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

[2025] SGHC 8

Magistrate's Appeal No 9070 of 2023/01

Between

Sze Pak Hei, Gabriel (formerly known as Gabriel See Wei Yang)

… *Appellant*

And

Public Prosecutor

… *Respondent*

JUDGMENT

[Criminal Procedure and Sentencing — Appeal]
[Criminal Procedure and Sentencing — Voir dire — Procedure]
[Criminal Procedure and Sentencing — Statements — Admissibility]

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Sze Pak Hei Gabriel (formerly known as Gabriel See Wei Yang)
v
Public Prosecutor

[2025] SGHC 8

General Division of the High Court — Magistrate's Appeal No 9070 of 2023/01
Dedar Singh Gill J
26 July 2024

16 January 2025 Judgment reserved.

Dedar Singh Gill J:

1 This is an appeal against conviction and sentence. Sze Pak Hei, Gabriel (the "Appellant") had been convicted on eight counts of forgery under s 465 of the Penal Code (Cap 224, 2008 Rev Ed) ("PC") after a lengthy trial that involved 21 witnesses and three ancillary hearings. The District Judge (the "DJ") sentenced the Appellant to 14 months' imprisonment.

2 Having considered the submissions, evidence, and oral arguments by the parties, I dismiss the appeal and set out my reasons below.

Background facts

3 The Appellant operated the company Full of Fun House Pte Ltd ("Full of Fun House"), which was in the business of assisting pet owners with the

import or export of their pets.[1] He faced eight charges for forging various documents that related to the import and/or export of five dogs. These dogs are named Kiki, Kibu, Bamboo, Coffee, and Panda. The eight charges are briefly set out below:

(a) The first charge alleged that the Appellant had forged a health certificate by fraudulently appending the signature of Dr Rajaram Karthik Raja ("Dr Raj"). This document was to be used for the export of Kiki to Taiwan. This charge relates to Exhibit P4.

(b) The second charge alleged that the Appellant had forged a "Veterinary Certificate for the Export of Dogs/Cats from Rabies-free Countries (Zones) to Taiwan" (a "Veterinary Certificate") by fraudulently appending the signature of one Dr June Tan. This document was to be used for the export of Kiki to Taiwan. This charge relates to Exhibit P5. A Veterinary Certificate is a health certificate which adheres to the unique template required for the export of dogs to Taiwan.[2]

(c) The third charge alleged that the Appellant had forged a Veterinary Certificate by fraudulently appending the signatures of Dr June Tan and one Ms Lee Seen Yin. This document was to be used for the export of Kiki to Taiwan. This charge relates to Exhibit P8. The second and third charges appear to relate to two different copies of the same *type* of document, *ie*, a Veterinary Certificate for the export of Kiki to Taiwan. The main difference between the second and third charges is that the document in the former contains a purportedly forged signature

1 Record of Appeal ("ROA") at p 3494.

2 ROA at pp 601 and 619.

of Dr June Tan, whereas the latter contains purportedly forged signatures of Dr June Tan *and* Ms Lee Seen Yin.

(d) The fourth charge alleged that the Appellant had forged a laboratory report from the Agri-Food and Veterinary Authority of Singapore ("AVA") by fraudulently altering portions of the report after it had been made by one Ms Tan Ee Leng. This document was to be used for the import of Kibu into Singapore from Myanmar. This charge relates to Exhibit P7.

(e) The fifth charge alleged that the Appellant had forged an "application for animal health laboratory services" by fraudulently appending the signature of Dr Raj. This document was to be used for the import of Kibu into Singapore from Myanmar. This charge relates to Exhibit P61.

(f) The sixth charge alleged that the Appellant had forged a laboratory report from the AVA by fraudulently altering portions of a laboratory report after it had been made by Ms Tan Ee Leng. This document was to be used for the import of Bamboo into Singapore from Malaysia. This charge relates to Exhibit P10.

(g) The seventh charge alleged that the Appellant had forged a laboratory report from the AVA by fraudulently altering portions of a laboratory report after it had been made by Ms Tan Ee Leng. This document was to be used for the import of Panda into Singapore from Malaysia. This charge relates to Exhibit P11.

(h) The eighth charge alleged that the Appellant had forged a laboratory report from the AVA by fraudulently altering portions of a

> laboratory report after it had been made by Ms Tan Ee Leng. This document was to be used for the import of Coffee into Singapore from China. This charge relates to Exhibit P14.

A summary of all the exhibits that have been referenced in this judgment may be found at the Annex of this judgment.

Procedural history

4 The Prosecution's case at trial was that the Appellant had forged the aforementioned documents in the course of the import and export of various pets. The Prosecution relied on the following to establish the Appellant's guilt: (a) a statement by the Appellant to the police dated 11 August 2016 ("Exhibit P3"); (b) a statement by the Appellant to the police dated 5 September 2016 ("Exhibit P9"); (c) the fact that the Appellant's particulars were in the electronic and hardcopy applications for the submission of the documents; (d) the testimonies of two customers who had engaged the Appellant for pet relocation services; (e) the testimonies of various staff members from the AVA and the Changi Animal & Plant Quarantine; and (f) the testimonies of Dr Raj and Dr June Tan.[3]

5 The Appellant's case was simply that he had not committed any forgery, and that any forgery had been committed by someone other than him.[4] The Appellant also suggested that one Jason Lim Jie Sheng ("Jason Lim") could

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3 ROA at pp 3901–3902.

4 ROA at p 3902 at para 14.

have committed the forgeries as he had prepared and submitted several documents to the authorities.[5]

6 The Appellant objected to the admission of Exhibit P3 on the basis that it had been made involuntarily.[6] This formed the basis of the first ancillary hearing, where the Appellant raised two contentions. First, he argued that he suffered from various mental conditions that made him pliant during questioning. He submitted two medical documents to substantiate this allegation: (a) a medical report from Changi General Hospital dated 23 August 2019 (the "CGH Report"); and (b) a letter from one Dr Chan Chung-mau ("Dr Chan") from Hong Kong dated 20 March 2020 (the "HK Letter"). The Appellant did not object to the admission of Exhibit P9 at trial.[7] Second, the Appellant alleged that the investigating officer had threatened him during the statement recording process. The investigating officer had purportedly told the Appellant that he "need not grill [him] anymore", which caused the Appellant to think that the investigating officer wanted to hit him.[8] The Appellant also contended that the investigating officer had intimidated the Appellant by clenching his fists, banging on the table, and banging against the door.[9]

7 The second ancillary hearing related to the Defence's application to tender nine documents which purportedly showed the Appellant's WhatsApp conversations with Jason Lim and various e-mails and reports.[10]

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5 ROA at pp 3903–3904.

6 ROA at p 3922.

7 ROA at p 3922.

8 ROA pp 3924–3925 at paras 98–99.

9 ROA p 3925 at para 101.

10 ROA at p 3944.

8 The third ancillary hearing concerned the Defence's application to admit several WhatsApp media files.[11] These comprised ten pictures, three sound recordings, and one document which had been termed a "checklist".

Decision below

9 In the first ancillary hearing, the DJ held that there was no evidence of any threat, inducement, or promise during the recording of Exhibit P3.[12] While the Appellant and his family members alleged that he suffered from a mental condition which made him pliant during questioning, they could only describe this in general terms. They could not pinpoint *what* could have "triggered" the Appellant during the recording of Exhibit P3. The Appellant's medical evidence was also inconclusive. The CGH Report indicated that the Appellant was first seen on 7 September 2016, which was after the recording of Exhibit P3. While it stated that the Appellant had been diagnosed with Antisocial Personality Disorder and Generalised Anxiety Disorder, it did not explain how the questioning and the use of words such as "grill" during the recording of Exhibit P3 could have affected the voluntariness of the Appellant's statement. Similarly, the HK Letter stated that the Appellant had been diagnosed with Paranoid Disorder and had been treated by Dr Chan from 12 December 2012 to 28 January 2013. This was before the recording of Exhibit P3 on 11 August 2016. The HK Letter did not elaborate on the Appellant's condition at the time of the recording of Exhibit P3 and how the voluntariness of the statement could have been affected. Accordingly, the DJ found that the Appellant had not tendered any credible evidence to show how his purported medical conditions

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11 ROA at p 3953.

12 ROA at p 3927.

impacted his statement-taking.[13] The DJ had also not found that the alleged actions of the investigating officer had been made out.[14] Exhibit P3 was thus admitted into evidence.[15]

10 During the second ancillary hearing, the DJ admitted two of the nine pieces of evidence as the Prosecution withdrew their objections to those two pieces of evidence. However, the remaining seven pieces of evidence were not admitted as the Appellant had not discharged his burden of proving the authenticity of those documents. Expert evidence was adduced by the Appellant and the Prosecution, and the court scrutinised the technical issues relating to the purported retrieval process for the remaining pieces of evidence. The DJ concluded that there were various limitations in the forensic analysis of the evidence and declined to admit the evidence.[16]

11 The DJ did not admit the evidence in the third ancillary hearing. The Appellant was unable to satisfactorily explain the provenance of the various pieces of evidence.[17]

12 In the course of the main trial, the DJ found that all eight documents that were the subject of the charges had been forged. She relied on the unrebutted testimonies of various Prosecution witnesses who had either testified that: (a) the signatures on the documents were not theirs; (b) the handwriting on the documents was not theirs; (c) the reference number on the document was

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13 ROA at pp 3927–3928 at paras 109–114.

14 ROA at p 3928 at para 115.

15 ROA at pp 3927–3928.

16 ROA at pp 3945–3952.

17 ROA at pp 3953–3954.

incorrect; (d) the font size and other details on the documents were incorrect or different; or (e) that they had not seen the relevant dog on the date indicated on the document.[18]

13 Next, the DJ found that the *Appellant* was the person who had forged the documents. The DJ relied on: (a) the Appellant's confessions in Exhibits P3 and P9; (b) the fact that the Appellant's account had been used to log-in to the online portals where the forged documents were submitted electronically; and (c) the fact that the Appellant was the controlling mind of Full of Fun House and played a pivotal role in its operations.[19] The DJ rejected the Appellant's argument that Jason Lim or other freelancers had committed the forgeries.[20] This was because Jason Lim had testified that he was only involved in the printing of the documents and not the preparation of the content of the documents.[21] Jason Lim had also denied having access to the Appellant's log-in credentials for the online portals for the submission of the documents. He claimed that he had a minimal role in Full of Fun House.[22]

14 The DJ found that the Appellant had the requisite *mens rea* for the offences.[23] The DJ relied on the Appellant's confessions in Exhibits P3 and P9.

15 As all the elements of the eight charges had been proven beyond a reasonable doubt, the DJ convicted the Appellant of the same.

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18 ROA at pp 3907–3921.

19 ROA at p 3960.

20 ROA at p 3961 at para 262.

21 ROA at pp 3940–3941.

22 ROA at pp 3942–3944.

23 ROA at pp 3958–3960.

16 In sentencing the Appellant, the DJ considered his prior antecedent for an offence under s 182 of the PC for providing false information with intent to cause a public servant to use his lawful power to the injury of any person.[24] This conviction was dated 25 March 2008. This antecedent warranted specific deterrence.[25] The DJ also noted the following factors: (a) it was undisputed that the custodial threshold had been crossed;[26] (b) the Appellant had claimed trial and the mitigating weight that would ordinarily apply to a plea of guilt did not apply;[27] and (c) the Appellant had cooperated with the authorities.[28]

17 In relation to the Appellant's culpability, the DJ considered the following factors: (a) the Appellant had not appropriated any object in the commission of the forgery;[29] (b) the offences were not that sophisticated;[30] (c) the offences were hard to detect;[31] and (d) the Appellant had applied "a certain finesse" to the doctoring of the documents as he relied on the knowledge gained from his previous dealings with the authorities.[32]

18 The DJ considered the following factors in relation to the harm caused: (a) it was fortuitous that the harm caused was not as high as in other

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24 ROA at p 3962 at para 270.

25 ROA at pp 3979–3980 at paras 332–335.

26 ROA at p 3972 at paras 290–291.

27 ROA at p 3973 at paras 294–295.

28 ROA at p 3973 at para 296.

29 ROA at p 3973 at para 298.

30 ROA at p 3974 at para 299.

31 ROA at p 3974 at paras 300–301.

32 ROA at p 3974 at para 302.

precedents;[33] (b) the offences affected various different animals and pet owners, different offices, and different animal professionals;[34] (c) the offences had wider implications for Singapore and society at large as it put public health and safety at risk;[35] and (d) that it had posed a risk to other countries in so far as the offences related to the *export* of animals.[36]

19 The Appellant's alleged mitigating factors were also considered by the DJ. The DJ held that: (a) the Appellant's personal and financial circumstances were not so extenuating as to warrant mitigating weight;[37] and (b) the Appellant's purported health issues were not substantiated.[38]

20 The DJ thus imposed a sentence of five months' imprisonment per charge, although the sentence for one charge was reduced to four months' imprisonment in the light of the totality principle.[39] Three of the imprisonment terms were made to run consecutively, which resulted in a global sentence of 14 months' imprisonment.[40] The DJ declined to make an order for compensation as such compensation was difficult to quantify.[41]

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33 ROA at p 3974 at para 300.

34 ROA at p 3975 at para 303.

35 ROA at p 3975 at paras 305–307.

36 ROA at p 3976 at para 310.

37 ROA at p 3980 at para 337.

38 ROA at p 3980 at para 336.

39 ROA at pp 3981–3982 at paras 340 and 344.

40 ROA at pp 3981–3982 at paras 343–344.

41 ROA at p 3982 at para 346.

The parties' cases

21 The Appellant raises the following arguments in relation to his conviction:

(a) Exhibits P3 and P9 were improperly admitted into evidence and their contents should be given no weight at all.[42] In this context, the Appellant mounts the following arguments:

(i) The admission of Exhibit P3 is incorrect in law as the procedure for the first ancillary hearing was defective. The Appellant had been asked to present his case before the Prosecution, which contravened s 279(3) of the Criminal Procedure Code 2010 (Cap 68, 2012 Rev Ed) ("CPC").[43] In the alternative, the Appellant argues that Exhibit P3 had been made under oppression and is not admissible under s 258(3) of the CPC.[44] In the further alternative, Exhibit P3 should be excluded through the exercise of the court's discretion to exclude evidence (the "Kadar Discretion").[45]

(ii) The admission of Exhibit P9 is incorrect in law as the DJ had not invited the Appellant to articulate his position on the voluntariness of the statement.[46] The Prosecution had not

42 AWS at para 52.

43 Appellant's Written Submissions dated 15 July 2024 ("AWS") at paras 6–11.

44 Minute Sheet dated 26 July 2024 at p 11.

45 Minute Sheet dated 26 July 2024 at p 11.

46 AWS at para 15.

discharged its burden of proving that Exhibit P9 had been given voluntarily.

(b) The DJ should not have relied on Exhibits P3 and P9 to sustain the Appellant's conviction. No weight should be accorded to the statements as they contain the following deficiencies:

(i) They do not contain a definitive description of the documents that were shown to the Appellant.[47]

(ii) The statements were not accompanied by endorsed copies of the alleged falsified documents.[48]

(iii) The investigating officer could not recall which documents he had in his possession when he recorded Exhibit P3.[49] It is unclear which documents the investigating officer had with him when he recorded Exhibit P3.[50] Exhibits P3 and P9 had to be heavily supplemented by the investigating officer's testimony on the documents relating to the Appellant's admissions in Exhibits P3 and P9.[51]

(c) The DJ failed to exercise her discretion to conduct an ancillary hearing on the accuracy of the contents of Exhibit P3.[52]

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47 AWS at para 46.

48 AWS at para 46.

49 AWS at paras 47–48.

50 AWS at para 48.

51 AWS at para 50.

52 AWS at paras 12–14.

(d) The DJ erred by allowing the Prosecution to introduce prejudicial evidence against the Appellant during the trial.[53]

(e) The DJ erred in concluding that the documents in all eight charges were forged.[54] The Prosecution's burden to establish the falsity of the documents is not discharged by the mere fact that the Defence had not challenged the Prosecution's evidence. The uncorroborated testimonies of the Prosecution's witnesses were not unusually convincing.[55] The Appellant also highlights various purported deficiencies in the Prosecution's evidence.[56]

(f) The DJ erred in concluding that the first to third charges were established as the Appellant already had the necessary documents for Kiki without any forgery issues, and thus did not need to forge documents to export Kiki.[57]

(g) The DJ erred in believing Jason Lim's testimony relating to his minimal involvement in Full of Fun House.[58] Further, the exhibits that were not admitted by the DJ showed the possible involvement of Jason Lim in the forgeries.[59] During oral arguments, the Appellant clarified that he was not arguing that Jason Lim was the true perpetrator of the forgeries. Instead, the Appellant contended that the totality of Jason

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53 AWS at paras 29–35.

54 AWS at paras 38–45.

55 AWS at para 43.

56 AWS at para 44.

57 AWS at para 55.

58 AWS at para 61.

59 AWS at p 29.

Lim's evidence supports the conclusion that the Appellant was not the one who falsified the documents.[60] In other words, there is a reasonable doubt that the forgeries were committed by someone else other than the Appellant.

22 The Appellant raises the following arguments in relation to his sentence:

(a) The DJ had given undue weight to the harm that would have been caused by the offences. While the pet owners had paid $2,000 each for the Appellant's relocation services, the Appellant had made payments towards the quarantine fees for Kibu, Panda, and Bamboo.[61] Further, any possible harm caused by the forgeries would be eliminated as Singapore's border control office would check through the *original* documents upon the arrival of the animals in Singapore.[62] The Appellant also highlights that Kiki, Bamboo, Panda, and Coffee were vaccinated.[63]

(b) The DJ did not articulate how she had taken the Appellant's antecedent into account when calibrating his sentence.[64]

(c) The DJ did not consider the Appellant's mental health condition and the possibility of its contributory or causal link to the offences. Neither did the DJ consider the adverse effect of a long imprisonment term on the Appellant.[65]

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60 Minute Sheet dated 26 July 2024 at p 21.

61 AWS at para 64(a).

62 AWS at para 64(b).

63 AWS at para 64(c).

64 AWS at para 65.

65 AWS at paras 66–67.

(d) The DJ failed to give adequate weight to the Appellant's lack of premeditation and planning.[66]

23 The Appellant submits that the culpability and harm in the present offences are low.[67] The appropriate starting point should be 2 months' imprisonment per charge for the charges relating to the export of pets, and 4 weeks' imprisonment per charge for the charges relating to the importation of pets.[68]

24 The Prosecution raises the following arguments in relation to the Appellant's conviction:

(a) Exhibit P3 had been correctly admitted into evidence as it had been given voluntarily without any threat, inducement, or promise.[69] While there had been a procedural irregularity in the conduct of the ancillary hearing, this irregularity could be cured by s 423(*a*) of the CPC as there had not been a failure of justice.[70] The Appellant's perception of a threat by Investigation Officer Lim Wee Chern ("IO Lim") was self-induced.[71] The Appellant's assertion as to the involuntariness of his statement was vague and unsubstantiated.[72]

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66 AWS at para 68.

67 AWS at paras 69 and 72.

68 AWS at para 72.

69 RWS at para 31.

70 RWS at paras 43–48.

71 RWS at para 31 and 52.

72 RWS at paras 50–51.

(b) The DJ correctly found that the documents had been forged. The DJ was entitled to rely on the Appellant's confessions in Exhibits P3 and P9, which related to all the charges except for the fifth charge.[73] The Appellant had provided a cogent account of his motivation for the forgeries in Exhibit P3.[74] The Appellant's admissions were also corroborated by the evidence of the relevant pet owners, who testified that they had interacted with the Appellant.[75]

(c) The Appellant had not raised any reasonable doubt as to his involvement in the electronic submission of the documents to the AVA. The applications were submitted through the Appellant's SingPass account or were submitted with the Appellant's credentials.[76] The AVA staff also testified that they had only liaised with the Appellant for the relevant applications.[77] The Prosecution also argues that the DJ did not need to make a finding on the Appellant's involvement in the submission of the documents to the AVA as his guilt could be established by other pieces of evidence. Other evidence could establish that the Appellant had forged the documents with the intention to commit fraud.[78]

(d) The DJ had correctly rejected the Appellant's argument that Jason Lim had committed the forgeries. The DJ correctly found that: (a) Jason Lim played a minimal role in the operations of Full of Fun

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73 RWS at paras 29 and 55.

74 RWS at para 56.

75 RWS at paras 29 and 60–62.

76 RWS at para 65.

77 RWS at para 66.

78 RWS at para 63.

House;[79] and (b) the inconsistencies in Jason Lim's evidence were explainable or immaterial.[80] The DJ had rightly rejected the argument that Jason Lim had forged the documents with the Appellant's SingPass account.[81]

25 The Prosecution makes the following submissions on sentence:

(a) The DJ had correctly assessed the level of harm caused by the offences. The DJ considered the fact that no pets had been harmed and had correctly balanced it against other aggravating factors.[82] Further, the fact that no actual harm had been caused to the pets was simply fortuitous.[83] The Appellant had also caused monetary loss to the pet owners.[84]

(b) The DJ correctly found that the Appellant's prior conviction warranted specific deterrence.[85]

(c) The psychological impact of imprisonment on the Appellant is not a relevant sentencing consideration, and no evidence had been adduced to suggest that the impact on the Appellant would be exceptional and would warrant a readjustment of sentence.[86]

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79 RWS at paras 72–83.

80 RWS at paras 84–93.

81 RWS at paras 94–96.

82 RWS at para 107.

83 RWS at para 108.

84 RWS at para 109.

85 RWS at paras 101–105.

86 RWS at paras 113–114.

(d) There is no evidence that the Appellant's mental conditions had any causal or contributory link to his offending.[87]

(e) The offences were premeditated as some level of planning would have been involved in obtaining the signatures to be forged and the original documents from which the forgeries were created.[88]

Issues to be determined

26 In my view, the following issues arise for my determination:

(a) Whether the Appellant's conviction was wrong in law. In this connection, the following sub-issues arise for my consideration:

(i) Whether the DJ had erred in admitting Exhibits P3 and P9. In this context, I turn to consider:

(A) Whether the improper conduct of the ancillary hearing for the admission of Exhibit P3 had occasioned a failure of justice, such that the procedural irregularity could not have been cured under s 423 of the CPC.

(B) Whether Exhibit P3 should have been excluded under s 258(3) of the CPC on the ground that there had been a threat in the recording of the statement.

(C) Whether Exhibit P3 should have been excluded under s 258(3) of the CPC on the basis of oppression.

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87 Minute Sheet dated 26 July 2024 at p 27.

88 Minute Sheet dated 26 July 2024 at p 27.

(D) Whether Exhibit P3 should have been excluded through the exercise of the Kadar Discretion.

(E) Whether the Prosecution had discharged its burden of proving the voluntariness of Exhibit P9.

(F) Whether Exhibit P9 should have been excluded through the exercise of the Kadar Discretion.

(ii) Whether the DJ had erred in concluding that the documents for all eight charges had been forged.

(iii) Whether the DJ erred in failing to conduct an ancillary hearing on the accuracy of the contents of Exhibit P3.

(iv) Whether the DJ erred in allowing the Prosecution to introduce prejudicial evidence against the Appellant.

(v) Whether the DJ erred in concluding that the forgeries were committed by the Appellant.

(b) Whether the sentence imposed by the DJ is manifestly excessive.

Issue 1: Whether the DJ had erred in admitting Exhibits P3 and P9

27 The Appellant contends that the DJ had erred in admitting Exhibits P3 and P9 for various reasons.

28 In relation to Exhibit P3, the Appellant raises three alternative arguments. First, he argues that Exhibit P3 should not have been admitted as the ancillary hearing was procedurally defective and had not been conducted in accordance with s 279(3) of the CPC. The Appellant had given his evidence *before* the Prosecution had given its own evidence. Second, and in the

alternative, Exhibit P3 should be excluded under s 258(3) of the CPC as it was given under threat and/or there had been oppression. Third, as another alternative argument, the Appellant argues that the court should exercise the Kadar Discretion to exclude Exhibit P3.

29 In relation to Exhibit P9, the Appellant argues that it should be excluded on two grounds. First, the Prosecution had not discharged its burden under s 258(3) of the CPC as it failed to convince the court that there was no threat, inducement or promise involved in the making of the statement. The Prosecution had merely sought to admit Exhibit P9 and the Appellant had not objected to its admission. The Appellant contends that so long as the Prosecution does not adduce evidence which shows that the statement was recorded without any threat, inducement or promise, such a conclusion cannot be presumed even if the Appellant did not object to the introduction of the evidence.[89] Second, and in the alternative, the Appellant submits that Exhibit P9 should be excluded on the basis of the Kadar Discretion.

30 In response, the Prosecution contends that the DJ had not erred in admitting Exhibits P3 and P9.

31 First, while it is undisputed that the DJ had failed to comply with the procedure for conducting the ancillary hearing in relation to Exhibit P3, this procedural defect can be cured by s 423(*a*) of the CPC. Section 423(*a*) states that a judgment passed by a court may not be reversed on account of an irregularity in proceedings during trial unless the irregularity has caused a failure of justice. In the present case, the procedural irregularity did not cause a

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89 Minute Sheet dated 26 July 2024 at p 6.

failure of justice for the following reasons: (a) IO Lim had already testified as to the voluntariness of the statement recording before the ancillary hearing had formally commenced; (b) IO Lim was not present during the Defence's case for the ancillary hearing; (c) the Appellant was given the opportunity to cross-examine IO Lim; and (d) the DJ did not consider IO Lim's evidence given during the ancillary hearing in rendering her decision.[90]

32 Second, the Appellant's perception of a threat during the recording of his statement was self-induced. The purported threat does not satisfy the threshold for a threat or oppression under s 258(3) of the CPC.[91] Further, in relation to Exhibit P9, the Prosecution contends that it merely has to prove voluntariness in terms of whether the procedure for the investigative statement was conducted properly. Thereafter, the burden is on the Defence to prove that the statement was made involuntarily. Holding otherwise would essentially require the Prosecution to defend against a myriad of possible allegations of involuntariness as part of its case.[92]

33 The Prosecution did not reply to the Appellant's argument on the Kadar Discretion.

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90 RWS at para 43.

91 RWS at paras 49 and 52.

92 Minute Sheet dated 26 July 2024 at p 13.

Exhibit P3

The improper conduct of the ancillary hearing

34 The parties accept that the DJ had erred in conducting the ancillary hearing for the admission of Exhibit P3. The proper procedure as stipulated under s 279(3) of the CPC is for the Prosecution (as the party which seeks to admit the evidence) to first adduce evidence of the voluntariness of the statement. The Prosecution will call its witnesses, who may then be cross-examined and re-examined. After the Prosecution has concluded its case, the Defence will then present its evidence. In the proceedings below, the DJ had failed to comply with this procedure as the Defence was called to provide its evidence before the Prosecution.

35 Section 423(*a*) of the CPC states that a judgment made by a court may not be reversed on account of an irregularity during the trial unless the error or irregularity has caused a *failure of justice*. The provision is reproduced below:

> **When irregularities do not make proceedings invalid**
>
> **423.** Subject to this Code, any judgment, sentence or order passed or made by a court of competent jurisdiction may not be reversed or altered on account of —
>
> > (*a*) an error, omission or irregularity in the complaint, summons, warrant, charge, judgment or other proceedings before or during trial or in an inquiry or other proceeding under this Code;
> >
> > …
>
> unless the error, omission, improper admission or rejection of evidence, irregularity or lack of consent has caused a failure of justice.

In determining whether the irregularity has caused a failure of justice, the central issue is whether the irregularity renders the judgment, sentence or order unsafe

or unfair such that it should not be allowed to stand at all or should be allowed to stand only with rectifications: *Rajendran s/o Nagarethinam v Public Prosecutor and another appeal* [2022] 3 SLR 689 at [60]. In determining whether there is a failure of justice, the court will ask itself the *subjective* question of whether it is content to allow the verdict to stand or whether there is some lurking doubt that an injustice has been occasioned: *Yusof bin A Samad v Public Prosecutor* [2000] 3 SLR(R) 115 ("*Yusof*") at [35].

36 In the present case, the Prosecution submits that the procedural irregularity did not render the DJ's conviction unsafe for the following reasons: (a) the Appellant was not prejudiced as the Prosecution's witness, IO Lim, had already testified as to the voluntariness of the statement recording even before the formal commencement of the ancillary hearing; (b) IO Lim was not present during the Defence's case for the ancillary hearing and could not tailor his evidence to rebut such claims; (c) the Appellant was allowed to cross-examine IO Lim; and (d) the DJ did not consider IO Lim's evidence given during the ancillary hearing in making her decision.[93]

37 In response, the Appellant argues that there is a failure of justice because: (a) the Appellant's detailed elaboration of the grounds of his objection in the ancillary hearing had allowed the Prosecution to adduce Exhibit P2, which was a photocopy of an alleged extract from the field diary of IO Lim;[94] and (b) the admission of P2 was erroneous as its authenticity was not established.[95] At the oral hearing before me, the Appellant raised the following additional

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93 RWS at para 43.

94 AWS at para 26.

95 AWS at para 27.

arguments: (a) IO Lim had only given evidence about the procedural formalities of the statement recording, and had not given evidence about the voluntariness of the statement prior to the ancillary hearing; (b) IO Lim was present when the Appellant made his allegations regarding the voluntariness of the recording of Exhibit P3; and (c) Exhibit P2 was not a certified true copy and the handwriting in the exhibit appeared "squeezed".[96] The Appellant also relies on *Fun Seong Chen v Public Prosecutor* [1997] 2 SLR(R) 796 ("*Fun Seong Chen*") to argue that where the Defence is asked to present its case before the Prosecution in an ancillary hearing, the court should not admit such evidence.

38 It is apposite to briefly set out the events which led to the ancillary hearing. The Appellant had initially objected to the admission of Exhibit P3 during the examination-in-chief of the recording officer, IO Lim. The relevant extracts from IO Lim's examination-in-chief are reproduced below:[97]

> Lee: Your Honour, could I give the witness, and the Court, and the parties another document?
>
> Q: Mr Lim, I have just given you a document. What is this document?
>
> A: This is the, uh, this is the statement that I recorded from the Defendant.
>
> Q: When was this statement recorded?
>
> A: It was recorded on the 11th of August 2016.
>
> …
>
> Q: If you look at the 1st page, I see some handwritten signatures. Can you explain whose signature is it on the left-hand side? At the top, middle part. Let's go signature by signature.

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96 Minute Sheet dated 26 July 2024 at p 12.

97 ROA at pp 50–51, 56–59 and 69–72.

A: Yah. The 1st signature, somewhere in the middle of the, uh, on the left belongs to the Defendant himself, when he made the amendments at the column under the highest application level, I think. …

…

Q: What about the cancellation near to the words, "my customer"? Who did that?

A: That is also made by the Defendant, himself and then he wrote down, "anyone".

Q: And what about the cancellation of the word, "was"?

A: That was done by the Defendant himself when I written, "I was new in this line" and then he amend the word, "was" to "am", "I am new in this line---in the line".

Lee: Your Honour, it appears that the accused can even correct grammatical errors.

…

Q: When you say that the Defendant read the statement, how did he read the statement?

A: Basically, I will print out the whole statement and then I will pass it to him and let him read through. So, as you can see that those amendment that he made was the point when he was reading through the statements.

…

Q: You---what was the language that you used to record the statement?

A: In English.

Q: And why did you decide to use English?

A: Uh, before I start off the statement, I have communicated with the Defendant on what language he is comfortable in giving and speaking to. So, he mentioned to me that he's comfortable in speaking English and that was why in my 1st paragraph of the statement, I put down that he was comfortable in giving this statement in English.

…

Q: What was the manner in which you recorded the accused answers?

A: *Well, the manner was actually quite---to me was---it was quite a smooth, uh, interview because whenever what question that I actually asked him, he was actually quite forthcoming.*

…

Lee: Your Honour, before we proceed, could I have the statement admitted first just for identification? Maybe at the end, I'll apply but I just want to---before we have more and more documents. Also, for this document, could I have it admitted first for the purposes of identification? Otherwise, I plan to introduce more documents. Can we just have it as a marking with "I" so that, you know, we can be sure---

…

Court: [D]o you want to admit now?

Lee: Yes, Your Honour. The statement that I would like to ask for this Court to be admitted as evidence is listed in item 34 of the Prosecution's List of Exhibits.

Court: So Mr See, we have just been looking through the statement D---[report number], that's at the top right-hand corner.

See: Yes, Ma'am. [as spoken by Accused in English]

Court: Okay. And this statement was recorded if you look at someone in the middle of the page, on 11th of August 2016 at 1459 hours. In the statement, your name is there, recorded by IO Lim Wee Chern. Okay? So, any things to say before I admit this statement of yours?

See: I was forced to.

Court: How so?

See: On that day, I wasn't---I wasn't thinking clearly and many things happened. I had some illnesses. I'm still seeing a doctor. I told the----I told the IO I'm may be only available at a later time but he's not accede, he doesn't accede to my request. The day before was National Day. I was confused. A 30 plus year old man, a grown-up man like me, I had to ask my father to accompany me to take the statement.

Court: Okay. I pause you there. Okay. At this point in time, I would like your father to leave the Court.

…

Court: … Okay. So, as well as this statement taking is concern, Mr See, you're saying that you did not give it voluntarily, is that your point? You were---your mind was in a state of confusion, along these lines?

See: Yes.

…

Court: So, you're saying that this statement is bad, right? Because you did not quite give it voluntarily.

See: Yes.

…

Court: So, IO didn't beat you up, right? He didn't threaten to beat you, right?

See: He had wanted to hit me.

Court: I see. Okay. So, if that's the case, we will need to have a trial within a trial, okay, to---for you to prove that indeed that day, your mind was so confused, it affected what you gave. And also, if you prove that he threatened to beat you then you must prove it also. …

…

Court: … And insofar as you make the allegation that this statement is bad, right, because there was involuntariness, there was threats, right, please, we will have a trial within a trial now for all this to be sorted. …

[emphasis added]

39 In my judgment, the Prosecution has the better argument for several reasons.

40 First, the present case differs from *Fun Seong Chen.* In *Fun Seong Chen,* the Prosecution had attempted to admit a prior statement from the accused. This statement was not admitted in evidence as part of the Prosecution's case but was used by the Prosecution to impeach the accused's credit while the latter was being cross-examined during the Defence's case. The trial judge then ordered

an ancillary hearing to determine the voluntariness of the accused's prior statement. The ancillary hearing began with the Prosecution cross-examining the accused on the question of the voluntariness of his statement. The Prosecution then called several witnesses of its own to rebut the accused's evidence. The Court of Appeal reiterated that the Prosecution's witnesses should be called before the Defence's witnesses in such an ancillary hearing: *Fun Seong Chen* at [49]. As this procedure had not been followed, the court concluded that the prior statement "or such portions thereof for the purposes of impeaching the [accused's] credit was not proved": *Fun Seong Chen* at [50].

41 *Fun Seong Chen* appears, at first blush, to support the Appellant's argument that a reversal in the order of the Defence's and Prosecution's cases in an ancillary hearing will necessarily mean that the evidence that forms the subject matter of the ancillary hearing should not be admitted. However, such a wide-ranging proposition ignores s 423(*a*) of the CPC, which rectifies irregularities except where they occasion a failure of justice. There is nothing in *Fun Seong Chen* which suggests that the Prosecution in that case had relied on s 396 of the Criminal Procedure Code (Cap 68, 1985 Rev Ed) (which was the precursor provision to s 423(*a*) of the CPC) or that the court had considered the application of that provision. In my view, s 423(*a*) of the CPC requires the court to consider whether the procedural irregularity has occasioned a failure of justice before it excludes the evidence on the basis of the procedural irregularity. *Fun Seong Chen* does not lay down an absolute rule that evidence *must always* be excluded when the order of the Defence's and Prosecution's cases is reversed in an ancillary hearing. It is the duty of the court, when determining the applicability of s 423(*a*) of the CPC, to analyse the facts of each case to determine if such a procedural irregularity has occasioned a failure of justice.

42 In my judgment, the present case differs from *Fun Seong Chen* in one material aspect. In *Fun Seong Chen*, the Prosecution adduced *no evidence* as to the voluntariness of the impugned statement prior to the commencement of the ancillary hearing. The statement was introduced, for the first time, to impeach the appellant's credit during his cross-examination: *Fun Seong Chen* at [46]. In such circumstances, the reversal of the order of the Prosecution's and Defence's cases may more readily be said to have occasioned a failure of justice as it effectively placed the burden on the accused to prove that the statement had been given involuntarily. In the present case, IO Lim *had* already given evidence on the voluntariness of Exhibit P3 during the main trial (see above at [38]). He testified that the Appellant had written the amendments by himself and had signed on them accordingly.[98] He also testified that the statement recording process had been quite smooth and that the Appellant had been "quite forthcoming".[99] It was in that context that the Appellant objected to the admission of Exhibit P3.

43 An ancillary hearing was immediately conducted to determine whether Exhibit P3 should be admitted. IO Lim had briefly given his evidence on the statement recording process before the DJ directed the Appellant to testify instead:[100]

> Q: Mr Lim, when you saw Mr See at the Clementi Police Division, how did Mr See look?
>
> A: Your Honour, I remember very clearly. Mr See appear to Clementi Police Station with his father that afternoon. Well, I told the father that I need to interview his son and for Mr elder See to be seated at the lobby where I

98 ROA at p 51.

99 ROA at pp 59 and 75.

100 ROA at pp 74–75.

invite Mr See to be in the field, in the interview room, okay. Inside the interview room, there's only me and him, 2 person. It's on the first level which is beside the counter. So, there are---

…

A: So, the interview room is located at the first level of the main lobby. It's easily accessed by police officer on duty that day and also the rooms beside that I used were also interview rooms used by other investigators. So, when I start off with---okay. So, my---my style of interviewing an accused person is---I will allow the accused person to explain to me does he know what he has done wrong or he has did to result himself to be appeared in police station. So, as the accused person when I interviewed that day, I can say that he was very forthcoming. He told me that he had made a mistake and he was new in this line, so resorted him to commit his mistake.

Court: Prosecutor---Prosecution, are we doing the trial within a trial now?

Lee: Yes, Your Honour.

Court: Would you not want to hear the objector explain?

Lee: Yes, yes.

Court: And then---

Q: Would you want to explain what you---

Court: No, who's the objector here?

Lee: Mr See.

Court: No, shouldn't he be giving his account first?

Lee: Yes, Your Honour. Then, maybe we can let him be on to the stand? Could we have Mr Lim released from the stand first and---

Court: I can---I can let the accused do it from----from the stand, he just has to be put on oath or affirmation.

…

Court: Accused affirmed, speaking in Mandarin.

Court: Okay. Mr See, please give your evidence as to why you say the statement is bad and should not be admitted.

44 The above extract shows that IO Lim had briefly testified in the ancillary hearing as to the voluntariness of Exhibit P3 before the Appellant was called to give his evidence. However, this testimony by itself was insufficient to discharge the Prosecution's burden of establishing the voluntariness of Exhibit P3.

45 The central inquiry under s 423(*a*) of the CPC is whether the procedural irregularity has occasioned a failure of justice. The procedure in an ancillary hearing reflects the burden of proof, which is on the Prosecution: *Criminal Procedure in Singapore and Malaysia* (Tan Yock Lin and S Chandra Mohan gen eds) (LexisNexis, 2012) ("*Criminal Procedure in Singapore and Malaysia*") at para 3303. The Prosecution has the burden of establishing the voluntariness of the accused's statement beyond a reasonable doubt where it is challenged: *Sulaiman bin Jumari v Public Prosecutor* [2021] 1 SLR 557 ("*Sulaiman*") at [36]. The underlying concern for the requirement that the proper procedure be adhered to during ancillary hearings is to prevent prejudice to the accused who alleges the involuntariness of the statement: see *Rajendran s/o Kurusamy and others v Public Prosecutor* [1998] 2 SLR(R) 814 ("*Rajendran s/o Kurusamy*") at [106]. In my view, requiring the Prosecution to present its case first in an ancillary hearing will also allow the accused to understand the position and argument(s) of the Prosecution, as the party which seeks to rely on the accused's statement, on the voluntariness of the statement. This puts the accused in a position to address the Prosecution's contention.

46 In the present case, the Appellant knew of the Prosecution's position and arguments in relation to the voluntariness of Exhibit P3 by the time of the commencement of the ancillary hearing – IO Lim had already given evidence on the voluntariness of Exhibit P3 during his examination-in-chief in the main

trial (see above at [38] and [42]). There would have been no prejudice to the Appellant as he would have been privy to the nub of the Prosecution's argument during IO Lim's examination-in-chief. I am aware that ancillary hearings are to be considered as separate or collateral proceedings: see *Fun Seong Chen* at [35]–[36] and [49]. However, I am of the view that it is permissible to refer to IO Lim's testimony in his examination-in-chief as the present analysis relates to whether there has been a failure of justice arising out of the procedural irregularity. Our courts have observed that when considering whether there has been a failure of justice, the court is not bound to consider the evidence before it *in vacuo* – it can consider and accord weight to the general feel of the case before it: *Tan Choon Huat v Public Prosecutor* [1991] 1 SLR(R) 863 at [23]. The reference to IO Lim's examination-in-chief goes towards the issue of whether the Appellant knew of the crux of the Prosecution's argument on the voluntariness of the statement during the ancillary hearing.

47 This analysis is also supported by *Criminal Procedure in Singapore and Malaysia*, which states that it will be irregular for an ancillary hearing to begin by calling the accused to give evidence. However, the appellate court will not interfere with the determination of the trial judge if there has been no prejudice: *Criminal Procedure in Singapore and Malaysia* at para 3303. For instance, in *Rajendran s/o Kurusamy*, the trial judge had failed to follow the proper procedure to determine the admissibility of statements by a witness during an ancillary hearing. The witness had taken the stand first, before the Prosecution had called its witnesses to give their version of events. Nonetheless, the court held that this irregularity was immaterial to the outcome of the case as it did not result in any prejudice to the accused (at [106]).

48 I also reject the Appellant's contention that he did not know of the crux of the Prosecution's argument as IO Lim's testimony during his evidence-in-chief only related to the formal requirements of statement taking and not the voluntariness of the statement.[101] IO Lim had testified that the statement recording process was smooth and that the Appellant was "quite *forthcoming*" [emphasis added].[102] Further, IO Lim testified that the Appellant included various amendments in Exhibit P3 which explained his reason for forging various documents and had countersigned against the amendments. In my view, this goes towards the voluntariness of the Appellant's statement. The Appellant's act of amending his statement and countersigning against the amendments indicates that he had the presence of mind to recognise that: (a) there was something incriminating in his statement that he needed to amend; and (b) he needed to certify that he made those amendments by himself.

49 Second, I address the Appellant's submission on the introduction of Exhibit P2, which is a copy of IO Lim's field diary. Exhibit P2 purportedly contained IO Lim's observations about the Appellant during and after the statement-taking process for Exhibit P3. While the Appellant argues that the improper sequence of the ancillary hearing had allowed the Prosecution to understand the Appellant's contention in advance and adduce Exhibit P2, I note that the Prosecution could have adduced it as rebuttal evidence even if the proper procedure for the ancillary hearing had been followed. Further, I am unable to accept the Appellant's argument on the authenticity of Exhibit P2. It is clear from the grounds of decision that the DJ had not relied on Exhibit P2 in admitting Exhibit P3. There is no reference to or reliance on Exhibit P2 in the

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101 Minute Sheet dated 26 July 2024 at p 12.

102 ROA at p 59.

DJ's analysis in her grounds of decision.[103] Thus, the Appellant's arguments regarding the authenticity of Exhibit P2 do not establish that there was a failure of justice as the DJ had not relied on Exhibit P2 in concluding that Exhibit P3 had been given voluntarily.

50 Third, I accept the Prosecution's argument that IO Lim was not present while the Appellant gave his evidence during the ancillary hearing. The Appellant refers to an excerpt of the notes of evidence, in which the Prosecution had seemingly acknowledged that IO Lim was present while the Appellant had given his testimony:[104]

> Q: Mr Lim, I think when we last stopped, we were going through the statement. And Mr See claimed that you said certain things and you threatened him. You were present in Court while Mr See was making certain allegations. Do you recall what you heard before you left the Court?
>
> A: I remember ---

At the oral hearing before me, the Appellant relied on this extract to argue that IO Lim was present in court when the Appellant made various allegations against him.

51 In my view, this extract does not support the Appellant's argument. As the Prosecution explained, IO Lim had been present in court when the Appellant made various allegations during the *main trial* and not the ancillary hearing. While the IO was still on the stand during the main trial, the Appellant had objected to the admission of Exhibit P3 and was given the opportunity to briefly

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103 ROA at pp 3927−3928 at paras 106–117.

104 ROA at p 276.

elaborate on his allegations.[105] The ancillary hearing was convened shortly thereafter. In my view, this did not amount to a failure of justice – IO Lim would have heard the brief explanation by the Appellant (in the course of the main trial) regardless of whether the Prosecution or the Defence had presented its case first during the ancillary hearing.

52 Further, there is nothing on the record to suggest that IO Lim was present in court while the Appellant testified during the *ancillary hearing*. IO Lim had been released from the stand when the Appellant gave his testimony during the ancillary hearing:[106]

> Court: No, shouldn't he be giving his account first?
>
> Lee: Yes, Your Honour. Then, maybe we can let him be on to the stand? Could we have Mr Lim released from the stand first and ---

In addition, it is clear that IO Lim was asked to exit the courtroom when the Appellant's other witnesses gave their testimony:[107]

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105 ROA at pp 70–71.

106 ROA at p 75.

107 ROA at p 155.

> Lee: Your Honour, given that the accused is going to give evidence or bring in other witnesses, is it appropriate for my witness to be here? I think---
>
> Court: Perhaps, your IO---
>
> Lee: I need to---
>
> Court: can step out---
>
> Lee: Yes.
>
> Court: please, yes---
>
> Lee: I was going to---
>
> Court: thank you.
>
> Lee; Grateful, Your Honour.

53 In sum, while the ancillary hearing had been conducted in an irregular manner, this irregularity does not amount to a failure of justice in the circumstances. The DJ's decision to admit Exhibit P3 cannot be impugned on this basis.

The purported threat

54 In the alternative, the Appellant argues that the DJ erred in admitting Exhibit P3 as it was made involuntarily and should have been excluded pursuant to s 258(3) of the CPC. The Appellant claims that a threat had been made during the recording of Exhibit P3 as IO Lim had said the following sentence to the Appellant during the statement-taking process: "Okay, then I need not grill you anymore".[108] This sentence purportedly caused the Appellant to think that IO Lim wanted to beat him. Further, the Appellant argues that the court was aware that he had a diagnosis of Generalised Anxiety Disorder and tended to admit to

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108 ROA at p 77.

allegations made against him.[109] As the Prosecution had failed to adduce any expert evidence of its own to rebut the Appellant's medical reports, it could not be conclusively said that the Appellant would not have been affected by IO Lim's purported statement that he would not need to "grill" the Appellant anymore.[110] Further, the Appellant had been diagnosed with Antisocial Personality Disorder and Generalised Anxiety Disorder two days after Exhibit P9 had been recorded. This contemporaneous diagnosis should have raised a reasonable doubt about the reliability of the confessions in Exhibits P3 and P9.[111] The Appellant also argues that the subjective test under the two-stage test for a threat, inducement or promise in *Chai Chien Wei Kelvin v Public Prosecutor* [1998] 3 SLR(R) 619 ("*Kelvin Chai*") (at [53]) is not dependent on the fulfilment of the objective test.[112]

55 In response, the Prosecution submits that the DJ had not erred in concluding that there was no threat in the recording of Exhibit P3. There was no objective threat, inducement or promise by IO Lim. Instead, the purported threat was entirely self-induced by the Appellant.

56 I reject the Appellant's argument regarding the purported threat by IO Lim. In determining whether a statement was made voluntarily for the purposes of s 258(3) of the CPC, the court will first consider objectively whether any inducement, threat, or promise was made. At the second stage, the court will then consider the effect of the inducement, threat, or promise on the mind of the

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109 Minute Sheet dated 26 July 2024 at p 4.

110 Minute Sheet dated 26 July 2024 at pp 6–7.

111 AWS at pp 15–16 at para 36.

112 Minute Sheet dated 26 July 2024 at pp 9–10.

accused: *Sulaiman* at [39]. Pertinently, it has been observed by the Court of Appeal that if the alleged inducement, threat or promise is so vague or trivial in the circumstances, it is unlikely to get past the objective standard at the first stage: *Sulaiman* at [40].

57 In my view, the purported threat by IO Lim does not fulfil the objective inquiry in the first stage of the test in *Sulaiman*. The meaning of "grill" in common parlance does not equate to a threat to beat someone. Instead, the Merriam-Webster Online Dictionary defines it to mean intense questioning. On this score, I have great difficulty in construing such a statement as a threat as it merely references an essential element of the investigative process, *ie*, the robust questioning of a suspect. Such a statement would not have objectively amounted to a threat.

58 I also reject the Appellant's argument that a threat, inducement or promise can render a statement involuntary under s 258(3) of the CPC even if it does not fulfil the objective limb of the test in *Sulaiman*.

59 First, the structure of the test for voluntariness is such that *both* limbs (*ie*, the objective and subjective limbs) must be satisfied before a statement can be excluded for having been made involuntarily. This is buttressed by the Court of Appeal's observation in *Sulaiman* (at [40]) that if a threat, inducement, or promise is so vague or trivial in the circumstances, "it is unlikely to *get past* the objective standard at the *first stage*" [emphasis added]. Further, although it was not cited by either party, I am of the view that the Court of Appeal's observation in *Lim Thian Lai v Public Prosecutor* [2006] 1 SLR(R) 319 ("*Lim Thian Lai*") is also instructive. In *Lim Thian Lai*, the court expressly stated (at [14]) that *both* limbs of the voluntariness test must be satisfied before a statement may be

excluded on the basis that it was made involuntarily due to a threat, inducement, or promise:

> The judge was conscious that the burden of proving that the statements were voluntarily made lay on the Prosecution and that there were two components in determining voluntariness, the objective component and the subjective component. The objective component related to determining whether the threat, inducement or promise was made. The subjective component related to determining whether the threat, inducement or promise, if made, did operate on the accused's mind. *Both components must be present* before a statement made by the appellant should be excluded on the ground that it was not voluntarily made.
>
> [emphasis added]

60 Second, the Appellant's proposed reading of s 258(3), which would allow a threat, inducement, or promise to render a statement involuntary even if it does not fulfil the objective limb of the test in *Sulaiman*, would open the provision up to abuse. It would be all too easy for an accused person to claim that an innocuous statement subjectively amounted to a threat, inducement, or promise when, on any objective yardstick, such an utterance would not have been perceived as a threat, inducement, or promise.

61 In the circumstances, there is no basis for this court to disturb the DJ's finding that there was no threat, inducement, or promise that affected the voluntariness of Exhibit P3.

Oppression

62 The Appellant also contends that the DJ erred in admitting Exhibit P3 as the statement had been obtained through oppression and should have been

excluded under s 258(3) of the CPC.[113] He argues that the court should consider his personality in determining whether there had been oppression. In the present case, it is argued that there had been oppression during the statement recording because of the unique characteristics of the Appellant.

63 In reply, the Prosecution contends that the two-stage test for voluntariness in *Sulaiman* should apply and that the court should only consider the subjective traits of the Appellant once the first objective inquiry has been fulfilled.[114]

64 It is apposite to briefly set out the law on oppression. The doctrine of oppression, which was not raised by the Appellant in the proceedings below, finds expression in Explanation 1 of s 258(3) of the CPC. Explanation 1 states the following:

> *Explanation 1* — If a statement is obtained from an accused by a person in authority who had acted in such a manner that his or her acts tend to sap and have in fact sapped the free will of the maker of the statement, and the court is of the opinion that such acts gave the accused grounds which would appear to the accused reasonable for supposing that by making the statement, the accused would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against the accused, such acts will amount to a threat, an inducement or a promise (as the case may be), which will render the statement inadmissible.

65 The test for oppression is whether the accused's mind and will was sapped such that he spoke when he otherwise would have remained silent: *Tey Tsun Hang v Public Prosecutor* [2014] 2 SLR 1189 ("*Tey Tsun Hang*") at [113]. The threshold to be met is a high one: *Mustapah bin Abdullah v Public*

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113 Minute Sheet dated 26 July 2024 at p 10.

114 Minute Sheet dated 26 July 2024 at p 14.

Prosecutor [2023] SGCA 30 at [89]. The interplay between the doctrine of oppression and s 258(3) has been explored in some detail in the High Court decision of *Tey Tsun Hang*. In that case, Woo J (as he then was) observed that the common law doctrine of oppression had developed separately from the law relating to threats, inducement, and promises: *Tey Tsun Hang* at [86]. Notwithstanding this, the court also observed that oppression had been incorporated within the framework of threat, inducement, and promise under s 258(3) of the CPC – Explanation 1 states that if "a person in authority who had acted in such a manner that his acts tend to sap and have in fact sapped the free will of the maker of the statement … such acts *will amount to* a threat, inducement or promise" [emphasis added]. Further, s 258(3) of the CPC does not change the substantive law on oppression despite the incorporation of the doctrine within s 258(3) of the CPC: *Tey Tsun Hang* at [89]. It follows then that the existing authorities on the doctrine of oppression remain instructive in construing Explanation 1 of s 258(3) CPC.

66 In the present case, the Appellant contends that there had been oppression during the recording of Exhibit P3. While this argument was not fully developed in the Appellant's oral arguments, it presumably relates to the nature of the Appellant's questioning and its effect on the Appellant (who allegedly suffered from various mental conditions). The only grounds for the Appellant's purported oppression during the recording of Exhibit P3 are the questioning of the Appellant and the fact that IO Lim had used the word "grill" when speaking to the Appellant. In my view, these investigative practices will not ordinarily satisfy the test for oppression. Our courts have recognised that persistent questioning, or even robust interrogation, is necessary for the police process and does not, without more, amount to oppression: see *Yusof* at [21]. Pestering is not enough to constitute oppression since it is not surprising to find

an element of pestering in the investigative process as investigators try to find answers: *Tey Tsun Hang* at [115]. The main inquiry then is whether such investigative practices, *when coupled with the Appellant's mental conditions*, were such that they sapped the Appellant's mind and will. This is because the court will, when determining whether there is oppression, consider various factors such as the *characteristics of the statement maker*: *Kelvin Chai* at [56].

67 The Appellant had not adduced any evidence to suggest – even on a *prima facie* basis – that his conditions had *caused him to react in a particular manner* when questioned by the authorities or when the word "grill" was used. The nub of the Appellant's complaint is that his mental issues had caused him to "give up" and blindly agree to the investigator's questions as soon as he encountered a "small trigger". This trigger was purportedly engaged during the statement recording process:[115]

> Court: Okay. Mr See, please give your evidence as to why you say the statement is bad and should not be admitted.
>
> Witness: On that day, when I went to the police station, I was already feeling unwell because the business has gone, it's---it is---has ended and I owed a huge debt. … In the past, I also had some mental issues, so it resulted in me giving up as soon as something were to trigger, a small trigger were to happen. So when the police officer asked me questions, I simply just said "Yes, yes, yes."
>
> …
>
> Witness: … In the past, I was in Hongkong, so if you look at the last page of this document, this is from a doctor which I was seeing in Hongkong. … This illness has caused me many problems. I have a---I have a bad temperament. I do things haphazardly. When some things were pushed to

115 ROA at pp 75–76.

> me, I will just, "Okay, okay." I won't do it properly. When someone triggers me, I would---I would anyhow do things.

However, no evidence was adduced to show that the Appellant suffered from such mental conditions. In my view, it does not lie in the Appellant's mouth to claim that he suffered from psychological conditions when he has not produced any relevant medical evidence to substantiate his claim. As recognised by the DJ, the Appellant's medical reports did not elaborate on: (a) whether the various mental conditions were operative on the day of the statement recording; and (b) the nature and effect of the Appellant's mental conditions. Put simply, the Appellant had not produced *any* medical evidence to show that he suffered from condition(s) that would *pre-dispose him to having his mind and will sapped* through routine questioning or the use of the word "grill".

68 In any event, the Appellant alleges that the *effect* of his mental conditions is that they made him slavishly agree to questions from investigators. This claim is inconsistent with the fact that the Appellant made amendments to Exhibit P3, where he provided *additional* details of the rationale for his forgery.[116] Exhibit P3 concludes with the Appellant's signature next to a handwritten amendment that states: "statement was read over by me and I have amended some texts *on my own*. All the facts given by me are correct" [emphasis added].[117] The Appellant conceded during the ancillary hearing that he read through Exhibit P3 to make the amendments and that the amendments were made by him.[118] It appears that the Appellant even had the presence of

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116 ROA at p 3990.

117 ROA at p 3990.

118 ROA at p 94.

mind to amend certain portions of Exhibit P3 to reduce his culpability for the forgeries. An example of this is reflected below:

> … I do not have the intention to cheat ~~my customers~~ *anyone* on their monies. …
>
> [amendment in italics]

In the circumstances, I am of the view that *even if* the Appellant's mental conditions made it more likely that he would slavishly agree with the questions posed to him during investigations, his mind and will were not sapped during the recording of Exhibit P3 on 11 August 2016. The Appellant had the presence of mind to read through his statement and make various amendments that: (a) elaborated on his rationale for committing the forgeries; and (b) reduced his culpability for his actions. Accordingly, Exhibit P3 should not be excluded on the basis of oppression.

The Kadar Discretion

69 Lastly, the Appellant submits that Exhibit P3 should be excluded through the court's exercise of the Kadar Discretion as it would have been apparent to the Prosecution that the Appellant suffered from various mental conditions which may have affected the voluntariness of his statement. It was thus incumbent on the Prosecution to satisfy the court that the Appellant had not made the statement because he had been driven by despair at the time due to his mental conditions.[119] The Prosecution did not address the Appellant's argument on the Kadar Discretion.

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[119] Minute Sheet dated 26 July 2024 at p 11.

70 The court has the discretion to exclude a voluntary statement from evidence if its prejudicial effect exceeds its probative value: *Muhammad bin Kadar and another v Public Prosecutor* [2011] 3 SLR 1205 ("*Kadar*") at [55]. Where a voluntary statement is found to be highly probative, evidence of *significant* prejudice to the accused will be required to justify the exclusion of the statement: *Sulaiman* at [53]. However, prejudice is not measured by the inculpatory or exculpatory nature of the statement because an inculpatory statement, which goes towards proving the accused's guilt, will always be prejudicial to the accused: *Sulaiman* at [47]. Instead, the prejudicial effect of a piece of evidence refers to how its admission might be unfair to the accused as a matter of process: *Sulaiman* at [47]. The court will inquire as to whether the statement, which is found to be voluntary within the meaning of s 258(3) of the CPC, nonetheless suffers from some form of unfairness in terms of the circumstances and process by which it was obtained: *Sulaiman* at [45]. The conceptual basis of the Kadar Discretion differs from s 258(3) of the CPC – the former focuses on the voluntariness of the statement whereas the latter relates to the *reliability* of the statement: *Sulaiman* at [46]. Even if a trial court has wrongly exercised (or omitted to exercise) the Kadar Discretion, an appellate court will not alter the decision of the trial court unless the improper exercise of the discretion occasions a miscarriage of justice: *Kadar* at [67].

71 In the present case, neither party submitted that the DJ should exercise the Kadar Discretion to exclude Exhibit P3 in the court below. Thus, the DJ did not expressly consider this issue. In my view, the DJ would have been justified in omitting to exercise her discretion for the following reasons. First, Exhibit P3 has significant probative value as it contains the Appellant's explicit confessions that he forged various signatures on certain health certificates and laboratory reports. Second, any prejudice occasioned to the Appellant is

speculative as no evidence was adduced to suggest that his mental conditions had caused him to slavishly agree to the questions posed to him by investigators. Further, as mentioned earlier (at [68]), it appears that the Appellant had the presence of mind to effect various amendments to Exhibit P3 to reduce his culpability and elaborate on his rationale for committing the forgeries. I thus reject the Appellant's argument on the Kadar Discretion. The DJ had not erred in admitting Exhibit P3.

Exhibit P9

72 The Appellant contends that the DJ had erred in admitting Exhibit P9 as the Prosecution had not discharged its burden to prove that the statement had been made voluntarily. Even if the Appellant had not objected to the admission of Exhibit P9, the burden still lay on the Prosecution to first prove that the statement had been given voluntarily under s 258(3) of the CPC.[120]

73 In response, the Prosecution submits that while it must prove the voluntariness of the statement, the Appellant has the burden to raise the exact factor that renders the statement involuntary and to prove the circumstances of it.[121] The Prosecution argues that it must merely prove voluntariness in terms of whether the procedure for the recording of the statements was complied with.[122] It would be unduly onerous for the Prosecution to disprove every possible potential allegation that could be raised by the Appellant.[123] No authority was cited by either party for their arguments.

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120 Minute Sheet dated 26 July 2024 at p 6.

121 Minute Sheet dated 26 July 2024 at p 8.

122 Minute Sheet dated 26 July 2024 at p 13.

123 Minute Sheet dated 26 July 2024 at p 13.

74 In the present case, Exhibit P9 had been admitted in a relatively cursory manner. The Appellant had no objection to the admission of Exhibit P9 during the trial and, as a result, no ancillary hearing was convened to determine its admissibility. The full exchange is set out below:[124]

> Lee: Your Honour, can I show everyone another document? This is the original. The 1st page.
>
> Q: Mr Lim, what is this document I've just extended to all the parties?
>
> A: This is a further statement that I have recorded on the accused person on the 5th of September 2016 at 2:35pm at Clementi Police Division HQ.
>
> Q: What did the accused tell you? Or what did you ask him first in question 6?
>
> A: I pose the question to the accused that I am now showing you on the laboratory report. So, the first one is for the pet name Panda and Bamboo. So, I pose him the question on whether he can tell me that the laboratory reports for Panda and Bamboo are authentic. And his reply to me is that, "I think I have forged them."
>
> …
>
> Lee: Your Honour, could we have the further statement recorded from Mr See admitted and marked as evidence.
>
> Court: Any objections from the accused?
>
> See: No objections, Your Honour.
>
> Court: Admitted and marked as P9.

The crux of the Appellant's argument is that the Prosecution failed to adduce evidence to show that Exhibit P9 had been made voluntarily, notwithstanding that the Appellant had not objected to its admission at trial. Accordingly, the Appellant contends that the Prosecution had failed to discharge its burden of establishing the voluntariness of the statement. The Appellant also argues that

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124 ROA at pp 422–423.

it would essentially turn the Prosecution's burden (of establishing the voluntariness of the statement) on its head if the onus is placed on the Defence to raise an issue regarding the voluntariness of the statement as opposed to the Prosecution establishing that there was no threat, inducement, or promise.[125]

75 Where the voluntariness of a statement is challenged, an ancillary hearing may be convened to determine its admissibility. In such a case, the burden is on the Prosecution to prove beyond a reasonable doubt that the confession had been made voluntarily: *Sulaiman* at [36]. However, the Prosecution need not establish that *all* doubt of influence or fear had been removed from the accused's mind: *Public Prosecutor v Mohamed Aliff bin Mohamed Yusoff* [2022] SGHC 295 ("*Mohamed Aliff*") at [103]. The trial judge need only consider whether the evidence of the accused alleging inducements, threats, promises or assaults, when taken together with the Prosecution's evidence, has raised a reasonable doubt that the accused was influenced into making the statement: *Mohamed Aliff* at [103], citing *Kelvin Chai* at [53]. The Court of Appeal's guidance at [53] of *Kelvin Chai* is pertinent in the present case:

> … It is also established that where voluntariness is challenged, the burden is on the Prosecution to prove beyond a reasonable doubt that the confession was made voluntarily and not for the Defence to prove on a balance of probabilities that the confession was not made voluntarily: *Koh Aik Siew v PP* [1993] 1 SLR(R) 885. However, the accused need only raise a reasonable doubt or, in other words, it is only necessary for the Prosecution to remove a reasonable doubt of the existence of the threat, inducement or promise, and not every lurking shadow of influence or remnants of fear: *Panya Martmontree v PP* [1995] 2 SLR(R) 806.

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125 Minute Sheet dated 26 July 2024 at p 6.

76 I reject the Appellant's argument for three reasons. First, the Court of Appeal in *Kelvin Chai* held (at [53]) that "*where voluntariness is challenged*, the burden is on the Prosecution to prove beyond a reasonable doubt that the confession was made voluntarily" [emphasis added]. This suggests that the voluntariness of a statement will only be an issue that needs to be proved where it is disputed by the Defence. This position is supported by the observation of the Court of Appeal in *Sulaiman* (at [36]) that the *starting point*, as per s 258(1) of the CPC, is that any statement given by an accused person during investigations is admissible at his trial. *Where the voluntariness of the statement is challenged*, an ancillary hearing may be convened and *in such a case*, the Prosecution bears the legal burden of proving beyond reasonable doubt that the statement had been given voluntarily: *Sulaiman* at [36]. Second, this is also congruent with the observation in *Panya Martmontree and others v Public Prosecutor* [1995] 2 SLR(R) 806 (at [29]) that:

> … *The police work in difficult circumstances. If they were required to remove all doubt of influence or fear, they would never be able to achieve anything.* What, in our view, is required of a trial judge in [an ancillary hearing] is to decide whether the evidence of the accused alleging, inducements, threats, promises or assaults, taken together with the Prosecution's evidence has raised a reasonable doubt in his mind that the accused was thus influenced into making the statement …
>
> [emphasis added]

In my view, it would be unduly onerous to expect the Prosecution to disprove every conceivable allegation that could be raised by an accused person even when the latter does not object to the admission of his statement. Third, a similar argument was rejected by the Court of Appeal in *Chew Seow Leng v Public Prosecutor* [2005] SGCA 11 ("*Chew Seow Leng*"). In *Chew Seow Leng*, the appellant contended that the trial judge had erred in relying on the appellant's statements when the voluntariness of the statements had not been tested. In

rejecting this argument, the Court of Appeal held that there was no need for the Prosecution to prove that the statements had been made voluntarily as the appellant had not mounted such a challenge during his trial or on appeal: *Chew Seow Leng* at [37]. For these reasons, I reject the Appellant's argument.

77 In relation to the Appellant's argument that Exhibit P9 should be excluded on the basis of the Kadar Discretion, I am of the view that the analysis and conclusion for Exhibit P3 would also apply to Exhibit P9 (see above at [71]). Exhibit P9 contains explicit admissions that the Appellant had forged various laboratory reports and there is no evidence to suggest that the Appellant suffered from mental conditions that caused him to slavishly agree to the questions posed to him. Further, Exhibit P9 contains various amendments wherein the Appellant attempted to reduce his culpability. An example of such an amendment is reflected below:[126]

> Q6) I am now showing you on the laboratory reports. The first one is for the pet's name Panda and Bamboo. Can you tell me whether are the laboratory reports for Panda and Bamboo are authentic?
>
> A6) I *think I* have forged them.
>
> [amendment in italics]

The above extract shows that the Appellant had tried to reduce his culpability by amending his initial confession (where he stated that he had forged certain documents) to a slightly more equivocal one (where he stated that he *thought* he had forged the documents). The Appellant had amended his initial answer of "I have forged them" by inserting a caret to include the phrase "think I", such that his answer read "I think I have forged them". Such an amendment indicates that

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126 ROA at p 4014.

the Appellant was able to exercise his own independent thought during the statement-taking process as he had attempted to reduce the incriminating effect of his answers. There is no basis to exercise the Kadar Discretion to exclude Exhibit P9.

78 In sum, the DJ did not err in admitting Exhibit P9.

Issue 2: Whether the DJ had erred in concluding that the documents had been forged

79 Next, the Appellant contends that the DJ had erred in concluding that the documents for *all eight charges* had been forged.

The 1st charge: Health Certificate for Kiki

80 The Appellant argues that the DJ erred in concluding that the health certificate in the first charge had been forged. The Appellant highlights that the Prosecution did not produce Dr Raj's specimen signature for comparison to demonstrate what Dr Raj meant when he testified that the signature on the document "looked different" from his signature.[127] The Appellant also argues that there was nothing in the evidence to show that the document for the first charge had been submitted to the AVA.[128] Further, no evidence was presented to corroborate Dr Raj's assertion that Kiki was not a patient at the clinic.[129] Less weight should be given to Dr Raj's assertion that Kiki was not a patient of the clinic as Dr Raj had also mistakenly claimed that another dog, Kibu, was not a

127 AWS at p 18 at para 44 at s/n 1.

128 Minute Sheet dated 26 July 2024 at p 16.

129 AWS at p 18 at para 44 at s/n 1.

patient of the clinic.[130] The Appellant also argues, in relation to the first and third charges, that he already had all the necessary documents for the export of Kiki to Taiwan on 19 July 2016 without any forgery issues. He argues that there was thus no need for him to have forged the health certificate or the Veterinary Certificate for Kiki.[131]

81 In response, the Prosecution points out that Dr Raj had testified that the signature on the document was not his as it looked different.[132] There is no need for an expert witness to testify and corroborate his evidence as it does not take a trained eye for a person to identify his own signature.

82 In my view, the DJ was justified in concluding that the health certificate for the first charge had been forged. The Appellant's main contention, that Dr Raj had not compared a specimen signature against the signature in question, ignores the fact that Dr Raj is best placed to attest to whether a signature is his own signature. More importantly, the DJ was justified in concluding that the signature on the health certificate was a forgery as Dr Raj's testimony is corroborated by the Appellant's admission in Exhibit P3 that he had forged Dr Raj's signature in relation to the health certificate for Kiki.

83 Further, Dr Raj had also testified that Kiki was not a registered patient in his clinic's system. For completeness, I do not accept the Appellant's argument that less weight should be placed on this testimony on the basis that Dr Raj had been mistaken about whether he had treated another dog (Kibu) at his clinic. For reasons that I will elaborate on below, Dr Raj had *not* been

130 Minute Sheet dated 26 July 2024 at pp 16–17.

131 AWS at para 55.

132 Minute Sheet dated 26 July 2024 at p 24.

mistaken about whether he had treated Kibu *at his clinic* (see [106] below). I also reject the Appellant's argument that the Prosecution must prove that he actually submitted the forged document to the AVA, for reasons that are explained later in this judgment (see [91] below).

84 Lastly, I do not accept the Appellant's argument that he had *all* the necessary documents for the export of Kiki on 19 July 2016. In order to export a pet from Singapore, an applicant will need to: (a) apply for an *export permit* from the AVA; and (b) obtain a *health certificate* from the AVA that complies with the requirements of the importing countries.[133] While the Appellant contends that he had obtained an "export licence" for Kiki on 19 July 2016 (which is presumably a reference to an export *permit*),[134] I note that an export permit is unrelated to the health certificate and Veterinary Certificates in the first to third charges. An applicant only needs to submit a pet licence to obtain an export permit.[135] The applicant will still need to submit hardcopies of a health certificate (which is signed by a private veterinarian) and a vaccination certificate to obtain a *health certificate* from the AVA to comply with the requirements of the recipient countries.[136] The first to third charges relate to the first item that is required, *ie*, a health certificate that is signed by a private veterinarian. As explained in [3(b)], a Veterinary Certificate is a health certificate that adheres to the unique template required for the export of dogs to Taiwan. Thus, the mere fact that the Appellant had an *export permit* for Kiki does not mean that he had no reason to forge the *health certificate* and the

133 ROA at p 561.

134 AWS at para 55.

135 ROA at p 561.

136 ROA at p 563.

Veterinary Certificates for Kiki. This coheres with the Appellant's statement in Exhibit P3, where he explained that he had forged the health certificates for Kiki as he had erroneously believed that he would only require an export permit to export Kiki to Taiwan and was "at a loss" once he realised that he would also need to submit a health certificate for Kiki.[137] For reasons elaborated on in [88] below, his reference to "health certificates" is a reference to the health certificate and Veterinary Certificate for Kiki.

The 2nd charge: Veterinary Certificate for Kiki

85 The Appellant contends that the DJ erred in finding that the Veterinary Certificate for the second charge, Exhibit P5, had been forged for the following reasons. First, Dr June Tan testified that Kiki was not in her clinic's system even though Kiki *was* in her clinic's system.[138] Second, Dr June Tan made a typographical error in Exhibit P5, wherein she listed the vaccination date as 20 February 2016 when it should have been 20 March 2016.[139] Accordingly, the Appellant argues that little weight should be placed on Exhibit P5 as it is possible that there are other errors in the document.[140]

86 In response, the Prosecution highlights that Dr June Tan had testified that she had not signed the Veterinary Certificate for the second charge and that Kiki was not in her clinic's system.[141]

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137 ROA at p 3989 at para A2.

138 Minute Sheet dated 26 July 2024 at p 17.

139 Minute Sheet dated 26 July 2024 at p 17.

140 Minute Sheet dated 26 July 2024 at p 17.

141 Minute Sheet dated 26 July 2024 at p 24.

87 In my view, the evidence supports the DJ's finding that the Veterinary Certificate for the second charge had been forged. First, Dr June Tan's assertion that Kiki was not in her clinic's system should be read in its proper context. The relevant excerpt from the trial is reproduced below:[142]

> Q: And can I trouble you to look at P25, which is your patient's---
>
> A: Yup.
>
> Q: clinical history for Kiki?
>
> A: Mmm hmm. *Yah, I don't recall---*
>
> Q: What is---
>
> A: *seeing this patient on---*
>
> Q: Can you turn---
>
> A: *the 2nd---*
>
> Q: can you turn---
>
> A: *August.*
>
> …
>
> Q: So, apparently you---based on these documents, you examined the dog on the 1st of August and also on the 2nd of August 2016. Am I correct?
>
> A: Yah. But I have, uh---I mean, I don't recall seeing this patient because it's not in my system.
>
> [emphasis added]

From the forgoing extract, it is clear that Dr June Tan merely referred to there not being any record of Kiki at the clinic *on 1 August 2016 and 2 August 2016*. Dr June Tan could not have meant that there was no record of Kiki in her clinic's database *at all*, especially after she had been referred to her clinic's patient history sheet for Kiki.

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142 ROA at pp 662–663.

88 The Appellant's second contention, that Exhibit P5 may contain other typographical errors, is speculative. In any event, Dr June Tan's testimony is corroborated by the Appellant's confession in Exhibit P3. In Exhibit P3, the Appellant had explicitly admitted to forging the signature of *Dr June Tan* and Dr Raj in relation to two "health certificates" for a pet named Kiki.[143] While the Appellant's confession relates to *health certificates* for Kiki*,* this is an obvious reference to the Veterinary Certificate *and* the health certificate for Kiki – Dr June Tan's signature was present in Exhibit P5, which is the *Veterinary Certificate* for Kiki. In contrast, Kiki's health certificate (which is Exhibit P4) only contains *Dr Raj's* signature. Further, as I have noted above (at [84]), a Veterinary Certificate is a health certificate which adheres to the unique template for the export of dogs to Taiwan. Exhibit P3 thus contains the Appellant's confession that he had forged the signature of Dr June Tan in relation to a Veterinary Certificate for Kiki. The DJ was justified in concluding that the document in the second charge had been forged.

The 3rd charge: Veterinary Certificate for Kiki

89 The Appellant submits that the DJ erred in concluding that the Veterinary Certificate for the third charge, Exhibit P8, had been forged. First, there was no evidence that the document had been submitted to the AVA.[144] Second, while Dr June Tan and Ms Lee Seen Yin testified that the signatures on the document were not theirs, they had based their conclusions on several variables such as their "handwriting". Such factors were subject to natural variances, and it cannot be presumed that the signatures were not theirs.[145] The

143 ROA at p 3989 at para A2.

144 AWS at p 18 at s/n 3.

145 Minute Sheet dated 26 July 2024 at p 17.

Appellant also submits that Exhibit P8 was not in the Appellant's possession and had been recovered from the possession of Jason Lim.[146]

90 In response, the Prosecution highlights that Dr June Tan and Ms Lee Seen Yin had testified that they had not signed the Veterinary Certificate for the third charge.[147]

91 I am unable to accept the Appellant's arguments.

92 First, the Appellant appears to rely on his purported failure to submit the documents to the AVA to argue that: (a) he did not have the necessary *mens rea* for the offences under s 463; and (b) Exhibit P8 had not been forged by *the Appellant*. However, I do not accept either argument.

(a) In the proceedings below, the DJ had requested for the Prosecution to clarify whether its position was that the *mens rea* element of the offences was manifested through, amongst other things, the Appellant's submission of the documents. The Prosecution confirmed that the DJ had accurately understood its position.[148] I pause to note that there is no requirement for the Appellant to have *submitted* the forged document to the AVA for the charge under s 463 of the Penal Code to be established. The plain words of s 463 make clear that it will suffice for the Appellant to have created the false document with the intention to commit fraud. However, in so far as the submission of the forged document may lead to the *inference* that the Appellant had the requisite

146 AWS at p 20 at s/n3.

147 Minute Sheet dated 26 July 2024 at p 24.

148 ROA at p 5161 at para 2.

mens rea for an offence under s 463 of the Penal Code, I am of the view that such an inference may be drawn from other facts. In this respect, I agree with the DJ's astute observation that the Appellant had already admitted in Exhibits P3 and P9 that, as a general matter, he had committed the forgeries as he had insufficient time to apply for the genuine documents.[149] In relation to Kiki specifically, the Appellant admitted in Exhibit P3 that he had forged the "health certificates" relating to the export of Kiki to Taiwan because he lacked the genuine documents to do so.[150] As I have explained above (at [88]), the Appellant's reference to "health certificates" in Exhibit P3 must have been a reference to the health certificate and *Veterinary Certificate* for the export of Kiki to Taiwan. The latter is the same type of document that is in question for the third charge. In my view, the DJ was entitled to infer from the admissions that the Appellant had intended to rely on the forged documents to "short-circuit the regulatory framework" and deceive the authorities to save time. The DJ did not need to rely on any actual submission of Exhibit P8 to the AVA to infer that the Appellant had the requisite *mens rea* for the third charge.

(b) Next, the Appellant also appears to contend that it could not be established that *he* had forged Exhibit P8 as the document had not been submitted to the AVA. While the DJ was able to connect the Appellant to various forgeries as his particulars were found in the electronic submissions of other forged documents to the AVA, the Appellant's failure to submit Exhibit P8 to the AVA may indicate that there is no

149 ROA at p 3959 at paras 250–254.

150 ROA at p 3989 at para A2.

conclusive evidence that the Appellant had created Exhibit P8. However, the Appellant had conceded in Exhibit P9 that he "might have done something" to a copy of a Veterinary Certificate for the Export of Dogs/Cats to Taiwan, which the Prosecution contends is a reference to Exhibit P8, although he could not remember what he had done. More importantly, the Appellant's particulars are reflected in Exhibit P8 – his address[151] is indicated alongside the name of Kiki's owner in the particulars field for the "exporter/consignor" on the Veterinary Certificate.[152] Further, the DJ found that the phrase "c/o Pet Mover/Gabriel" on Exhibit P8 indicated that Jason Lim had brought Exhibit P8 to Taiwan with Kiki on behalf of the Appellant (see below at [133]). In my view, the DJ was entitled to conclude that Exhibit P8 had been forged by the Appellant in the light of: (a) the presence of the Appellant's particulars on the Veterinary Certificate in Exhibit P8; (b) the Appellant's concession in Exhibit P9 that he might have done something to a Veterinary Certificate for the Export of Cats/Dogs to Taiwan;[153] (c) her finding that the Appellant was the controlling mind of Full of Fun House and that Jason Lim would have brought Exhibit P8 to Taiwan on the directions of the Appellant to facilitate the export of Kiki to Taiwan;[154] (d) Jason Lim's testimony that he was only involved in printing Exhibit P8 and did not deal with the authorities to procure

151 ROA at p 4009.

152 ROA at pp 4009–4010.

153 ROA at p 4014 at para A10.

154 ROA at pp 3943, 3954 and 3960 at paras 182, 233–235 and 260.

Exhibit P8;[155] and (e) Jason Lim's testimony that he was a mere "transporter" for Full of Fun House.[156]

93 Second, the Appellant's criticism of the evidence of Dr June Tan and Ms Lee Seen Yin is speculative. In any event, it does not detract from Dr June Tan's testimony that there was no record of Kiki at the clinic on 2 August 2016 (see above at [87]).

94 Third, there is no requirement for the Appellant to have had possession of Exhibit P8. Section 463 relates to the *making* of a false document. Accordingly, there is no basis for this court to interfere with the DJ's finding in relation to the third charge.

The 4th charge: Laboratory Report for Kibu

95 In relation to the fourth charge, the Appellant argues that the DJ placed undue reliance on the fact that the document, Exhibit P7, bore an identical reference number to another laboratory report, namely Exhibit P6. Exhibit P6 is a separate laboratory report for Kiki that is not the subject matter of a charge. While Dr Alwyn Tan had testified that two reports should not have the same reference number, no evidence had been adduced from a systems specialist which shed light on the operation of the clinic's reference number system.[157] Further, it is equally possible that Exhibit P6 is a forgery and that Exhibit P7 (which is the subject of the fourth charge) is genuine.[158]

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155 ROA at pp 3940–3941 at paras 171–173.

156 ROA at p 3943 at para 178–179.

157 Minute Sheet dated 26 July 2024 at p 18; AWS at p 20 at s/n 4.

158 AWS at p 20 at s/n 4.

96 In response, the Prosecution contends that documents should not share the same reference number. The fact that Exhibit P7 shares the same reference number as Exhibit P6 indicates that the former had been forged.[159]

97 I am unable to agree with the Appellant's arguments. First, Dr Alwyn Tan had been queried about the possibility of Exhibit P7 being genuine. Dr Alwyn Tan had rejected this possibility at trial:[160]

> Q: Is it possible for that to be 2 reports which are the same numbers?
>
> A: (Flipping of papers) No, they shouldn't be.
>
> Q: So, which one is like, which one is real and which one is forged?
>
> A: So, uh, based on the checks done by my colleague, Jolene and the confirmation from the laboratory, um, P7---(flipping of papers) P6 is the authentic one.

98 Second, Dr Alwyn Tan's testimony that Exhibit P7 is forged is also supported by the Appellant's confession in Exhibits P3 and P9, wherein he admitted to forging a laboratory report for a pet dog by the name of "Kibu". This refutes the Appellant's contention that Exhibit P6 is forged and Exhibit P7 is genuine, as Exhibit P6 relates to a dog named "Kiki" while Exhibit P7 relates to Kibu.

99 Lastly, Dr Alwyn Tan's averment that two reports should not have the same reference number accords with good sense. Document numbers allow for documents to be distinguished from each other. It would defeat the very purpose of such numbers if identical document reference numbers could be assigned to

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159 Minute Sheet dated 26 July 2024 at p 24.

160 ROA at p 1109.

different documents. For these reasons, I am of the view that the DJ correctly concluded that the document in the fourth charge had been forged.

The 5th charge: Application for Laboratory Services for Kibu

100 The Appellant argues that the DJ should not have found that the document that is the subject of the fifth charge, Exhibit P61, was forged. First, while Dr Raj had initially testified that he had not seen Kibu, he later admitted that he may have seen Kibu outside the clinic in the quarantine centre.[161] This raised the possibility that Dr Raj had seen Kibu and signed the application form for laboratory services in Exhibit P61.[162] Second, Dr Raj's assertion that the signature on the document was not his did not necessarily mean that the document had been forged.[163] Third, Exhibit P61, as an application form for laboratory services, resulted in the creation of an original and legitimate laboratory report for Kibu, Exhibit P62. The authenticity of Exhibit P62 is supported by the Appellant's statement in Exhibit P3, where he admitted that he had lost a genuine report for Kibu. He contends that Exhibit P62 is the legitimate laboratory report for Kibu that had been lost. As Exhibit P62 shares certain identical features with Exhibit P61, and is itself authentic, Exhibit P61 must be the authentic application form for Exhibit P62.

101 In response, the Prosecution reiterates the fact that Dr Raj had testified that he did not sign Exhibit P61. The Prosecution also invited this court to infer that Exhibit P61 had been forged as the Appellant's *modus operandi* was that he would forge laboratory reports so that he could book a quarantine space with

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161 AWS at p 21 at s/n 5.

162 Minute Sheet dated 26 July 2024 at p 19.

163 Minute Sheet dated 26 July 2024 at p 19.

the AVA. Since the Appellant had forged the laboratory report for Kibu, it is "not incredible" that the Appellant forged the application form for Kibu's laboratory report as well.[164]

102 I first address the Appellant's argument that Exhibit P61 is authentic on account of the authenticity of Exhibit P62. Neither party contends that Exhibit P62 is a false document. Further, Dr Chen Jing testified at trial that the laboratory report for Kibu in Exhibit P62 was found within the AVA's electronic system.[165] Dr Chen Jing was a Senior Scientist with the AVA at the material time[166] and had generated the laboratory report in Exhibit P62. She testified that there were no differences between the laboratory report in Exhibit P62 and the laboratory report in the AVA's electronic system, save that the electronic record did not have Dr Chen Jing's signature.[167] This difference is attributable to AVA's practice of only issuing hardcopies of the laboratory report (and presumably signing the report) *after* generating the report from the AVA's electronic system.[168]

103 In my view, Dr Chen Jing's testimony establishes that Exhibit P62 is a genuine laboratory report that had been issued by the AVA. Notably, the laboratory report in Exhibit P62 states that the requestor of the report was Dr Raj.[169] This, at first blush, appears to contradict Dr Raj's assertion that he had

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164 Minute Sheet dated 26 July 2024 at pp 25–26.

165 ROA at p 1669.

166 ROA at p 1667.

167 ROA at p 1669.

168 ROA at p 1669.

169 ROA at p 4268.

never requested for laboratory services for Kibu.[170] Further, several details in the laboratory report in Exhibit P62 are identical to the application form for laboratory services in Exhibit P61. Both exhibits share the same application reference number and other details, such as the sampling date. However, this does not necessarily mean that the *application form* is genuine.

104 Ms Rafeeza binte Abdul Rahman ("Ms Rafeeza"), who was a receiving officer at the AVA, testified that customers would usually submit their samples and the application for the laboratory report to her.[171] However, she also explained that other persons (besides veterinary staff) could send the samples and the application form to her as well:[172]

> Q: Can you explain in---as part of your job as a receiving officer at the animal and health laboratory, what happens when you received---what happens to this application and how---how is it that you come to get hold of this particular document in P61?
>
> A: When the customer come in to send in samples, *they will send the samples with this application*. After I received this application, I will check then I will register and send to the, uh, lab for their testing.
>
> …
>
> Q: What about---then what---who is this Gabriel See if the requestor name is Rajaram Karthik Raja, do you know? Do you know why there's another person who can be identified here under the requestor information?
>
> A: This Gabriel See is the person who sent the samples to us on behalf of the veterinary clinic.
>
> Q: And why do you say that?
>
> A: Because the---*the people whose come to us is the person who sent the samples to us and they are not for---some*

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170 ROA at p 1473.

171 ROA at p 1653.

172 ROA at pp 1653 and 1664.

> *of them is not from veterinary clinic*. They, like, delivering the things to us.

[emphasis added]

105 In my view, this leaves open the possibility that a genuine laboratory report could have been obtained through the submission of a forged application form. This is supported by Ms Rafeeza's testimony that the AVA did not conduct any checks on the identity of a requestor:[173]

> Q: Do you check who actually send in the sample and cross reference it with what is stated in the requestor information?
>
> A: Um, no.
>
> …
>
> Q: Can you explain the process of physically submitting this application to AVA?
>
> A: The person will just drop the thing to us and we just receive it and we will check the application and register and send it to the lab.
>
> Q: So, there is no requirement for the requestor's signature to be in these documents at the time of submission, yes?
>
> A: No.
>
> Q: Was there any standard practice of the AVA that an ID verification be done on the requestor?
>
> A: Sorry, can you repeat the question?
>
> Q: Yes. So, was it the standard practice of the AVA that an ID verification be done on the requestor?
>
> A: No.
>
> Q: So you agree that the person submitting the application does not need to be the requestor?
>
> A: Yes.

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173 ROA at pp 1653 and 1660–1661.

Thus, the fact that Exhibit P61 bears the same reference number as a genuine laboratory report (being Exhibit P62) does not make Exhibit P61 a genuine document. Further, the fact that Dr Raj had been listed as the requestor of the laboratory report in Exhibit P62 does not necessarily contradict his claim that he had never requested for laboratory services for Kibu as it was possible for a genuine laboratory report to have been obtained through a forged application form.

106 Further, the Appellant's statement in Exhibit P3 does not necessarily mean that Exhibit P61 is a genuine document. In Exhibit P3, the Appellant candidly admitted that he had forged the laboratory report for Kibu as he had lost Kibu's genuine laboratory report. The full extract of the Appellant's statement is reproduced below:

> A3) I also forged on the laboratory report on a pet dog by the name of 'Kibu'. I have used the laboratory report of 'Kiki' and edited the name and microchip no. to 'Kibu'. I did that because I have lost the laboratory report for 'Kibu' and I didn't know how to go about it. I didn't know that I should inform AVA to get a replacement therefore I resorted to use 'Kiki' laboratory report and forged the name to 'Kibu' and also on the microchip no. For 'Kibu' case, the pet was to be imported from Myanmar to Singapore on the 24/8/2016.

The Appellant argues that Exhibit P62 is the genuine report for Kibu that the Appellant had lost. He contends that since Exhibit P62 is a genuine report, Exhibit P61 (which is the application form that would have been submitted to obtain Exhibit P62) must also have been genuine. However, as stated above (at [104]), it is possible for a genuine laboratory report to be obtained from a forged application form. The mere fact that the Appellant claimed that Exhibit P62 was a genuine laboratory report does not mean that the *application form* for that laboratory report was genuine.

107 In my view, the DJ was correct to find that Exhibit P61 had been forged. In so concluding, I bear in mind Dr Raj's testimony that the signature in Exhibit P61 is not his and that he had never requested for laboratory services for Kibu.[174] While Dr Raj conceded that he had seen Kibu at the AVA quarantine centre for a "skin issue",[175] he maintained that he had not seen Kibu in his clinic.[176] Further, Dr Raj's evidence is that he had seen Kibu at the AVA quarantine centre for a *skin issue*. This is at odds with Exhibit P61, which states that the purpose of the application was to request for a "Rabies Virus Antibody ELISA" test.[177] More importantly, Dr Raj also maintained that he had not made any requests for laboratory services for Kibu.[178] In the circumstances, there is no basis for this court to disturb the DJ's finding on the falsity of the document for the fifth charge.

The 6th charge: Laboratory Report for Bamboo

108 The sixth charge concerns the laboratory report for Bamboo, which is Exhibit P10. The Appellant submits that the DJ was wrong to conclude that Exhibit P10 was forged. First, there was no evidence to show how the Appellant would have had access to Exhibit P12, which was necessary for him to forge Exhibit P10. The Appellant could not have forged the report from Exhibit P6, which was in his possession.[179] This is presumably because the reference number for the laboratory report for Bamboo corresponds to the reference

174 ROA at pp 1462 and 1473.

175 ROA at pp 1472–1473.

176 ROA at p 1473.

177 ROA at p 4265.

178 ROA at p 1473.

179 AWS at p 22 at s/n 6.

number for Exhibit P12 and not Exhibit P6. Second, Dr Alwyn Tan's testimony, that the font used in Exhibit P10 was irregular, should not be accepted as Dr Alwyn Tan was not an expert witness.[180]

109 The Prosecution submits that the DJ was correct to have concluded that the laboratory report for Bamboo had been forged as it shares the same document reference number prefix as those which relate to dogs from another organisation.[181]

110 I do not see any basis to disturb the DJ's finding that the laboratory report for Bamboo had been forged.

111 First, the testimony of Dr Alwyn Tan supports such a conclusion as he testified that the document reference number on the laboratory report belonged to dogs from a different organisation ("Organisation A") instead:[182]

> A: Okay. So, the---the actual rabies serology lab report bearing this reference number, as advised by our issuing laboratory, is actually for dogs belonging to [Organisation A], and not for Bamboo.

This, *by itself*, indicates that the laboratory report for Bamboo had been forged. Thus, Dr Alwyn Tan's testimony supports the finding that the laboratory report for Bamboo had been forged even if no weight is placed on Dr Alwyn Tan's averment that the font in the report appeared to be irregular.

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180 AWS at p 22 at s/n 6.

181 Minute Sheet dated 26 July 2024 at pp 24–25.

182 ROA at p 1136.

112 Second, I do not agree that the laboratory report for Bamboo could only have been forged from Exhibit P12. The Appellant's argument is presumably based on the reference number in the laboratory report for Bamboo, which coincides with the reference number in Exhibit P12 and not Exhibit P6. However, there is nothing inherently wrong with the DJ's reasoning that Exhibit P6 served as the source document that the Appellant doctored to create the laboratory report for Bamboo (see *Public Prosecutor v Gabriel See Wei Yang* [2023] SGDC 305 at [66]). The reference number in Exhibit P6 could simply have been altered to reflect the reference number in Exhibit P12. Further, there are notable differences between Exhibit P12 and the laboratory report for Bamboo: (a) Exhibit P12 contained various rows indicating the test results for various dogs, whereas the laboratory report for Bamboo only contained a table with one row for Bamboo's test result; (b) Exhibit P12 had been issued by Dr Wang YiFan, whereas the laboratory report for Bamboo had been issued by Ms Tan Ee Leng; and (c) the laboratory report for Bamboo contained various additional fields that were not present in Exhibit P12, such as a field indicating the dog's Microchip number.[183] In contrast, Exhibit P6 shared various similarities with the laboratory report for Bamboo: (a) both reports contained a table with a single row that indicated the test result for a single dog; (b) both reports had been issued by Ms Tan Ee Leng; and (c) both reports contained identical fields for information such as the dog's microchip number.[184]

113 In any event, the Appellant had stated in Exhibit P9 that he thought he had forged the laboratory report for Bamboo:

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183 ROA at pp 4025–4027.

184 ROA at p 3997.

> Q6) I am now showing you on the laboratory reports. The first one is for the pet's name Panda and Bamboo. Can you tell me whether are the laboratory reports for Panda and Bamboo are authentic?
>
> A6) I think I have forged them.

114 In the circumstances, the DJ was entitled to conclude that the document in the sixth charge had been forged.

The 7th charge: Laboratory Report for Panda

115 For the seventh charge, the Appellant contends that the laboratory report for Panda, Exhibit P11, had not been forged for the following reasons. First, it is unclear how the Appellant would have had possession of Exhibit P13, which was needed to forge Exhibit P11.[185] Second, Dr Alwyn Tan's evidence that the font in Exhibit P11 looked irregular should not have been admitted as he was not an expert witness.[186] Third, there is no corroborative evidence to suggest that the same document reference number cannot be applied across different reports.[187] Fourth, the Prosecution failed to prove that the digital medium used did not cause the formatting errors in Exhibit P11.[188]

116 In response, the Prosecution argues that Exhibit P11 is a forged document as it shares the same document reference number as the laboratory report for another dog ("Exhibit P13").[189]

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185 Minute Sheet dated 26 July 2024 at p 19.

186 AWS at p 23 at s/n 7.

187 AWS at p 23 at s/n 7.

188 AWS at p 23 at s/n 7.

189 Minute Sheet dated 26 July 2024 at p 25.

117 In my view, there is nothing to suggest that Exhibit P11 could only have been forged from Exhibit P13 and not Exhibit P6. While the Appellant's argument was not fully developed in the oral hearing before me, it presumably rests on Exhibit P11 sharing the same document reference number as Exhibit P13 and not Exhibit P6. For the reasons given above (see above at [110]), I am of the view that this common element does not invariably mean that Exhibit P11 had been forged from Exhibit P13. Further, there are various differences between Exhibits P11 and P13: (a) Exhibit P11 had been issued by Ms Tan Ee Leng, whereas Exhibit P13 had been issued by Ms Amy Chan Hee Joo; and (b) Exhibit P13 contains an additional text field titled "Your Reference", whereas Exhibit P11 does not contain such a text field.[190] In contrast, Exhibits P11 and P6 share various similarities: (a) both documents were issued by Ms Tan Ee Leng; and (b) both documents do not contain the text field titled "Your Reference".[191] In my view, the DJ's reasoning that Exhibit P11 had been forged from Exhibit P6 cannot be impugned on this basis.

118 Further, Dr Alwyn Tan, who was a Deputy Director at the AVA who oversaw the inspection, quarantine, and import of animals,[192] had testified that it was unlikely for two laboratory reports to share the same reference number:[193]

> Q: Is it possible for that to be 2 reports which are the same numbers?
>
> A: (Flipping of papers) No, they shouldn't be.

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190 ROA at pp 4016 and 4047.

191 ROA at pp 3997 and 4016.

192 ROA at p 1098.

193 ROA at p 1109.

As Exhibit P11 shared the same reference number as Exhibit P13, this indicates that Exhibit P11 had been forged. While no expert evidence was led from systems specialists to testify as to the fact that document reference numbers cannot be repeated in different reports, Dr Alwyn Tan's evidence makes good sense and the DJ was entitled to conclude that document reference numbers would not be duplicated across different documents.

119 I also reject the Appellant's argument that the Prosecution had not proved that the digital medium of Exhibit P11 had not caused the formatting errors as it is unduly speculative. Further, the Appellant stated in Exhibit P9 that he thought he had forged the laboratory report for Panda:

> Q6) I am now showing you on the laboratory reports. The first one is for the pet's name Panda and Bamboo. Can you tell me whether are the laboratory reports for Panda and Bamboo are authentic?
>
> A6) I think I have forged them.

120 In the circumstances, there is no basis to impugn the DJ's finding that Exhibit P11 had been forged.

The 8th charge: Laboratory Report for Coffee

121 In relation to the eighth charge, the Appellant submits that the DJ erred in concluding that the laboratory report for Coffee, Exhibit P14, had been forged. First, there was no evidence that Exhibit P14 had in fact been submitted to the AVA.[194] Second, the DJ should not have accepted the testimony of Dr Tan Ee Ling that the date displayed at the bottom of Exhibit P14 did not tally with the date of the document. This is because the Prosecution failed to adduce

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194 Minute Sheet dated 26 July 2024 at p 19.

evidence to show that the discrepancy in the date of the document is an "administrative impossibility" or is otherwise not caused by the digital medium of the document.[195]

122 The Prosecution argues that Exhibit P14 had been forged as it shares the same document reference number as Exhibit P6, which is a genuine laboratory report for Kiki.[196]

123 In my view, the DJ had correctly concluded that Exhibit P14 had been forged. First, there is no requirement for the Prosecution to prove that Exhibit P14 had actually been submitted to the AVA in order to establish the eighth charge (see above at [91]). Second, the Appellant's remaining arguments do not address the fact that Exhibit P14 shares the same document reference number as Exhibit P6. As stated earlier, Dr Alwyn Tan had given evidence that different laboratory reports should not contain the same reference number (see above at [116]). Third, the Appellant stated in Exhibit P9 that he thought that he had forged the laboratory report for Coffee:[197]

> Q8) How about for pet's name called 'coffee'?
>
> A8) Yes I think I forged it as well.

I do not have to rely on Dr Tan Ee Ling's testimony that Exhibit P14 contained a discrepancy in the date displayed at the bottom of the document to establish the falsity of Exhibit P14; the *totality* of the remaining evidence that I have just referenced supports the finding that Exhibit P14 had been forged. In the

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195 AWS at p 23 at s/n 8.

196 Minute Sheet dated 26 July 2024 at p 24.

197 ROA at p 4014.

circumstances, the DJ was justified in concluding that Exhibit P14 had been forged.

Issue 3: Whether the DJ erred in failing to conduct an ancillary hearing on the accuracy of the contents of Exhibit P3

124 The Appellant contends that the DJ had erred in law by failing to conduct an ancillary hearing on the accuracy of Exhibit P3.[198] It is argued that even though the CPC does not impose a requirement for the court to conduct an ancillary hearing where the sole challenge to the accused's statement relates to its accuracy, the court should have exercised its discretion to do so at the trial.[199] The Appellant cites the High Court decision of *Public Prosecutor v Parthiban Kanapathy* [2021] 5 SLR 372 ("*Parthiban*") in support of this proposition. In particular, the Appellant repeats the reasoning in *Parthiban* that ancillary hearings allow the accused to give evidence and challenge the accuracy of statements before the close of the Prosecution's case without sacrificing his right to remain silent.[200]

125 The Prosecution did not address the Appellant's argument in its submissions or at the oral hearing before me.

126 I do not accept the Appellant's submission. As a preliminary matter, the authority that the Appellant cites in support of his argument had been approached with a degree of circumspection by the Court of Appeal in *Leck Kim Koon v Public Prosecutor* [2022] 2 SLR 595 ("*Leck Kim Koon*"). The Court of

198 AWS at para 13.

199 AWS at paras 12–13.

200 AWS at para 16.

Appeal had taken issue with the three reasons given in *Parthiban* that suggested that it is a good practice to convene an ancillary hearing whenever the accuracy of the accused's statement is challenged: see *Leck Kim Koon* at [78]–[86]. Further, the Court of Appeal was not persuaded that the accused's opportunity to challenge the accuracy of his written statement would necessarily come at the cost of his right to remain silent – it was open to the accused to cross-examine the relevant Prosecution witnesses or call on other Defence witnesses to support his case: *Leck Kim Koon* at [85]. As such, it cannot be easily said that an ancillary hearing *should* be convened whenever the accuracy of a statement is challenged.

127 Even if it is accepted that it is good practice for a court to call for an ancillary hearing when the accuracy of the statement is challenged, it is a matter of the court's *discretion* as to whether to call for an ancillary hearing in such circumstances: *Leck Kim Koon* at [75]. There is no *requirement* for the court to hold an ancillary hearing where the sole challenge to the accused's statement relates to its accuracy: *Leck Kim Koon* at [70]. In the present case, the Appellant has not given any reason as to why the DJ's failure to call an ancillary hearing was wrong in law. The Appellant had only cited an extract from the trial, in which the DJ had instructed the Appellant to confine his questions during the first ancillary hearing to questions relating to the voluntariness (and not the accuracy of) Exhibit P3. However, there is no indication that the Appellant had objected to the *accuracy* of the contents of Exhibit P3. The Appellant had even conceded, during his testimony in the ancillary hearing, that he made the amendments to Exhibit P3:[201]

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201 ROA at p 94.

> Q: When we look at the statement, you had many opportunities to make amendments, is that right?
>
> A: Yes.
>
> Q: And you confirm that these amendments were made by you?
>
> A: Yes.

In the circumstances, the DJ cannot be faulted for declining to exercise her discretion to convene an ancillary hearing on the accuracy of Exhibit P3.

Issue 4: Whether the DJ erred in allowing the Prosecution to introduce prejudicial evidence against the Appellant

128 The Appellant also submits that the DJ had erred in allowing the Prosecution to introduce prejudicial information relating to the Appellant's antecedents at the trial. It is argued that the first paragraph of Exhibit P3, which purportedly contained no probative value, stated that the Appellant had been involved in other police investigations.[202] Further, during the cross-examination of the Appellant in the first ancillary hearing, the Prosecution referred to the possibility of the Appellant having committed prior cheating and forgery offences.[203] The Prosecution had also objected to the admission of a Defence exhibit on the basis that the Appellant could have forged the exhibit. The Prosecution had argued that the Appellant was capable of forging documents as the trial related to the Appellant's forgery charges.[204] While the DJ remarked that this comment was unfair, it is unclear to what extent this remark would have coloured the mind of the DJ.[205]

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202 AWS at para 30.

203 AWS at para 32.

204 AWS at para 33.

205 AWS at paras 33–35.

129 The Prosecution did not submit on this issue.

130 I am unable to accept this argument. In my view, the DJ did not rely on the Appellant's purported antecedents in finding that the Appellant was guilty of forging the relevant documents. First, the DJ did not rely on or refer to the purportedly prejudicial paragraph of Exhibit P3, which alleged that the Appellant was involved in another police investigation, in her grounds of decision. Second, the DJ did not rely on the Appellant's purported antecedents for cheating or forgery in arriving at her conclusion that the Appellant was guilty of the charges. Third, while the Prosecution reasoned that the Appellant could have forged a Defence exhibit because he had been charged with forgery and was "capable of forging documents", the DJ had expressly rejected this line of propensity reasoning:[206]

> Lee: … Your Honour, this says that you can assume that it is genuine but, Your Honour, this trial is concerning an accused who is charged with forgery. And I have---I know that the accused is capable of forging documents.
>
> Court: DPP, I think to be fair to the accused, just because he is charged with forging some other documents doesn't mean that he is guilty of forging A, B, C, D and E. I---I think that's taking a bit too far.

There is thus no merit in the Appellant's contention. It is clear from a review of the evidence on the record and the DJ's grounds of decision that she did not rely on the Appellant's purported antecedents for forgery or cheating in concluding that the Appellant was guilty of the charges.

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206 ROA at p 179.

Issue 5: Whether the DJ erred in concluding that the forgeries were committed by the Appellant

131 The Appellant submits that the DJ erred in evaluating the evidence of Jason Lim and failing to find that a reasonable doubt had arisen as to whether the documents had been forged by the Appellant.[207] The Appellant raises the following points in relation to this argument. First, Jason Lim admitted that he had lied in his police statement when he said that: (a) he had not put up any documentation; and (b) the Appellant was the only person who prepared the documents for the import and export of pets at Full of Fun House. Jason Lim had also admitted that he was involved in the preparation of documents for the import and export of pets for Full of Fun House. Second, the DJ failed to consider that Exhibit P8 contained Jason Lim's name and particulars.[208] Third, the DJ had erred in believing Jason Lim's testimony that he was minimally involved in Full of Fun House as he there were numerous discrepancies between Jason Lim's examination-in-chief and cross-examination.[209] Fourth, the exhibits that were not admitted by the DJ showed the possible involvement of Jason Lim in the preparation of the documents for the export and import of animals.[210]

132 In response, the Prosecution argues that the DJ had correctly concluded that the Appellant had forged the documents. First, the Appellant admitted in Exhibits P3 and P9 that he had forged the documents. This admission was consistent with the evidence of various pet owners who had testified that they mainly liaised with the Appellant for the relocation of their pets. Second, the DJ

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207 AWS at para 56.

208 AWS at para 59.

209 AWS at para 61.

210 AWS at para 62.

correctly found that the Appellant submitted the forged documents to the AVA as: (a) the applications were submitted with the Appellant's SingPass account or his credentials; (b) the AVA staff testified that they had only liaised with the Appellant for the relevant applications; and (c) the Appellant did not provide any cogent evidence to show that other individuals had access to his SingPass account. Third, the DJ correctly found that Jason Lim played a minimal role in Full of Fun House. Jason Lim testified that his role in Full of Fun House was limited to transporting Kiki to Taiwan. This account was corroborated by various pet owners, who averred that they had largely dealt with the Appellant and not Jason Lim. Fourth, the DJ had rightly found that the inconsistencies in Jason Lim's evidence were explainable and immaterial.

133 In my view, the DJ was entitled to conclude that the forgeries were committed by the Appellant. First, the DJ had considered the inconsistencies in Jason Lim's testimony regarding: (a) whether he had communicated with a pet owner; and (b) whether he was involved in the preparation of documents for the export of Kiki to Taiwan.

(a) In relation to the former, the DJ accepted Jason Lim's explanation that he had initially given an inconsistent answer as he was unsure about what the Appellant's question meant.[211] Jason Lim was eventually able to explain that he had contacted the pet owner after he had seen all the evidence and his memory was refreshed.[212]

(b) As for the latter, the DJ noted Jason Lim's clarification on re-examination that he only printed documents and had physical possession

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211 ROA at p 3940 at para 167.

212 ROA at p 3940 at para 168.

> of the documents when he flew to Taiwan with Kiki.[213] In a similar vein, the DJ had already considered Jason Lim's purported lies as to whether he had put up documentation for the export and import of pets for Full of Fun House.[214] The DJ noted that Jason Lim had clarified on re-examination that he only had physical possession of the relevant documents when he transported Kiki to Taiwan.[215] Further, Jason Lim clarified at trial that he had conceded, during his cross-examination, that he lied in his police statement as he was frustrated with the Appellant and had possibly misheard the Appellant.[216]

In my judgment, the DJ was entitled to accept that Jason Lim was minimally involved with Full of Fun House. The DJ had expressly considered the abovementioned inconsistencies and was of the view that they could be explained.

134 Second, the fact that certain exhibits (which were not admitted as evidence by the DJ) would have supported the Appellant's case is irrelevant as the DJ had ruled that such evidence was inadmissible. As the Appellant does not challenge the DJ's conclusion on the admissibility of the evidence, the evidence remains inadmissible and the DJ was justified in not considering the same.

135 Third, while I note that Jason Lim's name and particulars are stated in several pages of Exhibit P8, the DJ had considered the fact that the Appellant's

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213 ROA at pp 3940–3941 at paras 171–172.

214 ROA at p 3939 at para 165.

215 ROA at p 3941 at para 172.

216 ROA at pp 3466–3467.

particulars were also indicated on Exhibit P8.[217] In the DJ's view, the fact that the Appellant's name was indicated on Exhibit P8 as "c/o Pet Mover/Gabriel" indicated that Jason Lim executed his tasks *on behalf* of the Appellant.[218] In my view, the DJ's reasoning cannot be faulted as: (a) she had expressly considered the portion of Exhibit P8 which contained Jason Lim's particulars and reasoned that Jason Lim was merely acting on behalf of the Appellant; and (b) this inference coheres with the evidence of other witnesses at trial, who testified that the phrase "C/O" meant that the owner of the pet had engaged the services of a pet agent, who would be listed after the phrase "C/O".[219]

136 For completeness, I do not accept the Appellant's argument that the DJ had placed undue weight on Exhibits P3 and P9 as they did not contain a definitive description of the documents that were shown to the Appellant. While I acknowledge that the documents that were shown to the Appellant during the statement-taking process were not annexed to the Appellant's statements, Exhibits P3 and P9 contain sufficiently detailed descriptions of the documents:

(a) Exhibit P3 refers to the forgery of two "health certificates" for the export of Kiki to Taiwan. As mentioned earlier (at [88] above), this was a reference to a Veterinary Certificate and a health certificate for Kiki. These correspond to Exhibits P4 and P5, which are the subject matter of the first and second charges.

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217 ROA at p 3943 at para 182.

218 ROA at p 3949 at para 182.

219 ROA at p 1270.

(b) Exhibit P3 also refers to the forgery of a laboratory report for the import of Kibu from Myanmar to Singapore.[220] This corresponds with Exhibit P7, which is the subject of the fourth charge.

(c) Exhibit P9 refers to the forgery of laboratory reports for Panda, Bamboo, Kibu, and Coffee.[221] These correspond with Exhibits P11, P10, P7, and P14 which are the subject of the seventh, sixth, fourth, and eight charges respectively.

(d) Exhibit P9 also refers to a Veterinary Certificate for the export of Dogs/Cats to Taiwan. This is broadly consistent with the nature of Exhibit P8, which is the subject of the third charge. While the probative value of Exhibit P9 is somewhat attenuated as it does not state which dog the certificate relates to, this is not fatal as I have found earlier that the DJ was entitled to conclude (on the basis of *other* evidence in addition to Exhibit P9) that Exhibit P8 was forged by the Appellant (see above at [91(b)]). In my view, it cannot be said that the DJ placed undue weight on Exhibit P9.

220 ROA at p 3989.

221 ROA at p 4014.

Issue 6: Whether the sentence imposed by the DJ was manifestly excessive

137 The Appellant also argues that the DJ had imposed a manifestly excessive sentence. He relies on three main arguments. First, the DJ had placed undue weight on the purported harm caused by the offences.[222] Any purported harm caused by the forgeries would have been negated by the fact that the *original* laboratory reports would be checked when the animal was imported into Singapore.[223] Second, the DJ did not explain how she had considered the Appellant's prior antecedent in calibrating the applicable sentence.[224] Third, the DJ did not place sufficient weight on the following mitigating factors: (a) the Appellant's mental disorders and the purported adverse effect of a long imprisonment term on the Appellant;[225] and (b) the fact that there had been no premeditation or planning by the Appellant.[226] The Appellant also submits that the DJ should not have imposed an uplift from the sentence in *Public Prosecutor v Tan Moh Tien* (DAC 800878/2013 and ors) ("*Tan Moh Tien*") as that case featured similar facts and the pets in that case had been harmed.

138 The Appellant submits that the culpability and harm for the offences are low. Accordingly, the appropriate starting point for each forgery charge relating to the exporting of pets (*ie*, the first, second, and third charges) should be two months' imprisonment. The appropriate starting point for each forgery charge relating to the importation of pets (*ie*, the fourth, fifth, sixth, seventh, and eighth charges) should be four weeks' imprisonment.

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222 AWS at para 64.

223 AWS at para 64(b).

224 AWS at para 65.

225 AWS at paras 66–67.

226 AWS at para 68.

139 In reply, the Prosecution raises the following arguments. First, the DJ had correctly considered the Appellant's previous antecedent as an aggravating factor as it related to a similar offence. Second, the court had sufficiently considered the fact that no pets had been harmed and had balanced it against other aggravating factors. The DJ had correctly imposed an uplift on the sentence in *Tan Moh Tien* as it could not be said that the present case caused less harm than *Tan Moh Tien*. Third, the psychological impact of incarceration on an offender is generally not a relevant sentencing consideration and no evidence had been adduced to show that the Appellant's incarceration would be so exceptional as to warrant mitigating weight.[227] Fourth, no mitigating weight should be given to the Appellant's purported mental conditions as there is no evidence to show that they had any causal or contributory link to his offending.[228] Fifth, no mitigating weight should be given to the Appellant's purported lack of premeditation as the offences had been premeditated. The Appellant would have planned the offences to obtain the relevant signatures to be forged.[229]

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227 RWS at paras 113–114.

228 Minute Sheet dated 26 July 2024 at p 27.

229 Minute Sheet dated 26 July 2024 at p 27.

Antecedents

140 I deal first with the Appellant's argument on his prior antecedent. In my view, the DJ had clearly considered the relevance of the Appellant's antecedent at [335] of the grounds of decision, where she identified the antecedent as a factor that pointed towards the need for specific deterrence. The presence of related antecedents is an aggravating factor that would justify an enhanced sentence on the ground of specific deterrence: *BPH v Public Prosecutor and another appeal* [2019] 2 SLR 764 at [85]. The Appellant's antecedent was a related antecedent as it also concerned the deception of others with falsehoods.

Harm

141 Next, I consider the harm caused by the Appellant's offences. The Appellant argues that any harm caused to society by the offences is negated by the fact that the original documents would be scrutinised at Singapore's border control office. In my view, this argument only addresses *one aspect* of the harm that eventuated from the offences (*ie*, the harm that might be occasioned to society). Harm had also been occasioned to the pet owners, who had paid $2,000 each for the Appellant's pet relocation services. Further, as the DJ noted at [310] of the grounds of decision, the offences relating to the *export* of pets might also pose harm to other countries.

142 For completeness, I reject the Appellant's argument that the DJ had incorrectly noted that the Appellant had caused the pet owners to pay $2,000 each for the relocation services. The Appellant argues that he made payments toward the quarantine fees for Kibu, Panda, and Bamboo. This argument does not address the fact that the pet owners had paid the Appellant for pet relocation

services and the Appellant had, by his forgery of the documents, failed to relocate the pets.

The Appellant's mental conditions

143 The Appellant argues that the DJ had not considered the extent to which the Appellant's mental health conditions caused or contributed to his offences. Further, the DJ did not consider the adverse effect of a long imprisonment term on the Appellant. I am not persuaded by these contentions. First, the Appellant had not submitted any evidence to show that his mental conditions were: (a) operative at the date of the offences; and (b) had a causal or contributory link to the offences. The element of general deterrence can be accorded full weight in some situations, such as where the mental disorder is not serious or not causally related to the commission of the offence: *Lim Ghim Peow v Public Prosecutor* [2014] 4 SLR 1287 at [28].

144 Second, the psychological impact of incarceration on a particular offender is generally not a relevant sentencing consideration: *Idya Nurhazlyn bte Ahmad Khir v Public Prosecutor and another appeal* [2014] 1 SLR 756 at [42]–[44]. The Appellant has not adduced any evidence to show that he would suffer exceptional adverse consequences from his imprisonment term.

Premeditation

145 The Appellant argues that the DJ failed to give adequate weight to the Appellant's lack of premeditation and planning. This argument is untenable for two reasons. First, the Appellant's offences were premeditated as he relied on authentic documents that were in his possession to create the forgeries. Second,

the absence of premeditation is only a neutral factor and not a mitigating factor: *Public Prosecutor v Lim Chee Yin Jordon* [2018] 4 SLR 1294 at [55].

The sentencing precedents

146 For completeness, I address the Appellant's argument on the DJ's reliance on *Tan Moh Tien*. In my view, the Appellant's sentence of five months' imprisonment per charge cannot be said to have been *manifestly excessive* when compared to the four-month imprisonment term per forgery charge in *Tan Moh Tien*. I do not accept the Appellant's contention that *Tan Moh Tien* concerned a more egregious situation than the present case. While I accept that the accused in *Tan Moh Tien* had forged nine sets of documents, the Prosecution had only proceeded on three forgery charges in that case (with six forgery charges taken into consideration) whereas the Appellant faced eight forgery charges in the present case. The offender in *Tan Moh Tien* did not have any prior antecedents.[230] Further, the Appellant had claimed trial whereas the offender in *Tan Moh Tien* had pleaded guilty at an early stage,[231] which is a mitigating factor.

147 In the circumstances, it cannot be said that the Appellant's sentence is manifestly excessive.

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230 ROA at p 5262 at para 7.

231 ROA at p 5262 at para 7.

Conclusion

148 For the reasons above, I dismiss the appeal against conviction and sentence. I conclude with a reminder. Section 279(3) of the CPC sets out the procedure for the Prosecution and Defence to lead evidence in an ancillary hearing. While the failure to adhere to this procedure did not occasion a failure of justice on the facts of the present case, it is imperative that the courts scrupulously follow this procedure to ensure the proper conduct of an ancillary hearing.

Dedar Singh Gill
Judge of the High Court

N K Anitha (Anitha & Asoka LLC) for the appellant;
Matthew Choo Hou Chong and Kiera Yu Jiaqi (Attorney-General's Chambers) for the respondent.

Annex: Summary of exhibits

Document	Exhibit Number	Whether the document is the subject matter of a charge
Statement of the Appellant dated 11 August 2016	Exhibit P3	No
Statement of the Appellant dated 5 September 2016	Exhibit P9	No
Laboratory report for a dog named "Kiki"	Exhibit P6	No
Health certificate for a dog named "Kiki"	Exhibit P4	First charge
Veterinary Certificate for a dog named "Kiki"	Exhibit P5	Second charge
Veterinary Certificate for a dog named "Kiki"	Exhibit P8	Third charge
Laboratory report for a dog named "Kibu"	Exhibit P7	Fourth charge
An application form for animal health laboratory services for a dog named "Kibu"	Exhibit P61	Fifth charge
Laboratory report for a dog named "Kibu"	Exhibit P62	No
Laboratory report for a dog named "Bamboo"	Exhibit P10	Sixth charge
Laboratory report for a	Exhibit P11	Seventh charge

dog named “Panda”		
Laboratory report for a dog named “Coffee”	Exhibit P14	Eighth charge