

IN THE HIGH COURT OF JUSTICE  
EDO STATE OF NIGERIA  
IN THE BENIN JUDICIAL DIVISION  
HOLDEN AT BENIN CITY  
BEFORE HIS LORDSHIP HONOURABLE JUSTICE EFE IKPONMWONBA – JUDGE  
ON MONDAY THE 25<sup>TH</sup> DAY OF JULY, 2022

BETWEEN:

CHARGE NO. B/CD/EFCC/1/21:

Federal Republic of Nigeria

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Complainant

Vs.

James Blessing Anne  
Felix Victor  
Afekhai Aliu Obaadugbo

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Defendants

RULING

The Defendants are charged with six counts of Conspiracy and obtaining money by false pretense contrary to Section 8(a) and Section 1 (3) of the Advance Fee Fraud and other Fraud Related Offence Act, 2006. The Prosecution in proof of their case called three witnesses.

At the close of evidence, Counsel for the Defendants opted to file for a no case submission. Learned Counsel for the 3<sup>rd</sup> Defendant I. L. Oriabure filed and adopted their address 13/4/2022 and urged Court to dismiss the charge against the 3<sup>rd</sup> Defendant and discharge and acquit him.

For the 1<sup>st</sup> and 2<sup>nd</sup> Defendant. S. O. Osazuwa filed and also adopted his address and ask for similar relief.

The Prosecution opposed this application by filing a reply dated 13/7/22. Counsel for the Prosecution F. A. Jirbo adopted their address while urging Court to dismiss the Defendants application and order them to enter their defence as the prosecution has shown a prima facie case against them.

A no case submission postulates that all through the trial against a Defendant charged with a crime, there is no legally admissible evidence at all linking him to the offence or that whatever evidence there was, has been so discredited that no reasonable tribunal can be called upon to act on it. See the following cases:- **Daboh & Anor vs. State** (1971) 5 SC 197 at 209, **Sunny Tango & Anor vs. Cop** (2007) LPELR – 3257 (SC) Section 303 (a) of the ACJL further states that in considering an application of this nature the Court has to determine whether an essential element of the offence has been proved.

At this stage all the Court is called upon to do is to determine whether a prima facie case has been made out against the Defendants requiring them to enter their defence. It is not to evaluate or consider credibility of witnesses.

The essence of a no case submission is to determine whether or not there is a prima facie case requiring some explanation from the Defendant. I find as a fact that some questions can properly be answered by the Defendants themselves as the prosecution has shown the link between the Defendants and the offence charged.

It is for this reason I hold and call upon the Defendants to enter their defence.

The submission of no case to answer is overruled. The Defendants are hereby called upon to enter their defence.

  
EFE IKPONMWONBA  
JUDGE