

**IN THE CIRCUIT COURT ONE HELD AT ACCRA ON WEDNESDAY,  
11<sup>TH</sup> MAY 2023, BEFORE HER HONOUR AFIA OWUSUAA APPIAH  
(MRS), CIRCUIT COURT JUDGE**

CC NO.: D6/128/2020

**THE REPUBLIC**

**V**

**1. BRIGHT DANIELS**

**2. LIVINUS AMADIANAEZE UGWU @ LARGE ACCUSED PERSONS**

**JUDGEMENT**

On 24/8/2021, accused was arraigned before the court on one count of defrauding by false pretence and three counts of attempt to defraud by false pretence.

Subsequently on 22/12/2021, the Court adopted the amended charge sheet filed on 17/12/2021 and the plea of accused retaken Per the charge sheet filed on 17/12/2021 which is the charge sheet accused stands charged on currently, First Accused person (hereinafter referred to as Accused) stands charged together with A2 at large before this court as follows:

**Count one.**

CONSPIRACY TO COMMIT CRIME TO WIT: DEFRAUDING BY FALSE PRETENCE: CONTRARY TO SECTION 23 (1) AND 131 (1) OF ACT 29/60

**PARTICULARS OF OFFENCE**

**1. Bright Daniels, ex-convict, Livinus Amadianadze Ugwu at Large:-**  
Sometime in the month of April 2021, at Accra in the Greater Accra Region did agree to act together with a common purpose to commit a crime namely, defrauding by false pretence.

## COUNT TWO

Defrauding by false pretence contrary to sections 131(1) of the Criminal and other Offences Act 1960, Act 29.

### PARTICULARS OF OFFENCE

**1. Bright Daniels, ex-convict, Livinus Amadianadze Ugwu at Large:-** sometime in the month of April 2021, at Accra in the Greater Accra Region with intent to defraud did obtain the consent of D/C/Insp. Anthony Baffoe to part with cash the sum of Ten Thousand Ghana Cedis (GHC10,000.00) by means of certain false pretences to wit: by falsely pretending that if the said amount is given to you, you could facilitate his going to Peace Keeping in Somalia and under such false pretence you succeeded in collecting GHC10,000 from D/C/Insp Anthony Baffoe a statement you well knew at the time of making to be false.

Accused pleaded not guilty to the two charges.

Facts of the case as attached to the charge sheet are as follows; "Complainant COP/Mrs Maame Yaa Tiwaa Addo-Danquah is the commissioner of Police stationed at National Police Headquarters, Accra. 1<sup>st</sup> accused, Bright Daniels is a Nigerian national, an ex-convict who served a jail term of seven (7) years imprisonment at the Nsawam Medium Security Prisons. 2<sup>nd</sup> accused, Livinus Amadianaeze Ugwu also an ex-convict and a Nigerian national currently on the run. In the month of April, 2021, the complainant's attention was drawn to a fake Facebook Messenger account created in her name "cop Maame Tiwaa Addo-Danquah" which her photograph was used as Display Picture (DP) and was being used to solicit money from police personnel under the pretext of getting them slots to United Nations (UN) and African Union (AU) Missions in Somalia and Sudan. User of the said fake Facebook account contacts the victims and directs them to pay money via Airtel/Tigo cash to phone number 0271701436. Chief Superintendent Eunice

Annor and Corporal Kwasi Isaac who received friend request from the Facebook account became suspicious and alerted the complainant about it and she petitioned the Cybercrime Unit. Court order was secured and served on Airtel/Tigo Ghana Limited to provide the Cybercrime Unit with Electronic Information on phone number 0271701436. Upon receipt of the response and analysis of the Call Record Details (CRDs) of the number, it was found to be registered with voter ID card number 6325450565 in the name of Akwasi Adu. The same phone number was found to be located around Nsawam Medium Security Prisons in the Eastern Region. The identity of the user of phone number 0271701436 was found to be 1<sup>st</sup> accused. Detective Chief Inspector Anthony Baffoe paid an amount of GHC10,000.00 through Airtel/Tigo cash to phone number 0271701436 of which suspect has since withdrawn same. With the assistance of the Prisons authorities at Nsawam, a search was conducted on the suspect Samsung galaxy A02 phone which 1<sup>st</sup> accused uses to chat with 2<sup>nd</sup> accused and Tecno feature phone used to receive the money from Detective Chief Inspector Anthony Baffoe were retrieved. Forensic Examination conducted on the devices retrieved revealed that 1<sup>st</sup> accused and 2<sup>nd</sup> accused came up with the idea of using the name and photograph of the complainant to collect money from police personnel under pretext of getting them a slot to travel to United Nations and African Union Mission in Somalia. The report further revealed that 1<sup>st</sup> accused acquired the SIM card with 0271701436 which was used to receive money from the victim. When cautioned he admitted the offence and after investigations, he was charged and put before this court.”

Article 19 (2) (c) of the 1992 Constitution of the Republic of Ghana presumes everyone innocent until the contrary is proved or he/she pleads guilty. In every criminal prosecution, when an accused person denies an offence, prosecution assumes a statutory obligation to prove the guilt of the accused beyond reasonable doubt. **Section 11(2) of the Evidence Act, 1975, NR**

**of NRCD 323** (hereinafter referred to as NRCD 323) with specific reference to criminal cases reads

“in a criminal action the burden of producing evidence when it is on the prosecution as to any fact which is essential to guilt, requires the prosecution to produce sufficient evidence so that on all the evidence a reasonable mind could find the existence of the fact beyond reasonable doubt.”

Section 13(1) of the Evidence Act 1975 NRCD 323 provides the extent of proof or the burden on the prosecution in a criminal action thus:

**(1) In a civil or criminal action, the burden of persuasion as to the commission by a party of a crime which is directly in issue requires proof beyond a reasonable doubt.**

Section 22 of the NRCD 323 further emphasis this principle of law and provides that as follows:

‘in a criminal action, a presumption operates against the accused as to a fact which is essential to guilt **only** if the existence of the basic facts that give rise to the presumption are found or otherwise established beyond reasonable doubt...’

**TAMAKLOE VS THE REPUBLIC (2011) SCGLR 29** at 46 provides that, where a statute creates an offence, it is the duty of the prosecution to prove each and every element of the offence which is sine qua non to securing conviction, unless the same statute places a particular burden on the accused.. In other words, whenever an accused person is arraigned before any court in any criminal trial it is the duty of the prosecution to prove the essential ingredients of the offence charged against the accused person beyond any reasonable doubt. The burden of proof is therefore on the Prosecution and it is only after a prima facie case has been established by the

Prosecution that the accused person is called upon to give his side of the story.” See the case of **Gligah & Anr. v The Republic [2010] SCGLR 870**.

Prosecution called two witnesses in support of their case against accused herein. The investigator of the matter D/C/Insp Vivian Osei-wusu testified as PW1 whilst and tendered in evidence the following exhibits ;

- i. Order for search warrant dated 30/7/2-2 marked exhibit A
- ii. WAPIS correspondence dated 25/5/2021 marked exhibit B
- iii. Photograph of accused marked exhibit C
- iv. Consent to search Electronic Media dated 12/10/2020 marked Exhibit D
- v. Investigation Caution Statement of accused marked exhibit E
- vi. Video for disclosure of information dated 10/5/2021 marked F
- vii. Charge Sheet of accused as Exhibit G, G1.
- viii. Witness statement of Chief Inspector Anthony Baffoe filed on 17/11/2021 admitted and marked exhibit H.

PW2 D/Insp Sylvester Essel a digital examiner attached to the Cyber Crime Unit of the CID Headquarters tendered in evidence the following exhibits;

- i. two mobile phones i.e. Samsung Galaxy A 2 and Techno Keypad marked as J and J1 respectively
- ii. Forensic report dated 19/10/2021 as exhibit K

Pw1 testified that on 22/4/2021, the Cyber crime Unit of the CID Headquarters received a petition filed by Commissioner of Police Maame Yaa Tiwaa Addo Danquah that certain persons have created fake Facebook account in her name, promising their unsuspecting police personnel protocol selection of UN and AU peacekeeping in Sudan and Somalia and with the promise extorted various sums of money from their victims. According to PW1, she collected statements from some of the victims including C/Insp Anthony Baffoe of Techiman Division whom accused persons defrauded to the

tune of GHC10,000, C/supt Eunice Annor of Nkawkaw division, G/Cpl Isaac Kwasi Atisu and Solomon Annan a Police Assistance and they all produced screenshots of whatsapp chat they had with accused persons. She stated that they all also provided **Airtel/Tigo** number **0271701436** as the number accused persons provided for them to transfer the money into. PW1 obtained a court order from the Kaneshie District court for Airtel/Tigo to provide the Sim and mobile money registrations details, call logs and mobile money wallet statements, IMEIs associated with the number **0271701436** as well as the location of the number and Ghana Post digital address of the number. (see exhibit A). she continued that the immediate report she got from Airtel/Tigo disclosed that the mobile no **0271701436** belonged to A1 herein who was residing at Nsawam in the Eastern Region. A request for information on A1 from the system of West Africa Police Information System Ghana (WAPIS) dated 25/5/2021 disclosed that A1 was a convict serving a seven (7) years sentence at Nsawam Prisons and attached a picture of A1. (See exhibit B and C). On 15/7/2021, a team of investigators including PW1 visited Nsawam Prisons with a request letter for A1 to be produced and upon his production a search conducted on him. Two mobile phones ie. Samsung Galaxy A02 and Techno Keypad were retrieved from him for investigations. These devices were searched based on a written consent signed by A1 i.e exhibit D dated 12/10/2021 and a court order from the District Court Kaneshie i.e exhibit F for forensic examination to be conducted on the said phones. PW1 further testified that A1 in his Investigation caution statement i.e exhibit E, E1 confessed that he and A2 also an ex-convict conspired to defraud Police Personnel. Pw1 continued that on 19/10/22, the comprehensive forensic examination report received indicated that A1 herein and A2 at large conspired and defrauded their victims by impersonating COP Maame Yaa Tiwaah Addo Danquah on Facebook. She therefore charged accused with the offences and took his charge statement same of which is in evidence as exhibit G, G1. PW1 further tendered in evidence as exhibit H, the filed witness

Statement of D/C/Insp Anthony Baffoe who died after the filing of his witness Statement but before he could testify in this matter.

PW2, testified that he conducted a digital forensic examination on the Samsung Galaxy A02 with IMEIs 356134100151635, 356134100151632 and Tecno Keypad with IMEI's 354506941549485 upon receipt of exhibit F. He tendered in evidence as exhibit J and J1, the Samsung Galaxy A02 and Techno Keypad phones and his detailed forensic report as exhibit K.

Accused person in his defence denied committing the offences he is charged with. According to him, that he was arrested on 22/8/2021 and accused of defrauding by false pretences and that his phone number was used in receiving the money. Accused stated that he had explained to the police that a friend of his Amandi used his phone number for Mobile Money transaction and had told him that he received some money. He contended that he did not use it for anything of that sort and none could testify that he defrauded him or her. He contended he did not know any of the complainants.

Prosecution's case is that A1 herein and A2 conspired and succeeded in defrauding D/C/Insp Anthony Baffoe of the cash the sum of GHC10,000 under the pretext that he would be given a slot in the police Peace Keeping Mission in Somalia.

Section 23(1) of Act 29 **defines conspiracy as**

**“ Where two or more persons agree to act together with a common purpose for or in committing or abetting a crime, whether or without any previous concert or deliberation, each of them is guilty of conspiracy to commit or abet”.**

The case of **REPUBLIC v. ADAM AND OTHERS [2003-2005] 2 GLR 661-756 established** that the main ingredients of criminal conspiracy under section 23(1) of Act 29 were (a) there had to be two or more parties to it; (b)

the parties had to agree or act together; (c) they had to do so for a common purpose; and (d) the common purpose of their agreeing or acting together had to be to commit a crime...The prosecution had to show that they agreed or acted together with a common purpose to commit a crime, because it was the agreement or collaboration with a common criminal purpose that constituted the conspiracy and not just the collaboration that produced a result that was criminal

The Supreme Court of the land in the recent case of **FAISAL MOHAMMED AKILU v THE REPUBLIC [2016-2017] SCGLR 444 per Yaw Appau JSC** stated the current Ghanaian law on conspiracy as follows:

“From the definition of conspiracy as provided under section 23(1) of Act 29/60, a person could be charged with the offence even if he did not partake in the accomplishment of the said crime, where it is found that prior to the actual committal of the crime, he agreed with another or others with a common purpose for or in committing or abetting that crime. However, where there is evidence that the person did in fact, take part in committing the crime, the particulars of the conspiracy charge would read; “he acted together with another or others with a common purpose for or in committing or abetting the crime”. This double-edged definition of conspiracy arises from the undeniable fact that it is almost always difficult if not impossible, to prove previous agreement or concert in conspiracy cases. **Conspiracy could therefore be inferred from the mere act of having taken part in the crime where the crime was actually committed. Where the conspiracy charge is hinged on an alleged acting together or in concert, the prosecution is tasked with the duty to prove or establish the role each of the alleged conspirators played in accomplishing the crime”**. (Emphasis mine).



Defrauding by false pretence is provided for under **section 131 (1) of Act 29**. The said section provides “ A person who defrauds any other person by a false pretence commits a second degree felony.

Defrauding is defined under **section 132 of Act 29** as follows: “*A person defrauds by false pretences if, by means of a false pretence, or by personation that person obtains the consent of another person to part with or transfer the ownership of a thing.*”

Per the evidence of Pw1, upon a Petition received from COP Maame Yaa Tiwaa Addo Danquah that she was being impersonated on Facebook for defrauding of Police Personnel, her investigations led to taking of statements from some of the victims including one D/C/Insp Anthony Baffoe now deceased which disclosed that the said D/C/Insp Anthony Baffoe confirmed having parted with the sum of GHC10,000 to Airtel/Tigo Number **0271701436** upon the representation made by the holder of the said number to him that he would secure him a slot in the Ghana Police Peace Keeping Mission in Sumaila.

The Witness statement of the D/C/Insp Anthony Baffoe deceased was filed at the registry of the court on 17/11/2021 and tendered in evidence as exhibit H by PW1. The deceased signed Exhibit H and verified same with a statement of truth. The content of exhibit H although amounting to hearsay falls under the exception to the hearsay rule under Section 118 (1) (a)(b)(i) of the Evidence Act, 1975, NRCD 323 which provides that evidence of a hearsay statement is admissible if the statement made by the declarant would be admissible had it been made while testifying in the action and would not itself be hearsay evidence, and the declarant is unavailable as a witness.

There was no objection to the admissibility of the said exhibit H or its content. Per exhibit H D/C/Insp Baffoe’s was informed by his wife who is also a police

officer stationed at Adenta on 16/4/21 that she had a phone chat with COP Maame Yaa Tiwaa Adoo Danquah where the latter promised her one of the protocol slots for Peace keeping missions. He was given the said Airtel/Tigo number **0271701436** by his wife as the number of ACP Kwasi Adu given to her by COP Maame Yaa Tiwaa Addo Danquah to be contacted for completion of the formalities involved. D/C/Insp Baffoe stated that he called the number i.e **0271701436** and accused responded "I am ACP Kwasi Adu, Can I help you". He stated that accused responded that he had already been informed by COP M.Y A. Danquah that he was replacing his wife for her protocol peacekeeping mission. Basic checks on the whatsapp profile of the said ACP Kwasi Adu on his said number disclosed a fully dressed ACP in Senior Police Officer Uniform so he trusted it might be genuine. He therefore sent GHC1000 and his two passport pictures through the same number of the said ACP Kwasi Adu. Three days later, he was sent peacekeeping form signed by ACP Baba Adanu to fill and complete for him online which he did. He stated further that the said Peace keeping Appointment Letter and also demanded he pays GHC4,000 to his Airtel/Tigo number for completion of the forms which he did. On 14/5/2021, the said ACP Kwasi Adu sent him Ghana Immigration forms for verification and travelling slip for him to complete and for GHc5,000 to be added as final payment for finalization of the processes. Deceased stated that due to network challenges in sending the GHC5,000 to the Airtel Tigo number of the said ACP Adu Danquah, the latter directed the money to be sent to the MTN merchant number belonging to his wife. The said ACP Kwasi Adu acknowledged receipt of this payment on whatapp. The deceased attached to the witness statement copies of the facebook correspondence between his wife and "COP Maame Yaa Tiwaa Addo Danquah, Ghana Police Service Peace keeping Appointment Letter and forms, Ghana Immigration Service Travel Verification form and travel slip and his whatsapp correspondence with the said ACP Kwasi Adu on Airtel/Tigo number **0271701436** are attached to his statement.

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In the case of **Republic vr Selormey [2001-2002] 2 GLR 424** the ingredients of the offence of defrauding by false pretence were reiterated thus: *“Therefore for the prosecution to succeed in proving the charges of fraud by false pretences against the accused person, the law requires that the prosecution must prove by evidence, the following:*

- (a) That the accused person made a representation either by written or spoken words or any other means whatsoever.*
- (b) That the said representation was in regard to the existence of a state of facts.*
- (c) That the said representation was false or made without the belief that it was true.*
- (d) That by that false representation the accused caused another to part with a thing...”*

The investigation of the impersonation of COP Maame Yaa Tiwaa Addo Danquah led to the findings of the defrauding of the deceased to the tune of GHc10,000 by the user of Airtel/Tigo number 0271701436. The deceased was per exhibit H was informed by the person who answered his call to the said Airtel/tigo number that if he was sent by COP Maame Yaa Tiwaa Addo Danquah then his slot in the Ghana Police Service Peace Keeping Mission to Somalia was guaranteed and by this representation which turned out to be false, succeeded in getting the deceased to part with a total sum of GHc10,000.00. PW1 testified that from the statements she took from victims of the facebook impersonation of COP Maame Yaa Tiwaa Addo Danquah, the victims were all asked to transfer monies to Airtel/Tigo Number **0271701436**. The Kaneshie District Court per exhibit A directed at Airtel/tigo to disclose information on **0271701436**. This led PW1 WAPIS and subsequently to Nsawam Prisons where investigation and search conducted on A1 at the Nsawam prisons led to the retrieval of two mobile phones i.e exhibits J and J1 which contained the Airtel/Tigo number 0271701436 and other sim cards.

Accused admits ownership of exhibits J and J1 but contends that he knows nothing about this defrauding by false pretence.. The main evidence that appears to link Accused to the offence is the Airtel/Tigo Number **0271701436** which was found in exhibit J1. Accused contends that a friend of his by name Amandi used it for mobile money transaction.

Per exhibit H, the Airtel/Tigo number **0271701436** was given to the deceased as the contact of ACP Kwasi Adu by the person behind the Facebook account "COP Tiwaa Addo-Danquah" as the one to be contacted in relation to the Peace Keeping protocol slot. (see the facebook correspondence attached to exhibit H). the deceased stated further that when he called the Airtel Tigo Number **0271701436**, the recipient introduced himself as " I am ACP Kwasi Adu. Can I help you." Further checks on the whatsapp profile of the said Airtel/Tigo number **0271701436** showed a photograph of an ACP dressed in a Senior Police Officer uniform as seen on the whatsapp correspondence attached. The said ACP Kwasi Adu from the whatsapp correspondence assured the deceased that if COP Tiwaa Addo Danquah had sent him he had no problems and demanded GHc1000 to be sent to his mobile number **0271701436** bearing the name Kwasi Adu and for his details, service number and uniformed passport photograph to be sent to the same number. By this assurance, the said ACP Kwasi Addo caused the deceased to believe that he could facilitate his going to Peace Keeping in Somalia and under this pretext caused the deceased to part with the sum of GHc10,000.

The deceased did not meet personally with the person behind the name ACP Kwasi Adu. He however dealt with this said person on Airtel/Tigo Number **0271701436**. Is the finding of the Airtel/Tigo Number **0271701436** on accused enough to establish that he is the person who made the representation to the deceased?

It is trite that in law, facts in issues can be proved either by direct eyewitness account or the use of circumstantial evidence. Circumstantial evidence is utilized where direct evidence is not available or easy to obtain. Most crimes are proven by the use of circumstantial evidence, which is said to be *evidence of surrounding circumstances, which by undesigned coincidence is capable of proving a proposition with the accuracy of mathematics. It is no derogation of evidence to say it is circumstantial.* In this instant case, the modus operandi used in defrauding the victims is electronic and no personal contact was made. Circumstantial evidence is utilized where direct evidence is not available or easy to obtain. Our Courts use circumstantial evidence with extreme caution and same is used within certain parameters. The parameters are well captured in our local locus classicus case of *State v Anani Fiadzo [1961] GLR 416* where the Supreme Court held at page 418 that:

*“Presumptive or circumstantial evidence is quite usual as it is rare to prove an offence by evidence of eye-witnesses and inference from the facts may prove the guilt of appellant. A presumption from circumstantial evidence should be drawn against the appellant only when that presumption follows irresistibly from the circumstances proved in evidence; and in order to justify the inference of guilt the inculpatory facts must be incompatible with the innocence of the appellant, and incapable of explanation upon any other reasonable hypothesis other than guilt. A conviction must not be based on probabilities or mere suspicion.”*

In *Odupong v Republic (1992-93) GBR 1038 per holding 2*, the Court of Appeal said *“When a charge was grounded on circumstantial evidence, that evidence must not only be consistent with guilt, but must also be inconsistent or incompatible with any other rational conclusion”*.

**Justice Brobbey** in his book *Essentials of the Ghana Law of Evidence* at page 253 noted thus *“Circumstantial evidence is the fact from which*

*may be inferred, presumed or deduced, the existence, non existence or proof of another fact. Circumstantial evidence is not proof of the fact itself. It is the pieces or incidents of facts, considered or put together, which provides the basis for drawing conclusion, inference or deduction of the existence or non existence of a fact."*

In the case of **Duah v The Republic [1987-88] 1 GLR 343, CA in holding 3**, the court held that

*"in criminal cases it was sometimes not possible to prove the crime charged by direct or positive evidence of persons present at the time the crime was committed. So where the testimony of eyewitnesses was not available, the jury was entitled and indeed permitted to infer from those facts which the prosecution had proved other facts necessary either to complete the elements of guilt or establish innocence."*

**R. V. ATTER [the Times, 22<sup>nd</sup> March, 1956] Devlin J. (as he then was)** gave the following direction that is of vital importance.

*"Where one has a case where the evidence is purely circumstantial then I must satisfy myself, in my Judgment, that there is some piece of evidence that is more than mere suspicion, that there is some piece of evidence which would justify in saying that points to the accused. You cannot put a multitude of suspicions together and make a proof of it."*

Further in the case of **Dexter Johnson v The Republic [2011] 2 SCGLR** His Lordship Justice Jones Dotse quoted the case of **Lejzor vrs the Queen [1952] AC 489** at 489 where it was stated that:

*"Circumstantial evidence may sometimes be conclusive, but it must always be narrowly examined if only because the*

*evidence of this kind may be fabricated to cast suspicion on another. It is also necessary before drawing inferences of the accused's guilt from circumstantial evidence to be sure that there are no other co-existing circumstances which would weaken or destroy the inference."*

Thus, to found a conviction on circumstantial evidence, the evidence must be cogent and compelling and must establish the commission of the offence and most importantly, the fact that, it was committed by the person charged before the Court and no other person. Hence, the requirement is that, it should be inconsistent with the innocence of the accused person.

From the evidence on record, A1 is the owner of Techno Keypad mobile phone i.e exhibits J1 from which Airtel/Tigo Number **0271701436** was retrieved. This said Airtel/Tigo number is the number on which the deceased corresponded with the purported ACP Kwasi Adu and transferred GHc1000 and GHC4,000 to. Accused being the owner and holder of the said phones and sims is presumed to be the one with who the deceased had the correspondence

Accused in his defence although admitting ownership of the said exhibit J and J1 and the Sims they contained contends in his defence that an inmate by name Amandi used to use his phone to his mobile money transactions and this transaction with the deceased was not his transaction.

The deceased transacted with the said ACP Kwasi Adu in the month of April 2021. At page 10 of exhibit K, conversation between A1 and the said Amandi on 2/6/2019 discloses that Amandi had as at that date been released from Prison custody, returned to Nigeria and was residing near Nsukka Prisons. As indicated at page 11 of exhibit K, accused on 7/4/2021 sent the Airtel/Tigo number 0271701436 to Amandi in a whatsapp chat. These said whatsapp entries are till date on exhibit J. The said Amandi has since June 2019 not been in Ghana and

could not have had access to these said phones and Sim numbers, sent and or received messages on same. On the contrary, the said Amandi kept in contact with A1 after his release from the Nsawam prisons and his return to Nigeria on the MTN no 0554663500 found in the Samsung Galaxy phone ie exhibit J herein. The deceased having dealt with the said ACP Kwasi Adu in April 2021 a period the said Amandi was in Nigeria, it can safely be concluded that Amandi was not the one who dealt with the deceased. On the contrary, A1 has owned and holding exhibits J and J1 at Nsawam Prisons, a place where ordinarily owning and holding of a phone or any electrical device is prohibited. At page 10 of exhibit K, A1 forwarded his Airtel/Tigo Number 0271701436 to Amandi on 7/4/2021 on exhibit J. The deceased was given this said Airtel/Tigo Number 0271701436 and communicated with someone on this number on 16/4/2021. The deceased made transfers to this number and received all forms and correspondence relating to the fake facilitation of the Peace Keeping Mission through this same number. Phones retrieved from A1 at Nsawam Prisons revealed that Airtel Tigo Sim card number **0271701436** was retrieved from exhibit Techno (T301 Model) Keypad with IMEI numbers 354506941549485 and 354506941549493 **exhibit J1** herein (see page 3 of exhibit K, at, 4.2.4 and 4.2.6)

Digital examination of exhibit J revealed whatsapp chats between A1 and some other persons whose names are saved Mathew Two, Amandi Broder (A2) and Blessing. Careful perusal of contents of exhibit K reveals communications between accused and these said persons on how they would orchestrate their plan of defrauding police personnel and the role each person was to play in achieving their purpose. At page 6 of exhibit K, whatsapp profile with the name Tunde Bright on MTN number 0554663500 received a message from Matthew Two who introduced himself as “mega” on 31/3/2019. Amandi is told his name for the job is CSP Paul Kush working at National Headquarters Accra with his office at Operations/Training Department, 5<sup>th</sup> Floor. The said Matthew two scan and send their uniformed passport to the official email Gpspeacekeepingmission@gmail.com and further directs “they should make payment before they scan their passport to the email o”. The recipient of the



message replies “Noted but this 1000 they too much for them to pay.. we fit dey tell them some 500” . Audio chats per the digital analysis revealed that other parties to whom Amandi had shared the contact of A1 instructed A1 to monitor his phone for money transfers, the first bill for the victims was GHc1000 and A1 not to answer phone calls but text the victims that he is busy at the Office and in a meeting. The analysis of exhibit J further revealed that the other persons who were not in direct contact with A1 forwarded the chats between them and the victims to Amandi Broder who in turn forwards same to A1. (See pages 14 to 22 of exhibit K.) Accused, Amandi broder(A2) and others from the whatsapp conversation expressly agreed to act together with a common purpose of defrauding Police personnel and each played a vital role to ensure the success of their unlawful acts. Accused person herein from exhibit K played the role of ACP Kwasi Adu who communicates with victims and collects the monies on his Airtel/Tigo number 0271701436 for subsequent sharing. Considering that the said the exhibits J and J1 was found on A1, digital forensic examination conducted on exhibits J and J1 contains whatsapp chats between accused and others where orchestration and steps taken making false representations to persons to get them part with money is found, coupled with the fact that exhibit J1 contained the Airtel/Tigo number 0271701436 on which the deceased transferred monies to after talking with the supposed ACP Kwasi Adu on that same number, sole inference and conclusion arrived at is that it was A1 who communicated with the deceased as contained in the whatsapp chat snapshots attached to exhibit

H. The court therefore finds that it was Accused herein who made the representation to the deceased that he could secure him a slot at the Ghana Police Peace Keeping Mission a statement he knew at the time of making same whilst serving a prison term to be false and under this false pretence succeeded in causing the deceased to part with the sum of GHc10,000. Count two of the charge sheet is therefore established beyond reasonable doubt.

In respect of count one i.e on the charge of conspiracy, the content of exhibit K overwhelmingly establishes that the false representation to the deceased that

he could be secured protocol slots for the Police Peacekeeping Mission upon payment of monies was not orchestrated and operated by one person. Exhibit K reveals that the A1 herein, Amandi Broder (A2) herein, Blessing and Matthew two planned, prepared and agreed to falsely represent to their victims including the deceased C/Insp Anthony Baffoe that they could secure them slots on the Ghana Police Keeping Missions to Somalia a statement they well knew to be false. The Whatsapp screenshot and displayed in exhibit K reveals agreement and modus operandi started at least in 2019 and continued through April 2021 when the deceased was defrauded to June 2021.

The court therefore finds that A2, Matthew Two, Blessing and other unidentified persons in the month of April 2021 agreed and acted together with Accused herein in falsely representing to the deceased D/C/Insp Anthony Baffoe that he could facilitate a slot for him at the Police peacekeeping Mission via a Whatsapp chat and under that pretext succeeded in getting the deceased to part with the cash sum of GHC10,000.

## **Conclusion**

From the totality of the evidence on record and at the close of the entire case, count one and two of the charge sheet being Conspiracy to commit crime to with defrauding by false pretence and defrauding by false pretence is proven beyond reasonable doubt.

The court accordingly finds accused person herein (A1) guilty in respect of both counts one and two respectively. Accused person (A1) is convicted on both counts one and two forthwith.

## **SENTENCING**

The court in sentencing accused person (A1) herein heard the submission of counsel for accused for leniency whilst Prosecution elected not to make any

submission in respect of the sentencing. From the submission of counsel for accused as well as the evidence on record, the following mitigation and aggravating factors are noted and considered by the court.

**Aggravating factors;**

- (i) Period the conspiracy of this operation to defraud started per i.e in April 2019 as disclosed in exhibit K.
- (ii) The place of residence of Accused during his commission of the offence i.e being a convict and in prison custody at Nsawam Prisons where he is supposed to be undergoing reformation and or to show remorse or change for the commission of a narcotic offence.
- (iii) The impersonation of high-ranking personalities in the society i.e Commissioners of Police, Assistant Commissioners of Police for the commission of the crime.
- (iv) The rise in cyber related fraud in the country and the need to deter others from committing same or similar offences and and curb society of cyber and its related offences.

**Mitigating factors;**

- (i) The amount involved being GHC10,000,
- (ii) Accused being a family man with children as submitted by counsel for accused.
- (iii) Accused having been on remand throughout the period of trial of about 1 year 8 months of the trial.
- (iv) Counsel for accused person's plea for leniency on accused.

The court taking consideration of the prescribed punishment for the offences of Conspiracy to commit the crime of defrauding and defrauding by false pretence being imprisonment of not more than 25 years imprisonment as well as the above mitigating and aggravating factors sentence Accused person (A1) herein to 8 years imprisonment IHL in respect of count 1 and 8 years

imprisonment IHL in respect of count 2 respectively. Sentence to run concurrently.

**ACCUSED PRESENT**

**SEARGENT EDNA AYANGA HOLDING THE BRIEF DSP  
EMMANUEL NYAMEKYE FOR PROSECUTION PRESENT**

**MR. OSMAN MOHAIDEEN FOR ACCUSED PRESENT**

**(SGD)**

**H/H AFIA OWUSUAA APPIAH (MRS)  
(CIRCUIT COURT 1 JUDGE)**

