

HONG KONG / JUDGMENT

HKSAR v. HUANG DONG PING

COURT

Court of First Instance

DECIDED

18 February 2010

CASE / FILE NUMBER

HCMA1024/2009

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Before: Hon. Wright J in Court Date of Hearing and Judgment: 18 February 2010

JUDGMENT

On 30 November 2009 the appellant appeared before Ms Bina Chainrai at Eastern Magistracy. He was represented by Mr Solomon Chong, an experienced solicitor, acting on the instructions of the Duty Lawyer Scheme. The appellant faced one charge of unlawfully remaining in Hong Kong without the permission of the Director of Immigration contrary to s. 38(1)(b) of the Immigration Ordinance, Cap. 115, and one charge of theft contrary to s. 9 of the Theft Ordinance, Cap. 210. Each charge was put to the appellant in Putonghua. He entered a plea of guilty to each. The summary of facts, which established the essential elements of each offence, were read to the appellant who admitted them. Mr Chong confirmed both the pleas and the agreement of the facts. Unsurprisingly, the Magistrate convicted the appellant. She sentenced him to undergo imprisonment for 15 months on the immigration offence and two weeks on the theft charge, the sentences to be served concurrently. The appellant appeals his conviction. Notionally, it is possible to appeal even where conviction has resulted from a plea of guilty. This course is open where, for good reason, the plea can be shown to be a nullity. The appellant has singularly failed to demonstrate that in this matter saying, variously, that he still refuses to admit being guilty; that he was very nervous on the day he appeared in the magistracy; that he admits one charge but not the other; that he does not know to what it was he pleaded guilty; that he does not wish to be punished. The appeal is dismissed. (A R Wright) Judge of the Court of First Instance High Court Appellant in person Ms Anna LAI, Senior Public Prosecutor of the Department of Justice for the HKSAR 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 1udk 1udk i\$&`G HCMA.dot Administrator Microsoft Word 9.0 Title Microsoft Word Document MSWordDoc Word.Document.8

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