

IN THE FAMILY AND JUVENILE COURT 'C' AT THE FORMER COMMERCIAL COURT BUILDING, ACCRA, HELD ON THURSDAY, THE 6<sup>TH</sup> DAY OF OCTOBER 2022 BEFORE HER HONOUR HALIMAH EL-ALAWA ABDUL-BAASIT SITTING AS AN ADDITIONAL MAGISTRATE WITH MADAM VIDA DANQUAH AND MADAM PHILOMENA SACKEYAS PANEL MEMBERS

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SUIT NO.

R16/06/23

THE REPUBLIC

VS

SANDRA NARKIE NARTEY

Juvenile present with Father

Complainant absent

Chief Havor for Inspector Adjei for the Republic

Det. Lance Corp Sandy Charllote Cozlyn,

Stephen Duodu Esq. for the Juvenile

#### SENTENCE

The Juvenile herein was arraigned with Three (3) adults before the Circuit Court '7' Accra with Her Honour Ellen Ofei-Ayeh sitting as the Judge and was subsequently convicted. Upon convicting the Juvenile, who is aged Fifteen (15) years, the Court Ordered that the docket be forwarded to the Registrar of the Court for onward transmission to the Juvenile Court pursuant to Section 18 of the Juvenile Justice Act, 2003 (Act 653) for the Juvenile to be remitted to the Juvenile Court for Sentencing.

## **BRIEF FACTS:**

On the 20<sup>th</sup> of April 2021, the Juvenile with Three (3) others were put before the court on the following charges;

- i. Count One: Conspiracy to commit crime to wit robbery contrary to Section 23(1) and 149 of The Criminal and Other Offences Act, 1960 (Act 29).
- ii. Count Two: Robbery contrary to Section 149 of the Criminal and Other Offences Act, 1960(Act 29)
- iii. Count Three: Robbery contrary to Section 149 of Act 29
- iv. Count Four: Robbery contrary to Section 149 of Act 29

The Juvenile together with the Three (3) Accused persons all pleaded not guilty to the charges leveled against them. A Ruling on Submission of No Case to Answer on the 11<sup>th</sup> of February 2022 discharged and acquitted the Juvenile and the Accused persons on Count Three. By a Judgment dated 20<sup>th</sup> May 2022, the Circuit Court '7' found them guilty of Counts One and Two and convicted them accordingly. The other Accused persons have been sentenced to Fifteen (15) years imprisonment IHL but the Juvenile has been remitted to this instant court for sentencing.

## ***Sentencing***

In sentencing the Juvenile, the Juvenile Court is guided by Section 24(1) of the Juvenile Justice Act, 2003 (Act 653) which provides, among others, that "*where a Juvenile is charged with an offence, the Juvenile Court shall order a Social Enquiry Report (SER) to be submitted to the Court which shall be taken into account in making an Order*". The Probation Officer, Madam Janet A. Dzata, conducted the

investigation and presented the SER to Court. The SER revealed the nature of the offence, the character, antecedents and home surroundings of this Juveniles as well as the circumstances that led to offence being committed.

### *The Social Enquiry Report (SER)*

The SER revealed that the Juvenile is the Third born among Four (4) children; Two (2) boys and Two (2) girls. The Juvenile's lost her mother when she was just Six (6) years old of which the father sent the Juvenile and her younger brother to his mother in Koforidua where the Juvenile schooled for some time but had to return to her father because her guardians could not take care of her. Upon her return to him, the Juvenile's father enrolled her at Teshie Aboma Presbyterian School where the Juvenile continued her basic education but later changed to Demount Rainbow Academy where she was schooling before she committed the offence. The Juvenile's father sells second hand bed sheets for a living and he lives in a kiosk with his children and but the Juvenile is his only girl child staying with him and helps with house chores.

In analyzing the offences committed by the Juvenile, the SER indicated that the Juvenile's actions were premeditated because she got provoked by the complainant for posting her picture on social media. The Probation Officer observed from the narration of the Juvenile that she did not know the consequences of her actions, has deeply regretted and as such the risk of re-offending is slim. The SER concluded by stating that the Juvenile, having been in remand during the period has seen the gravity of the offence she has committed and is remorseful. She is a student and has been absent from school throughout the period and is willing to continue her education should she get the chance.

The Probation Officer, who at best is an Independent Investigator and has the duty to make certain recommendations without losing cognizance of the best interest of the child recommended that the Court considers releasing the Juvenile on Probation to the father for a period of One (1) year per section 31 of the Juvenile Justice Act, 2003 (Act 653). However, in spite of the recommendation of the Probation Officer, it is the duty of the court to consider the effect the sentence is likely to have on the child or young person.

### ***Mitigation***

Counsel for the Juvenile prayed the court to temper justice with mercy especially considering the fact that the Juvenile did not know the consequences of her actions. Counsel submitted further that the Juvenile is currently in school and relied on Section 34 of Act 653 to pray the court to commit the Juvenile to a fit person.

### ***Analysis***

The Juvenile has been convicted of the offences of Conspiracy to commit Crime to wit Robbery contrary to Section 149 of Act 29 as well as Robbery contrary to Section 149 of Act 29. The Juvenile Justice Act, 2003 (Act 653) in Section 29 provides different methods of dealing with a Juvenile and these include discharging the Juvenile, release the Juvenile on Probation, Commit the offender to the care of a relative, **send the offender to a Correctional Center**, order the offender to pay a fine, among others. Section 46(8) of Act 653 lists the offences considered to be serious offences and these include murder, rape, defilement, indecent assault, **robbery with aggravated circumstances**, drug offences and

offences related to firearms. The Learned Judge convicted the Juvenile on Count One and stated in page 14 of her Judgment as follows '*...having considered the defence raised by all accused persons and the overt acts inferring intention, and in the absence of evidence to raise reasonable doubt on the balance of probabilities, I find the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> accused persons agreed together with others to commit a crime namely conspiracy to commit robbery, when they acted in concert and convict 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> accused persons on Count One on Conspiracy to commit Crime namely Robbery...*'. The learned Judge with respect to Count Two stated on page 15 of her Judgment that '*...in the absence of raising reasonable doubt and based on the entirety of the evidence on record and the findings made in this Judgment, I am satisfied that Prosecution has proved their case beyond reasonable doubt. I find 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> accused persons guilty on this count and convict them accordingly...*'.

Having convicted the Juvenile, who is Fifteen (15) years Old, on the offences of Conspiracy to Commit Crime to wit Robbery as well Robbery itself, the offences per Act 653 is a Serious Offence and the method of dealing with such an offender is to detain the offender at a Correctional Centre of which Section 46(1)(d) of Act 653 provides that '*...the period of detention shall not exceed Three (3) years for a serious offence...*' and Section 46(3) further states that '*a young offender under the age of Eighteen (18) years who has been convicted of a serious offence shall be detained in a Senior Correctional Centre*'.

The Senior Correctional Centre is a juvenile correction institute under the Ghana Prisons Service (GPS) for Juveniles who are under Eighteen (18) years old and have been convicted of criminal or civil offences. The period that a Juvenile spends in the Centre is aimed at reforming him or her so they can fit into society easily after their stay at the Centre. The Centre's reformation programs includes training these young offenders for a period between Three (3) months and Three

(3) years in various vocational and technical skills so as to fully reintegrate these Juveniles into their communities. The evidence on record shows that the Juvenile herein will need reformation given her delinquent behavior. The Court therefore takes cognizance of the offences committed by the Juvenile, the proceedings and Judgment of the Circuit Court '7' as well as the contents of the SER in sentencing the Juvenile. Additionally, the Court pursuant to Section 2(1) of The Children's Act, 1998 (Act 560) which provides that *'the best interest of the child shall be the primary consideration by any Court, person, institution or other body in any matter concerned with a child...'* and Section 43 (1) of Act 653 which also provides that *'...where a Juvenile or young person is convicted of an offence for which the Juvenile Court has power to impose a sentence of detention or imprisonment for one month or more without the option of a fine and it appears to the court that it is in the best interest of the juvenile or young offender, the court may make an order for the detention of the juvenile or young offender at a centre...'*. It is for the reasons elucidated above that the court will depart from the Recommendations of the Probation Officer and also because the Juvenile was convicted with Three (3) other adults who are currently serving their Fifteen (15) years imprisonment. The Court is of the opinion that releasing the Juvenile on Probation or committing her to a fit person will not serve her best interest considering the fact that all the other convicted persons live in the same community with the Juvenile's father and the only fit person on record is the Juvenile's father.

#### **SENTENCE:**

Pursuant to Section 44, 45 and 46 of Act 653, the Juvenile is to be committed to the Senior Correctional Centre for a period of **Three (3) years** and the Three (3) years shall be inclusive of the period spent on remand. The Juvenile's father is to

contribute an amount of One Hundred and Fifty Ghana Cedis (Ghc150.00) every month towards the upkeep of the Juvenile.

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**H/H HALIMAH EL-ALAWA ABDUL-BAASIT.**  
**PRESIDING JUDGE**

**I AGREE**

.....

**MADAM PHILOMENA SACKEY**  
**PANEL MEMBER**

**I AGREE**

.....

**MADAM VIDA DANQUAH**  
**PANEL MEMBER**