

GHANA / JUDGMENT

The Republic Vrs Ndabiah and Another

[2023] GHADC 148 (8 June 2023)

[2023] GHADC 148

COURT

District Court

Source: ghalii.org · Research copy typeset by Esheria. Not court-issued or certified.

IN THE DISTRICT COURT HELD AT NKROFUL ON THURSDAY 8TH DAY OF JUNE 2023, BEFORE HER WORSHIP AWO AMISSAH FRENCH ESQ. AS MAGISTRATE. SUIT NO: B7/25/23 THE REPUBLIC VRS.

1. FRANCIS NDABIAH ALIAS AWAH
2. ISAAC BLAY – DEALT WITH A1 PRESENT DETECTIVE CHIEF INSPECTOR FREDERICK OPOKU FOR PROSECUTION NO LEGAL REPRESENTATION FOR A1 J U D G E M E N T
The Accused persons were charged with two counts of stealing and dishonestly receiving contrary to sections 124(1) and 146 of the Criminal Offences Act, 1960 (Act 29). The brief facts that gave rise to the charges as initially presented to the Court were that complainant is a trader and grandmother to A1 and that both live in the same house at Ngalekyi while A2 is a driver and a resident of Tikobo No 1. Sometime in early March, 2023, A1 approached A2 and told him he would bring a stolen motorbike from Ngalekyi to A2 to sell for him and stressed that the motorbike should be sold far away from the jurisdiction to avoid detection. On the 15th day of March, 2023, at about 2:00am, complainant woke up and detected that her unregistered Royal Motorbike valued at Twelve thousand Ghana Cedis had been stolen. Complainant suspected A1 because as at the time, the fence gate was locked and had not been tampered with. Upon a complaint lodged with the police A1 was arrested, it came to the fore during initial investigations that the lights at the entrance had been covered by a bedsheet to create darkness and that on the same day, at about 4:00pm, A1 sent the motorbike to A2 at Bonyere as earlier on arranged. A2 was subsequently arrested at Kukuavile, a village in the Jomoro municipality. On the 27th day of March, 2023, when A1 and A2 were arraigned before this Court and the charges preferred against them were read and explained to them in Twi language, A1 pleaded Not Guilty to count one on stealing, while A2 pleaded guilty to count two on dishonestly receiving stolen property and was hence dealt with. The court then proceeded to try A1 on count one. Section 11 (2) of the Evidence Act, 1973 (NRCD 323) states that 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 a reasonable doubt. Subsection 3 of the same provision says that in a criminal action the burden of producing evidence, when it is on the accused as to any fact the converse of which is essential to guilt, requires the accused to produce sufficient evidence so that on all the evidence a reasonable mind could have a reasonable doubt as to guilt. Section 124(1) of Act 29 states as follows; “A person who steals commits a second degree felony.” Also Section 125 of Act 29 defines stealing thus; “A person steals who dishonestly appropriates a thing of which that person is not the owner.” As held in *MENSAH AND OTHERS v. THE REPUBLIC* [1978] GLR 404-427, in order to ground a conviction on this charge, the Prosecution must establish beyond reasonable doubt that;

- a. The person charged must not be the owner of the thing allegedly stolen,
- b. The person so charged must have appropriated the thing,
- c. The appropriation must have been dishonest. From the evidence before this court, it is obvious that the unregistered Royal Motorbike with registration number does not belong to the Accused person. It is therefore established beyond a reasonable doubt that the Accused is not the owner of the unregistered Royal Motorbike allegedly stolen. The next element for Prosecution to prove beyond a reasonable doubt is whether or not the Accused appropriated the unregistered Royal Motorbike allegedly stolen. Section 122(6) of Act 29 defines appropriation thus; “Appropriation of a thing in any other case means any moving, taking, obtaining, carrying away, or dealing with a thing, with the intent that a person may be deprived of the benefit of the ownership of that thing or of the benefit of the right or interest in the thing, or in its value or proceeds or part of that thing.” From the evidence of PW4 Isaac Blay, accused personally brought him the motorbike at Bonyere. Thus accused took the motorbike and carried it away to PW4. The last element to be proved by Prosecution in order to ground a conviction is that the appropriation must have been dishonest. Indeed the unregistered royal Motorbike clearly was not the property of the accused person. On all the evidence adduced before the Court, I therefore find and hold that the accused person is GUILTY on the charge . In passing sentence, the court took into consideration the fact that the Accused person is a repeat offender for like offences and is a young man. The court also took into consideration his conduct during the whole trial and the need to deter like offenders as the offence of stealing within the jurisdiction is on the ascendency. The Accused person is sentenced 24 months imprisonment IHL with no option of a fine. I note that accused person has since the 30th day of March, 2023 been remanded into police custody and thus has some days to his credit. Prosecution is ordered to return the retrieved unregistered Royal motorbike to complainant forthwith. SGD H/W: AWO AMISSAH FRENCH DISTRICT MAGISTRATE, NKROFUL 8TH JUNE, 2023

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://ghalii.org/akn/gh/judgment/ghadc/2023/148/eng@2023-06-08>

CASE PAGE <https://chat.esheria.ai/case-law/ghana/stealing-district-court-2023--6a3ea50a3b1caa9129805a0a>

Prepared on 27 October 2026 · Esheria