

HONG KONG / JUDGMENT

HKSAR v. CHEN JUAN

COURT

Court of First Instance

DECIDED

20 March 2007

CASE / FILE NUMBER

HCMA223/2007

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bjbj

Before: Hon Beeson J in Court Date of Hearing: 20 March 2007 Date of Judgment: 20 March 2007

J U D G M E N T

The Appellant pleaded guilty and was convicted in the Magistracy of one charge, in that having landed in Hong Kong unlawfully she remained in Hong Kong, without the authority of the Director of Immigration, such offence being contrary to section 38(1)(b) of the Immigration Ordinance. The Appellant was sentenced to imprisonment for 15 months and now appeals against that sentence on the grounds that it was too severe. The facts admitted by the Appellant showed that she arrived in Hong Kong by boat on 27 January 2007 and was arrested later on the same day. She was seven months pregnant and had two previous convictions, in 2004 and 2006, for breaches of condition of stay. The Magistrate was told the Appellant's husband was a Hong Kong resident and she had a two-year-old child who was being looked after by her parents in China. Today, the Appellant told the court g Kong legally, but he surmised that such an omission may have been linked to her previous offences. The Appellant's counsel told the Magistrate that she had come to Hong Kong so her child could be born here. There was no other mitigation. The Magistrate did not consider the pregnancy, or the Appellant's wish to have her child born here were sufficiently exceptional circumstances to justify his departing from the usual 15 months sentence. I note that the courts treated the Appellant leniently in respect of her two earlier breaches. She could not have been in any doubt as to her position. On appeal, the Appellant told the court that she did not say that the sentence was wrong, but she asked for a reduction as she has 5 children. She wants to care for her daughter, age 2 or 3, herself. Unfortunately, there is no merit in any of the matters put before me by the Appellant. The Magistrate's sentence is not excessive or wrong in principle. There is no merit in this appeal which is dismissed. (C-M Beeson 1udk 1udk D E F G H I J K L M N O P Q R S T U V _'! Z:uB\ gHG\ u^x\ _'! Z:uB L ~Z Normal.dot

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