

Transcript for a Plea in Mitigation - 牛皮燈籠

s.17 OAPO wounding with intent (beef knife); full recovery; elderly defendant; frail health; accused assisted victim after incident; co-operated with police; surrendered and plead guilty without delay; no prior convictions; positive probation report; special circumstances: victim bullied accused for 5 years; occasional assault.

May it please the court, I appear on behalf of Mr. Lam today to make a plea in mitigation.

Your Honour, this is a most tragic case – of wounding committed on a neighbour. The victim had, for 5 years, been living opposite to Mr. Lam’s flat in the same housing estate. Unfortunately, the relationship between Mr. Lam and the victim was not a good one to say the least.

For over 5 years, the victim had been using abusive language against Mr. Lam, he had left rubbish at the accused’s doorstep, and had on many occasions bullied Mr. Lam, who, as your Honour may appreciate, was in his early sixties at the time. This is also well known by the neighbours, who have given their kind assistance to Mr. Lam whenever the opportunity arose.

Indeed, Mr. Lam did apply to the Housing Authority to be moved away from the victim because of these unhappy incidents. His neighbours have also signed petitions in support of his applications. However, the Housing Authority only allowed him to move after the commission of the offence in question.

Suffice to say, the acts committed by the victim against Mr. Lam are known in the small community in which he resides.

On the day of the incident, Mr. Lam decided to **discourage** the victim from harassing him further. He brought with him, most foolishly perhaps, a large cleaver. Mr. Lam only intended to scare the victim. On opening the door, the victim insulted Mr. Lam. It was the last straw for him whereby he momentarily lost control and chopped the victim.

Your Honour, Mr. Lam has expressed **deep remorse** for having wounded his neighbour. This is not something that Mr. Lam will ever do again. Mr. Lam came to his senses very quickly after causing the injuries and summoned help from his neighbours. He also helped to stop the victim's bleeding while the authorities were en-route. When the authorities came, Mr. Lam surrendered to the police and gave a full and frank confession. Mr. Lam had also pleaded guilty on plea day.

Your Honour, a section 17 wounding is a serious offence in any case, but it is submitted that the wounding incident on the evening of 25 February 2007 is completely **out of character**. I will give some background to supplement the special circumstances of this case.

Mr. Lam has a literary background and at 64 years old, continues to contribute to Chinese literary journals drawing from his broad experience in comparative English and Chinese literature. Mr. Lam is also frail, having bronchitis as well as atrophied lungs for which he has been prescribed penicillin and painkillers. His health is such that he has difficulty talking continuously. His neighbours have nothing but good to say on his behalf, and hold him in high regard.

Finally, Mr. Lam has no previous convictions.

If I may direct your Honour to the third-last paragraph and the second sentence of the second-last paragraph of the probation officer's report, it can be seen that after analysis, the probation officer was supportive of a lenient sentence and thought that probation would be useful to address the accused's physical and emotional needs.

In light of Mr. Lam's frail health condition, I would also invite the court to request medical reports.

Unless I can clarify any other matters, those are my submissions.

10 November 2007

Cliff Lui

Counsel for the defendant