I got to the EFCC, it was the officials that were even speaking for Mr Okey that the matter of the dollars would be sorted out the following week. Nnamdi called me to come and assist his brother. They requested for a civil servant of grade level 12, State or Federal Government. Nnamdi was not qualified. It is based on the transaction between Okey and the complainant. The EFCC official told me that he had remitted some amount to the complainant but there was a disagreement on the actual figure which he said would be sorted out the following week. Yes I signed the Bond. Nobody compelled me to sign it. I was called around 2 pm on 24/09/18 that Mr Okey had not been reporting frequently. I put a call to him but when it was switched off. I went to his house and was told that he travelled. I told the EFCC. I was later called on Tuesday 25/09/18 to report and I was detained and after some days, I was told to make a statement. Mr Okey told me he was in South Africa. I could not confirm that or if he was hiding somewhere in Nigeria. I made an Undertaken on 1/08/18 in Exhibit P3 to produce him. I was asked to produce him only once because he was not available. Even now he is not available and we used Tracker but it failed. I was granted bail by EFCC on 24/10/18. From then till 21/02/19 I couldn't produce him when I was free. After then I have been in Ikoyi Prison. I kept looking for Mr Okey but I could not locate him at all. I made the Undertaking to produce Mr Okey because I believed he would not jump bail. I met the other people who had transactions with Mr Okey in EFCC Detention who are also standing trial because of Mr Okey. EFCC bungled this matter. The other people I met in EFCC Detention because of

produce a Civil Servant, the Defendant. He is an Education Inspector. Okey was released to the Defendant who is a Civil Servant. The amount endorsed on the Bail Bond is Exhibit P3 is ₦50M. The Defendant's last Pay Slip was submitted, so roughly we know how much he receives per month and that it is not up to the figure on the Bail Bond. But we made him to realise that the amount involved in the case is ₦680M. We don't know the Defendant's other source of income and that is why we made him to realise the implication before he signed it. I can't remember when the Defendant reported to our office. He reported on his own. Before the Defendant was eventually detained, we gave him several opportunities to look for Okey even when the other 6 Defendants involved in the case were arraigned sometime in 2018. Okey was reporting until he jumped Bail. We don't have any specific form in which a Surety writes an Application for Bail. The last paragraph of Exhibit P3 reads, "I promise to produce him whenever he is required". It is possible other Applications are similar. We don't know if the Defendant had no intention of keeping his promise. The Information the Defendant gave to the Commission that he would produce the Suspect anytime he is needed is false because he misled us to release him to him. This is the False Information.

There was no re-examination and this closed the Prosecution's case.

The Defendant's No Case Submission was dismissed by the Court on 19th June 2019 and he immediately entered his defence. His evidence in-chief is thus:-

My name is Odunewu Kamoru Adebayo. I am a Civil Servant with Lagos State Government. I am a Grade Level 12 Officer at Ayobo-Ipaja Local Government Development Authority. Yes I had contact with the EFCC on 1st August 2018 in respect of standing surety for Mr Boniface Okey Onyejiaka. It is correct that I gave information to EFCC. There is no lie in the Information I gave to EFCC. I know Nnamdi since 2008 when he was a Tenant in our house at Palm Grove and we had been friends since then. When I stood surety for Mr Onyejiaka, he was reporting to EFCC. I got to know that he stopped reporting on 21/09/2008 when I was called. Immediately I called his line, it was switched off and I left for his house immediately. When I got there, he was not around. The security man said they were expecting him to have arrived since Sunday but he has not come back. He did not inform me before he travelled. I went to his house to ensure I brought him back to EFCC as promised. Yes I have the full intention to fulfil my promise to produce him to EFCC. I called the EFCC official and he told me to report the next day to help him sign one document. I reported and was detained immediately. I made a suggestion to them to release me to go and search for him but they believe it is only when I am in their custody that I will be able to produce him. That is what they said. I was released after one month. I looked for him and discovered that he had absconded from the

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office. He later came back to the office and told us he was ready to take Okey on bail. He thereafter applied and signed the Bail Bond and Mr Okey was released to him. Okey reported to the Commission about 2 or 3 times and stopped reporting. We couldn't reach Okey on the numbers we knew so we had to get in touch with the Defendant as the Surety. We gave the Defendant a long time to search for Okey but he could not and about 6 people have already been arraigned in court in respect of this case but Okey who is the principal suspect is yet to be arraigned on account of having been released to a Surety who could not produce him.

Yes, Mr Okey made statement to the Commission when he was arrested in June 2017, he agreed that he received N680M. The Defendant also upon being arrested made statements. I informed the Defendant as part of my responsibility of the implication of taking a suspect on bail. He still agreed to stand surety for Mr Okey. In the Bail Bond, the Defendant undertook to forfeit his Bail Bond if the suspect Mr Okey absconds.

(A Petition by Walenship Nig. Ltd to EFCC dated 26/05/2017, the Defendant's statement dated 2/10/18 and his Bail Bond including his Application dated 1/8/19 are Exhibits P1-P3 respectively)

Under cross-examination, he stated thus:

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My name is Olusa Olaniran. I am one of the Investigation Officers in this case. The Petition was investigated thoroughly. Yes I met with the Victim, Deleton Media Concepts. We have his Address. We had no reason to visit his Address. Yes, I am one of the Investigating Officers that investigated Okey Onyejiaka's case. I am not aware that some other Investigating Agencies also investigated that case. I am aware Okey Onyejiaka instituted a Fundamental Right Suit against EFCC. I am not aware that SFU was the Respondent. I am aware of the reliefs in the Fundamental Reliefs Action. I am not aware that Action is still pending in court or it has been struck out. Yes I am aware that someone else stood surety for Mr Okey before the Defendant. I can't remember the name of that first Surety. With the 1st Surety, when Mr Okey was not reporting regularly, we kept calling the woman until she said she did not want to continue to stand surety for Okey. Then we said she must bring Okey first and when she brought Okey she withdrew her Suretyship and we asked Okey to produce another Surety. That is how this Defendant came in. It is not necessary that we should tell him someone had stood surety for Okey before then. Before the Defendant stood surety for Okey, Okey had not been reporting regularly but he never jumped bail then.

I went to verify the Address of the Defendant. The Bail conditions were to produce either a Civil servant or one who has a landed property in Lagos State. Okey was able to

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IN THE HIGH COURT OF LAGOS STATE
IN THE IKEJA JUDICIAL DIVISION
HOLDEN AT COURT NO. 11, SPECIAL OFFENCES COURT 1
BEFORE THE HON. JUSTICE M. A. DADA (MRS.)
TODAY WEDNESDAY THE 2ND DAY OF OCTOBER, 2019.

SUIT NO: ID/8166C/18

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA

COMPLAINANT

AND

DUNEWU KAMORU ADEBAYO

DEFENDANT

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JUDGMENT

The Defendant was on 4th March 2019 arraigned on a 2 Counts-Information dated 8th October 2018 for Conspiracy to Pervert the Cause of Justice contrary to Section 97(3) of the Criminal Law of Lagos State 2001 and Making False Statement to Public Officer contrary to Section 96 (a) of the same Law. He pleaded not guilty to the 2 Counts and the prosecution called its only witness, Olusa Niran, an Operative of the Economic and Financial Crimes Commission, Lagos. His evidence-in-chief is thus:-

We work in a Team. My Team members at the time of the investigation of this matter were Tompre Oseagwina, DSP Godwin Ojuana and S. P Mai Mai and myself. Yes I know the Defendant Odunewu Kamoru. In June 2017, we received a Petition against one Okey Onyejiaka from Walenship Nigeria Ltd alleging that he obtained a total of N680M from them under false pretence. After the allegation was established, we arrested Okey Onyejiaka on 1/8/18 and we were planning to arraign him in Court when the Defendant came in and offered to take him on bail. Because the charges were not ready and it is aailable offence, we released him on bail having satisfied all the bail conditions. Before then I interviewed the Defendant personally and asked him how much he knew the suspect. He said the suspect was actually introduced to him by his driver, one Mr Nnamdi. I asked him how long he had known Mr Nnamdi, he said for the past 5 years. He said he had gone to visit them at their house where they lived. I asked him if he knew how much money was involved in this matter. He said he knew that Mr Okey told him it was N3M. But I told him it was N680M which we have on record that Okey received. He was silent for some time, later he requested for time to discuss with Mr Okey and left the

MRS DADA