

HONG KONG / JUDGMENT

HKSAR v. LAU CHI KIT

COURT

Court of Appeal

DECIDED

10 February 2004

CASE / FILE NUMBER

CACC204/2000

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bjbj

Before : Hon Stuart-Moore V-P, Stock and Yeung JJA in Court Date of Hearing : 10 February 2004
Date of Judgment : 10 February 2004

J U D G M E N T

Hon Stock JA (giving the judgment of the Court): AUTONUMOUT On 19 May 2000, the applicant was convicted after trial before Deputy Judge Wesley Wong and a jury upon two counts: robbery, and possession of two portable stun devices without a licence. The offences took place on 18 August 1999. The applicant was sentenced to a term of nine years imprisonment for the robbery, three for the stun gun offence, and those sentences were ordered to run concurrently.

AUTONUMOUT On 29 May 2000 the applicant sought leave to appeal against conviction. Then legal aid was refused and on 31 July 2000 he filed notice of abandonment of that application, and now seeks leave to treat that abandonment as a nullity. In his affirmation in support he says that he was not familiar with legal proceedings and he did not know that he could appear in court without representation and, in any event, he could not at that stage find grounds of appeal. So he withdrew his appeal and only now has he discovered, he says, that he has grounds.

AUTONUMOUT The offence itself was committed upon a person who delivered diamonds to an office in Hung Hom. Three men were waiting inside and he was attacked, but their exit was hampered and security guards arrived, and one of the three was chased and fell and dropped bags, in one of which were the diamonds which had been snatched in the office. This man, who was apprehended, was the applicant. He gave evidence at trial saying that whilst he was there at the premises as a workman, he was not party to the robbery. AUTONUMOUT We do not accept that the applicant did not know the effect of his abandonment of his appeal, and the application to treat the abandonment as a nullity accordingly fails. We would add only this, that the summing up which we have studied was sound, and we see nothing in the grounds or the summing up

which would in any event provide any valid ground of complaint. (M. Stuart-Moore) Vice-President (Frank Stock) Justice of Appeal Yeung) Justice of Appeal Applicant in person Mr Turnbull, SADPP and Mr Hayson Tse, SGC of the Department of Justice for the Respondent 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 &`#\$ & 6" CACV Jeannie MY MokSo ABC.dot setup Microsoft Word 9.0 Judiciary CACV Title Microsoft Word Document MSWordDoc Word.Document.8

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Prepared on 26 October 2026 · Esheria