IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE BENIN DIVISION
HOLDEN AT COURT 2, IKPOBA HILL, BENIN
ON THE 14TH DAY OF FEBRUARY, 2022
BEFORE HIS LORDSHIP HONOURABLE JUSTICE (PROF.) CHUKA A. OBIOZOR
JUDGE

CHARGE NO. FHC/B/93C/2021

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA   COMPLAINANT

AND

ADANEGBE HOPE OSAZE   DEFENDANT

JUDGEMENT

I have carefully considered the plea of guilt by the Defendant, the facts of the case which the Defendant admits and the totality of unchallenged evidence adduced by the prosecution inclusive of Exhibits "A" to "C" and the Court is satisfied that the prosecution has satisfied the provisions of section 356 (2) of the Administration of Criminal Justice Act 2015; and effectively established and discharged the burden of proving the guilt of the Defendant beyond reasonable doubt. **See Aguguo v. State.** I therefore find the Defendant guilty as charged. Consequently, the Defendant,

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Adanegbe Hope Osaze, male, is hereby convicted of fraudulently impersonating the identity of one Mark Hagen by sending his picture to Lynn Wri via the Internet and claiming the identity to be his own with intent to obtain money, contrary to section 22 (2) (b) (ii) of the Cybercrime (Prohibition Prevention etc.) Act, 2015 and punishable under section 22 (2) (b) (iv) of the same Act.

Court: Does the convict have anything to say to this Court or evidence as to character in mitigation of punishment.
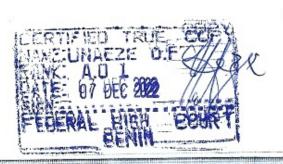
B. I. Jaboro: The convict is a first offender. He has shown remorse. There is a plea bargain between the parties. I pray the Court to accept the plea bargain in sentencing the convict.

Court: Ibrahim Mohammed, how long has the convict been in detention and is there previous record?

Ibrahim Mohammed: The convict was arrested and released after one week. He has no previous record known to me.

SENTENCE:

I have noted the plea for leniency and the fact that the convict is a first offender. I have taken account of the period of the convict's

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incarceration; the punishment for the offence charged and the Sentencing Guidelines of this Court. Additionally, I see from the records that the convict entered a plea bargain with the prosecution. Surely, I can look up the records, suo motu. See **Fumudoh v. Aboro.** I have therefore noted the terms of the plea bargain.

By law, where a statute prescribes a minimum custodial sentence, the Court cannot go below the minimum content. See **Duru v. FRN.** Where however, the statute only sets out the minimum custodial sentence but does not expressly forbid the imposition of fine, the Court reserves the discretion to impose an option of fine on the convict in lieu of custodial sentence. See **Nwude v. FRN.** In this case, I have appraised the punishment section of the offence charged. It does not forbid the imposition of fine. I shall therefore be on a strong wicket to consider the option of fine.

At any rate, the convict is a first offender from the records. By section 416 of the Administration of Criminal Justice Act, 2015, Courts are enjoined not to impose a custodial sentence on the first offender except there be no other way of dealing with the convict.

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In view, thereof, I may consider the option of fine. For these reasons, I accept the terms of the plea bargain. Accordingly, and in accord with the tenor of the plea bargain, the convict is sentenced to a custodial term of five years with effect from the date of this Judgment to be served at the Benin Correctional Centre, Sapele Road, Benin with an option of fine of N500,000 (Five Hundred Thousand). In addition – Exhibit "C" – the convict's I-phone 7 Plus with IMEI Number 35535208383034, the instrumentality of crime charged, shall be forfeited to the Federal Government of Nigeria. The convict shall enter undertaking in writing to be of good behaviour.

HON. JUSTICE (PROF.) CHUKA A. OBIOZOR
JUDGE
14/02/2022

Judgement Read and delivered in Court.
Defendant present
Appearance:
Ibrahim Mohammed for the Prosecution.
B. I. Jaboro for the Defendant.

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