



### Summary of Judgment

**Secretary for Justice v Chan Oi Yau Riyo  
HCMP 249/2020; [2020] HKCFI 1194**

**Decision** : **Application for committal; Defendant liable for civil contempt and sentenced to 28 days' imprisonment, suspended for 12 months**

**Date of Hearing** : **17 June 2020**

**Date of Judgment/Decision** : **17 June 2020**

#### Background

1. On 25 October 2019, CFI granted an injunction order (which was amended on 28 October 2019 and re-amended on 31 October 2019), restraining anyone from :-
  - (a) using, publishing, communicating or disclosing the personal data of and concerning any Police Officer(s) and/or their family members, intended or likely to intimidate, molest, harass, threaten, pester or interfere with them without consent;
  - (b) intimidating, molesting, harassing, threatening, pestering or interfering with any Police Officer(s) and/or their family members; and
  - (c) assisting, causing, counselling, procuring, instigating, inciting, aiding, abetting or authorizing others to commit or participate in any of the aforesaid acts.
2. On 8 November 2019, such injunction was ordered to continue with slight amendments in its wording. It was further amended on 29 November 2019.
3. Upon Police investigation, the Defendant was found to have made a post on her Facebook page on 5 November 2019 ("Post"). The Post contained the personal data of a particular Police Constable ("PW1") and his family members (namely, his wife, father and mother), and wording such as "血債血償 [PW1] 及眾黑警!!" ("an eye for an eye [PW1] and all dirty cops") and "#轉" ("#forward"). The status of the Post was "Shared with: Public".
4. Subsequently, the Defendant was arrested for "Disclosing Personal Data Obtained from a Data User without the Data User's Consent". Under caution, she stated that she saw on the internet that someone had posted the personal data of PW1, she then shared the personal data of PW1 on her Facebook page.
5. SJ, as guardian of the public interest, commenced these proceedings to apply for an order of committal against the Defendant on ground of her clear contravention of the injunction. The Defendant admitted liability at an early



stage of these proceedings.

**Issues in dispute**

6. The questions for determination are :-
  - (a) The appropriate sentence given the circumstances of this case
  - (b) Costs

**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=128791&QS=%2B&TP=JU](https://legalref.judiciary.hk/lrs/common/search/search_result_detail_frame.jsp?DIS=128791&QS=%2B&TP=JU))

7. The prejudice suffered by PW1 and his family, as well as by society in general, from doxxing activities is a very relevant consideration in the current exercise of determination of the appropriate sentence. [§34]
8. In these proceedings, SJ is seeking to safeguard the public interest, including the public interest in the proper administration of justice and upholding the rule of law. The role requires SJ to endeavor to assist the Court with the sentencing process in a fair and impartial manner. [§§52-53]
9. It is fundamental to the rule of law that orders of the court are obeyed. They are not guidelines, to be ignored or paid lip service to at the behest of the parties affected. They are the building blocks by which the administration of justice is made workable. Litigants who willfully breach orders at the expense of their opponents to their advantage do so at the risk of losing their liberty for being in contempt of court. [§§57-58]
10. In this internet and social media era, any individual can in a very easy practical way breach an order of the court and widely disseminate information. The facility to broadcast and publish material widely makes these breaches worse rather than less serious. [§61]
11. Freedom of speech of those who criticize public officials or those exercising certain functions, their right to criticize, is fundamental to any democratic society governed by the rule of law. Public officials and those exercising public functions must, in the public interest, endure criticism, however strongly expressed, unfair and unjustified that criticism may be. But there is no reason why public officials and those exercising public functions should have to endure harassment, intimidation, threats or menaces. [§62]
12. Rights and freedoms do not exist in a vacuum. They come with responsibilities. Any person exercising their own rights and freedoms must simultaneously have respect for the rights and freedoms of others. Freedom of speech does not mean that the use of words is always protected, whatever the context and whatever the purpose. Freedom of speech certainly does not



embrace any right to harass or intimidate, threaten or menace. Rather, it is the victim of such activities who is entitled to demand the protection of the law. [§63]

13. This case is typical in identifying that the apparently impersonal and distant use of social media and the internet has real consequences in the real world, causing real harm – real nuisance, real harassment, real anxiety – to real people. [§76]
14. In light of the various features of this case, as well as the matters of principle, the appropriate starting point for sentencing is one of an immediate custodial sentence, and one perhaps measured in months. [§78]
15. After taking into account the circumstances of the present case, the mitigating factors (e.g. the Post being a one-off event and a re-post, out of Defendant’s general character, Defendant’s timely removal of the Post, early admission of liability and genuine remorse) and balancing all matters, the appropriate and proportionate sentence would be one of imprisonment but that in the circumstances it should be suspended. That sentence is one of 28 days’ imprisonment, suspended for 12 months. [§§79-84]
16. If doxxing activities are continued in breach of the Court’s order, and if those engaging in such activity are brought before the Court – particularly if the offending activity takes place after this Decision – those persons may not be so fortunate in avoiding an immediate custodial sentence. [§93]
17. On the issue of costs, the usual order in a successful committal procedure is for costs to follow the event and be payable by the contemnor on an indemnity basis. Nevertheless, having considered relevant cases and the facts and circumstances of this case, the “contribution approach” (as adopted by Hartmann JA in *SJ v Ocean Technology Limited*, unrep, HCMP 71/2008, 24 November 2009) is apposite to this case. The Defendant is thus ordered to contribute the sum of HK\$30,000 for SJ’s costs in these proceedings. [§§85-91]

**Civil Division**

**Department of Justice**

**17 June 2020**