

HONG KONG / JUDGMENT

HKSAR v. NAEEM, ULLAH-KHAN

COURT

Court of First Instance

DECIDED

2 March 2007

CASE / FILE NUMBER

HCMA1136/2006

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bjbj HCMA1136/2006 IN THE HIGH COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION COURT OF FIRST INSTANCE MAGISTRACY APPEAL NO. 1136 OF 2006 (ON APPEAL FROM KCCC 6446/2006)

BETWEEN HKSAR Respondent and Naeem, Ullah-khan Appellant

Coram: Deputy High Court Judge Line in Court Dates of Hearing: 2 March 2007 Date of Judgment: 2 March 2007

J U D G M E N T

1. This is an appeal against sentences totalling 21 months' imprisonment. The appellant received a sentence of 15 months for remaining in Hong Kong without authority and 12 months for being in breach of a deportation order, 6 months of the latter being ordered to run consecutively to the first sentence. The sentences are standard ones for these crimes.
2. The appellant, who appears in person, seeks a reduction in the sentences on the basis of exceptional humanitarian suffering. In support of that, he produces three letters, one from someone saying he is the President of the Human Rights and Welfare Council in Chiniot in Pakistan, one from his father, and one from a consultant surgeon. The burden of the three letters is that this appellant was the support of the 65-year-old father who is ill with asthma and who has suffered a severe attack of mental depression because of the news of his son's detention here in Hong Kong. It is said, and I quote from the consultant surgeon's letter, that because of that mental depression, he is in a critical position. And then the next sentence reads, "He desperately needs a regular attendant."

3. I regret to say that the material before me cannot support a claim of exceptional humanitarian suffering. This is the second time the appellant has been convicted of breaching a deportation order, the previous conviction being in early 2004 and he was prepared to come to Hong Kong and leave his father behind in Pakistan. The only possible difference his arrest and conviction make on that scenario is that the money he would have earned by working here illegally will have dried up. The loss of that illegitimate source of income cannot be the support of a claim for exceptional humanitarian suffering.
4. The only other thing that the appellant sought to put before me is that he suffers from epilepsy and asthma himself. That cannot affect these otherwise perfectly correct sentences. Accordingly, the appeal against them is dismissed. (P Line) Deputy High Court Judge Mr Derek Lai, Senior Government Counsel, of the Department of Justice, for the Respondent Appellant Naeem Ullah-khan, in person PAGE - PAGE CRT33/2.3.2007/MMcG HCMA1136/2006/Reasons for 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 & `#\$ & `#\$ JUDGE.DOT setup Microsoft Word 9.0 judiciary Title Microsoft Word Document MSWordDoc Word.Document.8

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