

IN THE CIRCUIT COURT, CF-GBVC POLICE HEADQUARTERS ON
WEDNESDAY THE 28TH DAY OF NOVEMBER 2023
BEFORE HER HONOUR JUDGE DORA G. A. INKUMSAH ESHUN

SUIT NO: D6/029/2024

THE REPUBLIC

V.

JOHN KWASHIE OCLOO

Accused Person - present
Prosecutor - present; C.I. Gladys Aikins - Asare
Investigator - present; Det L/Cpl. Emelia Akwetey
Accused Counsel - none

Time: 9:04am

Accused Person

I don't have a lawyer. I don't have enough money to engage a lawyer. So whatever the Court deems fit.

By Court

We can refer you to Legal Aid.

Accused Person

It's all about money. I will represent myself.

Three Pleas and Charges Explained and Taken in Ewe

Statement of Offence

Defilement of female child under sixteen years: contrary to section 101 of the Criminal Code, 1960 (Act 29).

Particulars of Offence

John Kwashie Ocloo, aged 78, a retired military officer: For that you on or before October 2023 at Teshie-Nungua Estate in the Greater Accra Circuit Court and within the jurisdiction of this Court, did carnally know Vida Dovene, 12 years.

Accused Plea: I am 76 years. My lady I'm pleading with the Court. It was a mistake. The mistake has happened already. I am pleading with the Court. I will not deny for anything. Whatever the sheet is saying, I will not deny. I am just pleading.

By Court

Mr. Ocloo, please did you understand when the interpreter said if you plead guilty the Court will sentence you according to law?

Accused Person

My lady I am just pleading, whatever the Court says, all I want is to is plead.

By Court

Did anyone encourage, put pressure on or advise you to plead "*guilty*"?

Accused Person

No one. I'm speaking of my own free will. Whatever I will say, I don't think it will help because if you make a mistake, you have made a mistake.

Ruling

Following the accused explanation, a plea of “*guilty*” is entered for the accused person.

Prosecutor

(Reads out the facts).

Accused Person

My lady I have made a mistake. The thing is already spoilt so I don't have to say this or that. All I can say is to plead with the Court. I am 76 years. I was a caterpillar operator in the Military. I am married to two wives. With the children, the males died. I have two children left - a boy and a girl. The first one was born in '64 and the second one in '79. They have their own family. I am pleading with the Court. I have never had any trouble with the police when I left the Military, I was a Corporal.

Sentencing Guidelines

Offence: defilement section 101, 7-25 years.

Aggravating factors

- Large age difference.
- Younger aged victim.
- Vulnerable victim.
- Violation of safe place (neighbourhood).
- Transmission of disease (foul smelling vaginal discharge).

Mitigating factors

- Early guilty plea.
- First offence.

Police Medical Form

Signed by ASP Dr. Harriet Ogbedee Hammond – Medical Officer Ghana Police Hospital 3 November 2023.

Examination

Female child, not pale, not jaundiced, hydration satisfactory, afebrile.

Cardiovascular and respiratory system normal.

Abdomen: full, soft, moves with respiration; no masses.

Perineum: Vagina reddened, hymen absent, creamish, foul-smelling vaginal discharge

Impression: no evidence of forceful entry. Victim is not pregnant and there was no consensual coitus in last 72 hours. Between assault and examination, victim bathed/showered, brushed teeth, changed clothes, urinated, defecated.

Victim's Impact Statement

I am Vida Dovene. I am 12 years old. I am in class 3. I can see Mr. Ocloo on the video screen. He called me to come and asked me to kiss him. He asked me to come to his room. He asked me to lie down and remove my panties, but I refused.

Another time, I was sent to buy something, and he called me. He asked me to lie down again, and I refused. He said I should lie down, and he removed the panties

himself. When he finished he asked me to leave. He inserted his penis into my vagina when he pulled down my panties.

My lord it really hurt me. I was bleeding. I fell sick. I wasn't able to attend school because I was sick. I was afraid. That is all.

Complainant

Please my name is Regina Mensah. The child is my younger sister's daughter. Her mother lives in our hometown. Her mother sent her to me to live with me. The issue has really disturbed the whole family. Her parents said they have spoiled the child's life.

I have children – a 20-year-old girl. She lives with me. I also send her on errands. The Doctor requested some tests for the child. When I asked about the results, the Doctor said she had an infection. When I asked about HIV, he said they could not tell until the tests were redone 3 or 4 months later. We were given drugs for the infection. She is taking the drugs. I asked the Doctor if it would disturb her in the future such as with having children, but the Doctor said he couldn't tell. I didn't ask about her emotional and mental well-being. Her emotional and mental well-being has changed.

Sentence Level

Many aggravating factors, one mitigating factor, D: 12-15 years.

Accused Person

I have a hearing problem that is why I keep asking the interpreter to repeat – I understand everything. I have nothing to say. I am just pleading with the Court.

By Court

As the Court is writing its verdict the accused's daughter states that he has a hearing problem and was a Corporal and not a WO1 or Seargent as the accused initially stated as his rank in the Military. The accused after the question is repeated confirms he was a Corporal.

The accused's daughter then says he has been taken to hospitals as he is "*off and on*" and he is 85 and not 76 as the accused states.

Prosecutor

My lord they were at the Police Station. What the daughter of the accused person is saying, didn't happen at the Police Station level because she came to visit the father at the Police Station several times. She didn't mention the father's health issues to the investigator for the investigator to investigate at the hospitals he was sent to. So, my lady, prosecution is praying the honourable court to seek justice for the victim. My lady what she is also saying is an afterthought.

Accused Person

I have nothing to say. If I say anything it will become *comme çi, comme ça*. I am just pleading with the Court.

VERDICT

The accused person Mr. John Kwashie Ocloo, a retired Corporal in the Ghana Military is convicted on his own "*guilty*" plea, of the offence of defiling Vida Dovene, 12 years, contrary to **section 102** of the **Criminal and Other Offences Act, 1960 (Act 29)**.

The Court finds from the accused person's demeanour and submissions that there is no reason to believe the accused person is of unsound mind contrary to the submission made by his daughter Blessing Ocloo, during the latter part of the proceedings (**section 133 of the Criminal and Other Offences Procedure Act, 1960 (Act 30)**).

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

In sentencing the accused person, the Court takes into consideration the following aggravating factors: the;

- a. large age difference between the accused person and survivor; 70s or 80s versus 12 years,
- b. young age of the survivor (12 years),
- c. fact that the survivor is a vulnerable victim (female child),
- d. violation of the survivor's safe place (her neighbourhood),
- e. transmission of an infection through the defilement, and
- f. fact that this offence is pervasive in our society and needs to be deterred.

The Court has taken into consideration the accused's early guilty plea and the fact that it is his first offence to grant him the lower sentence at the level merited by the combination of aggravating and mitigating factors (12 – 15 years) within the sentence range (7 – 25 years).

The accused person shall be enrolled in counselling and a work program while serving his prison term.

The survivor is referred to the Psychologist at the DOVVSU One Stop Centre.

The accused person shall pay compensation to the survivor through her biological parents in the amount of 300 penalty units which may be recovered through civil action.

The accused person shall pay the survivor's medical bills related to the defilement – the medical bills shall be filed in Court or with the police.

The accused person is advised of his right of appeal.

(SGD)
DORA G. A. INKUMSAH ESHUN
CIRCUIT JUDGE