

**IN THE FEDERAL HIGH COURT OF NIGERIA**

**IN THE BAUCHI JUDICIAL DIVISION**

**HOLDEN AT BAUCHI**

**ON MONDAY, 16<sup>TH</sup> FEBRUARY, 2023**

**BEFORE HIS LORDSHIP**

**HONOURABLE JUSTICE HASSAN DIKKO**

**JUDGE**

**CHARGE NO: FHC/BAU/CR/26/2017**

**BETWEEN:**

**FEDERAL REPUBLIC OF NIGERIA — COMPLAINANT**

**AND**

**AHMADU MIJINYAWA.....DEFENDANTS**

**LEGAL REPRESENTATION:**

A I Chiroma Esq, holding brief for S E Okemini, Esq. for the Complainant

Alkasim Muhammed, Esq, for the Defendant

**JUDGMENT**

The Defendant was arraigned on a 5-count amended charge dated 20<sup>th</sup> April, 2022 and it reads thus:

**COUNT ONE:**

That you, AHMADU MAJINYAWA between march and December 2015 at Bauchi, Bauchi state within the jurisdiction of this honourable court, with intent to defraud, obtained the aggregate sum of N3,470,000 (three million, four hundred and seventy thousand naira) from several residents of Darazo Local Government to wit: Ibrahim Dahiru Bulkachuwa, Shafiu Haruna and other by falsely representing to them that money was payment for other of employment letters at Darazo Local Government, Bauchi State, a representation which you knew to be false and thereby committed an offence contrary to **Section 1 (1) (a) of the Advance Fee Fraud and other Fraud Related Offences Act, 2006** and punishable under **Section 1 (3)** of the same Act.

FEDERAL HIGH COURT OF NIGERIA  
BAUCHI JUDICIAL DIVISION  
UMAR AHMED ILICASU  
REGISTERED  
2023



### **COUNT TWO:**

That you, AHMADU MAJINYAWA sometime in November 2015 at Bauchi, Bauchi state within the jurisdiction of this honourable court, did knowingly made a false document to wit: Darazo Local Government letters of appointment without lawful authority and thereby committed an offence contrary to Section 465 of the Criminal Code Act and punishable under Section 467 of the same Act.

### **COUNT THREE:**

That you, AHMADU MAJINYAWA sometime in November 2015 at Bauchi, Bauchi state within the jurisdiction of this honourable court, with intent to defraud did utter Darazo Local Government letters of appointment to several residents at Darazo Local Government to wit: Ibrahim Dahiru Bulkachuwa and Shafiu Haruna without lawful authority and thereby committed an offence contrary to and punishable under Section 473 (2) of the Criminal Code Act.

### **COUNT FOUR:**

That you, AHMADU MAJINYAWA sometime in November 2015 at Bauchi, Bauchi state within the jurisdiction of this honourable court, did knowingly made false documents to wit: Darazo Local Government staff identity cards without lawful authority and thereby committed an offence contrary to section 465 of the criminal code act and punishable under contrary to section 465 of the same Act.

### **COUNT FIVE:**

That you, AHMADU MAJINYAWA sometime in November 2015 at Bauchi, Bauchi state within the jurisdiction of this honourable court, with intent to defraud did utter Darazo Local Government staff identity card to several resident of Darazo local government to wit: Ibrahim Dahiru Bulkachuwa, Shafiu Haruna and others without lawful authority and thereby committed an offence contrary to and punishable under **Section 473 (2) of the Criminal Code Act.**

The defendant took a fresh plea of not guilty to the amended charge on the 9<sup>th</sup> June, 2022. In course of the trial, the prosecution presented 5 witnesses and tendered exhibits numbered A-L. The defendant testified as a lone witness in his defence. At the close of evidence, final written addresses were filed, exchanged and adopted on the 12<sup>th</sup> January, 2023. For the defendant, three issues are crafted and argued for determination.



1. *Whether from the totality of the evidence adduced before this court the prosecution has proven their case beyond reasonable doubt in the light of evidence to warrant conviction.*
2. *Whether this Hon. Court can rely on all the tendered and (sic) exhibits in this matter to convict the defendant.*
3. *Whether this Hon. Court can convict the defendant on count no. 2-4.*

The prosecution on the other hand formulated two issues for determination thus:

1. *Whether the Prosecution has proved its case against the Defendant beyond reasonable doubt?*
2. *Whether Exhibit J1, J2 and J3 Photocopies of extra judicial statements of the PW5 made at Economic and Financial Crimes Commission (EFCC), Gombe being a (sic) public document (sic) are admissible in law without mandatory certification in compliance with provision of section 104 of Evidence Act, 2011 (as amended)?*

I think the issues canvassed by the parties can be married into one, to wit: Whether the prosecution has proved its case against the defendant beyond reasonable doubt.

Before I proceed to resolve the issue, let me first consider the propriety or otherwise of the admitted exhibits in evidence and whether this Honourable Court can rely on same to determine this charge. The defendant's counsel argued in issue two that Exhibits G1 and G2 are inadmissible because the documents were not tendered through the maker, that Exhibits F1 and F2 can only be tendered by or through a forensic expert and that proof of forgery of a signature on Exhibits C1-C31 is not made beyond reasonable doubt as required by law. For these submissions, learned counsel relied on Sections 83, 84, 89, 90 and 68(1) of the Evidence Act, 2011 and the cases of INIAMA V. AKPABIO (2018) 17 NWLR (Pt. 1116) 225; FRN V. FANI KAYODE (2010) ALL FWLR (Pt. 534) 181 etc.

I need not stress that objection to admissibility of any exhibit is made at the point of tendering that exhibit. In the course of evidence, the defendant's counsel did object to the admissibility of Exhibits F1 and F2 which were provisionally admitted. But counsel failed to cross-examine the witness (PW3) on the said documents to test the witness' ability to properly respond to questions as regards the said documents tendered through him. For this reason, I cannot see why this Court should not rely on the said



exhibits to determine this charge. I also firmly hold that Exhibit G1 is a document from the office of the prosecution, G2 is a document obtained in the course of investigation and thus both documents can be tendered through any of the investigating officers of the prosecution. And as for Exhibits C1-C31, it is purely and wholly the duty of this Court to determine whether the burden of proof of forgery on the documents has been discharged beyond reasonable doubt.

To the main issue of whether the prosecution has discharged the burden of proof against the defendant beyond reasonable doubt, Section 138 (1) of the Evidence Act states that: *"If the commission of a crime by a party to any proceeding is directly in issue in any proceeding civil or criminal it must be proved beyond reasonable doubt."* It must be said however that proof beyond reasonable doubt is not synonymous with proof beyond all shadow of doubt. It means the prosecution must establish the guilt of the accused person with compelling evidence which is conclusive. It means a degree of compulsion which is consistent with a high degree of probability. Proof beyond reasonable doubt is not achieved by the prosecution calling several witnesses to testify, rather the Court is only interested in the testimony of a quality witness. See **BASSEY V. STATE (2012) LPELR-7813(SC)**.

Before a trial Court comes to the conclusion that an offence has been committed by an accused person, the Court must look for the ingredients of the offence and ascertain critically that acts of the accused come within the confines of the offence charged. See **SIMON V. STATE (2013) LPELR-21953(CA)**; **IGABELE V. THE STATE (2006) 6 NWLR (Pt.975) 100**; **AGBO V. THE STATE (2006) (Pt. 977) 5456**.

Section 1(1) & (3) of the Advance Fee Fraud and other Fraud Related Offences Act, 2006 provides thus:

- (1) Notwithstanding anything contained in any other enactment or law, any person who by any false pretence, and with intent to defraud-*
  - a) Obtains, from any other person, in Nigeria or in any other country, for himself or any other person.*
- (2) ....*
- (3) A person who commits an offence under subsection (1) or (2) of this section is liable on conviction to imprisonment for a term of not more than twenty years and not less than seven years without the option of a fine.*



Section 465 of the Criminal Code Act states that:

*A person who makes a false document or writing knowing it to be false, and with intent that it may in any way be used or acted upon as genuine, whether in the state or elsewhere, to the prejudice of any person, or with intent that any person may, in the belief that it is genuine, be induced to do or refrain from doing any act, whether in the state or elsewhere, is said to forge the document or writing.*

...

*It is immaterial in what language a forged document or writing is expressed.*

*It is immaterial that the forger of anything forged may not have intended that any particular person should use or act upon it, or that any particular person should be prejudiced by it, or be induced to do or refrain from doing any act.*

*It is immaterial that the thing forged is incomplete or does not purport to be a document, writing, or seal, which would be binding in law for any particular purpose, if it is so made, and is of such a kind, as to indicate that it was intended to be used or acted upon.*

Section 467 of the Advance Fee Fraud and other Fraud Related Offences Act, 2006

*Any person who forges any document, writing, or seal, is guilty of an offence which, unless otherwise stated, is a felony, and he is liable, if no other punishment is provided, to imprisonment for three years.*

Section 473(2) of the Criminal Code Act provides that:

*Any person who, with intent to defraud-*

(1) ...

(2) *Knowingly utters any document or writing so made, signed or executed, by another person, is guilty of a felony and is liable to imprisonment for seven years.*

I have above reproduced the relevant laws for ease of reference, and shall hereunder, consider each count, thus:

**COUNT ONE:**

The defendant's counsel is of the argument on this count that for the offence of obtaining by false pretence to be complete, the accused must



have induced the victim to deliver or transfer some property or interest into the accused or some other person, and that since property is defined as chattel, money does not qualify as chattel to constitute an offence as charged under this count. Reliance is placed on the cases of DARLINGTON V. FRN (2018) 11 NWLR Pt. 1629) 152; ONWUDIWE V. FRN (2006) 10 NWLR (Pt. 988) 382. It is also submitted that there is divergent evidence as to when the offence allegedly took place and the exact amount that the defendant is alleged to have collected from the victims. Thus, it cannot be said that the prosecution has proved the guilt of the defendant beyond reasonable doubt.

The prosecution's reaction is that, proof beyond reasonable doubt is not synonymous with proof beyond all shadow of doubt, that it has been established vide confessional statement, circumstantial evidence and evidence of eye witnesses that the defendant obtained a cumulative sum of N3,470,000.00 from the victims.

I will start by acknowledging that the prosecution upon discovering the disparity as to the time the offence purportedly took place, amended the charge to reflect the year 2015. There is no objection to this amendment which is in line with the principles of law, and I shall let this issue lie.

Now, to ground conviction under this count, the prosecution must prove beyond reasonable doubt that: (a) A pretence was made by the accused person; (b) The pretence was false; (c) The accused knew the pretence to be false or did not believe it to be true. (d) The pretence operated on the mind of the person from whom the property was obtained; and (e) some property must have been obtained as a result of the pretence. See the case of **NWABU V. IGP (2019) LPELR-47604(CA)**.

On the meaning of the term "false pretence", the Court stated in the case of **AGABA V. FRN (2018) LPELR-44575(CA)** as follows:

"False pretense was described in the case of **ABATAN OLUWASHEUN V THE FEDERAL REPUBLIC OF NIGERIA (2016) LPELR-40768** thus:

*"The term "false pretences" denotes the offence of knowingly obtaining someone's property by misrepresenting a fact with the intent to defraud that person. In Black's Law Dictionary, tenth edition it is also termed; "the crime of knowingly obtaining title to another person's property by misrepresenting a fact with the intent to defraud." The offence has also been fittingly defined in*



**Section 20 Advance Fee Fraud and other Related Offences Act, 2006, in this way: "20. In this Act- "false pretence" means a representation, whether deliberate or reckless, made by word, in writing or conduct, of a matter of fact or law, either past or present which representation is false in fact or law, and which the person, making it knows to be false or does not believe to be true."**

From the evidence before me, particularly Exhibits H1 and H2, it is crystal clear that the defendant deliberately and knowingly made a false representation by word and conduct to the victims that he was offering them employment with Darazo Local Government of Bauchi State, and which false representation made the victims to transfer the interest in their hard-earned money to the defendant. It will be absurd in my view to hold that the victims must have parted with chattel (and not money) to be guilty of the offence charged under count one. I feel the need to stress here that Exhibits H1 and H2 are confessional statements of the defendant which were tendered and admitted on the 22<sup>nd</sup> day of June 2020. Though the defendant's counsel objected to admissibility of these statements, he chose to rather reserve his grounds and submissions on his objections till the final address which I have perused but could not find where such arguments are canvassed. It is the defendant who in his testimony as the lone defence witness stated that he was intimidated and instructed to write what he was told to write, which case only qualifies as a retraction of confessional statement. By this finding, I need not state that Exhibits H1 and H2 are proper before this Court and can be safely relied upon to determine this charge. I am satisfied beyond reasonable doubt with the proof of this count against the defendant. I find the defendant guilty and he is accordingly convicted on this count.

#### **COUNTS TWO, THREE, FOUR & FIVE:**

The defendant under these counts is alleged to have forged and altered Darazo Local Government letters of appointment and staff identity cards and issued same to several unsuspecting victims. For what constitutes this offence, let me call in aid the case of **ADAMU V. FRN (2021) LPELR-54598(CA)** thus:

**"As to what will amount to ingredients of the offence of forgery, the Supreme Court in *Ndoma- Egbavs A.C.B. (2005) 14 NWLR (pt. 944) 79* held thus:**

REGISTRAR  
UMAR AHMED ILIASU  
BAUCHI



*"In Nwobodo v. Onoh (1984) All N.L.R. 1 at 77, (1984) 1 SCNLR 1 at 72, Obaseki J.S.C. discussed the nature of the offence of forgery and the proof of it in relation to Section 137(1) of the Evidence Act thus: "Forgery as defined under the Criminal Code reads -*

*S. 465. A person who makes a false document or writing knowing it to be false, and with intent that it may in any way be used or acted upon as genuine, whether in Nigeria or elsewhere to the prejudice of any person, or with intent that any person may be in the belief that it is genuine be induced to do, or refrain from doing any act whether in Nigeria or elsewhere is said to forge the document or writing.*

*To bring an indictment for the offence of forgery under S.465 of the Criminal Code, it must contain the important ingredient of knowledge except the word 'forgery' is used in the indictment."*

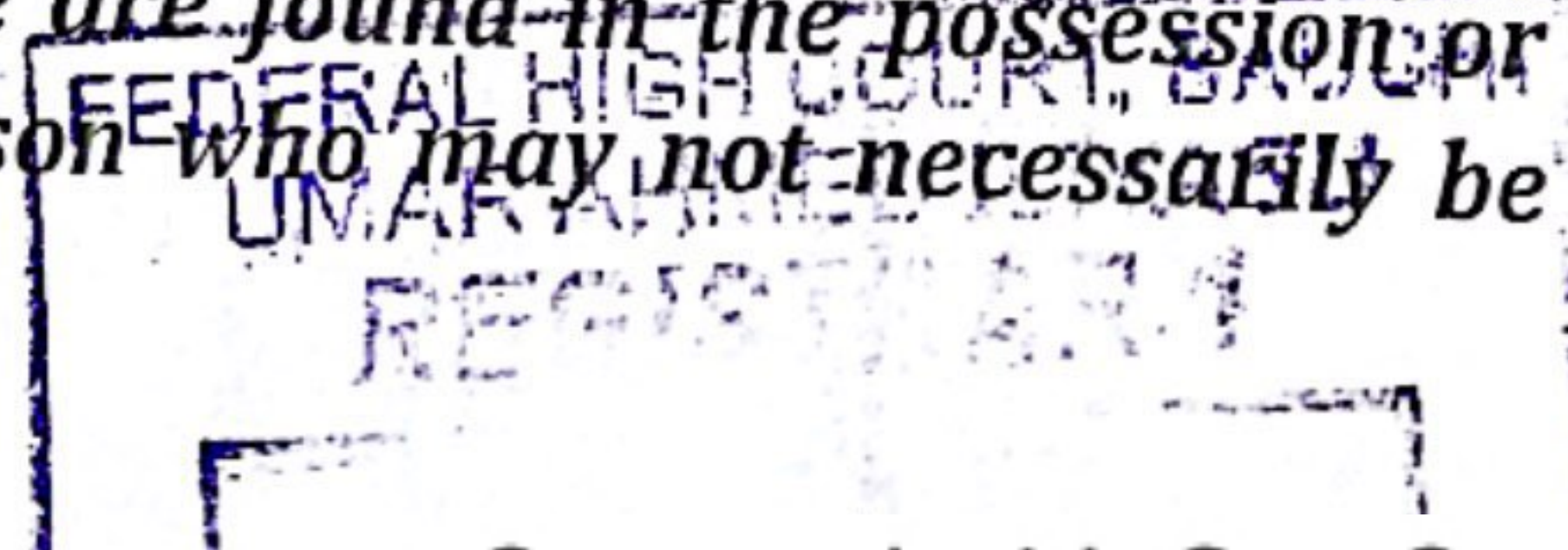
*Similarly, this Court held in Wagbatsomavs FRN (2015) ALL FWLR (pt. 812) 1430 as follows:*

*"On the offence of forgery and uttering of a false document, what the prosecution needs to prove is as stated in ODIAWA V. FRN (2008) LPELR 4230 (CA); ALAKE vs STATE (1991) 7 NWLR (Pt.205) 567 thus:*

*"The offences of forgery and uttering have been defined in Section 467(2)(c) of the Criminal Code. Their ingredients are:*

- a. That the accused utters or forges a document.*
- b. That he knew the document to be false.*
- c. That he presented the said document to the other party with the intention that it could be acted upon.*
- d. That the document was acted upon by the other party to his detriment (the 4th ingredient is not always necessary to prove once the other 3 have been established).*

*The offence of possession of documents containing false pretences is a question of fact. In other words, once documents containing false pretences, as defined above are found in the possession or constructive possession of a person who may not necessarily be*





*the author, the offence is complete. The offence of uttering is also akin to that of forgery."* Per TOBI, J.C.A

The defendant in Exhibit H1 at page 186 voluntarily wrote thus *"I have given (bought) both Sanusi A Bello and Mai Bala Garba and(sic) appointment letters that I cannot remember exactly the number I have given each one of them...In my capacity as Accountant to the Local Govt, in my official duties, I have a letter(sic) Darazo Local Govt letter Headed Papers for my official duties...which instead of using it for the above purpose, I used to print offer of temporary appointment and sold to individuals..."* PW4, Bala Garba also testified as to how he gave the defendant various amounts of money gathered from the victims in return for which the defendant issued the victims with letters of employment and staff identity cards which turned out to be fake. PW5, Magaji Aliyu San Turaki accounted that his signature was forged on the purported appointment letters to which Exhibits F1 and F2 proved this disclaimer. I do not find it difficult to hold the firm view that the defendant forged and uttered the letters of appointment in Exhibit C Series and issued same to the victims with the full knowledge that the documents are false. The defendant did not stop there but proceeded to forge and issue staff identity cards to some of the victims in similar fashion as contained in Exhibit D Series.

Again, I am satisfied beyond reasonable doubt with the proof by the prosecution on these counts. I therefore, find the defendant guilty of counts two, three, four and five and he is accordingly convicted.

**Court;** I certify that punishment under sections 1 (3) of the Advance Fee fraud and other Fee Fraud related offences Act 2006, sections 467, 473 (2), and 465 of the Criminal Code Act, read and explained to the convict to his understanding, he is accordingly invited to enter plea in mitigation of the sentence.

**Allucotus;** I apply for leniency of the court, I am a family man with 10 kids, I apply for the court to sentence me from the date of arrest and remand in custody. I will not repeat the offence, I contacted high blood pressure (HBP) due to this case, I sent my parents to beg the family members of those involved in this case. I will not repeat the offence again.

FEDERAL HIGH COURT, ZARIA  
UMAR AHMED ILYASU



Alkasim, Esq; we urge the court to tamper justice with mercy, this is a case of 2017 and the convict had shown a sign of remorse , even the record of the court would show the convict was diligent throughout the trial, the convict spent one year four months and other round of four months in custody under remand.

Chiroma, Esq. the convict is a first offender.

**Court; SENTENCE.**

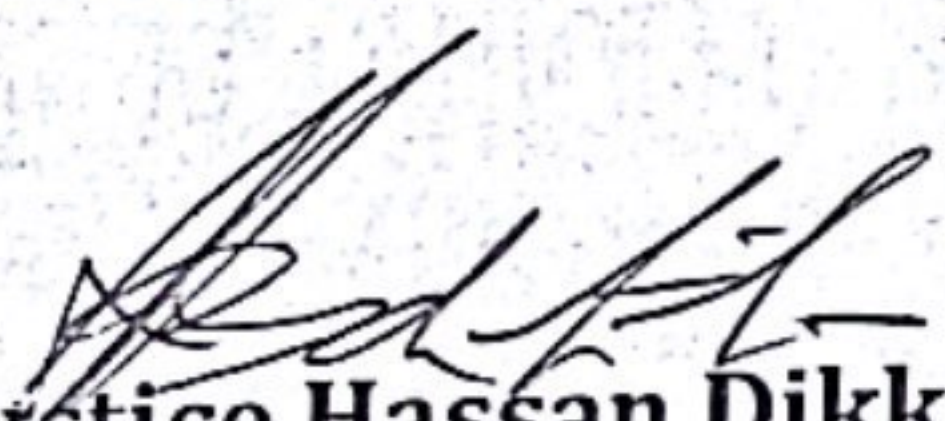
You being a first offender is a condition to mitigate your sentence, however being in civil service and to convert your official duty into criminality in the name of securing employment to the unsuspecting public is indeed overreaching, the convict deserves a deterrent punishment pleadings and pledges notwithstanding. I will still be lenient to the convict, I hereby sentence you to 3 (three) years in correctional service Bauchi on the 1<sup>st</sup>count charge, I hereby sentence you to 1(one) year each on the 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> count charge in correctional service Bauchi.

Sentences shall run concurrently remove from the date of remand if any in compliance to the authority of OLORE V. IGP (2017) LPELR-42657 (CA).

The complainants may wish to recover their money by civil claim before a court of competent jurisdiction, and I hereby ordered that a copy of this judgment be served on the employers of the convict to wit;

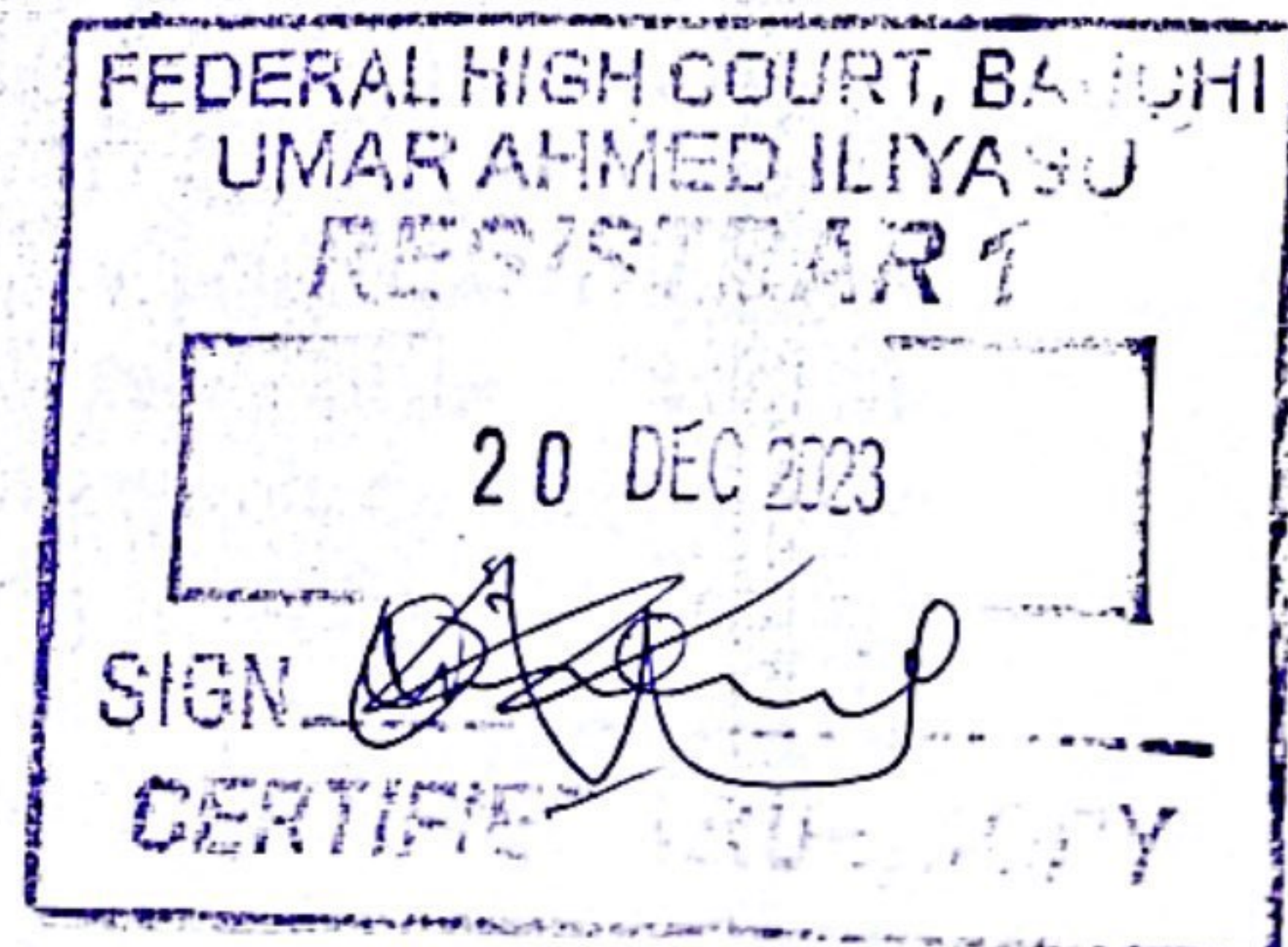
1. The Executive Chairman, Darazo Local Government Area, Darazo.
2. The Chairman, Bauchi State Local Government Service Board, Bauchi.

There is right of appeal.

  
Hon. Justice Hassan Dikko

Judge

16<sup>th</sup>February, 2023.





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FEDERAL HIGH COURT  
UMAR AHMED ILIYASU  
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IN THE FEDERAL HIGH COURT OF NIGERIA  
IN THE BAUCHI STATE JUDICIAL DIVISION  
HOLDEN AT BAUCHI

CHARGE NO. *FHC/BAU/MS/2017*

BETWEEN

FEDERAL REPUBLIC OF NIGERIA.....

COMPLAINANT

AND

AHMADU MIJINYAWA .....

DEFENDANT

CHARGE

COUNT 1

That you **AHMADU MIJINYAWA** sometime in November, 2014 at Bauchi State within the Federal High Court Bauchi Judicial Division with intent to defraud did obtain the sum of Three Million Four Hundred and Seventy Thousand Naira (N3, 470, 000.00) from several Darazo Local Government residents to include Ibrahim Dahiru Bulkachuwa and Shafiu Haruna by falsely claiming the sums were for processing of employment letters with the Darazo Local Government, Bauchi State, facts which you knew to be false and thereby committed an offence contrary to Section 1 (1) (a) and punishable under Section 1(3) of the Advance Fee Fraud and Other Related Offences Act, 2006.

COUNT 2

That you **AHMADU MIJINYAWA** sometime in November, at Bauchi State within the Federal High Court Bauchi Judicial Division with intent to defraud knowingly make false documents to wit; Darazo Local Government letters of appointment without lawful authority and thereby committed an offence contrary to and punishable under Sections 465 and 467 Criminal Code Act respectively.

COUNT 3

That you **AHMADU MIJINYAWA** sometime in November, 2014 at Bauchi State within the Federal High Court Bauchi Judicial Division with intent to defraud did utter Darazo Local Government letters of appointment to several Darazo Local Government residents to include Ibrahim Dahiru Bulkachuwa

FEDERAL HIGH COURT  
REGISTRAR'S OFFICE



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Shafiu Haruna without lawful authority and thereby committed an offence contrary to and punishable under Section 473 (2) Criminal Code Act.

**COUNT 4**

That you **AHMADU MIJINYAWA** sometime in November, 2014 at Bauchi State within the Federal High Court Bauchi Judicial Division with intent to defraud did knowingly make false documents to wit; Darazo Local Government, Bauchi State staff identity cards without lawful authority and thereby committed an offence contrary to and punishable under Sections 465 and 467 Criminal Code Act respectively.

**COUNT 5**

That you **AHMADU MIJINYAWA** sometime in November, 2014 at Bauchi State within the Federal High Court Bauchi Judicial Division with intent to defraud did utter Darazo Local Government, Bauchi State staff identity cards to Darazo Local Government residents to include Ibrahim Dahiru Bulkachuwa and Shafiu Haruna without lawful authority and thereby committed an offence contrary to and punishable under Section 473 (2) Criminal Code Act.

DATED THIS .....<sup>1<sup>st</sup></sup> DAY OF <sup>Nov</sup> ..... 2017

**AKANDE O. ISRAEL ESQ,  
ECONOMIC AND FINANCIAL CRIMES COMMISSION,  
NO4 EFCC STREET, NEW G.R.A GOMBE.  
GOMBE STATE.**

