

IN THE CIRCUIT COURT HELD AT DANSOMAN, ACCRA ON
WEDNESDAY, THE 7TH DAY OF JUNE, 2023 BEFORE HER HONOUR
HALIMAH EL-ALAWA ABDUL BAASIT

SUIT NO.: CCD/C18/47/23

THE REPUBLIC

VS

PATRICK OSEI ADDO

PARTIES:

ACCUSED PERSON – PRESENT

CHIEF INSPECTOR WONDER FOR THE REPUBLIC – PRESENT

COUNSEL:

REGINALD NIIBI AYI-BONTEY ESQ FOR THE ACCUSED PERSON PRESENT

RULING

Background:

The Accused Person was charged with the following counts;

- (a) False Communication: Contrary to Section 76(1) of the Electronic Communications Act, 2008 (Act 775).
- (b) Offensive Conduct Conducive to the Breach of the Peace: Contrary to Section 207 of the Criminal Offences Act, 1960 (Act 29).

On the 31st of May 2023, the Accused Person pleaded guilty with explanation and the court entered a plea of guilty for him on both counts based on the explanation he proffered. The Accused Person was subsequently convicted on both counts but the case was stood down for onward sentencing. When the case was recalled, Counsel announced himself as representing the Accused Person and prayed for the plea of the Accused Person to be retaken. Counsel prayed the court to have a relook at the whole procedure and humbly contended that

Constitutional provisions were not adhered to in prosecuting this very case. He submitted that the Accused person was not informed of his right to Counsel neither was he offered the adequate time and facilities as a matter of fact nor did he understand or appreciate the entire proceedings before Court. He therefore concluded his submissions by praying for the plea of the Accused person be taken again.

Chief Inspector Wonder, prosecuting for the Republic, vehemently opposed the prayer of Counsel and disagreed with the submissions of Counsel on the grounds that the Accused person was arrested by the Police on the 8th of May 2023 of which a Caution Statement was obtained from him and he appended his signature. Prosecution stated that from the 8th of May till the 31st of May, the Accused Person had adequate time to engage the services of the Counsel. Prosecution disagreed with Counsel's position that Constitutional provisions were not adhered to and maintained that the principle of fairness and due diligence were adhered to before conviction. The matter was adjourned for a Ruling. On the 7th of June, 2023, a date set for the Ruling of the Court on whether or not the Accused Person can retake his plea after he has been convicted, the court's attention was drawn to a letter written, signed by the Complainant and dated 6th June 2023. In the said letter, the Complainant herein, pleaded with the court for an Out of Court Settlement with the option to return to court should the Out of Court Settlement fail.

Analysis

The Criminal and Other Offences (Procedure) Act, 1960 (Act 30) is an Act enacted to consolidate and amend enactments providing for the procedure to be followed

in criminal and other offences and to provide for related matters. Section 239 (1) of Act 30 provides that *“A plea of guilty, when recorded, shall constitute a conviction.”* According to Professor Amissah in his book **Criminal Procedure in Ghana**, 1982 at page 109 stated that, *“A plea of guilty is a judicial confession which disposes of the obligation on the prosecution to prove the case.”* Similarly, in the United States case of **Machibrode v. United States**, 368 U.S. 487 at 493 quoting the case of **Kercheval v. United States**, 274 U.S. 220 at 223 (1927), the court held that *“A plea of guilty differs in purpose and effect from a mere admission or an extra-judicial confession; it is itself a conviction. Like a verdict of a jury, it is conclusive. More is not required; the court has nothing to do but give judgment and sentence.”*

In the instant case, on the 31st of May, 2023, Mr. Patrick Osei Addo (for the purposes of brevity shall be referred to as the Accused Person) having been charged, was arraigned before the court on the Two (2) counts aforementioned. The Court entered a plea of guilty for the Accused Person as the explanation given by the Accused Person was consistent with the Plea of Guilty of which the Court entered the Plea of Guilty on both counts and subsequently convicted the Accused Person on both counts but the case was stood down for sentencing. It must be emphasized at this stage that the conviction of the Accused Person was pronounced in open court and the record captured same. When the case was recalled for sentencing to be passed, Counsel for the Accused Person prayed for the Accused person to change his plea and the Court had to determine whether an Accused Person can change his plea after he has been convicted and same recorded in the proceedings of the court. However, on the 7th of June, 2023, a letter was written by the Complainant praying for an out of court settlement and the Court has to determine **whether the prayer for an out of court settlement can be entertained after an Accused Person has been convicted.**

In a number of decided cases, the position of the courts is that once an Accused Person has been convicted, the Judge has no further powers. See **Hattea vs The Queen** [1962] MR 13; **R. v. Manchester Justices - Ex Parte Lever**, (1937) 3 All E.R. 4; and **R. v. Campbell - Ex Parte Hoy**, (1953) 3 All E.R. 684. **Ivorton v. Claney Christopher**, (1960)8 All E.R. 632. In fact, in **R. v. Liverpool Justices Ex parte Roberts** (1960) 2 All E.R. 884, the case was decided on the principle that *a conviction once pronounced cannot be recalled by a magistrate, even if immediately after, he was aware of an obvious and unfortunate oversight*. Similarly, in **R. v. Campell-Ex Parte Hoy** (supra) Lord Goddard held that “... *we have to apply well settled principles of law and not make law fit the hardship of any particular case ... if it were found that such corrective methods were either not available or inappropriate, recourse might be had to special legislation but a court of justice should not, however laudable the motive, resort to an expediency which is not based on any statutory authority and which does not rest for its justification on any gliding principle, but which on the contrary transgresses the well-established rule of law which requires that there should be a definite point where the Judgment of a magistrate becomes final*”. In the Ghanaian case of **Govina vs. The Republic** [1978] GLR 343; the learned **Coussey J** held as follows; “*I find that the Circuit Court Judge, having heard and determined the case and convicted, was functus officio and had no power to allow the plea to be changed*”.

CONCLUSION

In the circumstances, the court is unable to grant the prayer for an out of court settlement and relies on the case of **Govina vs. The Republic**, (supra) where **Coussey J** further held that ‘*if a defendant pleads guilty and then brings up excuses and justifications, let these be treated not as a defence, but as mitigation*’. Thus, the court is

unable to accede to the prayer for an out of court settlement and same is hereby dismissed. The Court shall proceed to sentence the Accused Person accordingly.

[SGD]
HALIMAH EL-ALAWA ABDUL BAASIT
CIRCUIT COURT
JUDGE