

IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2023] SGHC 9

Magistrate's Appeal 9144 of 2022

Between

Muhammad Ramzaan s/o Akhbar

... *Appellant*

And

Public Prosecutor

... *Respondent*

EX TEMPORE JUDGMENT

[Criminal Procedure and Sentencing — Sentencing — Date of
commencement]

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Muhammad Ramzaan s/o Akhbar

v

Public Prosecutor

[2023] SGHC 9

General Division of the High Court — Magistrate's Appeal No 9144 of 2022
Vincent Hoong J
12 January 2023

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Vincent Hoong J (delivering the judgment of the court *ex tempore*):

1 On 6 January 2020, the appellant was convicted and sentenced to three years' imprisonment for charges under the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) ("MDA"). The appellant applied to defer his sentence for this conviction ("the first conviction"). He was ordered to surrender on 31 January 2020 to begin serving his sentence. However, he failed to do so and instead absconded from bail.

2 From January 2020 to January 2021, the appellant went on to commit a series of drug and traffic offences. This spate of offending only ceased on 26 January 2021, when he was arrested. He commenced serving his sentence for the first conviction on the same day.

3 On 25 July 2022, the appellant pleaded guilty to 14 charges (“the second conviction”). These included one charge under s 8(b)(ii) punishable under s 33A(1) of the MDA, one charge under s 8(a) punishable under s 33(1) of the MDA, seven charges under s 63(4) of the Road Traffic Act (Cap 276, 2004 Rev Ed) (“RTA”), one charge under s 65(1)(b) punishable under s 65(5)(b) of the RTA, and four other charges under the RTA and Misuse of Drugs Regulations (1999 Rev Ed) (“MDR”). Most of these charges, including the MDA and s 65 RTA charges, related to the offences committed from January 2020 to January 2021. An additional 14 charges under the MDR and RTA were taken into consideration.

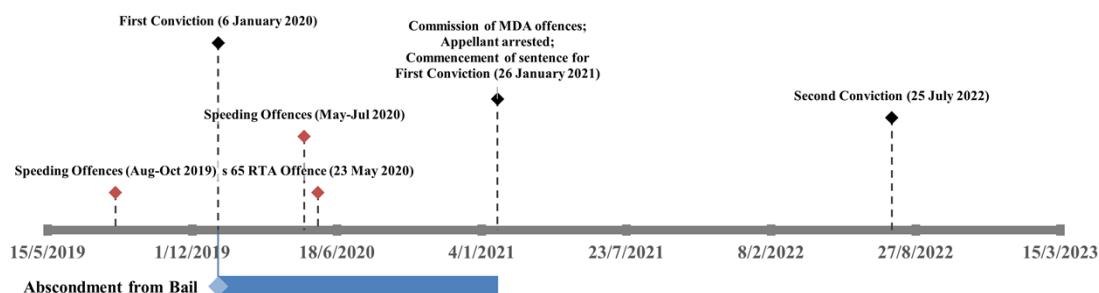
4 The District Judge (“DJ”) sentenced the appellant to a global sentence of 5 years and 27 days’ imprisonment and 3 strokes of the cane. The appellant was also disqualified from holding or obtaining all classes of driving licences for a period of 20 months (“the disqualification order”). The DJ ordered the imprisonment term to commence from the expiry of his sentence for the first conviction, and the disqualification order to commence from the appellant’s release from prison. The DJ’s grounds of decision are reported in *Public Prosecutor v Muhammad Ramzaan s/o Akhbar* [2022] SGDC 213 (“GD”).

5 The individual sentences for the 14 proceeded charges were set out at [7] of the GD as follows:

Charge	Sentence
1 st charge (LT1 drug consumption)	5 years’ imprisonment and 3 strokes of the cane (consecutive)
2 nd charge (enhanced drug possession)	2 years’ imprisonment

5 th charge (failure to report for urine test)	4 months' imprisonment
8 th charge (failing to conform to red lights)	3 days' imprisonment (consecutive)
9 th , 11 th , 12 th , 14 th , 18 th , 19 th , 24 th charges (speeding)	4 days' imprisonment per charge (three consecutive)
25 th charge (driving without reasonable consideration)	8 days' imprisonment and disqualification ("DQ") all classes for 20 months with effect from release (consecutive)
26 th charge (failing to stop after accident)	4 days' imprisonment and DQ all classes 12 months with effect from release from prison (consecutive)
28 th charge (failing to render assistance)	4 days' imprisonment and DQ all classes for 12 months with effect from release
Total sentence	5 years' and 27 days' imprisonment with effect from expiry of current sentence, 3 strokes of the cane, and DQ 20 months with effect from release

6 I set out a timeline of the material dates below:



7 The appellant contends that both the imprisonment term and disqualification order should take effect from the date of his conviction on 25 July 2022.

My decision

The individual and global sentences

8 The appellant does not challenge the length of the individual sentences imposed by the DJ, nor the length of the global sentence.

9 In any case, I do not find any of the individual sentences manifestly excessive. Both of the sentences for the charges under the MDA were the statutory minimum. The short custodial sentences for the RTA charges were justified given the appellant's eight previous traffic convictions and his inability to pay any fine: *Low Meng Chay v Public Prosecutor* [1993] 1 SLR(R) 46 at [13].

10 I also do not find the global sentence manifestly excessive. In fact, the global sentence is *lower* than the sentence submitted for by the appellant himself while he was represented by counsel in the proceedings below.

The date of commencement of the term of imprisonment

11 The appellant submits that the imprisonment term for the present set of charges should commence on the date of his conviction. He cites the accused in *Public Prosecutor v Mohamad Sultan bin Abdul Rahmin* [2019] SGDC 264 ("*Sultan*"). The accused in that case was convicted for a first set of drug-related offences, which are the subject of the judgment in *Sultan*. While on bail pending appeal, he committed further drug-related offences. The sentence for the second set of drug-related offences was eventually ordered to commence on the date of

conviction. The appellant argues that his antecedents are less aggravated than the accused in that case, and that he should be treated similarly leniently.

12 I am unable to place much weight on this submission. The reported decision in *Sultan* pertains only to the accused's first conviction. There are no written grounds of decision explaining the DJ's reasons in allowing the sentence for the second set of convictions to commence from the date of conviction. The lack of a reported judgment explaining such reasons means that little weight can be placed on this precedent: *Janardana Jayasankarr v Public Prosecutor* [2016] 4 SLR 1288 at [13(b)].

13 The circumstances in the present case conversely point towards the imprisonment term commencing from the expiry of the appellant's sentence for his first conviction. In line with the considerations in *Public Prosecutor v Hang Tuah bin Jumaat* [2016] SGHC 20, the fact that the present set of driving and drug offences arose in a different transaction from his earlier drug offences is a weighty consideration in this regard. I agree with the DJ's assessment that the appellant's level of criminality was high and that his drug offences were serious. I also agree with the DJ that had all the appellant's charges been heard together, the aggregate sentence would have been of a similar length to the sentence actually imposed. I am fortified in this conclusion by the fact that the present set of offences were committed while the appellant was absconding from bail.

14 I thus see no basis to interfere with the DJ's decision for the imprisonment term to commence upon the end of the appellant's sentence for the first conviction.

The date of commencement of the disqualification order

15 I now turn to consider the date on which the disqualification order ought to commence.

16 Where an offender is sentenced to both a term of imprisonment and a disqualification order in respect of the same set of offences, as a general rule, that disqualification order should be ordered to commence from the time the offender is released after serving the term of imprisonment. Conversely, where an offender is sentenced to both a disqualification order and a term of imprisonment and the sentences arise out of separate and unconnected offences, as is the present case, it may be appropriate to have the disqualification order commence from the date of conviction: *Muhammad Saiful bin Ismail v Public Prosecutor* [2014] 2 SLR 1028 (“*Saiful*”) at [46].

17 In the present case, I find that there are good reasons why the general rule in *Saiful* should not be applied.

18 First, the appellant faces numerous driving offences and has extensive related antecedents. Specific deterrence is necessary to deter further reoffending.

19 Second, were the disqualification period to run from the date of conviction, the disqualification period of 20 months would be rendered *completely* nugatory by the appellant’s overlapping term of 5 years’ and 27 days’ imprisonment. This is unlike the facts of *Saiful*, where a shorter period of imprisonment only *partially* overlapped with a longer term of disqualification. A disqualification order needs to retain at least some marginal impact in order to have any deterrent effect on the appellant. Commencing the

disqualification order from the appellant's release from prison is the only way to effect this.

20 Third, I also consider that the appellant would have faced a harsher imprisonment sentence had he not been charged for his RTA offences, since the imprisonment terms for his s 8(b)(ii) MDA and MDR charge would have run consecutively applying s 307(1) of the Criminal Procedure Code 2010. This would result in a longer period of 5 years' and 4 months' imprisonment. It would be perverse if the commission of additional driving offences by the appellant not only resulted in a more lenient imprisonment sentence for him, but also lacked any additional consequence through a disqualification order. I thus consider it appropriate that the disqualification order be imposed *in addition to* the period of imprisonment for the appellant's other offences.

21 Fourth, the appellant committed the s 65 RTA offence while absconding from bail, when he had already been convicted and sentenced to a lengthy term of imprisonment. This increases the relative importance of deterrence compared to the case of *Saiful*. While prospective offenders are unlikely to base their actions on the consideration that a potential disqualification period would be overtaken by a subsequent imprisonment sentence, they are far more likely to base their actions on the consideration that any potential disqualification period would be rendered completely irrelevant by an existing period of imprisonment that they are already liable to while absconding from bail. Were periods of disqualification for offenders absconding from bail to always run concurrently with their existing imprisonment sentences, there would be no marginal disincentive for accused persons who have already been sentenced to lengthy terms of imprisonment not to commit further driving offences.

22 In my judgment, it is for this reason that Sundaresh Menon CJ in *Saiful* explicitly distinguished situations where the offence for which a term of imprisonment is imposed is committed before the set of offences for which disqualification is ordered: *Saiful* at [49]. Where an offender knows he has already committed an offence that may attract imprisonment, there must be a marginal disincentive to deter further offending that is likely to attract a disqualification order but not additional imprisonment (such as speeding).

23 The same logic should apply to offenders sentenced to substantial periods of imprisonment, who then reoffend while absconding from bail pending appeal, or after deferring sentence. Such offenders would know that, should the disqualification order commence on the date of conviction, there is a significant likelihood that any disqualification period will be completely subsumed by their existing period of imprisonment. Maintaining the penal effect of the disqualification order should thus take precedence in order to preserve deterrence.

24 For these reasons, I am satisfied that the DJ did not err in ordering the disqualification period to commence from the date of the appellant's release from prison.

Conclusion

25 I therefore dismiss the appellant's appeal against sentence. The imprisonment term is to commence at the end of the appellant's sentence for his

first conviction. The disqualification order is to commence from the date of the appellant's release from prison.

Vincent Hoong
Judge of the High Court

Appellant in person;
Wuan Kin Lek Nicholas and Quek Lu Yi
(Attorney-General's Chambers) for the respondent
