

HONG KONG / JUDGMENT

HKSAR v. FANG HUEI PING

COURT

Court of Appeal

DECIDED

2 May 2007

CASE / FILE NUMBER

CACC473/2006

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bjbj

Before: Hon Stuart-Moore VP and Tang VP in Court Date of Hearing: 2 May 2007 Date of Judgment: 2 May 2007

J U D G M E N T

Hon Tang VP (giving the judgment of the Court): The applicant pleaded guilty to one count of trafficking in 2.23 kilogrammes of heroin hydrochloride. She was sentenced to 16 years imprisonment by Nguyen J on 1 November 2006. The applicant is now 29 years old. She is a Taiwan resident. She is divorced and was the sole support of her three children and her two elderly parents. The judge adopted a starting point of 25 years and reduced it by 1 year because of her father's medical condition. The guideline for sentencing for drug trafficking was laid down as long ago as 1990 in *R v Lau Tak-ming* [1990] 2 HKLR 370. Trafficking in dangerous drugs in quantities of between 400 and 600 grammes fell within the 15 to 20 years imprisonment band. But since the maximum sentence is life, so for cases involving very large quantities, the sentence would normally be higher than 20 years. Here, as the judge has said, the amount of drugs involved is almost 4 times the 600 grammes, so the starting point of 25 years is fully justified. The applicant relies on her clear record, but in *Secretary for Justice v Ko Wai-kit* [2001] 3 HKLRD 751, this court has clearly stated that no further credit would normally be given over and about the one-third discount given for the guilty plea. The applicant has been given the full one-third discount for her plea. The applicant's family circumstances can carry little weight. The judge has reduced the starting point by 1 year. Although he referred specifically to her father's medical condition, we have no doubt that he must also have had the applicant's children in mind. No more can be expected. Undue leniency will only help the drug trade to ensnare the weakest and the most unfortunate. So the application for leave is dismissed. (M. Stuart-Moore) Vice-President (Robert Tang) Vice-President Mr Kevin P Zervos, SC, SADPP, and Ms Laura Ng, GC, of the

Department of Justice, for the Respondent. The Applicant, in person. PAGE - 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 1udk 1udk (#p# i\$&`G @\$ _Rs Normal.dot setup Microsoft Word 9.0 Judiciary Hong Kong SAR Title Microsoft Word Document MSWordDoc Word.Document.8

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