

Man jailed for voting offence at Rural Representative Election

16 March 2016

A registered voter was today (Wednesday) sentenced to two months' imprisonment at the Tuen Mun Magistracy after admitting an ICAC charge of engaging in corrupt conduct by voting at the 2015 Rural Representative (Resident Representative) Election for Mai Po Tsuen in Yuen Long (the Election).

Sammy Leung Hon-sang, 39, an operation supervisor of Fat Fai Logistics Limited (FFL), pleaded guilty to one count of engaging in corrupt conduct with respect to voting at the Election, contrary to Section 16(1)(b)(i) of the Elections (Corrupt and Illegal Conduct) Ordinance (ECICO), while the prosecution offered no evidence to the other related charge against him.

In passing the sentence, Magistrate Ms Winnie Lau Yee-wan said engaging in corrupt conduct at an election was a serious offence, thus warranting a deterrent custodial sentence.

The magistrate added that she reduced the starting point of three months in jail by one-third after taking into account the defendant's guilty plea.

The court heard that on July 16, 2014, the Home Affairs Department (HAD) received the defendant's application for voter registration of the Village Representative (Resident Representative) Election.

In the application, an address in Mai Po Tsuen (the address) was provided as the defendant's principal residential address. The defendant also declared in the application that he had been a resident of Mai Po Tsuen since March 2011 and for the preceding three years before his application.

After the HAD received the application with no request for amendment or objection, the defendant was included in the Final Register of the Election.

The court heard that on January 5, 2015, the HAD issued a polling notice to the defendant, informing him of the location of the polling station.

The defendant was also reminded on the polling notice that a registered elector for an existing village must have been a resident of that village for the preceding three years before registration. If the registered elector no longer resided in the village, he was no longer eligible to remain registered as an elector. It was an offence if he voted at the election.

On January 18, 2015, the polling day, the defendant arrived at the polling station and applied for a ballot paper from a polling officer. Before the defendant was issued the ballot paper, he was given a written notice bearing the reminder. After the defendant replied that he had read and understood the notice, the polling officer issued a ballot paper to him.

According to the ECICO, any person who had been issued a ballot paper would be regarded as having voted at the respective election, the court heard.

ICAC enquiries revealed that the defendant joined FFL as an operation supervisor in June 2009, and his normal working hours were between 10 am to 7 pm from Monday to Saturday. The registered office of FFL was situated at the address.

The defendant signed employment contracts with FFL and its associated company, but there was no mention of providing accommodation to the defendant in those contracts. In his job applications to the two companies, he provided an address in Tuen Mun and an address on the Mainland as his residential address respectively.

Records of the Immigration Department showed that between January 1, 2011 and January 18, 2015, the defendant mostly came to Hong Kong on working days and returned to the Mainland on the same days, and that he had never stayed overnight in Hong Kong since January 1, 2011, the

court was told.

The HAD had rendered full assistance to the ICAC during its investigation.

The prosecution was today represented by Senior Public Prosecutor Jonathan Lin, assisted by ICAC officer Simon Liu.

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男子承認在鄉郊代表選舉觸犯投票 罪行被判囚兩個月

2016年3月16日

一名登記選民在元朗舉行的二〇一五年米埔村鄉郊代表(居民代表)選舉中觸犯投票罪行，早前被廉政公署起訴。被告今日(星期三)在屯門裁判法院承認控罪，被判入獄兩個月。

梁漢生，三十九歲，發輝物流有限公司(發輝物流)營運主管，承認一項罪名，即作出關於在選舉中投票的舞弊行為，違反《選舉(舞弊及非法行為)條例》第16(1)(b)(i)條。被告另外一項相關罪名，則獲控方不提證供起訴。

裁判官劉綺雲在判刑時表示，選舉舞弊行為是嚴重罪行，須判處具阻嚇性的監禁刑期。

裁判官續稱，量刑起點為監禁三個月，但考慮到被告承認控罪，故將他的刑期扣減三分之一。

案情透露，民政事務總署於二〇一四年七月十六日收到被告的村代表選舉(居民代表)選民登記申請。

在該申請表上，米埔村一個地址(涉案地址)被提供為被告的主要住址。被告亦聲明他自二〇一一年三月及在緊接提交申請前的三年之內，一直是米埔村的居民。

在收到該申請表後，民政事務總署並沒有接獲相關更改或反對，被告遂獲納入有關選舉的正式選民登記冊。

案情透露，民政事務總署於二〇一五年一月五日向被告發出投票通知，以通知被告投票站的地點。

該投票通知又以備忘提醒被告，現有鄉村的登記選民必須在登記前三年內一直是該村的居民。登記選民如已不再在該村居住，便不再符合資格登記為選民。如在選舉中投票，即屬違法。

被告於二〇一五年一月十八日即投票日到達投票站，並向投票站人員申領選票。在獲發選票前，被告獲發一張載有該備忘的書面告示。被告回答已閱讀和明白該告示內容後，投票站人員向他發出選票。

案情指出，根據《選舉(舞弊及非法行為)條例》，任何人如已獲發選票，即視為已在相關選舉中投票。

廉署調查發現，被告於二〇〇九年六月加入發輝物流擔任營運主管，其正常工作時間為星期一至星期六上午十時至晚上七時。發輝物流的註冊辦事處設於涉案地址。

被告與發輝物流及其相關公司簽訂僱傭合約，但有關合約均沒有提及向被告提供住宿。被告向該兩間公司呈交的工作申請表，分別提供一個在屯門及一個在內地的地址作為其住址。

入境事務處的記錄顯示，被告於二〇一一年一月一日至二〇一五年一月十八日期間，大多數在工作日來港，並於同日返回內地。此外，被告自二〇一一年一月一日起從未在香港留宿。

民政事務總署在廉署調查案件期間提供全面協助。

控方今日由高級檢控官連普禧代表出庭，並由廉署人員廖漢源協助。

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