

IN THE FEDERAL HIGH COURT OF NIGERIA  
IN THE CALABAR JUDICIAL DIVISION  
HOLDEN AT CALABAR  
ON WEDNESDAY THE 11<sup>TH</sup> DAY OF MAY 2022  
BEFORE HIS LORDSHIP HONOURABLE JUSTICE IJEOMA L. OJUKWU  
JUDGE  
CHARGE NO: FHC/CA/100C/2022

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA - COMPLAINANT

AND

ATSUWE EMMANUEL TERVER - DEFENDANT  
A.K.A BEN JONES, RONY, DIETER KRANZ  
ANDREW MERCER, BEN AREZKI (JERRY HIERRO)

PROCEEDING/JUDGMENT

Defendant is present in court.

**Appearances**

S. R. Akinrinlade for the Prosecution.

Koko Essien for the Defendant.



**Prosecutor:** My lord humbly we have a one count charge dated 25<sup>th</sup> day of April and filed 28<sup>th</sup> day of April 2022. We apply that he takes his plea on the charge.

**Court:** The Matter for Arraignment. Read the charge.

The Charge for which the Defendant is standing trial is couched as follows:

FEDERAL REPUBLIC OF NIGERIA VS ATSUWE EMMANUEL TERVER CHARGE NO: FHC/CA/100C/2022

CASHIERS OFFICE

DATE 12-5-2023

CALABAR

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FEDERAL HIGH COURT, CALABAR  
WYNNE COLE, ESQ.  
SENIOR REGISTRAR

12/05/2023

"That you **ATSUWE EMMANUEL TERVER A.K.A BEN JONES, RONY, DIETER KRANZ ANDREW MERCER, BEN AREZKI JERRY HIERRO "M"** sometime in 2022 within the jurisdiction of this Honourable Court fraudulently impersonated one Ben Jones to unsuspecting victims, with intent to gain advantage for yourself and thereby committed an offence contrary to Section 22 (2) (b) (i) of the Cyber Crimes (Prohibition, Prevention), Act 2015 and punishable under Section 22 (2) (b) (iv) of the same Act.

The Charge is read and explained to the Defendant in English language to the satisfaction of the Court and he appears perfectly to understand the Charge and Pleads;

**Defendant:** I am guilty.

**Prosecution:** My lord, the plea of the defendant is in line with the plea bargain agreement filed before the court. We adopt the agreement and urge the Court to Convict the Defendant based on his plea and in line with the content of the Plea Bargain Agreement before this Court. It is filed 28<sup>th</sup> day of April 2022 and entered freely and voluntarily by the parties. We humbly pray the Court that the terms of the agreement be adopted as the sentence of this court.

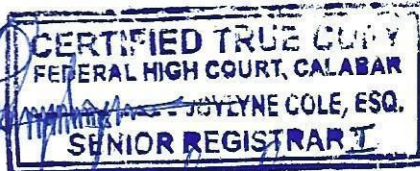
**Court to Defendant:** Did you voluntarily enter into a plea bargain agreement with the Prosecuting Authority EFCC?

**Defendant's Counsel:** Yes, my lord, he did.

Defendant: I voluntarily entered into the plea bargain agreement. It was not forced my lord.

**Court:** Having been satisfied that the Defendant voluntarily entered into a plea Bargain Agreement with the Prosecuting Authority EFCC, which was

FEDERAL HIGH COURT  
CASHIERS OFFICE  
DATE 12-5-2023  
CALABAR



filed the 28<sup>th</sup> day of April 2022, and in view of the direct, positive and unequivocal plea of guilt offered by the Defendant, I hereby find the Defendant **ATSUWE EMMANUEL TERVER A.K.A BEN JONES, RONY, DIETER KRANZ ANDREW MERCER, BEN AREZKI JERRY HIERRO** Guilty as charged.

***Allocutus:***

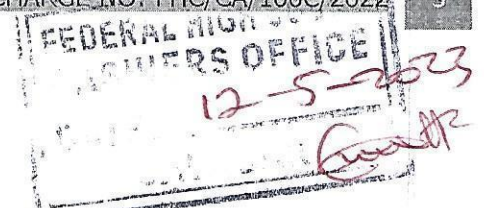
***Counsel:*** My lord on behalf of the convict, I plead with the court to temper justice with mercy. We pray leniency. We urge the court to take into account that the Convict is a first time offender. He has been in detention since March. He has shown remorse and he is repentant, he has no criminal records and does not have any family or friends. Nobody has shown up for him and he has realized his mistake. We are asking that the Court temper justice with mercy and exercise her discretion in imposing a lesser sentence.

***Court to Prosecution:*** Does the Convict have any known criminal record?

***Prosecution:*** None to my knowledge. No history of previous conviction.

***Court:*** I have heard the allocution of learned counsel Koko Essien on behalf of the Convict and his entreaty for the Court to impose a minimal sentence in view of the circumstances of the Convict. I have also taken into consideration that the Convict has no known criminal records as stated by the learned prosecuting counsel S. R. Akinrinlade therefore an adjudged first time offender.

This Crime has no justification and the prevalence of this genre of offence in our society calls for something urgent to curtail the spread, especially as a result of the negative image given to the country and the toll on the victims of crime. This should not be encouraged. However, I do not think that Custodial Sentence



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JESTYNE OOLE, C.C.J.  
SENIOR REGISTRAR

12/05/2023

without more will afford the convict the time and opportunity for rehabilitation and to re-channel his intellect positively.

I have taken into consideration that he has shown remorse and has not wasted the time and resources of this Court and having given ample consideration to the Plea Bargain Agreement filed on the 28<sup>th</sup> day of April 2022, entered into and signed by all the relevant parties, and the fact that the Commission made a proposal on the Plea Bargain Agreement, I hereby sentence the Convict as follows in view of Section 270 (11) (b) of the Administration of Criminal Justice Act.

1. The Convict **ATSUWE EMMANUEL TERVER** is sentenced to Six (6) months Imprisonment or to a fine of ₦500,000. 00. (Five hundred Thousand Naira) only in the alternative.
2. The Convict shall forfeit to the Federal Government of Nigeria One Samsung Galaxy S7 Phone which is the instrument of crime recovered by the Commission in the course of investigation.
3. The Economic and Financial Crimes Commission shall dispose of the above item by public auction and the proceeds paid into Federal Government Treasury.
4. That this plea bargain agreement is only in relation to the one count charge of Cyber Impersonation filed the 28<sup>th</sup> day of April 2022 and does not extend to any other criminal charge.
5. The Convict shall enter into an undertaking to be of good behaviour and refrain from any action that may bring him in conflict with the law.

FEDERAL HIGH COURT  
CASHIER'S OFFICE  
12-5-2023

6. Convict to be remanded at the Correctional Service Facility until the sentence is complied with.

The Court so holds.

**HONOURABLE JUSTICE IJEOMA L. OJUKWU FCI Arb**  
**JUDGE**

**11/05/2022**



*File of Record of Proceedings / Judgment - At 190.00*

*Shamir ...*