

**IN THE CIRCUIT COURT HELD AT AMASAMAN – ACCRA ON FRIDAY
THE 25TH DAY OF AUGUST, 2023 BEFORE HER HONOUR ENID MARFUL-
SAU, CIRCUIT COURT JUDGE**

CASE NO. D18/84/2020

THE REPUBLIC

VRS.

ISAAC NYANTEH

ACCUSED PERSON PRESENT

PROSECUTION: C/INSP. AWUAH ANSAH PRESENT

COUNSEL: KOFI AHENKORAH ESQ. FOR ACCUSED PERSON PRESENT

JUDGMENT

The Accused Person is charged with one count of possession of firearms and ammunition without lawful authority contrary to section 11(8) of NRCDC 9 of 1979 and one count of discharging gun in town contrary to section 209(1) of the Criminal Offences Act, 1960 (Act 29) amended by Act 554, section 18 schedule; affected by Act 572, Schedule 2.

The facts as presented by prosecution are that the Accused is a retired military man, and the complainant is a caretaker of a piece of land. Prosecution says that on 28th February, 2020, the complainant visited the land in the company of Joseph Ashaley, Joseph and Jacob and found the Accused supervising the moulding of blocks with sand deposited by the owner of land. Prosecution says that the Accused upon seeing the complainant and witnesses pulled a pump action gun and fired twice at them in the midst warning them to leave the place. According to prosecution, complainant and his colleagues managed to escape unhurt from the scene and made a complaint at the Asofan police post. There they handed over the Accused person's pick-axe, shovel, moulder and one spent BB cartridge to the Police. Prosecution says that police proceeded to the scene and retrieved on 12 Bore S.B. pump action shot gun, two live BB cartridges from the Accused and one BB cartridge spent pellets from the scene. Prosecution says that the documents submitted by the Accused showed that he had no valid licence to bear a firearm since 23/08/2012 and he hurriedly went to renew his licence on 3rd March, 2020, a day after

the firearm was seized. Based upon these facts he was charged with the offences.

Prosecution called three witnesses in support of its case. PW1 was Nii Kotey Amon, PW2 was Joshua Amon Ashalley and PW3 was D/Sgt. Richard Awini Abugri.

By a Ruling dated 26th October, 2022, the Accused Person was called upon to open his defence to both charges. Accused testified orally on oath on 20th July, 2023. According to him, in 2020 he got to know one Kotey as a land guard and he informed him to leave his land, but he refused. He testified that he fell sick in 2016 and from then he was terrorized on the land with the intention of taking the land from him. He stated that he realized that if he did not take serious action, the people were going to take his land from him. According to him, he is a former soldier which everyone is aware of so when going unto the land, he picked his gun and upon reaching there, there were about fifteen people armed with shovel, pickaxes and other implements. He testified that to scare them off the land, he gave a first warning shot and a second one that scared them, and they went away. After the incident, he picked a taxi to Mile 7 to report a case there but the next day the investigator came to his house with people from Asofan and others that a case of shooting had been reported against him. He testified that he explained that he went unto the land to talk peacefully but the people were holding implements and became violent, so he had to give warning shot.

The case against the Accused is that he had in his possession a 12 Bore S.B pump action shot gun marked AAAL/944/12 Mossberg T.756493 and two live BB cartridges on 28th February, 2020 without lawful excuse. The direct evidence before this court is that on 28th February, 2020, the Accused person had in his possession the said gun which he was asked to produce documents to. There is before this court Exhibit G which is a licence to bear firearm other than a flint lock gun or cap gun with a validity period of 3rd March, 2020 till 31st December, 2020. Exhibit G1 is a licence to bear firearm other than a flint lock gun or cap gun with a validity period of 23rd August, 2012 till 31st December, 2012. Exhibit H3 is a photograph of the said shot gun and Exhibit H4 shows a picture of the shot gun a cartridges. Indeed, per his evidence before this court, the Accused does not dispute that he had in his possession the said gun and he also does not dispute that he fired the gun twice as warning shots.

In the case of **STATE v. OTCHERE AND OTHERS [1963] 2 GLR 463** it was held that:

“A confession made by an accused person of the commission of a crime is sufficient to sustain a conviction without any independent proof of the offence having been committed by the accused.”

Accused person did not have a licence to bear firearm other than a flint lock gun or cap gun in accordance with the provisions of NRCD 9. I therefore find him guilty on count 1 and he is hereby convicted.

Again, from the direct evidence before this court, it is not in dispute that the Accused person discharged a firearm on the said piece of land. A photograph of the spent cartridge was tendered as Exhibit H2. The case put across by the accused is that he felt terrorized as he met about 15 people wielding various implements hence the warning shots to drive them away. This notwithstanding, the evidence before this court is that the gun was discharged without affront from Prosecution’s witnesses. The evidence is indicative of the fact that it was rather the Accused Person who was on the land supervising the moulding of the blocks pictured in Exhibit H when the complainant, Joseph Ashaley, Joseph and Jacob met him. The testimony of the Accused that there were 15 people who were wielding objects terrorising him on the land is thus unsupported by the evidence on record. Though the Accused claims to own the land, no such evidence was produced before this court when he appeared before the court to testify. In the case of **THE STATE v. SOWAH AND ESSEL [1961] GLR 743** it was held as follows:

“In the instant case the defence put forward by the two accused left the judge with three possible positions, namely (i) if he accepted their explanations he must acquit them; (ii) short of accepting their explanations if he was left in doubt he must also acquit them; and (iii) he must be satisfied of their guilt of the crimes alleged against them only on consideration of the whole evidence adduced.”

On the entirety of the evidence before me, I find that no doubts have been created by Accused and I am satisfied from the evidence that it has been proven beyond reasonable doubt that the Accused without lawful and necessary occasion discharged a firearm. I therefore find the Accused person guilty on count 2 and he is hereby convicted.

**H/H ENID MARFUL-SAU
CIRCUIT JUDGE
AMASAMAN**