

HONG KONG / JUDGMENT

HKSAR v. TSE TSZ SHAN

COURT

Court of First Instance

DECIDED

30 January 2007

CASE / FILE NUMBER

HCMA1133/2006

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

bjbj 7ZAO ellant

Coram: Deputy High Court Judge Line in Court Dates of Hearing: 30 January 2007 Date of Judgment: 30 January 2007

J U D G M E N T

1. This is an appeal against sentence. The Defendant pleaded guilty to theft. She had been on board a vessel, a gambling vessel, and went into a cabin suite and took someone's wallet, which contained \$850 in cash and an Octopus Card. The door had been left unsecured. The Appellant had been losing at gambling and she went and lost the \$850 she had just stolen.
2. She received, for that conduct, a sentence of 3 months in prison. The Magistrate also activated 7 months of an 8 months suspended sentence to run consecutively. That had been imposed for the possession of dangerous drugs.
3. In the ordinary course of events, that would be a merciful sentence overall but the unusual thing about this case is that the Appellant suffers from lung cancer. The Magistrate was aware of that and taking that into account, along with the plea of guilty, he adopted as low a starting point as he thought possible in the circumstances and imposed as low a sentence as he regarded as appropriate.
4. I have had a further medical report on the Appellant. It confirms the diagnosis and describes her current condition as stable. This is not a case where there is any imminent risk of death. Of course, the gravity of her medical condition is only too obvious.

5. I shall adopt the same approach as the Magistrate. He tempered justice with humanity. I feel able to go a little further than he did. I have absolutely no criticism of his sentence. This is a rehearing on sentence. I do not have to say he is wrong in order to pass a different sentence. The fact is I see this lady now having spent two months in custody since the beginning of November. Even in the short time I have seen her in court, the burdens on her shoulders are only too apparent.
6. I agree with the Magistrate that the medical condition is not such that she can have her freedom in the circumstances. There must be immediate imprisonment but I shall reduce the sentence that she received modestly. I shall leave undisturbed the sentence of 3 months, and I shall impose 4 months of the suspended sentence to run consecutively. The total she has to serve is, therefore, 7 months and not 10 months and I have done that as an act of mercy.
7. Suspended sentences for people who are involved in drugs are difficult but one of the matters she referred to was that her medical condition does give her considerable pain and that the heroin she took that resulted in the suspended sentence was a relief of it. So consistent with my public duty and the proper approach to problems of this kind, I have done my best, I hope, to strike a balance and that means that this lady will now have an earlier release date. (P Line) Deputy High Court Judge Representation: Ms Olivia Tsang, Government Counsel, of the Department of Justice, for the Respondent Appellant: Tse Tsz- 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 >ZAO >ZAO >ZAO 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=56071

CASE PAGE <https://chat.esheria.ai/case-law/hong-kong/hksar-v-tse-tsz-shan-2007>

Prepared on 29 October 2026 · Esheria