

IN THE CIRCUIT COURT HELD AT CAPE COAST ON TUESDAY THE 14TH DAY OF MARCH, 2023 BEFORE HER HONOUR VERONIQUE PRABA TETTEH (MRS.), CIRCUIT JUDGE.

179/2023

THE REPUBLIC

VRS

KOFI AKESE

JUDGEMENT:

The prosecution called five witnesses in proof of its case. Three of the witnesses were students of the University Cape Coast and resident in student hostels. The other witness was a member of the community watch dog community that arrested the accused person and the last witness was the police investigator. The evidence of the three students was very similar. They all testified that they awoke on the dawn of the 13th of February 2023 and realized that they could not find their phones and laptops. They checked their doors but quickly realized their locks had not been broken. Upon checking their windows they realized the netting had been cut and the metal bars that protected it had been expanded. A few hours later, they were informed that a thief had been caught with some electronic gadgets in his possession and was in the custody of the police. At the police station they were shown the accused person and they found their phones and laptops in his possession.

The third witness of the prosecution a member of the community watch dog testified that he and other members noticed the accused with his accomplices standing behind one of the hostels. When they approached them they all took to their heels. They were however able to apprehend the accused person who had in his possession a bag pack.

Inside the bag pack were found the items pictured in Exhibit C series and exhibit D, the electronic gadgets and implements used by the thieves.

The final witness of prosecution was the investigator; her evidence was that the accused was arrested by members of the community watch dog and in his possession was found the items that did not belong to him. She tendered his statements to the police and in them the accused denied stealing the items.

The accused stated in his defence that he had no intentions of stealing and that he only came to Kwawprow to meet one Nana Yaw who had promised him a job. Nana Yaw asked him to wait for a friend and when that friend came they told him to wait for some time. When it was evening they asked him to follow them and before he knew it they were entering peoples rooms and stealing their items. When he protested one of them told him to leave but the other asked him to stay. Before he could leave, the watchdog members descended on them. The other two were able to get away while he was arrested.

Section 125 of Act 29 defines stealing as:

“A person steals if he dishonestly appropriates a thing of which he is not the owner”.

In *Baah v The Republic* [1991] GLR 483, it was held that in a case of stealing prosecution must establish

1. appropriation of a thing,
2. the appropriation must be a dishonest one,
3. that the accused must not be the owner of the thing

Justice Kyei Baffour in the unreported case of the *Republic v Bonnie and others* explained appropriation as follows:

“Appropriation as an element of stealing has been defined under section 122(2) of Act 29 to include any of the following: moving, taking, obtaining, carrying away, or dealing with a thing, with the intent that some person may be deprived of the benefit of his ownership or the benefit of his ownership or the benefit of his right or interest in the thing or its value or proceeds or any part thereof. Where the accused deals with the property with intent to deprive the owner of the use of the thing, it amounts to appropriation.”

I am satisfied that prosecution has established beyond reasonable doubt that the accused person and his accomplices unlawfully entered the rooms of the complainants and dishonestly appropriated their phones and laptops. Not only do I not believe the accused's evidence that he did not know what was going on with his friends and that he had been misled; the fact that he was the one carrying the bag which contained the stealing accoutrements as well as the booty from their actions tells me that the accused was aware and knew that he was going to steal with the other persons. The accused knowing very well, pleaded not guilty hoping that the court would believe his story rather than admit to his crime and show remorse.

I find the accused guilty on all the counts. I find that he entered the rooms of the complainants and dishonestly appropriated their phones and laptops. In sentencing the accused, I take note of the recovery of the electronic gadgets which is the only mitigating circumstance in the accused person's favour. The aggravating circumstances however are that this theft was a thoroughly planned activity which the accused person and his other accomplices prepared for. It is my opinion that the accused is a danger to the public and society should be spared his company during the period of his incarceration and hopefully he comes back having learnt a lesson. He is sentenced to spend 2 years in prison custody.

(SGD)

H/H VERONIQUE PRABA TETTEH (MRS)

(CIRCUIT JUDGE)