

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

SUIT NO: FHC/AD/24C/2018

BETWEEN

FEDERAL REPUBLIC OF NIGERIA - COMPLAINANT

AND

OKE OMONIYI BENJAMIN - DEFENDANT

JUDGEMENT/SENTENCE

On the 23rd of January 2018 the defendant herein took fresh plea on a 24 count amended charge wherein he pleaded not guilty and the matter was adjourned for trial. After several adjournments the prosecution put his 1st witness in the box and at the point of tendering the statements said to have been made by the defendant the defence counsel Omokhafa Esq

objected on the ground of voluntariness and the matter was adjourned for TWT. Again the matter suffered several adjournments as the defendants were not in court to commence trial until when they informed the court of their intention to avail themselves of the opportunity of a plea bargain.

If I may ask what really is a plea bargain? The Blacks Law dictionary 9th Edition defines it thus:

A negotiated agreement between a prosecutor and a criminal defendant whereby the defendant pleads guilty to a lesser offense or to one of multiple charges in exchange for some concession by the prosecutor, usu, a more lenient sentence or a dismissal of the other charges

Needless to say that this concept of plea bargain has been made part of our law. It is in view of this plea bargain that the prosecution has filed the 2nd amended charge of a single count

and have withdrawn and same struck out the 1st amended charge of 24 counts.

Learned prosecuting counsel S.M. Galadanchi Esq also applied that the court should accept the said amended charge of one count and call on the defendant to take fresh plead on same. The charge reads thus:-

That you **OKE OMONIYI BENJAMIN** on or about 3rd October 2018 at Ekiti within the jurisdiction of this Honourable Court did fraudulently impersonated the name Sergeant Johnson - an American citizen with intent to gain advantage for yourself and thereby committed an offence contrary to section 22(2) (b) (i) of the Cyber Crime Prohibition Prevention Etc Act, 2015 and punishable under Section 22(2) (b) of the same Act.

The application not being opposed was granted, defendant took fresh plea on the said 2nd amended charge wherein he pleaded guilty to same. The prosecuting counsel informed the

court that they have before the court a plea bargain agreement which they all freely and voluntarily and urged on the court to adopt the said plea bargain agreement and its contents as the judgment of this court for the defendant.

Learned counsel for the defendant C.O. Omokhafa Esq. aligned himself with the submissions of Galandachi Esq. and confirmed that the defendant agreed and filed the plea Bargain agreement pending before the court and also adopted same on behalf of the defendant while urging the court to accept same and enter it as judgment of the court.

This being a judgment that emanated from a plea bargain agreement by the parties the facts as considered by the parties and agreed upon as reproduced in the agreement are as follows:

That the defendant has offered to retribute and has indeed restituted through the Federal Republic of Nigeria to the victim the total sum of \$500 (Five Hundred United State of America USD Dollars) and forfeit and indeed forfeited to the Federal Republic of Nigeria the following items: one

It is also a fact as agreed by the parties that the defendant has agreed to make restitution and indeed restituted the sum of \$500 (Five Hundred United States of America USD Dollars) and forfeits and indeed forfeited to the Federal Republic of Nigeria the following items: one Acura TL car Grey in colour, Registration No:BDG-969-FH, one Lexus ES car silver in colour Registration NO: EPE-829-FJ, one Black Tosiba laptop computer with charger, one purple/black Dell laptop computer with charge, one black Samsung Note 8 with charge, one iPhone X black in colour with charge, one black Nokia 105 and one 32 Gigabyte Flash Drive. Being the benefit he derived from his fraudulent act which offer the prosecution accepts.

it is also agreed:

- a. That the items forfeited should be sold through public auction supervised by the commission's Secretary.
- b. That the Honorable court considers a custodial sentence of (2) years with effect from the date of arrest being 3rd of October 2018.

The court having satisfied itself before now that the defendant entered into this agreement voluntarily and without undue influence, is now poised to determine the questions of whether the punishment agreed upon by the parties is in line with the punishment as provided in the Act and also represent the true intention of our criminal justice system as regards sentencing.

Let me put on record that Section 270(10) of ACJA 2015 was taken into consideration and observed by this court in this judgment.

The court being satisfied that the defendant plead guilty and the plea bargain agreement entered was voluntary and without undue influence hereby convict you **OKE OMONIYI BENJAMIN** as charged.

The next issue is that of sentence. By the provisions of Section 270(11) of ACJA 2015, this court, having a while ago convicted

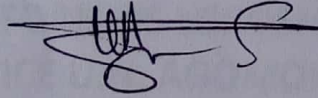
the defendant as charged, is under a duty to consider the sentence as agreed upon by the parties to be satisfied of the following:

- a. That such sentence as agreed is an appropriate sentence and therefore impose same.
- b. If the court is of the view that a lesser sentence should be imposed than the agreed sentence, impose a lesser sentence.
- c. If the court is of the view that the offence required a heavier sentence than the sentence agreed upon, then inform the defendant of such heavier sentence he considers to be appropriate.

Having taken into consideration all the factors as required under the ACJA 2015, I have no difficulty in coming to the inevitable conclusion that the sentence as agreed upon in the plea bargain is an appropriate sentence

Consequently, I impose on you **OKE OMONIYI BENJAMIN** custodial sentence of 2 years imprisonment with effect from

the date of your arrest which is 3rd october 2018. This is the judgment and sentence in this case.



U.N. AGOMOH
JUDGE
09/07/2020

APPEARANCE

S.M. GALADANCHI ESQ

FOR PROSECUTION

C.O. OMOKHAFE ESQ with
O.O. OWOSENI ESQ

FOR DEFENDANT