



IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE BENIN JUDICIAL DIVISION
HOLDEN AT COURT 2, SAPELE ROAD, BENIN
ON MONDAY THE 10TH DAY OF JULY, 2023
BEFORE HIS LORDSHIP HONOURABLE JUSTICE (PROF.) CHUKA A. OBIOZOR
JUDGE

CHARGE NO. FHC/B/20C/2023

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA

..... COMPLAINANT

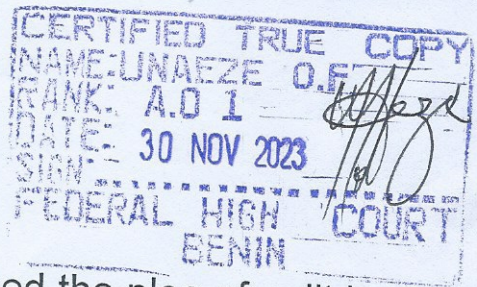
AND

- 1. AMADIN AMOS OBAZEE
- 2. PRESLEY OTAIGBE IBADIN




..... DEFENDANTS

JUDGMENT



I have carefully considered and appraised the plea of guilt by the 1st and 2nd Defendants on the six – Count Amended Charge in these Proceedings, dated the 16th of June, 2023 but filed the 19th of June, 2023 inclusive of the facts, which the Defendants admit and the court is satisfied that the Prosecution has successfully discharged the burden cast upon it at law to proof the guilt of the 1st and 2nd Defendants beyond reasonable doubt. See *Aguguo v. State*; *Initolo v. State*. See also section 135 of the Evidence Act, 2011. I am therefore satisfied that the Prosecution has

effectively complied with the provisions of section 356(2) of the Administration of Criminal Justice Act, 2015. In view thereof, I hereby find the 1st Defendant guilty of money laundering in Count 1, contrary to section 17(b) of the Money Laundering (Prohibition) Act, 2012; In Count 2, I find the 1st Defendant guilty of money Laundering contrary to section 17(a) of the Money Laundering (Prohibition) Act, 2012 as amended and punishable under section 17 (b) of the same Act; In Count 3, I find the 1st Defendant guilty of carrying on financial business, to wit: Euro to Euro Hawala – type structured financial business without a valid licence issued by the Central Bank of Nigeria, contrary to section 2 of the Banks and other Financial Institutions Act, 1991, Laws of the Federation of Nigeria, 2004; In Count 4, I hereby find the 2nd Defendant guilty of directly or indirectly taking possession of funds which he knew or reasonably ought to have known to represent proceeds of criminal conduct with the aim of disguising the origin of the money, contrary to section 17(b) of the Money Laundering (Prohibition) Act, 2012 as amended; In Count 5, I hereby convict the 2nd Defendant of transferring funds from his accounts to various

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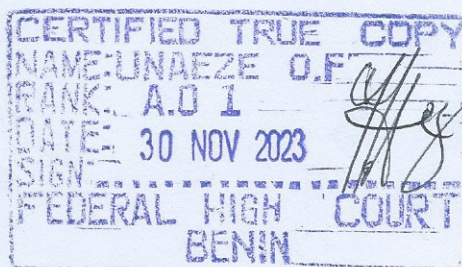
nominees, which sums he knew or reasonably ought to have known to form part of the proceeds of an unlawful activity, contrary to section 17(a) of the Money Laundering (Prohibition) Act, 2012 as amended and punishable under section 17(b) of the same Act; and in Count 6, I hereby find the 2nd Defendant guilty of carrying on financial business to wit: Euro to Euro Hawala – type structured financial business without a valid licence issued by the Central Bank of Nigeria, contrary to section 2 of the Banks and other Financial Institutions Act, 1991, Laws of the Federation of Nigeria, 2004.

Court: Do the convicts have anything to say to this Court or evidence as to character in mitigation of punishment.

1st Convict: I plead for mercy and entered a plea bargain in this case.

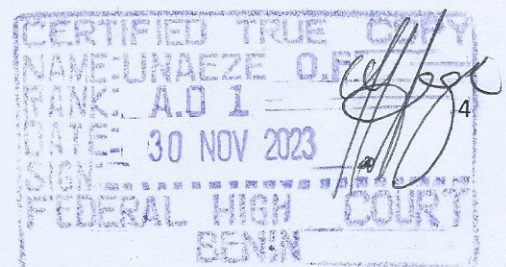
2nd Convict: I will not try it again. I pray for mercy. I entered a plea bargain in this case.

G. A. Oladejo: The 1st convict entered a plea bargain with the Prosecution, a copy of which is filed in this Court and forms part



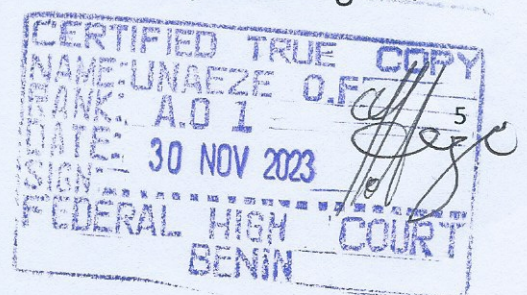
of the records of this Court, filed on the 7th of July, 2023. I adopt the plea bargain and in passing sentence, I urge the Court to apply the tenor of the Plea bargain in Sentencing the 1st convict. The 1st convict is a first offender. He is very remorseful.

Patrick Wilson: The 2nd convict entered a Plea bargain with the Prosecution filed on the 7th of July, 2023. I adopt the Plea bargain and urge the Court to consider the Plea bargain in passing sentence. I commend section 270 of the Administration of Criminal Justice Act, 2015 to the Court and submit that the 2nd convict cooperated with the EFCC. Secondly, the 2nd convict is a first offender. He has no record of criminal activity. He has not wasted the precious time in a full trial. By electing for a plea trial, the 2nd convict has saved the Court, time and resource. I also urge the Court to consider the prospects of restitution and note that in the plea bargain, there is an agreement on punishment. Some of the funds found are up for forfeiture. The purpose of the justice system is not just to punish but for correction. The 2nd convict is now remorseful. I urge the Court to apply the Plea bargain in passing sentence in this case.



Court: Debora Ademu – Eteh, is there previous record and how long have the convicts been in custody.

Debora Ademu Eteh: There is no previous record to my knowledge. The 1st convict was arrested on the 21st of November, 2019 and was later released on the 23rd of November, 2019. The 2nd convict was arrested on the 17th of October, 2019 and released on the 23rd of October, 2019. The convicts and the Prosecution entered a plea bargain filed on the 7th of July, 2023. I adopt the Plea bargain. The punishment for Count 1 is imprisonment for not less than five years or a fine equivalent to five times the equivalent of the value of the proceeds of the criminal conduct or both. The same is applicable in Counts 2, 4 and 5. Counts 3 and 6 under the Banks and other Financial Institutions Act, imposes a punishment for imprisonment to a term not exceeding 10 years or a fine of N2,000,000 or both to imprisonment and fine. The convicts are first offenders and having not wasted the time of the Court, and having admitted the offences, moreso, as they are remorseful and had not jumped bail. We most graciously urge the Court to sentence in accord with the terms of the plea bargain.

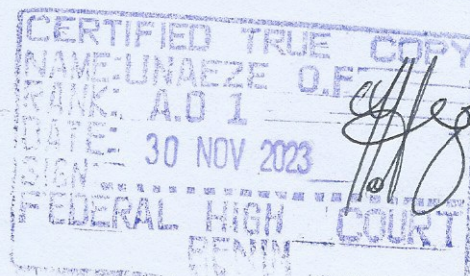


SENTENCE

I have noted the Sentencing Guidelines of this Court. I have considered the period over which the convicts have been in detention. I have equally noted the fact that the convicts are first offenders; the plea for leniency as well as the punishment for the offences charged.

Additionally, I have perused the records of this Court. This Court may do so suo motu and make use of any document in its record whether or not tendered as an Exhibit in the proceedings. See **Eromosele v. FRN**; see also **Agbaisi v. Ebikorefe**. I see a copy of Plea Bargain entered by the convicts with the Prosecution, filed on the 7th of July, 2023. I have meticulously assessed the tenor of the Plea Bargain and fully appreciate the contents.

One thing is clear. By the Nigerian Criminal Law Jurisprudence, the Court may exercise discretion in the matter of Sentencing. See **Ezekiel v. A. G (Federation)**. For certain, and at all times, in exercising discretion, the Court is to proceed Judicially and Judiciously. See **Tsaku v. State**. This, inexorably entails that the Court must consider the facts of each case, for an exercise of



discretion without recourse to the facts, becomes injudicious; and therefore exercised on wrong principle – See **Leonard Okere v. Titus Nlem, per Nnaemeka – Agu, JSC (of blessed memory)** – much as discretion is personal to the Judge affected. See **ICAN v. A. G. (Federation)**; see also **Odusote v. Odusote**. But then, the duty to appraise the facts remains sacrosanct. In the instant case, I take note of the invidious roles played by the convicts in aiding the transmission of proceeds of unlawful activities. I however, did not see – and the Prosecution did not adduce cause to the contrary – that the convicts acted otherwise than being engaged in the transmission of the said proceeds. I have taken this into account.

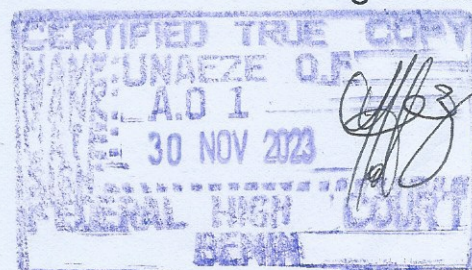
In all of these, I have considered the terms of the Plea Bargain. I also recognize a number of salient principles, namely, that where a statute expressly prescribes the minimum custodial sentence for an offence, the Court has no jurisdiction to go below the minimum content. See **Duru v. FRN**. However, where the statute does not expressly forbid the option of fine – even if it merely prescribes a custodial sentence – the Court may, considering the facts and

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background of each case, consider the option of fine in lieu of custodial sentence. See **Apamadari v. State**; see also **Nwude v. FRN**, which also referred to the former authority. See **Iortim v. State**. In the instant case, the penal sections under which the convicts were charged do not forbid the option of fine. At any rate, I take account of the provisions of section 416 of the Administration of Criminal Justice Act, 2015, which in setting the matrix on Sentencing – though permissive – enjoin the Court to refrain from imposing custodial sentences on first offenders save there be no other way of dealing with the convicts.

Offenders of the law must not be given a part on the back. Policy considerations demand that those who offend the law be brought to justice. See **Dawodu v. A. G. (Federation)**. In this case, the Court must keep in view that justice remains a three-way traffic – the parties before the Court and the public at large. At all times, the estimation or reasonable members of the society must be reckoned with. See **Senator Wabara v. FRN**.

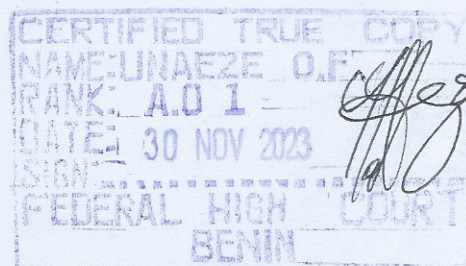
Upon a careful appraisal of the extant principles and situating the facts of this case; and in the context of the Plea bargain entered



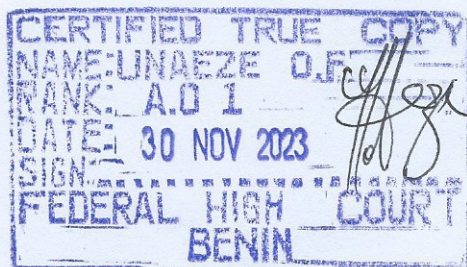
by the parties, I am satisfied that the terms of the Plea Bargain have not detracted from the dictates of Justice particularly in the context of the forfeiture proceedings pending at the Federal High Court, Abuja in Suit No: FHC/ABJ/CS/341/2020 in the face of the convictions already secured in France against the Principal offenders in the unlawful proceeds of illegal activity and, of course, the sums to be forfeited in this proceeding; to send a very clear message that crimes of whatever magnitude do not pay. In consequence, I accept the Plea bargain entered in this case.

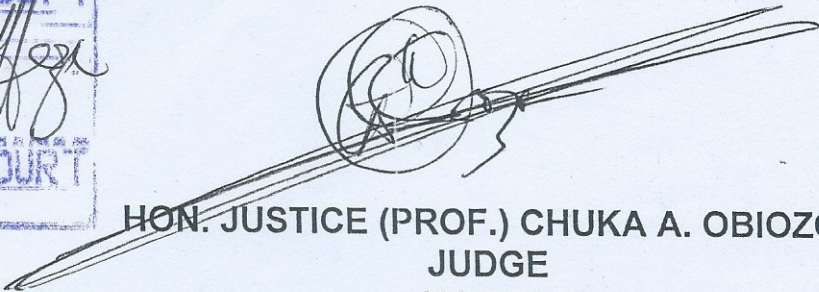
In the final analysis, and in accord with the terms of the Plea Bargain in this case, the 1st convict -- Amos Amadin Obazee - shall immediately forfeit the following to the Federal Government of Nigeria, to wit:

1. The sum of N6,967,923 standing to his credit in UBA account No: 2075952279 as at the 7th of October, 2019.
2. The sum of N7,258.00 in his UBA account No: 2019860835 as at the 7th of October, 2019.
3. The sum of N1,943.00 in his UBA account No: 1019399019 as at 1st of January, 2018.



Additionally, the 1st and 2nd convicts shall each pay a fine of N2,000,000 (Two Million Naira) and in default shall each serve the custodial term of two(2) years each with effect from today. In the event of failure to satisfy the option of fine, each of the convicts shall serve the custodial term at the Benin Correctional Centre, Sapele Road, Benin City, Edo State whence they shall, upon the pronouncement of this Judgment, be taken and be remanded unless the option of fine be satisfied. The learned prosecuting counsel shall endeavour to fast-track the forfeiture proceedings pending before the Federal High Court, Abuja in Suit No: FHC/ABJ/CS/341/2020 and a copy of the final forfeiture Order made in the proceedings transmitted by counsel to the records of this matter or in this case, through the Deputy Chief Registrar, Federal High Court Benin Division, in keeping with counsel's undertaking.




HON. JUSTICE (PROF.) CHUKA A. OBIOZOR
JUDGE
10/07/2023

