IN THE HIGH COURT OF JUSTICE OF SOKOTO STATE
IN THE SOKOTO JUDICIAL DIVISION
HOLDEN AT SOKOTO
ON THE 26TH DAY OF AUGUST, 2020
BEFORE HIS LORDSHIP:

HON. JUSTICE MOHAMMED MOHAMMED (JUDGE)

SUIT NO. SS/56C/2020

RECORD OF PROCEEDING

BETWEEN:
FEDERAL REPUBLIC OF NIGERIA--------------COMPLAINANT

AND

JOSEPH ETIM (AKA JOE BOY)----------------------- DEFENDANT

Appearances:
Onyeka Ekweozor Esq. for Prosecution.

A.A. Muhammad Esq. with Faruk Abdullahi Esq. for the Defendant.

Onyeka Ekweozor Esq: Before the court is a two (2) counts charges for the offences of ***Criminal Conspiracy and obtaining money by false pretence*** contrary to Sections 8(a), 1(1)(d) and punishable under Sections 1 (3) of the Advance Fee Fraud and other Fraud Related Acts against the defendant who is now before this court and speak English language. We urge the court to take the plea of the defendant since the matter has been fixed for today for mention.

A.A. Muhammed Esq: We have no objection to the taking of the plea of the defendant.

Court to Registrar: Read the charges to the hearing of the defendant so that his plea can be taken.

Count 1

Court: Did you hear the charge that has just been read over to you?

Defendant: Yes.

Court: Did you understand the particulars of the charge that has been read over to you?

Defendant: Yes.

Court: Are you guilty or not guilty?

Defendant: I am not guilty.

Count 2

Court: Did you hear the charge that has just been read over to you?

Defendant: Yes.

Court: Did you understand the particulars of the charge that has been read over to you?

Defendant: Yes.

Court: Are you guilty or not guilty?

Defendant: I am not guilty.

Onyeka Ekweazor Esq: Since the defendant pleaded not guilty, we are asking for a date to call our witnesses and we have agreed to take a clear date of 28/9/2020 subject to the convenience of the court.

A.A. Muhammed Esq: That is the position.

Court: This matter is hereby adjourned to 28/9/2020 clear date for hearing. The defendant be remanded in custody at the Nigerian Correctional Centre here in Sokoto.

Signed
Hon. Justice Mohammed Mohammed
(Judge)
26/8/2020

Court resumed today 28/9/2020

Appearances:
Onyeka Ekweazor Esq. for the prosecution.

N.N. Anaka Esq. with Faruk Abdullahi Esq. for the defendant.

Onyeka Ekweazor Esq: Sequel to the grant of Motion No. SS/M.444/2020 amending Charge No. SS/56[C]/2020 dated 2/7/2020 and filed on 22/7/2020 with the amended charge dated 14/9/2020 and filed on the 28/9/2020, we humbly apply that fresh plea of the defendant be taken.

N.N. Anaka Esq: No objection.

Court to the Registrar: Read and explain the charges to the defendant for the purpose of taking his plea.

Court: Did you hear the charge that was read over and explained to you?

Defendant: Yes.

Court: Did you understand the particulars of the charge?

Defendant: Yes.

Court: Are you guilty or not guilty?

Defendant: I am not guilty.

Count 2

Court: Did you hear the charge that has just been read over to you?

Defendant: Yes.

Court: Did you understand the particulars of the charge that has been read over to you?

Defendant: Yes.

Court: Are you guilty or not guilty?

Defendant: I am not guilty.

Onyeka Ekweazor Esq: By the plea of the defendant, we humbly apply to call our witnesses with a view to prove our case against the defendant. We have one witness in court and we are ready.

N.N. Anaka Esq: We are not ready because the lead counsel Mr. A.A. Mohammed Esq. who is also with the case file, is not available today because of the anticipated strike action proposed to commence today by NLC. Because the case file is not with us to get ourselves conversant with the substance of the case and to be able to cross examine witness of the prosecution, we cannot go on. We therefore apply for an adjournment to enable the lead counsel put his appearance in the interest of justice.

Onyeka Ekweazor: Looking at the circumstances leading to the application for an adjournment and which we are very much arrive, we have no objection to the application. We have agreed to the 19/10/2020 on the condition that we will bring all our witnesses on that day.

N.N. Anaka Esq: That is the position.

Court: This matter is hereby adjourned to 19/10/2020 for definite hearing. It is also hereby ordered that the prosecution should bring all the prosecution witnesses on that date. The defendant be further remanded in prison custody at the Federal Correctional Centre, Sokoto.

Signed
Hon. Justice Mohammed Mohammed
(Judge)
28/9/2020

Court resumed today 19/10/2020

Appearances:
Onyeka Ekweazor Esq. for the prosecution.

N.N. Anaka Esq. holding the brief of A.A. Muhammed Esq. for the defendant.

Onyeka Ekweazor Esq: The case is for hearing. We have 3 witnesses in court and the defendant is in court and speaks English language. We are ready.

N.N. Anaka Esq: We are also ready.

Court: Prosecution you may proceed.

Onyeka Ekweazor Esq: Our PW1 is one Aliyu Sahabi Yar Abba. He is going to give his evidence in Hausa language. We apply that he be called into the witness box.

Court: Leave to call Aliyu Sahabi Yar Abba as PW1 into the witness box, is hereby granted while the remaining 2 witnesses be out of court.

Registrar: Affirm yourself to interpret from English to Hausa and vice versa.

PW1 (After affirmation): My name is Aliyu Sahabi Yar Abba. I am a money exchange businessman. I live at Old Market, Sokoto. I don't know the defendant. Sometimes in April, 2018 precisely 3/4/2018, at about 11:00am there is one Sunday Mba an Igbo man came to our office with one Ibo man at Old Market Sultan Bello road and said they needed American Dollar of Fifty Thousand Dollars, and we agreed that one dollar will be exchanged at the rate of N363, and when we calculated, it amounted to N18,150,000. They then ask me to give them an account number where they can transfer the money, and so I gave them that of Diamond Bank because they opted for it. They told me that they are going to transfer N18,150,000 into the Diamond Bank account. They waited up to 3pm waiting for the money to be transferred into my account. They later told me that the money has been transferred into my account, and so I called my manager to confirm. The manager told me that he was on leave, but that I should call one Isa Isa to confirm. I then called the Isa Isa who informed me that the money has been transferred into my account. The money was transferred from First Bank account. As a result of the confirmation, I gave them the 50 thousand American Dollars and N100,000.

After they left, the following morning I wanted to transfer N10,000,000 from my account with the Diamond Bank, so Isa Isa said I should write a cheque and I filled the cheque and gave it to my boy (Abubakar Chika) to take same to Isa Isa which he did. But Isa Isa said the boy should wait as there seems to be problem as the money did not landed. Thereafter a short while after I just saw a debit alert of N10,000,000 and another debit alert of N8,000,000. I then called the Bank Manager and told him that the money that was transferred into my account yesterday was again withdrawn today. He then told me to go to the Bank myself which I did and I met one Bank official whose name I cannot remember. He asked me if I know the people that transfer the money into my account, and I said I don't know them, but I know the man who brought them to me. I then reported the matter to the Police on Surveillance who are from the AIG Office. Then Sunday was arrested because he was the one who brought them. They took my statement and that of Sunday. Thereafter I decided to reported the matter to EFCC Office Kaduna. That is all.

CROSS EXAMINAITON

N.N. Anaka Esq: Do you still affirm that you don't know the defendant in this case?

PW1: Yes I don't know the defendant in fact I am just seeing him for the first time in this court.

N.N. Anaka Esq: Are you saying the defendant is not the one you gave 50 thousand American dollars?

PW1: Yes, he is not the one I gave $50 American Dollars.

N.N. Anaka Esq: That is all for this witness.

Court: Any re-examination?

Onyeka Ekweazor Esq: No.

Court: The witness is discharged.

Onyeka Ekweazor Esq: Our PW2 Mzude Okafor and will give his evidence in English language.

Court: Call Nzude Okafor into the witness box as PW2.

PW2 (After affirmation): My name is Nzude Okafor. I don't have any work. I live at No. 5 Onubuogo Street, Zik's Avenue, Enugu, Enugu State. I know the defendant since my childhood because we are from the same area with him. Sometimes in March, 2018, one of my friends that live in the same area with me in person of Onyekewere Ani told me that the defendant is looking for me for a cheque business that he needs First Bank cheque. So I went to the defendants house with a First Bank cheque belonging to my father and mother's joint account. When I went to his house (the defendant), he told me that he wants to use the cheque to do a business. That the business will worth N1.2 million and he will give me 10% of that sum. So I gave him the cheque book. He then said he will call me anytime the business is done. At the time I took the cheque book to the defendant, the defendant was at the Police Detective College, Enugu. After I gave him the check book, I then went back home. Some few days later, I called the defendant and asked him whether the business was successful. He said he will call me when they are done. He later called me and informed me that the business has been successful. So I went to his house at the Police Detective College Enugu because he was staying with his friends at that time. When I went there, I met his friends who were about 3 of them and I know one of them in person of Shedrack and they told me that the defendant said they should tell me that the defendant is coming with the money.

So I waited for him till 5-6pm and he came back with a bag and gave me N100,000 at the backyard. So I collected the money and left. Some weeks later, I started hearing the rumour that the money he got was more than N1.2 million, so I called him on phone and ask the defendant that how can he give me N100,000 when the money is more than N1.2 million? He said I shouldn't worry as he would do something for me as there are many people in the business. To date he has not return the cheque book. At the time he said I shouldn't worry, he was at his home village at Akwa Ibom State. When he came back my parents were already arrested by EFCC in Enugu and I told him the business was of N18,000,000 not N1.2 million as he said. He said I should not expose those involved otherwise myself will also be arrested. He subsequently change his line and can no longer reach him, but later I was invited by EFCC, Enugu Office where I was asked whether I know the defendant after they showed me his picture? I said I don't know him because the defendant said all of us will go to prison if I expose him. I made a statement at EFCC of there in Enugu. The officials of EFCC then took me to Diamond Bank office at Okpara Avenue, Enugu and showed me the coloured picture in the system and they confirm it was not me. I was then ask to go to Kaduna EFCC office and I was there and also made statement. They then ask me to find a way to get the defendant arrested.

I later chattered with the defendant on face book and he responded by asking me the position of the case. I told him the case was settled. After some month the defendant came back to Enugu at that Police Detective College. When the EFCC Kaduna called me I told them that the defendant is back at that time. After some weeks, I told the defendant to come to one bank that I have a business I want to give him. So when I was with him, I sent a text to Enugu office of the EFCC that I was at that time with him. They came and arrested him. That was how the defendant was arrested. That is all.

Court: Cross Examination

N.N. Anaka Esq: You have been friends with the defendant?

PW2: Yes.

N.N. Anaka Esq: You don't have a First Bank cheque book?

PW2: Yes.

N.N. Anaka Esq: How old are you?

PW2: I am 22 years old.

N.N. Anaka Esq: Do you know what is stealing?

PW2: Yes.

N.N. Anaka Esq: Stealing means taking away someone's property without permission.

N.N. Anaka Esq: So you stole your parents' cheque book?

PW2: Yes

N.N. Anaka Esq: Have you been arraigned before any court for stealing your parents' cheque book?

PW2: No.

N.N. Anaka Esq: Sometimes later you called the defendant to confirm whether the business was successful?

PW2: Yes.

N.N. Anaka Esq: You later come to know that the money was not N1.2 million but N18,000,000?

PW2: Yes.

N.N. Anaka Esq: You assisted the defendant to facilitate the collection of N18 million?

PW2: No, but to facilitate the collection of N1.2 million.

N.N. Anaka Esq: When you came to know that the business was of N18 million, did you reported the defendant?

PW2: No, because the business was an illegal one.

N.N. Anaka Esq: When you collected the N100,000 from the defendant you were very happy?

PW2: Yes, I was very happy.

N.N. Anaka Esq: You did not return the N100,000 to EFCC?

PW2: Yes.

N.N. Anaka Esq: That is all for this witness.

Court: Any re-examination?

Onyeka Ekweazor Esq: No re-examination and we apply to call PW3.

Court: Permission is hereby granted to call PW3 into the witness box. He speaks English language.

PW3 (After affirmation): My name is Shuaibu Umar Moddibo. I work with EFCC, Kaduna Zonal Office. I live at No. 4 Wurno Road, Kaduna. I work as an operative and the schedule of my duties include investigation, taking of statements from witnesses, perusing petitions, writing of investigation activities letters, analyzing the responses received in respect of those letters, executing search warrants, effecting arrest, writing of investigation reports among others. I know the defendant in person of Etim Joseph aka Joy Boy. On the 9/4/2018, our office received a petition from one Aliyu

Sahabi Yar Abba (PW1) a bureau de change operator residing here in Sokoto alleging that the sum of N18,250,000 equivalent to $50 US Dollars was fraudulently obtained from him by false pretence using the cheque of CF and TS Okafor. Upon the approval of the petition, investigation begins. The complainant made a statement and letter was written to Diamond Bank where the account of the complainant is domiciled for his account details. Response was received from the bank, analysis and confirming the allegation revealing the lodgement of 2 chequeleafe of First Bank of the value of N10 million and N8 million N250 respectively which were both reversed.

Having confirmed that these cheques were lodged at Okpara Avenue of Diamond Bank Enugu, we requested for the CCTV footage of the person who lodge those cheques, and the bank gave us the footage in which it was confirmed to be the defendant. We then invited the cashier of the Diamond Bank Enugu in the name of Joseph Uduma who honoured our invitation and made statement. We also requested for the 2 cheque leaves and were released to us. From our analysis, the name of CF and IS Okafor were found to be the owners of the cheques leaves and the account. We immediately wrote to First Bank where the account was domiciled to unreveal the signatures to the account. Response was received from First Bank revealing one Ijeoma Okafor and one Francis Okafor as the signatories to the account. We then travelled to Enugu, traced their addresses and took them to our office for statement.

In the course of their statements, we realized that they have a son Nzude Okafor, so he was also invited and statement taking from him. We therefore detected as a fact that Nzude took their cheque book and gave to the defendant who used same with other members of his syndicate who include Chidebere Livinus and one Arinzona both of whom are at large defraud the complainant. As a result, the defendant was arrested at Enugu and his statement was taken by my colleague at Enugu in person of Usman A. Cholli on the 24/2/2020. The defendant was then brought to Kaduna. on the 9/3/2020, I showed the petition to him, he read and I asked him if he wanted to make a statement in response to the allegations contained therein. The defendant said yes. The EFCC statement form was then brought. Cautionary words were recorded on the statement form which he read, understood and signed. He went ahead and wrote the statement himself in an open office in the presence of other colleagues of mine and visitors.

The office was very conducive as the air condition was on, light was also on. At the end of the statement, he signed. At the end of the investigation, we decided that the defendant and his syndicate members earlier mentioned, use the cheque booklet of CS and IS to obtain monies from various peoples accounts, and one of their victims, is the complainant in this case from whom the sum of $50 US Dollars, were obtained by false pretence. The modu operandi used by the syndicate as regards to this case, the defendant after collecting the cheque booklet from Nzude Okafor (PW2), sat down in Enugu and planned carefully on how to use the cheque book booklet to defraud their victims. Each member of the syndicate has a role to play. The 2 cheque leaves were filled by one of the syndicate member and given to the defendant who went to the Diamond Bank Okpara Avenue Enugu and deposited the 2 cheques leaves.

Prior to the defendant's going to the bank, one of the syndicate member now at large, in accordance with their plan travelled all the way from Enugu to Sokoto on the 3/4/2018. On arrival, he met a taxi driver in person of one Sunday Mba and ask Sunday where he could get a bureau de change operator and Sunday Mba took him to the complainant's office as a genuine customer who want to buy American dollars. After negotiating with the complainant to buy $50 US Dollars, the suspect at large, requested for the complainant's account details in order to make payment of naira equivalent. The complainant sent the account details via a text message into phone number provided by the suspect now at large and he immediately forwarded the text message to the team members in Enugu. The same information was used to fill the 2 cheque leaves as I earlier stated crediting the account of the complainant (PW1) and it is the same 2 cheque leaves that were presented by the defendant at Diamond Bank Okpara Avenue, Enugu and at that time it was Udoma Joseph who was the payment cashier at that Diamond Bank Okpara Avenue, Enugu.

The cheques were collected by the said payment cashier Udoma Joseph and forwarded for clearance but before the clearance was given, Udoma Joseph credited the account of the beneficiary in person of Aliyu Sahabi Yar Abba with the sum of N10 million and N8 million N250 thousand naira.

After clearance process it was found at that the account of CF and IS have no cash backing to effect the payment, and so the payment was reversed. That is all.

Onyeka Ekweazor Esq: You said a petition was written to your office, if you see the petition, can you identify it?

PW3: Yes, and there was written on the letter head of 'Yar Abba BDC. It has our EFCC received stamp.

Onyeka Ekweazor Esq: Look at this document and tell the court if it is the petition?

PW3: Yes this is the petition.

Onyeka Ekweazor Esq: The witness having identified the petition, we seek to tender same in evidence.

N.N. Anaka Esq: No objection.

Court: The petition of the complainant titled ***breach of trust, criminal conspiracy and banking fraud*** is hereby admitted in evidence and marked as **Exhibit EFCC 1** having not been objected by the defence.

Onyeka Ekweazor Esq: You said a letter was written to Diamond Bank for the bank statement of PW1 and that a response was received? If you see the copy of the letter you wrote and their response, can you identify them?

PW3: Yes, because the letter was written on an EFCC letter head paper signed by the Zonal Head, while the response was on Diamond Bank letter head referring to our request letter and these are the letters.

Onyeka Ekweazor Esq: The witness having identified the 2 letters, we seek to tender them in evidence.

N.N. Anaka Esq: We are objecting to the admissibility of the request letter because the letter is a public document and being a public document, and a photocopy, it must be certified in line with the provision of Section 104 of the Evidence Act 2011, but we are not objecting to the admissibility of the response of Diamond Bank Plc and the annexure annexed thereunder.

Court: The Diamond Bank response letter dated 24/4/2018 with REF: DBP/KD/COMP/YM/OA/2018/04/24 with certificate of identification and bank statement in respect of account of one Aliyu Sahabi Yar Abba, is hereby admitted in evidence and marked as **Exhibit EFCC 2**, **2(a) and 2(b)** respectively having not being objected to by the defence. The letter written by EFCC to Diamond Bank requesting information in respect of Account No. 0062361302 of Aliyu Sahabi Yar Abba being photocopy and not certified as required by Section 104 of the Evidence Act 2011, is hereby rejected and shall be so marked.

Onyeka Ekweazor Esq: You also said you wrote to Diamond Bank requesting information of the CCTV footage and the 2 cheques leaves both the original and the photocopies, can you identify them and how?

PW3: I can identify them because the EFCC letter is on the letter head of EFCC and certified true copy of the original signed by the Zonal Head. While the response was on the Diamond Bank letter head with attachments and these are the letters.

Onyeka Ekweazor Esq: The witness having identified the document, we seek to tender same in evidence.

N.N. Anaka Esq: No objection.

Court: The Diamond Bank letter of 26/4/2018 with REF: DBP/KD/COMP/PO/CA/2018/04/35 with enclosed instruments (photocopies of cheques) used for transactions on the account of Aliyu Sahabi Yar Abba, Account No. 0062361302 certified of ID and the annexed CCTV footage for the 3/4/2018, sought to be tendered in evidence by the prosecution and which has not been objected to by the defence, is hereby admitted in evidence and marked as **Exhibit EFCC 3, 3(a) and 3(c),** while that of 7/2/2019 with the 2 original cheque leaves of N10 million and N8 million

N250 thousand, are also admitted in evidence and marked as **Exhibit EFCC 4 (a) and (b)** respectively.

Onyeka Ekweazor Esq: You said the office wrote a letter to First Bank in respect of the account of CF and IS Okafor, and the bank responded?

PW3: Yes and I can identified the two letters because the one from our office is on the letter head and they acknowledged, receipt of same on the photocopy, while their response is on the banks letter head and these are the letters.

Onyeka Ekweazor Esq: We seek to tender same in evidence.

N.N. Anaka Esq: No objection.

Court: The acknowledged copy of the EFCC letter received by First Bank on 2/7/2018 and the First Bank letter of reply dated 12/7/2018, sought to be tendered by prosecution and which has not been objected to by defence, are hereby admitted in evidence and marked as **Exhibit EFCC 5 and 6** respectively.

Onyeka Ekweazor Esq: You said the defendant made 2 statements are in Enugu and the other in Kaduna?

PW3: Yes and I can identify them because both of them are on the letter head of the EFCC dated 24/2/2020 and 9/3/2020 with name of the defendant on both of them and these are statements.

Onyeka Ekweazor Esq: The witness having identified the 2 statements made by the defendant, we seek to tender them in evidence.

N.N. Anaka Esq: No objection.

Court: The statements of the defendant made on the 24/2/2020 at Enugu EFCC Zonal Office and that of 9/3/2020 made at Kaduna EFCC Zonal Office sought to be tendered by the prosecution and which has not been objected to by the defence, are hereby admitted in evidence and marked as **Exhibits EFCC 7 and 8** respectively.

Onyeka Ekweazor Esq: That is all for this witness.

CROSS EXAMINATION

N.N. Anaka Esq: I am right to say that you are a trained EFCC operative and a Muslim.

PW3: Yes, I am a practicing Muslim.

N.N. Anaka Esq: An unknown person came to Sokoto and collected $50 thousand American Dollars?

PW3: Yes.

N.N. Anaka Esq: You said Sunday Mba who accompanied this unknown person, is a taxi driver?

PW: Yes.

N.N. Anaka Esq: How did you come to know that Sunday Mba is a taxi driver?

PW3: He was the one who told me and also said he was not a member of the syndicate.

N.N. Anaka Esq: The complainant text his account details to the runaway suspect's phone number when he and Sunday Mba went to the complainant office?

PW3: Yes.

N.N. Anaka Esq: You said that member of the syndicate after collecting the account details of the complainant, also forwarded the text message to another member of their syndicate at Enugu?

PW3: Yes.

N.N. Anaka Esq: Did you take any step to discover the ID details of the two phone numbers?

PW3: Yes and we are still tracking them but yet to get them arrested.

N.N. Anaka Esq: To communication service providers did you write letters if any?

PW3: We wrote to MTN, Global Can and Airtel and they furnish us with some informations.

N.N. Anaka Esq: Was any of his relative or lawyer present when the defendant made his statements?

PW3: His relatives and lawyer were there when the statements were being recorded.

N.N. Anaka Esq: Is there any endorsement on the 2 statements where either a lawyer or relation of the defendant acknowledged his presence when the statements were recorded?

PW3: No.

N.N. Anaka Esq: You have seen the statement of the defendant in which he said he benefitted 2.1 million?

PW3: Yes.

N.N. Anaka Esq: That is all for this witness.

Onyeka Ekweazor Esq: No re-examination and that is all for today. We however apply that the case be adjourned to tomorrow to enable us call our PW4 who comes from Enugu.

N.N. Anaka Esq: No objection.

Court: This matter is hereby adjourned to 20/10/2020 for continuation of hearing. Defendant be further remanded in the Nigeria Correctional Custodial Centre Sokoto.

Signed
Hon. Justice Mohammed Mohammed
(Judge)
19/10/2020

Court resumed today 20/10/2020
Appearances:

Onyeka Ekweazor Esq. for the prosecution.

Christopher Ogar Esq. holding the brief of N.N. Anaka Esq. for the defendant.

Onyeka Ekweazor Esq: The case has been adjourned to today for continuation of hearing. Defendant not in court and the reason is that there is a directive from the Comptroller General of Nigeria Correctional Service to in the interim stop the movement of inmates outside the custodial centres across the country because of what happened in some states. It is for this reason that we have no option than to ask for another date and we have agreed to the 9/11/2020 for continuation of hearing.

C. Ogar Esq: That is the position.

Court: This case is hereby adjourned to 9/11/2020 for continuation of hearing. Defendant be further remanded at the Nigeria Correctional Custodial Centre here in Sokoto.

Signed
Hon. Justice Mohammed Mohammed
(Judge)
20/10/2020

Court resumed today 9/11/2020
Appearances:

Onyeka Ekweazor Esq. for the prosecution.

N.N. Anaka Esq. holding the brief of A.A. Muhammed Esq. for the defendant.

Onyeka Ekweazor Esq: The matter is for continuation of hearing. The defendant is in court. However, we cannot proceed because the witness who suppose to testify is not in court as there was no flight coming to Sokoto yesterday and pleaded to be allowed to come today if the court permit us to come back tomorrow.

N.N. Anaka Esq: No objection.

Court: This matter is hereby adjourned to 10/11/2020 for continuation of hearing. Defendant be further remanded.

Signed
Hon. Justice Mohammed Mohammed
(Judge)
9/11/2020

Court resumed today 10/11/2020

Appearances:

Onyeka Ekweazor Esq. for the prosecution.

N.N. Anaka Esq. holding the brief of A.A. Muhammed Esq. for the defendant.

Onyeka Ekweazor Esq: The matter is for continuation of hearing and we have one witness in court. We are ready to go on.

N.N. Anaka Esq: We are also ready.

Onyeka Ekweazor Esq: We apply that our PW4 who will testify in English language be invited into the witness box.

Court: PW4 is hereby ordered to move into the witness box.

PW4 (After affirmation): My name is Joseph Uduma. I am a banker by profession. I live at No. 2 Anibuoza, Enugu, Enugu State. I know the defendant as a customer I once attended to. On 10/4/2018, I worked in the bank as a teller of Diamond Bank now Access at No. 32E Ogbara Avenue Enugu as an officer who receives both cash and cheques deposits. On that day the defendant walked up to me to present 2 first Bank cheques of N10 million and N8m N250 thousand respectively. I received the cheques and processed accordingly, and on acknowledgement copy was given to the defendant. When we receive other banks' cheques, there is a confirmation portal provided by CBN which is used to confirming the cheque is valid or invalid. After confirming that the cheque is valid for processing, it was processed meaning the beneficiary was credited with the amount on the cheque, but at that stage, it is a partial crediting because the cheque will still go for clearance at the clearance unit of our bank. It takes about 24 hours. After it has gone for clearance, I was notified that the 2 cheques were returned through mail to the bank superior where the cheque is being processed. It means the account to be debited has no cash backing.

Onyeka Ekweazor Esq: If you see the 2 cheques that were presented to you by the defendant, can you identify them?

PW4: Yes, I can identify the cheques by the beneficiary's name.

Onyeka Ekweazor Esq: Have a look at these cheque leaves and confirm if they are the cheque leaves you are talking about?

PW4: Yes these are the cheque leaves.

Onyeka Ekweazor Esq: That is all for this witness.

CROSS EXAMINATION

N.N. Anaka Esq: How long have you been working in the banking sector?

PW4: About 5 years and I have experience. I was also trained to identify suspicions customers. I did not suspect the defendant when he presented the two cheques to me.

N.N. Anaka Esq: Do you know that your bank has a duty of care to all beneficiaries so that they cannot be defrauded?

PW4: Yes and when we log in the cheque number, what comes out, is valid.

N.N. Anaka Esq: What is the wordings that the beneficiary receives when his account is partially credited?

PW4: The total balance will be indicated but the amount credited will not show.

N.N. Anaka Esq: Do you know that the bank has a duty to protect both literate and illiterate persons?

PW4: Yes.

N.N. Anaka Esq: Is it a normal practice for an account holder to use either the bank's manager's phone number or account officer to make confirmation in his account's transactions?

PW4: Yes and the essence of the call is for account holder to have a careful and diligent confirmation.

N.N. Anaka Esq: Are you aware that the complainant in this case called your branch here in Sokoto to confirm the validity of the transactions?

PW4: I am not aware.

N.N. Anaka Esq: I put it to you that your branch of Sokoto were negligent in handling the transactions/confirming the transactions.

PW4: I don't think they are negligent.

N.N. Anaka Esq: That is all for this witness.

Court: Any re-examination.

Onyeka Ekweazor Esq: Nil.

Court: The witness is hereby discharged.

Onyeka Ekweazor Esq: That is the case of the prosecution.

N.N. Anaka Esq: In the circumstances, we apply for a date to open our defence and we have agreed to the 7/12/2020 for defence.

Court: This matter is hereby adjourned to the 7/12/2020 for defence. Defendant be further remanded.

Signed
Hon. Justice Mohammed Mohammed
(Judge)
10/11/2020

Court resumed today 7/12/2020
Appearances:

P.C. Onyeneho Esq. for the prosecution. Defendant in court and speaks English language.

N.N. Anaka Esq. for the defendant.

P.C. Onyeneho Esq: The matter has been adjourned to today for defence and we are ready.

N.N. Anaka Esq: The matter is really adjourned to today for defence. But we are not ready because our proposed DW1 who we intend to call is seriously sick and as such could not travel from Enugu to Sokoto. In the circumstances, we ask for another date.

P.C. Onyeneho Esq: No objection to the application for adjournment.

N.N. Anaka Esq: In view of the fact that the court will resume from vacation on the 18/11/2021 and the fact that we are going on Christmas, we have agreed to the 8/2/2021 for defence. We undertake to call all our witnesses on that date.

Court: This matter is hereby adjourned to 8/2/2021 for defence. Defendant be further remanded.

Signed
Hon. Justice Mohammed Mohammed
(Judge)
7/12/2020

Court resumed today 8/2/2021
Appearances:
Onyeka Ekweazor Esq. for the prosecution.

N.N. Anaka Esq. for the defendant.

Abdurrahman Dahiru Esq. holding the brief of J.C. Shaka Esq. watching brief for Access Bank.

Onyeka Ekweazor Esq: The case has been adjourned to today for defence and we are ready. The defendant is in court and speaks English language.

N.N. Anaka Esq: That is the true position. However, we are not ready because we are making efforts towards a plea bargain arrangement, and the arrangement is about 70% conclusion. It is for this reason we are applying for an adjournment to enable us complete the process or open defence.

Onyeka Ekweazor Esq: We are aware that the defendant want to plea bargain as he had earlier applied for same. Though it appears they are not serious, but in the interest of justice, we will concede to this adjournment for the last time.

N.N. Anaka Esq: Subject to the convenience of this court, we have agreed to the 4/3/2021 for plea bargain arrangement or defence.

Court: The matter is hereby adjourned to the 4/3/2021 for plea bargain arrangement or defence. Defendant be further remanded.

Signed
Hon. Justice Mohammed Mohammed
(Judge)
8/2/2021

Court resumed today 30/3/2021
Appearances:

Onyeka Ekweazor Esq. for the prosecution. The defendant is before the corut and he speaks English language. The case has been adjourned to today for defence. However, the defence counsel is not before the court.

Court to Registrar: Is there any correspondence from the defence counsel?

Registrar: No.

Court to the Defendant: Your counsel is not before the court, is there any communication between you and him?

Defendant: MY father Mr. Etim informed me that my lawyer had communicated with them and informed them that he has withdrawn from the case and they are making arrangement to secure the services of another lawyer for me. I therefore want another date to enable me secure the services of another lawyer to prepare for my defence. I need three (3) weeks.

Onyeka Ekweazor Esq: The defence counsel called me and informed me that he has decided to withdraw from the matter for reasons best known to him. I have heard what the defendant has said and I have no objection for him to engage another counsel. We therefore in the circumstances of the predicament of the defendant and our convenience we apply that the matter be adjourned to 11/5/2021 for defence subject to the convenience of this court.

Court: This matter is hereby adjourned to 11/5/2021 for defence. Defendant be further remanded.

Signed
Hon. Justice Mohammed Mohammed
(Judge)
30/3/2021

Court resumed today 11/10/2021
Appearances:

Onyeka Ekanasoh Onyekachi Esq. for the prosecution. Defendant in court and speaks English language. Defence counsel absent. The case has been adjourned to today for continuation of hearing

Court to the Defendant: Where is your counsel?

Defendant: My new counsel is now Mr. A. Shetima Esq. of the Legal Aid Counsel. I think he is in another court.

Anasoh Onyekachi Esq: In the circumstances, we need another date. We suggest 16/11/2021 for continuation of hearing.

Court: This matter is hereby adjourned to 16/11/2021 for continuation of hearing. Defendant be further remanded. Fresh hearing notice be issued to the defence counsel.

Signed
Hon. Justice Mohammed Mohammed
(Judge)
11/10/2021

Court resumed today 31/01/2022
Appearances:

Jamilu Musa Esq. for the prosecution.

S.E. King Esq. with T.A. Daspa Esq. for the defendant.

Jamilu Musa Esq: The matter is for commencement of defence and we are ready.

S.E. King Esq: The case is for defence and we are ready.

Jamilu Musa Esq: We are ready.

Court: Proceed.

S.E. King Esq: Our DW1 is a male, Christian, adult and speaks and also understand English language. His name is Joseph Etim is also the defendant in this case. We apply that the defendant be moved to the witness box to enable him give his evidence in this case.

Court: Application to grant permission for the defendant to be moved into the witness box for the purpose of giving his evidence as a witness in this case, is hereby granted.

Court to Registrar: Affirm him.

DW1 (After affirmation): My name is Etim Joseph. I live in Abuja. I was working with Force CID Headquarters Abuja as wait in the canteen.

S.E. King Esq: Dou you know one Sahabi Yar Abba?

DW1: No.

S.E. King Esq: There is an allegation against you that you together with one Chidiebere Livinus and one Arizona conspired and defrauded one Aliyu Sahabi Yar Abba and obtained by false pretence the sum of N18,250,000.

DW1: Is not true.

S.E. King Esq: Cast your mind back to sometimes in 2015 and tell this court what you know that transpired?

DW1: When I was working at the Force CID Headquarters Abuja, I met with one Arizona and we exchanged contacts. After about a year later, he called me and asked if I have a cheque book and I said no. He then requested me to look for one around and I now meet one Nzude Okafor at that time I was in Enugu with my parents. I now explained to Nzude Okafor what Arizona requested from me, that is to look for a cheque book for him. Nzude Okafor now said he has a cheque book and as such I called Arizona and informed him that someone has the cheques book he is looking for. He then sent me a phone number and said when Nzude Okafor bring the cheque book, I should call the number and take the cheque book to him. I then called the number and the owner of the number told me to meet him at a beer parlour at same Enugu town. I then met the person and gave him the cheque book. The person said his name is Uwa. But I have never met him before. After I handed over the cheque book to him, I left. After some days, the same Uwa called me to collect the cheque book. When I met at the beer parlour to collect the cheque book, Uwa requested me to take a cheque leaf for and submit it to the bank with Diamond Bank at Enugu. After his request, I took the cheque leaf to the bank as he requested. After I submitted the cheque, I left the bank but I did not go back to Uwa, although I called him via phone call and informed him that I have submitted the cheque leaf.

S.E. King Esq: When you submitted the cheque leaf to the bank were you paid any cash?

DW1: No, but when informed him that I have submitted the cheque leaf, he said he will call me later. A week later, Uwa called me and we met at one boutique at Enugu and gave me the sum of N2.1 million and instructed me to give Nzube Okafor N100,000 out of the N2.1 million. I know collected the N2.1 million from Uwa and left. I also went and met Nzube Okafor and gave him the N100,000. After then I never met with any one of them again till today. After about a year, Nzube called me and informed me that his father was arrested at the bank, but only told me that his father has problem with the bank on cheque issue and that was in 2019. He now asked me whether I have done anything with the cheque, and I said no, that I only submitted the cheque as requested. After that call, he never called me again until in 2020 and informed me that he has solved the cheque problem. I later met with him many times. On the 24/2/2020 Nzube Okafor called me and we met at the beer parlour in Enugu and we started our normal discussions before I was arrested by the EFCC operatives.

S.E. King Esq: When you were arrested, where were you taken to?

DW1: I was taken to the EFCC office in Enugu and they requested me to make statement in respect of the $50,000 equivalent to N18,250,000? I made a statement and I said that I don't know anything about it. I narrated to EFCC that I don't know anything about the $50,000. They then informed me that the cheque I submitted to the bank was used in defrauding people's money. That was when I came to know that the cheque was used to do the fraud. After 5 days, I was transferred to Kaduna EFCC where I also made another statement where I told that I don't know anything about the $50,000. On the 25/8/2020 I was transferred to Sokoto EFCC Zonal Office from where I was brought to court.

S.E. King Esq: Who is Chidebere Livinus.

DW1: I don't know him and I never met him before.

S.E. King Esq: You made a statement at Enugu and Kaduna EFCC office?

DW1: Yes and I was confronted with issue of Uwa and Arizona and my response was that I never know them.

S.E. King Esq: From your evidence the transaction took place in Enugu?

DW1: I only presented a cheque in Enugu.

S.E. King Esq: From evidence in chief noting happened in Sokoto.

S.E. King Esq: The prosecution through PW3, alleged that apart from this case, you and others in the form of a syndicate are into the business of defrauding others?

DW1: Is not true.

S.E. King Esq: That is all for this witness.

Court: Cross Examination.

Jamilu Musa Esq: We humbly apply for a date for cross-examination and we have agreed to the 10/3/2022 for cross-examination.

Court: This matter is hereby adjourned to 10//2022 for cross examination of DW1.

Signed
Hon. Justice Mohammed Mohammed
(Judge)
31/1/2022

Court resumed today 10/3/2022
Appearances:

Jamilu Musa Esq. for the prosecution.

S.E. King Esq. for the defendant.

Jamilu Musa Esq: The matter is for cross-examination of DW1 and we are ready. The defendant is in court and speaks English.

S.E. King Esq: We are ready.

Court: Proceed.

Jamilu Musa Esq: In your testimony you said you work at a canteen at Force CID Headquarters Abuja?

DW1: Yes and it was for about a year.

Jamilu Musa Esq: Who is Arizona?

DW1: I met him at Abuja while Nzube Okafor we grew up together in the same area. Uwa is not known to me it was Arizona that sent his number to me.

Jamilu Musa Esq: Uwa asked you to issue cheque leave Nzube?

DW1: Yes but he never told me the purpose for which it was needed. When I was at EFCC Enugu I was told that the cheque was used to defraud someone. I was only requested to get a cheque leave without being told as to what it will be used for.

Jamilu Musa Esq: Did you at any time inform Nzube Okafor the amount that will be withdrawn?

DW1: No because I don't know what they wanted to use the cheque for.

Jamilu Musa Esq: You mentioned Arizona and Nzube, I am right to say you are not alone in this business?

DW1: I never do any business with the people you mentioned, but it is true that 4 of us are involved.

Jamilu Musa Esq: You were given N2.1 million?

DW1: Yes and it was Uwa who gave me the money.

Jamilu Musa Esq: What was the money meant for?

DW1: He gave me the money as an appreciation because he sent me to go and pay a cheque for him.

Jamilu Musa Esq: You collected a cheque from Nzube Okafor and gave the cheque to Uwa who filled the cheque and gave it back to you whom you presented to the bank?

DW1: Yes but the N2.1 million was never given to me because I presented a cheque to the bank and the reason was to use the money to go and learn another work.

Jamilu Musa Esq: I am correct to say that you told Nzube Okafor (PW3) the purpose for which they are going to use the cheque?

DW1: No.

Jamilu Musa Esq: What did you tell Nzube Okafor (PW3) when you gave him N100,000?

DW1: I told him that Arizona asked me to give him N100,000 for the cheque he supplied.

Jamilu Musa Esq: Does Nzube Okafor know Arizona?

DW1: No and when I went to give Uwa the cheque, I went alone.

Jamilu Musa Esq: In your evidence in chief you said you don't know anything about dollar in Sokoto state but in your statement which is **Exhibit 8,** you confirmed having knowledge of the dollar business in Sokoto?

DW1: **Exhibit 8** is not my statement because they wrote it and gave it to me to sign.

Jamilu Musa Esq: I put it to you that you're fully aware of the business that was going on between the 4 of you?

DW1: No I am not aware of anything until the day I was arrested.

Jamilu Musa Esq: That is all for this witness.

Court: Re-examination.

S.E. King Esq: No re-examination question and we apply that the witness be discharged.

Court: The witness is hereby discharged.

S.E. King Esq: That is the defence of the defendant. We have agreed to the 11/5/2022 for adoption of written address.

Court: This matter is hereby adjourned to the 11/5/2022 for adoption of counsel written address. Defendant be further remanded.

Signed
Hon. Justice Mohammed Mohammed
(Judge)
10/3/2022

Court resumed today 11/5/2022
Appearances:

Jamilu Musa Esq. for the prosecution. The defendant is in court and speaks English language. The case has been adjourned to today for adoption of counsel written addresses. The prosecution is yet to be served with the defendant's final written address. Defence counsel is absent.

Court to Registrar: Did the defence counsel file their final written address.

Registrar: I just saw a copy of the defence final written address and only one (1) in the case file.

Jamilu Musa Esq: In the circumstances, we apply for another date to enable us file our reply.

S.E. King Esq: With utmost apology for the defendant with T.O. Daspan. We have no objection to the application and the date suggested.

Court: This matter is hereby adjourned to 22/6/2022 for adoption of written address. Defendant be further remanded.

Signed

Hon. Justice Mohammed Mohammed
(Judge)
11/5/2022

Court resumed today 22/6/2022
Appearances:

S.E. King Esq. for the defendant who is in court and speaks English language. The case has been adjourned to today for adoption of counsel's written address. The prosecuting counsel is yet to file his written address and is not in court. Though I have seen the letter written by the prosecution, the reason given is not cogent. However, I will be reluctantly conceded to an adjournment at their instance and we suggest 28/7/2022 for adoption of counsel's respective written addresses.

Court: This matter is hereby adjourned to 28/7/2022 for adoption of counsel's written address. Fresh hearing notice be served on the prosecuting counsel. Defendant be further remanded.

Signed

Hon. Justice Mohammed Mohammed
(Judge)
22/6/2022

Court resumed today 13/10/2022
Appearances:

S.E. King Esq. for the defendant. The prosecuting counsel is not around but I was made to understand that he wrote a letter applying that the matter can go on for adoption of written addresses of counsel even in his absence. It is on that premise that we apply to proceed and adopt our written addresses.

Court: Proceed.

S.E. King Esq: The defendant filed his final written address on the 24/3/2022. Upon filing our written address we were served with the prosecution's written which was filed on the 2/9/2022, we then filed a reply on the 27/9/2022. We adopt our said final written address as well as the reply as our final argument in this case and urge this court to discharge and acquit the defendant.

Court: The prosecution's reply is hereby deemed as adopted by the prosecution and the case is adjourned for Judgment. Hearing notices will be sent to counsel immediately the Judgment is ready.

Signed

Hon. Justice Mohammed Mohammed
(Judge)
13/10/2022

<u>CERTIFY TRUE COPY</u>

FATIMA SAIDU ABUBAKAR
Ag. DIRECTOR LITIGATION,
HIGH COURT OF JUSTICE,
SOKOTO.