

CASE LAWS INVOLVING STREET VENDORS IN ACCRA

1. The Republic Vrs Francis Agyiri-Case No. SC 3/11 (In the Magistrate Court,- Community Centre-Accra)

Statement of Offence: Willful obstruction of Officer in the performance of his official duty contrary to Section 147 (a) of Act 462)

The accused, Francis Agyiri was arrested at 9: 00am on the 6th April 2011 on the Ghanaian Times road for willful obstruction of Officer from performing his duties. The case was heard on 7th April 2011.

The accused pleaded guilty with explanation; however the prosecutor pleaded for adjournment to apprehend the other accomplices and to present the facts of the case thereafter. The prosecutor pleaded the court to remand the accused in custody until adjourned date.

The court adjourned the case until 24th April 2011 and remanded the accused until the adjourned date. On 24th April, 2011, the prosecutor applied to substitute the charges which was granted by the court.

2. The Republic Vrs Mary Baah (32 years)- Case No. SC 4/11 (In the Magistrate Court,- Community Centre-Accra)

Statement of offence: (1) Obstructing public way contrary to Section 296 P of the Criminal Offences Act (Act 29/60) ; (2) prohibition of trading in the street contrary to AMA Street Hawking Bye-law Section 2 of 2011.

The accused person, Mary Baah was arrested by at 5:00 pm at the Sakaman Traffic Light selling plantain chips on the street thereby blocking traffic and obstructing public way. The Complainant indicated the accused persisted selling when cautioned to stop; and bit the hand of the complainant. The complainant was rescued by policemen on the scene. The accused pleaded guilty on both counts and was convicted on her own plea and sentenced to a fine of twenty penalty units or 3 months in jail on each count. Sentences were to run consecutively. The Magistrate directed that chips seized from accused should be given to the inmates of Osu Children's Home.

3. The Republic Vrs Forster Darko Case No SC 8/11 (In the Magistrate Court-Community Centre-Acra).

Statement of Offence (1) Willful obstruction of AMA official in the performance of his official duty contrary to Section 7 of the AMA Bye-law 1995; (2) Assault contrary to Section 84 of Act 29, 1960.

The accused Forster Darko was arrested and arraigned before the court on 6th June 2011 for displaying his items for sale on the street under the Traffic Light at TUC within the Metropolis; thus obstructing the free movement of vehicles.

The prosecutor stated that the facts of the case were being prepared as the accused committed the offence “only a few minutes ago”; and pleaded that the accused be remanded in custody “for us to put our house in order especially as we are still investigating the case”. The accused pleaded not guilty on both counts. The court ordered that accused be remanded in prison till adjourned date- 14th June 2011.

On 14th June 2011, the prosecutor stated that on 6th June 2011, the accused was seen selling air refreshers on the streets and between cars caught in traffic. The accused was cautioned to stop selling on the streets as it was against the AMA Bye-laws but the accused refused. The prosecutor stated the accused struggled with the complainant and succeeded in putting the complainant down and pinning him very hard to the ground. According to the prosecutor, the Deputy Metro Guard called for reinforcement to rescue the complainant from the grips of the accused. The court further adjourned the case to 28th June 2011; the accused was again remanded until adjourned date.

On 28th June, 2011, the prosecutor prayed for adjournment stating PW1 was ill. The court adjourned sitting to 4th July 2011. The accused then stated he wanted to change his plea; and pleaded guilty to both counts stating that “ I have learnt my lessons. I pray for leniency. I have been in custody for 3 weeks now”. The court convicted accused on his own plea and sentenced him to 3 weeks in jail on each count. Sentences were to start on the day of his arrest and detention, that was 6th June 2011. Sentences were to run concurrently.

4. The Republic Vrs (1) Abowe Philmon (2) Suleman Attenga (3)Tindana Ayile

Statement of Offence : (1) Obstructing public way contrary to Section 296 P of the Criminal Offences Act (Act 29/60) ; (2) prohibition of trading in the street contrary to AMA Street Hawking Bye-law Section 2 of 2011

The prosecutor stated that the accused were arrested for selling on the streets/highways, an hour ago and therefore investigation was still ongoing. The prosecutor prayed the court to remand the accused to allow for conclusion of investigation.

The case was heard on 6th June 2011 and the court remanded the accused until the adjourned date - 14th June 2011. The plea of all three accused were not taken.

On 14th June 2011, all three accused persons pleaded not guilty to both court; the court adjourned until 22nd June 2011 to allow prosecutor to prove the guilt of the accused persons. The accused persons were admitted into bail on a sum of GH¢1,000 with one surety respective.

On 22nd June 2011, all three accused changed their plea on both counts and as first offenders were convicted and sentenced on their own plea to 5 penalty counts each or 30 days in jail in default of payment of fines.

5. The Republic Vrs (1) Michael Debrah (2) Opoku Ibrahim Case No. SC 12/11

Statement of Offence: (1) Prohibition of trading on the street contrary to Section 1 of AMA Street Hawking Bye-law 2011. (2) Assault and battery contrary to Section 84 of Act 29/60

The facts of the case as given were that the accused were arrested on 13th June 2011 for selling chocolates at Opeibea House, near Airport City. The Complainants, staff of AMA cautioned the accused to stop trading on the street but an argument ensued in the course of which the accused pounced on the complainants and beat them up mercilessly. The first complainant was said to have sustained injuries on his left hand. According to the Prosecutor, the complainants called for reinforcement to their rescue.

The first accused (Michael Debrah) pleaded not guilty explaining that they were selling chocolates on the pavements when the complainant came to cautioned them to stop. He stated that they tried to convince the complainant to allow them to sell to earn their "daily bread". According to the accused, while in the process of negotiating with the

complainant, a vehicle arrived with more taskforce. A struggle ensued through which his chocolates scattered. He added that he's aware they are not allowed to sell in areas on streets and pavements but thought they could do so at Opeibea Traffic Light since that place is a bit out of Accra.

The second accused (Opoku Ibrahim) also pleaded not guilty stating that they were selling chocolates at Opeibea Traffic but took to his heels when the Metro Guards arrived. He stated that the Metro Guards went to caution windscreen cleaners to stop but a quarrel ensued. He added that in his attempt to separate them, he was arrested and beaten up by the Metro Guards; who also called for reinforcement.

The court ruled that all accused persons admitted selling chocolates on the streets at Opeibea Traffic Light and consequently convicted each one of them on the first count and sentenced each one of them to a fine of twenty penalty units or 100 days in jail in default of payment.

The court adjourned sitting to 29th June 2011 for prosecution to prove the second charges against the accused persons. It further ruled that should the accused persons pay the fine, then they would be admitted to bail in the sum of GH¢200.00 with one surety each on the second count.

Second accused was absent in court on 29th June 2011 due to ailment. The first accused changed his plea and was convicted on his own plea and sentenced to a fine of 5 penalty units or 3 months in jail in default of payment of the fine. The case was adjourned to 8th July 2011 for prosecution to prove the guilt of second accused.

On 8th July 2011, the court adjourned case to 26th July 2011 as both the accused and the prosecutor were absent. On 26th July 2011, the court discharged the accused for want of prosecution as both the accused and the prosecutor were again absent.

6. The Republic Vrs Yakubu Mohammed- Case No. SC 13/11 (In the Magistrate Court, Community Centre-Accra)

Statement of Offence: Prohibiting of trading on the street contrary to Section 2 of Accra Metropolitan Assembly (AMA) Street Hawking Bye-Law 2011

The accused person, Yakubu Mohammed was arrested by AMA Guards for selling yams on the street at TUC Traffic Light at 1: 30 pm Wednesday 16th June 2011. The complainant stated the accused disobeyed caution to stop selling. The accused pleaded guilty and was convicted on his own plea and sentenced to a fine of ninety penalty units or 120 days in jail in default of payment of the fine. The District Magistrate sitting on the case ordered for the yams to be sent to the Osu Children's Home. The case was heard at 11:50 am on Thursday 16th June 2011.

7. The Republic Vrs (1) Eric Pobi -A1 (2) Obed Fordjour -A2 (3) Georgina Owusua -A3 (4) Patrick Adusei A-4 (5) Ebenezer Gyima-A5 Case No. SC14/11

Facts: The Complainant, a Trainer for AMA Guards recounted receiving a distress call from Guards on duty that they were being attacked at the Gulf House on the Madina Road. According to the complainant, he led reinforcement to the place but they were also attacked by the accused; and beaten up. The Complainant stated his shirt was torn into pieces. The accused persons were eventually arrested and arraigned in court. The torn shirt was shown as an exhibit.

All five accused persons pleaded guilty with explanation for count one. The court on listening to the explanations of all five stated they have all accepted and admitted that they were indeed selling on the streets and consequently convicted each on the first count and sentenced each of them to deterrent fine of 30 penalty units or 120 days in jail in default of the payment of the fines on the first count.

All but accused person three (A3) pleaded not guilty to count 2. The A3 was convicted and sentence on her own plea to a fine of twenty penalty units or 120 days in jail in default of payment of the fine. In addition A3 was to pay to the complainant the sum of GH¢30 for the torn shirt. The sentences of A3 were to run consecutively. The court adjourned to 7th July 2011 for prosecution to prove the guilt of the remaining four (4) standing accused.

On 7th July 2011, three of the accused (A1, A2 and A3) changed their plea on count 2 and were sentenced to a fine of 3 penalty units each or 2 months in jail in default of payment of the fine.

8. Expert opinion on cases

At the expert consultative workshop held on 30th September 2012, the legal experts examined the cases and noted as follows:

9. The legal experts noted unfortunate the Magistrate's decision in the case of **The Republic Vrs Francis Agyiri-Case No. SC 3/11 (In the Magistrate Court,- Community Centre-Accra)**; to remand the accused to enable the prosecutor apprehend accomplices. They noted that vendors were adults pursuing their trade independently; therefore there were no accomplices. They believed that the plea of the accused present should have been taken and case determined on its own merits.
 - i. The legal experts noted as unfortunate the severity of most of the court sentences but were quick to add that the Judges acted within the law. They noted that judges have discretionary powers in Ghana. They observed some sentences very harsh given the level of income and the impact of the activity on the society. It observed inconsistencies between the sentence limits set in the AMA Bye-law and the court judgments. Whereas the Bye-law 2010 sets a highest of 10 penalty points for offenders, most cases exceeded. In some cases however, they observed that offenders were additionally charged of assault, hence the higher sentence.
 - ii. The experts noted that the trial of the offenders is often too swift to allow them to obtain legal advices. As in the case of **The Republic Vrs (1) Abowe Philmon (2) Suleman Attenga (3)Tindana Ayile** ; the accused were arrested and arraigned before court within an hour.
 - iii. The legal experts noted that most of the defenders have never come in contact with the law. Such people get disoriented and confused and thus heed to the advice of the police officers or prosecutors to plead guilty. Most of the offenders they noted had pleaded guilty out of frustration and ill-advice from the police or the guards. They are sometimes made to believe that pleading guilty would soften their sentences and of course shorten the proceedings. As evident in most cases though, accused persons changed their plea (to guilty) to avoid being

continually remanded. They observed how intimidating the court processes can be for the vendors' particular for those who would be making appearance for the first time.

- iv. The experts noted that although defendants have the right to be represented, they often cannot afford the legal cost. The Legal Aid Department faces human resource and logistical constraint and unable to provide the needed support.