



Summary of Judgment

Secretary for Justice (“SJ”) v Persons unlawfully and wilfully conducting themselves in any of the acts prohibited under paragraph 1(a), (b) or (c) of the indorsement of claim (“Defendants”)

HCA 1847/2020; [2020] HKCFI 2785

Decision : **Injunction order continued until trial or further order of the Court**
Date of Hearing : **13 November 2020**
Date of Judgment/Decision : **13 November 2020**

Background

1. Doxxing is one of the many unattractive activities that have grown out of recent social unrest in Hong Kong. Unfortunately, doxxing activities have also been directed at Judges, Judicial Officers and their family members. (§§15, 16)
2. Such activities have increased in recent months. The increase appears directly related to the recent court decisions in which persons were charged with offences relating to recent protests or other related public order events. The activities target the Judges and Judicial Officers concerned, precisely because of their role in the administration of justice in those cases, be they criminal cases or public law cases. (§16)
3. SJ brings these proceedings to seek an injunction order to restrain persons from engaging in activity, commonly called “doxxing”, a form of cyber-bullying, against Judges and Judicial Officers. She does so as the guardian of the public interest, and to seek to maintain and to protect the rule of law and independence of the Judiciary in Hong Kong. The application has not been initiated by, or at the instigation of, the Judiciary or any individual members of it. (§8)
4. On 30 October 2020, the Court granted the *ex parte* interim injunction to restrain doxxing against Judicial Officers and their families. On 13 November 2020, at the *inter partes* hearing of the application (at which no person falling into the category of persons described as the Defendants has appeared or been represented), the Court ordered that the interim injunction be continued until trial or further order of the Court. The injunction restrains doxxing and harassment against the Judicial Officers

and their families.¹

5. This injunction does not prohibit any lawful act(s) which are done solely for the purpose of a “news activity” as defined in section 61 of the Personal Data (Privacy) Ordinance (Cap. 486).

Key Issues

6. The key issues are:-
 - (a) Importance of public confidence in the rule of law and the administration of justice;
 - (b) Role of SJ in the due administration of justice; and
 - (c) The granting of the injunction.

Department of Justice’s Summary of the Court’s rulings

(full text of the CFI judgment at

https://legalref.judiciary.hk/lrs/common/search/search_result_detail_frame.jsp?DIS=131847&QS=%2B&TP=JU)

7. On (a), it is important to maintain public confidence in our legal system, administration of justice, rule of law and the authority of the Court. (§§39-43, 45)
 - (i) Judicial independence is constitutionally guaranteed under the Basic Law. Judges and Judicial Officers are required to, and promise on oath that they will, decide each case on evidence and in accordance with the applicable principles of law, act honestly, with integrity, without fear or favour. It is worth emphasising that Judges and Judicial Officers should make their decisions without the interference or influence of any other person or body. (§§31-32, 40, 46)
 - (ii) Any perception that doxxing may influence Judges or Judicial Officers would be detrimental to the rule of law, and must be prevented and met with a prompt and firm response. There must be no perception that doxxing activities might have the effect of altering the way in which Judges or Judicial Officers conduct official business, or decides cases or passes sentences (including in cases thought to

¹ https://www.doj.gov.hk/en/miscellaneous/pdf/mis_541_20e3.pdf

be of political sensitivity). (§§33, 36-37)

- (iii) Courts and Judges are not above criticism, but public comment on or criticism of judicial decisions must be informed, solidly based and properly made. Otherwise it would be detrimental to public confidence in the administration of justice and ultimately to the rule of law in Hong Kong. There must not be a politicisation of the Judiciary and its functions. (§§5, 54)
8. On (b), SJ makes the subject application in her capacity as guardian of public interest to uphold the rule of law and safeguard the administration of justice. She is not seeking to protect the interests of the Government or advancing any private interests of those persons doxxed. Nor are these proceedings instigated by or at the request of the Judiciary or any individual Judges or Judicial Officers. (§§8, 35, 52)
 9. Even after the grant of the *ex parte* interim injunction order on 30 October 2020, doxxing and harassment activities have continued against Judicial Officers and their family members. It is anticipated the upsurge in doxxing would only continue, unless otherwise inhibited. There is thus a strong public interest in ensuring that doxxing activities against Judges or Judicial Officers be inhibited sooner rather than later. (§§22-23, 36)
 10. On (c), the CFI was satisfied that the injunction order should be continued in that:-
 - (i) there is a serious issue to be tried on public nuisance that the widespread doxxing activities, including those directed at Judges and Judicial Officers, have created a state of affairs in society endangering the public as a whole, and justifying SJ's intervention on behalf of the public; (§§26-27, 47)
 - (ii) damage caused by unlawful public nuisance arising from doxxing activities is not quantifiable, and could not be adequately remedied by an award of damages; (§§28, 48)
 - (iii) balance of convenience is in favour of granting the injunction, where the restrained acts constitute wrongful behaviour, and it is difficult to envisage any scenario of lawful doxxing activities. (§49)
 11. There is utility in granting the injunction to deter against acts which risk

harming the proper administration of justice and the rule of law in Hong Kong. (§51)

12. In ordering that the injunction should be continued, the CFI balanced the various relevant rights and freedoms, including the right to freedom of speech or freedom of expression guaranteed by Article 27 of the Basic Law, the rights of doxxed persons and their family members to respect and privacy, as well as the need to maintain public order and confidence in the administration of justice. (§50)

Civil Division
Department of Justice
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