

**IN THE HIGH COURT OF JUSTICE OF THE FEDERAL CAPITAL TERRITORY  
HOLDEN AT ABUJA  
BEFORE HIS LORDSHIP HON JUSTICE VALENTINE B. ASHI**

**SUIT NO: FCT/HC/CR/223/2016  
02-11- 2017**

**BETWEEN:**

FEDERAL REPUBLIC OF NIGERIA .....PLAINTIFF

**AND**

JAMES MUSA BOYI.....DEFENDANT.

**JUDGMENT**

On the 16/06/16 the EFCC filed charges against the defendant hereof. It is laid out in 8 counts of varied offences contrary and punishable under Section 322 of penal code as follows.

- Count 1 is an allegation of commission of offence punishable charge of plea.

On the 31/10/2016 you were arraigned by the EFCC before this Court on an 8 counts charge of various offences punishable under Section 322 of Penal code. Registrar read out each count and required you to plead guilty or not guilty, you pled “Not guilty”.

However, with reference to the documents placed before me and headed “PLEA BARGAIN” Agreement, and in respect of which both learned Counsel have duly endorsed Clause 1 suggests that you desire to charge that plea, is that correct?

Defendant:- Yes, that is correct.

Court:- so, now what is your plea in respect of each of the counts as read out to you that day and as repeated by me this afternoon?

Defendant:- I now wish to plead guilty to each of the counts as charged.

Court:- Very well.

Thank you.

Under Section 322 of Penal Code.

- Count 2 is an offence punishable under Section 322 of Penal Code.
- Count 3 is an offence punishable under Section 322
- Count 4 is an offence punishable under Section 322
- Count 5 is an offence punishable under Section 322
- Count 6 is an offence punishable under Section 322
- Count 7 is an offence punishable under Section 322 of Penal Code.

Defendant was formally arraigned on the 31<sup>st</sup> of November, 2016. He pleaded not guilty in all the Counts and was granted Bail pending trial. Case was fixed for hearing on 23/11/2016. On the said next adjourned date, Court was informed by Mr. Noah of learned Counsel to the defendant that the defendant's instruction to him was that he desire to approach the prosecution to explore a possibility of a compromise by way of plea bargain. He therefore applied for an adjournment . application not being opposed case was further adjourned to 7<sup>th</sup> of February, 2017 for the Court's consideration of the written terms of settlement.

On the said next adjourned date, Court was informed that the bargain was still ongoing, as a result of which a further date was agreed upon for an adjournment to 30/03/2017. It seems that the Court did not sit on the 30/5/17 until after Vacation when the matter came up again on the 27/09/2017. On this day, although Counsel did file terms of settlement the Court further directed them to file written address in support.

Today, before me are placed both the terms of settlement signed by both parties and their witnesses as well as their respective Counsel on the 26/09/2017. The terms are shown to have been filed in this Court on headed as "PLEA BARGAIN AGREEMENT" on the 27/09/2017. In their respective written submissions, both learned Counsel have urged me to adopt the said terms as the judgment of this Court, both in terms of conviction and sentence, in the light of the proposition in Clause 1 to the effect that defendant shall plead guilty to the charges. In other words, the defendant is expected to change his plea of guilty to not guilty in all the Counts in the course of proceedings today. The defendant was asked if he wished to change his plea. He admitted that he wished to and the Court, having explained to him concisely what the offences were as laid out in the Counts to which he pleaded not guilty on the day of arraignment, could hear he state "Guilty" to all the Counts.

I have considered the written and oral submission of learned Counsel. There is no issue for trial after the plea of guilty. I have also taken into account the provisions of Section 322 of the Penal Code, which provides as follows.

"Whoever cheats shall be punished with imprisonment for a term which may extend to 3 years or with fine or with both."

Each of the Counts are allegations of various instances of cheating the Federal Government by the defendant. And in the light of his plea of guilty, it signified that he is guilty of the varied offences of cheating as laid out in all the Counts. He ought to be found guilty in all the Counts.

Given that this is a summary procedure predicated on a special mechanism, i shall dispense with pronouncing my verdict in each Count as is the tradition in a full-scale plenary trial, first the same way i dispensed with the need to take his new plea on each of the

Counts. Accordingly, I find the defendant guilty as charged in all the 8 counts.

Now back to the sentence. I am mindful of the sentencing guidelines. Nevertheless, the discretion granted to the Court in imposing punishment in the specific offence provides for an option of fine. In this regard, taking into account also that this is a money offence, in the sense that the defendant is charged with cheating involving a liquidated sum of money, the fine to be imposed in my view ought to be commensurate with the value of the amount involved. In attempting to find a parameter for this, in the exercise of my discretion, learned Counsel in their oral submissions were in agreement urging me to impose a fine which interest of 5% on the total sum involved. They also came up with the sum of =N=483,360.3k as what could be 5% of =N=9,671,207. I was equally urged by learned Counsel particularly, Mr. Noah for the defence both in his oral and written submissions to keep in mind the fact that the defendant is not only remorseful but has refunded =N=7 Million out of a total of =N=9,671,2017. I admit that these indices have shaped my thoughts in coming to a conclusion that the defendant ought to and is hereby ordered to pay the sum of =N=500,000(Five Hundred Thousand Naira) to the Federal Government as punishment for the offences charged for which he has pleaded guilty and is convicted as charged. This is without prejudice to his liability to refund the balance of the amount to which he has pled guilty. I leave that to

the discretion of recovery of that balance to the Attorney General of Federation.

Sgd

Hon. Judge

02/11/2017.