

**BEFORE HER WORSHIP NANA ADWOA SERWAA DUA-ADONTENG JUDGE AT  
AKROPONG CIRCUIT COURT AT 19<sup>TH</sup> OCTOBER, 2023**

**COURT CASE NO:D4/04/2024**

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**THE REPUBLIC**

**VERSUS**

**KWADWO NTIAMOAH YEDENYAW**

**FINAL JUDGEMENT**

**Prosecution Represented by: Chief Inspector Ruth Gborson .**

**Accused Person is represented by Samuel Osei Adyabeng Esq.**

**CHARGE**

**The accused person is charged with stealing contrary to section 124 (1) of the Criminal Offences Act, 1960 (Act 29)**

**FACTS**

The complainant in this case is the sight manager of MAC-GO Company Limited whilst the accused is mason. Both parties live at Nyankyerenease and Kuffour estate respectively. The complainant's company is undertaken estate housing project at Kuffour estate-Kagyase for the Ghana immigration service. On 17/10/2023, the complainant kept the mentioned iron rod with their respective and total values indicated on the charge sheet at the site of the ongoing housing

project for use on the following day. Same day about 12:00am, the accused person who occupies an uncompleted building at same area sneaked to the project site and stole the iron rod and hid them at some weeds at the compound of his dwelling place. The complainant detected the theft the following morning and did not know who was behind the theft. He combed the uncompleted building at the area and luckily sported the eleven (11) pieces of 3/8 millimeters of iron rods kept behind the window of the accused person. The complainant informed the Ghana Immigration Service personnel who were on fixed day guard duty at the project site who in turn accompanied him to accused persons house and arrested him. During interrogation, the accused admitted the theft and led them to where he kept the rest of the iron rods under the weeds in his house and same were retrieved and retained at the project site. They escorted the accused to the police station and complainant lodged formal complaint. The accused was re-arrested and in his investigation caution statement before an independent witness, he admitted the theft and led police to the scene from where he stole the iron rods and hid them at two identified separate spots in his house. After investigation accused was charged with the offence stated on the charge sheet and arraigned before this court.

### **PLEA**

The Accused's plea was taken in Twi Language after the court explained to him what the available pleas were and the respective consequences of each plea. He pleaded Guilty with Explanation to the charge of stealing.

### **EXPLANATION TO THE CHARGE**

The accused person admitted that what he did was wrong and he pleaded the court to tamper justice with mercy. He also pleaded with the complainant to forgive him as he did what he did because he was hungry.

### **CONVICTION ON OWN PLEA COP**

Having heard the explanation of the accused person, he admits committing the offence and does not put up any defense to charge. Accused person's plea of guilty is therefore maintained.

### **PRIOR CONVICTION**

The prosecution informed the court that the Accused Person has no prior conviction.

### **PRE-SENTENCING PROCEDURE**

Counsel for the Accused Person moved a prayer and a plea of mitigation for the accused person. He prayed that the accused was a first time offender with no prior conviction. He additionally prayed that the police retrieve all the items stolen and had returned them to the complainant during their investigation. Under the circumstance, although stealing under section 124 (1) of the act 29 is a second-degree felony, counsel prayed that since the accused Person has pleaded guilty and not wasted the court's time the court could consider sentencing the accused to pay a fine in lieu of a minimal custodial sentence.

Prosecution prayed that the accused person had become a threat to the community because even though he is not known to the law, he has a case with Abuakwa Police station under investigation. The prosecution prayed his sentence be used as a deterrent to himself and others in the community.

### **SENTENCING**

In the case of **Kwashie v the Republic [1971] 1 GLR 488-496** where it was held that

*In determining the length of sentence, the factors which the trial judge is entitled to consider are: (1) the intrinsic seriousness of the offence (2) the degree of revulsion felt by law-abiding citizens of the society for the particular crime; (3) the premeditation with which the criminal plan was executed; (4) the prevalence of the crime within the particular locality where the offence took place; or in the country generally; (5) the sudden increase in the incidence of the particular crime; and*

*(6) mitigating or aggravating circumstances such as extreme youth, good character and the violent manner in which the offence was committed."*

In the case of **Frimpong alias Iboman v Republic [2012] I SCGLR 297, at pages 329 – 331** as follows:-

*What is to be noted here is that, whilst the minimum sentence for robbery has been fixed at 10 years simpliciter, in cases where offensive weapons have been used, the legislature has deemed it fit and proper to enhance the minimum to 15 years imprisonment. Being a first-degree felony means that the legislature has categorized the offence of robbery as a grave one. The maximum sentence can therefore be any number of years that a court deems suitable and appropriate under the circumstances unless the statute states otherwise.*

### **Aggravating Factors**

There is presence of pre meditation given that he hid them in different locations to avoid easy detection.

### **Mitigating Factors**

The value of the property stolen was GHs1,079.

The court was informed that the stolen iron rods were retrieved in the same state as they were stolen.

The complainant did not put in place any security measures to ensure the theft did not occur.

Accused Person has been charged with only one count of stealing.

### **Personal circumstances of Accused**

The Accused Person told the court that he was not married but had a child aged 3 years.

When queried whether he had a job at the time of his arrest, the accused person told the court that he was not working because he could not find any job but was a trained mason. With respect to his family unit, the accused person told the court that he was an orphan and hailed from Hanile in the Upper West region.

### **PLEA OF MITIGATION**

He pleaded that he was guilty of the charge so prayed the court to forgive him and reduce the punishment to the offence.

### **SENTENCE**

Having considered the charge against the accused person as well as his plea of Guilty, his explanation for stealing the iron rods and the fact that he is a first time offender who has not been in the clutches of the law, the items being retrieved in good condition, the value of the items, I sentenced accused person to (twelve)12 months in prison custody.

**H/W NANA ADWOA SERWAA DUA –ADONTENG**

**(CIRCUIT JUDGE)**