

IN THE SUPERIOR COURT OF JUDICATURE, IN THE HIGH COURT OF
CRIMINAL COURT 4, HELD IN ACCRA ON FRIDAY, THE 28TH DAY OF
FEBRUARY, 2025, BEFORE HER LADYSHIP, JUSTICE COMFORT KWASIWOR
TASIAME, JUSTICE OF THE HIGH COURT.

CASE NO.: CR/0168/2023

INNOCENT AGBEDAM - APPELLANT

VRS.

THE REPUBLIC - RESPONDENT

APPELLANT – PRESENT

COUNSEL: JAMES KOFI AFEDO WITH DORCAS AYELEY CLOTTEY AND

ABIGAIL ELORM ADIKAH FOR THE APPELLANT- PRESENT

WATKINS ADAMAH WITH SELASSIE KAVIANU FOR THE REPUBLIC

– PRESENT

JUDGMENT

By a petition of appeal filed on 08/02/2023, the appellant stated their grounds of appeal
as follows;

- (a) The charge and the conviction are not supported by the facts on record.
- (b) The arrest and the whole proceedings (trial) founded on same was wrong in law.

The appellant was charged with the offence of preparation to commit crime to wit Robbery contrary to Section 19 of the Criminal and other Offences Act, 1960 (Act 29).

The accused pleaded guilty simpliciter to the offences charged.

The brief facts of the case are that, complainant Samuel Asamoah is a mobile money vendor in Obediben East Airport whilst accused/convict, Innocent Agbedam is a Driver in Ashaiman. In the early month of January, 2023, accused/convict approached a witness in this case, Francis Oppong and informed him he has some friends of his, putting in place plans to rob complainant of his money when he closes from work in the evening and as such wanted him to join and assist in the operation. Witness who was not interested in the operation, called the complainant on phone and informed him. Complainant on receipt of this information reported the matter to the police and on 15/01/23, Accused/convict was arrested after close observation. He admitted the offence in his caution statement and after investigation, he was charged and arraigned before the Circuit Court for trial.

Based on the facts of the case, the plea of the Accused/convict was taken on the charge of preparation to commit a crime contrary to section 19 of the Criminal and Other Offences Act. Accused/convict pleaded guilty simpliciter. He was convicted on his guilty plea and sentenced to 10 years IHL. It was based upon the conviction and sentence of 10 years IHL that the learned counsel for the Appellant filed this appeal.

Appellant pleaded guilty simpliciter. He was not represented by a lawyer by a lawyer. The principle of law as provided by Article 19 (2) (f) of the 1992 Constitution is:

Article 19(2) "A person charged with a criminal offence shall

(f) be permitted to defend himself before the court in person or by a lawyer of his choice.”

Please See the case of **Gabriel Joanne v. The Republic [2012] Criminal Appeal No. J3/3/2011.**

In the case of **The Republic v. High Court (Fast Track Division) Accra: Ex parte Tsatsu Tsikata [2007-2008] SCGLR 1200.**

Learned counsel for the Appellant submitted as follows; the circumstances of his plea and its acceptance by the trial court ought to be evaluated by the court to determine whether it was fair and in accordance with laid down legal principles or not.

The principle of law as provided by Section 199(1) of the Criminal and Other Offences [Procedure] Act, 1960[Act 30] provides that; “Where the accused pleads guilty to a charge, the court before accepting the plea shall, if the accused is not represented by counsel, explain to the accused the nature of the charge and the procedure which follows the acceptance of a plea of guilty”. In the case of **Nokwe v. The Republic [1999-2000] GLR 49**, the court held that “A plea to a charge should be clear and unambiguous.” Appellant herein pleaded guilty without adding any words.

Ayerebi J.A. held in the case of **Kofi Dagarti, Gadri (at large) & 2 Ors v. The Republic;** Criminal Appeal No. H2/93/2015 delivered 29th February, 2016 that “In law a plea of guilty is considered as a **judicial confession** which relieves the prosecution of the obligation to prove the case by calling evidence.

The Record of Appeal indicates that on the 18th January, 2023, accused was arraigned before Circuit Court 3 for trial. Before the charges were read to him, the court explained to him the meaning of a plea of not guilty and guilty. The charges were then read to him and he pleaded guilty simpliciter. The court then **convicted** the accused person. Before passing a sentence, the learned trial Judge asked the convict to plead in mitigation of

sentence. The brief facts indicates that; Appellant approached a witness in this case, Francis Oppong and informed him he has some friends of his he had put in place plans to rob, the complainant of his money when he closes from work in the evening, as such wanted him to join and assist in the operation. Francis who is the witness in this matter was not interested, he called the complainant on phone and informed him." The Appellant after his conviction was asked to plead in mitigation of sentence. He stated amongst others as follows "...My girlfriend was pregnant so I had to get her to the hospital, so I was very stranded. I told Francis to help me snatch the bag from Asamoah so I can pay and solve my problems. But I could not see Francis any longer. But I had in mind to snatch his bag. I was invited by Asamoah and I was arrested. The prayer in mitigation of sentence by the appellant confirmed the case of the Prosecution that appellant was preparing to rob the complainant. Section 199(3) of Act 29 provides "A statement made by the accused in answer to the court shall be recorded by the Court in writing and shall form part of the Record of Proceedings." This statement by the Appellant supports the prosecution's case and confirmed the guilty plea. Section 19 of the Criminal and other offences Act, 1960 provides "Every person who prepares or supplies, or has in his possession, custody, or control, or in the possession, custody or control of any other person on his behalf, any instrument, material, or means, with the intent that the instruments, materials, or means, may be used by him, or any other person, in committing any crime by which life is likely to be endangered, or act of forgery, or any felony shall be liable to punishment in like manner as if he had **attempted to commit that crime.**" Section 18 (2) of Act 29 also provides as follows "Every person who attempts to commit a crime shall be deemed guilty of an attempt, and shall, except as in this code otherwise expressly provided, be punishable in the same manner as if the crime had been completed."

The crime prosecution stated Appellant was preparing to commit is Robbery. Section 149 (1) of the criminal offences Act, 1960 provides that; "Whoever commits robbery is guilty

of an offence and shall be liable, upon conviction on trial summarily or on indictment to imprisonment for a term of not less than **ten years**, and where the offence is committed by the use of an offensive weapon or offensive missile, the offender shall upon conviction be liable to imprisonment for a term of not less than fifteen years.

In this case, appellant was not arrested with any offensive weapon. In fact, he expressed the intention to rob the complainant. He engaged one Francis to help him carry through his plans. And conviction on robbery without the use of offensive weapon as indicated in section 149(1) of Act 29 is 10 years. The guilty plea of the appellant was a judicial confession and there was no need for the prosecution to have called any witnesses to prove the case against the Appellant.

The Republic/Respondent submitted that there is no evidence that the appellant was mistreated. There is also no evidence that the appellant did not understand or appreciate his plea of guilty simpliciter. That there was no protest by the appellant who only sought forgiveness at the time and blames his acts on mostly economic conditions. In addition, there is nothing on record and in law suggesting a travesty of the trial process; to satisfy the miscarriage of justice principle, the appellant is required under section 31(1) the Courts Act, 1993 Act 459 to demonstrate that the conviction was unreasonable and not supported having regard to the evidence or that the conviction was wrong in law and in fact. Learned counsel for the Applicant asserted that, the facts do not support the charges but was unable to prove that. The learned State Attorney supported these principles of miscarriage with the case of **Ardu Mohamadu v. The Republic [2020] Criminal LR 449**.

I hold that the proceeding was in line with Section 199(1) (2) and (3) of the Criminal and other offences [Procedure] Act, 1960. And that there was no miscarriage of justice. In view of that, this petition of appeal is dismissed.

(SGD)

COMFORT KWASIWOR TASIAME

(JUSTICE OF THE HIGH COURT)