

**IN THE HIGH COURT OF SIERRA LEONE**  
**HOLDEN AT FREETOWN**  
**(CRIMINAL JURISDICTION)**

**THE STATE**  
**VS**  
**MILTON SOWA**

**JUDGMENT DELIVERED THIS 17<sup>th</sup> DAY OF APRIL 2018**

At the Criminal Session of the High Court holden at Freetown on the 30<sup>th</sup> day of January 2017, State Counsel on behalf of the State informed the Court that MILTON SOWA was charged with the following offence:

**Statement of Offence:** House - Breaking and Larceny contrary to Section 26(1) of the Larceny Act 1916.

**Allegation:** the allegation is that the accused person, Milton Sowa on the 25<sup>th</sup> day of May 2016 at Freetown in the Western Area of the Republic of Sierra Leone, broke and entered into the dwelling place of the Complainant with intent to steal and stole therein in the said dwelling house one black Samsung 21 inches Plasma television.

**Plea:** on the 22<sup>nd</sup> day of March 2017, the above mentioned charge was put to the Accused Person to which he pleaded Not Guilty to the offence.

**Burden and Standard of Proof:** The burden of proof is on the Prosecution to prove the guilt of the Accused beyond reasonable doubt; Woolmington v Director of Public Prosecution [1935] AC 462.

The Prosecution called three (3) formal witnesses and the Complainant. Except for the Complainant who testified that he saw the Accused jump the fence of the said dwelling house holding on to the television stand; and when he called out the name of the Accused he dropped the television stand; none of the formal witnesses proved to the Court that the break into the dwelling house was caused by the Accused. The Investigating Officer at the scene did not testify whether the padlock that was found at the scene, had any fingerprint evidence pointing to the Accused.

**Defence:** the Accused Person was put to an election and he chose to rely on the Voluntary Caution Statement he made to the Police. In his statement to the Police, he said that he did not break into the dwelling house of the complainant. He said he met the door to the house wide open; and that he entered into it because it was a house that he visited regularly to assist the Complainant with his domestic chores. He however admitted to taking away the Plasma television and on the same vein said that he returned it.

### **Decision of the Court**

From the evidence adduced in Court by the Prosecution, some of the elements of the offence of House – breaking and Larceny contrary to section 26(1) of the Larceny Act 1916 are not proven. There was no proof that it was the Accused that broke into the house. There was no form of evidence, such as fingerprint evidence on the door to the house or on the padlock to link the Accused to the crime. This in itself raises some doubt on the evidence adduced by the Prosecution in respect of the break into the house.

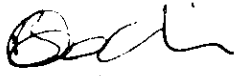
However, from the voluntary caution statement made by the Accused, he admitted to taking the Plasma television but that he did not break into the dwelling house; which proves the elements of larceny, that is, "stealing without the consent of the owner, fraudulently and without a claim of right made in good faith, takes and carries away .....at the time of such taking, permanently to deprive the owner thereof....." section 1 (1) of the Larceny Act 1916. From these facts, it is clear that the actus reus and mens rea were committed.

From the aforesaid statement to the Police, it is clear that it is a confession; which the Court in R v White [1823] R & R 508 held that " a free and voluntary confession of guilt by a prisoner whether under examination before the Magistrate or otherwise, if it is direct and positive and is duly made and satisfactorily proved, is sufficient to warrant a conviction without any corroborative evidence."

In concluding, having taken into consideration the evidence and the facts before the Court, the Prosecution has failed to prove an element of the offence charged; which raises some doubt on its case. This aspect of doubt created in the Prosecution's case, ought to favour the Accused; DPP v Woolmington (supra). However, given that the Accused in his voluntary caution statement to the Police, admitted taking the Plasma television, he cannot be said to be innocent of Larceny.

**Verdict:** my verdict therefore, is that Milton Sowa is guilty of the offence of Larceny contrary to section 1 (1) of the Larceny Act of 1916 and not guilty of the offence of House-Breaking and Larceny contrary to section 26 (1) of the Larceny Act of 1916.

**Sentencing Remarks:** Taking into consideration the value of the property involved; and taking into account the Accused Person's state of health and the fact that he has been incarcerated for two years; I consider the Accused to have spent his sentence and is therefore discharged henceforth. He is discharged on condition that he keeps the peace, seek and attain gainful employment or skills training; and that he does not interfere with any witness or people connected with this matter.

 17/4/2018

Hon. Justice F. Bintu Alhadi  
Judge of the High Court.