

HONG KONG / JUDGMENT

HKSAR v. TAN BAOHUA

COURT

Court of First Instance

DECIDED

19 September 2007

CASE / FILE NUMBER

HCMA718/2007

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bjbj HCMA 718/2007 IN THE HIGH COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION COURT OF FIRST INSTANCE MAGISTRACY APPEAL NO. 718 OF 2007 (ON APPEAL FROM STCC 5097/2007)

BETWEEN HKSAR Respondent and TAN BAOHUA Appellant

Before: Deputy High Court Judge E Toh in Court Date of Hearing: 19 September 2007 Date of Judgment: 19 September 2007

J U D G M E N T

The Appellant was charged with two charges of making a false representation to an immigration officer, contrary to section 42(1)(a) of the Immigration Ordinance, Cap. 115. After pleading guilty, he was sentenced to a total of 18 months imprisonment. He now appeals against sentence. The facts of the case show that, in relation to charge one, he had assumed the personal particulars of another person on his permit and those particulars did not relate to him except the photograph on the permit and he used that permit to visit Hong Kong in August 2004. In May 2006, he did that again and on that occasion, he was refused entry. On those two occasions, he represented his name was CHEN Jin-xiang. Before the learned Magistrate, prior to sentencing, he was represented by a duty lawyer who mitigated on his behalf to the learned Magistrate about the appellant's background, and that the reason for his coming to Hong Kong was to obtain medicine for his son who had injured his leg. It is clear that the Appellant had been to Hong Kong before this occasion using his true identity and had been in prison after having been committed of a criminal offence and that is why he used another name to come into Hong Kong. The learned Magistrate correctly considered previous cases of sentencing for similar offences. I totally agree with his assessment and I do not need to repeat them here. The learned Magistrate had properly

therefore sentenced the Appellant to 12 months on each charge, making 6 months of the 12 months on the second charge, consecutive to the 12 months in the first charge. I agree with counsel for the Respondent that the sentence was neither wrong in principle nor excessive, and so there is no ground for an appeal against that sentence and the appeal is dismissed. (E Toh) Deputy High Court Judge Ms Vivien Chan, Government Council, for the Respondent The Appellant, in person PAGE - 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 1udk 1udk i\$&`G HCMA.dot setup Microsoft Word 9.0 Title Microsoft Word Document MSWordDoc Word.Document.8

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