

IN THE STATE COURTS OF THE REPUBLIC OF SINGAPORE

Magistrate Arrest Case No. 906575 of 2023

Between

Public Prosecutor

And

Muhammad Kamil bin
Mohamed Yasin

ORAL JUDGMENT

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Public Prosecutor
v
Muhammad Kamil bin Mohamed Yasin

Magistrate Arrest Case No. 906575 of 2023

District Judge Shawn Ho
15 January 2025

15 January 2025

District Judge Shawn Ho

Introduction

1 The Accused is Warrant Officer (2) Muhammad Kamil bin Mohamed Yasin. At the time of the offence, the Accused was the Deputy Rota Commander of Central Fire Station's Rota 1 — he was co-responsible for and supervised over 34 Singapore Civil Defence Force regular servicemen and full-time National Servicemen.¹

2 The Deceased is Edward H Go, who was then 19 years old. He was serving his National Service with the SCDF with the rank of Corporal. He was attached to Central Fire Station's Rota 1. He was under the Accused's supervision.²

¹ SOF at [1].

² SOF at [2].

3 By leaving the Deceased alone in the Unit while there was an ongoing fire and failing to inform any other person that the Deceased was alone in the Unit, the Accused did a rash act that endangered the Deceased's life.³

4 All things considered, the Accused was sentenced to 6 months' imprisonment.

Charge

5 The Accused pleaded guilty to the following charge:

You,

NAME : MUHAMMAD KAMIL BIN MOHAMED YASIN

GENDER / AGE : MALE / 38 YEARS OLD

NATIONALITY : SINGAPOREAN

are charged that you, on 8 December 2022, from 11.44 a.m. to 1.34 p.m., at Blk 91 Henderson Road #04-146, Singapore (the "Unit"), did cause grievous hurt to one Edward H Go ("Edward") by doing an act so rashly as to endanger human life, *to wit*, you exited the Unit and left the said Edward alone in the Unit while there was an ongoing fire in the said Unit, and failed to inform any other person about this fact, and you have thereby committed an offence punishable under Section 338(a) of the Penal Code 1871. (2020 Rev. Ed.) ("the Act")⁴

³ SOF at [16].

⁴ MAC 906575 2023.

Prescribed punishment

6 The prescribed punishment for s 338(a) of the Act is:

- (a) Imprisonment for a term which may extend to 4 years, or with
- (b) Fine which may extend to \$10,000, or with
- (c) Both.

7 An offence’s statutory maximum sentence signals the gravity in which Parliament views such offences. A sentencing judge ought to take this into account when determining precisely where the offender’s conduct falls within the entire range of punishment set by Parliament: *Public Prosecutor v Kwong Kok Hing* [2008] 2 SLR(R) 684 at [44] (Benny Tan, *Assessing the Effectiveness of Sentencing Guideline Judgments in Singapore Issued Post-March 2013 and A Guide to Constructing Frameworks*, (2018) 30 SAcLJ 1004 at [46]) (see also Tan Yock Lin and S. Chandra Mohan, *Criminal Procedure* (LexisNexis: March 2017; Binder 3, Loose-leaf, Chapter XVII: Sentencing) at [3751]).

8 The court should ensure that the full spectrum of sentences enacted by Parliament is carefully explored in determining the appropriate sentence, *viz.* Completeness principle (*Poh Boon Kiat v Public Prosecutor* [2014] 4 SLR 892 at [60]).

Prosecution’s submissions on sentence

9 The Prosecution sought a sentence of 6 months’ imprisonment.⁵

10 For offences such as s 338(a) of the Act, the paramount sentencing

⁵ Prosecution’s Address on Sentence at [1] and [18].

consideration is general deterrence (*Public Prosecutor v Chong Chee Boon Kenneth and other appeals* [2021] 5 SLR 1434 at [104] (“*Kenneth Chong*”)), especially for a high-risk activity such as firefighting.⁶

11 Retribution is a relevant sentencing consideration. The Deceased tragically lost his life while serving his National Service.⁷

12 The appropriate claim trial starting sentence should be pegged at 9 months’ imprisonment.⁸

13 The degree of harm caused in the present case is the most severe form of harm, namely, death. The reported precedents of *Kenneth Chong*, *Public Prosecutor v Ong Lin Jie* [2022] SGDC 187 and *Balakrishnan S and another v Public Prosecutor* [2005] 4 SLR(R) 249 are useful reference points, although the factual matrices in these precedents are distinguishable from the present case.⁹

14 An offender’s culpability is measured by the degree of rashness (*Kenneth Chong* at [102]).¹⁰ The Accused’s culpability ought to be pegged at the moderate-to-high level.¹¹

15 The Prosecution acknowledged that the Accused’s rash act took place in the context of a dynamic and evolving situation, namely, an ongoing fire in the

⁶ Prosecution’s Address on Sentence at [3].

⁷ Prosecution’s Address on Sentence at [6].

⁸ Prosecution’s Address on Sentence at [7].

⁹ Prosecution’s Address on Sentence at [9].

¹⁰ Prosecution’s Address on Sentence at [8].

¹¹ Prosecution’s Address on Sentence at [10]-[12].

Unit. His decision to withdraw from the Unit alone – albeit patently wrong – was motivated by his intention to recover and regain his bearings. In that regard, the Accused’s culpability can be pegged below that of the offenders in *Kenneth Chong* and *Balakrishnan*, whereby the offending activities were done with deliberation and with some degree of prolongation.¹²

16 The culpability in the present case ought to be pegged slightly above the culpability of the offender in *Ong Lin Jie* – who was reacting amidst an ongoing army training exercise when he made the rash act to overtake another army vehicle.¹³

17 The Accused’s act of extricating himself from the scene of the fire and leaving the Deceased behind alone was a prohibited act in breach of the SCDF Safety Doctrines. Further, unlike the offender in *Ong Lin Jie*, the Accused – in extricating himself from the scene of the fire – was not subject to the same risk that the Deceased faced when left alone at the scene of the fire.¹⁴

18 As the Accused elected to plead guilty more than 12 weeks after the first mention for his charge, the present matter falls within Stage 2 of the Sentencing Advisory Panel’s Guidelines on Reduction in Sentences for Guilty Pleas. As such, the Accused is entitled to a maximum sentencing discount of 20%.¹⁵

19 Taking into account the procedural history for this matter, the Prosecution was prepared to not object to a 25% sentencing discount. This would lead to its final calibrated sentencing position of at least 6 months’

¹² Prosecution’s Address on Sentence at [12].

¹³ Prosecution’s Address on Sentence at [13].

¹⁴ Prosecution’s Address on Sentence at [14].

¹⁵ Prosecution’s Address on Sentence at [2].

imprisonment.¹⁶

Mitigation plea

20 The Defence sought a sentence of 2 to 3 months' imprisonment, if the custodial threshold was crossed.¹⁷

21 The Accused is 39 years old. He is married with 4 children who are 12, 10, 8 and 4 years old.¹⁸

22 He pleaded guilty at the most reasonable opportunity and urged the court to give him the full benefit of the plea and cooperation with the authorities.¹⁹

23 The Accused was prepared to return to the Unit when he discovered that his breathing apparatus did not have sufficient oxygen and sought permission to change it.²⁰

24 He handed over the thermal imager to LTC Hassan. This imager is supposed to indicate the presence of another person in the unit who might not be visible to the naked eye because of the smoke.²¹

25 The Accused's meeting with LTC Hassan was only for a few moments while the Accused himself was recovering from being overcome with the

¹⁶ Prosecution's Address on Sentence at [16].

¹⁷ Mitigation Plea at [38].

¹⁸ Mitigation Plea at [3].

¹⁹ Mitigation Plea at [27].

²⁰ Mitigation Plea at [17].

²¹ Mitigation Plea at [18].

fumes.²²

26 Prior to this, the Accused had been assisting in fighting the fire and was in the thick of it. Once he recovered, he was prepared to go back in and carry on but responded to the call to evacuate other immobile people in the block who were at risk.²³

27 The Accused responded immediately to the message for help and went straight to the Unit to evacuate the Deceased to a more open area and administered CPR along with others. The Accused also called for medical assistance.²⁴

28 During his years as a firefighter, he had always performed his duties under very difficult situations admirably and without reproach.²⁵

29 He is a first time offender.²⁶

30 The Accused's failure to inform LTC Hassan was inadvertent as he knew that LTC Hassan was going to the Unit and would have found out.²⁷ The Accused made a genuine mistake in a very difficult situation while fighting a fire where he himself was overcome by the fumes and smoke.

²² Mitigation Plea at [30].

²³ Mitigation Plea at [19] and [31].

²⁴ Mitigation Plea at [21] and [32].

²⁵ Mitigation Plea at [33].

²⁶ Mitigation Plea at [34].

²⁷ Mitigation Plea at [35].

Sentencing

Decision on sentence

Cases

PP v Muhammad Nurul Hakim Mohamed Din (Unreported)

31 *Muhammad Nurul Hakim Mohamed Din*²⁸ involved a high-element challenge rope course with multiple obstacles and two tiers. The offender, a staff member, was sentenced to 6 months' imprisonment for an offence under s 338(a) of the Penal Code. The charge was for causing grievous hurt by a rash act endangering human life. The victim passed away.

32 While *Muhammad Nurul Hakim Mohamed Din* is a fairly recent case, its sentence could not serve as a point of reference for two interlacing reasons.

33 First, given that *Muhammad Nurul Hakim Mohamed Din* is an unreported decision, I did not place much weight on it. The reason for placing little, if any, weight on unreported decisions is because they are unreasoned. Therefore, it is not possible to discern what had weighed on the mind of the sentencing judge (*Janardana Jayasankarr v Public Prosecutor* [2016] 4 SLR 1288 at [13(b)]).

34 Unreported decisions often lack sufficient particulars to paint the entire factual landscape needed to appreciate the precise sentences imposed (*Abdul Aziz bin Mohamed Hanib v Public Prosecutor* [2022] SGHC 101 at [173]).

35 The high-element activity (Canopy Sky Walker obstacle course) in *Muhammad Nurul Hakim Mohamed Din* was different from the present case

²⁸ SC-905790-2022.

(firefighting).

36 Second, unreported decisions cannot meaningfully even serve the limited function of being a “useful point of reference” (*Woo Haw Ming v Public Prosecutor* [2023] 3 SLR 1041 at [29]).

Offence-Specific Factors

(1) Harm

37 Harm is a measure of the injury caused to society by the commission of the offence (*Public Prosecutor v Koh Thiam Huat* [2017] 4 SLR 1099 at [41]).

38 In the present case, the Deceased – a full-time National Serviceman – has died. Death is generally the most serious consequence of any offence: *Public Prosecutor v BDB* [2018] 1 SLR 127 at [60].

39 I was mindful that in assessing the level of harm or potential harm, the sentencing court should be careful not to double-count any factors which may already have been taken into account in assessing the level of culpability: *Ye Lin Myint v Public Prosecutor* [2019] 5 SLR 1005 at [58] (see also Andrew Ashworth, *Sentencing and Criminal Justice* (6th Ed, 2015, Cambridge University Press) at [4.3] and [4.5]).

(2) Culpability

40 Culpability is a measure of the degree of relative blameworthiness disclosed by an offender’s actions and is measured chiefly in relation to the extent and manner of the offender’s involvement in the criminal act: *Public Prosecutor v Aw Tai Hock* [2017] 5 SLR 1141 at [35] (see Andrew Ashworth, *Sentencing and Criminal Justice* (Cambridge University Press, 6th Ed, 2015) at

[4.5]).

41 As the Accused was the highest ranking officer at the scene, he assumed control as the Ground Commander of the operations in accordance with SCDF's operational practices.²⁹

42 The Accused instructed the Deceased to enter the Unit in order to remove any obstruction behind the front door and to assist Lance Corporal Muhammad Irfan Bin Mohammed Ariff ("LCP Irfan") in fighting the fire.³⁰

43 After a while, as LCP Irfan started to feel fatigued, he asked the Accused for permission to exit the Unit, to which the Accused consented. After LCP Irfan exited the Unit, the Deceased took up the fire hose and began using it to spray water at the fire inside the Unit with the Accused supporting him from behind, as the proper operation of the fire hose required two persons.³¹

44 Several minutes after LCP Irfan left the unit, the Accused began feeling dizzy from the heat and decided to leave the Unit so that he could rest and recover. He tapped the Deceased on his back and gave him a thumbs up gesture, before leaving the Unit with the Deceased still inside the Unit fighting the fire by himself. The Accused did not verbally inform the Deceased that he was leaving the Unit. At this time, the fire in the Unit had not been extinguished and was still ongoing.³²

45 The strength of the fire can be seen from the fact that:

²⁹ SOF at [7].

³⁰ SOF at [9].

³¹ SOF at [10].

³² SOF at [11].

(a) After a while of trying to handle the fire, LCP Irfan started to feel fatigued and he exited the Unit after receiving the Accused's permission to do so,³³

(b) The Accused concluded that a second fire hose was required as the fire kept reigniting and requested for a second fire hose to be set up,³⁴ and

(c) Several minutes after LCP Irfan left the Unit, the Accused began feeling dizzy from the heat and decided to leave the Unit so that he could rest and recover.³⁵

46 In leaving the Deceased behind in the Unit, the Accused contravened the requirement in the SCDF's Safety Doctrines that firefighters are required to work minimally in pairs.³⁶

47 The Accused did not tell SCDF Lieutenant-Colonel Hassan Kuddoos s/o Abu Bakar Maricar ("LTC Hassan") that the Deceased was still in the Unit fighting the fire by himself. As such, LTC Hassan was unaware that there was still an SCDF firefighter in the Unit when he was being briefed by the Accused. The Accused also did not inform any other SCDF personnel at the scene that the Deceased was still inside the Unit.³⁷

³³ SOF at [10].

³⁴ SOF at [10], [13] and [17].

³⁵ SOF at [11].

³⁶ SOF at [12].

³⁷ SOF at [13].

48 The Accused did not return to the Unit after changing his breathing apparatus as he proceeded to attend to his other duties.³⁸

49 In its Address on Sentence, the Prosecution “acknowledge(d) that the Accused’s rash act took place in the context of a dynamic and evolving situation, namely, an ongoing fire in the Unit. His decision to withdraw from the Unit alone – albeit patently wrong – was motivated by his intention to recover and regain his bearings. In that regard, we are of the view that the Accused’s culpability can be pegged below that of the offenders in *Kenneth Chong* and *Balakrishnan*, whereby the offending activities were done with deliberation and with some degree of prolongation”.³⁹

50 In my judgment, the preceding paragraph from the Prosecution’s Address on Sentence (*i.e.* the Prosecution’s “acknowledge(ment) that the Accused’s rash act took place in the context of a dynamic and evolving situation, namely, an ongoing fire in the Unit”),⁴⁰ and the Defence’s argument that the Accused’s “actions were in the course of an ongoing real life situation which was dynamic and evolving”⁴¹ needed to be considered against the following points:

- (a) The Accused is an experienced and long-serving firefighter of about 14 years.⁴² He is a senior SCDF officer.⁴³ He was the Deputy Rota Commander of Central Fire Station’s Rota 1, where he was co-

³⁸ SOF at [15].

³⁹ Prosecution’s Address on Sentence at [12].

⁴⁰ Prosecution’s Address on Sentence at [12].

⁴¹ Defence’s Reply to Prosecution’s Amended Address on Sentence at [9].

⁴² SOF at [1]. Prosecution’s Address on Sentence at [5].

⁴³ SOF at [4].

responsible for and supervised over 34 Singapore Civil Defence Force regular servicemen and full-time National Servicemen.⁴⁴

(b) *After – leaving – the Unit (i.e. the Accused was not amongst the ongoing fire in the Unit), the Accused was able to inform LTC Hassan of various points, including:*

(i) the fire was in the kitchen area of the Unit;

(ii) that one jet (being a reference to a fire hose) was at work;

(iii) there were no casualties;

(iv) some cats had been evacuated; and

(v) that he had requested for a second fire hose to be deployed.

However, the Accused did not tell LTC Hassan that the Deceased was still in the Unit fighting the fire by himself.⁴⁵ The Accused also did not inform any other SCDF personnel at the scene that the Deceased was still inside the Unit.⁴⁶

(c) The Accused did not return to the Unit after changing his breathing apparatus as he proceeded to attend to his other duties.⁴⁷

⁴⁴ SOF at [1].

⁴⁵ SOF at [13].

⁴⁶ SOF at [13].

⁴⁷ SOF at [15].

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51 The Accused left the Deceased to fight the fire on his own. He was left behind – alone. He died from “suffocation due to depleted air cylinder”.⁴⁸

PP v Ong Lin Jie

52 In *Public Prosecutor v Ong Lin Jie* [2022] SGDC 187, the offender was imprisoned for 5 months in relation to an army training exercise where he made the rash act to overtake another army vehicle. The offender was the vehicle commander of the Land Rover while the deceased was its driver.

53 In *Ong Lin Jie*, the offender’s rash act took place during a dynamic and evolving situation. The offender was responsible for the death as his decision to order the deceased to overtake the Bionix was rash because it was unsafe not to keep to the safety distance of 30 meters without first having established communications due to the real risk that the Bionix would be engaged in a “fire fight” and consequently execute an extrication drill, and the risk eventuated when the Bionix reversed as a consequence of the extrication drill and mounted the deceased’s side of the Land Rover which resulted in his death (*Ong Lin Jie* at [1]).

54 In *Ong Lin Jie*, the offender’s rash act took place during an army training exercise, when the offender and deceased were both inside the moving Land Rover, which was close to a moving Bionix.

55 In our case, the Accused had – *left* – the Unit to recover from the fumes,⁴⁹ and he was not in the middle of the ongoing fire in the Unit. Yet, the Accused

⁴⁸ Health Sciences Authority (10 April 2023) at [14], Final Cause of Death, Dr Mandy Lau (Associate Consultant Forensic Pathologist).

⁴⁹ Mitigation Plea at [30].

did not tell LTC Hassan that the Deceased was still in the Unit fighting the fire by himself.⁵⁰ The Accused also did not inform any other SCDF personnel at the scene that the Deceased was still inside the Unit.⁵¹ And the Accused did not return to the Unit later and attended to his other duties.⁵²

56 I agreed with the Prosecution that:

(a) In *Ong Lin Jie*, the trial judge noted that the offender’s decision to overtake the Bionix vehicle “was not in and of itself a prohibited act”⁵³ and the offender “was also in the Land Rover and subjected to relatively the same risk”^{54,55}

(b) In contrast, the Accused’s act of extricating himself from the scene of the fire and leaving the Deceased behind alone was a prohibited act in breach of the SCDF Safety Doctrines.⁵⁶

(c) Further, unlike the offender in *Ong Lin Jie*, the Accused – in extricating himself from the scene of the fire – was not subject to the same risk that the Deceased faced when left alone at the scene of the fire.⁵⁷

⁵⁰ SOF at [13].

⁵¹ SOF at [13].

⁵² SOF at [15].

⁵³ *Ong Lin Jie* at [222].

⁵⁴ *Ong Lin Jie* at [222].

⁵⁵ Prosecution’s Address on Sentence at [13].

⁵⁶ SOF at [12]. Prosecution’s Address on Sentence at [14].

⁵⁷ Prosecution’s Address on Sentence at [14].

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57 In the circumstances, the Accused's culpability in the present case ought to be pegged above the culpability of the offender in *Ong Lin Jie*.

PP v Balakrishnan S and PP v Kenneth Chong

58 For completeness, *Balakrishnan S* (Commando dunking case) and *Kenneth Chong* (SCDF ragging case) can be distinguished as they involved activities that were done with deliberation (*Ong Lin Jie* at [221]).

59 All things considered, the Accused's culpability was at least moderate.

Offender-Specific Factors

(1) Antecedents

60 The Accused had no previous antecedents.

(2) Guilty plea

61 The Sentencing Advisory Panel's Guidelines for Guilty Pleas applied. Given that the Accused elected to plead guilty more than 12 weeks after the first mention for his charge, I gave him a sentencing discount of 20% for his guilty plea (*Angliss Singapore Pte Ltd v Public Prosecutor* [2006] 4 SLR(R) 653 at [77]).

62 His guilty plea saved the criminal justice system resources that would have been expended with a full trial.

(3) Cooperation with the authorities

63 I gave due weight to the Accused's cooperation with the authorities: *Public Prosecutor v Siew Boon Loong* [2005] 1 SLR(R) 611 at [16]-[18].

64 I kept in mind the proportionality principle in sentencing (*Public Prosecutor v Law Aik Meng* [2007] 2 SLR(R) 814 at [30]). Under the proportionality principle, the sentence to be imposed must not only bear a reasonable proportion to the maximum prescribed penalty, but also to the gravity of the offence committed (Kow Keng Siong, *Sentencing Principles in Singapore* (Academy Publishing, Second Ed, 2019) at [06.091]-[06.093]).

Sentence imposed by the court

65 I agreed with the Prosecution that general deterrence and retribution are relevant sentencing considerations,⁵⁸ given that the Deceased tragically lost his life while serving as a firefighter during National Service.⁵⁹

66 There is generally strong public interest in the loss of life which occurs during national service, and for national service to retain public confidence and support, the sentencing objectives must be retribution and general deterrence (*Ong Lin Jie* at [128]).

67 All things considered, the sentence imposed was 6 months' imprisonment.

⁵⁸ Prosecution's Address on Sentence at [3] and [6].

⁵⁹ Prosecution's Address on Sentence at [6].

Conclusion

68 The Accused did not remain in the Unit, did not tell LTC Hassan that the Deceased was still in the Unit fighting the fire by himself, did not inform anyone else that the Deceased was alone, and did not return to the Unit.⁶⁰

69 In sum, in this case:

(a) Harm. The Deceased has died. Death is generally the most serious consequence of any offence (at [37] to [39]).

(b) Culpability. The Accused's culpability was at least moderate (at [40] to [59]).

(c) Mitigating/ Aggravating Factors. I took into consideration the Accused's clean record, guilty plea and cooperation with the authorities (at [60] to [64]).

70 The Accused was sentenced to 6 months' imprisonment.

71 I am grateful to the Prosecution and Defence for their hard work and assistance.

⁶⁰ Until the Deceased's body was found later by other firefighters.

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72 I extend my deepest condolences to the family of Mr Edward H Go. He tragically lost his life while serving National Service as a brave firefighter.

Shawn Ho
District Judge

Jordon Li and Benjamin Low (Attorney-General's Chambers) for the
Prosecution;
Ramesh Chandr Tiwary (M/S Ramesh Tiwary) for the
Defence.
