

**THE HIGH COURT OF JUSTICE FEDERAL CAPITAL TERRITORY  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT MAITAMA – ABUJA**

**BEFORE HIS LORDSHIP: JUSTICE SALISU GARBA  
COURT CLERKS: FIDELIS T. AAYONGO & OTHERS  
COURT NUMBER: HIGH COURT TWO (2)  
CASE NUMBER: FCT/HC/CR/125/2006  
DATE: 25<sup>TH</sup> JUNE, 2018**

**BETWEEN:**

**FEDERAL REPUBLIC OF NIGERIA - COMPLAINANT**

**AND**

**JIMOH HASSAN - DEFENDANT**

Defendant absent.

M.M. Tertsua (Mrs) for the prosecution.

Prosecution's Counsel – The matter is for judgment and we are ready to take same.

**J U D G M E N T**

The Defendant is standing trial before this court on a 2 (two) count charges as follows:

**Count One:**

That you Jimoh and others at large sometimes in May 2006 at Abuja in the Abuja Judicial Division of the High Court of Abuja did conspire among yourselves to commit felony to wit: representing yourselves as capable of producing from pieces of papers genuine British Pound Sterling Notes by treating the papers in a chemical substance and thereby committed an offence contrary to Section 8(a) of the Advance Fee Fraud and Other Fraud

Related Offences Decree No. 13 of 1995 and punishable under Section 2 of the same Decree as amended by the Tribunals (Certain Consequential Amendments etc) Decree No. 62 of 1999.

**Count Two:**

That you Jimoh Hassan and Others at large sometime in May 2006 at Abuja in the Abuja Judicial Division of the High Court of Abuja did with intent to defraud, represent yourselves as capable of producing from pieces of papers genuine British Pound Sterling Notes by treating the papers in a chemical substance and thereby committed an offence contrary to Section 2(a) of the Advance Fee Fraud and Other Related Offences Decree No. 13 of 1995 and punishable under Section 2 of the same Decree as amended by the Tribunal (Certain Consequential Amendments etc) Decree No. 62 of 1999.

The Defendant was arraigned on the 11/7/06 where he pleaded not guilty on the two count charge.

The prosecution in proving its case against the Defendant called 3 witnesses.

The PW1 is one Yakubu Bala, a Police Officer attached to EFCC Operation Department.

In his evidence-in-chief, he stated that on 10/5/06 he was in his office for normal duty, a woman by name Mrs. Basirat reported to the Operation Department that a syndicate was making effort to defraud her. He was detailed to lead a team of operatives to go along with her. They asked her to speak to the suspect on her

phone so that they can reach them and she phone the suspects and asked them to go to her house as she was on her way coming and that she collected money from one of the commercial bank.

It is the testimony of PW1 that on reaching the house of the said Mr. Basirat they saw the accused person with an iron box and the woman identified him and they arrested him. The iron box was seized immediately and some content were discovered therein. They are:

1. A CD rom with an inscription "co produce for prospective customers"
2. A pamphlet with inscription "co procedure for prospective customers"
3. Some wrapper of fake pound sterling.
4. A bottle containing a plain water.
5. Two paper tracer with Euro logo
6. And some other items.

The Defendant's counsel did not cross-examined PW1 and the witness was accordingly discharged.

PW II is one Ibrahim Shazali a Detective with the EFCC. In his evidence-in-chief he stated that the Defendant was brought to his office when he was arrested trying to defraud one Basirat Naibi. The Defendant was brought to his office with a box used in trying to defraud Basirat Naibi. He then took the Defendant to the Head of Operation together with the items he was

arrested with. PW II further stated that he told the Defendant the allegation against him and asked him his own side of the story and he told him what transpired between him and Basirat Naibi up till his arrest. After telling him his own side of the story he asked him to put it into writing. He cautioned the defendant and he signed and asked him to write the statement for him.

PW2 stated that the Defendant made 2 statements; the said statements were admitted in evidence as Exhibits B1 and B2 respectively. Exhibit B2 was an additional statement on the content of the silver light box i.e. Exhibit A. He asked the Defendant to open the box and bring out the contents and he complied. In the box therein was fake pound sterling 148 wraps in Fifty Pound denomination, one plastic like bottle containing Plain water.

PW II was equally not cross-examined by the Defence Counsel and was subsequently discharged.

It is instructive to state here that the case was at the stage of trial-within-trial when the Defendant jumped bail and the prosecution were unable to re-arrest him since then.

The Defendant appeared last in this court on 27/11/08. Learned counsel to the prosecution apply to continue with the matter under Section 352(4) of ACJA; same was granted on the 10/4/17.

PW III is one Otumba Basirat Naibi. In her evidence-in-chief she stated that in May 2006 Mr. Jimoh came to her house to inspect

electricity power meter and he told her that it was running too fast and that there is problem with the meter. She asked him what can be done and he told her he will go to his office and he will come back to tell her what will be done. Two weeks or so Mr. Jimoh came back to tell her what was wrong with the meter, but instead of telling her what was wrong with the meter, he asked her to borrow him the sum of N120,000.00. He told her that he worked for Makanju and whenever a new transformer is brought Mr. Makanju will ask him to remove a certain box from the transformer. One day he decided to open one of the boxes and he saw pound sterling therein. He further told her that he took 4 of the boxes and took the remaining 4 to Mr. Makanju and that was the reason why he was asking for a loan of N120,000.00.

PW III further stated that if she see one of the boxes she can give him and he promised to bring one of the boxes to her. Later on Mr. Jimoh brought the box and he opened it and she saw fake pound sterling and a small coca-cola bottle therein.

The witness stated that she immediately contacted the then Chairman of EFCC Nuhu Ribado who gave her the telephone number of Mr. Chiroma. Mr. Chiroma assigned the case to the team that led the operation.

The witness further stated that the box was kept in the house and Mr. Jimoh asked for money to take to the people that will print the money. Mr. Jimoh linked her with a woman who he said was working for the Friday and Monday company and she

spoke with her on phone. The lady asked her and Mr. Jimoh to meet her at the Nicon Hilton at Capital Bar. She went there with the operatives of the EFCC but the lady did not show up and she switched off her phone.

The following day Mr. Jimoh came to her house alone, by then the operatives of EFCC were around the house. When Mr. Jimoh entered the house the operatives of the EFCC came in and arrested him with the box.

The prosecution counsel applied that the PW III be discharged since the Defendant and his counsel are not in court to cross-examine PW III.

PW III was subsequently discharged and that is the case for the prosecution.

As earlier stated the Defendant appeared last before this court on the 27/11/08.

The bail granted to the Defendant was revoked and a bench warrant issued for the arrest of the Defendant. Several attempts to re-arrest the Defendant were to no avail.

The case was resuscitated by the prosecution counsel under Section 352(4) ACJA. At the close of the prosecution counsel's case she applied for a date for adoption of final address.

On the 23/4/18 when the case came up for the adoption of final written addresses, the prosecution counsel informed the

court that there was an attempt by the police to re-arrest the Defendant but he stabbed the police officer with knife and ran away.

The prosecution's counsel adopted her final written address dated 19/4/18 and filed on the 20/4/18 wherein learned counsel formulated two issues for determination to wit:

1. Whether the prosecution has proved the essential elements of each of the counts of offences alleged against the Defendant beyond reasonable doubt to warrant his being found guilty and consequently convicted.
2. Whether the statements were confessional statements that will warrant the court to convict the Defendant without any corroborative evidence.

On Issue one, it is the submission that to prove a charge of conspiracy between the accused person, it is not a requirement of the law that there should be direct communication between the conspirators, all that needs to be established is that the criminal intent alleged is common to the conspirator which is quite visible in this case.

It is also the submission that conspiracy is one of those offences which can be predicated on circumstantial evidence which is evidence not of the fact in issue but of other facts from which the fact in issue can be inferred.

Further submitted that conspiracy does not consist merely in the intention of two or more but in the agreement of two or more to do an unlawful act, or to do a lawful act by unlawful means.

Submitted therefore that so long as a design rest in intention only, it is not indictable, but when two or more agree to carry it into effect, the very plot is an act in itself and the act of each of the parties promise against promise, becomes criminal and therefore punishable.

The overt act or omission which evidences conspiracy is the “actus reus” and every conspirator must be referable and very often is the only proof of the criminal agreement which is called “conspiracy”.

The agreement which constitutes the offence is seldom proved by direct evidence but by inference from proven fact. Learned counsel refer to the case of OBIAKOR v STATE (2002) 10 NWLR (Pt 776) 612 at 628 – 629.

DEVIN v STATE (1994) 5 NWLR (Pt 346) 522 at 534.

EDE v F.R.N. (2001) 1 NWLR (Pt 695) 502 at 512 – 513 C.

Submitted that to prove conspiracy, the prosecution must establish the following ingredients viz:

- (a) That there was an agreement between two or more persons.
- (b) That the agreement was to do or cause to do an illegal act.
- (c) To do a legal act by illegal means.

The Defendant in Exhibits B1 and B2 confessed to have been defrauding people by telling them he has some money that he



wants to invest which he got from his brother who is a houseboy to one Oyinbo man in London. He equally confessed how he has gone to the nominal complainant (PW3) and disguised himself as NEPA Staff to check her meter reading. He also confessed to have brought one box to her which was full of fake pound sterling and told her that one Hajjya S.A. Sanusi will come and clean the money for them.

It is also the submission that the corroborative evidence of PW2 and PW3 must not be completely the same with the other evidences but must be evidence which confirms in some material particular not only that the crime has been committed but also that it was the accused who committed it. See *IGBINE v STATE* (1997) 9 NWLR (Pt 519) 101 at 110.

On Issue two, it is the submission that Section 28 of the Evidence Act defines what confession is and Section 29 makes such confession relevant against the person making it if it is voluntarily made. The test for determining whether a statement is confessional has been laid down in so many cases. See *NSOFOR v STATE* (2004) 18 NWLR (Pt 905) 292 at 310 – 311 where the Supreme Court state the condition as follows:

- (a) Is there anything outside the confession to show it is true.
- (b) Is it corroborated.
- (c) Are there relevant statements made in it of facts , true as far as they can be tested.
- (d) Was the prisoner one who had the opportunity of committing the murder.

- (e) Is his confession possible?
- (f) Is it consistent with other facts which have been ascertained and have been proved.

It is the contention of the prosecution that all the above conditions are all present in the statements of the Defendant admitted.

Further submitted that a critical look at the evidence married with the said exhibits, they have successfully passed the conditions laid down by the Supreme Court in the case referred to, especially Exhibit B1 and B2 amount to confessional statement and the court can conveniently convict the accused assuming there are no other corroborative evidences because they point conclusively to the fact that the Defendant committed the offence.

On the whole, learned counsel urged the court to hold that the prosecution has proved her case beyond reasonable doubt and the Defendant be convicted accordingly.

I have carefully considered the processes filed, evidence of PW1, PW2 and PW3 and submission of learned prosecution's counsel. This court do adopt the issues formulated by the prosecution counsel for determination.:

1. Whether the prosecution has proved the essential elements of each of the counts of offences alleged against the Defendant beyond reasonable doubt to warrant his being found guilty and consequently convicted.

2. Whether the statement were confessional statements that will warrant the court to convict the Defendant without any corroborative evidence.

It is a laid down principle that in criminal matter, the standard of proof is beyond reasonable doubt which does not mean beyond all shadow of doubt. See *UDO v STATE* (2006) All FWLR (Pt 337) 456 at 457.

It is in evidence that the nominal complainant (PW3) alleged that sometime in April 2006, the Defendant came to her house and presented himself to be a NEPA staff to check her meter reading. At a later date the Defendant came to her house and informed her that he had money to invest in her business. The Defendant claimed to have gotten the money from a box out of the several containing pound sterling belonging to the Managing Director of NEPA now PHCN which was usually conveyed to the Managing Director to Jebba Station.

She further testified that the Defendant demanded for N120,000.00 from her to use in transporting the boxes to Abuja; but she refuse to give him and played along with him up to the point he brought the boxes. She added that when the box was opened she discovered that it was fake pound sterling and a bottle containing chemical. She further stated that the box was kept in her house and Mr. Jimoh asked for money to take to the people that will print the money.

The Defendant further linked PW3 with a woman who he says was working in the Friday and Monday Company and spoke with her through phone. The woman asked her and the Defendant to meet her in the Nicon Hilton at the Capital Bar.

PW3 went to Nicon Hilton with the operatives of the EFCC but the woman did not show up and her phone was switched off.

The following day Mr. Jimoh (the Defendant) came to PW3's house, by then the EFCC operatives were around the house; they came in and arrested the Defendant with the box.

It is instructive to state that this piece of evidence as regard to Exhibit A was never contradicted by way of cross-examination by the Defence.

Now on a charge of conspiracy, the prosecution must establish the following ingredients:

1. That there was an agreement between two or more persons.
2. That the agreement was to do or cause to do an illegal act  
or,
3. To do a legal act by illegal means.

A cursory look at the evidence of PW1, PW2 and PW3 shows clearly that there was an agreement between the Defendant and one Hajiya S.A. Sunusi (now at large) to do an illegal Act.

Accordingly, I hold that the prosecution have been able to proffer credible evidence to warrant the Defendants conviction on Count 1.

With respect to Count 2 as contained in Section 2 of the Advance Fee Fraud and Other Related Offences Decree No. 13 of 1995 the prosecution must establish the following ingredients:

- (a) That the person represents himself as capable of producing from a piece of paper or from any material any currency note by –
- (b) Washing
- (c) Dipping
- (d) Treating the paper or material with or in a chemical substance.

It is very clear from Exhibit B1 and B2 (the statements of the Defendant) are consistent with the testimony of PW1, PW2 and PW3.

In Exhibit B1, the Defendant confessed that he was introduced to the 419 business by one Chief Okan Law who is presently residing in London. He further confessed that Chief Okan Law is a house boy to one Oyibo man in London that he will send some money to him and that he will invest in PW3's business. PW3 then asked him to bring the money. When he brought the money to PW3 she found out that the money was fake. The Defendant explained to her that he will call someone by name Hajjiya S.A. Sanusi to help them convert the fake money to real money.

The Defendant also confessed in Exhibit B2 that he operate in a way that he will tell a customer that he does not know how to clean the money and he will introduce his Madam that is Hajjiya

S.A. Sanusi who will come and clean the money after which he will demand for more money to buy chemicals.

On Issue 2, it is the evidence of the prosecution's witnesses (PW1, PW2, PW3) which all buttress the facts contained in the exhibits.

The content of Exhibit A were also corroborated by all the witnesses; therefore this court can conveniently convict the Defendant based on his confessional statements.

In light of all the above stated, I hold the considered view that the prosecution has proved its case beyond reasonable doubt to warrant the conviction of the Defendant.

Accordingly, the Defendant Mr. Jimoh Hassan is found guilty of the 2 counts charges against him. The Defendant is hereby accordingly convicted as charged.

The Defendant will be sentenced whenever he is re-arrested and brought before the court under Section 352 (5) of the Administration of Criminal Justice Act (ACJA) 2015.

**(Sgd)**  
**JUSTICE SALISU GARBA**  
**(PRESIDING JUDGE)**  
**25/06/2018**

Prosecution's Counsel – We are grateful for the judgment. We appreciate it.

**(Sgd)**  
**JUSTICE SALISU GARBA**  
**(PRESIDING JUDGE)**  
**25/06/2018**