

HONG KONG / JUDGMENT

HKSAR v. WONG YIK HO

COURT

Court of First Instance

DECIDED

14 August 2003

CASE / FILE NUMBER

HCMA414/2003

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bjbj HCMA414/2003 IN THE HIGH COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION COURT OF FIRST INSTANCE (Appellate Jurisdiction) MAGISTRACY APPEAL NO. 414 OF 2003 (ON APPEAL FROM STCC 700179 AND 700077 OF 2002)

BETWEEN HKSAR Respondent and WONG YIK HO Appellant

Before : Hon Jackson J in Court Date of Hearing : 14 August 2003 Date of Judgment : 14 August 2003

J U D G M E N T

Introduction

AUTONUMOUT On 17 January 2003 the appellant was convicted after trial at Fanling Magistrates Court of an offence of assault occasioning actual bodily harm contrary to section 39 of the Offences Against the Person Ordinance, Cap.212. By reason of that conviction he was found to be in breach of a probation order imposed upon him in May 2002 for an offence of common assault contrary to section 40 of the same ordinance. AUTONUMOUT On 11 February 2003 the appellant was sent to a detention center in respect of both matters and the probation order was discharged. AUTONUMOUT The appellant appeals against his conviction on 17 January saying that there was no sufficient evidence , and against the finding that he was in breach of the probation order saying that I did not breach [it] . That breach was of course dependent upon the conviction appealed against. The trial AUTONUMOUT The prosecution s case was that on 7 August 2002 a fight took place between two groups of boys at a basketball court in Chevalier Gardens, Ma On Shan in the New Territories. The appellant and another boy called Lai attacked a boy called Leung. The appellant punched Leung s head and Lai also struck him. Leung was able to identify

the appellant as he had played basketball with him three to five times previously. The prosecution adduced as an exhibit a medical report on the injuries sustained by Leung. It indicated a bruise; swelling and tenderness at the left side of the head and the neck. Leung gave evidence of the assault as did a friend of his, called Chan, who said that he did not see the initial phase of the assault but that he saw Leung forced to the wall and beaten by the appellant and Lai.

AUTONUMOUT The appellant gave evidence as did Lai. They said that there had been a dispute on the basketball court between Lai and Leung which resulted in a fight in which the appellant took no part, albeit that initially he had tried to prevent the fight. AUTONUMOUT In her Statement of Findings the magistrate says that she accepted the evidence of Leung and Chan but rejected that of the appellant and Lai, and she gave detailed reasons for so doing. The appeal AUTONUMOUT Before me the appellant has been unable to point to anything which might suggest that the magistrate fell into error. AUTONUMOUT Accordingly this appeal is dismissed.

(C.G. Jackson) Judge of the Court of First Instance High Court Ms Sally Yam, GC of Department of Justice, for the Respondent Appellant in person PAGE - 1udk 1udk &`#\$!cHN !cHN & 6" CACV Jeannie MY MokSo ABC.dot setup Microsoft Word 9.0 Judiciary CACV Title Microsoft Word Document MSWordDoc Word.Document.8

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