

HONG KONG / JUDGMENT

HKSAR v. LEUNG WAI MING

COURT

Court of First Instance

DECIDED

8 March 2006

CASE / FILE NUMBER

HCMA1184/2005

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bjbj ntion centre passed following a plea of guilty to an offence of theft.

2. The appellant was a 21-year-old waiter with a clear criminal record. He was trusted by his employer to deliver some food and collect the money for it. He did that, but then he went off with the money and stole it. The amount involved was \$570.
3. At 21 years of age the sentence of detention centre, whilst of course it is an indeterminate sentence of between 3 and 12 months, means in practical terms that the appellant would be locked up for some 7 months. Of course, it was a case involving a breach of trust, but at the age of 21 with a clear record, and only \$570 being involved, the sentence was a firm one.
4. Looking at the reports that were then available to the magistrate, firmness was called for. The picture painted was a thoroughly unattractive one. Laziness, theft within the family, soft drugs, and a thoroughly bad attitude to life in general.
5. The sentence was passed on 10 November of last year, so when this appellant first appeared before me a fortnight ago, he had served over three months of that detention centre order. In view of the remorse he then expressed before me and the fact that he had been subject to that strict regime for over three months I decided to order a further report and I am pleased to say it really is a very good one. It demonstrates a complete change of attitude and the probation service now recommends a probation order, having been firmly of the view that one was not appropriate before.
6. This appeal against sentence is a rehearing before me. The circumstances are very different from the circumstances that existed before the magistrate. On the material available to me now I judge it right to make a probation order lasting 18 months with the curfew and the condition of participation in social and educational programmes as directed that is set out in the report.

7. As things existed back in November this defendant deserved some punishment. That has been achieved. It is merely because the circumstances have changed that I am now in a position to make a different order. The fact that I make this order today does not mean that the order made back in November was wrong.
8. The appeal is allowed and the sentence I pass today is one of 18 months probation with the two few special conditions. (P Line) Deputy High Court Judge Ms Sally Yam, Government Counsel of the Department of Justice, for the Respondent (HKSAR) Appellant: Leung Wai-ming (L M N O P Q R S T U V &`#\$.z3+V %6G1 .z3+ %6G1 hc_trans_14 JUDGE.DOT setup Microsoft Word 9.0 judiciary Title Microsoft Word Document MSWordDoc Word.Document.8

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