

C/S 1944/2022

IN THE MAGISTRATE COURT NO. 1 HOLDEN AT
MAGISTRATES COURTS
PADEMBA ROAD FREETOWN

BETWEEN: -

THE INSPECTOR-GENERAL
OF SIERRA LEONE POLICE
VS

COMPLAINANT

ABU BAKARR CONTEH
HASSAN BANGURA
JAMES KAMARA
SAIDU KAMARA
HAJA KADIATU KALOKOH
HASSANATU CAREW

1ST ACCUSED
2ND ACCUSED
3RD ACCUSED
4TH ACCUSED
5TH ACCUSED
6TH ACCUSED

RULING DELIVERED BY MARK NGEGBA, SENIOR MAGISTRATE ON THE
11TH DAY OF OCTOBER 2022

1. Each accused is charged with the following offences:

Count 1 – Riotous Conduct, contrary to Section 12 of the Public Order Act No. 46 of 1965 as repealed and Replaced by Section 12 (a) of Act No. 15 of 1973.
Count 2 – Disorderly Behavior, contrary to Section 3(1) of the Public Order Act No. 46 of 1965.

2. It is alleged that on the 10th August 2022 at the Central District of Freetown, the accused persons were found rioting and behaving in a disorderly manner.
3. The Prosecution in this trial had the responsibility to prove beyond reasonable doubt that the accused persons committed the offences charged and that any such doubt that arises from the facts must be held for the benefit of the accused. This means that the prosecution must each element that constitutes the offences charged.
4. Three Prosecution witnesses testified on oath to satisfy the required burden of proof and were each cross-examined by defence counsel representing the various accused persons.
5. In summary, having due consideration to only the relevant facts and issues, the evidence presented by the prosecution through their witnesses is as follows:



- I. Desmond Septimus Addi testified as the PW1 and explained that the Local Unit Commander (LUC) at the Central Police Division arrested the accused persons and handed them to an investigation team that he was part of. He tendered the report of the LUC as Exhibit A1-2, caution statement of the 1st accused as B1-4, statement of 2nd accused as C1-4, caution statement of the 3rd accused as D1-5, caution statement of the 4th accused as E1-3, caution statement of 5th accused as F1-3 and caution statement of the 6th accused as G1-4. According to the PW1, it was the LUC and his team that arrested the accused persons.
 - II. Brima Aruna Munu the Pw2 said he supervised the investigation of the accused persons after they were arrested by the LUC and reported for riotous conduct and disorderly behavior. He tendered a statement obtained from an arresting officer a Exhibit H1-3. He went on to tender Exhibits J1-2, K1-2, L1-2, M1-2 and N1-2 and P1-2 where are charge statements of the 1st, 2nd, 3rd, 4th, 5th and 6th accused persons respectively.
 - III. The PW3 Lansana Kamara said at around 9 am he was instructed by the LUC to onboard police vehicle with number SLP 316 to respond to distress call at Regent road Freetown. When they got to Regent Road, he saw a group of people rioting and behaving in a disorderly manner. They chased the rioters and arrested the 1st accused there. They proceeded to Sani Abacha Street where they met another group rioting and behaving disorderly and arrested the 4th accused. They then proceeded to rock Street where another group was rioting and behaving disorderly and arrested the 2nd, 5th and 6th accused persons. When they went to Siaka Stevens Street, there was another group rioting and behaving disorderly and the 3rd accused was arrested. All the arrested persons were taken to the police station and handed over to the CID for investigations.
6. At the close of the Prosecution's case, ten defence witness including each accused testified on oath and were each cross-examined by the prosecution. The evidence presented to the court by the defence comes from the defence witnesses' testimonies in court and the statements made by the accused persons to the police. I have summarized each as follows:
- I. Abu Bakarr Conteh the DW1 is a security guard attached at the Yada Williams & Associates Chambers. According to him he was going to look for food after work on 10th August when police officers arrested him and beat him up before taking him to the police station. It was around 9am in the morning that he left



the office to go in search of food. The accused tendered a Police Press Lease about the free movement of people on that day as Exhibit Q. He also tendered Exhibits R1-3, S1-3 and T1-2, which are his letter of application to the Security Company, contract agreement and receipts of salary payments respectively. His statement to the police is different. There, he said that after he had completed his run of duty that morning, he “went to eastern Police area to take a vehicle for my resident at Grafton but was unable because no vehicle, so I decided to returned to my work place. I was there for a while and I left heading toward Regent road in search of food...” (page 2 of Exhibit B1-4). Another statement of interest made by the accused was done during cross-examination when he said that he did not have where to record the time he reported for duty and when he left because his booking diary had finished.

- II. Abdul Sam Kamanda the DW2 is the supervisor for the 1st accused at the Security Investigations and Logistics Services Limited. His testimony was to acknowledge that the 1st accused does work under his supervision and that the accused did report for duty on 9th August but did not report for duty on 10th August because had been arrested.
- III. Hassan Bangura the 2nd accused testified as the DW3. He is a labourer at Sani Abacha Street and don't recall the 10th August. He does not recall the day he was arrested. He said he was not in any gathering protesting. In cross-examination, the accused said he was sweeping when he was arrested and said that he did not know if other individuals were arrested. His statement to the police however is that he had gone to buy cooked food eaten and was about to return home when he was arrested together with others.
- IV. James Kamara the 3rd accused testified and the DW4. He said that he had received a call from his younger brother and was on his way to the Mortuary at Connaught Hospital to look for his deceased brother's corpse when he was arrested. This accused statement to the police about his going to the mortuary was the same in his testimony to the court.
- V. Ibrahim Bangura the DW5 is the younger brother of the 3rd accused. According to him he was at the Mortuary at Connaught Hospital when he called his elder brother the 3rd accused about the death of their brother. He tendered a certificate of cause of death as Exhibit U1-2.



- VI. Saidu Kamara the 4th accused testified as the DW6. He is a shop boy at 15 Sani Abacha Street. On the 10th August he was at the shop when his boss came and said he was not going to open the shop and told them, the workers to go back home. As soon as his boss left together with his colleague, he was standing in front of the shop when the police came and arrested him. He tendered his Identity Card as Exhibit V and staff log book as Esaxhibit W. According to this accused's statement to the police, there was a lot of tension and demonstration at Sani Abacha Street before his boss came and decided not to open his shop. In cross-examination however, he said he did not know why his boss decided not to open the shop.
- VII. Mohamed Sow testified as the DW7. He said that on the day in question he came to his shop at 15 Sani Abacha street ad found all shops closed. He then told the 4th accused and Abu Bakarr his other staff that he will not be opening the shop and told them to go home. He took Abu Bakarr on board his vehicle and on his way home. Five minutes later he called the 4th accused who then told him that he had been arrested.
- VIII. Haja Kadiatu Kalokoh the 5th accused testified as the DW8. She said she was sitting on her stall waiting for the store master to come and open the store when she saw people coming and running. She then saw a police officer who came and held her hijab and arrested her. The statement made to the police by the 5th accused did not say anything about her sitting and waiting for the store master to come and open the store. What she told the police is that she had come to do shopping for cooking and decided to go to her place of business when she was arrested.
- IX. Aminata Kalokoh testified as the DW9. She said she was the daughter of the 5th accused. After prayers in the morning the 5th accused said she was going to her place of business. Her elder brother then gave the 5th accused money for shopping. Around 10 a.m., she got information that the 5th accused had been arrested.
- X. The 6th accused, Hassanatu Carew testified as the DW10. She said she was waiting for the store keeper where she sells when a police officer came and arrested and taken to the police station on allegation that she was protesting. The accused is on record that there was no riot or protest ongoing when she



was arrested and there was nothing in her police statement to say she was waiting for the Store Master when she was arrested.

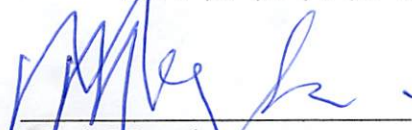
7. The accused persons coming into contact with the police on allegation of a crime having been committed present their immediate and trusted account to defend themselves, especially in cases of allegations as serious as the ones in this case. Therefore, the importance of the comparisons between the accused person's testimonies in court and their statements to the police was to determine their credibility and find the corroboration that was needed to exonerate them.
8. It will then amount to telling lies when the inconsistencies between what the accused says to the police and their testimonies in court present striking contradictions to the court.
9. Although lies told by accused persons and their witnesses do not necessarily make a positive case of a crime for the prosecution, it has been held that they may indicate a consciousness of guilt in appropriate circumstances. *In R v Goodway* (1993) 4 All ER 894 where the accused lied to the police as to his whereabouts at the time of the crime, it was held that whenever a lie told by the accused is relied on, a threefold direction should generally be adopted i.e:
 - a. The lie must be deliberate and must relate to a material issue.
 - b. There must be no innocent motive for the lie; for example that it was done to bolster up a just cause, or out of shame or to conceal a disgraceful behavior.
 - c. The lie must be established by evidence other than that of the witness who is to be corroborated.
10. The case of *R v Lucas* (1981) *QB* 720 has gone a step further and has held that a lie told by accused is a corroboration of the prosecution's case.
11. A riot is committed when a number of people present together intentionally use or threaten unlawful violence for a common purpose. The collective conduct must be such as would have caused a reasonable person to fear for his safety, though no-one else need to be present.
12. In the words of Phillimore J, in the case of *Field v. Metropolitan Police Receiver* (1907) 2 K. B. 853 "Riot is a crime, a misdemeanour at common law...". Quoting Charles, J in the case of *R v. Cunninghame Graham* (1888), 16 Cox C. C. 420, Phillimore J. went on to say that "a riot is a disturbance of the peace, by three persons at the least, who, with intent to help one another against any person who opposes them in the execution



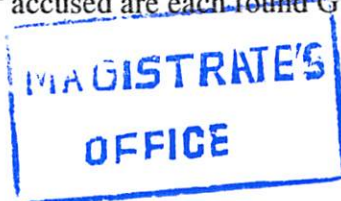
of some enterprise or other, actually execute that enterprise in a violent and turbulent manner to the alarm of the people.”

13. I have noted the definition of riot given by counsel. Firstly, the authority cited makes a clear distinction between riot as a common law felony and riot as a common law misdemeanor. For the purposes of this judgement I shall stick with the definition as stated in Section 12 (a) of the Public Order Act 1965 as amended.
14. In any case, the definition cited by counsel still in fact fits squarely within the case presented by the prosecution. The general circumstances of the offence show that: a. there were more than three persons involved in the riot; b. there was a common purpose. c. that common purpose was executed; d. there was an intention to help one another as shown in their group cooperation and e. there was force displayed. It is clear for instance the testimony of the PW3, that these accused persons were arrested at different locations from among crowds of rioters. The PW3 was clear also that they were unable to arrest all of the crowds at the various locations.
15. Having therefore given due consideration to the evidence in its entirety and in light of the legal authorities cited, I hereby hold as follows:

The 1st, 2nd, 3rd, 4th, 5th and 6th accused are each found GUILTY on Counts 1 and 2.



Mark Ngegba
Senior Magistrate



March 11/1902

at the ...

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REPORT SHEET

SIERMA LEONE JUDICIAL

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