

HONG KONG / JUDGMENT

HKSAR v. Lawrence B. Owosu

COURT

Court of Appeal

DECIDED

3 September 1997

CASE / FILE NUMBER

CACC202/1997

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bjbj& 1997, No.202 (Criminal) IN THE COURT OF APPEAL BETWEEN HKSAR Respondent and Lawrence B. Owosu Applicant

Coram : Hon Liu JA, Gall and Cheung JJ in Court Date of hearing : 3rd September 1997 Date of judgment : 3rd September 1997

J U D G M E N T

Cheung J. (delivering the judgment of the Court) : Leave to appeal against sentence out of time The Applicant was sentenced on 15th February 1995 on his own plea of guilty to the offence of trafficking in dangerous drugs. The quantity of drugs was 428.38 grammes of salts of esters of morphine. The sentence imposed by Deputy Judge Wesley Wong was ten years imprisonment. The Applicant lodged the application for leave to appeal against the sentence out of time on 17th April 1997. Delay The time limit for lodging the application for leave to appeal had long expired. The Applicant prepared two written submissions in support of his application. The first one was filed together with the appeal document; the second one is handed up today in court which the Court has read. He has really advanced no reasons for the delay in lodging his application. The gist of his submission is that he asks for the sentence to be reduced as an act of mercy. He informs the Court that he committed the offence in order to find the medical fees for the treatment of his parents. His father had since died and he is worried that his mother would also soon pass away. In his first written submission he stated that he hoped, if his mother knew that his sentence was to be reduced, her health condition might somewhat be improved. Sentence proper The Court is aware of the anxiety of a prisoner serving sentence in a foreign land. However, in considering whether extension of time to appeal should be granted, the Court should take into account whether the sentence is a proper one or not. The Applicant refers to a number of cases in which a range of sentence was passed for trafficking in dangerous drugs. The guideline in this area is the case of R. v. Lau Tak Ming [1990]2 HKLR 370, the range of sentence

for trafficking in 400 grammes of heroin is 15 years imprisonment. Deputy Judge Wesley Wong adopted a starting point of 15 years and reduced it by one third in view of the guilty plea. The one third reduction, in our view, has already taken into account the remorse shown by the Applicant. The ten year imprisonment is an appropriate one and we see no reason to interfere. Generally speaking, in offences such as trafficking in dangerous drugs, the personal circumstances of the defendant would play little or no part in the mitigation of sentence. This is not a case that we should depart from this general rule. That being the case, we dismiss the application for leave to appeal against sentence out of time. (B. Liu) (T.M. Gall) (P. Cheung) Judge of the Judge of the Judge of the Court of Appeal, Court of First Instance, Court of First Instance, High Court High Court High Court Mr A.A. Bruce and Mr Prakash Daryanani for Director of Public Prosecution Applicant in person - PAGE - "@AB W[SO 1997, No Pool D Normal Microsoft Word 8.0 ww^j ww^j Judiciary 1997, No Title _PID_GUID Microsoft Word MSWordDoc Word.Document.8

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