

**IN THE CIRCUIT COURT, CF-GBVC DOVVSU HEADQUARTERS ON FRIDAY THE  
24<sup>TH</sup> DAY OF FEBUARY, 2023 BEFORE HER HONOUR JUDGE DORA G. A.  
INKUMSAH ESHUN**

**SUIT NO: D6/008/2023**

**THE REPUBLIC**

**V.**

**KWABENA ABOAGYE**

Accused Person	- present
Prosecutor	- present; C.I. Simon Tekpor
Investigator	- present; #6281 Det. PW Cpl. Linda Ofosu
Accused Counsel	- none

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**Time: 9:25 am**

**Accused Person**

I have received the new charge sheet and facts and they have been read and explained to me.

**Three Pleas and Charge are Read  
and Explained to Accused Person in Twi**

**Statement of Offence**

Defilement of a female child under sixteen years of age: contrary to section 101(2) of the Criminal and Other Offences Act 1960 (Act 29).

**Particulars of Offence**

Kwabena Aboagye, Age: 39 years, baker: somewhere last year 2022 at North Kaneshie CMB Flat in the Greater Accra Region and within the jurisdiction of

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this Court, you did carnally know one Vivian Ama Bentum estimated aged between 15 and 16.

Accused Plea: **Guilty**

**Prosecutor**

[Reads out the facts].

**By Court**

Mr. Aboagye did anyone put pressure on you to plead guilty or encourage you to plead guilty?

**Accused Person**

No please.

**By Court**

Prosecutor, are the victim and complainant here?

**Prosecutor**

My lord they are not here yet.

**By Court**

Accused person tell us about yourself.

**Accused Person**

I have children but no wife. I have three children - they are 12, 8 and 6. They live with their mother at Abeka. I send them money – I pay their school fees and give them money. I give them GH¢20.00 or GH¢30.00 a week. Their mother also looks after them. She sells milo, milk and other things. My mother has passed but my father is alive. He is at Kwahu. My sisters are at Kwahu and look after him. When I get money I send money to him. If people are going there, I normally send him GH¢50.00. It's about every two or three months. I used to work in

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Vivian's house – I used to go there to bake bread. They have a baking factory in the house. The complainant's wife hired me. She is in charge of the bakery. They have children but no other grandchildren except Vivian. Her parents are not in the house. I don't have anything to say except to plead for the Court to have mercy on me. I slept with her three times.

### **By Court**

A bone-determination report signed by Doctor Francis Ofei, Senior Specialist Radiologist at the Police Hospital states that; *“Based on the standard of Greulich and Pyle as well as the Digital Atlas of skeletal maturity by Gilsanz and Ratib, the patient's bone age is estimated to be between 15 years and 16 years”*.

## **SENTENCING GUIDELINES**

Offence – defilement – 1st degree felony – 7- 25 years.

### 1) Aggravating factors

- large age difference
- vulnerable victim
- victim becomes pregnant
- violation of safe place
- position of trust (worker in family home)

### Mitigating Factors

- lesser violence

### 2) Sentence Level

D- many aggravating factors/no or few mitigating factors – 12 – 15 years

### 3) Accused's Circumstances

- 3 minor children and father as dependants

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- loss of maintenance for children and aged father
- accused is not known to the law (according to prosecutor)

#### 4) Sentence Level

- serious offence
- more aggravating factors
- accused's personal circumstances.

#### 5) Ancillary orders

Maintenance of pregnancy, victim and child.

### VERDICT

The accused person, Kwabena Aboagye, a 39 year old baker is convicted on his own "*guilty*" plea of the offence of defiling Vivian Ama Bentum determined by radiology to be between the age of 15 – 16 years and resulting in the victim being 19 weeks pregnant.

The accused person is sentenced to serve a term of imprisonment of 12 years at the Nsawam Medium Security Prison in hard labour.

The accused person shall be enrolled in a work program while in prison.

In sentencing the accused, the Court has taken into consideration the large age difference between the accused and the victim, the fact that the victim was vulnerable and is now 19 weeks pregnant from the accused defiling her; the accused's violation of the victim's safe place and abuse of his position of trust - as a worker in the victim's home and using his access to and presence in her home as a means to commit the offence.

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The Court has also considered the accused's personal circumstances – the three children and aged father he maintains and the fact that this is his first offence.

Considering the circumstances of the case, the Court makes the following ancillary orders;

- a) The accused person shall maintain the pregnant victim by paying GH¢300.00 a month, for 9 months, effective March 2023 – into the mobile money account of the victims guardian.
- b) The accused shall pay the victim's medical expenses related to the pregnancy.
- c) After the victim delivers the child, the accused shall pay maintenance of GH¢300.00 a month into the victim's mobile money account for the child by the 3rd of each month, effective the date of the child's delivery.

#### **By Court**

The Prosecutor submits;

- a) Kaneshie Polyclinic Mindray Pregnancy scan dated 30 December 2022 – Expected Date of Delivery -19 May 2023.
- b) Kaneshie Polyclinic Obstetric Scan Report for "*Vivian Bentum*", 30 December 2022 – single live intrauterine cyesis at 19 weeks and 6 days.
- c) Kaneshie Polyclinic typed Fetus Report – 6 January 2023.
- d) Kaneshie Polyclinic and Mindray pregnancy scan dated 6 January 2023 – EDD - 2 June 2023.
- e) Kaneshie Polyclinic Lab Report for victim "*Ama Bentum*" dated 6th January 2023.

**ORDER**

The Prosecutor shall file copies of the medical reports today.

**[SGD]**

**DORA G. A. INKUMSAH ESHUN  
CIRCUIT JUDGE**

Aboagye