

HONG KONG / JUDGMENT

HKSAR v. CHEN CHUNHUA

COURT

Court of First Instance

DECIDED

19 February 2009

CASE / FILE NUMBER

HCMA1053/2008

Source: legalref.judiciary.hk · Research copy typeset by Esheria. Not court-issued or certified.

bjbj HCMA1053/2008 IN THE HIGH COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION COURT OF FIRST INSTANCE (Appellate Jurisdiction) MAGISTRACY APPEAL NO. 1053 OF 2008 (ON APPEAL FROM STCC7609 OF 2008)

BETWEEN HKSAR Respondent and CHEN CHUNHUA(his is an appeal by the appellant against the sentences, totalling 8 months imprisonment, imposed upon her by Mr Jenkins at Shatin Magistrates Court following her pleas of guilty to one charge of using a false two-way Chinese permit (Charge 1), a related count of making a false representation to an Immigration Assistant (Charge

- 2) and a charge of having overstayed in 2008 (Charge 3). AUTONUMOUT The first two charges relate to her entry into Hong Kong on 12 March 1998. On that occasion she used a Chinese permit which bore her photograph but the particulars of another person. She falsely represented that she was that other person when she entered Hong Kong. Following her conviction on 12 January 2000 for breach of her condition to stay, she was given a suspended sentence and was repatriated to the Mainland. AUTONUMOUT Over six years later, on 28 September 2006, she entered Hong Kong again, lawfully under a Chinese permit in her true name. She was permitted to remain for 7 days but overstayed by just over 2 years until 27 October 2008 when she surrendered to the police. AUTONUMOUT The magistrate stated that he would normally have imposed sentence of 12 months imprisonment on each of the two charges to run concurrently in the event of pleas of guilty, but that, as prior to February 2003 lower starting points of 9 to 12 months imprisonment had frequently been adopted, he would adopt a starting point of 9 months imprisonment on each of those charges which he would discount by one-third to reflect the appellant s pleas of guilty. He therefore imposed sentences of 6 months imprisonment in Counts 1 and 2 to run concurrently. AUTONUMOUT In so far as the overstaying charge was concerned, the magistrate bore in mind that the appellant had had a similar conviction in 1998 for which she had been sentenced to a suspended term of imprisonment. He also bore in mind the long period of overstaying (just over 2 years). He adopted a starting point of 15 weeks imprisonment which he reduced by

one-third to reflect the appellant's pleas of guilty and discounted the sentence by a further 2 months to reflect the appellant's surrender to the police. He ordered the resulting 2 months imprisonment to run consecutively to the concurrent sentence in Counts 1 and 2.

AUTONUMOUT The appellant does not criticise the sentences imposed by the magistrate which were in no way too severe in the circumstances known to the court at the time.

However, within a week of sentence being passed on 4 November 2008, the appellant learned that her husband had unexpectedly fallen very seriously ill. He underwent an emergency hospital treatment but sadly died on 15 November 2008. The appellant has produced a copy of the cremation certificate and the hospital report. She says that his medical treatment cost over RMB100,000. She asks to be permitted to return to the Mainland to be with her three children, two of whom are still students, and so she can try to deal with her substantial debts. She promises not to offend again. AUTONUMOUT am persuaded that, as an act of mercy, the appellant should be permitted to return to her children without delay and be in a position to attempt to sort out her financial affairs. I accordingly allow the appeal to the extent that I reduce the sentences on Counts 1 and 2 to 3 months imprisonment on each charge to run concurrently with each other. This will have the effect of reducing her total sentence to 5 months imprisonment and should result in her immediate release.

(P.K.M. Longley) Deputy High Court Judge Miss Margaret Lau, PP of Department of Justice, for HKSAR Appellant in person, present PAGE - PAGE A B C D E F G H I J K L M N O P Q R S T U V 1udk 1udk H I J K L M N O P Q R S T U V (#p# &`#\$"@AB & 6" ABC.dot setup Microsoft Word 9.0 Title Microsoft Word Document MSWordDoc Word.Document.8

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=65232

CASE PAGE <https://chat.esheria.ai/case-law/hong-kong/hksar-v-chen-chunhua-2009>

Prepared on 29 October 2026 · Esheria