

HONG KONG / JUDGMENT

HKSAR v. LEE, JONATHAN SHU TAI

COURT

Court of First Instance

DECIDED

14 December 2007

CASE / FILE NUMBER

HCMA1059/2007

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bjbj HCMA1059/2007 IN THE HIGH COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE
REGION COURT OF FIRST INSTANCE MAGISTRACY APPEAL NO. 1059 OF 2007

BETWEEN HKSAR Respondent and LEE, JONATHAN SHU TAI Appellant

Before: Deputy High Court Judge Geiser in Court Date of Hearing: 14 December 2007 Date of
Judgment: 14 December 2007

J U D G M E N T

On 16 October 2007 the appellant appeared before a magistrate sitting in Kwun Tong Magistracy
and pleaded guilty to the following four charges:

- (i) crossing a continuous double white line contrary to Regulations 11(1)(a) and 61(1) of the Road Traffic Control Regulations; (ii) using an unlicensed vehicle contrary to section 52(1)(a) and (10(a) of the Road Traffic Ordinance, Cap.374 Laws of Hong Kong; (iii) using a vehicle without Third Party Insurance contrary to section 4(1) and (2)(a) of the Motor Vehicle Insurance (Third Party) Risks Ordinance, Cap.272; and (iv) using a vehicle which was not in a good and serviceable condition contrary to Regulations 5(1)(b) and 121(1) of the Road Traffic Construction and Maintenance of Vehicles Regulations, Cap.374A Laws of Hong Kong. Insofar as each of those charges are concerned, the 1st charge, the appellant was fined the sum of \$2,000; insofar as the 2nd charge, he was fined \$1,000; insofar as the 3rd charge is concerned, he was fined \$4,000 and disqualified from holding or obtaining a driving licence for all classes of vehicles for 15 months; and insofar as the 4th charge is concerned, he was fined \$1,000. The appellant now appeals against the sentence on the grounds that the sentence was too severe. The facts of this case are straightforward in the extreme. They are these. Shortly after 5 o'clock in the afternoon of 31 August 2007 the appellant drove his

private car, LM 6225, along the first lane of Lin Cheung Road near the junction of Yen Chow Street West in Mongkok. A police officer, who was then on motorcycle patrol, saw the appellant crossing the continuous double white line and move into the second lane. That is the 1st charge. The officer intercepted the appellant and discovered that the vehicle licence of this vehicle had already expired on 27 July 2004. Those are Charges 2 and 3. That car was subsequently examined. Its tailpipe was found broken, causing exhaust to blow before the rear silencer. That is Charge 4. The appellant now appeals against these sentences on the grounds that they are too severe. The appellant has no previous criminal convictions but has 17 previous convictions which are similar to Charge 2 and one previous conviction which is similar to Charge 3. By way of mitigation, the appellant told the learned magistrate that he owns and runs an information technology business in the mainland where he lives. He said that he earns over \$50,000 each month. He said he moved to the mainland 3 years ago and only comes back to Hong Kong irregularly and had no time to renew the licence. He said on the day in question he was in a hurry to go somewhere and so he decided to drive. In his reasons for sentence, the learned magistrate took into account the appellant's background, previous driving record, financial means, and the facts of the case. He noted the maximum sentence relating to each charge and specifically noted that the appellant's previous disqualification had only just expired shortly before the present offences. Bearing in mind the appellant's driving record and all the other circumstances of the case, the learned magistrate's sentences on these charges are in no way manifestly excessive, nor wrong in principle. The appellant has displayed a flagrant breach of the road traffic rules and can be warned that any further offence of driving without Third Party insurance may well result in imprisonment. This appeal is dismissed. (S. J. Geiser) Deputy High Court Judge

Representations: Miss Winsome Chan, Senior Government Counsel of the Department of Justice, for the Respondent Appellant in Person PAGE - PAGE - CRT24/14.12.2007/LT HCMA1059/2007/Judgment 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 A B C D E F G H I J K L M N O P Q R S T U V & `#\$ Normal.dot setup Microsoft Word 9.0 judiciary Title Microsoft Word Document MSWordDoc Word.Document.8

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