



Summary of Judgment

Secretary for Justice (“SJ”) v Wong Kwok Leung (“Defendant”)

HCMP 664/2022; [2023] HKCFI 2026

Decision : Defendant liable for civil contempt and sentenced to 28 days’ imprisonment, suspended for 12 months, and liable to contribute towards SJ’s costs in the sum of HK\$25,000

Date of Hearing : 18 July 2023

Date of Decision : 18 July 2023

(Reasons for decision handed down on 8 August 2023)

Background

1. On 25 October 2019¹, 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 without consent 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. During a cyber patrol by the Police, a Facebook post (“**Post**”) was found to be published on 11 November 2019. It is stated in the Post “唔好傳！千祈唔好傳！”² and contained the following personal data of a Police Officer (“**Officer**”), his wife and his elder daughter:-

- (a) The full name of the Officer in Chinese, UI number, residential address and a link to his Facebook profile;

¹ Last amended on 11 December 2019.

² Translated as “Do not spread around! Definitely do not spread around!”.



- (b) The mobile number of the Officer's wife; and
- (c) The name, mobile number, Instagram account, school, class of the Officer's elder daughter and a link to her Facebook profile.

The status of the Post, as shown by the "Globe" icon, was "public", meaning that it was publicly accessible by anyone with an Internet connection.

- 3. As a result of the unauthorised disclosure of personal data, the emotional well-being of the Officer and his family members had been severely impacted, to the extent that they had to move out of their home and change their telephone numbers, and his two daughters had to change school.
- 4. The Defendant was arrested on 9 January 2020. He admitted under caution of owning the relevant Facebook account but claimed that he had forgotten if he had actually made the Post or not.
- 5. In light of the breach of the Police Doxxing Injunction, SJ commenced the present civil contempt proceedings against the Defendant. The Defendant did not contest liability. The CFI dealt with sentencing on 18 July 2023, with Reasons for Decision handed down on 8 August 2023.

Key issues

- 6. The question for determination is the appropriate sentence.

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

(Full text of the judgment at

https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=154266&currpage=T)

- 7. In determining the appropriate sentence for contempt of court, a brief summary of these principles is repeated as follows:
 - (a) Court orders are to be obeyed. Contempt of court orders is a serious matter. (§17(1))
 - (b) Subject to any mitigating factors, the starting and primary penalty for contempt of court in breaching an injunction order is immediate custodial sentence, and one perhaps measured in months. (§17(3))
 - (c) Imprisonment is ordinarily regarded as a sanction of last resort, and any



custodial term should be consistent with the circumstances of the case. (§17(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. (§17(7))
 - (e) The fact that the person in contempt is in a position of influence and is a person to whom others may look as an example is an aggravating factor. (§17(8))
8. On the **appropriate sentence** in the present case, the Court took into account the following factors:
- (a) The Court accept that the Defendant has previously been a man of good character and a contributing member to society and that the breach was most likely a one-off event. (§35)
 - (b) The breach was not the most serious of its kind. The Defendant was not the author of the original post, not a public figure and his personal Facebook account would have attracted little attention. The Court accepted that the Defendant had removed the Post on his own initiative before he was arrested. (§36)
 - (c) The Defendant's claim that he had forgotten whether he actually made the Post when he was arrested was simply an untruth. This lessens the mitigating effect of the earlier cooperation. (§38)
 - (d) The Court accepted there was no deliberate delay in this case but there was an inordinate delay in bringing the proceedings. The appropriate way to reflect the impact of delay is within the sentence, and its proportionality. Further, the passage of time has allowed society to move on, and given time for the Defendant to demonstrate a return to behavior more in line with his previous good character. (§39)
9. On the issue of costs, the Court acknowledged that the Defendant was not in a position to meet an indemnity costs order. It was observed in some previous decisions that making a costs order a defendant cannot afford risks being disproportionate, when the penalty and costs are considered together. Having considered the Defendant's financial means and all other factors, the Court ordered the Defendant to contribute a sum of HK\$25,000 to SJ's costs in these



proceedings. (§§41-42)

Civil Division

Department of Justice

8 August 2023