

**IN THE FEDERAL HIGH COURT OF NIGERIA**  
**IN THE ADO EKITI JUDICIAL DIVISION**  
**HOLDEN AT ADO EKITI**  
**ON THURSDAY THE 13<sup>TH</sup> DAY OF NOVEMBER, 2019**  
**BEFORE HIS LORDSHIP, HON. JUSTICE BABS O. KUEWUMI**  
**JUDGE**

CHARGE NO: FHC/AD/38<sup>c</sup>/2019

**BETWEEN:**

**THE FEDERAL REPUBLIC OF NIGERIA                      .....** COMPLAINANT

**&**

**ALABI OLUSEGUN (A.K.A KELVIN OWEN)                      .....** DEFENDANT

**JUDGEMENT**

Defendant is present.

S. M.H. Ibekwute is prosecuting.

Olusegun Ajaja for the defendant, Victoria Adeolu is with him.

**SMH IBEKWUTE:**

I apply to substitute the charge dated 23/08/19 with the Amended charge dated 07/10/19 but filed on 12/11/19.

**O. AJAJA:**

No objection.

**COURT:**

Application is granted. Plea is to be taken.

**Mrs Olaosebikan Folasade** (Clerk) – Do you understand English?

**Defendant** – I do.

**Clerk:**- Do you understand the one count charge read over to you?

Defendant: I do.

**Clerk** – Are you guilty or not?

**S.M.H Ibekwute** – These are the facts of the case.

**PW1** – A Muslim elects to affirm. He is affirmed.

I am Mohammed Saliu of 16, Rev Oyebode Crescent, Iyanganku GRA, Ibadan. I am an operative of the EFCC. I know the Defendant. On 08/07/19, the EFCC received Intelligence Report against some Internet Fraudsters living in Ado Ekiti. It is dated 08/07/19.

A team of EFCC operatives then left Ibadan for Ado Ekiti after suspected internet Fraudsters. We then brought those arrested to Ibadan Zone of the EFCC. The Defendant was assigned to my team at the Bank Fraud Section.

We arrested the Defendant with I-Phone 6, Lexus 330 Jeep, Hard Disk.

He was assigned to me to investigate. I interviewed him and he confessed that he is into Internet Fraud. He said he started in 2014.

Thereafter, I asked him if he would like to put his statement in writing. He agreed. I then cautioned him and he told me he understood it. He made a statement under his own handwriting. He signed it. I then took him to the ICT Room where he gave me his e-mail address and password.

I logged into his system i.e the e.mail and therein I viewed the chats between him and Abigail Gayle where he presented himself as KELVIN OWEN.

I then confronted him with the chats and he admitted it was his chat with his victim. He acknowledged the printed documents. The interview of the Defendant was held and he admitted benefitting \$500 and N465,000. He said he received the \$500 through his Amazon Gift Card. The N465,000 he claim he received through his account with his bank.

After filing the first charge, the defence counsel approached the Commission through a plea-bargain letter. We accept it. The defence counsel then returned \$500 and the N465,000 to the Commission. The Plea bargain is in writing. Both parties signed the agreement.

The counsel made a statement in respect of the Plea bargain. I can recognize the agreement.

The Lexus 330 Jeep is with our Exhibit Keeper but we are prepared and seek to tender the statement of the Defendant, the electronic gadget, the car's key, the sum of N465,000, \$500 USD and the I-pone 6, Wifi and Hard Drive.

The 2 statements by the Defence counsel refunding the monies, I-phone 6, and the Intelligence Report.

**OLUSEGUN AJAJA** - No objection.

**COURT** – (A) The statement of the Defendant, (B) the car keys (2 keys) to the Lexus Car, (c) the sum of N465,000, (d) the sum of \$500 USD, (e) the Wifi (f) The Hard Drive (g) two (2) statements made by the defence counsel concerning the refund of the monies are admitted in evidence as exhibits "A", "B", "C", "D", "E", "F" and "G" respectively. The I-phone 6 and the Intelligence Report are admitted in evidence as Exhibits "H" and "I" respectively.

That is all I have to say in this case.

**CROSS EXAMINATION** – S. AJAJA – Nil

**COURT:**

Fortified with the statement of the Defendant, exhibit "A: which was made at the earliest opportunity, his plea before this court and the evidence of PW1 which was not controverted, I am satisfied that charge as well as the plea made by him. I uphold the plea of the Defendant, I find him guilty and I so convict him.

**ALLOCUTUS - Olusegun Ajaja**

The convict pleads for mercy and an option of a fine. He is a first offender with no criminal antecedent.

He has not benefitted from the wrong having refunded the whole value of the crime. He is remorseful. He confessed immediately after his



arrest. He has been in custody since 10/07/19. He is not wasted the courts time. Since his arrest, his aged mother has been in and out of hospital. He has a wife and an infant child.

Item 3 on the plea bargain agreement is that the court should consider a custodial sentence of 8 months with alternative to the fines. We urge the court to temper justice with mercy.

**S.M.H. Ibekwute**: - We did not discuss the issue of option of fine. Apart from this we do not oppose.

### **SENTENCE**

I have given due consideration to the brilliant plea of allocutus just made by learned counsel to the Defendant. I have also adverted my mind to the relevant laws, especially the Advance Fee Fraud and other Fraud Related Offences Act, 2006 and the ACJA 2015.

The offence of defrauding foreign Nationals is not one that should be glossed over or treated with kid gloves.

I am mindful of the fact that the convict is a first offender and that he has not benefitted from the proceeds of the crime having restituted his lot.

**In the interest of fairness, the convicts is sentenced to Eighteen (18) months imprisonment I.H.L. This shall however be effective from the date of his arrest.**

**In line with the Plea bargain agreement executed on 08/11/19, the following items (1) I-Phone 6 (Gray colour) Exhibit "H", our 500 GB external Hard Drive, exhibit "F", one Lexus RX 330 (Gray colour) with Registration No SMK 314 DQ, one golden colour Wifi modern and MTN modern Wifi exhibit "E" are all forfeited to the Federal Republic of Nigeria and are to be auctioned by EFCC pursuant to section 31 of the Economic and Financial Crimes Commission (EFCC) (Establishment) Act 2004.**

After serving his sentence, the convict shall revert to the Economic and Financial Crimes Commission (EFCC) to undergo anti-corruption/sanitation programme and is thereafter bound-over to be of good behavior for three 3 years especially as it relates to any form of Economic and Financial Crimes.

Exhibits "C" and "D", the monetary exhibits are to be restituted to the victim, one GAYLE ABIGAIL through the Federal Republic of Nigeria.


All these are to be carried out after the period specified for Appeal if none is lodged. Meanwhile, the monetary exhibit is to be kept in the Federal High Court Litigation Account before the expiration of appeal period.

  
HON. JUSTICE BABS O. KUEWUMI  
13/11/19

Defendant is present.

S. M.H. Ibekwute is prosecuting.

Olusegun Ajaja for the defendant, Victoria Adeolu is with him.

  
HON. JUSTICE BABS O. KUEWUMI  
13/11/19