

**IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE BENIN DIVISION
HOLDEN AT COURT 2, IKPOBA HILL, BENIN
ON THE 30TH DAY OF MAY, 2019**

**BEFORE HIS LORDSHIP HONOURABLE JUSTICE A. A. DEMI-AJAYI -
JUDGE**

CHARGE NO: FHC/B/23C/2019

BETWEEN:

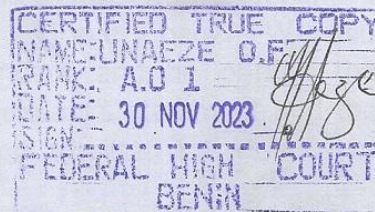
FEDERAL REPUBLIC OF NIGERIA

COMPLAINANT

V

**ALUEDE EMMANUEL (ALIAS WILLIAMS ALEXANDES)
DEFENDANT**

JUDGMENT



The Defendant stands faced with the following charge:

That you **ALUEDE EMMANUEL (ALIAS WILLIAMS ALEXANDES)** sometime in 2018 in Uromi Edo State within the jurisdiction of this Honourable Court did fraudulently impersonate the identity of one Williams Alexandes on a dating internet site to one Miss Frida Estrada which identity you claimed to be your own with the intent to obtain money from her and you thereby committed an offence 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.

The charge was read to the Defendant in English language and he indicated that he understood it and pleaded guilty to the one count charge.

The Prosecution called PW1 an investigator with the Economic and Financial Crimes Commission EFCC who put forward the facts of this case to the Court.

PW1 told the Court that he knows the Defendant and that on the 13th of January 2019 the Commission received an intelligence report about the activities of a group of internet fraudsters lodged at a Hotel in the Uromi Area of Edo State.

He said that a team of operatives were mobilized to carry out a raid and the Defendant was arrested along with his phone and was brought to their office. PW1 said that the Defendant's statement was taken under word of caution voluntarily and in the course of investigation the team discovered that the Defendant impersonates the identity of one Williams Alexandes a US Citizen and has been sending messages on false pretence to Miss Frida Estrada citizen of Mexico with the intent of obtaining money from her.

PW1 continued that documents were printed from the Defendant's phone and he endorsed his name on each and every page. PW1 said that he took the statement of the Defendant and he printed the documents. He was able to identify the Defendant's statement and the printed documents which were tendered and admitted in evidence as follows:

Exhibit A 1-2: Defendants statements

Exhibits B1-13: Printed documents.

That was all for the prosecution and the Learned Counsel to the Defendant told the Court that he had had all the proof of evidence and he had no objection to the said documents tendered.

The Court went on to ask the Defendant through its registrar whether he heard all what the PW1 had said, whether he understood the facts put forward and whether what was said was true upon which the Defendant confirmed that he heard all what was said, he understood the facts and that the said facts were true. The Learned Prosecutor urged the Court to convict the Defendant as charged.

The Court has studied this charge very carefully together with all the exhibits tendered before it and has listened very attentively to the



testimony of the only witness for the Prosecution PW1 which was an undisputed evidence.

In the Defendant's statement in Exhibit A1-2 the Defendant admitted the allegations put forward against him.

There is only one question for determination which is whether the Prosecution has proved the offence of fraudulently impersonating one Williams Alexandes on an internet dating site to one Frida Estrada contrary to **Section 22(2) (b) (ii) of the Cybercrimes Act 2015** and punishable under **Section 22(2) b (iv)** of the same Act.

In criminal matters such as this it is the duty of the prosecution to prove the offence charged beyond reasonable doubt as was stated in the cases of **MUSA V THE STATE 2009 7 MJSC PT 1 P52, AKINBISADE V THE STATE 2006 12 MJSC 80, IGIRI V STATE 2012 6-7 MJSC PT III 107**

In addition in the case of **ADAMU V THE STATE 2014 4 MJSC PT II 141** it was held that the onus is on the prosecution to prove the criminal case beyond reasonable doubt and also in the case of **OKOH V THE STATE 2014 3-4 MJSC 104** it was held that it is trite that the burden of proof in criminal matters is static and always rests on the prosecution.

Even where the Defendant has pleaded guilty as in the instant case the prosecution must still prove the case beyond reasonable doubt.

In the case of **NAVY V LAMBERT 2007 11 MJSC 3** it was held that the guilt of an accused can be proved through confessional statement and in the instant case the Defendant has pleaded guilty and has gone on to admit his statement in exhibit A1 & 2 documents tendered in exhibit B1-13 and the oral testimony of the prosecution witness.

In **OKESHETU V THE STATE 2016 6-7 MJSC P59** it was held that there are 3 methods of proving the ingredients of an offence:

1. By Direct evidence
2. By Circumstantial evidence
3. By Confessional statement

In the case of **OMOJU V FRN 2008 11 MJSC 159** it was held that "confession is the strongest evidence against an accused person as it determines his guilt in most cases and where no objection is raised to



the admissibility of a confessional statement and it is admitted in evidence it is for the trial judge to determine at the end of hearing whether the contents of the statement are true as part of his determination of the truth or other wise of the whole case as presented by the prosecution."

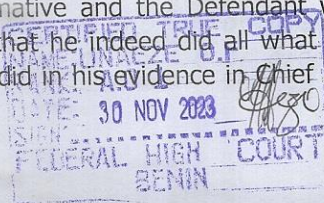
In the instant case there is no objection by the defence to the admissibility of the Defendant's statement in exhibit A1-2 which is a confessional statement. The other exhibits in exhibit B 1-13 which are documents printed from the Defendant's phone and the oral evidence of the prosecution witness compliment the said confessional statement and point to the direction that the confessional statement is true and was taken freely and voluntarily. In the case of **AROGUNDARE V THE STATE 2009 2 MJSC PT 1 P3** it was stated that "a free and voluntary confession which is direct and positive and properly proved is sufficient to sustain a conviction.

However, in the case of **IDRIS RABIU V THE STATE 2005 NCC 578** it was stated that the Court must warn itself of the danger of convicting the Defendant solely on his plea of guilty. In that case under reference **IDRIS V RABIU SUPRA** the Supreme Court decision of **NWAEBONYI V THE STATE 1994 5NWLR 138** was followed were Guide lines to be considered in such a situation are prescribed as follows:

1. Is there anything outside the Confession which shows that it may be true?
2. Is it corroborated in any way?
3. Are the relevant statements of facts made in it most likely true as far as they can be tested?
4. Did the accused have the opportunity of committing the offence?
5. Is the confession possible?
6. Is the alleged confession consistent with other facts which have been ascertained and established?

It was held further that there must be distinctly admitted facts other than the accused's plea of guilty before the Court can convict such an accused. The accused must affirm all the facts put before the Court before conviction.

In this case the answer to all the questions from the Supreme Courts' guide lines stated above is in the affirmative and the Defendant was able to affirm to the Honourable Court that he indeed did all what the Prosecution witness PW1 stated that he did in his evidence in Chief and



the Defendant also admitted committing the offence and that the statement in exhibit A1-2 are his which he made freely and voluntarily.

On the other hand in the case of **OKESHETU V THE STATE 2016 6-7 MJSC 61** it was held that there is no evidence stronger than a person's own admission or confession and this was supported by a plethora of cases. It was also said in that case that a free and voluntary confessional statement of an accused person alone is sufficient to sustain a conviction where such voluntary confession of guilt is proved to be direct and positive and the Court is satisfied of its truth.

In view of this the Court is satisfied that the said statement in exhibit A1 & 2 are the statement of the Defendant which were made freely and voluntarily by him and exhibits B1-13 are the documents printed from the Defendant's phone.

The offence the Defendant is charged of under **Section 22 (2) (b) of the Cybercrime (Prohibition Prevention etc) Act 2015** provides as follows: Any person who fraudulently makes use of the electronic signature, password or any other unique identification feature of any other person; or

(b) Obtains any property or an interest in any property.

Such person is liable on conviction to 5 years imprisonment or N7 Million or both.

The question then is whether the prosecution has proven beyond reasonable doubt the offence of fraudulently impersonating one Williams Alexander on a dating internet site to one Miss Frida Estrada contrary to **Section 22 (2) (b) (ii) of the Cybercrime (Prohibition Prevention etc) Act 2015**

The elements of the offence the Defendant is charged of is similar to the offence under **Section 421 of the Criminal Code Act: which is Cheating** and provides as follows:

Any person who by means of any fraudulent trick or device obtains from any other person anything capable of being stolen, or induces any other person to deliver to any person anything capable of being stolen or to pay or deliver to any person any money or goods or any greater sum of money or greater quantity of goods or any greater sum of money or greater



quantity of goods than he would have paid or delivered but for such trick or device is guilty of a misdemeanour and is liable to imprisonment for two years. A person found committing the offence may be arrested without a warrant.

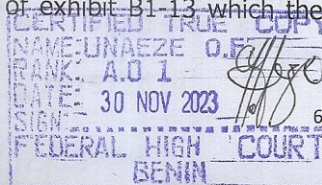
The elements of the offence of **cheating** was considered in the case of **UZOAGBA & ANOR V COP 2012 11 MJSC 80** as follows:

- i. That the person deceived, delivered to someone or consented that some person shall retain certain property;
- ii. That the person deceived was induced by the accused to part with the property;
- iii. That the person acted upon the inducement of the accused; and
- iv. That the accused had acted dishonestly when inducing that person.

In the instant case the evidence of the prosecution was undisputed and uncontroverted by the Defence who apart from the plea of guilty of the Defendant admitted all the allegations before the Court and the Court has a duty to act on such undisputed evidence as per the case of **INEGBEDION V SELE OJEMEN 2013 1 MJSC PT 150 & ARABAMBI V ABI LTD 2006 3 MJSC 61** where it was held that the Court has the duty to act on uncontroverted and un-contradicted evidence in coming to a conclusion in a matter.

Following the case of **UZOAGBA & ANOR V COP SUPRA** in the instant case the prosecution evidence showed and the defence admitted that there was a person deceived by the Defendant named as one Miss Frida Estrada who delivered money to the Defendant. In addition the uncontroverted and un-contradicted evidence of the prosecution witness showed that the said person named Miss Frida Estrada who was deceived was actually induced by the Defendant to part with the sum of money which was her property.

The evidence is clear that the said Miss Frida Estrada acted upon the love inducement of the Defendant by transferring the sums of money into his account as shown in all the bundle of exhibit B1-13 which the Defendant agreed were from his phone.



Finally, it is evident that the Defendant acted dishonestly in his love website dealings with the said Miss Frida Estrada when he dealt with her by using a fake identity in the name of Williams Alexandes which obviously was not his name and he claimed to be a Citizen of the USA which meant that the Defendant portrayed himself an American man in order to deceive the said Miss Frida Estrada to induce her to part with money which he succeeded in doing when she transferred money to his account.

In view of this the Honourable Court finds and holds that the prosecution has indeed proved beyond reasonable doubt the charge of fraudulently impersonating the identity of one Williams Alexandes on a dating internet site to one Miss Frida Estrada which identity you claimed to be your own with the intent to obtain money from her against the Defendant.

The Defendant is hereby found guilty as charged and therefore stands convicted.

The Defendant has already admitted the charge and all the evidence adduced against him and has entered into a plea bargain agreement dated 26th of April 2019 between himself and the prosecution.

The Court finds that the Defendant was able to plead guilty timeously and also cooperated very quickly with the prosecution in entering into the said plea bargain thereby not wasting the precious time and resources of the Honourable Court and tax payers.

The Court finds the said plea bargain agreement to be reasonable and just and hereby adopts the said plea bargain agreement dated 26th of April 2019 as the sentence of this Defendant/convict in this criminal case.

The plea bargain agreement between the parties is hereby entered as the sentence and judgement of this Honourable Court.

CERTIFIED TRUE COPY
NAME: UNAEZE O.F.
DATE: 30 NOV 2019
SIGN: [Signature]
FEDERAL HIGH COURT
BENIN

FEDERAL HIGH COURT
CASHIER'S OFFICE
Date: 30/11/2019
BENIN CITY

Defendant Present
F. O. Duhang for Prosecution
w/ K. U. Udub
P. E. Giga for Defence
Jmt Neaght
2015/19

A. A. DEMI-AJAYI
JUDGE
30/5/2019