

**SUPREME COURT OF SEYCHELLES**

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**Reportable**  
[2022] SCSC  
CO 88/2021

In the matter between:

**THE REPUBLIC**  
*(Mr Georges Tachette)*

**Prosecution**

and

**SUNNY OGBANNA IDAM**  
*(Represented by Mrs Alexia Amesbury)*

**Convict**

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**Neutral Citation:** *R v Idam* (CO 88/2021) [2022] SCSC 93 (7<sup>th</sup> February 2022)  
**Before:** B Adeline J  
**Summary:** Sentence on conviction for Unlawfully Entering and Present in Seychelles.  
**Heard:** 3 February 2022  
**Delivered:** 7 February 2022

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**ORDER**

The convict, formerly the accused, is sentenced to serve a term of imprisonment of 9 months for one count of unlawfully entering and present in Seychelles.

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**SENTENCE**

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**B ADELINE, J**

[1] Sunny, Ogbonna, Idam a Nigerian national of Lagos, Nigeria was charged before this Court with one count of unlawfully entering and present in Seychelles in contravention of the Immigration Decree, contrary to and punishable under Section 28 (1) (h) of the Immigration Decree.

[2] The particulars of the offence are that Sunny Ogbanna Idam, a Nigerian national of Lagos, Nigeria in or around July, 2021, unlawfully entered and present in Seychelles without any permit issued under the Immigration Decree.

- [3] On the 19<sup>th</sup> October 2021, Mr Idam pleaded not guilty to the charge, and trial was fixed for the 18<sup>th</sup> and 19<sup>th</sup> November 2021.
- [4] On the date fixed for trial on the 18<sup>th</sup> November 2021, the prosecution amended the charge by amending the statement of the offence to read;
- “Unlawfully entering and present in Seychelles in contravention of the Immigration Decree, Contrary to and punishable under Section 28 (1) (h) read with Part IV of the Immigration Decree.
- [5] On the 3<sup>rd</sup> February, 2022, Sunny Ogbonna Idam pleaded guilty to the amended charge and was accordingly convicted on his guilty plea after he had accepted the facts as narrated by the prosecution.
- [6] Learned defence counsel who is on record as saying that her client, now a convict, should have been deported by the Immigration Authority instead of facing prosecution, said, in plea in mitigation, that the convict is a first time offender who is remorseful for the offence committed. Learned counsel added, that the Convict has not wasted the Court’s time and that he is a first time offender. Learned counsel also added, that the convict has already spent 6 months on remand in police custody, and that the Court should take into considering when deciding the sentence.
- [7] The offence if Unlawfully Entering or Unlawfully Present in Seychelles in contravention of the Immigration Decree Contrary to and punishable under Section 28 (1) (h) read with Part IV of the Immigration Decree, is a misdemeanour within the interpretation of the word under Section 5 of the Penal Code, Cap 158.
- [8] The sentence prescribed for the offence is a fine of SCR 30,000 and to imprisonment for 3 years.

[9] In deciding the right and appropriate sentence that will do justice to this case, this Court has taken into account the particular facts and personal circumstances of the convict, *Lenclume v R* [2015] SLR 13, as well as the matters raised by learned defence counsel in plea mitigation, particularly, the fact that the convict has pleaded guilty avoiding wasting this Court's time, the fact that the convict has shown remorse for the offence he has committed and that he is a first time offender.

[10] In the circumstances, this Court finds it just and proportionate, *Folette v R* [2013] SLR 237 to sentence the Convict to serve a term of imprisonment of 9 months from today.

[11] In deciding this sentence, as the right and proportionate sentence to be imposed on the convict, in line with the requirement of Article 18 (14) of the Constitution, this Court has taken into account the fact that the convict has spent sometimes on remand in police custody which ought to be deducted from the 9 months prison sentence.

[12] This Court is of the view, that the Ministry entrusted with the administration of the Immigration Decree should consider deportation of the convict as and when it considers necessary and appropriate to do so.

Signed, dated and delivered at Ile du Port 7 February 2022.

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B Adeline, J