

## **Can A Decision of Court Convicting A Defendant Who Pleads Guilty to A Charge, Having Been Deceived by The Investigating Police Officer to So Do, Stand In Law?**

Lawyers Alert has contested the decision of an Upper Area Court sitting in Zuba, Abuja convicting two men accused of having carnal intercourse against the order of nature and had consequently been arraigned in the court.

After the conviction of the two Defendants but prior to sentencing them, Lawyers Alert was contacted and an objection was filed at the court. This was subsequently argued and the court reserved its ruling on same. The motivation for the objection is the story narrated by the two Defendants. The facts are to the effect that the Investigating Police Officer (I.P.O.) who took them to court for arraignment induced them to plead guilty to the charge which would be read to them by the court so that the court would be compassionate with them.

In Lawyers Alert's application, the Defendant asked that their plea be changed from 'guilty' to 'not guilty' as they did not understand the full implication of charges they pleaded to, and that they were not represented by any counsel at the time their pleas were taken. The court did not inform them of their right to a counsel and so the Defendants were denied their rights to fair hearing. In the ruling, the court refused to grant the application on grounds that the Defendants understood the charge read to them and that the court had become *functus officio*. The court proceeded to convict the two Defendants of the offence of an attempt to commit Unnatural Offences.

Dissatisfied with the Judgment of the Court, Lawyers Alert filed the two Defendants Notices of Appeal with Motions for Extension of Time to Appeal at the FCT High Court Appeal Registry in Apo. We have served both processes on the Respondent (Prosecution). The trial court that delivered the judgment is yet to compile and transmit its record of proceeding to the appellate court (High Court), and as such, no date has been fixed for filing our brief of argument and for hearing of the appeal. We will keep you posted as make progress in the appeal.

Lawyers Alert filed an application to set aside the conviction based on jurisdiction and the fact that the suspects did not understand the ingredients of the offence to which they had pleaded guilty. In the ruling following arguments on the matter, the Judge refused the application, thereby reaffirming the conviction. He thereafter sentenced both defendants to six

months imprisonment with an option of N30, 000 (83.10 USD) fine, each. The family of one of the defendants quickly mobilized and paid for him while the other was still left to serve his prison term due to lack of resources. Lawyers Alert is putting the appeal papers together for filing along with a motion for bail pending appeal for the person currently serving the Jail term. We will continue to update you.

**Update**

