



## Summary of Judgment

### Secretary for Justice (“SJ”) v Sudewo (“Defendant”) HCMP 1263/2021; [2022] HKCFI 1642

**Decision** : **Defendant liable for contempt and sentenced to 8 days’ imprisonment, and liable to SJ’s costs in the sum of HK\$500**

**Date of Hearing** : **6 May 2022**

**Date of Judgment/Decision** : **6 May 2022**

### Background

1. On 1 September 2020, the Defendant sat in the public gallery of Court No. 26 of the High Court in which the hearing of the criminal proceedings in HCCC 217/2019 (“**Criminal Proceedings**”) was held. The Criminal Proceedings concerned an application for reversal of plea of guilty to a charge of trafficking in dangerous drugs. During the hearing, the Defendant took photographs and audio recorded the proceedings. After taking the photographs and making the audio recording, the Defendant then disseminated the same to a person named “Money” in his mobile phone by way of WhatsApp.
2. In the course of the hearing, the presiding Judge and her Clerk heard the replaying of oral exchanges made during the hearing emitting from the public gallery. Upon the Court’s enquiry, the Defendant admitted making an audio recording of the Criminal Proceedings. The hearing was stood down, during which the Defendant deleted the photographs and the audio recording from his mobile phone. The matter was subsequently reported to the Police.
3. Upon investigation, one of the two photographs captured the defendant in the Criminal Proceedings, two officers of the Correctional Services Department, the paralegal representing the defendant and another unidentified person.<sup>1</sup> The photographs and audio recording had been disseminated to “Money” via a WhatsApp conversation on the Defendant’s mobile phone.
4. Under caution, the Defendant claimed he was at court to hear the outcome of the Criminal Proceedings on behalf of a friend known as “Siu Lung”, whom he referred to as “Money” in the WhatsApp conversation. The Police also found that one of the arrested persons related to the Criminal Proceedings also had the alias of “Siu Lung”.
5. As the acts of photo taking and audio recording in Court precinct and during hearing may amount to contempt of court, on 21 September 2021, SJ as guardian of public interest commenced contempt action against the Defendant on ground

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<sup>1</sup> The other photograph captured the Daily Cause List outside Court No. 26.



that such acts amounted to real risk of or actual interference with the due administration of justice.

6. On 6 May 2022, the Defendant admitted liability for contempt, and admitted his conduct was intentional and deliberate and he knew that he was not allowed to take photographs in the courtroom. The CFI was satisfied that Defendant's conduct constituted interference or impediment to the due administration of justice, found him guilty of contempt, and dealt with sentencing on the same day.

### **Issues in dispute**

7. The issue for determination is what sentence to impose on the Defendant for his contempt of court.

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

(full text of the CFI's judgment at [https://legalref.judiciary.hk/lrs/common/search/search\\_result\\_detail\\_frame.jsp?DIS=144643&QS=%2B&TP=JU](https://legalref.judiciary.hk/lrs/common/search/search_result_detail_frame.jsp?DIS=144643&QS=%2B&TP=JU))

8. In determining what sentence is to be imposed, CFI adopted the judgment made by Justice Andrew Chan in Secretary for Justice v Tang Lin Ling<sup>2</sup> on the seriousness of contempt of court when taking photographs, especially in criminal cases involving jurors. As such, illegal photography in court, with ease of dissemination, has every tendency to put prejudice or interfere with the administration of justice and must be deterred. (§§15-17)
9. Although there was no jurors in the Criminal Proceedings, most concerning in this particular case was that the Defendant disseminated the photographs and audio recording by WhatsApp to another person who appeared to be a related party in the Criminal Proceedings. This is a very serious matter because not only had the Defendant's conduct interfered with the administration of justice, he may have committed an offence of perverting the course of justice. (§§17-18)
10. The CFI found the Defendant's conduct was intentional and deliberate, and constituted a clear interference of the due administration of justice. (§19)
11. On sentencing, the Judge considered the starting point to be a term of 12 days' immediate imprisonment, and reduced it to 8 days' imprisonment having taken into account the guilty plea. (§§21-22)

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<sup>2</sup> In the case of Tang Lin-ling, the defendant was convicted of criminal contempt in taking three photographs inside of the courtroom during trial, and sentenced to 7 days' imprisonment after trial.



12. The CFI ordered costs to the SJ in the sum of HK\$500, having taken into account the Defendant's financial circumstances and immigration status.

**Civil Division**

**Department of Justice**

**1 June 2022**