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**IN THE SUPERIOR COURT OF JUDICATURE,
IN THE HIGH COURT OF JUSTICE,
(FINANCIAL & ECONOMIC CRIME DIVISION),
ACCRA.**

Filed on 30/05/2024
1:50 am/pm
~~SA~~ Registrar
**HIGH COURT
ACCRA**
SUIT NO. CR/0198/2022

THE REPUBLIC. ... RESPONDENT

v

- 1. CASSIEL ATO FORSON. ... FIRST ACCUSED PERSON/RESPONDENT.**
- 2. SYLVESTER ANEMANA (DISCHARGED)**
- 3. RICHARD JAKPA. THIRD ACCUSED PERSON/APPLICANT.**

NOTICE OF MOTION.

**APPLICATION FOR AN ORDER STRIKING OUT THE CHARGES AND
TERMINATING THE PROCEEDINGS OR ALTERNATIVELY STAYING THE
PROCEEDINGS AGAINST THE THIRD ACCUSED/APPLICANT.
ARTICLES 19, 23, 88(3) AND 296(a) and (c) OF THE 1992 CONSTITUTION.**

PLEASE TAKE NOTICE that this honourable Court shall be moved by THADDEUS SORY ESQ., of MESSRS SORY @ LAW Counsel for and on behalf of the Third Accused/Applicant herein praying the Court for an order;

- i. striking out the charges and accordingly terminating the proceedings against the Third Accused/Applicant or alternatively,
- ii. A stay of the proceedings before the Court against the Third Accused/Applicant.

AND PLEASE TAKE FURTHER NOTICE THAT the grounds of the application are:

- i. The Attorney-General at whose instance the Third Accused/Applicant is being prosecuted in the instant suit has brought the charges and instituted the proceedings in abuse of the process of the court and contrary to his constitutional obligations under articles 23 and 296 of the 1992 Constitution.
- ii. The Attorney-General at whose instance the Third Accused/Applicant is being prosecuted in the instant suit has brought the charges and

instituted the proceedings in abuse of his [the Attorney-General's] prosecutorial powers contrary to his constitutional obligations under articles 23, 88(3) and 296 of the 1992 Constitution.

- iii. In engagements with the Third Accused/Applicant the Attorney-General has admitted that there is no case against the Third Accused/Applicant.
- iv. The continued prosecution of the Third Accused/Applicant violates the Third Accused/Applicant's right to a fair trial.

Upon the grounds deposed to in the accompanying affidavit.

And for such further or other order(s) as to the Court may deem meet in the circumstances.

COURT TO BE MOVED on the day of JUNE 2024 at 9:00 O' clock in the forenoon or soon thereafter as Counsel for the Third Accused/Applicant may be heard.

DATED AT SORY @ LAW ACCRA THIS 30TH DAY OF MAY 2024.



THADDEUS SORY ESQ.
SOLICITOR FOR THIRD ACCUSED/APPLICANT.
LICENCE NO. eUWR00228/24.
CHAMBER REG. NO. ePP00582/23.
TIN OF CHAMBERS. C0001356860.
BUS. PARTNER(BP) No. OF CHAMBERS 3000022181.

THE REGISTRAR,
HIGH COURT,
(FINANCIAL DIVISION),
ACCRA.

SORY @ LAW
H/No. 4, 2ND CLOSE
BOUNDARY ROAD EXTENSION
NEAR UBA BANK
EAST LEGON, ACCRA
TEL: 0303 - 941489

AND FOR SERVICE ON:

1. THE ATTORNEY-GENERAL,
ATTORNEY GENERAL'S DEPARTMENT,
MINISTRIES, ACCRA.
2. THE FIRST ACCUSED OR HIS LAWYERS, DR. ABDUL BAASIT AZIZ BAMBAMBA whose address for service is; AZIZBAMBAMBA & ASSOCIATES, NO. 5 NII TORGBOR AVENUE LINK, NEAR PEKAN HOTEL, EAST LEGON, ACCRA.

SORY @ LAW



IN THE SUPERIOR COURT OF JUDICATURE,
IN THE HIGH COURT OF JUSTICE,
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v

1. CASSIEL ATO FORSON. ... FIRST ACCUSED PERSON/RESPONDENT.

2. SYLVESTER ANEMANA (DISCHARGED)

3. RICHARD JAKPA. ... THIRD ACCUSED PERSON/APPLICANT.

**THIRD ACCUSED/APPLICANT'S [RICHARD ANTHONMA JAKPA]
AFFIDAVIT IN SUPPORT OF MOTION FOR AN ORDER STRIKING OUT THE
CHARGES OR ALTERNATIVELY STAY THE PROCEEDINGS AGAINST THE
THIRD ACCUSED PERSON/APPLICANT.**

I, RICHARD ANTHONMA JAKPA of unnumbered house, Ashale Botwe, Accra in the Greater Accra Region of the Republic of Ghana do hereby make oath and say that:

1. I am the deponent herein and the Third Accused/Applicant in the above intituled application.
2. I depose to my instant affidavit for and on my own behalf in support of the application before the Court, the facts of which, unless otherwise deposed to, being within my personal knowledge, information, and honest belief.
3. I acquired knowledge of the facts to which I depose in my present affidavit by reason of my personal involvement, and or connection with the facts on which I have instructed my lawyers to file the present application for and on my behalf.
4. To the extent that any of my depositions in this affidavit hint(s), state(s), relate(s) to, or state principles and/or matters of law, such deposition(s) result(s) from the advice of my lawyers, whose advice, I verily believe.

5. At the hearing of the application before the court, my counsel shall seek leave of the Court to refer to all the processes filed in relation to the matters which have provoked my present opposition as if same were elaborately deposed to in my affidavit and incorporated herein *in extenso*.
6. On 18th day of January 2022, I was arraigned before the Court on the charge of having acted in contravention of section 179(2) of the Criminal and Other Offences Act, 1960 (Act 29).
7. On the 19th of March 2024, I opened my defence and started giving my testimony in chief orally but subsequently filed a witness statement which I relied on together with my oral testimony as my evidence in chief.
8. On the 23rd May 2024 I was being cross-examined by counsel for the first accused person on Letters of Credit [LCs] relating to the transaction in respect of which I am being prosecuted when the learned Attorney-General interjected in the terms deposed to below and captured in the record of proceedings for that day, a copy of which I exhibit hereto and mark **A**:

"Hon. Dame: My lady I am a little bit constrained to intervene because the Minister of Finance at that time was in court and testified about authorization. I wonder what Mr. Jakpa's business is to testify about authorization.

9. After the court intervened the learned Attorney-General added thus:

Hon. Dame: *Just by force to defend other accused persons.*"

10. In response to the learned Attorney-General's allegation against me, I stated that the allegation is untrue and I did so in the terms captured in exhibit **A**, set out below:

"Mr. Jakpa: My lady I want to put on record that I am not here to defend A1.

By Court: I have not told you that you have defended A1.

Mr. Jakpa: No I am not talking about you.

By Court: Who said so?

Mr. Jakpa: **The Attorney General did that... He accused me directly and I want to respond."**

11. I then added thus:

“Mr. Jakpa: My lady I have heard that but I want to make it clear here that the Attorney General has on several occasions had meetings with me privately at odd hours, both in person and on phone in respect of this case to cooperate or answer questions in a manner that will make his case better against A1 and I have refused and I have evidence to that and so if he is accusing me here that I am here to defend A1, he has brought hostilities to my door step and I am responding to the hostilities. And if he continues on this angle, I will open the pandora box and we will all know actually transpired. He has brought it up and I will give it to him.

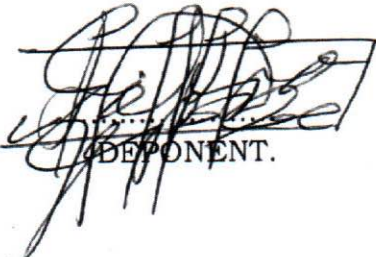
Mr. Jakpa: I am angry because how can he accuse me to be defending A1 when I am here to fight for my liberty and he has been impressing on me to cooperate with him so that he can put A1 in jail and I refused. So he comes here to accuse me of me defending A1. It is unacceptable.”

12. After the proceedings for the day I had a conference with my lawyers who demanded a full explanation from me about the statements I made in connection with my engagements with the learned Attorney-General in court.
13. After my release on bail on the terms fixed by the court, I met Hon. Godfred Dame, the Attorney-General, in the early part of the year 2022 and explained to him the background and nature of the transaction on which the prosecution against me was mounted.
14. After listening to me, Hon. Dame assured me that he now appreciated the facts and issues relating to the transaction and indicated to me that in law agents are not liable for the acts of their principals.
15. He further explained to me that based on his understanding of the contract, the court was likely to acquit me at the submission of no case stage because he was not going to oppose it adding that as a matter of fact Dr. Sylvester Anemana [the second accused] and myself [the third accused] were just added as accused persons in order to mask the real target of the prosecution, which is the first accused.

16. Hon. Dame also explained to me that the first accused's prosecution had to be undertaken because of pressure from the former Minister for Finance [Dr. Ken Ofori Atta and the President] and assured me repeatedly that I was not the target of the prosecution.
17. Based on the interaction I had with Hon. Dame, a relationship of trust developed between us because I believed him since as a lawyer and the person who initiated the prosecution, he assured me that as an agent, I am not, in law, liable for my principal's actions.
18. Very well aware that I now trusted him, Hon. Dame told me that he was informed that during the investigations I had made some documents available to the Economic and Organised Crime Office [EOCO] and asked if I could share more of them with him and I promptly did by forwarding some relevant documents to aid my case to him from my cell phone.
19. My first hunch that Hon. Dame may be abusing the trust I reposed in him came when after assuring me that an agent is not liable for the acts of his principal, he [the Attorney-General] filed a submission contesting my submission of no case.
20. The court upheld the Attorney-General's contention that a case had been made against me to answer and when at subsequent meetings I expressed my disappointment at the turn of events, he resumed his assurances to me and then started to solicit my co-operation first to testify in a manner to incriminate the first accused and secondly to help fast track the conclusion of the case by first week of May 2024 which is also the reason why he discontinued the proceedings against the second accused by filing a *nolle prosequi*.
21. Asked why he would not file a *nolle prosequi* in respect of my prosecution as he did with the second accused, Hon. Dame answered that it will then leave only the first accused which will make it even more obvious that the first accused is the target of the prosecution.
22. In any event, as I have always explained the nature of the transaction to the learned Attorney-General based on the relevant documents [even though I always had a lawyer representing me in court], I told him during several meetings with him that I was unable to testify in the manner suggested by him so as to incriminate the first accused because such testimony would be betrayed by the documents in evidence and in any event would not be honest.

23. The discussions about my testimony after I open my defence culminated in a phone call to me on the 9th April 2024 by the learned Attorney-General when I was to appear in court to continue my evidence in chief in terms of the witness statement I filed.
24. The matters I have testified about, and also the discussions I had during Hon. Dame's call to me are available by way of the whatsapp conversations on my cell phone and also a recording of the telephone conversation which I am prepared to make them available to the Court and be cross-examined on them.
25. In the phone conversation between Hon. Dame and me, he suggested that during cross-examination I testify not based on matters personally perceived and understood by me, but based on his suggestions.
26. In that telephone conversation, the Attorney-General is heard directly engaging me on the subject of the LCs which before his interjection were the focus of the first accused's counsel cross-examination and stated how he thought I should answer questions regarding the LCs during cross-examination.
27. I repeat paragraph 26 of my affidavit and depose further that when I disagreed with him, the Attorney-General suggested that he would be travelling and not able to be in court at the next adjourned date and that I seek an adjournment from the court by informing the court that I was sick to allow him to be present in court before I proceed with my testimony. I declined this suggestion.
28. It has become clear to me without a shred of doubt that the charges against me and the instant proceedings are only being pursued by the Attorney-General against me:
 - i. in abuse of the court process as they are not pursued bona fide.
 - ii. abuse of his prosecutorial powers which must be exercised not only in accordance with law but also fairly and reasonably, in good faith, without arbitrariness or caprice.
 - iii. in abuse of my right to a fair trial because my interactions with the Attorney-General and my openness to him by virtue of the trust I reposed in him as a lawyer.

29. My depositions above are confirmed by the fact that the Attorney-General is proceeding doggedly with the instant proceedings against me even after saying to me that, in law, an agent [me] has no liability for the acts of his principal.
30. I repeat my deposition in paragraph 29 above and say that the Attorney-General is prosecuting the present matter against me only because he intends to use me as cover for his pursuit of the first accused and cause me collateral damages in that pursuit which is not a proper exercise of his prosecutorial powers.
31. The facts I have deposed to in paragraph 30 above regardless of the Attorney-General's direct engagements with me, must be inferred from my earlier depositions and also evident from his refusal to proceed against my principal but rather maintaining the present proceedings against me.
32. Even when my principals put forward in writing a proposal to make payment to the State the amount of two million Euros in order to address the claim that there had been a loss to the State from the transaction which is the basis for the charges against me, the Attorney-General would not entertain the offer.
33. It is also significant that the Attorney-General has caused to be issued a response to various commentaries made following my testimony in this court after his interjection; in that response he denies making contact with me which is patently false. I exhibit herewith, marked **B**, a copy of the said response issued at the behest of the Attorney-General.
34. At the hearing of this application, my counsel will pray the court to give me the chance to testify orally on oath and explain the various interactions I have had with the Attorney-General in connection with this case and be cross-examined on my testimony.
35. My counsel will also pray the court to give the Attorney-General the chance to testify orally on oath should he wish to challenge my testimony.
36. WHEREFORE I depose to this affidavit in good faith.


DEPONENT.

SWORN TO IN ACCRA

THIS 30th OF

MAY 2024.

BEFORE ME



COMMISSIONER OF OATHS.

AND FOR SERVICE ON:

1. THE ATTORNEY-GENERAL,
ATTORNEY GENERAL'S DEPARTMENT,
MINISTRIES, ACCRA.
2. THE FIRST ACCUSED OR HIS LAWYERS, DR. ABDUL BAASIT AZIZ
BAMBA whose address for service is; AZIZBAMBA & ASSOCIATES, NO. 5
NII TORGBOR AVENUE LINK, NEAR PEKAN HOTEL, EAST LEGON,
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CERTIFICATE OF IDENTIFICATION OF EXHIBITS

This is to certify that the documents exhibited to the affidavit in support of motion deposed to by RICHARD ANTHOUNMA JAKPA hereto and marked **A** and **B** are the documents mentioned in the affidavit, the details of which documents are as follows:

- 1. A copy of record of proceedings marked **A**.
- 2. Response from the Attorney-General marked **B**.

BEFORE ME


COMMISSIONER FOR OATHS.

EXH 9A⁹

IN THE SUPERIOR COURT OF JUDICATURE, IN THE HIGH COURT OF JUSTICE, FINANCIAL & ECONOMIC CRIME DIVISION 2 HELD IN ACCRA ON THURSDAY THE 23RD DAY OF MAY, 2024 BEFORE HER LADYSHIP JUSTICE AFIA SERWAH ASARE-BOTWE (MRS.) JA SITTING AS AN ADDITIONAL HIGH COURT JUDGE

SUIT NO. CR/0198/2022

TIME: 12: 05 PM.

THE REPUBLIC

VRS.

- 1. CASSIEL ATO FORSON
- 2. SYLVESTER ANEMANA (DISCHARGED)
- 3. RICHARD JAKPA

ACCUSED PERSONS

A1 PRESENT

A2 DISCHARGED

A3 PRESENT

This instrument is to be
 exhibit. refer to
 to the affidavit.
 sworn before me this
 day of...

 COMMISSIONER FOR G.A.C.S.

SEFAKOR BATSE FOR THE REPUBLIC PRESENT WITH MR. JOSHUA SACEY (SSA)

MR. GODWIN K. TAMEKLO PRESENT WITH GIDEON ABOTSI HOLDING THE BRIEF OF DR. ABDUL BAASIT AZIZ BAMBA FOR A1

PL

Page 1 of 31

CERTIFIED TRUE COPY

 30/5/24
 REGISTRAR
 HIGH COURT
 GENERAL JURISDICTION LCC, ACCRA

**BAFFOUR GYAWU BONSU ASHIA PRESENT WITH EBENEZER APPIAH
OPARE HOLDING THE BRIEF OF THADDEUS SORY FOR A3**

Mr. Tameklo: My lady before A3 comes, I want to draw your attention to something. On Tuesday 21st May, we filed this motion but I do not know whether it is on your docket?

By Court: Yes I have seen it.

Mr. Tameklo: It is a motion for stay and I wanted your directions on it.

By Court: The direction is the decision that was given in the East La Dadekotopon Development Trust case in [2017-2020], Vol.1, SCGLR, 1008 and also the decision in Ex-parte Karlim. That when you apply for stay of proceedings, it is an application and it is actually granted. Stay of proceedings does not operate like an application for injunction. With regards to an application for injunction or stay of execution, the filing may stay the hand of the court but stay of proceedings does not operate that way. I have seen it and we will deal with it but let us carry on. Let me give you the

citation. The Republic vrs Court of Appeal, Accra. East La Dadekotopon Development Trust, Interested Party; Lands Commission [2017-2020] 1 SCGLR, 1008. The other one is The Republic vrs High Court, Commercial Division A, Tamale, Ex-parte Karli Subt. By Alhassan Dawuni Interested party [2015-2016] 2 SCGLR 1332 @ 1347 and that if you decide when you have an application for stay of proceedings like this and you decide not come to court and so on, it is tantamount to electing which one you want to do and which you do not want to and nobody is staying proceedings in a criminal matter like this just because you have filed an application. It does not work that way.

Mr. Tameklo: Very well my lady.

BY COURT

Mr. Tameklo has drawn the attention of the court to an application for Stay of Proceedings filed on 21st May, 2024 at 2:13pm with a return date of 28th May, 2024 which the prosecution indicates that they are yet to receive. Without making any finding of the merit or otherwise the application and the appeal as attached, this court relied on the decisions

of the Supreme Court with the Republic vrs Court of Appeal, Accra, Ex-parte East La Dadekotopon Development Trust (Lands Commission Interested Party, [2017-2020] 1 SCGLR 1008 and the Republic Vrs. High Court, Commercial Division A, Tamale, Ex-parte Kaleem, Subt. by Alhassan Dawuni, Interested Party [2015-2016] 2 SCGLR 1332 @ 1347, shall proceed with case as scheduled. The application for stay of proceedings shall be dealt with in due course on the return date.

A3 REMINDED OF HIS FORMER OATH

FURTHER CROSS-EXAMINATION OF A3 BY MR. TAMEKLO

Q: On Tuesday, you testified that ten of the ambulances that arrived at the Tema Port had medical equipment in it, do you still stand by that testimony?

A: Yes my lady.

Q: You also testified that the medical equipment in these ten ambulances were vandalized and stolen, do you still by that testimony?

A: Yes my lady.

Q: Can you tell the court how you came by this knowledge that the equipment were vandalized and stolen?

A: My lady somewhere around December 2014, Big Sea wrote a letter to the Ministry of health and then copied Jakpa@Business Limited that they had shipped ten ambulances to the Tema Port on CIF basis and that they had created the bill of lading to the Ministry of Health. On Exhibit 14D for A3 dated 6th December, 2014 which was addressed to the Hon. Minister, Ministry of Health. Attention: Dr. Kweku Agyemang Mensah not Manu (The witness reads two attachments to Exhibit 14D for A3 to the hearing of the court). This letter was written on the 6th and the first batch arrived on the 15th. In fact that was the first time JBL was informed by the supplier of the shipment of the first ten ambulances. And to buttress this, Exhibit 14D for A3, Exhibit 13 which is the original bill of lading, you would realize at the last paragraph that, the freight prepaid shipped on board was on 8th October, 2016. As I said earlier, on the 6th of December, 2014 was the first time JBL was notified of the shipment of the first ten ambulances and to buttress this point, on page 2, the sailing date of the shipment of the first ten ambulances was on 18th October, 2014. JBL was informed on the 6th of December, 2014 and this is about two months after the shipment of the first ten ambulances and the insurance date for that shipment of the ten ambulances

By Court: The question is can you tell the court how you came by this knowledge that the equipment were vandalized and stolen so is that that the answer to the question?

A3: Yes my lady, I am answering.

By Court: You cannot just go on and on just because you want to answer just one question. The next time I will make a note because you are not answering the questions that are put to you and you are wasting the court's time. The question is very simple but you intend to go on and on and on.

By Court: Please answer the question. Did you come by this knowledge that the equipment were vandalized and stolen?

A3: My lady the question he asked me involved a lot. I am answering the way I understand the question.

BY COURT: You will not answer the way you understand the question. You answer the question when they are put to you. Mr. Ashia, you better warn your client that he is not supposed to be doing what he is doing. When they asked you a question, answer it and stop wasting the court's time.

By Court: Please answer the question, how did you come by this knowledge that the equipment were vandalized and stolen?

BY COURT

The witness is being cautioned to desist from answering questions with irrelevances and answer the questions that are put to him. This needless waste of time is not appreciated.

Q: Can you tell the court how you came by this knowledge that the equipment were vandalized and stolen?

A: The insurance of the 10 ambulances was on the 19th of October, 2014 and so upon the receipt of this letter from Big Sea, JBL waited till April, 2015.

By Court: I have warned you several times but you are not answering the question. When a witness is asked a question and the witness refuses to answer the question, that is contempt.

Mr. Ashia: My lady from your explanation, it is like there is a deliberate attempt on the part of the witness to answer it in that particular way. My lady that is how he understands the question.

By Court: No, he does not has the right to answer questions which are not put to him and this is not the first time I have noted it. He started it yesterday and today I have made a note because the previous time, I keep telling you to answer the question. If a question is put to you and you

refused to answer, know that by our rules somebody can be held in contempt for that. You do not know?

Mr. Ashia: My lady if it is deliberate.

By Court: But you do know that it is possible?

Mr. Ashia: I do my lady.

By Court: You also know that when directions are given, you are supposed to be obeyed.

Mr. Ashia: Yes my lady.

By Court: I think you should chat with your friend.

Mr. Ashia: My lady if I may have a word with him

By Court: You should have a word with him.

A3: Can I proceed my lady.

By Court: Yes, repeat the question for him to answer.

Q: The question is, can you tell the court how you came by this knowledge that the medical equipment in the 10 ambulances were vandalized and stolen?

A: As I earlier said, based on the letter dated 6th December, 2014 that we were notified by Big Sea that they had shipped the first ten ambulances and they will arrive in Ghana by April, 2015. JBL waited for the MOH to clear the ambulances after April, 2015 since the bill of lading had already been sent to them by the supplier themselves. Having waited for some time and not seeing the ten ambulances cleared, JBL proceeded to the Port to find out why the ambulances were still not cleared. The Port authorities allowed JBL access to the ambulances. It was that moment that JBL realized that the ambulances, that is all the accessories, except a few were left in the ambulance and part of the compartments of the ambulances were destroyed.

In fact, we also saw that the siren trop lights some were cut off, so JBL took pictures evidence and sent them to the supplier, our principal that this is the state of the ambulances still in the custody of the Port authorities and had not yet been cleared by the Ministry of Health.

Q: This letter from Big Sea that is Exhibit 14D for A3 and its attachments, was A1 copied?

A: Not at all and if I may go further on it. The contents of Exhibit 14D for A3 was only for the Ministry of Health (MOH) and JBL's attention.

HON. YEBOAH DAME (AG) IS NOW PRESENT AT 1:03 P.M

Q: At the time when this vandalization came to your knowledge, did you inform the Ministry of Health?

A: No because since 2012 when the contract was signed, MOH for that matter Government ceased communication in dealing through JBL. MOH dealt directly with Big Sea. JBL instead informed its principal which is Big Sea as our agency agreement dictated.

Q: Now this vandalization of the accessories in the first term never came to the attention of A1, is that correct?

A: That is correct.

Q: The subsequent 20 ambulances that came, you have testified in this court that the reason why it did not come with the accessories had to do with what happened to the first 10 ambulances, do you still stand by that testimony.

A: I still stand by that testimony because the Chief Director of Ministry of Health at the time, Dr. Sylvester Anemana wrote a letter dated 20th February, 2015 to the Chief Director of MOF (Patrick Numo), authorizing the Ministry of Finance to proceed and honor the LC because there was an understanding between the MOH and Big Sea for the missing ten accessories of the first ten ambulances and the subsequent 20 ambulances be containerlized and shipped separately. So, it was to the consent of the MOH that the accessories be shipped separately including the subsequent 20 ambulances.

Q: You will agree with me that A1 was never part of this arrangement to ship the accessories separately from the hard bodies of the ambulances?

A: That is correct my lady.

Q: In fact, it was on the say so of the Chief Director (Dr. Sylvester Anemana) who instructed the Ministry of Finance to go ahead with honoring the LC, is that correct?

A: Yes my lady, that is correct. Despite the discrepancies that had stopped the honoring of the LC by Ghana International Bank.

Q: And in fact, Big Sea was willing to comply with the agreement to ship the ambulances and the medical equipment separately?

A: Yes my lady. Indeed, Big Sea further to the letter written by Dr. Sylvester Anemana went ahead and shipped the accessories for the first ten ambulances that were stolen and included additional 20 ambulances accessories as were agreed by both parties making them a total of 30 ambulances accessories way back in 2016.

Q: Government of Ghana was supposed to play a role in the clearing of the medical equipment that was supposed to accompany the ambulances, is that correct?

A: Yes my lady. It was the sole responsibility of the Ministry of Health as the recipient of the bill of lading because the items were shipped on a CIF basis to Tema Port and once goods are shipped on CIF

basis, it is the responsibility of the consignee stated in the bill of lading that must clear the goods and not the agent of the manufacturer or the shipper.

Q: And in this specific case, as you testify this afternoon, has the Ministry of Health, the named consignee cleared the medical equipment at the Port?

A: Not at all. Since 2016 up until we speak today making it about 8 years. The Ministry of Health has neglected to clear the accessories which were shipped on CIF basis and still claiming that the ambulances are defective without accessories even after 8 years that the accessories are locked up at the Port.

Q: A1 has no role to play in the clearing of the equipment at the Port, is that correct?

A: That is correct. A1 is not the consignee stated in the bill of lading neither was Ministry of Finance the consignee for the medical accessories.

Q: The pre-shipment inspection, which Ministry was to undertake that pre-shipment inspection?

A: It was the Ministry of Health.

Q: The contract did not provide for post-delivery inspection, is that correct?

A: That is correct. The contract provided for only one requirement which is pre-shipment inspection.

Q: This pre-shipment inspection request from Big Sea, was it complied with by the Ministry of Health?

A: Not at all. In fact, the Chief Director (Dr. Sylvester Anemana) of Ministry of Health stated it clearly that the then Minister of Health Hon. Sherry Ayittey (may her soul rest in peace), refused to honor that part of Exhibit V, the contractual obligation which was mandatory.

Q: From your experience as a businessman, can you tell the court why the pre-shipment inspection?

A: Yes my lady. In the manufacturing process, there are about three different inspections that are conducted. During the manufacturing process, pre-shipment inspection process and post-delivery inspection process.

Hon. Dame: My lady I have a little difficulty, I think that the question bothering on pre-shipment inspection were asked in cross examination at the last adjourned date. Just for the sake of efficient time management.

By Court: Can you go back to the previous court proceedings and search for the word pre-shipment inspection. It is true.

Hon. Dame: Five results. It was extensive.

Mr. Ashia: Can you go up, this is the answer. Can you go up let us see the question.

By Court: You see Mr. Tameklo, as I sit here, I do not know whether we are much still well aware of the issues as stake, what is relevant to be determined in this matter.

Mr. Tameklo: My lady from where we are

By Court: Is it an issue that there was a problem with the vehicles? Is anybody denying that there was an issue with the vehicles on all sides?

Mr. Tameklo: My lady my understanding is that responsibility...

By Court: No please I am not asking about your understanding. Why you cannot do step by step. Is there an issue about whether there was a problem with the vehicles?

Mr. Tameklo: My lady my understanding is that at this point it cannot be.

By Court:

But is there anybody amongst the three parties here now who has denied that the vehicles as they were could not be used? No. it is not an issue. The issue is whether the responsibilities of all sides were undertaken the way they should have and whether there was any remedy for the problem that there was and if there was no remedy whose fault was it. So, there was not even an issue that pre-shipment was not done. It is not an issue at all, so do not let us make it an issue. The issue just boils down to the fact that, Yes there was a problem with the vehicle but it was not as if the problem was so bad according to Mr. Jakpa, it was not as if the problem was so bad that there nothing anybody could do about it. There were things that could be done and that Big Sea was ready to remedy the situation and government was supposed to do certain things and the Ministry of Health was supposed to do certain things which they did not do, that is his case. And you are saying that this one has nothing to do with finance.

Mr. Tameklo: Exactly.

By Court: So what is it that you want to ...

Mr. Tameklo: No. So you look at your Ruling at page 37 of the Submission of No Case, this is how my lady proceeded that *"In this case, from the particulars of offence, A1 is alleged to have caused to be issued LCs for the payment*

of ambulances which, when delivered were not fit for purpose”

By Court: But it is not an issue that they were not fit for purpose when they were delivered. Everybody agrees that when they were delivered, they were not fit for purpose. The problem is that if they were not fit for purpose in the condition that they were in, there were things that from the case A3 is putting across could have been done and would have been fit for purpose easily.

Mr. Tameklo: So my lady will note that in the particulars of offence, my lady will note that for A1, it says without due care **and authorization. The due care suggests that**

By Court: You have put your case across that it has nothing to do with finance.

Mr. Tameklo: So that is how I wanted to proceed but my lady ...

By Court: You have proceeded and putting it to the dead. Like I said you people have defrauded into giving you 8 hours.

Mr. Tameklo: My lady No.

Mr. Jakpa: My lady what you said that the vehicles were not fit for purpose when they arrived, I want to....

By Court: And you said that there were things to be done about them and you were ready to do it. The case is so clear that I do not even know why we want to... you see when our issues have been narrowed down..

Mr. Jakpa: That particular point I want to correct it was not that it could not be used. It was that when they arrived, they were not meant to be used and that is what I state. They were meant to be cleared to a safe place, kept there and then when everything is done, we handover and handover is not yet done.

By Court: Mr. Jakpa please, you said you are a soldier by training, right?

Mr. Jakpa: Yes my lady.

By Court: Soldiers I hear they are not good listeners. Please Mr. Jakpa when it comes to these things, let me give you friendly advice, criminal cases are not like civil. For criminal cases matters that have not been raised, you do not raise them, you focus on what they have brought and you deal with what they have brought and that is all. It is not like other cases that you will say in the alternative or further in the alternative. Crime is just like mathematics, one plus two is equal to three. Very simple.

Mr. Jakpa: It is clear here .

Mr. Tameklo: Mr. Jakpa what my lady is saying is that the document is already in evidence so she will assess everything.

By Court: All these documents came in after I ruled that you have a case to answer. So, in the same way that I have had the chance to look at the prosecution case and study their documents, I will also go the village and study yours. Same principles.

Q: Kindly take a look at Exhibit V, you have testified in this court that the ambulances were not off the shelve items that can just be purchased, do you still by that testimony?

A: Yes my lady.

Q: Per Exhibit V Big Sea had the responsibility to convert these vehicles into ambulances at their own cost, is that correct?

A: Yes my lady because there was no advance mobilization in Exhibit V for the commencement of manufacturing.

Q: And this conversion was not done here in Ghana, is that correct?

A: That is correct. It was done in Dubai.

Q: In fact, A1 has no idea whatsoever how these conversions were supposed to be done, is that correct?

A: That is correct my lady.

Q: In fact, per the contract Big Sea had the responsibility to further train personnels of the MOH on how to maintain the ambulances, is that correct?

A: That is correct and it is backed by Exhibit 14D for A3 in paragraph 4.

Q: At the time when you initially sent your proposal to government of Ghana, did you have any interaction with A1?

A: No my lady. I did not even know him.

Q: At the time when Big Sea entered into their agency agreement with you, was A1 in anyway involved?

A: No my lady. By then A1 was not in the Executive Arm of Government.

Q: In fact, you have testified in this court that your relationship with Big Sea at a point came to an end, is that correct?

A: Yes my lady.

Q: Now you have also testified that from that time you were not copied by the MOH in their correspondence with Big Sea, is that correct?

A: Yes my lady. In fact, the MOH for that matter the government stopped dealing with JBL immediately after the signing of Exhibit V.

Q: From the time you sent the proposal until when Exhibit V was signed, did you involve A1 in the transactions?

A: No my lady, as I said I did not know him in person.

Q: In fact, I am putting it to you that A1 never sign Exhibit V?

A: No my lady. A1 never signed Exhibit V.

Q: From your own testimony until the letter from the Attorney General's Department to the MOF and MOH that if steps were not taken to pay for the ambulance government of Ghana will suffer if Big Sea approached the court, No LC was set up, is that correct?

A: That is correct my lady.

Q: I am suggesting to you that, it is at the prompting of the Attorney General that steps were taken by the MOF to request for the establishment of the LC's?

A: That is correct.

Q: Your experience as a businessman, can you tell the court what the LC does?

A: I will be glad if I could be allowed to refresh my memory for note in the exhibit to answer the question.

By Court: For what?

A: To answer the question.

By Court: How?

A: It is an LC Exhibit and I think it is Exhibit C...

By Court: The question is a very generic question and not a specific question. The question is that in your experience as a businessman what does an LC do. Mr. Jakpa when you are communicating with anybody, body language also counts a lot and this breathing and look of long suffering, I do not know where it is from. The question that he has put to you is not referable to any exhibit in the custody of the court. The question is very generic question. In your experience as a businessman, can you tell the court what an LC does and you say I need an exhibit.

Mr. Jakpa: I have been asked a question and he wants me to answer the question based on my experience not

anyone's experience and my experience is telling me I need a particular exhibit here to answer the question.

By Court: Are you raising your voice at Mr. Jakpa. This is not the first time that you have done it. This is the second time and there will not be a third time.

Hon. Dame: My lady if I can be of help, I think he should just ask him what exhibit he wants. I am only assisting him.

By Court: I do not know why he is insisting on an exhibit to answer a generic question. What does an LC do and you say I need an exhibit. Mr. Ashia your client's disrespect is not appreciated at all. May be you people have views about who sits where but when somebody, no matter who even if the person is a child sits in the seat of Moses to administer justice like this, you cannot disrespect the court. It is not done and I have listened to him many times and I have swallowed a lot. There will not be another time that he will disrespect the court. I am saying that you have sought permission to look at an exhibit and I say I will not grant the permission because it is not necessary. You still do the back and forth. Answer the question please Mr. Jakpa.

Mr. Ashia: My lady I apologize on behalf of my client.

By Court: And that thing I do not understand when a grown man has done something and another man offers the apology. For what?

Mr. Ashia: My lady will realize that my client is frustrated.

By Court: Who has frustrated him?

Mr. Ashia: My lady the moment the Bench begins to engage the witness it puts him under a lot of pressure.

By Court: Who engaged him.

Mr. Ashia: My lady because as it stands now ...

By Court: Mr. Ashia I will not let you do this. Nobody has engaged him. He sought permission for something and I say it is unnecessarily, move on and he talks back. Who engaged who Mr. Ashia?

Mr. Ashia: My lady the reason is that ...

By Court: Who engaged who Mr. Ashia, even you sitting here as a lawyer, you cannot do what he is doing, you know it. And of course, I take it that he is a lay person and I just give him a long rope because I have a job to do which is to take the evidence and finish it. That is all I am supposed to do. But you asked for an exhibit for a

general generic question without even naming what exhibit it is and you want me to spend time dealing with you like this. Please if he wants to answer the question, he can decide to answer the question and not too, it is up to him. I am tired.

Mr. Tameklo: My lady let me rephrase the question.

By Court: For what?

Mr. Tameklo: To assist the him.

Q: In the specific case of this transaction can you tell the court what **were required in the LC to be honored.**

A: In this particular LC there are condition precedent. I cannot enumerate them off head. That needed to be met before the LC can be cashed and some of the condition's precedent just those I can remember are bill of lading, weight of each unit of ambulances prior to the establishment of the LC by the purchaser to the supplier.

Q: Have a look at Exhibit B2, can you see a seal on Exhibit B2?

A: Yes my lady I can see a security seal.

Q: Can you tell the court what seal it is, if there is any name, agency or department of Ghana on it?

A: It is the Controller and Accountant General Department security seal.

Q: You will agree with me that without this seal from the Controller and Accountant General Department the Bank of Ghana will not honor the payment?

A: Yes, my lady and to explain further, this is a seal that is in the office of the Minister of Finance. Any letter that originates from the office of the Minister of Finance if it is going to CA&GD carries a seal of authorization from the MOF office. This is so because, the Minister of Finance office is the only place where the authority to debit any local or foreign account of government emanates from with the explicit approval of the Minister himself. Whenever, the Minister of Finance for whatever reason is unable to be physically present in his office and had to delegate any part of his statutory authority to any of his deputies or the Chief Director, once any of his subordinates signs any letter be it authorized by the Minister and writes it as a memo or a verbal instruction to write a letter to debit any account of government. That letter once written and signed for the substantive Minister by any of his delegated officers under him, that is letter is conveyed by either the secretaries or by those delegated officers.

Hon. Dame: My lady I am a little bit constrained to intervene because the Minister of Finance at that time was in court and testified about authorization. I wonder what Mr. Jakpa's business is to testify about authorization.

By Court:

I have decided not to make any further comments and I will just sit and watch you people because if I do not, I may find myself in conflict with a lot of people because when my junior at the Bar tells me that in doing my job, I have engaged a witness, I think we have raised the Bar to a level which is an odd new level so I will not make any more comments so do what you want to do. When the times comes and I need to sit through the evidence, I will because when the question is put there which is a very direct clear question, that the seal is what gives it some kind of authenticity and the person wants to tell us all the workings of the Ministry of Finance, I will sit and listen.

Hon. Dame:

Just by force to defend other accused persons.

By Court:

No. that is not the point. Hon. Attorney General do not talk. Two days ago, you caused a third world war here so please.

Mr. Tameklo:

My lady I do not know that the problem of the Attorney General is against A1.

By Court:

You people please, please

Mr. Tameklo:

Where from this defence? Is he defending him? Are we not entitled to cross-examination? No what is this?

By Court: Mr. Tameklo I do not have a gavel. Please all of you just resume your seats.

Hon. Dame: My lady the point I am making is actually part of my objection, if my learned friend wants it to go on record, then let it be on record.

Mr. Tameklo: My lady if he thinks the question is not properly asked, the question can be disallowed.

By Court: I think that we fail to appreciate how very academic our work is. Everything is provided for by law or procedure by case law. Nothing new is being created here. ~~Everything we are doing now has already been written and we are just trying to listen to the evidence and see how it applies to all those things which have been~~ written. And even if he gives evidence which is not objected to and it is time to assess the evidence. I will have to sit through it and decide which is relevant and which is not. Which is allowed and which is not and that is what I have decided to do so this thing that you want to lose your temper by all means, I will not allow it. I will not lose my temper and you will also not lose yours because if we start doing that and I start exercising the powers that I exercise as a Judge, may be all of you will not go home. Because the way some of you are interjecting and those who are also shouting, if I do that, all of you will not go home so I will just sit and I

am tired of trying to direct the witness as to what to do and the unfortunate thing is that, Mr. Gyawu has a victim mentality. Everything little thing I say, he has decided not to understand. I do not get it. and I think I have done everything to demonstrate that, I do everything in my power to be fair. But what I see is that the question is very simple it is seal the makes the

Mr. Jakpa: My lady I want to put on record that I am not here to defend A1.

By Court: I have not told you that you have defended A1.

~~Mr. Jakpa: No I am not talking about you.~~

By Court: Who said so?

Mr. Jakpa: The Attorney General did that... He accused me directly and I want to respond.

By Court: Please Mr. Jakpa all that fight they were fighting and disgracing the Bench and the Bar I did not write it. Please move on.

Mr. Jakpa: My lady I have heard that but I want to make it clear here that the Attorney General has on several occasions had meetings with me privately at odd hours, both in person and on phone in respect of this case to cooperate

or answer questions in a manner that will make his case better against A1 and I have refused and I have evidence to that and so if he is accusing me here that I am here to defend A1, he has brought hostilities to my door step and I am responding to the hostilities. And if he continues on this angle, I will open the pandora box and we will all know what actually transpired. He has brought it up and I will give it to him.

By Court: Sit down for a bit.

Mr. Jakpa: My lady I am a little bit uncomfortable.

By Court: Why are you uncomfortable?

Mr. Jakpa: I am angry because how can he accuse me to be defending A1 when I am here to fight for my liberty and he has been impressing on me to cooperate with him so that he can put A1 in jail and I refused. So he comes here to accuse me of me defending A1. It is unacceptable.

By Court: Mr. Jakpa twice or three times that you have said it. I have heard you.

Mr. Jakpa: So, if he dares me, I will open the pandora box here and I have evidence for that.

By Court: As for pandora box, everybody in Ghana here is opening a pandora box.

Mr. Jakpa: So let us slag out and I am ready for that.

By Court: You cannot use such language here in the court of law. Let me also caution you. You see, your lawyer is not doing his job, when you are granted bail, one of the conditions apart from coming to court is that you will also behave well.

Mr. Jakpa: Yes my lady.

~~By Court: So when you come to court and start saying things like we are slagging it out, who is slagging what out?~~

Mr. Jakpa: He is daring me.

By Court: This is not about show of manhood. I have told you it is okay. They should record what you have just said. Beyond recording what you have just said, there is nothing that any Judge is supposed to do and there are things people want to do, they do not want to do.

By Court: All the lawyers, let me see all of you in chambers.

CASE STOOD DOWN

CASE RECALLED AT 2:52P.M

A1 AND A3 PRESENT

SAME REPRESENTATION AS BEFORE

By Court: I think we all need to cool off because this is not helping. Yes Mr. Ashia.

Mr. Ashia: My lady I wish to apologize to the court and to the Bar for temporarily holding the court and to the also to the Honourable Attorney General.

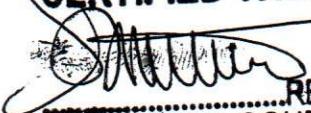
A3 IS SEALED AT THIS STAGE

BY COURT

The case is adjourned to 28th May, 2024 at 12 noon for continuation.

(SGD)

**AFIA SERWAH ASARE-BOTWE (MRS)
(JUSTICE OF THE COURT OF APPEAL)**

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20/5/24
REGISTRAR
HIGH COURT
GENERAL JURISDICTION LCC, ACCRA

EXHIBIT

P. O. Box MB 60, Ministries, Accra
Digital Address: GA-110-0587

Please quote this number and date on all correspondence

My Ref. No. _____

Your Ref. No. _____

Date 23rd May 2024



OFFICE
OF
THE ATTORNEY GENERAL
AND MINISTRY OF JUSTICE

PRESS RELEASE

RE: REPUBLIC VRS. CASSIEL ATO FORSON & 2 OTHERS
FALSE ALLEGATIONS BY 3RD ACCUSED PERSON AGAINST
ATTORNEY-GENERAL

The attention of the Office of the Attorney-General and Ministry of Justice has been drawn to media commentary by persons associated with the National Democratic Congress (NDC) on an allegation made by the third accused person, Richard Jakpa, during proceedings in court on 23rd May, 2024 that the Attorney-General desired his cooperation in the matter in order to secure a conviction of the 1st accused, Cassiel Ato Forson.

For the record, the Office of the Attorney-General and Ministry of Justice categorically denies the allegations and insinuations of the NDC, and responds as follows:

1. The Republic has throughout the trial, relied solely on the record of the impugned transaction, i.e. the purchase of ordinary vans purporting to be ambulances, to sustain its case against the accused persons. This record existed before January, 2022 (when the case was commenced) and was duly filed in Court by the prosecution before the commencement of the trial.
2. The Republic has never required or desired the cooperation of any of the accused persons in the matter, in which it has already succeeded in establishing a prima facie case against all the accused persons. Neither the Attorney-General nor any officer from the Office of the Attorney-General has approached any of the accused persons with the view to obtaining evidence from them.
3. It is rather the third accused who, by various letters dated 27th April, 2023, 16th May, 2023, 30th May, 2023 and 12th June, 2023, has proposed to the Republic through the Attorney-General to engage in plea bargaining or plea negotiations. This plea bargaining proposal has, to date, not been accepted by the Attorney-General.
4. Even though the law on plea bargaining passed by Parliament

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 COMMISSIONER FOR OATHS

1

permits a prosecutor to negotiate with an accused person after a plea proposal has been made, the Attorney-General has not engaged the third accused person to give false testimony in the matter.

5. The AttorneyGeneral has also come under enormous pressure from all manner of persons for him to discontinue the prosecution of the 1st accused person, Cassiel Ato Forson, but has not yielded.
 6. The Attorney-General has video evidence of the first accused, person, Cassiel Ato Forson, coming to meet him and to plead with him to discontinue the prosecution. This, the Attorney-General has refused to do.
 7. The Office of the AttorneyGeneral and Ministry of Justice considers the latest allegation levelled against the Attorney-General as part of a grand scheme by the NDC to put more pressure on him to discontinue the prosecution or to divert attention from the real issues regarding the actions of the accused persons which have caused enormous financial loss to the State.
 8. The public is entreated to disregard the allegations. The Attorney-General remains focused on a zealous prosecution of the case.
- END!!!**

SGD
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MINISTER FOR JUSTICE

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