

HONG KONG / JUDGMENT

HKSAR v. CHAN KIU LIK ERIC

COURT

Court of First Instance

DECIDED

2 March 2007

CASE / FILE NUMBER

HCMA1172/2006

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bjbj charge of a motor vehicle with an alcohol concentration in breath exceeding the prescribed limit. The appellant was disqualified from holding or obtaining a driver s licence for 18 months and fined \$9,000.

2. In January of last year at 8 o clock in the evening of the 26th he borrowed his father s car. He went drinking. At 7 minutes past 8 the following morning the car was parked on the Eastern Island Corridor by the exit to Causeway Bay on an area marked with chevrons. Staff of the Eastern Harbour Tunnel could see that on their televisions. A policeman attended and found that the engine of the vehicle was running with the key in the ignition and the Appellant was lying across the back seat. He had been driving along the Eastern Island Corridor when he had pulled onto the chevroned area. A subsequent test revealed that he had 58 microgrammes of alcohol in 100 millilitres of his breath. The limit is 20.
3. The Magistrate diligently, in his reasons for sentence, sets out numerous cases. It is apparent that the sentence of this Appellant falls within the range the courts normally impose. The Appellant attacks both the fine and the length of the disqualification.
4. As regards his means, he was earning \$20,000 working for an electronics company. He was living at home. As regards the length of the disqualification, he suggested three reasons why it was particularly onerous: the first was that he needed to go to the airport to meet business clients and pick them up, secondly, that he had to take them out for meals for business and, thirdly, that an aging and unwell grandmother needed to be driven to hospital. He said, whilst not overstating the case, that having a driving licence to achieve those ends was important to him.
5. This was a fairly bad case of being in charge of a motor vehicle over the limit. It arose in the course of a journey. It is not as if he had got into the car and then decided that he would not drive. He was well over the limit. In those circumstances, I regard the fine of \$9,000 as being a reasonable one. He has ample disposable income and the risk to the public from his behaviour is obvious. It justifies the fine and the disqualification. As to the three reasons advanced for reducing the disqualification in terms of use of a vehicle, those matters can be addressed by taking the airport express or taking a taxi.

6. It was a stiff sentence but, in my judgment, the facts justify the stiff sentence. Accordingly, the appeal is dismissed. (P Line) Deputy High Cour 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 & `#\$ JUDGE.DOT setup Microsoft Word 9.0 judiciary Title Microsoft Word Document MSWordDoc Word.Document.8

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