

Cpl 4160 Norazrin Bin Besar

AND

Public Prosecutor

**(High Court of Brunei Darussalam)
(Criminal Appeal No. 29 of 2019)**

Steven Chong, C.J.

16 May 2020

Criminal law – Commission of immigration offences by police officer – Appropriate sentence

Appellant unrepresented.

DPP Siti Aisyah Binti Haji Lakim for the Public Prosecutor/Respondent.

Case cited:

R v Ingham (3 October 1974)(Court of Appeal (Criminal Div), UK)

Steven Chong, C.J.:

On 11 June 2018 in the Magistrate’s Court the appellant, a police corporal, was jointly charged with another police officer (“L/Cpl Hussain”) with six offences under the Immigration Act: three offences of abetment of a foreign national to enter Brunei Darussalam without being in possession of a valid pass contrary to section 55(1)(b); and three offences of harbouring an immigration offender contrary to section 55(1)(d).

The Magistrate convicted the appellant of the six charges after a trial and sentenced him to a total of 2 years 11 months imprisonment and 3 strokes corporal punishment.

This is an appeal against that sentence.

The salient facts were that on the afternoon of 25 October 2017 three women nationals of the Philippines arrived at Serasa Beach in a boat from Labuan. The women were met by the appellant and L/Cpl Hussain, who had arranged for the unlawful entry.

From Serasa Beach the women were taken by the appellant and L/Cpl Hussain to the police barrack of the latter. The women were allowed to stay in the barrack and provided with food and sightseeing excursions by the two police officers.

On 31 October 2017 the barrack was raided by a team of police officers and the women were arrested.

The appellant urged the court to reduce his sentence on the ground of hardship caused to his family. He has two wives and four young children to support. His second child has special needs and uses a wheelchair.

Of course the court has sympathy for the appellant's family. It is often the case that the imprisonment of an offender will cause hardship to his family but it cannot be one of the factors that can affect what would otherwise be the right sentence: *R v Ingham* (3 October 1974)(Court of Appeal (Criminal Div), UK), per Lord Widgery CJ.

This is an outrageous breach of trust by two police officers who, instead of protecting the public from crime and maintaining law and order, abused their position to commit serious offences.

Criminal behaviour by police officers erodes public trust and confidence in the police and must be strongly condemned. Having regard to the gravity of the offences and that the appellant was convicted after a trial the sentence of the court below is certainly not excessive. In my view, if anything, it erred on the side of leniency even taking into account the delay in the case.

For the foregoing reasons I have no hesitation in dismissing the appeal.

DATO SERI PADUKA STEVEN CHONG

Chief Justice