

HONG KONG / JUDGMENT

HKSAR V. PEARCE, MATT JAMES

COURT

Court of First Instance

DECIDED

8 January 2007

CASE / FILE NUMBER

HCMA635/2006

Source: legalref.judiciary.hk · Research copy typeset by Esheria. Not court-issued or certified.

bjbj HCMA635/2006 IN THE HIGH COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION COURT OF FIRST INSTANCE MAGISTRACY APPEAL NO. 635 OF 2006 (ON APPEAL FROM ESCC 1399 OF 2006)

BETWEEN HKSAR Respondent and PEARCE, MATT JAMES Appellant

Before: Deputy High Court Judge Line in Court Date of Hearing: 8 January 2007 Date of Judgment: 8 January 2007

REASONS FOR DECISION

1. This is an application made by Mr Matt James Pearce for a certificate that a point of law of great and general public importance is involved in his case, his case having previously been before me when I dismissed his appeal against convictions in the Magistrates Court.
2. The Notice of Motion purports to set out what the point of law involved is, but does not, in fact, really pose one. Discussion today, with the bench doing its best to help the applicant, has isolated four areas where it is claimed a point of law arises and I will summarise them in this way.
3. The first point is that the criminal provisions involved, namely, those giving rise to crimes of intimidation under section 24 and loitering under section 160 of the Crimes Ordinances, should be struck down as being inconsistent with the right he has to demonstrate; secondly, that the right to demonstrate provided him with a defence to allegations of having committed the two crimes in question; thirdly, that in relation to the offences of criminal intimidation, truth was a defence - in other words, if the lady had behaved in the way he claimed, he was entitled to say what he said in the relevant letters which gave rise to the

offences of criminal intimidation; and fourthly, that what was said in those two letters was justified because the lady in question herself had committed a crime and he was justified, he would say, in law, in writing what he did sending those letters.

4. Let me take those last two points first. It seems to me that they could not be promoted into a point of law of great and general public importance. The ordinance sets out the ingredients of the crime in question. It has long been established as to what they are and I can see no point of law of great and general public importance being involved. In relation to the first two points, they were what I loosely called the constitutional challenge when I gave reasons for dismissing the appeal. In my judgment, the argument does not reach a point where it becomes arguable or tenable to hold the point of view that is claimed for there. It is well established that balance is called for in these matters and that a balance in a society such as ours must be struck between having criminal provisions which curtail people's behaviour and their right to demonstrate. In my judgement these long-established offences are not sensibly amenable to any constitutional challenge.
5. Accordingly, I decline to certify that a point of law of great or general importance arises in this case and therefore the application is dismissed. (P Line) Deputy High Court Judge Mr Patrick Cheung, Deputy Principal Government Counsel, leading Ms Olivia Tsang, Government Counsel, of the Department of Justice, for the Respondent Appellant. Pearce, Matt James, in person PAGE - PAGE CRT11/8.1.2007/MMcG HCMA635/2006/Reasons for Decision 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 &`#\$ setup JUDGE.DOT setup Microsoft Word 9.0 Title Microsoft Word Document MSWordDoc Word.Document.8

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=55817

CASE PAGE <https://chat.esheria.ai/case-law/hong-kong/hksar-v-pearce-matt-james-2007>

Prepared on 26 October 2026 · Esheria