

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

[2026] SGHC 59

Magistrate's Appeal No 9159 of 2025

Between

Public Prosecutor

... Appellant

And

Johnson Tan Wee Kiat
(Johnson Chen Weiji)

... Respondent

EX TEMPORE JUDGMENT

[Criminal Law — Statutory offences — Road Traffic Act]

[Criminal Procedure and Sentencing — Sentencing — Appeals]

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Public Prosecutor
v
Johnson Tan Wee Kiat (Johnson Chen Weiji)

[2026] SGHC 59

General Division of the High Court — Magistrate's Appeal No 9159 of 2025
Christopher Tan J
18 March 2026

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Christopher Tan J (delivering the judgment of the court *ex tempore*):

1 The Respondent in this case failed to conform to a red light signal when turning right at a cross junction. As a result, the front right side of the Respondent's vehicle collided into a motorcyclist ("Victim") who was travelling straight from the Respondent's right and who had the right of way. The Victim suffered (*inter alia*) a fractured rib.

2 The Respondent pleaded guilty to one charge under s 65(1)(b) of the Road Traffic Act 1961 ("RTA") for driving without reasonable consideration. As grievous hurt was caused, the applicable punishment provisions for the offence were s 65(3)(a) read with s 65(6)(d) of the RTA. The learned District Judge ("DJ") below imposed a sentence of one week's imprisonment and

disqualified the Respondent from holding / obtaining all classes of driving licenses for a period of five years.¹

3 The Prosecution appeals against the one-week imprisonment term on the ground that it is manifestly inadequate and asks that this be enhanced to an imprisonment term of between three to four months. I allow the appeal, to the extent that the imprisonment term is enhanced to three weeks. I have not disturbed the disqualification period of five years.

Background

4 Parties agree that the sentencing framework in *Chen Song v Public Prosecutor* [2025] 3 SLR 509 (“*Chen Song*”) applies in this case. As explained at [7] below, the framework sets out three sentencing bands and requires the court to determine the applicable sentencing band by assessing whether the case involves lesser or greater harm and lower or higher culpability, as well as to determine (having the regard to the harm and culpability factors) the appropriate section within that band in which the indicative starting sentence should be pegged. The DJ concluded that the present case falls within Band 1 of the *Chen Song* sentencing framework, *ie*, lesser harm and lower culpability.² In so holding, the DJ concluded as follows:

- (a) There was *lesser* harm as the injury suffered by the victim was far less serious in comparison with that suffered in precedent cases such as *Public Prosecutor v Lau Shiao-Li Alexis (Liu Xiaoli)*

¹ See DJ’s decision in *Public Prosecutor v Johnson Tan Wee Kiat* [2025] SGDC 295 (“GD”).

² GD at [32].

[2025] SGDC 25 (“*Alexis Lau*”) and *Public Prosecutor v Yeo Seong Bee Eric* [2025] SGDC 201 (“*Eric Yeo*”).³

(b) There was *lower* culpability, although the DJ opined that the Respondent’s culpability in turning right in contravention of the traffic signal was still far more serious than in *Alexis Lau* and *Eric Yeo*.⁴

The DJ also concluded that the custodial threshold was crossed, although he discounted the Respondent’s imprisonment term on account of his plea of guilt, pursuant to Stage 1 of the Sentencing Advisory Panel’s Guidelines on Reduction in Sentences for Guilty Pleas (“PG Guidelines”).⁵

5 In contending that the DJ erred, the Prosecution submits as follows:

(a) As regards harm, the case was rightfully pegged by the DJ as “lesser harm”. However, the harm here was no less serious than that in *Alexis Lau* and *Eric Yeo*.⁶ The Prosecution also contends that the DJ failed to place sufficient weight on the *potential* harm that had arisen on the facts of this case.⁷

(b) As regards culpability, the DJ failed to accord sufficient weight to the Respondent’s heightened blameworthiness in turning right when the traffic light had already turned red for a few seconds.⁸

³ GD at [38].

⁴ GD at [39].

⁵ GD at [40].

⁶ Prosecution’s written submissions (“PWS”) at para 31.

⁷ PWS at paras 21–22 and 33.

⁸ PWS at paras 9 and 23.

The Prosecution contends that the DJ had erroneously pegged the case at the *lower* portion of Band 1 because the facts here warranted pegging the case minimally at the *middle* portion of Band 1. The Prosecution thus submits that the appropriate imprisonment term is three to four months’, rather than the one-week term imposed by the DJ.⁹

6 The Respondent defends the DJ’s decision, contending that he had applied the *Chen Song* framework correctly.

My decision

7 As alluded to at [4] above, it is undisputed that the relevant sentencing framework in this case is that set out in the High Court decision of *Chen Song*. In that case, the three-judge coram laid out (at [134]) a sentencing framework governing the offence of careless driving under subsections (3)(a) and 4(a) of s 63 of the RTA. In a nutshell, a court applying the framework is to proceed via the following steps:

- (a) First, the court identifies the number of offence-specific factors under the broad categories of “harm” and “culpability”.
- (b) Second, based on the number of offence-specific factors present, the court determines whether the harm caused is “lesser” or “greater” harm and whether the culpability of the offender is “lower” or “higher”.

In this respect:

- (i) The harm is deemed as “lesser” if there is no more than one harm factor and “greater” if there is more than one harm factor.

⁹ PWS at para 26.

- (ii) The culpability is deemed as “lower” if there is no more than one culpability factor and “higher” if there is more than one such factor.

The assessment above determines which of the following three sentencing bands should apply to the case:

Band	Circumstances	Sentencing Range
1	Lesser harm and lower culpability	Fine and/or up to 6 months' imprisonment
2	Greater harm and lower culpability Or Lesser harm and higher culpability	6 months' – 1 year's imprisonment
3	Greater harm and higher culpability	1 – 2 year's imprisonment

- (c) Third, after determining the relevant sentencing band, the court identifies the indicative starting sentence, being a point *within that band*, bearing in mind the harm and culpability factors.

- (d) Finally, the court adjusts the indicative starting sentence to account for the usual offender-specific aggravating and mitigating factors.

8 The court in *Chen Song* provided guidance on the range of harm and culpability factors that the court should have regard to, when assessing the severity of the harm and culpability in the case. It is to these factors which I now turn.

Harm

9 Under the sentencing framework in *Chen Song*, the severity of the harm is determined with regard to a range of harm factors. In that regard, the High Court drew a distinction (at [124]) between primary and secondary harm factors.

Primary harm factors relate to the *bodily injury* suffered by the victim. The court in *Chen Song* set out the following three broad primary harm factors “which serve as key determinants of the severity of the harm caused” (at [127]):

(a) *Nature and location of the injury*: This factor focuses on the precise nature and the location of the injury. This requires a consideration of: (i) the nature and severity of injury (*eg*, simple or complex and extent of injury, *etc*); (ii) the number of injuries; (iii) whether surgical intervention was necessary (or whether the injuries were treated conservatively); (iv) the disposition of the victim post-surgery (*eg*, general ward, high dependency or intensive care unit); and (v) the location of the injury (*eg*, vulnerable location).

(b) *Degree of permanence*: This factor considers whether the injury or injuries caused to the victim are permanent or transient. Permanent injuries include loss of a limb or permanent privation of the sight of either eye or the hearing of either ear, etc.

(c) *Impact of injury*: This factor contemplates the impact of the injury on the victim’s quality of life. Here, considerations of: (i) the duration of stay in the hospital/rehabilitation centre; (ii) the duration of any hospitalisation/medical leave; (iii) the victim’s ability to carry out daily tasks and maintain livelihood; and (iv) the duration of rehabilitation (if any), are relevant.

10 As regards the secondary harm factors, the court explained that these “are unrelated to the physical injury suffered by the victim(s), but which nonetheless go towards the *extent of harm* caused in a particular case” and include (a) potential harm and (b) property damage: *Chen Song* at [125].

11 On the present facts before me, I agree with the DJ that this case can be pegged as involving “lesser harm”:

(a) There is only one harm factor, being the nature and location of the injuries. The main injury of note here, which is the “mildly displaced fracture on the right second rib”, was located at a vulnerable part of the body. The other injuries, comprising superficial abrasions and tenderness on right shoulder, appear to be somewhat minor.

(b) Furthermore, the injuries do not have any permanent effect.

(c) Finally, the impact of the injuries was relatively low – surgical intervention was unnecessary and the injuries were treated conservatively, with the Victim being given only *outpatient* sick leave lasting a total of 21 days.

As regards secondary harm, the property damage does not appear to be serious either.

12 The Prosecution nevertheless contends that there was another dimension of secondary harm – being the *potential* harm that arose in this case – to which it says the DJ failed to attribute sufficient weight.¹⁰ The Prosecution explains that the potential harm could be gleaned from the fact that there were other vehicles lined up behind the Victim and they could have run over the Victim after the collision, while the Victim lay on the road.¹¹

13 During the hearing, I had pointed out that “potential harm” – being one of the secondary harm factors outlined in *Chen Song* (see [10] above) – was described by the court in *Chen Song* as “harm that was likely to have been caused to *other road users* but which ultimately did not eventuate” (at [129]) [emphasis added]. I sought the Prosecution’s views as to how the concept of potential harm – as couched in *Chen Song* – might extend to additional injury that could potentially have befallen *the victim*. In response, the Prosecution agreed that the concept of potential harm in the *Chen Song* framework does indeed appear to be targeted at other road users. However, the Prosecution

¹⁰ PWS at para 26.

¹¹ PWS at para 22.

maintained that other road users in this case *were* exposed to potential injury, as the vehicles behind the Victim could also have sustained collisions as a result of the accident with the Victim. Nevertheless, I am not convinced that there was any *significant* potential harm in the present case. It is important to bear in mind the caveat sounded by the court in *Chen Song*, to the effect that a finding of potential harm must be grounded on the actual facts and not hypothetical scenarios. To that end, the court explained (at [130]):

... sentencing courts should be advised to expressly explicate the link between the facts relied on and the potential harm that may result. In particular, caution should be had in giving weight to submissions on potential harm which are based on hypothetical scenarios inconsistent with the reality of the conditions at the time of the offence.

Reverting to the present case, while it is true that there were other vehicles behind the Victim, the video footage showed that these other vehicles were largely stationary at the time of the accident and only just about to move off. This was markedly different from, say, a highway situation where the cars are all travelling at high speeds that would make it difficult for them to stop in time in reaction to the accident. The potential for a serious collision involving the cars behind the Victim was, at least on the facts of this case, markedly low.

Culpability

14 The court in *Chen Song* laid out various factors that impact on the extent of the accused persons' culpability (at [131]), for purposes of the sentencing framework:

We set out a non-exhaustive list of factors which each constitute 1 offence-specific factor going towards culpability:

- (a) *Any form of dangerous driving behaviour.* For instance:
 - (i) speeding;
 - (ii) driving against traffic;

- (iii) driving when not fit to drive;
 - (iv) driving under the influence of alcohol or drugs;
 - (v) sleepy driving;
 - (vi) driving while using a mobile phone;
 - (vii) swerving in and out of lanes;
 - (viii) using a vehicle in a dangerous fashion; and
 - (ix) street racing.
- (b) *Flouting of traffic rules and regulations.* For instance:
- (i) failing to stop at a stop line;
 - (ii) failing to conform to traffic signal;
 - (iii) not forming up correctly to execute a turn;
 - (iv) changing lanes across a set of double white lines/chevron markings; and
 - (v) making an illegal U-turn/right turn.
- (c) *High degree of carelessness:* This is demonstrated where there was a prolonged or sustained period of inattention (as opposed to a momentary lapse of attention), and where the offender was deliberately cavalier about certain mitigatable risks. As stated in *Sue Chang* at [95], it would also be relevant to consider the extent to which the offender's distraction was avoidable and the extent to which the offender's misjudgment was reasonable.

15 Reverting to the facts of the present case, I agree with the DJ that this was an instance of lower culpability. The principal culpability factor in this case was that the Respondent failed to conform to the traffic signal, *ie*, under (b)(ii) in the extract above.

16 However, I note that there was conceivably a *second* culpability factor at play in this case, to which the DJ appeared not to have accorded sufficient weight. Specifically, there was a total of five seconds between the traffic light turning red and the Respondent's vehicle entering the frame of the Sky Camera

footage capturing the junction.¹² This meant that there was a relatively sizeable duration within which the Respondent could have come to notice that the traffic light was red. Yet, he completely failed to register this critical indicator. It was thus arguable that the harm factor in para (c) of the extract at [14] above, *ie*, “high degree of carelessness” – in the form of “a prolonged or sustained period of inattention” – has been triggered. If the tally of discrete harm factors is then raised from one to two on account of this, the culpability level could conceivably be regarded as having been elevated to “higher culpability” under the *Chen Song* framework: see [7(b)(ii)] above. That would in turn prod the case up to Band 2, which has a higher sentencing range of 6 months’ to 1 year’s imprisonment.

17 Nevertheless, as the court in *Chen Song* had cautioned, application of the sentencing framework should not be done mechanistically (at [123]):

To illustrate, “lesser harm” is caused, and the offender’s culpability is deemed as “lower culpability” where at most one harm or culpability factor applies in respect of each category. “Greater harm” would be caused and the offender’s culpability deemed as “higher culpability” where there are two or more harm and culpability factors respectively. *That being said, we stress that this is a general guideline which is not to be applied mechanistically in every case. The foremost inquiry is to **assess holistically** whether the totality of the harm suffered by the victim should be classified as either “greater harm” or “lesser harm” and whether the offender’s culpability considered as a whole should be classified as either “lower culpability” or “higher culpability”.*

[emphasis added in italics and bold italics]

Intuitively, the fact that the Respondent beat the red light and the fact that he beat it when the light had already turned red for a relatively significant duration seem quite closely intertwined, even if one may regard them as separate

¹² Record of Appeal (Amendment No 2), p 255.

culpability factors *in principle*. I would therefore exercise my discretion against treating this as a case where there are two discrete culpability factors warranting elevation to the next sentencing band where there is a floor of six months' imprisonment.

18 Having said that, I am also of the view that the relatively prolonged period of inattention in this case must translate into an uplift in the sentence. Comparing a driver who beats a red light after it has *just* turned red with one who beats it after it has turned red for an extended duration, the latter is clearly more culpable. While both drivers would have triggered the same culpability factor stemming from their failure to comply with the red light signal, the latter's span of inattentiveness would have been that much longer for him not to have noticed that the traffic light was already red for some time. I will canvass the application of that uplift when determining the indicative starting sentence in the next section.

Indicative starting sentence

19 Given that I have found the facts of this case to constitute lesser harm and lower culpability, the applicable sentencing band under the *Chen Song* framework is Band 1. The next step would then be to determine where the sentence should be pegged *within that band*, with a view to arriving at the indicative starting sentence. The first issue is whether the custodial threshold has been crossed (since the sentencing range for Band 1 includes a fine). I conclude that it has, given that there is one primary harm factor and at least one culpability factor in operation: *Chen Song* at [137] – the Respondent does not dispute this. The following analysis will focus on the *custodial* component of the indicative starting sentence, as parties have not raised any issues over the disqualification period.

20 While the DJ concluded that the applicable sentencing band was Band 1, he had regrettably omitted to stipulate what he thought to be the indicative starting sentence within the band. Based on the imprisonment term of one week that was imposed in this case, it appears that the DJ took the view, after concluding that the custodial threshold had been crossed, that an indicative starting imprisonment term of about 10 days was appropriate. Discounting that by 30% to account for the Respondent's guilty plea (as provided for under Stage 1 of the PG Guidelines) gives rise to the one-week imprisonment term that was ultimately imposed.

21 In my view, pegging the indicative starting imprisonment term at 10 days' imprisonment would be too low. That fails to accord sufficient weight to the fact that the period of inattention in this case was (as explained at [18] above) not insubstantial. Having said that, I also take the view that the imprisonment term sought by the Prosecution on appeal is excessive. The Prosecution proposes that an appropriate imprisonment term *after* factoring in the one-third reduction under the PG Guidelines is three to four months' imprisonment, meaning that it is effectively seeking an indicative starting imprisonment term of *four-and-a-half to six* months absent the reduction. I have reservations about this, given that although there was one primary harm factor in operation, being that grievous hurt was caused to a vulnerable part of the Victim's body, the cracked rib suffered in this case was not particularly serious when juxtaposed against the injuries sustained in the precedents cited by parties. The Victim in this case neither underwent surgery nor required any hospitalisation leave (having received only *outpatient* sick leave). This must be contrasted with the following precedents which parties sought to rely on:

- (a) The victim in *Alexis Lau* (who suffered a left tibia and fibula fracture) required two surgeries and received 102 days of hospitalization leave (of which he was warded for 7 days).
- (b) Similarly, the victim in *Eric Yeo* suffered a spinal fracture and required surgery for implants to be placed at the back of the spine to stabilise the spinal column. The victim received 72 days of hospitalisation leave (of which he was warded for 10 days).
- (c) In *Erh Zhi Huang Alvan v Public Prosecutor* (this being one of the five appeals being decided in *Chen Song*), the victim suffered a traumatic amputation of the right little finger and a right-sided clavicle fracture and was given hospitalisation leave of 57 days (of which he was warded for one day).

In all three instances above, the court pegged the harm as falling at the higher end of the “lower harm” spectrum: see *Alexis Lau* at [34], *Eric Yeo* at [24] and *Chen Song* at [165]. Clearly, the injury in the present case cannot be placed on the same footing and, in my view, should be pegged at the lower end of the “lower harm” spectrum. Even after taking on board the uplift in culpability on account of the prolonged period of inattention, the Prosecution’s proposed indicative starting imprisonment term of up to six months (prior to reduction in sentence on account of the guilty plea) – being *the very upper limit* of Band 1 – cannot be justified.

22 Bearing in mind the degree of the culpability and harm in this case, I am of the view that the indicative starting imprisonment term in this case should be pegged at one month.

Offender-specific aggravating and mitigating factors

23 The Respondent had previously committed an offence of failing to comply with a red light signal on 30 January 2020, *ie*, slightly more than four years prior to the commission of the offence in the present appeal. That prior offence was compounded. While I am mindful that this antecedent pertains to the same offending act as that arising in the present case, I am reluctant to accord too much weight to it. As noted in *Chan Chow Chuen v Public Prosecutor* [2024] SGHC 294 (at [30]), prior compounded offences, while relevant (see also s 139AA RTA), still tend to carry relatively less significance than actual court convictions. While I do not rule out that a series of compositions for road traffic offences could well prove damning, it is pertinent that the compounded offence in this case was the Respondent's *only* antecedent. Further, while the offence occurred not too far back in the past, it was not particularly recent either.

24 I would also counterbalance the aggravating weight of this antecedent against the Respondent's conduct after the accident. Upon colliding into the Victim, the Respondent had stopped promptly, moved the Victim to safety and insisted on calling for an ambulance (although the Victim initially refused).

25 In the round, I see no reason to make any adjustments to the indicative starting imprisonment term of one month. Applying the 30% reduction under the PG Guidelines to that yields an imprisonment term of three weeks.

Conclusion

26 The appeal is thus allowed and the imprisonment term is enhanced from one to three weeks. The disqualification period of five years, which is not the subject of an appeal, remains.

Christopher Tan
Judge of the High Court

Hui Choon Kuen and Gabriel Lee (Attorney-General's Chambers) for
the appellant;
Chong Yew Meng Luke (Anglo Law Chambers LLC) for the
respondent.
