

**IN THE FEDERAL HIGH COURT OF NIGERIA**  
**IN THE LOKOJA JUDICIAL DIVISION**  
**HOLDEN AT LOKOJA**  
**ON MONDAY THE 14<sup>TH</sup> DAY OF DECEMBER, 2015**  
**BEFORE HIS LORDSHIP, HONOURABLE JUSTICE PHOEBE M. AYUA**  
**JUDGE**

**CHARGE NO: FHC/LKJ/88C/2013**

**BETWEEN:**

**FEDERAL REPUBLIC OF NIGERIA..... COMPLAINANT**  
**VS**  
**IBRAHIM ABDULLAHI.....DEFENDANT**

**JUDGEMENT**

This is a Judgement against the Defendant who pleaded guilty to a two-count charge preferred against the Defendant herein, dated the 6<sup>th</sup> day of December, 2013, signed by T. E. Oteme, Esq., O/c Legal and Prosecution, State CID, Lokoja.

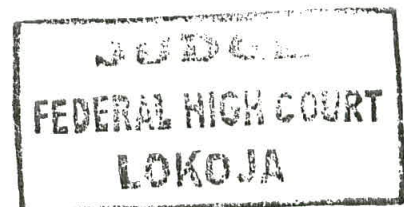
The charge was filed on the same 6<sup>th</sup> December, 2013, and it reads as follows:

**Count I**

*That you Ibrahim Abdullahi, Male, 20 years, on 24/11/2013 at about 1900 hours at Obajana in Lokoja Local Government Area of Kogi State within the jurisdiction of this Honourable Court illegally had in your possession one locally made pistol and thereby committed an offence contrary to section 3 and punishable under section 27(1)(a)(i) of Firearms Act, Cap. F28, Laws of Federation, 2004.*



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## Count II

*That you Ibrahim Abdullahi, Male, 20 years, on 24/11/2013 at about 1900 hours at Obajana in Lokoja Local Government Area of Kogi State within the jurisdiction of this Honourable Court illegally had in your possession four A.K. 47 live ammunition and thereby committed an offence contrary to section 8 and punishable under section 27(1)(b)(ii) of Firearms Act, Cap. F28, Laws of Federation, 2004.*

The Defendant was arraigned before this Court presided over by my learned Brother, Hon. Justice I. E. Ekwo and the charge was read over to him and interpreted and explained to him in Hausa language on the 13/12/2013. The Defendant pleaded not guilty to Count I and Count II of the charge. On the application of his Counsel, M. Y. Abdullahi, Esq., which was not opposed by the Complainant/Respondent, the Defendant was granted bail on the same date, 13/12/2013.

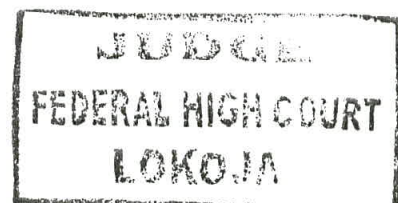
On the 15/1/2014, this case came up for commencement of trial, the Defendant was present in Court. The Prosecuting Counsel, Otowu, G. O. Esq., was also present in Court but the Defendant's Counsel was absent from Court and he did not give any reason or correspondence to the Court, explaining his absence. The Court made a Ruling revoking the bail order in respect of the Defendant and the case was adjourned.

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JUDGEMENT IN FAVOR OF IBRAHIM ABDULLAHI:

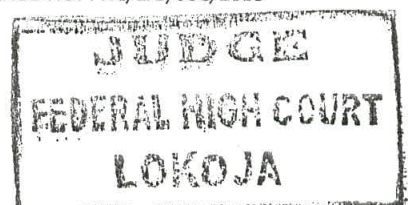
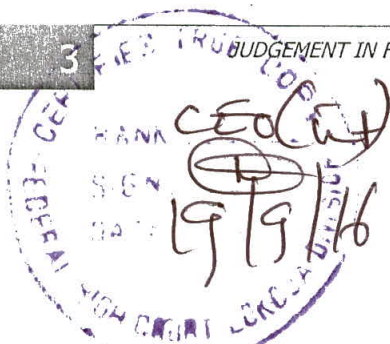
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On the 5/3/2014, trial of the Defendant commenced. The Prosecution called the first Prosecution witness, PW1, one Inspector Ejeh Yakubu, of the Nigeria Police Force, attached to the State CID, Lokoja as an Investigating Police Officer (IPO). On the 14/4/2014, the Bail Order in favour of the Defendant was restored on the application of his Counsel, M. A. Abass, Esq.

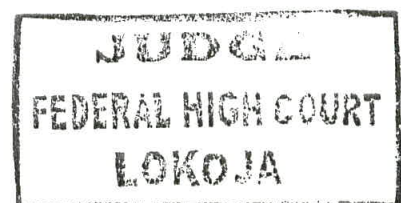
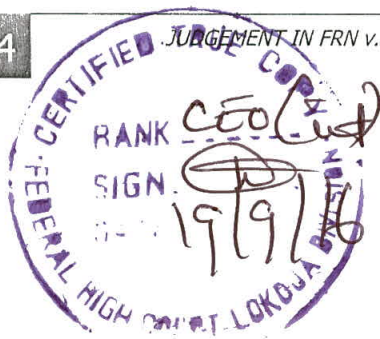
This case came before me for a trial *de novo* on the 27/5/2014. The charge was read over to the Defendant in English language. The same was interpreted and explained to him in Hausa language. He said he understood the charge as interpreted and explained to him. He instantly pleaded not guilty to Count I and Count II of the charge. On the application of the Defendant's Counsel, this Court granted the Defendant leave to continue on the bail earlier granted him.

On the 13/10/2014, the Prosecuting Counsel called the PW1 in the *de novo* trial, Force No. 396172, Cpl. Igah Sule of the Nigeria Police Force, serving at Obajannah Divisional Headquarters. PW1 testified that on the 24/11/2013, he, PW1 and his Team were on Joint Patrol from Obajana to Oshokoshoko. That they obtained information that there was a robbery taking place after Oshokoshoko and before Obajana. PW1 said he was the Team Leader and that when they got to the scene of the crime they observed that the robbers pushed their cows to the road and vehicles stopped and that the robbers were then robbing the occupants of the vehicles of their valuables. That as soon as the Patrol Team arrived at the



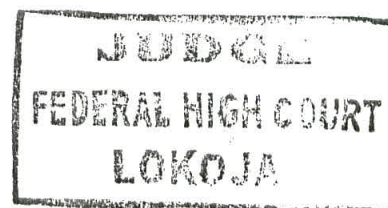
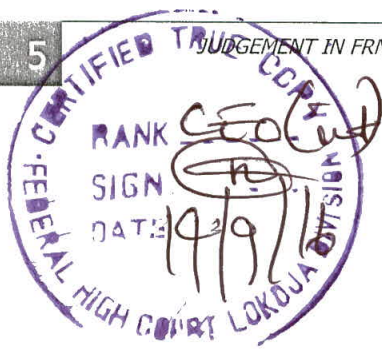
place in the patrol van, five robbers ran to the bush with the cows. That the driver of the Police vehicle parked the vehicle right on the road with the full head lamps on since the time was 1700 hours. PW1 stated that he came out of the van and ran into the bush in hot pursuit of the robbers and that at a point he hid himself behind a Mahogany tree. That not long afterwards he saw the Defendant coming with a gun and that the Defendant turned his face from the full light of the Patrol Van and was moving backwards. The PW1 testified that he then came out from hiding and grabbed the Defendant with a rifle. That the rifle was a locally made Revolver Pistol using AK 47 ammunition. That he found four rounds of AK 47 live ammunition in the rifle. PW1 stated that he then arrested the Defendant and took him to the Obajana Police Station for further investigation. On his cross-examination, PW1 testified that he could not remember the names of the other Team members of the Team he led to effect the arrest of the Defendant. He maintained that on the day of the robbery, the robbery was reported at the Obajana Divisional Headquarters by a passenger whose name he could not remember but that the report was incidented in the routine diary of the Police at that Station on that day.

PW2, Force No. 264483, Cpl. Musa Jacob, testified thereafter, on the same date. He said he knows the Defendant and that the Defendant was transferred along with a locally-made Revolver Pistol and four rounds of AK 47 live ammunition from Obajana Division to the State CID, Lokoja. That he, PW2, was at the State CID, Lokoja together with his teammates, Inspector Ejeh Yakubu, Cpl. Motim Emmanuel, and Cpl. Durosimi Mukaila



when the case was transferred and that the case was referred to Inspector Egeh Yakubu and his Team including the PW2, for discreet investigation. The PW2 testified that he was detailed to record the statement of the Defendant. That he offered the Defendant a seat in the interrogation room and also the earliest opportunity to write his statement by himself. That the Defendant confided in the PW2 that he can neither write nor read and thus asked the PW2 to record his statement on his behalf. PW2 testified that the Defendant gave his statement in Hausa language but that he could not find an interpreter in Hausa. That the Defendant asked the PW2 to record his statement for him since he became aware that the PW2 speaks and understands Hausa language very well, having been born in Kano and stayed there for 27 years. PW2 then took a caution statement from the Defendant and recorded the same in English language. PW2 said he explained the caution to the Defendant in Hausa language to his understanding and that the Defendant thumb-printed it. That after he recorded the Defendant's statement in English language, the PW2 also interpreted the Defendant's statement in Hausa language. That the Defendant accepted the statement to be his true statement and again thumb-printed it, while the PW2 signed the statement as the recorder.

PW2 further testified that the Defendant's statement was confessional in nature so the PW2 took the Defendant and his statement before a Superior Police Officer (SPO), DSP Olusegun Owoeye, the officer-in-charge of Anti Robbery Section. That the DSP read over the statement to the Defendant in English language while the PW2 interpreted the statement to the



Defendant in Hausa language. That the Defendant confirmed the statement to be his statement. That the DSP endorsed the statement in red ink and signed the statement under the attestation while the Defendant thumb-printed. That the PW2 also signed the attestation as the Investigating Police Officer (IPO).

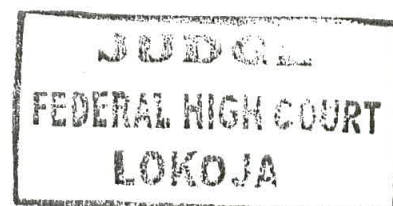
The PW2 in addition, testified that, he PW2 went with his team to Obajana where the Defendant had been arrested with one locally-made Revolver Pistol and four rounds of AK 47 live ammunition. That the locally-made revolver pistol and the four rounds of ammunition recovered from the Defendant were registered with the Exhibit Keeper at the State CID, Lokoja, with Exhibit No. CER/243/2013. PW2 informed the Court that at the end of the investigation, the Defendant was arraigned before the Court for illegal possession of a locally-made Revolver Pistol and four rounds of AK 47 live ammunition. PW2 identified the statement he recorded on behalf of the Defendant. The Defence objected to the admissibility of the said statement and gave his reasons which the Prosecution submitted were based on mere technicality. The Court agreed with the submissions of the Prosecution and in a Ruling delivered on the 12/11/2014, overruled the objection of the Defence. The Court admitted the Defendant's statement and marked it as Exhibit P1.

On the 28/9/2015, after six adjournments, the Prosecution was able to summon its witness to Court and on that date, the PW2 identified the Revolver Pistol and the four rounds of AK 47 live ammunition. The same

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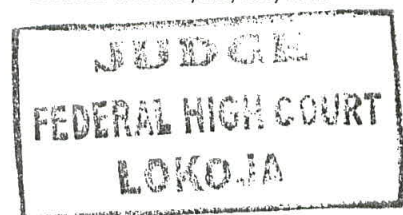
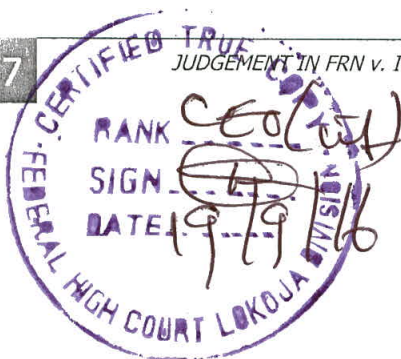
were tendered in evidence and with no objection by the Defence, the items were admitted in evidence and marked as Exhibit P2 and P3, respectively. The PW2 was cross-examined by the Defence Counsel who asked him a few questions and he answered accordingly, adding nothing new to his earlier testimony.

On the application of the Prosecuting Counsel, the PW2 was discharged. The Prosecution applied to close their case. The Defence applied for an adjournment to enable them open the Defence. Both applications were granted.

On the 18/11/2015, the case was slated for the opening of the defence. Rather than open the Defence, however, the Defence Counsel, on the 18/11/2015, informed the Court that the Defendant had confided in him that he would like to change his plea from "not guilty" to "guilty".

The charge was read over to the Defendant in English language and the same was interpreted and explained to the Defendant in Hausa language. The Defendant said he understood the interpretation of the charge to him in Hausa language. He then pleaded guilty to Count I and Count II of the charge, respectively.

The Prosecution then applied that the prosecution's evidence which was already before the Court should be adopted by the Court as a review of the facts of the case against the Defendant. The Defence Counsel did not

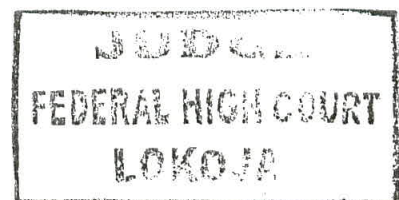
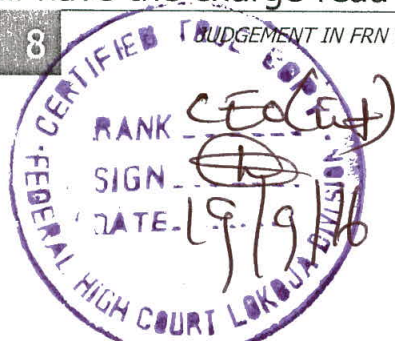


object to that application and the same was granted. The Prosecuting Counsel thereafter applied that the Defendant be convicted in accordance with the law.

The Court took into consideration the fact that the Defendant changed his mind and pleaded guilty to the two-count charge against him in the presence of his Counsel and the strength of the evidence presented before the Court by the Prosecution which was in line with the guilty plea of the Defendant to the two-count charge. It was explained to the Defendant that by pleading guilty to the charge, it implied that he meant to accept that he committed the offence as per the ingredients of the offences, to wit:

1. That he was found in possession of a firearm and ammunition, and
2. That the firearm and ammunition being a locally-made Revolver Pistol and four rounds of AK 47 live ammunition fall within the definition of firearms and ammunition within the contemplation of the Firearms Act, CAP. F28, Laws of the Federation of Nigeria, 2004, and
3. That the Defendant had no licence authorizing him to possess the locally-made Revolver Pistol and the four rounds of AK 47 live ammunition.

By virtue of section 271 and 274 of the Administration of Criminal Justice Act, 2015, a person charged to Court on allegation of commission of crime, shall have the charge read to him and explained to him before he is asked





to take his plea and it is open to a Defendant to plead guilty to counts of the charge read over and explained to him in the language the Defendant understands. See also the case of **Nwosu v. State (2004) 15 NWLR (Pt. 579) 466 at 489**, where the Court held that there can be no greater evidence to prove a charge than the admission or acceptance of guilt before the Court of a Defendant by entering a plea of guilty in clear terms.

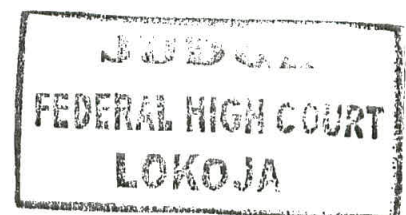
In the instant case, the Defendant had on being first arraigned, pleaded not guilty but after the close of the Prosecution's case the Defence Counsel did not open its defence but submitted that the Defendant was changing his plea. This Court is convinced that the Defendant fully understood the charge against him, weighed the facts and evidence placed before this Court and decided to change his plea.

Also, in Exhibit P1, the Defendant's confessional statement, the Defendant stated therein that he, the Defendant and 4 other persons at large left their camp at Kabba to relocate to Asaro at Jamata area of Lokoja Local Government Area. That while they were on their way and were very close to Obajana town, some Policemen stopped him and searched the bag of the Defendant, and found a locally-made Revolver Pistol and AK 47 live ammunition. That is a positive and direct statement by the Defendant that he was found in illegal possession of the Exhibits P2 and P3.

In the case of **Dele v. State (2011) 1 NWLR (Pt. 1229) 508**, it was held that the Court can rely on the extra-judicial confessional statement of



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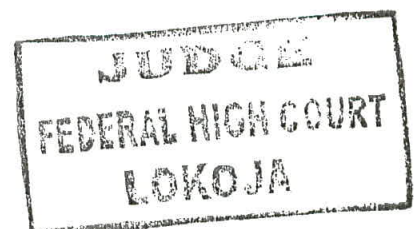
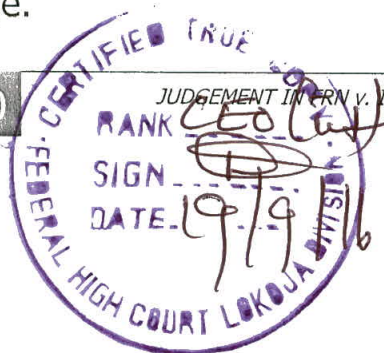


a Defendant which is a direct and positive admission of his commission of the offence and the Court can rely on it to convict the Defendant. See also the case of ***Solola v. State (2005) 11 NWLR (Pt. 937) 460 S.C. and Alarape v. The State (2001) FWLR (Pt. 41) 1872 S.C.***

In the case of ***Dibie v. The State (2007) 9 NWLR (Pt. 1038) 30***, the Supreme Court of Nigeria held that even though the Court can convict a Defendant on the basis of his confessional statement which is direct and positive as to his admission of guilt of commission of the offence(s) charged, it is always desirable for the Prosecution to produce some evidence before the Court other than the confessional statement which would make it probable that the Defendant's confession was true.

In the instant case, the Defendant has pleaded guilty to the charge. The Defendant's confessional statement also points to the guilt of the Defendant as it relates to his commission of the offences charged. Again, the Prosecution had adduced evidence through PW1 and PW2 and the Exhibits P2 and P3 to show that the Defendant committed the offences as charged in Count I and Count II, respectively.

This Court is, therefore, left in no doubt that the Defendant herein committed the offences as charged in Count I and Count II of the charge. The Defendant is hereby found guilty of the offences. The Defendant is, accordingly, convicted of the said offences in Count I and Count II of the charge.



### Allocution

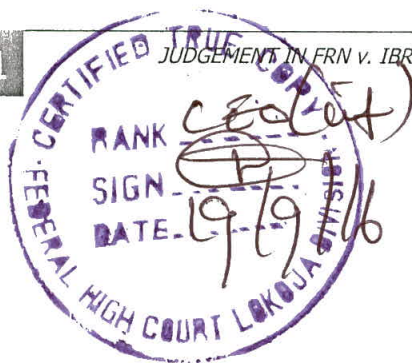
Upon his conviction, the Convict was asked by this Court whether he had any cause to show why he should not be sentenced according to the law prescribing penalties for the offences. The Convict pleaded for mercy. The Defendant's Counsel, also, on behalf of the Convict appealed to the Court to be lenient in sentencing the Convict, stating that the Convict is a first offender.

Learned Counsel submitted that the Convict is still young and urged the Court to give him a second chance to integrate back into society. He commended to the Court section 416 of the Administration of Criminal Justice Act (ACJA), 2015 as a guide to determining the sentence to impose. Learned Counsel also urged the Court to take into consideration the fact that the Convict has shown remorse over his wrongdoing and that he had stayed very long in detention. Finally, the learned Counsel urged the Court to temper justice with mercy in sentencing the Convict.

Upon inquiry by the Court, the Prosecuting Counsel confirmed that the Convict was a first offender as there is no record of his previous conviction.

### Sentencing

In sentencing the Convict, this Court is inclined to take into consideration, the passionate appeal of the Convict's Counsel for the Court to temper justice with mercy in that regard. The Court has therefore, taken cognizance of the fact that the Convict is a young man who, ordinarily, is



supposed to have a bubbly life ahead of him and will therefore be shown mercy by this Court so that he may change for the better and become a responsible citizen and role model for the youth.

Furthermore, this Court is mindful of the fact that the Convict is a first offender and that he has shown great remorse throughout his trial. That the Convict had been in custody since November, 2013 when he was arrested for the offences with which he was eventually charged to Court until April, 2014, when he was effectively granted bail by this Court, that is, he had been in custody for about five months before his bail.

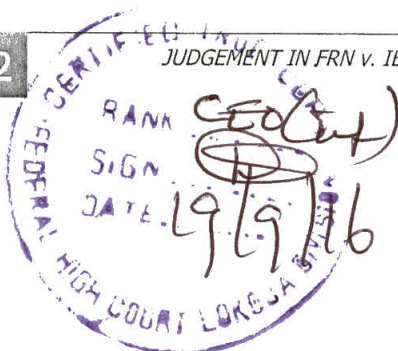
The Convict also changed his plea from "not guilty" to "guilty" after the close of the case of the Prosecution, thereby, halting the trial from going the whole hog.

In the light of the foregoing and, especially, when the above facts are placed in juxtaposition with the provisions of section 416(1)(2)(d)(e) and (k) of the Administration of Criminal Justice Act, 2015, this Court is inclined to show leniency in passing sentence on the Convict.

Now section 416(2)(d) and (k) provide as follows:

Section 416(1):

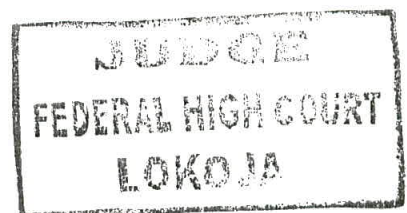
On conviction, a Court may sentence the Convict to a term of imprisonment as prescribed by the law.



Section 416(2):

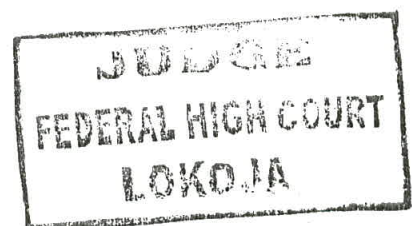
In exercising its discretion of sentencing or review of sentence, the Court shall take into consideration the following factors: In addition to the provisions of section 401 of this Act:

- (a) each case should be treated on its own merit;
- (b) the objectives of sentencing, including the principles of reformation, should be borne in mind in sentencing the Convict;
- (c) an appeal Court may in a proper case reduce the sentence imposed by the trial Court, especially, where it is excessive or based on wrong principles, or an appeal Court may increase the sentence imposed by the trial Court, especially, where it is inadequate;
- (d) a trial Court shall not pass the maximum sentence on a first offender;
- (e) the period spent in Prison custody awaiting or undergoing trial shall be considered and computed in sentencing a Convict;
- (f) trial Court shall conduct an inquiry into the Convict's antecedents before sentencing;



- (g) it may be desirable to adjourn for sentencing in order to have time to consider any evidence adduced at the sentencing, hearing in accordance with section 311 of this Act;
- (h) where there is doubt as to whether the Defendant or Convict has attained the age of eighteen years, the Court should resolve the doubt in his favour;
- (i) a Defendant may not be given consecutive sentences for two or more offences committed in the same transaction;
- (j) an appeal Court may not increase the sentence of a lower Court beyond the maximum number of years the lower Court has power to impose; and
- (k) sentencing to a term of imprisonment shall apply only to those offenders who shall be isolated from society and with whom other forms of punishment have failed or is (sic: are) likely to fail.

In the instant case, the offender has been confirmed to be a first offender. See section 416(2)(d). He stayed in custody for about 5 months after his arrest on 13/11/2013 and before he was granted bail on 14/4/2014. See section 416(2)(e). The Convict from his antecedents does not also present a picture of a person who should be isolated from society. Besides, being a

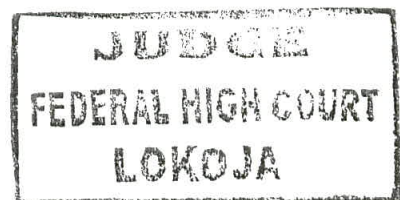
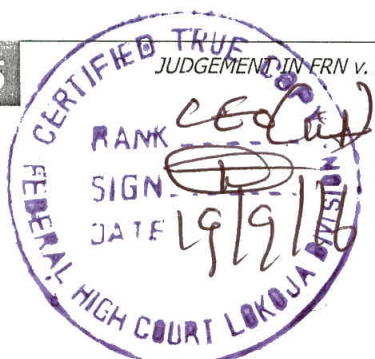


first offender, it cannot be shown that other forms of punishment failed in respect to him. See section 416(2)(k).

Flowing from above analysis, therefore, it is clear that the maximum sentence prescribed for the offences, in Count I and in Count II being 10 years and five years respectively, pursuant to section 27(1)(b)(i) and (ii) of the Firearms Act will not be imposed on the Convict. Sentence of a term of imprisonment will also not be imposed on the Convict.

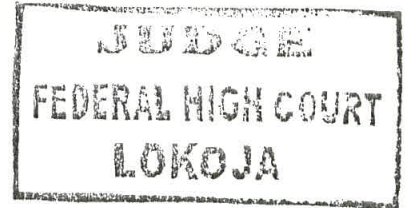
Accordingly, I make an order sentencing the Convict as follows:

1. On Count I of the charge herein, the Convict is sentenced to a fine of Seventy-Five Thousand Naira (₦75,000.00) only, or in default of payment of the fine, a term of imprisonment for two (2) years, to commence from the date the Convict's bail order was restored, being the 14/4/2014.
2. On Count II of the charge herein, the Convict is sentenced to a fine of Forty Thousand Naira (₦40,000.00) only, or in default of payment of the fine, a term of two (2) years, to commence from the date the bail order of the Convict was restored, being the 14/4/2014.
3. The one locally-made Revolver Pistol, Exhibit P2 and the four rounds of AK 47 Rifle live ammunition shall be handed over to the Nigeria Police Force through the Prosecuting Counsel, Otowu, G. O., Esq., for



destruction, if there is no appeal against the judgement of this Court, thirty (30) days from today, being the 14<sup>th</sup> day of December, 2015.

This shall be the judgement of this Court in this case.

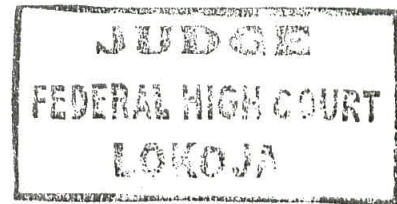


**Hon. Justice Phoebe Msuean Ayua**  
**Judge**

*The 14<sup>th</sup> day of December, 2015*

Parties: The Defendant is present in the Court.

Appearances: G. O. Otowu, Esq., for the Prosecution and S. M. Abdullahi, Esq., (with G. O. Adih, Esq.), for the Defendant/Convict



**Hon. Justice Phoebe Msuean Ayua**  
**Judge**

*The 14<sup>th</sup> day of December, 2015*

