



Summary of Judgment

Secretary for Justice (“SJ”) v Tsang Chi Sing (曾子成) (“Defendant”)

HCMP 586/2022; [2023] HKCFI 2159

Decision : Defendant liable for civil contempt and sentenced to 21 days’ imprisonment suspended for 12 months, and liable to contribute towards SJ’s costs in the sum of \$8,000

Date of Hearing : 17 April 2023

Date of Decision : 17 April 2023
(Reasons for decision handed down on 23 August 2023)

Background

1. On 25 October 2019, the Court of First Instance (“CFI”) in HCA 1957/2019 granted an injunction order (“**Police Doxing Injunction**”) to SJ as the guardian of the public interest and to the Commissioner of Police on behalf of the Police officers, restraining anyone from:
 - (a) using, publishing, communicating or disclosing without consent to any other person 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/or
 - (c) assisting, causing, counselling, procuring, instigating, inciting, aiding, abetting or authorizing others to commit or participate in any of the aforesaid acts.
2. On 2 June 2020, Principal Magistrate Law Tak-chuen granted an anonymity order (“**Anonymity Order**”) in WKCC 1553/2020 to protect the identities of a Police Officer (“**PW1**”) who used his firearm during a public order event in Sai Wan Ho happening in November 2019 as well as his family.
3. On 2 June 2020 and 3 June 2020, the Defendant published a total of 3 posts (“**Facebook Posts**”) on his Facebook account showing the personal data of PW1 and his two daughters. The first post was captioned “仆街冚家剷死全家！” sharing a cropped image of a news article concerning PW1 and his academic qualifications and occupation as Police. The

second post was captioned “唔比開名？” with images showing the personal information and photos of PW1 as well as his two daughters, including a digitally edited photo of PW1 and his 2 daughters who were each holding a knife with the words “我地老豆係殺人犯”. The third post was captioned “晨早流流，同條仆街冚家劇打聲招呼先！條仆街冚家劇啲電話電郵地址會唔會已經改 X 晒呢……橫掂佢人都可以唔做而改做禽獸，真係改乜都得啦！”， again showing the personal information of PW1. All of the three posts were publicly accessible by anyone browsing the Defendant’s Facebook account.

4. The Defendant was arrested on 24 June 2020. Under caution, he admitted that he had made the Facebook Posts knowing that they were in breach of the Anonymity Order and the Police Doxxing Injunction; he thought that the Anonymity Order was unreasonable and he made the Facebook Posts out of grievance towards it.
5. In August 2020, the Defendant informed the Department of Justice of the permanent deletion of his Facebook account.
6. The Facebook Posts were part of a doxxing campaign against PW1, which caused immense stress and anxiety to his whole family.
7. In light of the breach of the Police Doxxing Injunction and Anonymity Order, SJ commenced the present civil contempt proceedings against the Defendant. The Defendant did not contest liability, and the CFI dealt with sentencing on 17 April 2023.

Issues in dispute

8. The question for determination is the appropriate sentence.

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=154546&QS=%24%28hcamp%2C586%2F2022%29&TP=JU)

9. In determining the appropriate sentence for civil contempt, a brief summary of the general **principles** can be repeated as follows:
 - (a) Court orders are to be obeyed. Contempt of court orders is a serious matter. (§27(1))
 - (b) The imposition of the penalty requires a balance between (i) the strong public interest in ensuring that court orders will not be flouted and (ii) the evaluation of the individual circumstances of each case. (§27(2))

- (c) Subject to any mitigating factors, the starting and primary penalty for contempt of court in breaching an injunction order is an immediate custodial sentence, and one perhaps measured in months. (§27(3))
 - (d) Imprisonment is ordinarily regarded as a sanction of last resort, and any custodial term should be consistent with the circumstances of the case. (§27(4))
 - (e) A consideration of the particular circumstances will require regard to both aggravating factors and mitigating factors as well as the personal circumstances of the contemnor. The fact that the person in contempt is in a position of influence is an aggravating factor. (§§27(6) and (8))
 - (f) The facility afforded by the internet and social media to broadcast and publish material widely makes breaches involving such actions worse rather than less serious. (§27(7))
 - (g) The breach of the Anonymity Order involves a criminal contempt of court, and is a serious interference with the due administration of justice. (§29)
10. On the **appropriate sentence** in the present case, the Court took into account the following factors:
- (a) The breach of court orders was intentional and deliberate. The disclosure was particularly repugnant in that the personal data disclosed also concerned PW1's teenage daughters and personal aspects of their lives. It was perhaps fortunate that the Post attracted relatively little attention and comments. (§§32, 35, 36)
 - (b) It was accepted as mitigation that the Defendant has since deeply regretted what he did, as demonstrated in part by his early frank cooperation with the Police and his early admission of liability. The Defendant had already permanently deleted his Facebook account, and his determination to stop using social media platforms altogether reflected his recognition that he had to be more careful in his approach towards social media. (§§33, 37, 38)
 - (c) There was an inordinate delay in bringing these proceedings, and that the appropriate way to reflect the impact of delay was within the sentence, and its proportionality. But for the delay, it is likely a more serious penalty would have been imposed. Yet the passage of time can also benefit a defendant in allowing him or her to show that a return to the previous good character before the breach. (§40)

11. Taking into account all the circumstances of the case, CFI considered that it was appropriate and proportionate to impose 21 days' imprisonment, suspended for 12 months. (§41)
12. On the issue of **costs**, the Court considered that the Defendant was not in a position to meet an indemnity costs order and an order of a contribution to costs may be appropriate. Having considered the Defendant's financial means in light of all other factors, the Court ordered the Defendant to contribute a sum of HK\$8,000 to SJ's costs in these proceedings.

Civil Division
Department of Justice
23 August 2023