

IN THE BASIC COURT OF PEJË/PEĆ
Case Number P.nr.386/13
Date 8th April 2014

IN THE NAME OF THE PEOPLE

The Basic Court of Pejë/Peć, in the trial panel composed of Judge Mariola Pashnik as Presiding Judge and Judges Manuel Soares and Lumturije Muhaxherri as Panel members and Court Recorder Jacqueline Ryan, in the criminal case against

I. S. [REDACTED], [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Charged in the Amended of the Indictment of the Special Prosecution Office of the Republic of Kosovo ("SPRK") PPS.nr. 85/10 dated 31st January 2014, with the criminal offence of Misuse of Official Position or Authority contrary to Article 422 paragraph 1 of the Criminal Code of the Republic of Kosovo ("CCRK"), and assisting former judge K. P. in conjunction with the criminal offence of Issuing Unlawful Court Decisions contrary to Article 432, in conjunction with Article 33 of the CCRK,

after holding a public trial on 26th, 27th and 28th February and on 2nd, 3rd and 8th April 2014, at which Ali Rexha appeared for the Prosecution, the Injured Parties F. G. and the Guarantee Fund of Kosovo (now Kosovo Insurance Bureau) were summoned, G. K. appeared for I. S. and at which the Defendant was present throughout, after deliberation and voting held on 3rd April 2014 announces in public the following:

VERDICT

I.

Pursuant to Article 388 paragraph 1 and Article 391 paragraph 1 of the Kosovo Code of Criminal Procedure ("KCCP"), the defendant I. S. is found:

GUILTY

Because:

From 22nd January 2008 until 8th April 2008, at the premises of the Municipal Court of K█████, acting in the official position of then Representative of the then Guarantee Fund of Kosovo in Prishtina and using his official duty or authority exceeded his authority by not fulfilling his official duties, in order to obtain material benefits for himself or for K█████ P█████ and L█████ P█████, by causing harm to another person namely the Guarantee Fund of Kosovo in Pristina in co- perpetration with K█████ P█████ and L█████ P█████.

Initially K█████ P█████ and L█████ P█████ by a prior agreement forged Discharge Form no.10344 dated 22nd September 2006 on behalf of the injured party F█████ G█████ under the pretext he suffered serious bodily injuries with fractures of extremities etc. in a traffic accident which occurred on 13th September 2006. Then, they have compiled a claim in civil proceedings for compensation on behalf of F█████ G█████ to the value of €50,000.00. This case was registered in the Municipal Court of K█████ with number C.nr.271/2007. K█████ P█████ was appointed Judge in this case. He scheduled a hearing on 22nd January 2008. He invited the lawyer, L█████ P█████ (who did not have an authorization) and the representative of the respondent, I█████ S█████. The case continued with five reviews. The defendant, I█████ S█████ did not participate in the session on 25th March 2008. The defendant I█████ S█████, in agreement with K█████ P█████, deliberately did not represent his company in a proper, worthy and professional manner by not requesting for the court sessions to be held regularly; by not requiring a valid authorization issued by the injured party, F█████ G█████, then by not requesting for the injured party, F█████ G█████ to be present at the main hearings in order to confirm that he really had sustained those injuries, by not seeking explanations from the orthopedic expert B█████ B█████, (since his expert report stated the injured party, F█████ G█████ had sustained grievous bodily injuries that caused 100% disability etc.), by permitting the issuance of an unlawful court decision which was to the detriment of the injured party, the (then) Kosovo Guarantee Fund that he represented. Subsequently, B█████ B█████, solely on the basis of a forged discharged form, provided his expert

report stating F [REDACTED] G [REDACTED] suffered serious bodily injuries that resulted in adverse health consequences including fear, disfigurement, permanent reduction of vital activities, reduction of working activities, needing the assistance of a third person, reinforcing nourishment and medicine in the future, although none of these were true.

Ultimately, K [REDACTED] P [REDACTED], acting as Presiding Judge, instructed the "litigants" to reach an agreement. Following the agreement between I [REDACTED] S [REDACTED], the representative of the injured party, the Kosovo Guarantee Fund in Prishtina, and lawyer L [REDACTED] P [REDACTED], the unauthorized representative of injured party F [REDACTED] G [REDACTED], on 8th April 2008 K [REDACTED] P [REDACTED] has rendered a court settlement which provided:

THE RESPONDENT IS OBLIGED to pay to the claimant F [REDACTED] G [REDACTED] from K [REDACTED] the amount of €16,000 in settlement of all forms of damage, related to the uninsured [sic] case dated 13th September 2006. THE RESPONDENT IS OBLIGED, to pay to the Claimant the amount of €800 in settlement of procedural costs. These sums are to be paid to the bank account of I [REDACTED] P [REDACTED] in P [REDACTED] Bank within 15 days from the day this settlement is signed. Once the funds were transferred to the account of the defendant L [REDACTED] P [REDACTED], he gave the money to K [REDACTED] P [REDACTED] who then divided it among them as per an agreement.

whereby he has committed the criminal offence of:

Misuse of Official Position or Authority contrary to Article 422 paragraph 1 of the CCRK, and assisting former Judge K [REDACTED] P [REDACTED] in conjunction with the criminal offence of Issuing Unlawful Court Decisions contrary to Article 432, in conjunction with Article 33 and Article 3 paragraph 2 of the CCRK.

* * *

Therefore the court imposes the following sentences:

The defendant, I [REDACTED] S [REDACTED],

- Based on Article 422 paragraph 1 of the CCRK for the criminal offence above is sentenced to a term of two (2) years and six (6) months of imprisonment.

- Against the Defendant I S [REDACTED], pursuant to Article 65 paragraph 1 of the CCRK, the accessory punishment of Prohibition on Exercising Public Administration or Public Service Functions is imposed for a period of two (2) years after the punishment of imprisonment has been served.
- Based on Article 102 paragraph 1 of the KCCP the defendant, I S [REDACTED] shall pay the costs of the proceedings assessed in the sum of 250 Euros.

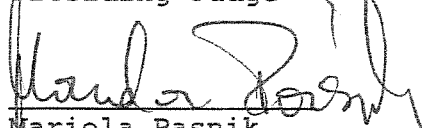
The Injured Parties may pursue a claim for compensation through the civil courts.

BASIC COURT OF PEJË/PEĆ
P.nr.386/13
Dated this 8th day of April 2014

Court Recorder

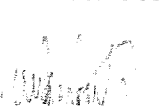

Jacqueline Ryan

Presiding Judge

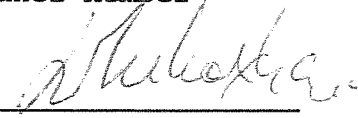

Mariola Pasnik



Panel Member


Manuel Soares

Panel Member


Lumturije Muhaxheri

LEGAL REMEDY:

Pursuant to Article 400 par. 1 of the KCCP, an appeal must be announced within eight (8) days from the announcement of this verdict and shall be filed with the court of first instance.

Authorized persons may file an appeal in written form against this verdict through the District Court of Peja/Pec to the Supreme Court of Kosovo within fifteen (15) days from the date the copy of the judgment has been served, pursuant to Article 398 Par. 1 of the KCCP.