

CORAM: HER HONOUR BERTHA ANIAGYEI (MS) SITTING AT
THE CIRCUIT COURT 'B' OF GHANA HELD AT TEMA
ON FRIDAY, 24TH MARCH, 2023

SUIT NO. D14/14/23

THE REPUBLIC

VRS

PHILIP ADDO TEYE

JUDGMENT

Mr. Philip Addo Teye stands arraigned before this court on two counts; careless and inconsiderate driving contrary to *Section 3 of the Road Traffic Offences Act, 2004 (Act 683)* and negligently causing harm contrary to *Section 72 of the Criminal Offences Act, 1960 (Act 29)*.

The particulars of offence for count one are that on the 15th day of May, 2021 at about 12:40pm at forest hotel, Dodowa on the main Dodowa-Adenta motor road, in the Greater Accra Region and within the jurisdiction of this court, then being the driver in charge of Hyundai Elantra saloon vehicle with registration number 3259-18, drove the said vehicle without due care and attention to other road users and knocked down pedestrian, Yaw Asamoah, aged 46 who was walking along the nearside edge of the road. He sustained injuries and was rushed to Shai Osudoku District Hospital, Dodowa for treatment but was pronounced dead by a medical officer on duty.

The particulars of offence for count two are that on the aforementioned date, time and place and under the same circumstances, he unlawfully and negligently caused harm to Yaw Asamoah who sustained injuries and died.

The brief facts of the case are that on the 15th May, 2021 at about 12:40pm, accused driver Philip Addo Teye was driving Hyundai Elantra Saloon car, No. GE 2359-18 with two other occupants on board from kpone towards Madina on the main Dodowa-Adenta motor road. Upon reaching a section of the road in front of forest hotel, he knocked down a male pedestrian Yaw Asiamah aged who was walking along the nearside edge of the road.

He sustained injuries and was rushed to Shai – Osudoku District Hospital, Dodowa for treatment but was pronounced dead on arrival. Body deposited at the same Hospital's mortuary for preservation and autopsy. Accident vehicle tested and the report received. Accident scene was visited and measurement taken and sketch drawn.

After careful investigation, the case docket was forwarded to Attorney General's Department for advice. On the advice of Attorney General, the accused driver Philip Addo Teye was charged per the charge sheet to appear before this honorable court.

The accused person elected to speak Dangbe and the charges were read and explained to him. Prior to taking his plea, his constitutional right to engage the services of counsel, to seek the assistance of legal aid or to conduct the matter prose were explained to him and he was put to election. He elected to conduct the matter prose.

He pleaded guilty with explanation and the court after listening to his explanation, I entered a plea of Guilty simpliciter on both count one and count two for him.

His explanation was this "Whilst driving and in my lane, a sprinter overtook a Kia truck on the opposite lane and came into my lane. In my attempt to prevent a head on

collusion, I moved to the side of the road and into the bush. I did not see the pedestrian and so I knocked him down. I wanted to take him to the hospital but the boys around stopped me and wanted to beat me and so I run to the Dodowa police station. They even wanted to burn my car.

Later, the police and I found the family of the victim and we explained to them what happened. They demanded that I pay certain monies amounting to four thousand Ghana cedis (Ghs 4,000). i.e. the mortuary fees, the coffin and some other expenses. I paid the four thousand Ghana cedis (Ghs 4,000) and they informed us of the funeral date. We went and made a donation of five hundred Ghana cedis (Ghs 500). I have since kept in touch with the family and they even asked if we are not done with the court case and I told them we were awaiting the Attorney General advice. I plead with the court to have mercy on me and free me''.

In convicting the convict, I had this to say *''from accused person's explanation, his plea has been changed to Guilty simpliciter on count one and count two. Based on his own explanation, I am of the considered opinion that he understands the charges and the plea of guilt and he did so voluntarily. Accordingly, he is hereby convicted on his own plea of guilt.*

PRE SENTENCING

According to prosecution, the convict is not known. There was no family member in court to enable the court to take a victim impact statement.

In mitigation, convict said he has completed secondary school and wants to go back to school. That he is responsible for his younger brother who lives with him. That he has

been scared due to the case and has been waiting for same to be over so that he can go back to school.

SENTENCING

On count one, the punishment upon conviction is a fine of not more than two hundred and fifty (250) penalty units or a term of imprisonment not exceeding forty (40) months or both. Count two is a misdemeanor which carries with it a sentence of a three (3) years' maximum terms of imprisonment. The convict has shown a lot of remorse and looks quite remorseful and scared in the dock.

He is young person and a first time offender. He has also made reparation towards the family of the deceased and has establish a sense of responsibility for his crime by staying in touch with them. He has also pleaded guilty in this court at the earliest possible stage thereby saving the state from going through a full trial in order to establish his guilt and also saving the family of the deceased from having to testify.

I would in the circumstances, hand down a lenient sentence.

According to *Taylor J* (as he then was) in the case of *Haruna v. The Republic [1980] GLR 189-192* "when young men (such as the appellant) have had their first brush with the law, it was essential in the interest of the reformatory element in criminal justice that they be not sent to prison unless a prison sentence was a mandatory legal requirement.

If a prison sentence was not mandatory, then as a general proposition, unless there were special circumstances calling for a custodial sentence, the courts must avoid incarcerating young offenders”.

On count one, he is sentenced to a one (1) week term of imprisonment and a fine of one hundred and fifty (150) penalty units to be paid by 28th February 2023. On count two, he is sentenced to a one (1) week term of imprisonment and a fine of one hundred (100) penalty units to be paid by the 28th February 2023.

In default of the fine in count one, he would serve a two (2) month term of imprisonment and in default of the fine in count two, he would serve a one (1) month term of imprisonment. The terms are to run in concurrently.

**H/H BERTHA ANIAGYEI (MS)
(CIRCUIT COURT JUDGE)**

DSP JACOB ASAMANI FOR THE REPUBLIC