

HONG KONG / JUDGMENT

HKSAR v. TSE KA CHUNG

COURT

Court of First Instance

DECIDED

13 February 2007

CASE / FILE NUMBER

HCMA1229/2006

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bjbj 'Dvg HCMA 1229/2006 IN THE HIGH COURT OF THE HONG KONG SPECIAL
ADMINISTRATIVE REGION COURT OF FIRST INSTANCE MAGISTRACY APPEAL NO. 1229 OF 2006

HKSAR and TSE Ka-chung

Before: Hon Wright, J., in Court Date of Hearing: 13 February 2007 Date of Judgment: 13 February 2007

JUDGMENT

The appellant appeals two sentences each of eight months imprisonment together with an order that four months of the second sentence be served consecutively to the first sentence. Each sentence was imposed in respect of an offence of theft and consequent upon the appellant's pleas of guilty. The first offence occurred on 6 November 2006. The appellant stole a total of 11 bottles of shampoo. The appellant was released on bail the following day. Seven days later the appellant stole three bottles of shower gel. All of these items are, as any magistrate sitting in Hong Kong knows, items which are readily realisable for cash on the street. The appellant first offended in July 1994 with an offence of theft. Between then and August 2006 he has been convicted on 34 occasions. Six of those occasions involved drug-related offences, one was for an offence of indecent assault, whilst the remaining 27 all related to theft. Sentences imposed on the appellant have run the gamut of probation orders, Drug Addiction Treatment Centre and imprisonment for varying periods: none appears to either have assisted or deterred the appellant. It is entirely appropriate to take into account in determining the proper level of sentence the criminal record of an accused person where that person repeatedly commits the same offence. The appellant refers to the sentences imposed on another inmate which are less than his: that is of no relevance to whether the appellant sentence is appropriate or stop The individual starting points are

appropriate. An aggravating feature in respect of the second offence was that it was committed whilst on bail for the first offence. A partially consecutive sentence is fully justified. The totality of the sentences is also appropriate. The appeal is dismissed and the sentences and order confirmed. (A R WRIGHT) Judge of the Court of First Instance High Court Ms Christal Chan, Senior Government Counsel, of the Department of Justice, for the HKSAR Appellant in person.

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