



### Summary of Judicial Decision

HKSAR v YIU Siu-hong (“the Defendant”)  
DCCC No.57 of 2020; [2020] HKDC 473

**Decision** : 4 years’ imprisonment  
**Date of Plea** : 15 June 2020  
**Date of Sentence** : 24 June 2020

#### Background

1. The Defendant pleaded guilty to possession of offensive weapons, namely two petrol bombs, in a public place (Charge 1); and attempted arson with intent (Charge 2) for attempting to light a petrol bomb outside Tong Ming Street Park in Tseung Kwan O on 13 October 2019, and admitted the Summary of Facts.
2. In the afternoon of 13 October 2019, a few hundred protestors assembled in the area of Tseung Kwan O and committed various unlawful acts including setting up barricades and setting fire on main carriageways. By about 1815 hours, about 40-50 protestors had set up barricades and blocked the junction of Tong Chun Street and Tong Ming Street. In response and with a view to restore order and traffic, the police attended the scene at around 1835 hours, during which some protestors dispersed.
3. At around 1841 hours, while some police officers were clearing barricades at the junction of Tong Ming Street and Tong Chun Street, the Defendant walked out from the direction of the second layer of barricades outside Tong Ming Street Park. He was holding a glass bottle containing petrol with a cloth inserted into the bottle in his right hand and a lighter in his left hand. Four off-duty police officers were nearby and witnessed the Defendant walk towards the police officers who were clearing the barricades on the road, and attempted to use a lighter to light the petrol bomb. They immediately approached the Defendant and subdued him after some struggle.
4. The Defendant was dressed in black jacket, a blue T-shirt, black long trousers, black cap, wearing gloves and a black balaclava. He was carrying a black rucksack in which the police found another petrol bomb, a white cloth, a laser pointer, a helmet, a respirator, 15 plastic zip ties, a can of spray paint and a pair of forearm sleeves. There is no dispute that the petrol bombs contained petrol, a flammable liquid.
5. The Defendant was arrested and cautioned. He remained silent under caution. On the following day a video recorded interview was conducted where he initially said nothing under caution. However, during this interview,



he was shown the exhibits seized and then admitted possessing the petrol bombs and ownership of all the exhibits found on him and in his bag. He also admitted to the police that he was holding a petrol bomb in his right hand and a lighter in his left hand intending to light the petrol bomb and throw it at the barricades at the material times.

6. The Defendant further told the police under caution that he had bought the Naphtha from a hardware store in Kwun Tong and poured the flammable liquid into two glass bottles. He intended to light and throw the petrol bombs towards the barricades to stop the police from proceeding during the confrontation. He admitted that he intended to use the lighter to light the cloth of the petrol bomb. He was wearing a black cap and a balaclava at the time to hide his identity during protests. He had the helmet, gloves, respirator and filters to protect himself during protests. He claimed that the laser pointer, red spray paint and plastic zip ties were for his work, in the stage design field.
7. The Defendant was aged 23. He had a clear record. The major mitigation put forward on behalf of the Defendant was that he had shown genuine remorse by pleading guilty to the offences at the earliest opportunity.

### **Department of Justice's Summary of the Court's rulings**

(Full text of the Reasons for Sentence at

[https://legalref.judiciary.hk/lrs/common/search/search\\_result\\_detail\\_frame.jsp?DIS=128981&QS=%2B&TP=RS](https://legalref.judiciary.hk/lrs/common/search/search_result_detail_frame.jsp?DIS=128981&QS=%2B&TP=RS))

8. In Hong Kong there are no previous authorities with similar facts. The scenario where petrol bombs are thrown despite police being present is unprecedented here as far as sentencing is concerned. An attempt to intentionally damage by fire property belonging to another and being reckless as to whether the life of another would be thereby endangered is graver than conduct which is likely to cause serious damage to property and should therefore attract a higher and deterrent sentence. (paragraph 34)
9. The Defendant explained that he wanted to voice out his opinion against the Extradition Bill but to do it with petrol bombs is absolutely unacceptable. The Extradition Bill had been shelved months before 13<sup>th</sup> October 2019. That material day and in fact that period of time in Hong Kong was particularly violent with citywide conflicts, protests and destruction of property. Petrol bombs were being thrown indiscriminately. He was out on streets intending to commit the offence of arson. He was well-prepared to cause trouble which is obvious from the paraphernalia he had in his rucksack. (paragraph 36)



10. Such criminal acts should never be confused or associated with legitimate and peaceful protest. The defendant's possession of petrol bombs and his intention to throw a petrol bomb with intent, a weapon that is notoriously unstable, makes him a criminal, not a protester and he should be treated as such. (paragraph 37)
11. The fact the defendant was of a previous good character does not carry significant weight when the intention is to cause serious damage to property and being reckless as to whether the life of another would be endangered. Such an intention and recklessness would be enough to warrant a sentence of significant length. Sentencing is a balancing act and in some cases the serious nature, circumstances and the prevalence of the offence recently requires a custodial sentence that serves as a deterrent to others and will therefore take priority over the personal details and mitigation of the defendant. (paragraph 38)
12. The Judge found several features which places these facts in the range of the more serious cases of arson; higher than a five-year starting point:
  - (i) This was a planned, calculated and premeditated offence; the defendant bought materials and made petrol bombs before he arrived at the scene. There was prior preparation, it was not an offence committed on the spur of the moment. This made the lack of emotion on his part palpable. Moreover, his manner of dress was deliberately designed to avoid identification and arrest. (paragraph 41)
  - (ii) It is an aggravating factor that for this arson offence the defendant intended to use petrol bombs to achieve his purpose. This was not a case of arson by setting fire to newspaper or rubbish or a curtain. The potential harm and mayhem that could have been caused was considerable because once a petrol bomb is ignited and thrown, it is quite impossible to foresee the possible or likely consequences. A petrol bomb is an unstable weapon in such a situation. It is also possible an already volatile situation could have been made much worse. (paragraph 42)
  - (iii) The fact that, it was because the police were clearing barricades, the Defendant wanted to set fire to them, shows that he acted with the utmost contempt and disdain for law and order. The police arrived to restore and maintain public order. The defendant crossed the line, such a line exists to protect public order because society is prone to descend into anarchy if public order is not preserved. (paragraph 43)
13. In view of the facts, number of petrol bombs and his intention to use them, the Judge adopted a starting point of 2 years and 6 months for Charge 1. (paragraph 44)



14. For Charge 2, the Judge took a starting point of 6 years. The Defendant pleaded guilty at the earliest opportunity and therefore he will receive a one third reduction in his sentences. Other than this, there is nothing the Judge found would warrant any further reduction in sentences. (paragraph 45)
  
15. After the one third reduction for defendant's guilty plea, the sentence for Charge 1 is 1 year and 8 months and that for Charge 2 is 4 years. As these offences are related in that the defendant attempted to commit Charge 2 with an offensive weapon of Charge 1, the Judge ordered the sentence of Charge 1 to be served concurrently with that of Charge 2, resulting in a total term of 4 years' imprisonment. (paragraphs 46-47)

**Prosecutions Division  
Department of Justice**

**June 2020**