

**IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE BENIN JUDICIAL DIVISION
HOLDEN AT BENIN
ON THURSDAY THE 20TH DAY OF JULY, 2023
BEFORE HIS LORDSHIP, HON. JUSTICE (PROF.) C.A. OBIOZOR
JUDGE**

CHARGE NO. FHC/B/206C/22

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA COMPLAINANT

AND

LUCAS LUCKY OBOH DEFENDANT

J U D G M E N T

I have carefully considered the Defendant's plea of guilt, the facts of the case, which the Defendant admits as well as the uncontroverted evidence adduced by the Prosecution inclusive of Exhibit "A" to "D" and the Court is satisfied that the Prosecution has discharged the burden of proving the guilt of the Defendant beyond reasonable doubt. See Section 135 of the Evidence Act, 2011; see also **Aguguo v. State**. I therefore find the Defendant guilty as charged. Consequently, the Defendant, Lucas Lucky Oboh, male, is hereby convicted of



fraudulent impersonation of identity of one Kevin Robet through the Internet with intent to obtain money contrary to Section 22(2)(b)(ii) of the Cybercrime (Prohibition, Prevention e.t.c.) Act, 2015, punishable under Section 22(2)(b)(iv) of the same Act.

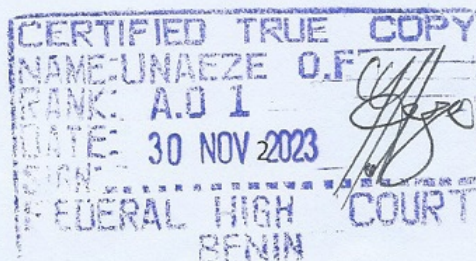
Court: Lucas Lucky Oboh, do you have anything to say to this Court or evidence as to character in mitigation of punishment?

Convict: I pray the Court to give me another chance. I promise to be of good behaviour.

Court: Did you enter a Plea Bargain with the Prosecution.

Convict: Yes.

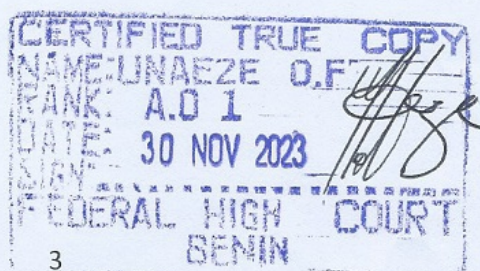
N.F. Okafor: My Lord, I pray the Court to temper Justice with mercy. I pray the Court to consider the timely plea of guilty by the convict in demonstration of remorse. The convict has promised to be of good behaviour if he is given a second chance. The convict is a first offender. I pray the Court to accept the Plea Bargain, which I adopt and urge the Court to sentence the convict based on the terms of the Plea Bargain.



SENTENCE

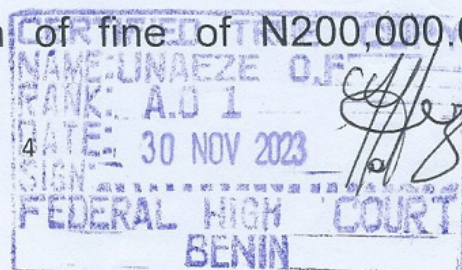
I have considered the plea for leniency, the period over which the convict has been in detention; the punishment for the offence charged, which is imprisonment for 5 years or an option of fine of not more than N10,000,000.00. I have noted the fact that the convict is a first offender as well as the Sentencing Guidelines of this Court.

By law, where a statute has imposed the minimum custodial sentence for an offence, the Court cannot go below the minimum prescription set, in passing a custodial sentence. See **Duru v. F.R.N.** But then, where this is the case and the provisions do not expressly forbid the option of fine, the Court may exercise discretion to impose a fine in lieu of custodial sentence. See **Apamadari v. State.** See also **Nwude v. F.R.N.** In the instant case, the penal section under which the convict is charged does not expressly forbid the option of fine. In the contrary, it provides for the option of fine in lieu of custodial sentence.

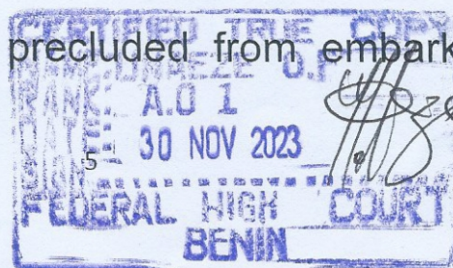


At any rate, I have taken account of the purview of Section 416 of the Administration of Criminal Justice Act, 2015 which enjoins the Court to refrain from imposing a custodial sentence on first offenders except there be no other way of dealing with the convicts.

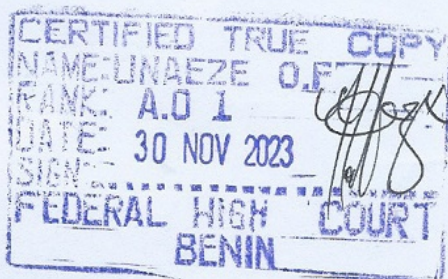
In this case, I have looked up the Court's record. This Court may do so, suo motu and make use of any document in its record, even where same is not tendered as an Exhibit in the proceedings. See **Agbaisi v. Ebikorefe**; see also **Eromosele v. F.R.N.** I see from the Court's record, the extant Plea Bargain dated the 14th of July, 2023 but filed the 17th of July, 2023 filed by the convict and the Prosecution. I have assessed the tenor of the Plea Bargain in the context of the settled law and principles as indicated above and find myself on a strong wicket to accept the terms of the Plea Bargain in passing Sentence in this case. Accordingly, and in accord with the Plea Bargain entered in this case, the convict, Lucas Lucky Oboh, male, is hereby sentenced to a custodial term of 5 (Five) years imprisonment with an option of fine of N200,000.00 (Two

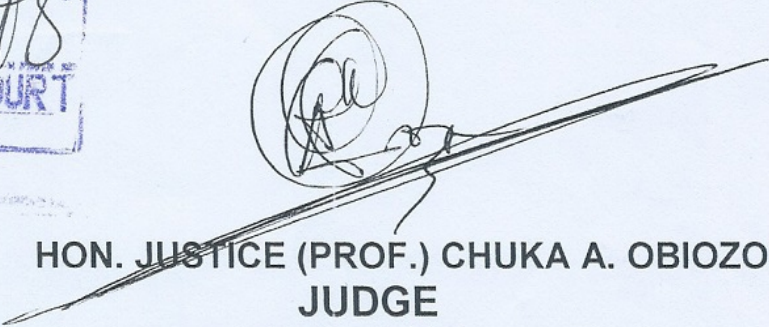


Hundred Thousand Naira). In the event of failure to satisfy the option of fine, the custodial term shall be served at the Benin Correctional Centre, Sapele Road, Benin City, Edo State with effect from today. The convict shall forfeit the sum of 200 Euros recovered from him as proceeds of crime in this case to the Federal Government of Nigeria. Additionally, the convict shall forfeit his mobile phones – Exhibits “C and C1” in this case, iPhone X max with IMEI NO.: 356233411889550 used in perpetrating the crime and one Tecno Spark 5 mobile phone with IMEI NO. 356233411889 purchased with the proceeds of crime – to the Federal Government of Nigeria. The learned prosecuting Counsel shall enter an undertaking to take and transmit these phones to the repository of properties forfeited to the Federal Government of Nigeria. The Defendant’s Union Bank Plc Account NO.: 0127131550 used in the receipt of proceeds of crime shall remain permanently closed and all monies found therein, if any, shall be forfeited to the Federal Government of Nigeria. For the avoidance of doubt, the Prosecution shall not be precluded from embarking on any



prosecution or proceedings to attach and forfeit any property that may be traced to the convict as having been purchased with the proceeds of crime, for which the convict stand convicted in these proceedings, to the Federal Government of Nigeria. Finally, the convict shall undertake in writing to be of good behaviour and desist from committing criminal acts.




HON. JUSTICE (PROF.) CHUKA A. OBIOZOR
JUDGE
20/07/2023.

Parties:

Defendant, present.

Appearances:

**I.M. Elodi for the Prosecution.
N.F. Okafor for the Defendant.**

