

JUVENILE COURT OF  
BOBO-  
DIOULASSO

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JUVENILE JUDGE OF  
BOBO-DIOULASSO

JGT No. 037 of 10/08/2017 RP

No. 013 /2017 of 18/04/2017

LD

Vs

S.I

TYPE OF  
THE OFFENCE

Assault and battery

DECISION See verdict

BURKINA FASO  
UNITY-PROGRESS-JUSTICE

HEARING OF AUGUST 10, 2017, ON CRIMINAL  
MATTERS

At the ordinary hearing in chambers of the Juvenile Judge in Bobo Dioulasso (Burkina Faso) on August 18, 2017, in which were present: Mr **ONADJA Yempabou**, Juvenile Judge of Bobo-Dioulasso;

PRESIDENT,

Mr **MEDA G. K. Evariste**, Deputy State Counsel of Faso;

LEGAL DEPARTMENT,

Assisted by Barrister **KIENDREBEOGO T. Therese**,  
Court Registrar;

COURT REGISTRAR

The following ruling was delivered:

BETWEEN

The State Counsel of Faso, petitioner in a flagrante delicto proceeding;

ON THE ONE HAND,

AND

**S.I.**, born on 28 April 2000 in ;

Accused of: *"having in Bobo-Dioulasso on April 04, 2017, less than three (03) years ago, voluntarily made wounds or blows or committed any other violence or assault on B.D. and O.K., in the case at hand by kicking them, which resulted for each of them, an illness or total inability to work for more than seven days and less than twenty-one days, in the case at hand for a period not yet determined;*

*Acts provided for and punished by article 327 and 347 of the Penal Code";*

ON THE OTHER HAND.

When questioned at the hearing, in accordance with the provisions of article 396 of the Code of Criminal Procedure, the accused declared that he wanted to be tried immediately;

During the appeal, the State Counsel of Faso stated that he had summoned the aforementioned accused to appear before the Juvenile Court Judge at today's hearing to defend themselves on account of the above-mentioned prejudice;  
And the accused was questioned;  
The submissions of the Legal Department were heard;  
The accused made his arguments to defend himself;  
Having received the floor in last position, the accused asked for the clemency of the court;  
The Court Registrar recorded the responses of the accused;  
On this, the proceedings having ended, the Juvenile Judge ruled as follows:

### **THE JUVENILE JUDGE;**

Considering the documents in the file;  
Having heard the answers of the accused;  
Having heard the submissions of the Legal Department;  
Having heard the arguments made by the accused to defend himself;

### **FACTS**

On April 5, 2017, elements of the Anti-Crime Brigade of Bobo-Dioulasso drove and placed at the disposal of the Regional Brigade and Child Protection of the Hauts-Bassins S.I. for assault and battery exercised against B.D. and O.K;

When questioned, B.D. declared that on April 4, 2017, she had been subjected to assault and battery by S.I; she explained that on that day, she and her friend O.K. met a second-hand goods vendor on the road; that she asked him for the price of a t-shirt; that as she did not have the sum requested by the vendor, the latter reproached her for having wasted his time; that after the seller's departure, S. I- instead of the seller- insulted her and her friend girl, she retaliated with the same insults, S.I hit her and her friend girl, she fell down and lost consciousness momentarily and was taken to a health centre;

When questioned, O.K. also stated that on the day of the events, she and her friend girl B.D. met with a second-hand shop salesman and asked him for the price of a T-shirt; that they had not agreed on the sale price and the salesman left angry, saying that they had taken up too much of his time; that S. I. who was in a tricycle with another young person, got off and told them that if he had been in the seller's place, he would have hit them; that she apologized to him; that, however, he kicked her on her left side and she momentarily fainted and was taken to a health centre;

When questioned about the acts, the accused readily acknowledged them; he explained that on April 4, 2017, he went to the city's large market with his tricycle to look for customers; that as he approached the market, he found two unknown women who were

talking with an old man and who insulted him; that he could not stand it and asked them to stop calling him names; that they began to insult him as well and the two women pushed him; that he retaliated by pushing one of them who fell to the ground and could not get up immediately and was taken to a health centre;

Upon completion of the investigation, S.I. was summoned before the State counsel of Faso at the High Court of Bobo-Dioulasso, who prosecuted him for assault and battery before the Juvenile Judge and issued a provisional custody order against him;

Entered on the cause list of April 20, 2017, the case was postponed to May 4, 2017, for the filing of the social investigation report and for the production of the medical certificate; it was then postponed until June 11 to 1, 2017, for the same reasons; the case was then rescheduled for June 8, 2017; on June 8, 2017, the Juvenile Court Judge, ruling by judgement No. 026, ordered the provisional release of the accused and postponed the case until June 29, 2017; the file was rescheduled for July 13, 2017, date at which it was postponed to July 27, 2017, for the filing of the social investigation report and for the appearance of the accused and civil parties; after this date, the file was postponed to August 10, 2017, for the filing of the medical certificate, for the appearance of the civil parties and for the appearance of the accused on provisional release; on this last date, the file was retained; the accused maintained the statements he had previously made; he specified that he pushed B.D;

The Legal Department, after having summarized the facts, requested that the acts of assault and battery alleged against S.I. be reclassified as assault in application of article 8 of the 1997 decree on contraventions; that he be found guilty and sentenced to an actual fine of CFAF 15,000 (fifteen thousand);

Then, the Juvenile Judge, after having deliberated in accordance with the law, made the following decisions publicly before the court;

## **PROCEDURE**

### **A PROSECUTION**

#### **1-Guilt of S.I.**

Whereas S.I. is accused of assault and battery on B.D. and O.K.; whereas the accused acknowledges the facts;

Whereas according to Article 327 of the Penal Code, "is punishable by 2 (two) months to 2 (two) years prison term and a fine of CFAF 50,000 (fifty thousand) to CFAF 600,000 (six hundred thousand) or by one of these two penalties only, any individual who, voluntarily, wounds or blows, or commits any other violence or assault. That the offence, to be constituted, requires the establishment of a material act consisting of blows or any other violence or assault committed on a living person, a guilty

intention inspired by a will to do evil on purpose, and a consequential damage resulting in a total personal incapacity to work for more than seven days and less than twenty-one days;

Whereas in the case at hand, the accused acknowledges having pushed B.D. who ended up on the ground; Whereas the material act of assault on B.D. is therefore established; Whereas these assaults were committed by the accused to avenge the seller of second-hand goods who was allegedly insulted by the victims; Whereas the guilty intent of S.I is therefore constituted; That, although it is not disputed that the victim B.D. suffered damage as a result of the acts of assault because she fainted and was subsequently transported to a health centre, no medical certificate establishes the duration of the total personal incapacity to work; That, moreover, it does not appear from the investigation of the case that the ladies B.D. and B.I. were totally unable to work for more than seven days; Better yet, the two victims went to the Regional Brigade for Child Protection the day after the incident; Given that the personal incapacity to work did not exceed seven days, it is appropriate to reclassify the acts alleged against the accused of assault in accordance with Article 8 paragraph 8 of Decree No. 97-84/PRES/PM/MJ of February 28, 1997, on the definitions and sanctions of contraventions;

That S.I should be found guilty of acts of assault and be convicted;

## **2- Sentence**

Whereas according to article 8 paragraph 8 of decree No. 97-84/PRES/PM/MJ of February 28, 1997, defining and punishing contraventions, are guilty of assault, "those who, voluntarily, cause injury or assault or commit any other violence or assault on a person which does not result in illness or total personal inability to work for more than seven days. That according to article 2 of the same decree, fourth class contraventions are punishable by a fine of CFAF 15,001 to 50,000;

Whereas in the case at hand, S.I. was found guilty of assault; whereas, however, the accused admitted his wrongdoing and asked for the court's clemency at the hearing;

That as a consequence of the above, he should be sentenced to an actual fine of CFAF ten thousand (10,000);

## **B-COSTS**

Whereas under article 473 of the Code of Criminal Procedure, the accused person found guilty is also ordered to pay the costs; Whereas, in the case at hand, S.I. has been found guilty of the acts alleged against him; Whereas, consequently, he should be ordered to pay the costs;

## **UPON THESE GROUNDS**

The Juvenile Judge, ruling in a public hearing following full trial

of a criminal matter in first resort;

- > Reclassifies the acts of assault and battery as assault and declares S.I. guilty;

In repression, sentences him to an actual fine of CFAF 10,000 (ten thousand);

- > The court also condemns him to pay the costs;

Thus acted, judged and pronounced publicly by the Juvenile Judge of Bobo-Dioulasso on the aforementioned days, months and years

And signed:

The President

The Court Registrar