

HONG KONG / JUDGMENT

R. v. CORAZON S. DUAZO

COURT

Court of First Instance

DECIDED

29 November 1996

CASE / FILE NUMBER

HCMA1124/1996

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bjbj 1996, No.MA1124

H E A D N O T E

THE DEFENDANT WAS CONVICTED OF PICKPOCKETING AFTER PLEADING GUILTY. SHE WAS SENTENCED TO TWO YEARS IMPRISONMENT. NO APPARENT DISCOUNT WAS GIVEN FOR HER PLEA. PLEAS OF GUILTY SHOULD BE ENCOURAGED AND PROPER DISCOUNTS MUST BE GIVEN. IN THE SUPREME COURT OF HONG KONG (Appellate Jurisdiction) MAGISTRACY APPEAL NO.1124 OF 1996

BETWEEN THE QUEEN Respondent and CORAZON S. DUAZO Appellant

Coram : Hon Sears J. in Court Date of hearing : 29th November 1996 Date of judgment : 29th November 1996

J U D G M E N T

This appellant was convicted by Mr Candy at the Western Magistracy. She pleaded guilty to a pickpocketing case and breach of a deportation order. She took a wallet from the handbag of a Japanese tourist in Landmark. This is a standard pickpocketing offence. The authorities are clear, the range of sentence is one of 12-15 months. There may well be aggravating and mitigating features - aggravating features such as operation as a gang and knives used. For a clear exposition, see the judgment of Penlington J.A. in R.

- v. Vy Van Kien and Pham Van Hoa [1991] 1 HKLR 422, which Miss Cheng has helpfully drawn to my attention. The Judge there said that a starting point of 12-15 months after trial should be taken. The magistrate appeared, in my judgment, to increase the sentence because she had three previous convictions and one for breach of a deportation order. It is an elementary principle that people must be sentenced for their offence, not for their previous record, it disentitles them, of course, to any additional discount for good character. I do not know what starting point he took. As he gave two years imprisonment - no doubt it would have been three years which is far too high. The sentence is reduced to one of 15 months starting point
- which would be a standard sentence - and is discounted by five months to take into account the plea of guilty, so the sentence is reduced from two years to ten months. I would like to reiterate what has been said by me and my brother Judges on a number of occasions and I trust magistrates will take it into account. Pleas of guilty should be encouraged - it saves public expense, pressure on court times and is some indication of remorse. Further, lawyers have to advise defendants as to the benefit to be obtained by pleading guilty, and if no proper discount is given, then their task is made more difficult. In so far as the deportation order is concerned, that must always be consecutive. The standard sentence nowadays is about 12 months, so the nine months is not in any way wrong, but the totality of two years and nine months should have alerted the magistrate that on any basis the sentence was far too long. So the total sentence is reduced to one year seven months from two years nine months. (R.A.W. Sears) Judge of the High Court Mr Michael Poll, assigned by DLA, for Appellant Miss Bianca Cheng, C.C., for Crown/Respondent - PAGE - PAGE & `#\$ "@AB @HP DeskJet 660C LPT1: winspool HP DeskJet 660C HP DeskJet 660C HP DeskJet 660C & 6" 1995, No.A6960 Judiciary Normal iris Microsoft Word 8.0 1995, No.A6960 Title _PID_GUID Microsoft Word Document MSWordDoc Word.Document.8

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