

IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE CALABAR JUDICIAL DIVISION
HOLDEN IN CALABAR
ON THURSDAY, THE 4TH DAY OF FEBRUARY, 2021
BEFORE HIS LORDSHIP, HON. JUSTICE S. A. AMOBEDA
JUDGE

CHARGE NO: FHC/CA/23^C/2020

BETWEEN:

THE FEDERAL REPUBLIC OF NIGERIA - COMPLAINANT
AND
UCHECHUKWU JOHN - DEFENDANT

JUDGMENT

The Defendant was arraigned before this Court on the 11th day of March, 2020, upon a One Count charge dated the 5/3/2020 and filed on the same date. The Particulars of the Charge read thus:

That you, Uchechukwu John, Male, 46 years old, on or about the 23rd day of February, 2020 during a stop and search operations by NDLEA Operatives at Yahe, Yala Local Government Area of Cross River State, within the jurisdiction of this Honourable Court, without lawful authority possessed 27.8 kilogrammes of Cannabis Sativa (otherwise known as marijuana), a narcotic drug similar to cocaine, LSD and heroin and thereby committed an offence contrary to and punishable under Section 19 of the National Drug Law Enforcement Agency Act, Cap N30 Laws of the Federation of Nigeria, 2004.



Upon the Charge being read to the Defendant in English language, he pleaded not guilty to the charge, and the matter was set down for commencement of trial. However, when the matter came up for commencement of trial on the 3rd day of February, 2021, Counsel for the Defendant informed this Court of the intention of the Defendant to change his plea, and prayed that the charge be read afresh to the Defendant to enable him change his plea, a prayer which Counsel for the Complainant did not oppose. Upon the prayer being granted, the One Count Charge was read afresh to the Defendant, who pleaded guilty to the Charge. In view of the Defendant's plea of 'guilty', the Prosecution Counsel then urged this Court to convict and sentence the Defendant accordingly. He relied on **FRANCIS NKIE v. FRN (2014) LPELR-22877(SC)**, and the provisions of **Sections 274 (2) and 356 (1) and (2) of the Administration of Criminal Justice Act, 2015.**

This Court enquired from the Defendant whether he understood the Charge read to him and the nature of his plea, and he answered in the affirmative, satisfying the Court that he understood the Charge against him and intended to admit all the ingredients of the offence.

CONVICTION

It is trite principle of law that where a Defendant pleads guilty to a non-capital offence, the Court having been satisfied that he understood the Charge and intended to admit all the ingredients of the offence and so admits, by pleading guilty to the Charge, shall proceed to convict the Defendant. Thus, where a Defendant pleads guilty to a Charge having satisfied the Court that he understood the Charge and intended to admit all the ingredients of the offence thereof, the next and last step is for the trial Court to convict and sentence the Defendant. This position of the law was affirmed by the Supreme Court in **KPOOBART v. FRN (2016)**

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DATE 30-11-2023
CALABAR

LPELR-40010(SC), pages 16 -17, paras. E – A, when it held per Peter-Odili, JSC, thus:

"On the impact of a plea of guilty, this Court had in Omoju v. Federal Republic of Nigeria (2008) 7 NWLR (pt. 1085) 38 restated what follows a plea of guilty by an accused thus: "By entering a guilty plea, hearing is foreclosed as the next and last procedural step of the trial judge is to convict and pass appropriate sentence."

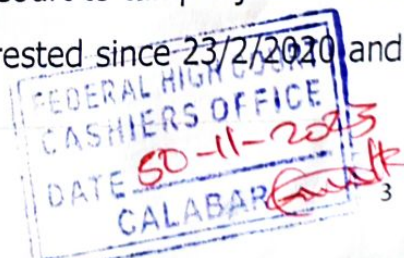
Still of the effect of a plea of guilt by a Defendant, the Supreme Court again held *inter alia* per Rhodes-Vivour, JSC in SUNDAY v. FRN (2018) LPELR-46357(SC), p. 24, paras. C – F, thus:

"... Where an accused person is represented by counsel and he pleads guilty, the plea of guilty brings the trial to an end and what is left to be done is for the judge to convict and sentence him. A plea of guilty to a charge is conclusive evidence that the accused/appellant committed the offence. A plea of guilty is the best evidence against an accused person. It is even better than eye witness evidence..."

In view of the above trite position of the law, this Court having been satisfied that the Defendant fully understood the facts as stated in the charge and intended to plead guilty to the charge and so pleaded, the Defendant is hereby Convicted as charged.

ALLOCUTUS

In pleading Allocutus, the Convict prayed this Court to tamper justice with mercy. He informed the Court that he was arrested since 23/2/2020 and has been in detention since then till date.



SENTENCE

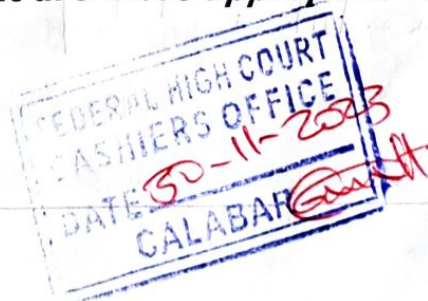
In sentencing the Convict, the duty of the Court is as circumscribed by the clear provisions of **Section 356 (2) of ACJA, 2015** which provides that:

(2) Where the Defendant pleads guilty and the Court is satisfied that he intends to admit the offence and shows no cause or no sufficient cause why sentence should not be passed, the Court shall proceed to sentence.

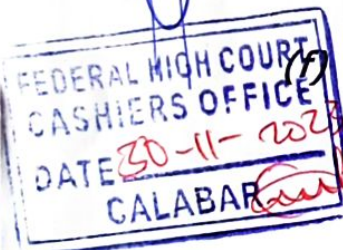
However, the attitude of Courts when it comes to sentencing is basically that it must be a rational exercise with certain specific objective, such as retribution, deterrence, reformation etc. in the hope that the type of sanction chosen will put the particular objective chosen however roughly, into effect. The sentencing objective to be applied as well as the type of punishment may vary depending on the facts and circumstances of a particular case.

In discharging this no doubt difficult exercise, the Court has to first decide which principle or objective would better apply to the fact of a case and the quantum of punishment that it will accord with it. The particular objective to be achieved by the Court will determine the type of sanction to be imposed. The above reasoning accords with the provision of **Section 401 (2) of the Administration of Criminal Justice Act, 2015**, which provides, thus:

(2) In determining a sentence, the court shall have the following objectives in mind, and may decide in each case the objectives that are more appropriate or even possible:



- (a) *prevention, that is, the objective of persuading the convict to give up committing offence in the future, because the consequences of crime is unpleasant;*
- (b) *restraint, that is, the objective of keeping the convict from committing more offence by isolating him from society;*
- (c) *rehabilitation, that is, the objective of providing the convict with treatment or training that will make him into a reformed citizen;*
- (d) *deterrence, that is, the objective of warning others not to commit offence by making an example of the convict;*
- (e) *education of the public, that is, the objective of making a clear distinction between good and bad conduct by punishing bad conduct;*
- (f) *retribution, that is, the objective of giving the convict the punishment he deserves, and giving the society or the victim revenge; and*
- (g) *restitution, that is, the objective of compensating the victim or family of the victim of the offence.*



Where the objective to be achieved is deterrence, then a higher sentence may be necessary, but where the objective to be achieved is reformation or rehabilitation of the Convict, then a higher sentence may not be necessary, particularly where the Convict is a first time offender. However, in imposing a sentence, the Court must be careful so as not to impose a sentence that could be seen as encouraging crimes of a prevalent nature. The Court must therefore engage in some tight balancing act by being:

- (1) considerate and fair in enforcing clear provisions of the law; and
- (2) fair to the Convict where true pertinence is displayed.

I have considered all these factors particularly the fact that the Convict is a first offender and who has exhibited sincere penitence in the circumstances rather than insist on his inalienable right to a trial, he pleaded guilty thereby saving taxpayer's resources and time of this Court. I have also taken into consideration the provision of **Section 416 (2) (b)** of **ACJA, 2015** which requires me to bear in mind the objectives of sentencing, including the principles of reformation. In the circumstances, I am inclined to the view that the principles of reformation or rehabilitation will be best suitable to this case, and a lighter sentence appears to me desirable and appropriate and will fully achieve the noble goals of rehabilitating and reforming the Convict towards a precinct path of a moral rectitude in life.

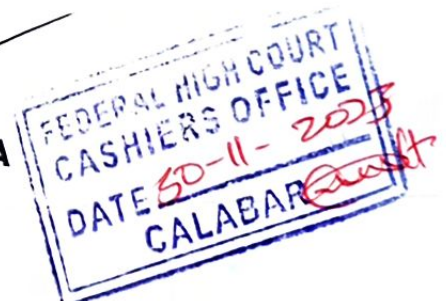
In view of the above, I hereby sentence the Convict to 11 (Eleven) months and nine (9) days imprisonment from the date of his arrest, with no option of fine. The 27.8 kilogrammes of *Cannabis Sativa* shall be destroyed by Officials of the National Drug Law Enforcement Agency, Cross River State Command.

That shall be the sentence judgment of this Court.



3-Jul-2023

HON. JUSTICE S. A. AMOBEDA
Presiding Judge
4/2/2021



APPEARANCES:

- 1. **Vembe Emmanuel, Esq.** - for the Prosecution
- 2. **E. J. E3gbe, Esq.** - for the Convict

Original of Court Judgment - 1/300-10
 [Handwritten signature]
 3-Jul-2023