

HONG KONG / JUDGMENT

# HKSAR v. BASHIR AHMED

## COURT

Court of First Instance

## DECIDED

8 February 2012

## CASE / FILE NUMBER

HCMA830/2011

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bjbj P"(P. HCMA 830/2011 IN THE HIGH COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION COURT OF FIRST INSTANCE MAGISTRACY APPEAL NO. 830 OF 2011 (ON APPEAL FROM FLCC 2861 OF 2011)

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BETWEEN HKSAR Respondent and BASHIR AHMED Appellant

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Before: The Honourable Mr Justice Line in Court Date of Hearing: 8 February 2012 Date of Judgment: 8 February 2012

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## J U D G M E N T

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This is an appeal against a total sentence of 18 months imprisonment. The appellant had pleaded guilty to two charges; one of using an identity card relating to another person, contrary to section 7A(1)(a) of the Registration of Persons Ordinance, Cap. 177; and another offence of taking employment while being a person who remains in Hong Kong without the authority of the Director of Immigration, contrary to section 38A(a)(1)(a) of the Immigration Ordinance. In respect of each offence a sentence of 15 months imprisonment was passed but they were overlapped to create the total of 18 months. The appellant had arrived in Hong Kong illegally on 13 March 2008. He was released upon a recognisance. On 10 November 2011 he was found working in a kitchen. He had secured that employment in April of 2011 using another's identity card. In other words, the use of the identity card had successfully procured for him seven months of employment here. I need not rehearse all the authorities because they are so well known, 18 months imprisonment as a total in those circumstances is entirely predictable and in the absence of some very exceptional circumstances is unappealable. However, what the appellant puts before me today is a plea that some 36 days which he spent in the custody of the Immigration Department since his arrival in Hong Kong should be deducted from his sentence. The

respondents confirm that period of detention and do not seek to argue against such a deduction. As I understand it magistrates habitually make such a deduction in these circumstances. Accordingly, I shall give credit for those 36 days and I shall give just a little bit more credit because it makes the mathematics the easier and because of what the appellant added to his case today by saying to me that he told the truth from the beginning, he had respect for the law, he was sorry that he had broken it and that he had been quick to own up to it. In those circumstances rather than deal with the 16 months and just a few days I shall reduce the sentence to one of 16 months imprisonment but making clear that I have no criticism of the original sentence and its starting point taken by the magistrate. (P Line) Judge of the Court of First Instance of the High Court Ms Peggy Leung, Senior Public Prosecutor of the Department of Justice, for the Respondent Appellant appeared in person PAGE - PAGE - CRT16/8.2.2012/CH HCMA830/2011/Judgment A B C D E F G H I J K L M N O P Q R S T U V A B C D E F G H I J K L M N O P Q R S T U V A B C D E F G H I J K L M N O P Q R S T U V hNCd gdNCd xdxnxd vrvr h\$p &`#\$ gdKh hYlo gdKh [Content\_Types].xml Iw}, \$yi} \_rels/.rels theme/theme/themeManager.xml K Y, sQ}# theme/theme/theme1.xml w toc'v )I`n 3Vq%`#q x}r : \TZaG I u3 L+M2 e\O\* \$\*c? )6-r IqbJ#x ,AGm T[XF64 E)` # R>QD =(K& =al- 4vfa 0%M0 theme/theme/\_rels/themeManager.xml.rels 5 6?\$Q K(M&\$R(.1 [Content\_Types].xmlPK \_rels/.relsPK theme/theme/themeManager.xmlPK theme/theme/theme1.xmlPK theme/theme/\_rels/themeManager.xml.relsPK <?xml version="1.0" encoding="UTF-8" standalone="yes"?> <a:clrMap xmlns:a="http://schemas.openxmlformats.org/drawingml/2006/main" bg1="lt1" tx1="dk1" bg2="lt2" tx2="dk2" accent1="accent1" accent2="accent2" accent3="accent3" accent4="accent4" accent5="accent5" accent6="accent6" hlink="hlink" folHlink="folHlink"/> urn:schemas-microsoft-com:office:smarttags place bZ < =RM/L\$t\ [g\k [g\k =RM/ Normal.dotm Tai Yin Sheung Lilian Microsoft Office Word judiciary Title Microsoft Office Word 97-2003 Document MSWordDoc Word.Document.8

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