

**IN THE CIRCUIT COURT HELD AT KWABENYA ON MONDAY 23<sup>RD</sup>**  
**OCTOBER, 2023 BEFORE HER HONOUR MAWUSI BEDJRAH,**  
**CIRCUIT JUDGE**

**CASE NO. B7/43/2023**

**THE REPUBLIC**

**VRS**

**ERIC BAIDOO**

**ACCUSED**

**CHIEF INSPECTOR MABEL ATSU FOR PROSECUTION**

**PRESENT**

**PRESENT**

**JUDGMENT**

Accused has been charged with the offence of stealing contrary to section 124 (1) of the Criminal and Other Offences Act, 1960 (Act 29).

He pleaded not guilty.

**INGREDIENTS OF THE OFFENCE:**

For the charge of stealing to succeed the prosecution must prove the following ingredients of the offence;

- (a) That the accused was not the owner of the thing alleged to have been stolen
- (b) That there was appropriation
- (c) That the appropriation was dishonest

(See **BROBBEY AND OTHERS V THE REPUBLIC** [1982-83] GLR 608)

**BURDEN OF PROOF:**

Prosecution assumes the burden to prove the guilt of the accused beyond reasonable doubt as required by section 11(2) of the Evidence Act, 1975 (NRCD 323).

On the other hand, the accused is not required to prove his innocence but only to raise a reasonable doubt as to his guilt as required by Section 11(3) of NRCD 323. See also **ALI YUSUF ISSA (No. 2) V THE REPUBLIC** [2003-2004] SCGLR 174.

## **THE EVIDENCE OF PROSECUTION**

Prosecution called two witnesses in an attempt to discharge its burden.

### **PW1- FRANCIS EDUKU**

PW1 was the complainant in the case. He testified that he is a Human Resources Professional Management Consultant and that the accused person was his houseboy whom he got to know through his brother-in-law. In February 2020, he engaged the services of the accused person for a fee, to assist him in the performance of domestic chores. Accused also cleans his library and dusts the books. On 21<sup>st</sup> October, 2022, he withdrew an amount of \$60,000.00 from GT Bank, Haatso Branch, used \$30,000.00 for business transaction and brought \$30,000.00 home. He then gave \$3000 to a friend travelling to the US, leaving an outstanding amount of \$27,000.00. The outstanding balance was in three bundles with \$100 as the denomination, being \$7000.00, \$10,000.00 and \$10,000.00 respectively. The bundles were kept in a bag under his study desk in the library. In November, 2022, he added ₦15,000.00 to \$27,000.00 and the two different currencies were kept in two separate brown envelopes in his zipped bag and placed under his study desk in the library. On 17<sup>th</sup> January, 2023, when he opened the bag in order to execute a dollar transaction, he realised that someone had tampered with one of the envelopes, the one that contained the dollars and pulled out some of the dollars. He then checked and realized \$14,600 had been stolen and left with only \$12,400 in the envelope. He highly suspected the accused and questioned him and his chef, but none of them was able to tell him the truth. On 18<sup>th</sup> January, 2023, he officially reported the matter to the Westland police. The police proceeded to the scene and interrogated the accused and Elizabeth separately. In their search, the police found that the accused had planted some dollars in one of the University of Ghana Exercise Books No. 1 on a pile of books close to complainant's study desk. The police retrieved the said dollars and checked it in the presence of witnesses, including the accused himself. The retrieved dollars amounted to US \$1400.00. The accused informed the police at the scene that he took US \$1,700.00 from the bag.

### **PW2-D/SGT/NICHOLAS DEFOE**

PW2 was D/Sgt/Nicholas Defoe, the officer who investigated the case. He tendered the following documents:

- i. Handwritten statement of complainant to the police-Exhibit 'B'
- ii. Statement of Elizabeth Dzampoy to the police-Exhibit 'C'

- iii. Statement by Chief Inspector Abrokwah Clement –Exhibit ‘D’
- iv. Statement by Number 48553 G /cp/ Sadaari Christopher-Exhibit ‘E’
- v. Photograph of the book in the library where accused kept the stolen US dollars-Exhibit ‘F’
- vi. Investigative cautioned statement of the accused as Ex ‘G’
- vii. Charged caution statement of the accused as Ex ‘H’

At the close of the case for prosecution, the court invited the accused to open his defence as the court found a prima facie case made against him.

The accused testified that he was currently unemployed and admitted that he was guilty. I prefer to quote that part of his testimony as follows;

“My Lord, I admit that I am guilty. I only took \$3,800.00. I went and changed \$300.00 into cedis. The remaining of the \$3,800.00 was left in my pocket. When I was arrested, I told the police that the amount left was in my pocket, with my Ghana Card and Driver’s License...”

#### **EVALUATION OF THE EVIDENCE AND APPLICATION OF THE LAW:**

As stated supra prosecution must prove all the three ingredients of stealing being property of which accused is not the owner, dishonesty and finally appropriation.

Prosecution led evidence through PW1 to show that the accused had taken property that was not his own, that is an amount of US \$14,600. Accused person on the other hand testified in his defence that he never took US \$14,600 but rather, only took \$3800.00. I have noted the lesser amount quoted by accused as the amount he appropriated. However, this does not absolve him in any way, since the essential ingredients of the offence have been established as follows;

That the accused was not the owner of the \$3800.00 that he admitted that he took. In effect, there was appropriation and the appropriation was dishonest since the money was taken without the knowledge and consent of the complainant. This is further confirmed by Exhibits ‘C’ to ‘F’.

It may also be helpful to reproduce part of the investigative cautioned statement of the accused, Exhibit ‘G’, as follows; “when cleaning the library, there was a bag under a desk so I searched in and found three bundles of \$100 dollars and stole \$3,800.00 dollars from each bundle...”. Further in the same statement, accused says that he stole a total of \$3800.00. This is a statement voluntarily made by the accused in the presence of an independent witness, the veracity of which has not been challenged. This is also consistent with the statement the accused person made when asked to open his defence.

In Exhibit G, when accused found the bag with the money in the library, he decided to search same although it did not belong to him. Beyond searching the bag, he took some of the money and only deposited \$1400.00 in the exercise book in the library when complainant threatened to report them to the police for their finger prints to be taken. I find the accused as a plainly dishonest person.

Accused' defence portrayed him as a person who lacks integrity and cannot be relied on. This is based on the case of **ANANG v THE REPUBLIC [1984-86] 1 GLR 458**, where Taylor J (as he then was), explained that to sustain a conviction for stealing there must be an act of the accused of such a nature as to cast a slur on his character revealing him as a person lacking in integrity or as a plainly dishonest person.

I have noted that the accused has admitted to stealing a lesser amount of (\$3800.00) than the amount provided in the charge sheet (US \$14,600.00). I find that although the amount admitted by the accused appears to be less than the amount mentioned in the particulars of offence, this does not make the offence any less one, since the ingredients of the offence have been established.

From the above and the evidence adduced, I find accused guilty on the charge of stealing and I accordingly convict.

### **SENTENCE**

I have considered the age of the accused and the fact that he is a first time offender. I have also considered the intrinsic seriousness of the offence committed. The accused is therefore sentenced to four (4) years' imprisonment I.H.L.

**Her Honour Mawusi Bedjrah**  
**Circuit Judge**