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IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE ADO EKITI JUDICIAL DIVISION
HOLDEN AT ADO EKITI
ON TUESDAY THE 9TH DAY OF JUNE, 2020
BEFORE HIS LORDSHIP
HON JUSTICE U.N. AGOMOH (JUDGE)

SUIT NO: FHC/AD/36C/2017

BETWEEN

INSPECTOR GENERAL OF POLICE

- COMPLAINANT

AND

BANGBOYE OLATUNJI

- DEFENDANT

SENTENCE

I have given a careful consideration to the submissions of both counsel on behalf of the party they represent during this sentencing hearing and must say that it is quite beneficial to me.

The convict is a first offender and remorseful. It has been forcefully submitted that he has learnt his lessons.

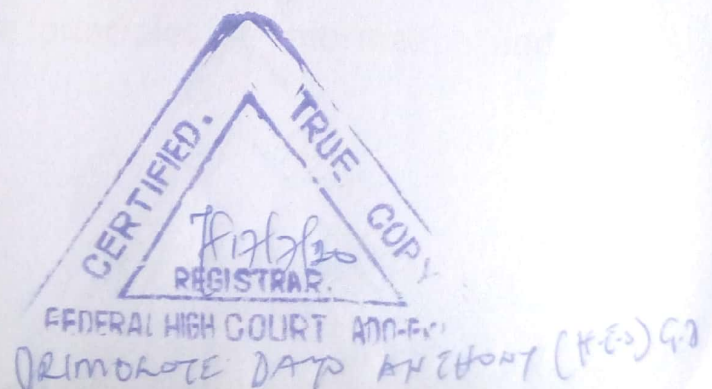


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CRIMES OF DATE ANTHONY (H-ED) 5.7

It is also Oluwale Esq.'s submission that the convict is the first born of his siblings and is the person taking care of his aged parents. He is a married man with children. He is also the bread winner of his immediate family. That he has enormous domestic responsibility on his shoulders and his incarceration will put all his numerous dependents in jeopardy. Counsel argued that the convict has learnt his lessons and promised to be more prudent in his dealings in future. He stated that as a show of good faith and repentance that the convict has already refunded the sum of One Million Naira (N1,000,000:00) to the victim through the Nigeria Police Force. Court was urged to temper justice with mercy and give the convict an option of fine. When counsel was asked whether the law that created the offence made provision for option of fine, counsel responded that what is more important is the provisions of ACJA 2015 which is the law that governs sentencing and same according to him has given this court discretion in sentencing this convict. Even while admitting that the provisions of ACJA cannot stand without the support of the law creating the offence upon which conviction has been made.

It is contended that in sentencing, the court should also take into consideration the period the convict has stayed in lawful custody which is said to be 21days.



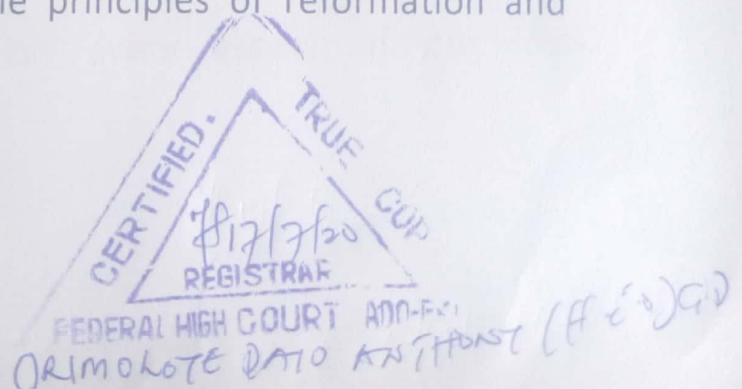
On his part learned prosecuting counsel Osobu Esq. submitted that the Act creating the offence is quite clear on sentencing. It is contended that a combined reading of Sections 1(1)(30 and 11 of the Advanced Fee Fraud and Other Fraud Related Offences Act, 2006 makes it mandatory for the court to sentence and in addition order restitution. Counsel referred to Sections 321(a) and Section 416 ACJA 2015 and urged the court to sentence the convict and in addition order restitution.

Let me commence by making it clear that under the ACJA 2015 particularly Section 416 (2) (d), on conviction a court may sentence the convict to a term of years as prescribed by the law. But in so doing a court shall not pass the maximum sentence on a first offender. It is not disputed that the convict herein is a first offender and that entitles him to the benefit of that section.

Let me say that it is not in dispute that this court has discretion in sentencing this convict but in exercising same, it must be done judicially and judiciously.

The convict has pleaded that the court tampers justice with mercy. I will be lenient with him and that is to the limit allowed by law.

In being lenient with the convict the court is under a duty to consider the objectives of sentencing including the principles of reformation and deterrence.

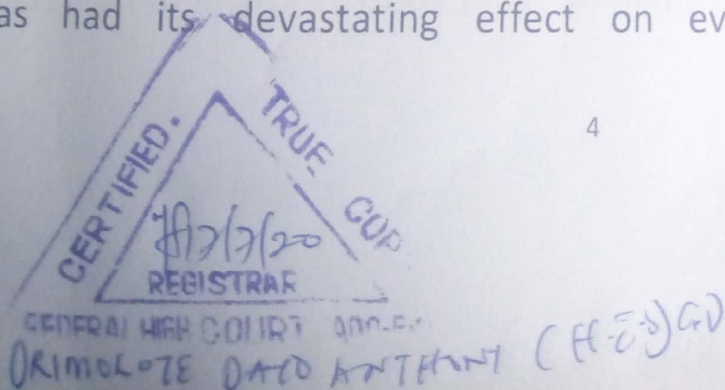


Having given a calm consideration to the allocutus of Oluwole Esq. and agree having observed the demeanor of this convict that it appears to the court that he is truly repentant of his actions. I have also taken into consideration his pleas to be allowed to work and quickly pay for the goods he collected from the victim. I have also taken into consideration the numerous dependents who will suffer by virtue of his incarceration.

He appears to me that the justice of this case will be better served by passing the sentence that will enable the victim to recover his money than keeping the convict for too long in the Correctional Center. To show his readiness to correct himself it is on record that as soon as the convict had the opportunity he started making restitution wherein he paid N1,000,000 out of the N3.7million owed with a promise to sell his landed property to pay the balance but unfortunately same has not been sold due to the fact of his detention before his arraignment.

I must therefore say that giving a holistic consideration of all the factors, it is evident that the mitigating factors are high in favour of this convict and his culpability is low

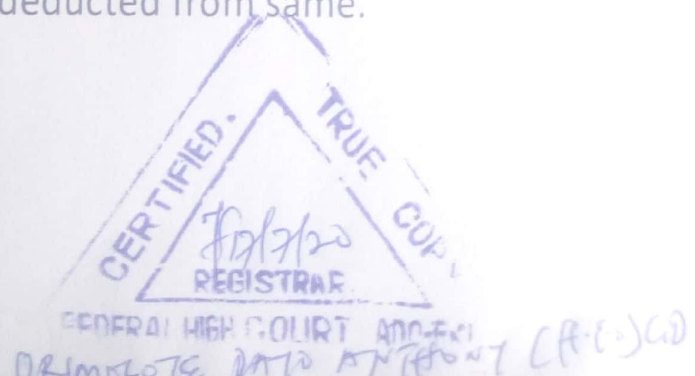
I have in sentencing this convict taken into consideration all the factors enumerated above and more importantly the plague that is ravaging the whole world Nigeria inclusive. The Covid-19 pandemic is real and has had its devastating effect on every aspect of our lives.



My understanding of the wise counsel of the Honourable the Chief Justice of Nigeria is that Judges must take steps that will assist in the decongestion of our Correctional Centers. I have also taken into consideration the fact that the convict was said to have spent 21 days in lawful custody.

Being properly guided by all the factors enumerated above I hereby sentence you Bangboye Olatunji to a term of two (2) years imprisonment on count 1, the number of days spent in lawful custody which is said to be 21 days must be deducted from the above term of years stated above. .


As regards Counts 2 & 3 that borders on the Dishonoured Cheques, the law provides that in the case of an individual the sentence is for a term of 2 years without option of fine. It appears to me that the maximum punishment for this offence is also the two years but since the convict is a first offender it follows that he will not be given maximum punishment. What that means therefore is that this court has the discretion to give a term of imprisonment for a lesser number of years but without option of fine. I have no doubt in my mind that this convict is remorseful of this offence. I hereby sentence you to imprisonment for a term of 1 year 6 months for counts 2 and 3 respectively and the 21 days spent in lawful custody must be deducted from same.



The sentence herein will run concurrently

The term of years in all will begin to run from today the 9th of June 2020.

It is hereby ordered that the convict pay by way of restitution to the victim through the Nigeria Police Force the place he paid the initial payment the balance of N2.7 Million six months from today the 9th of June 2020.



U.N. AGOMOH

JUDGE

09/06/2020

APPEARANCE

Samson Ojo Osobu Esq.

For the Prosecution

B. T. Oluwole Esq.

For the Defendant

