



Summary of Judgment

Secretary for Justice (“SJ”) v Lee Pak Nap (李柏納) (“Defendant”)

HCMP 587/2022; [2023] HKCFI 1972

**Decision** : Defendant liable for civil and criminal contempt and sentenced to 21 days’ imprisonment, suspended for 12 months, and liable to contribute towards SJ’s costs in the sum of HK\$50,000

**Date of Hearing** : 31 July 2023

**Date of Judgment/Decision** : 31 July 2023

Background

1. On 25 October 2019, the Court of First Instance (“CFI”) in HCA 1957/2019 granted an injunction order (“**Police Doxxing 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 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 authorising 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 (“**Officer**”), who used his firearm during a public order event in Sai Wan Ho on 11 November 2019, as well as his family.
3. During a cyber patrol by the Police, it was discovered that the Defendant published a post (“**Post**”) on his Facebook page on 2 June 2020 that disclosed the full name of the Officer, and shared a news article referencing the grant of the Anonymity Order. The Post was publicly accessible.
4. The Post was deleted on 25 June 2020. The Post was part of a doxxing

campaign against the Officer, which caused immense stress and anxiety to his whole family. As a result of the doxxing campaign, the Officer and his family had to move out of their home and change their telephone numbers.

5. In light of the breach of the Police Doxxing Injunction and Anonymity Order, SJ commenced the present contempt proceedings against the Defendant. The Defendant did not contest liability. The CFI dealt with sentencing on 31 July 2023.

### **Issues in dispute**

6. 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.js?p?DIS=154093&QS=%28%7Blee+pak+nap%7D+%25parties%29&TP=JU](https://legalref.judiciary.hk/lrs/common/search/search_result_detail_frame.js?p?DIS=154093&QS=%28%7Blee+pak+nap%7D+%25parties%29&TP=JU))

7. In determining the appropriate sentence for contempt by breaches of the Police Doxxing Injunction, the general **principles** include:
  - (a) Court orders are to be obeyed. Contempt of court orders is a serious matter. (§16(1))
  - (b) Subject to mitigating factors, the starting and primary penalty for contempt of court in breaching an injunction order is imprisonment, and one perhaps measured in months. (§16(3))
  - (c) Imprisonment is ordinarily regarded as a sanction of last resort, and any custodial term should be as short as possible and consistent with the circumstances of the case. (§16(4))
  - (d) 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. (§16(7))
8. The Court repeated that any person claiming to exercise their own rights and freedoms must simultaneously have respect for the rights and freedoms of others. (§17)
9. Further, breach of the Anonymity Order involves a criminal contempt of court, and is a serious interference with the due administration of justice. (§18)
10. In deciding on the **appropriate sentence** in the present case, the Court

took into account factors including:-

- (a) The granting of the Anonymity Order was made clear in the headline of the news article forwarded by the Defendant in the Post. The breach of the Anonymity Order was a deliberate flouting of and direct challenge to the authority of the Hong Kong courts. (§§23(1), 24)
  - (b) The Defendant made a full admission in his interview under caution, long before the commencement of these proceedings. (§40)
  - (c) The Defendant took the initiative to remove the Post after his arrest and release. The gravity of the breach and the risk of future similar acts of contempt of court are relatively low. (§§46-47)
  - (d) The Defendant's personal circumstances and character. (§46)
  - (e) There was no deliberate delay by the SJ. But the Court found the delay of 22 months in bringing these proceedings was inordinate, with its impact to be reflected within the sentence. (§48)
11. After weighing and balancing the circumstances of this case, the Court held the appropriate and proportionate penalty to impose is 21 days' imprisonment, suspended for 12 months. (§49)
  12. As regards costs, the Court accepted that the Defendant is not in a position to meet an indemnity costs order and punishing him by making a costs order he cannot afford risks being disproportionate, when the penalty and costs are considered together. The Court ordered the Defendant to contribute a sum of \$50,000 to SJ's costs. (§§50-51)
  13. The Court noted that this is the last case presently contemplated by the SJ arising from breach of the Police Doxing Injunction, to which the line of cases has demonstrated the need for court orders to be obeyed. The Court hoped that a line can now be drawn under these cases. (§§52-53)

**Civil Division**  
**Department of Justice**  
**31 July 2023**