

HONG KONG / JUDGMENT

HKSAR v. TSANG PING KWONG

COURT

Court of First Instance

DECIDED

12 February 2008

CASE / FILE NUMBER

HCMA48/2008

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bjbj HCMA 48/2008 IN THE HIGH COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION COURT OF FIRST INSTANCE MAGISTRACY APPEAL NO. 48 OF 2008 (ON APPEAL FROM STCC 9128/2007)

BETWEEN HKSAR Respondent and TSANG Ping Kwong Appellant

Before: Hon Wright J in Court Date of Hearing: 12 February 2008 Date of Judgment: 12 February 2008

J U D G M E N T

The appellant appeals sentences of 6 months imprisonment on each of three charges preferred under the Immigration Ordinance, Cap. 115 relating to the making of a false representation to an immigration assistant and sentences of 12 months imprisonment on a further two charges under the same ordinance relating to the use of a false travel document. All of the sentences were ordered to be served concurrently with one another, resulting in a total sentence of 12 months imprisonment. The appellant was represented. He pleaded guilty to all of the charges. He previously had admitted, under caution, using false two-way Chinese permits relating to three particular entries into Hong Kong, namely in August 1998, December 1999 and September 2006. The magistrate noted that in 2007, subsequent to his entry in September 2006, the appellant had been convicted of breach of condition of stay and possession of a false instrument and jailed for a period of eight months. The magistrate distinguished between sentences being imposed in the late 1990s and those imposed recently: he consequently took starting points of nine months imprisonment in respect of the 1998 in 1999 offences and 18 months in respect of the 2006 offences, reducing them by the usual one third for the pleas of guilty. In having regard to the question of totality, he also quite properly treated the appellant as if he had been sentenced for

all of the offences together when he was sentenced in 2007. It seems that it was the appellant himself be notified the prosecuting authorities during his period of incarceration that he had committed these additional offences: the magistrate took that into account, generously reducing the overall totality that he had in mind by a substantial four months. There is nothing before me today that justifies any further reduction in sentence. The individual sentences and the aggregate sentence are all entirely appropriate. The appeal is dismissed. (A R Wright) Judge of the Court of First Instance High Court Appellant in person Ms Peggy LO, Government Counsel of the Department of Justice, for the Respondent. 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 U V 1udk 1udk i\$&`G HCMA.dot setup Microsoft Word 9.0 Judiciary Hong Kong Title Microsoft Word Document MSWordDoc Word.Document.8

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