

IN THE CIRCUIT COURT 'B' KOFORIDUA IN THE EASTERN REGION OF THE
REPUBLIC OF GHANA HELD ON TUESDAY THE 5TH DAY OF MARCH 2024 BEFORE
HER HONOUR MRS. MATILDA RIBEIRO, CIRCUIT COURT
JUDGE

CC No. B7/11/2024

THE REPUBLIC

Versus.

1. SAMPSON VONOVA ATTA KWEKU
2. BISMARCK ASARE @ LARGE
3. OKO DJANLE @ LARGE
4. RICHARD @ LARGE

JUDGMENT (PLEA BARGAINING AGREEMENT)

The 1st accused person (herein after referred to as A1) is alleged to have conspired with the three other accused persons currently @ large to commit crime to wit stealing and stealing contrary to sections 23(1) and 124 (1) of the Criminal Offences Act, 1960 (Act 29). A1 aged 35 years is unemployed and a resident of Asokore, Koforidua. The other accused persons are former employees of the Complainant Osei Kwadwo and resident of Dasebre Estates, Koforidua. According to the facts of the case, for about two (2) years, the complainant detected shortages at his Gas Plant, all efforts to trace the shortages were unsuccessful. An eyewitness informed the complainant that at night, he sees the accused persons filling cylinders with gas and taking them away through the bush. Police investigations revealed

that one of the gas pipelines which had been disconnected about two years ago had been reconnected by the accused persons and they sold the gas without the knowledge of the complainant. One Haruna Aziz and Isaac Gyan were arrested in connection with this case and they were subsequently convicted on their own plea and sentenced to 52 months and 3 months respectively. Bench warrants were issued for the arrest of the other accused persons and on the 16th of August 2023, the 1st accused person herein was arrested from his hideout at Asamankese. After investigations, he was charged and put before this Court.

The 1st accused person pleaded not guilty to both charges against him and he was remanded into lawful custody pending trial. After prosecution served the 1st accused person with the disclosures, his lawyers indicated to the Court, their intention to engage the Office of the Attorney General on a Plea Bargaining Agreement. The Office of the Attorney General subsequently filed a notice of Commencement of Plea Bargaining pursuant to section 162(c) (3) of the Criminal and other Offences Procedure Act 1960 (Act 30) as amended by the Criminal and Other Offences (Procedure)(Amendment) Act 2022 (Act 1079) on the 16th day of February 2024.

Before the Court today is a Plea Bargaining Agreement (hereinafter referred to as PBA) filed by the Office of the Attorney General, Koforidua (hereinafter referred to as AG) on the 5th day of March 2024 for consideration by the Court.

According to the PBA dated 29th February 2024, the 1st accused person desirous of entering a plea of Guilty to the offences charged for the imposition of a lesser offence, caused his lawyer Dallah Djaba-Mensah to make a plea bargaining offer in respect of the charges against him by a letter dated 19th February 2024. And the AG agreed to enter into a sentence bargain with the accused person.

Today, the 1st accused person under oath, confirmed to the court that his constitutional rights and his rights under the Act 1079 have been explained to him and that he entered into the agreement voluntarily out of his own free will. The Court then informed the 2nd accused person that by agreeing to the PBA, he is waiving his rights to a full trial and appeal. The accused person indicated to the Court that he is aware of that and understands same. After which the terms of the PBA were read out and explained to the 1st accused person. Prosecution also confirmed to the Court that the consent of the complainant has been sought and he had no objection to the PBA. Attached to the agreement are Appendix A, B and C being signed acknowledgments by the 1st accused person, lawyer for the 1st accused person and Mrs. Emily Addo-Okyireh, the Chief State Attorney, Eastern Region respectively affirming that they all understand the terms of the PBA and agree to same.

The parties agreed as follows:

That the 1st accused person shall plead guilty simplicitor to all the charges of conspiracy to commit crime, to wit stealing contrary to sections 23(1) and 124 of Act 29/60 and stealing contrary to section 124 of Act 29/60.

As regard sentencing, the parties agreed and recommended a sentence of three hundred penalty units (300 p.u) on each of the two counts having considered all necessary mitigating and aggravating factors per paragraph 5 of the of the PBA. All the sentences are to run concurrently. According to the parties, the recommended sentence was influenced by the fact that the 1st accused person is a first time offender and is not known to the law, he has shown remorse and is ready to submit himself to punishment for his actions, the 1st accused person has spent 6months in prison on remand, the Republic is relieved of expending resources to conduct a full trial in respect of the charges levelled against the accused person and the fact that the 1st accused person has paid an amount of GHC30,000.00, the amount involved in the offence to the complainant.

The parties further agreed that A1 shall at all times provide entirely truthful, complete and accurate information and testimony and he agrees not to commit, or attempt any act in furtherance of the offence, the subject matter of the PBA. That A1 understands that the PBA does not protect him from perjury should he testify untruthfully at any proceeding or making a false statement. Should he fail to comply with the terms, the Republic may fully prosecute him on all charged that can be brought against him

The Court upon confirmation that the accused person understood all his rights and implications of his agreement to the terms contained in the PBA, and being satisfied that the A1 accused person is of a sound mind, that he entered into the agreement voluntarily and that there is a factual basis for he PBA hereby accepts the PBA executed by the 2nd accused person and the Chief State Attorney for and on behalf of the Attorney General, dated 4th December 2023 and filed on 6th December 2023. A2 has been called upon to plead to the charges against him and he pleaded guilty simplicitor to all the three counts as agreed between the parties.

Accordingly, A1 is convicted on his own guilty plea to the charges against him. The Court has considered the recommended sentence per paragraph 5 of the PBA in the light of the prescribed sentence under sections 23(1) and 124(1) of Act 29/60 and section 296 (5) of the Criminal and Other Offences Procedure Act 1960 (Act 30) as Amended by Criminal and Other Offences Procedure (Amendment) Act 2022 (Act 1079) and is satisfied that the recommended sentence is appropriate. Accordingly, the 1st accused person is sentenced to a fine of three hundred penalty units (300 p.u) on each count to run concurrently.

SGD

H/H MATILDA RIBEIRO (MRS)

CIRCUIT COURT JUDGE

Counsel:

Nafisatu Iddrisu (Assistant State Attorney) Attorney for The Republic.

Dollar Djaba-Mensah for the 1st accused person.
