

**IN THE HIGH COURT OF JUSTICE OF THE F.C.T.**

**IN THE ABUJA JUDICIAL DIVISION**

**HOLDEN AT KUBWA, ABUJA**

**ON TUESDAY, THE 6<sup>TH</sup> DAY OF JULY, 2021**

**BEFORE HIS LORDSHIP: HON. JUSTICE K. N.OGBONNAYA**

**JUDGE**

**SUIT NO.: FCT/HC/CR/83/21**

**BETWEEN:**

**FEDERAL REPUBLIC OF NIGERIA** ----- } **CLAIMANT**

**AND**

**ABRAHAM UMUIBE** ----- } **DEFENDANT**

**BENCH JUDGMENT**

It is the law and has been upheld by the Courts for so many years that once a Defendant pleads GUILTY to a charge that the Court there and then convict the Defendant and after having given chance for the Defendant Counsel to do the Allocutus, the Court will accordingly sentence the Defendant accordingly.

In this case, this Court had first read out the one Count Charge to the Defendant and he had pleaded GUILTY to the offence.

Meanwhile, the Defendant was charged for offence of cheating in that he fraudulently presented himself as a Chinese National by the name Maisbay Chang. He further cheated a Chinese lady via the WECHAT, inducing the said unnamed Chinese lady to part with her money which is to the tune of One Hundred and Thirteen Thousand Naira (₦113, 000.00).

The said offence is contrary to S. 95 of the Penal Code and punishable under S. 322 of the same Penal Code.

Having pleaded guilty to the offence, his Counsel had no need to put up any Defence for him.

As the law provided this Court has only one duty in the circumstance which is to convict him as the Prosecution Counsel had ably stated. That being the case, this Court holds that the said Abraham Umuibe is hereby convicted for the offence of cheating having pleaded guilty to the said offence of cheating.

Once a Defendant is convicted then sentencing follows. That is after the Defendant Counsel has been given the chance to do the Allocutus.

The Defendant Counsel in this case had pleaded with this Court to tamper justice with mercy and allow the Defendant another chance to life.

The Convict's Counsel had stated that the Convict is a vibrant young Nigerian, the only son of his family with aged parents to look after and as such the Court should tamper justice with mercy in sentencing him.

The advent of the ACJA in 2015 brought with it the issue of Plea Bargaining which is the criminal version of the settlement out of Court in Civil matter.

Today, the Court had convicted the Defendant for offence of cheating after he had pleaded Guilty to same. The parties have filed along with the charge the Plea Bargain Agreement.

It is the law as provided in S. 270 – 278 of the ACJA that parties in a criminal matter have right to Plea Bargain their way out of the matter.

The ACJA provided also that once the parties have agreed, that they should spell out the Terms of the Plea Bargain in writing, sign and file same in Court. That is what the parties – Prosecution and Defendant had done in this case.

But it is of note that the Victim is not as it is aware of the said Plea Bargain because according to the Prosecution Counsel, because of the nature of the case, she had stated that the matter was based on intelligence and that the Defendant had refunded all the money allegedly collected from the said Chinese lady.

It is imperative to state that by the provision of the SS. 270 – 278 of the ACJA, that once a Defendant pleads Guilty, that the Court should assume that he was charged of lesser offence and convicted on such lesser offence. That is the situation in this case.

Plea Bargain does not mean that the Defendant will not be sentenced or not serve a jail term. He will only serve a less jail term.

In this case, given the Plea Bargaining Agreement of the parties which this Court has adopted as part of this Judgment and which the Court will read out to the hearing of all present, this Court shall sentence the Defendant – Abraham Umuibe accordingly after hearing the Allocutus made by his lawyer.

By the provision of S. 322 Penal Code, whoever cheats shall be punished by imprisonment for a term which may extend to three (3) years or with fine or both.

In this case, this Court will sentence the said Abraham Umuibe to a term which shall be lesser than the Three (3) years since he pleaded guilty to the offence of cheating.

Although the parties has agreed as to the jail term of one (1) month this Court shall not sentence you Abraham Umuibe to one (1) month imprisonment as suggested by the parties in the Plea Bargain in addition to the payment of One Hundred and Thirteen Thousand Naira (₦113,000.00) which he has already refunded.

It is imperative to state that the Courts has been called upon to give non-custodial sentence to convicts.

This Court feels that this case calls for a non-custodial sentencing of the Defendant who is a first offender. The clarion call is geared towards the plan of the government to decongest the Prison and also the issue of the Covid-19 Pandemic ravaging the world.

Based on that, this Court will not allow the agreement of the parties for Convict to be sentenced to one (1) month imprisonment but Order that the Defendant – Abraham Umuibe is sentenced to do a non-custodial sentence by sweeping the compound of Mpape Secondary School

Abuja for the next **Ninety (90)** days in lieu of the one (1) month imprisonment which this Court has vacated.

He shall make a report on his resumption by signing the Register which the Prison shall provide. He shall also at the end of doing the Community Service at the said School, sign out the same Register which the Prison official shall countersign on daily basis.

At the end of the Ninety (90) days he shall be deemed to have fully and finally served his sentence and be free to go home.

**This is the Bench Judgment of this Court.**

**Delivered today the \_\_\_\_ day of \_\_\_\_\_ 2021 by me.**

---

**K.N. OGBONNAYA**  
HON. JUDGE