

**Nurul Izzah Binti Draise**

AND

**Public Prosecutor**

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**(High Court of Brunei Darussalam)  
(Criminal Appeal No. 21 of 2024)**

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Haji Abdullah Soefri bin POKPSM DSP Haji Abidin, J.C.

**Date of Ruling: 10<sup>th</sup> March 2025.**

*Headnote: Criminal Law – Appeal against Rehabilitation Order imposed under section 29(4) of Misuse of Drugs Act – Rehabilitating is an opportunity to change rather than punishment – Appeal dismissed.*

Appellant In Person/Defendant.

DPP Aqilah@Syafina Abd Hadzid for the Public Prosecutor.

**Case cited:**

*Abidin bin Haji Mamun vs Public Prosecutor* (HACM No. 13 of 2007)

## **RULING**

**Haji Abdullah Soefri, J.C:**

This is an appeal by the Defendant (Appellant) against the Magistrate's Court order for the Appellant to undergo rehabilitation at Pusat Al-Islah.

The court order was made on 16<sup>th</sup> October 2014 based on the Appellant's result of re-urine conducted on the 18<sup>th</sup> June 2024. The re-urine result was found to be positive with Methyamphetamine.

The Appellant grounds of appeal are based on the Appellant's result of re-urine conducted on the 18<sup>th</sup> June 2024 was found to be positive with Methyamphetamine.

The Appellant grounds of appeal are based on personal and family matters.

The Appellant informed to this court that if she is detained, it will be difficult for her husband, her children and her in-laws to visit her as she does not want to burden them. She further informed the court that the family need her.

The Appellant also informed to the court that the Notice of Appeal against rehabilitation order was prepared by the husband. She informed the court that para 5(ii) was not correct. She told the court that her husband must have wrongly heard which resulted to the mistake.

The Appellant was brought to the court on 18<sup>th</sup> June 2024 for a charge under section 6(b) of the Misuse of Drugs Act for the urine sample collected on 3<sup>rd</sup> November 2019.

She pleaded guilty and was sentenced to a fine of \$2,000 in default of 4 months and was given until 17<sup>th</sup> September 2024 to settle the fine. At the same time, she was ordered to undergo re-urine examination with a return date on 17<sup>th</sup> September 2024 to review the medical examination report.

On 17<sup>th</sup> September 2024, the matter was adjourned to 2<sup>nd</sup> October 2024 because the Medical Examination Report was not ready.

The Appellant did not pay the fine in full as she only paid \$1,000 and the outstanding is \$1,000 as of 17<sup>th</sup> September 2024. Warrant of committal was issued for 60 days but her husband paid the outstanding and the Appellant was released from prison on 1<sup>st</sup> October 2024.

On 2<sup>nd</sup> October 2024, the Appellant was absent for the review and warrant of arrest was issued against her.

On 16<sup>th</sup> October 2024, the Defendant attended the hearing of the review and she was ordered to be placed at Rumah Al-Islah for the purpose of the treatment and rehabilitation for up to 36 months effective from 16<sup>th</sup> October 2024.

Section 29(4) of the Misuse of Drugs Act provides:

*“Where any person is convicted of any offence under Part II, the Court shall consider a report of a Government medical officer and if the court is satisfied that it is necessary for such person to undergo treatment or rehabilitation or both at an approved institution, the court shall in addition to any punishment it may lawfully impose make an order requiring that person to be admitted as a resident to an approved institution for the purpose of such treatment or rehabilitation or both”.*

Section 29(4) of the Misuse of Drugs Act requires the court to consider as follows before ordering a reason to undergo treatment or rehabilitation.

- 1) Shall consider a report of a Government medical officer.
- 2) The court is satisfied that it is necessary for such person to undergo treatment or rehabilitation or both at an approved home.

From the notes of proceeding on 16<sup>th</sup> October 2024 the Magistrate stated as follows:

*“As the Defendant’s urine is positive for drugs and there is a doctor’s recommendation for the Defendant to be treated, I hereby order defendant to be placed at Pusat Al-Islah for the purpose of treatment and rehabilitation for up to 36 months effective from today”.*

The Magistrate did refer and consider a report of a Government medical officer.

The question now is was the magistrate satisfied that it is necessary for such person to undergo treatment or rehabilitation?

There is nothing in the notes to say so. However, the magistrate did state that she was satisfied that the Appellant requires treatment or rehabilitation at Rumah Al-Islah in her order in attachment 8.

The order refers to the report dated 18<sup>th</sup> June 2024. I believe that the report that was referred to can be found in Attachment 7. The report from the doctor is not dated and cannot be on 18<sup>th</sup> June 2024 because the request was made on 9<sup>th</sup> September 2024 and the Analyst Certificate was dated 28<sup>th</sup> August 2024 (Attachment 6).

18<sup>th</sup> June 2024 is the date that the Appellant was brought to the hospital and also the date of the urine collected. The urine sample that was taken on the 18<sup>th</sup> June 2024 are the urine sample for the purpose of re-urine. The result of the urine sample taken on 18<sup>th</sup> June 2024 is positive for Methylamphetamine.

I am satisfied that the Magistrate was correct to accept the result and doctor's recommendation and I am satisfied that the Magistrate was satisfied that the Appellant requires and will benefit to undergo treatment and rehabilitation even though she did not specifically mention it in her notes of proceedings but it was mentioned in the order.

I would like to reiterate what the Honourable Chief Justice, Dato Seri Paduka Steven Chong had said in *Abidin bin Haji Mamun vs Public Prosecutor* (HACM No. 13 of 2007):

*"Rehabilitation should not be considered as punishment but rather as an opportunity for a drug offender to turn away from drugs which would be of benefit to him, his family and the community".*

Referring to the present case, the Appellant should take this order as an opportunity to clean herself from relying on drugs and once she is treated and rehabilitated she will be a more reliable mother, wife, and daughter and can lead a better life and can be an asset to the family and country.

Having had said all the above, I do not see any fault in the Magistrate's order and I do not see any reason or grounds that is presented before me by the Appellant to reverse the order.

The Appeal is dismissed and the Appellant (Defendant) is to continue with the Magistrate's order that was entered on 16<sup>th</sup> October 2024 (Attachment 8).

Appeal is dismissed.



**HAJI ABDULLAH SOEFRI BIN POKSM DATO SERI PADUKA HAJI ABIDIN**  
Judicial Commissioner