

HONG KONG / JUDGMENT

HKSAR v. WONG CHAK SHUN

COURT

Court of First Instance

DECIDED

14 November 2007

CASE / FILE NUMBER

HCMA824/2007

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bjbj HCMA824/2007 IN THE HIGH COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION COURT OF FIRST INSTANCE (Appellate Jurisdiction) MAGISTRACY APPEAL NO. 824 OF 2007 (ON APPEAL FROM KCCC 3064 OF 2007)

BETWEEN HKSAR Respondent and WONG CHAK SHUN (year-old appellant was convicted after trial on one charge of assaulting a police officer, contrary to section 36(b) of the Offences Against the Person Ordinance, Cap.

212. He was sentenced to six weeks imprisonment. He abandoned his appeal against sentence before me and it was dismissed. He now appeals only his conviction. AUTONUMOUT The facts of the case found by the magistrate were that the appellant and another person were seen by two plainclothes police officers (PW1 and PW2) acting suspiciously in Tokwawan Road and Mei King Street in Kowloon. PW1 and PW2 approached the two men and revealed their police identities. PW1 then asked the appellant to produce his identity card. The appellant punched PW1 on his chest and ran away. PW1 gave chase and eventually grabbed the appellant who again struck PW1, this time in the abdomen with his elbow. The appellant was eventually subdued by other officers who arrived at the scene to assist PW1. AUTONUMOUT The other male had also run away and escaped but had, during the pursuit, abandoned two crowbars and two pairs of labour gloves. AUTONUMOUT The magistrate, in convicting the appellant, accepted the evidence of PW1 and PW2, having found them each to be honest and reliable witnesses who had given detailed and consistent evidence AUTONUMOUT The appellant had given evidence to the effect that he and his friend had been simply walking in the vicinity of Tokwawan Road when they were suddenly intercepted by PW1 and PW2. PW1 simply said hey kids, stand aside . Neither PW1 nor PW2 disclosed their police identities. The appellant, in evidence, said he was very frightened as he thought PW1 and PW2 were debt collectors and he owed gambling debts. So he immediately ran away. He said he did not punch PW1 and when PW1 caught him he was manhandled to the ground by PW1 who handcuffed him. He had not struggled with PW1 at any stage. AUTONUMOUT The appellant agreed in cross-examination that he owed his gambling debts

to a friend who had never threatened him in respect of the debt and to another person he could not contact but who also had not threatened him. AUTONUMOUT The magistrate said in this regard that the appellant s evidence was unreasonable, inconsistent and hard to believe . She rejected the central tenet of his evidence that he had immediately run from PW1 and PW2 thinking they were debt collectors. Particularly so when on his own evidence PW1 had simply asked him and his friend to stand to one side AUTONUMOUT The appellant s Form 101 Ground of Appeal is simply that the conviction was against the weight of evidence. The ancillary complaint he makes before me is that the magistrate had no good reason to reject his evidence and accept that of PW1 and PW2. AUTONUMOUT The appellant s complaint that his conviction was against the weight of evidence is unsustainable. Once the magistrate rejected the evidence of the appellant and accepted the evidence of PW1 and PW2 there was direct and compelling evidence that the appellant had assaulted PW1. The magistrate gave the reasons recited above for her conclusions as to the credibility of PW1 and PW2. Those reasons were warranted by the evidence. AUTONUMOUT Equally the reasons she gave for rejecting the appellant s evidence were compelling and no complaint can be made in this regard. AUTONUMOUT The appellant further pointed out in his argument before me that PW1 had said he had not sustained any particular injury. He said that was evidence supporting his own assertion he had not assaulted PW1. But in my view PW1 s lack of any substantive injury is neither here nor there. The appellant was found to have punched PW1 with a single blow to the chest. Not every blow results in a bruise or other form of injury. PW1 said in evidence he felt sore for a short while but the pain went away and he did not seek medical attention. AUTONUMOUT There is no merit to the appellant s criticism of the magistrate s findings and the appeal against conviction is dismissed. (M.A. McMahon) Judge of the Court of First Instance, High Court Mr Edmond Lee, SGC of the Department of Justice, for HKSAR Appellant in person, present PAGE - PAGE A B C D E F G H I J K L M N O P Q R S T U V 1udk 1udk H I J K L M N O P Q R S T U V &`#\$& 6" ABC.dot setup Microsoft Word 9.0 Judiciary Title Microsoft Word Document MSWordDoc Word.Document.8

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