

IN THE CIRCUIT COURT HELD AT BOLGATANGA IN THE UPPER EAST REGION
ON MONDAY THE 6TH DAY OF MAY, 2024 BEFORE HIS HONOUR SUMAILA
MBACHE AHMADU CIRCUIT COURT JUDGE

UE/BG/CT/B18/06/2023

THE REPUBLIC

VRS

AKOLBILA AKOLGOBONO

J U D G M E N T

The Accused person is charge on three counts, (1) Dangerous Driving: Contrary to section 1 (c) of the road traffic Act 2004 (2) Driving without a valid Road worthy certificate: Contrary to section 94 (1) and (2) of the Road traffic Act 683, Act 2004, as Amended by Act 761/2008. Driving without a valid insurance certificate; contrary to section 1 of the motor vehicles [third party insurance] Act 1958 No.42.

The Accused person has denied all the charges.

Brief facts, on 05/03/2021, at 16:30 Hours, Accused person of 26 years at age was driving 207 BENZ Bus, registration number AW 234 Y from Bolgatanga towards Bawku, on reaching a Section of the Road at Zuarungu SHS, Junction, he knocked down Awuni Mba of 45 years of age who was riding a Haojin motorbike from the same direction. That he was pronounced dead at the Bolgatanga Regional Hospital having sustained severe injuries. That the case was investigated and established that, the Accused driver had no valid Road use certificate and insurance certificate. Covering his vehicle as stipulated in the road Traffic Act.

The prosecution is proof at its case called only the investigator (No. 41924 G/SGT GESY KOFI ANTWI (PW1) who says from his it was revealed that the Accused driver sighted the

rider at the point of impact which is 19 metres, that he drove above 50km/ph instead of 30km/ph at a buildup area and tendered into evidence Exhibits A, B, C, D, D1 and D2.

The case of the defense is that Accused person says when he got to the ZUSEC- Junction he was on his lane and a trailer too was from the Bawku direction and there was motorbike on his right hand side and wanted to turn to the left, but did not watch and leaned on his bus fender and fell to the ground. The Accused person DW1 in support of his case.

BURDEN OF PROOF

The prosecution has the burden to prove its case beyond a reasonable doubt section 11(1) and 13(1) of the NRCD 323.

ANALYSIS AND APPLICATION OF THE LAW

Section 1(c) of the Road Traffic Act, 2004 (Act 683) as amended by the Road Traffic (Amendment) Act 2008, (Act 761) states “A person who drives a motor vehicle dangerously on a road commits an offence and is liable on summary conviction where death occurs to a person other than the driver to a term of imprisonment of not less than three (3) years and not more than seven (7) years.

Section 2 of the Act says

- (i) For the purposes of section 1, a person drives dangerously if (a) The way that person drives falls below what is expected at a competent and careful driver, or (b) It is obvious to a competent and careful driver that it would dangerous driving vehicle
 - (i) In that manner, or
 - (ii) In its current state.

From the evidence added before this court upon the examination of the vehicle by the DVLA the following findings were made.

- (i) Brake paddle rubber coat Absent
- (ii) lack of storage kit for the vehicle hydraulic Jack
- (iii) Puddle of oil on driver door foot step from hydraulic Jack.
- (iv) No rear breaks
- (v) Wind screen broken

From there findings clearly this is a vehicle in its current state should not be on the road. From the prosecution it has no road worthy certificate to ply the roads at the time and had no insurance cover (third party).

Prosecution also establish that the accused person drove dangerously, speeding at 50km/ph at a 30km/ph zone and that but for the speed he could have stop at 19 metres range at the time he sighted the victim.

I therefore hold that the prosecution has proved its case beyond a reasonable doubt on count one.

On count two (2) and three (3) the Accused person has not challenge the evidence of the prosecution that, at the time of the incident the vehicle had no valid insurance certificate and road worthy certificate. Having allowed the evidence to stand unchallenged I hold that the prosecution has proved its case beyond a reasonable doubt on count two and three.

I hereby convict Accused person on all the three counts.

Has he had anything so say by way of mitigation before the sentences are passed.

Accused person says he is pleading for leniency and that he has dependents of a mother and two children.

Prosecution says he is not known

BY COURT: Accused is a first time offender, and a young man with his whole life in front of him.

I hereby sentence Accused to 3 years in imprisonment on count one, 25 penalty units on count 2 in default 2 months in imprison custody, 150 penalty units on count three in default 1 year in prison custody all to run concurrently.

The Accused is also to compensate the estate of the deceased with 10,000.00 GHC.

**HIS HONOUR SUMAILA MBACHE AHMADU
(CIRCUIT COURT JUDGE).**