

SUPREME COURT OF NIGERIA
FRIDAY 9TH MAY, 2014. SC. 174/2011
CORAM:- W. S. N. ONNOGHEN, S. GALADIMA,
B. RHODES-VIVOUR, K. B. AKA'AH, J. I. OKORO, JJSC

FRANCIS NKIE APPELLANT
V.
THE FEDERAL REPUBLIC OF NIGERIA RESPONDENT

CHARGES - Plea - Conviction - Where accused pleads guilty and intends to admit all essentials of the offence - Court shall convict save in capital offence (H1)

CRIMINAL PROCEDURE - Confession - Definition of - It is admission made by accused - Stating that he committed the crime - Which is object of the charge preferred against him (H2)

CRIMINAL PROCEDURE - Confession - Admissibility - Statement made voluntarily suggesting that accused committed the offence - Is relevant and admissible against him - Provided it was not obtained by threat (H3)

CRIMINAL PROCEDURE - Conviction - Confession - Voluntary confession if fully consistent - And there is proof that crime has been committed by accused - Is satisfactory evidence (H4)

CRIMINAL PROCEDURE - Judicial precedent - Distinction - The alleged cocaine was not tendered in court in Stephenson's case - But in the instant case - The substance was tendered as exhibit A (H5)

FACTS

Accused/appellant was arraigned before the Federal High Court Port Harcourt for being in an unlawful possession of cocaine contrary to section 19 of the National Drug Law Enforcement Agency (NDLEA) Act Cap N30 LFN 2004. The case for the prosecution/respondent is that appellant was arrested by operatives of the NDLEA for being in possession of substances suspected to be cocaine weighing 0.4 grams. Appellant made confessional statement some three

days after his arrest, admitting the commission of the crime. Upon his arraignment, appellant pleaded guilty to the charge. Despite the guilty plea, respondent went further to prove the facts of the case and tendered several exhibits in support.

Appellant did not object to the tendering of any of the exhibits. The court was therefore urged by respondent to convict appellant. Before his conviction appellant made an allocutus in which he pleaded for leniency since he had no criminal record and showed serious remorse as a first offender. In its judgment, the court sentenced appellant to 18 months imprisonment from the date of his arrest. Not satisfied, appellant appealed to the Court of Appeal Port Harcourt Division on the ground that he was not represented by a legal practitioner and was not asked to react to the statements of respondents as well as the tendering of the exhibits. The court heard and dismissed the appeal. Aggrieved, appellant appealed to Supreme Court.

ISSUE FOR DETERMINATION

“Whether the learned Justices of the Court of Appeal were not wrong in affirming the conviction and sentence of the Appellant merely because of his plea of guilty and confessional statement?”

HELD (Unanimously dismissing the appeal per **OKORO JSC**)

CHARGES - Plea - Conviction

1. From the clear and unambiguous words of Section 218 of the Criminal Procedure Act hereinbefore reproduced, where an accused person pleads guilty to an offence before a court of law and the court is satisfied that he intended to admit the thrust of all the essentials of the offence with which he is charged, the court shall convict and sentence him accordingly. The only exception is in a capital offence.

If a person charged with murder or any other offence which the law prescribes the death penalty pleads guilty to it, a plea of not guilty is to be recorded by the court on his behalf and the case heard as if he had pleaded not guilty. In any other circumstance, his actual plea is to be recorded.

Thus, it is well settled that a plea of guilty is valid if made in a very unambiguous and unequivocal way and the same is received by a trial court or tribunal not labouring under the misapprehension of what the law is all about. (p. 2081 D)

Charges - Guilty plea

2. A confession or confessional statement has been defined in several cases by this court as an admission made by an accused person stating or suggesting that he committed the crime which is the object of the charge preferred against him. It is an acknowledgment of the crime of the accused. (p. 2084 C)

CRIMINAL PROCEDURE - Confession - Admissibility

3. I need to emphasize that a confessional statement can only become proof of an act when it is true, positive and direct. A confessional statement made voluntarily, stating or suggesting the inference that an accused committed an offence for which he is standing trial is relevant and admissible against him provided the statement was not made as a result of any threat, promise or inducement from a person in authority. Also, any voluntary information given by the accused at any time during investigation which leads to the discovery of any fact material to the charge against him is equally admissible. (p. 2084 E)

Conviction - Confession

4. It is quite reasonable to hold that a voluntary confession of guilt, if fully consistent and probable, and is coupled with a clear proof that a crime has been committed by the accused, is accepted as satisfactory evidence on which the court can convict. (p. 2084 G)

Judicial precedent - Distinction

5. One last issue and I would have drawn the curtain. The fact that the Prosecution in the instant case tendered Exhibits A - F including the substance alleged to be cocaine as Exhibit A., a certificate of test analysis as Exhibit B clearly takes the case

out of the ambits of the authority of STEPHENSON v. INSPECTOR GENERAL OF POLICE (1965) ALL NLR 261 relied upon by the Appellant. In STEPHENSON’S case (supra), the weed alleged to be Indian hemp was not tendered in court but in the instant case, the substance suspected to be cocaine was tendered as exhibit A and backed up by a Scientific analysis of same and tendered as Exhibit B. Also, in the confessional statement of the Appellant he called the substance “cocaine.” For me, the argument of the Appellant on this aspect is of no moment. (p. 2085 D)

REPRESENTATION

Tuduru Ede Esq., with C.A.C. Agidi Esq., for the Appellant
Mike Kassa Esq., for the Respondent

CASES REFERRED TO

- Abele v. Tiv Native Authority (1965) NMLR 425
- Idan v. COP (1964) NMLR 103
- COP v. Sagay (1967 - 1968) MWSNLR 69
- E Kayode v. State (2008) NWLR (pt. 1068) 218
- Stephenson v. IGP (1965) 2 All NLR 261
- Ishola v. State (1969) NMLR 259
- A-G v. Isong (1986) 1 QLR N 74
- Saidu v. State (1982) 4 SC 41
- F Ikemson v. State (1989) NWLR (pt. 110) 455
- Adebayo v. A-G Ogun State (2008) 7 NWLR (pt. 1085) 201
- Onwumere v. State (1991) 4 NWLR (pt. 186) 428
- Omoju v. FRN (2008) All FWLR (pt. 415) 1656
- G Peter v. State (1997) 12 NWLR (pt. 531) 1
- Fatilewa v. State (2008) 12 NWLR (pt. 1101) 518
- Okeke v. State (2003) FWLR (Pt. 159) 1381

STATUTES REFERRED TO

- H Evidence Act 2011, ss. 28, 42 - 44
- Criminal Procedure Act, s. 218, 285(1)(2)

LEAD JUDGMENT BY OKORO JSC

On the 22nd August, 2008, at Zaakpim Road Junction in Khana

Local Government Area of Rivers State, operatives of the National Drug Law Enforcement Agency (NDLEA) arrested the Appellant for being in unlawful possession of substances suspected to be cocaine weighing 0.4 grams.

On 25th August, 2008, the Appellant made a statement to National Drug Law Enforcement Agency (NDLEA) officials wherein he confessed and admitted commission of the offence. At the end of investigation the Appellant was arraigned before a Federal High Court, sitting in Port Harcourt in a one count charge which states:

“That you FRANCIS NKIE, male, adult on or about the 22nd day of August, 2008 at Zaakpim Road Junction, Khana Local Government Area Rivers State within the jurisdiction of this Honourable Court without lawful authority did knowingly possessed (sic) 0.4 grammes of cocaine, a narcotic drug and thereby committed an offence punishable under section 19 of the National Drug Law Enforcement Agency Act Cap. N30 Laws of the Federation of Nigeria 2004.”

Upon arraignment, the Appellant pleaded guilty to the allegation of criminal breach made against him as contained in the charge sheet reproduced above. The prosecution thereupon urged the court to convict the Appellant after restating the facts constituting the offence and tendering exhibits pertaining to the crime which were admitted in evidence as Exhibits A - F thus:

Exhibit A - the alleged cocaine

Exhibit B - the certificate of test analysis

Exhibit C - packing of substance Form

Exhibit D - Request for Scientific Aid/Analysis Form

Exhibit E - Receipt

Exhibit F - Appellant's Statement.

Consequent upon the above facts, the learned trial judge convicted the Appellant and sentenced him to 18 months imprisonment.

Dissatisfied with his conviction by the learned trial judge, the Appellant appealed to the Court of Appeal, Port Harcourt Division. The Court of Appeal affirmed the conviction of the Appellant and dismissed the appeal. Further aggrieved, the Appellant has appealed to this court. The Notice of Appeal, as can be found on page 82 of the record of appeal has five grounds of appeal out of which the Appellant has decoded a lone issue for the determination of this ap-

peal.

On the 13th of February, 2014 when this appeal was heard, both Counsel for the Appellant, Tuduru Ede Esq., and that of the Respondent, Femi A. Oloruntoba, Esq., (Director, Prosecution & Legal Services, NDLEA) adopted and relied on their respective briefs. The

B sole issue distilled by the Appellant states:

“Whether the learned Justices of the Court of Appeal were not wrong in affirming the conviction and sentence of the Appellant merely because of his plea of guilty and confessional statement?”

C The Respondent has also distilled one issue which is akin to that of the Appellant, though couched differently thus: *“Whether the learned Justices of the Court of Appeal were right in law when they affirmed the conviction and sentence of the Appellant?”*

I shall determine this appeal based on the said single issue.

D In his argument, the learned counsel for the Appellant submitted that the offence charged against the Appellant for which he was convicted and which the lower court affirmed was not proved in spite of the plea of guilty and confession to same by the Appellant. It is his contention that the prosecution failed to prove:-

E i. That the Appellant dealt in cocaine

ii. That the substance allegedly charged as found on the Appellant is cocaine.

F iii. That the substance sent for forensic analysis is the same as allegedly found to be cocaine i.e. as reported in the Chemist report and is linked to Appellant.

iv. Evidence of what happened to the recovered substance between the date of recovery and delivery for forensic analysis.

G v. A person specified in Sections 42 - 43 of the Evidence Act issued report as in Section 44 thereof which confirmed the substance to be cocaine as shown in the result of the forensic analysis i.e. a Chemist report.

H According to learned counsel, Exhibit B is a preliminary test result done by officers of the National Drug Law Enforcement Agency and that the test is said to be positive for cocaine *“pending forensic science laboratory result.”* That Exhibit B is not conclusive that Exhibit A is cocaine since it was made subject to Chemist report under Sections 42 - 44 of the Evidence Act.

Learned Counsel further submitted that none of the elements

itemized above was ever proved by the Respondent at the trial. Learned Counsel opined that the essentials of the offence charged against the Appellant were not proved even with the plea of guilty and the confession. That the absence of the Chemist Report requested in Exhibit D which ought to prove conclusively that Exhibit A is in fact cocaine is fatal to the charge and that the court below ought to have set aside the conviction and sentence of the Appellant. He relies on these cases: ABELE v. TIV NATIVE AUTHORITY (1965) NMLR 425; IDAN v. COMMISSIONER OF POLICE (1964) NMLR 103; COMMISSIONER OF POLICE v. SAGAY (1967 - 1968) MID-WESTERN STATE OF NIGERIA LAW REPORT 69, KAYODE v. THE STATE (2008) NWLR (Pt. 1068) 218 at 301 - 302 G - C.

It was a further submission of the Learned Counsel for the Appellant that where expert evidence is required to prove the essentials of an offence, but such evidence is not tendered, a plea of guilt or confession does not include the admission of the essentials required by Section 218 of the Criminal Procedure Act, relying on the cases of STEPHENSON v. INSPECTOR GENERAL OF POLICE (1965) 2 ALL NLR 261, ISHOLA v. THE STATE (1969) NMLR 259, ISICHEI v. COMMISSION OF POLICE (1970) MID-WESTERN STATE OF NIGERIA LAW REPORT 251, ATTORNEY-GENERAL v. ISONG (1986) 1 QLR N 74.

Arguing further to exculpate his client from the charge for which he was convicted and sentenced, Learned Counsel submitted that the Respondent never discharged the burden of tampering with Exhibits A and D between 22/8/08 and 17/12/08 when Appellant pleaded guilty and was convicted and sentenced and which the lower court affirmed.

In his final submission, he argued that because the person who signed Exhibit B does not come within the persons specified under Section 42 - 43 of the Evidence Act the substance, Exhibit A remains mere suspicion which no matter how strong cannot prove an offence. He urged this court to resolve this issue in favour of the Appellant.

In response, the Learned Counsel for the Respondent submitted that the prosecution not only discharged the constitutional and statutory burden of proof placed on it but also adduced cogent and credible evidence to sustain the conviction of the Appellant at the

trial court and that the lower court was right to uphold the conviction and sentence of the Appellant. He argued that the Appellant freely and voluntarily confessed to the offence alleged against him and that the said confessional statement was tendered and admitted in evidence as Exhibit F without any retraction or contestation. He further submitted that the confessional statement alone was sufficient to ground a conviction. He relies on Section 28 of the Evidence Act 2011 and the cases of SAIDU v. THE STATE (1982) 4 SC 41, IKEMSON v. STATE (1989) NWLR (Pt. 110) 455, ADEBAYO v. ATTORNEY GENERAL, OGUN STATE (2008) 7 NWLR (Pt. 1085) 201, ONWUMERE v. STATE (1991) 4 NWLR (Pt. 186) 428 and OMOJU v. FEDERAL REPUBLIC OF NIGERIA (2008) ALL FWLR (Pt. 415) 1656.

It was his further submission that apart from the confessional statement the Appellant entered a plea of guilty to the charge. Referring to Sections 218 and 285 (1) & (2) of the Criminal Procedure Act, Learned Counsel submitted that where the accused pleads guilty to the offence against him, then the onus placed on the prosecution by law is lifted and that the court can safely convict on that plea. He cited the case of OMOJU v. FEDERAL REPUBLIC OF NIGERIA (supra). Learned Counsel submitted that the Appellant, having pleaded guilty cannot be heard to say that he did not intend to admit the truth of all the essentials of the offence.

On the argument that the failure to tender a Chemist report of the substance seized from the Appellant is fatal to the prosecution's case, Learned Counsel for the Respondent submitted that contrary to the said submission, the law is that where neither the prohibited or illegal substance nor the Chemist's report or expert evidence as to the nature of the substance is tendered in evidence, then it would be unsafe for any court of law to convict an Accused person on a charge of possessing or dealing with narcotic substances or other drugs. He distinguished the case of STEPHENSON v. INSPECTOR GENERAL OF POLICE (1965) 2 ALL NLR 261 relied upon by the Appellant and the instant case in that in STEPHENSON v. INSPECTOR GENERAL OF POLICE (supra) the weed suspected to be Indian hemp was not tendered whereas in the instant case the substance suspected to be cocaine was not only tendered but a forensic analysis of same was tendered. He urged this court to hold that the court below was

right to uphold the conviction and sentence of the Appellant based on his plea of guilty and his confessional statement.

There are two basic concepts in our criminal jurisprudence which call for consideration in this appeal.

The first is plea of guilty and the second is the effect of a confessional statement. This is so because in this appeal, the Appellant not only pleaded guilty to the charge, he also made a confessional statement in respect of the offence charged.

Section 218 of the Criminal Procedure Act provides:

“If the accused pleads guilty to any offence with which he is charged, the court shall record his plea as nearly as possible in the words used by him and if satisfied that he intended to admit the thrust of all the essentials of the offence of which he has pleaded guilty, the court shall convict him of that offence and pass sentence upon or make an order against him unless there shall appear sufficient cause to the contrary.”

From the clear and unambiguous words of Section 218 of the Criminal Procedure Act hereinbefore reproduced, where an accused person pleads guilty to an offence before a court of law and the court is satisfied that he intended to admit the thrust of all the essentials of the offence with which he is charged, the court shall convict and sentence him accordingly. The only exception is in a capital offence.

If a person charged with murder or any other offence which the law prescribes the death penalty pleads guilty to it, a plea of not guilty is to be recorded by the court on his behalf and the case heard as if he had pleaded not guilty. In any other circumstance, his actual plea is to be recorded. See PAULINUS TOBI (alias UDO ABBY) v. THE STATE (2001) 4 SC (Part II) 160. This court in RAYMOND S. DONGTOE v. CIVIL SERVICE COMMISSION, PLATEAU STATE (2001) 4 SC. (Part II) 43 held that after a plea of guilty by the accused before the court exercising jurisdiction in respect of criminal offences, the court must formally proceed to conviction without calling upon the accuser to prove the commission of the offence by establishing the burden of proof required by law. See also R. v. WILSON (1959) SC NLR 462; (1959) 4 FSC 175.

Thus, it is well settled that a plea of guilty is valid if made in a very unambiguous and unequivocal way and the same is

received by a trial court or tribunal not labouring under the misapprehension of what the law is all about. See EMMA AMACHUKWU v. THE FEDERAL REPUBLIC OF NIGERIA (2009) 8 NWLR (Pt. 1144) 475, OKEWU v. FEDERAL REPUBLIC OF NIGERIA (2005) ALL FWLR (Pt. 254) 858.

B In the instant appeal, the Appellant herein pleaded guilty to the charge which was well recorded by the learned trial judge and accepted by the court below. It is trite that where an accused person pleads guilty to the offence against him, the onus placed on the prosecution by law is lifted and the court can safely convict on the plea.
C But in this case, after the plea of guilty entered by the Appellant, the Respondent went ahead to adduce evidence to substantiate the charge against the accused person. It goes without any conjecture that where the prosecution goes further irrespective of the plea of guilty to lead
D cogent and credible evidence as was done in this case, to further support the plea of guilty, the ensuring conviction, in my opinion, is unassailable. In OMOJU v. FEDERAL REPUBLIC OF NIGERIA (2008) ALL FWLR (Pt. 415) 1656, a case cited by the Learned Counsel for the Respondent in their brief, this court held at page 1675 para-
E graphs B - C as follows:

*“The law is elementary that if an accused person pleads guilty the burden of proof placed on the prosecution becomes light, like a feather of an ostrich. It no longer remains the superlative and compelling burden of proof beyond reasonable doubt. After all, the guilty
F plea has considerably shortened the distance and brought in some proximity the offence and the mens rea or actus reus of the accused as the case may be.”*

The summary of what I have been saying above is that in non-
G capital offence cases, after a plea of guilty by an accused person the court has a duty to proceed to convict the accused without necessarily calling on the prosecution to prove the commission of the offence by establishing the burden of proof ordinarily required by law. The reason is that the admission of guilt on the part of the accused would
H have satisfied the required burden of proof. Where however, the prosecution goes ahead to adduce evidence though scanty and tender documents as exhibits, this is an added strength to the case of the prosecution which also obliterates any doubt whatsoever on the mind of the trial judge to convict the accused. See DANGTOE v. CIVIL

SERVICE COMMISSION, PLATEAU STATE (supra) R. v. WILSON (supra). Thus, the Appellant, having voluntarily pleaded guilty to the charge at the trial court, he cannot now be heard to be making a different case on appeal. He should not be allowed to approbate and reprobate in the same breath.

It was a further contention of the Learned Counsel for the Appellant that the trial court ought not to have convicted the Appellant on his plea of guilty as that court could not have been satisfied that the Appellant *“intended to admit the thrust of all essentials of the offence of which he has pleaded guilty.”* B

Under Section 218 of the Criminal Procedure Act a trial court is enjoined to proceed to convict an accused person who has pleaded guilty if he is satisfied that he intended to admit the thrust of the offence which he has pleaded guilty. From the language of the section, it seems to me that what is required of the trial judge is for him to be satisfied that the accused indeed intended to plead guilty to the charge and that he understood what he pleaded. Indeed this court in OMOJU v. FEDERAL REPUBLIC OF NIGERIA (supra) per Tobi, JSC at page 1675 - 1676 paragraphs G - A stated the position of the law in respect of that section as follows: C D E

“I do not see any language in Section 218 suggesting that the court must ask the Appellant if he admits all the essentials of the offence of which he pleads guilty. All that the section requires is that the court must be satisfied that the accused person intended to admit the truth of all the essentials of the offence. In the language of the section, the exercise is within the mind of the judge and does not go out to meet the accused. Whether the Judge is satisfied or not remains his subjective judgment. The moment the Judge is so satisfied he can convict and pass the appropriate sentence.” F G

In the instant case, there is nothing on record to suggest that the learned trial judge was not satisfied that the Appellant intended to admit the thrust of the essentials of the offence. It has to be noted that the plea of guilty by the Appellant followed his earlier confessional statement which is consistent with his plea. And that takes me to the next issue to be considered in this appeal which is the confessional statement of the Appellant. There is no doubt that the Appellant made a confessional statement in this case which was admitted as Exhibit F at the trial court. At the said court, the Appellant neither H

retracted nor challenged its admissibility. The said confessional statement is copied on pages 2 to 4 of the record of appeal, part of which states:

“...When the police stopped us, they asked us to search ourselves. I put my hand in my pockets and brought out my wallet,
 B handkerchief and my cocaine... The cocaine was the one I bought from one Keke Unkieu of Gbodo Village about four days before my arrest. I bought it at the rate of N250 per pinch. The eight (8) pinches costing N2,000... I intended to market it to anybody that ask of it...
 C In NDLEA office, my cocaine was counted to give eight pinches, tested and shows colours of cocaine and weighed 0.4 grams in my presence.”

A confession or confessional statement has been defined in several cases by this court as an admission made by an accused person stating or suggesting that he committed the crime which is the object of the charge preferred against him. It is an acknowledgment of the crime of the accused. See Section 28 of Evidence Act 2011, AKIBU HASSAN v. THE STATE (2001) 15 NWLR (Pt. 735) 184, IKEMSON v. STATE (1989) 3 NWLR (Pt. E 110) 455.

I need to emphasize that a confessional statement can only become proof of an act when it is true, positive and direct. A confessional statement made voluntarily, stating or suggesting the inference that an accused committed an offence for which he is standing trial is relevant and admissible against him provided the statement was not made as a result of any threat, promise or inducement from a person in authority. Also, any voluntary information given by the accused at any time during investigation which leads to the discovery of any fact material to the charge against him is equally admissible. See PETER v. STATE (1997) 12 NWLR (Pt. 531) 1, FATILEWA v. THE STATE (2008) 12 NWLR (Pt. 1101) 518, (2008) 4 - 5 SC (Pt. 1) 191. **It is quite reasonable to hold that a voluntary confession of guilt, if fully consistent and probable, and is coupled with a clear proof that a crime has been committed by the accused, is accepted as satisfactory evidence on which the court can convict.** See OGOALA v. STATE (1991) 2 NWLR (Pt. 175) 509, PHILIP KANU & ANOR v. R. (1952) 14 WACA 30 at 32.

As a general rule, a free and voluntary extra judicial confession provides the most satisfying, the best and strongest evidence against an accused person. This is so because no man in his right senses will make admissions prejudicial to his interest and safety if the facts are not true and correct. In the instant case, the Appellant confessed to the commission of this crime. He did not retract or resile from it. In fact, he did not allege that he was forced or induced to make it. That is to say that the said statement was voluntarily made. To cap it, he pleaded guilty to the offence when the charge was read to him. Both his statement to the NDLEA officials and his plea are consistent and point irresistibly to the conclusion that he committed the offence and thereafter owned it up fully. I have no reason to hold otherwise. Both the trial court and the court below held the same view on the matter which I am in full agreement.

One last issue and I would have drawn the curtain. The fact that the Prosecution in the instant case tendered Exhibits A - F including the substance alleged to be cocaine as Exhibit A., a certificate of test analysis as Exhibit B clearly takes the case out of the ambits of the authority of STEPHENSON v. INSPECTOR GENERAL OF POLICE (1965) ALL NLR 261 relied upon by the Appellant. In STEPHENSON'S case (supra), the weed alleged to be Indian hemp was not tendered in court but in the instant case, the substance suspected to be cocaine was tendered as exhibit A and backed up by a Scientific analysis of same and tendered as Exhibit B. Also, in the confessional statement of the Appellant he called the substance "cocaine." For me, the argument of the Appellant on this aspect is of no moment.

On the whole, it is my view that both on the plea of the Appellant and his confessional statement, the court below was right to affirm the decision of the trial court which relied on both to convict and sentence the Appellant as a trial court can convict an accused person based on his confessional statement alone if found to be direct positive, cogent and voluntary. The end result is that this appeal has no merit at all and is hereby dismissed. I affirm the decision of the court below in the circumstance.

ONNOGHEN JSC

I have had the benefit of reading in draft the lead Judgment of my learned brother OKORO, JSC just delivered. I agree with his reasoning and conclusion that the appeal is without merit and should, consequently, be dismissed.

B The facts of the case have been stated in detail in the lead Judgment thereby making it unnecessary for me to repeat them herein except as may be need to ground the point being made.

C It is not disputed by appellant that he made a confessional statement in which he confessed to the crime which statement was tendered and admitted in evidence without objection from appellant.

Secondly, appellant does not dispute the fact that he pleaded guilty to the charge preferred against him.

D However, it is the contention of learned counsel for appellant that the plea of guilty by appellant is inconsistent with the provisions of Sections 218; and 285 (1) and (2) of the Criminal Procedure Act; Section 213(1) of Administration of Criminal Justice Law No. 10 of 2007; and Section 36 (6) (a) of the Constitution and should have
E been set aside by the lower court; that the lower court failed to hold that the plea of guilty and the consequent conviction of appellant did not comply with the laid down procedure as affirmed by this Court in the case of Okeke v. State (2003) FWLR (Pt. 159) 1381 at 1420 -
F 1421.

By the provision of Sections 28 of the Evidence Act, 2011, a confessional statement is an admission made at any time by a person charged with a crime stating or suggesting the inference that he committed the crime for which he is charged - See also SAIDU v. State
G (1982) 4 S.C. 41.

It is now settled law that a court can ground a conviction of an accused person solely on his confessional statement. Thus in the case Ikemson v. State (1989) NWLR (Pt. 11) 455 at 476. This court stated the position as follows:

H *“An accused person can be convicted on his confessional statement alone. He may also be convicted where the confession is consistent with other ascertained facts which had been proved. See Ntaha v. The State (1972) 4 S.C. 1”.*

On the above position of the law appellant’s conviction and

sentence by the trial court is right and therefore the affirmation of the said conviction and sentence by the lower court is unassailable. A confession is the best evidence in criminal law in prove of a crime/charge in a court of law. Apart from the confessional statement, the prosecution called evidence and tendered some documents including the report on the substance in issue to further prove the ingredients of the charge. B

In addition to appellant confessing to the crime, he also pleaded guilty to the charge. The question is: what is the legal consequences of a guilty plea by an accused person? C

Sections 218 and 285 (1) and (2) of the Criminal Procedure Act provide as follows:-

“218. If the accused pleads guilty to any offence with which he is charged the court shall record his plea as neatly as possible in the words used by him and if satisfied that he intended to admit the thrust of all the essentials of the offence of which he has pleaded guilty, the court shall convict him of that offence and pass sentence upon or make an order against him unless there shall appear sufficient cause to the contrary. D

285 (1) At the commencement of the hearing, the court shall state or cause to be stated to the defendant the substance of the complaint and shall ask him whether he is guilty or not guilty. E

(2) If the defendant says he is guilty and the court is satisfied that he intends to admit the offence and shows no cause or no sufficient cause why the sentence should not be passed the court shall proceed to sentence.” F

From the above provisions, it is very clear that a guilty plea by an accused person to a non capital charge shortens the proceedings in that trial as the court is empowered to proceed summarily to deal with the matter by convicting and sentencing the accused accordingly; it converts an otherwise full trial to a summary one. Where an accused person not only pleaded guilty to the charge but made confessional statement which is admitted in evidence without objection, as in the instant case, the burden of proof legally imposed on the prosecution to prove the charge beyond reasonable doubt is made very light indeed. H

The next question which is also relevant to the determination of the issue under consideration is: under what circumstances can an

accused person who had pleaded guilty to a charge and had consequently been convicted and sentenced accordingly appeal against that conviction?

The answer is stated in Essien v. The King 13 WACA 6 where it is opined that the circumstance in which an appellate court will entertain an appeal in cases which appellant pleaded guilty are as follows:-

“A plea of guilty having been recorded, the court can only entertain an appeal against conviction if it appears:

1. *That the appellant did not appreciate the nature of the charge or did not intend to admit he was guilty of it or*
2. *That upon the admitted facts he could not, in law, have been convicted of the offence charged.”*

Can it be said that appellant has brought his case within the above stated requirements? The answer is clearly in the negative. The appeal by appellant is clearly an afterthought; an act designed to waste the precious time of this court for reasons which are not clearly for the promotion of justice for appellant, having regard to the facts on record and the law appreciable thereto.

It is for the above reasons and the more detailed reasons contained in the lead Judgment of my learned brother, J. Okoro JSC that I too find no merit whatever, in the appeal which is accordingly dismissed by me.

F

GALADIMA JSC

On the 22nd August, 2008, the operatives of the National Drug Law Enforcement Agency (NDLEA) arrested the Appellant for being in unlawful possession of substance suspected to be cocaine weighing 0.4 grammes. He made a confessional statement to the Agency admitting the Commission of the offence which is punishable under Section 19 of the National Drug Law Enforcement Agency Act Cap. N30, Laws of the Federal Republic of Nigeria 2004.

Upon his arraignment before a Federal High Court sitting in Port Harcourt the prosecution restated the acts constituting the offence and tendered 6 exhibits pertaining to the crime which the Court admitted in evidence as Exhibits, namely:
Exhibit ‘A’ - Substance suspected to be cocaine, which when forensic analysis was conducted showed cocaine.

Exhibit 'B' - The certificate of test analysis.

Exhibit 'C' - The packing of substance form.

Exhibit 'D' - Request for Scientific Analysis form.

Exhibit 'E' - Acknowledge Receipts of the substance for analysis.

Exhibit 'F' - Appellant voluntary confessional statement. B

It was consequent upon the foregoing facts that the learned trial judge convicted and sentenced the Appellant to 18 months imprisonment. On further appeal to the Court of Appeal, his conviction and sentence was affirmed.

Appellant further agitated his sentence and conviction, hence he appealed to this court on 5 grounds while raising a sole issue to the effect that the court below was wrong in affirming his conviction and sentence, merely because of his plea of guilty and confessional statement. The respondent raised similar issue. C

An 13/2/2014, this appeal was heard. Learned counsel for the appellant Tuduru Ede Esq. and for respondent Mike Kassa Esq. both adopted their respective briefs of argument. D

The learned counsel for the appellant has submitted that in spite of the plea of guilty and confessional statement made by the appellant, the prosecution clearly failed to prove the offence charged against him. He contended that the essential elements of the offence charged against the appellant were not proved. It is contended that the absence of the Chemist Report requested in Exhibit 'D', which would prove conclusively that Exhibit 'A' is actually cocaine, is fatal to the charge against the appellant. In other words, that Exhibit 'B' (the certificate of test analysis) is not conclusive that Exhibit 'A' (the alleged cocaine) is in fact cocaine, since it was made subject to the chemist Report under SS. 42 - 44 of the Evidence Act. E F G

He relies on a number of authorities of this court. Learned counsel further submitted that, where expert evidence is required to constitute the offence and prove its essential elements required by S. 218 of the Criminal Procedure Act, but such evidence is not tendered, a plea of guilt or confession does not include admission of those essentials. H

He relies on some cases, two of which are: STEPHENSON v. INSPECTOR GENERAL OF POLICE (1965) 2 ALL NLR 261, ISHOLA v. THE STATE (1969) NMLR 259.

In response, the learned counsel for the respondent submitted that the prosecution has discharged the burden of proof placed on it, by adducing cogent and credible evidence to sustain conviction of the appellant at the trial court. He urged this court to affirm the decision of the court below on the ground that the appellant was convicted and sentenced based on his plea of guilty and his confessional statement.

Section 218 of the Criminal Procedure Act clearly provides that where an accused person pleads guilty to an offence before a court of law after the court is satisfied that the accused intended to admit the “thrust of all the essential of the offence of which he has pleaded guilty, he shall be convicted and sentenced accordingly”. The only exception is in a trial for murder. If a person charged with committing murder or any other offence which the law prescribes death penalty, pleads guilty to it, a plea of not guilty is to be recorded by the court on his behalf and the case heard as if he had pleaded not guilty.

In any other circumstances, as in, this case at hand, his actual plea is to be recorded. See *UDO ABBY v. THE STATE* (2001) 4 SC (Pt. II) 160. However, in a number of decisions of this court it has been held that a plea of guilty by the accused before the court exercising jurisdiction in respect of criminal offences, is sufficient, ground to convict an accused person.

I am not in doubt that the appellant intended to admit and indeed he admitted the thrust of the offence which he has pleaded guilty. Besides, the prosecution went further to lead cogent and credible evidence to support appellant’s plea of guilty.

It must be noted here that the Appellant voluntarily confessed the commission of the crime. He did not retract from it at the trial.

Therefore, his confessional statement to the officials of the National Drugs Law Enforcement Agency and his plea are consistent and this led to the conclusion that he committed the offence I cannot fault the findings of the two courts below to that effect. I hold the same view.

With this little contribution and the more detailed reasons set out in the lead judgment of my learned brother OKORO, J.S.C., I too, agree that the appeal is lacking in merit, and it is dismissed. The decision of the court below is hereby affirmed.

RHODES-VIVOUR JSC

I have had the privilege of reading in draft the leading Judgment of my learned brother Okoro, J.S.C. I am in full agreement on both points. The confessional statement of the appellant and the entry of a guilty plea. B

After the appellant was arrested by operatives of the National Drug Law Enforcement Agency (NDLEA) for being in unlawful possession of cocaine he made a confessional statement. He was subsequently charged for being in unlawful possession of 0.4. grammes of cocaine punishable under section 19 of the National Drug Law Enforcement Agency Act, Laws of the Federation of Nigeria 2004. After the charge was read to him he pleaded guilty. C

Section 218 of the Criminal Procedure Act states that:

"218. If the accused pleads guilty to any offence with which he is charged the court shall record his plea as nearly as possible in the words used by him and if satisfied that he intended to admit the truth of all the essentials of the offence of which he has pleaded guilty the court shall convict him of that offence and pass sentence upon or make an order against him unless there shall appear sufficient cause to the contrary." D E

Once the accused person pleads guilty and the court is satisfied that he is aware of the consequences of entering a guilty plea, the court must formally proceed to conviction. The only exception to this procedure is when the accused person faces a Murder charge or a charge that carries the death penalty. In such a case if the accused person enters a guilty plea, not guilty should be entered and a trial in the usual way should commence. F

I am satisfied that the appellant was very well aware of the consequences of entering a plea of guilty. In the circumstances the plea of guilty to the lone charge and the subsequent conviction would not be disturbed by this court. The Court of Appeal was correct to affirm the judgment of the trial court. G

The case of *Rex v. Sykes* 1913 8 Cr. A.R p. 233 affords clear H authority that a conviction based entirely upon evidence of confession by the appellant can stand. Such evidence is sufficient for a conviction to be upheld on appeal. Depending on the circumstances of a case it may be desirable to have outside the confession some evi-

dence that would make it probable that the confession is true. See Bright v. State 2012 1 SC (Pt. ii) p. 47, State v. Isah & 2 Ors 2012 7 SC (Pt. iii) p. 93.

Once a confessional statement was voluntarily made, that is to say the confession is direct and unequivocal, and it was tendered in court without objection from the accused person, a judge would be at liberty to act on it and proceed to conviction since a confessional statement is the best evidence that the accused person committed the crime for which he is charged. It is an admission against the maker.

The confession to being in possession of cocaine was free and voluntary and in itself consistent and probable as the damaging confession was corroborated by several exhibits to wit certificate of test analysis, packing of substance form, request for scientific aid, and, the alleged cocaine - which clearly showed that the confession was true.

There is no substance in this appeal. I agree with my learned brother, Okoro, J.S.C. that this appeal be dismissed.

E **AKA' AHS JSC**

The facts of this case are straight forward. The appellant was arrested by operatives of the National Drug Law Enforcement Agency (NDLEA) for being in possession of substances suspected to be cocaine weighing 0.4 grams. Three days after his arrest, he made a statement admitting the commission of the offence. On being arraigned before the Federal High Court sitting in Port-Harcourt, he pleaded guilty to the said charge which read as follows:-

"That you Francis Nkie, male, adult on or about the 22nd day of August, 2008 at Zaakpim Road Junction, Kanan Local Government Area Rivers State within the jurisdiction of this Honourable Court without lawful authority did knowingly possessed 0.4 grammes of cocaine, a narcotic drug and thereby committed an offence punishable under section 19 of the National Drug Law Enforcement Agency Act CAP N30 Laws of the Federation of Nigeria 2004."

Thereafter after pleading to the charge the Prosecution restated the facts constituting the offence and tendered in evidence the following Exhibits -

A - The substance alleged to be cocaine.

- B - The certificate of test analysis
- C - Packing of substance form
- D - Request for Scientific Aid/Analysis Form
- E - Receipt
- F - Appellant's Statement.

The appellant did not object to the tendering of any of the exhibits. The Prosecution thereupon urged the court to convict the appellant. Before his conviction the appellant made an allocutus in which he pleaded for leniency since he had no criminal record and showed serious remorse as a first offender. On 17/12/2008 he was sentenced to 18 months imprisonment from the date of his arrest.

The appellant was not satisfied with the conviction and so appealed against it on the ground that he was not represented by Counsel and was not asked to react to the statements of the Prosecutor as well as the tendering of the exhibits in appeal No. CA/PH/388/2009. The appeal was dismissed on 10/3/2011. On 6/4/2011 he appealed to this Court upon a Notice of Appeal containing 4 grounds of appeal from which a sole issue was distilled for determination as follows:

"Whether the learned Justice of the Court of Appeal were not wrong in affirming the conviction and sentence of the appellant merely because of his plea of guilty and confessional statement"

My Lord, Okoro, JSC has admirably dealt with the issue raised in the appeal in the leading judgment with which I agree. The appellant's conviction was not based solely on his plea of guilty and confessional statement. The chain of handling the alleged substance from the time of arrest right up to his arraignment was not broken. The Prosecution did not rely on his admission alone but sent the substance recovered from him for scientific analysis and Exhibit B was the Certificate of test analysis. The sample of the suspected hard drug was tested using United Nation Narcotics Identification Testing Kits and found to be positive for cocaine.

I find that there is no merit in this appeal and it is accordingly dismissed. The conviction of the appellant by the Federal High Court, Port Harcourt which was affirmed by the Court of Appeal Port Harcourt Division is further affirmed by me.