

Public Prosecutor v Low Wei Hong  
[2013] SGDC 273

**Case Number** : DAC 500007/13 & ORS  
**Decision Date** : 02 September 2013  
**Tribunal/Court** : District Court  
**Coram** : Shaiffudin Bin Saruwan  
**Counsel Name(s)** : DPP Zhong Zewei for the prosecution; Mr Derek Kang (CLAS) for the accused person  
**Parties** : Public Prosecutor — Low Wei Hong

2 September 2013

**District Judge Shaiffudin Saruwan:**

**THE CHARGE**

The accused, a 18 year old male Chinese, pleaded guilty before me to one count of rioting under section 147 of the Penal Code, Cap 224, and one count of mischief with common intention under section 426 read with section 34 of the same Code. One count of wilful trespass under section 21(1) of the Miscellaneous Offences (Public Order and Nuisance) Act, Cap 184, was taken into consideration. I ordered him to undergo reformatory training at the reformatory training centre (RTC). He has now lodged an appeal against this sentence.

**THE FACTS**

***Facts relating to DAC 500007/13***

2 There were six co-accused persons in this case. The accused and the six co-accused persons were members of a gang called Jit It San. On 23 Dec 12, at about 5.00 pm, one of the co-accused, Koh, received a call from his headman (known only as 'Gong Da') telling him to go to Block 450 Ang Mo Kio Avenue 10 as there was a problem with a rival gang named Ang Soon Tong. Koh was instructed to beat up any member of the Ang Soon Tong gang found in their territory. Koh then contacted the four other gang members, Lee, Liu, Tay and the accused, and directed them to go to Ang Mo Kio. Liu in turn contacted Tan and Sim, another two gang members, to meet the rest. The seven of them met at the McDonald's restaurant at Block 450 Ang Mo Kio Avenue 10. They then patrolled the vicinity to look for the Ang Soon Tong gang. With the knowledge of the others, Tan was then in possession of a long carrier containing a billiard cue, which was meant to be used in the event of a fight.

3 At about 8.15 pm, the three victims had gone to the Good Speed Cybercafe at Block 710A Ang Mo Kio Central 1. The first victim stayed outside the Cybercafe to smoke while the second and third victims went inside. At around this time, the accused and the six co-accused persons arrived. They noticed what seemed to them a few youth who looked like gangsters standing outside the Cybercafe. Upon Koh's instruction, Lee, Liu and Tay singled out the first victim as being the most gangster-looking person and brought him over to the rest. The first victim found himself confronted by the accused's gang. Koh then asked the first victim which gang he was from. When the first victim replied Ang Soon Tong, Koh told him that there had been some problems between his gang and Ang Soon Tong. The first victim replied that he did not want any trouble and managed to run into the Cybercafe.

4 Koh, Low, Sim and the accused followed the first victim into the Cybercafe, while the others remained outside in case the first victim leaves the Cybercafe as well as to look out for the police. At this point, Koh was armed with a Swiss Army pocket knife. He held the pocket knife in his fist with about 5 cm of the screwdriver head protruding between his middle and fourth fingers. Tan was armed with the billiard cue. Inside the Cybercafe, they demanded that the first victim followed them outside. The first victim, who was by then with the second and third victims, refused and said that he had already called for the police. Koh then punched the first victim's hand twice using his fist that held the pocket knife. He also instructed the accused and the other co-accused persons to start fighting. The four of them rained punches on the three victims. The assault lasted for a few minutes, after which the accused and the co-accused persons fled from the scene. As they were fleeing, Tan threw away the billiard cue. The Swiss Army knife was seized from Koh's possession when he was subsequently arrested.

5 The second victim suffered a 2 cm abrasion over the right posterior neck area. The third victim suffered an 8 cm superficial laceration over his right chest region and abrasions on his neck and left deltoid areas. The first victim suffered a 1 cm laceration above his left wrist, a 3 cm laceration overlying his middle and fourth fingers of his right hand, and a laceration on his right index finger. He had to undergo an excisional debridement and secondary suture of his left hand and forearm to repair the tendons at the junction of his middle and ring fingers.

### ***Facts relating to DAC 9431/13***

6 On 2 Dec 12, at about 10.50 pm, the accused met his friends, Daryn and Zakery, at Pending MRT station. From there, they took a bus to Bukit Timah Shopping Centre. At about 11.50 pm, they crossed the road using the overhead bridge which led to Level 3 of the shopping centre. When they reached the end of the bridge, they found that the glass door into the shopping centre locked. They decided to force their way in. At Zakery's suggestion, Daryn tried to do this by kicking the door once, but was not successful. The accused then grabbed the door handle and forcibly shook it thus breaking the lock. The three of them then entered the shopping centre. The damage caused by the accused amounted to \$75/-.

### **ACCUSED'S ANTECEDENTS**

7 On 18 Aug 05, the accused was placed in the Juvenile Home for 3 years by the Juvenile Court for offences of robbery with hurt under section 394, theft with common intention under section 379 read with section 34 and voluntarily causing hurt with common intention under s.323 read with section 34 of the Penal Code, Cap 224. On 19 Jul 07, he was placed in the Juvenile Home for 2 years for offences of theft in dwelling under section 380 and voluntarily causing hurt under section 323 of the same Code, and three counts of breach of home discipline under section 44(2)(a) of the Children and Young Persons Act.

### **ACCUSED'S MITIGATION**

8 Mr Derek Kang, counsel for the accused, tendered a written mitigation on his behalf. He informed that the accused was holding a permanent job at a car spare parts shop. He was also waiting for his National Service (NS) enlistment notice as he has been medically certified fit for NS. Mr Kang set out the circumstances that led to the offence. The accused had been introduced to Koh through his friend, Tay. Koh had tried to persuade the accused to join his gang but the accused refused. On the day of the offence, the accused had received a call from Koh asking him to go for a computer gaming session at the Goodspeed Cybercafe. Koh had then picked him up and they proceeded to the McDonald's outlet at Block 450, where they waited for the rest to arrive. After all were present, Koh then informed the group to meet members of the rival gang, Ang Soon Tong, at the Cybercafe. When asked by Koh whether he wanted to beat up the Ang Soon Tong people, the accused purportedly refused as he did not want to get into trouble. However, he was finally cajoled into agreeing to join in this enterprise. Based on the accused's account of the facts, Mr Kang emphasised that the accused was not a member of the gang and that he had refused to join in to attack members of the rival gang. Further, he stressed that the accused did not know that Koh would use the pocket knife during the fight. The accused himself did not use any weapon. The fight had started suddenly, and the accused had to quickly defend himself from attacks on him, and in the heat of the moment, had struck back as well. Mr Kang also pointed out that the fight had started accidentally from a misunderstanding and that there was no malicious intent. Koh, who had been the main perpetrator of the incident, had himself talked civilly to the members of the rival gang and apologised for starting the fight. He also highlighted that the accused was remorseful for his role in the fight and that his family was fully supportive of him. Under these circumstances, Mr Kang submitted for a probation report to be called for to assess the accused's suitability for probation.

## **PROSECUTION'S SUBMISSION**

9 The learned DPP urged the court to call for both reformatory training report and a probation report. He highlighted the serious nature of the offence which was rioting and that three persons have suffered injuries. He also pointed out the secret society link that featured in the assault. In countering Counsel's submission that the accused was not aware of the pocket knife, the learned DPP pointed out that he was fully aware that Tan was armed with a billiard cue for the fight.

10 I decided to call for both a reformatory training report and a probation report.

## **THE REFORMATORY TRAINING REPORT**

11 The accused was certified physically and mentally fit to undergo reformatory training. According to the report, the accused's main risk factors at the time the offences were committed were a susceptibility to peer influence, as well as a lack of pro-social engagement which included a stable employment and studies. It was however noted that the accused had made some inroads in addressing these issues by dissociating from his negative peers and to focus on pro-social engagements. He was noted to have remained crime-free for seven months.

12 The report noted that the accused came from a structurally intact family, but his relationship with his family members was poor. He felt alienated and disliked and the family generally maintained minimal communication with him, and this had affected him deeply. The present cold relationship was contributed by the emotional and psychological impact of the chronic physical abuse that he reported to have endured during his childhood.

## **THE PROBATION REPORT**

13 The probation officer, Ms Rosni Crossandra Sarathy, was of the opinion that probation was not a viable option as a vehicle for the accused's rehabilitation. Her reasons were found in the paragraphs under the heading "Assessment", which is reproduced below –

"6.1 Wei Hong committed the offences out of his misguided loyalty to his friends and poor decision making. Wei Hong was aware of the wrongful nature of his actions but insisted on carrying them out. His continued preference for an unbridled lifestyle after his release from SBH [Singapore Boys' Home], exposed him to questionable peers and highly susceptible to their suggestions. His further offending, after receiving a conditional warning (DAC 9431/12), displayed his blatant disregard for the law and consequence.

6.2 Social investigations have revealed that Wei Hong has a history of persistent conduct issues since his formative years. Despite the varying levels of intervention provided, Wei Hong showed a constant struggle in discerning right from wrong and was inclined towards anti-social behaviour. Reports from SBH also revealed Wei Hong's general poor attitude towards his rehabilitation and difficulties in managing the restrictive nature of supervision, as seen by his infringements and tendencies to run away. Similarly, the parents despite their efforts to obtain professional help for him, still appear ineffective in their supervision of Wei Hong, after his release from SBH. Though parents have expressed willingness to support Wei Hong through probation, their ability to supervise him is doubtful, as seen by his poor responsiveness to their attempts to guide him towards a better future.

6.3 Wei Hong had displayed poor response towards supervision previously, demonstrating a disregard for the consequences of his behaviour and the opportunity given to him to make pro-social changes to his lifestyle. This is not his first brush with the law and the long period of institutionalisation previously had failed to deter Wei Hong from further offending. It is doubtful that Wei Hong would be able to follow through with any changes he has made in his life recently. Hence, it is assessed that probation is not a viable option to address his risk and needs issues."

14 From the above, it was clear that the operative reasons for probation being seen as not viable for the accused were –

(i) His poor attitude and response towards supervision and difficulty in managing with the restrictive nature of supervision;

(ii) His inability to maintain and follow through with any positive changes he had instituted in relation to his behaviour or attitude.

(iii) His parents' inability to effectively supervise him.

15 Sometime 2003, the accused was diagnosed with conduct disorder with features of attention deficit hyperactivity disorder (ADHD). He was scored 88 for verbal IQ and 113 for performance IQ. He received treatment at the Child Guidance Clinic. He was reported to have had a fairly severe conduct disorder and to be unremorseful and unmotivated to accept responsibility for his misbehaviours. In March 2004, the parents took out a Beyond Parental Control (BPC) complaint against the accused which led him being placed in the SBH for 24 months. By this time, his ADHD coupled with parenting difficulties resulted in an increased risk of the accused developing behavioural problems. The risk of a further misconduct by the accused was assessed to be high. His conduct at SBH was fraught with ugly incidents with the other residents and staff. He was then transferred to Gracehaven in Jul 04.

16 His behaviour did not improve despite the change of environment. He continued courting trouble with the other residents and staff. He exhibited defiance and was involved in fights. He also absconded twice in March 2005. A breach action was instituted and the Juvenile Court ordered him to serve six weeks detention at SBH. After the detention, he returned to Gracehaven where he absconded yet again, and this time, he committed fresh offences. In the probation report called for by the Juvenile Court, it was assessed that he has a high risk of absconding if he was returned to Gracehaven, and of further anti-social behaviour. Probation was not recommended and he was placed under an Approved School Order for 36 months. During this period, he continues to display lack of maturity, was argumentative and would lie to get himself out of trouble. He was placed on Day Release Scheme (DRS) in July 2006, but sometime in August 2006, he failed to return to SBH for three days in which time he again re-offended. As a result, he was removed from the DRS. His stay at the SBH was also extended for one year for causing hurt to a fellow resident. He was subsequently released from SBH in August 2009.

17 His chequered history certainly did not commend him to a community based rehabilitation programme. Further, his most recent transgressions did not show any seismic change in attitude and behaviour. He had continued to blatantly disregard the law when despite being given a conditional discharge for mischief (DAC 9431/13), he went on to commit the more serious offence of rioting (DAC 500008/13). I noted that in the Reformative Training report, it was reported that the accused had made some inroads towards addressing his risk factors such as dissociation from negative peers and focusing on his pro-social engagement eg, stable employment and education. However, I was mindful of the probation officer's doubt, having regard to his past history, whether the accused would be able to follow through with these positive changes on a long term basis. It was pertinent to note that even the accused's parents harboured some doubts about their son's ability to maintain good conduct on a more permanent basis. They raised a concern that the accused's motivation to be on his good behaviour would remain so long as the remand experience was still fresh in his mind, but over time, he would revert to his old behavioural pattern (see page 16 of probation report, under "Attitude Towards Supervision").

18 Taking both the Reformative Training and the Probation reports together, and the matters that I had discussed in the above paragraphs, I was of the opinion that there was still room for the accused's reformation and rehabilitation. But I was convinced that probation was not the way in which this could be achieved. Given his track record so far and the serious nature of the offence of rioting under section 147 of the Penal Code, I was of the opinion he would necessarily have to be cloistered in the more structured and regimented environment at the RTC to help him towards rehabilitation. I noted that whilst he is in RTC, his needs would be addressed through the following programmes –

(i) MOVE Programme to equip him with skills to address his aggressiveness and violent behaviour.

(ii) Specialised Treatment Programme to address his thinking supportive of crime and equip him with life skills necessary to reduce his risk of re-offending.

(iii) Academic course ('O' levels) to upgrade his education level, increase his employability and keep him engaged pro-socially.

19 I therefore ordered the accused to undergo a period of Reformatory Training at the RTC. The accused has lodged an appeal against the sentence. He is currently serving his sentence at the RTC.

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